



SECTION:	Administrative Expenses
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TITLE:	Administrative Fees and Expenses Payable from Pension Fund - PBA ss. 10(1)9, 22 and 22.1
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REPLACES:	A200-100, A200-201, A200-400, A300-175 (in part)

This policy replaces policy A200-100 (Consulting and Actuarial Fees for Bargaining Purposes Not Payable from Pension Fund), A200-201 (Expenses Payable from Pension Fund), A200-400 (Finder's Fee or Insurance Broker Commission Payable from Pension Fund) and the plan fund expenses portion of A300-175 (Handling of Plan Fund Expenses and Maintenance of Plan Records) as of the effective date of this policy.

Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

*Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at www.fSCO.gov.on.ca. All pension policies can be accessed from the **Pensions** section of the website through the **Pension Policies** link.*

The purpose of this policy is to examine the types of pension plan fees and expenses that may be paid from the pension fund.

Under section 22.1 of the PBA, the payment of fees and expenses from the fund are limited to those that are:

- (i) reasonable;
- (ii) relate to the administration of the pension plan or the administration and investment of the pension fund; and
- (iii) are not prohibited or otherwise provided for under the documents that create and support the plan or the fund or under the PBA or Regulation.

In accordance with the standard of care and fiduciary obligations under the PBA, the administrator is responsible for decisions about the appropriateness and reasonableness of any existing/potential charge for administrative fees and expenses against the fund. As each pension plan is unique, specific limitations on the range of these fees and expenses have not been legislated or prescribed as an applicable standard for all plans. Standard limits could restrict

the administrator's ability to make decisions in the plan beneficiaries' best interest.

The PBA and Regulation do not prescribe the specific nature or type of administrative expenses that can be paid from the fund. The expenses should be considered on a case by case basis in the context of the pension plan documents. The types of expenses that would usually be considered to be administrative expenses are:

- actuarial fees to prepare and file valuation and other reports required under the PBA or Regulation;
- trustee/fund holder and custodial fees;
- investment management fees;
- costs for records retention, benefit calculation, member communications;
- legal or consulting fees related to legislative compliance;
- costs to implement governance guidelines or to strengthen existing plan or fund governance structures;
- continuing education costs for members of the board of trustees or the administrator's employees; and
- fees for services provided by agents that are usual and reasonable expenses of the plan.

Any expense not required for the proper administration of the plan should not be paid from the pension fund as it would not be considered an administrative expense. Expenses incurred by the administrator or others acting in the role of plan sponsor, collective bargaining agent or employer should also not be charged against the fund. Examples include:

- actuarial, consulting and legal fees to assist a plan sponsor or employer in designing the plan benefit structure;
- actuarial, consulting and legal fees incurred by the employer or union as part of collective agreement negotiations;
- expenses not consistent with the plan's purposes; and
- expenses incurred by the employer acting in its own interests and not as a plan fiduciary.

An administrator should not allow its interests to conflict with its duties and powers regarding the pension fund. Conflicts would include using pension funds to pay the plan sponsor's non-administrative expenses. Sections 22(9) and 22(10) establish general limitations on the pension plan benefits an administrator is entitled to receive. The administrator is not entitled to any benefit from the pension plan other than pension benefits, ancillary benefits and contribution refunds. This also applies to a member of a pension committee or board of trustees that is the administrator, and to a member of a board, agency or commission responsible by an Act for plan administration.

Section 10(1)9 of the PBA requires the documents that create and support the pension plan to provide the payment mechanism for the administration cost of the plan and fund. An administrator may register with the Superintendent of Financial Services (Superintendent), a plan amendment surrounding payment of plan expenses from the fund, unless the plan documents prohibit such an amendment. Notice of the amendment must be provided to members, former members and retired members and, if applicable, the trade union that represents plan members. The specific notice requirements depend on the type of amendment filed with the Superintendent.