

# *Rutgers Council of AAUP Chapters*

American Association of University Professors ~ American Federation of Teachers

## **Resolution passed by the Executive Council of the Rutgers Council of AAUP Chapters, AAUP-AFT on April 19, 2007 on Rutgers' new policy toward unions and on the denial of jobs to two union janitors:**

We commend President McCormick and the Rutgers University Administration for affirming the principle that workers enjoy the right to form and join unions. Their stance of neutrality toward the current union organizing drive among administrative and professional staff has significantly reduced the fear of management retaliation that often accompanies organizing efforts.

In light of this positive development, we are concerned that the University is not yet applying the same principle in the case of two janitors, Gregorio Jay Tomayo and Mary Fernandez, who have been barred from Rutgers jobs because of their union activities. This problem dates back to 2002, when janitors employed by cleaning contractors at the Newark campus were organizing a union. In response, managers and supervisors at Rutgers-Newark Physical Plant began a campaign of intimidation in hopes of dissuading them from unionizing. The workers, with the help of their union, Service Employees International Union (SEIU) Local 32BJ, sued Rutgers in federal District Court in Newark, alleging that Rutgers had interfered with their federally protected civil rights. The Honorable Judge Dickinson Debevoise issued a preliminary injunction enjoining Rutgers from continuing to interfere with the workers' attempts to organize. Among the workers who testified at the court hearing were Mr. Tomayo and Ms. Fernandez.

Four years later, this past August 2006, Rutgers decided to terminate its cleaning contractor and hire the contractor's entire janitorial staff directly as in-house employees. The manager in charge of hiring, Gina Matos-Oliveira, was the same person who made anti-union threats back in 2002, about which Mr. Tomayo and Ms. Fernandez testified in court. All of the then-available contract employees were offered in-house positions except for two: Mr. Tomayo and Ms. Fernandez. We understand that Ms. Matos-Oliveira made the decision not to offer positions to them. There is no reason, other than their federal court testimony, why these two workers were not offered employment.

The workers' union, Local 32BJ, has filed charges with the Public Employment Relations Commission ("PERC"), alleging that Rutgers refused to hire Mr. Tomayo and Ms. Fernandez in retaliation for their federal court testimony. After investigating the charges, PERC issued a complaint and set a hearing date for June 2007. It appears that Rutgers is refusing to conciliate and plans to "fight back." This position is untenable, unethical, and profoundly embarrassing to the University.

We call on the Rutgers administration to send a clear message that Rutgers respects – not violates -- constitutional rights, and to take steps to ensure that Mr. Tomayo and Ms. Fernandez are offered the positions they should have been offered in the first instance.