Thank you for submitting these cases to Advice. We conclude that the Unions were not engaged in picketing and therefore neither Union violated Sections 8(b)(3), 8(d), or 8(g) of the Act. The caravans on May 1 and June 2 had none of the requisite confrontational elements of picketing under Board law. See Carpenters Local 1506 (Eliason & Knuth of Arizona, Inc.), 355 NLRB 797, 802 (2010) (describing the core conduct of picketing to be the “combination of carrying of picket signs and persistent patrolling of the pickets back and forth in front of an entrance to a work site, creating a physical or, at least, a symbolic confrontation between the picketers and those entering the worksite”); Chicago Typographical Union 16 (Alden Press), 151 NLRB 1666, 1669 (1965) (finding general parading through public areas with signs not to be picketing because it lacked the necessary condition of confrontation between union members and employees, customers, or suppliers seeking to enter the employer’s premises). The cars in the caravan remained on the public streets and did not drive through the driveway by the entrance to the hospital. There was no evidence of any blocking of ingress or egress to the facility. No one from the vehicles confronted any employee, visitor, or supplier trying to enter the hospital or otherwise engaged in any intimidating behavior. While individuals inside of the vehicles did hold signs, that is not a determinative factor in picketing. See Chicago Typographical Union 16 (Alden Press), 151 NLRB at 1669. There is insufficient evidence that the caravans were Union sanctioned activities or that the Employer was even the target of the activity as opposed to an attempt to draw public and media attention to the need for increased PPE for healthcare workers.

Additionally, although not specifically alleged by the Employer, we conclude that CNA’s silent, candlelight vigils also did not constitute picketing. They occurred far from the entrance to the hospital and did not involve any patrolling. Therefore, they did not pose an actual or otherwise symbolic barrier to individuals seeking to enter the hospital. See Sheet Metal Workers Local 15 (Brandon Medical Center), 356 NLRB 1290, 1292 (2011); United Food and Commercial Workers, Local 1445 (GGNSC Gloucester LLC d/b/a Golden Living Center-Gloucester), Case 01-CG-164974, Advice Memorandum dated March 2, 2016 (union supporters demonstrating with signs on a public sidewalk about 100 feet from the entrance did not constitute picketing and thus the union did not violate Section 8(g)). It is undisputed that there was no strike or other concerted work stoppage in conjunction with this lawful activity. Since the Unions did not engage in picketing, no notice was required, and the Unions did not violate Section 8(g).

The Unions also did not seek to repudiate or make a midterm modification to their collective-bargaining agreements by picketing or threatening to engage in picketing. Neither Union threatened to picket or made any other threat to the Employer. The evidence merely indicates that the Unions invited individuals to join the lawful conduct described above. That one anonymous text message included the word “picket” does not change the essentially lawful nature of the conduct. See Sheet Metal Workers Local 15 (Brandon Medical Center), 356 NLRB at 1292 (citing Teamsters Local 688 (Levitz Furniture), 205 NLRB 1131, 1133 (1973)). Even if the Unions’ conduct was construed as picketing, it still would not rise to the level of a violation of Section 8(b)(3) or 8(d), as opposed to a

This email closes this case in Advice. Please contact us with any questions or concerns.

(b) (6), (b) (7)(C)