

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 31

LOYOLA MARYMOUNT UNIVERSITY

Employer

and

SERVICE EMPLOYEES INTERNATIONAL UNION

Petitioner

Case 31-RC-118850

**DECISION AND DIRECTION OF ELECTION**

The Petitioner seeks to represent a unit of all part-time, non-tenured faculty, including lecturers, adjunct professors, applied music instructors and writing instructors who are employed by the Employer to teach in the programs and academic units of the university at the Westchester campus, located in Los Angeles, California, teaching at least one credit-earning class, lesson or lab.<sup>1</sup> The Employer contends that the unit sought by the Petitioner is not appropriate, as the only appropriate unit would also include field work supervisors<sup>2</sup> and all lecturers who teach an online course (referred to herein as online lecturers) that are part of a program at the Westchester campus, both of whom share an overwhelming community of interest with the proposed unit. Both parties agree that the following classifications should be excluded from the unit: all other employees; all employees of the Loyola Law School; all faculty teaching at locations

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<sup>1</sup> The Petitioner orally amended the petition at the hearing. (Petitioner would not agree it was amended but agreed the unit petitioned for was clarified to list the classifications.)

<sup>2</sup> All parties stipulated, and I find, that, although their title includes the word "supervisor," the field work supervisors are not supervisors under Section 2(11) of the Act.

outside the university's Westchester campus; all full-time faculty; all graduate students; all lab assistants, graduate assistants, teaching associates, clinical fellows, teaching assistants and research assistants; all full-time or part-time staff or administrators, whether or not they also have teaching responsibilities; all deans, registrars and librarians; all volunteers; all other represented employees; all clerical employees; all managers and supervisors and guards as defined in the Act. Lastly, the parties agreed that dual function faculty who are both lecturers and field work supervisors should be included in the unit. Based on the record and relevant Board cases, I find that the field work supervisors and online lecturers share an overwhelming community of interest with the petitioned-for unit, and, combined, comprise a unit appropriate for collective bargaining.

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board. A hearing officer of the Board held a hearing this matter, and the parties subsequently filed briefs with me. 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 Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.<sup>3</sup>

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<sup>3</sup> The parties stipulated, and I find, that the Employer, Loyola Marymount University, is a private coeducational university located in Los Angeles, California, where it is engaged in the operation of a private university that is religiously affiliated with the Roman Catholic Church. During the last 12 months, a representative period, the Employer received gross revenues in excess of \$1 million from the operation of the university. During the same period, it received supplies and materials valued in excess of \$5,000 at its Westchester, California facility from local suppliers who, in turn, purchased those goods and supplies directly from points outside the State of California.

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

4. 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.

5. This decision first provides an overview of the Employer's operations, explaining the organization and structure of the Westchester campus. It then examines evidence concerning the commonalities and distinctions between the petitioned-for unit, field work supervisors, and online lecturers. Finally, it analyzes Board precedent, notably *Specialty Healthcare & Rehabilitation Center of Mobile*, 357 NLRB No. 83 (Aug. 26, 2011), and its applicability to the facts of this case. In conclusion, this decision explains why the field work supervisors and online lecturers share an overwhelming community of interest with the petitioned-for unit and thus, combined, constitute a unit appropriate for collective bargaining.<sup>4</sup>

## I. FACTS

### A. The Employer's Operations

The Employer, Loyola Marymount University, is a private coeducational university located in Los Angeles, California, where it is engaged in the operation of a private university that is religiously affiliated with the Roman Catholic Church. The Employer maintains several campuses: one campus (the "Westchester campus") in Los

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<sup>4</sup> The Hearing Officer reserved ruling on the Employer's petition to revoke a *subpoena duces tecum* issued to it by the Petitioner. However, no evidence was entered into the record regarding the *subpoena* or the petition to revoke, and the parties' positions on the matter are not in the record. Because the Petitioner failed to brief this issue in its Post-Hearing Brief, and because there is no evidence reflecting that the Petitioner filed an opposition to the Employer's petition to revoke, I hereby revoke the *subpoena* in its entirety.

Angeles, California; another campus located in Orange County, California; and two more campuses located in northern California. However, the Petitioner seeks only to represent the petitioned-for unit of part-time, non-tenured faculty at the Westchester campus.

The Westchester campus comprises approximately 142 acres and consists of six colleges and schools: The Bellarmine College of Liberal Arts; the College of Communication and Fine Arts; the School of Education; the Frank Seaver College of Science and Engineering; the School of Film and Television; and the College of Business Administration. The Executive Vice-President and Provost is Joseph Hellige, who oversees the operation of the Westchester campus. His responsibilities include the Division of Administration, and, more specifically, facilities, grounds and maintenance, instructional technology, and human resources. Provost Hellige also has responsibility over the Employer's business and finance and student affairs. Reporting to him are three senior vice presidents, the deans of each of the schools and colleges listed above, including Shane Martin, Dean of the School of Education and Dean of Graduate Studies; and two vice provosts and four associate provosts, among others who indirectly report to Provost Hellige. Provost Hellige testified that he meets with everyone who reports to him on a regular basis.

The Board of Trustees is the legal governing body, the Board of Regents is an advisory and fund-raising group, and a staff senate performs work related to staffing. None of those three bodies have a role in the recruiting, hiring, class assignment, or retention of the part-time, non-tenured faculty. Instead, recruiting for part-time, non-tenured faculty is typically performed by program chairs and directors of the academic

programs in which the courses reside. The program chairs and directors then recommend certain individuals for hire to the deans of each of the schools and colleges, and the deans pass that information to human resources in order to prepare contracts for employment. Essentially, each of the schools and colleges have their own hiring process in terms of recruitment, though human resources is the centralized entity that actually offers contracts for employment to part-time, non-tenured faculty.

## **B. Factual Analysis under the Community of Interest Factors**

### *Departmental Structure*

The part-time, non-tenured faculty work in departments scattered across the Employer's campus. For example, lecturers, adjunct professors, and writing instructors instruct in locations throughout all six colleges and schools. Applied music instructors, on the other hand, work exclusively in the College of Communication and Fine Arts. Similarly, field work supervisors work exclusively for the School of Education, though they may hold instructional meetings with students at any available office or classroom throughout the campus. Unlike field work supervisors, online lecturers may teach for the School of Education, the Frank Seaver College of Science and Engineering, the Bellarmine College of Liberal Arts, or a few other departments, as needed. Classroom instruction, however, is not limited to the department for which the part-time, non-tenured faculty works; instead, they may teach at any available classroom, whether it is located in the part-time faculty's department or a different school or college.

### *Frequent Contact*

The petitioned for employees work for different colleges or schools on the Employer's Westchester Campus and there is no evidence of frequent interaction

among these employees. The part-time, non-tenured faculty on the Westchester Campus reports to the particular school or college for which they are hired, and they are generally housed in separate buildings on campus. Classrooms utilized for lectures are spread out on campus based on availability. Other than having an assigned classroom for an assigned time and date for the course, lecturers have no reserved space or office for working on campus or meeting with students. There are seminars or lectures for which all faculty and staff, including all part-time, non-tenured faculty, is invited. The record provides no other evidence of university wide faculty events that would bring all of the petitioned for classifications together.

With respect to the School of Education, Dean Shane Martin testified that all faculty, including part-time, non-tenured faculty, are invited to attend an annual faculty meeting, though no faculty's presence is mandatory. Additionally, Dean Martin explained that field work supervisors attend a mandatory orientation meeting at the beginning of each semester, which would include lecturers serving a dual capacity as field work supervisors. Field work supervisors also hold approximately four to six classes with their students each semester, generally on campus, and sometimes take part in the lecture portion of the course. Moreover, field work supervisors are on campus for both program and other periodic meetings with other field work supervisors and faculty. Online lecturers are typically, if not exclusively<sup>5</sup>, on campus to perform their work, such as recording of courses and teaching live online courses. Online lecturers, as with other faculty, utilize the Employer's technology and are supported by its technological resources staff on campus.

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<sup>5</sup> Executive Vice President and Provost Joseph Hellige testified that he not aware of any online lecturers who do not utilize the Westchester Campus facilities to perform their online lecture work.

### *Common Terms and Conditions of Employment*

All lecturers, adjunct professors, writing instructors, applied music instructors, field work supervisors, and online lecturers at issue report to the Westchester campus. Program directors and assistant program directors assign classes to lecturers, adjunct professors, and online lecturers as well as assign students to field work supervisors. All lecturers, adjunct professors, writing instructors, applied music instructors, field work supervisors, and online lecturers meet the definition in the petitioned-for unit of teaching at least one credit-earning class, lesson, or lab. They are all subject to the same handbook and code of conduct, which contains the conduct and expectations for the Employer's faculty, staff, and students. All faculty have the same dress code and parking options. None of them have their own offices on campus. Rather, part-time, non-tenured faculty, including lecturers, adjunct professors, field work supervisors, and online lecturers, must find available space anywhere on campus in order to hold office hours or meetings or meet with students immediately before or after instruction.

All job classifications included in the petitioned-for unit physically instruct students on campus; their classes are housed in a classroom or space on campus. Field work supervisors differ in that they primarily instruct students in classroom settings off-campus, where those students are student-teaching in Los Angeles county school districts, a requirement to receive a teaching credential. It is rare that a field work supervisor instructs students 50 miles away from campus, though it is possible. Similarly, however, other job classifications in the petitioned-for unit engage in service learning projects which occur off-campus, such as work in the Ballona Wetlands or with community organizations like Heal the Bay, under the supervision of a faculty member

who, just as the field work supervisors, evaluates student performance in the field. Both field work supervisors and other faculty who travel to off-site locations are reimbursed at the same rate for mileage. Moreover, field work supervisors meet with their students on campus about four to six times a semester.

Online lecturers teach courses “online,” though it is difficult to define exactly what constitutes an “online course.” As Provost Hellige testified, the definition is blurred when a course is 60-percent online and 40-percent in-person, which would be an example of what the Employer refers to as a “hybrid course.” The fully-online and hybrid courses are taught using the latest advances in technology through internet and video, some with interactive components between the students. Online lecturers may even hold office hours online. Although these courses may take place in the cyber-world, the bandwidth required to project these courses is so large it is almost entirely necessary for online lecturers to be on campus using campus technological resources to give the classes. Indeed, it would be “unusual” for an online lecturer not to use LMU’s facilities and resources in preparing and delivering lectures. Although there is no prohibition for online lecturers to teach these courses from their own homes, there is no evidence that any have done so or have the technological capabilities of doing so.

No part-time faculty, whether lecturers, adjunct professors, writing instructors, applied music instructors, field work supervisors, or online lecturers, receives benefits from the Employer, and they are all paid bi-weekly. Part-time, non-tenured faculty are all paid based on the same wage scale. Indeed, part-time, non-tenured faculty teaching a 3-credit course, so long as the minimum enrollment of students for the course is met, are paid a set amount, though those faculty with a terminal degree, or rather, the

highest degree in their field, are compensated at a higher rate than those without a terminal degree. Field work supervisors are paid based on that formula, though they are paid per pupil, with 10 students being the equivalent of a 3-credit course. If the field work supervisor teaches less than 10 students, their wage is pro-rated per student. For example, the amount for a 3-credit course is divided into 10, and the field work supervisor is paid the fraction equivalent to how many students they oversee. If they oversee 5 students, they are paid at one-half of the 3-credit course wage scale; if they oversee 7 students, they are paid at 7/10ths of the 3-credit course wage scale. To be sure, Provost Hellige testified that, if a wage for lecturer is subject to collective bargaining that changes as a result of that collective bargaining, the new wage scale would automatically impact the field work supervisor's wage. This is true also for other part-time faculty whose course fails to meet the minimum-student enrollment, as that instructor may, if the course is not canceled, receive pay on a pro-rated scale based on class size in exactly the same way as the field work supervisors.

Recruitment for open part-time, non-tenured faculty positions, though performed separately by each of the schools or colleges, has the same structure: they are recruited by program chairs and directors, who determine what classes to offer each semester and then determine who should fill those vacancies accordingly. Their recommendations are sent to the Deans of each of the schools and colleges, who send the recommendations to a centralized human resources department for processing and issuing employment contracts. Lecturers, online lecturers, and field work supervisors are all hired on a semester basis, although the trend is for the Employer to keep certain positions, like field work supervisors, in their hiring system for a period of two semesters

so that, in the event a field work supervisor is hired the next semester as well, their paperwork is already processed.

### *Common Skills and Training*

All part-time, non-tenured faculty are generally, at minimum, expected to have a masters' degree in their field, with a terminal degree being optimal. Some exceptions are made for this requirement but such exceptions are the same and have been applied to both lecturers and field work supervisors. Scholarly work, while useful, is not dispositive for certain fields, such as applied music instructors or even field work supervisors, where applied work is given more weight. No part-time, non-tenured faculty has a publishing requirement.

### *Common Job Functions and Work, Job Overlap, Interchange among Employees, and Functional Integration*

Importantly, all part-time, non-tenured faculty, including lecturers, adjunct professors, writing instructors, applied music instructors, field work supervisors, and online lecturers engage in the same work: instructing students in a class, lecture, or lab, which is the very essence of the petitioned-for bargaining unit. Ultimately, they are responsible for instructing, mentoring, and evaluating students. From the student perspective, as Dean Martin testified, "it's seamless," in that each role is part of a team that is developing and preparing that student for a profession.

There is also substantial job overlap between these job classifications. For example, field work supervisors often co-teach courses with lecturers, and at times, field work supervisors actually lecture, in the traditional sense, a seminar or Capstone course. There is no hierarchy between the positions of, for example, lecturer and field work supervisor, and, in fact, based on Dean Martin's first-hand knowledge, in any given

semester, about 30-percent of lecturers are serving in a dual-capacity as both lecturers and field work supervisors. Indeed, an individual may be both a field work supervisor and lecturer in the same semester or as a field work supervisor one semester and a lecturer the next.

Additionally, online lecturers typically teach other classes that are face-to-face. In fact, the same skill is required for in-person courses as for online courses, given that online courses may have a synchronous manner – in essence, face-to-face instruction with students online. Furthermore, some courses that are taught online during the summer, for example, are taught in-person during the school year.

Instructors of record are ultimately responsible for inputting student grades into the Employer's system at the end of each semester. However, field work supervisors and writing instructors would not always be instructors of record, given they are almost always working with another instructor who is performing the lecture portion of the class. Nevertheless, both field work supervisors and writing instructors assign grades to students for their portion of the coursework, which is weighed in combination with the lecture component of the students' grades and entered by the instructor of record as the cumulative semester grade.

### *Common Supervision*

All part-time, non-tenured faculty, including lecturers, adjunct professors, writing instructors, applied music instructors, field work supervisors, and online lecturers have common supervision – their program director. Indeed, all lecturers, whether online or in-person, must have their syllabus approved by their program director. Moreover, all employees at issue here are evaluated by both their department chair and students.

Although the field work supervisors have a different student evaluation form than lecturers, given that they instruct in the field rather than in a classroom, the same metrics apply to the evaluations.

## II. Board Law

### A. Introduction

In determining whether a unit is “appropriately grouped” under Section 9(b) of the Act, the Board has broad discretion, “reflecting Congress’ recognition ‘of the need for flexibility in shaping the bargaining unit to the particular case.’” *Specialty Healthcare*, slip op. at 9 (quoting *NLRB v. Action Automotive*, 469 U.S. 490, 494 (1985)). The Board’s focus is whether the employees share a “community of interest.” To make its determination, the Board weighs various factors, including:

Whether the employees are organized into a separate department; have distinct skills and training; have distinct job functions and perform distinct work, including inquiry into the amount and type of job overlap between classifications; are functionally integrated with the Employer’s other employees; have frequent contact with other employees; interchange with other employees; have distinct terms and conditions of employment; and are separately supervised.

*Specialty Healthcare*, slip op. at 9 (quoting *United Operations Inc.*, 338 NLRB 123, 123 (2002)).

It is well-settled that there may be more than one way in which employees of a given employer may be appropriately grouped for purposes of collective bargaining. *Overnight Transportation Co.*, 322 NLRB 723, 723 (1996). It is also well-settled that “the Board need find only that the proposed unit is *an* appropriate unit, rather than the most appropriate unit, and that there might be multiple sets of appropriate units in any workplace.” *Specialty Healthcare*, slip op. at 7. The Board first considers the petitioned-

for unit and whether it is appropriate. If it is appropriate, the inquiry is essentially over. *Id.*, slip op. at 8.

However, even if the employees in the petitioned-for unit share a community of interest, the Board will nonetheless consider whether that unit is inappropriate because the smallest appropriate unit includes additional employees. *Id.*, slip op. at 10. In this regard, “the proponent of the larger unit must demonstrate that employees in the more encompassing unit ‘share an overwhelming community of interest’ such that there ‘is no legitimate basis upon which to exclude certain employees from it.’” *Id.*, slip op. at 11 (quoting *Blue Man Vegas, LLC v. NLRB*, 529 F.3d 417, 429 (D.C. Cir. 2008)).<sup>6</sup> As explained below, I conclude that the Employer has met its burden of demonstrating that the field work supervisors and online lecturers share an overwhelming community of interest with the petitioned-for unit, such that there is no legitimate basis for their exclusion from the unit.

### **B. Field Work Supervisors and Online Lecturers Share an Overwhelming Community of Interest with the Petitioned-For Unit**

The record evidence detailed above establishes that the field work supervisors and online lecturers share an overwhelming community of interest with others in the petitioned-for unit, such that there exists no legitimate basis for their exclusion from the unit. See *Specialty Healthcare*, slip op. at 11. With the exceptions of frequent contact,<sup>7</sup> the job classifications at issue here share, to some degree or another, all other factors in the community of interest standard: a common departmental structure; common

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<sup>6</sup> The Employer asserts that *Specialty Healthcare* does not apply in a university setting. However, the Board has applied *Specialty Healthcare* in non-healthcare settings, such as in *Guide Dogs for the Blind, Inc.*, 359 NLRB No. 151 (July 3, 2013), and thus I apply it here.

<sup>7</sup> The Board held in *Odwalla, Inc.*, 357 NLRB No. 132 (2011), that there can be an overwhelming community of interest in the absence of frequent contact.

terms and conditions of employment; common skills and training; common job functions, and work and job overlap; interchange among employees; functional integration; and common supervision. Accordingly, I find that the Employer has met its burden under *Specialty Healthcare*, and that both field work supervisors and online lecturers must be included in the petitioned-for unit.

In so concluding, I am mindful of the fact that there is some evidence supporting a contrary conclusion. First, the field work supervisors are paid according to how many students they supervise in the field, rather than how many 3-credit courses they teach. However, the pay formula for field work supervisors is intrinsically tied to the pay formula for 3-credit courses, such that any change to the pay structure for 3-credit courses would automatically affect the amount of pay field work supervisors received. Moreover, should class enrollment fall under the required amount for a course, other instructors in the petitioned-for unit are subject to the exact pro-rated wage structure for the field work supervisors. Second, the physical location of field work supervisors and online lecturers differs to some degree from the physical location of lecturers, adjunct professors, writing instructors, and applied music instructors. However, employees in the petitioned for unit, while on the same campus, report to different colleges and schools located in separate buildings spread out across the 142 acre campus. Although it is true that neither field work supervisors nor online lecturers necessarily instruct students at a classroom on the physical campus, both job classifications utilize the campus to instruct students. For example, field work supervisors lecture at seminar or Capstone courses on campus, and they meet with their students about four to six times per semester on campus. Like field work supervisors, lecturers supervise students at

off-campus locations for service learning courses. Similarly, given the bandwidth required to conduct a synchronous online course, online lecturers are physically on campus, using campus technology, to instruct their courses. In addition, online lecturers may have either some percentage of the class in-person on campus or perhaps lecture a separate in-person class in addition to the online course.

The Petitioner posits that the degree of interchange is nominal, and certainly not sufficient under the *Specialty Healthcare* standard, but I find to the contrary. Not only do field work supervisors and lecturers co-teach during a semester, in an average semester there are about 30-percent of lecturers who also work as field work supervisors. Additionally, an employee may be a field work supervisor one semester and a lecturer the next, just like an online lecturer may lecture online one semester and in-person the next. The Petitioner also asserts that field work supervisors are somehow not required to have the same credentials as other instructors, but the evidence supports finding otherwise. All part-time, non-tenured faculty are generally required to have a masters' degree in their field and any exception to this requirement has been applied to both lecturers and field work supervisors.

Finally, the Petitioner relies on purported differences in terms and conditions of employment that would warrant excluding field work supervisors, such as the frequency with which courses meet, that field work supervisors do not assign mid-term exams or final exams,<sup>8</sup> that the actual evaluation form differs for field work supervisors from that for lecturers, and that lecturers are limited to teaching a 3-credit course and field work supervisors teach no more than 10 students. However, the existence of these small

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<sup>8</sup> Contrary to the Petitioner's alleged distinction, there is evidence that traditional mid-term or final examinations are not even given in face-to-face or online courses; instead, most student assessments are project- and performance-based.

distinctions between positions is insufficient to rebut the otherwise overwhelming community of interest shared among the petitioned-for unit, field work supervisors, and online lecturers. *See, e.g., Specialty Healthcare*, slip op. at 14 (noting that “no two employees’ terms and conditions of employment are identical, yet some distinctions are too slight or too insignificant to provide a rational basis for a unit’s boundaries”).

The Petitioner also cites *University of La Verne*, 21-RC-115880 (Reg. Dir. Decision December 17, 2013), a Regional Director decision, as both analogous and instructive regarding excluding online lecturers here. My decision in this case is based on the record before me and the Board cases cited above, and not on the record in a different case or the reasoning of another Regional Director. In any event, that case, unlike here, involved unit placement issues in the context of a disputed single versus multi-employer unit.

Accordingly, the following employees of the Employer constitute a unit appropriate for the purposes of collective-bargaining within the meaning of Section 9(b) of the Act:

All part-time, non-tenured faculty, including lecturers, adjunct professors, applied music instructors, writing instructors, field work supervisors, and lecturers who teach an online course, who are employed to teach in the programs and academic units of the university at the Westchester campus, located in Los Angeles, California, teaching, whether in-person or online, at least one credit-earning class, lesson or lab; excluding all other employees; all employees of the Loyola law school; all faculty teaching at locations outside the university’s Westchester campus; all full-time faculty; all graduate students; all lab assistants, graduate assistants, teaching associates, clinical fellows, teaching fellows, teaching assistants and research assistants; all full-time or part-time staff or administrators, whether or not they also have teaching responsibilities; all deans; registrars and librarians, all volunteers; all other represented employees; all clerical employees; all managers; and supervisors and guards as defined in the Act.

## DIRECTION OF ELECTION

An election by secret ballot will be conducted by the undersigned among the employees in the unit found appropriate at the time and place<sup>9</sup> set forth in the Notice of Election to be issued subsequently, subject to the Board's Rules and Regulations.

### A. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off, and who meet the eligibility formula set forth above. Employees engaged in 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 strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began 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 **Service Employees International Union**.

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<sup>9</sup> The parties have stipulated to a mail ballot election. (See Board Exhibit 2 at page 3.)

## **B. Employer to Submit List of Eligible Voters**

To ensure 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, which may be used to communicate with them. *Excelsior Underwear Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759 (1969).

Accordingly, it is directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Director of Region 31, an election eligibility list, containing the full names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361, (1994). The list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). This list may initially be used by me to assist in determining an adequate showing of interest. I shall, in turn, make the list available to all parties to the election.

To be timely filed, the list must be received in the Los Angeles Regional Office, 11500 West Olympic Boulevard, Suite 600, Los Angeles, California 90064, on or before January 22, 2014. No extension of time to file this list will be granted by the Regional Director except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted to the Regional Office by electronic filing through the Agency's website, [www.nlr.gov](http://www.nlr.gov),<sup>10</sup> by mail, or by facsimile transmission at (310) 235-7420. The burden of

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<sup>10</sup> To file the eligibility list electronically, go to the Agency's website at [www.nlr.gov](http://www.nlr.gov), select *File Case Documents*, enter the NLRB Case Number, and follow the detailed instructions.

establishing the timely filing and receipt of the list will continue to be placed on the sending party.

Since the list will be made available to all parties to the election, please furnish a total of **two** copies of the list, unless the list is submitted by facsimile or e-mail, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

### **C. Notice of Posting Obligations**

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for at least 3 working days prior to 12:01 a.m. of the day of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

### **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 14<sup>th</sup> Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by **January 29, 2014**.

*The request may be filed electronically through the Agency's website, [www.nlr.gov](http://www.nlr.gov),<sup>11</sup> but may not be filed by facsimile.*

Signed at Minneapolis, Minnesota, this 15th day of January, 2014.

/s/ James L. Fox

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James L. Fox, Acting Regional Director  
National Labor Relations Board – Region 31  
330 South Second Avenue, Suite 790  
Minneapolis, MN 55401-2221

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<sup>11</sup> To file the request for review electronically, go to [www.nlr.gov](http://www.nlr.gov), select *File Case Documents*, enter the NLRB Case Number, and follow the detailed instructions.