Impact of the Blue Wave on Employment

Sarah Sawyer: Welcome to this week's OK at Work with myself, Sarah Sawyer, and my colleague Russell Berger, both attorneys at Offit Kurman. And today we are talking about another hot news topic which has been that there was obviously a recent election a couple weeks ago, and there was a lot of changes as it relates to the federal level, some changes at state level as well as far as what we're calling up, you know, everyone in the news calling the blue wave.

So big switch as it relates to who's in control in Congress. But obviously some things are staying the same, like at the executive level, still have the same president in office, obviously. So employers and companies might be asking themselves, "Well, what does this mean for me and my business as it relates to policies?"

Obviously, everyone's thinking about how this might impact them personally and there's all different, news articles on what's going on with this and why it [00:01:00] happened and all that. But what should companies be thinking about, Russell, as it relates to this blue wave and everything that we're hearing about as far as the elections are concerned?

Russell Berger: Yeah. So At the federal level, what the blue wave means is that, Democrats now control Congress. Obviously, Trump is in the White House, he's a Republican. Not a lot of indication that they're likely to compromise on a whole lot. So what that means is we're probably not likely to see legislation around employment or frankly, a whole lot else over the next two years potentially longer, but, at least for the next two years while the likes of this Congress and this president, we don't see a whole lot of likelihood of stuff changing from the drafting of law or new law being implemented.

So while there's, a change in, the power balance in that relationship, it's unlikely to result in a whole lot of new employment laws. Also with respect to the executive branch side, just because Congress has turned over, it doesn't mean that, Trump has to appoint new leaders or change [00:02:00] the policies or the enforcement plans of the executive agencies that are part of the executive branch that he controls.

So from that standpoint, we certainly don't expect a change in the direction of the blue wave or getting caught up in the blue wave in the executive administration. That means like the EEOC and the NLRB the policies that we've seen from the Trump administration over the last two years are likely to continue and conceivably, there's some urgency.

Maybe they push even harder on some of these things. We're not quite sure. But certainly directionally we would anticipate that continuing on as it has been the last two years.

Sarah Sawyer: Yeah, and there's some things that might happen at the state level that might be more relevant to folks over the next couple years, 'cause there was some governor elections and other types of state elections that happened at this time where there were some changes as well that tracked the same type of changes that happened at the federal level.

So obviously we talk a lot on here about the interplay between the federal and the state, and states generally are [00:03:00] able to provide additional protections to employees if they want to, as long as they're being compliant with the federal level. Just in the most simplest terms. So

that might be where people see some more change depending on what happened in their state during these elections, and that's something probably to be paying a little bit more attention to right now than big systemic changes that might happen at the federal level.

But it also might just give us... I mean, who knows? Two years is a while, so we don't know what'll happen in two years. As you mentioned, Russell, we can't predict the future. We're not in the business of doing that here on OK at Work, though sometimes we wish we could. That it could be an indicator for what might happen in two years from now, and there might be more changes to come, but definitely too early to tell that, and a lot can happen between now and then, as we all know.

Definitely don't wanna read too far into it, but definitely something to be paying attention to, especially at your state level.

Russell Berger: Yeah. Yeah. So I think the simple takeaway is we expect a continuation of what we're seeing at the federal level, and if you're at a [00:04:00] state level if the balance of power is swung in your state, we would probably expect some reaction there.

And even if it hasn't, but you're in a blue state, we might see some empowerment and some more, even more aggressive tactics there, which of course is, when Trump came into the White House two years ago, that's what we anticipated then, and we've seen some of that, where, blue states are, trying to do things to counterbalance the Trump administration actions at the federal level.

So I think that's the lay of the land as we see it. But as we always say, you gotta keep paying attention and be flexible with whatever curveballs get thrown your way here.

Sarah Sawyer: Yeah, definitely something to keep paying attention to. Well, thanks Russell. We'll see you next time.

Russell Berger: Thanks, Sarah.