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US Department of Labor Repeals Trump-Era Joint Employer Rule

This week, the U.S. Department of Labor officially rescinded the Joint Employer Rule for determining when multiple employers are jointly liable for labor law violations, which took effect in March 2020. The rule was rescinded because the rule's definition of joint employment was contrary to the language included in the Fair Labor Standards Act (FLSA). The FLSA says that an employee can have more than one employer for the work they perform.

The FLSA requires covered employers to pay employees at least the federal minimum wage for every hour they work and overtime compensation at not less than one-and-one-half times their regular rate of pay for every hour they work over 40 in a workweek.

Joint employment or co-employment situations arise when two or more organizations share the control and supervision of one or more employees. Joint employer status is particularly relevant in the context of franchisees, subcontractors, and staffing agencies. If two companies are found to be joint employers, the companies are jointly liable for minimum wages and overtime pay under the FLSA. These liabilities do not apply to a business that does not meet the definition of employer.

Employers should review any work arrangements that could raise joint employer issues.

The final rule becomes effective September 28, 2021.

Contact your GRO attorney to discuss any questions or concerns you have regarding the FLSA and changes in wage and hour laws.

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