

School District Misconceptions

There is no shortage of confusion around the new 403(b) regulations. Many school districts may be making false assumptions about their 403(b) plan, or perhaps don't realize key issues that need to be addressed. Below are the facts around some of the most common misconceptions.

Myth: All 403(b) regulation requirements have been delayed by the IRS until December 31, 2009.

Fact: The IRS recently delayed the requirement for 403(b) plan sponsors to have a written plan document in place until Dec. 31, 2009. The delay is intended only to provide additional time for employers to adopt the written plan. *It does not delay compliance with the final 403(b) regulations.*

Additionally, before the end of 2009, employers must make efforts to retroactively correct any operational failures that took place during the 2009 calendar year to conform to the terms of their written plan.

Myth: School districts will be able to administer the 403(b) plan just as before.

Fact: Districts are expected to be more hands-on in managing 403(b) programs and to know more about the companies offering investments and their products. Ultimately, employees will benefit from more transparent plan information but the regulations add more-in depth reporting and communication for those that administer the plan.

The new regulations force 403(b) accounts to operate more like employer sponsored plans. Ultimately, given these changes more employees are expected to enroll.

Employers and participants should expect longer transaction times as there is more plan coordination involved. Transactions that used to take three to four days may now take several weeks to complete.

Myth: My plan does not have to meet the new requirements because it is not subject to ERISA.

Fact: All 403(b) plans must meet the new requirements. Complying with the 403(b) regulations does not subject the plan to ERISA.

Myth: Districts are not required to have a written plan for their 403(b).

Fact: The regulations require 403(b) sponsors to create written plans that outline the basis for how their 403(b) programs operate – such as approved vendors and whether hardship withdrawals or loans are allowed. According to the 2009 LIMRA survey as of July 2008, 72 percent of responding school districts do not have a written plan yet.

Myth: Employers are not responsible for transactions that occur under the 403(b) plan.

Fact: The employer is liable for all transactions that occur under the plan, including vendor, third party administrator and participant's actions. However, employers can have the vendors sign a hold harmless agreement. Employers will still be liable but the agreements can and should be set up to include financial restitution should any partners make a mistake

Myth: Not all vendors have to be included in the plan document.

Fact: Employers must maintain a list of approved providers as well as vendors that are approved for transfers. The "plan document" may be comprised of several different documents.