



# INTERPRETING PLAN DOCUMENTS

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## WELFARE & RETIREMENT PLANS

- Welfare Plans
  - Self-funded health plans
  - Disability plans
  - Cafeteria plans (medical reimbursement and dependent care)
- Retirement and Deferred Compensation Plans
  - 457 Plans
  - 403(b) Plans
  - Public School and Education Employee Retirement Systems of Missouri (PSRS/PEERS)



## METHODOLOGY FOR INTERPRETING PLANS

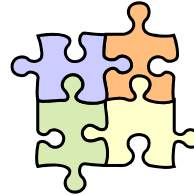
- Assemble plan documents
  - Determine power & authority to interpret plan
  - Identify and review plan provisions governing situation or claim
  - Consider previous interpretations
- Apply applicable law
- Formality of decision
- Consider possibility of appeal



## ASSEMBLE PLAN DOCUMENTS

Is there a single cohesive plan document or is the plan a collection of writings from various sources?

- Signed plan document
- Plan summaries
- Employee handbook
- Resolutions
- Policies and/or regulations
- Administrative forms



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## POWER & AUTHORITY TO INTERPRET PLAN

- Who has interpretive authority?
  - Board of Education?
  - An identified committee?
  - A third party administrator retained by the District?
- Scope of authority to interpret the plan
  - Plan document(s)
  - Missouri statutes
  - Board regulations and policies



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## **IDENTIFY AND REVIEW PLAN PROVISIONS GOVERNING THE CLAIM OR ISSUE**

### Common Issues or Claims

- An individual's status as a Participant
- Eligibility for benefits
- Manner in which hours of work are credited for eligibility and/or vesting
- The continuance or discontinuance of benefits
- The level and type of benefits



## **CONSIDER PREVIOUS INTERPRETATIONS**

- Inconsistent interpretations raise issues of
  - Arbitrary decision making
  - Conflict of Interest
  - Discrimination
- In the event of inconsistency, consider whether the plan should be amended or a new policy should be adopted.



## LAWS AFFECTING PLAN ADMINISTRATION AND INTERPRETATION

- Title VII of the Civil Rights Act of 1964, 42 USC § 2000e, makes it unlawful for an employer to discriminate against any individual with respect to his/her compensation, terms, conditions or privileges of employment, because of an individual's race, color, religion, sex or national origin.
- The Age Discrimination in Employment Act of 1967 ("ADEA"), 29 USC § 621 protects individuals who are 40 years of age or older from employment discrimination based on age. Under the ADEA, it is unlawful to discriminate against a person because of his/her age with respect to any term, condition or privilege of employment, including benefits.
- The Americans with Disabilities Act of 1990 ("ADA"), 42 USC § 12101 prohibits employers from discriminating against qualified individuals with disabilities in terms, conditions, and privileges of employment.



## LAWS AFFECTING PLAN ADMINISTRATION AND INTERPRETATION

### Self-Funded Health and Medical Reimbursement Plans

- COBRA continuation coverage
- Family and Medical Leave Act
- Internal Revenue Code and Treasury Regulations – definition of dependent, ability to revoke elections under medical reimbursement plans
- HIPAA - special enrollment rights and health information privacy
- Missouri law benefit mandates
- Missouri plan subrogation rights



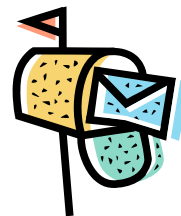
## LAWS AFFECTING PLAN ADMINISTRATION AND INTERPRETATION

- 457(b) Plans
  - Missouri laws governing trusts and contracts
  - Internal Revenue Code Section 457 and regulations
- 403(b) Plans
  - Missouri laws governing contracts
  - Internal Revenue Code Section 403(b) and regulations
- 457(f) Plans (impact of Code Section 409A)
- Persuasive Authority: Employee Retirement Income Security Act of 1974 (“ERISA”)



## FORM OF DECISION

- Informal requests for information
- Procedures described in the plan
- Oral or written decisions



## APPEALS

- Plan Appeal Procedures
- Judicial Review
  - Administrative Procedure Act, Mo. Rev. Stat. Chapter 536 (the “APA”). School districts are recognized as "agencies" and their decisions concerning employee contracts are reviewable under the APA.
    - Contested Case – formal hearing – deference to decision. A "contested case" is a "proceeding before an agency in which legal rights, duties or privileges of specific parties are required by law to be determined after hearing." Section 536.010(2). The requirement of a hearing as set forth in § 536.010(2) means a hearing required by constitutional provision, statute, municipal charter provision or ordinance.
    - Noncontested Case – no deference to decision. A noncontested case is one in which an agency made a decision affecting the legal rights of a person, but no hearing was required by law .



## Thank You

### Questions

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