

Five Recommended Practices for ERISA Retirement Plan Administrative Fiduciaries

Verrill's Employee Benefits & Executive Compensation Group is often asked about “best practices” for benefit plan administration and whether we can provide any resources to help plan sponsors and fiduciaries improve compliance with the fiduciary standards of ERISA and applicable tax rules. Fiduciary duties and responsibilities vary depending upon the type of plan involved (e.g., retirement plans versus health and welfare plans) and the type of fiduciary involved (e.g., administrative fiduciaries versus investment fiduciaries). But here are five practices we recommend to promote effective plan administration:

- **Establish a plan administrative committee.** Plan documents often identify the employer or plan sponsor as the “plan administrator” and “named fiduciary”. If participants sue for breach of fiduciary duty, this means that the plan sponsor’s board of directors or other governing body are more likely to be named personally in the suit. Taking the formal step of establishing a committee composed of appropriate executives and managers with explicit authority to oversee the administration of the plans and can reduce the exposure of the board to liability and avoid confusion about who can exercise the authority of the “plan administrator” described in plan documents. A written charter setting forth the responsibilities and authority of the committee will help guide the committee in fulfilling its duties under ERISA and help demonstrate an intention to comply with fiduciary standards in the event of litigation or a DOL examination.
- **Provide appropriate training.** Plan fiduciaries must comply with the standards of ERISA in fulfilling their responsibilities. These responsibilities and the related standards may not always be obvious to the uninitiated. Fiduciary committees charged with benefit plan administration should receive formal training, and periodic refreshers, regarding their responsibilities and the fiduciary standards of ERISA. And these trainings should be recorded in meeting minutes.
- **Keep plan documents up to date.** Employee benefit plans involve a lot of documentation that must be maintained in good order. If documents are missing or out of date, plan administration (and compliance audits) can go awry. Plan sponsors need to retain – and keep current – the key documents supporting the determination and provision of benefits.
- **Maintain a compliance calendar.** Deadlines for reporting, disclosure, and other benefit plan obligations are regular and predictable, and having easily accessible information on the applicable deadlines will help to ensure compliance.
- **Adopt written compliance practices and procedures.** The opportunity to self-correct mistakes in maintaining a retirement plan has been dramatically expanded over the years, including recently under SECURE 2.0. However, IRS guidance emphasizes that plan sponsors can self-correct inadvertent failures only if they have established and followed practices and procedures reasonably designed to promote and facilitate overall compliance with the rules governing retirement plans. While each plan sponsor administers its plans in its own way, all plan sponsors would benefit from maintaining written practices and procedures to promote compliance with the rules and to satisfy the requirement for self-correction.

Members of the **Employee Benefits & Executive Compensation Group** regularly advise clients regarding compliance with the fiduciary standards of ERISA and the establishment of compliance practices and procedures. You can read more about [fiduciary compliance issues on our blog](#), or contact a member of the group to discuss issues of concern to your organization.