

# perspectives

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MY BENESCH MY TEAM

Trends and topics in not-for-profit management

## Not-for-Profit Spotlight

girl scouts  
of ohio's heartland



Girl Scouts of Ohio's Heartland Council (GSOH) is a girl-centric and girl-driven environment where girls from every background in the Central Ohio area engage in a variety of adventures. At GSOH, girls learn real-world skills, such as financial literacy and budgeting, teamwork, and resourcefulness, and gain confidence and character that helps shape their entire lives.

The girls of GSOH participate in activities such as product programs, where they learn how to set and achieve goals, make decisions, manage money, and engage in ethical business practices. The girls of GSOH also attend camps where they learn people and survival skills, and make life-long friendships. Girls in GSOH are also eligible to become board members, as well as participate in science and art projects, and attend career exploration events. There is something for everyone in Girl Scouting!

GSOH's newest program is Girl Scout Journeys. A key part of the Girl Scout Leadership Experience, this innovative leadership journey is a coordinated series of activities grouped around various themes. Some projects are done with the troop while others can be done individually. Each activity focuses on a particular skill set, and the girls learn new things while having fun.

Girl Scouts pass along their new-found knowledge and skills by becoming the next generation of women leaders through service and reinvestment in their communities. Girls from GSOH participate in a variety of community service projects, including:

- Good Turn Day – girls collect household goods to donate to Goodwill;

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## Restrictions On Your Endowment Got You Down? You May have Options.

By Thomas B. Kern



Thomas B. Kern

Today, most charitable institutions request that gifts to their supporting endowments be given without restrictions to provide maximum flexibility in the use of funds. However, donors often want to restrict the use of their gifts for a particular purpose and to provide for a long term gift by requiring the charity to preserve the initial gift (the "corpus") and spend only the income. For instance, a donor may give a gift such as: "a scholarship for a student from Tanzania, for the study of astrobiology." Gifts like these often go unused because a person from Tanzania looking to study astrobiology cannot ever be located, and by law, the charitable institution must honor donor intent.

Given today's volatile economic climate, charitable institutions have often struggled to fulfill their missions, due to lack of accessible funds. It is certainly frustrating that struggling charitable institutions cannot utilize all of their assets due to restrictions on gifts. However, under the Uniform Prudent Management of Institutional Funds Act ("UPMIFA"), you have options. For instance, if the donor of a particular gift is still living, the donor may consent on record to release the restriction on that gift.

In addition, charitable institutions can petition the appropriate court for relief. If the restriction has made the gift impossible, impractical, wasteful, unlawful, etc., a charitable institution may petition the appropriate court to modify or release the restriction, so that it can be used in a manner consistent with but not necessarily identical to the donor's true intent, i.e., to fulfill the institution's charitable mission. In states adopting UPMIFA, the attorney general is usually a necessary party in these types of actions.

In instances involving older, smaller gifts, UPMIFA states will often allow charitable institutions to release or modify restrictions on gifts with only attorney general approval. In Ohio, Ohio Rev. Code § 1715.55(D) allows charitable institutions to petition the Ohio Attorney General to release or modify restrictions on gifts that are under \$250,000 and over 10 years old. This is good because it saves charitable institutions the time and expense of going to court.

One final way to extract money from your restricted endowment, is to actually take a loan from your endowment. Charitable institutions that have done this argue that the loan is actually an investment, and therefore, court approval is not required. In determining the prudence of an investment, UPMIFA requires that fund administrators consider a variety of factors. Many of the factors to be considered when investing are pure financial factors. However, the very first factor an investor of institutional funds must consider under UPMIFA is "the charitable purposes of the institution and the purposes of the institutional fund." Thus, while an investment may not be the most financially sound investment, its risk may be outweighed by the benefit it conveys upon the institution which it supports. Moreover, under UPMIFA, charitable institutions do not need court

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Not-for-Profit Spotlight:  
Girl Scouts of Ohio's Heartland

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- Feed the Heartland Council Service Project – girls participate in a food-related service project for the entire year;
- Spread the Bread – girls bake bread tied with notes of hope, gratitude, and good cheer, to honor heroes and help those in need;
- My Very Own Blanket – girls help to make blankets to provide comfort to children in foster care across Ohio; and
- Project Linus – girls help make fleece blankets for children and families in need.

Girl Scouts is open to girls in grades K-12. A girl or adult who meets membership requirements shall not be denied admission to Girl Scouting due to age or disability, or because of race, color, ethnicity, religion, national origin, or socioeconomic status. GSOH offers a council scholarship to its members each year, and several college scholarships are available for girls who have earned their Girl Scout Gold Award, the highest achievement a Girl Scout may earn. Girl Scouts of Ohio's Heartland Council serves more than 32,000 girls and more than 9,000 adult members, of which about 5,000 serve as volunteers in 30 counties: Adams, Ashland, Coshocton, Crawford, Delaware, Fairfield, Fayette, Franklin, Gallia, Guernsey, Highland, Hocking, Holmes, Jackson, Knox, Licking, Madison, Marion, Morrow, Muskingum, Perry, Pickaway, Pike, Richland, Ross, Scioto, Union, Vinton, Wayne and Wyandot.

So, the next time you buy a box of Girl Scout cookies, think about all of the great adventures, community service, and leadership activities you are helping to support. For more information about Girl Scouts of Ohio's Heartland Council, and how to support them, visit [www.gsoh.org](http://www.gsoh.org).

## IRS Issues Notice 2012-52 Regarding Charitable Contributions To Domestic Disregarded Entities

By Jessica N. Angney



Jessica N. Angney

On July 31, 2012, the IRS issued Notice 2012-52, Charitable Contributions to Domestic Disregarded Entities (the "Notice"), which confirmed the position that tax practitioners have long believed is appropriate. The Notice confirms that charitable contributions made to a single-member limited liability company ("SM-LLC") that is wholly owned and controlled by a U.S. charity are treated as charitable contributions to a branch or division of the charity. The IRS encourages the charity to disclose, in the contribution acknowledgment or otherwise, that the SM-LLC is wholly-owned by the charity and is treated by the charity as a disregarded entity. Limitations and requirements under Section 170 of the Internal Revenue Code of 1986, as amended, apply as though the charitable contributions were made directly to the charity.

A charity has the opportunity to utilize SM-LLCs in its corporate structure without Federal income tax implications. A charity can segregate operations and activities through the use of SM-LLCs in order to gain liability protection between the various operations and activities or apply different management structures. Because SM-LLCs are disregarded entities for Federal income tax purposes, a charity's use of SM-LLCs in its corporate structure has no Federal income tax effect. Furthermore, donors may make donations directly to a SM-LLC for use in its activities, as opposed to a donor making a contribution to the charity-parent with the understanding that it is intended to be used by the SM-LLC.

Although the Notice confirms the treatment of charitable contributions to SM-LLCs for Federal income tax purposes, state and local tax issues should be considered. For example, state and local treatment of real property exemptions, sales tax exemptions, and charitable registration requirements must be considered if a charity desires to utilize a SM-LLC.

For more information, please contact **Jessica N. Angney** at [jangney@beneschlaw.com](mailto:jangney@beneschlaw.com) or 216.363.4620.

### Restrictions On Your Endowment Got You Down? You May have Options.

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approval in deciding how they should invest their funds although some charities may seek such approval for other reasons.

The Seattle Art Museum used this exact loan option vehicle and took a loan from its endowment. In the case of *In re Seattle Art Museum*, Superior Court of Washington, King County Case No. 10-2-30952-7 SEA (Sept. 28, 2010), the Seattle Art Museum petitioned the court for a declaratory judgment that its taking a loan from its endowment as an investment was legal and prudent under UPMIFA, but further stated that it did not need court approval because the loan was an investment under UPMIFA. The Museum needed the endowment money in order to continue operations but promised to pay the money back, including a specific schedule for payment in its petition. The Washington Attorney General approved of the Museum's petition, and a declaratory judgment was granted by a Washington court.

As demonstrated above, if you find yourself in a situation where you need to use restricted funds, you have options. However, there are limits. So, before attempting to release or modify a restricted gift, it is important to check with your own attorneys, as well as the charitable law section of your state attorney general, in order to limit any complications down the road.

For more information, please contact **Thomas B. Kern** at [tkern@beneschlaw.com](mailto:tkern@beneschlaw.com) or 614.223.9369.

## The Ohio Association of Nonprofit Organization's (OANO) 2012 Salary & Benefits Report is Now Available

OANO's 2012 Salary and Benefits Report is now available. Perhaps budget time is approaching at your organization and you would like to compare your staff salaries to averages in the field. OANO's report includes:

- Salary information for more than 70 job titles.
- Information on key benefits such as insurance and retirement.
- Compensation trends such as flex time, education reimbursement and bonuses.

If you did not participate in the survey, but would still like the information, you can place your order by clicking [here](#).

The price is \$50 for nonparticipating OANO members and \$100 for nonmembers.

Please contact OANO with any questions at 614.280.0233 or [info@oano.org](mailto:info@oano.org).

## Events

### Thursday, October 11

#### The Ohio Association of Nonprofit Organizations (OANO) Offers "Peak Performance: Indicators of a High-performing Development Office" Webinar

This webinar will help you determine goals and outcomes you should set for yourself, your development team, the development committee and board members.

Consultants from Benefactor Group in Columbus will facilitate the discussion. Benefactor Group provides consulting services to the non-profit community in the areas of fundraising, capital campaigns, planning and leadership development.

**Time:** 10:00 A.M.–11:00 A.M.

**RSVP:** Please click [here](#) to RSVP.

**Fees:** OANO Members - \$20, Nonmembers - \$40

### Wednesday, October 24

#### The Ohio Association of Nonprofit Organizations (OANO) Offers "The Board's Role in Fundraising"

This workshop focuses on ways to increase your board's willingness and effectiveness in raising the resources your organization needs. How can you increase a board's organizational vocabulary and engage them in the process with encouragement and support instead of arm-twisting and guilt? How can you constructively challenge board members who have never fundraised before to stand up to the challenge?

Participants will leave with examples, a realistic to-do list, and exercises they can do with their boards to get them on their way. Please bring for your own reference a board list, promotional or fundraising materials, and your most recent budget.

This session is designed for Board Presidents, Development Committee Chairs, Executive Directors and Development Directors. Organizations are strongly encouraged to send at least two representatives, including one from the Board.

**Schedule:** 9:00 A.M.–11:00 A.M., presentation  
11:00 A.M.–11:30 A.M., networking lunch  
11:30 A.M.–12:30 P.M., remainder of presentation

**Location:** Chase Bank Building, 100 E. Broad St., 6th Floor Conference Center, Columbus, OH 43215

**RSVP:** Please click [here](#) to register.

**Fees:** OANO Members - \$40, Nonmembers - \$55

Bring a guest and save \$5 on their registration!



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