Agenda

1. Election Overview

2. Implications of Election Results for Higher Ed HR Policy
   1. Labor and Employment Policy
   2. Immigration Policy
   3. Education Policy
Election Outcomes - House

218 Dem.  HOUSE  Rep. 202
Lost 5  218 seats for majority  Gained 6
Election Outcomes - Senate

*As of November 11 at 1:30 PM
Source: The Wall Street Journal
Election Outcomes - Presidential

*Biden 290 ✓ 77,033,649 votes (51%) TRUMP 217 71,961,860 votes (47%)

270 electoral votes to win

*As of November 11 at 1:30 PM

Source: The Wall Street Journal
Election Takeaways

- All races closer than polls anticipated
- Biden is presumed president-elect, but Trump still fighting legal battles over alleged voter fraud and ballot recounts
- Dems still control the House, but lost more seats than anticipated during election
- Senate control coming down to two runoffs in GA
- Split Congress will make legislative actions harder → Biden may focus more on EOs
Which Party Wins The January Runoff in Georgia?

- Democratic
- Republican
- Democrats win one and Republicans the other
Labor & Employment Policy Implications for Higher Ed

Anticipated Executive Actions

• Establish cabinet-level working group to promote collective and sectoral bargaining*
• Direct DOL to work with NLRB, EEOC, DOJ, and state labor agencies to coordinate enforcement on possible misclassification of workers as ICs*
• Restore, expand Obama-era Fair Pay and Safe Workplaces EO*
• Require bias training programs for federal contractors*

*Likely “First 100 Days” priority
Labor & Employment Policy
Implications for Higher Ed

Anticipated Regulatory Actions

• National Labor Relations Board
  • Appoint members that support increasing union density
  • Reinstate the Obama-era representation case procedures rule
  • Reinstate Obama-era “micro-union” policy derived from *Specialty Healthcare* decision
  • Reinstate Obama-era joint-employer standard
  • Reverse Trump NLRB decisions pertaining to IC status
Labor & Employment Policy
Implications for Higher Ed

Anticipated Regulatory Actions

• Department of Labor
  • Reinstate Obama-era “persuader” rule
  • Revoke Trump-era Independent Contractor rule under the FLSA, if finalized*
  • Revoke Trump-era Joint Employer rule under the FLSA
  • Issue an OSHA Emergency Temporary Standard for COVID-19*
  • Issue OSHA infectious diseases workplace safety standard
  • Increase the salary level threshold needed to qualify for federal overtime pay exemptions so it is in line with the Obama-era rule

*Likely “First 100 Days” priority
Labor & Employment Policy
Implications for Higher Ed

Anticipated Regulatory Actions

• EEOC
  • Appoint nominees "who share a commitment to tough and effective enforcements of civil rights laws" and represent diversity
  • Push for strong ADA compliance and safeguard efforts to weaken the law
  • Encourage further adoption of “ban the box” policies
  • Push Congress to double funding to empower the agency “to initiate investigations for all areas of discrimination under its purview”
  • Increase focus on enforcement and possible regulatory activity around independent contractors and joint employment
## Labor & Employment Policy
### Implications for Higher Ed

<table>
<thead>
<tr>
<th>Legislation</th>
<th>House Passage</th>
<th>Senate Passage</th>
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</thead>
<tbody>
<tr>
<td>Pro Act</td>
<td>Likely – Passed in the 116th Congress with 224 votes; could be a close vote</td>
<td>Unlikely – 41 cosponsors in Senate in the 116th Congress</td>
</tr>
<tr>
<td>Impose “ABC” Test for independent contractor status</td>
<td>Possible – PRO Act, which contains such a provision, only passed with 224</td>
<td>Unlikely</td>
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<tr>
<td></td>
<td>votes in the 116th Congress; California voters rejected the test for app-based</td>
<td></td>
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<td></td>
<td>drivers; would be a close vote</td>
<td></td>
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<tr>
<td>Paid sick leave</td>
<td>Possible – Healthy Families Act (HFA) had 161 cosponsors in the 116th Congress</td>
<td>Possible – As part of larger pandemic package – HFA had 33 Senate cosponsors in</td>
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<tr>
<td></td>
<td></td>
<td>the 116th Congress</td>
</tr>
<tr>
<td>Caregiver leave program</td>
<td>Possible – FAMILY Act had 217 cosponsors in the 116th Congress</td>
<td>Possible – Particularly as a larger package – FAMILY Act has 36 cosponsors in the</td>
</tr>
<tr>
<td></td>
<td></td>
<td>116th Congress</td>
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<tr>
<td>Minimum wage increase</td>
<td>Likely – Raise the Wage Act (RWA) pass last Congress with 231 votes</td>
<td>Possible – Based on Senate Control and inclusion in broader package – RWA had</td>
</tr>
<tr>
<td></td>
<td></td>
<td>32 cosponsors in the 116th Congress</td>
</tr>
<tr>
<td>Pay equity legislation</td>
<td>Likely – Paycheck Fairness Act passed with 242 votes last Congress</td>
<td>Possible – Paycheck Fairness Act had 46 Senate cosponsors in the 116th Congress</td>
</tr>
</tbody>
</table>
Immigration Policy Implications for Higher Ed

Anticipated Executive Actions

• Trump Administration issued more than 400 executive actions in the immigration space
  • Expect a Biden Administration to Unwind/Reverse Many
  • Require USCIS to rescind memos that have slowed processing
  • Shift resources from enforcement to adjudication

• Reinstatement of the Deferred Action for Childhood Arrivals (DACA) program
  • Require U.S. Citizenship and Immigration Services (USCIS) to reopen the DACA program to all qualified applicants

• End Travel Ban on Nationals from Majority-Muslim Countries
  • Unclear as to whether Trump’s proclamations suspending immigrant and nonimmigrant entry due to the Pandemic will survive
Immigration Policy Implications for Higher Ed

Anticipated Regulatory Actions

• Freeze regulatory actions on:
  • H-4 Dependent Spouse Employment Authorization
  • Changes to Duration of Status for F-1 Students
  • Practical Training Reform

• Reverse Public Charge Rule

• Reform temporary worker visa programs
  • H1B and Prevailing Wage System Reforms
  • Revisit October 2020 IFRs on H-1B Visas
Immigration Policy Implications for Higher Ed

Anticipated Legislative Actions

• Comprehensive immigration reform
  • Offer a path to citizenship for 11 million undocumented
  • Path to citizenship for dreamers
  • Eliminate “per country caps”
  • Increase opportunities for legal immigration including number of visas for permanent, work-based immigration

• Will Congress Entertain Immigration Reform?
Education Policy Implications for Higher Ed

Anticipated Executive Actions

- Extension of payment pause and interest waiver for federal student loans
- Rebuild 2014 Obama-Biden initiative to develop a national strategy for reforming our nation’s workforce training programs
Education Policy Implications for Higher Ed

Anticipated Regulatory Actions: Title IX

- CUPA-HR joined ACE and other higher ed groups to comment on the proposed rule in January 2019
- Final Rule rolled out in May 2020 and went into effect on August 14, 2020
- Higher ed challenged final rule in court
- Biden expected to reverse the Title IX Regulation which will take time
Education Policy Implications for Higher Ed

Anticipated Legislative Actions

• Make public colleges and universities tuition free for all families with incomes below $125,000 (College for All Act)

• Tuition-free community college for two years (America’s College Promise Act)
Submit questions to our presenters using the Q&A button.
Thank You

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