ETHICAL DECISION MAKING

International Pension & Employee Benefit Association
Pension Fund Governance and Financial Regulation
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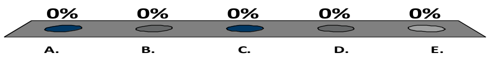
Your pension board is under siege. In the last three weeks, your chairman has been summoned by beneficiary groups, the minister of finance (MoF) and a group of local business leaders looking for help. This particular beneficiary group accuses the board of favoring higher tier retired beneficiaries with board investment strategy and practices. They threaten legal action. Meanwhile the MoF has encouraged the board to be more aggressive in closing the funding gap by looking for higher returns from alternative asset classes. Finally, business leaders are demanding that the board make direct investments to preserve jobs and help promote local economic conditions. The chair and fellow trustees are looking to you as long time counsel to the fund for direction on their fiduciary duty and what are seemingly competing priorities. Where do you start? The board has convened a meeting for tomorrow morning and you plan to advise them:

A. **MoF is correct: Address funding gaps and be aggressive in seeking better investment returns.**
B. **Support the local economy investments to increase tax receipts and the MoF's ability to make adequate contributions.**
C. **Beneficiaries are all that matter: Adopt a balanced income/capital appreciation strategy to be "even-handed" with competing beneficiary tiers.**
D. **Beneficiary, MoF and taxpayer interests are all necessary considerations: It's the Board's duty to deal with the range of conflicting priorities.**
E. **You are resigning**



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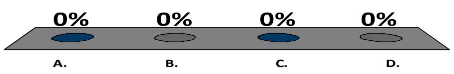
At the recommendation of several board members, a pension plan invests 2% of the fund's assets with Amaretto Partners, a new hedge fund that has reported 20% returns for the first 3 years. Amaretto does not disclose in detail its investment strategy but states generally that it uses long and short positions in the energy sector and uses leverage to earn superior investment returns. You later discover as legal counsel that certain fund board members are personally invested in Amaretto and socialize with the fund's CEO and CFO who are prominent in the community. The next month the fund announces that it has suffered a loss of 48% of its value and is suspending operations and redemptions pending further regulatory review. Plan beneficiaries are furious. You advise the pension fund board should:

A. Accept responsibility for the loss and make the fund whole.
B. Point out that the losses are only a fraction of the funds assets.
C. Explain the rationale for the investment and explain that returns are not guaranteed.
D. Encourage further investment in Amaretto… buy low.

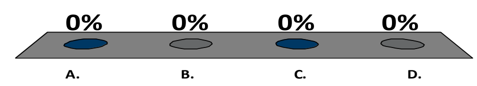


The investment committee of a municipal pension plan votes to make a significant investment in a large local manufacturing firm undergoing financial difficulties. The committee's reasoning is that if the company fails, the local economy will be devastated and municipal employees and their families will be adversely affected. Webb, one of the portfolio managers for the plan, refuses to buy the company stock for the fund as he considers it a poor investment. Webb complains to you as general counsel that he is being forced to act against his professional code of conduct by taking action that is not in the best interest of the plan beneficiaries. Without waiting for your suggestion, Webb contacts government regulators to file a complaint. Webb subsequently receives a poor performance evaluation and is ultimately fired. He tells the whole story to the local media, disclosing to them internal plan documents and emails that support his position. Webb:

A. **Should have allowed the general counsel time to follow up before proceeding with these actions.**
B. **Should have recognized that the plan's reasons for making the investment were legitimate.**
C. **Was improperly fired as he was protected by "Whistleblower" statutes.**
D. **Acted improperly by disclosing confidential firm and client information to the press.**

Zeller sits on the board of a public pension plan. The Plan has a significant investment in GoPapa, a large media/entertainment company. Zeller, and other pension fund trustees from other funds with significant holdings in GoPapa, are invited to headquarters in Hollywood as part of a corporate retreat. The company pays for the travel and accommodations of all the pension officials for a 2-day tour of company facilities, a celebrity meet-and-greet at a top Hollywood restaurant and hosts a dinner and a golf tournament as part of the trip. Zeller comes to you as legal counsel and wants to know if she :

A. **Can participate in the events since she is conducting due diligence for the fund.**
B. **Can accept reimbursement since the company is paying the expenses for all attendees, not just Casey.**
C. **Can accept reimbursement so long as the arrangement is disclosed to the fund.**
D. **Should not accept reimbursement or participate in the events.**



Casey sits on the board of a public pension plan that is considering its overall asset allocation, with the help of two consultants. Alpha Consultant is telling the fund to hold 20% bonds (including some long bonds or liability driven investment—LDI—bonds), and the rest devoted to equities and other risky assets, including a strong allocation to hedge funds and alternative asset classes, “in order to get a higher expected return to help pay for the plan.” Beta Consultant is advising the fund to have a larger allocation to bonds, and mostly to long bonds, to hedge the portfolio, and that they should consider reducing their allocation to equities and other risky assets, especially hedge funds and alternatives, because, they might have bad returns and make the plan more expensive. Casey should agree with:

A. Alpha: This is what most public pension plans are doing today with their asset allocation policies.
B. Alpha: Equities and alternatives did really well in the past and will continue to do well in the future.
C. Beta: Greater allocation to longer bonds will better hedge the liability, reducing volatility of the needed contributions.
D. Beta: Lower allocation to high return, high risk assets will reduce the risk of high surprise contributions.