

D.R. No. 2008-7

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

In the Matter of

STATE OF NEW JERSEY,

Public Employer,

-and-

Docket No. AC-2008-004

NEW JERSEY LAW ENFORCEMENT  
SUPERVISORS ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation amends the Certification of Representative to reflect a disaffiliation from the Fraternal Order of Police (FOP). The Director finds that the petitioner has complied with the requirements set forth in N.J.A.C. 19:11-1.6. The Certification of Representative is amended to reflect the majority representative as the New Jersey Law Enforcement Supervisors Association.

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Appearances:

For the Respondent,  
Governor's Office of Employee Relations  
(Camille Warner, Employee Relations Coordinator)

For the Petitioner,  
Arpaia & Crivelli, attorneys  
(Frank M. Crivelli, of counsel)

DECISION

On January 16, 2008, the New Jersey Law Enforcement Association (Association) filed an Amendment of Certification Petition with the Public Employment Relations Commission (Commission). N.J.A.C. 19:11-1.6. The Association seeks to amend its Certification of Representative to reflect its disaffiliation from the Fraternal Order of Police (FOP).

I have conducted an investigation into the matters raised by this petition. N.J.A.C. 19:11-2.2. The public employer, the State of New Jersey (State), 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(c)(5).

I make the following:

Findings of Fact

On May 25, 1978, the Commission certified the New Jersey Law Enforcement Primary Level Supervisors Association affiliated with the New Jersey State Policeman's Benevolent Association (PBA) as the exclusive representative of a unit of law enforcement superior officers, including various sergeant titles, employed by the State. On December 3, 1986, the Commission amended the certification of representative to reflect the change of name to New Jersey Law Enforcement Supervisors Association affiliated with the PBA. On September 30, 2003, the Commission again amended the certification of representative to reflect an affiliation with the Fraternal Order of Police. (Docket No. AC-2004-002).

The Association has submitted an affidavit of its President, Steve Brzdek, detailing the procedures it followed concerning the disaffiliation:

1. On November 14, 2007, a motion was passed at the Association's monthly meeting to hold an election to disaffiliate from the FOP.

2. On November 21, 2007, the Association mailed an instructional letter and ballots for the disaffiliation election

to its membership. The members were provided advance notice of the election by an instructional letter; November 14 meeting minutes; and publication of a notice of election on the Association's web site.

2. The election was conducted by secret ballot among 717 eligible voters. The tally showed that 250 voted in favor of disaffiliation from the FOP, and (43) voted against disaffiliation.

3. The Association's officers and unit structure have remained unchanged after the disaffiliation vote.

On January 28, 2008, having received the affidavit referenced above, we advised the State about the proposed amendment. The State did not object to the petition.

#### 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. 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.

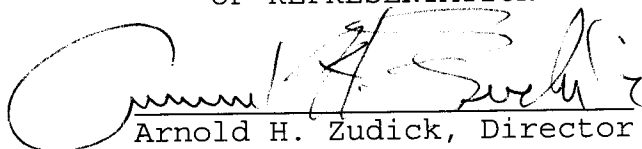
Additionally, to record a disaffiliation, an employee organization is required to show that its disaffiliation procedure afforded the membership with a degree of due process. Adequate due process will be found where the disaffiliation procedures provide the members with advance notice of the disaffiliation vote, an opportunity to discuss the disaffiliation prior to the vote, and the chance to participate in the disaffiliation election. Township of Middletown, et al., P.E.R.C. No. 2000-47, 26 NJPER 59, 60 (¶31020 1999); Parsippany Troy Hills Tp., at 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 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 disaffiliation. The Association's officers and the structure of the negotiations unit have remained unchanged since the disaffiliation from the FOP.

Accordingly, the Certification of Representative is amended to reflect that the exclusive negotiations representative is now the New Jersey Law Enforcement Supervisors Association.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION



Arnold H. Zudick, Director

DATED: February 26, 2008  
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 6, 2008.