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**FEW Washington Legislative Update
April 1-15, 2022
Congress is in recess**

In Congress:

The Senate voted to move ahead with a confirmation vote for Judge Ketanji Brown Jackson, President Joe Biden's nominee for the Supreme Court, bringing her a step closer to becoming the first Black woman to be elevated to the top of the judicial branch. The vote was 53 to 47 to limit debate on Judge Jackson's nomination, with three Republicans joining all Democrats in the evenly divided Senate to push forward with her essentially assured confirmation. While Democrats could have confirmed Jackson on their own with yes votes from all 50 members of their caucus, three Republicans have joined with their support: Senators Susan Collins (R-Maine), Lisa Murkowski (R-Alaska) and Mitt Romney (R-Utah).

Senate Majority Leader Chuck Schumer's (D-New York) announcement of a time agreement means that Republicans agreed to speed up Jackson's confirmation – not using all their post-cloture time – to allow senators to leave today for the two-week recess. If all 30 hours of post-cloture time was not used, then the vote on final passage would have been delayed.

Earlier, the Senate voted on passage of H.R.7108, Suspending Normal Trade Relations with Russia and Belarus Act and on H.R.6968, Suspending Energy Imports from Russia Act which is a separate bill to codify the Biden administration's ban on Russian oil imports. The two bills have been effectively linked together in the Senate and were part of a deal announced on Wednesday night. The bills targeting Russia moved after days of negotiation slowed action on House-passed measures which would also reauthorize sanctions under the Magnitsky Act, that target human rights violations and corruption with asset freezes, visa bans and other penalties. Because the Senate made changes to the legislation to satisfy the objections from Senator Rand Paul (R-Kentucky) over

Magnitsky Act language, the package will have to go back to the House for further consideration. The Senate language targets “gross” human rights violations, the original designation from the Trump-era executive order. The House had changed it to be “serious” human rights violations.

The House took up H.R. 3807 – Relief for Restaurants and other Hard Hit Small Businesses Act of 2022 which is a \$55 billion bill to help restaurants and other small businesses harmed by the Covid-19 pandemic, \$42 billion of which would go toward increasing the Restaurant Revitalization Grant Program’s funding. The bill does not open the program to new applicants, instead it offers reconsideration for applicants who were denied or qualified when previous aid had run dry. As mentioned, the House will also take up the Senate amended bills, H.R.7108, Suspending Normal Trade Relations with Russia and Belarus Act and on H.R.6968, Suspending Energy Imports from Russia Act.

Both the House and Senate are expected to recess for the two week Easter break, with the House returning on Tuesday, April 26 and the Senate on Monday, April 25. Washington, D.C. Daily Update will resume publication on Monday, April 25.

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Tier I

Sexual Assault and Domestic Violence in the Military:

Advocates for sexual assault prevention in the military got some major wins last year with legislation taking sex crimes out of the direct chain of command and extra funds for response measures. However, a new campaign backed by some prominent groups are still pushing the Defense Department and Congress to go farther in how it protects service members from harassment, assault, retaliation, domestic violence and other issues.

The **#RedWhiteandBruised** campaign is encouraging service members to share their stories on social media of how the military leaders failed to go after alleged assailants and the effects it had on them.

“We’re launching this campaign to really to bring awareness to this issue and mobilize our service member and our veterans to make sure that they know that their voice is heard, get them to speak up, stand up, speak out, reach out to the congressional leaders,” said Lindsey Knapp, executive director of Combat Sexual Assault. “We are the minority and the majority is holding the power, in sweeping sexual assault under the rug not holding their senior leaders accountable when they do that. Until we can get enough support and get enough attention on this issue, we’re just not going to make any progress.”

The campaign has a list of seven demands, the first of which calls for Chief of Staff of the Army Gen. James McConville and Army Forces Command Chief Gen. Michael Garrett to resign for “willfully failing to ensure proper investigations into sexual and domestic violence.”

Other demands include opening an investigation into Ft. Bragg, Army Forces Command, Army Reserve Command, Army Africa and the National Guard Bureau to look into incidents of retaliation and ignorance of sex crimes.

The campaign wants the Pentagon to create a policy barring the employment of anyone who has been credibly accused of domestic violence, child abuse or sexual assault crimes and it wants to charge people with obstruction of justice for interfering with assault and abuse reporting.

The demands also include full passage of the Military Justice Improvement and Increasing Prevention bill. That legislation was originally in the 2022 Defense Authorization Act, but was watered down in conference.

It originally would have taken all nonmilitary crimes out of the chain of command and not just sex crimes. Keeping crimes in the chain of command gives commanders discretion on what to prosecute instead of legal experts.

“How can the military police itself? What we’re saying is that they can’t. There are no checks and balances, there’s no accountability mechanism,” said Amy Braley-Franck, founder of Never Alone Advocacy. “Until we rally the troops and make the public aware of it, they’re just going to continue to operate under this veil of accountability.”

Knapp and Braley-Franck say the campaign will continue until they see results. Meanwhile, DoD is pledging major resources to combat sexual assault and harassment. DoD announced its roadmap to changing its sexual assault policies in last September. An independent review commission gave the Pentagon 82 recommendations.

The recommendations range from changing how assaults and harassment are prosecuted to taking better account of data through climate surveys. “Our recommendations are really designed as a comprehensive and complimentary package to one another, these are not designed to be one standalone recommendation and forget the other ones,” Kayla Williams, one of the commissioners, said in 2021. “There’s a lot more meat on the bones than just changing the legal structure.”

However, lawmakers are concerned DoD isn’t working fast enough. Eight lawmakers from both sides of the aisle, including Sens. Diane Feinstein (D-Calif.), Chuck Grassley (R-Iowa), Joni Ernst (R-Iowa) and Kirsten Gillibrand (D-N.Y.), wrote to Defense Secretary Lloyd Austin last fall with concerns that DoD’s plan will take too long to implement.

“We write to express our disappointment and concern with the vague approach and lax timeline the Department of Defense has laid out,” the senators wrote. “This approach does not rise to the challenge of addressing the crippling and endemic sexual assault crisis afflicting our nation’s military. Instead, the memo lays out four tiers of priorities with a deadline of 2027 at the earliest, and 2030 at the latest.”

Sourced from [Federal News Network](#)

FEW Washington Legislative Update – April 1-15, 2022 Tier II

House Lawmakers Push Hiring Reforms for Federal Jobs:

In an effort to reform the federal hiring process, the Chance to Compete Act gained more traction after the House Committee on Oversight and Reform passed the bill on Wednesday.

The bipartisan legislation takes steps to simplify and strengthen the way that agencies look for job applicants. Specifically, the bill would make use of subject-matter experts to assess candidates’ skills.

It would also emphasize qualitative skills related to job requirements, and reduce focus on the educational backgrounds of applicants. That adjustment would open the doors to more diverse hiring pools, the committee said.

Reforming the process to focus on practical skills is not a new concept. The U.S. Digital Service performed a pilot program that showed initial success in improving federal hiring with that method. Additionally, the private sector has moved in a quality-centered hiring direction and recruited higher quality candidates as a result, Reps. Jody Hice (R-Ga.) and Ro Khanna (D-Calif.) said in a statement about the House legislation.

Hice added that the Chance to Compete Act would remove unnecessary barriers to individuals looking to join government service.

“In order for the government to function at its highest level and to best serve taxpayers, we need to attract top-level talent who has sought opportunities elsewhere due to an outdated federal hiring process,” Hice said in a statement. “Any applicant who seeks a career in the federal workforce should have their skillset prioritized, not their college degree.”

The House is not the only place where lawmakers are discussing this type of reform. The Senate’s Homeland Security and Governmental Affairs Committee passed its version of the bipartisan bill back in February.

Outside of Capitol Hill, the Biden administration announced similar goals in its fiscal 2023 budget request to improve the effectiveness of the federal hiring process. The request in part focuses on strengthening the federal workforce. The administration said that it's ramping up efforts to ease the application navigation system for both applicants and managers.

These efforts "will make the process more effective by helping to ensure that the most qualified applicants are seen by managers, quality candidates are able to be hired, and those who are qualified but not ultimately selected can still receive offers from other Federal agencies," the administration wrote.

Many outside organizations support the legislation. They argue that the bill would improve the matching of candidates to open roles, as well as streamline the process for getting high-quality applicants into those positions.

The National Active and Retired Federal Employees Association said in a letter to the Committee on Oversight and Reform on Tuesday that the bill would, among other benefits, enhance communication among agencies looking to hire for open jobs.

The Chance to Compete Act "would improve the ability of agencies to share assessments, allow subject matter experts to serve as interviewers, move assessments toward focusing on candidates' ability to perform the job rather than self-ratings and college degrees, and improve transparency," NARFE officials wrote.

Hiring quality candidates to federal positions is a longstanding problem for the government, the Senior Executives Association said in a letter to the committee on Wednesday. "The federal government's byzantine and outdated hiring policies and practices are desperately in need of modernization," the letter stated.

In its own letter, the Professional Managers Association also offered support. "This bill looks to best practices in the private sector for acquiring talent and assisting employers in building talent pipelines," PMA wrote. "This legislation would make federal hiring more fair and more competitive, while also offering the promise to save the government millions of dollars by allowing agencies to share information about viable candidates for public service employment."

Along with the Chance to Compete Act, the committee passed several other pieces of House legislation aiming to support federal workers. Notably, the Honoring Civil Servants Killed in the Line of Duty Act would support families of civil service employees who are either killed in the line of duty or die from a work-related injury.

That legislation, introduced by Rep. Gerry Connolly (D-Va.), sets the required standard death gratuity payment at \$100,000 plus \$8,800 for funeral expenses, with adjustments for inflation.

The committee also passed legislation to address the backlog of veterans' records requests that come to the National Personnel Records Center, housed under the National Archives and Records Administration.

The Access for Veterans to Records Act would authorize \$60 million for NARA to look into records requests at the NPRC office in St. Louis. The office contains more than 2 million boxes of military and medical records, and has a backlog of requests amounting to about 600,000.

Those two bills, along with the Chance to Compete Act, garnered bipartisan support from the committee. Supporters are now pushing to move the legislation to the full House for consideration.

Sourced from [Federal News Network](#)

Federal Workforce:

OPM Targets Data and Benefits Education to Improve Equity in the Federal Workforce

The Office of Personnel Management (OPM) said it plans to improve diversity, equity, inclusion and accessibility in the federal workforce through a combination of improved data tracking and better educating federal employees on how to use their benefits.

The Biden administration released "action plans" to improve equity for more than 90 agencies Thursday, following through on one of the president's first executive orders aimed at identifying and tearing down barriers to service equity. Many of the plans focus on strengthening civil rights law enforcement and advancing equity through the federal procurement process.

As the federal government's HR agency, OPM's customers are ostensibly federal agencies and their employees. In an introduction to the agency's own equity action plan, officials there argued that improving equity for those customers will in turn help them act more equitably in their dealings with the public.

"OPM's policies and practices influence the composition, compensation and work experiences of the federal workforce," the agency wrote. "In turn, the federal workforce designs and delivers policies and programs that affect all people in the U.S. and beyond. Advancing equity, diversity, inclusion and accessibility are fundamental to delivering on OPM's mission to build and support a federal workforce that represents and delivers for America."

OPM touted work over the past year both to advance President Biden's executive order aimed at improving diversity, equity and inclusion across the federal government, as

well as focus group discussions with federal workers on how to improve access to federal employee benefits.

The agency's equity plan focuses on providing better data for agencies to help them identify and address barriers to equity in the federal hiring process, and better education for feds on the non-salary benefits available to them.

On the data side, OPM said that although agencies have been collecting voluntary demographic data on job applicants for years, it has never been accessible in a way that allows agencies to review and improve their strategies and processes.

"Applicant demographic data is voluntarily collected but historically has not been easily available to, and usable by, human resource offices to identify root causes for drop-off patterns and interventions to address them," OPM wrote. "In response to this barrier,

OPM will expand federal agency access to post-audit (retroactive) candidate demographic data, providing agencies with an easily accessible, comprehensive dataset that will enable a more detailed analysis of barriers in the hiring process."

Additionally, OPM said that it will focus its federal employee-focused efforts on a pair of education initiatives: improving financial literacy for young federal workers, and making it easier for feds to pick the health insurance plan that's best for them through the Federal Employee Health Benefits Program.

Sourced from [Government Executive](#)

FEW Washington Legislative Update – April 1-15, 2022 Tier III

Federal Change Intended to Boost Women Contracting:

A federal program has made a change expected to lead to significantly more federal contract dollars each year for women-owned businesses.

The Small Business Administration has expanded the number of industries that will be allowed in the Women-Owned Small Business Federal Contracting Program. The decision went into effect Thursday, with the SBA indicating that the change could lead to hundreds of millions of dollars more each year in set-aside contracts for women-owned businesses, or portions of federal contracting funds that are reserved for businesses owned by women.

The number of North American Industries Classification System (NAICS) categories allowed for set-asides has increased 70 percent, from 444 to 759. The expanded codes now cover 92 percent of major federal contract spending. Previously the codes covered 75 percent, according to the SBA.

“We definitely use those codes,” said Rhonda Gilliam-Smith, regional manager of the Roswell area for WESST and its Women’s Business Center, an SBA-supported program. “We definitely work with small businesses in using those codes to increase their opportunities.”

WESST, formerly called the Women’s Economic Self-Sufficiency Team, is a statewide network of small business support centers that emphasizes helping women and minorities obtain training, funding and professional guidance.

The head of the SBA said the change was instituted after a recent study found gaps between the type of industries women-owned businesses operate in and the NAICS categories covered by federal contracting rules. She also said the expansion should allow for greater economic gains by women business owners.

“Small business ownership is an important pathway to independence and generational wealth building,” said Isabella Casillas Guzman, “and this change will help to further clear that path for more women entrepreneurs and reverse decades of inequity, discrimination and underinvestment that have held back America’s women entrepreneurs for far too long.”

Smith said that she is aware of more women in the local area are engaging in manufacturing industries. “Our women in Roswell and this area are looking very closely into opportunities that are not necessarily service businesses,” she said. “They are interested in creating products, which is more related to manufacturing.”

In May 2021, the SBA and Optimal Solutions Group LCC, published its report on the NAICS codes and federal contracts awarded to women-owned businesses. The report concluded that women-owned businesses were partially or substantially underrepresented in a number of categories.

According to the report, the U.S. government is the single-largest purchaser of goods and services at \$550 billion in fiscal 2019.

The Women-Owned Small Business Federal Contracting Program was created in 1994 to set aside 5 percent of federal contracts. The 5 percent goal was reached only two times from 1994 to fiscal year 2019. In fiscal year 2019, women-owned businesses received 5.2 percent of federal awards amounting to \$26 billion.

According to the report, some of the industries where women-owned businesses were significantly underrepresented included services for the elderly and disabled, satellite communications, convention and trade show organizers and forestry support services. The list of eligible NAICS codes for the Women-Owned Small Business Federal Contracting Program can be found on the SBA website, [sba.gov](https://www.sba.gov).

FEW Washington Legislative Update General Interest – April 1-15, 2022

The Hatch Act: *(new)*

Federal employees can hold elected partisan office while also working at their agencies, a key panel found in a ruling setting a new precedent for civil servants.

Rodney Cowan did not have to give up his role as a county commissioner in Tennessee or be removed from his job with the U.S. Postal Service, the recently reconstituted central body of the Merit Systems Protection Board (MSPB) said in a decision last week. It was one of the first decisions of MSPB's central board as it addresses its backlog of more than 3,500 cases that have piled up during its five years without a quorum.

The Board overturned a ruling from one of MSPB's administrative law judges, who said a settlement agreement that allowed Cowan to keep both positions violated the Hatch Act. The law, which dates back to 1939, restricts the political activities in which federal employees can engage. The Board has historically interpreted it to block civil servants from concurrently holding political office, leading the judge to find Cowan's agreement with the Office of Special Counsel—the independent federal agency that enforces the Hatch Act—invalid.

OSC appealed to the central board, however, arguing a 2012 update to the law did not actually ban the holding of partisan office and instead prohibited only the running for such a seat. Cowan conceded he violated that provision when he sought the county commissioner seat, and therefore agreed in his settlement to take a six-month unpaid suspension from USPS. Under the statute, MSPB had to sign off on the settlement.

The central board agreed to hear the appeal, noting it has not weighed in on the matter since Congress passed its modernization bill. The board's two members, Tristan Leavitt and Raymond Limon, said the Hatch Act previously required violators to be fired from their federal job. Alternatively, the employees could forgo their elected office as a "mitigating factor" in their punishment.

Under the new law, however, removal is no longer the "presumptive penalty" for Hatch Act violations. The Board said it favors settlements as a general matter and the suspension served as an adequate punishment for Cowan's running for office. It ordered USPS to carry out the disciplinary action and agreed Cowan did not have to surrender either position. Under the new precedent, federal employees could opt to violate the Hatch Act and run for office knowing they could keep both positions in exchange for a suspension.

"We find nothing in the statute that requires an employee to relinquish the elected position before the Board may impose an authorized penalty less than removal," they wrote in their decision.

Leavitt and Limon found the case important enough to prioritize. During their confirmation hearing, they pledged to work quickly to address the case backlog, promising a "triage system" to address the most pressing cases first.

Also, the Board punted on a decision on whether its administrative law judges are properly appointed. Toward the end of the former administration, agencies and employees—citing a 2018 Supreme Court ruling—began arguing the Board's administrative judges did not have the authority to rule on cases due to the manner in which they were appointed. Some judges, citing the lack of guidance from MSPB's non-existent central board, have punted on issuing a ruling on those cases until a federal court could intervene.

In its first ruling on the matter, the board said an Army employee brought up the complaint too late in the process. Employees cannot bring up new arguments upon appeal, the Board said, and the employee failed to raise the issue when he first brought the case.

Sourced from [Government Executive](#)

OPM Announces New Paid Time-Off for Voting for Federal Employees:

The OPM is the government's human resources agency. Government Matters' Mimi Geerges spoke to OPM Director Kiran Ahuja about the latest news affecting federal civilian employees.

- OPM's new voting guidance provides time off for early voting and election days and expands leave for participating as a non-partisan poll worker, said Ahuja.
- She said the agency wants to encourage participation in elections, remove barriers and serve as the country's model employer.
- She also addressed equal pay, saying it is a "moral imperative" for government to work towards gender pay equity.
- Ahuja said OPM is providing tools for agencies to conduct pay equity analyses and will issue guidance later this year focusing on not using prior salary history to set pay.
- OPM announced a federal civilian minimum wage of \$15 per hour in January in response to general agreement across government that it was the right thing to do, said Ahuja.

Sourced from [GovMatters](#)

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