

# *Fiduciary Duties*

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# *Howard County Retirement Plan*

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- ❑ *a contributory defined benefit plan*
- ❑ *established July 1, 1995*
- ❑ *covers 2,742 participants (1803 active)*
- ❑ *different benefits and contributions for **corrections and general employees***

# *Contributions*

- ❑ *Corrections = 8.5% (pre-tax pickup)*
- ❑ *General = 3% (pre-tax pickup)*
- ❑ *County = 11.5% (for FY 2019)*

*The County's contribution will vary as necessary to fund the Plan.*

# *Howard County Police and Fire Employees Retirement Plan*

- a contributory defined benefit plan*
- established July 1, 1989*
- covers 1296 participants (830 active)*
- different contributions and benefits for police officers and firefighters*

# *Contributions*

- *Police = 11.6% (pre-tax pickup)*
- *Firefighters = 7.7% (pre-tax pickup)*
- *County = 32.5% (for FY2019)*

*The County's contribution will vary as necessary to fund the Plan.*

# *Key Financial Information*

- ❑ *Combined assets of \$991 million as of December 31, 2017*
- ❑ *Employees Plan was 95.2% funded as of July 1, 2017 (GASB)*
- ❑ *Police and Fire Plan was 82.6% funded as of July 1, 2017 (GASB)*

# *Who is a Fiduciary?*

*A person is a fiduciary to the extent he:*

- gives investment advice for a fee*
- exercises discretionary authority or control over the Plan or its assets*
- has discretionary authority over Plan administration*

# *Plan Fiduciaries*

- *County Executive*
- *Retirement Plan Committee*
- *Coordinator*
- *Trustee (State Street)*
- *Traditional Investment Managers*
- *Investment Consultant (Summit)*
- *Disability Review Board*

# *Plan Advisors*

- *Counsel - Whiteford, Taylor & Preston*
- *Actuary – Bolton Partners, Inc.*
- *Accountants - Reznick Group*
- *Pension Oversight Commission*
- *Hedge fund, private equity and real estate managers*

# *Governing Law*

- *As a governmental plan, plan is not subject to the Employee Retirement Income Security Act of 1974 (“ERISA”)*
- *Maryland law sets forth fiduciary standards that apply to the trustees of a public pension plan – identical to ERISA standards*

# *Fiduciary Responsibility*

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- *administer the Plan in compliance with the Plan document*
- *duty of loyalty*

# *Duty of Loyalty*

- *to act solely in the interests of the Plan's participants and beneficiaries*
- *to act for the exclusive purpose of*
  - *providing benefits to participants*
  - *paying reasonable expenses*

# *Duty of Loyalty*

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- *Loyalty for fiduciaries appointed to represent either the County or an employee group*
  - *Wearing your “fiduciary hat”*
  - *Confidentiality issues*

# *Fiduciary Responsibility*

- *administer the Plan in compliance with the Plan document*
- *duty of loyalty*
- *prudent investor rule*

# *Prudent Investor Rule*

- *to act as would a prudent person*
  - *acting in a like capacity*
  - *familiar with such matters*
- *“ . . . a pure heart and an empty head are not enough ”*

# *Fiduciary Responsibility*

- ❑ *administer the Plan in compliance with the Plan document*
- ❑ *duty of loyalty*
- ❑ *prudent investor rule*
- ❑ ***diversify investments***

# *Diversification*

- *The investment policy statement (IPS) establishes target allocations and ranges*
- *Failure to comply with the target allocations and ranges in the IPS is a warning signal*

# *Fiduciary Responsibility*

- ❑ *administer the Plan in compliance with the Plan document*
- ❑ *duty of loyalty*
- ❑ *prudent investor rule*
- ❑ *diversify investments*
- ❑ *avoid prohibited transactions*

# *Prohibited Transactions*

- ❑ using assets for the fiduciary's own interest or account
- ❑ acting for a person whose interests are adverse to the plan or its participants
- ❑ receiving consideration in connection with a transaction involving plan assets

# *Conflicts of Interest*

- *Make full disclosure of any potential conflict of interest.*
- *If someone offers you something in exchange for your vote, alarms should go off.*

# *Recusal*

- *If the vote concerns a benefit for a small number of plan participants (including you), you should recuse yourself.*
  - *Don't participate in the discussion.*
  - *Don't vote on the issue.*
  - *Make sure the minutes reflect your absence.*

# *Remedies and Penalties*

- *loss of tax exemption*
  
- *civil liability*
  - *personal liability for losses*
  - *removal from fiduciary position*
  - *disgorge profits*

# *Criminal Penalties*

- *San Diego PERS*
  - *mail fraud, wire fraud*
  - *theft of honest services*
- *Maryland State Retirement Systems*
  - *Chapman indictment*
  - *Involvement of a Trustee*

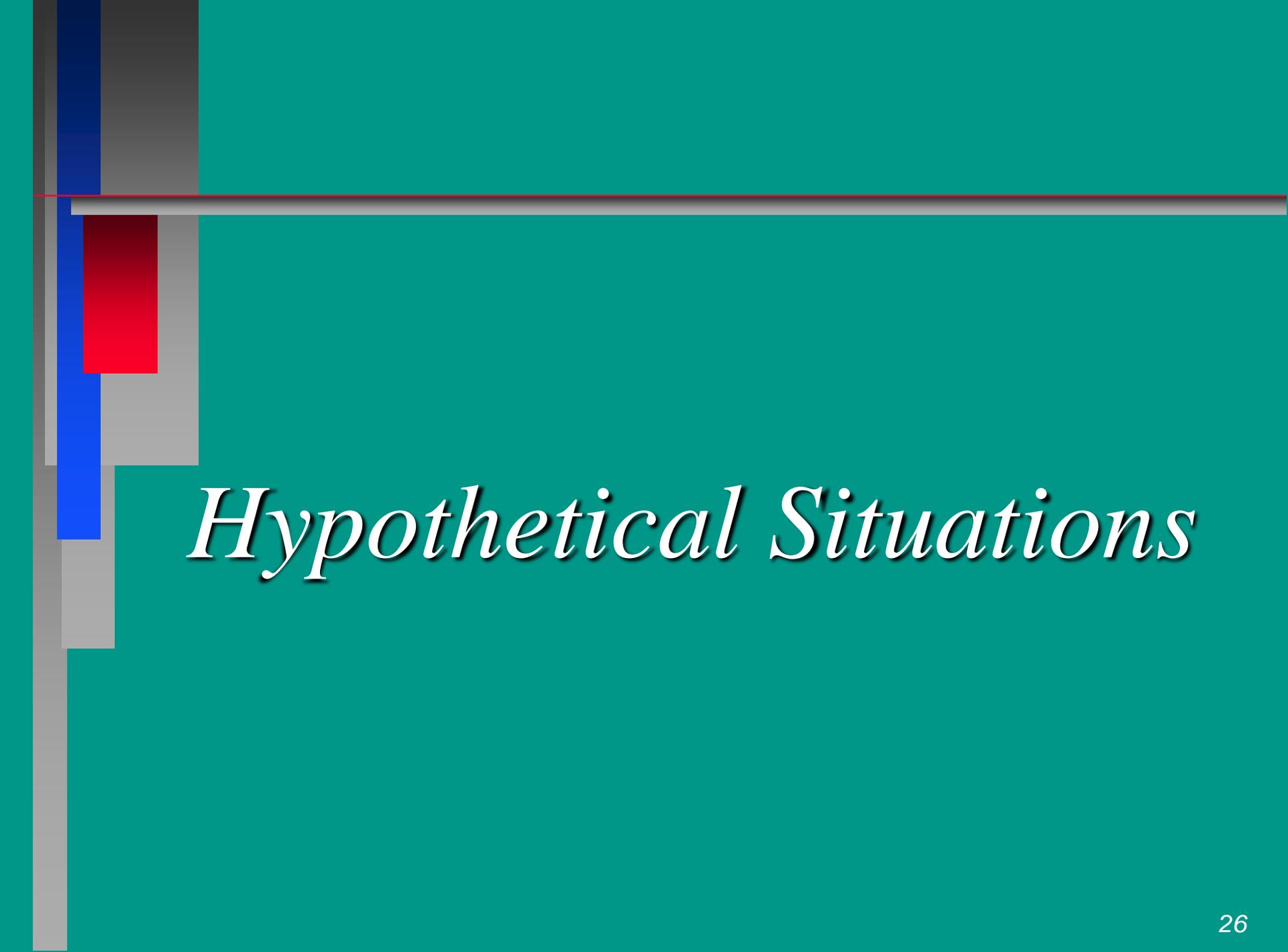
# *Criminal Penalties*

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- New York State - \$125 billion fund.
  - State's comptroller steered pension fund investments to a money manager who had contributed to his campaign
  - Guilty plea to a felony

# *Prevention of Liability*

- allocate responsibility*
- obtain fiduciary insurance*
- get indemnity from the County and the Plan*
- select competent advisors*
- education*



# *Hypothetical Situations*