

U.S. Supreme Court Overturns “Chevron Deference” – Weakens Governmental Agency Power

Labor & Employment Law Update

By Peter Hansen and Kevin Kleine on June 28, 2024

Earlier today, the Supreme Court issued a highly anticipated ruling that will strip federal administrative agencies of a significant amount of power. In brief, the Supreme Court’s *Loper Bright Enters. v. Raimondo* decision eliminates the longstanding “Chevron deference” rule which required courts to defer to an administrative agency’s interpretation of otherwise ambiguous statutes, provided that the interpretation is “reasonable.”

The Supreme Court’s rationale for giving administrative agencies deference to their actions and judgment in implementing policy and regulations was based on the idea that Congress delegates part of its policymaking responsibilities to administrative agencies, and because of this, the Supreme Court viewed that administrative agencies were the appropriate authority to resolve competing interests and ambiguity in laws passed by Congress, and not judges and courts.

For decades, when administrative agency policies and regulations were challenged in court, judges were not allowed to exercise their independent judgment to determine whether an administrative agency’s interpretation of the law was correct, or whether a policy or regulation was even constitutional.

However, the Supreme Court’s decision today held that “The Administrative Procedure Act requires courts to exercise their independent judgment in deciding whether an agency has acted within its statutory authority, and courts may not defer to an agency interpretation of the law simply because a statute is ambiguous; Chevron is overruled.” This is a significant development because lower courts can now determine, and in fact are now obligated to determine, whether an administrative agency’s interpretation of the law was correct, which in turn gives courts the ability to strike down federal policies and regulations that are not based on the law or what Congress intended.

The decision will almost certainly have a wide-ranging impact on employers nationwide, particularly union employers, for several reasons.

First, the decision affords courts more leeway when interpreting laws, insofar as they will no longer be obligated to defer to regulations issued by administrative agencies. This would impact the extent to which courts apply the United States Department of Labor's rules and guidance on exempt status and independent contractors under the Fair Labor Standards Act, the Equal Employment Opportunity Commission's rules and guidance on the Pregnant Workers Fairness Act, the Federal Trade Commission's rules and guidance on non-compete agreements, to name a few. *Moving forward*, employers have a stronger defense when acting in accordance with statutory law, regardless of what regulations say.

Second, and as private sector employers are keenly aware, the National Labor Relations Board has a history of changing its policies and rules whenever a new administration takes over, effectively prohibiting employers from relying on any guidance issued by the previous administration. This decision could impact this.

Third, while employers can certainly still look to agency guidance and regulations, understanding what the law itself actually requires is more important than ever now.

To summarize, there's little doubt that the Supreme Court's decision will lead to a significant increase in legal challenges to federal regulations and policies.

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