

Do You Qualify to Serve on a Retirement or Investment Committee?

Procuring the right people to serve on a Retirement or Investment Committee is part of a risk mitigation strategy that serves to protect the corporate brand, improve outcomes, and motivate staff. You can't get any more personal than a person's finances and a 401(k) is likely the second largest asset an employee has. So, procuring the best minds to navigate complex legal and fiduciary obligations requires deliberate inquiries of those you consider asking to serve on your committee.

This begs the question, "What questions should you ask?" Fortunately, the Department of Labor has provided a set of guidelines under ERISA Section 411 that spells out the minimum requirements a Company should seek answers to before appointing someone to a Committee. Why are these the minimum requirements? These questions do not uncover the skills, education, and experience that are important for a committee member to become a productive contributor to the Committee. Furthermore, a person's character is important to evaluate. For example, will they dedicate the necessary time to research the issues under consideration, will they show up on time, are they honest, moral, and ethical.

What follows is a procurement intake form extracted from [Catapult](#). It not only serves the purpose of confirming there is nothing that would legally prevent a person from serving on a committee it also provides the necessary documentation to support a prudent process was adopted.

ERISA § 411 Committee Member Assessment

I, _____, accept and acknowledge the appointment, liability, and responsibilities as a fiduciary on behalf of _____
(*Name of Plan*).

In accepting a fiduciary role for the Plan, I recognized that my actions are subject to scrutiny under the Employee Retirement Income Security Act (ERISA) of 1974 fiduciary standards which are the highest known to law. I understand that my appointment to a fiduciary role is subject to a qualification assessment according to the terms of ERISA and that my continued qualification should be monitored on an on-going basis.

Accordingly, I have answered the following questions pertaining to the qualification requirements existing under ERISA Section 411 as is applicable to my appointment as a fiduciary. If I have answered "YES" to any of the disqualifying events, a separate attachment will include an explanation, the date of the event, and status.

Please check "Yes" or "No" to each of the following events which apply to an investigation or conviction.

EVENTS	YES	NO
1. Robbery		
2. Bribery		
3. Extortion		
4. Embezzlement		
5. Fraud		
6. Grand larceny		
7. Burglary		
8. Arson		
9. Felony violation of Federal or State law involving substances defined in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970		
10. Murder		
11. Rape		
12. Kidnapping		
13. Perjury		
14. Assault with intent to kill		
15. Any crime described in section 9(a)(1) the Investment Company Act of 1940 including any person who within 10 years has been convicted of		
a. any felony involving the purchase or sale of any security, or		
b. any misdemeanor involving the purchase or sale of any security		
16. Any ERISA violation		
17. Violating the of section 302 anti-kickback provisions of the Labor Management Relations Act of 1947		
18. Mail fraud and other fraud offenses		
19. Kickbacks from public works employees		
20. False statements and concealment of facts in relation to documents required by ERISA		
21. Influencing or injuring officer or juror generally		
22. Obstruction of proceedings before departments, agencies, and Committees		
23. Theft or alteration of record or process; false bail		
24. Obstruction of criminal investigations		
25. RICO conspiracy		
26. Accepting kickbacks as an ERISA fiduciary		
27. Violating the Labor Management Reporting and Disclosure Act of 1959		
28. Felony involving abuse or misuse of any position of authority held for illegal gain at the expense of members of the labor organization or participants/beneficiaries of an employee benefit plan		
29. Conspiring or attempted to commit any crimes		
30. Has any federal regulator (such as the Department of Labor) ever sought a court order barring you from serving as a fiduciary?		



Under penalties of perjury, I attest that I have completed this ERISA Section 411 self-assessment and that my responses reflect what is true, correct, and complete. If there are any changes to my answers above, I will report those changes to the Committee within 30 days of an investigation or conviction.

_____ (Signature) _____ (Title)

_____ (Print Name) _____ (Date)