

POLICY MATTERS

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October 11, 2018

Whatever Happened to Those Labor Nominations? The Senate has spent much of its time moving President Trump's judicial nominees at record pace. Yet, as we approach the two-year mark in the Trump Administration, a number of key roles in the labor agencies remain vacant. At the EEOC, we await confirmation of three Commissioners (including one who will become Chair upon confirmation) and the General Counsel. At the Labor Department, the Wage & Hour Division Administrator and OSHA Assistant Secretary await floor votes, while Assistant Secretaries for Policy and the Employment & Training Administration are still pending in the Senate HELP Committee. And at the NLRB, the controversial re-nomination of Mark Pearce as a Board Member is before the Committee. Some of these nominations have been pending for well over a year. Whether and when the Senate tackles these nominations remains to be seen, but there was a small glimmer of hope this week when the Senate [turned its attention](#) to a number of sub-Cabinet positions, including the Assistant Attorney General for Civil Rights at the Department of Justice, who was [confirmed](#) today.

Paid and PAID. Notwithstanding a confirmed leader for WHD, the business of collecting back wages continues apace. The Labor Department [announced](#) that WHD recovered a record \$304 million in back wages owed to workers in the just-ended fiscal year. In addition, WHD announced a six-month extension of the voluntary Payroll Audit Independent Determination (PAID) program. PAID is a compliance initiative that allows employers, under certain circumstances, to self-report violations of the FLSA to WHD. Seyfarth's discussion of the initial launch of the program can be found [here](#). And WHD's testimonials as to the success of the program can be found [here](#).

California Age & Retaliation Claims Rising. Fresh on the heels of our [reporting](#) an increase in certain EEOC filings, a report by the California Department of Fair Employment and Housing on its 2017 showed a 5% increase in administrative complaints and inquiries, with age discrimination representing 20% of all employment complaints. Check out Seyfarth's California Peculiarities blog for the full [details](#).

Highway Blocking Not Protected. The NLRB ruled that inherently dangerous acts -- such as using cars to block a company vehicle while traveling on a highway -- by striking employees are not protected by the NLRA. For the full analysis, see Seyfarth's Employer Labor Relations [blog](#).

What's Next? With the midterm elections fast approaching, neither the House nor the Senate is expected to do much in the way of legislation, although we remain hopeful that the Senate will move labor agency nominees.

On October 17, WHD continues its listening tour on the proper salary level for exemption with a [session](#) at the Frances Perkins Building in Washington, DC. The first round of tickets sold out in record time, but there's no need to visit the secondary ticket market just yet, as WHD made another set of [tickets](#) available.

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Seyfarth Shaw LLP | Policy Matters | October 11, 2018

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