

EEOC and DOL Publicize Regulatory Agendas for 2024

By Leah Shepherd

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For the first time in two years, the U.S. Equal Employment Opportunity Commission (EEOC) on Dec. 6 published its regulatory agenda—likely as a result of the commission finally getting a Democratic majority for the first time in the Biden administration following the confirmation of Kalpana Kotagal. Her confirmation in July broke a partisan deadlock, according to Bloomberg (<https://news.bloomberglaw.com/daily-labor-report/democrats-new-eeoc-majority-will-spur-momentum-on-priorities>).

The U.S. Department of Labor (DOL) also released its regulatory agendas on Dec. 6.

We've collected a group of articles on the news from *SHRM Online* and other trusted sources.

EEOC Priorities

The EEOC published its regulatory agenda for the first time in over two years, joining other labor agencies in outlining key rulemaking goals for 2024. The EEOC will issue regulations to implement the Pregnant Workers Fairness Act by Dec. 29.

The fall regulatory agenda highlights the EEOC's priorities, including finalizing agency regulations to implement the Pregnant Workers Fairness Act. The DOL flagged notable rulemaking in the works, including its highly anticipated final rules on overtime exemptions, independent contractors, heat illness prevention and mental health parity in health plans.

(Bloomberg (<https://www.bgov.com/next/news/S59K3UDWX2PS>))

Overtime Changes to Be Finalized

The DOL plans to finalize updates to the executive, administrative and professional exemption for overtime pay under the Fair Labor Standards Act.

The proposed overtime rule would:

- Increase the salary threshold for overtime exemptions from \$684 per week (\$35,568 annually for a full-year worker) to \$1,059 per week (\$55,068 annually for a full-year worker). The increase reflects the 35th percentile of weekly earnings of full-time salaried workers in the lowest-wage census region (currently the South).
- Increase the salary threshold for highly compensated employees from \$107,432 annually to \$143,988 annually. The increase reflects the earnings of the 85th percentile of full-time salaried workers nationally.
- Implement automatic increases every three years to all salary thresholds.

The DOL predicted that its overtime rule would be issued in April 2024, but such projections are only estimates.

(*SHRM Online* (www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/house-hearing-on-overtime-rule.aspx) and

SHRM Online (www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/proposed-overtime-rule-2023.aspx)

Preview for Federal Agencies

The regulatory agendas for the EEOC and the DOL were part of the Fall 2023 Unified Agenda

(<https://www.reginfo.gov/public/do/eAgendaMain>) released by the White House. It outlines President Joe Biden's policy priorities for all federal agencies, leading up the presidential election next year.

Federal agencies will want to finalize their highest-priority rules between April and June next year to avoid being tossed later on, said Wayne Crews, a fellow in regulatory studies at the Competitive Enterprise Institute, a free market think tank.

(E&E News (<https://www.eenews.net/articles/biden-lays-out-rules-plan-as-2024-race-heats-up/>))

Strategic Enforcement Plan

On Sept. 21, the EEOC released its Strategic Enforcement Plan (SEP) for fiscal years 2024-2028. New for these years, the document emphasizes the EEOC's efforts to protect workers from discrimination involving artificial intelligence, pregnancy and long COVID.

(*SHRM Online* (www.shrm.org/resourcesandtools/hr-topics/behavioral-competencies/global-and-cultural-effectiveness/pages/eeoc-releases-strategic-enforcement-plan.aspx))

Airline Settles Pregnancy Discrimination Case

Underscoring the push to enforce new laws to protect pregnant and breastfeeding workers, the EEOC announced a settlement of a lawsuit filed by female pilots who accused Frontier Airlines of discriminating against pregnant or breastfeeding employees. In the agreement announced on Dec. 5, Frontier will let pilots pump breast milk in the cockpit during noncritical phases of flights.

The Denver-based airline also agreed to let pilots who are breastfeeding reduce their flying time and treat pregnancy and breastfeeding the same as other medical conditions if they make pilots unable to fly.

Frontier did not admit liability in settling the lawsuits.

(*The Washington Post* (https://www.washingtonpost.com/business/2023/12/05/frontier-airlines-pilots-breastfeeding-eeoc/2bb393ee-93b6-11ee-9d5c-d462c9032daa_story.html))

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