



Legislation Text

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Int. No. 2454

By Council Members Miller, Yeger, Grodenchik, Koo, Kallos, Koslowitz and Dinowitz

A Local Law to amend the administrative code of the city of New York, in relation to the New York city collective bargaining law

Be it enacted by the Council as follows:

Section 1. Subdivision b of section 12-306 of the administrative code of the city of New York, as amended by local law number 26 for the year 1998, is amended to read as follows:

b. Improper public employee organization practices. It shall be an improper practice for a public employee organization or its agents:

(1) to interfere with, restrain or coerce public employees in the exercise of rights granted in section 12-305 of this chapter, or to cause, or attempt to cause, a public employer to do so, provided, however, that an employee organization does not interfere with, restrain or coerce public employees when, in accordance with this section, it limits its services to and representation of non-members of the employee organization;

(2) to refuse to bargain collectively in good faith with a public employer [or] on matters within the scope of collective bargaining provided the public employee organization is a certified or designated representative of public employees of such employer;

(3) to breach its duty of fair representation to public employees under this chapter. Notwithstanding any law, rule or regulation to the contrary, an employee organization's duty of fair representation to a public employee it represents but who is not a member of the employee organization shall be limited to the negotiation or enforcement of the terms of an agreement with the public employer. No provision of this chapter shall be construed to require an employee organization to provide representation to a non-member of the employee

organization:

(a) During questioning by the employer;

(b) In statutory or administrative proceedings or to enforce statutory or regulatory rights; or

(c) In any stage of a grievance, arbitration or other contractual process concerning the evaluation or discipline of a public employee where the non-member is permitted to proceed without the employee organization and be represented by his or her own advocate. Nor shall any provision of this chapter prohibit an employee organization from providing legal, economic or job-related services or benefits beyond those provided in the agreement with a public employer only to its members.

§ 2. The introductory paragraph of subdivision a of section 12-307 of the administrative code of the city of New York, as amended by local law number 56 for the year 2005, is amended to read as follows:

a. Subject to the provisions of subdivision b of this section and subdivision c of section 12-304 of this chapter, public employers and certified or designated employee organizations shall have the duty to bargain in good faith on wages (including but not limited to wage rates, pensions, health and welfare benefits, uniform allowances and shift premiums), hours (including but not limited to overtime and time and leave benefits), working conditions and provisions for the deduction of dues from the wages or salaries of employees in the appropriate bargaining unit [who are not members of the certified or designated employee organization of an agency shop fee to the extent permitted by law, but in no event exceeding sums equal to the periodic dues uniformly required of its members by such certified or designated employee organization] and for the payment of the sums so deducted to the certified or designated employee organization, subject to applicable state law, except that:

§ 3. Subdivisions c and g of section 12-312 of the administrative code of the city of New York are amended to read as follows:

c. Arbitrators appointed under arbitration provisions relating to municipal agencies shall be persons on the register of the board of collective bargaining. The costs of such arbitration shall be determined and allocated

pursuant to section [eleven hundred seventy-four] 1174 of the charter. The board of collective bargaining, in its discretion, may publish arbitration awards. To the extent the certified employee organization grants permission to proceed to a non-member of the employee organization pursuant to paragraph (3) of subdivision g of this section, the non-member shall be responsible for the public employee organization's share of any costs associated with the grievance or arbitration pursuant to section 1174 of the charter.

g. An employee may present his or her own grievance either personally or through an appropriate representative, provided that:

(1) a grievance relating to a matter referred to in paragraph two, three or five of subdivision a of section 12-307 of this chapter may be presented and processed only by the employee or by the appropriate designated representative or its designee, but only the appropriate designated representative or its designee shall have the right to invoke and utilize the arbitration procedure provided by executive order or in the collective agreement to which the designated representative is a party; and provided further that

(2) any other grievance of an employee in a unit for which an employee organization is the certified collective bargaining representative may be presented and processed only by, the employee or by the certified employee organization, but only the certified employee organization shall have the right to invoke and utilize the arbitration procedure provided by executive order or in the collective agreement to which the certified representative is a party[.]; and provided further that

(3) a designated or certified employee organization may permit a non-member of such employee organization to proceed, including through arbitration, without representation by the employee organization and be represented by his or her own advocate for matters excluded from the duty of fair representation pursuant to paragraph (3) of subdivision b of section 12-306. In such matters, the employee organization retains the right to participate in the proceeding.

§ 4. This local law takes effect 30 days after it becomes law.

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