The Stanford Institutional Investors' Forum
Committee on Fund Governance

Clapman Report 2.0

Model Governance Provisions to Support Pension Fund Best Practice Principles

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INTRODUCTION

On May 31, 2007, the Committee on Fund Governance of the Stanford Institutional Investors' Forum released a report identifying best practice principles for institutional investment funds. The "Clapman Report" was developed in the aftermath of several well-publicized governance failures at both public and private pension funds and endowments.[1] The report was predicated on the premise that that good governance practices help to ensure better organizational performance, fewer conflicts of interest, higher probability that goals and objectives will be attained, and less opportunity for misuse of corporate or fund assets.

In issuing our recommendations, we observed at the time that:

> It is incumbent upon all members of the institutional investor community to join together to develop tools and principles to protect and preserve the fundamental fiduciary principle: money managed collectively for the benefit of others must be managed for the beneficiaries' exclusive interest in a transparent system with checks and balances to prevent misuse of fund assets and abuse of the inordinate economic and political power that accompanies control of such large pools of wealth.

Turbulent financial markets and additional high-profile scandals since the issuance of our original report have made the development and implementation of governance best practices even more imperative for pension, endowment and charitable funds. We started our work on this report, the effects of the 2008-2009 market meltdown on unfunded liabilities and the resulting increases in required plan sponsor contributions had not yet been realized. At that time, if a pension fund was in the news, it was most likely because of a governance failure. Since then, because of deteriorating funding and the resulting increased demands on state and local government budgets, the focus on public pension funds has shifted. While many systems continue to be on sound financial footing and most are well-governed, public pension funds nevertheless are now operating in an environment where their future viability has been called into question by many.

Under the best of circumstances, running such funds is a difficult endeavor, requiring the prudent investment of billions of dollars, ensuring that sufficient funds will be available to pay retirement benefits or fund important activities many years into the future, and make certain that systems are in place to pay retirement benefits in a timely and accurate manner. And, these are not the best of circumstances. Institutional investors generally and public pension systems that administer defined benefit plans in particular are facing unprecedented economic and political challenges in an environment made even more difficult by the decline of defined benefit plans in the private sector.

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1 The report may be found online at http://www.law.stanford.edu/program/executive/programs/Clapman_Report-070316v6-Color.pdf

The successful management of pension systems in the current environment requires dedicated, knowledgeable individuals supported by a rock-solid governance structure that ensures adherence to sound fiduciary principles. Likewise, it is imperative to avoid further "self-inflicted wounds" resulting from high-profile governance failures as it is an unfortunate fact that the actions of a few will cause a negative reaction towards all. The future of our industry rests in part upon avoiding future trips to the emergency room for preventable incidents.

The Clapman Report identified and recommended best practice principles in the following areas:

- Transparency of a Fund's Rules and Governance Structure
- A Fund's Leadership: the Governing Body and Executive Staff
- Trustee Attributes and Core Competencies
- Approach to Addressing Conflicts of Interest and Related Disclosure Policy
- Delegation of Duties and Allocation of Responsibilities Among Relevant Authorities

We believe that the original Clapman Report successfully moved the governance dialogue forward. It has been used by several public retirement systems as a starting point for the assessment and revamping of their governance policies. The Committee recognizes, however, that, as noted above, the challenges facing pension systems, endowments and charitable funds are dynamic, and that recommended best practices must be constantly reassessed and rebased given those evolving challenges. We further recognize that developing a comprehensive set of governance policies "from scratch" based upon a set of general best practice principles involves a commitment of time and resources that may be beyond the means of many funds. Regardless of size of fund and structure, however, the same fiduciary requirements govern the board members and staff of all funds, from the smallest to the largest. Funds that lack the necessary internal staff resources must find a way, through the use of consultants, other outside professionals and available resource materials to meet these fiduciary requirements.

To move this process along further and to provide assistance to all funds, in particular those that may have limited internal resources, we present this "Version 2.0" report. It includes model governance provisions and related tools based on the best practice principles identified in our first report for consideration, adaptation and adoption by public pension, endowment and charitable funds. Our hope is that this will help funds review their existing policies, identify any gaps, and revise them or develop new policies as appropriate. While our focus in this report is on the governance policies of public pension plans, we believe that many of same principles and recommendations apply to other long-term institutional investors.

This report builds upon the proposed recommendations and policies developed by the American Federation of State, Municipal and County Employees ("AFSCME") in its December, 2009 report entitled "Best Practice Policies for Trustees and Pension

Systems."[2] The AFSCME report included recommended policies for two of the five areas in the original Clapman report: Trustee attributes and core competencies, including a suggested Education policy as well as addressing conflicts of interest and disclosure. This report updates and refreshes the recommendations of the AFSCME report in those two areas and makes a series of new recommendations regarding policies in the remaining three areas of the original Clapman report.

It is not our intent through these recommendation to create a "one-size-fits-all" standard of care that all systems must follow. Systems should not simply "cut and paste" this work into their own policies, but use this report as a catalyst for development of policies that are tailored to their individual needs. We have based our recommendations on current policies and procedures at a number of public pension systems from around the country. We acknowledge, however, that many other systems have likewise developed strong policies in the ethics and governance areas.

We recognize that some of the recommendations in our first report may not be within the authority of the governing body of a given plan to implement and require legislative action or a vote of the applicable general electorate. As a general proposition, we suggest that in these circumstances that the governing board focuses on making those changes that are clearly within its authority to adopt. After making those changes, the board can then determine how to approach the issues that require legislative and/or electoral action.

There are several important caveats. In our view, for any set of governance policies to be more than a set of pages in a binder put on a shelf gathering dust the governing board of the fund must a champion for the governance process. We will discuss the criticality of "tone at the top" throughout this report—we believe that experience has shown that absent strong and sincere board commitment to organizational change governance review efforts are often doomed to failure. Equally important is the need for a robust compliance process to ensure that governance policies are being followed.

We wish we could say that once a system has adopted the policies based upon those recommended in this report that their governance journey was at an end, but experience has taught us that that is only the beginning. These policies should be viewed as the first floor of a structure built on top of the foundation of the original recommended governance best practice principles. They do not represent a comprehensive set of board governance policies, and do not address critical areas such as enterprise risk management, internal controls and compliance functions. We hope through future work to identify best practice principles and policies in such areas, but their absence in this report does not eliminate the need for systems to assess their current needs. Importantly, those of us who have been at this for awhile recognize that

2 The report is available online at http://www.afscme.org/news/publications/for-leaders/pdf/AFSCME-report-pension-best-practices.pdf.

governance policies must be regularly refreshed to keep them current in the face of changing circumstances.

Throughout these recommended policies, we refer to “board members” and “trustees” interchangeably. Also, we use the terms “Chief Executive Officer,” “Chief Investment Officer” and “General Counsel” to refer to those persons with final staff-level authority over administrative, investment and legal matters, respectively, in a fund. We recognize that smaller systems in particular may utilize outside service providers in lieu of in-house staff to fulfill the latter two functions. In those instances, the fund should determine whether a staff role that is identified in a recommended policy is best suited for the outside service provider or available in-house staff.

FUND GOVERNANCE BEST PRACTICE PRINCIPLES

I. TRANSPARENCY OF A FUND'S RULES AND GOVERNING STRUCTURE

The Clapman Report summarized this principle as follows:

*A fund should **clearly define** and make publicly available its **governance rules.***

The purpose of this principle is to provide access to and understanding of the governing process of the fund. Gathering governance rules in a single, accessible location helps both new and existing trustees as well as interested stakeholders have more effective input in how the fund is governed. This concept of "one stop shopping" is increasingly being adopted by public pension funds, many of which post not only their governing statutes and regulations online but also gather all rules, policies and procedures into a "Board Policy Manual" or similar document. With increasing frequency, these policies are additionally available on their website, and we believe that online posting of board governance provisions now reflects a best practice. Examples of comprehensive, well-drafted online board policy manuals include:

California State Teachers' Retirement System (CalSTRS)
www.calstrs.com (under "Learn About/CalSTRS")

San Diego City Employees' Retirement System (SDCERS)
www.sdcers.org (under "About/Board of Administration")

Washington State Investment Board
www.sib.wa.gov (under "Board Info/Policies"

Colorado Public Employees Retirement Association
www.copera.org/pdf/Policy/GovernanceManual.pdf

Maryland State Retirement and Pension System
www.sra.state.md.us/ (under "Agency/Governance and Charters"

Having all of these policies in one location, in hard copy and online, provides a single point of reference for Board members and staff. This is critical to ensuring that an applicable policy or procedure is not overlooked in the consideration of a matter of board business.

In addition, it is increasingly common for meeting agendas, supporting materials and minutes to be posted online, both in advance of a meeting and then retained in online archives for future access. In our view, this is currently a best practice and we

have included policy language reflecting that, with specific exceptions to be determined by the plan,[3] all non-confidential board meeting materials should be posted online and available to the public not only in advance of a meeting but retained online in archives for future access and use. For public funds this has provided an additional benefit in responding to public record/freedom of information act requests from members of the public and the press. Often, a requester can simply be directed to the system's website for the requested information, eliminating the need for a time consuming written response.

The "Fund Leadership" best practices discussed in Section B includes a recommendation that a fund identify and disclose its leadership structure and all persons in positions of senior responsibility. As this recommendation pertains to fund transparency, we will address it in this section. We believe that this recommendation can most easily be satisfied by the online publication of the following:

1. Board structure and membership, including whether each position is appointive, elective, or ex officio; brief biography of each board member, and which members hold the offices of chair/vice-chair et cetera.
2. Committee structure, role and authority.
3. Organization chart showing executive staff and senior managers.

We have provided a simple draft policy that identifies those documents that should be publicly available on a system's website. We have also included a model assessment that funds may use to assess their compliance with the policy.

3 For example, many systems do not post documents regarding member appeals, such as administrative law judge decisions, online. Even though these are public documents under many state and local freedom of information acts, posting them online raises privacy concerns.

II. <u>FUND LEADERSHIP: THE GOVERNING BODY AND EXECUTIVE STAFF</u>

The Clapman Report summarized the principles in this area as follows:

- *A fund should **identify and disclose its leadership structure** and all persons in positions of senior responsibility.*

- *A governing body should **consist of appropriately qualified, experienced individuals** dedicated to fulfilling their fiduciary duties to fund beneficiaries.*

- *A governing body should **promote policies that strengthen fiduciary principles in the selection and monitoring of trustees** and that enable trustees to fulfill their fiduciary responsibilities. When trustees are elected to a board to represent a class of fund beneficiaries, the elected trustee should take reasonable steps to acquire the skills to serve appropriately as a fiduciary.*

- *A fund should **establish clear lines of authority** between its governing body and its staff that reflect a commitment to representing beneficiary interests. Delegations of authority from a governing body to its staff should be clearly defined and regularly reviewed.*

- *A governing body should have **authority to select or dismiss key staff** and independent advisors and counsel. Trustees should establish regular processes by which staff performance is measured. The standards governing staff evaluation should be clearly communicated to the staff.*

The above best practice principles touch on several areas of governance practices. The first addresses a transparency issue, and for that reason we have discussed it in Section A and incorporated appropriate language into that policy. The next two address the qualifications, experience, selection and monitoring of trustees. Typically, the selection process and criteria for qualification are not within the authority of the trustees themselves and instead are set forth in the governing laws of the system. Consistent with focusing on those areas in which trustees have the direct authority to affect change, we provide in Section C a comprehensive discussion and recommendations of what constitutes trustee core competencies, irrespective of trustee background or experience. Also included is a process for obtaining those core competencies through education.

There is one significant contribution that trustees can make to the selection process. We have seen trustees elected or appointed to pension boards without having a full appreciation of the demands and responsibilities of the position. Some systems currently prepare a summary of trustee duties and responsibilities that identifies

the obligations that a trustee will confront upon assuming office. These articulated responsibilities include not just the time demands of preparation and attendance at Board and committee meetings but also include the fiduciary responsibilities of trustees, and the commitment necessary to participate in necessary education and training, the obligation to file public statements of financial interests pursuant to applicable conflict of interest laws.

We suggest that the system develop and provide this summary to both individuals that are considering candidacy for elected trustee positions as well as to the appointing authorities of appointed trustee positions. This would give potential trustees a clear understanding of the commitment they are making should they be elected or appointed to office. We have suggested a policy requiring the development of such a summary and an example of such a summary in the attached materials (Attachment 4). We used several source materials in developing this summary, including a new trustee presentation from the Michigan Association of Public Retirement Systems as well as information from the Montana Public Employees' Retirement Board and the Alameda County Employees' Retirement Association. The language describing the duties of loyalty and care is taken from Article XVI, section 17 of the California Constitution.

The next-to last fund leadership principle identifies the need for clear lines of authority between governing authority and staff. While not specifically identified in the principle, this need extends to the lines of authority for the board's own governance, including, but not limited to, the role and responsibilities of the Chair, Vice-Chair and other leadership. For example, the fund's governing policies should state whether the Chair has the final authority to set meeting agendas, and if not, who does? The need for identification of clear lines of authority at the Board level extends to the structure, role and authority of board committees. In our view, a fund's governing documents should include the following information relating to committees through either a committee charter or otherwise:

- What is the scope of issues within the committee's jurisdiction?
- Does the committee have final authority over any issues?
- How do committee-discussed items get deliberated and decided by the Board, while avoiding a verbatim replay of the committee discussion?

Recently the California Public Employees' Retirement System (CalPERS) engaged in a comprehensive review of its governance policies with a specific focus on the role of its Board and its committees, the roles of the President, Vice-President, Committee Chairs and Vice-Chairs, as well as Board powers and responsibilities. Following its consideration of a governance study that identifies and analyzes key considerations in formulating an effective governance structure,[4] the Board adopted a new Governance Policy that provides an excellent example of a framework for addressing these issues. It can be found at http://www.calpers.ca.gov/eip-docs/about/organization/board/02152012-board-governance.pdf.

4 “”Achieving the Right Balance,” CalPERS Board Governance Study, Final Report, September, 2011.

With respect to the lines of authority between the board and senior management, the governing policies should clearly delineate roles in areas of plan administration and investment management, including whether the board or senior management (for example, the Chief Executive Officer or Chief Investment Officer) has final authority over the following areas:

- Determination of the amount of benefit payments in accordance with applicable laws and/or rules;
- Negotiation and execution of contracts and authorization for expenditures for investment management advice, consulting, and legal services;
- Negotiation and execution of contracts and authorization of expenditures for non-investment goods and services;
- Execution of documents necessary to implement investment transactions;
- Proxy voting;
- Establishment of accounting systems, including internal controls;
- Maintenance of records necessary to the preparation of actuarial and financial reports;
- Appointment of internal staff;
- Initiating, prosecuting, defending and settling administrative and judicial litigation;

As to matters reserved to the board's authority, the CalPERS policy further identifies "levels of responsibility" that divide board powers into those that the Board conducts, sets, approves or oversees.

If the board has provided a limited delegation to senior management in a given area (for example, the authority to enter into a contract within a certain threshold), the fund's policies should be specific as to the limits of that delegation. One alternative to satisfying this need is the execution of a formal "Delegation of Authority" by the Board and the CEO or other senior manager reflecting those duties that have been retained by the Board and those that have been delegated. Alternatively, Board policies may seek to express this in the form of "charters" for the Board and senior management such as the CEO. An example of the former may be found in the CalSTRS Board Governance Manual at Appendices 1 and 2, and an example of the latter may be found in the SDCERS Charters, Policies Resolutions and Rules in Section I.1. Because of the variance between system structures and organizational needs, we have not provided specific recommended "best practice policy language in this area. A system may choose either the "delegation" model, the "charters" model, or some other format, so long as the key issues identified above are addressed.

The last fund leadership principle covers the governing board's authority to select and dismiss key staff as well as independent advisors and counsel and the board's responsibility for establishing regular processes for the measurement of staff performance. The area of selection and dismissal of key staff is one where external statutory constraints may limit the trustees' authority. For example, civil service

system provisions may limit the ability of pension systems to hire qualified individuals and/or compensate them at a competitive level. Or, a statute may dictate that legal representation be provided by the attorney general's office, city attorney, county counsel, or other government personnel. Such constraints, however, do not excuse the governing board from the exercise of its duty to ensure that necessary expertise is available to administer the system and invest system funds.

In fulfilling its duties in this area, funds have taken one of three approaches. Some have entered into agreements with civil service, personnel and finance authorities that allow the funds to meet their personnel needs while remaining in compliance with civil service provisions. In other instances, specific exceptions to civil service and other "control" statutes have been proposed by the fund and adopted by the legislative body in order to provide necessary flexibility. The "fall-back" approach has been to contract for personal services that, because of civil service or other control restraints, cannot be fulfilled by in-house staff. Because of the system variances in authority in this area, we are not providing recommended best practice policy language. Instead, each system should develop policy language specific to their own situation that sets forth their approach to providing the necessary expertise to allow the governing board to fulfill its fiduciary responsibilities in the administration of the system and the investment of the fund.

Turning to the measurement of the performance of key staff (Chief Executive Officer, Chief Investment Officer, et cetera), this is a core responsibility of the Board and should be identified as such in the system's governance policies. We have provided recommended language for a Chief Executive Officer performance evaluation policy. This language is adapted from the policies of the Colorado Public Employees' Retirement Association and the Maryland State Retirement and Pension System. The language also includes a requirement that in circumstances where the CEO is the sole direct report to the Board, the CEO must also periodically advise the board of the evaluation processes in place for the CEO's direct reports. Systems that have the Chief Investment Officer as a direct Board report should develop language regarding the evaluation process and criteria for that position.

With respect to section/dismissal of independent advisors and counsel, we will address that point in Section V.

III. TRUSTEE ATTRIBUTES AND CORE COMPETENCIES

The Clapman Report summarized the principles in this area as follows:

- *Each trustee should* ***have a thorough understanding of the fund's obligations*** *to its beneficiaries, the fund's economic position and strategy, and its relevant governing principles. Each trustee must be able to make decisions based solely on the objective requirements of the trustees' fiduciary duties to fund beneficiaries. Each trustee should be inquisitive and should appropriately question staff, advisors, and fellow trustees as circumstances require. Each trustee should also contribute to a balanced set of skills that enables the board, acting as a collective body, to execute successfully its obligations.*

- *The board should at all times* ***include individuals with investment and financial market expertise*** *and experience relevant to the fund's ability to exercise its fiduciary obligations to its beneficiaries.*

- *Trustees, on a regular basis, should* ***obtain education that provides and improves core competencies,*** *and that assists them in remaining current with regard to their evolving obligations as fiduciaries.*

- *Trustees should be able* ***to obtain intelligible explanations*** *of recommended actions from staff, advisors, or colleagues.*

- *The fund should* ***engage in an annual evaluation of trustee skills*** *and, where appropriate, should develop a plan for improving and expanding the board's competencies.*

At most public pension systems in the United States, the membership of the board of trustees is set forth in law, and typically involves some combination of elected, appointed, and ex-officio members. Elected members are chosen by groups of active and/or retired employees covered by the system; appointed members may come from that group, plan sponsor management, or the public at large; and ex officio members most often are elected or appointed public officials. By design, therefore, trustees come into their positions with diverse skill sets, perspectives, and understandings of their roles.

Trustees face demands immediately with taking the oath of office. There is no time for a trustee to "get up to speed" before crucial decisions must be made and key votes must be cast. Consequently, some leading pension systems have adopted policies that describe what is expected of a trustee (responsibilities) and what a trustee needs to know (core competencies). Pension boards that are comprised of trustees with this level of knowledge and understanding are able to evaluate effectively the complex issues presented to them.[5] Further, such boards should be much more immune to efforts by

5 Clapman Report at 12.

those who would have them make decisions that are not in the best ultimate interest of the members, retirees and beneficiaries of their system.

This is not to say that public pension systems should require expertise in areas such as investments, actuarial matters, or auditing as a precondition to serve as a board member. The principal function of a public pension fund trustee is to work with his/her peers on the board to establish the strategic direction of the system, to hire the necessary staff and consultants with the expertise to carry out that direction and administer the system on a day-to-day basis, and then to oversee the work being done to ensure that the direction is carried out. For the most part, board competency involves a completely different skill set than those of professional investment manager, actuary or auditor. And, experience has shown that getting such experts to serve on a board that is regularly in the public eye, requires public disclosure of personal financial interests (including client relationships), and pays little or nothing can be difficult.

As a general matter, we believe that all boards benefit from diversity of member backgrounds and experience, and under the right circumstances it is helpful for some members to have a preexisting familiarity with pension administration and/or investment matters. Irrespective of whether a board member comes into the position with a given level of expertise in pension or investment matters, once they are on the dais all board members are subject to the same standards of fiduciary conduct, including the prudent investor standard. As such, it is incumbent upon all board members to develop the requisite expertise to fulfill their responsibilities and meet their core competencies. This assumes that the new board member is fundamentally ***capable*** and requires the development of an educational regimen that allows a quick transition to ***able***. The challenges to this are two-fold. First, education programs must be identified or developed that address one or more of the above competencies. Second, there must be an evaluation of the trustee's own needs, given his or her knowledge, experience, the nature of issues facing the board and board responsibilities (i.e., committee membership; committee chair; board chair or vice-chair).

There is no lack of educational opportunities available to public pension fund trustees, and trustees as a rule are diligent about attending them. However, while trustees "devote considerable time and effort to education, primarily by attending a variety of conferences that are geared to public funds and that focus on investments," such programs as a rule "neither encourage trustees to develop the broad vision they need to set policy, nor do they provide the practical grounding a board needs to oversee a fund's operations."[6] Also, in our view many programs do not maximize "in the seat" education. They may rely heavily on for-profit commercial sponsorships. Programs may also tilt the balance towards recreation and entertainment.

We have recommended two sets of policies in this area. The proposed "Board

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6 *Good Pension Governance: An Advocate's Guide for Improvement,* John Por and Tom Ianucci, The NAPPA Report (Volume 13, Number 5, February 2001).

Member Responsibilities and Core Competencies" policy sets forth a recommended list of responsibilities and core competencies that are common to all board members of a public and private pension plans and endowments. It builds upon existing policies in place at the California State Teachers' Retirement System (CalSTRS) and the San Diego City Employees' Retirement System (SDCERS)[7]. An additional reference points is the California Public Employees' Retirement System (CalPERS) Board of Administration Code of Ethics.

We have also proposed an Education policy that sets forth a comprehensive approach to educating pension fund trustees so that they can discharge their duties with the requisite knowledge, skills and abilities. It identifies a new board member orientation process that is designed to get trustees quickly "up to speed" as well as a mentoring process for those new board members who desire a mentor. It sets forth a general curriculum for trustees in their first and second years of service as well as ongoing education thereafter, including fiduciary and conflicts of interest training. Finally, it includes a self-assessment tool to enable trustees to identify their own areas of educational need so that they can work effectively with system staff to obtain such training.

The education policies of several public retirement systems were reviewed and used in developing of the recommended policy language, including those of CalSTRS, SDCERS, the Colorado Public Employees' Retirement Association (CoPERA), the Los Angeles Fire and Police Pension Plan (LAFPP) and the Marin County Employees' Retirement Association (MCERA).

7 In the aftermath of the many problems facing SDCERS in the early part of this decade, the system has implemented a number of significant governance reforms and is gaining recognition as an exemplar of best practices in many areas.

IV. CONFLICTS OF INTEREST AND RELATED DISCLOSURE POLICY

Stating that: "...a clear and robust conflicts policy is a fundamental defense against the misuse of fund assets...," the Clapman Report sets forth the following best practice principles for pension fund conflict of interest policies:

- ***A fund should establish and publicly disclose its policy for dealing effectively and openly with situations that raise either an actual conflict of interest or the potential for the appearance of a conflict of interest.*** *A fund should clearly identify the persons subject to its conflict policy ("covered persons") and should provide appropriate training to those covered persons.*

- *In order for a conflict of interest policy to be effective, appropriate authorities with the ability to act independently of any potential conflict must have access to information that adequately describes trustee and staff interests and relationships that could, at a minimum, give rise to an appearance of impropriety. A fund should therefore* ***establish a regular, automatic process that requires all covered persons to report and disclose actual or potential conflicts of interest.***

- *Trustees and staff should periodically affirm and* ***verify compliance*** *with conflict rules, regulatory reporting requirements, and other policies intended to protect the fund against the actuality or appearance of self-interested transactions and conflicts.*

- *Trustees and staff should* ***under no circumstances pressure anyone, whether or not a covered person, to engage in a transaction that creates an actual conflict or an appearance of impropriety****. Trustees and staff should be required to disclose any such attempts to a proper compliance authority as determined by the board.*

- *A fund should* ***publicly disclose necessary information*** *as specified below to ensure that trustees and staff are fulfilling their fiduciary duties to beneficiaries.*[8]

Many pension systems, particularly in recent years, have developed effective ethics and conflict of interest policies. Few, however, have developed comprehensive policies addressing all facets of the ethics/conflicts landscape and set them forth in a board policy manual that is available online. One system that has accomplished this, following more than a year of work by its board, is CalSTRS. Section 600 of the CalSTRS Board Policy Manual, completed just prior to the release of the first Clapman report, [9] provides the foundation for the best practice policies proposed herein. The policies cover: A) Fiduciary Duties; B) Statement of Ethical Conduct; C) Policy Prohibiting Insider Trading; D) State and/or Local Conflict of Interest Laws and Rules; E) Avoidance of Appearance of Nepotism; F) Disclosure of Charitable Contributions,

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8 Clapman Report at 13, 15.

9 The CalSTRS Board Policy Manual is available online at http://www.calstrs.com/About%20CalSTRS/Teachers%20Retirement%20Board/BoardPolicyManual.pdf

Ban on Specified Gifts, and Recusal; G) No Contact Policy; H) Disclosure of Communications (including avoidance of undue influence); I) Prohibition on Campaign Contributions; and J) Disclosure of Third Party Relationships and Payments.

While the recommended language follows the format and structure of CalSTRS policies, we have also looked to other systems as noted in the following discussion. In addition, we included introductory language that reinforces the importance of "tone at the top" that was recently adopted by the California Public Employees' Retirement System. As we discussed in the introduction, tone at the top is critical. The development of a strong ethical culture starts with it. It has been observed by the Center for Audit Quality that "tone at the top" cascades down through the entire organization to create a "mood in the middle" and a "buzz at the bottom" that reflects and reinforces an organizations operating values.[10] Their report further notes that:

> "A strong ethical culture creates an expectation of doing the right thing and counteracts the pressures to meet short term goals. Likewise, an ethical culture typically supports well designed and effective controls that diminish opportunities for fraud and increase the likelihood that fraud will be detected quickly. A culture of honesty and integrity can severely limit an individual's ability to rationalize fraudulent actions. However, if an employee is motivated by personal reasons such as greed or financial need, he or she may be impervious to the influence of corporate culture."[11]

Tone at the top requires the board and senior management of a system not just to adopt clear standards but to live by them. The personal failings of a single board member or member of senior management can have a devastating effect on the ethical culture of an entire organization that can take years (and often substantial sums of money) to fix. A strong culture of ethics supported by sound policies serves both to deter harmful conduct and enhance the chances of catching potential wrongdoers before any harm is done.

A. Fiduciary Duties

The proposed policy identifies the fiduciary duties that are commonly applicable to pension fund trustees and staff. The sources of such duties differ from system to system, and may alternatively be found in constitutional or statutory provisions, rules or regulations and/or through the application of common law trust principles. Policy language from CalSTRS and MCERA was used in creating the policy. Underlying this policy is the view that in dealing with potential conflicts issues or fiduciary law issues, the potential exists for a given situation to be permissible under one body of laws/

10 *Deterring and Detecting Financial Reporting Fraud: A Platform for Action*, Center for Audit Quality, October 2010, p. 10.

11 Id.

rules and impermissible under the other. We believe that a “one stop shopping” approach that combines all potentially applicable laws and rules in one place facilitates a comprehensive analysis of an issue or concern and minimizes the potential for inadvertent wrongful conduct.

B. Statement of Ethical Conduct

The proposed policy addresses a broad range of the ethics and conflicts issues facing pension board trustees and staff, such as using the prestige or influence of a board or staff position for personal gain and maintaining the confidentiality of private information. While most systems have some form of this policy, this language is grounded in the language of California Government Code 19990, which sets forth a “Statement of Incompatible Activities” for a state employee or officer. Both CalSTRS and CalPERS have taken this language and developed their own statements of ethical conduct that are more tailored to the needs of a public pension system, and the recommended policy language is adapted from these statements. It is intended as a “catch all” provision to cover those areas of potential concern that are not specifically addressed elsewhere in the ethics/conflicts policies.

C. Policy Prohibiting Insider Trading

The proposed policy provides a background on the insider trading issue, defines insider trading, prohibits the use of material, nonpublic information in the purchase or sale of publicly traded securities and requires an annual certification by board members and staff that they have read and understood the policy. This language is provided to remind board members and staff of their obligations under federal and state/local law not to trade on inside information. This language was originally developed by CalSTRS following a survey of insider trading policies at pension funds around the country. The recommended policy also includes some language from CalPERS’ policy.

D. State and/or Local Conflict of Interest Laws

The proposed language serves as a reminder that, in addition to the ethics policies of the system, public pension board members and staff are subject to state and/or local laws that address conflicts involving personal financial interests as investments, sources of income and gifts. The proposed language was adopted from the CalSTRS language and made more generic in nature. Systems adapting such policy language should capture all of the applicable state/local laws regarding disclosure and reporting of financial interests as well as other conflicts provisions. For example, most systems in California refer not only to the Political Reform Act and the duty to not participate in a governmental decision involving a financial interest, but additionally

set forth: 1) the requirement in certain circumstances that a board member publicly announce the reason for his/her recusal from an issue and 2) the prohibition in Government Code 1090 against participating in the making of a governmental contract in which the board member has a personal financial interest.

E. Avoidance of Appearance of Nepotism

The proposed policy seeks to avoid an appearance of a conflict of interest that could arise if a matter pending before the board could affect the personal financial interest of a "close relation" of a board member. Typically, state or local conflict of interest laws define a board members' financial interest to extend to immediate family but no farther, leaving open the possibility that a Board member could lawfully participate in a decision affecting the personal financial interests of, for example, an in-law. This policy adds a recusal requirement in that situation that does not typically otherwise exist under state or local law. It is intended to act as a safeguard for both the system and individual board members and staff from allegations that the outcome of a decision was influenced by a familial or other close relationship.[12] This language is taken from Section 500 of the CalSTRS Board Policy Manual.

F. Limitation on Receipt of Gifts

Gifts to board members and staff at pension plans or endowments from persons doing or seeking to do business with the system are viewed by many as a form of "pay-to-play" and raise at a minimum an appearance of conflict. Several systems around the country have come under intense media scrutiny when such gifts have been received by board members and staff. While many state and local laws establish limits on the receipt of gifts by public officers, these limits can be fairly high.

The proposed policy reminds board and staff members that the receipt of gifts can create the appearance of a conflict, and under some circumstances can violate state or local law. It admonishes board and staff members that they must comply with limitations on gifts and honoraria set forth in applicable law. The policy goes on to prohibit the acceptance of any gift if it could be reasonably expected that it would influence the judgment of the board or staff member or be considered as a reward for action or inaction. The policy creates a hard annual limit of $50 of aggregate gifts from any single source in a calendar year. It also sets forth criteria for the exercise of judgment by a board or staff member as to the propriety of accepting a gift in "close cases."

12 If a board member were to participate in such a decision, he or she could face a claim that this action would violate his or her exclusive duty of loyalty, thereby raising fiduciary law concerns.

Numerous policies from pension systems around the country were reviewed prior to drafting this policy. The language of the proposed policy is based on elements of gift policies from the Washington State Investment Board, MCERA, and the Santa Barbara Employees' Retirement System. We note that several pension systems, including, until recently, CalPERS, have adopted a complete ban on the receipt of gifts. Since 2009, CalPERS had banned the receipt by its staff of anything of value from entities doing business, seeking to do business, or of a type that did business with CalPERS. Board members remained subject to applicable gift limits under state law. Recently, CalPERS adopted a $50 limit for Board members and has extended that rule to staff. We have adopted this approach as a more workable alternative to a so-called "hard ban."

At one level, it could be said that a "one size fits all" $50 hard limit is too simplistic. For example, it does not consider the "job-relatedness" of the gift. Attendance at a limited partner advisory committee meeting lunch or dinner where system business is discussed raises different issues from attendance at a gifted meal in conjunction with a conference. A system board may choose to look at a "job-related" meal differently than a gift such as tickets to a sports event that has no tie to system business and, it could be argued, is intended solely to influence. While we have steered to the side of ease of interpretation/administration, systems may wish to consider a more nuanced/layered approach. This is reasonable so long as the resulting rules are not overly complex and have appropriate safeguards built in.

G. No Contact Policy

The proposed policy prohibits any contact between a prospective bidder on a system RFP or other procurement for goods or services and board members and staff, once the RFP has been issued. Incidental social contact and/or communications clearly not related to the procurement process are permissible. It is included to prevent a prospective bidder from attempting to exert undue influence on a procurement process by having an ex parte communication with decision makers in the process. Many systems are subject to state or local laws on this subject and for such systems this provision will serve as a reminder. The source of the language is the CalSTRS Board Policy Manual, which in turn was adapted from statutory language applicable to CalSTRS (California Government Code Section 22364) and CalPERS (California Government Code Section 21053)

H. Disclosure of Communications

The proposed policy requires disclosure of certain communications between board members and persons seeking to do business with the system. The proposed policy also requires disclosure of certain communications between board members and staff and addresses attempts to exert undue influence over board members and/or staff. Specifically, the policy:

1. Requires written disclosure of any communication between a person financially interested in an investment transaction that requires board approval and a board member concerning the transaction. Disclosure is required by both the board member and the financially interested party.
2. Requires written disclosure of any communication between a person financially interested in an investment transaction that does ***not*** require board approval and a board member concerning the transaction. Disclosure is required only by the financially interested party.
3. Requires written disclosure by system staff or consultants of any conversation with a board member in which the board member is advocating for a specific outcome on a proposed investment transaction.
4. States that it is improper for a board member or third party to attempt to use undue influence to coerce staff or another board member to a certain result or decision; defines "undue influence" and "third party," and establishes a procedure to follow if a staff member or board member believes that he or she has been subject to undue influence.

Subsections 1 through 3 reflect the principle that board members serve as co-fiduciaries and act solely and exclusively for the benefit of system participants. The board is empowered collectively to direct system management, staff and consultants on policy matters of system operations. Individual communications by board members with staff, consultants, and those influencing system actions or doing business with the system create the potential for misunderstanding, misinformation and conflicting constructions. They also could be perceived as inappropriately affecting the Board or staff, potentially placing board members on unequal footing with each other because one or more members could be in possession of information that is material to a decision that the others do not have.

Conversely, communications between board members and staff or consultants that are initiated in the regular course of business to help the board member gain a better understanding of an issue or transaction do not raise such concerns. As a result, Section H (3) of the proposed policy is drafted to limit the disclosure obligation only to those communications in which a board member is advocating with staff or a consultant for a specific outcome in an investment transaction.

Section 4 was developed as a guard against undue influence being placed on a board member, staff or consultant in order to obtain a specific result from a system decision.

The first disclosure of communications rules that we are aware of were enacted by the California Legislature in 1997 to require disclosure of third party

communications with board members of CalSTRS[13] and CalPERS.[14] These laws did not require disclosure of such communications involving investment transactions that were within staff delegated authority and did not require an investment committee/board vote.

Thereafter, the Teachers' Retirement System of Texas (TRS) adopted a comprehensive disclosure policy addressing all elements of board/staff/consultant/third party communications with the exception of the undue influence issue. In its own 2006 comprehensive ethics policy review, CalSTRS evaluated that policy and elected not to adopt it in its entirety but instead to: 1) expand the communications disclosure requirement to delegated investment transactions; 2) add a requirement that communications involving a board member with staff and/or a consultant in which the board member is advocating for a specific outcome on an investment decision be disclosed; and 3) developed the undue influence provision. CalPERS adopted similar policies in September, 2008.

I. Prohibition on Campaign Contributions

The issue of alleged "pay-to-play" practices at public pension funds first received national attention in 1999, when the Securities and Exchange Commission (SEC) issued a proposed rule that would ban registered investment advisors from providing advisory services for compensation for two years after the advisor, or any of its partners, executive officers or solicitors, make a contribution to elected officials or candidates for office that could influence the selection of the advisor.[15] The SEC proposed this rule following the receipt of "reports that the selection of investment advisors, which we regulate under the Advisors Act, may be influenced by political contributions, and as a result, the quality of management services provided to funds may be affected." The SEC observed that: "The record suggests strongly that political contributions can play a significant role in the selection of investment advisors. Allegations of pay-to-play have been reported in at least 17 states."

At that time, some pension systems had already sought to address pay-to-play concerns, either by banning campaign contributions outright or by requiring that investment managers disclose any contributions made to board members or candidates for elected office that sat ex officio on the board. In some instances, such disclosure was accompanied by an informal process in which the board member would recuse his/herself from voting on a matter affecting an investment manager from whom he/she had received a campaign contribution. But the board member would often participate in discussions leading up to the vote, and the possibility for influencing the outcome of the vote remained.

13 California Education Code Section 22364.

14 California Government Code Section 20153.

15 17 CFR Part 275; Release No. IA-1819; File No. S7-19-19-99.

It ultimately became apparent that the SEC would not move forward with the rulemaking proposal. Pay-to-play issues continued to surface periodically. In 2004, finding that with so much money at stake, the system "…appeals to human weakness. It offers temptation to elected officials and contractors to place their respective personal interests ahead of the interest of the state…," then-New Jersey Governor McGreevey issued Executive Order 134, banning state vendors from contributing to gubernatiorial, state or county committees. Pay to play allegations also surfaced in the "Coingate" scandal in Ohio, where the state signed a contract with an investment manager to buy and sell rare coins for the Ohio Bureau of Workers' Compensation and a few months later the manager made a $2000 campaign contribution to the state's governor. In 2006, the U.S. Department of Justice accused a former board member of the Illinois Teachers' Retirement System of using his ties to the System to extort fees and kickbacks from investment firms seeking capital commitments from the system.

Against this backdrop, CalSTRS engaged in a comprehensive review of its ethics and conflicts of interest policies and, in November, 2006, adopted a series of reforms that included significant restrictions on "pay-to-play." The regulations and policies adopted by the CalSTRS board included:

- A restriction against campaign contributions to board members and the Governor to no more than $1,000 individually or $5,000 in the aggregate for a twelve-month period;
- Disqualification of a party in violation of this restriction from engaging in future or additional business with CalSTRS for a period of two years;
- A requirement that board members recuse themselves for a period of 12 months from any involvement in matters involving the maker of campaign contributions, charitable contributions made in their behalf, or gifts that individually or in the aggregate exceed $250 in a calendar year;

SEC rulemaking action in this area was ultimately prompted by allegations in 2008 and 2009 of "pay to play" and abusive placement agent relationships in the State of New York and elsewhere came to light. Led by New York Attorney General Andrew Cuomo, this investigation led to indictments, guilty pleas, and an SEC investigation. The Attorney General developed a "Public Pension Fund Reform Code of Conduct" that, among other things, bans the use of placement agents and the making of campaign contributions by investment firms seeking to do business with public pension funds.

In the aftermath of the criminal indictments in New York, on August 3, 2009 the SEC issued proposed rules to address pay-to-play and placement agent concerns. We will discuss the placement agent rules in the next section. Following a comment period, final rules were adopted by the SEC on June 30, 2010 that enacted the following restraints on investment advisers and their executives and employees:

Restrictions on Political Contributions

An adviser who makes a political contribution to a pension board member, an elected official in a position to influence the appointment of a pension board member or candidates for such board member or elected office positions that exceeds specified de minimis amounts[16] is barred for two years from providing advisory services for compensation. The rule applies to the adviser as well as specified executives and employees of the adviser.

Ban on Solicitation of Contributions

Advisers and their specified executives and employees are prohibited from asking other persons or political action committees to make contributions to a pension board member, an elected official in a position to influence the appointment of a pension board member or candidates for such board member or elected office positions. There is also a prohibition on payments to a political party of the state or locality where the adviser is seeking to provide advisory services to the government.

Restriction on Indirect Contributions and Solicitations

The rules also prohibit advisers and specified executives and employees from directing or funding otherwise-prohibited contributions through third parties such as spouses, attorneys or affiliated companies.

The AFSCME best practices report was released between the issuance of the SEC's proposed and final rules. Due to the uncertainty that existed at that time as to the nature and scope of the final rules, the report recommended a comprehensive policy that combined contribution limits with a recusal requirement on board members who received contributions. With the subsequent adoption of the SEC's final rules, the question before the Committee was whether board policy in the pay-to-play area remains necessary. We believe that the answer to this question is "yes" for two reasons. First, while the SEC's final rule reached broadly beyond registered investment advisers, which was reinforced in the SEC's recent June 22, 2011 Dodd-Frank amendments to its pay-to-play rules, there may be individuals or entities providing investment services or advice to public pension systems that are not covered by the SEC's rules, even as amended. Second, and more important, the risk of pay-to-pay abuses is not limited to the investment area, extending instead to any large-scale procurement of goods or services by a system in areas such as information technology or legal services. As a result, we have proposed policy language to address these potential gaps.

The proposed policy would ban a person who is engaging or seeking to engage in a business relationship with a public pension system that is not otherwise subject to the SEC pay-to-play rules from making any campaign contributions in excess of the same

16 $350 per election per candidate if the contributor is entitled to vote for the candidate and $150 per election per candidate if the contributor is not entitled to vote for the candidate.

limits contained in the SEC rules. The policy also requires recusal of board members receiving such contributions from any participation in a decision regarding a business relationship with the maker of such a contribution. The source of the language is the policy and regulatory language developed by CalSTRS as well as the SEC final rules. Systems considering adopting such a policy should consider whether state or local laws set different or conflicting dollar limits and/or require compliance with formal rulemaking procedures.

J. Disclosure of Third Party Relationships and Payments; Permanent Ban on Current or Former Board Members or Employees From Providing Placement Agent Services in Connection With Their Current or Former System

In the wake of the placement agent scandal in the State of New York and the ban imposed on the use of placement agents by investment advisors seeking to do business with the New York Common fund imposed by Comptroller DiNapoli, the proposed pay-to-play rules issued by the SEC on August 3, 2009 included a proposed ban on the use by investment advisers from paying third party placement agents for the solicitation on behalf of the adviser of advisory business from any governmental entity. According to the SEC, this ban on the use of third party placement agents was proposed to eliminate possible circumvention of the ban on campaign contributions through the use of third parties.

Its final rule, however, the SEC eliminated the proposed ban and instead adopted rules prohibiting an adviser and specified executives and employees from paying third parties, including placement agents, for soliciting governmental clients, including pension funds, on behalf of the adviser unless the third party is an SEC-registered adviser (subject to the SEC's pay-to-play restrictions) or broker-dealer subject to pay-to-play restrictions similar to those of the SEC. In addition to the SEC's restrictions on placement agents, other statutory and regulatory activity has occurred at the state and local level. For example, the California Legislature enacted a law in 2010 requiring placement agents that solicit business on behalf of clients from state pension funds such as CalPERS and CalSTRS to register as lobbyists with the Fair Political Practices Commission by January 1, 2011.[17] One practical effect of this requirement was to eliminate the payment of placement agents on a contingent fee basis, as lobbyists are precluded from engaging in such arrangements.

Although the SEC rules as well as state and/or local laws that may be applicable to public pension funds provide significant safeguards, the potential for abuse still exists and in our view the best preventative tool is a robust disclosure policy that provides full transparency to both public pension funds and the public generally as to all aspects of any placement agent relationships that exist in the context of the investment of public pension assets. Many systems have already adopted such provisions.

17 A.B. 1743, Chapter 668, Stats 2010.

In addition, there is a significant potential for abuse when a current or former Board or staff member seeks to serve as a placement agent on behalf of an investment manager that is seeking an investment relationship with his or her current or former system. We do not believe that this potential for abuse is cured with the passage of time. As such, we support a permanent ban on current or former Board or staff members serving as placement agents in connection with an investment relationship involving their current or former system.

The proposed policy would require an investment manager to disclose to the public pension system the following information:

1. Whether the investment manager has compensated or agreed to compensate any placement agent in connection with an investment by the system.
2. The name and professional and educational background of the placement agent and whether the placement agent is a current or former board member, employee or consultant of the pension system.
3. A description of the compensation provided or agreed to be provided to the placement agent.
4. A description of the placement agent's services and whether those services are rendered in connection with all prospective clients or a subset thereof.
5. A copy of all agreements between the investment manager and the placement agent.
6. The names of any current or former system board members, employees or consultants who suggested the retention of the placement agent.
7. A statement that the agent is registered with the SEC or the Financial Industry Regulatory Association (FINRA).
8. A statement whether the placement agent is registered as a lobbyist with any state or national government.

The policy applies to all agreements with investment managers that are entered into after the policy is adopted, and to any preexisting agreements if there is an amendment to a substantial term of that agreement. Compliance responsibilities for system staff are also identified. The policy requires staff to decline an investment if the external manager has used a placement agent that is not registered with the Securities and Exchange Commission or the Financial Industry Regulatory Authority.

Additionally, the proposed policy provides for a lifetime ban on current or former board members and staff from working as a placement agent in connection with an investment relationship involving their current or former system.

The disclosure provisions were adapted from CalPERS' policy that was originally adopted in May of 2009. The permanent ban language was developed originally for the AFSCME Best Practices report

V. DELEGATION OF DUTIES AND ALLOCATION OF RESPONSIBILITIES AMONG RELEVANT AUTHORITIES

The Clapman Report summarized this principle as follows:

- *A governing body should be* ***permitted to rely on the expertise and advice of appropriately selected and unconflicted consultants and staff****. Trustees should also be permitted to delegate responsibilities, subject to appropriate oversight, to unconflicted consultants and staff.*
- *A fund should* ***require that any consultants or staff*** *from material advice is requested or received, or to whom material responsibility is delegated,* ***comply with the funds conflict of interest and ethics policies.***
- *A fund* ***should institute an evaluation process that assesses proposed fund expenditures*** *and weighs the benefits to fund beneficiaries generated by those expenditures against the cost and quality of the service for which funds are expended.*
- *A fund should* ***establish an effective and objective monitoring policy for all service contracts*** *including those for asset manager and investment consultants.*

The principles in this final area address governance needs in the area of prudent board oversight of those to whom it has delegated duties and responsibilities. In support of these principles, we have three recommended policies. The first is a contractor code of ethics, which is adapted from the contractor ethics policy of the Teachers' Retirement System of Texas. Upon adoption, the policy should be incorporated into Requests for Proposals and other selection processes in order to place potential business partners on notice at the outset of the system's expectations in this area. The second is a monitoring policy for contractors, and the third is a policy for monitoring and reporting of system operations and expenditures. These latter two polices were adapted from language currently used by the Colorado Public Employees Retirement Association and the State Retirement and Pension System of Maryland.

MODEL POLICY LANGUAGE AND TOOLS

I. Transparency

We are committed to the principle that we will operate with the highest degree of transparency to our members and the public at large, while at the same time ensuring that the confidentiality of data such as member records is appropriately safeguarded. Consistent with this principle, we will follow the following practices and procedures:

1. All of our governing rules, procedures and policies will be organized into a single, comprehensive Board Policy Manual.

2. The Board Policy Manual, meeting agendas and backup reports, and all other key governance documents will be publicly available and posted online.

3. Our governing structure will be publicly available and posted online, This information shall include:
   - Board structure and membership, including whether each position is appointive, elective, or ex officio; brief biography of each board member, and which members hold the offices of chair and vice-chair;
   - Committee structure, role and authority;
   - Organization chart showing executive staff and senior managers

II. Fund Leadership

A. Summary of Trustee Duties and Responsibilities

The Board recognizes that service as a trustee of the system involves significant responsibility and requires a major commitment of time and effort in order to be successful. For that reason, a summary of trustee duties and responsibilities, which identifies the obligations that a trustee will confront upon assuming office, will be developed by staff and approved by the Board. This summary will be provided to any individual seeking election or appointment as a trustee of the system. The Board further directs that this summary be refreshed, with trustee input, no less than once every two years. (See Attachment II for an example summary).

B. Role and Powers of the Board

See discussion at pages 10 of report.

C. Structure and Role of the Committees

See discussion at pages 10 of report.

D. Delegations to Executives

See discussion at pages 11-12 of report.

E. CEO Performance Evaluation Policy

The Board is responsible for the selection, performance evaluation and discipline, including dismissal, of the Chief Executive Officer. The Board shall annually evaluate the Chief Executive Officer's performance in accordance with the following:

1. Criteria

The Board, in conjunction with the Chief Executive Officer, shall develop an evaluation form that sets forth the criteria and/or objectives to be used in evaluating the Chief Executive Officer's performance. The Board shall ensure that the criteria are:

- Objective in nature and measurable;
- Pertain to outcomes over which the Chief Executive Officer has a reasonable degree of control;

These criteria shall fall into one of the following four categories:

- Achievement of performance targets established for the system as a whole;
- Implementation of the system's long-term strategic and annual business plans;
- Leadership and related qualities;
- Other criteria reflecting events or circumstances that may arise in a given year.

The Board shall assign a weight to each of the evaluation criteria established.

2. <u>Process</u>

At the start of the evaluation process, all board members shall be provided copies of the evaluation form. To assist board members in completing the form, the Chief Executive Officer shall provide the Board with a self-assessment containing a review of his/her own performance under the criteria and/or objectives set forth in the evaluation form together with any supporting data or background information. The self-assessment may also cover additional accomplishments achieved and difficulties experienced during the year. Board members shall be allowed sufficient time, as determined by the Chair, to complete and return the evaluation form directly to the Chair or a designated third party. All forms shall be tabulated and summarized on a confidential basis.

The Board shall discuss the self-assessment, results of the board member evaluations, and any other related matters with the Chief Executive Officer in a closed session. In its discretion, the Board may discuss the Chief Executive Officer's evaluation without the presence of the Chief Executive Officer prior to its discussions with the Chief Executive Officer. Following the closed session, the Chair shall prepare a performance report that summarizes the Board's assessment of the Chief Executive Officers' performance and provides specific guidance for the Chief Executive Officer concerning improvement opportunities. A copy of the performance report shall be maintained in the Chief Executive Officers' performance file.

F. Performance Evaluation of Key Staff Other Than Direct Board Reports

The Chief Executive Officer shall be responsible for developing and administering annual performance appraisals of his/her key direct reports. The Chief Executive Officer shall provide an annual report to the Board concerning the process and criteria used in this evaluation. The Board, in its discretion, may discuss matters of individual performance of key staff in closed session as permitted by applicable open meetings laws.

III. TRUSTEE ATTRIBUTES AND CORE COMPETENCIES

A. Board Member Responsibilities and Core Competencies

1. ATTENDANCE. All Board members (or their delegates, where applicable) are expected to attend all Board and applicable committee meetings. While attendance is not always possible, Board members should, once the calendar for a year is set, immediately flag any scheduling conflicts and thereafter manage their schedules to avoid creating additional conflicts. Absences for medical or other substantial reasons shall be deemed excused absences in the discretion of the Board Chair.

2. COMMITTEE SERVICE. Each Board member should serve on at least one standing committee.

3. PREPARATION. Board members should come to Board meetings having read the materials prepared and circulated by staff and/or consultants, and having asked any questions of staff necessary to their understanding of the materials.

4. INQUISITIVENESS. Board members should be inquisitive, and should appropriately question staff, advisors and fellow trustees as circumstances require. There is no such thing as a "dumb question."

5. INTEGRITY. Board members shall conduct themselves with integrity and dignity, maintaining the highest ethical conduct at all times. They should understand system objectives and exercise care, prudence and diligence in handling confidential information.

6. KNOWLEDGE. Board members should develop and maintain their knowledge and understanding of the issues involved in the management of the system. The specific areas in which Board members should develop and maintain a high level of knowledge should include:

   - Public pension plan governance
   - Asset allocation and investment management
   - Actuarial principles and funding policies
   - Financial reporting, controls and audits
   - Benefits administration
   - Disability (where applicable)
   - Vendor selection process
   - Open meeting and public records laws
   - Fiduciary responsibility
   - Ethics, conflicts of interest and disclosures

7. EDUCATION. Board members should identify areas where they might benefit from additional education and work with staff to find educational opportunities. Board members should fulfill the training expectations outlined in the Education Policy and are encouraged to attend additional relevant educational opportunities as outlined in Section 5 of that policy.

8. COLLEGIALITY. Members shall make every effort to engage in collegial deliberations, and to maintain an atmosphere where Board or committee members can speak freely, explore ideas before becoming committed to positions, and seek information from staff and other members. Board members should come to meetings without having fixed or committed their positions in advance.

9. INDEPENDENCE. Board members and their delegates shall, upon taking office, sign a pledge confirming their independence and their understanding of their fiduciary duties. The pledge shall be reviewed annually and shall read as follows:

> "I understand that as a Board member, I must discharge my duties as a fiduciary with respect to the system solely in the interest of its members, retirees and beneficiaries. I pledge not to allow political meddling or other forms of intimidation to affect my independence of judgment in the exercise of my fiduciary responsibilities."

B. Education Policy

1. PURPOSE

In order to permit Board members to develop core competencies, discharge their fiduciary duties to act with care, skill, prudence, and diligence and to ensure that all Board members have a full understanding of the issues facing the system, the Board has adopted orientation and mentoring programs; mandatory fiduciary education and ethics training sessions; encourages education; and makes available appropriate periodicals to foster Board member awareness of relevant developments. Participation on certain committees, including but not limited to Investment and Audits, will require additional educational development. The Annual Work plan for each committee will set forth educational requirements for the year.

2. PRINCIPLES

The Education Policy rests on the following important principles:

- There is a unique body of knowledge that can be imparted to Board members to facilitate the carrying out of their distinct roles and responsibilities.
- Board members are responsible for making policy decisions affecting all major aspects of pension plan administration. They, therefore, must acquire an appropriate level of knowledge of all significant facets of the plan, rather than only specializing in particular areas.
- No single method of educating trustees is optimal. Instead, a variety of methods is necessary and appropriate.
- This policy is not intended to dictate that Board members attend only specific conferences, programs, etc. Instead, trustees should work with the CEO to determine their own educational needs and which educational opportunities best address those needs.

3. ORIENTATION OF NEW BOARD MEMBERS

- Attendance. Each new Board member (and designated representative, where applicable) shall attend an orientation session.
- Timing for Orientation. The new Board member (or designated representative, where applicable) is urged to attend the orientation session before sitting at the first Board meeting as a voting member.
- Development and Content. The orientation sessions will be developed by the CEO and will, at a minimum, include the following topics:

    - Role and expectations of Board members.
    - A brief history and overview of the system, including the mission and purpose of the System
    - A review of Board committees and their purposes.
    - An overview of the organizational structure and the roles of staff and key service providers, including the actuary, investment consultant, investment managers, custodian, attorneys and auditors.
    - A summary of the actuarial basis of the system, its assets and liabilities, and actuarial assumptions and methodologies.
    - A summary of the asset allocation and investment and funding policies of the system.
    - A summary of the laws and rules governing the system and the Board, including applicable open meeting and public records laws.
    - A summary of the benefit structure and administration.
    - Where applicable, health benefits program structure, delivery and Board authority.

    - An explanation of fiduciary responsibility, conflicts of interest, and ethics
    - A review of Board member immunity, indemnity and fiduciary insurance.
    - An explanation of the strategic plan (where applicable) and the planning process
    - A high level review of existing Board policies
    - A briefing on current and emerging issues before the Board
    - Biographical information on the other Board members
    - A review of best practices for pension governance
    - An introduction to the Executive Management team
    - A tour of system offices, if practicable.

- Materials. At or before the orientation session, the following documents will be made available to new members:

    - A listing of names, addresses, and contact information for the Board members
    - A listing of names, addresses, and contact information for Executive Management
    - The Board Member Handbook, which contains policies and committee charters
    - The strategic plan
    - A sample Board packet
    - A copy of the Open Meeting Act
    - Copies of Board and committee meeting minutes for the past six months
    - A list of upcoming recommended educational conferences
    - Any other relevant information or documents deemed appropriate by the CEO

4. MENTORING

Any new Board member may request a mentor to assist him or her in becoming familiar with his or her responsibilities on the Board. If a request is made, the Board Chair will designate one experienced Board member to be a mentor to the new Board member for a period of one year. The mentor will contact the new Board member at least once each calendar quarter, outside of regularly scheduled Board meetings, for consultation or discussion related to new Board member orientation.

5. ONGOING BOARD MEMBER EDUCATION

- Educational Conferences. The CEO will maintain a list of educational conferences appropriate for Board members and Board members may attend any of these conferences subject to the Board's travel expense policy. The CEO will scrutinize conference agendas and materials to ensure that they are geared appropriately towards education as opposed to marketing and consider whether associated recreational/ entertainment activities present potential appearance concerns for board members. The CEO will regularly update this list when new educational opportunities arise. The list will also be modified to reflect the evaluations from Board members who have attended specific conferences to ensure that the conferences remain worthy of the Board's time and the System's expense. In considering out-of-state educational opportunities, board members should weigh the costs and benefits of travel versus locally based education.
- In-House Education Sessions. Based on the personal education needs of the Board members, the CEO will arrange for staff or outside service providers to conduct educational sessions throughout the year at regularly scheduled Board meetings or off-sites.

- First Year. In the Board members' first year of service on the Board, in addition to attending the orientation session, the Board members are encouraged to attend one educational session or conference designed to give them a general understanding of the responsibilities of a public retirement system fiduciary.

- Second Year. During the Board members' second year of service on the Board, Board members are encouraged to attend one educational session or conference designed to help them become proficient in performing their duties on Board committees.

- Ongoing. Board members are responsible for self-evaluating their additional educational needs and obtaining knowledge in specific needs areas in a controlled manner. Board members shall complete annually a Trustee Knowledge Self-Assessment (Attachment 1) and then discuss their results and training needs with the CEO.

- Evaluation Form. Board members must complete an Education Evaluation form (Attachment 2) upon completion of any educational conference and such form must be turned in with any request for reimbursement of expenses associated with the conference. A reimbursement will not be made without a completed Education Evaluation form.

6. FIDUCIARY EDUCATION SESSION

Each year the General Counsel will arrange for a fiduciary education session that will update the Board members on issues affecting their service on the Board. Board members and their designated representatives are expected to attend.

7. ETHICS TRAINING

Board members and their designated representatives shall complete any ethics training courses required by state or local law.

8. RETIREMENT INDUSTRY PERIODICALS

Board members are encouraged to subscribe to periodicals selected from a list of pension and investment-related periodicals maintained by the CEO. The expense for the periodicals will be paid by the System. The CEO will annually review and update this list with input from the Board members.

9. COMPLIANCE

The willful failure of a Board member to comply substantially with this education policy will be reviewed by the Board.

IV. ETHICAL AND FIDUCIARY CONDUCT

As ethical leaders, the Board and executive team share values about what is important and work together with mutual respect in a constructive partnership. Together, the Board and executives set the tone at the top that permeates the organization. The purpose of these policies is to provide the foundation for an ethical culture at the system

A. Fiduciary Duties

Duty of Loyalty

Board members and staff of the system shall discharge their duties with respect to the system and the plan solely in the interest of the members, retirees and beneficiaries for the exclusive purpose of:

- Providing benefits to members and beneficiaries.
- Defraying reasonable expenses of administering the plan.

The Duty of Loyalty is the most fundamental of fiduciary duties. The system's duty to its participants and their beneficiaries must take precedence over any other duty. A trustee does not serve as an "agent" or representative of the employer, union or other constituency responsible for his or her appointment to the Board, and must act in the best interests of all of the participants and beneficiaries even where doing so is not in the interest of the electoral or appointing authority responsible for the trustee's appointment. While a trustee may wear "two hats," one as a trustee and one reflecting another position, such as employer or union official, the trustee may only wear one hat at a time and must wear their trustee/fiduciary hat when conducting system business.

Under the ***Duty of Impartiality***, a corollary of the Duty of Loyalty, where there are conflicting interests among different groups of participants, retirees and/or beneficiaries the system must strive to act in a way that serves the overall best interests of the system's members as a whole and avoid favoring one group over the other.

Duty of Care

Board members and staff must discharge their duties with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an enterprise of a like character and with like aims. This requires:

- Diversifying the investments of the system so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.
- Undertaking an appropriate analysis of a proposed course of action, including determination of the relevant facts, considering alternative courses of action and obtaining expert advice as needed (i.e., follow a "prudent process."
- Acting in accordance with the documents and instruments governing the system.

Exclusive Purpose of Systems Assets

The assets of the plan shall never inure to the benefit of an employer and shall be held for the exclusive purposes of providing benefits to members and beneficiaries and defraying reasonable expenses of administering the system.

Prohibited Transactions

Except as otherwise provided by law, the board and the officers and employees of the system shall not cause the system to engage in a transaction if they know or should know that the transaction constitutes a direct or indirect:

- Sale or exchange, or leasing, of any property from the system to a member or beneficiary for less than adequate consideration, or from a member or beneficiary to the system for more than adequate consideration.
- Lending of money or other extension of credit from the system to a member or beneficiary without the receipt of adequate security and a reasonable rate of interest, or from a member or beneficiary with the provision of excessive security or an unreasonably high rate of interest.
-
- Furnishing of goods, services, or facilities from the system to a member or beneficiary for less than adequate consideration, or from a member, retiree, or beneficiary to the system for more than adequate consideration.
- Transfer to, or use by or for the benefit of, a member or beneficiary of any assets of the plan for less than adequate consideration.
- Acquisition, on behalf of the system, of any employer security, real property, or loan.

Prohibitions Against Self-Dealing

Board members and officers and employees of the system shall not do any of the following:

- Deal with the assets of the system in their own interest or for their own account.
- In their individual or in any other capacity, act in any transaction involving the system on behalf of a party, or represent a party, whose interests are adverse to the interests of the plan or the interests of the members and beneficiaries.
- Receive any consideration for their personal account from any party conducting business with the system in connection with a transaction involving the assets of the plan.

B. Statement of Ethical Conduct

The Board has established the following Statement of Ethical Conduct and has determined that engaging in any of the following activities or conduct is inconsistent, incompatible, in conflict with or inimical to the duties of a Board member and/or staff.

No employment, activity, or enterprise shall be engaged in by any Board Member or staff, which might result in, or create the appearance of resulting in, any of the following:

1. Using the prestige or influence of the Board or staff position for private gain or the advantage of another.

2. Using system time, facilities, employees, equipment or supplies for private gain or advantage, or the private gain or advantage of another.

3. Using confidential information acquired by virtue of system activities for private gain or the advantage of another, including, but not limited to, so-called "insider trading" as described in subsection "C", *infra*.

4. Providing confidential information to persons to whom issuance of this information has not been authorized.

5. Receiving or accepting money or any other consideration from anyone other than the system for the performance of an act which the Board Member or staff would be required or expected to render in the regular course or hours of his/her duties.

6. Performance of an act in other than his/her capacity as a Board Member or because of the public office that gives rise to the member's ex-officio status knowing that such act may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement by such person or by the system.[18]

7. Receiving or accepting, directly or indirectly, any gift, including money, any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value, from anyone who is doing or is seeking to do business of any kind with the system or whose activities are regulated or controlled in any way by the system, under circumstances from which it reasonably could be inferred that the gift was intended to influence him/her in his/her official duties or was intended as a reward for any official action on his/her part.

8. As a Board member, having an ex parte communication on the merits of an administrative appeal with any party or their attorney until after the Board's decision is final.

9. Publishing any writing or making any statement to the media, to state

18 For example, if the State Controller sits on a pension board, the retirement system can still contract with the Controller's Office to issue retirement checks even if those payments are subject to audit by the retirement system. Conversely, a board member who operates a private payroll service could not contract with the retirement system to issue checks because those checks would be subject to audit and he or she is not issuing them as a public officer.

administrators, legislative personnel, or members of the public which purports to represent the system's' position or policy on any matter or subject, before the Board has formally adopted a policy or position on the matter or subject. This section shall not be interpreted to preclude Board Members or staff, as private citizens, from expressing their personal views.

Nothing in this Statement shall exempt any Board Member or staff from applicable provisions of any other laws. The standards of conduct set forth in this Statement are in addition to those prescribed elsewhere in this policy and in applicable laws and rules.

C. Policy Prohibiting Insider Trading

Background

The Board is committed to the highest ethical standards and strictest adherence to federal, state and foreign securities laws and regulations regarding "insider trading." To ensure that the system operates in a manner commensurate with its goal of promoting integrity in the investment, administration and management of securities, the Board has adopted this Policy Prohibiting Insider Trading. The policy applies to Board members and staff, which includes investment consultants and contractors affiliated with the system. The prohibition on insider trading continues to apply even after resignation from the Board or termination of employment until such time, if ever, the information becomes generally available to the public other than through disclosure by or through the Board member or staff.

"Insider trading" has been defined as buying or selling securities on the basis of material, nonpublic information relating to those securities. Any person who possesses material, nonpublic information is considered an "insider" as to that information. The prohibition against insider trading may reach anyone, not just a corporate insider, who has access to the material, nonpublic information. The scope of insider trading liability has been extended to "controlling persons," which includes any entity or person with power of influence or control over the management, policies or activities of another person. It has also been extended to "tippees" who receive material, nonpublic information from an insider when the "tipper" (the "insider") breaches a fiduciary duty for his or her personal benefit and the "tippee" knows or has reason to know of the breach. The law provides civil and criminal penalties for insider trading violations.

Information is deemed material if it would be considered important by a reasonable investor in deciding whether to buy, sell or refrain from any activity regarding that company's securities. Material information may be either positive or negative

and can relate to any aspect of a company's business. Common examples of material information include, but are not limited to: unpublished financial results and projections, news of a merger or acquisition, stock splits, public or private securities/debt offerings, changes in dividend policies or amounts, gain or loss of a major customer or supplier, major product announcements, significant changes in senior management, a change in accounting policies, major problems or successes of the business, and information relating to a company against whom the system is considering securities litigation. Material nonpublic information may not be used by Board members or staff for personal gain or to benefit third parties.

Information is considered "nonpublic' if it is not available to the general public. Once it is released to the general public, it loses its status as "inside" information. However, for nonpublic information to become public, it must have been made generally available to the securities marketplace, and sufficient time must pass for the information to become available in the market. To show that material information is public, it is generally necessary to show some fact verifying that the information has become generally available, such as disclosure in company filings with the SEC or company press releases to a national business and financial wire service, a national news service, or a national newspaper.

Policy on Insider Trading

Board members and staff may be provided or have access to confidential information, including material, nonpublic information. Any information not publicly available must be treated as confidential even if it is not designated as confidential. It is the duty of Board members and staff to maintain the confidentiality of information and to not misuse confidential information, including material nonpublic information, belonging to or relating to the system. Board members and staff who come into possession of material, nonpublic information must not intentionally or inadvertently communicate it to any third party, including but not limited to relatives and friends, unless the person has a need to know for legitimate reasons in keeping with their responsibilities to the System. Special care should be taken so that confidential information is not disclosed inadvertently.

Board members and staff in possession of material, nonpublic information may not purchase or sell securities of the concerned company or other publicly traded securities to which the information pertains.. Recommending purchases or sales of securities to which the material nonpublic information relates, even without disclosing the basis for the recommendation, is prohibited.

Board members and staff in possession of material, nonpublic information relating to a tender offer, acquired directly or indirectly from the bidder or target company, may not trade in target company securities. Board members and staff also may not disclose such material, nonpublic information to another person.

Board members and staff in possession of material, nonpublic information may not purchase, directly or indirectly, any security in the initial public offering of such security.. Board members and staff also may not encourage, facilitate, or arrange such a purchase by or on behalf of any other person.

This policy is to be delivered to all new Board members and staff, including consultants, upon commencement of a relationship or employment with the system. Each Board member and all staff must read and complete the certification in Attachment 4 within 30 days of receipt of the policy and annually by April 1 of each year thereafter. The certifications shall be delivered to the General Counsel.

The Chief Investment Officer shall obtain written confirmation from each external manager that handles securities for the System that it has a policy against insider trading and that it enforces the policy. The written confirmation must be received by the system within 30 days of commencement of the manager's relationship with the system.

Disclosures of personal financial interests filed by Board members or staff pursuant to state or local law may be reviewed by the system to insure compliance with this policy. Board members and staff should report any suspected violation of this policy to the General Counsel. The General Counsel is responsible for causing an investigation of any reported violation. Following such investigation, if the General Counsel concludes that the policy may have been violated, he or she shall take appropriate action.

Violation of this policy may result in disciplinary action, including dismissal or other sanction. Any disciplinary action for violation of the policy may be in addition to any civil or criminal liability under federal and state securities laws and regulations and is not subject to appeal on the grounds that the violation did not ultimately result in any actual civil or criminal investigation or other legal proceeding.

D. State and/or Local Conflict of Interest Rules

1. All Board members and staff are subject to the disclosure and reporting requirements of the System's Conflict of Interest Code (COI) as well as applicable laws and regulations in this area. Absent full compliance with these rules, receipt by a Board member or staff from a third party of any gift, honoraria, or payment of actual transportation and related lodging and subsistence or any payment or reimbursement of the same may subject them to disqualification from participation in making decisions related to the third party. It is the recipient's responsibility to ensure that he or she does not engage in any action that places him or her in a conflict of interest and to properly disclose and report the receipt of any gift, honoraria or

travel expenses under the System's COI and applicable political reform laws and regulations.. Board members and staff are encouraged to confer with the General Counsel if they have questions concerning possible conflicts of interest.

2. Any Board Member or staff who receives an offer from any third party, other than the System, of travel expenses (paid or reimbursed) or actual transportation and related lodging and subsistence from any third party other than either the System, has the responsibility to obtain prior approval to ensure compliance with applicable laws and rules. For Board members, prior approval must be given by the full Board. For the CEO, prior approval must be given by the Board Chairman or designee. For other staff, approval must be given by the CEO. If Board members and staff accept meals provided by third parties, subject to the obligations noted above, per diem reimbursement for such meals cannot be claimed from the system.

E. Avoidance of Appearance of Nepotism

Even if otherwise permissible under applicable conflict of interest laws and/or Board policy, Board members should avoid participating in system matters in which a close relation of the Board member has a personal, managerial or substantial financial interest. A "close relation" is defined as a spouse, mutual financial dependent, significant other or person in an intimate relationship; a child, parent, sibling (including in-laws and step-relations), grandparent or grandchild, niece or nephew, aunt, uncle or cousin. A "substantial financial interest" exists if the personal financial effect of the system matter on the close relation would be $250 or more in a 12-month period and that effect is particular to the close relation as opposed to affecting a much larger group. For example, under this policy, a Board member would not be precluded from participating in a decision to recommend legislation that would increase the percentage amount of a cost-of-living adjustment paid to all retirees even if the Board members' mother would receive this increase along with all other retirees. However, if the Board members' mother files an appeal that contends that her specific cost-of-living adjustment had been calculated incorrectly by the system, under this policy the Board member would be precluded from participating in the decision regarding this appeal.

F. Limitation on Receipt of Gifts

Public pension plan governance is characterized by a host of competing interests, both public and private, that may challenge board members and staff in the exercise of their fiduciary roles with respect to the exclusive interest of system members. Board members and staff require independence and objectivity when interacting with existing or potential service providers to the system. The receipt of gifts and/or the solicitation of charitable contributions can create at a minimum the appearance of a conflict of

interest and may violate state or local law.

1. APPLICABLE STATE/LOCAL LAW

Each Board member and designated staff shall comply with the gift limitation provisions and the prohibition on the acceptance of honoraria as set forth in (***insert applicable statutory authority***).

2. ADDITIONAL LIMITATIONS

a. No Board member or staff member may receive, accept, seek or solicit, directly or indirectly, anything of economic value as a gift, gratuity or favor from a person if it could reasonably be expected that the gift, gratuity or favor would:

i. influence the vote, action or judgment of the Board or staff member; or be considered as part of a reward for action or inaction.

b. No Board or staff member may accept gifts with an aggregate value of $50 in a calendar year from a single source that does business or seeks to do business with the retirement system.

c. If the Board or staff member is allowed to accept a gift under applicable law and this policy, he or she is still obligated to evaluate the propriety of accepting the gift. Board members and staff should be sensitive to the source and value of the gift, the frequency of gifts from one source, the possible motives of the giver, and the perception of others regarding the gift. Close cases should always be decided by rejecting gifts, gratuities or favors that may raise questions regarding the board or staff member's integrity, independence and impartiality. If a board or staff member is uncertain as to whether to accept the gift, he or she should consult the system's General Counsel.

3. APPLICATION OF POLICY

Nothing in this policy supersedes any applicable provision of state or local law. Those entities engaged in business with the System may also have reporting requirements under state or local law.

G. No Contact Policy

Upon the release of any Request for Proposal (RFP), Invitation for Bid (IFB), or comparable procurement vehicle for any System service or product, there may be no communication or contact between the applicant or bidder and Board members or staff concerning the subject of the procurement process until the process is completed.

Requests for technical clarification regarding the procurement process itself are permissible and must be directed to the person in charge of administering the contract process..

Incidental contact between a prospective bidder or its representative and Board members and staff which is exclusively social, or which clearly pertains to a matter not related to the subject procurement process, is permissible.

Any applicant or bidder who willfully violates this policy will be disqualified from any further consideration to provide the applicable service or product.

Board members and staff should report any suspected violation of this policy to the Chief Executive Officer, who will determine the appropriate course of action.

H. Disclosure of Communications

1. DISCLOSURE OF COMMUNICATIONS REGARDING INVESTMENT TRANSACTIONS THAT REQUIRE INVESTMENT COMMITTEE OR BOARD APPROVAL

    a. During the evaluation of any prospective investment transaction, no party who is financially interested in the transaction nor any officer or employee of that party, may knowingly communicate with any Board member concerning any matter relating to the transaction or its evaluation, unless the financially interested party discloses the content of the communication in writing to the General Counsel and the Board prior to the Board's action on the prospective transaction. This does not apply to communications that: (1) are part of a noticed

board meeting; (2) are incidental, exclusively social, and do not involve the system or its business, or the Board or staff member's role as a system official; or (3) do not involve the system or its business and that are within the scope of the Board or staff member's private business or public office wholly unrelated to the system.

i. The written disclosure must include the date and location of the communication, and the substance of the matters discussed. It shall be submitted no later than five working days prior to the noticed Board meeting at which the investment transaction is being considered unless the communication occurs less than five working days before the noticed Board meeting, in which case the disclosure must be submitted immediately after the communication occurs.

ii. Consistent with its fiduciary duties, the Board will determine the appropriate remedy for any knowing failure of a financially interested party to comply with this policy, including, but not limited to, outright rejection of the prospective investment transaction, reduction in fee income, or any other sanction.

b. Any Board member who participates in a communication subject to this policy also has the obligation to disclose the communication to the General Counsel and the Board, prior to the Board's action on the prospective transaction. The disclosure must be in writing and disclose the date and location of the communication and the substance of the matters discussed. It must be submitted no later than five working days prior to the noticed Board meeting at which the investment transaction is being considered unless the communication occurs less than five working days before the noticed Board meeting, in which case the writing must be submitted immediately after the communication occurs. The communications disclosed under this section will be made public, either at the open meeting of the board in which the transaction is considered, or if in closed session, upon public disclosure of any closed session votes concerning the investment transaction.

i. This disclosure obligation does not apply to communications that are general in nature and content, such as: (1) those with regard either to the nature of the party's business or interests or with regard to public information regarding the system; (2) a simple expression of the party's interest generally in doing business with the system or having the system invest in or with the party communicating with the Board member; or (3) a simple expression by the Board member in relation to the performance of an investment or service provided to the system.

ii. An alleged failure of a Board member to disclose communications as required herein will be referred to the Chairperson for appropriate action unless the Chairperson is a party to the communication in question, in which case the matter will be referred to the Vice-Chair.

iii. The General Counsel will provide the Board with an annual summary of the communications disclosed pursuant to this section.

2. DISCLOSURE OF COMMUNICATIONS REGARDING INVESTMENT TRANSACTIONS THAT DO NOT REQUIRE INVESTMENT COMMITTEE APPROVAL

The disclosure obligation regarding communications covered by Subsection H (1) for a party or its officer or employee who is financially interested in an investment transaction also applies to communications involving transactions the Chief Investment Officer has been delegated the authority to approve without the need for Investment Committee action. Upon the initiation of any consideration by the Investment Office or one of its consultants or advisors of the review of a proposed investment transaction, the firm seeking a system investment will be given a copy of this policy together with a form to use to report any communications with Board members for which disclosure is required. There is no parallel obligation on the part of the Board member to disclose a communication involving a transaction that has been delegated to the Chief Investment Officer, although Board members are urged to keep an informal record of communications that would be subject to disclosure if the transaction ultimately comes before the Investment Committee and must be reported under Subsection H (1).[19]

The General Counsel will provide the Board with an annual summary of the communications disclosed pursuant to this paragraph.

3. DISCLOSURE OF COMMUNICATIONS BETWEEN BOARD MEMBERS AND STAFF REGARDING INVESTMENT TRANSACTIONS

As a general matter, the Board recognizes that the free flow of communication between individual Board members and staff or consultants is beneficial to the conduct of system business and that requiring disclosure of all or

19 Under these provisions, disclosure by both the Board member and the investment manager must be made for transactions requiring Board approval. For transactions delegated to the CIO, only the investment manager has to provide disclosure. If a transaction is originally slotted for CIO approval but is then elevated to the Board for decision, the Board member must then disclose the communication; hence, the recordkeeping suggestion.

a large part of such regular communication would create a burdensome reporting requirement that would likely serve no useful purpose. However, in those instances where conduct by an individual Board member can be reasonably interpreted as an attempt to influence the outcome of a Board or staff decision or consultant recommendation in an investment transaction, the Board recognizes that such communications could create the potential for misunderstanding, misinformation or conflicting instructions and could be reasonably interpreted as inappropriately affecting the Board, staff or consultant. Such communications do not always rise to the level of "undue influence," as defined and discussed in Section H (4), but nevertheless should be subject to disclosure.

Any communication regarding a potential investment transaction initiated by a Board member with either a system employee or consultant in which the Board member is advocating for a specified outcome must be documented by the employee or consultant and reported to the General Counsel. Such communications will be disclosed to the Board if and when, in the judgment of the General Counsel, they may be material to the Board's deliberation with respect to any system matter.

4. AVOIDANCE OF UNDUE INFLUENCE

The Board recognizes that if a Board member or a third party attempts to direct staff or a Board member to a specified action, decision or course of conduct through the use of undue influence, sound decision-making could be compromised to the ultimate detriment of the Board as a whole and/or system members, retirees and beneficiaries.

Any staff member or Board member who believes that he or she has been subject to the attempted exercise of undue influence, as described above, should report the occurrence immediately and simultaneously to the Chief Executive Officer and to the General Counsel. The General Counsel will investigate the situation immediately and is authorized to use the services of an outside law firm to conduct the investigation if he or she deems it appropriate. Following such investigation, if the General Counsel concludes that an exercise of undue influence was attempted, he or she will take whatever action deemed to be appropriate, which will include notification to the Board and thereafter a public disclosure during an open session meeting of the Board. If the Chief Executive Officer or General Counsel believes that he or she personally has been subjected to an attempted exercise of undue influence, he or she must immediately advise the Board Chair unless the circumstances dictate that another Board member should instead be notified. The Board Chair or other Board member will investigate the situation with the assistance of the Fiduciary Counsel and take whatever action he or she deems to be appropriate.

All senior executives shall annually certify, in writing, that they have been free from undue influence by any individual Board member, executive or third party.

Definitions:

"Undue Influence" is defined as the employment of any improper or wrongful pressure, scheme or threat by which one's will is overcome and he or she is induced to do or not to do an act which he or she would not do, or would do, if left to act freely.

"Third Party" means and includes a person or entity that is seeking action, opportunity, or a specific outcome from the system regarding a system matter. The Third Party may be seeking the action, opportunity, or outcome for his or her or its own behalf or the Third Party may be seeking it on behalf of another person or entity in the capacity of a representative, agent or intermediary, or as an advocate for a cause or group of individuals or entities. This definition includes public officials.

I. Prohibition on Campaign Contributions

1. Prohibitions

(a) No party engaging or seeking to engage in a Business Relationship with the system may make any campaign contributions except as specified in subdivision (b), from the party engaged in the Business Relationship and the individuals identified in subdivision (e) beginning on the dates identified in subdivision (f), to any person designated in subdivision (d) below.

(b) This section does not apply to contributions made by individuals identified in subdivision (e) to officers or candidates for office for whom the individual was entitled to vote at the time of the contribution and which in the aggregate do not exceed $350 to any one official, per election, or to officials for whom the individual was not entitled to vote which in the aggregate do not exceed $150 to any one officer or candidate, per election.

(c) For purposes of this policy, "Business Relationship" means a relationship between a non-governmental party and the system for the purpose of providing any services or goods that is expected to generate at least $100,000 annually in income, fees, or other revenue to the party.

(d) This prohibition applies to campaign contributions made to, on behalf of or at the request of the system's officers and employees, any existing Board member, the appointing authority of any Board member and those public officers who by virtue of statutory designation sit ex officio on the Board and candidates for the appointing authority of any Board member and those public officers who by virtue of statutory designation sit ex officio on the Board.

(e) This prohibition applies to those parties currently engaging in or seeking to engage in an Business Relationship with the system, and specifically includes:

(1) Those individuals employed by or associated with the parties described in this Section 1 (b), above, who are required to file a disclosure of financial interest pursuant to state or local law; or

(2) "Authorized Personnel/Key Personnel" as defined and identified by the contracting party in the "Authorized Personnel/Key Personnel exhibit" incorporated in or attached to the contract between the contracting party entering into the Business Relationship and the system; or

(3) Those individuals who expect to and/or do experience a material financial effect on their economic interests including salary, bonuses, options, or other financial incentives directly deriving from an Investment Relationship with the system.

This prohibition also applies to contributions from any other entities or individuals made at the direction of such parties identified above in this subdivision (d).

(f) For parties defined in subdivision (e) above, the prohibition set forth in this section shall apply to the time period which begins

(1) On the date the system first announces a procurement or search process that could lead to an Investment Relationship which is likely to generate at least $100,000 annually in income, fees, or other revenue to the party; or

(2) On the date a party identified in subdivision (d) above approaches the system with a proposal to enter into an Investment Relationship by discussing the specific facts and financial terms of a particular investment transaction or strategy, whichever is earlier, and ends when the Investment Relationship is terminated by any party for any reason, or when the system communicates its decision not to pursue the Investment Relationship.

2. Disclosure and Recusal Requirement for Campaign Contributions

(a) No officer, employee or current Board member, including any ex officio Board members may make, participate in making or in any way attempt to use his or her official position to influence a decision involving a Business Relationship with the system if the officer, employee or member has received, solicited or directed a campaign contribution of $150 or more, individually or in the aggregate, in any twelve month period prior to the dates identified in Section 1 from any person designated in Section 1, subdivision (d). For purposes of this section, a member appointed by an appointing power will also be deemed to have received a contribution if the appointing power has received a contribution within the twelve month period prior to the dates identified in Section 1, subdivision (e) from any person designated in Section 1, subdivision (d).

(b) If the disqualification provision of subdivision (a) results in the lack of a quorum for the purposes of taking action on any item before the Board or any of its committees, a sufficient number of Board members to constitute a quorum will be drawn by lot from the otherwise disqualified Board members for the purpose of establishing a quorum and taking action on items before the Board or any of its committees. Board members who have been drawn by lot to constitute a quorum will have their participation deemed as necessary and shall be exempt from the restrictions of subdivision (a) for the purpose of establishing a quorum and participating in the deliberations and voting on an item for which a quorum could not be established absent this waiver of the restrictions of subdivision (a).

3. Remedies, Enforcement and Safe Harbors

(a) The General Counsel will cause an independent investigation to be performed for any reported violation of Sections 1 and 2, and report any documented violation to the Board for action.

(b) If any party seeking a Business Relationship with the system is found to be in violation of Section 1, that party will be disqualified from engaging in a Business Relationship with the system for a period of two years.

(c) Any party who has an existing Business Relationship with the system and who is found to be in violation of the provisions of Section 1 will be subject to disqualification from doing future or additional business with the system for a period of two years.

(d) If a party voluntarily reports a violation of Section 1 to the General Counsel within ninety days of the contribution being made and it is

established pursuant to an independent investigation that the violation was inadvertent, the disqualification provision of subdivision (c) will not be applied. This safe harbor provision does not apply to a knowing or intentional violation of Section 1.

(e) System staff will maintain a current list of parties engaged in an Investment Relationship subject to Section 1, subdivision (d). The disclosure and recusal requirements of Section 2, subdivision (a) do not apply to any officer, employee or Board member, including ex officio board members, if the Investment Relationship has not been published on the list maintained by system staff.

J. Disclosure of Third Party Relationships and Payments; Permanent Ban on Current or Former Board Members or Employees from Providing Placement Agent Services in Connection With the System

1. Purpose

This policy sets forth the circumstances under which the system will require the disclosure of payments to Placement Agents in connection with system' investments in or through External Investment Managers. This policy additionally prohibits permanently current or former Board members or employees of the system from providing placement agent services in connection with system investments. This policy is intended to apply broadly to all of the types of investment partners with whom the system does business, including the general partners, managers, investment managers and sponsors of hedge funds, private equity funds, real estate funds and infrastructure funds, as well investment managers retained pursuant to a contract. The system adopts this Policy to require broad, timely, and updated disclosure of all Placement Agent relationships, compensation and fees. The goals of this policy are: 1) to help ensure that system investment decisions are made solely on the merits of the investment opportunity by individuals who owe a fiduciary duty to the system; 2) to prevent impropriety and the appearance of impropriety; and 3) to provide transparency and confidence in system investment decision-making.

2. Application

This policy applies to all agreements with External Investment Managers and that are entered into after the date this Policy is adopted. This Policy also applies to existing agreements with external investment managers if, after the date this Policy is adopted, the agreement is amended to extend the term of the agreement, increase the commitment of funds by the system or change the substantive terms of the agreement (including the fees or compensation payable to the investment manager). In the case of such an amendment, the disclosure provisions of Section 4A. of this Policy shall apply to the amendment and not to the original agreement.

3. Disclosure Policy--Responsibilities of External Investment Managers

Each external investment manager is responsible for:

i. Providing the following information (collectively, the "Placement Agent Information Disclosure") to Staff and, if applicable, to the general partner, managing member, or investment manager at the time investment discussions are initiated by the external manager or the system:

a. A statement whether the External Investment Manager or any of its principals, employees, agents or affiliates has compensated or agreed to compensate, directly or indirectly, any person (whether or not employed by the External Investment Manager) or entity to act as a Placement Agent in connection with the investment by the system.

b. A resume for each officer, partner or principal of the Placement Agent (and any employee providing similar services) detailing the person's education, professional designations, regulatory licenses and investment and work experience. If any such person is a current or former system Board member, employee or Consultant or a member of the immediate family of any such person, this fact shall be specifically noted.

c. A description of any and all compensation of any kind provided or agreed to be provided to a Placement Agent, including the nature, timing and value thereof. Compensation to Placement Agents shall include compensation to third parties as well as employees of the External Investment Manager who are retained in order to solicit, or who are paid based in whole or in part upon, an investment from the system.

d. A description of the services to be performed by the Placement Agent and a statement as to whether the Placement Agent is utilized by the External Investment Manager with all prospective clients or only with a subset of the External Investment Manager's prospective clients.

e. A copy of any and all agreements between the External Investment Manager and the Placement Agent.

f. The names of any current or former system Board members, employees, or Consultants who suggested the retention of the Placement Agent.

g. A statement that the Placement Agent (or any of its affiliates, as applicable) is registered with the Securities and Exchange Commission or the Financial Industry Regulatory Authority and the details of such registration.

h. A statement whether the Placement Agent, or any of its affiliates, is registered as a lobbyist with any state or national government.

ii. Providing an update of any changes to any of the information included in the Placement Agent Information Disclosure within 14 calendar days of the

date that the External Investment Manager knew or should have known of the change in information.

iii. Representing and warranting the accuracy of the information included in the Placement Agent Information Disclosure in any final written agreement with a continuing obligation to update any such information within 14 calendar days of the date that the External Investment Manager knew or should have known of any change in the information.

4. Disclosure Policy--Responsibilities of System Investment Staff

System Investment Staff are responsible for all of the following:

i. Providing External Investment Managers with a copy of this Policy at the time that discussions are initiated with respect to a prospective investment or engagement.

ii. Confirming that the Placement Agent Information Disclosure has been received prior to the completion of due diligence and any recommendation to proceed with the engagement of the External Investment Manager or the decision to make any investment

iii.. For new contracts and amendments to contracts existing as of the date of this Policy, declining the opportunity to retain or invest with the External Investment Manager if the Placement Agent Information Disclosure reveals that the External Investment Manager has used a Placement Agent that is not registered with the Securities and Exchange Commission or the Financial Industry Regulatory Authority.

iv. For new contracts and amendments to contracts existing as of the date of this Policy, securing the agreement of the External Investment Manager in the final written agreement between the system and the External Investment Manager to provide the system the following remedies in the event that the External Investment Manager knew or should have known of any material omission or inaccuracy in the Placement Agent Information Disclosure or any other violation of this Policy:

a. Whichever is greater, the reimbursement of any management or advisory fees for two years or an amount equal to the amounts paid or promised to be paid to the Placement Agent; and

b. The authority to terminate immediately the investment management contract or other agreement with the External Investment Manager without penalty, to withdraw without

penalty from the limited partnership, limited liability company or other investment vehicle, or to cease making further capital contributions (and paying any fees on these recalled commitments) to the limited partnership, limited liability company or other investment vehicle.

v. For new contracts and amendments to contracts existing as of the date of this Policy, confirming that the final written agreement between the system and the External Investment Manager provides that the External Investment Manager shall be solely responsible for, and the system shall not pay (directly or indirectly), any fees, compensation or expenses for any Placement Agent used by the External Investment Manager. A provision that allows the External Investment Manager to pay Placement Agent fees or compensation from capital contributed by the system with a corresponding reduction in the management fee payable with respect to the system's investment shall not be regarded as a payment of the Placement Agent fee or compensation by the system for purposes of this Policy.

vi. Prohibiting any External Investment Manager or Placement Agent from soliciting new investments from the system for twenty-four months after they have committed a material violation of this Policy.

vii. Providing copies of the Placement Agent Information Disclosure to the Chief Investment Officer, the Chief Executive Officer and the General Counsel.

viii. Providing the Investment Committee with a copy of the Placement Agent Information Disclosure whenever the Committee considers a the decision to invest with the External Manager.

ix. Compiling a monthly report containing the names and amount of compensation agreed to be provided to each Placement Agent by each External Manager as reported in the Placement Agent Information Disclosures, providing the report to the Board, and disclosing the report to the public by posting to the system's website.

x. Reporting to the Board at least quarterly any material violations of this Policy.

5. Permanent Ban

No current or former Board member or employee may serve as a placement agent in connection with any system investment.

6. External Managers shall comply with this Policy and cooperate with Staff in meeting Staff's obligations under this Policy.

7. All parties responsible for implementing, monitoring and complying with this Policy should consider the spirit as well as the literal expression of this Policy. In cases where there is uncertainty whether a disclosure should be made pursuant to this Policy, this Policy shall be interpreted to require disclosure.

Definitions

Consultant

Consultant refers to individuals or firms, and includes Key Personnel of Consultant firms, who are contractually retained or have been appointed to a pool by the system to provide investment advice to system but who do not exercise investment discretion.

External Investment Manager

An asset management firm that is seeking to be, or has been, retained by the system to manage a portfolio of assets (including securities) for a fee. The external manager usually has full discretion to manage system assets, consistent with investment management guidelines provided by the system and fiduciary responsibility.

Placement Agent

Any person or entity hired, engaged or retained by or acting on behalf of an External Investment Manager or on behalf of another Placement Agent as a finder, solicitor, marketer, consultant, broker or other intermediary to raise money or investments from or to obtain access to the system, directly or indirectly.

V. OVERSIGHT OF CONTRACTORS AND SYSTEM EXPENDITURES

A. Contractor Code of Ethics

This Code of Ethics for Contractors (“Code”) sets forth the ethical responsibilities and requirements of Contractors in performing services for the system.

1. Conflicts of Interest Defined/Prohibited

A conflict of interest exists for a Contractor when the contractor has a personal, commercial or business relationship or interest that could reasonably be expected to diminish the Contractors independence of judgment in the performance of the Contractor’s responsibilities to the system. A Contractor may not participate in or advise on a specific matter before the system that involves a business, contract, property or investment in which the Contractor has a pecuniary interest if its reasonably foreseeable that action or inaction on behalf of the system on that matter would be likely to, directly or indirectly, confer a benefit on the Contractor by reason of the Contractor’s interest in such business, contract, property or interest. The foregoing prohibition does not apply if

- The benefit is merely incidental to the Contractor’s membership in a large class sharing a common class interest;
- The benefit solely results because Contractor is or has a relative who is a member, retiree, annuitant or beneficiary of the system, provided the relative is not also an employee of the system;

2. Determination of a Potential Conflict of Interest

If a Contractor, trustee or staff member is uncertain whether a Contractor has or would have a conflict of interest under a particular set of circumstances then existing or reasonably anticipated to occur, the Contractor, trustee or staff member should promptly inform the General Counsel, who shall determine whether a conflict of interest exists under the circumstances then presented, under both system rules and/or applicable state and local conflict of interest laws and rules. If the General Counsel determines that a conflict of interest exists, the Contractor must file a disclosure statement pursuant to subsection 3.

3. Disclosure and Reporting

Contractors must promptly disclose conflicts in writing to the General Counsel on the form specified by the system. A Contractor who discloses a conflict must refrain from giving advice or making decisions about any matters affected by the conflict of interest until the Contractor cures the conflict under subsection 4 or obtains a waiver of the conflict under subsection 5.

The General Counsel shall send a copy of all Contractor conflict of interest disclosures to the Chief Executive Officer and to the Board Chair. No less than annually, the General Counsel shall provide to the Board a summary of conflicts of interest disclosed by Contractors and the actions taken to cure or mitigate those conflicts.

4. Cure, Prevention and Mitigation

A Contractor with a conflict of interest must disclose that conflict under subsection 3 and cure (eliminate) it. A Contractor who cannot or does not want to eliminate the conflict of interest must terminate its relationship with the system as promptly as responsibly and legally possible, or seek a waiver of the conflict under subsection 4. Alternatively, if a Contractor may prudently refrain or withdraw from taking action on a particular system matter in which a conflict or potential conflict exists, the Contractor may cure the conflict or prevent or mitigate the potential conflict by doing so, provided that:

- Contractor may be and is effectively separated from influencing the action taken;
- The action may properly and prudently be taken by others without undue risk to the interests of the system;
- The nature of the conflict is not such that Contractor must regularly and consistently withdraw from decisions that are normally its responsibility with respect to the services provided to the system.

The General Counsel shall determine whether or not the Contractor's proposed cure of an existing conflict or a preventive or mitigating measure for a potential conflict is appropriate and sufficient under this section. The General Counsel shall inform the Chief Executive Officer and Chief Auditor of any such determination.

5. Waiver

Upon application of a Contractor, the Board, after consultation with the General Counsel, may expressly waive a conflict based upon a determination that the conflict is not material or that a waiver is the best interests of the system and is not inconsistent with applicable laws, rules and professional standards. Any waiver granted by the Board, including the reasons supporting the waiver, shall be maintained in the public records of the Board.

6. Confidential Information

A Contractor may not make unauthorized use or disclosure of confidential or sensitive information acquired as a result of the relationship with the system. A Contractor receiving or having access to confidential or sensitive system

information must use its best efforts to protect such system information and may use such information only for performing the services for which the Contractor is engaged and for legitimate system business purposes in accordance with the engagement.

7. Compliance with Applicable Laws, Policies and Professional Standards

In addition to this policy, Contractors shall comply with all other applicable provisions of the system's conflicts of interest policies, including but not limited to those pertaining to insider trading, no contact during procurements, disclosure of communications, campaign contributions and gifts, and disclosure of third party relationships. In addition, Contractors must comply with all applicable state and local conflict of interest laws and rules, as well as with all applicable professional standards.

8. Annual Compliance Statement

On the commencement of business with the system and at least once every twelve months, each Contractor must read and review any applicable policies and sign and date an acknowledgement and compliance statement in the form provided by the system.

B. Monitoring Policy for Contractors

All Contractors will be subject to regular monitoring of performance and periodic reviews, as appropriate, throughout the term of the contract. Criteria for review may include, among others, fulfillment of performance expectations, quality of service/work product, timeliness of deliverables, satisfaction of staff and/or the board (where applicable), and competitiveness of fees. The Chief Executive Officer will report regularly to the Board on monitoring efforts and identify any material issues or actions taken in a timely fashion. This will include informing the Board of all reviews scheduled for the coming year.

C. Monitoring and Reporting of System Operations and Expenditures

In order to ensure that delegated responsibilities are being properly executed and that system funds are being prudently expended, the Board has established this Monitoring and Reporting Policy, which sets out the expectations for reports it will receive on a regular basis. Among the purposes of this reporting is to assess fund expenditures and weigh the benefits to fund beneficiaries generated by these expenditures against the cost and quality of the service for which the funds have been expended.

1. Principles

Consistent with its fiduciary duties, the Board may delegate various duties to management and to service providers. The Board is, however, still responsible for supervising those to whom it has delegated duties, using appropriate monitoring and reporting processes.

2. Guidelines

a. The reporting process will address the performance of various functions within the system as well as compliance with the system's policies and charters.

b. Where feasible, performance should be measured by independent service providers;

c. Where available, reports will be prepared in accordance with applicable professional standards

d. Performance benchmarks and criteria shall be specified in advance, and will be:
   - Objective and unambiguous;
   - Measureable;
   - Achievable; and
   - Valid.

e. Peer comparisons shall be used where appropriate in reviewing the performance of the investment program and in assessing the performance of the benefit administration function.

f. The Board shall approve a schedule based on the recommendation of the Chief Executive Officer that identifies with specificity the reports that will be provided to the Board and their timing/frequency.

ATTACHMENT 1

Model Transparency Assessment

	Publicly Available	Reasonably Accessible	Reasonably Clear	Satisfactory to Reasonable Member of Public
Website				
Legal Authority				
Organizing Principles				
Trustee Selection Process				
Board Officers				
Trustee biographical information				
Organizational Chart				
Other Public Access				

ATTACHMENT 2

"FIDUCIARY RESPONSIBILITY" YOUR ROLE AS A TRUSTEE

INTRODUCTION

Trustees of public pension system provide an important service to the community. They are responsible for administering the system and overseeing the investments of the system to ensure that public employees receive a secure retirement after long years of public service. This promise to public employees allows governmental entities to attract and retain qualified employees. As a public pension plan trustee, you can expect to commit ___ hours of your time each month discharging your duties to the system.

The following is intended to serve as a general overview of fiduciary responsibilities and duties relating to administration of public employee retirement system.

WHO IS A FIDUCIARY?

A fiduciary is anyone who has discretionary authority or control over plan assets and/or the administration of the employee benefit plan, whether they are administrators, staff, trustees or consultants. Trustees are fiduciaries charged with fiduciary responsibilities in administration of the retirement system.

YOUR FIDUCIARY DUTIES

It is important to note that your fiduciary duties are measured on an objective standard. It is not enough that you "mean well." You must approach your duties on the Board exercising the following fiduciary duties:

1. Duty of Loyalty: A Trustee must discharge his or her duties with respect to the system solely in the interests of and for the exclusive purpose of providing benefits to participants and their beneficiaries, minimizing employer contributions and defraying reasonable expenses of administering the system. The duty to participants and their beneficiaries is the Trustee's primary duty that takes precedence over all other duties. A Trustee has an undivided duty of loyalty to the participants and beneficiaries and does not serve as an "agent" or representative of the employer, union or other constituency responsible for his or her appointment to the Board. The Trustee must act in the best interests of all of the participants and beneficiaries even where doing so is not in the best interests of the electorate or appointing authority responsible for the Trustee's appointment.
2. Duty of Impartiality: The duty of impartiality is really a corollary of the Duty of Loyalty and applies where the Board is required to make a decision that will impact

groups of participants differently. Where there are conflicting interests among different groups of participants, the Trustee must act in a way that serves the overall best interests of the members of the system.

3. Duty of Care: Fiduciaries must discharge their duties with respect to the system with the same *care, skill, prudence and diligence* under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character with like aims. Encompassed within the duty of care are:
    a. The duty to assure that the assets of the system are sufficient to pay the benefits promised
    b. The duty to monitor and take corrective action when reasonably appropriate
    c. The duty to exercise reasonable effort and diligence in making and monitoring investments for the trust and to diversify investments to maximize returns and minimize risk
    d. The duty to consult with experts and secure and consider the advice of others to the extent necessary or appropriate to the making of informed decisions
    e. The duty to exercise prudence in decision-making which requires asking questions, analyzing advice and recommendations from experts and understanding the rationale for actions before taking them
    f. The duty follow the plan document and other applicable laws governing the retirement system and ensure that trust assets are used for the exclusive benefit of delivering benefits and related services to participants and beneficiaries

CONFLICT OF INTEREST

A fiduciary must act in the best interest of the plan and its participants. Fiduciaries should exercise extraordinary precaution to assure that decisions and transactions are fair to the participants and free of any conflict of interests. Trustees must not participate in any decisions that will impact, either negatively or positively, their own financial interests. Many jurisdictions require that trustees file an annual disclosure of their financial interests. Every Trustee should become familiar with the conflict of interest and disclosure laws in their locality applicable to their duties as a public pension plan trustee. Conflict of interest laws are complex. Trustees should seek assistance from their legal advisors to determine what financial disclosures are required and to seek advice in any situation giving rise to a potential conflict of interest.

DELEGATION OF RESPONSIBILITY

Many aspects of plan administration such as day-to-day operations, investment decisions and other services necessary to conduct the affairs of the system are delegated to persons other than the Trustees. Fiduciaries must exercise reasonable care in delegating responsibilities over administration of the plan. Trustees must ensure that the persons selected are qualified and capable of adequately performing

the duties delegated. Once delegated, Trustees must actively monitor the activities of the person selected to ensure that he or she is adequately performing and that policies and procedures are being timely and accurately implemented.

PLAN ADMINISTRATION

A Trustee's duties relating to plan administration will include:

1. Legal Compliance: Trustees must ensure that the plan maintains compliance with the plan documents and all applicable laws governing the system. Trustees comply with this duty by conducting a periodic review of plan documents and monitoring changing legal requirements.
2. Education: Trustees are expected to educate themselves on the issues that are likely to appear in front of them and ensure that staff members also obtain sufficient education to keep current with issues that impact administration of the system. Trustees should establish an ongoing education program for trustees and staff.
3. Board and Committee Meetings: Trustees are expected to prepare for, attend and participate in regularly scheduled meetings necessary to conduct the business of the system. Trustees should ensure that accurate and detailed minutes are kept of all meetings.
4. Payment of Benefits and Claims: Trustees are responsible for ensuring that plan benefits are paid to participants and beneficiaries in a timely and accurate manner.
5. Competency of Assets: Trustees are responsible for formulating written investment policies and guidelines and overseeing investments to ensure adequate funding of the system to pay all promised benefits.
6. Contributions: Trustees must ensure that contributions from plan sponsors and plan participants are set accurately and collected in a timely manner to ensure adequate funding of the system.
7. Actuarial Advice: Trustees are responsible for retaining and working with a system actuary to analyze potential long-term funding deficiencies and provide advice on contribution rates to ensure adequate funding of the system.
8. Retention of Vendors, Consultants and Experts: Trustees are responsible for retaining vendors, consultants and experts with sufficient skills and expertise to provide the services necessary to conduct the affairs of the system and pay reasonable compensation for those services.

ATTACHMENT 3

BOARD MEMBER KNOWLEDGE SELF-ASSESSMENT

Introduction

Board policy provides that Board members should develop and maintain their knowledge and understanding of the issues involved in the management of the system across the broad spectrum of pension-related areas. The specific areas in which Board members should develop and maintain useful levels of knowledge shall include:

- Governance
- Asset Allocation and Investments
- Actuarial Process
- Benefits Administration
- Disability
- Fiduciary Responsibility
- Ethics, Conflicts and Disclosures
- Open Meeting and Public Records
- Financial Controls and Audits
- Vendor Selection Process

The policy goes on to state that Board members should identify areas where they might benefit from additional education and work with staff to find educational opportunities. The purpose of this self-assessment is to help Board members fulfill their responsibility to identify such areas so that they can engage in meaningful discussion with the General Counsel regarding educational needs and opportunities and make informed choices about the educational opportunities that they pursue.

Instructions

Keeping in mind that this is not a “test” and that no one besides you will see the specific results, you should answer the questions using your best judgment as to your knowledge level in the given area. As indicated, use a simple numeric scale to identify your knowledge and understanding of the subject matters, with a “1” indicating no knowledge or understanding and a “5” indicating comprehensive and detailed knowledge and understanding. When you complete the self-assessment, identify those subject areas, by either general category or specific question as applicable, where you scored the lowest. Make a note of these areas for future discussion with the General Counsel about your educational needs and upcoming educational opportunities to address those needs.

GOVERNANCE

I am confident that I understand the governance of the system.

This includes:

	1	2	3	4	5
Understanding board function, processes, committee structure, exercise of discretion, delegation of responsibilities and oversight role.					
Understanding the organizational structure and roles of staff and key service providers, including the actuary, investment consultant, attorneys and auditors.					
Understanding the laws and rules governing the system.					
Understanding the system's independence under applicable laws.					
Understanding best practices for public pension board governance.					

ASSET ALLOCATION AND INVESTMENTS

I am confident that I understand the asset allocation and investment and funding policies of the system.

This includes:

	1	2	3	4	5
Understanding the major asset classes and their characteristics.					
Understanding specialized asset classes and techniques, such as private equity, market neutral, and securities lending.					
Understanding the concept of risk versus reward and the "efficient frontier" principle of asset allocation.					
Understanding the reports provided by staff and the investment consultant on the performance of the investment portfolio.					
Understanding the role of active management in the investment portfolio.					

ACTUARIAL PROCESS

I am confident that I understand the information provided to me by our outside actuary concerning the actuarial soundness of the system.

This includes:

	1	2	3	4	5
Understanding of how assets and liabilities of the system are calculated on an actuarial basis.					
Understanding the difference and relationship between the actuarial value of assets and the market value of assets and the asset smoothing process.					
Understanding how changes in actuarial assumptions have an impact on system assets and liabilities.					
Understanding the nature of the plan sponsors' funding obligations and the responsibility of the Board to determine the annual required contribution.					
Feeling comfortable with asking our actuary questions when I need further information, explanation or clarification on a subject.					

BENEFITS ADMINISTRATION

I am confident that I understand the benefit structure and benefits administration process at the system.

This includes:

	1	2	3	4	5
Understanding the different plans available to employees of all plan sponsors.					
Understanding how the system communicates with its members.					
Understanding the difference between the responsibility for plan design (plan sponsor) and the responsibility for plan administration (the system).					
Understanding how so-called "contingent" benefits are calculated and administered.					
Understanding how the DROP is administered.					

DISABILITY

I am confident that I understand the disability benefit structure, program administration, and hearing/appeals process at the system.

This includes:

	1	2	3	4	5
Understanding the qualifications for a disability retirement and the benefits that are provided.					
Understanding the process that is followed in disability applications, from intake through determination of eligibility.					
Understanding the medical and legal issues that are discussed during consideration of disability matters.					
Understanding the reexamination process.					
Understanding the hearing and appeal process that is followed when a member is dissatisfied.					

FIDUCIARY RESPONSIBILITY

I am confident that I understand the responsibilities that I have as a system fiduciary.

This includes:

	1	2	3	4	5
Understanding the duty to be prudent.					
Understanding the duty of loyalty and to whom that duty is owed.					
Understanding what constitutes a prohibited transaction.					
Understanding the duty to administer the plan in accordance with governing plan documents.					
Understanding how to delegate authority while retaining appropriate oversight.					

ETHICS, CONFLICTS AND DISCLOSURE

I am confident that I understand the laws, rules and policies that address ethics, conflicts and disclosure at the system. This includes:

	1	2	3	4	5
Understanding applicable state and/or local conflict of interest laws and the duty to avoid participating in a decision that affects my economic interests.					
Understanding system policies concerning conflicts of interest.					
Understanding system policies regarding disclosure by board members and/or investment managers of third party communications.					

OPEN MEETING AND PUBLIC RECORDS

I am confident that I understand the applicable laws and procedures concerning open meetings and public records.

This includes:

	1	2	3	4	5
Understanding the notice requirements for meetings, including teleconference meetings.					
Understanding the limitations on discussing matters that have not been noticed on the agenda.					
Understanding the circumstances under which communications outside of noticed meetings can be deemed under the law to be a "meeting."					
Understanding what may and may not be discussed during a closed session.					
Understanding what constitutes a "public record" under the law and the circumstances under which system records must either be disclosed or withheld.					

FINANCIAL CONTROLS AND AUDITS

I am confident that I understand the system of financial reporting, controls and audits.

This includes:

	1	2	3	4	5
Understanding the respective roles of the Chief Financial Officer, Chief Compliance Officer, the Internal Auditor, and the outside auditor.					
Understanding the Comprehensive Annual Financial Report (CAFR).					
Understanding the concepts of "risk assessment" and developing internal controls to address those risks.					
Understanding the responsibility for maintaining the security of confidential information kept by the system.					
Understanding the present relationship between the system and the plan sponsor(s) with respect to the system's financial controls and reporting.					

VENDOR SELECTION PROCESS

I am confident that I understand the vendor selection process.

This includes:

	1	2	3	4	5
Understanding when an RFP must be conducted and whether the Board must first approve the RFP.					
Understanding the "no contact" provisions of Board policy as they relate to RFP's.					

ATTACHMENT 4

Insider Trading Policy Certification

I, __________________________, hereby certify that I have read and understand the Policy Prohibiting Insider Trading and agree to adhere strictly to the Policy. I further certify that I understand that the failure to act in conformance with the Policy Prohibiting Insider Trading will result in serious consequences, including termination from my employment or contract with the system.

Signature: ____ Date: ___________________

APPENDIX A

Stanford Institutional Investors' Forum (SIIF) Committee on Fund Governance

The members of the SIIF Committee on Fund Governance ("the Committee") are current and former representatives of some of the nation's largest and most influential institutional investors and academic and corporate governance practitioners

Peter C. Clapman, Chair

Peter C. Clapman was the Senior Vice President & Chief Investment Counsel for TIAA-CREF for 32 years until his retirement in 2005. He also headed its corporate governance program. Business Week cited TIAA-CREF as having, at the time of his leadership, the most influential investor corporate governance program in the United States and globally.

Mr. Clapman is currently active in many organizations concerned with corporate governance. He is a member of the Stanford Law School Institutional Investor Forum, and is a speaker at its Directors and Fiduciary Colleges. The Stanford Forum published the "Clapman Report" (quoted and used) recommending best practices for governance of institutional investors and his Committee is in the process of updating that Report. He is on the advisory board of the University of Delaware governance center. He served on the NY State Comptroller Pension Fund Task Force. He was previously on committees of the NYSE, NASDAQ and the London Stock Exchange. He is a board member and former Chair of the IRRC Institute. He is on the Board of iPass, a NASDAQ-listed company, where he Chairs the Governance Committee and serves on the Audit Committee.

Mr. Clapman is a partner of Governance for Owners LLP, a UK based investment organization, offering global investment and governance services, and its Chairman and President in the US. He is on the Board of the National Association of Corporate Directors, which represents independent directors and issues "best practice" reports on key corporate governance issues. He was the Independent Chairman of the AARP Mutual Funds Board of Trustees. He is the Vice Chairman of the Conference of (Mutual) Fund Leaders.

The International Corporate Governance (ICGN) gave him the ICGN 2005 Award for his significant achievements in improving global corporate governance standards. He was described as a "trusted thought leader to members of corporate management and boards of directors as well as institutional investors", because of his balanced approach, He was the Chairman of the ICGN from 1999-2002, and led the organization through its major expansion. He has been cited in Smart Money and by the Financial Times for his influential role in global corporate governance.

Corporate Secretary Magazine in 2010 profiled him in conferring its Lifetime Achievement Award for Corporate Governance, stating that his “thoughtful and balanced approach to governance and investing issues” enabled him to be “equally well regarded by both the investor and corporate communities”.
Mr. Clapman is a graduate of Princeton University, and earned the J.D. degree from Harvard Law School. He was elected a member of the American Law Institute (ALI) in 1993.

Christopher Waddell, Lead Author

Mr. Waddell joined Olson, Hagel & Fishburn, LLP as a Senior Attorney in December, 2008, where he heads the firm’s Public Retirement Law practice. Most recently, he served as General Counsel for two California public retirement systems; first at the California State Teachers’ Retirement System (CalSTRS), the second largest public pension fund in the country, and later at the San Diego City Employees’ Retirement System (SDCERS). Prior to joining CalSTRS, Mr. Waddell was the Chief Counsel for the California Department of Finance and before that was the Chief Counsel for the California Department of Personnel Administration. During a portion of his tenure at Finance, Mr. Waddell served as the Department’s representative on the CalSTRS Board.

Mr. Waddell is the author of a study released in 2008 by the American Federation of State, County and Municipal Employees entitled “Enhancing Public Retiree Plan Security: Best Practice Policies for Trustees and Pension Systems.” He is a Program Fellow at the Stanford Law School, where he is Co-Director of the Fiduciary College, which provides education to pension trustees and staff. He is a member of the National Association of Public Pension Plan Attorneys (NAPPA) and has served as the Chair of the Investment Section and Co-Chair of the Fiduciary Section.

Mr. Waddell earned his Bachelor’s degree in Political Science/Public Service from the University of California at Davis and his law degree from the McGeorge School of Law, where he was a writer and editor for the Pacific Law Journal.

Rich Koppes

Mr. Koppes is the former Deputy Executive Officer and General Counsel of the California Public Employees’ Retirement System (CalPERS), the largest public pension fund in the United States with over $230 billion in assets. He is the founder, Past President, and current Administrative Officer of the National Association of Public Pension Attorneys (NAPPA) and serves on the boards of the National Association of Corporate Directors (NACD), the Investor Responsibility Research Center (IRRC) Institute, and NutraCea Corp. Mr. Koppes was a Director of Valeant Pharmaceuticals International from 2002 to 2010, and a Director of Apria Healthcare Group Inc. from 1998 to 2008.

Mr. Koppes retired from the international law firm of Jones Day in December 2009

after 13-plus years of service, and is a current Program Fellow at the Rock Center for Corporate Governance at Stanford Law School. Mr. Koppes was a member of the NACD Blue Ribbon Commissions on Board Evaluations and Board-Shareholder Communications, as well as of the NACD-CII Task Force on Shareholder/Director Communications. He is a former board member of the Society of Corporate Secretaries and Governance Professionals. In 2007, NACD presented him with its lifetime achievement award for contributions to corporate governance – its highest honor.

Margaret M. Foran

Ms. Foran is Chief Governance Officer, Vice President and Corporate Secretary of Prudential Financial, Inc. She has been a corporate governance leader throughout her career at J. P. Morgan & Co., Inc., Pfizer, Inc., and most recently Sara Lee Corporation. She is admitted to the New York, Illinois, Pennsylvania, and New Jersey (In-house) Bars. Ms. Foran is a Director on the Board of Occidental Petroleum Corporation and is a former Chairman, a former director, the former Chair of the Securities Law Committee, and the former Treasurer of the Society.

Ms. Foran received her B.A., magna cum laude, and J. D. degrees from the University of Notre Dame.

Dan Siciliano

Dan Siciliano is the faculty director of the Rock Center for Corporate Governance at Stanford University and a Professor and Associate Dean at Stanford Law School. He is co-founder and a director of LawLogix Group, Inc. – a global software technology company recently named to the Inc. 500, three times ranked as one of the Top 100 fastest growing private software companies in the United States, and named to the Hispanic Business 500 (largest) and Hispanic Business 100 (fasted growing) for 2010 and 2011. At the law school, he teaches Corporate Finance, Corporate Governance and Practice, and Venture Capital. He is the Senior Research Fellow with the Immigration Policy Center and a national Trustee of the American Immigration Council. As a frequent commentator on the long-term economic impact of immigration and employment eligibility policy and reform, his work has included expert testimony in front of both the U.S. Senate and the House of Representatives.

For 2009, 2010, and 2011, alongside leading academics and business leaders such as Ben Bernanke, Paul Krugman, and Carl Icahn, Mr. Siciliano was named to the "Directorship 100" – a list of the most influential people in corporate governance. He is the co-director of Stanford's Directors' College and serves on the board of the Silicon Valley Chapter of the National Association of Corporate Directors. Mr. Siciliano's related areas of expertise include executive compensation, corporate compliance, the legal and social impact of autonomous (robotic) systems, and corporate strategy. He has served as a governance consultant and trainer to the Board of Directors of dozens

of Fortune 1000 companies.

He received his BA from the University of Arizona and completed both his graduate fellowship in Economics and his JD at Stanford University.

Keith Johnson

Keith L. Johnson chairs the Institutional Investor Services Group at Reinhart Boerner Van Deuren s.c., a Wisconsin-based law firm. Mr. Johnson represents pension funds and institutional investors globally on fiduciary, investment, corporate governance and securities litigation matters. He is currently on the Board of the Network for Sustainable Financial Markets, an international think-tank, and is a member of the International Corporate Governance Network's Shareholder Rights Committee.

Before joining Reinhart, Mr. Johnson served for 21 years as legal counsel to the State of Wisconsin Investment Board (SWIB), the ninth largest public pension fund in the United States, including over six years as chief legal officer. He was on the Executive Board of the National Association of Public Pension Attorneys (NAPPA) and was President of the organization, as well as Co-Chair of the NAPPA Securities Litigation Task Force, Alternative Investments Working Group and Section on Investment and Corporate Governance. He also served as Program Director of the University of Wisconsin Law School's International Corporate Governance Initiative and as a member of the Stanford Institutional Investors' Forum Committee on Fund Governance.

Elaine Reagan

Ms. Reagan is General Counsel and Chief Compliance Officer of the San Diego City Employees' Retirement System where she has been employed for five years. Previously, she was Associate General Counsel of the Orange County Employees Retirement System for approximately five years. Before commencing her career as a public pension attorney, she practiced as in-house defense counsel for Hartford Insurance Company and was a partner in the firm of Shupe, Reagan & Wyne. Ms. Reagan is a member of the National Association of Public Pension Attorneys, California Association of Public Retirement Systems and a past member of the State Association of County Retirement Systems. Ms. Reagan has served as a panelist at both CALAPRS and SACRS.

Ms. Reagan holds a J.D. (Magna Cum Laude) degree from Western State University College of Law and is a member of the California State Bar.

Gina M. Ratto

Ms. Ratto joined the CalPERS Legal Office as an investments lawyer in 2004, and has served as the CalPERS Deputy General Counsel since 2006.

Prior to joining CalPERS, her experience in California state service included three years at the State Treasurer's Office and two years at the Attorney General's Office as part of the bond lawyer team. She was a transactional lawyer in private practice for 10 years prior to joining state service, representing financial institutions and lenders of all types and sizes.
Ms. Ratto received her Bachelor of Arts, Cum Laude, in Pre-Law and English from the University of the Pacific in Stockton, California, and a Juris Doctorate with Honors from the University of the Pacific, McGeorge School of Law, in Sacramento, California, where she was a member of the Order of the Coif.

Mark Battey

Mr. Battey is Managing Director of Miramar Environmental, Inc, a strategy and investment advisory firm located in Half Moon Bay, California. He served as a Trustee for the California State Teachers Retirement System (CalSTRS) from 2004 to 2005. Previously Mr. Battey was Chief Deputy Controller for California where he managed the 2003 $11 billion Revenue Anticipation Warrant bond sale, supervised the policy team for the Controller, and served on a variety of state finance boards including CalPERS and CalSTRS. He was co-founder and Managing Director for Essex Environmental, Inc., an environmental consulting company that was sold to TRC, Inc. in 2002. Mr. Battey held previous positions in marketing and finance in a career that began with Addison-Wesley, an international publishing firm.

Mr. Battey has been active in a wide variety of political and community organizations. He is Chair of the board of directors for MidPen Housing, Inc. a non profit affordable housing developer with over 7,000 apartment units in the San Francisco area. He was the founding Executive Director for the New California Network, a non profit dedicated to improving California's fiscal foundation.

Mr. Battey earned an MBA from Stanford University, an MSC in International Relations from London School of Economics, and a BA from Harvard University.

Luke Bierman

Professor Bierman is the Associate Dean for Experiential Education and Distinguished Professor of Practice of Law at Northeastern University School of Law in Boston. Professor Bierman oversees the School of Law's Cooperative Legal Education Program, Clinical Education Program and the Legal Skills in Social Context first-year course.

Previously, Professor Bierman served for almost four years as general counsel to the New York state comptroller, who is the sole trustee of the state's $130 billion

pension fund and the state's chief fiscal officer for the state of New York's $130 billion budget. Earlier in his career, he served as director of the Institute for Emerging Issues at North Carolina State University, where he held the rank of associate professor of political science. He clerked for appellate judges in New York State and held senior positions with the American Bar Association. He also has taught at Albany Law School, Northwestern University School of Law, the University at Albany and Trinity College in Hartford.

Professor Bierman earned his Ph.D. and M.A. in Political Science from the University at Albany; his J.D. from the Marshall-Wythe School of Law at the College of William and Mary in Virginia, where he was a member of Law Review; and his B.A. magna cum laude and with High Honors from Colgate University, where he was elected to Phi Beta Kappa. Professor Bierman is a frequent lecturer and commentator about corporate governance reform, fiduciary responsibility and ethics, and justice reform. He is an elected member of the American Law Institute.

About the Rock Center for Corporate Governance at Stanford University

The Rock Center for Corporate Governance was founded at Stanford University in 2006 with a generous donation from Arthur and Toni Rembe Rock, with the belief that by examining issues in new and more rigorous ways, we could shape the future of corporate governance.

The objectives of the Rock Center include:

- First, through conferences and seminars, engage key academics, regulators and professionals from the business and legal communities in the debate about corporate governance, bridging the gap between theory and practice;

- Second, through research, online resources, and educational programs, the Rock Center hopes to advance intellectual understanding of the governance process;

- Third, by developing new educational and course materials, the Rock Center hopes to strengthen corporate governance as an independent area of teaching and scholarship at law schools and business schools worldwide.

About Stanford Law School's Fiduciary College

Fiduciary College provides specialized training for experienced fiduciaries. Targeted to fund trustees and key staff, our program provides important insights pertaining to challenges fiduciaries can expect to face and strategies to fulfill their duties to beneficiaries.