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Update: NLRB Final Rule Governing Employee-Status of Student Workers May Issue As Soon As September 2020

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As we previously reported, the NLRB published a Notice of Proposed Rulemaking (NPRM) in September 2019 regarding the employee-status of student workers at private colleges and universities. Under the proposed rule, the NLRB seeks to establish that undergraduate and graduate students performing services for compensation, including teaching and research, in connection with their studies are not "employees" within the meaning of Section 2(3) of the National Labor Relations Act. The proposed rule, if finalized, would help to bring certainty to the student employee-status issue, which is a question the Board has reversed its position on three times in the last few decades. The NPRM initially asked for public feedback on the rule by October 2019, but the time for public comment was ultimately extended until February 28, 2020.

In all, the Board received 13,735 comments from the public regarding the proposed rule. While the Board has not officially announced when it expects to publish a final rule on student workers, the Office of Information and Regulatory Affairs, a division of the Office of Management and Budget, has indicated that the final rule should be available in September 2020. The update was made on Reginfo.gov, which aggregates and publishes data on the rulemaking activities of the various federal agencies. If this timeline is followed, this could have a significant impact on graduate student organizing activities that are planned for the start of the Fall 2020 semester.

We will continue to follow the Board's rulemaking process, so stay tuned for updates on the final rule.

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