

Puzder's anti-worker positions disqualify him from serving as labor secretary

Here is a partial list of the worker protections that Puzder's policies would undermine

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Summary: At this moment, we have a nominee for secretary of labor whose record and policy positions on key policies are bad for American workers and should disqualify him from serving as secretary of labor.

At this moment, we have a nominee for secretary of labor whose record and policy positions stand in stark contrast to past Democratic and Republican labor secretaries. Earlier this week, Andrew Puzder's confirmation hearing was delayed for the fourth time. Senator Patty Murray, the senior Democrat on the Senate Health, Education, Labor, and Pensions Committee, reported that the committee still had not received Puzder's paperwork, raising questions about his nomination. Regardless of Puzder's financial disclosures, his record is clear. His positions on key policies are bad for American workers and should disqualify him from serving as secretary of labor.

Puzder, CEO of CKE Restaurants, has opposed raising the minimum wage, criticized paid sick time proposals and health and safety regulations, and headed a company with a record of violating laws and regulations that protect workers' wages, safety, and rights. (CKE Restaurants is the parent company of Hardee's and Carl's Jr.) If Puzder, or a nominee with similar positions, leads the Department of Labor, it would pose a threat to our nation's economy and workers. An assault on critical worker protections would jeopardize the gains made during the Obama administration and give rise to greater inequality.

The country needs a labor secretary in the mold of Frances Perkins, labor secretary under FDR and principal architect of the New Deal. Perkins's tireless efforts on behalf of working people led to the establishment of a federal minimum wage, limitations on work hours, unemployment compensation, enhanced worker safety, and a national pension program—one that would become Social Security. The policies Perkins advanced continue to provide the foundation of this nation's labor and employment laws. Other labor secretaries have built on Perkins's policies. Most recently, Labor Secretary Tom Perez worked to expand wage protections, workplace safety measures, and protections for retirement benefits. He also prioritized establishing paid sick and family leave policies.

Here are some of the protections that Puzder's policies would undermine, weakening the foundation built by Perkins.

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The minimum wage

Puzder opposes raising the federal minimum wage.¹ He has stated, “Some jobs don’t produce enough economic value to bear the increase.”² His statement demonstrates a fundamental lack of understanding of the minimum wage.

The federal minimum wage was established in 1938 by the Fair Labor Standards Act (FLSA). Frances Perkins fought to establish a federal minimum wage to ensure that all workers were paid a living wage that would enable a worker to feed and house his family, educate his children, and participate in his community. At its core, the federal minimum wage is designed to guarantee that work is compensated fairly at a sustaining rate. It requires periodic updates by Congress to keep up with overall wage growth, but it has not been raised since 2009. In 2016 the federal minimum wage was 25 percent below its 1968 level despite the fact that U.S. productivity has more than doubled since then. In other words, the growth in labor productivity—i.e., the rate at which the average worker can produce income from each hour of work—has increased enough for real wages at the bottom of the distribution to grow substantially.³

Although it is Congress that enacts raises to the minimum wage, the secretary of labor is the administration official responsible for enforcing this basic protection and drawing attention to the need for an increase. The next secretary of labor must make raising the minimum wage a priority. A report by EPI Senior Economic Analyst David Cooper examining the impacts of a minimum wage increase states that a strong minimum wage “can provide the foundation for equitable and adequate pay for American workers.”⁴ Establishing an adequate wage floor ensures that all work is compensated fairly. Research shows that most workers who would benefit from a minimum wage increase are adults, most are women, most work full time, and that minimum wage workers on average earn half of their family’s total income.⁵

Other work on the economic importance of a strong minimum wage can be found on EPI’s “Minimum Wage” issue page.⁶

Overtime pay

Puzder opposes a Department of Labor rule that would give millions more workers the right to the overtime pay they deserve. The updated overtime rule (set to go into effect Dec. 1, 2016, but blocked by the U.S. District Court for the Eastern District of Texas) would raise the threshold below which most salaried workers who work more than 40 hours per week are automatically eligible for overtime pay. It has been raised only once since 1975 and is well below inflation-adjusted historic levels. Without the updated overtime rule, workers being paid a poverty-level salary of \$23,660 per year could be considered exempt executives or professionals and be denied overtime pay. Under the rule, most salaried employees making less than \$47,476 a year must be paid overtime when they work more than 40 hours a week. Puzder has argued that what workers lose in wages by being exempted from overtime, they “gain in stature and sense of accomplishment.”⁷

Denying workers fair pay does not help them gain “stature and a sense of accomplishment”—it denies them the ability to support themselves and their families. The right to a minimum wage and overtime pay are among the most fundamental worker protections. When workers are exempted from these protections based on outdated salary levels, they are more easily exploited, forced to work long hours without fair compensation. Workers and their families suffer as a result.

The next labor secretary must continue the department’s defense of the overtime rule that would give millions of workers the right to reasonable work hours or overtime pay.⁸

Paid sick leave

Puzder has been critical of proposals to provide paid sick leave.⁹ According to Puzder, businesses can’t afford to provide such benefits because our economy hasn’t seen the underlying economic growth necessary to support such increases.

Puzder’s position demonstrates a fundamental lack of understanding of what’s been going on in the U.S. economy. Productivity (total amount of output—income—generated in an average hour of work) has increased over the last decade. In fact, the United States has experienced a net productivity growth of 21.6 percent from 2000 to 2014. Workers received little benefit from this growth, which translated into just a 1.8 percent rise in inflation-adjusted compensation for the median worker (just 8 percent of net productivity growth).¹⁰ The problem is not that workers are not creating economic growth. The problem is that we do not have policies in place, like paid sick leave, that would help restore the link between growing productivity and worker compensation.

Furthermore, paid sick leave actually helps to limit the productivity lost when workers work while sick.¹¹ EPI Senior Economist Elise Gould examines evidence from the private sector and from the states and cities with paid sick leave laws and finds that paid sick days increase productivity.¹² Other research has found that paid sick leave can be extended to more workers at little or no cost to business.¹³ But 39 percent of private-sector workers do not get any paid sick time and the share without paid sick time is twice as high—78 percent—for private-sector workers in the bottom 10 percent of the wage distribution.¹⁴

The next labor secretary must work to advance policies that ensure workers experience the benefits of economic growth. The secretary should work to expand access to paid sick leave wherever possible and enforce existing protections established by the previous administration’s rule providing paid sick leave for employees of federal contractors.

Enforcement of workers rights

Puzder’s record as CEO of CKE Restaurants is marked by repeated violations of the very wage and hour and safety protections he would be responsible for enforcing as secretary of labor. In a survey of workers at CKE Restaurants conducted by the Restaurant Opportunities Center, nearly one-third of workers reported that they were not paid

overtime when they worked more than 40 hours in a week.¹⁵ Workers also reported working in unsafe conditions. Furthermore, while the secretary of labor is not tasked with enforcing anti-discrimination laws, Puzder's company's record of sexual harassment and sex discrimination lawsuits demonstrates his hostility to our nation's system of worker protections.

One of the most important responsibilities of the labor secretary is to ensure evenhanded enforcement of the laws the departments is required to enforce and administer. Violations of wage and hour protections have significant impacts on workers and our economy. One study of workers in low-wage industries across three cities estimated wage and hour violations cost the average worker \$2,634 per year, out of total earnings of \$17,616.¹⁶ Violations of wage and hour laws not only hurt workers' wallets, violations also cost local, state, and federal governments hundreds of millions of dollars in lost revenue each year, and hurt law-abiding employers who must compete with employers who cut costs by cheating their workers.¹⁷ Beyond the economic impacts of lost wages and revenue from unchecked wage and hour violations, failure to enforce safety and health standards has a human cost. In 2015, 4,836 workers died as the result of a workplace injury.¹⁸ This was the highest number of fatal injuries in nearly a decade.¹⁹ The next labor secretary must work to enforce the laws that protect this nation's workers.

The selection of a nominee for secretary of labor is an opportunity for the president to demonstrate a commitment to advancing policies that are good for workers. President Trump failed U.S. workers with his nomination of Andrew Puzder. Trump's selection of a man who opposes raising the minimum wage, has criticized safety and health regulations, and has disparaged paid sick time proposals does not demonstrate a commitment to improving the lives of workers. Trump's selection of a CEO of a company with a record of paying low wages and violating basic labor and employment laws does not demonstrate a desire to create an economy that works for us all. America's workers deserve better.

About the author

Celine McNicholas is Labor Counsel at the Economic Policy Institute. As part of EPI's Perkins Project on Worker Rights and Wages, she tracks the Trump administration's labor and employment policies. She monitors Congress, the Department of Labor, the National Labor Relations Board, the Equal Employment Opportunity Commission, and other agencies responsible for defending workers' rights, wages, and working conditions. She also researches issues related to union organizing and collective bargaining.

McNicholas received her law degree from Villanova University.

EPI's Perkins Project on Worker Rights and Wages

EPI's Perkins Project on Worker Rights and Wages is a policy response team that tracks wage and employment policies coming out of Congress, the Department of Labor, the National Labor Relations Board, the Equal Employment Opportunity Commission, and other agencies that defend workers' rights, wages, and working conditions. It is named for Frances Perkins, labor secretary under FDR and principal architect of the New Deal. Inspired by her legacy, Perkins Project staff will monitor and confront any attempts to dismantle the laws and regulations that protect working people.

Endnotes

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