



“The Biden Administration and the 117th Congress: Implications for Higher Ed HR”

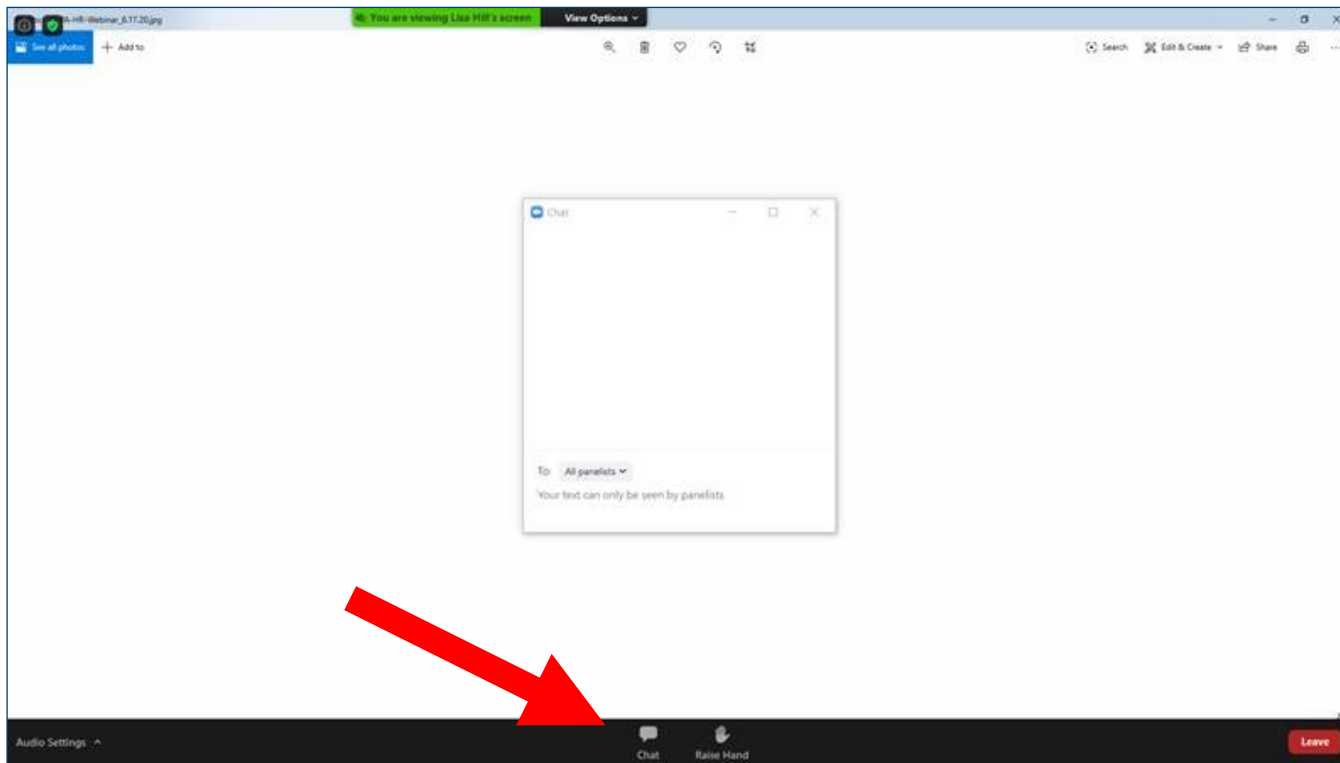
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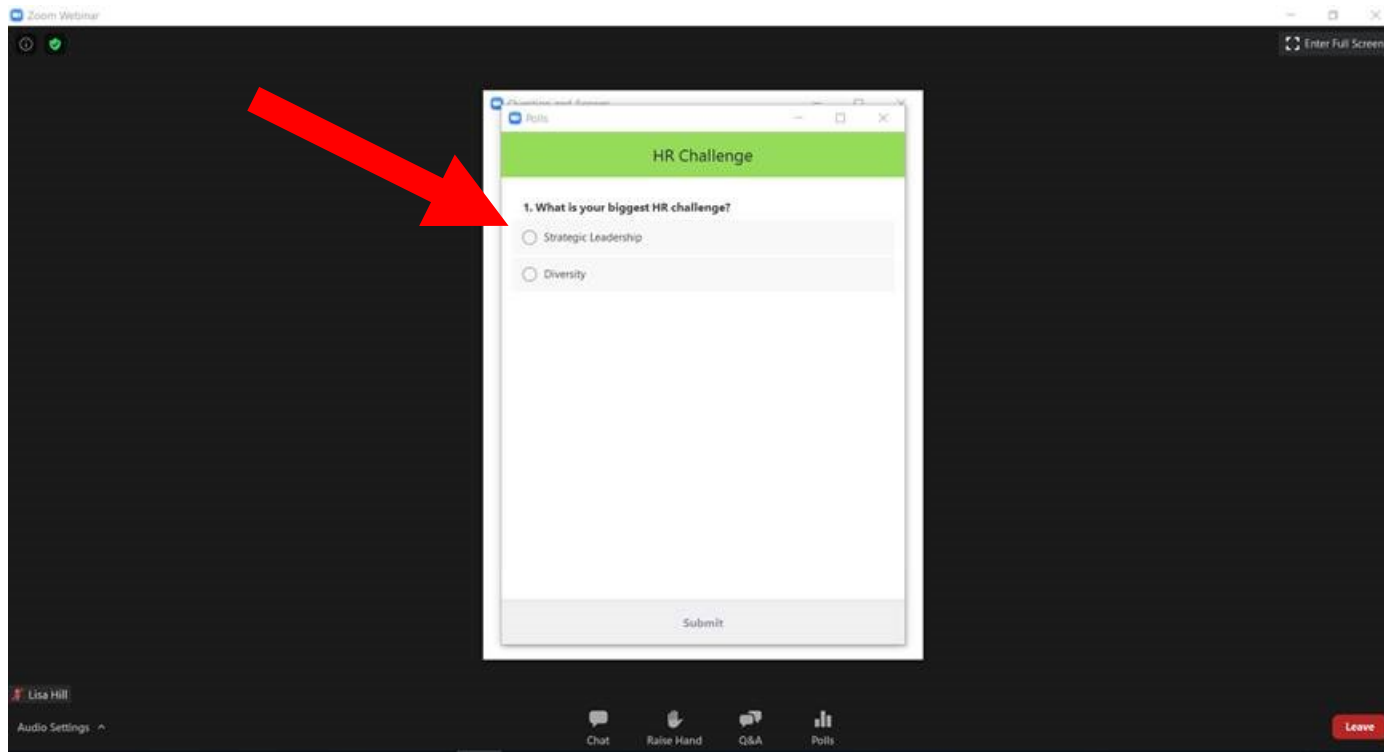


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CUPA-HR Webinar

Presenters



Josh Ulman



Basil Thomson



Bailey Graves

Agenda

1. COVID-19 Relief
2. End of Trump Administration
3. 117th Congress
4. President Biden's Agenda



COVID-19 Relief

Overview of year-end relief package

- What's In?
 - Unemployment Insurance
 - Direct Stimulus Payments
 - Small Business Relief
 - Employee Retention and Paid Leave Tax Credits
- What Isn't?
 - State and Local Funding
 - Liability Protections
 - Paid Leave

Midnight Regulations

Regulatory Freeze Pending Review

- Ordered a freeze on all pending agency regulations until the incoming administration has a chance to review them

DOL Final Rule on Prevailing Wage Determinations

- Issued Jan 12
 - Effective March 15th
 - Phase in over time

DOL Final Rule on Independent Contractor Status

- Issued Jan 7
 - Effective March 8th

Midnight Guidance

Department of Education Memo – Title IX

- Issued Jan 8
 - The memo addresses the impact of the U.S. Supreme Court’s decision in *Bostock* on Title IX.
 - The memo concludes that *Bostock* does not affect the meaning of “sex” as that term is used in Title IX.
- Biden EO “Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation”

Proclamations and EOs

Extension of immigrant/nonimmigrant entry ban

- Issued on Dec. 31
- Extends the ban on entry in H-1B, H-2B, L-1, and certain J-1 statuses, including dependents, and the ban on certain immigrant entries, through March 31, 2021.
- Presidential proclamations can be reversed by issuance of a subsequent proclamation
 - Unclear whether any action will be taken by incoming President Biden

117th Congress

House Overview

- 221D – 211R – 3 vacancies
 - Democrats control the chamber with one of the narrowest majorities ever

Senate Overview

- 50R-50D Elected
 - Democrats control the Chamber with Vice President Kamala Harris' tie-breaking vote

117th Congress

Initial Legislative Priorities

- a) Expect Congress to try and enact Biden's "American Response Plan"
 - Additional Stimulus Payments
 - Extend UI Benefits
 - Deliver more \$ to schools and colleges
 - Emergency Paid Leave (eliminate exemption for large employers)
 - Expand Access to Childcare
 - \$15 minimum wage
 - OSHA issue a COVID-19 Protection Standard

117th Congress

Initial Legislative Priorities cont.

b) The U.S. Citizenship Act of 2021

- Path to citizenship for 11 million undocumented immigrants
- Clears employment-based visa backlogs, makes it easier for graduates of U.S. universities with advanced STEM degrees to stay in the United States, dependents of H-1B visa holders work authorization, incentivizes higher wages for non-immigrant, high-skilled visas to prevent unfair competition with American workers.
- Address root cause of migration

117th Congress

Top Labor Legislative Priorities

- **Paycheck Fairness Act**
 - Would amend the Equal Pay Act of 1963 (EPA) by requiring employers to provide non-gender, business reasons for any wage differential.
- **PRO Act**
 - Obama-era changes to representation elections, joint employer liability, and attorney-client privilege for labor relations matters;
 - Removal of bars against secondary boycotts; and
 - Implementation of the ABC test for determining independent contractor status.

President-Elect Biden Agenda

Cabinet and Cabinet-Level Picks

- Secretary of DOL
 - Boston Mayor Marty Walsh
- Secretary of ED
 - Miguel Cardona
- Secretary of DHS
 - Alejandro Mayorkas

Appoint Temporary Agency Heads and Install New Political Leadership

- Career Officials put in place in acting capacity while nominees await confirmation

President-Elect Biden Agenda

Executive Orders - Day 1

- COVID-Relief
 - Extend a suspension of interest-free student loan payments
 - Mask Mandate on Federal Property and Interstate Travel
 - creation of a Covid-19 response team that reports directly to the president
- Immigration
 - Rescind the travel ban on several majority-Muslim countries
 - Preserve and Fortify Protections for Dreamers
- Equality for All
 - Rescind Trump EO on diversity and inclusion training
 - Direct agencies to take all lawful steps to make sure that federal anti-discrimination statutes that cover sex discrimination prohibit discrimination on the basis of sexual orientation and gender identity, protecting the rights of LGBTQ+ persons

President-Elect Biden Agenda

Executive Orders - Anticipated First 100 days

- COVID-Relief
 - Ramp up COVID Testing and Vaccinations
 - Funnel more money to states
- Workforce
 - Tighten enforcement of workplace safety rules
 - Instruct OSHA to determine whether an OSHA ETS is necessary
 - Establish cabinet-level working group to promote collective and sectoral bargaining
 - Restore, expand Obama-era Fair Pay and Safe Workplaces EO

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