



Pennsylvania Conference of Teamsters

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LEGISLATIVE ACTION ALERT



Office of Congressional and Public Affairs

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202-273-1991

September 13, 2018

Board Proposes Rule to Change its Joint-Employer Standard

WASHINGTON, DC — The National Labor Relations Board will publish a Notice of Proposed Rulemaking tomorrow 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.

As explained in the Notice, rulemaking in this important area of the law would foster predictability, consistency and stability in the determination of joint-employer status. 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.

In announcing the proposed rule, Board Chairman John F. Ring stated, "I look forward to receiving the public's comments and to working with my colleagues to promulgate a final rule that clarifies the joint-employer standard in a way that promotes meaningful collective bargaining and advances the purposes of the Act." Chairman Ring was joined by Board Members Marvin E. Kaplan, and William J. Emanuel in proposing the new joint-employer standard. Board Member Lauren McFerran dissented.

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.

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