

1.7: READ- Are We Legally Required to Offer Benefits to Part-Time Employees?



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Are we legally required to offer benefits to part-time employees?

Some laws require employers to offer certain benefits to part-time employees, yes. State and local laws vary and may require that benefits such as paid sick leave, short-term disability, or health insurance plans or premiums be offered to part-time employees. Employers will want to check the laws in every state where they employ workers to ensure compliance.

Some federal laws also require that benefits be offered to part-time employees:

The Affordable Care Act (ACA) requires employers to offer health insurance to employees working at least 30 hours per week (or 130 hours per month) to avoid paying penalties.

Part-time employee eligibility to participate in a company's retirement plan must comply with the Employee Retirement Income Security Act (ERISA) "1,000-hour rule." Employees who have completed 1,000 hours of service in a 12-month period are eligible to participate in any retirement plan that is offered to other employees. This requirement applies to both full-time and part-time employees.

For plan years beginning after Dec. 31, 2020, the Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019 requires employers to allow long-term part-time workers to make elective deferrals to the employer-sponsored 401(k) plan, except in the case of collectively bargained plans. Eligible employees are those who have completed at least 500 hours of service each year for three consecutive years and are age 21 or older. Years of service prior to 2021 do not have to be counted; however, employers may choose to have more generous eligibility rules. The 2023 Consolidated Appropriations Act (also known as the Secure Act 2.0) reduces the three consecutive years of service to two years for plan years beginning after Dec. 31, 2024.

Executive Order 13706, Establishing Paid Sick Leave for Federal Contractors, requires certain contractors to provide paid sick leave to all covered employees, including part-time workers. Both the Service Contract Act (SCA) and the Davis Bacon and Related Acts (DBA) require covered federal contractors to provide certain fringe benefits (or monetary equivalents where allowed) to all employees.

Outside of state or federal requirements, eligibility for voluntary benefits is at the discretion of the employer. Policies should be very clear on what benefits are offered to full-time versus part-time employees and what the eligibility requirements are for these benefits (number of hours, types of benefits, etc.) Policies should be administered in a fair and consistent manner. Further, there are mandated employee benefits such as unemployment and workers' compensation insurance that may be required under state law for all employees.

Source: Q & A: "Are we legally required to offer benefits to part-time employees?" Society for Human Resource Management (SHRM). January 11, 2023.

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