

November 28, 2018



Graduate Students Organize Outside the National Labor Relations Board's Jurisdiction

Unions have been actively organizing graduate students, while wanting to avoid having the National Labor Relations Board involved. They are particularly concerned that President Trump's appointees to the National Labor Relations Board, who are now a majority of the Board members, will revisit and reverse the *Columbia University* decision. That decision determined that graduate students were employees and could organize and bargain collectively.

Already, the University of Chicago and Loyola University Chicago have refused to bargain with their graduate students after they formed unions through the NLRB process. These universities are challenging the status of graduate students as employees and appear to be willing to have the new Labor Board review their cases and potentially go to the circuit courts before negotiating with the unions.

While these challenges play out, unions have pursued another route to avoid having the Labor Board involved in the election process. In their effort to avoid the Labor Board, graduate students have sought to have a neutral organization conduct elections. They have threatened or have gone on strike to induce their administrations to use organizations like the American Arbitration Association ("AAA") to oversee elections. Georgetown University and Brown University both agreed to an election supervised by the AAA which elections took place in November.

In each case the graduate students voted in favor of joining a union. The graduate students at Georgetown voted 555 to 108 to join the union, out of almost 1100 eligible voters, while at Brown the vote was 576 in favor of the union and 394 against. Georgetown and Brown have agreed to meet and negotiate with the graduate student unions. In following this route, universities must consider what rights they are giving up, how the process will determine who is eligible to vote, and what happens if problems arise prior to or during the election itself.

Authors:



Gary S. Starr
(860) 251-5501
gstarr@goodwin.com



Jarad M. Lucan
(860) 251-5785
jlucan@goodwin.com



In a related development, after battling the organizing efforts of its graduate students, Columbia University abandoned efforts to appeal the decision permitting graduate students to organize and instead has proposed a framework for negotiations with the union. The discussions that led to the bargaining framework followed a strike among almost 3000 graduate students last April in which recognition of the union and collective bargaining were the issues.

The threat of strikes on the eve of finals, reunion weekends, or graduation days may pose difficult choices for administrators. A review of demands made by union negotiators may provide some avenue for heading off the unionization of graduate students at other campuses by addressing these issues before an organizing effort is underway.

Questions or Assistance:

If you have questions, please contact Gary Starr at (860) 251-5501 or gstarr@goodwin.com or Jarad Lucan at (860) 251-5785 or jlucan@goodwin.com.

These materials have been prepared by Shipman & Goodwin LLP for informational purposes only. They are not intended as advertising and should not be considered legal advice. This information is not intended to create, and receipt of it does not create, a lawyer-client relationship. Viewers should not act upon this information without seeking professional counsel. © 2018 Shipman & Goodwin LLP. One Constitution Plaza, Hartford, CT 06103.

289 Greenwich Avenue
Greenwich, CT 06830-6595
203-869-5600

One Constitution Plaza
Hartford, CT 06103-1919
860-251-5000

265 Church Street - Suite 1207
New Haven, CT 06510-7013
203-836-2801

400 Park Avenue - Fifth Floor
New York, NY 10022-4406
212-376-3010

300 Atlantic Street
Stamford, CT 06901-3522
203-324-8100

1875 K St., NW - Suite 600
Washington, DC 20006-1251
202-469-7750

www.shipmangoodwin.com