

Retirement Benefits for Summer Interns

April 15, 2026

PRACTICES Employee Benefits and Executive Compensation

As employers prepare for a fresh crop of summer interns, they should review their 401(k) plan documents to determine whether summer interns would be eligible to participate in the plan. Often, employers incorrectly assume that summer interns are excluded, which can result in costly plan corrections.

If the 401(k) plan requires coverage of summer interns, but the plan sponsor would prefer not to offer coverage, the plan sponsor may be able to exclude the summer interns through a plan amendment and satisfaction of certain conditions depending on whether the intern job classification results in an indirect service or eligibility requirement.

- **General Rule:** 401(k) plans are prohibited from excluding any employee who has completed a year of service (generally, completion of 1,000 hours of service in a 12-month eligibility computation period). Moreover, under the SECURE Act, 401(k) plans are required to allow certain “long-term part-time employees” to make 401(k) deferrals. The opportunity to make 401(k) deferrals must be extended to any employee who works 500 hours in each of three consecutive 12-month periods (or two consecutive 12-month periods starting in 2025).
- **Exceptions For Certain Job Titles:** One exception to the general rule is the exclusion of certain specific job titles or nondiscriminatory job classifications. However, while an employer may exclude certain job titles from participating in its 401(k) plan, if the categorical exclusion of certain job titles is somehow tied to service, such as with exclusions of “seasonal or temporary employees” or “summer interns,” then the exclusion will generally not be permissible unless the plan also includes specific “fail-safe” language. This fail-safe language will generally provide that employees who are excluded as “summer interns” or “seasonal or temporary employees” who either complete a year of service or who are considered long-term part-time employees will be eligible to participate in the plan (or at least make 401(k) deferrals in the case of long-term part-time employees) notwithstanding the fact that they are otherwise excluded from participating.
- **Benefits/Burdens of the Fail-Safe Language:** The fail-safe language prevents a plan from impermissibly excluding either an employee who has completed a year of service or a long-term part-time employee. However, the fail-safe language also means that employers will be required to track hours of service for summer interns. This is particularly true if summer interns could work long enough to accrue 1,000 hours of service within the 12-month eligibility computation period, or if the same individuals may be hired as summer interns year after year and therefore meet the requirements of long-term part-time employees.
- **Other Considerations:** Whether interns are excluded may also impact other areas of compliance for a 401(k) plan, such as nondiscrimination and minimum coverage testing. Moreover, if the 401(k) plan is a safe harbor plan, the plan cannot be amended mid-year to modify eligibility without risking a loss of safe harbor status.

Employers who want to exclude “summer interns” from their 401(k) plans should discuss with their plan’s legal counsel whether it is permissible to do so and how the exclusion of summer interns

could impact other requirements imposed on 401(k) plans.