

Health Service System Trust Fund

Fiduciary Standards and Board Member Roles

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Presentation Summary

- Review Charter Language Establishing the HSS as a Trust and Providing Authorization to Invest Trust Assets
- Board Terms of Reference – Investment Administration
- State and Federal Fiduciary Standards
- Application of Fiduciary Standards to the Board's Investment of Trust Assets
- Board Role in Adopting Plans
- Board Role in Setting Policy and Administering HSS
- Board Role in Hearing Member Appeals

Charter Section 12.203

HEALTH SERVICE SYSTEM FUND

The Health Service System fund shall be a trust fund administered by the Health Service Board in accordance with the provisions of this Charter solely for the benefit of the active and retired members of the Health Service System and their covered dependents. The City and County, School District and Community College District shall each contribute to the Health Service System Fund amounts sufficient to efficiently administer the Health Service System.

Charter Section A8.429

CONTRIBUTIONS TO FUND

The health service board shall have control of the administration and investment of the health service system fund, provided that all investments shall be of the character legal for insurance companies in California. Disbursements from the fund shall be made only upon audit by the controller and the controller shall have and exercise the accounting and auditing powers over the health service system fund which are vested in him by this Charter with respect to all other municipal boards, officers and commissions.

Charter Section A8.423

REVISION OF SCHEDULES AND COMPENSATION

The Health Service Board shall have the responsibility to obtain and disseminate information to its members with regard to plan benefits and costs thereof. All expenses in connection with obtaining and disseminating said information, the investment of such fund or funds as may be established, including travel and transportation costs, member wellness programs, actuarial expenses and expenses incurred to reduce health care costs, shall be borne by the system from reserves in the health service fund but only upon adoption of a resolution by the Health Service Board approving such expenses.

Health Service System Board Terms of Reference (Approved April 9, 2015)

Investment Administration

The Board shall administer the Health HSS Trust Fund in accordance with the provisions of the City Charter solely for the benefit of the active and retired members of the HSS and their covered dependents.

[Sec. 12.203]

The Board shall have control of the administration and investment of the Health HSS Trust Fund, provided that all investments shall be of the character legal for insurance companies in California. [A8.429]

Health Service System Board Terms of Reference – Investment Admin., Cont'd

In keeping with its fiduciary duty to prudently administer the Health Service Trust Fund, the Board shall be responsible for:

- Approving a written investment policy statement, and reviewing, confirming, or amending such policy at least annually;
- Ensuring qualified parties are appointed to manage the assets of the Health HSS Trust Fund;
- Ensuring regular compliance monitoring in regards to the investment policy statement; and
- Ensuring ongoing review of the investment performance of the Health Service Trust Fund.

Fiduciary Standards

California Constitutional Standard for Pension Systems

Article 16, Section 17(c) of the California Constitution provides that the members of the board of a public pension system “shall discharge their duties with respect to the system with the 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 and with like aims.”

Fiduciary Standards, Cont'd

California Uniform Prudent Investor Act (“UPIA”) Standard.

The UPIA standard requires that a fiduciary manage trust assets “as a prudent investor would, by considering the purposes, terms, distribution requirements and other circumstances of the trust,” and, in satisfying that standard, the fiduciary “shall exercise reasonable care, skill, and caution.” The fiduciary must also diversify the investments of the trust unless the fiduciary reasonably determines that the purposes of the trust are better served without diversifying.

Fiduciary Standards, Cont'd

Employee Retirement Income Security Act of 1974, ("ERISA") Standard

ERISA requires a fiduciary to act solely in the interests of the participants and beneficiaries of the plan and “with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims.”

This is essentially the same language from Article 17 of the California Constitution and is similar to the UPIA standard cited above.

Fiduciary Standards, Cont'd

San Francisco Retiree Health Care Trust Fund – Board Terms of Reference – Par. 3

The Board shall discharge its duties with respect to the Fund with the 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 and with like aims.

The Application of Fiduciary Standards to the Health Service Board Re: Investments

Retention of Third Party Consultant or Investment

Advisor - Fiduciaries acting in accordance with the UPIA/ERISA prudence standards generally find it appropriate to retain outside expertise when the fiduciaries themselves do not have the expertise necessary to address questions arising in the context of managing or investing plan assets. It is very common for plan sponsors and other plan fiduciaries to retain third party consultants or investment advisors to advise them on developing an investment policy or recommending an investment program for an employee benefit plan. This expert could advise on whether it is common for similar types of programs to be retained in liquid assets or to be invested in a longer term investment strategy.

Charter Section A8.422

ADOPTION OF PLANS FOR MEMBERS

The board shall have power and it shall be its duty by a majority vote of the entire membership of the health service board to adopt a plan or plans for rendering medical care to members of the system, or for the indemnification of the cost of said care, or for obtaining and carrying insurance against such costs or for such care.

Charter Section A8.422, cont'd

ADOPTION OF PLANS FOR MEMBERS, cont'd

Such plan or plans as may be adopted, shall not become effective until approved by ordinance of the Board of Supervisors, adopted by three-fourths of its members.

The Board of Supervisors shall secure an actuarial report of the costs and effect of any proposed change in the benefits of the health service system or rates of contribution before enacting an ordinance or before voting to submit any proposed Charter amendment providing for such change.

Charter Section 4.102

BOARDS AND COMMISSIONS – POWERS AND DUTIES

. . . Each board or commission, relative to the affairs of its own department, shall deal with administrative matters solely through the department head or his or her designees, and any dictation, suggestion or interference herein prohibited on the part of any member of a board or commission shall constitute official misconduct; provided, however, that nothing herein contained shall restrict the board or commission's powers of hearing and inquiry as provided in this Charter.

Charter Section 16.114

POWERS OF INQUIRY AND REVIEW

The Mayor, the City Administrator, the Controller, or any board or commission appointed by the Mayor, relative solely to the affairs under its control, may require such periodic or special reports of departmental costs, operations and expenditures, examine the books, papers, records and accounts of, and inquire into matters affecting the conduct of any department or office of the City and County, and for that purpose may hold hearings, subpoena witnesses, administer oaths and compel the production of books, papers, testimony and other evidence. The Board of Supervisors shall have the same powers of inquiry and review, including the power to issue subpoenas and compel the production of evidence, with respect to matters affecting the conduct of any department or office of the City and County.

Charter Section 12.200(5)

HEALTH SERVICE BOARD

The Health Service Board shall: . . . 5. Receive, consider and, within 60 days after receipt, act upon any matter pertaining to the policies of, or appeals from, the Health Service System submitted to it in writing by any member or any person who has contracted to render medical care to the members.

(See HSS Member Rule U – Member Appeals and Grievances)

Next Steps?

