

DOL Issues Final Rule Addressing Independent Contractor Status

January 11, 2024

On January 10, 2024, the U.S. Department of Labor (DOL) published the final version of the Independent Contractor rule under the Fair Labor Standards Act (FLSA) proposed in **October 2022**. The rule will take effect on March 11, 2024.

This final rule rescinds the Independent Contractor Status Under the Fair Labor Standards Act rule (2021 IC Rule), published on January 7, 2021.

The final rule establishes a six-factor test for determining whether a worker is an employee or independent contractor. The six factors, which are non-exhaustive, include:

- A worker's opportunity for profit or loss depending on managerial skill
- Investments made by the worker and the potential employer
- The degree of permanence of the work relationship
- The degree of control an employer has over the work
- The extent to which work performed is integral to the employer's business
- The use of a worker's skill and initiative

No factor has any predetermined weight and other factors may be relevant. The final rule explains these factors in more detail. The full text of the final rule as published in the Federal Register can be found [here](#).

The misclassification of employees as independent contractors may deny workers legal protections and result in a violation of the FLSA. The final rule addresses the misclassification of independent contractors by bringing the DOL's rule in line with the economic realities test developed by courts over decades and providing clarity and consistency for businesses that engage with individuals as they determine a worker's status under the FLSA.

Please contact your Miller Canfield attorney or one of the authors of this alert if you would like to learn more about how this rule may impact your organization. The Fair Labor Standards Act and this new rule will be one of the many topics covered during Miller Canfield's upcoming annual HR Spring Training sessions. For more information and to register, **[please click here](#)**.