

D.R. No. 2007-9

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
BEFORE THE DIRECTOR OF REPRESENTATION

In the Matter of

SUSSEX COUNTY COMMUNITY COLLEGE,

Public Employer,

-and-

NEW JERSEY STATE FEDERATION
OF TEACHERS, AFT, AFL-CIO,

Docket No. RO-2007-013

Petitioner.

SYNOPSIS

The Director of Representation orders Certification of New Jersey State Federation of Teachers as the exclusive representative of non-instructional, non-supervisory professional staff employed by the Sussex County Community College, based upon a card check. The College sought the exclusion of numerous titles from the negotiations unit based upon their alleged supervisory, confidential and managerial executive status. However, the Director found that resolution of the disputed titles was not a necessary prerequisite to certification as the union has submitted authorization cards from a majority of the unit, with or without the disputed employees. Either party may file a Unit Clarification Petition to request a determination about the disputed titles after certification.

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Petitioner.

Appearances:

For the Respondent,
Fox Rothschild, attorneys
(Beth Hinsdale-Piller, of counsel)

For the Petitioner,
Canellis & Adams, attorneys
(Brian Miller Adams, of counsel)

DECISION

On September 13, 2006, the New Jersey State of Federation of Teachers, AFT, AFL-CIO (Federation) filed a Petition for Card Check Certification seeking to represent a unit of non-instructional non-supervisory professional staff employed by the Sussex County Community College (College).^{1/}

The College objects to the certification of the negotiations unit proposed by the Federation. The College maintains that certain titles sought by the Federation are statutorily exempt

^{1/} The Federation simultaneously filed a separate Petition for a unit of the College's support staff employees.

from inclusion in any unit and that the Commission should determine the merits of its asserted exemptions before certifying the unit.

We have conducted an administrative investigation into this matter to determine the facts. The disposition of the petition is properly based upon our administrative investigation. No disputed substantial material facts require convening an evidentiary hearing. N.J.A.C. 19:11-2.2 and 2.6. Based upon our administrative investigation, I make the following:

FINDINGS OF FACT

The Federation described the proposed negotiations unit as all regularly employed, full-time, professional staff, including but not limited to professional service, administrative and technical staff, counselors, area coordinators, assistant directors, grant personnel and specialists. The proposed unit does not include part-time employees; both parties assert that full-time and part-time professional staff do not share a community of interest. The petitioned-for employees are unrepresented. The College certified that it posted the Commission's Notice to Public Employees for ten days. The Notice advises employees that the Federation is requesting to be certified by card check as the unit employees' exclusive representative. No other labor organization claimed an interest in representing these employees.

An investigatory telephone conference was held on October 23, 2006 to determine whether the parties could agree upon a description of the collective negotiations unit. On October 31, 2006, a proposed Stipulation of Appropriate Unit was forwarded to the parties for their signatures. The College declined to sign the stipulation. It submitted a letter detailing the exclusions it sought from the proposed unit and urged a resolution of the disputed titles before a certification issues. It also provided job descriptions of the disputed positions.

The College submitted a list of 28 potentially eligible employees for the proposed unit. The College asserts that one (1) of these employees is confidential, one (1) is supervisory, three (3) are managerial executives, three (3) should be included in the support staff unit and that the title Network Systems Specialist should be included in the professional unit. The Federation conceded that one petitioned-for title, Network Systems Specialist, should be included in the professional unit. The Federation also agrees with the College that three (3) of the titles, originally petitioned for as part of the professional unit, namely, WEB Specialist, Accounts Payable Specialist and Payroll Specialist, should more appropriately be included in the support staff unit. An accounting of the parties' agreements on these titles leaves 5 of 26 employees in dispute.

ANALYSIS

The Legislature recently amended the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.3, to authorize the Commission to certify a majority representative where: (a) a majority of employees in an appropriate unit have signed authorization cards designating that organization as their negotiations representative; and (b) no other employee representative seeks to represent those employees. See also N.J.A.C. 19:11-2.6(b).

The College argues that the exact parameters of the unit should be determined before a certification of representative issues. We have held, however, that if a petitioner demonstrates sufficient support among the proposed unit employees for us to approve a card check certification without first resolving disputed titles (i.e., the number of disputed titles or positions would not affect the outcome of the representation determination) we need not resolve them before issuing a certification.

Atlantic Cty Prosecutor's Office, D.R. No. 2007-2, 32 NJPER 264 (¶108 2006). Our review of the Federation's authorization cards shows that it has submitted cards for a majority of the professional staff unit, even if all the employees in dispute were included or were excluded from the unit. Therefore, the Federation is entitled to certification based upon a card check. N.J.S.A. 34:13A-5.3. Following certification, either party may

file a Petition for Unit Clarification requesting a determination whether any of the disputed employees are managerial executives, confidential and/or supervisors within the meaning of the Act.

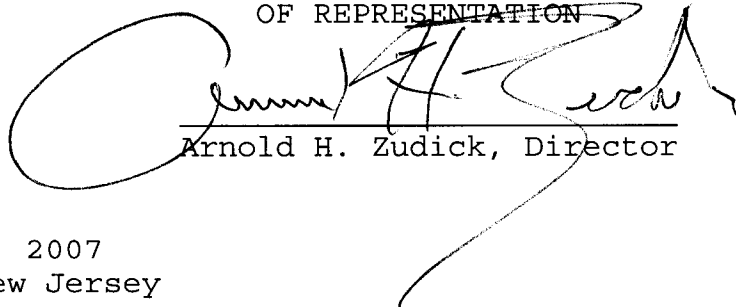
N.J.A.C. 19:11-1.4.

Accordingly, I certify the New Jersey State Federation of Teachers, AFT, AFL-CIO, based upon its authorization cards, as the exclusive representative of the unit described below:

Included: All regularly employed, full time, non-instructional non-supervisory professional staff, including but not limited to professional service, administrative and technical staff, counselors, area coordinators, assistant directors and grant personnel employed by the Sussex County Community College.

Excluded: Managerial executives, confidential employees, supervisors within the meaning of the Act; non-professional employees, craft employees, police, casual employees, and all other employees of the Sussex County Community College.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION



Arnold H. Zudick, Director

DATED: February 6, 2007
Trenton, New Jersey

A request for review of this decision by the Commission may be filed pursuant to N.J.A.C. 19:11-8.1. Any request for review must comply with the requirements contained in N.J.A.C. 19:11-8.3.

Any request for review is due by February 16, 2007.