



MANAGEMENT OF UNDERWATER ENDOWMENTS UNDER UPMIFA

Findings of a Survey of Colleges, Universities, and Institutionally Related Foundations
Conducted by AGB in partnership with Commonfund Institute and NACUBO

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Management of Underwater Endowments under UPMIFA

The context in which boards are making endowment spending decisions has changed remarkably in the past year. In January 2008, Senators Max Baucus (D-MT) and Charles Grassley (R-IA), chair and ranking minority member, respectively, of the Senate Finance Committee, cited “explosive college endowment growth” as evidence that college and university boards should review their endowment-payout policies to make sure they reflect “best practices.” The senators’ implication was that best practice would dictate higher spending rates to offset tuition increases. By January 2009, endowments had decreased in value by 25 to 30 percent on average, and many of the wealthiest institutions in the country were implementing budget reductions, layoffs, increased borrowing, and tuition increases to offset decreased endowment support for their budgets.

The legal context has changed as well. Since 2006, 37 states and the District of Columbia have adopted the Uniform Prudent Management of Institutional Funds Act (UPMIFA), and the legislation has been introduced in another 10 states. UPMIFA, which guides charities, including colleges and universities, on the management, investment, and spending of endowment funds, was developed and promulgated by the National Conference of Commissioners on Uniform State Laws as a replacement for the Uniform Management of Institutional Funds Act (UMIFA), which had not been updated since its introduction in 1972. UPMIFA provides boards with greater flexibility to distribute funds from “underwater” endowments that have fallen below the original gift value at which they were established, but it also challenges them to rethink endowment spending practices that may have remained more or less unchanged for decades.

In March and April of 2009, the Association of Governing Boards of Universities and Colleges (AGB), in partnership with the National Association of College and University Business Officers (NACUBO) and Commonfund Institute, conducted a survey of colleges, universities, and affiliated foundations in states in which UPMIFA had been enacted in order to learn how institutions are managing endowment spending under UPMIFA and to inform decision making by boards, finance officers, and endowment managers. In recent years, the three organizations collaborated in the UPMIFA Educational Partnership to fund the preparation of educational materials to help inform the public about the new law and to provide educational outreach opportunities. The current survey demonstrates that the legislation has significantly enhanced the ability of colleges, universities, and other charities to provide sustained funding for endowed purposes during the current financial crisis and has encouraged boards to strengthen their processes for determining prudent endowment spending.

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Key Findings

On average, 38 percent of the dollar value of survey participants' total endowment pool was underwater as of December 31, 2008.

Survey participants reported that they currently utilize or plan to utilize the following approaches for spending from underwater endowments:

- 31.3 percent are continuing distributions in keeping with their normal spending rule;
- 26.8 percent are currently suspending distributions from funds at or below Historic Dollar Value (HDV);
- 15.6 percent are making distributions from underwater funds at some rate less than their normal spending rule but yielding more than interest and dividends;
- 9.5 percent are distributing only interest and dividends.

Institutions and foundations are clearly taking advantage of the flexibility afforded by UPMIFA to increase funding available for student and faculty support and other endowed purposes.

- Under UPMIFA, the mean number of institutions and foundations that reported discontinuing all distributions from underwater funds decreased by 11.3 percent, and the number distributing only interest and dividends dropped by 9.8 percent.
- Of the 69 institutions and foundations that discontinued all distributions from underwater funds prior to the adoption of UPMIFA, 30 (43.1 percent) now utilize new approaches that provide increased ongoing support for endowed purposes.
- Of the 35 institutions which distributed only interest and dividends for underwater funds under UMIFA, 15 (42.9 percent) have adopted new spending approaches that provide increased ongoing support for endowed purposes.

College, university, and foundation boards have responded quickly to adapt to the new standards of UPMIFA and demonstrate that they are actively engaged in decisions regarding underwater endowment spending, but board processes could be strengthened in several areas.

- 56.5 percent reported that the board or a board committee has discussed spending from underwater funds since the enactment of UPMIFA.
- 35.9 percent of survey participants documented board-level decisions regarding underwater funds in meeting minutes.
- 75 percent of institutions have reviewed gift instruments associated with underwater endowments (or are currently doing so) to determine if there are donor imposed restrictions concerning spending.

Survey Participants

Invitations to participate in the online survey were sent to chief financial officers of public and private institutions and CEOs and finance officers of foundations affiliated with public institutions in the 28 states and the District of Columbia that had enacted UPMIFA at the time. The survey was open between March 28 and April 10, 2009. In total, 184 institutions and affiliated foundations submitted usable data.

The following table breaks down survey participants by four asset-size categories and three institutional types.

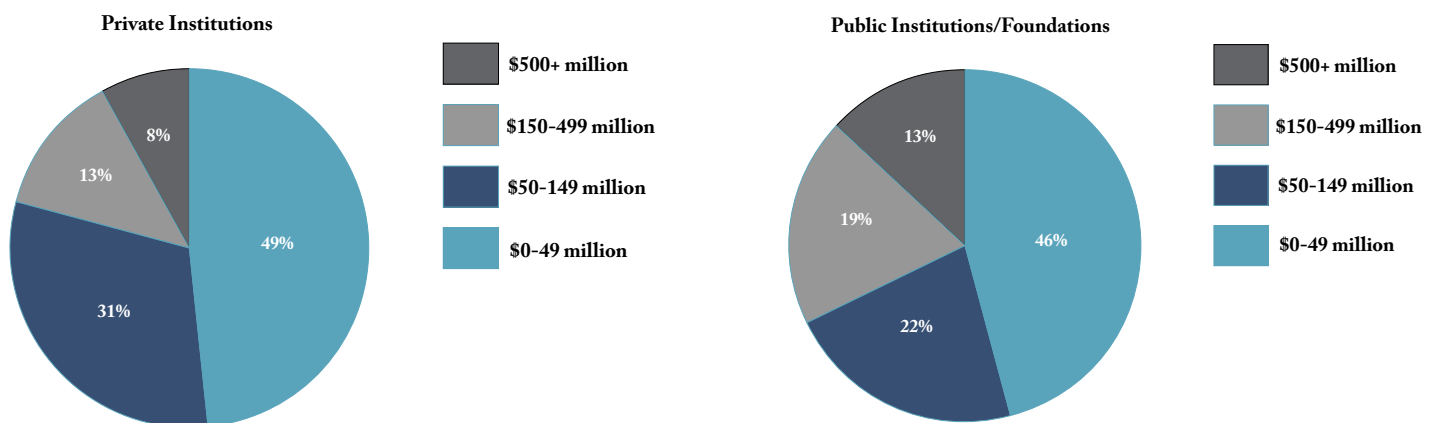
Market value of total investable assets, excluding pension fund assets and operating cash funds, on December 31, 2008 (in millions)

Response	Aggregate (n=181)	\$0-49m (n=84)	\$50-149m (n=49)	\$150-499m (n=29)	\$500+m (n=19)	Private (n=83)	Public (n=17)	Foundation (n=78)
Mean	\$316.5m	\$20.4m	\$90.9m	\$274.1m	\$2271.8m	\$399.4m	\$494.6m	\$199.1m
Median	\$58.0m	\$16.0m	\$82.0m	\$265.0m	\$957.0m	\$50.0m	\$66.0m	\$71.0m

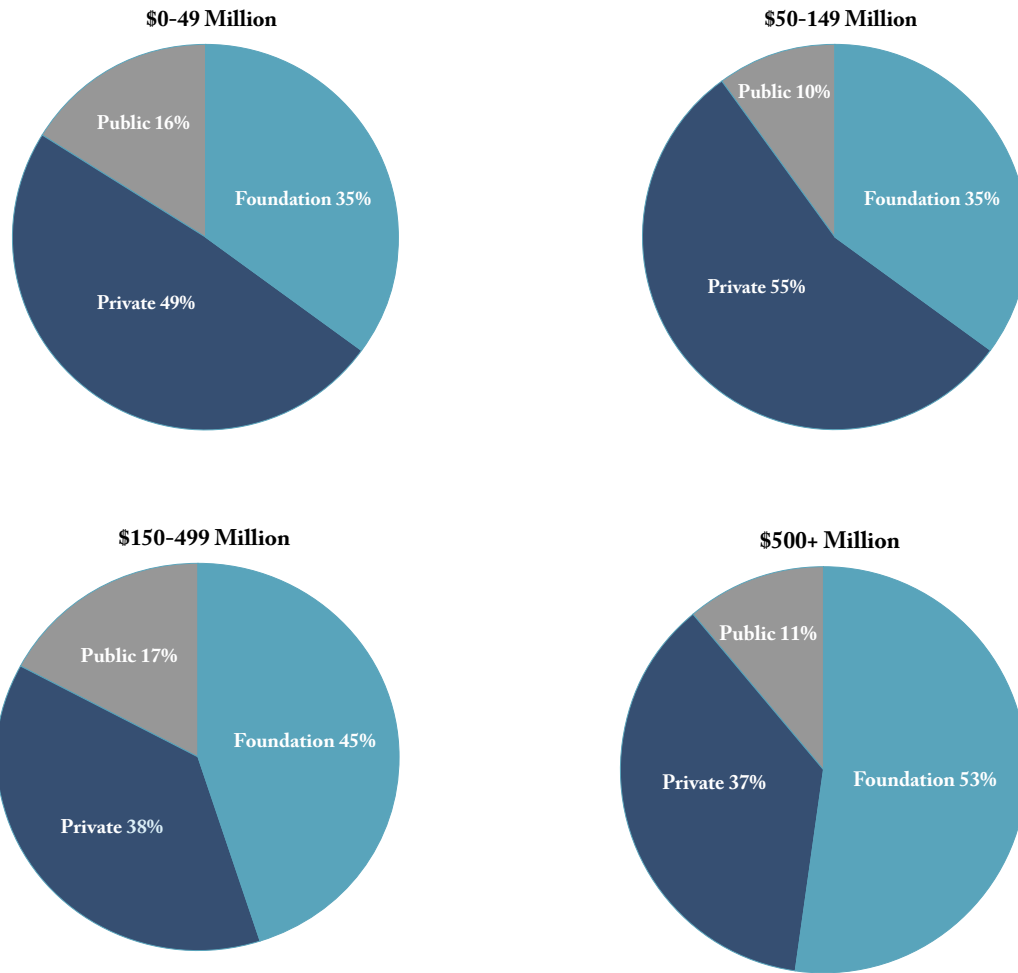
Foundations participating in this survey are all “institutionally related foundations.” Unlike private grant-making foundations, college and university foundations are publicly supported charities which raise and manage private support for their affiliated public institution. Public institution endowment may be held and managed by the institution itself but is more commonly held by a separately incorporated 501 (c)(3) foundation. For reporting purposes, some public institutions combine endowment held directly by the institution along with endowment held by its affiliated foundation(s).

Asset sizes used throughout this report refer to total investable assets, excluding pension fund assets and operating cash, which may include donor-restricted endowment as well as “quasi” or board-designated endowment. The spending provisions of UMIFA and UPMIFA apply only to donor-restricted endowment, but institutional peer groups and reported endowment size generally refer to the larger pool of total investable assets.

The following charts* provide a snapshot of the cohorts used throughout this report.

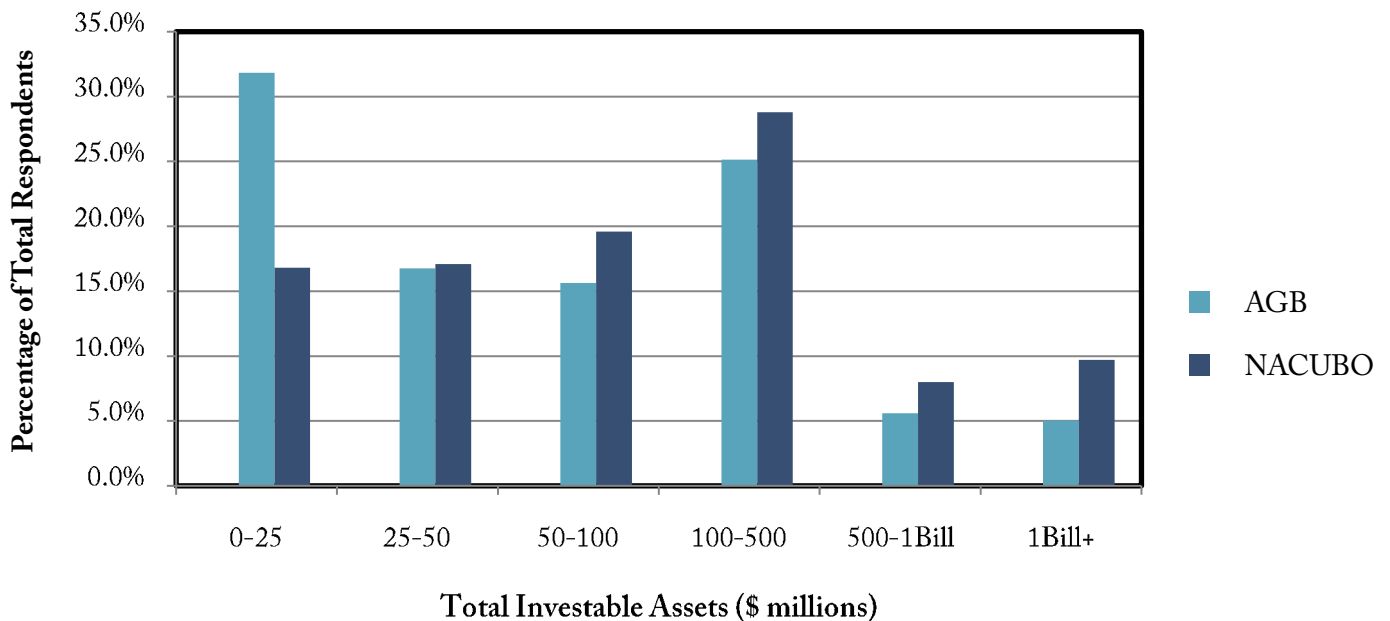


* Percentages may not total 100 percent due to rounding.



Compared to the 791 institutions represented in the 2008 NACUBO Endowment Study, our sample includes more institutions with less than \$25 million in assets and fewer institutions with assets greater than \$50 million. Our sample also includes a significantly higher percentage of public institutions and foundations (53 percent public/foundation vs. 34 percent private) than NACUBO's data (34 percent public vs. 66 percent private).

Comparison of Current Sample with 2008 NACUBO Endowment Study Respondents



Underwater Endowments

UMIFA uses the term historic dollar value (HDV) to mean the value of contributions made to an endowment fund, without increases or decreases from investment results, inflation, or other factors. “Underwater funds” refers to donor-restricted endowment accounts for which the market value has fallen below historic dollar value. On average, 38 percent of the dollar value of survey participants’ total endowment pool was underwater as of December 31, 2008. Public institutions and institutions with smaller endowments reported significantly higher percentages of underwater endowment. This probably reflects the fact that many public institutions and less-wealthy private institutions have more recently established endowment funds that have had less time to appreciate in value.

Percentage of the Dollar Value of Total Endowment Pool Underwater as of December 31, 2008

Response	Aggregate (n=155)	\$0-49m (n=74)	\$50-149m (n=39)	\$150-499m (n=24)	\$500+m (n=18)	Private (n=67)	Public (n=14)	Foundation (n=71)
Mean	38.5%	43.7%	35.8%	33.8%	29.1%	30.9%	37.7%	45.9%
Median	34.0%	36.0%	32.0%	31.0%	14.0%	24.0%	35.5%	40.0%

Spending Practices Prior to Passage of UPMIFA

Under UMIFA, a charity can generally spend from an endowment fund any amount of the appreciation above HDV that it deems prudent. Both UMIFA and UPMIFA are default statutes which apply to donor-restricted endowments for which no gift instrument exists or for which gift instruments do not specify spending practices. In the absence of documentation of donor intent, charities are, in most UMIFA states, obliged to suspend distributions from underwater accounts or limit distributions to amounts equal to interest and dividends generated by the account. In practice, most charities sought not only to preserve the original dollar value of the fund but to grow the fund and sustain its long-term purchasing power.

UMIFA posed several serious challenges for institutions. Following the market decline of 2001 and 2002, many institutions systematically reviewed all their gift agreements to determine if they specified spending practices and, in some cases, contacted donors to amend agreements and/or make supplementary gifts to provide ongoing support for the endowment purpose while the fund recovered. Many institutions also tapped operating reserves and other unrestricted funds to supplement decreased distributions from underwater accounts, but ongoing financial stress may render this impossible in the current recession.

Prior to the enactment of UPMIFA:

- 38.1 percent of all institutions and foundations surveyed suspended all distributions from funds at or below HDV;
- 34.3 percent continued distributions in accordance with their normal spending rule;
- 19.3 percent distributed only interest and dividends for underwater funds, and/or;
- 10.5 percent made distributions at some reduced rate.

The high number of institutions (34.3 percent) that reported that they had “continued distributions in keeping with (their) normal spending rule” is surprising. In most states, UMIFA was interpreted as requiring charities to suspend distributions from donor-restricted underwater funds or distribute only interest and dividends unless the gift instrument specified some other spending approach. Although this survey did not address the ways in which institutions are engaging with donors in making determinations about spending from underwater endowments, many institutions previously contacted donors to ascertain their preference about disbursement/accumulation from underwater accounts. Anecdotally, donors generally preferred that institutions continue making disbursements. In responding to this question, some respondents may have conflated continuing distributions from underwater accounts with providing ongoing support for endowed purposes. Comments made by institutions reporting that they continued making distributions in keeping with their normal rate suggest that some of them in fact suspended distributions from underwater funds or distributed only interest and dividends,

but tapped quasi-endowment or operating reserves, or solicited new gifts to continue funding endowment purposes at expected levels.

Several institutions effectively treated distributions from underwater accounts as loans which the unit or institution subsequently repaid from unrestricted sources. For example, one institution noted that it continued to fund endowment purposes but that the recipient units had been required to subsequently repay underwater accounts for distributions made while they were below HDV. Others reported that endowment purposes had been funded from operating reserves which were subsequently repaid from the endowment account when it had recovered in value.

Prior to 2008's precipitous market losses, institutions with mature endowments may never have had a significant number of underwater accounts. In other contexts, institution and foundation managers reported that they had conferred with donors who preferred that program support continue. Some institutions may simply have overlooked a handful of underwater accounts among a pool of thousands, may not have had records systems that allowed them to readily identify specific accounts subject to UMIFA's spending rule, or may have been unfamiliar with the specific requirements of UMIFA and inadvertently spent from underwater funds. Institutions may also have had provisions in their gift agreements which allowed for continued spending from underwater funds.

Public institutions and foundations, which typically have a larger proportion of recently established endowment funds, were more likely to suspend distributions or distribute only interest and dividends from underwater accounts. Smaller endowments also exhibited greater caution about making distributions from underwater funds.

Management of Underwater Endowments Under UMIFA

Response	Aggregate (n=181)	\$0-49m (n=84)	\$50-149m (n=48)	\$150-499m (n=29)	\$500+m (n=19)	Private (n=82)	Public (n=17)	Foundation (n=78)
Discontinued all distributions for funds at/below HDV	38.1%	45.2%	39.6%	37.9%	5.3%	30.5%	29.4%	50.0%
Distributed only interest and dividends for funds at/below HDV	19.3%	17.9%	14.6%	20.7%	36.8%	15.9%	17.6%	23.1%
Continued distributions with normal spending rule	34.3%	26.2%	37.5%	37.9%	57.9%	48.8%	41.2%	20.5%
Continued distributions at a reduced rate yielding more than interest and dividends	6.6%	7.1%	10.4%	3.4%	0.0%	3.7%	11.8%	7.7%
Continued distributions at some other reduced rate	3.9%	1.2%	6.3%	3.4%	5.3%	2.4%	5.9%	3.8%
Other	8.3%	8.3%	10.4%	3.4%	10.5%	4.9%	11.8%	7.7%

Current Spending Practices under UPMIFA

Despite the scope of challenges faced by institution and foundation boards since last fall's market collapse, many have clearly paid serious attention to their management of underwater endowments.

Institutions and foundations reported that they currently employ or plan to employ the following practices for spending from underwater endowments (for which gift agreements do not dictate particular practices):

- 31.3 percent are continuing distributions in keeping with their normal spending rule; institutions with larger endowments are more likely to maintain this practice;
- 26.8 percent are currently suspending distributions from funds at or below HDV;
- 15.6 percent are making distributions from underwater funds at some rate less than their normal spending rule but yielding more than interest and dividends;
- 9.5 percent are distributing only interest and dividends;
- 5 percent have established a threshold at which they will suspend distributions from underwater accounts, thresholds reported include: 75 percent of HDV (two institutions), 80 percent of HDV (two institutions), 82 percent of HGV (one institution), 95 percent of HDV (two institutions); and
- Three institutions have established a tiered system in which the distribution rate for underwater funds decreases incrementally and is eventually suspended when the fund value drops to a designated percentage of HDV.

Current or Planned Practices for Spending from Underwater Endowments

Response	Aggregate (n=179)	\$0-49m (n=83)	\$50-149m (n=46)	\$150-499m (n=27)	\$500+m (n=18)	Private (n=78)	Public (n=17)	Foundation (n=78)
Discontinued all distributions for funds at/below HDV	26.8%	38.6%	21.7%	14.8%	11.1%	32.1%	17.6%	30.8%
Distributed only interest and dividends for funds at/below HDV	9.5%	8.4%	13.0%	11.1%	5.6%	9.0%	5.9%	10.3%
Continued distributions with normal spending rule	31.3%	22.9%	30.4%	40.7%	66.7%	41.0%	41.2%	24.4%
Continued distributions at a reduced rate yielding more than interest and dividends	10.6%	14.5%	13.0%	3.7%	0.0%	10.3%	17.6%	10.3%
Continued distributions at some other reduced rate	5.0%	3.6%	6.5%	7.4%	5.6%	5.1%	5.9%	5.1%
Spend down to certain percentage of HDV	5.0%	1.2%	13.0%	7.4%	0.0%	3.8%	0.0%	7.7%
Tiered approach	1.7%	0.0%	6.5%	0.0%	0.0%	1.3%	0.0%	2.6%

Only 10.6 percent of institutions vary their spending practice for underwater funds according to the purpose of the fund. Those that do cite student financial aid as the purpose they continue to fund.

The ways in which institutions manage spending from underwater funds is likely to change in the next year. UPMIFA has been enacted in 12 states in 2009 and is making its way through the legislative process in 10 more. Many institutions only calculate market values on an account by account basis twice a year and may not have had year-end fund valuations in hand for January board meetings. Finally, boards are likely to adapt their spending practices based on evolving expectations about market returns and the financial circumstances of their institutions.

Changes in Spending Practices under UPMIFA

Institutions have clearly taken advantage of the flexibility afforded by UPMIFA.

Under UPMIFA, the average number of institutions and foundations that report discontinuing all distributions from underwater funds decreased by 11.3 percent, and the number distributing only interest and dividends dropped by 9.8 percent. Use of the two approaches, which were widely employed in the absence of donor guidance to the contrary and significantly decreased support for endowed purposes, declined by a total of 21.1 percent.

Of the 104 institutions that previously discontinued distributions or distributed only interest and dividends, 76.1 percent are currently spending in keeping with their normal spending rate, spending at a reduced rate yielding more than interest and dividends, or spending according to a threshold or tiered policy.

Of the 69 institutions and foundations that discontinued all distributions from underwater funds prior to the adoption of UPMIFA, 30 (43.1 percent) now utilize new approaches that provide increased ongoing support for endowed purposes:

- 50.1 percent (35) are again discontinuing distributions from underwater funds;
- 17 percent (12) now continue distributions in keeping with their normal spending rule;
- 11.6 percent (8) now continue distributions at some reduced rate that yields more than interest and dividends;
- 11.6 percent (8) have adopted a threshold or tiered spending approach;
- 2.9 percent (2) now distribute interest and dividends;
- Others have yet to finalize a decision or are employing some hybrid approach.

Of the 35 institutions which distributed only interest and dividends for underwater funds under UMIFA, 15 (42.9 percent) have adopted new spending approaches that provide increased ongoing support for endowed purposes:

- 45.7 percent (16) are again distributing only interest and dividends;
- 11.4 percent (4) are discontinuing all distributions
- 20 percent (7) are continuing spending in keeping with their normal spending rule;
- 14.3 percent (5) are continuing distributions at some reduced rate yielding more than interest and dividends;
- 8.6 percent (3) have adopted a threshold or tiered spending approach.

As a result of the market decline, 19.6 percent of institutions have also changed the way in which they calculate endowment distributions for funds that are not underwater. Of these, nearly all (91.4 percent) have adjusted their spending calculations to effectively increase distributions for endowment purposes.

Changes to the Way in Which Distributions from Endowment Funds Not Currently Underwater are Calculated

Changed?	Aggregate (n=184)	\$0-49m (n=87)	\$50-149m (n=49)	\$150-499m (n=29)	\$500+m (n=19)	Private (n=86)	Public (n=17)	Foundation (n=78)
Yes	19.6%	17.2%	22.4%	20.7%	21.1%	11.6%	23.5%	25.6%
No	80.4%	82.8%	77.6%	79.3%	78.9%	88.4%	76.5%	74.4%
If Yes	Aggregate (n=35)	\$0-49m (n=14)	\$50-149m (n=11)	\$150-499m (n=6)	\$500+m (n=4)	Private (n=10)	Public (n=4)	Foundation (n=19)
Decreased distributions	8.6%	7.1%	9.1%	16.7%	0.0%	10.0%	0.0%	10.5%
Increased distributions	91.4%	92.9%	90.9%	83.3%	100.0%	90.0%	100.0%	89.5%

Institutions are clearly looking to their endowments as rainy day funds in the current crisis. One might have expected institutions to freeze or reduce endowment spending in response to the precipitous drop in investment values, but they have attempted instead to strike a balance between funding current needs and maintaining the long-term value of their endowments.

Governance Practice

Institution and foundation boards in UPMIFA states are actively involved in making decisions about spending from underwater funds. Of survey participants, 74 percent reported that the institution or foundation board approves decisions regarding spending from underwater accounts. Recommendations about spending from underwater funds most commonly come from institution/foundation staff, but finance and executive committees are also frequently involved (see table below). The comparatively low levels of board engagement reported for public institutions may reflect the fact that public institution governing boards are generally less directly involved in endowment management. Affiliated foundations consistently demonstrate the highest level of board engagement and governance practice concerning spending from underwater funds and may provide useful models for private institutions and other organizations which have not had the opportunity to devote sustained attention to the issue.

The Institution or Foundation Board Approves Decisions Regarding Spending from Underwater Endowments?

Response	Aggregate (n=181)	\$0-49m (n=85)	\$50-149m (n=49)	\$150-499m (n=28)	\$500+m (n=19)	Private (n=84)	Public (n=17)	Foundation (n=77)
Yes	74.0%	75.3%	67.3%	78.6%	78.9%	64.3%	52.9%	88.3%
No	26.0%	24.7%	32.7%	21.4%	21.1%	35.7%	47.1%	11.7%

A majority of boards rely on recommendations from staff regarding spending from underwater endowments. Finance and investment committees also commonly make spending recommendations.

Parties Making Recommendations Regarding Spending from Underwater Endowments

Response	Aggregate (181)	\$0-49m (n=85)	\$50-149m (n=49)	\$150-499m (n=28)	\$500+m (n=19)	Private (n=84)	Public (n=17)	Foundation (n=77)
Institution/foundation staff	58.6%	54.1%	61.2%	60.7%	68.4%	56.0%	41.2%	66.2%
Finance committee	45.3%	51.8%	38.8%	35.7%	47.4%	48.8%	29.4%	45.5%
Investment committee	39.2%	38.8%	42.9%	39.3%	31.6%	38.1%	29.4%	41.6%
Whole board	27.1%	23.5%	28.6%	35.7%	26.3%	25.0%	5.9%	33.8%
Executive committee	19.3%	20.0%	24.5%	7.1%	21.1%	9.5%	17.6%	31.2%

A majority of affiliated foundations (from 60 to 70 percent) include representatives of the institution, typically institution presidents or chief financial officers, in decision making about endowment spending.

Institution Representatives Engaged in Affiliated Foundations Endowment Spending Decisions

Response	All foundations (n=77)	\$0-49m (n=34)	\$50-149m (n=19)	\$150-499m (n=14)	\$500+m (n=10)
None	40.3%	29.4%	42.1%	35.7%	30.0%
Institution president	42.9%	29.4%	47.4%	42.9%	40.0%
Institution CFO	27.3%	20.6%	31.6%	28.6%	30.0%
Deans or other unit representatives	23.4%	5.9%	21.1%	42.9%	30.0%
Members of the institution governing board	6.5%	2.9%	0.0%	14.3%	10.0%
Other	6.5%	8.8%	5.3%	7.1%	0.0%

Board Discussion

Although 74 percent of institutions report that the board approves decisions regarding spending from underwater endowments, only 56.5 percent reported that the board or a board committee had discussed spending from underwater funds since the enactment of UPMIFA. This might reflect the fact that many institutions and foundations make decisions regarding endowment distributions on an annual basis and have yet to address the issue in a board meeting.

Recommendation: While decisions regarding spending from underwater endowments may have limited impact on the overall financial circumstances of an institution, they represent a fundamental fiduciary responsibility. As the ultimate stewards of endowments, boards should be involved in decisions that could significantly undermine the long-term purchasing power of funds contributed with the intention that their ability to provide ongoing support for designated charitable purposes be preserved.

Board Policies

According to the data, 19.6 percent of boards have formally approved a policy addressing distributions from underwater funds, 26.6 percent are currently considering such a policy, and 7.6 percent have no plans to adopt such a policy. An additional 19 percent of institutions have policies adopted by staff.

Recommendation: UPMIFA's prudence rule encourages institutions to take a broad range of factors into account in making decisions regarding distributions from underwater endowments. Given that economic circumstances, institutional needs and resources, investment return expectations, and other factors will all vary from year to year, boards may decide not to adopt a policy dictating particular spending practices for underwater funds. Boards should, however, adopt a policy specifying how decisions regarding prudent appropriation or accumulation of underwater endowments will be made.

Review of Gift Instruments

Of survey participants, 72.3 percent reviewed gift instruments associated with underwater funds before or after the passage of UPMIFA to determine if there are donor-imposed restrictions on spending or are currently doing so, while 14.1% specifically indicated that they are not planning to undertake such a review.

Recommendation: UPMIFA is a default statute applying to donor-restricted endowments for which gift instruments do not provide specific guidance concerning appropriation or accumulation of funds. Boards have an obligation to honor the terms of gift instruments and should ensure that the institution's policies and practices support documentation of its compliance with donor intent as to both purpose and appropriation/accumulation of endowments.

Test of Prudence

Only 7.1 percent of boards have established a test or definition of prudence to use in determinations about spending from underwater funds.

Recommendation: Unlike UMIFA, in which HDV serves as a clearly defined point at which spending from endowments should be suspended or reduced, UPMIFA requires institutions to consider a range of factors, including the duration and preservation of the fund, the purposes of the institution and the fund, general economic conditions, the possible effects of inflation and deflation, the expected total return from income and appreciation of investments, other resources of the institution, and the investment policy of the institution. Variations in these factors could dictate a range of approaches from institution to institution, year to year, and even fund to fund. Boards may, accordingly, opt not to identify fixed limits above or below which they deem it imprudent to spend. They should, however, have policies in place addressing how they will determine prudent appropriations for expenditure from endowment funds. An optional provision, adopted by 11 states, creates a rebuttable presumption of imprudence for spending over 7 percent (or some other specified amount) in any given year for all endowments (including funds that are not underwater) and boards should bear this in mind in their decision making.

Documentation of Board Decision Making

Of survey participants, 35.9 percent, document board-level decisions regarding underwater funds in their minutes. In the absence of a bright-line test of prudence, boards must be able to demonstrate the factors they have taken into consideration and the basis of their decisions.

Recommendation: Sound board process, including documentation of boards' decision making, is of critical importance in demonstrating prudence. Staff recommendations for spending from underwater funds, factors considered, and decisions taken should all be documented in minutes.

Governance Practices under UPMIFA

Response	Aggregate (n=184)	\$0-49m (n=87)	\$50-149m (n=49)	\$150-499m (n=29)	\$500+m (n=19)	Private (n=86)	Public (n=17)	Foundation (n=78)
The board or a committee thereof has discussed spending from underwater funds	56.5%	54.0%	57.1%	55.2%	68.4%	39.5%	35.3%	80.8%
The board or a committee thereof has formally approved a policy addressing distributions from underwater funds	19.6%	14.9%	28.6%	24.1%	10.5%	11.6%	17.6%	28.2%
The board is currently considering such a policy	26.6%	32.2%	18.4%	27.6%	21.1%	36.0%	11.8%	17.9%
The board has no plans to adopt such a policy	7.6%	6.9%	10.2%	3.4%	10.5%	9.3%	5.9%	6.4%
Institution staff members have adopted a policy addressing distributions from underwater funds (not formally approved or adopted by the board)	19.0%	21.8%	16.3%	10.3%	26.3%	26.7%	17.6%	11.5%
The institution has no formal policy addressing distributions from underwater funds	30.4%	32.2%	30.6%	24.1%	31.6%	31.4%	41.2%	25.6%
Institution staff or board members have reviewed all underwater funds to determine if the gift instrument specifically prohibits or mandates particular spending practices that may differ from the organization's general practice for spending from underwater funds	28.8%	25.3%	26.5%	44.8%	26.3%	19.8%	17.6%	41.0%
The board (or a committee thereof, or the staff) has established a test or definition of prudence to use in determinations about spending from underwater funds.	7.1%	2.3%	14.3%	10.3%	5.3%	5.8%	11.8%	11.8%
Board or committee-level decisions regarding underwater funds have been documented in minutes	35.9%	36.8%	38.8%	37.9%	21.1%	25.6%	17.6%	52.6%

Institution and Foundations that Have Not Reviewed Gift Instruments Associated with Underwater Endowments Since the Passage of UPMIFA

Response	Aggregate (n=106)	\$0-49m (n=51)	\$50-149m (n=31)	\$150-499m (n=13)	\$500+m (n=11)	Private (n=51)	Public (n=10)	Foundation (n=44)
Did so prior to the passage of UPMIFA	26.4%	15.7%	35.5%	30.8%	45.5%	23.5%	30.0%	29.5%
Currently undertaking or planning to undertake such a review	49.1%	58.8%	45.2%	38.5%	27.3%	51.0%	20.0%	52.3%
Not planning to undertake such a review	24.5%	25.5%	19.4%	30.8%	27.3%	25.5%	50.0%	18.2%

The UPMIFA Educational Partnership

The Uniform Law Commission promulgated the Uniform Prudent Management of Institutional Funds Act (UPMIFA) in August 2006 after four years of drafting and study. UPMIFA represents a substantial revision to the law of nonprofit endowment investment governance and serves to modernize the current statute—the Uniform Management of Institutional Funds Act (UMIFA)—which dates back to 1972. Support for UPMIFA is growing, and it has already been adopted in 33 states.

Three organizations with a strong commitment to nonprofit governance—the Association of Governing Boards of Universities and Colleges (AGB), Commonfund Institute, and the National Association of College and University Business Officers (NACUBO)—have funded the preparation of educational materials to help inform the public about the new law and have enabled the Uniform Law Commission to provide educational outreach opportunities for UPMIFA. The success of the UPMIFA Educational Partnership is in large measure attributable to the generosity of these grantors.

Association of Governing Boards of Universities and Colleges (AGB)

For nearly 90 years, the Association of Governing Boards of Universities and Colleges (AGB) has had one mission: to strengthen and protect this country's unique form of institutional governance through its research, services, and advocacy. Serving more than 1,200 member boards and 35,000 individuals, AGB is the only national organization providing university and college presidents, board chairs, trustees, and board professionals of both public and private institutions with resources that enhance their effectiveness. In accordance with its mission, AGB has developed programs and services that strengthen the partnership between the president and governing board; provide guidance to regents and trustees; identify issues that affect tomorrow's decision making; and foster cooperation among all constituencies in higher education.

Commonfund Institute

Founded in 1971, Commonfund is devoted to enhancing the financial resources of educational and other nonprofit institutions including endowments, foundations, healthcare and service organizations through superior fund management, investment advice and treasury operations. Directly or through its subsidiaries, Commonfund Capital, Commonfund Realty, and Commonfund Asset Management Company, Commonfund manages approximately \$24 billion for more than 1,500 educational institutions, foundations, healthcare and other nonprofit institutions, representing one of the largest pools of educational endowment and operating funds in the world. In response to the growing needs of nonprofit institutions, Commonfund, together with its subsidiary companion organizations, offers more than 35 different endowment investment programs. All securities are distributed through Commonfund Securities, Inc.

National Association of College and University Business Officers (NACUBO)

The National Association of College and University Business Officers (NACUBO) is a membership organization representing more than 2,500 colleges, universities, and higher education service providers across the country and around the world. NACUBO specifically represents chief business and financial officers through advocacy efforts, community service, and professional development activities. The association's mission is to advance the economic viability and business practices of higher education institutions in fulfillment of their academic missions.