

Second Supplement to Memorandum 88-65

Subject: Study L-3012 - Uniform Management of Institutional Funds Act  
(Comments of Interested Persons)

Attached to this supplement are letters concerning the Uniform Management of Institutional Funds Act from Jonathan Brown, Vice President of the Association of Independent California Colleges and Universities (Exhibit 1), and Herbert J. Paine, Executive Director of United Way of California (Exhibit 2).

Mr. Brown concludes that UMIFA has been beneficial to colleges and universities that have chosen to use it. He also suggests that the concerns expressed in the letter from the Attorney General's office (see the First Supplement to Memorandum 88-65) are of a hypothetical nature and are not borne out by experience.

Mr. Paine believes that UMIFA should be extended to charitable and religious organizations. Like Mr. Brown, he believes that the trustees of charitable organizations would be likely to behave responsibly.

Respectfully submitted,

Stan G. Ulrich  
Staff Counsel

EXHIBIT 1

Association of  
Independent  
California  
Colleges and  
Universities

**Chairman**  
Br. T. Mc Anderson  
*President, Saint Mary's College of California*  
**Vice Chairmen**  
John D. Maguire  
*President, Claremont Graduate School and University Center*  
Mary S. Metz  
*President, Mills College*  
**Secretary/Treasurer**  
G.T. Smith  
*President, Chapman College*

**Administrative Staff**  
William J. Moore  
*President*  
Jonathan A. Brown  
*Vice President*  
Hans C. Glisocke  
*Director of Marketing and Research*  
Margery Squier  
*Administrative Assistant*  
Carole L. Eudey  
*Publications Assistant*  
Carol H. Flounoy  
*Legislative Assistant*

**Member Institutions**

American Academy of Dramatic Arts  
Azusa Pacific University  
Biola University  
California Baptist College  
California College of Arts and Crafts  
California Institute of the Arts  
California Institute of Technology  
California Lutheran University  
Chapman College  
Christ College Irvine  
Claremont Graduate School  
Claremont McKenna College  
Coggswell College  
College for Developmental Studies  
College of Notre Dame  
Dominican College of San Rafael  
Fresno Pacific College  
Golden Gate University  
Harvey Mudd College  
Holy Names College  
Humphreys College  
John F. Kennedy University  
Loma Linda University  
Loyola Marymount University  
Marymount College  
The Master's College  
Menlo College  
Mills College  
Monterey Institute of International Studies  
Mount St. Mary's College  
National University  
Northrop University  
Occidental College  
Pacific Christian College  
Pacific Union College  
Patton College  
Pepperdine University  
Pitzer College  
Point Loma Nazarene College  
Pomona College  
Saint Mary's College of California  
Samuel Merritt College of Nursing  
San Francisco Conservatory of Music  
Santa Clara University  
Scripps College  
Simpson College  
Southern California College  
Southern California College of Optometry  
Stanford University  
Thomas Aquinas College  
United States International University  
University of La Verne  
University of the Pacific  
University of Redlands  
University of San Diego  
University of San Francisco  
University of Southern California  
University of West Los Angeles  
West Coast University  
Westmont College  
Whittier College  
Woodbury University  
World College West

October 4, 1988

Stan Ulrich  
Staff Counsel  
California Law Revision Commission  
4000 Middlefield Rd. Suite D-2  
Palo Alto, CA 94303-4739

Dear Stan,

I am in receipt of your second set of materials regarding the proposed expansion of the Uniform Management of Institutional Funds Act beyond educational entities and am now prepared to make some comments on the proposed revision. Please accept them with the caveat that I am not an attorney and thus am burdened more with the operation rather than the structure of statutes! I have watched the operations of this statute since before its last amendment.

Benefits from Existing Law : I have not done a formal survey of the response to UMIFA, however, I did spend a fair amount of time discussing the act with Chief Financial Officers of our member institutions when the sunset was removed. Their uniform response was that the act was very useful in offering flexibility to their operations. That opinion has been confirmed in discussions with CFOs at institutions across the country in those states which have adopted the model statute. I suspect that many of the smaller institutions in the Association do not use the provisions of the act. If data on the question would be useful I would be glad to carry out a survey about usage among all our members.

Comments from the Office of the Attorney General : One of the constant questions raised by regulators when dealing with this kind of issue is whether the statutes should trust Boards of Directors in their role of stewards of the institution or whether the Attorney General's office has a better knowledge of how charitable organizations should function. As someone who has spent most of the last two decades dealing with the finances of charitable institutions, I have a high degree of confidence that the benefits of UMIFA far exceed the hypothetical problems. Trustees, in the vast majority of instances, take their roles seriously. The choice about utilizing a more flexible investment policy has been in my experience one which has been taken like other major decisions, with great care. When the act was originally proposed, and when it was amended, we got a parallel set of comments to the ones you sent out in your second mailing from the Attorney General's office; the comments were no more valid then than now. Finally, although I do not think it would give them comfort, but my anecdotal evidence suggests that small and unsophisticated educational institutions simply do not avail themselves of the act's provisions. It is likely that smaller charities would not utilize the provisions if the act were extended.

My conclusions about a possibly broadening of the statute would fall into three broad categories. 1) We believe that the experience of the last fifteen years has

1100 Eleventh Street  
Suite 205  
Sacramento  
California 95814  
916 446-7626

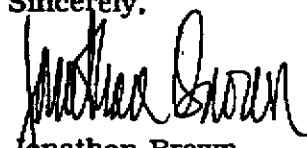
CALIFORNIA LAW REVISION COMMISSION

OCT 12 1988

RECEIVED

demonstrated that UMIFA has been a useful addition to colleges and universities in the state who chose to utilize its features. 2) The fears of the Attorney General's Office about hypothetical problems which might occur, have not been demonstrated in the use with educational institutions. 3) It is unlikely that very small charities would avail themselves of the provisions of the Act, if the experience of educational institutions is a good guide. Thus, those most likely to use the provisions of the Act are the very entities most likely to use it well. Thanks for the opportunity to comment on the proposal.

Sincerely,



Jonathan Brown  
Vice President

**United Way****of California**

410 Bush St., San Francisco, California 94108 • Phone (415) 772-4462

October 10, 1988

CALIFORNIA COMM'N

**OCT 12 1988****RECEIVED**

Stan G. Ulrich  
Staff Counsel  
California Law Review Commission  
4000 Middlefield Road, Ste. D2  
Palo Alto, CA 94303-4739

Dear Stan:

Thank you for forwarding the materials regarding the Uniform Management of Institutional Funds Act.

I believe it makes eminent sense to extend the provisions of the California Act to endowment funds of charitable and religious organizations. Opportunities of this sort can serve only to enhance the viability of nonprofit organizations. Responsible charitable entities ought to be entitled to the benefits of such legislation and can be trusted to exercise the necessary self-regulating and fiscal management procedures.

Because of the importance of this proposal to the nonprofit sector, I am scheduling for discussion at our next meeting of the Charities' Accountability Forum a review of the act and your commission's proposal. The Charities' Accountability Forum was founded by the United Way of California in 1987 to serve as a vehicle for public benefit organizations to review public policy issues affecting our sector. If you have interest in joining us at this discussion, please let me know.

Sincerely,

Herbert J. Paine  
Executive Director

HJP:jh

(14)