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**PRIVATE COLLEGE ATHLETES WIN A STEP TOWARDS
FORMING A UNION**

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On March 26, 2014, Peter Ohr, the Chicago-based director of the National Labor Relations Board's Region 13, decided that Northwestern University football players who receive athletic scholarships are considered "employees" under federal labor laws and entitled to unionize.

The College Athletes Players Association petitioned the NLRB in January, seeking to represent Northwestern University football players. In a groundbreaking decision, Ohr found the football players were considered "employees" and could unionize, and directed an election take place to enable the players to choose whether they would be represented by CAPA. Since college athletes perform athletic services in exchange for compensation—scholarships—Ohr determined they are subject to the university's control and "employees" under the NLRA.

The decision argues college athletes generate billions of dollars per year for their universities and work as many hours performing athletic services for their schools as some employees spend performing their job. Although the NLRB has never addressed the student-athlete vs. employee issue before, the Board has held that graduate student assistants do not qualify as employees since their relationship with universities is primarily educational. Ohr distinguished graduate student assistants from college athletes, noting the latter are not primarily students and their services are not directly related to academics.

While the NLRA only applies to employees in the private sector, and therefore Ohr's decision only affects student athletes at private schools, state labor boards could follow suit as the responsible party for unionization rights of public school athletes.

For now, appeals to the Board and beyond will follow. But, the decision, if it stands, could have massive implications for student-athletes and universities. For example, it could potentially allow players to lobby for improved safety conditions, to collectively seek a portion of the income generated through their schools' athletic departments, and create other employment rights akin to general employee relations laws. Time will tell whether this decision one day leads to change in the student-athlete model.