



# Investment & Fiduciary Oversight

## Defined Contribution & Pension Plans

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# Speaker



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# Ask The Audience #1

How many of you work with a:

- A. 457(b) plan
- B. 401(a) plan
- C. Pension plan
- D. I have no idea
- E. All of the above



# Florida Public Sector Landscape

- 457(b)
- 401(a)
- Pension
- Florida Retirement System



# Areas Of Potential Fiduciary Risk

## Defined Contribution (457b / 401a)

- Retaining underperforming funds
- Proprietary investment options
- Expensive share classes
- Having multiple recordkeepers or too many investment options
- Failing to monitor recordkeepers [revenue sharing, services, and fees]
- Not conducting competitive bidding process for recordkeeping services
- No formal plan governance process or documentation

This information should not be construed as exhaustive or guaranteed. They are provided for informational purposes only and not intended as investment advice or formal recommendations.



# Areas Of Potential Fiduciary Risk

## Defined Benefit (Pension)

- Florida Statutes Chapter 112
- Local pension board ordinance and trust agreements
- Common law fiduciary standards
- Investment policy statements
- Follow Plan documents
- Duty of loyalty and prudence
- Ongoing monitoring of performance and fees

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# Guiding Principles

The **Employee Retirement Income Security Act** (ERISA) established a set of federal regulations with the primary purpose of protecting participants and beneficiaries.

The **Uniform Prudent Investor Act** (UPIA) created rules for the actions of trustees with respect to the management and investment of trusts. Adopted in whole or in part by most of the States.

## **State of Florida Statutes**

- 518.11– Fiduciary definition (modifications to UPIA)
- 112.656 – Fiduciary duties
- 112.661 – Investment policies



# Ask The Audience #2

Are you a plan fiduciary?

- A. Yes
- B. No
- C. I don't know
- D. I plead the fifth
- E. I can't handle the truth



# Are You A Plan Fiduciary?

## Do you...

- ✓ Have any discretionary authority or responsibility in the administration of the plan?
- ✓ Exercise any authority or control over the management or disposition of plan assets?
- ✓ Render investment advice to the plan and/or its participants for a fee or other compensation, whether direct or indirect?

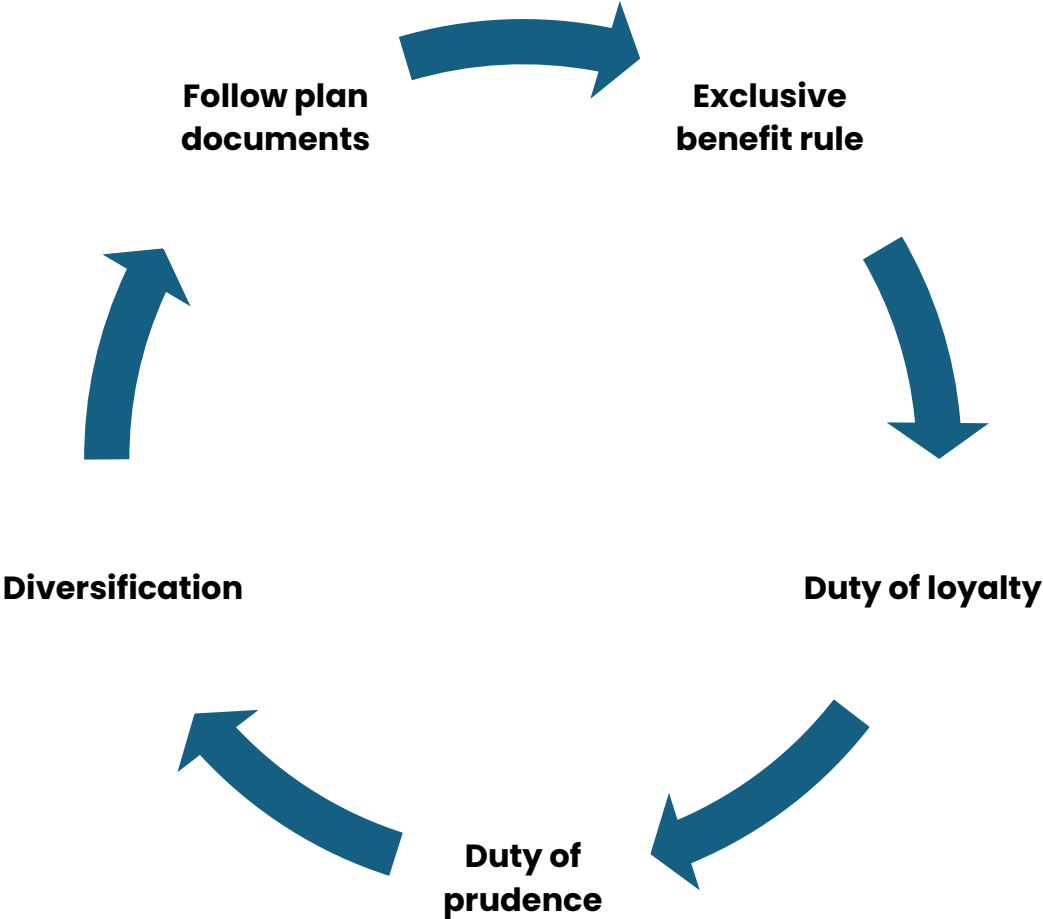
## Or do you...

- ✗ perform certain ministerial administrative functions within a framework of the plan's policies, practices and procedures?

**Fiduciary status is based on responsibilities, not job title.**



# The Fiduciary Mindset



# Roles & Responsibilities

- Committee / Board
- Advisor / Consultant
- Custodian / Trustee
- Recordkeeper
- Finance / HR Staff



# Public Pension Oversight

- State
- Municipality
- Plan specific



# Choice Paradox

- Default fund
- Core building blocks
- Specialty options
- Guardrails

**cheesecakes**

ORIGINAL  
*The One that Started it All!*  
Our Famous Creamy Cheesecake with a Graham Cracker Crust and Sour Cream Topping.

FRESH STRAWBERRY  
The Original Topped with Glisted Fresh Strawberries. Our Most Popular Flavor for 29 Years!

WHITE CHOCOLATE RASPBERRY TRUFFLE  
Creamy Cheesecake Swirled with White Chocolate and Raspberry.

GODIVA® CHOCOLATE CHEESECAKE  
Layers of Flavorful Godiva Chocolate Cake, Godiva Cream, and Raspberry.

TRES LECHES CHEESECAKE  
The Famous Latin Dessert - Cheesecake Style. With Fresh Cream and Delicacies with a Graham-Walnut Crust.

LOW CARB ORIGINAL CHEESECAKE  
Creamy and Delicious with a Graham-Walnut Crust.

FRESH BANANA CREAM CHEESECAKE  
Banana Cream Cheesecake Topped with Bavarian Cream.

ADAM'S PEANUT BUTTER CHEESECAKE  
Creamy Cheesecake Swirled with Caramel, Peanut Butter, and Cream.

WHITE CHOCOLATE CARAMEL CHEESECAKE  
White Chocolate, Espresso and Caramel Swirled.

LEMON RASPBERRY CREAM CHEESECAKE  
Raspberry-Vanilla Cake, Creamy Lemon Cheesecake, and Cream.

DULCE DE LECHE CARAMEL CHEESECAKE  
Caramel Cheesecake Topped with Caramel Sauce.

CHOCOLATE COCONUT CHEESECAKE  
Coconut Cheesecake Topped with Coconut Cream Curls.

TIRAMISU CHEESECAKE  
Our Wonderful Cheesecake and Tiramisu Curls.

CHOCOLATE MOUSSE CHEESECAKE  
Silky Chocolate Cheesecake Topped with a Layer of Mousse.

VANILLA BEAN CHEESECAKE  
Layers of Creamy Vanilla Bean Cheesecake, Vanilla Cheesecake, and Cream.

CHOCOLATE TUXEDO CHEESECAKE  
Layers of Our Fudge Cake, Chocolate Cheesecake, and Cream.

WHITE CHOCOLATE PEANUT BUTTER CHEESECAKE  
White Chocolate Peanut Butter Cheesecake Swirled with Cream.

KAHILA® COCOA COFFEE CHEESECAKE  
Layers of Rich Biscuits, Kahila Cheesecake, Creamy Chocolate Cheesecake, and Cream.

CHOCOLATE OREO® MUDSLURRY CHEESECAKE  
Chocolate Cheesecake Swirled with Oreo Cheesecake and Cream.

DUTCH APPLE CARAMEL CHEESECAKE  
Layers of Rich Chocolate Cake and Fudge Frosting.

**cheesecakes and desserts**

KEY LIME CHEESECAKE  
Key Lime Pie in a Cheesecake! Deliciously Tart and Creamy on a Vanilla Crumb Crust.

CARMEL PECAN TURTLE CHEESECAKE  
Caramel Fudge Swirl Cheesecake, Topped with Caramel Torte Pecans and Chocolate Sauce.

PEANUT BUTTER COOKIE-DOUGH CHEESECAKE  
Cookie Dough Loaded with Peanut Butter Cookie-Dough and Topped with Chocolate Sauce.

CHOCOLATE RASPBERRY TRUFFLE CHEESECAKE  
Chocolate-Raspberry Swirl Cheesecake, Chocolate Mousse and Chocolate Ganache.

SNICKERS® BAR CHUNKS AND CHEESECAKE  
Snickers Bar Bits right into Our Creamy Cheesecake and Topped with Fudge and Caramel.

CRAIG'S CRAZY CARROT CAKE CHEESECAKE  
Cheesecake Swirled Together. Topped with Cream Cheese Icing and Roasted Almonds.

OREO® CHEESECAKE  
Lots of Oreo Baked into Our Creamy Cheesecake.

CHERRY CHEESECAKE  
A Classic! The Original Topped with Cherry Preserves.

PUMPKIN & PUMPKIN PECAN CHEESECAKE  
World Famous! Available from Mid-October.

A La Mode 1.50 Extra with Hot Fudge 1.50 Extra

**SPECIALTY DESSERTS**

LINDA'S FUDGE CAKE 6.95  
Layers of Rich Chocolate Cake and Fudge Frosting.

CARROT CAKE 6.95  
Deliciously Moist Layers of Carrot Cake and Cream Cheese Icing.

CHOCOLATE TOWER TRUFFLE CAKE™ 7.50  
Layers and Layers of Fudge Cake with Chocolate Truffle Cream and Chocolate Mousse.

LEMONCELLO CREAM TORTE™ 6.95  
Layers of Vanilla Cake and Lemon Mascarpone Cream Topped with Strudel and Served with Strawberries and Whipped Cream.

TIRAMISU 6.95  
Italian Custard Made with Mascarpone, Whipped Cream, Lady Fingers, Marsala and Coffee Layers. Topped with Whipped Cream and Ground Chocolate.

FRESH STRAWBERRY SHORTCAKE 6.95  
Our Own Shortcake Topped with Vanilla Ice Cream, Fresh Strawberries and Whipped Cream.

CHRIS' OUTRAGEOUS CHOCOLATE CAKE™ 7.50  
A Cheesecake Factory Original - Layers of Moist Chocolate Cake, Cherry Biscuits, Toasted Coconut-Pecan Frosting and Creamy Chocolate Chip Coconut Cheesecake.

BOWL OF FRESH STRAWBERRIES 6.50  
Layers of Creamy Cheesecake, Fresh Strawberries, and Cream.

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# Ask The Audience #3

**Scenario 1:** Jane contributes \$1,000 annually from ages 21-31 and then stops.

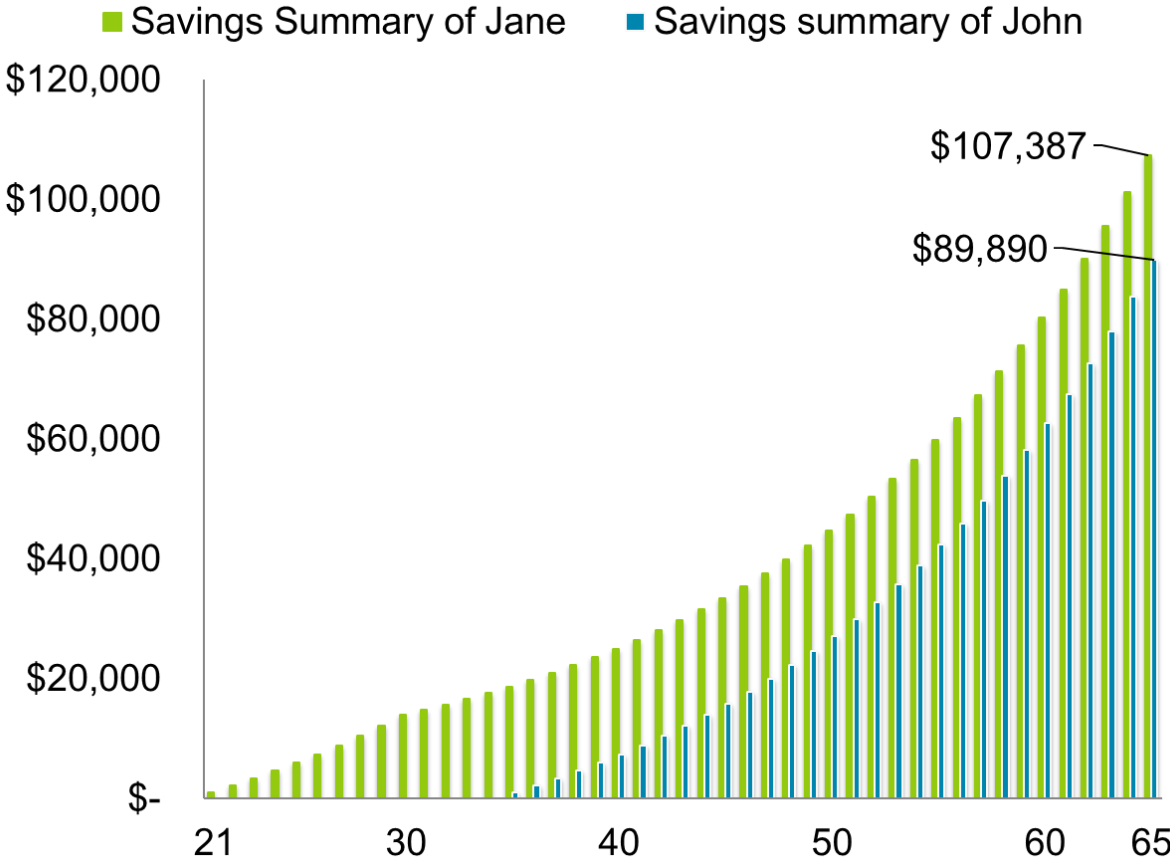
**Scenario 2:** John contributes \$1,000 annually from ages 35-65 and then stops.

**At age 65, who has more saved?**

- A. Jane
- B. John
- C. They saved the same amount



# Ask The Audience #3

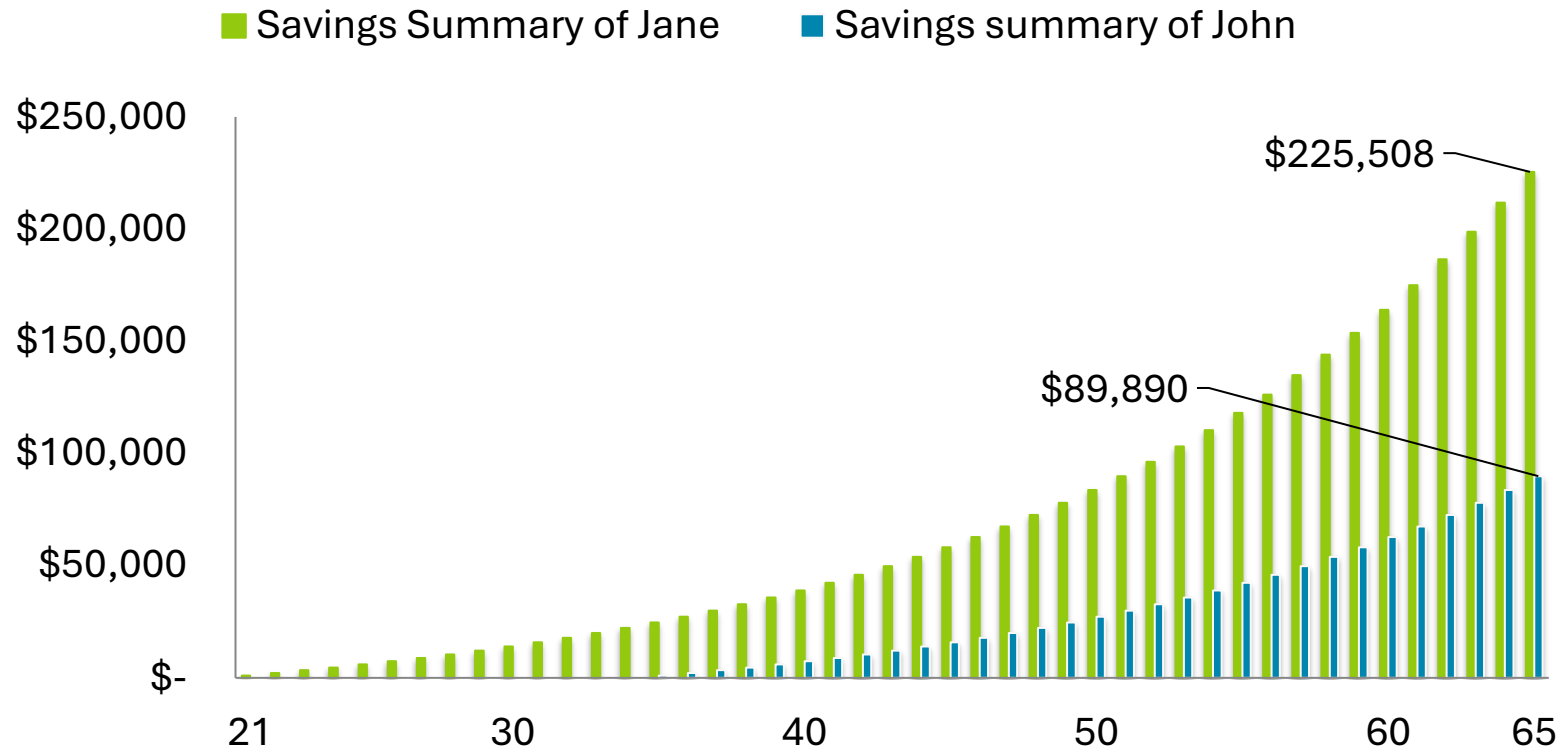


For illustrative purposes only. The above demonstrates a hypothetical scenario using 6% market returns, however actual results could differ materially.



# Ask The Audience #3

**Scenario 3:** Jane contributes \$1,000 annually from ages 21-65.



For illustrative purposes only. The above demonstrates a hypothetical scenario using 6% market returns, however actual results could differ materially.



# Investment Policy Statements

- Outlines the issues and criteria used in creating a prudent investment philosophy
- Documents the guidelines and standards used to choose and modify the plan's investments
- Provides objective criteria for removing a fund, which takes the emotion out of the decision
- Provides relevant, easy-to-understand information that is neither too general and meaningless nor too detailed and difficult to comprehend



# Investment Policy Statements (DB)

- Purpose, objectives, and delegated authority
- Manager structure, search criteria, and watch-list triggers
- Risk measures, reporting package, and review calendar
- Policy portfolio, ranges, and rebalancing rules
- Liquidity, private-market pacing, and cash-flow expectations



# Asset Allocation Does The Work

- The policy portfolio is the Board's biggest investment decision
- Return target
- Liquidity plan
- Risk budget
- Guardrails
- Manager structure and due diligence – control complexity before it controls you





**HORRIFYING**



**MORE HORRIFYING**

# DC Fee Oversight

- Investments
- Recordkeeping / administration
- Participant education
- Transactions
- Advisor / Consultant
- Consider all costs, not just expense ratios



# DB Fee Oversight

- Manager fees
- Advisor / OCIO
- Performance fees / carry
- Trading / custody / other



# Actuarial Assumptions & Oversight

- How does the expected return assumption connect to the actual portfolio risk budget?
- What changed in payroll, demographics, benefit design, or cash flows?
- What funded-status or contribution volatility scenario matters most right now?
- Where are we relying on smooth averages that hide near-term pressure?



# Considerations in DC Plan Evaluations

- When were the plan fees and services last benchmarked?
- Identify if any current plan restrictions might adversely impact process
- Outline goals and objectives for project
- Ensure all parties understand fiduciary responsibilities and agree with plan objectives
- Notify employees in advance of issuing the RFP – Communication is critical
- Invite employee union representation to be part of the review process
- Recognize the politics but remember there is still a fiduciary duty
- Understand the typical RFP process could take 6-12 months

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# DC Fiduciary Best Practices

- Develop plan objectives, governing plan documents and formal oversight
- Comply with ERISA 404(c) and other safe harbor provisions
- Hold regular committee meetings to review investments, fees, providers, & plan documents
- Consolidate to a single recordkeeper
- Limit number of core investment options
- Benchmark overall plan effectiveness
- Hire a fiduciary advisor to provide ongoing fiduciary education and review of investments, fees, and service providers

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# DC Fiduciary Check-up

## What is your Governance Process?

- ✓ How frequent does the Board/Committee meet?
- ✓ When was the last time you did an RFP for your recordkeeper and other service providers?
- ✓ Do you provide fiduciary education and training for the Trustees?
- ✓ Do you evaluate if the Trustees have conflicts of interest?
- ✓ Do you maintain fiduciary liability insurance?

## Monitor Fees

- ✓ How frequent does the Board/Committee evaluate the service provider fees?
- ✓ Do you use an outside consultant to review and benchmark fees to ensure they are not excessive?
- ✓ On what basis do you compensate your record keepers (per capita, flat fee, assets under management?)
- ✓ Do you monitor the costs of the share classes?

## Utilization of Advisors and Safe Harbors

- ✓ Do you use an outside 3(21) or 3(38) consultant to advise the Plan and review investments to ensure they are diversified and appropriate)?
- ✓ How often does the consultant report to the Board/Committee?
- ✓ Do you utilize the 404(c) Safe Harbor?
- ✓ Do you utilize QDIAs?

## Documentation of Fiduciary Process

- ✓ Do you have an investment policy statement?
- ✓ How often do you review the investment policy?
- ✓ Do you document the decisions made as well as the rationale behind the decisions?

## Review of Investment Menu

- ✓ Has the Plan made any major changes to the number or nature of investment options?
- ✓ Do you document the decisions to retain or remove investment options?
- ✓ Do you review the underlying performance, risk, glidepath for the target date funds?

## Education and Communication

- ✓ Do you offer education to your participants?
- ✓ Are the required participant notices distributed?
- ✓ Do you get any participant feedback?



# Prudence is a process...

But only if you can prove it!



# Contact Information

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