EXHIBIT C TO RESPONSE TO MOTION FOR SUMMARY JUDGMENT

Case 13-CA-217957

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

UNIVERSITY OF CHICAGO
Employer

and

Case 13-RC-198365

INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, LOCAL 743
Petitioner

ORDER

The Employer's Expedited Request for Review is denied on the merits, as it raises no substantial issues warranting review.[1] The Employer's Motion to Stay the Election and/or Impound Ballots, or, in the Alternative, For Remand to the Regional Director is accordingly also denied as moot.

MARK GASTON PEARCE, MEMBER

LAUREN McFERRAN, MEMBER

Dated, Washington, D.C., June 1, 2017.

Chairman Miscimarra, dissenting:

I dissent from the denial of the Employer's Expedited Request for Review. I would grant review on the basis that substantial issues exist regarding the extent to which the bargaining unit consists of students whose positions are closely related to their education, similar to unit members in *Columbia University*, 364 NLRB No. 90 (2016) (Board majority approves single, university-wide bargaining unit consisting of student assistants), and *Yale University*, 365 NLRB No. 40 (2016) (Board majority approves nine bargaining units, each consisting of student assistants in a single academic department); see also *Saga Food Service of California, Inc.*, 212 NLRB 786 (1974) (excluding students from bargaining unit consisting of food service employees). To the extent that the students are similar to the unit members in *Columbia University* and *Yale University*, I believe the Board should find that the unit is inappropriate for

[1] In denying review, we find, in agreement with the Regional Director, that the Employer's offer of proof fails to present grounds for concluding that the library clerks, who perform work at the Employer's direction for which they are compensated, are not common-law employees. Likewise, the facts asserted in the Employer's offer of proof are insufficient to warrant a conclusion that the library clerks should be deemed ineligible as temporary or casual employees.

the reasons expressed in my dissenting opinions in *Columbia University*, slip op. at 22-34, and *Yale University*, slip op. at 1-2. It is also relevant that a significant number of individuals included in the petitioned-for unit in *this* case, who perform services in the library, are also teaching assistants, research assistants, course assistants, workshop coordinators, writing interns, preceptors, language assistants, instructors, lecturers, lectors, or teaching interns potentially encompassed by a different union's representation petition filed in another pending representation case (No. 13-RC-198325). I would also grant review with respect to whether the petitioned-for individuals are temporary employees.

I would also grant review on the basis that substantial issues are presented by the failure to permit the Employer to present evidence regarding the potential non-employee status of students who perform services in the library or their potential status as temporary employees. As to these issues, I believe the Board cannot appropriately deny parties the opportunity to present relevant evidence merely because certain provisions in the Board's Election Rule treat a party's "offer of proof" as equivalent to record evidence. See Election Rule, 79 Fed. Reg. 74308, 74446-74448 (2014) (dissenting views of Members Miscimarra and Johnson).

Finally I would grant the Employer's Motion to Stay the Election[1] because, in my view, all parties (particularly individuals included in the petitioned-for unit) would benefit from the Board's resolution of election-related issues before voting takes place. More generally, I disagree with the Board's Election Rule, the application of which has affected the resolution of other issues in the instant case. See 79 Fed. Reg. at 74430-74460 (dissenting views of Members Miscimarra and Johnson).

Accordingly, for the reasons set forth above, I respectfully dissent.

PHILIP A. MISCIMARRA, CHAIRMAN

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[1] Because I would grant the Employer's Motion to Stay the Election, I do not reach or pass on the portion of its motion requesting that the Board order the impounding of ballots.