

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

In the Matter of

OCEAN COUNTY COLLEGE,

Public Employer,

-and-

DOCKET NO. RO-82-100

OCEAN COUNTY COLLEGE ADJUNCT  
FACULTY ASSOCIATION, NEW JERSEY  
EDUCATION ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, directs an election among all adjunct faculty. The Director, citing Rutgers-The State University, E.D. No. 76-35, 2 NJPER 176 (1976) and In re Somerset Cty. College, D.R. NO. 82-24, 8 NJPER 106 (¶ 13043 1982), determines that the adjunct faculty are employed on a regular basis.

Those adjunct faculty members eligible to vote in the election are those "adjunct faculty members employed for at least their second semester during the Spring 1982 semester or have commenced employment for at least their second semester during the Fall 1982 semester, and who express a willingness to be rehired to teach at least one semester during the next succeeding academic year."

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

In the Matter of

OCEAN COUNTY COLLEGE,

Public Employer,

-and-

DOCKET NO. RO-82-100

OCEAN COUNTY COLLEGE ADJUNCT  
FACULTY ASSOCIATION, NEW JERSEY  
EDUCATION ASSOCIATION,

Petitioner.

Appearances:

For the Public Employer,  
Berry, Summerill, Piscal, Kagan & Privetera, attorneys  
(Seymour J. Kagan of counsel)

For the Petitioner  
New Jersey Education Association  
(Jerry Veldof, Field Representative)

DECISION AND DIRECTION OF ELECTION

On October 23, 1981, a Petition for Certification of Public Employee Representative, supported by an adequate showing of interest, was filed with the Public Employment Relations Commission (the "Commission") by Ocean County College Adjunct Faculty Association, New Jersey Education Association (the "Association") with respect to a proposed unit of adjunct faculty employed by Ocean County Community College (the "College").

The undersigned has caused an administrative investigation to be conducted into the matters and allegations concerning the Petition. On November 11, 1981, the assigned Commission staff agent convened an informal conference among the parties. The College declined to consent to an election, asserting that adjunct faculty members lack public employee status and there is no community of interest among the petitioned-for adjunct staff to constitute an employee negotiations unit.

Based upon the administrative investigation to date, the undersigned finds and determines as follows:

1. The disposition of this matter is properly based upon the administrative investigation herein, it appearing that no substantial and material factual issues exist which may more appropriately be resolved after an evidentiary hearing. Pursuant to N.J.A.C. 19:11-2.6(b), there is no necessity for a hearing where, as here, no substantial and material factual issues have been placed in dispute by the parties.

2. Ocean County Community College is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the "Act"), is the employer of the adjunct staff who are the subject of this Petition and is subject to the provisions of the Act.

3. The Ocean County Community Faculty Association, New Jersey Education Association is an employee representative within the meaning of the Act and is subject to its provisions.

4. The Association seeks to represent a unit of adjunct faculty employed by the College and agrees to a secret ballot election. The College does not consent to a secret ballot election, arguing that adjunct faculty lack the regularity and continuity of employment necessary to establish public employee status.

Adjunct faculty are part-time faculty members employed by the College on a semester basis. They hold credentials similar to those required of regular full-time faculty, and are assigned to teach regular curriculum college offerings to the overflow of students throughout all college departments. The adjuncts teach mainly in the evenings but may teach during the day. They may teach one or more two credit or three credit courses. <sup>1/</sup> Each course is normally taught twice per week. <sup>2/</sup>

The issues placed in dispute by the parties require the undersigned to determine whether the adjuncts employed by the College are "public employees" within the meaning of the Act, and, if so, whether a unit comprised exclusively of adjuncts is appropriate for collective negotiations.

Similar issues have been addressed before the Commission in In re Rutgers-The State University (co-adjutant faculty), and

<sup>1/</sup> Regular full-time faculty teach courses totaling 15 credits.

<sup>2/</sup> The courses are taught on either a Monday/Wednesday or Tuesday/Thursday schedule. Each credit hour is a 1 1/4 hour class period. Normally, a three credit course will involve a double period on one of the nights. The evening periods are scheduled from 6-7:15 p.m. and 7:25-8:40 p.m.

In re Somerset Cty. College (adjunct faculty). <sup>3/</sup> In Rutgers and in Somerset, the Commission first noted that the term "public employee" has not been narrowly construed. <sup>4/</sup> In the cases under review, it was determined that the part-time faculty members worked regularly during their semester appointment, and the employment return rate of faculty was substantial. The Commission, in establishing a standard for regularity and continuity of employment for those types of employees, held that the combination of two semesters of employment, plus a willingness to be rehired for at least one semester during the next academic year, will qualify the adjunct or coadjutant professor as a public employee. The Commission further found that units exclusively comprised of the part-time adjunct faculty could be appropriate, provided that there was a sufficient rate of faculty return to insure stability in the collective negotiations unit should the employees vote for representation.

It appears to the undersigned that the employment pattern of adjunct faculty in the present matter mirrors the

<sup>3/</sup> In re Rutgers-The State University, E.D. No. 76-35, 2 NJPER 176 (1976), P.E.R.C. No. 76-49, 2 NJPER 229 (1976), aff'd in part, modified in part; D.R. No. 77-5, 3 NJPER 12 (1976), App. Div. Docket No. A-1652-76 (1977). (Unpublished decision), pet. for certif. denied. P.E.R.C. affirmed substantially for the reasons expressed in the Decision cited above. In re Somerset Cty. College, D.R. No. 82-24, 8 NJPER 6 (¶ 13003 1981), P.E.R.C. No. 82-68, 8 NJPER 106 (¶ 13043 1982) appeal pending App. Div. Docket No. A-3629-81T2.

<sup>4/</sup> N.J.S.A. 34:13A-3(d) defines employee, and provides: "This term shall include any public employee, i.e., any person holding a position, by appointment or contract, or employment in the service of a public employer, except elected officials, members of boards and commissions, managerial executives and confidential employees."

employment of part-time faculty in Rutgers and Somerset. The investigation reveals that the adjunct faculty are employed on a regular basis. Of the adjunct faculty employed by the College in Spring and Fall 1981, approximately 80% had worked a previous semester either in Fall 1979, Spring 1980, Fall 1980 or Spring 1981. <sup>5/</sup>

On June 22, 1982, the undersigned advised the parties that a valid question concerning representation exists in an appropriate unit. The parties were reminded of their obligations pursuant to N.J.A.C. 19:11-2.6 to present documentary or other evidence, as well as statements of position related to the instant Petition and were afforded an additional opportunity to proffer any supplementary evidence or statements of position. The undersigned further advised the parties that in the absence of presentation of facts placing in dispute any substantial and material factual issues, the undersigned would thereafter issue a decision and direction of election. The undersigned has not received a reply to the June 22 letter nor the presentation of any further proffers from the parties.

Accordingly, the undersigned finds the appropriate unit is: "all adjunct faculty members who commenced employment for at least their second semester during a given academic year, and who express a willingness to be rehired to teach at least one semester

<sup>5/</sup> In Rutgers, 67% of coadjutants employed in the 1974-1975 academic year were also employed during the 1973-1974 academic year. In Somerset, 66% of adjuncts employed in the 1980-1981 academic year worked a previous semester between Spring 1979 and Spring 1980.

during the next succeeding academic year, excluding all other employees, craft employees, nonprofessional employees, policemen, managerial executives, confidential employees, and supervisors within the meaning of the Act.

Those eligible to vote shall be those adjunct faculty members employed for at least their second semester during the Spring 1982 semester or who have commenced employment for at least their second semester during the Fall 1982 semester, and who express a willingness to be rehired to teach at least one semester during the next succeeding academic year.

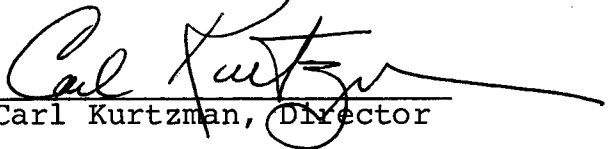
Pursuant to N.J.A.C. 19:11-9.6, the College is directed to file with the undersigned and with the Association an election eligibility list, consisting of an alphabetical listing of the names of all eligible voters together with their last known mailing addresses and job titles. Such list must be received no later than ten (10) days prior to the date of the election. A copy of the eligibility list shall be simultaneously filed with the Association with statement of service to the undersigned. The undersigned shall not grant an extension of time within which to file the eligibility list except in extraordinary circumstances.

The election directed herein shall be a mail ballot election commencing with the mailing of ballots on Tuesday, September 7, 1982. Ballots are to be returned to the Commission's postal address no later than 10 a.m., Friday, September 24, 1982.

Those eligible to vote shall vote on whether they desire to be represented for the purposes of collective negotiations by Ocean County College Adjunct Faculty Association, New Jersey Education Association.

The majority representative shall be determined by a majority of the valid ballots cast. The election directed herein shall be conducted in accordance with the provisions of the Commission's rules.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Carl Kurtzman, Director

DATED: July 30, 1982  
Trenton, New Jersey