

**United States Government
National Labor Relations Board
OFFICE OF THE GENERAL COUNSEL**

Advice Memorandum

DATE: December 29, 2009

TO : James Small, Regional Director
Region 21

FROM : Barry J. Kearney, Associate General Counsel
Division of Advice

SUBJECT: Sodexo Healthcare Services at USC University Hospital
Case 21-CA-39089

This case was submitted for review in light of the current dispute between the SEIU-UHW-W and the National Union of Healthcare Workers (NUHW).

Briefly, an SEIU affiliate represents a unit of food service workers employed by a company called Sodexo at USC University Hospital. Article 11 of the current collective bargaining agreement provides for access by union representatives "for purposes of conferring with the Employer and the Union Steward and monitoring the administration of this Agreement." On November 10, 2009, an SEIU representative met with a Sodexo manager and asked him if there was a new policy prohibiting workers from entering the Hospital on days when they were not scheduled to work. The manager said that there was such a policy but that it was not new. He gave the SEIU representative a Hospital policy, which Sodexo claims to also enforce, prohibiting off-duty employees from entering or re-entering the inside of the Hospital or any outside work areas for nonwork-related purposes:

Off-duty employees are not allowed to enter or re-enter the interior of the Hospital or any work area outside the Hospital except to visit a patient, receive medical treatment or to conduct hospital-related business.

Charging party SEIU contends that Sodexo violated Section 8(a)(1) and (5) by unilaterally changing the access provisions of its contract.

We agree with the Region that the charge, absent withdrawal, should be dismissed. We read Article 11 as providing for access for non-employee Union representatives, and the Hospital rule as delineating access by employees.¹ Therefore, one provision does not modify the other. Further, the evidence indicates that SEIU representatives were, in fact, permitted to have access to the facility and to meet with employees during their non-working time.

The Region may dismiss the charge, absent withdrawal.

/s/

B.J.K.

¹ A separate charge has been filed against the Hospital alleging the rule is invalid.