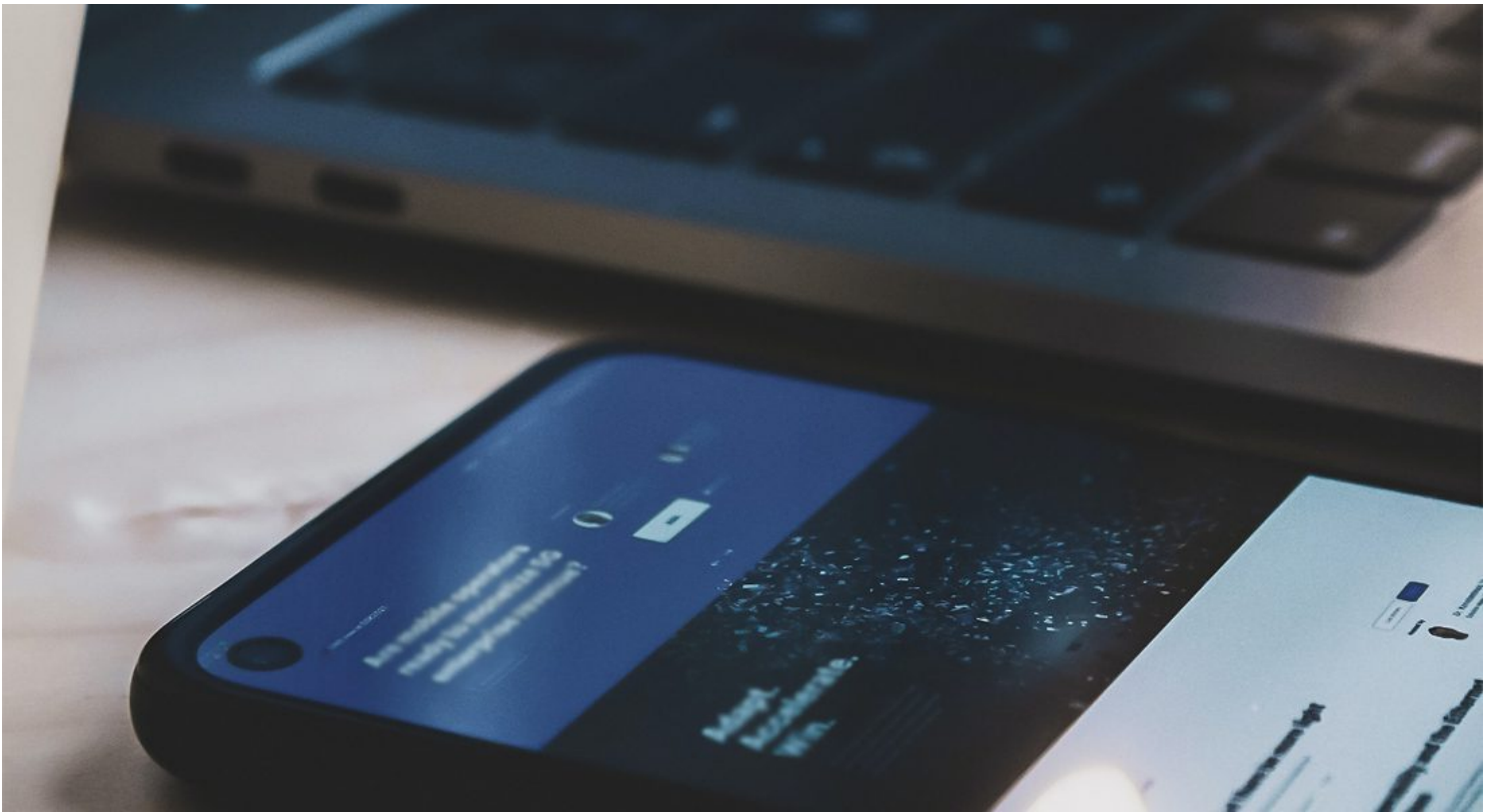


NEWS & INSIGHTS

NLRB to Release Updated Regulations to Determine Graduate Students' Right to Unionize

INSIGHTSLEGAL UPDATE

JUNE 7, 2019



The National Labor Relations Board (NLRB) recently announced its intent to release proposed regulations to clarify whether graduate students and teaching assistants at private universities can unionize. The NLRB will determine whether, or under what circumstances, students who perform services in connection with their studies are considered “employees” as defined under the National Labor Relations Act (NLRA). The proposed regulations are expected in September 2019, with a public comment period to follow.

In 2016, the NLRB issued a decision wherein it found that graduate students and teaching assistants were considered employees with the ability to unionize. However, the NLRB has historically flip-flopped on this issue, as the opposite position was in effect as recently as 2004. In its 2004 ruling, the NLRB found that graduate students and teaching assistants should not be permitted to form unions because it would intrude on the idea that, notwithstanding wages or stipends, research duties were part of the educational process. The 2016 decision rejected this rationale as being unsupported by legal authority.

Graduate students and teaching assistants retain the authority to unionize until completion of the comment period and formal adoption of the regulations. In addition, even after adoption of new regulations, colleges and universities can still voluntarily recognize student unions.

[Saxton & Stump](#) attorneys [Richard L. Hackman](#) and [Morgan S. Hays](#) are available to discuss how your institution may be impacted by this developing issue and how our [Labor and Employment Law Group](#) can help devise an appropriate plan.

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