

Are You Ready to Welcome New Participants to Your 401(k) Plan in 2024?

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Some three years after the passage of SECURE 1.0, the Internal Revenue Service has finally released [proposed regulations](#) addressing the new 401(k) eligibility requirements with respect to long term, part-time ("LTPT") employees, giving plan sponsors very little time to digest this new guidance. Although plan sponsors and recordkeepers may struggle with the implementation of this new requirement, relief is not guaranteed at this time.

Currently, employers are generally allowed to exclude employees who work less than 1,000 hours per year from company retirement plans. Beginning in 2024, a 401(k) plan will need to offer eligibility to an employee if he/she has three consecutive years of service (in 2025 SECURE 2.0 reduces the number of years from three to two) with at least 500 hours of service per year. For purposes of this new eligibility requirement, employers are required to recognize an employee's service for years beginning on and after January 1, 2021. In terms of the minimum age of 21 requirement, the proposed regulations state that an LTPT who otherwise meets the service requirement, will be eligible to make elective salary deferrals if they attain age 21 by the end of the third consecutive measurement period.

It is important to note that the new eligibility requirement only relates to an LTPT employee's ability to make elective salary deferrals. While employers may choose to make matching or other employer contributions on behalf of LTPT employees, there is no requirement to do so. Fortunately, an employer may elect to exclude the LTPT employees from its annual nondiscrimination testing so that these newly eligible employees will not impact its ADP/ACP testing. It is also the case that the LTPT employees will have no impact on the safe harbor status of an employer's 401(k) plan.

Finally, the proposed regulations do provide that an employer may still exclude LTPT employees under some other plan exclusion, such as a job classification exclusion, as long as it is not age or service-based, and generally applies to other employees. As such, if the plan excludes employees participating in a collective bargaining unit, this exclusion will still apply to an LTPT employee.

If you have not already started to track the hours of your part-time employees, it is strongly encouraged that you begin doing so now. Time is short, and it will be necessary to review your historical records dating back to 2021. While employers must be in compliance with the new rules beginning on January 1, 2024, it will not be necessary to formally amend your 401(k) plan document until the end of the 2025 plan year. If you have any questions about the LTPT requirements, please contact [Mark Smith](#) or any member of the Barley Snyder [Employee Benefits practice](#).

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