
A BILL FOR AN ACT

RELATING TO PRIVATE SUPPORT OF EDUCATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that conditional gifts
2 made for purposes to support private educational efforts,
3 including both schooling and scholarships, promotes learning,
4 access, and academic advancement, and are not intended to create
5 contractual obligations. Treating such awards as contractual
6 obligations may undermine donor intent, discourage charitable
7 giving, and create uncertainty and inconsistent legal treatment
8 of these awards.

9 The legislature further finds that these gifts customarily
10 include specified eligibility criteria, such as academic
11 performance minimums, standards of conduct, and enrollment
12 status, and require compliance with the donor's stated
13 requirements for the continuation of the award.

14 The legislature additionally finds that recognizing and
15 providing guidance about the nature and benefits of these
16 conditional educational gifts is a public purpose, and will
17 preserve and promote donors' intentions, will encourage



1 flexibility, innovation, and additional philanthropic
2 educational support across the State for students, and will
3 promote uniform statewide treatment.

4 The legislature also finds that private pre-schools and
5 private K-12 schools in Hawaii have long played an important
6 role in the community and that confirming that treating free
7 education and scholarships as gifts will encourage private
8 support for education.

9 The legislature further finds that establishing statewide
10 uniformity in the treatment of private conditional gifts will be
11 beneficial and avoid potentially conflicting treatment for
12 private sponsors of educational programs.

13 The legislature also finds that through this approach,
14 students in private pre-K and K-12 education institutions and
15 students receiving scholarships for such schooling will enjoy
16 stronger support and be able to benefit from these educational
17 resources, opportunities, and activities without the fear of
18 legal penalties for any perceived contractual obligations to the
19 student or the institution.

20 The purpose of the Act is to clarify and establish
21 uniformity regarding the relationship between private schools



1 where no tuition is required, students, and donors concerning
2 educational awards conditioned on donor-specified requirements,
3 and to provide that such schooling and awards are considered
4 conditional gifts rather than contractual obligations.

5 SECTION 2. The Hawaii Revised Statutes is amended by
6 adding a new chapter to be appropriately designated and to read
7 as follows:

8 "CHAPTER

9 EDUCATIONAL GIFTS

10 § -1 **Conditional gift.** (a) Unless the parties agree
11 otherwise in writing, any donor-conditioned educational award
12 for attendance at a private pre-school, elementary, middle,
13 intermediate, or high school, or any school-conditioned
14 enrollment at any such private school where no tuition or other
15 monetary consideration is required or paid by the recipient
16 shall be considered to be a conditional gift and not a contract;
17 provided that the donor or school operator may require the
18 student or the student's parents or guardians to:

- 19 (1) Pay for any optional extra-curricular benefits, goods,
20 or services;



1 (2) Permit use of the student's name, image, likeness, or
2 work product for non-commercial purposes; or

3 (3) Sign waivers, consents, or similar agreements as a
4 condition of participation in any school-related
5 activity.

6 (b) A conditional gift under this section may be subject
7 to reasonable conditions, including eligibility criteria,
8 academic performance minimums, standards of conduct, enrollment
9 status, or other donor-imposed or educational institution
10 requirements, and the continuation of the award shall be
11 contingent upon the satisfaction of those conditions.

12 (c) The modification or termination of any donor-
13 conditioned educational award or any school-conditioned
14 enrollment for failure to satisfy the applicable conditions
15 shall not give rise to a contractual claim; provided that the
16 conditions are applied in a manner consistent with the terms of
17 the award and applicable law.

18 (d) As used in this section, "donor-conditioned
19 educational award" means a scholarship, grant, tuition waiver,
20 or similar educational benefit funded in whole or in part by a



1 private donation, endowment, or charitable contribution and
2 subject to donor-imposed conditions."

3 SECTION 3. This Act shall apply only to donor-conditioned
4 educational awards and school-conditioned enrollments made on or
5 after its effective date.

6 SECTION 4. If any provision of this Act or the application
7 thereof to any person or circumstance is held invalid, the
8 invalidity does not affect other provisions or applications of
9 the Act that can be given effect without the invalid provision
10 or application, and to this end the provisions of this Act are
11 severable.

12 SECTION 5. This Act shall take effect on July 1, 3000.



Report Title:

Educational Gifts; Donor-conditioned Educational Awards; School-conditioned Enrollment; Conditional Gifts; Contractual Relationships

Description:

Clarifies that free tuition at private educational institutions are to be considered conditional gifts that support educational advancements rather than contractual obligations. Effective 7/1/3000. (HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

