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FEW Washington Legislative Update August 16-31, 2024

CONGRESS RETURNS SEPTEMBER 9, 2024

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Tier I

Federal Women:

Sexual Harassment

A gender equity group is urging ‘strict and specific’ sexual misconduct reform for the federal workforce

A federal employee group focused on improving gender equity at the Justice Department this month urged the White House to issue new executive action mandating action against sexual misconduct in the federal workforce, following a string of scandals across multiple agencies that made headlines this summer.

In a nine-page letter to White House Gender Policy Council Chairwoman Jennifer Klein and acting Office of Personnel Management Director Rob Shriver, the Department of Justice Gender Equality Network, a federal employee association composed of nearly 2,000 Justice Department staffers argued that both existing Equal Employment Opportunity Commission regulations and President Biden’s 2021 executive order advancing diversity, equity and inclusion in the federal workforce have failed to adequately root out sexual misconduct—an umbrella term referring to sexual harassment, sexual assault and other gender-based violence.

The organization’s proposal comes amid recent sexual harassment scandals at the Federal Deposit and Insurance Corporation and within the U.S. Coast Guard. And last month, the Justice Department itself saw two more scandals, within the Drug Enforcement Administration and the U.S. Attorney’s Office in Alaska; indeed, during the letter’s roundup of recently reported incidents of sexual harassment in the federal workforce, footnotes citing those reports threaten to engulf the page.

Ideally, the effort would be centralized in the White House with OPM support. Agency-specific efforts would also require additional staffing to collect and investigate complaints.

“There is no question that overhauling response systems can be an intensive undertaking, and doing it properly requires significant time and resources,” the letter states. “Successful systems can take years to develop and stand up and may require additional personnel. But effectively responding to sexual misconduct should be viewed as an imperative to protect federal employees’ health and safety, and to maintain the public’s trust in our national institutions.”

But some agencies, including the Justice Department, have already gone through the process, and can serve as a governmentwide model. The Justice Department’s own sexual misconduct response system, developed in consultation with DOJGEN leaders, was implemented last year.

“Agencies such as DOJ, [the National Oceanic and Atmospheric Administration], USAID, and the Peace Corps have sexual misconduct response systems that operate separately from EEO offices and can serve as models,” the group wrote. “There are widely accepted best practices and valuable federal resources, including guidance and reports that analyze the problem and propose solutions. There are also leaders in the fields of gender-based violence, victim advocacy, sexual harassment law and law enforcement within the federal government (including many at DOJ) who can help design an administrative mandate and assist agencies in fulfilling it.”

The letter also spells out a number of best practices to inform the creation of these new misconduct response systems, including the need to be survivor-centered, ensuring proper training for employees both within the system and across the workforce, the creation of safety plans to implement upon receiving a complaint of harassment or misconduct, and the need for complaint takers and investigators to exist outside of a victim’s chain of command.

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Federal Workforce:

Equal Pay

The U.S. Equal Employment Opportunity Commission plans to issue a proposed rule next year on collecting compensation data from employers. This is according to the Biden administration’s newly released regulatory agenda.

It's unclear what the employee threshold would be for the proposed pay data reporting requirement. However, the previous requirement was for organizations with 100 or more employees.

The EEOC said it would seek public comment on this proposal and is targeting January 2025 for its proposed rule.

U.S. Pay Data Reporting Background

If the proposal moves forward, it will bring back an Obama-era requirement for large businesses to annually submit their pay data by race, sex, and job category to the EEOC.

Currently, organizations with 100 or more employees are required to submit EEO-1 Component 1 reports annually to the EEOC. These reports are an annual summary of an organization's demographic workforce data, but do not include pay data.

That previous reporting mandate — Component 2 pay data — faced legal challenges during the Trump administration and ultimately resulted in court-mandated pay reporting for a limited period of time. The commission later decided to discontinue the collection pending further study, but the EEOC's current Democrat majority has signaled interest in reinstating a pay data collection.

In its absence, states like California and Illinois have implemented their own pay data reporting requirements that adhere to the EEOC's standard.

Additionally, other global jurisdictions, namely the European Union, have implemented pay data reporting laws.

Pay and Furloughs

The agency said that no additional funding and a high pay increase for federal employees helped create its budget shortfall, but GOP leaders called it a failure to adjust spending.

The Equal Employment Opportunity Commission had told employees that they could face a one-day furlough at the end of August due to a budget shortfall. While the agency managed to avoid it, Republican leaders on the House Education and the Workforce Committee criticized the agency this week for even considering having one, arguing that it shows mismanagement.

Agency officials said that Congress not providing an increase in appropriations between fiscal years 2023 and 2024, paired with the 5.2 percent pay raise for federal employees, largely caused the financial conundrum. They also blamed it on fewer staff departures than expected and "substantial increases in security, rent and required mission critical contract costs."

Looking ahead, the fiscal 2025 House bill would cut the EEOC appropriation to \$420 million, from its current level of \$455 million, while the measure would fund the agency at its request of \$488.2 million.

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Tier III

Women as a Class:

Seven Ways National Paid Leave Benefits Everyone

A comprehensive national paid parental, family, and medical leave policy, building on successful state programs, could significantly benefit American workers, businesses, the economy, and public health by providing substantial wage replacement and job protections.

Boosts Labor Force Participation and Earnings for Women:

Paid leave can play a critical role in boosting new mother's labor force participation and earnings over time and helps keep women who are caring for loved ones attached to their jobs. This is especially crucial for the millions of U.S. families in which mothers are key breadwinners and for the country's largely-female 47.5 million caregivers to disabled or elderly family members.

1. **Improves Child Health:** Paid leave ensures parents can attend well-baby visits and meet immunization schedules. It is also associated with fewer health issues and behavioral problems, and faster recovery for hospitalized children.
2. **Promotes Male Engagement in Caregiving:** Paid leave enables men to share caregiving responsibilities, overcoming financial and societal barriers and fostering gender equality in family care.
3. **Reduces Health Care Costs and Improves Outcomes:** California's paid leave program cut nursing home use by 11 percent, with likely impacts on health care costs. Paid leave can also help people with health issues return to work more quickly through improved outcomes.
4. **Saves on Other Tax-Funded Programs:** Critics often emphasize the cost of paid family and medical leave, overlooking the current expenses borne by workers and society. Paid leave can reduce Medicaid-funded nursing home costs, lower reliance on SNAP and other public assistance programs, and protect families from falling into economic hardship.

5. **Supports Businesses, Especially Small Businesses:** Businesses of all sizes value paid leave. Small businesses in states with long-established paid leave programs like California, New Jersey, Rhode Island, and New York overwhelmingly report positive or neutral effects on productivity, worker engagement, and leave management. Impressions became even more favorable during the COVID-19 pandemic. Larger small businesses in all 10 states with operational paid leave programs view them positively for morale, retention, and cost savings. Additionally, larger companies with voluntary paid leave see benefits in increased revenue, profit, and return on human capital investments.
6. **Stimulates Economic Growth:** Paid leave is one element of a suite of policies supporting women’s labor force participation that could add 5 million women to the labor force and boost U.S. economic activity by \$775 billion. It also increases household income by \$28.5 billion, with significant benefits from both wage replacement and increased employment that arises from consumer spending.

Looking Ahead

As political debates morph into policy conversations in 2025, lawmakers must champion paid family and medical leave to address the pressing needs of U.S. workers and families and to honor our core values of family, love, responsibility, freedom, and care. By enacting comprehensive paid leave, we can ensure that every working person—regardless of their job, employer, or the type of care they need—has the support they deserve. This is not merely about correcting America’s outlier status as the only high-wealth country without a paid leave policy; it’s about paving the way for a future where paid leave is a universal right and every individual is supported in times of need.

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