ERISA Advisory Council

By Kerry Pechter *Thu, Jan 15, 2026*

*"The duties of the council are to advise the Secretary and submit recommendations regarding the Secretary's functions under ERISA." At past meetings, Council members have heard testimony from members of the retirement industry and the public on topics of growing importance. In 2023 and 2024, for instance, the Council solicited testimony on the question of**... Read more »*

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In 2023 and 2024, for instance, the Council solicited testimony on the question of whether the 1995 guidance for Qualified Default Investment Alternatives for 401(k) plans should be updated —at a time when plan sponsors needed guidance regarding the insertion of annuities and other income-generating tools into the QDIAs, into which participants' contributions can be auto-invested.

In July 2024, the EAC heard testimony on that topic from such prominent retirement experts as Olivia Mitchell, executive director of the Pension Research Council at the Wharton School, Michael Finke of the American College of Financial Services, Gregory Fox at Aon, Bonnie Treichel, an ERISA attorney, and Kevin Hanney of RTX (formerly United Technologies Corp.), an architect of that company's annuity-linked 401(k) plan.

"It's disappointing, because the DOL will be flying blind on issues that might be percolating under the surface today but that could become important in the future," Hanney told *RIJ*. "Before I was on the council, I relied heavily on its previous work. I downloaded all of the papers I could find and used them when we were designing our 401(k) lifetime income strategy. They were filled with insightful observations and pragmatic recommendations. The EAC was not in any way extraneous. I relied on its work to fulfill my fiduciary duties. If anything, it should have had a wider voice among retirement practitioners."

According to Section 512 of ERISA:

> The council consists of 15 members appointed by the Secretary of Labor. Three members are representatives of employee organizations (at least one of whom represents an organization whose members are participants in a multiemployer plan). Three members are representatives of employers (at least one of whom represents

> employers maintaining or contributing to multiemployer plans). Three members are representatives of the general public. There is one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, investment management, and accounting. Members must be qualified to appraise the programs instituted under ERISA. Members are appointed for three-year terms with five terms expiring on December 31 of each year. The council holds at least four meetings each year, which are open to the public. The council is subject to the Federal Advisory Committee Act.

None of the members of the Council reached by *RIJ* had received any official notice or explanation from the Department of Labor regarding the reasons for the suspension or cancellation of meetings.

Democratic members of the House Committee on Education and Workforce received no formal response from Labor Secretary Lori Chavez-DeRemer to their **letter** asking why the DOL "reportedly placed the Council 'on ice,'" according to their staff.

ERISA attorney Marcia Wagner told *RIJ* in an email that cancelling EAC meetings is not legal but reflects Trump administration policy:

> "Since the ERISA Advisory Council was established under ERISA, the Trump Administration technically cannot disband it. There was a tentatively scheduled third-quarter meeting, but it did not occur because of the government shutdown.)
>
> Also, I believe that the absence of ERISA Advisory Council meetings in 2025 was simply an illustration of the Trump Administration hostility to the administrative state, and the Council was simply viewed as unnecessary, in the same manner that the Department of Education or other parts of the federal bureaucracy were viewed as unnecessary."

"I honestly don't know," said Mark Debofsky, a Chicago lawyer who was in his final year as an EAC council member, when *RIJ* asked him why the EAC didn't meet last year. "I think 'DOGE' shut down every advisory council for 2025.

"It wasn't just the ERISA Advisory Council," Debofsky said. "During the two years that I was on the Council, I thought we did meaningful work. There was a definite purpose to it. It's a collegial body that was able to do deep dives into important topics. It's disappointing. I think we did important work."

"We were never called, we never met. No reason [was] given," another individual, asking not to be identified, told *RIJ*.

According to the EAC's **website**:

> For the purposes of ERISA section 512, the candidate's political party affiliation must be noted, as section 512 requires that no more than eight council members may be of the same political party. The recommendation also must state whether the candidate is available and would accept appointment to the council. Candidates should be willing to commit 15-20 days per year to accomplish the work of the Council and should be qualified to appraise the programs implemented under ERISA. Members of the Advisory Council are paid for days traveling for and attending Council meetings and are reimbursed for travel expenses to attend meetings.

"The ROI on the EAC is quite large," said Hanney in an email. "Council members are technically Special Government Employees. We worked about 20 days each year, not including the time we spent drafting our reports. Under the council charter, members can be paid a small stipend but not everyone accepts. It was based on pay tables published by the Office of Personnel Management and ran about $5,000 per year if I remember correctly.

"Travel expenses for Council members were minimal and adhered strictly to government procurement rules, such as only flying coach on approved airlines between approved airports, or taking Amtrak. The hotels were rotated to comply with the procurement rules, too. We received a small per diem for meals and had lunch in the [Frances] Perkins Building [the DOL headquarters in Washingon, D.C.] cafeteria almost exclusively. My travel reimbursements were less than $3,000 per year.

"I recall the council had dinner as a group a couple times a year, but even then I think the locations were from approved lists. All of our meetings were in the Perkins Building except for a day-long conference call that I think is conducted over Zoom now. Witnesses cover their own expenses when they appear in person (I did too when I testified in 2024), and many now testify remotely over Zoom. There used to be some printing costs for written testimony, but I believe that they only provide digital copies now unless witnesses bring their own printed copies.

"The biggest costs were probably for the EBSA staff that supported the Council and the stenographer who recorded transcripts of the meetings. I would be surprised if the yearly budget was substantially more than $300,000."

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