



**BEST LAW FIRMS**  
 RANKED BY *Best Lawyers*

**LAW FIRM OF THE YEAR**

**EMPLOYMENT LAW -  
 MANAGEMENT**

**2024**

- Atlanta
- Austin
- Berlin
- Birmingham
- Boston
- Charleston
- Charlotte
- Chicago
- Cleveland
- Columbia
- Dallas
- Denver
- Detroit (Metro)
- Greenville
- Houston
- Indianapolis
- Kansas City
- Las Vegas
- London
- Los Angeles
- Memphis
- Mexico City
- Miami
- Milwaukee
- Minneapolis
- Montréal
- Morristown
- Nashville
- New Orleans
- New York City
- Oklahoma City
- Orange County
- Paris
- Philadelphia
- Phoenix
- Pittsburgh
- Portland (ME)
- Portland (OR)
- Raleigh
- Richmond
- Sacramento
- San Antonio
- San Diego
- San Francisco
- Seattle
- St. Louis
- St. Thomas
- Stamford
- Tampa
- Toronto
- Torrance
- Tucson
- Washington D.C.

# Decision 2024

# As The Pendulum Swings ...

Presented by:

**Justin A. Allen**

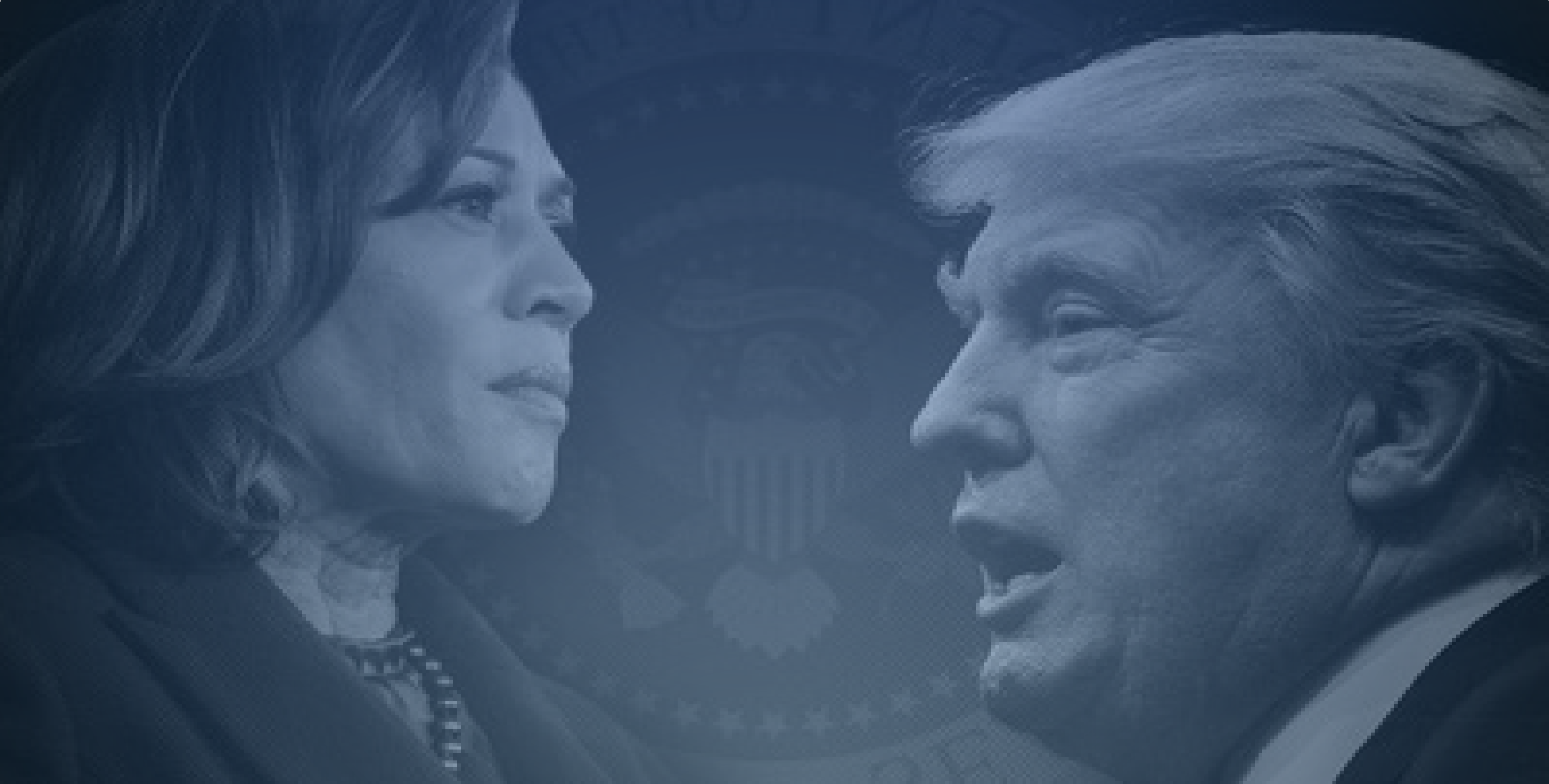
300 N. Meridian, Suite 2600 ♦ Indianapolis, IN 46204  
 (317) 916-2533 ♦ justin.allen@ogletree.com



# Agenda

A person in a dark suit is writing the word "Agenda" in white cursive on a whiteboard. The person's face is blurred in the background, and their hand holding a white marker is visible on the right side of the board.

- 1 Introduction & Overview**
- 2 Key Risks & Immediate Concerns For HR Leaders**
- 3 Appointments & Their Influence on Agencies**
- 4 Impact of Election Results on Labor Laws & Workplace Policies**
- 5 Interactive Discussion (Q&A)**
- 6 Closing Remarks**



# **INTRODUCTION & OVERVIEW**



**Phil Brandt**

**President & CEO**



# Justin Allen

## Ogletree Deakins

- Indianapolis Shareholder
- Litigates and advises on:
  - Trade secrets, restrictive covenants, and other types of business protections
  - Employment claims (e.g., ADA, FMLA, Title VII)
- Practices in Indiana and around the country



JUSTIN A. ALLEN 2025  
RECOGNIZED BY  
**Best Lawyers**

Best Lawyers  
**ONES TO WATCH**  
JUSTIN A. ALLEN 2024

# PURPOSE



**To explore how the results of the 2024 elections may influence labor and employment law in the USA.**



## **Key Points to Cover:**

- \* Overview of the 2024 elections
- \* Potential shifts in policy and legislation
- \* Implications for employers



**BIGGEST RISKS/IMMEDIATE CONCERNS  
FOR HR LEADERS**

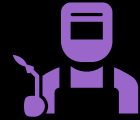
# BIGGEST HR RISKS/CONCERNS TODAY & TOMORROW



Employee  
retention



Recruitment



The skills gap



Organizational  
culture



Managing remote  
work





**IMPACT OF THE 2024 ELECTION RESULTS  
ON THE WORKPLACE**

# OVERVIEW OF THE 2024 ELECTIONS



## The Parties and Candidates:

- \*Key platform differences
- \*Potential shifts in party control  
(Congress, Presidency, etc.)



## Significant Issues at Stake:

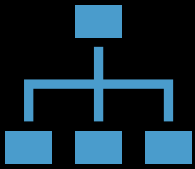
- \*Economy
- \*Labor and employment  
rights & regulations



## **Compliance Requirements:**

Adapting to new regulations

Impact on HR practices and policies



## **Operational Adjustments:**

Changes in workforce management

Adjustments to compensation structures



## **Strategic Planning:**

Long-term impact on business strategy

Preparing for potential legislative changes

# **IMPLICATIONS FOR EMPLOYERS**

# OVERVIEW OF LABOR AND EMPLOYMENT LAW



## Definition & Scope:

Labor and employment laws govern the rights and duties between employers and employees. Includes wages, benefits, workplace safety, collective bargaining, and discrimination laws.



## Current Key Legislation:

- Anti-Discrimination Laws
- Fair Labor Standards Act (FLSA)
- Occupational Safety and Health Act (OSHA)
- Family and Medical Leave Act (FMLA)
- National Labor Relations Act (NLRA)

# LABOR AND EMPLOYMENT LAW PRE-ELECTION



## Current Political Climate:

Bipartisan divisions on everything (including, but not limited to, minimum wage, union rights, gig economy regulations, etc.).



## Recent Trends:

Dramatic shift towards employee rights protections.

Increased focus on remote work regulations post-COVID-19.

Increased focus on the elimination of independent contractors and joint employer rules.

# PRESIDENT: LABOR & EMPLOYMENT AGENDA

## Key Mechanisms:

- **Executive Orders:** Presidents can issue orders to direct federal labor policy (e.g., minimum wage for federal contractors).
- **Appointments:** Presidential appointments to key positions like Secretary of Labor, National Labor Relations Board (NLRB), and Equal Employment Opportunity Commission (EEOC) shape policy enforcement.
- **Legislative Influence:** The President's ability to promote or veto labor-related legislation.



## Historic Examples:

- **Biden & Harris:** Pro-labor executive orders, expanded overtime protections.
- **Trump:** Deregulation efforts, rollback of union-friendly regulations, spur business flexibility and growth.

# OVERVIEW OF **TRUMP'S** LABOR AND EMPLOYMENT POLICIES



**BUSINESS  
DEREGULATION**



**REDUCED  
LABOR AGENCY  
OVERSIGHT**



**GIG ECONOMY**

# **TRUMP** SECOND TERM IMPACT



**Expansion of  
Right-to-Work**



**Wage & Hour**



**Deregulation Focus**



# **HARRIS** FIRST (OR FOURTH?) TERM IMPACT



**Pro-Labor Agenda**



**Increase in Wages  
& Benefits**



**Gig Economy  
Reforms**

# KEY AREAS OF DIVERGENCE

## Unions and Collective Bargaining:

- **Trump:** Expansion of **right-to-work** laws, limiting union influence and membership.
- **Harris:** Expansion of union rights, including support for the **PRO Act** and union organizing efforts.

## Minimum Wage:

- **Trump:** Opposes a federal minimum wage increase, leaving wage decisions to states.
- **Harris:** Supports raising the federal minimum wage to **\$15/hour**.

## Gig Economy Workers:

- **Trump:** Maintain gig workers' status as **independent contractors**.
- **Harris:** Reclassify gig workers as **employees**, expanding their access to benefits.

# HARRIS ADMINISTRATION IMPACT



## **Union Empowerment:**

Support for the **PRO Act** (Protecting the Right to Organize Act), which could make it easier for workers to unionize and penalize companies that resist union efforts.



## **Minimum Wage Increase:**

Push for a federal minimum wage increase, potentially to \$15 per hour or higher, and index it to inflation.



## **Gig Worker Classification:**

Potential reclassification of gig economy workers (e.g., Uber, Lyft) as employees, which could extend benefits like health insurance, overtime, and unemployment insurance.



## **Workplace Safety Expansion:**

Enhanced OSHA enforcement and possible new regulations on workplace safety, particularly for essential and remote workers.

# TRUMP ADMINISTRATION IMPACT



## Deregulation:

Focus on rolling back regulations that are seen as burdensome for businesses, including labor laws like the overtime rule and reporting requirements for workplace injuries.



## Right-to-Work Expansion:

Support for expanding **right-to-work** laws, which allow employees to opt out of joining unions even in unionized workplaces.



## Gig Economy Flexibility:

Preservation of gig workers' status as independent contractors, avoiding costly reclassifications and maintaining flexibility for employers.



## Reduced Federal Oversight:

Focus on reducing the size and scope of agencies like the **NLRB** and **OSHA**, limiting their regulatory authority and enforcement power.

# IMMIGRATION AND LABOR POLICY



## **Democratic Approach:**

Likely push for immigration reform to expand pathways to citizenship and legal employment. Support for more expansive immigration policies related to worker visas and protections.



## **Republican Approach:**

Tighter immigration controls and focus on jobs going to existing citizens.

# HEALTHCARE & PAID LEAVE DIFFERENCES



## Trump:

Likely to maintain indifference to federal mandates for **paid family leave** or **healthcare expansion**, emphasizing employer discretion. He may sign legislation if Congress passes it.



## Harris:

Strong support for federal programs for **paid family leave**, expansion of **Medicare** or public healthcare options, and mandating employers to provide healthcare benefits to full-time workers.



**APPOINTMENTS & THEIR IMPACT ON AGENCIES**

# KEY AGENCIES



**National Labor  
Relations Board  
(NLRB)**



**Department of  
Labor (DOL)**



**Equal Employment  
Opportunity  
Commission  
(EEOC)**





**IMPACT OF  
THE 2024  
PRESIDENTIAL  
ELECTION ON  
THE NLRB**

# OVERVIEW OF THE NATIONAL LABOR RELATIONS BOARD (NLRB)



## What is the NLRB?

An independent federal agency created by the **National Labor Relations Act (NLRA)** in 1935 that protects the rights of employees to organize and determine whether to have unions as their bargaining representative.



## Key Responsibilities:

Overseeing **union elections**.

Investigating and remedying **unfair labor practices** by employers or unions.

Facilitating **collective bargaining** between unions and employers.

# PRESIDENTIAL INFLUENCE ON THE NLRB



## Appointment Power:

The President appoints the NLRB's **five board members** and the **General Counsel**, with Senate confirmation. These appointments influence the board's decisions and policy direction.



## Term Lengths:

NLRB board members serve **five-year staggered terms**, meaning each administration typically has the opportunity to shift the board's balance.



## Historical Impact:

**Democratic presidents** tend to appoint pro-labor board members who favor union rights and expansive interpretations of the NLRA.

**Republican presidents** tend to appoint pro-business members who interpret the NLRA in ways that favor employers' flexibility over union power.

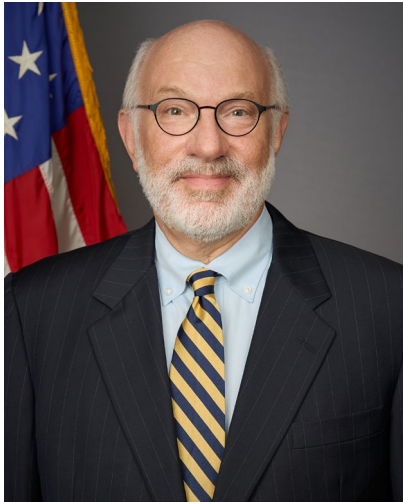
# NATIONAL LABOR RELATIONS BOARD



**Gwynne Wilcox**  
(August 27, 2028)



CHAIR  
**Lauren McFerran**  
(December 16, 2024)



**David Prouty**  
(August 27, 2026)



**Marvin Kaplan**  
(August 27, 2025)

**May serve 1.5 years into potential R presidency**

# THE NLRB POLITICAL PENDULUM



## Obama-Era NLRB:

Expanded the definition of joint-employer liability.  
Supported union organizing in non-traditional industries, like the gig economy.



## Trump-Era NLRB:

Narrowed the joint-employer standard, making it harder to hold companies liable for labor practices at franchises and subcontractors.  
Weakened union rights by reversing decisions that made it easier to organize.



## Biden-Era NLRB:

Reinstated broader joint-employer liability and increased scrutiny of employer interference in union activities.  
Strongly supports union-friendly rulings, such as in organizing efforts and collective bargaining protections.

# KEY ISSUES THE 2024 NLRB WILL FACE



## Union Organizing in the Gig Economy:

With the rise of gig work and independent contractors, the NLRB will play a crucial role in determining whether gig workers are classified as employees with the right to unionize.



## Joint-Employer Liability:

Future NLRB decisions will shape whether large companies are liable for labor practices at franchisees and subcontractors.



## Workplace Automation and AI:

The use of **AI** and **automation** in workplaces will present new challenges for the NLRB in terms of how collective bargaining rights apply to new technologies.



## Remote Work and Hybrid Models:

The rise of remote work post-pandemic will require the NLRB to address new questions about worker rights, compensation, and unionization in virtual environments.

# POTENTIAL IMPACT OF A HARRIS PRESIDENCY

## Pro-Labor Appointments:

- A **Harris** administration would likely appoint **pro-labor NLRB members** who advocate for expanding union rights, collective bargaining, and worker protections.

## Support for the PRO Act:

- **Harris** would push for legislation like the **PRO Act**, which strengthens unions by increasing penalties for employers that violate labor laws and making it easier for workers to organize.

## Broadening Worker Protections:

- Expect rulings that expand the definition of “**employee**” to include gig workers and subcontractors, making it easier for them to unionize.

## Impact on Key Industries:

- Unions in industries like **healthcare, tech, retail**, and the **gig economy** would benefit from more favorable decisions under a Democratic-controlled NLRB.

# POTENTIAL IMPACT OF A DONALD TRUMP PRESIDENCY

## Pro-Business Appointments:

- A Trump administration would likely appoint **pro-business NLRB members** who favor employer flexibility and limit union influence.

## Right-to-Work Support:

- Trump could continue supporting **right-to-work laws**, which weaken union power by preventing mandatory union membership as a condition of employment.

## Joint-Employer Standard Rollback:

- Trump is expected to push for a more restrictive interpretation of **joint-employer liability**, reducing corporate responsibility for subcontracted labor.

## Limits on Union Organizing:

- Possible rollbacks on decisions that make it easier to organize unions, particularly in industries like **retail** and **hospitality**.



# THE ROLE OF THE NLRB GENERAL COUNSEL



## Key Appointment:

The President also appoints the **NLRB General Counsel**, a powerful figure responsible for investigating and prosecuting unfair labor practices.



## Harris Presidency:

Harris would likely appoint a General Counsel who is aggressive in pursuing cases of employer interference and promoting pro-worker interpretations of the law.



## Trump Presidency:

Trump's General Counsel would prioritize limiting the NLRB's intervention in business operations, focusing more on employer rights and minimizing union activities.





**IMPACT OF  
THE 2024  
PRESIDENTIAL  
ELECTION ON  
THE EEOC**

# OVERVIEW OF THE EEOC

## What is the EEOC?

- The **EEOC** is the federal agency responsible for enforcing laws against workplace discrimination based on **race, color, religion, sex, national origin, age, disability, or genetic information.**

## Key Responsibilities:

- Investigating charges of discrimination.
- Filing lawsuits on behalf of workers and ensuring equal employment opportunities.
- Providing oversight and coordination of all federal equal employment opportunity regulations.

# KEY ISSUES THE EEOC ADDRESSES

## Workplace Discrimination:

- Racial, gender, and religious discrimination.
- Sexual harassment and gender identity protections under Title VII.

## Pay Equity:

- Equal Pay Act enforcement and initiatives to close gender and racial pay gaps.

## Workplace Disability Rights:

- Americans with Disabilities Act (ADA) enforcement, focusing on ensuring reasonable accommodations.

## Age Discrimination:

- Protecting older workers from discrimination under the Age Discrimination in Employment Act (ADEA).

# PRESIDENTIAL INFLUENCE ON THE EEOC



## Appointment Power:

The President appoints the **Chairperson** and **Commissioners** of the EEOC, influencing the agency's direction and enforcement priorities.



## Term Lengths:

Commissioners serve **five-year staggered terms**, meaning each administration can affect the EEOC's long-term strategy.



## Historical Influence:

**Democratic administrations** often push for stronger anti-discrimination enforcement and workplace protections.

**Republican administrations** focus on minimizing regulatory burdens on businesses, often promoting voluntary compliance over litigation.

# EQUAL EMPLOYMENT OPPORTUNITY COMMISSION



**Chair**  
**Charlotte Burrows**  
(July, 2028)



**Vice-CHAIR**  
**Jocelyn Samuels**  
(July 2026)



**Kalpana Kotagal**  
(July 2027)



**Andrea Lucas**  
(July 2025)

**May serve 1.5 years into potential R presidency**

# THE ROLE OF THE EEOC CHAIR AND COMMISSIONERS

## Chairperson's Influence:

- The Chairperson sets the EEOC's agenda and enforcement priorities.
- Under **Harris**, the Chair would likely focus on **equity and enforcement**.
- Under **Trump**, the Chair would emphasize **employer flexibility** and **voluntary compliance**.

## Litigation Strategy:

- **Harris** may push for more aggressive litigation against systemic discrimination.
- **Trump** would likely emphasize **conciliation** over lawsuits, reducing the number of legal actions filed by the EEOC.

# IMPACT OF A HARRIS PRESIDENCY

## Strengthening Workplace Protections:

- A **Harris** administration is likely to appoint **pro-worker EEOC Commissioners** who support stronger enforcement of anti-discrimination laws, with a focus on racial and gender equity.

## Expansion of Protections for Marginalized Groups:

- **Harris** may push to expand protections for **LGBTQ+ workers**, including more aggressive enforcement of the **Bostock v. Clayton County** decision, which protects LGBTQ+ individuals from discrimination under Title VII.

## Pay Equity Initiatives:

- Likely to revive efforts to enforce **pay transparency** and require employers to report pay data to identify and address pay gaps based on gender and race.

## Increased Litigation:

- Under **Harris**, the EEOC could take a more aggressive approach in filing lawsuits against employers who engage in systemic discrimination or fail to comply with workplace laws.



# WORKPLACE DISCRIMINATION ENFORCEMENT UNDER A **HARRIS** PRESIDENCY

## Increased Focus on Intersectionality:

- Harris may direct the EEOC to focus on how **race, gender, sexual orientation,** and **disability** intersect in discrimination cases.

## Targeted Enforcement:

- Special initiatives targeting industries with high rates of **racial or gender discrimination,** like tech and finance.

## Promoting Workplace Diversity:

- Harris would likely emphasize workplace diversity and equity initiatives, including federal programs encouraging employers to implement diversity training and pay transparency.

# IMPACT OF A DONALD TRUMP PRESIDENCY

## Pro-Business Appointments:

- A **Trump** administration would likely appoint **pro-business Commissioners** who prioritize employer flexibility and voluntary compliance rather than aggressive litigation.

## Narrowing of Protected Classes:

- Focus on limiting the expansion of anti-discrimination laws, such as pushing back against **broad interpretations of Title VII** related to DEI efforts.

## Reduced Regulatory Burden:

- **Trump** would likely **roll back data collection requirements** related to pay equity and workplace demographics, arguing that such measures unnecessarily increase costs for businesses.

## Fewer EEOC Lawsuits:

- The EEOC under **Trump** would likely adopt a more hands-off approach, focusing on **conciliation and mediation** rather than filing lawsuits against employers.



### **Focus on Employer Autonomy:**

Trump would likely reduce regulatory oversight on businesses, focusing on encouraging voluntary anti-discrimination programs instead of federal mandates.



### **Decreased Federal Interference:**

A Trump-led EEOC could limit its enforcement activities, favoring employer-driven compliance rather than aggressive litigation.



### **Workplace Harassment and ADA Compliance:**

Enforcement of sexual harassment and ADA cases could decline, with the EEOC prioritizing cases that are deemed more clear-cut, egregious, or systemic.

# **WORKPLACE DISCRIMINATION ENFORCEMENT UNDER A TRUMP PRESIDENCY**



**IMPACT OF  
THE 2024  
PRESIDENTIAL  
ELECTION ON  
THE DOL**

# OVERVIEW OF THE DEPARTMENT OF LABOR (DOL)



## What is the DOL?

The DOL is a federal agency responsible for overseeing and enforcing labor laws in areas like workplace safety, wage standards, unemployment benefits, and collective bargaining.



## Key Responsibilities:

Enforcing **Fair Labor Standards Act (FLSA)** wage and overtime laws.

Overseeing **Occupational Safety and Health Administration (OSHA)** for workplace safety.

Regulating **unemployment insurance** and **workforce development** programs.

# PRESIDENTIAL INFLUENCE ON THE DOL



## Appointment Power:

The President appoints the **Secretary of Labor**, who directs the department's priorities, regulatory focus, and enforcement actions.



## Policy Agenda:

**Democratic administrations** often push for stronger worker protections, increased wages, and robust enforcement.

**Republican administrations** tend to focus on reducing regulatory burdens on businesses, emphasizing economic growth and flexibility for employers.

# KEY DOL AREAS AFFECTED BY THE ELECTION



## Wage and Hour Standards:

Minimum wage laws and overtime protections under the **Fair Labor Standards Act (FLSA)**.



## Workplace Safety (OSHA):

Regulation and enforcement of workplace safety standards through OSHA, impacting industries like construction, manufacturing, and healthcare.



## Worker Classification:

Classification of workers as **employees** or **independent contractors**, which affects access to benefits like health insurance and unemployment.



**ACTING SECRETARY OF LABOR  
JULIE A. SU**



# POTENTIAL IMPACT OF A HARRIS PRESIDENCY

- **PRO-LABOR AGENDA:**

- A Harris administration would likely appoint a **pro-labor Secretary of Labor**, focused on increasing the minimum wage, severely restricting use of the independent contractor, and enhancing enforcement and compliance efforts.

- **FEDERAL MINIMUM WAGE INCREASE:**

- Harris supports raising the **federal minimum wage to \$15/hour**, which the DOL would enforce, impacting millions of workers across industries.

- **EXPANDING WORKER BENEFITS:**

- Push **paid family leave**, health benefits, and unemployment insurance through DOL programs.

- **OSHA EXPANSION:**

- Harris would increase **OSHA** enforcement, especially in high-risk industries like construction and healthcare.

- **GIG ECONOMY REFORMS:**

- Likely push to reclassify **gig workers** (e.g., rideshare drivers, delivery workers) as **employees**, which would require employers to provide benefits and to comply with the FLSA and other labor and employment laws.



# POTENTIAL IMPACT OF A DONALD TRUMP PRESIDENCY

## Pro-Business Focus:

- A Trump administration would likely appoint a **pro-business Secretary of Labor**, focused on reducing regulatory burdens and giving employers more flexibility.

## Opposition to Minimum Wage Increases:

- Trump would likely oppose a significant federal minimum wage increase, leaving wage decisions to states or markets.

## Reduced OSHA Enforcement:

- Under Trump, OSHA enforcement would likely decrease, focusing on voluntary compliance and minimizing fines for employers.

## Gig Economy Flexibility:

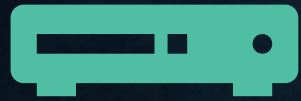
- Trump would likely maintain the classification of **gig workers** as **independent contractors**, preserving flexibility for businesses to engage freelance workers.

## Right-to-Work Support:

- Continued support for **right-to-work laws**, which prevent mandatory union membership as a condition of employment.



# CONCLUSION



## Summary:

A **Trump** victory would likely lead to renewed deregulation, reduced union power, and flexibility for gig economy workers.

A **Harris** victory would result in expanded worker protections, stronger union rights, higher wages (prices??), and gig worker reclassification.



## Final Thought:

The 2024 election will have profound implications for labor and employment law, with drastically different outcomes depending on the victor.

Questions?



**INTERACTIVE DISCUSSION (Q&A)**

# FINAL THOUGHTS

---

Thank You

