

DOL Reinstates Wage and Hour Division Opinion Letter Process

Labor & Employment Law Update

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On June 27, 2017, the United States Department of Labor (DOL) announced that it is reinstating the DOL's Wage and Hour Division opinion letter process, which was in existence for more than 70 years prior to a change in procedure in 2010.

DOL opinion letters allow employers (and employees) to submit questions to the DOL regarding whether particular employment practices comply with the laws the DOL enforces. The DOL then has the discretion to respond, publicly, with appropriate guidance. Opinion letter guidance can be presented to courts and investigators—by the employer that submitted the question, or by any other employer that reasonably relied on the opinion letter's guidance—as part of a good-faith defense to allegations of wage and hour law violations.

To aid the opinion letter process, the DOL has established a website that provides additional information on how to submit opinion letter requests, and how to access prior opinion letter guidance.

The bottom line: Employers with close-call questions as to whether their wage and hour practices comply with the law now have another avenue to use to avoid potential exposure to wage and hour claim liability. With that in mind, employers who wish to make use of the DOL's opinion letter process should review the DOL's website, and contact experienced labor and employment counsel to obtain additional assistance with drafting and submitting opinion letter requests.