



News Release

US DEPARTMENT OF LABOR PROPOSES RULE CLARIFYING EMPLOYEE, INDEPENDENT CONTRACTOR STATUS UNDER FEDERAL WAGE AND HOUR LAWS

Proposal would rescind 2024 Biden-era final rule

WASHINGTON – The U.S. Department of Labor’s [Wage and Hour Division](#) today announced a [proposed rule](#) designed to help workers and employers better understand how to determine when a worker is an employee and when the worker may be classified as an independent contractor under the Fair Labor Standards Act and related federal laws.

The proposed rule would rescind the department’s 2024 final rule addressing the classification of independent contractors and replace it with an analysis for employee classification similar to the one adopted by the department in 2021. Consistent with Supreme Court and federal circuit court precedent, the proposed rule would make it easier to properly differentiate between employees with the protections under the Fair Labor Standards Act and those workers who work as independent contractors.

“The tens of millions of Americans who work as independent contractors are helping drive the Golden Age of the American economy,” said Secretary of Labor Lori Chavez-DeRemer. “The department’s proposed rule seeks to protect these workers’ entrepreneurial spirit and simplify compliance for American job creators navigating a modern workplace, all while maintaining robust protections for employees under the Fair Labor Standards Act.”

The proposed rule would also apply the department’s streamlined analysis to the Family and Medical Leave Act and the Migrant and Seasonal Agricultural Worker Protection Act, both of which use the FLSA’s statutory definition of “employ.”

“The rule we are proposing today is not only based on long-standing legal principles used in federal courts across the country but also is aimed at ensuring that workers and employers know how to apply those principles predictably,” said Wage and Hour Division Administrator Andrew Rogers. “The department believes that streamlined regulations in line with Congress’s intent when it passed the Fair Labor Standards Act would improve compliance, reduce misclassification, and reduce costly litigation in an economic environment that needs flexibility and innovation.”

The analysis in the department’s proposed rule would:

- Apply an “economic reality” test to determine whether a worker is in business for himself or herself as an independent contractor or is an employee economically dependent on an employer for work.
- Identify and explain two “core factors” to help determine if a worker is economically dependent on an employer for work or in business for him- or herself:
 - The nature and degree of control over the work.
 - The worker’s opportunity for profit or loss based on initiative and/or investment.
- Identify other factors to help determine a worker’s status as an employee or independent contractor, including the amount of skill required for the work, degree of permanence of the working relationship, and whether the work is part of an integrated unit of production.
- Advise that the actual practice of the worker and the potential employer is more relevant than what may be contractually or theoretically possible.
- Provide eight fact-specific examples applying the factors to real-life circumstances.

The department encourages all interested parties to submit comments on the proposed rule, which has a 60-day comment period that closes at 11:59 p.m. ET on April 28, 2026.

Workers and employers can call the [Wage and Hour Division](#) with questions and requests for [compliance assistance](#) at its toll-free helpline, 866-4US-WAGE (487-9243). The agency’s [PAID program](#) offers employers an opportunity to self-report and resolve potential minimum wage and overtime violations under the FLSA, as well as certain potential violations under the FMLA.

[Read the proposed rule.](#)

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