

## What New Jersey Employers Need to Know About the NJDOL's New Worker Classification Rules

May 11, 2026

*Source: Saiber Employment Law Alert*

The New Jersey Department of Labor and Workforce Development has adopted new regulations clarifying how the agency will apply New Jersey's statutory "ABC test" for determining whether a worker is an employee or an independent contractor. The rules are expected to become operative on October 1, 2026.

New Jersey businesses that use independent contractors should review those arrangements before the effective date. The rules do not replace the ABC test, but they provide additional clarity and guidance on that test, which is applicable to several New Jersey labor laws, including the Unemployment Compensation Law, the Wage and Hour Law, and the Wage Payment Law.

### What changed?

The NJDOL's new rules seek to clarify the standard for determining whether a worker may be treated as an independent contractor under New Jersey law. According to the NJDOL, the regulations reflect decades of case law, including the New Jersey Supreme Court's decisions in *East Bay Drywall, LLC v. Department of Labor* and *Carpet Remnant Warehouse, Inc. v. NJ Department of Labor*.

### Why does this matter for employers?

Worker classification affects wage and hour compliance, wage payment obligations, unemployment contributions, payroll practices, recordkeeping, and exposure in audits or enforcement actions.

Under New Jersey's ABC test, a business must satisfy all three parts of the test to classify a worker as an independent contractor:

1. Worker has been and will continue to be free from control or direction over the performance of services, both under the worker's contract of service and in fact;
2. Work performed is either outside the usual course of the business for which the work is being performed, or the work is performed outside of all the places of business of the enterprise; and
3. Worker is customarily engaged in an independently established trade, occupation, profession or business.

### What should employers do now?

Before the rules become operative, New Jersey employers should:

- Audit independent contractor relationships to identify arrangements that may present classification risk.
- Review contracts and practices, because classification depends on both the written agreement and the working relationship in practice.
- Evaluate workers performing core business functions, which may raise particular concerns under the ABC test.
- Maintain supporting records for classification decisions, including contracts, invoices, scopes of work, and documentation of contractor independence.

### **What should employers watch next?**

Employers should monitor any additional NJDOL guidance, legislative activity, or legal challenges. In the meantime, businesses that rely on independent contractors should use the period before the October 1 operative date to review current practices and address higher-risk arrangements.

If you have any questions concerning the NJDOL's New Worker Classification Rules, please feel free to contact [DanaLynn T. Colao](#) and [Vincent C. Cirilli](#) of Saiber LLC's Employment & Labor Law practice.