

January 2024

U.S. Department of Labor Issues New Independent Contractor Rule

On Jan. 9, 2024, the U.S. Department of Labor (DOL) released a [final rule](#), effective March 11, 2024, revising the [agency's guidance](#) on how to analyze who is an employee or independent contractor under the Fair Labor Standards Act (FLSA). This final rule rescinds the current independent contractor [rule](#) that was published in January 2021.

The 2021 rule reasserted the economic realities test as the DOL's preferred method to determine whether a worker should be classified as an employee or independent contractor under the FLSA. In doing so, the 2021 rule focused on two core factors: the nature and degree of the worker's control over the work and the worker's opportunity for profit and loss based on initiative and/or investment. These factors carried more weight in determining the status of independent contractors.

The newly released final rule rescinds the 2021 rule and returns to the pre-2021 rule precedent. In doing so, the final rule restores the multifactor, totality-of-the-circumstances analysis to assess whether a worker is an employee or an independent contractor under the FLSA. The factors to assess in the independent contractor analysis include the opportunity for profit or loss depending on managerial skill, investments by the worker and the potential employer, the degree of permanence of the work relationship, the nature and degree of control, the extent to which the work performed is an integral part of the potential employer's business, and the worker's skill and initiative.

The final rule is widely expected to result in classifying a greater number of workers as employees, not independent contractors. Litigation is also expected ahead of the March 11 effective date.

Chicago Delays Start of New Paid Leave Law

As an update to last month's alert, which mentioned the new [Chicago paid leave ordinance](#) set to go into effect on January 1, 2024, the Chicago City Council has recently voted to delay implementation until July 1, 2024. The city's existing paid sick leave ordinance will remain in effect until the new one takes effect in July.

Additionally, Cook County, Illinois, has replaced its paid sick leave ordinance with a [new paid leave ordinance](#) effective for 2024. This new ordinance is similar to the state-wide [Paid Leave for All Workers Act](#), which does not apply to Cook County employers.

Adams Keegan's December Webinar – Now on Demand

If you missed the live December webinar reviewing the content we covered throughout 2023, the recording is [available here](#). You can also [register here](#) for the upcoming live webinar on Wednesday, January 31 at 11:00 AM EST, where the Adams Keegan team will discuss important HR topics and trends to expect in 2024.

Poster & Notice Updates

Alaska – [Wage & Hour Act](#)

California – [Discrimination in Employment](#), [Minimum Wage](#), [OSHA](#), [Paid Sick Leave](#)

Colorado – [Overtime & Minimum Pay](#), [Fair Employment](#), [FAMLI](#)

Maine – [Minimum Wage](#), [Regulation of Employment](#)

Minnesota – [Veterans' Benefits](#)

New York – [Child Labor Laws](#), [Miscellaneous Industries Minimum Wage](#)

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