



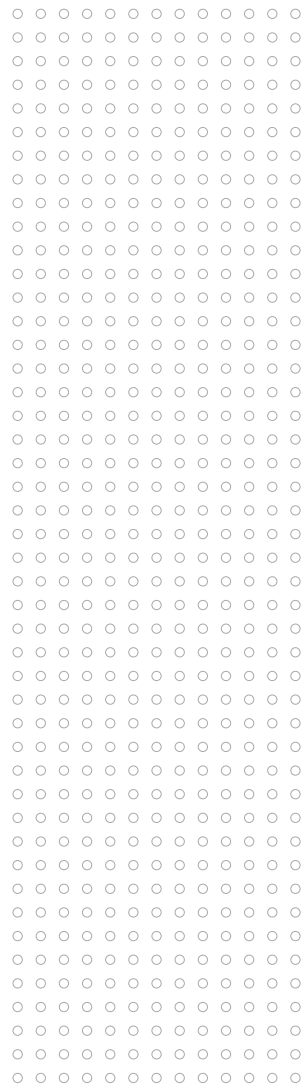
# Fiduciary Governance: A Map to Success

## Part 1

Companies that sponsor retirement plans, such as 401(k) plans, have responsibilities, both legal and practical, that, if properly fulfilled, can help their employees achieve financial security in retirement and that can reduce the risk of lawsuits and government investigations. The key words are “if properly fulfilled”.

Viewed realistically, it’s not reasonable to expect plan sponsors, without help, to know about the most recent laws and retirement developments, whether the fees for their investments and providers are too high, whether their service providers are receiving additional payments from the investments...as just a few examples of the faced made by plan fiduciaries. How can the officers and managers who service as fiduciaries—often as a plan committee—be confident that they have the right information and are making the right decisions? Fortunately, the law, ERISA, says that they don’t have to have that expertise, but where they don’t, fiduciaries have to hire knowledgeable advisors to help them make decisions that are informed, reasoned and prudent.

This article discusses how fiduciaries can fulfill their legal responsibilities and provides helpful tips on hiring an advisor who can help them do “well”—by avoiding legal problems, while doing “good”—by helping employees save for a secure retirement.



## Fiduciary Education

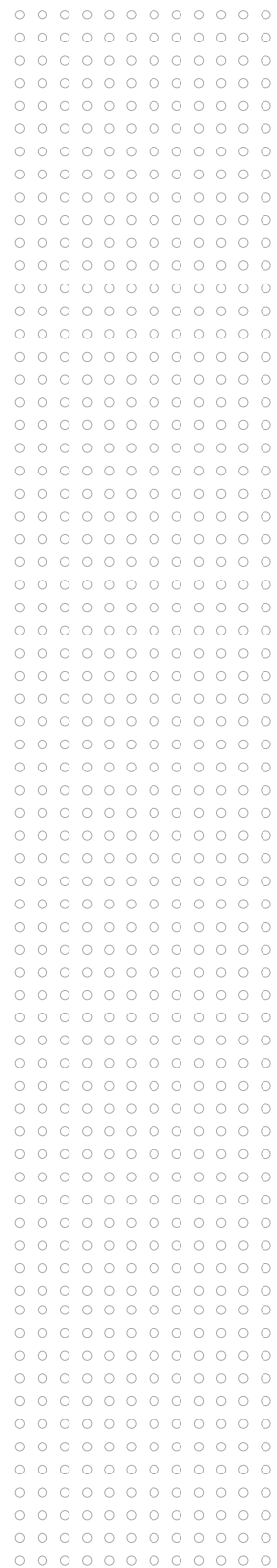
The first step for the officers and managers who make decisions about plan operations is to know that they are fiduciaries and to learn about their legal responsibilities. An experienced plan advisor can provide fiduciary education classes to the committee, starting with “You are a fiduciary and this is what that means.”

For example, retirement plan fiduciaries owe duties of prudence and loyalty to the employees who are participating in the plan. The prudent person rule requires that fiduciaries make informed and reasoned decisions about plan operations, investments and service providers. In order to do that, fiduciaries must engage in a process that is careful, skillful, diligent and prudent. That means that they must gather the information that a knowledgeable person would want to review before making the decision, to carefully study that information, to seek advice where needed, and then to make a thoughtful decision in the best interest of the participants.

That’s a lot. How can fiduciaries be confident that they have gathered the information about investments that a knowledgeable person would want to review? In most cases, the answer is that they cannot be. Where fiduciaries don’t know what information should be reviewed to make prudent and informed decisions, the courts say that they need to ask for help.

As a part of the fiduciary education, an advisor can go through the most important responsibilities that fiduciaries have...selecting and monitoring investments, selecting and monitoring the plan’s service providers, administering the plan, and making sure that all of the fees and costs are reasonable. Then the advisor can help the committee understand what is expected for fulfilling each of those responsibilities. For example, focused retirement plan advisors have access to benchmarking reports that calculate the fees that a plan is paying its recordkeeper, including revenue sharing payments from the plan’s investments, and then compare those to reasonable costs for recordkeepers for plans of the same size as yours. Equipped with that information, fiduciaries can make informed decisions about the reasonableness of the costs of their plan’s service providers. And, if the costs are too high, they can negotiate lower service provider fees or choose lower cost investments.

In addition, an experienced plan advisor can provide annual updates on the claims being made against fiduciaries in lawsuits, about the areas of focus in IRS audits and DOL investigations, and about recent changes in the laws and regulations concerning retirement plans.



# Hiring a plan advisor

The engagement of a plan advisor is one of the most important decisions that fiduciaries can make.

In addition to providing fiduciary education to committee members, an experienced advisor can help new plan committee members get up to speed on their responsibilities. For new members, the advisor could have individual meetings to educate them by going through the basics of their responsibilities, and also explaining the purpose and criteria in the plan's investment policy statement (IPS), as well as going through the most recent reports from the plan's service providers and the benchmarking reports on fees and expenses. In that way, new committee members can immediately participate in committee meetings in a knowledgeable manner.

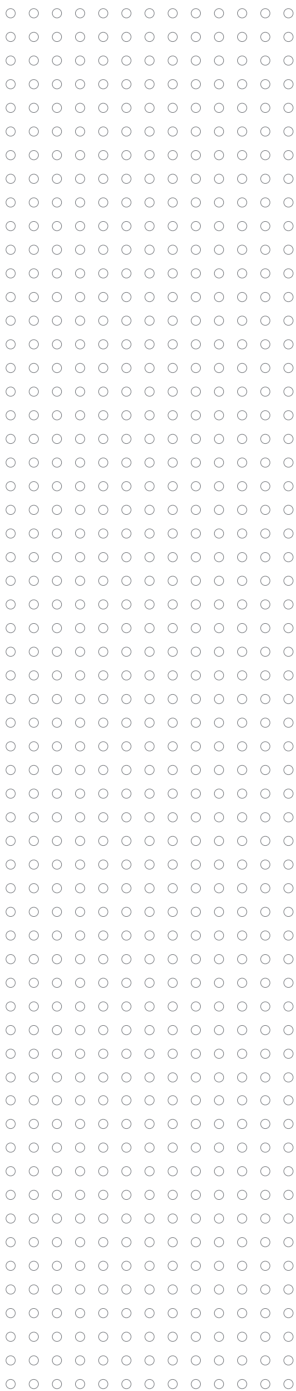
## Key questions to ask advisors

### ARE YOU A FIDUCIARY?

The officers and managers who act as a plan's fiduciaries are held to very high legal standards...the duties of prudence and loyalty. As a result, it is important to know that an advisor is held to the same standards. If they agree to be a fiduciary advisor, they will be. And they will say so in writing. If they don't agree, then they are held to lower standards and the legal requirements governing their advice will not be fully aligned with the committee's.

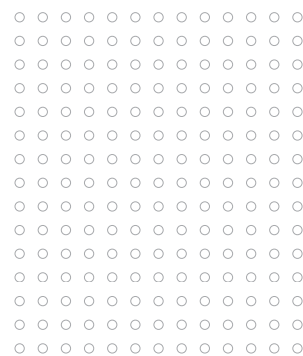
### DO YOU HAVE ANY CONFLICTS OF INTEREST?

Fiduciaries are expected to know about the conflicts of their advisors and service providers. Conversationally stated, a conflict of interest is the potential for a financial interest (e.g., a payment or other compensation) that an advisor or service provider has when they make a recommendation to fiduciaries. For example, it would be a conflict if an advisor recommended an investment that paid money to the advisor's firm or if the investment was managed by an affiliated firm. Once fiduciaries learn of a conflict, they have a duty of loyalty to manage the conflict so that the plan's participants are not hurt by the conflict. Obviously, it is less of a problem if the advisor doesn't have any conflicts.



# Concluding Thoughts

The fiduciary “journey” can be a difficult one. It involves making decisions about unfamiliar issues, understanding different terminology and concepts, deciding what information a knowledgeable person would want to have, and on and on. Fortunately, fiduciaries are not expected to be experts on all those matters; instead, they can engage knowledgeable advisors who can provide the needed expertise and be a guide on the journey. In that case, the idea is that fiduciaries will “know that they don’t know” and will get the help to do it right.



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