



May 22, 2019

# Bad Fiduciary. What's it Going to Cost You?

ERISA

BY SCHNEIDER DOWNS PROFESSIONAL

Millions. That's what it could cost you for failing to properly execute your fiduciary responsibilities as a plan sponsor. In the first half of 2019, several class action lawsuits against major universities related to improper execution of the fiduciary duties over their 403(b) plans have been settled. Brown University settled for \$3.5 million, Duke University settled for \$10.65 million and Vanderbilt will pay \$14.5 million to settle their suit. Each of the class action lawsuits against these universities claimed, to varying degrees, that the university failed to prevent the payment of excessive fees by the plans for investment advisory and administrative services and/or failed to prudently monitor the plans' investment options.

The Employee Retirement Income Security Act (ERISA) states that anyone who has discretionary control or authority over an employee benefit plan or provides investment advice to a plan is subject to fiduciary responsibilities. Plan fiduciaries' primary responsibility is to operate the plan solely in the best interest of plan participants and their beneficiaries. This includes, among other responsibilities:

- Acting prudently in managing the plan's investments to minimize the risk of significant losses;
- Following the terms of the plan document in operating the plan;
- Avoiding conflicts of interest; and
- Ensuring services provided to the plan are necessary and that related fees are reasonable

In managing an employee benefit plan subject to ERISA, it is incredibly important for a plan oversight committee to meet regularly to evaluate the plan's investment options, the services performed for the plan and their related fees as well as to discuss compliance issues. These meetings and the resultant evaluations should be well documented to serve as evidence of the prudent actions of the committee. The Department of Labor has several resources on its [website](#) related to fiduciary responsibilities which serve as a valuable reference for all plan administrators.

If you have any questions regarding your responsibility as a plan sponsor, please don't hesitate to reach out to our experts at [Schneider Downs](#).

## You've heard our thoughts... We'd like to hear yours

The Schneider Downs Our Thoughts On blog exists to create a dialogue on issues that are important to organizations and individuals. While we enjoy sharing our ideas and insights, we're especially interested in what you may have to say. If you have a question or a comment about

this article – or any article from the Our Thoughts On blog – we hope you'll share it with us. After all, a dialogue is an exchange of ideas, and we'd like to hear from you. Email us at [contactSD@schneiderdowns.com](mailto:contactSD@schneiderdowns.com).

Material discussed is meant for informational purposes only, and it is not to be construed as investment, tax, or legal advice. Please note that individual situations can vary. Therefore, this information should be relied upon when coordinated with individual professional advice.

© 2024 Schneider Downs. All rights-reserved. All content on this site is property of Schneider Downs unless otherwise noted and should not be used without [written permission](#).