

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Alan Irwin and Alyson Rice,
Petitioners,

Docket Nos.: CR-26-0093, CR-26-0097

Dated: October 9, 2026

v.

State Board of Retirement,
Respondent.

ORDER GRANTING SUMMARY DECISION

These are consolidated appeals from decisions of the State Board of Retirement (board) denying the petitioners' respective applications to be classified in group 4 under G.L. c. 32, § 3(2)(g). The board moves for summary decision, which is available when "there is no genuine issue of fact . . . and [the moving party] is entitled to prevail as a matter of law." 801 C.M.R. § 1.01(7)(h). The petitioners oppose the motion.

The essential facts are undisputed. The petitioners are employees of the Department of Correction. They work in correctional facilities. The formal job title of each petitioner is "correctional program officer," or CPO for short.

The retirement benefits of Massachusetts public employees are determined in part by a four-part system of classification. G.L. c. 32, § 3(2)(g). Members in groups 2 and 4 become entitled to maximum benefits at younger ages. In the decisions that prompted these appeals, the board declined to assign the petitioners to group 4.

The applicable statute "classifies employees in Group 4 by naming their positions or titles rather than . . . the type of work they perform." *Hunter v. Contributory Ret. Appeal Bd.*, 80 Mass. App. Ct. 257, 260-61 (2011) (quoting *Gaw v. Contributory Ret. Appeal Bd.*, 4 Mass.

App. Ct. 250, 254 (1976)). *Hunter* applied this general principle to the correctional context, declining to award group 4 status to an “employee who performs duties of a correction officer, but does not have that job title.” 80 Mass. App. Ct. at 260-61.

It is not invariably obvious whether an employee has the “job title” of a “correction officer.” Questions have arisen especially in the cases of job titles that combine the phrase “correction officer” with additional words. A title featuring such ambiguities may need to be interpreted in light of the surrounding facts, including the employee’s formal job description. In some cases, the evidence may reveal that the employer intended for nonstandard job titles to denote “subcategories within the statutorily qualifying positions.” *Curley v. State Bd. of Ret.*, No. CR-24-724, 2026 WL 2283127, at *5 (Div. Admin. Law App. July 31, 2026) (collecting cases).

Other job titles are unambiguously distinct from the statutory titles and are excludable from group 4 without further analysis. A recent decision so views the petitioners’ job title, i.e., CPO. The Contributory Retirement Appeal Board wrote there:

[T]he Legislature has largely described employees categorized within Group 4 by naming their positions or titles [E]mployees in the CPO position are not eligible for Group 4 status because CPO is not listed as a Group 4 title in G.L. c. 32, § 3(2)(g)

Horton v. State Bd. of Ret., No. CR-17-846, 2025 WL 4030299, at *2 (Contributory Ret. App. Bd. Dec. 15, 2025). *Horton’s* holding is binding and squarely on point.

Even so, another aspect of the case deserves attention. In the course of litigating their appeals, the petitioners collected information from the board about its treatment of other CPOs seeking group 4 status. From 2011 through 2025, the board fielded approximately 158 pertinent applications. The startling aspect of the data is that the board *granted* nearly all of the applications, or approximately 151 of them.

In a reply brief focused on this issue, the board says:

[T]he board . . . consistently approved CPOs for Group 4 having . . . considered that the position warranted such classification. Nonetheless, once CRAB issued its [*Horton*] decision, . . . the board had no choice but to change course and deny CPOs for group 4.

The explanation does not hold water. Logically speaking, if the board had consistently assigned CPOs to group 4, they would not have been aggrieved by the decisions, and CRAB would not have weighed in. Factually speaking, according to the board's data, the board denied group 4 status to seven different CPOs across the years 2014, 2017, and 2020. On the information and arguments presented, it is hard to conclude that the board has adequately explained the pattern of its decisions in this context. See *Alliance to Protect Nantucket Sound, Inc. v. Energy Facilities Siting Bd.*, 448 Mass. 45, 56 (2006).

All of that being said, the board's course of practice does not entitle the petitioners to relief in the posture of these appeals. The most on-point authority is again *Horton*, where the member claimed in part that "other individuals . . . had been granted Group 4 classification for their CPO work." 2025 WL 4030299, at *1. Rejecting the argument, CRAB said:

The benefits to which members of retirement systems are entitled are defined and limited by [statute] We cannot award an employee an extra-statutory benefit on the grounds that a board did so in another similar case. To conclude otherwise would be to enable individual retirement boards to effectively amend the retirement law by establishing precedent contrary to the statutory language

Id. (citing *Clothier v. Teachers' Ret. Bd.*, 78 Mass. App. Ct. 143, 146 (2010)). See also *Racow v. Winthrop Ret. Bd.*, No. CR-20-492, 2022 WL 20401628, at *2 (Div. Admin. Law App. Mar. 25, 2022) (collecting cases).

In view of the foregoing, it is ORDERED that the board's motion for summary decision is ALLOWED. Summary decision is hereby entered to the effect that the board's decision is AFFIRMED.

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate

Division of Administrative Law Appeals