

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 12**

POLK COUNTY OPPORTUNITY
COUNCIL, INC., HEAD START

Employer

and

Case 12-RC-8927

SERVICE EMPLOYEES INTERNATIONAL
UNION/NATIONAL CONFERENCE OF FIREMEN
AND OILERS (SEIU/NCFO), LOCAL 1220,
AFL-CIO

Petitioner

REGIONAL DIRECTOR'S DECISION AND DIRECTION OF ELECTION

The Employer, Polk County Opportunity Council, Inc., Head Start, operates head start program centers in Polk County, Florida. On May 16, 2003, the Petitioner, Service Employees International Union/National Conference of Firemen and Oilers (SEIU/NCFO), Local 1220, AFL-CIO, filed a petition with the National Labor Relations Board, (the Board), under Section 9(c) of the National Labor Relations Act, (the Act), seeking to represent a unit of certain employees.

On May 28, 2003, a hearing officer of the Board held a hearing, at which the parties reached certain stipulations that I now approve. Based upon these stipulations, and the record as a whole, I conclude:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are 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 in this case.¹

3. The Petitioner 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. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time Head Start employees, including lead teachers, teachers, teaching assistants, floating teachers, floating teacher assistants, family service advocates, health service advocates, site maintenance/drivers, interpreter/translators, food service assistants and center aides employed by the Employer at its sites in Polk County, Florida, excluding all facilitators, center managers, learning center managers, food services managers, guards and supervisors as defined in the Act.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by Service Employees International Union/National Conference of Firemen and Oilers (SEIU/NCFO), Local 1220, AFL-CIO. The arrangements for conducting the election will be specified in the Notice of Election that the Board's Regional Office will issue

¹ The parties stipulated that the Employer is a Florida non-profit corporation with an office and place of business located in Bartow, Florida. During the past 12 months, the Employer derived gross revenues in excess of \$250,000, and purchased and received, at its centers located within Polk County, Florida, goods valued in excess of \$50,000 from suppliers located inside the State of Florida, which in turn purchased and received those goods directly from points located outside the State of Florida.

subsequent to this Decision.²

Voting Eligibility

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in an 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 that began 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.

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

² There were no issues litigated at the hearing, and the parties did not file briefs. However, the parties refused to enter into an election agreement because they disagree on the method of voting. After the close of the hearing, the parties each submitted written positions on that issue. The Petitioner urges a mail ballot and the Employer urges a manual ballot. I will administratively determine the method of balloting and other election arrangements after fully considering the positions of the parties.

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 Company, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office 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). This 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. Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the Regional Office, 201 East Kennedy Blvd., Suite 530, Tampa, FL 33602-5824, on or before **June 12, 2003**. No extension of time to file this list will be granted 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 by facsimile transmission at (813) 228-2874. Since the list will 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 only one need be submitted. If you have any questions, please contact the Regional Office.

Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices of Election provided by the Board in areas conspicuous to potential voters for a minimum of 3 full working days prior to the date 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). An employer who fails to do so may not file 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 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5 p.m., EST on June 19, 2003. The request may not be filed by facsimile.

Dated at Tampa, Florida this 5th day of June, 2003.

Rochelle Kentov, Regional Director
National Labor Relations Board, Region 12
201 E. Kennedy Blvd., Suite 530
Tampa, FL 33602-5824

CLASSIFICATION INDEX

370-6325-5000