

D.R. NO. 91-32

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

In the Matter of

N.J. INSTITUTE OF TECHNOLOGY,

Public Employer,

-and-

Docket No. RO-91-130

N.J.I.T. POLICE SERGEANTS,

Petitioner.

SYNOPSIS

The Director of Representation dismisses a representation petition filed by police officers employed by the New Jersey Institute of Technology. The Director determined that the timeliness of representation petitions filed by N.J.I.T. employees is governed by N.J.A.C. 19:11-2.8(c)(1).

The petitioning employees are covered by an agreement expiring June 30, 1992. Finding that a timely petition could not be filed before October 1, 1991, the Director dismisses the petition filed by N.J.I.T. police sergeants.

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Appearances:

For the Public Employer  
DeMaria, Ellis, Hunt & Salsberg, attorneys  
(Brian N. Flynn, of counsel)

For the Petitioner  
Vincent Frammigen, Sergeant

DECISION

On January 30, 1991, N.J.I.T. Police Sergeants ("NJITPS") filed a representation petition seeking to represent all police sergeants and lieutenants employed by the New Jersey Institute of Technology ("NJIT"). The petition was accompanied by an adequate showing of interest.

On February 20 and March 1, 1991, NJIT filed responses objecting to the petition and seeking its dismissal. NJIT asserts that all but one of the petitioned-for employees are currently represented by the Fraternal Order of Police, Lodge No. 93 ("FOP") in a collective negotiations unit of commissioned police officers and sergeants. NJIT asserts that the current agreement covering

these employees expires June 30, 1992 and consequently, the petition is barred under N.J.A.C. 19:11-2.8(c)(3).

On May 3, 1991, we issued a tentative decision dismissing the petition because it is not timely filed. No party filed a response.

NJIT and the FOP signed a collective negotiations agreement covering all but one of the petitioned-for employees. The recognition clause of this July 1, 1989 through June 30, 1992 agreement states:

The Institute recognizes the FOP as the sole and exclusive negotiating agent for the purpose of negotiating terms and conditions of employment for: All full time employees employed as "Commissioned Police Officers" and "Commissioned Police Sergeants" hereinafter referred to as "Officers", but specifically excluding all Commissioned Police Officers above the rank of Police Sergeant, and all other supervisors as defined in the New Jersey Employer-Employee Relations Act.

The agreement includes a grievance procedure, seniority, sick leave and vacation provisions and other sections setting terms and conditions of employment.

N.J.A.C. 19:11-2.8(c)(1) provides that representation petitions concerning "employees of the State of New Jersey, any agency thereof, or any State authority, commission or board" will not be timely filed (during the term of an existing agreement) unless it is filed "not less than 240 days and not more than 270 days before the expiration or renewal date of such agreement."

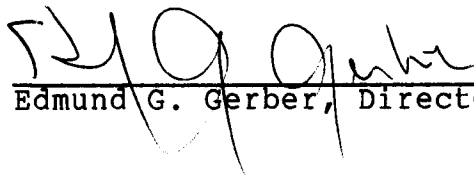
NJIT is a "public institution of higher education" as

defined in N.J.S.A. 18A:62-1. In 1985, an "Advanced Technology Center" was established at NJIT with the cooperation of two other state public institutions, the University of Medicine and Dentistry of New Jersey and Rutgers. N.J.S.A. 18A:64J-3.

N.J.A.C. 19:11-2.8(c)(1) governs the timeliness of petitions for NJIT employees. Under this provision, a representation petition filed for State employees covered by an agreement expiring June 30, 1992, is not timely before October 1, 1991. Furthermore, the remaining employee petitioned for, one police lieutenant, is not included in the recognition clause of the current agreement covering sergeants and police officers and could not alone constitute a separate collective negotiations unit.

Accordingly, the petition filed by NJITPS is dismissed.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Edmund G. Gerber, Director

DATED: May 16, 1991  
Trenton, New Jersey