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ENHANCE VOLUNTARY RETIREMENT PLAN BENEFITS FOR MEMBERS BY BARGAINING CTA'S ENDORSED 403(B) PLAN THIRD-PARTY ADMINISTRATOR, CALSTRS 403BCOMPLY

Produced for CTA members by CTA's Member Benefits Department.

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The California Teachers Association has endorsed CalSTRS 403bComply as our recommended third-party administrator (“TPA”) for 403(b) voluntary retirement plans provided by school districts for CTA members. As a result of recent regulatory changes, many school districts offering 403(b) plans to their employees will outsource 403(b) plan responsibilities to a TPA.

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CTA understands the importance of each district's selection of a reputable, low-cost, and independent administrator. Because of the potential impact this selection can have on the quality of our members' defined retirement contribution plans, CTA has endorsed the CalSTRS 403bComply program as a TPA that can be recommended to the school districts. The CalSTRS 403bComply program is offered at a low cost and provides open access to investment offerings from over 55 vendors (mutual fund companies, insurance companies, and other financial institutions offering 403(b) products). CalSTRS 403bComply does not sell 403(b) plan investment contracts or share personal data with other vendors, nor does it receive payments from contract vendors or give preferential treatment to any contract vendor.

Many districts have recently entered into new contracts with TPA's in preparation for their implementation of federal 403(b) plan regulations that became effective January 1, 2009. We encourage members that are not satisfied with the district's current TPA, to learn more about CalSTRS 403bComply and share this information with the district. It's not too late to change any district's TPA.

Recent 403(b) Plan Changes at the Districts

The new IRS regulations require school districts to take on significant oversight over 403(b) plans. Prior to December 31, 2009, each district must provide its employees with a written 403(b) plan document describing the rules of the plan and the investment contracts available to plan participants. As of January 1, 2009, districts must also maintain records sufficient to assure that their 403(b) plan is administered in compliance with all the requirements of 403(b) plans, including restrictions on early withdrawals and limits on annual contributions.

As a result of these changes, districts, in addition to individual 403(b) plan participants, must now be involved in 403(b) contract purchases or transfers. 403(b) plan participants interested in purchasing a specific investment contract must make sure that the provider of the new contract is registered with their district. In addition, districts are now responsible for choosing whether to provide optional plan features, such as loans, hardship distributions, acceptance of rollovers, and employer contributions.

For additional information on the new 403(b) regulations, copies of *The Advisor* are available from the CTA Member Benefits Department, at (650) 552-5200 or www.cta.org, or by email at member_benefits@cta.org. Information is also available at the Internal Revenue Service website, www.irs.gov/retirement/article/0,,id=172430,00.html.

What Do These Changes Mean to Members?

There are many potential implications of the IRS regulations for members and chapters.

A new Third Party Administrator: The additional responsibilities placed on districts by the new regulations require an expertise most district employees do not have and may cause them to acquire or make a change to their existing TPA. The fees for the TPA's services may be paid by the district or the cost may be passed along to members participating in the plan. A district may not refuse to make employee-requested 403(b) contributions because of administrative costs, nor may a district condition the availability of an employee-requested investment contract solely on the contract vendor's payment of administrative costs.

Some TPA's may claim to offer these 403(b) administration services for "free"; however, they receive income from other sources, sometimes from fees built into the plans or by requiring the district to offer another plan (i.e., 457*) through the TPA.

Changes in the approved list of investment contract vendors: Prior to these new regulations, many members enjoyed a wide selection of 403(b) investment options as California law required districts to make contributions to any 403(b) investment contract an employee chose. As the January 1, 2009 effective date approached, many members saw a significant change in the number of approved vendors offered. This was a result of the district's selection of a TPA who may have had information sharing arrangements with a limited number of approved vendors. Also, some investment contract vendors chose not to continue in the 403(b) market as of January 1, 2009, for various reasons, including being unable to comply with the information sharing requirements under the new legislation.

If a 403(b) plan participant's investment vendor and/or contract was de-selected and is not available for new contributions, the participant should have been informed of this change and been made aware of the investment contracts that were available after January 1, 2009. To continue contributions to the 403(b) plan after the deletion of a contract, it was necessary to select a new contract that is included on the district's list of approved vendors and contracts. The option to keep a previous account active as an orphaned account may exist, however, without the option of making new contributions. Members should carefully review any fees (i.e., surrender or transfer), expenses or penalties that may be triggered by an exchange from an existing 403(b) investment into a new one. (continued on page 3)

**457 plans are also voluntary retirement plans with similar provisions to 403(b) plans. The primary difference in the plans is that 457 plan assets are held in a single trust account for all of a district's participating employees, while 403(b) plan assets are held in individual trust accounts for each participant. Some school districts offer both a 403(b) and a 457 plan for their employees.*

Changes in 403(b) Plan Features: As many 403(b) plan features are optional, districts may have changed or eliminated optional features in place prior to January 1, 2009. For example, your district's 403(b) plan may no longer include loans or hardship distributions. Members may request copies of their district's written plan document from the district or their TPA. However, this document may not yet be available as the requirement for the completion and formal adoption of this document was extended to December 31, 2009.

Responding to 403(b) Plan Changes: Members not happy with changes to their 403(b) plan provisions and approved vendor listing should contact chapter leadership and/or UniServ staff. Although bargaining is permissible for many of these provisions, many chapters have not been involved in the formation and design of the district's new 403(b) plan provisions. This is a good opportunity to work toward improvements in the plan to benefit members.

Selection of Third-Party Administrators (TPA's)

It is important that the district selects a reputable and efficient administrator. All districts must comply with both Federal and State laws for safeguarding the contributions, changes, transfers, and investment data of the assets, and maintaining timely transactions of the plan. (See Additional TPA Information)

Potential Problems with Third-Party Administrators

Although the new IRS regulations are intended to protect 403(b) plan participants, some complaints about TPA's are due to implementation issues stemming from those regulations. For example, prior to January 1, 2009, it may have taken only a day or two to receive a loan from a 403(b) account. Under the new regulations, the district or TPA must confirm that the participant is eligible for a loan. As this process can now take weeks, participants may become frustrated with perceived delays.

Other complaints include the following:

- Poor service
- High fees
- The list of approved vendors is too limited
- The choice of vendors does not include a sufficient choice of low-fee investment contracts
- The TPA offers and gives preference to its own 403(b) and/or 457 investments, or to other vendors (often with high fees) and may make it difficult for non-preferred vendors to obtain approval by requiring implementation of onerous Information Sharing Agreements
- Personal information is being shared by the district or TPA with 403(b) and 457 plan vendors and participants are being solicited directly
- The TPA has suspended deductions for participants until later this year to get their "problems" cleaned up
- The TPA has not yet processed distributions and loans because they are not yet ready to do so under the new regulations

Note: When the district entered into a contract with the TPA, they may have signed for a particular term, e.g. two years. If members and other participants are dissatisfied with the vendor selected, be aware that the contract may contain a termination clause allowing for termination with as little as 30- or 60-day notice.

The CalSTRS 403bComply program was selected by CTA after a comprehensive evaluation of services offered, costs for the services, and the wide range of investment vendors who agree to do business with CalSTRS. CalSTRS in turn selected JEM Resources Partners to administer the services of the TPA. This partnership provides CTA members with an extensive list of available vendors to choose from.

The CalSTRS 403bComply program can be selected as a new TPA or it can be selected to replace a district's existing TPA.

Listed below are several reasons districts should select CalSTRS 403bComply for voluntary retirement plan administration:

The CalSTRS 403bComply program:

- Offers over 55 investment vendors that have each signed a vendor agreement with CalSTRS, including Vanguard, Fidelity, and T. Rowe Price.
- Does not require a minimum number of plan participants.
- Responds and resolves most inquiries/issues within the next business day.
- Does not sell investment contracts.
- Protects members' personal information and does not share this information with vendor sales representatives.
- Provides all enrollment and other 403(b) plan services online.
- Is flexible and has vendors that have agreed to the terms of each district's 403(b) written plan.
- Automates payroll processing to speed transactions.
- Starts deductions immediately when a participant changes to an approved vendor online.
- Began processing distributions and loans on January 5, 2009 and will soon offer this process online.
- Is available through an "interlocal" agreement (see Additional TPA Information) under California Government code section 6502. No Request for Proposal (RFP) is required.
- Provides representation in the event of an IRS audit.

The CalSTRS 403bComply program meets the criteria of offering a high level of service, a wide selection of vendors, conflict-free relationships, and the low fees we require for our endorsement. We believe it offers a viable and attractive solution to meet the needs of school districts and our members.

For more information on the CalSTRS 403bComply program, access www.calstrs403bcomply.com/publicsite or contact Julia Durand, CalSTRS, at 888-426-2684 or jdurand@calstrs.com. In addition, Regional UniServ and NODD staff can be of assistance. Also members can contact the CTA Member Benefits Department via email at member_benefits@cta.org or by calling 650-552-5200.

Definitions for Key 403(b) Terms

Investment Contracts: Each of the district's/employer's approved vendors offer one or more products. These products can vary by type (mutual fund or annuity), fund characteristics, average annual total returns, investments, fund management, fees and charges, distribution alternatives, etc.

Plan Participants: Employees eligible for and either contributing to or maintaining an account balance in the 403(b) plan.

Third-Party Administrator (TPA): Usually an out-of-house professional firm providing administration services to school districts/employers for employee benefit plans. They may collect contributions, forward contributions to vendor companies, process distributions, and provide other administrative services.

Vendors: Insurance and financial companies offering mutual fund and annuity investment contracts to 403(b) plan participants. Vendors that have been selected by and agreed to share information with the employer and TPA (if applicable), are considered "approved vendors". A school district/employer may also maintain information for "orphaned accounts" for investment contracts offered by vendors utilized by their plan participants prior to January 1, 2009, but were de-selected as of that date and are no longer available for new contributions through the school district/employer.

Considerations for You and Your Chapter

Whether you are a chapter leader, have a 403(b) account, or you are thinking about starting one in the future, you will be interested in how your district is implementing the new 403(b) regulations. Ask your school district if they have finalized their written plan document for the 403(b) plan. If they have, you can ask for a copy. Also ask for a copy of the listing of approved vendors. This listing should be available even if the written plan document is not yet completed due to the delay of the requirement for its adoption until December 31, 2009.

Does your written plan document contain the optional provisions that you feel are important to you? Is the listing of approved vendors sufficiently varied and comprehensive to provide the products you seek? Is there a good selection of investment contracts with low fees? Has your district outsourced administrative responsibilities to a TPA and if so, is this cost being paid by you and your fellow members – possibly reducing your investment results?

Your chapter should be assisting your district with the implementation of the new regulations and the initial design and provisions of your 403(b) plan. Also, they should participate as a full partner in all decisions concerning future changes to your voluntary retirement plan. Chapters can make an impact on preserving choices for members' investment decisions.

If your district has already hired a TPA, your chapter can ask the district to share their due diligence process in their selection, including the disclosure required in California Education Code Section 44041.5(c)(1) (See Additional TPA Information), and a copy of their contract with the TPA. With this information, your chapter can determine if the selected vendor meets the needs of your members and if not, the term of the contract. Although these contracts may be written for a stated term, they usually contain a provision allowing for termination prior to the end of the contract period.

Your regional UniServ and NODD staff can assist your leadership on how best to proceed. NODD has issued a Bargaining Advisory on the topic and their staff has assisted chapters with drafting Memorandums of Understandings for 403(b) plan negotiations.

Additional CTA Initiatives in this Area

In addition to the announcement of CalSTRS 403bComply as the CTA endorsed 403(b) TPA in December 2008, two additional initiatives are being developed to assist members in the voluntary retirement plan arena.

Investment Education Program

CTA is working with an investment education firm to offer independent, objective investment education. Calculators and education online, print material, and on-site seminars will be offered. This service will assist members in making the best decisions and choices for their retirement needs. We anticipate that this program will be available soon.

Best-in-Class 403(b) and 457 Plans

CTA has engaged an independent investment consultant to assist in identifying or creating new 403(b) and 457 programs for CTA members. The goal is to offer competitive and quality programs of investment options and services.

403bCompare.com is a Valuable Source of Information

It is easy to access 403(b) information on the website, www.403bCompare.com. Vendors, investment contracts, funds, features, and fees can be identified and can be compared side-by-side. Additional information is available from the vendors and the plan materials they provide, including their plan prospectuses. When discussing fees with vendors, members should specifically ask about implicit fees such as sales commissions. Implicit fees do not have to be disclosed in their materials and also may not be included in the 403bCompare.com information.

403b Compare
Your California School Employee Retirement Product Information Bank

Welcome to 403bCompare

The 403bCompare Web site is a bank of free objective information about 403(b) vendors and the products they offer.

This site was created to help employees of California's local school districts, community college districts or county offices of education make better-informed investment decisions by offering information about:

- ▶ 403(b) plans, available investment options, fees involved and product performance information.
- ▶ Registered 403(b) vendors' experience and services for the products supplied.
- ▶ General retirement planning information and educational materials.

The California State Teachers' Retirement System created and will be responsible for ongoing maintenance of this site, as per the requirements of [California Education Code 25100 et seq.](#)

News

- ▶ [Open Registration for Vendors on 403bCompare Web site](#)
- ▶ [Before You Stop Your Contributions, Read This!](#)
- ▶ [Teacher Pension System's Winning Web Program Gives Educators Sound Investment Tool](#)

Registered Vendors:
75 vendors to date

Registered Products:
285 products to date

Shortcuts:

- ▶ [Find my employer.](#)
- ▶ [Find a vendor.](#)
- ▶ [Search for a specific product by name.](#)

Download the 403bCompare Brochure (PDF, 736 KB)

Information for Vendors:
[Vendor Registration](#)

Information for Prospective Employers:
[Employer Registration](#)

Beware of Sales People Representing Themselves as Financial Consultants

Members may find it helpful to seek financial advice from professional financial consultants or advisors. It's important to select a reputable professional with training, experience, and credentials. Also, it's a good practice to ask questions before selecting a consultant or any products he/she may recommend. An investor should insure that the consultant is working in their best interests and not receiving commissions and rewards from the vendors he/she recommends. Additional tips for investor protection and suggested questions to ask are available on the U.S. Securities and Exchange website: www.sec.gov/investor/pubs/askquestions.htm. It's also advisable to write down answers they give and what the investor decided to do. If something goes wrong, notes can help to establish what was said. By asking questions and taking notes, the client will be viewed as a serious investor and the broker may give more helpful information.

California Education Code Sec. 7, Section 44041.5(c)(1)

If an employer elects to contract with a third-party administrator for the administrative or compliance services to employers described in subdivision (b), the employer shall do all of the following:

- (A) Require the third-party administrator to provide proof of liability insurance and a fidelity bond in an amount determined by the employer to be sufficient to protect the assets of participants and beneficiaries in the annuity contract and custodial account or deferred compensation plan.
- (B) Require the third-party administrator to provide evidence of a safe chain-of-custody of assets process for ensuring fulfillment of fiduciary responsibilities and timely placement of participant investments.
- (C) Require evidence, if the third-party administrator is related to or affiliated with a provider of investment products pursuant to Section 403(b) or 457 of the Internal Revenue Code, that data generated from the services provided by the third-party administrator are maintained in a manner that prevents the provider of investment products from accessing that data unless access to the data is required to provide the services in accordance with the contract entered into with the employer pursuant to subdivision (b).

California Education Code Sec. 7, 44041.5(d)

A third-party administrator shall disclose to any employer seeking his or her services any fees, commissions, cost offsets, reimbursements, or marketing or promotional items received by the administrator, a related entity, or a representative or agent of the administrator or related entity from any plan provider selected as a vendor of a annuity contract, custodial account, or deferred compensation plan by the employer. A third-party administrator that is affiliated with or has a contractual relationship with a provider of annuity contracts, custodial accounts or deferred compensation plans shall disclose the existence of the relationship to each employer and each individual participant in the annuity contract, custodial account or deferred compensation plan.

Interlocal Agreement Gives Districts the Ability to Bypass Lengthy RFP Process

In September 2008, the California State Teachers Retirement System (CalSTRS) selected JEM Resources Partners to administer the CalSTRS 403bComply program. CalSTRS partnership with JEM has an added feature that districts should find beneficial in their quest for securing a TPA to administer their 403(b) plans. JEM Resources Partners was selected as the sole vendor for 403(b) third-party administration for The Cooperative Purchasing Network (TCPN). Through this Co-op, districts are able to bypass the Request for Proposal (RFP) process and enter into a direct contract with the pre-selected vendor through TCPN whom has already been vetted through an RFP process with TCPN.

Disclaimer:

This article is designed to provide general information in regard to the subject matter covered. The California Teachers Association (CTA) is not engaged in rendering legal, investment, accounting or other professional services to the reader. We strongly recommend that any person using the information provided in this article seek counsel from their own professional advisors to determine its applicability to their own personal situation.

Evaluating Options for Hiring a TPA

This evaluation comes from the NEA Member Benefits 403(b) Toolkit.

1. Is the TPA an expert in 403(b) administration?
2. Can the TPA deliver on its promises
 - Do they maintain an expert staff?
 - Do they have financial stability?
3. How does the TPA protect your employees?
 - Can they provide data security?
 - Can they maintain confidentiality requirements?
4. How does the TPA bill for its services?
 - Per participant fees?
 - Plan level fees?
5. Can the TPA provide comprehensive 403(b) program management with compliance solutions?
 - Can the TPA create and maintain a 403(b) plan document?
 - Can they amend those documents for regulatory updates and model language?
6. Can the TPA provide administration & recordkeeping services?
 - Do they have a documented process?
 - How are the records retained?
 - Can they provide timely common remittance?
 - Can they coordinate investment providers for service requirements, information sharing agreements, and hold harmless?
 - Can they provide services for transfer, hardship, loan, and distribution compliance?
7. Can the TPA provide comprehensive communication solutions for plan participants?
 - Universal availability
 - Annual notification
8. How much experience does the TPA have?
 - References?
9. Does the TPA have any existing relationships or conflicts of interest regarding the product providers they recommend?

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