



CYPEN & CYPEN
NEWSLETTER
for
MARCH 17, 2016

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Stephen H. Cypen, Esq., Editor

Never Forget September 11, 2001

and

Always Remember May 2, 2011

1. HEY, KEITH: As our readers know, Keith Brinkman is Bureau Chief, Bureau of Local Retirement Systems, Florida Department of Management Services, Division of Retirement. Keith is an excellent resource for trustees and other interested persons to ask questions and for guidance. What follows below is Keith's answer to a question that is currently being discussed around the State:

Sections 175.071 and 185.06, Florida Statutes, provide the board of trustees with the sole and exclusive authority to administer the plan and invest assets of the plan. Any amounts transferred and or maintained as self-directed accounts in a Deferred Retirement Option Plan (DROP) or share plan are plan assets until they are distributed to the participant, and, as such, remain under the control and authority of the board. While self-directed moneys are in DROP accounts, they are subject to the terms of the Florida statutes, plan documents and board investment policy.

The board should continue to use the same due diligence for selection and review of investment providers for self-directed DROP accounts as for the assets invested in the plan's trust fund. The board serves as a fiduciary of the plan and should take an active interest in the performance of the investment products offered within the self-directed accounts. Sections 175.071(6)(a) and 185.06(5)(a), Florida Statutes, require a performance evaluation by an independent consultant at least once every three years, and this requirement extends to the performance of self-directed accounts, as well. The consultant will review and make recommendations with regard to both the board's money managers and the self-directed asset managers.

Plan assets that have been allocated to self-directed DROP or share plan accounts must continue to be reported in the plan assets on your state annual report. Please discuss this matter with your auditor to

determine whether or not the assets should also be included in plan assets in your audited financial statements. The board may wish to review its current policies regarding such accounts to ensure compliance with statutes, local ordinances and board policies. Other considerations include setting forth a specific policy in the event that the holder of a self-directed account commits a forfeitable offense and how a loss of principal would be addressed if the member rescinds participation in the DROP.

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Thanks, Keith, for all you do.

2. CalPERS REVISES GOVERNANCE POLICY, ADOPTS 12 YEARS AS THRESHOLD FOR DIRECTOR INDEPENDENCE ON CORPORATE BOARDS:

On March 14, 2016 California Public Employees' Retirement System Board of Administration adopted a revised version of its Global Governance Principles, including a new provision that cautions that corporate board directors who serve more than 12 years on the same company board are at risk of

compromising their independence. In the event a director reaches 12 years of service on a board, CalPERS' revised Principles call for a company to carry out rigorous evaluations either to classify the director as non-independent or provide a detailed explanation as to why the director continues to be independent. The Principles serve as framework by which CalPERS executes its shareowner proxy voting responsibilities; engages public companies to achieve long-term, sustainable risk-adjusted returns; and works with internal and external investment managers to ensure their practices align with CalPERS' Investment Beliefs. Additional revisions to the Principles include:

- Streamlined organization, from numerous capital market issues to five core subjects areas:
 - Investor rights
 - Board quality and diversity
 - Corporate reporting
 - Regulatory effectiveness
- Changes to Introduction and Purpose sections, including new references to the regulatory environment; financial markets; and environmental, social and governance issues.
- Inclusion of new principle concepts, such as regulatory effectiveness, which requires regulators to be properly funded.

3. MOODY'S WILL PAY CalPERS \$30 MILLION TO SETTLE: California Public Employees' Retirement System has won a \$130 million settlement from Moody's, stemming from Moody's Investors'

Services erroneous “AAA” ratings of certain investments that performed very poorly during the 2008 and 2009 financial crisis. Early in 2015, CalPERS settled with separate defendant, Standard & Poor's, for \$125 million, bringing total recovery from the now-concluded lawsuit to \$255 million. The lawsuit is now resolved against Moody's, and restores money that belonged to CalPERS members and employers. CalPERS sued Moody's and other rating agencies in 2009 after the mammoth pension plan sustained losses from investments in three structured investment vehicles that relied on the liquidity of assets that turned out to be much more illiquid than portrayed by their sellers and raters, such as subprime retail mortgage backed securities, collateralized debt obligations and other asset-backed securities. In the initial lawsuit, CalPERS alleged that Moody's made negligent misrepresentations by assigning the investments their highest credit rating. CalPERS spokesmen say they hope the settlement will serve as a cautionary reminder to all investors that they rely on rating agencies to guide their investments (who does not?) Details of this settlement were published in plansponsor.com.

4. WHAT YOU SHOULD KNOW ABOUT THE NEW LAWS FOR CLAIMING SOCIAL SECURITY RETIREMENT BENEFITS: Have you heard that some of Social Security's rules about claiming benefits are changing? Well, it's true. The Bipartisan Budget Act that passed last November closed two complex loopholes that were used primarily by married couples. Social Security wants you to know why this action occurred, how it might affect you and what you should do next. But

first, do not forget that one of the best ways to increase your Social Security retirement benefit is to delay claiming it between ages 62 and 70. Each month you delay results in a higher monthly benefit for the rest of your life. The new law does not change this situation. The new law closes loopholes that allowed some married couples to receive higher benefits than intended. Only a small fraction of retirees used these loopholes. Closing them helps restore fairness and strengthens Social Security's long-term financing. Here are the rule changes:

- First, if you are eligible for benefits both as a retiree and as a spouse (or divorced spouse), you must start both benefits at the same time. This "deemed filing" used to apply only before full retirement age, which is currently 66. Now it applies at any age up to 70, if you turned 62 after January 1, 2016.
- Second, if you take your retirement benefit and then ask (on or after April 30, 2016) to suspend it to earn delayed retirement credits, your spouse or dependents generally will not be able to receive benefits on your Social Security record during the suspension. You also will not be able to receive spouse benefits on anyone else's record during that time.

For more information about these changes in the law, please visit

Recent Social Security Claiming Changes at

<https://www.ssa.gov/planners/retire/claiming.html>.

5. SSA COULD INCREASE SAVINGS BY REFINING ITS

SELECTION OF CASES FOR DISABILITY REVIEW: The Social Security Administration selects cases for continuing disability reviews (CDR) using several inputs, but it does not do so in a manner that maximizes potential savings. SSA first prioritizes CDRs required by law or agency policy, such as those for children under 1 year old who are receiving benefits due in part to low birth weight. Then SSA uses statistical models to identify the remaining CDRs to be conducted each year. The models also determine which cases will receive an in-depth review of medical records by the Disability Determination Services -- the state agencies that conduct CDRs -- versus a lower-cost questionnaire sent directly to the beneficiary. A growing number of cases have been set aside for future review (backlogged) over the last 10 years. Although SSA somewhat considers potential cost savings when selecting cases for in-depth reviews, its approach does not maximize potential savings for the government. For example, estimated average savings from conducting CDRs are higher for some groups of Disability Insurance beneficiaries than others, but SSA's selection process does not differentiate among these groups. As a result, it may be missing opportunities to efficiently and effectively use federal resources. SSA reviews a sample of CDRs for quality, but its analysis and reporting of errors are not comprehensive. Specifically, SSA randomly selects CDR decisions to check for a variety of potential errors. For example, SSA regularly monitors and reports on the frequency of errors that affect whether benefits are continued or ceased. However, contrary to federal internal control standards, SSA does not systematically analyze errors to detect and

address root causes. Consequently, SSA lacks information that could help improve the quality of the reviews conducted by the Disability Determination Services. Further, in determining CDR accuracy rates, SSA does not count date errors, including incorrect cessation dates, which can affect disability benefit payments. As a result, decision makers do not have a complete picture of the CDR errors that affect disability payments. Well...? GAO-16-250 (February 2016).

6. HERO-OFFICER SACRIFICES HIMSELF TO SAVE WOMEN'S LIFE FROM WRONG-WAY DRIVER:

A Florida woman is expressing her gratitude for an officer who drove between her and a driver going the wrong way, taking on the impact and saving the woman's life.

According to leoaffairs.com, Hillsborough County Deputy Sheriff John Kotfila was killed when he placed his vehicle between the wrong-way driver and Sarah Geren, who was returning from work on Saturday morning. Geren tried desperately to signal the wrong-way driver as he sped towards her. Suddenly, Kotfila sped up from behind her, using his vehicle as a shield to protect her. The act cost him his life.

According to the Hillsborough County Sheriff's Office, all signs and signals deployed to prevent wrong-way drivers were working properly during the time of the accident. Right.

7. REVIVING THE PUBLIC SECTOR EMPLOYEE LIFE CYCLE:

The pamphlet "Reviving the Public Sector Employee Life Cycle" sets forth several harsh realities:

- More than 40% of the local government workforce will be eligible for retirement by 2017.
- It takes an average of 36 days for government agencies to hire a new employee -- and even longer to fill positions that require specialized skills.
- Nearly 25% of federal government hires leave their jobs within two years.
- The cost to replace an employee is approximately 1/5 of salary.
- Governments must be more strategic in selecting employees -- and more effective in retaining them.
- Separating from an agency, whether for retirement or a new career, can be difficult for both agencies and employees. Help employees navigate the off-boarding process and reduce the administrative burden by offering self-service functions.

8. ONE-THIRD OF AMERICANS HAVE ZERO SAVED FOR RETIREMENT!: Saving for retirement is not an area of financial strength for Americans. Too often, meeting the financial demands of today means delaying, diminishing or simply never starting to save for tomorrow. There are plenty of obstacles Americans claim are in their way when it comes to saving for retirement: credit card debt, student loan debt, low wages, the need to save for a child's college education, and the list goes on. GOBankingRates asked Americans how much money they have saved for retirement, and found that most people are behind in their retirement savings. The survey findings also provide a helpful benchmark against which readers can compare their

own retirement savings balances and progress. The following question was asked: “by your best estimate, how much money do you have saved for retirement?” Respondents could select one of the options below:

- Less than \$10,000
- \$10,000 to \$49,000
- \$50,000 to \$99,000
- \$100,000 to \$199,000
- \$200,000 to \$299,000
- \$300,000 or more
- I do not have retirement savings.

An astonishing 33% of Americans report they have no retirement savings. Twenty-three percent report having less than \$10,000 saved. (In other words, 56% of Americans have less than \$10,000 saved for retirement!) The following chart shows the results for all groups:

- 33% have no retirement savings
- 23% have less than \$10,000
- 10% have less than \$10,000 to \$49,000
- 8% have less than \$50,000 to \$99,000
- 8% have less than \$100,000 to \$199,000
- 5% have less than \$200,000 to \$299,000
- 13% have less than \$300,000 or more

Lack of savings indicates that just getting started on retirement planning is a significant obstacle for many people. This difficulty can

be due to a lack of education on the importance of retirement savings. Americans might also be feeling as though their employer match -- or lack thereof -- is not enough to make it worth it to open an account, as well the growing trend of changing jobs every couple years, and not wanting to deal with rolling over funds from one account to another. Yeah, sure.

9. SIXTEEN FACTS ABOUT WOMEN'S RETIREMENT OUTLOOK:

Transamerica Center for Retirement Studies has released select findings from a survey of American workers. Women in the 21st century are better educated and enjoy career opportunities that our grandmothers' generation could only dream about. However, even now, a woman's path to a secure retirement is filled with obstacles, such as lower pay and time out of the workforce for parenting or caregiving, which can negatively impact her own long-term financial prospects. As women continue to lag behind men in terms of saving and planning for retirement, it is even more concerning that women statistically tend to live longer than men, thereby implying an even greater need for savings and preparations. Here are the sixteen facts which tend to show women are at a greater risk of not achieving a financially secure retirement compared to men:

- **Fact #1. Few Women Are Very Confident About Retirement.** Only 12% of women are "very confident" in their ability to fully retire with a comfortable lifestyle, compared to 16% of men.
- **Fact #2. Most Women Plan to Retire After Age 65 or Not at**

All. Fifty-six percent of women plan to retire after age 65 or do not plan to retire, a slightly lower percentage than men (59%).

- **Fact #3. Half of Women Plan to Continue Working in Retirement.** Fifty-one percent of women plan to work after they retire, including 40% who plan to work part-time and 11% who plan to work full-time.
- **Fact #4. Most Baby Boomer Women Do Not Have a Backup Plan.** Among Baby Boomers (born 1946 to 1964), an alarmingly low percentage of women (21%) and men (30%) have a backup plan if forced into retirement sooner than expected.
- **Fact #5. Many Women Plan to Self-Fund Their Retirement.** Nearly half of women (46%) expect to self-fund their retirement through 401(k) or similar retirement accounts (35%) or other savings and investments (11%). [Lots of luck.]
- **Fact #6. Concerns About the Future of Social Security.** Women (81%) are more likely to be concerned that Social Security will not be there for them when they are ready to retire, compared to men (71%).
- **Fact #7. Time Off for Caregiving and Its Impacts on Retirement.** About one in five working women (22%) has or expects to take time out of the workforce to act as a caregiver for a child or aging parent, compared to 14% of men.
- **Fact #8. Many Women Work Part-Time.** It is widely documented that women are more likely to work part-time than men, often because of parental and/or caregiver responsibilities.
- **Fact #9. Women Are Less Likely to Be Offered Retirement**

Benefits. Women are less likely than men to be offered retirement benefits in the workplace.

- **Fact #10. Women's Participation Lags in 401(k) or Similar Plans.** Of women who are offered a 401(k) or a similar plan, 76% participate in the plan, a rate that lags that of men (82%).
- **Fact #11. Women's Annual Contributions Lag in 401(k) or Similar Plans.** Of those currently participating in their employers' plans, women contribute 7% (median) of their annual salary, which is lower than men at 8%.
- **Fact #12. Most Women Are Saving Outside of Work.** More than half of women (53%) are saving for retirement outside of work, a lower percentage than that of men (63%).
- **Fact #13. Women Estimate They Will Need \$1 Million.** Statistically speaking, women live longer than men and, therefore, need to save more to support their extended post-work, retirement years. The survey found that women estimate they will need to have saved \$1 million (median) to feel secure financially when they retire. Women (32%) are slightly more likely than men (29%) to believe they will need to have saved \$2 million or more.
- **Fact #14. Women Are Guessing Their Retirement Savings Needs.** Among women who estimated their retirement savings needs, the majority (62%) say they "guessed." Only seven percent said they had completed a worksheet or done a calculation. And only three percent had the amount provided by a financial advisor.

- **Fact #15. Some Women Use Professional Advisors.** Only 36% of women report using a professional financial advisor.
- **Fact #16. Women Want Information That Is Easier to Understand.** The greatest motivator for women to learn more about saving and investing for retirement is to make it easier to understand. Half of women (52%) would like educational materials that are easier to understand or a good starting point that is easy to understand.

10. HAND ME MY PEDAL PUSHERS PLEASE: Despite their important sounding titles, many of the growing number of “chiefs” in government do not have much actual authority, according to governing.com. Becky Katz has been pushing for bike-friendly policies in Atlanta for years. Now she can do that from inside city hall, as the city’s first chief bicycle officer. The new position of chief bicycle officer signals two things. One is that thinking about what is good for bicyclists is a priority for the Mayor. The other is that it is starting to get a little crowded in the “C” suites. In Atlanta, as in places across the country, there is a growing number of people in government with the word “chief” in their titles. In addition to familiar titles such as chief finance officer, lots of cities and states have decided they need chief data officers, chief connection officers, chief privacy officers and, at least in Oregon, a chief electric vehicle officer. This proliferation of lofty sounding titles is in keeping with contemporary culture’s when “everybody gets a trophy” ethos. Reward comes not just in form of compensation, but titles. Title inflation has been running rampant in

the private sector for years. In many cases, naming more people as chiefs and vice presidents has been a way of handing out prizes and in-house acclaim. The elevation of more government workers as “chiefs” is a lot like the federal-level fashion a couple of decades ago of naming a “czar” as the go-to person for dealing with a crisis or an issue that is newly viewed as essential. The value of having a chief bike officer or bike czar is they are the person who connects all the dots and makes sure the people in the various silos are working together. There is one other advantage: someone like Katz can act as an ombudsman, giving residents one person to call when they have any kind of issue having to do with bicycling, rather than being bounced around from department to department. Look, Ma, no hands.

11. TOP LAW SCHOOL LIST UNVEILED: *U.S. News & World Report* has released its 2017 edition of top law school rankings. Here are the top fourteen, generally revered as the most prestigious in the nation. (The number in parenthesis represents last year’s ranking.):

1. Yale (no change)
2. Harvard (no change)
2. Stanford (no change)
4. Columbia (no change)
4. Chicago (no change)
6. NYU (no change)
7. Penn (no change)
8. Michigan (+3; ranked #11 last year)

8. UC Berkeley (no change)
8. UVA (no change)
11. Duke (-3; tied at #8 last year with UC Berkeley and UVA)
12. Northwestern (no change)
13. Cornell (no change)
14. Georgetown (no change)

12. SEVEN SIGNS YOUR ROCK STAR EMPLOYEE IS EYEING

THE DOOR: Time and money have gone into hiring the perfect employee for your business, but you may be missing clues that he is looking for new opportunities. Mindflash notes several signs that might be noticeable at first, although it is imperative not to miss them, because even if he is looking around, it is not a sure thing that he is ready to leave you just yet. Talking to your employee before the decision is made can give you a higher advantage of retention. Here are the signs:

- **Reduced Productivity.** An employee who begins to slack off, and miss deadlines and turn in sloppy work may very well be disenchanted with the work and is already starting to form an exit plan. One possible solution is to schedule a friendly, sit down meeting to ask questions and find out ways to resolve the problem.
- **Nice Dresser.** Your office dress code is rather casual, and employees typically show up wearing jeans. However, the employee has begun showing up the past two weeks in dress

slacks and sporting the occasional tie has the high possibility of going on interviews with another company.

- **Isolation.** When a usually straight-arrow employee is taking a high number of personal calls and covering his mouth when talking on the phone or just generally acting suspiciously, it may be a sign that he is talking to another employer.
- **Changes in Work Ethic.** When punctuality, focus and hard work go out the door, it could be a sign your employee might be looking for a new gig.
- **Abnormal Request for Time Off.** When your employee is taking more sick days than usual, but does not show the slightest inkling of having ever been sick, leaving early and coming in late, it is a potential sign that he is increasingly disengaged and preparing to leave for a new job, especially if he is trying to use up the rest of his sick leave and PTO for fear it will go unused.
- **Big Life Changes.** Big life events such as divorce, marriage, illness, death and birth could be all signs of an imminent departure.
- **Decreased Interaction With Other Employees.** When your most outgoing employee becomes increasingly silent and isolated, it could be yet another sign that he is not happy with his current position.
- **He Fails to Read His Copy of The Cypen & Cypen Newsletter.** [Just kidding.]

13. SO YOU THINK YOU KNOW EVERYTHING: There are two words in the English language that have all five vowels in order: "abstemious" and "facetious."

14. TODAY IN HISTORY: In 1756, St Patrick's Day first celebrated in New York City at Crown & Thistle Tavern.

15. KEEP THOSE CARDS AND LETTERS COMING: Several readers regularly supply us with suggestions or tips for newsletter items. Please feel free to send us or point us to matters you think would be of interest to our readers. Subject to editorial discretion, we may print them. Rest assured that we will not publish any names as referring sources.

16. PLEASE SHARE OUR NEWSLETTER: Our newsletter readership is not limited to the number of people who choose to enter a free subscription. Many pension board administrators provide hard copies in their meeting agenda. Other administrators forward the newsletter electronically to trustees. In any event, please tell those you feel may be interested that they can subscribe to their own free copy of the newsletter at <http://www.cypen.com/subscribe.htm>.

17. REMEMBER, YOU CAN NEVER OUTLIVE YOUR DEFINED RETIREMENT BENEFIT.