

Philadelphia College of Osteopathic Medicine, Employer-Petitioner and Local 6710, National Union of Security Officers and Guards. Case 4-RM-843

September 13, 1974

DECISION AND DIRECTION OF ELECTION

BY CHAIRMAN MILLER AND MEMBERS JENKINS
AND KENNEDY

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Francis W. Hoerber of the National Labor Relations Board. Following the close of the hearing the Regional Director for Region 4 transferred this case to the Board for decision. Thereafter, the Employer filed a brief, which has been duly considered.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board had 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 proceeding, the Board finds:

1. The Employer is a private, nonprofit Pennsylvania corporation with headquarters at City Line Avenue and Monument Road, Philadelphia, Pennsylvania. The Employer operates a medical school and teaching hospital at that location, and three outpatient clinics, which are also used for training third and fourth year medical students, within a 10-mile radius of it. The medical school's anatomy and chemistry departments are located at 48th and Spruce Streets, Philadelphia, above one of the clinics.

The Employer's petition requests an election in a unit consisting of all guards at its facilities at 48th Street and at City Line Avenue. The guards at the latter location spend a substantial proportion of their working time in the Employer's hospital, which, since it is a private, nonprofit hospital, was at the time of the hearing not an Employer within the meaning of Section 2(2) of the Act. A question was therefore raised at the hearing whether, in light of such Board decisions as *Duke University I* and *II*, 194 NLRB 236 (1971), 200 NLRB 81 (1972), and *The President and Directors of Georgetown College for Georgetown University*, 200 NLRB 215 (1972), the guard's involvement in the Employer's hospital operations required that the Board treat them as hospital employees and therefore not assert jurisdiction as to them. We no

longer need reach this issue, since it has been obviated by recent amendments to the Act¹ which eliminated from Section 2(2) the clause which excluded private, nonprofit hospitals from the definition of employer.

The record establishes that both the Employer's medical school and its hospital operations have in excess of \$1 million unrestricted annual gross income, and that both purchase in excess of \$50,000 worth of goods annually from outside the Commonwealth of Pennsylvania. Since the Employer's gross revenues from its medical school exceed the Board's jurisdictional standards for private, nonprofit colleges and universities,² we shall base our jurisdictional findings on those standards and thus need not determine at this time what standards we shall apply to private, nonprofit hospitals alone. Accordingly, we conclude that the Employer is engaged in commerce within the meaning of the Act, and that it will effectuate the purposes of the Act to assert jurisdiction herein.

2. The labor organization involved claims to represent certain employees of the Employer.³

3. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

4. The parties stipulated, and we find, that the following unit is appropriate for the purposes of collective bargaining:

All guards and security officers at the Employer's facilities at City Line Avenue and at 48th Street, Philadelphia, Pennsylvania, excluding supervisors and all other employees.

[Direction of Election and *Excelsior* footnote omitted from publication.]

¹ Public Law 93-360, par. (a), July 26, 1974, effective August 25, 1974.

² Sec. 103.1, National Labor Relations Board Rules and Regulations, Series 8, as amended.

³ The Employer contends that Local 6710 is indirectly affiliated with a nonguard union, Local 1199 of the Hospital Workers, and that the Board is therefore precluded by Sec. 9(b) of the Act from certifying it as representative of the guard unit involved here. We find no merit in this contention, inasmuch as uncontradicted evidence in the record establishes that Local 6710 has neither directly nor indirectly received financial or organizational assistance from a nonguard union. The fact that Local 6710 has been permitted on several occasions to use the meeting hall of Local 1199 for organizational meetings free of charge, and that it has the same attorney as Local 1199, does not indicate the existence of any indirect affiliation between the two. *Ingersoll-Rand Company*, 119 NLRB 601 (1957).

The Employer also contends that the Hearing Officer erred in failing to allow it to adduce additional evidence as to the existence of an indirect affiliation between Local 1199 and Local 6710. This contention also lacks merit, since the Employer's attorney admitted at the close of the hearing that the Employer had "no independent evidence" of any affiliation between the two locals, and thus had no additional evidence to offer when the Hearing Officer directed that the hearing be terminated.