

HOW DO WE AVOID THE PROBLEMS ASSOCIATED WITH RESTRICTED FUNDS?

Many charities accept donations that are restricted to its specific ministries or programs. Under common law, accepting such designated donations effectively commits a charity to using the funds for the purposes which the donors intended.

Charities with externally restricted funds on hand after a program has been discontinued, or funds in excess of project costs, have a problem.

Contrary to popular belief, once a donation has been made, not the donor, the board, nor the membership of the charity may change a donor's restriction. Even 100% unanimity doesn't help! For an alternate designation to be possible, the donor must give such authority at the time of the gift.

Based on common law, the only legal solution is an application to the courts to spend the funds for another purpose approved by the courts.

Charities can minimize, or even prevent, problems associated with designated funds by:

- Refusing to accept donations for projects and programs that have not been approved by the board of the charity. Treasurers should not deposit any gift with a restriction for a project or program not specifically approved by the board.
- Describing restricted funds in general terms. For example, compare "to purchase land for a new church building" versus "to acquire and/or develop facilities for our church." (This example is based on a true story. The church had been raising money for a "land acquisition fund" when land was suddenly donated.)
- Publishing a fundraising policy statement. The charity's board should publish a clear fundraising statement. The statement should be included on all fundraising literature. Churches should print it on their offering envelopes and/or include it in their bulletins several times a year. To be effective, a donor must be aware of it. [Click here](#) for an example.

This sample document is provided as a general guideline to assist CCCC member charities. This information does not constitute legal or other professional advice. Appropriate modifications are required to suit the facts applicable to each situation. Where the intent is to use this sample, it should be provided to legal counsel along with appropriate instructions to meet the specific needs and circumstances of the charity.