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Don’t Overlook These 5 Benefits Issues Facing Higher Education Institutions

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All employers are faced with challenges and compliance risks associated with providing benefits to their employees. However, these risks and challenges can vary greatly by industry. Employers (and their advisors) who understand the unique issues in their industry are better poised to avoid potential missteps. In this article, we discuss five benefits issues uniquely affecting higher education institutions.

1. Politics and Communication

Although higher education institutions are ultimately governed by boards, as is typical of most employers, the decision-making process for these institutions is often anything but typical. Specifically, at higher education institutions, employees outside of the usual decision-making realm of benefits managers and upper management, such as tenured faculty, may be more likely to have a voice and opinion on any benefit changes that are considered. As a result, heightened planning, collaboration, and communication may be necessary to ensure any changes are smooth and well-received. For example, if an institution intends to make a material change to its retirement plan, the institution may consider reaching out to faculty leadership in advance to explain why the change is being made and how it may be beneficial. Then, once the change is made, it may be helpful for the summary of material modifications to be accompanied with an explanatory cover letter or to be presented in a very user-friendly format.

2. ACA and School Year Contracts

If certain faculty positions are subject to contracts that terminate at the end of each school year, a faculty member that is rehired for the following school year may be considered a new employee for many purposes. However, for purposes of compliance with the employer shared responsibility requirements of the Affordable Care Act (ACA), the higher education institution generally must treat the employee as an ongoing employee and cannot impose another waiting period under its medical plan. While most employers can treat rehired employees as new employees for this purpose after a 13-week absence, educational organizations are subject to a special rule that requires a 26-week absence.

3. Student Employees

Student employees are typically employed for a very limited duration and are most often covered under a parent's medical plan. For this reason, most higher education institutions exclude student employees from some or all benefits. With respect to medical plans, higher education institutions could run afoul of the ACA employer shared responsibility requirements if student employees are excluded from coverage without exception. Specifically, unless a student employee's position is subsidized through a state or federal work study program, the student employee's hours of service must be counted for determining his or her status as a full-time employee for ACA purposes. With respect to 403(b) retirement plans, excluding student employees is permissible due to an exception from the "universal availability rule," which otherwise generally requires that all employees be permitted to make elective deferral contributions. However, any exclusion of student employees must still be specified in the plan document.

4. 457(b) Plans

Eligible 457(b) plans can be a valuable benefit and are available only to certain employers, including most higher education institutions. Administering these plans can, however, come with some unique challenges. For example, if a higher education institution's 457(b) plan permits special catch-up contributions, plan participants may be able to contribute up to twice the annual limit during the three-year period preceding the year in which a participant reaches normal retirement age. However, the special catch-up contributions are only available to the extent the participant has not deferred up to the contribution limit in all prior years of participation. Thus, determining a participant's special catch-up contribution limit can be complex and require a careful analysis of historical data that may not be readily available.

5. Retiree Medical Benefits

Higher education institutions tend to be more magnanimous than other employers and are thus more likely to offer medical benefits to retirees. Depending on how these benefits are structured, they can be very costly. To ensure flexibility, institutions should make sure that the plan documents governing any retiree medical benefits clearly state the institution's right to amend or terminate the benefits. Also, any communications to employees or retirees regarding the benefits should avoid any suggestion that the benefits are permanent, perpetual, or guaranteed.

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