

D.R. No. 2012-17

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

In the Matter of

TOWN OF DOVER,

Public Employer,

-and-

Docket No. AC-2012-008

OFFICE AND PROFESSIONAL EMPLOYEES  
INTERNATIONAL UNION, LOCAL 32,

Petitioner.

SYNOPSIS

The Director of Representation grants an amendment of certification requested by the Office and Professional Employees International Union, Local 32 to reflect its affiliation with International Association of Industrial Workers, Local 1. OPEIU Local 32 complied with the necessary requirements and the Town did not oppose the amendment. Accordingly, OPEIU Local 32 is the exclusive representative of the unit.

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Appearances:

For the Respondent  
Anseel, Grimm & Arron, attorneys  
(Hussam Chater, of counsel)

For the Petitioner  
Mets, Schiro & McGovern, attorneys  
(Kevin P. McGovern, of counsel)

DECISION

On May 8, 2012, Office and Professional Employees International Union, Local 32 ("Local 32") filed an Amendment of Certification Petition with the Public Employment Relations Commission ("Commission"). N.J.A.C. 19:11-1.6. The Petitioner seeks to amend the Certification of Representative issued to the International Association of Industrial Workers, Local 1 ("Local

1") to reflect a change in name and affiliation<sup>1/</sup> of IAIW, Local 1 to the OPEIU, Local 32.

I have conducted an investigation into the matters raised by this petition. N.J.A.C. 19:11-2.2. The public employer does not oppose the petition. There are no substantial and material facts in dispute which would require a hearing. N.J.A.C. 19:11-2.6(d)(5).

The following facts appear:

FINDINGS OF FACT

On November 22, 2006, the Commission certified Local 1 as the exclusive representative of a unit of all the Town of Dover's non-supervisory white collar employees (Docket No. RO-2007-010).

The Petitioner has submitted an affidavit dated May 3, 2012 from its attorney, Kevin P. McGovern, Esq., detailing the procedures it followed concerning the affiliation, as follows:

1. On April 26, 2012, the membership of Local 1 was sent a copy of a Notice of Membership Meeting to be held on May 2, 2012, for the purpose of conducting a vote on whether it should affiliate with Local 32. (Exhibit C, McGovern Affidavit). The notices were sent to the membership at their home addresses.

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<sup>1/</sup> The Petition, although characterizing the proposed amendment as a merger, was treated as a request to affiliate Local 1 with Local 32. City of Englewood, D.R. No. 2007-5, 32 NJPER 308 (¶127 2006).

2. At the May 2, 2012 membership meeting, the members voted by secret ballot to approve the affiliation of Local 1 with Local 32 by a vote of six in favor, and none opposed.

3. A copy of a sample ballot, as well as copies of the ballots cast, were attached to the affidavit as Exhibits A and B.

4. The composition and approximate size of the negotiations unit has continued unchanged since the vote in favor of changing the name and affiliation of Local 1 to Local 32, and the organization's officers will remain unchanged.

5. On May 9, 2012, we advised the Town about the proposed amendment, and requested its position concerning the amendment. On May 14, 2012, the Town advised that it does not oppose the petition.

#### ANALYSIS

The Commission's rules establish procedures for amending certifications and our case law establishes the standards for granting such petitions. N.J.A.C. 19:11-1.6; County of Union, D.R. No. 2005-7, 30 NJPER 496 (¶169 2004); Parsippany-Troy Hills Twp., D.R. No. 94-20, 20 NJPER 280 (¶25079 1994), req. for rev. denied P.E.R.C. No. 94-119; 20 NJPER 279 (¶25141 1994); Cape May Assignment Judge, et al., P.E.R.C. No. 85-60, 11 NJPER 91 (¶16039 1985). Pursuant to N.J.A.C. 19:11-1.6(c), such a petition must be supported by an affidavit attesting that the membership of the

certified employee representative voted in favor of the change in name and affiliation. Such affidavit shall specify that:

1. The membership was given advance and adequate notice of the election, as evidenced by an attached copy of a notice of election and a statement of the date of the notice and the manner in which it was provided to members;

2. The election was conducted by secret ballot, as evidenced by an attached copy of the ballot, and was held within six months of the filing of the petition;

3. A majority voted in favor of the change in name and affiliation, as evidenced by copies of the ballots cast setting forth the choice made by each unit member; and

4. The organization's officers and the unit structure remain unchanged.

Additionally, to record an affiliation, an employee organization is required to show that its affiliation procedure afforded the membership with a degree of due process. Adequate due process will be found where the affiliation procedures provide the members with advance notice of the affiliation vote, an opportunity to discuss the affiliation prior to the vote, and the chance to participate in the affiliation election. Township of Middletown, et al., P.E.R.C. No. 2000-47, 26 NJPER 59, 60 (¶31020 1999); Parsippany-Troy Hills Tp., 20 NJPER at 280; No.

Hudson Reg. Fire and Rescue, D.R. No. 2000-13, 26 NJPER 257 (¶31101 2000).

I am satisfied that the Petitioner has met all of the requirements for amendment of certification and has afforded its members adequate due process. There was appropriate advance notice of the election to permit members the opportunity to discuss the issue prior to the vote and, subsequently, members were allowed to participate in a secret ballot election on the proposed merger. Further, the officers and structure of the Local 1 negotiations unit have remained unchanged since the name change to Local 32.

Accordingly, the Certification of Representative is amended to reflect that the exclusive negotiations representative is now the Office and Professional Employees International Union, Local 32.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
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Gayl R. Mazuco

DATED: May 25, 2012  
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 June 4, 2012.