

What's New In Washington: Second Quarter 2026 Benefits Update

The second quarter of 2026 did not produce any sweeping new retirement plan law. Instead, Washington continued to fill in the details on existing rules. For plan sponsors, the practical message is that 2026 remains an implementation year. Sponsors should continue reviewing plan design, distribution procedures, fiduciary processes, and service-provider readiness.

Qualified long-term care distributions. One of the most important Q2 developments was Notice 2026-33, which provided guidance on qualified long-term care distributions. These distributions are optional, but defined contribution plans may permit participants to take limited distributions to pay certified long-term care insurance premiums. For 2026, the distribution generally may not exceed, in the aggregate for the taxable year, the least of the amount paid by or assessed to the participant for certified long-term care insurance for the participant or spouse, 10% of the present value of the participant's vested accrued benefit, or \$2,600. The IRS also made clear that a plan is not required to offer this feature, and that a plan amendment to add it is a discretionary amendment. For most non-governmental, non-collectively bargained defined contribution plans, the amendment deadline is December 31, 2027. Sponsors that are considering this optional feature should not view it as a simple new withdrawal code. The IRS guidance requires supporting documentation from the insurance issuer, provides reliance rules for plan administrators, and confirms that these distributions are not eligible rollover distributions. That means no direct rollover offer, no 402(f) notice, and no mandatory 20% withholding, although other withholding rules may still apply. Sponsors should confirm with their recordkeepers whether the feature can be administered before adding it to the plan.

Updated pension guidance. Defined benefit plan sponsors also received new technical guidance. Notice 2026-27 provides updated static mortality tables for 2027 funding calculations and for certain minimum present value determinations. Notice 2026-34 also sets out the 2026 Cumulative List for defined benefit pre-approved plans, with the Cycle 4 submission period scheduled to run from August 1, 2026, through July 31, 2027. For employers with cash balance or other defined benefit plans, especially those using pre-approved plan documents, the practical take-away of these two pieces of guidance is to coordinate with the plan's actuary and document provider before year-end planning begins.

DOL enforcement. The Department of Labor also signaled a change in enforcement tone. In April, EBSA issued Field Assistance Bulletin 2026-01, stating that its enforcement program will focus on egregious conduct, significant harm, fairness, prior notice, senior review of critical enforcement initiatives, and timely responsiveness. That internal enforcement guidance does not relax ERISA fiduciary duties or create a safe harbor, but it does reinforce the importance of maintaining a clear, documented fiduciary process. Sponsors should continue to document committee meetings, investment reviews, fee reviews, participant complaints, and corrective actions.

Proxy advisory firms. Finally, the DOL issued guidance stating that proxy advisory firms may, in some circumstances, be investment advice fiduciaries under ERISA. This will matter most to plans, committees, and investment managers that exercise proxy voting or other shareholder rights for plan assets. Sponsors should review who is making proxy voting decisions, how those decisions are documented, and whether investment policies accurately describe the plan's approach.

Best Practices: Reviewing Long-Term Part-Time Employee Procedures

Long-term part-time employee rules are now a regular part of 401(k) plan administration. For plan sponsors, the issue is no longer simply understanding the rules but whether the plan's procedures are reliably identifying long-term part-time employees, offering deferral elections on time, and coordinating the rules across payroll, HR, the recordkeeper, and the TPA.

A good first step is to confirm how hours are being tracked. Part-time, seasonal, temporary, variable-hour, and rehired employees should not be overlooked simply because they are not expected to complete 1,000 hours of service. Sponsors should confirm which system is tracking hours, who reviews the data, and how employees are flagged when they approach or satisfy the long-term part-time eligibility standard.

Next, review whether the plan's documents and administrative systems are aligned. Many plans allow long-term part-time employees to make elective deferrals without receiving matching or nonelective contributions. If that is the intended approach, the plan document, payroll codes, recordkeeper setup, enrollment materials, and employee communications should all reflect the same design. Even small inconsistencies can create confusion or lead to missed deferral opportunities.

Sponsors should also keep vesting in mind. If a long-term part-time employee becomes eligible for employer contributions, the plan may need to count earlier 500-hour years for vesting purposes, subject to the plan's terms and the applicable effective-date rules. That makes accurate historical records of hours important, especially for employees who move between part-time and full-time status or who have breaks in service.

Finally, consider documenting the review in the plan's administrative files. Keep a record of which employee groups were reviewed, how hours are being tracked, which vendors were involved, and whether any plan or system changes were made. This kind of documentation can be helpful if eligibility is later questioned during an audit, correction project, or transaction due diligence review.

In short, long-term part-time employee compliance should be treated as an ongoing operational process rather than a one-time legal update. A modest annual review can reduce missed eligibility issues, improve vendor coordination, and help ensure that employees who should be offered deferral elections are identified on time.



Hot Topic: Cybersecurity Training for Retirement Plan Participants

For many plan sponsors, retirement plan cybersecurity has been viewed primarily as a recordkeeper, TPA, or IT issue. Those parties are certainly important, but they are not the whole picture. Participants also play an important role in protecting their own accounts, especially as more retirement plan activity takes place online.

The Department of Labor's cybersecurity guidance makes this point in a practical way. The DOL has issued online security tips for participants and beneficiaries, including basic steps such as registering for online account access, monitoring accounts regularly, using strong and unique passwords, enabling multi-factor authentication, keeping contact information current, avoiding risky public Wi-Fi, watching for phishing attacks, and knowing how to report suspected identity theft or cybersecurity incidents.

Of course, participant education is not a substitute for strong vendor controls. Plan fiduciaries still need to prudently select and monitor service providers, understand how participant data is protected, and respond appropriately to security incidents. But participant training can be an important additional layer of protection. A participant who has never registered for online access, reuses passwords, ignores account notices, or responds to a phishing email may create risks that even a strong recordkeeper platform cannot fully eliminate.

What should plan sponsors do now? Appropriate steps might include:

- Asking the recordkeeper what participant-facing cybersecurity training materials are already available.
- Periodically reminding participants to register for online access, use multi-factor authentication, and review account activity.

- Including cybersecurity reminders in enrollment materials, annual notices, retirement readiness campaigns, and open enrollment communications.
- Coordinating messaging so participants know how legitimate plan communications will be sent and where to report suspicious emails, texts, or account activity.
- Documenting the plan's process for reviewing cybersecurity education and participant communication practices.

For most plan sponsors, the right takeaway is not that they must become cybersecurity experts or create a technical training program from scratch. Rather, sponsors may want to treat participant cybersecurity education as part of ordinary plan governance. Clear, repeated reminders can help participants protect their accounts and help fiduciaries show that cybersecurity is being addressed as a plan-level issue.



by Jesse St. Cyr, Partner, Poyner Spruill

Jesse is a member of the Employee Benefits and Executive Compensation team at Poyner Spruill LLP. He represents clients before the IRS and DOL in matters involving employee benefits. Jesse has experience working with a diverse range of benefits and compensation matters and has extensive experience working with a variety of employers. Jesse is recognized by Chambers USA as a leading lawyer for Business (Employee Benefits & Executive Compensation).