

STATE OF CONNECTICUT
LABOR DEPARTMENT

CONNECTICUT STATE BOARD OF LABOR RELATIONS

IN THE MATTER OF

BOARD OF TRUSTEES OF CONNECTICUT
COMMUNITY-TECHNICAL COLLEGES

-AND-

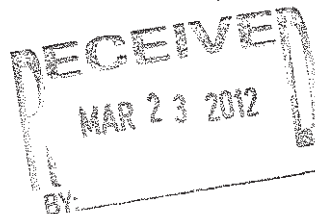
FEDERATION OF TECHNICAL-COMMUNITY
COLLEGES, LOCAL 1942, AFT, AFT-CT, AFL-CIO

Case No. SPP-29,523

A P P E A R A N C E S:

Attorney Richard Voight
for the State

Attorney Eric W. Chester
for the Union



DECISION NO. 4592

MARCH 22, 2012

DECISION AND ORDER

On November 26, 2011 the Federation of Technical-Community Colleges, Local 1942, AFT, AFT-CT, AFL-CIO, (the Union) filed a complaint with the Connecticut State Board of Labor Relations (the Labor Board) alleging that the Board of Trustees of Connecticut Community-Technical Colleges (Board of Trustees) had violated §5-272 of the State Employee Relations Act (SERA or the Act) by refusing to bargain with it as the bargaining representative certified to represent certain employees¹ as set forth in *State of Connecticut, Board of Trustees*, Decision No. 4480 (2010).

After the preliminary steps had been taken, the parties entered into a partial stipulation of facts and exhibits and the matter came before the Labor Board for a hearing on February 24, 2012. The parties appeared, were represented and were allowed to offer evidence and make argument. The Labor Board indicated, without objection from the parties, that it intended to take administrative notice of the record and proceedings from the prior case (Case No. SPP-27,040)

¹ The employees at issue (hereinafter, the "subject employees") are those "who teach non-credit courses for less than 7.5 contact/credit hours but more than one contact/credit hour or its equivalent (13 hours, 20 minutes per year), excluding casual employees" *State of Connecticut, Board of Trustees*, Decision No. 4480 at p. 10.

which resulted in the decision in *State of Connecticut, Board of Trustees, supra*. Both parties waived the filing of briefs.

Based on the entire record before us, we make the following findings of fact and conclusions of law and we issue the following order.

FINDINGS OF FACT

1. The Board of Trustees² is an employer within the meaning of the Act.
2. The Union is an employee organization within the meaning of the Act and at all material times has been the exclusive bargaining representative of certain employees of the Board of Trustees.
3. On December 17, 2007 the Union filed a petition in Case No. SPP-27,040 to clarify the bargaining unit to include the subject employees.
4. The Labor Board conducted proceedings in Case No. SPP-27,040. By decision dated August 31, 2010 (Decision No. 4480) the Labor Board clarified the bargaining unit to include the subject employees. (Ex. 4).
5. On October 14, 2010 the Board of Trustees filed an appeal of the Labor Board's said clarification decision in Superior Court for the judicial district of New Britain. (Ex. 5).
6. By oral decision on August 2, 2011 the court, *Cohn, J.*, dismissed the appeal. (Ex. 6).
7. By letter to Union attorney Eric Chester (Chester) dated October 3, 2011, Board of Trustees Labor Relations Director Marjorie London (London) notified Chester, in relevant part, that "the Board of Trustees declines to bargain as it continues to believe that Decision No. 4480 was erroneous." (Ex. 9).
8. The Board of Trustees has not negotiated with the Union with respect to the terms and conditions of employment of the subject employees.

CONCLUSIONS OF LAW

1. It is a prohibited practice pursuant to the Act for the Board of Trustees to refuse to bargain with the certified exclusive bargaining representative of its employees.
2. The Board of Trustees violated the Act when it refused to bargain with the Union.

DISCUSSION

The Board of Trustees admits that it has refused to bargain with the Union regarding the employees at issue in Decision No. 4480. The Board of Trustees maintains that the Labor Board

² The Board of Trustees is now the Board of Regents of Higher Education. As such, the term "Board of Trustees" as used herein shall refer to the Board of Regents of Higher Education where appropriate given the context.

erred in clarifying the bargaining unit to include the subject employees and refuses to bargain in order to obtain judicial review.

We find that the Board of Trustees has committed a prohibited practice by its failure to bargain with the Union as the certified bargaining representative of this unit. We affirm our earlier decision clarifying the composition of the bargaining unit and find that a traditional order to bargain is appropriate.

ORDER

By virtue of and pursuant to the powers vested in the Connecticut State Board of Labor Relations by the State Employee Relations Act, it is hereby

ORDERED that the Board of Trustees, now the Board of Regents of Higher Education:

1. Cease and desist from failing to bargain with the Union concerning the subject employees described in *State of Connecticut, Board of Trustees*, Decision No. 4480 (2010).
2. Take the following affirmative action which we find will effectuate the purposes of the Act:
 - A. Bargain immediately with the Union concerning the said subject employees.
 - B. Post immediately and leave posted for a period of sixty (60) consecutive days from the date of the posting, in a conspicuous place where the members of the bargaining unit customarily assemble, a copy of this Decision and Order in its entirety.
 - C. Notify the Connecticut State Board of Labor Relations at its office at 38 Wolcott Hill Road, Wethersfield, Connecticut, within thirty (30) days of the receipt of this Decision and Order of the stops taken by the Board of Trustees of Connecticut Technical-Community Colleges, now the Board of Regents of Higher Education, to comply herewith.

CONNECTICUT STATE BOARD OF LABOR RELATIONS

Patricia V. Low
Patricia V. Low
Chairman

Wendella Ault Battey
Wendella Ault Battey
Board Member

Barbara J. Collins
Barbara J. Collins
Board Member

CERTIFICATION

I hereby certify that a copy of the foregoing was mailed postage prepaid this 22nd day of March, 2012 to the following:

Attorney Eric W. Chester
Ferguson & Doyle
35 Marshall Road
Rocky Hill, CT 06067

RRR

Attorney Richard Voight
McCarter & English
City Place 1, 185 Asylum Street
Hartford, CT 06103

RRR

Harry B. Elliott, Jr., General Counsel
CONNECTICUT STATE BOARD OF LABOR RELATIONS