

# Hey, Did You Read This? No, I Didn't. The Realm of Participant Disclosure



**JJ McKinney, CPC, ERPA, QPA, QKA**  
**Shareholder/Chief Operations Officer**  
**Retirement Strategies, Inc.**

# Discussion Points

- Why talk about participant communications?
- What are the requirements?
- How do we meet the requirements?
- What is the goal of participant communications?
- How can we meet goals for communicating with participants?

# Why?



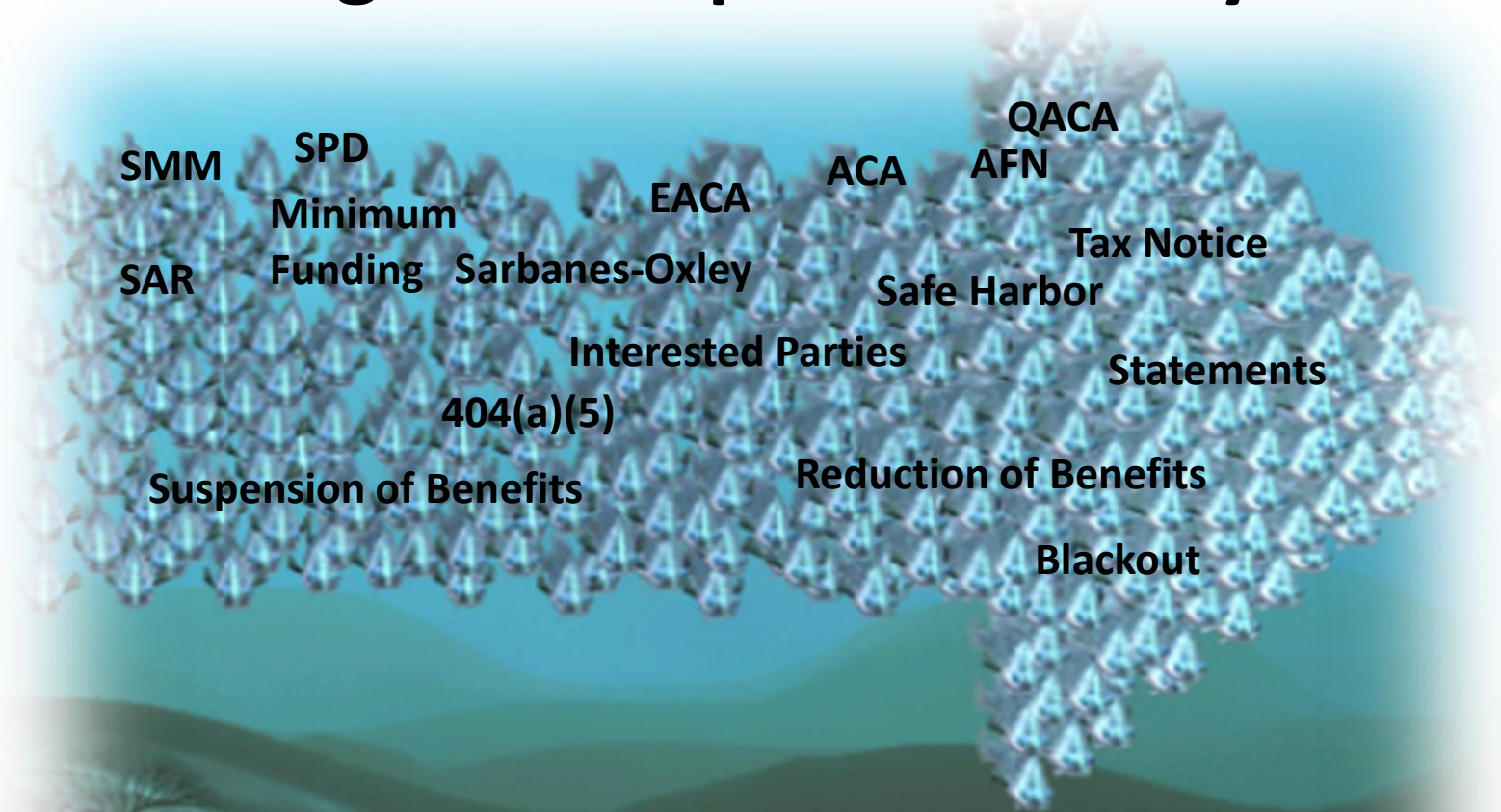
“What if, and I know this sounds kooky, we communicated with the employees.”

# ERISA §101. Duty of Disclosure

## DOL Reg. §§2520.101 - 107

- Summary plan description
- Annual reports
- Terminal reports
- Failure to meet minimum funding
- Excess pension assets to health accounts
- DB funding and distribution limitation notices
- Blackout notice
- Right to divest from employer securities

# Designate Responsible Party



SMM

SPD

Minimum Funding

SAR

Sarbanes-Oxley

EACA

ACA

QACA

AFN

Tax Notice

Safe Harbor

Interested Parties

Statements

404(a)(5)

Suspension of Benefits

Reduction of Benefits

Blackout

# Notice and Disclosure

1. Explanations of benefits, rights, features, changes
2. Written to be understood by the average plan participant



# Summary Content

Type of Notice	Description/Content
SPD and SMM	Plan provision summary and notice of changes
SAR	Statement of annual plan financials
AFN	PBGC plan funding notice
Benefit statements	Participant balance/activity or accrued benefit
QDIA	Plan default investment - circumstances, information, expense, performance, etc.
ACA,EACA, QACA, escalation	Notices related to automatic enrollment designs
Safe harbor	Plan, compensation, safe harbor formula, other contributions, deferral elections, withdrawals, vesting, information, refer to SPD
QDRO	Qualified domestic relations order determination process
404(a)-5	Participant expenses, investment performance
402(f)	Distribution rollover rights, general taxation

# Summary Content (Continued)

Type of Notice	Description/Content
Investment changes	Old investment to new investment, 404(c) protection
Divestment	Divestment rights from employer securities, importance of diversifying investments
Blackout	Temporary suspension or limitation of rights
204(h)	Reduction in accrued benefits
Suspension/resumption of benefits	Benefit payments suspended/resumed
Funding-based limitation	DB plan funding status drops limiting lump sums, accelerated benefits
Force-out distribution	Distributions eligible to be forced out of the plan without participant consent



# Summary Timing

Type of Notice	Description/Content
SPD and SMM	SPD-plan entry, 30-days of request, 5/10 years, SMM-210 days after plan year
SAR	Within two months of form filing deadline
AFN	120 days after PYE, small plan earlier of: date 5500 filed or latest date 5500 must be filed
Benefit Statements	Trustee-directed DC and cash balance: annually Trustee-directed DB: tri-annually active, upon request former Participant directed: quarterly
QDIA	At least 30 days in advance
ACA,EACA, QACA, Escalation	“Reasonable period” before plan year or eligibility 30 – 90 days satisfies
Safe Harbor	“Reasonable period” before plan year or eligibility 30 – 90 days satisfies
QDRO	Procedures: promptly upon receipt of DRO Determination: reasonable period after receipt

# Summary Timing (Continued)

Type of Notice	Timing
404(a)-5	Once in any 14-month period
402(f)	Within 180 days of distribution
Investment changes	30 days to 60 days prior to change
Divestment	No later than 30 days prior to right to divest
Blackout	30 days to 60 days prior to blackout
204(h) amendment reducing benefits	Small/Multi-ER plans: 15 days before effective Business transaction: 30 days before effective Generally: 45 days before effective
Suspension/resumption of benefits	During first month or pay period in which plan stops/restarts payments
Funding-based limitation	Within 30 days of plan subject to limitation
Force-out distribution	No specific timing, notification safe harbor in DOL Reg. §2550.404a-2

# Delivery



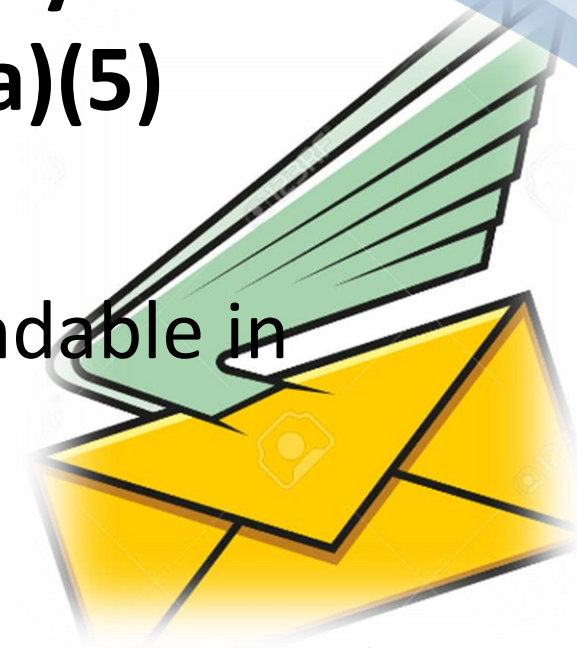
# Manual Delivery

- IRS provides no real guidance
- DOL Reg. 2520.104b-1(b)(1)
  - In hand at worksite
  - Employee publications
    - Up-to-date distribution list
    - Prominent notice of important benefits information
  - U.S. Mail
    - First class
    - Second/third class with return and forwarding postage
      - If returned with address correction send first class or hand-deliver



# IRS Electronic Delivery

## IRS Reg. §1.401(a)-21(a)(5)



- Content of notice equally understandable in electronic medium
- Alerts recipient of significance
- Recipient consents to e-delivery, knowledge of type of disclosure, right to receive paper (reasonable fee) and withdraw from electronic
  - Consent can encompass future applicable notices
  - Need to update information and hard/software

# DOL Electronic Delivery

## DOL Reg. §2520.104b-1

- Participant and beneficiary consent to electronic delivery
  - Ability to receive paper
  - Right to withdraw
  - Scope of consent
  - Contact procedures
  - Hard/software requirements



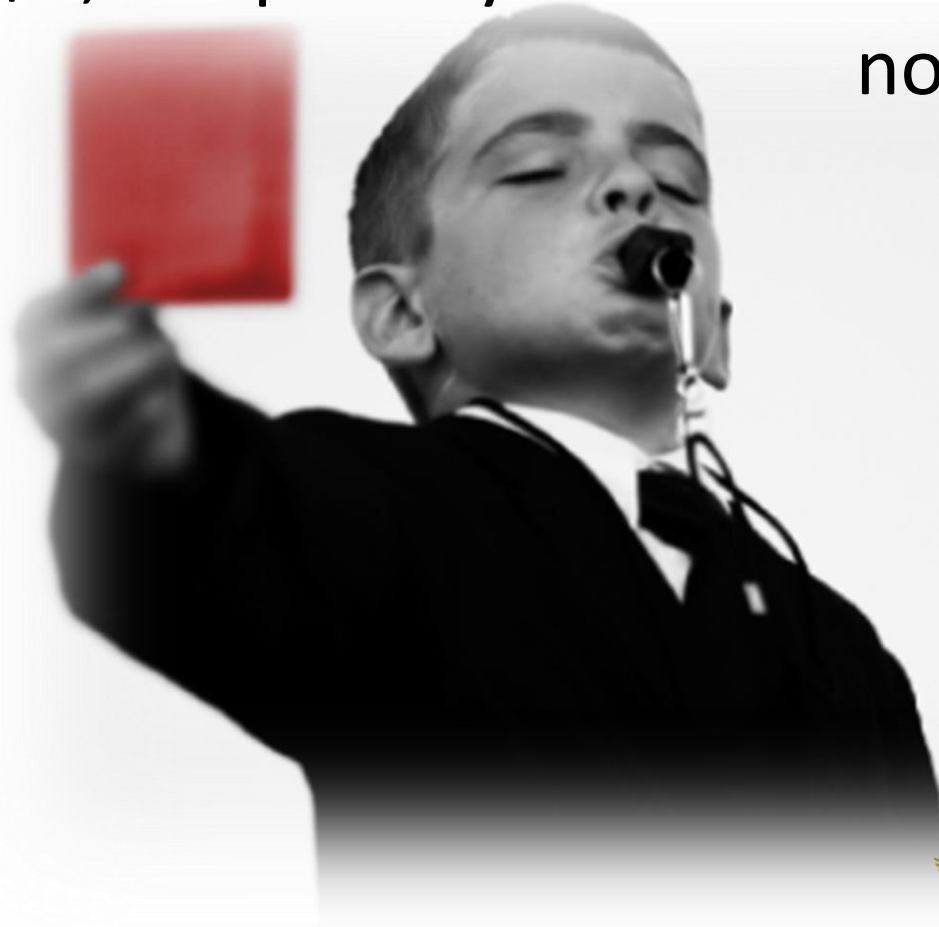
# NOTICE

**THANK YOU  
FOR NOTICING THIS  
NEW NOTICE**

**YOUR NOTICING IT HAS BEEN NOTED**

# Why?

DOL may assess civil penalties in some cases more than \$1,000 per day for failure to provide notices!!!!





# Really, Why?



# Survey – International Foundation of Employee Benefit Plans

- 19 percent ER – EE understand
- 65 percent ER – important to educate employees
- 40 percent ER – education budget (25 percent to increase)
- 50 percent EE – do not understand
- 80 percent ER – EE do not open/read materials



# Survey – International Foundation of Employee Benefit Plans

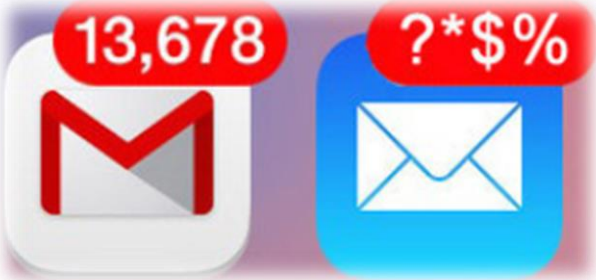
- 89 percent print mail
- 73 percent e-mail
- 69 percent print deliver on sight
- 58/66 percent external/internal websites
- Less than half nontraditional methods (video, social media, text, robocall, games)

# Guardian Workplace Benefits Study

- Need for tailored communication
- “Life stage” communications
- 13 percent have implemented



# Typical



# Notice and Disclosure

1. Explanations of benefits, rights, features, changes
2. Written to be understood by the average plan participant



# Future of Participant Communication



# Give the Plan a Brand





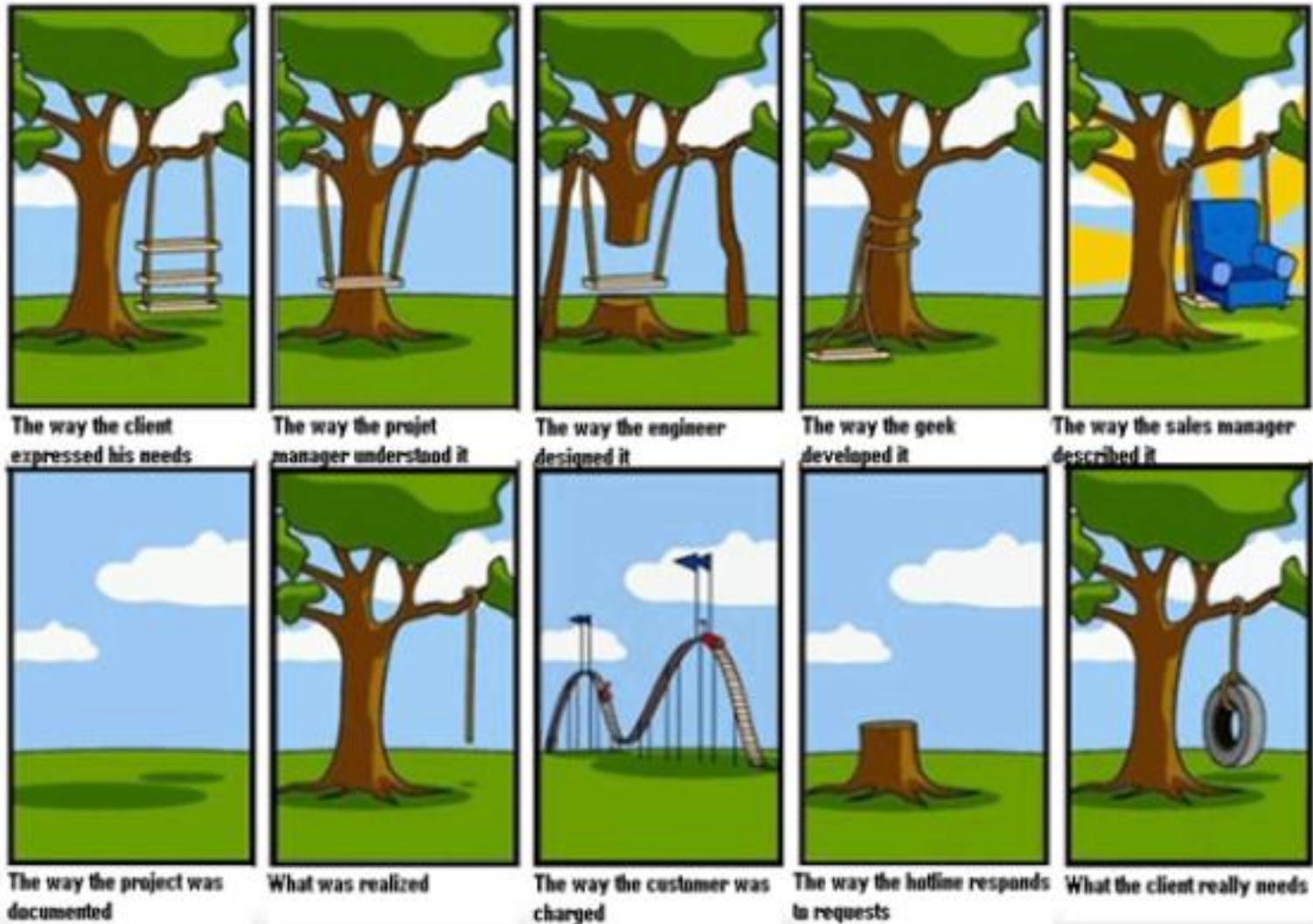
# Pitch the Plan

## Retirement Plan to ...



## ...Future Financial Independence Plan

# Requirements, Meet Needs



# Start with Regulatory Requirements



# Meaningful Messaging

- Supplemental, summarized materials
- Face-to-face
  - Group meetings
  - One-on-one
- Interactive websites
  - Surveys
  - Calculators requiring participant input
- Apps – quick access to information
- Games – if pertinent to desired result



# Follow Up with Participants

- According to *401(k) Specialist Magazine* – one of top five operational imperatives



# Questions?

