



#### STATE OF NEVADA DEPARTMENT OF ADMINISTRATION

Steve Sisolak Governor

Laura E. Freed
Director

Matthew Tuma
Deputy Director

Rob Boehmer Executive Officer

#### PUBLIC EMPLOYEES' DEFERRED COMPENSATION PROGRAM

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## DEFERRED COMPENSATION COMMITTEE QUARTERLY MEETING MINUTES

Friday, November 18, 2022

The quarterly meeting of the Deferred Compensation Committee was held on Friday, November 18, 2022, at 9:00 a.m. by videoconference and teleconference.

A copy of meeting material including this set of meeting minutes, the agenda, and other supporting material, is available on the Nevada Deferred Compensation (NDC) website at: https://defcomp.nv.gov/Meetings/2022/2022\_Meetings/

#### **COMMITTEE MEMBERS**

Debbie Bowman Kent Ervin Jeff Ferguson, Vice Chair

#### OTHERS PRESENT

Bishop Bastien, Voya Financial Rob Boehmer, NDC Executive Officer Rasch Cousineau, Hyas Group Merrill Desrosiers, Voya Financial Scott Darcy, Voya Financial Matt MacDonald, Hyas Group Henna Rasul, Deputy Attorney General Micah Salerno, NDC Admin. Assistant

#### 1. Call to Order/Roll Call

Vice Chairman Ferguson called the quarterly meeting to order for the Nevada Deferred Compensation (NDC) Committee at 9:00 a.m. on Friday, November 18, 2022.

Mr. Boehmer took roll, determined a quorum was present, and confirmed the meeting was properly noticed and posted.

Chair Kruse and Ms. Chang were excused from the meeting.

#### 2. Public Comment

No public comments.

- 3. <u>For Possible Action- Approval of Nevada Public Employees' Deferred Compensation Program (NDC) Committee (Committee) meeting minutes for:</u>
  - a. Committee Meeting held on August 12, 2022

Motion by Dr. Ervin to approve the minutes from the August 12, 2022, meeting, second by Ms. Bowman. Motion passed unanimously, 3-0.

b. Workshop for Proposed Regulation Change for NAC 287 on October 25, 2022

Motion by Dr. Ervin to approve the October 25, 2022, Workshop minutes as to form, second by Ms. Bowman. Motion passed unanimously, 3-0.

- 4. <u>For Possible Action- Receive, discuss, and approve Executive Officer Report of third quarter</u> 2022.
  - Mr. Boehmer reviewed his quarterly report including:
    - a. FY2022 and 2023 Budget Status Report (BSR):
      - A report was given and reviewed on the current projection of revenue based on the up-to-date participant level and projection of expected reserve balance at the end of FY2022/2023. A work program would be submitted to replace Ms. Salerno's printer.
      - ii. A report was given and reviewed on the Administrative Account data and General Ledger data. As of October 26, 2022, Admin Allowances were \$273,068 for full-time Plans and \$24,810 for the FICA Alternative Plan.
        - a. The Committee noted their concern in the Purchasing Assessment amount which spiked from \$134 in 2021 to \$13,034 in 2022.
        - b. There were 242 days of reserve available.
    - b. Quarterly Plan Activity and Data Report was received and discussed. Year-to-date enrollments were 794, down 76 from 2021's third quarter totals.
    - c. Executive Branch Audit Report was discussed. A Regulation workshop was held on October 25, 2022, and comments were included with the submission to LCB for review. The Regulation Hearing would be tentatively scheduled as part of the January 10, 2023, Planning Meeting.
    - d. Contract Management Report -
      - Casey Neilon Annual Evaluation- Contract expiration 07/31/2023. NDC staff noted the contract may be extended until 2025 as long as fees were in line with the marketplace.
      - ii. Hyas Group contract would expire May 31, 2025
      - iii. Voya Financial contract would expire December 31, 2024
    - e. Nevada Saves Month update was provided.

Motion by Ms. Bowman to approve the Executive Officer report. Second by Dr. Ervin, motion carried unanimously, 3-0.

5. For Possible Action- Receive and approve Hyas Group Investment Consultant's review of third quarter 2022.

Hyas Group provided the Investment Consultant Review which included:

- a. The Third Quarter 2022 Performance Report Features of the report were:
  - i. Market Commentary "Stay the course!" In 2022 that approach had been tested. The third quarter of 2022 started off promisingly with a strong July when the S&P 500 Index returned 9.11% for the month. Then the Fed spoke reiterating their resolve to bring inflation down to 2% and keep at it until the job was done. They acted by raising rates by 0.75% in September, the third 0.75% rate hike in 2022. The dramatic rise in rates has caused tremendous headwinds for both stock and bond markets. By the end of the third quarter, July's optimism and positive performance had faded away. The S&P 500 Index ended the quarter down 4.88%, marking the third consecutive negative quarter for the widely followed benchmark,

- a streak not seen since the financial crisis of 2009. Participants were likely in for more bumps in the fourth quarter, however; long term investors such as retirement plan participants, if allocated properly, should benefit significantly from the downturn, if they "stay the course."
- ii. Plan Data Review September 30, 2022, full-time Plans' assets were \$917,380,881 which represented a market loss of \$26,873,437 for the quarter. Net cash flow was positive for the quarter at \$628,128. Year-to-date cash flow was still negative at -\$1,903,036. For the Third Quarter, \$1,554,299 transferred into fixed income which was 0.16%. That indicated that Nevada participants continued to stay the course during 2022's negativity and volatility.
- iii. Current Fund Lineup Overview and Performance Review -
  - Voya Fixed Account and Corporate Ratings Analysis: Due to the early timing of the quarterly meeting, the information for the analysis was not yet available. Hyas Group would gather the data from Voya when available and provide the updated analysis to NDC staff for distribution to the Committee.
- iv. Fund Watch List Review -
  - Based on recent interest rate spikes, the Committee inquired as to when the Voya Fixed rate (3%) would be increasing. Hyas Group and Voya noted that the Fixed Fund was slower to respond to rate changes than Money Market funds. As a result, it could be a longer period before the fund rate increased, if at all. Hyas Group noted Money Market funds could be a solution but likely would not yield higher rates than 3%. The Committee was not interested in pursuing Money Market options at that time.
  - T. Rowe Price Growth Stock I (PRUFX): The fund was placed on watch 1Q 2022 due to underperformance. Their last year of performance had struggled, mostly due to their security selection within consumer cyclical (overweight Rivian, underweight Tesla) technology (underweight Apple, overweight Salesforce) and communications (overweight Snap, Doordash and Alphabet). Hyas Group provided a manager search for possible replacement recommendations. With only three Members present, the Committee deferred the item. The Committee also requested Hyas Group provide updated numbers to the analysis for the January 10, 2023, meeting at which time they may decide. Hyas Group would also include ESG/DEI data for the funds included in the search and style boxes for each of the Large Cap Growth options for the previous on-year and three-year periods.
- v. Plan Fee/Revenue Analysis Fees were weighted at 29.1 basis points, up 0.40 basis points from last quarter. The increase was due to market activity which resulted in a larger Voya Fixed Account allocation. At an estimated 0.40%, the Voya Fixed Account was one of the higher cost investment options within NDC.
- b. Legal and Regulatory Updates -
  - The SECURE 2.0 was still expected to pass legislation in 2022. Major changes still included in the bill:
    - a. Elimination of the first of the month rule for 457 Plans
    - b. "Rothification" of catch-up contributions
    - c. Required Minimum Distribution (RMD) age expanding from 72 to 75
    - d. Hyas Group would provide updates as necessary
  - ii. 2023 limits were announced. Due in large part to inflationary pressure, 2023 Plan limit increases were doubling their usual increments.

Item	2023 Limit	2022 Limit	Increase
401(k) & 403(b) Employee Deferral Limit	\$22,500	\$20,500	\$2,000
457 Employee Deferral Limit	\$22,500	\$20,500	\$2,000
Age 50 Catch-up Contribution	\$7,500	\$6,500	\$1,000
Defined Contribution Dollar Limit	\$66,000	\$61,000	\$5,000

- iii. Cybersecurity Policy Update:
  - a. The current draft needed to be updated with State risk language and protocols. Mr. Boehmer would provide that information to Hyas Group.
  - b. The Policy would be further updated at the January 10<sup>th</sup> Planning Meeting.

## Motion by Dr. Ervin to accept the Hyas Group report. Second by Ms. Bowman, motion carried unanimously, 3-0.

6. <u>For Possible Action – Receive and approve plan activity and service report from recordkeeper</u> Voya Financial for third quarter 2022.

Mr. Bastien and Mr. Darcy provided their third quarter 2022 report for the period ending September 30, 2022. Highlights included:

- a. Voya Plan activity
  - i. Asset trends: Contributions and distributions were down, and loan activity was up. Overall net cash flow was positive \$628,128 for the guarter.
  - ii. Voya provided details regarding sources for Plan rollouts.
- b. Voya 2022 participant survey review:
  - i. The survey responses were the second highest since 2017.
  - ii. 88% of enrolled participants are actively contributing.
  - iii. 50% who were not enrolled wanted to learn more about the Plan.
  - iv. 52% of respondents were satisfied or somewhat satisfied.
  - v. Most important factors influencing investment option decisions were performance, expenses, and Target Date Fund availability.
- c. Voya Field activity update
  - i. 51 group meetings and 1,440 individual meetings were conducted during the quarter.

## Motion by Ms. Bowman to accept the Voya Quarterly Report. Second by Dr. Ervin, motion passed unanimously, 3-0.

7. For Possible Action- Receive update and discuss Opt-Out/Auto Enrollment/Escalation Bill/White Paper for upcoming 2024/2025 Budget Build.

An update on the Opt-Out/Auto Enrollment/Escalation Bill/White Paper was provided.

8. <u>For Possible Action- Receive, discuss, and approve Interlocal Contract for Truckee-Carson Irrigation District.</u>

Motion by Dr. Ervin to approve the Interlocal Contract. Second by Ms. Bowman, motion carried unanimously, 3-0.

9. <u>For Possible Action- Discussion on National Association of Government Defined Contribution</u> Administrators (NAGDCA) Annual Conference, September 18-21, 2022.

Vice Chair Ferguson, Ms. Bowman and Mr. Boehmer all attended the NAGDCA Conference. As in the past, it provided an invaluable opportunity for education and discussion with other members from around the country. The 2023 conference would be in Seattle, Washington.

Mr. Boehmer and Dr. Ervin were planning to service on the NAGDCA Legislative Committee and Mr. Boehmer encouraged other Committee Members to serve on a different committee for NAGDCA.

10. <u>For Possible Action- Confirm Annual Planning Meeting for January 10, 2023. Schedule next quarterly NDC meeting for February/March. Schedule Quarterly Committee meeting and/or any special meetings.</u>

The upcoming Committee meeting schedule:

Annual Planning Meeting: Thursday, January 10, 2023, in person.

Quarterly Meeting: Will be held February 23, February 24, 2023, or March 3. Ms. Salerno would follow up with the absent Committee Members and confirm the date.

#### 11. Committee Members comments

Dr. Ervin asked for an update on how many Political Subdivisions have been added and the number of employees and prospects for the coming year on who could be added.

12. Update from Investment Consultant

No comments.

13. <u>Update from Recordkeeper</u>

No comments.

14. Administrative Staff/Department of Administration Updates

Mr. Boehmer thanked the Committee members, Hyas Group, and Voya.

15. Public Comment

There were no closing public comments.

16. Adjournment

The meeting was adjourned at 1:00 p.m.

Respectfully submitted,

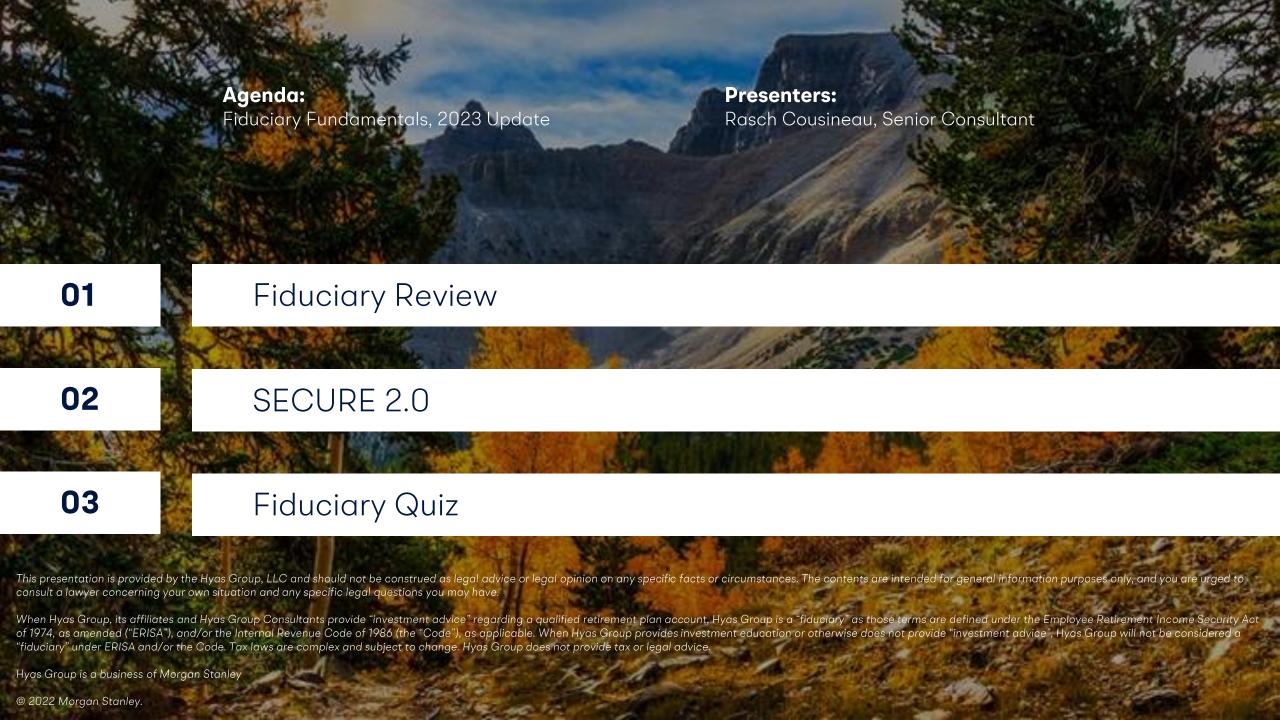
Micah Salerno

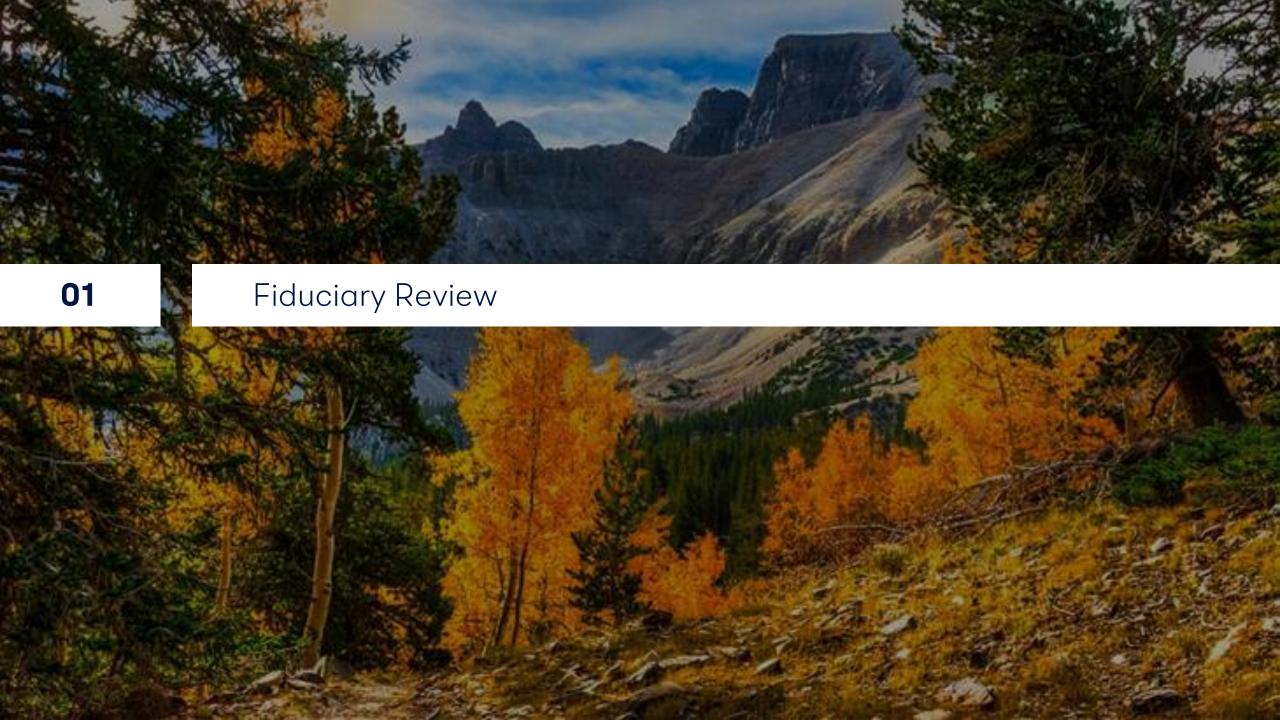
NDC Administrative Assistant



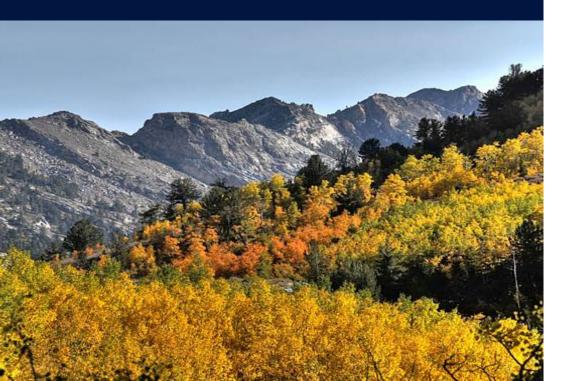
### **STATE OF NEVADA**

Fiduciary Update 2023





## WHO IS A FIDUCIARY?



Anyone with discretionary authority or control over the administration of a retirement plan or its assets.

## WHO IS A FIDUCIARY?

### Fiduciary by name:

- Plan Sponsor
  - NDC Committee
  - NV-DOA Admin Staff
  - ▶ NV-DAG
- Co-Fiduciaries
  - Investment Consultant

### Fiduciary by action:

Anyone who acts as a fiduciary can be considered a fiduciary.

## WHAT IS A FIDUCIARY?



Persons who, by either function or appointment, have discretionary authority over plan assets and/or administration.

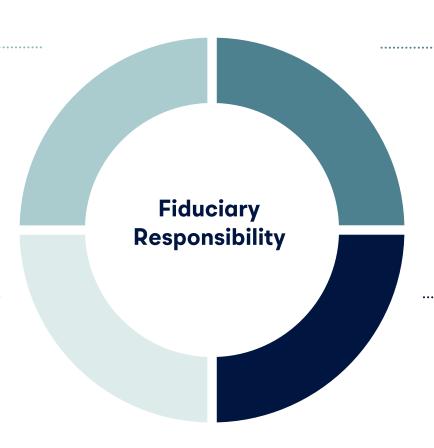
### FIDUCIARY DUTIES PER ERISA

#### **Duty of Loyalty**

- Avoid self-dealing
- Avoid conflicts of interest
- Operate the plan for the exclusive purpose of providing benefits and offsetting reasonable expenses
- Reasonable Plan expenses may be charged

#### **Duty of Prudence**

- A fiduciary must execute his/her duties with the care, skill, prudence, and diligence under the prevailing circumstances that a prudent person acting in a like capacity and familiar with such matters would use:
  - Allows for the hiring of "experts" to assist
  - Experts must be prudently selected and monitored



#### **Duty to Diversify**

- "A fiduciary must diversify investments in order to minimize risk of loss unless it would be considered prudent not to diversify investments"
- For Defined Contribution Plans with Self-Direction of Investments by Participants:
  - ERISA § 404(c) is an accepted guide to minimums, but only requires three options

#### **Duty to Follow Plan Document**

- Must oversee and make sure the plan operates in compliance with the plan document, trust agreements and/or other documents
- Fiduciaries should be familiar with:
  - Plan documents
  - Federal and State law in relations to the documents

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**HYAS**GROUP

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**HYAS**GROUP

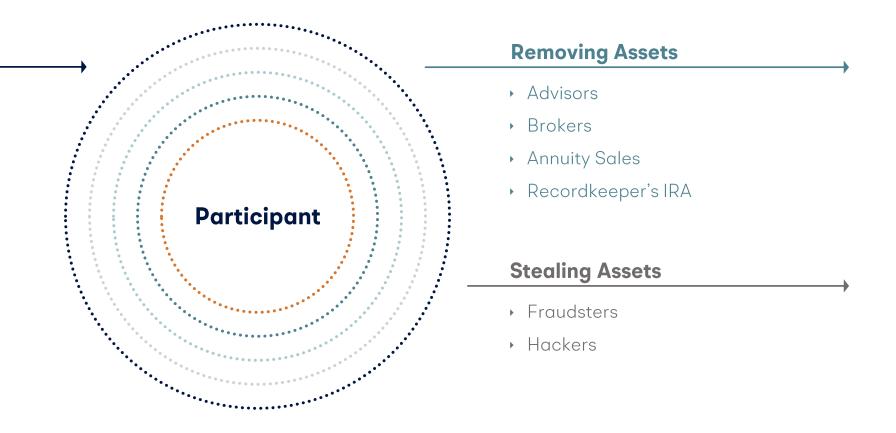
# **Duty to Diversify**

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  - ERISA § 404(c) is an accepted guide to minimums, but only requires three options

### MULTIPLE LAYERS OF PROTECTION & FIDUCIARY OVERSIGHT

### **Protecting Assets**

- Recordkeeper
- Plan Sponsor
  - NDC Committee
  - NV-DOA Admin Staff
  - NV-DAG
- Plan Consultant
- Outside Legal Counsel
- Asset Management Companies/ Funds/Trust/Board of Directors
- Trust Company & Custodian



FIDUCIARY UPDATE 2022 FIDUCIARY OVERVIEW









## **GOVERNANCE STRUCTURE**











## **SECURE 2.0**

Securing a Strong Retirement Act

- Passed as part of Consolidated Appropriations Act of 2023
- Passed December 27, 2022
- Signed into law December 29, 2022

### **Provisions Include:**

- Eliminates the "first day of the month rule" for 457 Plan contribution amount changes, effective upon enactment.
- Requires that all catch-up contributions to 401(k) and 457 plans made by participants with over \$145,000 of income be post-tax, "Roth" contributions- effective for plan years beginning after 12/31/23.
- Allows for employer matching contributions on student loan repayments in 401(k), 403(b) and 457(b)
   Plans, effective with plan years beginning after 12/31/23.
- Allows for the creation of in-plan emergency savings accounts within 401(k) and 457(b) Plans effective for plan years following 12/31/2023.

## **SECURE 2.0**

Securing a Strong Retirement Act

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### **Provisions Include:**

- Allows for Plan Sponsors to rely on "participant self-certification" for emergency hardship withdrawal claims for 457(b) plans as well as for 401(k) plans, effective upon enactment.
- Creates a special, higher catch-up contribution amount of the greater of \$10,000 per year or 150% of the regular contribution rate (indexed for inflation) for individuals aged 60 to 63, beginning for tax years after 12/31/2024.
- Reduces the tax penalty for failure to take RMD's timely from 50% to 25% of the shortfall, and to 10% when corrections are made during a two year window; effective following enactment.
- Excludes from gross taxable income certain disability-related first responder retirement payments from 457(b), 401(a) and 403(b) plans; effective after 12/31/2026.

## **SECURE 2.0**

Securing a Strong Retirement Act

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### **Provisions Include:**

- Applies Roth RMD exclusion rules presently found in IRA's to 401(k) and 457(b) Roth assets; effective after 12/31/23.
- Exempts public safety employees with over 25 years of service from the 10% tax penalty rule (the current exemption is only for those over age 50); Effective upon enactment.
- Adds corrections employees to public safety employee definition for Section 329 items above; Effective upon enactment.
- Increases the age at which Required Minimum Distributions from retirement plans must commence from age 72 to age 75, over a period ending in 2032. Effective in plan year 2023.



The Committee has received a request from a plan participant to add a particular real asset fund to the 457 plan that has recently been performing very well. You actually know of the specific fund because you have invested in it through your IRA and it has performed very well for you. You have recently been considering adding more money to the fund.

As a Committee Member, do you vote to add the fund?

- a) Yes—Because you know the fund and it has done very well for you
- b) No—You abstain from voting because you don't feel you can be objective about the decision, given your personal experience with the fund
- c) Maybe—Discuss whether real asset funds are appropriate for your Plan's participants based on their investment knowledge

As a fiduciary Committee member, you are approached by the plan's record keeper. He offers you two different share classes of the same mutual fund. One has an expense ratio of .70% annually, but rebates back .25% to the plan to help offset record keeping expenses. The other has an expense ratio of .55%, but rebates nothing to help offset expenses.

### Which one do you choose?

- a) The less expensive one because it is cheaper for participants
- b) The more expensive one because revenue sharing pays all the plan's administrative expenses
- c) Neither until you have assessed fee reasonableness and method for allocating plan expenses

Your Committee has identified an investment manager that is not performing in line with expectations contained in the Investment Policy Statement.

### What should you do?

- a) Replace the manager immediately
- b) Identify the reasons for failure to meet expectations
- c) Consult the Investment Policy Statement for a watch list procedure and follow it
- d) Both b) & c)
- e) None of the above

As a fiduciary Committee member, you have noticed that one of the other Committee members rarely attends any of the meetings. This member also does not appear to make any effort to become informed about what they may have missed when not in attendance.

### What should you do?

- a) Nothing since you have a quorum without this member
- b) Contact the SEC
- c) Discuss the issue with the Committee since members may be responsible for the conduct of others on the Committee
- d) Quit the Committee immediately

In spite of efforts to provide clear, concise communications to participants about the plan fees and structure, a participant continues to complain about the costs associated with the investments in the plan and claims everything is too expensive.

As a Committee member, what would you do?

- a) Tell the participant to call the consultant
- b) Tell the participant to call his/her broker
- c) Discuss the situation with the full Committee and determine a course of action
- d) None of the above, participants are clueless

