

L.384, DC37 v. CUNY, 4 OCB 39 (BOC 1969) [Decision No. 39-69 (Cert.)]

OFFICE OF COLLECTIVE BARGAINING
BOARD or CERTIFICATION

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In the Matter of

LOCAL 384, DISTRICT COUNCIL 37,

DOCKET NO. RU-70-68

A.F.S.C.M.E., AFL-CIO

DECISION NO. 39-69

-and-

THE CITY UNIVERSITY OF NEW YORK

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DECISION AND ORDER

Local 384, D.C. 37, filed this motion, under Section 2.18 of the Rules of the Office of Collective Bargaining, to modify a Certification, dated October 30, 1963, issued by the City University, by adding thereto, on the basis of accretion, employees in the title of College Assistant.

The Employer opposes the motion, primarily on the grounds that there is no community of interest between the employees in the existing unit and those in the petitioned title.

Upon consideration of its investigation, and after due deliberation, the Board of Certification issues the following decision:

The cited Certification covers approximately 2,050 employees in the titles of College Office Assistant A, College Office Assistant B, College Secretarial Assistant A, College Secretarial Assistant B, and College Administrative Assistant (with certain minor exclusions). There are approximately 2,380 employees in the petitioned title, which was established in 1956.

The Union has filed no proof of interest or representation among the College Assistants, but seeks to have them added to its existing certification "by accretion".

Accretion is, in substance, the inclusion in an existing unit of new positions or titles which, because of their similarity or close relationship to the unit titles, would have been included in the original unit if they had been in existence at that time. In such cases, proof of representation is not required.¹ (See Bureau of National Affairs, Labor Relations Expediter, pp. 37-38)

The doctrine is not applicable, however, to positions or titles which were in existence at the time of the original certification. If those existing titles belonged in the original unit, the incumbents would have been entitled to vote or be counted in the determination of the certified union's representative status, and, ipso facto, the original determinations of unit and representative status would have been erroneous or incomplete.

In a number of motions and petitions filed by various unions, the term "accretion" has been used in connection with requests to amend certifications by adding thereto titles which existed at the time of the certification. Such applications are not within the doctrine of accretion which is limited to new titles and therefore require proof of representative status. Such proof may take one of two forms:

1. Proof of majority representation in a combined unit consisting of both the unit originally certified and the positions sought to be added thereto. This, in effect, constitutes a redetermination of the appropriate bargaining unit and of current representative status;

or

2. Proof of majority representation of the employees in the positions sought to be added. Thus, in effect, involves a determination of the appropriateness of the group of positions to be added, representation thereof by the union, and consolidation of the two units.²

¹ The comparative sizes of the two groups is an additional factor. Cf. Skouras Theatres Corporation et al, 3 N.Y.S.L.R.B. 85,94; Pullman Industries, Inc., 159 N.L.R.B. No. 44, 62 L.R.R.M. 1273, 1274.

² The existing certification constitutes proof of the union's representation of the employees in the original unit. (Rule 2.18; N.L.R.B. v. Harris-Woodson Co., 162 F.2d 97,99)

In the present case, accretion is not proper, since the position of College Assistant existed when the certification was issued to the union in October 30, 1963. Nor has the Union established its majority status in either the title sought to be added or in the combined unit. Accordingly, we shall deny the motion.

O R D E R

By virtue of and pursuant to the power vested in the Board of Certification by the New York City Collective Bargaining Law, it is hereby,

ORDERED, that the motion filed herein, on October 9, 1968, by the Petitioner, be, and the same hereby is, dismissed.

DATED: New York, N. Y.

June 24, 1969

ARVID ANDERSON
CHAIRMAN

ERIC J. SCHMERTZ
MEMBER

SAUL WALLEN
MEMBER