

D.R. NO. 2017-11

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

In the Matter of

NEW JERSEY INSTITUTE OF
TECHNOLOGY,

Public Employer,

-and-

Docket No. AC-2017-012

UNITED COUNCIL OF ACADEMICS AT
NJIT, AFT, AFL-CIO,

Petitioner.

SYNOPSIS

The Director of Representation grants an Amendment of Certification requested by the United Council of Academics at NJIT, AFT, AFL-CIO (UCAN), to reflect its affiliation with United Council of Academics at NJIT, Rutgers Council of AAUP Chapters, AAUP-AFT, AFL-CIO. UCAN complied with the necessary requirements and the New Jersey Institute of Technology did not oppose the amendment. Accordingly, United Council of Academics at NJIT, Rutgers Council of AAUP Chapters, AAUP-AFT, AFL-CIO is the exclusive representative of the unit.

D.R. NO. 2017-11

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

In the Matter of

NEW JERSEY INSTITUTE OF
TECHNOLOGY,

Public Employer,

-and-

Docket No. AC-2017-012

UNITED COUNCIL OF ACADEMICS AT
NJIT, AFT, AFL-CIO,

Petitioner.

Appearances:

For the Respondent
Holly Stern, Esq., New Jersey Institute of Technology

For the Petitioner
Weissman and Mintz, LLC
(Ira Mintz, Esq., of counsel)

DECISION

On February 23, 2017, United Council of Academics at NJIT, AFT, AFL-CIO (UCAN), 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 to reflect an affiliation with and change in name to United Council of Academics at NJIT, Rutgers Council of AAUP Chapters, AAUP-AFT, AFL-CIO.

I have conducted an investigation into the matters raised by this petition. N.J.A.C. 19:11-2.2. The public employer, New Jersey Institute of Technology, does not oppose the petition.

There are no substantial material facts in dispute which would require a hearing. N.J.A.C. 19:11-2.6(d)(5).

I make the following:

FINDINGS OF FACT

On July 1, 2010, (Docket No. RO-2010-079), the Commission certified the Petitioner as the exclusive representative of the following unit:

Included: All regularly employed, non-supervisory graduate assistants/teaching assistants, research architects, research associates, research assistants, research engineers, research scholars, research scientists, post doctoral research scientists, post doctoral fellows, post doctoral research associates, senior environmental research architects, senior research architects and teaching fellows employed by the New Jersey Institute of Technology.

Excluded: Managerial executives, confidential employees and supervisors within the meaning of the Act; craft employees, non-professional employees, police employees, casual employees, employees represented by other bargaining units, and all other employees employed by the New Jersey Institute of Technology.

The Petitioner has submitted an affidavit from Callie Crawford, President, United Council of Academics at NJIT, dated February 23, 2017, detailing the procedures followed concerning the change in affiliation, as follows:

1. On or about February 14, 2017, the Petitioner's membership was notified by printed announcements that a

discussion of and vote concerning affiliation with the Rutgers Council of AAUP Chapters, AAUP-AFT, AFL-CIO would take place on February 22, 2017 in the Robeson Center, Hudson Room 255, from 12:00 p.m. to 6:00 p.m. The notices were distributed to members' mailboxes, department offices and hallways, and were delivered to members by electronic mail. An announcement of the upcoming election was also posted on UCAN's website. (Crawford Affidavit, Paragraph 1 and 2).

2. Members were informed by the above notice that voting would be conducted by secret ballot at the specified location during the announced time period. (Crawford Affidavit, Paragraph 2, and attached notice).

3. At the February 22, 2017 meeting, unit members were given an opportunity to discuss, and then vote by secret ballot on the question of affiliation with the Rutgers Council of AAUP Chapters, AAUP-AFT, AFL-CIO.

4. A copy of the ballot was appended to the Crawford Affidavit.

5. The tally of the secret ballots reflects that there were twelve votes in favor of the change in affiliation and none opposed. (Crawford Affidavit Paragraph 3, attached voting tally).

6. Since the vote to amend the certification, the officers, unit structure and composition have remained unchanged. (Crawford Affidavit, Paragraph 4).

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 the ballots cast which set 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).

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 adequate 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 change in affiliation.

Accordingly, the Certification of Representative is amended to reflect that the exclusive negotiations representative is now United Council of Academics at NJIT, Rutgers Council of AAUP Chapters, AAUP-AFT, AFL-CIO.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION

/s/Gayl R. Mazuco
Gayl R. Mazuco, Esq.

DATED: March 20, 2017
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 March 30, 2017.