a. **Legislative Update – News and Views**

PUBLIC SECTOR RETIREMENT NEWS & VIEWS Q2 2024

Active Choice – an Alternative to Auto-Enrollment?

Deferred compensation programs typically offer open enrollment year-round. Employees can choose to participate when they feel ready and motivated to do so. This traditional enrollment method is known as the "opt-in" approach. Some deferred compensation plans offer *Auto-Enrollment*, where the employer automatically enrolls their employees in the deferred compensation plan, rather than relying on the employee to opt-in. This typically results in greater plan participation, an enhanced awareness of this important benefit, and an employee population that is more financially prepared for their retirement. However, not all states allow auto-enrollment, or only allow it under certain circumstances. * If you are in one of those states, Active Choice may be a great alternative for your plan.

Many employers have an "in-between" option – "opt-out" or "enhanced active choice" – an approach where employees are asked to specifically indicate that they do not want to save for retirement.

How does this work? Consider distributing information, perhaps during benefit plan open enrollment, that describes the advantages of participating in the retirement savings plan and asks employees to choose from a series of options:

- I am already participating and do not need additional information at this time.
- I am already participating and would like an account review with my representative.
- I am not participating but would like to start and would like the representative to contact me.
- I am not participating and choose not to do so. I understand that I may not have sufficient retirement savings and may have to work longer if I do not participate in this important benefit.

Note that the fourth option helps heighten employees' awareness of the possible consequences of nonparticipation. Wording the option this way and encouraging them to consider one of the other options helps employees avoid 'regret aversion'—the desire to minimize future regret from not participating in the retirement savings plan. The option is worded in such a way that it helps employees reassess their priorities.

Using enhanced active choice and asking employees to actively choose to participate or not is one of the great behavioral finance success stories in increasing participation rates in retirement savings plans – particularly in plans where state law prohibits auto-enrollment.

**To see what your state law says about auto-enrollment, NAGDCA as a handy and informative chart that provides state-by-state information. Click here to see your state's rules.*

Plan Participant Beneficiary Designations – Is This Important?

Beneficiary designations are one of the most overlooked pieces when participants are enrolling in a deferred compensation plan and/or keeping their information current. When plan sponsors review their plan's metrics, all too often they find alarmingly low rates of beneficiary designations on participant accounts. It's too easy for participants to say, "I'll do that later" and then not follow up. Helping your employees understand the importance of naming beneficiaries and keeping designations up to date is a key aspect of plan administration. Employees need to understand how workplace beneficiary processes work, what are the different types of beneficiaries, why it's important to keep beneficiary information updated, and what happens if no beneficiaries are named.

How workplace beneficiary processes work

When signing up for employment, the employee will be asked to designate their beneficiary(ies). This is true for many benefits, including deferred compensation, life, health, disability insurance and others. It is important to note that the designation of beneficiaries for each benefit stands alone – meaning that *beneficiaries must be named for each benefit*. Too many participants make the mistake of thinking that by designating beneficiaries for one benefit, their elections will apply to all benefits.

Types of beneficiaries

Employees will need to designate, at a minimum, a **primary beneficiary**(ies). This is the person or persons that will receive the entire account upon the participant's death. Next, **secondary or contingent beneficiary**(ies) can be named. This is the individual(s) that will receive a pre-defined amount in the event the primary beneficiary has passed away. If no beneficiary is designated, the account distribution will follow state law, which often directs assets to the participant's estate. (It is important to note that designating minor children or people with special needs as beneficiaries may carry certain considerations – participants may want to consult a legal advisor prior to making those designations.)

The importance of updating beneficiary information

As we all know, life happens, and many different life events can influence a change in a participant's beneficiary(ies). Events such as a change in marital status, birth or adoption of a child, loss of a loved one are all examples of events where participants should look at their beneficiary(ies) to see whether changes are in order. Unless and until the participant updates their beneficiary designations, those designations will stay in place – even in the case of a divorce & remarriage.

Most plan record keepers have online beneficiary capability, so participants can easily review and update their records. Plan sponsors can consider a few simple, proven strategies for improving participant beneficiary designations:

- Annual beneficiary update campaigns – to encourage participation, offer small prizes or wellness program points for completion.
- Engage your retirement specialist, asking them to review beneficiaries at each participant meeting.
- Ask your record keeper to include a beneficiary review each time participants log on to their accounts.

In-Plan Retirement Income Solutions and Your Plan

As 10,000 Baby Boomers turn 65 every day in America, many are asking themselves how do they protect their nest egg while also creating steady retirement income? We've seen Defined Contribution/Deferred Compensation Plans overtake Defined Benefit Plans as the primary source for retirement savings. The primary focus has always been on the accumulation phase and diversification within the portfolio to get to retirement, but the looming question remains, what's next and how do we address the decumulation needs for participants?

The SECURE Act allowed in-plan income solutions and provided the framework to address some of the historical challenges, specifically portability and transparency. While SECURE Act opened the door, many plan sponsors find themselves still standing outside the doorway waiting to enter. As fiduciaries to the plan, what are some of the steps plan sponsors and their retirement committees/commission/boards do to ensure they're offering their participants the most appropriate solution for these in-plan income solutions?

Step 1: Education – The largest hurdle for both the plan sponsor, committees, and participants will be education on the proposed solutions. The marketplace currently has a wide variety of solutions and more are coming to market as there is an increased appetite for this type of solution.
Step 2: Suitability analysis – Similar to the oversight needed for the target date solution, a well written and documented process is needed to evaluate if these solutions are indeed prudent for your specific plan.
Step 3: Implementation – Document the decision to implement an in-plan income solution or defer until the marketplace provides a more appropriate solution tailored to your participants' needs. Under SECURE Act there is a fiduciary safe harbor so long as the due diligence requirements are met. You must consider the financial stability of the insurer. You must also consider the costs of the contract by the insurer. This includes specific written representations and financial examinations are required to take the guesswork out of the process.

The notion of offering in-plan income solutions provides participants with a much-needed additional tier in the decumulation phase, though plan sponsors and retirement committees will want to ensure they partner with experts to help assess the suitability and make an informed decision to implement or defer. NFP is actively monitoring the various solutions as they are developed and can help plan sponsors evaluate options to determine suitability for your plan. Please contact your NFP advisor to explore plan options for retirement income solutions.

NAGDCA Conference Registration Opening Soon!

The annual 2024 NAGDCA conference is scheduled for September 15-18 in Phoenix, Arizona. With robust educational sessions, networking events, roundtable discussions and more, the conference offers many opportunities to learn from and share ideas with peers, learn new techniques for improving your plan, and more. Registration opens in April and is discounted for early registrants.

If you or your colleagues are attending, NFP recommends registering as soon as possible, so you can secure a room at the main hotel. Please let your NFP advisor know if you are attending.

Please contact your NFP advisor if you need further information or have questions about any of the information in this newsletter. We are here to help you with recommended plan trends, the latest legislative developments, and practical steps to meet your fiduciary responsibilities in the most efficient manner possible.

About NFP

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For more information, visit NFP.com.

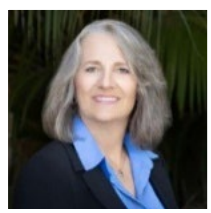
NFP GOVERNMENTAL RETIREMENT PLAN EXPERTISE

Bill Tugaw is the governmental plan practice leader for NFP. He has assisted public sector employers in meeting the fiduciary obligations associated with operating their plans for more than 30 years. Bill is a faculty instructor for the International Foundation of Employee Benefit Plans (IFEBP) on public sector 457(b), 401(a) and 403(b) plans. Bill is frequently invited to lecture on employee benefits, post-employment health plan options, requests for disclosure and requests for proposals. Bill is co-author of two books: *Deferred Compensation / Defined Contribution: New Rules / New Game for Public and Private Plans, and Defined Contribution Decisions: The Education Challenge*.

bill.tugaw@nfp.com | P: 650.888.8983

Barbara A. Healy

- Barbara A. Healy is a governmental practice leader associated with NFP Retirement/SST Benefits Consulting and works with public sector and non-profit educational institutions. She has over 35 years experience exclusively assisting public sector plans, school districts, credit unions and other non-profits with their retirement and pension plans. Barbara has earned an MBA degree in finance from DePaul University. She obtained the CFP® designation from the College of Financial Planning, the Certified Funds Specialist designation, the Chartered Mutual Fund Specialist designation, the Certified Retirement Administrator designation, and the ASPPA TGPC designation and the AIF designations.



Mindy Harris

- Mindy Harris is a governmental practice leader that advises on best practices and industry trends for plan administration and development, and provides legislative and best practices education to clients. Mindy works with record keepers in her clients' plans to establish and manage performance standards for plan services, providing reports and advice to clients about their record keepers' work towards meeting the performance standards. Mindy graduated from Portland State University with a Bachelor of Science degree in business administration, concentrating in financial management and accounting. Mindy also passed her CRC and CRA designations from InFRE.

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