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A Lesson or Two

Forthcoming changes in the Montgomery County Public Schools (MCPS) retirement plan, set to take effect on January 1, 2016, are a step in the right direction. Reducing fees, increasing transparency of fees, consolidating record keeping and providing participants with access to independent financial advisors are all beneficial changes for MCPS employees.

But the new plan needs to go further to incorporate the "best interest" fiduciary standard for investment advice given to retirees, in line with the Obama Administration's new regulatory initiative that will take effect in 18 months. It's ironic that the new MCPS plan design does not fully embrace guidelines that have been spearheaded by one of Montgomery's own, Secretary of Labor Thomas Perez, who is a former Montgomery County Council member and council president.

MCPS had commissioned a study in 2014. According to a joint statement issued in March 2015 by the three unions representing MCPS employees, it found:

- MCPS plan participants are being charged higher fees on their investments than participants in comparable plans. According to the analysis, MCPS plan fees totaled $4 - $6 million per year more than the average for the benchmarked comparison plans.
- Under the current plan design, MCPS employees are charged different fees by different vendors to invest in the same mutual funds.
- The current plans do not require that financial advisors have a fiduciary responsibility to their customers. As the statement noted, "There is a difference between a sales representative and a fiduciary, who has a higher legal obligation to act in (the client's) interest."

"While the current plan design may suit the interests of the current vendors," the unions' joint statement noted, "it does not adequately protect the interests of our members."

As a result, the three unions successfully negotiated, and the membership of each union overwhelmingly voted to support, several fundamental changes in the MCPS retirement plan design including:

- Changing how participants pay for an investment advisor, while still giving them the freedom to use whomever they want as a financial advisor.
- Providing a core investment menu that includes a wider variety of lower cost options while preserving the right of participants to choose almost any investment vehicle they might want.
- Allowing participants to avoid paying fees to a financial advisor if they prefer to make their own investment selections.

To a certain extent, the MCPS is stepping up and acting as a fiduciary in the sense that it is putting a stronger emphasis on what is in the "best interest" of plan participants. This starts with consolidation of plan record-keeping from nine vendors to a single "record-keeper." This will lower the overall expenses of the plan. At the same time, the redesigned plan will offer new, less expensive investment options. But the new plan stops short of fully embracing the Obama/Perez standard that all retirement plan advisors be fiduciaries. In another touch of irony, that will have to change in 18 months when the new federal regulations take effect. The question begs: Why not go the full fiduciary route now?

As I have written in this space before, fiduciaries sit on the same side of the table as the employee. Fiduciary advisors are compensated only by the fees they charge and not by commissions earned for selling investment products. Since MCPS is still allowing commissioned salespeople to sell their plans to school system employees, it is, at best, halfway there in terms of ensuring the "best interest" of its

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plan participants.

Here are a few bits of advice for MCPS employees who will be making the transition to the new plan. First and foremost, take advantage of the new investment choices that will become available. If you feel lost, then hire a fiduciary investment advisor to guide you through the maze of investment options. The fiduciary advisor will make sure that any new investment choices are integrated with other assets you own that are outside of the MCPS retirement plan.

For example, clients often have life insurance policies, IRAs and old 401k accounts with beneficiary designations that may cut out a newly born grandchild or, worse, provide an unintended benefit to an ex-spouse. Estate planning and designations should be reviewed every few years but especially when a parent or loved one becomes ill and unable to take care of his own financial matters.

In addition, an independent fiduciary financial advisor will ask questions to help clients identify their most personal goals and desires. They're also an excellent sounding board while clients work through important decisions such as how much to pay for college and whether or not their children should contribute to those costs. That, alone, can be a priceless service.

MCPS deserves accolades for making changes in its retirement plan to help teachers, administrators and other employees of the school system maximize the benefits of the MCPS retirement system. It's important to note that one of the goals of redesigned plan is to increase participation, which is currently less than half of MCPS employees. If inclusion of stronger fiduciary requirements is, in fact, on the horizon, then the new school system retirement plan design will undoubtedly herald the dawn of a very bright retirement planning future for a much larger percentage of MCPS employees.

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