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Charitable Bequests & Endowments

The term “endowment” is used very often and broadly in the nonprofit world to include any assets or funds not currently being expended or treated as expendable. However, from a legal perspective the term has a very precise meaning: a gift upon which the donor (during life or at death) has created restrictions as to the ability to spend the “corpus” or principal amount of the gift, and possibly the purposes for which the investment earnings may be expended within the organization to which the gift is made. Gifts not subject to restrictions of this type are not “endowments” in the legal sense.

While these principles are easy to articulate, in practice there are often serious and difficult questions that arise. These can include: the ability of the board of directors to use the funds for a desired purpose; litigation brought by heirs of a donor to recoup a gift; litigation brought by other charities that believe they should be the beneficiary of a gift; the ability of creditors to reach funds in a time of financial hardship; and the manner in which endowment assets are portrayed on financial statements prepared in accordance with generally accepted accounting principles.



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