

DOL and HHS Announce Joint Effort to Combat Exploitative Child Labor

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The U.S. Department of Labor (DOL) and U.S. Department of Health and Human Services (HHS) recently announced new efforts to “combat exploitative child labor,” which is largely the result of “an influx in migrant children from Latin America fleeing violence and poverty, a majority of whom do not have a parent in the United States.”

The DOL’s focus on undocumented immigrants (whether child or adult), human trafficking, and related issues has been manifest for several weeks in the Occupational Safety and Health Administration’s (OSHA) daily Workplace Safety Reminder, which has mentioned one or more of these issues almost every day. Likewise, OSHA has been regularly posting tweets concerning these issues since the announcements were made.

The joint effort between the DOL and HHS follows the DOL’s [announcement](#) on February 13, 2023, that OSHA compliance officers would be authorized to certify U nonimmigrant status and T nonimmigrant status visas.

Immigration and employment issues have significantly intersected for decades. This, however, is the first time the federal government has directed so much attention and effort to the issue of undocumented child immigrants in the workforce. Perhaps like no other time in U.S. history, the issue of undocumented immigrants in the workplace is being addressed in something other than a law enforcement/compliance manner. The joint effort between the DOL and HHS will result in employers being targeted for enforcement activities from a variety of approaches.

There are four primary paths that will be followed to attack the exploitation of undocumented immigrant children that may impact employers. The four paths include a “DOL-led Interagency Taskforce to Combat Child Labor Exploitation,” a “National Strategic Enforcement Initiative on Child Labor,” “Hold All Employers Accountable,” and “Mandated Follow Up Calls for Unaccompanied Children Who Report Safety Concerns.”

The interagency taskforce will, through collaborative efforts and improved information sharing, “advance the health, education, and well-being of children in the U.S.” At least in part, employers

should expect that the information shared concerning conditions in workplaces where these children are employed, whether directly or through contractors, will ultimately end up with OSHA. The strategic enforcement initiative will involve the DOL's Wage and Hour Division, which will use "data-driven, worker-focused strategies" to target inspections where violations "are most likely to occur." The DOL's solicitors will be authorized to "use all available enforcement tools, including penalties, injunctions, stopping the movement of goods made with child labor, and criminal referrals where warranted" as part of this strategic initiative.

In an effort to hold all employers responsible for illegal child labor, particularly undocumented illegal child labor, the clients and potential clients of staffing and labor services that may have provided those child laborers will be subject to targeted inspections. Last, when an unaccompanied minor reports a safety concern, the safety concern will be routed to the appropriate agency or agencies for action. It would be reasonable to assume that OSHA will be the recipient of complaints about workplace safety raised by undocumented children, in addition to various state and local agencies.

While employing minors is legal in most states and in most types of employment, subject to specific requirements, those that employ children, particularly children who may be undocumented, may want to consider taking reasonable additional steps to ensure the health and safety of those children.

Ogletree Deakins' [Immigration](#) and [Workplace Safety and Health](#) practice groups will continue to monitor developments with respect to these and other policies and will post updates on the [Immigration](#) and [Workplace Safety and Health](#) blogs as additional information becomes available.

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