

NLRB Update: Board Proposes Rule to Change its Joint-Employer Standard



October 2, 2018

The National Labor Relations Board just published a Notice of Proposed Rulemaking in the Federal Register regarding its joint-employer standard. Under the proposed rule, an employer may be found to be a joint-employer of another employer's employees only if it possesses and exercises substantial, direct and immediate control over the essential terms and conditions of employment and has done so in a manner that is not limited and routine. Indirect influence and contractual reservations of authority would no longer be sufficient to establish a joint-employer relationship.

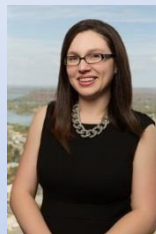
The proposed rule reflects the Board majority's initial view, subject to potential revision in response to public comments, that the National Labor Relations Act's intent is best supported by a joint-employer doctrine that does not draw third parties, who have not played an active role in deciding wages, benefits, or other essential terms and conditions of employment, into a collective-bargaining relationship for another employer's employees.

The NLRB's proposed rule would change the standard for determining whether one employer can be found to be a joint employer of another employer's employees.

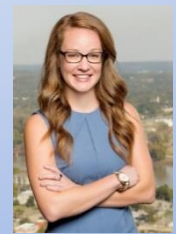


Public comments are invited on all aspects of the proposed rule and should be submitted within 60 days of the Notice's publication in the Federal Register, either electronically to www.regulations.gov, or by mail or hand-delivery to Roxanne Rothschild, Deputy Executive Secretary, National Labor Relations Board, 1015 Half Street S.E., Washington, D.C. 20570-0001.

The National Labor Relations Board is an independent federal agency vested with the power to safeguard employees' rights to organize and to determine whether to have unions as their bargaining representative. The agency also acts to prevent and remedy unfair labor practices committed by private-sector employers and unions.



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