

DC37, et. Al v. City, Related Public Employers, 30 OCB 22 (BOC 1982) [22-82 (Cert.)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of

COALITION OF UNIFORMED SERVICES
CHAPLAINS OF THE CITY OF NEW YORK

-and-

DECISION NO. 22-82

DISTRICT COUNCIL 37, AFSCME,
AFL-CIO

DOCKET NOS. RU-826-81
RU-831-81
RU-845-81

-and-

UNIFORMED FIRE OFFICERS ASSOCIATION,
LOCAL 854, IAFF, AFL-CIO

-and-

THE CITY OF NEW YORK AND RELATED
PUBLIC EMPLOYERS

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DECISION
and
DIRECTION OF ELECTION

On August 21, 1981, Coalition of Uniformed Services Chaplains of the City of New York (hereinafter CUSC) filed its petition (RU-826-81), seeking certification as the representative of the Chaplains serving in the following agencies: Police Department, Fire Department, Department of Sanitation, Department of Correction, New York City Housing Authority, and "New York City Transit Police Department." The Chaplains in the Housing Authority are unpaid and, therefore, not "employees".¹ Employees of the New York City Transit Authority are not under the jurisdiction of the Board of Certification.

¹ See Matter of Committee of Interns and Residents, Decision No. 14-79.

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On September 29, 1981, District Council 37, AFSCME, AFL-CIO (hereinafter D.C. 37) filed its petition (RU-831-81), seeking to add the Chaplains serving in all agencies under the jurisdiction of the Board of Certification to its Certification No. 37-78 (as amended), covering a social service and related unit. A sufficient showing of interest was submitted by D.C. 37 on April 30 and May 5, 1982. All of the designation cards were dated in March and April 1982. D.C. 37 later amended its petition to request that an election be held and that the Chaplains be added to Certification No. 37-78 if "District Council 37 is chosen as the collective bargaining representative."

On November 9, 1981, Uniformed Fire Officers Association, Local 854, IAFF, AFL-CIO (hereinafter UFOA) filed its petition (RU-845-81), seeking certification as collective bargaining representative of Chaplains in the Fire Department only.

The City's office of Municipal Labor Relations has taken no position on the unit issue.

DISCUSSION

The designating petitions submitted by CUSC as its showing of interest were all signed on October 20, 1980. Section 2.6 of the Revised Consolidated Rules of the Office of Collective Bargaining requires that designating petitions submitted as proof of interest

"must be dated and signed by the employees not more than seven (7) months prior to the commencement of the proceeding before the Board". This requirement was called to the attention of the President of CUSC several times, in writing and orally, but the defect has not been cured. Accordingly we shall dismiss CUSC's petition.

There are one hundred full-time and part-time Chaplains² employed by the following agencies: Police Department, Fire Department, Department of Correction, Department of Sanitation, and the New York City Health and Hospitals Corporation. The latter agency employs nearly twice as many Chaplains as all the other agencies combined. Five Chaplains are employed by the Fire Department. In our Decision No. 20-71³, we said that, while there are some differences, "[a]ll Chaplains are professional employees who render the same basic service of spiritual guidance, counsel and comfort, and the conduct of religious services, regardless of the department in which they are employed. The scope of bargaining is the same for all."

Accordingly, the Board dismissed UFOA's earlier petition for a unit "limited to the Chaplains in the Fire Department ... without prejudice to the filing of a new petition for a unit which includes

² There are two Civil Service titles, Chaplain and Resident Chaplain (Correctional Institutions). The latter title is used only for full-time Chaplains in the Department of Correction.

³ Matter of Uniformed Fire Officers Association, Local 854, IAFF, AFL-CIO.

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Chaplains employed by all City agencies." UFOA has submitted no evidence as to the changes, if any, which had taken place since the issuance of the cited Decision⁴ which might cause the Board to make a different unit determination. Accordingly, we shall dismiss its petition.

In regard to D.C. 37's petition, we find that, while there are some similarities between the duties of Chaplains and those of some of the employees in the social service unit, the job of a Chaplain is a sufficiently distinct profession to be considered sui generis for purposes of unit determination. Accordingly, we find a separate professional unit to be appropriate.

ORDER

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

ORDERED that the petitions filed herein by CUSC and UFOA (Docket Nos. RU-826-81 and RU-845-81, respectively) be, and the same hereby are, dismissed; and it is

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 Chaplains and Resident Chaplains (Correctional Institutions) employed by the City of New York and related public employers, who were employed during

⁴ Dated March 18, 1971.

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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 or not they desire to be represented for the purposes of collective bargaining by District Council 37, AFSCME, AFL-CIO.

Dated: New York, New York
June 17, 1982

ARVID ANDERSON
CHAIRMAN

MILTON FRIEDMAN
MEMBER

DANIEL G. COLLINS
MEMBER