

**Oshkosh Public Library**  
**Trust Fund Expenditure Policy**  
**June 2014**

**I. Purpose**

The purpose of this policy is to establish general guidelines for accumulating and expending trust fund assets under the control of the Oshkosh Public Library Board of Trustees. The policy briefly summarizes the “prudent person” legal standard for the management of the funds; characterizes several types of restrictions that may limit the action of the Library Board; and provides guidelines so that Library Administration may formulate appropriate spending proposals.

**II. Legal Background**

The Uniform Prudent Management of Institutional Funds Act in Wisconsin Statutes Chapter 112.11 governs the management and use of donated funds under the control of the Library Board. In general, this statute allows the Library to use donated funds for its own particular “charitable” or beneficial purposes, subject to the wishes of the donor, and tempered by the “prudent person” standard. That is,

“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.” [Wis. Stat. 112.11 (3) (b)]

This chapter of the statutes also spells out the terms that a donor must typically use to restrict the uses of donated funds. It also details how an institutional governing board may achieve a release or modification of those restrictions. Release or modification is typically pursued if a restriction is deemed to have become “impracticable or wasteful, [or] if it impairs the management or investment of the fund”. [Wis. Stat. 112.11 (6) (b)]

**III. Restrictions**

**A. Endowments & Quasi-Endowments**

One restriction a donor may specify when donating funds to the Library is to declare them an endowment. An endowment is established when a donor specifies that the principal amount of the gift is to be invested and that only the income earned from that investment may be spent by the recipient institution. When a donor has not specified this, but the governing board of the institution declares its intention to treat a gift as an endowment, then this is known as a “quasi endowment.”

Although several of the fund donations to the Oshkosh Public Library have been specified as endowments, quite a few have not. As a matter of practice, the Oshkosh Public Library Board has traditionally behaved as if all of the donated funds under its control were endowments.

#### **B. Spending in Accordance with the Intent of the Donor**

Aside from any restriction pertaining to preservation of the principal of a gift, a donor may express a desire that the Library spend funds in a particular way. These restrictions have most frequently been for the purchase of library materials on particular subjects, in particular formats, or for particular audiences. These spending preferences have usually, although not always, been explicitly expressed in the donor's legal gift instrument.

The Library Board has, in a few instances, set a spending restriction at the time the fund was created in order to recognize the known interests of the donor (e.g.; Mary Malnar Children's Program Fund).

#### **C. Restrictions: Non-Endowments**

On a few occasions, the Library has received a gift that the donor intended to be spent to achieve a particular facet of the Library's institutional purposes – not invested and preserved as an endowment. These funds may be held and accumulate for some time until a suitable project is found that is deemed to fit the expressed intent of the donor.

### **IV. Spending Guidelines - General**

Annually, and as necessary, the Library Director will present trust fund spending proposals to the Library Board that observe the following guidelines:

- are to cover costs for projects that enhance the excellence of the Oshkosh Public Library – its collections, programs and services – and are not for routine costs of items or activities that ought to be covered by the operating or capital improvements budgets;
- honor the expressed wishes of the donor;
- the basis of which is calculated as the average of the December 31 fund balance in each of the previous three years, as this information becomes available;

- will address immediate needs through projects costing up to 5% of the three-year average fund balance ;
- will address intermediate needs through projects costing up to an additional 5% of the three-year average fund balance;
- will address long-term capital needs through projects costing up to 20% of the three-year average fund balance; and
- will not reduce the fund by more than 25% of the three-year average fund balance in a given budget year.

V. **Spending Guidelines – Specific Funds**

- **John Hicks Memorial Trust** – The annual allocation to the Oshkosh Area School District will be 2% of the three-year average fund balance for purposes specified in the bequest; i.e., “the purchase of books, pictures, maps, drawings and works of art to be placed in the High School and ward schools for the city of Oshkosh. This is not to include apparatus of any kind or equipment for sports or amusements.”

Approved by the Oshkosh Public Library Board of Trustees  
June 26, 2014; Revised May 31, 2018