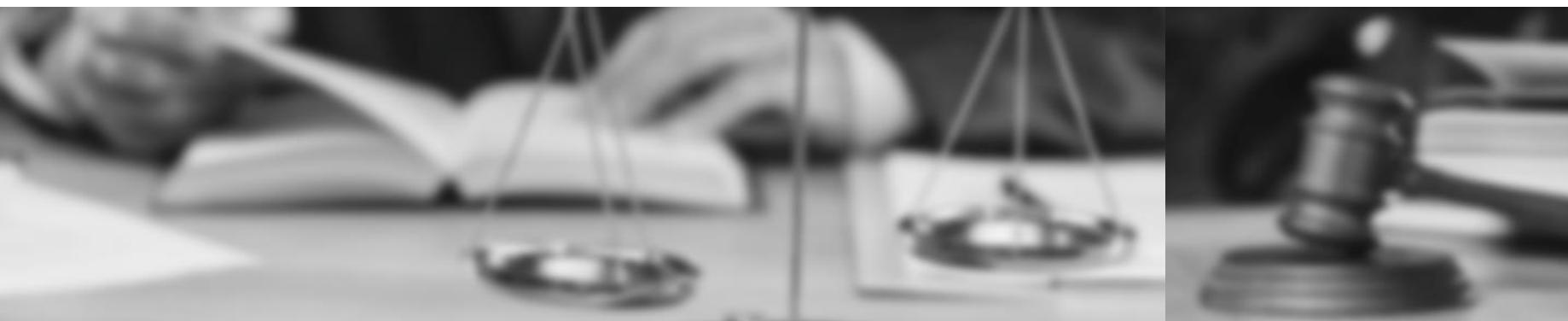


Fiduciary Training and Responsibilities

Alameda Contra Costa Transit District



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January 2026

Agenda:

Section 1 - 457 Retirement Programs

Section 2 - Governing Bodies

Section 3 - Who is a Fiduciary & What Are Their Duties

Section 4 - Standard of Conduct

Section 5 - Fiduciary Checklist



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Section 1

457 Retirement Programs

457 Retirement Programs

Governmental 457

History — Although a form of a deferred compensation plan existed for municipal employers in the previous decade, section 457(b) of the Internal Revenue Code (“IRC”) was created with the passage of the Revenue Act on November 6, 1978. The 457 plan is an IRS-sanctioned, tax-advantaged employee retirement plan available for certain state and local governments and non-governmental entities tax exempt under IRC Section 501. . The plan is offered only to public service employees and employees at tax-exempt organizations.

CODE 457(g)

Since 1999 all governmental 457(b) plans are required to hold plan assets in trust. Fiduciary standards of conduct apply, including duty of loyalty (called the exclusive benefit rule), prudence requirements and others. Many governmental qualified plans and 457(b) plans use ERISA rules as guidance.

Governmental 457

How do 457(b) plans work?

Employers or employees through salary reductions contribute up to the IRC 402(g) limit- \$23,500 in 2025 on behalf of participants under the plan.

What is a Roth 457?

The Roth 457 option allows you to pay taxes on your contributions when they are contributed (presumably at a lower tax rate than you would expect to pay at retirement). If you expect to be in a lower tax bracket when you retire, you might want to consider contributing to your 457 on a before-tax basis.

What are the advantages of participating in a 457(b) plan?

There are significant tax advantages for participants in a 457(b) plan:

- Contributions to a 457(b) plan are tax-deferred.
- Earnings on the retirement money are tax-deferred.
- Market growth opportunity.
- No 59 ½ early distribution penalty.

Section 2

Governing Bodies of 457 Plans

Governing Bodies

ERISA

The Employee Retirement Income Security Act of 1974 (ERISA) is a federal law that sets minimum standards for most voluntarily established retirement and health plans in private industry to provide protection for individuals in these plans.

ERISA protects retirement savings from mismanagement, abuse, and clarifies that those in charge of those savings be held to a high standard – that is, they must act in the best interests of plan participants.

California State Constitution

Government Code §53609 – 457(b) plans are “public pension or retirement funds” for purposes of the fiduciary rules.

Subsections (a), (b) and (c) of Article XVI, §17 of the California Constitution contain the provisions governing the fiduciary duties for the administration of public pension and retirement systems.

The California State Constitution Government Code duties are substantially identical to the fiduciary duties imposed on private sector fiduciaries by the Employee Retirement Income Security Act of 1974 (ERISA). As a result, where the California legal provisions are not developed, regulatory and judicial authorities use ERISA to interpret the fiduciary requirements.

California Constitution/State Law

The California Constitution provides that retirement boards (and their members) of public pension and retirement systems, including 457(b) plans, have a duty to:

- Invest the assets of the plan;
- Administer the plan;
- Act for the exclusive purpose of providing benefits to participants and beneficiaries; and
- Engage in a prudent process for making all decisions related to the operation of the plan, including decisions related to the plan's investments and related services.

The primary duty is the obligation to act for the exclusive purpose of providing retirement benefits to the participants. That is, the other duties must be fulfilled in a manner consistent with the provision of secure, yet meaningful, retirement benefits.

Section 3

Who is a Fiduciary?

What are Their Duties?

Who is a Fiduciary

Who is a Fiduciary?

The primary duty is the obligation to act for the exclusive purpose of providing retirement benefits to the participants.

Human Resource Managers, Finance Managers, City Managers and members of employee committees that select service providers for city sponsored retirement plans and similar plans that choose and monitor investment fund options are plan fiduciaries legally bound to make decisions in plan participants' best interests.

The Duties of a Fiduciary Include:

- Acting in the sole interest of plan participants.
- Exercising prudence in selecting suitable investments.
- Providing a diversified investment menu lineup.
- Following all plan documents (unless they conflict with applicable laws).
- Ensuring reasonable expenses.
- Avoiding conflicts of interest.

Along with the employer sponsoring the plan, fiduciaries who fail to make decisions in participants' best interests can be subject to civil and criminal penalties and fines. Liability insurance provides a measure of protection for fiduciaries and plan sponsors, but in cases of extreme wrongdoing, the financial and reputational risk to employers remains substantial.

Fiduciary Responsibility California State Law

FIDUCIARY'S DUTY TO ITS PARTICIPANTS SHALL TAKE PRECEDENCE OVER ANY OTHER DUTY

Exclusive Purpose Rule/Duty of Loyalty

- Primary Duty is to act solely in the best interest of plan participants:
 - For the exclusive purpose of providing benefits to participants and beneficiaries, and
 - For ensuring plan fees and expenses are reasonable.

The conduct of fiduciaries in fulfilling that objective is measured under the prudent person standard. The duty to act prudently under ERISA and California Constitution requires that fiduciaries make informed and reasoned decisions about all issues related to management of the plan, for example, plan investments, participant education, expenses, and plan administration.

Fiduciary Responsibility California State Law

Prudent Person Rule –Article XVI §17(c)

Fiduciaries are required to follow a prudent process when selecting and monitoring investments and service providers, making any and all other plan-related decisions, and ensuring fees are reasonable.

California Government Code Section 53213.5(b)

California incorporates ERISA Section 404(c), which allows plan fiduciaries to avoid liability for individual participant investment decisions.

To avoid such liability, a plan must:

- Offer at least three diverse investment options.
- Provide participants with sufficient information to allow them to make informed investment decisions with respect to their accounts.
- Provide information with respect to funds, managers and fees.



Section 4

Standard of Conduct

Standard of Conduct: Mitigating Liability Risk

Duty to loyalty - The exclusive benefit rule

- Act for exclusive purpose of providing plan benefits.
- Do not put employer interests before those of plan and participants.
- Act solely in best interest of plan participants.
- Avoid conflicts of interest.
- Ensure fees are reasonable.

Duty to prudence

- Acting with the care, prudence, skill and diligence a knowledgeable person administering a defined contribution plan would use **and using prudent processes in all plan-related decision-making**

Duty to prudently monitor plan operations

- Ensure service provider fees are reasonable.
- Monitor service provider performance, the types of services they provide, their fees and how those fees are paid.
- Review performance to ensure a service provider is performing agreed-upon services.
 - RFP/RFI

Standard of Conduct: Mitigating Liability Risk

Duty to prudently monitor service providers

- Trust requirement
 - Latest new requirements – SECURE 2.0
- Timing of deferrals –first-day-of-month rule 457(b) only
- Timely delivery of deferrals into trust
- Deferral limitations
- Disbursement of excess deferrals
- Special catch-up contributions 457(b) only
- Unforeseeable emergency withdrawals 457(b) only
- Distribution restrictions
- Loans

Duty to prudently diversify investments

- Investment policy statement
 - The methodology and criteria for selecting a broad, diversified array of investments with different levels of risk and return
 - The goals, objectives and performance standards the funds are expected to meet –to be retained in the investment menu
 - The guidelines for monitoring and evaluating funds and the timing for terminating and replacing any nonperforming funds

Standard of Conduct: Mitigating Liability Risk

Duty to monitor and deselect imprudent investments

The role of a fiduciary is active, not passive, with an ongoing duty to monitor and take action when appropriate.

Liability:

Fiduciaries may be liable to plan participants for not conducting a "regular review of [plan] investments with the nature and timing...contingent on circumstances" even when the initial investment selection occurred years ago.

Monitoring:

Fiduciaries have "a continuing duty —separate and apart from the duty to prudently select the investments at the outset —to monitor and remove imprudent investments."

Multiple service providers require more due diligence

- Ensure plan policies, procedures, forms match the plan provisions.
- Develop and follow a written **investment policy statement** when selecting, monitoring, deselecting and replacing investments.
- Ensure the fees of each recordkeeper are **reasonable**.
- Select, monitor and deselect investments offered.
- Monitor all outsourced administrative functions performed.
- Monitor and approve all participant communications created.

Standard of Conducts: Best Practice

Identify your Fiduciary

- Plan Sponsor
- Board Members
- General Managers
- Staff Members
 - Finance Department
 - Human Resource Department
- Anyone providing investment fee for advice
 - Consultant

Who is not a Fiduciary?

- Service Provider - Vendor

Standard of Conducts: Best Practice

Board/Committee Best Practices

Governance

Meet regularly and document all plan-related decisions as evidence of your prudent processes and decision-making.
Fiduciary checklist

Investment

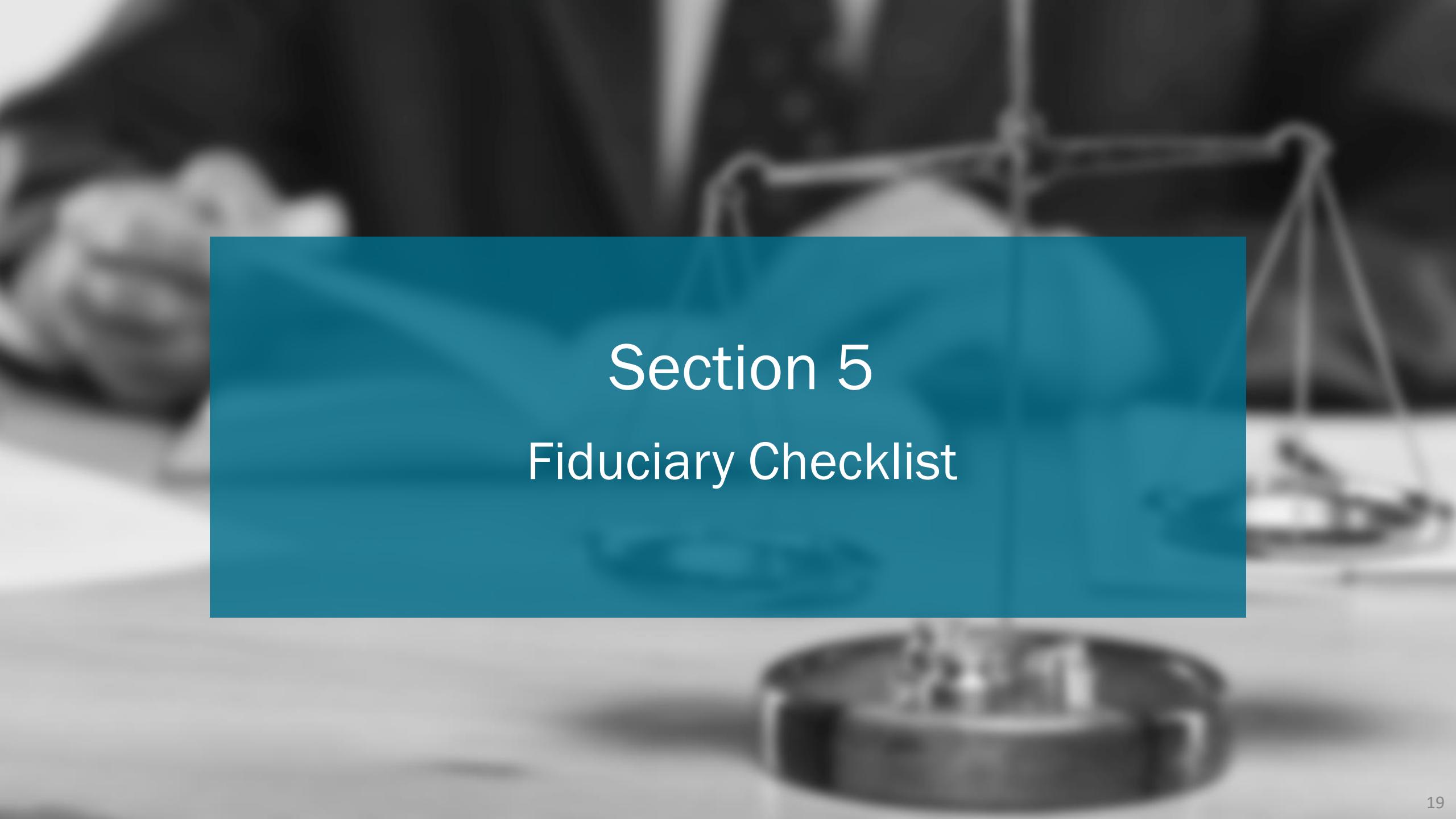
Fiduciaries are required to adhere to generally accepted investment standards and adopt prudent policies for selecting and monitoring plan investments.

Participant Education

Fiduciaries are required to ensure all employees have the available information to make educated decisions on the plan related specifics through group, one-on-one meetings and other forms.

Committee Training

Train your board members as plan fiduciaries and educate them on basic fiduciary responsibilities.
Brown Act - A California law that guarantees the public's right to attend and participate in meetings of local legislative bodies.



Section 5

Fiduciary Checklist

Fiduciary Checklist

TASK	PERSON/ROLE	BEST PRACTICE
Appoint a Retirement Committee to address Administrative and Investment Decisions related to the plan.	Board Members	Formal board charter creating the investment committee and appointing the initial members. Charter can indemnify the Committee.
Identify Fiduciaries	Varies	Monitor fiduciary responsibilities for anyone with discretionary authority or control over the plan or plan assets.
Establish and document committee members (voting or non-voting), roles, frequency for meeting, and requirements for membership.	Investment Committee	Monitor and update as needed
Conduct regularly scheduled meetings and document the minutes regarding concerns and decisions made. - Conduct Plan Reviews concerning administrative, recordkeeping matters or participant concerns regularly. - Conduct Investment Reviews regularly. - Are there periodic reports which compare investment performance against an appropriate index, peer group, and IPS objectives?	Investment Committee	Conduct regularly scheduled meetings according to the IPS and detail key decisions and points in the meeting minutes
Adopt an Investment Policy Statement (IPS)	Investment Committee	Make decisions according to IPS framework. Monitor investments between meetings and document decisions accordingly.
Confirm the trust agreement and plan documents properly reflect fiduciary role of the Plan Sponsor and other fiduciaries.	Investment Committee	Consider delegating to individuals on the Committee to review and monitor documents on an annual basis
Review any recent plan amendments	Investment Committee	Case-by-case review
Review Plan Fees	Investment Committee	Review and document plan fees on a regular basis. Ensure fees are considered reasonable as compared to plans of similar size. Ensure fees are properly allocated based on fee policy decision.

Fiduciary Checklist

TASK	PERSON/ROLE	BEST PRACTICE
Review the services, credentials and fee arrangements for all vendors related to the plan like recordkeepers, attorneys, consultants	Investment Committee	This should be done on a periodic basis. SageView provides a cost analysis on an annual basis for the plan expenses.
Administrative items:		
»Determine eligibility	Delegated to HR / Recordkeeper	Have a process in place and document / monitor
»Determine benefits		
»Determine vesting		
Distributions:		
»Termination or Retirement	Delegated to HR / Recordkeeper	Have a process in place and document / monitor
»Vetting hardships		
»Setting loan terms and approving loans		
»Validating QDROs		
Ensure that Contributions are received	Delegated to HR / Recordkeeper	At least quarterly review with recordkeeper that each contribution file was received and processed.
Interpreting plan documents	Plan Administrator	Case-by-case basis
Participant notices		
»Benefit statements	Delegated to HR?	Annual notices
»Blackout notices		
»404(a)(5) disclosures (fee disclosure)		
Deposit employee contributions timely and in accordance with DOL standards.	Delegated to Payroll?	As soon as monies can reasonably be segregated from general assets, but no later than 15 business days. This is not to be construed as allowed up to 15 business days.
Confirm ERISA Fidelity Bond is up to date and meets the needs of the current plan.	Plan Administrator	Annual basis
Consider individual fiduciary liability insurance for the Plan Sponsor and directors of the firm.	Plan Sponsor	Coverage depends on indemnification agreements, for committee, etc.

Questions

SageView Advisory Group

1920 Main Street, Suite 800, Irvine, CA 92614 | 800.814.8742 | www.sageviewadvisory.com

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