

As Introduced

**135th General Assembly
Regular Session
2023-2024**

S. B. No. 309

**Senator Wilson
Cosponsor: Senator Cirino**



A BILL

To amend sections 1715.51, 3315.10, and 3315.41 and 1
to enact sections 3314.55, 3315.43, 3326.53, and 2
3328.53 of the Revised Code to permit community 3
foundations to be trustees of endowments and 4
other charitable funds received by public 5
schools and to classify some funds held by 6
community foundation trustees as institutional 7
funds. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1715.51, 3315.10, and 3315.41 be 9
amended and sections 3314.55, 3315.43, 3326.53, and 3328.53 of 10
the Revised Code be enacted to read as follows: 11

Sec. 1715.51. As used in sections 1715.51 to 1715.59 of 12
the Revised Code: 13

(A) "Charitable purpose" means any purpose the achievement 14
of which is beneficial to the community, including the relief of 15
poverty, the advancement of education or religion, the promotion 16
of health, and the promotion of a governmental purpose. 17

(B) "Institution" means any of the following: 18

(1) A person, other than an individual, organized and operated exclusively for charitable purposes; 19
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(2) A governmental organization to the extent that it holds funds exclusively for a charitable purpose; 21
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(3) A trust that had both charitable and noncharitable interests and the noncharitable interests have terminated. 23
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(C) "Institutional fund" means a fund that is held by an institution exclusively for charitable purposes. ~~"Institutional~~ 25
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(1) Except as otherwise provided by division (C) (2) of this section, "institutional fund" does not include any of the following: 27
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~~(1) Program-related~~ (a) Program-related assets; 30

~~(2) (b)~~ (b) A fund held for an institution by a trustee that is not an institution; 31
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~~(3) (c)~~ (c) A fund in which a beneficiary that is not an institution has an interest other than an interest that may arise upon a violation of or the failure of the purposes of the fund. 33
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(2) "Institutional fund" includes a fund held for an institution by a community foundation trustee pursuant to section 3314.55, 3315.43, 3326.53, or 3328.53 of the Revised Code. 37
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(D) "Endowment fund" means an institutional fund or any part thereof that, under the terms of a gift instrument, is not wholly expendable by the institution on a current basis. 41
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"Endowment fund" does not include assets that an institution designates as an endowment fund for its own use. 44
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(E) "Gift instrument" means a record or records, including 46
an institutional solicitation, under which property is granted 47
to, transferred to, or held by an institution as an 48
institutional fund. 49

(F) "Person" means an individual, corporation, business 50
trust, estate, trust, partnership, limited liability company, 51
association, joint venture, public corporation, governmental 52
organization, or any other legal or commercial entity. 53

(G) "~~Program-related~~ Program-related asset" means an asset 54
held by an institution primarily to accomplish a charitable 55
purpose of the institution and not primarily for investment. 56

(H) "Record" means information that is inscribed on a 57
tangible medium or that is stored in an electronic or other 58
medium and is retrievable in perceivable form. 59

Sec. 3314.55. (A) For purposes of this section, "community 60
foundation" has the same meaning as in section 3315.43 of the 61
Revised Code. 62

(B) The governing authority of a community school may make 63
a community foundation the trustee of any gift or endowment of 64
intangible personal property made by grant, devise, or bequest, 65
or in any other manner, including any of the following: 66

(1) Charitable funds received or created by the community 67
school; 68

(2) Institutional or endowment funds related to the 69
community school received or created pursuant to sections 70
1715.51 to 1715.59 of the Revised Code. 71

(C) Any designation made pursuant to this section remains 72
subject to any conditions and limitations to which the original 73

gift or endowment was subject, or to which the original 74
institutional or endowment fund was subject as described in 75
sections 1715.51 to 1715.59 of the Revised Code. 76

(D) A community foundation acting as trustee in accordance 77
with this section shall return the property to the community 78
school if any of the following circumstances exist: 79

(1) The community foundation no longer satisfies one or 80
more of the criteria described in division (A) of section 81
3315.43 of the Revised Code. 82

(2) The community foundation is liquidated. 83

(3) The community foundation substantially violates any 84
condition, limitation, or requirement imposed on the property. 85

Sec. 3315.10. The custody, management, and administration 86
of all estates or funds, given or transferred in trust to any 87
municipal corporation for the promotion of education, and 88
accepted by the council thereof, and any institution for the 89
promotion of education so founded, other than a university, 90
shall be committed to, and exercised by, the board of education 91
of the school district including such municipal corporation. 92
~~Such~~ Except as provided in section 3315.43 of the Revised Code, 93
such board shall be the representative and trustee of such 94
municipal corporation in the management and control of such 95
estates and funds so held in trust and in the administration of 96
such institution, excepting funds and estates held by any 97
municipal corporation which are used to maintain a university. 98

For the uses and purposes of such board in administering 99
the trusts, the council of such municipal corporation annually 100
may levy taxes on all the taxable property of such municipal 101
corporation to the amount of three tenths of one mill on the 102

dollar valuation thereof. 103

Sec. 3315.41. A board of education may create a trust for 104
investment of money in the education foundation fund created 105
pursuant to section 3315.40 of the Revised Code. The instrument 106
creating such a trust shall do all of the following: 107

(A) Appoint a nonprofit foundation that is exempt from 108
income tax under section 501(a) of the "Internal Revenue Code of 109
1986," 100 Stat. 2085, 26 U.S.C. 501(a), as amended, and that is 110
described in section 501(c)(3) of the "Internal Revenue Code of 111
1986," 100 Stat. 2085, 26 U.S.C. 501(c)(3), as amended, 112
including a community foundation as defined in section 3315.43 113
of the Revised Code, as trustee; designate the school district 114
education foundation fund as the beneficiary; and describe the 115
initial trust principal, which shall not be less than one 116
dollar; 117

(B) Specify that additional amounts may be added to the 118
trust principal from the education foundation fund; 119

(C) Prohibit invasion of the principal of the trust; 120

(D) Require the trustee to administer the trust, including 121
but not limited to, holding, investing, and reinvesting the 122
trust principal; collecting the income from the investments; 123
and, after deducting the costs of administering the trust and, 124
if applicable, the trustee's compensation, paying the net income 125
to the school district treasurer for payment into the school 126
district education foundation fund as beneficiary; 127

(E) Specify the conditions under which the trust is 128
revocable. Upon revocation, the principal of the trust shall 129
revert to the board of education. 130

(F) Provide for amendment of the trust if the board 131

concludes that an amendment will better enable the objectives of the trust to be achieved;

(G) Other provisions the board considers necessary or advisable for successful administration of the trust and achievement of its objectives.

The board may provide for the payment, from the trust income or otherwise, of a reasonable fee to the trustee in compensation for its services.

If the principal of the trust created under this section reverts to the board of education the board shall direct the school district treasurer to accept and pay the principal into the education foundation fund created under section 3315.40 of the Revised Code.

Unless provided otherwise in the trust instrument, a trust created under this section is not subject to Chapter 135. of the Revised Code and shall not be considered a charitable trust under sections 109.23 to 109.33 or Chapter 1719. of the Revised Code.

Sec. 3315.43. (A) As used in this chapter, "community foundation" means a foundation that meets all of the following criteria:

(1) The foundation is a nonprofit corporation organized under Chapter 1702. of the Revised Code.

(2) The foundation supports a specific and defined geographical area, including by doing either or both of the following:

(a) Facilitating and pooling donations, including those from individuals, families, businesses, and state or federal

<u>grants, to address community needs and supporting local</u>	160
<u>nonprofit corporations and educational institutions;</u>	161
<u>(b) Providing grants, including donor-advised funds,</u>	162
<u>endowments, scholarships, field-of-interest funds, and giving</u>	163
<u>circles.</u>	164
<u>(3) The foundation is exempt from federal income taxation</u>	165
<u>under 26 U.S.C. 170(b)(1)(A)(vi) and 501(c)(3).</u>	166
<u>(4) The foundation is further described in 26 C.F.R.</u>	167
<u>1.170A-9(10) and (11).</u>	168
<u>(5) The foundation publishes at least annually and</u>	169
<u>circulates widely within its community an audited report of its</u>	170
<u>fund balances, activities, and donors.</u>	171
<u>(B) A school district board of education may adopt a</u>	172
<u>resolution to designate a community foundation as the trustee of</u>	173
<u>any gift or endowment of intangible personal property made by</u>	174
<u>grant, devise, or bequest, or in any other manner, or any</u>	175
<u>proceeds from any gift or endowment, including any of the</u>	176
<u>following:</u>	177
<u>(1) Charitable funds received or created pursuant to</u>	178
<u>sections 3313.17, 3315.10, 3315.41, and 3375.151 of the Revised</u>	179
<u>Code;</u>	180
<u>(2) Institutional or endowment funds related to the school</u>	181
<u>district received or created pursuant to sections 1715.51 to</u>	182
<u>1715.59 of the Revised Code.</u>	183
<u>(C) Any designation made pursuant to this section remains</u>	184
<u>subject to any conditions and limitations to which the original</u>	185
<u>gift or endowment was subject as described in division (A) of</u>	186
<u>section 3313.36 of the Revised Code, or to which the original</u>	187

institutional or endowment fund was subject as described in 188
sections 1715.51 to 1715.59 of the Revised Code. 189

(D) A community foundation acting as trustee in accordance 190
with this section shall return the property to the school 191
district if any of the following circumstances exist: 192

(1) The community foundation no longer satisfies one or 193
more of the criteria described in division (A) of this section. 194

(2) The community foundation is liquidated. 195

(3) The community foundation substantially violates any 196
condition, limitation, or requirement imposed on the property. 197

Sec. 3326.53. (A) For purposes of this section, "community 198
foundation" has the same meaning as in section 3315.43 of the 199
Revised Code. 200

(B) The governing body of a STEM school that is not 201
governed by a school district under section 3326.51 of the 202
Revised Code may make a community foundation the trustee of any 203
gift or endowment of intangible personal property made by grant, 204
devise, or bequest, or in any other manner, including any of the 205
following: 206

(1) Charitable funds received or created by the STEM 207
school; 208

(2) Institutional or endowment funds related to the STEM 209
school received or created pursuant to sections 1715.51 to 210
1715.59 of the Revised Code. 211

(C) Any designation made pursuant to this section remains 212
subject to any conditions and limitations to which the original 213
gift or endowment was subject, or to which the original 214
institutional or endowment fund was subject as described in 215

<u>sections 1715.51 to 1715.59 of the Revised Code.</u>	216
<u>(D) A community foundation acting as trustee in accordance</u>	217
<u>with this section shall return the property to the STEM school</u>	218
<u>if any of the following circumstances exist:</u>	219
<u>(1) The community foundation no longer satisfies one or</u>	220
<u>more of the criteria described in division (A) of section</u>	221
<u>3315.43 of the Revised Code.</u>	222
<u>(2) The community foundation is liquidated.</u>	223
<u>(3) The community foundation substantially violates any</u>	224
<u>condition, limitation, or requirement imposed on the property.</u>	225
<u>Sec. 3328.53. (A) For purposes of this section, "community</u>	226
<u>foundation" has the same meaning as in section 3315.43 of the</u>	227
<u>Revised Code.</u>	228
<u>(B) The board of trustees of a college-preparatory</u>	229
<u>boarding school may make a community foundation the trustee of</u>	230
<u>any gift or endowment of intangible personal property made by</u>	231
<u>grant, devise, or bequest, or in any other manner, including any</u>	232
<u>of the following:</u>	233
<u>(1) Charitable funds received or created by the school;</u>	234
<u>(2) Institutional or endowment funds related to the school</u>	235
<u>received or created pursuant to sections 1715.51 to 1715.59 of</u>	236
<u>the Revised Code.</u>	237
<u>(C) Any designation made pursuant to this section remains</u>	238
<u>subject to any conditions and limitations to which the original</u>	239
<u>gift or endowment was subject, or to which the original</u>	240
<u>institutional or endowment fund was subject as described in</u>	241
<u>sections 1715.51 to 1715.59 of the Revised Code.</u>	242

<u>(D) A community foundation acting as trustee in accordance</u>	243
<u>with this section shall return the property to the college-</u>	244
<u>preparatory boarding school if any of the following</u>	245
<u>circumstances exist:</u>	246
<u>(1) The community foundation no longer satisfies one or</u>	247
<u>more of the criteria described in division (A) of section</u>	248
<u>3315.43 of the Revised Code.</u>	249
<u>(2) The community foundation is liquidated.</u>	250
<u>(3) The community foundation substantially violates any</u>	251
<u>condition, limitation, or requirement imposed on the property.</u>	252
Section 2. That existing sections 1715.51, 3315.10, and	253
3315.41 of the Revised Code are hereby repealed.	254