

September 11, 2013

Mr. Sal Albanese

The Honorable Bill De Blasio  
New York City Public AdvocateThe Honorable John Liu  
New York City ComptrollerThe Honorable Christine Quinn  
Speaker, New York City Council

Mr. William Thompson

**We recently received a copy of NYU's response to the five NYC mayoral candidates who wrote in September urging the administration to respect RA/TAs' majority choice for union representation. NYU's effort to justify their denial of our rights in this letter includes some inaccuracies and omissions. See our clarifications below in color.**

Dear Mr. Albanese, Public Advocate De Blasio, Comptroller Liu, Speaker Quinn, and Mr. Thompson,

Thank you for your letter. John Sexton was traveling and asked that I reply to your letter.

As you are aware, the matter of graduate student unionization is currently before the National Labor Relations Board once again. In fact, in a bit over a dozen years, the NLRB had held no fewer than three positions on the issue: originally holding the graduate assistants were ineligible to collectively bargain, then holding that they could form a collective bargaining unit, then subsequently reversing itself and embracing its original position.

- **The 2000 NLRB decision affirming grad assistant bargaining rights at NYU was the first time the NLRB ruled on a petition for a stand-alone GA, TA and RA bargaining unit at a private university. While the NLRB said many years prior that graduate student research assistants should not be part of a Union with faculty at Stanford University, it was only in 2004 – in a politically-motivated decision by George W. Bush appointees – that the NLRB reversed the “original position” established at NYU in 2000 and asserted that “graduate assistants were ineligible to collectively bargain.”**

Because the issue returned for NLRB consideration at both regional and national level, we at NYU consulted widely with our faculty, departments, and schools during the 2012-13 academic year about how the University should respond to the NLRB's decision on this matter.

What we learned from those consultations is that there is a range of opinions on campus. Some in our community believe the responsibilities historically associated with TAs or GAs (teaching assistants or graduate assistantships) – teaching sections of classes, grading assignments, foreign language training – are the kind of duties that could – or should – be construed as work, and thus eligible for collective bargaining. But there were significantly greater degrees of concerns expressed over the prospect of including research assistants – or RAs – in the collective bargaining units. The fact is – and here is an important distinction where we may disagree with you – research assistants are a different matter entire from TAs or GAs.

- **NYU does not mention the “opinion” that matters most: that a majority of GAs, RAs and TAs have consistently chosen UAW representation.**

The responsibilities of RAs are markedly distinct from those of GAs or TAs. The research conducted by RAs is typically funded by external (usually federal) grants, contributes to their own thesis work, and directly advances their degrees. In fact, this was just the argument that the UAW itself made in 1999 in seeking to have RAs excluded from the collective bargaining unit at that time. And the Regional Director of the NLRB at that time agreed with the UAW that the RAs, who are overwhelmingly funded by federal research grants, were not employees since their funding was “more akin to a scholarship.”

- **In 2002 decisions at Tufts and Columbia Universities, the two rulings most prior to the 2004 Brown University decision stripping all graduate assistant union rights, NLRB regional directors said all RAs had**

**bargaining rights and included them in units with TAs, recognizing their dual status as students and employees. Based on this precedent, and since a majority of all RAs signed up for GSOC/UAW and for SET/UAW at NYU-Poly, our petitions in 2010 and 2011 included all RAs along with GAs and TAs.**

In short: one can obtain a Ph.D. in many fields without having been a GA or a TA. One cannot obtain a Ph.D. in the sciences without having been a research assistant. The RA experience is part and parcel of the pursuit of the degree.

- **The degree requirements for a PhD in no way include having to work and be classified as an RA. See the Biology, Chemistry and Physics PhD curriculum descriptions as examples. Those who do get hired and work as RAs must engage in research furthering the expectations of a grant – usually from a federal government agency. While the RA’s research may contribute to her/his PhD dissertation, it is simultaneously providing service under the direction of a faculty supervisor who obtained the grant and who must report results to the granting agency: hence, the dual status of an RA as student and employee.**

Consequently, the issue of RAs is a much more complex and concerning matter, one that veers sharply into the realm of academics, where there is significantly higher concern among our faculty about the appropriateness of collective bargaining paradigm. The idea that a student’s progress towards his or her degree might be governed by a collective bargaining relationship is troubling to us. Moreover, this is essentially the same argument embraced by Governor Jerry Brown and the State of California, which has unionized GAs and TAs in its public university system, but recently rejected the unionization of RAs.

- **NYU’s opinion about RAs and collective bargaining is based on speculation rather than empirical evidence. At the U. of Massachusetts and the U. of Washington, two major research universities where all RAs have had bargaining rights with TAs since 1990 and 2002, respectively, they have negotiated contracts as part of the UAW that have improved pay, benefits and other working conditions without infringing on academic mentoring relationships between faculty and graduate students. In fact, no one has shown any evidence that collective bargaining has damaged these relationships at any university with a graduate assistant union. As the New York Times editorial board put it in 2000, “American graduate programs, the envy of the world, are not so fragile they cannot coexist with unions, or provide workers the rights they enjoy elsewhere in the economy.”**

As you may be aware, in order to try to resolve this and bring this entire matter to closure. NYU reached out to the UAW in February to explore moving forward with a graduate student union, excluding RAs. We regret to report that the UAW declined our offer. Were they to accept it, we could promptly address yours and the UAW’s wish to move forward without waiting for the NLRB’s decision. This seems a sound and mutually beneficial compromise.

- **GSOC/UAW offered a practical and reasonable counterproposal in response to NYU’s offer: to move ahead with bargaining now on behalf of those who were covered by the first contract at NYU and let the NLRB determine the bargaining rights of the remainder of the additional RAs covered in our current NLRB petition. The administration declined our counterproposal.**

In the absence of the UAW’s agreement on the proposal we offered – which still stands – NYU’s response will depend to a large degree on the specifics of the ruling. Given the complexities involved and the uncertainty of the RA issue, given the fact that the NLRB itself has taken conflicting positions on this matter in recent years, given that the constitutional challenges to the appointment of the NLRB appointees have recently been resolved, and given then at various times NYU has been asked to respond in a variety of ways by interested elected officials such as yourselves, we believe the proper course is to await the outcome of the NLRB’s decision-making process.

We appreciate your sharing with us your concerns and position on this matter, which we respect and take seriously. We hope you will understand, in turn, our position.

Sincerely,



Lynne Brown