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## **House Labor Committee 2/29/24** **MIRC Statement on Federal Rule on Independent Contractors**

The Michigan Immigrant Rights Center (MIRC) supports the final rule, Employee or Independent Contractor Classification Under the Fair Labor Standards Act (FLSA), issued by the U.S. Department of Labor on January 10, 2024, 89 FR 1638, available [here](#). This final rule rescinds an earlier rule published on January 7, 2021 (2021 Independent Contractor Rule) and is scheduled to take effect on March 11, 2024.

The final rule restores the multifactor analysis used by courts for decades, helping to ensure that all relevant factors are analyzed to determine whether a worker is an employee or an independent contractor. The final rule provides guidance on how six economic reality factors should be considered — opportunity for profit or loss depending on managerial skill, investments by the worker and the potential employer, the degree of permanence of the work relationship, the nature and degree of control, the extent to which the work performed is an integral part of the potential employer's business, and skill and initiative. Additional factors may also be considered if they are relevant to the overall question of economic dependence.

The final rule returns to a totality-of-the-circumstances analysis of the economic reality test in which the factors do not have a predetermined weight and are considered in view of the economic reality of the whole activity.

MIRC believes that this final rule will reduce the risk that employees are misclassified as independent contractors. MIRC supports the application or referencing of this rule in any additional state lawmaking pertaining to determining whether a worker is an employee or an independent contractor.

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