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Subject: Edward Waters University, 12-CA-306753 (case closing email)
Date: Wednesday, May 7, 2025 10:05:25 AM

The Region resubmitted this religious-university case in light of new jurisdictional evidence that was disclosed in Edward Waters University's ("EWU") recent motion to dismiss. Upon further review, we conclude that EWU is a religious institution under the *Bethany College* test as applied in *Saint Leo University Inc.*, 373 NLRB No. 121 (2024), and is therefore exempt from the Act's coverage. This email supersedes all prior Advice guidance in this case. Furthermore, Regions should no longer seek to overturn the Board's decision in *Bethany College*, 369 NLRB No. 98 (2020), or follow the guidance set forth in the General Counsel's Minute in *Saint Leo University*, Cases 12-CA-275612, et al., dated May 12, 2022, or the Advice Memorandum in *Philander Smith College*, Case 15-CA-278071, dated March 17, 2022.

EWU is a private, historically black liberal arts institution located in Jacksonville, Florida. In 2022, EWU withdrew recognition from the Union that had long represented a unit of professors.

In *Bethany College*, the Board adopted the D.C. Circuit's three-part test set forth in *University of Great Falls v. NLRB*, 278 F.3d 1335, 1344 (D.C. Cir. 2002), for assessing whether the Board can exercise jurisdiction over faculty at religious schools. 369 NLRB No. 98, slip op. at 1. Under this test, a school is a *bona fide* religious institution if it: (1) "holds itself out to students, faculty, and community as providing a religious educational environment"; (2) is "organized as a nonprofit"; and (3) is "affiliated with, or owned, operated, or controlled, directly or indirectly, by a recognized religious organization, or with an entity, membership of which is determined, at least in part, with reference to religion." *Id.*, slip op. at 3, 6 (quoting *Great Falls*, 278 F.3d at 1343-44, 1347 & n.2). In *Saint Leo*, the Board found the first prong "plainly" satisfied based on a Catholic identity statement that appeared on the university's public website and a mission statement that described the institution as Catholic and "[r]ooted in the 1,500-year-old Benedictine tradition." 373 NLRB No. 121, slip op. at 2. Further supporting that finding were the numerous Catholic religious services and projects on campus in which students were encouraged to participate. *Id.* As to the third prong, the Board found that the university was affiliated with a religious organization because (1) it was founded by Benedictine Monks and maintained a relationship with an abbey and monastery; (2) its bylaws contained a requirement that its 30-member governing board of trustees include two religious officials; and (3) it was a member of both the Association of Catholic Colleges and Universities and the Association of Benedictine Colleges and Universities. *Id.*, slip op. at 3-4.

Here, we find that EWU holds itself out as providing a religious educational environment. Its mission statement, which appears on its website, provides that it "is a Christian, Historically Black, urban liberal arts institution" and that "[t]he University strives to prepare students holistically to advance in a global society through the provision of intellectually stimulating

programs, and an environment that emphasizes high moral and spiritual values in keeping with the African Methodist Episcopal Church” (“Church”). Its website, bylaws, student handbook and course catalog contain various references to its Christian identity. For example, the bylaws’ “religious commitment” section states that, “[i]n keeping with the original purpose for which the College was founded, [EWU] shall at all times remain committed to Christian principles that emphasize high moral and spiritual values from the black religious perspective which is the College’s heritage.” Likewise, the student handbook lists “Christian Principles” as the first of ten “Core Values.” These facts plainly establish that the first prong has been met, as in *Saint Leo*, since EWU’s public documents “describe the University as being a religious institution of higher learning in present-day terms” rather than a mere connection based on a “vestige of its founding.” *Id.*, slip op. at 2. Further supporting the “holding out” prong here is that EWU freshmen and resident hall students are required to attend weekly chapel.

There is no dispute that EWU operates as a non-profit.

As to the third prong, we conclude that EWU is affiliated with the Church. Its predecessor institution was founded in 1866 by Church reverends. A Church bishop serves as an ex-officio member and chairman of the board and between 6 to 18 other board members are selected by the Church. EWU is not only listed on the Church’s website as an Institution of Higher Education, but new evidence demonstrates that it is listed as such an institution in a 2021 book entitled “Doctrine and Discipline” under a section entitled “Organization of the AME Church” and that it gave a report to the Church’s Commission on Seminaries, Universities, Colleges and Schools at a conference in 2022, along with the other institutions listed on the Church’s website. These facts are strikingly similar to those in *Saint Leo*, where the Board underscored that the third prong is “disjunctive” and can be satisfied based on affiliation alone. *Id.*, slip op. at 3 n.6. Since extant Board law does not mandate a binding or formal commitment to the Church, such as a signed affiliation agreement, we find the existing evidence sufficient to satisfy the third prong of *Bethany College*.

Accordingly, the Region should withdraw the complaint and dismiss the charge, absent withdrawal. Furthermore, Regions should no longer seek to overturn the Board’s decision in *Bethany College*. Rather, Region should apply *Bethany* and the Board’s more recent decision in *Saint Leo* when considering whether the Board should exercise its jurisdiction over learning institutions with any religious affiliation.

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

Freedom of Information Act or other authorities, though exceptions may apply for certain case-related information, personal privacy, and other matters.