FEW Washington Legislative Update
May 16-31, 2022

In Congress:

On May 16 in the Senate, a unanimous-consent agreement was reached which provided that the Notice of Issuance of Final Regulations Pursuant to the Congressional Accountability Act from the Office of Congressional Workplace Rights be printed in the Record. The Congressional Accountability Reform Act which passed in 2018 expanded certain protections for unpaid staff, brought more employing offices within the coverage of the CAA, and modified the dispute resolution process.

A committee meeting in the House of Representatives occurred on May 16 where the Committee granted, by record vote of 9–4, a rule providing for consideration of H.R. 7309, the "Workforce Innovation and Opportunity Act of 2022".

The Miller-Meeks amendment that sought to strike all and reauthorize the Workforce Innovation and Opportunity Act for six years and include provisions updating the workforce development system, by adding allowable uses of funds for statewide and local workforce development activities, was rejected by a vote of vote of 174 yeas to 241 nays.

National Small Business Week: Committee on Small Business and Entrepreneurship was discharged from further consideration of S. Res. 612, recognizing women-owned small businesses for National Small Business Week, and the resolution was then agreed to.

Motion to Invoke Cloture: Motion to Proceed to S. 4008; A bill to provide COVID relief for restaurants, gyms, minor league sports teams, border businesses, live venue service providers, exclave businesses, and providers of transportation services by the Small Business Administration (SBA) was rejected in Senate by Yea-Nay Vote of 52 – 43.

One week after the shooting at Robb Elementary School in Uvalde, Texas, there has been no concrete action taken by the Senate with regard to the issues of gun control.
However, a Politico/Morning Consult poll conducted on May 25 found that there is a strong percentage of American voters who would support measures taken to restrict gun control:

- Sixty-five percent support stricter gun control laws in the United States
- Eighty-eight percent strongly or somewhat support requiring background checks on all gun sales
- Eighty-four percent strongly or somewhat support preventing sales of all firearms to people reported as dangerous to law enforcement by a mental health provider

While the polls show that stricter gun laws are strongly supported by voters, there also exist support for a proposal which is backed up by many gun advocates:

- Fifty-four percent strongly or somewhat support equipping teachers and school staff with concealed firearms to respond in the event of a school shooting.

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Tier I

Women in the Military:

In 2018, the Army estimates that 40,000 soldiers were sexually harassed, and 6,700 soldiers were sexually assaulted. The Government Accountability Office (GAO) conducted a study on sexual harassment and assault since the Army’s program for preventing and resolving sexual harassment and sexual assault needs to be improved. Furthermore, reports of sexual harassment and assault in the Army continue to rise.

The GAO was asked to review the Army’s administration of the SHARP program. The Army Sexual Harassment/Assault Response and Prevention (SHARP) program has policies to prevent, respond to, and resolve incidents of sexual harassment and assault. The report examines, among other things, the extent to which the Army has (1) implemented policies and programs to prevent, respond to, and resolve incidents of sexual harassment and assault; and (2) mechanisms in place to oversee the SHARP program and determine its effectiveness. During the study, GAO reviewed policies and guidance; conducted a generalizable survey of SHARP personnel; interviewed DOD and Army officials; and interviewed officials and commanders at three Army installations selected based on risk level, among other factors.

GAO found that various things hindered the SHARP program. Key provisions related to the SHARP program are spread across multiple Army guidance documents, creating confusion for SHARP personnel. Long-standing efforts to consolidate SHARP policy into a single regulation have been delayed due to competing priorities, according to SHARP program officials. Without expediting and establishing a timeline for the issuance of a consolidated SHARP regulation, the Army risks continued confusion among program personnel.
Several factors limit the Army's oversight of command SHARP programs. A 2019 reorganization decreased SHARP Program Office staff by half, eliminating dedicated key positions and limiting the office's ability to conduct oversight functions. Further, the office lacks visibility over program funding and staffing. Without designing an oversight structure that addresses these challenges, the Army may continue to face difficulties with program implementation.

In addition, two issues limit the Army's ability to gauge program effectiveness. First, GAO found that none of the SHARP program's performance measures fully exhibit key attributes of successful performance measures (see figure). SHARP personnel identified the number of reported incidents as a key measure, but it is neither clear nor objective. An increase in reports may indicate either increased trust in the program or an increase in incidents, indicating a lack of effectiveness. Without developing a suite of performance measures, the Army is unable to measure progress towards achieving its goals. Second, the Army has not systematically evaluated the SHARP program for effectiveness, despite prioritizing such an effort since its inception in 2009. Without developing and implementing a continuous evaluation plan to systematically evaluate the effectiveness of the SHARP program, the Army may miss opportunities to prioritize promising approaches and address challenges.

After completing the study, GAO made nine recommendations, including that the Army expedite and establish a timeline for the issuance of a consolidated SHARP regulation, design its oversight structure to address identified challenges, develop a suite of performance measures, and develop and implement a continuous evaluation plan. The Army concurred with these recommendations.

Sourced from (GAO)

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**Tier II**

**Equal Employment Opportunity:**

In a newly issued report, the U.S. Equal Employment Opportunity Commission (EEOC) shows that opportunities for persons with disabilities in the federal workforce are improving, but that further progress is needed on retention and representation in leadership positions.

The study examined federal workers with disabilities' demographics, their hiring, advancement, and separation from employment at federal agencies, discrimination complaints based on disability, and ways that federal agencies are improving accessibility for persons with disabilities.
Representing 9.4 percent of federal employees, the participation by people with disabilities in the federal workforce is increasing. In FY 2014, persons with disabilities represented 8.68 percent of federal workers. This increased by more than 8 percent to 9.42 percent in 2018. Accordingly, federal agencies are raising awareness of accessibility for persons with disabilities and are improving their technological resources to make their workplaces more accessible to people with disabilities.

The study also found that persons with disabilities are promoted at a rate similar to what would be expected based on their governmentwide participation rate.

The report’s other findings include the fact that persons with disabilities are still underrepresented in federal sector leadership. Among persons with targeted disabilities, 10.7 percent are in leadership positions and 89.3 percent are in non-leadership positions. Among persons without disabilities, 16.4 percent are in leadership positions, and 85.6 percent are in non-leadership positions.

Targeted disabilities are the most severe ones, including blindness, deafness, partial and full paralysis, missing extremities, dwarfism, epilepsy, intellectual disabilities, and psychiatric disabilities. Individuals with these disabilities typically have the greatest difficulty finding employment. As a matter of policy, the federal government has a special emphasis on recruiting, hiring, and retaining people with targeted disabilities.

Further, the report illustrates that people with targeted disabilities involuntarily left federal employers at more than twice the rate of people without disabilities, and people with any disability were 53 percent more likely to involuntarily leave than persons without disabilities. Similarly, persons with disabilities and targeted disabilities were more likely to voluntarily leave federal employers than persons without disabilities.

The report also reveals that over a five-year period, federal sector physical disability-based complaints increased by 22 percent and mental disability-based complaints increased by 72 percent, outpacing the overall increase in federal sector EEO complaints. This may be due to increased discrimination against persons with disabilities or increased comfort with filing an EEO complaint among persons with disabilities, the report said.

By using 2018 data, this report provides a baseline to measure the impact of EEOC’s final rule, “Affirmative Action for Individuals With Disabilities in the Federal Government,” which clarified that federal employers must take proactive steps to improve opportunities for persons with disabilities.

Sourced from (EEOC)
Healthcare:

On May 17, 2022, the Access to Baby Formula Act of 2022 was introduced in the House. The Access to Baby Formula Act introduced by U.S. Senator John Boozman (R-AR), ranking member of the Senate Agriculture, Nutrition, and Forestry Committee, and Chairwoman Debbie Stabenow (D-MI) was unanimously approved in the Senate. Companion legislation overwhelmingly passed the House of Representatives.

This bill authorizes the Department of Agriculture (USDA) to take certain actions to address emergencies, disasters, and supply chain disruptions (particularly the shortage of infant formula in the United States) affecting participants of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).

The bill directs USDA to require each infant formula cost containment contract to include remedies in the event of an infant formula recall, including how an infant formula manufacturer would protect against disruption to WIC participants in the state.

USDA must, within 30 days, ensure there is a memorandum of understanding with the Department of Health and Human Services that includes procedures for coordination and information sharing regarding any supply chain disruption, including a supplemental food recall.

The bill also authorizes USDA to waive or modify any WIC qualified administrative requirement during emergencies, disasters, and supply chain disruptions. Specifically, USDA may waive or modify such a requirement for one or more state agencies if (1) the requirement cannot be met by state agencies during the emergency, disaster, or disruption; and (2) the modification or waiver is necessary to provide assistance to WIC participants and does not substantially weaken the nutritional quality of supplemental foods. For example, USDA may waive the maximum monthly allowance for infant formula.

The bill establishes notification requirements for USDA and state agencies related to supply chain disruptions.

“Moms and dads in the most prosperous country on earth should never have to worry about their ability to obtain something as vital as baby formula. This legislation will benefit every American family by ensuring formula manufacturers and regulators are always prepared to respond to any shortages or supply disruptions and by providing more flexibilities to USDA and states in helping parents meet their children’s nutritional needs,” Boozman said on the Senate floor.

Boozman also joined nearly two dozen Republican colleagues in demanding answers from the U.S. Food and Drug Administration (FDA) regarding its inadequate
investigation into Abbott Nutrition’s Michigan manufacturing facility and failure to mitigate the nationwide baby formula shortage. The senators are seeking answers regarding the time at which the White House was made aware of the dire situation and the steps available to limit the harmful impact on families and their newborns.

“Infant formula supplies at local grocery stores were relatively stable for the first half of 2021. The out-of-stock percentage started to climb steadily in the later half and continued to worsen throughout this year. It’s concerning that FDA and key officials in the Administration did not anticipate this crisis or take action within days following Abbott Nutrition’s voluntary recall considering the company holds 48.1 percent of the U.S. market in infant formula. Families are getting to the brink of pursuing unsafe and potentially dangerous options to feed their infants including homemade infant formula. And physicians are, once again, running defense on misinformation due to a lack of federal action to get the word out on safe alternatives,” the senators wrote.

The following were the actions that were taken towards getting the act signed into becoming a public law:

05/17/2022    Introduced in House

05/18/2022    Passed/agreed to in House: On motion to suspend the rules and pass the bill Agreed to by the Yeas and Nays: (2/3 required): 414 - 9 (Roll no. 218).

05/19/2022    Passed/agreed to in Senate: Passed Senate without amendment by Unanimous Consent. (consideration: CR S2626-2627)

05/19/2022    Presented to President.

05/21/2022    Signed by President.

05/21/2022    Became Public Law No: 117-129.

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