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3a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.)

By its instant petition, Petitioner seeks to add the following job classifications to the existing bargaining unit certified in Case No. 02-RC-143009, "All full-time and regular part-time student employees including but not limited to Student Assistants, Student Workers, Student Technicians, Student Ambassadors, Student Assistant Specialists, Senior Student Assistant Specialists, Student Advisors, Resident Advisors, Community Assistants, Orientation Captains, and Orientation Leaders.

The instant petition should be dismissed insofar as the individuals holding positions in the job classifications alleged as residual in Case No. 02-RC-323275 are not employees under the common-law test or within the meaning of Section 2(3) of the National Labor Relations Act.

Even assuming *arguendo*, that any of the individuals holding positions in the job classifications alleged as residual in Case No. 02-RC-323275 are employees under the common-law test or within the meaning of Section 2(3) of the National Labor Relations Act, those job classifications cannot be appropriately combined with the existing bargaining unit set forth in Case No. 02-RC-143009 under *Globe Machine and Stamping Co.*, 3 N.L.R.B. 294 (1937), and *Armour and Company*, 40 N.L.R.B. 1333 (1942).

First, the Petitioner's petitioned for unit in Case No. 02-RC-323275 is an inappropriate bargaining unit on a residual basis because, among other reasons, the combined unit would constitute an inappropriate bargaining unit.

Second, the Petitioner's petitioned for unit in Case No. 02-RC-323275 is an inappropriate bargaining unit on a residual basis because, among other reasons, it seeks to represent workers, including but not limited to Student Advisors, Peer Advisors, Parsons First Year, and Parsons Advising Student Worker, who appear to be covered by a collective bargaining agreement The New School has with a collective bargaining representative other than Petitioner.

Third, the Petitioner's petitioned for unit in Case No. 02-RC-323275 is an inappropriate bargaining unit on a residual basis because, among other reasons, it seeks to represent workers, including but not limited to clerical workers who appear to be covered by a collective bargaining agreement The New School has with a collective bargaining representative other than Petitioner.

Fourth, the Petitioner's petitioned for unit in Case No. 02-RC-323275 is an inappropriate bargaining unit on a residual basis because, among other reasons, the unit sought as residual contains only a segment of and not all of The New School's unrepresented employees.

Fifth, the Petitioner's petitioned for unit in Case No. 02-RC-323275 is an inappropriate bargaining unit on a residual basis because, among other reasons, the job classifications of the unit sought as residual are not student employees "who provide teaching, instructionally-related or research

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services" consistent with the bargaining unit description certified in Case No. 02-RC-143009 or the recognition clause in the collective bargaining agreement covering the unit certified in Case No. 02-RC-143009.

Sixth, the Petitioner's petitioned for unit in Case No. 02-RC-323275 is an inappropriate bargaining unit on a residual basis because, among other reasons, it contains office clerical and technical workers.

Seventh, none of the job classifications Petitioner petitioned for in Case No. 02-RC-323275 on a residual basis share a community of interest with the certified bargaining unit set forth in Case No. 02-RC-143009.

Eighth, none of the job classifications Petitioner petitioned for in Case No. 02-RC-323275 on a residual basis share a community of interest among themselves.

In addition to the foregoing, additional bases for excluding certain job classifications in the petitioned for unit in Case No. 02-RC-323275 is specified in greater detail in Section 3(b), below.

3b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.

As explained in Section 3(a), above, the petition filed in Case No. 02-RC-323275 should be dismissed since the petitioned for unit alleged to be residual seeks to represent student workers who are not employees under the common-law or within the meaning of Section 2(3) of the Act.

Added:

There are no job classifications that could be added to the proposed unit to make it an appropriate residual unit.

Excluded:

For all of the reasons cited in Section 3(a) above, all of the job classifications petitioned for in Case No. 02-RC-323275 on a residual basis should be excluded on the basis the workers are not employees under the common-law or within the meaning of Section 2(3) of the Act.

Moreover, assuming arguendo, that the petitioned for unit is comprised of employees, the following job classifications, should nonetheless be excluded from any potential bargaining unit.

1. Certain job classifications the Petitioner seeks to represent by its petitioned for unit in NLRB Case No. 02-RC-323275, including but not limited to the classifications listed below, are not student employee positions that provide teaching, instructionally related, or research services to The New School, consistent with the bargaining unit description certified in NLRB Case

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No. 02-RC-143009. Therefore these positions do not share a community of interest with the existing bargaining unit and therefore should be excluded.

2 Student Assistant Specialist positions -Transregional Center for Democratic Studies - FWS
ACUHO—I Summer Intern
Ad Video Shoot
Admission Call Center Representative, Admissions Department
Call Center ACD—Student
Business Development - Student Assistant
Conference Assistant
Communications Assistant
Communications Assistant, Marketing & Communications
Communications Intern for Admission Communications ((Interns Excluded))
Communications Student Assistant Specialist (SPRING 2023)
CoPA Audio Engineers
CoPA Crew
CoPA Proctor
CoPA Scheduling Assistant
CoPA Usher
CPE Student Assistant
Creative Writing Event Specialist
Curatorial Special Assistant
CyberSecurity Student Assistant Specialist
Design and Copy Editor Student Assistant
Digital Tools Student Tech
Digital Content Student Producer
Editorial Assistant, Social Research
Externship
Faculty Development Student Assistant Specialist
Federal Work Study Student Office Assistant - Student Health Services
Federal Work Study Student Office Assistant Specialist - Student and Academic Systems
Final Front Facing Student Worker—Student Worker Library Assistant
Front Desk Assistant, International Student & Scholar Services
Front Desk Student Assistant, Languages
Front Office Student Assistant, Creative Writing/SPE
Front Office Student Assistant, GPIA
FWS Student Assistant Specialist - Graphic Design
Graduate Assistant
Graduate Communications Assistant
Graduate Resident Advisor
Graduate Student Assistant Specialist
Graduate Student Assistant, Study Abroad
Graphic Design Student Assistant Specialist
Information Technology Student Support Assistant

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IT Student Assistant Specialist
Jazz Audio/Student Assistant/Performer
Lang / Communications, Social Media / Work Study
Lang / Graphic Design / Work Study
Lang / J&D / Works Study / Community Engaged Manager
Lang / Student Assistant I - Events Promotion
Lang / Student Assistant II - Events Support
Lang Graduate Assistant - Min-Grant Coordinator / Work Study
Lang Graduate Assistant II - Min-Grant Coordinator & Programming / Work Study
Lang J&D / Events Coordinator / Work Study
Lang/ Communications II / Work Study
Lang/ J & D / Work Study / Social Media Manager
Large Ensemble Librarian
Library Delivery Services Student Assistant
M&C Student Editorial Subject
Mannes Prep, Student Assistant
Mellon Initiative for Inclusive Faculty Excellence Assistant Specialist
Marketing Assistant, Continuing and Professional Education - Student Assistant
MFA Fashion Design and Society Program Student Assistant
NSSR Deans Office Student Assistant
NSSR & Lang Student Course Scheduling Assistant
NSSR & Lang Student Course Scheduling Assistant - Student Assistant
Orchestra Librarian
Orientation Leader
Parsons Advising Student Worker
Parsons Student Assistant
Part-Time Senior Student Assistant Specialist - Store Manager, The New Store
Peer Advisor
Piano Technician Student Assistant
Photographer and Digitization Technician - Student Assistant Specialist
Production Assistant
Project Assistant, NSSR Dean's Office
Resident Assistant
Scholarship Student Assistant (FWS)
School of Fashion BFA Fashion Design Student Assistant
Senior Student Assistant Specialist
Shifter Magazine Assistant
Social Media Assistant, Marketing & Communication - Student Assistant
Social Media Graduate Assistant, Admission Communications & Enrollment Services
Social Media Graphic Designer - Student Assistant Specialist
SOF: MFA FDS Communications Student Assistant
SPE Communications and Events Student Assistant Specialists
SPE Front Office Student Assistant--Creative Writing
SPE Front Desk Student Assistant—School of Undergraduate Studies

Student Advisor - Bachelor's Program for Adults and Transfer Students
Student Assistant
Student Assistant - 2023 CASE Advancement Intern
Student Assistant—Administrative Support
Student Assistant—Admission Operations
Student Assistant – Admission Events Assistants
Student Assistant—Admissions, College of Performing Arts
Student Assistant—Center for English Language Services
Student Assistant - Communications Intern for Admission Communications
Student Assistant--CoPA
Student Assistant - Copy Editor & Proofreader
Student Assistant - Digital Content Student Producer, Marketing and Communications
Student Assistant - Events Support – IRPPE / FWS
Student Assistant—Graphic Designer
Student Assistant—HR Operations
Student Assistant—Lang CESJ
Student Assistant--Libraries
Student Assistant—Major Advising at Parsons
Student Assistant—Online Learning
Student Assistant - Registrar's Office : Federal Work Study
Student Assistant—SLI Floater
Student Assistant—Social Media & Marketing Assistant/ Lang College
Student Assistant—The New Store Experience Associate
Student Assistant - Urban Systems Lab
Student Assistant - Welcome Center
Student Assistant / Work Study / Lang College
Student Assistant Call Center, Admission
Student Assistant Event Photographer & Videographer
Student Assistant Event Staff
Student Assistant for Admissions, College of Performing Arts
Student Assistant for Student Disability Services
Student Assistant for the NSSR Department of Politics
Student Assistant II/Equipment Center
Student Assistant Specialist - BI and Data Visualization
Student Assistant Specialist - Front End Designer - UI/UX Developer - Parsons Dean's Office
(Hybrid)
Student Assistant Specialist -GIDEST Project Assistant
Student Assistant Specialist– Democracy Seminar FWS
Student Assistant Specialist, Creative Producer
Student Assistant Specialist, Database Management - Vera List Center
Student Assistant Specialist, Graduate Admission
Student Assistant Specialist, India China Institute
Student Assistant Specialist, Institute for Transformative Mentoring
Student Assistant Specialist, Mellon Initiative for Inclusive Faculty Excellence

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Student Assistant Specialist, NSSR
Student Assistant Specialist, Parsons Mentor
Student Assistant Specialist, Partnership and Practice Base Learning
Student Assistant Specialist, Summer Programs Initiative
Student Assistant Specialist, The New Store Brand Ambassador
Student Assistant Specialist, Vera List
Student Assistant- Student Call Center Representative, Admissions
Student Assistant, Admission Operations
Student Assistant, Communications and Social Media, NSSR
Student Assistant, Marketing & Communication
Student Assistant, Observatory on Latin America
Student Assistant, Office of Education Abroad
Student Assistant, Parsons Admission, Undergrad
Student Assistant, Parsons Graduate Admission
Student Assistant, Parsons Graduate Admission
Student Assistants
Student Communications Assistant (FWS)
Student Disability Services Graduate Assistant Specialist
Student Event Staff
Student Film Office Techs
Student Finance Assistant
Student Graphic Designer (FWS)
Student Marketing Assistant
Student Office Assistant, School of Jazz and Contemporary Music
Student Operations Assistant
Student Worker Library Assistant The New School Libraries and Archives
Students Assistant Specialist
Symposium Event Manager + Photographer
Tishman SurveyULC Administrative Assistant
Usher/House Manager
VLC Finance Student Assistant Specialist
VLC Student Assistant Specialist, Graduate Student Fellow
VLC Student Assistant, Federal Work Study
Welcome Desk Office Support at CoPA
Work Study / Student Assistant - Lang College / Events Support
Work Study / Student Assistant I / Lang Dean's Office

2. Certain job classifications, including but not limited to the following job classifications listed below, should be excluded from the unit as causal employees, and because they do not share a community of interest with the unit argued to be residual in Case No. 02-RC-323275 or with the existing bargaining unit certified in Case No. 02-RC-143009.

Design and Copy Editor Student Assistant
Shifter Magazine Assistant

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Student Assistant - Communications Intern for Admission Communications
Student Assistant - Copy Editor & Proofreader
Student Assistant Event Photographer & Videographer
Student Assistant Event Staff
Student Assistant for Admissions, College of Performing Arts
Student Assistant for Student Disability Services
Symposium Event Manager + Photographer
ACUHO-I Summer Intern
Ad Video Shoot
CoPA Audio Engineers
CoPA Proctor
CoPA Usher
Curatorial Specialist Assistant - Alzheimer's Gardens: Healing By Design
Summer Conference Assistant
Summer Resident Assistant
Undergraduate Orientation Leader
Jazz Audio Studio Assistant Performer
M&C Student Editorial Subject
Mannes Prep Student Assistant
Piano Technician Student Assistant
Student Production Assistants
Student Event Staff
Tishman Survey
Usher/House Manager

3. Certain job classifications, including but not limited to the following job classifications listed below, should be excluded from the unit as temporary employees, and because they do not share a community of interest with the unit argued to be residual in Case No. 02-RC-323275 or with the existing bargaining unit certified in Case No. 02-RC-143009.

Design and Copy Editor Student Assistant
Faculty Development Student Assistant Specialist
Shifter Magazine Assistant
ACUHO-I Summer Intern
Ad Video Shoot
CoPA Audio Engineers
CoPA Proctor
CoPA Usher
Curatorial Specialist Assistant - Alzheimer's Gardens: Healing By Design
Summer Conference Assistant
Summer Resident Assistant
Undergraduate Orientation Leader
Jazz Audio Studio Assistant Performer
M&C Student Editorial Subject

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Mannes Prep Student Assistant
Piano Technician Student Assistant
Student Production Assistants
Student Event Staff
Tishman Survey
Usher/House Manager

4. Certain job classifications, including but not limited to the following job classifications listed below, should be excluded from the unit as confidential employees, and because they do not share a community of interest with the unit argued to be residual in Case No. 02-RC-323275 or with the existing bargaining unit certified in Case No. 02-RC-143009.

Part-Time Senior Student Assistant Specialist - Store Manager, The New Store
Student Assistant Specialist, Partnership and Practice Base Learning
Student Assistant Specialist, Summer Programs Initiative
Student Disability Services Graduate Assistant Specialist
Student Assistant, Human Resources
Student Finance Assistant

5. Certain job classifications, including but not limited to the following job classifications listed below, should be excluded as office clericals, and because they do not share a community of interest with the unit argued to be residual in Case No. 02-RC-323275 or with the existing bargaining unit certified in Case No. 02-RC-143009, and are arguably represented by Teamsters Local 1205 Clericals.

Admission Call Center Representative, Admissions Department
CoPA Crew
CoPA Scheduling Assistant
CPE Student Assistant
Student Worker Library Assistant
SPE Front Desk Student Assistant, School of Undergraduate Studies (SUS)
SPE Front Office Student Assistant, Creative Writing
SPE Front Office Student Assistant, School of Media Studies (SMS)
Large Ensemble Librarian
NSSR Deans Office Student Assistant
Orchestra Librarian
Parsons Student Assistant
SPE Communications and Events Student Assistant Specialists
Student Assistant - Administrative Support
Student Assistant Specialist, Vera List
Student Assistant CoPA
Student Assistant Lang CESJ
Student Assistant Registrar's Office
Student Office Assistant, School of Jazz and Contemporary Music (SJCM)

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Student Operations Assistant
Student Communications Assistant
University Learning Center (ULC) Administrative Assistant
Welcome Desk Office Support at CoPA

6. Certain job classifications, including but not limited to the following job classifications listed below, should be excluded from the unit as technical employees and because they do not share a community of interest with the unit argued to be residual in Case No. 02-RC-323275 or with the existing bargaining unit certified in Case No. 02-RC-143009.

CoPA Audio Engineers
Digital Tools Student Tech
Digital Media Producer
Graphic Design Student Assistant Specialist
Photographer and Digitization Technician - Student Assistant Specialist
Piano Technician Student Assistant
Student Production Assistants
Student Assistant, Graphic Designer
Student Assistant II/Equipment Center
Student Assistant Specialist--jQuery
Student Event Staff

7. Certain job classifications, including but not limited to the Jazz Audio Studio Assistant Performer, should be excluded from the unit as a professional employee, and because they do not share a community of interest with the unit argued to be residual in Case No. 02-RC-323275 or with the existing bargaining unit certified in Case No. 02-RC-143009.
8. Certain job classifications that receive work-study, including but not limited to the following job classifications listed below, should be excluded from the unit insofar as the students who hold these positions do not enjoy employee status under Section 2(3) of the National Labor Relations Act. Even assuming *arguendo*, that job classifications in the unit petitioned for on a residual basis that receive work study are found to be employees, none of the job classifications that receive work-study share a community of interest with the unit argued to be residual in Case No. 02-RC-323275 or the certified bargaining unit in Case No. 02-RC-143009.

2 Student Assistant Specialist positions -Transregional Center for Democratic Studies - FWS
Business Development - Student Assistant
Communications Student Assistant Specialist (SPRING 2023)
Federal Work Study Student Office Assistant - Student Health Services
Federal Work Study Student Office Assistant Specialist - Student and Academic Systems
Federal-Work Study Student Assistant for Healthy Materials Lab
Financial Aid Student Assistant, Federal Work Study
Front Desk Student Assistant, Languages

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Front Office Student Assistant, Creative Writing/SPE
Front Office Student Assistant, GPIA
FWS Student Assistant Specialist - Graphic Design
FWS Student Assistant Specialist - Web Design and UX
Graduate Student Assistant Specialist
Lang / Communications, Social Media / Work Study
Lang / Graphic Design / Work Study
Lang / J&D / Works Study / Community Engaged Manager
Lang / Student Assistant I - Events Promotion
Lang / Student Assistant II - Events Support
Lang Graduate Assistant - Min-Grant Coordinator / Work Study
Lang Graduate Assistant II - Min-Grant Coordinator & Programming / Work Study
Lang J&D / Events Coordinator / Work Study
Lang/ Communications II / Work Study
Lang/ J & D / Work Study / Social Media Manager
Scholarship Student Assistant (FWS)
Student Assistant - Communications Intern for Admission Communications
Student Assistant - Events Support – IRPPE / FWS
Student Assistant - FWS Food Pantry Assistant
Student Assistant - Registrar's Office : Federal Work Study
Student Assistant - Welcome Center
Student Assistant / Work Study / Lang College
Student Assistant Call Center, Admission
Student Assistant for Admissions, College of Performing Arts
Student Assistant Specialist
Student Assistant Specialist– Democracy Seminar FWS
Student Assistant Specialist, Creative Producer
Student Assistant Specialist, Story Writer, NSSR
Student Assistant- Student Call Center Representative, Admissions
Student Assistant, Cataloging Media Archives & Research, Federal Work Studys
Student Assistant, Communications and Social Media, NSSR
Student Assistant, Observatory on Latin America
Student Assistant, Office of Education Abroad
Student Assistant, Parsons Admission, Undergrad
Student Assistant, Parsons Graduate Admission
Student Assistant, Parsons Graduate Admission
Student Communications Assistant (FWS)
Student Graphic Designer (FWS)
VLC Student Assistant, Federal Work Study
Work Study / Graduate Assistant I / LT. Studies / Lang
Work Study / Student Assistant - Lang College / Events Support
Work Study / Student Assistant I / Lang Dean's Office
Student Assistant/Social Media and Marketing Assistant/Lang College
SLI Floater

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Spe communications and events student assistant specialists
Communications Student Assistant Specialist
Student Assistant II Editorial Assistant, Social Research
FWS Student Worker Library Assistant
SPE Front Desk Student Assistant, School of Undergraduate Studies (SUS)
Library Delivery Services Student Assistant
Student Assistant for Admissions, College of Performing Arts
Community of interest
Student Assistant/Social Media and Marketing Assistant/Lang College
Student Assistant, University Welcome Center
Graduate Resident Advisor
Resident Assistant
ACUHO-I Summer Intern
Ad Video Shoot
Admission Call Center Representative, Admissions Department
Communications Assistant
Communications Student Assistant Specialist
CoPA Audio Engineers
CoPA Crew
CoPA Proctor
CoPA Usher
Externship—Senior Student Specialist 3
Digital Tools Student Tech
Summer Conference Assistant
Summer Resident Assistant
Undergraduate Orientation Leader
CPE Student Assistant
Creative Writing Event Specialist Assistant
Curatorial Specialist Assistant - Alzheimer's Gardens: Healing By Design
Digital Content – Student Producer (Student Assistant Specialist)
Student Assistant, Admission Event Assistant
Student Assistant, Human Resources
Student Assistant Specialist, Institute for Transformative Mentoring
Student Assistant, Registrar's Office

9. Certain job classifications, including but not limited to the following job classifications listed below, should be excluded from the unit as supervisors under Section 2(11) of the Act.

Part-Time Senior Student Assistant Specialist - Store Manager, The New Store

10. Certain job classifications, including but not limited to student advisors do not share a community of interest with the unit argued to be residual in Case No. 02-RC-323275, and are currently represented by Teamsters Local 1205 Professionals, and therefore should be excluded.

It should be noted that even with such exclusions, the Petitioner petitioned for bargaining unit could not be made to be appropriate. Therefore, this petition should be dismissed in its entirety.

4. Other than the individuals in classifications 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.

The University intends to contest the eligibility of any individual who holds a position in any of the job classifications petitioned for as residual in Case No. 02-RC-143009 and who does not enjoy employee status under the common-law and Section 2(3) of the Act, as identified in Section 3a of this addendum to this Statement of Position.

5. Is there a bar to conducting an election in this case?

Petitioner filed its petition in 02-RC-143009 on December 17, 2014, seeking to represent a proposed bargaining unit of The New School's employees that included "All student employees who provide teaching, instructionally-related or research services, including Course Assistants (Teaching Assistants, Teaching Fellows, Student Assistants 3 at the Parsons School and Tutors) and Research Assistants (Research Assistants and Research Associates) and excluded: All other employees, Student Assistants at schools other than Parsons, guards, and supervisors as defined by the Act. In Case No. 02-RC-143009, Petitioner and The New School (collectively "the Parties") fully litigated, among other things, the employee status of the job classifications in the petitioned for unit, what positions should be included and excluded, the appropriateness of the petitioned for unit, whether workers were casual or temporary, and the eligibility formula that should apply to the petitioned for unit. I Regional Director ultimately issued a Decision and Direction of Election on April 7, 2017 ("the DD&E"). Petitioner did not file a request for review to the DD&E. Ultimately, the Board certified Petitioner as the collective bargaining representative of Petitioner's proposed bargaining unit in Case No. 02-RC-143009 on July 21, 2017 after an election was held

Since that time, the Parties have entered into a collective bargaining agreement covering the bargaining unit certified in Case No. 02-RC-143009. That agreement is scheduled to expire on August 31, 2023. The Parties are currently in negotiations for a successor agreement.

By its instant petition in Case No. 02-RC-323275, Petitioner now seeks to impermissibly modify the bargaining unit certified in Case No. 02-RC-143009 with the addition of numerous job classifications that Petitioner knowingly and intentionally excluded from the bargaining unit in its initial petition filing in Case No. 02-RC-143009, and agreed to exclude by way of its failure to request review of the Regional Director's DD&E in that case, and the recognition clause in its collective bargaining agreement with The New School covering the petitioned for unit in Case No. 02-RC-323275. Since the Parties previously litigated all of the contours of issues concerning the inclusion versus exclusion of job classifications, employee status of, eligibility formula and appropriateness of the bargaining unit in Case No. 02-RC-143009, and Petitioner could have but failed to raise issues concerning the inclusion of the petitioned for unit at issue in Case No. 02-

RC-323275 in Case No. 02-RC-143009, Petitioner has waived its rights to now seek to add the petitioned for bargaining unit in Case No. 02-RC-323275 to the existing bargaining unit certified in Case No. 02-RC-143009 and is further precluded from re-litigating these issues in the instant petition pursuant to the *res judicata* and *collateral estoppel* doctrines and the Board's Rules and Regulation Section 102.67(f).¹

Moreover, inasmuch as the record in Case No. 02-RC-143009 demonstrates that Petitioner was aware of a number of the job classifications that it now seeks to represent in the instant petition (i.e. student assistants outside of Parsons, orientation leaders, etc), Petitioner cannot claim or suggest that changed circumstances now warrant the addition of the petitioned for classifications in Case No. 02-RC-323275 into the bargaining unit certified in Case No. 02-RC-143009. Therefore, this petition should be dismissed in its entirety.

The Petitioner's petition filed in Case No. 02-RC-143009 seeking to exclude "All other employees, Student Assistants at schools other than Parsons, guards, and supervisors as defined by the Act from the bargaining unit petitioned for in Case No. 02-RC-143009 seeking to include in the unit "All student employees who provide teaching, instructionally-related or research services" amounts to a waiver of Petitioner's right to now seek inclusion of those same employees by self-determination election in Case No. 02-RC-323275 and should bar the processing of the instant petition.

The Petitioner's contractual agreement to exclude "All other employees, Student Assistants at schools other than Parsons, guards, and supervisors as defined by the Act from the bargaining unit petitioned for in Case No. 02-RC-143009 amounts to a waiver of Petitioner's right to now seek inclusion of those same employees by self-determination election in Case No. 02-RC-323275 and should bar the processing of the instant petition.

The New School is a signatory to a collective bargaining agreement with the International Brotherhood of Teamsters Local 1205 Professionals. The agreement by its terms, covers professional employees, including Audio-Visual Technicians, Financial Aid Counselors, Information Technology Technicians, Program Administrators, Student Accountant Coordinators, Student Success Advisors, Making Center Technicians, International Student Advisors, Senior Student Success Advisors, Student Account Coordinators, and Student Account Specialist and is in effect from January 1, 2022 to December 31, 2026 ("the 1205P Agreement"). Inasmuch as the Petitioner seeks to represent student advisors and student technicians, who fall under the 1205P Agreement, the 1205P Agreement should serve as a contract bar to the processing of the instant petition.

¹ At the time that the Parties litigated Case No. 02-RC-143009, Board Rules and Regulation Section 102.67(f) stated in relevant part "[f]ailure to request review shall preclude . . . parties from relitigating, in any related subsequent unfair labor practice proceeding, any issue which was, or could have been raised in the representation proceeding. Denial of a request for review shall constitute an affirmance of the regional director's action which shall also preclude relitigating any such issues in any related subsequent unfair labor practice proceeding." 29 C.F.R. § 102.67(f) (2000). Since the 2015 amendments of the Board's Rules, Section 102.67(f), 29 C.F.R. § 102.67(f) (2000) now appears as Section 102.67(g), 29 C.F.R. § 102.67(g) (2015).

Assuming arguendo, that certain students holding clerical positions are found to have employee status, The New School's collective bargaining agreement with the International Brotherhood of Teamsters Local 1205 Clericals should serve as a contract bar to the processing of the instant petition. The New School is a signatory to a collective bargaining agreement with the International Brotherhood of Teamsters Local 1205 Clericals. The agreement by its terms, covers Clerical employees including Office Assistants, Secretaries, Accounting Clerks, Library Clerks, Librarians, Librarian's Assistants, and Mail/Duplicating Clerks and is in effect until June 30, 2024. Inasmuch as the Petitioner seeks to represent individuals in clerical positions who would fall under the recognition clause of the 1205 Clericals Agreement if they were to be found to have employee status, the 1205C Agreement should bar the processing of the instant petition.

6. Describe all other issues you intend to raise at the pre-election hearing.

The petitioned for unit in Case No. 02-RC-323275 can be a separately identifiable and distinct group.

Work study is not compensation. Work study is not consideration for work performed. Work study is financial aid to a student.

Students who receive work study do not have an employer-employee relationship with The New School.

Finality of litigated representation questions, stability of labor relations and public policy under the NLRA warrants the dismissal of the instant petition.

To the extent the Board determines that any of the job classifications petitioned are filled by students who enjoy employee status under Section 2(3) of the Act, the Board should abandon its position that student employees should not be included in a bargaining unit of nonstudent employees when those two groups otherwise share a community of interest.

8e. Eligibility Period (e.g. special eligibility formula)

To the extent it is determined that students in job classifications covered by the instant petition enjoy employee status and this petition should proceed with an election, the eligibility formula should include those individuals who work in eligible job classifications for an aggregate of 60 hours in the same job classification in a given semester for at least two of the four consecutive semesters in Fall of 2021 and 2022 and Spring of 2022 and 2023.