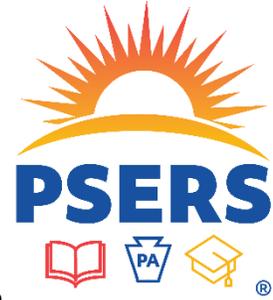


For additional information or to apply, please contact Hudepohl & Associates at [info@hudepohl.com](mailto:info@hudepohl.com) or (614) 854-7300.

## Position Specification

### Pennsylvania Public School Employees' Retirement System Chief Counsel



PSERS, headquartered in Harrisburg, is searching for a top legal professional to lead the Office of Chief Counsel for this \$75 billion public pension fund. This is an exciting opportunity for a *Chief Counsel* who values public service to work for one of the largest public plan sponsors in the country dedicated to serving public school employees for over 100 years.

#### **System Overview**

PSERS is a governmental, cost-sharing, multiple-employer defined benefit plan to which most members and employers contribute. Serving ~770 participating employers and a membership of over 515,000, the System provides retirement, disability, and death benefits for participating school employers and employees. The System also administers a defined contribution plan and two postemployment healthcare programs. Participating employers include school districts, career/technology schools, community colleges, state-owned universities/colleges, charter schools and others.

PSERS membership is mandatory for full-time employees of participating schools. School employees, who became new members of PSERS on or after July 1, 2019, have a choice of three retirement plan options. These options include two hybrid plans; each consists of a defined benefit and defined contribution component. The third option is a stand-alone defined contribution plan. The legacy defined benefit plan is no longer available to new members.

PSERS, a quasi-independent agency of the Commonwealth, is governed by a 15-member Board of Trustees. The Board, an independent administrative board of the Commonwealth, comprises four ex officio members, five appointed members, and six elected members from constituent groups, all serving three-year terms.

From FY 2017 to FY 2021, PSERS received full actuarial funding from school employers and the Commonwealth after 15 previous years of underfunding. On an actuarial basis, the funded ratio was 59.6% at June 30, 2021 with an unfunded liability of \$44 billion. A plan is in place to full funding, and the actuarial funded ratio is projected to continue to rise reaching 76% by 2029.

In FY 2021, PSERS provided approximately \$7.6 billion in pension and healthcare benefits to its members. The System has a strong economic impact for Pennsylvania where nearly 94% of total pension benefits are distributed to annuitants who reside in the Commonwealth. More than 121,000 retirees, spouses and dependents have enrolled in the PSERS Health Options Program.

Implemented in 2018, the PSERS Member Self Service Portal has continued to be a tremendous success. Since implementation, over 200,000 members have created their online account and

conducted nearly 280,000 transactions. Multiple enhancements are being added in 2022 to increase functionality and ease of use.

As has been publicly reported in 2021, the System received subpoenas from various federal agencies regarding the certification of the shared risk member contribution rate in December 2020, as well as the purchase and valuation of certain directly held properties. The PSERS Board retained outside counsel to conduct an independent internal investigation. The investigation did not find evidence of criminal wrongdoing. PSERS is cooperating fully with the ongoing federal investigations.

The Board also hired Funston Advisory Services LLC, a nationally recognized governance consultant, to review their governance practices. Funston delivered their report in December and the Board is reviewing the recommendations, several of which were substantially adopted in March.

### **Financial and Investment Highlights**

PSERS' total net position increased by an all-time high of \$13.5 billion from \$59.0 billion at June 30, 2020, to \$72.5 billion at June 30, 2021. Employers have been paying their full required contributions since passage of HB 2497, now known as Act 120, as part of an effort to bring the defined benefit plans to full funding. Based on a 2021 experience study, the Board reduced the actuarially assumed rate of return from 7.25% to 7.0% to further strengthen the sustainability of these plans.

The System's total administrative budget is \$94 million and includes 365 staff, 293 of which administer the defined benefit, defined contribution, and health plans. PSERS continues to be a leader among large U.S. public pension funds in its effective control of expenses. Based on a recent CEM benchmarking survey, PSERS had a 13% lower pension administration cost per member than the average cost for its peer group.

PSERS is a long-term investor and manages the fund with long-term objectives in mind, including diversification among asset classes. Plan assets are managed both internally by PSERS investment staff (approximately 51%) and externally by institutional investment managers. The asset allocation as of December 31, 2021 will remain in effect until the Board determines a date for the full transition to the new asset allocation, which was approved by the Board in October 2021.

Asset Class	Target %		Actual %
	Current	New	
Equity	39.0	48.0	38.2
Fixed Income	35.0	34.0	31.2
Real Asset	28.0	26.0	28.4
Absolute Return	8.0	0.0	7.4
Cash	3.0	3.0	7.8
Explicit Leverage	-13.0	-11.0	-13.0
	100.0	100.0	100.0

For FY 2021, investment returns were 24.58%, net of fees, compared to the policy benchmark of 20.58%. For the 25-year period ended June 30, 2021, PSERS posted a positive return of 7.70%, which is above the 7.0% actuarial assumed return assumption. The following table provides historical investment returns as compared to the policy benchmark and median public funds.

### Annualized Time-Weighted Returns, Net of Fees, 6/30/21

	1 Year %	3 Years %	5 Years %	10 Years %
PSERS Return	24.58	10.35	10.10	8.04
Policy Index	20.58	10.10	9.39	7.60
Median Public Fund	26.98	10.86	10.55	8.22

Total Investment expenses for FY 2021 were \$618 million. As a percentage of total benefits and expenses, investment expense was 7.4% in FY 2021. While investment expense has increased over FY 2020, it has decreased from its high of 8.2% in FY 2013.

### **Chief Counsel Responsibilities**

The Chief Counsel, by the System's Bylaws, reports to the Board and administratively to the Executive Director. The Chief Counsel's client is the PSERS Board and the Office of Chief Counsel will also provide legal services to the System's management. Leading a team of 13, 10 attorneys and 3 support staff, the Chief Counsel has three direct reports – Deputy Chief Counsel, Investments; Deputy Chief Counsel, Benefits; and an Administrative Officer.

Some of the key responsibilities include:

- Ensure that the System operates in accordance with state and applicable federal law.
- Provide legal advice and counsel to the Board in fulfilling their fiduciary responsibilities.
- Serve as legal counsel on benefit issues arising under the Retirement Code and oversee PSERS' attorneys in administrative hearings and judicial proceedings.
- Recruit, train and retain a highly skilled and competent legal team to support and advise the Board and System management.
- Oversee the preparation of written opinions in connection with administrative hearings, and the preparation of legal briefs in support of PSERS' positions in the appellate courts.
- Oversee the drafting of a full range of procurement contracts and agreements, including vendor contracts as well as health-care related contracts for the Health Options Program.
- Manage the drafting of investment related contracts such as brokerage, exchange and market data contracts, venture capital, private equity, real estate, private debt, co-investment and other partnerships and comingled fund documents for domestic and international public market investments.
- Supervise the negotiation and drafting of contracts by which the Board retains investment managers, consultants, and brokers.
- Advise PSERS on corporate governance issues that affect PSERS holdings.
- Draft, review, and research proposed regulations and legislation affecting PSERS.
- Advise the Open Records Officer on issues relating to Pennsylvania Right-to-Know Law, the State's Office of General Counsel Management Directives, and PSERS policies.
- Manage active federal class action cases in which PSERS is lead plaintiff or co-lead plaintiff; manage and direct foreign securities litigation actions; monitor PSERS portfolio holdings and securities case filings in applying the securities litigation policy.
- Advise management on employment issues and represent PSERS in lawsuits involving the workplace in accordance with the Commonwealth Attorney's Act.
- Serve as liaison for civil and criminal litigation referred to the Attorney General.
- Coordinate and supervise the activities of external law firms.

- Provide training to staff on a variety of issues, such as insider trading, Code of Conduct, contracting procedures.
- Perform an annual review of all PSERS policies and procedures to ensure they are up-to-date and reflect best practices.

### **Key Objectives**

The Chief Counsel is expected to serve the Board as well as the System and to maintain the appropriate separation of duties. Some of the Key Objectives that will, in part, measure the Chief Counsel's performance are:

- Evaluate the Office of Chief Counsel's organizational structure and make changes, if necessary, to ensure the appropriate structure and resources are in place to support the Board and management across all operations including the investment and benefit groups.
- Provide the Board with sound legal advice for resolution of the federal investigations facing the System.
- Strengthen the relationship between the Office of Chief Counsel and the Board by being fully prepared on issues before the Board and providing all trustees complete information on any matter before the Board.
- Support the Executive Director and the Board in the evaluation of the Funston recommendations and assist with implementation of changes.
- Improve the Office of Chief Counsel's response time on its review of investment-related contracts to ensure the System is responsive to available investment opportunities.

### **Qualifications and Experience**

The ideal candidate must have exceptional communication and interpersonal skills to educate and advise trustees and management on complex legal matters and to effectively facilitate discussions to support decision making. Other requirements and preferences include:

#### **Requirements**

- J.D. from an ABA-accredited law school.
- Licensed to practice in Pennsylvania or the ability to be licensed upon hiring.
- Admitted to the Bar of the Supreme Court of Pennsylvania or the ability to be admitted upon hiring.
- Ten years of professional experience working as an attorney.

#### **Preferences**

- Experience supporting Pennsylvania public agencies.
- Experience providing counsel to a board.
- Experience with contract law and litigation matters.
- Experience with defined benefit and defined contribution plan law.
- Experience representing clients at administrative hearings or at the trial court level.
- Working knowledge of the laws of the Commonwealth of Pennsylvania.
- Experience supervising attorneys.
- General knowledge of investment contracts.
- Excellent legal research, writing, and communication skills.

### **Leadership Competencies and Characteristics**

The Chief Counsel should be an experienced lawyer with a positive track record of working through complex legal situations. The ideal candidate should be inquisitive and have the willingness to learn, the skills to analyze and communicate complex legal concepts and issues in a clear and simple way that can be understood by policy and decision-makers.

Key competencies/attributes also include being transparent, honest and ethical, objective, humble and unselfish, and respectful. In addition to being visible, approachable, and a good listener, other important skills and attributes include having the emotional intelligence to solve problems and affect positive change and being:

- Willing to have candid conversations and the courage to make tough decisions.
- Calm and effective at deescalating difficult situations.
- Confident to put forward and defend recommendations while being willing to adjust them based on input from trustees and others.
- Effective building consensus and negotiating compromise.

This is a visible position, and the successful candidate must have the poise and presence to expertly represent PSERS and understand and respect the requirements of operating in a public environment.

### **Compensation**

The Chief Counsel is an exempt position and an “at will” employee. The Chief Counsel must maintain permanent Pennsylvania residency. The compensation package is designed to attract the best-qualified executive and includes an attractive benefits package. PSERS employees are members of the Pennsylvania State Employees’ Retirement System and also participate in Social Security and are eligible for benefits.

For additional information about the position or to apply, please contact Hudepohl & Associates at [info@hudepohl.com](mailto:info@hudepohl.com) or (614) 854-7300.