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Page Title: New Rule Modifies Federal Statute's Definitions of "Employee" and "Independent Contractor" | [INSERT RELATED SERVICE] | [INSERT FIRM NAME]

Meta Description: [NAME OF FIRM] delves into the complexities of employer/employee legal obligations, with a particular focus on the U.S. Department of Labor's recent revision to the definition of "employee" under federal law.

Headline: New Rule Modifies Federal Statute's Definitions of "Employee" and "Independent Contractor"

BODY COPY:

The employer/employee relationship can be quite complicated from a legal point of view, with employers having a range of obligations to their employees. Some of these obligations may vary based on laws in an employer's state, county or city, while others apply nationwide under federal law. Employers' duties typically include paying a minimum wage and overtime compensation, maintaining minimum safety standards and preventing workplace discrimination and harassment based on certain factors like race or disability. These obligations only apply to workers who meet the legal definition of "employee." Workers not meeting this definition are known as "independent contractors." The U.S. Department of Labor (DOL) issued a new rule in early 2024 that revises the definition of "employee" under some aspects of federal law. This could have a significant impact on employers. Read on to learn more about the new rule and what it does.

Why Is the Difference Between Employees and Independent Contractors Important?

An employer has very different legal duties to a worker, depending on whether they are an employee or independent contractor. Numerous local, state and federal laws govern the relationship between employers and employees. Federal statutes include:

- Title VII of the Civil Rights Act of 1964, which addresses discrimination based on race, color, religion, sex and national origin;
- The Age Discrimination in Employment Act, which prohibits discrimination based on age for workers who are at least 40 years old;
- The Americans with Disabilities Act, which bars disability discrimination and requires reasonable accommodations for employees with disabilities;
- The Family and Medical Leave Act, which guarantees unpaid leave for certain employees; and
- The Fair Labor Standards Act, which guarantees a minimum wage and overtime rate for most employees.

These laws do not apply to independent contractors, whose only protections come from the terms of the contracts with their employers.

Employees can sue their employers for violations of the above statutes and recover monetary damages. Wrongfully classifying an employee as an independent contractor, known as "misclassification," is an unlawful employment practice under federal law and many state laws. Employers need to understand the new DOL rule to avoid significant potential legal liability.

What Will the Impact of the New Rule Be?

The new DOL rule only applies to the [Fair Labor Standards Act \(FLSA\)](#). The statute defines “employee” as someone whom an employer “suffer[s] or permit[s] to work.” The DOL’s definition provides more detail.

The FLSA covers the following [areas of employment](#):

- Minimum wage: The FLSA has set a nationwide minimum wage for nonexempt employees of \$7.25 per hour since 2009.
- Overtime: Employers must pay nonexempt workers one-and-a-half times their regular rate for hours worked over 40 in a week.
- Hours of work: Employers must pay employees for all time they require them to be on-site or on-call, such as time spent waiting to go through security or changing into or out of uniforms.
- Recordkeeping: The statute requires employers to keep records of employee hours and wages, and to display a poster outlining employees’ rights.
- Child labor: The FLSA sets strict limits on when and how long minors may work.

Other statutes may have different definitions for “employee” and “independent contractor.” The IRS, for example, [uses a different standard](#) for determining whether someone is an employee under federal tax law.

How Does the Rule Define Employees and Independent Contractors?

The [new DOL rule](#) replaces a rule that took effect in early 2021. It reinstates an analysis that examines the “totality of the circumstances” to determine whether someone is an employee or an independent contractor. “Economic dependence” is the “ultimate inquiry” under this rule. It considers six “economic reality” factors:

- Whether the worker has the “opportunity for profit or loss depending on managerial skill,” such as by using marketing or advertising to grow their own business;
- Capital investments by the worker and the employer, such as whether the worker provides their own tools or equipment;
- The amount of control that an employer may exercise over someone’s work, including the place of work, hours of work and restrictions on work for others;
- The permanence of the employment relationship;
- Whether the worker’s services are “an integral part of the potential employer’s business”; and
- The extent to which a worker relies on their own specialized skills and initiative in the course of their work.

The more a worker depends on the employer for equipment, supplies and direction, the more likely they are to be an employee. An individual who has their own established profession or trade, who uses their own equipment and who provides services to an employer based on a finite contractual term is almost certainly an independent contractor.

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