Sharp Staffing Resource Network *and* Service Employees International Union, United Healthcare Workers—West. Case 21–RC–361867

June 16, 2026

ORDER

BY CHAIRMAN MURPHY AND MEMBERS PROUTY AND MAYER

The Employer's Request for Review of the Acting Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.[1] Accordingly, the Employer's Request for Extraordinary Relief (i.e., a stay of the election) is denied as moot.

Dated, Washington, D.C. June 16, 2026

James R. Murphy, Chairman

David M. Prouty, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

MEMBER MAYER, dissenting:

I would grant the Employer's Request for Review on the basis that the Acting Regional Director's finding that the petitioned-for unit is presumptively appropriate under the Health Care Rule constituted legal error. The Health Care Rule provides that "[e]xcept in extraordinary circumstances and in circumstances in which there are existing non-conforming units," the eight units enumerated in the Health Care Rule "shall be appropriate units, and the only appropriate units" in acute care hospitals but also provides that, "if sought by labor organizations, various combinations" of the eight units "may also be appropriate." Section 103.30(a) of the Board's Rules and Regulations. Here, the petitioned-for unit of all technical employees and other non-professional employees is a combination of two of the eight enumerated units in the Health Care Rule. Therefore, under the Health Care Rule, the petitioned-for unit is not presumptively appropriate.

The Employer's Statement of Position and its offer of proof clearly raised an issue of unit appropriateness. Because the petitioned-for unit was not presumptively appropriate, the issue needed to be resolved. See *Allen Health Care Services*, 332 NLRB 1308, 1309 (2000) (". . . absent a stipulated agreement, presumption, or rule, the Board must be able to find—based on some record evidence—that the proposed unit is an appropriate one for bargaining before directing an election in that unit.") (internal citation and quotation omitted). But the hearing officer precluded litigation of the issue on the basis that the unit was presumptively appropriate and further confirmed that "there are no other evidentiary or procedural flaws that the [A]cting Regional Director is considering." Any further effort to dispute that determination at that point would have been futile. As noted, the finding that the unit was presumptively appropriate was clear error. In my view, the Employer has sufficiently placed the issue before the Board under these circumstances. Accordingly, I would remand this case to the Region to develop the record and assess the appropriateness of the petitioned-for unit.

Dated, Washington, D.C. June 16, 2026

[1] For the reasons stated in *Satellite Healthcare (Santa Rosa)*, 374 NLRB No. 25 (2026), we reject the Employer's contention that the Acting Regional Director lacked the authority to continue processing this petition in the absence of a Board quorum.

In denying review, we emphasize that the Employer disputes the premise that Sec. 103.30 of the Board's Rules and Regulations (the Health Care Rule) is applicable to the instant dispute for the first time in its Request for Review. As a result, the issue is not properly before us. See Sec. 102.67(e) of the Board's Rules and Regulations (stating that a request for review to the Board "may not raise any issue or allege any facts not timely presented to the Regional Director"). We therefore express no view on whether the Acting Regional Director correctly applied the Health Care Rule in this case. We also note that our dissenting colleague is relying on arguments that the Employer did not timely make.

With respect to the Employer's argument that it was deprived of due process because it lacked notice that the Health Care Rule was at issue in this case, we observe that (1) the Petitioner's petition stated, explicitly, that it was seeking a unit of certain classifications "as defined at" Sec. 103.30 of the Board's Rules and Regulations; (2) the Employer failed to dispute the application of the Health Care Rule in its Statement of Position; and (3) prior to hearing, the Employer entered into a stipulation wherein it agreed that the Petitioner was seeking a unit of employees defined "under the Board's Health Care Rule." Accordingly, we reject the Employer's contention in its Request for Review that it did not have adequate notice that the Health Care Rule was at issue until the end of hearing.

Member Prouty notes that the Employer does not contend that the petitioned-for unit is not presumptively appropriate under the Health Care Rule. Before the Region, the only theory of unit inappropriateness the Employer advanced in its Statement of Position and at hearing was that the petitioned-for unit lacks an internal community of interest under the traditional community-of-interest test. The Employer did not put any Health Care Rule-related issues in dispute and effectively acquiesced to the application of the Health Care Rule and to the presumptive appropriateness of the unit under the Health Care Rule. And, as noted, the Regional Director's finding that the petitioned-for unit is presumptively appropriate under the Health Care Rule is not raised at all by the Employer.

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Scott A. Mayer, Member

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