

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32**

SAN RAMON REGIONAL MEDICAL CENTER, LLC

Employer

and

**Cases 32-RC-380462
32-RC-380903**

**SERVICE EMPLOYEES INTERNATIONAL UNION -
UNITED HEALTHCARE WORKERS WEST**

Petitioner

DECISION AND DIRECTION OF ELECTION

For the reasons set forth below, I direct an *Armour-Globe*¹ self-determination election in each of the above referenced cases, to determine whether additional groups of employees from each case as described below, want to join an existing nonconforming bargaining unit at San Ramon Regional Medical Center, LLC (the Employer or SRRMC).

Overview of Existing Unit

Petitioner, Service Employees International Union-United Healthcare Workers West (the Union), currently represents a single multi-facility and multi-employer bargaining unit of employees at seven different hospitals in California (existing unit).² The seven hospitals are all

¹ *Armour & Co.*, 40 NLRB 1333 (1942); *Globe Machine & Stamping Co.*, 3 NLRB 297 (1937).

² The existing unit in the parties' CBA is described as:

Desert Regional Medical Center:

Included: All full-time, regular part-time, and per diem Service, Maintenance, Technical, Skilled Maintenance and Business Office Employees;

Excluded: All other Employees, managers, supervisors, confidential Employees, guards, physicians, residents, central business office Employees (whether facility based or not) who are solely engaged in qualifying or collection activities or are employed by another Tenet entity, such as Syndicated Office Systems or Patient Financial Services, Employees of outside registries and other agencies supplying labor to the Employer and already represented Employees.

Doctors Medical Center of Modesto:

Included: All full-time, regular part-time, and per diem service, maintenance, technical, skilled maintenance and business office employees;

Excluded: All other employees, managers, supervisors, confidential employees, guards, physicians, residents, central business office Employees (whether facility based or not) who are solely engaged in qualifying or collection activities or are employed by another Tenet entity, such as Syndicated Office Systems or Patient Financial Services, employees of outside registries and other agencies supplying labor to the Employer and already represented Employees.

part of the same health system, Tenet Healthcare. The collective bargaining agreement (CBA) covering the existing unit describes the unit facility by facility, with each facility describing its own classifications of employees who are included and excluded. See Union Exh. 1 at 2-4.³ There is no overarching unit description for the existing unit that spans all seven hospitals.

Petition in Case 32-RC-380462 (technical employees)

On February 4, 2026, the Union filed a Petition for Representation in Case 32-RC-380462 seeking an *Armour-Globe* self-determination election to add classifications to the existing unit. The Union amended the petition at the beginning of the hearing held in this matter. The Petition in

Doctors Hospital of Manteca:

Included: All full time, regular part-time, and per diem Service & Maintenance and Business Office Clerical employees;

Excluded: All other employees, managers, supervisors, confidential employees, guards, physicians, residents, central business office Employees (whether facility based or not) who are solely engaged in qualifying or collection activities or are employed by another Tenet entity, such as Syndicated Office Systems or Patient Financial Services, employees of outside registries and other agencies supplying labor to the Employer and already represented Employees.

Emanuel Medical Center:

Included: All full time, regular part-time, and per diem Service & Maintenance, skilled maintenance and Technical employees employed by the Employer at 825 Delbon Ave., Turlock, California;

Excluded: all other employees, confidential employees, physicians, residents, central business office employees (whether facility based or not) who are solely engaged in qualifying or collection activities or are employed by another Tenet entity, such as Syndicated Office Systems or Patient Financial Services, employees of outside registries, registered nurses, traveling nurses, permanent charge nurses, employees of other agencies supplying labor to the Employer, already represented employees, managerial employees, guards, and supervisors within the meaning of the Act.

John F. Kennedy Memorial Hospital:

Included: All full-time, regular part-time, and per diem Service, Maintenance, Technical, Skilled Maintenance, Business Office and Professional Employees;

Excluded: All other Employees, including confidential Employees, office clerical Employees, all other professional Employees (including without limitation physicians and residents), registry nurses, Employees of outside registries and other agencies supplying labor to the Employer, traveling nurses, regularly assigned charge nurses, guards, managers, supervisors, as defined in the Act, and already represented Employees.

San Ramon Regional Medical Center:

Included: Service and Maintenance employees;

Excluded: All other employees, managers, supervisors, confidential employees, guards, physicians, residents, central business office employees (whether facility based or not) who are solely engaged in qualifying or collection activities or are employed by another Tenet entity, such as Syndicated Office Systems or Patient Financial Services, employees of outside registries and other agencies supplying labor to the Employer and already represented employees.

Hi-Desert Medical Center:

Included: All full-time, regular part-time, and per diem service and maintenance, skilled maintenance, and technical employees;

Excluded: All other employees, managers, supervisors, confidential employees, guards, physicians, residents, central business office Employees (whether facility based or not) who are solely engaged in qualifying or collection activities or are employed by another Tenet entity, such as Syndicated Office Systems or Patient Financial Services, employees of outside registries and other agencies supplying labor to the Employer and already represented Employees.

³ Citations to the Transcript are denoted by “Tr.”, followed by the corresponding page numbers. Board Exhibits are denoted as “Bd. Exh.” Petitioner Exhibits are denoted “U. Exh.” Employer Exhibits are denoted as “Er. Exh.”

Case 32-RC-380462, as amended, seeks to add all full-time, part-time, and per diem employees employed by the Employer at its acute care facility located at 6001 Norris Canyon Road, San Ramon, California 94583 in the following classifications to the existing unit:

practitioner, respiratory care; tech – anesthesia; tech – cardiology⁴; tech - nuclear med II; tech - rad cardiovascular; tech - rad II; tech - surgical lead; tech – EEG; techno -echo; techno - radiologic senior; techno – surgical; techno - ultrasound, tech - rad 3. Tr. 6, 8, 27.

The Union asserts that all of the petitioned-for employees are technical employees as defined in the Board’s Rules and Regulations at 29 CFR § 103.30⁵. Tr. 7. The approximate number of employees in the petitioned-for group is 75. The Union also asserts this is a distinct identifiable group because they all work out of the main hospital building that performs acute care. The Union does not seek to include technical employees that work at other buildings utilized for outpatient services as those employees lack an “overwhelming” community of interest with the petitioned for technical employees who primarily work together at the main hospital building.

The Employer maintains that the Petition should be dismissed because it seeks a non-conforming unit under the Health Care Rule, the petitioned-for employees do not constitute a distinct and identifiable unit, and the petitioned-for employees do not share a community of interest with the existing unit. The Employer also asserts that four technical employees who work outside of the main hospital building should be included in the voting group. They are employed as: Tech, Surgical; Tech - Surgical, Lead; Tech, Hyperbaric; Tech, Radiologic Sr.

Petition in Case 32-RC-380903 (professional employees)

On February 11, 2026, the Union filed a Petition for Representation in Case 32-RC-380903 seeking an *Armour-Globe* self-determination election to add classifications to the existing unit. The Union amended the petition at the beginning of the hearing held in this matter. The Petition in Case 32-RC-380903, as amended, seeks to add all full-time, part-time, and per diem employees employed by the Employer at its acute care facility located at 6001 Norris Canyon Road, San Ramon, California 94583 in the following classifications to the existing unit:

chaplain, clinical lab scientist lead, clinical lab scientist, clinical dietitian, clinical pharmacist, social worker II, speech and language therapist, inpatient physical therapist (8HRS), and occupational therapist. Tr. 10-11, 27.

The Union asserts that all of the petitioned-for employees are non-nurse and non-physician professionals as defined in 29 CFR § 103.30. Tr. 131. The approximate number of employees in the petitioned-for group is 61.

The Employer maintains the Petition should be dismissed because it seeks a non-conforming unit under the Health Care Rule, the petitioned-for professional employees do not

⁴ This classification is also called the cardiovascular tech. I will use the term cardiovascular tech herein to conform to the Employer’s job description. See. Er. Exh. 5 at 73.

⁵ Referred to herein as the Health Care Rule or HCR.

constitute a distinct and identifiable unit, and the petitioned-for employees do not share a community of interest with the existing unit. The Employer also asserts that certain additional classification of employees should be included in the voting group. The Employer also contends that the Petition should be dismissed because it seeks to add professional employees to a unit of non-professional employees without their consent through a *Sonotone*⁶ election.

A hearing officer of the Board held a three-day hearing in this matter beginning on February 23, 2026. The parties orally argued their respective positions prior to the close of the hearing. I have carefully considered the evidence and arguments presented by the parties, along with relevant legal precedent and have determined that the petitioned-for employees from each Petition constitute distinct and identifiable voting groups, who share a community of interest with the existing unit, and that the enlarged unit sought by the Petitioner through an *Armour-Globe* election is an appropriate unit. The Employer has failed to meet its burden that the additional employees it seeks to add to each voting group have an “overwhelming community of interest” with the petitioned-for group of employees. Therefore, as explained below, the petitioned-for employees from each Petition will receive separate ballots according to the petition that seeks their inclusion, with professional employees to receive ballots with appropriate *Sonotone* language.

I. FACTS⁷

A. The Employer’s Operation and Bargaining History

The Employer maintains a hospital campus in San Ramon, California consisting of six separate buildings. In addition to traditional acute care services, the Employer offers specialty treatments, including robotic-assisted surgery, advanced wound care, and specialized cardiovascular care.⁸ The main hospital building,⁹ located at 6001 Norris Canyon Road, is a 123-bed acute care facility that provides an array of inpatient and outpatient medical services. *Id.*; Tr. 41, 115. Also present on the campus is the south building, located at 7777 Norris Canyon Road; an outpatient surgery center located at 5801 Norris Canyon Road; and an advanced wound care center at 5401 Norris Canyon Road. There are two dedicated physician office buildings at 5601 and 5201 Norris Canyon Road, and there are physician offices in the buildings housing the outpatient surgery center and the advanced wound care center. Er. Exh. 1, 2. The buildings are relatively close together. For example, it takes approximately one to two minutes to walk from the main hospital building to the south building. It takes approximately nine to eleven minutes to walk across the whole campus from the south building to the outpatient surgery center. Tr. 43-44; Er. Exh. 2.

⁶ 90 NLRB 1236, 1241-42 (1950).

⁷ In the interest of brevity, additional facts with citations to the record are included only where needed in the analysis section and are not reproduced here.

⁸ See San Ramon Regional Medical Center, *Our Services*, last visited Mar. 17, 2026, <https://www.sanramonmedctr.com/services>.

⁹ The main hospital building is sometimes referred to as “San Ramon Regional Medical Center.” See e.g. Tr. 115; Er. Exh. 2. For clarity, I will refer to it as the main hospital building where drawing a distinction between locations on the hospital campus is relevant.

The main hospital building is the only one that provides inpatient services; the ancillary buildings provide outpatient services only. Tr. 115-16. Individuals who have been admitted to the hospital on an inpatient basis sometimes have appointments outside the main hospital. Tr. 43. The main hospital building also provides some outpatient services. Tr. 91.

The portion of the existing unit employed by the Employer is defined in the CBA to include service and maintenance employees. U. Exh. 1 at 4. The parties dispute whether the portion of the multi-employer unit employed by SRRMC includes technical employees. The Union claims that pharmacy technicians, who are included in the existing unit at SRRMC, are technical employees. Tr. 299-301. The Employer disputes this claim and asserts that the portion of the existing unit at SRRMC includes only service and maintenance employees. Tr. 15-16.

As stated above, the CBA also covers employees who work at other hospital facilities owned by SRRMC's parent company, Tenet Healthcare (Tenet). While the CBA covers the entire multi-facility and multi-employer unit, the unit is described at the facility/employer level, and certain provisions cover only employees of certain facilities. See U. Exh. 1 generally. Regardless of whether pharmacy technicians or any other classification of employees at SRRMC are technical, it is undisputed that the full multi-employer and multi-facility existing unit includes service and maintenance, skilled maintenance, technical employees, professional employees, and business office clerical employees. U. Exh. 1 at 2-4.

When the unit was originally certified, the only address listed for unit employees of the Employer was that of the main hospital building, 6001 Norris Canyon Road. Er. Exh. 3. The parties stipulated that the existing unit includes employees at the Employer's 6001 Norris Canyon Road facility. It is undisputed that all of the Employer's employees work at the buildings on the SRRMC campus. Tr. 43. The parties dispute whether SRRMC employs any employees of the existing unit with primary work locations other than 6001 Norris Canyon Road, i.e., SRRMC employees who work primarily from campus buildings other than the main hospital building. Tr. 120. The Union contends that SRRMC employees in the existing unit work all work primarily in the main hospital building, while the Employer contends that certain employees in the existing unit work primarily in the outpatient buildings. Tr. 7, 117-19.

II. BOARD LAW ON *ARMOUR-GLOBE* ELECTIONS

An *Armour-Globe* self-determination election is the proper method by which a union may add unrepresented employees to an existing unit. *Warner-Lambert Co.*, 298 NLRB 993, 995 (1990). In determining whether such an election is appropriate, "it is necessary to determine the extent to which the employees to be included share a community of interest with unit employees, as well as whether the employees to be added constitute an identifiable, distinct segment so as to constitute an appropriate voting group." *Id.* A self-determination election may be appropriate regardless of whether the petitioned-for employees may be found to be a separate appropriate unit. *Great Lakes Pipe Line Co.*, 92 NLRB 583, 584 (1950).

The unit sought need not be the only, or even the most appropriate unit, so long as it constitutes an appropriate unit. See, e.g., *Overnite Transportation Co.*, 322 NLRB 723, 723 (1996). Thus, the Board first determines whether the unit proposed by a petitioner is appropriate. When the Board determines that the unit sought by a petitioner is readily identifiable and distinct, and

employees in that unit share a community of interest, the Board will find the petitioned-for unit to be an appropriate unit, despite a contention that the unit employees could be placed in a larger unit which would also be appropriate or even more appropriate, unless the party so contending demonstrates that employees in the larger unit share an “overwhelming community of interest” with those in the petitioned-for unit. *Specialty Healthcare*, 357 NLRB 934 (2011), reinst. by *Am. Steel Constr., Inc.*, 372 NLRB No. 23 (Dec. 14, 2022). Moreover, the Board has found that directing an *Armour-Globe* self-determination election is not contrary to the Health Care Rule even if it adds employees to an already nonconforming unit. *St. Vincent Charity Medical Center*, 357 NLRB 854 (2011).

III. APPLICATION OF BOARD LAW TO THE FACTS OF CASE 32-RC-380462

A. The Petitioned-For Technical Employees Constitute a Distinct and Identifiable Voting Group

The petitioned-for employees are a distinct and identifiable segment of the Employer’s unrepresented employees so as to constitute an appropriate voting group. Petition 32-RC-380462, as amended, seeks to add the following employees: practitioner, respiratory care; tech – anesthesia; tech – cardiology ; tech - nuclear med II; tech - rad cardiovascular; tech - rad II, tech - surgical lead; tech – EEG; techno -echo; techno - radiologic senior; techno – surgical; techno - ultrasound, tech - rad 3. They work primarily from the main hospital building at 6001 Norris Canyon Rd. In other words, the Union seeks to add all technical employees employed by the Employer who work primarily from its main hospital building that performs acute patient care. Tr. 7.

The Employer disputes this characterization, arguing that the cardiovascular techs and the anesthesia techs included in the Union’s petition are non-technical. ¹⁰ Bd. Exh. 3; Bd. Exh. 2 at ¶ 9; Tr. 302. The Employer concludes, therefore, that “by blending technical, clerical, and skilled-maintenance classifications, the petition contradicts the Rule’s core logic and underscores that the proposal is not a natural segment of the workforce.” As discussed below, anesthesia techs and cardiovascular techs are both technical employee classifications under the Health Care Rule, and thus fall into the Union’s identifiable petitioned-for voting group.

The Employer’s SOP claims, without specificity, that the exclusion of technical employees whose primary work location is different from the petitioned for employees renders the petitioned-for group unidentifiable. Tr. 309-10. To the contrary, the Union’s petitioned-for voting group is both identifiable in the practical sense and has a “substantial, rational basis” that is centered on the petitioned-for employees’ work location. The petitioned-for group is therefore not “clearly arbitrary” so as to be unidentifiable. See *Am. Steel Constr., Inc.*, 372 NLRB No. 23, slip op. at 5. The Employer has failed to meet its burden that these other technical employees from a different physical location share an overwhelming community of interest with the petitioned for employees who work at the main building where acute care is provided whereas the other buildings mainly provide outpatient care.

¹⁰ While originally in disagreement over the classification of dietetic techs, the parties stipulated at hearing that dietetic techs are non-technical, nonprofessional employees. Tr. 37. The Union no longer seeks to include them in the voting group. Tr. 130.

1. All of the Petitioned-for Employees are Technical Under the Health Care Rule

Technical employees are an appropriate unit in acute care hospitals under the Health Care Rule. See Board's Rules and Regulations sec. 103.30(a)(4). Technical employees are those who do not meet the strict requirements of the term "professional employees" as defined in the Act (Sec. 2(12)), but whose work is of a technical nature involving the use of independent judgment and requiring the exercise of specialized training usually acquired in colleges or technical schools or through special courses. *Barnett Mem. Hosp. Center*, 217 NLRB 775 (1975); *Meriter Hosp., Inc.*, 306 NLRB 598 (1992). Because technical employees utilize independent judgment and require specialized training, they are distinct from service and maintenance employees, who generally perform unskilled tasks and need only a high school education. Technical employees in the hospital setting typically work in patient care. Examples of their work include performing routine clinical tests, scans, or imaging procedures. Technical employee education may vary between vocational trainings run by hospitals, programs at accredited schools of technology, associate degree programs, and sometimes even 4-year college degrees. Most hospital technical employees are either certified (usually by passing a national examination), licensed, or required to register with the appropriate state authority, though requirements vary by location. There is no temporary interchange, and little permanent interchange between technical employees and other non-professionals because of the difference in skills, the specialized functions of the technicals, and the differences in their education. Technical employees are generally paid more than other non-professional employees, though wage ranges may overlap due to years of service.

a. Cardiovascular Technicians

The primary duty of the cardiovascular tech is to perform electrocardiogram (EKG) tests on patients. Er. Exh. 5 at 73-75; Tr. 70-71. Cardiovascular techs do not order such tests, but processes and completes tests that have been ordered by other providers. See Er. Exh. 5 at 73. The position requires a minimum of a high school education plus two years of hospital experience, excellent computer skills, knowledge of medical terminology, knowledge of insurance, and a basic life support (BLS) certificate. The Employer prefers to hire cardiovascular techs who already have EKG experience or who already have an EKG certificate. However, at minimum, a cardiovascular tech must achieve EKG certification within six months of their hire or transfer to the Employer. Er. Exh. 5 at 74; Tr. 91-92. Cardiovascular techs must participate in continuing education as required by the facility and/or license. Er. Exh. 5 at 73. They are authorized to receive between \$27.67 and \$42.88 per hour.

A cardiovascular tech must know where to place certain electrodes (also sometimes called leads) on a patient's body; such electrodes cannot be placed haphazardly, as they measure the function of the patient's heart. Tr. 113. This specialized knowledge means that they cannot be interchanged with other hospital employees. See. Tr. 305. Cardiovascular techs must be able to troubleshoot issues with the EKG equipment. Tr. 71. They must alert another medical professional immediately, such as a nurse, if the EKG test shows abnormal readings that may indicate a threat to patient health. Tr. 71, 92; Er. Exh. 5 at 73. In addition to their main duty of performing EKG tests, cardiovascular techs assist with the setup for other tests in the Cardiology department,

adjusting level placement of electrodes and equipment based on the age-specific needs of each patient. Er. Exh. 5 at 73.

Cardiovascular technicians are technical employees. Contrary to the cases the Employer cites,¹¹ cardiovascular techs at SRRMC must have specialized training and certification before they are eligible for hire. They must be BLS certified to apply for the position and must possess or gain an EKG certificate within six months of hire. They are not interchangeable with other employees, as the test they perform, though routine, requires specialized knowledge of where to place appropriate electrodes.

Additionally, all but one of the cases the Employer cited put cardiovascular technicians (usually referred to as EKG technicians) in the same Health Care Rule category as EEG technicians. In *Southern Maryland Hospital*, the only cited case to categorize them differently, the Board found EEG technicians were technical employees, but EKG technicians were not. The Board's distinction was based in part on the specialized training at an accredited school or certification for the EEG technicians—a fact absent for EKG technicians in that case. 274 NLRB at 1476. However, in this case, graduation from an EEG training program and certification with the American Board of Registration of EEG Technologies are merely *preferred* for EEG techs, and there is no requirement that EEG techs become certified at any point. Er. Exh. 5 at 85-88. Yet the parties have stipulated that EEG technologists are technical employees. The job descriptions for EKG techs and EEG techs at SRRMC are similar. The primary job duty of both roles is to perform the respective tests by placing electrodes at predetermined points on the body. The similarities between the roles plus the *additional* certification requirement for EKG techs strengthen the analysis that EKG techs at SRRMC are technical employees and therefore clearly distinguishable from *Southern Maryland Hospital*.

b. Anesthesia Technicians

Anesthesia techs are responsible for “handling, cleaning, monitoring and maintaining anesthesia supplies and equipment.” Er. Exh. 5 at 67. Day to day, this consists of regular machine calibrations, setting up lines for invasive procedures, inserting lines, gowning and gloving the doctors, and product ordering and sourcing. Anesthesia techs help coordinate with other departments. Tr. 222. They also assist with hands-on patient care, like implementing nerve blocks and helping to revive or resuscitate patients in the post-anesthesia care unit (PACU). Tr. 223. Sometimes, anesthesia techs remain present in the operating room during procedures to assist, though the record does not contain evidence of what this assistance entails. This generally happens only when a patient is sicker. Tr. 223.

Anesthesia techs' primary job duty is to calibrate and troubleshoot the Mindray anesthesia machines that the Employer utilizes. To do so, a tech disconnects elements of the system and runs a cycle, then reassembles the system and ensures that the machine displays the correct numbers. If

¹¹ *Barnert Memorial Hospital Center*, 217 NLRB 775, 778 (1975), *Trinity Memorial Hospital of Cudahy*, 219 NLRB 215, 218 (1975), *Saint Elizabeth's Hospital* of 220 NLRB 325, (1975); *William W Backus Hospital*, 220 NLRB 414, 417 (1975); *Pontiac Osteopathic Hospital*, 227 NLRB 1706, 1707 (1975); *Southern Maryland Hospital*, 274 NLRB 1470, 1473 (1975).

the system displays incorrect numbers, the tech must identify which element or elements are malfunctioning and determine how to fix them. The machine has automated alerts that notify techs to issues with the system, but crucially, they are not always correct. For example, the machine may notify a tech that an oxygen sensor is going bad, but this alert could be triggered by something else, like an issue with the cord connections or a leak in the breathing circuit. Anesthesia techs utilize independent judgment to identify and assess issues with the anesthesia machines, determine how to fix them, and adjust accordingly. Tr. 227-28. Such calibration and troubleshooting must be completed before any procedure. Tr. 229. The responsibility for ensuring the safety and function of the anesthesia machines falls primarily on the anesthesia techs. If anything goes wrong, they are responsible. Tr. 222-23, 229. Such specialized knowledge does not lend itself to interchange with other employees.

In addition to their responsibility for calibrating and troubleshooting anesthesia machines, anesthesia techs utilize independent judgement when sourcing items for the Anesthesia department and meeting with vendors. Basic inventory control and stocking do not require independent judgment. But anesthesia techs also meet with vendors for product demonstrations to determine whether a vendor's products will assist team members in their work and contribute to patient safety. Tr. 222, 224. The Employer's job description describes this as "introduce[ing], review[ing], and evaluat[ing] new supplies and equipment" in coordination with the Department of Anesthesia. Er. Exh. 5 at 67. This responsibility demonstrates that anesthesia techs must utilize independent judgment, relying on their specialized training, to make decisions that can impact patient care. Such responsibility is distinct from the routine unskilled tasks that non-technical nonprofessional employees typically perform.

SRRMC requires anesthesia techs to be BLS certified. Er. Exh. 5 at 68. They must complete continuing education requirements through the hospital. *Id.* The anesthesia tech who testified at hearing is certified as an anesthesia technician through the American Society for Anesthesia Technicians and Technologists (ASATT). According to the Employer's job description for the role, such certification is only preferred, not required. Prior experience as an anesthesia technician is also preferred but not required. Er. Exh. 5 at 68. The witness confirmed that his education for the position came through on-the-job training and that he took the certification test on his own initiative. Tr. 221-22. There is no evidence of what on-the-job training is required for the anesthesia tech role or how long it is. However, the witness has held his ASATT certification since 2015, before he started working for the Employer in 2022. The witness also had extensive experience as an anesthesia tech prior to employment with SRRMC, beginning working in an anesthesia technician role in May 2012. Er. Exh. 9.

Anesthesia techs are paid hourly. The authorized wage range for the anesthesia tech position (\$32.04-\$49.69 per hour) overlaps with the wage ranges for employees in the existing unit. See Er. Exh. 4; U Exh. 1 at 236. However, the anesthesia technician who testified makes approximately \$44.39 per hour, which is higher than any of the wages reflected for any of the Employer's service and maintenance employees in the current unit. Tr. 232; See U. Exh. 1 at 236.

Anesthesia techs work daytime hours, with one tech on duty at a time from 5:00am to 5:30pm Monday-Friday. Tr. 233.

SRRMC's anesthesia technicians are technical employees. They utilize independent in the performance of their daily tasks when calibrating and troubleshooting the anesthesia machines and determining what supplies and equipment the Department of Anesthesia should purchase and use. While the Employer does not maintain a strict requirement for anesthesia techs to have a certification or prior experience, such certification and experience are preferred. At least one of the Employer's two anesthesia technicians has both a national certification and extensive experience in the role. There is no evidence that any other SRRMC employee can interchange with an anesthesia tech, further emphasizing their specialized training. See *William W. Backus Hosp.*, 220 NLRB 414, 418 (1975) (categorizing surgical technicians as technical employees based on job duties despite absence of required prior training or certification). Anesthesia techs regularly perform hands-on patient care when assisting with nerve blocks and resuscitations. They are paid more per hour than any of the service and maintenance employees employed by SRRMC in the existing unit. Such qualities show that they are appropriately categorized as technical employees. See 53 Fed. Reg. 33918-33919.

2. The Union's location distinction is not arbitrary.

The Employer contends that the Union's petition, which seeks to represent only those employees who work primarily at the main hospital, does not seek an identifiable group. Tr. 309-10. The Union's petitioned-for voting group is identifiable despite seeking only employees who work at the main hospital.

Firstly, the voting group is identifiable as a practical matter because the Employer is able to determine which employees fall into the named job classifications and work primarily at the main hospital building. The Employer's voter list identifies each employee in the petitioned-for classifications and their primary work location. See Bd. Exh. 3 at 32-RC-380462 Employee List.¹² At hearing, the Employer's Human Resources Manager, Jane Roberts-MacArt, testified that she established employees' primary work locations by consulting with their supervisors. Tr. 267-68. While some employees float to different locations on the SRRMC campus, the primary work location listed represents the address at which employees spend approximately 90% of their working time. See *id.*

Secondly, the petitioned-for voting group does not arbitrarily carve out individual employees that the Union seeks not to have vote.¹³ Instead, the Union has articulated a "substantial, rational basis" for the group sought. The Union states it seeks only those technical employees who work primarily at the main hospital building. The petitioned-for group is composed of employee classifications with similar levels of technical training and education, perform technical functions, and have frequent work-related contact with each other. The Union asserts that these employees

¹² Note that the voter list the Employer submitted for this petition inadvertently included Tech - Dietetic and Tech - Biomed Sr., which the Union does not seek to represent. The parties agreed that the employees in such classifications should be stricken from the voter list. Tr. 165.

¹³ The Union seeks to represent employees in the classifications of tech – surgical lead and techno – surgical only if they work from the main hospital building. There is approximately one employee with each relevant job title who works primarily from the outpatient surgical building. Other employees with the same job titles work at the main hospital building. As discussed below, despite the sharing the same job titles, these employees may properly be excluded from the voting group because the Employer has not met its burden of showing the employee shares an overwhelming community of interest with the petitioned-for employees.

who work primarily at the main hospital building deal primarily with inpatient care, while the employees at other buildings deal primarily or exclusively with outpatient care. The Union’s inpatient-only voting group, while smaller than the unit the Union could seek, is not “clearly arbitrary.”¹⁴ Indeed, the Board has held that distinctions between the focus of employees’ work can form a “substantial, rational basis” for a union’s dividing line between the employees it would include and those it would exclude. See *Johnson Controls, Inc.*, 322 NLRB at 672. It is also telling that the Employer objected to the Union’s earlier petition for seeking employees who work at multiple locations on the Employer’s campus but now objects to the amended petition on the basis that it seeks only the main hospital building. Compare Bd. Exh. 1(m) at 4 with Tr. 309-10.

Finally, contrary to the Employer’s arguments at hearing,¹⁵ simply because the Union seeks to add employees to a preexisting nonconforming unit in the acute care hospital setting, the Union need not seek to add all residual unrepresented employees that fall into one of the eight units set forth in its Health Care Rules in Sec. 103.30(a). See *West Virginia University Hosp., Inc.*, Case 06-RC-319142, 2024 WL 726191 (2024); see also *Rush University Medical Center v. NLRB*, 833 F.3d 202, 204-208 (D.C. Cir. 2016) (explaining that Sec. 103.30(c) of the Board’s Health Care Rule applies by its terms only to a petition for additional units, and that an *Armour-Globe* self-determination election, by its nature, does not involve the creation of any “additional units” but rather “the inclusion of additional unrepresented employees in an already-existing unit”). Directing an *Armour-Globe* self-determination election does not create the potential for proliferation of units in the health care industry. Cf. Tr. 15-16.

B. The Petitioned-For Technical Employees Share a Community of Interest with the Existing Unit at SRRMC¹⁶

In examining whether there is a community of interest, no one factor is determinative or entitled to greater inherent weight. See, e.g., *Publix Super Markets*, 343 NLRB 1023, 1027 (2004); *Bradley Steel, Inc.*, 342 NLRB 215 (2004); *Trumbull Memorial Hospital*, 338 NLRB 900 (2003); *United Operations, Inc.*, 338 NLRB 123. I find a community of interest by weighing all the relevant factors below.

Organization of the Plant

An important consideration in any unit determination is whether the proposed unit conforms to an administrative function or grouping of an employer’s operation. *International Paper Co.*, 96 NLRB 295, 298 fn. 7 (1951). In this case, the record shows that SRRMC employees

¹⁴ Nor is the petitioned-for group distinguished solely based on the extent of organizing, as the Employer claims. See Tr. 16. As discussed below, evidence at hearing showed that the petitioned-for inpatient acute care technical employees who work at the main hospital share an internal community of interest. The Employer did not meet its burden of showing that additional employees share an overwhelming community of interest such that they cannot be distinguished from the petitioned-for employees.

¹⁵ See Tr. 15-16.

¹⁶ In its Statement of Position, the Employer claims, among other things, that the petitioned-for employees do not share a community of interests with one another. Bd. Exh. 3. This is not the appropriate standard. Under *Warner-Lambert, supra*, the petitioned-for employees need only share a community of interest with the existing unit. Petitioned-for employees need not share a separate and distinct community of interest with each other because they need not be a separate appropriate unit. See *Great Lakes Pipe Line Co., supra*.

in the existing unit work in a variety of Employer departments. See Er. Exh. 4; Tr. 50-51. Additionally, some employees in the existing unit (including housekeepers, nursing assistants, distribution techs, transporters, and phlebotomists) perform work in multiple departments of the Employer's operation despite being assigned to a single department for administrative purposes. See Tr. 42, 56-57, 156-59; Er. Exh. 5 at 1, 139. The same is true for some of the petitioned-for employees—for example, ultrasound technologists and respiratory care practitioners. Though assigned to certain departments for administrative purposes, they also travel throughout the hospital to provide care to patients where they are – be that the patient's room or waiting at radiology to have a particular test. See Tr. 69, 144-60, 245, 307-308.

It is true that the Union does not seek to represent all employees who work in a single department—for example, the radiology department. However, at SRRMC, as with many hospitals, multiple classes of employees frequently perform work throughout the hospital and in different departments. Therefore, the Employer's "departmental distinctions [are] relatively less important in the organization of the work force," particularly because other community of interest factors weigh in favor of inclusion. *The Neiman Marcus Grp., Inc.*, 361 NLRB 50, 52 (2014). This is especially true in this acute-care hospital setting, where the Board favors units based on skill and job tasks, rather than strict adherence to an employer's administrative grouping. See Health Care Rule Sec. 103.30(a).

Therefore, this factor weighs neither in favor nor against finding a community of interest with the existing unit.

Job Duties and the Nature of Employee Skills and Training

Evidence that employees perform the same basic function or have the same duties, that there is a high degree of overlap in job functions or of performing one another's work, or that disputed employees work together as a crew all support a finding of similarity of functions. Job duties need not be completely identical or interchangeable to weigh in favor of finding a community of interest. See *Walt Disney Parks & Resorts, U.S., Inc.*, 373 NLRB No. 99, citing *IKEA Distribution Services, Inc.*, 370 NLRB No. 109, slip op. at 11 (2021).

Further, a finding that employees cannot be distinguished on the basis of skills and training would weigh in favor of including the disputed employees in one unit. Evidence that disputed employees have similar requirements to obtain employment; that they have similar job descriptions or licensure requirements; that they participate in the same Employer training programs; and/or that they use similar equipment supports finding of similarity of skills. *Casino Aztar*, 349 NLRB 603; *J.C. Penney Company, Inc.*, 328 NLRB 766 (1999); *Phoenician*, 308 NLRB 826 (1992).

In this case, the job duties and required skills and training differ between the petitioned-for technical employees and most of the existing unit. In acute care hospital settings, technical employees tend to perform more specialized patient care functions that require a higher level of training. Service and maintenance employees, by contrast, perform routine tasks that require little specialized training. Such is the case for most of the SRRMC employees in the existing unit.

For example, housekeeping employees in the existing unit perform routine cleaning tasks throughout the Employer's campus. A high school diploma or equivalent is preferred but not required. While housekeepers must "follow specific procedures, work patterns, and routines," there is no evidence on the record that the training requires "full or nearly full-time education" or intense on-the-job training. Er. Exh. 5 at 27-29; Tr. 56; see *Meriter Hosp., Inc.*, 306 NLRB at 599. Similarly, nursing assistants in the existing unit perform basic patient care tasks including assisting patients with using the bathroom, bathing, and "maintaining integrity of patient belongings." Er. Exh. 5 at 1-4 Tr. 55-56. Such work, while vital to the hospital's functioning and care for patients, does not require specialized training. Nurse assistants are required to have a high school diploma and maintain Basic Life Support certification. Licensure as a certified nursing assistant is preferred but not required. *Id.*

By contrast, the petitioned-for technical employees must have completed advanced education or on-the-job training, and most of the positions require certification or licensure. See generally Er. Exh. 5. Because of their education and training, the petitioned-for employees can perform more specialized patient care work, such as tests that have been ordered by a physician. For example, the petitioned-for ultrasound technologists must be graduates of an accredited ultrasound program and have one year of clinical experience in ultrasound in an acute care setting. Successful completion of a second-year clinical rotation at a Tenet Healthcare facility is preferred. Er. Exh. 5 at 123-25. They must maintain BLS certification, be certified with the American Registry of Diagnostic Medical Sonography and possess or achieve certain additional certifications within 120 days of hire or transfer. *Id.* The ultrasound technologists perform diagnostic ultrasound procedures ordered by physicians, including by using portable machines in the emergency room, intensive care unit (ICU), or neonatal intensive care unit (NICU). *Id.*; Tr. 144-45. The other petitioned-for technical employees have similar education, training, and certification requirements in their respective fields of specialization.

At hearing, the Union argued that the existing unit at SRRMC includes at least one technical classification: the pharmacy technician.¹⁷ Tr. 299-301. The pharmacy technician "assists in the procurement, storage, preparation, and distribution of medications under the direct supervision of a registered Pharmacist." Er. Exh. 5 at 96-98.¹⁸ The pharmacy technician selects medications from the pharmacy inventory to fill orders and deliver them to patients and needed medication stations throughout the hospital. They check that medications are stored safely, disposed of properly when expired, and ensure compliance with legal and Employer requirements for product control. The pharmacy tech also assists with drug preparations, including by "serv[ing] as back-up for non-routine unit dosing drug preparations." The pharmacy technician must have completed coursework leading to licensure as a pharmacy technician and maintain such license with the California State Board of Pharmacy. *Id.* The Employer requires a minimum of one year of experience in the hospital pharmacy setting or at least five years of recent retail pharmacy experience prior to hire.

¹⁷ The CBA lists "Tech – Pharmacy" as the only job title for this role. U. Exh. 1 at 236. The Employer's Exh. 4, a spreadsheet showing job titles and departments, lists "Tech – Pharmacy" and "Tech – Pharmacy-CP" as independent roles. Er. Exh. 4 at 2. Employer Exh. 5, which collects relevant job descriptions, shows only the official title of "Pharmacy Technician III," but states that the "Compensation Title" may be Tech – Pharmacy or Tech-Pharmacy-CP. I refer to this position as the pharmacy technician.

¹⁸ The Employer appears to have included duplicate job descriptions for the pharmacy technician. Compare Er. Exh. 5 at 96-98 with Er. Exh. 5 at 99-101. For consistency, I refer only to the first.

I do not make a finding as to whether the pharmacy technician is a technical employee or any other category under the Health Care Rule. However, the advanced skills and training, licensure and/or certification requirement, and specialized patient care duties of the pharmacy technician are similar to those of the petitioned-for technical employees. Therefore, because the petitioned-for employees share a similar level of specialized patient care duties and similar levels of training and experience with the pharmacy technician (at least a minority of the existing unit), these factors weigh slightly in favor of finding a community of interest.

Interchangeability

Interchangeability refers to temporary work assignments or transfers between two groups of employees. Frequent interchange, particularly on a temporary basis, “may suggest blurred departmental lines and a truly fluid work force with roughly comparable skills.” *Hilton Hotel Corp.*, 287 NLRB 359, 360 (1987).

In this case, record evidence of interchange between the petitioned-for employees and the existing unit is limited to employees assisting each other with lower-skilled tasks. For example, the anesthesia technician who testified at hearing stated that he sometimes assists housekeeping employees in the existing unit with changing trash bags, particularly when they are too heavy or full for housekeeping staff to lift. Tr. 226. Such assistance is irregular and is not significant enough to be considered a temporary assignment to a different position, which is the focus of the interchange inquiry.

There is no contention on the record that members of the existing unit receive temporary or permanent assignments to any of the petitioned-for technical positions. As discussed above, the petitioned-for positions require specialized education, training, experience, and certification or licensure in particularized areas of patient care. Such requirements foreclose interchange with any employees who do not have the required education, training, experience, and certification or licensure.

This factor therefore weighs against finding a community of interest.

Functional Integration and Contact Among Employees

Functional integration refers to when employees’ work constitutes integral elements of an employer’s production process or business. Thus, for example, functional integration exists when employees in a unit sought by a union work on different phases of the same product or as a group provide a service. Evidence that employees work together on the same matters, have frequent contact with one another, and perform similar functions is relevant when examining whether functional integration exists. *Transerv Systems*, 311 NLRB 766 (1993).

Also relevant is the amount of work-related contact among employees, including whether they work beside one another. Thus, it is important to examine the amount of contact petitioned-for employees have with the existing unit. See e.g., *Casino Aztar*, 349 NLRB 603, 605-606 (2007). The Board has found an *Armour-Globe* election to be appropriate based primarily on a high degree

of functional integration and contact between employees, even where other factors are neutral or weigh against inclusion in the existing unit. *Union Elec. Co.*, Case 14-RC-278595, 2021 WL 5447985 at fn. 1 (2021).

In this case, petitioned-for employees work in close contact with employees in the existing unit, and their work is functionally integrated. The hospital functions as a crew, with petitioned-for employees and employees in the existing unit contributing to the Employer's goal of providing safe medical care to patients.

The petitioned-for employees regularly communicate with employees in the existing unit over work related matters. For example, the ultrasound technologist who testified stated that she regularly interacts with employees in the existing unit over matters related to the Employer's operations. Ultrasound technologists and other petitioned-for employees who perform specialized tests interact with transporters "all the time." The transporters bring patients from their assigned rooms to the diagnostic imaging department for tests, then take the patients back to their rooms or their next destination. The employee conducting the test must communicate with the transporter and the nurse supervising the patient's care to coordinate when the patient will be moved. Tr. 147-48. Similarly, the anesthesia technician testified that he interacts with patient transporters when directing them where to put patients in the operating room and discussing whether a particular patient will need a bed rather than a gurney. Tr. 226. These roles are functionally integrated because they represent different phases of the same patient care service. To receive specialized imaging or surgery, a patient needs to be taken to the appropriate treatment area. Treatment cannot begin until the transporter brings the patient. The transporter cannot finish with the patient and return them to their room until the treatment is concluded. Thus, the petitioned-for employees and the transporters in the existing unit "necessarily depend on each other to accomplish their respective tasks," evidencing functional integration. See *MV Transportation, Inc.*, 373 NLRB No.8, slip op. at 7; see also *Publix Super Markets, Inc.*, 343 NLRB at 1024-25; *Transerv Systems*, 311 NLRB 766.

The same is true for petitioned-for employees and distribution techs (also called central supply techs) in the existing unit. Ultrasound technologists interact with them at least once a week to obtain necessary supplies, particularly on weekends, when ultrasounds and other diagnostic procedures are based on calls rather than pre-scheduled appointments. Tr. 148-49. Anesthesia technicians interact with distribution techs daily to secure needed materials. Anesthesia technicians put supply orders into a requisition system, and the distribution tech fulfills the orders. If any supplies are on backorder, the distribution tech will alert the employee who has requested the supplies. Here too, each employee relies on the other in the performance of their duties: the supply techs rely on the petitioned-for employees to tell them what supplies are needed, and the petitioned-for employees rely on the supply techs to bring supplies necessary to their work.

Similarly, petitioned-for employees interact with and rely on pharmacy personnel, including pharmacy technicians in the existing unit in performing their duties. An ultrasound technologist may need to go get supplies from the pharmacy for certain procedures. Otherwise, they may retrieve medicine from the Omnicell unit located in the imaging department, which the pharmacy tech keeps stocked. Tr. 159; Er. Exh. 5 at 96. Anesthesia techs interact with pharmacy personnel daily when picking up medications from the pharmacy department, turning in expired medications, gathering medicine from the Omnicell unit, and picking up gases that are necessary

for the anesthesia machines. Tr. 225. Again, each individual performs different stages in the process of getting the right medication to the right patient.

The petitioned-for technical employees interact with other patient care staff in the existing unit when they need to coordinate patient care. For example, on approximately 80% of shifts, ultrasound technologists interact with phlebotomists while each is in the emergency room to provide care for a patient. The two might work on the same patient at the same time or communicate when one expects to be done with their respective task so that the other can take over. Tr. 158. Similarly, a diagnostic tech may call a nursing assistant to help a patient who has had an accident get cleaned up and back to their bed. Ultrasound technicians interact with nursing assistants approximately once a week. Tr. 156.

Finally, the petitioned-for employees interact with housekeeping staff on a day-to-day basis. While not directly involved in patient care, housekeeping staff maintain the cleanliness of the hospital and are responsible for “turning over” (i.e., cleaning) patient rooms and spaces where petitioned-for employees provide patient care. For example, housekeeping staff must turn over operating rooms before each surgery. An anesthesia technician may direct housekeepers as to which rooms they should start with because they will be needed next. Tr. 226.

The degree of work-related contact and functional integration between petitioned-for employees and employees in the existing unit varies based on position. However, even at the low end, when a phlebotomist passes off a patient to an ultrasound technician for back-to-back testing in the emergency room, the employees communicate about work-related matters to deliver consistent patient care. At the high end, neither the petitioned-for employees nor the employees in the existing unit can perform their duties without the other. Transporters, distribution technicians, and pharmacy technicians interact with petitioned-for employees frequently, and they “necessarily depend on each other to accomplish their respective tasks.” See *MV Transportation, Inc.*, 373 NLRB No.8, slip op. at 7. Therefore, both the contact and functional integration factors weigh strongly in favor of finding a community of interest between the petitioned-for technical employees and the existing unit.

Common Supervision

Another community-of-interest factor is whether the employees in dispute are commonly supervised. The Board examines the identity of employees’ supervisors who have the authority hire, fire, or discipline employees (or effectively recommend those actions) or to schedule work, assign and direct tasks, rate employee performance, affect employee pay, and provide guidance on a day-to-day basis. *Transerv Systems*, 311 NLRB 766 (1993); *Executive Resources Associates*, 301 NLRB 400, 402 (1991); *Sears, Roebuck & Co.*, 191 NLRB 398, 404–405 (1971) (hierarchical supervision structure where division/department managers reported to store and assistant store managers weighed in favor of finding a community of interest). Common supervision weighs in favor of placing the employees in dispute in one unit. *United Operations*, supra at 125.

In this case, the record shows that the Employer’s supervision structure is highly centralized. The Employer has a Chief Executive Officer, a Chief Financial Officer, a Chief Nursing Officer, and a Chief Operating Officer. These four executives supervise various

departments, each with their own director or manager. All employees report directly to the director or manager of their department. Tr. 272-73.

Human Resources Manager Jane Roberts-MacArt manages “the whole human resources process at the hospital.” She is the top human resources official for SRRMC. Tr. 41-42. She testified that she handles all labor and employee relations issues, compensation, and performance evaluations. She also testified that she ensures the hospital maintains regulatory compliance. *Id.* There is no evidence on the record of who has the authority to hire, fire, discipline, or schedule employees. However, the Roberts-MacArt is involved to some degree with hiring, and the Employer utilizes common hiring practices that apply to all employees, including those in the existing unit and the petitioned-for technical employees. See Tr. 45, 68, 267.

The supervisory structure here weighs in favor of finding a community of interest between the existing unit at SRRMC and the petitioned-for employees. The hierarchical supervision structure provides executive management fairly direct control over operations, while immediate supervision of day-to-day work comes from each department manager or supervisor. See *Sears, Roebuck & Co.*, 191 NLRB 398. There is centralized and uniform control over key supervisory issues including hiring, employee pay, and performance evaluations. Therefore, this factor favors finding a community of interest.

Terms and Conditions of Employment

Terms and conditions of employment include whether employees receive similar wage ranges and are paid in a similar fashion (for example hourly); whether they work the same hours; whether employees have the same fringe benefits; and whether employees are subject to the same work rules, disciplinary policies and other terms of employment that might be described in an employee handbook. *Bradley Steel, Inc.*, 342 NLRB 215; *United Rentals, Inc.*, 341 NLRB 540 (2004). Some differences in employment terms “may reasonably be expected in the *Armour-Globe* context” because unit employees’ terms have been obtained through the collective bargaining process. *Pub. Serv. Co. of Colo.*, 365 NLRB 1017 at fn. 4.

The petitioned-for technical employees are paid hourly, as are the employees in the existing unit. The wages for employees in the existing unit are covered by the CBA and range from \$19.70 to \$35.11 per hour. See. U. Exh. 1 at 236. The wages for the petitioned-for employees range from \$27.67 to \$81.91¹⁹ per hour. See. Er. Exh. 4. The petitioned-for employees generally make more than the employees in the existing unit, and the hospital generally pays more for positions that are more complicated and require more qualifications and independent judgement. However, the difference in wages does not mandate finding no community of interest, particularly when the employees share other terms and conditions of employment and other community of interest factors favor inclusion.

In this case, the petitioned-for employees share other terms and conditions of employment with employees in the existing unit at SRRMC. All employees must receive a standard orientation

¹⁹ At hearing, an ultrasound technologist stated that she made about \$92 or \$93 per hour, but she was not sure. Tr. 160. She also stated she works part-time and on-call, which affects her pay. Tr. 162. I generally credit the Employer’s chart for approximate wage ranges.

for the hospital and their specific department. Tr. 80. Employees also receive individualized orientations for their positions. *Id.* Jane Roberts-MacArt stated at hearing that the Employer maintains shared policies applicable to the hospital, department, and individual positions. Tr. 80. At hearing, neither party solicited additional testimony on shared policies, such as those that may be found in an employee handbook. However, Employer Exhibit 5 indicates that the Employer maintains a Standard of Conduct; Behavior Standards; Medical Center policies; and attendance, dress code, and confidentiality policies and procedures. Such policies apply to employees in the existing unit and petitioned-for employees. Employees must also attend mandatory TENET ethics program and comply with ethical standards. See Er. Exh. 5 generally.

Petitioned-for employees and those in the existing unit must wear badges, and they use their badges to swipe in and out of particular areas of the facility. They also record their hours worked by swiping their badges. Tr. 162, 234; Er. Exh. 5 at 97, 140. Employees who work in patient care areas, particularly those that are more likely to get dirty, wear scrubs. There are no particular colors or patterns of scrubs required. Scrubs are required in some departments but merely “highly recommended in others. Tr. 244, 265-66.

There are approximately ten breakrooms in the main hospital building, including one cafeteria. Both petitioned-for employees and employees in the existing unit may use any breakroom they choose, except for the designated breakroom for operating room personnel. Typically, employees use the breakroom closest to their usual working area. Tr. 270-71, 283, 285.

The Employer gave conclusory testimony that there are some differences in benefits between employees in the existing unit and currently unrepresented employees but did not specify what those differences are. Tr. 80. Under the CBA, employees in the existing unit “shall continue to be eligible to participate in Tenet’s Paid Time Off Plan and standard Tenet benefit plans.” The CBA specifies that Tenet must maintain “core benefit plans” including paid time off; medical, dental, and vision insurance; short and long-term disability plans; life insurance; 401(k) plans; and RMBA (or equivalent retirement contribution). U. Exh. 1 at 47. Petitioned-for employees also receive medical, dental, vision, short-term disability, and long-term disability, and other benefits through their positions. Tr. 233.

The Employer maintains the same seniority policy for employees in the existing unit and petitioned-for employees. Employees’ seniority is calculated based on their date of hire at a Tenet facility. This is described as “Tenet-wide seniority” in the CBA. U. Exh. 1 at 12-13. Roberts-MacArt testified that the hire date for SRRMC employees who are not part of the existing unit is calculated the same way. Tr. 274. Therefore, the petitioned-for employees are subject to the same Employer seniority policies as those in the existing unit.

While the petitioned-for technical employees generally earn more per hour than SRRMC employees in the existing unit, their other shared terms and conditions of employment weigh in favor of finding a community of interest. The employees wear scrubs and badges and use their badges to clock in and out of work. They share access to common facilities, such as breakrooms and the cafeteria. Petitioned-for and unit employees are subject to shared policies and procedures such as the Standard of Conduct; Behavior Standards; Medical Center policies; attendance, dress code, and confidentiality policies and procedures; and Tenet-wide ethics policies. Employees are

subject to the same Employer seniority policy and are entitled to receive similar kinds of Employer-provided benefits. This factor therefore weighs in favor of finding a community of interest.

Bargaining History

In determining the appropriateness of a bargaining unit, prior bargaining history—where present—is given significant weight. *Overnite Transp. Co.*, 322 NLRB 723, 724; *Kalamazoo Paper Box Corp.*, 136 NLRB 134, 137.

The bargaining history in this case is reflected in the CBA. It is true that the petitioned-for technical employees at SRRMC have not historically been subject to the collective bargaining agreement covering the existing unit at this hospital. However, the CBA clearly includes technical employees working at five of the six other hospitals in the existing unit. U. Exh. 1 at 2-4. Further, all but one of the specific petitioned-for classifications appear in the wage steps at other hospitals (sometimes under different names, which were discussed at hearing). See U. Exh. 1 at 219-235 generally. The remaining classification, Tech – Rad Cardiovasc, may be present at other hospitals under a different name not discussed at hearing (e.g. as Tech – Rad III – Special at 224 or Tech – Rad Advance at 226).

The Employer argues that because the petitioned-for unit combines multiple categories of employees under the Health Care Rule, the petitioned-for technical employees do not share a community of interest with the existing unit. Bd. Exh. 1(m), 3, Tr. 313-318. Such a claim is not supported by the community of interest analysis herein or extant Board law. To the contrary, the Board in its rulemaking acknowledged that different categories of employees may share a community of interests when it stated that “various combinations of units may also be appropriate.” See 29 CFR 103.30 (a). Neither is the Union required to add all residual employees in a particular Health Care Rule category, given the context of an existing nonconforming unit.²⁰ Adding the petitioned-for technical employees at SRRMC to the existing unit, which includes technical employees at five of the six other hospitals covered by the existing unit, would bring the petitioned-for unit “closer to a grouping sanctioned by the Rule.” *St. Vincent Charity Med. Ctr.*, 357 NLRB at 856-57. A Regional Director may rely on the Board’s appropriate unit/community of interest determinations in the Health Care Rule, even if the unit does not strictly conform to any of the designated health care units. *Id.* A finding to the contrary in this case would result in the proliferation of bargaining units, which both the Act and the Health Care Rule disfavor.

Community of Interest Conclusion

After examining the record and weighing the community of interest factors, I find that the petitioned-for technical employees share a community of interest with at least a portion of the existing unit at SRRMC. While not organized into a separate and coextensive department with SRRMC employees in the existing unit, the petitioned-for employees and unit employees work in various departments throughout the Employer’s operation. The petitioned-for employees share a similar level of specialized patient care duties and similar levels of training and experience with the pharmacy technician, which is a minority of the existing unit. Job duties need not be completely

²⁰ *West Virginia University Hosp., Inc.*, Case 06-RC-319142, 2024 WL 726191 (2024).

identical or interchangeable to weigh in favor of finding a community of interest. See *Walt Disney Parks & Resorts, U.S., Inc.*, 373 NLRB No. 99, citing *IKEA Distribution Services, Inc.*, 370 NLRB No. 109, slip op. at 11 (2021).

The petitioned-for employees maintain frequent and close work-related contact with bargaining unit employees, and their work necessarily depends on that of bargaining unit employees.

The unit employees and petitioned-for employees regularly perform different steps of the same patient care process. Unit employees transport patients to diagnostic areas for scans and return them after petitioned-for employees have completed their test. Unit employees also stock key medications and supplies that petitioned-for employees use in the performance of their duties, and unit employees rely on the petitioned-for techs to tell them what supplies are missing or low. This shows a high degree of functional integration that is more than mere workplace camaraderie or merely sporadic overlap of job tasks. See *Maxim's De Paris Suite Hotel*, 285 NLRB at 378; *Omni International Hotel*, 283 NLRB 475. The Board has found an *Armour-Globe* election to be appropriate based primarily on a high degree of functional integration and contact between employees, even where other factors are neutral or weigh against inclusion in the existing unit. *Union Elec. Co.*, Case 14-RC-278595, 2021 WL 5447985 at fn. 1 (2021).

There is no evidence of interchange between employees in the existing unit and petitioned-for employees.

Employees in the existing unit and petitioned-for employees are commonly supervised through a centralized hierarchical reporting structure. They are subject to regular performance evaluations managed by the Human Resources department and their wages are centrally controlled.

Employees in the petitioned-for unit are subject to similar terms and conditions of employment. Though they receive different levels of pay, they are all paid on an hourly basis and are entitled to receive similar Employer-provided benefits. They are subject to the same Employer-wide policies and procedures. Employees in the existing unit and petitioned-for employees must wear a badge at work and generally wear scrubs. They share common break facilities. They are subject to the same seniority policy.

The bargaining history in this case supports the inclusion of the petitioned-for employees at SRRMC. Though they have not historically been subject to the collective bargaining agreement, the current CBA includes technical employees at five of the other six signatory hospitals. A unit that includes technical employees at SRRMC is an appropriate unit. A finding to the contrary would result in unnecessary proliferation of bargaining units, which would not foster efficient and stable collective bargaining.

Based on the above factors, I therefore find that the petitioned-for employees share a community of interest with the existing unit.

C. The Employer Has Not Shown that Additional Classifications Share an Overwhelming Community of Interest with the Petitioned-for Employees

In this case, the Employer asserts that additional employees must be included with the petitioned-for employees to make it a proper unit. To be successful, the Employer must demonstrate that the additional employees it claims should be in the unit share an overwhelming community of interest with the petitioned-for employees. See *Northrop Grumman Shipbuilding, Inc.*, 357 NLRB No. 163, slip. op. at 3, fn. 8 (2011). Additional employees share an overwhelming community of interest with the petitioned-for employees only when there “is no legitimate basis upon which to exclude [the] employees from” the larger unit because the traditional community-of-interest factors “overlap almost completely.” *Specialty Healthcare*, supra, at 11-13, and fn. 28 (quoting *Blue Man Vegas, LLC. V. NLRB*, 529 F.3d 417, 421-422 (D.C. Cir. 2008)).

The Employer asserts that the unit is improper because the Union seeks to represent some but not all technical employees and some but not all nonprofessional employees under the Health Care Rule in its petitioned-for unit. This argument appears to be based on a misunderstanding of the Health Care Rule and Board law applying it. Contrary to the Employer’s assertion, the Union is not required to add all residual employees in relevant Health Care Rule categories in the *Armour-Globe* context. Such self-determination elections do not result in the proliferation of units in the healthcare industry that the Health Care Rule seeks to avoid because they do not create the “additional units” that the Rule regulates by its plain terms. *St. Vincent Charity Med. Ctr.*, 357 NLRB at 856-57; *West Virginia*, supra.

The Employer has failed to meet this high burden. The Employer did not introduce sufficient documents or testimony on the record that shows the remaining residual technical or nonprofessional employees share an overwhelming community of interests with the petitioned-for unit. At most, evidence shows that two employees—one surgical technologist and one surgical tech lead—share the same job titles as employees in the petitioned-for unit. See Bd. Exh. 1(m). Employer witness Roberts-MacArt testified that if individuals share the same job title, they report to the same supervisors, are paid the same, receive the same benefits, and must have the same qualifications. They are expected to be able to work both inpatient and outpatient or “float” back and forth. Tr. 44-46 Similarly, one hyperbaric technician works exclusively in the outpatient wound care center operating the hyperbaric chamber, involving no interchange with staff from the main hospital building, and one Tech Radiologic Sr. works in an outpatient center and not the main hospital building. Tr. 267-68.

However, there is no evidence on the record about how frequently the individuals who work primarily at an outpatient building actually float to perform work at the inpatient building. Further, there is no evidence on the record about their work-related contact or functional integration with the petitioned-for employees. Crucially, there is no discussion on the record as to whether or to what degree the work differs between locations. There is not even a job description for each of the positions, or other technical positions that the Employer contends are improperly excluded from the petitioned-for unit. This showing is insufficient to find that there is an overwhelming community of interest such that the employees must be included or to support a finding that the petitioned for technical employees is not distinct and identifiable group.

IV. APPLICATION OF BOARD LAW TO THE FACTS OF CASE 32-RC-380903

A. The Petitioned-For Professional Employees, with the Inclusion of the Physician Assistant, Constitute a Distinct Identifiable Voting Group

Petition in Case 32-RC-380903, as amended, seeks to add employees in named professional classifications who work primarily from the main hospital building at 6001 Norris Canyon Rd. The Union specifically seeks to include individuals in the following positions: chaplain, clinical lab scientist lead, clinical lab scientist, clinical dietitian, clinical pharmacist, social worker II, speech and language therapist, inpatient physical therapist (8HRS), and occupational therapist. Tr. 10. The Union stated on the record that it seeks to represent all professional employees excluding registered nurses and physicians who work primarily at the main hospital building. Tr. 13-14, 131, 305.

The Employer argues that the petitioned-for professional employees do not constitute a distinct and identifiable voting group because the group does not include employees in the physician assistant and registered nurse first assistant classifications and improperly excludes employees who work primarily at campus buildings other than the main hospital building. The Employer also argues that the petitioned-for professionals do not share an internal community of interest.

1. The Physician Assistant is a Professional Working Primarily at the Main Hospital Building and it is Appropriate to Include this Classification in the Voting Group

The Union plainly seeks to represent all non-nurse and non-physician professional employees who work primarily from the main hospital building. The parties stipulated that the Physician Assistant (PA) classification is a professional position. Tr. 37-38. There is no contention in the record that the PA should be categorized as a registered nurse or physician under the Health Care Rule. However, the Union disputes the inclusion of the Employer's only PA in the voting group because the Union asserts she is an employee of a different health system and not of SRRMC. Tr. 131.

At hearing, the Union introduced a document purporting to show the employer information associated with the individual PA's license. Union witness and Coordinator for Growth, Calvin Skinner, testified that he generated U. Exh. 2 by printing a copy of a John Muir Health website, which he found by searching for employers associated with the individual's PA license number. Tr. 200-202. The document states that the individual PA currently practices at a facility operated by John Muir Health.²¹

²¹ SRRMC has a partnership with John Muir Health, which is another health care system in the area. SRRMC owns 51% of the SRRMC facility, while John Muir Health owns 49%. Tr. 101. Physicians associated with John Muir Health (and other physicians not associated with John Muir Health) may see patients at SRRMC if they have gone through a credentialing process and received appropriate privileges. Tr. 102-03. However, this credentialing process only applies to physicians and not to any other job classification in part because SRRMC does not directly employ any physicians. *Id.*

While the Union has established that it has a good-faith doubt as to the individual PA's status as an employee of SRRMC, this question is not among the issues directed to be litigated at hearing, and is more properly addressed in a post-election hearing.

The Employer's original voter list shows that when the PA works at SRRMC, she works primarily from the main hospital building. Bd. Exh. 1(s). The Union did not put on any documents or testimony to dispute this assertion. I find therefore that it is appropriate to include the PA classification in the voting group because it is a professional classification that works primarily from the main hospital building.²² To find otherwise would render the unit not identifiable because it would exclude this classification without a substantial, rational basis. See *Am. Steel Constr., Inc.*, 372 NLRB No. 23, slip op. at 5. Given that the Union disputes the employment status of the individual PA, the individual should have the opportunity to vote subject to challenge.

2. The Registered Nurse First Assistant Classification is Properly Excluded from the Voting Group of Non-Nurse and Non-Physician Professionals

The parties stipulated that the Registered Nurse First Assistant (RNFA) classification is a professional position. Tr. 37-38. However, the Union contends that the RNFA should be understood as either a registered nurse or a physician under the Health Care Rule and should therefore be excluded from its petition for non-nurse and non-physician professionals who work primarily at the main hospital building. Tr. 131, 305. The Employer contends that RNFA classification should be included in the voting group as a professional. Bd. Exh. 3 (Amended Statement of Position to 32-RC-380903, p. 2).

The Health Care Rule establishes that "all registered nurses" will be an appropriate bargaining unit in acute care hospitals, as will "all physicians." "All professionals except for registered nurses and physicians" make up a separate appropriate category 103.30(a). Each of these categories are professional employees as defined in Section 2(12) of the Act. The Rule separates registered nurses from other professionals in acute care facilities because they share similar work schedules; job responsibilities; supervision; wages; education, training, experience and licensing; and interests in collective bargaining. They also interact with each other frequently and cannot be interchanged with other hospital employees because of their license requirements. Given the industry, nurses make up a large contingent of the employees who may organize, and without a separate nurse's unit, may overwhelm other professionals in mixed bargaining units. See 53 Fed. Reg. 33911-17. Similarly, the Rule separates physicians into their own appropriate unit because they have considerably more training than other professionals, the responsibility of directing all other patient care employees, higher pay, peer supervision, and unique interests regarding licensing and malpractice insurance. See *id.* at 33917.

RNFAs assist surgeons during surgical procedures in the operating room or labor and delivery room. They perform a combination of nursing and medical functions. U. Exh. 3.²³ They

²² I refer to the petitioned-for professional employees plus the physician assistant as the professional employees or the professional voting group herein.

²³ There was some discussion at hearing as to the authority that published U. Exh. 3. I note, as did the Union, that the California Board of Registered Nursing's letterhead appears at the top of the document. I further note that an identical

work alongside the physician and can perform minor surgical tasks, like assisting with hemostasis (controlling bleeding), suturing, patient positioning, and directing other surgical team members. Er. Exh. 5 at 51; Tr. 67-68; U. Exh. 3. During surgery, the RNFA practices under the supervision of the surgeon and can only perform limited surgical functions authorized by standard procedures. The standard procedures are developed by each organized health care system that utilizes RNFAs according to guidelines that were jointly promulgated by the California Board of Registered Nursing and the Medical Board of California. U Exh. 3. If an RNFA is not present during surgery to assist, the surgeon performs RNFA duties. Tr. 99. Other professionals without RNFA training or a physician’s surgical training cannot fill the role. RNFAs must be graduates of an accredited school of nursing and a graduate of a specialized RNFA program that “meetings the criteria of the AORN²⁴ ‘Standards for RN First Assistant education programs.’” RNFAs must maintain current licensure as a California Registered Nurse, and the Employer prefers that they be certified as a Certified Perioperative Nurse or RNFA. Er. Exh. 5 at 52; Tr. 67-68. During surgery, RNFAs are supervised by physicians but remain subject to discipline by the Board of Registered Nursing for gross negligence. U. Exh. 3.

Based on the record, it is clear that RNFAs do not fall into the “all professionals except for registered nurses and physicians” category. RNFAs remain Registered Nurses licensed by the state of California’s Board of Registered Nursing. They perform a combination of nursing and medical functions. They cannot be interchanged with non-nurse and non-physician professionals, like a clinical pharmacist or an occupational therapist. RNFAs’ further specialization within the registered nursing profession does not convert them from a registered nurse to a non-nurse and non-physician professional. Their scope of practice establishes that they fall into either the registered nurse category or the physician category.²⁵ A Regional Director may rely on the Board’s appropriate unit/community of interest determinations in the Health Care Rule, even if the unit does not strictly conform to any of the designated health care units *St. Vincent Charity Med. Ctr.*, 357 NLRB at 856-57. Therefore, because RNFAs can be distinguished from the other professionals under the HCR, there is a substantial, rational basis to exclude them from the voting group in Petition 32-RC-380903.

3. The Union’s Location Distinction is Not Arbitrary

The Employer again contends that the Union’s distinction between employees who work at the main hospital and employees who work at other campus locations renders the voting group unidentifiable. The petitioned-for employees together with the physician assistant, all of whom work primarily at the main hospital building, constitute an identifiable voting group for the reasons discussed above in Petition 32-RC-380462. The Union has articulated a substantial, rational basis for seeking only those employees who work primarily at the main hospital building. Those employees deal primarily with inpatient care, which differs from outpatient care. The Union is not required to seek all employees of an Employer that could conceivably fall into an Health Care Rule

document is currently available on the Board of Registered Nursing’s website at www.m.ca.gov/pdfs/regulations/npr-b-18.pdf (last visited Mar. 22, 2026).

²⁴ Association of periOperative Registered Nurses (AORN) is a voluntary membership organization that develops best practices for perioperative nursing, including the RNFA role. See AORN, *RN First Assistant – RNFA*, last visited Mar. 22, 2026, <https://www.aorn.org/guidelines-resources/clinical-resources/rn-first-assistant-resources>.

²⁵ It is unnecessary to determine precisely which category RNFAs belong to, as they could be properly excluded from the voting group in Petition 32-RC-380903 regardless.

category in an *Armour-Globe* setting. See *West Virginia*, supra; *Rush University Medical Center*, supra. The Union’s inpatient-only voting group, while smaller than the unit the Union could seek, is not “clearly arbitrary.”²⁶ The petitioned-for employees are an identifiable segment of the Employer’s unrepresented employees so as to constitute an appropriate voting group. To the extent that the Employer argues that additional employees cannot be distinguished from the voting group, it must show that those employees share an overwhelming community of interest with the voting group found appropriate herein (discussed infra). The Employer has not met that high burden.

B. The Petitioned-For Employees Share a Community of Interest with the Existing Unit at SRRMC²⁷

In examining whether there is a community of interest, no one factor is determinative or entitled to greater inherent weight. See, e.g., *Publix Super Markets*, 343 NLRB 1023, 1027 (2004); *Bradley Steel, Inc.*, 342 NLRB 215 (2004); *Trumbull Memorial Hospital*, 338 NLRB 900 (2003); *United Operations, Inc.*, 338 NLRB 123. I find a community of interest by weighing all the relevant factors below.²⁸

Organization of the Plant

As discussed above, SRRMC employees in the existing unit work in a variety of departments, and some perform work throughout the Employer’s operation. The same is true for the professional employees. For example, the social worker and employees in the therapy department (physical therapists, occupational therapists, and speech and language therapists) often perform work at their patient’s bedside or wherever the patient happens to be. Tr. 64, 173-74, 266. Though assigned to certain departments for administrative purposes, they travel throughout the hospital to provide care to patients where they are.²⁹ *Id.* The PA works primarily in the operating room or the labor and delivery department. Tr. 67.

As above, the Union in this petition does not seek to represent all employees who work in a single department—for example the therapy department. Members of the professional voting group work in departments throughout the hospital, as do members of the existing unit. At

²⁶ Nor is the petitioned-for group distinguished solely based on the extent of organizing, as the Employer claims. See Tr. 16. As discussed below, evidence at hearing showed that the petitioned-for inpatient acute care technical employees who work at the main hospital share an internal community of interest. The Employer did not meet its burden of showing that additional employees share an overwhelming community of interest such that they cannot be distinguished from the petitioned-for employees.

²⁷ In its Statement of Position, the Employer claims, among other things, that the petitioned-for employees do not share a community of interests with one another. Bd. Exh. 3. This is not the appropriate standard. Under *Warner-Lambert*, supra, the petitioned-for employees need only share a community of interest with the existing unit. Petitioned-for employees need not share a separate and distinct community of interest with each other because they need not be a separate appropriate unit. See *Great Lakes Pipe Line Co.*, supra.

²⁸ The caselaw on the community of interest factors is the same as above. I include caselaw citations only where needed.

²⁹ This is particularly true of employees in the therapy department, which is housed in the outpatient south services building. Er. Exh. 1; Tr. 287. Employees in the therapy department clock in and out at the south services building, regardless of whether they work at the main hospital or one of the outpatient buildings. Tr. 182, 287. Most inpatient therapy work is performed bedside with patients

SRRMC, many employees perform work throughout the hospital and in different departments as they follow patients to perform needed care. The Employer's "departmental distinctions [are] relatively less important in the organization of the work force" than they might otherwise be. *The Neiman Marcus Grp., Inc.*, 361 NLRB at 52.

Therefore, this factor weighs neither in favor nor against finding a community of interest with the existing unit.

Job Duties and the Nature of Employee Skills and Training

In this case, the job duties and required skills and training differ between employees in the existing unit and the professional voting group. The parties have stipulated that all of the job classifications in the professional voting group are professional employees under the Act. There is no contention on the record that any SRRMC employee in the existing unit is a professional. There are professionals employed by John F. Kennedy Memorial Hospital (another Tenet hospital covered by the CBA) in the existing bargaining unit. U. Exh. 1 at 3-4, 228-30.

While SRRMC employees in the existing unit and employees in the professional voting group both provide hands-on patient care, their primary job duties are distinct. Professionals have a higher level of training and education and thus can perform more specialized job duties. They also usually must have special certification or licensure non-technical nonprofessional employees, such as those in the existing unit generally do not. See generally Er. Exh. 5. SRRMC employees in the existing unit tend to perform routine tasks that require little specialized training or education.

For example, a nursing assistant in the existing unit may perform basic patient care tasks including assisting patients with eating, using the bathroom, bathing, and "maintaining integrity of patient belongings." Er. Exh. 5 at 1-4 Tr. 55-56. By contrast, a speech and language therapist assesses patients and prepares treatment plans for a variety of areas related to speech therapy, including reading and auditory comprehension, cognition, and dysphasia. They may work with other clinical professionals, such as the clinical dietician, to ensure that the patient receives appropriate food, particularly if they have difficulty swallowing, such as after a stroke. Er. Exh. 5 at 127-29; Tr. 62, 65.

Similarly, a nursing assistant must collaborate with their supervising RN to identify and report cases of suspected abuse under mandatory reporting requirements. Er. Exh. 5 at 1. But a social worker relies on their advanced qualifications to intervene in abuse and neglect cases and to identify and coordinate appropriate resources for the patient and/or their family. Er. Exh. 5 at 64; Tr. 65.

The professional employees have specialized education and training that allows them to provide advanced care to patients. They rely on this advanced training in the performance of their job duties, which differ from employees in the existing unit based on patient needs. Therefore, the factors of job duties and nature of employee skills and training weigh against finding a community of interest between the professional voting group and the existing unit.

Interchangeability

In this case, there is insufficient evidence on the record to find meaningful interchange between the existing unit and the professional voting group. There is no contention on the record that members of the existing unit receive temporary or permanent assignments to any of the positions in the professional voting group. As discussed above, the positions in the professional voting group require specialized education, training, experience, and certification or licensure. Such requirements foreclose interchange with any employees who do not meet these requirements. There is also insufficient evidence to find that employees in the professional voting group receive temporary or permanent transfers to positions in the existing unit.

This factor therefore weighs against finding a community of interest.

Functional Integration and Contact Among Employees

As noted above, the Board has found an *Armour-Globe* election to be appropriate based primarily on a high degree of functional integration and contact between employees, even where other factors are neutral or weigh against inclusion in the existing unit. *Union Elec. Co.*, Case 14-RC-278595, 2021 WL 5447985 at fn. 1 (2021). I find that the professional employees have frequent contact with employees in the existing unit, and their work is functionally integrated. The hospital functions as a group, with the professional employees and employees in the existing unit contributing to the Employer's goal of providing safe medical care to patients.

Professionals in the voting group regularly communicate with unit employees over work related matters and rely on them in the performance of their job duties. This is particularly true in the acute care setting, where "it's very integrative because there's so many services trying to be performed on one patient." Tr. 178.

For example, physical therapists (PT) frequently perform their work at a patient's bedside. During the time that a PT is in a patient's room, a nursing assistant may be present to provide routine care, such as by refilling a patient's water or changing their bed linens when they are standing for their physical therapy. The nursing assistant also frequently provides physical assistance during physical therapy, such as by helping the physical therapist sit the patient up in bed or assisting the patient to take a few steps before sitting in the bedside chair. The PT who testified at hearing stated that he interacts with nursing assistants every shift, and they assist him with providing physical therapy to patients in at least five out of ten patient interactions. Tr. 185-86.

Similarly, physical therapists communicate with monitor technicians when a patient is hooked up to telemetry monitors. If the treatment activity, such as a supervised walk, causes the patient's vital signs to go out of acceptable range, the physical therapist will receive a call, initiated by the monitor tech, to ask what is going on. The physical therapist will confirm that they are with the patient and whether the treatment is almost concluded so the patient can lie down again and get their heart rate within range. Tr. 56, 188-89.

Physical therapists also regularly communicate and coordinate with food service workers, who transport patient food carts to patient care areas.³⁰ Tr. 186; Er. Exh. 5 at 25. For patients at a high acuity level, sitting up to eat a meal can be strenuous. Such patients “have a very poor activity tolerance,” so PTs coordinate their schedule to ensure that they can sit the patient up for a meal and lay them back down before something negative occurs. Tr. 186-87. Physical therapists rely on communication from food service workers to effectively plan and execute patient care. This relationship emphasizes that the two classifications work on different phases of the same service.

Employees in the existing unit may interact with different classifications of professional employees in the course of performing a single job task. For example, a phlebotomist may coordinate with a physical therapist while the PT is providing patient care. This can include the phlebotomist asking how much longer a PT treatment will take or asking whether it is alright for the phlebotomist to interrupt the physical therapy exercise momentarily to draw blood. Tr. 173-74. Though different functions (blood testing versus movement therapy), the positions work together to provide safe and efficient patient care. After the phlebotomist draws a blood sample, they take it to the lab, where it may be tested by a Clinical Lab Scientist or Clinical Lab Scientist Lead. See Er. Exh. 5 at 6-11. Clinical Lab Scientist Leads also assist in training phlebotomists and can direct them in performing duties that require knowledge of special patient populations. Er. Exh. 5 at 9. Here too, existing unit employees work on different phases of the same service as employees in the professional voting group. The phlebotomists and lab scientists “necessarily depend on each other to accomplish their respective tasks,” evidencing functional integration. See *MV Transportation, Inc.*, 373 NLRB No.8, slip op. at 7; see also *Publix Super Markets, Inc.*, 343 NLRB at 1024-25; *Transerv Systems*, 311 NLRB 766.

Clinical pharmacists share close contact and are functionally integrated with pharmacy technicians. Pharmacy technicians perform more routine tasks like restocking pharmacy inventory and Omnicell units, while clinical pharmacists compound and dispense drugs. The clinical pharmacists directly oversee the pharmacy technicians’ performance of their duties. Pharmacy techs also ensure that medications and supplies are within date and are stored properly. Here again, unit employees and professional employees perform different phases of the same tasks. The pharmacy technician replenishes stock and ensures that ingredients are safe, while the clinical pharmacist compounds specialty formulations, resolves prescribing issues with physicians, and dispenses drugs. The pharmacy technician also serves as back-up for non-routine unit dosing drug preparations, evidencing a further similarity of functions. Er. Exh. 5 at 37-40, 96-98.

Unit employees and employees in the professional voting group rely on each other at many areas of patient care. Sterile processing technologists ensure the sterility of instruments and equipment that a physician assistant uses in the operating room. Er. Exh. 5 at 45-47, 76-77; Tr. 67. Distribution technicians retrieve supplies that professionals need for the performance of their job duties, and distribution techs rely on professionals to inform them of needed supplies. Tr. 187-88.

Even where professional employees’ work is not functionally integrated with that of other employees, they maintain close work-related contact to ensure that each can perform their patient care services in a timely manner and without excess risk to patients. Tr. 178.

³⁰ Dietetic techs distribute food to patients, ensuring that each patient receives the proper food that has been ordered for them, taking into account allergies and other dietary restrictions. Tr. 71.

The record in this case shows a high degree of communication and functional integration between employees in the professional voting group and employees in the existing unit. Each group of employees alters the performance of their job duties based on communication from the other. Each group relies on the other to perform different parts of the same patient care services. Therefore, both the contact and functional integration factors weigh strongly in favor of finding a community of interest between the employees in the professional voting group and employees in the existing unit.

Common Supervision

As discussed above, the Employer's supervision structure is highly centralized. There is no evidence that the supervision structure for professional employees is different than that of the nonprofessional and technical employees discussed above. Professional employees report directly to a department director or manager, who in turn report to one of four executives. Tr. 272-73; see also Er. Exh 4. The Human Resources department handles all labor and employee relations issues, performance evaluations, and compensation. The Employer utilizes common hiring practices that apply to all employees, including those in the existing unit and professional voting group. See Tr. 45, 68, 267. The hierarchical supervision structure provides executive management fairly direct control over operations, while immediate supervision of day-to-day work comes from each department manager or supervisor. See *Sears, Roebuck & Co.*, 191 NLRB 398. This is common to both existing unit employees and professional employees in the voting group. There is centralized and uniform control over key supervisory issues including hiring, employee pay, and performance evaluations. Therefore, this factor favors finding a community of interest.

Terms and Conditions of Employment

The employees in the professional voting group are paid hourly, as are the employees in the existing unit. The wages for employees in the existing unit are covered by the CBA and range from \$19.70 to \$35.11 per hour. See. U. Exh. 1 at 236. The wages for the professional employees range from \$37.07 to \$109.71 per hour. See. Er. Exh. 4. As with the technical employees, the professional employees generally make more per hour than employees in the existing unit. However, the difference in wages does not mandate finding no community of interest, particularly when the employees share other terms and conditions of employment and other community of interest factors favor inclusion.

Employees in the professional voting group share other terms and conditions of employment with employees in the existing unit. All employees must receive a standard orientation for the hospital and their specific department. Tr. 80. The Employer maintains shared policies applicable to the hospital, department, and individual positions. Tr. 80. Employer Exhibit 5 evidences that both employees in the existing unit and employees in the professional voting group must be aware of and conform to the SRRMC Behavior Standards; SRRMC and legal patient confidentiality requirements; attendance, dress code, and other "Tenet policy." See Er. Exh. 5 generally. Additional policies apply to employees who share departments. For example, Infection Control Guidelines and Safe Food Service policies apply to professionals and existing unit members who work with food (the clinical dieticians, cooks, and food service workers). These

workers must additionally adhere to standards posted in the kitchen and in the Diet Office Book. Er. Exh. 5 at 14, 25-26.

Existing unit employees and the professional employees must wear badges. They use the badges to gain access to different areas of the facility and to clock in and out. Tr. 189, 244; Er. Exh. 5 at 39, 97, 140. Approximately 80% of employees at SRRMC wear scrubs, and some of the professionals do so. However, professionals are less likely overall to wear scrubs, as they are less likely to get dirty in the performance of their work. Tr. 189, 244, 266.

Both professional employees and employees in the existing unit may use any breakroom they choose, except for the designated breakroom for operating room personnel. There is an additional breakroom in the outpatient south building at 7777 Norris Canyon Rd., where the outpatient therapy department is located, but therapists are not required to take their breaks there. Tr. 287. Typically, employees use the breakroom closest to their usual working area. Tr. 270-71, 283, 285.

Professional employees are entitled to receive at least medical, dental, and 401(k) benefits. Tr. 190. Employees in the existing unit are entitled to receive similar “core benefit plans” available to Tenet employees. U Exh. 1 at 47. The Employer maintains the same seniority policy for employees in the existing unit and employees in the professional voting group. Tr. 274.

Employees in the professional voting group earn more per hour than SRRMC employees in the existing unit. Professional employees are less likely to wear scrubs than the existing unit but may still do so. Both groups of employees wear badges and use them to clock in and out of work. They are both paid on an hourly basis. They share access to common facilities, such as breakrooms and the cafeteria. They are subject to shared SRRMC policies and Tenet policies. They may be subject to shared department policies depending on the department. Professional employees and employees in the existing unit are both entitled to receive similar Employer-provided benefits. This factor therefore weighs in favor of finding a community of interest.

Bargaining History

The bargaining history in this case is reflected in the CBA. It is true that professional employees at SRRMC have not historically been subject to the collective bargaining agreement covering the existing unit. However, the CBA clearly includes professional employees working at another hospital in the existing unit. U. Exh. 1 at 2-4. Moreover, seven out of ten of the specific positions in the professional voting group appear in the wage steps for that hospital.³¹ U. Exh. 1 at 228-230.

The Employer argues that because the petitioned-for unit combines multiple categories of employees under the Health Care Rule, the petitioned-for technical employees do not share a

³¹ The wage steps for John F. Kennedy Memorial Hospital include Clin Lab Scientist I, Clin Lab Scientist II, Pharmacist I, Pharmacist II, Social Worker-MSW, Therapist – OT, Therapist – PT, and Therapist – Speech. The wage table does not appear to include the positions of chaplain, clinical dietician, or physician assistant.

community of interest with the existing unit.³² Bd. Exh. 1(s), 3; Tr. 313-318. As discussed above, such a claim is not supported by the Health Care Rule, which applies on its face to petitions for *additional* units, and even then, states that “various combinations of units may also be appropriate.” See 29 CFR 103.30 (a). A finding to the contrary in this case would result in the proliferation of bargaining units, which both the Act and the Health Care Rule disfavor.

Community of Interest Conclusion³³

After examining the record and weighing the community of interest factors, I find that the employees in the petitioned-for professional voting group share a community of interest with the existing unit at SRRMC. While not organized into a separate and coextensive department with SRRMC employees in the existing unit, the professional employees and unit employees work in various departments throughout the Employer’s operation. The professional employees have more advanced training and education and provide more specialized tasks than employees in the existing unit. There is no evidence of interchange between the groups.

However, the Board has found an *Armour-Globe* election to be appropriate based primarily on a high degree of functional integration and contact between employees, even where other factors are neutral or weigh against inclusion in the existing unit. *Union Elec. Co.*, Case 14-RC-278595, 2021 WL 5447985 at fn. 1 (2021). There is strong evidence of frequent work-related contact between employees in the professional voting group and unit employees. The groups regularly rely on each other to perform different phases of the same patient care service and communicate to achieve their respective tasks in a timely manner.

Employees in the existing unit and the voting group are commonly supervised through a centralized hierarchical reporting structure. They are subject to regular performance evaluations managed by the Human Resources department and their wages are centrally controlled.

³² The Employer also argues that adding professional employees and technical employees to a bargaining unit that it claims currently includes only non-technical nonprofessional employees of SRRMC would violate the principle of employer consent in multi-employer bargaining. It is true that consent from the union and each employer involved grounds multi-employer bargaining. See e.g. *Resort Nursing Home*, 340 N.L.R.B. 650, 654 (2003); *Evening News Ass’n*, 154 N.L.R.B. 1494, 1496 (1965) (“the multiemployer unit is rooted in consent”). However, “[w]hat is controlling is whether the individual employers have each manifested unequivocally an intention to be bound by group bargaining rather than by individual action.” *Resort Nursing Home*, supra. In this instance, the CBA shows that the signatory employers can and do negotiate individual provisions with the Union that are applicable only to that employer. See U. Exh. 1 at 84-237. The bargaining unit is defined at the facility-level. Human Resources Manager Jane Roberts-MacArt confirmed at hearing that none of the signatory hospitals have the authority to bargain on behalf of another or to bind another signatory to any particular terms. Tr. 86-87. Further, employees added to an existing bargaining unit through an *Armour-Globe* self-determination election do not automatically come under the terms of the existing agreement. *UMass Memorial Medical Center*, 349 NLRB 369, 370-71 (2007) (citing *Federal-Mogul Corp.*, 209 NLRB 343 (1974)); see also *Wells Fargo Armored Service Corp.*, 300 NLRB 1104 (1990). Therefore, even if SRRMC employees in the technical and professional classifications discussed above vote to join the existing unit, such an addition would not obligate SRRMC to agree to any particular terms or violate SRRMC’s consent.

³³ Employees in this voting group are professionals under the Act. Because I direct a self-determination election to decide whether they wish to join an existing unit which includes non-professionals, employees in this group should receive ballots that include *Sonotone* language. 90 NLRB 1236, 1241-42 (1950). The Union has stated that it seeks a *Sonotone* ballot. Tr. 20, 131-32. The fact that the Union did not specifically request a *Sonotone* election in its petition does not warrant finding the election improper or dismissing the petition.

Professional employees are subject to similar terms and conditions of employment as employees in the existing unit. Though they receive different levels of pay, they are all paid on an hourly basis and are entitled to receive similar Employer-provided benefits. They are subject to the same Employer-wide policies and procedures. They share common break facilities and are subject to the same seniority policy.

The bargaining history in this case supports the inclusion of the employees in the professional voting group at SRRMC. Though they have not historically been subject to the collective bargaining agreement, the current CBA includes professional employees at another signatory hospital. A unit that includes professional employees at SRRMC is an appropriate unit. A finding to the contrary would result in unnecessary proliferation of bargaining units, which would not foster efficient and stable collective bargaining.

C. The Employer Has Not Shown that Additional Classifications Share an Overwhelming Community of Interest with the Petitioned-for Employees

In this case, the Employer asserts that additional employees must be included with the petitioned-for employees to make it a proper unit. To be successful, the Employer must demonstrate that the additional employees it claims should be in the unit share an overwhelming community of interest with the petitioned-for employees. See *Northrop Grumman Shipbuilding, Inc.*, 357 NLRB No. 163, slip. op. at 3, fn. 8 (2011). Additional employees share an overwhelming community of interest with the petitioned-for employees only when there “is no legitimate basis upon which to exclude [the] employees from” the larger unit because the traditional community-of-interest factors “overlap almost completely.” *Specialty Healthcare*, supra, at 11-13, and fn. 28 (quoting *Blue Man Vegas, LLC. V. NLRB*, 529 F.3d 417, 421-422 (D.C. Cir. 2008)).

As discussed above, the Union seeks to represent only the professional employees who work primarily at the main hospital building because they deal with primarily inpatients. The Employer contends that to be appropriate, the voting group must include approximately one exercise physiologist, one speech and language therapist, five physical therapists, and two occupational therapists—all of whom work primarily from the outpatient south services building, located at 7777 Norris Canyon Rd. The Employer is particularly concerned with those outpatient employees who share the same job title as professional employees who work on the inpatient side (all but the exercise physiologist). Bd. Exh. 3; Er. Exh. 1(s) at Employee List.

The Employer did not introduce sufficient documents or testimony on the record that shows the excluded employees have an overwhelming community of interest with the professional voting group.

The Employer’s Human Resources Manager, Roberts-MacArt asserted at hearing that the outpatient and inpatient therapy positions share the same job title, qualifications, pay, supervision, and performance evaluation forms. Tr. 45-46. She also stated that employees who hold these positions are expected to be able to “float” between inpatient and outpatient roles, and that they do in fact do so. *Id.*, 123-24. However, Roberts-MacArt stated that employees spend up to 90% of their working time at the primary work location listed on the voter list. Tr. 267-68.

The Employer did not provide evidence as to the exercise physiologist aside from a basic job description. Evidence indicates that the exercise physiologist works in yet another separate department and reports to the medical director of the cardiac rehab program. Er. Exh. 5 at 21-24; Tr. 63.

The physical therapist who testified stated that he only works at the main hospital building. Tr. 190. This is true even though he sometimes works on Fridays, when outpatient appointments can be scheduled and picks up weekday shifts (as opposed to weekends, when there are no outpatient therapy appointments scheduled). Tr. 180.

The inpatient and outpatient therapists are subject to the same Employer-wide and department wide policies and procedures as discussed above. They are entitled to receive the same Employer provided benefits. Tr. 190. Inpatient therapists may use the therapy breakroom at the 7777 Norris Canyon Rd. outpatient building where the therapy department is located. But they are not required to use this breakroom and have access to any of the breakrooms in the main hospital building aside from the OR breakroom. Tr. 270, 287.

The Employer has not put sufficient evidence on the record that inpatient and outpatient therapists have meaningful work-related contact with each other or that their work is functionally integrated. While no single factor in the community of interest analysis is determinative, the Board places great emphasis on contact and functional integration. The PT who testified stated that he clocks in at the therapy department in the outpatient building. He sees the outpatient therapists at that time but is not familiar with their patient care work. By contrast, he has “a good idea” of what the other inpatient physical therapists are doing with patients during his shifts because the therapists are “a small team there on the inpatient side.” Tr. 182.

Testimony from the physical therapist who appeared at hearing shows that there are significant differences between the inpatient and outpatient physical therapy work. Inpatients have a higher level of acuity, meaning medical need. This means that therapists often treat patients from bed in the acute care setting. There are more medical complications and the patient’s status and ability to perform exercises depends on simultaneous treatment or monitoring. Tr. 174, 187. Inpatient care focuses on how patients may be safely discharged and return to their life while being able to perform basic functions. Tr. 174-75. Outpatient care follows long-term goals and allows the therapist to be able to concentrate on a particular joint or movement. *Id.*

While there may be sufficient evidence to find *a* community of interest between the inpatient and outpatient therapists, the Employer has not met its heightened burden of showing an *overwhelming* community of interest. Such a showing requires that the groups of employees have community of interest factors that “overlap almost completely.” In this instance, the differences in job duties between the inpatient and outpatient therapists and the lack of evidence showing work-related communication, frequent contacts or functional integration between the employees allow for distinction between the inpatient and outpatient therapists.

CONCLUSION

In determining that the petitioned-for technical employees are a distinct and identifiable segment of employees, that they share a community of interest with the existing unit, and that they do not share an overwhelming community of interest with other employees, I have concluded that the petitioned-for technical employees are an appropriate voting group. In determining that the petitioned-for professional employees plus the physician assistant are a distinct and identifiable segment of employees, that they share a community of interest with the existing unit, and that they do not share an overwhelming community of interest with other employees, I have concluded that the petitioned-for professional employees plus the physician assistant are an appropriate voting group.

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 the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.³⁴
3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute voting groups appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

Case 32-RC-380903

VOTING GROUP/UNIT A (PROFESSIONALS):

Included: All full-time, part-time, and per diem chaplain, clinical lab scientist lead, clinical lab scientist, clinical dietitian, clinical pharmacist, social worker II, speech and language therapist, inpatient physical therapist (8HRS), and occupational therapist, employed by the Employer at its acute care facility located at 6001 Norris Canyon Road, San Ramon, California 94583.

³⁴ The Employer, San Ramon Regional Medical Center, LLC, a Delaware limited liability company, with an office and place of business located in San Ramon, California, is engaged in the business of providing healthcare services. During the past calendar year, the Employer derived gross revenues in excess of \$250,000 and purchased and received goods or services in excess of \$5,000, which originated outside the State of California.

Excluded: Employees already represented by a labor organization, guards, managers, and supervisors as defined in the Act.

Others Permitted to Vote: At this time, no decision has been made regarding whether the individuals in the Physician Assistant classification employed by the Employer at its 6001 Norris Canyon Road, San Ramon, California facility are included in, or excluded from, the Professional Unit, and individuals in that classification may vote in Voting Group A, but their ballots will be challenged since their eligibility has not been resolved. The eligibility or inclusion of these individuals will be resolved, if necessary, following the election.

The VOTING GROUP/UNIT A (PROFESSIONALS) will be asked the following two questions on their ballot:

1. Do you desire to be included with non-professional employees in a single unit for the purposes of collective bargaining?
2. Do you desire to be represented for the purposes of collective bargaining by Service Employees International Union-United Healthcare Workers West?

If a majority of the professional employees (Voting Group A) vote “Yes” to the first question, indicating their desire to be included in a unit with non-professional employees, they will be so included. Their votes on the second question then will be counted to determine whether the employees in the professional employees (Voting Group A) wish to be represented by the Union. If, on the other hand, a majority of the professional employees (Voting Group A) vote against inclusion, they will not be included with the non-professional employees. Their votes on the second question will be separately counted to determine whether they wish to be represented by the Petitioner in a separate unit.

Case 32-RC-380462

VOTING GROUP:

Included: All full-time, part-time, and per diem practitioner, respiratory care; tech – anesthesia; tech – cardiology; tech - nuclear med II; tech - rad cardiovascular; tech - rad II; tech - surgical lead; tech – EEG; techno - echo; techno - radiologic senior; techno – surgical; techno - ultrasound, tech - rad 3, employed by the Employer at its acute care facility located at 6001 Norris Canyon Road, San Ramon, California 94583.

Excluded: Employees already represented by a labor organization, guards, managers, and supervisors as defined in the Act.

As such, I am directing two simultaneous secret-ballot elections among the employees in the units found appropriate above.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the units found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by Service Employees International Union - United Healthcare Workers West.

A. Election Details

The election will be held on **Wednesday, April 15, 2026** from 7:00 a.m. to 8:30 a.m. and 3:00 p.m. to 4:30 p.m. at the Employer's premises, at the Blackhawk Conference Room, 6001 Norris Canyon Road, San Ramon, California.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **Saturday, March 28, 2026**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. In a mail ballot election, employees are eligible to vote if they are in the unit 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 as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Also eligible to vote using the Board's challenged ballot procedure are those individuals employed in the classifications whose eligibility remains unresolved as specified above and in the Notice of Election.

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.

Also eligible to vote are employees in the unit who have worked an average of 4 hours or more per week during the 13 weeks immediately preceding the eligibility date for the election.

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 (that employees use at work), 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 **Monday, April 6, 2026**. 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 unit 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 unit 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: April 2, 2026



Christy J. Kwon
Regional Director
National Labor Relations Board
Region 32
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Oakland, CA 94612-5224