

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SOMERSET COUNTY COLLEGE,

Public Employer,

-and-

Docket No. RO-81-150

SOMERSET COUNTY FACULTY  
FEDERATION, LOCAL 2375, AFT-  
AFL-CIO,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission denies a Request for Review filed by Somerset County College ("College"). The College sought review of the Director of Representation's order directing an election in a unit consisting of the College's adjunct faculty. The Director found, and the Commission agrees, that enough adjunct professors have worked at least two semesters and have shown a willingness to be rehired for at least one semester during the next year to insure the stability of the proposed negotiations unit.

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Appearances:

For the Public Employer, Lannigan, O'Connell, Jacobs  
& Chazin, Esqs.  
(Daniel F. O'Connell, of Counsel)

For the Petitioner, Dorothy Gutenkauf, Staff  
Representative, New Jersey State Federation of  
Teachers

DECISION ON REQUEST FOR REVIEW

On December 11, 1980, a Petition for Certification of Public Employee Representative was filed with the New Jersey Public Employment Relations Commission by the Somerset County College Faculty Federation, Local 2375, AFT-AFL-CIO ("AFT"). This petition concerned a proposed unit of employees consisting of adjunct faculty employed by Somerset County College (the "College"). These employees that AFT seeks to represent have never been represented by any other organization in a collective negotiations unit.

The College, maintaining that its adjunct faculty members lack the regularity and continuity of employment necessary to establish public employee status, has not consented to an election in the petitioned-for unit, thus giving rise to this dispute.

The Director of Representation conducted an administrative investigation in order to determine the validity of the Petition pursuant to N.J.A.C. 19:11-2.6(a).<sup>1/</sup> The Director issued his determination on November 19, 1981, In re Somerset County College, D.R. No. 82-24, 7 NJPER \_\_\_\_ (¶ \_\_\_\_ 1981), and found that the disposition of this matter was properly based upon his administrative investigation and that there appeared to be no substantial and material factual issues existing which could more appropriately be resolved at a hearing. The Director directed an election and held that those adjunct faculty members who had commenced employment for at least their second semester during the academic year in which the petition was filed, and who also expressed a willingness to be rehired to teach at least one semester during the next succeeding academic year, would be eligible to vote in the election.<sup>2/</sup>

Pursuant to N.J.A.C. 19:11-8.1, the College, on December 4, 1981, filed a Request for Review of the Director's decision alleging that, (a) the Director erred in denying the College's request for an evidentiary hearing to enable the College to establish that its adjunct faculty members are not public employees

<sup>1/</sup> N.J.A.C. 19:11-2.6(a) reads, in part: "After a petition has been filed under this subchapter, if no agreement for consent election has been reached pursuant to N.J.A.C. 19:11-4.1, the director of representation shall conduct a further investigation of the matters and allegations set forth therein...."

<sup>2/</sup> See In re Rutgers University, E.D. No. 76-35 (1976) (decision and direction of election), aff'd as modified, P.E.R.C. No. 76-49 (1976), objections to election dismissed D.R. No. 77-5 (1976), aff'd App. Div. Docket No. A-1652-76 (1976) (unpublished decision), certif. den. \_\_\_\_ N.J. \_\_\_\_ 1978.

within the meaning of the Act, and (b) he improperly relied upon In re Rutgers University, supra in his resolution of this matter.

Based upon a careful consideration of the Request for Review, we determine that the grounds set forth above do not raise substantial legal and factual issues sufficient to warrant a review, and said review is hereby denied. We do, however, deem it appropriate to make several observations concerning the reasoning submitted by the College in support of its request.

In Rutgers, a case involving issues analogous to those herein, we held that the coadjutant faculty at University College were public employees and entitled to representation. It was stated that the term "public employee" had not been narrowly defined in past decisions and that the Rutgers coadjutant professors were not to be excluded from that classification. The coadjutants were found to be employed on a regular, part-time basis by the University based upon the facts that their appointments were for semesters, their duties with respect to three-credit courses were similar to those of full-time employees, and approximately 67% of those employed during the 1974-75 academic year also had been employed at University College during the 1973-74 academic year.

This case required the Director of Representation to make a similar determination as to whether adjunct faculty for the College were public employees entitled to representation and whether an evidentiary hearing was necessary in order to determine their proper status. We are satisfied that the Director appropriately determined the College's adjunct professors to be public employees

and that the facts involved herein legitimately fit the standard utilized in Rutgers where the same determination was made.

The standard used in Rutgers for determining the status for adjunct faculty, was, "All coadjunct 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 academic year." In re Rutgers University, P.E.R.C. No. 76-49, 2 NJPER at 229. Simply stated, the individual must be employed for at least one semester during the academic year in which the petition has been filed, and at least one previous semester. That combination of two semesters of employment, plus a willingness to be rehired for at least one semester during the next academic year, will qualify an adjunct professor as a public employee.

There then, of course, must be a sufficient indication that enough adjunct professors meet this standard to insure the stability of that negotiations unit. Applying that standard, the Director found in the instant matter that of the adjunct faculty employed by the College in the academic year 1980-81, 66% commenced employment for a second semester during the 1980-81 school year.<sup>3/</sup> Regardless of the precise percentage of employees returning to work a second semester, our independent review of the record convinces us that the Director was correct in determining that there was a sufficient rate of return to insure stability.

<sup>3/</sup> 66% of the adjunct faculty employed by the College in 1980-81 had worked a previous semester for the College, either in Spring 1979, Fall 1979, or Spring 1980, or worked both semesters in 1980-81.

in a collective negotiations unit should the employees vote for representation.

We are satisfied as well that the parties have not placed in dispute any factual issues which may more appropriately be resolved after a hearing. Any questions concerning the eligibility of individual employees may be resolved through the challenged ballot procedures set forth in our rules. N.J.A.C. 19:11-9.2.

Having reviewed the Director's decision and the issues raised in the Request for Review, we find that no new questions of law have been raised, that the Director's factual conclusions are supported by the record, that no prejudicial error has occurred, and that there are no compelling reasons for a reconsideration of any rules or policies raised herein.

Accordingly, based upon the foregoing discussion, and in the absence of grounds as set forth in N.J.A.C. 19:11-8.2(a), we hereby deny the Request for Review.

BY ORDER OF THE COMMISSION

  
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James W. Mastriani  
Chairman

Chairman Mastriani, Commissioners Graves, Hartnett, Hipp, Newbaker and Suskin voted in favor of this decision. None opposed. Commissioner Butch abstained.

DATED: Trenton, New Jersey  
January 12, 1982  
ISSUED: January 13, 1982