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## US LABOR RELATIONS BOARD REINSTATES TRADITIONAL INDEPENDENT CONTRACTOR STANDARD

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The US National Labor Relations Board (NLRB) has reinstated a long-standing independent contractor standard, strengthening employers' ability to classify franchisees as independent contractors rather than employees covered by the National Labor Relations Act ([SuperShuttle DFW, Inc.](#)). The decision rejected a standard established in 2014 that had limited the significance of an individual's entrepreneurial opportunity for economic gain in determining an individual's classification.

The 3-1 decision confirmed the classification of franchisees who operate shared-ride vans for an airport as independent contractors. The board reaffirmed the use of the common law agency test for determining whether an individual is an employee or an independent contractor — the more factors showing an individual's entrepreneurial opportunity for economic gain, the more likely the person is an independent contractor. In this case, the drivers' ownership or leasing of their work vans, their compensation method and working conditions and the absence of supervision were key factors in the board's finding that the drivers were independent contractors.

### RELATED RESOURCES

- [Decision in SuperShuttle DFW, Inc.](#) (NLRB, Jan. 25, 2019)
- [Press Release](#) (NLRB, Jan. 25, 2019)

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