

D.R. NO. 2006-4

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

In the Matter of

TOWNSHIP OF WILLINGBORO,

Public Employer,

-and-

Docket No. AC-2005-5

WILLINGBORO TOWNSHIP PUBLIC WORKS
SUPERVISORS ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation amends a Certification of Representative of the Willingboro Township Public Works Supervisors Association to reflect its affiliation with United Workers Union. The petitioner met all of the requirements for amendment of certification, specifically: advance notice of a secret ballot election; a majority voted in favor of the affiliation; the continuity of the certified representative's officers and the unit structure; and adequate due process afforded to the membership. The Township's objections were without merit due to the petition having met all the requirements of the rules for amendment of certification.

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Appearances:

For the Public Employer, Duane Morris, LLP
(Paulette Brown, of counsel)

For the Petitioner,
Brian Wood, President

DECISION

On May 20, 2005, Willingboro Township Public Works Supervisors Association (Association) filed an amendment of certification petition with the Public Employment Relations Commission (Commission) seeking to amend a certification of representative to record its affiliation with United Workers Union (UWU).

I have conducted an investigation into the matters raised by this petition. N.J.A.C. 19:11-2.2. The public employer, the Township of Willingboro (Township), opposed the petition.

I make the following:

FINDINGS OF FACT

On February 5, 2003, the Commission certified the Association as the exclusive representative of a unit of all blue collar supervisory employees employed by the Township.

Brian Wood is the Association president. Wood submitted an affidavit that the membership of the Association were given two weeks written notice of the affiliation vote. Specifically, a May 2, 2005 notice advised the Association members of a May 16, 2005 election to determine whether the Association should affiliate with the UWU and change its name from WTPWSA to WTPWSA/UWU.

Wood also certified that the election was conducted by secret ballot and the Association's membership (3 members) voted unanimously to affiliate with UWU and change its name to WTPWSA/UWU.

Wood also affirms that the Association's officers and unit structure remain unchanged as a result of its affiliation with UWU.

On May 25, 2005, after having received the above referenced affidavits, we advised the Township about the proposed amendment. By letter dated June 29, 2005, the Township responded by objecting to the petition. It objected primarily claiming that no rationale, or reasonable justification, was made by the Association for affiliating with the UWU. The Township also

objects to the petition due to the lack of information about the UWU, with which the Association would like to affiliate. The Township requests the following information about UWU: types of employees served; history and when it was formed; address; and membership information.

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). N.J.A.C. 19:11-1.6(c) requires such a petition 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 a document setting forth the results; 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).

The amendment of certification is essentially used to record a name change in the exclusive representative. The record shows that the Association has met all of the requirements for amendment of certification and has afforded the membership of the certified representative with adequate due process. While the Association failed to include in its petition a statement of the manner in which notice of election was provided to members, the fact that there was 100 percent unit participation in the election suggests that the notice (a copy of which has been provided by the Association), which was by some manner given two

weeks prior to the election, was appropriately posted or provided to the members N.J.A.C. 19:11-1.6(c)(1). While the rule requires that the petitioner specify the method by which notice was provided, that minor technicality has been obviated in this instance. Therefore, I find 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 affiliation. Further, the Association's officers and the structure of the negotiations unit have remained unchanged since the Association's affiliation with UWU.

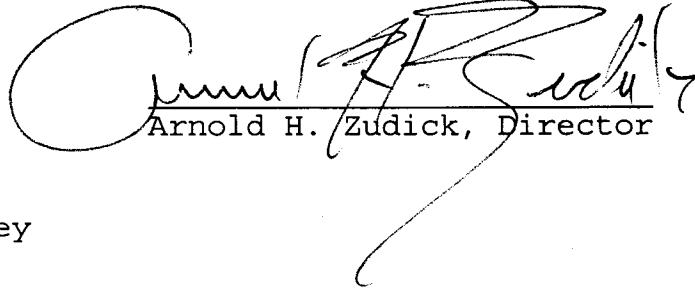
Regarding the Township's objection, N.J.A.C. 19:11-1.6(b)(4) requires only that the petition for amendment of certification contain "A statement by the petitioner setting forth the reason for the desired amendment." The Association's petition offered the following reason: "The Members of the Willingboro Township Public Works Supervisors Association believe that said affiliation will enhance the interests of our Association." The Association's stated reason complies with N.J.A.C. 19:11-1.6(b)(4), and no further explanation is necessary for the amendment of certification petition. Where an employee organization has satisfactorily demonstrated its compliance with amendment of certification requirements, the amendment will be granted notwithstanding an employer's objections. Parsippany-

Troy Hills Township, D.R. No. 94-5, 19 NJPER 511 (¶24235 1993), Req. for review den., P.E.R.C. No. 94-119, 20 NJPER 279 (¶25141 1994).

The Township also objects to the petition due to the lack of information about UWU. Under the New Jersey Employer-Employee Relations Act, the selection of an employee organization to serve as the exclusive representative is the employees' decision. N.J.S.A. 34:13A-5.3. The Commission will not generally question the organizational status of an employee representative. In Camden Police Department, P.E.R.C. No. 82-89, 8 NJPER 226 (¶13094 1982), the Commission explained, "we particularly emphasize that a petitioner is not required to have certain attributes in order to file a representation petition. N.J.S.A. 34:13A-3(e). It is only required not to have an illegal structure. Beyond enforcing the Act's specific prohibitions, we will not interfere in a petitioner's internal affairs." 8 NJPER at 227, n.2. See also Passaic County Youth Center, D.R. No. 89-32, 15 NJPER 265 (¶20113 1989). Therefore, I find that the detailed information about UWU requested by the Township is irrelevant to the consideration of the amendment of certification petition.

Accordingly, the Certification of Representative is amended to reflect that the exclusive negotiations representative is now WTPWSA/UWU.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION



Arnold H. Zudick, Director

DATED: October 21, 2005
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 November 3, 2005.