

Insights, News & Events

HEADS UP FOR SCHOOLS WITH TIAA CREF 403(B) PLAN DOCUMENTS

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We try to alert our clients when we begin to see a trend developing. One trend our benefits attorneys have been addressing for private school clients is the fact that their third-party plan auditors have found that schools using 403(b) plan documents prepared by TIAA CREF do not (and cannot, as written) match their actual administration of plan eligibility.

The problem is that most schools want to exclude from the plan, coaches, substitute teachers, and other periodic or very part-time employees who work less than 20 hours per week. Although the school can do this legally under the 403(b) regulations, the TIAA CREF adoption agreement only allows exclusion of these less than part-time employees if the plan is a governmental plan. This is causing many of our schools' plans to incur administrative errors because they are not administering the plan in compliance with the document's terms.

We have been able to correct these failures going forward with an attachment to the adoption agreement, but some plan auditors are forcing employers to fix the error (so that the administration matches the plan document) before they will release the plan's financial statements needed for the Form 5500 filing. If you have a TIAA CREF-provided 403(b) plan document and want to exclude sub-part-time employees, you will need a clarifying attachment to your adoption agreement.

Even though TIAA-CREF often provides free 403(b) plans for schools, this is one of the reasons it pays to have your plan reviewed by a benefits attorney who knows your industry. These types of issues, and other options that you may want to take advantage of, can be explained by an attorney working for you, not for the plan administrator.