

FREQUENTLY ASKED QUESTIONS ABOUT DISASTERS

A Resource for Grantmakers

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This information is provided by Ask CMF, a technical assistance service of the Council of Michigan Foundations, for educational purposes only and does not constitute legal advice.

During the COVID-19 pandemic and other recent crises, CMF member organizations frequently submitted questions to CMF that delved into the complexities of managing foundation operations and grant programs under disaster conditions. Organizations continue to encounter disasters in their local communities, including floods, fires and other situations that place these institutions in central positions to ensue funds reach those needing relief and provide other supports and resources.

This resource is intended to explore frequently asked questions involved in managing disaster funds, specifically issues of concern to private foundations, community foundations, corporate foundation/giving programs and other public charities that manage grantmaking. The structures and grantmaking tools of these organizations vary, as well as the regulations specific to institutional types. However, they share similar rules for maintaining their charitable purposes, even under disaster conditions.

In Case of a Disaster:

Foundations facing a localized disaster should first contact local emergency services and/or institutions coordinating the disaster response. The safety of staff, board members and volunteers should always be first priority!

For questions regarding grantmaking and operations of the foundation during a disaster situation, CMF members can reach out to Ask CMF, the technical assistance service of the Council of Michigan Foundations, available at: <https://www.michiganfoundations.org/practice/ask-cmf>.

Additional resources are always available to CMF members via the Knowledge Center (<https://www.michiganfoundations.org/resources/>) and Sample Documents Hub (<https://www.michiganfoundations.org/sampledocs/>).

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DISASTER BASICS

How does a federally declared disaster designation impact the foundation’s activities?

Federally declared disasters and certain other tragedies trigger the provisions of Internal Revenue Code (“IRC”) [Section 139](#), which provides that “qualified payments” will not result in taxable income to the recipient, are not subject to employment taxes and withholding, and enjoy certain exceptions to the rules barring self-dealing and restrictions on donor advised funds. The declaration of a national emergency that warrants assistance by the Federal Government under the [Robert T. Stafford Disaster Relief and Emergency Assistance Act](#) (such as occurred during the COVID-19 pandemic) also triggers the benefits of Rule 139.

While some local natural disasters may receive a state-based “state of emergency” designation, not all local events also receive federal designation. IRC Section 139 applies only to federally declared disasters.

The federal designation provides several benefits that directly impact grantmaking foundations.

- IRC Section 139 offers guidance to employers for providing “emergency relief payments” to staff without those payments being considered taxable income to the employee and exempts such payments from being subject to employment taxes or withholding by the employer.
- Disasters falling under Rule 139 allow for employer-sponsored DAFs to serve as an exception to benefit individuals (employees and their families), who are victims of a qualified disaster. Under normal circumstances, DAFs cannot be used to benefit individuals.
- Corporate sponsored private foundations are permitted to provide relief to employees of the funding corporation within certain restrictions.

The IRS publication 3833, [“Disaster Relief: Providing Assistance Through Charitable Organizations”](#), provides additional guidance on how foundations can assist with relief efforts.

What resources are available to help plan the foundation’s response to a disaster?

A foundation’s reaction varies during the three primary stages of disaster response: immediate relief, short-term recovery and long-term rebuilding. Foundation staff may also require different resources at varying stage of disaster response.

For a community-related crisis, CMF recommends the following materials from our national and regional partners that have been most useful to member organizations facing unexpected crises:

- The [Disaster Philanthropy Playbook](#) developed by the Center for Disaster Philanthropy is a comprehensive resource featuring practices and approaches designed to address disaster situations.
- The [Disaster Preparedness and Recovery Plan](#) authored by the Council on Foundations incorporates both internal processes and grantmaking procedures.
- The Council on Foundations also has a [Disaster Philanthropy](#) resource page, applicable to a wide variety of grantmaker types.
- In response to Michigan grantmakers’ questions regarding COVID-19 and other recent disasters, attorney Jennifer Oertel published [“Disaster Relief Philanthropy”](#) in *The Michigan Business Law Journal*.

For additional information, see the list of “Recommended Resources” available at the end of this document.

What resources are available to address children’s questions about philanthropy and disaster response?

Many grantmakers also serve as disaster response hubs for entire philanthropic communities, including children and schools. Learning to Give, a program of the Council of Michigan Foundations, has materials on the topic of [Crisis Preparation and Response](#). These materials are appropriate for youth (PreK - Grade 12).

How can the foundation report a scam, fraud or cyber scam activity related to a recent disaster?

Recent large-scale disasters have resulted in significant “fake charity” scams and similar fraud. Please be cautious in vetting charitable giving and grantmaking opportunities, especially before making an online gift or a grant outside of the foundation’s regular grantmaking procedures. If the foundation has encountered or become the victim of a scam or attempted fraud related to a recent disaster, please contact the [National Center for Disaster Fraud](#) (part of the U.S. Department of Justice) hotline at 866-720-5721 or submit a [NCDF Disaster Compliant Form](#). Cyber scam activity can be reported online through the FBI’s [Internet Crime Compliant Center](#).

Complaints may also be filed with the Michigan Attorney General, by mail or online: Department of Attorney General, Charitable Trust Section, P.O. Box 30214, Lansing, MI 48909. Online complaints may be submitted to: <https://secure.ag.state.mi.us/complaints/consumer.aspx>.

DISASTER GRANTMAKING

What are some key considerations in disaster giving?

The Center for Disaster Philanthropy offers these [basic tips](#) that apply to all disaster giving.

- **Take the long view.** The COVID-19 pandemic and other Michigan-based disasters have proven themselves to be a marathon, not a sprint. There are many immediate needs, but the recovery process may last years. Plan for a long period in which flexible funding will be needed by grantees. Additionally, plan to re-evaluate and adapt the foundation’s disaster grantmaking efforts to address emerging needs.
- **Recognize that there are places private philanthropy can help that government agencies might not.** Foundations and nonprofits have proven themselves able to provide innovative and flexible solutions, with timely responses. While government funding and support are sometimes implemented to assist with local disasters, philanthropy has a unique and vital role to play in supporting (though not supplanting) state and federal government efforts.
- **All funders are disaster philanthropists.** Foundations nationally have played a vital role in responding to disasters of all types. Grantmakers can respond to significant needs in their communities, reacting to the many outcomes of disasters facing their grantees.
- **Support the sharing of best practices.** Through the work of peer groups and philanthropy serving organizations, including the Council of Michigan Foundations, foundations can share their experiences and best practices with disasters impacting their region. This information sharing is vital to the success of all communities encountering current and future crises.
- **Connect with other funders.** Foundations are most effective in addressing the impact of local disasters when they work together to assist their geographic region. Rapid relief funds have proven to be an effective model in collaborative grantmaking to meet the unique needs of the local community.
- **Look to past disasters for guidance.** Disaster grantmaking models from previous situations are functioning as the playbook for emerging crises. Lessons learned from a wide range of experiences and crisis types can point to effective strategies to employ today and can help grantmakers anticipate the next facets of crisis.

- **Ask the experts.** CMF and its partners serve as vital hubs for information, expertise and public policy initiatives in times of localized disasters, including through the Michigan Nonprofit Association and the Michigan Association of United Way 2-1-1 data centers. Foundations should also talk to nonprofits directly, to lift up and listen to the expertise of those working on the ground, in community, who are seeing and hearing challenges and opportunities first-hand.

What is a rapid relief or response fund?

In response to COVID-19 and other local disasters, many Michigan communities have pre-existing infrastructure in place for rapid relief or response funds. These funds are oftentimes intended to meet the needs of a specific geographic area or of a field of organizations.

According to the [Council on Foundations](#), these funds share the following features:

- Provide one-time general operating support grants.
- Accept applications and provide grants on a rolling basis.
- Include funding for the immediate economic impacts being experienced by those involved in a disaster.
- Clearly delineate who is not eligible.
- Collaborate with community partners to understand the disaster’s impacts in order to deploy funds effectively.
- Have easy-to-find information about how individuals, businesses and others can donate to the fund to support their community.

If you need assistance to identify a relief and response fund led by or supported by a Michigan-based community foundation or similar organization, please contact CMF.

Are there special rules for making grants to individuals involved in a disaster situation?

Foundations can provide disaster relief grants to individuals in response to federally-declared or local disasters that do not receive a federal emergency declaration. Grantmaking efforts may serve as an extension of a foundation’s standard grantmaking program or follow a special set of procedures that are only followed in the case of a federally qualified disaster. Often these grants are given to efforts within local communities. In some cases, foundations or giving programs may use discretionary funds to fast-track disaster grants. Rules against impermissible private benefit, self-dealing and recipient charitable class still apply for disaster situations and grants of this kind should not be intended to benefit disqualified persons. Grant programs designed to benefit individuals must follow rules requiring an indefinite class of charitable recipients (among other requirements), in order to be considered a charitable activity. For more information on making grants to individuals, see “[Navigating Scholarships and Grants to Individuals](#).”

Even in a federally qualified disaster, the class of victims being assisted must be a proper charitable class:

- *Indefinite Charitable Class:* The eligible class of charitable beneficiaries must be so large as to be indefinite – so that donors are not earmarking their contributions to particular individuals. When the group of eligible beneficiaries is limited to a smaller group, such as the employees of a particular employer, the group of persons eligible for assistance must be open-ended and

include employees affected by the current disaster and those who may be affected by a future disaster.

- *Needy or Distressed Individuals*: A disaster relief program must target those financially or otherwise in need (financially or with the inability to obtain basic necessities due to the disaster). Charitable funds cannot be distributed to individuals merely because they are victims of a disaster, and an organization's decision about how its funds will be distributed must be based on an objective evaluation of the victims' needs at the time the grant is made. By way of example, [IRS guidance](#) outlines: "A charity may provide crisis counseling, rescue services, or emergency aid such as blankets or hot meals in the immediate aftermath of a disaster without a showing of financial need. Providing such services to the distressed in the immediate aftermath of a disaster serves a charitable purpose regardless of the financial condition of the recipients. However, as time goes on and people are able to call upon their individual resources, it may become increasingly appropriate for charities to conduct individual financial needs assessments."

What may qualified disaster relief payments be used for?

Disaster grants for individuals are not designed to, and may not, duplicate Federal Emergency Management Agency (FEMA) payments or insurance or other payments to individuals or families. Payments made by employers may not be used for a payment that an employer is otherwise required to make. As a result, emergency relief from community foundations and other charitable efforts are designed to help cover some of the basic needs created by the federally-declared emergency. An individual applying for this category of funding may receive assistance with medical expenses, funeral expenses, temporary housing, travel expenses for family members assisting a victim of a disaster and other similar expenses resulting from the qualified disaster.

Can foundations and employers assist individuals outside of a federally qualified disaster?

Many foundations have funding available for local (or personal) disasters that occur within their community or geographic region, outside of those designated as a federally declared disaster. These funds should generally follow the guidelines previously outlined for federal disaster relief payments.

Employers can establish employee hardship funds, which can cover local disasters and other individual disasters and hardship situations. These must be administered by an independent public charity.

The IRS Publication 3833 provides further clarity for employee hardship funds and similar efforts that are permitted to establish funds for individual employee hardship. These funds are designed to benefit employees and their immediate family members. These funds can be used to provide assistance to the employee directly, in the case of the disaster impacting the employee's spouse or children, or to assist the family in the unfortunate case of the employee's injury or death.

For more information on ways that employers can assist employees and other individuals in a disaster, see "[Disaster Relief Philanthropy](#)" in *The Michigan Business Law Journal*.

For foundations that are exploring ways to help members of their community, but do not want to manage grants to individuals directly, grantmakers can collaborate with external organizations that already serve local regions. For example, foundations may partner with:

- **United Way:** The United Way has an [established system](#) within most regions of the state to directly address basic needs, while foundations are able to support and provide additional capacity to meet widespread need, including through 2-1-1 Contact Centers.
- **Community Action Agency:** A network of [28 community action agencies](#) service all 83 counties within Michigan, providing vulnerable populations with critical services.
- **Other Nonprofits:** In disaster situations, foundations work with many of their strategic partners to reach vulnerable populations within their local communities. Through emergency and urgent need funds, grantmakers can assist organizations that have established connections to the individuals who need assistance.

Can a foundation create or use a discretionary grant program to make emergency/disaster grants?

As an alternative to a formalized emergency grantmaking policy, some foundations (more frequently private or family foundations) have the option of using a discretionary grant process to enable more rapid, disaster funds to be disbursed. Discretionary grant programs oftentimes provide trustees and/or senior staff members with a pre-designated amount of funding they can grant to organizations of their choice. Sometimes these grants are limited to the foundation’s existing funding priorities, while other institutions allow for broader charitable grants to be made. Foundations also vary in whether application or reporting forms are required for these gifts.

Discretionary grant programs can work as an alternative to emergency/disaster grantmaking policies, as they frequently have a less rigorous grantee application and board approval process. In some foundations, these grants can be approved by the CEO or senior staff, which allows for funds to reach nonprofits quickly and efficiently.

If your foundation is interested in exploring discretionary grants as an option, the National Center for Family Philanthropy has a [webpage](#) dedicated to discretionary grants, including sample policies and forms.

Can Donor Advised Funds (DAFs) be used to support disaster response?

Yes, donor advised funds can be used to support disaster response.

The Council on Foundations (COF) notes that, generally DAFs can follow many of standard rules and restrictions even during a disaster, especially when used to provide support through domestic public charities. Expenditure responsibility may be required for grants to supporting organizations or non-501(c)(3) organizations. Grants to organizations outside of the U.S. may have additional requirements.

Further, there is an exception to the DAF prohibitions for certain employer-related funds established to benefit employees and their family members who are victims of a qualified disaster. A DAF may make grants to employees and their family members in the following circumstances:

- (i) The fund serves the single identified purpose of providing relief from one or more qualified disasters;
- (ii) The fund serves a charitable class;
- (iii) Grants are selected based upon an objective determination of need;
- (iv) The selection of recipients of grants is made using either an independent selection committee or adequate substitute procedures to ensure that any benefit to the

- employer is incidental and tenuous (meaning that a majority of its members must consist of persons who are not in a position to exercise substantial influence over the employer's affairs);
- (v) No payment is made from the fund to or for the benefit of any director, officer, or trustee of the sponsoring organization or any member of the selection committee; and
 - (vi) The fund maintains adequate records to demonstrate the recipients' need for the disaster assistance provided.

Can a foundation change existing grant agreements to allow for unrestricted use of funds or for other purposes to address a disaster situation?

Even when disasters impact foundations and nonprofit operations, the foundation can follow existing internal policies or procedures that influence how grant agreements are amended. If these policies do not provide for a rapid response approach to amendments, internal discussion with foundation leadership should take place to determine appropriate measures for addressing changes to existing grants and potential temporary changes to internal procedures.

Generally, grant agreements can be changed via an amendment document signed by both the foundation (grantor) and the nonprofit/recipient (grantee). This amendment may be formatted as a letter or relatively short document, which should be saved along with a full copy of the original grant agreement. It is important to maintain written documentation that records the mutual agreement of both the foundation and the grantee in regard to any changes being made to the original grant agreement. In some cases, amended grant agreements may be able to be signed electronically or via email, although this activity varies by state.

Disaster situations may result in changes to grant agreements, in such areas as:

- Changes of grants from restricted to unrestricted use of funds.
- Extending the time period in which grant dollars can be used.
- Influencing the goals or scope of work being carried out by the nonprofits with the grant dollars.
- Use of grant dollars for general operational, rather than programmatic, purposes.

In making changes to existing grant agreements, it is important to ensure that all legal restrictions on the use of grant dollars are still maintained. For example, private foundations still face restrictions on the ways in which they can provide grants to individuals for travel, study and similar purposes or for certain advocacy/lobbying purposes.

The Council on Foundation has provided [a sample agreement](#) intended to convert project grants to general operating support.

Please consult qualified tax or legal counsel for clarification on grantmaking procedures outside of standard activities.

For additional information related to developing or adjusting fund agreements, see "[FAQs About Fund Agreements](#)" available on CMF's Knowledge Center.

What can corporate giving programs do in the face of local disaster situations?

Corporate foundations and giving programs vary greatly in their structure.

The Council on Foundations released a [Legal FAQ](#) that points to the challenges of corporate foundations violating self-dealing rules under certain conditions. A corporate foundation's program should not be intended to generate business, and it should not be intended to result in an economic benefit for either the company or another disqualified person. Please consult with legal counsel to ensure that the philanthropic activity associated with disaster response is allowable within the parameters of IRS guidance. Disaster relief and employee hardship programs through corporate sponsored DAFs are both discussed above.

Employee Assistance Programs: Some corporations have an Employee Assistance Program (EAP). These programs are typically managed or paid for by the corporation itself, rather than through the foundation. If the corporation has such a program, oftentimes managed by an external firm or via the HR department, please contact the appropriate department (or the EAP directly) for more information about how that may apply during a disaster situation or related response.

Employee assistance (or hardship) programs can be used to benefit the employee and their immediate family, with the company's policy for employee hardship funds clearly defining which people constitute "family members" for the purposes of these initiatives. An employee can be applicable to receive assistance through these programs in the case that they or their family members are negatively impacted by a disaster or financially catastrophic situation, such as a fire, accident or unforeseen event. Families are also eligible to apply for these funds in the case of the eligible employee's injury, death or involvement in a disaster situation.

Companies with an employee assistance program should have a clearly defined policy and application for employees to submit requests to access these funds. The policy should outline under what conditions employees are eligible to access these funds, such as minimum number of years of employment. Additionally, the policy should outline appropriate uses for these funds, including maximum amounts and the frequency with which an employee can reapply and receive funds from this program.

Corporations may have additional means to support individual employees, such as by providing additional sick leave or extended telecommuting options. See the response to "Are there special rules for making grants to individuals involved in a disaster situation?" for other ways foundations can assist individuals during a disaster event.

In-Kind Support: Corporations and their philanthropic entities can oftentimes provide in-kind support to assist during a disaster or as part of recovery efforts. These in-kind contributions may be directed toward a centralized entity coordinating disaster response or to local nonprofits and institutions that serve the local communities and vulnerable populations impacted by a disaster.

Volunteer Support: Corporations may utilize their philanthropic infrastructure to coordinate volunteer efforts by employees. These efforts may be conducted in partnership with localized efforts or specific nonprofits impacted by the disaster.

Serve as a Community Partner: In response to past disasters, many communities across Michigan have established rapid response funds that can be initiated at any time. Many of these rapid response funds (and partnerships) include businesses among the many institutions funding grants to assist with disaster response efforts. Corporations have the opportunity to serve as a natural partner to their local communities, including through emerging funding partnerships and rapid response funds.

Leverage Corporation’s Unique Strengths: Companies have unique expertise, assets and relationships that can be used to maximize impact in addressing the needs of key stakeholders affected by disasters, including local community members, customers and employees. Solutions to key challenges may come from unexpected places, whether among leadership, employees or external stakeholders. Some companies can repurpose their existing infrastructure to meet needs, such as supplying hotel rooms to emergency response personnel or providing kitchen facilities for food preparation and distribution.

For further information on employer-sponsored disaster relief and issues related to employer-sponsored donations, see “[Disaster Relief Philanthropy.](#)” For more information related to corporate philanthropy generally, see “[Choosing a Corporate Philanthropy Approach.](#)”

Can foundations make grants to crowdfunding campaigns for disaster relief?

It depends. According to the [Council on Foundations](#), most crowdfunding platforms (including GoFundMe), are not registered as 501(c)(3) public charities. Others, such as GlobalGiving, are distinctly charitable crowdfunding platforms and have their own charitable designation.

On most crowdfunding platforms, foundations can make grants to pages and accounts that are set up by a charitable organization to benefit that organization. The platform is a different method of accepting the grant for the nonprofit.

Crowdfunding campaigns that are set up by an individual or non-charitable entity must be treated as a grant to a non-charity, even if the person setting up the fund intends it to benefit a charity. The foundation would need to obtain proof of the grant’s charitable purpose, such as documentation of the grant funds reaching the charitable organization. Grants made from donor advised funds would need to exercise expenditure responsibility for this situation.

Please note that some online giving tools charge a fee for the service. This fee may be charged to the nonprofit or donor.

How can foundations assist local and small businesses impacted by a disaster?

The COVID-19 pandemic brought increased interest in supporting local businesses impacted by the pandemic. The IRS publication 3833, “[Disaster Relief: Providing Assistance through Charitable Organizations,](#)” provides specific detail about the types of charitable purposes that can be directed to businesses, with many similar constraints as found in supporting general economic development purposes. Whether using a DAF or other charitable mechanism to support this activity, please consult

with qualified tax or legal counsel to ensure compliance with the IRS's definition of allowable charitable activity in this area.

Through recent disasters and increased focus on programmatic and impact investing, grantmakers are increasingly interested in identifying ways to assist local and small businesses impacted by disasters and other forms of economic development. The following are strategies and partnership types frequently used by foundations for these purposes:

- **Grants and Loans:** Under certain conditions, foundations may be able to provide disaster relief payments to for-profit businesses. These payments can be made if they fulfill a charitable purpose, provide a "reasonable means" of accomplishing that charitable purpose, and any benefit to a private interest is incidental. Grants made to for-profit businesses require expenditure responsibility.
- **Chambers of Commerce and Economic Partnerships:** Foundations can work in collaboration with chambers of commerce, local governments, and businesses as active partners in addressing community needs. As part of a network of institutions, foundations can assist in supporting the economic welfare of small businesses and their employees. Foundations may face restrictions for some economic development grants or those directed to non-501(c)(3) organizations. Consult with tax or legal counsel before making these grants.
- **Business Partnerships:** Foundations can also support local businesses, by directly utilizing their services. For instance, the organization may order food from local restaurants or rely on established partnerships for office space and services.

How can the foundation make international grants to address global disasters?

Some disaster situations are international, which require foundations to navigate a different set of grantmaking strategies and regulations than may be part of their standard processes. The Council on Foundations recommends the following tips as a starting place for disaster grantmaking in international contexts:

- Understand the legal basics of international grantmaking and IRS regulations.
- Be patient with nonprofit partners, especially in a crisis situation.
- Use an equivalency determination, when possible.
- Try to streamline your application and reporting processes.
- Use local networks and foundations for support.
- Consider using a U.S.-based intermediary organization.
- Think long-term through multi-year, operational or infrastructure grants.
- Approach global grantmaking with humility.

Foundations looking for additional resources on international grantmaking are invited to [contact Ask CME](#) for customized support.

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FOUNDATION OPERATIONS

What is the role of the foundation's board in responding to a disaster?

According to colleagues at [BoardSource](#), board members have numerous responsibilities in addressing the impact of local disaster on their organization.

Board members have a duty of care to the foundation, which means that they should be actively supporting and engaged in the organization's work, especially during a crisis situation. The board has the ultimate responsibility for the organization and should be making strategic decisions that safeguard and further its mission and grantmaking.

Whether the foundation has few or many staff members, the board may be involved in the following areas:

- **Risk Assessment and Management:** The board should assist the CEO with determining internal and external risks associated with disaster situation, including its impact on key stakeholders, internal staff and the financial health of the institution. With that information in mind, the organization can then develop an appropriate plan for managing those risks.
- **Organizational Event Contingency Planning:** In some cases, disasters can directly impact the organization's events and facilities, sometimes leading to cancelled fundraisers and other mission-critical activities. The board can play an important role in determining the impact of these cancellations and help identify contingencies that ensure the organization's financial welfare.
- **Finances and Investments:** In some cases, disasters can have a direct impact on the finances of individual organizations and even endowments. Boards may be called upon to make important decisions around the foundation's own finances and investments. For foundations, these discussions also involve determinations around payout rates for grantmaking, especially in the face of higher demand for philanthropic funding by local nonprofit partners.
- **Staff and Stakeholder Safety:** While many foundations have remote worker policies, board members must keep in mind the safety of staff and stakeholders in disaster situations. Business continuity plans and human resource policies should be in place to ensure that critical functions of the foundation continue even if staff are not able to access main facilities or office spaces.
- **Board Meetings and Decision-Making Practices:** Board business continues, especially in the case of disasters that impact the local region served by a foundation. Many grantmakers and partner nonprofits face increased demands on staff and board members helping with disaster response, oftentimes resulting in more frequent meetings and decisions around policies and grantmaking.
- **Communications:** Board members serve as ambassadors for the foundation and play an essential role (along with the CEO) in crisis communications by sharing with management what they are hearing on the ground and sharing back through their networks information that the foundation has prepared for dissemination.
- **Continual Assessment:** With the evolving nature of any disaster situation, board members should work together with the CEO to ensure the foundation is appropriately responding to

emerging challenges and information, maintaining appropriate lanes to allow the CEO to do their job effectively.

How can our foundation think through the complex issues of spending policies, payout rates and grantmaking strategy in response to a disaster?

In response to a disaster, some foundations may choose to reconsider their existing grantmaking strategies and grant budgets. While many funders follow a 5% minimum distribution requirement, even under disaster conditions, others choose to make grants beyond that level in times of crisis.

In considering increased payout rates, even in the short-term, foundations may be faced with complex financial considerations. The Council of Michigan Foundations partnered with the Johnson Center to develop [reports](#) that explore the issue of payout rates for both private foundations and community foundations, including in situations that temporarily or permanently increase their payout rate. These reports may be useful tools for foundations considering the long-term impact of increasing payout rates in response to disasters.

The private foundation excise tax was modified to a new flat rate of 1.39% as of December 20, 2019. Before the enactment of the flat rate tax, a foundation's tax rate varied based on the amount of grants given each year. The advantage of the new 1.39% tax rate is that foundations can give the same or more in total grant amount in a single year, allowing for more flexible grantmaking from year to year. In the case of a disaster, foundations can use the new flat tax rate to increase grantmaking amounts within a single year (or several year period) without being penalized in future years.

What types of emergency preparedness documents and plans can the foundation prepare in advance of a disaster?

Foundations can ensure that a variety of emergency preparedness procedures and documents are in place, well in advance of a disaster. These policies and processes can assist staff and board members to understand their roles and responsibilities in the midst of an unexpected situation.

- **Business Continuity Plan:** The foundation should have a plan in place to ensure that the organization's critical operations continue to function in case of a crisis. It may include information related to standard operational functions, essential recordkeeping and data, and employee contacts.
- **Disaster Recovery Plan:** A disaster recovery plan may focus exclusively on data and information systems that should be backed up, recovered or restored in case of an emergency.
- **Succession Plan:** This plan should outline emergency/short-term plans for leadership staff and board members, particularly in the case that an executive resigns or is otherwise unable to carry out their responsibilities. In case of an emergency concerning the executive director or a sole staff member, a copy of this material should be kept in a known location or with the current board chair.
- **Crisis Communications Plan:** This plan ensures staff and applicable volunteers have a clear, shared understanding of appropriate organizational procedures in the face of a potential crisis. This plan may include emergency contact information, a calling tree, sample communication

protocols and procedures specific to a variety of emergency situations (i.e. severe weather, office closures).

- **Disaster Grantmaking Policy:** This policy outlines under what conditions exceptional grants may be made to address disaster situations within the specific geographic region or issue area of interest to the foundation. This policy typically addresses the process to review and approve these grants.

Specific questions regarding foundation operations (whether planned in advance or in the midst of a disaster situation) should be directed to the organization’s external counsel. Qualified legal counsel, financial auditors and other counsel are knowledgeable about how to adapt the organization’s processes and regulated activities to the challenges of disaster response.

For more information about best practices and legal requirements for private foundations and public charity grantmakers, see CMF’s [“An Operations Checklist for Foundation Compliance”](#) resource.

Should foundation board members and volunteers assist with fundraising during disaster response?

In response to recent disasters, Michigan community foundations and similar organizations have served as centralized hubs for localized fundraising and grantmaking. As part of the disaster response, board members and other volunteers have served an essential role in helping with managing fundraising activity during and after the crisis.

CEOs and development staff should provide board members (and other volunteers) with the tools to succeed in fundraising. When combined with a board member’s willingness to get involved (or an institutional requirement for board members to help with fundraising), this can make for a powerful and effective combination that directly benefits the organization.

Some potential steps for including board members (and other volunteers) in fundraising for disaster response include:

- **Educate Board Members:** In the face of countless community needs driven by a local disaster, staff should actively educate board members about their organizations’ needs and their role in bridging assisting with fundraising. A disaster is an excellent time to teach (or remind) board members about the importance of fundraising, as well as the many ways that donors can give. Board members may have specialties outside of the nonprofit sector and be unfamiliar with how to speak with donors, tools for giving (DAFs, grants, etc.) or the behind-the-scenes work of the organization. By educating board members about these topics, staff may gain useful allies in their fundraising efforts.
- **Use a Case for Support:** Internal staff can build out a case for support and train board members to use it. With a consistent message and a clear understanding of the organization’s mission and need, board members can serve as compelling ambassadors to reach other donors and funders.
- **Use Social Media:** In response to a disaster, social media and technology are an essential means to reach potential donors interested in responding to the local crisis. Board members who may have not previously used social media to promote their organization may find this to be a worthwhile time to start. Staff can provide a tutorial to help board members learn how to share the foundation’s messaging and campaign materials. (Some social media fundraising campaigns may direct funds to individuals, rather than the charitable organizations they intend to benefit.

For more information about this challenge, please see “Can foundations make grants to crowdfunding campaigns for disaster relief?”)

- **Use “Old Fashioned” Technology to Reach Donors:** Board members can help send “snail mail” letters to donors or call those who may otherwise not hear about the organization’s recent activities.
- **Say “Thank You”:** While staff may be providing behind-the-scenes support, board members can offer a personalized “thank you” to donors. This may take the form of a letter, email or Zoom meeting, but the relationship building can pay dividends after the current crisis is over.

For organizations that are trying to encourage board members to participate in fundraising, consider implementing a “board fundraising policy” or include fundraising as a requirement of board service. BoardSource has an easy-to-use [sample policy](#) available for board fundraising.

RECOMMENDED RESOURCES

Center for Disaster Philanthropy. “Crisis Communications.”

<https://disasterphilanthropy.org/resources/crisis-communications/>.

Center for Disaster Philanthropy. “Disaster Philanthropy Playbook.”

<https://disasterphilanthropy.org/disaster-philanthropy-playbook/>.

Council of Michigan Foundations. “Choosing a Corporate Philanthropy Approach.” 2021.

<https://www.michiganfoundations.org/resources/choosing-corporate-philanthropy-approach>.

Council of Michigan Foundations. “FAQs About Fund Agreements.” 2022.

<https://www.michiganfoundations.org/resources/faqs-about-fund-agreements>.

Council of Michigan Foundations. “Fund Agreements Sample Documents.” 2020.

<https://www.michiganfoundations.org/resources/fund-agreements-sample-documents>.

Council of Michigan Foundations. “Navigating Scholarships and Grants to Individuals.” 2021.

<https://www.michiganfoundations.org/resources/navigating-scholarships-and-grants-individuals>.

Council of Michigan Foundations. “Options for Your Financial Giving.” 2021.

<https://www.michiganfoundations.org/resources/options-your-financial-giving>.

Council on Foundations. “Frequently Asked Questions About Global Grantmaking.”

<https://www.cof.org/content/frequently-asked-legal-questions-about-global-grantmaking>.

Internal Revenue Service. “Disaster Relief: Providing Assistance Through Charitable Organizations.”

<https://www.irs.gov/pub/irs-pdf/p3833.pdf>.

Oertel, Jennifer. “Disaster Relief Philanthropy.” *Michigan Business Law Journal*. Summer 2020.

<https://higherlogicdownload.s3.amazonaws.com/MICHBAR/ebd9d274-5344-4c99-8e26-d13f998c7236/UploadedImages/pdfs/journal/Summer20.pdf#page=19>.

ABOUT ASK CMF

This document was authored by Brittany Kienker, Ph.D., Knowledge Insights Expert in Residence for the Council of Michigan Foundations (CMF). Legal aspects of this document were reviewed by Jennifer Oertel, outside legal counsel to CMF. CMF members can find answers to their most pressing questions through CMF's Knowledge Insights division, including Ask CMF, the Knowledge Center and the Sample Documents Hub. Ask CMF is a free service to CMF members, available through the "Ask CMF" link on the CMF homepage or by visiting <https://www.michiganfoundations.org/practice/ask-cmf>.

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