



Ohio Revised Code

Section 1715.53 Appropriations from net appreciation.

Effective: June 1, 2009

Legislation: House Bill 522 - 127th General Assembly

(A) Subject to the intent of a donor expressed in the gift instrument and to division (D) of this section, an institution may appropriate for expenditure or accumulate so much of an endowment fund as the institution determines is prudent for the uses, benefits, purposes, and duration for which an endowment fund is established. Unless stated otherwise in the gift instrument, the assets in an endowment fund are donor-restricted assets until appropriated for expenditure by the institution. In making a determination to appropriate or accumulate, the institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and shall consider, if relevant, the following factors:

- (1) The duration and preservation of the endowment fund;
- (2) The purposes of the institution and the endowment fund;
- (3) General economic conditions;
- (4) The possible effect of inflation or deflation;
- (5) The expected total return from income and the appreciation of investments;
- (6) Other resources of the institution;
- (7) The investment policy of the institution.

(B) To limit the authority to appropriate for expenditure or accumulate under division (A) of this section, a gift instrument shall specifically state the limitation.

(C) Terms in a gift instrument designating a gift as an endowment, or a direction or authorization in the gift instrument to use only "income," "interest," "dividends," or "rents, issues, or profits" or "to



preserve the principal intact," or words of similar import, create an endowment fund of permanent duration, unless other language in the gift instrument limits the duration or purpose of the fund, and do not otherwise limit the authority under division (A) of this section to appropriate for expenditure or accumulate.

(D)(1) The appropriation for expenditure in any year of an amount not greater than five per cent of the fair market value of an endowment fund, whether or not the total expenditure from it exceeds five per cent, calculated on the basis of market values that are determined at least quarterly and averaged over a period of not less than three years immediately preceding the year in which the appropriation for expenditure was made, creates an irrebuttable presumption of prudence. With respect to an endowment fund in existence for fewer than three years, the fair market value of the endowment fund shall be calculated for the period the endowment fund has been in existence.

(2) Nothing in division (D)(1) of this section shall be construed to restrict an appropriation for expenditure permitted by the gift instrument or to create a presumption of imprudence or prudence for that part, if any, of an appropriation for expenditure that exceeds five per cent of the fair market value of the endowment fund.