January 15, 2020

Roxanne Rothschild

Executive Secretary

National Labor Relations Board

1015 Half Street SE.,

Washington, DC 20570-0001

Re: RIN 3142-AA15

Dear Executive Secretary Rothschild,

On behalf of its more than 1,000 members, including 975 private nonprofit college and universities, the National Association of Independent Colleges and Universities (NAICU) submits these comments in response to the National Labor Relations Board’s (NLRB) September 23, 2019 notice of proposed rulemaking to clarify the nonemployee status of university and college students working in connection with their studies.

NAICU supports the NLRB’s proposed rule to establish that students at private nonprofit colleges and universities who perform services for compensation in connection with their studies are not employees within the meaning of the National Labor Relations Act (NLRA). NAICU is also a signatory to the higher education community comments that were coordinated by the American Council on Education and the College and University Professional Association for Human Resources in support of the proposed rules, but has decided to separately submit brief comments in order to supplement the joint letter and to emphasize the importance of this issue to our sector.

Private nonprofit institutions of higher education strongly believe that it is essential to clarify that students are not employees for the purposes of the NLRA. To do otherwise would irrevocably alter the essence and purpose of our current model of higher education.

As the NLRB itself has previously recognized, postsecondary students have a primarily educational, not economic, relationship to their institutions. Students are admitted to colleges and universities based on academic qualifications, not job readiness. Once admitted, a student’s primary focus is on obtaining a degree, and any work performed is dependent on status as an enrolled student. In the case of graduate students who serve as teaching or research assistants, institutions typically require or expect such students to perform teaching or research as part of their degree program, offer academic credit for their work, and provide financial support to complete their degree that may take into account these activities.

In addition, clarifying that students are not employees is essential to preserve traditional academic freedom. Allowing students to bargain as employees would negate the prerogatives that are central to an institution’s educational mission, including institutional independence and authority to determine educational standards related to student learning, curriculum, degree requirements, and more. Our sector remains deeply concerned about any efforts that would interfere with these core tenets of academic freedom.

Thank you for the opportunity to comment in support of the proposed regulations. NAICU is deeply appreciative of the Department’s effort to provide clarity and predictability for private nonprofit institutions of higher education on this crucial issue.