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Retirement Plan

News and Information for Employers

NAVIGATING 2026 WITH CONFIDENCE



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What Plan Sponsors
Need to Know in 2026

Litigation Updates
for 401(k) Committees

Retiring and Hiring:
Generational Shifts and Your
Workplace 401(k) Plan

What Every Plan Sponsor Should Know for 2026

Key updates and trends shaping retirement plans in the year ahead



Retirement plan rules continue to evolve, and 2026 brings several important updates that may affect plan operations, participant experiences, and fiduciary responsibilities. Nearly 80% of plan sponsors have already taken steps to address SECURE 2.0 changes before their effective dates.¹

Understanding what is required and what is on the horizon can help position your plan for success in the year ahead.

Key regulatory updates for 2026

Roth catch-up contributions

Under SECURE 2.0, catch-up contributions for employees aged 50 and older with FICA wages above \$150,000 in 2025 must be made on a Roth (after-tax) basis. This rule goes into effect on January 1, 2026.

Why it matters: Payroll, administration, and employee communications should be updated to reflect these changes. Clear messaging helps avoid confusion and builds trust with your 50+ year old employees.

Super catch-up contribution limits

Participants between the age of 60 to 63 may be eligible for “super catch-up” contributions. For 2026, eligible employees can contribute an additional \$11,250 in combination with the standard limit of \$24,500 for a total of \$35,750. It is important to note that super catch-up contributions are also subject to the new Roth catch-up provision, meaning employees with wages above the threshold will need to make these contributions on a Roth basis.

Why it matters: Staying on top of these annual changes helps keep the plan compliant and supports participants looking to maximize their savings opportunities.

Long-term part-time employee eligibility

Starting in 2025 and continuing into 2026 and beyond, long-term part-time employees who work at least 500 hours for two consecutive years must be allowed to make salary deferrals into the plan.

Why it matters: Expanding eligibility can boost participation, improve coverage testing, and demonstrate a commitment to inclusion across your workforce.

Cycle 4 plan document restatement

All pre-approved defined contribution plans must be restated in the near future to include recent legislative updates such as SECURE 1.0 and SECURE 2.0.

Why it matters: Restating on time helps your plan documents stay compliant and audit-ready. This process can keep your plan language aligned with current laws and can help prevent costly administrative issues later.

Notable optional developments

Self-certification for certain withdrawals

Employees can now self-certify their eligibility for certain hardship withdrawals, eliminating the need for extensive paperwork.

Why it matters: This change reduces the administrative burden and can help participants access funds more quickly during emergencies. Plan sponsors can choose whether or not to adopt this option.

Beyond compliance: trends reshaping plan strategy

Broader industry trends influence how participants experience their workplace retirement plan and how your fiduciary responsibilities continue to evolve.

Here are two areas to keep on your radar.

1. Retirement income solutions

More plans are exploring ways to support participants as they transition from saving to spending. Examples include updated target date funds and lifetime income options.

Potential impact: These features can help participants manage assets in retirement and reduce rollover leakage, although adoption depends on plan size, demographics, and provider capabilities.

2. Legal and fiduciary developments

Courts and regulators continue to shape fiduciary frameworks. Excessive-fee litigation remains active, and recent rulings have clarified expectations for plan governance and investment oversight.

Potential impact: Staying informed on legal developments helps sponsors strengthen fiduciary processes and reduce exposure to risk.

Start the year strong

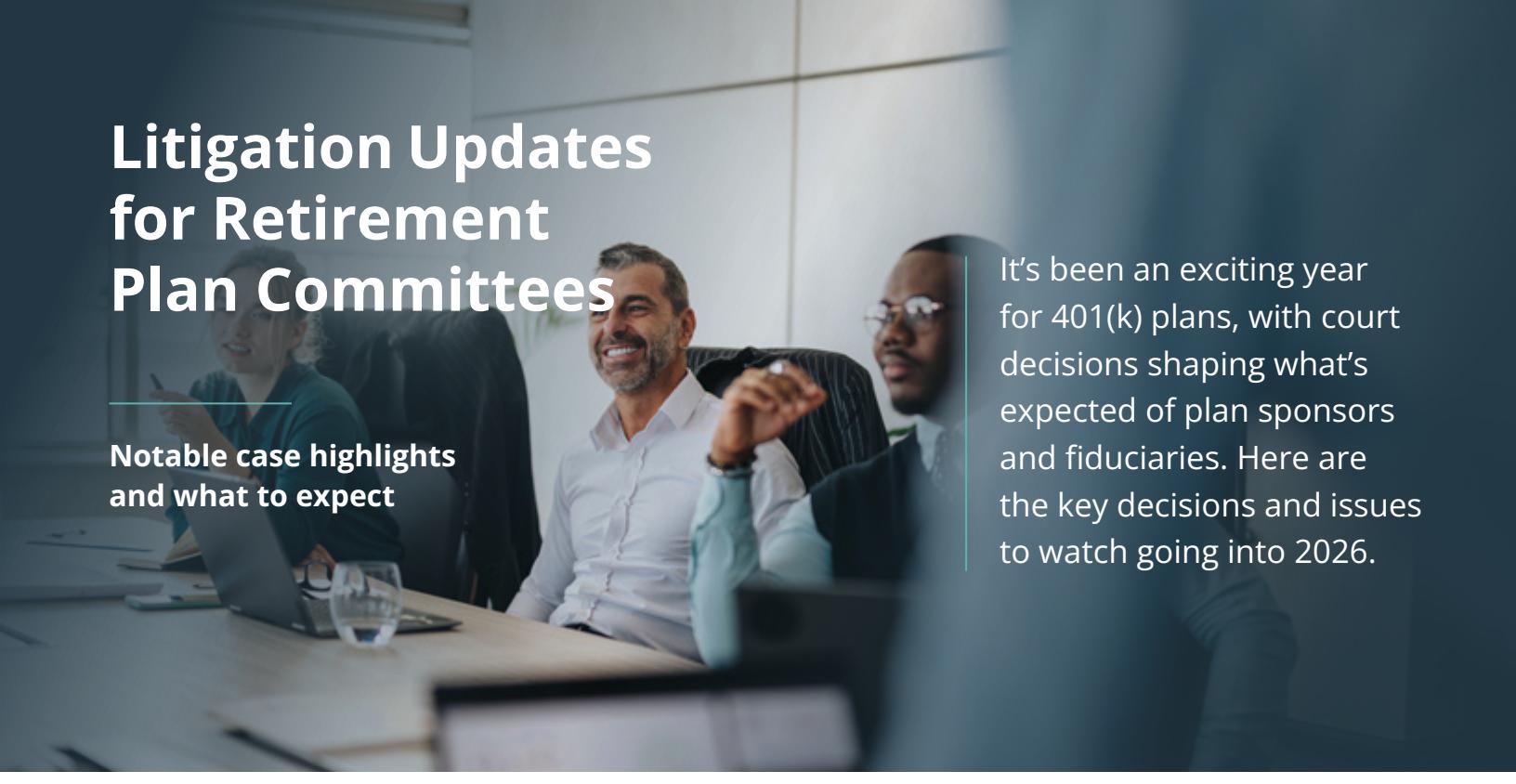
The beginning of a new year is the ideal time to get ahead of regulatory deadlines and position your plan for success. By preparing now, you can reduce administrative stress later and give participants a more seamless experience.

As we kick off 2026, the steps you take this quarter will set the tone for the year ahead. Review your plan, update what is needed, and stay ahead of the curve.

We are here to help you evaluate your options and prepare your plan for the future with confidence.

Litigation Updates for Retirement Plan Committees

Notable case highlights and what to expect



It's been an exciting year for 401(k) plans, with court decisions shaping what's expected of plan sponsors and fiduciaries. Here are the key decisions and issues to watch going into 2026.

Did the Supreme Court make it easier for employees to bring ERISA lawsuits?

The Supreme Court opined on a highly technical ERISA procedural issue related to prohibited transaction claims in its *Cunningham v. Cornell* decision. While the ruling is consistent with practitioner expectations, there were initial concerns about whether it would prompt a potential increase in litigation since the decision makes it easier for employees to bring ERISA lawsuits. However, these concerns currently remain unfounded, as preliminary data does not show any spike in litigation activity following the decision.

How should fiduciaries consider ESG 401(k) investments?

In *Spence v. American Airlines, Inc.*, the plaintiffs argued that the defendants breached the duties of prudence and loyalty by using an investment manager who pursued non-financial and nonpecuniary environmental, social, and governance ("ESG") policy goals through proxy voting and shareholder activism. The court ruled against the plaintiffs on the breach of prudence claim since the defendants followed prevailing industry practices and engaged in a rigorous evaluation process.

However, the court found a breach of the duty of loyalty since American Airlines prioritized its and its investment manager's corporate interests, including climate change and ESG factors, over the financial interests of plan participants. While the decision did not result in any monetary damages, the court granted equitable relief requiring American Airlines to follow certain conditions to ensure that climate change and ESG do not interfere with pecuniary factors.

What is a prudent process for investment decisions?

In its decision on an investment underperformance claim, the court provided a helpful roadmap for what constitutes a prudent process. The case, *Waldner v. Natixis*, involved allegations of imprudence and disloyalty for including underperforming proprietary funds on the plan's 401(k) menu. While the decision in favor of the defendants recognized that there were a series of management missteps, the court held that these did not amount to a breach of prudence.

Instead, the court determined that the defendants followed a prudent process while making decisions involving the funds.

The steps in this prudent process included using outside legal and financial expertise to evaluate funds, providing the plan's committee with quarterly reports on the funds' performance as well as training on ERISA fiduciary duties, and conducting regular plan committee meetings memorialized with minutes.

Why is it important to have meaningful benchmarks?

Similarly, in its decision in favor of the defendants in *Anderson v. Intel Corporation Investment Policy Committee*, the 9th Circuit emphasized that the duty of prudence is assessed based on processes, not outcomes. The court also found that the plaintiffs failed to provide a "meaningful benchmark" to compare with the Intel funds at issue. Instead, the benchmarks proposed to support the claim for breach of duty of prudence based on investment performance were not truly comparable, even though the plaintiffs had access to such benchmarks from Intel.

While the *Intel* decision has been appealed to the Supreme Court, it is consistent with other fiduciary breach cases dismissing claims for failure to provide a meaningful benchmark. For example, in *Hanigan v. Bechtel Global*, the plaintiffs alleged a breach of fiduciary duty by offering a managed account instead of target date funds ("TDFs") as the plan's qualified default investment alternative. In dismissing the case, the court found that TDFs were not a meaningful benchmark for managed accounts since they differed in overall strategies and levels of personalization.

Are all forfeitures created equally?

There has also been an uptick in litigation over the past two years involving the use of forfeitures in 401(k) plans. While a number of forfeiture cases alleging breach of fiduciary duties remain pending, recent decisions have largely favored plan sponsor defendants, with an overwhelming majority of cases ending in dismissals.

All eyes are currently on the 9th Circuit as it considers the issue in *Hutchins v. HP, Inc.* The Department of Labor has taken an interest in this case, submitting an amicus brief in favor of the plan sponsor defendants.

The brief expresses the Department's current views that the use of forfeitures to offset employer contributions is not, in itself, a fiduciary breach under ERISA. As the 9th circuit is the highest court to consider the issue to date, the *Hutchins* decision will have an impact on pending cases, particularly if the court adopts the Department's pro-plan sponsor position.

What does healthcare have to do with an fiduciary duties and fee benchmarking?

Finally, while there have been some fiduciary breach lawsuits involving healthcare plans, much of this litigation has largely stalled due to procedural issues. However, the White House has expressed an interest in improving transparency around ERISA 408(b)(2) disclosures for compensation to healthcare plan service providers, including pharmacy benefit managers, so we expect to see further agency guidance and regulations addressing this issue soon. As such, it is crucial for plan sponsor fiduciaries to monitor healthcare plan service providers with the same prudence and process used for retirement plan service providers.

How should we stay up-to-date?

As we have seen in the courts over the past year, things are active and evolving in the world of 401(k) plan fiduciary responsibilities. We should receive clarity and finality on many of these pending fiduciary issues in 2026. **Stay tuned!**

*This is a special edition written by
The Wagner Law Group.*

Established in 1996, the attorneys at The Wagner Law Group provide boutique-style services in ERISA, PBGC, employment law, and more for clients nationwide. www.wagnerlawgroup.com

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Retiring and Hiring: Generational Shifts and Your Workplace 401(k) Plan

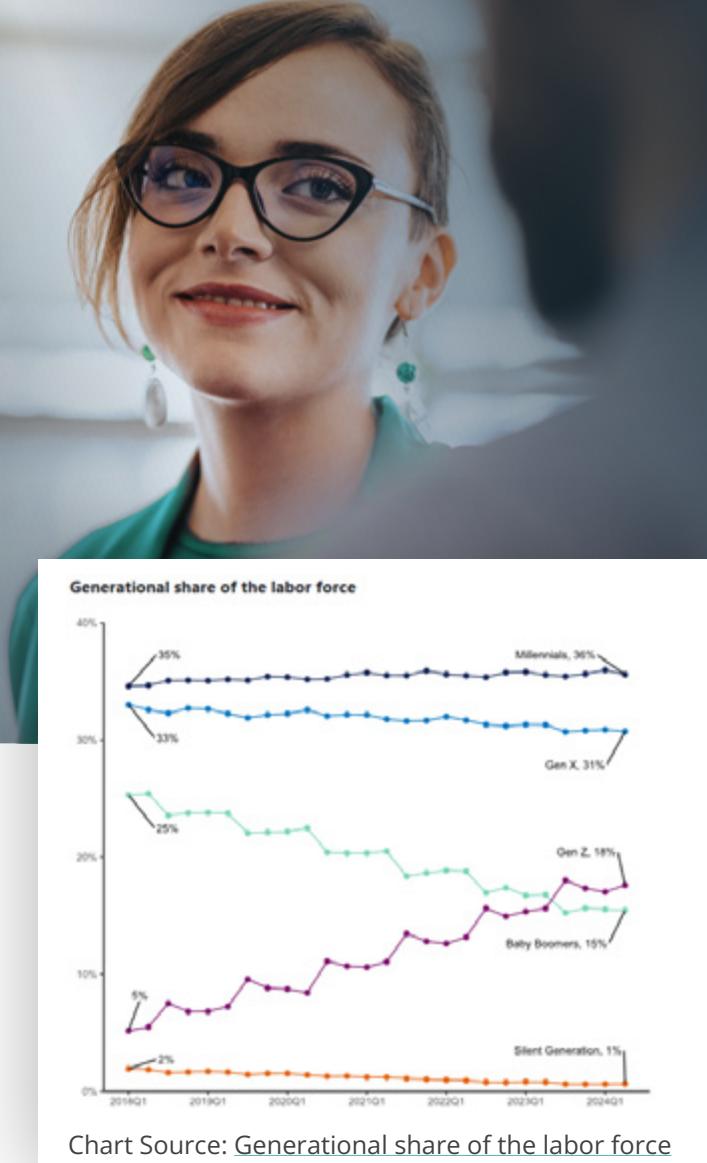
Demographic cycles, generational expectations, and evolving retirement income solutions are reshaping the cost and opportunities of retirement plan design

Every day, roughly 11,400 Baby Boomers turn 65, ushering in a historic retirement wave known as "Peak 65". As this generation steps into retirement, the makeup of the workforce is changing fast. Baby Boomers, once the largest group on the job, now make up just 15 percent of workers, while Gen Z has edged ahead at 18 percent.¹

While the shift looks simple on a chart, it brings real-world challenges. Experience, leadership, and tribal knowledge are walking out the door, while younger, eager, but less-experienced workers are stepping in.

So what does this mean for your organization? How can employers offer a retirement benefit that speaks to the generational shift?

Let's look at ways to design a plan that supports those near retirement, those just starting out, and everyone in between, because your plan can be a powerful benefit for all.



Baby Boomers and income

Have you noticed older employees talking more about retirement? These senior employees are no longer focused on *saving*; they're focused on *living* in retirement.

Plan sponsors should review options based on whether participants intend to:

- **Remain in the plan** | Offer in-plan annuities, systematic withdrawal capabilities, or managed account options. Studies show that 86% of workers want their employers to provide retirement income plans with multiple income choices.²
- **Take a distribution** | Provide educational resources

1 "Changes in the U.S. Labor Supply." Trendlines. U.S. Department of Labor. Aug 2024.

2 "Employees want income options in retirement plans, survey says." Greenwald Research. 23 Jan 2025.

such as rollover workshops, access to advisory support, and guidance on account consolidation.

As a fiduciary, keep in mind that all plan decisions should be made in the best interest of participants and their beneficiaries. Consider offering easy-to-understand comparisons, customizable income projections, and Social Security workshops to help employees navigate this new phase confidently.

Generation X's time to get serious

Gen X is in their prime saving years, with many about a decade from retirement. These employees often want and need professional financial advice, access to emergency savings, and guidance around tax efficiency.

As a plan sponsor, consider on-site or virtual education sessions to highlight catch-up contribution opportunities and explain the new Roth catch-up rules for high earners. Partnering with a financial professional can help employees gain confidence and preparedness.

Millennials are caught in the middle

Your Millennial employees are multitasking life priorities, such as student debt, childcare, home ownership, and elder care, which can crowd out the importance of retirement savings.

Plan sponsors are challenged to support "stop-start" savers: these are employees who pause contributions to tackle mid-life responsibilities. One way to support this group is auto-enrollment and re-enrollment, which could remove the task of signing up for the plan.

Another powerful strategy is non-work financial communications, which has often been seen as "taboo" or outside of the workplace responsibility. Offering general financial education could provide meaningful clarity for these workers and help them become less financially distracted at work. Topics may include interest rates, credit scores, life events such as birth, adoption, marriage, divorces, and estates.

This approach provides employees with credible information and consistent nudges to remind employees about the importance of long-term financial preparation.

Generation Z seems to be on the right track

Gen Z enters the workforce as digital natives with high expectations. Many are saving early, with average balances around \$78,000, a strong start for young savers.³

To engage Gen Z, sponsors should consider:

- Auto-enrollment (e.g. 10 %) or auto-escalation to align with their "set it and forget it" preference.
- Mobile-first tools, self-service, and on-demand learning options to appeal to their desire for independence.

Economic pressures & salary expectations

Rising inflation, housing costs, and general living expenses push employees to expect higher salaries and faster earning growth. This can erode "available benefit dollars".

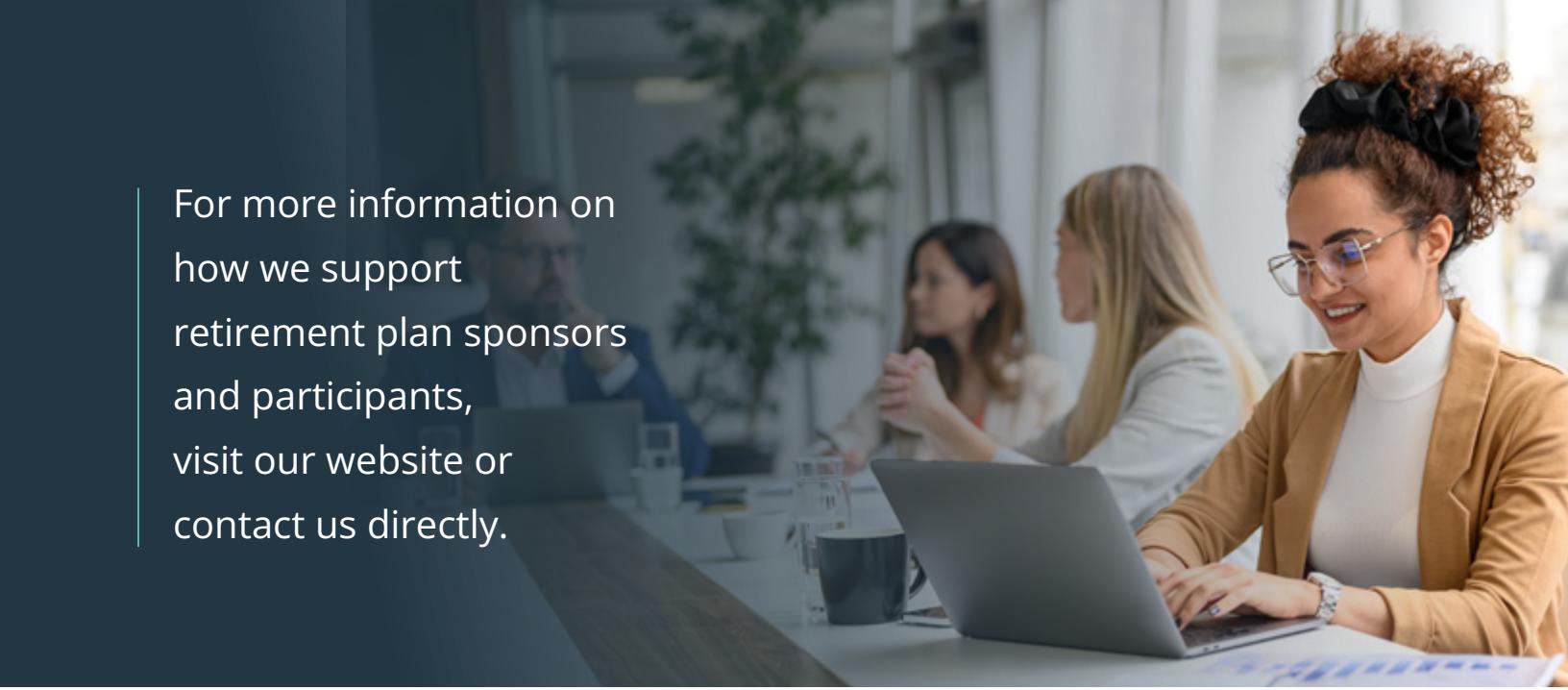
Employers must balance the narrative: "We may not give 10% salary hikes every year, but your long-run retirement benefit is real, has the ability to compound, and is extremely valuable."

Looking towards the future

The labor market is shifting: Boomers are retiring, AI is reshaping roles, and a digitally native Gen Z is demanding intuitive, purposeful benefits. For plan sponsors overseeing plans, the opportunity is to modernize your 401(k) as a **strategic talent tool**, not just a basic nice-to-have benefit.

Begin by reinforcing accumulation features (auto-enroll, auto-escalation, flexible matching) to appeal to Gen Z and Millennials, support Gen X in their "last stretch" savings phase, and maintain relationships with retirees through in-plan income solutions, backed by strong fiduciary due diligence and layered education.

Done well, your retirement program becomes a driver of recruitment, retention, and cost discipline; a differentiator in a tight labor market where benefits increasingly compete with salary.



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