

**BOARD OF TRUSTEES  
FINANCE AND ADMINISTRATION COMMITTEE**

**June 8, 2018  
9:00 a.m., University Center, Room 214**

**Agenda**

**1.0 Action Items**

**1.1 Resolution F05-18  
Continuing University Spending Authority**

This resolution permits the continuation of the University's FY2018 spending level pending the approval of the FY2019 operating budget by the Board of Trustees.

**1.2 Resolution F06-18  
Request for tuition waiver at the College Credit Plus (CCP) program rates to be extended to non-public and homeschool students**

This resolution authorizes the Vice President for Finance and Administration to apply to the Chancellor of the Ohio Department of Higher Education for a tuition waiver applicable to eligible non-public and homeschool students at the College Credit Plus program default ceiling rates for academic years 2018-19 and 2019- 20.

**2.0 Information and Reports**

**2.1 Cash Reserves Investment Status Report**

**2.2 Capital Projects Status Report**

**3.0 Discussion**

Mr. McPhillips, Mrs. Johnson, and Dr. Boyles will present an executive briefing on Ohio public colleges' and universities' fiduciary duties related to University-provided retirement plans.

**RESOLUTION F05-18**

**CONTINUING UNIVERSITY SPENDING AUTHORITY**

WHEREAS, strategic budgeting initiatives are underway that will impact university revenue and expenditure assumptions for the FY2019 budget year; and

WHEREAS, the FY2019 budget is anticipated to be presented to the Board of Trustees for review and approval at the Board's August 2018 meeting; and

WHEREAS, it is necessary to continue to meet financial obligations, including payment of salaries and other operating expenditures until such time that the FY2019 operating budget is approved;

THEREFORE, BE IT RESOLVED, the Board of Trustees approves University spending authority consistent with the level of resources as approved for FY2018 until such time the FY2019 operating budget is approved by the Board.

(June 8, 2018)

**RESOLUTION F06-18**

**REQUEST FOR TUITION WAIVER AT THE STATE-APPROVED COLLEGE CREDIT PLUS (CCP) PROGRAM RATES TO BE EXTENDED TO NON-PUBLIC AND HOMESCHOOL STUDENTS**

WHEREAS, the College Credit Plus (CCP) program provides low cost college educational opportunities for Ohio students (pre-high school graduation); and

WHEREAS, the State's funding for the CCP program is limited for non-public and homeschool students; and

WHEREAS, access to reduced tuition will encourage non-public and homeschool students who receive limited funding under the CCP program to enroll in college courses and will enhance the State's goal of providing low-cost education to an expanded number of eligible Ohio students; and

WHEREAS, non-public and homeschool students who are accepted by the State CCP program will be able to self-pay up to 30 credit hours per academic year (includes hours awarded by the State) at the approved CCP rates; and

WHEREAS, the tuition waiver will offset the University's AY2018 in-state undergraduate per credit hour tuition rates of \$306.84 for continuing students and \$348.14 for first-time students (Shawnee State Advantage) to match the default, State-approved CCP rates (AY2017-18 rates are \$166.28/cr. hr. taken on SSU campus and \$41.57/cr. hr. if taken at school) for the applicable academic year;

THEREFORE, BE IT RESOLVED, that the Shawnee State University Board of Trustees authorizes the Vice President for Finance and Administration to apply to the Chancellor of the Ohio Department of Higher Education for a waiver of in-state undergraduate tuition rates to match the State-approved CCP rates (on and off site) for non-public students and homeschool students for the same coursework and to ensure these students are able to enroll in the equivalent number of credit hours available to public school students under the CCP program;

THEREFORE, BE IT FURTHER RESOLVED, upon approval by the Chancellor of the Ohio Department of Higher Education, the tuition waiver will enable non-public and homeschool students to have the same opportunities as public school students by self-paying the remaining credit hours (up to 30/academic year) that are not covered by the CCP program for the academic years of 2018-19 and 2019-20 (includes summer terms).

(June 8, 2018)

**INVESTMENT PORTFOLIO PERFORMANCE**

**FISCAL YEAR 18:**

INVESTMENT COMPANY	VALUE AS OF JUNE 30, 2017	GAIN/(LOSS) JULY**	GAIN/(LOSS) AUGUST	GAIN/(LOSS) SEPTEMBER	GAIN/(LOSS) OCTOBER	GAIN/(LOSS) NOVEMBER	GAIN/(LOSS) DECEMBER	GAIN/(LOSS) JANUARY	GAIN/(LOSS) FEBRUARY	GAIN/(LOSS) MARCH	GAIN/(LOSS) APRIL	GAIN/(LOSS) MAY (as of 5/21/18)	GAIN/(LOSS) JUNE	TOTAL YTD GAIN/(LOSS)
TIAA FUNDS	\$ 17,484,245.47	\$ 246,363.62	\$ 21,257.99	\$ 154,390.16	\$ 118,917.76	\$ 183,454.61	\$ 112,332.73	\$ 286,770.83	\$ (328,729.36)	\$ (29,087.46)	\$ (11,320.80)	\$ 80,404.26	\$ -	\$ 834,754.34
<b>CURRENT MTD TOTAL GAIN/(LOSS)</b>		<b>\$ 246,363.62</b>	<b>\$ 21,257.99</b>	<b>\$ 154,390.16</b>	<b>\$ 118,917.76</b>	<b>\$ 183,454.61</b>	<b>\$ 112,332.73</b>	<b>\$ 286,770.83</b>	<b>\$ (328,729.36)</b>	<b>\$ (29,087.46)</b>	<b>\$ (11,320.80)</b>	<b>\$ 80,404.26</b>	<b>\$ -</b>	<b>\$ 834,754.34</b>
<b>INVESTMENT FUND BALANCES:</b>														
TIAA FUNDS		\$ 15,030,609.09	\$ 15,051,867.08	\$ 15,206,257.24	\$ 15,325,175.00	\$ 15,508,629.61	\$ 15,620,962.34	\$ 15,907,733.17	\$ 15,579,003.81	\$ 15,549,916.35	\$ 15,538,595.55	\$ 15,618,999.81		
<b>TOTAL</b>	<b>\$ 17,484,245.47</b>	<b>\$ 15,030,609.09</b>	<b>\$ 15,051,867.08</b>	<b>\$ 15,206,257.24</b>	<b>\$ 15,325,175.00</b>	<b>\$ 15,508,629.61</b>	<b>\$ 15,620,962.34</b>	<b>\$ 15,907,733.17</b>	<b>\$ 15,579,003.81</b>	<b>\$ 15,549,916.35</b>	<b>\$ 15,538,595.55</b>	<b>\$ 15,618,999.81</b>	<b>\$ -</b>	

\*\* During the month of July 2017, the University liquidated \$2,700,000 from the TIAA portfolio. The proceeds from the liquidation were transferred to the University Operating Cash account to meet July and August cash needs.

**FISCAL YEAR 17:**

INVESTMENT COMPANY	VALUE AS OF JUNE 30, 2016	GAIN/(LOSS) JULY	GAIN/(LOSS) AUGUST	GAIN/(LOSS) SEPTEMBER	GAIN/(LOSS) OCTOBER	GAIN/(LOSS) NOVEMBER	GAIN/(LOSS) DECEMBER	GAIN/(LOSS) JANUARY	GAIN/(LOSS) FEBRUARY	GAIN/(LOSS) MARCH	GAIN/(LOSS) APRIL	GAIN/(LOSS) MAY	GAIN/(LOSS) JUNE	TOTAL YTD GAIN/(LOSS)
U.S. BANK FIXED INCOME MUTUAL FUNDS	\$ 2,951,039.35	\$ 60,856.28	\$ 28,604.63	\$ (13,883.25)	\$ 6,863.19	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 82,440.85
U.S. BANK EQUITY MUTUAL FUNDS	\$ 5,697,585.84	\$ 223,311.89	\$ 28,808.37	\$ (82,072.03)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 170,048.23
U.S. BANK TACTICAL BALANCED MUTUAL FUNDS	\$ 1,553,039.73	\$ 36,099.33	\$ 14,522.87	\$ (20,569.99)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 30,052.21
AGINCOURT CAPITAL	\$ 2,893,061.15	\$ 59,107.77	\$ (28,805.75)	\$ (27,006.56)	\$ 514.65	\$ (805.95)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,004.16
TAMRO CAPITAL/VAUGHAN NELSON##	\$ 1,108,562.07	\$ 50,204.12	\$ 12,725.38	\$ (30,269.68)	\$ 254.75	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 32,914.57
MANNING & NAPIER	\$ 1,596,122.59	\$ 49,995.92	\$ 676.82	\$ (3,082.02)	\$ 481.59	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 48,072.31
TIAA FUNDS	\$ -	\$ -	\$ -	\$ 183,914.82	\$ (157,209.20)	\$ 81,256.40	\$ 160,037.97	\$ 281,321.02	\$ 282,655.97	\$ 82,404.94	\$ 218,548.91	\$ 159,148.25	\$ 26,223.33	\$ 1,318,302.41
<b>CURRENT MTD TOTAL GAIN/(LOSS)</b>		<b>\$ 479,575.31</b>	<b>\$ 56,532.32</b>	<b>\$ 7,031.29</b>	<b>\$ (149,095.02)</b>	<b>\$ 80,450.45</b>	<b>\$ 160,037.97</b>	<b>\$ 281,321.02</b>	<b>\$ 282,655.97</b>	<b>\$ 82,404.94</b>	<b>\$ 218,548.91</b>	<b>\$ 159,148.25</b>	<b>\$ 26,223.33</b>	<b>\$ 1,684,834.74</b>
<b>INVESTMENT FUND BALANCES:</b>														
U.S. BANK FIXED INCOME MUTUAL FUNDS		\$ 3,011,895.63	\$ 3,040,500.26	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
U.S. BANK EQUITY MUTUAL FUNDS		\$ 5,920,897.73	\$ 5,949,706.10	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
U.S. BANK TACTICAL BALANCED MUTUAL FUNDS		\$ 1,589,139.06	\$ 1,603,661.93	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
AGINCOURT CAPITAL		\$ 2,952,168.92	\$ 2,923,363.17	\$ 24,262.02	\$ 19,096.35	\$ 18,290.40	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
VAUGHAN NELSON		\$ 1,158,766.19	\$ 1,171,491.57	\$ 460.12	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
MANNING & NAPIER		\$ 1,646,118.51	\$ 1,646,795.33	\$ 514.47	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TIAA FUNDS		\$ -	\$ -	\$ 16,317,313.04	\$ 16,174,358.28	\$ 16,255,614.68	\$ 16,433,943.05	\$ 16,715,264.07	\$ 16,997,920.04	\$ 17,080,324.98	\$ 17,298,873.89	\$ 17,458,022.14	\$ 17,484,245.47	
<b>TOTAL</b>	<b>\$ 15,799,410.73</b>	<b>\$ 16,278,986.04</b>	<b>\$ 16,335,518.36</b>	<b>\$ 16,342,549.65</b>	<b>\$ 16,193,454.63</b>	<b>\$ 16,273,905.08</b>	<b>\$ 16,433,943.05</b>	<b>\$ 16,715,264.07</b>	<b>\$ 16,997,920.04</b>	<b>\$ 17,080,324.98</b>	<b>\$ 17,298,873.89</b>	<b>\$ 17,458,022.14</b>	<b>\$ 17,484,245.47</b>	

### Status of Construction/Renovation Projects through May 31, 2018

Project	Status	Projected Budget	Funding Source
<b>Advanced Technology Center/Technology and Industrial Buildings Rehabilitation</b>	<ul style="list-style-type: none"> <li>• Phase 1 scheduled completion date 7/28/18.</li> <li>• The revised scope will include only the south portion (1978) of the ATC complex. This project will renovate the Plastics lab and create a new space for the Gaming program.</li> </ul>	\$ 3,881,000	State Capital
<b>Athletic Complex (Rhodes Center)/Recreation, Student Health &amp; Wellness</b>	<ul style="list-style-type: none"> <li>• The planned facility improvements include, but are not limited to: upgrading of the building's life safety systems, ADA access, and facility infrastructure; replacement of the original (circa 1983) pool filtration systems.</li> <li>• Phase 1A includes the pool filtration system and mechanical equipment as well as all new locker rooms.</li> <li>• Phase 1A budget is \$1.2 million. Scheduled completion 9/18/18.</li> </ul>	\$ 7,150,000	Bond & Local
<b>Library/CFA HVAC Renovation</b>	<ul style="list-style-type: none"> <li>• This will include evaluation of mechanical and building automation systems for both buildings.</li> <li>• RFQ submissions being reviewed.</li> </ul>	\$ 1,100,000	State Capital
<b>Facilities Campus Master Plan Update</b>	<ul style="list-style-type: none"> <li>• All buildings under evaluation as part of the Campus Facility Assessment.</li> <li>• Assessment 95% complete.</li> <li>• Campus facility assessment to be completed by May, 2018.</li> </ul>	\$ 80,000	State Capital

# **Executive Briefing**

## **Fiduciary Responsibilities**

Finance and Administration Committee  
June 8, 2018

*Presented by*

Michael McPhillips

Malonda Johnson

Elinda Boyles

## Ohio Public Colleges & Universities Fiduciary Responsibilities - Retirement Plans

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### Background

Fee litigation started in 2006, primarily against large private sector companies sponsoring 401(k) plans.

# Applicable University Plans

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- Alternative Retirement Plan (ARP)
- Supplemental 401(a) Plans
- 403(b) Plans
- 457(b) Plans
- 415(m) Plans



# Charges Against

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- College/University
- Investment committees and individual members
- Individual employees
  - VP of Human Resources, VP of Investments
- Investment advisor/consultant

# Potential Risks

- Class certification
- Declaration of breach of fiduciary duty
- Restoration of losses and “make whole” remedy
- Removal of current fiduciaries
- Reformation of plan investments
- Attorneys fees

# Summary of Current Claims

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University	Ruling	University	Ruling
Emory University	MTD Denied	Vanderbilt	MTD Denied
Duke University	MTD Denied <b>Class Action Cert.</b>	Yale University	MTD Denied
New York University	MTD Denied <b>Class Action Cert.</b> <b>Bench Trial - 4/16</b>	University of Pennsylvania	MTD Granted <b>Appeal to 3<sup>rd</sup> Cir.</b>
MIT	MTD Denied	Washington University	Pending
Columbia	MTD Denied	Northwestern	Pending
Cornell	MTD Denied	Brown University	Pending
Princeton	MTD Denied	University of Southern California	Motion to Compel Arbitration Denied <b>Appeal to 9<sup>th</sup> Cir.</b>
University of Chicago	MTD Denied	Georgetown	N/A
John Hopkins	MTD Denied		

# Litigation

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- Still very early in the litigation
  - Defendants likely have reasonable defenses to claims
  - **BUT** likely to dramatically change the 403(b) market
  - Claims easy to replicate from university to university

The court's focus in the fee litigation lawsuits is largely on **process**, not best possible result.

# Mitigating Potential Liability

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# Applicable Regulations

- **Ohio Revised Code (ORC):**
  - Sets forth fiduciary duties and requirements related to plan vendors and investments for alternative retirement plans (ARPs)
- **Ohio Department of Higher Education (ODHE)**
  - Designates vendors eligible to provide investment options to participants in ARPs.
- **Boards of Trustees (BOTs)**
  - Have **fiduciary responsibility:**
    - In regard to terms and conditions for which it has discretion related to the investments and administration of the plan.
    - To monitor its vendors to ensure that delegated duties are being met.

# Fiduciary Standards

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## Duty of Loyalty

Duty to act solely in the interest of participants and beneficiaries.

Duty to act for the exclusive purpose of providing benefits or paying reasonable plan expenses.

Duty to act independently and without conflicts of interest.

Duty to act impartially among differing interests.

## Duty of Prudence

Duty to act with care, skill, prudence, and diligence of prudent person familiar with like matters.

Duty to be informed.

Duty to delegate responsibilities outside of expertise.

Duty to diversify investments.

## Duty to Follow Plan Document

## Prohibited Transactions

No self-dealing.

Cannot pay unreasonable compensation for services performed.

# Designation of Fiduciary

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- In the absence of BOT delegation, an institution **can act only through its Board.**
  - Board remains responsible for retirement plans unless it has properly delegated responsibility to another party.
  - Just because human resources has always handled plan administration does not mean that the Board has properly delegated that responsibility.
- Human resources officers and finance officers are typically **functional fiduciaries.**



# Recommended Steps

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Review Plan Documents to identify fiduciaries

Designate/delegate fiduciaries

Secure investment advisor services

Adopt investment policy statement

Evaluate Plans' fees and expenses

Evaluate investment options

Evaluate vendors

Communicate with participants

Engage in ongoing review

# Action Timeline - SSU

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- Identify & document fiduciaries **July/August 2018**
- Decision on investment advisor (participating in IUC RFP) - **August/September 2018**
- Establish committee - **August/September 2018**

# Action Timeline - SSU

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- Create Voluntary Retirement Plan Investment Policy Statement (IPS)  
**September/October 2018**
- Comprehensive review Plan documents, amendments, vendor agreements  
**November/December 2018**
- Evaluate vendor services, investment options, fees, expenses and other plan terms - **Ongoing**