



ERISA 101:

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

A CLOSER LOOK AT EMPLOYEE BENEFITS LAW

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Most of us do not spend our days planning for retirement, though we may often look forward to it. As employees, many of our employers offer competitive advantages in order to recruit and retain talent, which includes employee benefits such as profit sharing and retirement plans. Did you know that a federal law protects you as an employee and plan participant? Did you know the same law also protects your employer?

WHAT IS ERISA?

The Employee Retirement Income Security Act of 1974 (ERISA) is a federal law that establishes the minimum standards for most voluntary private pension, retirement, health, and other welfare benefit plans (including life insurance, disability insurance, and apprenticeship plans). Generally, ERISA does not apply to church and government plans and their participants. ERISA mandates fiduciary duties for plan managers and those who control plan assets, including requiring disclosure of plan information. ERISA also allows participants to file legal claims for benefits and breaches of fiduciary duty. The scope of ERISA was amended to include health insurance coverage, specifically the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) and the Health Insurance Portability and Accountability Act of 1996 (HIPAA). »

HISTORY OF ERISA

Beginning in 1921, the Internal Revenue Service (IRS) initially oversaw private pension plans until 1959 when the United States Department of Labor (DOL) began regulating employee benefits plans upon the passage of the Welfare and Pension Plans Disclosure Act (WPPDA). In 1974, ERISA was passed with stricter regulations to protect participants and beneficiaries in employee benefit plans by way of required plan disclosures, information, and notices. ERISA also required plan fiduciaries to maintain certain standards of diligence and duty of care in their conduct when managing plan funds as well as to provide detailed reporting to the government about plan assets. Further, ERISA empowered the DOL to enforce civil penalties against violators.

WHO ADMINISTERS ERISA?

The Employee Benefits Security Administration (EBSA) is responsible for administering and enforcing the fiduciary, reporting, and disclosure provisions of Title I of ERISA. Title II of ERISA is administered by the IRS. Title III is concerned with jurisdictional matters and with coordination of enforcement and regulatory activities by the DOL and the IRS. Title IV covers the insurance of defined benefit pension plans and is administered by the Pension Benefit Guaranty Corporation (PBGC).

WHAT ARE THE PRIMARY PROVISIONS OF ERISA?

The following are some of the primary provisions of ERISA:

Plan Information: Plan participants have the right to receive in writing the most important facts about their retirement and health benefit plans including plan rules, financial information, and documents on the operation and management of the plan.

Participant Rights and Disclosures: ERISA establishes a claims and appeals process for a participant seeking benefits. Plan participants have the right to disclosure of important plan information and a timely and fair process for benefit claims.

Financial, Best-Interest Protection and Conduct: According to the DOL, anyone who provides investment advice to a plan for compensation or has any authority or responsibility to do so are plan fiduciaries (e.g. plan trustees, plan administrators, and members of a plan's investment committee). As plan fiduciaries, they must abide by the following or may be held personally liable:

- Act prudently and in the sole interest of plan participants and beneficiaries;
- Diversify investments in order to minimize risk of large losses;
- Ensure the plan's terms are in compliance with all ERISA terms;

- Follow the terms set forth in the plan's documents; and
- Avoid conflicts of interest.

ERISA is a complex body of law that requires specialized training and knowledge in many disciplines. As an employee, knowing and understanding your rights as they relate to your employee benefits is important. As a legal professional, understanding the complexities and laws in place to protect both employees and employers of voluntary private pension, retirement, health, and other welfare benefit plans may empower you to assist aggrieved individuals find the help they need.



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