

Republican Congressmen Continues Information Demand on OSHA Joint-Employer Standard

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Congressional leaders again have pressed the Department of Labor for information on the Occupational Safety and Health Administration's potential guidance to OSHA investigators on determining if there is a joint-employer relationship between companies.

The DOL's Solicitor of Labor, in a [document](#) leaked in August 2016, had drafted guidance to OSHA inspectors on enforcing a "multiemployer citation standard" that would affect franchisers and their franchisees.

In an [October 26, 2016, letter](#) to Labor Secretary Tom Perez, Representatives John Kline (R-Minn.), chairman of the House Education and the Workforce Committee, and Tim Walberg (R-Mich.), chairman of the Workforce Protections Subcommittee, requested [additional information](#) about the document.

Kline and Walberg initially requested information in an [October 13, 2015, letter](#), saying, the document had "alarmed employers and other stakeholders." The letter continued:

Now, without any public notice or warning, the Solicitor's memorandum would instruct OSHA inspectors to delve into unrelated matters – financial and otherwise – far outside their expertise. Drifting further from the agency's core mission, inspectors would have to consider "brand standards," menu and product creation, and the use of specific computer systems. Inspectors would consider these and other questions that move far beyond the "safety control" factors OSHA currently considers before issuing a multiemployer citation.

In their latest demand, the representatives asked the DOL for further details about OSHA's joint-employer policies. While they have received 1,501 pages in documents from the DOL, the documents had "numerous redactions" that went beyond simply redacting complainant information. In addition, the DOL had indicated it had an additional 3,300 pages of "yet-unproduced responsive documents."

"To date, more than a year after our initial inquiry, the department has not asserted executive privilege or any other legal reason to deny production of these documents in an unredacted form to the committee," the lawmakers wrote. If the DOL did not provide the documents in a less redacted form, the representatives said, and also produce additional requested documents, the committee

would “be forced to consider a compulsory process to compel production.”

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