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## *Correspondence Memorandum*

**Date:** July 30, 2024

**To:** Deferred Compensation Board

**From:** Shelly Schueller, Director  
 Wisconsin Deferred Compensation Program

Dan Hayes, Attorney  
 Office of Legal Services

**Subject:** Fiduciary Responsibilities Review

**This memo is for informational purposes only. No Board action is required.**

In 2018, at the Deferred Compensation Board’s (Board’s) request, staff initiated an annual review of the Board’s fiduciary responsibilities for the Wisconsin Deferred Compensation Program (WDC). The attached document has been updated for 2024 and provides selected examples of these requirements. The list of examples was developed based on a review of applicable sections of the Federal Internal Revenue Code, Wisconsin State Statutes, Wisconsin Administrative Code, the WDC Plan and Trust document, the Board’s Investment Policy Statement and information contained in the Board’s Governance Manual. It also includes items suggested as best practices by the National Association of Government Defined Contribution Administrators.

For 2024, The Department of Employee Trust Funds (ETF) reviewed and updated the attached document through the course of actions listed below:

- 1: A new Board member was appointed in March 2024.
- 2: The new Board member received fiduciary training in April 2024.
- 3: The new Board member received fiduciary training in April 2024.
- 4: The new Board member received fiduciary training in April 2024.
- 7c: An electronic participant survey was completed during the summer of 2024.
- 8: The Board completed a review of investment options, including expenses, at the December 2023 Board meeting.

*Patti Epstein*

Reviewed and approved by Patti Epstein, Chief Benefits Officer, Division of Benefits Administration  
 Electronically Signed 08/20/2024

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- 9: The Plan and Trust document was updated to reflect applicable provisions of SECURE 2.0 in December 2023 with an effective date of Jan. 1, 2024. Additional changes could be approved in September 2024 with a future effective date of Jan. 1, 2025.
- 10: The Board made changes to the Plan and Trust document to conform with certain applicable provisions of SECURE 2.0. Additional Plan and Trust document changes may be recommended as guidance is released for certain remaining SECURE 2.0 provisions that are applicable to s. 457 plans.
- 13: The Investment Policy Statement will be reviewed at the September 2024 Board meeting.
- 15: A review of the WDC's investment option lineup was completed at the Board's December 2023 meeting.
- 25: The calendar year 2023 contract compliance audit examined the performance standards in the third-party administrator (TPA) contract. ETF is examining the feasibility of changes recommended by audit, including potential contract amendments related to verification and the TPA providing documentation for certain performance standards. For reference, see the memo and audit report ([Ref. DC | 06.06.24 | 4](#)).
- 29: The calendar year 2023 contract compliance audit report states that the TPA (Empower) "was compliant with most of the administrative services contract requirements" in the scope of the audit. For reference, see the memo and audit report ([Ref. DC | 06.06.24 | 4](#)).
- 33: ETF completed a review of contract language and TPA managed account service training procedures during the summer of 2024 that confirms the TPA is abiding by fiduciary standards and not engaged in selling services to participants.

Fiduciary training is an important part of new Board members' orientation to the WDC; this training is also periodically conducted at meetings. As indicated in the attachment, the entire Board last received formal fiduciary training at the June 2017 meeting, and they also received training titled "Current Developments in Fiduciary Litigation" in December 2022. ETF's General Counsel, Diana Felsmann, is planning to provide formal fiduciary training in September 2024 ([Ref. DC | 09.12.24 | 5](#)).

In March 2024, the Board independently completed public records law basic training.

Fiduciary responsibility resources in the Governance Manual include:

- [Ethics and Fiduciary Duty: Who is a Fiduciary?](#)
- [Attorney General Opinion \(OAG-2-06\) on Board Member Liability](#)
- [Fiduciary Duty Overview](#)

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The Governance Manual is regularly updated and is accessible at <https://etf.wi.gov/boards/governance-manual/gm-table-contents/download?inline=>

Staff will be at the Board meeting to answer any questions.

Attachment A: [Selected Examples of WDC Fiduciary Responsibilities \(Fall 2024\)](#)