

Making Workplaces Great Again?



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When it comes to employment and labor law, one thing is certain—change is constant. Employment laws, regulations and enforcement priorities are constantly evolving, making it difficult for businesses to stay abreast of ever-changing compliance obligations. Legal compliance is especially challenging in the wake of an administration change, and the transition from President Obama to President Trump is no exception.

During his tenure, President Obama advocated a pro-employee approach to the American workforce, and his

administration implemented several rules and regulations designed to increase employee rights and protections. President Trump has a very different view of the workforce. Both on the campaign trail and early in his administration, he promised to reduce regulations and implement pro-business policies to foster economic growth.

The Trump administration has already begun implementing its pro-business agenda. While business owners may favor President Trump's approach, significant shifts in policy direction can make it difficult for employers to make strategic decisions about legal compliance.

Recent developments in overtime law are a prime example of the challenges that businesses face in an administration change. In 2016, the Department of Labor substantially increased the amount that an employee is required to earn in salary in order to be exempt from receiving overtime pay. In an effort to comply with this change, employers had to decide whether to convert salaried employees to hourly wage earners, or to increase the compensation of

these employees. After President Trump took office, however, the Department of Labor abandoned the new salary threshold, electing instead to seek public comment on the appropriate salary level for exempt employees. Employers that proactively increased employee salaries now have to make the difficult decision of whether to maintain increased wages or return employees to their prior wage.

In addition to the overtime rule change, the Trump Administration and Republican Congress are considering a number of legislative and regulatory changes that will impact the workplace. The Administration's "travel ban," which restricts immigration from six middle eastern countries, and pending legislation to overhaul the immigration system, may reduce the number of employer sponsored visas and green cards available to bring foreign employees to the United States. Both the White House and Congress have advanced proposals to create national programs to provide paid leave to employees. Although these programs would be administered by the government, they are expected to be

funded by wage contributions made by employers and employees.

At the administrative agency level, President Trump's agenda is in full swing. In addition to rolling back its overtime rule, the Department of Labor has withdrawn administrative guidance favorable to employees. Likewise, the National Labor Relations Board is postured to reverse several Obama-era rulings that made it easier for employees to organize. Most recently, the Equal Employment Opportunity Commission was directed to cease efforts aimed at employee pay equity.

Many other employment-related changes underway at both the federal and state level. Employers should contact their attorney for legal advice on how these changes impact the work place.

Brubaker Connaughton Goss & Lucarelli LLC is a full-service law firm dedicated to serving the needs of small businesses. Questions about employment law issues may be directed to the firm's employment and labor law team, Theresa A. Mongiovi, Esquire and Angela H. Sanders, Esquire.

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