

NATIONAL LABOR RELATIONS BOARD (N.L.R.B.)

****1 *309** The Trustees of Columbia University in the City of New York

[FN1]

and

District 65, Distributive Workers of America, Petitioner

Case 2-RC-16835

January 16, 1976

DECISION AND DIRECTION OF ELECTION

BY CHAIRMAN MURPHY AND MEMBERS FANNING AND JENKINS

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Elbert F. Tellum of the National Labor Relations Board. Following the hearing, this case was transferred to the National Labor Relations Board in Washington, D.C., for decision, pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations and Statements of Procedure, Series 8, as amended. Thereafter, the Employer and the Petitioner filed briefs with the Board.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel. The Board has reviewed the Hearing Officer's rulings made at the hearing and finds that they are free from prejudicial error. They are hereby affirmed.

Upon the entire record in this case, including the briefs filed by the Employer and the Petitioner, the Board finds:

1. Columbia University is a private nonprofit institution of higher learning with offices and educational facilities located at New York City and the surrounding area. During the past year, the University derived gross revenues in excess of \$1 million. During the same period, the University purchased materials valued in excess of \$50,000 directly from sources located outside the State of New York. Based on the foregoing stipulated facts, we find that the Employer is engaged in commerce within the meaning of the Act and that it will effectuate the policies of the Act to assert jurisdiction herein.
2. The Petitioner claims to represent certain employees of the Employer.
3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Sections 9(c)(1) and 2(6) and (7) of the Act.
4. Columbia's main campus is located in the Morningside Heights area

of New York City. Columbia also uses property for administrative and academic purposes in the surrounding New York City area, some within blocks of the main campus and others more than 15 miles from the main campus. The University has 70 departments within 16 faculties offering courses of instruction, all of which are under the overall control of the board of trustees. The president is the chief executive officer. Columbia has a student enrollment of approximately 18,000, with a faculty of approximately 5,000 and some 10, 000 employees.

The Petitioner seeks a unit of approximately 1,000 unrepresented clerical employees at Columbia's Morningside Heights campus and its environs. [FN2] The Employer, on the other hand, claims that the only appropriate unit is one universitywide in scope, encompassing all unrepresented clerical employees, including those at several off-campus locations, and all technical employees employed by the University. There is no collective-bargaining history for either the employees petitioned for or for the employees within the scope of the unit urged by the Employer.

****2** As the foregoing indicates, the differences between the Petitioner and the Employer over what constitutes the appropriate unit for purposes of collective bargaining involve certain clerical employees located at three off- campus locations, the Lamont-Doherty Geological Observatory, the Nevis Laboratories, and the Treasurer's Office; and certain technical or technical- type employees employed throughout the University. There also is a dispute over the minimum number of hours to be used as a cutoff for determining eligibility for regular part-time employees.

It is not the Board's function to determine whether a unit might be the most appropriate unit. Rather, the Board's role is to determine whether the petitioned-for unit can be considered appropriate for purposes of collective bargaining. As we said in [Cornell University, 183 NLRB 329, 330 \(1970\)](#), in determining whether a particular group of employees constitutes an appropriate unit for bargaining where an employer, as here, operates a number of facilities, the Board considers such factors as prior bargaining history; centralization of management, particularly in regard to labor relations; extent of employee interchange; degree of interdependence or autonomy of facilities; differences or similarities in skills and functions of the employees; and geographical location of the facilities in relation to each other. Accordingly, with these considerations in mind, we shall examine the unit requested.

All of the employees of the University are hired through a centralized personnel office located on the main campus. The ultimate decision to hire a particular ***310** individual, however, is in all cases made by the

department or facility with the vacancy. It is unusual for employees to transfer between departments. There is a centralized wage and salary structure; one schedule covers clerical employees, and a separate schedule known as the "R" or research schedule covers technical employees. All supporting staff employees of the University are governed by the same personnel policies and share common benefits.

Nevis Laboratories

Nevis is a research facility engaged in projects involving basic nuclear structures, including energy research and the acceleration of protons using a cyclotron. Located at Irvington, New York, approximately 15 miles north of Columbia's main campus, the facilities at Nevis include a research building, a laboratory, and a cyclotron.

Nearly all of Nevis' funds are provided by the Federal government. Two separate multimillion dollar projects are funded by the National Science Foundation. A third project is funded by the Atomic Energy Commission.

Among the 150 employees at Nevis, there are approximately 60 technicians and 12 clerical employees. A sizable number of the technicians are involved in converting the cyclotron; other technicians are machining tools, installing plumbing and electrical equipment, and building computers. Approximately 25 graduate students work with the seven principal investigators at Nevis. Nevis does its own recruiting and has its own personnel officer and purchasing personnel. Although the Nevis Laboratories comply with all general universitywide policies and procedures, there is no showing of day-to-day direction of Nevis' operation and affairs by the faculty and administration at the Morningside Heights campus.

****3** In view of the geographical separation of the Nevis Laboratories from the rest of the University, its independent function and operation, the fact that it derives its funds from nonuniversity sources, and the circumstances set forth above, we conclude that the employees of Nevis Laboratories have a separate and distinct community of interest from the employees sought herein and therefore, we shall exclude them from the unit.

Lamont-Doherty Geological

Lamont is a research institute engaged in the study of the origins and structure of the earth and its relation to the universe. Located in Palisades, New York, Lamont is approximately 15 miles from Columbia's main campus.

Approximately 180 research projects are financed by approximately \$8

million in Federal government funds, primarily from the National Science Foundation, and by approximately \$1.5 million in private funds. A relatively small portion of Lamont's funds are provided from the University's general funds. Lamont employs 100 to 125 clerical employees. Approximately two-thirds of these clerical employees are financed by funds provided by Federal government contracts. Like Nevis, there is no showing of day-to-day direction of Lamont's operation and affairs by the faculty and administration at the Morningside Heights campus. In view of these circumstances, we conclude that the employees at Lamont have a separate and distinct community of interest from the employees sought herein and, as with the employees of Nevis Laboratories, we shall exclude them from the unit.

The Treasurer's Office

The Treasurer's Office is located at 125 Maiden Lane in New York City, approximately 10 miles from Columbia's main campus. This office is responsible for all investments and cash disbursements of the University. It places all of the insurance for the University. It also is responsible for housing faculty, employees, and students, and manages approximately 150 buildings. These housing functions are conducted at two offices located on the main campus.

All employees of the Treasurer's Office receive the same wage scales and benefits and are governed by the same personnel policies as other employees of the University. There have been both temporary and permanent transfers between the main office located on Maiden Lane and the two housing offices located on the main campus. In its brief, Petitioner acknowledges that the employees of the Treasurer's Office have numerous contacts with the main campus, including some interchange and interlocking supervision, and that the Treasurer's Office is geographically part of the same urban area. Based on the foregoing and the record as a whole, we conclude that the clerical employees of the Treasurer's Office share a community of interest with the other employees sought by the Petitioner. Accordingly, we shall include these employees in the unit.

The Technical Employees

At the outset, we note that the parties chose not to give a detailed description of all the job classifications held by the 300 to 350 employees alleged to be technicals. Instead, the parties agreed that three groups of technical employees would be representative ***311** of all of the Employer's technical employees, and that the Board could

base its determination upon an examination of the job functions of these representative employees. These groups are the technical employees in the chemistry and biology departments, representing basic science research, and the technical employees in the Bureau of Applied Social Research (BASR), representing the social sciences. Accordingly, as the parties would have the technical employees treated as a group, we will make our determination on this basis.

****4** The record shows that the central organizational structure of the chemistry department includes a departmental office, a business office, a stockroom, and a technical support group which constructs and maintains the equipment used in research projects conducted by the department. There are also approximately 20 substructures operating in the chemistry department, each of which is engaged in a research project under the direction of a professor who is referred to as a principal investigator. The principal investigator directs the work of research associates, graduate students, and technicians. He also generally has a secretary, but relies on the departmental office for additional clerical support.

The clericals assigned to the departmental office, as well as to the individual research projects, perform typical clerical work. All clerical employees work a regular 9-to-5 shift, as do the technical employees assigned at the departmental level; but the technical employees assigned to individual research projects vary their hours to accommodate the needs of the research.

According to the director of chemistry laboratories, the technical employees in the chemistry department perform almost the same functions as the research associates. The essential difference in these two groups is that the technical employees have not attained the same academic levels as the research associates. They have received, however, highly specialized training and experience in preparation for the jobs they perform. Among the technical employees in the chemistry department who have highly specialized training and experience are the following: operators of fermentators involved in biophysical research, chemists, electronics technicians, and instrument makers.

There is no interchange of technical and clerical employees in the chemistry department. All clerical employees are on one pay schedule and all technical employees are on a separate pay schedule known as the "R" or research schedule.

The record also shows that the biology department is organized and operated along the same lines as the chemistry department. Again, there is a departmental structure and approximately 17 research projects being directed by principal investigators. There is a central pool of secretaries in the departmental office and, as in the chemistry

department, the technical employees perform highly specialized functions.

With respect to the operation of the social science departments, the record shows that the Bureau of Applied Social Research (BASR) is also organized and operated along the same lines as the chemistry and biology departments. It has a central departmental office and individual research projects. Among the disputed positions in BASR are 17 research assistant positions. The record shows that these research assistants have been trained in the social sciences, generally with an undergraduate degree, but in many instances they are working on advanced degrees. Moreover, they are familiar with statistical techniques and computer programming. We find that the qualifications of the research assistants and their functions and responsibilities clearly show that they are, at the very least, highly specialized technical employees and that their job functions cannot in any way be described as clerical in nature.

****5** From the foregoing and the entire record, we find that significant differences exist between technical employees and clerical employees concerning job functions, responsibilities, use of initiative, and independent judgment. The job functions of the technical employees are of a highly specialized nature and in many cases they exercise the type of skill and judgment required of professional employees. Because of the nature of their duties, the technical employees work in close conjunction with professional employees and the clerical employees appear to be merely supportive of this function. Although technical employees and the clerical employees share common benefits, they are governed by separate pay schedules. It is also significant that a pattern of separate representation for clerical employees at the University has been previously established and that, at the present time, the Employer has a collective-bargaining relationship with another labor organization which covers some 500 clerical employees at the University's main campus. Accordingly, in the circumstances of this case, we find that the technical employees have interests sufficiently different to allow their exclusion from the unit of clerical employees sought by the Petitioner.

A final matter for our determination is the eligibility standard for part-time employees. The University's practice is to treat as regular part-time employees those unrepresented employees who work at least 20 hours per week. Such individuals are covered under established wage and benefit programs in effect at the University. Petitioner urges the cutoff be ***312** set at 10 hours. In the absence of any other clearly defined and uniform system of classifying part-time employees, we find that regular part-time employees eligible to vote in the election are those individuals who work at least 20 hours per week and are

covered under the University's regular wage and benefit programs.

[FN3]

We find the following employees constitute a unit appropriate for purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All unrepresented full-time and regular part-time clerical employees working 20 hours or more per week who are employed by Columbia University at the Morningside Heights campus and at 43rd Street, 98th Street, Baker's Field, and at the Treasurer's Office; but excluding all other employees, guards, and supervisors as defined in the Act.

[Direction of Election and Excelsior footnote omitted from publication.]

FN1. The name of the Employer appears as amended at the hearing.

FN2. There are approximately 500 clerical employees at the main campus who are presently represented by another labor organization.

FN3. Petitioner presented evidence that the Employer has negotiated and executed one contract with a 10-hour minimum to qualify as a regular part-time employee, and a second contract provides for a 14-hour minimum. We find the negotiated terms of these agreements to be of insufficient weight to be controlling where, as here, the University has a specific policy as to the treatment of part-time employees.

222 NLRB 309, 222 NLRB No. 41, 1976 WL 6599 (N.L.R.B.), 91 L.R.R.M. (BNA) 1276, 1975-76 NLRB Dec. P 16,657