



Labor & Employment 2024 Symposium

Legislative & Regulatory Update: ... And Where We May Be Going

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Dorsey Speakers



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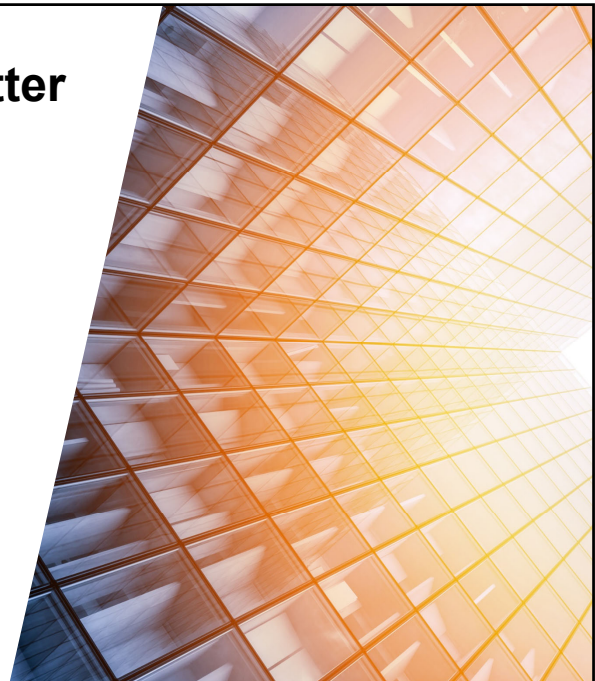
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Agenda

- **Background**
- **Potential immigration changes**
- **Potential employment-law changes**
- **Potential labor law changes**
- **Guidance**

Background: Elections Matter

- **Political priorities change legal requirements for employers**
- **Immigration and labor law particularly sensitive to these changes**
 - Immigration: Set by executive policy
 - National Labor Relations Board: Structure and precedent
- **Unique situation: Not simply “generic” Republican administration on horizon – potentially the very same administration**



Immigration

Immigration Policies at Department of Labor Under Trump Administration

- **Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States**
 - Sought to amend the computation of wage levels under the Department's four-tiered wage structure
- **Aligning Federal Contracting and Hiring Practices with the Interests of American Workers (Executive Order 13940)**

United States Citizenship and Immigration Services (USCIS) Policies Under Trump Administration

- **H-1B Specialty Occupation Definition**
- **H-1B Selection Rule**
- **Increase in Fraud Detection and National Security Directorate (FDNS) site visits for H-1B employees**
- **F-1 Unlawful Presence Policy Shift**
- **H-4 Dependent Spouse Work Authorization**

United States Citizenship and Immigration Services (USCIS) Policies Under Trump Administration (cont.)

- **Computer Programmer Memorandum**
- **Deferred Action for Childhood Arrivals (DACA)**
- **Deference Policy**
- **H-1B Requests for Evidence**
 - Rate increased from 22.3% (2015) to 60% (2020)
- **H-1B Denials**
 - Rate increased from 4.3% (2015) to 24.6% (2020)

Immigration Policies at Department of State Under Trump Administration

- **Travel Bans**
 - Executive Order 13769
 - Executive Order 13988
- **Buy American, Hire American Executive Order**
 - E-2 Visas
 - L-1 Visas
- **Heightened Scrutiny for All Visa Applications**

Potential Future Policy Changes

- **Birthright Citizenship**
- **Increased USCIS Fees**
- **Suspension of Intake of Applications**
- **DACA eligibility**
- **Suspension of Visa Issuance for Recalcitrant or Uncooperative Countries**
 - As of June 2020, 13 countries—including China, Russia, India, Cuba, and Eritrea—are classified as recalcitrant
- **Automatic Green Card for Foreign National Graduates**

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Employment Law

New Overtime Thresholds

- Salary standard for exempt employees increased July 1, 2024, and will increase again on January 1, 2025
- Biden Administration rule set process for future updates every three years, beginning July 1, 2027 – *this rule could be rescinded*

FTC's Non-Compete Ban

- Effective Date September 4, 2024 (Maybe?)
- *Ryan, LLC v. FTC – Preliminary Injunction*
- Rules can be rescinded!

Other Department of Labor Potential Changes

- **Diversity, Equity, and Inclusion**
 - Trump vs. Biden’s Executive Orders
- **Workplace Safety**
- **Artificial Intelligence**



Equal Employment Opportunity Commission

“The EEOC, even as an independent agency, still reflects the values of the current administration. That’s what it’s supposed to do.”

- Chai Feldblum, a former Democrat EEOC commissioner during the Obama and Trump presidencies.

Labor Law

National Labor Relations Act

- Passed in 1935
- Protects union activity, including forming and joining unions and choosing
- Not just by unions: Protects “concerted activities” by employees for “mutual aid and protection” (called Section 7 rights)
- Defines unfair labor practices, which include interfering with Section 7 rights and taking negative employment actions against employees in response to acts protected by Section 7

National Labor Relations Board

- **Five members: Three from party of President and two from opposite party**
- **Top day-to-day leader is the General Counsel, appointed by the President**

Likely Targets of Change

- **Employer work rules (including handbooks)**
- **Protections for employees advocating for non-employees (like interns)**
- **Election rules**

Guidance:

Hope is not a strategy

Plan for worst-case

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Speaker Biographies



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Julian is an Associate in Dorsey's Labor & Employment Group. With a steadfast commitment to excellence and integrity, his practice is focused on navigating all aspects of managing a modern-day workforce.

Julian specializes in wage and hour issues; employee classification; collective bargaining negotiations; and unfair labor practice cases. Furthermore, he is a trusted advisor to clients during transformative business events, ensuring seamless navigation of labor and employment issues within mergers and acquisitions and other corporate transactions.

Julian's prowess extends beyond the negotiating table, as he vigorously represents employers in both federal and state courts and demonstrates unwavering expertise before federal and state agencies. His background includes the handling of discrimination claims arising under Title VII, the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA), as well as intricate wage and hour matters. Julian's legal acumen is an invaluable asset to organizations seeking steadfast protection of their labor and employment interests.



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Mike is a Senior Attorney in Dorsey's Labor & Employment Group. Mike helps clients effectively and seamlessly hire foreign workers to remain competitive in a global market. He has significant experience guiding clients through the complex maze of nonimmigrant and immigrant visa matters for their employees.

Mike also has several years of experience reviewing and analyzing the Department of Labor's complex regulations in the context of labor certification to implement effective PERM strategies. He works effectively with clients to understand their objectives and achieve goals for individual employees. He establishes valuable partnerships with his clients by navigating complex legal issues and shaping creative strategies to accomplish client objectives.

Further, Mike has extensive experience with a wide variety of visa classifications and nearly all aspects of permanent residence applications. This broad range of experience is essential to developing creative solutions for clients as well as handling a large volume practice.

Each client has a different set of needs which require Mike to customize how he approaches their immigration program specifically. Mike leverages technology to streamline every step of the immigration process for his client's and their employees. This enables clients to handle a large volume of immigration matters while feeling in control of the entire scope of the immigration program. In his spare time, Mike enjoys spending time with his family, trying new recipes, and watching basketball.



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Jack is a Partner and co-leader in Dorsey's Labor & Employment Group. He is an employment adviser and litigator where he provides business leaders and human resource professionals with practical guidance through difficult compliance, managerial, and workforce decisions. Jack also advises management on union and labor-law issues. His advice to clients is informed and strengthened by his own professional experience as a manager, as he served as a newsroom leader and editor during his first career as a journalist – and so knows first-hand the challenges and rewards of effectively hiring, training, and managing employees. Jack works to resolve potential problems and disputes on terms that work best for his clients so they can focus on the needs of their business – and when matters can't be resolved, is a creative and effective litigator who has represented clients in state and federal courts and private arbitrations across the country.

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