

FAQs for Annual Notices/Disclosures

401(k) plans require different notices and disclosures to be provided to participants each year. This document covers the most Frequently Asked Questions (FAQs).

Can we deliver all of them at the same time?

Each notice has its own regulatory deadline. Here are some quick examples:

- Safe harbor and default investment notices must be distributed to participants 30 days before the start of the next year
- Fee disclosure information must typically be distributed annually within the same time period as the previous year's notice.
- The Summary Annual Report (SAR) must be distributed no later than two months following the Form 5500 filing deadline

To the extent that any of these deadlines overlap, it is perfectly acceptable to send all the notices in the same package. For a calendar year plan that extends the filing deadline for its 5500, the SAR is due no later than December 15. The deadline for the safe harbor and default investment notices is December 1. That means those disclosures could be sent to participants all together. But outside of that, it would not be acceptable to hold other notices for delivery outside their respective deadlines to combine them with other notices.

Are we allowed to distribute the 401(k) notices electronically?

Providing hard copies of notice is the most acceptable means of distribution. This could include handing out copies at a company meeting or mailing to a participant's last known address. *Note that simply posting a notice in a break room or other common area is not considered distribution.*

You can send the notices electronically if certain conditions are met.

- You can email the notices/disclosures as an attachment to those with a company email address and who use that email regularly as part of their job duties.
- If they do not have a company email address, you can use a personal email address if the employee provided one on a new-hire application or in plan enrollment paperwork that you have on file.
- Your email notification needs to include the following information:
 - Subject Line that reads "Disclosure About Your Retirement Plan"
 - Identify the name of the document and include a brief description (only if the name of the document is not sufficient to convey the nature of the document)
 - A statement of the right to receive a paper copy, free of charge, and how to exercise that right
 - A statement of the right to opt out of electronic delivery, free of charge, and how to exercise that right
 - Provide a telephone number at which the plan administrator or other Plan contact may be contacted
- You can notify participants that the notices can be accessed on a company intranet or within a payroll system that employees must go to retrieve their pay stubs, or other company-sponsored web platform.

If there are individuals in which you do not have an email address for or do not have access to a company- sponsored web system, including those terminated with a balance in the plan, then a paper copy should be mailed under the regulations.

Delivery options may be combined so that some participants receive electronic notices and others receive hard copies. For example, notices could be emailed to those who are actively employed, using their company email addresses, while hard copy notices are mailed to former employees who still have balances in the plan.

Regardless of the method selected, it must be designed to ensure receipt by all participants. As an example, if certain notices are to be distributed at a face-to-face company meeting, alternative arrangements should be made to ensure delivery to those not in attendance. If the notices are to be sent electronically though email, then a “return receipt” option for the email would be acceptable.