

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

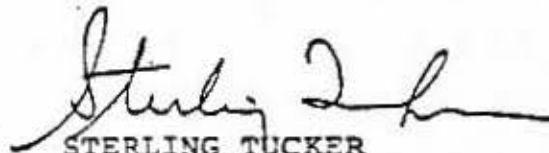
April 13, 1977

D.C LAW 1-103

"Uniform Management of Institutional
Funds Act".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act (PL 93-198), the Act, the Council of the District of Columbia adopted Bill No. 1-139 on first and second readings September 15, 1976, and October 12, 1976, respectively. Following the signature of the Mayor on November 9, 1976, this legislation was assigned Act No. 1-172, published in the November 26, 1976, edition of the D.C. Register, and transmitted to both Houses of Congress for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired and, therefore, cites the following legislation as D. C. Law 1-103, effective April 6, 1977.


STERLING TUCKER
Chairman of the Council

D. C. LAW

1-103

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 6, 1977

To provide for the uniform management of institutional funds.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,
That this act may be cited as the "Uniform Management of Institutional Funds Act".

Sec. 2. Definitions. - In this act:

(a) "Institution" means an incorporated or unincorporated organization organized and operated exclusively for educational, religious, charitable, or other eleemosynary purposes, or a governmental organization to the extent that it holds funds exclusively for any of these purposes.

(b) "Institutional fund" means a fund held by an institution for its exclusive use, benefit, or purposes, but does not include --

(1) a fund held for an institution by a trustee that is not an institution or -

(2) a fund in which a beneficiary that is not an institution has an interest, other than possible rights that

could arise upon violation or failure of the purposes of the fund.

(c) "Endowment fund" means an institutional fund, or any part thereof, not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument.

(d) "Governing board" means the body responsible for the management of an institution or of an institutional fund.

(e) "Historic dollar value" means the aggregate fair value in dollars of - (1) an endowment fund at the time it became an endowment fund, (2) each subsequent donation to the fund at the time it is made, and (3) each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund. The determination of historic dollar value made in good faith by the institution is conclusive.

(f) "Gift instrument" means a will, deed, grant, conveyance, agreement, memorandum, writing, or other governing document (including the terms of any institutional solicitations from which an institutional fund resulted) under which property is transferred to or held by an institution as an institutional fund.

Sec. 3. The governing board may appropriate for expenditure for the uses and purposes for which an endowment fund is established so much of the net appreciation, realized and unrealized, in the fair value of the assets of an endowment fund over the historic dollar value of the fund as is prudent under the standard established by section 7 of this act. This section does not limit the authority of the governing board to expend funds as permitted under other law, the terms of the applicable gift instrument, or the charter of the institution.

Sec. 4. Section 3 above does not apply if the applicable gift instrument indicates the donor's intention that net appreciation shall not be expended. A restriction upon the expenditure of net appreciation may not be implied from a designation of a gift as an endowment, or from a direction or authorization in the applicable gift instrument to use only "income," "interest," "dividends," or "rents, issues, or profits," or "to preserve the principal intact," or a direction which contains other words of similar import. This rule of construction applies to gift instruments executed or in effect before or after the effective date of this act.

Sec. 5. In addition to an investment otherwise authorized by law or by the applicable gift instrument, and

without restriction to investments a fiduciary may make, the governing board, subject to any specific limitations set forth in the applicable gift instrument or in the applicable law other than law relating to investments a fiduciary may

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(a) invest and reinvest an institutional fund in any real or personal property deemed advisable by the governing board, whether or not it produces a current return, including mortgages, stocks, bonds, debentures, and other securities of profit or non-profit corporations, shares in or obligations of associations, partnerships, or individuals, and obligations of any government or subdivision or instrumentality thereof;

(b) retain property contributed by a donor to an institutional fund for as long as the governing board deems advisable;

(c) include all or any part of an institutional fund in any pooled or common fund maintained by the institution; and

(d) invest all or any part of an institutional fund in any other pooled or common fund available for investment, including shares or interest in regulated investment companies, mutual funds, common trust funds, investment partnerships, real estate investment trusts, or similar organizations in which funds are commingled and investment

determinations are made by persons other than the governing board.

Sec. 6. Except as otherwise provided by the applicable gift instrument or by applicable law relating to governmental institutions or funds, the governing board may

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(a) delegate to its committees, officers or employees of the institutions, or the fund, or agents, including investment counsel, the authority to act in place of the board in investment and reinvestment of institutional funds;

(b) contract with independent investment advisers, and investment counsel or managers, banks, or trust companies, so to act,

(c) authorize the payment of compensation for investment advisory or management services.

Sec. 7. In the administration of the powers to appropriate appreciation, to make and retain investments, and to delegate investment management of institutional funds, members of a governing board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. In so doing they shall consider long-and-short term needs of the institution in carrying out its educational, religious, charitable, or other eleemosynary purposes, its present and

anticipated financial requirements, expected total return on its investments, price level trends, and general economic conditions.

Sec. 8. (a) With the written consent of the donor, the governing board may release, in whole or in part, a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund.

(b) If written consent of the donor cannot be obtained by reason of his death, disability, unavailability, or impossibility of identification, the governing board may apply, in the name of the institution, to the Superior Court of the District of Columbia for release of a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund. The Corporation Counsel of the District of Columbia shall be notified of the application and shall be given an opportunity to be heard. The Attorney General of the United States shall be notified of the application and shall be given an opportunity to be heard when a Federal interest in the application or the institution is asserted. If the court finds that the restriction is obsolete, inappropriate, or impracticable, it may by order release the restriction in whole or in part. A release under this subsection may not change an endowment fund to a fund that is not an endowment fund.

(c) A release under this section may not allow a fund to be used for purposes other than the educational, religious, charitable, or other eleemosynary purposes of the institution affected.

(d) This section does not limit the application of the doctrine of cy pres.

Sec. 9. If any provision of this act, or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable.

Sec. 10. This act shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this act among those States which enact it.

Sec. 11. This act shall take effect pursuant to the provisions of section 602(c) of the District of Columbia Self-Government and Governmental Reorganization Act.