

ANNUAL FIDUCIARY EDUCATION

Board of Administration
San Jose Federated City
Employees' Retirement
System

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FIVE FUNDAMENTAL FIDUCIARY DUTIES

1. Duty of Loyalty. You owe your primary duty to all the members and beneficiaries of the trust. All other obligations must be subordinated.
2. Exclusive Benefit Rule. The assets of the trust may be used only to pay benefits and reasonable administrative expenses. Not to pursue other goals.
3. Prudent Expert Rule. You must exercise the care and skill of a knowledgeable, prudent person charged with similar duties. And assure the competency of the assets of the trust.
4. Diversify Investments. You must broadly diversify the portfolio unless it is imprudent to do so (aka “Modern Portfolio Theory.”)
5. Follow the law. You must obey the plan documents, which includes the law, policies, regulations and governing documents of the trust. The Board does not design the plan, it implements the plan.

FIVE FIDUCIARY PILLARS

Primary Loyalty to Members



- Avoid “two hat” conflicts of interest
- Attract and retain capable staff
- Provide superior member service
- Minimize risk of loss

Exclusive Benefit of Members



- Avoid using assets to achieve other goals
- Pay only reasonable expenses to administer fund

Prudent Care and Expertise



- Follow good governance policies as a Board, and make a good record
- Be transparent
- Engage and delegate to expert staff and consultants
- Monitor and adjust as needed

Diversify the Assets



- Establish collective risk tolerance
- Seek risk-adjusted returns across all markets
- Weigh each investment for its contribution to whole program

Follow the Law



- Implement written plan documents in a lawful manner
- Be mindful of your public official role

AVOIDING CONFLICTS OF INTEREST

- Critical duty of loyalty – a trustee cannot serve two masters –the members on one hand and herself or others on the other hand
- Most serious of all fiduciary duties; severe penalties for breach
- Impacts all decisions: contracts, hiring of consultants and vendors, relations with the City, unions, retirees, personal business interests, litigation, etc...
- Exercising independent judgment and avoiding unduly influencing others is essential
- Rules are complicated and often not intuitive; seek counsel when in doubt

FEDERATED'S "STAKEHOLDERS"



TEN FIDUCIARY COMMANDMENTS

1. Adhere to fundamental fiduciary duties
2. Obey conflict of interest laws
3. Avoid activities that improperly influence or impair your judgment, or are inconsistent with your duty to act in the best interest of all members
4. Disclose conflicting interests; recuse when appropriate and timely
5. Comply with all legal limits on gifts and things of value
6. Honor the "quiet period" during manager and vendor searches
7. Avoid using your public position for private gain or influence
8. Maintain the confidentiality of closed sessions
9. Conduct yourself with civility and respect at board meetings
10. Use care in communications with members, service providers and the plan sponsor

“HOT BUTTON” ISSUES THAT MAY TEST YOUR FIDUCIARY COMMITMENT



- Funding decisions that impact the City and all stakeholders – employer and employee contribution rates and budgets
- Complying with a controversial law
- Delegating increasing authority to staff
- Integrating ESG into investment decisions
- Peer pressure

A CURRENT EXAMPLE: RUSSIAN DIVESTMENT LEGISLATION SB 1328

- Most California pension funds (not San Jose funds) to cease investing in or hiring companies that have active business operations in Russia or Belarus, unless they take substantial action to halt
- Pension funds must divest from Russia/Belarus holdings
- Funds must hire research companies to analyze; and collaborate with peer funds
- Board need not take action unless it determines divestment is consistent with its fiduciary duties

SO: IS IT?

Discuss: Duty of loyalty, exclusive benefit, prudence, duty to diversify

QUESTIONS?