JD(SF)–12–25
San Francisco, CA

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

FELTON INSTITUTE

and Case 32–CA–298516

SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 1021

Marie Walcek, Esq.
Ariella Bond, Esq.
for the General Counsel.

Steve Hirschfeld, Esq.
Margeaux M. Pelusi, Esq
for the Respondent.

Manuel Boiges, Esq.
for the Charging Party.

DECISION

STATEMENT OF THE CASE

ELEANOR LAWS, Administrative Law Judge. This case was tried in Oakland, California on February 26 and 27, 2025. The Service Employees International Union, Local 1021, (Charging Party, Union, or SEIU) filed the charge on June 22, 2022, and an amended charge on March 1, 2023. The Acting General Counsel issued a consolidated complaint on March 23, 2023, which included numerous other charges, all of which were settled and are not part of this decision. The Felton Institute, Inc. (Respondent or Felton) filed a timely answer denying all material allegations.

The complaint alleges the Respondent violated Section 8(a)(3) and (1) of the National Labor Relations Act (the Act) by stating that employees should not be discussing the Union in work meetings and only the child's needs should be discussed in these meetings; stating that employees were not allowed to wear their union shirts during their professional development training meetings; and by terminating the employment of Katriel Spiker for her union activities and protected concerted activities.

On the entire record, and after considering the briefs filed by the Acting General Counsel and the Respondent, I make the following

FINDINGS OF FACT

I. JURISDICTION

The Respondent, a not-for-profit corporation with offices and places of business in at least 20 locations throughout the State of California, including an office at 2730 Bryant Street, San Francisco, California, has been engaged in the business of providing mental health and social services. During the calendar year ending December 31, 2022, in operating its business as described above in paragraph 2(a), Respondent derived gross revenues in excess of $250,000 and purchased and received products, goods, and materials valued in excess of $5,000 directly from points outside the State of California. The Respondent admits, and I find, that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. Background

The Felton Institute, a registered 501(c) nonprofit, provides services for at-risk youth. At the time of the hearing, about 600 employees worked at Felton, which is headquartered in Alameda, California. This case involves the Union's campaign to organize unrepresented employees at the Felton Institute's 2730 Bryant Street (Bryant Street) location in San Francisco. At the time of the hearing, the Union represented about 50–60 employees at Bryant Street, and about 80–90 employees were unrepresented.

During the relevant time period, Al Gilbert was Felton's chief executive officer, Yohana Quiroz was the chief operations officer (COO), and Lizatte Dalmacio-Julien was the vice president of human resources (HR).[1] This case concerns Felton's Family Development Center, located at the Bryant Street facility, which was part of the Early Intervention and Inclusion department (EI department). Michelle Kaye was the clinical director for the Family, Child, and Youth division, which oversees the EI department.[2] Cynthia Cevallos, who reported to Kaye, was supervisor of the EI department.[3]

From July 2019 to May 2022, Katriel Spiker worked as an early interventionist (EI) at the Family Development Center. Spiker worked with a multidisciplinary team, performing therapy sessions with children, coaching parents, and conducting training. Cevallos was her first-line supervisor and Kaye was her second-line supervisor.

B. The Organizing Campaign

[1] Her title changed to chief people and labor relations officer about 4 months before the hearing.
[2] Kaye was previously the Early Intervention and Inclusion Director.
[3] At the time of the hearing, Cevallos had resigned from Felton.

The Union began organizing the unrepresented employees at the Bryant Street facility in 2019, but efforts were paused due to Covid. Grecia Rojas was the lead organizer assigned to Felton. The Union represented teachers, head teachers, some custodial staff, and kitchen staff, and was seeking to represent EIs, some of the administrative support staff, some of the custodial staff, and the staff who scheduled courses and classes.

When Rojas began her organizing work at Bryant Street, she reached out to the employees who had been identified as leaders, which included Spiker. As part of its campaign, the Union talked to workers outside the worksite, met with workers over coffee, rallied, and picketed. In early 2022, the Union set up tables on the sidewalk in front of the main Bryant Street entrance with union materials such as flyers, pamphlets, sweaters, and water bottles. According to Rojas, when the Union engaged in "tabling," management continually asked them to leave or go across the street, and threatened to call the police. The Union was ultimately unsuccessful in its organizing campaign for the unrepresented Bryant Street employees.

C. Relevant Policies

Felton maintains an employee handbook which included an anti-bullying provision and a code of ethics. The anti-bullying provision provides, in relevant part:

> Bullying refers to repeated, unreasonable actions of individuals (or a group) directed towards an employee (or a group of employees), which are intended to intimidate, degrade, humiliate, or undermine; or which create a risk to the health or safety of the employee(s). Regardless of the intent, bullying in the workplace will not be tolerated. Felton Institute/FSA considers the following types of behavior examples of bullying:
>
> **Verbal Bullying**: Slandering, ridiculing or maligning a person or their family; persistent name-calling that is hurtful, insulting or humiliating; using a person as butt of jokes; abusive and offensive remarks
> . . .
>
> **Gesture Bullying**: Nonverbal threatening gestures; glances that can convey threatening messages
>
> **Exclusion**: Socially or physically excluding or disregarding a person in work-related activities

(Jt. Exh. 1.)[4] Felton's policy on unacceptable behavior includes behaving inappropriately in a business or professional setting, verbally abusing clients or staff, and dishonesty. Felton has a progressive discipline system that includes verbal warnings, written warnings, and termination,

[4] Abbreviations used in this decision are as follows: "Tr." for transcript; "R Exh." for Respondent's exhibit; "GC Exh." for General Counsel's exhibit; "Jt. Exh" for joint exhibit; "GC Br." for General Counsel's brief; and "R Br." for the Respondent's brief. Although I have included several citations to the record to highlight particular testimony or exhibits, I emphasize that my findings and conclusions are based not solely on the evidence specifically cited but rather are based my review and consideration of the entire record.

but may in its discretion utilize any discipline deemed appropriate under the circumstances, including termination. (Id.)

D. Katriel Spiker's Work History

As noted above, Spiker began as an EI at Felton in July 2019. Around November 2019, supervisor Melissa Castillo complained to Kaye about Spiker's behavior. In a meeting with Spiker and Castillo, Kaye shared that Castillo was concerned Spiker acted passive-aggressively toward her, including Spiker rolling her eyes when Castillo spoke and ignoring Castillo. According to Kaye, Spiker acknowledged these behaviors and said she was working to change them. Spiker testified she apologized that Castillo felt the way she did, but did not agree that she had done the things Castillo alleged. (Tr. 85–88, 277.)

During another conversation in 2019, Kaye told Spiker that she "felt a certain kind of way" if Kaye walked into a room and Spiker did not greet her. Spiker responded that it was not on purpose, but she understood. Kaye mentioned that there were times when Spiker displayed facial expressions that made people feel she was unhappy with them. Spiker acknowledged she had room to grow in this area. (Tr. 89–91.)

In July 2021, Cevallos wrote a recommendation letter for Spiker for a Ph.D. program in psychology. Cevallos highlighted Spiker's great clinical skills, excellent interpersonal skills, and great teamwork. (GC Exh. 10.)

Around August 2021, Spiker received an offer of promotion to the position of lead early interventionist in an email sent from human resources. She recalled going back and forth on salary in emails with COO Quiroz. She did not accept the offer because she did not believe the salary increase was commensurate with the added responsibilities.[5] She remained in her position as an EI.[6]

In November 2021, Ariana Pelcastre, a new employee, reported to Kaye some challenging interpersonal problems with Spiker. Pelcastre reported feeling very unwelcome when Spiker was in the room, feeling excluded from the team, and recounted some physical behaviors from Spiker such as eye rolling. This was concerning to Kaye because she had hoped that previous coaching conversations had changed Spiker's behaviors. (Tr. 282–284.) Kaye did not address Pelcastre's concerns until January 2022, when Spiker approached Kaye to discuss a potential promotion to a supervisor position.[7] Kaye told Spiker she would need to demonstrate

[5] In a text to the Lead EI Carina Webster, who had left Felton and whose position Spiker was applying for, Spiker expressed dismay about the low salary raise and about conditions at Felton generally, and stated she was looking for other employment. (GC Exh. 12.)

[6] Applications for promotions are kept in an employee's personnel file, but Dalmacio-Julien's search for Spiker's application did not produce Spiker's application. (Tr. 130–136.) Kaye had no memory of Spiker being offered a promotion. As clinical director, Kaye would have been required to sign off on any promotion. It is undisputed, however, that no promotion was effectuated. I credit Spiker's testimony and in addition grant an adverse inference, as requested by the Acting General Counsel based on incomplete subpoena production, that Spiker was offered a promotion but declined it. See *Metro-West Ambulance Service*, 360 NLRB 1029, 1030 (2014).

[7] Kaye could not recall whether this was in connection with a specific position, or just a general

leadership skills, and her interpersonal skills were getting in the way of showing the kind of collaboration Felton looks for in supervisors. Kaye recalled Spiker acknowledged that it was an area for improvement. At this point, Kaye began to question whether Spiker was being authentic in her response because she had expressed that she needed improvement in the past, but her behaviors continued. Kaye did not, at this point, elevate her concerns about Spiker to HR. (Tr. 285–287, 306–307.)

Spiker received two performance reviews during her time as an early interventionist, in April 2020 and May 2021, and received an overall rating of "2 Met Job Expectations" each year on a scale of 1 to 4 with "1 Exceeds Job Expectations" being the highest rating. (Jt. Exh. 2.) Spiker did not recall Cevallos mentioning interpersonal skills when she presented her with these reviews.[8]

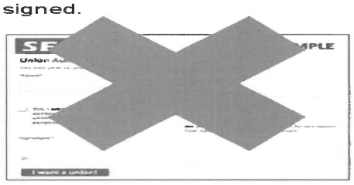
E. Union Activities

On December 17, 2021, Dalmacio-Julien sent an email to employees, in both English and Spanish, instructing them not to sign a card. (GC Exh. 2.) The email, with the subject line "Protect Your Self – DO NOT SIGN" stated on the first page:

From: Lizatte Dalmacio-Julien, SPHR, SHRM-SCP <ldalmacio@felton.org>
Sent: Friday, December 17, 2021 11:14 AM
Subject: Protect Your Self - DO NOT SIGN

DO NOT SIGN A CARD

Sometimes a union organizer will ***exaggerate or even lie*** to get a card signed.



The **TRUTH** is:

- Members **pay monthly dues** (usually 2-3 times your hourly rate) often deducted straight from paychecks.
- Members can be **fined** for violating **union rules**.
- There are **risks** in good-faith union **negotiations** – some things you now get could be **changed or lost**!

A union card is **not** just for information;
not just for an election;
not a guarantee of work, improvements, or job security.

But, if you do sign and a union gets voted in, **you'd be represented, like it or not, you will not have a choice. You'd face UNION COSTS and UNION RISKS** (including the chance of strikes which could impact our clients).

THE TRUTH about this union card:

- It's a ***legal, binding document*** (a signature is required!);
- It's like giving a ***blank check*** on important job rights to a stranger;
- It's ***hard to cancel*** once signed (but if you did sign there are ways to void your signature on that card.)
- IT MAY BE THE ***ONLY CHOICE*** YOU GET TO MAKE ABOUT THE UNION (the cards can be used to bring a union in, **without** a vote).

Over 90% of U.S. Workers choose to work union-free. They **need you** a lot **more than you need them.**

IF YOU ARE APPROACHED, OUR ADVICE IS SIMPLE:
DON'T SIGN ANYTHING. SAY "NO."

inquiry.

[8] Dalmacio-Julien stated that Spiker was terminated for misconduct rather than performance, though the record indicates interpersonal interactions are an element of some performance metrics. Her 2020 performance review states that she "may need a little assistance with interpersonal skills when it comes to internal conflicts with fellow staff." This comment did not appear in her 2021 review. Her 2020 performance review rates her as a "1 Exceeds Expectations" in April2020 and a "2 Meets Expectations" in May 2021 for this performance element. (Jt. Exh. 2.)

The second page reiterated Felton's stance against its employees unionizing, stated that "phony union promises aren't the only reason you shouldn't sign an authorization card," and instructed employees to call Dalmacio-Julien with any questions or concerns.

Spiker first spoke to a union organizer in September 2020 but did not become actively involved with the organizing campaign until early 2022.[9] At that point, she attended Zoom meetings and went to Union events. She also participated in tabling outside in front of Bryant Street about five times between February and March 2022, during her lunch break or after her shift. In this capacity, she stood outside with the union organizer and answered questions for workers.

On March 17, in response to an email from Mariya Semeit, a Felton teacher and union leader, offering to educate employees about the Union, Spiker wrote:

> Hi Mariya,
>
> Thank you very much! I appreciate your dedication and commitment to ensuring that we have are provided with accurate information regarding the union and our rights to form a union. I applaud you as a union leader for emphasizing the importance of union education and advocating for improvements in the workplace.

Semeit's email and Spiker's response was to a group email chain that included VP of HR Dalmacio-Julien, COO Quiroz, and more than 50 other employees.

On March 20, 2022, Spiker voiced support for the Union on this same email chain. Spiker's email, a response to a previous email employee Milagro Castro had sent which had been critical of the Union, stated:

> Hi Mila and fellow Felton employees,
>
> Thank you for sharing your thoughts and feelings. That's the great thing about the union, it will give everyone a voice and all employees an opportunity to be heard.
>
> Let's avoid words like "dirty," "harassment," and "deceiving." You can share your feelings without using these biased non-objective terms.
>
> Once again if you have any questions or concerns about the union's intentions, I encourage you to speak with our Union representative Mariya Semeit.

(Jt. Exh. 5.)

Spiker wore union shirts each day for about a month in late February/early March 2022. Cevallos told Spiker she could only wear her union shirt on Fridays, and Spiker told her she was frustrated she could not wear it every day but agreed to wear it only on Fridays. After that, Spiker wore her shirt on Fridays until her termination. She also frequently wore a union mask.

[9] Spiker attended some Zoom union meetings in late 2021, but management was not present.

Spiker did not believe Cevallos harbored ill will toward her for wearing the union shirt. According to Spiker, Cevallos had told her that management was trying to figure out who was actively organizing workers, had been discussing tactics to prevent union organizing from continuing, and told Spiker to be careful. Around March 2022, Cevallos told Spiker not to talk about the Union in the perimeter of the office. Spiker mentioned the December email Felton had sent telling employees not to sign authorization cards. Cevallos expressed her belief that Felton had gone too far and shared that her mom had been a union organizer. Spiker said she supported the Union because she thought it could better the working conditions at Felton. (Tr. 61–63, 102–105.)

Around this same time period, Kaye spoke with Spiker about some meeting notes she had taken at a monthly teacher meeting. Spiker had included a note about some teachers reaching out to the union. Spiker's notes, like all teacher meeting notes, were uploaded to a shared drive. According to Spiker, Kaye instructed that only the children's needs should be discussed during these meetings, only action items should go in the notes, and union-related matters should not be discussed in the notes. Spiker agreed that the purpose of the meetings was specifically to address the needs of the kids. (Tr. 59, 104.) Kaye said a lot of personal information came up at these meetings, and the notes were shared because they provided action steps for the kids. According to Kaye, she was very specific with the EIs that the notes should contain only action items and not personal information about teachers' feelings or any HIPAA information. They should be short and just include things like, "This kid needs a speech assessment." Kaye could not recall specifically instructing Spiker not to put information about the Union in her notes.[10] (Tr. 297–298.)

F. Complaint about Spiker, Investigation, and Spiker's Termination

Hannah Brown began as an EI at Felton's Family Development Center in August 2021.[11] When she started working, she experienced what she described as microaggressions from Spiker, including eye rolling, looking to the side, and whispering under her breath. Brown was the only monolingual English-speaking EI in the office and perceived that when she entered the room, Spiker would switch to speaking Spanish. Spiker's behaviors made Brown feel like she needed to be a shadow on the wall, her opinion was not valued, and she was not capable of doing her job. Brown felt like she should be looking to work in a different field, which made her feel terrible, sad, angry, and anxious. Brown testified Spiker's under-the-breath comments and eye rolling occurred consistently during the weekly EI meetings. In late November or early December 2021, Brown conveyed her concerns to Cevallos, who was her supervisor as well as Spiker's. Cevallos indicated this was "kind of her personality" and said she would talk to Spiker. (Tr. 317–322.)

On March 25, 2022, employee Darcy Palmer, a coworker and friend of Spiker, brought some concerns to Spiker regarding her (Spiker's) treatment of Brown. Spiker was frustrated that Palmer raised these concerns about Brown because previously Palmer had shared the same sentiment as Spiker that Brown needed coaching and support. Spiker and Palmer argued, both

[10] Kaye is supportive of unions. (Tr. 296.)
[11] Brown described herself as "actively involved" with the Union. (Tr. 330.)

raised their voices, and the conversation got heated enough that they both left the office.[12] Spiker had previously informed Cevallos about Spiker's concerns regarding Brown's performance. Spiker told Cevallos about the argument with Palmer. Cevallos advised her and Palmer to take space from each other. She did not tell Spiker she had acted inappropriately. (Tr. 97–99, 124–125.)

Brown spoke with Palmer in March or April 2022, about her continuing concerns regarding Spiker's behavior toward her.[13] Palmer validated Brown's concerns based on how Spiker treated her (Palmer) and her observations about how Spiker treated Brown. Palmer told Brown about the yelling altercation she had with Spiker over Spiker's treatment of Brown. Palmer and Brown requested a meeting with Cevallos to speak more seriously about Brown's experience. Brown could not recall the date of the meeting, and did not recall anything happening as a result of it. Brown also expressed her concerns to Kaye, after which she received a call from Inclusion Director Plern Pratoommas to talk more in depth about her experience.[14] Pratoommas asked how Brown's experience at work was affecting her, and Brown shared that her anxiety increased, she sought out mental health services (though this was not 100-percent attributed to Spiker's actions) and came to work later to avoid interacting with Spiker. Brown also spoke with Pelcastre, who said she similarly felt unwelcome around Spiker. (Tr. 323–328.)

Pratoommas conveyed this information to Kaye, including that Palmer had opined she did not think Cevallos was doing enough. Pratoommas was going on maternity leave, so she asked Kaye to address the issues. Kaye spoke with Palmer, who shared the incident saying Spiker screamed at her, said she did not feel comfortable around Spiker, and she did not feel Cevallos was taking these concerns seriously. Palmer told Kaye she felt nervous and scared to be in the workplace. Kaye could not remember what specifically Palmer shared about Spiker's behavior toward Brown, just that she was rude to her and targeting her. (Tr. 254–260.)

Kaye spoke with Brown, who validated everything Palmer had said. Brown said a lot of Spiker's behavior was subtle, such as eye rolling at meetings, excluding her from happy hour, and acting like Brown wasn't there in the office. She also heard Spiker had referred to her as dumb. Kaye testified that the EI staff were all very young, for most of them it was their first job after college, and part of her role was to mentor the staff and help them understand workplace expectations. She noted this was Brown's first professional job, she had just moved to San Francisco, and the staff generally had a more welcoming culture. Kaye said Brown reported crying every day, feeling nervous about coming to work, and stated she had already spoken to Cevallos but things had not changed. Kaye told Brown that it was not okay that she felt victimized at work, and that she had to deal with these kinds of behaviors. Brown thanked Kaye for saying this. (Tr. 261–265.)

[12] Spiker testified that both she and Palmer raised their voices during the conversation. (Tr. 97.) Spiker then testified, "I don't think I was raising my voice." (Tr. 98.) I find the former statement that both voices were raised to be more credible based on corroborating evidence. See *Rome Electrical Systems*, 356 NLRB 170 n. 4 (2010)

[13] Palmer left her employment with Felton during the summer of 2022, returned for a month in 2025, and was no longer employed with Felton at the time of the hearing.

[14] Kaye recalled learning about the incident between Palmer and Spiker from Pratroommas. (Tr. 253.)

Kaye informed COO Quiroz and VP of HR Dalmacio-Julien about the incidents concerning Spiker.[15] She considered Spiker's behavior as an escalation "because there was more screaming, name calling, and targeted bullying towards one staff member who, like, I could not, for the life of me, pinpoint what this human being had done to her."[16] (Tr. 291.) Dalmacio-Julien met with Kaye and Quiroz and placed Spiker on paid administrative leave while she investigated.[17]

On April 29, 2022, Spiker was instructed, by an intercom announcement, to report immediately to her desk and dial an extension.[18] Kaye also sent Spiker a text message and email instructing her to stop what she was doing because a serious complaint had been filed against her.[19] The email stated, "A formal complaint has been filed against you. We consider this matter serious. As a result, we are putting you on administrative leave immediately while Human Resources investigates this matter."[20] The email informed Spiker that Dalmacio-Julien would be interviewing her, advised her that the matter was confidential, and instructed her not to contact Felton clients or employees while she was on administrative leave. (GC Exh. 9; Jt. Exh. 4.)

At Quiroz' request, Kaye sent Dalmacio-Julien a list of people she should interview. Kaye listed Spiker, Brown, Palmer, Cevallos, employees Bianka Mendoza, Angelica Gonzalez, and Hannah Weiglein, and former employee Pelcastre. She also volunteered to write up a statement of her experience with Spiker, and suggested that Pratoommas had greater context based on Pratoommas' conversations with Palmer and Brown.

Pratoommas provided a statement on April 29 at Dalmacio-Julien's request. Pratoommas' statement said that she had observed Spiker was, over the last 2 years, consistently late for meetings, absent from meetings, and non-responsive to emails. In late 2021, she asked Cevallos to address these behaviors. Pratoommas also reported that she had observed obvious signs Spiker disapproved of others, including critical remarks and resistance to suggestions for supporting others' growth and learning. She gave Cevallos guidelines to provide Spiker with feedback on how to address her ineffective communication. Pratoommas further noted that, since late 2021, three staff members had raised concerns regarding how Spiker treated them or other staff members, including non-verbal and verbal behaviors. She asked Cevallos to address these concerns with Spiker. Pratoommas also raised the yelling incident with Palmer regarding Brown. She noted that Palmer reported that Spiker and Gonzalez often called Brown lazy and dumb behind her back, and that a nurse named Hannah had expressed her concerns that Brown was being targeted unfairly by the rest of the team. Pratoommas stated that she spoke with Brown,

[15] Kaye had not escalated previous incidents regarding complaints of Spiker's interpersonal interactions to HR.

[16] Kaye thought highly of Brown and did not want to lose her as an employee. (Tr. 292.)

[17] Placing employees on paid administrative leave pending investigation was common practice.

[18] Spiker believed it was uncommon was an employee being told to report to a specific location immediately, but Kaye refuted this. (Tr. 126, 269.)

[19] Spiker asked Kaye for a copy of the formal complaint that had been filed against her and a copy of her personnel file but received no response. (Tr. 66.)

[20] Though Kaye sent Spiker the email, it was initially drafter by Dalmacio-Julien. (Jt. Exh. 4.) The Acting General Counsel asserts that the statement that a "formal complaint" had been filed against Spiker is an exaggeration. While I agree that Palmer did not follow a formal process, there is no dispute she brought concerns to management about Spiker's treatment of Brown in the workplace.

who responded "yes" when asked if she felt threatened and intimidated by Spiker, and if Spiker's behaviors made Brown feel uncomfortable and unsafe. Brown added that she had felt so uncomfortable at meetings, she asked Cevallos if she could attend meetings from home online. (Jt. Exh. 4.) Dalmacio-Julien did not investigate or issue discipline to Gonzalez or any other employee on the team who reportedly had targeted Brown and treated her unfairly.

Kaye also provided a statement on April 29. She said she had concerns about Spiker's interpersonal behaviors since 2019, when Kaye first started at Felton. Kaye noted interpersonal conflicts with employee Carina Webster and supervisor Castillo regarding Spiker's passive-aggressive behaviors, such as eye rolling, sarcasm, and failing to speak to coworkers. Kaye addressed these behaviors and said Spiker acknowledged them and said she wanted to improve. Kaye then discussed interpersonal conflicts that had been reported to her secondhand, but she did not witness. Kaye wrote that in November 2021, Pelcastre called her and told her that Spiker had been rude to her since she started at Felton, not saying hello and excluding her from conversations, and noted that Palmer had also shared that Spiker had been rude to Pelcastre. In January 2022, Kaye recounted the discussion about Spiker potentially becoming a supervisor. Kaye also said she spoke with Spiker about her treatment of Brown. She reported speaking with Cevallos about Spiker between January and April 2022, and Cevallos shared there was tension because Spiker did not think Brown was performing well in her role. Kaye concluded by documenting the incident between Palmer and Spiker regarding Spiker's treatment of Brown.[21]

On May 2, Cevallos provided a statement. By way of background, Cevallos reported that prior to March, sometimes she heard staff making comments about other team members, and she would interject, asking them not to do this. She added that it was sometimes hard to tell what remarks were serious because the team tended to tease each other on a regular basis. As to the incident involving Brown, Cevallos stated she was not present, but she received a call from Palmer at about 3:30 pm. Palmer reported that Spiker was making negative remarks about Brown, a new EI. After Palmer asked Spiker to stop, Spiker raised her voice and said Palmer did not see and experience what she did regarding Brown. Cevallos told Palmer she would speak to Spiker about her unprofessional behavior. About two minutes later, Spiker called her. Cevallos reported that Spiker was very remorseful and did not negate what Palmer had told her. Cevallos stated, "She [Spiker] stated that pressure from work and her personal life had been mounting and at that moment she just exploded." Cevallos told Spiker her behavior was inappropriate and unprofessional, and told her it was wrong to talk ill of a team member, especially someone so new. Cevallos further noted that on March 27, Palmer and Brown texted her saying they were nervous to encounter Spiker at work. Cevallos assured them she had spoken with Spiker, they should be fine being in the office with Spiker, and to let her (Cevallos) know if they did not feel comfortable or if the remarks reoccurred. Cevallos concluded by stating that, since March, everyone seemed to be getting along. Cevallos checked in with Brown on April 20, and Brown told her she felt things were going well, there had been no negativity from Spiker, and Spiker had since included her in more collaborative work and talked to her more in general. (Jt. Exh. 4.)

Dalmacio-Julien met with Cevallos around the first week of May. According to Dalmacio-Julien, Cevallos shared that there had been some behavioral challenges with Spiker and mentioned incidents with Castillo and Pelcastre. Cevallos then discussed the incident with

[21] Kaye also provided testimony about much of what her statement covered.

Palmer. She said that she had counseled Spiker a couple of times about trying to change her behavior, about the eye rolling and making people feel uncomfortable and not part of the team, but that behavior had not changed.[22] (Tr. 155–160; Jt. Exh. 4.)

Dalmacio-Julien also met with Brown in early May. She reported that Spiker made her feel uncomfortable, interrupted her in meetings, made snarky remarks, rolled her eyes when Brown spoke, and talked about her. Brown cried and her face was red when she reported this, and she questioned whether Felton was the right company for her. According to Dalmacio-Julien, Brown said she overheard Spiker calling her lazy and dumb. (Tr. 162–165.)

Dalmacio-Julien interviewed Palmer. According to Dalmacio-Julien, Palmer said she was disappointed because she was good friends with Spiker, but she could not tolerate Spiker making negative comments about staff. Palmer told Spiker to stop making negative remarks about Brown, and Spiker yelled at Palmer and said she was not even part of the team anymore. Palmer reported that she heard firsthand Spiker calling Brown lazy and dumb, and stating Brown did not know what she was doing. Dalmacio-Julien perceived Palmer as hurt because her eyes were teary and her mouth was stuttering. (Tr. 166–167.)

Dalmacio-Julien attempted to interview Angelica Gonzalez and Bianka Mendoza. Gonzalez told Dalmacio-Julien she had nothing to say. Mendoza said she had no knowledge of the incident.[23] (Tr. 222–223.)

Dalmacio-Julien met with Spiker on May 9. Their respective accounts have some overlap and some differences. According to Spiker, Dalmacio-Julien asked her if she knew what a bully was and asked her if she had seen the movie Mean Girls. She also asked why Spiker spoke Spanish in the office. Spiker responded that some teachers are monolingual Spanish speakers and added that Spanish was her native language. Dalmacio-Julien asked if Spiker about her relationship with her coworkers. Spiker said she had a good relationship with her coworkers and asked if the question was in relation to Spiker reporting to her supervisor that a certain early interventionist was not pulling her weight and meeting expectations. She did not recall any other questions. Spiker asked what the complaint against her was and the policy she had violated. Dalmacio-Julien told her that it was confidential, but she could tell her after the investigation. Spiker did not recall if Dalmacio-Julien identified names. Spiker asked if this had to do with the complaint she made about Brown's work performance and mentioned Palmer's name. Spiker did not remember what Dalmacio-Julien said in response. Spiker did not remember if the issue about calling Brown dumb or stupid came up, or if the argument between her and Palmer came up. (Tr. 69–71, 111–112.)

According to Dalmacio-Julien, she asked Spiker whether she knew why she was on administrative leave.[24] Spiker, rolling her eyes, said she had an idea that it was because of the

[22] Cevallos, who no longer worked for Felton, did not testify, and therefore Dalmacio-Julien's account of what she said is hearsay. This testimony, however, contradicts Cevallos' statement, discussed below, that Spiker's interpersonal interactions had improved, as discussed below. I therefore do not credit this aspect of Dalmacio-Julien's testimony.

[23] The record does not indicate what, if any, attempts Dalmacio-Julien made to interview employee Weiglein or former employee Pelcastre.

[24] The Acting General Counsel requests an adverse inference based on the Respondent's failure to

incident with Palmer. Dalmacio-Julien said it was reported to her that Spiker exploded during a meeting with Palmer after Spiker complained about Brown's performance. Spiker admitted that she yelled. Spiker denied calling Brown lazy, dumb, stupid, or making snarky remarks to her, and denied rolling her eyes at employees. Dalmacio-Julien brought up Felton's anti-harassment and anti-bullying policies. She denied bringing up the movie Mean Girls. Dalmacio-Julien perceived Spiker's demeanor as dismissive. She denied that Spiker asked for a summary of the investigation or that she agreed to provide it to her after the investigation, and she denied that Spiker asked for a copy of her personnel file.[25] (Tr. 169–179.)

Dalmacio-Julien determined that Spiker had violated Felton's anti-bullying policy by calling Brown lazy and dumb, rolling her eyes, and socially excluding coworkers. She also determined that Spiker had engaged in unacceptable behavior by yelling and verbally abusing staff. Dalmacio-Julien further determined that Spiker had been untruthful by denying she called Brown lazy and dumb and denying she yelled at Palmer. Because Felton had a zero-tolerance for bullying, Dalmacio-Julien determined that Spiker should be terminated. She considered lesser discipline, but based on feedback that these behaviors had been previously addressed and Spiker failed to improve, she determined the behavior was not going to change. (Tr. 185–191.) Kaye agreed with Dalmacio-Julien's recommendation because she was concerned that Spiker was continuing to make coworkers feel anxious and unsafe to go to work. (Tr. 293–294.)

Dalmacio-Julien and Kaye met with Spiker at Felton headquarters. Spiker was handed her termination paperwork, dated May 12 and signed by Kaye, which stated:

> This letter confirms our discussion today informing you that your employment with Felton Institute is terminated effective immediately due to complaints. You are being terminated effective Thursday 5/12/2022 for misconduct in the workplace.
>
> Your final paycheck will be provided to you on 05/12/22 and will include payment for unused, accrued vacation hours.
>
> Your health insurance benefits will continue through May 31, 2022. Your rights to continue coverage under COBRA will be provided to you by mail from our plan administrator. You can contact Shantae Bowles at sbowles@felton.org regarding your retirement plan distribution options.
>
> Should you have further questions, please contact me directly at 415-994-5135 or mkaye@felton.org

---

produce the list of questions Dalmacio-Julien brought to her interview with Spiker. The cited subpoena paragraph requests documents that the Respondent relied upon, gathered, or created in deciding to place Spiker on administrative leave or to terminate her. It has not been established that Dalmacio-Julien's list of questions (as opposed to any potential responses) were created or relied upon to place Spiker on administrative leave or to terminate her. I therefore decline to draw an adverse inference.

[25] Dalmacio-Julien said that as a matter of policy, employees are not provided with copies of HR investigations, which I find credible. I do not find either witness' testimony about the meeting to be fully credible or fully lacking credibility and believe most of the discrepancies are due to what each witness remembered given the lapse of time. I do, however, credit Spiker that Dalmacio-Julien made a reference to Mean Girls—her testimony was certain and clear, and it would be a very odd thing to make up.

(Jt. Exh. 4.) Spiker asked what policy she violated and did not receive an answer. Spiker said she was not comfortable signing the paperwork and asked for a copy of the HR investigation. Spiker was told it would be emailed to her personal email. As of the hearing, Spiker did not know what policy she allegedly violated and had not received a copy of the HR investigation or her personnel file.[26] Prior to her termination, Spiker was not disciplined. (Tr. 72, 118–120.) Dalmacio-Julien testified that about 8 other employees had been disciplined under Felton's anti-bullying policy since Spiker's termination, and she believed employees had been disciplined under the policy before 2019.[27] (Tr. 202–204.)

Following Spiker's termination, Brown and Spiker continued to follow each other on social media. Brown testified that Spiker texted her about her car getting broken into and apologized if she had treated her in any type of way in the office.

The text Spiker sent to Brown on June 14, 2022, stated:

> Hey HB! I've been thinking about you and I hope you are doing well. I just wanted to apologize if you ever felt bullied by anything I said and/or did. That was never my intention. Anything I brought up as a concern to leadership had to do with work performance of a specific employee with the good intention of wanting what was best for the team. As well as creating an environment that was equitable without favoritism. I want to say admire your worth [sic] ethic and commitment to the children and families. I also really enjoyed watching you grow as a therapist and build your skill set. I hope you are being treated well by leadership and if not I hope you find a place where you can be treated the way you deserve.

Brown testified that she responded briefly that she hoped Spiker was doing well. Brown's response in fact stated:

> Hi Kat! You just made my day, I've been thinking about you too and hope you are doing well. I want you to know that I am forever appreciative of your willingness to help me figure out my job since day one. I know everything you did was for the betterment of the team and ultimately for our families. I look up to you for your persistence in creating equality in systems that are broken and I try to embody that in my work. You deserve a place where your empathy, drive and work ethic are valued and celebrated and DO NOT settle for anything less than that.

(GC Exh. 13.)

[26] Spiker requested a copy of her "employee profile" in a text message on or around the date she was placed on administrative leave. (GC Exh. 11; Tr. 338.)

[27] Dalmacio-Julien did not provide any specifics about other employees' discipline, and the Respondent did not enter any documentation of other employees' discipline into the record, so I am not able to determine whether they were similarly situated to Spiker. For this reason, I have not given any weight to Dalmacio-Julien's testimony about treatment of other employees in making this decision.

On February 17, 2025, Brown was promoted to Lead EI effective March 7, 2025.[28] (R Exh.1.)

Decision and Analysis

A. Section 8(a)(1) Allegations

1. Legal Standards

Under Section 8(a)(1) of the Act, it is an unfair labor practice for an employer to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in Section 7 of the Act. The rights guaranteed in Section 7 include the right "to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. . . ." The basic test for a violation of Section 8(a)(1) is whether, under all the circumstances, the employer's conduct reasonably tended to restrain, coerce, or interfere with employees' rights guaranteed by Section 7. *Mediplex of Danbury*, 314 NLRB 470, 472 (1994); *Sunnyside Home Care Project*, 308 NLRB 346 fn. 1 (1992), citing *American Freightways Co*., 124 NLRB 146, 147 (1959).

In assessing whether a remark constitutes a threat, the appropriate test is whether the remark "can reasonably be interpreted by the employee as a threat." *Smithers Tire*, 308 NLRB 72 (1992). The actual intent of the speaker or the effect on the listener is immaterial. *Smithers Tire*, 308 NLRB 72 (1992); see also *Wyman-Gordon Co. v. NLRB*, 654 F.2d 134, 145 (1st Cir. 1981) (inquiry under Sec. 8(a)(1) is an objective one which examines whether the employer's actions would tend to coerce a reasonable employee).

Even if a statement is made "as a helpful warning without evidence of animus" it can still be coercive if it conveys that management views employee organizing activity in a negative light. *Amentum Servs., Inc*., 374 NLRB No. 16 (2024); See also *Challenge Manufacturing Co., LLC*, 368 NLRB No. 35, slip op. at 1, fn. 3, 10-11 (2019) (supervisor's statement that employee should watch his back because managers were after him because of his union activity reasonably tended to interfere with employee's exercise of Section 7 rights), enfd. 815 Fed. Appx. 33, 38-39 (6th Cir. 2020).

2. Alleged Instruction Not to Discuss Union inside Office

Complaint paragraph 7(a) alleges that the Respondent violated Section 8(a)(1) of the Act when, about late March 2022, Cynthia Cevallos stated that employees needed to be mindful of their Union related conversations within the perimeter of the office. Spiker's testimony that Cevallos told her she should not be discussing the Union in the perimeter of the office is

[28] Brown's supervisor attended the hearing and observed her testimony. While this diminishes the impact of her testimony, I find Brown was a credible witness based on her demeanor as well as the corroboration of her testimony with the statements in the record as well as other evidence and testimony. Brown did not appear to embellish her testimony and her descriptions of the treatment she received as well as her reaction to it appeared genuine. She responded to open-ended questions with detail and consistency. or

unrefuted.[29] It was made on the heels of a statement that management was trying to figure out who was actively organizing and had been discussing tactics to prevent union organizing from continuing. In context, and considering that Cevallos supported the Union, the comment, though meant "as a helpful warning made without animus," was nonetheless coercive because it would convey to a reasonable employee that management viewed employees active in union organizing unfavorably. I therefore find the Acting General Counsel has proved this complaint allegation.

3. Alleged Instruction Not to Discuss Union in Meetings

Complaint paragraph 7(b) alleges the Respondent violated Section 8(a)(1) when, about January or February 2022, Michelle Kaye stated that employees should not be discussing the Union in work meetings and only the child's needs should be discussed in these meetings.

Spiker and Kaye provided somewhat different versions of this instruction. According to Spiker, Kaye instructed her not to include union-related information in the notes from the teacher meetings. According to Kaye, she instructed all EIs, including Spiker, that the notes should contain only action items related to the children's needs. Spiker agreed that the purpose of the meetings was to address the children's needs. Even assuming Kaye instructed Spiker not to include union-related comments in the meeting notes, this is consistent with the overall instructions that the notes should be focused on the children and not contain extraneous information.

The issue presented here is akin to cases where an employer prohibits employees from talking about a union at work. It is well settled that "an employer may forbid employees from talking about a union during periods when the employees are supposed to be actively working, if that prohibition also extends to other subjects not associated or connected with the employees' work tasks. However, an employer violates the Act when employees are forbidden to discuss unionization, but are free to discuss other subjects unrelated to work…." *Jensen Enterprises*, 339 NLRB 877, 878 (2003). The General Counsel did not present evidence that the Respondent permitted topics other than those related to action items for the children in the teacher meeting notes. Kaye's testimony that only action items related to the children's needs should be included in the meeting notes is unrefuted and does not single out union-related notes. I therefore recommend dismissal of this complaint allegation.

B. Spiker's Termination—Section 8(a)(3)

Complaint paragraph 8 alleges the Respondent terminated Katriel Spiker because she supported and/or assisted the Union and engaged in concerted activities.

Under Section 8(a)(3), it is an unfair labor practice to discriminate "in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization."

The Board's framework in *Wright Line*, 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982), applies to discrimination allegations when mixed

[29] The statement is not hearsay under Federal Rule of Evidence 801(d)(2)(D).

motives are presented. Under *Wright Line*, the General Counsel must first make a prima facie showing sufficient to support the inference that protected conduct was a motivating factor in the employer's decision. The elements commonly required to support the General Counsel's initial burden are: (1) union or other protected activity by the employee, (2) employer knowledge of that activity, and (3) antiunion animus on the employer's part. See *Intertape Polymer Corp*., 372 NLRB No. 133 (2023).

A discriminatory motive may be established by circumstantial evidence, which can include, among other factors: the timing of the employer's adverse action in relationship to the employee's protected activity; the presence of other unfair labor practices; statements and actions showing the employer's general and specific animus; the disparate treatment of the discriminatee(s); departure from past practice; shifting, false or exaggerated reasons offered for the action; and failure to conduct a meaningful investigation. See *Intertape Polymer Corp*., above,, slip op. at 6 (2023); *Safety System, LLC*, 370 NLRB No. 90, slip op. at 1 (2021). The Board will infer an unlawful motive or animus where the employer's action is "baseless, unreasonable, or so contrived as to raise a presumption of unlawful motive." *J. S. Troup Electric*, 344 NLRB 1009 (2005) (citing *Montgomery Ward*, 316 NLRB 1248, 1253 (1995)); See also *ADS Electric Co*., 339 NLRB 1020, 1023 (2003); *Shattuck Denn Mining Corp. v. NLRB*, 362 F.2d 466, 470 (9th Cir. 1966).

If the General Counsel meets this prima facie burden, the burden of proof shifts to the employer to demonstrate it would have acted the same had protected conduct not occurred. The employer cannot carry this burden merely by showing that it also had a legitimate reason for the action, but must persuade, by a preponderance of the evidence, that the action would have taken place absent the protected activity. *Dentech Corp*., 294 NLRB 924, 956 (1989).

Turning to the Acting General Counsel's initial burden, the evidence shows Spiker engaged in union activities. She participated in tabling, wore union shirts and masks, and sent emails voicing her support for the Union.

The Respondent disavows knowledge of most of Spiker's union activities. The evidence, however, establishes that Cevallos knew she wore her T-shirt to work and instructed her only to wear it on Fridays.[30] The Board imputes a supervisor's knowledge of an employee's union activities to the decisionmaker, unless the employer affirmatively establishes a basis for negating such imputation. See, e.g., *Vision of Elk River*, Inc. 359 NLRB No. 5, slip op. at 4 (2012), reaffirmed and incorporated by reference in 361 NLRB No. 155 (2014); *G4S Secure Solutions*, 364 NLRB 1327, 1330 (2016), enfd. mem. 707 Fed. Appx. 610 (11th Cir. 2017). No such basis has been affirmatively established.[31] Moreover, since VP of HR Dalmacio-Julien and COO

[30] The Respondent contends that Dalmacio-Julien and Kaye were unaware of Spiker wearing a T-shirt. The testimony cited was that Dalacmio-Julien did observe Spiker wearing a union shirt, and that Kaye testified that she did not remember whether she saw Spiker wearing a union shirt. (R Br. 23; Tr. 149, 295.)

With regard to Kaye's instruction not to include union-related material in teacher meeting notes, I am unable to find that this establishes knowledge of Spiker's union support, as the record does not include information to ascertain what Spiker said about the Union in her notes, and whether whatever she said voiced support for the Union.

[31] Though, according to Spiker, Cevallos supported the Union, it does not follow that she kept

Quiros were on the email chain where Spiker voiced support for the Union, they were made aware of such support.[32] Accordingly, I find the Acting General Counsel established the Respondent knew Spiker supported the Union.

As to animus, I find the antiunion email and attachment, entitled "Protect Your Self – DO NOT SIGN" sent by Dalmacio-Julien, the Respondent's top human resources official, establishes the requisite animus. The attachment to the email states that union organizers sometimes lie to get cards signed and strongly encourages employees not to sign an authorization card. In addition, Spiker's testimony that Cevallos told her management was trying to figure out who was actively organizing the workers and discussing tactics to prevent its continuance is unrefuted. The threats to call the police when the Union engaged in tabling activities, also unrefuted, are further indication of animus.

Timing can be indicative of animus, but under the facts of this case, I do not find it is. Spiker's increased union activities, including her March 17 and 20, 2022, emails voicing her support for the Union, certainly coincide with her placement on administrative leave in April and termination in May. It is also clear, however, that Palmer voiced her concerns to Spiker regarding Spiker's treatment of Brown on March 25, 2022, and raised these concerns with management in March and April 2022, which led to the investigation and ultimately Spiker's termination. The Acting General Counsel asserts that the timing is indicative of animus because Felton never previously acted on complaints about Spiker's behavior. In this regard, however, I am persuaded that Kaye, who struck me as a highly credible witness based on her forthcoming and earnest demeanor, was genuinely concerned about Brown, a new employee Felton wanted to retain, and about a pattern of behavior from Spiker that persisted despite previous coaching. I do not find her decision to escalate the matter to HR in the face of repeated failed counseling efforts indicative of union animus. Regardless, however, I find the Acting General Counsel established sufficient evidence of animus and has met the elements necessary under *Wright Line* to establish a prima facie case that Spiker's termination was motivated by her union activity.

The Respondent contends that Spiker was terminated based on her conduct, including her treatment of Brown, culminating in the argument with Palmer, in violation of Felton's anti-bullying policy and unacceptable behavior guidelines, as well as her dishonesty during the investigation.[33]

The strongest evidence of pretext comes from Cevallos's statement, where she reported that she checked in with Brown on April 20, and Brown told her she felt things were going well, there had been no negativity from Spiker, and Spiker had since included her in more collaborative work and talked to her more in general.[34] This, along with the fact that none of the

---

Spiker's support from management, particularly Kaye, who testified she was also supportive of the Union.

[32] The Respondent argues that Spiker did not engage in protected concerted activity. It is clear, however, she engaged in union activity.

[33] As the Acting General Counsel pointed out, dishonesty was not cited as a justification until the hearing, and I find it was an after-the-fact justification indicative of pretext.

[34] Dalmacio-Julien testified that Cevallos received a memorandum about her mishandling of the situation involving Spiker, Palmer, and Brown, noting that she should have brought the matter to HR's attention, and was placed on a performance improvement plan. (Tr. 201.) The Respondent did not enter

other employees on the team who reportedly mistreated Brown, including Gonzalez, were disciplined casts some doubt on the Respondent's true motivation.[35] The evidence also shows, however, that Brown reiterated her concerns about Spiker's treatment of her during her interview with Dalmacio-Julien in early May. While things may have been better for a snapshot in time, it is clear from Brown's testimony, supported by the evidence as a whole, that Brown remained troubled by Spiker's treatment of her.

The Acting General Counsel also cites failure to follow progressive discipline as evidence of pretext. The policy, which includes verbal and written warnings, permits any discipline deemed appropriate under the circumstances, including termination. In light of Kaye and Cevallos' previous repeated coaching for similar behavior, however, I do not find failure to issue a Spiker verbal or written warning points to pretext. I likewise do not fault Felton for failing to previously have taken formal discipline against Spiker and find it reasonable to have initially attempted to change her behavior through coaching. The Acting General Counsel also argues that Spiker was not given sufficient information about her alleged misconduct to allow her to meaningfully defend herself. The evidence shows, however, that Spiker knew the investigation concerned bullying and the interaction with Palmer regarding her treatment of Brown. Based on the interviews she conducted and the statements she received, I find Dalmacio-Julien reasonably concluded that Spiker's conduct, and notably its effect on Brown and Palmer, violated Felton's policies. See *Washington Fruit & Produce Co*., 343 NLRB 1215, 1220-1221 (2004).

Dalmacio-Julien provided some demonstrably incorrect testimony regarding the investigation. She testified that during her investigation, she did not discover any claims that other employees besides Spiker were also speaking negatively about coworkers. (Tr. 229–230). However, Cevallos wrote in her statement that other employees made negative comments about other team members, and Pratoommas reported that Gonzalez, along with Spiker often called Brown lazy and dumb to other team members. In addition, as the Acting General Counsel points out, Dalmicio-Julien provided inconsistent testimony regarding what she asked for by way of statements, first stating she asked for information about "this incident with Katriel" but later testifying she asked for everything from when the witnesses first started working with Spiker. (Tr. 155, 212.) Despite these flaws and inconsistencies, the Respondent's defense "does not fail simply because not all the evidence supports it, or even because some evidence tends to negate it." *Merillat Industries,* 307 NLRB 1301, 1303 (1992).

The facts of this case present an extremely close call. In the end, I am convinced Kaye was legitimately concerned about Spiker's treatment of Brown on the heels of similar interpersonal problems that Kaye and Cevallos had tried to address through coaching on more than one occasion. I find credible Kaye's testimony that she decided to escalate the matter to HR based on her assessment that she could not tolerate Spiker's treatment of Brown, further coaching efforts would not be fruitful, and she needed to take more formal action. While Dalmacio-Julien's investigation was not perfect, I find she reasonably concluded that Spiker's

---

any memoranda or the performance improvement plan into the record. Cevallos was not called as a witness by any party.

[35] The record does not indicate whether anyone else was counseled or whether this was the first time the other employees' alleged poor treatment of a coworker was reported to upper-level management.

conduct violated Felton's policies, and in agreement with Kaye, decided to terminate her employment. Based on the foregoing, I recommend dismissal of this complaint allegation.

CONCLUSIONS OF LAW

1. By instructing employees not to discuss the Union in the office, the Respondent has violated Section 8(a)(1) of the Act.

2. This unfair labor practice affects commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, I shall order it to cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act.

Having found the Respondent instructed employees not to discuss the Union in the office, the Respondent shall be ordered to cease and desist from such action, and from in any like or related manner interfering with, restraining, or coercing employees in the exercise of rights guaranteed them by Section 7 of the Act.

The Respondent shall be ordered to post a notice, as detailed below.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[36]

ORDER

The Respondent, Felton Institute, Alameda, California, its officers, agents, successors, and assigns, shall

1. Cease and desist from:

(a) instructing employees not to discuss the Union in the office

(b) in any like or related manner interfering with, restraining, or coercing employees in the exercise of rights guaranteed them by Section 7 of the Act.

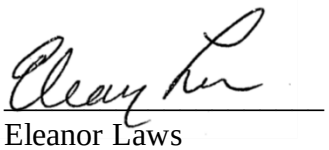
[36] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

(a) Within 14 days after service by the Region, post at its Bryant Street facility in San Francisco, CA copies of the attached notice marked "Appendix"[37] in both English and Spanish. Copies of the notice, on forms provided by the Regional Director for Region 32, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to [employees] [members] [employees and members] are customarily posted. In addition to physical posting of paper notices, the notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since March 29, 2022.

(b) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. May 23, 2025



Eleanor Laws
Administrative Law Judge

37 If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities.

WE WILL NOT instruct you not to discuss the Service Employees International Union, Local 1021, or any other union, in the office.

WE WILL NOT in any like or related manner interfere with your rights under Section 7 of the National Labor Relations Act.

FELTON INSTITUTE
(Employer)

Dated _____ By _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.
1301 Clay St Ste 1510N, Oakland, CA 94612-5224
(510) 637-3300, Hours: 8:30 a.m. to 5 p.m.

The Administrative Law Judge's decision can be found at www.nlrb.gov/case/32-CA-298516 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (510) 637-3300.