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FEW Washington Legislative Update February 1-15, 2024

Significant updates on parental leave and telework options for federal employees:

In Congress:

On Sunday, February 4, bipartisan Senate negotiators released a [\\$118.2 billion proposal](#) that would provide more than a billion dollars in emergency funding for cities that are struggling to house the millions of asylum-seekers who have entered the U.S. The proposal, which includes \$60 billion for Ukraine and \$14.1 billion for Israel, would provide up to another \$1.4 billion for the Federal Emergency Management Agency's shelter and services program. The funding will be used by "non-federal entities" to aid asylum-seekers by providing "sheltering and other eligible services to noncitizen migrants."

On Monday, February 5, the Congress announced [a bipartisan border deal](#) where The departments of Homeland Security and Justice would see significant staffing increases, hiring flexibilities and pay reforms under a border security and foreign aid package that a bipartisan group has unveiled in the Senate after months of negotiations, looking to attach the workforce changes to a larger bill that would restrict migrant access into the country. The \$118 billion bill includes more than \$18 billion for DHS, \$900 million for Justice and another \$1 billion for other border and immigration related issues.

On Tuesday, February 6, The House Oversight and Accountability Committee advanced [the Government Service Delivery Improvement Act](#), backed by Rep. Ro Khanna, D-Calif. The proposal, which received bipartisan support, would require the director of the Office of Management and Budget to designate or appoint a senior official to lead efforts to improve the delivery of government services across the federal government.

Furthermore, OMB would be in charge of developing government-wide service delivery standards, policies, and guidance.

Diversity, Equity, and Inclusion:

OPM's 2024 Equity Goals Aim to Expand Data-Based Approach

The Office of Personnel Management (OPM) on Wednesday, February 14, announced its latest plans to harness data to identify and combat equity barriers within the federal workforce and improve recruitment at educational institutions focused on underserved communities.

OPM joined much of the federal government this week in publishing the 2023 iteration of its annual equity action plan, covering accomplishments made in fiscal 2023 and outlining strategies to improve support for minorities and other underserved communities in fiscal 2024. The publication of agency equity plans stems from President Biden's two executive orders that seek to improve diversity, equity, inclusion, and accessibility (DEIA) both within the federal workforce and in delivery of services to the American public.

"Since day one of our administration, President Biden and I have been fully committed to ensuring that every person in America has equitable access to opportunity and the ability to thrive," said Vice President Kamala Harris in a statement. "[As] we mark the one-year anniversary of the second equity executive order, we celebrate the hundreds of government-wide equity accomplishments and recommit to addressing the barriers that remain. Together, we will continue to advance equity across the federal government, not only in hiring and appointments but in the historic investments we are making in communities that had been overlooked for far too long."

In a message accompanying the report, OPM Director Kiran Ahuja touted recent actions to improve the government's treatment of underserved community members within the workforce, including publishing guidance to better include transgender and nonbinary federal workers, as well as boosting federal agencies' capability to analyze demographic data supplied by job applicants. That last element will remain key to the HR agency's efforts moving forward.

"OPM's equity action plan emphasizes the use of data to better understand barriers and advance DEIA principles in the federal workforce, including releasing a data collection strategy of sexual orientation and gender identity data," she wrote. "The Biden-Harris administration is leading a vital national effort to advance opportunity and equity for every American. OPM is proud to contribute to these actions to advance equity for all."

Over the last two years, OPM has been developing what it calls “post-audit applicant flow data” or AFD—that is, anonymized data voluntarily provided by federal job applicants through USAJOBS.gov. By conducting agency-wide and government-wide analysis of that data, HR officials can find potential barriers faced by minorities and other underrepresented groups during the hiring process. But first, OPM wrote, agencies need to adopt new data quality standards.

“Preliminary analysis of AFD demonstrates that the federal job applicant pool is highly diverse; however, agencies need to conduct barrier analysis to better understand if applicants experience barriers at any stages of an agency’s hiring process,” the plan states. “OPM’s role is to ensure agencies have access to anonymized, post-audit AFD in order to support agencies’ barrier analyses and to collaborate with [the Equal Employment Opportunity Commission] to provide tools and training for agencies on their use of post-audit AFD.”

OPM wrote that last year, it partnered with Hampton University and Hampton City Schools in Virginia on a career readiness event intended to improve minorities’ understanding that public service is a viable career path.

“The evaluation of the post-event data revealed that this event was successful in sparking interest in and improving student understanding of federal careers and internships,” OPM wrote. “OPM will scale the original pilot program to include a cross section of [historically black colleges and universities] over the next year and will grow the effort to include Hispanic serving institutions, tribal institutions and community colleges.”

The agency said it is also in the midst of studies evaluating federal workers’ use of non-salary benefits like paid parental leave and the Federal Employees Health Benefits (FEHB) program. The latter report will examine why feds in lower-paying positions may forgo being insured through their agencies.

“Available evidence suggests that lower waged federal employees and retirees experience difficulty affording their share of premiums, as well as health plan copayments and coinsurance,” OPM wrote. “OPM is conducting an FEHB affordability study to understand the root causes leading to employees choosing not to enroll in FEHB programs . . . This affordability study will support efforts in advancing equity for underserved communities by identifying barriers to accessing affordable health insurance coverage offered through the FEHB program and examining ways of overcoming those barriers to seek to ensure all federal employees have access to health benefits.”

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

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Tier I

Lawmakers Urge OPM to Update Parental Leave Policy Docs

A bipartisan group of 14 House and Senate lawmakers on Monday, February 5, called on OPM to move more quickly to update a handbook and several public-facing web pages to reflect that federal agencies now offer up to 12 weeks per year of paid parental leave.

Last month, the Government Accountability Office (GAO) published a report finding that four percent of federal workers have availed themselves of the new benefit between when it was implemented in October 2020 and July 2022. And though the watchdog agency found no major obstacles standing in the way of feds seeking parental leave, GAO said a series of policies, web pages and fact sheets covering leave issues had not yet been updated to mention paid parental leave.

“In September 2023, OPM officials told us that they had not yet completed updating the handbook and fact sheets on OPM’s webpage because it has competing priorities and limited staff available to update paid parental leave guidance,” GAO wrote. “OPM officials said that they intended to do so as staff resources and workload permitted. In addition, OPM officials told us they initially waited to issue updated guidance until the Federal Employee Paid Leave Act (FEPLA) regulations were finalized, to give agencies time to administer the new benefit, identify any issues, and address any potential legislative changes to FEPLA.”

In a letter to OPM Director Kiran Ahuja Monday, a bipartisan group of lawmakers, led by Rep. Chrissy Houlahan, D-Pa., in the House and Sen. Kirsten Gillibrand, D-N.Y., in the Senate, applauded federal agencies’ efforts to implement the benefit, which 55 percent of federal workers cited as an important factor in their remaining in government, per the 2021 Federal Employees Viewpoint Survey. But they said OPM must work faster to update its materials on leave and other benefits.

“In the Office of Personnel Management and the three agencies selected for review, GAO found ‘no significant obstacles to employees using paid parental leave’ and that these agencies were using several different channels to communicate with their employees about the benefit,” the lawmakers wrote. “However, the report also detailed

that perhaps the most important communication channels, the public-facing web pages of the selected agencies, ‘did not reflect current paid parental leave policies.’ The report also found that OPM’s Leave Administration web page is out of date as well. Even worse, the page includes a handbook on paid leave that is nearly a decade out of date and no fact sheets on [the 2019 Federal Employee Paid Leave Act].”

The legislators described OPM’s explanation of “competing priorities and limited staff” as an “inadequate” explanation for the delay.

“We implore OPM to take action immediately and follow the recommendations of the GAO report,” they wrote. “Although OPM plans to have the guidance updated ‘by the end of 2024,’ we stress that as FEPLA has now passed its fourth anniversary of enactment, this deadline should be seen as a floor and not a ceiling.”

The lawmakers requested an update from OPM about its progress in updating its leave policy materials by July 31 and urged officials to focus first on updating its leave handbook and relevant fact sheets on its website.

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

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Tier II

Federal Telework Debate Escalates as House Republicans Push for Details

Agencies are moving forward with return-to-office plans for employees, but House Republicans say they’re still not getting enough information on federal telework in the first place.

Despite holding multiple hearings on federal telework and requesting information through dozens of letters to agencies, leaders on the Oversight and Accountability committee said they remain unsatisfied with the level of detail that agencies have provided.

Now, the lawmakers are turning to a different source for more information: the Office of Management and Budget (OMB). Oversight committee leaders are calling on OMB to share “work environment plans” from agencies, along with a host of other updates on federal telework. As part of the return-to-office memo agencies received in April 2023, OMB collected initial work environment plans, meant to outline individual telework and in-office work policies.

“It stood to reason that in the wake of OMB publishing [the memo], agencies would be compiling the data we requested,” Oversight committee Chairman James Comer (R-Ky.) and Rep. Pete Sessions (R-Texas) said in a Jan. 31 letter to OMB Director Shalanda Young. “Yet, even after a protracted delay in providing any response at all, agencies generally produced very little quantitative data underpinning their telework and remote work policies.”

Along with requesting copies of the work environment plans, the lawmakers are calling on OMB to detail agencies’ timelines for return-to-office implementation; any instances where return-to-office mandates have been “impeded” by collective bargaining agreements; and any employee resistance to returning to the office.

Comer and Sessions are also seeking details on the impacts — whether positive or negative — of telework on agency performance, “to include observations down to the most granular work element possible,” the lawmakers said.

“This Congress, the Oversight committee has called on federal agencies to be transparent about the impact of expanded telework on agency performance,” Comer said in a statement to Federal News Network. “It is concerning that agencies continue to refuse to provide helpful and complete information related to both telework and plans to increase in-person work.”

The committee leaders gave OMB a February 14 deadline to respond to their request for deeper information. OMB did not immediately respond to Federal News Network’s request for comment on plans to respond to the letter.

“Ultimately, the telework debate is about agency performance,” Comer and Sessions said in the letter. “The better agencies are able to measure performance, the better they can improve customer satisfaction and use taxpayer dollars more efficiently.”

Despite the ongoing push for more data, there is data currently available on federal telework. Each year, the Office of Personnel Management (OPM) issues a report to Congress outlining information from agencies on federal telework. But in its latest report, OPM said some of the data they collect from agencies leaves room for improvement.

“OPM recognizes the challenges associated with accurately tracking telework behavior specifically with regard to reporting and technological limitations,” the December 2023 federal telework report said. “Agencies continue to report improvements in their tracking methodologies including reducing technological barriers and adhering to OPM-provided data standards.”

Depending on the source and the collection methods, data on federal telework looks a little different. In the telework report, OPM collects information from agency-level representatives to get levels of telework participation using administrative records. But the Federal Employee Viewpoint Survey (FEVS), which also measures telework participation, asks employees themselves how often they telework.

“As a result, there are some differences between the two data sets,” OPM said.

But OPM also emphasized the significance of federal telework, saying it is a highly effective management tool. Telework also greatly contributes to recruitment, retention, and cost savings, OPM said, and has countless other benefits, while not detracting from agency performance.

“As the federal government transitions to a post-pandemic era these critical lessons will inform agencies’ assessments of organizational health and performance and decisions about work environments including telework,” OPM said. “Federal agencies will be well-positioned to harness the benefits of flexible work arrangements while balancing that time with in-person collaboration and engagement.”

But committee Republicans have expressed significant dissatisfaction with the level of detail OPM’s annual telework report provides. Last May, trying to dig deeper, the committee sent 25 letters to agency heads to directly request more details on telework.

Even that effort wasn’t satisfactory for the committee members. There was a “lack of transparency” from agencies in their responses, Sessions said. In all, 11 of the 25 agencies the committee called on for details did not provide specific numbers of teleworking employees. Sessions, who’s chairman of the Oversight committee’s subcommittee on Government Operations and the Federal Workforce, has organized multiple hearings to try to get details directly from agency leaders.

“Many responses were, in fact, not responsive,” Sessions said during a November hearing on federal telework. “They did not respond or severely delayed their response to this government operations request.”

During the hearings, leaders at the Department of Health and Human Services, the Social Security Administration, and the Commerce Department, among several others, all said continuing federal telework is crucial. Despite most agencies now embarking on a partial return-to-office, the leaders generally agreed that continuing federal telework will be essential to recruitment, retention, and satisfaction of employees.

But members of Congress aren't the only ones looking for data from agencies on their telework policies and return-to-office plans.

More recently, White House Chief of Staff Jeff Zients called on agencies to fill out a request for return-to-office information, "which will outline where you are today against your goal, your concrete plans and timing for achieving your goal, and additional implementation steps you will take," he said in a January 19 email to cabinet officials and other agency heads, obtained by Federal News Network.

"I ask that you double down on your leadership to increase in-person work, especially at a time where the service of you and your team has never been more important," Zients said.

"[Zients] is 'demanding proof' of return-to-office plans and progress," Comer and Sessions said in their latest letter to OMB. "So are we."

Oversight staff members did not share with Federal News Network whether the committee is planning more hearings on federal telework. But with the continuous push, most recently with the letter to OMB, Comer said, "the committee is making it clear we are going to continue our efforts to obtain substantive responses."

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

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Tier III

EEOC Launches Initiative for Underserved Communities

The U.S. Equal Employment Opportunity Commission (EEOC) has launched a new initiative to support workers from underserved communities who often do not seek the agency's assistance when needed.

Called the REACH initiative —“Enhancing OutREACH to Vulnerable Workers and Underserved Communities”— the new, multi-year effort led by EEOC Commissioner Kalpana Kotagal focuses on ensuring EEOC's outreach and education efforts are effectively reaching vulnerable, hard-to-access workers when they are in need.

The REACH initiative will:

1. Hold in-person and virtual listening sessions with a broad range of stakeholders around the country to examine how the EEOC can bolster its efforts to reach vulnerable and underserved communities.
2. Review and evaluate existing research and recommendations on effective outreach strategies, tools, and methods to inform the work of the initiative.
3. Identify best practices for reaching vulnerable and underserved communities and consider how to develop an increased presence in rural areas and areas far from physical EEOC office locations.
4. Develop recommendations to present to the EEOC Chair for enhancing outreach efforts.

“As the daughter of immigrants, I know what is possible in this great country, and that it is due in no small part to our nation's deep commitment to equal opportunity,” Kotagal said. “By ensuring that the Commission is accessible to vulnerable and underserved communities, we can advance fair and inclusive workplaces and achieve systemic change. I'm grateful for the opportunity to hear directly from local stakeholders across the country about how the agency can enhance its outreach efforts and make the promise of equal opportunity a reality for all.”

The REACH initiative advances the EEOC's Strategic Plan for Fiscal Years 2022-2026, which includes an objective to ensure that “[m]embers of the public are aware of employment discrimination laws and know their rights and responsibilities under these laws.”

Also, it furthers the EEOC's Strategic Enforcement Plan for Fiscal Years 2024-2028 (SEP), which prioritizes protecting vulnerable workers from employment discrimination.

The plan identifies vulnerable workers as: immigrant and migrant workers and workers on temporary visas; people with developmental or intellectual disabilities; workers with mental health related disabilities; individuals with arrest or conviction records; LGBTQI+ individuals; temporary workers; older workers; individuals employed in low wage jobs, including teenage workers employed in such jobs; survivors of gender-based violence; Native Americans/Alaska Natives; and persons with limited literacy or English proficiency.

Sourced From: [\(New England Biz Law Update\)](#)

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