

West Oakland Home, Inc., d/b/a Lincoln Child Center, Employer-Petitioner and Social Services Union, Local 535, Service Employees International Union, AFL-CIO. Case 20-RM-1673

June 19, 1974

### DECISION AND ORDER

BY CHAIRMAN MILLER AND MEMBERS  
FANNING AND PENELLO

Upon a petition duly filed pursuant to Section 9(c) of the National Labor Relations Act, as amended, a hearing was held on September 14, 1973, at San Francisco, California, before Hearing Officer Miguel A. Gonzalez. After the hearing and pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations and Statements of Procedure, Series 8, as amended, the Regional Director for Region 20 issued an order transferring this case to the Board for decision. Thereafter, the Employer-Petitioner filed a brief.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has reviewed the Hearing Officer's rulings made at the hearing and finds that they are free from prejudicial error. They are hereby affirmed.

Upon the entire record in this case, the Board finds:

The Employer is a California nonprofit corporation whose purpose is to provide treatment for emotionally disturbed children. The three main programs are residential treatment, which is continuing 24-hour care for disturbed children; day treatment, which is a daytime program for children who cannot be handled in public schools; and a group home program for children who cannot function in foster homes and who do not need residential services. The Employer also operates a foster home program, an outreach program, and tutoring workshops for those with severe learning problems.

In connection with its operations, the Employer operates three facilities within a 3-mile radius in the city of Oakland. These include its main facility and two group homes. All the children attending the Employer's facilities are local residents, primarily from the city of Oakland, but also from Alameda County, San Francisco, and Contra Costa. The Employer has a licensed physician on the staff but has no medical facilities and treatment rooms of the type found in a hospital. The Employer does not employ teachers. Teachers working in the Employer's program are employed by the public school system.

The record reveals that the Employer's total income for calendar year 1972 was \$615,387. CHAMPUS, an agency of the Federal Government, contributed approximately \$65,000 during that year for military dependents at the facility. In addition, the Employer received approximately \$154,000 by contract with Alameda County, \$87,000 from various other agencies, \$94,000 from the United Fund, \$81,000 from private fund-raising efforts, \$12,000 from rental income, and the balance from payments and refunds from clients, including \$31,000 in private fees. All significant purchases of goods and services, including food, are made locally.

For the reasons expressed in our recent decision in *Ming Quong Children's Center*, 210 NLRB No. 125, we conclude that it would not effectuate the policies of the Act for the Board to assert jurisdiction over the type of nonprofit institution operated by the Employer whose activities are noncommercial in nature and are intimately connected with the charitable purposes of the institution. Accordingly, we shall dismiss the petition.

### ORDER

It is hereby ordered that the petition filed herein be, and it hereby is, dismissed.

MEMBER FANNING, dissenting:

For the reasons stated in my dissent in *Ming Quong Children's Center*, 210 NLRB No. 125, I would assert jurisdiction in this case.