

First Unitarian Church of Oakland Endowment Policy and Endowment Committee Charter

This document sets forth the policy of First Unitarian Church of Oakland (“FUCO” or the “Church”) pertaining to Congregational endowment funds belonging to FUCO (the “Policy”) and the Charter of FUCO’s Endowment Committee (the “Charter”), as adopted by FUCO’s Board of Trustees on June, 27, 2021, 2021. Given FUCO’s long history of endowments, it is the intention of this Policy and Charter to amend, replace and restate in their entirety all pre-existing policies and/or charters pertaining to FUCO’s endowment funds to the extent consistent with the law and original donor intention.

I. GENERAL PROVISIONS

- A. The Endowment Funds of the church¹ are comprised of three separate funds kept in separate accounts, designated as follows:
 - 1. The First Unitarian Oakland Memorial Operations Endowment;
 - 2. The Wendte Building Endowment; and
 - 3. The Aurelia Henry Reinhardt Endowment for Justice.
- B. The accounts holding the Endowment Funds shall be kept separate and apart from one another and from accounts holding other funds of, or donations to, the Church.
- C. Each Endowment Fund shall be governed both by general policies set forth herein applicable to all three Endowment Funds, as well as by separate policies applicable to each of the Funds set forth at Article II herein.
- D. The Endowment Funds are assets of the Church. In the event of the dissolution of FUCO, the Endowment Funds as assets of the Church shall be distributed in accordance with the Church’s articles of incorporation and bylaws with no further restriction on spending of principal and in accordance with applicable law.

II. THE THREE FUNDS – PURPOSES AND PERMISSIBLE USES

A. General

- 1. The intent of the three Endowment Funds is to provide a permanent source of income to support the purposes set forth below on a long-term basis, spending only a portion of the earnings of the Endowment Funds every year and adding the excess to principal for growth over time.
- 2. Percentage calculations of annual distributions from an Endowment Fund shall be based on the average of that Endowment Fund’s fair market value at the end of the

¹ As of June 27, 2021, FUCO receives revenue from seven, separate investment funds, including: the three endowment funds described herein in which the Church has an ownership interest; and four other funds that provide income to the Church as a beneficiary, but are owned by other entities: the George E. Grant Endowment, the George E. Grant Memorial Endowment, the Clara Belle Hamilton Fund and the Bruml Trust. See further information on the seven funds at Appendix 1 (Summary: FUCO Investment Funds and Passive Income Sources, June 27, 2021).

last 13 quarters prior to the time of distribution.

3. Annual distributions from an Endowment Fund shall be made at the time intervals specified in the agreement(s) then in effect between the Church and the investment manager(s) of the respective Endowment Funds. In the absence of an agreement affecting the timing of distributions, distributions shall be made at the time intervals as approved by the Board of Trustees.
4. The policies set forth herein may be amended by the Board of Trustees from time to time, but only in a manner consistent with:
 - a. the endowment intention expressed in paragraph II(A)(1) above;
 - b. donor intent; and
 - c. the Uniform Prudent Management of Institutional Funds Act. See CA Prob. Code, §§ 18501 et seq. (2015) Leg. Sess. at Appendix 2 hereto.

B. The First Unitarian Church of Oakland Memorial Endowment

1. Purposes and Permissible Uses

The purposes and permissible uses of this fund (the “Memorial Fund”) shall be to provide general operating support to FUCO. General operating support is defined broadly as routine, ongoing or normal expenses in the Church’s annual budget, including but not limited to salary and benefits, administrative expenses, facility maintenance and repairs, utilities, taxes and insurance, program expenditures, dues and fees, building mortgage, fundraising expenses and accumulation of reserves.

2. Disbursements from the Memorial Fund

a. The Memorial Fund Annual Amount

- i. Each year the Church may receive distributions from the Memorial Fund in an amount up to 6%² of the endowment’s fair market value, based on the average of the Memorial Fund’s fair market value at the end of the last 13 quarters prior to the time of distribution (the “MF Annual Amount”).
- ii. Notwithstanding the distribution policy above, except in the case of an emergency as set forth below, distributions from the Memorial Fund may be withdrawn only if the fair market value of the Memorial Fund exceeds \$175,000 at the end of the last quarter prior to the time of distribution.

b. Use of Principal

Expenditures of, loans from, or encumbrances of principal that could result in loss of principal may occur only in the following circumstances under the following conditions:

² So long as the 3 Endowment Funds are invested with the Unitarian Universalist Common Endowment Fund, LLC (“UUCEF”) and absent a change in UUCEF policy, distributions from each of the Endowment Funds may not exceed 6% per fiscal year. See *Unitarian Universalist Common Endowment Fund, LLC Operating Agreement, effective April 1, 2021*. Distribution percentages are also limited by California law which establishes a rebuttable presumption of imprudence for endowment distributions greater than 7%. See *Appendix 2, §18504(d)*.

- i. Use of principal as collateral or security for a loan requires approval of the Board of Trustees. The proceeds of such loan may be used solely for purposes and permissible uses set forth at paragraph II(B)(1) above.
- ii. Loans from the principal itself may only be made to the Church for purposes consistent with paragraph II(B)(1) above, with terms to be determined at the time of each loan without effect as a precedent for the terms of any future loan, and shall require at least a 2/3 vote of approval from the Congregation at a meeting of the Congregation.
- iii. In the event of an emergency, the Board of Trustees may declare an emergency at a meeting of the Board of Trustees, with 2/3 of those present approving, and may vote without additional Congregational approval to withdraw, in addition to the MF Annual amount for that year, no more than \$50,000 or 25% of the fair market value of the Memorial Fund as measured at the close of the preceding quarter, whichever is greater; provided, however, that:
 - (a) Such funds may be used solely for purposes and permissible uses set forth at paragraph II(B)(1) above;
 - (b) The Board shall notify the Congregation of such action forthwith; and
 - (c) Once an emergency withdrawal has been made under this paragraph, no further withdrawals including the MF Annual Amount shall be made from the Memorial Fund until its fair market value has reached at least \$175,000 at the end of the last quarter prior to the time of such withdrawal.

C. The Wendte Building Endowment

1. Purposes and Permissible Uses

The purposes and permissible uses of this fund (the "Wendte Fund") shall be to provide revenue for the maintenance of and improvements to First Unitarian Church's historic building. Permissible uses of the fund are restricted to those that specifically pertain to the building itself and any building needs. Uses may include repairs or maintenance of any kind, replacement of any furnishings or finishes, salaries, acquisition of any new furnishings or finishes, or expansion or modification of the facility or any other capital use.

2. Disbursements from the Wendte Fund

a. The Wendte Fund Annual Amount

- i. Each year the Church may receive distributions from the Wendte Fund in an amount up to 6%³ of the endowment's fair market value, based on the average of the Wendte Fund's fair market value at the end of the last 13 quarters prior to the time of distribution (the "Wendte Annual Amount").

³ See footnote 2 above regarding distribution percentage limitations.

- ii. Notwithstanding the spending policy above, except in the case of an emergency as set forth below, distributions from the Wendte Fund may only be made if its fair market value exceeds \$1,000,000 at the end of the last quarter prior to the time of distribution.

b. Use of Principal

Expenditures of, loans from, or encumbrances of principal that could result in loss of principal may occur only in the following circumstances under the following conditions:

- i. Use of principal as collateral or security for a loan requires approval of the Board of Trustees. The proceeds of such loan may be used solely for purposes and permissible uses set forth at paragraph II(C)(1) above.
- ii. Loans from the principal itself may only be made to the Church for purposes consistent with paragraph II(C)(1) above, with terms to be determined at the time of each loan without effect as a precedent for the terms of any future loan, and shall require at least a 2/3 vote of approval from the Congregation at a meeting of the Congregation.
- iii. In the event of an emergency, the Board of Trustees may declare an emergency at a meeting of the Board of Trustees, with 2/3 of those present approving, and may vote without additional Congregational approval to withdraw, in addition to the Wendte Annual Amount, no more than \$500,000 or 50% of the fair market value of the Wendte Fund as measured at the close of the preceding quarter, whichever is lower; provided, however, that:
 - (a) Such funds shall be used solely for purposes and permissible uses set forth at paragraph II(C)(1) above;
 - (b) The Board shall notify the Congregation of such action forthwith; and
 - (c) Once an emergency withdrawal has been made under this paragraph, no further withdrawals, including the Wendte Annual Amount, shall be made from the Wendte Fund until:
 - (i) The fair market value of the Wendte Fund has reached \$1,000,000 or 50% of its pre-withdrawal fair market value, whichever is greater, at the end of the last quarter prior to the time of such withdrawal; or
 - (ii) There is a 2/3 vote of approval from the Congregation at a meeting of the Congregation to withdraw the Wendte Annual Amount or an emergency withdrawal otherwise in compliance with the provisions of this paragraph II(C)(2)(b).

3. Other

- a. FUCO shall establish and maintain procedures to comply with the requirement that disbursements of the Wendte Annual Amount and principal, if any, from the Wendte Fund be used solely for purposes and permissible uses set forth at

paragraph II(C)(1) above.

- b. To the extent practicable, that portion of the Wendte Annual Amount not expended for current operations in any fiscal year shall be set aside as a reserve for major capital improvements and expenses.

D. The Aurelia Henry Reinhardt Endowment for Justice

1. Purposes and Permissible Uses

The purposes for and permissible uses of this fund (the “Justice Endowment”) shall be to provide revenue to support the justice ministries of FUCO, including racial justice and anti-racist work. Permissible uses include salary and benefits specifically restricted to justice work; program expenses specifically restricted to justice work, such as special events, grants or donations specifically related to justice work; and materials or other expenses related to justice work including transportation, food, rentals, printing or other expenses necessary to carry out the church’s justice work.

2. Disbursements from the Justice Endowment

Each year the Church may receive distributions from the Justice Endowment (the “Justice Annual Amount”) in an amount up to the maximum distribution percentage of the endowment’s fair market value correlating to the endowment fair market value thresholds set forth in Table 1 below:

Table 1: Justice Annual Amount Percentage Thresholds	
Endowment Fair Market Value at End of Year	Maximum Distribution % in Following Year
< \$250,000	0%
\$250,000 to \$299,999	2.00%
\$300,000 to \$349,999	2.50%
\$350,000 to \$399,999	3.00%
\$400,000 to \$449,000	3.50%
\$450,000 to \$499,999	4.00%
\$500,000 to \$599,999	4.50%
>\$600,000	5.00% ⁴

⁴ See footnote 2 above regarding distribution percentage limitations.

- a. **Valuation Basis for Percentage Calculation:** valuation of the Justice Endowment for purposes of calculating the distribution percentage shall be the average of the endowment's fair market value at the end of the last 13 quarters prior to the time of distribution.
- b. **Valuation Basis for Threshold Levels:** valuation of the Justice Endowment for purposes of determining whether the endowment has reached a fair market value threshold correlating to a distribution percentage set forth in Table 1 shall be based on the endowment's fair market value at the end of the calendar year preceding the year of distribution.

3. Procedures for Use of Justice Endowment Distributions

- a. The Operations Team shall make decisions about how to distribute funds that are eligible to be distributed under this policy from the Justice Annual Amount and shall reflect those decisions in the budget presented annually to the Board for its approval, except as stated in II.3.b, below.
- b. Notwithstanding the above, the following uses of disbursements from the Justice Endowment shall require approval of the Board of Trustees:
 - i. a grant in any amount not in payment for goods and/or services; and
 - ii. one-time or cumulative expenditures in a single fiscal year in an amount greater than \$1,500 or 20% of the Justice Annual Amount, whichever is greater, paid to a single entity, person and/or persons related thereto.
- c. To ensure fairness and transparency for the Congregation in the distribution of funds from the Justice Annual Amount after soliciting and receiving input from the Program Council and any other formal or informal church groups it believes are relevant or appropriate, the Operations Team shall develop a policy about how people or organizations apply to receive a distribution of Justice Endowment funds. The policy shall specify:
 - i. The time frame each year during which the Operations Team will publish to the Congregation an estimated amount available for distribution, based on when FUCO learns the amount available for distribution from its investment managers;
 - ii. What information an applicant needs to submit so that the Operations Team can consider the distribution request and whether that information has to be supplied in any particular format or on particular forms;
 - iii. If church or community participants other than the Operations Team will participate in making decisions about disbursements and, if so, how those individuals will be identified and brought into the process;

- iv. A deadline by when applicants for distributions from the Justice Annual Amount can expect to be told if they will receive a distribution and, if so, when;
- v. How the group of people making disbursement decisions will avoid conflicts of interest or the appearance of a conflict of interest;
- vi. The manner in which the Operations Team will report to the Congregation about funding decisions it has made, and whether decisions will be reported publicly (such as on social media); and
- vii. The cadence (for example every year or every three years) of when the policy will be reviewed and, if necessary, changed, with changes subject to Board of Trustees' approval.

The Board of Trustees has the power to approve or reject the policy. If approved, the Operations Team will publish the policy for the Congregation's awareness and use.

III. THE ENDOWMENT COMMITTEE CHARTER

A. Endowment Committee Structure

1. The Endowment Committee is an Advisory Committee of the Board consistent with Article VI, Sec. 2(b) of the Church's Bylaws.
2. The Endowment Committee shall have three members, along with the Treasurer acting as an ex officio non-voting committee member. The Treasurer serves to enable effective communication between the Board of Trustees and the Endowment Committee. All appointed members must be and remain Church members in good standing consistent with Article IV, Sec. 2 of the Church's Bylaws. A representative of the committee will attend Finance Team meetings as requested by the Board or the Finance Team.
3. The Board of Trustees will appoint the members of the Endowment Committee upon recommendations from the Endowment Committee. The Board may also remove members of the Endowment Committee before the expiration of their term.
4. Members serve a term of three years, at which point the Endowment Committee may recommend and the Board may appoint the existing member or a new member to assume another 3-year term. Terms are staggered so as to maintain a continuity of experienced members on the Committee. Members are not precluded from successive appointments given the generally recognized benefit of continuity in financial management.
5. The Endowment Committee shall meet at least three times per year. Meetings of the Endowment Committee shall require a quorum of two of the three appointed members, and votes to make recommendations to the Board of Trustees shall require the affirmative vote of a majority of the committee members.

B. Endowment Committee Duties

In general, the Endowment Committee shall have the following responsibilities:

1. To regularly review the performance and investment management of the Endowment Funds in accordance with *CA Prob. Code § 18503 (2015) Leg. Sess.*⁵ and if appropriate to recommend changes to such investments and/or investment management.
2. To identify for the Board and the Operations Team the amounts available for distribution consistent with the criteria and policies governing the Endowment Funds and to recommend to the Board the Annual Amount of the distribution from each Endowment Fund each year.
3. To request from the Operations Team an annual report of: 1) amounts contributed to the Endowment Funds; and 2) the use of funds distributed from them to ensure uses are consistent with the purposes and permissible uses articulated for each fund in this document.
4. To recommend new members of the Endowment Committee for the Board's consideration.
5. To develop materials explaining the Endowment Funds and their purposes and generally to promote endowment giving among members of the Congregation.
6. To prepare an annual summary of the status of endowed assets, first to be presented to the Board and then to the Congregation each year at the annual meeting.

IV. DONATIONS TO THE ENDOWMENT FUNDS

- A. All otherwise unrestricted gifts intended by a donor to be added to a specified Endowment Fund shall be deposited in that Endowment Fund, and the donor shall be presumed to have agreed to the terms of the Endowment Policy in effect at the time of the gift.
- B. All otherwise unrestricted gifts to the Endowment Funds that do not specify which of the three funds is the intended recipient shall be added to the Endowment Funds in allocations recommended by the Endowment Committee subject to Board approval.
- C. Absent a donor's expressed intention otherwise, all unrestricted gifts in an amount greater than \$10,000 shall be added to the Endowment Funds in allocations recommended by the Endowment Committee, unless the Board directs that such funds be allocated in a different manner, e.g., to operating or reserve accounts or to FUCO expenses, in combination with or instead of the Endowment Funds.
- D. Absent Board approval otherwise, FUCO shall not accept gifts requiring the creation of new Endowment Funds or subject to restrictions beyond those specified in this Policy.

⁵ See Appendix 2, §18503.

Appendix 1

Summary: FUCO Investment Funds and Passive Income Sources

Compiled by: Meri Lane

Date: June 27, 2021

First Unitarian Church of Oakland (“FUCO”) currently receives revenue from 7 sources of passive income sometimes referred to as endowments, trusts and/or funds. The summary below is based on my review of documents, interviews and internet research in connection with the revision of FUCO’s endowment policy in Winter 2020 through Spring 2021.

FUNDS OWNED BY FUCO (Over Which FUCO Has Control):

I. The FUCO Memorial Operations Endowment (aka “FUCO Memory Fund”)

- A. Year Established: 1939
- B. Owner: FUCO
- C. Current location: UUCEF Acct.#: 610420
- D. Fair market value as of 06/27/21: \$229,912.53
- E. Distributions fiscal year 7/1/19 - 6/30/20: \$6,041.32
- F. Current distribution percentage: 4.5%
- G. Restrictions:
 - 1. Distribution Maximum: none other than:
 - a) 6% maximum distribution under terms of UUCEF Operating Agreement (i.e., not be applicable if funds are moved elsewhere)
 - b) Rebuttable presumption of imprudence under California law for annual distributions greater than 7%. See CA Prob Code § 18501 et seq. (2015) Leg. Sess. at Appendix 2 to Endowment Policy.
 - 2. Threshold for distribution: \$175,000; see First Unitarian Church of Oakland Endowment Policy and Endowment Committee Charter, approved June 27, 2021 (hereinafter Endowment Policy), para. II(B)(2)(a)(ii).
 - 3. Purpose restriction: almost any Church purpose (see Endowment Policy, para. II(B)(1))
 - 4. Addition to or withdrawal of principal:
 - a) Additions to principal permitted;
 - b) Withdrawals of principal permissible under certain circumstances. See Endowment Policy, para. (II)(B)(2)(b)
- H. Notes: Endowment originally created by agreement dated Oct. 9, 1939 between FUCO and AUA (predecessor to UUA) with initial sum of \$3000, income to be paid to FUCO. NB: although a document at UUCEF quotes 1939 agreement stating that principal may not be withdrawn without vote of both FUCO Board of trustees AND Directors of AUA, email thread with UUCEF staff indicates that vote by UUA directors is not necessary to withdraw principal.

II. The Wendte Building Endowment

- A. Year Established: Nov. 1, 2015 (date of first UUCEF deposit)
- B. Owner: FUCO
- C. Current location: UUCEF Acct.#: 611177
- D. Fair market value as of 6/27/2021: \$1,847,735.50

- E. Distributions fiscal year 7/1/19 - 6/30/20: \$32,810.24
- F. Current distribution percentage: 6%
- G. Restrictions:
 - 1. Distribution Maximum: none other than:
 - a) 6% maximum distribution under terms of UUCEF Operating Agreement
 - b) Rebuttable presumption of imprudence under California law for distribution greater than 7%. See CA Prob Code § 18501 et seq. (2015) Leg. Sess. at Appendix 2 to Endowment Policy
 - 2. Threshold for distribution: \$1,000,000. See Endowment Policy, para. II(C)(2)(a)(ii).
 - 3. Purpose restriction:
 - a) Building (See Endowment Policy, para. II(C)(1))
 - b) NB: handwritten note by Joan Poulter dated 11/11/16 regarding \$1,000,000 bequest: "bequest to FUCO shld inc.' Wendte Endowment (611177).' This makes specific our intention to assist in the maintenance of the 100-plus year-old building . . ."
 - 4. Addition to or withdrawal from principal:
 - a) Additions to principal permitted;
 - b) Withdrawals of principal permissible under certain circumstances. See Endowment Policy, para. (II)(B)(2)(b)

III. **The Aurelia H. Reinhard Justice Endowment**

- A. Year Established: Dec. 4, 2015 (date of first UUCEF deposit)
- B. Owner: FUCO
- C. Current location: UUCEF Acct.#: 611184
- D. Fair market value as of 6/27/21: \$224,983.18
- E. Distributions fiscal year 7/1/19 - 6/30/20: \$0
- F. Current distribution percentage: 0%
- G. Restrictions:
 - 1. Distribution Maximum:
 - a) 5% under Endowment Policy, para. (II)(D)(2);
 - b) 6% maximum distribution under terms of UUCEF Operating Agreement
 - c) Rebuttable presumption of imprudence under California law for distribution greater than 7%. See CA Prob Code § 18501 et seq. (2015) Leg. Sess. at Appendix 2 to Endowment Policy
 - 2. Threshold for distribution: \$250,000. See Endowment Policy, para. II(D)(2).
 - 3. Purpose restriction: Justice and antiracist work (See Endowment Policy, para. II(D)(1))
 - 4. Addition to or withdrawal from principal:
 - a) Additions to principal permitted;
 - b) No provisions for withdrawal of principal under Endowment Policy.

FUNDS OWNED BY OTHER ENTITIES (FUCO is a passive beneficiary):

IV. **George E. Grant Memorial Fund**

- A. Year Established: 1927
- B. Owner: Unitarian Universalist Common Endowment Fund, LLC ("UUCEF")
- C. Current location: UUCEF Acct.#: 610196

- D. Fair market value as of 06/27/21: \$39,906.60
- E. Current distribution percentage: 4.25%
- F. Distributions made four times annually during the month following each calendar quarter per UUCEF policy for accounts above a set threshold
- G. Distributions fiscal year 7/1/19 - 6/30/20: \$1,471.74
- H. Restrictions:
 - 1. Permanent:
 - a) Distribution Maximum: 4.25% maximum; FUCO may request a lower, but not a higher, distribution percentage.
 - b) Threshold for distribution: none
 - c) Purpose restriction: none
 - d) Addition to or withdrawal of principal: not permitted
 - 2. Board imposed restrictions that can be changed: none
- I. Notes: created by gift from Charles W. and Abbey G. Wendte, with income to be paid to donors for life and \$10,000 of remainder designated as George E. Grant Memorial Fund with income paid to FUCO.

V. The George E. Grant Fund

- A. Year Established: 1930
- B. Owner: UUCEF
- C. Current location: UUCEF Acct.#: 610195
- D. Fair market value as of 6/27/21: \$20,433.83
- E. Current distribution percentage: 4.25%
- F. Distributions made annually typically in July per UUCEF policy for accounts below a set threshold
- G. Distributions fiscal year 7/1/19 - 6/30/20: \$725.96
- H. Restrictions:
 - 1. Permanent:
 - a) Distribution Maximum: 4.25% maximum; FUCO may request a lower, but not a higher, distribution percentage.
 - b) Threshold for distribution: none
 - c) Purpose restriction: none
 - d) Addition to or withdrawal of principal: not permitted
 - 2. Board imposed restrictions that can be changed: none
- I. Notes: created by \$5,000 bequest by George E. Grant, Jr. to AUA in memory of father George E. Grant, with income "to be paid to the trustees of the First Unitarian Church of Oakland, Calif for its support and maintenance."

VI. The Bruml Trust:

- A. Year Established: 1979⁶
- B. Owner: Simona Bruml Trust (Private foundation = 501(c)(3); EIN: 94-6461662)
- C. Current location: Las Vegas, Nevada
- D. Value per Form 990-PF (2018): \$2,051,965
- E. Distributions to FUCO calendar year 2020: \$9,791.66
- F. Current distribution percentage: Not applicable
- G. Restrictions on use of funds: None known
- H. NOTES:
 - 1. As a passive beneficiary of distributions from this trust, FUCO:
 - a) Cannot add to or withdraw principal

⁶ General info retrieved 4/7/21 at: <https://www.causeiq.com/organizations/simona-bruml-trust,946461662/>

- b) Cannot change amount/percentage of distribution
- 2. Future distributions?: Terms of trust currently unknown within FUCO, it's therefore unknown at this point whether Bruml Trust will remain a reliable source of income.
- 3. The checks FUCO receives are sent from the Pacific Central District (PCD), a member of the Pacific Western Region of the UUA.

VII. The Clara-Belle L Hamilton Core Trust:

- A. Year Established: Unk; Clara-Belle Loraine Hamilton died in or around 2001 based on internet sources
- B. Owner: Clara-Belle L. Hamilton Core Trust
- C. Current location: San Francisco Foundation, One Embarcadero Center, Suite 1400, SF, CA 94111
- D. Value as of 2/28/21: unk
- E. Distributions in calendar year 2020: \$34,262.47
- F. Restriction on FUCO Use of Funds:
 - 1. "To supplement to the extent the Foundation, in its discretion, deems necessary, and not too onerous or extensive, the expenses of repairing and maintaining the FIRST UNITARIAN CHURCH OF OAKLAND, at 14th and Castro Street, Oakland, California"
 - 2. Source: 1 page photo copy in FUCO files pertaining to fund (no info on specific document title provided)
- G. NOTES:
 - 1. As a passive beneficiary of distributions from this trust, FUCO:
 - a) Cannot add to or withdraw principal
 - b) Cannot change amount/percentage of distribution
 - 2. From *Gather the Spirit*, by Rev. Sheri Prud'homme: Clara-Belle Hamilton:
 - a) was granddaughter of FUCO founder Laurentine Hamilton
 - b) In 1989 gave \$56,000 to restore stained glass windows, p. 305
 - c) In early 1990s, gave \$250,000 to capital campaign to rebuild after the Loma Prieta earthquake, p. 261

Appendix 2

Uniform Prudent Management of Institutional Funds Act

PROBATE CODE - PROB**DIVISION 9. TRUST LAW [15000 - 19530]** (*Division 9 enacted by Stats. 1990, Ch. 79.)***PART 7. UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT [18501 - 18510]** (*Part 7 repealed and added by Stats. 2008, Ch. 715, Sec. 4.)***18501.**

This part may be cited as the Uniform Prudent Management of Institutional Funds Act. (Repealed and added by Stats. 2008, Ch. 715, Sec. 4. Effective January 1, 2009.)

18502.

As used in this part, the following terms shall have the following meanings:

(a) "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.

(b) "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.

(c) "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.

(d) "Institution" means any of the following:

(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.

(3) A trust that had both charitable and noncharitable interests, after all noncharitable interests have terminated.

(e) "Institutional fund" means a fund held by an institution exclusively for charitable purposes. The term does not include any of the following:

(1) Program-related assets.

(2) A fund held for an institution by a trustee that is not an institution.

(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.

(f) "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.

(g) “Program-related asset” means an asset held by an institution primarily to accomplish a charitable purpose of the institution and not primarily for investment.

(h) “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.

(Repealed and added by Stats. 2008, Ch. 715, Sec. 4. Effective January 1, 2009.)

18503.

(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 part, 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 is subject to both of the following:

(1) It may 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.

(2) It shall 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, all of the following factors, if relevant, must 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.

(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 must be made not in isolation but rather in the context of the institutional fund’s portfolio of investments as a

whole and as a part of 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 part, 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 to rebalance a portfolio, in order 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 part.

(6) A person that 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.

(f) Nothing in this section alters the duties and liabilities of a director of a nonprofit public benefit corporation under Section 5240 of the Corporations Code.

(Repealed and added by Stats. 2008, Ch. 715, Sec. 4. Effective January 1, 2009.)

18504.

(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 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, all of 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 subdivision (a), a gift instrument must 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 have both of the following effects:

- (1) To create an endowment fund of permanent duration unless other language in the gift instrument limits the duration or purpose of the fund.
- (2) To not otherwise limit the authority to appropriate for expenditure or accumulate under subdivision (a).

(d) The appropriation for expenditure in any year of an amount greater than 7 percent of the fair market value of an endowment fund, calculated on the basis of market values 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 is made, creates a rebuttable presumption of imprudence. For 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. This subdivision does not do any of the following:

- (1) Apply to an appropriation for expenditure permitted under law other than this part or by the gift instrument.
- (2) Apply to a private or public postsecondary educational institution, or to a campus foundation established by and operated under the auspices of such an educational institution.
- (3) Create a presumption of prudence for an appropriation for expenditure of an amount less than or equal to 7 percent of the fair market value of the endowment fund.

(Repealed and added by Stats. 2008, Ch. 715, Sec. 4. Effective January 1, 2009.)

18505.

(a) Subject to any specific limitation set forth in a gift instrument or in law other than this part, 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 all of the following:

- (1) Selecting an agent.
- (2) Establishing the scope and terms of the delegation, consistent with the purposes of the institution and the institutional fund.
- (3) Periodically reviewing the agent's actions in order 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 subdivision (a) is not liable for the decisions or actions of an agent to which the function was delegated except to the extent a trustee would be liable for those actions or decisions under Sections 16052 and 16401.

(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 law of this state other than this part.

(Repealed and added by Stats. 2008, Ch. 715, Sec. 4. Effective January 1, 2009.)

18506.

(a) If the 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 may 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 must be given an opportunity to be heard. To the extent practicable, any modification must 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 must 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, 60 days after notification to the Attorney General and to the donor at the donor's last known address in the records of the institution, may release or modify the restriction, in whole or part, if all of the following apply:

(1) The institutional fund subject to the restriction has a total value of less than one hundred thousand dollars (\$100,000).

(2) More than 20 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. An institution that releases or modifies a restriction under this subdivision may, if appropriate circumstances arise thereafter, use the property in accordance with the restriction notwithstanding its release or modification, and that use is deemed to satisfy the consistency requirement of this paragraph.

(Repealed and added by Stats. 2008, Ch. 715, Sec. 4. Effective January 1, 2009.)

18507.

Compliance with this part is determined in light of the facts and circumstances existing at the time a decision is made or action is taken, and not by hindsight.

(Repealed and added by Stats. 2008, Ch. 715, Sec. 4. Effective January 1, 2009.)

18508.

This part applies to institutional funds existing on or established after January 1, 2009. As applied to institutional funds existing on January 1, 2009, this part governs only decisions made or actions taken on or after that date.

(Repealed and added by Stats. 2008, Ch. 715, Sec. 4. Effective January 1, 2009.)

18509.

This part modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act (15 U.S.C. Sec. 7001 et seq.), but does not modify, limit, or supersede Section 101 of that act (15 U.S.C. Sec. 7001(a)), or authorize electronic delivery of any of the notices described in Section 103 of that act (15 U.S.C. Sec. 7003(b)).

(Repealed and added by Stats. 2008, Ch. 715, Sec. 4. Effective January 1, 2009.)

18510.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(Added by Stats. 2008, Ch. 715, Sec. 4. Effective January 1, 2009.)