

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

In the Matter of

GLOUCESTER SCHOOL COMMITTEE

and

GLOUCESTER TEACHERS ASSOCIATION

Case No. CAS-23-10146

Issued: March 4, 2024

CERB Members Participating:

Marjorie F. Wittner, Chair  
Kelly B. Strong, CERB Member  
Victoria B. Caldwell, CERB Member (concurring)

Appearances:

Gregor Pagnini, Esq. - Representing the Gloucester School Committee  
James Racine, Esq. - Representing the Gloucester Teachers Association

**SUMMARY AND STATEMENT OF CASE**

1 The Gloucester Teachers Association, MTA/NEA (Union or GTA) represents Unit  
2 A, which is a bargaining unit of teachers and other employees who are employed by the  
3 Gloucester School Committee (School Committee). On July 20, 2023, the Union filed a  
4 unit clarification petition with the Department of Labor Relations (DLR) seeking to accrete  
5 the "O'Maley Science Center Coordinator" (SCC) to Unit A. The Union contends that the  
6 SCC shares a community of interest with other Unit A positions in Unit A. The Employer  
7 opposes the petition on grounds that the SCC is an administrative position that does not  
8 share a community of interest with Unit A.

1           On October 4, 2023, the Union and the Gloucester School Committee (School  
2 Committee or Employer) participated in an informal conference regarding the petition.<sup>1</sup>  
3 Before, during, and after the conference, the parties provided position statements,  
4 documents and affidavits to support their respective positions. On December 5, 2023, the  
5 DLR sent the parties a letter asking them to show cause why the petition should not be  
6 resolved based upon the information summarized therein and seeking some additional  
7 information. Both parties filed responses that included the additional information. After  
8 reviewing the responses and incorporating the additional information, the Commonwealth  
9 Employment Relations Board (CERB) has determined that there are no material disputes  
10 of fact and accretes the SCC to Unit A.

#### 11 Background

##### 12           Bargaining units

13           There are six bargaining units in the Gloucester Public Schools (GPS or District).  
14 In addition to Unit A, which is described in greater detail below, there is a  
15 paraprofessionals unit represented by the Gloucester Association of Educational  
16 Paraprofessionals MTA/NEA; a clerical unit represented by AFSCME Council #92; Local  
17 # 687; a school nurses unit represented by the Massachusetts Nurses Association; and  
18 three bargaining units represented by Teamsters, Local # 42: a food service workers unit,  
19 a bus drivers unit, and a bus monitors unit. There is no separate school bargaining unit  
20 for administrators or supervisors.<sup>2</sup>

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<sup>1</sup> The conference was conducted remotely, using the Webex videoconference platform.

<sup>2</sup> We take administrative notice of Case No. MCR-3178. The case file reflects that at some point prior to January 20, 1981, the GTA represented an administrators unit in the

1        Unit A

2            The Unit A collective bargaining agreement (CBA) is effective from September 1,  
3 2020 to August 31, 2024. The CBA contains the following recognition clause:

4            The Gloucester School Committee, hereinafter referred to as the  
5 Committee, recognizes the Gloucester Teachers Association, hereinafter  
6 referred to as the Association, for purposes of collective bargaining, as the  
7 exclusive representative of the members of Unit A including Title I teachers,  
8 but excluding the Superintendent, Assistant Superintendent, Administrative  
9 Assistant to the Superintendent, managerial, and/or confidential employees  
10 as defined in Chapter 150E of the General Laws of Massachusetts as  
11 defined in the election conducted by the Massachusetts Labor Relations  
12 Commission on December 1, 1966, (MCR 83). Academic coaches are  
13 members of the teacher bargaining unit. Any and all bargaining Unit A  
14 positions will be posted in accordance with the contract.

15  
16            Unless otherwise indicated, the word “teacher” will be used to refer to any  
17 and all personnel covered by this agreement.<sup>3</sup>

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Gloucester Public Schools. On January 20, 1981, the Gloucester Administrators’ Association filed a petition seeking to represent the administrators unit and the GTA intervened. After an election, the GAA was certified as the exclusive representative of the following unit:

All Principals, Assistant Principals, Director of Auxiliary Services, Director of Audio Visual Media, Director of Title I, Director Vocational School[,] regularly employed by the Gloucester School Committee in the Gloucester Public Schools and excluding all other employees.

It would appear based on a passing reference in City of Gloucester, 40 MLC 359,n. 3, CAS-12-2115 (May 30, 2014), that, as of 2014, the GAA represented a unit of “Assistant Principals.” The parties did not otherwise provide, and the CERB was unable to locate, any information regarding when or why the administrators’ unit ceased to exist.

<sup>3</sup> Appendix B, Article of the CBA, “Gloucester Educator Evaluation Agreement,” defines “Teacher,” as “An Educator employed in a position requiring a certificate or license as described in 603 CMR 7.04 (3) (a, b, and d) . . . Teachers may include, for example, classroom teachers, librarians, guidance counselors or school nurses.” An “Educator” is defined as an “inclusive term that applies to all classroom teachers and caseload educators, unless otherwise noted.” “Classroom Teacher” is defined as an “Educators who teach pre-K-12 whole classes, and teachers of special subjects such as art, music, library and physical education. May also include special education teachers and reading specialists who teach whole classes.”

1 Unit A includes the following titles: Teacher, Program Leader, Guidance Counselor,  
2 Psychologist, Adjustment Counselor, Social Worker, Positive Alternative Consequence  
3 and Education (PACE), Speech and Language Teacher, Hearing Impaired Specialist,  
4 Visually Impaired Specialist, Learning Center Teacher, Partnership Services Teacher,  
5 Language Based Learning Disabilities Teacher, Academic Coach, Specialist (physical  
6 education, art and music), School Library Teacher/Media Specialist, and GAP Program.<sup>4</sup>  
7 All of these positions report to their building principal. All positions are building-based,  
8 except the Hearing Impaired Specialist, Visually Impaired Specialist, and one school  
9 psychologist, all of whom perform district-wide services.<sup>5</sup>

10 Amy Donnelly and the O'Maley Science Center

11 The O'Maley Innovation Middle School (O'Maley School) serves District students  
12 in grades 6-8. Since about 2010, the O'Maley School has housed the Birdseye-  
13 Hammond Science Center, also referred to as the O'Maley Science Center (Science  
14 Center). The Science Center contains a variety of labs and rooms where middle school

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<sup>4</sup> In response to the DLR's information request, the Union provided a list of bargaining unit positions. Although the title "Special Education Coordinator," was on that list, based on other information provided by the parties, we find that the Special Education Coordinator is an unrepresented position.

<sup>5</sup> The Hearing Impaired Specialist position is not currently filled. There are other school psychologists who are building based. Appendix B, Section 2, of the CBA contains the following definition of "Teaching Staff Assigned to More than One Building":

Each Educator who is assigned to more than one building will be evaluated by the appropriate administrator where the individual is assigned most of the time. The principal of each building in which the Educator serves must review and sign the evaluation, and may add written comments. In cases where there is no predominate assignment, the superintendent will determine who the evaluator will be.

1 students can take classes and perform science, technology, engineering and math  
2 (STEM) experiments.

3 Amy Donnelly (Donnelly) has worked for the Gloucester Public Schools since  
4 2000. Donnelly has a bachelor's degree in biology and is certified to teach science in  
5 Massachusetts. From 2000 until the end of the 2022-2023 school year, Donnelly was a  
6 science teacher at the O'Maley Middle School and a Unit A member.

7 From 2014 until the 2022-2023 school year, Donnelly also served as the science  
8 department's (Department) Program Leader. Donnelly's responsibilities as Program  
9 Leader included ordering material and equipment for the Science Department and  
10 overseeing the Department's budget. Donnelly also prepared multiple grant proposals  
11 on behalf of the Department for amounts ranging from \$7,000 to over \$50,000.<sup>6</sup> She  
12 helped create partnerships between the District and various education and science  
13 related organizations and businesses.<sup>7</sup>

14 Since about 2012, Donnelly, along with Engineering Specialist David Brown  
15 (Brown),<sup>8</sup> has also been responsible for overseeing the Science Center, where her duties  
16 include ordering supplies, and planning and overseeing student experiments and other  
17 lab-based activities. Prior to the fall of 2023, Donnelly performed all of these duties in

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<sup>6</sup> For example, in 2022, Donnelly drafted a grant proposal to Mass Life Sciences to fund equipment and professional development, which resulted in a \$53,000 grant. Donnelly states in her affidavit that this grant was used as a supporting document for the Brace Cove grant described below.

<sup>7</sup> In 2018, Donnelly facilitated a partnership between Salem State University and the District that resulted in university students interning at the Science Center's biology lab. Donnelly has overseen that program since its creation.

<sup>8</sup> As discussed below, Brown is a non-unit employee.

1 addition to maintaining a teaching load of four 60-minute classes a day, plus a fifteen-  
2 minute homeroom period.

3 During the 2022-2023 school year, Donnelly was at the top of the Unit A pay  
4 schedule for teachers. Her base salary that year was \$95,167. Her total salary including  
5 extra hours, longevity pay, and a \$6,104.54 stipend for being Program Leader, was  
6 \$103,846.56.

### 7 Creation of SCC Position

8 Around 2022, Donnelly, Brown, and then-Assistant Superintendent and former  
9 Executive Director of the Gloucester Education Foundation, Tina Raimo, drafted a grant  
10 proposal pertaining to the Science Center. The proposal sought \$300,000 over three  
11 years to make the Science Center's resources available to elementary school students  
12 and teachers in grades 3-5. The grant would also fund a new "Science Center  
13 Coordinator" position, which was described as "an experienced STEM educator who will  
14 plan the activities and the future direction of the initiative." The proposal stressed the  
15 importance of improving the quality of STEM education at the elementary school level,  
16 and the need for trained or engaged STEM elementary school teachers to accomplish  
17 that goal. To that end, the proposal stated that a primary focus of the Science Center  
18 would be to train elementary schools teachers to provide project-based instruction that  
19 encouraged critical thinking and innovation, while building content knowledge and  
20 understanding of concepts. The grant set forth four goals: 1) To extend high quality  
21 science professional development to grade 3-8 teachers; 2) to utilize the Science Center  
22 as a field trip and experiential science programming destination for District elementary

1 students during the school day; 3) to strengthen local science community partnerships;  
2 and 4) to strengthen college and university partnerships.

3 With respect to the first goal of extending high quality science professional  
4 development to staff, the grant indicated that:

5 Gloucester's elementary teachers and, by extension, their students, have  
6 benefited greatly from having specific coaching in literacy and mathematics  
7 in the past. It is our aim to provide this same level of intentional coaching  
8 support in the area of science through the work of the O'Maley Science  
9 Center and the Center Coordinator.

10 In other places, the grant stated that the SCC would provide "intentional coaching  
11 support to grade 3-8 teachers," "foster" meaningful interactions between community  
12 organizations and Gloucester students, and be responsible for creating an Advisory  
13 Council consisting of representatives from local STEM organizations and STEM high  
14 school teachers.

15 On September 21, 2022, the Brace Cove foundation awarded a two year, \$200,000  
16 grant to the District to create the SCC position. In December 2022, District  
17 Superintendent Ben Lummis (Lummis) sent a letter to GTA President Rachel Rex (Rex),  
18 which contemplated that the SSC would not be a Unit A position, but which, if signed,  
19 would constitute the parties' agreement that if a GTA bargaining unit member was  
20 selected for the position, the individual filling the position would maintain their position on  
21 the GTA seniority list while serving as the SCC. The parties never signed this letter.

22 On February 3, 2023, the District created a draft job posting, which described the  
23 SCC as a two-year, grant-funded position, with a work year of 210 days and an 8-hour  
24 workday, including afternoon and evening activities as required. The responsibilities listed  
25 in the posting included:

- 1 • Design and lead O'Maley Summer Science Institutes for all incoming GPS Science
- 2 teachers, grade 3-8
- 3 • Design and lead in service training throughout the school year for GPS Science
- 4 teachers, grade 3-8
- 5 • Provide and/or coordinate modeling, coaching and mentoring for elementary
- 6 science teachers
- 7 • Utilize the O'Maley Science Center as a field trip and experiential science
- 8 programming destination for GPS elementary students during the school day
- 9 • Work with teachers to develop, refine, and practice grade-level laboratory
- 10 experiences that will then be implemented with confidence in each elementary
- 11 science classroom
- 12 • Foster meaningful interactions between the Gloucester Schools and local,
- 13 respected science-related organizations and businesses
- 14 • Seek out and apply for relevant grant opportunities to support current and future
- 15 Science Center needs
- 16 • Develop a multi-year sustainability plan
- 17 • Collect and report data regarding training content, hours, and participants as well
- 18 as evidence of successful implementation of strong science instructional practice
- 19 • Continue and expand partnerships and internship programs with local universities
- 20 to provide student mentors, Science Center assistants, and to attract new science
- 21 teachers to Gloucester
- 22 • Conduct periodic staff and student surveys to measure impact of in service
- 23 trainings and field experiences
- 24 • Organize annual demonstration of learning events that engage students, families,
- 25 and industry partners
- 26 • Maintain clear, accurate records and guidance documents, including budget,
- 27 inventories, ordering, staffing, [and] facility use
- 28 • Other related duties as assigned by the Superintendent.

29 The posting set forth the following "Skills and Competencies":

- 30 • 2-4 years of laboratory experience in a professional environment preferred
- 31 • 5 years of public school science teaching experience preferred
- 32 • Experience designing and leading professional development activities
- 33 • Exceptional written/oral communications skills, with skill presenting information in
- 34 engaging ways
- 35 • Extremely well-organized, with a strong attention to detail
- 36 • The ability to work both collaboratively and independently, seeking support when
- 37 needed.

38 The education requirements were a bachelor's degree in science and Massachusetts  
39 certification as a science teacher.

1           On February 8, 2023, the District shared this posting with Union officers Matthew  
2 Lewis (Lewis) and Rex.<sup>9</sup> Later that day, Rex sent an email to Assistant Superintendent  
3 Amy Pasquarello (Pasquarello) questioning why the position had not been placed in Unit  
4 A. Rex emphasized that the position did not require administrative certification or any  
5 responsibility for evaluating or hiring/firing other educators. Lewis wrote a more detailed  
6 email to Lummis and Pasquarello on February 9, stating his belief that under the grant,  
7 the SCC position was being established like an existing Unit A coaching position, which  
8 already exists at the elementary schools. Lewis further noted that teachers across the  
9 district have community outreach duties.

10           Pasquarello responded to the emails on February 28. She disagreed that there  
11 were Unit A positions comparable to the SCC. Pasquarello acknowledged that the position  
12 required modeling, coaching and mentoring, but indicated that the position's primary  
13 responsibilities went beyond that, and included different workdays, different hours,  
14 designing and managing summer institutes and recruiting staff and securing funding. She  
15 indicated that to "help clear up the confusion," she had updated the posting, which she  
16 planned to issue the next day.

17           The revised posting, which was dated March 1, 2023, was similar but not identical  
18 to the February posting. It notably eliminated the responsibility of modeling, coaching  
19 and mentoring elementary science teachers, but stated in a summary that the SCC would  
20 design and provide professional development to staff. The educational requirements,  
21 hours, and workday were the same.

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<sup>9</sup> Lewis is the Chair of the Union's negotiation committee. Rex is Union president. Both Lewis and Rex are GPS educators.

1           On March 1, 2023, Rex made a formal demand to bargain over the SCC's inclusion  
2 in the bargaining unit and its terms and conditions of employment. The Union's demand  
3 included a draft Memorandum of Understanding that would have included the SSC in Unit  
4 A. After several bargaining sessions in April and May 2023, the parties did not agree on  
5 whether to place the SCC in Unit A. On May 25, Lummis wrote a letter to the Union that  
6 summarized their disagreement over whether the position was an administrative or a  
7 coaching position. Lummis stated that because of that disagreement, the District would  
8 not put forth any further proposals. Lummis noted however that the School Committee  
9 had agreed to guarantee that any Union member hired as SCC would be able to return  
10 to their unit position and maintain their existing benefits if the SCC position is discontinued  
11 or if the staff member chooses to leave the position while they are in good standing.

12           Donnelly applied for the SCC position and the District selected her to fill it. On July  
13 1, 2023, Donnelly entered into a two-year employment contract with the District. The  
14 District set her annual salary at \$104,500. The contract indicated that increases would be  
15 conditioned upon satisfactory performance.<sup>10</sup> Other contract terms included suspension,  
16 demotion or dismissal for "good cause;"<sup>11</sup> and a number of benefits, including eligibility  
17 for a 403(b) annuity plan, sick leave, group health insurance, personal leave, and  
18 bereavement leave benefits. The leave benefits were essentially the same as Unit A

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<sup>10</sup> The section of the contract also stated that, "As a general principle, the district will strive to maintain an alignment between increases in administrators' compensation and increases in all negotiated labor contracts."

<sup>11</sup> "Good cause" was defined as "any ground which is put forth by the Superintendent in good faith and which is not arbitrary, irrational, unreasonable, or irrelevant to the task of building up and maintaining an efficient and effective school system."

1 benefits.<sup>12</sup> The contractual work-year was 200 days. The provision “Evaluations,” states,  
2 “The Superintendent or his designee shall evaluate the performance of the Science  
3 Center Coordinator in writing at least once annually...”

4 Since beginning the SCC position, Donnelly has taught lab classes to middle  
5 school classes about two to three times a week, or about 20% of her workweek.<sup>13</sup> She  
6 spends the rest of her time meeting with teachers, following up on grant writing, planning  
7 curriculum, interviewing interns, going into the middle school and elementary schools,  
8 and setting up classrooms to be conducive to science teaching. Donnelly worked with  
9 elementary school teachers in the summer of 2023, but as of the conference, had not yet  
10 started working with elementary school students. She expected to do so by the end of  
11 the 2023/2024 school year. Donnelly reports to the Assistant Superintendent and has no  
12 formal evaluation or supervisory duties. She is not licensed as a DESE administrator.<sup>14</sup>

13 Donnelly no longer serves as the O'Maley Science Department's Program Leader.  
14 A seventh grade math teacher has filled that position.

#### 15 Additional Information Regarding Selected Unit A and Non-Unit Positions

##### 16 Unit A Program Leader

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<sup>12</sup> There were some minor differences in sick leave benefits.

<sup>13</sup> Although the School Committee disputes that Donnelly is teaching classes, claiming instead that she is just modeling appropriate instructional practices, it provided a color-coded calendar depicting Donnelly's schedule for September and October 2023 that showed that Donnelly taught or co-taught between one and three classes a week during those months.

<sup>14</sup> In Appendix B of the CBA, the term Evaluator is defined as, “Any building or district administrator who is appropriately licensed and designated by the superintendent who has responsibility for observation and evaluation.”

1 A May 2023 posting for the Program Leader position includes the following  
2 responsibilities and qualifications:

- 3 • Program Leaders will be members of the school-based leadership team organized  
4 by the principal. As members of the school's Leadership Team, Program Leaders  
5 will contribute to the development of professional development, the planning and  
6 facilitation of school and department meetings, assisting with the hiring process,  
7 School Improvement Planning, and the identification of school and department  
8 goals.
- 9 • Program Leaders are responsible for facilitating the creation of and the  
10 implementation of standards-based curriculum, effective instructional practices,  
11 and common assessments that measure student progress.
- 12 • As instructional leaders, Program Leaders will model effective, high quality,  
13 culturally responsive instructional practices that lead to deeper student  
14 engagement and learning;
- 15 • Program Leaders will support teachers in the areas of instruction, curriculum,  
16 lesson planning, and assessment including strategizing, consulting, organizing  
17 peer observations, and assisting with their professional goals;
- 18 • Program Leaders will be responsible for other applicable administrative duties  
19 such as attending meetings led by the school principal, conducting departmental  
20 meetings, contributing to scheduling, fulfilling duties related to the budget, and  
21 overseeing the purchase, review of invoices, and shipment of curriculum  
22 materials and other supplies to ensure the department's teachers are sufficiently  
23 equipped during the school year;
- 24 • Program Leaders will help plan and prioritize professional development support  
25 for teachers in conjunction with school administrators including setting up peer  
26 observations;
- 27 • Program Leaders will work 185 days per year with two days being assigned  
28 during the summer as part of work related to curriculum development and review,  
29 planning for professional development and other responsibilities described  
30 above.

31 The posting listed the following qualifications:

- 32 • A teacher in the Gloucester Public School system. Must have had a  
33 successful teaching experience as a classroom teacher.
- 34 • Must have had both theoretical and practical preparation in his/her  
35 specialty.
- 36 • Must have the personal qualities necessary to lead teachers with  
37 regard to group and individual curriculum, instruction and assessment  
38 matters.

39 The job description did not contain specific educational requirements.

1           In addition to the foregoing, Donnelly and at least one other Program Leader have  
2 written grants for their department.<sup>15</sup>

3           Program Leader CBA Provisions

4           The CBA contains separate provisions for several different Unit A titles, including  
5 Program Leaders. Those provisions include an annual stipend<sup>16</sup> and several provisions  
6 pertaining to Teaching Hours and Teaching Load,” including Article 6(B)(3), which states:

7           The work year of the program Leaders shall include their attendance prior to  
8 the opening of school at orientation of new members to their departments.  
9           In addition, the work year shall include their attendance prior to orientation  
10 to review shipments and invoices to ensure that the department is equipped  
11 for the beginning of classes.

12  
13 Article 6(D)(2) also provides that Program Leaders shall teach no more than four (4)  
14 periods per day.

15           Unit A Academic Teaching Coach

16  
17           The District employs a number of academic teaching coaches at the elementary  
18 school level. A May 2023 posting for an elementary school literacy coach at the Beeman  
19 School includes the following description and qualifications:

- 20           • Work collaboratively with the Elementary School Principal to plan literacy  
21 support for K-5 teachers  
22           • Support teachers in improving their reading/writing instruction (modeling  
23 lessons; conducting workshops; facilitating team meetings in which student  
24 work is analyzed and best strategies are discussed and implemented;  
25 facilitating the on-going monitoring of student progress)  
26           • Support teachers in analyzing assessment results and their use in planning  
27 instruction for students

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<sup>15</sup> Rex formerly served as Program Leader of Gloucester High School’s science department. She stated at the informal conference that she wrote many grants for equipment while serving in that capacity.

<sup>16</sup> In FY 23, the Program Leader’s annual stipend was \$4,145.

- 1           • Offer on-going professional development through grade level meetings and  
2           workshops in support of the district's K-5 literacy program  
3

4           Academic coaches are full-time and work the same hours that elementary school  
5 teachers work, 32.5 hours. The qualifications on the posting included:

- 6           • Massachusetts Reading Specialist License  
7           • Prefer master's degree in Reading  
8           • Strong background in elementary reading/writing instruction  
9           • Ability to collaborate with staff and other reading coaches  
10          • Ability to conduct professional development workshops  
11          • Good coaching skills  
12          • Familiarity with the analysis of educational data  
13

14           Unit A Bridge Program Academic Coordinator (High School)

15  
16           The July 11, 2017 posting for the position explains that the Bridge Program is  
17 designed to support students transitioning back to school after missing substantial  
18 amounts of learning due to attendance issues, serious mental health problems or medical  
19 illness. The responsibilities include working with teachers to develop an academic plan  
20 for students, helping students manage schoolwork and providing basic tutoring. Their  
21 status was full time, and licensure as a School Guidance counselor was required.

22           Non-Unit Positions, Generally

23  
24           The School Committee provided a spreadsheet of non-unit positions, which  
25 separated the positions into four categories: Administrators and Directors; Principals and  
26 Assistant Principals; Individual Contracts; and Information Technology. There were  
27 eleven titles listed under the Administrators and Directors heading, including the  
28 Superintendent, Assistant Superintendent, four Director positions and one Coordinator -  
29 the School Curriculum and Instruction Coordinator. The Individual Contracts category  
30 listed fifteen positions, including three Directors and four Coordinators - the K-5 Special  
31 Education Program Coordinator; Testing Coordinator; Community Engagement and

1 Communications Coordinator; and the SCC. The salaries for the all positions ranged from  
2 a low of \$48,175 for the Testing Coordinator to a high of \$193,252 for the Superintendent.

3 A number of the positions, such as the K-5 Curriculum Coordinator, Community  
4 Engagement and Communications Coordinator and Director of Education work out of the  
5 District Office. The others, including Donnelly, work from a school-based location.

6 The educational and licensing requirements, and length of work year varied among  
7 these titles. Some, but not all of the positions required state licensure as a school or  
8 special education administrator or as a supervisor/director.<sup>17</sup> Similarly, some but not all  
9 of the positions required a master's degree.<sup>18</sup> The work year listed on the job descriptions  
10 provided ranged from 190 days to 210 days. Others simply listed the work year as "12  
11 months."

## 12 Duties and Responsibilities of Selected Non-Unit Positions

13

### 14 Engineering Specialist (David Brown)

15

16 Brown was originally hired in 2009 as a Technology Specialist. He worked as a  
17 STEM consultant from the 2011/2012 school year through 2021. In 2021, he entered into  
18 a three year contract with the District as a Technology Specialist. The contract set forth  
19 a per diem rate of \$442.77 per day for 5 days a week to a maximum of 183 days (not to

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<sup>17</sup> The positions that required MA licensure as a school administrator or Supervisor Director, were the Director of Preschool; Director of Special Education; K-5 Special Education Program Coordinator; Director of Career, Vocational and Technical Education; Middle School Curriculum and Instruction Coordinator; and Special Education Coordinator.

<sup>18</sup> The positions that required a master's degree were the Director of Special Education, K-5 Special Education Program Coordinator; Director of Career, Vocational and Technical Education; Director of Mental Health & Social and Emotional Learning; Special Education Coordinator; and the Coordinator of School Guidance.

1 exceed an annual salary of \$81,027 for the FY2021 school year). The contract also  
2 provided for sick leave, bereavement leave and eligibility to participate in the City's group  
3 health insurance and dental plan.

4 The School Committee did not provide an Engineering Specialist job description.  
5 At the informal conference, Donnelly described Brown's position as supporting the  
6 Science Center, setting up material in labs, and developing programs with respect to  
7 engineering and technology.

8 The School Committee did provide a September 30, 2019 posting for a part-time  
9 "MakerSpace-STEM Coordinator" consultant position. The posting indicated that a new  
10 "MakerSpace" was being constructed at Gloucester High School. The consultant was  
11 required to work a minimum of 16 hours per week in the afternoons and after-school to  
12 consult with high school and district teaching staff to integrate the MakerSpace  
13 technology into the curriculum, and to equip, plan, and schedule the space, while  
14 providing training to teachers and students on using the equipment. The position paid  
15 \$30/hour and was grant funded. The posting contained no educational requirements.<sup>19</sup>

16 Middle School Curriculum and Instruction Coordinator

17  
18 The FY 21 job description for this position states that it "assists the principal, as a  
19 member of the school administrative team, with all aspects of curriculum and instruction."  
20 The job description included the following duties:

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<sup>19</sup> The School Committee's response to an additional information request indicates that Brown's position has changed over the years and suggests that he held the MakerSpace position before entering into the three year contract described above. The Union was unaware of whether Brown had ever held the position. We need not resolve this dispute. We rely on the MakerSpace job posting only for purposes of setting forth the terms and conditions and requirements of certain non-Unit A positions.

- 1 • Provide direction and leadership in the development of a comprehensive literacy  
2 curriculum including model unit and lesson plans, curriculum maps and pacing  
3 guides
- 4 • Researches, designs and instructs professional development for staff
- 5 • Provides coaching to staff:
  - 6 ○ Models lessons using research-based and evidence based practices
  - 7 ○ Conferences with teachers on planning classroom and student data
- 8 • Observes and evaluates educators as designated by the principal
- 9 • Coordinates with and supports program leaders in ELA, Math, Science and  
10 Special Education
- 11 • Assists in writing/presentation of grants and reports related to school  
12 improvement.

13

14 This is a 210 day position and DESE Supervisor/Director Licensure is required. The  
15 incumbent earns \$112,750 a year.

16 K-5 Special Education Program Coordinator (FY 24)

17 The primary goal of this position is to provide coordination and support for Pre-K-  
18 5 special education services by supporting teachers, paraprofessionals, families and  
19 administrators with consultation, evaluation, IEP development, and professional learning.  
20 This position supports the development of the special education budget in areas of  
21 staffing, assessment materials, curriculum materials, development and evaluation of  
22 district wide programs for current and incoming students. In collaboration with building-  
23 based administrators, this position evaluates and supervises Special Education Staff with  
24 respect to their professional responsibilities. It also supports principals and program  
25 leaders to determine allocation of resources, including budget staffing and scheduling.  
26 The position further provides supervision and direct support to Speech/Language  
27 Pathologists with regard to caseload management, scheduling of services, goal writing,  
28 challenging cases, and high needs program students.

29 This position required a Special Education Administrator license, a master's  
30 degree in special education, educational leadership or a related field, and demonstrated

1 leadership in special education, emerging technologies, program development, program  
2 evaluation, staff development, school improvement and staff supervision and evaluation.  
3 It has a work year of 205 days. The incumbent earns \$99,000 a year.

4 Community Engagement & Communications Coordinator

5 This position coordinates District communications to keep staff, families and  
6 community members informed of GPS progress news, activities and events. Duties  
7 include writing initial drafts of the Superintendent's internal and external communications,  
8 organizing responses to media inquiries, and managing GPS' primary communication  
9 channels. This is a twelve month position with no licensure requirements. A bachelor's  
10 degree is required. The incumbent earns \$61,500 per year.

11 Director of Career, Vocational and Technical Education (CVTE)

12 This position oversees all aspects of the GPS CVTE program including writing  
13 grants, creating a strategic plan and leading educational initiatives, direct supervision and  
14 evaluation of the staff in the CVTE program, and providing guidance, coaching and  
15 training concerning CVTE program design, development, quality, application and  
16 approval to staff. This position requires teaching experience in a CVTE program,  
17 specialized CVTE knowledge, including experience in the design and implementation of  
18 CVTE curriculum, a master's degree in an education discipline and licensure as a CVTE  
19 supervisor director. The incumbent in the position earns \$114,800 per year.

20 Family Engagement and Attendance Coordinator

21 Working with the Director of Mental Health and Social Emotional Learning, this  
22 position works with staff, families and students to lead the District's efforts to increase  
23 overall attendance rates and decrease the rate of chronic absenteeism. The position

1 serves on school-based, district and regional attendance teams, supports families, tracks  
2 attendance data, and coordinates with outside agencies to secure any necessary  
3 supports for students and families. The work year is 190 days. A bachelor's degree in  
4 psychology, social work education or a related field is required. The incumbent earns  
5 \$70,000 per year.

#### 6 Special Education Coordinator

7 This position oversees the special education process at the building level and is  
8 responsible for assisting school administrators in the recruitment, selection, supervision,  
9 and evaluation of Special Education teachers and Education Support Professionals. It  
10 also develops and oversees special education programs and supports the Director of  
11 Special Education and the Principal with a variety of special education functions, including  
12 staff support, program evaluation and resource management. The position requires a  
13 Massachusetts Administrator License as a Special Education Administrator and a  
14 master's degree.

15 The position also requires at least ten years as a public high school guidance  
16 counselor. The High School Coordinator of Special Education earns \$115,287.00 per  
17 year.

#### 18 Opinion<sup>20</sup>

19 A unit clarification petition is the appropriate vehicle to determine whether newly  
20 created positions should be included or excluded from a given bargaining unit or to  
21 determine whether substantial changes in the job duties of an existing position warrant  
22 inclusion or exclusion from the unit. Town of Athol, 32 MLC 50, 52, CAS-04-3567 (June

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<sup>20</sup> The CERB's jurisdiction is not contested.

1 29, 2005). In deciding whether an employee should be accreted into an existing  
2 bargaining unit the CERB applies a three-step analysis. It first determines whether the  
3 position existed when the unit was first recognized or certified. City of Boston, 35 MLC  
4 137, 140, CAS-07-3669 (December 31, 2008). If the position is newly-created, the  
5 second step examines the parties' subsequent bargaining history to determine whether  
6 the parties considered the disputed position to be in the unit. Id. at 140. If there is no  
7 relevant bargaining history or negotiations did not result in an agreement as to unit  
8 placement, the CERB finally examines whether the position shares a community of  
9 interest with the existing unit. Town of Somerset, 25 MLC 98, 100, CAS-3145 (January 6,  
10 1999).

11 Here, the evidence shows that the SCC position is newly-created and there is no  
12 evidence that any similar positions, including "Coordinator" positions, existed at the time  
13 the unit was first certified. As to the second prong, the bargaining history recited above  
14 shows that the parties tried, but failed, to reach agreement on the SSC's unit placement.  
15 As such, the first two prongs of the accretion analysis are inconclusive, and the analysis  
16 turns on whether the SCC shares a sufficient community of interest with Unit A to warrant  
17 accretion.

18 When determining community of interest, the CERB considers such factors as  
19 similarity of skills and functions, similarity of pay and working conditions, common  
20 supervision, work contact, and similarity of training and experience. Boston School  
21 Committee, 12 MLC 1175, 1196, CAS-2598 (August 30, 1985).

22 The Union contends that the SSC position shares a community of interest with Unit  
23 A employees because, despite her new title, Donnelly is performing the same duties that

1 she previously performed with respect to the Science Center. The Union contends that  
2 that the fact that Donnelly now has a grant that permits her to perform all of those duties  
3 without also having to teach four middle school science classes does not mean that  
4 Donnelly does not otherwise share a community of interest with Unit A bargaining unit  
5 members.

6 The School Committee disagrees. It contends that as depicted in the grant  
7 proposal and job description, the SCC is primarily an administrative position that is  
8 responsible for operating the Science Center and expanding its operations through  
9 community grants and partnerships. The School Committee states that these duties are  
10 entirely different than the core aspects of a teaching position. The School Committee does  
11 not deny that as SCC, Donnelly performs some of the same duties that she previously  
12 performed. It contends, however, that Donnelly had been exceeding her expected duties  
13 and thus, her performance of those duties does not mean that she shares a community  
14 of interest with Unit A. In arguing that the petition should be dismissed, the School  
15 Committee also points out other differences between the SCC and existing Unit A  
16 positions, including that Donnelly now reports to the Assistant Superintendent rather than  
17 the Middle School principal, her salary is grant-based, and she directs many more  
18 teachers than she did as a Program Leader.

19 We agree that the SSC position shares characteristics with both Unit A and non-  
20 unit personnel. Like most other positions in Unit A, she teaches classes and/or models  
21 or coaches teachers.<sup>21</sup> Both the SCC and Program Leaders also have administrative

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<sup>21</sup> The School Committee disputes that Donnelly is teaching classes at the middle school and contends instead that she is assisting classroom teachers, modeling for them, and

1 duties related to budget, purchasing, inventory and grant writing. The education and  
2 licensing qualifications required to become the SCC are also nearly identical to those for  
3 Program Leaders and Academic Coaches. Donnelly's salary and benefits are also the  
4 same, except that Donnelly now works more days per year. Further, because Donnelly  
5 is now responsible for providing professional development and coaching to elementary  
6 school teachers, she has even more contact with Unit A members than she previously  
7 did.

8 Donnelly's coaching, modeling, curriculum development, professional  
9 development and administrative duties and work schedule are also similar to certain non-  
10 Unit A positions, including in particular, the Middle School Curriculum and Instruction  
11 Coordinator, the K-5 Education Program Coordinator, the Special Education Coordinator,  
12 the Coordinator of School Counseling and Operations, and the Director of CVTE. In this  
13 case, however, there is no separate administrators' unit into which Donnelly could be  
14 placed. Thus, the issue in this case is not, as the School Committee suggests, whether  
15 the SCC shares a *greater* community of interest with other administrators than with Unit  
16 A members, but rather whether the SCC shares a *sufficient* community of interest with  
17 Unit A to warrant accretion into that unit. See Town of Granby, 28 MLC 139, 142, CAS-  
18 3477 (October 10, 2001) (rejecting employer's argument that highway foreman should

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helping to implement instructional material. Whether characterized as teaching, coaching, or modeling lessons, there is no dispute, and the color-coded calendar provided by the School Committee demonstrates, that even though Donnelly no longer has any students assigned to her, 20% of her time as SCC is spent teaching science classes to middle school students at the Science Center.

1 not be accreted to highway department bargaining unit because it shared a greater  
2 community of interest with other unorganized employees).<sup>22</sup>

3 While as discussed below, Donnelly's duties and terms and conditions of  
4 employment are not exactly the same as they were when she was a Program Leader,  
5 this does not necessarily mean that the SSC does not share a sufficient community of  
6 interest with Unit A. It is well-established that community of interest does not require an  
7 identity of interest, provided there is no inherent conflict among consolidated groups of  
8 employees. Town of Somerset, 25 MLC at 100 (1999) (citing Franklin Institute of Boston,  
9 12 MLC 109 (1985)). To avoid such conflicts, the CERB typically places supervisory  
10 employees in separate units from those whom they supervise, based on the concern that  
11 a conflict between a supervisor's loyalty to bargaining unit members and the supervisor's  
12 obligation to the employer would impair effective collective bargaining. Boston School  
13 Committee, 12 MLC at 1196 (citing Boston School Committee, 11 MLC 1352, 1360, CAS-  
14 2549 (January 23, 1985)).

15 Here, for the reasons set forth in the preceding paragraphs, we find that the SCC  
16 position, as currently performed by Donnelly, shares a community of interest with Unit A  
17 employees in terms of duties, education, licensing and experience requirements, annual  
18 salary, benefits and contact with other Unit A members. Further, there is no dispute that  
19 the SCC, in practice, and as described in the job posting, has no formal supervisory or  
20 evaluation duties. While she might generously be described as directing the work of  
21 elementary and middle school teachers when she coaches or models science lessons,

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<sup>22</sup> As such, unlike our concurring colleague, we do not speculate on where we would place the SCC if there were an administrators' unit.

1 there is no evidence, and we do not find, that she is a true supervisor, i.e., that she has  
2 the independent authority to make assignments, evaluate employees, initiate and  
3 recommend discipline, adjust grievances, or the power to effectively recommend  
4 personnel decisions like hire, transfer, suspend, promote, or discharge employees.<sup>23</sup>  
5 See Town of Granby, 28 MLC at 142.

6 In this regard, Donnelly's position may be compared to the Development Officer  
7 whose unit placement was at issue in Boston School Committee, 12 MLC at 1198. There,  
8 the Boston School Committee argued that the Development Officer should be placed in  
9 the district's administrators' unit because it was a full-time administrative position with no  
10 teaching duties. The CERB rejected this argument for several reasons. It first found that,  
11 unlike the other positions at issue in that case, which it had accreted to the administrators'  
12 unit, the Development Officer played no role in teacher evaluations. The CERB next  
13 noted that even though the Development Officer had no teaching duties, its training and  
14 experience requirements were similar to those for teachers and the educational  
15 requirements were identical. As to duties, the CERB found that the Development  
16 Officer's role in facilitating and coordinating alternative learning experiences for students  
17 through alternative programs and notifying the students about various vocational

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<sup>23</sup> Further, to the extent that Donnelly could be viewed as "directing" employees by fulfilling the job description duties of "providing and coordinating modeling, coaching and mentoring for elementary science teachers," and "working with teachers to develop, refine and practice grade level laboratory experiences that will then be implemented with confidence in each elementary school classroom," we find that these duties are similar to those performed by academic coaches and Program Leaders, who among other things, are responsible for "facilitating the creation of and the implementation of standards-based curriculum, effective instructional practices, and common assessments that measure student progress."

1 opportunities, was similar to the teachers' role in developing new curriculum and material  
2 for their courses. Based on these similarities and in the absence of any evidence that  
3 placing the Development Coordinator in the teachers' unit would cause inherent conflicts  
4 within the unit, the CERB accreted the position to the teacher's unit. Id.

5 Here, the SCC, like the Development Officer, has no evaluative duties, and has  
6 similar duties, education, training, and experience requirements as Program Leaders and  
7 academic coaches.<sup>24</sup> Further, unlike the Development Officer, the incumbent SCC  
8 continues to teach classes. This provides an even stronger basis than was present in  
9 Boston School Committee to accrete the SCC to Unit A.<sup>25</sup>

10 The other differences between the SCC and other Unit A positions that the School  
11 Committee has identified do not change this result. Thus, although the SCC is grant  
12 funded, it is well-established that where an employee performs similar duties under  
13 similar conditions as other bargaining unit members, the source of funding does not affect  
14 the individual's status as a public employee or the community of interest analysis. Board  
15 of Regents of Higher Education Southeastern Massachusetts University, 11 MLC 1486,  
16 1496, 1498, SCR-2171 (March 1, 1985). The fact that the position is not strictly building-

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<sup>24</sup> Notably, academic coaches were expressly included in the DLR's 1966 certification of this unit.

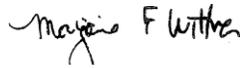
<sup>25</sup> Our concurring colleague asserts that Boston School Committee is distinguishable because there, the school committee eliminated a unit position and created the new title at issue, whereas here, there is still a Program Leader at O'Maley Middle School. This argument overlooks the fact that Donnelly continues to perform many if not most of the duties that she performed with respect to the Science Center when she was undisputedly a Unit A Program Leader. This indicates that Donnelly's work duties are aligned with other Unit A positions – namely the one she formerly held. It is not dispositive that there continues to be an O'Maley Science Department Program Leader because there is no evidence and neither party argues that the Program Leader who replaced Donnelly continues to perform any Science Center-related duties.

1 based and reports to someone other than the principal is also not dispositive because  
2 three other Unit A positions are not building-based. Further in Appendix B, Section 2,  
3 “Teaching Staff Assigned to More than One Building,” the CBA expressly contemplates  
4 that there will be teachers who are not assigned to a single location and that such  
5 teaching staff could be evaluated by someone other than the school principal. Finally,  
6 although Donnelly’s work year is longer than other Unit A employees, the CERB has  
7 consistently declined to base community of interest solely on the number of hours or days  
8 that an employee works where the position otherwise shared a community of interest with  
9 the unit, especially in cases of new “positions whose hours and schedule were not the  
10 product of collective bargaining.” See, e.g., Boston School Committee, 12 MLC at n. 29  
11 (accreting Development Officers who functioned as providers and facilitators of  
12 alternative education for students even though they worked on average 20 more days  
13 than teachers); Waltham School Committee, 25 MLC 137, CAS-3220, MCR-4541 (March  
14 1, 1999) (ordering election in unit of ten-month and twelve-month secretaries and finding  
15 that other than a longer work year for twelve month secretaries, the two groups shared a  
16 community of interest in terms of work environment, job requirements, education, skill  
17 and training).

18 In sum, although there are some differences between the SCC’s terms and  
19 conditions of employment, where the position shares a community of interest with respect  
20 to a variety of terms and conditions of employment and, where there is no evidence that  
21 placing the SCC in Unit A would cause inherent conflict in the unit, we order the SCC  
22 accreted to Unit A.

23 SO ORDERED

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF LABOR RELATIONS  
COMMONWEALTH EMPLOYMENT RELATIONS BOARD



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MARJORIE F. WITTNER, CHAIR



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KELLY B. STRONG, CERB MEMBER

1 Concurring Opinion

2           While I agree with the majority's conclusion regarding the placement of the SCC  
3 in the bargaining unit, I do so only because there is no existing bargaining unit for  
4 administrative employees. While there is evidence that supports a finding of a community  
5 of interest between the SCC position and those in the bargaining unit, I find that it shares  
6 a greater community of interest with the unrepresented administrative and coordinator  
7 positions. The SCC position is a full-year position, with duties extending beyond the  
8 academic year and has both a longer workday and year than Unit A positions. While the  
9 majority is correct to note that the fact that a position has different hours or a different  
10 number of workdays does not, without more, support excluding a position from a unit  
11 where there is otherwise a community of interest, in this case the SCC position not only  
12 has different daily hours of work and a significantly longer work year, but it is also a  
13 position created to perform a broader function than those within the unit. The position is  
14 for a coordinator of science education for Grades 3 to 8 and as such requires coordinating

1 curriculum for a large swath of the school population -- beyond a single grade level or  
2 school. It has far broader programmatic responsibilities than Program Leaders, Academic  
3 Coaches, or other unit positions that are assigned to multiple schools. The SCC works  
4 under the supervision of the Assistant Superintendent – unlike the employees in Unit A.  
5 I also find that the district's decision to create the new SCC position, while still maintaining  
6 and filling Donnelly's prior position as a Program Leader, is indicative of an intent for the  
7 position to have a broader reach than those included in Unit A. This is a somewhat  
8 different fact pattern than was present in Boston School Committee, supra, where the  
9 employer was attempting to exclude Development Officers from the bargaining unit. In  
10 Boston School Committee, the newly-created school-based position of Development  
11 Officer supplanted a bargaining unit position eliminated by the employer. 12 MLC at 1192,  
12 1198.<sup>26</sup>

13 While I am concerned that the accretion of this position into the bargaining unit will  
14 unnecessarily complicate matters for all parties should the administrators seek to be  
15 represented in the future, the absence of an existing administrators bargaining unit  
16 requires me to concur, albeit reluctantly, with the majority. While the SCC position has  
17 more in common with the other unrepresented titles, the Union has established that the  
18 position shares a sufficient community interest with those in Unit A and, as noted by the  
19 majority, its inclusion would not create any conflicts as there has been no showing that

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<sup>26</sup> I note that in Boston School Committee, the CERB placed the Program Advisors in a unit of administrative and supervisory employees, over the Union's objection, even though not all of the positions had supervisory duties. Id. at 1097.

1 the position is supervisory.<sup>27</sup> As such, in accordance with the CERB's holding in Town of  
2 Granby, supra, the SCC position "shares a sufficient community of interest" with  
3 bargaining unit employees to support its accretion in the absence of any unit of  
4 administrators.

*Victoria B. Caldwell*

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VICTORIA B. CALDWELL, CERB MEMBER

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<sup>27</sup> While the position's lack of any supervisory authority supports a conclusion that including it in the bargaining unit would not result in any internal conflicts, I do not find it relevant to the underlying community of interest analysis.