

[REDACTED]

The Employer, North Carolina Association of Educators, is a membership organization which represents [REDACTED].

a. In this regard, the Employer handles grievances and, provides training and professional developmental services for its members. The Employer also engages in lobbying and political action activities on behalf of its membership. The bargaining unit currently consists of about 44 employees. The evidence establishes that the [REDACTED] positions were filled sometime in July and August 2012. Since that time, the [REDACTED] involved with performing both unit work by [REDACTED] to the membership as well as performing [REDACTED] for the Employer including, researching position statements, conferring with the Employer's [REDACTED] on recent contract negotiations, and preparing documentation in response to a Board charge which was filed in Case 10-CA-103396. Although requested, the [REDACTED] has failed to furnish any evidence to rebut the Employer's evidence that the [REDACTED] perform the labor relations work as described above.

The Board has long held that those employees who "assist and act in a [REDACTED] capacity to persons who formulate, determine and effectuate management policies in the field of [REDACTED]" are excluded from bargaining units. *B.F. Goodrich Co.*, 115 NLRB 722, 724 (1956). Additionally, an employee's [REDACTED] the performance of [REDACTED] duties. *Reymond Baking Co.*, 249 NLRB 1100, 1101 (1980). In the instant case, it is undisputed that prior to the Employer's decision to create the [REDACTED], the Employer hired outside [REDACTED] to perform labor relations functions. The Employer's decision to establish a [REDACTED] of [REDACTED]s was predicated on the [REDACTED] being assigned to perform the functions previously done by [REDACTED]. While the [REDACTED] have had less than a year to work on [REDACTED] matters, the [REDACTED]s have performed [REDACTED] duties on behalf of the Employer during their employment. As such, the [REDACTED] are considered [REDACTED] employees under the Act. Moreover, the parties' agreement expressly excludes [REDACTED] from the bargaining unit. Accordingly, I am dismissing the petition in this matter.

Right to Request Review: Pursuant to Section 102.67 of the National Labor Relations Board's Rules and Regulations, you may obtain a review of this action by filing a request with the Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, D.C. 20570-0001. The request for review must contain a complete statement of the facts and reasons on which it is based.

Procedures for Filing Request for Review: A request for review must be received by the Executive Secretary of the Board in Washington, DC, by close of business (**5 p.m. Eastern Time**) on **July 17, 2013**, unless filed electronically. If filed electronically, it will be considered timely if the transmission of the entire document through the Agency's website is **accomplished by no later than 11:59 p.m. Eastern Time on July 16, 2013**.

Consistent with the Agency's E-Government initiative, parties are encouraged, but not required, to file a request for review electronically. Section 102.114 of the Board's Rules do not permit a request for review to be filed by facsimile transmission. A copy of the request for review must be served on each of the other parties to the proceeding, as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations.

Filing a request for review electronically may be accomplished by using the Efiling system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt of the request for review rests exclusively with the sender. A failure to timely file the request for review will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off line or unavailable for some other reason, absent a determination of technical failure of the site, with notice of such posted on the website.

Upon good cause shown, the Board may grant special permission for a longer period within which to file a request for review. A request for extension of time, which may also be filed electronically, should be submitted to the Executive Secretary in Washington, and a copy of such request for extension of time should be submitted to the Regional Director and to each of the other parties to this proceeding. A request for an extension of time must include a statement that a copy has been served on the Regional Director and on each of the other parties to this proceeding in the same manner or a faster manner as that utilized in filing the request with the Board.

Very truly yours,

Claude T. Harrell Jr.
Regional Director

By:



Jane P. North
Officer in Charge

cc OFFICE OF THE EXECUTIVE SECRETARY
FRANKLIN COURT BUILDING
NATIONAL LABOR RELATIONS BOARD
1099 14TH STREET, NW
WASHINGTON, DC 20570

[REDACTED]
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