

401(k) Plan Tips for HR

Document! Document! Document!

The most important thing you need to do to protect your employer from IRS or Department of Labor penalties and employee lawsuits is to maintain detailed records on your 401(k) plan. Below is a summary of the documents you should have on file.

1. Participant Forms – These documents can be kept in one master file, organized by form, or separated by employee.
 - Enrollment forms – Even if an eligible employee declines to participate in the plan, keep a copy of the enrollment form documenting this.
 - Salary deferral elections and changes – To prevent misunderstandings, you should not act on verbal instructions from employees.
 - Beneficiary designations – Most financial institutions do not track beneficiary designations, so it's crucial that these records are maintained as long as a participant has assets in your plan.
 - Distribution forms and Waiver of 30 Day Time Period for Consenting to Distribution Under Code Section 411(a)(II).
 - Hardship distribution paperwork (including proof of hardship).
 - Loan paperwork, including any amortization schedules or agreements provided by your TPA.
2. Plan Documents – You should maintain the following signed plan documents in one central location.
 - Plan Document
 - Amendments
 - Summary Plan Description (SPD)
 - Summary Annual Reports (SAR)
 - 5500 tax forms
 - ERISA Bond
 - Employee census and discrimination testing results
 - Investment Policy Statement (IPS)
 - Fiduciary insurance (if any)
 - All documents and formal correspondence provided by your TPA
3. Employee Communications such as newsletters and notifications of eligibility, meetings, and changes to the retirement plan. See below for additional tips.
4. Educational Event Documentation
 - Notifications of events
 - Sign-up sheets
 - Lists of attendees
 - Handouts
 - Summary of event topics

5. Fiduciary Analysis

- Minutes from trustee meetings – We recommend that these meetings occur no less frequently than annually.
- Annual plan reports (provided by your investment provider and/or investment advisor).
- Investment analysis and recommendations (provided by your investment advisor).

Employee Communications

Employee communications should be distributed with payroll, via email, by mail, or via employee mailboxes. Communications should not be placed in a central location with the expectation that employees will see it. However, if this is the only method available, employees should be notified in writing of the location.

Document what was communicated, how it was communicated, and the date it was communicated. For example, keep a copy of any cover letters, emails, attachments, mailing labels, distribution lists, etc. If you do not have contact information for a terminated employee, you should document your attempt to supply them with the information (such as the post office's "undeliverable" notification).

New Employees

New employees should be notified of their retirement plan eligibility date and provided with enrollment materials and a Summary Plan Description (SPD). Federal law requires that the SPD be given to employees within 90 days after they become eligible for the plan.

Once an employee enrolls in the plan you must start their payroll deductions on the first payroll following or coinciding with their enrollment date. (Even if the pay period is prior to the employee's eligibility date).

Submitting Contributions

Employee salary deferral contributions should be made within three business days of payroll. Late contributions are the reason for most Department of Labor (DOL) employee complaints and are the first thing the DOL looks for when they audit a plan.

Keep a back-up of the contributions you submit and when they are submitted. If a contribution is submitted late, make sure to note the reason for the delay (e.g. holiday or snow storm shutting down the office).

Ask Questions!

Always read communications from your plan contacts and ask questions if you don't understand them. This may seem obvious, but many failed audits and employee lawsuits are caused by simple miscommunication.

All information provided has been prepared from sources believed to be reliable, but is not guaranteed by The Commerce Company and is not a complete summary or statement of all available data necessary for making a decision. This information does not necessarily apply to all retirement plans.