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Bowditch E-Alert: NLRB Rules that Students Have the Right to Unionize

BY ANTHONY J. DRAGGA AND DAVID M. FELPER • AUGUST 25, 2016

In a 3-1 decision this week, the National Labor Relations Board ruled that teaching and research assistants at Columbia University are covered employees under the National Labor Relations Act, and therefore have the right to unionize. Under prior federal precedent, the NLRB acknowledged that teaching and research assistants have a primarily educational, not economic, relationship with their university, in holding that graduate student assistants are primarily students and not statutory employees.

On Tuesday, the Board reversed course, holding that it has the “statutory authority to treat student assistants as statutory employees, where they perform work, at the direction of the university, for which they are compensated.” Notably, nothing in the Board’s decision precludes undergraduate students who perform some kind of service for the university in exchange for compensation from seeking collective bargaining.

Public higher education institutions will not be directly affected by this decision because the NLRB has no jurisdiction over government entities. It can grant students the right to organize only at private institutions.

Client Tip: *The Board’s decision and its very broad definition of which students can be classified as employees could have a significant impact on private universities across the country. Private colleges and universities should reevaluate their HR and labor relations approaches in light of this decision, and be proactive in formulating policies that will minimize the risk that student employees will seek to unionize.*

For more information, please contact [David Felper](#) or [Anthony Dragga](#), the authors of this alert, or your attorney at Bowditch & Dewey LLP.