



nlrp proposes rule changing joint-employer standard

MSK Client Alert

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Recently, the National Labor Relations Board (NLRB) published its "Notice of Proposed Rulemaking; request for comments" in the Federal Register setting forth a proposed new standard for establishing a joint-employer relationship. The joint-employer analysis is significant because entities found to be joint employers may be jointly liable for alleged unfair labor practices or under collective bargaining agreements. In various circumstances, parent/subsidiary companies, franchisers/franchisees and client/temporary services providers have been argued to be joint employers.

The proposed rule states that two entities may be considered joint-employers only if they share or codetermine the employees' essential terms and conditions of employment, such as hiring, firing, discipline, supervision, and direction. A putative joint-employer must possess **and actually exercise** substantial direct and immediate control over the employees' essential terms and conditions of employment in a manner that is not limited and routine.

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