

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

NORTHEASTERN UNIVERSITY
Employer

and

01-RC-313126
01-CA-329551

AMERICAN COALITION OF PUBLIC SAFETY
Petitioner

SUPPLEMENTAL DECISION, ORDER, AND NOTICE TO SHOW CAUSE

This test-of-certification proceeding is before the National Labor Relations Board on remand from the United States Court of Appeals for the First Circuit.¹ The Board has reviewed the record and the parties' position statements in light of the court's remand. For the reasons explained below, we vacate our prior decision finding that the Employer violated Section 8(a)(5) and (1) of the National Labor Relations Act by refusing to bargain with the Union and we therefore dismiss the complaint in Case 01-CA-329551. We also reopen the underlying representation case and issue a Notice to Show Cause as to why the Board should not grant the Employer's motion to dismiss the petition in light of its assertion that the Union has disclaimed interest in representing the unit at issue in this proceeding.

A. Background

In March 2023, the Union filed a petition in Case 01-RC-313126 seeking to represent a unit of all full-time and regular part-time Sergeants, Sergeant Detectives, and Detectives employed in the Northeastern University Police Department (NUPD) at the Employer's campus in Boston, Massachusetts. The Employer asserted that Sergeants and Sergeant Detectives were

¹ The Board has delegated its authority in this proceeding to a three-member panel.

supervisors within the meaning of Section 2(11) of the Act and thus must be excluded from the unit. On August 17, 2023, the Regional Director issued a Decision and Direction of Election in which she found that the Employer did not meet its burden of establishing that the disputed individuals were statutory supervisors and directed an election among the petitioned-for unit. On March 8, 2024, the Board, in an unpublished order, denied the Employer's request for review of the Decision and Direction of Election, finding, in agreement with the Regional Director, that the Employer failed to establish that Sergeants and Sergeant Detectives were statutory supervisors.

An election was held on September 11, 2023, and the Union was certified as representative on September 21, 2023. Thereafter, the Employer refused to bargain with the Union. On May 21, 2024, the Board granted the General Counsel's motion for summary judgment in Case 01-CA-329551 and found that the Employer violated Section 8(a)(5) and (1) of the Act by failing and refusing to recognize and bargain with the Union. See *Northeastern University*, 373 NLRB No. 62 (2024). The Employer refused to comply with the Board's Order and filed a petition for review with the United States Court of Appeals for the First Circuit, and the Board filed a cross-application for enforcement.

On May 23, 2025, the court issued an opinion in which it granted the Employer's petition for review, denied the Board's cross-application for enforcement, vacated the Board's unfair labor practice finding against the Employer, and remanded this proceeding to the Board. See *Northeastern University v. NLRB*, 138 F.4th 64 (1st Cir. 2025). The court found, contrary to the Board, that the Employer met its burden of establishing that Sergeants and Sergeant Detectives were supervisors within the meaning of Section 2(11) of the Act, and thus the certified unit was not an appropriate unit for bargaining. Accordingly, the court vacated the Board's finding that the Employer violated Section 8(a)(5) and (1) of the Act by refusing to bargain with the Union. The

Court remanded to the Board with instructions to address any remaining issues in the underlying representation case in a manner consistent with its holding that the classifications at issue must be excluded from the unit.

On February 10, 2026, the Board advised the parties that it had accepted the court's remand and invited the parties to submit statements of position regarding the issues raised on remand. The General Counsel filed a statement of position, and the Employer filed a statement of position and a motion to dismiss. Both the General Counsel and the Employer recommend that the unfair labor practice case against the Employer be dismissed. With respect to the underlying representation case, the General Counsel recommends that the Board remand the case to the Regional Director for further appropriate action. The Employer requests that the underlying representation case be dismissed or, alternatively, that the Board remand the case to the Regional Director with instructions to dismiss the case. Specifically, the Employer claims that dismissal is warranted because the Union has disclaimed interest in representing Detectives, who, as a result of the court's decision, are the only remaining employees in the unit. In support of its motion, the Employer has submitted an email dated March 12, 2026, from the Union's counsel to the Employer's counsel stating, as relevant here, that the Union "does not intend to represent the detectives." The General Counsel's statement of position, which was filed before the Employer filed its statement, does not address the Union's alleged disclaimer. The Union did not file a statement of position.

B. Analysis on Remand

Having accepted the court's remand, the court's finding that Sergeants and Sergeant Detectives are Section 2(11) supervisors is the law of the case.² The inclusion of statutory supervisors renders the previously certified unit inappropriate for bargaining. Therefore, the Employer did not violate Section 8(a)(5) and (1) by refusing to bargain with the Union. See Section 8(a)(5) and (1) of the Act; *Beverly California Corp.*, 970 F.2d 1548, 1551 (6th Cir. 1992). Accordingly, we will vacate our prior Order reported at 373 NLRB No. 62 (2024) and dismiss the complaint in Case 01-CA-329551.

With respect to the underlying representation case, the court instructed the Board to take further appropriate action to address any remaining issues consistent with its decision, "such as, for example, whether to decertify the bargaining unit and hold a new election or simply eliminate Sergeants and Sergeant Detectives from the unit's membership." *Northeastern University*, 138 F.4th at 73. But as described above, the Employer claims in its statement of position that after the court issued its decision, the Union disclaimed interest in representing Detectives. That claim, if true, would render further proceedings in the underlying representation case unnecessary. Having duly considered the matter, we conclude that the issues raised by the court's remand and in the Employer's statement of position with respect to Case 01-RC-313126 can be best resolved by issuing a Notice to Show Cause to afford the parties to this proceeding an opportunity to address the Employer's claim that the Union has disclaimed interest in representing the unit at issue here.

² The court ruled that Sergeants and Sergeant Detectives are Sec. 2(11) supervisors by virtue of their authority to assign duties to their subordinates. See *Northeastern University*, 138 F.4th at 65. The court did not reach the Regional Director's findings, with which the Board agreed, that the Employer failed to establish that Sergeants and Sergeant Detectives possess authority to discipline, responsibly direct, or adjust employees' grievances.

Thus, we shall reopen Case 01-RC-313126 and issue a Notice to Show Cause as to why the Employer's motion to dismiss should not be granted.³

ORDER

It is ordered that the Board's prior Decision and Order in Case 01-CA-329551, reported at 373 NLRB No. 62 (2024), is vacated and the complaint is dismissed.

It is further ordered that Case 01-RC-313126 is reopened.

In addition, NOTICE IS GIVEN that any party seeking to show cause why the Employer's motion to dismiss Case 01-RC-313126 should not be granted must do so in writing, filed with the Board in Washington, D.C., on or before September 9, 2026 (with affidavit of service on the parties to this proceeding). Any response should address what further action should be taken in this proceeding in the event that the Employer's motion is not granted. Any briefs or statements in support of the motion shall be filed on the same date.

Dated, Washington, D.C., August 26, 2026.

JAMES R. MURPHY, CHAIRMAN

DAVID M. PROUTY, MEMBER

SCOTT A. MAYER, MEMBER

³ The Board declines to grant the Employer's motion to dismiss at this time because the email proffered by the Employer, while probative, is insufficient to establish that the Union has disclaimed interest, particularly in light of the Union's apparent refusal to withdraw its petition. See *3 Beall Bros* 3, 110 NLRB 685, 686 (1958) (explaining that a union's bare statement is not sufficient to establish that it has abandoned its claim to representation if the surrounding circumstances justify an inference to the contrary).