

A hand in a dark suit jacket is shown from the wrist up, pointing upwards with the index finger. The years 2021, 2022, 2023, 2024, and 2025 are overlaid on the hand, with 2024 being the largest and most prominent. The background is a blurred outdoor scene with greenery and a building.

# BUSINESS IN 2024

WEEKLY WEBINAR SERIES



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# Your Host



## **Katherine R. Schafer**

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# Preview of Potential Post-Election Changes

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Special Edition Webinar  
December 10, 2024  
12:00 – 12:45 p.m.

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In this webinar, we will address how the new administration may implement changes that impact employers, including changes related to:

- The NLRB and Labor Relations
- Employment Laws and Enforcement
- Immigration Laws and Enforcement



# TODAY'S AGENDA

**Katie Schafer – (12 - 12:05 p.m.)**

- Welcome / Agenda
- NYS Paid Prenatal Leave Law Update

**Nick Jacobson – (12:05 - 12:15 p.m.)**

- Trump's Pick for Labor Secretary – What it Means for Employers
- OFCCP Freedom of Information Act Requests

**Alyssa Christian – (12:15 - 12:25 p.m.)**

- Corporate Transparency Update

**Rob Patterson – (12:25 - 12:35 p.m.)**

- 401(k) and 403(b) Plans May Have to Allow Part-Time Employees to Participate Beginning January 1, 2025

**Katie Schafer – (12:35 - 12:45 p.m.)**

- Questions
- Wrap Up



# NYS Paid Prenatal Leave Law Update



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# NYS Paid Prenatal Leave Law Update

- [NYS Paid Prenatal Leave Law](#)

# Trump's Pick for Labor Secretary – What it Means for Employers



## Nicholas P. Jacobson

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# Background Information

- Elected in 2022 as U.S. Representative for Oregon's 5<sup>th</sup> Congressional District (lost 2024 election bid)
- Served on Committee on Education and the Workforce
- Previously served as Mayor of Happy Valley, Oregon (first elected 2010), as City Councilwoman, and started her public service career as a member of the Parks Committee
- Owns an anesthesia management company with her husband
- Business Administration degree from Fresno State University





# Union Connections

- Daughter of a Teamster
- Earned several Union endorsements
- Co-sponsor of Union friendly legislation
  - Protecting Right to Organize (PRO) Act – aimed at weakening “right to work” laws currently in effect in 27 states
  - Public Sector Freedom to Negotiate (PSFN) Act – would expand public sector collective bargaining rights to all states and nationalize public sector bargaining rules under the Federal Labor Relations Authority

# Outlook for Employers

- PRO and PFSN Acts still unlikely to pass
- Not *that* pro-labor
  - Rated by AFL-CIO as voting with “working people” only 10% of the time
- Limited impact on traditional union-employer relations given her role as Secretary of Labor

# Areas of Likely Action

- Overtime
  - Potential increase to salary threshold
- Minimum Wage
  - May leave up to states; unlikely to approach \$15/hour target set by many labor leaders
- Independent Contractor and Joint Employment Rules
- OSHA
  - Director of OSHA selected by President but within DOL; likely to have influence over selection and policies
- Immigration
  - Potential to make it more difficult to sponsor H1-B employees

# OFCCP Freedom of Information Act Requests

# The Requests

- Seek EEO-1 reports filed by federal contractors
  - Requests sought 2021 and 2022 EEO-1s, but OFCCP does not yet have 2022 EEO-1s so response will be limited to 2021 reports
- Made by University of Utah and As You Sow (an organization aimed at promoting social corporate responsibility through shareholder action)



# Prior Similar Requests

- In response to prior requests, OFCCP has taken position that EEO-1s are exempt from FOIA disclosure as privileged or confidential trade secrets, commercial, or financial information
- Recent federal court decisions found that EEO-1 reports could not be protected as confidential commercial information, as it simply constitutes employee background information

# Objections to Request

- Employers may file objections to the requests until December 10, 2024 via email ([OFCCPSubmitterResponse@dol.gov](mailto:OFCCPSubmitterResponse@dol.gov)) or through an OFCCP portal
- In response to prior requests, OFCCP withheld records of employers that objected (although records were eventually disclosed)
- OFCCP asks employers to answer 5 questions explaining why the information sought constitutes confidential commercial or financial information

# Considerations When Evaluating Whether to Object

- Some employers feel that objections are not necessary as the information is not specific to any employee and privacy interests are minimal
- Given prior decisions, likely that court may ultimately order disclosure despite objection
- Potential benefit: even if the objection is overturned, it would delay the disclosure of the data, potentially reducing its impact
- Potential risk: if employer is not in compliance with affirmative action obligations, could draw OFCCP's attention by filing objection

# Corporate Transparency Update



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# Corporate Transparency Act (the “CTA”)

- Requires **MOST** entities to file a report with the U.S. Treasury Department’s Financial Crimes Enforcement Network (“FinCEN”).
- Due Date: **January 1, 2025** for all entities existing prior to January 1, 2024.
- Entities formed in 2024 must comply within 90 days of formation.
- Entities formed in 2025 and beyond will need to comply within 30 days of formation.



# “Reporting Companies”

- Entities created by the filing of a document with a secretary of state or any similar office in the United States.
- 23 Exemptions:

1. Securities reporting issuer	7. Broker or dealer in securities	13. State-licensed insurance producer
2. Governmental authority	8. Securities exchange or clearing agency	14. Commodity Exchange Act registered entity
3. Bank	9. Other Exchange Act registered entity	15. Accounting firm
4. Credit Union	10. Investment company or investment adviser	16. Public utility
5. Depository institution holding company	11. Venture capital fund adviser	17. Financial market utility
6. Money services business	12. Insurance company	18. Pooled investment vehicle

# 5 Common Exemptions

- 19. Tax-Exempt Entity
- 20. Entity Assisting a Tax-Exempt Entity
- 21. Large Operating Company
- 22. Subsidiary of Certain Exempt Entities
- 23. Inactive Entity

# Beneficial Ownership

Anyone who has:

- Ownership of at least 25% of the ownership interests of a Reporting Company;

OR

- Substantial control over a reporting company
  - Senior Officers
  - Individual authority to appoint or remove certain officers or a majority of directors
  - Important decision maker
  - Any other form of substantial control

# Beneficial Ownership Information Report (“BOIR”)

- Company information: Name, DBAs, Address (cannot be a PO Box), EIN, and place of formation.
- Applicant information: Name, DOB, Current Address, ID Number, and a copy of the ID.
- Beneficial Owner Information: Name, DOB, Current Address, ID Number, and a copy of the ID.

# FinCEN Identifier

- 12-digit number issued by FinCEN that identifies a specific individual.
- In place of the 5 pieces of Company Applicant and Beneficial Ownership Information, the FinCEN Identifier can be listed.
- Obtained by the individual by creating an account and submitting the necessary information.
- Simplifies the filing and updating processes.



# Corporate Best Practices

- File your initial BOIR no later than **January 1, 2025**.
- Adopt a CTA Compliance Policy.
- Create internal systems to track compliance.

# Reminders

- This is **NOT** an annual filing, but updates must be made within 30 days of **ANY change**.
- Each entity needs to file its own BOIR and conduct its own analysis.
- Financials are not part of the BOIR, although they may impact whether an entity is exempt.
- Company Applicants are only needed for entities formed in 2024 or later.
- Entities dissolved after the start of 2024 still have a filing requirement.
- Entities dissolved prior to 2024 that did not complete the winding up process before the start of the year.
- Filing is free. There are quite a few CTA scams out there, so think twice before giving your information to an unknown vendor promising to file.

## JANUARY 1, 2025

- If you are someone who owns or has control of a Reporting Company and haven't filed your BOIRs or analyzed whether you need to file, please reach out as soon as possible.

# 401(k) and 403(b) Plans May Have to Allow Part-Time Employees to Participate Beginning January 1, 2025



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# Long-Term, Part-Time Employees

## 401(k) Plans

- Before 2024, 401(k) plans could exclude new employees until they completed a year of service (1,000 hours in 12 months)
- SECURE Act 1.0 (2019)
  - Long-term, part-time (LTPT) employees – those who work 500 or more hours in 3 consecutive 12-month periods – must be allowed to make elective deferrals beginning 1.1.2024
  - Employer contributions not required
  - If contributions are made, must count post-2020 service for vesting



# Long-Term, Part-Time Employees

## SECURE Act 2.0 (2022)

- Reduced the service requirement for 401(k) plans to two consecutive 12-month periods with 500 or more hours
- Applied the LTPT rules to ERISA 403(b) plans effective January 1, 2025
  - Gov'tal and church 403(b) plans not affected
  - 403(b) plans can still use categorical exclusions (student employees, non-resident aliens, etc.)

# Long-Term, Part-Time Employees

## What 401(k) and 403(b) Plan Sponsors Must Do

- 401(k) plan sponsors
  - The LTPT rule is already in effect (Jan. 1, 2024)
  - Have to permit qualifying LTPT employees to defer under the plan beginning 1.1.2024
- 403(b) plan sponsors
  - Have to permit qualifying LTPT employees to defer under the plan beginning 1.1.2025

# Questions?



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### **Sexual Harassment Prevention Training**

To combat harassment in the workplace, every New York State employer must provide harassment prevention training for all employees annually.

For more information on Bond's online sexual harassment training [click here](#) or email [bondonline@bsk.com](mailto:bondonline@bsk.com)

# Thank You

The information in this presentation is intended as general background information.  
It is not to be considered as legal advice.  
Laws can change often, and information may become outdated.

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