

DC37 v. City, CUNY, 14 OCB 6 (BOC 1974) [(Decision No. 6-74 (Cert.)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of

DISTRICT COUNCIL 37, AFSCME,
AFL-CIO

DECISION NO. 6-74

-and-

DOCKET NO. RU-391-73

THE CITY OF NEW YORK

-and-

THE CITY UNIVERSITY OF NEW YORK

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DECISION AND DESIGNATION OF
REPRESENTATIVE

On July 13, 1973, District Council 37, AFSCME, AFL-CIO, filed a petition for designation as the collective bargaining representative of all employees of the Board of Higher Education who are subject to the jurisdiction of the office of Collective Bargaining for matters which must be uniform for all such employees. The City of New York opposes this petition.

Positions of the Parties

The Office of Labor Relations of the City of New York gives the following reasons for its opposition:

- (1) The requested unit does not include all of the employees of the agency, as required by §1173-4.3a.(3) of the NYCCBL.

- (2) The requested unit would produce disruptive fragmentation because "partial departmental bargaining could result in agreement on conditions inconsistent with those in other bargaining units within the department but not within OCB jurisdiction."
- (3) "... departmental bargaining has resulted in the creation of additional bargaining units which have negotiated matters of little or no substance...."
OLR concludes that "... since major items affecting the employees in the instant petition are bargainable on a title-wide basis, there need be no loss of bargaining rights for these employees should the City's position be sustained."

District Council 37 replies that:

- (1) The election of the Board of Higher Education to come under the NYCCBL "was limited to non-instructional employees."
- (2) The NYCCBL "specifically provides for departmental bargaining on matters which must be uniform for employees in a particular department. "

- (3) Petitioner has been unable to resolve "many matters which have arisen" because it was told to negotiate them "centrally with the Board of Higher Education", while that Board "has refused to negotiate many of these matters." The present petition results from "these frustrations."

Discussion

The election of the Board of Higher Education to come under the jurisdiction of the office of Collective Bargaining and the Mayor's approval thereof provide for coverage of only "employees of the University who are not members of the Instructional Staff." In a similar case of limited jurisdiction, we issued a "departmental designation" covering "all non-judicial employees of the Judicial Conference within the City of New York" (Decision No.2-72).¹

Our investigation establishes that District Council 37 is the certified representative of bargaining units which include a majority of the employees of the City University of New York who are subject to the jurisdiction of the Board of Certification.

We likewise find here that, for purposes of Section 1173-4.3a(3) of the New York City Collective Bargaining Law, the City University of New York (Board of Higher Education) is a "department." (Cf. Decisions 92-70 and 2-72).

O R D E R

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

ORDERED that District Council 37, AFSCME, AFL-CIO, be, and it hereby is, designated as the representative for collective bargaining purposes of all employees of the City University of New York who are subject to the jurisdiction of the Board of Certification, on matters which must be uniform for all such employees.

DATED: New York, N.Y.

January 21, 1974

ARVID ANDERSON
CHAIRMAN

ERIC J. SCHMERTZ
MEMBER

Mr. Eisenberg did not participate in this decision.