

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RUTGERS UNIVERSITY,  
Public Employer,

-and-

Docket No. RO-1042

RUTGERS UNIVERSITY COLLEGE  
TEACHERS' ASSOCIATION,  
Petitioner.

SYNOPSIS

The Commission grants a request for review of a decision and direction of election issued by the Executive Director on May 11, 1976. In re Rutgers University, E.D. No. 76-35, 2 NJPER \_\_\_\_\_. The essence of the dispute relates to the question of whether coadjutant faculty are public employees within the meaning of the Act. The Executive Director found them to be public employees and that determination stands.

The Executive Director decision is modified to the extent that the unit description and the determinants of voter eligibility are conformed to require that employees be employed for at least their second semester and express a willingness to be rehired to teach at least one semester during the succeeding academic year. In all other respects, the decision is affirmed and other aspects of the request for review are denied. An election is to be conducted in the unit found appropriate as provided in E.D. No. 76-35.

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Appearances:

For the Public Employer, Pitney, Hardin & Kipp, Esqs.  
(Mr. S. Joseph Fortunato, on the Request for Review).

For the Petitioner, Joseph Fisch, Esq.  
(Mr. Fisch, on the Statement in Opposition).

DECISION ON REQUEST FOR REVIEW

On May 11, 1976 the Executive Director issued his Decision and Direction of Election in the above-captioned representation proceeding. In re Rutgers University, E.D. No. 76-35, 2 NJPER \_\_\_\_\_. On May 24, 1976 the Public Employer, Rutgers University (the "University") served and filed with the Commission a timely request for review of E.D. No. 76-35, comporting with the procedural requirements of N.J.A.C. 19:15-2.1(b) and 2.3, coupled with a request for a stay pending review. On May 25, 1976 the Commission granted the latter request, staying the directed election pending Commission disposition of the request for review in due course. Finally, the Petitioner, Rutgers University College Teachers' Association (the "Association") served and filed a timely statement in opposition, in accordance with N.J.A.C. 19:15-2.4.

In E.D. No. 76-35 the Executive Director, based upon a stipulated record, directed a mail ballot election in a unit of coadjutant faculty members employed by the University, finding the coadjutants to be regular, part-time employees and thus public employees within the meaning of the Act. The University seeks review on the following two grounds:

1. The finding that all coadjutants are regular part-time employees is erroneous, as the record evidence can only support a finding that some coadjutants are employed regularly. As regularity of employment is utilized for determining public employee status, the University contends that its rights have been prejudicially affected by the Executive Director's decision that all coadjutants are public employees.

2. The Executive Director contravened the parties' stipulation and violated the University's rights to a hearing by determining that the Association is an employee organization within the meaning of the Act, that certain coadjutants are eligible to vote, and that the election would be conducted by mail ballot.

Based upon a careful consideration of the request for review and statement in opposition thereto, the Commission determines that the first ground set forth above raises substantial legal and factual issues sufficient to warrant review, but that the second ground does not. Accordingly, review is hereby granted with respect to the first ground, and is hereby denied with respect to the second. See N.J.A.C. 19:15-2.2.

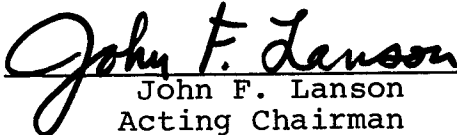
As the parties have thoroughly addressed the issues, we shall proceed to decide the merits at this time. The Association urged the Executive Director to follow apposite precedents in the public and private sectors and to find that coadjutants are regular part-time employees entitled to representation under the Act if regularity of their employment can be demonstrated by employment for more than one semester coupled with a willingness to be rehired in future semesters. In at least partial agreement with the Association's position, the Executive Director recognized the need for continuity of employment by limiting those eligible to vote to those coadjutants who were employed for at least their second semester during the 1975-76 academic year. He did not, however, specify a willingness to be rehired in the succeeding academic year as a condition of voter eligibility. Further, he defined the unit as all coadjutants, without regard to the continuity of employment found to be required with respect to voter eligibility.

The University contends that if we find coadjutants to be an appropriate unit of public employees, we should clarify the unit definition to reflect indicia of employment continuity. To the extent that continuity of employment was not utilized in defining the unit, we agree with the University and will modify the Executive Director's decision. The decision is in all other respects affirmed substantially for the reasons stated by the Executive Director.

We adopt the Association's general position with respect to indicia of employment regularity, and which the University also seeks if public employee status is found, and the unit definition will be modified as follows: "All coadjutant faculty members who commence 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 during the next succeeding academic year."<sup>1/</sup> Similarly, those eligible to vote shall be those coadjutant faculty members employed for at least their second semester during the 1975-76 academic year, and who express a willingness to be rehired to teach at least one semester during the 1976-77 academic year.

The stay of election previously issued is hereby vacated, and the election is to be conducted in accordance with E.D. No. 76-35 except as expressly modified hereinabove.

BY ORDER OF THE COMMISSION

  
John F. Lanson  
Acting Chairman

DATED: Trenton, New Jersey  
June 22, 1976

ISSUED: June 25, 1976

<sup>1/</sup> The exclusions from the unit set forth in E.D. No. 76-35 are not altered by this modification.