



Office of Congressional and Public Affairs

Northwestern University Decision

On January 28, 2014, Northwestern University grant-in-aid scholarship football players filed a petition for a representation election with the National Labor Relations Board's Region 13 office, seeking representation by the College Athletes Players Association for the purpose of collective bargaining.

In response to the petition, Northwestern University argued that the scholarship players are not employees under Section 2(3) of the National Labor Relations Act (NLRA).

On March 26, 2014, the Regional Director for Region 13 issued a decision in the case, finding that the University's grant-in-aid scholarship football players were statutory employees under the NLRA and directing an election to take place on April 25, 2014.

On April 24, 2014, the Board granted Northwestern University's request to review the Regional Director's decision. Accordingly, the ballots cast during the April 25, 2014 election were impounded and not counted, pending the Board's decision on review.

On May 12, 2014, the Board invited the parties and interested amici to file briefs in this case. A total of 22 briefs were filed.

On August 17, 2015, the Board issued a unanimous decision in the case, declining to assert jurisdiction over Northwestern University grant-in-aid scholarship football players and dismissing the representation petition.

In its decision, the Board did not determine whether grant-in-aid scholarship players are employees under the Act. Rather, the Board, exercising its discretion whether or not to assert jurisdiction, held that asserting jurisdiction in this case would not effectuate the policies of the NLRA to promote stability in labor relations.

The Board's determination that it would not promote stability in labor relations to assert jurisdiction was premised primarily on two findings:

1. The nature of NCAA Division 1 FBS football -- comprised of roughly 125 college and university teams -- which exercises a substantial degree of control over individual member teams, including the terms and conditions under which the scholarship players practice and play.
2. The composition and structure of FBS football in which the overwhelming majority of competitors are public colleges and universities over which the Board cannot assert jurisdiction. Asserting jurisdiction over the single team in this case would likely have ramifications for those other member teams.

The Board emphasized that this case involves novel circumstances and that its decision is based on the unique facts in this case.