

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING
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In the Matter of the Improper
Practice Proceeding

-between-

Daniel Schweit,

Petitioner,

Decision No. B-36-96(ES)

-and-

Docket No. BCB-1863-96

The City of New York Department
of Corrections,

Respondent.

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DETERMINATION OF EXECUTIVE SECRETARY

On October 7, 1996, Daniel Schweit ("Petitioner") filed a verified improper practice petition against the City of New York, Department of Corrections ("the Department") with the Office of Collective Bargaining ("OCB"). In his petition, Petitioner claims that the Department made false statements about him on his employment record. Additionally, he submits that as a result of the Department's actions, he and his family "suffered severe mental anguish." The Petitioner seeks to bring a claim against the Department for defamation of character.

Attached to the petition is a copy of a form dated November 7, 1995, which was completed and signed by an official of the Department as verification of the Petitioner's employment with the Department from June 1, 1982, to February 2, 1993. The Petitioner circled in red those responses by the Department that he claims were falsely made and in defamation of his character.¹

Pursuant to Title 61, §1-07(d) of the Rules of the City of New York, a copy of which is annexed hereto, the undersigned has reviewed the petition and has determined that it does not allege facts sufficient, as a matter of law, to constitute a claim of improper public employer practice within the meaning of §12-306a of the New York City Collective Bargaining Law ("NYCCBL")². The NYCCBL

¹ Among other things, the employment verification form indicates that the Petitioner was not eligible for rehire.

² Section 12-306a of the NYCCBL provides as follows:

Improper public employer practices. It shall be an improper practice for a public employer or its agents:

does not provide a remedy for every perceived wrong or inequity. Its provisions and procedures are designed to safeguard the rights of public employees set forth therein, i.e., the right to bargain collectively through certified public employee organizations; the right to organize, form, join and assist public employee organizations; and the right to refrain from such activities.

In the instant case, Petitioner has failed to state any facts which show that the Department committed an improper public employer practice under the NYCCBL; nor has Petitioner alleged that the Department's actions were intended to, or did, affect rights protected under §12-306a of the NYCCBL. Therefore, I find that the instant claim against the Department does not fall within the jurisdiction of the Board of Collective Bargaining.

Accordingly, for the foregoing reasons, the petition must be dismissed. Dismissal, of course, is without prejudice to any rights the Petitioner may have in another forum.

Dated: New York, New York
October 23, 1996

Wendy E. Patitucci
Executive Secretary
Board of Collective Bargaining

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- (1) to interfere with, restrain or coerce public employees in the exercise of their rights granted in section 12-305 of this chapter;
 - (2) to dominate or interfere with the formation or administration of any public employee organization;
 - (3) to discriminate against any employee for the purpose of encouraging or discouraging membership in, or participation in the activities of, any public employee organization;
 - (4) to refuse to bargain collectively in good faith on matters within the scope of collective bargaining with certified or designated representatives of its public employees.