

# Defined Contribution Plans, DROP & Your Role as a Plan Fiduciary



**PALM BEACH CHAPTER**  
FLORIDA GOVERNMENT FINANCE OFFICERS ASSOCIATION

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# Historical Focus has been on DB Plans

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## Defined Benefit (DB)

- Consultant support
- Educated Trustees
- Defined responsibilities
- More transparent pricing
- RFP driven provider selection

## Defined Contribution/Deferred Comp (DC) - 457(b) & 401(a)

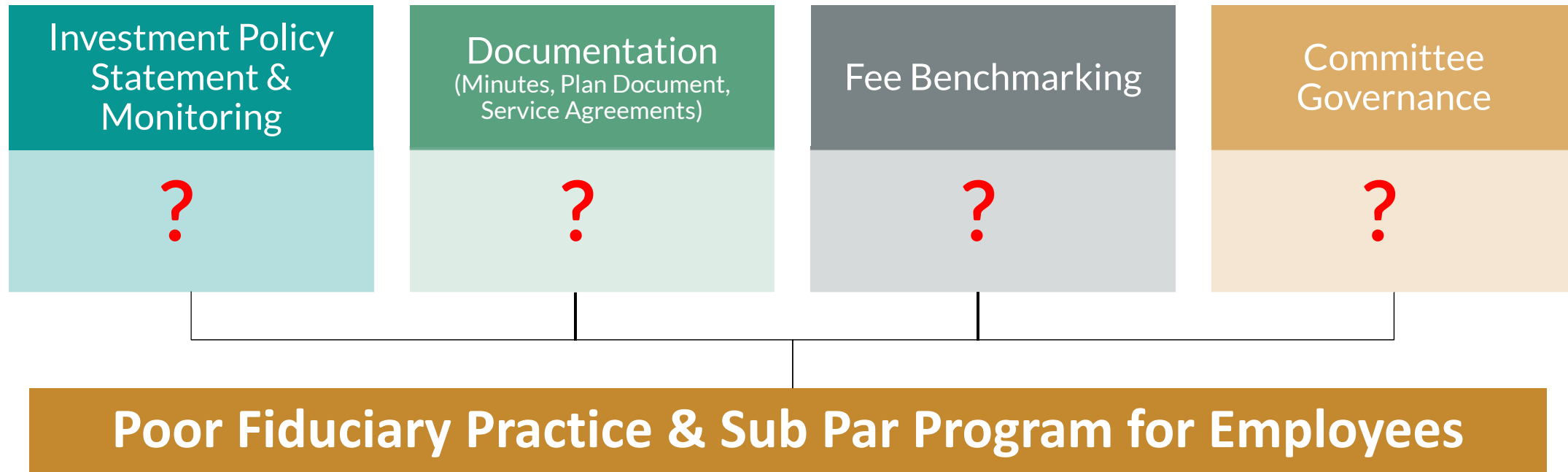
- Limited oversight
- Limited education
- Limited acknowledged responsibility
- High, non-transparent fees
- Providers added without competitive bid process

# DC Plans Shift Risk and some Responsibility to Employees

Shifted Responsibilities	DB Plan	DC Plan
Funding (Plan Contributions)	Employer	Employee
Retirement Income	Employer	Employee
Individual Account Investment Allocation	Employer	Employee
Pay Plan Expenses	Employer	Employee
Retained Responsibilities	DB Plan	DC Plan
Plan Level Investment Menu Selection	Employer	<b>EMPLOYER</b>
Negotiate Plan Expenses	Employer	<b>EMPLOYER</b>
Employee Communication	Employer	<b>EMPLOYER</b>

# Lack of Oversight on DC Plans

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# “Non-ERISA” ≠ “Non-Fiduciary”

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- ERISA (Employee Retirement Income Security Act of 1974) does not apply to governmental plans. <sup>1</sup>
- Fiduciary Standards Precede ERISA
- State Laws Govern Non-ERISA Plans
- Florida Statutes use ERISA language and refer to ERISA standards. <sup>2</sup>

1. ERISA 4(b)(1)

2. FS 112.656, FS 112.661

# Who is a Fiduciary to the Plan

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## FIDUCIARY

- Employer Plan Sponsor
  - Plan Trustee(s)
  - Plan Administrator
- Plan Investment Committee
- Investment Advisor

## GENERALLY NOT A FIDUCIARY

- Non-discretionary directed Trustee
- Recordkeeping Provider
- Third Party Administrator
- External Attorney

# Fiduciary Defined

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- Many of the actions involved in operating a plan make the person or entity performing them a fiduciary.
- Using discretion in administering and managing a plan or controlling the plan's assets makes that person a fiduciary to the extent of that discretion or control.
- Providing investment advice for a fee also makes someone a fiduciary.
- The fiduciary status is based on the *functions performed for the plan*.

\* Department of Labor - "Meeting Your Fiduciary Responsibilities"



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# Fiduciary Duties

## Duty of Loyalty

- Act solely in the interest of the plan participant and their beneficiaries
- Exclusive purpose of providing benefits to them
- Ensure expenses are reasonable

## Duty to Act Prudently

- When acting on behalf of the plan, exercise the care, skill prudence and diligence.
- This requires expertise. Lacking that, a fiduciary will want to hire someone with that professional knowledge to carry out the investment functions.
- Prudence focuses on the process for making decisions.

## Duty to Diversify Plan Assets

- Minimize the risk of large investment losses to the plan.
- Fiduciaries should consider each plan investment as part of the plan's entire portfolio.
- Fiduciaries will want to document their evaluation and investment decisions.

## Duty to Act in Accordance with Plan Document

- Follow the terms of the plan document.
- Employers want to be familiar with their plan document, especially when it is drawn up by a third-party service provider.
- Periodically review the document to make sure it remains current.

\* Department of Labor – “Meeting Your Fiduciary Responsibilities”



# Deferred Retirement Option Program (DROP) and DC Plans

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- FRS DROP account payments are eligible to rollover into your worksite DC retirement plan
- Popular choice for employees given familiarity with your provider representatives
- Money remains tax-deferred
- A properly negotiated DC plan with prudent ongoing oversight, can provide participants access to
  - Lower cost institutional investment options
  - Low plan fees negotiated leveraging economies of scale
  - Access to salaried, non-commissioned provider representatives who can provide objective guidance

**IS YOUR DC PLAN READY?**

# DC Plan Oversight Best Practices

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- Establish a Committee & educate members on their fiduciary duties
- Meet regularly & draft meeting minutes to document decisions
- Establish an Investment Policy Statement (IPS)
- Monitor plan investment options regularly & take action on those that fail the IPS requirements
- Engage experts who assume a fiduciary role
- Identify all plan fees
- Regularly benchmark plan fees, including periodic RFP/RFI, to ensure they are reasonable
- Consider consolidation of service providers to reduce fees & potential conflicts
- Establish an employee education strategy to engage & improve financial wellness

# Case Study

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## SCENARIO

- 457(b) / 401(a) DC Plans with single recordkeeper provider
- No formal Committee
- Investments not regularly monitored including some poorly performing funds
- Higher, non-transparent fees
- Engaged an independent plan advisor assuming fiduciary role to assist in reviewing fees and services

## RESULTS

- Established & trained formal Committee via Charter
- Established an Investment Policy Statement
- Conducted RFP & selected new Recordkeeping Provider
  - Approximately 71% cost savings with a capped fee
  - Improvement to plan & participant services
  - Institutional, low cost investment option menu
- Regular Committee Meetings
- Ongoing investment monitoring and action
- Prudent documentation & fiduciary process

# Thank You

QUESTIONS?

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