

Insights, News & Events

DOL REBOOTS OPINION LETTER PROGRAM TO OFFER GUIDANCE ON WAGE AND HOUR, WORKPLACE SAFETY, AND MORE

Insights
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The US Department of Labor just relaunched and significantly expanded its opinion letter program, offering employers across five enforcement agencies a direct line to legal interpretations of federal laws on wage and hour, workplace safety, and more. The June 2 move restores a long-standing compliance tool that had fallen out of favor in recent years. Starting immediately, businesses have an opportunity to gain clarity, reduce risk, and strengthen good faith defenses. Here's what the new program includes, why it matters, and how your organization can benefit right away.

What Just Happened?

On June 2, the [Department of Labor \(DOL\) announced its expansion of](#) the opinion letter program allowing employers to request opinion letters from five of its key enforcement arms:

- Wage and Hour Division (WHD)
- Occupational Safety and Health Administration (OSHA)
- Employee Benefits Security Administration (EBSA)
- Veterans' Employment and Training Service (VETS)
- Mine Safety and Health Administration (MSHA) (which will through its own platform)

Quick Refresher: What Are Opinion Letters?

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Opinion letters are formal, written guidance from DOL officials explaining to the public how the agency would apply the law to a specific set of facts. While the letters are not binding on courts, they do serve as a powerful compliance tool and can be used as persuasive authority in defending against a legal claim. Anyone can request an opinion letter, and they've been used since the 1930s as a compliance lifeline for employers, unions, and workers alike.

They serve several key purposes:

- **Solid guidance:** Employers can feel more confident applying the DOL's opinion to the real-world workplace scenario in question. While they don't offer you a 100% shield from an adverse court ruling, they do provide a basis for an employer to demonstrate their application of the standard was consistent with the agency's own published interpretation.
- **Transparency and consistency:** Published letters allow others to potentially benefit from the agency's interpretation, even if they didn't submit the request.
- **Legal safe harbor:** Reliance on opinion letters can sometimes serve as a "good faith" defense under laws like the Fair Labor Standards Act (FLSA) – but they aren't get-out-of-jail-free cards, so you'll want to work with your legal counsel to understand their reach.

Painless History Lesson

Use of opinion letters has historically swung with political administrations:

- **Bush administration:** Record number issued – over 300.
- **Obama administration:** Program suspended in favor of broader "Administrator Interpretations"
- **Trump 1.0 administration (first term):** Reinstated with high volume ([read more here](#)).
- **Biden administration:** Reduced use ([read more here](#)).
- **Trump 2.0 administration (present day):** This latest announcement marks a notable return – and expansion – of this useful tool.

Why This Matters for Employers



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This isn't just a procedural shift. It opens the door to a strategic weapon you can use for your benefit. Here's why you should care:

- **Free legal interpretation** on complex federal labor issues.
- **Clarity** on fuzzy compliance areas in wage-and-hour rules, benefits plans, OSHA obligations, and more.
- **Risk reduction**, in that you'll have a documented rationale that may shield you in litigation or audits.
- **Specific guidance** on exact factual circumstances in your workplaces, not just broad hypotheticals.

How to Use This Tool

The DOL has launched a [new webpage](#) to allow organizations to submit their requests for agency interpretation. Employers can submit a request if:

- The question is based on specific, real-world facts.
- The issue is novel or unclear.
- The request falls under the jurisdiction of one of the five participating agencies.

Work With Experienced Counsel

Before diving in, however, you should work with your experienced FP counsel to frame your request. There are some nuances to bake into your submission in order to increase the chances that the DOL will respond – the agency can't issue an opinion letter for each and every request. Your FP counsel has some tips to increase the likelihood that your request will receive a response.

What Employers Should Do Now

To make the most of this opportunity:

1. **Audit your current practices** for areas of legal uncertainty, particularly around wage classification, overtime exemptions, safety programs, and benefits administration.
2. **Work with your FP counsel to submit your own request** if you're navigating a murky compliance issue without clear guidance.

Government Relations

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3. Review newly issued letters for any that apply to your business model or workforce structure. Remember, opinion letters are made public and can be referenced by other employers facing similar situations, not just the business that submitted the request.

4. Train your internal teams on how to flag issues that may benefit from an opinion letter inquiry.

What's Next?

Expect a potential wave of new opinion letters to follow this relaunch, especially as novel workplace questions around AI tools, hybrid work environments, ESG policies, and contractor classification gain traction. And while these letters carry legal weight, remember:

- They may be withdrawn or revised under future administrations.
- They can't override clear statutory or regulatory mandates, but they can offer valuable clarity in gray areas.
- They are not binding on courts, though judges often look to them for assistance.
- In fact, [the Supreme Court overturned the Chevron doctrine last year](#), which previously required courts to defer to a federal agency's position on the law when a statute is open to interpretation. In upending this doctrine, SCOTUS established a [new standard](#) instructing courts to apply their independent judgment when interpreting an ambiguous law instead of deferring to agency regulations. Although opinion letters have historically received less deference than regulations anyway, this same independent streak could see courts treat DOL opinion letters with even less authority in the coming years.
- Opinion letters that address or resolve ambiguities in the agency's regulations may continue to receive deference because courts still defer (for now) to an agency's interpretation of its own regulations.

Conclusion

Fisher Phillips will continue to monitor the situation related to DOL opinion letters and provide updates as appropriate. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information directly to

your inbox. For further information, contact your Fisher Phillips attorney, the authors of this Insight, or any member of our [Wage and Hour Law Practice Group](#), [Workplace Safety Team](#), [Mine Safety Team](#), or [Employee Benefits and Tax Group](#).