

POLICY MATTERS

PRESENTED BY SEYFARTH'S GOVERNMENT RELATIONS AND POLICY GROUP

December 6, 2018

President George H.W. Bush's ADA Legacy. In this week of ceremonies for George H.W. Bush, we would be remiss not to mention the Americans With Disabilities Act. While not perfect, the Act was strongly supported by the business community as finally drafted, after many months of negotiations, and has improved the lives of millions of Americans. Importantly, it has also become a model for similar laws in other countries. In a time when the Congress seems incapable of getting anything done, its enactment was also a model legislative process where both the Senate and the House acted on a bipartisan basis, drafted bills, and met in conference where final disagreements were ironed out. Certainly, we still need to address compliance questions including what constitutes access to websites, the problems in some states of "drive-by" lawsuits, and what level of leave constitutes reasonable accommodation without undue hardship, and others, but the business community and the disability community can do so on a reasonable, respectful basis, as was done with the 2008 amendments.

What's Up with the Rest of the Full-Year Budget? Although several agencies--including the Department Labor--are operating under full-year budget, nine Cabinet agencies continue to operate this year without an enacted appropriation. The current [continuing resolution](#) (a short-term--in most cases--funding mechanism) expires on December 7. With no agreement yet on what the full-year budget will look like, this morning, the House passed another continuing resolution, extending funding until December 21. The Senate is expected to pass the CR with little fanfare, putting off for two weeks the need for further action by Congressional appropriators.

Deal or No Deal? When Mark Pearce was re-nominated to serve as a member of the NLRB, it was done over the vocal objections of the business community. At the time, many speculated that there must be some "deal" in which Pearce's confirmation was exchanged for the confirmation of a number of Republican labor-related nominees. But that exchange has yet to materialize. This week, the chatter of a deal resurfaced, as Bloomberg Law's Chris Opfer [reported](#) on talks between Sen. Minority Leader Chuck Schumer and the White House with a goal of confirming Pearce and a number of other labor nominees before the Senate leaves for the year.

OFCCP Announces Compliance Directives. Late last week, the DOL's Office of Federal Contract Compliance Programs [announced](#) three new directives. The [first](#) is intended to maximize the agency's compliance assistance efforts, setting out the steps to enhance the OFCCP Help Desk (including by making some prior inquiries available on the agency's website) and announcing the introduction of opinion letters, similar to those already issued by the Wage & Hour Division. The [second](#) establishes Early Resolution Procedures intended to reduce the length of compliance evaluations. And the [third](#) clarifies that OFCCP will conduct its compliance reviews in accordance with the Federal Contract Compliance Manual and recent directives and rescinds DIR 2011-01. These policy directives continue the efforts of the Department and Acting Director Leen to make the agency more transparent and to reduce the time and uncertainty of OFCCP audits. Seyfarth's [OFCCP & Affirmative Action Compliance team](#) is reviewing these Directives to determine their real-life impact on contractor compliance.

Minimum Wage Hearing Postponed. This week’s hearing on “Mandating a \$15 Minimum Wage: Consequences for Workers and Small Businesses” has been postponed until [December 12](#). This will almost certainly be the last labor-related hearing led by the outgoing Republican House Education & Workforce Committee leadership before the gavel passes next year.

By: [Randy Johnson](#) and [Alex Passantino](#)

Randy Johnson is a Partner in Seyfarth Shaw’s Washington, DC office and chairs the firm’s [Government Relations and Policy Practice Group](#) (GRPG). Alex is a Partner in Seyfarth Shaw’s Washington, DC office and Co-Chair of the firm’s Wage and Hour Litigation Practice Group.

www.seyfarth.com



Attorney Advertising. This One Minute Memo is a periodical publication of Seyfarth Shaw LLP and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general information purposes only, and you are urged to consult a lawyer concerning your own situation and any specific legal questions you may have. Any tax information or written tax advice contained herein (including any attachments) is not intended to be and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.)

Seyfarth Shaw LLP | Policy Matters | December 6, 2018

©2018 Seyfarth Shaw LLP. All rights reserved. “Seyfarth Shaw” refers to Seyfarth Shaw LLP (an Illinois limited liability partnership). Prior results do not guarantee a similar outcome.