



www.few.org



1629 K Street NW, Suite 300  
Washington, DC 20006  
Phone: 202/898-0994  
Fax: 202/898-1535

## FEW Washington Legislative Update March 16 - 31, 2023

*The House and Senate Adjourned for Easter and Passover recess  
and will next [convene](#) on Monday, April 17.*

### **In Congress:**

On Monday, March 20, the President [signed into law](#) H.J.Res. 26, which nullifies the Revised Criminal Code Act of 2022 enacted by the Council of the District of Columbia; and S. 619, the “COVID–19 Origin Act of 2023,” which requires the Director of National Intelligence to declassify certain information relating to the origin of COVID-19.

On Monday, March 27, President Biden revived his push for [a federal assault weapons ban](#) in the aftermath of a deadly elementary school shooting in Nashville, Tennessee. Biden has focused on reinstating the assault weapons ban that he helped pass in 1994 as a senator, but which lapsed in 2004. The president doesn’t appear to have the votes for an assault weapons ban in Congress.

As of Friday, March 31, Senators have expressed ambivalence towards [the RESTRICT Act](#) which aims to give the Commerce Department and White House sweeping new powers to ban or restrict a wide range of communications and technology products coming from China. The bill would deprive TikTok of a crucial legal defense that it used to defeat the Trump administration’s attempted ban in 2020, and is considered key to any meaningful effort by the Biden administration to ban the Chinese-owned app.

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

### **OPM Supports Transgender Feds in New Guidance**

The federal government's HR agency on Friday published new guidance tasking agencies with updating their policies to ensure that they afford a "non-discriminatory and inclusive" work environment to all employees, particularly transgender and other gender non-conforming workers.

The memo was published on International Transgender Day of Visibility, an observance aimed at celebrating transgender people and raising awareness about discrimination and other challenges they face. This year's iteration comes amid a concerted right-wing effort to marginalize LGBTQIA+ individuals, as Republicans in state governments have advanced legislation targeting drag performances and blocking access to gender-affirming care, particularly for teenagers.

The document outlines how agencies should handle several sensitive matters related to when and how a gender non-conforming employee transitions their gender identity, including name and pronoun changes, privacy, bathroom access, leave usage for gender-affirming medical care, and agency supports for transitioning workers.

Agencies should treat information about an employee's gender identity or sex, including their sex assigned at birth, intersex status, or medical history related to gender or sex, as "potentially sensitive private information," particularly since information such as formerly used names is often collected during the security clearance process.

"For example, where the Privacy Act of 1974 applies, certain conditions must be met for disclosure of records contained in a system of records, and there are various other protections the agency would be responsible for implementing," the Office of Personnel Management (OPM) wrote. "Even if there is not otherwise a restriction on disclosure in applicable law, regulation or policy, human resources personnel, managers and coworkers should be aware of the potential sensitivity of gender identity or sex characteristics information and, to the extent possible, are advised to avoid disclosing such information, absent the consent of the individual."

OPM wrote that agencies should handle name changes for LGBTQIA+ employees the same way they would for cisgender workers, such as following a wedding or divorce. And agencies should not require a legal name change in order to recognize an employee's preferred name or pronouns.

“All applicants and employees should be addressed by the names and pronouns they use to describe themselves,” the memo states. “Using correct names and pronouns helps foster workplaces free of discrimination and harassment. This practice also creates an inclusive work environment where all applicants and employees are treated with dignity. The isolated and inadvertent use of an incorrect name or pronoun will generally not constitute unlawful harassment, but, as the Equal Employment Opportunity Commission has explained, continued intentional use of an incorrect name or pronoun (or both) could, in certain circumstances, contribute to an unlawful hostile work environment.”

If an employee changes their name or preferred pronouns, agencies should “promptly” ensure that those changes are reflected in “all electronic and physical places” where their name is displayed, including email addresses, virtual meeting applications, employee directories, business cards, etc., OPM wrote. And agencies should work to ensure the process for updating names is streamlined so that changes can quickly be reflected across IT systems.

OPM wrote that agencies should also ensure that federal employees all have ready access to whatever bathroom they feel most comfortable using, including single-user restrooms or “common facilities,” be they unisex or separated by gender.

“Agencies should not condition this access on an employee having undergone or providing proof of any gender affirming surgeries or other medical procedures,” the memo states. “Agencies should not limit an employee to use facilities that are located at an unreasonable distance from the employee’s workstation, or inconsistent with the employee’s gender identity. Agencies should not restrict any employee to a single-user facilities instead of common facilities; agencies can, however, make a single-user facility available to all employees who might choose to use it.”

The guidance tasks agencies with setting up new policies to support employees as they undergo a gender transition. Agencies should designate a human resources employee to serve as a “central point of contact” to work with any transitioning employee who requests support and set up a system by which employees can tailor how they transition in the workplace.

“The procedure could include, with the transitioning employee’s input and consent, when and which colleagues to notify of a transition; the timing for name changes and pronoun changes, where applicable and consistent with this guidance, in email, IT systems and employee profiles; and a process for any gender identity inclusion training

for supervisors, managers and coworkers if such training would be beneficial,” OPM wrote.

OPM also reiterated that employees receiving medical treatment as part of their transition may use sick leave, “just as with medical treatment for any other reason.” Additionally, agencies should review and, if necessary, update their policies governing employee attire to ensure that all employees are allowed to dress consistent with their gender identity and that those employees have the ability to decide when to start presenting consistent with their gender identity.

“As an employer, the federal government must strive to maintain standards of equity and value the diversity of employees’ backgrounds, identities and experiences,” said OPM Director Kiran Ahuja in a statement. “This updated guidance is aimed at achieving this goal and ensuring that federal workplaces are safe, respectful and productive work environments.”

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

## **FEW Washington Legislative Update – March 16 - 31, 2023**

### **Tier I**

#### **Higher Federal Workforce Diversity is Often Concentrated in Lower Pay Grades**

Although agencies made progress in promoting equal employment opportunities, inequities still remain in the demographic makeup of the federal workforce.

There were improvements in federal workforce diversity overall between fiscal 2016 and fiscal 2020, but most demographic groups were more prominently found in the lower ranks of the General Schedule (GS), the Equal Employment Opportunity Commission (EEOC) said in a March report.

Looking higher up on the GS scale and in the Senior Executive Service (SES), the federal workforce becomes less diverse.

“Overall, men disproportionately held GS-11 through SES and senior pay positions (59.5 percent), as well as SES and senior pay alone positions (57.5 percent),” EEOC said in the report. “By comparison, women accounted for only 40.5 percent of GS-11

through SES and senior pay positions, and 42.5 percent of SES and senior pay alone positions. Women accounted for over half (53.9 percent) of GS 1-10 positions.”

Specifically, Hispanic and Latina women have increased their participation in the federal workforce, moving from a 3.7 percent participation rate in 2016, to 4.5 percent in 2020. Overall, EEOC said the increase was “encouraging.”

But for positions in GS-11 and above, as well as in the Senior Executive Service (SES), the composition looks different. Hispanic and Latina women make up 6.1 percent of employees between GS-1 and GS-10, but just 3.6 percent of higher GS levels and the SES.

“Federal agencies with low and/or declining participation rates ... should find and address the root causes,” EEOC said. “Recruitment, hiring and retention should be made central in these barrier analyses.”

Most demographic groups also had higher participation in the federal workforce than they did in the civilian labor force (CLF). The definition of CLF is [somewhat complicated](#), but generally refers to the non-federal, non-military nationwide workforce.

The two largest disparities, though, were white women, as well as Hispanic and Latina women, which both comprised significantly lower portions of the federal workforce, compared with the nationwide workforce.

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

## **FEW Washington Legislative Update – March 16 - 31, 2023**

### **Tier II**

#### **Federal Employee Union Membership is Up 20 Percent**

Vice President Kamala Harris’ office last week touted early progress in the Biden administration’s effort to strengthen the federal workforce by improving worker empowerment, boasting a sizeable increase in the number of federal employees who are dues-paying union members.

In February 2022, the White House Task Force on Worker Organizing and Empowerment, chaired by Harris and then-Labor Secretary Marty Walsh, issued its first

report, which contained more than 70 recommendations for federal agencies to make it easier for employees in both the federal and private sectors to organize or join a union.

The task force asked federal agencies to foster collaborative relationships with their union partners, involve labor organizations in pre-decisional policy discussions, and remove barriers from unions trying to increase their membership or organize new bargaining units. The group recommended that the OPM instruct agencies to provide information on whether job openings are represented by unions and encourage agencies to provide unions with more opportunities to communicate with new hires.

In a blog post last week, the vice president's office announced that just a year after agencies began implementing the task force's recommendations, the initiative is already paying dividends: over the last year, nearly 80,000 federal employees have joined a union, increasing the total number of dues-paying union members at federal agencies by 20 percent. And in the private sector, petitions for union representation increased 53 percent from fiscal 2021 to fiscal 2022, while overall union membership grew by 273,000 last year.

The task force attributed the boost in union membership to both OPM's efforts to encourage agencies to improve labor-management relations, including developing an internal agency survey on the issue, and agencies' efforts to make it easier for union organizers to access the federal property, either to contact federal employees or contractors.

"Four task force agencies—the departments of Defense and Interior, the General Services Administration, and the Office of Personnel Management—committed to securely and safely make it easier for union representatives to reach potential or current union members to discuss their rights," the White House wrote. "A fifth agency—the Department of Homeland Security—has since taken action to facilitate access at airports through the work of the Transportation Security Administration. These actions will make it possible for more workers to talk with and hear from union organizers at their workplaces—a significant step in addressing the imbalance of information that exists under current law."

In the private sector, the Biden administration touted agencies' work to promote the use of organized labor in federal grants and contracts, including requirements or preferences that encourage applicants for federal spending to have project labor agreements or registered apprenticeships, particularly on projects related to the bipartisan infrastructure law, the Inflation Reduction Act and the CHIPS and Science Act. The blog post specifically cited the Commerce Department's inclusion of "strong

labor standards language” in its grants to expand access to broadband internet, as well as the Energy and Transportation departments’ encouragement of project labor agreements for contractors and grantees.

Additionally, the Labor Department, National Labor Relations Board (NLRB), Federal Labor Relations Authority (FLRA), and Federal Mediation and Conciliation Service (FMCS) have partnered on a number of educational initiatives.

First, the Worker Organizing Resource and Knowledge Center serves as an online portal with information for employees, companies, and agencies to learn about labor issues and how to establish collaborative tools like labor-management partnerships. And the four agencies have collaborated on an initiative to help labor groups and employers negotiate their first union contract.

“The NLRB, FMCS, and the FLRA are collaborating on efforts to help parties reach an initial collective bargaining agreement when workers first organize,” the White House wrote. “The agencies have improved the flow of information between their agencies about newly-organized units; expanded outreach to the parties encouraging the use of their agencies’ training and mediation services; and updated and expanded training of agency mediators.”

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

### **FEW Washington Legislative Update – March 16 - 31, 2023 Tier III**

#### **FACT SHEET: Vice President Harris Launches Global Initiatives on the Economic Empowerment of Women, Totaling Over \$1 Billion**

Promoting gender equity and equality is a cornerstone of U.S. foreign policy in Africa and around the world. Advancing the economic status of women and girls is not only a matter of human rights, justice, and fairness—it is also a strategic imperative that reduces poverty and promotes sustainable economic growth, increases access to education, improves health outcomes, advances political stability, and fosters democracy.

In particular, the digital gender gap undermines women’s full participation in the 21st century economy. Globally, approximately 260 million more men than women were using the internet in 2022—and this gap has increased by 20 million in the last three

years. The gap is especially acute across Africa, where International Telecommunication Union data show that sixty-six percent of women do not use the Internet.

To address this disparity, the Biden-Harris Administration will continue to work with other governments, private sector, foundations, and multilateral organizations to help close the digital divide, improve meaningful access to equitable digital finance and other online services, and address social norms that prevent women from participating fully in the digital economy. More broadly, the Biden-Harris Administration will continue to promote the economic empowerment of women.

In support of these goals, in Accra, Ghana, the Vice President is announcing a series of investments and initiatives—from the U.S. government, and in response to her call for investment from the private sector, and philanthropic community. The Vice President is also making a series of announcements on behalf of the Biden-Harris Administration to foster women's political, economic, and social inclusion in Africa, building upon initiatives launched at the U.S.-Africa Leaders' Summit in December 2022, including the Digital Transformation with Africa (DTA) Initiative.

The U.S. Agency for International Development and the Bill & Melinda Gates Foundation are announcing the Women in the Digital Economy Fund, a joint effort toward closing the gender digital divide. USAID will commit \$50 million, and the Gates Foundation will commit \$10 million respectively by 2026, with at least half of these resources focused on Africa.

This new Fund will accelerate progress to close the gender digital divide by scaling evidence-based, proven solutions that improve women's livelihoods, economic security, and resilience. The Fund will support programs that advance digital access and affordability; develop relevant products and tools; provide digital literacy and skills training; promote online safety and security; and invest in gender-disaggregated data and research.

USAID will mobilize its commitment to this effort, subject to the availability of funds, alongside additional U.S. government initiatives focused on advancing gender equality and digital connectivity in Africa as part of the DTA.

Sourced From: [\(The White House\)](#)

***The articles and information posted in this publication are obtained from other qualified published sources and are protected under copyright laws.***