

## Summary Of NLRB Decisions For Week Of July 10 - 14

July 21, 2017 | [National Labor Relations Board, Labor Relations](#)

**Summarized Board Decisions *Pennsylvania Interscholastic Athletic Association, Inc.*** (06-RC-152861; 365 NLRB No. 107) Mechanicsburg, PA, July 11, 2017. On review, the Board (Members Pearce and McFerran; Chairman Miscimarra, dissenting) affirmed the Regional Director's finding that the petitioned-for lacrosse officials, who officiate in certain geographic districts of the Pennsylvania Interscholastic Athletic Association (PIAA), are employees covered under Section 2(3), rather than independent contractors. Applying the Board's analysis in *FedEx Home Delivery*, 361 NLRB No. 55 (2014), the majority found that the factors demonstrating employee status here outweighed other factors suggesting possible independent contractor status. In particular, the majority emphasized PIAA's control over the officials' work, the integral nature of their work to PIAA's regular business, PIAA's supervision of the officials, the method of payment, and the fact that officials do not render their officiating services as part of an independent business—similar in many ways to the musicians who were found to be statutory employees in *Lancaster Symphony Orchestra*, 357 NLRB 1761 (2011).

Finally, the majority agreed that an earlier case involving sports officials, *Big East Conference*, 282 NLRB 335 (1986), was not controlling under the circumstances of this case. Dissenting, Chairman Miscimarra noted his disagreement with the Board's *FedEx* decision and concluded that PIAA met its burden to prove the officials' status as independent contractors based on the common law of agency, the *Big East* case, and certain non-NLRA precedent. Chairman Miscimarra would also find that the Board lacks jurisdiction over PIAA as a "political subdivision" within the meaning of Section 2(2). Petitioner – Office and Professional Employees International Union. Chairman Miscimarra and Members Pearce and McFerran participated. [Continue reading on the NLRB's website.](#)

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