

Make sure Participants Receive the Plan Documents They're Entitled to

Getting the word out about your retirement plan is an ongoing activity. In addition to the enrollment materials you provide newly eligible employees, you probably communicate with participants routinely, answering their questions and encouraging them to take full advantage of the plan.

Required Documents

In addition to these efforts, plans are required to make certain plan documents available to all participants and beneficiaries receiving benefits. Required documents include the following:

Summary plan description (SPD). This easy-to-understand description of the plan's provisions must be distributed to employees within 90 days of becoming plan participants. The SPD must contain specified information about the plan, such as requirements for participation and a description and explanation of the plan's provisions for determining years of service for purposes for eligibility and vesting.

When your plan is materially amended or modified, you must revise the SPD within a specified period (210 days after the end of the plan year that occurs five years after the last date there was a change in the information required to be included in the SPD). Where no such amendments have been made, you must furnish an updated SPD within 10 years and 210 days after the required date for the original.

Summary of material modifications (SMM). If your plan is amended and the amendment affects information that is required to be in the SPD, participants must receive an SMM. The SMM must be distributed within 120 days after the close of the plan year in which the modifications occurred. If the SPD lists the modifications, it can be issued in place of the SMM provided an updated SPD is prepared and distributed within the same 210-day period.

Summary annual report (SAR). DOL regulations outline what must be included in this summary. The SAR generally must be distributed by the later of (1) nine months after the end of the plan year or (2) two months after the due date of the plan's Form 5500 (including any extensions from the IRS).

Documents requested by Participants

Upon receiving a request from a participant or beneficiary, the plan administrator must provide the most recently updated SPD, the most recent annual report, and any other documents under which the plan is established or operated (e.g., the bargaining agreement, trust agreement, or contract). The DOL has further clarified that these documents should also include any material that details formulas, procedures, methodologies, and schedules used to determine the benefit.

Expenses of Providing Information

The plan administrator may not charge participants for required documents, but participants can be charged for additional copies of required documents they have already received. As for requested documents, participants may be charged a reasonable fee of up to \$0.25 per page. The DOL considers a fee reasonable if it is equal to the actual per-page cost of the least expensive way of reproducing the documents. Reasonable expenses do not include handling and postage fees.

This penalty applies to each individual participant request, so each violation is a distinct event. If multiple participants request a document and don't receive it within 30 days, the daily \$110 penalty applies to each separate request. However, the penalty is not enforced if the cause for the delay is reasonably beyond the control of the plan administrator.