

**University of Nevada, Reno Foundation
Corporate Resolution**

A meeting of the Executive Committee of the University of Nevada, Reno Foundation, a non-profit organization (the "Foundation") existing under and by virtue of the laws of the State of Nevada, was held on the 19th day of October, 2009, at which said meeting a quorum was present and acting.

At the time of the meeting, the governing body considered the adoption of a spending policy for endowment accounts, where the value of such account, as valued on a date certain as determined by the Foundation, is below the endowment account's historic gift value. These accounts are referred here to after as "Underwater Accounts." In light of the provisions of the Uniform Prudent Management of Institutional Funds Act (UPMIFA) set forth in Chapter 164 of the Nevada Revised Statutes (one copy of which is attached hereto as Exhibit A), on the review and advice of legal counsel, and following discussion, the Executive Committee unanimously voted and hereby,

RESOLVED, that except as otherwise provided in a specific endowment agreement, the Foundation will continue its annual practice of requesting donors (or donor representatives) to provide input to the Foundation on continued spending for those endowments that are underwater by ten percent (10%) or less, with continued spending subject to final approval of the Executive Committee of the Board, taking into consideration the provisions of UPMIFA, as codified in Chapter 164 of the Nevada Revised Statutes. Under this policy, Foundation Staff will continue its practice of coordinating communications with applicable donors (or donor representatives), and thereafter submit a report and recommendation to the Executive Committee as to those underwater endowments upon which continued spending is donor requested.

RESOLVED FURTHER, that except as otherwise provided in a specific endowment agreement, spending will cease for the year at issue on endowment accounts that are underwater by more than ten percent (10%) of the historic gift value, absent a specific finding by the Executive Committee that continued spending is appropriate under UPMIFA, as codified in Chapter 164 of the Nevada Revised Statutes. The Foundation Staff may, in its discretion, continue to consult with the applicable donors or donor representatives. However, absent unique or unusual circumstances warranting further review by the Board or Executive Committee, donors (or donor representatives) will be advised that spending will cease for the year at issue. Donors may still continue to make a gift in replacement of continued spending.

RESOLVED FURTHER, that except as otherwise provided in a specific endowment agreement, the "donor" or "donor representative" will be defined as that person or entity who/that contributed seventy-five percent (75%) or more to the endowment at issue, or who is representing the interest of the person or entity who/that contributed seventy-five (75%) or more to the endowment at issue. In the event that a donor or donor representative is not available or does not exist, spending on such underwater endowment will cease for the year at issue, absent specific direction by the Board or Executive Committee to the contrary, after application of UPMIFA as codified under Chapter 164 of the Nevada Revised Statutes.



Bruce A. Mack
Associate Director/Secretary



Date

PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS (UNIFORM ACT)

NRS 164.640 Short title. The provisions of NRS 164.640 to 164.680, inclusive, may be cited as the Uniform Prudent Management of Institutional Funds Act.
(Added to NRS by 2007, 112)

NRS 164.643 Definitions. As used in NRS 164.640 to 164.680, inclusive, unless the context otherwise requires, the words and terms defined in NRS 164.645 to 164.663, inclusive, have the meanings ascribed to them in those sections.
(Added to NRS by 2007, 112)

NRS 164.645 "Charitable purpose" defined. "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.
(Added to NRS by 2007, 112)

NRS 164.647 "Endowment fund" defined. "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.
(Added to NRS by 2007, 112)

NRS 164.650 "Gift instrument" defined. "Gift instrument" means a record or records, including, without limitation, an institutional solicitation, under which property is granted to, transferred to or held by an institution as an institutional fund.
(Added to NRS by 2007, 112)

NRS 164.653 "Institution" defined. "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; and
3. A trust that had both charitable and noncharitable interests, after all noncharitable interests have terminated.

(Added to NRS by 2007, 112)

NRS 164.655 "Institutional fund" defined. "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; 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.

(Added to NRS by 2007, 112)

NRS 164.657 "Person" defined. "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.
(Added to NRS by 2007, 113)

NRS 164.660 "Program-related asset" defined. "Program-related asset" means an asset held by an institution primarily to accomplish a charitable purpose of the institution and not primarily for investment.
(Added to NRS by 2007, 113)

NRS 164.663 "Record" defined. "Record" means information which is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.
(Added to NRS by 2007, 113)

NRS 164.665 Standard of conduct in managing and investing institutional fund.

1. 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.
 2. In addition to complying with the duty of loyalty imposed by law other than NRS 164.640 to 164.680, inclusive, 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.
 3. In managing and investing an institutional fund, an institution:
 - (a) 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; and
 - (b) Shall make a reasonable effort to verify facts relevant to the management and investment of the fund.
 4. An institution may pool two or more institutional funds for purposes of management and investment.
 5. Except as otherwise provided by a gift instrument, the following rules apply:
 - (a) In managing and investing an institutional fund, the following factors, if relevant, must be considered:
 - (1) General economic conditions;
 - (2) The possible effect of inflation or deflation;
 - (3) The expected tax consequences, if any, of investment decisions or strategies;
 - (4) The role that each investment or course of action plays within the overall investment portfolio of the fund;
 - (5) The expected total return from income and the appreciation of investments;
 - (6) Other resources of the institution;
 - (7) The needs of the institution and the fund to make distributions and to preserve capital; and
 - (8) An asset's special relationship or special value, if any, to the charitable purposes of the institution.
 - (b) 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.
 - (c) Except as otherwise provided by law other than NRS 164.640 to 164.680, inclusive, an institution may invest in any kind of property or type of investment consistent with this section.
 - (d) 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.
 - (e) 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 or necessary to meet other circumstances of the institution and the requirements of NRS 164.640 to 164.680, inclusive.
 - (f) 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.
- (Added to NRS by 2007, 113)

NRS 164.667 Appropriation for expenditure or accumulation of endowment fund; rules of construction.

1. Subject to the intent of a donor expressed in the gift instrument and to subsection 4, 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, the following factors:
 - (a) The duration and preservation of the endowment fund;
 - (b) The purposes of the institution and the endowment fund;
 - (c) General economic conditions;
 - (d) The possible effect of inflation or deflation;
 - (e) The expected total return from income and the appreciation of investments;
 - (f) Other resources of the institution; and
 - (g) The investment policy of the institution.
 2. To limit the authority to appropriate for expenditure or accumulate under subsection 1, a gift instrument must specifically state the limitation.
 3. 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:
 - (a) Create an endowment fund of permanent duration unless other language in the gift instrument limits the duration or purpose of the fund; and
 - (b) Do not otherwise limit the authority to appropriate for expenditure or accumulate under subsection 1.
 4. 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 3 years immediately preceding the year in which the appropriation for expenditure was made, creates a rebuttable presumption of imprudence. For an endowment fund in existence for less than 3 years, the fair market value of the endowment fund must be calculated for the period the endowment fund has been in existence. This subsection does not:
 - (a) Apply to an appropriation for expenditure permitted under law other than NRS 164.640 to 164.680, inclusive, or by the gift instrument; or
 - (b) 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.
- (Added to NRS by 2007, 114)

NRS 164.670 Delegation of management and investment functions.

1. Subject to any specific limitation set forth in a gift instrument or in law other than NRS 164.640 to 164.680, inclusive, 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:

- (a) Selecting an agent;
- (b) Establishing the scope and terms of the delegation, consistent with the purposes of the institution and the institutional fund; and
- (c) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the scope and terms of the delegation.

2. 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.

3. An institution that complies with subsection 1 is not liable for the decisions or actions of an agent to which the function was delegated.

4. 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.

5. An institution may delegate management and investment functions to its committees, officers or employees as authorized by law of this State other than NRS 164.640 to 164.680, inclusive.

(Added to NRS by 2007, 115)

NRS 164.673 Release or modification of restrictions on management, investment or purpose.

1. 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.

2. 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.

3. 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.

4. 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, may release or modify the restriction, in whole or part, if:

- (a) The institutional fund subject to the restriction has a total value of less than \$25,000;
- (b) More than 20 years have elapsed since the fund was established; and
- (c) The institution uses the property in a manner consistent with the charitable purposes expressed in the gift instrument.

(Added to NRS by 2007, 115)

NRS 164.675 Reviewing compliance. Compliance with NRS 164.640 to 164.680, inclusive, 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.

(Added to NRS by 2007, 116)

NRS 164.677 Relation to Electronic Signatures in Global and National Commerce Act. The provisions of NRS 164.640 to 164.680, inclusive, modify, limit and supersede the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001 et seq., but do not modify, limit or supersede Section 101 of that Act, 15 U.S.C. § 7001(a), or authorize electronic delivery of any of the notices described in Section 103 of that Act, 15 U.S.C. § 7003(b).

(Added to NRS by 2007, 116)

NRS 164.680 Uniformity of application and construction. In applying and construing the Uniform Prudent Management of Institutional Funds 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 to NRS by 2007, 116)