



# MoDOT & Patrol Employees' Retirement System Board of Trustees' Reference Manual

Welcome.....	2
Board of Trustees Website .....	3
MPERS Staff .....	4
Professional Service Providers.....	5
Authorities of the Board .....	6
Governance .....	8
Basic Funding Equation.....	9
Investment Relationships .....	10
Legal Risks as a Trustee .....	11
Acronyms for Industry Organizations .....	11
Fiduciary Duties as a Trustee .....	13
Sunshine Law .....	16
System History .....	17
Overview of Retirement and Disability Benefits.....	18



## Welcome!

It is my pleasure to welcome you to the MoDOT and Patrol Employees' Retirement System (MPERS) Board of Trustees. Whether trustees are elected, appointed, or serving as ex-officio members, there is little to prepare them for their new role as retirement system trustees.

As a general rule, the Board meets four or five times a year to oversee the operation of the System, which may be surprising given the multi-billion dollar responsibility. This is possible because the Board has delegated implementation authority to a highly educated and experienced staff. The staff is expected to manage the System under the purview of applicable law and the policies established by the Board.

This trustee orientation is designed to give you pertinent information about MPERS' statutes, plans, and policies, which will expedite your ability to knowledgeably and prudently carry out your trustee duties. For your convenience, the orientation presentations and other useful reference materials are available on the secure trustee website.

If you have any questions regarding the retirement system or need further explanation regarding subject matter discussed at meetings, please give me a call. An important role of MPERS' staff is to support the needs of board members so it can carry out its duties in a responsible and effective manner.



Scott Simon  
Executive Director

### Mission Statement

Provide sustainable benefits for the lifetime of our members.

### Core Values

Our members are our number one focus...we work for them.

Our goal is to provide exceptional service always, no matter who is on the phone or sitting across from us.

We strive to preserve, protect, and grow our assets.

We are committed to security and privacy of our members' information.

We make decisions in the best interest of our members based upon statutory guidance.

We conduct business at a reasonable cost to the taxpayers of Missouri.

Click the "Back" button at the bottom of each page to return to the Table of Contents.

[Back](#)

### MoDOT & Patrol Employees' Retirement System

PO Box 1930 w Jefferson City, MO 65102-1930

1913 William St. w Jefferson City, MO 65109

**Phone:** (573) 298-6080 w **Toll Free:** (800) 270-1271

**Email:** mpers@mpers.org w **Fax:** (573) 522-6111

**Website:** www.mpers.org

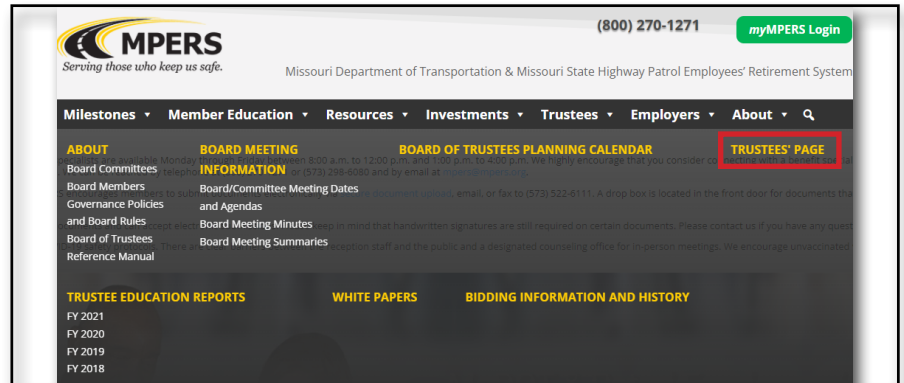


[Back](#)

Board meeting materials are posted online **one week** before each meeting.

Go to [www.mpers.org](http://www.mpers.org)

Select Trustees' Page on the Trustee drop down menu



 This screenshot shows the 'Trustees' Page on the MPERS website. It features a login form with two input fields: 'Username or Email' and 'Password'. A green 'Log In' button is positioned to the right of the password field. A red rectangular box highlights the entire login area. Below the login form, there is a link that says 'Forgot Password'.

Use the login information previously provided via email to log into the Trustees' Page

Once you are logged in, select the Current Board/Committee Meeting Material link



The Executive Director of MPERS has charge of the office and records of the System and hires such employees deemed necessary, subject to the approval of the Board of Trustees. The System employees 18 full-time staff.

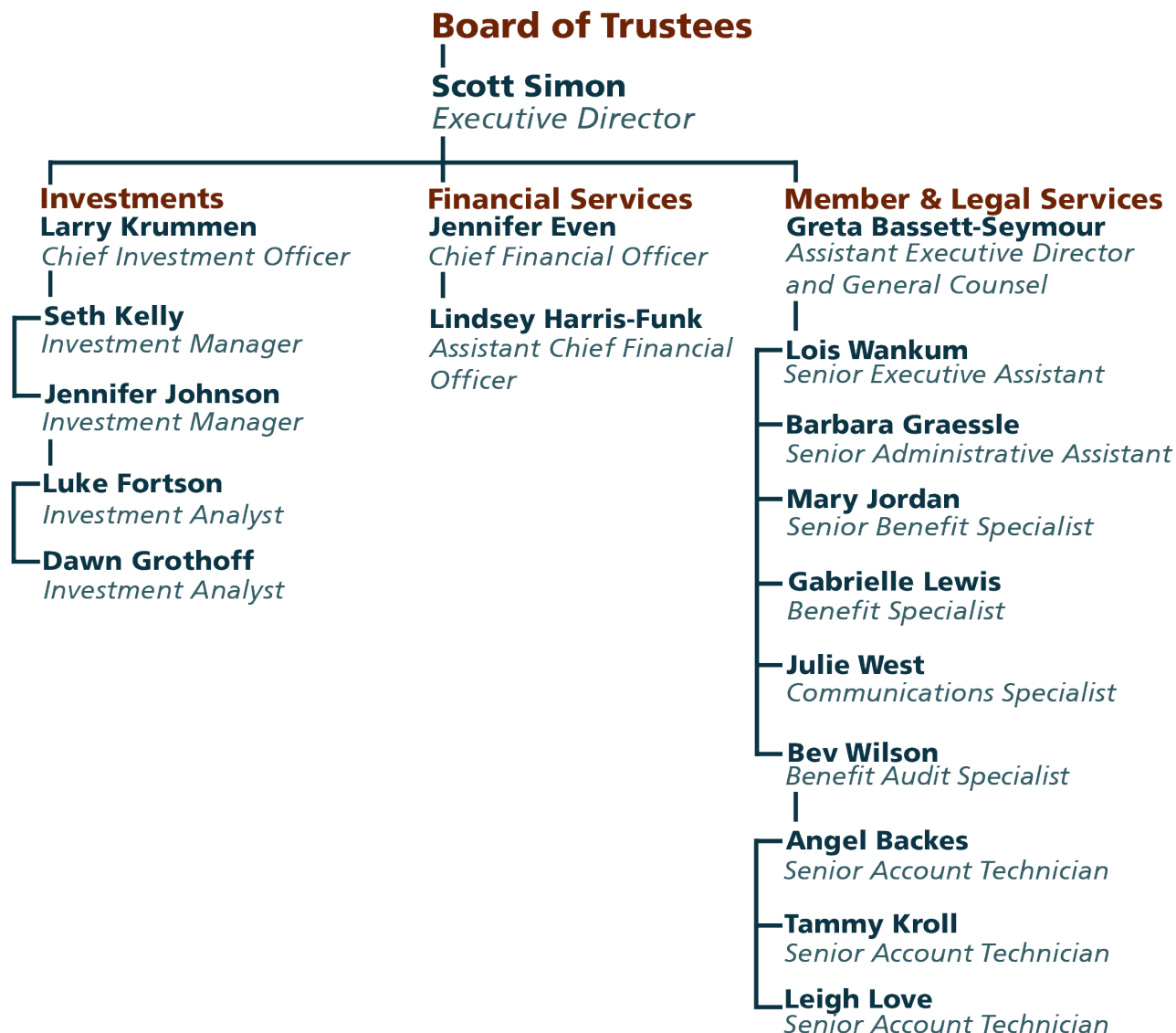
**Scott Simon**  
**Executive Director**  
 Scott.Simon@mpers.org  
 Work: (573) 298-6020  
 Cell: (573) 230-3021

**Greta Bassett-Seymour**  
**Assistant Executive Director and General Counsel**  
 Greta.Bassett-Seymour@mpers.org  
 Work: (573) 298-6021  
 Cell: (573) 999-4123

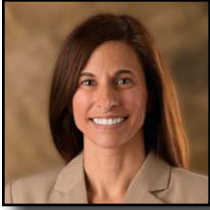
**Larry Krummen**  
**Chief Investment Officer**  
 Larry.Krummen@mpers.org  
 Work: (573) 298-6082  
 Cell: (573) 619-6541

**Jennifer Even**  
**Chief Financial Officer**  
 Jennifer.Even@mpers.org  
 Work: (573) 298-6022  
 Cell: (573) 680-6945

**Lois Wankum**  
**Senior Executive Assistant**  
 Lois.Wankum@mpers.org  
 Work: (573) 298-6090  
 Cell: (573) 680-7129



The following firms are retained by the Board of Trustees to serve in professional capacities or provide consultant services. The consultants attend board meetings as needed.



## Actuarial

**Heidi Barry**  
Actuarial Consultant  
Gabriel, Roeder Smith & Co.  
Southfield, MI  
[www.gabrielroeder.com](http://www.gabrielroeder.com)

*GRS delivers consulting services that combine actuarial valuations and studies with benefit plan design.*



## Audit

**Nick Mestres**  
Partner  
Williams-Keepers, LLC  
Jefferson City, MO  
[www.williamskeepers.com](http://www.williamskeepers.com)

*Williams-Keepers provides an annual audit of the accounting and administration of MPERS.*



## Custody Services

**Colleen Brennan**  
Client Executive-Vice  
President  
The Northern Trust Company  
Chicago, IL  
[www.northerntrust.com](http://www.northerntrust.com)

*Northern Trust manages our assets and provides an extensive trading program to complement our investment objectives.*



## Investments

**Kevin Leonard**  
Partner  
NEPC, LLC  
Cambridge, MA  
[www.nepc.com](http://www.nepc.com)

*NEPC identifies the best qualified, most appropriate investment managers in order for MPERS to achieve optimum portfolio performance.*



## Legislation

**Mike Winter**  
Governmental Relations  
Consultant  
Michael G. Winters Consultants  
Jefferson City, MO

*Mike Winter provides advice and oversight of legislation as it relates to MPERS' retirement benefits.*



## Risk and Insurance

**Bob Charlesworth**  
Owner/Consultant  
Charlesworth & Associates, LC  
Overland Park, KS  
[www.charlesworth.net](http://www.charlesworth.net)

*Bob Charlesworth provides risk management consultation and negotiates insurance covered premiums on behalf of MPERS.*

The Board focuses on the power reserved exclusively for the Board in order to provide prudent oversight to the System. These authorities are generally broken down as follows:

### Conduct Business of the Board and Its Committees

Elections / Vacancies, Oath of Office, Board Member responsibilities, Agendas and Meeting Materials, Minutes, Chairs / Vice Chairs, Ethics / Code of Conduct / Conflicts of Interest, Hearings and Appeals, Committees, Calendar, Self-Evaluations, Onboarding / Continuing Education, ED/CEO selection, evaluation, compensation / performance, selection / evaluation of Independent advisors / Auditors

### Approve Key Decisions

Consent agenda, Annual plan / calendar of decisions required, Budget and Finance, Litigation, Reports, Record of Approvals

### Set Direction and Prudently Delegate

Strategic plan / Goals and Objectives / Risk Appetite, Vital Functions, Vital Signs and Risk Tolerances, Pending Policy agenda, Pending Policies, Policy Option Summaries, Delegations of authority

### Oversee Execution of Direction Within Policy

Exception-based performance and risk dashboards (Heads Up Display), Functional Reports, Compliance, Resource Allocation

### Verify

External audit, Third parties, reports are reliable and internal control system is effective



Close adherence to these powers clarifies the distinction between the Board, staff, and advisors. It also will help meeting efficiency and discipline. Furthermore, it may be imprudent not to delegate. This is a lay board with limited time and usually no direct experience with pension plan administration.

Board meeting agendas are broken down according to these powers. They are further itemized by those powers established in statute and those established by policy. As you will see, there will be a number of agenda items scheduled throughout the year. The Board Planning calendar is a concise resource that identifies these key items and when they are normally addressed.

Two of those agenda items that merit early attention are enterprise performance risk management (EPRM) and vital signs. EPRM is the foundation for MPERS risk management efforts. This is a relatively new approach for risk management that from the Board's perspective utilizes key metrics, called vital signs, to acknowledge the vital few measures necessary to maintain prudent oversight rather than using the trivial many and diminishing focus.

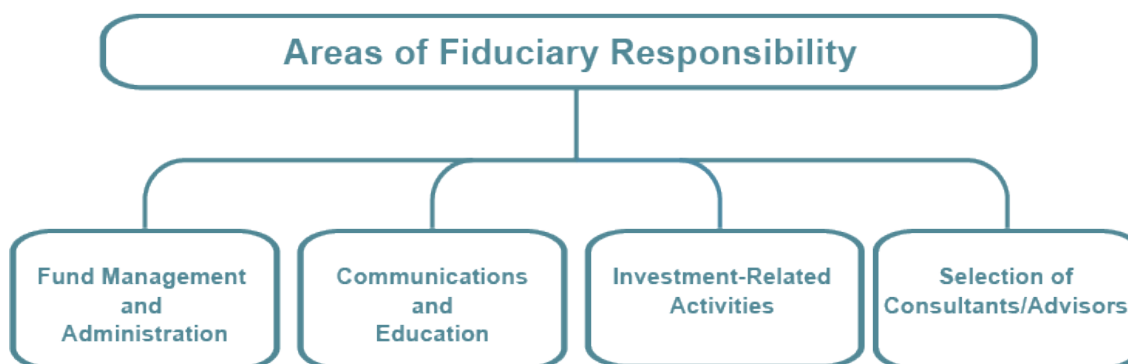
Vital signs are reviewed by the Board annually and cover an array of vital functions for the organization. The vital signs will evolve over time as additional measures are added and perhaps existing measures become obsolete. Along with these vital signs comes a variance analysis. This analysis identifies a range of possible outcomes for each metric. Using a stop light analogy, expected (i.e. preferred) outcomes are denoted as green, outcomes that are slightly off base or of concern are denoted as yellow, and outcomes that are clearly off base will be denoted as red. Those results that are not as expected will receive further scrutiny, discussion, and review.

## Key Questions for Trustees

Given there is no grace period, there is a clear need for a “self-check” that both new as well as experienced trustees can employ to have some assurance that they are casting their vote in a manner that complies with their fiduciary duties. The following questions are intended to help ensure that trustee oversight and decision-making is consistent with their fiduciary duties.

1. Has all necessary information been presented?
2. Have potential risks/benefits been identified and analyzed?
3. Have all viable alternatives been identified and analyzed?
4. Are staff and any outside expert(s) in agreement?
5. Have prior questions/concerns been sufficiently addressed?
6. Do I have any potential conflicts of interest?
7. Does my vote reflect the best interests of the System’s members?
8. Will this decision favor on sub-group of plan members over another?

The answers to these questions will become intuitive with time. The challenge initially is providing trustees with the knowledge to enable them to not only ask these questions of themselves but to feel confident with the answers. Staff are instrumental in this regard and should be leaned on as necessary.



Good governance is critically important for public pension funds to achieve optimal performance and maintain the confidence of their constituencies. Six principles for effective public pension fund governance have been identified as key to successful governance structures:

1. **Effective and Capable Fiduciaries** – The Board functions effectively, investments are prudently selected and managed, the fund is operated cost effectively, customer service and operations are high quality, and the fund is reliable as a source of information for pension and benefit choices.
2. **Ethical Leaders** – The Board and executive team share values, work together constructively, and set the tone at the top. The Board and staff are free from conflicts of interest and have credibility with regulators and legislators. The Board operates with discipline and is self-policing. There is a culture of compliance with applicable laws, regulations and organizational policies and there are clearly established whistle blower policies and procedures.
3. **Open and Accountable to Stakeholders** – The Board and executives are appropriately open in the way key decisions are made and publicly disclosed. The organization structure and processes provide clear lines of authority and responsibility. Effective metrics are used to monitor strategic, investment, operational, financial and compliance results. Executives are accountable for their performance, and their compensation is directly linked to performance outcomes over appropriate time periods that reflect system goals and beneficiaries' short- and long-term interests.
4. **Risk Intelligent and Insightful in Decisions** – The Board approves the risk preferences and tolerances of the fund, and ensures the enterprise is prepared for low-probability risks and long-term sustainability. An effective enterprise risk management framework is used to consistently monitor and report aggregated risk exposures and the effectiveness of mitigation and control. The management reporting process provides insight, not just data, to enable the Board to provide appropriate direction and advice to management and fulfill its oversight responsibilities.
5. **Long-Term View for the Needs of Beneficiaries and System Participants** – The Board integrates short-term and long-term perspectives on both assets and liabilities to ensure financial soundness and effective retirement solutions for members and employers. The Board is alert to long-term unintended negative consequences of short-term decisions and maintains strategic flexibility to allow for uncertainty.
6. **Continuous Learning and Adaptation to Changing Conditions** – The Board conducts a regular assessment of its performance and capabilities. A board self-development plan addresses the continuous learning and development needs for all board members based on a comprehensive and tailored individual development process. Performance feedback is obtained through periodic board self-assessment processes.

From these principles, leading policies, practices and desired outcomes can be developed, and the principles form the basis for conduct and guide the decision-making and behavior of the board, the executive team and staff. You should see these principles throughout our Governance Policies. It is important that you become familiar with these policies and recognize that they will evolve over time as weaknesses or improvements are realized.

Reduced to its simplest form, the financial mechanism behind the operation of a defined benefit(DB) plan may be described by the formula:

$$C + I = B + E$$

Where:

C = Contributions (employer, employee, or both)

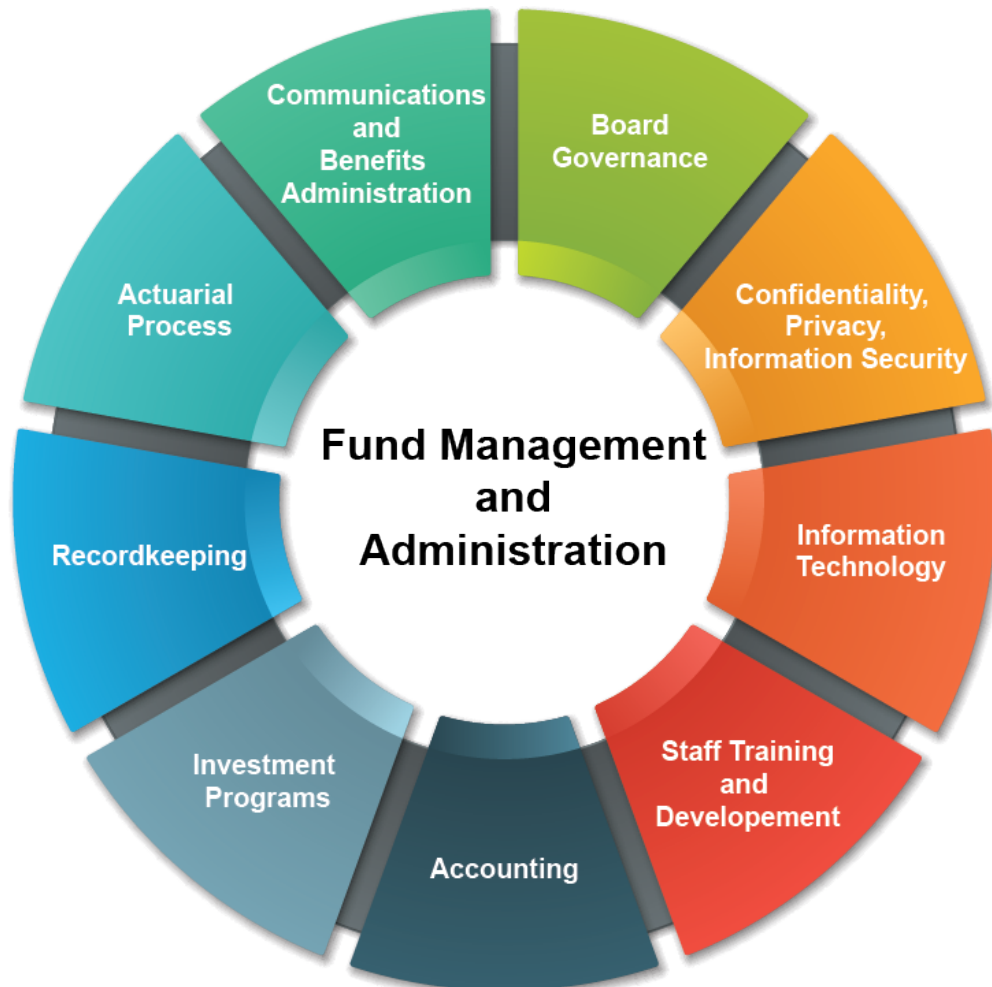
I = Income from investments

B = Benefits paid

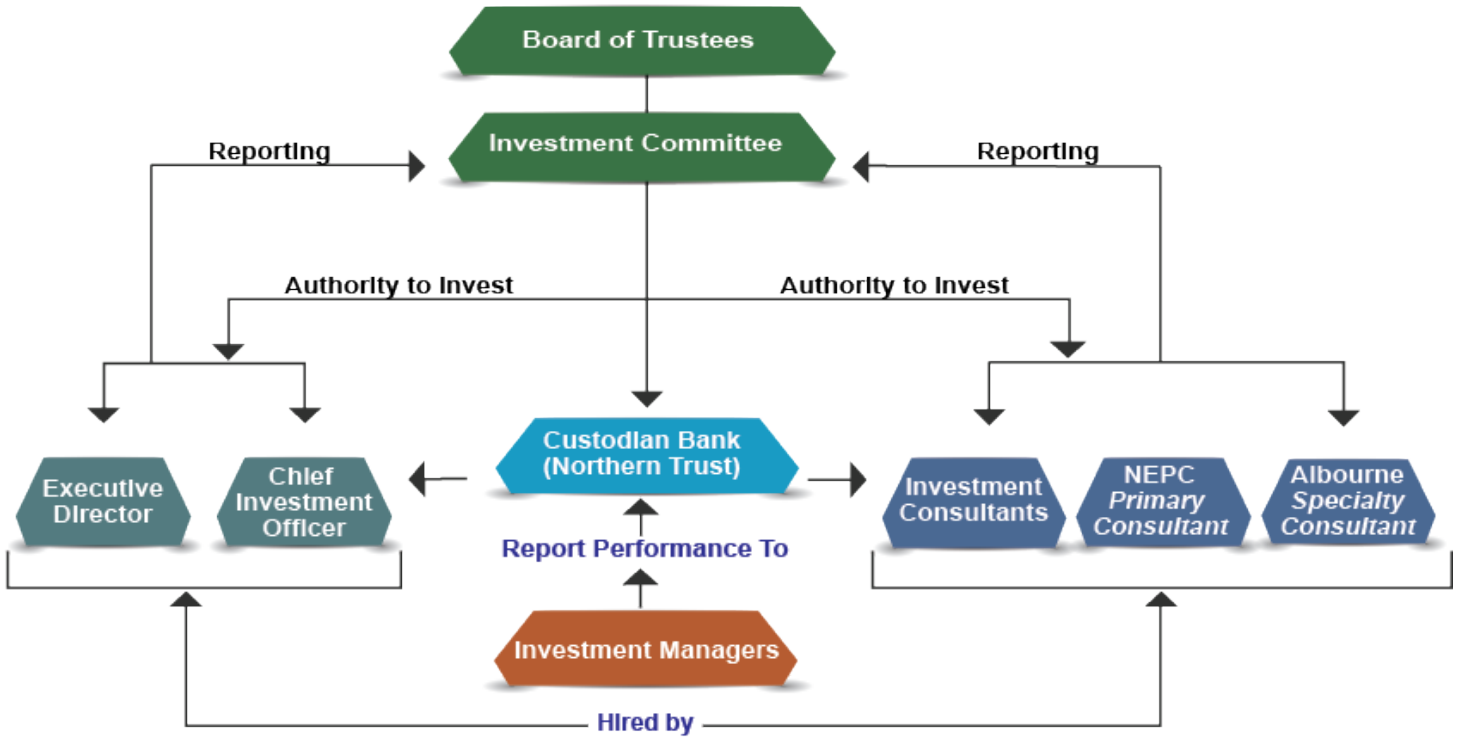
E = Expenses for plan administration

An understanding of this formula is very useful for those wishing to understand the basic financial premise of DB plans.

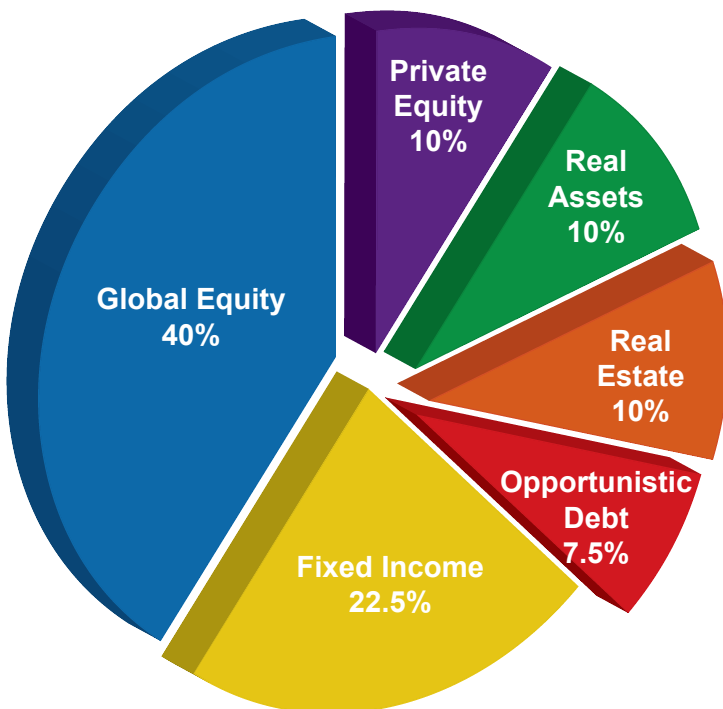
In a DB plan, benefits (B) can be thought of as a moving target. As salary increases and service is extended, (B) becomes larger. Based on complex actuarial calculations, a contribution amount (C) is determined which will allow for the accumulation of the assets needed to pay for (B). (C) will be a variable, based on the plan experience. Consider what happens if (B) is predicted accurately but income (I) is less than expected. The only alternative for bringing the formula back into balance is to increase (C). If (I) is greater than expected, (C) will be reduced. In most cases, the variable (C) is the responsibility of the employer. The employer assumes the risk if (I) is less than expected, and thus must increase contributions, and conversely is rewarded with lower contributions if (I) is greater than expected. This is consistent with the fundamental rule of investing which says that the party taking the risk is the one which receives any rewards.



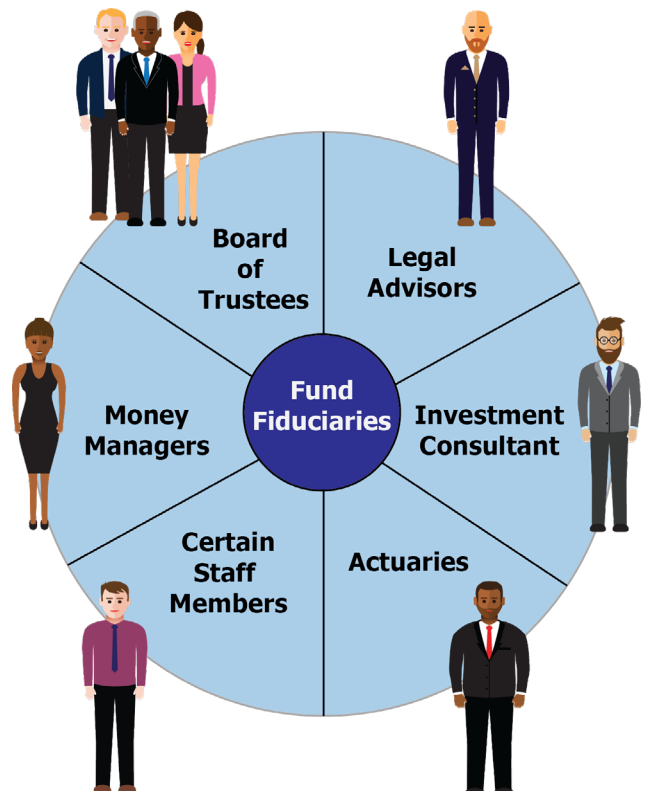
There are many moving parts and relationships in the investment process. The chart below shows the relationships of the various entities and how everyone works together.



## Target Asset Allocation



## Investment Fiduciaries



### Acronyms for Industry Organizations

**GFOA**

**Government Finance Officers Association**

Website: [www.gfoa.org](http://www.gfoa.org)

**IFEBP**

**International Foundation of Employee Benefit Plans**

Website: [www.ifebp.org](http://www.ifebp.org)

**JCPER**

**Joint Committee on Public Employee Retirement**

Website: [www.jcper.org](http://www.jcper.org)

**MAPERS**

**Missouri Association of Public Employee Retirement Systems**

Website: [www.momapers.org](http://www.momapers.org)

**NAPPA**

**National Association of Public Pension Attorneys**

Website: [www.nappa.org](http://www.nappa.org)

**NASRA**

**National Association of State Retirement Administrators**

Website: [www.nasra.org](http://www.nasra.org)

**NCPERS**

**National Conference on Public Employee Retirement Systems**

Website: [www.ncpers.org](http://www.ncpers.org)

**NIRS**

**National Institute on Retirement Security**

Website: [www.nirsonline.org](http://www.nirsonline.org)

## Introduction

The Board of Trustees oversees the general administration of MPERS. While a trustee always exercises his or her discretion independently, the governance of the System is vested in the Board as a body, not in any individual Trustee. The Board has authority to establish its own governance policies and rules for administration of the System.

Legal liability can fall on the System, the Board of Trustees or individual Trustees for the breach of a duty or a violation of law. A Trustee mitigates personal legal risk by devoting sufficient time to carry out his or her duties and responsibilities effectively. This includes time to obtain education regarding MPERS, a Trustee's duties, and all matters pertinent to the administration of public defined benefit pension systems.

Legal risks are defined by duties. Trustees are fiduciaries, and as such, operate under the highest legal duty. MPERS' statute, section 104.150, expressly provides that: "All property, money, funds, investments and rights ..." in the system "... shall be vested in trust for the members and for the purposes" set out in the laws establishing MPERS. Fiduciary duties are established under the statutes and common law of trusts. Trustees also exercise discretion within the framework of specific statutes, rules and policies applicable to the System. In some instances statutes applicable to governmental bodies and public officials generally also apply to the System and to the Trustees and these define duties, obligations and standards of conduct and set consequences violations.

## Fiduciary Liability

A fiduciary has a duty of care and a duty of loyalty. The duty of care is commonly framed in the context of the "Prudent Man Rule." This standard states the duty of care as that of a prudent person acting in a similar capacity and who is knowledgeable of the matters that are the subject of the trust relationship. An effective board education program is essential for an MPERS Trustee to assure that he or she acquires the knowledge that the duty of care assumes. An effective board education program mitigates this legal risk.

A Trustee also has a duty of loyalty. Loyalty requires that a Trustee act solely in the best interests of the plan beneficiaries. The duty of loyalty prohibits self-dealing and conflict of interest. Loyalty requires that a Trustee actively avoid placing himself or herself in a position likely to present a conflict of interest. Loyalty also requires that a Trustee act with candor, honesty and integrity. A Trustee must maintain independence and keep informed of operations of the system, laws, regulations, trends and developments affecting the System.

The Trustees execute their duties in large part by selecting and retaining competent management, establishing objectives and policies for the system, monitoring compliance with laws and policies, and overseeing the performance of management. Effective policies should cover all significant activities of the Board and the System and the policies should include monitoring and reporting mechanisms to assure the Board is informed. Policies should also require independent third party review in certain matters with reporting to the Board or a designated committee of the Board.

### **Statutory Liability**

This overview highlights significant statutes but does not address every law that might concern the System, the Board or a Trustee. When particular circumstances arise that present legal issues or the application of statutes, the Board should always consult with counsel.

In some cases statutes explicitly direct MPERS or a Trustee's activities. In other cases general statutes apply to MPERS. In some instances, it will not be clear whether a law applies to a Trustee or to the System. However, a Trustee that adheres to fiduciary standards is not likely to inadvertently violate a statute.

Section 104.210, RSMo, provides that a Trustee who accepts any gratuity or compensation for the purpose of influencing the investment of funds of the system shall forfeit his or her office and be subject to the penalties prescribed for bribery.

Section 610.027 of the "Sunshine Law" carries civil penalties of up to \$5,000 and costs plus attorney fees for purposeful violation of the law. This exposure falls on Trustees in their individual capacity.

Under Chapter 105, starting at section 105.450, conflicts of interest and self-dealing are prohibited. Subsequent provisions require filing of an annual financial disclosure statement with the state ethics commission. Section 105.478 establishes criminal penalties for violation of the conflict of interest laws. MPERS staff annually assists Trustees to meet the filing requirements under this law.

### **Managing Legal Risk**

Trustee education, consulting with legal counsel and adherence to sound fiduciary practices are all practices that mitigate legal risk. There are also other protections and defenses available.

### **Sovereign Immunity**

The doctrine of sovereign immunity precludes lawsuits against the government absent its consent. Missouri has provided only limited waiver of sovereign immunity under section 537.600 related to operation of motor vehicles and condition of property.

### **Official Immunity**

The doctrine of official immunity protects public officials and employees from liability for alleged acts of negligence committed during the course of their official duties for performance of discretionary acts. However, official immunity does not protect from legal risk for ministerial acts.

### **Legal Representation**

MPERS has authority to and has hired a general counsel. MPERS also has authority to hire outside counsel.

### **State Legal Expense Fund**

The State of Missouri self-insures all state agencies, their officials and employees under the State Legal Expense Fund. As such, in the event of a lawsuit, the Attorney General can represent MPERS. Depending on the nature of the claims made and the outcome, the State Legal Expense Fund may or may not cover any liability incurred by MPERS or the Trustees as a result of the lawsuit (i.e., damages owed to the other party). In the event a Trustee is found to be negligent in their duties, any related damages would not be covered by the State Legal Expense Fund.

### **Insurance Coverage**

MPERS carries property, casualty and liability insurance coverage related to its building and automobile. MPERS has also purchased staff and directors & officers insurance coverage to cover liability that may occur as a result of Board and staff actions.

MPERS self insures for any other legal risks as noted in the Indemnity Governance Policy.

MPERS provides workers compensation coverage through an arrangement with MoDOT pursuant to section 104.175.

## Introduction

A Board of Trustees administers MPERS. Statutes charge the trustees with the duty to manage the affairs of the System and safekeeping and investment of plan assets. The trustees are subject to the general law of trusts (both statutes and common law). Section 104.150 expressly vests MPERS plan assets “in trust” for the members. The Attorney General in Opinion No. 91-1980 (relating to MOSERS) ruled the Trustees are bound by the general law of trusts. Finally, Missouri’s Trust Code (at sections 456.011 and 456.013) recognizes that real and personal property, and the income, held in pension plans for the exclusive benefit of employees are trust funds (exempting such trusts from laws against perpetuities and permitting the accumulation of income). Section 105.688 (a general statute applicable to public retirement systems in Missouri) establishes a fiduciary investment standard for plan assets.

## Fiduciary Duties

The general law of trusts imposes several duties on trustees. The duty of care includes exercising appropriate skill, care, and prudence in administering the trust and investing trust assets. The duty of loyalty prohibits a trustee from acting contrary to the interests of the beneficiaries of the trust and from placing himself or herself in a position where a conflict of interest might arise.

Additional duties, subsets of the duty of loyalty, include a duty to segregate and account for trust assets, a prohibition from doing business with the trust or appropriating trust assets, a duty to act impartially toward all beneficiaries, and a duty to make trust assets productive.

Missouri has codified many of the standards and practices applicable to fiduciaries in Chapter 469. Of note is the Prudent Investor Act at sections 469.900 through 469.913. This Act is attached and incorporated by reference to this statement. The Act should be read in conjunction with section 105.688, the retirement system’s fiduciary investment standard, which is also included (page 14).

## Prudent Investor Act

### Citation of law--definitions.

469.900. Sections 469.900 to 469.913 shall be known, and may be cited, as the “Missouri Prudent Investor Act.” As used in this act, the term “trustee” includes independent personal representatives and trustees, whether of express or implied trusts, and the term “trust” includes independently administered estates.

### Trustee duties, settlor may restrict or expand.

469.901.1. Except as otherwise provided in subsection 2 of this section, or by other applicable laws, a trustee who invests and manages trust assets owes a duty to the beneficiaries of the trust to comply with the prudent investor rule set forth in this act\*\*.

2. A settlor may expand or restrict the prudent investor rule detailed in this act\*\* by express provisions in the trust instrument. A trustee is not liable to a beneficiary for the trustee’s good faith reliance on these express provisions.

\*\*\*This act” (H.B. 1432, 1996) contained numerous sections. Consult Disposition of Sections Table for a definitive listing.

### Trustee duties and powers--decisions to be evaluated in context of trust.

469.902. 1. 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. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

2. A trustee’s investment and management decisions respecting individual assets and courses of action must be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

3. When investing and managing trust assets, a trustee shall consider the following as are relevant to the trust or its beneficiaries:

- (1) General economic conditions;
- (2) The possible effect of inflation or deflation;
- (3) The expected tax consequences of investment decisions or strategies;
- (4) The role that each investment or course of action plays within the overall trust portfolio;
- (5) The expected total return from income and the appreciation of capital;
- (6) Other resources of the beneficiaries known to the trustee;
- (7) Needs for liquidity, regularity of income, and preservation or appreciation of capital;
- (8) An asset’s special relationship or special value, if any, to the purposes of the trust or to one or more of the

beneficiaries; and

(9) The size of the portfolio, nature and estimated duration of the fiduciary relationship and distribution requirements under the governing instrument.

4. A trustee shall make a reasonable effort to ascertain facts relevant to the investment and management of trust assets.

5. A trustee may invest in any kind of property or type of investment consistent with the standards of this act\*\*.

6. 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 when investing and managing trust assets.

\*\*\*"This act" (H.B. 1432, 1996) contained numerous sections. Consult Disposition of Sections Table for a definitive listing.

#### **Diversification required, exception.**

469.903. 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.

#### **Trust assets, retention and disposition.**

469.904. 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 act\*\*.

\*\*\*"This act" (H.B. 1432, 1996) contained numerous sections. Consult Disposition of Sections Table for a definitive listing.

#### **To whom duty owed.**

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

(L. 1996 H.B. 1432, A.L. 2004 H.B. 1511)

#### **Multiple beneficiaries, duty owed to whom.**

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

#### **Restriction on costs.**

469.907. 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.

#### **Prudent investor rule, standard.**

469.908. The prudent investor rule imposes a standard of conduct, but does not contemplate a specific outcome or performance. 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.

#### **Trustee powers, delegation--agent duties--liability of agent--agent submits to jurisdiction, when.**

469.909. 1. 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 suitable to the exercise of the delegated function, taking into account the nature and the value of the assets subject to such delegation and the expertise of the 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.

2. In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation.

3. A trustee who complies with the requirements of subsection 1 of this section is not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.

4. By accepting the delegation of a trust function from the trustee of a trust that is subject to the law of this state, an agent submits to the jurisdiction of the courts of this state even if the delegation agreement provides otherwise.

**Trust terms and phrases, definition.**

469.910. 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 act\*\*: “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”.

\*\*\*“This act” (H.B. 1432, 1996) contained numerous sections. Consult Disposition of Sections Table for a definitive listing.

**Applicability of certain sections.**

469.911. Except as otherwise specifically provided in the terms of the trust or in sections 456.035 to 456.041, RSMo, and sections 469.900 to 469.913, the provisions of sections 456.035 to 456.041, RSMo, and sections 469.900 to 469.913 shall apply to any trust established before or after August 28, 2004, and to any trust asset acquired by the trustee before or after August 28, 2004.

**Interpretation of certain sections.**

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

\*\*\*“This act” (H.B. 1432, 1996) contained numerous sections. Consult Disposition of Sections Table for a definitive listing.

**Specific statutory standards to control.**

469.913. The general assembly recognizes that persons, corporations, entities or state agencies who have responsibility for investing funds may be subject to a standard that is specifically set forth in other statutes. Under such circumstances, such persons, corporations, entities or state agencies shall comply with the standard of investment set forth in the other statute, and this act\*\* shall not modify or repeal that standard.

\*\*\*“This act” (H.B. 1432, 1996) contained numerous sections. Consult Disposition of Sections Table for a definitive listing.

**Investment fiduciaries, duties.**

105.688. The assets of a system may be invested, reinvested and managed by an investment fiduciary subject to the terms, conditions and limitations provided in sections 105.687 to 105.689. An investment fiduciary shall discharge his or her duties in the interest of the participants in the system and their beneficiaries and shall:

- (1) Act with the same care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a similar capacity and familiar with those matters would use in the conduct of a similar enterprise with similar aims;
- (2) Act with due regard for the management, reputation, and stability of the issuer and the character of the particular investments being considered;
- (3) Make investments for the purposes of providing benefits to participants and participants’ beneficiaries, and of defraying reasonable expenses of investing the assets of the system;
- (4) Give appropriate consideration to those facts and circumstances that the investment fiduciary knows or should know are relevant to the particular investment or investment course of action involved, including the role of the investment or investment course of action plays in that portion of the system’s investments for which the investment fiduciary has responsibility. For purposes of this subdivision, “appropriate consideration” shall include, but is not necessarily limited to a determination by the investment fiduciary that a particular investment or investment course of action is reasonably designed, as part of the investments of the system, to further the purposes of the system, taking into consideration the risk of loss and the opportunity for gain or other return associated with the investment or investment course of action; and consideration of the following factors as they relate to the investment or investment course of action:
  - (a) The diversification of the investments of the system;
  - (b) The liquidity and current return of the investments of the system relative to the anticipated cash flow requirements of the system; and
  - (c) The projected return of the investments of the system relative to the funding objectives of the system;
- (5) Give appropriate consideration to investments which would enhance the general welfare of this state and its citizens if those investments offer the safety and rate of return comparable to other investments available to the investment fiduciary at the time the investment decision is made.

## Summary of the Sunshine Law

Missouri's commitment to openness in government is clearly stated in section 610.011 of the Sunshine Law: "It is the public policy of this state that meetings, records, votes, actions, and deliberations of public governmental bodies be open to the public unless otherwise provided by law. Sections 610.010 to 610.200 shall be liberally construed and their exceptions strictly construed to promote this public policy."

The law sets out the specific instances when a meeting, record or vote may be closed, while stressing these exceptions are to be strictly interpreted to promote the public policy of openness.

Public meetings, including meetings conducted by telephone, Internet or other electronic means, are to be held at reasonably convenient times and must be accessible to the public. Meetings should be held in facilities that are large enough to accommodate anticipated attendance by the public and accessible to persons with disabilities.

## Top 10 Things to Know

1. When in doubt, a meeting or record of a public body should be opened to the public.
2. The Sunshine Law applies to all records, regardless of what form they are kept in, and to all meetings, regardless of the manner in which they are held.
3. The Sunshine Law **allows** a public body to close meetings and records to the public in some limited circumstances, but it **almost never requires** a public body to do so.
4. A public body generally must give at least 24 hours' public notice before holding a meeting. If the meeting will be closed to the public, the notice must state the specific provision of the law that allows the meeting to be closed.
5. Each public body must have a written Sunshine Law policy and a custodian of records whose name is available to the public upon request.
6. The Sunshine Law requires a custodian of records to respond to a records request as soon as possible but no later than **three business days** after the custodian receives it.
7. The Sunshine Law deals with whether a public body's records must be open to the public, but it generally does not state what records the body must keep or for how long. A body cannot, however, avoid a records request by destroying records after it receives a request for those records.
8. The Sunshine Law requires a public body to grant access to open records it already has, but it does not require a public body to create new records in response to a request for information.
9. When responding to a request for copies of its records, the Sunshine Law limits how much a public body can charge for copying and research costs.
10. There are special laws and rules that govern access to law enforcement and judicial records.

**Missouri Sunshine Law Website: [www.ago.mo.gov/missouri-law/sunshine-law](http://www.ago.mo.gov/missouri-law/sunshine-law)**

In 1955, Senate Bill 66 was passed, and the Highway Employees' and Highway Patrol Retirement System (HEHPRS) was established. Senate Bill 66 became effective August 29, 1955. On October 1, 1955, the system accepted 109 retirements.

Legislation to grant retirement benefits to long-term employees was the result of work done by some industrious employees of the State Highway Commission, the State Highway Patrol, and the Highway Employees' Association. Those involved negotiated an arrangement with the State Highway Commission to forego a future employee raise in order to fund the first contributions of the retirement system. In the initial negotiations, it was agreed that the new retirement system would be funded by contributions from the employees of the State Highway Commission and Missouri State Highway Patrol and by contributions from the two agencies. The initial contribution rate for both employees and employers was four percent.

In the late 1970s, legislation was passed to make the retirement system non-contributory for members, with the only contributions being made by the Highway Commission and Highway Patrol. With the exception of the 2011 Tier, the System remains non-contributory for employees today.

The System's Board of Trustees identified in the original legislation consisted of the:

- Members of the State Highway Commission
- Chief Engineer of the Highway Department
- Superintendent of the State Highway Patrol

In 1955, the State Highway Commission consisted of four members with the state geologist being an ex-officio member of the Board. Additional legislative changes were made in 1965, 1981, 1988, 1992, and 1999 – resulting in the current board structure.

Today, the 11-member board is made up of:

- Three Missouri Highways and Transportation Commissioners
- The Director of the Missouri Department of Transportation (MoDOT)
- The Superintendent of the Missouri State Highway Patrol (MSHP)
- A state representative
- A state senator
- An active MoDOT employee
- An active MSHP employee
- A retired MoDOT employee
- A retired MSHP employee

For the first 35 years of its existence, the System was operated as a unit of the State Highway Commission. Highway staff was assigned on a part-time basis to carry out the System's business.

In 1988, the first executive director position was established. As the membership base and the assets of the System grew, it became clear that full-time staff would be required to provide continuity and direction to improve and advance the System. Since that time, numerous staff positions have been added. Today, the System employs 17 full-time staff.

Today, the system operates as an independent trust fund under the direction of the Board of Trustees. In August 2002, a building was purchased to provide a permanent home for the retirement system. This step was taken to ensure the system could provide a comfortable, accessible environment for members to meet with staff to discuss their benefits.

The System is now known as the MoDOT and Patrol Employees' Retirement System (MPERS) and provides retirement, survivor, and disability benefits to over 18,000 members.

Benefit	Closed Plan 9/1/1955 - 6/30/2000	Year 2000 Plan 7/1/2000 - 12/31/2010	2011 Tier 1/1/2011 - Present
Type of Plan	Defined benefit (non-contributory)	Defined benefit (non-contributory)	Defined benefit (contributory)
Contributions	Employee—no cost Employer—per actuarial valuation	Employee—no cost Employer—per actuarial valuation	Employee—4% Employer—per actuarial valuation
Vesting Requirement	5 years	5 years	5 years (if active on or after January 1, 2018)
Normal Retirement Eligibility	<ul style="list-style-type: none"> <li>• Age 65 with 5 years of service</li> <li>• Age 60 with 15 years of service</li> <li>• Rule of 80—age 48 with age and service equaling 80 or more</li> </ul>	<ul style="list-style-type: none"> <li>• Age 62 with 5 years of service</li> <li>• Rule of 80—age 48 with age and service equaling 80 or more</li> </ul>	<ul style="list-style-type: none"> <li>• Age 67 with 5 years of service</li> <li>• Rule of 90—age 55 with age and service equaling 90 or more</li> </ul>
Uniformed Patrol Normal Retirement Eligibility	<ul style="list-style-type: none"> <li>• Age 55 with 5 years of service</li> <li>• Rule of 80—age 48 with age and service equaling 80 or more</li> <li>• Mandatory retirement at age 60</li> </ul>	<ul style="list-style-type: none"> <li>• Rule of 80—age 48 with age and service equaling 80 or more</li> <li>• Mandatory retirement at age 60</li> </ul>	<ul style="list-style-type: none"> <li>• Age 55 with 5 years of service</li> <li>• Mandatory retirement at age 60 (no minimum service)</li> </ul>
Base Benefit Formula	Service x 1.6% x Final Average Pay	Service x 1.7% x Final Average Pay	Service x 1.7% x Final Average Pay
Temporary Benefit Formula (payable until age 62)	Not available	Service x .08% x Final Average Pay	Service x .08% x Final Average Pay
Special Benefit Uniformed Patrol hired before 1/1/1995	\$90 per month until age 65 (stops any month gainfully employed)	Not available	Not available
Early Retirement Eligibility (reduced benefit)	<ul style="list-style-type: none"> <li>• Age 55 with 10 years of service Reduced .006 for each month younger than normal retirement</li> </ul>	<ul style="list-style-type: none"> <li>• Age 57 with 5 years of service Reduced .005 for each month younger than normal retirement</li> </ul>	<ul style="list-style-type: none"> <li>• Age 62 with 5 years of service Reduced .005 for each month younger than normal retirement</li> </ul>
Cost-of-Living Adjustment (COLA)  (maximum COLA rate is 5%)	<ul style="list-style-type: none"> <li>• <b>Employed before 8/28/97:</b> Minimum of 4% until total increases equal 65% of initial benefit—then it's 80% of the increase in the CPI-U</li> <li>• <b>Employed on or after 8/28/97:</b> 80% of the increase in the CPI-U</li> </ul>	80% of the increase in the CPI-U	80% of the increase in the CPI-U
BackDROP (must work at least two years beyond first normal retirement eligibility date)	Available	Available	Not available

	Long-Term Disability	Work-Related Disability
Benefit Amount	<ul style="list-style-type: none"> <li>• 60% of pre-disability salary (reduced by deductible income)</li> </ul>	Lesser of: <ul style="list-style-type: none"> <li>• 70% of pre-disability salary (<u>not offset</u> by deductible income)</li> <li>• 90% of pre-disability salary (<u>offset</u> by deductible income)</li> </ul>
Benefit Waiting Period	Later of: <ul style="list-style-type: none"> <li>• When sick leave runs out or</li> <li>• Member is disabled 180 days</li> </ul>	Later of: <ul style="list-style-type: none"> <li>• When sick leave expires or</li> <li>• Member reaches maximum medical improvement under Workers' Compensation</li> </ul>