



## FEW Washington Legislative Update August 1 - August 15, 2022

### **In congress:**

On Tuesday, August 16, [the Inflation Reduction Act was signed into law](#) by President Biden after being passed by the House. This substantial piece of legislation [includes measures](#) such as making significant investments in the environment and health care, increasing taxes on key groups, and lowering the prices of prescription drugs.

On Tuesday, August 9, President Biden signed into law [H.R. 4346](#) which appropriates a total of \$54.2 billion to support domestic semiconductor manufacturing. This bill includes funding for research and development, semiconductor workforce development, research and innovation programs, and more.

On Friday, August 5, 2022, the President signed into law [H.R. 7334](#), titled the "COVID-19 EIDL Fraud Statute of Limitations Act of 2022". This bill establishes a ten-year statute of limitations for fraud by borrowers under the Small Business Administration's COVID-19 Economic Injury Disaster Loan programs.

### **Diversity, Equity, and Inclusion:**

The Biden administration is asking the U.S. Supreme Court to rule in favor of Harvard University and the University of North Carolina in their [landmark affirmative action cases](#) challenging race-conscious admissions. On Wednesday, August 3, the Supreme Court stated that it would hear the cases of both Universities on October 31. This case would set the stage for a landmark opinion that could challenge precedent which allows colleges to consider a student's race when deciding which students should be admitted. The Biden administration also [submitted a brief](#) asking the court not to do away with affirmative action.

Lower US courts have ruled in favor of Harvard and the University of North Carolina, holding that the programs used race in a sufficiently limited way to fulfill compelling interests in diversity.

The challenges are being spearheaded by conservative activist Edwin Blum. The Harvard challenge is brought under Title VI of the 1964 Civil Rights Act, which prohibits schools from receiving federal funds from discriminating based on race. The UNC lawsuit similarly claims Title VI grounds, as well as a violation of the 14th Amendment's guarantee of equal protection of the law, which covers state institutions.

The Department of Justice urged the justices to rule in favor of the school policies and uphold precedent. "This court has repeatedly held that although all racial classifications are subject to strict scrutiny, consideration of race is permissible if it is narrowly tailored to serve a compelling interest," Solicitor General Elizabeth Prelogar said in court papers.

### **FEW Washington Legislative Update – August 1-15, 2022**

#### **Tier I**

#### **OPM :**

The Office of Personnel Management has offered some extra help to federal unions looking to add eligible employees to their membership rosters. Federal unions have tools available in FedScope, OPM's online federal employee database, to identify which agencies have the largest amounts of unrepresented workers, said Tim Curry, OPM's deputy associate director for accountability and workforce relations, in an email obtained by Federal News Network.

"OPM is assessing ways to improve, consistent with applicable law, data transparency on bargaining unit eligibility in all agencies," Curry wrote.

The email aimed to highlight to unions where information on federal employees, including their bargaining unit status, was already publicly available. Federal News Network has also extracted and analyzed the data.

The reminder from OPM stemmed from just one of nearly 70 recommendations that the White House task force on worker organizing and empowerment released in February, focused on "removing unnecessary barriers and obstacles which impede the ability of federal employees to exercise their right to organize and other labor rights under the law."

Specifically, one task force recommendation asked OPM to make it easier for federal unions to reach the more than 300,000 feds who are eligible to join a union but who are currently unrepresented.

“OPM should engage with the agencies with the largest shares of these 300,000 employees to assess opportunities for unions to expand coverage consistent with applicable law, improve data transparency on bargaining unit eligibility in all agencies and develop guidance and fact sheets on how eligible employees can form or join unions,” the task force’s February report stated.

The National Federation of Federal Employees voiced its support for the FedScope search function. The union said it will use the data from OPM to help locate and target certain offices with higher rates of unrepresented employees.

“This upgraded resource will be an excellent tool for our union to locate non-union employees across the federal government who are rightfully entitled to representation and a voice in their workplace,” NFFE National President Randy Erwin said in an Aug. 17 press release. “NFFE specifically requested assistance in identifying the hundreds of thousands of unrepresented government workers, and today OPM delivered on its commitment to promote employee organizing and collective bargaining by rolling out the enhanced database. We are excited to help these federal employees who have not yet joined a union organize in their workplaces and obtain critical rights and benefits through unionizing.”

The National Treasury Employees Union has also called for other ways to better access currently unrepresented, but union-eligible, federal workers.

“If we are provided access to email addresses, then we can do a lot of communicating with those folks about the fact that they can belong to a union and what belonging to the union does for them,” NTEU National President Tony Reardon told Federal News Network in July. “Then they can make whatever choice that they make, whether they’re going to belong to the union or not.”

After drilling down into FedScope’s data, some agencies showed fairly high numbers of unrepresented employees. For example, data compiled by Federal News Network from FedScope showed that the Agriculture Department has nearly 30,300 union-eligible employees not in a bargaining unit. The Department of Veterans Affairs has 20,900 and the Interior Department has around 27,600. Some of the agencies with the highest number of eligible, yet unrepresented, employees are in the Defense Department.

On the other hand, the departments of Education, Energy, Labor, State, and Treasury, as well as the Department of Housing and Urban Development, were among the agencies with the lowest numbers of unrepresented workers. The most recent data available in FedScope is from March 2022.

Sourced From: [\(Federal News Network\)](#)

## **FEW Washington Legislative Update – August 1-15, 2022 Tier II**

### **Federal Workforce Attrition Rises Back Up to Pre-Pandemic Levels**

During a year with uncertainty over office reentry plans and a presidential transition, the percentage of employees who left the federal workforce in fiscal 2021 increased, now aligning with pre-pandemic attrition trends.

After a dip in the 2020 governmentwide attrition rate, employees voluntarily left the federal workforce in 2021 at an average rate of 6.1 percent, often for reasons like retiring or finding a new job. The percentage was higher than last year's rate of 5.5 percent, but on track with 6.1 percent and 6 percent in 2019 and 2018, respectively. The report showed a "Great Resignation," a large wave of employees choosing to leave their jobs, did not happen during 2021, the Partnership for Public Service said.

According to a report on federal workforce attrition from August 2, some agencies and specific sectors of the federal workforce were in a "state of stress". One major factor in attrition rates for agencies was employees' ages. Employees over 60 had the highest attrition rate, at nearly 17 percent, with the vast majority of that age group leaving the workforce to retire, the Partnership reported. In fact, more than half of employees who left the federal workforce in 2021 said they left to retire. But, those under the age of 30 also had a significantly high attrition rate at 8.5 percent, compared with the governmentwide average of 6.1 percent.

The high number comes as some agencies struggle to retain workers and compete with the private sector for younger employees. Just 7 percent of the federal workforce is currently under the age of 30, while at the same time, 15 percent of feds are eligible to retire today. The number will double to 30 percent in the next five years, the Office of Management and Budget reported earlier this year.

In the Partnership and Boston Consulting Group's 2021 Best Places to Work in the Federal Government rankings, though, the results showed that the youngest group of

workers ranked highly for employee satisfaction and engagement. Employees who had worked less than a year in the federal workforce were some of the most engaged and satisfied employees, the Partnership said.

The findings suggest those with fewer than five years of federal service may leave their positions for reasons other than frustration with their jobs, the Partnership said. The one exception to the positive scores in the Best Places to Work results was pay satisfaction for the youngest age group, which posted a very low score.

Some specific agencies also showed poor results in attrition trends. The Department of Veterans Affairs, for example, had the highest attrition rate at 7.1 percent, an increase from its 6.4 percent rate last year, and 1 percent higher than the governmentwide average.

“This high attrition rate may be explained by the fact that VA employees served on the front lines during the pandemic, and many are burnt out,” the Partnership said.

Federal workers in the healthcare sector posted the same 2021 attrition rate, 7.1 percent, as the VA. At the same time, though, VA was the only large agency to mark an improvement in its employee satisfaction for the 2021 Best Places to Work rankings, compared with its 2020 score. The agency’s satisfaction score rose from 70 percent in 2020 to 70.2 percent in 2021, and VA ranked fifth overall among large agencies. Other agencies with high attrition rates, all at 6.6 percent and above, were the Departments of Agriculture, Air Force, Army, and Treasury.

In contrast, the General Services Administration had an attrition rate of 4.2 percent, the lowest of any agency included in the Partnership’s report, and nearly 2 percent below the governmentwide average. GSA also showed a decrease in its attrition rate from the previous year, at 4.4 percent for the agency.

Other agencies that kept their attrition rates very low, at or below 4.5 percent in 2021, were the Departments of Commerce, Education, State and Transportation, as well as the Environmental Protection Agency, the United States Agency for International Development (USAID) and NASA.

Notably, Commerce and NASA both ranked highly in the 2021 Best Places to Work, with NASA maintaining its number one spot for large agencies for the tenth year in a row, and Commerce ranking third overall for large agencies.

Despite generally low attrition, the majority of agencies posted higher attrition rates in 2021 when compared with 2020. The Defense Department stayed even in its attrition rate, while the only agencies where the attrition rate went down were GSA, the Justice Department, and the Nuclear Regulatory Commission.

Federal workers in cyber and STEM roles both showed 5 percent attrition rates in 2021, significantly below the average attrition rate. The low rate may be a result of the age of the federal cyber workforce, for which the majority is over 40 years old, the Partnership said. The cyber workforce is also one of the least diverse federal sectors, with women comprising under 30 percent.

The trend also came after the Equal Employment Opportunity Commission reported that women in federal STEM roles were at about 29.3 percent, falling significantly behind men in representation, but still above the private sector's STEM workforce, for which women comprised 27 percent.

Women left the government at a higher rate than men in 2021, a trend that occurred more broadly during the pandemic. The Partnership reported that 6 percent of male workers left the federal sector in 2021, compared with 6.4 percent of female employees.

Workers in health occupations also saw a significantly higher portion of workers leaving their jobs, at 7.1 percent, which is a full percentage point higher than the governmentwide rate.

“This mirrors trends in the private sector, where low morale and pandemic-related stress have caused an estimated 20 percent of health care workers to leave their positions in just over two years,” the Partnership wrote. “This decrease is especially concerning given that the pandemic is ongoing and continues to require a robust, whole-of-government response.”

Sourced from: [\(Federal News Network\)](#)

## **FEW Washington Legislative Update – August 1-15, 2022 Tier III**

### **Child care provisions were cut from the Inflation Reduction Act:**

The passage of the Inflation Reduction Act may have been a win for Democrats and President Biden on climate, the US economy, and prescription drugs, but for women, it falls short of its potential on key policies.

The Democrats' ambitious plans at points included universal pre-kindergarten, lower child care costs, paid family and sick leave and the enhanced child tax credit, among other provisions, but those were ultimately eliminated during negotiations. Those cuts became the ninth time in just two and a half years where proposed legislation aimed at helping women and families have been removed, according to a CNN analysis of data from the Congressional Budget Office and Congressional Research Reports. Paid family leave alone has been trimmed down or dropped five different times since March 2020.

Universal pre-kindergarten, paid family leave and an expanded child tax credit were all left out of the Inflation Reduction Act. It was the latest of several instances of being trimmed down or dropped over roughly two years.

And although universal pre-kindergarten was only rejected once in the last two years, the idea is not new to the United States: the Lanham Act provided universal child care to nearly 130,000 children at its peak during World War II, and bills for universal pre-K were introduced by Democrats in Congress nearly every year from 1999 to 2019 that never advanced, the analysis showed.

Despite polling from January 2022 that showed more than half of Americans believe universal pre-K and paid family leave would help the country, these provisions keep facing the combined headwinds of a 50-50 Senate and the economic impact of the Covid pandemic.

Although Biden proposed reviving universal pre-K and limiting child care costs as ways to fight inflation during his March State of the Union speech, that benefit -- along with paid family leave and the expanded child tax credit -- are all absent from the IRA. Public attitudes towards these social reforms have shifted over the past year. In a CNN poll from January and February, 8 percent of respondents said "expanding access to affordable child care" was the most important problem for the government to address. By comparison, only 1 percent said "coronavirus."

In a July poll, after five months of soaring prices, the Russian invasion of Ukraine and multiple mass shootings, 38 percent of Americans cited inflation and fewer than 1 percent said the cost of child care when asked the biggest economic problem facing families.

According to a 2021 UNICEF report on national childcare policies, "The United States is the only rich country without nationwide, statutory, paid maternity leave, paternity leave or parental leave."

Sourced from ([CNN](#))

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