

NAVY LEAGUE OF THE UNITED STATES, HONOLULU COUNCIL ENDOWMENT FUND

The board of directors of the Navy League of the United States, Honolulu Council does hereby establish an endowment fund, which shall be named the Navy League of the United States, Honolulu Council Endowment Fund and shall be referred hereafter as "The Fund".

I. Definitions

1.1 **The Fund.** The total endowment fund created by this resolution. The fund may contain both donor-designated endowments and board-designated endowments and may have separate named endowments within donor-designated endowments and board-designated endowments.

1.2 **Donor-Designated Endowment.** Any gift in which the donor, at the time of making the gift, imposes a limitation permitting use only of income received from the gift and preventing the use of the principal of the gift. A gift that includes words that state the gift is for endowment or identifying the name of The Fund or any named endowment within The Fund shall be treated as a donor-designated endowment unless the language of the gift clearly states or implies that the principal may be used. The board may not use the principal of any donor-designated endowment fund except as provided in this resolution.

1.3 **Board-designated Endowment.** Includes any gift or other asset that the board may place in The Fund and that include no donor restriction on the use of the principle. Example: A donor gives money to the Navy League of the United States, Honolulu Council without specifying that it be used for the endowment. The board may or may not restrict the use of the income for any particular purpose. Later the board may remove and use the principal and/or income from the board-designated endowment for any purpose it chooses.

1.4 **Restricted Endowment.** Any donor-designated or board-designated endowment gift that places restrictions upon the particular use for the income derived from investing the principal, such as a gift "to be used for youth programs".

1.5 **Unrestricted Endowment.** Any donor-designated or board-designated endowment gift that places no restrictions on the purpose for which the income is to be used.

1.6 **Named Endowment.** Any portion of the principal within The Fund that is segregated from the other monies within The Fund under a separate name..
Example: The Sea Cadet Endowment, The Operating Expenses Endowment.

1.7 **Principal.** The initial amount of any gift or board-designated contribution to The Fund.

1.8 **Income.** Any interest, dividends, unrealized gains, or other financial returns received from investment of the principal.

II. Creation of the Fund

2.1 The board hereby establishes The Fund which shall initially contain the following named endowments:

A. Donor-designated endowment

1. Restricted donor-designated endowment

2. Unrestricted donor endowment

B. Board-designated endowment

2.2 The board may, at its discretion establish additional named endowments within The Fund.

2.3 Any person may contribute or bequeath devise money or other personal or real property to The Fund subject to the provisions of this resolution, as amended or modified. All property contributed or bequeathed to The Fund shall become property of the Navy League of the United States, Honolulu Council and shall be held, managed, invested, and spent in strict accordance with the terms of this resolution.

2.4 The Fund created by this resolution shall not be a separate legal entity but instead shall be considered part of the Navy League of the United States, Honolulu Council under the authority of the board of directors of the Navy League of the United States, Honolulu Council

2.5 No gift shall be added to The Fund without board acceptance of the gift and approval of the donor-designated use of the gift.

III. Purpose and Use of the The Fund

3.1 The purpose of The Fund is to provide financial support for the Mission and Goals of the Navy League and the Honolulu Council which are: Mission - The Navy League is a civilian organization dedicated to informing the American people and their government that the United States of America is a maritime nation and that its national defense and economic well-being are dependent upon strong sea services - United States Navy, United States Marine Corps, United States Coast Guard and the United States Flag Merchant Marine. Goals - Educate National leaders and the public, support the Sea Services, provide assistance to sea service families, support sea service related youth programs.

3.2 No income or principal from The Fund shall be used for any purpose other than to support the above mission and goals of the Navy League of the United States and the Honolulu Council's standing as a not-for-profit institution under the laws of this state and the United States of America and specifically under §501(c)(3) of the Internal Revenue Code. Any proposed exceptions to the use of monies from The Fund, as outlined above, must be submitted to the Board of Directors for approval. The Board of Directors shall approve all distribution of monies from The Fund.

IV. Investment of The Fund

4.1 The board shall appoint an investment committee composed of people having knowledge and experience in the investment of funds. The board may retain a bonded institution or investment advisor to advise the investment committee and the board on how to invest the principal and to make investments of the principal.

4.2 The investment committee shall present to the board an investment policy and investment allocation plan for board approval, which may take into consideration the following factors:

- A. The security and preservation of the principal
- B. Investment for income
- C. Investment for growth
- D. Such other factors that the board shall determine from time to time

4.3 Within 30 days after the end of the Navy League of the United States, Honolulu Council's fiscal year, the investment committee shall present a written report to the board stating the balance of the principal, the income earned on the principal during the preceding year, any unrealized gain on investments of the principal, and the amount of any income used during the preceding fiscal year. The report shall have separated itemization of these matters for each named endowment in The Fund.

4.4 In no event shall any principal from any donor-designated endowment be loaned to, invested in, or otherwise used by the Navy League of the United States, Honolulu Council or any of its branches, subdivisions, or other related entities except in accordance with the provisions of this resolution.

V. Making Income Available for the Navy League of the United States, Honolulu Council's Use

5.1 The board may, in its discretion

- A. reinvest all or any portion of the income received from the principal in The Fund
- B. use all or any portion of the income received from the principal in The Fund for any purpose consistent with the purpose of The Fund as stated in this resolution subject to any restrictions.

5.2 The board may adopt from time to time a formula for determining the amount of distributable income that shall be made available for use. The formula shall be reasonably calculated to approximate the income (as that term is defined in this resolution) derived from the principal in The Fund. The formula shall be as follows:

- A. At the end of the Navy League of the United States, Honolulu Council's fiscal year, the preceding three-year average return on 30-year United States Treasury notes will be determined.
- B. At the end of the Navy League of the United States, Honolulu Council's of the balance of The Fund will be determined. During the first three years of The Fund, this determination shall be the average balance of The Fund from its beginning.
- C. The distributable income to be made available for the Navy League of the United States, Honolulu Council use shall be the product of the three-year average return multiplied by the three-year average balance.

5.3 The distributable income calculated in accordance with the above formula, or in accordance any different formula the board shall establish from time to time, shall be made available for use during the fiscal year following the date of calculation

VI. Use of Principal from The Fund

6.1 The board may not use the principal from any donor-designated endowment within The Fund, except under the following circumstances:

- A. As part of a proceeding involving the dissolution or ending of the Navy League of the United States, Honolulu Council
- B. Withdrawal of the charter of the Honolulu Council, Navy League as a council, or cessation of the operation of the Navy League of the United States, Honolulu Council as a council
- C. As part of a bankruptcy proceeding as to the Navy League of the United States, Honolulu Council
- D. In accordance with requirements mandated by the law of this state or of the United States of America
- E. With the written permission of the donor or the heirs of the donor

In no event shall the principal or any income from The Fund be used for purposes other than permitted under §501(c)(3) of the Internal Revenue Code

6.2 The board, in using any principal from a donor-designated endowment permitted under the above circumstances, shall, if possible, use that principal for a purpose consistent with the perceived intentions of the donor subject to any requirements imposed by law. If such use is not possible, the board may use the principal in accordance with the articles of incorporation of the Navy League of the United States, Honolulu Council. If neither of the foregoing purposes is possible, the board may use the principal in accordance with §501(c)(3) of the Internal Revenue Code.

6.3 The board may amend this resolution at any time by majority vote, but no amendment shall be in contravention of law, and no amendment may have the effect of circumventing or abrogating a legal obligation of the board to any donor of a gift placed within The Fund.

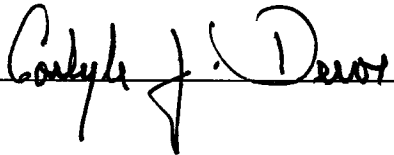
VII. Management of The Fund

7.1 The management of The Fund shall be in accordance with Hawaii Revised Statutes TITLE 28. PROPERTY. 517E. Uniform Prudent Management of Institutional Funds Act. 517E-1-Short Title . With regard to any conflict between The Fund guidelines, as described above, and 517E-1, the statute will prevail. A copy of the statute has been attached for reference.

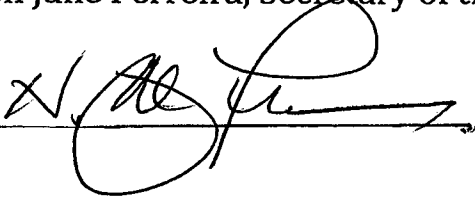
CERTIFICATION

This resolution has been approved by a majority vote of the board of directors on this 9TH day of DECEMBER, 2014.

Carlyle James Devoe, Chairman of the board, Navy League of the United States,
Honolulu Council



Helen Jane Ferreira, Secretary of the board, Navy League of the United States,



In 2009, the State of Hawaii Legislature passed a new law, 517E, called the Uniform Prudent Management of Institutional Funds Act which governs the management of endowments: law.justia.com/codes/hawaii/2013/title-28/chapter-517e

The financial custodian who is managing any endowment funds must review and follow the requirements of that statute. The Navy League Endowment Fund guidelines are not wholly inconsistent, although the law goes further and includes things not included in our specific guidelines.

The Fund shall be managed in accordance with Chapter 517E, HRS, and attach the entire statute attached to the guidelines. Be advised that any conflict between the Fund guidelines and the statute, the statute will prevail.

**[CHAPTER 517E]
UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT**

Section

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[§517E-1] Short title. This chapter may be cited as the Uniform Prudent Management of Institutional Funds Act. [L. 2009, c 135, pt of §1]

[§517E-2] Definitions. As used in this chapter, unless the context otherwise requires:

"Charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion of health, the promotion of a governmental purpose, or any other purpose the achievement of which is beneficial to the community.

"Community foundation" means a community foundation or community trust recognized as exempt from federal income tax and referred to in section 170(c) of the Internal Revenue Code of 1986, as amended, and which meets the single entity requirements of United States Treasury Regulations sections 1.170A-9(e)(10-14) adopted thereunder.

"Endowment fund" means an institutional fund or part thereof that, under the terms of a gift instrument, is not wholly expendable by the institution on a current basis. The term does not include assets that an institution designates as an endowment fund for its own use.

"Gift instrument" means a record or records, including an institutional solicitation, under which property is granted to, transferred to, or held by an institution as an institutional fund.

"Institution" means:

- (1) A person, other than an individual, organized and operated exclusively for charitable purposes;
- (2) A government or governmental subdivision, agency, or instrumentality, to the extent that it holds funds exclusively for a charitable purpose; or
- (3) A trust that had both charitable and noncharitable interests, after all noncharitable interests have terminated.

"Institutional fund" means a fund held by an institution exclusively for charitable purposes. The term does not include:

- (1) Program-related assets;
- (2) A fund held for an institution by a trustee that is not an institution, unless the fund is held exclusively for the benefit of a community foundation; or
- (3) A fund in which a beneficiary that is not an institution has an interest, other than an interest that could arise upon violation or failure of the purposes of the fund.

"Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

"Program-related asset" means an asset held by an institution primarily to accomplish a charitable purpose of the institution and not primarily for investment.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form. [L 2009, c 135, pt of §1]

[§517E-3] Standard of conduct in managing and investing an institutional fund. (a) Subject to the intent of a donor expressed in a gift instrument, an institution, in managing and investing an institutional fund, shall consider the charitable purposes of the institution and the purposes of the institutional fund.

(b) In addition to complying with the duty of loyalty imposed by law other than this chapter, each person responsible for managing and investing an institutional fund shall manage and invest the fund in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

(c) In managing and investing an institutional fund, an institution shall:

- (1) Incur only costs that are appropriate and reasonable in relation to the assets, the purposes of the institution, and the skills available to the institution; and
- (2) Make a reasonable effort to verify facts relevant to the management and investment of the fund.

(d) An institution may pool two or more institutional funds for purposes of management and investment.

(e) Except as otherwise provided by a gift instrument, the following rules apply:

(1) In managing and investing an institutional fund, the following factors, if relevant, shall be considered:

- (A) General economic conditions;
- (B) The possible effect of inflation or deflation;
- (C) The expected tax consequences, if any, of investment decisions or strategies;
- (D) The role that each investment or course of action plays within the overall investment portfolio of the fund;
- (E) The expected total return from income and the appreciation of investments;
- (F) Other resources of the institution;
- (G) The needs of the institution and the fund to make distributions and to preserve capital; and
- (H) An asset's special relationship or special value, if any, to the charitable purposes of the institution;

(2) Management and investment decisions about an individual asset shall not be made in isolation but rather in the context of the institutional fund's portfolio of investments as a whole and an overall investment strategy having risk and return objectives reasonably suited to the fund and to the institution;

(3) Except as otherwise provided by law other than this chapter, an institution may invest in any kind of property or type of investment consistent with this section;

(4) An institution shall diversify the investments of an institutional fund unless the institution reasonably determines that, because of special circumstances, the purposes of the fund are better served without diversification;

(5) Within a reasonable time after receiving property, an institution shall make and carry out decisions concerning the retention or disposition of the property or the rebalancing of a portfolio, to bring the institutional

- fund into compliance with the purposes, terms, and distribution requirements of the institution as necessary to meet other circumstances of the institution and the requirements of this chapter; and
- (6) A person who has special skills or expertise, or is selected in reliance upon the person's representation that the person has special skills or expertise, has a duty to use those skills or that expertise in managing and investing institutional funds. [L 2009, c 135, pt of §1]

[§517E-4] Appropriation for expenditure or accumulation of endowment fund; rules of construction. (a) Subject to the intent of a donor expressed in the gift instrument, 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 the endowment fund is established. Unless stated otherwise in the gift instrument, the assets in an endowment fund shall be 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; and
- (7) The investment policy of the institution.

(b) To limit the authority to appropriate for expenditure or accumulate under subsection (a), 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:

- (1) Create an endowment fund of permanent duration unless other language in the gift instrument limits the duration or purpose of the fund; and
- (2) Do not otherwise limit the authority to appropriate for expenditure or accumulate under subsection (a). [L 2009, c 135, pt of §1]

[§517E-5] Delegation of management and investment functions. (a) Subject to any specific limitation set forth in a gift instrument or otherwise provided by law, an institution may delegate to an external agent the management and investment of an institutional fund to the extent that an institution could prudently delegate under the circumstances. An institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, in:

- (1) Selecting an agent;
- (2) Establishing the scope and terms of the delegation consistent with the purposes of the institution and the institutional fund; and
- (3) Periodically reviewing the agent's actions to monitor the agent's performance and compliance with the scope and terms of the delegation.

(b) In performing a delegated function, an agent owes a duty to the institution to exercise reasonable care to comply with the scope and terms of the delegation.

(c) An institution that complies with subsection (a) shall not be liable for the decisions or actions of an agent to which the function was delegated.

(d) By accepting delegation of a management or investment function from an institution that is subject to the laws of this State, an agent submits to the jurisdiction of the courts of this State in all proceedings arising from or related to the delegation or the performance of the delegated function.

(e) An institution may delegate management and investment functions to its committees, officers, or employees as authorized by the laws of this State. [L 2009, c 135, pt of §1]

[§517E-6] Release or modification of restrictions on management, investment, or purpose. (a) If the donor consents in a record, an institution may release or modify, in whole or in part, a restriction on the management, investment, or purpose of an institutional fund contained in a gift instrument. A release or modification shall not allow a fund to be used for a purpose other than a charitable purpose of the institution.

(b) The 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 institution shall notify the attorney general of the application, and the attorney general shall be given an opportunity to be heard. To the extent practicable, any modification shall be made in accordance with the donor's probable intention.

(c) If a particular charitable purpose or a restriction contained in a gift instrument on the use of an institutional fund becomes unlawful, impracticable, impossible to achieve, or wasteful, the court, upon application of an institution, may modify the purpose of the fund or the restriction on the use of the fund in a manner consistent with the charitable purposes expressed in the gift instrument. The institution shall notify the attorney general of the application, and the attorney general shall be given an opportunity to be heard.

(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, without application to the court, but with the consent of the attorney general, may modify the purpose of the fund or the restriction on the use of the fund in a manner consistent with the charitable purposes expressed in the gift instrument if the fund subject to the restriction has a total value of less than \$250,000.

(e) 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, sixty days after notification to the attorney general, may release or modify the restriction, in whole or part, if:

- (1) The institutional fund subject to the restriction has a total value of less than \$50,000;
- (2) More than twenty years have elapsed since the fund was established; and
- (3) The institution uses the property in a manner consistent with the charitable purposes expressed in the gift instrument. [L 2009, c 135, pt of §1]

[§517E-7] Reviewing compliance. Compliance with this chapter shall be determined in light of the facts and circumstances existing at the time a decision is made or action is taken, and not by hindsight. [L 2009, c 135, pt of §1]

[§517E-8] Application to existing institutional funds. This chapter shall apply to institutional funds existing on or established after July 1, 2009. As applied to institutional funds existing on July 1, 2009, this chapter shall govern only decisions made or actions taken on or after that date. [L 2009, c 135, pt of §1]

[§517E-9] Relation to Electronic Signatures in Global and National Commerce Act. This chapter shall modify, limit, and supersede the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. section 7001 et seq., but shall not modify, limit, or supersede section 101(c) of that Act, 15 U.S.C. section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that Act, 15 U.S.C. section 7003(b). [L 2009, c 135, pt of §1]

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