



## University of Texas Law School Nonprofit Organizations Institute

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## Fulfilling your Fiduciary Duty as Directors and Trustees

Duty of Care: Must use all information available to make “an informed business decision” and show the same skill and attention as any Prudent Investor.

Duty of Loyalty: Must always put the Organization first and avoid any conflicts of interest

Duty to Make the Trust Productive: Expected to obtain returns commensurate with the terms of the trust, the needs of the beneficiaries and prevailing economic and financial conditions

Source: The Prudent Fiduciary-Morgan Stanley

## Fulfilling your Fiduciary Duty as Directors and Trustees

Do you have a process for making decisions  
regarding making Investments?

Grant making?

Governance?

Do you document your process?

## Investment Process

### **Investment Policy Statement (IPS)**

Does your IPS define the duties of Board Members, investment  
Advisors and Consultants?

Does the IPS lay out a roadmap for the investment strategy?  
Allowable investments, unacceptable investments, impact  
investing, time horizon and liquidity needs?

Does the IPS delineate the asset allocation strategy by asset  
class and sub-asset classes?

Does the IPS have a target allocation for each asset class and  
upper and lower bands?

**DIVERSIFICATION AND INVESTMENT CONSTRAINTS**

*Investment of the XYZ Foundation's funds shall be limited to securities in the following categories:*

**Assets Classes**

- Money Market Funds
- U.S. Short Term Taxable Bonds
- U.S. Intermediate Term Taxable Bonds
- U.S. High Yield Bonds
- Non-U.S. Bonds
- U.S. Large-Cap Value
- U.S. Large-Cap Growth
- U.S. Mid-Cap
- U.S. Mid-Cap Value
- U.S. Mid-Cap Growth
- U.S. Small-Cap
- U.S. Small-Cap Value
- U.S. Small-Cap Growth
- Non U.S. Large Stocks- Developed Countries
- Foreign Equities - Emerging Market
- Hedge Funds

**Investment Types**

- Individual Stocks or Bonds
- Open-ended Mutual Funds
- Closed-end Mutual Funds
- Exchange Traded Funds
- Managed Separate Accounts

**Portfolio Limitations and Restrictions**

The Portfolio may only be invested in bonds rated A or better.  
 Maximum individual bond maturities: 10 year(s).  
 Maximum portion of portfolio in a single diversified fund: 5%.  
 Maximum portion of portfolio in a single security: 5%.  
 No Margin Transactions  
 No Short Selling Transactions

Sample

**ASSET ALLOCATION**

Academic research offers considerable evidence that the asset allocation decision far outweighs security selection and market timing in its impact on portfolio variability and performance. After reviewing the long-term performance and risk characteristics of various asset classes and balancing the risk and rewards of market behavior, the following asset classes were selected to achieve the objectives of XYZ Foundation's portfolio.

Asset Class	Minimum	Maximum	Preferred
U.S. Equities – Large Cap	30%	50%	40%
U.S. Equities – Small Cap	0%	20%	10%
International Developed Countries	0%	20%	15%
U.S. Core Bonds	20%	60%	35%

The maximum allowable allocation of the aggregate portfolio to illiquid securities is 15%.

**Portfolio Returns and Volatility**

The Investment Committee's willingness to accept risk and their expectation for investment growth have a direct bearing on the rate of return objective for this portfolio.

It should be recognized that the portfolio will invest in a variety of securities and that the actual weighting of these securities can and will vary. It is also important to note that future returns of the securities with the portfolio and the portfolio itself can be expected to vary from the historical returns.

The portfolio's historical rate of return is not a guarantee of future investment returns, nor an indication of expectation regarding future results. Future returns could differ significantly and capital loss is possible. This Investment Policy Statement shall not be construed as offering a guarantee.

**Updated Allocations**

Over time, it may be desirable to amend the basic allocation. When such changes are made, updates will be considered part of this Investment Policy Statement.

**Rebalancing Procedures**

From time to time, market conditions may cause the Portfolio's investment in various asset classes to vary from the approved allocation. To remain consistent with the asset allocation guidelines established by this Investment Policy Statement, the Advisor shall periodically review the portfolio and each asset class in which the Portfolio is invested.

This portfolio will be rebalanced periodically as follows: when the portfolio exceeds the minimum or maximum constraints (reviewed quarterly).

Sample

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## Title search: Investing Charitable Assets: Fiduciary Issues in Managing the Investment Portfolio

Also available as part of the eCourse

[2019 Nonprofit Organizations eConference](#)

First appeared as part of the conference materials for the  
36<sup>th</sup> Annual Nonprofit Organizations Institute session

"Investing Charitable Assets: Fiduciary Issues in Managing the Investment Portfolio"