

SUPREME COURT, NEW YORK COUNTY  
SPECIAL TERM, PART I

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In the Matter of the Application of  
THE NURSES ASSOCIATION OF THE DEPARTMENT  
OF HEALTH, (Per Session, formerly known  
as Per Session Staff Nurses),

Index No. 12102/78

Petitioner,

To cancel and reverse the determination  
of THE CITY OF NEW YORK,

Respondent,

Wherein it consolidated certain certifi-  
cations heretofore issued to District  
Council #37, AFSCME, A.F.L., C.I.O.,  
with that of petitioner.

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SCHWARTZ, J.:

The Nurses Association of the Department of the City of New York ("petitioner") moves for an order pursuant to CPLR Article 78 to vacate and reverse the determination of the City of New York's Office of Collective Bargaining ("OCB") and its Board of Certification ("respondents") which cancelled petitioner's certification as the exclusive bargaining agent for public health nurses principally employed in the New York City school system. The determination consolidated this bargaining unit with other registered nurses represented by District Council #37 of the American Federal, State, City and Municipal Employees Union ("AFSCME"), generally known as D.C. 37.

The respondents cross-move to dismiss the petition as barred by the Statute of limitations.

Respondent's order was served on petitioner on June 6, 1978. The instant proceeding, was commenced on July 19, 1978.

As was stated by the Appellate Division, in Davis v. Anderson, 51 A.D.2d 528 (1st Dept. 1976), lv. to appeal den., 39 N.Y.2d 700 (1976), "Review of a determination such as in the case at bar must be sought within 30 days (Civil Service Law, §213), which time limitation is applicable to proceedings before the Office of Collective Bargaining (Civil Service Law, §212).

"This proceeding, having been brought more than 30 days after the determination sought to be reviewed, is therefore time-barred."

The cross-motion to dismiss the petition is granted.  
Settle order.

Dated: November 3, 1978

J.S.C.