

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

In the Matter of

BOARD OF HIGHER EDUCATION

and

AFSCME COUNCIL 93, LOCAL 1067

Case No. CAS-22-9370

Date Issued: September 1, 2022

CERB Members Participating:

Marjorie F. Wittner, Chair
Kelly Strong, CERB Member

Appearances:

Michael J. Murray, Esq. - Representing the Board of Higher Education

Joseph Delorey, Esq. - Representing AFSCME, Council 93, Local 9067

STIPULATED DECISION AND ORDER

1 AFSCME Council 93, Local 1067 (Union) is the exclusive representative of a
2 bargaining unit containing two units of employees employed by the Board of Higher
3 Education (Board or Employer) at the Commonwealth's public state universities and
4 community colleges. The first unit, Unit I, is comprised of clerical and technical
5 employees. The second unit, Unit II, is comprised of maintenance/custodial and security
6 employees.¹

¹ The documents submitted by the parties mostly refer to these units as Unit I and Unit II but occasionally refer to them as Unit 1 and Unit 2. For the sake of consistency, we refer to them as Unit I and Unit II.

1 On June 17, 2022, the Union and the Employer filed a joint unit clarification (CAS)
2 petition with the Department of Labor Relations (DLR) seeking to transfer the job titles of
3 "Communication Dispatcher I and II" from Unit I into Unit II. The petition included several
4 attachments, including the February 10, 1976 certification of representatives in Case No.
5 SCR-2050, in which the former Labor Relations Commission certified AFSCME as the
6 exclusive representative of "All classified employees employed by the Regional Board of
7 Community Colleges in maintenance-custodial positions, including . . .all those employed
8 in the . . .security force."²

9 On August 24, 2022, the Board and the Union filed ten stipulations with the DLR.
10 Stipulations 4-7 describe the duties of the Communication Dispatcher I and II and their
11 interaction and shared working conditions (e.g., common work location, department,
12 supervision, training and overlapping duties) with Campus Police Officers, who are
13 included in Unit II. Other stipulations state in pertinent part:

14 3. It is mutually agreed that bargaining unit employees holding the titles
15 Communication Dispatcher I and Communication Dispatcher II are not
16 managerial employees as defined by M.G.L. c. 150E, Section 1, nor are
17 the present incumbents of these titles currently performing duties which
18 have been designated as confidential by the Board and said titles are
19 appropriate for inclusion in Unit II of the bargaining unit effective June
20 17, 2022.

21 * * *

22 8. Although there are two different units, unit members in both units are
23 governed by the same collective bargaining agreement with the
24 Board...The only appreciable difference between Unit I members and
25 Unit II members is the weekly work hours of each unit's members . . .
26

² The caption of this certification referenced "Unit II." In addition to this certification, the CERB takes administrative notice of the January 20, 1976 certification in Case No. SCR-2016, which certified AFSCME as the exclusive representative of employees employed by the Board of Trustees in State Colleges in "Unit I (Clerical and Technical)" and "Unit II (Maintenance and Security)."

- 1 9. The Union and the Board, as part of bargaining for the present collective
- 2 bargaining agreement, agreed, for a number of reasons, including the
- 3 mutual desire to have the shift start and ending times consistent for
- 4 dispatchers and other public safety employees, to seek a transfer of
- 5 Communication Dispatchers from Unit I to Unit II . . .
- 6
- 7 10. The unit members holding Communication Dispatcher positions share
- 8 a community of interest with Unit II members. Inclusion of
- 9 communications dispatchers in Unit II will not create conflicts within Unit
- 10 II.

Opinion³

13 Where the issues raised by the petition are resolved by stipulation of the parties,

14 the CERB will adopt the stipulations, as long as they do not conflict with M.G.L. c. 150E

15 (the Law) or established CERB policy or precedent. Town of Hopedale, 20 MLC 1059,

16 1067, MCR-4196 (July 12, 1993) (citing Board of Trustees, State Colleges, 4 MLC 1428,

17 1431, SCR-2107, 2108 (November 2, 1977)). The above stipulations do not appear to

18 involve any such conflict and support a conclusion that the Communication Dispatcher I

19 and II job titles are appropriately included in Unit II.

Order

21 The certifications in Case Nos. SCR-2016 and SCR-2050 and the description of

22 Unit II in each are hereby amended to include the titles of Communication Dispatcher I

23 and Communication Dispatcher II.

24 **SO ORDERED**

COMMONWEALTH EMPLOYMENT RELATIONS BOARD

Marjorie F Wittner

MARJORIE F. WITTNER, CHAIR

³ The jurisdiction of the Commonwealth Employment Relations Board (CERB) is not contested.



KELLY STRONG, CERB MEMBER