TIAA

SECURE 2.0 ACT:

# Section 125

## Improving coverage for long-term, part-time workers.

## Frequently asked questions

This FAQ covers topics intended to help you become familiar with the SECURE 2.0 Act of 2022's Section 125, "Improving coverage for part-time workers."



Improving coverage for part-time workers can be an important savings and lifetime income opportunity for your employees. TIAA is committed to helping you better understand the new requirements. If you have any questions, please contact your **TIAA Relationship Manager or our Administrator Telephone Center at 888-842-7782**.

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**AN OVERVIEW:**

## Frequently asked questions

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| **What is the SECURE 2.0 Act, Section 125?** | The SECURE 2.0 Act Section 125 amends ERISA's minimum participation rules to not allow ERISA covered 401(k) and 403(b) plans from requiring, as a condition of participation, a period of service extending beyond one year of service (using the 1,000-hour rule); or two consecutive years of service during each of which the employee completes at least 500 hours of service. Previously there was a three-year service requirement for part-time workers for 401(k) plans.<br><br>Generally, service for 12-month periods beginning before Jan. 1, 2023, is not taken into account for purposes of the new eligibility and vesting rules for long-term, part-time employees.<br><br>For 401(k) plans, employers may disregard 12-month periods beginning before Jan.1, 2021, for purposes of the current vesting rules for long-term, part-time employees. |
| **Which plans are subject to the requirements? Is it mandatory?** | It is mandatory that plan sponsors of ERISA-covered 401(k) and 403(b) plans comply with the requirements of Section 125. There are some different considerations for 401(k) versus 403(b) plans with respect to tracking service. Please refer to the plan sponsor considerations section below for more details. |
| **What is the effective date for Section 125?** | The requirements are generally applicable for plan years beginning after Dec. 31, 2024. |
| **Are plan sponsors required to make employer contributions to long-term, part-time employees who are eligible to participate?** | The provision applies to eligibility for making elective deferrals and vesting of any employer contributions. In the case of ERISA-covered 403(b) plans, in which participants become eligible solely by reason of the new eligibility rules, employers are not required to make nonelective or matching contributions on their behalf and may elect to exclude such employees from testing under the nondiscrimination requirements. |
| **When do plan sponsors need to begin tracking the hours to comply with this provision?** | For ERISA 403(b) plans, employers should have begun tracking hours of service in 2023. For 401(k) plans, employers should have begun tracking hours of service in 2021.<br><br>The SECURE Act 1.0 permits employers to disregard 12-month periods beginning before Jan. 1, 2021, for purposes of the three-year rule for long-term, part-time employees in 401(k) plans.<br><br>The SECURE 2.0 Act of 2022 permits employers to disregard 12-month periods beginning before Jan. 1, 2023, for purposes of the two-year rule for long-term, part-time employees (impacts ERISA 401(k) and ERISA 403(b) plans). 401(k) plan sponsors must comply with both. |

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# Considerations and action items

## How does my plan need to prepare for this requirement to improve coverage for part-time workers?

This is a new requirement for ERISA 403(b) plans and a modification of the requirements for 401(k) plans. While the requirements of Section 125 are, generally, effective for plan years beginning after Jan. 1, 2024, it is important to begin taking steps to facilitate compliance.

**Action now**
Ensure you have the capabilities in place to track hours of service for employees. Please note that plan sponsors do not yet need to send tracked hours to TIAA; however, TIAA will provide more details regarding the data file transmission as we approach the effective date.

**Action needed, as effective date approaches**
Determine/modify eligibility tracking and payroll files and internal processes accordingly.

**For ERISA 403(b) plan sponsors**
Please note that the requirements of Section 125 for long-term, part-time employees apply in addition to the universal availability rule and notwithstanding exceptions to the rule.

The Treasury regulations permit a 403(b) plan to exclude certain employees, including: (i) employees who normally work less than 20 hours per week; (ii) students performing services described in IRC Section 3121(b)(10); (iii) nonresident aliens described in IRC Section 410(b)(3)(C); and (iv) employees who are eligible to make elective deferrals under another 401(k), 403(b) or 457(b) plan sponsored by the same employer. The SECURE 2.0 Act Section 125 does not address whether students who meet the service requirements can continue to be excluded. TIAA recommends plan sponsors work with their legal counsel to review the issue.

## What plan document updates are required?

Plan documents need to be amended to include the requirement. Please refer to the TIAA **DC Key provision guide**, section (501) for specific timing of plan amendments based on plan type for SECURE 2.0 Act provisions. Plan sponsors should consult with their legal counsel to ensure their plans are amended in a timely manner.

For plan sponsors using TIAA's plan document service, amendments for the SECURE 2.0 Act will be provided for both required provisions and optional features.

For any plan sponsors using a plan document prepared by a service provider other than TIAA, they should consult with their document preparer to ensure any required amendments are provided in a timely manner. Coordination with service providers other than TIAA will be the plan sponsor's responsibility.

ERISA plan sponsors will be required to provide a summary of material modifications or summary plan description (as applicable) to plan participants upon any amendment to the provisions of the plan.

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# Appendix

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| **Does Section 125 apply to ERISA 403(b) plans?** | Yes, the SECURE 2.0 Act expanded coverage to ERISA 403(b) plans. The requirement provides that the maximum allowable years for a service requirement is two consecutive years (where the employee completes 500 hours of service) for plan years beginning after December 31, 2024. |
| **How does Section 125 affect vesting?** | For employees who become eligible to participate in a plan under this new rule for long-term, part-time employees, each 12-month period the employee has at least 500 hours of service is treated as a year of service for vesting purposes and is not treated as a one-year break in service. For 401(k) plans, service for 12-month periods beginning before Jan. 1, 2021 (Jan. 1, 2023, for 403(b) plans) is generally not required to be considered. |
| **How does the long-term, part-time (LTPT) rule coordinate with the universal availability rule for 403(b) plans?** | ERISA 403(b) plans are required to comply with both universal availability and the long-term, part-time rule, notwithstanding exceptions to the rule.<br><br>The Treasury regulations permit a 403(b) plan to exclude certain employees, including: (i) employees who normally work less than 20 hours per week; (ii) students performing services described in IRC Section 3121(b)(10); (iii) nonresident aliens described in IRC Section 410(b)(3)(C); and (iv) employees who are eligible to make elective deferrals under another 401(k), 403(b) or 457(b) plan sponsored by the same employer. The SECURE 2.0 Act Section 125 does not address whether students who meet the service requirements can continue to be excluded under the federal tax code student exclusion.<br><br>TIAA recommends plan sponsors work with their legal counsel to review the issue. If a plan sponsor allows all employees (with no exclusions) to make elective deferrals, the long-term, part-time rule should not practically impact the plan sponsor because the sponsor is not excluding anyone from participation in the plan. Section 125 does impact years of service for eligibility and years of vesting service credited for any employer contributions (if applicable). |

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