



Collective Bargaining 101: What You Need to Know

February 2, 2023 | 1:00 p.m. ET

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Presenters



Jonathan Fritts
Partner,
Morgan Lewis



Roberta Paul
Senior Director for
Employee & Labor Relations,
Georgetown University

Agenda

- Current Collective Bargaining Environment
- NLRB Update
- Dealing with a Challenging Labor Relations Environment



Poll Question

Which categories of faculty/employees/students are currently represented by a union at your institution?

- Full-time faculty
- Adjunct faculty
- Graduate teaching/research assistants
- Other categories of student employees
- Facilities/maintenance employees
- Campus police/security
- None of the above

The Current Collective Bargaining Environment

- The Pandemic Experience
- The Labor Market
- Inflation
- Increased Expectations
- Activism

Poll Question

Have you negotiated a collective bargaining agreement (new or existing) in the last year?

- Yes
- No

Poll Question

Have you had a strike on campus in the last year?

- Yes
- No

Bloomberg Law

Starbucks, Education Strikes Fuel 17-Year High in Work Stoppages

By Andrew Wallender Jan. 10, 2023, 1:52 PM

“Manufacturing and health care were two other sectors that had dozens of work stoppages last year. ***But of the at least 222,306 workers involved in stoppages, more than 137,000 were educators, researchers, and other academic professionals.***”

Daily Labor Report ®

College, University Strike Wave Continues Its Swell Into 2023

By Robert Iafolla Jan. 24, 2023, 5:40 AM



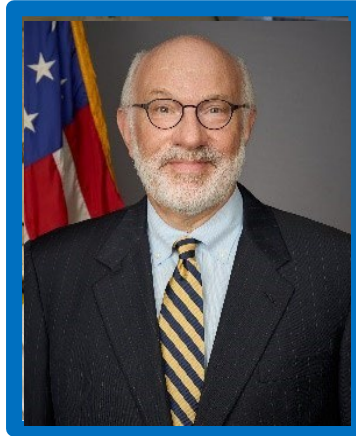
The Current NLRB



**Lauren
McFerran (D)**
Chair



**Gwynne A.
Wilcox (D)**



**David M.
Prouty (D)**



**Marvin E.
Kaplan (R)**



**Jennifer
Abruzzo (D)**
General Counsel

Student Employees under the NLRA

NLRB Withdrawing Proposed Rule Regarding Student Employment

Office of Public Affairs

202-273-1991

publicinfo@nrb.gov

www.nrb.gov

March 12, 2021

WASHINGTON, DC – The National Labor Relations Board (NLRB) will publish a Notice of Withdrawal in the Federal Register on March 15, 2021, withdrawing a proposed rule regarding undergraduate and graduate students. The proposed rule would have exempted from the NLRB’s jurisdiction those students who perform services for financial compensation in connection with their studies by declaring them not to be “employees” within the meaning of Section 2(3) of the National Labor Relations Act. The Board has decided to withdraw this rulemaking proceeding at this time in order to focus its limited resources on competing Agency priorities, including the adjudication of unfair labor practice and representation cases currently in progress. The Notice of Withdrawal can be found on the Federal Register at: <https://www.federalregister.gov/public-inspection/2021-05184/jurisdiction--nonemployee-status-of-university-and-college-students-working-in-connection-with-their>.

GC Memo on Statutory Rights of Student-Athletes

MEMORANDUM GC 21-08

September 29, 2021

TO: All Regional Directors, Officers-in-Charge,
and Resident Officers

FROM: Jennifer A. Abruzzo, General Counsel

SUBJECT: Statutory Rights of Players at Academic Institutions (Student-Athletes)¹ Under
the National Labor Relations Act

On January 31, 2017, the Office of the General Counsel issued GC 17-01, which addressed various issues regarding the statutory rights of university faculty and/or students under the National Labor Relations Act ("the Act" or "NLRA"). That memo summarized pertinent representation case decisions and was intended to serve as a guide for employers, labor unions, and employees regarding how the Office of the General Counsel intended to apply those cases in the unfair labor practice arena. GC 17-01 was later rescinded by GC 18-02. This memo reinstates GC 17-01, to the extent it is consistent with this memo, and, additionally, provides updated guidance regarding my prosecutorial position that certain Players at Academic Institutions are employees under the Act. Further, it explains that, where appropriate, I will allege that misclassifying such employees as mere "student-athletes", and leading them to believe that they do not have statutory protections is a violation of Section 8(a)(1) of the Act.

GC Memo on Statutory Rights of Student-Athletes

“In sum, it is my position that ... ***Players at Academic Institutions, are employees under the Act.*** I fully expect that this memo will notify the public, especially Players at Academic Institutions, colleges and universities, athletic conferences, and the NCAA, that I will be taking that legal position in future investigations and litigation under the Act. In addition, it notifies them that I will also consider pursuing a misclassification violation.”

Preparing for Union Organizing

- What position will your institution take?
- What will the organizing process look like?
- What will be the scope/composition of the bargaining unit?
- What will your institution's message be?

Dealing with a Challenging Environment for Negotiations

- Manage stakeholder expectations
- Manage expectations during negotiations
- Balance financial constraints with labor market realities, inflation
- Have a contingency plan
- Be mindful of the evolving treatment of student employees and student athletes

Have a Question?



Submit questions to our presenters
using the Chat.



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