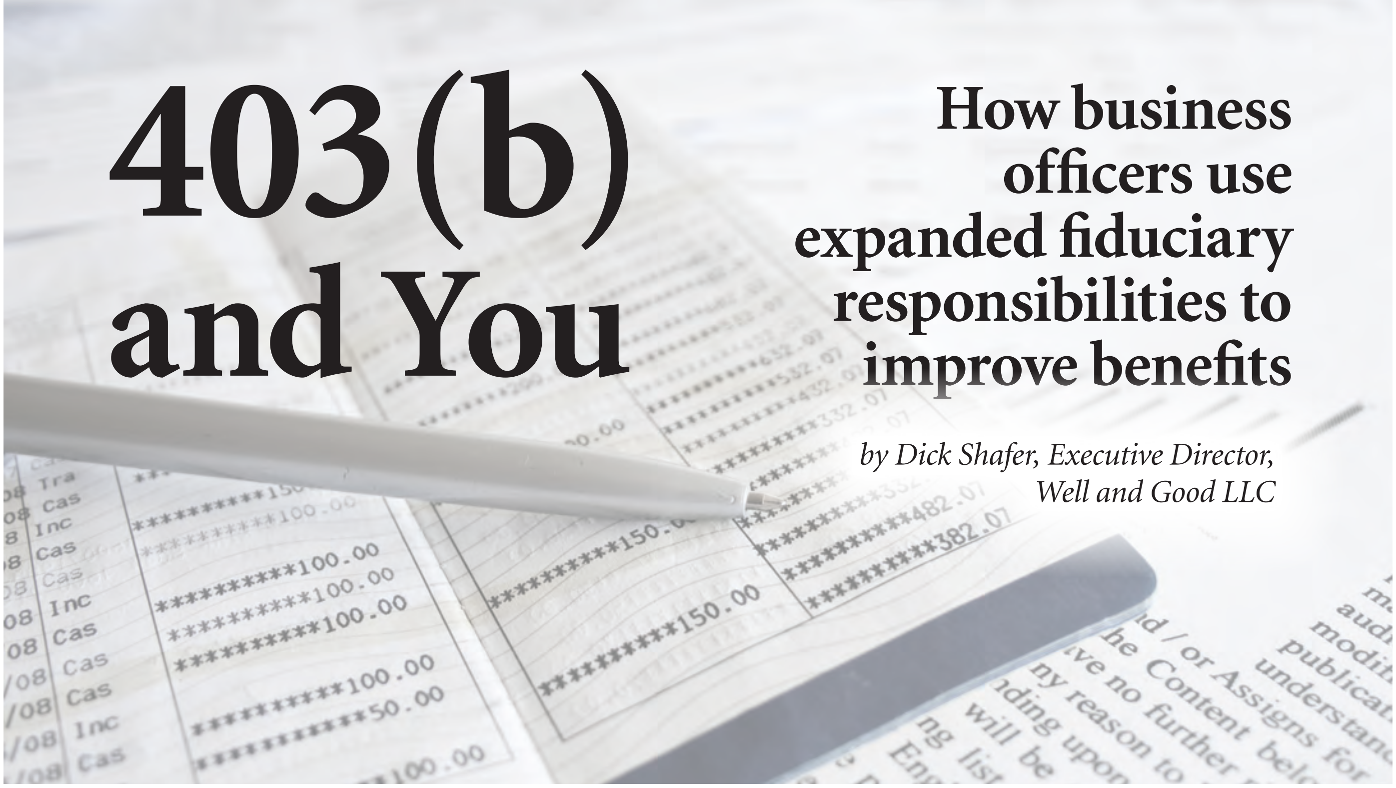

403(b) and You

How business officers use expanded fiduciary responsibilities to improve benefits

by Dick Shafer, Executive Director, Well and Good LLC

"As a school business officer, I wear many different hats," says Darlene N. Blakeney, Director of Finance and Operations at Hanahau'oli School in Honolulu, Hawaii. "Not just that of fiscal responsibility for the school—managing the endowment, budget, and construction projects—I am also in effect the human resources director. Combining those roles, I have an obligation to manage the retirement plan so that it optimizes benefits to the school and employees."

Blakeney is part of a new wave of business officers taking control of their institution's retirement plans. They are motivated partly by a desire for institutional excellence and partly by new rules and regulations. Until recently, many schools engaged an investment company—such as TIAA-CREF, VALIC, or Fidelity—and relied upon that organization to look out for the plan and participants.

With new 403(b) plan regulations issued by the Internal Revenue Service and heightened scrutiny by the U.S. Department of Labor, officers and governing boards of independent schools and colleges have a more hands-on responsibility. They must satisfy retirement plan fiduciary responsibilities and operate plans in accord with regulatory requirements.

Dirk De Roo, Director of Administration, Human Resources, at Phillips Exeter Academy in New Hampshire, describes the process by which the Academy researched and met its retirement plan fiduciary obligations. "With the changing 403(b) plan rules in 2009, we realized that we needed to conduct more oversight," he says.

"We looked at the Department of Labor website, met with the Academy's legal counsel, and drew up a checklist of items we should have in place. These included an investment policy statement, regular monitoring and reporting, a new plan document, and controls over transactions like plan loans and hardship withdrawals. We discovered that we and the Academy's board members could even be held personally liable for not fulfilling fiduciary responsibilities. It really ups the ante quite a bit."

Clearly, a fiduciary cannot rely upon the investment provider to reach an independent judgment. "While due diligence plan review is new to me, it is a responsibility I accept on behalf of the plan and participants," says Alanna Brown, Denver-based Colorado Academy's Business Manager. "I need to protect their assets by regularly examining rates of return compared to the risks involved, and expenses in light of services."

Schools naturally look for advice to complete their fiduciary due diligence. Phillips Exeter's DeRoo says, "Once we understood the need for our plans to have more formal oversight, we asked, 'Does the Academy have the internal expertise to monitor and make valid recommendations?' We acknowledged right up front that we didn't. So we looked for outsiders with expertise and objectivity, got a short list of consultants, requested information about fees and services, developed a matrix, and made a selection."

Marina Radovich, Director of Finance at The Nightingale-Bamford School in New York City, considered the do-it-yourself alternative. "We did not look forward to plan due diligence," she says. "With our limited time and experience we felt we could not tackle all the details ourselves or bring board members up to speed. In this litigious society, we do not want to overlook something important.

"Initially, we considered doing due diligence ourselves or through the investment committee of the board of trustees, but when we looked at it realistically, neither one was a good option." Indeed, this type of due diligence is not a good use of trustees' time; using a third party is an efficient and objective way to meet a school's needs.

Even sophisticated business officers can feel unpleasantly surprised to learn that insurance companies and mutual funds do not accept fiduciary responsibility for 403(b) plan investments. As for executing that responsibility themselves, business officers may not be confident about exercising necessary control over plan investments and fees. With the right type of support, however, a school can efficiently satisfy its fiduciary responsibility and act appropriately in the best interests of the plan and its participants.

Most plans at independent schools are in excellent shape in two of five critical investment fiduciary functions: high enrollment and appropriate contribution rates. However, there is often a need for improvement in plan asset allocation, plan income preparation, and in helping the board understand its responsibilities. Reaching out to a third party to work on these three issues can save business officers time and stress.

By taking an affirmative step now, business officers can improve retirement benefits and head off fiduciary challenges down the road. Now *that's* something to celebrate.

Dick Shafer

Registered with the Securities and Exchange Commission, Well and Good LLC (www.wellandgoodria.com) provides fixed fee-for-service retirement plan investment advice and offers a plan fiduciary training program developed especially for independent schools and other nonprofit organizations. Before founding Well and Good LLC, Dick Shafer managed retirement products for CUNA Mutual Group and more than 4,000 nonprofit credit union retirement plans nationwide. Shafer also worked at TIAA-CREF, where he managed the managers of cross-functional teams that served 1,000 educational institution clients.

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