



LEHR MIDDLEBROOKS
VREELAND & THOMPSON, P.C.

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DOL Opinion Letters Are Back

Each Administration has taken its own approach on whether and how actively to issue Opinion Letters about its view of the application of the laws enforced by certain agencies. An Opinion Letter is a response to a written request by an employer on how a particular law (most often the Fair Labor Standards Act) applies to a specific factual scenario (e.g., is an employee in this scenario properly classified as exempt).

In the distant past, DOL's Wage and Hour Division actively issued Opinion Letters on request to employers who provided detailed descriptions of the surrounding circumstances. Although the letters are limited to the specific facts of the request, they provided a wealth of guidance to other employers on how to comply with the law. The Obama DOL stopped issuing any opinion letters and only issued broader advisories. The first Trump DOL resumed the issuance of Opinion Letters. The Biden DOL only issued a very limited number.

The second Trump DOL has reaffirmed and expanded its approach to offering employers and workers guidance on legal compliance with the DOL Opinion Letter Program, now spanning five agencies:

- *Wage and Hour Division (WHD)*: Provides opinion letters on the application of wage, hour, and employment law matters.
- *Occupational Safety and Health Administration (OSHA)*: Issues letters of interpretation on workplace safety regulations.
- *Employee Benefits Security Administration (EBSA)*: Publishes advisory opinions and information letters on employee benefits compliance.
- *Veterans' Employment and Training Service (VETS)*: Releases opinion letters on compliance with veteran employment laws.
- *Mine Safety and Health Administration (MSHA)*: Offers compliance assistance through the new MSHA Information Hub, including regulatory updates and training resources.

In areas where the law is unclear on its application to specific scenarios, these letters are an invaluable resource to ensure compliance. The requests must be drafted carefully, objectively and preserving confidentiality. Should you need any assistance seeking an Opinion Letter, please contact Al Vreeland at (205) 323-9266 or avreeland@lehrmiddlebrooks.com.