

WV Municipal Pensions Oversight Board

Fiduciary Duty

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Goals of Presentation

- Present an overview of fiduciary duty principles and laws
- Provide guidance to help you meet your responsibilities

Who is a Fiduciary?

Probably Most of You in
the Audience are!

Who is a Fiduciary?

- Generally any person who has discretionary authority over the assets of another
- WV Code Chapter 8, Article 22

What does being a fiduciary mean?

In general terms, it means:

- *You are entrusted with an important duty of oversight and management
- *You are stewards of pension funds
- *You hold a position of great trust

Legal Duties

- West Virginia State law

- Constitution
- Statutes and case law
- Ordinances

**Important difference from private pension and retirement plans (ERISA generally is not applicable)*

WV Uniform Prudent Investor Act

- WV Code Section 8-22-22
 - Duties and responsibilities related to funds
 - UPIA made applicable

WV Uniform Prudent Investor Act

- WV Code Chapter 44C, Article 6, Section 2
 - Standard of Care: Prudent Investor
 - Total portfolio consideration
 - Facts and circumstances

WV Uniform Prudent Investor Act

- A trustee **MUST**:
 - Make reasonable effort to verify facts relevant to investment and trust management
 - Use any special skills or expertise
 - WV Code Chapter 44C, Article 6, Section 1(c)

WV Uniform Prudent Investor Act

- Duty to Diversify
 - WV Code Section 44C-6-3

WV Uniform Prudent Investor Act

- Duty of Loyalty
 - WV Code Section 44C-6-5

WV Uniform Prudent Investor Act

- Duty of Impartiality
 - WV Code Section 44C-6-6

WV Uniform Prudent Investor Act

- Investment Costs must be reasonable and appropriate
 - WV Code Section 44C-6-7

WV Uniform Prudent Investor Act

- Delegation of Investment and Management functions (44C-6-8)
 - Reasonable care, skill and caution in
 - Selecting agents
 - Establishing scope and terms
 - Periodic review

WV Uniform Prudent Investor Act

- Subject to Other Laws Establishing Trust
 - WV Code Chapter 8, Article 22
 - *E.g.*, Limits on types of investments

Nature of Fiduciary Duties

- Fiduciary duties have substantive and procedural components

Suggested Practices

- Know your duties
 - Read applicable law, rules, policies
 - Adopt additional policies/clarifications if needed
 - Attend educational sessions
- Be informed and prepared
 - Attend meetings
 - Review relevant materials
 - Ask questions

Suggested Practices

- Exercise diligence
 - Follow process for considering investments and delegation
 - Periodic review of policies, roles, actions, laws, delegations
 - Policies, agreements, minutes in writing – documentation is critical
- Be impartial and remember stewardship role!

Fiduciary Duty Presentation

Questions & Answers

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