



STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
PO Box 429
TRENTON, NEW JERSEY 08625-0429
UNFAIR PRACTICE CHARGE

For Courier Delivery
495 West State St.
Trenton, NJ 08618

www.state.nj.us/perc

Phone: 609-292-6780

Fax: 609-777-0089

DO NOT WRITE IN THIS SPACE	
DOCKET NO.	
DATE FILED:	
1. CHARGING PARTY	
Full Name: See Attached	
County:	
Address of Charging Party (Street and Number, City, State and Zip Code):	
Name and Title of Representative/Attorney/Consultant to Contact:	
Telephone No.:	
Representative/Attorney/Consultant Address (Street and Number, City, State and Zip Code):	
2. RESPONDENT(S) (public employer and/or employee organization against whom the charge is made)	
Respondent 1	Full Name: See Attached
County:	
Address of Respondent (Street and Number, City, State and Zip Code):	
Name and Title of Representative/Attorney/Consultant to Contact:	
Telephone No.:	
Representative/Attorney/Consultant Address (Street and Number, City, State and Zip Code):	
Respondent 2 (If Any)	Full Name:
County:	
Address of Respondent (Street and Number, City, State and Zip Code):	
Name and Title of Representative/Attorney/Consultant to Contact:	
Telephone No.:	
Representative/Attorney/Consultant Address (Street and Number, City, State and Zip Code):	
INSTRUCTIONS FOR FILING AN UNFAIR PRACTICE CHARGE	
<p>(1) Type or clearly print all information and complete all sections of the charge.</p> <p>(2) Under "Statement of Charge," provide a CLEAR AND CONCISE statement of the facts constituting the alleged unfair practice. If you need more space for your statement, then attach it to the charge. You may not rely on other documents (such as letters or memoranda) submitted with the charge to constitute your statement.</p> <p>(3) The charge must:</p> <ul style="list-style-type: none">a. list the subsections of the Act alleged to have been violated;b. specify the date, and, to the extent known, the place the alleged acts occurred and the names of the persons alleged to have committed such acts. <p>(4) State specifically the remedy you are asking the Commission to order.</p> <p>(5) Sign the Certification in box #6.</p> <p>(6) File an original and four copies with the Director of Unfair Practices, Public Employment Relations Commission, <i>at the above address</i>.</p> <p>(7) Include with your filing proof that you served a copy of the charge on the respondent(s). Proof can take the form of a statement explaining how, when, and on whom the charge has been served.</p> <p>A CHARGE WILL NOT BE PROCESSED IF THE ABOVE REQUIREMENTS ARE NOT MET.</p>	
3. STATEMENT OF CHARGE	
<p>Pursuant to the New Jersey Employer-Employee Relations Act, as amended, the charging party hereby alleges that the above-named respondent(s) has (have) engaged or is (are) engaging in an unfair practice within the meaning of <u>N.J.S.A. 34:13A-5.4(a)</u>, subsection(s) <u>(1) and (5)</u> and/or <u>N.J.S.A. 34:13A-5.4(b)</u>, subsection(s) _____ in that: _____ (List subsections)</p> <p>See Attached</p>	

(See next page for additional space)

Statement of Charge Continued

4. REMEDY SOUGHT (State the remedy you request the Commission to order)

See Attached

5. PLEASE ADVISE:

1) Has a grievance been filed which is based upon the same facts alleged in the charge or is otherwise related to the charge?

☐ Yes ☒ No

If yes, what is the status of the grievance?

2) Are there any filings at PERC, in court, at the Office of Administrative Law, or before any other administrative agency which are based upon the same facts alleged in the charge or are otherwise related to the charge?

☐ Yes ☒ No

If yes, please specify what they are. If possible, please include docket numbers.

3) Are the parties in negotiations?

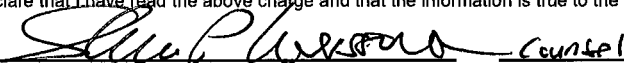
☒ Yes ☐ No

If yes, in what stage of the negotiations process are the parties (negotiations, mediation, fact-finding, super conciliation, interest arbitration)? Please include the date of the next scheduled negotiations session.

6. CERTIFICATION

I declare that I have read the above charge and that the information is true to the best of my knowledge and belief.

By



(Signature)

Counsel

(Title)

7-30-18

(Date)

EMPLOYER:

Rutgers, the State University of New Jersey
Vivian Fernandez, Sr. Vice President
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CHARGING PARTIES:

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AFSCME-NJ (Locals 888 and 1761)
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Counsel: Paul Kleinbaum, Esq.

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Communications Workers of America, AFL-CIO (CWA) (Locals 1031 and 1040)
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Committee of Interns and Residents/SEIU Healthcare (CIR/SEIU)
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Phone: 212-586-8100
Counsel: Ralph DeRosa, Esq.

Fraternal Order of Police, Lodges 62 and 164
Counsel: Matthew Areman

CHARGING PARTIES' COUNSEL INFORMATION:

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**STATEMENT OF THE UNFAIR PRACTICE CHARGE AGAINST
RUTGERS UNIVERSITY**

1. The AAUP-AFT is the certified exclusive majority representative for a negotiations unit including, but not limited to, faculty and librarians employed by Rutgers, the State University of New Jersey ("Rutgers" or the "University") and is party to a collective negotiations agreement with Rutgers.
2. The AAUP-AFT Part-time Lecturer Chapter is the certified exclusive majority representative for a negotiations unit of Part-time Lecturers employed by Rutgers and is party to a collective negotiations agreement with Rutgers.
3. The URA-AFT is the certified exclusive majority representative for a negotiations unit of administrators employed by Rutgers and is party to a collective negotiations agreement with Rutgers.
4. AFSCME, Local 888 is the certified exclusive majority representative for a negotiations unit including, but not limited to, maintenance and services employees employed by Rutgers and is party to a collective negotiations agreement with Rutgers.
5. AFSCME, Local 1761 is the certified exclusive majority representative for a negotiations unit of white collar employees, including but not limited to, clerical and technical employees, employed by Rutgers and is party to a collective negotiations agreement with Rutgers.
6. The AAUP-BHSNJ is the certified exclusive majority representative for a negotiations unit including but not limited to, doctors, dentists and other faculty, employed by Rutgers, Biomedical and Health Sciences, and is party to a collective negotiations agreement with Rutgers.
7. HPAE-AFT, Local 5089 is the certified exclusive majority representative for a negotiations unit of Registered Nurses employed by Rutgers and is party to a collective negotiations agreement with Rutgers.
8. HPAE-AFT, Local 5084 is the certified exclusive majority representative for a negotiations unit of healthcare professionals employed by Rutgers and is party to a collective negotiations agreement with Rutgers.
9. HPAE-AFT, Local 5135 is the certified exclusive majority representative for a negotiations unit of Registered Nurses employed by Rutgers, UCHC Medical Services Division, in DOC and JJC facilities and is party to a collective negotiations agreement with Rutgers.
10. CWA (Local 1040) is the certified exclusive majority representative for a negotiations unit of healthcare professionals employed by Rutgers, UCHC Medical Services Division,

in DOC and JJC facilities and is party to a collective negotiations agreement with Rutgers.

11. CWA (Local 1031) is the certified exclusive majority representative for a negotiations unit of supervisors employed by Rutgers and is party to a collective negotiations agreement with Rutgers.
12. CIR/SEIU Healthcare is the certified exclusive majority representative for a negotiations unit of intern and resident physicians employed by Rutgers and is party to a collective negotiations agreement with Rutgers.
13. Fraternal Order of Police, Lodge 62 is the certified exclusive majority representative for a negotiations unit of rank and file police officers employed by Rutgers and is party to a collective negotiations agreement with Rutgers.
14. Fraternal Order of Police, Lodge 164 is the certified exclusive majority representative for a negotiations unit of superior police officers employed by Rutgers and is party to a collective negotiations agreement with Rutgers.
15. On June 27, 2018, the United States Supreme Court issued its decision in Janus v. AFSCME, which held that public employers could not continue deducting agency fees from employees who had not voluntarily authorized the payroll deduction of such fees.
16. On July 12, 2018, Rutgers sent an email to all unions representing employees of the University stating that as a “courtesy, we are providing you with a copy of email correspondence that will be sent later today to union employees. Please see the attached document.”
17. The notice (the “Notice”) attached to the July 12, 2018 email stated, in relevant part, that “Rutgers has discontinued deducting agency fees from non-union member paychecks. The deduction of agency fees will cease for paychecks dated after 7/1/18. Any agency fees deducted from paychecks dated June 29, 2018 will be refunded to employees in their July 27, 2018, check as those deducted amounts had not been transmitted to the respective unions before the Janus ruling by the Court. The decision does not affect deduction of union dues for employees who have elected to join their respective union and pay full union dues. If you have any questions, please contact the Office of Labor Relations at 848-932-3400.” The notice was signed by Vivian Fernandez, Senior Vice President for Human Resources and Organizational Effectiveness.
18. In response to requests by certain charging party unions that the Notice attached to the July 12, 2018 email not be sent out the University stated that the Notice was being sent out notwithstanding the unions’ objection. According to the University, the Notice was being sent to unions merely as a “courtesy.”
19. The Notice was sent to both employees who were non-members of their respective unions and to union members.

20. On or about July 25, 2018, the University failed to deduct union dues that had been duly authorized as payroll deductions from the paychecks of several thousand employees who are members of unions representing employees of Rutgers.
21. The effect of the University's conduct as described in paragraphs 15 through 20 above is to discourage membership in unions representing Rutgers employees and to encourage union members to resign their union memberships and withdraw their authorization for the payroll deduction of union dues.
22. By its conduct described above, the University has violated subsection 5.4(a)(1) of the EERA, including section 4 of the Workplace Democracy Enhancement Act (WDEA); which provides, in relevant part, that "a public employer shall not encourage negotiations unit members to resign or relinquish membership in an exclusive representative employee organization and shall not encourage negotiations unit members to revoke authorization of the deduction of fees to an exclusive representative employee organization."
23. By its conduct described above, the University has also violated subsections 5.4(a)(1) and (5) of the EERA, by unilaterally determining the content of the Notice sent to the nonmembers and members of the charging parties and by refusing to negotiate over the contents of the Notice.

REMEDY

The Charging Parties request that PERC issue the following relief:

1. Declare that Rutgers has violated subsection 5.4(a)(1), including section 4 of the WDEA, and subsection 5.4(a)(5) of the EERA;
2. Enjoin Rutgers from continuing to violate subsection 5.4(a)(1), including section 4 of the WDEA, and subsection 5.4(a)(5) of the EERA;
3. Direct Rutgers to make the charging parties whole for all losses suffered by them as a result of Rutgers' unlawful conduct and specifically direct Rutgers to reimburse the charging parties for all dues that were not remitted due to Rutgers' failure to deduct from the paychecks of union members duly authorized dues deductions and to direct that the reimbursement not be from the paychecks of union members, but from Rutgers general treasury funds and to further direct Rutgers to make the charging parties whole for all dues that will not be received by them due to union members resigning their membership or revoking authorization for the deduction of union dues as a result of Rutgers' unlawful conduct;
4. Direct Rutgers to negotiate in good faith with the charging parties over the contents of communications sent to union members and nonmembers regarding any payments dues or fees to the charging parties.

5. Direct the posting of appropriate notices throughout the University, at each of its campuses and in each and every building, office and classroom of the University stating that Rutgers violated 5.4(a)(1), including section 4 of the WDEA, and subsection 5.4(a)(5) of the EERA; and
- 6 Direct such other relief as PERC deems appropriate.