**NATIONAL LABOR RELATIONS BOARD**

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| In the Matter of: | : | |
| THE TRUSTEES OF COLUMBIA IN THE CITY OF NEW YORK | : | |
| Employer, | : | |
| and | : | Case No. 2-RC-143012 |
| GRADUATE WORKERS OF COLUMBIA-GWC, UAW | : | |
| Petitioner. | : | |
| | : | MARCH 14, 2016 |

**PETITIONER'S REPLY BRIEF**

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## I. INTRODUCTION

This case will finally enable the Board to restore legal protections for the right of student employees to organize and engage in collective bargaining. The Board's invitation to interested parties to submit briefs led to the submission of a dozen *amicus* briefs. The high level of interest in this issue reflects the growing movement among student employees to exercise these rights.

Legal protection was taken from student employees by the Board in Brown University, 342 N.L.R.B. 483 (2004), which overruled New York University, 332 N.L.R.B. 1205 (2000) ("NYU I"). The Board majority in Brown claimed to be concerned that collective bargaining by graduate assistants would threaten academic freedom and undermine the mentoring relationship between graduate students and faculty members. Organizations that represent faculty members and organizations that represent students submitted *amicus* briefs rejecting those claims. The *amicus* briefs submitted by organizations that represent students[1] and those speaking for faculty[2] are uniformly supportive of the Petitioner's position that Brown should be overruled. Those opposing student employees' efforts to avail themselves of legal rights are not the academics engaged in teaching and the pursuit of knowledge who would supposedly be harmed by collective bargaining. Rather, the opposition comes from the management and administration of various universities, joined by the National Right to Work Foundation. They do not represent the viewpoints of the academics whose mentoring relationships

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[1] The National Association of Graduate - Professional Students, the Committee of Interns and Residents.

[2] The American Association of University Professors; the American Federation of Teachers; SEIU Faculty Forward; Academic Professors of Social Science and Labor Studies.

with graduate students would supposedly be harmed by collective bargaining. Nor do the organizations that support the Brown decision represent the viewpoints of the researchers and writers whose freedom to develop and express ideas is fundamental to the very concept of academic freedom. Rather, the supporters of Brown represent the viewpoint of executives and administrators who resist organizing by student employees and who would deprive them of their rights.[3] They have seized upon imagined threats to academic freedom and to mentoring relationships to deny bargaining rights to their employees.

The hypocrisy of Columbia's argument is dramatically disclosed by its change of position regarding Graduate Research Assistants ("GRAs"). For 15 years, Columbia has argued that GRAs are employees under the law as interpreted in NYU I. Columbia took that position in 2001, when the UAW filed an earlier petition seeking to represent student employees who provide instructional services. The Employer continued to take the position in this case that, if the Board overrules Brown, then GRAs should be found to be employees and be included in the Unit. In its Brief on Review, the Employer has now reversed course, claiming that there is some precedent other than Brown that warrants finding that GRAs are not statutory employees. The Employer does not cite any changes in the working conditions of GRAs or other changed circumstances to explain its reversal. Indeed, the Employer does not even acknowledge that it has reversed itself. This change of position can only be explained as a tactical decision to impede collective bargaining by its student employees.

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[3] In a further irony, the National Right to Work Foundation, which claims to defend "freedom of association," argues that student employees should be prevented from voting to decide for themselves whether to form an association.

## II. THE EMPLOYER'S ARGUMENTS THAT STUDENT EMPLOYEES ARE NOT STATUTORY EMPLOYEES ARE NOT PERSUASIVE

The Employer valiantly strives to construct an argument that the Brown decision should be preserved. The Employer does not find any support for Brown in the language of the National Labor Relations Act. The Employer argues that there are court cases that are not inconsistent with Brown, but it does not cite any court decisions to support Brown. The Employer concedes that graduate assistants meet the common law test for employee status (Er. Br. at 30).[4] The Employer argues that the Board should base its decision on something other than the broad language of the statute, Supreme Court and other precedent giving the language a broad reading, and the common law definition of "employee." The Employer clings to the argument that collective bargaining would harm academic freedom and student/faculty relationships. The Employer claims that the Petitioner has failed to establish that such harms would not occur. However, Columbia has presented no evidence that such harm does result from collective bargaining. Indeed, its own expert witness testified that there is no evidence of such harm (Tr. 572-73).

### A. Factual Distortions in the Employer's Brief

The Employer makes several misleading statements regarding the facts in the record and the inferences that can be drawn from the evidence. The Employer describes at length the admissions process at the Graduate School of Arts and

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[4] Citations to the record in this case shall be designated as follows:
Regional Director's Supplemental Decision and Order Dismissing Petition .....Dec. (followed by page no.)
Brief on Review of Columbia University ..... Er. Br. (followed by page no.)
Petitioner's Brief on Review ..... Pet. Br. (followed by page no.)
Transcript ..... Tr. (followed by page no.)
Employer's Exhibits ..... Er. Ex. (followed by exhibit no.)
Petitioner's Exhibits ..... Pet. Ex. (followed by exhibit no.)
Joint Exhibits ..... Jt. Ex. (followed by exhibit no.)
Conditional Request for Review of Columbia ..... (Er. Req. for Rev. (followed by page no.)

Sciences ("GSAS"), pointing out that it does not resemble a hiring process (Er. Br. 3-5). The Employer makes the hardly startling assertion that "Graduate students attend Columbia to pursue an academic degree, not employment by the University." (Br. 3). Admission to the University as a student is a distinct process from selection to serve in one of the jobs at issue in this case. While students attend Columbia to get an education, they work in the job classifications at issue to earn money to meet living expenses in a very expensive city. As we described in our Brief on Review, the University requires students to go through a separate application process in order to be selected to fill several of those job classifications (Dec. 13; Pet. Br. 8-9). This process is designed to assess applicants' ability to do the work. While, as the Employer points out, its Human Resources Department is not involved in the admission of students, that department is involved in the appointment of students to positions as student officers of instruction and research (Dec. 8). The Petitioner seeks to represent Unit employees in their capacity as employees, not their capacity as students.

The Employer contends that the experience of graduate assistant collective bargaining at NYU provides some evidence that collective bargaining by graduate assistants can imperil academic freedom (Er. Br. 25). The Employer points to reports by internal NYU committees to support its contention that collective bargaining threatened academic freedom (Er. Br. 25-27). As discussed in our principal brief, those reports contain evidence of the benefits of collective bargaining, including *improvement* of student-faculty relationships (Pet Br. 27-28). The Employer points to grievances filed by the Union during the period that it represented graduate assistants at NYU. According to a report by NYU's Senate Academic Affairs and Executive Committee, "a

number of these grievances, **if successful**, have the **potential** to impair or eviscerate the management rights and academic judgment of the University ...." (Er. Ex. 21, quoted at Er. Br. 26) (emphasis added). The Committee did not contend that collective bargaining actually impaired academic freedom; the Committee claimed that collective bargaining had the "potential" to impair academic freedom. Moreover, the grievances cited by the Committee were not "successful." Two were pursued to arbitration, where NYU prevailed (Jt. Ex. 7, 8). The other grievances that the Employer claims posed a threat to academic freedom were resolved between the parties without resort to arbitration.

The Union does not concede that any of these grievances actually raised issues that could impact academic freedom, and the Employer presented no evidence of such an impact. Nevertheless, assuming *arguendo* that these grievances did raise issues that could have impinged on academic freedom, the evidence cited by the Employer shows that those issues were resolved in the collective bargaining process in a manner that preserved NYU's position. In other words, according to the Employer, when issues that threatened academic freedom arose in collective bargaining, academic freedom prevailed. In NYU I, the Board predicted that collective bargaining would accommodate issues involving academic freedom. 332 N.L.R.B. at 1208, quoting Boston Medical Center, 330 N.L.R.B. 152 (1999). The experience at NYU cited by the Employer bears out that prediction.

The Employer also makes the disturbing argument that graduate assistants are not employees because, if their performance is poor, the University attempts to help them to improve rather than discipline them (Er. Br. 31). This represents a harsh,

punitive vision of the employment relationship. Helping one's employees to improve their performance is a time-honored employee relations practice, particularly in the teaching profession. Discipline is more appropriate for employees who engage in behavioral misconduct. The Employer concedes that job-related misconduct can result in termination from a teaching position without affecting academic standing (Er. Br. 31, fn. 13). The Board should not find that punishment for poor performance is a prerequisite of an employment relationship.

Finally, the Employer asserts in the caption of one section of its brief, "Graduate Students are not Apprentices." (Er. Br. 29). This is directly contrary to what the University tells the graduate students themselves upon admission. "Your Fellowship includes participation in your department's professional apprenticeship, which includes some teaching and research responsibilities." (Er Ex. 36, 37, 38, 2nd page of each exhibit).

### B. The Employer's Legal Arguments

Most of the Employer's legal arguments track the majority opinion in Brown. As we explained in our principal brief, that legal analysis is inconsistent with the language of the statute, the broad reading given to section 2(3) of the Act by the courts, and NLRB precedent. The Employer concedes that graduate student employees meet the definition of an "employee" under common law (Er. Br. 30). Under Board and Supreme Court precedent, as well as under common law, an individual is an "employee" if he performs services for a statutory employer in return for financial compensation, and the employer has the power to direct and control the performance of that work. Student employees in the petitioned-for Unit perform services to fulfill the central mission of the

University; they receive compensation for performing those services; and their work is directed and controlled by the University. Therefore, they meet the statutory definition.

Despite the fact that it requires student employees to perform services that fulfill its central mission in exchange for compensation, the Employer argues that it does not have an economic relationship with them. In support of this argument, the Employer relies upon several cases involving individuals who were not paid for performing services. The Employer quotes at length from WBAI Pacifica Foundation, 328 N.L.R.B. 1273 (1999), which involved "unpaid staff" who were volunteers at a radio station. They provided services for the satisfaction of fulfilling the mission of the station, without expectation of remuneration. The Board found that they did not have an economic relationship with the radio station because the radio station did not pay them for their services. There was no economic relationship because the unpaid staff did not provide services in exchange for compensation. Payment for the services provided by student employees creates an economic relationship.

In a similar vein, the Employer cites cases applying the "primary relationship" test under the Fair Labor Standards Act ("FLSA"). The primary relationship test is used to decide whether individuals working without pay are employees who should be paid the minimum wage under the FLSA. The cases cited by the Employer involved unpaid students, Solis v. Laurelbrook Sanitarium & School, 642 F. 3d 518 (6th Cir. 2011), and unpaid interns, Glatt v. Fox Searchlight Pictures, 791 F.3d 376 (2d Cir. 2015). The issue in those cases was whether those individuals had an economic relationship with the purported employer, notwithstanding the fact that they did not receive any financial compensation for the services that they performed. In the instant case, the student

employees do receive financial compensation for teaching and conducting research. Therefore, unlike the individuals at issue in the FLSA cases cited by the Employer, student employees at Columbia have an economic relationship with Columbia.

The Employer's arguments reveal the lack of any foundation for the holding of Brown depriving graduate assistants of the protections of the NLRA. The Employer does not argue that there is anything in the language of the statute or any existing precedent that would support that decision. The Employer concedes that student employees fit within the common law definition of "employee." The Employer does argue that Brown returned to the "long-standing precedent" finding graduate assistants not to be employees (Er. Br. 15). As discussed in our Brief on Review (Pet. Br. 21-24), there is no such precedent. The cases cited by the majority in Brown and by the Employer did not hold that graduate assistants were not employees. Adelphi University, 195 N.L.R.B. 639 (1972), excluded graduate assistants from a unit of regular faculty on the ground that they did not share a sufficient community of interest. The Board in that case in fact referred to the "employment" of the graduate assistants. 195 N.L.R.B. at 640. The Board found that the research assistants at Leland Stanford Junior University, 214 N.L.R.B. 621 (1974), were not employees because they did not perform services for the university in exchange for compensation. There is nothing in either case that would justify the categorical holding that graduate assistants are not employees.[5]

The student employees in the petitioned-for Unit do perform services to fulfill the mission of Columbia, and they are paid for performing those services. Thus, they have

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[5] The Board in St. Clare's Hospital, 229 N.L.R.B. 1000 (1977), *in dicta*, read Leland Stanford as holding that graduate assistants are not employees, but that decision was overruled in 1999. Boston Medical Center, 330 N.L.R.B. 152 (1999). Thus, there is no "long-standing" precedent that was consistent with Brown. Thus, the only precedent that would support Brown is a case that was overruled nearly 20 years ago.

an economic relationship to the University, and they are employees within the meaning of the Act.

During the hearing in this case, the attorney for Columbia clearly stated the Employer's position regarding the inclusion of Graduate Research Assistants ("GRAs") in the Unit, in the event Brown were overturned:

> If the Board finds that students who provide services to their institutions are employees, ... then our position would be that the **graduate research assistants** and the teaching assistants **would be considered employees** and part of an appropriate unit....

(Tr. 1000) (emphasis added) This statement is consistent with the position taken by the Employer from the beginning of the hearing through the submission of the parties' requests for review. Indeed, the Employer's position dates back to 2001, when the Union filed a prior petition in Case No. 02-RC-22358. In that case, it was the petitioner that sought to exclude Graduate Research Assistants from the bargaining unit. The Employer argued that GRAs are statutory employees who should be included in a unit with instructional employees. Attached hereto as Appendix A is the portion of the Employer's Brief in Case No. 02-RC-22358 captioned "Students Serving As GRAs Must Be Considered To Be Employees Under The NLRA To The Same Extent As TAs."[6] The regional director was persuaded by the Employer's argument and included GRAs in the election that she directed in that case. When filing this petition, the Union accepted the Employer's position and the regional director's decision including GRAs in a unit of student employees. Therefore, the Petitioned-for Unit includes GRAs. As noted, the Employer agreed, on the record, that if Brown is overruled, GRAs should be included in the Unit. On November 13, 2015, the Employer filed a "Conditional Request for

[6] As this brief was submitted to the NLRB in a prior case and authored by the Employer, the Board can take administrative notice of it. Excerpts of that brief are attached for the convenience of the reader.

Review" in which it argued that research assistants whose work is funded by training grants should be excluded from the Unit if Brown is overruled. The basis for that argument was that students funded by training grants have a different relationship to the University from GRAs (Er. Cond. Req. for Rev. at 24). The Employer's effort to distinguish GRAs from student employees funded by training grants reflects the Employer's recognition that GRAs are employees. Thus, from 2001 until February 29, 2016, Columbia consistently took the position that, if any graduate assistants are employees, then GRAs should be included in any bargaining unit. The Employer abruptly reversed that position in its Brief on Review without offering any explanation for its change of position.[7]

The Employer now argues that, if Brown is overruled, Leland Stanford and NYU I mandate a finding that GRAs are not statutory employees. The Employer's new argument is, "*Leland Stanford* held that research assistants who perform research in connection with their doctoral programs are not employees...." (Er. Br. 32). As the Employer previously recognized, there is nothing in either NYU I or Leland Stanford to suggest that research assistants who have an economic relationship with a university involving the performance of services in exchange for pay are not employees. The RAs in those two cases were found not to have an economic relationship to the university because the evidence on the record in those cases failed to establish that they performed services for the university under its direction and control. For example, in Leland Stanford, the Board concluded that the RAs worked only for the benefit of their

[7] The most obvious explanation is that this change of position was a matter of convenience. The Employer apparently has concluded that it will gain some tactical advantage, in an election or in collective bargaining, by excluding GRAs from the Unit.

education, receiving tax-exempt stipends that were "not determined by the services rendered." 214 N.L.R.B. at 622. In summarizing the evidence, the Board found:

> Based on all the facts, we are persuaded that the relationship of the RA's (sic) and Stanford **is not grounded on the performance of a given task where both the task and the time of its performance is designated and controlled by an employer**. Rather it is a situation of students within certain academic guidelines having chosen particular projects on which to spend the time necessary, as determined by the project's needs. The situation is in sharp contrast with that of research associates, who are full-time professional employees who have already secured their Ph. D. degrees and work at research under direction, typically of a faculty member. Research associates are not simultaneously students, and the objective of a research associate's research is to advance a project undertaken by and on behalf of Stanford as directed by someone else.

Id. (emphasis added). The Board in NYU I followed Leland Stanford to find that research assistants in the physical sciences were not employees:

> For the reasons set forth by the Regional Director, we agree that the Sackler graduate assistants and the few science department research assistants funded by external grants are properly excluded from the unit. *Leland Stanford Junior Univ.*, 214 NLRB 621 (1974). **The evidence fails to establish that the research assistants perform a service for the Employer and**, therefore, they are not employees as defined in Section 2(3) of the Act.

332 N.L.R.B. at 1209, n. 10 (emphasis added).

Thus, the finding in each of those cases was based upon the absence of evidence that those research assistants performed services in exchange for compensation. This is precisely the argument made by the Employer in Case No. 02-RC-22358, where it argued that GRAs are employees because, unlike the research assistants at NYU, GRAs do perform services in exchange for compensation (Appendix A, pp. 78-79). The Employer made the same argument in its Conditional Request for Review, claiming that students funded by training grants cannot be considered to be employees because, unlike GRAs, they are not paid to perform services for the

University (Er. Cond. Req. Rev. 23-24). The Regional Director found that student employees on training grants should not be excluded from the bargaining unit because they perform the same duties as GRAs funded by external grants (Dec. 31). Thus, like GRAs, they are also paid to perform services for the University. Apparently realizing that students funded by training grants cannot be distinguished from GRAs, the Employer now seeks to exclude both groups.

The record in this case establishes that, unlike Leland Stanford and NYU I, GRAs at Columbia provide services to fulfill the mission of the University in exchange for compensation. Of course, the evidence on this issue is less extensive than in Case No. 02-RC-22358 because the issue was not contested in this case. Nevertheless, the evidence establishes that student officers of research, including GRAs, contribute to the mission of the University in exchange for compensation. Appointments as officers of research are given to student employees who conduct research at the University (Tr. 70). A Graduate Research Assistant ("GRA") is a student assisting with the research of a faculty member and compensated with funds from a research grant from an external funding agency, such as a government grant (Dec. 13; Tr. 70-71, 409).

A research grant results from an application submitted by one or more faculty members[8] to a funding agency such as the National Institutes of Health ("NIH"), the National Science Foundation ("NSF"), another government agency, or a private foundation (Dec. 13; Tr. 661-62, 768, 1016). The grant proposal may provide for GRAs to work with a faculty member on the proposed research (Dec. 13; Tr. 662, 769, 1017-18). The proposal must describe the work to be performed by all personnel, including

[8] A faculty member whose grant application is approved is referred to as the "Principal Investigator" or "PI" (Tr. 1017).

GRAs, who would be involved in the project (Tr. 455, Pet. Ex. 72, p. 18 (Bates No. 003433)). Funds for people working on the grant, including faculty members, post-doctoral employees, and GRAs are considered "personnel costs" (Tr. 769; Pet. Ex. 72, p. 18; Pet. Ex. 50, pp. 60-68 (Bates Nos. 000067-75)). As a condition of receiving the grant, the work performed by all personnel, including GRAs, must be in furtherance of the research project (Dec. 13; Tr. 455-56; Pet. Ex. 48, section labeled "Financial Management"). The PI has the responsibility to ensure that GRAs work to fulfill the stated purpose of the grant proposal (Tr. 685, 1017-18).

The grant proposal must include a budget that describes how the funds will be spent if the grant is awarded (Tr. 118). This budget must spell out how the "direct costs" of the research project, including equipment, supplies, travel, consultants, publication, and similar costs, will contribute to the research project (Pet. Ex. 50, p. 69 (Bates No. 000076)). Personnel costs, including the salaries paid to GRAs, are considered direct costs (Tr. 798; Pet. Ex. 50). In addition, federal grants include funding for "indirect costs" or "facilities and administration." This payment is calculated as a percent of allowable direct costs (Tr. 686). When work to fulfill the grant is conducted on campus, the University receives an additional 60% of allowable direct costs to cover indirect costs, while it receives only 26% when the work is performed at an off-campus location (Dec. 14; Tr. 799, 806). The salaries paid to GRAs fall within the category of allowable direct costs (Tr. 798, 800). Therefore, if a grant proposal called for a payment of $35,000 for a GRA's salary for research to be conducted on campus,[9] the University would receive an additional $21,000 to cover indirect costs (Tr. 686-87, 800). If the grant proposal is approved, the funds are transmitted to the University (Dec. 14; Tr. 684,

[9] See Er. Ex. 38, 99, setting out an annual stipend of slightly more than $35,000 for GRAs.

768-69, 1017). The University places the funds received for direct costs into an account to pay the salaries and other expenses to conduct the research. The indirect costs are available "to run the enterprise of the University." (Tr. 1017). Thus, the Regional Director concluded, "Financial benefits of outside grants inure to the Graduate School (Dec. 14).

One mission of the University is to produce original research (Tr. 683, 792, 1031). All student officers of research, including GRAs, contribute to fulfilling this mission. The Employer's witnesses testified repeatedly that the work performed by student officers of research contribute to a faculty member's research (Tr. 116) or contribute to the faculty member's experiments (Tr. 769). Research by student officers of research can also lead to patents or other intellectual property which belongs to the Employer (Dec. 15; Tr. 115; Pet. Ex. 66). Faculty members seek research assistants who have skills that fit the needs of their laboratories and will contribute to their research (Tr. 1031, 1057). Student researchers are "conducting research in their laboratory in an area that's near and dear to the heart of the faculty member." (Tr. 984). The Employer's faculty members stated in a variety of ways that student officers of research help to fulfill the research mission of the University (e.g., Tr. 683).

As we pointed out in our Brief on Review, there is no real distinction between the GRAs at Columbia and the research project assistants ("RPAs") in Research Foundation of the State University of New York, 350 N.L.R.B. 197 (2007). The RPAs were students at the State University of New York ("SUNY"). Like the GRAs at Columbia, they conducted research funded by external grants. That research was often part of their work on their dissertations. The NLRB concluded that they had an

economic relationship with the Research Foundation and an academic relationship with SUNY. The instant case is the same, except that the GRAs have both an economic and an academic relationship with the same institution. The holding of Research Foundation should be extended to student employees performing research at the school where they are students. The source of funding for research assistants' salaries is irrelevant to whether they are entitled to the protections of the Act.

Thus, despite the Employer's change of position, the Board should find that GRAs and student employees in other research positions should be included in the unit.

## III. MASTER'S AND UNDERGRADUATE STUDENT EMPLOYEES SHOULD BE INCLUDED IN THE UNIT

The Employer argues that undergraduate and Master's student employees should be excluded from the bargaining unit because they have achieved a lower level of education. The question of who should be included in the bargaining unit should be decided based upon community of interest considerations, not the level of education achieved.[10] The Regional Director found that Master's and undergraduate student employees perform similar duties to doctoral student employees, sometimes working side by side (Dec. 30). The Employer in its Conditional Request for Review recognized the similarity in the functions performed by all of these employees, repeatedly asserting that the duties performed by doctoral student employees are "most advanced and varied." (Er. Cond. Req. for Rev. 7). That the Masters and undergraduate student employees perform less sophisticated duties is not a basis to exclude them from the Unit. On the contrary, the Employer's concession that they perform similar duties

[10] Our Brief on Review addresses the Employer's argument that San Francisco Art Institute, 226 N.L.R.B. 1251 (1976), and Saga Food Service of California, 212 N.L.R.B. 786 (1974), stand for the proposition that undergraduate and Master's student employees are not covered by the Act (Pet. Br. 46-47).

supports their inclusion in the bargaining unit. Moreover, the fact that they are all student employees defines their relationship to the Employer and adds to their community of interest. The Unit sought by the Petitioner constitutes an identifiable group of employees. The Employer has failed to establish that it is not an appropriate unit.

## V. STANDARD FOR TEMPORARY EMPLOYEES

The Board invited the parties to address the standard to be applied to determine whether student employees should be excluded from a bargaining unit as temporary employees. The Petitioner responded in our Brief on Review that this is a community of interest question. All student employees are "temporary" in the sense that their employment as student employees will end when they cease to be students. The issue is whether their employment is of sufficient duration such that they share an interest in their employment with other student employees. Student officers at Columbia in a variety of positions are appointed on a semester by semester basis. This is consistent with the practice at many universities, and the Board has included adjunct faculty hired on a semester basis in bargaining units. Therefore, the Petitioner answered the question by proposing that student employees appointed to positions for at least one semester should be included in the Unit.

The *amicus* brief submitted by the Service Employees International Union and the Committee of Interns and Residents ("SEIU and CIR") pointed out that some universities operate on a quarterly or trimester basis and appoint instructional and research employees accordingly. Thus, they argue that student employees hired to work for at least one "academic unit" should be included in a bargaining unit with other

student employees. This point is well taken, and the Petitioner agrees with that position.

The Employer, on the other hand, argues that Master's and undergraduate student employees work for a shorter period of time, on average, than do Ph.D. student employees, and should therefore be excluded from the bargaining unit. The Employer does not squarely respond to the question posed by the Board and does not propose a standard for determining what student employees share a community of interest and should be included in a bargaining unit. For the reasons discussed in our Brief on Review and by the SEIU and CIR, employees hired for at least one "academic unit" share a community of interest and should be allowed to vote. In this case, this means employees hired for at least one semester.

## VI. CONCLUSION

The Board should overrule Brown and direct an election in the Unit sought by the Petitioner.

ON BEHALF OF THE PETITIONER,
GRADUATE WORKERS OF COLUMBIA-GWC, UAW

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## CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Petitioner's Reply Brief was sent via email, on this 14th day of March, 2016, to the following:

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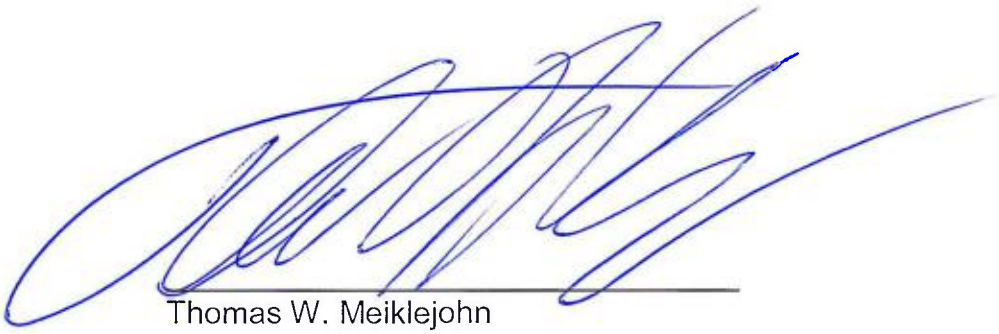

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