

Commonwealth of
Massachusetts
Department of Labor Relations

FY2020 ANNUAL REPORT



July 1, 2019 - June 30, 2020

Philip T. Roberts

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

Website: www.mass.gov/dlr

TABLE OF CONTENTS

EXECUTIVE SUMMARY	3
OVERVIEW OF DLR SERVICES	5
1. Processing Prohibited Practice Charges	5
2. Hearings and Appeals.....	6
3. Representation Issues	6
4. Labor Dispute Mediation	7
5. Grievance Arbitration.....	8
6. Investigation, Prevention and Termination of Strikes.....	9
7. Litigation	9
8. Other Responsibilities	9
SELECTED CERB DECISIONS JULY 1, 2019 TO JUNE 30, 2020	11
SELECTED LITIGATION JULY 1, 2019 TO JUNE 30, 2020	17
STATISTICAL REPORTS	20
STAFF LIST.....	27
ADVISORY COUNCIL	28
BUDGET	29

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 ensures 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 is comprised of: (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 that includes labor and management representatives, which uses its procedures to encourage municipalities and their police officers and firefighters to agree directly on terms to resolve collective bargaining disputes or on procedures to resolve these disputes.

As reflected in the charts beginning on page 19 of this report, during the past fiscal year, the DLR opened 620 new cases and closed 631 cases. The majority of those cases are unfair labor practice (ULP) cases. The inventory of cases on the DLR's open docket in FY2020 is similar to the past three fiscal years. At the end of FY2020, the DLR had approximately 440 open cases at various stages of case processing, including administrative and judicial appeals. The DLR has maintained its ability to issue timely probable cause determinations and hearing officer decisions. On average, in FY2020, the DLR issued probable cause determinations in 36 days and hearing officer decisions in 187 days. With consistent funding and staffing levels, the DLR will strive to improve on these averages in the next fiscal year.

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 continued to provide expedited mandatory mediation services in all ULP Level I cases. In response to the COVID-19 pandemic, the DLR offered immediate mediation in all COVID-related unfair labor practice cases. The DLR's continued use of mediation helps facilitate the parties' relationships and provides significant cost-savings. During this past fiscal year, DLR mediators conducted 277 contract mediation sessions, 8 grievance mediations and 166 unfair labor practice mediation sessions.

During the past fiscal year, the CERB published 5 Hearing Officer Appeal decisions, 4 representation case decisions, and decided 20 requests for review of Investigators' dismissal of charges for lack of probable cause.

During the past fiscal year, there were 46 JLMC cases filed. The DLR mediators, working under the JLMC's oversight, conducted 80 contract mediations. The JLMC conducted 10 Section 3(a) hearings.

The DLR offers many services to accomplish its mission, including:

- 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 FY2020, in response to a report of the Office of the State Auditor, the DLR completed a review of historical case-tracking data to determine appropriate time targets for case processing events in all of the types of cases the DLR handles. Based on this review, the DLR developed and implemented performance standards for the timely processing of all case types. In addition, the DLR continued its review of the next generation of cloud-based software to replace its current case management system, with the ultimate goal of continuing to use technological advancement to provide better service to our stakeholders. The key objective of this initiative is to integrate the DLR's web-based forms and e-filing application with its case and document management system into a single software system. Improving the functionality of the DLR's web-based public documents search system, which gives the public and stakeholders the ability to search the DLR's case management system and retrieve frequently requested public documents and online dashboards that provide real time case management information, is also included in this review.

OVERVIEW OF DLR SERVICES

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

1. Initial Processing and Investigation of Prohibited Practice Charges

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 failed to bargain in good faith; or allegations that an employee organization 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 determine whether the case should be deferred to the parties' own contractual grievance procedure. Cases that are properly before the DLR will be classified as a Level I or Level II case based on its relative impact to the public. Level I cases where resolution of the dispute has the greatest urgency will be processed first; the time frame for completion of the investigation will be 60 days, depending on the level of urgency. Level II cases with less urgency will be investigated between 60 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 a probable cause investigation. The investigator will expect the parties to present evidence from individuals with first-hand knowledge. The intent of the in-person probable cause investigation is to have both parties present all evidence at the investigation, and, as a result, most investigations have the record closed at the end of the in-person investigation.

After a record is closed, an investigator will issue a 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 CERB, 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 as soon as practicable, considering caseload and staffing and depending on the level of urgency. In addition, because the DLR mandates mediation in all Level I cases, mediation must 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, but before it takes place, the DLR requires the parties to file a Joint Pre-Hearing Memorandum and attend a Pre-Hearing Conference 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 against 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. The DLR's goal is to issue decisions in Level I cases within three months of closing the record. In Level II cases, the DLR's goal is to issue a decision 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 issues its decision, generally within six months after the appeal is filed. Once the CERB issues its decision, the decision is final and can be appealed only 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 an agreement concerning an appropriate unit. In FY2020, the DLR resolved 60% of its unit clarification cases through voluntary agreement over the scope of the bargaining unit and in 83% of election cases, elections were conducted after voluntary agreement over the scope of the bargaining unit. When no agreement is reached, 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 through mail-in ballots.

In FY2020, the DLR docketed 21 representation petitions and conducted 10 elections, involving 174 voters. A chart detailing these representation elections is available in the Case Statistics section of the Report.

b. Written Majority Authorization Petitions

The card check 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 that provides the DLR (or a designated neutral) with proof of majority support (50% + 1) 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 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 written majority authorization petitions.

In FY2020, 20 written majority authorization petitions were filed. The DLR issued certifications in 11 of those petitions that were supported by 271 written majority authorization cards. A chart detailing the written majority authorization certifications issued in FY2020 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 FY2020, the DLR received 9 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's jurisdiction extends to all public sector labor contract disputes, though contract disputes involving municipal police and firefighters are mediated through the procedures and rules adopted by the JLMC. The DLR prioritizes 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 that the DLR enforces provide a roadmap of what occurs if negotiations break down. 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 I prohibited practice hearings.

c. Grievance Mediation

The DLR provides mediation services to parties who desire to mediate grievances arising out of the collective bargaining agreement. The DLR offers grievance mediation to all parties who file for grievance arbitration. In some cases, DLR mediators will assist parties on an ongoing basis to settle numerous grievances. The DLR received 10 requests for grievance mediation during FY2020.

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 received 42 grievance arbitration petitions from a variety of employer and employee representatives involving state, county, and municipal governments, including police departments, fire departments, public works departments, and school departments. Many of these 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.

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 the CERB issues an 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. In FY2020, the DLR received one strike petition. In this case, the CERB conducted a strike investigation the day after the petition was filed and issued its decision later that day, finding that an unlawful strike had occurred and ordering the employees to return to work and ordering the union to cease and desist from its unlawful conduct. The DLR sought and obtained a preliminary injunction from the Superior Court the following day and the strike was resolved shortly thereafter.

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 rare, G.L. c.150E 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 G.L. c. 150E, §§ 13 and 14, the DLR maintains files on employee organizations. Those files include the names and addresses 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 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. Normally, 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, however, this conference was cancelled this year due to the COVID pandemic. Additionally, throughout the year, the DLR makes formal and informal presentations before various bar associations, union meetings, and employer association groups.

Selected Decisions and Rulings of the Commonwealth Employment Relations Board (CERB)
July 1, 2019 – June 30, 2020

Unfair Labor Practices

City of Newton and Newton Police Superior Officers Association and MASSCOP, Local 401, 46 MLC 20, MUP-16-5532, (August 20, 2019) (CERB Decision on Appeal of Hearing Officer Decision)

The CERB affirmed a Hearing Officer decision holding that the City violated Section 10(a)(5) and derivatively Section 10(a)(1) of the Law by refusing to bargain on demand about the criteria and procedure for fitness for duty examinations and when it required a police captain to take a fitness for duty exam as a condition of returning to work after the City placed him on paid administrative leave. On appeal to the CERB, the City continued to contest that any aspect of its decision to order the captain to undergo fitness for duty testing was subject to mandatory bargaining. The Union appealed from the hearing officer's failure to order a make-whole remedy and asked that record of the fitness for duty examination be expunged from the City's records, including the captain's personnel file. As to the City's bargaining obligation, the CERB held that the procedure by which an employer determines that an employee is physically and mentally fit for duty, including, but not limited to the selection of the evaluator, the information provided to the evaluator, the testing protocol, the results generated, and how that information will be used, are mandatory subjects of bargaining. As to remedy, the CERB found that where the Union never challenged the City's decision to place the captain on paid administrative leave in the first instance, restoration of the status quo did not require the captain to be placed in the same economic position that he would have been in had he never been placed on leave. The CERB rejected the Union's request that the City remove all reference to the captain's fitness for duty examination from his personnel file as improperly raised for the first time on review. The CERB noted however, that where the Hearing Officer's order required the City to rescind the unilateral implementation of a fitness for duty exam, compliance with that order meant, at a minimum, requiring the City to update its records, including the captain's personnel record, to reflect that the City had rescinded its order that the captain undergo fitness for duty testing.

Judicial Appeal - Pending

City of Boston and Boston Police Superior Officers Federation, 46 MLC 64, MUP-16-5618, (September 27, 2019) (CERB Decision on Appeal of Hearing Officer Decision)

Overruling a Hearing Officer decision, the CERB held that the City of Boston violated Section 10(a)(5) and, derivatively, Section 10(a)(1) of G.L. c. 150E by not giving the Boston Police Superior Officers Federation prior notice and an opportunity to bargain before issuing a work rule that prohibited bargaining unit members from eating at their work stations and on the floor of the Police Department's Operations Unit. Although the CERB found that the City had a legitimate interest in protecting critical and expensive equipment and ensuring a rodent and pest-free environment, contrary to the Hearing Officer, the CERB concluded that those interests did not outweigh the Union's interests in bargaining over the decision and the impacts of the decision on bargaining unit members' terms and conditions of employment, including, among other things, the availability of food in the workplace and the conditions under which it could be consumed.

Judicial Appeal - None

City of Boston and SENA, 46 MLC 131, MUP-17-5924, (January 7, 2020) (CERB Decision on Appeal of Hearing Officer Decision)

The CERB affirmed a Hearing Officer decision holding that the City of Boston violated Section 10(a)(5) and, derivatively, Section 10(a)(1) of G.L. c. 150E by implementing a Vacation Leave Policy that, by counting all

types of leave that bargaining unit members had taken in the previous calendar year, changed the means of determining when bargaining unit members would receive their annual “vacation drop.”

Judicial Appeal: Pending

City of Boston and SENA, Local 9158, 46 MLC 191, MUP-17-6211 and MUP-18-6679, (March 31, 2020) (CERB Decision on Appeal of Hearing Officer Decision)

The Union appealed from aspects of a Hearing Officer decision holding: (1) that the City did not retaliate against a bargaining unit employee for filing grievances or participating in DLR proceedings by reducing the employee’s overtime opportunities and assigning her tasks to other employees; and (2) by transferring some of the employee’s duties outside of the bargaining unit. The Union also claimed that the Hearing Officer improperly declined to amend the complaint to allege that some of the City’s conduct violated Section 10(a)(3) of the Law rather than Section 10(a)(5) of the Law. The CERB affirmed the Hearing Officer’s decision in its entirety. With respect to the Section 10(a)(3) allegations, the CERB found that the timing of the adverse action was not suspicious, since it took place more than eight months after the protected, concerted activity. Moreover, timing alone is insufficient to prove unlawful motivation. The CERB found that even if the Union had established a prima facie case of discrimination under Section 10(a)(3) of the Law, the City had met its burden of providing legitimate reasons for its conduct, including the need to monitor and reduce overtime, and that the Union had not demonstrated that, but for the employee’s protected conduct, the City would not have taken the same action. The CERB also affirmed the Hearing Officer’s determination that the City did not unlawfully transfer bargaining unit work because, due to the supervisors’ concerns about the employee’s work performance, the supervisor performed the duties as a means of oversight, and not because the work had been transferred. The CERB also found that the Hearing Officer had not abused her discretion by denying the Union’s motions, made at different stages of the hearing, to amend the complaint.

Judicial Appeal: None

Commonwealth of Massachusetts and Massachusetts Organization of State Engineers and Scientists, 46 MLC 207, SUP-16-5594, (May 1, 2020) (CERB Decision on Appeal of Hearing Officer decision)

Where the hearing record established that certain state inspectors who used their own personal vehicles to travel to inspections had assigned offices, the CERB affirmed a Hearing Officer’s decision holding that collective bargaining agreement provisions governing mileage reimbursement to and from bargaining unit members’ homes to their first assignment or to their assigned office pertained to these inspectors and was clear and unambiguous. The CERB affirmed that portion of the decision, holding that the Employer’s practice of compensating the inspectors for the mileage they incurred from the moment they left home until they returned was not a binding past practice because it was inconsistent with the pertinent contract language.

Judicial Appeal: None

Representation, Written Majority and Unit Clarification Petitions

Town of Braintree and New England Police Benevolent Association and AFSCME Council 93, MCR-19-7086, (August 12, 2019) (CERB Decision in First Instance)

Where, based upon bargaining history and the language of the CBA’s recognition clause, the CERB rejected NEPBA’s argument that AFSCME represented Civilian Dispatchers in a stand-alone unit, finding instead that AFSCME represented a single, merged bargaining unit that included Civilian Dispatchers and other non-professional Town employees, and that, under the CERB’s severance standard, the differences in the Civilian Dispatchers’ schedules or duties had not caused and were not likely to cause conflicts or divisions within the bargaining unit. The CERB dismissed a representation petition filed by the NEPBA seeking to represent a separate bargaining unit of Civilian Dispatchers.

New Bedford School Committee and Massachusetts Teachers Association, WMAM-19-7700, (June 26, 2020) (CERB Decision in First Instance)

The New Bedford School Committee filed a motion to reinvestigate a certification by written majority authorization (WMA) to address a challenge that it filed during the WMA verification process seeking to exclude Wraparound Coordinators from a petitioned-for bargaining unit of “Support Specialists.” The Union challenged the omission of the Culinary Specialist from the School Committee’s list of bargaining unit members. The DLR, acting as the Neutral, dismissed the challenges without deciding them because they were not outcome determinative. After reinvestigation, a majority of the CERB (Member Lev, dissenting) found that the Wraparound Coordinators shared a community of interest with the other bargaining unit members, based on similar schedules, pay, work location, regular interaction, common interests and goals. The CERB therefore declined to remove these titles from the certified unit. All three CERB members determined that the position of Culinary Assistant should be added to the unit because the position shared a community of interest with other bargaining unit members, particularly Student Mentors, based on similar duties, pay, work location, schedule, and interaction with other bargaining unit members.

Town of Natick and Mass Laborers’ District Council, CAS-19-7239, (June 26, 2020) (CERB Decision in First Instance)

The CERB accreted the position of Library Bookkeeper to a bargaining unit comprised of all full-time and regular part-time employees employed by the Town of Natick at the Morse Institute Library. The CERB found that this position was not confidential and otherwise shared a community of interest with the other bargaining unit members in terms of similar pay, working conditions, work contact, and training and experience.

University of Massachusetts and Boston and Professional Staff Union, 46 MLC 121, CAS-17-6267, (December 27, 2019) (CERB Decision in First Instance)

The CERB granted a unit clarification petition filed by the Professional Staff Union seeking to add the title of Assistant Vice Provost, Research Compliance and Financial Accounting to its bargaining unit. The CERB concluded that the incumbent shared a community of interest with other bargaining unit members in terms of salary, duties, work contact, and supervision. In so holding, the CERB rejected the University’s arguments that the disputed title should be excluded as a managerial/supervisory employee. It also rejected the argument that the newly created disputed title should be excluded based on the CBA’s recognition clause, which excluded certain provost titles, but not “Assistant Vice” provost titles.

Strike Petitions

Dedham Education Association, et al & Dedham School Committee, 46 MLC 76, SI-19-7658, (October 24, 2019) (CERB Ruling on Strike Petition)

The Dedham School Committee filed a Petition for Strike Investigation with the CERB alleging that an illegal strike within the meaning of Section 9A of Chapter 150E was about to occur and that the Dedham Education Association (DEA), and other individual respondents who were officers of the Union and members of the Union’s bargaining team had induced, encouraged, and condoned the strike. After conducting a strike investigation on October 24, 2019, the CERB concluded that the DEA and Union President Dwyer, but not the other named respondents, had violated Section 9A of the Law as alleged. The CERB’s ruling was based on: evidence showing nearly two years of bargaining and unsuccessful mediation for a successor contract; the DEA’s intent to hold a general membership meeting on October 24, 2019, at which a strike vote would be taken to strike on October 25, 2019; flyers and emails admittedly authored by the Union president discussing the strike vote, making statements like “What options are left for us?” and “Enough is enough” and inviting support at rallies to take place on

October 25, 2019. The CERB ordered the DEA and Dwyer to, among other things, cease and desist from engaging or threatening to engage in a strike, cancel the strike vote, and to publicly disavow and disclaim any future strike, work stoppage or slowdown.

Miscellaneous Rulings

Chelmsford School Committee and Chelmsford Federation of Teachers, AFT Local 3569, 46 MLC 81, MUP-17-6374, (September 11, 2019) (CERB Ruling on Appeal of Hearing Officer's Decision to Withdraw Complaint)

In a case of first impression, the CERB evaluated the sufficiency of a DLR-approved unilateral settlement agreement (Agreement) that the Chelmsford School Committee entered into to resolve a seventeen-count complaint alleging three separate Section 10(a)(3) violations and fourteen separate independent Section 10(a)(1) violations. Based on that Agreement and the notice that the School Committee agreed to post as part of the Agreement, a DLR hearing officer withdrew the complaint on grounds that further proceedings would not effectuate the purposes of the Law. The Chelmsford Federation of Teachers appealed the withdrawal of the complaint to the CERB. After review, the CERB set aside the Agreement and remanded the matter to the DLR for further processing without prejudice to future settlement negotiations. The CERB found that the Agreement failed to resolve the dispute in a manner that both settled the private disputes underlying the complaint and the public rights embodied in the Law because the Agreement contained a non-admission clause and otherwise failed to repudiate the conduct alleged in all seventeen, "hotly-contested" counts of the complaint in a fact-specific, unambiguous manner.

Judicial Appeal - Pending

Town of Franklin and Leanne Kerwin and AFSCME, Council 93-AFL-CIO, 46 MLC 81 MCR-19-7425, (October 31, 2019) (CERB Ruling on Motion to Treat Prohibited Practice as Blocking Charge)

Where AFSCME Council filed a charge alleging that the Town of Franklin violated Section 10(a)(1) of the Law by promising to give bargaining unit members a \$3,000 annual wage increase if they voted to decertify the AFSCME, and where a DLR investigator found probable cause to believe that the Town had violated the Law in the manner alleged, the CERB concluded that the charge should act as a blocking charge to a decertification election because the alleged conduct, if true, would tend to interfere with the free electoral choice of employees. In reaching this conclusion, the CERB considered the small unit size and the closeness in time between the meeting at which the statements were allegedly made and the date the decertification petition was filed.

Selected Litigation
July 1, 2019 – June 30, 2020

This list reflects closed cases only. There are cases currently in the SJC and Appeals Court that are pending oral argument or where oral argument is complete, and a decision is forthcoming.

Judicial Appeal of CERB Decisions on Appeal of Probable Cause Dismissals:

Ben Branch, et al., v. Massachusetts Department of Labor Relations, et al., 140 S. Ct. 858 (2020)

Lower Court: *Ben Branch, et al. v. Commonwealth Employment Relations Board, et al.*, 481 Mass. 810 (2019)

DLR Case: *FSU/MTA/NEA and Branch, Connor, Curran, and Melcuk*, ASF-14-3744, 14-3919, 14-3920 (11/18/2014) (unpublished)

Four public employees (Employees), represented by local affiliates of the Massachusetts Teachers Association/NEA (Unions) but who had not joined the Unions, brought charges at the DLR challenging the constitutionality of compulsory agency fees and exclusive representation under G.L. c. 150E, § 12. The Employees also alleged various prohibited practices.

After conducting a series of in-person investigations into all charges, a DLR investigator issued a single dismissal finding, in part, that exclusive representation, standing alone, does not violate the Law but rather is expressly authorized by G.L. c. 150E. She also summarily dismissed the challenges to agency fees since such fees had not been deemed unconstitutional or inconsistent with G.L. c. 150E at the time of her decision. Upon review pursuant to an appeal brought under G.L. c. 150E, § 11, the CERB affirmed the investigator's dismissal.

The Employees then appealed to the Appeals Court, but while the case was pending in the Appeals Court, the U.S. Supreme Court held that states and public sector unions may not, consistent with the First and Fourteenth Amendments, collect agency fees from non-union members of public sector bargaining units and that the employee must clearly and affirmatively consent to paying such fees. *Janus v. American Federation of State, County, and Municipal Employees, Council 31*, 138 S. Ct. 2448 (2018). The SJC transferred the Employees' appeal to its docket sua sponte.

The SJC found that the Employees' challenges to agency fees and the previous manner of collecting them were now moot since the Unions ceased collecting agency fees from nonunion employees and could not resume collecting them without violating *Janus*. The SJC further decided that the Employees' remaining challenges to the Unions' internal rules, limiting nonmembers' participation in internal Union decisions such as bargaining strategy, coupled with the Unions' status as the "exclusive representative" of the Employees' bargaining units, where the Unions' internal rules do not constitute state action where 1. the Supreme Court has previously held that exclusive representation does not violate the speech or associational rights of nonunion employees, which was not disturbed by *Janus*; and 2. where the Employees enjoy many opportunities to be heard regarding the terms and conditions of their employment without joining or supporting the Unions.

The Employees filed a Petition for Certiorari in the U.S. Supreme Court. The U.S. Supreme Court denied the Petition for Certiorari on January 13, 2020.

Sylvie Sinapah v. Commonwealth Employment Relations Board, 98 Mass. App. Ct. 1107 (2020)

DLR Cases: *Sylvie Sinapah and United Auto Workers*, SUPL-15-4357 (1/29/2016); *Sylvie Sinapah and UMass Amherst*, SUP-15-4454 (1/29/2016)

Sylvie Sinapah (Sinapah), a French citizen, was hired for a one-year appointment as a paid postdoctoral research associate at UMass Amherst (UMass) on a J-1 visa commencing on February 2, 2014. Multiple conflicts arose between Sinapah and her supervisors at UMass, and by the end of her employment, she had accumulated a thirty-day suspension.

In SUPL-15-4357, Sinapah brought charges at the DLR alleging that her union, United Auto Workers (Union) breached its duty of fair representation owed to her under G.L. c. 150E § 10(b)(1) when it decided not to submit Sinapah's grievance to arbitration. A DLR investigator dismissed the charge, finding that the Union engaged in extensive negotiations on Sinapah's behalf to resolve Sinapah's grievance, obtained a reasonable settlement offer, and made a reasoned decision not to arbitrate a grievance that it believed lacked merit.

In SUP-15-4375, Sinapah brought charges at the DLR alleging that UMass refused to extend her visa status in retaliation for her protected concerted activity in violation of G.L. c. 150E § 10(a)(3). The same DLR investigator dismissed the charge, finding that Sinapah presented no evidence that the University's decision was motivated by animus towards her protected concerted activity.

Sinapah requested review by the CERB in both cases, pursuant to G.L. c. 150E, § 11, claiming that the Investigator erred in dismissing her charges and that the investigator arbitrarily excluded her exhibits. In separate decisions, the CERB found no procedural irregularities and affirmed the dismissals. Sinapah appealed both dismissals to the Appeals Court. While her appeals were pending in the Appeals Court, she filed motions in both cases for permanent impoundment of all DLR records. In separate rulings issued on the same day, the CERB denied her motions as overbroad without holding any hearings, which Sinapah also appealed to the Appeals Court.

In a consolidated decision, the Appeals Court affirmed both CERB decisions. The Appeals Court determined that: (1) Sinapah's allegations that the DLR Investigator and the CERB demonstrated bias against her were unsupported by the record and that the CERB appropriately rejected her procedural claims; (2) the CERB did not exceed the bounds of its discretion in affirming both dismissals; and (3) the CERB was justified in concluding that the plaintiff's requests to permanently impound the entirety of both investigation records were overbroad and without good cause.

Sinapah has filed a Request for Further Appellate Review with the SJC, which is currently pending, Case No. FAR-27797.

Judicial Appeal of CERB Decisions on Appeal of Hearing Officer Decisions:

Board of Higher Education vs. Commonwealth Employment Relations Board, 483 Mass. 310 (2019)

Lower Court Decision: *Board of Higher Education vs. Commonwealth Employment Relations Board*, 2017-P-1328

DLR Case: *Board of Higher Education and Massachusetts State College Association/MTA/NEA*, SUP-08-5396, (Feb. 6, 2015)

A DLR Hearing Officer determined that the Board of Higher Education (Board) had repudiated a provision in a collective bargaining agreement between the Board and the Massachusetts State College Association (Union) that placed a cap on the percentage of courses taught by part-time faculty at the Commonwealth's state colleges. On review, the CERB upheld the Hearing Officer's decision in its entirety. The Board appealed the CERB's decision to the Appeals Court pursuant to G.L. c. 150E, §11(i), and the SJC transferred the appeal to its docket sua sponte.

The SJC held that the CERB properly determined that the provision of the collective bargaining agreement placing a cap on the percentage of courses taught by part-time faculty at the Commonwealth's State College was enforceable and did not intrude impermissibly on the nondelegable managerial prerogative of the Board under G.L. c. 15A, § 22 to appoint, transfer, dismiss, promote, and award tenure to all personnel, where nothing in the language of § 22 explicitly prohibited the Board from bargaining over the hiring of part-time faculty, and where nothing in the relevant provision of the collective bargaining agreement materially conflicted with the Board's general authority to set educational policy.

Office and Professional Employees International Union, Local 6 and Commonwealth Employment Relations Board, Appeals Court No. 2018-P-1382 (2019)

DLR Case: *John Murphy and Office and Professional International Union, Local 6*, SUPL-14-3628 (Mar. 21, 2018)

A DLR Hearing Officer determined that the Office and Professional International Union, Local 6 (Union) breached its duty of fair representation owed to John Murphy (Murphy) when it failed to timely file a demand for arbitration of his termination in violation of G.L. c. 150E § 10(b)(1) and ordered the Union to make Murphy whole for the loss of compensation he suffered as a result of his termination. On review, the CERB upheld the Hearing Officer's decision and also ordered the Union to pay interest at the rate specified in G.L. c. 231 § 6I, compounded quarterly.

The Union filed an appeal pursuant to G.L. c. 150E § 11(i), arguing that the CERB erred in concluding that the Union committed a breach of its duty of fair representation and that Murphy was entitled to a remedy. In its appeal, the Union argued that CERB should abandon the burden-shifting framework it applied where, if the employee establishes that his grievance was not clearly frivolous, the burden shifts to the Union to demonstrate that the grievance was clearly without merit, in favor of the rule adopted by the National Labor Relations Board (NLRB) in *Iron Workers Local 377*, 326 NLRB 375, 377 (1998), which puts the burden on the charging party to prove that the grievance would have succeeded had the union properly processed it. Murphy cross-appealed, arguing that the CERB erred in ordering the Union to pay interest at the rate specified by G.L. c. 231, § 6I and instead should have ordered interest at the rate of twelve percent per annum pursuant to G.L. c. 231, § 6H.

The Appeals Court held that the CERB permissibly found that the Union had committed a breach of its duty of fair representation. The Appeals Court rejected the Union's argument that the CERB should apply the rule adopted by the NLRB because the union did not challenge the application of the burden-shifting framework until it submitted its post hearing brief and the CERB was entitled to conclude that the burden-shifting rule was preferable to federal rule "[a]s a policy matter" and "does not unduly disfavor the union." The Appeals Court

also found that whichever standard was applied, Murphy was still entitled to a remedy because he offered sufficient evidence to show that his grievance would have succeeded at arbitration.

With respect to Murphy's cross-appeal, the Court rejected Murphy's argument because G.L. c. 231 applies to court actions, not administrative agency proceedings. The Court held that CERB's authority to award interest does not derive from G.L. c. 231, but from G.L. c. 150E, § 11, "which confers on the [CERB] 'considerable discretion . . . in fashioning an appropriate remedy,' including interest awards," and therefore the CERB acted within its discretion and committed no error of law in choosing not to deviate from its consistent practice of applying § 6I to all monetary judgments.

The parties' filed a joint request for a backpay compliance hearing, which is currently pending a compliance hearing before a DLR Hearing Officer.

Ann Marie O'Keeffe v. Commonwealth Employment Relations Board, Appeal Court No. 2019-P-0873

DLR Case: *Ann Marie O'Keeffe and Boston Teachers Union Local 66*, MUPL-16-5167 (12/28/2018)

A DLR Hearing Officer determined that the Boston Teachers Union Local 66 (Union) breached its duty of fair representation owed to Ann Marie O'Keeffe (O'Keeffe) when it filed an untimely demand for arbitration of her termination in violation of G.L. c. 150E § 10(b)(1). Because O'Keeffe was unable to demonstrate that she would have been able to return to work as of the end date of the medical leave of absence that she was seeking at the time of her termination, the Hearing Officer held that the Union's liability for damages ended as of the date O'Keeffe would have returned from leave. On review, the CERB affirmed the Hearing Officer's decision.

O'Keeffe filed a notice of judicial appeal on February 27, 2019, more than thirty (30) days after the DLR emailed a copy of the CERB's December 28, 2018, decision to her. The CERB therefore held that O'Keeffe was barred from obtaining judicial review of the CERB decision pursuant to G.L. c. 150E, § 11(i) and granted the Union's motion to strike the appeal as untimely.

O'Keeffe appealed the ruling to the Appeals Court, which affirmed the CERB's decision striking her notice of judicial appeal as untimely. O'Keeffe has filed a Request for Further Appellate Review with the SJC, which is currently pending, Case No. FAR-27809.

DEPARTMENT OF LABOR RELATIONS

FY2020 CASES RECEIVED

JULY 1, 2019 – JUNE 30, 2020

MONTHLY BY CASE TYPE WITH TOTALS AND AVERAGES

CASE TYPE	JUL.	AUG.	SEPT.	OCT.	NOV.	DEC.	JAN.	FEB.	MAR.	APR.	MAY	JUN.	TOTAL	Avg./month	%/month
Unfair Labor Practice	44	28	27	54	31	33	31	40	43	18	36	32	417	34.75	67%
Representation Cases	6	1	1	2	1	2	12	2	5	1	5	3	41	3.42	7%
Unit Clarification (CAS)	1	2	0	0	0	1	1	1	1	0	1	1	9	1.38	1%
Other (SI, AO, RBA)	0	0	0	1	0	0	0	0	0	0	0	0	1	0.08	0%
Grievance Arbitration	1	9	5	8	1	3	2	5	2	1	2	3	42	3.50	7%
Grievance Mediation	2	1	1	2	0	1	0	0	1	1	1	0	10	1.54	2%
Contract Mediation	19	2	5	11	7	6	6	0	0	1	0	2	59	4.92	10%
JLMC	11	2	5	4	3	6	0	2	2	2	3	1	41	3.42	7%
TOTAL	84	45	44	82	43	52	52	50	54	24	48	42	620		100.00%

DEPARTMENT OF LABOR RELATIONS
FY2020 CASES CLOSED
JULY 1, 2019 – JUNE 30, 2020
MONTHLY BY CASE TYPE WITH TOTALS AND AVERAGES

CASE TYPE	JUL.	AUG.	SEPT.	OCT.	NOV.	DEC.	JAN.	FEB.	MAR.	APR.	MAY	JUN.	TOTAL	Avg./month	%/month
Unfair Labor Practice	39	42	43	49	41	25	31	39	28	24	35	34	430	35.83	68.15%
Representation Cases	1	2	3	3	2	1	1	3	2	3	3	5	29	2.42	4.60%
Unit Clarification (CAS)	1	0	2	0	0	2	1	2	0	1	0	2	11	0.92	1.74%
Other (SI, AO, RBA)	0	0	0	0	1	0	0	0	0	0	0	0	1	0.08	0.16%
Grievance Arbitration	3	2	2	4	1	0	8	1	2	2	2	2	29	2.42	4.60%
Grievance Mediation	1	0	0	0	2	1	4	0	0	1	0	0	9	0.75	1.43%
Contract Mediation	7	13	6	7	7	8	7	6	8	3	2	3	77	6.42	12.20%
JLMC	1	0	0	5	10	3	4	2	3	1	4	12	45	3.75	7.13%
TOTAL	53	59	56	68	64	40	56	53	43	35	46	58	631		100.00%

DEPARTMENT OF LABOR RELATIONS
FY2020 CASE PROCESSING DATA
 JULY 1, 2019 – JUNE 30, 2020
 MONTHLY WITH TOTALS AND AVERAGES

PROBABLE CAUSE	JUL.	AUG.	SEPT.	OCT.	NOV.	DEC.	JAN.	FEB.	MAR.	APR.	MAY	JUN.	TOTAL	AVG
Investigations Held	12	8	12	16	7	13	38	17	2	5	12	20	162	13.50
Dismissals Issued	8	4	2	4	4	7	10	3	3	3	0	0	48	4.00
Complaints Issued	9	6	6	4	7	8	12	9	7	4	12	15	99	8.25
Total Probable Cause	17	10	8	8	11	15	22	12	10	7	12	15	147	12.25
Total # Days Invest. to PC Decision	564	251	553	166	374	522	1043	459	354	409	149	490	5334	36.29

HEARINGS	JUL.	AUG.	SEPT.	OCT.	NOV.	DEC.	JAN.	FEB.	MAR.	APR.	MAY	JUN.	TOTAL	AVG
Pre-Hearing Conferences Held	4	8	12	6	3	4	6	14	7	0	9	5	78	6.50
Hearings Held	3	3	2	2	12	2	5	5	2	0	0	5	41	3.42
Misc. Rulings/R-Case Dec./CAS Dec.	2	1	0	1	1	1	0	2	0	1	0	0	9	0.75
Hearing Officer Decisions Issued	1	0	4	1	2	0	1	3	0	0	1	0	13	1.08
Total # Days Ripe to Hearing Officer Decision	32	0	418	49	647	0	224	861	0	0	196	0	2427	186.69

DEPARTMENT OF LABOR RELATIONS
FY2020 CASE PROCESSING DATA
 JULY 1, 2019 – JUNE 30, 2020
 MONTHLY WITH TOTALS AND AVERAGES

CERB	JUL.	AUG.	SEPT.	OCT.	NOV.	DEC.	JAN.	FEB.	MAR.	APR.	MAY	JUN.	TOTAL	AVG
Admin. Appeals Filed – Probable Cause	0	2	1	2	3	7	2	3	0	2	1	0	23	1.92
Admin. Appeals Filed - HO Decision	0	0	3	0	0	0	1	0	0	0	1	0	5	0.42
Probable Cause Decision Issued & Remands	1	1	0	1	1	1	2	3	2	5	3	0	20	1.67
Hearing Officer Appeal Decision Issued	0	1	1	0	0	0	1	0	1	0	1	0	5	0.42
CERB Dec. 1st Inst. R-Case or CAS Decision	1	0	0	0	0	1	0	0	0	0	0	2	4	0.33
Misc. Rulings	0	0	2	2	0	0	1	0	1	1	0	0	7	0.58
Total # Days Ripe to PC Decision	62	90	0	82	85	143	63	148	151	480	268	0	1572	78.6
Total # Days Ripe to Hearing Officer App. Decision	0	183	169	0	0	0	71	0	168	0	85	0	676	135.2
Total # Days CERB Dec. 1st Inst. R-Case or CAS Decision	74	0	0	0	0	22	0	0	0	0	0	18	114	28.5

MEDIATION & ARBITRATION	JUL.	AUG.	SEPT.	OCT.	NOV.	DEC.	JAN.	FEB.	MAR.	APR.	MAY	JUN.	TOTAL	AVG
Arbitrations Held	2	1	4	0	1	1	2	1	0	0	0	0	12	1.00
Arbitration Decision Issued	0	1	1	0	1	0	2	0	0	1	1	0	7	0.58
Grievance Mediations Held	0	0	1	1	1	0	0	0	0	0	0	1	4	0.33
Contract Mediations Held	9	11	8	13	17	14	14	14	12	8	4	8	132	11.00
ULP Mediations Held	18	10	12	14	13	8	28	7	1	18	18	17	164	13.67
Total # Days Initial Contract Invest./ Mediation to Close	644	940	364	1147	409	836	2578	464	801	438	601	564	9786	128
Total # Days Ripe to Arbitration Decision	0	25	198	0	307	0	155	0	0	193	473	0	1351	193

DEPARTMENT OF LABOR RELATIONS
FY2020 CASE PROCESSING DATA
 JULY 1, 2019 – JUNE 30, 2020
 MONTHLY WITH TOTALS AND AVERAGES

JLMC	JUL.	AUG.	SEPT.	OCT.	NOV.	DEC.	JAN.	FEB.	MAR.	APR.	MAY	JUN.	TOTAL	AVG
Contract Mediations Held	8	7	9	11	11	4	5	2	9	9	2	3	80	6.67
3A Hearings Held	0	1	0	2	1	1	2	0	0	0	0	2	9	0.75
Tentative Agreements	4	4	3	11	2	5	2	2	3	8	2	4	50	4.17
Tentative Agreements Ratified (TAR)	0	2	1	2	1	0	2	2	1	2	1	4	18	1.50
Arbitration Awards Issued	0	0	0	1	0	1	0	0	1	0	0	0	3	0.25
Total # Days Initial Investigation/Mediation to TAR	0	82	133	837	29	0	622	299	93	301	168	459	3023	167.94
Total # Days Initial Investigation/Mediation to Arb. Award	0	0	0	810	0	525	0	0	111	0	0	0	1446	482

JUDICIAL APPEALS	JUL.	AUG.	SEPT.	OCT.	NOV.	DEC.	JAN.	FEB.	MAR.	APR.	MAY	JUN.	TOTAL	AVG
Probable Cause Appeals Filed	0	2	0	0	0	0	0	1	1	1	1	0	6	0.50
CERB-Hearing Officer Decision Appeals Filed	0	0	1	1	0	0	0	1	0	0	2	0	5	0.42
Records Assembled	0	0	0	0	1	0	0	0	0	0	0	2	3	0.25
Total # Days Ripe to Rec. Assembled	0	0	0	0	611	0	0	0	0	0	0	42	653	217.67

FY2020 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	2	12					2	12
10-24	5	65					5	65
25-49	2	53	1	44			3	97
50-74								
75-99								
100-149								
150-199								
200-499								
> 500								
Total	9	130	1	44			10	174

* NOTE: In FY2020, parties filed 21 representation petitions. The above chart contains information only on elections conducted by the DLR in FY2020.

FY2020
WRITTEN MAJORITY AUTHORIZATION
CERTIFICATIONS*

Size of Unit	Municipal		State		Private		Total	
	CERTS	CARDS	CERTS	CARDS	CERTS	CARDS	CERTS	CARDS
Under 10	4	27					4	27
10-24	4	56					4	56
25-49	1	19					1	19
50-74	1	44					1	44
75-99								
100-149								
150-199								
200-499	1	125					1	125
Above 500								
TOTAL	11	271					11	271

* Note: The number of certifications represents the number of petitions filed that resulted in the Department issuing a certification. In FY2020 a total of 20 written majority authorization petitions were filed. The DLR did not issue a certification in 3 cases either because the DLR dismissed the petition or the petitioner withdrew the petition.

DEPARTMENT OF LABOR RELATIONS STAFF LISTING
AS OF JUNE 30, 2020

EMPLOYEES, FUNCTIONAL TITLES AND PAYROLL TITLES

Last Name	First Name	Functional Title	Payroll Title	FTE
Accica	Holly	Investigator	Counsel I	1.00
Ackerstein	Joan	Board Member, CERB	Per Diem	
Atwater	Susan	Hearing Officer/Arbitrator/Mediator	Counsel II	1.00
Bertrand	Jill	Chief Counsel	Program Manager VIII	1.00
Cummings	Donald	JLMC Staff Rep./Labor	Program Coordinator III	0.50
Davis	Kendrah	Hearing Officer/Arbitrator/Mediator	Counsel II	1.00
Driscoll	George	JLMC Staff Rep./Management	Program Coordinator III	0.50
Eustace	Kimberly	Program Coordinator	Program Coordinator III	1.00
Feldman-Boshes	Erica	Hearing Officer/Arbitrator/Mediator	Counsel II	0.50
Goodberlet	Kathleen	Hearing Officer/Arbitrator/Mediator	Counsel II	0.50
Gookin	Carol	Mediator	Program Coordinator III	1.00
Griffin	Joseph	Hearing Officer/Arbitrator/Mediator	Counsel II	0.50
Hanson	John	Chair, JLMC	Per Diem	
Hatfield	Timothy	Hearing Officer/Arbitrator/Mediator	Counsel II	1.00
Hiller	Sara	Hearing Officer/Arbitrator/Mediator	Counsel II	1.00
Hubley	Joseph	JLMC Staff Rep./Labor	Program Coordinator III	0.50
Kantany	Lan	Investigator	Counsel I	1.00
Lev	Katherine	Board Member, CERB	Per Diem	
Marra	John	Mediator	Program Coordinator III	0.50
Morgado	Daniel	JLMC Staff Rep./Management	Program Coordinator III	0.50
Murray	Kevin	Hearing Officer/Arbitrator/Mediator	Counsel II	0.50
Roberts	Philip	Director	Administrator IX	1.00
Siciliano	Shirley	Election Specialist	Collective Barg. Elect. Spec. II	0.40
Singh	Samantha	Election Specialist	Collective Barg. Elect. Spec. II	1.00
Sorokoff	Gail	Hearing Officer/Arbitrator/Mediator	Counsel II	1.00
Srednicki	Edward	Mediator	Program Coordinator III	0.50
Sullivan	Margaret	Hearing Officer/Arbitrator/Mediator	Counsel II	1.00
Sunkenberg	James	Hearing Officer/Arbitrator/Mediator	Counsel II	1.00
Ventrella	Meghan	Hearing Officer/Arbitrator/Mediator	Counsel II	1.00
Wittner	Marjorie	Chair, CERB	Administrator IX	1.00

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
Bryan McMahon	President Emeritus, NEPBA
Sheryl Pace-Webb	National Association of Government Employees (NAGE)
John Mann	National Association of Government Employees (NAGE)
<i>Vacant</i>	

Management

Nicholas Anastasopoulos, Esq.	Mirick, O'Connell, DeMallie & Lougee, LLP
Denise Casey	Deputy Town Manager, Town of Wilmington
Jodi Ross	Town Manager, Town of Westford
Michele Heffernan	General Counsel, Human Resources Division
<i>Vacant</i>	

At-Large

Jay Siegel	Arbitrator
<i>Vacant</i>	
<i>Vacant</i>	

DEPARTMENT OF LABOR RELATIONS
FY2020 EXPENDITURES BY APPROPRIATION
AND OBJECT CLASS

Object Class	Description	7003-0900 Amount Expended	7003-0902 Amount Expended	Total Amount Expended
AA	Employee Compensation	\$2,031,823.96	\$187,807.69	\$2,219,631.65
BB	Employee Travel Reimbursement	\$11,135.98	\$4,409.39	\$15,545.37
CC	Contracted Services	\$0.00	\$0.00	\$0.00
DD	Medicare, Unemployment, Univ. Health, Workers Comp.	\$47,880.79	\$4,367.98	\$52,248.77
EE	Administrative Expenses	\$23,867.49	\$0.00	\$23,867.49
FF	Facility Operational Expenses	\$190,213.95	\$0.00	\$190,213.95
GG	Space Rental	\$12,697.02	\$0.00	\$12,697.02
HH	Consultant Service Contracts	\$0.00	\$0.00	\$0.00
JJ	Programmatic Operational Services	\$21,692.13	\$0.00	\$21,692.13
KK	Equipment Purchases	\$0.00	\$2,636.59	\$2,636.59
LL	Equip. Lease, Maintenance, Repair Expenses	\$6,454.57	\$0.00	\$6,454.57
NN	Infrastructure	\$921.95	\$0.00	\$921.95
UU	Information Technology	\$255,684.72	\$0.00	\$255,684.72
Total Expended		\$2,602,372.56	\$199,221.65	\$2,801,594.21