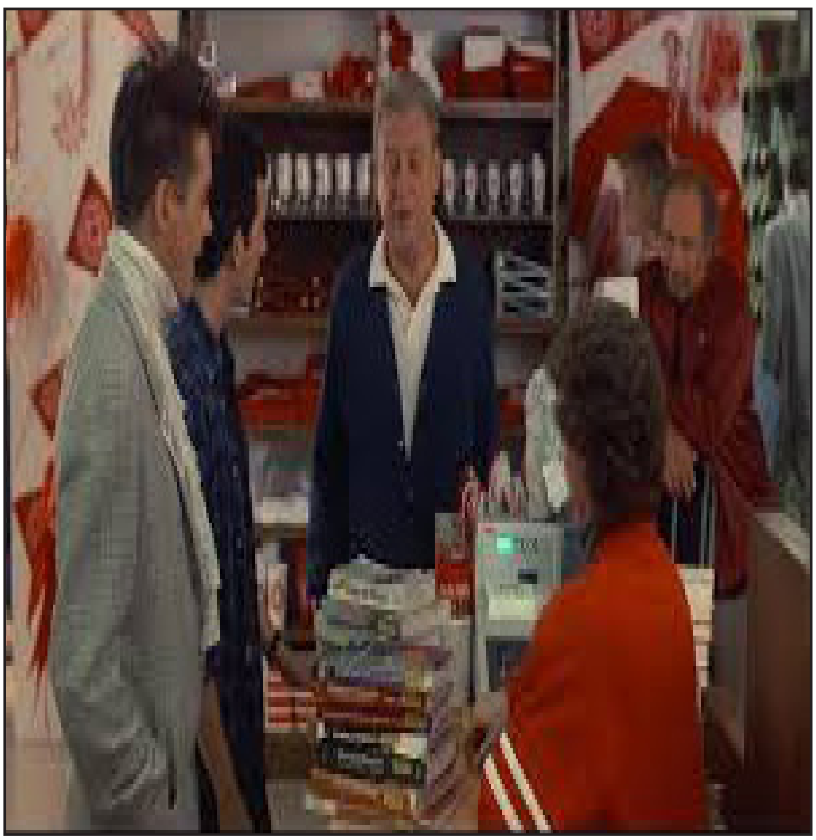
# The Plan Sponsor Guide To Setting Up A 401(k) Plan Committee

**By Ary Rosenbaum, Esq.**

Being a retirement plan sponsor can be a bit overwhelming and one of the major reasons that retirement plans are mismanaged is a lack of management. Retirement plan committees, regardless of the size of the plan sponsor can be an effective method of managing a retirement plan. Like any tool, a retirement plan committee must be used correctly or it ends up becoming more of a problem than it's worth. So this article is about how retirement plan sponsors can delegate their committee and some of the things they should avoid by setting one up.



**Why set up a retirement plan committee?**

In the Rodney Dangerfield movie Back to School, the son of Dangerfield's character, Thornton Melon wanted to buy used books because they were already highlighted. Thornton Melon said the last person who highlighted the textbook might have been a maniac. The same thing can be said about a plan sponsor who only uses one person to run and be responsible for the retirement plan, what if that person was a maniac? The costs would be much greater than a textbook. A retirement plan committee that has more than one member is more likely to be vigilant than the one person in charge of the plan who might be incompetent. This isn't a knock against anyone in the organization because sometimes the one person in charge of the plan who is incompetent is the owner. So a retirement plan committee is merely a check and a balance by having more than one person in charge.

**Who should be on the committee?**

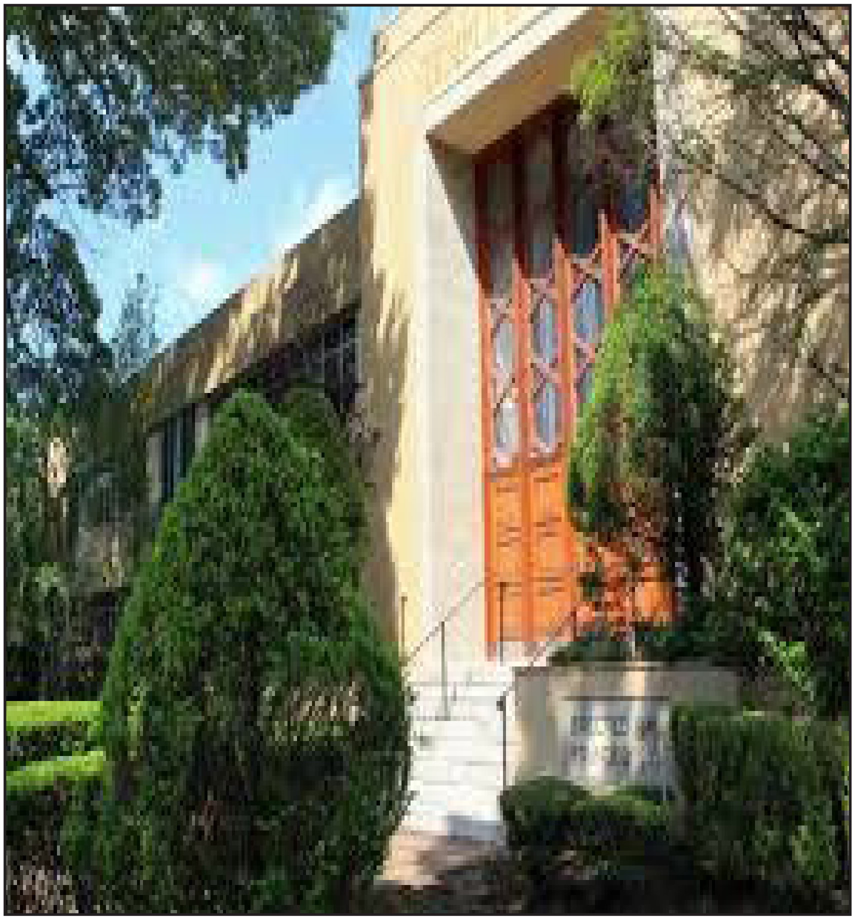
Your 401(k) plan committee should include anyone who serves as a plan fiduciary, at least one member of senior management, preferably the Chief Financial Officer or Chief Operating Officer, the human resources director, and one or more participants. The committee should also include one committee secretary, who will be responsible for taking notes and documenting discussions and decisions during committee meetings. The size of the committee should be dependent on the size of the company. My old law firm had over 80 participants and the committee was always the same two trustees whose poor decisions hurt the plan, so that was a bad fit. A committee also shouldn't be like my old synagogue's Hebrew School committee which had 15 members when there are only 50 kids in the schools because it's too large to get anything done. The right size and fit depend on the size and nature of the business that sponsors the plan.

**Setting up bylaws and responsibilities**

From work experience and not-for-profit experience, I have had a bad experience with committees. When I was at that law firm and my goal was to start a national practice devoted to single-employer plans, I found that one of the great stumbling blocks was that my work in marketing had to be vetted by several committees. Articles could take six months from writing to publication and that hurt my chances of getting business. I run the same problems with my synagogue, so all the work I do for them now in fundraising requires no committee input. Committees in small to medium-sized organizations can be the stick in the wheels of progress. The reason is because these committees tend to have no responsibility and purpose, they were just created for the sake of being created and giving some people a title. A retirement plan committee that does nothing is far worse than not having a retirement plan committee at all. In addition, a retirement plan committee needs rules on how to function and that's why it needs bylaws. Bylaws are like the Ten Commandments for a retirement plan committee because they will define the committee's purpose, responsibilities, and processes for conducting reviews and resolving issues.

**What is the Committee supposed to do?**

As stated before, a Retirement Plan Committee must have responsibilities to be of any use. A committee without a purpose is just window dressing. At the very least, retirement plan committees must tackle the role that a plan fiduciary must handle because essentially the committee is delegated those duties. So a retirement plan committee should understand the five basic responsibilities of a plan fiduciary that is succinctly mentioned by the Department of Labor. 1) The plan must provide an appropriately diversified selection of investment options. 2) The plan's assets must be managed prudently. 3) The plan's costs must be reasonable. 4) Decisions about investments should follow guidelines specified in the plan document, and 5) all decisions must be made in the best interests of the plan and its participants.



**Bringing in the plan providers**

I used to joke that some plan providers, especially advisors, should be on milk cartons because they're missing. These days, most plan providers are easily found. That being said, plan providers should be involved in your committee meetings by attending, especially the advisor. The Third Party Administrator should be there in some form, whether in person or through some report. This isn't about taking attendance but making sure the plan providers are doing their job and keeping everyone abreast of plan developments.

**The Investment Review**

One of the most important duties of a retirement plan committee is handling the review of the fiduciary process that handles plan investments. Handling the fiduciary process means hiring a financial advisor who can assist the retirement plan committee in selecting plan investments and educating plan participants if they direct the investments under a 401(k) plan. So that means the financial advisor can't perform any disappearing acts, they must attend every retirement plan committee meeting to inform them of any changes that need to be made to the plan investments. Before selecting plan investments, the financial advisor should assist the committee with the formulation of an investment policy statement (IPS). The IPS details the criterion for selecting and replacing plan investments. So if a financial advisor formulates an IPS, the retirement plan committee must use the IPS in managing the plan's investments

**Fee Disclosure**

One of the most important duties of a fiduciary and the retirement plan committee is to delegate the duty of a fiduciary is the duty to pay only reasonable plan expenses. That means that the retirement plan committee is responsible for reviewing the fee disclosures provided by plan providers as well as determining whether the fees being paid are reasonable. So a retirement plan committee has to benchmark the fees to determine whether the fees being paid are reasonable for the services provided.

**Other Issues**

A retirement plan committee has other issues that need to be reviewed. Since a fiduciary has the duty of prudence, the retirement plan committee needs to review the plan provider for any service issues. If the plan is a 401(k) plan, the retirement plan committee should also review plan participation in deferring their compensation. The retirement plan committee should also review the plan design to determine whether the design properly serves the needs of the plan sponsor and its budget to make employer contributions.

**Conflict of Interests Policy**

In addition to bylaws, a retirement plan committee should implement a conflict of interest policy that will ensure that members of the committee will only make decisions that are solely in the interest of the plan and its participants. Conflicts need to be identified, and procedures need to be put in place to ensure that these conflicts will not interfere with the committee's ability to carry out its activities in an objective manner.

**Document everything**

A retirement plan committee will only be as good as the records it keeps. So every meeting of the committee and every decision made needs to be documented. It's evidence that the retirement plan committee is doing what's best for the plan and its participants.

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