

# HR & BENEFITS UPDATE

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## Performance Reviews: Not Just a One-Day Event

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### HUMAN RESOURCES

For most organizations, the end of the calendar year usually signals the start of the employee performance review season.

The performance evaluation and review process, including writing the evaluation document and conducting the performance conversation, can be stressful for both managers and employees when performance is viewed as a once-a-year exercise.

Instead, consider implementing a consistent, ongoing program to review goals, discuss alignment, provide bilateral feedback and brainstorm challenges to create efficiencies in the process itself. Such a review can actually improve employee and manager performance levels.

#### Ongoing Performance Management Model Tips

- **Employ collaborative goal setting.** Ensure that both managers and employees have input in the goal-setting process. They should discuss and mutually agree on goals and deliverables that are consistent with the company's vision, mission and strategic initiatives. In addition, employees and managers should establish and review the employees' short-term and long-term development plans. This is the cornerstone of successful performance management, because it enables all parties to be committed and share ownership.
- **Schedule recurring 1:1 feedback meetings.** Regular check-ins help employees and managers stay the course or make adjustments to plans and goals along the way. Regularly scheduled meetings allow managers to coach and communicate timely, fact-based feedback. They also provide the employee with more immediate and direct access to the manager, allowing the employee to discuss any roadblocks and request support or resources needed for success in real time.
- **Follow up in writing.** To ensure alignment and agreement between managers and employees, managers should immediately send their employees a brief written synopsis after the review meeting. This lets the manager test for understanding and lets the employee ask clarifying questions.

Managers and employees should have a robust, ongoing communication plan in which regularly scheduled meetings take place throughout the year, not once a year in an organizationally mandated process. In fact, formal written reviews are generally easier to complete, more accurate and more motivating to the employee if the employee has participated with the manager in regular meetings throughout the year. The year-round approach means that the employee and the manager have a "living document," which summarizes the employee's performance throughout the year and can be updated at any time. Most importantly, the model creates a future-oriented evaluation approach, in which employees and managers spend far less time focusing on past problems or deficiencies and much more time discussing possibilities for the future.

#### HR Services at NFP

NFP's HR Services team can support companies and their HR departments in creating effective company policies and practices. We also provide strategic guidance and expertise in the following areas, and more:

- Talent acquisition
- Employee engagement
- Compensation and benefits
- Onboarding experience and new-hire training
- Performance management
- FLSA compliance and best practices
- Career development plans
- Succession planning

To learn more, contact your NFP benefits consultant, or reach out to us at **84-HR HELPS-1 (844-743-5771)** or [hrconsultingservices@nfp.com](mailto:hrconsultingservices@nfp.com)



## Clarifying Boards of Directors' Fiduciary Liabilities

### RETIREMENT

Retirement plan committee charters are important documents to help boards of directors clearly define their roles and their liabilities as they relate to the company plan. But how do they work? Virtually all plan documents name the plan sponsor as "plan administrator." Typically, the board of directors of a company – the sponsor – is seen as the official governing body of the sponsor. Therefore, plan document language directs that the board of directors, in effect, is the plan administrator.

Most boards aren't involved in the day-to-day operations or decision-making in regard to their plans. And because the plan document likely hasn't explicitly delegated authority to the board of directors, they're likely not following the terms of their plan document and are violating their fiduciary responsibilities. A Board of Directors' "Resolutions" documents that the board follows the terms of their plan document and officially delegates authority to a separate committee. With such delegation, the board is only responsible for monitoring the committee – perhaps through an annual review of committee meeting minutes – rather than bearing the day-to-day fiduciary responsibility of the plan.

A committee charter helps define what are and are not the fiduciary responsibilities delegated to the committee. This document helps limit the board's potential liability exposure to only those responsibilities expressly delegated. The Acceptances portion of the charter is meant to bracket the duration of the committee members' exposure to liability. Committee members shouldn't be liable for actions taken prior to their becoming fiduciaries, but they may be required to remedy any breaches that happened before their tenure. Failure to remedy past breaches may be considered a subsequent breach.



## May Any Employee Serve on the Retirement Committee?

### RETIREMENT

At first, there seems to be no reason why an employee shouldn't participate on the committee. In practice, most committees consist of executives from finance (preferably the CFO), benefits and human resources. Due to the potential exposure, if there's interest from other employees who wish to represent the vote of the participant base, they're best served by participating as non-voting members with no discretionary capabilities. These employees should be identified and documented as non-voting members, assuming there's no intent to take fiduciary status and the potential liability is attached to all retirement committee members.

## Results from the Industry Trends in *Human Resources Technology and Service Delivery Survey*

### TECHNOLOGY

Businesses are exploring emerging HR technology and service delivery models to improve efficiency and achieve strategic goals. Organizations are recognizing that now is the time to capitalize on new HR technology to realize business objectives.

Information Services Group recently conducted its second annual Industry Trends in Human Resources Technology and Service Delivery Survey. The following is a summary of key findings:

- Many businesses – particularly midsized companies with fewer than 10,000 employees – are migrating from on-premises human resource management systems (HRMS) to software-as-a-service (SaaS)-based HR technologies.
- User experience and usability factors are driving selection criteria for both HR technology and service delivery model decisions.
- HR organizations are shifting their focus from cost savings to strategic business alignment, process improvement and employee engagement.
- HR decision-making is becoming more data driven.

Beyond making technology changes, companies must ensure service delivery excellence to enhance the user experience. Service delivery model changes are key to HR transformation and should include evaluating new or increased use of shared services or outsourced delivery models.

### Additional Findings

- As companies move their core HR to the cloud, they're also evaluating their talent technology.
- Mobile access is expected by managers, employees and HR.
- Social capability is becoming a must-have among large organizations.
- Predictive analytics are beginning to allow HR and the business to make better decisions in areas such as talent acquisition, development, retention and HR spend.
- Lack of investment in the necessary HR systems prevents more sophisticated use of data.
- Improving the employee user experience and providing access to ongoing innovation top the list of expected benefits.



"Results from the Industry Trends in Human Resources Technology and Service Delivery Survey" continued from Page 2

**Read the entire survey. »**

NFP's HR Technologies and Benefits Administration Services can enable our clients to implement the right technology in order to cost-effectively solve their communication and administration challenges. We take an outcomes-driven approach to help you define your needs so we can ensure you're getting the right solution. To learn more about these solutions or our HR technology consulting services, contact your regional benefits administration client relationship manager:

- **Northeast:** Steven Dillingham, 512-813-1799
- **Mid Atlantic/Southeast:** Lorena Ortega, 512-813-1804
- **Midwest/West:** Alicia Bergeron, 512-813-6108



# Compliance FAQ

## An employee failed to elect coverage during open enrollment and wants to enroll now. Can I make an exception for him and allow the late enrollment?

No, not if the employer has a Section 125 cafeteria plan. If employee contributions are deducted from wages on a pre-tax basis, then Section 125 governs their group health plan elections. Section 125 regulations state that once the plan year has begun, employees cannot change their elections without a qualifying event. Changing one's mind, forgetting to enroll or even having extenuating circumstances during open enrollment are not qualifying events. Thus, do not accept a late enrollment after open enrollment has ended and the plan year has begun. To do so risks invalidating the entire plan. If the plan is invalidated, the tax advantages that Section 125 provides would be lost. All elections would be taxable to both employees and the employer.

Please note that this scenario is not the same as an employee who wishes to change his election after open enrollment has ended and the plan year has not yet begun. For example, let's say open enrollment ended Dec. 18, and the plan year begins Jan. 1. John requested to change his election or to make an election on Dec. 30. Since the plan year has not yet begun, the Section 125 prohibition would not apply. Thus, it's an employer's decision as to whether to accept John's election after open enrollment ended and the plan year began.

While on the subject of qualifying events, let's review the reasons an employee could elect coverage after the plan year has begun.

- **Loss of other coverage.** If an employee is enrolled in a spouse's employer plan and that coverage ends, the employee is permitted to enroll in his/her employer's plan. This includes loss due to divorce and a spouse dropping coverage during open enrollment.
- **Marriage.** The employee, new spouse and the spouse's children are entitled to enroll following the marriage.
- **Birth or adoption.** The employee, spouse and new child are entitled to enroll following birth or adoption.
- **Medicare entitlement.** If an employee, spouse or dependent becomes enrolled in Medicare, the employee is permitted to drop coverage on that individual.

Please remember that the employee must request enrollment in a timely manner. The plan document should dictate that timeframe. Also note that all changes mentioned above are prospective except for birth or adoption, which is retroactive to the date of birth or adoption.

The loss of individual coverage is not a qualifying event. If an employee has purchased individual coverage either on or off of the exchange, the loss of that coverage due to failure to pay premiums or a voluntary drop is not a qualifying event to enroll in the employer's plan mid-year.

Lastly, this list is not exhaustive of all permissible qualifying events. If you'd like a copy of the Section 125 Qualifying Events reference chart, please ask your advisor.



## Need more information?

For information on any of the articles in this newsletter, please contact your benefits advisor.

### About Benefits Partners

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More than a leading national corporate benefits producer group, Benefits Partners is a movement that strives to bring all companies — regardless of their size — the greatest, most comprehensive and cutting-edge benefit offerings and resources in the market.

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