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Joint Employer Standard Changes (Again): What Employers Need to Know

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Many employers will once again need to adjust their practices when classifying employees under the joint employer standard – though this is good news for them.

The National Labor Relations Board late last month [reverted to a former standard](#) that will make it much more difficult for businesses to be classified as a joint employer of their employees.

The business-friendly move under the NLRB sends the joint employer classification back to the 2020 standard. This means an employer could be classified as a joint employer if it exercises “substantial direct and immediate

control” over essential terms and conditions of employment.

Under the previous standard [established in 2023](#), an employer only needed to have the authority to control, either directly or indirectly, essential terms and conditions of employment to be considered a joint employer. Essential terms and conditions include employment policies such as wages, benefits, hours of employment, employee supervision, hiring, firing, and more.

Joint employers are two or more employers that share responsibility and liability for an employee or group of employees. Joint employers are generally found in franchises, businesses that use subcontractor labor, and staffing agencies. When a joint employer relationship is established, both employers are responsible for labor violations and unfair labor practices.

Employers that are typically subject to the joint employer standard now have much more leeway from the NLRB in determining whether they are a joint employer. Not being classified as a joint employer potentially saves companies thousands of dollars a year in liability and legal costs.

Businesses whose status has changed under the joint employer standards set in late 2023 should revert to the standard used while the 2020 standard was in effect. However, it has been more than two years since the previous standard was implemented, and employers may have changed their policies regarding who controls essential terms and conditions of employment.

Employers should undergo a full audit of these essential terms and conditions of employment to fully determine whether they currently qualify as a joint employer. The [Saxton & Stump Labor and Employment Group](#) has worked with businesses of all sizes on their joint employer status, including a thorough examination of all terms and conditions of employment and the relationship with another employer.

If you have any questions concerning your joint employment status, or if you’d like to audit your policies to make a full determination, please [contact me](#) or anyone in [our group](#).

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