

**BEFORE THE MERIT EMPLOYEE RELATIONS BOARD
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE CLASSIFICATION MAINTENANCE REVIEWS OF:

KELLY MEARS, DEBORAH WILKES, SAMARA	)	
CARTER, AND MORGAN WATSON,	)	
	)	
Appellants,	)	MERB Docket No. 25-08-951C
	)	<u>thru 25-08-954C</u>
and	)	
	)	
DEPARTMENT OF CORRECTION,	)	DECISION AND ORDER
	)	
Employer.	)	

Correctional Records Senior Technician

After due notice of time and place, this matter came to a hearing before the Merit Employee Relations Board (the “Board”) at 9:15 a.m. on Wednesday, April 15, 2026, at the Delaware Public Service Commission, Silver Lake Plaza, Cannon Bldg., Suite 100, 861 Silver Lake Boulevard, Dover, DE 19904.

BEFORE Jennifer Cohan, Chairperson; Sheldon N. Sandler, Esq., Lester E. Johnson, Jr., and Curtis D. Linton, Members; a quorum of the Board under 29 *Del. C.* §5908(a).

APPEARANCES

Victoria R. Sweeney
Deputy Attorney General
Legal Counsel to the Board

Deborah L. Murray-Sheppard
Board Administrator

Lance Geren, Esq.
O’Donoghue & O’Donoghue
Counsel for Appellants

Amber Hall, Deputy Director
Div. of Classification and Compensation
Department of Human Resources

Andrew S. Haines
MERB Independent Reviewer

PROCEDURAL BACKGROUND

On or about August 6, 2025, Kelly Mears, Deborah Wilkes, Samara Carter, and Morgan Watson, (collectively, “Appellants”) each filed a Classification Appeal form with the Merit Employee Relations Board (“Board”), challenging the Classification Maintenance Review determination issued by the Department of Human Resources (“DHR”), Division of Classification and Compensation. The determination maintained the Appellants at their current title of “Correctional Records Senior Technician” with a correlated wage rate at Pay Grade 9. The appeals requested either a new “Master Correctional Records Technician” position be created or the existing position of Correctional Records Senior Technician be assigned at Pay Grade 10.

In accordance with 29 *Del. C.* §5915, the Board assigned the appeals to its Independent Reviewer.¹ The Independent Reviewer reviewed the appeals and accompanying documents, the documents DHR relied upon in reaching its determination, and relevant classification specifications. The Independent Reviewer also interviewed each of the Appellants individually. On or about December 30, 2025, the Independent Reviewer recommended each of the appeals be denied because, “In the absence of an established administrative process to create a new position or to modify an existing position’s pay grade through this appeal, no action is available to the Independent Reviewer.”

The Independent Reviewer’s recommendations were forwarded to each of the Appellants and to the DHR Secretary on January 20, 2026. The Secretary accepted the

¹ “... [T]he Board shall assign an independent reviewer, trained in job analysis, to evaluate the merits of the employee’s appeal. Within 30 calendar days, the independent reviewer must submit a written independent finding to the Board, and copy to the employee and the Secretary. In unusual circumstances, the Board may authorize the independent reviewer an additional 30 calendar days to complete the review.” 26 *Del. C.* §5915(d).

Recommendation by email dated February 20, 2026. The Appellants each filed formal appeal summaries by email on February 20, 2026.

Under 29 *Del. C.* §5915(g), the Board is required to “hold a hearing on the employee’s appeal,” when either the employee or the DHR Secretary disputes the Independent Reviewer’s recommendation. The statute also requires that the Board permit the parties to present brief oral arguments in support of their positions. 29 *Del. C.* §5915 (h). As the four appeals all concerned the same facts, identical documentation, and all four Appellants were similarly situated, the Board convened a consolidated hearing to consider the merits of the appeals.

The Board heard a summary of the Independent Reviewer’s Recommendation as well as the Appellants’ arguments disputing his conclusions. The Board also provided the DHR Deputy Director of Classification and Compensation with an opportunity to comment on the Recommendation. All parties were permitted to answer questions posed by the Board.

FACTS AND CONCLUSIONS OF LAW

As required by 29 *Del. C.* 5915(i), in rendering a final and binding decision on the Independent Reviewer’s Recommendation, the Board is required to consider:

- (1) The findings of the independent reviewer;
- (2) The Secretary’s initial determination;
- (3) The Secretary’s response to the independent reviewer’s findings;
- (4) The employee’s response to the independent reviewer’s findings;
- (5) The oral argument;
- (6) The consistency with other existing classified positions of a similar nature; and
- (7) The minimization of the number of classifications.

Upon review of the record and consideration of the arguments of the parties, the Board declines to support the Recommendation of the Independent Reviewer to deny the appeals for

lack of jurisdiction. It does, however, accept the Independent Reviewer's findings that the initial determination may have been flawed:

... based on both the document review and the Employee(s) interview(s), that the intent and spirit of the January 2024 maintenance review process were not conveyed to the Employee(s) in a fair or effective manner. The Employees' characterization of the process as "an afterthought" is supported by documentation indicating [*they were*] asked to return the position description questionnaire within 24 hours. This timeframe was shorter than what was outlined in the related email and resulted in the Employee(s) completing the questionnaire under significant time constraints.²

The Independent Reviewer's Recommendation in the Wilkes, Carter, and Watson appeals further found that each Appellant "... expressed frustration that her submission appeared to be applied broadly to all employees in the same classification, using a one-size-fits-all approach that did not adequately account for potential differentiating duties that could have supported position deviations."³

With respect to the DHR Secretary's initial determination, the Board believes the record of these appeals raises a significant concern at the initiation of the maintenance review process for Correctional Records Senior Technician positions. The Job Analysis Questionnaires ("JAQ") included in these four cases, are identical, supporting the Independent Reviewer's finding that they were not independently prepared, as required. Through his interviews, the Independent Reviewer also found the employees credible in their assertions that they were provided less than 24 hours by the Department of Correction to prepare the JAQ's and that they were not interviewed during the maintenance review process. Given the irregularities in the collection of the data on which subsequent decisions were made, the Board

² Findings and Recommendations of the Independent Reviewer, p. 3.

³ Id.

is not satisfied that the maintenance review process was fair or conducted properly.

The Board also notes the Appellants' assertion that Delaware is one of only six states with a unified correctional system; consequently, to the extent that comparators in other states are considered, care should be taken to compare identifiably similar positions, i.e., an "apple to apple" comparison. The impact of a mistake by Correctional Records Senior Technicians in Delaware potentially impacts on the constitutional rights of the incarcerated (who may be denied a timely release) and/or public safety if an individual is improperly released. States with fragmented correctional systems will not serve as adequate comparators.

For these reasons, the Board declines to accept the Recommendation of the Independent Reviewer, and directs DHR to initiate a new process, providing each of the Appellants with the appropriate direction, training, and opportunity to prepare an individualized JAQ which will then be processed in accordance with the standard maintenance review process.

This decision is limited to the four pending appeals. The Board notes that there are also five additional appeals currently pending involving Correctional Records Technicians (the first step of the career ladder) which also allege inadequate time to prepare JAQs. The Board encourages DHR to consider revisiting the process for all Correctional Records Senior Technicians and Correctional Records Technicians, consistent with its statutory duty to maintain the merit classification system "based on similarity of duties performed and responsibilities assumed so that uniform qualifications and pay ranges apply to all positions in the same classification." 29 *Del. C.* §5915(a).

ORDER

It is this **23rd** day of **April, 2026** by a vote of 4-0, the Decision and Order of the Board to grant the appeals of Correctional Records Senior Technicians, in part, and direct the

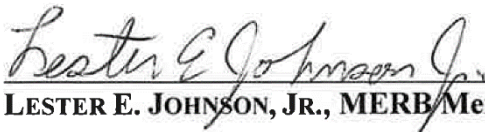
Department of Human Resources to revisit its maintenance review process, beginning with providing adequate training and opportunity for the Appellants to complete individual Job Analysis Questionnaires.



JENNIFER COHAN, MERB Chairperson



SHELDON N. SANDLER, ESQ., MEMBER



LESTER E. JOHNSON, JR., MERB Member



CURTIS D. LINTON, MERB Member