

ERISA Fiduciary Training - Should Employee/Fiduciaries Live Without It?



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Every week, new federal lawsuits are filed against companies and individuals, alleging that one or more breaches of fiduciary duties have been committed in connection with responsibilities owed to employee benefit plans subject to the Employee Retirement Income Security Act of 1974, as amended (ERISA). Many of those cases seek damages in the millions of dollars or more.

While the alleged failures stated in connection with the ERISA-related lawsuits may and, in many cases, do border on the ridiculous, there are common themes. In summary, most ERISA lawsuits allege that one or more employee benefit plan fiduciaries took action – or failed to take an action – relating to the benefit plan or its assets that was not solely in the interest of the affected plan and its participants.

Employee benefit plan fiduciaries are required to comply with [ERISA requirements](#) relating to conduct. These ERISA requirements include the obligation for plan fiduciaries to act for the exclusive purpose of providing benefits to plan participants and their beneficiaries and defraying reasonable expenses of administering the affected plan.

In addition to institutional professional fiduciaries who are very knowledgeable regarding their ERISA-related responsibilities, many individual employees, who may not be as knowledgeable about ERISA requirements as their professional

counterparts, agree to serve in fiduciary roles with respect to both employer-provided pension (including 401(k) and employee stock ownership) plans and health and welfare benefit plans.

Under [ERISA regulatory provisions](#), a person is considered to be a fiduciary in connection with an employee benefit plan, including a plan sponsored by his or her employer, to the extent such person has what amounts to discretionary authority or control relating to employee benefit plan management, administration or assets. Unfortunately, in many situations, it is not entirely clear whether a person who has agreed to serve in an employee benefit plan capacity will be considered a plan fiduciary under ERISA with its attendant obligations.

Regardless of a person's title, properly conducted ERISA fiduciary training for all individuals who serve any role with respect to an employee benefit plan serves many objectives including:

- Assisting and educating employees in determining fiduciary status under ERISA;
- Guiding employees who actually are fiduciaries in meeting their fiduciary responsibilities under ERISA and, hopefully, avoiding lawsuits for their actions or failure to take an action;
- Potentially avoiding conflict scenarios between employer and plan service, which also can result in a lawsuit; and
- Guiding plan fiduciaries in properly documenting any actions taken in a fiduciary capacity.

In summary, serving as an ERISA fiduciary should be a rewarding experience for those who elect or are chosen to serve. Proper and periodic fiduciary training administered by experienced professionals is a critical component of serving in this important role. It is highly recommended that employee fiduciaries seek out fiduciary training, and not try to live without it.

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