

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 01**

In the Matter of:

Trustees of Dartmouth College

and

**Graduate Organized Laborers of Dartmouth-
United Electrical, Radio and Machine
Workers of America (UE)**

Case 01-RC-312811

**Statement of Employer Dartmouth College Accompanying
Submission of Revised Voter List**

As requested by Board Agent Catherine Terrell, Dartmouth College welcomes the opportunity to submit the attached revised Voter List today, April 4, 2023, for the upcoming election on April 11 and 12, 2023. That election will determine whether the Graduate Organized Laborers of Dartmouth-United Electrical, Radio and Machine Workers of America (GOLD-UE) will serve as the exclusive representative of certain Dartmouth graduate students for the purpose of collective bargaining. As explained further below, Dartmouth conducted an expedited yet careful review of the March 13, 2023 *Massachusetts Institute of Technology (MIT)* decision by the Regional Director for the National Labor Relations Board (NLRB), Region 1, which also covers the College. Based on that review, Dartmouth identified a cohort of students who are identical in all substantive respects to the MIT Fellows the Regional Director found were not “employees.” Accordingly, the revised Voter List does not include those students.

In the March 13 Decision and Order, the Regional Director decided that MIT Fellows are not employees for the purpose of organizing under the National Labor Relations Act. *See* Case No. 01-RC-304042. Of relevance here, the Regional Director found that the MIT Fellows received funding to pursue their educational goals that carried no condition of providing services to MIT, subject only to the general requirement of academic progress:

[T]he common-law definition of employment requires that the students perform work, directed by the university, in exchange for compensation. Here, the work performed is indistinguishable from academic work and the direction is indistinguishable from academic direction. However, the compensation received by the fellows is not directly tied to completing particular tasks, as directed; rather, it is tied to maintaining academic good standing.

MIT, slip op. at 10.

Based on its review of this Decision and Order, Dartmouth determined that the following graduate students closely resembled the MIT Fellows in function and relationship to the College: students who do not receive funding tied to federal research grants, and who are in programs where students are required to teach or conduct research regardless of funding and where students receive a grade for teaching or research. These students are not required to perform services for Dartmouth in exchange for funding.¹

Based on *MIT*, these students are not “employed to provide teaching and research services” within the unit description to which the parties agreed as part of their Stipulation of Election:

Included: All graduate students enrolled in Dartmouth College degree programs who are employed to provide teaching and research services.

Excluded: All undergraduate students; graduate students not seeking Dartmouth degrees, including visiting students; standardized patients, tutors, and graders (unless also receiving a stipend to perform teaching and research services, and then only for such stipend-bearing services); office clericals; managers; guards and supervisors as defined in the Act.

In assenting to that description, Dartmouth sought to mirror the definition of graduate student “employee” developed by the NLRB in *Columbia University*, 362 NLRB 1080 (2016).

Thus, based on the *MIT* decision’s clarification of the *Columbia University* definition of “employee,” Dartmouth is submitting a revised Voter List to the NLRB and GOLD-UE that does not include the students described above who are not required to provide services to Dartmouth in exchange for funding. In submitting this list, as with the original Voter List, Dartmouth notes that the mere preparation and checking of a voter list does not constitute an agreement that estops Dartmouth or precludes the possibility of challenges at the election, either as to names appearing on, or names omitted from, such a list. *O. E. Szekely & Associates*, 117 NLRB 42, 44–45 (1957); *Cavanaugh Lakeview Farms*, 302 NLRB 921 (1991).

¹ Although the MIT Fellows historically had not been issued an IRS Form W-2 for the stipend payments they received, unlike Dartmouth’s historical practice for all stipend-receiving graduate students, that is a distinction without a difference. Dartmouth adopted this practice not to reflect graduate students’ employment status but to lessen the tax reporting burden on students who otherwise would need to determine and implement their own tax deductions. Consistent with that goal, Dartmouth does not deduct the FICA payroll tax from graduate student stipends, recognizing that graduate students remain “students” excluded from paying that tax under applicable law.

Respectfully submitted,

DARTMOUTH COLLEGE,

By its attorneys,

A handwritten signature in blue ink, appearing to read "J. McConnell", written in a cursive style.

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