

Effective 7/1/2014

Part 6
Management and Investment Standards and Principles

53D-1-601 General management and investment principles -- Duty of person with special skills or expertise.

- (1) Board members, the director, and office staff shall act in the best interests of the beneficiaries and comply with the duty of undivided loyalty to the beneficiaries.
- (2) A person who manages and invests trust fund money or assets shall:
 - (a) manage and invest in good faith and with the care a prudent professional in a like position would exercise under similar circumstances;
 - (b) consider, as relevant:
 - (i) general economic conditions;
 - (ii) the possible effect of inflation or deflation;
 - (iii) any expected tax consequences of investment decisions or strategies;
 - (iv) the role that each investment or course of action plays within the overall investment portfolio of the trust fund;
 - (v) the expected net return from income and the appreciation of investments;
 - (vi) the expected returns and risk characteristics of individual assets;
 - (vii) the needs of the beneficiaries to receive distributions and to preserve capital;
 - (viii) liquidity;
 - (ix) asset allocation; and
 - (x) costs and management fees; and
 - (c) make management and investment decisions about an individual asset not in isolation but in the context of the trust fund's portfolio of investments as a whole and as part of an overall investment strategy, having risk and return objectives reasonably suited to the trust fund and to the beneficiaries.
- (3) A person who has special skills or expertise, or who is selected to assist in managing and investing the trust fund money or assets based on the person's representation of having special skills or expertise, has a duty to use those skills and that expertise in managing and investing trust fund money and assets.

Enacted by Chapter 426, 2014 General Session

53D-1-602 Office authority, responsibilities, and duties.

- (1) In managing and investing trust fund money and assets, the office:
 - (a) may incur only costs that are appropriate and reasonable in relation to the assets, the purposes of the trust fund, and the skills available to the office; and
 - (b) shall make a reasonable effort to verify facts related to the management and investment of trust fund money and assets.
- (2) Except as otherwise provided by law, the office may invest in any kind of property or any type of investment that is:
 - (a) consistent with this part; and
 - (b) in the best interests of the beneficiaries.
- (3) The office shall diversify the investments of trust fund money and assets.
- (4) Within a reasonable time after receiving a contribution to the trust fund, the office shall make and carry out decisions concerning the retention or disposition of the contribution or

to rebalance the trust fund portfolio, in order to bring the trust fund into compliance with the purposes, terms, and distribution requirements of trust fund money and assets.

- (5) The board may delegate any management or investment function to the director, a committee of board members, or an employee of the office.

Enacted by Chapter 426, 2014 General Session

53D-1-603 Director authority, responsibilities, and duties.

- (1)
- (a) The director may delegate to an external agent the management of a portion of the trust fund money or assets, if the delegation is prudent under the circumstances and consistent with the purposes of the trust fund.
 - (b) The director shall periodically review the actions of an agent under Subsection (1)(a) in order to monitor the agent's performance and compliance with the scope and terms of the delegation.
- (2) The director shall act in good faith, with the care that a prudent professional in a like position would exercise under similar circumstances, in:
- (a) selecting an agent;
 - (b) establishing the scope and terms of a delegation under Subsection (1); and
 - (c) periodically reviewing the agent's actions, as provided in Subsection (1)(b).
- (3) In performing a delegated function, an agent owes a duty to the state and the beneficiaries to exercise reasonable care to comply with the scope and terms of the delegation.

Enacted by Chapter 426, 2014 General Session

53D-1-604 Compliance not determined by hindsight.

Compliance with a provision of this part in making a decision or taking an action is determined in light of the facts and circumstances existing at the time a decision is made or an action is taken and not by hindsight.

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