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## United States Senate

COMMITTEE ON HEALTH, EDUCATION,  
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

DAVID P. CLEARY, STAFF DIRECTOR  
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<http://help.senate.gov>

July 19, 2017

The Honorable Mike Pence  
Vice President  
Eisenhower Executive Office Building  
1650 Pennsylvania Ave NW  
Washington, DC 20502

Dear Vice President Pence:

In a speech you gave at the National Retail Federation's "Retail Advocates Summit" on July 18, 2017, you stated, "as we speak, our administration is rolling back the joint employer rule."<sup>1</sup> I am writing to express my concern with the Administration's apparent plans to roll back important worker protections, and seek clarity about how the Administration's latest broken promise to workers will impact our nation's workforce.

The concept of "joint employment" is a long accepted doctrine within labor and employment law. It is utilized by the Department of Labor's Wage and Hour Division, the Occupational Safety and Health Administration, the Equal Employment Opportunity Commission, the Office of Federal Contract Compliance Programs, and the National Labor Relations Board to ensure that workers receive all of the rights and protections afforded to them by the law and that all responsible employers are aware of and accountable for compliance with their obligations.<sup>2</sup> However, none of the agencies that utilize a joint employer standard have created any new rule regarding joint employment in recent years. Moreover, given that two nominees to the National Labor Relations Board (NLRB) are currently pending before the Senate and have repeatedly assured the Health, Education, Labor, and Pensions (HELP) Committee that they have not pre-judged issues that could come before them, including how they might rule on issues such as how the NLRB interprets the joint employer standard, your comments are of concern.

To ensure that workers understand which of their rights you are currently working to roll back, please provide additional details regarding what rule you were referring to and whether you or anyone at the White House has spoken to either Marvin Kaplan or William Emanuel regarding the NLRB's joint employer standard under the National Labor Relations Act.

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<sup>1</sup> Vice President Mike Pence, Address at National Retail Foundation Retail Advocates Summit (July 18, 2017), available at <https://www.youtube.com/watch?v=1-zOdTt7N60>.

<sup>2</sup> Department of Labor, Wage and Hour Division "Fact Sheet # 35: Joint Employment Under the Fair Labor Standards Act (FLSA) and Migrant and Seasonal Agricultural Worker Protection Act (MSPA) (1/2016), available at <https://www.dol.gov/whd/regs/compliance/whdfs35.htm>.

I look forward to your response no later than August 2, 2017. If you have questions about this request, please contact Joe Shantz or Carly Rush with my HELP Committee Staff at 202-224-0767. I look forward to hearing from you.

Sincerely,

A handwritten signature in blue ink that reads "Patty Murray". The signature is written in a cursive style with a large initial "P" and a decorative flourish at the end.

Patty Murray  
United States Senator  
Ranking Member, Senate Health, Education,  
Labor, and Pensions Committee