

Commonwealth of  
Massachusetts  
Department of Labor Relations

**FY2015 ANNUAL REPORT:**



*July 1, 2014 - June 30, 2015*

**Erica F. Crystal**

Director

Commonwealth of Massachusetts

Department of Labor Relations

Charles F. Hurley Building

19 Staniford Street, 1st Floor

Boston, Massachusetts 02114

Telephone: 617-626-7132

FAX: 617-626-7157

Email: [efile.dlr@state.ma.us](mailto:efile.dlr@state.ma.us)

Website: [www.mass.gov/dlr](http://www.mass.gov/dlr)

## **TABLE OF CONTENTS**

EXECUTIVE SUMMARY .....	3
OVERVIEW OF DLR SERVICES.....	6
1. Processing Prohibited Practice Charges.....	6
2. Hearings and Appeals .....	7
3. Representation Issues.....	7
4. Labor Dispute Mediation .....	9
5. Grievance Arbitration .....	10
6. Investigation, Prevention and Termination of Strikes .....	10
7. Litigation.....	10
8. Other Responsibilities .....	10
SELECTED CERB DECISIONS JULY 1, 2013 TO JUNE 30, 2014.....	12
SELECTED LITIGATION JULY 1, 2013 TO JUNE 30, 2014 .....	17
STATISTICAL REPORTS .....	19
STAFF LIST .....	25
ADVISORY COUNCIL.....	26
BUDGET.....	27
FISCAL YEAR 2015 GOALS .....	28

## **EXECUTIVE SUMMARY**

On November 14, 2007, pursuant to [Chapter 145 of the Acts of 2007](#), the Legislature reorganized the Commonwealth's neutral labor relations agencies into the Division of Labor Relations (DLR). On March 11, 2011, under Chapter 3 of the Acts of 2011, "An Act Reorganizing the Executive Office of Labor and Workforce Development," the DLR's name was changed from the Division of Labor Relations to the Department of Labor Relations.

The DLR protects employees' rights to organize and choose bargaining representation and ensure that employers and unions benefit from, and comply with, the Commonwealth's collective bargaining statutes. To carry out this mission, the DLR conducts elections, hears representation cases, investigates and hears unfair labor practice cases, resolves labor disputes through mediation and arbitration, and issues orders in cases that parties are unable to resolve through alternative dispute resolution methods. The DLR includes 1) hearing officers, arbitrators, mediators and support staff, 2) the Commonwealth Employment Relations Board (CERB), an appellate body responsible for reviewing hearing officer orders and issuing final decisions, and 3) the Joint Labor Management Committee (JLMC), a committee including labor and management representatives, which uses its procedures to encourage municipalities and their police officers and fire fighters to agree directly on terms to resolve their collective bargaining disputes or on a procedure to resolve these disputes.

As reflected in the charts found later in this report, during the past fiscal year, the DLR opened 813 new cases and closed 1,017 cases. The majority of those cases are unfair labor practice cases. During this past year, the DLR was able to continue improving case-processing time. The average time it takes for a case to move at each stage continued to improve. This improvement is based on the DLR's continued use of new procedures and technology to advance cases. More importantly, however, this past year's improvement is likely based on DLR stakeholders increasing knowledge of the new procedures. This knowledge was helped in large part by the DLR staff's completion of the revised "green book," or as it is more formally entitled, "A Guide to the Massachusetts Public Employee Collective Bargaining Law." The new green book includes updated policies and procedures. All regulations, statutes and cases are available to the reader by clicking on the link.

Currently there is no backlog at the DLR. Additionally, the DLR has reduced the time it takes from hearing to decision from 40.85 weeks in FY 14 to 33.75 in FY 15. The DLR hopes to further reduce this number in the next fiscal year, though this will be dependent on staffing levels. Currently the DLR is working with less staff than it has in recent years.

Also continuing to contribute to the DLR's improved efficiency is its transition to a paperless case processing system. The parties are increasingly using electronic filing, allowing faster and more efficient communication between the DLR and the parties. See 456 CMR 12.11 for filing information.

The DLR continued to use its mediation services to facilitate settlements in all case classifications. In addition to contract mediation, grievance mediation and traditional unfair labor practice mediation, mediators continue to provide expedited mandatory mediation services in all Level I cases. The DLR's continued use of mediation facilitates the parties' relationships and provides significant cost-savings to them. During this past fiscal year, DLR mediators conducted 335 contract mediations, 58 grievance mediations and 144 unfair labor practice mediation sessions. On June 15, 2015, the DLR Director declared impasse in PS-13-3078, City of Springfield and Springfield Public Health Nurses Association.

During the past fiscal year, the CERB published 12 Hearing Officer Appeal decisions; 8 representation decisions, one decision in the first instance, and decided 30 requests for review of Investigator pre-hearing dismissals.

During the past fiscal year, there were 41 JLMC cases filed. The DLR mediators, working under the JLMC's oversight, conducted 172 contract mediations. The JLMC conducted 18 Section 3(a) hearings.

The DLR offers a myriad of services to accomplish its mission, including those listed below.

- Processing Prohibited Practice Charges
- Representation Petitions and Elections
- Written Majority Authorization Petitions
- Unit Clarification Petitions
- Interest Mediation
- Mediation of Prohibited Practice Charges
- Grievance Mediation
- Grievance Arbitration
- Investigation, Prevention and Termination of Strikes
- Litigation

In FY 2016 the DLR plans to continue using technological advances to provide better service to our stakeholders. In this regard, the new electronic scheduling option, allowing the parties to submit case scheduling information electronically, rather than submitting a separate form, will be made available to all parties using DLR services. DLR is also working on a new data search system that will allow stakeholders the ability to perform limited searches of the DLR's case management system.

In FY 2016 the DLR is implementing a formal training program for stakeholders, so the parties better understand their rights and obligations under the laws the DLR enforces.

## **OVERVIEW OF DLR SERVICES**

In order to provide prompt and fair resolution of labor disputes, the DLR provides the following services:

### **1. Prohibited Practice Charges Initial Processing and Investigation**

The majority of DLR cases are unfair labor practice cases filed pursuant to G.L. c. 150A or G.L. c. 150E. Charges of prohibited practice may include various allegations, including for example, allegations that an employer discriminated or retaliated against an employee because the employee had engaged in activities protected by law; allegations that an employer or employee organization has failed to bargain in good faith; or allegations that an employee organization has failed to properly represent a member of the bargaining unit.

After an initial review to determine if the case is properly before the DLR and that it meets the DLR filing requirements, the Director will first determine whether the case should be deferred to the parties' own contractual grievance procedure. If the Director determines that the case is properly before the DLR, she will classify the case as a Level I or Level II case based on the case's relative impact to the public. Cases where resolution of the dispute has the greatest urgency will be processed first and the time frame for completion of the investigation will be 14 to 45 days, depending on the level of urgency. Level II cases with less urgency will be investigated between 30 and 90 days from the filing date.

At the investigation, the investigator is statutorily obligated to explore whether settlement of the charge is possible. If such discussions do not result in settlement, the investigator will proceed with the investigation. The investigator will expect the parties to present evidence from individuals with first-hand knowledge during the probable cause investigation. The intent of the probable cause in-person investigation is to have both parties present all the evidence at the investigation, and therefore, most investigations have the record closed at the end of the in-person investigation.

After the record is closed, the investigator will issue the probable cause determination, which is generally a written dismissal or a Complaint of Prohibited Practice. The investigator may also direct the charge to an alternative dispute resolution mechanism (including deferral to the parties' grievance/arbitration procedure). Cases dismissed following an investigation may be appealed to the Commonwealth Employment Relations Board (CERB). If affirmed by the Board, appeals can be made to the Massachusetts Appeals Court.

If the probable cause determination is a Complaint of Prohibited Practice, the case will be scheduled for a hearing on the merits to determine whether the respondent violated the law as alleged in the Complaint. The DLR will once again evaluate and differentiate the cases as Level I or Level II cases. Cases identified as Level I Complaint cases will be scheduled for hearing within three to six months of the Complaint, depending on the level of urgency. In addition, because the DLR mandates mediation in all Level I cases, mediation will take place before the

hearing. Cases identified as Level II cases will be scheduled within six months to a year from the Complaint.

## **2. Hearings and Appeals**

After the hearing is scheduled, before a hearing takes place, the DLR requires that the parties file a Joint Pre-Hearing Memorandum and attend a Pre-Hearing Conference in order to clarify the issues for hearing.

The prohibited practice hearing is a formal adjudicatory process. Parties to the proceedings have the right to appear in person, to examine and cross-examine witnesses, to produce evidence and otherwise support or defend the Complaint. Additionally, the sworn testimony is recorded and preserved electronically. At the close of the hearing, the parties often provide the Hearing Officer with post-hearing legal briefs. The Hearing Officer then issues a written decision, determining whether a violation of the Law has occurred. In Level I cases, generally the Hearing Officer issues the decision within three months from when the record is closed. In Level II cases, the decision generally issues within six months from the time the record is closed.

A party who disagrees with the Hearing Officer's decision can appeal to the CERB by filing a Request for Review. In most cases, both sides file briefs with the CERB in support of their respective positions. After review of the record and consideration of the issues, the CERB then issues its decision, following the general impact time frame. Once the CERB issues its decision, the decision is final and can be appealed to the Massachusetts Appeals Court.

The DLR attorneys are authorized by statute to defend the CERB decisions at the Appeals Court.

## **3. Representation Issues**

In all cases that involve representation issues, i.e. representation (or decertification) petitions, written majority authorization petitions, and unit clarification cases, the DLR is statutorily mandated to determine an "appropriate" bargaining unit. To make that determination, the CERB considers community of interest among the employees, the employer's interest in maintaining an efficient operation, and the employees' interest (or lack thereof) in representation.

In all cases, the DLR assists and encourages the parties to reach agreement concerning an appropriate unit. In FY15, the DLR resolved 42.5% of its representation cases through voluntary agreement over the scope of the bargaining unit. When no agreement is reached, however, a DLR hearing officer conducts a hearing after which the hearing officer issues a written decision either dismissing the petition or defining the bargaining unit and directing an election. These decisions can be appealed to the CERB but there is no court appeal.

**a. Representation Petitions and Elections**

The DLR conducts secret ballot elections for employees to determine whether they wish to be represented by a union. Elections are conducted whenever: 1) an employer files a petition alleging that one or more employee organizations claim to represent a substantial number of employees in a bargaining unit; 2) an employee organization files a petition accompanied by an adequate showing of interest, alleging that a substantial number of employees wish to be represented by the petitioner; or 3) an individual files a petition accompanied by an adequate showing of interest, alleging that a substantial number of employees in the bargaining unit no longer wish to be represented by the current employee organization. Depending on the size of the unit and the relative cost, the DLR conducts elections either on location or by mail ballot.

In FY15, the DLR docketed 72 representation petitions and conducted 20 elections, involving 745 voters. A graph detailing these representation elections is available in the Case Statistic section of the Report.

**b. Written Majority Authorization Petitions**

On December 27, 2007 the Written Majority Authorization (“WMA” or “card check”) legislation became law. [Chapter 120 of the Acts of 2007](#). The card check law provides for an alternative to the traditional representation petition to certify an exclusive bargaining representative for unrepresented employees. The law provides that the DLR “shall certify to the parties, in writing, and the employer shall recognize as the exclusive representative for the purposes of collective bargaining of all the employees in the bargaining unit, a labor organization which has received a written majority authorization...” Therefore, a union which provides the DLR (or a designated neutral) with proof of majority support (50% plus one) of an appropriate bargaining unit will be certified by the DLR as that bargaining unit’s exclusive bargaining representative without an election. The DLR issued regulations which provide respondents with the right to file objections and challenges prior to a certification. Since the card check law requires certification within 30 days, the DLR seeks to work with the parties to expedite all WMA petitions.

In FY15, 25 written majority authorization petitions were filed. The DLR issued certifications in 19 of those petitions that were supported by 260 written majority authorization cards. A graph detailing the written majority authorization certifications issued in FY15 is available in the Statistical Reports section of the Report.

**c. Unit Clarification Petitions (CAS)**

A party to an existing bargaining relationship may file a petition with the DLR seeking to clarify or amend an existing bargaining unit or a DLR certification. Currently, the DLR investigates such petitions through a written investigation procedure and the CERB issues decisions resolving such cases. The information that an employer or employee organization must include in a CAS petition is specified in 456 CMR 14.04(2) and 14.03(2). An individual employee has no right to file a CAS petition. 456 CMR 14.04(2). Any CAS petition found to

raise a question of representation must be dismissed and the question of representation addressed by filing a representation petition.

In FY15, the DLR received 21 CAS petitions.

#### **4. Labor Dispute Mediation**

One of the most important services offered by the DLR is labor dispute mediation in both the public and the private sectors. The DLR's mediation services can be categorized as follows:

##### **a. Interest Mediation**

Interest mediation is contract negotiation mediation. The DLR provides mediators to assist parties from the public and private sectors who are involved in such disputes. The DLR jurisdiction extends to all public sector labor contract disputes, though contract disputes involving municipal police and fire fighters are mediated through the procedures and rules adopted by the JLMC. The DLR places a high priority on interest mediation because the prevention and prompt settlement of labor contract disputes benefits the negotiating parties, and stable labor relations benefit the local community and the Commonwealth. As such, the DLR's mediation services are one of the most cost efficient and valuable forms of local aid provided by the Commonwealth. In the event that there are prohibited practice charges pending when a DLR mediator is involved in a contract dispute, the mediator attempts to resolve the charges as part of the overall settlement. The laws the DLR enforces provide a roadmap of what occurs if negotiations breakdown. In all public sector cases, except those involving police and fire, the next step is fact finding and the DLR maintains a panel of private neutrals to provide fact-finding services. In JLMC cases, the next step is arbitration and the JLMC maintains a panel of private neutrals to provide private arbitration services.

##### **b. Mediation of Prohibited Practice Charges**

The formal mediation of prohibited practices charges is one of the most important features of the reorganization statute. Prior to the reorganization, there was no regular communication between the BCA, the JLMC and the LRC. Since the reorganization, the DLR affords the parties numerous opportunities, both formal and informal, to avail themselves of the DLR's mediation services. The DLR requires mediation of all Level 1 prohibited practice hearings.

##### **c. Grievance Mediation**

The DLR provides mediation services to parties who desire to mediate grievances arising out the collective bargaining agreement. The DLR offers grievance mediation to all parties who file for grievance arbitration. In some cases, DLR mediators assist parties on an ongoing basis to settle numerous grievances.



## **5. Grievance Arbitration**

The DLR provides grievance arbitration services that are utilized by all sectors of the Commonwealth's labor relations community. In the past fiscal year, the DLR has received grievance arbitration petitions from a variety of employer and employee representatives involving state, county and municipal government, including police departments, fire departments, public works departments and school departments. Many of the disputes are settled before a hearing is held. If the disputes are not settled, then DLR arbitrators hold evidentiary hearings, hear arguments and accept briefs. After the close of the hearing and submission of briefs, if any, the DLR arbitrator issues an award. The DLR has recently instituted changes to enhance this service to the parties and we look forward to reporting on those changes in next year's report.

## **6. Investigation, Prevention and Termination of Strikes**

Strikes by public employees in Massachusetts are illegal. G.L. c. 150E, § 9A. When a public employer believes that a strike has occurred or is imminent, the employer may file a petition with the DLR for an investigation. The DLR immediately schedules an investigation of the allegations contained in the petition and the CERB decides whether an unlawful strike has occurred or is about to occur. If the CERB finds unlawful strike activity, the CERB issues a decision directing the striking employees to return to work. The CERB may issue additional orders designed to help the parties resolve the underlying dispute. Most strikes end after issuance of the CERB's order, but judicial enforcement of the order sometimes necessitates Superior Court litigation. Such litigation can result in court-imposed sanctions against strikers and/or their unions.

## **7. Litigation**

As noted above, parties in prohibited practice cases issued by the DLR may appeal the final decision of the Commonwealth Employment Relations Board to the Massachusetts Appeals Court. In those cases, in addition to serving as the lower court—responsible for assembling and transmitting the record for appellate review—the CERB is the appellee and the DLR's Chief Counsel defends the CERB decision on appeal. Although a rare occurrence, M.G.L. c.150E also authorizes the DLR to seek judicial enforcement of its final orders in the Appeals Court or of its interim orders in strike cases in Superior Court. DLR attorneys represent the DLR and the CERB in all litigation activities.

## **8. Other Responsibilities**

### **a. Requests for Binding Arbitration (RBA)**

A party to a collective bargaining agreement that does not contain a grievance procedure culminating in final and binding arbitration may petition the DLR to order grievance arbitration.

These “Requests for Binding Arbitration” (RBA) are processed quickly by the DLR to assist the parties to resolve their grievances.

**b. Information on Employee Organizations**

Pursuant to M.G.L. c. 150E, §§ 13 and 14, the DLR maintains files on employee organizations. Those files include: the name and address of current officers, an address where notices can be sent, date of organization, date of certification, and expiration date of signed agreements. Every employee organization is also required to file an annual report with the DLR containing: the aims and objectives of such organization, the scale of dues, initiation fees, fines and assessments to be charged to the members, and the annual salaries to its officers. Although M.G.L. c. 150E authorizes the DLR to enforce these annual filings by commencing an action in the Superior Court, the DLR’s current resources prohibit such action. Instead, by regulation, the DLR employs various internal case-processing incentives to ensure compliance with the filing requirements.

**c. Constituent Outreach**

In an effort to foster better labor relations, the DLR is always willing to make presentations before assembled labor and/or management representatives in order to speak about the latest developments at the DLR. For instance, each spring, the Director, the CERB and the DLR’s Chief Counsel participate in the planning and presentation of the Annual Workshop for Public Sector Labor Relations Specialists sponsored by the Labor & Employment Law Section of the Boston Bar Association. Additionally, throughout the year, the DLR makes formal and informal presentations before various bar associations, union meetings, and employer association groups. As mentioned above, one of the DLR’s goals for FY 2016 is to implement collective bargaining training for its stakeholders.

**Selected CERB Decisions  
July 1, 2014 – June 30, 2015**

Section 10(a)(1) – Remedy

**Commonwealth of Massachusetts, Secretary of Administration and Finance, and SEIU, Local 509**, 41 MLC 186, SUP-12-1829 (January 16, 2015).

The CERB addressed the remedy in a Hearing Officer decision that held that the Commonwealth had violated Section 10(a)(1) of M.G.L. c. 150E (the Law) when it suspended an employee for three days for his conduct during a grievance hearing. The Hearing Officer ordered the Commonwealth to cease and desist and to post a notice. He declined to order a full make-whole remedy i.e., rescission of the suspension and back pay, on the grounds that this was not the “traditional” remedy in Section 10(a)(1) cases. The Union appealed, arguing that a make-whole remedy was appropriate under the circumstances. The Commonwealth disagreed, contending, among other things, that because the case did not arise under Section 10(a)(3), a make-whole remedy was inappropriate. The CERB agreed with the Union and confirmed that, in situations where statements alone form the basis of a finding that an employer has violated Section 10(a)(1) of the Law, a notice and posting is the “traditional” means by which the CERB attempts to restore the status quo. However, where, as here, the chilling conduct also consists of discipline, Section 11 of the Law authorizes the CERB to restore the full status quo ante for *any* prohibited practice, to the extent warranted and feasible.

Sections 10(a)(3) and 10(a)(4)

**Southbridge School Committee and Southbridge Education Association**, 41 MLC 199, MUP-06-4762, MUP-07-5010 (January 30, 2015).

The CERB affirmed a Hearing Officer decision dismissing a complaint alleging that the School Committee had retaliated against a teacher because she filed a grievance and a charge at the DLR. The CERB affirmed the Hearing Officer’s finding that the only evidence of unlawful motivation was the timing of the discipline, which standing alone, is insufficient to support a finding of unlawful discrimination. The CERB also affirmed the Hearing Officer’s conclusion that the teacher was not constructively discharged because the School Committee’s actions were based on its legitimate concerns about her work performance that a reasonable person in the Charging Party’s position would have taken steps to correct, and because the teacher began searching for another job in her chosen field before the alleged adverse actions took place.

**Somerset School Committee and Lorrie Pierce**, 41 MLC 335, MUP-13-3085 (May 21, 2015).

The Somerset School Committee (School Committee) appealed from a Hearing Officer’s decision concluding that it had violated Section 10(a)(4) and, derivatively, Section 10(a)(1) of the Law by taking certain adverse actions against Charging Party Lorrie Pierce (Pierce) in retaliation for her participating in a DLR arbitration proceeding. The School Committee argued that because Pierce was not a school employee when the adverse action took place, its actions did not violate the Law. The CERB held that it did not have to reach the issue of Pierce’s

employment status because, under Michael J. Curley, 4 MLC 1124, 1126 & n.3, MUP-2939 (July 8, 1977), a discriminatee's status as an employee is not a prerequisite to finding a Section 10(a)(4) violation. Turning to the merits, the CERB affirmed the Hearing Officer's conclusion that the School Committee retaliated against Pierce by adding a new job qualification that it knew she lacked on a posting for her former paraprofessional assignment. However, the CERB overturned that portion of the decision concluding that deleting Pierce's email account and removing her from a faculty list were adverse actions. The CERB held that the facts found by the Hearing Officer did not support her conclusion that these actions materially disadvantaged Pierce.

**City of Medford and Medford Fire Fighters Union, Local 1032**, 41 MLC 379, MUP-13-2687 (June 29, 2015).

The CERB affirmed a Hearing Officer's decision holding that the City violated Section 10(a)(3) and, derivatively, Section 10(a)(1) of the Law when the Fire Chief issued written reprimands to the union president and a bargaining unit member for engaging in protected, concerted activities. The Fire Chief had issued written reprimands to both employees for meeting to discuss a potential grievance with the Mayor's designate at Step Two of the contractual grievance procedure before meeting with the Fire Chief at Step One. The City argued that this meeting did not constitute protected, concerted activity because the union representatives improperly circumvented the contractual grievance procedure. The CERB disagreed holding that, absent contractual language to the contrary, a union representative's meeting with a management representative to discuss settling a possible grievance constitutes protected, concerted activity regardless of whether it is part of the formal grievance procedure.

#### Section 10(a)(5) Cases

##### Mandatory Subjects of Bargaining

**City of Boston, Boston Police Superior Officers Federation, Boston Police Detectives Benevolent Society and Boston Police Patrolmen's Association**, 41 MLC 119, MUP-13-3371, MUP-14-3466, MUP-14-3504 (November 7, 2014).

The CERB heard this case in the first instance on a stipulated record. The matter arose out of a dispute between the City and its police unions over the promotional exam procedure that the City put in place to rank and evaluate applicants for sergeant, lieutenant and captain positions. The three-count complaint alleged that the City had violated Section 10(a)(5) of the Law by unilaterally implementing a change in established testing procedures by including an assessment center and by failing to respond to information requests. It also alleged that the City had violated Section 10(a)(6) of the Law by implementing the new promotional procedures while the case was pending before the JLMC. The CERB dismissed the unilateral change allegation, finding that the Union had failed to establish that the City had a binding past practice of offering only written promotion exams. The CERB found for the Unions on the information counts, finding that the City had failed to provide information that was reasonable and necessary to assist the Unions in formulating their proposals and counterproposals regarding promotional processes. The CERB concluded that the City's failure to provide this information also violated the City's

duty under Section 10(a)(6) of the Law to participate in good faith in the DLR's impasse resolution processes because the requests were made while the subject of promotional processes was pending at the JLMC.

**City of Springfield and AFSCME Council 93, AFL-CIO**, 41 MLC 383, MUP-12-2466 (June 30, 2015).

The CERB affirmed a Hearing Officer decision holding that the City violated the Law when it temporarily installed GPS tracking devices in DPW vehicles, changing the standards for performance and productivity, without first bargaining with the Union about the decision and its impacts.

#### Repudiation and Remedy

**City of Boston and Boston Police Superior Officers Federation**, 41 MLC 31, MUP-10-5895 (August 18, 2014).

The CERB affirmed a Hearing Officer decision dismissing the Union's allegation that the City repudiated an oral agreement when it discontinued its practice of assigning bargaining unit members to the position of Street Sweeping Initiative (SSI) supervisor on a regular-overtime basis, but concluding that the City had an obligation to bargain over the impacts of its action. The CERB also affirmed the Hearing Officer's "Transmarine" remedy, which required the City to restore the status quo ante during the period of impact bargaining. The Union appealed the dismissal of the decision bargaining obligation and the remedy. The CERB agreed with the Hearing Officer that, as recently construed by the SJC in City of Boston v. Boston Police Superior Officers Federation, 466 Mass. 210 (2013), the oral agreement infringed on the police chief's non-delegable, statutory authority set forth in Chapter 291, §§10 and 11 of the Acts of 1906 and amended by Chapter 322 of the Acts of 1962 to appoint and transfer officers. The CERB also agreed that a Transmarine remedy was appropriate, where, as here, the impacts of the decision were inevitable and bargaining could only ameliorate, but not substantially change, the effects of the City's decision. The CERB also found that the decision to eliminate the SSI impacted bargaining unit members' terms and conditions of employment, including regularly scheduled overtime opportunities and workload, and affirmed the impact bargaining obligation that the Hearing Officer imposed.

**Board of Higher Education and Massachusetts State College Association/MTA/NEA**, 41 MLC 217, SUP-08-5396 (February 6, 2015) (Judicial appeal filed).

The CERB affirmed a Hearing Officer decision holding that the Board of Higher Education (Board) deliberately repudiated a collective bargaining agreement provision that placed a 15% cap on the percentage of an academic department's total number of three-credit courses and sections that could be taught by part-time employees, as well as a grievance resolution of the matter. The Board challenged the Hearing Officer's decision on two grounds: 1) that the Hearing Officer erroneously found that it had deliberately repudiated the contract provision; and 2) that the contract provision was an impermissible delegation of the Board's statutory authority under M.G.L. c. 15A, §22 and an unlawful limitation on its ability to establish

effective educational policy. The CERB found that the facts supported the Hearing Officer's conclusion that the Board had deliberately repudiated the provision. The CERB rejected the Board's statutory/policy arguments that the contract provision impermissibly abrogated the Board's statutory power to "appoint" personnel, because it did not prevent the colleges from determining which individual should teach a particular course. Rather, the provision only came into play after the colleges decided how many students to admit and how many courses to offer. Nor did the provision require the colleges to fill vacancies, place a cap on the actual number of faculty employed or dictate which courses to offer. The CERB further concluded that the Board had not shown that its failure to abide by the policy was motivated by a desire to change educational policy but was based on the difficulties and expense of compliance. The CERB acknowledged that while it might be difficult for the colleges to comply with the provision, such considerations did not transform the Board's decision not to comply with the CBA into one directly affecting educational policy, where the concerns the Board raised were themselves subject to collective bargaining.

#### Transfer of Bargaining Unit Work

**Town of Cohasset and Cohasset Permanent Firefighters, Local 2804, IAFF**, 41 MLC 206, MUP-12-1495 (January 30, 2015) (Judicial appeal filed).

The CERB affirmed a Hearing Officer decision holding that the Town of Cohasset had unlawfully transferred bargaining unit work to the newly-created non-unit position of Assistant Fire Chief. On appeal, the Town reiterated its claim that non-unit Fire Chiefs had traditionally shared fire prevention duties with the bargaining unit and thus, there had been no transfer of exclusive bargaining unit work. The CERB disagreed, affirming the Hearing Officer's conclusion that six consecutive years of fire prevention work being consistently assigned by the present Fire Chief to bargaining unit members created a binding past practice that required the Town to bargain before transferring the work outside of the unit. The CERB also rejected the Town's arguments that M.G.L. c. 148 and related regulations permitted the Chief to assign this work without bargaining as improperly raised for the first time on appeal.

#### Duty to Support

**Commonwealth of Massachusetts/Commissioner of Administration and Finance and Coalition of Public Safety**, 41 MLC 101, SUP-10-5593 (September 30, 2014) (Judicial appeal filed).

The CERB affirmed a Hearing Officer decision holding that the Commonwealth had breached its duty under M.G.L. c. 150E, §7(b) to unconditionally support a collectively-bargained agreement when the Commissioner of Administration and Finance's (A & F) request for funding to the Legislature included reasons for the Legislature to vote against the funding. The Commonwealth made several statutory and constitutional arguments on appeal. It argued that Section 7(b) of the Law does not require "unconditional" support of a collective bargaining agreement and that the Hearing Officer could not impose this requirement if the Legislature did not. The CERB disagreed, finding that, if not expressly stated, a duty of unconditional support was clearly implied by a number of factors, including the Commonwealth's status as a public

employer under Section 1 of the Law, Section 7(b)'s requirement that the employer submit a request for funding to the Legislature, and the fact that the duty to bargain in good faith includes a duty to uphold and refrain from repudiating collective bargaining agreements. Citing two SJC decisions, the Commonwealth also argued that requiring it to unconditionally support funding for the CBA infringed on the Governor's constitutional role of ensuring the general financial welfare of the Commonwealth and his role as "supreme executive magistrate." Distinguishing those decisions, the CERB rejected this argument, noting that, notwithstanding the Commonwealth's duty to support funding the contract to the Legislature, the Governor remained free to veto any subsequent legislation authorizing such funding. The CERB also agreed with the Hearing Officer that the Secretary of Administration and Finance's letter signaled a lack of support for the contract, and summarily affirmed his rejection of the Commonwealth's argument that M.G.L. c. 29, §§3 and 3A authorized the type of information included in A&F's letter.

### Representation and Unit Clarification Matters<sup>1</sup>

#### Add-on Elections

**University of Massachusetts, Amherst and United Auto Workers, Local 2322**, 41 MLC 233, SCR-14-3687 (February 20, 2015).

The issue was whether to hold an add-on election to add the position of undergraduate student "Peer Mentors" (PMs) to an existing unit of undergraduate Resident Assistants (RAs) at University. PMs provide academic support for first year students. The University objected to the election on a number of grounds, including that: PM's duties were so inextricably tied to their student status that they were not employees within the meaning of the Law; that PMs were casual employees excluded from the Law's coverage; and that PMs did not share a community of interest with the RAs. The CERB rejected all the arguments. The CERB concluded that, like RAs, PM's duties were not a requirement of their anticipated degrees or otherwise integral to their education. Although the PMs had academic duties, those duties concerned someone else's education and not their own. The CERB also held that the PMs and RAs shared a community of interest with respect to compensation, student support duties, training, supervision and, at least for the time being, receiving no academic credit for their work. In this regard, the CERB found that the University's plan to turn the PM duties into an academic program was too "indefinite and remote" to provide the basis for a decision at this time. The CERB also determined that PMs were not casual employees based on the regularity of their work (15 hours per week per school year), the consistency in the number of PMs employed each year, and the fact that 90% of them had worked at least two semesters.

**University of Massachusetts, Amherst and Boston and Mass Society of Professors/Faculty Staff Union/MTA/NEA**, 41 MLC 277, SCR-14-3451 (March 20, 2015).

The issue was whether academic department heads and chairs (Department Heads) at the University of Massachusetts' Amherst and Boston campuses should be included through an add-on election to the existing bargaining unit of faculty and librarians on the same campuses. The

---

<sup>1</sup> All representation and CAS matters were decided by the CERB in the first instance.

Department Heads were originally included in the faculty unit that the CERB certified in 1976, but the parties agreed to exclude them shortly thereafter. After investigation, the CERB found that in several key areas, including budget, the ability to hire non-tenure track employees, resolve certain first level grievances, discipline employees by issuing letters of warning and reprimands, and allocate funds in ways that could reward or penalize faculty members, Department Heads exercised greater supervisory authority than they did in 1976. The CERB thus concluded that their presence in the unit could lead to a conflict of interest and dismissed the petition.

### Unit Clarification Petitions

**Town of Longmeadow and Longmeadow Association of Clerical Employees, 41 MLC 45, CAS-13-2758, CAS-13-2759 (August 22, 2014).**

The Union sought to accrete three titles into its bargaining unit of clerical employees: Benefits Coordinator, Human Resources Specialist/Fire Department Administrative Assistant, and Human Resources Assistant/Assessor's Clerk. The Town opposed accretion on grounds that all three positions were confidential. The CERB disagreed that the Benefits Coordinator was confidential because she was mainly responsible for administering and maintaining school and Town benefits records and did not have access to confidential labor relations materials. A single example of the Benefits Coordinator engaging in a confidential matter regarding flexible spending account fees did not alter the CERB's conclusion. The CERB agreed that the other two titles were confidential. The CERB found that the Human Resources Assistant performed confidential duties for excluded titles that included becoming aware of personnel actions before the employees or their unions were notified; conducting research for collective bargaining; and receiving notice of a potential reorganization before it occurred. It found that the Assessor Clerk did not perform confidential duties, but excluded the title from the unit because the incumbent also served as the confidential Human Resources Assistant. The CERB concluded that the Human Resources Specialist/Fire Department Administrative Assistant should be excluded as confidential because his duties included costing out the Town's bargaining proposals for other excluded titles, which gave him advance notice of the Town's bargaining proposals and parameters.

**City of Newburyport and AFSCME, Council 93, 41 MLC 71, CAS-13-3101 (September 12, 2014)**

The Union sought to accrete the Executive Assistant to the Fire Chief to its clerical bargaining unit. The City objected on grounds that the title was a confidential employee. The Executive Assistant was responsible for opening the Chief's mail and faxes, had access to locked files that contained notes that the Chief took at bargaining sessions and kept a journal-like electronic document of the progress of negotiations from the notes and comments that she received from the City's negotiators. Based on these duties and her direct and substantial relationship with the Chief, a managerial employee, the CERB concluded that the employee was confidential and dismissed the petition.



**Selected Litigation**  
**July 1, 2014 – June 30, 2015**

**SUPERIOR COURT LITIGATION:**

Hampden Superior Court Civ. Action No. 14-943 Town of East Longmeadow Employees Union v. DLR, Motion for Declaratory Judgment, G.L. c. 231A, Matter dismissed pursuant to parties' Stipulation of Dismissal, May 30, 2015.

**APPEAL MATTERS DISPOSED BY APPEALS COURT:**

1. Appeals Court No. 2014-P-1306 AFSCME Council 93, Appellant, Justin Chase, Appellant v. Commonwealth Employment Relations Board, Appellee (DLR Case No. MUPL-07-4581) Appeal from a CERB decision which, in part, affirmed a hearing officer decision and, in part, reversed a hearing officer decision that the Union breached its duty of fair representation in violation of G.L. c. 150E, § 10(b)(1). Allegation Union failed to file grievance when Chase was terminated/laid off. Appeals Court affirmed CERB in 1.28 decision on 8/28/2015. Appellant filed an application for FAR in SJC. CERB filed an opposition. Decision on FAR pending in SJC as of the date of this report.

2. Appeal Court No. 2014-P-0989 Luongo v. CERB (DLR SUPL-10-3093 AFSCME and Marie Luongo) Appeal of CERB decision to affirm HO Dismissal, Dismissed by Appeals Court for Appellant's failure to prosecute 10/21/14.

3. Appeal Court No. 2014-P-1731 Joseph v. CERB (DLR MUP-06-4638 Boston School Committee and Elizabeth Joseph), Appeal of CERB decision to affirm PC dismissal, Stipulation of Dismissal allowed, dismissed by Court 12/31/14 .

4. Appeal Court No. 2014-P-1383 AFSCME v. CERB (DLR SUP-09-5493, 5496 Suffolk County and AFSCME), Appeal of CERB decision to affirm HO, Dismissed by Appeals Court for Appellant's failure to prosecute 1/13/15

5. SJC No. 11620 City of Somerville and Somerville School Committee, Appellants v. Commonwealth Employment Relations Board, Appellee, Somerville Teachers Assoc., Somerville Police Superior Officers Assoc., Somerville Administrators Assoc., Somerville Municipal Employees Assoc., Interveners. (DLR MUP-09-5613, 09-5614, 09-5735, 10-5765, 10-5766, 10-5833) Appeal by City of Somerville and Somerville School Committee. Case was transferred from the Appeals Court to the SJC sua sponte. Appeal of the(CERB's decision in the first instance finding that the City of Somerville (City) and its School Committee violated §10(a)(5) and, derivatively, §10(a)(1) of G.L. c. 150E when the City unilaterally changed current bargaining unit members' future retirement health insurance contribution rates without bargaining in good faith to resolution or impasse. The case also presents a question of whether procedural requirements of G.L. c. 32B, §9E, a local option statute governing retiree health insurance benefits, conflict with collective bargaining requirements of G.L. c. 150E. The remedy raises questions of whether the decision to restore the terms of the retiree health insurance

benefit in effect prior to the unilateral change for the bargaining unit members who were active employees prior to the change, but who retired thereafter, was proper under the uniformity requirement in G.L. c. 32B, §9E. SJC issued decision to reverse CERB 2/3/15.

6. Appeals Court. No. 2014-P-0245 Stoneham and Stoneham Police Association, Appellant v. Commonwealth Employment Relations Board, Appellee and Stoneham Police Association, Mass. Coalition of Police Local 266, AFL-CIO, Interveners, (DLR Case No. MUP-09-5606 Stoneham and Stoneham Police Association) Appeal from a Board decision finding that the Town of Stoneham violated §10(a)(5) and, derivatively, §10(a)(1) of G.L. c. 150E by transferring bargaining unit dispatching work to civilian non-unit dispatchers without providing the collective bargaining unit with prior notice or an opportunity to bargain to resolution or impasse. Appeals Court reversed CERB in a 1.28 decision issued 4/28/15.

7. Appeals Court No. 2014-P-1376 Marlene Montuna, Appellant v. Commonwealth Employment Relations Board, Appellee, (DLR case numbers MUPL, 10-4681; MUP-10-6038) MUP-10-6038. Appeal from a Commonwealth Employment Relations Board decision finding no probable cause that the Cambridge Health Alliance acted in violation of G.L. c. 150E, § 10(a)(3) by allegedly reducing the Appellant's accrued seniority in retaliation for her engagement in concerted, protected activity. MUPL-10-4681: Appeal from a Commonwealth Employment Relations Board decision finding no probable cause that the Massachusetts Nurses Association acted in violation of G.L. c. 150E, § 10(b)(1) by allegedly breaching its duty of fair representation when it entered into a Memorandum of Agreement with the Cambridge Health Alliance concerning seniority of nurses transferring between bargaining units. Voluntary Dismissal in Appeals Court after briefs filed in Appeal Ct 6/1/15.

#### **CASES DISPOSED BY DLR AFTER RECORD ASSEMBLY FILED WITH APPEALS COURT:**

1. MUPL-09-4648, 4649 Pepi and Worcester Education Association, Appeal of CERB decision to affirm HO dismissal, Dismissed by DLR after record assembly filed with Court for failure to perfect/prosecute 7/14/14.

2. MUPL-07-4592 Holmes and AFSCME, Appeal of CERB decision to affirm LRC PC Dismissal, Dismissed by DLR after record assembly filed with Court for failure to perfect/prosecute 08/08/14.

3. SUP 09-5616 Revere School Dept. and Pisano, CERB affirm PC dismissal, Dismissed by DLR after record assembly filed with Court for failure to perfect/prosecute 10/30/14.

4. MUP-09-5742 Cambridge Health Alliance and Walsh. Appeal of CERB decision to affirm PC dismissal, Dismissed by DLR after record assembly filed with Court for failure to perfect/prosecute 11/13/14.

5. MUP 06-4621 Greenfield Montague and Louis Deleo, Appeal of CERB decision in first instance. Dismissed by DLR after record assembly filed with Court for failure to perfect/prosecute 5/8/2015.

6. MUPL 11-1150 Steelworkers and Dodds, Appeal of CERB decision to affirm PC dismissal. Dismissed by DLR after record assembly filed with Court for failure to perfect/prosecute 9/8/15.

**CASES DISPOSED AT DLR BY WITHDRAWAL-SETTLEMENT-MEDIATION:**

1. MUP-05-4405 City of Boston and AFSCME, Appeal of CERB decision to affirm partial dismissal at investigation, Appeal withdrawn 7/1/14.

2. MUP-07D-5905/5115 East Bridgewater and Bridgewater Education Association, Appeal of CERB decision to affirm HO. Appeal Withdrawn 7/14/14.

3. MUPL 11-4693 Worcester Educational Assoc. and Kambosos, Appeal of CERB decision to affirm HO Dismissal, Appeal withdrawn 08/06/14.

4. MUP-10-5888 Cambridge Health Alliance and MA Nurses Association. Cross Appeals of CERB decision in first instance. Appeals withdrawn 8/11/14.

5. MUP 10-5998 Springfield Housing Authority and AFSCME Council 93, Appeal of CERB decision to affirm HO, Cross Appeals withdrawn 8/15/14.

6. SUP-14-3515, Locke and NAGE Appeal of CERB decision to affirm partial PC dismissal; Appeal withdrawn via mediation/settlement 12/22/14.

7. SUP-10-5601 UMASS Amherst and AFSCME, Appeal of CERB decision to affirm HO, withdrawn via mediation/settlement 3/6/15.

8. SUP-06-5301 MNA and Commonwealth/DMR, Appeal of CERB decision to affirm PC dismissal. Appeal withdrawn 5/21/2015.

9. MUP 05-4523 Plymouth and AFSCME, Appeal of LRC decision to affirm LRC PC Dismissal, Appeal withdrawn 5/19/15.

**DEPARTMENT OF LABOR RELATIONS**  
**FY2015 CASES RECEIVED**  
 JULY 1, 2014 – JUNE 30, 2015  
 MONTHLY BY CASE TYPE WITH TOTALS AND AVERAGES

<b>CASES OPENED</b>															
<b>CASE TYPE</b>	<b>JUL.</b>	<b>AUG.</b>	<b>SEPT.</b>	<b>OCT.</b>	<b>NOV.</b>	<b>DEC.</b>	<b>JAN.</b>	<b>FEB.</b>	<b>MAR.</b>	<b>APR.</b>	<b>MAY</b>	<b>JUN.</b>	<b>TOTAL</b>	<b>AVG</b>	<b>% YTD</b>
Unfair Labor Practice	27	24	45	39	42	36	35	26	91	54	45	27	491	40.92	60.39%
Representation Cases	8	4	2	3	3	2	12	1	2	4	7	6	54	4.50	6.64%
Unit Clarification (CAS)	5	1	4	1		2	4	1			1	1	20	1.67	2.46%
Other (SI, AO, RBA)															
Grievance Arbitration	29	3	13	8	3	2	3	1	7	6	5	6	86	7.17	10.58%
Grievance Mediation	7	4	2			1		3	1		1		19	1.58	2.34%
Contract Mediation	14	9	13	14	7	5	8		9	8	5	10	102	8.50	12.55%
JLMC	3	3	4	4	4	1	2	3	4	1	4	8	41	3.42	5.04%
<b>TOTAL</b>	<b>93</b>	<b>48</b>	<b>83</b>	<b>69</b>	<b>59</b>	<b>49</b>	<b>64</b>	<b>35</b>	<b>114</b>	<b>73</b>	<b>68</b>	<b>58</b>	<b>813</b>	<b>67.75</b>	<b>100.00%</b>

**DEPARTMENT OF LABOR RELATIONS**  
**FY2015 CASES CLOSED**  
JULY 1, 2014 – JUNE 30, 2015  
MONTHLY BY CASE TYPE WITH TOTALS AND AVERAGES

CASES CLOSED																
CASE TYPE	JUL.	AUG.	SEPT.	OCT.	NOV.	DEC.	JAN.	FEB.	MAR.	APR.	MAY	JUN.	TOTAL	AVG	% YTD	
Unfair Labor Practice	51	46	39	54	47	47	40	47	54	38	31	60	554	46.17	54.47%	
Representation Cases	4	2	5	2	3	5	1	3	5	6	6	8	50	4.17	4.92%	
Unit Clarification (CAS)	3	3	2	1	2	2	1	1		3	2	3	23	1.92	2.26%	
Other (SI, AO, RBA)												1	1	0.08	0.10%	
Grievance Arbitration	3	5	9	26	6	25	6	5	14	6	19	29	153	12.75	15.04%	
Grievance Mediation	14		14	4	13	21			1	1			68	5.67	6.69%	
Contract Mediation	7	3	7	21	10	14	18	2	6	10	11	14	123	10.25	12.09%	
JLMC	3	1	8	2	2	5			2	8	4	10	45	4.09	4.42%	
TOTAL	85	60	84	110	83	119	66	58	82	72	73	125	1017	84.75	100.00%	

**DEPARTMENT OF LABOR RELATIONS**  
**FY2015 CASE PROCESSING DATA**  
 JULY 1, 2014 – JUNE 30, 2015  
 MONTHLY WITH TOTALS AND AVERAGES

<b>PROBABLE CAUSE</b>	<b>JUL.</b>	<b>AUG.</b>	<b>SEPT.</b>	<b>OCT.</b>	<b>NOV.</b>	<b>DEC.</b>	<b>JAN.</b>	<b>FEB.</b>	<b>MAR.</b>	<b>APR.</b>	<b>MAY</b>	<b>JUN.</b>	<b>TOTAL</b>	<b>AVG</b>
Investigations Held	10	13	14	17	7	11	19	8	26	12	18	19	174	14.50
Dismissals Issued	7	5	2	5	7	5		7	5	9	4	13	69	5.75
Complaints Issued	10		10	10	7	9	9	8	4	14	10	9	100	8.33
Total Probable Cause	17	5	12	15	14	14	9	15	9	23	14	22	169	14.08
Avg. # Wks Invest. To PC	3.89	4.68	6.35	6.55	5.10	7.73	2.15	5.26	7.07	4.88	4.15	5.82	63.63	5.30
<b>HEARINGS</b>	<b>JUL.</b>	<b>AUG.</b>	<b>SEPT.</b>	<b>OCT.</b>	<b>NOV.</b>	<b>DEC.</b>	<b>JAN.</b>	<b>FEB.</b>	<b>MAR.</b>	<b>APR.</b>	<b>MAY</b>	<b>JUN.</b>	<b>TOTAL</b>	<b>AVG</b>
Pre-Hearing Conferences Held	13	13	5	2	6	7	3	5	13	3	3		73	6.08
Hearings Held	6	4	6	1	2	1		2	2	5	3	1	33	2.75
Misc. Rulings/R-Case Dec./CAS Dec.	4			1									5	0.50
HO Decisions Issued	3	2	3	1	2	3	2	5	4	1	3	4	33	2.75
Avg. # Wks Ripe to HO Dec.	65.43	41.36	57.44	65.40	16.90	20.20	21.90	17.10	15.50	18.90	45.90	19.00	405.03	33.75

**DEPARTMENT OF LABOR RELATIONS**  
**FY2015 CASE PROCESSING DATA**  
 JULY 1, 2014 – JUNE 30, 2015  
 MONTHLY WITH TOTALS AND AVERAGES

<b>CERB</b>	<b>JUL.</b>	<b>AUG.</b>	<b>SEPT.</b>	<b>OCT.</b>	<b>NOV.</b>	<b>DEC.</b>	<b>JAN.</b>	<b>FEB.</b>	<b>MAR.</b>	<b>APR.</b>	<b>MAY</b>	<b>JUN.</b>	<b>TOTAL</b>	<b>AVG</b>
Admin. Appeals Filed - PC	5		3	1	7	2			7	5	5	3	38	3.17
Admin. Appeals Filed - HO Dec.	2		2			3			2		1	2	12	1.09
PC Decision Issued & Remands	2	1	2	6	3	3		4	1	6		2	30	2.50
HO Appeal Decision Issued	1	1	1				4	1			2	2	12	1.00
CERB Dec. 1st Inst. RCase or CAS Dec		2	2		3				1	1			9	0.75
Misc. Rulings														
Avg. # Wks to Issue PC Decision	7.07	4.43	9.57	14.16	11.48	7.48		9.96	2.57	14.03		7.07	87.82	7.32
Avg. # Wks Ripe to HO App. Dec.	1.28	29.57	31.71				40.00	48.42			43.64	38.00	232.62	19.39
<b>MEDIATION &amp; ARBITRATION</b>	<b>JUL.</b>	<b>AUG.</b>	<b>SEPT.</b>	<b>OCT.</b>	<b>NOV.</b>	<b>DEC.</b>	<b>JAN.</b>	<b>FEB.</b>	<b>MAR.</b>	<b>APR.</b>	<b>MAY</b>	<b>JUN.</b>	<b>TOTAL</b>	<b>AVG</b>
Arbitrations Held	2		1	1		1	2		1	1	3	4	16	1.33
Arbitration Decision Issued	1		3			8	1		3		1	2	19	1.58
Grievance Mediatlons Held	14		14	7	12	7		1	1	1		1	58	4.83
Contract Mediations Held	16	26	40	39	25	26	30	17	30	42	15	29	335	27.92
ULP Mediations Held	8	18	10	21	8	10	10	10	16	14	7	12	144	12.00
Avg. # Wks Ripe to Arb. Decision	29.7		22.9			22.7	6.7		43.6		0.14	16.9	142.64	11.89

**DEPARTMENT OF LABOR RELATIONS**  
**FY2015 CASE PROCESSING DATA**  
 JULY 1, 2014 – JUNE 30, 2015  
 MONTHLY WITH TOTALS AND AVERAGES

<b>JLMC</b>	<b>JUL.</b>	<b>AUG.</b>	<b>SEPT.</b>	<b>OCT.</b>	<b>NOV.</b>	<b>DEC.</b>	<b>JAN.</b>	<b>FEB.</b>	<b>MAR.</b>	<b>APR.</b>	<b>MAY</b>	<b>JUN.</b>	<b>TOTAL</b>	<b>AVG</b>
Contract Mediations Held	17	13	15	19	18	11	17	7	13	17	12	13	172	14.33
3A Hearings Held	2	1	1	2		2	1	1	2	3	2	1	18	1.50
<b>JUDICIAL APPEALS</b>	<b>JUL.</b>	<b>AUG.</b>	<b>SEPT.</b>	<b>OCT.</b>	<b>NOV.</b>	<b>DEC.</b>	<b>JAN.</b>	<b>FEB.</b>	<b>MAR.</b>	<b>APR.</b>	<b>MAY</b>	<b>JUN.</b>	<b>TOTAL</b>	<b>AVG</b>
Probable Cause Appeals Filed					1								1	0.08
CERB-HO Decision Appeals Filed	6		2					2	1	1		1	13	1.08
Records Assembled	1	3	2		1	2			1	1		2	13	1.08
Avg. # Wks Ripe to Rec. Assembled	261	97.6	187		278	140			171	60.7		96.9	1290.5	107.55



**FY 2015 REPRESENTATION ELECTIONS\***  
**(EXCLUSIVE OF WRITTEN MAJORITY AUTHORIZATION PETITIONS)**

Unit Size	Municipal		State		Private		Total	
	No. of Elections	No. of Voters	No. of Elections	No. of Voters	No. of Elections	No. of Voters	No. of Elections	No. of Voters
<10	4	24	2	14			6	62
10-24	6	89	1	24			7	73
25-49			1	49			1	57
50-74								227
75-99			1	92			1	
100-149								
150-199					1	156		156
200-499								
Above 500								
<b>Total</b>	<b>10</b>	<b>113</b>	<b>5</b>	<b>179</b>	<b>1</b>	<b>156</b>	<b>16</b>	<b>448</b>

---

\* NOTE: In FY 2015, parties filed 27 Representation petitions. The above chart contains information only on elections conducted by the DLR in FY2015.

**FY 2015**  
**WRITTEN MAJORITY AUTHORIZATION**  
**CERTIFICATIONS\***

Size of Unit	Municipal		State		Private		Total	
	CERTS	CARDS	CERTS	CARDS	CERTS	CARDS	CERTS	CARDS
Under 10	9	40					9	40
10-24	6	81	2	37			8	118
25-49	2	77					2	77
50-74	1	50					1	50
75-99								
100-149								
150-199								
200-499								
Above 500								
<b>Total</b>	<b>18</b>	<b>248</b>	<b>2</b>	<b>37</b>			<b>20</b>	<b>285</b>

---

\* Note: The number of certifications represents the number of petitions filed that resulted in the Department issuance of a certification. In FY 2015 a total of 29 written majority authorization petitions were filed. The DLR did not issue a certification in 9 cases either because the DLR dismissed the petition or the petitioner withdrew the petition.

## **DEPARTMENT OF LABOR RELATIONS STAFF LIST**

### **EMPLOYEES, FUNCTIONAL TITLES AND PAYROLL TITLES**

<b>Last Name</b>	<b>First Name</b>	<b>Functional Title</b>	<b>Payroll Title</b>	<b>FTE</b>
Atwater	Susan	Hearing Officer/Arbitrator/Mediator	Counsel II	1.00
Bevilacqua	Heather	Mediation Manager	Program Manager VII	1.00
Bonner	Kerry	Hearing Officer/Arbitrator/Mediator	Counsel II	1.00
Crystal	Erica	Director/ Interim Chair JLMC	Administrator IX	1.00
Davis	Kendrah	Hearing Officer/Arbitrator/Mediator	Counsel II	1.00
Eng	Whitney	Hearing Officer/Arbitrator/Mediator	Counsel II	1.00
Eustace	Kimberly	Program Coordinator	Program Coordinator III	0.92
Feldman-Boshes	Erica	Investigative Hearing Officer/Mediator	Program Coordinator III	1.00
Freeman	Harris	Board Member, CERB	Per Diem	
Gabriel	Jane	Chief Counsel	Program Manager VIII	1.00
Goodberlet	Kathleen	Hearing Officer/Arbitrator/Mediator	Counsel II	1.00
Gookin	Carol	Mediator	Program Coordinator III	1.00
Griffin	Joseph	Hearing Officer/Arbitrator/Mediator	Counsel II	0.50
Hanson	John	Chair, JLMC	Per Diem	
Harrington	Brian	Hearing Officer/Arbitrator/Mediator	Program Manager V	1.00
Hatfield	Timothy	Mediator/Arbitrator	Program Manager VII	1.00
Hubley	Joseph	JLMC Staff Rep./Labor	Program Coordinator III	0.50
Kelley	Gwenn	Collective Barg. Case Processing Spec.	Collective Barg. Elect. Spec. II	1.00
Murray	Kevin	Hearing Officer/Arbitrator/Mediator	Counsel II	0.50
Neumeier	Elizabeth	Board Member, CERB	Per Diem	
See	Zachary	Hearing Officer/Arbitrator/Mediator	Counsel II	1.00
Siciliano	Shirley	Election Specialist	Collective Barg. Elect. Spec. II	0.40
Srednicki	Edward	Executive Secretary	Administrator VII	1.00
Sullivan	Margaret	Hearing Officer/Arbitrator/Mediator	Counsel II	1.00
Swinderman	Aaron	Investigative Hearing Officer	Counsel I	1.00
Wittner	Marjorie	Chair, CERB	Administrator IX	1.00

## **DLR ADVISORY COUNCIL**

*There shall be an advisory council to advise the DLR concerning policies, practices, and specific actions that the DLR might implement to better discharge its labor relations duties. [Chapter 145 of the Acts of 2007](#).*

### **DLR Advisory Council Membership**

#### **Labor**

Kathrine Shea, Esq.	Pyle, Rome, Ehrenberg, PC
Amy Davidson, Esq., Chair	Sandulli, Grace PC
Ira Sills, Esq.	Segal, Roitman LLP
Jennifer Springer, Esq.	SEIU, Local 888
Ira Fader, Esq.	Massachusetts Teachers Association

#### **Management**

Nicholas Anastasopoulos, Esq.	Mirick, O'Connell, DeMallie & Lougee, LLP
Mark D'Angelo	Director - Commonwealth of Massachusetts Office of Employee Relations
Jim Hardy	Field Director – Policy Massachusetts Association of School Committees
Brian Magner, Esq	Deutsch Williams Brooks DeRensis & Holland, P.C.

#### **Neutrals**

Gary Altman, Esq.	Arbitrator
John Cochran, Esq.	Arbitrator
Sarah Garraty, Esq.	Arbitrator

# **DEPARTMENT OF LABOR RELATIONS**

## **BUDGET**

### **HISTORICAL BUDGET LEVELS (\$000)**

		<b>FY2011</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>
<i>ACCOUNT</i>		<b>GAA</b>	<b>GAA</b>	<b>GAA</b>	<b>GAA</b>	<b>GAA</b>
7002-0900	Department of Labor Relations	1,839	1,806	2,006	2,095	2,150
7002-090	DLR Retained Revenue			100	100	100
<b>TOTAL</b>		<b>1,839</b>	<b>1,806</b>	<b>2,106</b>	<b>2,195</b>	<b>2,250</b>

### **FY 2015 APPROPRIATION SUMMARY**

	7003-0900	7003-0901	Total
Governor's Budget Recommendation - House 1	\$2,149,659	\$100,000	\$2,249,659
General Appropriation Act	\$2,149,659	\$100,000	\$2,249,659
9C Reductions and Planned Savings	\$57,245	\$8,750	\$65,995
Total Available	\$2,092,414	\$91,250	\$2,183,664

### **FY 2015 EXPENDITURES ALL APPROPRIATIONS**

<b>Total Available</b>		<b>\$2,183,664</b>
AA	Employee Compensation	\$1,984,099
BB	Employee Travel Reimbursement	\$21,953
DD	Medicare, Unemployment, Univ. Health, Workers Comp.	\$31,547
EE	Administrative Expenses	\$32,196
FF	Facility Operational Expenses	\$50,376
GG	Space Rental	\$7,774
HH	Consultant Service Contracts	\$0
JJ	Programmatic Operational Services	\$1,530
KK	Equipment Purchases	\$0
LL	Equip. Lease, Maintenance, Repair Expenses	\$2,848
NN	Infrastructure	0
UU	Information Technology	\$48,242
<b>Total Expended</b>		<b>\$2,180,575</b>
<b>Reversion</b>		<b>\$3,089</b>

## **FISCAL YEAR 2016 GOALS**

In FY 2016 the DLR plans to continue using technological advances to provide better service to our stakeholders. In this regard, we will be implementing a new electronic scheduling option, allowing the parties to schedule a case themselves, rather than submitting a separate form. The DLR will also introduce a limited search option, allowing stakeholders and the public generally to search for certain data often requested by the public. For example, the public will be able to search for charge and complaint information as well as unions' financial statements. Finally, the DLR plans to implement a formal training program so the parties better understand their rights and obligations under the laws the DLR enforces.