

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

-----X

In the Matter of
DISTRICT COUNCIL 37, AFSCME, AFL-CIO

DECISION NO. 40-69

-and-

DOCKET NO. RU-88-69

THE CITY UNIVERSITY OF NEW YORK

-----X

DECISION AND ORDER

The petition herein seeks "designation" as collective bargaining representative of all employees of the City University of New York subject to the Career and Salary Plan, [and equivalent Rule X titles], on Board-wide matters which must be uniform for all such employees, excluding, however, the employees in nineteen titles subject to that Plan.

The employer objects to the requested exclusions, recommending, rather, a unit of all employees in titles subject to the Career and Salary Plan and equivalent Rule X titles.

Communication Workers of America, in an application to intervene, objects to the petition on the ground that it does not indicate specific titles and excludes some employees.

The petition for "designation" apparently was filed under §5a (3) of the Mayor's Executive Order 52. That subdivision provides for collective bargaining, on matters which must be uniform for all employees in a department, with an employee organization, council or group of organizations "designated" by the Board as representing more than 50% of all employees within the department.

Executive Order 52, on its face, is applicable only to mayoral agencies, and §5a (3) was not adopted by the Board of Higher Education when it elected to come under OCB jurisdiction.¹

¹ The Board of Higher Education, in its election to be covered, agreed to be bound by the results of City-wide negotiations in accordance with subdivisions (2) and (5) of Executive Order 52.

Whether the petition herein be deemed one for certification or for "designation", the unit sought manifestly is inappropriate because of its arbitrary exclusion of specified Career and Salary Plan titles. The requested exclusions, moreover, patently are wholly inconsistent with the claimed right to negotiate on matters which must be uniform for all Career and Salary Plan Employees employed by the Board of Higher Education.

Accordingly, we shall dismiss the petition.

O R D E R

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

ORDERED, that the petition filed herein, 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