

Coverage for Long-term, Part-time Workers



SECURE Act 1.0

The SECURE Act, signed into law in December 2019, includes provisions allowing long-term part-time employees (LTPT) to participate in 401(k) plans. This provision aims to provide more retirement savings opportunities for part-time employees. Specifically, employees who work at least 500 hours per year. Employees who work at least 500 hours for three consecutive plan years must be provided with an opportunity to participate in the plan. The measurement period started on January 1, 2021, therefore only years after this date are considered. If an employee was hired in 2019, and did not meet the plan’s definition for eligibility, but worked 500 hours or more in plan years 2021, 2022 and 2023 and attained the minimum age requirement in the plan document, then the employee must be allowed to enroll and contribute salary deferrals or Roth contributions on January 1, 2024*.

What's Changing in SECURE 2.0 Act of 2022

The SECURE 2.0 Act modifies the SECURE 1.0 provisions for LTPT employees. The minimum eligibility service requirement was reduced from three years to two years. The new provision is effective January 1, 2025* and will apply to any individual who completed 500 hours of service in two consecutive years starting January 1, 2021. The individual must also attain age 21 or attain the eligibility age contained in the plan document. The eligibility age used will depend on your document’s model amendment language. If no model amendment has been adopted, the age will be 21.

There is an overlap between Secure 1.0 and 2.0. If an employee worked two consecutive years with more than 500 hours in 2022 and 2023, they will not be eligible under Secure 1.0 on January 1, 2024. However, no matter how many hours worked in 2024, they will still receive credit for 2023 and 2024 and must be offered the opportunity to defer January 1, 2025.

Below is an example of how to determine whether an employee is eligible under Secure 1.0 and Secure 2.0.

	Secure 1.0	Secure 2.0
2021	500 hours	500 hours
2022	500 hours	500 hours
2023	500 hours	200 hours
2024	Now eligible (met 3 consecutive plan years since 2021)	300 hours
2025	N/A	Now eligible (met 2 consecutive plan years since 2021)

This LTPT rule does not apply to any statutory exclusions elected in the document. For example, the plan may continue to exclude employees subject to collective bargaining or a nonresident alien with no US source income. The IRS has provided some clarification to non-statutory exclusions (custom-named groups of employees) or leased employees. Our understanding is that any customized group, such as "Interns," "College Students," "Seasonal Employees" or "PRN," must have the new rules applied. However, an exclusion of all Highly Compensated Employees, a Company Division, or Company Location appears to be available.

The plan sponsor is not required to include the LTPT participant in any employer contribution. The exclusion of the LTPT from employer contributions does not jeopardize the plan's safe harbor status or require a Top Heavy minimum contribution. An employer may still create a tier of employer contributions for the LTPT group, such as a matching contribution.

The information above is based upon proposed regulations. The final regulations are not yet available, and once released, will not be effective until January 1, 2026. However, all plan sponsors of 401(k) plans still must comply with these LTPT rules as if the final rules are in effect.