

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

In the Matter of

COHASSET SCHOOL COMMITTEE

and

COHASSET TEACHERS ASSOCIATION

Case No. CAS-25-11141

Date issued: October 14, 2025

CERB Members Participating:

Lan T. Kantany, Chair
Kelly B. Strong, Member
Victoria B. Caldwell, Member

Appearances:

Sarah C. Spatafore, Esq.	-	Representing the Cohasset School Committee
Jonathan M. Conti, Esq.	-	Representing the Cohasset Teachers Association

CERB DECISION

Summary and Statement of the Case

1 On March 4, 2025, the Cohasset Teachers Association (Union) filed a unit
2 clarification petition with the Department of Labor Relations (DLR) regarding one non-
3 union position, a Board-Certified Behavior Analyst (BCBA), employed by the Cohasset
4 School Committee (School Committee). The Union sought to accrete the BCBA into its
5 existing bargaining unit comprised of professional employees (Unit A).¹ On or about
6 March 21, 2025, the DLR sent the parties a scheduling and information request letter. In

¹ It is undisputed that the BCBA is a professional employee.

1 April of 2025, the parties notified the DLR that they wanted to move forward with an
2 informal conference. On July 10, 2025, the parties attended an informal conference.
3 During the conference, the parties provided information pertinent to the unit placement of
4 the BCBA position. Additionally, the parties submitted position statements, affidavits, job
5 descriptions, and other documents before and after the conference.

6 In a letter dated September 8, 2025, the DLR summarized the information provided
7 by the parties and directed the parties to show cause why the CERB should not resolve
8 the petition based on its summary of the record. On September 18, 2025, both the
9 Petitioner and the Respondent filed responses to the show cause letter that highlighted
10 certain information that was already provided to the DLR. However, both parties agreed
11 that the summarized information was accurate. After considering the undisputed
12 information summarized below, we allow the petition to accrete the BCBA position into
13 the Union's existing Unit A bargaining unit.

14 Background

15 Cohasset Teachers Union, Unit A

16 The five-member School Committee oversees the Cohasset Public Schools and
17 employs a Superintendent to run the School District. Currently, the Cohasset Public
18 Schools serve students pre-K through grade 12 in four schools located in the Town of
19 Cohasset: Joseph Osgood Elementary (PreK-2), Deer Hill Elementary (grades 3-5),
20 Cohasset Middle School, and Cohasset High School.

1 The Union is the exclusive bargaining representative for Unit A, a bargaining unit
2 comprised of certain professional employees.² Since approximately the 1970s, the
3 School Committee and the Union have been parties to a series of collective bargaining
4 agreements for Unit A, including one effective from September 1, 2022 through August
5 31, 2025 (CBA).³ Article I of the parties' CBA states:

6 For the purposes of collective bargaining with respect to wages, hours
7 and other conditions of employment, the negotiation of collective
8 bargaining agreements and any questions arising thereunder, the
9 Committee recognizes the Association as the exclusive bargaining
10 agent and representative of the professional employees of the
11 Committee:

12
13 Classroom teachers, department chairpersons, specialists, guidance
14 counselors, adjustment counselors, school psychologists, nurses,
15 librarians, health coordinators, physical therapists, occupational
16 therapists and speech therapists; but excluding the superintendent of
17 schools, technology coordinator, the athletic director and other
18 members of the Central Office staff and all other administrators. Also
19 excluded from recognition in this Collective Bargaining Agreement are
20 day-to-day substitutes, leave replacement substitutes who are
21 employed for less than 60 consecutive school days, and leave
22 replacement substitutes who are either not certified in the field and
23 level in which they are working or not serving under an approved
24 waiver from the Department of Education.

25
26 In addition, the Committee recognizes the Association as the exclusive
27 bargaining agent and representative for any leave replacement staff
28 who are employed for at least 60 consecutive school days and who
29 are either licensed in the field and level in which they are working or
30 serving under an approved waiver from the Department of Education.

31
32 Unit A consists of approximately 172 employees.

² The School Committee is party to collective bargaining agreements with five bargaining units, including Unit A. The Union filed this petition only for Unit A.

³ Neither party knew the exact date the Union was recognized as the exclusive representative for Unit A. However, the Union stated that the first CBA that it found was dated in the late 1960s/early 1970s. The School Committee did not disagree with this contention and acknowledged that the BCBA position was created years after Unit A was created.

Pursuant to the 2022-2025 Unit A CBA, for the 2024-2025 school year, unit members with a master's degree earn between \$61,918 annually at Step 1 of the salary scale and \$103,155 annually at the top step of the scale, while unit members with a doctoral degree earn between \$73,704 annually and \$122,904 annually on the salary scale. Under the terms of the CBA, all bargaining unit members are entitled to yearly increases and cost of living increases.

All Unit A employees receive 15 sick days, three personal days, and five bereavement days per year. Unit A employees assigned to the elementary schools work six hours and 40 minutes a day, and Unit A employees assigned to the Middle and High Schools work seven hours a day. Unit A employees work 184 days (180 school days plus four additional days) per year. The department chairpersons and guidance counselors work a 180-day school year plus an additional three weeks.⁴ Pursuant to Article IV, Section C(2)(e) of the CBA, occupational therapists, speech-language therapists, and physical therapists may be required to work in more than one building and to travel by their own means from building to building.

All Unit A employees and the BCBA position are paid biweekly and work Monday through Friday during school hours. All Unit A employees and the BCBA position only work during the school year, except department chairpersons and guidance counselors who, as noted above, work an extra three weeks. All School Committee employees including Unit A employees and the BCBA position are eligible for the same benefits. All

⁴ The guidance counselors work the extra three weeks during the summer. The department chairpersons choose when to complete the three extra weeks, including over school vacations and on weekends during the school year.

1 Unit A employees and the BCBA position receive similar health insurance benefits and
2 are subject to the same School Committee policies.

3 At the conference, the School Committee submitted approximately 90 job
4 descriptions for the various positions within the existing bargaining unit, and the Union
5 agreed that the job descriptions were accurate. The job descriptions include teacher
6 positions for different grade levels and subject matters. Generally, the School Committee
7 requires all teacher positions in the bargaining unit to hold the appropriate Massachusetts
8 Department of Elementary and Secondary Education (DESE) licensure and prefers that
9 teachers possess a master's degree and several years of relevant experience.
10 Additionally, the various teacher positions in the bargaining unit perform several of the
11 same core job duties such as planning, assessing, and delivering effective instruction and
12 curriculum.

13 Below is a sample of job descriptions for the special education teachers and non-
14 teacher bargaining unit positions. Apart from the district school nurse, these bargaining
15 unit positions may be assigned only to certain grade levels or a school in the District.

16 Occupational Therapist

17 Occupational Therapists' (OT) job duties generally include:

- 18 1) identification of children who require OT services at the middle and high school
19 level;
- 20 2) screening, assessment and development of assessment reports and
21 Individualized Educational Programs (IEPs) for children qualifying for
22 occupational therapy services;
- 23 3) providing direct and consultative occupational therapy services to students who
24 have IEPs; and
- 25 4) completing all paperwork, including but not limited to documentation required
26 for IEPs, team meetings, progress reports, billing/logging, and departmental
27 paperwork.
28

The School Committee requires OTs to have a bachelor's or master's degree in occupational therapy and prefers three years of relevant experience. The OTs report to the Director of Student Services in the Special Education Department.

Speech and Language Pathologists

Speech and Language Pathologists' (Speech/Language Pathologist) job duties generally include:

- 1) assessing a student's communication skills for the purpose of identifying communication disabilities, determining special education eligibility and writing IEPs;
- 2) conducting comprehensive speech-language evaluations in compliance with state and federal guidelines;
- 3) providing direct therapy services to students with speech and language impairments in individual and group settings;
- 4) developing treatment plans, interventions and/or educational materials for the purpose of minimizing the adverse impact of communication disorders in learning;
- 5) maintaining accurate records of therapy sessions, progress notes, assessments, and IEP documentation in accordance with school and district policies;
- 6) interpreting reports within the scope of the Speech/Language Pathologist's experience and goals for the purpose of providing information and/or ensuring that IEPs are appropriate;
- 7) collaborating with general and special education teachers, school psychologists, counselors, and families to support student progress; and
- 8) providing consultation and support to staff on language development, communication strategies, and classroom accommodations.

The School Committee requires a Speech/Language Pathologist to have a Certificate of Clinical Competence (CCC) and prefers at least three years of relevant experience and a master's degree. The Pathologists report to the Director of Student Services in the Special Education Department.

Psychologists/Adjustment Counselors

Psychologist/Adjustment Counselors' (Psychologist/Counselor) job duties generally include:

- 1) identifying and assessing the learning development and needs of individual and groups of students that affect learning and adjustment;
- 2) using assessment data regarding the student and his/her environment in developing appropriate interventions and programs;
- 3) performing psychological and academic assessments of students, which include observations, data collection, interpretation and analysis;
- 4) preparing interpretive reports from psychological assessments in accordance with District, state, and federal guidelines;
- 5) providing interventions to students to support the teaching process and to maximize learning and adjustment;
- 6) providing individual and group interventions services for students, including social skills training and crisis interventions;
- 7) working closely with teachers and teams to enhance critical skills, including conducting formative assessments, interpreting data, creating intervention plans and making data-based determinations about the efficacy of interventions;
- 8) providing individual or group psychological support to aid students' social and academic adjustment as it pertains to assisting students in accessing education;
- 9) encouraging parents and students to participate in the learning process through frequent and meaningful communication about students' personal and academic progress;
- 10) assessing students referred for counseling due to school adjustment concerns;
- 11) providing counseling interventions and social skills training in an individual/group setting;
- 12) consulting with staff and parents regarding student concerns and making referrals to outside agencies as appropriate; and
- 13) assisting teachers and staff in behavioral interventions and strategies to assist learning.

The School Committee requires Psychologist/Counselors to have a school psychologist certification and prefers at least three years of relevant experience and a master's degree. The Psychologist/Counselors report to the principals and the Director of Student Services in the Special Education Department.

Physical Therapist

Physical therapists' (PT) job duties generally include:

- 1) evaluating referred students for eligibility for special education;
- 2) developing integrated and functional IEP goals and objectives for eligible students;

- 3) participating as a member of the IEP team to design supports and services consistent with the educational philosophy and goals of the District;
- 4) providing research-based intervention and support to assist students in benefitting from special education and accessing the curriculum and life of the school;
- 5) providing direct intervention to students individually, in small groups or within the general education classroom; collecting data and reporting progress in a systematic way and per the IEP progress reporting cycle; and
- 6) consulting and training staff and parents to facilitate carryover of skills.

The School Committee requires the PTs to be licensed by the Massachusetts Board of Health Professions as a physical therapist. Also, the PTs report to the principals and the Director of Student Services in the Special Education Department.

Special Education Teachers

The duties of special education teachers generally include:

- 1) screening and identifying children who may have special needs;
- 2) coordinating special education evaluation procedures in conjunction with the Team Chairperson;
- 3) conducting diagnostic assessments and preparing related reports;
- 4) developing and writing educational plans in conjunction with parents and other professionals;
- 5) attending and chairing annual review special education TEAM meetings;
- 6) delivering instructional services both in a small group setting and/or the classroom in accordance with the student's IEP; and
- 7) training teaching assistants in early childhood classroom strategies.

The School Committee requires special education teachers to hold a valid DESE Teacher Certification in special education and early childhood education and prefers at least three years of relevant experience and a master's degree. The special education teachers report to the principals and the Director of Student Services in the Special Education Department.

District School Nurse

The District School Nurse is responsible for developing, implementing, and managing the school health program. Responsibilities include: program management,

nursing services, collaboration, health education, community health, emergency planning, and professional practice. As a nurse registered through the Massachusetts Board of Registration in Nursing (BORN), the Nurse must adhere to the Nurse Practice Act, pertinent regulations governing nursing practice, and standards of care established by the professional organizations. The district school nurse is required to work in multiple school buildings. The School Committee requires the district school nurse to possess a current license to practice as a Registered Nurse in Massachusetts and a bachelor's and/or master's degree in nursing.

BCBA

The BCBA is not in any bargaining unit and is a district-wide position. The BCBA's job duties include:

- 1) providing behavioral consulting services to children with autism;
- 2) conducting functional behavioral analyses and assessments;
- 3) designing behavioral intervention plans;
- 4) organizing and implementing behavioral programs;
- 5) programing development and data-based decision making;
- 6) conducting educational and behavioral assessments;
- 7) designing data-based monitoring systems to evaluate child progress and program effectiveness; and
- 8) providing staff and parent training.

The School Committee requires the BCBA to hold a BCBA certification, which is issued by the Behavior Analyst Certification Board (BACB) and requires a master's degree to obtain, practical fieldwork in applied behavior analysis, and a passing score on the BCBA certification examination. The BCBA position conducts and writes evaluations and develops IEP and Behavior Support Plans ("BSPs") for students. The BCBA position provides consultation to school psychologists, OTs, PTs, Speech/Language Pathologists, parents, and outside service providers who provide services to students.

1 The BCBA position was created in the 2005-2006 school year and occupied by
2 Jennifer Steel. The position was vacant for the 2006-2007 school year. The School
3 Committee hired Noelle Neault for the 2007-2008, 2008-2009, 2011-2012 school years
4 and Meg Corry for the 2012-2013 school year.

5 On September 29, 2014, the School Committee hired Jacqueline Potter (Potter),
6 and she has held the BCBA position since then. Currently, Potter has a three-year
7 individual employment contract covering the 2024-2025, 2025-2026, and 2026-2027
8 school years. Within the Cohasset Public Schools, Potter is the only BCBA. Potter is
9 responsible for providing all required behavior analytic-based services across each of the
10 four schools in the District. Potter has an office at Deer Hill Elementary, but travels
11 between the schools during the school day.

12 Potter reports to the Superintendent, and the Director of Student Services in the
13 Special Education Department. The Director of Student Services conducts Potter's yearly
14 performance evaluations. Currently, Potter earns an annual salary of \$95,322. Potter
15 receives 15 paid sick days and three personal days per year, as well up to five consecutive
16 bereavement days per year. Potter works approximately six and one-half to seven hours
17 per day. Potter works 184 days during the school year. Potter is required to attend
18 professional development training with Unit A members. In her role as BCBA, Potter
19 cannot hire, fire, or discipline any employees. Potter does not conduct performance
20 evaluations for other employees, create work schedules for other employees, or approve
21 time off requests from other employees.

22 Bargaining History

1 Prior to 2024, during previous contract negotiations, neither party had ever raised
2 the issue of including the BCBA position in Unit A. In October of 2024, outside of contract
3 negotiations, the Union requested that the parties add the BCBA position into Unit A.
4 Shortly thereafter, the School Committee denied the Union's request. In subsequent
5 successor contract negotiations, neither party made a formal offer pertaining to the BCBA
6 position. As of the date of the conference, the parties had never reached an agreement
7 on whether or not to include the BCBA position in Unit A.

8 Opinion

9 A unit clarification petition is the appropriate vehicle to determine whether newly
10 created positions should be included or excluded from a given bargaining unit or to
11 determine whether substantial changes in the job duties of an existing position warrant
12 either its inclusion or exclusion from the unit. Town of Athol, 32 MLC 50, 52, CAS-04-
13 3567 (June 29, 2005). In deciding whether an employee should be accreted into an
14 existing bargaining unit, the CERB applies a three-step analysis. It first determines
15 whether the position existed when the unit was first recognized or certified. City of Boston,
16 35 MLC 137, 140, CAS-07-3669 (December 31, 2008). If the position is newly created,
17 the second step examines the parties' subsequent bargaining history to determine
18 whether the parties considered the disputed position to be in the unit. Id. If there is no
19 relevant bargaining history or negotiations did not result in an agreement as to unit
20 placement, the CERB examines whether the position shares a community of interest with
21 the existing unit. Town of Somerset, 25 MLC 98, 100, CAS-3145 (January 6, 1999).

22 Newly Created Positions and Bargaining History

1 First, it is undisputed that the BCBA position did not exist when the unit was first
2 certified, therefore the first prong of the accretion analysis is not dispositive. Next, it is
3 undisputed that the Union and School Committee engaged in a limited email exchange
4 outside of contract negotiations about the inclusion of the BCBA position into Unit A, but
5 the parties have never reached an agreement on the matter.

6 The School Committee asserts that historically the Union has proposed in
7 successor contract negotiations that the parties add certain positions into the bargaining
8 unit. Despite the School Committee hiring a BCBA in 2006, the School Committee argues
9 that Union failed to propose including the BCBA position into Unit A during successor
10 contract negotiations. Although the parties have bargained over unit placement of other
11 positions in the past, it is undisputed that prior to the Union filing this petition, the parties
12 had discussed but never resolved whether the BCBA would be included in or excluded
13 from Unit A. In order for the second prong of the test to show that the parties did not intend
14 to include the position in the bargaining unit after it was newly created, the employer must
15 do more than demonstrate that the union never raised adding the position during
16 negotiations or that its proposal was unsuccessful. Rather the employer must show that
17 there was “bargaining history to support a finding that the parties addressed and *resolved*
18 the unit placement of the contested position.” *Id.* (emphasis added). Where the parties
19 did not reach an agreement as to the BCBA at any point, the second prong is inconclusive.

20 Community of Interest

21 The third prong of the unit placement test is community of interest. In deciding
22 whether employees share a community of interest, we examine factors like similarity of
23 skills and functions, similarity of pay and working conditions, common supervision, work

1 contact, and similarity of training and experience. Princeton Light Department, 28 MLC
2 46, 48, MCR-4805 (June 29, 2001); Town of Bolton, 25 MLC 62, 65, MCR-4562
3 (September 10, 1998); Boston School Committee, 12 MLC 1175, 1196, CAS-2598
4 (August 30, 1985). No single factor is outcome determinative. City of Springfield, 24 MLC
5 50, 54, MCR-4602 (January 15, 1998) (citing City of Worcester, 5 MLC 1108, 1111, MCR-
6 2632, 2633, 2685-2688 (June 30, 1978)). The Law requires that employees share only a
7 community of interest rather than an identity of interest. County of Dukes County/Martha's
8 Vineyard Airport Commission, 25 MLC 153, 155, MCR-4700 (April 16, 1999); Springfield
9 Water and Sewer Commission, 24 MLC 55, 59, MCR-4603 (January 15, 1998).

10 The School Committee argues that the BCBA does not have a community of
11 interest with the teachers in Unit A. We disagree. It is undisputed that the BCBA and all
12 Unit A members, including teachers: 1) are paid biweekly, 2) work Monday through Friday
13 during school hours, 3) are eligible for the same benefits, 4) receive similar health
14 insurance benefits, 5) are subject to the same School Committee policies, 6) receive 15
15 sick days, three personal days, and five bereavement days per year, and 7) work 184
16 days during the school year. Additionally, the BCBA position attends professional
17 development training with Unit A members, including teachers.

18 Moreover, the BCBA position shares similar skills and functions, common
19 supervision, and work contact with other positions in Unit A, such as the district nurse,
20 OT, PT, Speech/Language Pathologist, Psychologist/Counselor, and special education
21 teacher. For example, the BCBA position and Unit A's OTs, PTs, and Speech/Language
22 Pathologists may be required to work in more than one building and to travel by their own
23 means from building to building.

1 Also, the BCBA and the Unit A positions of OT, PT, Speech/Language Pathologist,
2 Psychologist/Counselor, and special education teacher report to the Director of Student
3 Services in the Special Education Department. The BCBA, PT, and special education
4 teachers provide the staff and parents training on certain topics. Also, the BCBA, OT, PT,
5 Speech/Language Pathologist, Psychologist/Counselor, and special education teacher
6 positions are involved with the IEP process and provide services to students. Additionally,
7 the BCBA position routinely interacts with several Unit A positions, including but not limited
8 to the OT and PT.

9 The School Committee also argues that the BCBA position is a supervisory
10 position for educators and therefore its placement in Unit A is inappropriate. The School
11 Committee asserts that the BCBA is responsible for overseeing the implementation of
12 services for students, which involves oversight of educators in the bargaining unit.
13 Although the BCBA position ensures that the IEPs for students are being followed and
14 provides training and consultations on services for students to staff, the School
15 Committee has not provided sufficient evidence to demonstrate that the BCBA position
16 supervises any Unit A employee. In her role as BCBA, Potter cannot hire, fire, or discipline
17 any employees. Potter does not conduct performance evaluations for other employees,
18 create work schedules for other employees, or approve time off requests from other
19 employees. The School Committee argues that if the School Committee hired more
20 BCBAs, Potter would be responsible for supervising those employees. However, the
21 CERB's review is limited to Potter's current job duties, not those job duties that the School
22 Committee might assign in the future. See Town of Chelmsford, 27 MLC 41, 43, CAS-
23 3394 (November 6, 2000) (CERB decides appropriate unit placement based on actual,

1 not potential job duties). We therefore conclude that the petitioned-for BCBA position
2 shares a community of interest with the employees in the Union's existing Unit A
3 bargaining unit.

4 Conclusion

5 For the above-stated reasons, we find that the petitioned-for BCBA position shares
6 a sufficient community of interest with the employees in the Union's Unit A bargaining unit.
7 As such, we order that the BCBA position be accreted into the Union's Unit A bargaining
8 unit.

SO ORDERED.

COMMONWEALTH EMPLOYMENT RELATIONS BOARD



LAN T. KANTANY, CHAIR



KELLY B. STRONG, MEMBER



VICTORIA B. CALDWELL, MEMBER