



June 18, 2026

Daniel Navarrete

Director, Division of Regulations, Legislation, and Interpretation

Wage and Hour Division

U.S. Department of Labor, Room S-3502

200 Constitution Avenue NW

Washington, DC 20210

**RE: Notice of Proposed Rulemaking on Joint Employer Status Under the Fair Labor Standards Act, Family and Medical Leave Act, and Migrant and Seasonal Agricultural Worker Protection Act — RIN 1235-AA48; Docket No. WHD-2026-0067**

Dear Mr. Navarrete:

The CHRO Association (the “Association”) appreciates the opportunity to submit these comments to the U.S. Department of Labor (the “Department”) regarding the Wage and Hour Division’s (“WHD”) notice of proposed rulemaking on Joint Employer Status Under the Fair Labor Standards Act, Family and Medical Leave Act, and Migrant and Seasonal Agricultural Worker Protection Act, published in the Federal Register on April 23, 2026 (the “Proposed Rule”).

The CHRO Association represents the chief human resource officers of many of the largest employers in the United States. Our members are the senior-most people leaders at organizations that collectively employ millions of American workers across virtually every sector of the economy. Because joint employer status under the FLSA, FMLA, and MSPA directly affects how our members structure their contracting, staffing, franchising, and supplier relationships—and the workforce standards they are able to extend across those relationships—our members have a substantial and direct interest in this rulemaking.

The Association supports the Proposed Rule, which provides a clear, uniform, and administrable framework that is grounded in the FLSA’s text and common law long-recognized by our nation’s courts. The Association writes to express that support and to offer recommendations that we believe would further strengthen the final rule.<sup>1</sup>

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<sup>1</sup> The Association is also a signatory to comments submitted by the Coalition for a Democratic Workplace and endorses the arguments put forth in such comments. The Association submits these comments to offer supplemental support and recommendations.

## A Clear, Uniform, and Durable Standard Serves Employers and Workers Alike

The Association has consistently advocated for a single, predictable federal standard for joint employer status. Legal uncertainty in this area gives rise to costly litigation and disincentivizes companies from ensuring the highest possible standards across their third-party relationships and up and down their supply chains. These standards ensure quality control, safety, and ethical business practices that benefit all stakeholders. As the Department recognizes, a substantial body of scholarship confirms that legal uncertainty deters investment, innovation, and other beneficial economic activity. A clear rule allows our companies to order their contracting and partnership decisions with confidence rather than abandon beneficial arrangements out of an abundance of caution.

## Recommendations to Strengthen the Final Rule

The Association supports the Proposed Rule as written and offers the following recommendations:

- **Reserved control:** The Association recommends that the final rule reincorporate the clarifying principle articulated in the 2020 Rule that standard contractual language reserving a right to act is, by itself, insufficient to demonstrate joint employer status. Routine risk-allocation, audit, and oversight clauses are ubiquitous in commercial contracts; expressly confirming that such boilerplate provisions do not, standing alone, indicate joint employment would ensure that the reserved-control provision does not reintroduce the uncertainty the rule is meant to cure. Actual, directly exercised control should be required to find a joint employment relationship. The 2020 Final Rule was clear on this point, and the Association strongly recommends providing similar clarity in the current rulemaking. Hypothetical or indirect control over certain terms and conditions of employment should not in any way be relevant to, let alone dispositive of, joint employer status.
- **Examples of practices and provisions that should not be dispositive of joint employer status:** The Association recommends that the Final Rule should clarify that the following common-place provisions or scenarios are not dispositive of a joint employer relationship:
  - Benefit standards, such as contractual wage requirements
  - A franchisor's requirements of its franchisees for the purpose of maintaining brand standards;
  - The inclusion of cost-plus contractual arrangements that require approval for a contractor's billable hours and overtime;

- Minimum skill requirements for individuals who will perform the services or work in question;
- Minimum conduct requirements to safeguard an employer's property and maintain appropriate relationships between employees;
- Whether services of certain workers supplied by another company are no longer needed;
- Inclusion of corporate social responsibility policies such as ESG programs;
- Minimum requirements/specifications concerning performance metrics, productivity, quality, or occupational safety;
- Joint participation in apprenticeship programs with another employer;
- Offering an association or group health and retirement plans or participation in such plans by contracting entities;
- Providing a sample employee handbook or other similar policies to provide information about a company's overall philosophy regarding labor and employment issues;
- Requirements for background check on individuals performing the covered work;
- Requirements for compliance with regulatory obligations and statutory requirements from local, state, and federal governmental entities regarding labor and employment pertaining to the performance or furnishing of products, services, or goods.

## Conclusion

The CHRO Association supports the Proposed Rule which we believe provides a clear and durable framework focused on the most relevant factors for determining joint employer status. We encourage the Department to finalize a rule as expeditiously as possible with consideration of the above recommendations.

Sincerely,



Gregory Hoff

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