

Document Retention



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Plan Consulting • Administration • Design

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A 401(k) plan, by its nature, generates large amounts of documents and preserving much of it is required by ERISA. Developing a filing system can make it easy for 401(k) sponsors to review, update, preserve, and dispose of documents.

These systems do not need to be complex. A simple system with three file types can do the trick. Ready access to plan documentation can mean the difference between a quick, cost-free settlement to a 401(k) dispute or a drawn-out, costly battle.

Understanding and complying with these rules is crucial to avoid potential issues. While the [civil penalties](#) for not retaining required 401(k) plan records are minor, missing records can significantly hinder an employer's ability to defend plan operations or the accuracy of plan benefits if challenged by the IRS, DOL, or plan participants.

Some of the most common 401(k) plan records that must be retained to meet ERISA standards are listed below. We recommend employers use three files to organize this information: a file for the plan's governing documents (a "Plan Document File"), a file for participant records (a "Participant File"), and a file for annual information (a "Annual File"). This simple file system should make accessing plan records easy if they are ever needed.

Plan Document File

This file is for records that govern the plan's day-to-day operations. Superseded records should be archived for historical reference. Items to keep in the file include:

- **Plan Documents** – adoption agreement, base document, IRS advisory letter, [amendments](#), QDRO policy, and loan policy (if loans are allowed)
- **Summary Plan Description (SPD)** – including any Summary of Material Modifications (SMMs) related to the SPD
- **Corporate Actions** – resolutions, agendas, minutes, and documents distributed at meetings
- **Service Agreements** – Contracts that outline the services and fees of plan service providers
- **408b-2 Fee Disclosure** – Information a Covered Service Provider (CSP) must provide to employers for their fees to be considered "reasonable."



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- **Fidelity Bond** – ERISA Section 412(a) requires every fiduciary of an employee benefit plan and every person who handles funds or other plan property be bonded.

Participant File

This file is for records that document participant direction and distributions. Items to keep in this file include:

- Payroll Records
- Participant Deferral Election Forms
- Investment Election Change Forms
- Beneficiary Designation Forms
- Distribution Request Forms (including any supporting documentation)
- Loan Request Forms
- Rollover Requests
- QDRO Split Requests (with supporting documentation)

Annual File

This file is for records related to a plan year. A file should exist for each year the plan has been in existence. Items to keep in this file include:

- **Plan Valuation** – Contains participant-level information for the year, including contribution, distribution and fee activity. If received quarterly, file all four quarters.
- **Trust Statement** – Contains trust-level information for the plan year, including all purchases and sales that occurred in the trust account. If received quarterly, file all four quarters.
- **Nondiscrimination Testing** – 401(k) plans must satisfy various nondiscrimination and limit tests annually. Most common tests include:
 - Coverage (IRC Section 410(b)) testing
 - ADP/ACP testing (non-safe harbor 401(k) plans only)
 - Excess Deferral (IRC Section 402(g)) testing
 - Annual Addition (IRC Section 415(c)) testing



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- Top Heavy (IRC Section 416) testing
- General (IRC Section 401(a)(4)) testing (required for “new comparability” profit sharing allocations)
- **Participant Notices** – Any notice distributed to participants during the year, including (as applicable):
 - Participant (ERISA 404a-5) fee notice
 - Safe harbor 401(k) notice
 - Qualified Default Investment Alternative (QDIA) notice
 - Automatic enrollment notice
- **Form 5500** – including all required schedules and attachments.
- **Independent Audit Report** – If required to be filed with Form 5500.
- **Summary Annual Report** – Summary of Form 5500 provided to participants.

Document retention guidelines for retirement plan administrators require that different records must be kept for varying lengths of time.

Indefinite retention

Some records must be kept indefinitely to enable benefit determinations for employees who may leave and later claim benefits.

These records include:

- **Plan and trust documents:** Executed versions of the original plan document, all amendments, restatements, and IRS determination letters.
- **Participant information:** Documents required to calculate benefits, including:
 - Completed beneficiary designation forms
 - Distribution requests and documentation



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- Employee eligibility, vesting, and compensation data
- Loan and Qualified Domestic Relations Order (QDRO) documents
- Enrollment and deferral election forms
- **Service provider contracts:** Agreements with third-party administrators (TPAs) and other providers.
- **Fiduciary decisions:** Records of actions taken by the plan fiduciaries, such as investment decisions and committee meeting minutes.
- **Employee communications:** Summary Plan Descriptions (SPDs) and any Summaries of Material Modifications (SMMs).

Six-year retention

ERISA Section 107 requires administrators to retain records for a minimum of six years after the date a report is filed. These records support the accuracy of information reported to the government and plan participants.

Records in this category include:

- **Annual government filings:** Form 5500 and all related schedules.
- **Financial reports:** Certified audits, bank statements, trust financial statements, and ledgers.
- **Compliance testing:** Results of annual nondiscrimination and coverage testing.
- **Supporting documents:** Payroll records, transaction histories for contributions and distributions, and evidence of the plan's fidelity bond.
- **Participant notices:** Copies of all notices sent to participants, such as fee disclosures, safe harbor notices, and Summary Annual Reports (SARs).



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Electronic recordkeeping standards

The Department of Labor permits plan administrators to use electronic media for record retention, provided certain standards are met. An electronic system must:

- Ensure the integrity, accuracy, and reliability of the records.
- Maintain records in a safe, accessible, and organized manner.
- Allow records to be easily converted into legible, readable paper copies.
- Include reasonable controls to prevent unauthorized access or alteration.
- Not compromise the ability to comply with any ERISA reporting or disclosure requirements.

Even when outsourcing administrative duties to a Third-Party Administrator (TPA), the ultimate responsibility for maintaining plan records rests with the plan sponsor. If you change TPAs, you must ensure all relevant plan records are transferred and retained. It is best practice to have a written record retention statement, especially when using electronic records. Contact your Account Executive if you have any questions.



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