Prudent Management of Institutional Funds Act (UPMIFA)

Summary and Implications

The Uniform Prudent Management of Institutional Funds Act (UPMIFA) was adopted in Maryland as Emergency Legislation during this past legislative session.

- UPMIFA governs the management of, investment of and expenditures from endowment funds.
- The bright line test under current law - that spending from endowments is limited to the net appreciation in the fund-i.e. the extent to which the fair market value of the fund exceeds its initial value - is abolished under UPMIFA.
- Instead, UPMIFA articulates a standard of prudence, offering seven guidelines to consider when spending from an endowment.
- The Maryland version of UPMIFA creates a rebuttable presumption of imprudence for spending in excess of 7% of the fair market value of an endowment fund in any given year.
- The USM affiliated foundations and the USM, on behalf of the Common Trust, need to explore the implications of UPMIFA on spending policy.
- At the present time, due to the loss of value in the endowment portfolio, both that managed by USMF and other affiliated foundations not investing with USMF, many endowment funds are underwater-i.e. the fair market value is less than the initial value of the gift.

Critical questions to be considered are:

- *Should spending from underwater funds-i.e. funds whose fair market value is less than the initial value- be any different than spending from non underwater funds?*
- *Should the affiliated foundations and USM adopt a uniform policy with respect to underwater funds?*
- *Should donors of underwater funds be contacted and required to consent to spending from underwater funds?*
- *Should all living donors be notified of the new law since it applies retroactively to all funds in existence at the time the law went into effect? If so, what is the best way to do that?*