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# FTC Moves to Ban the Use of Noncompete Agreements by All Employers

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The Federal Trade Commission (FTC) has issued a Notice of Proposed Rulemaking for its proposed [rule](#) that would essentially prohibit employers from entering into noncompete agreements with any employee, independent contractors, interns, volunteers, and other types of workers. The FTC's self-described mission is "protecting the public from deceptive or unfair business practices and from unfair methods of competition through law enforcement, advocacy, research, and education." This proposed rule is the latest example of the FTC, under the direction of Chair Lina Khan, attempting to control corporate power and influence. Since Khan took over control of the agency in June 2021, the FTC has challenged the Microsoft-Activision merger, worked with the Justice Department to force Epic Games Inc., developer of the popular video game Fortnite, to agree to massive privacy law violation penalties, and filed a lawsuit to block Meta from buying a virtual reality start-up. 

Generally, noncompete agreements prevent an employee from joining a competitor or starting a competitive business for a specified period of time. Often, noncompete agreements are limited to a geographic area. Many states regulate noncompete agreements in a variety of ways, including through income levels and notice requirements, but this new federal rule would supersede any state or local law that expressly allows for such restrictions.

The FTC estimates that approximately 30 million people are bound by noncompete agreements. The agency [justifies](#) the rule as necessary by pointing to evidence that noncompete agreements "restrict workers from moving freely" and "reduce the wages of workers who aren't subject to [such agreements] by preventing jobs from opening in their industry."

The proposed rule would require employers to withdraw any existing noncompete agreements and inform employees that noncompete agreements no longer apply. The proposed rule would also make it unlawful for an employer to enter into a noncompete agreement with an employee, to attempt to enter into such an agreement with an employee, or to suggest that an employee is bound by a noncompete agreement when the employee is not. There is a limited exception for agreements with a person who is selling ownership or assets in a business. Also, the rule does not restrict customer or employee non-solicitation or confidentiality agreements.

Proponents of noncompete agreements argue that they are necessary for companies to protect trade secrets,

investment in employee training, and other valuable investments. Khan directly [addressed](#) this concern by pointing out that alternative methods, like nondisclosure agreements and trade secrets law, are less intrusive ways of addressing these concerns without the negative consequences that noncompete agreements have brought about.

People might be questioning whether the FTC's finding that noncompete agreements stifle employee mobility is based in reality, given the historic rate at which employees have been quitting and job-hopping in recent years.

The rule is currently open for [public comment](#). The public comment period is scheduled to close on March 10, 2023. Commissioner Christine Wilson, who dissented from issuing the proposed rule, urged parties to submit comments. Once the public comment period closes, the agency will review the comments and issue a final rule. We expect that if a final rule is implemented, it could be met with legal challenges. We will continue to monitor any developments with the FTC's proposed rule and provide any updates on this significant employment development.