



Getting Your 403(b) Regulations Action Plan Ready  
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At long last, the IRS has released its final regulations governing 403(b) tax deferred annuity programs. Now that the final guidance is here, what should you consider in developing an action plan for your school district?

First of all, remember that the IRS guidance applies to all 403(b) programs. Even if your district's 403(b) program consists only of employee salary reduction contributions, that program is within the scope of the IRS final guidance. So, your first action step is to help educate yourself to the IRS' way of thinking – your involvement in the 403(b) program will not simply be limited to remitting employee contributions to investment providers.

In fact, the IRS would caution you that your 403(b) program is in fact an employer-sponsored plan, with a list of roles and responsibilities of which you will need to be aware. In general, starting as of January 1, 2009, your administration will need to:

- **Establish a written plan.**

As the “plan sponsor,” your district will need to develop “written rules of the road” to operate the 403(b) program. According to the IRS guidance, a 403(b) “plan” will need to capture the following required elements:

- Employees eligible to participate in the 403(b) program;
- Benefits available under the 403(b) program;
- Applicable IRS limits on the maximum amount of contributions that can be made annually, the amount of annual compensation taken into account on which contributions can be based, and the maximum amount that can be taken as a loan from the 403(b) program;
- The investment providers who can receive ongoing contributions under the 403(b) program;
- The requirements for an employee to take a distribution from the 403(b) plan and in what form those benefits may be paid out; and
- The names of any parties to whom your school will be delegating responsibilities of any compliance functions under the 403(b) plan and the specific roles that they will be taking as part of that delegation.

- **Make decisions about the features you want in your 403(b) program.**

Not every feature that your 403(b) program offers is considered by the IRS to be a required element. For example, the ability to:

- take a loan or a hardship withdrawal;
- transfer/exchange among investment providers either under your district's 403(b) program or to transfer to another employer's plan;
- accept rollovers into your district's 403(b) program; or
- make an employer contribution on behalf of participants in your district's 403(b) program

All are considered to be optional features of the 403(b) plan. Bottom line, according to the IRS, if your district's 403(b) program will be offering any optional features, they also must be included in the written 403(b) plan.

- **Approve disbursements from your 403(b) program.**

As the 403(b) plan sponsor, you will need to make sure that amounts paid out of the 403(b) program are consistent with the IRS rules governing when disbursement can be made. As a result, you (or another party whom you hire to provide such services) must determine whether your participants are entitled to a hardship withdrawal, loan, or other distribution from the 403(b) program and, if so, approve that transaction.

You will need to be prepared to share information with your service providers to accomplish this. The IRS will require that 403(b) sponsors share on an ongoing basis employee information (for example, employment termination date or hardship approvals) and participant account information (such as account values across all retirement plans that your district offers and whether there are any other loans outstanding from those other plans). While the formal written infrastructure for this must be in place by January 1, 2009, the IRS has warned that if information sharing protocols will apply to transfers/exchanges among investment providers after September 24, 2007, if permitted under your 403(b) plan.

- **Remind your employees of the opportunity to save for retirement through your 403(b) program.**

The IRS has been vigilantly trying to ensure that all employees who are eligible to participate in their employer's 403(b) program know that they have the opportunity to do so. The final 403(b) regulations reflect this, requiring that employers provide "meaningful notice" at least annually to their eligible employees, reminding them that they can make either pre-tax or -- if permitted by the plan -- Roth 403(b) contributions to the 403(b) program, how to make or change a deferral election, and how much can be contributed annually to the 403(b) program. If your 403(b) program allows employees to decide whether and how much they want to contribute to the plan, then your school district will need to start sending these annual notices.

Consider the IRS guidance a call to action. Particularly if your 403(b) program will continue to allow transfers among providers after September 24, 2007, you cannot afford to delay working on your action plan. **Start to:**

- **Gather plan related documentation.** You have already captured many of your 403(b) program's features in employee handbooks, service agreements, investment products and internal procedures. Use this as the jumping off point for developing your written plan.
- **Determine if your school will continue to allow transfers among investment providers.** If so, then think about how your 403(b) program can balance the new information sharing requirements with the ability to transfer among investment providers. Will you permit transfers among any providers or only those which also

accept ongoing contributions? Remember that this is the one area where you will need to make a decision quickly – that September 25, 2007 date is looming.

- **Devise a communication strategy for your employees.** Don't forget that most of these changes impact your employees. Just as your district's role in the 403(b) program is expanding, their ability to make decisions unilaterally is reduced. You will want to explain how these new IRS rules will impact the operation of the 403(b) program.
- **Seek help from those with 403(b) expertise.** You don't have to create your action plan alone. Seek providers that will support you with the tools, knowledge, and services you need to ensure your 403(b) plan runs smoothly and meets the IRS regulations. Help is just a click away at [www.ing.com/us/403bregs](http://www.ing.com/us/403bregs) or a call away at 1-800-238-6231.

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