

UNIFORMED FIRE OFFICERS ASSOCIATION, LOCAL 854 V. CITY,
OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of

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

DECISION NO. 20-71

-and-

THE CITY OF NEW YORK

DOCKET NO. RU-163-70

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A P P E A R A N C E S :

Murray A, Gordon, Esq,
for Petitioner

Philip J. Ruffo, Esq.
by Gerald Schilian, Esq,
for the City of New York

DECISION AND ORDER

Uniformed Fire Officers Association, Local 854, IAFF, AFL-CIO (herein Petitioner) petitioned for certification as the representative of the Chaplains in the Fire Department and requested that the title be added to Certificate 1 NYCDL No. 24, which covers fire officer titles and is presently held by Petitioner.

A hearing on the petition was held before Richard J, Horrigan, Esquire, Trial Examiner, on June 16, 1970. Oral argument before the Board of Certification was held on September 15, 1970,

Upon the entire record herein and the oral argument, and due deliberation having been had, the Board issues the following decision:

1. The Appropriate Unit

The Office of Labor Relations contends that the petition should be dismissed on the basis of the Board's decision in Matter of New York City Local 246, SEIU. AFL-CIO, Decision No, 45-69, in which the Board held that depart-

mental units are no longer appropriate.

The City further contends that Chaplains, because of the nature of their calling, should not be entitled to bargain collectively. The New York City Collective Bargaining Law, however, contains no such exclusions. To the contrary, Chaplains are professional employees of the City, a category whose right to collective bargaining is expressly recognized in §1173-3.01. (See also Matter of State of New York, 2 PERB 3044, 3397) We, therefore, reject this contention.

Chaplains are employed in the Fire Department and in the Departments of Police, Correction, Sanitation, Social Services, Health, Hospitals, and in the Office of Probation. Chaplains in the Fire, Police, and Sanitation Departments primarily serve employees of those departments. Chaplains in the Departments of Social Services, Health, Hospitals, and Correction, and in the Office of Probation, primarily serve welfare recipients hospital patients, inmates of institutions and persons on probation. There is no history of collective bargaining.

In all cases, the service provided by the Chaplains is that of spiritual guidance and counsel and the conduct of religious services.

All Chaplains in the Fire Department are on call twenty-four hours a day, seven days a week. They have fire alarms in their homes and two-way radios in their cars. Chaplains are notified of every two-alarm fire and can respond at their discretion. A Fire Alarm Dispatcher keeps them advised of the situation at each fire and if there is an injury or a death, a Chaplain must respond. Chaplains are required to respond to any three-alarm, or greater, fire. When a Chaplain arrives at a fire, he reports to, and is subject to the direction of the Chief in charge. It was estimated that Chaplains go into burning buildings a minimum of twenty times a year and a maximum of fifty times a year. On such occasions they wear the standard fire fighting protective garments and equipment.

If a fireman is injured at a fire, the Chaplain accompanies him in the ambulance, notifies the family and returns to the fire. In the event of a death, the Chaplain consoles the fireman's family, assists in arranging, and sometimes conducts, the funeral services.

A Chaplain in the Fire Department visits and counsels firemen at home, in the hospital, and in fire houses. He does this whether the injury or illness is in line of duty or not. He counsels the men in spiritual matters and helps them and their families with non-spiritual problems.

Fire Department regulations require that Chaplains be treated with the "respect due their rank and calling" and that upon attendance, in an official capacity, on any public occasion, they shall be attired in uniform, which is that specified for a Deputy Chief.

We have given long and careful consideration to the unit question here presented, because of the relationship or nexus between the Chaplains employed in the Fire Department and the employees in the Fire Service. However, similar arguments concerning uniqueness may be advanced with respect to Chaplains in other departments. In the final analysis, however, we are compelled to conclude that other factors are of overriding importance.

Although the Fire Department's regulations name Chaplains as part of the "Fire Force," the Classification and Compensation Schedules, subject to the rules of the Civil Service Commission (Rule X §II and §IV), clearly exclude them from the Fire Service.¹ Manifestly, the Fire Department cannot alter or overrule a determination of the Civil

Page 222 of the Classification and Compensation Schedule include Chaplains of the Fire Department in the non-competitive class, whereas page 314 of said schedules include Fire Officers in the competitive class in the Fire Service.

Service Commission which, by statute, has exclusive jurisdiction over the classification of employees (Civil Service Law, §20, Subd. 1).²

Two important and relevant consequences flow from the fact that these Chaplains are not now classified as part of the Fire Service,, First, they and the other Chaplains are members of the City Employees Retirement System whereas employees in the Fire Service are members of one of the Fire Department Pension Funds, Second, the scope of collective bargaining for Chaplains is limited by §5a(2), (3) and (5) of Executive Order 52, whereas collective bargaining for employees in the Fire Service is governed by §5a(4) thereof.

It is clear, therefore, that the Chaplains cannot properly be added to Certificate 1 NYCDL No. 24, covering officers in the Fire Service, as requested in the petition herein, The remaining question is the appropriateness of a unit limited to the Chaplains employed in the Fire Department.

We are concerned, here, with a single civil service title. All 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. Although there may be variations in the duties and compensation of the Chaplains in various departments, we have heretofore pointed out (Matter of Local 300, S.E.I.U., Decision No. 12-70):

Cf, Matter of Uniformed Firefighters Assn., Decision No. 61-70 where the title "Fire Marshal" was reclassified by the Civil Service Commission as part of the Uniformed Fire"Service and thereafter was added by the Board to the existing unit of Firefighters,

"Bargaining units frequently include numerous titles in one or several related occupational groups despite differences in salary ranges, and variations in salary ranges and promotional lines,"

This Board consistently has followed a policy of combining and merging existing units, and of refusing to permit fragmentation of otherwise appropriate units. In Matter of District Council 37, Decision No. 44-68, we held that a policy of combining occupationally related titles " ~ - , is essential to the effectuation of the purposes and policies of the statute and the proper functioning of the collective bargaining process."

Pursuant to that policy, we held, in Matter of New York City Local 246, S.E.I.U., Decision No. 45-69, that departmental units no longer are appropriate, stating:

"Departmental units . . . with their minimal representational rights, originally were considered 'building blocks' which, as organization progressed, would be combined into, or superseded by City-wide units with substantially greater representation rights."

We further noted, in that decision, that "continued fragmentation in departmental units, represented by different unions, interferes with the efficient operation of the public service and sound labor relations.'"

Establishment of a unit of Chaplains in the Fire Department manifestly would open the door to similar petitions, by other employee organizations, for separate units of the Chaplains in the Police, Correction, Sanitation Health, Hospitals and Social Services Departments and in the Office of Probation. Such certification would, in turn impose a duty upon the City to bargain over salaries and other terms and conditions of employment with additional units of professional employees

in the same title, It thus would constitute a regression to the fragmentation which this Board has sought to eliminate and avoid.

We recognize, of course, the right of employees to engage in collective bargaining, That right, however, is not absolute it arises only when a majority of the employees in an appropriate bargaining unit have selected a representative for purposes of collective bargaining. In the light of this Board s firmly established policy, and considering the stage of development which organization and collective bargaining have attained in New York City, we find and determine that a unit of professional employees limited to the Chaplains in the Fire Department is not appropriate.

Accordingly, we shall dismiss the petition herein.

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 by Uniformed Fire Officers Association, Local 854, IAFF, AFL-CIO, be, and the same hereby is, dismissed without prejudice to the filing of a new petition for a unit which includes Chaplains employed by all City agencies.

DATED: New York, N.Y.
March 18, 1971.

ARVID ANDERSON
C h a i r m a n

WALTER L. EISENBERG
M e m b e r

ERIC J. SCHMERTZ
M e m b e r
