

**UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD**

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**In the Matter of**

**COLUMBIA COLLEGE CHICAGO,**

**Respondent,**

**and**

**THE PART-TIME FACULTY ASSOCIATION  
AT COLUMBIA COLLEGE CHICAGO,  
IEA-NEA,**

**Charging Party**

**Cases 13-CA-73486  
13-CA-73487  
13-CA-76794  
13-CA-78080  
13-CA-81162  
13-CA-84369**

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**COLUMBIA COLLEGE CHICAGO'S EXCEPTIONS TO THE RECOMMENDED  
DECISION AND ORDER OF THE ADMINISTRATIVE LAW JUDGE'S DECISION**

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Dated: May 10, 2013

Submitted by:

Lisa A. McGarrity  
[lam@franczek.com](mailto:lam@franczek.com)  
Abizer Zanzi  
[az@franczek.com](mailto:az@franczek.com)  
Franczek Radelet, P.C.  
300 South Wacker Drive  
Suite 3400  
Chicago, IL 60606  
Phone: 312-986-0300  
Fax: 312-986-9192

Pursuant to Section 102.46 of the National Labor Relations Board's Rules and Regulations, Respondent Columbia College Chicago (the "College"), submits the following exceptions to Administrative Law Judge Geoffrey Carter's March 15, 2013 Decision and Order.

### **STATEMENT OF EXCEPTIONS**

1. The ALJ erred as a matter of fact and law when he concluded that "[c]hanges in course credit hours have a direct effect on P-Fac members" (ALJD at 17 n.16) because P-Fac members are contingent employees who do not have a contractual right or expectation to future employment (Resp. Ex. 1, GC Ex. 54).
2. The ALJ erred as a matter of fact when he stated that "[in] March 2011, the College posted its fall 2011 course offerings on OASIS (and online course catalog) for students to review, including the courses that would count for a reduced number of hours" (ALJD at 18:14-18:16) because he omitted the material fact that all faculty members, including union officers, had access to the information posted on OASIS (the College's course-scheduling system) as of March 2011 (Tr. 528, 562).
3. The ALJ erred as a matter of fact when he described a February 21, 2012 email from Leonard Strazewski to Diana Vallera as stating that "the College was willing to meet to discuss the issue [of credit hour reductions] if PFAC first gave the College a proposal regarding the effects, and a list of PFAC members that have been affected by the changes to course credit courses" (ALJD at 19:16-20:3) because it inaccurately characterizes the College's statements as requiring the Charging Party (the "Union") to satisfy preconditions before agreeing to bargain (GC Ex. 52; Tr. 1061-63).
4. The ALJ erred as a matter of fact when he stated that "[t]here is no dispute that by March 2011, the College had made a decision to reduce the number of credit hours that it would

award for 12 courses” (ALJD at 20:41-20:42), because he omitted a material fact that the credit-hour reductions for three courses – Screenwriting Workshop (55-5326), Adaptation in LA (55-5327), and Acquiring Intellectual Property (55-5328) – only impacted the credit hours that would be awarded to graduate students upon successful completion of the courses, and not the compensation for part-time faculty members teaching the courses (Tr. 571-74; Resp. Ex. 12).

5. The ALJ erred as a matter of fact when he stated that “[t]he College was aware of P-Fac’s concerns about course credit hour reductions” before it implemented credit-hour reductions for the fall 2011 semester (ALJD at 20:42-20:45) because the Union did not make a request to bargain the effects of the credit-hour reductions for fall semester courses until December 20, 2011 (GC Ex. 49, Tr. 1061).
6. The ALJ erred as a matter of fact and law when he concluded that the College “did not notify PFAC before it implemented the March 2011 changes to course credit hours” (ALJD at 20:44-20:45) because the Union received legally sufficient notice of the credit-hour reductions (Resp. Exs. 13-16; Tr. 528, 562).
7. The ALJ erred as a matter of fact and law when he concluded that the College unlawfully agreed to bargain the effects of credit-hour reductions “only on the precondition that PFAC first submit a proposal regarding the effects, and a list of PFAC members that have been affected by the changes to course credit hours” (ALJD at 21:2-21:9, 75:16-75:28) (GC Ex. 52; Tr. 1061-63).
8. The ALJ erred as a matter of fact and law when he concluded that “changes to course credit hours affected the wages and terms and conditions of employment of PFAC members” (ALJD at 21:12-21:13) (Resp. Ex. 1, GC Ex. 54).

9. The ALJ erred as a matter of law when he concluded that “changes to course credit hours . . . were mandatory subjects of bargaining, and the College was therefore obligated to meet with PFAC at a reasonable time for effects bargaining” (ALJD at 21:12-21:15) (Resp. Ex. 1, GC Ex. 54).
10. The ALJ erred as a matter of fact and law when he concluded that the College’s agreement to participate in effects bargaining in May 2012 was a “change in position” (ALJD at 21:19-21:20) because previously on February 21, 2012, the College responded to the Union’s request to bargain the effects of credit-hour reductions by stating that the College was willing to meet on this issue to discuss it (GC Ex. 52, Tr. 1061-63).
11. The ALJ erred as a matter of fact and law when he concluded that the College unlawfully refused to participate in effects bargaining (ALJD at 21:20-21:21) (GC Ex. 52, Tr. 1061-63, Resp. Exs. 60, 62, 64).
12. The ALJ erred as a matter of fact and law when he concluded that “meaningful effects bargaining was precluded due to the College’s failure to give PFAC pre-implementation notice of the credit hour changes, and due to the delay caused by the unlawful preconditions that the College set before it agreed to engage in effects bargaining” (ALJD at 21:21-21:24) (Resp. Exs. 13-16; Tr. 528, 562).
13. The ALJ erred as a matter of fact and law when he interpreted Arbitrator Harvey Nathan’s award as “at most address[ing] the right of individual employees to contest teaching assignments through the grievance process” (ALJD at 21 n.22, 22 n.24) (GC Ex. 54).
14. The ALJ erred as a matter of fact and law when he concluded that the Union did not receive adequate notice of the fall 2011 semester credit-hour reductions and that “PFAC

could not be faulted for time that passed before it learned of the credit hour changes and asked the College to engage in effects bargaining (ALJD at 22:7-22:16) (Resp. Exs. 13-16; Tr. 528, 562).

15. The ALJ erred as matter of law when he concluded that the College was obligated to engage in effects bargaining because the changes to course credit hours “are material, substantial and significant insofar as course credit hours are used to calculate the wages that PFAC members are paid for the classes they teach” (ALJD at 22 n.24) (Resp. Exs. 1, 9, 19; GC Ex. 54; Tr. 530-32, 548-57, 585-92, 603-07, 614, 627).
16. The ALJ erred as a matter of law when he disagreed with Arbitrator Harvey Nathan’s determination that “PFAC members do not have the right to future course assignments, or (by extension) the right to expect that particular courses will carry a certain number of credit hours” (ALJD at 22 n.24) (Resp. Ex. 1, GC Ex. 54).
17. The ALJ erred as a matter of fact when he found that “the record is clear that when it came to course credit hour reductions . . . PFAC expected and demanded effects bargaining” (ALJD at 22-23 n.24) because the record establishes that the Union did not consistently request to bargain the effects of curriculum changes (Tr. 524, 531-32, 568-70, 584, 591-92, 604-05).
18. The ALJ erred as a matter of fact and law when he concluded that the Union did not waive its right to bargain the effects of course credit-hour changes in the existing collective bargaining agreement (ALJD at 23 n.24) (Resp. Ex. 1).
19. The ALJ erred as a matter of fact and law when he concluded that “the College’s own actions demonstrate that the existing collective bargaining agreement does not contain a

clear and unmistakable waiver of PFAC's right to engage in effects bargaining" (ALJD at 23 n.24) (Resp. Ex. 1; GC Ex. 3, 4; Tr. 463).

20. The ALJ erred as a matter of fact then he found that the College "proposed that PFAC waive its right to effects bargaining in the successor agreement" (ALJD at 23 n. 24) because the Union did not have an existing effects-bargaining right with respect to curriculum changes (Resp. Ex. 1).
21. The ALJ erred as a matter of law and policy when he rejected the College's "concern than an adverse ruling on this effects bargaining issue would harm its ability to run its business and conduct its most basic functions" (ALJD at 23 n.25) (Tr. 530-32, 548-57, 585-92, 603-07, 614, 627).
22. As set forth in the above Exceptions, the ALJ erred as a matter of law when he concluded that the College violated Section 8(a)(5) and (1) of the National Labor Relations Act "by failing and refusing to bargain with PFAC about the impact and effects of [the] College's implementation of course credit hour reductions" for ten courses (ALJD at 23:1-23:8, 72:41-72:46).
23. The ALJ erred as a matter of fact when he stated that "[t]he College advise[d] Vallera that it will meet with PFAC about the changes that it made to course credit hours if PFAC first provides the College with information to indicate which PFAC members were affected by the changes" (ALJD ay 72:4-72:8) because it inaccurately characterizes the College's statements as requiring the Union to satisfy preconditions before agreeing to bargain (GC Ex. 52; Tr. 1061-63).

24. As set forth in the above Exceptions, the ALJ erred as a matter of law when he concluded that the College engaged in bad faith bargaining with respect to the College's decision to implement course credit hour changes (ALJD at 75:30-75:36).
25. As set forth in the above Exceptions, the ALJ erred as a matter of fact and law when he reached Conclusions of Law #2, #9 and #10 (ALJD at 76:4-76:10, 76:38-76:43).
26. As set forth in the above Exceptions, the ALJ erred when he found that the College engaged in "certain unfair labor practices" and ordered it to cease and desist and take certain affirmative action (ALJD at 77:5-77:8, 82:9-82:114).
27. As set forth in the above Exceptions, the ALJ erred as a matter of fact and law when he ordered the College to bargain "the effects of its decision to reduce the number of credit hours awarded for 10 courses" (ALJD at 77:17-77:19, 82:32-83:3).
28. As set forth in the above Exceptions, the ALJ erred as a matter of fact and law when he concluded that a *Transmarine* bargaining order and backpay remedy was necessary (ALJD at 77:19-78:2, 83:5-83:8), because the College was not obligated to bargain and even if it was, it met its obligation.
29. As set forth in the above Exceptions, the ALJ erred as a matter of fact and law when he ordered the College to post the Notice to Employees designated in the Appendix to the Decision (ALJD at 83: 32-84:2).

**CONCLUSION**

The ALJ's Decision, to the extent noted above, conflicts with the evidence and Board precedent. Based on the above exceptions and as set forth in its accompanying Brief in Support of Exceptions, Respondent Columbia College Chicago respectfully requests that the Board reverse the ALJ's Decision.

Respectfully submitted,

COLUMBIA COLLEGE CHICAGO



By: \_\_\_\_\_  
Lisa A. McGarrity

Lisa A. McGarrity  
Abizer Zanzi  
FRANCZEK RADELET P.C.  
300 South Wacker Drive  
Suite 3400  
Chicago, Illinois 60606-6785  
(312) 986-0300

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**CERTIFICATE OF SERVICE**

The undersigned attorney certifies that she caused a copy of the foregoing to be served via electronic mail on May 10, 2013 as follows:

Laurie M. Burgess  
Burgess Law Offices, P.C.  
One South Dearborn  
Suite 2100  
Chicago, IL 60603  
lburgess@burgess-laborlaw.com

Daniel Murphy  
Counsel for the General Counsel  
NLRB Region 13  
209 S. LaSalle Street, 9th floor  
Chicago, IL 60606  
Daniel.Murphy@nlrb.gov



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Lisa A. McGarrity