

Another NLRB Rule Reversed

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The National Labor Relations Board continues to reverse former President Donald Trump-era labor policy and last week [rescinded a labor rule](#) applicable to higher education.

Back in September 2019, the board published a "Notice of Proposed Rulemaking" for a regulation establishing that students at private colleges and universities who perform any services related to their studies for compensation - including teaching and research, are not employees within the meaning of the National Labor Relations Act. After more than 13,000 public comments - the Trump board rule was nearing finalization. However, last week President Joe Biden's board issued a statement saying it is withdrawing the proposed rule that would have blocked student teaching assistants from forming unions.

The board stated in its news release it is pulling the rule "to focus its limited resources on competing agency priorities, including the adjudication of unfair labor practice and representation cases currently in progress." Newly appointed by Biden, NLRB Chairman Lauren McFerran, [said in a tweet Friday](#) that "student employees are workers deserving the full protection of our labor laws." The Biden board is also signaling movement away from rulemaking, which was increasingly done during the Trump administration, and toward adjudication of decisions.

The board plans to publish a notice in the Federal Register withdrawing the rule this week.

What does this mean for institutions of higher education? Brace yourself for a new wave of union organizing involving your student employees. The board will now rely on its standard on student-employee status as articulated in its [2016 Columbia University decision](#), finding that student teachers and research assistants are "employees" under the NLRA.

We will be closely monitoring the board as it continues revert back to Obama-era labor policy. If you have any questions about how this latest, or any of the other recent, NLRB Trump reversal affects your business, please [contact me](#) or anyone in the [Barley Snyder Employment Practice Group](#).

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