



College and University Professional
Association for Human Resources

September 25, 2006

Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5669
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

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ATTN: Form 5500 Regulation Revisions (RIN 1210-AB06)

Dear Sir or Madam:

Thank you for the opportunity to comment on the proposed revisions to the Form 5500 published in the July 21, 2006, Federal Register (pages 41392-41407). On behalf of the College and University Professional Association for Human Resources (CUPA-HR), I write to express concern over the additional reporting requirements for Internal Revenue Code (Code) 403(b) plans contained in the proposed revisions and to request additional information.

CUPA-HR serves as the voice of human resources in higher education, representing more than 8,400 human resource professionals at nearly 1,600 colleges and universities across the country. Colleges and universities employ more than 2.3 million individuals. As nonprofits, our members frequently offer their employees access to benefits provided pursuant to Code section 403(b) plans.

The Department has proposed new reporting requirements for 403(b) plans. In short, the revisions would eliminate a long established exemption and require 403(b) plans to meet the same reporting requirements as plans offered by for-profit employers.

The proposed rule states that the new requirements are warranted because investigations into 403(b) plans have revealed a high percentage of improper handling of employee contributions. It does not provide, however, any details about:

1. the number of incidents, in the aggregate or annually;



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2. whether that number has been trending upward or downward; and
3. whether the violations were more common among a particular size or type of plan or employer.

Nor does it provide a clear explanation as to why the Department believes these specific additional reporting requirements will help minimize the violations.

While CUPA-HR shares the Department's concern over mishandling of employee contributions, the proposed additional reporting requirements would place significant burdens and costs on our members offering 403(b) plans and potentially adversely impact the number and quality of benefits that they are able to offer to their employees. Most of our member institutions try to provide competitive benefits packages in order to compete against larger salaries offered by the for-profit industry and to attract the talent necessary to keep the U.S. higher education system the best in the world. Thus, it is important for CUPA-HR, and the higher education community in general, to understand the justification for any additional legal or administrative costs related to employee benefits.

The Department states in the proposal that it believes that the added costs and burdens "are justified by the need to enhance" protections for 403(b)s. Yet, without more information, we cannot gauge whether the Department's proposal will adequately address the cited problems with employee contributions and/or whether there are less burdensome alternatives that would achieve the Department's objectives. In short, we need more data in order to assess adequately the Department's proposal and to provide meaningful comments.

We, therefore, request that the Department provide the public with further details about:

1. the number of violations, in the aggregate or annually;
2. whether that number has been trending upward or downward;
3. whether the violations were more common among a particular size or type of plan or employer; and
4. why it believes these specific additional reporting requirements would help minimize the violations.



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In addition, CUPA-HR requests that the Department consider increasing the compliance deadline by two years. This will allow employers and plan providers a better opportunity to put in place the extensive apparatus they will need to meet the new requirements — particularly for those employers who use multiple providers.

We would like the opportunity to discuss in greater detail the Department's proposal and its possible impact on higher education and will contact you shortly to arrange a meeting.

Again, thank you for the opportunity to comment, and feel free to contact me at 202.446.8371 with any questions or concerns.

Very truly yours,

A handwritten signature in black ink, appearing to read "Joshua A. Ulman". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Joshua A. Ulman
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