

Congress of the United States

Washington, DC 20515

April 24, 2026

Keith Sonderling
Acting Secretary
United States Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Dear Acting Secretary Sonderling,

We write to express significant concerns regarding the Department of Labor's February 26, 2026 proposed rule to rescind the 2024 independent contractor standard under the Fair Labor Standards Act (FLSA) and establish a new standard largely resembling the ineffective 2021 Independent Contractor Rule.

Accurate employee classification is essential to ensure every worker is afforded the rights and protections guaranteed under the FLSA that they deserve. Overly narrow interpretations of this relationship expose workers to greater risk of misclassification – which results in catastrophic losses in wages and benefits for that individual and subsequent losses in state and federal revenues. And we've seen these cases play out, often in devastating fashion, when businesses take advantage of employee classification to avoid paying workers what they owe them. These risks have an outsized impact on industries such as construction, entertainment, transportation, home care, and agriculture.

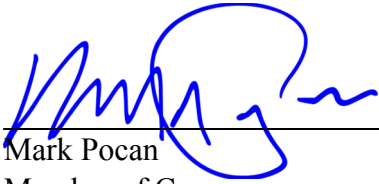
The 2024 Rule you intend to replace is consistent both with judicial precedent interpreting the FLSA and the spirit of the law. The 2024 Rule offers clarity for independent contractors while providing certainty to employees that their rights to basic labor standards such as minimum wage, overtime pay, unemployment insurance, a safe and healthy workplace, and worker's compensation remain protected.

By contrast, the proposed rule is wholly inconsistent with these goals. The proposed rule prioritizes two core factors: the worker's opportunity for profit or loss and the nature and degree of the potential employer's control over the work. It identifies these "core factors" as determinative of the relationship between worker and employer, while diminishing or wholly ignoring several factors that indicate significant control or economic dependence on the employing entity in this relationship – allowing employers to skirt their responsibilities to adhere to the FLSA. Many of these factors have been consistently applied when employee status has been considered by federal courts and should still be evaluated equally in any final rule. There have also been numerous instances where the misuse of independent contractor classification has been deployed as a tool to circumvent workers' right to form a union. A narrower application of these factors threatens to encourage this type of exploitative behavior from employers. For these reasons, it is essential that a final rule accurately captures the full scope and nature of a worker's role and classification.

The independent contractor rule must consider the totality of circumstances to identify the employer-employee relationship. The proposed rule acknowledges that "the precise weight of any additional factors would depend on the circumstances of each case" but remains overly prescriptive in weighing the "core" factors. A multifactor approach would ensure that no employee in our communities falls through the cracks, and the proposed rule's intentional deprioritization of other economic reality factors ignores the unique circumstances presented in the rapidly evolving and modernizing workforce.

We strongly encourage the Department of Labor to rescind this proposed rule and return to the standard outlined in the 2024 Final Rule to ensure workers remain protected on the job.

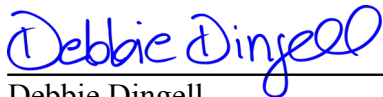
Sincerely,



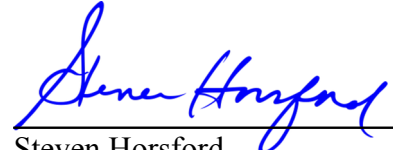
Mark Pocan
Member of Congress
Co-Chair, Congressional Labor
Caucus



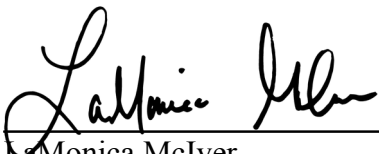
Donald Norcross
Member of Congress
Co-Chair, Congressional Labor
Caucus



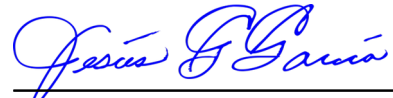
Debbie Dingell
Member of Congress
Co-Chair, Congressional Labor
Caucus



Steven Horsford
Member of Congress
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Labor Caucus



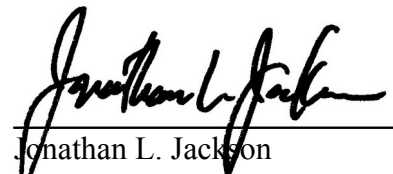
LaMonica McIver
Member of Congress



Jesús G. "Chuy" García
Member of Congress



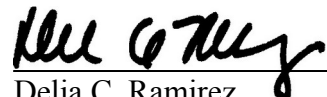
Henry C. "Hank" Johnson, Jr.
Member of Congress



Jonathan L. Jackson
Member of Congress



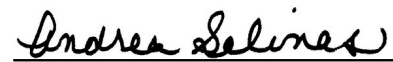
Lateefah Simon
Member of Congress



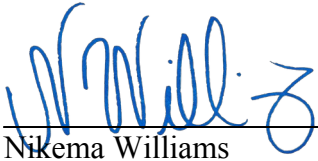
Delia C. Ramirez
Member of Congress



Greg Casar
Member of Congress



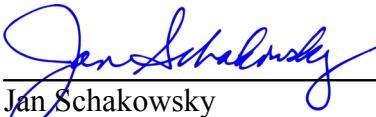
Andrea Salinas
Member of Congress



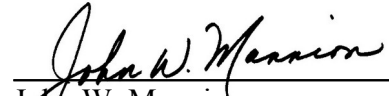
Nikema Williams
Member of Congress



Rashida Tlaib
Member of Congress



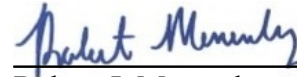
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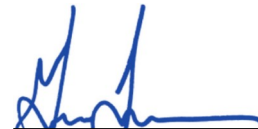
Pramila Jayapal
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Val Hoyle
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Maxine Dexter
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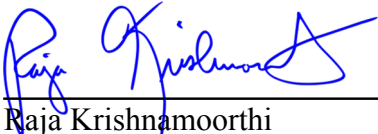
Summer L. Lee
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Dina Titus
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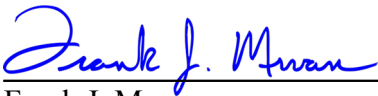
Seth Magaziner
Member of Congress



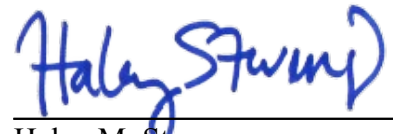
Raja Krishnamoorthi
Member of Congress



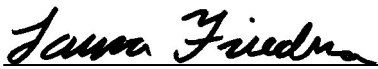
Adelta S. Grijalva
Member of Congress



Frank J. Mrvan
Member of Congress



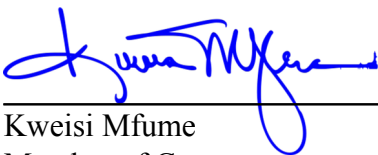
Haley M. Stevens
Member of Congress



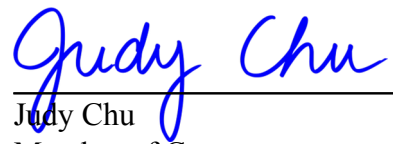
Laura Friedman
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Eric Sorensen
Member of Congress



Kweisi Mfume
Member of Congress



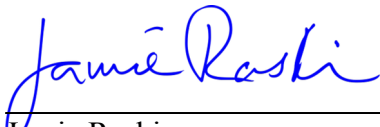
Judy Chu
Member of Congress



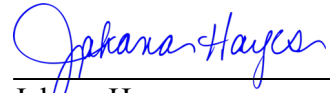
Dwight Evans
Member of Congress



Emily Randall
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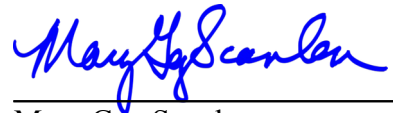
Jamie Raskin
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Jahana Hayes
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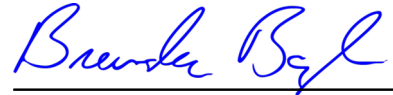
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Brendan F. Boyle
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John Garamendi
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