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Update on UPMIFA:

The New Regulations in the Uniform Prudent Management of Institutional Funds Act

By Lauryn Agnew April, 2009

It is a challenge to merge the spending policy, the investment policy and the new regulations for fiduciary responsibilities.

The Uniform Prudent Management of Institutional Funds Act (UPMIFA) updates the old UMIFA with new responsibilities for fiduciaries. The Act, to be adopted by each state separately, represents the current thinking and legal expectations of fiduciaries who manage institutional funds, primarily charitable, endowment and foundation funds. (Retirement plans and public funds have their own sets of laws.) Fiduciaries who serve on non‑profit boards and finance or investment committees are still expected to behave in a manner as a 'prudent investor' would, but the new regulations in UPMIFA provide better guidance on several issues. Fiduciaries now have more investment freedom because they are not limited in the kinds of assets that may be included in a portfolio: each investment must be considered within the context of the entire portfolio (risk, return and diversification) and be in relation to the overall resources of the institution. Costs are explicitly noted as requiring strict review to be appropriate and reasonable.

Spending policies will need to be reviewed, and tied to the asset allocation and return expectations. Spending that exceeds 7% is presumed to be imprudent but is no longer limited to only 'income from dividends and interest'. Traditionally we have invested these endowed assets so that we can maintain the 'historic dollar value' – (not spending the 'corpus'). Now endowed funds must maintain 'purchasing power' into the future. Fiduciaries must reconsider the asset allocation strategy on their permanently endowed assets so that these endowed funds will appreciate by at least the inflation rate, and spending only should come from what's left of the total return after CPI. Under UPMIFA, fiduciaries must evaluate both investing and spending policies with regards to the institution, its duration and preservation, its purpose, general economic conditions, inflation (or deflation), and its other resources. According to UPMIFA, "the better charitable institutions manage investments and prudently control expenditures, the more money they should have for program purposes." (source: www.upmifa.org)