

§3B1.4

for abuse of a position of trust will apply. “***Fiduciary of the benefit plan***” is defined in 29 U.S.C. § 1002(21)(A) to mean a person who exercises any discretionary authority or control in respect to the management of such plan or exercises authority or control in respect to management or disposition of its assets, or who renders investment advice for a fee or other direct or indirect compensation with respect to any moneys or other property of such plan, or has any authority or responsibility to do so, or who has any discretionary authority or responsibility in the administration of such plan.

- (B) If the offense involved theft or embezzlement from a labor union and the defendant was a union officer or occupied a position of trust in the union (as set forth in 29 U.S.C. § 501(a)), an adjustment under this section for an abuse of a position of trust will apply.

Background: This adjustment applies to persons who abuse their positions of trust or their special skills to facilitate significantly the commission or concealment of a crime. The adjustment also applies to persons who provide sufficient indicia to the victim that they legitimately hold a position of public or private trust when, in fact, they do not. Such persons generally are viewed as more culpable.

<i>Historical Note</i>	Effective November 1, 1987. Amended effective November 1, 1990 (amendment 346); November 1, 1993 (amendment 492); November 1, 1998 (amendment 580); November 1, 2001 (amendment 617); November 1, 2005 (amendment 677); November 1, 2009 (amendment 726).
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§3B1.4. Using a Minor To Commit a Crime

If the defendant used or attempted to use a person less than eighteen years of age to commit the offense or assist in avoiding detection of, or apprehension for, the offense, increase by **2** levels.

Commentary

Application Notes:

1. “***Used or attempted to use***” includes directing, commanding, encouraging, intimidating, counseling, training, procuring, recruiting, or soliciting.
2. Do not apply this adjustment if the Chapter Two offense guideline incorporates this factor. For example, if the defendant receives an enhancement under §2D1.1(b)(16)(B) for involving an individual less than 18 years of age in the offense, do not apply this adjustment.

<i>Historical Note</i>	Effective November 1, 1995 (amendment 527). Amended effective November 1, 1996 (amendment 540); November 1, 2010 (amendment 748); November 1, 2011 (amendment 750); November 1, 2014 (amendment 783); November 1, 2018 (amendment 807); November 1, 2025 (amendment 836). A former §3B1.4 (untitled), effective November 1, 1987, and amended effective November 1, 1989 (amendment 303), was deleted effective November 1, 1995 (amendment 527).
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§3B1.5. Use of Body Armor in Drug Trafficking Crimes and Crimes of Violence

If—

- (1) the defendant was convicted of a drug trafficking crime or a crime of violence; and