

Trump Administration Quick Hitters: Acting EEOC Chair Named, Chief Of Staff Requests Regulation Freeze, And DOJ Requests Delay In Fifth Circuit Appeal Of OT Rule

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It's only been a week, but the Trump administration has already been busy making its presence felt in the world of labor and employment. **New EEOC Acting Chief** On Wednesday, President Trump appointed current EEOC Commissioner Victoria Lipnic, a Republican, as the Acting Chair of the Commission. Originally appointed to the Commission by former President Barack Obama in 2010, her term is set to expire in 2020. Lipnic had previously served in a high-level position in the Department of Labor during the George W. Bush administration. As a commissioner, Lipnic voted against the EEOC's 2015 decision asserting that sexual orientation discrimination is covered by Title VII, as well as the agency's 2014 guidance on pregnancy discrimination. Following her appointment, Lipnic stated, "I believe equal employment opportunity is critical to all Americans and to how we define ourselves as a nation. I look forward to working with the president, my colleagues at EEOC, Congress and, of course, the American people in this critical task." **Freeze Memo Raises Issues** White House Chief of Staff Reince Priebus issued a memorandum to the heads of federal agencies to freeze all pending regulations. For all those regulations that have been published but have not yet taken effect, the memo instructs the agencies to postpone their implementation for at least 60 days. While this would seem to put the new overtime regulations and the new EEO-1 pay data reporting requirements on ice for the time being, employee advocate groups have argued that the freeze should not apply to the overtime rules because they were already scheduled to take effect Dec. 1, 2016, but were held up because of a temporary injunction issued by a federal court. Although that argument poses an interesting procedural question, it is doubtful it will gain much traction. Such freezes are common among incoming administrations to allow them time to implement a strategy going forward. **Department of Justice Requests Delay in Overtime Case** On Jan. 25, the Department of Justice requested a 30-day extension from the Fifth Circuit Court of Appeals to file its brief regarding the new overtime rules, which were enjoined by the lower district court. Whereas the Obama administration was set to defend the new regulations, this delay is to presumably allow the Trump administration time to rethink its strategy regarding the rules. While many businesses have spent a great deal of time and money implementing (or at least readying themselves to implement) the new would-be requirements, it's not clear whether Trump's strategy will be to drop the lawsuit or pursue alternative regulatory or legislative avenues to temper the regulations or create new ones. Time to strap your seatbelt on and prepare for the ride.

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