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**KIPP Academy Charter School and Nicole Mangiere and Christopher Diaz, Petitioner and United Federation of Teachers, Local 2 AFT, AFL-CIO Union.** Case 02-RD-191760

March 25, 2020

DECISION ON REVIEW AND ORDER

BY CHAIRMAN RING AND MEMBERS KAPLAN AND EMANUEL

The issue presented in this case is whether the National Labor Relations Board should exercise its discretion to decline jurisdiction over charter schools as a class under Section 14(c)(1) of the National Labor Relations Act.

On August 24, 2018, the Regional Director issued a Decision and Direction of Election in which he found that, pursuant to *NLRB v. National Gas Utility District of Hawkins County*, 402 U.S. 600, 604–605 (1971), the Employer is not exempt from the Act’s jurisdiction as a political subdivision under Section 2(2) of the Act. Thereafter, in accordance with Section 102.67 of the Board’s Rules and Regulations, the Union filed a timely request for review.

On February 4, 2019, the Board granted the Union’s request for review with respect to whether the Board should exercise its discretion to decline jurisdiction over charter schools as a class under Section 14(c)(1) and, therefore, modify or overrule *Hyde Leadership Charter School—Brooklyn*, 364 NLRB No. 88, slip op. at 6 fn. 15, 7–9 (2016), and *Pennsylvania Virtual Charter School*, 364 NLRB No. 87, slip op. at 7, 9–10 (2016). It also invited the parties and interested amici curiae to file briefs addressing the issue. The Board denied review in all other respects. Thereafter, the Employer and the Union filed briefs on review. Several amici filed briefs in response to the Board’s invitation.<sup>1</sup>

Having carefully considered the entire record in this proceeding, including the briefs on review and those filed by amici, the Board has determined not to exercise its discretion to decline jurisdiction over charter schools as a class under Section 14(c)(1) at this time. We accordingly affirm the Regional Director’s Decision and Direction of Election.

<sup>1</sup> Amicus briefs were filed by Advocates for Arts Based Education Corp. d/b/a Lusher Charter School; The American Federation of Labor and Congress of Industrial Organizations; National Education Association (and various state affiliates); National Heritage Academies, Inc.;

ORDER

The Regional Director’s Decision and Direction of Election is affirmed. This proceeding is remanded to the Regional Director for appropriate action consistent with this Decision and Order.

Dated, Washington, D.C. March 25, 2020

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John F. Ring, Chairman

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Marvin E. Kaplan, Member

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William J. Emanuel, Member

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Ready Colorado; and Voices for International Business and Education, Inc. d/b/a International High School of New Orleans. The Employer and the Union also filed reply briefs.