

National Labor Relations Board Narrows Joint Employer Rule

By David Robinson on July 8, 2026



On February 26, 2026, the National Labor Relations Board (NLRB) published a new final rule that made significant changes concerning the joint employer test (“Final Rule”). The Final Rule reverses the broader, worker-friendly standard established in October 2023 and reinstates the narrower, employer friendly test established in 2020. This Final Rule became effective on February 27, 2026.

NLRB’s Updated Joint Employer Test

Under Final Rule, for an entity to be considered a joint employer, the two employers must “share or codetermine the employees’ essential terms and conditions of employment.” Joint employment status requires a showing that an employer has **“substantial direct and immediate control”** over the essential employment terms of an employee. The rule clarifies that that control is not “substantial” if it is “only exercised on a sporadic, isolated or de minimis basis.”

Under this standard, mere influence or contractually reserved authority is not sufficient. Rather, there needs to be real, hands-on control of the employee in order to meet the joint employer standard. Entities cannot have “substantial direct and immediate control” unless they “control or influence over setting the objectives, basic ground rules, [and] expectations for another entity’s performance under a contract.”

The Final Rule also narrows the defined essential terms and conditions of employment to wages, benefits, hours of work, hiring/firing, supervision, discipline and direction. To meet each of these factors, the entity must actually control or determine each of these elements.

What does this change mean?

Considering the narrowing joint employer definition, this change will assist businesses to avoid being defined as a joint employer, and this narrower standard provides clarity and predictability on how the rule will be enforced. This means that businesses may likely have less exposure to lawsuits and less obligation to bargain with unions.

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