

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

CALIFORNIA COLLEGE OF THE ARTS

and

Case 32-CA-278831

**SERVICE EMPLOYEES INTERNATIONAL UNION,
LOCAL 1021**

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by Service Employees International Union, Local 1021 (Union) against California College of the Arts (Respondent). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Respondent has violated the Act as described below.

1.

(a) The charge in this proceeding was filed by the Union on June 17, 2021, and a copy was served on Respondent by U.S. mail on June 22, 2021.

(b) The amended charge in this proceeding was filed on August 20, 2021, and a copy was served on Respondent by U.S. mail on August 23, 2021.

2.

(a) At all material times, Respondent, a California corporation, has been engaged in the provision of advanced educational services from its campuses located in San Francisco, California and Oakland, California.

(b) In conducting its operations described above in paragraph 2(a), during the 12-month period ending August 31, 2021, Respondent has derived gross revenues in excess of \$1,000,000.

(c) In conducting its operations described above in paragraph 2(a), Respondent has purchased and received goods from its California campuses valued in excess of \$5,000 directly from points outside the State of California.

3.

At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

4.

At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

5.

(a) At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors and/or agents of Respondent within the meaning of Section 2(11) of the Act and/or Section 2(13) of the Act:

Name Withheld	–	Attorney
Annamarie Harr	–	Manager
Maira Lazdins	–	Associate Vice President of Human Resources
Dustin Smith	–	School Administrator

6.

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

All full time and regular part-time CCA staff employed by the Employer at its campus located at 5212 Broadway in Oakland, California, its campus located at 1111 Eighth Street in San Francisco, California, and its campus located at 360 Kansas Street in San Francisco, California; excluding all other employees, ranked and unranked faculty and other instructional employees, temporary employees, volunteers, interns, student-employees, guards, confidential employees, managerial employees, and supervisors as defined by the Act.

(b) On April 29, 2019, the Board certified the Union as the exclusive collective-bargaining representative of the Unit.

(c) At all times since April 29, 2019, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

7.

(a) About May 5, 2021, during a bargaining session regarding the parties' negotiations for an initial collective-bargaining agreement, Respondent, by its attorney, presented a proposal seeking to include additional classifications of employees in the bargaining unit, including temporary and seasonal classifications.

(b) About May 19, 2021, Respondent eliminated the unit 2(D) Studio Output Lead Technician classification and reassigned those job duties to newly created unit positions.

(c) About May 19, 2021, Respondent, offered two furloughed unit employees previously employed in 2(D) Studio Output Lead Technician positions to return to work in newly created unit job classifications.

(d) Sometime during the summer of 2021, Respondent posted job openings and/or hired employees in newly created unit seasonal job classifications including the following: Digital Fine Arts Studio Manager, Studio Manager-Fashion Studio/Soft Lab, Digital Fabrication Studio Manager, Studio Manager-Printmedia, Ceramics Studio Manager, Studio Manager – Glass/Sculpture, and Studio Manager-Textiles/Sculpture.

(e) Respondent engaged in the conduct described above in paragraphs 7(b) through 7(d) without the Union's consent.

8.

(a) In the alternative to paragraph 7(e), the subjects set forth above in paragraphs 7(b) through 7(d) relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective bargaining.

(b) Respondent engaged in the conduct described above in paragraphs 7(b) through 7(d) without affording the Union the opportunity to bargain with respect to this conduct to an overall good-faith impasse.

9.

(a) By the conduct described above in paragraphs 7(b) through 7(e), or, in the alternative, by the conduct described in paragraphs 7(b) through 7(d) and 8(b), Respondent has been failing and refusing to bargain collectively and in good faith with the Union as the exclusive collective-bargaining representative of its Unit employees in violation of Section 8(a)(1) and 8(a)(5) of the Act.

10.

The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

WHEREFORE, as part of the remedy for Respondent's unfair labor practices alleged above in paragraph 7(b) through 7(e), or, alternatively, paragraphs 7(b) through (d) and 8(b), the General Counsel seeks an Order requiring Respondent to bargain in good faith with the Union, on request, within 15 days of a Board Order, not less than twice a week, at least six hour per session, until an agreement or bona fide impasse is reached, and to submit sworn status reports to the Regional Director every 30 days showing in detail the nature and course of bargaining with the

Union and attaching any written communications between the parties with respect to such bargaining, and reimbursement of the Union's negotiation expenses incurred in remedying the unfair labor practices alleged in paragraph 7. As part of a remedy for the Respondent's unfair labor practices alleged above in paragraph 7(e), the General Counsel seeks an Order to restore the unit as it existed on April 29, 2019.

As a further part of the remedy, the General Counsel seeks an Order requiring that at a meeting or meetings scheduled to ensure the widest possible attendance, in accordance with COVID-19 safety protocols, Respondent's representative read the notice to the employees on work time in the presence of a Board agent (by videoconference or in person, at the discretion of the Regional Director) or, alternatively, to have a Board agent read the notice to employees in the presence of Respondent's supervisors and agents identified above in paragraph 5. As a further part of the remedy, the General Counsel seeks an Order requiring Respondent to offer to bargaining unit employees whose positions were eliminated to be reinstated to their former job positions and duties, and if those jobs no longer exist, to substantially equivalent positions and duties, including, if necessary, displacing any employees hired by Respondent to perform Unit work; and to make Unit employees whole for all losses they incurred as a result of the unfair labor practices described above, including, but not limited to, backpay for lost wages and reimbursement of any losses in health or other benefits they have suffered as a result of the unfair labor practices, and reasonable consequential damages incurred as a result of the Respondent's unlawful conduct. The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the Complaint. The answer must be **received by this office on or before October 11, 2021.** Respondent must serve a copy of the answer on each of the other parties.

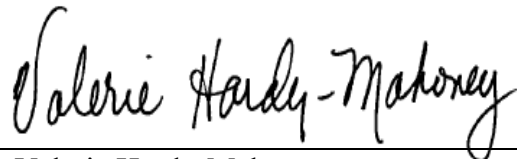
The answer must be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. Responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if

an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the Complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on December 14, 2021, at the Oakland Regional office located at 1301 Clay Street, 300N, Oakland, California, or through Zoom videoconference technology based on Covid-19 pandemic health and safety considerations, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this Complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

DATED AT Oakland, California this 27th day of September 2021.



Valerie Hardy-Mahoney
Regional Director
National Labor Relations Board
Region 32
1301 Clay Street, Suite 300N
Oakland, CA 94612-5224

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

NOTICE

Case 32-CA-278831

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing.

However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements **will not be granted** unless good and sufficient grounds are shown *and* the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds thereafter must be set forth in *detail*;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request;

and

- (5) Copies must be simultaneously served on all other parties (*listed below*), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

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Union, Local 1021
350 Rhode Island, Ste 100 South Bldg.
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Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered

in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

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

CALIFORNIA COLLEGE OF THE ARTS

and

**SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 1021**

Case 32-CA-278831

Date: September 27, 2021

AFFIDAVIT OF SERVICE OF COMPLAINT AND NOTICE OF HEARING

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) upon the persons at the addresses and in the manner indicated below. Persons listed below under "E-Service" have voluntarily consented to receive service electronically, and such service has been effected on the same date indicated above.

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San Francisco, CA 94103
E-FILE

September 27, 2021

Date

Ida Lam, Designated Agent of NLRB

Name

/s/ Ida Lam