WASHINGTON, DC, September 20, 2019—The National Labor Relations Board (NLRB) will publish a Notice of Proposed Rulemaking (NPRM) in the Federal Register on September 23, 2019, proposing a rule regarding students. Addressing a recurring question regarding the definition of “employee” under Section 2(3) of the National Labor Relations Act (NLRA), the proposed rule would exempt from the NLRB’s jurisdiction undergraduate and graduate students who perform services for financial compensation in connection with their studies.

Through issuance of the NPRM, the Board seeks public comment on its proposed view that students who perform services – including teaching and/or research – for compensation at a private college or university in connection with their studies are not “employees” under the NLRA. The basis for this proposed rule is the Board’s preliminary position, subject to revision in light of public comment, that the relationship these students have with their school is predominately educational rather than economic.

In announcing the proposed rule, NLRB Chairman John F. Ring stated: “In the past 19 years, the Board has changed its stance on this issue three times. This rulemaking is intended to obtain maximum input on this issue from the public, and then to bring stability to this important area of federal labor law.” Chairman Ring was joined by Board Members Marvin E. Kaplan and William J. Emanuel in issuing the proposed rulemaking. Board Member Lauren McFerran dissented.

The NPRM, including majority and dissenting views as well as relevant statistical appendices cited therein, can be accessed on the Board’s public website at [INSERT LINK].

Public comments are invited on all aspects of the proposed rule and should be submitted within 60 days of the Notice’s publication in the Federal Register, either electronically to www.regulations.gov, or by mail or hand-delivery to Roxanne Rothschild, Executive Secretary, National Labor Relations Board, 1015 Half Street S.E., Washington, D.C. 20570-0001. Any person wishing to comment on any ongoing rulemaking by the National Labor Relations Board must do so in accordance with the applicable Notice of Proposed Rulemaking. Communications submitted in any other manner, including comments on this website, will not be considered by the Board.

Established in 1935, the National Labor Relations Board is an independent federal agency that protects employers and employees from unfair labor practices and protects the right of private sector employees to join together, with or without a union, to improve wages, benefits and working conditions. The NLRB conducts hundreds of workplace elections and investigates thousands of unfair labor practice charges each year.

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