



Annual AGO Training Presentation
September 29, 2021
AAG Tor Jernudd



AGENDA

- 1) Board of Trustees Fiduciary Duty
A Historical Perspective
- 2) Training Refresher / Reminders

- **RCW 41.26.705**

- **Intent—2003 c 2.**

- It is the intent of chapter 2, Laws of 2003 to:

- (1) Establish **a board of trustees** responsible for the adoption of actuarial standards to be applied to the plan;

- (2) Provide for additional benefits for firefighters and law enforcement officers subject to the cost limitations provided for in chapter 2, Laws of 2003;

- (3) Exercise **fiduciary** responsibility in the oversight of those pension management functions assigned to the board;

And paraphrasing.....authorizes the board to perform a bunch of relatively specific things.



Why **a board of trustees** ?

Why **fiduciary** ?

Why **a board of trustees** ?

Why **fiduciary** ?

What do the words mean?

Where do the concepts come from?

What purpose do they serve?

How have they evolved?



OXFORD DEFINITIVE DICTIONARY OF THE ENGLISH LANGUAGE

Board - A group of people constituted as the decision-making body of an organization.





OXFORD DEFINITIVE DICTIONARY OF THE ENGLISH LANGUAGE

Trustees - An individual person or member of a board given control or powers of administration of property in trust with a legal obligation to administer it solely for the purposes specified.



trust (n.)

Image of current LEOFF 2
Board Member

c. 1200, "reliance on the veracity, integrity, or other virtues of someone or something; religious faith," from Old Norse traust "help, confidence, protection, support,"

Fiduciary - agent legally responsible for managing property for the benefit of another individual or a group.



In Roman law, **fiducia** was "a right transferred in trust;" paper currency sense (1878) is because its value depends on the trust of the public. As a noun, "one who holds something in trust," from 1630s.

Image of a Roman
Era dog

Fido



Board – why “a group” and not an individual



Board – why “a group” and not an individual

Continuity

Collective skill and wisdom

Representative democracy

Collective accountability / TRUST



Fiduciary / Trust

Core concept / purpose: to Administer Property of Another

First Written Record: Hammurabi's laws

Image of
Hammurabi's
tablet



Fiduciary / Trust

Image representing
Crusades



Fiduciary / Trust

Image of 15th century
Sailing vessel

Image of Dutch East India Company
Logo on Coinage



Fiduciary / Trust

Image of Frans Hals Painting with council of 5 Dutch Ladies



Fiduciary / Trust

Image of Child King



Fiduciary / Trust

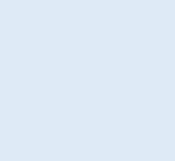
Image of transcontinental railroad
Postage stamp



Fiduciary / Trust

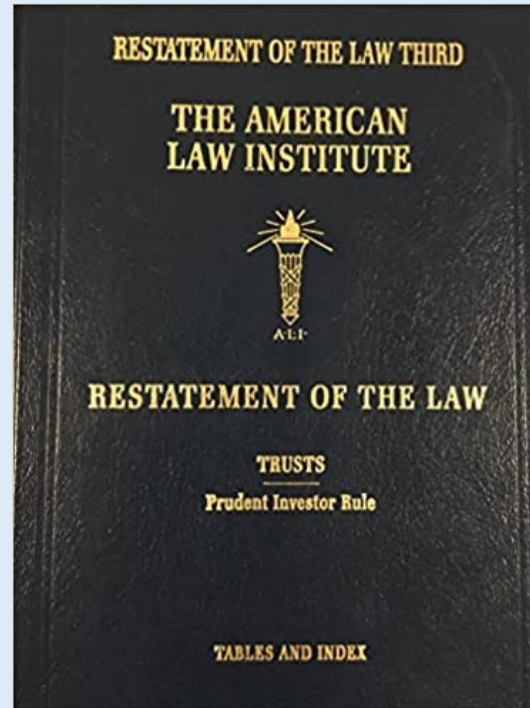


Image of Otto Bismarck





Fiduciary / Trust



FUNDAMENTAL FIDUCIARY DUTIES

1. *Primary Loyalty Rule* – Duty to act in the best collective interests of the plans that entrust their assets in this Board's care; not to promote personal or others' interests
2. *Exclusive Benefit Rule* – Duty to use assets solely for the ultimate purpose of paying the members' promised benefits and *reasonable* administrative expenses
3. *Prudence Standard* – Duty to act with the care , skill, prudence and diligence under the prevailing circumstances of a prudent person "in a like capacity and familiar with these matters...in the conduct of an enterprise of like character and with like aims"
4. *Diversification* – N/A
5. *Follow the Plan Documents* – Duty to administer the Plan in accordance with the Plan documents – including state and federal law, IRC and regulations, Board charters and policies.



Potential Fiduciary Potholes

Flawed board governance

Inability to act collectively as a single fiduciary

Inattention to changing circumstances

Flawed processes establishing responsibility and accountability

Delay

Conflicts of interest

Undue external influence

Inability to attract and retain qualified investment staff



Guiding Principles of Fiduciary Duty

Integrity

Fairness

Balance

Prudence

Collaboration



PART II REFRESHER

- 1) LEOFF 2 Enabling Statute
- 2) Ethics Laws
- 3) Public Records Act
- 4) Open Public Meetings Act
- 5) Other Resources
- 6) Gut check



RCW 41.26.700-922 “Plan 2 Governance”



"PLAN 2 GOVERNANCE"

- 41.26.700** Overview—Intent.
- 41.26.705** Intent—2003 c 2.
- 41.26.710** Definitions.
- 41.26.715** Board of trustees—Created—Selection of trustees—Terms of office—Vacancies.
- 41.26.7151** Board of trustees—Political party representation.
- 41.26.717** Additional duties and powers of board.
- 41.26.720** Board of trustees—Powers—Meeting procedures—Quorum—Judicial review—Budget.
- 41.26.725** Board of trustees—Contributions—Minimum and increased benefits.
- 41.26.730** Joint committee on pension policy—Pension funding council.
- 41.26.732** Plan 2 expense fund—Board oversight and administration—State investment board.
- 41.26.735** Asset management.
- 41.26.740** Reimbursement for expenses.
- 41.26.802** Local law enforcement officers' and firefighters' retirement system benefits improvement account—Transfer into account.
- 41.26.805** Local law enforcement officers' and firefighters' retirement system benefits improvement account—Creation—Use—Administration—Inv
- 41.26.904** Effective date—2003 c 2 (Initiative Measure No. 790).
- 41.26.906** Effective date—2003 c 92.
- 41.26.921** Effective date—1977 ex.s. c 294.
- 41.26.922** Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.



Chapter 42.52 RCW ETHICS IN PUBLIC SERVICE

Gifts

Employment and other conflicts

No privileges / other compensation

State Resources



Chapter 42.56 RCW PUBLIC RECORDS ACT

“The people...do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. ...This chapter shall be ***liberally construed*** and its exemptions narrowly construed...”

EMAIL TEXTS IM VOICEMAIL / RECORDINGS PHOTOS SOCIAL MEDIA INTERNET

Records Retention Policies

Reasonable Searches

Boundaries



Chapter [42.30](#) RCW OPEN PUBLIC MEETINGS ACT

It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly. ...The people insist on remaining informed so that they may retain control over the instruments they have created.

Cautions

Accidental Meetings

Hub Spoke

Reply All

Quorum / Collective Intent /Transact Business



Other Resources

LEOFF 2 Staff

AAG

Other State Resources

Own staff



Gut Check Guiding Principles of Fiduciary Duty

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Fairness

Balance

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QUESTIONS?