

LEGAL Q&A

Q Players on the Northwestern University football team recently filed a petition with the National Labor Relations Board (NLRB) to organize for collective bargaining purposes. Are college athletes' students or employees?

A Representation by a union under the National Labor Relations Act (NLRA) has been reserved solely for those in an employer/employee relationship. A good argument in this case can be made for both sides. Black's Law Dictionary defines an "employee" as a person who performs services and is under the control and direction of another. The definition of "employment" includes a state of being which consumes time and/or attention. On average, the Northwestern football players claim that they spend in excess of 40 hours a week on their sport. For traditional employees, there are overtime laws that protect employees for working in excess of 40 hours in a workweek. There are also worker's compensation laws that provide benefits to employees in the event of a workplace related injury. No such laws exist to protect student athletes in similar situations.

On the other side is the argument that these football players (like all student athletes) are students first and foremost, presumably playing due to a passion for that sport, while receiving a free education, room and board. Moreover, student athletes also receive other benefits such as tutoring, preferential class selection and scheduling not available to the rest of the student body.

For now college athletes remain students, not employees. But rest assured, we have yet to hear the end of this debate, which will likely be decided by the US Supreme Court.



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