

# NEWS BRIEF

Provided by: Wallace Welch & Willingham

## What OSHA Could Look Like Under a Biden Administration

In light of the U.S. presidential election results, workplace health and safety experts have begun speculating on the possible changes that President-elect Joe Biden could make to existing practices within the Occupational Safety and Health Administration (OSHA) once he takes office—especially in the midst of the ongoing COVID-19 pandemic.

While current President Donald Trump's administration focused on decreased OSHA enforcement, Biden's future administration is likely to push for increased enforcement, whistleblower protections and the issuance of an emergency temporary standard to combat the COVID-19 pandemic. Keep reading to learn more about what OSHA could look like under a Biden administration.

### Increasing Enforcement

According to the National Employment Law Project, the number of OSHA inspectors—who play a significant role in enforcing workplace health and safety regulations—has dropped to a 45-year low under the Trump administration.

However, Biden voiced throughout his campaign that he plans to double the number of OSHA inspectors while in office. This increase in inspectors will likely lead to an emphasis on OSHA enforcement, contributing to the potential for a rise in citations and penalties—especially in the realm of COVID-19 violations (e.g., failures to provide personal protective equipment or implement a respiratory protection program).

### Protecting Whistleblowers

In addition to increasing OSHA enforcement, the Biden administration is expected to implement updated whistleblower measures. Specifically, the new administration will likely be more aggressive than the Trump administration in pursuing employee and union complaints regarding workplace health and safety issues (including COVID-19 exposures). Further, the Biden administration may seek to pass new laws or put rules in place to better protect whistleblowers from the risk of employer retaliation.

### Issuing an Emergency Temporary Standard

Lastly, many have speculated that the Biden administration may adopt a different approach to combating COVID-19 in the workplace by issuing an emergency temporary standard.

The Trump administration has relied on OSHA's general duty clause to cite employers for coronavirus-related hazards, as opposed to developing a new, federal standard aimed at protecting employees from COVID-19 exposures.

Biden's plan to implement an emergency temporary standard would likely establish set rules for preventing COVID-19 hazards in the workplace—which could require employers to submit coronavirus-specific health and safety plans to OSHA for approval and allow OSHA inspectors to cite additional violations related to COVID-19 exposures.

For additional OSHA updates and compliance resources, contact us today.



**WALLACE WELCH  
& WILLINGHAM**

INSURANCE & RISK MANAGEMENT SINCE 1925