

NLRB Issues Final Rule to Expand Joint Employer Standard

Yesterday, the National Labor Relations Board (NLRB) issued a [final rule](#) to expand the standard for determining joint employer status under the National Labor Relations Act (NLRA). Under the new standard, an entity may be considered a joint employer of a group of employees if each entity has an employment relationship with the employees and they share or codetermine one or more of the employees' essential terms and conditions of employment such as wages, benefits, compensation, hours of work and scheduling, assignment of duties, and other factors. This new standard applies whether or not such control is exercised, and without regard to whether any such exercise of control is direct or indirect.

For the purposes of collective bargaining, once an entity is deemed a joint employer by virtue of its control over one or more essential terms and conditions of employment, it will be required to bargain over those particular essential terms and conditions as well as all other mandatory subjects of bargaining that it possesses or exercises the authority to control. It will not be required to bargain over subjects that it does not have authority to control.

The final rule replaces the NLRB's 2020 final rule under the Trump administration and will go into effect on Dec. 26, 2023. NLRB's press release announcing the final rule is [here](#) and a fact sheet is [here](#). The final rule is expected to receive legal challenges in the federal court system. NDA is currently reviewing the final rule and will keep members updated on the latest information.

New Davis-Bacon Act Regulations Go into Effect

This week, the Department of Labor formally implemented its [final rule](#) to update regulations for the Davis-Bacon Act and Related Acts (DBRA). The final rule was announced this past August and went into effect on Oct. 23, 2023. The rule will raise wage standards of construction workers by updating prevailing wage regulations issued under the DBRA, which require payment of locally prevailing wages and fringe benefits to workers on federally funded or assisted construction projects.

The final rule adds a new sub-definition to the term "construction, prosecution, completion, or repair" to the existing regulation to clarify when demolition and similar activities are covered by the Davis-Bacon labor standards. Specifically, the final rule clarifies that demolition and removal activities are subject to DBRA labor standards when such activities in and of themselves constitute construction, alteration, or repair of a building or work. If the demolition is part of a contract for construction of a building or work or if such construction is contemplated as part of a future contract, then the demolition is also within the scope of the DBRA labor standards.

Additional guidance on the final rule can be found below:

- [Final Rule Text: Updating the Davis-Bacon and Related Acts Regulations](#)
- [Comparison Chart: Old Rule vs. New Rule](#)
- [Frequently Asked Questions](#)
- [Webinar Registration link](#)

House Elects Mike Johnson as Speaker

On Wednesday, the House of Representatives elected Rep. Mike Johnson (R-LA) as the next speaker following a three-week race for the position. Johnson has served in the House since 2017 and was previously the vice chair of the House Republican Conference. He received the votes of all 220

Republicans present to be elected speaker. With a new speaker installed, the House will now be able to resume its official business and vote on legislation.