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WEBINAR

Are You Meeting Your Fiduciary Obligations?

Understanding Your Role in Managing 457b/401a Plans

Earn 1 CPE credit

Thur, Nov 7
1:30PM PST

Disclaimer

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Your Presenters

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Polling Question #1

What is your position at your organization?

A. Finance Director
B. HR
C. City Manager
D. Other

Why are we here?
Why is this important?

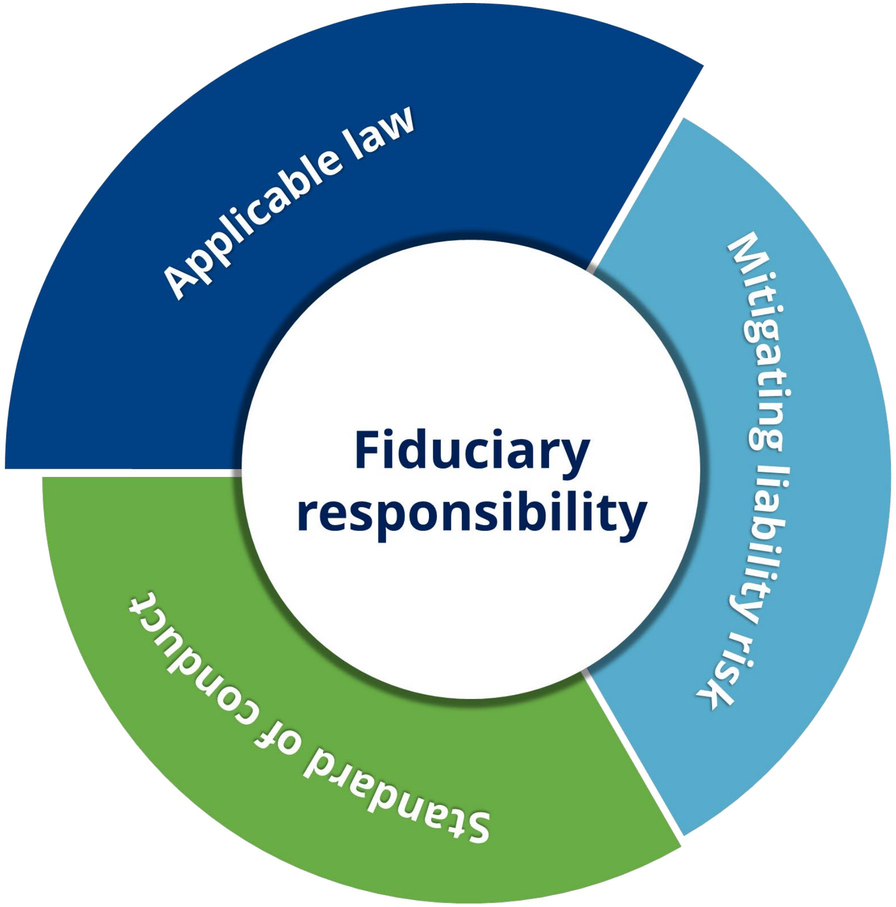
- Learning the scope of our responsibilities and the complexities and risks in managing deferred compensation plans for a local government.
- Understanding that fiduciary future means protecting the beneficiaries' interests – as well as your own.
- Being proactive in your stewardship builds trust and accountability with stakeholders.
- …and because I didn't know all of this when I was a Finance Director!

Polling Question #2

Have you ever been to training on fiduciary responsibilities?

A. Yes
B. No

Your commitment and responsibilities as a fiduciary



Fiduciary Responsibilities: California State Law

Government Code §53609 –

457(b) plans are "public pension or retirement funds" for purposes of the fiduciary rules.

FIDUCIARY'S DUTY TO ITS PARTICIPANTS SHALL TAKE PRECEDENCE OVER ANY OTHER DUTY.

- **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.**

APPLICABLE LAW

Fiduciary Responsibilities: California State Law

Prudent Person Rule – Article XVI § 17(c)

FIDUCIARIES ARE REQUIRED TO FOLLOW A PRUDENT PROCESS WHEN SELECTING AND MONITORING INVESTMENTS AND SERVICE PROVIDERS, MAKING ANY AND ALL OTHER PLAN-RELATED DECISIONS, AND ENSURING FEES ARE REASONABLE.

- Duty to **diversify** investments.
- Duty to **follow** plan documents.

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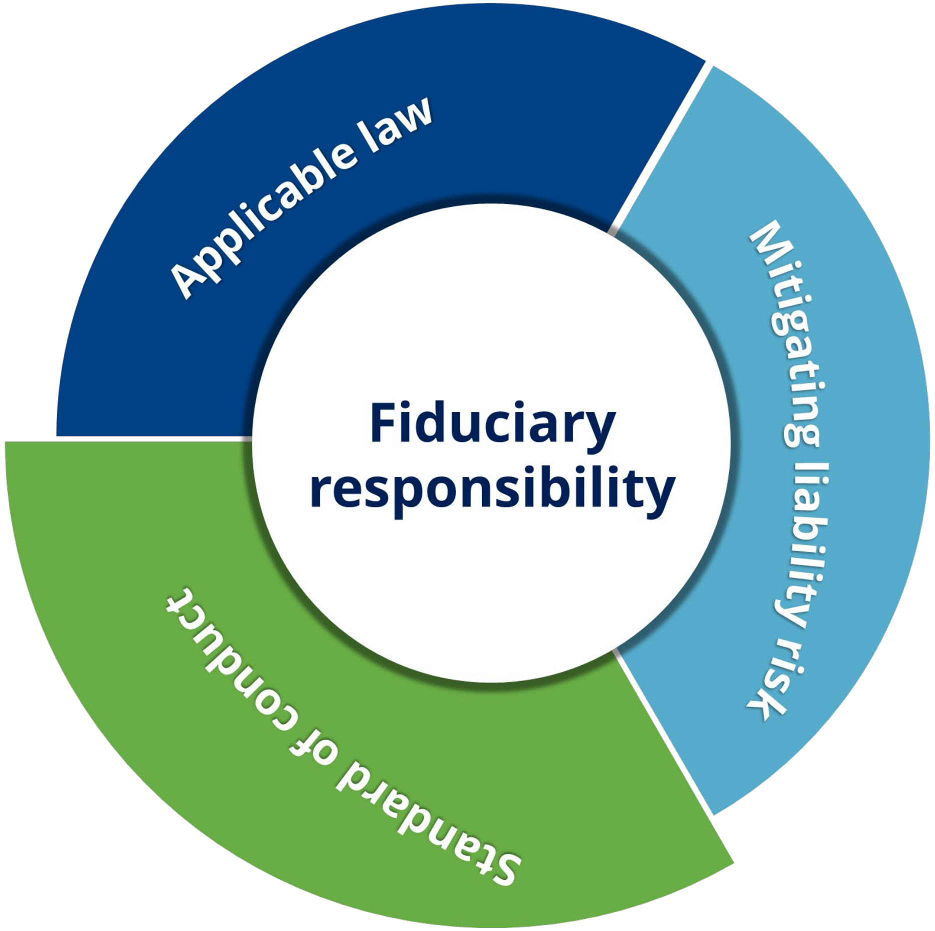
Standard of conduct



MITIGATING LIABILITY RISK

Duty to Loyalty – The Exclusive Benefit Rule

- 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.

MITIGATING LIABILITY RISK

Duty to Prudence

- 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.**

MITIGATING LIABILITY RISK

Duty to Prudently Diversify Investments

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.

Duty to Monitor and Deselect Imprudent Investments

U.S. Supreme Court unanimous opinion on May 17, 2015, in Tibble vs. Edison

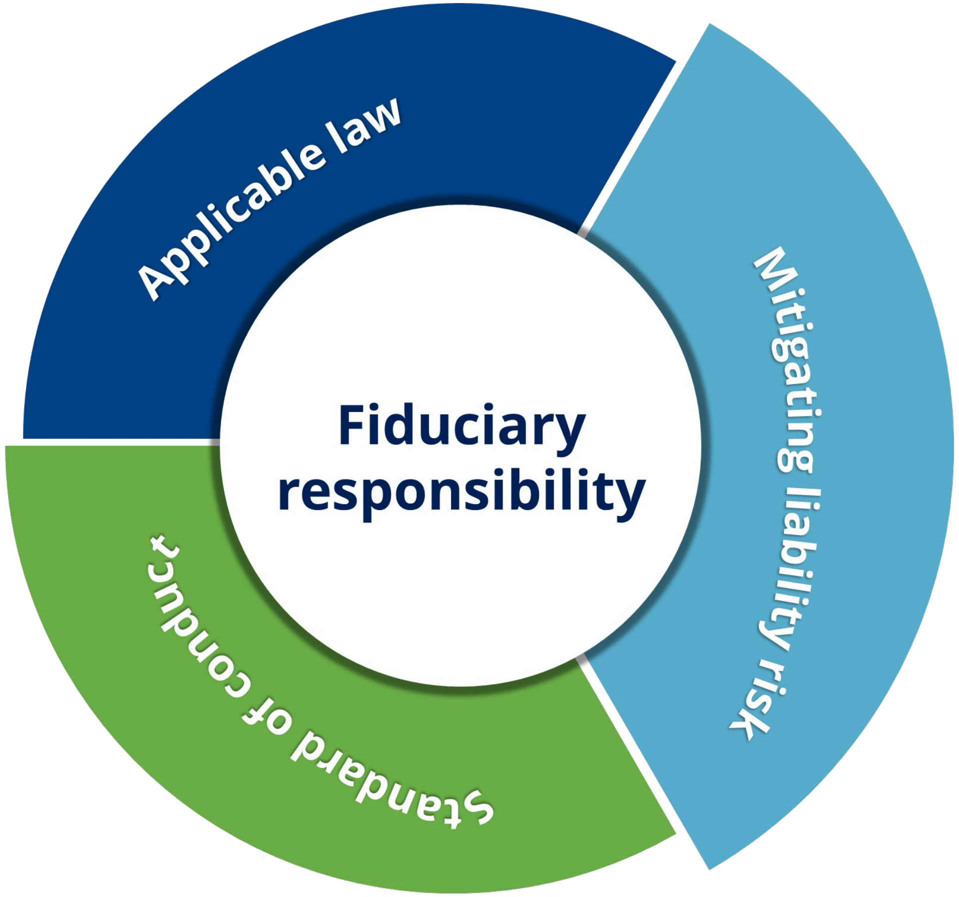
- **Liability:** Fiduciaries may be liable to plan participants for not conducting a "regular review of [plan] investments with the nature and timing…contingent on circumstances" even when the initial investment selection occurred more than six years ago.
- **Monitoring:** Fiduciaries have “a continuing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

STANDARD OF CONDUCT

Uniform Prudent Investor Act

- Be loyal.
- Practice prudence.
- Diversify investments.
- Monitor.
- Manage service providers.

Mitigating liability risk



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STANDARD OF CONDUCT

Best Practices

INVESTMENTS

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 any plan fiduciaries and educate them on basic fiduciary responsibilities.

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.

Why Retain an Investment Consultant/Advisor

- Provides plan investment reviews on a regular basis.
  - Assists with Investment Policy Statement and the selection of funds.
  - Monitors fund performance and fees and recommends changes when funds fail to meet required goals and benchmarks.
- Assists in the hiring of recordkeepers and other service providers.
- Monitors their performance and their fees and assists with RFPs.
  - Assists with plan design, administration and plan governance.
- Provides training to ensure plan fiduciaries understand their fiduciary duties.

Note: The plan fiduciaries' duty is to monitor the performance and fees of the consultant/advisor and make changes, as necessary.

Questions to Ask

- When was the last time we reviewed our available investment options?
- When was the last time we reviewed the cost of the plan?
- When was the last time we reviewed the service by your provider?

REAL LIFE EXAMPLE

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Fiduciary Responsibility: Noah's Personal Experience

1. Realized My Fiduciary Responsibility
2. Took Action with HR
3. Engaged Expert Help

WAYS TO IMPACT PLAN SUCCESS

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Polling Question #3

Do you offer one provider for the 457b or multiple providers?

A. One Provider
B. Multiple Providers

Potential 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 cost institutional fund share classes to help increase participant account balances over time.
- Single service center to offer comprehensive support.

= Reduced fiduciary risk

How Roth Contributions Work

Roth contributions are deducted from the person's paycheck after taxes are taken out, and any earnings are also tax-free for qualifying withdrawals.

On the plus side

- May be a good option if the individual expects to be in the same tax bracket they are in now, or higher, when they retire.
- Money saved today has the potential for long-term growth if the person doesn't plan to access it for many years.

Special note for 2026

- All age 50+ and age 60+ catch-up contributions must be made on a Roth basis for employees with prior year wages of $145,000 or more (indexed).

Polling Question #4

Does your plan make any employer contribution or are you considering an employer contribution?

A. Yes
B. No

Maximizing Saving Opportunities with a 401(a)

Employer contributes to the 457(b)

- Amounts contributed are subject to the elective deferral amount reducing the annual maximum for the employee.
- Nonelective, discretionary, or matching, contributions are considered wages subject to the elective deferral limit and must be reported on the employee's W-2 as wages subject to FICA and FUTA.

Employer contributes to a 401(a)

- Employer 401(a) contributions do not lower the annual amount employees can defer into their 457(b).
- Employer contributions to a 401(a) plan are not wages and are not subject to Social Security or Medicare taxes.

Maximize Saving Opportunities with a 401(a)

A governmental 401(a) plan allows employers to make several types of contributions to increase the savings opportunity for participants.

- Nonelective employer contributions.
- Matching deferrals made to a 457(b).
- Sick and vacation converted into pretax 401(a) employer contributions.
- Mandatory 414(h)(2) contributions.

Questions


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FIDUCIARY DUTY
WEBINAR
Analysis For Your 457b/401a Plan is Done. What Do You Do Now? Best Practices and Next Steps.
EARN 1 CPE CREDIT
Tues, Nov 19
10:30AM PST

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