NLRB Willing to Review Petitions to Allow Graduate Student Unionization

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In two decisions issued on March 13, 2015, the National Labor Relations Board (NLRB) has indicated an interest in revisiting the issue of unionization among graduate students at private universities. In the decisions, the NLRB reversed a Regional Director's dismissals of two union petitions filed by the United Auto Workers (UAW) on behalf of graduate students at Columbia University and the New School. The union petitions were rejected pursuant to a 2004 NLRB decision which held that Brown University graduate teaching and research assistants are "primarily students," not employees, and therefore do not have the right to unionize.

The 2004 Brown University decision itself put an end to a short-lived period of permissible graduate student unionization at private institutions, set in place in 2000 by an NLRB decision involving New York University. The recent decisions demonstrate the current Board's interest in reviewing and possibly overturning the Brown University ruling, thereby returning once again to a regime allowing collective bargaining by graduate students.

The NLRB provided little insight into its rationale for the reversals, stating only that each UAW petition "raises substantial issues warranting review." Both petitions have been remanded back to the Regional Director for a hearing and decision, which will no doubt be taken up again by the Board for further review.

Client Tip: *Institutions should closely monitor the NLRB's further actions in connection with these petitions, and be prepared to comply with any changes in NLRB policy regarding graduate student unionization that may result from its rulings.*

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