

**STATE OF ILLINOIS  
ILLINOIS LABOR RELATIONS BOARD  
LOCAL PANEL**

Local 200, Chicago Joint Board, Retail,	)	
Wholesale and Department Store Union,	)	
AFL-CIO,	)	
	)	
Petitioner	)	
	)	
and	)	Case No. L-RC-14-009
	)	
County of Cook (Health & Hospital System),	)	
	)	
Employer	)	

**DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD  
LOCAL PANEL**

On November 7, 2014, Administrative Law Judge Martin Kehoe issued a Recommended Decision and Order in the above-captioned case, recommending that the Illinois Labor Relations Board, Local Panel, add the petitioned-for Recruitment and Selection Analyst (RSA) positions at Stroger Hospital in the County of Cook’s Health and Hospital System to the existing bargaining unit affiliated with Case No. L-UC-13-008. The Administrative Law Judge rejected the position of the Employer, County of Cook (Health and Hospital System), that the RSA positions should be excluded because they were confidential positions within the meaning of Section 3(c) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2012), or supervisor positions within the meaning of Section 3(r) of the Act.<sup>1</sup>

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<sup>1</sup> Section 3(c) defines confidential employees:  
“Confidential employee” means an employee who, in the regular course of his or her duties, assists and acts in a confidential capacity to persons who formulate, determine, and effectuate management policies with regard to labor relations or who, in the regular course of his or her duties, has authorized access to information relating to the effectuation or review of the employer's collective bargaining policies.

Section 3(r) generally defines supervisors as follows:

The Employer filed timely exceptions to the Recommended Decision and Order pursuant to Section 1200.135 of the Rules and Regulations of the Illinois Labor Relations Board, 80 Ill. Admin. Code, Parts 1200 through 1240, and the Petitioner, Local 200, Chicago Joint Board, Retail, Wholesale and Department Store Union, AFL-CIO, filed a response. After reviewing the record, exceptions and response, we accept the Recommended Decision and Order for the reasons set forth by the Administrative Law Judge, and direct the Executive Director to issue a certification adding the RSA positions to the bargaining unit.

BY THE LOCAL PANEL OF THE ILLINOIS LABOR RELATIONS BOARD

/s/ Robert M. Gierut  
Robert M. Gierut, Chairman

/s/ Charles E. Anderson  
Charles E. Anderson, Member

/s/ Richard A. Lewis  
Richard A. Lewis, Member

Decision made at the Local Panel's public meeting in Chicago, Illinois, on February 10, 2015; written decision issued in Chicago, Illinois, February 23, 2015.

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“Supervisor” is an employee whose principal work is substantially different from that of his or her subordinates and who has 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[.]”

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	)	Case No. L-RC-14-009
and	)	
	)	
County of Cook (Health & Hospital	)	
System),	)	
	)	
Employer	)	

**ADMINISTRATIVE LAW JUDGE’S RECOMMENDED DECISION AND ORDER**

On April 2, 2014, Local 22, Chicago Joint Board, Retail, Wholesale and Department Store Union, AFL-CIO (Petitioner) filed a majority interest petition in Case No. L-RC-14-009 with the Local Panel of the Illinois Labor Relations Board (Board) pursuant to the Illinois Public Labor Relations Act, 5 ILCS 315 (2012) as amended (Act), and the Rules and Regulations of the Board, 80 Ill. Admin. Code, Parts 1200 through 1240 (Rules). The petition seeks to include the Recruitment and Selection Analyst (Stroger Hospital) (RSA) position of the County of Cook (Health & Hospital System) (Employer) in the existing bargaining unit affiliated with Case No. L-UC-13-008.

A hearing was held on July 18, 2014 in Chicago, Illinois before the undersigned administrative law judge. At that time, all parties appeared and were given a full opportunity to participate, adduce relevant evidence, examine witnesses, and argue orally. Both parties timely filed briefs. After full consideration of the parties’ stipulations, evidence, arguments, and briefs, and upon the entire record of the case, I recommend the following.

## **I. ISSUES AND CONTENTIONS**

The Employer contends that the petition should be denied and that the petitioned-for RSAs should be excluded from bargaining because they are “supervisory” and “confidential” employees as those terms are defined by the Act. The Petitioner disputes those contentions.

## **II. FINDINGS OF FACT**

RSAs work in the recruiting arm of the human resources department of the John H. Stroger, Jr. Hospital of Cook County. Over time, each RSA is rotated among three teams. Each of those teams handles a particular type of job opening and has a single Human Resources Assistant (HRA) assigned to it. There are currently at least eight RSAs and only three HRAs. Each HRA reports to a single RSA.

RSAs post their team’s job openings via Taleo, an online applicant tracking system. Applicants use the same system to apply for the openings and provide supporting documentation. Every posting includes a job description and the open position’s minimum qualifications. A posting can require, for example, that an applicant be a member of a specific bargaining unit, have a particular degree or license, or have a certain number of years of relevant experience.

A posting’s minimum qualifications are set by a hiring manager or a collective bargaining agreement and cannot be changed by an RSA. However, an RSA can recommend a change to a hiring manager when an insufficient number of applicants have applied for an opening. An RSA can also suggest a revision when the RSA finds that a qualification will be difficult to prove with a document.

When a posting closes, an RSA reviews each applicant's submissions to determine whether the applicant meets the position's minimum qualifications. The RSA then prepares an eligibility list of all of the minimally qualified applicants. That list is submitted to a department head or hiring manager along with an eligibility packet that includes each candidate's application, resume, and all other documents the candidate uploaded into the Taleo system.

All listed applicants are interviewed by an interview panel with at least two members. Each panel member gives the interviewee a score that is combined with those of the other member(s). The panel then discusses the interview and eventually decides as a group whether the interviewee should be hired. A separate office later determines whether a panel's decision to hire is "Shakman compliant." RSAs can act as a panel member when an interviewee is applying to be an RSA or an HRA. When other openings are being considered, RSAs can monitor "the interview process" but not the interviewees.

Sometimes, RSAs must proctor examinations to determine whether an applicant meets a minimum qualification. The examinations can include typing tests or measure an applicant's ability to use computer programs such as Microsoft Excel or Word. In the past, RSAs have purportedly been "involved in developing" the examinations as well.

The Employer's labor relations department can ask an RSA to respond to a grievance involving one of the RSA's prior eligibility determinations. (One RSA does not address grievances that concern another RSA's eligibility determination.) A grievance could involve, for example, a union member who feels that he was qualified for an opening and should have been interviewed but was not. The grievance could have been filed by any union member who works for the Employer (including one represented by the Petitioner), not just an HRA.

When an RSA responds to a grievance, the RSA explains his or her prior reasoning to the labor relations department. The RSA can also be called by the Employer or a union to testify about his or her reasoning during a grievance hearing. The RSA is not responsible for determining, granting, settling, or moving grievances. However, an RSA's factual explanation can highlight a mistake and thereby theoretically affect how the Employer handles a grievance.

In addition to the foregoing, RSAs monitor HRAs' attendance, evaluate HRAs' work, and check that work for accuracy and completeness. When "warranted," RSAs can also issue discipline including counseling, written reprimands, and suspensions. Discipline is noted in a file and has been issued for "time," attendance, and performance.

### **III. DISCUSSION AND ANALYSIS**

#### **The Act's Supervisory Employee Exclusion**

Section 2 of the Act grants public employees full freedom of association, self-organization, and designation of representatives of their own choosing for the purpose of negotiating wages, hours, and other conditions of employment. Excluded from the Act's definition of public employee (contained in Section 3(n) of the Act) and therefore the Act's coverage are supervisory employees as defined by Section 3(r) of the Act. City of Freeport v. Illinois State Labor Relations Board, 135 Ill. 2d 499, 512, 554 N.E.2d 155, 162 (1990).

Under Section 3(r), employees are 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 11 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.<sup>1</sup> Id. As the party seeking to exclude the petitioned-for employees from bargaining, the Employer has the burden of proving by a preponderance of the evidence that the employees satisfy those four elements. 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

In determining whether the threshold principal work element 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. If that work is obviously and visibly different, the principal work element is satisfied. However, in other cases where the 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. City of Freeport, 135 Ill. 2d at 514, 544 N.E.2d at 162; Village of Broadview v. Illinois Labor Relations Board, 402 Ill. App. 3d 503, 507, 932 N.E.2d 25, 30 (1st Dist. 2010); Peoria Housing Authority, 10 PERI ¶2020 (IL SLRB 1994); Village of Alsip, 2 PERI ¶2038 (IL SLRB 1986); City of Burbank, 1 PERI ¶2008 (IL SLRB 1985).

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<sup>1</sup> In relevant part, Section 3(r) states:

“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 “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.

RSAs principally post job openings and check applicants' submissions against posted minimum qualifications. HRAs do not appear to perform that work. Furthermore, unlike RSAs, HRAs do not appear to proctor exams, participate in or monitor interviews, respond to grievances, or oversee any subordinates. HRAs merely make photocopies, collect and review paperwork, and transfer files. Under those circumstances, the principal work element is satisfied.

#### Supervisory Indicia and Independent Judgment

Section 3(r) of the Act provides that having the authority to hire or effectively recommend hire is supervisory authority, and one could argue that by screening applicants the RSAs are essentially hiring or recommending hires. However, logically, that screening function cannot represent supervisory authority as contemplated by the Act because it generally does not represent the exercise of power over the RSAs' subordinates, the HRAs. A similar conclusion must be reached regarding RSAs monitoring the interview process. See City of Carbondale, 27 PERI ¶68 (IL LRB-SP 2011); Village of Justice, 17 PERI ¶2007 (IL SLRB 2000); Village of Maywood, 4 PERI ¶2014 (IL SLRB 1988); Village of Carol Stream, 26 PERI ¶121 (IL LRB-SP G.C. 2010); Humble Oil & Refining Company, 16 NLRB 112, 125 (1939) (The fundamental criterion for the determination of an employee's status as a supervisor is whether or not in the course of his or her duties the employee exercises the authority of management over the employees under him or her).

In addition, the record does not demonstrate by a preponderance of the evidence that RSAs consistently use meaningful independent judgment when screening applicants or monitoring interviews. RSAs cannot independently decide what the minimum qualifications should be and their screening determinations are reviewed by others as a rule. RSAs also do not

decide when an opening should be posted. Moreover, it appears that, though some minimal amount of research might be necessary at times (e.g., a basic Google search), determining whether an applicant meets a posting's qualifications is largely straightforward and objective. When RSAs are monitoring the interview process, they are simply making sure established policies and procedures are being followed. See City of Chicago, 25 PERI ¶2 (IL LRB-LP 2009); Village of Justice, 17 PERI ¶2007; The Chief Judge of the Circuit Court of Cook County, 6 PERI ¶2045 (IL SLRB 1990).

One could argue that RSAs hire or effectively recommend hire when they are part of an interview panel and provide scores that can help determine whether an interviewee is hired as an HRA. Yet, all panel decisions are ultimately group decisions, and group decisions are neither independent nor supervisory. The decisions must also be approved by a separate body. See Chief Judge of the Circuit Court of Cook County, 26 PERI ¶117 (IL LRB-SP 2010); City of Chicago, 26 PERI ¶114 (IL LRB-LP 2010); State of Illinois, Department of Central Management Services, 25 PERI ¶184 (IL LRB-SP 2009); Village of Bolingbrook, 19 PERI ¶125 (IL LRB-SP 2003); Peoria Housing Authority, 10 PERI ¶2020; St. Clair Housing Authority, 5 PERI ¶2017 (IL SLRB G.C. 1989). Further, the record fails to explain how RSAs choose what scores or recommendations to share or how it is determined when an RSA should be in a panel. See State of Illinois, Department of Central Management Services, 25 PERI ¶26 (IL LRB-SP G.C. 2011).

Section 3(r) also provides that the authority to suspend, discipline, or effectively recommend either of those actions is supervisory authority, and testimony suggests that RSAs can suspend and discipline the HRAs. Nevertheless, the record does not meaningfully demonstrate that RSAs consistently exercise independent judgment when exercising that authority. The testimony that addresses the RSAs' authority to suspend, discipline, or effectively

recommend the same is highly conclusionary and thus of limited value, and no specific examples were provided. Significantly, the party claiming a statutory exclusion does not satisfy its burden of proof by producing vague, generalized testimony regarding the disputed employees' job functions. State of Illinois, Department of Central Management Services, 25 PERI ¶5 (IL LRB-SP 2009); Village of Bolingbrook, 19 PERI ¶125; Chief Judge of the Circuit Court of Cook County, 19 PERI ¶123 (IL LRB-SP 2003).

Continuing, Section 3(r) provides that the authority to direct is supervisory authority, and RSAs give HRAs assignments and review and evaluate the HRAs' work. However, as with the RSAs' alleged authority to hire, suspend, and discipline, the burdened Employer has failed to demonstrate that HRAs perform those functions with independent judgment. In fact, the record never illustrates how HRAs' work is assigned. See Chief Judge of the Circuit Court of Cook County, 26 PERI ¶117; Village of Bolingbrook, 19 PERI ¶125; Village of North Riverside, 19 PERI ¶59 (IL LRB-SP G.C. 2003).

The RSAs' purported authority to evaluate employees, without more, is also insufficient to confer supervisory status. Village of Bolingbrook, 19 PERI ¶125; Panaro and Grimes, 321 NLRB 811, 813 (1996). Further, though testimony suggests that RSAs check HRAs' work for accuracy and completeness, those kinds of checks are typically routine or clerical and therefore do not require significant discretion. Village of Broadview, 25 PERI ¶63 (IL LRB-SP 2009); County of DuPage and DuPage County Sheriff, 6 PERI ¶2018 (IL SLRB 1990); Chief Judge of the 12th Judicial Circuit (River Valley Detention Center), 22 PERI ¶73 (IL LRB-SP G.C. 2006). In addition, it is ultimately unclear whether RSAs' evaluations (which are not in the record) significantly affect HRAs' terms and conditions of employment and whether RSAs are held

accountable for HRAs' work performance. See Illinois Secretary of State, 20 PERI ¶11 (IL LRB-SP 2003); Village of North Riverside, 19 PERI ¶59.

RSAs also assist the Employer's labor relations department with grievances and testify during grievance hearings, and as Section 3(r) provides, having the authority to adjust grievances is supervisory authority. However, as noted, RSAs are not responsible for determining, granting, settling, or moving grievances. Furthermore, whenever an RSA responds to a grievance, he or she "simply reports the facts" to others and thus does not consistently use independent judgment. It also appears that most of the grievances RSAs are told to respond to have nothing to do with the RSAs' subordinates. Those circumstances do not demonstrate the authority to adjust grievances as contemplated by the Act. See Village of Bolingbrook, 19 PERI ¶125; State of Illinois, Department of Central Management Services, 25 PERI ¶26; Inland Steel Company, 308 NLRB 868, 877 (1992).

Preponderance

Again, the fourth and final element of the Act's supervisor test requires that the alleged statutory supervisor devote a preponderance of his or her employment time to exercising supervisory authority as defined by the Act. The Illinois Supreme Court, in City of Freeport, interpreted that preponderance standard to mean that the most significant allotment of the employee's time must be spent exercising supervisory functions. Stated another way, the employee must spend more time on supervisory functions than on any one non-supervisory function. City of Freeport, 135 Ill. 2d at 532, 554 N.E.2d at 171.

Since the City of Freeport decision, two panels of the Fourth District of the Illinois Appellate Court have issued different interpretations of how preponderance can be analyzed. The first interpretation defines preponderance as requiring that the employee spend a majority, or

more than 50% of his or her time, engaged in supervisory authority. Department of Central Management Services v. Illinois State Labor Relations Board, 249 Ill. App. 3d 740, 746, 619 N.E.2d 239, 244 (4th Dist. 1993). The second interpretation of preponderance relies on whether the supervisory functions are more “significant” than the non-supervisory functions. Department of Central Management Services v. Illinois State Labor Relations Board, 278 Ill. App. 3d 79, 85, 662 N.E.2d 131, 135 (4th Dist. 1996).

The Employer’s brief concludes that RSAs spend 100% of their time exercising supervisory authority. However, as outlined above, the Employer has failed to demonstrate that RSAs possess supervisory authority as defined by the Act. Therefore, I cannot find that RSAs devote a preponderance of their employment time to exercising that authority. I also cannot find that RSAs are statutory supervisors. State of Illinois, Department of Central Management Services, 28 PERI ¶160 (IL LRB-SP 2012); Village of North Riverside, 19 PERI ¶59.

To the extent the preponderance element must nevertheless be considered in isolation, the record provides little support. Indeed, relevant testimony simply suggests that the amount of time an RSA spends overseeing an HRA’s day-to-day activities “can vary” and that an RSA could spend several hours a year working as part of an interview panel. Even if it could be found that RSAs exercise independent judgment when doing so, nothing meaningfully clarifies, for example, how much time RSAs spend suspending, directing, disciplining, adjusting grievances, or effectively recommending the same. Additionally, nothing clearly articulates the “significance” of that alleged authority, and currently the majority of RSAs have no subordinates at all. Presented with such ambiguity, one cannot find that the Employer has met its burden. See County of Cook, 28 PERI ¶109 (IL LRB-SP 2012).

### The Act's Confidential Employee Exclusion

As indicated, the Employer also contends that RSAs are confidential employees as defined by Section 3(c) of the Act and thus must be excluded from bargaining.<sup>2</sup> In applying the language of the statute, the Board has formulated three alternative tests to be applied when determining whether an employee possesses confidential status: (1) the labor nexus test, (2) the authorized access test, and (3) the reasonable expectation test. Chief Judge of the Circuit Court of Cook County v. American Federation of State, County and Municipal Employees, Council 31, 153 Ill. 2d 508, 523, 607 N.E.2d 182, 189 (1992). For each test, the Employer bears the burden of proof. County of Cook v. Illinois Labor Relations Board, Local Panel, 369 Ill. App. 3d 112, 123, 859 N.E.2d 80, 89 (1st Dist. 2006). Because the RSAs' department already has a history of collective bargaining, the reasonable expectation test need not be applied in this instance. Chief Judge of the Circuit Court of Cook County, 153 Ill. 2d at 528, 607 N.E.2d at 191; Pike County Housing Authority, 28 PERI ¶13 (IL LLRB-SP 2011); City of Burbank, 2 PERI ¶2036 (IL SLRB 1986).

#### Labor Nexus Test

Under the labor nexus test, if an employee assists in a confidential capacity in the regular course of his or her duties a person or persons who formulate, determine, or effectuate labor relations policies, then the employee holds confidential status within the meaning of the Act. The person(s) assisted by the employee must perform all three functions (formulating, determining, and effectuating) before a finding of confidentiality can be made. Performance of

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<sup>2</sup> Section 3(c) of the Act defines a confidential employee as:  
an employee who, in the regular course of his or her duties, assists and acts in a confidential capacity to persons who formulate, determine, and effectuate management policies with regard to labor relations or who, in the regular course of his or her duties, has authorized access to information relating to the effectuation or review of the employer's collective bargaining policies.

those three functions is evidenced by whether the individual has primary responsibility for labor relations matters, makes recommendations with respect to collective bargaining policy and strategy, drafts management proposals and counterproposals, and participates in collective bargaining negotiations. Chief Judge of the Circuit Court of Cook County, 153 Ill. 2d at 523, 607 N.E.2d at 189; Village of Homewood, 8 PERI ¶2010 (IL SLRB 1992); City of Wood Dale, 2 PERI ¶2043 (IL SLRB 1986).

Gladys Lopez, the Employer's chief of human resources, "attends" some of the Employer's labor negotiations. Lopez testified that she could potentially consult with an RSA regarding positions at issue while bargaining, but also stated that that has not occurred. In short, I find that that testimony is unconvincing, as it does not illustrate RSAs' "regular" duties as Section 3(c) requires. See Chief Judge of the Circuit Court of Cook County, 153 Ill. 2d at 525, 607 N.E.2d at 190; One Equal Voice v. Illinois Educational Labor Relations Board, 333 Ill. App. 3d 1036, 1042, 777 N.E.2d 648, 653 (1st Dist. 2002). I also note that Lopez testified that RSAs do not report to her.

Additionally, I find that the Employer has failed to firmly establish that Lopez formulates, determines, and effectuates labor relations policies as required. See Chief Judge of the Circuit Court of Cook County, 153 Ill. 2d at 525, 607 N.E.2d at 190; Chief Judge of Circuit Court of Cook County v. American Federation of State, County and Municipal Employees, Council 31, 218 Ill. App. 3d 682, 703, 578 N.E.2d 1020, 1035 (1st Dist. 1991); City of Chicago, 26 PERI ¶114; State of Illinois, Department of Central Management Services, 25 PERI ¶5. Merely attending negotiations is insufficient, as union representatives would also be present at the time. State of Illinois, Department of Central Management Services, 25 PERI ¶184 (IL LRB-

SP 2009). Although Lopez has allegedly “participated in bargaining,” that experience is not meaningfully developed in the record.

The human resources department also has a dedicated “labor team” (with a labor director, two labor attorneys, two labor assistants, and two labor relations analysts) that reports to Lopez, and RSAs can discuss grievances with that team. However, in my view, RSAs’ work with grievances is only tenuously related to the Employer’s labor relations policies. See Inland Steel Company, 308 NLRB at 877. The information RSAs share is also frequently shared with unions and grievants and thus is not truly confidential. Further, the Employer has failed to meaningfully define the labor team’s role regarding formulating, determining, and effectuating labor relations policies and therefore has not satisfied the labor nexus test.

#### Authorized Access Test

Under the authorized access test, an employee will be deemed confidential if, in the regular course of his or her duties, the employee has authorized access to information concerning sensitive matters arising from the collective bargaining process such as information concerning the employer’s strategy in dealing with an organizational campaign, collective bargaining proposals, and information relating to matters concerning contract administration. Chief Judge of the Circuit Court of Cook County, 153 Ill. 2d at 523, 607 N.E.2d at 189; City of Chicago, 26 PERI ¶114; State of Illinois, Department of Central Management Services, 26 PERI ¶34 (IL LRB-SP 2010); County of DeKalb, 4 PERI ¶2029 (IL SLRB 1988); City of Wood Dale, 2 PERI ¶2043. In that context, an individual will be found a confidential employee if that person regularly handles or has access to information which, if divulged, would give bargaining unit members advance notice of the employer’s policies in regard to labor relations. See City of Sycamore, 10 PERI ¶2002 (IL SLRB 1993); Village of Homewood, 8 PERI ¶2010.

RSAs have access to personal information about applicants and fellow employees including salaries, benefits, education, certifications, home addresses, and Social Security numbers. They might also know of job openings before they are posted, have advance knowledge of hirings or interview or test questions, or have some unspecified involvement with market studies. However, I find that that information, though possibly sensitive or of interest to a union, has not been shown to be specifically pertinent to the Employer's collective bargaining strategy. See State of Illinois, Department of Central Management Services, 25 PERI ¶184; State of Illinois, Department of Central Management Services, 25 PERI ¶5; City of Chicago, 25 PERI ¶2; City of Wood Dale, 2 PERI ¶2043; Republic Steel Corporation, 91 NLRB 904, 905 (1950). I am unmoved by Lopez's generalized prediction that the information RSAs are involved with could "potentially" affect the Employer's strategy in the future. Therefore, I find that RSAs do not satisfy the authorized access test.

#### IV. CONCLUSIONS OF LAW

I find that RSAs are not supervisory or confidential employees as defined by the Act.

#### V. RECOMMENDED ORDER

IT IS HEREBY ORDERED that the position of RSA be included in the petitioned-for bargaining unit.

#### VI. 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 at 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 in Chicago, Illinois on November 7, 2014.**

**STATE OF ILLINOIS  
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LOCAL PANEL**



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**Martin Kehoe  
Administrative Law Judge**