

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

-----X

In the Matter of

DISTRICT COUNCIL 37,
AFSCME, AFL-CIO,

DECISION NO. 38-73

Petitioner,

DOCKET NO. RU-311-72

-and-

THE CITY OF NEW YORK and
RELATED PUBLIC EMPLOYERS

Employer.

-----X

DECISION
and
CERTIFICATION

District Council 37, AFSCME, AFL-CIO (herein petitioner”), filed its petition requesting, inter alia, certification as the collective bargaining representative of Mental Health Workers.¹

I

Undisputed Matters

It is undisputed, and we find and conclude, in fact and within the meaning of the New York City Collective Bargaining Law (NYCCBL), that Petitioner is a public employee organization, [and that the City is a public employer].

The petition, as submitted, also requested consolidation and amendment of various other certifications covering employees in other titles which have been disposed of in other decisions. (See Decisions Nos. 18-73 and 19-73.) Therefore, this decision is limited solely to employees in the title of Mental Health Worker.

II

The Appropriate Unit

The Petition herein requests certification of a unit of Mental Health Workers employed in Mayoral agencies. Our investigation discloses that employees in the same title are employed by a non-Mayoral agency, i.e., the Court System in New York City, which has elected coverage under the NYCCBL.

During the pendency of this proceeding, we have been made aware of the positions urged by the parties in the representation dispute now pending before Perb for Mental Health Workers employed by the Board of Education. The Petitioner, as intervenor in that proceeding, has urged that the appropriate unit should consist of Mental Health Workers employed by Mayoral agencies and the Board of Education. The Employer-City has made application urging PERB to find that the Board of Education and the City constitute a joint employer. The Board of Education has resisted the City's application, contending that, under the Education Law, the Board is the sole and exclusive employer. The United Federation of Teachers has contended that the appropriate unit consists of Mental Health Workers employed by the Board of Education. Whatever the ultimate determination of the question of joint employership of the title in question, this Board has exclusive

jurisdiction over titles in Mayoral agencies and agencies which have opted for OCB jurisdiction, as has the Judicial Conference.

At such time as PERB determines the pending representation matter before it, we shall, upon the filing of an appropriate petition, review the matter of the appropriateness of the unit we now find, provided the facts, in our opinion, warrant such review. Under those circumstances, we shall consider the composition of a unit including employees in titles other than but related to Mental Health Workers, as well as the scope of a unit coextensive with the public employers involved, with an overall concern for the impact on the bargaining process.

In the interim, we shall determine the representation question pending before us. Since the Union has demonstrated that it represents a majority of the employees based on checkoff, we shall, accordingly, certify the Union as the exclusive representative.

CERTIFICATION

Pursuant to the powers vested in the Board of Certification by the New York City Collective Bargaining Law, it is hereby

CERTIFIED that District Council 37,
AFSCME, AFL-CIO is the exclusive representative
for the purposes of collective bargaining of all
Mental Health Workers employed by the City of
New York and related public employers subject to
the jurisdiction of the Board of Certification.

DATED: New York, N.Y.

April 30, 1973.

ARVID ANDERSON
C h a i r m a n

ERIC J. SCHMERTZ
M e m b e r

WALTER L. EISENBERG
M e m b e r

The title and title code numbers of
employees affected by this decision are as follows:

Mental Health Worker

03604, 08474