

Minutes Essentials

Drilling down to the procedural issues

Meeting minutes are critically important. So important, in fact, that we are continuing our discussion on the do's and don'ts of taking them. Here, we pick up from our last column and focus on the procedural issues associated with taking minutes.

Who Should Take Minutes?

One person should be assigned the job of taking minutes at committee meetings. Having the same person fulfill this role at each meeting provides a consistent format and process. But who should that person be? There are no specific qualifications needed to take minutes, but the person assigned this task should have an understanding of the committee's purpose and the subject matter of the meetings. The minute-taker does not have to be a formal member of the committee. In fact, it is better to assign a non-committee member—someone who is not actively participating in meeting discussions and is free to listen and take notes. The minute-taker may be a representative of the human resources (HR) department or the employer's benefits counsel or another internal person familiar with the plan. Alternatively, outside counsel, investment advisers or consultants may prepare committee minutes.

If the minute-taker is an internal person, we recommend that some training be provided to make sure he or she understands the purpose of the minutes, what should or should not be included, the minutes format, timing, etc. While it may seem like a mundane task, as we explained in our last column, there is a fine line between providing too much detail and not providing enough. It's important that the person understand the nuances associated with making such a determination.

Occasionally, committees will record meetings in order to help the minute-taker prepare the minutes. However, there is no need to do so, and recording may actually inhibit frank and open discussion amongst the committee members. Someone who understands the committee's agenda and issues is generally able to take good notes without the need for a recording. If a recording is made, it should be disposed of once the minutes are finalized.

Quick Turnaround

The minute-taker should prepare the minutes as soon as possible after the meeting, while everything is fresh in his or her mind. Once a draft is prepared, it should be circulated for review and

comment by third parties who attended—e.g., counsel, investment advisers, etc. The minutes should then be circulated amongst the committee members for review, and approval at the next committee meeting.

Once the minutes are approved and finalized, any notes from the meeting and any draft minutes should be discarded.

Retention of Final Minutes

Once the minutes are approved and finalized, any notes from the meeting and any draft minutes should be discarded. Only the final minutes should be retained. Retention of this written record is important—it is evidence of the process engaged in by the committee in exercising fiduciary and settlor responsibilities. Minutes may need to be referred to for a variety of reasons—e.g., to confirm decisions or actions of the committee, to respond to Department of Labor (DOL) inquiries, or to support defense in the case of fiduciary litigation. To facilitate these possible needs, the minutes, and any accompanying materials presented at the meeting, should be retained permanently and kept in a manner that makes them easy to retrieve. If you took the minutes but can't locate them, they do no good!

Uses for the Minutes

In addition to proving the committee's prudent process, the minutes can be used for reporting. The board or other fiduciary assigned to delegate plan responsibilities to the committee has an obligation to monitor the committee's activities, which is generally done through reviewing an annual report the committee creates. The meeting minutes provide the perfect source for preparing a short summary of the committee's activities over the year for this type of report.

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