



## FEW Washington Legislative Update January 1 - 15, 2023

### In Congress:

On Thursday, January 5, 2023, the Biden-Harris Administration announced [new enforcement measures](#) to increase security at the southern border, and reduce the number of individuals crossing unlawfully between ports of entry. These measures will expand and expedite legal pathways for orderly migration and result in new consequences for those who fail to use those legal pathways.

On Wednesday, January 7, 2023, Kevin McCarthy was [elected as Speaker of the House](#) after fifteen rounds of voting. McCarthy, a Republican Representative from California, won the final vote with 216 out of 428 possible votes.

The House will be in recess next week and will [return](#) on Tuesday, January 24. After being in session on January 3 for the swearing in, the Senate remains in recess and will hold brief pro forma sessions on Friday, January 13, at 1:30 P.M., Tuesday, January 17, at 1:00 P.M. and Friday, January 20, at 1:00 P.M. The Senate will [reconvene](#) at 3:00 P.M. on Monday, January 23.

### The Debt Ceiling

Treasury Secretary Janet Yellen notified Congress on Friday that the U.S. is projected to reach its debt limit on Thursday and will then resort to [“extraordinary measures”](#) to avoid default.

In a letter to House and Senate leaders, Yellen said her actions will buy time until Congress can pass legislation that will either raise the nation’s \$31.4 trillion borrowing

authority or suspend it again for a period of time. But she said it's "critical that Congress act in a timely manner."

"Failure to meet the government's obligations would cause irreparable harm to the U.S. economy, the livelihoods of all Americans, and global financial stability," she said.

"In the past, even threats that the U.S. government might fail to meet its obligations have caused real harms, including the only credit rating downgrade in the history of our nation in 2011," she said.

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

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

#### **National Science Foundation Spearheads New Funding to Improve Diversity in AI Workforce**

Several federal research bodies are collaborating to launch a new inclusivity program that aims to help bring minority-serving educational institutions into the artificial intelligence field, as more technologies incorporate artificial intelligence (AI) and machine learning (ML) software.

The U.S. National Science Foundation, in conjunction with other agencies including the Department of Homeland Security, Science and Technology Directorate; U.S. Department of Agriculture, National Institute of Food and Agriculture, and National Institute of Standards and Technology, established the ExpandAI program to cultivate a more diverse AI/ML workforce.

"In close collaboration with our federal partners and with the AI Institutes program, NSF is launching ExpandAI in order to enable an even broader community of researchers to advance the Nation's AI capacity in scientific power and workforce," said Margaret Martonosi, the NSF assistant director for Computer and Information Science and Engineering, in a statement.

The program, adhering to the guidance outlined in the earlier in the National AI Strategic Plan published in 2019, will direct more federal funding to AI research and development education, specifically within institutions that serve a diverse student population and specify in AI education.

The key feature of ExpandAI is providing federal funding for development projects and partnerships among the participating National AI Research Institutes and incorporating more diverse student teams. Capacity development projects will specifically work to establish new AI education centers within minority serving colleges and universities that do not currently offer AI/ML curricula and have a large population of African Americans/Black American, Hispanic American, American Indian, Alaska Native, Native Hawaiian, and Pacific Islander students.

Some of the schools that already offer strong AI/ML education tracks that have partnered with NSF include Ohio State University, the University of California San Diego, Georgia Tech, and Duke University.

“We hope to see a more diverse, more inclusive participation of talented innovators from across our nation, driving AI research and innovation that continues to build our country's AI leading capabilities and workforce development,” Martonosi said.

Each institution looking to qualify for capacity building funding may receive a grant of up to \$400,000 dispersed over the course of two years. By contrast, institutions that already offer advanced AI/ML courses can receive between \$300,000 to \$700,000 over the course of up to four years.

Some of the previous projects funded by ExpandAI have focused on advancing research in rural health, molecular biology research, environmental science, and industry optimization.

Increasing diversity in the programming workforce behind AI/ML technologies has been a priority area for the Biden administration and various private industry leaders as AI algorithms have proven to discriminate against people of color and other historically vulnerable groups.

Sourced From: [\(Government Executive\)](#)

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### Tier I

#### **New Parental Leave Policy Could Help Retention, Recruiting**

All parents in uniform will get a dozen weeks of leave when they welcome a child under a new Pentagon policy. But only time will tell how the change, which standardizes leave policies that previously varied based on the parent's role, will affect retention and recruitment.

The policy, announced January 4 but backdated to December 27, gives military parents up to 12 weeks of paid leave within the first year of the birth or adoption of a child. The change was mandated by the 2022 National Defense Authorization Act (NDAA).

Lawmakers such as Rep. Chrissy Houlahan, D-Penn., have been pushing for more military parental leave for years. Houlahan said she has seen the expansion of military paternity leave over the course of her own life. When she was born, her father who was in the Navy, had no parental leave. But when she had her first child while serving in the Air Force, she was able to take six weeks of leave. The policy also makes the all-volunteer military more competitive with the civilian job market, Houlahan said.

“When people are making decisions, of course it's about service... But you're also looking at what other opportunities there are in the economy, and you want to make sure that you're competitive,” she said. “And also, importantly, the military has always led by example, has always been kind of on the cutting edge of diversity issues. Now in this case, its support of family issues as well.”

Before the change, the length of leave granted was dependent on whether the service member was the birth parent or “primary caregiver,” or the “secondary caregiver.” Now there is just one standard of leave across the Defense Department for all parents, said Kyleanne Hunter, a senior political scientist at the RAND Corporation and a senior adjunct fellow at the Center for a New American Security.

“Having a standard does a few things. One, it values all parents equally, which is important just when we start to think about norms of who is expected to sort of take the brunt of childcare,” Hunter said. “And that becomes very important, because in a lot of the focus groups that have been done by [Defense Advisory Committee on Women in the Services or DACOWITS] in particular, when they talk to service members about

parenthood, and parenthood and career progression, what comes up a lot is that there's this unspoken expectation that women are always the one who have to sort of take the brunt of caregiving in terms of time. And are expected to dedicate their time. I think this goes a long way to say that parenthood is a universal aspect, and that's important."

The standardization also normalizes same-sex parents in the military, she said.

The change brings the military in line with its civilian counterparts in the federal government, who have received the 12-week paid leave benefit since 2020. Houlahan said the military's new leave policy could serve as a model for other federal agencies and the country.

Whether the policy will help with troop retention and recruitment remains to be seen, Hunter said, noting that no data is available yet.

"From what we have heard from service members, anything that helps to alleviate some of the stress between having a family and doing your job is going to be positive," she said. "I think a lot of this continues to come down to ... how is it implemented? How is it communicated? How is it utilized? And as we start to see those things, then I think we'll know."

The Navy's top personnel officer is optimistic it will help recruiting and retention.

"Navy family members are an integral part of our Navy force, and the parental leave policy updates provide needed time for our Navy families to bond. This is the right thing to do for our sailors, and it brings the Navy in line with, or ahead of, many civilian workplaces," Chief of Naval Personnel Vice Adm. Rick Cheeseman said in a statement to Defense One. "Additionally, though we do not yet have data to demonstrate the impact this could have on retention and recruitment, there is little doubt that the new parental leave policy will have a positive impact in both areas."

While the (Department of Defense) DOD-level policy is out, how each service will adapt it to their own unique needs is still being worked out. The Air Force and Space Force are the only branches that have publicized their leave processes so far, Military Times reported.

"I'm extremely proud of the lasting impact this policy will have on all of our service members and their families," Chief Master Sgt. of the Air Force JoAnne Bass said in a statement to Defense One. "The services worked hard to give as much as the law

allowed, and I'm extremely proud of how fast our Department of the Air Force implemented [the office of the secretary of defense's] policy."

The policy will have to confront a cultural tension in the military between operational readiness and the needs of individual troops, Hunter said, but both are possible with communication and planning.

"If this is not implemented correctly, there is the ability for it to become disruptive. And there's also the ability for it to create sort of dissent among service members who don't have children that are there, right? That are like, 'Well, why am I picking up the slack?'," she said.

While the policy is expected to help many military families starting or growing their families, there are still several other areas that need improvement to assist in raising and developing military children, Houlihan and Hunter said, such as accessible and affordable childcare.

Sourced From: ([Government Executive](#))

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### **Tier II**

#### **Employee Benefit Changes for 2023**

With the new year comes changes to employee benefits that can affect your retirement planning. Let's look at some of them.

#### **Civil Service Retirement System (CSRS):**

Pay Raise: The General Schedule pay adjustment is important to future retirees, because it will be factored into the high-three average salary computation based on how many days the new pay rate is in effect prior to retirement. Assuming you're in your peak earning years, for every day the 2023 rate is in effect, the pay rate in effect in 2020 will be eliminated, increasing the overall computation.

Late last month, President Biden issued an executive order formalizing an average 4.6 percent pay increase for civilian federal workers in 2023. The raise is split between a 4.1 percent across-the-board increase in basic pay and a 0.5 percent boost to locality pay.

Variable Interest Rate: This is used to compute the interest that accrues on unpaid civilian and military service credit deposits, and on voluntary contributions that are on deposit. For 2023, the rate will be 1.875 percent, up from 1.375 percent in 2022. If you have invested \$50,000 in a voluntary contributions account, it will earn \$937.50 in interest (tax-deferred) on December 31, 2023. On the other hand, if you owe a balance of \$50,000 on refunded (Civil Service Retirement System) CSRS contributions that you withdrew from a prior period of federal service, you will owe an additional \$937.50 in interest on December 31.

## **Federal Employees Retirement System (FERS)**

Pay Raise: As with (Civil Service Retirement System) CSRS, the 4.6 percent average increase—the largest since 2002—will likely boost the high-three average salary for federal employees, especially those on the verge of retirement.

Variable Interest Rate: As with (Civil Service Retirement System) CSRS, the rate for 2023 will be 1.875 percent, up from 1.375 percent.

Basic Employee Death Benefit: The initial \$15,000 portion of the (Federal Employees Retirement System) FERS death benefit, enacted when (Federal Employees Retirement System) FERS was created payable to spouses, is increased by the CSRS cost of living adjustment. The (Civil Service Retirement System) CSRS (Cost of Living Adjustment) COLA, effective December 1, 2022, increases the death benefit for an employee who dies on or after that date to half of their final annual pay (or average pay, if higher), plus \$40,279. This is only payable if an employee dies prior to separation from federal employment.

## **Social Security**

Earnings Limits: The earnings limit for workers who are younger than full retirement age will increase to \$21,240. For every \$2 earned over this limit, Social Security will deduct \$1 from benefits.

The earnings limit for people reaching their full retirement age in 2023 will increase to \$56,520. For every \$3 earned over this limit, Social Security will deduct \$1 from benefits until the month the worker reaches full retirement age. There is no limit on earnings for workers who are at their full retirement age or older for the entire year.

Maximum Taxable Wage Amount: If you're working with wages subject to Social Security tax withholding, the maximum amount of earnings subject to the tax will increase to \$160,200 in 2023 from \$147,000 in 2022.

### **Thrift Savings Plan (TSP)**

TSP Elective Deferral Limit: The annual IRS limit for elective deferrals—the amount that employees can contribute to their accounts—is increasing to \$22,500 from \$20,500 last year. The limit applies to the combined total of traditional and Roth contributions.

Catch-Up Contribution Limit: TSP (Thrift Savings Plan) participants aged 50 and older can make tax-deferred “catch-up” contributions from their basic pay to their TSP accounts. These supplement the participant's regular employee contributions and do not count against the IRS elective deferral limit. The catch-up contributions have a separate annual limit and eligibility criteria. This limit has increased to \$7,500 in 2023, up from \$6,500 in 2022.

Sourced From: ([Government Executive](#))

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### **Tier III**

### **Women's Health Care: New Protections for Pregnant and Nursing Workers in 2023**

On December 29, 2022, President Biden signed into law *the Pregnant Workers Fairness Act (PWFA)* and the *Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP Act)*, expanding federal protections for both pregnant and nursing workers.

#### **Pregnant Workers Fairness Act (PWFA)**

The (Pregnant Workers Fairness Act) PWFA creates a legal obligation for employers to grant reasonable accommodations for pregnant workers. Under the new law, which will not go into effect until June 2023, employers with 15 or more employees will be required to provide reasonable accommodations for "qualified" employees and applicants with temporary physical or mental limitations due to pregnancy, childbirth or related conditions. Employees and applicants are "qualified" if they, with or without a reasonable accommodation, can perform the essential functions of the employment position. An individual is still "qualified" if the inability to perform an essential function is

for a temporary period, the essential function could be performed in the near future, and the inability to perform the essential function can be reasonably accommodated.

The PWFA, like the Americans with Disabilities Act (ADA), obligates employers to provide reasonable accommodations unless doing so imposes an undue hardship. The PWFA incorporates the ADA concept of the "interactive process" – the good faith discussion between the employer and employee to try to identify an appropriate reasonable accommodation. Under the new law, employers will be prohibited from requiring a qualified employee or applicant to accept an accommodation other than one arrived at through the interactive process. An employer may also not require an employee to take a paid or unpaid leave if another reasonable accommodation can be provided. Retaliation against a qualified employee or applicant for requesting a reasonable accommodation under the law is also prohibited.

Previously, under federal law, most courts determined that pregnancy was not considered a disability entitled to a reasonable accommodation under the ADA. Rather, employers were only required to provide reasonable accommodations when an individual's pregnancy, childbirth, or related medical condition rose to the level of a disability under the ADA or when accommodations were made for other similarly situated, but non-pregnant, workers. Some examples of accommodations that may be required under the PWFA are providing additional restroom breaks, reducing lifting requirements, providing leave for an employee who does not qualify for a leave of absence under the Family and Medical Leave Act (FMLA) or other leave policy and providing different office equipment (e.g., providing a stool for an employee who typically is required to stand).

#### Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP Act)

The (Providing Urgent Maternal Protections of Nursing Mothers Act) PUMP Act, which amends the Fair Labor Standards Act (FLSA) (effective immediately with the exception of certain changes regarding remedies), requires that employers provide (1) reasonable break time for an employee to express breast milk each time the employee has a need to express the milk for one year after the child's birth and (2) a place, other than a bathroom, that is shielded from view and free from intrusion in which the employee can express breast milk.

While the Affordable Care Act of 2010 (ACA) amended the FLSA to provide these protections to non-exempt employees, the PUMP Act extends the protections to *all* employees, non-exempt *and exempt*, unless specifically excluded, with a need to express breast milk. (Certain workers in the transportation industry are excluded from the Act.)

An employer is generally not required to provide a paid break under these amendments; however, the PUMP Act re-emphasizes the FLSA principle that time spent to express breast milk is considered "hours worked" if the employee is not completely relieved from

duty during the entirety of the break. If an employee continues to work, or is interrupted during the break, then the non-exempt employee must be paid for the entire break (and exempt employees continue to receive their full weekly salary regardless of any break).

Notably, the PUMP Act does not apply to employers with fewer than 50 employees if certain requirements under the law would cause an undue hardship.

### PWFA and PUMP

#### **(Pregnant Workers Fairness Act Providing Urgent Maternal Protections of Nursing Mothers Act)**

Under both laws, workers can bring a private right of action against their employer for a violation of law. The (Providing Urgent Maternal Protections of Nursing Mothers Act) PWFA requires that an employee first exhaust all administrative remedies.

Employers should note that many state and local laws already provide similar or greater protections and accommodation requirements for pregnant and nursing workers. These Acts do not preempt any state and local laws that provide more generous protections. Further, on a federal level, the Pregnancy Discrimination Act of 1978, which amended Title VII, already prohibited discrimination in employment on the basis of pregnancy, childbirth, or a related medical condition.

While many employers may have policies relating to pregnancy, accommodation and nursing workers, employers should review those policies to ensure they are compliant with these new federal laws and make any necessary updates. Further, employers will want to ensure that managers and supervisors are trained on how to handle pregnancy accommodation requests and requests to express breast milk in the workplace.

Sourced From: [\(Mondaq\)](#)

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