

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of

THE CITY OF NEW YORK AND RELATED
PUBLIC EMPLOYERS,

Petitioner,

-and-

DECISION NO. 31-80

DISTRICT COUNCIL 37, AFSCME,
AFL-CIO, and/or its affiliated
LOCALS; CIVIL SERVICE TECHNICAL
GUILD, LOCAL 375, D.C. 37, AFSCME,
AFL-CIO; CITY EMPLOYEES UNION,
LOCAL 237, I.B.T., and its affiliate,
CIVIL SERVICE BAR ASSOCIATION; NEW YORK
CITY LOCAL 246, S.E.I.U., AFL-CIO;
D.C. OF NYC & VICINITY OF THE UNITED
BROTHERHOOD OF CARPENTERS & JOINERS OF
AMERICA, AFL-CIO; LOCAL UNION #3,
I.B.E.W., AFL-CIO; STRUCTURAL STEEL AND
BRIDGE PAINTERS OF GREATER N.Y., LOCAL
806; D.C. 9 OF N.Y.C., INTERNATIONAL
BROTHERHOOD OF PAINTERS & ALLIED TRADES,
AFL-CIO; and LOCAL 246, S.E.I.U.,
AFL-CIO, jointly; UNITED PROBATION
OFFICERS ASSOCIATION OF N.Y.C.; N.Y.
STATE NURSES ASSOCIATION,

DOCKET NO. RE-121-80

Respondents.

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DECISION AND ORDER

On March 18, 1980, the City's Office of Municipal Labor Relations filed its petition herein, requesting the deletion of twenty-eight Comprehensive Employment and Training Act (CETA) titles from their respective certifications on the ground that these titles are vacant and are not intended to be used in the future. Objections,

alleging that certain of the titles were not vacant, were filed by District Council 37, AFSCME;¹ Civil Service Technical Guild Local 375; and Local 237, I.B.T.

In its reply, dated August 28, 1980, the City concedes that "As of June 30, 1980, there were incumbents in 12 of [the pertinent] titles" and requests that decision on their deletion be held in abeyance. Our records confirm the City's statement. However, we shall deny the request to hold them in abeyance.

An objection was also filed by the New York State Nurses Association, which does not deny that the title of Registered Professional Nurse (CETA) is vacant but claims that "the City's allegation that there will be no future incumbents in that title ... is purely speculative and is no reason... to eliminate the title from the Association's certification."

In the cited reply, the City states that "the position taken by the New York State Nurses Association ... is completely without merit. It has been the practice of the Board of Certification in all similar cases to delete titles not in use and not contemplated for future use from certifications."

The City's statement regarding the Board's practice is true. We also point out that it is within the sole discretion of the employer to use or not to use a title, so that the City's statement that it does not intend to use a title must be credited.

Accordingly, we shall delete the vacant titles from their

¹ Among the titles to which D.C. 37 objects is School Crossing Guard (CETA). Our records show that this objection is based on the inadvertent use of an erroneous title code number and that the title is, in fact, vacant.

respective certifications and deny that portion of the petition which concerns the remaining titles, without prejudice to the filing of a new petition when any or all of these titles become vacant.

ORDER

NOW, THERE-FORE, pursuant to the powers vested in the Board of Certification by the New York City Collective Bargaining Law, it is hereby

ORDERED that the following titles be, and they hereby are, deleted from the indicated certifications, subject to existing contracts, if any:

<u>TITLE</u>	<u>CERT. NO.</u>	<u>UNION</u>
Economic Analyst (CETA)	46D-75 (as amended)	DC 37, AFSCME
Physician's Assistant (CETA)	28-78 " "	" " "
School Crossing Guard (CETA)	60-78 " "	Local 372, DC 37 AFSCME
Sewage Treatment Worker "	3 NYCDL #22 "	" 1320, DC 37, AFSCME
Architectural Associate "	26-78 (as amended)	C.S.T.G., Local 375, DC 37, AFSCY
Assistant Chemist (CETA)	" " " "	" " " "
Chem. Engineering Assoc. "	" " " "	" " " "
Elec. " "	" " " "	" " " "
Engineering Associate "	" " " "	" " " "
Environmental Control Eng. (CETA)	" " " "	" " "
"Assistant Lawyer "	CWR-44/67	Local 237, I.B.T & its affiliate, Civil Service Ba Assoc.
Sr. Commercial Vehicle Compliance Agent (CETA)	67-78 (as amended)	Local 237, I.B.T
Photographer Assoc.	62C-75 " "	" " "
Public Health Educator (CETA)	" " " "	" " "
Probation Officer Trainee (CETA)	23-78 (as amended)	United Probation Officers Assoc.
Registered Professional Nurse (CETA)	16-80 " "	N.Y.S. Nurses Assoc.

and it is further

ORDERED that so much of this petition as concerns the titles
of

EDP Programmer (CETA), Fiscal Records Analyst (CETA), Human Rights Specialist (CETA), Laborer (CETA), Park Maintainer (CETA), Mechanical Engineering Associate (CETA), Cement Mason (CETA), Handyman (CETA), Auto Mechanic (CETA), Carpenter (CETA), Electrician's Helper (CETA), and Painter (CETA) be, and the same hereby is, denied without prejudice to the filing of a new petition for their deletion when any or all of these titles become vacant.

DATED: New York, New York
September 23, 1980

ARVID ANDERSON
Chairman

DANIEL G. COLLINS
Member

WALTER L. EISENBERG
Member

Decision No. 31-80
Docket No. RE-121-80

The titles and title code numbers affected by-this decision
are as follows:

Economic Analyst (CETA)		03480
Physician's Assistant	(CETA)	09297
School Crossing Guard	(CETA)	09755
Sewage Treatment Worker	"	09739
Architectural Associate	"	09421
Assistant Chemist (CETA)		09727
Chem. Engineering Assoc.	"	09426
Elec.	" "	09427
Engineering Associate	"	03482
Environmental Control Eng.	(CETA)	09373
Assistant Lawyer (CETA)		03312
Sr. Commercial Vehicle Compliance Agent (CETA)		03337
Photographer Assoc.	"	09425
Public Health Educator	(CETA)	09448
Probation Officer Trainee (CETA)		09704
Registered Professional Nurse (CETA)		00267