

## **Alert** | Labor & Employment



January 2021

### **President Biden Issues Executive Orders Impacting Labor & Employment Policies**

In his first three days in office, President Biden moved quickly to issue a number of executive orders (EO) impacting labor and employment policies. This GT Alert provides some of the key takeaways for employers and government contractors.

#### **Requiring Mask-Wearing for Federal Workforce**

An EO issued Jan. 20 requires federal employees and contractors to wear masks, maintain physical distance, and adhere to other public health measures on federal property, as provided in Centers for Disease Control and Prevention (CDC) guidelines. The EO further encourages mask-wearing across the country on non-governmental property.

#### **Prohibition of Discrimination on the Basis of Gender Identity or Sexual Orientation**

An EO issued Jan. 20 directs all federal agencies to review all orders, regulations, guidance documents, policies, programs, and agency actions (collectively, “actions”) promulgated or administered under Title VII or other laws or regulations that prohibit sex discrimination. If any actions are found to be inconsistent with prohibiting discrimination based on gender identity or sexual orientation, agencies are directed to take appropriate steps to revise, suspend, or rescind such actions, or promulgate new agency actions, to prevent such discrimination.

### **Advancing Racial Equity and Support for Underserved Communities**

In an EO issued Jan. 20, President Biden directed executive departments and agencies to assess and, where necessary, redress inequities in their policies and programs that serve as barriers to equal opportunity for people of color and others who have historically been underserved, marginalized, and adversely affected by persistent poverty and inequality, including members of religious minorities; LGBTQ+ individuals; persons with disabilities; and persons who live in rural areas (collectively, “underserved individuals”). Agency and department heads will report to the White House Domestic Policy Council their findings on potential barriers underserved individuals may experience in accessing benefits and services in federal programs and agency procurement and contracting opportunities. Within one year of this EO, agency heads must consult with the White House Domestic Policy Council and the Office of Management and Budget to produce a plan to address any such barriers.

This EO also revoked several EOs issued during the Trump Administration, including EO 13950 of Sept. 22, 2020 (Combating Race and Sex Stereotyping) and EO 13958 of Nov. 2, 2020 (Establishing the President’s Advisory 1776 Commission).

### **Collective Bargaining Power and Worker Protections**

In a Jan. 22 EO, President Biden revoked several EOs issued during the Trump Administration, among them EO 13957 of Oct. 21, 2020 (Creating Schedule F in the Excepted Service), an EO that changed the classification of federal civil service employees who served in policy-related roles as members of the competitive service to members of the excepted service. That EO made qualifying employees ineligible for the adverse action protections of the competitive service. President Biden’s Jan. 22, 2021, EO also revoked EO 13836 of May 25, 2018 (Developing Efficient, Effective, and Cost-Reducing Approaches to Federal Sector Collective Bargaining).

In this EO, President Biden also announced that federal workers can collectively bargain for increased pay and better benefits. The EO provides that officials for federal agencies subject to the provisions of chapter 71 of Title 5 of the U.S. Code shall elect to negotiate over the subjects set forth in 5 U.S.C. 7106(b)(1), which are: “the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work.”

### **Goal of Increasing the Minimum Wage to \$15 for Federal Employees**

President Biden announced his goal to increase the minimum wage to \$15 per hour for federal employees in an EO issued Jan. 22. President Biden directed the Director of Office of Personnel Management (OPM) to report to the president with recommendations for promoting the increased minimum wage for federal employees.

While the Biden administration has stressed that the EOs are not meant to replace legislative enactments promulgating its policy agenda, it is moving forward in making changes that will affect labor and employment policy. Employers and government contractors will have to wait and see if Congress will move on several pieces of legislation governing these and other employment policies that have been pending for several years.

## Authors

This GT Alert was prepared by:

- **Johnine P. Barnes** | +1 202.331.3154 | [barnesj@gtlaw.com](mailto:barnesj@gtlaw.com)
- **Whitney Bly Edwards, Ph.D.** | +1 678.553.2187 | [edwardsw@gtlaw.com](mailto:edwardsw@gtlaw.com)

Albany. Amsterdam. Atlanta. Austin. Boston. Chicago. Dallas. Delaware. Denver. Fort Lauderdale. Germany.~ Houston. Las Vegas. London.\* Los Angeles. Mexico City.+ Miami. Milan.\* Minneapolis. New Jersey. New York. Northern Virginia. Orange County. Orlando. Philadelphia. Phoenix. Sacramento. Salt Lake City. San Francisco. Seoul.∞ Shanghai. Silicon Valley. Tallahassee. Tampa. Tel Aviv.^ Tokyo.\* Warsaw.~ Washington, D.C.. West Palm Beach. Westchester County.

*This Greenberg Traurig Alert is issued for informational purposes only and is not intended to be construed or used as general legal advice nor as a solicitation of any type. Please contact the author(s) or your Greenberg Traurig contact if you have questions regarding the currency of this information. The hiring of a lawyer is an important decision. Before you decide, ask for written information about the lawyer's legal qualifications and experience. Greenberg Traurig is a service mark and trade name of Greenberg Traurig, LLP and Greenberg Traurig, P.A. ↯Greenberg Traurig's Berlin office is operated by Greenberg Traurig Germany, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. \*Operates as a separate UK registered legal entity. +Greenberg Traurig's Mexico City office is operated by Greenberg Traurig, S.C., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. »Greenberg Traurig's Milan office is operated by Greenberg Traurig Santa Maria, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ∞Operates as Greenberg Traurig LLP Foreign Legal Consultant Office. ^Greenberg Traurig's Tel Aviv office is a branch of Greenberg Traurig, P.A., Florida, USA. ⌘Greenberg Traurig's Tokyo Office is operated by GT Tokyo Horitsu Jimusho and Greenberg Traurig Gaikokuhojimbengoshi Jimusho, affiliates of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ~Greenberg Traurig's Warsaw office is operated by Greenberg Traurig Grzesiak sp.k., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. Certain partners in Greenberg Traurig Grzesiak sp.k. are also shareholders in Greenberg Traurig, P.A. Images in this advertisement do not depict Greenberg Traurig attorneys, clients, staff or facilities. No aspect of this advertisement has been approved by the Supreme Court of New Jersey. ©2021 Greenberg Traurig, LLP. All rights reserved.*