

SERS Board Governance Policy Manual

Policy Name:	Policy on Referrals of Investment Opportunities and Service Provider Candidates; Related Communications; Undue Influence
Policy Number:	2018-POL-BD-07
Effective Date:	November 19, 2018, as amended July 25, 2023
Reviewed Date:	January 9, 2018; July 18, 2023
Applies To:	SERS Board and Designees
Contact Person:	Chief Compliance Officer

I. Purpose

The Board must invest and manage the Pennsylvania State Employees' Retirement Fund (the "Fund") and monies in the State Employees' Defined Contribution Plan and the Commonwealth of Pennsylvania Deferred Compensation Plan prudently, with the judgment, skill, and care that a prudent investor would observe under similar circumstances. As fiduciaries, Board members must invest and manage the Fund and the DC Plans for the exclusive benefit of the members of the Pennsylvania State Employees' Retirement System ("SERS") and the participants in the DC Plans. The Board may contract for the services of investment managers, investment advisors/consultants, and other professionals as the Board deems advisable, who shall also serve in the capacity as fiduciaries to the Fund.

This policy describes the manner by which Board members should carry out their duties with respect to Referrals of investment opportunities and service provider candidates for SERS and how Board members should handle related communications. For purposes of this policy, "Board" and "Board member(s)" include designee(s).

II. Definitions

"Ex parte communication" means any material oral or written communication relevant to the merits of an administrative appeal that was neither on the record nor on reasonable prior notice to all parties that occurs between:

- (i) An interested person outside the Board (including such person's counsel); and
- (ii) Either the hearing examiner handling the proceeding or any Board member.

"Referral" shall mean, for purposes of this policy, when: (i) a Board member or a Board member's designee, acting on the Board member's behalf, affirmatively contacts SERS staff ("Staff") or outside consultants to establish contact between a Third Party and SERS

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(including Staff or outside consultants); or (ii) a Board member or a Board member's designee, acting on the Board member's behalf, affirmatively endorses a Third Party to Staff or outside consultants.

"Third Party" shall mean and include any potential or existing investment manager, investment advisor/consultant, contractor, vendor, and/or service provider (including any representative, agent, intermediary, affiliate, or advocate thereof) that is seeking an action, opportunity, and/or a specific outcome from the Board and/or SERS. This definition includes public officials.

"Undue Influence" shall mean the improper, unfair, or wrongful use of power, authority, or a relationship to induce someone to act or make a decision that they otherwise would not if left to act freely as a prudent fiduciary.

III. Communication with Third Parties

- A. Board members have no duty or obligation to meet or communicate with Third Parties except as authorized by the Board. Any unauthorized contact or communication between individual Board members and Third Parties is in the Board member's capacity as an individual, with the understanding that individual Board members in and of themselves do not represent the Board and have no authority to bind the Board to any agreements, unless specifically authorized to do so by the Board.
- B. Board members shall direct any Referrals regarding a prospective or existing investment transaction or contract, or any non-investment contract or selection, including any proposals, questions, or communications from Third Parties regarding such Referrals to the Chief Compliance Officer, who shall notify the Executive Director, Chief Counsel, and, as applicable, the Chief Investment Officer and/or the Chief Financial Officer, of the receipt of same and report all Referrals to the Board on at least a quarterly basis and, in any event, before any Board or Board committee action is taken on the subject matter of the Referral. Upon the making of any such Referrals, the Board member making the Referral shall not, directly or indirectly, contact, communicate, or participate in the review process and, except for making a general inquiry to the Chief Compliance Officer about the status of a Referral, should have no direct or indirect contact or communication with Staff or outside consultants regarding the Referral in order to avoid actual or perceived pressure. If the Third Party contacts the referring Board member about the status of the Referral, the Board member should direct the Third Party to the Chief Compliance Officer. In all instances, incidental contact between the Third Party or its representatives and Board members, Staff, or outside consultants, which is exclusively social, or which clearly pertains to a matter unrelated to the Referral, is permissible. Contact and communications

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between Board members, Staff, and outside consultants during the review process pertaining to the Referral, which is in accordance with SERS and Board normal customs and practices, is also permissible. A simple statement of support for a Third Party to the Chief Compliance Officer, to the Board or a Board committee, or in a public forum, without any other action by the Board member making a Referral, shall not constitute Undue Influence.

- C. Any inquiries or correspondence by a Third Party addressed to a Board member, which the Board member wishes to direct to Staff for assistance in preparing a response, and which is otherwise Board authorized, should be forwarded to the Executive Director, who shall notify the Chief Compliance Officer of the receipt of the same.

IV. Disclosure of Third Party Communications and Investment Opportunities

- A. Board members have a duty to disclose information that is material to Board decisions or deliberations, so that co-fiduciaries may take it into consideration during due diligence reviews and/or deliberations. Communications from, or on behalf of, Third Parties to Board members can be relevant to Board or Staff decisions.
- B. Any advocacy by a Third Party to a Board member for a specified outcome in regard to an investment, contract, or service provider selection must be promptly reported to the Chief Compliance Officer prior to any Board or Board Committee action thereon. Such communications shall be documented and logged by the Chief Compliance Officer, and reported to the Board. SERS Investment Office (the "IO") shall provide each Investment Manager with a copy of this policy.

V. Board Member Referrals and Communications

- A. It is acknowledged that Board members might become aware of investment and/or service provider opportunities in the normal course of their duties. Such contacts should not be considered inherently suspect. However, all investment and contracting opportunities shall go through normal Board and SERS processes, without special consideration because of a contact involving a Board member. A Board member shall make co-fiduciaries aware of their activities, which involve potential influence on Board business.
- B. Contacts from a Board member making a Referral for potential investment or service provider opportunities shall be reported to the Chief Compliance Officer, who shall notify the Executive Director, Chief Counsel and, as applicable, the Chief Investment Officer and/or the Chief Financial Officer, pursuant to Section

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III above. The potential investment or service provider opportunities shall go through the same due diligence process as any other opportunity.

- C. The Chief Compliance Officer shall keep a log of Board member Referrals involving advocacy in regard to an opportunity, including the ultimate disposition of the opportunity, and share it with the Board on at least a quarterly basis and in any event before any Board or Board committee action is taken on the subject matter of the Referral. Normally, the making of a Referral of a proposal in which a Board member does not have any personal, financial, or pecuniary interest does not preclude the Board member from voting on the matter, provided full disclosure of the Referral and any relationship with the parties is made; otherwise, Board members making a Referral shall adhere to the SERS Governance Policy Manual's Standards of Conduct for SERS Board regarding disclosure of interest and recusal. Notwithstanding the foregoing, the Chief Compliance Officer shall have the authority to determine whether or when a Referral creating the need for a recusal has been made.

VI. No Contact Policy During Procurements

- A. Board members shall not knowingly communicate with any Third Party that is financially interested in a proposed contract with SERS after the Board or SERS issues a request for proposal ("RFP"), a request for information ("RFI"), an invitation for bid ("IFB"), or a comparable procurement vehicle, except as provided below. If such communication occurs, it shall be promptly reported to the Chief Compliance Officer, who shall notify the Executive Director, Chief Counsel and, as applicable, the Chief Investment Officer and/or Chief Financial Officer.
- B. Board members may communicate with a Third Party that is financially interested in a proposed contract with SERS if the communication:
1. Is incidental, exclusively social, and does not involve the Board or its business, or the individual's role as a Board member;
 2. Does not involve the Board or its business, and the communication is within the scope of the Board member's private business or public office and is wholly unrelated to the Board member's service on the SERS Board;
 3. Is part of the process expressly described in an RFP, RFI, IFB, or comparable procurement vehicle;

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4. Occurs during a noticed Board or Committee meeting, or is otherwise authorized by the Board; or
5. Occurs after contract execution or after issuance of a purchase order to the Third Party.

VII. Avoidance of Undue Influence

- A. Board members and Staff shall immediately disclose to the Chief Compliance Officer, who shall notify the Executive Director, Chief Counsel and, as applicable, the Chief Investment Officer and/or Chief Financial Officer, any Third Party conduct or communication that can be reasonably interpreted as an attempt to exert Undue Influence on the outcome of a Board or Staff decision, or advisor/consultant recommendation, in an investment transaction or contracting decision. Even if such conduct or communication does not rise to the level of Undue Influence, such conduct or communication may nevertheless be reported. Retaliation for good faith reporting of a potential Undue Influence incident is prohibited.
- B. Any attempt by a Third Party to exert Undue Influence on a Board member or Staff regarding a specified action, decision, or course of conduct could compromise decision-making to the detriment of the Board or SERS as a whole, as well as the detriment of SERS' members, participants in the DC Plans, and their respective beneficiaries. Any Board member or Staff who thinks he or she has been subject to Undue Influence shall report the occurrence immediately to the Chief Compliance Officer, who shall notify the Executive Director, Chief Counsel and, as applicable, the Chief Investment Officer and/or the Chief Financial Officer.
- C. Any Board member who receives or becomes aware of a report of Undue Influence shall immediately report such information to the Chief Compliance Officer, who shall notify the Executive Director, Chief Counsel and, as applicable, the Chief Investment Officer and/or the Chief Financial Officer. In the event of a report of Undue Influence, the Executive Director shall consult with the Chief Counsel to receive advice on appropriate response actions, which may include, without limitation, informing the entire Board, notifying an external enforcement agency, and/or making a public disclosure during an open session Board meeting.

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VIII. Ex Parte Communications and Conflicts in Administrative Appeals

In deciding benefit appeals, the Board is required to observe a process that is fair and impartial. Board members should refrain from *ex parte* communications with parties or communications with the hearing examiner in any matter expected to come before the Board for a determination. If such communications occur, or if a Board member has (even while acting in a capacity other than as a Board member) advocated within SERS for a particular party, the Board member shall immediately (i) disclose the circumstances to the Chief Compliance Officer, Executive Director, and Chief Counsel, and (ii) recuse on the matter going forward.

Document Properties

- a. **Document Owner:** SERS Chief Compliance Officer
- b. **Document Author:** Jo Ann P. Collins
- c. **Summary of Changes:**

Date	Version	Author	Summary
January 9, 2018	2018 POL- BD-07	SERS Legal Office	The policy established by the Board describing the manner by which Board members should carry out their duties with respect to Referrals of investment opportunities and service provider candidates to SERS and how Board members should handle related communications.
July 18, 2023	2018 POL- BD-07	Jo Ann Collins, SERS Chief Compliance Officer	Biennial review. Minor revisions for clarity; added references to the State Employees' Defined Contribution Plan and the Commonwealth of Pennsylvania Deferred Compensation Plan