

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 2**

**NEW YORK BLOOD CENTER
Employer**

and

Case 02-RC-333048

**1199 SEIU UNITED HEALTHCARE
WORKERS EAST
Petitioner**

DECISION AND DIRECTION OF ELECTION

1199 SEIU United Healthcare Workers East (“Petitioner”) represents an existing bargaining unit of approximately 340 employees employed by New York Blood Center (“Employer”) in various classifications. Petitioner filed a petition seeking an *Armour-Globe* self-determination election¹ to ascertain whether approximately 30 Therapeutic Apheresis Registered Nurses (“Apheresis RNs” or “petitioned-for employees”) wish to join the existing unit.

The issue before me is whether the employees in the petitioned-for unit share a community of interest with the employees in the existing unit. Petitioner takes the position that they do. The Employer contends that they do not. The Employer further argues that the petitioned-for unit is not an appropriate residual unit because it does not seek to include all non-represented employees of the Employer. The other matter before me is whether to conduct a manual or mail ballot election. The Petitioner seeks a manual election and the Employer urges that a mail ballot election is most appropriate.

A hearing officer of the Board conducted a hearing in the matter and the parties subsequently filed briefs, which I have duly considered. I first find that the petitioned-for voting group constitutes an identifiable and distinct group and that this group shares a community of interest with the employees in the bargaining unit currently represented by the Petitioner. I also find that the petitioned-for unit is an appropriate residual unit and need not include the Employer’s other unrepresented employees. I direct a *Sonotone* self-determination mail ballot election.²

¹ This procedure is so named because it originated in *Globe Machine & Stamping Co.*, 3 NLRB 294 (1937), and was refined in *Armour & Co.*, 40 NLRB 1333 (1942).

² The parties stipulated that the petitioned-for Apheresis RNs are professional employees within the meaning of Section 2(12) of the National Labor Relations Act (“Act”) and that the employees in the existing bargaining unit are not professional employees. Section 9(b)(1) of the Act prohibits the inclusion of professional employees in a unit with employees who are not professional, unless a majority of the professional employees vote for inclusion in such a unit. To carry out the statutory requirement, the Board

I. RECORD EVIDENCE

A. The Employer's Operations

The Employer operates a blood bank that collects, processes, and distributes blood, conducts research, and performs apheresis (blood separation) procedures.³ The Employer also distributes the products of its blood separation procedures. The Employer's operations include approximately eight facilities, referred to as "fixed sites," that it owns and operates in New York, New Jersey, and Connecticut. For example, in New York, the Employer has fixed sites in Manhattan ("Center East," the headquarters of the Employer's operations), Brooklyn, Elmsford, Kingston, and Malta. The Employer's New York operations also include facilities in Long Island City (where the majority of the Employer's laboratories are located) and Westbury. Additionally, the Employer provides services to infusion centers and approximately 160 hospitals that are located across New York, New Jersey, Connecticut, and Pennsylvania. Finally, the Employer collects blood and blood products at blood drives, which are held off-site at hospitals, schools, colleges, and businesses.

Two labor organizations represent employees of the Employer. The Petitioner, for its part, represents an existing bargaining unit—to which it seeks to add the petitioned-for employees—of approximately 340 employees. Teamsters Local 202 represents four separate bargaining units. The four Teamsters-represented units consist of: (1) Perioperative Autologous Transfusion (PAT) Technicians, (2) Account Managers, (3) Central Inventory and Central Supply Clerks, and (4) Drivers. The PAT Technicians work from hospitals, Account Managers work from the field, the Central Inventory and Central Supply Clerks work primarily at the Long Island City facility, and Drivers largely report to the Long Island City and Westbury facilities.

Additionally, Employer witness Vice President of Human Resources Monique Brown George testified that the Employer employs over 700 other non-managerial, non-supervisory, non-executive employees who are not represented by any labor organization.

B. Organizational and Management Structure

Administratively, the Employer is organized into departments—including Research, Collections, Client Services, Blood Distribution, Clinical Services, and Laboratory. The Employer also has a Human Resources Department, which participates in hiring for both represented and unrepresented employee classifications across the organization.⁴

Christopher Hillyer is President and CEO. Executive Vice President and Chief Business Officer Jay Mohr and ten Senior Vice Presidents; including Chief Scientific Officer Larry Luchsinger and Chief Operating Officer Adrian David, report directly to Hillyer.

has adopted a special type of self-determination procedure known as a *Sonotone* election. See *Sonotone Corp.*, 90 NLRB 1236 (1950).

³ Apheresis refers to the process of separating components from a patient's blood and then, in some cases, replacing that component and returning blood to the patient or, in other cases, hydrating the patient with saline.

⁴ While Human Resources is involved in hiring, the department to which the prospective employee has applied makes the hiring decision.

Most of the classifications in the existing bargaining unit to which Petitioner seeks to add the petitioned-for group work are in the Laboratory Services or Collections Departments, parts of the Employer's Blood Operations division. Donor Specialists are in the Collections Department and report to Director of Collections Joyelle Morris, who reports to Vice President Jeannie Mascolino. Component Technicians and Clinical Laboratory Technicians are in the Laboratory Department and report through a chain that leads to Senior Vice President of Laboratory Services Donna Strauss. Strauss also oversees Client Services Representatives, who are part of the Client Services Department.⁵ Both Strauss and Mascolino report directly to COO David. However, one existing bargaining unit classification, Animal Care Technician, is in the Research Department and reports to Vice President of LFKRI Research Development Karina Yazdanbakhsh. Yazdanbakhsh, in turn, reports to Senior Vice President and Chief Scientific Officer Larry Luchsinger.

The petitioned-for Apheresis RNs are in the Clinical Services Department, and report to Manager of Clinical Services Patricia Guzman. Guzman reports to Executive Director of Clinical Services and Collection Carolina Betancourt. Betancourt, in turn, reports to Vice President of Cell Sourcing and Clinical Apheresis Isaac Rawlinson, who reports to Chief Business Officer Mohr. As stated, Mohr reports directly to CEO Hillyer.

C. The Existing Bargaining Unit

The parties' most recent collective bargaining agreement was effective from December 31, 2013 through December 31, 2018. Article 1(a) – Recognition – defined the existing bargaining unit as Animal Care Technicians, Component Technicians, Clinical Laboratory Technicians, Clinical Laboratory Technologists, Blood Distributors, Senior Blood Distributors, Donor Specialists I and II, and Laboratory Assistants, but excluding employees who are scheduled to work up to, but no more than, sixteen hours per pay period. "Per diem" employees who work more than sixteen hours per pay period for six consecutive pay periods are included. That Agreement was modified by the parties on three occasions. On May 2, 2019, the collective-bargaining agreement was modified and extended until March 31, 2022. On August 27, 2020, the Parties modified the composition of the bargaining unit to include Client Services Representatives. On December 23, 2023, the collective-bargaining agreement was modified and extended until March 31, 2026. The 2019 and 2023 agreements did not modify the description or composition of the bargaining unit.

The qualifications required for the existing bargaining unit positions vary. While all require a high school diploma or equivalent, some positions also require certifications. The Animal Care Technicians, for example, are required to have Purina Laboratory certification. The Employer contends that the Animal Care Technician is the only existing bargaining unit position that requires certifications. However, the Employer's Component Technician job description indicates that Medical Assistant certification is preferred. The Clinical Laboratory Technician job description

⁵ Employer witness Monique Brown George, who testified to these reporting relationships, was uncertain as to whether Blood Distributors, who are part of the Blood Distribution Department, also reported through Strauss. George was also unsure of the reporting chain for the Clinical Laboratory Technologists—who, like the Component Technicians and Clinical Laboratory Technicians, are part of the Laboratory Department.

indicates under “Licenses/Certifications” that these employees must meet “NY State DOH Technician requirements.” Donor Specialists are not required to hold any specified certifications.

The existing bargaining unit employees perform their work at various locations. The Clinical Laboratory Technicians, for example, work at the Long Island City, Westbury, and Center East facilities. Some of the Client Services Representatives work at the Center East facility, and others work remotely. The Blood Distributors work exclusively at Long Island City facility.⁶

The existing bargaining unit employees perform a range of job functions. The Donor Specialists, addressed in more detail below, collect blood and blood products, largely from healthy donors. Clinical Laboratory Technicians and Clinical Laboratory Technologists perform quality control analyses on donated blood to ensure that the Employer’s blood products are safe. The Component Technicians then prepare the donated blood for distribution by separating the blood into different components. The Blood Distributors, in turn, package the blood and blood products for delivery, ensuring that controlled settings are maintained.

The Client Services Representatives take orders from hospitals for the various blood products the Employer offers. The Animal Care Technicians, for their part, care for, take specimens from, and assist with procedures and testing involving the Employer’s research animals. Caring for these research animals includes feeding them special diets, cleaning their cages, and taking notes on their body temperature.

Much of the testimony and evidence about the existing bargaining unit concerned the two Donor Specialist positions. Donor Specialists I and II are in the Collections Department and make up the majority of the unit. More specifically, approximately 270 of the approximately 340 of the existing bargaining unit members are Donor Specialists.

The Donor Specialists collect blood and blood products from donors. As the first step in the collection process, Donor Specialists assess whether a prospective donor meets certain criteria. Donors are typically healthy individuals seeking to donate their blood or blood products to a family member or to the general public, rather than seeking treatment for a medical condition. However, Donor Specialists also collect blood from some patients who come to fixed sites to have a certain amount of blood drawn as a treatment for hemochromatosis, a condition in which a person’s hemoglobin or hematocrit are elevated. While the blood drawn from these patients is subsequently donated, the purpose of these blood draws is therapeutic, and the amount of blood drawn is prescribed by a doctor.

If the prospective donor is eligible, the Donor Specialist conduct one of a several collection procedures. The procedures performed vary depending on the Donor Specialist’s subclassification. Donor Specialists I and II are divided into six subclassifications: I-I, I-II, I-III, I-IV, II-I, and II-II, which comprise a career ladder.⁷ Donor Specialists I-I collect whole blood, using a scale, at mobile sites and donor centers. Donor Specialists I-III and I-IV do the same but additionally collect plasma

⁶ The transcript reflects testimony from Employer witness George that the Blood Distributors work from “OIC.” There is no testimony on the record to explain the meaning of this initialism. In light of the context surrounding this testimony, I interpret this initialism as a transcript error that should read “LIC,” a common abbreviation for Long Island City.

⁷ Donor specialists I-III, I-IV, II-I, and II-II are all considered Apheresis Donor Specialists; documentary evidence shows there are approximately 200 employees in these classifications.

and red blood cells using an ALYX machine.⁸ Donor Specialists II-I, too, collect whole blood, plasma, and red blood cells, but also collect platelets and use both the ALYX machine and a Trima machine. Finally, Donor Specialists II-II perform the same tasks as Donor Specialists II-I but are additionally able to collect white blood cells using a Spectra Optia machine.⁹ The ALYX, Trima, and Spectra Optia machines use centrifuges to separate particular components of blood. The Donor Specialists connect donors to these machines exclusively by venipuncture, inserting a needle into a vein.

In the course of performing these procedures, Donor Specialists (or the machines they are operating) may provide saline, anticoagulants, and calcium carbonate to donors. Specifically, Donor Specialists administer saline to donors undergoing red blood cell collection using the ALYX machine. Similarly, the machines some Donor Specialists use provide anticoagulants to donors. Additionally, where a donor is experiencing hypercalcemia—a lowering of calcium in the body, which may occur as a side effect of apheresis procedures—Donor Specialists may administer calcium carbonate, also known as the over-the-counter antacid Tums. Donor Specialists are not otherwise permitted to administer medications to donors or patients.

The Donor Specialists perform their work at the Employer's facilities and at blood drives at hospitals, schools, businesses, and other locations in the community. When Donor Specialists are required to travel for a collection event, they receive mileage reimbursement, as required by the parties' collective bargaining agreement.

While working at the fixed sites, the Donor Specialists work alongside and regularly interact with the petitioned-for employees. For example, Neftali Garcia, a former Donor Specialist for the Employer now employed by the Employer as an Apheresis RN, testified that the Donor Specialists and the petitioned-for employees work side-by-side and help each other with venipunctures, with coverage for restroom breaks, and with troubleshooting the machines used to perform their procedures. Stacy Collings Lewis, a Donor Specialist II-II who has worked for the Employer since October 2001, testified both that petitioned-for employees and the Donor Specialists provide coverage for one another when a procedure needs to be paused and assist each other with difficulties relating to venipuncture or problems with the centrifuge machines and that these types of interactions take place around once or twice a week.¹⁰

The Donor Specialists may work five days a week and may also work on-call shifts. Petitioner witness Lewis testified that she works five days per week and that her schedule varies, but most of the time spans 7:15 a.m. to 3:15 p.m. Lewis also noted that she works on-call shifts—during which she usually does get called into work—once or twice per month.

The collective bargaining agreement, as modified, sets forth the terms and conditions of employments of the existing bargaining unit, including seniority, paid holidays, vacation time,

⁸ The collection of red blood cells is an apheresis procedure.

⁹ The Spectra Optia is an apheresis—blood separation—machine manufactured by Terumo BCT that uses a centrifuge to separate any of the four components of blood, which are white blood cells, platelets, plasma, and red blood cells.

¹⁰ Lewis testified that while she has not herself assisted an Apheresis RN with a venipuncture, she has observed other Donor Specialists do so.

leaves of absence, tuition reimbursement, and contributions to the health and the Petitioner's National Benefit Fund.

The contractual hourly rates for existing bargaining unit members range from \$21.13 for the Laboratory Assistants to \$37.23 for one of the Donor Specialists. Animal Care Technicians are paid \$23.51 per hour, Component Technicians are paid between \$21.66 and \$26.61 per hour, Clinical Laboratory Technicians are paid between \$29.94 and \$32.97 per hour, Client Services Representatives are paid between \$21.66 and \$32.05 per hour, the one Clinical Laboratory Technologist is paid \$35.60 per hour, and Blood Distributors are paid between \$21.66 and \$27.36 per hour. The rate of pay for Donor Specialists ranges from \$26.14 to \$37.23 per hour.

The Employer offers a 403(b) retirement plan to both represented and unrepresented employees.

The Employer has an employee handbook that applies to all employees, including both the existing bargaining unit and petitioned-for employees. The handbook sets forth a range of policies, from payroll to leave to safety procedures. Where the handbook and the collective bargaining agreement conflict, the terms of the collective bargaining agreement control.

D. The Petitioned-for Unit: Therapeutic Apheresis Registered Nurses

The petitioned-for employees are the approximately 30 full-time, part-time, and per diem Therapeutic Apheresis RNs employed by the Employer.¹¹ The Apheresis RNs are divided into four subclassifications: RN Graduate Therapeutic Apheresis, RN Therapeutic Apheresis I, RN Therapeutic Apheresis II, and RN Therapeutic Apheresis III, which comprise a career ladder.

The Employer requires candidates for the Apheresis RN position to be licensed as registered nurses in the State of New York.¹² After hire, the Employer expects the petitioned-for employees to also obtain and maintain licensure in New Jersey, Connecticut, and Pennsylvania—though testimony suggests that the Employer may not universally enforce this expectation. Specifically, Apheresis RN Neftali Garcia testified that, while he is licensed as a Registered Nurse in New York, Connecticut, and New Jersey, he is not licensed as a Registered Nurse in the State of Pennsylvania. Garcia testified that he is still able to perform work in Pennsylvania, but—because he is not licensed in the state—he is not able administer medications while working there. Additionally, in order to treat patients at any given hospital, the RNs must go through a “background check” process during which the hospital checks their credentials.

¹¹ The parties agreed that the eligibility of per diem Therapeutic Apheresis RNs to vote in any directed election should be determined under the formula set forth in *Davison-Paxon Co.*, 185 NLRB 21, 23-24 (1970).

¹² The RNs may be hired for their positions through an internal or external career pathway. For example, Apheresis Donor Specialists may apply as internal applicants for the RN Graduate Therapeutic Apheresis position. Indeed, at least five of the approximately 30 Apheresis RNs once worked for the Employer as Donor Specialists. When hiring RNs, the Employer gives consideration to internal applicants who have performed apheresis work as Donor Specialists. Still, most hires for the program come in through the external entry pathway. All applicants must be licensed as registered nurses in the State of New York.

The petitioned-for employees may be trained to perform as many as eight different procedures for patients with a variety of medical conditions. It may take 18 to 36 months or longer for an Apheresis RN to complete the training required to become competent in all eight procedures. These procedures include plasma exchanges, red cell exchanges, white blood cell collections, stem cell collections, red blood cell depletions, platelet depletions, as well as therapeutic phlebotomy. Plasma exchanges are the procedures petitioned-for employees perform most frequently; these involve running a patient's blood through a Spectra Optia machine to separate the plasma, then returning the rest of the blood components to the patient, along with a plasma substitute like albumin. The red blood cell exchanges similarly involve connecting a patient to the Spectra Optia machine, which separates the patient's red blood cells from the remaining blood components and returns those remaining components along with replacement red blood cells. Red blood cell and platelet depletions, too, involve using the Spectra Optia machine to separate out blood components to lower their amount in a patient's body. White blood cell and stem cell collections involve removing white blood cells or stem cells—either for later reinfusion into the patient for donation to another patient—and returning saline and anticoagulants to the patient or donor. To connect patients to the Spectra Optia machine for these procedures, the Apheresis RNs may use venipuncture, catheters, fistulas, or ports. However, the Apheresis RNs do not install catheters, fistulas, or ports themselves.

In the course of their work—and depending on their licensure, as discussed above—the Apheresis RNs may administer medications. For instance, the Apheresis RNs may administer calcium gluconate, Benadryl, Heparin, Lipogen, or Zofran.

For the most part—but not exclusively—the Apheresis RNs perform procedures for patients as part of those patients' treatment for various medical conditions. For example, plasma exchanges may be performed as part of treatment of an autoimmune disease, red blood cell exchanges can treat a sickle cell condition, red blood cell and platelet depletions are performed to treat a condition that has caused a particular component of a patient's blood to rise to a dangerous level, and white blood cell or stem cell collections may be performed for later reinfusion back into the patient to treat a medical condition. The Apheresis RNs also perform therapeutic phlebotomy for acutely ill patients of one hospital network, which encompasses fewer than five of the approximately 160 hospitals the Employer serves. However, as described above, the petitioned-for employees may also collect white blood cells or stem cells from donors who are providing those cells for use in the medical treatment of another person. The record is not entirely clear but appears to indicate that the blood components collected by the Apheresis RNs are processed by laboratory staff who are neither represented nor part of the petitioned-for group.

Typically, Apheresis RNs perform one to two procedures per day: one per day when working at one of the Employer's fixed sites and two per day when working in hospitals. Over 90 percent of the procedures performed by the Apheresis RNs take place at hospitals, representing about 86 percent of their work time.¹³ The remaining 14 percent of the petitioned-for employees' work time is spent performing procedures at the Employer's fixed sites, where they work side-by-side with the Donor Specialists.

Apheresis RNs report to a different work location each day, which may be a hospital, an infusion center, or a fixed site. When the Apheresis RNs are assigned to one of the Employer's

¹³ Employer Documentary evidence shows that, in 2023, the petitioned-for employees performed 496 procedures at fixed sites and 5,868 procedures at hospitals.

fixed sites, they work side-by-side with the Petitioner-represented Donor Specialists. The Apheresis RNs receive instruction as to their work location and assigned procedures for the next day each evening around 5:30 p.m. The Employer provides the Apheresis RNs with Employer-owned vehicles to commute to their assigned sites and pays the Apheresis RNs for travel time between their homes and these sites.

The starting hourly wages for the petitioned-for Apheresis subclassifications are \$45 (RN Graduate Therapeutic Apheresis), \$50 (RN Therapeutic Apheresis I), \$55 (RN Therapeutic Apheresis II), and \$60 (RN Therapeutic Apheresis III).¹⁴ The Apheresis RNs work four days a week from 8 a.m. to 6 p.m., though at times they may work later if doing so is necessary to complete a procedure. Additionally, the RNs may be scheduled for three to four on-call shifts each month. As stated above, unrepresented employees are subject to the Employer's handbook policies and may participate in the Employer's 403(b) retirement plan.

II. ANALYSIS

A. Legal Standard

Under the Board's *Armour-Globe* doctrine, employees may vote whether they wish to be included in an already represented unit of employees if the employees to be added constitute an identifiable, distinct segment and share a community of interest with unit employees. *Walt Disney Parks & Resorts*, 373 NLRB No. 99, slip op. at 5 (2024), citing *Warner-Lambert Co.*, 298 NLRB 993, 995 (1990). The Board does not require that the petitioned-for voting group include all unrepresented residual employees. *St. Vincent Charity Medical Center*, 357 NLRB 854, 855-56 (2011).

1. *Identifiable, Distinct Segment*

The first factor is whether the voting group sought is an identifiable, distinct segment of the workforce. *St. Vincent Charity Medical Center*, 357 NLRB at 855, citing *Warner-Lambert*, 298 NLRB at 995. Whether a voting group is an identifiable, distinct segment is not the same question as whether the voting group constitutes an appropriate unit; that analysis is for situations where a petitioner seeks to represent the employees in a standalone unit. *St. Vincent*, 357 NLRB at 855. Instead, the identifiable and distinct analysis is merely whether adding the petitioned-for voting group to the existing unit unduly fragments the workforce. *Capital Cities Broadcasting Corp.*, 194 NLRB 1063 (1972).

2. *Shared Community of Interest*

If the voting group sought is an identifiable and distinct segment of the workforce, the next question is whether the employees in that voting group share a community of interest with the existing unit. When assessing the community of interest between two groups of employees, the Board considers whether the employees: (1) are organized into a separate department, (2) have distinct skills and training, (3) have distinct job functions and perform distinct work, (4) are functionally integrated with other employees, (5) have contact with other employees, (6) interchange with other employees, (7) have distinct terms and conditions of employment, and (8)

¹⁴ The hourly wages for per diem employees in these subclassifications are \$50, \$55, \$60, and \$65, respectively.

are separately supervised. *Walt Disney Parks & Resorts*, 373 NLRB slip op. at 5, citing *United Operations*, 338 NLRB 123, 123 (2002).

The Board recently reiterated that, while not itself a community-of-interest factor, the diversity of an existing bargaining unit is a relevant consideration when weighing the various factors of the community-of-interest analysis. *Walt Disney Parks & Resorts*, 373 NLRB slip op. at 6 (“[T]he Board has made clear that although the diversity of an existing unit is not itself a community-of-interest factor, such diversity ‘may be relevant to consider generally.’”) (quoting *Public Service Co. of Colorado*, 365 NLRB 1017, 1017 n.4 (2017)). In other words, the Board considers the entirety of the existing unit when analyzing the similarities and differences between existing bargaining unit members and a petitioned-for group. *Walt Disney Parks & Resorts*, 373 NLRB slip op. at 6 (referring to the “highly relevant, additional context”). Thus, the petitioned-for employees need share a community of interest only with the existing bargaining unit generally—not with every individual classification in that unit.

Finally, the Board’s community-of-interest analysis differs depending on which party is seeking to add additional classifications to a given bargaining unit. Where a non-petitioning party asserts that particular classifications *must* be added in order for a petitioned-for unit to be appropriate, for example, the test is whether the community of interest between the employees is so strong that the additional employees *must* be included in the petitioned-for unit. See *Walt Disney Parks & Resorts*, 373 NLRB slip op. at 6. In contrast, when as here a petitioner is seeking to add classifications to an existing bargaining unit, “the standard is simply whether the petitioned-for employees share *a* community of interest with the existing unit employees.” *Id.*

B. Application

As a threshold matter, the Employer, citing *Newton-Wellesley Hospital*, 250 NLRB 409 (1980), and *Brookwood Hospital*, 252 NLRB 748 (1980), contends that the Board has found that a separate bargaining unit is appropriate for registered nurses because they have a distinct community of interest. Neither of these authorities require a separate unit of nurses in this case.

The employer in *Newton -Wellesley Hospital* was an acute care hospital. Here, neither party contends, and the record does not otherwise show, that the Employer operates as an acute-care hospital within the meaning of the Board’s Healthcare Rule. See 29 CFR §103.30.¹⁵ Accordingly, the petitioned-for unit in this case need not conform to the Board’s Healthcare Rule regarding acute care hospital bargaining units. In circumstances where, as here, the petitioned-for group are professional employees in a setting not covered by the Healthcare Rule, the Board weighs the *Armour-Globe* factors to satisfy the self-determination requirements and directs a *Sonotone* election to afford to the professional employees the opportunity to separately express their desires respecting inclusion in a unit with nonprofessional employees. *American Medical Response, Inc.*, 344 NLRB 1406, 1408 (2005).

The cases cited by the Employer do not otherwise require a separate unit. In *Newton - Wellesley Hospital*, a case predating the Board’s 1989 Healthcare Rule, the Board rejected a “per se” approach to unit determinations involving registered nurses. Instead, the Board recognized that

¹⁵ The Rule defines “acute care hospital” as either a short-term care hospital in which the average length of patient stay is less than 30 days, or a short term care hospital in which over 50 percent of all patients are admitted to units where the average length of patient stay is less than 30 days. 29 CFR § 103.30(f).

“registered nurses can ... possess such a community of interests as makes their separate representation appropriate.” 250 NLRB at 413. In *Brookwood Hospital*, the Board found a separate unit of registered nurses only after establishing differences in training, supervision, and responsibilities. Accordingly, below I apply the traditional *Armour-Globe* factors to the record facts.

1. *Identifiable, Distinct Segment*

Here, neither party disputes that the voting group sought by Petitioner constitutes an identifiable, distinct segment of the Employer’s workforce. The Apheresis RNs are neither an arbitrary nor random grouping of employees. They share the same distinct classification, report to the same supervisor, perform the same general functions, have the same basic qualifications, and are organizationally included in the same administrative division, the Clinical Services Department. The record evidence further establishes that the role these employees perform is distinguishable from that performed by other employees. No employees that are not in the petitioned-for voting group perform this function. For these reasons, I find that the petitioned-for grouping of Apheresis RNs constitutes an identifiable and distinct segment of the Employer’s workforce.

2. *Community of Interest*

a) Departmental Organization

The Departmental Organization factor is neutral—it weighs neither for nor against finding a community of interest between the petitioned-for employees and the members of the existing bargaining unit. While the Board may find this factor weighs against a community of interest when employees are organized into separate departments, the factor is entitled to less weight when the existing bargaining unit classifications are organized into separate departments. See *Walt Disney Parks and Resorts*, 373 NLRB slip op. at 9, fn. 20, 21 and 26. See also *MV Transportation, Inc.*, 373 NLRB No. 8, slip op. at 6 (2023) (observing that “the parties agreed to a diverse unit straddling two departments, and the unit placement of the maintenance supervisors should be assessed in the context of that diversity”). Here, while the Apheresis RNs are in the Clinical Service Department, the existing bargaining unit classifications are spread across multiple departments. Thus, because the existing bargaining unit already spans departments, I find there is nothing inherently inconsistent between the petitioned-for unit and the Employer’s departmental organization. Based thereon, I conclude that departmental organization is a neutral factor under community of interest.

b) Skills and Training

For this factor, the Board looks to the respective skills and whether the groups of employees must meet similar requirements to obtain employment, whether they have similar licensure requirements, and participate in similar training programs. *Casino Aztar*, 349 NLRB 603, 607, fn. 11 (2007). Here, the factor weighs against finding a community-of-interest.

To begin, it is undisputed that Apheresis RNs must be licensed as registered nurses in the State of New York. While Animal Care Technicians must hold Purina Laboratory certifications and Clinical Laboratory Technicians must meet New York State Department of Health Technician requirements, I find the training for a nursing license is materially different. Once hired, the Apheresis RNs also receive additional specific training to perform plasma exchanges, red cell

exchanges, white blood cell collections, stem cell collections, red blood cell depletions, platelet depletions, and therapeutic phlebotomy.

Turning to skills, there is overlap between those of the petitioned-for employees and the Donor Specialists, who are included in the existing unit. Donor Specialists, like the petitioned-for employees, use venipuncture (inserting a needle into a vein) to connect donors or patients to Spectra Optia or other centrifuge machines. Indeed, hearing testimony reveals that the Donor Specialists and Apheresis RNs assist one another with venipunctures and machine troubleshooting. However, Apheresis RNs may also connect patients to machines through catheters, fistulas, or ports. Additionally, Apheresis RNs administer medications. I find that the Apheresis RNs' have additional specialized skills and training which weigh against finding a community-of-interest.

c) Job Functions

For this factor, the Board analyzes whether employees perform the same basic function, whether there is overlap in job functions, or whether they work together as a team. When as here the existing bargaining unit encompasses a wide variety of skills and specializations, the relevant question is whether the petitioned-for classifications perform functions that are generally similar to some of the existing unit employees, even if they possess more specialized skills. *Walt Disney Parks and Resorts*, 373 NLRB slip op. at 11. Thus, the two groups need not "perform completely identical or interchangeable functions." *Id.*

The evidence shows that the Apheresis RNs perform some functions that, while not identical or interchangeable, are similar to the functions performed by the Donor Specialists who are in the existing bargaining unit. Both the Donor Specialists and the Apheresis RNs perform apheresis procedures, which may involve connecting a patient or donor by venipuncture to a centrifuge machine. The similarities between this basic function are underscored by the evidence that the Apheresis RNs and the Donor Specialists regularly assist one another with tasks, including troubleshooting centrifuge machines and performing difficult venipunctures.

As the Employer argues, there are distinctions between the work performed by these employees. While Apheresis RNs perform procedures on patients who need the procedures to treat blood disorders, Donor Specialists primarily perform procedures on healthy donors who are choosing to donate their blood or blood products. Additionally, Apheresis RNs have more specialized skills qualifying them to perform therapeutic procedures and administer certain medications.

On balance, while recognizing the difference between treatment and collection, the groups perform similar functions and the distinctions are less substantial when considered against the context of the diverse job functions performed by members of the existing bargaining unit. *Id.* The Blood Distributors, for example, package blood products for delivery, ensuring that controlled settings are maintained, and the Animal Care Technicians care for and take specimens from the Employer's research animals. Accordingly, I conclude that the job function factor is neutral in the community of interest analysis.

d) Functional Integration

The Board finds functional integration when employees must work together and depend on one another to accomplish their tasks. See, e.g., *Walt Disney Parks and Resorts*, 373 NLRB slip

op. at 6, citing *MV Transportation, Inc.*, 373 NLRB slip op. at 5; *Casino Aztar*, 349 NLRB at 605; *Publix Super Markets, Inc.*, 343 NLRB 1023, 1024-1025 (2004). Here, the factor weighs against finding a community of interest.

The record does not reveal functional integration between the petitioned-for employees and the employees in the existing unit. While the record shows the petitioned-for employees and the Donor Specialists assist each at fixed-sites, the petitioned-for employees do not generally rely on the Donor Specialists or any other member of the existing unit in order to perform their work. Rather, the record indicates that the blood and blood products collected by the petitioned-for employees are processed by unrepresented laboratory staff. For these reasons, I find that this factor weighs against finding a community of interest.

e) Contact with Other Employees

This factor depends on the level of work-related contact between the petitioned-for employees and employees in the existing unit. See, *Walt Disney Parks & Resorts*, 373 NLRB slip op. at 6-7, citing *Metropolitan Life Insurance Co.*, 181 NLRB 814, 819 (1970). As discussed below, this factor weighs in favor of finding a community of interest.

The record reveals that the petitioned-for employees have regular contact with existing bargaining unit Donor Specialists. The Apheresis RNs spend between approximately 10 and 14 percent of their work time at the Employer's fixed sites, where they work alongside the Donor Specialists. While working together at the same locations, Donor Specialists and Apheresis RNs assist one another with various tasks, including troubleshooting the centrifuge machines, providing coverage when a procedure needs to be paused for an employee's break, and assisting with difficult venipunctures. One employee witness, Donor Specialist I/II Stacy Collings Lewis, estimated that these interactions take place once or twice every week.

While the Employer argues that contact is de minimis, given these facts I find that there is regular work-related contact between the two groups. Accordingly, I find that this factor weighs in favor of finding a community of interest.

f) Interchange

Interchange refers to temporary work assignments or permanent transfers between groups of employees. *United Operations*, 338 NLRB at 125. This factor weighs slightly in favor of finding a community of interest between the two groups

In *Walt Disney Parks & Resorts*, the Board found evidence of permanent interchange from the petitioned-for group to a classification in the existing bargaining unit provided slight support for finding a community of interest. 373 NLRB slip op. at 10. Although there were only five permanent transfers, the Board afforded greater weight to these five transfers because the petitioned-for group from which the employees transferred consisted of only 16 employees and the classification to which the five employees transferred consisted of only 19 employees. *Id.* While there was no evidence of temporary interchange, the Board gave little weight to that fact, observing that there was also little evidence of such interchange within the existing unit. *Id.* at 7 n.25, 26, citing *Sperry Rand Corp.*, 190 NLRB 488, 488-489 & fn. 2 (1971) (permanent interchange can support a community-of-interest finding when considering whether two groups of employees may be represented in the same unit) and *MV Transportation, Inc.*, 373 NLRB slip op.

at 6-7 (“[T]he lack of evidence of interchange between [the disputed classification] and included classifications is entitled to little weight given that there is no evidence of interchange between any of the included classifications.”)

Here, as in *Walt Disney Parks & Resorts*, the evidence of permanent interchange is entitled to some weight. While the group *from* which the five employees moved is considerably larger than that in *Walt Disney Parks & Resorts*, the petitioned-for group, to which the five employees in this case transferred, is only about 30 employees. As in *Walt Disney Parks & Resorts*, while there is no evidence of temporary interchange between the petitioned-for group and members of the existing bargaining unit, the record does not reveal such interchange amongst members of the existing bargaining unit. Accordingly, I find this factor weighs slightly in favor of finding a community of interest between the two groups.

g) Terms and Conditions of Employment

Terms and conditions of employment encompasses wage ranges and method of pay (for example, hourly), benefits, and work rules and policies. Where the terms and conditions of employment for petitioned-for employees and members of an existing bargaining unit are similar, this factor supports a community-of-interest finding. In the self-determination context, however, differences in employment terms that result from collective bargaining do not mandate exclusion. *Public Service Co. of Colorado*, 365 NLRB 1017, 1017, n.4 (2017). Indeed, such distinctions “may reasonably be expected in the *Armour-Globe* context, where the unit employees’ terms are the result of collective bargaining.” *Id.*

In this case, many of the terms and conditions of employment are the same. The petitioned-for employees and the members of the existing unit are paid hourly and are eligible to participate in the Employer’s 403(b) retirement plan. Both are subject to certain Employer Handbook policies, such as the Attendance and Tardiness, Dress, and Standards of Conduct policies. Both the Apheresis RNs and bargaining unit Donor Specialist classification work both at the fixed sites and off-site. Both work on-call shifts and are compensated for travel to work off-site.

The Employer identifies the differences. The Apheresis RN wage band is significantly higher than those in the collective bargaining agreement and the groups work different schedules. The two groups also differ in that while Donor Specialists receive mileage reimbursement for travel to different work sites, the Employer provides the Apheresis RNs with Employer-owned vehicles and pays them for their travel time. The groups also work different schedules. While the petitioned-for employees work from 8:00 am to 6:00 pm, four-days a week, the Donor Specialists work a five-day week and their schedules may vary. Finally, Apheresis RNs are scheduled for on-call shifts as part of their regular schedule but only a small number of Donor Specialists work on-call shifts.

The Union argues that other differences---the respective available health insurance plans and the method of compensation for travel to work locations—are the result of collective bargaining and thus entitled to less weight.

Overall, although there are significant differences in wage rates and schedule between the Apheresis RNS and existing bargaining unit, I find that this factor weighs in favor of finding the petitioned-for unit to be appropriate. The similarities in the groups’ working conditions slightly outweigh the distinctions in rates of pay, compensation for travel, and schedule.

h) Common Supervision

Evidence of shared supervision between two groups of employees can support a finding that the two groups share a community of interest. However, a lack of shared supervision does not negate a community of interest between a petitioned-for group and members of an existing bargaining unit when members of the existing unit do not themselves share supervision. See *Walt Disney Parks & Resorts*, 373 NLRB slip op. at 7, 7 n.22, citing *Southern California Permanente Medical Group*, 209 NLRB 106, 108, 109 (1974).

Here, the petitioned-for employees do not share supervision with any members of the existing bargaining unit. However, this is mitigated by the fact that members of the existing unit do not themselves share supervision. Accordingly, I find that the supervision factor is neutral.

3. *Armour-Globe Conclusion*

In sum, after carefully weighing the record evidence and the arguments of the parties, I find that frequency of contact and terms and conditions support a finding that the petitioned-for voting group shares a community of interest with the existing unit, while the interchange factor slightly supports the same finding. I find the departmental organization, job function, and supervision factors are neutral, and the skills and training factor weighs against finding that the petitioned-for voting group shares a community of interest with the existing unit. On balance, the relevant factors establish community of interest under *United Operations*, 338 NLRB at 123 and I conclude that it is appropriate to hold a self-determination election among the petitioned for employees.

4. *Appropriate Residual Unit*

It is well established that the Board does not require that a petitioned-for voting group include all unrepresented residual employees. See *St. Vincent Charity Medical Center*, 357 NLRB 854, 855-56 (2011). See also *Rush University Medical Center v. NLRB*, 833 F.3d 202 (D.C. Cir. 2016) (approving application of *St. Vincent Charity Medical Center* to find that a self-determination election was appropriate to decide whether some, but not all, of the employer's unrepresented nonprofessional employees wished to join a preexisting nonconforming acute care hospital unit consisting of some, but not all, of the nonprofessional and skilled maintenance employees). Rather, groups of employees omitted from established bargaining units constitute appropriate "residual" units, provided they include all the unrepresented employees of the type covered by the petition. *G.L. Milliken Plastering*, 340 NLRB 1169, 1170 (2003); *Carl Buddig & Co.*, 328 NLRB 929, 930 (1999); *Fleming Foods*, 313 NLRB 948, 949-950 (1994).

The Employer, citing *G.L. Milliken Plastering*, *Carl Buddig*, and *Fleming Foods*, argues in its post-hearing brief that the Apheresis RNs are not a residual unit as defined by the Board. While, as the Employer contends, Vice President of Human Resources George testified that the Employer employs over 700 additional employees who are not represented by any labor organization, the record does not show that any of those additional undifferentiated employees are of the type covered by the petition. More specifically, the record does not show their titles, qualifications, training, or duties.

The Employer's reliance on *Carl Buddig* is thus misplaced. In that case, the Board held that a residual unit does not require inclusion of "all unrepresented employees," rather, "[a]

residual unit is appropriate if it includes ‘all unrepresented employees of the type covered by the petition.’” 328 NLRB at 930. (finding that a residual unit of production, maintenance and shipping employees was appropriate even though it excluded unrepresented sanitation employees because the sanitation employees were not of the type of unrepresented employees covered by the petition). *Milliken Plastering* and *Fleming Foods*, also cited by the Employer, stand for the same proposition.

Accordingly, I find that it is appropriate to direct an election for the petitioned-for voting group of Apheresis RNs as they are the only unrepresented employees of the type covered by the petition.

III. METHOD OF ELECTION

The parties were unable to agree to the method of election. The Board has delegated to regional directors discretion to determine the arrangements for an election, including the method of election. *San Diego Gas and Electric*, 325 NLRB 1143, 1144 (1998), citing *Halliburton Services*, 265 NLRB 1154 (1982). After careful consideration of the parties’ positions and evidence, I have concluded that a mail-ballot election is more appropriate than a manual election to enfranchise the greatest number of eligible voters.

The Board’s longstanding policy is that elections should, as a general rule, be conducted manually. *San Diego Gas and Electric*, 325 NLRB at 1144. However, a Regional Director may reasonably conclude, based on circumstances tending to make voting in a manual election difficult, that balloting by mail is appropriate. The Board has stated three scenarios where mail ballots would be appropriate, including where voters are “scattered” over a wide geographic area, “scattered” in time due to employee schedules, in strike situations, or other unspecified extraordinary circumstances. *Id.* at 1145. Lastly, if any of the foregoing situations exist, the Regional Director, when exercising the delegated discretion, should also consider the desires of all the parties and the likely ability of voters to read and understand mail ballots. *Id.*

Petitioner contends that a manual election is appropriate. While the employees at issue work at various locations, they are all able to travel and in fact do travel to multiple work locations on a regular basis. The Petitioner proposes a manual election on Thursday, April 3, 2025 from 6-8 am and 6-8pm in the auditorium at the employer’s Center East location, 310 East 67th Street, New York, New York. Petitioner argues that morning and evening time slots will allow employees to vote before or after their regular work hours.

The Employer asserts that a manual ballot election would not be appropriate because it would deprive eligible employees a meaningful opportunity to participate in the election. The Employer argues that the record evidence shows that the petitioned-for employees work at 160 different hospitals, as well as other locations in four states, and that employees are assigned to their locations each day based on patient, hospital, and other operational and client needs. The Employer argues that a manual election, even at multiple voting sites and with multiple voting periods, would not ensure that all of the employees in the petitioned-for voting group have the opportunity to exercise their right to vote. In the event the Regional Director directs a mail ballot election; the Employer proposes that the ballots be mailed April 4, 2025, with instructions that the ballots be returned to the Regional Office by May 16, 2025, and that the ballot count be scheduled for the week of May 19, 2025.

I find that the eligible employees are scattered because of their job duties over a wide geographic area. *San Diego Gas and Electric*, *supra*. Employer witness Executive Director of Clinical Services Carolina Betancourt testified that the petitioned-for employees provide services

at approximately 160 hospitals in New York, New Jersey, Connecticut, and Pennsylvania. While the record does not show the distances between the proposed poll and potential work locations, I take administrative notice that it is approximately 83 miles from the proposed poll address to just the Pennsylvania border.

While the petitioned-for employees work from 8:00 am to 6:00 pm and are therefore not scattered in time due to employee schedules, they are not present at a common location during the common time. Instead, for the proposed morning poll, they would first have to drive from their respective homes to the proposed poll location and then to that day's assigned work location. I note that conducting a manual election during the two hours immediately before and after the common shift would likely inhibit voter participation as it would likely require employees to adjust their off-hour commitments on short notice, given that they receive their work location the evening before and the potential distances to be travelled. I additionally note that they may well encounter travel difficulties during the hours immediately before and after the shift, given the long distances and delays that affect driving in and out of New York City during rush hour traffic.

Finally, no other relevant considerations require a different result. The addresses for eligible voters are available and there is no indication they are unable to read and understand a mail ballot.

Accordingly, I find that a mail ballot election is appropriate in this case to ensure the broadest possible participation of eligible voters. *San Diego Gas & Electric*, supra. For these reasons, I order a mail-ballot election.

IV. CONCLUSION AND FINDINGS

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the Board. Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

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 Section 2(6) and (7) of the Act, as stipulated by the parties, and it will effectuate the purposes of the Act to assert jurisdiction herein.¹⁶
3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act, as stipulated by the parties.

¹⁶ The parties stipulated to the following commerce facts:

New York Blood Center, with an office and place of business located at 310 East 67th Street, New York, NY 10065, is engaged in the operation of providing blood services. Annually, in the course and conduct of its operations, the Employer derives gross revenues in excess of \$100,000 and purchases and receives goods valued in excess of \$50,000 directly from locations outside the state of New York.

4. There is no contract bar, as stipulated by the parties, or any other bar, to conducting an election in this matter.
5. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Sections 9(c)(1) and 2(6) and (7) of the Act.
6. The following employees of the Employer constitute a voting group appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time, regular part-time, and per-diem Therapeutic Apheresis Registered Nurses employed by the Employer, including Therapeutic Apheresis RN I, Therapeutic Apheresis RN II, Therapeutic Apheresis RN III, RN-Graduate Therapeutic Apheresis, and RN Apheresis Trainer (educator) in the New York metropolitan area; but excluding all other employees, confidential employees, managers, and guards and supervisors as defined in the Act.
7. The employees in the above job classifications are professional employees within the meaning of Section 2(12)(a) of the Act, as stipulated by the parties.

As stated above, the petitioned-for employees are professional employees. Accordingly, the desires of the professional employees must be ascertained as to inclusion in a unit with non-professional employees.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the voting group found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by **1199 SEIU United Healthcare Workers East**.

In view of the statutory requirement that the Board may not join professional and non-professional employees in a single unit without the desires of the professional employees being determined in a separate vote, they will be given a *Sonotone* choice. *Sonotone Corp.*, 90 NLRB 1236 (1950). Therefore, the ballots will ask two questions:

1. Do you wish to be included with nonprofessional employees in a unit for purposes of collective bargaining?
2. Do you wish to be represented for purposes of collective bargaining by 1199 SEIU United Healthcare Workers East?

If a majority of those voting vote “Yes” to the first question, indicating their desire to be included in a unit with the non-professional employees, they will be so included. In that case, should a majority of those voting also vote “Yes” to the second question, the ballots will be taken to have indicated the employees’ desire to be included in the existing unit currently represented by 1199 SEIU United Healthcare Workers East.

If a majority of those voting do not vote “Yes” to the first question, the votes on the second question will be counted to decide the question concerning representation by 1199 SEIU United

Healthcare Workers East in a separate unit. In this case, if a majority of those voting vote “Yes” to the second question, the ballots will be taken to have indicated the employees’ desire to form a separate bargaining unit represented by 1199 SEIU United Healthcare Workers East.

If a majority of valid ballots cast are not cast for representation, they will be taken to have indicated the employees’ desire to remain unrepresented.

A. Election Details

I have determined that the election will be conducted by United States mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit by a designated official of the National Labor Relations Board, Region 02, on **April 9, 2025**. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 2 office by close of business on **May 14, 2025**.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by **April 16, 2025**, should communicate immediately with the National Labor Relations Board by either calling the Region 2 Office at 212-264-0300 or our national toll-free line at 1-844-762-NLRB (1-844-762-6572).

The mail ballots will be opened and counted at the National Labor Relations Board, Region 02 on **Thursday, May 15, 2025 at 10:00 a.m.** In order to be valid and counted, the returned ballots must be received by the Region 02 Office prior to the counting of the ballots.

B. Voting Eligibility

Eligible to vote are those in the voting group who were employed during the payroll period ending **March 16, 2025**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

The parties agreed that the eligibility formula that will apply to the per-diem employees in the petitioned for unit is all per diem employees who have worked an average of four (4) hours or more per week during the 13 weeks immediately preceding the eligibility date for the election.¹⁷

In a mail ballot election, employees are eligible to vote if they are in the voting group on both the payroll period ending date and on the date they mail in their ballots to the Board’s designated office.

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 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

¹⁷ The parties agreed to use of this formula, which is set forth in *Davison-Paxon Co.*, 185 NLRB 21, 23-24 (1970), to determine voter eligibility.

as their replacements, are eligible to vote. Voting group employees in the military services of the United States may vote by mail consistent with the instructions above.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period, and, in a mail ballot election, before they mail in their ballots to the Board's designated office; (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.

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by **April 1, 2025**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the voting group found appropriate are customarily posted. The Notice

must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the voting group found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution.

Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 10 business days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review must be E-Filed through the Agency's website and may not be filed by facsimile. To E-File the request for review, go to www.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001, and must be accompanied by a statement explaining the circumstances concerning not having access to the Agency's E-Filing system or why filing electronically would impose an undue burden. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated: March 28, 2025
New York, New York

A handwritten signature in black ink that reads "John D. Doyle, Jr." with a stylized flourish at the end.

John D. Doyle, Jr., Regional Director
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