The Government Retirement Market Fiduciary Responsibilities

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Fiduciary Responsibilities

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A knowledgeable financial mentor with over 21 years of experience who strives to help individuals achieve financial wellness and retire with dignity and peace of mind with income that will last a lifetime.

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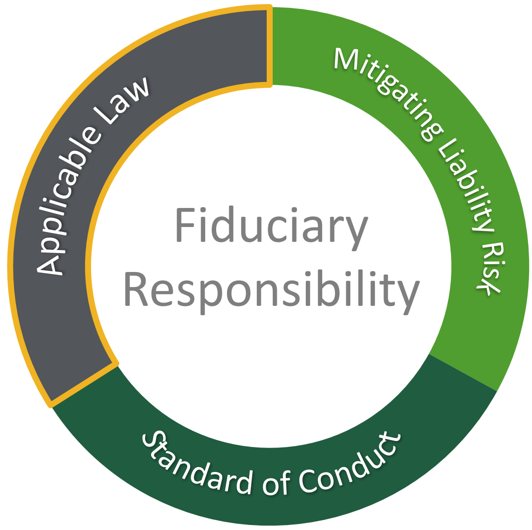

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APPLICABLE LAW

FIDUCIARY RESPONSIBILITIES:
OHIO STATE LAW

Chapter 5809: is known as the OHIO UNIFORM PRUDENT INVESTOR ACT (ACT)

Source: Ohio County Map (geology.com)

FIDUCIARY'S DUTY TO PLAN PARTICIPANTS IS ONE OF THE MOST IMPORTANT LEGAL RESPONSIBILITIES UNDER THE LAW.

- **Exclusive Purpose Rule/Duty of Loyalty**
- **Primary Duty is to act solely in the best interest of plan participants**:
  - For the exclusive purpose of providing benefits to participants and beneficiaries, and
  - For ensuring plan fees and expenses are reasonable.

Avoid conflicts of interest.

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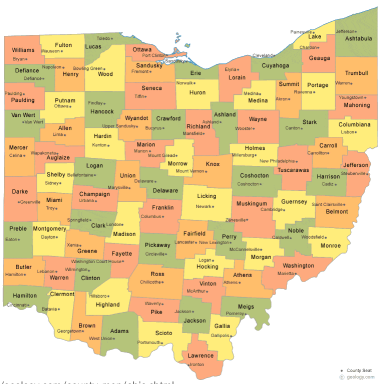
APPLICABLE LAW

FIDUCIARY RESPONSIBILITIES: OHIO STATE LAW

5809.02 Standard of care - portfolio strategy - risk and return objectives.



Source: https://geology.com/county-map/ohio.shtml

A FIDUCIARY SHALL INVEST AND MANAGE TRUST ASSETS AS A PRUDENT INVESTOR WOULD, BY CONSIDERING THE PURPOSES, TERMS, DISTRIBUTION REQUIREMENTS, AND OTHER CIRCUMSTANCES OF THE TRUST. IN SATISFYING THIS REQUIREMENT, THE FIDUCIARY SHALL EXERCISE REASONABLE CARE, SKILL, AND CAUTION.

Duty to **diversify** investments

Duty to **follow** plan documents

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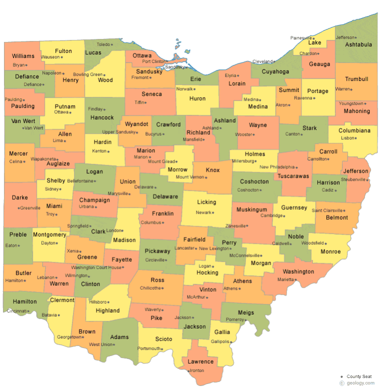
APPLICABLE LAW

FIDUCIARY RESPONSIBILITIES: OHIO STATE LAW



ALTHOUGH OHIO STATUTES ARE SILENT, IT IS PRUDENT TO FOLLOW ERISA SECTION 404(c), WHICH ALLOWS PLAN FIDUCIARIES TO AVOID LIABILITY FOR INDIVIDUAL PARTICIPANT INVESTMENT DECISIONS

To avoid such liability, a plan must:

- Offer at least three diverse investment options.
- Provide participants with sufficient information to allow them to make informed investment decisions with respect to their accounts.
- Provide information with respect to funds, managers and fees.

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APPLICABLE LAW

INTERNAL REVENUE CODE

CODE 401(a)(k)

Plans are required to hold assets in trust since date of enactment.

Anyone exercising discretion or authority over the plan or plan assets is a fiduciary.

CODE 457(g)

Since 1999 all governmental 457(b) plans are required to hold plan assets in trust.

Fiduciary standards of conduct apply, including Duty of Loyalty (called the exclusive benefit rule), prudence requirements and others.

Many governmental qualified plans and 457(b) plans use ERISA rules as guidance.

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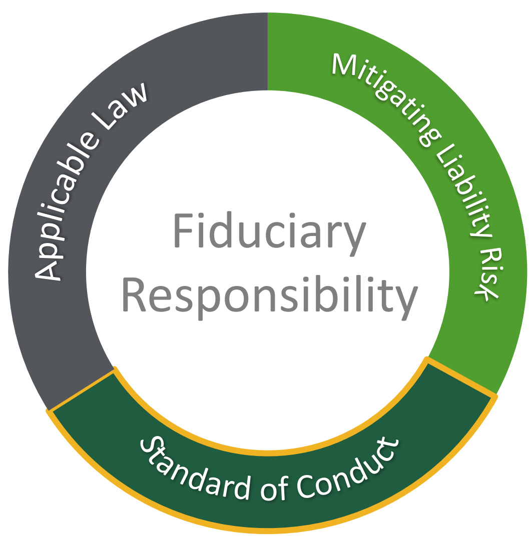
STANDARD OF CONDUCT



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STANDARD OF CONDUCT

IDENTIFY YOUR **PLAN FIDUCIARIES**

FIDUCIARIES

- **Plan Sponsor**
- **Board Members** (responsible for administering the plan or its assets)
- **Staff Members** who exercise discretion or authority over the plan or plan assets for a fee
- **Anyone** providing investment advice for a fee

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STANDARD OF CONDUCT

BOARD/COMMITTEE **BEST PRACTICES**

INVESTMENTS

Fiduciaries are required to adhere to generally accepted investment standards and adopt prudent policies for selecting and monitoring plan investments.

GOVERNANCE

Meet regularly and document all plan-related decisions as evidence of your prudent processes and decision-making.

TRAINING

Train your board members as plan fiduciaries and educate them on basic fiduciary responsibilities.

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STANDARD OF CONDUCT

UNIFORM PRUDENT INVESTOR ACT

BE LOYAL	PRACTICE PRUDENCE	DIVERSIFY INVESTMENTS	MONITOR	MANAGE SERVICE PROVIDERS

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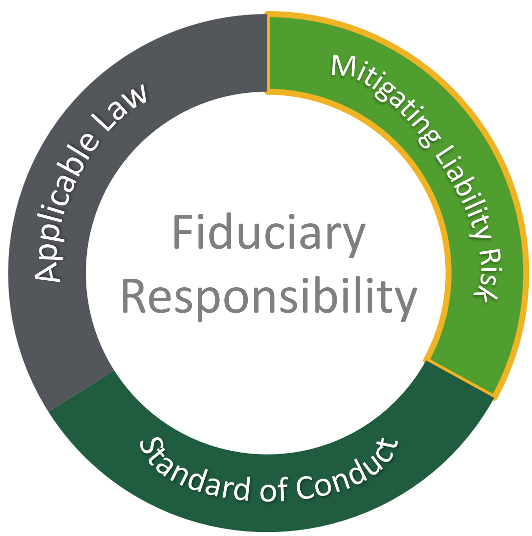

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MITIGATING LIABILITY RISK

DUTY TO **LOYALTY** – **THE EXCLUSIVE BENEFIT RULE**

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Act for exclusive purpose of providing plan benefits.

Do not put employer interests before those of plan and participants.

Act solely in best interest of plan participants.

Avoid conflicts of interest.

Ensure fees are reasonable.

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MITIGATING LIABILITY RISK

DUTY TO **PRUDENCE**

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Acting with the care, prudence, skill and diligence a knowledgeable person administering a defined contribution plan would use

AND

Using prudent processes in all plan-related decision-making

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MITIGATING LIABILITY RISK

DUTY TO PRUDENTLY **DIVERSIFY INVESTMENTS**

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INVESTMENT POLICY STATEMENT

The methodology and criteria for selecting a broad, diversified array of investments with different levels of risk and return

The goals, objectives and performance standards the funds are expected to meet — to be retained in the investment menu

The guidelines for monitoring and evaluating funds and the timing for terminating and replacing any nonperforming funds

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MITIGATING LIABILITY RISK

DUTY TO MONITOR AND DESELECT **IMPRUDENT INVESTMENTS**

U.S. SUREME COURT UNANIMOUS OPINION ON MAY 17, 2015, IN TIBBLE vs. EDISON

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Liability: Fiduciaries may be liable to plan participants for not conducting a "regular review of [plan] investments with the nature and timing...contingent on circumstances" even when the initial investment selection occurred more than six years ago.

Monitoring: Fiduciaries have “a continuing duty — separate and apart from the duty to prudently select the investments at the outset — to monitor and remove imprudent investments.”

The role of a fiduciary is active, not passive, with an ongoing duty to monitor and take action when appropriate.

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MITIGATING LIABILITY RISK

DUTY TO PRUDENTLY **MONITOR SERVICE PROVIDERS**

Recordkeeper

Investment consultant

Trustee

Outside consultant

Auditors

Ensure service provider fees are reasonable.

Monitor service provider performance, the types of services they provide, their fees and how those fees are paid.

Review performance to ensure a service provider is performing agreed-upon services

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MITIGATING LIABILITY RISK

MATCH DC PLAN OPERATIONS TO PLAN PROVISIONS

Trust requirement

Timing of deferrals — first-day-of-month rule
457(b) only

Timely delivery of deferrals into trust

Deferral limitations

Disbursement of excess deferrals

Special catch-up contributions
457(b) only

Unforeseeable emergency withdrawals
457(b) only

Distribution restrictions

Loans

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MITIGATING LIABILITY RISK

MULTIPLE SERVICE PROVIDERS REQUIRE **MORE DUE DILIGENCE**

Ensure plan policies, procedures, forms **match the plan provisions**.

Develop and follow a written **Investment Policy Statement (IPS)** when selecting, monitoring, deselecting and replacing investments.

Ensure the fees of each recordkeeper are **reasonable**.

Select, monitor and deselect the investments offered.

Monitor all outsourced administrative functions performed.

Monitor and approve all participant communications created.

MITIGATING LIABILITY RISK

BENEFITS OF A **SINGLE RECORDKEEPER**

PLAN SPONSORS

Enhanced purchasing power typically provides:

Lower recordkeeping costs

Lower investment costs

Enhanced service commitments

Streamlined HR processes for contributions, loans and distributions

Single point of contact and service team

PARTICIPANTS

Easier plan communication and better participant outcomes

Participation rates

Deferral rates

Investment allocations

Access to lower institutional fund share classes
to increase participant account balances over time

Single service center to offer comprehensive support

Reduced fiduciary risk

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MITIGATING LIABILITY RISK

A TYPICAL **CALENDAR YEAR**

Education Calendar of Events
Planning of yearly education programming customized to your employee demographics and needs

Investment Policy Statement (IPS) Review
Review and recommend amendments to the existing IPS to ensure it suits the client

Fiduciary Training
Regular regulatory updates and information to help manage fiduciary liability

Education Seminars
A yearly series of education events covering timely topics with HR-credit presentations

Plan Provision Review
Compare and benchmark plan provisions and ensure that plan providers can meet needs

Target Date Analysis
Review performance and evaluate Target Date Funds

Fee Disclosure Review
In-depth analysis of all plan fees

CASE STUDY: **ADA COUNTY**

CHALLENGES:

- Multi-vendor approach created larger fiduciary burden when monitoring three vendors and three investment line ups
- Unable to devote the appropriate attention to the administration of such a complex plan
- Participants had the choice of more than 100 funds and often paid multiple, high fees
- Multi-vendor approach was hurting the retirement readiness of employees due to the vendors concentrating on selling their plan rather than educating participants on critical issues

GOALS:

- Consolidate current assets in a single plan
- Outsource as much of the administrative burden as possible
- Create a communication platform focused on educating employees rather than providing generic “sales” approach and information
- Increase plan utilization and reduce participant fees
- Simplify the investment lineup without negatively impacting participants invested in products with back-end charges

CASE STUDY: **ADA COUNTY**

SOLUTIONS:

- By choosing a single full-service vendor and more streamlined investment lineup, plan sponsors have also reduced their administrative workload and their fiduciary burden, while creating a framework that makes it easier to encourage enrollment and educate participants.
- Participants were well educated through group meetings that explained the transition process and provided the opportunity to refocus employees on the benefits of saving and importance of asset allocation
- Participants who prefer to assemble their own portfolios don't face a confusing array of investments, and lower fees mean that all participants keep more of their contributions invested for their future.

RESULTS:

10%	INCREASE IN PARTICIPANT ENROLLMENT
4%	ENROLLMENT INCREASE FOLLOWING CONVERSION TO EMPOWER
2%	INCREASE IN PARTICIPANT CONTRIBUTIONS
13%	INCREASE IN TOTAL PLAN ASSETS
85%	RATE OF PARTICIPATION IN TDFS AS A RESULT OF ASSET MAPPING

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