

**CWA, L. 1180, 3 OCB2d 32 (BOC 2010)**

(Rep) (Docket No. AC-34-07).

**Summary of Decision:** CWA sought to represent Customer Information Representatives by accretion. Intervenors Local 237 and DC 37 also sought to accrete the titles. The City and NYCHA took no position as to the proper placement of the title. The Board found that the bargaining units were equally appropriate and ordered an election on unit placement. *(Official decision follows.)*

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**OFFICE OF COLLECTIVE BARGAINING  
BOARD OF CERTIFICATION**

**In the Matter of the Certification Proceeding**

*- between -*

**COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO, LOCAL 1180,**

*Petitioner,*

*-and-*

**THE CITY OF NEW YORK and THE NEW YORK CITY HOUSING AUTHORITY,**

*Respondents,*

*-and-*

**LOCAL 237, INTERNATIONAL BROTHERHOOD OF TEAMSTERS,**

*Intervenor,*

*-and-*

**DISTRICT COUNCIL 37, AFSCME, AFL-CIO,**

*Intervenor.*

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**DECISION AND DIRECTION OF ELECTION**

On June 25, 2009, Communications Workers of America, Local 1180 (“CWA”) filed a petition, docketed as AC-34-07, seeking to add employees in the title Customer Information

Representative (“CIR”), Levels I, II, and III (Title Code No. 60888), to its bargaining unit, Certification No. 41-73, which includes titles such as Principal Administrative Associate (“PAA”) and Associate Call Center Representative (“ACCR”). On September 4, 2007, Local 237, International Brotherhood of Teamsters (“Local 237”) filed a motion to intervene, seeking to add the title to one of its bargaining units, Certification No. 62A-75, which includes titles unique to the New York City Housing Authority (“NYCHA”), or Certification No. 62C-75, which includes Citywide titles such as Public Health Educator (“PHE”). On March 12, 2008, District Council 37, AFSCME, AFL-CIO (“DC 37”) filed a motion to intervene, seeking to add the title to its bargaining unit, Certification No. 46C-75, which includes titles such as Call Center Representative (“CCR”), Clerical Associate, Eligibility Specialist (“ES”), Enrollment Sales Representative (“ESR”), Enrollment Sales Representative Assistant (“ESRA”), and Client Navigator (“CN”). The employers, the City of New York (“City”) and NYCHA, took no position in this proceeding. This Board finds that the employees in the CIR title would be appropriately accreted to either CWA’s unit, DC 37’s unit, or Local 237’s unit of Citywide titles. Accordingly, we direct an election in order to ascertain the wishes of the employees as to their unit placement.

### **BACKGROUND**

A hearing was conducted over several days at which testimony was heard from CIRs, their supervisors, employees in titles represented by the unions, and various union officials.

#### **Customer Information Representative**

CIRs are employed in various agencies throughout the City, including the Bronx Borough President’s Office (“BBPO”), the New York City Department of Information Technology and

Telecommunications (“DOITT”), the New York City Department of Environmental Protection (“DEP”) and at NYCHA.

The CIR job specification states that the “class of positions encompasses several degrees of complexity and independent decision-making in providing customer service utilizing computer databases and information technology to access information required for responses, overseeing customer service work.” (City Ex. 1). Their work includes communication by telephone, email, and walk-in inquiries and is provided at agency customer service centers or help desks.

A CIR Level I, “[u]nder supervision, with some latitude for independent action, provides customer information and conducts research and clerical support duties.”<sup>1</sup> (City Ex. 1 at 1).

A CIR Level II, “in addition to performing the duties of [CIR] Level I, responds to more

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<sup>1</sup> The job specification states that the following are examples of typical tasks for an employee at CIR, Level I:

Answer telephone, mail, email and in-person inquiries and determines service required. Requests customer information needed to respond to inquiries. Records customer information, inquiry, and resolution in tracking system. Receives payments and fees, processes and generates payments and adjusts records accordingly. Refers complex requests for reply. Keeps customers apprised of status and progress on unresolved service requests. Aids less experienced [CIRs] in mastering procedures and systems. Answers routine, frequently asked and scripted questions, and provides information about services. May prepare written replies using forms and form letters. Updates inquiry tracking system to reflect actions taken, responses given and inquiries forwarded for further research and response. Updates reference and source data and tables in agency Information Technology systems. Uses computer database and information technology systems to research information needed to respond to and track the progress of responses to mail, electronic, telephone and in-person inquiries. Enters customer information into databases to update personal records and accounts.

(*Id.*).

complex and technical inquiries which have been forwarded; forwards very complex, technical and unusual issues to specialists for response.” (City Ex. 1 at 3). In addition, an employee at CIR Level II “[c]oordinates responses to emergent problems; serves as group expert, advising and aiding less knowledgeable [CIRs]” and also [p]repares written responses, where appropriate.”<sup>2</sup> (City Ex. 1 at 3).

A CIR Level III, “in addition to performing the duties of Level II, supervises assigned group(s) of [CIRs] or monitors an entire tour using several computers and information technology systems.” (City Ex. 1 at 4). A CIR Level III also “[w]orks to resolve and respond to day-to-day operational issues and difficult and unique inquiries” and is “responsible for getting training for staff in speciality knowledge for customer service operation and for ensuring that [CIRs] follow procedures, update databases and use information technology tools.”<sup>3</sup> (*Id.*).

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<sup>2</sup> A CIR Level II performs the following typical tasks:

Handles telephone, email, mail and walk-in inquiries referred by [CIR], Level I. Serves as group leader/expert. Trains, advises and aids staff in using information technology systems to obtain information to respond to issues, to maintain tracking system, and to recall information on the status of service requests. Advises staff in proper telephone response techniques, walk-in protocols, how to obtain information to respond to inquiries and to identify issues that should be referred to supervisors or subject matter specialists. Troubleshoots problem areas to recommend revised policies and procedures for customer service; may monitor calls to ensure quality of service and to determine information needed. In the temporary absence of the supervisor, may perform the duties of that position.

(*Id.*).

<sup>3</sup> A CIR Level III performs the following typical tasks:

Supervises assigned groups of [CIRs]; schedules work; evaluates performance of staff. May monitor calls handled by staff to assure quality of service courtesy and accuracy of information provided. Ensures that

The CIR levels have related qualification requirements. To qualify for a position at Level I, a candidate must have a baccalaureate degree or an associate degree as well as two years “satisfactory, full-time experience responding to inquiries in a customer service, help desk or public relations capacity, utilizing computers and information technology [including] at least one year of satisfactory experience using computers and technology systems and databases for researching the answers to questions” or a high school diploma or its educational equivalent and four years of experience. (City Ex. 1 at 5). Candidates for a Level II position must have one additional year of the described work experience. Candidates for a Level III position require two additional years of the described work experience.

There are no direct lines of promotion within the CIR title. The salary range for a CIR Level I is \$27,349 to \$47,013; for a CIR Level II, \$38,279 to \$60,840; for a CIR Level III, \$49,286 to \$80,704.

### BBPO

BBPO employs one CIR, Level I. She is the front desk coordinator and is responsible for meeting and greeting constituents that walk into the office or call on the phone. She assesses the needs of the constituents and schedules appointments for the constituents to meet with a caseworker at the office, or refers the constituent to other agencies. The BBPO CIR works solely at the Bronx

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reference data and sources are updated and maintained. Recommends additional sources of information to improve service. Takes calls to sample issues and problems encountered by staff and recommends and implements new procedures. Monitors issues arising during a tour and takes appropriate steps to respond to the issues. Prepares and/or reviews statistical reports analyzing the quantity, speed, level and quality of service provided.

*(Id.)*.

office, during business hours from 9:30 AM to 5:30 PM.

DOITT

DOITT employs CIRs Level I in the 311 Call Center, which operates 24 hours per day, seven days per week. The function of the 311 Call Center (“311”) is to answer calls from the public and provide information regarding non-emergency services. A component of 311 is Enhanced 311 (“E311”), which focuses on answering and directing calls regarding health and human services, such as shelter, affordable housing, pregnancy, health care, food banks, food stamps, public assistance, and home heating. The CIRs at DOITT work solely at E311. CIRs may access information in the interactive Siebel computer data system used at the Call Center, but also use probing questions to determine whether there are other larger problems. For example, if a caller requests information about finding a meal, a CIR will ask other questions to determine whether other services are needed, such as shelter. The CIR will discern possible needs and refer callers to other agencies and community organizations; the CIR does not actually assess the caller’s eligibility for potential services.

The CIR may transfer the call to another agency, but when doing so, the CIR generally does not have contact with the employees at the other agency. CIRs sometimes make follow up calls to check on whether the needs of the callers were met. These CIRs develop subject matter expertise and field particular questions. They also take note if the information in the Siebel system is inaccurate or incomplete, in which case they notify the content area of 311 to have the information corrected. CIRs are supervised by employees in the titles ACCR or a PAA, which are represented by CWA.

DOITT began hiring for the CIR position in 2008. Most CIRs were new hires, but some were

formerly in the CCR title, which is represented by DC 37. In addition, some CIRs were functionally transferred from the New York City Department for the Aging (“DFTA”) as many of the calls received by E311 CIRs are from elderly clients. CIRs advise seniors of programs like the senior citizen rent increase exception (“SCRIE”) and services provided by community organizations. Given the health and services component of the CIR position, DOITT looked for CIR applicants with a bachelor’s degree and background in social services. One CIR from DOITT testified at the hearing. She went through a three-week training to learn how to use the computer database systems, to obtain necessary information from callers, and to properly respond to telephone calls.

DEP

DEP employs three CIR Level III employees who were moved into the CIR title in 2007. They serve in three different units in the capacities of Director of Quality Assurance, Director of Billing Operations, and Director of Mail Services. All of the CIRs at DEP are exclusively administrative supervisors; they direct the workforce below them, approve time off, and conduct employee evaluations. They do not have much customer contact, but use various computer systems to perform their work. Previously, the Director of Quality Assurance and the Director of Billing Operations were both PAAs Level III, represented by CWA. All three DEP CIR employees testified at the hearing.

The DEP Quality Assurance Unit is responsible for auditing DEP’s billing transactions and checking the work of the Bureau of Customer Services, which adjusts water bills. The Unit monitors employees that are taking calls in the call centers; it has a help desk to assist the employees from DEP’s Bureau of Customer Service. The Director of Quality Assurance has no customer contact and does most of his work correcting and adjusting bills on the computer. He supervises eight

employees.

The DEP Mail Services unit examines incoming and returned mail, which generally concern customer complaints, and assigns it to various units. Employees in the Mail Services Unit also update a database with information from customer registration forms sent by mail. The Director of Mail Services supervises several employees, including PAAs, represented by CWA, and Clerical Associates, represented by DC 37. About once or twice a week, he receives a call from the public and tries to help those customers by providing information.

The DEP Billing Operations Unit handles complex billing transactions, monitoring accounts, and making adjustments. The Director of Billing Exceptions oversees a unit that examines meter readings that are either higher or lower than regular readings and determines whether the abnormal reading is valid. She supervises 15 employees, including PAAs and Clerical Associates. The staff call members of the public to schedule appointments for inspectors to visit the property in order to investigate whether the bill was accurate. The Director of Billing Operations handles such calls about once or twice a week when an issue is difficult to resolve or if a language translation is required. She does outreach and serves as DEP's representative at lien sales at community centers, where members of the public ask questions or register payment agreements. In 2008, she attended four of these events in various boroughs.

### NYCHA

NYCHA employs seven CIRs Level II in the Human Resources Department.<sup>4</sup> One NYCHA CIR testified at the hearing. These CIRs work on the Human Resources customer service desk,

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<sup>4</sup> After the close of the hearing, NYCHA published one Vacancy Posting to hire CIRs for its Customer Contact Center.



called “Ask HR,” which receives about 150 calls per day regarding issues such as retirement, health benefits, hiring, and workers’ compensation. CIRs receive calls from current and former NYCHA employees, potential applicants, physicians involved in workers’ compensation cases, and other members of the public. CIRs work during business hours, from 9:00 AM to 5:00 PM. They answer the phone calls and research answers in a “Knowledge Base” database. If the answer is not in the database, a CIR asks an appropriate person, conveys the information to the caller, and has the information added to the database. The average call time is about five minutes.

About ten percent of the calls that Ask HR receives are improperly placed maintenance calls regarding repair needs. CIRs refer these calls to NYCHA’s Customer Contact Center in Long Island City, which is staffed by NYCHA-unique titles, represented by Local 237. When CIRs transfer the calls, they generally do not communicate with the Customer Contact Center staff.

All of these CIRs have human resources experience and have substantive knowledge to answer questions. They received three weeks of training, which concerned handling calls and learning the computer system.

### **CWA’s Bargaining Unit**

CWA’s bargaining unit includes administrative titles such as PAA and ACCR, both of which are utilized at multiple City agencies.

#### **Principal Administrative Associate**

The PAA title includes three assignment levels. According to the job specification, a PAA “utilizes manual and automated office systems and encompasses responsible office, supervisory or administrative work of varying degrees of difficulty and with varying degrees of latitude for independent initiative and judgment.” (CWA Ex. 3). The qualification requirements for the PAA

title are a baccalaureate degree and three years of clerical/administrative experience; or an associate degree and four years of experience; or a high school diploma or its educational equivalent and five years of experience. The salary range for the PAA title is \$39,981 to \$75,630.

The PAAs at DOITT supervise employees that take calls at 311, including E311. One PAA, Level II, at DOITT testified. She works in the E311 Call Center, where she supervises a staff of 14 employees, including five CIRs. She supervises and monitors call-taking for quality control and takes about 10 to 12 calls per week when the phone queue is long or a phone call is escalated because it is particularly complicated or the caller is difficult to handle. She contacts the 311 Information Content Division if she needs to update the information database. She was functionally transferred from DFTA. The employees functionally transferred from DFTA received a two-week training on the various computer databases when they started working at DOITT.

A PAA from DEP's Bureau of Customer Service Call Center testified that she supervises a staff of 17 employees, including Clerical Associates and a PAA, whose main function is answering customer calls related to billing. She takes escalated calls when a customer wants to speak with a supervisor and answers the ombudsman line, which handles calls for customers facing a lien on their property. If the Call Center receives a call from a customer that has not received a response to a letter, she contacts the DEP correspondence unit.

#### Associate Call Center Representative

The ACCR title includes two assignment levels and is responsible for "supervising and overseeing Call Center Representatives and staff providing customer service and information to the public, receiving and recording service requests, and maintaining and updating database content at varying degrees of complexity and responsibility in the . . . [311] Call Center." (CWA Ex. 4 at 1).

The qualification requirements for an ACCR Level I include either a baccalaureate degree and one year of full-time experience in customer service or public relations, an associate degree and three years of relevant experience, or a high school diploma and four years of relevant experience. In order to qualify as an ACCR, Level II, candidates require additional experience. The salary range for the ACCR title is \$41,231 to \$75,630.<sup>5</sup>

An ACCR working at DOITT's 311 Call Center as a supervisor of CCRs, represented by DC 37, testified that she takes calls on a daily basis, monitors the flow of incoming calls, and answers calls when there is over a two-minute wait time. She also takes escalated calls. She interacts with E311 supervisors, PAAs, and ACCRs, but not directly with CIRs. She received training in various areas, including the Siebel system.

### **Local 237's Bargaining Units**

#### **Public Health Educator**

Local 237's Certification No. 62C-75 includes Citywide public information and health titles, such as PHE. The PHE title has three levels, all of which are involved in the design and administration of the City's public health education programs. The PHE job specification provides that the title "identifies community health information needs and develops, organizes, conducts, and evaluates health education programs to meet those needs." (Local 237 Ex. 5). The qualification requirements for a PHE Level I are a baccalaureate degree and two years of experience in public health education or a master's degree in certain fields. A PHE Level II supervises PHEs Level I. Level II requires two additional years of experience. A PHE Level III "assists in managing a public

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<sup>5</sup> We take administrative notice that these values represent the salary range effective October 6, 2009.

health education program and in overseeing the work” of PHEs Level I and II and other staff. (*Id.*). A PHE Level III is required to have at least five years of experience. The salary range for the PHE title is \$43,459 to \$68,781.<sup>6</sup>

A Local 237 Trustee and Business Agent testified that there are approximately 250 PHEs employed throughout the City in various capacities educating the public regarding health issues such as obesity, asthma, prenatal care, and sexually transmitted diseases. PHEs work at City agencies, including the Department of Health and Mental Hygiene (“DOHMH”), and the Department of Sanitation (“DSNY”), and the New York City Health and Hospitals Corporation (“HHC”).

PHEs work in the DOHMH Call Center and in walk-in centers at district offices where they interface with the public as well as take calls from the public. Calls come into the DOHMH Call Center directly or are transferred by the 311 Call Center. At the DOHMH Call Center, which utilizes the Siebel system, calls are taken primarily by Public Health Advisors (“PHA”). The PHAs are supervised by PHEs, approximately four of which work at the Call Center. PHEs take phone calls from the public when PHAs are unable to answer certain questions or when there are not enough PHAs on staff to take calls. When they take calls, they may respond to clients without a script. The PHEs at the Call Center are experts in public health and they use this knowledge to ask probing questions to determine which services clients may need. PHEs assigned at higher levels engage in more complex tasks and act as supervisors. As supervisors, they oversee the work of college aides and PHAs, monitoring call intake, time and leave, and training.

At the DOHMH district offices located throughout the City boroughs, PHEs speak with the

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<sup>6</sup> We take administrative notice that these values represent the salary range effective October 9, 2009.

public, both by phone and in-person. On average at a district office, a PHE may take between 25 and 40 phone calls per day. At other agencies, such as the DSNY, they work as public information specialists; at HHC, they speak with patients to be sure they are following their prescribed treatments.

### NYCHA-Unique Titles

Local 237's Certification No. 62A-75 includes only NYCHA-specific titles, such as Emergency Service Aide ("ESA"), Assistant Resident Buildings Superintendent ("ARBS"), Resident Buildings Superintendent ("RBS"), and Housing Manager ("HM"). ESAs, ARBSs, RBSs and HMs all work at the NYCHA Customer Contact Center and have interaction with each other.

The ESA job specification provides that the title "assists a maintenance worker or other Housing Authority personnel by obtaining or carrying tools and equipment, or by aiding in performance of minor maintenance work and repairs, or by assisting dispatcher in control center."<sup>7</sup> (Local 237 Ex. 1). Some ESAs work in NYCHA's Customer Contact Center where residents call to request repairs and maintenance, or make other complaints. The Customer Contact Center operates 24 hours a day, seven days a week. ESAs are assigned to answer the calls from residents and to create work tickets and service requests. The ESA taking the call must determine whether call is routine, urgent or an emergency and give it an appropriately-labeled ticket. In emergency situations, ESAs are responsible for notifying the particular housing development about the situation.

ESAs retrieve information from a computer system, and NYCHA intends to eventually have them use the Siebel system. When inquiries from the public are incorrectly routed to NYCHA, ESAs

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<sup>7</sup> ESAs perform various tasks including assisting workers responding to emergency maintenance calls, assisting in janitorial and weather emergencies, removing snow and ice. When assigned, they take complaints from tenants regarding maintenance problems.

refer them to the proper City agency. The average call length of the calls that ESAs take is between ten and twenty minutes. An ESA may follow up on the status of a resident's inquiry by e-mail or call, for example, to check whether an appointment has been scheduled for a particular maintenance or repair request. Initially, ESAs receive a ten-day training program. As part of their training, they receive booklets and technical training; they are trained in how to answer different phone calls and how to use the Siebel system.

The ARBS job specification provides that the title "supervises the operation and maintenance of properties of the Housing Authority; or . . . supervises skilled and semi-skilled employees in major repair programs." (Local 237 Ex. 2). Primarily, ABRs employees work in the field supervising maintenance workers, but two ABRs also work in the Customer Contact Center, where they supervise ESAs. They take escalated calls, which include calls from residents whom ESAs need assistance handling and calls from outside agencies and the media.

The RBS job specification provides that an RBS "supervises the operation and maintenance of properties of the Housing Authority; or . . . supervises skilled and semi-skilled employees in major repair programs; implements established procedures; establishes work schedules; develops job instructions to maintain and/or improve agency standards." (Local 237 Ex. 3). RBS employees are assigned to work in the field supervising maintenance workers as well as in the Customer Contact Center. RBSs may also take escalated calls at the Customer Contact Center. One RBS testified at the hearing that he takes about ten escalated calls per day. RBS employees working in the Customer Contact Center are trained on the Siebel system.

The HM job specification provides that an HM "performs difficult and responsible work in the administration and management of NYCHA's public housing and leased housing programs."

(Local 237 Ex. 4). HMs are assigned to work in the field or at the Customer Contact Center. In the field, they oversee an entire housing development, including maintenance and management operation, rent collection, and other resident issues, and they supervise various employees. At the Customer Contact Center, HMs perform supervisory functions similar to RBS employees.

### **DC 37's Bargaining Unit**

DC 37's bargaining unit includes clerical titles such as CCR, Clerical Associate, ES, ESR, ESRA, and CN.

#### Call Center Representative

The CCR job specification states that the title "provides a single point of contact for all non-emergency City services" at DOITT's 311 Call Center:

Utilizing state-of-the-art telephone and interactive computer systems, responds to phone inquiries from the public, provides customer service and information to callers, takes complaints and service requests and forwards them for further action; enters inquiries, complaints and requests into appropriate computer systems and performs related clerical and computer support work.

(DC 37 Ex. 2). The qualification requirements for a CCR are a baccalaureate degree, an associate degree and one year of customer service experience, or a high school diploma and two years of experience. The position also requires the ability to "navigat[e] multiple computer systems using a computer keyboard and mouse." (*Id.*). The salary range for the CCR title is \$29,580 to \$50,850.<sup>8</sup>

CCRs work at the DOITT Call Center, in the same building and on the same floors as CIRs, where they answer phone calls from the public regarding public services, take complaints, and provide information and referrals to other potentially helpful agencies. If appropriate, CCRs will

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<sup>8</sup> We take administrative notice that these values represent the salary range effective March 3, 2009.

forward calls to other agencies. CCRs handle matters such as trash collection, street lamps needing repairs, and restaurant cleanliness. CCRs generally obtain the information needed to respond to a call from the Siebel system and read information from a screen. CCRs do not answer calls related to certain health and human services, which are answered by CIRs. However, CCRs answer some questions related to sexually transmitted diseases and provide information regarding health clinic locations. While answering calls, CCRs work in rows at computers and wear headsets. CCRs may be trained as specialists in particular subject matters and assist in responding to calls raising issues in their specialty. CCRs receive a six-week training course, which covers customer service and the Siebel system.

#### Clerical Associate

The Clerical Associate job specification provides that the title “encompasses clerical and related office activities utilizing manual and automated office systems.” (DC 37 Ex. 3). There are four Citywide levels and Level IVa at HHC. A high school diploma or its equivalent is required. The salary range for the Clerical Associate title is \$24,859 to \$56,672.

Generally, Clerical Associates perform clerical and administrative duties such as operating switchboards, keeping records, and also filing and typing correspondence. They often interact with the public either on the telephone or in-person. At DEP, 49 Clerical Associates work at the Call Center, which receives about 2000 calls per day. There, Clerical Associates are supervised by PAAs, represented by CWA. Clerical Associates can make notations in a customer file when an issue arises that may necessitate calling the customer back. The Clerical Associates use various computer systems, including CIS and BAPPS. One DEP Clerical Associate testified at the hearing. Since 2003, that Clerical Associate has attended about six training programs on topics, such as tax liens,



and the payment incentive program.

Eligibility Specialist

The job specification states that the ES title “determines and substantiates the initial and continuing eligibility of persons for public assistance programs.” (DC 37 Ex. 4). There are three levels. The qualification requirements for an ES are 60 college credits and two years of experience in certain areas, or a satisfactory equivalent. The salary range for the ES title is \$30,683 to \$50,075.

ESs handle issues relating to eligibility for public benefits, such as food stamps or welfare programs. Their work involves reviewing documents, including applications, in order to make determinations regarding eligibility.

Enrollment Sales Representative and Enrollment Sales Representative Assistant

The HHC job specification provides that the ESR title “identifies qualified participants and educates them as to the benefits of selecting MetroPlus as a managed care provider; achieves predetermined monthly enrollments based on regularly updated goals and objectives . . . and maintains positive public relations presence within the community.” (DC 37 Ex. 5). There are three levels. The qualification requirements for an ESR Level I are three months of training or high school graduation, and one year of “experience in direct consumer contact, sales, and/or social services.” (*Id.*). Level II requires an additional year of experience; Level III requires two additional years of experience, with at least one of those years being in a supervisory capacity. The salary range for the ESR title is \$35,400 to \$80,871.

ESRAs “receives on-the-job training to develop skills and techniques necessary to identify qualified participants and educate as to the benefits of selecting MetroPlus as a managed care provider.” (DC 37 Ex. 6). A high school diploma is required. The salary range for the ESRA title

is \$32,714 to \$66,980. An ESRA performs functions similar to an ESR, at the entry level.

ESRs and ESRA's respond to calls regarding medical insurance such as Medicaid Family Health Plus, Child Plus, and Medicare. ESRs use various computer documenting systems to access claims information for callers, including TXEN and MACCESS. According to the ESR that testified at the hearing, 90% of their interaction with members is over the phone. On occasion, members come into the office, and ESRs will meet with them in person. ESRs will also perform outreach to members. They send out form letters to members and perform new member orientation, usually over the phone. On occasion, an ESR will refer a call to a supervisor. ESRs receive both practical and informational training. They sit with a team leader for three weeks to learn how to do their job, and receive another three weeks of training on information, such as member handbooks, managed care, and benefits.

#### Client Navigator

A CN, Level I, "performs tasks related to inquires by the general public and facilitates the flow of clients. Primary duties include interaction with clients, providing information, explaining rules, regulations, policies and procedures." (DC 37 Ex. 7). The qualification requirements for a CN, Level I, are a high school diploma and one year of customer service experience. A CN, Level II, "plans and directs the day-to-day operations of the client navigator environment." (*Id.*). The qualification requirements for a CN, Level II, are a high school diploma and two years of customer service experience, one of which should be supervisory. The salary range for the CN title is \$33,064 to \$76,785. CNs work in hospitals or medical settings, where they assist patients and other people in finding a particular location or service. They essentially "navigate" people through hospitals.

## **POSITIONS OF THE PARTIES**

### **CWA's Position**

CWA argues that CIRs share a community of interest with PAAs and ACCRs and therefore should be accreted to the CWA bargaining unit. The job specifications for the positions list many of the same requirements. They all require a bachelor's degree, an associate degree and experience in either customer service, administrative work, or public relations, or a high school diploma and experience in those fields. In contrast, the employees in the other bargaining units in this proceeding do not share similar requirements. The majority of the information titles represented by Local 237 do not require a college degree; only the PHE title requires a bachelor's degree. While there are 250 employees in the PHE title, only about four of them work at the DOHMH Call Center in a function in which they would share responsibilities with CIRs. In DC 37's unit, only the CCR title shares the required qualifications with the CIR title.

While PAAs and ACCRs both have supervisory duties, not all CIRs have supervisory duties. However, this does not preclude the accretion of the CIR title to the bargaining unit. Neither the City nor NYCHA object to the inclusion of supervisory and non-supervisory employees in the same bargaining unit, and there is no evidence that including CIRs in this unit would prejudice employees or the union. Moreover, CIRs at Level III may supervise other employees and, therefore, have some of the same duties and responsibilities as ACCRs.

### **Local 237's Position**

Local 237 argues that, of all the unions seeking to represent these employees, CIRs share the greatest community of interest with its bargaining units. PHEs and CIRs, particularly those at DOITT, share many similarities, including being "well educated" and "experts in their fields."

(Local 237 Br. at 7). They both answer telephone calls from the public and give information on relevant services. As they are assigned to higher levels, both CIRs and PHEs perform “increasingly complex tasks” and perform supervisory functions. (Local 237 Br. at 7). Further, ESAs at NYCHA’s Customer Contact Center also share a community of interest with CIRs as they too speak with the public on the telephone and ask callers probing questions in order to better assist them. In contrast to DC 37’s CCRs who take brief, simple calls, ESAs and CIRs take calls that are more lengthy and are complex. Other bargaining unit members employed at NYCHA, such as HMs, ARBSs, and RBSs are also similar to CIRs as their functions include handling calls from the public, exercising independent judgment, and performing supervisory functions. Further, pursuant to NYCHA’s recent Vacancy Posting, the CIRs that NYCHA will hire will perform the same job as the ESAs.

Concerning the placement of the CIR title within Certification No. 62A-75, which is comprised of NYCHA-unique titles, Local 237 argues that such placement would be appropriate and preferable. According to Local 237, NYCHA may move existing ESAs into the CIR title and to another union’s unit, which “would undo a longstanding bargaining relationship, and strip Local 237 of its representation of existing members.” (Local 237 Br. at 9). Local 237 claims that such placement would be consistent with Board precedent. Even if the Board finds that placement of the CIR title in the unit of NYCHA-unique titles is precluded, the Board should consider placing CIRs in its unit of Citywide titles. Local 237 is in the unique position of having experience representing call center employees, both call takers and their supervisors, at NYCHA and at City agencies.

Further, neither DC 37’s bargaining unit nor CWA’s bargaining unit share a community of interest with CIRs. CWA’s unit is not appropriate because CWA represents only supervisory titles,

and most CIRs are not supervisors. CWA provided no evidence that it has experience representing non-supervisors. Although the three CIR III employees at DEP are supervisors, they are CIRs “in name only,” and not representative of the CIR title. (Local 237 Br. at 11). Further, the DEP CIRs make up only a small number of the total number of CIRs. DC 37 is likewise not suited to representing CIRs. According to Local 237, the work that CIRs perform is “complex” and “nuanced” and requires the exercise of “independent judgment,” while DC 37’s members perform work that relies on retrieving information from databases. (Local 237 Br. at 12). DC 37 members perform other functions that are largely clerical. (Local 237 Br. at 11). Also, DC 37 did not present evidence that its bargaining unit represented supervisory titles, while some CIRs perform supervisory functions.

### **DC 37’s Position**

DC 37 argues that employees in the CIR title should be accreted to their bargaining unit as all such employees have a community of interest since they share similar job duties, responsibilities, qualifications, skills, and wage rates. Also, CIRs and employees in the bargaining unit all work seven hours per day and five days per week.

Like CIRs, CCRs work at the DOITT 311 Call Center and sit at computers while wearing headsets to answer calls from the public, and use a computer database to access information for the customer. Also, both groups of employees may be specialists in various subject areas and are able to connect callers with other agencies that may be able to provide more information. The employees at DOITT also work at the same building and on the same floors, some working side-by-side. Some CIRs were formerly CCRs.

At DEP, Clerical Associates sit at computers and wear headsets while taking calls from the

public. They use computer databases to answer customer inquiries regarding bills and personal account information. DC 37 asserts that DEP's CIR Level III employees are not performing any of the typical duties listed in the CIR job specification and argues that the Board should consider their duties as out-of-title work. None of them answer calls from the public, ask callers questions, or provide requested information. These employees are working in a supervisory capacity performing office tasks.

Also, like the CIR title, the ESR title has three levels and provides telephone customer service. These employees answer phone calls from the public while seated in rows and wearing headsets. They use computer databases to access information on topics such as medical claims, benefits, eligibility, and authorizations, and to record notes on calls. Like CIRs, ESRs transfer escalated calls to specialists. ESRs also receive a three-week training where they observed another ESR perform work. Client Navigators are similar to CIRs as they assist the public by providing information to people entering a hospital. Client Navigators also use computer systems to gain information necessary to assist clients. Like CIRs, Client Navigators must also cover their work area at all times.

Further, CIRs and the DC 37-represented titles have similar lines of supervision. For example, at DOITT, both CIRs and CCRs report to PAAs and ACCRs and pass along escalated calls to them. Clerical Associates at DEP also report to PAAs. ESRs report to a higher level ESR. Qualifications are similar for CIRs and employees in DC 37's bargaining unit. These positions share similar educational and experience requirements.

Finally, CIRs share a stronger community of interest with DC 37's bargaining unit than with either of the other unions in this proceeding. CWA's bargaining unit performs primarily supervisory

and administrative duties and are therefore distinguishable from most CIRs. The CIRs currently employed by the City are mostly in entry-level positions. The titles in Local 237's bargaining unit primarily perform maintenance and supervisory work in the housing developments and grounds at NYCHA. ESAs receive only maintenance calls and are still assigned to work in the field and housing developments. Also, HMs, ARBSs, and RBSs perform maintenance duties and are generally assigned to housing developments, not at customer call centers or desks. Local 237 members do not work at the call center with the NYCHA CIRs. Further, all of the seven CIRs employed at the NYCHA call center were formerly members of DC 37 in another bargaining unit.

**City's Position**

The City takes no position regarding the placement of the title.

**NYCHA's Position**

NYCHA takes no position regarding the placement of the title.

**DISCUSSION**

The New York City Collective Bargaining Law (New York City Administrative Code, Title 12, Chapter 3) ("NYCCBL") grants this Board the statutory power and duty:

to make final determinations of the units appropriate for purposes of collective bargaining between public employers and public employee organizations, which units shall be such as shall assure to public employees the fullest freedom of exercising the rights granted hereunder and under executive orders, consistent with the efficient operation of the public service, and sound labor relations, . . .

NYCCBL § 12-309(b)(1). Section 1-02(k) of the Rules of the Office of Collective Bargaining (Rules of the City of New York, Title 61, Chapter 1) sets forth the criteria that we apply in

determining appropriate bargaining units:

- (1) Which unit will assure public employees the fullest freedom in the exercise of the rights granted under the statute and the applicable executive order;
- (2) The community of interest of the employees;
- (3) The history of collective bargaining in the unit, among other employees of the public employer, and in similar public employment;
- (4) The effect of the unit on the efficient operation of the public service and sound labor relations;
- (5) Whether the officials of government at the level of the unit have the power to agree or make effective recommendations to other administrative authority or the legislative body with respect to the terms and conditions of employment which are the subject of collective bargaining;
- (6) Whether the unit is consistent with the decisions and policies of the Board.

Among the factors considered when deciding whether there is a community of interest are: “(a) the job duties and responsibilities of the employees; (b) their qualifications, skills, and training; (c) interchange and contact; (d) wage rates; (e) lines of promotion; and (f) organization or supervision of the department, office, or other subdivision.” *OSA*, 78 OCB 5, at 44-45 (BOC 2006), *affd sub nom. Matter of NYC Health & Hosps. Corp. v. Bd. of Cert. of the City of New York*, 2007 N.Y. Slip. Op 30921(U) (Sup. Ct. N.Y. Co. Apr. 23, 2007) (Tolub, J.). “This list is not exclusive[,] and none of the factors necessarily is controlling.” *Id.* at 45. We “consider each case individually.” *Id.* When, as here, the parties assert that a title is appropriately added to more than one bargaining unit, this Board will “balance the various factors to determine where the greater community of interest lies.” *Id.*; *see CEU, L. 237, IBT*, 30 OCB 41, at 18 (BOC 1982).



The Board will add the title to the bargaining unit that it finds to be more appropriate. *See, e.g., DC 37*, 3 OCB2d 21 (BOC 2010); *NYSNA*, 20 OCB 2, at 3 (BOC 1977). In the event that the Board finds that no one bargaining unit is more appropriate than the others, the Board will order an election to determine the employees' preference for representation. *See, e.g. Local 371, SSEU*, 76 OCB 1, at 25 (BOC 2005); *CSTG, L. 375*, 26 OCB 27, at 18-19 (BOC 1980).

As a preliminary matter, we reject Local 237's argument that the Citywide CIR title should be placed in its bargaining unit of NYCHA-unique titles, Certification No. 62A-75. We have held that NYCHA-unique titles should not be placed in a bargaining unit with Citywide titles when NYCHA is the only employer bargaining regarding NYCHA-unique titles. *Local 300, SEIU*, 6 OCB 12, at 14 (BOC 1970) (noting that negotiations concerning NYCHA-unique titles are conducted by NYCHA while negotiations regarding Citywide titles are conducted by the City), *affd sub nom. Matter of Penta v. Anderson*, N.Y.L.J., Mar. 9, 1971, at 2 ( Sup. Ct. N.Y. Co.); *see DC 37*, 10 OCB 11 (BOC 1972). Local 237 relies upon *CWA*, 12 OCB 41, at 3 (BOC 1973), in which we consolidated a unit with titles unique to the Board of Judicial Conference with a unit of Citywide titles where there was a long history of joint bargaining by the City and the Board of Judicial Conference for the unique titles. The record before us contains no evidence of joint bargaining between NYCHA and the City regarding NYCHA-unique titles. Therefore, we are not persuaded to deviate from our well-settled case law.

Accordingly, we consider whether the CIR title is appropriately added to CWA's unit, DC 37's unit, or Local 237's unit of Citywide titles. We find that the totality of the evidence demonstrates that CIRs share a community of interest with employees in each of the bargaining units.

The job duties and responsibilities of CIRs are similar to those of the titles represented by

all of the Unions. A primary function of the CIR title is to respond to inquiries from the public by providing general information and information about City services. CIRs have varying degrees of expertise in certain subject areas, ranging from constituent services to public health to human resources. CIRs at NYCHA and the BBPO respond directly to a caller's inquiry while others, such as those at DOITT, regularly ask questions to determine whether callers would benefit from receiving more information. In addition to speaking over the phone, CIRs may also have in-person conversations: at the BBPO, a CIR meets with constituents in-person, and a CIR at DEP presents informational sessions to the public. In addition, certain CIRs, such as those at DEP, perform supervisory functions.

Like CIRs at DOITT and NYCHA, employees in CWA's bargaining unit work in call centers responding to calls from the public; like CIRs at DEP, CWA's members supervise other employees. Similarly, Local 237's members answer calls in call centers and act as supervisors. They also speak to clients in-person, like CIRs at the BBPO and at DEP. DC 37's members also share common duties with CIRs. Many of its members work in call centers answering calls from the public. Others, such as Client Navigators, interact in-person with the public as do CIRs at the BBPO and DEP. Therefore, we find that employees in each of the bargaining units have sufficient duties and responsibilities in common with CIRs to support a community of interest. *OSA*, 78 OCB2d 5 (BOC 2006) (finding accretion appropriate to any of three proposed bargaining units where the titles shared significant overlap in duties).

The qualifications and skills of CIRs and the Unions' bargaining unit members are also similar in many respects. To qualify for the position, CIRs must have at least a high school degree and relevant experience; the amount of required experience increases for each level. An associate

or a baccalaureate degree may count in lieu of some experience. The qualifications required for PAAs and ACCRs, with which CWA asserts a community of interest, range from a high school degree to a baccalaureate degree with varying amounts of experience required. The employees in Local 237's Citywide unit with which it asserts a community of interest, PHEs, require either a baccalaureate degree or a master's degree and commensurate experience. The requirements for the pertinent titles in DC 37's bargaining unit range from a three month training course to a baccalaureate degree with varying amounts of experience. CIRs must be able to communicate information about various topics and services. They must also know how to utilize computer databases, commonly but not always using the Siebel system, to access the information they provide. Likewise, the employees in all three bargaining units require similar skills to perform their jobs. Thus, there is sufficient overlap in the required qualifications and skills to support a community of interest with titles in all three of the bargaining units.

Concerning interchange and contact between CIRs and other titles in the various bargaining units, some CIRs regularly have contact with employees with which CWA DC 37 assert a community of interest. At the DOITT Call Center, CIRs work alongside CCRs represented by DC 37 and also work with supervising PAAs and ACCRs represented by CWA. At DEP, relevant employees in both DC 37's unit and CWA's unit are supervised by CIRs. At other agencies, CIRs do not have interaction or contact with members of any of the bargaining units. While this factor weighs least heavily in favor of Local 237's unit, it does not outweigh the evidence that CIRs share a community of interest with titles in all three bargaining units. *See OSA, 77 OCB 5 (BOC 2006).*

The wage rates of CIRs range from \$27,349 to \$80,704. Titles in CWA's unit with which it asserts a community of interest earn between \$39,981, the starting salary for PAA, and \$75,630,

the maximum salary for both PAAs and ACCRs. PHEs, in Local 237's unit, earn between \$43,459 and \$68,781. The relevant titles in DC 37's unit earn between \$24,859, the starting salary for a Clerical Associate, and \$80,871, the maximum salary for an ESR. The salary range for titles in each of the Unions' bargaining units share overlap in wage rates with the salary range for the CIR title sufficient to support a community of interest with titles in any of the three units.

The remaining unit placement factors do not favor one bargaining unit over another. Accordingly, we find that accretion to any of the three units would be appropriate. When accretion to multiple bargaining units would be appropriate, the Board has stated that the purposes and policies of the NYCCBL are best served by ascertaining the employees' representation wishes in order to determine unit placement. *OSA*, 78 OCB 6 (BOC 2006).

Section 12-309(b)(2) of the NYCCBL authorizes the Board "to determine the majority representative of the public employees in an appropriate collective bargaining unit by conducting secret-ballot elections or by utilizing any other appropriate and suitable method designed to ascertain the free choice of a majority of such employees [and] to certify the same as exclusive bargaining representative . . ." Accordingly, we direct that an election be conducted among employees in the CIR title with CWA, Local 237, and DC 37 appearing on the ballot. The CIR title will be added to the bargaining unit represented by the union that receives a majority of the valid ballots cast. If any of the Unions does not desire to participate in the election, it may decline to do so by making a request in writing to the Director of Representation, within ten days after service of this Decision and Direction of Election.

**ORDER AND DIRECTION OF ELECTION**

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

DIRECTED, that as part of the investigation authorized by the Board, an election by secret ballot be conducted under the Board's supervision, at a date, time, and place to be fixed by the Board, among the employees in the title of Customer Information Representative (Title Code No. 60888) employed by the City of New York and related public employers, to determine whether these employees wish to be represented by Communications Workers of America, Local 1180; Local 237, International Brotherhood of Teamsters; or District Council 37, AFSCME, AFL-CIO for the purposes of collective bargaining and thereby be added to the bargaining unit represented by Communications Workers of America, Local 1180 in Certification No. 41-73; the bargaining unit represented by Local 237, International Brotherhood of Teamsters in Certification No. 62C-75; or the bargaining unit represented by District Council 37, AFSCME, AFL-CIO in Certification No. 46C-75. Employees in the title Customer Information Representative employed during the payroll period immediately preceding this Decision and Direction of Election, other than those who have voluntarily quit, retired, or who have been discharged for cause before the date of the election, are eligible to vote; and it is further

DIRECTED, that if the Petitioner or either of the Intervenors does not desire to participate in an election, it may decline to do so by making a request in writing to the Director of Representation within ten days after service of this Decision and Direction of Election; and it is further

DIRECTED, that within 14 days after service of this Decision and Direction of Election, the

City of New York and the New York City Housing Authority will submit to the Director of Representation an accurate list of the names and addresses of all the employees in the title Customer Information Representatives who were employed during the payroll period immediately preceding the date of this Decision and Direction of Election.

Dated: July 9, 2010  
New York, New York

MARLENE A. GOLD  
CHAIR

GEORGE NICOLAU  
MEMBER

CAROL A. WITTENBERG  
MEMBER