

NLRB Invites Briefs In Northwestern Football Case

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As we have [previously covered](#), the votes have already been cast in the controversial Northwestern football union election, but the outcome of the election will not be known for quite some time. The election ballots have been impounded, pending resolution of Northwestern University's appeal to the Board of the Regional Director's decision that the scholarship football players are employees under the NLRA. Today, the Board issued a [briefing schedule](#) for the parties and an invitation to other interested parties to file briefs on the key issues of the case. In particular, the Board requested briefing on the application of its 2004 decision in *Brown University*, [342 NLRB 483](#), which found graduate student teaching assistants were not employees under the NLRA and could not engage in collective bargaining, signaling its potential willingness to overrule the decision. The Board also requested briefing on the relevance of the players' status under other federal and state laws, such as Title VII and Title IX, suggesting that the Board may be amenable to an argument that because scholarship football players are not considered employees under other federal laws, they should not be considered employees under the NLRA. Briefs are due June 26.

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