

## Memorandum

To: UMIFA Drafting Committee

From: Susan Gary

Re: Draft Dated March 2, 2005

Date: March 2, 2005

I am sending a new draft of UMIFA, dated March 2, 2005. This draft will be posted on the NCCUSL website and the RPPT website, and the draft can be circulated to anyone who is interested.

The major changes in the March 2 draft are in the Comments. I have made substantial revisions in several sections, indicated with strike-and-score markings. The only changes to the statutory language from the February 18, 2005 draft are changes to Section 6. I have tried to clarify the language on equitable deviation and cy pres, indicating more clearly that deviation affects the means to the end and cy pres affects the end (the purpose). Deviation applies to management and investment restrictions and cy pres applies to purpose restrictions. I have also changed the section heading of Section 6 to use the words "management or investment" because those words are used throughout our Act. "Administration" came from the Trust Code.

For other changes from the January 5, 2005 draft (the meeting draft), you should refer to my February 18 memo.

At the January meeting someone suggested that each committee member, observer, and other interested person, request comments from any universities in his or her state and from the attorney general's office in the state. I urge each of you to do so and then to let me know what you learn so that I can compile the information for distribution to the committee.

As we discussed at the committee meeting, we will meet by conference call to discuss this new draft. Dwight and I would like to schedule that conference call during the second week of May. The ABA's RPPT section is meeting at the end of April and will be discussing UMIFA during that meeting. We would like to hold our conference call after the RPPT meeting, so that we can consider any input we get from the section. We do not want to wait much later than the second week of May, however, because NCCUSL will need the Annual Meeting version of the Act fairly soon thereafter. The NCCUSL office will be circulating to the Drafting Committee and our ABA advisors a request for availability. After we pick the date for the conference call we will send information about when and how to join the call to everyone who may be interested in participating.