

SECURE 2.0 ACT

Long-term, part-time employees guide for 403(b) plan sponsors



What is changing?

The Setting Every Community Up for Retirement Enhancement Act (SECURE 2.0 Act) included a new provision for part-time employees applicable to ERISA 403(b) plans. Beginning with plan year 2025, employees will be eligible to participate in an ERISA 403(b) plan as a LTPT employee on the next entry date after completing two consecutive twelve-month computation periods with at least 500 hours of service, but less than 1,000 hours of service, in each period.



What is the Universal Availability rule?



Under the Universal Availability requirement, a 403(b) plan must allow all employees to be eligible to make elective deferrals, if any employee has the right to do so, with certain limited exceptions.



What are the statutory exceptions under the Universal Availability requirement?

Under the requirement, certain employees may be excluded, including:

- Employees who normally work less than 20 hours per week ('part-time exclusion')
 - Once an employee does not meet the part-time exclusion conditions for any year, the employee may no longer be excluded under the part-time exclusion in any subsequent year
- Student employees performing services described in Internal Revenue Code (IRC) section 3121(b)(10) ('student exclusion')
- Non-resident alien employees described in IRC section 410(b)(3)(C)
- Employees who are eligible to make elective deferrals under another 401(k), 403(b), or governmental 457(b) plan sponsored by the same employer

In general, if an employee excluded under the part-time exclusion or student exclusion has the right to make elective deferrals, then no employee in the same population can be prevented from making elective deferrals

Note: The Universal Availability rule does not apply to employers that are churches or qualified church-controlled organizations

What is the Secure Act Long-term, part-time eligibility rule?



Eligibility

Beginning with plan year 2025, employees will be eligible to participate in an ERISA 403(b) plan as an LTPT employee on the next entry date after completing two consecutive twelve-month computation periods with at least 500 hours of service, but less than 1,000 hours of service, in each period.

- Hours of service completed before January 1, 2023 will not be considered
- The provision applies to employees excluded by the part-time exclusion or the 'student' exclusion

How do the LTPT requirements impact the Universal Availability rule?



An employer must consider Universal Availability requirements and LTPT requirements for purposes of an employee's eligibility to make elective deferrals.

Eligible employees can make elective deferrals on the next entry date on or after the first day of the plan year that begins in 2025.



- Under Universal Availability generally, employees are immediately eligible to make elective contributions unless subject to a statutory exclusion for part-time employees or students
- Employees covered by the part-time exclusion or student exclusion* are subject to the LTPT provision
- Employees subject to the LTPT provision are eligible to make elective deferrals after two consecutive years of service in which the employee completes at least 500 hours of service but less than 1,000 hours of service for each year in the twelve-month eligibility service computation period
- A LTPT employee that later meets 1,000 hours of service in a twelve-month computation period is determined to be eligible for subsequent years under Universal Availability requirements, not LTPT

Plan sponsors should consult with counsel for assistance with the requirements.

*The industry has requested regulatory guidance to further clarify application to the Student Exclusion.

Administrative considerations



Employer contributions

A plan sponsor may include or exclude LTPT employees in any employer contributions. The Fidelity solution will default to exclude LTPT employees from receiving any employer contributions unless directed otherwise.



Vesting*

LTPT employees will receive vesting service credit if they complete at least 500 hours of service in a vesting computation period, excluding service before January 1, 2023.



Testing

A plan sponsor may include or exclude LTPT employees from the actual contribution percentage non-discrimination test. The Fidelity solution will default to exclude LTPT employees from non-discrimination testing unless directed otherwise.



Plan document

Some 403(b) plans exclude employee groups based upon part-time and student classifications. However, these excluded employees may be able to participate in the plan under the LTPT requirement.

Plan sponsors should consult with counsel to determine eligibility for excluded employees.

The Fidelity pre-approved 403(b) plan will be amended to reflect the changes for LTPT employees. Additional information will be provided at later date.

*Fidelity will update our processes, procedures and systems for the provision as further guidance is issued the IRS

How are plan sponsors affected?



Plan sponsors must review their plan design and employee population to determine if they are subject to the LTPT employee requirements



If yes:

- Payroll or payroll provider need to track hours of service for their employees
- Work with payroll or payroll provider to provide required data to Fidelity
- Determine whether to include LTPT employees in employer contributions and/or non-discrimination testing
- Consider how to manage LTPT data internally
- Consider a LTPT employee communication strategy
- Consider a LTPT employee auto-enrollment strategy



Tracking LTPT eligibility



Plan sponsors **independently tracks service hours**

Plan sponsors determining eligibility for their LTPT employees should review their procedures and/or consult with their payroll/payroll provider to identify the impact of the new provision.

Plan sponsors must provide Fidelity with the required data to properly identify LTPT employees. Data may also be required to determine vesting.

Plan sponsor **adopts Fidelity's Hours-Based Eligibility Tracking service**

Fidelity's Hours-Based Eligibility Tracking service has been updated to include LTPT employees who complete at least 500 hours of service in each twelve-month eligibility service computation period over two consecutive years.

Plan sponsors with employee populations subject to the LTPT provision must provide Fidelity with the required information to identify LTPT-eligible employees.



Please reach out to your Fidelity representative to discuss your plan's specific scenario

How Fidelity will assist plan sponsors with LTPT-eligible employees



Fidelity has updated our data transmission paths with new LTPT employee datapoints



Partner with your Fidelity team to update the enrollment experience to include LTPT-eligible employees



Plan Sponsor WebStation reporting is available to assist with the eligibility process, audit support, and account corrections



Fidelity continues to monitor regulatory guidance for updates to the LTPT employee requirements. We will update plan sponsors after new guidance is issued



Next steps

Consider



The impact on your employee population.
If your plan has employees who meet the 20-hour exclusion and/or the student exclusion, then you need to consider how you will handle these population(s).

Conduct



A cost/benefit of adjusting your plan design to include additional employee groups or taking on the administrative burden of managing the LTPT provision.

Consult



With your legal counsel for assistance if you are uncertain if your plan document currently excludes employee groups that may be subject to the LTPT employee requirements in the future.



Plan sponsor considerations for LTPT employees



Plan sponsors should consider their company's employee benefit objectives, employee retention, and employee enrollment when reviewing LTPT employee requirements



We encourage plan sponsors to consult with legal counsel to discuss the benefits and potential impact of the LTPT employee requirements. Considerations may include:

- Number of employees that will likely be subject to the new requirements
- Administrative complexity of tracking service hours for eligibility determination
- Impact on payroll systems and payroll providers
- Potential implementation and operational costs, including technology, payroll provider, and per participant cost for adding LTPT-eligible employees
- Potential impact on employer contributions, if any

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