STUDENTS UNITE!

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Yesterday, the National Labor Relations Board issued a decision in *Columbia University* (Case 02–RC–143012), in which it determined that student assistants working at private colleges and universities are statutory employees covered by the National Labor Relations Act. https://www.nlrb.gov/case/02-RC-143012

The Board has bounced back and forth on this issue since 2000:

- *New York University*, 332 NLRB 1205 (2000) = first time certain university graduate assistants were held to be employees under the statutory definition and common law principles of the master-servant relationship. 332 NLRB 1205

- *Brown University*, 342 NLRB 483 (2004) = overruled *New York University* and held that graduate assistants cannot be statutory employees because they "are primarily students and have a primarily educational, not economic, relationship with their university." 342 NLRB 483

- *Columbia University*, Case 02–RC–143012 (2016) = overruled *Brown University*

In overruling *Brown University* yesterday, the Board stated bluntly, "We revisit the Brown University decision not only because, in our view, the Board erred as to a matter of statutory interpretation, but also because of the nature and consequences of that error." The Board noted that statutory coverage is "permitted by virtue of an employment relationship; it is not foreclosed by the existence of some other, additional relationship that the Act does not reach." As such, because the student assistants perform work at the direction of the university for which they are compensated, the Board has the authority to treat them as statutory employees under Section 2(3) of the National Labor Relations Act. Simply put, the fact that these people also have an educational relationship with the university does not negate the employment relationship with the university.

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