



## Ohio Revised Code

### Section 1715.55 Releasing restriction on use or investment of institutional fund.

Effective: June 1, 2009

Legislation: House Bill 522 - 127th General Assembly

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(A) If a donor consents in a record, an institution may release or modify, in whole or in part, a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund. A release or modification shall not, however, permit a fund to be used for a purpose other than a charitable purpose of the institution.

(B) The appropriate court, upon application of an institution, may modify a restriction contained in a gift instrument regarding the management or investment of an institutional fund if the restriction has become impracticable or wasteful, if it impairs the management or investment of the fund, or if, because of circumstances not anticipated by the donor, a modification of a restriction will further the purposes of the fund. The attorney general is a necessary party to and shall be served with process in all proceedings pertaining to an application of that nature. To the extent practicable, any modification shall be made in accordance with the donor's probable intention.

(C) The court, upon application of an institution, may modify the charitable purpose of an institutional fund or a restriction contained in a gift instrument on the use of the fund if the particular charitable purpose or restriction becomes unlawful, impracticable, impossible to achieve, or wasteful. The attorney general is a necessary party to and shall be served with process in all proceedings pertaining to an application of that nature. Any modification shall be made in a manner consistent with the charitable purposes expressed in the gift instrument.

(D) If an institution determines that a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund is unlawful, impracticable, impossible to achieve, or wasteful, the institution may, after providing sixty-days advanced notice to the attorney general's charitable law section by certified mail on a form prescribed by the attorney general, release or modify the restriction, in whole or in part, if all of the following conditions are met:

(1) The institutional fund subject to the restriction has a total value of less than two hundred fifty thousand dollars;



(2) More than ten years have elapsed since the fund was established;

(3) The institution uses the property in a manner consistent with the charitable purposes expressed in the gift instrument.

(E) The attorney general may extend for a period of up to an additional sixty days the effective date of a release or modification of a restriction that is proposed under division (D) of this section and shall provide notice of that extension to the institution that proposed the release or modification. The notice shall set forth the reasons necessitating the extension. The attorney general shall notify the institution prior to the effective date of the proposed release or modification of any objection to the proposed release or modification of the restriction.