

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 13**

**SAINT XAVIER UNIVERSITY**

**Employer**

**and**

**Case 13-RC-092296**

**SERVICE EMPLOYEES  
INTERNATIONAL UNION, LOCAL 1**

**Petitioner**

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended (the Act), a hearing was held before a hearing officer of the National Labor Relations Board (the Board). Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated to the undersigned its authority in this proceeding.<sup>1</sup>

**I. ISSUE & PARTIES' POSITIONS**

The only issue in this case is whether the Employer is subject to the Board's jurisdiction. The Employer argues that it is not and asserts that the Board lacks jurisdiction because it is a religiously operated institution. The Petitioner disagrees and seeks to represent all full-time and regular part-time housekeepers employed by the Employer, excluding all managerial employees, office clerical employees and guards, professional employees and supervisors as defined by the Act.

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<sup>1</sup> Upon the entire record in this proceeding, I find:

1. The hearing officer's rulings, made at the hearing, are free from prejudicial error and are hereby affirmed.
2. The parties stipulated and I find that Saint Xavier University (the Employer) is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The parties stipulated and I find that Service Employees International, Local 1 (the Petitioner) is a labor organization within the meaning of the Act.
4. The Petitioner claims to represent certain employees of the Employer.
5. 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.
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## II. DECISION

On May 26, 2011, in Case 13-RC-22025, the Region issued a Decision and Direction of Election finding that the Board has jurisdiction over the Employer. The Employer filed a timely Request for Review and on July 13, 2011 the Board granted the request. That case is still pending before the Board.

In the instant case, the parties agreed to include the transcripts, exhibits, and post-hearing briefs in Case 13-RC-22025 as part the record herein. The parties also stipulated to certain additional facts relating to the petitioned-for employees. Specifically, they stipulated, and I find, that: 1) offers of employment to housekeepers do not mention the Sisters of Mercy, Catholicism, God, or religion; 2) there is no requirement that housekeepers be Catholic or adhere to any specific religion; 3) in the course of their duties housekeepers are not required to abide by any specific tenets of the Sisters of Mercy, Catholicism, or any religion, but, as with all employees, are invited to attend and participate in any programs or activities that recognize or celebrate the Employer's Catholic and Mercy heritage; 4) the job evaluations of housekeepers contain no reference to the Sisters of Mercy, Catholicism, or religion; and, 5) housekeepers have never been instructed to disseminate the Catholic faith. The parties also submitted a joint exhibit, the housekeepers' job description. Although the parties gave brief statement of their position at the hearing, they waived the filing of post-hearing briefs.

For the reasons discussed in the Region's decision in case 13-RC-22025, I find that it is appropriate to assert jurisdiction over the Employer. The additional facts stipulated to by the parties bolster this conclusion. Like the faculty at issue in the prior case, the Employer does not base any hiring, retention, evaluation, or promotion decisions on the housekeepers' religious affiliations or activities. Accordingly, **IT IS HEREBY ORDERED** that an election be conducted under the direction of the Regional Director for Region 13 in the following appropriate bargaining units:

All full-time and regular part-time housekeepers employed by the Employer at its facility currently located at 3700 W. 103<sup>rd</sup> St., Chicago, Illinois, but excluding all managerial employees, office clerical employees, and guards, professional employees, and supervisors as defined by the Act.

## III. DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the Notice of Election to be issued subsequently, subject to the Board's Rules and Regulations.<sup>2</sup> Those eligible to vote are all

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<sup>2</sup> In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that an election eligibility list, containing the full names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region 13 within 7 days of the date of this Decision and Direction of Election. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. I shall, in turn, make the list available to all parties to the election.

full-time and regular part-time housekeepers employed by the Employer, excluding all managerial employees, office clerical employees and guards, professional employees and supervisors as defined by the Act. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strikes who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Those in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by the Service Employees International Union, Local 1.

#### **IV. RIGHT TO REQUEST REVIEW**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570-0001. This request must be received by the Board in Washington by **December 12, 2012**.

In the Regional Office's initial correspondence, the parties were advised that the Board has expanded the list of permissible documents that may be electronically filed with its offices. If a party wishes to file one of the documents which may now be filed electronically, please refer to the Attachment supplied with the Regional Office's initial correspondence for guidance in doing

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In order to be timely filed, such list must be received in the Regional Office, 209 South La Salle Street, Suite 900, Chicago, Illinois 60604-1443 on or before **December 5, 2012**. No extension of time to file this list may be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission. Since the list is to be made available to all parties to the election, please furnish a total of two copies, unless the list is submitted by facsimile, in which case no copies need be submitted. To speed preliminary checking and the voting process itself, the names should be alphabetized (overall or by department, etc.).

If you have any questions, please contact the Regional Office.

so. Guidance for E-filing can also be found on the National Labor Relations Board web site at [www.nlr.gov](http://www.nlr.gov). On the home page of the website, select the E-Gov tab and click on E-Filing. Then select the NLRB office for which you wish to E-File your documents. Detailed E-Filing instructions explaining how to file the documents electronically will be displayed.

DATED at Chicago, Illinois this 28<sup>th</sup> day of November, 2012.

*/s/ Peter Sung Ohr*

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Peter Sung Ohr, Regional Director  
National Labor Relations Board  
Region 13  
209 South La Salle Street, Suite 900  
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