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DEFERRED COMPENSATION PLAN BOARD REPORT 06-14



Date: April 5, 2006

To: Board of Deferred Compensation Administration

From: Staff on Behalf of Plan Governance Task Force

Subject: Recommendations for Governance on the Board of Deferred Compensation Administration

Recommendation:

That the Board of Deferred Compensation Administration consider the recommendations of the Plan Governance Task Force for restructuring governance on the Board of Deferred Compensation Administration.

Discussion:

Staff is writing this report on behalf of the Plan Governance Task Force, a group of volunteer Plan participants asked by the Board to develop recommendations for improving the governance structure of the Board of Deferred Compensation Administration. The Task Force was established by the Board in response to the findings of the City Administrative Office (CAO) relative to the Board's canceled January 2004 Request for Proposal (RFP) for Plan administrative services.

One of the recommendations included within the CAO report was that the retired participant representative on the Board be elected by retired participants as opposed to being appointed by the Board. The Board asked the Plan Governance Task Force to look at this issue as well as undertake a broader analysis of the governance of the Board as a whole.

The Plan Governance Task Force met several times from June 2005 through February 2006 to consider and discuss various alternative approaches for structuring the governance of the Board. As part of its research, it requested that staff conduct research on the governance structures of a number of other state or local-government sponsored 457 plans. The results of that research are provided as attachments to this report.

The Task Force began its work by identifying the key constituencies that the Board, under its current structure, has attempted to represent. These constituencies include the following:

- The City of Los Angeles as Plan Sponsor
- Active Civilian Participants
- Active Sworn Police & Fire Participants
- Active DWP Participants
- Employee Labor Organizations
- Retired Participants (Civilian, Sworn & DWP)

The Task Force then examined the current Board structure in the context of these constituencies to determine how effectively each was represented by the current position, with a particular focus on addressing participant concerns expressed during the controversies associated with the 2004 Request for Proposal for Plan Administration. The Task Force then defined the following objectives to frame its recommendations:

- I. Create greater accountability of the Board to the membership of the Plan; and
- II. Identify optimal representation for each constituent group.

I. Accountability - Under the current governance structure, the Task Force determined that perhaps the most significant deficiency was the lack of direct accountability to the membership for any current Board position. None of the positions are directly elected, nor can they be removed, by Plan participants, as indicated in the following table:

Board Member	Constituency	How Held on Board	Directly Accountable to Participants?
General Manager Personnel Department	City as Plan Sponsor	By virtue of position	No
City Treasurer	City as Plan Sponsor	By virtue of position	No
LACERS Elected Representative	LACERS Employees	By virtue of position held w/LACERS	No
Pensions Elected Representative	Sworn Employees	By virtue of position held w/Pensions	No
DWP Retirement Board Elected Representative	DWP Employees	By virtue of position held w/DWP	No
Labor Representative	Represented Employees	Appointed by labor coalition	No
Retired Participant Representative	Retired Participants	Appointed by Board	No

One of the concerns expressed by Plan participants during the 2004 RFP controversy was that participants had no direct recourse with Board representatives. In reviewing alternatives for structuring the Board, the Task Force therefore looked at ways in which a greater level of accountability to the membership could be built into Board governance.

II. Optimal Representation - The Task Force next undertook a critical review of how the constituent groups it had identified could most logically and effectively be represented. The Task Force approached this from the perspective of “starting from scratch;” i.e., irrespective

of the history of the existing structure, it sought to identify an ideal means of representing the City's Plan participants.

As a result of its efforts, the Task Force developed the following recommended Board governance structure (with deleted positions indicated in strikethrough format), indicated below:

Board Member	Constituency	How Held on Board	Directly Accountable to Participants?
General Manager Personnel Department	City as Plan Sponsor & Staff Support for Plan	By virtue of position	No
City Treasurer	City as Plan Sponsor	By virtue of position	No
General Manager LACERS	City as Plan Sponsor	By virtue of position	No
General Manager Pensions	City as Plan Sponsor	By virtue of position	No
General Manager DWP	City as Plan Sponsor	By virtue of position	No
LACERS Elected Representative	LACERS Employees	By virtue of position held w/LACERS	No
Pensions Elected Representative	Sworn Employees	By virtue of position held w/Pensions	No
DWP Retirement Board Elected Representative	DWP Employees	By virtue of position held w/DWP	No
Active LACERS Member/DCP Participant	Active LACERS Employees	Elected by active LACERS DCP Participants	Yes
Active Pensions Member/DCP Participant	Active Sworn Employees	Elected by active Sworn DCP Participants	Yes
Active DWP Member/DCP Participant	Active DWP Employees	Elected by active DWP DCP Participants	Yes
Labor Representative	Represented Employees	Appointed by labor coalition	No
Retired Participant Representative	Retired Participants	Elected by retired Plan participants	Yes

This report will next address this recommended new structure by reviewing what the Task Force has defined as the primary discrete interests appropriately represented on the Board: the City as Plan Sponsor; the Active Civilian, Sworn and DWP participant populations; Employee Labor organizations; and Retired Participants.

City as Plan Sponsor – The Task Force first determined that the City of Los Angeles in its role as Plan Sponsor appropriately represents a discrete interest on the Board, by virtue of the fact that the City of Los Angeles has ultimate fiduciary liability for the program. Looking first at the General Manager Personnel Department, the Task Force determined that this position needs to be maintained on the Board because the Personnel Department provides primary staff support to the Plan, those staff require operational oversight, and staff should be accountable both within and outside the Plan governance structure to Personnel Department management.

With respect to the City Treasurer position, the Task Force was aware that prior to 1995 the staff support provided to the Plan came from the City Treasurer's Office. Post-1995, the position was maintained on the Board in part to maintain continuity in the transition of staff

support (originally the Treasurer's Office continued to perform some reconciliation functions for the Plan), and in part to continue to represent the City's interests as Plan sponsor.

After discussion and analysis of various alternatives, the Task Force determined that a more effective representation of the City's Plan Sponsor interests would come from replacing the Treasurer's position with the General Managers of the City's three retirement/pension systems. The General Managers were determined to be a more logical fit in this role because (1) they can represent the City Plan Sponsor interests from the vantage point of their own fiduciary roles in a directly related field, and (2) their presence on the Board would add the potential for creating greater synergy between the City's defined benefit and defined contribution plans in retirement planning, education and communications.

Active Civilian/Sworn/DWP Participants – Under the current Board structure, the Civilian, Sworn and DWP populations are represented by elected positions from the boards of each of the City's three primary retirement/pension plans. Although these positions are elected by the membership of those retirement/pension plans, they are not directly accountable to participants in the Deferred Compensation Plan because Plan participants do not directly elect them.

The Task Force believed that direct election of these positions to the Board by Plan participants would be the most effective means of providing for direct accountability. Further, the Task Force believed that the elections should not be held "at large," but rather held within each respective constituent group (e.g. the Active Civilian representative would be elected by Active Civilian Plan participants/members of LACERS).

Finally, the Task Force believed that it should be a requirement that any individual serving in these positions be a participant in the Plan. Currently there is no requirement that the retirement system representatives be Plan participants.

Employee Labor Organizations – The Task Force is recommending that this position be maintained on the Board. The Task Force believes the position represents an important constituency and plays an important role in providing a liaison to the leadership of labor organizations which may from time to time wish to take positions on matters affecting the terms and conditions of participation in the Plan. The Task Force did believe, however, that the Labor representative should be required to be (1) a participant in the Plan; (2) an active City employee; and (3) certified bi-annually by the coalition of recognized employee organizations in order to maintain his/her position on the Board.

Retired Participants Representative – The Task Force is recommending that this position be maintained on the Board. The Task Force believes that it represents an important constituency with unique concerns within the Plan. The Task Force did believe, however, that the Retired representative should be directly elected by the retired participant population, as opposed to the current status whereby the Board appoints this position.

Elections and Terms – The Task Force recommends that the terms of the elected positions be for two years, and that that elections be staggered such that each year an election would

be held for two of the positions. As a result, depending on the timing of any potential implementation, the initial terms for some of the positions might be for three years.

In addition, the Task Force considered term limits but ultimately determined that they not be applied to any of the elected positions on the Board. The Task Force found that Plan participants should have the ability to maintain continuity in leadership and retain experienced Board members should majorities wish to do so, and that this would help to balance out some of the potential disruption arising from frequent elections.

The Task Force believed that, in the interest of not making the election structure overly complex, simple pluralities would be acceptable to win an election. This would avoid the need for runoff elections.

The Task Force has developed a draft of changes to the Administrative Code to reflect its proposed governance structure (attached). However, the Task Force believes that the Board may wish to consider drafting bylaws to provide further clarification to details related to any changes made to the governance structure. Task Force members have indicated they would be willing to provide assistance to the Board in helping to draft bylaws if the Board so wishes.

In addition, should the Board wish to pursue the Task Force recommendations, issues regarding the conduct of elections will likely require further clarification, since the potential complexities of holding elections are considerable.

On behalf of the Plan Governance Task Force:

Submitted by: _____
Steven Montagna

Approved by: _____
Maryanne Keehn

Deferred Compensation Plan Governance Survey

Purpose:

The City of Los Angeles, Deferred Compensation Board of Administration (“City”) is exploring possibilities for improving upon the governance structure of our Plan. The survey is intended to provide information to identify what constituencies/interests the governance structure was intended to serve and common practices to develop for decision-making. This survey looked at seven Plans across the nation. Survey findings are categorized into four areas of concentration: (1) Governing Body; (2) Plan Operation; (3) Plan Documentation; and (4) Transparency & Communication.

Figure 1: Governing Body Structure

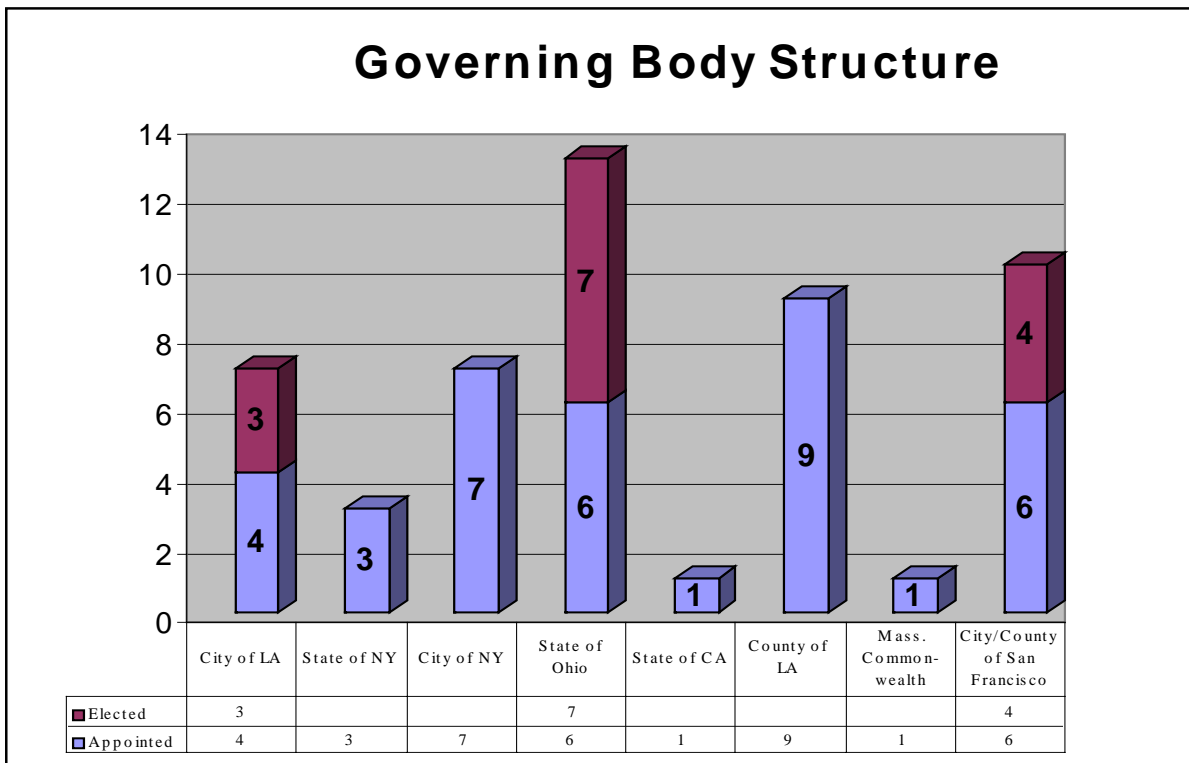


Figure 1: Besides the City of Los Angeles Deferred Compensation Plan, five of the seven Plans surveyed indicated they have an all appointed membership in their governing board. Two of the five Plans with an all appointed membership have only one fiduciary. The average governing body membership, including the City, is 8 individuals. In addition, the survey findings indicate 100% of the Plans surveyed, including the City, do not have alternate trustees and one of seven Plans have Union Member and/or Retirement System representation as part of their governance structure (See Appendix A).

Figure 2: Plan Operation & Staffing

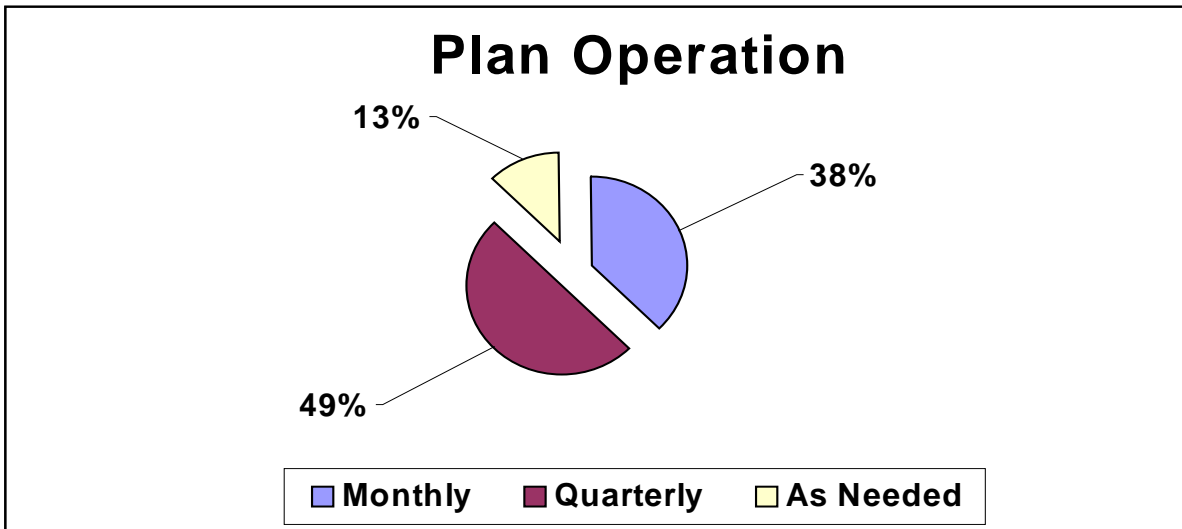
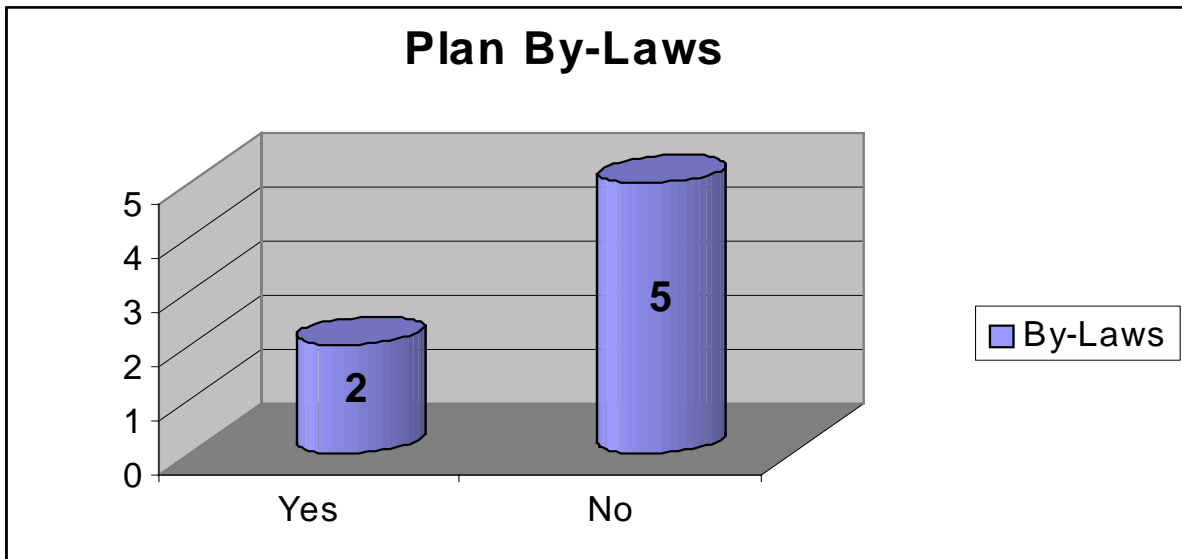


Figure 2: Illustrates that almost half, including the City, of the governing bodies meet on a quarterly basis and over one-third meet on a monthly basis. Although one of seven Plans surveyed indicated they meet on an as-needed basis, the historical meeting frequency for that particular Plan tends to be monthly.

In addition, all Plans surveyed indicated they have full-time and/or part-time staff to assist in the administration, operation, and/or management of the Plan.

Figure 3: Plan Documentation (Plan By-Laws)



Besides the Plan Document, Figure 3 illustrates two of the seven Plans surveyed have written By-Laws, which include Board Rules & Regulations, County/State Codes, Code of Ethics, Charter Language, and/or Specific Plan Descriptions. One of the five Plans that do not have written By-Laws indicated they have written Board Rules and Regulations and a Mission Statement and are actively working towards developing By-Laws. The City of Los Angeles Deferred Compensation Plan currently does not have written By-Laws.

Figure 4: Plan Documentation (Removal Policy)

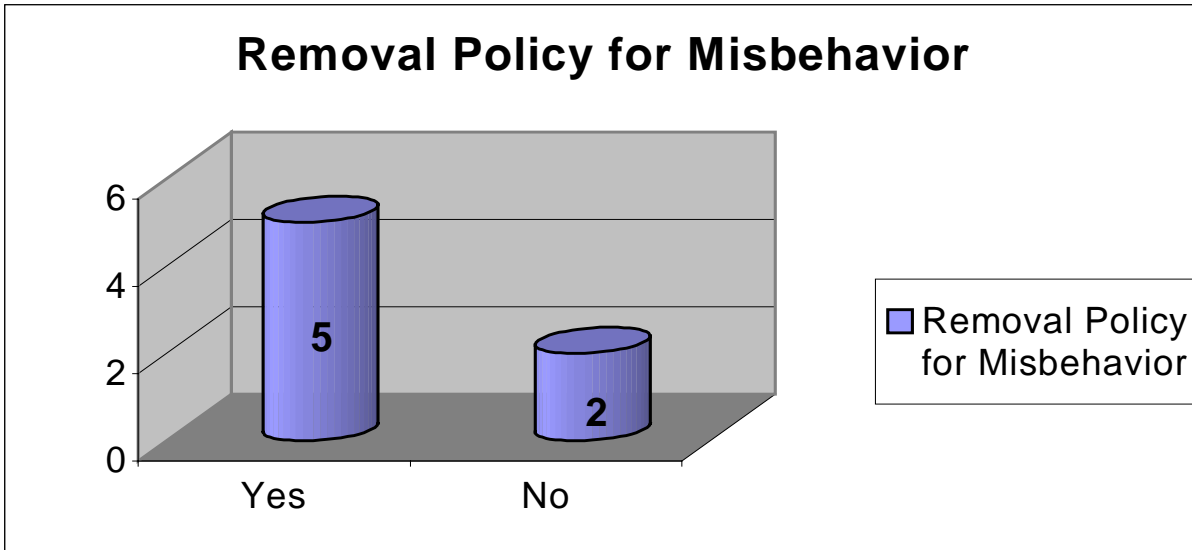


Figure 4: Over 70% of the Plans surveyed rely on State Ethics Laws, Governance Standing Committees, or Plan Code of Ethics to remove a trustee (Board Member) for misbehavior. Two of the five Plans that have a removal policy for misbehavior have either incorporated an Ethics Policy or indicated the option to remove a trustee by the appointer.

Figure 5: Transparency & Communication

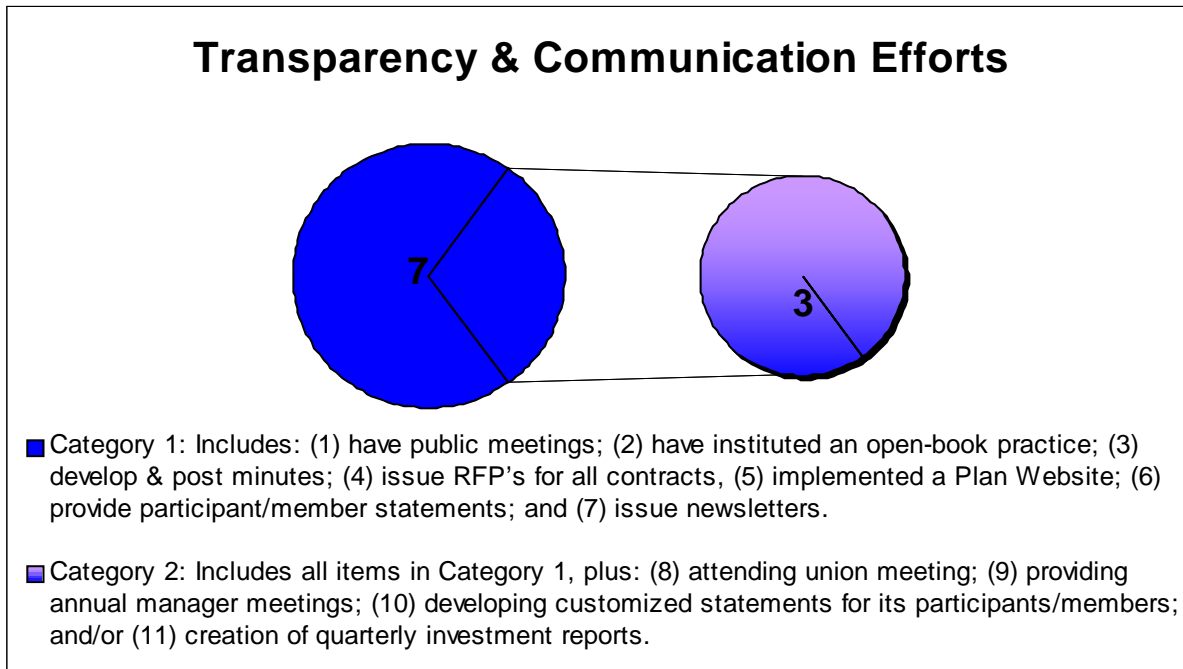


Figure 5: Illustrates that 100% or seven of the seven Plans surveyed, indicated they fully disclose and have implemented practices to create transparent decision making of its governing body. In addition, Category 1 captures the methods used by all Plans for Plan decision-making transparency and communication to its Plan participants. Category 2 illustrates that a more than one in three Plans indicated they have additional methods (practices) to make the governing body decision making more transparent and increase communication to Plan participants.

Appendix A: Plan Governance Survey Matrix

Questions:	City of LA	State of NY	City of NY	State of Ohio	State of CA - Savings Plus Program	County of LA	Mass Commonwealth	City/County of San Fran
What body governs the plan?	Board of Trustees	Board of Trustees	Board of Trustees	Board of Trustees	Sole Fiduciary	Board of Trustees	Sole Fiduciary	Advisory Committee
Please state number of individuals who serve on the governing board?	7	3	7	13	1	9	1	7
Please types of individuals who serve on the governing body. Are they elected, appointed, ex-officio (serve by virtue of the office they hold), representatives of employee groups, representatives of employers, etc.?	Appointed by: Mayor, Gen.Mgr: Personnel Mayor, City Treasurer Retired Member Rep. Labor Rep.	Appointed By: Governors Office Senate Office Speaker of Assemble Office	Appointed (Agency Heads): --By--Mayors Office Office of Controllers Office of Law Office of Finance Admin. Services- Personnel Office of Labor Relations Office of Management Budget	Appointed By: Senate Office House of Representativ es Director of Housing Invstmt Expert- Governor Invstmt Expert - House of Rep Invstmt Expert - State Treasurer	Appointed (Agency Head): Executive Director - Dept of Personnel Administration	Appointed (Agency Heads): Chief Administrator Auditor/Controlle r Treasurer/Tax Collector Director of Personnel (2) County Labor Rep's. (2) Local 660 Union Rep's --By-- Board of Supervisors	Appointed: State Employee (Executive Director)	Appointed By: Retirement Board (4) Board of Supervisors Office Mayor Office
	Elected: System DWP	Civilian Retirement Sworn Retirement System Retirement System	Elected: Employee Rep Employee Rep.	Municipal Employee Rep. College/Univ. Rep. County Rep.	Misc. State (2) Retired Member Rep's.	Elected: 3 Retirement Board Rep's Member At Large		
Are there alternate trustees?	No	No	No	No	No	No	No	No
Besides the Plan Document, does the plan have by-laws?	No	No, but has Board Rules & Regulations	No	Yes, includes Board Rules & Regulations, Ethics, & Charter Language	No	Yes, includes Board Rules, County Codes, and Specific Plan Description	No	No
Does the plan have a written strategic plan?	No	No, but has Mission Statement & Investment Guides	Yes	Yes, updated annually and provides annual focus retreat	Yes	No	No	No

Is there a policy for removal of a trustee for misbehavior? If so, please describe.	No	Yes, based on State Ethics Laws & Removal by Appointer	No	Yes, based on State Ethics Laws and Plan Code of Ethics	Yes	No	Yes	Yes, per Governance Committee
Can a trustee be recalled?	No	N/A	N/A	Not sure if PERS Reps can be recalled?	N/A	N/A	N/A	No
Do the trustees oversee the 457 Plan only? If no, please state other Plan(s) type(s).	Pension Savings Plan	Yes	401K	5 other pension plans	401(a) & 401(k)	two 401(k)'s, hire plan, and Pension Savings Plan	over 600 plans	Pension Savings Plan
How often does the body meet?	Monthly	Quarterly	Monthly	Monthly	As Needed	Quarterly	Quarterly	Quarterly
Is there a staff that reports directly to the governing body?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
What steps does the plan take to ensure a transparent decision making to its members/participants?	Public Meetings, Open Books, Meeting Minutes, RFP's for Contracts, Website, Stmts., & Newsletter	Public Meetings, Open Books, Meeting Minutes, RFP's for Contracts, Website, Stmts., & Newsletter	Public Meetings, Open Books, Meeting Minutes, RFP's for Contracts, Website, Stmts., Union Meetings, Newsletter, Seminars, & Annual Mgr. Meeting	Public Meetings, Open Books, Minute Meetings, RFP's for Contracts, Website, Customized Stmts., Newsletter, & Seminars	Public Meetings, Open Books, Meeting Minutes, RFP's for Contracts, Website, Stmts., Newsletter, & Seminars	Public Meetings, Open Books, Meeting Minutes, RFP's for Contracts, Website, Stmts., Newsletter, Seminars, & Quarterly Investment Reports	Public Meetings, Open Books, Meeting Minutes, RFP's for Contracts, Website, Stmts., Newsletter, & Seminars	Public Meetings, Open Books, Meeting Minutes, RFP's for Contracts, Website, Stmts., Newsletter, & Seminars
Does the body use outside consultants?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

DCP's with Board of Trustees					
	Total Board Count	Appointed	How Appointed?	Elected	How Elected?
DenverWater	5				
Tucson, Arizona	5	3	Agency Heads	2	Plan Participants At Large
City of Pasadena	5	2	City Council	3	Plan Participants At Large
OA.MO.gov	5	3	Governor	2	House & Senate
State of Texas	6	3	?	3	?
City of Milwaukee	9	6	Agency Heads	3	Office of Comptrollers, Police & Fire
City of Dallas	7	4	City Manager	3	Plan Participants At Large
State of Florida	7	7	?	-	
State of MS	10	2	Governor & State Treasurer	8	(2) Retiree Rep, County Employees, Municipal Employees, Public Schools & Colleges, (2) State Employees
State of Nevada	5	5			
State of Colorado	9	5		4	(3) Plan Participants at Large, Retiree Rep
City of San Jose	7	2	City Manager	5	Labor Reps
Total (12 from Above)	80.00	42.00		33.00	
Average	6.67	3.82		3.67	
	7	(4 Roughly)		(3 Roughly)	