

MUSICK, PEELER & GARRETT LLP
ATTORNEYS AT LAW

JON C. MCNUTT
j.mcnutt@mpglaw.com
(213) 629-7674

ONE WILSHIRE BOULEVARD, SUITE 2000
LOS ANGELES, CALIFORNIA 90017-3383

TELEPHONE: (213) 629-7600
FACSIMILE: (213) 624-1376
WWW.MUSICKPEELER.COM

LOS ANGELES
ORANGE COUNTY
SAN DIEGO
SAN FRANCISCO
SANTA BARBARA
WESTLAKE VILLAGE

February 26, 2013

VIA E-MAIL AND FACSIMILE

Bruce Hill
Acting Regional Director
National Labor Relations Board, Region 21
888 South Figueroa Street, 9th Floor
Los Angeles, CA 90017-5449

Re: University of La Verne – Request for Reconsideration
(Case No. 21-RC-115880)

Dear Mr. Hill:

The University of La Verne has received your letter of February 21, 2014, by which the Region has blocked the above-referenced representation election and impounded the ballots presently in the Region's custody, pending resolution of the unfair labor practice charges ("ULPs"). The University respectfully requests that the Region reconsider this decision.

The Board's Rules and Manuals favor efficient and just resolutions to elections and any related disputes. Blocking the election, when the ballots are already in hand, stands contrary to that goal, causing unnecessary delay for a voting unit who expected a result weeks ago. Further delaying the election would also be inefficient, causing both parties to incur tremendous expense litigating matters that potentially could have no impact on the election's outcome.

If the Region were to count the ballots now and find that a majority of ballots were cast in favor of the Union, the parties would be able to immediately bargain for a first contract, in the absence of any post-election objections. The ULPs, while not technically moot in that scenario, would not delay bargaining nor would they necessitate a rerun election. The parties could bargain to a contract and either resolve or litigate the ULPs simultaneously – resulting in a fair and effective outcome for the would-be bargaining unit, the Union, and the University alike.

If the Region were to count the ballots now and find that a majority of ballots were not cast in favor of the Union, the Union could pursue the same arguments set forth in the ULPs through the post-election objection process. The Union's claim that the University's unfair practices interfered with the election would be decided and the election would either be certified or rerun.

MUSICK, PEELER & GARRETT LLP
ATTORNEYS AT LAW

Bruce Hill
February 26, 2013
Page 2

Other than the few hours that it would take to count the ballots, nothing would be lost, and the Union would not be prejudiced.

Blocking the election until the ULPs are resolved would create tremendous inefficiency. If the Region were to issue a complaint on some or all of the ULPs, doing so would lead to a hearing before an administrative law judge, after which, the losing party would undoubtedly appeal to the Board - a process which could take months or even years.

If any of the charges were ultimately sustained, the Region would have to determine whether it would order a new vote, presumably without having opened the existing ballots. In that case, no one would know whether the University's alleged misconduct impacted the election results. Again, if the ballots were opened and counted now, this entire process may not be necessary.

If the ULPs are dismissed by the Region without complaints being filed (or are ultimately dismissed by decision after a hearing and appeal), thus allowing the ballots to be counted, the Union (if it loses) would likely file post-election objections based on the same allegations, similar allegations, or additional allegations. The Region would then have to determine whether it would consider the objections or reject them as res judicata. If there are additional objections, the Region likely would order a hearing on those regardless.

Casehandling Manual Section 11731.5(c) grants the Region ample discretion to "Conduct the election, issue the tally of ballots and, in the absence of objections, issue a certification; and then proceed to investigate the charge." Since the ballots are already in hand, counting them now makes prudent use of the parties' time and resources, while best ensuring the voting unit is heard in short time. The University requests that the ballots be counted forthwith, after which, if necessary, the Region can address the pending unfair labor practice charges.

Very truly yours,



Jon C. McNutt
for MUSICK, PEELER & GARRETT LLP

cc: Sylvia Meza
Glenn Rothner

MUSICK, PEELER & GARRETT LLP
ATTORNEYS AT LAW

Bruce Hill
February 26, 2013
Page 3

bcc: Devorah Lieberman
Jody Bomba

885842.1