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

MASSACHUSETTS INSTITUTE OF TECHNOLOGY **Employer** **and** **UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA (UE), LOCAL 106** **Petitioner**	**Case 01-RC-304042**

DECISION AND ORDER[1]

Massachusetts Institute of Technology (the Employer or MIT) operates a private, non-profit teaching and research university in Cambridge, Massachusetts.

The Petitioner, United Electrical, Radio and Machine Workers of America (UE), Local 106, presently represents a bargaining unit comprised of approximately 3,700 graduate students enrolled in MIT degree programs who are employed to provide instructional or research services, including research assistants, teaching assistants, and instructor Gs.

In this matter, the Petitioner seeks a self-determination election in which a group of roughly 1,500 graduate fellows enrolled in MIT degree programs who provide instructional or research services and are not also employed as either research assistants (RAs) or teaching assistants (TAs) would be permitted to vote as to whether or not they wish to be included in the existing bargaining unit. The existing unit was certified on April 19, 2022, following an election held on April 4 and 5, 2022.[2] The Petitioner initially sought to include the graduate fellows at issue here in the unit, but stipulated to their exclusion in order to allow the teaching assistants and research assistants to vote without having to await litigation with respect to the graduate fellows. Those graduate fellows who are also employed as either research assistants or teaching assistants are already included in the existing unit.

[1] The petition in this case was filed under Section 9(c) of the Act. The parties were provided opportunity to present evidence on the issues raised by the petition at a hearing held via videoconference before a hearing officer of the National Labor Relations Board (the Board). I have the authority to hear and decide this matter on behalf of the Board under Section 3(b) of the Act. I find that the hearing officer's rulings are free from prejudicial error and are affirmed; that the Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction; that the Petitioner is a labor organization within the meaning of the Act; and that a question affecting commerce exists concerning the representation of certain employees of the Employer. Parties were given the opportunity to file post-hearing briefs, and both parties did so.

[2] Case No. 01-RC-289879

The parties have stipulated that, should I direct an election, any unit found appropriate should be added to the existing unit if employees vote in favor of representation.[3]

The Employer takes the position that the petitioned-for graduate fellows are not employees because their fellowship funding is akin to a scholarship which they receive to pursue their own academic programs and objectives. The Petitioner, meanwhile, argues that the graduate fellows are employees, regardless of the source of their funding, where they perform the same work, under the same conditions, as the student-employees in the existing bargaining unit.

As set forth below, I find that the petitioned-for graduate fellows are not employees because they do not perform work controlled by the Employer in exchange for compensation. Rather, they perform research (or, occasionally, teach) to further their own academic purposes and are provided with funding to do so regardless of whether their activities also benefit the Employer.

FACTS

Employer's Structure and Business

MIT's mission is "to advance knowledge and educate students in science, technology, and other areas of scholarship that will best serve the nation and the world in the 21st century." It is divided into five schools and one college: the School of Architecture and Planning; the School of Engineering; the School of Humanities, Arts and Social Sciences; the Sloan School of Management; the School of Science; and the Schwarzman College of Computing. In addition to the departments that fall within each of the schools,[4] MIT also operates research labs, centers, and institutes. The smallest labs are associated with an individual faculty member. Other labs include multiple faculty members. The Computer Science and Artificial Intelligence Lab, which is presently MIT's largest lab, includes more than 1,000 participants.[5]

In total, about 12,000 students attend MIT, including 4,600 undergraduates and 7,100 graduate students. At the time of the hearing, 4,105 graduate students were seeking doctoral degrees and 2,981 graduate students were seeking master's degrees. The School of Engineering enrolled the most graduate students (3,182) while the Schwarzman College of Computing enrolled the fewest (120). About 40 percent of graduate students are international students. The vast majority of graduate students are based in Cambridge, although about 100 are employees of the Woods Hole Oceanographic Institution and about 100 are conducting field research in laboratories located elsewhere.

[3] In so stipulating, the Employer did not waive any appeal rights.

[4] For example, the School of Engineering includes the following: Aeronautics and Astronautics Department; Biological Engineering Department; Chemical Engineering Department; Civil and Environmental Engineering Department; Electrical Engineering and Computer Science Department (also a part of the Schwarzman College of Computing); Institute for Medical Engineering and Science; Materials Science and Engineering Department; Mechanical Engineering Department; and Nuclear Science and Engineering Department.

[5] A principal investigator (PI) has the ability to independently direct research at MIT, including by signing off on charges to individual research contracts and grants. All faculty members are accorded principal investigator status.

MIT offers 55 master's programs, of which 48 require research. All doctoral programs require research. Students enrolled in research-intensive degree programs take fewer classes as they progress and spend the majority of their time actively engaged in research. Typically, a doctoral student makes a formal thesis proposal after two or three years. The proposal is developed in collaboration with faculty members, and the thesis (sometimes called a dissertation) reflects the student's original research done under the guidance of faculty. On average, students complete a doctoral thesis in six years. A master's thesis is typically completed in two years; it is more limited in scope and requires more directed faculty guidance.

Thesis are generally made available to the public. MIT does not generate revenues by distributing the thesis, but rather hopes to contribute to scientific discourse by sharing information.

Teaching is an academic requirement for students in ten graduate programs, including biology, chemistry, and computer science. Students in those programs may receive academic credit, rather than financial compensation, for teaching. Students in this situation may be funded by fellowships.

Graduate Student Funding

Tuition for most MIT graduate students is set at about $60,000 per year. Graduate students finance their educations in various ways, often combining several different methods to secure sufficient funding. Dr. Ian Waitz, MIT's Vice Chancellor for Undergraduate and Graduate Education, testified that, because MIT wishes to compete with other universities for talented students, an offer of admission to one of MIT's graduate programs usually comes with some assurance of financial assistance in the form of a fellowship or an assistantship.

About 2,000 graduate students do not receive financial assistance from or through MIT. These students may have the financial resources to fund their own educations, may be funded by foreign governments, or may have received financial grants from other sources unbeknownst to MIT.

Many graduate students receive tuition and a salary in exchange for working on a specific project and its associated objectives and deliverables. Other graduate students receive tuition and a salary in exchange for teaching. These 3,700 research assistants and teaching assistants comprise the existing bargaining unit.

Graduate education is also financed through fellowships. Fellowships are funds paid to individual students for the purpose of study or research.[6] Fellowships may be internal (offered by

[6] MIT uses the term "scholarship" at the undergraduate level to refer to funds that cover tuition and/or living expenses. At the graduate level, funds that cover tuition are generally called "scholarships" while funds that defray living expenses are called "fellowships." However, some "tuition-only fellowships" are indistinguishable from scholarships.

MIT itself) or external (offered by, for example, a private company).[7] Some graduate students' educations are wholly funded by fellowships, while other graduate students' educations are only partially funded by fellowships. MIT may determine that a student's external fellowship is insufficient to cover the student's tuition and living expenses and respond by granting that student an additional fellowship to make up the difference. A fellowship recipient, unlike a research assistant, does not have formal research obligations to a sponsored research grant.

Dr. Waitz testified that MIT formally draws a distinction between an award (a fellowship) and an appointment (a research assistantship or teaching assistantship). However, colloquially, the terms "award" and "appointment" are often used interchangeably.

International students must comply with immigration requirements which do not allow them to pursue full-time work in the United States. Accordingly, MIT, like other educational institutions, limits work hours in research assistantships and teaching assistantships to twenty hours per week.[8] Although the exact amount of coursework varies by student and program, students are generally expected to register for fifty units—that is, fifty hours of coursework—per week, in addition to twenty hours of employment as a TA or an RA, for a total of seventy hours.

The Existing Bargaining Unit: Teaching Assistants and Research Assistants[9]

Although ten programs include a teaching requirement, in most other cases teaching assistant work is separate from graduate students' academic requirements.[10] Thus, most graduate students prefer a research assistantship to a teaching assistantship, although some graduate students are eager to gain teaching experience or simply enjoy teaching.

A teaching assistant works to support faculty in both undergraduate and graduate classes. Teaching assistants teach recitation sections; offer office hours (tutorials); grade problem sets and exams; and develop questions for problem sets and exams. Duties are assigned by the instructor in charge of the class. For the most part, teaching assistants do not actually teach classes, although

[7] However, MIT disperses the funds to all fellows at issue here. If a fellowship provides funds directly to a student, MIT may be unaware of the fellowship and view the student as self-funded. The Petitioner does not seek to represent graduate students who are self-funded.

[8] Where a department has an academic requirement for teaching, a teaching assistant may be expected to devote 24 hours per week to full-time teaching assistant duties.

[9] The existing bargaining unit also includes a position known as "Instructor G." An Instructor G is a graduate student with significant teaching experience who is permitted more independent control over a class than a TA. Instructor Gs can also be compensated at a higher rate than TAs, but their terms and conditions of employment are otherwise identical to those of a TA. At the time of the hearing, only three graduate students were titled "Instructor G."

[10] It is technically possible for a graduate student to act as a teaching assistant in a course taught by his or her thesis advisor, but this arrangement is unusual. For the most part, a student-employee's thesis advisor and work supervisor are not the same person.

students are given the opportunity to comment on teaching assistants' performances in course evaluations.

A research assistant is a student who is working on a particular aspect of research under the direction of a supervisor, most typically within a sponsored research grant or contract which defines the objectives and deliverables of the research. Faculty solicit grants (or respond to requests for proposals) from government agencies or private entities to fund the research, and then assign research assistants to perform work pursuant to those grants. A student funded by a research assistantship is part of the research group's budget.

Research assistants' work is usually suitable to be used as part of their theses, to the extent that this is approved by their thesis supervisors. Research assistants are also assigned other tasks which may not contribute to their theses, including writing reports to sponsors or giving presentations. In some cases, nothing a student does in conjunction with an RA appointment ever appears in that student's thesis document.

An appointment to an assistantship can be cancelled at any time if progress in the graduate program is unsatisfactory or if the student is not carrying out the duties assigned in a specific manner. It is unusual, but possible, for an assistant to be terminated in the middle of an appointment due to unsatisfactory performance of duties. It is somewhat more common for a graduate student not to be reappointed to an assistantship for a new term. This may occur because a department has fewer positions available than qualified applicants or because the student-employee's performance declined due to health or personal challenges. If an assistant's funding is terminated under these circumstances, many departments place the individual on a fellowship so that the student can refocus on academics with fewer time constraints.

TAs and RAs receive two weeks' vacation with pay as approved by their employment supervisors. In addition to their tuition subsidy and stipend, they receive medical insurance for an overall compensation package of about $120,000 per year. MIT withholds federal and Massachusetts income tax from teaching and research assistants' stipends, and the teaching and research assistants receive W-2s at the end of the year. The stipends are paid twice monthly, following the completion of the students' work. Compensation is processed through MIT's payroll department.

Some departments set a maximum on the number of units for which graduate students on assistantships may register. Exceptions are permitted where there is significant overlap between a research assistant's assigned research and his academic/thesis research.

Fellowship Funding

Fellowships are financed in several ways. Internally, MIT allocates money for fellowships from unrestricted funds at the department level, the school level, and the institute level. MIT also funds fellowships through department-controlled endowed accounts. Frequently, a donor (often an alumnus) makes a gift to MIT which specifies that the money is to be spent on, for example, a graduate student fellowship in a particular department.

Students also receive federally-sponsored fellowships which come with their own restrictions. Currently, 600 MIT graduate students have National Science Foundation fellowship awards, although only 350 students are currently utilizing them. Approximately 75 students are currently using other federally-sponsored fellowships, including fellowships awarded by the National Institutes of Health (NIH) and the National Aeronautics and Space Administration (NASA). The NIH also awards specialized grants, known as training grants, given to a university to provide training for students. Forty MIT graduate students currently receive NIH training grants. Some NIH training grants also come with specific requirements beyond academic requirements, and MIT is responsible for ensuring that students meet all terms and conditions of the grant.

In addition, some graduate students' educations are financed by corporate-sponsored fellowships funded by private companies. Some corporate-sponsored fellowships are short-term agreements (such as sponsoring a student for three years) while others are evergreen. Likewise, nonprofit sponsored fellowships may be provided by foundations or foreign governments. In some cases, the funds go directly to the students, while in other cases, the funds are administrated by MIT.[11] At the time of the hearing, eighteen students were receiving nonprofit sponsored fellowships.

Because the sources of fellowship funding vary widely, the requirements which must be met by graduate students to receive and maintain their awards also vary widely. All students do need to maintain good academic standing in order to receive fellowship funding, and good academic standing frequently requires engaging in research. Some graduate students need not perform any research in order to maintain their fellowships, and indeed do not engage in any research. The Petitioner does not seek to represent students who are funded by fellowships but who are not conducting research.

Graduate Fellows in Research Groups

The vast majority of MIT's graduate programs are research-intensive, and graduate students are likely to spend significantly more time learning in a laboratory than in a classroom. MIT's smallest labs may include one faculty member, while the largest labs include upwards of 1,000 participants. Principal investigators solicit grants from government agencies or private entities to fund the research, and then assign members of the research group to perform work pursuant to those grants.

Dr. Waitz testified that fellowships are "by far" the most attractive and prestigious form of financial assistance because they allow the student to choose to work in any area or with any faculty member. A student may enroll expecting to work in a particular professor's lab but discover a preference for a different area of research. A fellowship allows the student the flexibility to make that change without losing funding. In addition, a fellowship does not come with additional work requirements. A letter offering admission to a student who has been offered a research assistantship

[11] The Petitioner does not seek to represent fellows who receive their funding directly from an external source rather than through MIT's payment portal.

explicitly states which project the RA will work on, as well as the supervising faculty member. Because RAs are attached to specific supervisors and specific projects, there is no guarantee that an RA may switch to a different supervisor or project upon request. In the case of a fellowship, though, funding attaches to a particular student rather than a particular project.

Any given research group is likely to include students supported by many different contracts or grants, including assistantships, department fellowships, institute fellowships, and external fellowships. Regardless of the origin of their funding, all of them are classified as MIT students and all are pursing research-intensive degrees by working within the learning environment of a research group or a lab. Fellows, like any other member of a research group, may be credited as authors in published articles resulting from the research performed. For example, one witness performed research as a fellow which led to her inclusion as an author of an article later published in the prestigious journal *Nature*. All graduate students, including RAs and fellows, are required to sign MIT's Proprietary Information Agreement, which is also required of faculty and other research staff. Several graduate students testified that, although they are classified as fellows, their principal investigators meet with them regularly and give them feedback on their progress.

Multiple graduate students testified that their experiences in their research groups did not change as they moved between classification as a fellow and classification as a research assistant. Such changes in classification are common because many fellowships support students for a certain number of academic terms, leaving the students to finance the balance of their educations through other means, including assistantships. Financial assistance of all kinds is administered by the Office of Graduate Education, which issues stipend payments from a single bank account to both fellows and research assistants every two weeks. Like TAs and RAs, fellows receive tuition assistance and health insurance in addition to stipends.

Unlike a research assistant, though, a fellow's funding is not a part of the research group's budget. Thus, unlike a research assistant, a fellow may not be assigned to certain non-research tasks—such as writing reports to sponsors—although a fellow may volunteer to perform this work.[12] Likewise, while TAs and RAs are limited to taking a certain number of courses per term, this limit on courseload does not apply to fellows. Nor do limits on hours worked and vacation policies apply to fellows.[13] Income taxes are withheld from funds disbursed to RAs but not from funds disbursed to fellows. Fellows also do not receive W-2 forms and are not required to complete I-9 forms.

Research groups also include self-funded graduate students, who have the same academic relationship with the professors as students whose funding stems from other sources.

[12] Multiple graduate students testified that they are nonetheless regularly asked to perform work unrelated to their own research. Multiple MIT managers also testified that professors are instructed to stop making such requests if the requests come to the attention of the administration.

[13] Fellows do not accrue vacation time but may take time away from their research the same way another student may take time away from a classroom: with potential academic consequences, but with no change to income.

Further, some students—including more than 200 fellows—do not conduct their research in a group or laboratory setting. In disciplines such as economics, graduate students conducting thesis research do not require the use of lab equipment and other research facilities. These students generally do not work side by side with other researchers as students who are part of a lab group do.

ANALYSIS AND CONCLUSION

In *Columbia University,* 364 NLRB 1080 (2016), the Board considered and rejected its prior holding in *Brown University* that "the graduate assistants *cannot* be statutory employees because they 'are primarily students and have a primarily educational, not economic, relationship with their university.'" *Id.* (quoting *Brown University*, 342 NLRB 483, 487 (2004)). The *Columbia* Board concluded that "it is appropriate to extend statutory coverage to students working for universities covered by the Act unless there are strong reasons not to do so." *Id.* at 1081.

In reaching this finding, the Board relied on the common-law definition of employment, which "generally requires that the employer have the right to control the employee's work, and that that work be performed in exchange for compensation." *Id.* at 1094. The Board explicitly held that "the fact that a research assistant's work might advance his own educational interests as well as the University's interests is not a barrier to finding statutory employee status." *Id.* at 1096.

The Board proceeded to contemplate the possibility that a student in receipt of a particular sort of funding might have the unfettered ability to pursue his own goals without regard to his benefactor's goals, although it found that this was not the case with the research assistants at issue in *Columbia*:

> It is theoretically possible that funders may wish to further a student's education by effectively giving the student unconditional scholarship aid and allowing the student to pursue educational goals without regard to achieving any of the funder's own particular research goals. But where a university exerts the requisite control over the research assistant's work, and specific work is performed as a condition of receiving the financial award, a research assistant is properly treated as an employee under the Act.
>
> The research assistants here clearly fall into this latter category of common-law employees. The research of Columbia's student assistants, while advancing the assistants' doctoral theses, also meets research goals associated with grants from which the University receives substantial income. The research assistants here work under the direction of their departments to ensure that particular grant specifications are met. Indeed, another feature of such funding is that the University typically receives a benefit from the research assistant's work, as it receives a share of the grant as revenue, and it is relieved of any need to find other sources of funding for graduate students under a research grant; thus it has an incentive to ensure proper completion of the work in accordance with the grant. Further, a research assistant's aid package requires fulfillment of the duties defined in the grant, notwithstanding that the duties may also advance the assistant's thesis, and thus the award is compensation. Students, when working as research assistants, are not permitted to simply

> pursue their educational goals at their own discretion, subject only to the general requirement that they make academic progress, as they would be in semesters where they were under some form of financial aid other than a research grant.
>
> The funding here is thus not akin to scholarship aid merely passed through the University by a grantor without specific expectations of the recipients. Because Columbia directs the student research assistants' work and the performance of defined tasks is a condition of the grant aid, we conclude that the research assistants in this case are employees under the Act.
>
> *Ibid*. at 1096-1097, footnotes omitted.

Finally, the *Columbia* Board specifically addressed the university's argument that research assistants funded by training grants lack the characteristics of common-law employment. The Board noted that the university receives revenue from the training grants, is charged with ensuring the research assistants receive appropriate training, and accordingly oversees and directs the research assistants who receive the grants. Thus, the Board held that research assistants funded by training grants are also employees. *Ibid*. at 1097.

The Petitioner's Argument

The Petitioner argues that, at root, fellows are distinguished from the members of the existing bargaining unit only by the source of their funding.

The Petitioner takes the position that fellows are statutory employees under *Columbia*, firstly, because they conduct research in connection with their studies, thereby furthering the mission of MIT to advance human knowledge and "performing services" for MIT. Further, the Petitioner emphasizes that fellows are directed and supervised by the Employer as they conduct their research. Faculty members and PIs meet with graduate students, regardless of funding status, to offer feedback on their progress. The Petitioner asserts that, because all research is work, the professors' guidance of fellows cannot be viewed solely as academic mentorship. Finally, the Petitioner notes that the fellows receive compensation from the same MIT bank account used to disperse funds to the research assistants who are already a part of the bargaining unit. Thus, the Petitioner concludes that the fellows, like all employees, perform work controlled by their employer and are compensated in return.

With respect to the fellows' flexibility in choosing their own areas of research, the Petitioner notes that specialized workers often have significant say over what tasks they will perform but are nonetheless legally classified as employees.

The Employer's Argument

The Employer contends that the fellows cannot be employees under common law or under *Columbia* because they have no employment responsibilities to MIT. Rather, the Employer views the fellows as akin to the hypothetical students contemplated by the *Columbia* Board who receive unconditional scholarship aid and need not perform work in return.

The Employer further contends that MIT's fellowships are not the functional equivalent of the training grants described in *Columbia* because training grants at MIT involve academic work, not service to the university. MIT submits that, where a training grant student is not required to engage in specific training activities over and above the student's core academic requirements, the student does not meet the common law employee test.

In addition, the Employer highlights the fact that fellows, unlike the members of the existing bargaining unit, do not fill out I-9 forms, do not receive vacation, need not request time off, and are not issued W-2 forms. The *Columbia* Board noted that the graduate assistants at issue in that case also filled out I-9 forms and were issued W-2 forms.

Lastly, the Employer notes that equating research with employment could have unintended consequences. The distinction between RAs and fellows is made in federal immigration law, federal tax rules, and federal regulations concerning the administration of sponsored research at universities. With respect to immigration regulations, there are strict rules regarding a 20-hour cap per week of on-campus employment during academic terms. If all thesis research performed by graduate students constitutes service to MIT, then hours previously deemed academic in nature will be counted against the 20-hour employment caps set by federal immigration regulations. Further, the Internal Revenue Service defines a fellowship as tax free, so long as the funding is not conditioned on the student providing any services to the academic institution. The Employer argues that if the Board holds that there is no distinction between academic research and services to MIT, MIT would be required to start withholding and reporting income taxes for fellows as it does for RAs and TAs, contradicting the tax code in the process. The distinction between fellows and RAs is also recognized in the regulations governing the administration of federally-sponsored research awards. In this context, fellowships are considered student aid and generally not chargeable to federal awards. If fellows were also conducting work, MIT would be permitted to charge federal research sponsors millions of dollars for the fellows' stipends unexpectedly.

Conclusion

The *Columbia* Board held that graduate students are employees despite the fact that a graduate assistant's work might advance his own educational interests as well as the University's interests. Here, the petitioned-for fellows' research might advance the University's interests as well as their own, particularly where the University's interests include the broadly defined goal of "advancing knowledge." However, the 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.

While fellows conduct academic research alongside RAs, they also conduct research alongside students who are self-funded. All are required to conduct thesis research to earn their degrees, but only the RAs are under the direct supervision of a faculty member who controls their funding and makes certain that that their RA work aligns with the objectives in the contract on

which they are supported. Additionally, fellows, in contrast to RAs, do not receive paid vacation time. Unlike the student-employees at issue in *Columbia*, fellows do not receive W-2 forms and need not fill out I-9 employment verification requirements. It is evident that, contrary to the Petitioner's assertion, all thesis research performed by graduate students cannot constitute service to MIT, lest international students be placed at a grave disadvantage by the 20-hour employment caps set by federal immigration regulations.

The fact that fellows must meet no employment responsibilities or service requirements to receive or maintain their fellowship awards supports a finding of non-employee status.

ORDER

IT IS HEREBY ORDERED that the petition is dismissed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 10 business days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review must be E-Filed through the Agency's website and may not be filed by facsimile. To E-File the request for review, go to www.nlrb.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001, and must be accompanied by a statement explaining the circumstances concerning not having access to the Agency's E-Filing system or why filing electronically would impose an undue burden. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board. If a request for review of a pre-election decision and direction of election is filed within 10 business days after issuance of the decision and if the Board has not already ruled on the request and therefore the issue under review remains unresolved, all ballots will be impounded. Nonetheless, parties retain the right to file a request for review at any subsequent time until 10 business days following final disposition of the proceeding, but without automatic impoundment of ballots.

Dated: March 13, 2023

Laura A. Sacks, Regional Director
National Labor Relations Board
Region 01