

The NJDOL'S New Worker Classification Rules Take Effect on October 1, 2026

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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 will become operative on October 1, 2026.

With the operative date now here, New Jersey businesses that engage independent contractors should ensure that their worker classifications, contractual arrangements, and day-to-day practices are consistent with the ABC test as clarified by the new regulations. The rules do not replace the ABC test, but they provide additional guidance regarding its application under several New Jersey labor laws, including the Unemployment Compensation Law, Wage and Hour Law, and 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?

With the October 1 operative date near, businesses that use independent contractors should consider taking the following steps:

- Review existing independent contractor relationships, particularly those involving workers who perform services central to the company's business.
- Examine both contracts and actual working relationships. A written independent contractor agreement, standing alone, does not determine a worker's classification.
- Consider how much control the business exercises in practice, including with respect to schedules, methods of work, training, reporting requirements, and other aspects of the relationship.
- Evaluate whether contractors are operating truly independent businesses, including the nature and continuity of their businesses and their relationships with other customers or clients.
- Review where services are being performed, particularly when assessing Prong B of the ABC test.
- Maintain documentation supporting classification decisions, including contracts, invoices, scopes of work, and other records demonstrating the contractor's independence.

What should employers watch next?

Although several business groups and lawmakers have recently called for the October 1 operative date to be postponed, as of September 29, 2026, the regulations remain scheduled to become operative on October 1. Employers should therefore proceed on the assumption that the rules will take effect as scheduled while continuing to monitor any last-minute action by the State or additional guidance from the NJDOL.

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.