

TITLE 2 PUBLIC FINANCE
CHAPTER 82 EDUCATIONAL RETIREMENT
PART 8 INVESTMENT POLICIES AND PRACTICES

2.82.8.1 ISSUING AGENCY: Educational Retirement Board, P. O. Box 26129, Santa Fe, New Mexico 87502-0129.
[6-30-99; 2.82.8.1 NMAC - Rn, 2 NMAC 82.8.1, 1-30-2004]

2.82.8.2 SCOPE: This rule establishes guidelines for investment of the educational retirement fund under management by the educational retirement board (ERB), and it applies to the educational retirement board, the director of the agency, the investment committee and the investment division staff.
[6-30-99; 2.82.8.2 NMAC - Rn, 2 NMAC 82.8.2, 1-30-2004; A, 6-16-2015]

2.82.8.3 STATUTORY AUTHORITY: The Educational Retirement Act, Sections 22-11-1 to 22-11-53, NMSA 1978.
[6-30-99; 2.82.8.3 NMAC - Rn, 2 NMAC 82.8.3, 1-30-2004]

2.82.8.4 DURATION: Permanent.
[6-30-99; 2.82.8.4 NMAC - Rn, 2 NMAC 82.8.4, 1-30-2004]

2.82.8.5 EFFECTIVE DATE: June 30, 1999, unless a later date is cited at the end of a section or paragraph.
[6-30-99; 2.82.8.5 NMAC - Rn, 2 NMAC 82.8.5, 1-30-2004]

2.82.8.6 OBJECTIVE: Explains the organization and composition of the investment committee and investment division, and clarifies the policies and practices for investment of the ERA fund.
[6-30-99; 2.82.8.6 NMAC - Rn, 2 NMAC 82.8.6, 1-30-2004]

2.82.8.7 DEFINITIONS: [RESERVED]

2.82.8.8 INVESTMENT COMMITTEE:

- A.** The investment committee shall be composed as set forth in 2.82.1.14 NMAC.
- B.** The investment committee shall meet regularly each calendar quarter with additional meetings as required. The committee shall elect a chairman annually who shall call special meetings and preside at all meetings. A simple majority of the board members currently serving on the committee shall constitute a quorum.
- C.** The investment committee shall have the following responsibilities:
 - (1)** to review all actions taken by the investment division in the management of the fund and recommend to the board specific action with regard to the continuation or change in the investment practices of the investment vision;
 - (2)** to review on a continuing basis the investment philosophy and investment guidelines of the fund, make policy recommendations to the board and generally oversee the investment activities of the fund;
 - (3)** to recommend the employment of the services of an investment advisory firm to assist and advise the board in the management of the fund;
 - (4)** to recommend the employment of the services of investment management firm(s) to manage a portion of the assets of the fund, either through separately managed accounts or through individual, common or collective trust funds;
 - (5)** to establish asset allocation guidelines, which shall define asset allocation targets and ranges, and to annually review/modify these guidelines; as set forth in the ERB investment objectives and guidelines which shall be approved by the investment committee and recommended for board approval.
- D.** The investment committee may at any time withdraw the authority of the investment division to execute orders on behalf of the fund. Authority cannot be denied retroactively.
- E.** Investment committee members may attend and participate in any regular or special investment committee meeting by telephone or other electronic device only if:
 - (1)** the member cannot attend the meeting due to an emergency or unforeseen circumstance;
 - (2)** the member's voice can clearly be heard by everyone in attendance of the meetings and the member clearly identifies himself before speaking or participating in a vote;

(3) the member has not attended regular meetings electronically more than four times in a rolling twelve month period;

(4) no more than two members who otherwise qualify for participation under this section may do so at the same meeting; and

(5) the member otherwise complies with the Open Meetings Act.
[6-30-99; 2.82.8.8 NMAC - Rn, 2 NMAC 82.8.8, 1-30-2004; A, 3-14-2008; A, 12-30-2013; A, 3-14-2017]

2.82.8.9 INVESTMENT DIVISION:

A. The investment division of ERB shall be managed by the chief investment officer under the direction of the director.

B. The role of the investment division is detailed in the investment policy.
[6-30-99; 2.82.8.9 NMAC - Rn, 2 NMAC 82.8.9, 1-30-2004; A, 6-16-2015]

2.82.8.10 INVESTMENT PHILOSOPHY: Recognizing the important and perpetual nature of the fund and the fiduciary responsibilities of the board, the primary goal in investing the assets shall be to provide significant real returns adjusted for inflation with acceptable risk (volatility). The "prudent investor" standard, as defined in the state statutes, shall apply to the investment activities of the educational retirement board.
[6-30-99; 2.82.8.10 NMAC - Rn & A, 2 NMAC 82.8.10, 1-30-2004; A, 6-16-2015]

2.82.8.11 INVESTMENT POLICY:

A. The board shall adopt a written investment policy as required by Subsection B of Section 22-11-13 NMSA1978 which establishes a policy for the investment and management of the educational retirement fund. At least annually, the board shall review, ratify and provide its written investment policy to the legislative finance committee and the department of finance and administration.

B. Broker policy: Given the fiduciary responsibilities of the board and the chief investment officer with regard to the management of the assets of the retirement fund, the board adopts the following policies relating to the execution of the securities orders:

(1) Equities. The brokerage community provides important services necessary for the successful management of the retirement fund. Recognizing that the value of the services varies widely from firm to firm, the chief investment officer is directed to allocate commission business based on his/her judgment of the overall quality of service provided by each brokerage firm. The SEC, in release no. 34-23170 dated April 23, 1986, states that in judging the quality of service consideration should be given to "the value of research provided as well as execution capability, commission rate, financial responsibility, and responsiveness to the money manager." When all factors are equal within the above guidelines, preference shall be given to brokerage firms with offices in New Mexico.

(2) Fixed income. Recognizing the difference in the nature of the equity and fixed income markets, i.e., no central market for fixed income securities, fixed income trades will be executed through firms, that originate ideas and are able to offer/bid securities on a continuing competitive basis. When market conditions permit in the judgment of the fixed income investment officer, offerings and bids will be solicited on a competitive basis.

(3) Soft dollar policy. The chief investment officer, with approval of the director, and concurrence by the legislature, is authorized to use "soft dollars" to pay for research services and equipment that assist in the investment decision - making process as related to the management of the assets of the ERB retirement fund. Section 28(e) of the SEC Act of 1934, SEC interpretive release no. 34 -23170 dated April 23, 1986 and any subsequent interpretative releases shall be used as guidelines in this procedure.
[6-30-99; 2.82.8.11 NMAC - Rn & A, 2 NMAC 82.8.11, 1-30-2004; A, 6-16-2015]

HISTORY OF 2.82.8 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

ERB 67-3, Rules and Procedures, filed 6/30/67.

ERB 78-1, Rules and Procedures, filed 8/7/78.

ERB Rule VIII, Investment Policies and Practices, filed 7/2/82.

ERB Rule VIII, Investment Policies and Practices, filed 3/13/89.

History of Repealed Material: [RESERVED]