

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

In the Matter of:

TEAMSTERS, LOCAL 170

and

TOWN OF ASHBY

Case No. WMAM-25-11306

Date Issued: January 20, 2026

CERB Members Participating:

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

Appearances:

Kevin Kam, Esq. - Representing the Teamsters, Local 170
Sharon P. Siegel, Esq. - Representing the Town of Ashby

CERB RULING ON APPEAL OF CHALLENGES IN WRITTEN MAJORITY
AUTHORIZATION PROCEEDING

1 Summary

2 The Teamsters, Local 170 (Union) seeks review from the Commonwealth
3 Employment Relations Board (CERB) of a Department of Labor Relations (DLR) Neutral's
4 decision to uphold the Town of Ashby's (Town or Employer) outcome-determinative
5 challenges to the inclusion of two positions in the bargaining unit as
6 managerial/confidential employees exempt from coverage under Section 1 of M.G.L. c.
7 150E (the Law). The CERB denies the request for review as the Law and the DLR's

1 regulations do not provide for review of a neutral's outcome-determinative challenges in
2 the Written Majority Authorization (WMA) process.

3 Background

4 On May 29, 2025, the Union filed a WMA petition (Petition) with the DLR pursuant
5 to Section 4 of the Law and DLR Regulation 456 CMR 14.19 seeking to represent a
6 bargaining unit comprised of certain employees employed by the Town. The petitioned-
7 for unit consisted of:¹

8 All employees employed by the Town of Ashby in the positions of the
9 Council of Aging Director and Coordinator, Treasurer/Collector, Executive
10 Assistant to the Town Administrator, Administrative Assistant to the
11 Highway Department, Administrative Assistant to the Cemetery,
12 Administrative Assistant to the Police Chief and the Assessor's Clerk but
13 excluding all managerial, confidential, casual, and all other employees of
14 the Town of Ashby.

15
16 On June 9, 2025, the DLR became the Neutral in this case. During the WMA
17 process, the Town filed challenges to the inclusion of, among others, the
18 Treasurer/Collector and the Executive Assistant to the Town Administrator and
19 Selectboard (Executive Assistant).² A DLR hearing officer, serving as the Neutral,
20 determined that the Town's challenges were outcome-determinative and, pursuant to 456
21 CMR 14.19(10), she investigated the challenges.³

¹ After the petition was filed, the Union made certain technical corrections to the unit description which are reflected in this description.

² The Petition and other documents in the record refer to the Executive Assistant as the assistant to only the Town Administrator. Other documents, such as the Neutral's August 11, 2025 letter, however, refer to the position as the Executive Assistant to the Town Administrator and Selectboard. There is no dispute that there is only one Executive Assistant at issue.

³ 456 CMR 14.19(10) states:

1 On August 11, 2025, the Neutral issued a letter upholding the Town's two
2 challenges on the basis that the Treasurer/Collector was managerial and the Executive
3 Assistant was confidential within the meaning of Section 1 of the Law. The Neutral
4 conducted a confidential inspection of the WMA evidence and determined that the Union
5 had established majority support for a three-person bargaining unit that did not include
6 those two positions. Based on the Neutral's confidential inspection of the WMA evidence,
7 on August 12, 2025, the DLR certified the Union as the exclusive bargaining
8 representative for a bargaining unit consisting of the following positions:

9 All full-time and regular part-time employees employed by the Town of
10 Ashby in the positions of the Council of Aging Director and Coordinator,
11 Administrative Assistant to the Police Chief and the Assessor's Clerk but
12 excluding all managerial, confidential, casual, and all other employees of
13 the Town of Ashby.
14

15 On August 20, 2025, the Union filed an appeal to the CERB, seeking review of the
16 Neutral's August 11 decision on the challenges, and citing Section 11 of the Law, M.G.L.
17 c. 23, Section 9R, and DLR Regulations 456 CMR 13 and 15. The Union asserted that
18 the Neutral's determination that the Treasurer/Collector and the Executive Assistant were
19 exempt employees under Section 1 of the Law constitutes reversible legal error. On

As part of the verification process detailed in 456 CMR 14.19(11) and (12), the neutral shall determine whether a majority of employees on the list referred to in 456 CMR 14.19(7) have submitted valid written majority authorization evidence and whether there are a sufficient number of challenges referred to in 456 CMR 14.19(8) and (9) to affect the result of the written majority authorization verification process. If the number of challenges referred to in 456 CMR 14.19(8) and (9) is insufficient to potentially affect the result, then the neutral shall dismiss the challenges. If the number of challenges referred to in 456 CMR 14.19(8) and (9) is sufficient to potentially affect the result, the neutral shall investigate and resolve the challenges. The challenging party shall bear the burden of proving the validity of a challenge.

1 August 21, 2025, the Town filed a Motion to Dismiss the Union's appeal. On the same
2 day, the Union submitted a letter to the CERB asserting that, in addition to the citations
3 in its August 20 appeal, it was also seeking review under 456 CMR 14.

4 For the following reasons, the CERB denies the appeal.

5 Ruling

6 The Union cited Section 11 of the Law, M.G.L. c. 23, § 9R, and DLR Regulations
7 456 CMR 13, 14, and 15, as the authority for its appeal to the CERB of the Neutral's
8 challenges. However, none of these provisions give the CERB the statutory or regulatory
9 right of internal agency review of any challenges that a neutral investigates and resolves
10 during the WMA verification process. Section 11 of the Law pertains to the DLR's
11 procedures when a party files a charge with the DLR claiming that a practice prohibited
12 under Section 10 of the Law has been committed, and it includes appeal rights to the
13 CERB. M.G.L. c. 23, § 9R is the CERB's enabling statute and does not refer to any right
14 of review related to a WMA proceeding or other proceeding under Section 4 of the Law.
15 The only provision in M.G.L. c. 23, § 9R expressly granting the CERB reviewing power is
16 contained in paragraph (d) which states that "[p]ursuant to section 11 of chapter 150E,
17 the [CERB] members shall be responsible for reviewing orders and issuing decisions".

18 Further, we have already determined that the statutory provisions for certification
19 of exclusive bargaining representatives by WMA in Section 4 of the Law and the WMA
20 regulations do not allow an internal agency review except under 456 CMR 14.19(10),
21 which permits a neutral to dismiss non-outcome determinative challenges without

1 resolving them, and 456 CMR 14.19(15),⁴ which permits the parties to seek review of
2 these dismissed non-outcome determinative challenges by filing a request to
3 reinvestigate the certification pursuant to the procedure outlined in 456 CMR 14.15. See
4 Southeastern Massachusetts Regional 911 District, 47 MLC 66, 66-67, WMAM-20-8054
5 (October 14, 2020). Here, because the Neutral dismissed outcome-determinative
6 challenges, 456 CMR 14.19(15) does not apply. No other statutory or regulatory
7 provisions provide for review of any other aspect of the WMA process. Id. As there are
8 no statutory or regulatory provisions that permit the CERB to review a neutral's decision
9 on outcome-determinative challenges, we deny the Union's appeal to the CERB.

10 While 456 CMR 14.15 permits the DLR to "reinvestigate any matter concerning
11 any certification issued by it," it is only for "good cause shown". Where there is no right of
12 review in the statute and the regulations, the CERB has determined that in order to
13 establish good cause under 456 CMR 14.15, a party must do more than dispute the
14 neutral's findings or conclusions or seek a second opportunity to prove its claims. Id. at
15 67. Here, because the Union merely disputes the Neutral's conclusion that the two
16 positions are exempt as managerial or confidential employees under Section 1 of the
17 Law, we also do not find good cause to reinvestigate the DLR's August 12, 2025
18 certification. See Barnstable County Sheriff's Office, 50 MLC 205, 205-206, WMAS-24-
19 10472 (June 17, 2024) (denying a request for reinvestigation where the employer sought

⁴ 456 CMR 14.19(15) states that:

Within seven days after the Department certifies the bargaining unit, the employer may seek review of any previous challenges the neutral had dismissed as non-outcome determinative. The employer may obtain such review by filing a request to reinvestigate the certification pursuant to the procedure outlined in 456 CMR. 14.15.

1 review of positions on the basis that the employees were managerial or confidential where
2 the neutral had already ruled on these outcome-determinative challenges, finding that the
3 employees were neither managerial nor confidential employees); City of Boston, 51 MLC
4 37, 39, WMAM-23-10204 (August 16, 2024) (denying a request for reinvestigation where
5 the employer sought review of titles that the neutral already addressed as outcome-
6 determinative challenges).

7 Conclusion

8 For the aforementioned reasons, the CERB denies the Union's appeal. The DLR's
9 certification, which does not include the Treasurer/Collector and the Executive Assistant
10 to the Town Administrator and Selectboard, remains intact and unchanged.

SO ORDERED.


COMMONWEALTH OF MASSACHUSETTS
COMMONWEALTH EMPLOYMENT RELATIONS BOARD



LAN T. KANTANY, CHAIR



KELLY B. STRONG, MEMBER



VICTORIA B. CALDWELL, MEMBER