

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of the Petition of

LOCAL NO. 1485 and LOCAL NO. 1509,
DISTRICT COUNCIL 37, A.F.S.C.M.E.,
AFL-CIO

-and-

HUMAN RESOURCES ADMINISTRATION

-and-

SOCIAL SERVICE EMPLOYEES UNION

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Docket No. R-31-67

Decision No. 1-68

DECISION AND ORDER

This proceeding was transferred from the Department of Labor to the Board of Certification pursuant to Rule 13.13 of the Consolidated Rules of the Office of Collective Bargaining.

On November 3, 1967, an election was conducted by the Department of Labor in a unit consisting of employees in approximately forty (40) titles employed by the Human Resources Administration, Manpower and Career Development Agency, New York City Youth Board and Community Development Agency (excluding Community Progress Centers and the Department of Welfare). Both the above-named public employee organizations appeared on the ballot. No certification was issued by the Department of Labor.

Examination of the record discloses that the unit in which the election was conducted includes both professional and non-professional employees.

Section 1173-3.01 of the New York City Collective Bargaining Law (NYCCBL) expressly provides that "professional employees shall not be included in the same unit. . . as non-professional employees without the consent of a majority of the professional. . . employees involved." Section 1173-10.0c, which concerns certifications issued by the Department of Labor prior to the effective date of the NYCCBL, provides that nothing contained therein "shall limit the power of the board of certification to determine bargaining units differently from those determined by the department of labor."

In the instant case, the professional employees were not granted a self-determination election, and the unit clearly transgresses the present statutory provision concerning professional employees. For this Board to issue a certification, based on such a unit, would, or might, establish a collective bargaining relationship in derogation of the statutory mandate. Accordingly, we shall dismiss the petition, without prejudice.

We do not pass upon the appropriateness of the unit in other respects, or the question, not now before us, of the continued effectiveness of a Labor Department certificate for such a unit issued prior to the effective date of the statute.

O R D E R

It is hereby,

ORDERED, that the election conducted herein on November 3, 1967, be, and the same hereby is, vacated; and it is further

ORDERED, that the petition herein be, and the same hereby is, dismissed without prejudice.

DATED, New York, N.Y.
February 28, 1968

ARVID ANDERSON
C h a i r m a n

ERIC SCHMERTZ
M e m b e r

SAUL WALLEN
M e m b e r