

Governance

“Governance” refers to the method by which the System is directed and controlled. A sound governance structure defines the roles of the different parties that participate in the decision-making process, including the identification of the matters that require action, analysis of options, and the process for making decisions once issues have been evaluated. It also includes the process for implementing and monitoring decisions and assessing outcomes. Good governance embraces the principles of accountability, transparency, compliance with legal requirements, effectiveness and efficiency, inclusiveness, fairness, responsiveness, and predictability.

The MPERS Board recognizes that sound governance practices are essential if it is to fulfill its fiduciary duties and responsibilities. Therefore, the Board intends for the Governance Manual to accomplish the following:

- Establish the manner in which the Board will conduct itself so as to allow the Board to carry out its responsibilities as effectively and efficiently as possible, and in accordance with state and federal law
- Set forth the policies and procedures to enable the Board to fulfill its statutory and fiduciary responsibilities
- Help ensure policy compliance
- Facilitate the organized, efficient, and cohesive functioning of the Board
- Facilitate effective communication among the board members, staff, plan members, employers, and other external parties
- Define responsibility and accountability between the Board and staff for hiring and monitoring outside service providers
- Document the method by which the Board will evaluate the Executive Director on a regular basis

Legal and Fiduciary Mandates

MPERS is a creation of state law¹ and through that law the Board is established as the highest level body that has fiduciary responsibility for the System and those covered by the System. Fiduciary duty is a legal relationship of trust between parties, where one party is acting for the benefit of another. Fiduciaries of pension funds have strict standards imposed upon them by law.² The Board’s primary fiduciary responsibilities are:

- the duty of loyalty
- the duty of care

Understanding these fiduciary responsibilities is of utmost importance to anyone who serves as an MPERS board member. The same level of fiduciary duty applies to each board member as soon as they accept the position on the MPERS Board. There is no sliding scale for new board members or different standards for those who are elected or appointed. The fiduciary standard is the highest standard imposed by law, and breaches of fiduciary duty could involve significant consequences for the System, the Board, or individual board members.

¹ Sections 104.020 and 105.688, RSMo.

² See *Dadisman v. Moore*, 384 S.E.2d 816 (W.Va.1988) and Missouri Attorney General Opinion 92 (Mo.1980).

The duty of loyalty requires fiduciaries to act solely in the best interest of the beneficiaries and the trust fund. Therefore, the Board owes a steadfast commitment to stay focused on the interests of the active members, retirees and other beneficiaries of the System. All board members have the same duty of loyalty when serving on the Board and each must act exclusively on behalf of the membership as a whole, without preference to sub-groups or constituencies.

The duty of care requires fiduciaries to make decisions with the care, skill, prudence and diligence under the prevailing circumstances, or the “prudent man standard.” This duty applies to all decisions regardless of whether they involve investments, benefits, or operations. To fulfill the duty of care, the Board must use contemporary standards of care that are at least as high as those employed by others who are similarly situated, i.e., other boards of public retirement systems.

In addition, board members have a duty to follow plan documents, which are the laws that created the retirement system. The Board, therefore, must comply with applicable Missouri open meetings laws³ and all other applicable state and federal laws. As the statutes change and courts interpret the statutes, the Board is required to maintain compliance with the law. To address specific details in carrying out the law, the Board may adopt rules as permitted by law.⁴

In addition to administrative rules, the Board adopts “governance policies” that set forth the expectations the Board has for itself and formalize the way the Board conducts business. The policies are intended to help the Board meet its fiduciary responsibilities. This Governance Manual is an organized collection of the Board’s governance policies. The documents contained within this document set forth the structure, manner, and process by which the Board exercises its authority and control. The Governance Manual will be useful in new board member orientation and as an ongoing reference manual for the Board.

In the event any policy conflicts with statutes intended to govern MPERS, the statutes shall control.

³ Sections 610.010 to 610.032, 104.010 to 104.272, 104.601 to 104.806, 104.1003 to 104.1093, and 105.660 to 105.691, RSMo.

⁴ Section 104.1063, RSMo.