

L.300, et. Al v. City,30 OCB 17 (BOC 1982) [17-82 (Cert.)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

-----X

In the Matter of

PUBLIC SERVICE PROFESSIONAL
ASSOCIATION

-and-

DECISION NO. 17-82

LOCAL 300, THE CIVIL SERVICE FORUM,
SEIU, AFL-CIO

DOCKET NO. RU-860-82

-and-

THE CITY OF NEW YORK AND RELATED
PUBLIC EMPLOYERS

-----X

D E C I S I O N
and
DIRECTION OF ELECTION

On January 29, 1982, Public Service Professional Association, (herein PSPA) filed a timely petition, accompanied by an appropriate showing of interest, requesting certification as the collective bargaining representative of a unit consisting of employees now covered by Certification No. 64-78 (as amended).¹A timely intervention was filed by Local 300, The Civil Service Forum, SEIU, AFLCIO (herein Local 300), which is currently certified for the relevant unit. The City's Office of Municipal Labor Relations takes no position in this case.

¹ This certification covers a "residual" unit consisting of approximately five hundred employees serving in the titles listed in the Appendix to this Decision.

Local 300 objects to this petition on the ground that PSPA "is not an employee organization within the meaning of the Taylor Law." Sub-division 5 of Section 201 of the Public Employees' Fair Employment Act (Taylor Law) defines an "employee organization" as "an organization of any kind having as its primary purpose the improvement of terms and conditions of employment of public employees ... [Emphasis added; exceptions not pertinent here are omitted]. The New York City Collective Bargaining Law (NYCCBL) defines a "public employee organization" as "any municipal employee organization and any other organization or association of public employees, a primary purpose of which is to represent public employees concerning wages, hours and working conditions" [Emphasis added].

PSPA has filed the required no-strike affirmation and has submitted, in addition, its constitution and by-laws; a list of its officers; an affidavit of its president, setting forth its history and purposes; proof of its incorporation under the not-for-profit laws of the State of New York; and other financial and related information, all of which clearly demonstrate that PSPA is a bona fide public employee organization within the meaning of the Taylor Law and the NYCCBL.

Both this Board and the New York State Public Employment Relations Board have consistently held that an employee organization meets the statutory requirement if it "has as its primary purpose

the improvement of terms and conditions of employment."²

In PERB Case No. C-236a, involving the same unions as the instant case, PERB's Acting Director of Public Employment Practices and Representation ruled, on April 5, 1982, that PSPA is a public employee organization and ordered an election among certain employees of the NYC Board of Education, with PSPA and Local.300 on the ballot. On May 10, 1982, the Public Employment Relations Board affirmed this decision.

Most of Local 300's "offer of proof" supporting its allegation about PSPA concern the manner in which PSPA was allegedly founded in order to circumvent a no-raiding agreement between Service Employees International Union and the International Brotherhood of Teamsters. This matter concerns the internal affairs of these unions and will not affect our decision. As we said in our Decision No. 36-69, "the statutory right (of public employees) to bargain collectively through representatives of their own choosing-manifestly is paramount to the contract between AFL-CIO affiliates, and must be recognized and effectuated by this Board."

Such well-settled principles do not require a hearing. Accordingly we shall order an election herein.

² See e.g. Board of Certification Decisions 73-71 and 16-75; also 1 PERS 4048, 1 PERB 4135 and 3 PERB 4017.

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 an election by secret ballot be conducted under the supervision of the Board or its agents, at a time, place, and during hours to be fixed by the Board, among the employees in the titles listed in the Appendix to this Decision, employed by the City of New York and related public employers, who were employed during the payroll period immediately preceding the date of this Direction of Election (other than those who have voluntarily quit or who have been discharged for cause before the date of the election), to determine whether they desire to be represented for the purposes of collective bargaining by PSPA, by Local 300, or by neither of them.

DATED: New York, New York
 May 20, 1982

ARVID ANDERSON
CHAIRMAN

MILTON FRIEDMAN
MEMBER

DANIEL G. COLLINS
MEMBER

APPENDIX

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

Aqueduct Patrolman	70510
Aqueduct Sergeant	70535
Aqueduct Captain	70565
Assistant Buyer	12110
Associate Quality Assurance Specialist (incl. spec.)	34190/97
Auditor of Accounts	40810
Auditor of Printing	12125
Bookbinder	92105
Bookbinder's Seamstress	92106
Buyer (incl. specialties)	12525 ff.
Fingerprint Technician	71110
Fingerprint Technician Trainee	71105
Furniture Specifications Writer	12134
Laboratory Helper	82107
Mortgage Tax Examiner	30505
Principal Fingerprint Technician	71165
Principal Mortuary Technician	52017
Principal Purchase Inspector	34160
Procurement and Materials Analyst	03944
Procurement and Materials Specialist	03942
Purchase Inspector (incl. spec.)	34115 ff.
Quality Assurance Specialist (incl. spec.)	34171/84
Salvage Appraiser	12175
Satisfaction Clerk	30405
Senior Auditor of Accounts	40815
Senior Buyer (incl. spec.)	12140 ff.
Senior Fingerprint Technician	71135
Senior Mortuary Technician	52016
Senior Purchase Inspector (incl. spec.)	34135 ff.
Senior Salvage Appraiser	12176
Senior Satisfaction Clerk	30410
Supervising Auditor of Accounts (except one employee)	40820
Supervising Bookbinder	92170
Supervising Buyer	12154

