



100 Days of Change: Key Developments for Employers Under the Trump Administration

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The First 100 Days: Leading by Executive Action

The first 100 days of President Trump's second term demonstrate how he is attempting to take a "whole of government" approach, leading with executive orders.

Through his executive orders, President Trump has addressed a wide range of issues highlighting his policy priorities, including:

- immigration enforcement;
- elimination of "illegal DEI";
- elimination of wasteful government programs;
- economic actions (tariffs).





Agenda

- 01** Immigration Developments
- 02** Developments at the National Labor Relations Board
- 03** Developments at the EEOC
- 04** Developments at the Department of Labor

Immigration Developments



Personnel is Policy

Tom Homan

- Border Czar



“...no one's off the table. If you're here illegally, you better be looking over your shoulder.”

Kristi Noem

- Secretary of Homeland Security



The Trump Administration will once-again empower our brave men and women in law enforcement to do their jobs and remove criminal aliens and illegal gangs from our country

Stephen Miller

- Deputy White House Chief of Staff



- “America is for Americans and Americans only!”

Marco Rubio

- Secretary of State/National Security Advisor/Administrator, US. AID



“No one has a right to a student visa. No one has a right to a green card, by the way.”

Immigration Executive and Departmental Orders

- Protecting the American People Against Invasion (<https://www.whitehouse.gov/presidential-actions/2025/01/protecting-the-american-people-against-invasion/>)
- Securing Our Borders (<https://www.whitehouse.gov/presidential-actions/2025/01/securing-our-borders/>)
- Protecting the Value and Meaning of American Citizenship (<https://www.whitehouse.gov/presidential-actions/2025/01/protecting-the-meaning-and-value-of-american-citizenship/>)
- Realigning the U.S. Refugee Admission Program (<https://www.whitehouse.gov/presidential-actions/2025/01/realigning-the-united-states-refugee-admissions-program/>)
- Clarifying the Military's Role in Protecting the Territorial Integrity of the United States (<https://www.whitehouse.gov/presidential-actions/2025/01/clarifying-the-militarys-role-in-protecting-the-territorial-integrity-of-the-united-states/>)

Immigration Executive and Departmental Orders

- Declaring a National Emergency At The Southern Border of the United States (<https://www.whitehouse.gov/presidential-actions/2025/01/declaring-a-national-emergency-at-the-southern-border-of-the-united-states/>)
- DHS Reinstates Migrant Protection Protocols (<https://www.dhs.gov/news/2025/01/21/dhs-reinstates-migrant-protection-protocols>)
- Rescission of Sensitive Areas Policy
- Phase out of CHNV Humanitarian Parole
- TPS – Terminations – Venezuela and Haiti

Changes in Immigration Adjudication

- Student (F-1) visa related actions
 - **Revocations:** 600 + student visa records were in the last two month, apparently based either on data from criminal history records or social media history, possibly in connection with Israel-Palestine conflict
 - A portion of the revocations affected individuals employed either under the Optional Practical Training (“OPT”) or Curricular Practical Training (“CPT”)
 - Administration restored many of the records following legal challenges
 - Notice not being given to employers
 - **Current status:**
 - A class action challenged has been filed in the Northern District of Georgia
 - Individual challenges being filed as yet.
 - No clear outcome of the litigation as yet
 - **Countermeasures:**
 - Maintain awareness of affected employees

Humanitarian Parole

- Humanitarian Parole
 - Definition of Humanitarian Parole (See, 8 U.S.C. 212 §(d)(5))
 - CHNV (Cuba, Haiti, Nicaragua, and Venezuela) \ul style="list-style-type: none;"> - CBP One Eliminated
 - CHNV Program Terminated – March 25, 2025
 - Termination Enjoined -- See *Svitlana Doe, et al., v. Noem, et. al.*, No. 25-cv-10495 (D. Mass. Apr. 14, 2025).
 - No Appeal Yet
- Employer Considerations:
 - EADs (Employment Authorization Documents) identify basis for EAD and country of birth
 - C11 code means holder is humanitarian parolee, however does not denote whether CHNV or not
 - County of birth is not necessarily country of nationality
 - DOJ appears to be taking position that you can't ask C11's whether they are CHNV or not
 - More to follow

Temporary Protected Status

- Temporary Protected Status (“TPS”)
 - Defined (8 U.S.C. Code § 1254a)
 - Countries under TPS include:
 - Ukraine
 - Afghanistan
 - Haiti
 - Venezuela
 - El Salvador
 - Cameroon
 - Biden administration TPS actions in January:
 - Venezuela – All Venezuela grants extended out to October 2026
 - February 21, 2025 – DHS terminates TPS effective April, 2025

Temporary Protected Status (cont'd)

- February 21, 2025 – DHS terminates TPS effective April, 2025
- March 31, 2025 – U.S. District Court blocks DHS attempt to end TPS Protections
- May 1, 2025 – Administration asks for emergency review by Supreme Court of District Court decision
- Considerations for Employers:
 - DHS did not give direct instructions to employers regarding handling of terminated TPS holders, however:
 - TPS EADs all terminate on the same day and list the country of birth, making it generally possible to determine which are TPS holders

Rescission of “Sensitive Locations Policy”

- Historic DHS Policy:
 - Sensitive Locations Presumptively Off Limits for Immigration Enforcement
 - Sensitive Locations include:
 - Health care facilities
 - House of worship
 - Schools
 - January 2025 Directive – Administration directs rescission of Biden-era policy
 - “Criminals will no longer be able to hide in America’s schools and churches to avoid arrest. The Trump Administration will not tie the hands of our brave law enforcement, and instead trusts them to use common sense,” (DHS Acting Secretary Benjamine Huffman, January 21, 2025)

I-9 Inspections

- I-9 Inspections
 - Increased number of inspections
 - 2019 was peak year in Trump I administration, with 6500 notices served nationally
- Employer Preparedness
 - Audit and remediate I-9s
 - Re-evaluate internal processes and procedures to avoid errors

Overview of Enforcement Processes

Preparing for Enforcement Activity

- Individual Arrests
- Search Warrants/Subpoenas
 - administrative warrants
 - judicial warrants
 - subpoenas
- Non-arrest investigations/witness interviews
- Raids

Being Prepared

- Provide concise written guidance to key personnel
 - First Greeters – Security Staff, Reception, First-line Supervisors
 - Senior On-Site Manager (HR, Ops leadership, etc.)
 - In-house counsel
 - Involve outside counsel depending on scenario
- Train on the following:
 - **Immediate internal escalation**
 - Understanding different types of visits and documents
 - Preventing entry into non-public spaces
 - Minimizing disruption from enforcement events
- Key advance planning issues
 - Corporate priorities: Balance between cooperating with law enforcement v. supporting workforce and/or patients and visitors
 - Designating chain of response
 - Baseline is any other law enforcement interaction

- Electronic Device Searches
 - consider restrictions on travel with devices carrying corporate data
 - prepare employees to assert relevant privileges
- Possible Detention/Removal of Key Employees
 - social media content and internet content can trigger questions and device searches, particularly for non-US citizens
- See, [Crossing Back Into the U.S.? Expect Eyes on Your Devices | Seyfarth Shaw LLP](#)

Employee International Travel Preparation

Anti-Discrimination Issues

- Both EEOC and the Department of Justice, Civil Rights Division prioritizing protection of U.S. workers alleged to have been subject of discrimination in favor of foreign national worker

- EEOC

Statement by Chair Andrea Lucas, Feb. 19, 2025

Unlawful bias against American workers, in violation of Title VII, is a large-scale problem in multiple industries nationwide,” Lucas said. “Many employers have policies and practices preferring illegal aliens, migrant workers, and visa holders or other legal immigrants over American workers—in direct violation of federal employment law prohibiting national origin discrimination. Cracking down on this type of unlawful discrimination will shift employer incentives, decreasing demand for illegal alien workers and decreasing abuse of the United States’ legal immigration system.

- DOJ, Civil Rights Division

Assistant Attorney General Harmeet Dhillon, April 23, 2025

Immigrant and Employee Rights Section told to investigate companies that: "unlawfully discriminate against U.S. workers in favor of foreign visa workers."

Developments at the National Labor Relations Board



NLRB Key Appointments and Nominations

Overview of New NLRB Leadership and Key Presidential Nominees

- **Chairman**
 - Marvin E. Kaplan – Designated as Chair January 21, 2025 (Term expires August 27, 2025)
- **Member**
 - David Prouty – Term began August 28, 2021 (Term expires August 27, 2026)
- **Acting General Counsel**
 - William B. Cowen – Appointed February 3, 2025
- **General Counsel (Nominee)**
 - Crystal Carey
- **Currently three vacant seats**
 1. Term expires December 16, 2027
 2. Term expires August 27, 2028 [Wilcox seat]
 3. Term expires December 16, 2029

Developments at the EEOC



Andrea Lucas' Priorities as Acting Chair of the EEOC

**On January 21, President Trump named
Andrea Lucas as Acting Chair of the EEOC.**

“Consistent with the President’s Executive Orders and priorities, my priorities will include rooting out unlawful DEI-motivated race and sex discrimination; protecting American workers from anti-American national origin discrimination; defending the biological and binary reality of sex and related rights, including women’s rights to single-sex spaces at work; protecting workers from religious bias and harassment, including antisemitism; and remedying other areas of recent under-enforcement.”

-- Acting Chair Lucas, as quoted in
EEOC January 21 Press Release



EEOC Leadership and Lack of Quorum

- In January, President Trump fired Democratic Commissioners Charlotte Burrows and Jocelyn Samuels.
 - With only two sitting Commissioners, the EEOC does not have a quorum.
 - Routine enforcement and litigation continue.
- Without a quorum, the EEOC cannot:
 - engage in notice-and-comment rulemaking;
 - revoke existing formal guidance;
 - file amicus briefs;
 - initiate certain types of litigation.
- On May 7, President Trump nominated Brittany Bull Panuccio to the EEOC.
 - Upon her confirmation by the Senate, the EEOC's quorum would be restored.
 - Ms. Panuccio is currently serving as an Assistant US Attorney in Florida.

The EEOC Under Acting Chair Lucas Has Supported The Trump Administration's Priorities

- Immediately revoked prior EEOC technical assistance regarding gender identity and artificial intelligence
- Emphasized EEOC's focus on antisemitism in educational settings, issuing press release promising to hold universities accountable for creating hostile work environments for Jewish employees
- Issued press release announcing EEOC's focus on national origin discrimination against American workers, announcing enforcement priority targeting employers who “illegally prefer non-American workers”
- Aligned EEOC with the Trump Administration's agenda on gender identity issues
 - Sought dismissal with prejudice of existing EEOC litigation involving transgender charging parties
 - Removed “X” gender marker from charge-intake system and began the process for removing “X” gender marker from EEO-1 response.
 - Media reports that discrimination charges involving transgender individuals are being put on “hold”.

The EEOC and DEI

“Civil rights laws are written in a way that applies to everyone. They're colorblind, they're group neutral, [and] they're not written to only provide protections to certain subgroups of workers.”

“If you are running a program, whether you call it DEI or something else, and you are using race or sex or another protected characteristic in an employment decision, even if it's only just part of the decision...that's unlawful discrimination.”

-- Acting Chair Lucas on X (formerly Twitter), March 6

EEOC Technical Assistance Released March 19, 2025

- “What To Do If You Experience Discrimination Related to DEI at Work” (joint with DOJ)
- “What You Should Know About DEI-Related Discrimination at Work” (EEOC Q&A)
- Technical assistance issued under Acting Chair Lucas's authority only
- Did not require Commission approval (no quorum))

The EEOC and DEI:

Key Takeaways from the EEOC's March 19 Technical Assistance

Diverse Interview Slates Warns that diverse slate requirements are potentially regarded discriminatory, especially when requiring disclosure of protected characteristics	Employee Resource Groups States that not all ERGs unlawful, but restricting membership based on protected characteristics may violate Title VII
Segregated Training Warns against separating workers by protected characteristics for trainings or programming, even with identical content	Mentoring Programs Emphasizes the need for equal access to mentoring and networking opportunities regardless of protected characteristics
No "Diversity Interest" Exception Explicitly rejects that business interests in diversity justify race-motivated employment actions	Raises Additional Questions Asserts DEI training content may create a hostile work environment, and that opposition to DEI programs may constitute protected activity

President Trump's Executive Orders Directed Specific Action by the EEOC (Law Firm Information Request)

- EO 14230, issued March 6, 2025, specifically instructs the EEOC Chair to review practices at "large, influential, or industry leading law firms for consistency with Title VII"
 - EO 14230 specifically directed review of whether law firms "reserve certain positions for individuals of preferred races; promote individuals on a discriminatory basis; permit client access on a discriminatory basis; or provide access to events, trainings, or travel on a discriminatory basis"
- On March 17, the EEOC announced that Acting Chair Lucas had sent letters to 20 law firms requesting information about their DEI related employment practices.
 - "The EEOC is prepared to root out discrimination anywhere it may rear its head, including in our nation's elite law firms," Lucas said. "No one is above the law—and certainly not the private bar."
- On April 11, EEOC announced settlements with four major law firms who "affirmed their commitment to lawful merit-based hiring, promotion, and retention" and "agreed not to engage in unlawful discrimination or preferences based on race, sex, or other protected characteristics" in DEI programs.
 - Acting Chair Lucas stated: "We are hopeful these firms will be leaders in their industry by eliminating potentially unlawful DEI-based employment practices and returning to merit-based equal employment opportunity for all."

President Trump's Executive Orders Directed Specific Action by the EEOC (Disparate Impact)

- April 23, 2025: Executive Order "Restoring Equality of Opportunity and Meritocracy" issued establishes policy to **"eliminate the use of disparate-impact liability in all contexts to the maximum degree possible"**
- Directs EEOC and DOJ to deprioritize enforcement and litigation of disparate impact claims
- Requires agencies to assess and plan to amend/repeal regulations imposing disparate impact liability within 30 days
- Mandates review of all pending investigations, civil suits, and consent judgments relying on disparate impact theory
- "appropriate action" could include dismissing existing litigation, withdrawing amicus briefs, curtailing or ending pending investigations, modifying or halting conciliation agreements and consent decrees, and scaling back other enforcement activity.

Developments at the Department of Labor



US DOL Key Appointments and Nominations

Overview of New DOL Leadership and Key Presidential Nominees

- **Secretary of Labor**
 - Lori Chavez-DeRemer – Senate Confirmed March 10, 2025
- **Deputy Secretary of Labor**
 - Keith Sonderling – Senate Confirmed March 12, 2025
- **OFCCP Director**
 - Catherine Eschbach – Appointed March 24, 2025
- **Other Key Positions**
 - Solicitor of Labor – Jonathan Berry (Nominee)
 - Wage Hour Administrator – Andrew Rogers (Nominee)
 - Assistant Secretary of OSHA – David Keeling (Nominee)
 - Assistant Secretary of the Employee Benefits Security Administration – Daniel Aronowitz (Nominee)

OFCCP Developments

- **Executive Order 14173 revoked Executive Order 11246**
 - Revokes 60-year-old executive order that has imposed affirmation action obligations on federal contractors and subcontractors. Those obligations are no longer in effect.
 - VEVRAA and Section 503 still in effect.
- **Secretary's Order 03-2025**
 - Directive to immediately cease and desist all investigative and enforcement activity under revoked EO 11246.
 - Includes pending cases, conciliation agreements, investigations, complaints and any other enforcement-related or investigative activity.
- **Certifications Requests to Federal Contractors**
 - A term requiring the contractual counterparty or grant recipient to agree that its compliance in all respects with all applicable Federal anti-discrimination laws is material to the government's payment decisions for purposes of Section 3729(b)(4) of title 31, United States Code; and
 - A term requiring such counterparty or recipient to certify that it does not operate any programs promoting DEI that violate any applicable Federal anti-discrimination laws.
- **DOL Enjoined from Presenting Certifications**
 - March 27, 2025 N.D. Ill. TRO blocked DOL from implementing key provisions from EOs 14151 (Termination Provision) and 14173 (Certification Provision)
- **Significant Reduction in Force**
 - 90% of Workforce on Administrative Leave
- **Federal Contractor Minimum Wage**
 - President Trump rescinded Biden-era EO 14026

WHD Policy Priorities and Developments

- **Independent Contractors**

- May 1, 2025 WH Field Assistance Bulletin directing agency investigators not to apply the 2024 Rule's analysis in current enforcement matters.
 - Division will rely on longstanding principles outlined in Fact Sheet #13 and further informed by the reinstated Opinion Letter FLSA2019-6.
- Several pending lawsuits in federal court challenging the legality of the 2024 Rule
- DOL in court filings indicate it will reconsider its 2024 Rule and may issue a new rule.
- Potential legislative activity defining IC status

- **Joint Employer Status**

- Probable return to the 2020 FLSA joint employer rule rescinded by President Biden.

- **Modernizing the FLSA**

- March 25, 2025 Committee on Education & Workforce Hearing "The Future of Wage Laws: Assessing the FLSA's Effectiveness, Challenges, and Opportunities."

- **Artificial Intelligence**

- EO 14277: "Advancing Artificial Intelligence Education for American Youth."
- Calls on DOL to protect and prepare the American workforce for challenges of the future

- **Jobs of the Future**

- EO 14278: "Preparing Americans for High-Paying Skilled Trade Jobs of the Future"
- Calls on DOL to strengthen registered apprenticeships, modernize workforce development programs, and invest in opportunities to upskill workers so they can meet current labor market demands.

OSHA Rulemakings and Regulatory Challenges

- **2024 Worker Walkaround Representative Designation Process Rule**
 - Final Rule Published April 1, 2024, Effective May 31, 2024
 - Court Challenge – *US Chamber v. OSHA* Pending in W.D. Tex.
- **2024 Proposed Heat Injury and Illness Prevention In Outdoor and Indoor Work Settings Rule**
 - Informal Public Hearing on Proposed Rule – June 16, 2025
 - Final Rule Not Yet Published
 - California, Colorado, Maryland, Minnesota, Oregon, and Washington Already Have Their Own Heat Safety Rules



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