

P.E.R.C. NO. 89-102

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RUTGERS, THE STATE UNIVERSITY,

Public Employer,

-and-

Docket No. RO-89-61

RUTGERS COUNCIL OF AAUP CHAPTERS,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies a request for review filed by Rutgers Council of AAUP Chapters. AAUP claims that the Director of Representation improperly dismissed a representation petition because of an inadequate showing of interest. The Commission determines that N.J.A.C. 19:11-2.8(b) precludes further processing of this petition. That subsection bars an election if, during the preceding 12 months, an employee organization has been certified as the exclusive representative.

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Appearances:

For the Public Employer, Carpenter, Bennett &
Morrissey, Esqs. (John J. Peirano, of counsel)

For the Charging Party, Reinhardt & Schachter, P.C.
(Denise Reinhardt, of counsel)

DECISION AND ORDER

Rutgers Council of AAUP Chapters ("AAUP") has filed a Petition for Certification of Public Employee Representative seeking to add EOF counselors and special service counselors employed by Rutgers University and represented by AAUP to its unit of Rutgers faculty members, teaching assistants and graduate assistants.

AAUP requested that the results of a representation election held on April 29, 1988 be considered the showing of interest in this petition. That election resulted in the May 9, 1988 certification of AAUP as majority representative of the EOF and special service counselors.

On November 2, 1988, the Director of Representation informed AAUP that the recent certification could not be substituted for the required showing of interest and that the petition would be

dismissed absent submission of a showing of interest in accordance with Commission rules. He added that "[m]oreover, it appears that your petition is untimely," applying the Commission's certification bar rule. N.J.A.C. 19:11-2.8(b). He requested AAUP to withdraw its petition or it would be dismissed.

On December 6, 1988, the Director informed AAUP that the petition was dismissed for failure to submit the required showing of interest.

On December 19, 1988, AAUP requested review. It claims that the rules permit the Director to approve evidence of the employee organization's authority to represent the employees in addition to the types specified by the rules; a secret ballot election is a reliable method for determining employee wishes, and the refusal to accept the election results disserves the purposes of the certification bar. AAUP further contends that the petition raises no real question concerning representation since AAUP represents both units and that to impose certification as a bar would deny employees their right to select representation in the larger unit.

On January 31, 1989, after an extension of time, Rutgers filed a statement opposing review. It claims the results of the April 29, 1988 election are not an adequate showing of interest and that the certification bar makes the petition untimely.


We deny AAUP's request for review. The Director determined that the results of the April 29 election did not meet the showing of interest requirement. Under the particular circumstances of this case, we need not review that determination.

N.J.A.C. 19:11-2.8(b) precludes further processing of this petition. That subsection bars an election if, during the preceding 12 months, an employee organization has been certified as the exclusive representative. Similar petitions have been dismissed because of the certification bar. See, e.g., Runnemeade Bd. of Ed., D.R. No. 88-21, 6 NJPER 81 (111041 1980).^{1/}

ORDER

The request for review is denied.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Johnson, Ruggiero and Smith voted in favor of this decision. None opposed. Commissioner Reid abstained. Commissioners Bertolino and Wenzler were not present.

DATED: Trenton, New Jersey
March 9, 1989
ISSUED: March 10, 1989

^{1/} We note that showings of interest must normally be gathered within six months prior to the filing of a petition. N.J.A.C. 19:10-1.1. Because of the one year certification bar, the results of an election that leads to a certification apparently would not meet the six month requirement for a future showing of interest.