STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL

American Federation of State, County And Municipal Employees, Council 31,	)	
Petitioner	)	
and	)	Case No. L-RC-12-012
County of Cook (Oak Forest Health Center),	)	
Employer	)	

ORDER

On June 7, 2013, Administrative Law Judge Kimberly Faith Stevens, on behalf of the Illinois Labor Relations Board, issued a Recommended Decision and Order in the above-captioned matter. No party filed exceptions to the Administrative Law Judge's Recommendation during the time allotted, and at its August 6, 2013 public meeting, the Board, having reviewed the matter, declined to take it up on its own motion.

THEREFORE, pursuant to Section 1200.135(b)(5) of the Board's Rules and Regulations, 80 Ill. Admin. Code §1200.135(b)(5), the parties have waived their exceptions to the Administrative Law Judge's Recommended Decision and Order, and this non-precedential Recommended Decision and Order is final and binding on the parties to this proceeding.

Issued in Chicago, Illinois, this 13th day of August, 2013.

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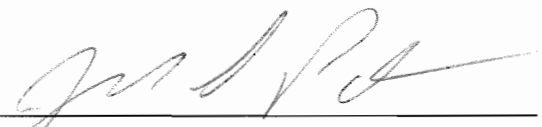

Jerald S. Post
General Counsel

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ILLINOIS LABOR RELATIONS BOARD
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Petitioner	)	
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County of Cook (Oak Forest Health Center),	)	
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ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND ORDER

On January 10, 2012, AFSCME Council 31 (Union) filed a majority interest petition in Case No. L-RC-12-012 with the Local Panel of the Illinois Labor Relations Board (Board) pursuant to the Illinois Public Labor Relations Act, 5 ILCS 315 (2010) as amended (Act), and the Rules and Regulations of the Illinois Labor Relations Board, 80 Ill. Admin. Code, Parts 1200 through 1240 (Rules). This petition seeks to add the titles of Assistant Director of Environmental Services and Communication Manager to the existing bargaining unit certified by the Board in Case No. L-UC-08-011. The Employer did not object to the certification of the Communication Manager position. Therefore, this position was certified as part of the bargaining unit as petitioned.[1]

A hearing regarding the assistant director of environmental services position was held on December 12, 2012, before Administrative Law Judge Eileen L. Bell at the Board's offices in Chicago, Illinois. At that time, all parties appeared and were given a full opportunity to participate, introduce relevant evidence, examine witnesses, and argue orally. Briefs were timely

[1] This position was certified by Executive Director John Brosnan on April 25, 2012.

filed by both parties. After full consideration of the parties' stipulations, evidence, arguments, and briefs, and upon the entire record of this case, I recommend the following.

I. PRELIMINARY FINDINGS

1. The parties stipulate, and I find, that the Board has jurisdiction to hear this matter pursuant to Sections 5(a) and 20(b) of the Act.
2. The parties stipulate, and I find, that the Petitioner is a labor organization within the meaning of Section 3(i) of the Act.
3. The parties stipulate, and I find, that the Employer is a public employer within the meaning of Section 3(o) of the Act.
4. The parties stipulate, and I find, that the Employer is a local government subject to the jurisdiction of the Board's local panel pursuant to Sections 5(b) and 20(b) of the Act.
5. The parties stipulate, and I find, that the issue for hearing is whether Clarence Huisenga, the assistant director of environmental services at Oak Forest Hospital is a supervisory and/or managerial employee within the meaning of the Act.
6. The parties stipulate, and I find, that, in the event that the assistant director of environmental services position is found to be a public employee within the meaning of the Act, the proposed bargaining unit is appropriate.

II. ISSUES AND CONTENTIONS

The central issues to be resolved are whether the assistant director of environmental services is a supervisor within the meaning of Section 3(r) of the Act and/or a managerial employee within the meaning of Section 3(j) of the Act. The ALJ who conducted the hearing in this case also directed the parties to provide argument as to whether the position at issue is the "executive head of a department" within the meaning of the Act. The Employer contends that

this employee is a supervisor and a managerial employee within the meaning of the Act and therefore is not a public employee under the Act. The Employer further contends that the position at issue is the executive head of a department and should therefore be excluded from collective bargaining under the Act. The Union contends that the record does not support the Employer's contentions and that the petitioned-for employee is a public employee as defined by the Act.

III. FINDINGS OF FACT

Charles Bloom is employed by Cook County at the Oak Forest Health Center and has been employed by the County since 1989. At the time of hearing, Bloom was employed as the health systems emergency management coordinator and acting director of the physical plant at the Oak Forest Health Center. He has served in the acting director position since July 2011 and in the emergency management coordinator position since June 2008. As part of the acting director position, he also acts as supervisor of mechanics in the physical plant services area. Moreover, as acting director, Bloom oversees the skilled trades department, the heating and operating department, and the grounds department. The skilled trades department consists of electricians, plumbers, machinists, painters, steamfitters, carpenters, one laborer, and one locksmith. Bloom also oversees a business manager and an administrative assistant.

Bloom directly supervises Clarence Huisenga, who is the assistant director of environmental services and the petitioned-for employee at issue in this case[2] As assistant director, Huisenga has approximately nine (9) subordinates that generally comprise the grounds department at the Oak Forest Health Center. Four are groundskeepers, and five are motor vehicle driver I employees who make up the facility's motor pool. These subordinates are all members of bargaining units; the motor vehicle drivers are represented by the Teamsters, and the

[2] In the record, Huisenga's title is also referred to as "Assistant Director of Environmental Control" or "ADEC."

groundskeepers are represented by SEIU. The motor vehicle drivers are responsible for providing courier services to other County facilities, transporting trash and supplies, removing snow and ice from roadways and parking lots, ensuring logs and maintenance records are completed accurately and timely.[3] The groundskeepers are responsible for grounds and landscape maintenance, installing outdoor paths, patios, and furniture, moving materials, furnishings, and supplies, picking up and disposing of trash, snow and ice removal, installing control signs on roads and walkways, and cleaning utility tunnels and storage areas.

Huisenga has been employed in his current department for approximately 25 years. He has daily contact with Bloom in the course of his duties. Bloom is familiar with Huisenga's job duties through Huisenga's job description as well as Bloom's interactions with Huisenga on the job. Bloom further testified that Huisenga's position description accurately reflects his job duties and responsibilities. Huisenga only performs the same duties as his subordinates in situations where his department is short-staffed or in the case of a critical incident such as emergency snow removal. Otherwise, Huisenga does not generally perform the same duties as his subordinates.

Broadly, Huisenga is responsible for ensuring that the facility and its grounds are maintained in accordance with regulations, agency standards, and fiscal considerations. He is also responsible for making sure that major equipment is maintained in good condition or arranges for its replacement if necessary. With regard to the work of his subordinates, Huisenga must monitor their work to ensure that they are performing it correctly and in accordance with applicable regulatory rules and accreditation standards that might affect the department. In the past, he has been required to train transferred employees on the larger pieces of equipment utilized in the department. In order to monitor the work of his subordinates, Huisenga actually

[3] Bloom testified that the duties of the motor vehicle drivers changed significantly when the facility transitioned from being an inpatient hospital to a health care facility. Specifically, there are several duties listed on the job description for the motor vehicle driver I position that no longer apply.

visits the locations of the work that his subordinates are performing throughout the facility to see that the work is being performed and completed. Bloom estimated that Huisenga spends approximately 60 percent of his work day performing this function.

It appears that Huisenga may have issued discipline to a subordinate and engaged in counseling another subordinate in approximately 2006. It does not appear that he has issued discipline since that time. Bloom indicated that, if Huisenga were to seek discipline of a subordinate, he would expect Huisenga to inform him. However, Bloom further indicated that he does not believe that Huisenga would be required to consult Bloom prior to issuing a verbal or written reprimand. Bloom testified that he believes grievances from Huisenga's subordinates would be presented to Huisenga first and that Huisenga would then present them to Bloom and Jim DeLisa, who is the health systems director of facilities management.[4] The testimony does not reflect any ability on the part of Huisenga to resolve grievances at his level, and Bloom was not aware of any grievances that Huisenga handled directly.

Huisenga assigns work to his subordinates and schedules their work. Bloom testified that Huisenga makes his assignments by considering the abilities of each subordinate in terms of the equipment necessary to do a task as well as seniority, but Bloom later testified that he did not know for a fact how Huisenga makes his assignments. Huisenga must also schedule the courier services provided by the motor vehicle drivers. Huisenga may have to rearrange or coordinate the scheduled work of his employees to comply with requests from Bloom regarding other tasks his employees need to undertake. With regard to groundskeepers, overtime is not generally available; if an employee is absent, Bloom could ask another employee to cover that employee's work or can perform it himself. With regard to motor vehicle drivers, the same generally

[4] DeLisa is the director over the physical plant services at three County facilities: Oak Forest, Provident, and Stroger.

applies, although there are limited overtime opportunities when facility needs dictate. In cases where a motor vehicle driver might have to work overtime, Huisenga is responsible for determining whether overtime is necessary; Bloom signs off on it after the fact to ensure that the work was performed. Bloom is not required to consult with his supervisor before implementing schedules and assignments. Bloom estimated that Huisenga spends approximately 25 percent of his daily work time on the assigning and scheduling function.

Generally, Huisenga is responsible for the project outcomes and performance of the grounds and motor vehicle staff. He is also is charged with participating in strategic planning, goal setting, and evaluation processes for the department In terms of fiscal responsibilities, Huisenga is responsible for requesting and managing his department's budget for equipment and supplies on an annual basis. He must manage this budget in terms of a variety of types of equipment and supplies, including transportation and motor vehicle equipment, lawn care, and fuel. Huisenga meets with other department heads at a monthly meeting. In addition, Huisenga meets with Bloom and the public safety director prior to snow removal season to determine and prioritize the plan for snow removal at the facility. If Huisenga's subordinates are to effectuate a relocation or renovation, Huisenga may meet with Bloom and other parties involved to discuss the project. With regard to Huisenga's recommendations on such issues, Bloom testified that he typically accepts Huisenga's recommendations.

IV. DISCUSSION AND ANALYSIS

A. Supervisory Exclusion

The Employer asserts that the assistant director of environmental services is a supervisor within the meaning of Section 3(r) of the Act.[5] Under that Section, petitioned-for employees are

[5] Section 3(r) of the Act states, in relevant part:

supervisors if they: (1) perform principal work substantially different from that of their subordinates, (2) possess authority in the interest of the Employer to perform one or more of the eleven indicia of supervisory authority enumerated in the Act, (3) consistently exercise independent judgment in exercising supervisory authority, and (4) devote a preponderance of their employment time to exercising that authority. City of Freeport v. Illinois State Labor Relations Board, 135 Ill. 2d 499, 512, 554 N.E.2d 155, 162 (1990); Village of New Lenox, 23 PERI ¶104 (IL LRB-SP 2007); Village of Bolingbrook, 19 PERI ¶125 (IL LRB-SP 2003); Village of Justice, 17 PERI ¶2007 (IL SLRB 2000). The party which seeks to exclude an individual from a proposed bargaining unit has the burden of proving that statutory exclusion by a preponderance of the evidence. County of Boone and Sheriff of Boone County, 19 PERI ¶74 (IL LRB-SP 2003); Chief Judge of the Circuit Court of Cook County, 18 PERI ¶2016 (IL LRB-SP 2002).

Principal Work Requirement

In determining whether the principal work requirement has been met, the initial consideration is whether the work of the alleged supervisor and that of his or her subordinates is obviously and visibly different. Freeport, 135 Ill. 2d at 514, 554 N.E.2d at 162; Northwest Mosquito Abatement District, 13 PERI ¶2042 (IL SLRB 1997), aff'd. Northwest Mosquito Abatement Dist. v. Illinois State Labor Relations Board, 303 Ill. App. 3d 735, 708 N.E.2d 548 (1st Dist. 1999). If that work is obviously and visibly different, the principal work requirement is met. Freeport, 135 Ill. 2d at 514, 554 N.E.2d at 162. However, in other cases, where the

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"Supervisor" is an employee whose principal work is substantially different from that of his or her subordinates and who has the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, to adjust their grievances, or to effectively recommend any of those actions, if the exercise of that authority is not of a merely routine or clerical nature, but requires the consistent use of independent judgment. Except with respect to police employment, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising that authority, State supervisors notwithstanding.

alleged supervisor performs functions facially similar to those of his or her subordinates, the Board has looked at what the alleged supervisor actually does to determine whether the "nature and essence" of his or her work is substantially different from that of his or her subordinates. See Freeport, 135 Ill. 2d at 514, 554 N.E.2d at 162; Village of Alsip, 2 PERI ¶2038 (IL SLRB 1986); City of Burbank, 1 PERI ¶2008 (IL SLRB 1985).

Although the assistant director of environmental services can and does occasionally perform a number of job duties that his subordinates also perform, his essential functions are substantially different from that of his subordinates. The assistant director of environmental services is responsible for a variety of administrative and planning duties that his subordinates do not perform, and the testimony shows that Huisenga does not spend the majority of his time doing the same work as his subordinates. Therefore, I find that the Employer has met the first prong of the supervisory test in that the principal work of the assistant director of environmental services is substantially different from that of his subordinates.

Supervisory Indicia and Independent Judgment

With respect to the second and third prongs of the Act's supervisory definition, the Employer must establish that the employee at issue has the authority to perform or effectively recommend any of the eleven indicia of supervisory authority listed in the Act, namely, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, discipline, or adjust grievances, and consistently exercise that authority with independent judgment. The use of independent judgment must involve a consistent choice between two or more significant courses of action and cannot be routine or clerical in nature or be made merely on the basis of the alleged supervisor's superior skill, experience, or knowledge. Chief Judge of the Circuit Court of Cook County v. American Federation of State, County and Municipal Employees, Council 31, 153 Ill.

2d 508, 531, 607 N.E.2d 182, 193 (1992); Freeport, 135 Ill. 2d at 531, 554 N.E.2d at 170; Village of Justice, 17 PERI ¶2007. An effective recommendation satisfying the Act's supervisor requirements is one that is almost always adopted by the employee's superiors. Department of Central Management Services v. Illinois Labor Relations Board, State Panel, 2011 IL App 4th 090966 (4th Dist. September 28, 2011).

With regard to evidence of performance of supervisory indicia, job descriptions alone may be insufficient evidence to establish employees' duties or their supervisory status.[6] See City of Carbondale, 27 PERI ¶68 (IL LRB-SP 2011); State of Illinois, Department of Central Management Services (PSA Option 1), 25 PERI ¶184 (IL LRB-SP 2009); County of Union, 20 PERI ¶9 (IL LRB-SP 2003); Northern Illinois University (Department of Safety), 17 PERI ¶2005 (IL LRB-SP 2000). Furthermore, a party asserting a statutory exclusion cannot satisfy its burden by relying on vague, generalized testimony or contentions as to an employee's job function. Instead, the Board requires that a party support its arguments with specific examples of the alleged supervisory, managerial, or confidential status. State of Illinois, Department of Central Management Services (Department of Public Health), 24 PERI ¶112 (IL LRB-SP 2008); County of Union, 20 PERI ¶9. Notwithstanding these considerations, a single indicium of supervisory authority (of eleven possible indicia) accompanied by independent judgment is enough to establish supervisory status. Chief Judge of the Circuit Court of Cook County, 153 Ill. 2d at 529,

[6] There is some dispute among the districts of the Illinois Appellate Court on whether specific examples of the exercise of supervisory authority are required as proof. For instance, the Fifth District has held that conferring authority to perform supervisory indicia is enough to satisfy the requirements of the Act even if there is no evidence that the individual has performed that duty. Village of Maryville v. ILRB, 402 Ill. App. 3d 369, 342 (5th Dist. 2010); see also Illinois Department of Central Management Services v. ILRB, State Panel, 2011 IL App 4th 090966 (4th Dist. September 28, 2011) (Fourth District opinion discussing authority to perform supervisory tasks even in apparent absence of concrete examples of performance); but see Illinois Department of Central Management Services v. ILRB, State Panel, 382 Ill. App. 3d 208, 228-29 (4th Dist. 2008) (finding that, although job description purported to give authority to alleged supervisors, these alleged supervisors did not "in practice" perform the tasks with significant discretionary authority). The First and Third districts have focused on specific examples of authority as exercised in analyzing the supervisory test and have found that, while important, rules and regulations or job descriptions therein are not alone sufficient to meet the burden of proof. See Village of Broadview v. ILRB, 402 Ill. App. 3d 503, 508 (1st Dist. 2010); City of Peru v. ISLRB, 167 Ill. App. 3d 284, 291 (3rd Dist. 1988).

607 N.E.2d at 192. In this case, the evidence establishes that the assistant director of environmental services does perform more than one of the supervisory indicia using independent judgment.

i. Direct

The indicium "direct" includes a variety of job functions: giving job assignments, overseeing and reviewing daily work activities, providing instruction and assistance to subordinates, scheduling work hours, approving time off and overtime, and formally evaluating job performance when the evaluation is used to affect the employees' pay or employment status. Chief Judge of the Circuit Court of Cook County, 19 PERI ¶123 (IL SLRB 2003); County of Cook, 16 PERI ¶3009 (IL LLRB 1999); County of Cook, 15 PERI ¶3022 (IL LLRB 1999); City of Naperville, 8 PERI ¶2016 (IL SLRB 1992). In order to constitute "direction" within the meaning of the Act, an employee's responsibility for his or her subordinates' work performance must also involve discretionary authority that affects the subordinates' terms and conditions of employment. County of Cook, 28 PERI ¶85 (IL LRB-SP 2011); State of Illinois, Department of Central Management Services, 25 PERI ¶186 (IL LRB-SP 2009).

In the instant case, the record demonstrates that the assistant director of environmental services performs the supervisory indicium of directing employees with independent judgment when he monitors the work performance of his subordinates to ensure that the work he assigns is being completed properly. Where a supervisor has an active role in "checking, correcting, and giving instructions to subordinates" and "assesses his subordinates' performance and behavior to ensure compliance with departmental norms," this is evidence of directing subordinates with independent judgment. County of Cook, 15 PERI ¶3022, citing City of Chicago, 10 PERI ¶3017 (IL LLRB 1994); City of Lincoln, 5 PERI ¶2041 (IL SLRB 1988). In addition, in the case of

supervising sanitarians for the City of Chicago, the Board has found that reviewing subordinates' work and monitoring and instructing subordinates in the field are examples of directing the work of subordinates. City of Chicago (Department of Public Health), 17 PERI ¶3016 (IL LRB-LP 2001). The record reflects that this is the type of activity in which Huisenga engages with regard to monitoring the work of his subordinates, as he is ultimately responsible for implementing the projects and responsibilities of the department. There was also testimony at hearing that Huisenga assigns and schedules the work of his employees without input from his supervisor. The fact that Huisenga may, at times, be monitoring the work performance of his subordinates as measured against directives from his employer does not take away from the fact that he is exercising discretion and independent judgment when he instructs his subordinates, assists them in performing their duties, and monitors their work. However, it was unclear how Huisenga does so or what criteria he may or may not use to schedule and assign work, and Bloom appeared to be speculating on these particular facts. Therefore, I do not find that scheduling and assigning work constitute direction within the meaning of the Act in this case. Notwithstanding that consideration, I do find that Huisenga directs subordinates with regard to his monitoring of their work in the field.

ii. The remaining indicia

The record is somewhat unclear regarding the role of the assistant director of environmental services in issuing discipline to subordinates. However, Huisenga's job description provides that he must ensure accountability from his subordinates by monitoring and appraising their performance, which implies the ability to take action to carry out this directive, such as discipline. Moreover, Bloom's testimony also suggests that Huisenga has authority to discipline employees in terms of verbal and written reprimands, but he has not done so since at

least 2006. Even so, there was a lack of specific evidence from the Employer as to whether Huisenga has authority to discipline with independent judgment or whether he could make effective recommendations on discipline if the situation were to arise. There is simply not enough evidence from which I can conclude that the assistant director of environmental services performs (or has authority to perform) the indicium of discipline using independent judgment.

With regard to the other supervisory indicia, the record does not demonstrate that the assistant director of environmental services has authority to hire, transfer, lay off, recall, reward, promote, or effectively recommend any of the remaining indicia of supervisory authority using independent judgment of the kind that would satisfy the requirements of the Act. Notwithstanding these considerations, because the Employer has submitted evidence showing that the assistant director of environmental services directs the work of subordinates, I find that the second and third prongs of the supervisory test are satisfied.

Preponderance Requirement

Except with respect to police employment, petitioned-for employees are only deemed supervisory if they spend the preponderance of their work time performing supervisory functions. To satisfy this test, employees must spend more time on supervisory functions than on any one nonsupervisory function. Department of Central Management Services v. Illinois State Labor Relations Board, 278 Ill. App. 3d 79, 83-85 (4th Dist. 1996); State of Illinois, Department of Central Management Services (EPA, DPH, DHS, DCEO), 26 PERI ¶155 (IL LRB-SP 2011). The Employer must demonstrate such allotments of time by setting forth the employees' day-to-day activities, as documented by specific facts in the record. State of Illinois, Department of Central Management Services (EPA, DPH, DHS, DCEO), 26 PERI ¶155 (citing Stephenson County Circuit Court, 25 PERI ¶92 (IL LRB-SP 2009)); Village of Bolingbrook, 19

PERI ¶125. The calculation of time under the preponderance requirement is based on time spent in the exercise of supervisory authority that qualifies as such under the Act. See Department of Central Management Services, 26 PERI ¶155 (citing Downers Grove v. Illinois State Labor Relations Board, 221 Ill. App. 3d 47, 55 (2nd Dist. 1992) (noting that actual time does not include work time spent instructing or directing employees, when such instruction or direction does not qualify as supervisory direction under the Act)). An alternate test for preponderance focuses on importance of supervisory job duties to the position rather than mathematical time spent on the duties. Specifically, the Fourth District of the Illinois Appellate Court has stated that "[w]hether a person is a 'supervisor' should be defined by the significance of what that person does for the employer, regardless of the time spent on particular types of functions." Department of Central Management Services v. Illinois State Labor Relations Board, 278 Ill. App. 3d 79, 86 (4th Dist. 1996).

In this case, Bloom estimated that Huisenga spends approximately 60 percent of his daily work time monitoring employees at their work sites around the facility's campus to ensure that they are properly completing their work. This estimate was not rebutted by testimony elicited by the Union. The Union appears to argue that the estimate must be speculative because other parts of Bloom's testimony were speculative; however, speculation as to other facts does not necessarily discredit Bloom's estimate. Moreover, as discussed below, the most significant portion of work performed by Huisenga appears to be his direction of his staff in order to ensure that the work of his department is accomplished in an efficient and appropriate manner. Accordingly, I find that the Employer has demonstrated that the assistant director of environmental services is a supervisor within the meaning of Section 3(r) of the Act.

B. Managerial Exclusion

The Employer also argues that the assistant director of environmental services is a managerial employee under Section 3(j) of the Act.[7] The Board and the courts have applied a two-pronged test in order to determine whether an employee is a managerial employee within the meaning of the Act. Department of Central Management Services (Department of Healthcare and Family Services) v. Illinois Labor Relations Board (State Panel), 388 Ill. App. 3d 319, 330 (4th Dist. 2009). "First, the employee must be engaged predominantly in executive and management functions. Second, the employee must be charged with the responsibility of directing the effectuation of management policies and procedures." Id. "Management functions" include such activities that relate to running a department, formulating policy, preparing the budget, and assuring effective and efficient operation of the department. Id. (citing Village of Elk Grove Village v. Illinois State Labor Relations Board, 245 Ill. App. 3d 109, 121-22 (2nd Dist. 1993)). Other managerial duties have been found to include using discretion to make policy decisions rather than simply following established policy, changing the focus of an organization, responsibility for day-to-day operations, negotiating with employees or the public on behalf of the employer, or pledging the employer's credit. Id., at 330-331, citing Department of Central Management Services, 21 PERI ¶205 (2005). Central to the determination of whether an employee is a managerial employee is the employee's ability to broadly affect the department's goals and means of achieving those goals. Department of Central Management Services, 278 Ill. App. 3d at 87.

An employee need not necessarily formulate policy to be considered a managerial employee; rather, directing effectuation of policy is the hallmark of an employee engaged in

[7] Section 3(j) of the Act provides: "'Managerial employee' means an individual who is engaged predominantly in executive and management functions and is charged with the responsibility of directing the effectuation of management policies and practices."

running a department. Department of Central Management Services (Illinois Commerce Commission) v. Illinois Labor Relations Board (State Panel), 406 Ill. App. 3d 766, 780 (4th Dist. 2010). The Fourth District has also noted that directing a division of a department "in a hands-on way" is evidence of managerial activity. Department of Central Management Services, 959 N.E.2d at 122. The court further noted that "exclusivity in the implementation of management policy is not a requirement" of the Act, and "[t]he fact that these employees do not [direct effectuation of policy] 'independently' is unimportant, given that the Act does not require such independence in management functions." Id. For purposes of the Act, recommendations on policy actions are effective if they are almost always accepted by the recommending employee's superiors. Department of Central Management Services, 406 Ill. App. 3d at 777.

In this case, the assistant director of environmental services is responsible for the day-to-day operation of his department, but the record does not reflect that he is predominantly engaged in making and implementing policy. Huisenga does not appear to have authority to establish his department's budget but only to make budgetary requests to his supervisors. Moreover, Huisenga does not appear to predominantly engage in management or executive functions. While Bloom did provide examples where Bloom accepted Huisenga's recommendations, these situations were more in the nature of logistical decisions affecting the facility than policy recommendations. As stated above, Bloom's most significant job duty is in his direction of his employees as they perform their tasks. To the extent that this direction involves the effectuation of policy, such action is ancillary to Huisenga's role as a supervisor. For these reasons, I find that the assistant director of environmental services is not a managerial employee pursuant to Section 3(j) of the Act.

C. Executive Head of a Department

Section 3(n) of the Act excludes "executive heads of a department" from the definition of public employee. 5 ILCS 315/3(n). While the Act does not define this term, subsequent Board cases shed light on its interpretation. In City of Sparta, the Board considered whether the city's Code Enforcement Officer was an executive head of a department under the Act. 9 PERI ¶2029 (IL SLRB 1993). In so doing, the Board accepted the ALJ's reasoning that an executive head of a department refers to "an individual who controls or directs a major administrative division of municipal government." See also County of Clinton, 6 PERI ¶2051 (IL SLRB H.O. 1990); City of Shelbyville, 2 PERI ¶2051 (IL SLRB H.O. 1986). Similarly, in Village of Riverside, 4 PERI ¶2017 (IL SLRB H. O. 1988), the Village Building and Zone Commissioner was found by a hearing officer in a non-precedential decision to be the executive head of a department where he prepared the department budget, regularly attended meetings of the department heads with the Village Manager, reported directly to the Village Manager, and met one-on-one with the Village Manager to discuss the operation of the department. See also Metropolitan Alliance of Police and City of Highwood, 17 PERI ¶2021 (IL SLRB 2001), aff'd 18 PERI ¶4005 (2nd Dist. 2002); Village of New Baden, 22 PERI ¶98 (IL SLRB H.O. 2006); County of Hardin, 17 PERI ¶2019 (IL SLRB H.O. 2001).

In this case, the evidence does not show that Huisenga "prepares" his budget in the same way that the cases above contemplate; rather, he makes budgetary requests for equipment and supplies to his superiors. Moreover, there is no evidence that he reports directly to an individual in ultimate control of the administrative division of the County for which Huisenga works, nor was there any evidence that he meets one-on-one with such an individual because the evidence does not establish whether DeLisa is such an individual or that Huisenga met one-on-one with DeLisa. Moreover, there is no evidence that Huisenga's department constitutes a "major

administrative division" of Cook County government. Indeed, his position exerts control over only one facility. While Bloom stated that Huisenga does attend department head meetings (presumably consisting of other "department heads" at the Center), the evidence does not establish that these meetings involve individuals who are "executive heads of a department" rather than simply the representatives of departments at the Center. For the foregoing reasons, I find that Huisenga is not an "executive head of a department" for purposes of Section 3(n).

V. CONCLUSIONS OF LAW

I find that the assistant director of environmental services is neither a managerial employee nor an executive head of a department but is a supervisory employee within the meaning of Section 3(j) of the Act and is therefore excluded from collective bargaining under the Act.

VI. RECOMMENDED ORDER

IT IS HEREBY ORDERED that the majority interest petition filed by the Union be denied as to the assistant director of environmental services because this position is that of a supervisor within the meaning of the Act.

VII. EXCEPTIONS

Pursuant to Section 1200.135 of the Board's Rules, parties may file exceptions to the Administrative Law Judge's Recommended Decision and Order and briefs in support of those exceptions no later than 14 days after service of this Recommendation. Parties may file responses to exceptions and briefs in support of the responses no later than 10 days after service of the exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the Administrative Law Judge's Recommendation. Within 5 days from the filing of cross-exceptions, parties may file cross-responses to the cross-

exceptions. Exceptions, responses, cross-exceptions and cross-responses must be filed with the General Counsel of the Illinois Labor Relations Board, 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103, and served on all other parties. Exceptions, responses, cross-exceptions and cross-responses will not be accepted at the Board's Springfield office. The exceptions and/or cross-exceptions sent to the Board must contain a statement listing the other parties to the case and verifying that the exceptions and/or cross-exceptions have been provided to them. The exceptions and/or cross-exceptions will not be considered without this statement. If no exceptions have been filed within the 14-day period, the parties will be deemed to have waived their exceptions.

Issued at Springfield, Illinois, this 7th day of June, 2013.

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL

Kimberly Faith Stevens
Administrative Law Judge