Order (at § 1500.40(c)), for the purpose of supporting research, education, and promotion plans and projects.

§§ 1500.2 through 1500.15 [Removed and Reserved]

■ 5. Remove and reserve §§ 1500.2 through 1500.15.

§§ 1500.17 through 1500.21 [Removed and Reserved]

■ 6. Remove and reserve §§ 1500.17 through 1500.21.

■ 7. Revise § 1500.41 to read as follows:

§ 1500.41 Nominations and Appointments.

(a) The Secretary shall appoint not fewer than 15 and not more than 25 members to the Board, and alternate members as deemed appropriate. Alternate members participate in meetings but do not vote as members of the Board. The Secretary shall consider nominations submitted from the Board as well as other manufacturers as the Secretary deems appropriate.

(b) In the event a voting member vacates their appointment, the Secretary will appoint an alternate member to fill the unexpired term. If the Board fails to submit nominations for any open position, the Secretary shall appoint a member qualifying for the position under criteria set forth in 1500.40.

A maximum of two individuals from any single company or its affiliates may serve on the Board at any one time, and current members will not necessarily be replaced with another representative of the same company.

§§ 1500.43 [Removed and Reserved]

■ 8. Remove and reserve § 1500.43.

■ 9. Revise § 1500.44 to read as follows:

§ 1500.44 Disqualification and Removal.

(a) In the event that any Board member or alternate Board member who was appointed as a manufacturer ceases to qualify as a manufacturer, such Board member or alternate Board member shall be disqualified from serving on the Board.

(b) [Reserved]

(c) All members serve at the pleasure of the Secretary. The Board may recommend to the Secretary that a member be removed from office.

[FR Doc. 2026–04005 Filed 2–26–26; 8:45 am]

BILLING CODE 3150–20–P

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 103

RIN 3142–AA21

Withdrawal of 2023 Standard for Determining Joint Employer Status

AGENCY: National Labor Relations Board.

ACTION: Final rule.

SUMMARY: On October 27, 2023, the Board published a final rule (2023 Rule) that rescinded and replaced a prior rule regarding the standard for determining joint employer status under the National Labor Relations Act. On March 8, 2024, the U.S. District Court for the Eastern District of Texas issued an order vacating the 2023 Rule. The Board is therefore revising its rules and regulations to replace the vacated regulatory text with the previous version of its rules that remain in effect due to the vacatur.

DATES: This rule is effective February 27, 2026.

FOR FURTHER INFORMATION CONTACT: Roxanne L. Rothschild, Executive Secretary, National Labor Relations Board, 1015 Half St. SE, Washington, DC 20570–0001, (202) 273–1940 (this is not a toll-free number) or 1–844–762–NLRB (6572) (this is a toll-free number). Hearing impaired callers who wish to speak to an NLRB representative should contact T-Mobile Relay Conference Captioning by visiting its website at *https://www.tmobileaccess.com/federal,* and submitting a form asking its Communications Assistant to call our toll free number at 1–844–762–NLRB (6572).

SUPPLEMENTARY INFORMATION: On October 27, 2023, the National Labor Relations Board published a final rule intended to rescind and replace a 2020 rule governing joint employer status under the National Labor Relations Act. (88 FR 73946, Oct. 27, 2023). The 2023 Rule, titled ''Standard for Determining Joint Employer Status,'' established a new standard for determining whether two employers, as defined in the Act, are joint employers of particular employees within the meaning of the Act.

On November 19, 2023, a challenge to the 2023 Rule was filed in the U.S. District Court for the Eastern District of Texas. *Chamber of Commerce* v. *NLRB,* No. 6:23–CV–00553 (E.D. Tex.). On March 8, 2024, the district court vacated the rule. 723 F.Supp. 3d 498, 519 (E.D. Tex. 2024). As the 2023 Rule has never taken effect, the prior rule titled ''Joint Employer Status Under the National Labor Relations Act,'' which was promulgated on February 26, 2020 (2020 Rule), remains the operative rule for determining joint employer status. 85 FR 11184 (Feb. 26, 2020), *codified at* 29 CFR 103.40. In accordance with the district court's order, the Board hereby revises 29 CFR subpart D to replace the text of the vacated 2023 Rule with the text of the 2020 Rule, which remains in effect.[1]

Procedural and Other Matters

Section 553 of the Administrative Procedure Act provides that when an agency for good cause finds that notice and public comment procedures are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment.[2] The Board has determined that there is good cause for making today's amendment to the 2023 Rule final without prior proposal and opportunity for comment. Because of the Court order vacating the 2023 Rule, the Board's action is ministerial in nature. Accordingly, the Board for good cause finds that a notice and comment period is unnecessary.[3]

The Administrative Procedure Act also generally requires that an agency publish an adopted rule in the **Federal Register** 30 days before it becomes effective.[4] This requirement, however, does not apply if the agency finds good cause for making this action to amend the 2023 Rule effective sooner. For the reasons discussed above, the Board finds that there is good cause to make repeal and replacement of the rule effective immediately.

The Board considers the costs and benefits of its rules and regulations. As discussed above, the 2023 Rule was vacated by the district court and the

[1] In accordance with the district court's vacatur of the 2023 Rule, Member Prouty joins in replacing the 2023 Rule with the 2020 Rule. However, he notes that was not a member of the Board when the 2020 Rule was promulgated and, for the reasons set forth in the preamble to the 2023 Rule, he does not believe that the 2020 Rule sets forth the proper standard for determining when an entity is a joint employer.

[2] 5 U.S.C. 553(b)(B).

[3] This finding also satisfies the requirements of 5 U.S.C. 808(2) (if a Federal agency finds that notice and public comment are ''impracticable, unnecessary or contrary to the public interest,'' a rule ''shall take effect at such time as the Federal agency promulgating the rule determines''), allowing the withdrawal to become effective notwithstanding the requirement of 5 U.S.C. 801. No analysis is required under the Regulatory Flexibility Act. See 5 U.S.C. 601(2) (for purposes of Regulatory Flexibility analysis, the term ''rule'' means any rule for which the agency publishes a general notice of the proposed rulemaking).

[4] 5 U.S.C. 553(d).

action the Board takes today merely implements the Court's decision. Our action is ministerial and therefore will have no separate economic effect.

Finally, the Congressional Review Act[5] generally provides that before certain actions make take effect, the agency promulgating the action must submit a report, which includes a copy of the action, to each House of Congress and to the Comptroller General of the United States. Because this action only implements the Court vacatur, and the agency has made a good cause finding that notice and comment is unnecessary, it is not subject to the Congressional Review Act.

Final Rule

This rule is published as a final rule.

List of Subjects in 29 CFR Part 103

Jurisdictional standards, Election procedures, Appropriate bargaining units, Joint employers, Remedial orders.

For the reasons set forth in the preamble, the National Labor Relations Board amends 29 CFR part 103 as follows:

PART 103—OTHER RULES

■ 1. The authority citation for part 103 continues to read as follows:

Authority: 29 U.S.C. 156, in accordance with the procedure set forth in 5 U.S.C. 553.

■ 2. Revise § 103.40, to read as follows:

§ 103.40 Joint employers.

(a) An employer, as defined by section 2(2) of the National Labor Relations Act (the Act), may be considered a joint employer of a separate employer's employees only if the two employers share or codetermine the employees' essential terms and conditions of employment. To establish that an entity shares or codetermines the essential terms and conditions of another employer's employees, the entity must possess and exercise such substantial direct and immediate control over one or more essential terms or conditions of their employment as would warrant finding that the entity meaningfully affects matters relating to the employment relationship with those employees. Evidence of the entity's indirect control over essential terms and conditions of employment of another employer's employees, the entity's contractually reserved but never exercised authority over the essential terms and conditions of employment of another employer's employees, or the entity's control over mandatory subjects of bargaining other than the essential terms and conditions of employment is probative of joint-employer status, but only to the extent it supplements and reinforces evidence of the entity's possession or exercise of direct and immediate control over a particular essential term and condition of employment. Joint-employer status must be determined on the totality of the relevant facts in each particular employment setting. The party asserting that an entity is a joint employer has the burden of proof.

(b) *Essential terms and conditions of employment* means wages, benefits, hours of work, hiring, discharge, discipline, supervision, and direction.

(c) *Direct and immediate control* means each respective essential employment term or condition in paragraphs (c)(1) through (8) of this section:

(1) *Wages.* An entity exercises direct and immediate control over wages if it actually determines the wage rates, salary or other rate of pay that is paid to another employer's individual employees or job classifications. An entity does not exercise direct and immediate control over wages by entering into a cost-plus contract (with or without a maximum reimbursable wage rate).

(2) *Benefits.* An entity exercises direct and immediate control over benefits if it actually determines the fringe benefits to be provided or offered to another employer's employees. This would include selecting the benefit plans (such as health insurance plans and pension plans) and/or level of benefits provided to another employer's employees. An entity does not exercise direct and immediate control over benefits by permitting another employer, under an arm's-length contract, to participate in its benefit plans.

(3) *Hours of work.* An entity exercises direct and immediate control over hours of work if it actually determines work schedules or the work hours, including overtime, of another employer's employees. An entity does not exercise direct and immediate control over hours of work by establishing an enterprise's operating hours or when it needs the services provided by another employer.

(4) *Hiring.* An entity exercises direct and immediate control over hiring if it actually determines which particular employees will be hired and which employees will not. An entity does not exercise direct and immediate control over hiring by requesting changes in staffing levels to accomplish tasks or by setting minimal hiring standards such as those required by government regulation.

(5) *Discharge.* An entity exercises direct and immediate control over discharge if it actually decides to terminate the employment of another employer's employee. An entity does not exercise direct and immediate control over discharge by bringing misconduct or poor performance to the attention of another employer that makes the actual discharge decision, by expressing a negative opinion of another employer's employee, by refusing to allow another employer's employee to continue performing work under a contract, or by setting minimal standards of performance or conduct, such as those required by government regulation.

(6) *Discipline.* An entity exercises direct and immediate control over discipline if it actually decides to suspend or otherwise discipline another employer's employee. An entity does not exercise direct and immediate control over discipline by bringing misconduct or poor performance to the attention of another employer that makes the actual disciplinary decision, by expressing a negative opinion of another employer's employee, or by refusing to allow another employer's employee to access its premises or perform work under a contract.

(7) *Supervision.* An entity exercises direct and immediate control over supervision by actually instructing another employer's employees how to perform their work or by actually issuing employee performance appraisals. An entity does not exercise direct and immediate control over supervision when its instructions are limited and routine and consist primarily of telling another employer's employees what work to perform, or where and when to perform the work, but not how to perform it.

(8) *Direction.* An entity exercises direct and immediate control over direction by assigning particular employees their individual work schedules, positions, and tasks. An entity does not exercise direct and immediate control over direction by setting schedules for completion of a project or by describing the work to be accomplished on a project.

(d) *Substantial direct and immediate control* means direct and immediate control that has a regular or continuous consequential effect on an essential term or condition of employment of another employer's employees. Such control is not ''substantial'' if only exercised on a sporadic, isolated, or de minimis basis.

(e) *Indirect control* means indirect control over essential terms and conditions of employment of another employer's employees but not control or

[5] 5 U.S.C. 801.

influence over setting the objectives, basic ground rules, or expectations for another entity's performance under a contract.

(f) *Contractually reserved authority over essential terms and conditions of employment* means the authority that an entity reserves to itself, under the terms of a contract with another employer, over the essential terms and conditions of employment of that other employer's employees, but that has never been exercised.

Dated: February 25, 2026.

Roxanne L. Rothschild,

Executive Secretary.

[FR Doc. 2026–03955 Filed 2–26–26; 8:45 am]

BILLING CODE 7545–01–P

DEPARTMENT OF EDUCATION

34 CFR Part 602

Regulatory Guidance Relating to the Criteria and Process for Initial Recognition of an Accrediting Agency

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Interpretive rule.

SUMMARY: This interpretive rule sets forth the Department's interpretation of certain regulations at the Criteria for Recognition, and the Recognition Process, governing an accrediting agency's submission of a written application seeking initial recognition. In general, the provisions in this interpretive rule are designed to reduce unnecessary barriers to the recognition of accrediting agencies to promote competition in the market for assessing the quality of education or training offered by postsecondary institutions and programs.

DATES: February 27, 2026.

FOR FURTHER INFORMATION CONTACT: Elizabeth Daggett, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. Email: *elizabeth.daggett@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Background

For decades, the Department has utilized 34 CFR part 602 ('Part 602'), Subpart B, the Criteria for Recognition, to govern the eligibility requirements that an accrediting agency must meet before submitting a written application for initial recognition to the Secretary; and, after submitted, Part 602, Subpart C, the Recognition Process, to govern the procedures for the Department's processing, analysis, and decision to approve or deny an application seeking initial recognition. Since 1999, the Department has only recognized four (4) new accrediting agencies with the authority to establish institutional eligibility to participate in the Federal financial assistance programs authorized under title IV of the Higher Education Act of 1965, as amended, (''HEA'').[1] In fact, only seven institutional accrediting agencies collectively serve as gatekeepers for more than three thousand (3,000) U.S. institutions' eligibility for title IV, HEA programs.

On April 23, 2025, President Donald J. Trump issued Executive Order 14279, Reforming Accreditation to Strengthen Higher Education, (''E.O. 14279''), which called for the Department to take action to reform the ''dysfunctional accreditation system.'' Specifically, E.O. 14279 directs the Department, among other things, to:

''(i) resume recognizing new accreditors to increase competition and accountability in promoting high-quality, high-value academic programs focused on student outcomes;''

''(v) increase the consistency, efficiency, and effectiveness of the accreditor recognition review process, including through the use of technology;''

''(vi) streamline the process for higher education institutions to change accreditors to ensure institutions are not forced to comply with standards that are antithetical to institutional values and mission;'' and

''(vii) update the Accreditation Handbook to ensure that the accreditor recognition and reauthorization process is transparent, efficient, and not unduly burdensome.''

Upon the issuance of E.O. 14279, the Secretary of Education stated: ''[E.O. 14279] will bring long-overdue change by accelerating the recognition of new accreditors and refocusing existing accreditors on helping member institutions improve the student outcomes families care most about. Instead of pushing schools to adopt a divisive DEI ideology, accreditors should be focused on helping schools improve graduation rates and graduates' performance in the labor market. The Department of Education will create a competitive marketplace of higher education accreditors, which will give colleges and universities incentives and support to focus on lowering college costs, fostering innovation, and delivering a high-quality postsecondary education.'' [2]

As the Department observed in the Preamble of the 2019 revisions to Part 602, ''[w]e believe the dearth of new agencies shows that the barriers to entry for new accrediting agencies were so significant that they discouraged new entrants.'' [3] A primary obstacle to effectuating E.O. 14279's mandate to recognize new accrediting agencies is the existing regulatory requirement that an agency seeking initial recognition from the Secretary must have ''[c]onducted accrediting activities, including deciding whether to grant or deny accreditation or preaccreditation, for at least two years prior to seeking recognition.'' 34 CFR 602.12(a). Coupled with the Department's current processing procedures under Part 602, Subpart C, the Recognition Process, an accrediting agency typically faces a two-to-three year period for the Department to evaluate and approve or deny the initial application for recognition, resulting in a cumulative four-to-five year timeframe for a new accrediting agency to be recognized by the Secretary. As a practical matter, this delay creates a significant barrier to entry for new institutional accrediting agencies as potential member-institutions are often unwilling or unable to simultaneously maintain accreditation with an already-recognized accrediting agency—which is necessary for continued participation in title IV and other Federal programs—and apply for and maintain accreditation with a new accrediting agency while that agency undergoes a

[1] U.S. Dep't of Ed., *Institutional Accrediting Agencies, www.ed.gov* (September 17, 2025) available at *https://www.ed.gov/laws-and-policy/higher-education-laws-and-policy/college-accreditation/institutional-accrediting-agencies.* Specifically, the Midwifery Education Accreditation Council (2001), Commission on Massage Therapy Accreditation (2002), Commission on English Language Program Accreditation (2003)(though an institutional accreditor, CEA does not recognize institutions for Title IV program purposes), Middle State Commission on Secondary Schools, which has jurisdiction over vocational/technical institutions that offer non-degree, postsecondary education (2004), and the Association of Institutions of Jewish Studies (2015).

[2] U.S. Dep't of Ed., *Secretary of Education Statements on President Trump's Education Executive Orders, www.ed.gov* (April 23, 2025) available at *https://www.ed.gov/about/news/press-release/secretary-of-education-statements-president-trumps-education-executive-orders.* (Last Accessed February 23, 2026).

[3] Student Assistance General Provisions, The Secretary's Recognition of Accrediting Agencies, The Secretary's Recognition Procedures for State Agencies, 84 FR 58834, 58853 (Nov. 1, 2019) (codified at 34 CFR part 602).