



United States Government
NATIONAL LABOR RELATIONS BOARD
1015 Half Street, SE
Washington, DC 20570

September 16, 2022

Delivered via e-mail

The Honorable Kevin Cramer
United States Senator
330 Hart Senate Office Building
Washington, DC 20510

Dear Senator Cramer:

I am responding to your September 6, 2022 letter regarding the Board's independent contractor and joint-employer standards.

On December 27, 2021, the Board invited briefs regarding its independent contractor standard as it considers *The Atlanta Opera, Inc.* 371 NLRB No. 45 (2021). The [Notice and Invitation for Briefs](#) laid out the specific questions for public participation as well as the Board's basis for reexamining this area of labor law. Amicus briefs were due by February 10, 2022, and responsive briefs from the parties were submitted on February 25. The Board is considering those briefs in preparing its decision.

On September 7, 2022, the Federal Register published the Board's [Notice of Proposed Rulemaking \(NPRM\)](#) on its joint-employer standard. As explained in the NPRM, the proposed changes are intended to explicitly ground the standard in established common-law principles, consistent with Board precedent and guidance that the Board has received from the U.S. Court of Appeals for the DC Circuit. You are welcome to submit a formal comment on the proposed rule either electronically to [Regulations.gov](https://www.regulations.gov), or by mail or hand-delivery to the Board's Executive Secretary. Comments must be received on or before November 7, 2022. (Comments replying to comments submitted during the initial comment period must be received by the Board on or before November 21, 2022.)

Because both matters are currently under active consideration by the Board, it would be inappropriate to comment further at this time. In response to your related questions, please note that the Board does not allocate its budget resources, whether in terms of FTEs or otherwise, by specific case or rulemaking action. Moreover, since passage of the 1947 Taft-Hartley Act, Congress has not authorized the National Labor Relations Board to "appoint individuals for the purpose of ...economic analysis."

Thank you for your interest in the Board's activities. If you have further questions, please reach out to Matt Hayward in the Office of Congressional and Public Affairs at (202) 701-9226 or matthew.hayward@nrlrb.gov.

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Sincerely,

Kayla Blado
Director
Office of Congressional and Public Affairs