

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

NORTHWESTERN UNIVERSITY  
Employer

and

Case 13-RC-121359

COLLEGE ATHLETES PLAYERS  
ASSOCIATION (CAPA)  
Petitioner

NOTICE AND INVITATION TO FILE BRIEFS

On April 24, 2014, the Board (Members Hirozawa, Johnson and Schiffer) granted Northwestern University's Request for Review of the Regional Director's Decision and Direction of Election because it raised substantial issues warranting review, and indicated that it would establish a schedule for the filing of briefs on review and *amicus* briefs.

The Board invites the filing of briefs in order to afford the parties and interested *amici* the opportunity to address issues raised in this case.

The parties and *amici* specifically are invited to address one or more of the following questions, in addition to any other issues raised:

1. What test should the Board apply to determine whether grant-in-aid scholarship football players are "employees" within the meaning of Section 2(3) of the Act, and what is the proper result here, applying the appropriate test?
2. Insofar as the Board's decision in *Brown University*, 342 NLRB 483 (2004), may be applicable to this case, should the Board adhere to, modify, or overrule the test of employee status applied in that case, and if so, on what basis?
3. What policy considerations are relevant to the Board's determination of whether grant-in-aid scholarship football players are "employees" within the meaning of Section 2(3) of the Act and what result do they suggest here?
4. To what extent, if any, is the existence or absence of determinations regarding employee status of grant-in-aid scholarship football players under other federal or state statutes or regulations relevant to whether such players are "employees" under the Act?
5. To what extent are the employment discrimination provisions of Title VII, in comparison to the antidiscrimination provisions of Title IX of the Education Amendments Act of 1972, relevant to whether grant-in-aid scholarship football players are "employees" under the Act?
6. If grant-in-aid scholarship football players are "employees" under the Act, to what extent, if any, should the Board consider, in determining the parties' collective-bargaining obligations, the existence of outside constraints that may alter the ability of the parties to engage in collective bargaining as to certain terms and conditions of

employment? What, if any, should be the impact of such constraints on the parties' bargaining obligations? In the alternative, should the Board recognize grant-in-aid scholarship football players as "employees" under the Act, but preclude them from being represented in any bargaining unit or engaging in any collective bargaining, as is the case with confidential employees under Board law?

The parties may file briefs on review, not exceeding 50 pages in length, with the Board in Washington, D.C. on or before June 26, 2014. Interested *amici* may file briefs not exceeding 30 pages in length on or before the same date. The parties may file responsive briefs before July 10, 2014, which shall not exceed 25 pages in length. No other responsive briefs will be accepted. The parties and *amici* shall file briefs electronically by going to [www.nlr.gov](http://www.nlr.gov) and clicking on "E-File Documents." Parties and *amici* are reminded to serve all case participants. A list of case participants may be found at <http://www.nlr.gov/case/13-RC-121359> under the heading "Service Documents." If assistance is needed in E-Filing on the Agency's website, please contact the Office of Executive Secretary at 202-273-1940 or the undersigned at 202-273-3737.

Dated, Washington, D.C., May 12, 2014.

By direction of the Board:

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Gary Shinnors  
Executive Secretary