

USDOL Reinstates Wage & Hour Opinion Letters

The U.S. Department of Labor [announced today](#) that they will reinstate the issuance of opinion letters, which had been replaced in 2010 by issuance of USDOL general guidance. This action allows the USDOL's Wage and Hour Division to use opinion letters as one of its methods for providing guidance to covered employers and employees.



Opinion letters are official opinions written by the Wage and Hour Division (WHD) of how to apply rules related to the Fair Labor Standards Act and other statutes in specific circumstances presented by an employer, employee or other entity seeking clarity. Opinion letters had been the general practice for seeking clarity since the Fair Labor Standards Act's inception in 1938.

"By using the opinion letters, laws can be interpreted differently without the need of going through the administrative process," explains Byrona J. Maule, Phillips Murrah Director and Co-Chair of the Firm's Labor and Employment Practice Group.

This comes on the heels of the [action taken by USDOL earlier this month](#), which withdrew two Obama-era guidance letters that sought to clarify worker classifications regarding independent contractors and joint employment.

U.S. Secretary of Labor Alexander Acosta in today's release:

"Reinstating opinion letters will benefit employees and employers as they provide a means by which both can develop a clearer understanding of the Fair Labor Standards Act and

other statutes. The U.S. Department of Labor is committed to helping employers and employees clearly understand their labor responsibilities so employers can concentrate on doing what they do best: growing their businesses and creating jobs.”

USDOL also announced [a website portal](#) whereby those seeking clarity can search for existing guidance or submit a request for an opinion letter. Today’s release explained: “The webpage explains what to include in the request, where to submit the request, and where to review existing guidance. The division will exercise discretion in determining which requests for opinion letters will be responded to, and the appropriate form of guidance to be issued.”

Employers should be vigilant in reviewing the opinion letters issued by the USDOL for trends and reversals of prior legal positions.

Visit this link to view currently published opinion letters: [Wage and Hour Division \(WHD\) Opinion Letters – Fair Labor Standards Act](#)

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