

Feds rule against a second Catholic college

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(RNS) For the second time this year, a federal regulator has rejected the First Amendment arguments of a Catholic college and cleared the way for the school's adjunct faculty to unionize.

In a May 26 decision, the Chicago office of the National Labor Relations Board (NLRB) ruled that Saint Xavier University has no right to a religious exemption from board oversight because "it operates strictly as a secular educational institution."

The NLRB's argument is that since the Chicago school doesn't require faculty or students to profess Catholic beliefs, the NLRB's involvement in adjunct employment practices wouldn't interfere with Saint Xavier's religious freedom.

Earlier this year, another regional NLRB regulator issued a similar decision in a case involving Catholic-run Manhattan College in Riverdale, N.Y. An appeal in that case is currently pending before the NLRB in Washington.

Saint Xavier University President Christine M. Wiseman said the two schools stand together in claiming a violation of First Amendment rights.

"The NLRB's attempt to exercise jurisdiction constitutes an undue burden or intrusion on our free exercise of religion," Wiseman said in a statement. "The issue is whether the Catholic Church and the bishops get to determine our Catholic identity -- or whether the NLRB gets to determine our Catholic identity. This is an issue that could impact all religious institutions, and many of us are concerned."

At stake is not just principle but also millions of dollars per year. Religious colleges, like others in higher education, increasingly hold down payroll costs by hiring nonunion adjunct faculty to teach one or more courses on a part-time, contract basis. If schools are compelled to let adjuncts unionize, education costs could climb even higher.

Those with the most to lose might be liberal religious colleges that don't require professions of faith or have otherwise strayed from their sectarian roots, according to Kevin Theriot, a lawyer with the Alliance Defense Fund, which specializes in religious liberty cases.

In both regional NLRB rulings, regulators argued that if a college doesn't expect instructors to embrace tenets of faith, then NLRB oversight will neither be burdensome nor change the status quo on campus.

Advocates for Catholic higher education see the Saint Xavier case as the latest skirmish in a decades-long fight with an NLRB that refuses to cede jurisdiction.

"The NLRB is clearly infringing on the rights of colleges to apply religious criteria without federal government interference," said a statement from Patrick J. Reilly, president of the Cardinal Newman Society and author of a new 22-page paper chronicling the tense history between Catholic colleges and the NLRB.

"The NLRB assault on Catholic colleges ... stands in clear contradiction to federal court rulings, which have instructed the NLRB to stop interfering with Catholic education."