

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING

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In the Matter of the Improper	:	
Practice Proceeding	:	
	:	
-between-	:	
	:	
Annette Vega,	:	
	:	DECISION NO. B-14-98(ES)
Petitioner,	:	
	:	DOCKET NO. BCB-1987-98
-and-	:	
	:	
Louis Matarazzo, President, Patrolmen’s	:	
Benevolent Association and the New	:	
York City Police Department	:	
	:	
Respondents.	:	
	:	
	:	

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DETERMINATION OF EXECUTIVE SECRETARY

On May 20, 1998, Annette Vega ("Petitioner") filed a verified improper practice petition pursuant to 12-306b of the New York City Collective Bargaining Law ("NYCCBL"),¹ naming Louis Matarazzo, President of the Patrolmen’s Benevolent Association (“Union”), and the New York City Police Department (“Department”) as Respondents. In her petition, Petitioner alleges that the Union breached its duty of fair representation; no further facts are set forth.

Pursuant to Title 61, §1-07(d) of the Rules of the City of New York ("RCNY"), a copy of which is annexed hereto, the undersigned has reviewed the petition and has determined that it does not meet the minimum pleading requirements set forth in the rules of the Office of

¹ NYCCBL §12-306(b) prohibits improper public employee organization practices.

Collective Bargaining ("OCB"). RCNY §1-07 provides, in pertinent part, as follows:

(e) Petition-contents. A petition filed pursuant to §§1-07(b), (c) or (d) shall be verified and shall contain:

- (1) The name and address of the petitioner;
- (2) The name and address of the other party (respondent);
- (3) A **statement of the nature of the controversy**, specifying the provisions of the statute, executive order or collective agreement involved, and any other relevant and material documents, dates and facts. If the controversy involves contractual provisions, such provisions shall be set forth;
- (4) Such additional matters as may be relevant and material.
[Emphasis added.]

The "statement of the nature of the controversy" referred to in RCNY §1-07(e)(3) above should consist of a clear and concise statement of the facts constituting the alleged improper practice and should include, but not be limited to, the names of the individuals involved in the particular act alleged and the date and place of occurrence of each particular act alleged. The mere allegation of a breach of the duty of fair representation, in lieu of a concisely stated charge setting forth factual allegations which, if established, might constitute a violation of the NYCCBL, does not satisfy the requirements of the RCNY.

For the above reasons, the petition must be dismissed as procedurally defective. Dismissal of the petition, however, is without prejudice to resubmission of a petition for reconsideration by the Executive Secretary which does satisfy the minimum pleading requirements set forth in RCNY §1-07(e), within ten (10) days upon receipt of this determination. In the event the Petitioner does so, the charge(s) will be timely only as to conduct which occurred within four months of May 20, 1998, the date that the instant petition was filed with the OCB.

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Dated: New York, New York
June 3, 1998

Victoria A. Donoghue
Executive Secretary
Board of Collective Bargaining