

1 bargaining unit represented by AFSCME, Local 1526, Council 93, AFL-CIO (AFSCME
2 or Local 1526). We conclude that the Training Coordinator shares a greater community
3 of interest with AFSCME's unit than with PSA's unit and dismiss the PSA's petition.

4 Statement of the Case
5

6 The PSA filed this petition on January 17, 2014. AFSCME filed a motion to
7 intervene on January 28, 2014, which was granted on January 29, 2014. The matter
8 was assigned to Commonwealth Employment Relations Board (CERB) Chair Marjorie
9 Wittner for investigation. On March 24, 2014, an informal conference was held at which
10 the parties agreed this matter should proceed to hearing.¹ Also at the conference, the
11 parties were asked to show cause why the PSA's petition should or should not be
12 dismissed based on the provisions related to professionals and professional bargaining
13 units contained in Sections 1 and 3 of M.G.L. c. 150E (the Law). AFSCME and the PSA
14 responded to the show cause. On June 24, 2014, Chair Wittner issued a ruling
15 deferring consideration of this matter until after the close of the hearing.

16 On July 1, 2014, a hearing was held before Chair Wittner at which all three
17 parties had the opportunity to be heard, to examine and cross-examine witnesses and

¹ This matter was originally consolidated for investigation with Case No. CAS-12-2127. AFSCME filed that petition on August 2, 2012, seeking to accrete the PSA Curriculum Development Coordinator (CDC) position to its unit. AFSCME withdrew the petition without prejudice on June 13, 2014, but re-filed a similar petition on September 30, 2014. The DLR docketed that petition as CAS-14-4040. The DLR investigated the petition pursuant to its informal investigation procedure and the petition is pending decision.

1 submit evidence. The parties stipulated to certain facts and jointly provided all the
2 exhibits. All three parties filed post-hearing briefs.²

3 Stipulations of Fact

- 4 1. The Boston Public Library is an employer as defined under M.G.L. Chapter
5 150E.
- 6 2. The Boston Public Library Professional Staff Association is an employee
7 organization as defined under M.G.L. Chapter 150E.
- 8 3. AFSCME Local 1526, Council 93, AFL-CIO is an employee organization as
9 defined under M.G.L. Chapter 150E.
- 10 4. The Library Trainer Position was created in 2006 and placed in the AFSCME
11 bargaining unit.
- 12 5. In 2007, the PSA filed a CAS petition with the Department of Labor Relations
13 arguing that the Library Trainer position belonged in the PSA bargaining unit.
- 14 6. At the time of this 2007 CAS petition, PSA was affiliated with the
15 Communications Workers of America (CWA), which is a member of the AFL-
16 CIO.
- 17 7. AFSCME is also a member of the AFL-CIO.
- 18 8. In response to the PSA's petition, AFSCME filed a claim under Article XX of
19 the AFL-CIO Constitution, which governs jurisdictional disputes between
20 member unions.
- 21 9. As a result of that petition, PSA was forced to withdraw its CAS petition at
22 CWA's behest.
- 23 10. The DLR never ruled on whether the Library Trainer position was
24 appropriately included in the AFSCME bargaining unit.
25

² The City of Boston (City) has remained neutral on the appropriate unit placement of the Training Coordinator. Its post-hearing brief addresses facts and clarifies purportedly inconsistent/inaccurate testimony.

1 Findings of Fact

2 **Overview of PSA and Local 1526 Bargaining Units**

3 PSA

4 Since approximately 1973, the PSA has represented a unit of professional and
5 pre-professional Library employees. There are approximately 150 employees in the
6 unit. The recognition clause of PSA's and the City of Boston's (City) collective
7 bargaining agreement describes the unit as "all employees classified in the Pre-
8 Professional Library Service,³ all Professional Library Service employees in grades P-1
9 through P-4, all employees in grades LA-10, M [Mechanical Services]-10 and C [Clerical
10 Services]-10, and all employees in positions accreted into the bargaining unit pursuant
11 to petition CAS-08-3727,⁴ but excluding personnel officers and all other employees."

12 Most of the PSA's work is librarian work, which, at its core, involves selecting,
13 purchasing and maintaining BPL collections in a variety of formats, including physical
14 books, manuscripts, e-books, electronic resources, and web and digital resources. The
15 job duties include dealing with the public to assist them in their research and reading

³ Regarding Pre-professional Library Service employees, Article VI, Section 2A of the PSA collective bargaining agreement (CBA) states that: "Employees in the Pre-Professional Library Service are considered to be conditional employees until they graduate from library school. Employees in the Pre-Professional Library Service shall be granted six (6) months to obtain a professional service position from the date of the employee's graduation from library school."

⁴ Pursuant to that petition, which was filed by the PSA, the CERB accreted the Web Resources Manager, Regional Program Administration/MBLN Administration, Digital Resources Manager, and Assistant Neighborhood Services Manager into the PSA's unit. The CERB concluded that these jobs were professional positions that shared a community of interest with PSA positions in terms of training and experience, working conditions and common supervision. City of Boston, 37 MLC 1, CAS-08-3727, (July 12, 2010). AFSCME was not a party to the case.

1 needs and providing training and programs, including how to use computer and
2 applications for research and communication purposes. All of the librarian job
3 descriptions provided by the parties required advanced specialized education in the
4 form of a Masters in Library Science (MLS) or a related title, Masters in Library
5 Information Science (MLIS).

6 Of the sixty-three PSA job descriptions provided by the parties as joint exhibits,
7 forty-eight of them were for librarian positions or other professional titles that required
8 an MLS/MLIS degree or another Master's degree in a professional or specialized field,
9 e.g., accounting, economics, or book conservation.⁵ Of the remaining fifteen titles, six
10 require a Bachelor's degree in a specialized field, with a Master's degree in a
11 specialized field or equivalent experience preferred.⁶ Many, but not all PSA members,
12 report directly to members of the Administrative Council, which is the Library's
13 leadership body.

⁵ Thirty-six of these job descriptions indicate that in "exceptional" circumstances, specialized education, training or experience may be substituted for part or all of the educational requirements. One position, the Literary Specialist II, requires a Master's degree or equivalent combination of work experience and education. Another ten of these job descriptions require a Master's degree without permitting a variance for "exceptional" circumstances, which include: Collections Librarian I, Collections Librarian II, Digital Projections Librarian II, Programs and Community Outreach Librarian, Programs and Community Outreach Librarian P2 – South Boston, Youth and Community Outreach Librarian, Business Analyst I, Cataloging and Processing Supervisor (Senior Cataloger and Classifier), Programs and Outreach Librarian, Chief of Cataloging and Processing, and the Curator of Microtext and Newspapers.

⁶ These titles include Exhibitions and Outreach Associate, Marketing and Communications Associate, Technical Support Analyst, Digital Imaging Production Coordinator, Public Relations Associate P3/Communications, and Digital Resources Manager.

1 There are eight PSA titles that neither require nor prefer a Master's degree. Five
2 of these titles require a Bachelor's degree or a four-year course in a specialized
3 program, or an undergraduate degree in a specific major, e.g., photography, computer
4 science, journalism, and/or special certifications.⁷ Only one position, the Special
5 Project/Record Management Assistant, requires a Bachelor's degree without specifying
6 a major. Only one position, the Web Services Developer, permits the incumbent to hold
7 an Associate's degree with at least four years of experience in lieu of a bachelor's
8 degree in an information technology field. Only one position, the Special Project/Record
9 Management Assistant, permits the incumbent to hold the position without a Bachelor's
10 degree in exceptional instances where specialized education, training and/or experience
11 may be substituted for part or all of the training requirements. While it does not specify
12 a formal degree, the Book Conservator position requires graduation from a well-
13 recognized program in binding and repairing of books, along with at least five years of
14 experience binding rare books in a library or other comparable organization.

15 The PSA Collective Bargaining Agreement

16 The PSA and the City were parties to a CBA effective from July 1, 2006 through
17 September 30, 2010. On January 17, 2014, they entered into two memoranda of
18 agreement (MOA) for successor collective bargaining agreements effective from
19 October 1, 2010 to September 30, 2013, and from October 1, 2013 through September
20 30, 2016. Both MOAs indicated that they would not take effect until the PSA ratified and

⁷ These titles are the Digital Imaging Production Assistant, Major Projects Coordinator, Digital Library Repository Developer, IT Help Desk Manager and Network Manager.

1 the Mayor and the Boston City Council approved them. The PSA filed this petition on
2 the same day it signed the MOAs.⁸

3 AFSCME Local 1526

4 AFSCME Local 1526 represents a bargaining unit of between 200 and 250
5 library employees in the following classifications: BLA (Library Assistant); BC (Clerical
6 Services); and BM (Mechanical Services). This petition concerns a title in the BLA
7 classification, which ranges from grades 2-9. Most BLA titles require the incumbent to
8 hold a high school diploma.⁹ In some cases, an Associate's degree or some type of
9 certification may be required or preferred.

10 At least two AFSCME positions report directly to Administrative Council
11 members: the Training Coordinator position at issue here, who reports to David Leonard
12 (Leonard), the Director of Administration and Technology, and the administrative
13 assistant to Michael Colford, the Director of Library Services.¹⁰

14 AFSCME and the City were parties to a collective bargaining agreement (CBA)
15 that was effective from October 1, 2006 to September 30, 2010. On July 24, 2013, the
16 parties reached a tentative agreement subject to ratification and approval by the Boston
17 City Council and the Mayor for new contracts effective from October 1, 2010 through
18 September 13, 2013, and October 1, 2013 through September 30, 2016.

⁸ No party to this proceeding argues that the petition is untimely.

⁹ This finding is based on the unrefuted testimony of Mary Flaherty, the BPL's Human Resources manager. The hearing record contains only five BLA job descriptions: Library Trainer, BLA-8; Training Coordinator, BLA-9; Technology Center Supervisor, BLA-8; Special Library Assistant II; Trainer/Collections, BLA-6; and Special Library Assistant V – Supervisor Circulation and Shelving, BLA-9.

¹⁰ Flaherty testified that there might be a third title, but was unsure of the exact title.

1 **Integrated Library System (ILS)**

2 An ILS is a software application used by library employees to inventory and track
3 information about the library's holdings and patron usage, e.g., titles owned, and
4 circulation information, such as location of title, borrowing history, fines owed, etc.
5 Library patrons also use aspects of the ILS. The BPL shares its ILS with its member
6 branches and with members of the Metro-Boston Library Network (MBLN).¹¹ From at
7 least 2005 until around 2012, the Library used the Horizon ILS. Around 2010, the BPL
8 began the process of selecting and switching to a new ILS. In 2012, it migrated to the
9 Polaris system.

10 The BPL has certain "permissions" built into it that govern access to information
11 within the system and the ability to manipulate it. Not all BPL employees are granted
12 the same level of permissions. For example, in the Cataloging Department, only the
13 technical services employees have the ability to manipulate items. Access to such
14 permissions may depend on taking and successfully completing certain trainings.

15 The BPL uses another software application called Simply Reports in conjunction
16 with its ILS. Simply Reports is a tool that allows a user to pull the data contained in
17 Polaris to create reports analyzing larger amounts of data, e.g., all books that have not
18 been checked out over a particular time span. Such information is used by librarians to
19 manage book flow and size of collections.

¹¹ The MBLN is a network of non-BPL libraries that participate in the ILS system. These include the Malden and Chelsea public libraries; the Boston public school libraries; the Newman School (a private high school); the Massachusetts Department of Transportation library; and Fischer College.

1 **Training Coordinator, Background, Duties and Qualifications**

2 The Training Coordinator position was created in 2013 as a result of a
3 Compensation Grade Appeal (CGA) by Elissa Cadillic (Cadillic) who had served as the
4 Library Trainer since 2006. As described below, the Library Trainer and Training
5 Coordinator positions are closely related.

6 **Library Trainer, BLA-8**

7 The BPL created this title in late 2005. As stated on the 2005 job description for
8 this position, the basic function of this title was “to provide training, with a focus on
9 technology, to the staff of the BPL, its branches and other MBLN libraries, as well as to
10 patrons.” Cadillic filled the position in early 2006. Cadillic was at that time, and as of
11 the date of the hearing, the president of Local 1526.

12 Six of the nine “Typical Duties and Responsibilities” listed on the Library Trainer’s
13 job description involve designing, implementing and delivering ILS (Horizon) training
14 programs and written training materials and help sheets for staff members and patrons.
15 The duties also include serving on certain committees, including the Horizon Evaluation
16 sub-group, the ILS Committee and the BPL Training Committees, and to serve on “the
17 implementation committee if the BPL migrated to a new ILS in the future.” The
18 remaining three duties more generally require the incumbent to “assess training needs
19 and develop programs to answer those needs,” “to work with the Training Committee
20 and Regional Office to coordinate and identify training opportunities,” and to “perform
21 related duties.”

22 The minimum qualifications listed on the job description are a Bachelor's degree;
23 a minimum of five years' experience in a library or education environment was

1 “desirable.” Experience or academic training in desktop computer technology,
2 applications and operations and experience in library training, particularly the Horizon
3 ILS, was “highly desirable.” The job description did not otherwise require or refer to any
4 specializations, computer certifications, or academic courses of study or majors.

5 It is undisputed that Cadillic is not a professional employee within the meaning of
6 Section 1 of the Law. She does have a Bachelor’s degree in history, and, as of the
7 date of the hearing, had worked in the library as a member of AFSCME’s unit, for 21
8 years.¹²

9 **Compensation Grade Appeal and Related Grievances**

10 In 2011 and 2012, the BPL and AFSCME held off-the-record discussions
11 regarding upgrading the Library Trainer title. At some point, the parties agreed to move
12 forward to a more formal process and, on October 30, 2012, at Cadillic’s request,
13 AFSCME filed a Compensation Grade Appeal (CGA) pursuant to Article XX, Section 9
14 the City’s and AFSCME’s CBA¹³ seeking to upgrade the Library Trainer position from

¹² The record does not reflect Cadillic’s BPL titles prior to 2005. Before working at the BPL, Cadillic worked at a library in New Jersey as a library assistant/clerical employee.

¹³ This provision states in pertinent part:

The Union agrees that any position for which an appeal is made was/is properly graded on the effective date of this Agreement. In considering an appeal, the [Compensation Grade] Committee shall not examine changes in job content that occurred prior to the effective date of this Agreement in the position for which an appeal is claimed. Rather, the review shall be restricted to a review on the issue of whether, after the effective date of this Agreement, there was a fundamental and substantial change in the job content of such position that should have the effect of changing its compensation grade. Further, the review shall not consider perceived changes in job duties related to new technologies, state or federal mandates, and/or increases in the volume of work duties.

1 BLA-8 to BLA-9.¹⁴

2 The appeal was heard by the CGA Committee (Committee) on June 20, 2013.
3 The Committee was comprised of two managers, one member of AFSCME's unit and
4 another member of the carpenter's bargaining unit. Cadillic and Leonard, Cadillic's
5 direct supervisor, testified at the hearing. Cadillic has reported to Leonard since 2009.

6 Cadillic also prepared a ten-page written presentation for the Committee outlining
7 the reasons she believed that she was working out-of-grade and why the position
8 warranted an upgrade to BLA-9. The report was divided into sections entitled
9 "Expansion of Job Duties," "Other Changes in Scope" and "Classification."

10 On July 12, 2013, the Committee informed the BPL that, after hearing testimony
11 from Cadillic and Leonard, they had reached a unanimous decision that Cadillic was
12 working outside her job description. The Committee found that Cadillic had been
13 directed to perform duties beyond the scope of her BLA-8 job description and that there
14 had been a "fundamental and substantial change in the job content that should have the
15 effect of changing the compensation grade from a BLA-8 to a revised BLA-9 with a re-
16 written job description to reflect the increased responsibilities and duties." The final
17 sentence of the letter stated that the Committee awaited written agreement from the
18 Office of Labor Relations in regards to the matter.

¹⁴ AFSCME filed a grievance the same day stating that Cadillic had been working at a higher grade since November 2010. The grievance proceeded to Step 3, and a hearing was held. The City denied the grievance on March 8, 2013 for substantive and procedural reasons and AFSCME filed for arbitration. As described below, the parties eventually settled this matter.

1 On August 16, 2013, AFSCME filed a grievance stating that the Library had failed
2 to upgrade Cadillac. The grievance was denied at Step 1.

3 Thereafter, from September 2013 to December 2013, the AFSCME and the BPL
4 negotiated over the content of a new job description that would reflect the CGA
5 decision. On December 17, 2013, the BPL and AFSCME entered into a settlement of
6 both grievances, which included AFSCME's approval of the new BLA-9 title "Training
7 Coordinator" and a new job description.

8 **Cadillac's Duties and the Training Coordinator Job Description**

9 The position overview states:

10 Under the direction of the Directors of Administration & Technology and
11 Library Services and/or their designates, develops an annual and ongoing
12 BPL and MBLN system-wide staff training program, with a primary but not
13 exclusive focus on library applications and technology, including the ILS
14 and related applications. Develops, adapts and/or customizes training
15 material for these purposes; organizes, communicates and delivers
16 classes as part of the program, in person at BPL and MBLN locations, as
17 well as online (live and recorded); also provides one-on-one instruction as
18 part of the overall program or follow up to scheduled classes and
19 programs. May also work with and coordinate external organizations,
20 vendors and partners to meet the training program goals. Development
21 and execution of the training program includes assessment of need,
22 planning, class development, execution, teaching, evaluation and follow-
23 up. As an extension of training responsibilities, maintains supporting
24 procedure documentation related to ILS; participates as needed in
25 planning and reporting activities related to the maintenance of ILS data
26 integrity, staff ILS operational procedures and ILS improvement & testing
27 exercises.

28
29 The Training Coordinator job description made explicit many of the duties that had been
30 implicit in the Library Trainer job position, especially with respect to ILS training duties.
31 Seven of the eleven duties listed in the "Scope of Responsibility" section of the job
32 description entail preparing and presenting ILS trainings and written materials or serving

1 on ILS-related committees. However, since at least 2010,¹⁵ and as reflected on the
2 Training Coordinator job description and in Cadillac's written application to the CGA
3 Committee, the job description also reflects an expansion of the duties set forth in the
4 Library Trainer job description. A brief description of those duties and changes follows.

5 ILS Training

6 Cadillac continued to assist library leadership in designing and implementing
7 ongoing training programs for the ILS system. With the advent of the Polaris ILS,
8 however, she designed, developed and implemented programs on her own rather than
9 simply assisting leadership in providing these programs or using established modules.
10 She continued to provide both basic and intermediate ILS training related to internal
11 modules, particularly circulation, as well as patron-facing components to both new and
12 existing BPL and MBLN employees.

13 The job description reflects that the Training Coordinator, like the Library Trainer,
14 continues to prepare ILS written training materials, such as help sheets and patron
15 brochures. One new Training Coordinator duty not listed on the Library Trainer job
16 description is to "maintain ILS staff usage and procedure guides for training purposes
17 and assist in the development of plans and programs to ensure compliant behavior, and
18 identifying and documenting approved exceptions." The job description further reflects
19 that this duty entails "participating in the constructing of ILS reports and analysis thereof

¹⁵ Cadillac testified that, even before 2010, she believed that her job description did not accurately reflect the duties she was performing. She did not file the CGA until 2010 however because prior to that there were layoffs in her unit and she felt it would have been wrong, as president of the local, to seek to upgrade her position at that time. She also filed in 2010 based on additional duties she performed due to the ILS changes.

1 to determine causes of procedural issues” This responsibility requires the Training
2 Coordinator to identify problems with the ways that staff members use the ILS system
3 and to suggest ways in which it can be more efficient. Although this duty requires
4 Cadillic to be familiar with both Local 1526 and PSA workflow in different departments,
5 Cadillic has no authority to establish or implement the procedures she recommends.
6 Only the manager of the particular department has the authority to do this.

7 Before and after the upgrade, Cadillic continued to meet with staff members to
8 help answer their questions and to figure out why certain things were happening with
9 the program so she could resolve the issue.

10 The Network Manager and Applications Manager can also answer ILS-related
11 questions, but many staff members or MBLN members including, in particular, the
12 Boston public high school librarians, contact Cadillic first with their questions. Anna
13 Fahey-Flynn (Fahey-Flynn) is the Collaborative Library and Technology Service
14 Program (CLTSP) Manager. As described below, this is a professional title within the
15 PSA’s unit that, among other things, oversees the MBLN budget and develops policy.
16 Fahey-Flynn testified that she often refers ILS-related questions to Cadillic because she
17 is better at explaining in laymen’s terms than the Applications Manager. Cadillic assists
18 Fahey-Flynn in other ways. She once rewrote a policy Fahey-Flynn had written
19 regarding documenting the retrieval of books from school libraries after they are closed
20 for the summer to make it less confusing.

21 Other Training - Technology/Software

22 Cadillic also provides trainings on other software and applications used by staff
23 members, including Simply Reports. The Collection Development Supervisor, a PSA

1 professional title, has also conducted Simply Reports trainings.¹⁶ In 2012, Cadillic
2 developed and ran clinics to introduce staff to Microsoft 2007 PowerPoint and Publisher.
3 In her written CGA presentation, Cadillic contended that the Microsoft training exceeded
4 the scope of the Library Trainer job description because it involved training on the use
5 of software programs, instead of technology. In connection with this training, Cadillic
6 asked the Library to purchase an online registration software program. It did, and
7 Cadillic became the program's primary user and editor and created protocols.

8 Cadillic is also the primary user and editor of another software application,
9 TixKeeper, which allows patrons to go on-line and reserve passes in connection with
10 the BPL's museum program. Cadillic developed policies and procedures regarding the
11 program, created training documents for staff and the public, and assisted in ensuring
12 compliant behavior.

13 Other Trainings Developed by Cadillic

14 In 2011, at Leonard's request, Cadillic designed and ran two workshops,
15 "Presenting with Poise and Conviction" and "Instructor Skills Training Class." The
16 purpose of both classes was to prepare librarians to be better prepared to teach their
17 own classes and workshops to the public.¹⁷

18

¹⁶ Cadillic filed a grievance over the Collection Development Supervisor conducting Simply Reports training. The grievance was pending as of the hearing.

¹⁷ The written materials Cadillic prepared for the CGA stated that she also "conceptualized" these two programs. Leonard testified that, to the extent the word conceptualized meant that Cadillic came up with the idea on her own, this was not accurate. He clarified that he requested Cadillic to conduct these trainings based on needs-assessment. This testimony was not rebutted.

1 Other Duties - Committees

2 Cadillac continues to serve on the BPL training committee, which has three
3 AFSCME members and two PSA members, as well as a budget of \$5,000¹⁸ to spend on
4 both internal and external trainings. When planning external trainings, Cadillac has
5 negotiated directly with outside vendors regarding content, pricing and scheduling.

6 In addition to the committee listed on the BLA-8 job description, Cadillac served
7 on a number of committees related to the migration to the Polaris ILS, including the
8 Polaris Request for Information Committee, Request for Proposal (RFP) Committee, ILS
9 Selection Committee, ILS Implementation Committee and Polaris Data Quality
10 Monitoring Subcommittee. The ILS RFP and Implementation committees were
11 comprised of managers, PSA members, and one other AFSCME member, Joelle Long
12 (Long), the Supervisor of Circulation and Shelving (BLA-9), whose duties are described
13 below.

14 In the written CGA presentation, Cadillac listed her duties on the various Polaris
15 selection committees as an expansion of the committee-related duties on the Library
16 Trainer job description. The Training Coordinator job description now states that the
17 duties include “serv[ing] on any and all committees related to ILS operations. Services
18 in such roles may or may not involve a chair or leadership function.”

19 Supervision exercised

20 Cadillac does not supervise any other employees, nor can she require employees
21 to take or re-take the trainings she offers. She can however withhold certain

¹⁸ The total annual BPL budget is \$40,000,000.

1 permissions from the ILS until employees have satisfactorily completed the necessary
2 training.

3 Supervision received

4 As noted above, Cadillac reports directly to Leonard.

5 Education

6 The educational requirement on the final Training Coordinator job description
7 states:

8 High School Diploma required. Associate's Degree or training certification
9 strongly preferred. In exceptional instances, specialized education,
10 training and/or experience may be substituted for part or all of the
11 educational requirements.¹⁹

12
13 Flaherty testified that while someone with a high school diploma and relevant
14 experience could perform the tasks, she disagreed that specialized experience could
15 substitute for a high school degree.

16 Under Experience, the job description states:

- 17
- 18 • A minimum of five years of experience in a library or education
19 environment in a related role is preferred.
 - 20 • Experience and/or academic training in desktop computer
21 technology, applications and operations is highly preferred.
 - 22 • Curriculum development experience and experience with
23 curriculum materials development tools and applications highly
24 desirable.
 - 25 • Experience with preparing materials for distance learning delivery
mechanisms highly desirable.

¹⁹ A September 9, 2013 draft of the job description required both a high school diploma and an associate's degree or industry standard training certification. On the second draft, dated November 4, 2013, this was changed to an Associate's degree, "training certification strongly preferred." The parties dispute who drafted the first job description and the record does not reflect who first proposed that the final job description require only a high school diploma instead of an Associate's degree.

- 1 • Experience with skills assessment and training impact evaluation
2 tools desired.

3 **Other BPL Titles with Training Duties**

4 The parties jointly submitted a chart of eleven titles the Library believes have
5 training responsibilities, which was marked as Joint Exhibit F. There are three AFSCME
6 and seven PSA titles²⁰ listed on the chart.²¹ The PSA titles are: Collaborative Library &
7 Technology Services Program Manager – P5; Chief of Cataloging – P4; Electronic
8 Resources Specialist – P3; Curriculum Development Coordinator – P3; Economic
9 Development Librarian – P3; Web Services Librarian – P3; and Reader & Information
10 Services Librarian – P3. All of the librarian titles require MLS or MLIS degrees and
11 perform some type of training to staff or the public in the collections they serve. For
12 example, the job description for the Economic Development Librarian states that one
13 function is to “increase knowledge of the services and collections of the Kirstein
14 Business Branch by providing outreach in the form of training, tours of the Branch,
15 publications, workshops, presentations or other methods.”²² The Web Services

²⁰ In its post-hearing brief, the PSA included for the first time an Appendix A titled “PSA Positions with Training Elements” that included fifty-three PSA titles and the PSA’s description of their training duties. Our review is limited to the seven PSA titles in the Joint Exhibit F at the hearing and one additional position regarding which the incumbent testified, discussed below.

²¹ The chart also lists the Applications Manager, an exempt title that is not included in either bargaining unit.

²² The record does not contain the entire Economic Development Librarian job description. This information is taken from Joint Exhibit F, which contained a column excerpting training responsibilities outlined in the current job description.

1 Librarian’s job description indicates that this title “assists in the creation and execution
2 of the technology-training resources for the public and library staff.” A brief description
3 of the duties and qualifications for the non-librarian PSA titles that have training duties
4 follows.

5 Collaborative Library and Technology Services Program Manager (CLTSP Manager)

6 Fahey-Flynn, the CLTSP Manager, has an MLIS and has worked at the BPL in a
7 variety of titles, including as a reference librarian in the microtext department, and as
8 the Curriculum Development Coordinator (CDC). Fahey-Flynn oversees the budget for
9 two programs, the MBLN and the Library for Commonwealth Program. As the overseer
10 of MBLN, she is the primary customer service contact if the branches have a problem
11 with ILS or something else related to the network. She also oversees the Library for the
12 Commonwealth Program, which provides reference and services around the state and
13 provides digitization resources. The CLTSP Manager’s job description²³ states that this
14 title is “responsible for development and administration of a variety of core and
15 innovative programs of the BPL . . . Participates in development, implementation, and
16 administration of the BPL’s program of service.”

17 Curriculum Development Coordinator – P3 – (CDC)

18 The CDC title was vacant when the hearing was held.²⁴ Fahey-Flynn testified
19 that when she held the position, she built a public instruction program from scratch to

²³ The full CLTSP Manager job description was not submitted into evidence. This information is taken from Joint Exhibit F, which contained a column excerpting training responsibilities outlined in the current job description.

²⁴ The CERB takes administrative notice that the CDC title was subsequently filled and, as described in footnote 1 above, became the subject of CAS-14-4040.

1 determine what topics to provide as part of a public training technology curriculum. The
2 CDC job description states: “Within the framework of goals, policies and procedures of
3 the Library and its stated goals for the Boston Public Computing Center’s federal grant
4 project, works to develop a strong and sustainable public technology training curriculum,
5 staffing strategy, and class schedule across the entire BPL system and with other City
6 partners.”

7 The stated qualifications for this position are a Bachelor's degree from a
8 recognized college or university, MLIS or a Master’s degree in Education. In
9 “exceptional circumstances, specialized education training and/or experience may be
10 substituted for part or all of the educational requirements.” The position required four
11 years of professional experience and experience with course development and
12 presentation in a technology-related field. It also required proficiency in standard
13 computer applications, spreadsheets, databases and the internet. The CDC reports to
14 the Manager of Reference and Instruction.

15 Chief of Cataloging and Processing

16 The incumbent in this position reports to the Coordinator of Technical Services.
17 The job’s purpose is to “provide leadership to insure superior bibliographic access to all
18 of the library’s holdings. Supervises all activities relating to original and copy cataloging
19 and processing of library material. Assumes primary responsibility for overseeing and
20 updating policies and procedures relating to bibliographic database quality control
21 (including cataloging, classification, authority control, and item creation and
22 maintenance).” The training duties include “directs, delegates and participates in the
23 training and supervision of professional and non-professional staff. Assumes

1 responsibility for ongoing training of professional and non-professional staff members,
2 to maintain staff skill sets at current levels necessary to keep up with the new
3 developments in the areas of cataloging and processing.” A Bachelor’s degree and
4 MLIS are required. Additional specialized training is required, as well as five years of
5 professional experience in original and copy cataloging.

6 Electronic Resources Specialist for Business

7 This position reports to the Head of the Kirstein Business Library and supervises
8 professional and support staff as necessary. The main responsibility of the job is “to
9 assume responsibility for planning and coordinating accessibility for library patrons and
10 staff to all types of electronic resources and business information.” It conducts staff and
11 public training in the use of internal and Library-owned digital services useful to patrons
12 seeking business, personal finance, and career-related information. The incumbent in
13 the position is required to hold a MLS or MLIS, with pertinent subject knowledge and
14 specialized training required. Four years of professional experience is required, as well
15 as experience in course development and presentation in technology related fields, and
16 knowledge of online communications and social networking tools.

17 Collections Development Supervisor

18 This title was not included on Joint Exhibit F, but the incumbent, Melissa
19 Andrews (Andrews) testified at hearing. Andrews summarized her duties as working
20 with her staff to coordinate and select the materials that comprise the bulk of the
21 Library’s collections. Andrews holds an MLS degree. She supervises a staff of three
22 librarians, a half-time AFSCME employee Claire O’Toole (O’Toole) whose duties are
23 described below, and one part-time non-union position.

1 Andrews' training duties included training Library staff on Simply Reports, as well
2 as conducting other internal trainings for new staff members regarding Title Source 3,
3 an application Andrews and her staff use to order books.

4 **AFSCME Titles with Training Responsibilities**

5 In addition to the Training Coordinator, two other AFSCME titles have training
6 responsibilities: Technology Center Supervisor, BLA-8, and the Special Library
7 Assistant II//Trainer/Collections, BLA-6. The incumbents in these positions testified at
8 the hearing and a brief description of the positions' duties and requirements are set forth
9 below.

10 **Technology Center Supervisor, BLA-8**

11 Jeff Lindsey (Lindsey) has held this title since 2011. He supervises the
12 personnel and services offered in the BPL's Technology Center. Lindsey and his staff
13 answer questions that patrons have regarding the Library's public-facing technology
14 equipment and network services, e.g., public computers, public computer sign-up
15 systems, pay-for-print systems, printers, scanners, copiers, email, website and internet
16 access, e-book readers, etc. Lindsey directly supervises the five Tech Central
17 Associates, all of whom are BLA-5 titles, who also assist the public in using the Library's
18 technology services. Like the Training Coordinator, this position is located within the
19 Administration and Technology Division and reports to the IT Helpdesk Manager, a PSA
20 position.

21 Lindsey's job description reflects that he also "assists in development of public-
22 facing 'basic computer training' curriculum and may conduct public and technology
23 center staff training as needed." Although Lindsey has provided formal trainings in a

1 classroom setting to staff members on audio-visual equipment, he has not done so in
2 the past six or seven years. Rather, most of his staff trainings are conducted with
3 individual staff members on such topics as how to use an iPad with a projector or how
4 to get on the internet. As of the date of the hearing, he was in the process of
5 developing a WordPress website for both patrons and staff on how to use library
6 equipment, such as pay-for-print, and which will contain other announcements
7 regarding the Technology Center.

8 Lindsey's non-training duties include troubleshooting technology and hardware
9 and software, and assisting support staff with installation and basic maintenance of
10 personal computers.

11 The educational qualifications for this position are a high school degree or
12 equivalent, with an Associate's degree preferred. It also requires a minimum of two
13 years' experience in supervising or leading a team, and in customer/patron service or
14 end-user/IT support or basic instruction.

15 Special Library Assistant II/Trainer/Collections, BLA-6 (Trainer-BLA-6)

16 The incumbent in this title is O'Toole. This is a split AFSCME position. O'Toole
17 spends roughly half her time offering established basic computer training and instruction
18 assistance at all BPL locations and non-Library locations with a BPL presence. The job
19 description refers to the training function as "primary." The secondary part of O'Toole's
20 position is as a Special Library Assistant II. In this capacity, she reports directly to the
21 Collection Development Supervisor for whom she provides administrative support and
22 basic collection maintenance work.

1 O'Toole's training functions include producing public basic computer literacy
2 classes held in the tech classroom at the main branch and other branch libraries. Her
3 trainings are usually scheduled a month in advance. She works with the CDC to
4 coordinate training times. Library staff members also occasionally attend these
5 trainings.

6 The incumbent must be a high school graduate or equivalent with additional
7 education desirable. The experience required is two years' experience in a customer
8 patron service and/or basic instruction.

9 **BLA-9 Classification**

10 The Special Library Assistant V–Supervisor Circulation and Shelving (Circulation
11 Supervisor) is the only BLA-9 title besides the Training Coordinator for which there is
12 information in the record. As of the date of the hearing, this position was held by Joelle
13 Long. Long reports to the Central Services Manager and is responsible for the daily
14 supervision of the operations of the Central Library's circulation, shelving, closed stack,
15 remote storage, retrieval and collection maintenance. As noted previously, Long sits on
16 the BPL Training committee with Cadillac and served with her on the ILS RFP and
17 Implementation Planning Committees. Among other things, the Circulation Supervisor's
18 job description states that this title "Develops and maintains an understanding of the
19 Library's ILS and any other computer applications that pertain to any circulation shelving
20 activity and ensures that staff develops a level of understanding necessary to provide
21 excellent customer service."

22 In the section of her written CGA presentation entitled "Classification," Cadillac
23 argued that the similarities between the duties set forth in the Circulation Supervisor's

1 job description and the duties she performed as Library Trainer justified her upgrade
2 appeal. The Circulation Supervisor's duties that Cadillac highlighted were:

- 3 • Directing, coordinating and participating in the daily operations of her
4 department;
- 5 • Executing the policy of the library as it relates to her department;
- 6 • Analyzing the operations of the department, identifying procedures and areas
7 which need improvement and recommending changes;
- 8 • Training supervisors and department staff in the execution and adherence to
9 appropriate policies, procedures . . . related to department functions;
- 10 • Verifying that the standard of work produced is effective and of high utility and
11 consistent;
- 12 • Maintaining close working relationships with curators, department heads, branch
13 librarians and other appropriate staff and library units;
- 14 • Maintaining appropriate records, files and statistics relating to operations.

15
16
17 Opinion²⁵

18 The issue before us is whether the position of Library Training Coordinator
19 should be removed from AFSCME's bargaining unit and added to the PSA's unit. A unit
20 clarification is the appropriate procedural vehicle to determine whether newly-created
21 positions should be included or excluded or to determine whether substantial changes
22 in the job duties of an existing position warrant inclusion or exclusion from a bargaining
23 unit. Town of Athol, 32 MLC 50, 52, CAS-04-3567 (June 24, 2005). In analyzing
24 whether an employee should be accreted into an existing bargaining unit, the CERB
25 uses a three-step test. First, it must be determined whether the position was included in
26 the original certification or recognition of the bargaining unit. Second, if that
27 examination is inconclusive, the parties' subsequent conduct is examined, including
28 bargaining history, to determine whether the classifications were considered by the
29 parties to be included in the unit. Finally, if that inquiry is also inconclusive, the CERB

²⁵ The CERB's jurisdiction is not contested.

1 will examine whether the positions sought to be included in the unit share a community
2 of interest with the existing positions. If the CERB determines that the requisite
3 community of interest exists, it will accrete the petitioned-for employee into the existing
4 bargaining unit. City of Boston, 35 MLC 137, CAS-07-3669 (December 31, 2008).

5 Here, the first two prongs of the test are inconclusive. The first prong is
6 inconclusive because the Training Coordinator title was created in 2013 after both units
7 were either certified or recognized. The second prong is also inconclusive. The record
8 reflects that the PSA has consistently protested the placement of the Training
9 Coordinator and its predecessor position, the Library Trainer, in AFSCME' s unit, thus
10 demonstrating that the PSA and the City do not consider the Training Coordinator to be
11 part of the PSA's unit. Board of Higher Education, 36 MLC 139, 141, CAS-06-3659
12 (March 5, 2010). The merits of the petition are therefore properly before us and we turn
13 to the third prong, community of interest.

14 To determine whether employees share a community of interest, the CERB
15 considers factors like similarity of skills and functions, similarity of pay and working
16 conditions, common supervision, work contact and similarity of training and experience.
17 Board of Higher Education, 36 MLC at 141. No single factor if outcome determinative.
18 City of Springfield, 24 MLC 50, 54, MCR-4602 (January 15, 1998). Additionally,
19 members of a bargaining unit need to share only a community of interest rather than an
20 identity of interest. County of Dukes County/Martha's Vineyard Airport Commission, 25
21 MLC 153, 155, MCR-4700 (April 16, 1999).

22 Here, the record, as summarized above, reflects that the Training Coordinator
23 shares a community of interest with members of both bargaining units in terms of work

1 contacts and job functions. Cadillic provides training and other assistance concerning
2 the ILS and other Library applications to members of both bargaining units. She also
3 serves on committees that are comprised of both PSA and AFSCME members.
4 Further, the Training Coordinator position is situated in the Administration and
5 Technology department, where members of both bargaining units work. She thus has
6 regular work contact with members of both units.

7 Cadillic also shares a community of interest with members of both bargaining
8 units in terms of her work functions, specifically, the ILS and other technology-related
9 trainings and ILS and resources she develops and provides to PSA and AFSCME
10 bargaining unit members and the public.

11 Where a position shares a community of interest with more than one bargaining
12 unit, the CERB places the position in the unit with which it shares the greater community
13 of interest. Board of Trustees, University of Massachusetts, 31 MLC 209, 215, CAS-
14 04-3577 (June 22, 2005). In this case, we conclude that the Training Coordinator
15 position is aligned more closely with the AFSCME unit than the PSA. It is clear that the
16 position shares certain training duties with members of the PSA's unit and trains unit
17 members on how to use the ILS, an important component of their professional job
18 duties. That said, there is no dispute that the Training Coordinator is a non-professional
19 position that requires only a high school degree and we find that this feature of the job's
20 requirements more closely aligns her with AFSCME's unit than with the PSA, which is
21 predominantly comprised of professional employees.²⁶

²⁶ Having decided this matter on those grounds, we do not reach the issue of whether Cadillic is a technical employee, as AFSCME argues in its post-hearing brief.

1 In making this finding, we are guided by Section 1 of the Law, which defines a
2 professional employee as:

3 Any employee engaged in work (i) predominantly intellectual and varied in
4 character as opposed to routine, mental, manual, mechanical, or physical
5 work, (ii) involving the consistent exercise of discretion and judgment in its
6 performance, (iii) of such a character that the output produced or the result
7 accomplished cannot be standardized in relation to a given period of time,
8 and (iv) required knowledge of an advanced type in a field of science or
9 learning customarily acquired by a prolonged course of specialized
10 intellectual instruction and study in an institution of higher learning or a
11 hospital as distinguished from a general academic education or from an
12 apprenticeship or from training in the performance of routine mental,
13 manual or physical processes.

14 All four statutory criteria must be met to satisfy this definition. Boston School
15 Committee, 25 MLC 160, 162, CAS-2937 (April 20,1999).

16 Based on the educational requirements set forth in certain PSA job descriptions
17 in particular, the Special Project/Record Management Assistant and the Web Services
18 Developer, it is clear that the PSA is not comprised exclusively of employees who meet
19 the statutory definition of a professional employee. Accordingly, we disagree with
20 AFSCME that the fact that Cadillac is not a statutory professional requires us to dismiss
21 this petition pursuant to Section 3 of the Law.²⁷

22 We cannot, however, altogether ignore this fact particularly when the continuing
23 need to provide training to both staff members and the public in the use of the Library's
24 ever-changing technical applications and resources has led to some overlap between
25 the duties performed by members of both bargaining units. Thus, just as PSA titles like
26

²⁷ Section 3 of the Law provides in pertinent part:
No unit shall include both professional and nonprofessional employees
unless a majority of such professional employee votes for inclusion in
such unit.

1 the Curriculum Development Coordinator, the Electronic Resources Specialist, Chief of
2 Cataloging and the Web Services Developer create and execute technology-related
3 training and provide one-on-one assistance and technical resources for both staff
4 members and patrons, AFSCME titles like the Training Coordinator, Technology Center
5 Supervisor and Trainer-BLA-6 perform similar functions. Given this overlap, it is not
6 surprising that, in cases where, as here, a bargaining unit member who is classified at
7 the top of the pay scale performs such duties, the lines of demarcation between the
8 appropriate unit placement of such a title may become somewhat blurred.

9 In this case, however, the one critical and defining difference between the PSA's
10 unit and AFSCME's unit is the professional status of the majority of PSA bargaining unit
11 members as defined in Section 1 of the Law. Here, even though the PSA is not
12 comprised exclusively of statutory professional employees, there is no dispute that it is
13 predominantly a unit of professional employees whose positions, consistent with the
14 fourth element of the professional definition, require them to hold a Master's degree in a
15 specialized field, most commonly library science or library information science. City of
16 Boston, 37 MLC at 13, (most positions in PSA are professional positions requiring a
17 MLS or MLIS degree). Indeed, over 75% of the PSA positions for which the parties
18 provided job descriptions in this case require a Master's degree in Library Science or
19 another specialized field, including, significantly, all of the PSA titles that the City claims
20 perform training duties. By contrast, the majority of employees in AFSCME's unit,
21 including the recently reclassified Training Coordinator, are required to hold only a high
22 school degree to perform their duties, and thus, they are not statutory professionals.

1 The PSA concedes that Cadillic is not a statutory professional but argues that the
2 difference in education alone is not enough to outweigh the other strong indicia of
3 community of interest between Cadillic and other PSA unit members. To advance this
4 argument the PSA places great emphasis on the fact that providing trainings and
5 creating policies and procedures are professional duties of the kind routinely performed
6 by PSA members. We do not find this argument to be dispositive because it ignores the
7 fact that the primary function of the AFSCME Technology Center Supervisor and the
8 BLA-6 Trainer titles is also to provide trainings and/or one-on-one assistance to patrons
9 and to other staff members on computer usage or Library technology.

10 The PSA also contends that, unlike other AFSCME members, the Training
11 Coordinator teaches PSA members how to perform necessary job functions and
12 develops procedures instructing them how to perform their jobs more efficiently. This
13 duty, it argues, is indicative of a particular strong community of interest. However, the
14 evidence shows that the other BLA-9 title, the Circulation Supervisor, is similarly
15 responsible for identifying procedures and areas in the Circulation Department that
16 need improvement and for training supervisors and department staff in the execution
17 and adherence to the Library's policies and procedures. The evidence further shows
18 that Cadillic does not supervise any PSA members and that she cannot require them to
19 follow the procedures she recommends. In this regard, her role is similar to that of other
20 AFSCME Library Assistants who, as their name suggests, assist other staff members,
21 including professional staff members, in performing their tasks in a variety of ways.
22 Thus, while Cadillic is instrumental in ensuring that PSA members know how to access

1 and manipulate the data in the ILS, she does not dictate or direct how they will use that
2 information in performing their professional duties.

3 Finally, as we stated in City of Boston, 36 MLC 29, MCR-06-5205 (September 9,
4 2009), professional employees are uniquely situated by their statutory right to determine
5 whether to form a unit separate from non-professionals. We have, therefore, found it
6 reasonable to interpret the statutory grant of a separate vote among professional
7 employees set forth in Section 3 of the Law as a legislative determination they share a
8 particularly strong community of interest that furthers stable and continuing labor
9 relations. Id. at 38. Here, there is no question that Cadillac performs important work of a
10 skilled, non-routine nature. Nevertheless and notwithstanding the overlap of certain
11 technology training duties between AFSCME and PSA members, the fact that the
12 Training Coordinator title requires only a high school degree while the majority of PSA
13 employees are statutory professionals is dispositive with respect to our conclusion that
14 the Training Coordinator title has been appropriately placed and should remain in
15 AFSCME's unit.

16

1 Conclusion

2 For the foregoing reasons, we dismiss the PSA's petition.

SO ORDERED

COMMONWEALTH OF MASSACHUSETTS
COMMONWEALTH EMPLOYMENT RELATIONS BOARD

MARJORIE F. WITTNER, CHAIR

ELIZABETH NEUMEIER, CERB MEMBER

HARRIS FREEMAN, CERB MEMBER