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Scott Mugno Withdraws as OSHA Nominee

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Scott A. Mugno, President Trump's nominee to be Assistant Secretary of Labor for Occupational Safety and Health, withdrew his name from consideration in a letter submitted on May 14, 2019, to the White House and to Secretary of Labor Alexander Acosta.

Mugno, formerly the Vice President of Safety, Sustainability and Vehicle Maintenance at FedEx Ground and nominee for the top post at the Occupational Safety and Health Administration (OSHA), had been awaiting U.S. Senate approval of his nomination since October 2017. His confirmation had been delayed in part by threats from Senator Patty Murray (D-WA) to filibuster Trump nominees for the Department of Labor (DOL). Last month, Majority Leader Mitch McConnell (R-KY) led the Senate to change its rules to [cut post-cloture debate time](#) for district judges and non-cabinet-level nominations from 30 hours to 2 hours.

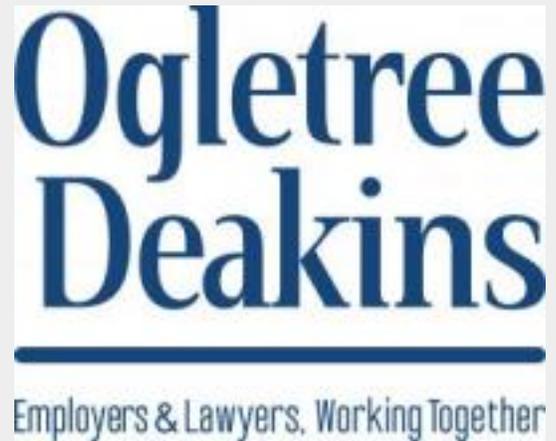
Even with that recent rule change, the Senate has not uniformly expedited administration appointments. On April 10, 2019, for example, the Senate [quickly confirmed the nomination](#) of Cheryl Stanton to be the DOL's Wage and Hour Administrator, but then failed to schedule an immediate vote on Mugno's nomination.

Still, the procedural path to the confirmation basket has been greatly cleared for administration nominees. So why did Mugno withdraw his name from consideration? It is no secret that the entire nomination and confirmation process had frustrated Mugno. After Stanton's confirmation, one would have presumed the Senate would have swiftly scheduled a confirmation vote for Mugno. Instead, the Senate preoccupied itself with other matters, such as the confirmation of nominations for Article III lifetime judicial appointments. Mugno's frustration presumably came to a boil after weeks of inaction on his nomination and no action visible on the horizon.

For employers, Mugno's withdrawal likely means that, [for the first time in its history](#), OSHA will not have an assistant secretary in charge of the agency for an entire presidential administration. It remains unclear if the Trump administration will nominate another candidate to head the agency. The next presidential election is 18 months away, which will make it difficult to find a willing nominee. Eighteen months is not much time to get things accomplished at a federal agency (and, really, much less time than that—a nominee would be lucky to be confirmed by the end of the year).

The vacancy also will likely leave Deputy Assistant Secretary of Labor Loren Sweatt in charge of the agency until at least the 2020 presidential election. Sweatt has been OSHA's Acting Assistant Secretary since she joined the agency in July 2017. She has not made any major moves during her tenure; her job has always been to keep the ship afloat until the permanent Assistant Secretary of Labor for Occupational Safety and Health arrives. For now, her job remains the same unless and until the White House and Secretary Acosta tell her otherwise. Even if Sweatt is given full reign at OSHA, acting assistant secretaries do not have a track record of taking drastic actions during their tenures.

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