

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS
BEFORE THE COMMONWEALTH EMPLOYMENT RELATIONS BOARD

In the Matter of	*	Case No. CAS-18-7037
	*	
METHUEN SCHOOL COMMITTEE	*	Date Issued:
	*	May 26, 2021
and	*	
	*	
METHUEN EDUCATION ASSOCIATION	*	
(SECRETARIES)	*	

CERB Members Participating:

Marjorie F. Wittner, Chair
Joan Ackerstein, CERB Member
Kelly Strong, CERB Member

Appearances:

Michael Maccaro, Esq. - Representing Methuen School Committee
Dena Fleno - Representing Massachusetts Education Association

1 **CERB Decision**

2 **Summary**

3 On December 18, 2018, the Methuen Education Association (Secretaries) (Union)
4 filed the above-captioned unit clarification petition with the Department of Labor Relations
5 (DLR) seeking to accrete a newly-created Family Resources Center Enrollment Specialist
6 (FRCES) position to the bargaining unit of clerical employees (Unit D) employed by the

1 Methuen School Committee (School Committee or Employer) in the Methuen Public
2 Schools (MPS).¹

3 On March 6, 2019, the Union and the School Committee participated in an informal
4 conference at the DLR's offices. Before and after the conference, the parties submitted
5 position statements and documents. The Union argued that the FRCESs share a
6 community of interest with other Unit D bargaining unit members. The Employer
7 disagreed, claiming that the FRCESs are managerial employees who do not share a
8 community of interest with Unit D due to their "vastly different" skills and functions and
9 other differences in terms and conditions of employment.

10 On April 23, 2021, the DLR sent the parties a letter asking them to show cause
11 why the unit placement dispute should not be resolved based on the information
12 summarized in that letter. Neither party filed a response.

13 Accordingly, the Commonwealth Employment Relations Board (CERB) has
14 determined that there are no material disputes of fact and, based on the facts contained
15 in the Show Cause letter, grants the Union's petition to accrete the FRCES position to its
16 bargaining unit. As explained below, the CERB finds that the FRCESs are not managerial
17 employees and that they share a community of interest with other members of Unit D.

18 **Background**

19 **Methuen Public Schools**

20 The Methuen Public School system consists of six schools: Comprehensive
21 Grammar School (pre-K through eighth grade); Marsh Grammar School; Tenney

¹ The petition also sought to accrete a Student Services Specialist position, but the Union withdrew its petition as to that position on October 16, 2019.

1 Grammar School; Timony Grammar School; Methuen High School (grades nine through
2 twelve); and the Methuen Adult Learning Center (Adult Basic Education). There is also
3 a separate administrative office, also known as “Central Administration.”

4 Methuen Education Association (Secretaries)
5

6 On May 4, 1994, in Case No. MCR-4304, the DLR² certified the Methuen
7 Educational Secretaries Association³ as the exclusive representative of a unit of “All
8 regular full-time and regular part-time clerical employees employed by the Methuen
9 School Committee, including all permanent, provisional, temporary and temporary after
10 certification employees in the job titles listed in Appendix A . . . excluding managerial,
11 supervisory, confidential and intermittent and all other school employees.” The titles listed
12 in Appendix A were: Telephone Operator, Clerk & Typist, Data Entry Clerk, Senior Clerk
13 & Typist, Secretary I and II, Senior Account Clerk, Senior Clerk and Stenographer,
14 Principal Clerk and Secretary, Computer Operator, Senior Bookkeeper, Assistant Buyer,
15 and Assistant Supervisor of Payroll.

16 The parties have since negotiated a number of collective bargaining agreements.
17 The Recognition Clause of the collective bargaining agreement in effect from 2015 to
18 2018 (CBA) states:

19 The Committee hereby recognizes . . . the Methuen Educational Secretaries
20 Association as the sole and exclusive representative for regularly employed

² References to the DLR include the former Labor Relations Commission.

³ The Union listed its name on the instant unit clarification petition as the “Methuen Education Association (Secretaries).” While this name is not identical to the “Methuen Educational Secretaries Association,” there is no dispute that the petitioner in this proceeding is the same labor organization.

1 persons in the following jobs: All regular full-time (including 30-hour and
2 part-time) unit members with job titles listed on Appendix A . . .⁴

3 Appendix A of the CBA listed the following four titles: Secretary, Principal Clerk
4 and Secretary, Sr. [Senior] Bookkeeper I, and Sr. Bookkeeper II.

5 Family Resource Center

6 Since 2016, the MPS has had a Family Resource Center (FRC or Center) located
7 in the Central Administration building. According to a job posting for the FRC's first
8 administrator, the FRC Coordinator (Coordinator), the FRC was intended to:

9 [P]rovide both in-person and online student registration services for the
10 district. The Center will provide parents and families with a "one-stop-
11 shopping" approach to their child's school registration. Parents will visit the
12 [Center] to confirm residency, immunization and medical compliance,
13 school registration, initial language screening, and receive school
14 placement assignments. The online component will support and provide all
15 required forms, documents, rules, guidelines and frequently asked
16 questions for registering children for the Methuen Public Schools. The
17 [Center] will provide information and community resources for families in
18 need of academic, financial and community support.

19

20 Family Resource Center Coordinator

21

22 From 2017 – 2018, Christine Castle (Castle) served as the FRC's first and only
23 FRC Coordinator. In June 2017, Castle and MPS entered into a three-year employment
24 contract (Contract). Article I of the Contract, "Professional Certification and
25 Responsibilities of the Coordinator," described the Coordinator's duties as follows:

26 The Coordinator will assume the responsibility for managing the Family
27 Resource Center, student registrations and coordination of outside
28 agencies that deal with Early Childhood Programs. Subject to the policies
29 of the Methuen School Committee and the direction of the Superintendent
30 of Schools, she will be responsible for recruiting the day to day coordination
31 of the [Center] and district-wide schools.

32

⁴ Several provisions of the CBA refer to this unit as "Unit D." For ease of reference, we do the same.

1 Article II of the Contract specified that the Coordinator would work a ten-month and
2 11-day schedule. Article XV, "Duration and Compensation," specified that the Contract
3 would begin on July 1, 2017 and terminate on June 30, 2020 unless otherwise terminated
4 in accordance with relevant contract provisions. The annual salary listed for July 1, 2017-
5 June 30, 2018 was \$83,500 – the remaining two years' salary was "TBD."

6 Appendix A of the Contract included the Coordinator's job posting⁵. Under
7 "Position Summary," the posting stated that the Coordinator would be: "responsible for
8 enhancing strategic school, family, and community partnerships between the schools,
9 academic organizations and community organizations on behalf of families and children."
10 The listed "Duties and Responsibilities" included: providing "effective oversight and
11 support in the development, implementation, coordination and evaluation" of the Center;
12 "coordinat[ing] and collaborat[ing] with schools in the planning and development of
13 student registration;" "creat[ing] and expand[ing] partnerships with community partners;
14 "work[ing] with community partners and schools to initiate changes as needed to ensure
15 all daily functions of the [Center] are efficient, consistent and meet the needs of our
16 schools and the Methuen community."

17 Neither the Contract nor the job posting listed any education, training or experience
18 requirements.

19 The Employer laid off Castle from her position in the summer of 2018 as part of a
20 larger layoff of 88 MPS employees that included teachers and Unit D members. As
21 described below, in the fall of 2018, the School Committee rehired two former Unit D
22 members to serve in the new FRCES positions.

⁵ The posting was not dated.

1 Family Resource Center Enrollment Specialist

2
3 The Employer created the FRCES position in September of 2018, shortly after
4 MPS began using an online student registration system. Director of Instructional
5 Technology Edward Lussier (Lussier) and the Human Resources Department created the
6 job posting and the School Committee approved it. The posting was for two “12 months/40
7 hours/week” positions. The Summary stated:

8 Under the direction of the Director of Instructional Technology, the
9 Enrollment Specialist is responsible for the creation and maintenance of
10 student records at the district level, processing of registration information
11 and documents, transfers, and withdraws [sic] from the district. Meets with
12 families of new students and follows the registration process to ensure that
13 enrollment information is accurate and is processed in a timely manner.
14 Works independently in the performance of all functions necessary to
15 maintain an efficient and organized office in a professional and confidential
16 manner.

17
18 The essential duties and responsibilities listed in the posting included:

- 19
20
- 21 • Register new students by verifying residency, eligibility, credit level status,
22 immunization, etc. and process data within Infinite Campus, the student
23 management and registration system;
 - 24 • Meet with families of all new students; provide relative information about the district
25 and school; answer questions that families have about the new school district/city;
 - 26 • Provide resource materials to families seeking information about other support
27 facilities/programs in the area;
 - 28 • Assist families with completing all online registration components;
 - 29 • Manage student record system by transferring and withdrawing students, receiving
30 and sending records, maintaining files and generating reports;
 - 31 • Update and maintain electronic student files for all MPS students;
 - 32 • Prepare a variety of documents and reports regarding student enrollment and
33 residency;
 - 34 • Collaborate with the Language Acquisition Department, Student Services
35 Department, MPS nurses and MPS secretaries to ensure that the application
36 workflow is followed and that applications are reviewed by all necessary parties;
 - 37 • Perform tasks for Residency Checks to ensure adherence to the MPS Residency
38 Policy;
 - 39 • Perform other duties as may be deemed necessary for the efficient operation of
40 the [Center], including providing coverage at the receptionist desk as needed.

41 The qualifications and skills listed in the posting included:

- 1
2 • Extensive knowledge regarding the MPS online registration process and
3 requirements.
4 • Extensive knowledge of and ability to perform basic registrar skills (typing, filing,
5 data entry and use of basic office equipment)
6 ○ Proficient computer skills include the use of Google Mail, Docs, Sheets, and
7 Calendar, and the Infinite Campus Online Registration Module.
8

9 The posting contained no specific educational requirements. The salary was “As per the
10 Unaffiliated Salary Schedule.” Under the heading “Terms of Employment,” the posting
11 stated: “Work Hours/Days: 40/hours a week.”

12 By separate letters on October 30, 2018, Interim Superintendent of Schools Brandi
13 L. Kwong (Kwong) notified former Unit D members Margaret Condon (Condon) and
14 Maureen Abdallah (Abdallah)⁶ that she had recommended their respective appointments
15 to the FRCES position. Kwong’s letters also indicated that the position was “unaffiliated”
16 and that the pay rate was \$22.81/hr. Both Condon and Abdallah were working as
17 FRCESs at the time of the investigation.

18 As FRCESs, Condon and Abdallah report to Lussier who provided them with
19 technical training and explained their different interactive roles with the various
20 departments. Lussier does not supervise the FRCESs on a daily basis, but he is available
21 if they experience any problems

22 On November 13, 2018, two weeks after the position was posted, the Union filed
23 a grievance protesting that the FRCES positions were not included in Unit D. On
24 December 18, 2018, Kwong, acting in her capacity as Secretary to the School Committee,

⁶ Condon had previously worked as a Title I secretary. The record does not reflect what position Abdallah previously held.

1 notified the Union that the School Committee had voted to deny the grievance because it
2 had found no CBA violation.

3 Registration Process

4 Shortly before the FRCES positions were created and filled, the MPS transitioned
5 to an online student registration process. As of 2019, this process had both an online
6 and in-person component. Parents or guardians first registered their student online
7 gathered all necessary documents and then made an appointment to meet with one of
8 the FRCESs. During this in-person appointment, the FRCES reviewed the application
9 with the parents/guardians and discussed any missing documents or mistakes. The
10 FRCES also did a preliminary screening of the requisite medical documents, which
11 required final approval by the School Nurse. If the FRCES determined that all the required
12 documents were not submitted, or if they had a question about residency, they placed the
13 application on a “residency hold” pending receipt of missing documents or resolution of
14 other identified issues.

15 Once the FRCES determined that residency requirements were met and all
16 missing documents supplied, they forwarded the application to the School Nurse who
17 would follow a similar process to determine whether the application was “Medical
18 Approved” or on “Medical Hold.” The online registration system automatically generated
19 an email once the School Nurse made this determination. If the School Nurse marked
20 the application on “Medical Hold,” this email described what information was still needed.
21 In certain cases, the FRCES also forwarded applications to Special Education or

1 Language Acquisition personnel for their separate approval.⁷ Once the FRCES, School
2 Nurse and any other personnel approved the application online, the system automatically
3 generated another email notifying the parents/guardians of the approval and that all
4 information and documents were transferred electronically to the school where the
5 student registered. The school administrator and the school secretary became
6 responsible at this point for contacting parents/guardians regarding the student's start
7 date and schedule.

8 The current FRCESs created several forms that are part of this process, including
9 an online form advising parents/guardians of their application status. This form set out
10 the various stages and approvals needed for the registration process, e.g., "Residency
11 Approved," or "Residency Hold;" forms in both English and Spanish⁸ informing applicants
12 what residency documents are missing; a spreadsheet documenting their meetings with
13 applicants and document status; and form emails regarding the status of a particular
14 student's application, e. g., pushed through to school, or what tasks still need to be
15 completed.

16 Before the creation of the FRCES positions and the move to online registration,
17 Unit D school secretaries provided parents/guardians with a registration packet seeking
18 essentially the same information/documentation as the online process (e.g., residency,
19 personal info, student health info, etc.) Like the FRCESs the secretaries reviewed the
20 forms with the parents/guardians and made sure that they had the necessary documents.

⁷ The investigation record does not indicate what this approval entails or who performs it.

⁸ A Unit D member translated these forms into Spanish.

1 Since the creation of the FRCES positions, the secretaries no longer handle the
2 actual registration process or meet with parents for the purpose of discussing students'
3 applications. They nevertheless continue to input student data once the student is
4 cleared to attend the school in which the secretary works and to interact with
5 parents/guardians when the new student arrives.. They

6 The parties dispute who made the final determination of whether to enroll a student
7 before the FRCES position was created. The School Committee claims it was the building
8 principals and the Union claims that it was the school secretary. There is no dispute,
9 however, that the FRCESs have the authority to make this determination once they are
10 satisfied that all forms have been submitted and the requisite approvals received.

11 According to the School Committee's 2011 Residency Policy, if the School
12 Department suspects that a family of a current MPS student lives outside of Methuen, it
13 will conduct an investigation. As of 2019, Carmen Aguilar, a bilingual Unit D bargaining
14 unit member, conducted such investigations.

15 **Unit D Positions**

16 The investigation record includes job postings for several Unit D positions,
17 including the Principal Clerk Secretary (Timony Grammar School); Upper School
18 Secretary; Senior Bookkeeper I and Senior Bookkeeper II; and School Nutrition
19 Department Secretary.

20 The duties listed on the Principal Clerk/Secretary's job posting include serving as
21 the principal clerical assistant for a department or school unit; performing secretarial and
22 complex clerical work; and handling confidential material. These duties are performed
23 "[u]nder the supervision of the department or organization head." The job posting further

1 indicates that the position may require “considerable knowledge of an extensive body of
2 specialized rules, regulations and procedures, as well as a variety of administrative
3 support duties” and that the incumbent “may field questions and inquiries from the public.”

4 The duties listed on the Senior Bookkeeper I’s job posting include being “able to
5 work with limited supervision to provide an efficient and systematic payroll system of the
6 Methuen School district.” Other duties include “work and communicate with
7 representatives of employee unions, vendors, retirement agencies and human
8 resources;” assist with budget and salary projects when needed; maintain accurate and
9 timely payroll information; track/record essential leave for school department personnel
10 and complete documents, correspondence, forms for school employees. The Senior
11 Bookkeeper II job posting includes similar duties with additional responsibilities for
12 preparing, typing and distributing reports, including state reports. The Senior Bookkeeper
13 II position was posted as a twelve-month, eight-hour position that reported to the
14 “Business Administrator.” A posting for a Senior Bookkeeper I - Food Services
15 Department position indicated that it was a thirty-hour/ten-month position.

16 The postings for the Upper School Secretary, Secretary for Language Acquisition
17 and Records Secretary for Methuen High directing walk-ins and handling inquiries. The
18 Upper School Secretary also prepares correspondence and reports when required. The
19 duties of the Secretary for the Language Acquisition department include handling phone
20 calls, translating and preparing correspondence in English and Spanish; and maintaining
21 an LEP⁹ student data base. Like the FRCEs, the Secretary for Language Acquisition
22 and the Record Secretary were posted as calendar year positions.

1 1 of M.G.L. c. 150E (the Law) and thus excluded from the Law's coverage. The School
2 Committee also contends that the FRCESs do not share a community of interest with Unit
3 D. We address the managerial issue first.

4 Section 1 of the Law designates employees as managerial only if they (a)
5 participate to a substantial degree in formulating or determining policy, or (b) assist to a
6 substantial degree in the preparation for or the conduct of collective bargaining on behalf
7 of a public employer, or (c) have a substantial responsibility involving the exercise of
8 independent judgment of an appellate responsibility not initially in effect in the
9 administration of a collective bargaining agreement or in personnel administration. An
10 individual need satisfy only one of the disjunctive requirements to be excluded from the
11 Law's coverage. Brockton School Committee, 11 MLC 1375, 1377, MUP-5050 (January
12 29, 1985). Here, the School Committee claims that the FRCESs should be excluded
13 based on the first part of the statutory test.

14 To be considered a managerial employee under the first part, an employee must
15 make policy decisions and determine the employer's objectives. Wellesley School
16 Committee, 1 MLC 1389, 1401, MUP-2009, CAS-2005 (April 25, 1975) *aff'd sub nom.*,
17 School Committee of Wellesley v. Labor Relations Commission, 376 Mass. 112 (1978).
18 The policy decisions must be of major importance to the mission and objectives of the
19 public employer, Wellesley School Committee, 1 MLC at 1403, and the employee must
20 participate in the policy decision-making process on a regular basis. Town of Plainville,
21 18 MLC 1001, 1009, MCR-4019 (June 12, 1991). It does not merely include having input
22 into the decision-making process. Id. This part of the analysis also focuses on whether
23 an employee possesses independent decision-making authority or whether the

1 employee's decisions are screened by another layer of administration. Worcester School
2 Committee, 3 MLC1653, 1672, MUP-2044 (April 29, 1977).

3 The Employer contends that the FRCESs make "major policy decisions with
4 respect to the enrollment of students in the Methuen Public Schools."¹¹ As reflected
5 above, however, while the FRCESs perform important screening functions to ensure that
6 students satisfy all enrollment requirements, submit all necessary documents and obtain
7 the necessary approvals, the FRCESs' duties are substantially the same as those
8 performed by Unit D school secretaries before the enrollment process was centralized at
9 the Family Resource Center.

10 The School Committee acknowledges this substantial similarity of duties, but
11 asserts that unlike the school secretaries, the FRCESs make the final decision as to
12 whether a student should be enrolled. Even assuming that the school secretaries did not
13 make final enrollment decisions, the facts show that the FRCESs' final approval consists
14 of determining that the residency requirements have been met, ensuring that all other
15 forms have been submitted and, once the School Nurse and other school personnel
16 approve other aspects of the enrollment package, approving the final application package
17 and forwarding it for further processing at the school level. Although the FRCESs create
18 various forms, spreadsheets and emails that document this process and ensure that the
19 workflow is followed, there is no evidence that they formulate the residency policy,
20 medical policy or other requirements that underly the process. Nor does the record show

¹¹ The School Committee does not argue that the FRCESs meet parts (b) or (c) of the managerial employee definition.

1 that the FRCESs exercise discretion to approve enrollments if the proper forms are not
2 submitted or approvals obtained.

3 The School Committee nevertheless claims that the FRCESs' duties are
4 comparable to those of the Library Director in Town of Manchester by the Sea, 24 MLC
5 76, MCR-4511 (March 6, 1998), which the School Committee cites in support of its claim
6 that the FRCESs are managerial employees. In that case, the CERB held that the Library
7 Director was a managerial employee based on his direct input to library trustees on all
8 major library policy issues including fiscal, personnel, building maintenance and library
9 service. As described above, however, the FRCESs' duties and responsibilities are much
10 narrower in scope and mission. There is no evidence that they advise the School
11 Committee on fiscal, personnel or other major policy issues or that they otherwise
12 participate in policy making on a regular basis. Indeed, in contrast to the Coordinator's
13 job posting, the FRCES job posting did not even require them to "assume responsibility
14 for managing the Family Resource Center." In the absence of evidence that the FRCESs
15 make policy decisions or determine the Employer's objectives, we conclude that the
16 FRCES are not managerial employees within the meaning of Section 1 and turn to the
17 accretion analysis.

18 Accretion

19 In deciding whether an employee should be accreted into an existing bargaining
20 unit, the CERB applies a three-step analysis. First, the CERB determines whether the
21 position existed when the DLR originally certified the unit. City of Boston, 35 MLC 137,
22 140, CAS-07-3669 (December 31, 2008). If the position existed at the time of the original
23 certification but was not included in the unit and has not since changed, the DLR will not

1 accrete it to the unit using the CAS process. University of Massachusetts, 41 MLC 205,
2 CAS-14-3424 (April 10, 2015).

3 Second, the CERB examines the parties' subsequent bargaining history to
4 determine whether a particular employee classification was considered by the parties to
5 be included in the unit. City of Boston, 35 MLC at 140. Absent bargaining history to
6 support a finding that the parties addressed and resolved the unit placement of the
7 contested position, the CERB cannot determine whether the parties explicitly agreed to
8 exclude the contested position from the bargaining unit. Town of Somerset, 25 MLC 98,
9 100, CAS-3145 (January 6, 1999).

10 Here, the Employer created the FRCES position in 2018, long after the DLR
11 certified the unit. The Employer posted and filled the positions without bargaining with
12 the Union, and the Union filed a grievance over the non-unit hires shortly thereafter. The
13 first two prongs of the accretion analysis are therefore inconclusive.

14 We therefore address the third prong of the analysis, whether the positions share
15 a community of interest with other Unit D members. To determine whether employees
16 share a community of interest, the CERB considers factors like similarity of skill and
17 functions, similarity of pay and working conditions, common supervision, work contact
18 and similarity of training and experience. Town of Granby, 28 MLC 139, 141, CAS-3477
19 (October 10, 2001). Members of a bargaining unit need share only a community of
20 interest, rather than an identity of interest. Springfield Water and Sewer Commission, 24
21 MLC 55, 59, MCR-4603 (January 15, 1998). No single factor is outcome determinative.
22 Board of Higher Education, 36 MLC 139, 141, CAS-06-3659 (March 5, 2010).

1 The School Committee contends that the FRCES positions do not share a
2 community of interest with other Unit D positions because their skills and functions are
3 vastly different. We disagree. As noted above, before the Family Resources Center was
4 created, school secretaries performed most of the enrollment functions that the FRCESs
5 perform. Further, Unit D members continue to be involved in the enrollment process and
6 enforcing the residency requirements, including the Unit D member who translates
7 enrollment forms into Spanish, and the Unit D members who investigate whether Methuen
8 students meet residency requirements.

9 The School Committee also contends that the FRCESs' duties are distinct because
10 they interact to a significant degree with parents/guardians and members of the public.
11 However, the job postings for the Upper School Secretary, Secretary for the Language
12 Acquisitions Department and the Methuen High School Records Secretary indicate that
13 they also deal with the public and handle inquiries. Further, before the FRCES positions
14 were created, the school secretaries interacted with parents/guardians, including
15 reviewing forms with them to make sure they had the necessary documents. Although
16 school secretaries no longer perform these functions, they still meet with
17 parents/guardians when a new student is enrolled and, presumably, at other times when
18 parents/guardians visit the school.

19 The School Committee also emphasizes that the FRCESs perform their duties in
20 an independent manner and do not require the type of oversight typically exercised over
21 Unit D members. However, the job postings for the Nutrition Department Secretary and
22 the Senior Bookkeeper I also reflect that they are expected to perform their jobs with
23 "minimal" or "limited" supervision.

1 the FRCES position to Unit D.

2 **SO ORDERED.**

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COMMONWEALTH OF MASSACHUSETTS
COMMONWEALTH EMPLOYMENT RELATIONS BOARD



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MARJORIE F. WITTNER, CHAIR



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JOAN ACKERSTEIN, CERB MEMBER



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KELLY STRONG, CERB MEMBER