Independent Clinical Project Proposal

**Legal Internship with the National Labor Relations Board – Region 1 (Boston)**

1. **Project Description**
   1. **Placement Organization and Mission**

The National Labor Relations Board (NLRB) is the federal agency empowered by Congress to enforce and interpret the National Labor Relations Act (NLRA). Accordingly, the NLRB has jurisdiction over legal disputes related to union organizing, collective bargaining, and union democracy. To enforce the NLRA, the NLRB relies in large part on private parties filing Unfair Labor Practices (ULPs) with its regional offices. The regional offices, a branch of the NLRB’s Office of the General Counsel, investigate the allegations and decide whether to charge the alleged offending party with an ULP. If they decide to do so, they subsequently negotiate with the parties and, if necessary, represent the NLRB in a hearing before an Administrative Law Judge. Parties can appeal those decisions to the NLRB in Washington, D.C. The NLRB regional offices are also responsible for conducting workplace elections.

In enacting the NLRA in 1935, Congress had four aims: promote labor peace, improve the purchasing power of the working class, redistribute wealth, and empower workers as a collective. In amending the NLRA through the Taft-Hartley Act in 1947, Congress instructed the NLRB to ensure that workers be free to choose to be in a union, or not. The NLRB’s regional offices are responsible for carrying out those at-times conflicting missions.

* 1. **Proposed Project: Anticipated Responsibilities and Activities**

As an intern, I will have both observational opportunities and my own responsibilities. With respect to observational opportunities, I will be able to observe affidavits, requests for evidence, and union certification votes. With respect to my own responsibilities, I will immediately be able to contribute research to cases at different stages. Once I have observed affidavits, I will be able to assist in conducting them. I will also be able to assist with union elections and with overseeing stipulated election agreements. If the schedule works out, I will also be able to assist with a trial. I will be assigned to a team, mentor, and supervisor to support me in conducting these responsibilities.

One important caveat: Due the nature of the NLRB’s work, they cannot provide me with a meaningful experience – nor can I contribute worthwhile work to their office – unless I am available for two full days (four academic credits) each week. I appreciated my supervising attorney’s candor in sharing this with me.

* 1. **Previous Work**

I spent ten weeks this past summer interning at the Department of Labor in the Regional Solicitor’s office in Boston. I loved the experience of being in a regional office of a federal agency, conducting the actual enforcement work that gives the federal statutes meaning. The Department of Labor, however, enforces employment law statutes – I was not able to gain any experience with labor law. I am looking forward to working in a similar environment – a regional enforcement office – under a new federal statute.

1. **Statement of Interest**
   1. **Difference from Practice Opportunities in HLS Clinical Program**

The Employment Law Clinic is the practice opportunity at HLS that is most similar to this opportunity. While employment law and labor law are undoubtedly connected, labor law is unique and different. The NLRA is a statute that protects *collective*, not individual, rights. The legal issues under the NLRA are different from those under employment law statutes, which I gained exposure to this past summer. While the Employment Law Clinic can facilitate placements at the Department of Labor and the Massachusetts Attorney General’s Office, neither of those agencies handle labor law, except peripherally. The NLRB has jurisdiction over American labor laws.

It is my understanding that I will be the first HLS student – or at least the first in recent memory – to intern during the semester at the NLRB. Since HLS is currently experiencing an uptick in students interested in labor law due to the energy coursing through the national labor movement, it is my hope that my experience at the NLRB this semester might strengthen the connection between HLS and the NLRB. This could potentially enable future students to intern with the NLRB through the Employment Law Clinic (which perhaps could be rebranded the Employment and Labor Law Clinic!).

* 1. **Interest in Subject Area**

My academic and professional path has led me to labor law. As an undergraduate student of sociology, I studied the way that systems sustain inequality and the status quo. I wrote a thesis about the way that economic disadvantage, characterized by a scarcity of both resources and time, creates a devastating cycle of stress for low-income workers. Upon graduating I hoped to find solutions to inequality within the public education system, and I took a job conducting and later managing research in the education sector. Instead of solutions, I found entrenched patterns of advantage and disadvantage along the lines of class, race, and ability status. I came to law school seeking better tools to enact change.

At HLS, found that a law degree is not *inherently* a tool to enact change; it is perhaps more likely that it will be a tool for sustaining the status quo. But then I found labor law. I enrolled in Professor Benjamin Sachs’ reading group about the struggle for workers’ rights in the United States, and I discovered the power and promise – and the challenges – of organized labor. I subsequently enrolled in two more courses about labor (Professor Sachs’ Labor Law course and Professor Sharon Block’s seminar on Organizing for Economic Justice in the New Economy), started reading books about unions in my spare time, and got a job as a research assistant for Professors Niko Bowie and Daphna Renan, who are interested in the way the American labor movement impacted Supreme Court jurisprudence. In labor law I believe that I have found a fulfilling purpose around which to center my career, and I further believe that my background in sociology and applied research will enhance my practice.

* 1. **Advancement of Academic and Professional Goals**

Interning at the NLRB will advance my academic goals because, at this point, I have almost exhausted all of HLS’ classes that are related to labor law. My NLRB internship will allow me to continue my studies of the NLRA in a practice setting. Then, the following semester I hope to take Professor Sachs’ Labor and Employment Lab, where I will write posts for the blog *OnLabor*. Having direct exposure to local organizing campaigns, as well as cases and the themes that run through them, will provide me with an excellent foundation for that work.

Interning at the NLRB will advance my career goals, first, because labor lawyers want applicants to have *bona fides* – they look for candidates who are demonstrably committed to the field of labor law. While my experience at the Department of Labor last summer is not irrelevant, it is also not directly labor law related. And next summer I will be interning with Public Citizen’s litigation group – while this is, again, not irrelevant, it is not directly labor law related either. So, forming connections with the NLRB will be very helpful for me in my post-grad job application process.

In fact, I would love to be a staff attorney at the NLRB after law school, whether in a regional office or in Washington, D.C. This internship will help me make sure that this is a path I am interested in and will set me up well during the competitive application process. Alternatively, if I decide that I want to go to a labor law firm after graduation, this internship will also help me achieve that: since an important part of practice at a labor law firm is filling ULPs with the NLRB, labor law firms like to hire applicants who know how the NLRB thinks about ULPs.

Last but certainly not least, interning at the NLRB will hone my research, writing, and litigation skills. I will gain exposure to the caselaw, conventions, and tips and tricks that help labor law practitioners succeed in their work.

1. **Academic Paper**
   1. **Description of Academic Paper Topic – Option A**

I am very interested in the topic of NLRA remedies. Labor scholars and [economists](https://www.epi.org/publication/shortchanged-weak-anti-retaliation-provisions-in-the-national-labor-relations-act-cost-workers-billions/) – as well as workers themselves – have sounded the alarms about the egregious insufficiency of the NLRA’s remedies for many years. The NLRB’s new General Counsel, Jennifer Abruzzo, has instructed the regional offices to be more bullish about remedies – and employers are [not happy about it](https://www.dwt.com/blogs/employment-labor-and-benefits/2022/02/nlrb-general-counsel-special-remedies-memo#:~:text=Historically%2C%20the%20types%20of%20remedies,notice%20posting%20at%20the%20workplace.). But it is not yet clear how much wiggle room the regional offices will have to implement Abruzzo’s directives under the text of the NLRA itself. I would like to investigate this topic more. Does the NLRA leave room for clear-sighted GCs to deploy remedies in a way that makes a difference for workers?

I will continue to work with Professor Block to hone in on this topic. I understand that I cannot use a work product as my paper.

* 1. **Faculty Sponsor and Expertise**

Sharon Block is a Professor of Practice and the Executive Director of the Labor and Worklife Program at Harvard Law School. She began her career as an attorney at the NLRB in Washington, D.C., and prior to coming to HLS in 2017 she spent her entire career in labor law with the executive and legislative branches of the federal government. In 2012, President Barack Obama appointed her to serve on the NLRB. Her current research is focused on labor law reforms that can empower workers and improve their lives. Professor Block was excited to hear that I had secured an internship with the NRLB in Boston and she agreed to serve as my faculty sponsor.