NLRB Announces Intent to Issue New Rules on Student Unionization

BY ROBERT G. YOUNG • JUNE 6, 2019

The issue of whether teaching assistants and research assistants are "employees" for purposes of federal labor law, and thus eligible to form unions, has been a ping-pong match between supporters and opponents of campus unionization for decades. In 2000, the National Labor Relations Board (NLRB) issued a decision supporting collective bargaining for graduate students, but it reversed that decision only four years later. Then, in 2016, the NLRB switched positions again, issuing a decision again in favor of unionization.

In May 2019, the NLRB issued a notice stating that it would engage in rulemaking to set standards to determine whether students who perform "services" for private institutions are "employees" within the meaning of the National Labor Relations Act. Many view this as an effort to overturn the 2016 decision and return to an era where graduate students are not permitted to organize.

Client Tip: The proposed regulations are scheduled to be issued in September 2019. Institutions should continue to monitor this situation and check back for updates.

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