WELLS FARGO ADVISORS
FINANCIAL NETWORK

Developing Investment Policy Statements

presented to: Rhode Island GFOA

Goldberg, Yolles & Lepore LLC

Gerald B. Goldberg, CIMA®
Managing Principal
Senior Institutional Consultant

Michael J. Lepore, CIMA®
Registered Principal
Senior Institutional Consultant

Together we'll go far

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How clear is your road map?

Some Sources of Guidance and Insight for Fiduciaries

- Rhode Island Statutes
- Common Law
- Local Ordinances
- Plan Documents
- ERISA

Rhode Island General Laws
Uniform Prudent Investor Act

§ 18-15-2 Standard of Care

- A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust.
- A trustee's investment and management decisions respecting individual assets must be evaluated not in isolation but in the context of the trust portfolio as a whole and as part of an overall investment strategy having risk and return objectives reasonably suited to the trust.
- A trustee shall make a reasonable effort to verify facts relevant to the investment and management of trust assets.
- A trustee may invest in any kind of property or type of investment consistent with the standards.
- A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, has a duty to use those special skills or expertise.

Some other Rhode Island Statutes

§ 18-15-3 Diversification

A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purposes of the trust are better served without diversifying.

§ 18-15-4 Duties at inception of trusteeship

Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets, in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements, and other circumstances of the trust, and with the requirements of this chapter.

§ 18-15-5 Loyalty

A trustee shall invest and manage the trust assets solely in the interest of the beneficiaries.

Some other Rhode Island Statutes

§ 18-15-6 Impartiality

If a trust has two (2) or more beneficiaries, the trustee shall act impartially in investing and managing the trust assets, taking into account any differing interests of the beneficiaries.

§ 18-15-7 Investment costs

In investing and managing trust assets, a trustee may only incur costs that are appropriate and reasonable in relation to the assets, the purposes of the trust, and the skills of the trustee.

§ 18-15-8 Reviewing compliance

Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of a trustee's decision or action and not by hindsight.

Some other Rhode Island Statutes

§ 18-15-9 Delegation of investment and management functions

A trustee may delegate investment and management functions that a prudent trustee of comparable skills could properly delegate under the circumstances. The trustee shall exercise reasonable care, skill, and caution in:

(1) Selecting an agent;

(2) Establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust; and

(3) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation.

Some other Rhode Island Statutes

§ 18-15-10 Language invoking standard of chapter

The following terms or comparable language in the provisions of a trust, unless otherwise limited or modified, authorize any investment or strategy permitted under this chapter: "investments permissible by law for investment of trust funds," "legal investments," "authorized investments," "using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital," "prudent man rule," "prudent trustee rule," "prudent person rule," and "prudent investor rule."

§ 18-15-11 Application to existing trusts

This chapter applies to trusts existing on and created after August 6, 1996. As applied to trusts existing on its effective date, this chapter governs only decisions or actions occurring after that date.

§ 18-15-12 Uniformity of application and construction

This chapter shall be applied and construed to effectuate its general purpose to make the law uniform with respect to the subject of this chapter among the states enacting it.

Where should these obligations memorialized?

The Investment Policy Statement

The Investment Policy Statement

- An Investment Policy Statement (“IPS”) is a document that acts as a road map to memorialize how assets are to be managed. It assists fiduciaries and plan professionals in fulfilling their fiduciary duties associated with the prudent management of assets to which they have been entrusted.
- An IPS is a long-lived document intended to survive multiple generations of decision makers and provide a foundation for sound plan governance.
- An IPS should be sufficiently restrictive so as to encourage adherence to a long-term process while being flexible enough to allow decision makers to react to changing market, economic and political climates.

Goals of an Investment Policy Statement

- Articulate responsibilities of involved parties,
- Establish investment goals and objectives,
- Articulate guidance and limitations to investment managers,
- Establish a basis for evaluating results,
- Ensure prudent management of assets, and
- Establish the time horizon for the management of plan assets.

Risk Management I

The IPS is a written record which serves to:

- Inform and educate volunteers, professionals, staff regarding plan goals and guidelines,
- Remind decision makers of plan goals, risk tolerance and potential for volatility during inevitable market downturns, and
- A foundation for good governance for plan fiduciaries.

Risk Management II

The IPS is also a tool for managing non-market related risk:

Political Risk

Can help prevent "overhauls of the investment program by various political bodies" APPFA.*

Turnover Risk

Provides for continuity of process in the face of changing staff, plan professionals and fiduciaries.

Investment Psychology

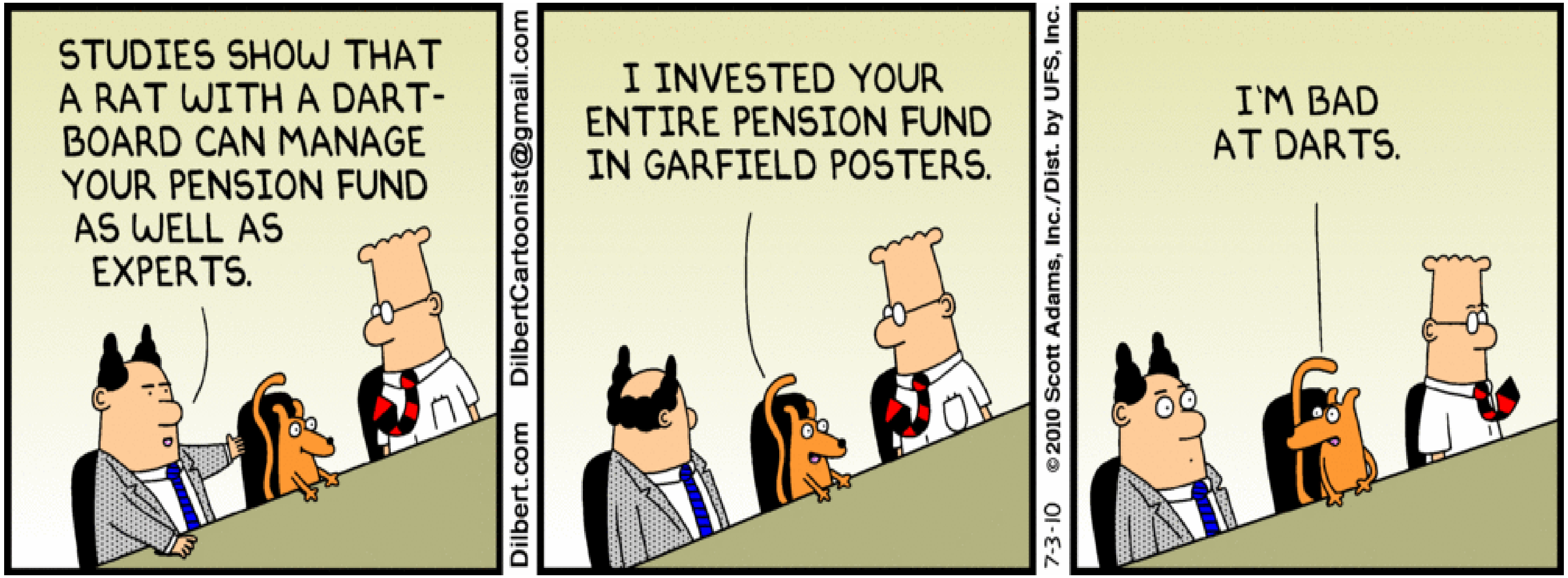
Provides guidance and perspective to fiduciaries during times of market or political uncertainty.

*Association of Public Pension Fund Auditors

An ERISA Perspective on the IPS

While Municipal retirement plans are not governed by ERISA, it is worth noting that in a 2008 Interpretive Bulletin, the Department of Labor said "The maintenance by an employee benefit plan of a statement of investment policy designed to further the purposes of the plan and its funding policy is consistent with the fiduciary obligations set forth in ERISA section 404(a)(1)(A) and (B)."

Does this plan have an IPS?

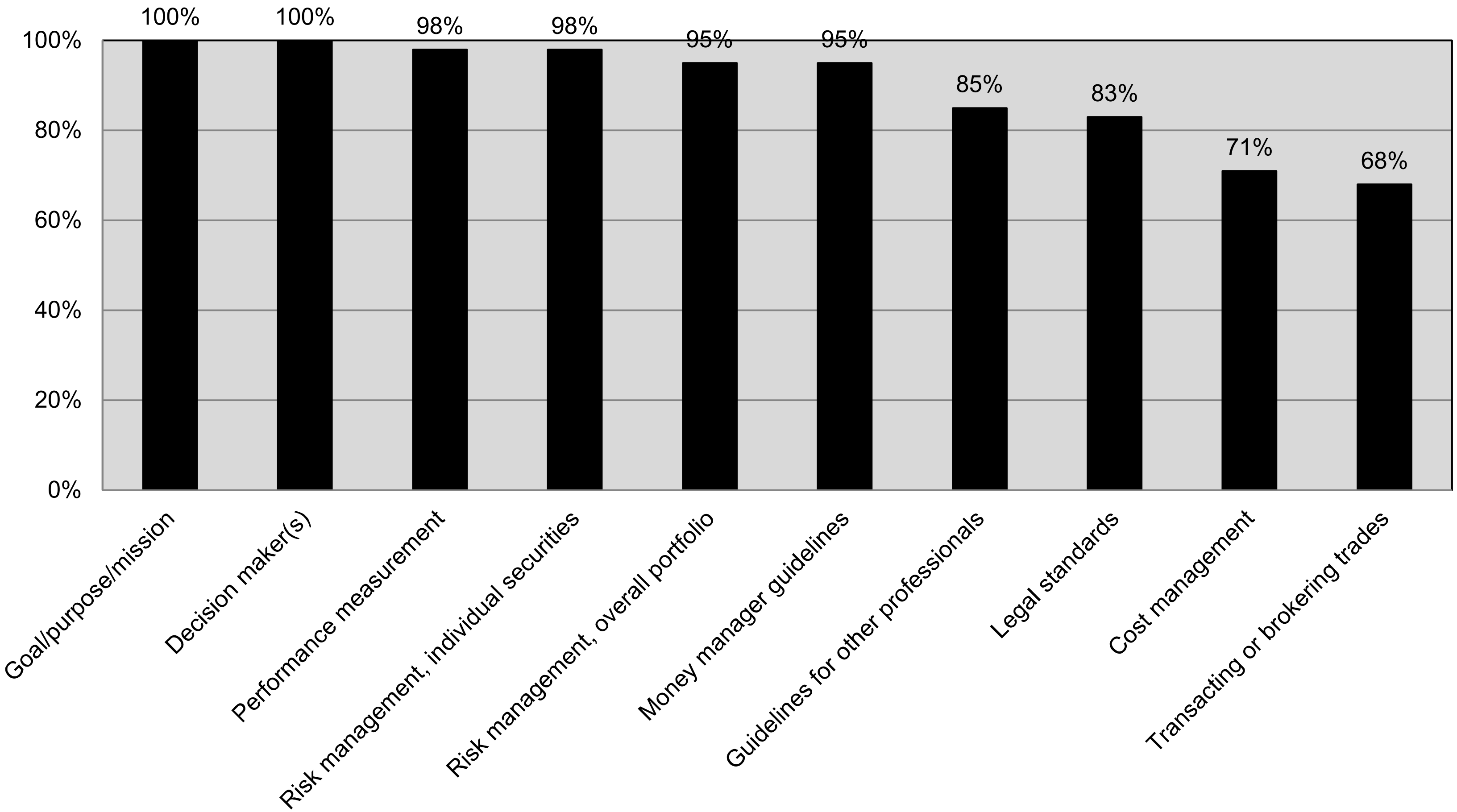


GFOA's Recommended Provisions of an IPS*

- Statement of Purpose
- Roles and Responsibilities
- Standard of Care
- Asset Allocation
- Rebalancing
- Investment Guidelines
- Reporting and Monitoring
- Governance

* A Guide for Establishing a Pension Investment Policy by Nicholas Greifer (2003)

Basic Content of Investment Policies



Source: Government Finance Officers Association of the United States and Canada

A Few of a Fiduciary's Duties

- Loyalty [1]
- Diversification [2]
- Impartiality [3]
- Incur only Reasonable Costs [4]
- Investment Monitoring [5]
- Avoid Conflicts and Prohibited Transactions [6]
- Properly Delegate [7]
- Regularly Review Plan Documents and Expenses [8]

Rhode Island General Laws 1. § 18-15-5, 2. § 18-15-3, 3. § 18-15-6, 4. § 18-15-7, 5. § 18-15-8, 6. § 18-15-4, 7. § 18-15-9, 8. § 18-15-7 & § 18-15-8

A Few Thoughts on OPEB

Rhode Island General Law

§ 45-21-65

- In accordance with GASB 45, a Treasurer or Director of Finance may enter into a trust agreement between a municipality and a corporate trustee doing business in the state.
- The Treasurer or Director of Finance shall invest funds not necessary for current disbursement consistent with the prudent person rule and local investment policy governing permitted and restricted assets of a DB plan.
- Municipalities may enter into agreements with the state of Rhode Island relating to the management and operation of OPEB trust funds.
- Municipalities may employ qualified persons to advise it on investment of OPEB trust funds.
- OPEB trusts are subject to Rhode Island Access to Public Records Act (RIGL 38-2-1 et seq.).

Does an OPEB Trust need its own IPS?

While DB and OPEB IPS may have significant overlap, important differences exist and should be memorialized in a separate document.

Compared to DB Plans, OPEB trusts bifurcate the assets set aside into two pools:

1. To pay short term current obligations; and
2. To fund long term projected liabilities

The short term assets are invested in cash and cash equivalents. The long term assets are allocated in a manner that is similar to the allocations often utilized by pension plans. OPEB Trustees often are willing to embrace more volatility in the investment portfolio in the pursuit of additional returns since current benefits are typically not being funded out of the investment trust.

Conclusions

- A successful investment program begins with good process which is memorialized in the IPS.
- While there is no way to eliminate fiduciary responsibility, a comprehensive IPS serves as a guide for plan fiduciaries decision making process as well as a tool to mitigate fiduciary risk.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Presenter Biographies

Gerald B. Goldberg, CIMA® - Managing Principal, Senior Institutional Consultant: Gerald Goldberg is a founding and senior member of Goldberg, Yolles & Lepore LLC which operates under the Wells Fargo Advisors Financial Network. Prior to joining the Wells Fargo Advisors Financial Network, the team was operating under the Wells Fargo Advisors private client group. Mr. Goldberg's office is located in West Hartford, Connecticut and he is one of 75 members of the Senior Consulting Council, Wells Fargo Advisor's elite senior consulting group. Gerald provides consulting services to corporations, municipalities, self-insurance funds, non-profit organizations and high net worth private clientele with among other things: (i) investment policy, (ii) asset allocation, and (iii) investment management selection and oversight. He also advises clients on the structure and development of among other things, qualified retirement plans. He lectures and authors articles on various investment-related topics and has served as an adjunct professor in the MBA Program at the University of Hartford.

Goldberg, Yolles & Lepore LLC was established in 2014. Prior to this time Gerald worked for Wells Fargo Advisors and its predecessor in interest for 19 years. Prior to Wells Fargo Advisors, Mr. Goldberg practiced law for six years, most recently with the Boston firm, Bingham, Dana, LLP. Gerald is currently a member of the bar in New York and Connecticut (not currently practicing). In addition, Gerald is Series 65, 63, 24, 7, 3 registered and is insurance and variable annuity licensed. Through the University of Pennsylvania's Wharton School of Business and the Investment Management Consultants Association, Gerald received the Certified Investment Management Analyst® (CIMA®) designation. In 2010, 2011, 2012, 2013 and 2014 Gerald was recognized by Barron's magazine as being among "The Top 1,200 Advisors" formerly "The Top 1,000 Advisors" in the nation.[1] In addition, as of 2014 Gerald was recognized by Financial Times as being one of the "Top 400 U.S. Advisors of 2014".[2] He obtained his JD from the George Washington University and his BA in Political Science with a concentration in World Political Economics from the State University of New York at Binghamton.

Michael J. Lepore, CIMA® - Registered Principal, Senior Institutional Consultant: Michael J. Lepore is a member of Goldberg, Yolles & Lepore LLC which operates under the Wells Fargo Advisors Financial Network. Prior to joining the Wells Fargo Advisors Financial Network, the team was operating under the Wells Fargo Advisors private client group. Michael is one of 75 members of the Senior Consulting Council, Wells Fargo Advisor's elite senior consulting group. Michael specializes in asset management analysis and investment manager selection for institutional clients. He also provides consulting services to municipalities, self-insurance funds, corporations and non-profit organizations with among other things: (i) investment policy, (ii) asset allocation, and (iii) investment management selection and oversight. Additionally, Michael advises clients on the structure and development of among other things, qualified retirement plans. He is a graduate of the University of Rochester with a degree in Economics as well as a Certificate in Management and Finance. Michael has also studied at the London School of Economics and has done graduate work at the University of Connecticut. Through the University of Pennsylvania's Wharton School of Business and Investment Management Consulting Association, he received the Certified Investment Management Analyst® (CIMA®) designation. Michael is Series 65, 63, 31, 24, 7 registered and is insurance and variable annuity licensed.

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[1]The rankings are based on data provided by over 4,000 of the nation's most productive advisors. Factors included in the rankings: assets under management, revenue produced for the firm, regulatory record, quality of practice, and philanthropic work. Institutional assets are given less weight in the scoring. Investment performance isn't an explicit component, because not all advisors have audited results and because performance figures often are influenced more by clients' risk tolerance than by an advisor's investment-picking abilities. Effective for the 2014 rankings Barron's expanded the annual state by state listing from 1,000 advisors to 1,200 to include, for the first time, Registered Investment Advisors, or RIAs. Ranking independent advisors alongside those employed by the large brokerage firms presents some challenges, because they are regulated by different agencies – the Securities and Exchange Commission and the Financial Industry Regulatory Authority, respectively. This ranking represents the top 1% of advisors with substantial practices.

[2]The rankings are based on a minimum of $250 million in assets under management (AUM) and ten years of experience. Qualified advisors were then scored on six attributes: AUM, AUM growth rate, compliance record, experience, industry certifications and online accessibility. Investment performance and financial advisor production are not explicit components.

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