

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

In the Matter of

TOWN OF MIDDLETON

and

AMERICAN FEDERATION OF STATE,  
COUNTY & MUNICIPAL EMPLOYEES,  
COUNCIL 93

Case No. MCR-24-10498

Date issued: October 4, 2024

CERB Members Participating:

Kelly B. Strong, CERB Member  
Victoria B. Caldwell, CERB Member

Appearances:

Kate Feodoroff, Esq.	-	Representing the Town of Middletown
Justin Murphy, Esq.	-	Representing the American Federation
Abigail Grier, Esq.		of State, County & Municipal Employees
		Council 93

DECISION AND DIRECTION OF ELECTION

Summary

1           The issue in this case is whether the Commonwealth Employment Relations Board  
2 (CERB) should grant a petition filed by the American Federation of State, County &  
3 Municipal Employees, Council 93 (AFSCME or Union) seeking to represent all full-time  
4 and regular part-time employees of the Flint Public Library, including the librarians,  
5 circulation assistants, pages, and custodians employed by the Town of Middleton (Town).  
6   The Town opposed the petition on grounds that the custodians and pages do not have a

community of interest with the librarians and circulation assistants. AFSCME asserted that the CERB should order an election for all petitioned-for positions because the librarians, circulation assistants, custodians, and pages do share a community of interest. For the following reasons, we determine that the petitioned-for unit is an appropriate bargaining unit under Section 3 of M.G. L. c. 150E (the Law) and direct an election in that unit.

#### Statement of the Case

On February 26, 2024, the Union filed a representation petition seeking to represent all full-time and part-time employees at the Flint Public Library employed by the Town. On May 30, 2024, a Department of Labor Relations (DLR) agent conducted a hearing at which all parties had the opportunity to be heard, to examine witnesses, and to introduce evidence. The Town and the Union filed their post-hearing briefs on August 2, 2024.<sup>1</sup>

The Union contends that the petitioned-for bargaining unit is appropriate under the Law and that all positions including the pages and custodians have a community of interest. Conversely, the Town asserts that the petitioned-for unit is not an appropriate bargaining unit under Section 2 of the Law because the pages and custodians do not share a sufficient community of interest with the librarians and circulation assistants and should be excluded from the bargaining unit.

#### Facts

The parties entered into the following stipulations:

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<sup>1</sup> Due to a change in counsel for the Union, the parties requested and received an extension of time for filing post-hearing briefs.

Stipulations of Fact

- (1) The Town of Middleton (the "Town") is a public employer within the meaning of Section 1 of the Law.
- (2) The American Federation for State, County, Municipal Employees ("AFSCME" or the "Union") is an employee organization within the meaning of Section 1 of the Law. AFSCME, Council 93 is an employee organization within the meaning of Section 1 of the Law.
- (3) The Union seeks to represent all full-time and regular part-time employees in the Flint Public Library (the "Library") employed by the Town in the following positions:
  - a. Custodians
  - b. Pages
  - c. Librarians
  - d. Circulation assistants
- (4) The parties agree that, except for Custodians and Pages, that the remaining positions in Stipulation 3 have a community of interest.
- (5) Although the Town contests that the Custodians and Pages have a community of interest with the other petitioned-for positions, both Parties agree that all of the above-listed positions in Stipulation 3 are "employees" within the meaning of Section 1 of the Law.
- (6) The job descriptions entered into the record as joint exhibits accurately reflect the duties and requirements for those positions.
- (7) The petitioned-for positions listed in Stipulation 3 are currently not represented for the purpose of collective bargaining.
- (8) The Library has a single location at 1 South Main Street, Middleton, Massachusetts, 01949. There are no other branches.
- (9) The petitioned-for positions listed in Stipulation 3 work at the Flint Public Library.
- (10) The Library includes the following positions: Director, Assistant Director, Custodians, Librarians (Adult Services Librarian, Children's Collection Development and Outreach Librarian, Children's Programming Librarian, Teen Services Librarian, Circulation/Inter-Library Loan Librarian), Circulation assistants, and Pages.
- (11) The Library currently has 17 employees, including 2 Managers, 5 Librarians, 4 Circulation assistants, 2 Pages and 4 Custodians.

- 1  
2 (12) The Library's hours of operation are Monday through Thursday, 10:00 a.m.  
3 to 8:00 p.m.; Friday, 10:00 a.m. to 5:00 p.m.; Saturday, closed; and Sunday,  
4 1:00 p.m. to 5:00 p.m. During part of the summer, the Library is also closed  
5 on Mondays.  
6
- 7 (13) The employees at the Library work varying schedules as follows:  
8 a. Librarians: 40 hours weekly within the Library's hours of operation, on a  
9 rotating schedule.  
10 b. Circulation assistants: 12 to 19 hours weekly within the Library's hours  
11 of operation, on a rotating schedule.  
12 c. Pages: 2 regular shifts each week, each shift being 5 hours; on  
13 alternating weeks, every other Sunday, a 9-hour shift.  
14 d. Custodians: 16 hours weekly, with 3 shifts per week either morning or  
15 evening, rotating to work every third or fourth Sunday of each month.  
16
- 17 (14) Librarians receive vacation and sick leave allotments as provided in the  
18 Town's employee handbook. Pages, Custodians, and Circulation assistants  
19 are part-time, hourly positions and do not qualify for paid leave.  
20
- 21 (15) Librarians receive vacation and sick leave allotments as provided in the  
22 Town's employee handbook. Pages, Custodians, and Circulation assistants  
23 are part-time, hourly positions and do not qualify for paid leave.  
24
- 25 (16) All Library employees are subject to the same Town and Library policies.  
26
- 27 (17) All Library employees are paid biweekly.  
28
- 29 (18) Excluding the Director and Assistant Director, Library employees' pay grades  
30 and salary scales are as follows:  
31 a. Librarians: \$23.97 to \$35.36 per hour, based on years of service. A  
32 separate scale is offered to those who hold a MLS, but none currently  
33 hold this degree.  
34 b. Circulation assistants: \$23.87 per hour.  
35 c. Custodians: \$22.35 per hour.  
36 d. Pages: \$15.00 per hour.  
37
- 38 (19) The Director supervises, and the Assistant Director supports the supervision,  
39 of all Library employees. The Director does not currently supervise the  
40 Custodians due to a personal conflict; thus, the Assistant Director currently  
41 supervises the Custodians.  
42
- 43 (20) Requests for leave are reviewed and approved by the Director subject to  
44 operational needs.  
45

1 (21) All discipline for Library employees is handled by the Director and the  
2 Assistant Director, with support and consultation by the Assistant Town  
3 Administrator/HR Director, as necessary.  
4

5 (22) The Assistant Director creates the work schedules for the Pages, Custodians,  
6 Librarians, and Circulation assistants. The Director performs this task in the  
7 Assistant Director's absence.  
8

9 Additional Findings of Fact<sup>2</sup>

10 Overview  
11

12 Flint Public Library (Library) operations is overseen by the Director and Assistant  
13 Director of the Library. Loretta Swift-Johnson (Swift) holds the position of Director of the  
14 Library.<sup>3</sup> The parties do not dispute that the Director and Assistant Director of the Library  
15 are managerial positions under the Law and that the Union did not petition for these  
16 positions in the bargaining unit. The remaining Library employees are those included in  
17 the petition-for unit, which are five librarians, four circulation assistants, two pages, and  
18 four custodians. None of the petitioned-for employees are currently represented by any  
19 union for the purpose of collective bargaining. The parties did not introduce any evidence  
20 to suggest the petitioned-for employees were ever previously represented by a union.

21 All Library employees are subject to the same Town and Library policies. As the  
22 Director, Swift supervises all Library employees with the support of the Assistant Director.  
23 Swift reviews and approves all requests for leave and conducts annual performance  
24 evaluations of Library employees.<sup>4</sup> Swift and the Assistant Director handle all disciplinary

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<sup>2</sup> The CERB's jurisdiction in this matter is uncontested.

<sup>3</sup> Swift worked at the Library for approximately 25 years. Over the years, Swift held the following positions: page, librarian, Assistant Director, and Director.

<sup>4</sup> Presently, Swift does not conduct the performance evaluations of the custodians or handle discipline for custodians due to a personal conflict. As such, the Assistant Director

1 matters for Library employees, except as noted in footnote 4, with the support of the  
2 Assistant Town Administrator/HR Director. The Assistant Director creates the work  
3 schedules for the Library employees, but Swift performs this task in the Assistant  
4 Director's absence.

#### 5 Librarians<sup>5</sup>

6 The Town employs the following librarian positions: 1) Adult Services Librarian, 2)  
7 Children's Collection Development and Outreach Librarian, 3) Children's Programming  
8 Librarian, 4) Teen Services Librarian, 5) Circulation/Inter-Library Loan Librarian. All  
9 librarians are full-time positions and work forty hours a week on a rotating schedule. All  
10 librarians receive vacation and sick leave allotments as provided in the Town's employee  
11 handbook. The Town pays the librarians between \$23.97 to \$35.36 per hour, and each  
12 librarian's placement on the salary scale is determined by years of experience and  
13 education level.<sup>6</sup>

#### 14 *Job Duties*

15 Although each librarian position has unique job duties, however, every librarian is  
16 responsible for interacting with the public. For example, all librarians are required to  
17 answer questions from the public about a book reference or direct them to the correct  
18 Library department if it is a specialized question. Additionally, the librarians frequently

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conducts the performance evaluations and handles discipline for the custodians. In the past, the Director conducted annual performance evaluations and handled discipline for the custodians.

<sup>5</sup> There is no dispute that the librarians are professional employees under the Law.

<sup>6</sup> Neither party introduced any evidence to explain where each librarian falls on the pay scale.

1 interact with the public to assist with computer questions or address questions and  
2 concerns about books or programs. The librarians are responsible for planning programs  
3 in the Library and out in the community. As part of the planning process, the librarians  
4 coordinate schedules and budgets, secure room availability, and often publicize the  
5 program.<sup>7</sup> Swift expects all librarians to keep their respective workstations tidy.

6 Each librarian's job description requires the employee to observe and follow library  
7 policies and procedures as well as the ability to complete tasks which require the ability  
8 to exert light physical effort, which may involve some lifting, carrying, pushing and/or  
9 pulling of objects and materials of moderate weight (40 pounds). For example, the  
10 librarians are required to push carts with books, lift the books to then bend, kneel, or  
11 stretch above their heads to reach higher shelves.

12 The Adult Services Librarian (AS Librarian) is responsible for planning and  
13 implementing a variety of library programs for adults and occasionally for teens and  
14 adults, including a monthly book club. The AS Librarian is responsible for managing and  
15 maintaining the DVD collection, including purchasing, weeding, and other collection  
16 development functions. The AS Librarian assists with the operation of the circulation desk  
17 to include the registration of new patrons, reservation and distribution of museum discount  
18 passes, patron requests for items, and checking in and out all materials. The AS Librarian  
19 assists with the interlibrary loan program for all materials and conducts searches for  
20 materials from libraries around the state and the country. Additionally, the AS Librarian

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<sup>7</sup> Depending on the task and program, the Librarians work both independently and with the support and direction of the Assistant Director and Director on programs.

1 provides information and assistance to library patrons, receives complaints or special  
2 requests from library users, and makes every effort to follow through in response to them.

3 For approximately a year, the position of AS Librarian has been held by Adrian  
4 Dearborn (Dearborn). On occasion, if a custodian was not available, Dearborn has set up  
5 the furniture and equipment for an event or meeting at the Library. At other times,  
6 Dearborn has worked with a custodian to set up furniture and equipment in a room for an  
7 event or meeting. Finally, Dearborn regularly maintains the CD and DVD collection in the  
8 Library, and as such operates the cleaning apparatus for those disks.

9 The Children's Collection Development and Outreach Librarian (CCDO Librarian)  
10 provides outreach services to Middleton elementary schools, including collaborating with  
11 school staff to coordinate school visits and the loan of public library items to students. The  
12 CCDO Librarian performs reader's advisory and reference services, suggests appropriate  
13 titles in response to parent, child, and teacher requests. Additionally, the CCDO Librarian  
14 maintains the appearance of Children's Room, keeping it neat and attractive, including  
15 the development of attractive and timely displays. The CCDO processes cataloged  
16 materials to make them available for circulation.

17 The Children's Programming Librarian (CP Librarian) makes presentations to  
18 community groups or schools to explain library programs and services. The CP Librarian  
19 plans, prepares, and presents story times and other programs for children, both on and  
20 offsite. The CP Librarian plans, publicizes, and evaluates programs, especially during  
21 holidays and school/summer vacations. Along with the CCDO Librarian, the CP Librarian  
22 maintains the appearance of the Children's Room by keeping it neat and attractive,  
23 including the development of attractive and timely displays.



1           The Teen Services Librarian (TS Librarian) reviews the teen collection to identify  
2 materials to discard and new subjects to purchase. The TS Librarian plans, publicizes,  
3 and evaluates programs, especially during school/summer vacations. Additionally, the TS  
4 Librarian works at the circulation desks, checking materials in and out of the Library to  
5 patrons. The TS Librarian provides outreach services to schools, including collaborating  
6 with school staff to coordinate school visits and the loan of public library items to students.  
7 Also, the TS Librarian is responsible for maintaining the appearance of the departments  
8 by keeping them neat and attractive, including the development of attractive and timely  
9 displays for teens.

10           The Circulation and Interlibrary Loan Librarian (CILL Librarian) is responsible for  
11 book selection and taking recommendations for items to be purchased. The CILL  
12 Librarian makes presentations to community groups about library programs and services.  
13 The CILL Librarian oversees the operation of the circulation desk and manages the  
14 interlibrary loan program.

#### 15           *Qualifications*

16           According to the job description, the Town requires that the TS Librarian possess  
17 a bachelor's degree; prefers the librarian have a Master's Degree in Library Science with  
18 an emphasis on youth services; and possesses two to four years prior experience in  
19 library services, including collection development, programming, circulation, reference  
20 and readers' advisory services. The AS Librarian's job description states that the Town  
21 prefers an MLS degree or a candidate enrolled in a master's level program for Library  
22 Science or Information Technology; at least three to five years as a professional librarian;  
23 or an equivalent combination of experience and education.

1       The CP Librarian's job description states that the Town requires the candidate to  
2       possess a bachelor's degree; a Master's Degree in Library Science is preferred with an  
3       emphasis on children's services; two to four years prior experience in children's library  
4       services, including programming, circulation, reference and readers' advisory services.  
5       The CCDO Librarian job description states that the Town requires the candidate to  
6       possess a bachelor's degree; a Master's Degree in Library Science is preferred with an  
7       emphasis on children's services; two to four years prior experience in children's library  
8       services, including collection development, programming, circulation, reference and  
9       readers' advisory services.

10       The CILL Librarian's job description states that the Town prefers a candidate with  
11       a MLS degree or candidate enrolled in master's level program for Library Science or  
12       Information Technology; at least three to five years as a professional librarian; or an  
13       equivalent combination of experience and education.

14       Circulation Assistants

15       The circulation assistants are part-time employees and work approximately twelve  
16       to nineteen hours a week on a rotating schedule.

17       *Job duties*

18       According to the job description, the circulation assistants perform work at the  
19       circulation desks including: check materials in and out; issue library cards; answer  
20       directional questions; assist patrons with basic instructions on the use of the computer  
21       catalogs; telephone patrons when reserved materials are received; assist patrons on the  
22       use of the photocopier; collect fees for printing, faxing, photocopying; answer the  
23       telephone; and empty the book drop. The circulation assistants help the librarians with

1 programs for children, teens and adults. Also, circulation assistants are frequently  
2 required to walk and stand; use their hands to handle, feel, or operate objects, tools, or  
3 controls; and stoop, kneel, crouch, or crawl and reach with hands and arms in physically  
4 picking up files, papers, and other common office objects. The circulation assistants must  
5 occasionally lift and/or move objects weighing up to 30lbs.

6 Additionally, circulation assistants frequently interact with the public. Often  
7 members of the public will approach a circulation assistant to ask a reference question,  
8 and they will either provide the individual with the information or direct them to the  
9 appropriate librarian. The circulation assistants shelve books and empty the book drop.<sup>8</sup>  
10 Additionally, circulation assistants are responsible for folding brochures, covering the  
11 department desks, answering phones, helping with pull lists<sup>9</sup>, assisting with the circulation  
12 of materials and books.

### 13 *Qualifications*

14 The circulation assistant's job description states that the Town requires the  
15 candidate to have a high school diploma but prefers a bachelor's degree. Also, the Town  
16 prefers previous library experience using automated integrated library network, personal  
17 computers, electronic databases, and the internet preferred. Additionally, the description  
18 states that the position calls for a high degree of initiative and independence, a genuine  
19 desire and ability to interact pleasantly, professionally, and effectively with the public and  
20 coworkers in a tactful manner is essential.

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<sup>8</sup> The book drop is the area that patrons return books to the Library.

<sup>9</sup> Pull lists are the lists created for the books patrons want to check out of the Library or the books needed for circulation to other libraries that the staff need to pull from the shelves.

1        Pages

2        The pages are part-time positions. The pages each work two regular shifts each  
3        week for five hours each shift. Additionally, the pages alternate weeks working every other  
4        Sunday for a nine-hour shift.<sup>10</sup>

5        *Job Duties*

6        The Town requires pages to shelve library materials and keep the library  
7        collections looking inviting and tidy. According to the job description, the pages help  
8        process books, prepare craft materials for library programs, and help tidy up after  
9        programs. The pages help to shift books as needed and shelve books to make sure the  
10       library collections are in good order. Primarily, the pages reshelve books or pull books  
11       from a list curated by a librarian or circulation assistant. At times, a librarian, the Assistant  
12       Director or Director may assign the pages special projects. For example, the pages have  
13       been instructed to help set up crafts or story time at the Library. Additionally, the pages  
14       aid in processing books by getting the books covered and labeled for circulation.

15       At the beginning of each shift, the pages check in with Swift or the Assistant  
16       Director, who assign them to a department for the day. Afterwards, the pages ask the  
17       department's respective librarian if they are needed to shelve books or check the book  
18       drop. Pages are responsible for folding brochures, helping with crafts, and helping with  
19       pull lists. From approximately 2010 to 2012, while a junior and senior in high school,  
20       Dearborn was a page for the Library. As a page, Dearborn shelved books, emptied the  
21       book drop, covered the library desks, and assisted patrons in any other assigned duties.

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<sup>10</sup> The Town did not argue that the Pages are casual employees under the Law.

1           *Qualifications*

2     The Town requires that the page candidate be at least sixteen (16) years of age or older.  
3     The pages should possess excellent computer skills, be able to carry up to 30lbs of books,  
4     follow oral and written instructions, and have excellent attention to detail. The Town  
5     requires the pages to work with the public in a polite and professional manner.

6           Custodians

7           The custodians are part-time positions. The custodians work three shifts per week  
8     for approximately five hours during either the morning or evening shift. Additionally, the  
9     custodians rotate working every third or fourth Sunday of each month. There is not an  
10    existing bargaining unit within the Town for custodians. Apart from the Library, the Town  
11    does not have any other employees working as custodians.

12          *Job Duties*

13          According to the job description, the custodians perform a variety of cleaning job  
14    duties, including but not limited to sweeping, vacuuming, washing or waxing floors and  
15    stairs, shampooing rugs, cleaning doors and windows, and dusting furniture and  
16    fixtures.<sup>11</sup> Additionally, custodians move and rearrange furniture, materials and  
17    equipment as directed as well as shifts and store delivered items to the appropriate area.  
18    The custodians are responsible for performing routine security checks of the building  
19    during the shifts and before closing. Also, the custodians prepare and set up chairs,  
20    tables, AV equipment for the Librarian's programs or other events at the Library.

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<sup>11</sup> If a custodian is unavailable to clean up a spill or other mess, Swift will clean the area. Additionally, librarians will wipe down surface areas in the children's room to disinfect the area.

1 During each shift, the custodians must consult the building maintenance chart to  
2 complete assigned tasks. The building maintenance chart is a list of assigned tasks that  
3 the custodian on shift must attempt to complete on any given day.<sup>12</sup> When the custodian  
4 completes a task, they check the item off the list. However, the custodians can be  
5 interrupted by members of the public or other staff while attempting to complete the  
6 assigned tasks. Members of the public may interrupt the custodian by asking about where  
7 the restroom is located, hours of operations, directions to a particular department, or a  
8 complaint about the building. Additionally, other staff members may interrupt the  
9 custodian's completion of their daily tasks with requests to address an emergency, to  
10 clean up a mess created by patrons, help with moving furniture, or lifting items.

11 At the beginning of each shift, the custodian is required to check the event calendar  
12 for the Library. The event calendar will list any programs or meetings for that day. The  
13 event calendar will explain what items or furniture are needed for the event and it provides  
14 a drawing of how the room should be set up. Additionally, the event calendar will list the  
15 technology equipment that the custodian must set up for the event. Custodians may ask  
16 questions and seek clarification from librarians on how a room or equipment needs to be  
17 arranged for an event at the Library. Also, the librarians interact with custodians when  
18 requesting help retrieving donations from patrons' vehicles.

### 19 *Qualifications*

20 The Town requires the custodians to read, write, and follow directions and to read  
21 and follow instructions on the labels of chemical supplies. The custodians must have the  
22 ability to use hand tools for repairs, carpentry and maintenance. The custodians must be

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<sup>12</sup> The chart is color coordinated to differentiate between day and evening shift tasks.

1 able to work independently and demonstrate a keen attention to detail. Finally, the Town  
2 requires the custodians to have a working knowledge of the principles and practices of  
3 carpentry, painting, plumbing, wiring, and the operation and use of HVAC systems. The  
4 custodians must be capable of frequently lifting up to 50 pounds and occasionally lifting  
5 up to 100 pounds. Additionally, the custodians must hear, talk, walk, sit, bend, reach,  
6 grasp, climb stairs, stoop, kneel or crouch.

### 7 Opinion

8 Under Section 3 of the Law, we are charged with determining appropriate  
9 bargaining units that are consistent with the purpose of providing for stable and continuing  
10 labor relations. In determining whether a bargaining unit is appropriate for purposes of  
11 collective bargaining, the CERB is statutorily bound to consider three factors: 1)  
12 community of interest; 2) efficiency of operation and effective dealings; and 3)  
13 safeguarding the rights to effective representation. City of Everett, 27 MLC 147, 150-151,  
14 MCR-4824 (May 23, 2001). In considering whether a petitioned-for bargaining unit is an  
15 appropriate bargaining unit, we will not reject the proposed bargaining unit because it is  
16 not the only appropriate unit or because there is an alternative that is more appropriate.  
17 Town of Falmouth, 27 MLC 27, 30, CAS-3319, MCR-4696 (September 18, 2000).

18 In deciding whether employees share a community of interest, we examine factors  
19 like similarity of skills and functions, similarity of pay and working conditions, common  
20 supervision, work contact, and similarity of training and experience. Princeton Light  
21 Department, 28 MLC 46, 48. MCR-4805 (June 29, 2001); Town of Bolton, 25 MLC 62,  
22 65, MCR-4562 (September 10, 1998); Boston School Committee, 12 MLC 1175, 1196,  
23 CAS-2598 (August 30, 1985). No single factor is outcome determinative. City of

1 Springfield, 24 MLC 50, 54, MCR-4602 (January 15, 1998) (citing City of Worcester, 5  
2 MLC 1108, 1111, MCR-2632, 2633, 2685-2688 (June 30, 1978)). The Law requires that  
3 employees share only a community of interest rather than an identity of interest. County  
4 of Dukes County/Martha's Vineyard Airport Commission, 25 MLC 153, 155, MCR-4700  
5 (April 16, 1999); Springfield Water and Sewer Commission, 24 MLC 55, 59, MCR-4603  
6 (January 15, 1998).

7 To satisfy the second and third statutory criteria, the CERB considers the impact  
8 of the proposed bargaining unit structure upon a public employer's ability to effectively  
9 and efficiently deliver public services while safeguarding the rights of employees to  
10 effective representation. Peabody School Committee, 27 MLC 7, 8, MCR-4757 (August  
11 14, 2000). The CERB satisfies these obligations by placing employees with common  
12 interests in the same bargaining unit. Id. This avoids the proliferation of units that place  
13 an unnecessary burden on the employer. Town of Bolton, 25 MLC at 65. However, the  
14 CERB also has recognized the importance of maximizing the collective strength of  
15 employees in the bargaining relationship. Franklin County Sheriff's Department, 38 MLC  
16 317, 323, SCR-12-1511 (June 6, 2012). The CERB's preference for broad comprehensive  
17 units is balanced by its concern that a unit should not include employees so diverse as to  
18 produce inevitable conflicts in the collective bargaining process. University of  
19 Massachusetts, 4 MLC 1384, 1392, SCR-2020 (October 18, 1977). Only significant  
20 differences that would result in inevitable conflicts employees lack a community of interest  
21 with other bargaining unit members. West Boylston Water District, 25 MLC 150, 151,  
22 MCR-4706 (April 1, 1999); Franklin Institute of Boston, 12 MLC 1091, 1093, MCR-3409  
23 (July 18, 1985).



1 Community of Interest

2       Here, we find that the pages and custodians share a community of interest with  
3 the librarians and circulation assistants employed by the Town at the Middleton Library.  
4 The pages, librarians, circulation assistants, and custodians are all supervised by the  
5 Director and Assistant Director of the Library. The pages, librarians, circulation assistants,  
6 and custodians all exclusively work at the Middleton Library and do not report to other  
7 Town buildings to perform job duties. As the pages, librarians, circulation assistants, and  
8 custodians, all work in one building, each position has frequent interaction and work  
9 contact with the other positions. For example, the pages routinely interact with the  
10 circulation assistants and librarians while reshelving books or working on special  
11 assignments. Similarly, the custodians frequently interact and have work contact with the  
12 librarians when setting up for events and meetings at the Library, when assisting in  
13 carrying donations from patrons' vehicles to the Library, and cleaning up after craft time  
14 and other events the librarians host in their departments. See Town of Wayland, 7 MLC  
15 2095, 2098-9099, MCR-3114 (May 5, 1981) (holding that the custodians had a sufficient  
16 community of interest with the other library employees where the custodians worked side-  
17 by-side with the other library employees). Additionally, pages, librarians, circulation  
18 assistants, and custodians have similar working conditions. As stated above, the pages,  
19 librarians, circulation assistants, and custodians all work in the same building, are  
20 supervised by the same managers, and are subject to the same Town and Library policies  
21 and rules. The pages, librarians, circulation assistants, and custodians' schedules all  
22 rotate coverage for Sunday shifts. The pages, custodians, and circulation assistants are  
23 all part-time, hourly positions. The pages, librarians, circulation assistants, and custodians

1 are all paid biweekly. The starting hourly rate for the librarians (\$23.97) and the set rate  
2 of pay for circulation assistants (\$23.87) and custodians (\$22.35) are within very close  
3 range.<sup>13</sup>

4 The Town contends that pages do not share a community of interest with the  
5 librarians and circulation assistants because of differences in wages, job duties,  
6 education level, and qualifications. It is clear from the record that the pages do not have  
7 the same qualification requirements or wage rates as the other petitioned-for positions.  
8 However, the pages do share many job duties with the circulation assistants. Both the  
9 circulation assistants and pages reshelve books, fold brochures, and assist with the drop  
10 box and pull lists. The Town argued that the pages should not be included in the  
11 petitioned-for bargaining unit because they are high school students. Although the  
12 students employed as pages may not continue in that role long term, the record shows  
13 that the pages are regular part-time employees who stay in the position for one to two  
14 years. Furthermore, the parties stipulated that the pages were “employees” within the  
15 meaning of Section 1 of the Law. Given the pages are regular part-time employees of the  
16 Library, and they share similar job duties, working conditions, work location, common  
17 supervision, and work contact as some of the other positions in the petitioned for unit, we  
18 find that it is appropriate to place the pages in the same unit as the other positions in the  
19 petition for bargaining unit. Town of Seekonk, 30 MLC 121, MCR-03-5053 (March 12,  
20 2004).

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<sup>13</sup> There is no dispute that this is a mixed unit of non-professional and professional employees. As such, the librarians, the professional employees, will be afforded the opportunity to exercise their right of self-determination and vote not to be included in the same bargaining unit as the non-professional employees (circulation assistants, pages, and custodians).

1       The Town contends that the custodians do not share a community of interest with  
2 the librarians and circulation assistants because of differences in education level,  
3 qualifications, job duties, and wages. As explained above, both the circulation assistants  
4 and custodians have a set hourly rate of pay and are not on a wage scale like the  
5 librarians. Additionally, the difference in the rate of hourly pay for the circulation assistants  
6 and custodians is approximately one dollar. While it is clear that the custodians have  
7 different qualification requirements and job duties than the librarians and circulation  
8 assistants, the Town's minimal education level required for circulation assistants (high  
9 school diploma) is no different from that required for pages or custodians. None are  
10 required to possess a bachelor's degree. Moreover, no single factor in determining a  
11 community of interest is outcome determinative. City of Springfield, 24 MLC 50, 54, MCR-  
12 4602 (January 15, 1998) (citing City of Worcester, 5 MLC 1108, 1111, MCR-2632,  
13 2633,2685-2688 (June 30, 1978)). Critical to the result here is the fact that there are no  
14 other custodians employed by the Town in which the custodians can be included in a  
15 bargaining unit with. Compare Town of Wayland, 7 MLC 1733, 1737-1738, MCR-3114  
16 (H.O. Decision January 9, 1981), affirmed by Town of Wayland, 7 MLC at 2098-2099  
17 (placing the custodian with a bargaining unit of other library employees where he was the  
18 only custodian in the town and therefore had no other unit to be placed in) and Town of  
19 Milford, 22 MLC 1624, 1629, MCR-4395 (March 20, 1996) (excluding custodians from the  
20 bargaining unit of other library employees where there were other custodians in the town  
21 that were unrepresented and with whom they shared a community of interest). As such,  
22 the differences among the positions, do not outweigh the fact that the petitioned-for  
23 positions share similar pay, working conditions, common supervision, and work contact.

1 Second and Third Prong

2       There is nothing in the record to support the Town's contention that a unit  
3 consisting of pages, custodians, circulation assistants, and librarians, whom all work at  
4 the same library, would impede its efficient operations and effective dealings. Again, the  
5 pages, custodians, circulation assistants, and librarians are all paid bi-weekly, share  
6 similar working conditions and work location, subject to the same Town and Library  
7 policies and rules, and share common supervision. The Town already issues paychecks  
8 using different pay scales and rates for the four positions and the librarians are the only  
9 positions that currently accrue paid leave. The Town offers no concrete evidence that its  
10 duty to bargain with a bargaining unit consisting of pages, custodians, circulation  
11 assistants and librarians who work at the library would impede the Town's efficient  
12 operations. See Peabody School Committee, 27 MLC 7, 9, MCR-4757 (August 14, 2000).  
13 After careful consideration of the employees' rights to effective representation, we find  
14 that the petitioned-for unit of all full-time and regular part-time custodians, pages,  
15 librarians, and circulation assistants is an appropriate bargaining unit under Section 3 of  
16 the Law.

17 CONCLUSION  
18

19       For the reasons noted above, we conclude that the unit appropriate for the purpose  
20 of collective bargaining consists of all full-time and regular part-time employees of the  
21 Flint Public Library, including the librarians, circulation assistants, pages, and custodians  
22 employed by the Town of Middleton.

DIRECTION OF ELECTION

Based on the record, we conclude that a question of representation has arisen concerning certain employees of the Town of Middleton. The units appropriate for the purpose of collective bargaining within the meaning of Section 3 of the Law are as follows:

Should a majority of the professional employees desire to be included in a unit with non-professional employees, the appropriate unit would be:

All full-time and regular part-time employees of the Flint Public Library, including the librarians, circulation assistants, pages, and custodians, but excluding all managerial, confidential, and casual employees employed by the Town of Middleton.

Should a majority of the professional employees not wish to be included in a unit with non-professionals, the following two units would be appropriate:

Unit 1: All full-time and regular part-time non-professional library employees of the Flint Public Library, including the circulation assistants, pages, and custodians, but excluding all managerial, confidential, and casual employees employed by the Town of Middleton.

Unit 2: All full-time and regular part-time professional employees of the Flint Public Library, including the librarians, but excluding the circulation assistants, pages, custodians, and all managerial, confidential, and casual employees employed by the Town of Middleton.

IT IS HEREBY DIRECTED that an election by secret ballot shall be conducted to determine whether a majority of the employees in the above-described units desire to be represented by AFSCME, Council 93, or whether they wish to be represented by no employee organization. The eligible voters shall include all custodians, pages, circulation assistants, librarians at the Flint Public Library whose names appear on the Town's payroll for the payroll period for the week ending the Saturday preceding the date of this decision and who have not since quit or been discharged for cause. To ensure that all eligible voters shall have the opportunity to be informed of the issues and the statutory

1 right to vote, all parties to this election shall have access to a list of voters and their  
2 addresses which may be used to communicate with them.

3 To assure that all eligible voters will have the opportunity to be informed of their  
4 statutory right to vote, AFSCME Council 93 should have access to a list of voters and  
5 their addresses which may be used to communicate with them.

6 Accordingly, IT IS HEREBY FURTHER DIRECTED that the Town of Middleton will  
7 file an alphabetized election eligibility list, in a Word document or an Excel spread sheet,  
8 containing the names and addresses of all eligible voters, with the DLR no later than  
9 fourteen days from the date of this decision. The list must be filed electronically and sent  
10 to [EFileDLR@mass.gov](mailto:EFileDLR@mass.gov).

11 The DLR shall make the list available to all parties to the election. Failure to submit  
12 the list in a timely manner may result in substantial prejudice to the rights of the employees  
13 and the parties, therefore, no extension of time for filing the list will be granted except  
14 under extraordinary circumstances. Failure to comply with this direction may be  
15 grounds for setting aside the election should proper and timely objections be filed.

16 SO ORDERED.

COMMONWEALTH EMPLOYMENT  
RELATIONS BOARD



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KELLY B. STRONG, CERB MEMBER



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VICTORIA B. CALDWELL, CERB MEMBER