

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES**

**NEW YORK-PRESBYTERIAN BROOKLYN  
METHODIST HOSPITAL**

**and**

**Case: 29-CA-332578**

**NEW YORK STATE NURSES ASSOCIATION**

**ORDER REGARDING RESPONDENT'S PETITION TO REVOKE SUBPOENA DUCES  
TECUM B-1-1QBLW0P**

Respondent has filed a Petition to Revoke Duces Tecum Subpoena B-1-1QBLW0P, which Counsel for the General Counsel served on the Respondent on February 11, 2026. Counsel for the General Counsel filed her Opposition to the Petition to Revoke on February 26, 2026. The parties have represented that subpoena paragraphs 1 through 6 will be mooted upon the entering of a joint stipulation concerning the 2(11) and 2(13) status of Davina Allert and Kathleen Moschella. Therefore, my order will only address subpoena paragraphs 7 through 16.

Section 102.31(b) of the Board's Rules and Regulations states that "the Administrative Law Judge or the Board, as the case may be, will revoke the subpoena if in their opinion the evidence whose production is required does not relate to any matter under investigation or in question in the proceedings or the subpoena does not describe with sufficient particularity the evidence whose production is required, or if for any other reason sufficient in law the subpoena is otherwise invalid." The complaint at issue here alleges that Respondent violated Section 8(a)(5) of the Act by implementing a new uniform policy without affording the Union an opportunity to bargain over this policy.

**Subpoena Paragraph 7: "Documents showing Respondent's collective bargaining proposals discussing, mentioning or referring to uniforms submitted to the Union during negotiations for the parties' 2023-2026 collective bargaining agreement, including but not limited to bargaining notes taken on April 12, 2023 and/or any other date that uniforms were discussed, mentioned or referred to and an April 12, 2023 e-mail communication from Vice President Human Resources Aaron Kranich to Union representative Brian Flynn (and others) with attachments submitted to the Union, discussing, mentioning or referring to uniforms."**

**Respondent's Position:** Respondent contends that Paragraph 7 seeks production and/or disclosure of documents subject to the attorney-client privilege and/or work product doctrine.

Specifically, Respondent asserts that the paragraph seeks bargaining notes without limitation as to the drafter or recipient of such notes. Respondent also asserts that the General Counsel's request for a copy of the hospital's bargaining proposal constitutes harassment.

**Ruling Re: Paragraph 7:** Respondent must produce the requested documents.

Regarding the bargaining proposals/emails, Respondent is not required to produce documents it has already provided to the Region during the investigation of the underlying charge, but it must accurately describe the documents it has already produced. Regarding its privilege/work product concerns, Respondent may redact any portion of the notes that reflect Respondent's legal strategy or the notetaker's mental impressions and document the reason for the redactions in its privilege log.

**Subpoena Paragraph 8:** "From May 1, 2019 to the present, all collective bargaining agreements between Respondent and the Union, including tentative agreements, letters of understanding and all memoranda of agreement, including but not limited to the Collective Bargaining Agreement between Respondent and the Union with effective dates May 1, 2019 to April 30, 2023 and the Memorandum of Agreement effective May 1, 2023 to April 30, 2026."

**Respondent's Position:** Respondent asserts that this request is overbroad and seeks documents unrelated to the instant proceedings and is unduly burdensome.

**Ruling Re: Paragraph 8:** Respondent must produce the requested documents. The subpoena paragraph is essentially seeking copies of 1 CBA and another memorandum of agreement. This request is neither burdensome nor overbroad.

**Subpoena Paragraph 9:** "Documents, including but not limited to letters, e-mail communications and other communications between Respondent and the Union during the period from June 1, 2023 through June 1, 2024, discussing, mentioning or referring to the implementation of a new uniform requirement for bargaining unit employees working at Respondent's Brooklyn facility."

**Respondent's Position:** Respondent asserts that this paragraph is unduly burdensome by requiring Respondent to review a year's worth of emails and other communications while also preparing for the Hearing. Respondent also asserts that this request is not reasonably calculated to produce information relevant to this dispute given the timeframe of the request vis-à-vis the dates set forth in the complaint.

**Ruling Re: Paragraph 9:** Respondent must produce the requested documents, but I am limiting the timeframe of the production to June 1, 2023 through March 31, 2024. The documents requested are relevant to the issues I am tasked to decide here, but the General Counsel has not explained why its document request extends three months beyond the alleged effective uniform implementation date of March 1, 2024. Therefore, I am cutting off the tail end of the document request to capture communications up to a month after the alleged implementation of the new uniform policy.

**Subpoena Paragraph 10:** “During the period from June 1, 2023 through June 1, 2024, documents, including letters, e-mail communications and other communications from Respondent to bargaining unit employees working at Respondent’s Brooklyn facility discussing, mentioning or referring to uniforms, the uniform ordering site being “live” and/or the March 1, 2024 “Go-Live” date for uniforms.”

**Respondent’s Position:** Respondent asserts that this request is unduly burdensome and not reasonably calculated to produce documents that are relevant to this dispute.

**Ruling Re: Paragraph 10:** Respondent must produce the requested documents, but I am limiting the timeframe of the production to November 1, 2023 through March 31, 2024. The requested communications from Respondent to its employees directly touch on whether the Respondent implemented a new uniform policy, and what that policy was. But the General Counsel’s complaint alleges that Respondent first informed the Union of the pending change on November 30, 2023, and implemented this change on March 1, 2024. Limiting the document request to the month before November 30<sup>th</sup> and the month after March 1<sup>st</sup> addresses Respondent’s relevance and burdensome arguments while still requiring production of relevant requested documents.

**Subpoena Paragraph 11:** “Documents including letters, and other written or electronic documents reflecting that during the period covered by this subpoena, the Union objected to and/or requested Respondent to cease and desist the plan to implement the new uniform policy requiring bargaining unit employees working at Respondent’s Brooklyn facility to wear specific uniforms.”

**Respondent’s Position:** Respondent asserts that this request is unduly burdensome and duplicative as it seeks documents already within the Union’s possession, custody, or control, and it seeks documents subject to the attorney-client and/or work product privilege.

**Ruling Re: Paragraph 11:** Respondent must produce the requested documents, but I am limiting the timeframe for production beyond the dates the General Counsel offered in its Opposition to the Petition to Revoke. The complaint alleges that the Charging Party first objected to the implementation of the uniform policy on about November 30, 2023. Therefore, the April 1, 2023 subpoena production start date set by the General Counsel is far too expansive for the issues I am tasked to decide here. And there is no need to extend the production deadline to January 1, 2025 when the complaint alleges that the Respondent implemented the change in policy on March 1, 2024. Therefore, Respondent must produce requested documents from November 15, 2023 through March 15, 2024.

**Subpoena Paragraph 12:** “All video recordings, audio recordings, photographs, notes, talking points, scripts, power point presentations, slides, reports, flyers, handouts, and other written or electronic documents mentioning, discussing or memorializing meetings held by Respondent at its Brooklyn facility in which the new uniform program and/or requirement to wear New York Presbyterian uniforms was discussed during the period November 30, 2023 through March 1, 2024, including but not limited to the power

**point presentation from its Nursing Town Hall meetings with bargaining unit employees working at Respondent’s Brooklyn facility held on November 30, 2023.”**

**Respondent’s Position:** Respondent asserts that paragraph 12 is overly broad, a fishing expedition, unduly burdensome, and seeks documents subject to the attorney-client and/or work product privilege.

**Ruling Re: Paragraph 12:** In its Opposition to the Petition to Revoke, Counsel for the General Counsel indicated that she was limiting her request to documents related to Respondent’s Nursing Town Hall meetings with bargaining unit employees on or about November 30, 2023. I am further limiting this request to documents shared with bargaining unit employees (either electronically – e.g. Power Point presentations – or as handouts) at the Nursing Town Hall meetings with bargaining unit employees on or about November 30, 2023. Limiting this production to documents shared with bargaining unit employees addresses Respondent’s work product and attorney-client privilege concerns, while ensuring that relevant responsive documents are still produced.

**Subpoena Paragraph 13: “Documents reflecting the times, dates, locations, presenters, and attendees of employee meetings held by Respondent at or near Respondent’s Brooklyn facility in which the new uniform program and/or the requirement that bargaining unit employees wear specific New York Presbyterian uniforms was discussed during the period November 30, 2023 through March 1, 2024.”**

**Respondent’s Position:** Respondent asserts that this request is overbroad and a fishing expedition.

**Ruling Re: Paragraph 13:** In her Opposition to the Petition to Revoke, Counsel for the General Counsel agreed to limit her request to documents related to Respondent’s Nursing Town Hall meetings with bargaining unit employees on or about November 30, 2023. Documents identifying the date and location of the meetings held around November 30, 2023 are relevant and must be produced. The other requested information – times, presenters, and attendees – are not relevant to the issues I am tasked to decide in this case and need not be produced.

**Subpoena Paragraph 14: “Documents showing any counseling or disciplinary actions including discharges, suspensions, memorialization of oral warnings and written warnings, taken at any time after March 1, 2024 against bargaining unit employees working at Respondent’s Brooklyn facility, based on alleged non-compliance with the new uniform policy (that was effective on or about March 1, 2024).”**

**Respondent’s Position:** Respondent asserts that this request is overbroad and a fishing expedition unrelated to the narrow issues raised in the complaint.

**Ruling Re: Paragraph 14:** I grant the petition to revoke paragraph 14. In our February 17<sup>th</sup> conference call, I inquired about the scope of the remedy sought in this complaint and Counsel for the General Counsel confirmed that the remedy it is seeking here is to rescind the implemented policy and bargain. Counsel for the General Counsel confirmed that there was no

monetary remedy being sought here and did not indicate that the rescission of allegedly unlawful disciplines meted out pursuant to the alleged unilateral implementation of the uniform policy was part of this case. Therefore, the documents requested in subpoena paragraph 14 seek records beyond the scope of the complaint allegations and I grant Respondent's petition to revoke paragraph 14.

**Subpoena Paragraph 15:** “Documents that show the work rules, work guidelines, work policies and procedures and/or terms and conditions of employment pertaining to employee attire and/or dress code applicable to or mentioning Respondent's Brooklyn facility at any time during the period April 1, 2023 to the present, including New York-Presbyterian Brooklyn Methodist Hospital Human Resources Policy and Procedure Manual Number: 9237-017 and any documents showing any changes to such rules/policies/procedures, the effective dates of any such changes, and a description or statement of the changes.”

**Respondent's Position:** Respondent argues that subpoena paragraph 15 is overbroad, a fishing expedition, and unduly burdensome and duplicative because the NLRB already has copies of Respondent's dress code.

**Ruling Re: Paragraph 15:** The requested documents must be produced with the clarification that Respondent need only produce documents applicable to the bargaining unit identified in paragraph 5 of the complaint covering the time period from April 1, 2023 through December 31, 2024.

**Subpoena Paragraph 16:** “Documents showing dress code policy set forth in Nursing Administration Policy Manual 315, effective at any time during the period April 1, 2023 to the present, including versions entitled “Dress Code Policy” with letter head, “New York-Presbyterian Hospital, Sites: All Campuses except NYP-BMH, Nursing Administrative Policy Manual, Number 315” and “New York-Presbyterian Hospital, Sites: All Campuses, Nursing Administrative Policy Manual, Number: 315,” and other documents showing any changes to the dress code, the effective dates of any such changes, and a description or statement of the changes.”

**Respondent's Position:** Respondent asserts that subpoena paragraph 16 is overbroad, a fishing expedition, and requests documents that do not even apply at Respondent's facility. Respondent also asserts that there has never been any suggestion that Respondent's right to create, implement, and enforce a dress code was bargainable.

**Ruling Re: Paragraph 16:** The requested documents must be produced with the clarification that Respondent need only produce documents applicable to the bargaining unit identified in paragraph 5 of the complaint covering the time period from April 1, 2023 through December 31, 2024. And although Respondent argues that its right to create, implement, and enforce a dress code is not bargainable, the General Counsel disputes this assertion, and any documents that potentially shed light on these arguments are relevant to the issues I am tasked to decide here.

I will revisit my ruling as necessary as evidence is adduced at the hearing.<sup>1</sup>

Dated at Washington, D.C., this 27<sup>th</sup> day of February 2026.

/s/ Michael P. Silverstein

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Michael P. Silverstein  
Administrative Law Judge

**Served by email upon the following:**

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<sup>1</sup> I strongly encourage the parties to meet and confer to discuss possible stipulations regarding the authenticity of proposed exhibits in preparation for Monday's hearing.