STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

State of Illinois, Department of Central Management Services (Department of Human Services),	)	
Petitioner	)	
and	)	Case No. S-DE-14-223
American Federation of State, County and Municipal Employees, Council 31,	)	
Labor Organization-Objector	)	

ORDER

On March 24, 2014, Administrative Law Judge Elaine Tarver, on behalf of the Illinois Labor Relations Board, State Panel, issued a Recommended Decision and Order in the above-captioned case. No party filed exceptions to the Administrative Law Judge's Recommended Decision and Order during the time allotted, and at its April 1, 2014 public meeting, the Board declined to take the matter up on its own motion.

THEREFORE, pursuant to Section 1300.130(a)(5) of the Board's Rules and Regulations, 80 Ill. Admin. Code §1300.130(a)(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the parties have waived their exceptions to the Administrative Law Judge's Recommended Decision and Order, and this non-precedential Recommended Decision and Order is final and binding on the parties to this proceeding.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 1st day of April 2014.

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Jerald S. Post
General Counsel

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and	)	
Hannah Bettis, Joseph Brady, Thomas Comeford, Barbara Christiansen, Colleen Delaney, Patricia Houde, Ryma Hope Jacobson, Cara Johnston, Jagdeesh Kaur, Karen Klunk, Robin Kress, Leda Mangahas, Jeffery Pilario, Susan Roth, Angela Scarpa, Pamela Smith, Jeffery Vesley, David Ward and Stacia Wood	)	
Employees-Objectors	)	

ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND ORDER

Section 6.1 of the Illinois Public Labor Relations Act, 5 ILCS 315/6.1 (2012) added by Public Act 97-1172 (eff. April 5, 2013), allows the Governor of the State of Illinois to designate certain public employment positions with the State of Illinois as excluded from collective bargaining rights which might otherwise be granted under the Illinois Public Labor Relations Act. There are three broad categories of positions which may be so designated: 1) positions which were first certified to be in a bargaining unit by the Illinois Labor Relations Board on or after December 2, 2008, 2) positions which were the subject of a petition for such certification pending on April 5, 2013 (the effective date of Public Act 97-1172), or 3) positions which have never been certified to have been in a collective bargaining unit. Only 3,580 of such positions

may be so designated by the Governor, and, of those, only 1,900 positions which have already been certified to be in a collective bargaining unit.

Moreover, to be properly designated, the position must fit one of the following five categories:

1) it must authorize an employee in the position to act as a legislative liaison;
2) it must have a title of or authorize a person who holds the position to exercise substantially similar duties as a Senior Public Service Administrator, Public Information Officer, or Chief Information Officer, or as an agency General Counsel, Chief of Staff, Executive Director, Deputy Director, Chief Fiscal Officer, or Human Resources Director;
3) it must be designated by the employer as exempt from the requirements arising out of the settlement of Rutan v. Republican Party of Illinois, 479 U.S. 62 (1990), and be completely exempt from jurisdiction B of the Personnel Code, 20 ILCS 415/8b through 8b.20 (2012), see 20 ILCS 415/4 through 4d (2012);
4) it must be a term appointed position pursuant to Section 8b.18 or 8b.19 of the Personnel Code, 20 ILCS 415/8b.18, 8b.19 (2012); or
5) it must authorize an employee in that position to have "significant and independent discretionary authority as an employee" by which the Act means the employee is either
    - (i) engaged in executive and management functions of a State agency and charged with the effectuation of management policies and practices of a State agency or represents management interests by taking or recommending discretionary actions that effectively control or implement the policy of a State agency; or
    - (ii) qualifies as a supervisor of a State agency as that term is defined under Section 152 of the National Labor Relations Act, 29 U.S.C. 152(11), or any orders of the National Labor Relations Board interpreting that provision or decisions of courts reviewing decisions of the National Labor Relations Board.

Section 6.1(d) creates a presumption that any such designation made by the Governor was properly made. It also requires the Illinois Labor Relations Board to determine, in a manner

consistent with due process, whether the designation comports with the requirements of Section 6.1, and to do so within 60 days.[1]

As noted, Public Act 97-1172 and Section 6.1 of the Illinois Public Labor Relations Act became effective on April 5, 2013, and allow the Governor 365 days from that date to make such designations. The Board promulgated permanent rules to effectuate Section 6.1 which became effective on August 23, 2013, 37 Ill. Reg. 14,070 (Sept. 6, 2013). These rules are contained in Part 1300 of the Board's Rules and Regulations, 80 Ill. Admin. Code Part 1300.

On February 11, 2014, the Illinois Department of Central Management Services (CMS), on behalf of the Governor, filed the above-captioned designation pursuant to Section 6.1 of the Act and Section 1300.50 of the Board's Rules. CMS' petition designates the exclusion of the following Public Service Administrator, Option 8N positions in the Illinois Department of Human Services based on Section 6.1(b)(5) of the Act:

Public Service Administrator, Option 8N
Employed at Department of Human Services

Position No.	Working Title	Incumbent
37015-10-45-100-30-01	ISVI Nursing Director	Ellen Lacey
37015-10-56-200-00-01	ICRE Wood Nursing Director	Harvella Washington Ballard
37015-10-66-400-10-01	Statewide Nursing Coord for Div of Developmental Disabilities	Arden Gregory
37015-10-67-332-10-01	PM Nursing Supervisor	Vacant
37015-10-67-332-20-01	PM Nursing Supervisor	Chris A. Darlington
37015-10-67-333-00-01	MN Nursing Supervisor	Vicki S. Krople
37015-10-70-210-30-21	Nursing Supervisor	Gertrude Kilpatrick
37015-10-70-240-30-21	Nursing Supervisor	Rhodora Jones
37015-10-70-250-30-21	Nursing Supervisor	Paula Fain
37015-10-72-210-00-21	Nursing Sup.	Edward Cole
37015-10-72-220-00-21	Nursing Sup.	Richard Donnelly
37015-10-72-230-00-21	Workers Comp./HC Supervisor	Deborah Helsel
37015-10-72-250-00-21	Nursing Sup.	Helen Ruffins
37015-10-72-310-00-21	Nursing Sup.	Jacqueline Boyd
37015-10-72-310-10-21	Assistant Director of Nursing	Lillian Burton
37015-10-75-002-03-21	Nurse Manager	Mary Coulman
37015-10-75-002-03-22	Nurse Manager	Robin Kress
37015-10-75-002-03-23	Nurse Manager	Cynthia Holeman

[1] Public Act 98-100, which became effective July 19, 2013, added subsections (e) and (f) to Section 6.1 which shield certain specified positions from such Gubernatorial designations, but none of those positions are at issue in this case.

37015-10-75-002-03-24	Nurse Manager	Cara Johnston
37015-10-75-002-03-25	Nurse Manager	Joseph Brady
37015-10-77-620-00-88	Clinical Nurse Manager	Kathy Williams Jackson
37015-10-77-630-00-88	Clinical Nurse Manager	Hannah Bettis
37015-10-77-640-00-88	Clinical Nurse Manager	Nattlie Sutton
37015-10-77-650-00-88	Clinical Nurse Manager	Leslie Augustyn
37015-10-77-660-00-88	Clinical Nurse Manager	Vacant
37015-10-77-670-00-88	Clinical Nurse Manager	Stacia Woods
37015-10-77-690-00-88	Clinical Nurse Manager	Karen Klunk
37015-10-78-260-71-21	Clinical Nurse Manager	Vacant
37015-10-78-260-72-21	Clinical Nurse Manager	Holly Hawkins
37015-10-78-260-73-21	Clinical Nurse Manager	Tammi Craig
37015-10-78-260-74-21	Clinical Nurse Manager	Christie Modglin
37015-10-78-260-75-21	Clinical Nurse Manager	Nancy Hornbostel-Guethle
37015-10-78-260-78-21	Clinical Nurse Manager	Vacant
37015-10-79-121-10-01	Clinical Nurse Manager	Lilly Alex
37015-10-79-121-20-01	Clinical Nurse Manager	Connie Zuniga
37015-10-79-122-10-01	Clinical Nurse Manager	Gary Johnson
37015-10-79-122-10-22	Clinical Nurse Manager	Vacant
37015-10-79-123-10-01	Clinical Nurse Manager	Vacant
37015-10-79-123-20-01	Clinical Nurse Manager	Richard Kowalewicz
37015-10-80-000-10-01	Health Services Coordinator	Vacant
37015-10-80-120-41-21	Clinical Nurse Manager	Vacant
37015-10-80-120-42-21	Clinical Nurse Manager	Ashlee Bartruff
37015-10-80-120-43-21	Clinical Nurse Manager	Stephen Frizzell
37015-10-80-123-00-21	Clinical Nurse Manager	Athalyn Hunt
37015-10-80-200-41-21	Nursing Supervisor 1st Shift	Vacant
37015-10-80-200-42-21	Nursing Supervisor 2nd Shift	Vacant
37015-10-80-200-43-21	Nursing Supervisor 3rd Shift	Vacant
37015-10-81-211-01-88	Clinical Nurse Manager	Jagdeesh Kaur
37015-10-81-212-01-88	Clinical Nurse Manager	Lorrie Campbell
37015-10-81-213-01-88	Clinical Nurse Manager	Patricia Houde
37015-10-81-214-01-88	Clinical Nurse Manager	Colleen Delaney
37015-10-81-215-01-88	Clinical Nurse Manager	David Ward
37015-10-81-216-01-88	Clinical Nurse Manager	Thomas Comeford
37015-10-81-217-01-88	Clinical Nurse Manager	Ryma Hope Jacobson
37015-10-81-410-11-88	Clinical Nurse Manager	Barbara Christiansen
37015-10-81-410-11-88	Clinical Nurse Manager	Jeffrey Vesely
37015-10-81-410-12-88	Clinical Nurse Manager	Susan Roth
37015-10-81-830-00-22	Clinical Nurse Manager	Angela Scarpa
37015-10-81-850-00-22	Clinical Nurse Manager	Leda Mangahas
37015-10-81-870-00-22	Clinical Nurse Manager	Janet Schrock
37015-10-81-880-00-22	Clinical Nurse Manager	Jeffery Pilario
37015-10-82-500-00-21	Clinical Nurse Manager	Martha Alexander
37015-10-82-500-00-22	Clinical Nurse Manager	Yvonne Robinson
37015-10-82-500-00-23	Clinical Nurse Manager	Evelyn Carreon

37015-10-82-570-30-21	Clinical Nurse Manager	Vacant
37015-10-82-570-40-21	Clinical Nurse Manager	Elena Cruz
37015-10-82-570-50-21	Clinical Nurse Manager	Gina Bermudez
37015-10-82-570-60-21	Clinical Nurse Manager	Vacant
37015-10-82-570-70-21	Clinical Nurse Manager	Rena Raju
37015-10-82-570-80-21	Clinical Nurse Manager	Gracy Iteera
37015-10-83-223-00-01	Clinical Nurse Manager	Sherrill Weddersten
37015-10-83-224-00-01	Clinical Nurse Manager	Harvey Daniels
37015-10-83-225-10-88	Clinical Nurse Manager	Ashley Clement
37015-10-83-225-20-88	Clinical Nurse Manager	Vacant
37015-10-83-226-00-01	Clinical Nurse Manager	Lisa Liss
37015-10-83-227-00-01	Clinical Nurse Manager	Pamela Smith
37015-10-90-113-70-01	Mgr/Southern Nurse Supervisor	Lise Jankowski
37015-10-90-113-80-01	Mgr/ Northern Nurse Supervisor	Vacant
37015-10-43-240-00-20	ISD Nursing Director	Kari Waters

In support of its petition, CMS submitted job descriptions (CMS-104s) for each position, affidavits and a summary spreadsheet. The spreadsheet identifies position numbers, titles, names of the incumbents, bargaining units, certification dates and case numbers, statutory categories of designation and a list of job duties that support the presumptions that the positions are supervisory or managerial. The positions at issue were certified into the RC-63 bargaining unit on October 28, 2009, in Case No. S-RC-04-130.

On February 14, 2014, Thomas Comeford, Colleen Delaney and Karen Klunk filed objections to the inclusion of their position in the petition. On February 18, 2014, Hannah Bettis, Joseph Brady, Patricia Houde, Ryma Hope Jacobson, Jagdeesh Kaur, Leda Mangahas, Jeffery Pilario, Angela Scarpa, and David Ward also filed individual objections. On February 19, 2014, Pamela Smith, Barbara Christiansen, filed their objections to the petition. On February 20, 2014, Robin Kress, Susan Roth, and Jeffery Vesley also filed objections. On February 21, 2014, Joseph Brady, Cara Johnston filed objections and on February 27, 2014, the American Federation of State, County and Municipal Employees (AFSCME) filed objections to the designation. All parties filed timely objections in accordance with the Rules.

Based on my review of the designation, the documents submitted as part of the designation, the objections, and the arguments submitted in support of those objections, I have determined that the objections have failed to raise an issue that would require a hearing.

I find the designation to have been properly submitted and consistent with the requirements of Section 6.1 of the Act. Therefore, I recommend that the Executive Director

certify the designation of the positions at issue in this matter as set out below and, to the extent necessary, amend any applicable certifications of exclusive representatives to eliminate any existing inclusion of these positions within any collective bargaining unit.

I. ISSUES AND OBJECTIONS

CMS' gubernatorial designation of exclusion petition indicates that the positions at issue are properly designated under Section 6.1(b)(5) of the Act as supervisory or managerial in nature. In support of this contention, CMS has provided position descriptions (CMS-104s) for the designated positions.

AFSCME makes several general objections to the petition. AFSCME argues that Section 6.1 of the Act violates due process, the separation of powers doctrine in the Illinois Constitution, equal protection under Article I, Section 2 of the Illinois Constitution, and the Fifth and Fourteenth Amendments to the United States Constitution, and impairs the contractual right of the employees prohibited by the impairment of contract clause in the Illinois Constitution.

AFSCME specifically objections to 35 petitioned-for employees. These employees include Ellen Lacey, Deborah Helsel, Robin Kress, Cara Johnston, Hammah Bettis, Stacia Woods, Karen Klunk, Holly Hawkins, Tammi Craig, Nancy Hornbostel-Guethle, Athalyn Hunt, Jacqueline Boyd, Joseph Brady, Kari Waters, Susan Roth, Barbara Chrisitiansen, Gracy Itteera, Jagdeesh Kaur, Particia Houde, Colleen Delaney, David Ward, Thomas Comeford, Ryma Hope Jacobson, Angela Scarpa, Leda Mangahas, Jeffery Pilario, Sherrill Weddersten, Harvey Daniels, Ashley Clement, Pamela Smith, Jeffery Vesely, Lisa Liss, Lisa Jankowski, and Lillian Burton.[2] AFSCME's objections maintain that the job descriptions for these positions are incorrect. AFSCME also states that the employees listed do not possess significant discretionary authority to perform supervisory or managerial duties and are not held accountable in any meaningful way for the mistakes made by their subordinates. Lastly, AFSCME contends that the listed employees do not play any role in the development of policy, budget or legislation.

Included with their objections, each employee submitted documentation specifically addressing the duties listed in their job descriptions. Each objection generally denies performing any supervisory or managerial duties.

II. DISCUSSION AND ANALYSIS

[2] Nineteen of the 35 employees specifically objected to by AFSCME also filed individual objections providing the same exact documentation AFSCME submitted on their behalf.

a. Procedural Objections

First, the Board has held that it is beyond its capacity to rule on the constitutional allegations made by AFSCME. Specifically, it is beyond the Board's purview to rule whether the Illinois Public Labor Relations Act, as amended, violates provisions of the United States and Illinois constitutions. The Board noted that administrative agencies have no authority to declare statutes unconstitutional or even to question their validity and in doing so, their actions are null and void and cannot be upheld. State of Illinois, Department of Central Management Services, Case No. S-DE-14-005 (IL LRB-SP Oct. 7, 2013) (citing Goodman v. Ward, 241 Ill. 2d. 398, 411 (2011)). As such, I will not address the constitutional objections in this decision.

The Board has also expressed its concern with AFSCME's due process arguments but maintains that it has taken necessary measures to prevent such a violation. Therefore, the Board held that consistent with judicial precedent it has "insured that the individual employees as well as their representative and potential representative receive notice soon after designation petitions are filed, usually within hours, and have provided for redundant notice by means of posting at the worksite....we provided them an opportunity to file objections, and where they raise issues of fact or law that might overcome the statutory presumption of appropriateness, an opportunity for a hearing, [and]...require a written recommended decision by an administrative law judge in each case in which objections have been filed." State of Illinois, Department of Central Management Services, 30 PERI ¶ 80, Case No. S-DE-14-005 (IL LRB-SP Oct. 7, 2013) (citing Arvia v. Madigan, 209 Ill. 2d 520 (2004), and Gruwell v. Ill. Dep't of Financial and Professional Regulations, 406 Ill. App. 3d 283, 296-98 (4th Dist. 2010)). Additionally, the Board found that it has "allowed an opportunity to appeal those recommendations for consideration by the full Board by means of filing exceptions,...doubled the frequency of our scheduled public meetings in order to provide adequate review of any exceptions in advance of the 60-day deadline and... issu[e] written final agency decisions which may be judicially reviewed pursuant to the Administrative Review Law", in an effort to adhere to due process. State of Illinois, Department of Central Management Services, 30 PERI ¶ 80.

Moreover, in administrative hearings, failing to go to an oral hearing is not necessarily the denial of a hearing where submission of written documents could suffice as a hearing. Department of Central Management Services (Illinois Commerce Commission) v. Illinois Labor Relations Board, State Panel, 406 Ill. App. 3d 766, 769-70 (4th Dist. 2010). Therefore,

AFSCME's due process rights have not been violated by the Board following the policies and procedures mandated by the legislature and I find there is no issue of law or fact warranting a hearing.

Regarding the burden of proof, AFSCME has the burden to demonstrate that the designation is not proper. The Act is clear in that "any designation made by the Governor…shall be presumed to have been properly made," 5 ILCS 315/6.1 (2012). Therefore, the burden of proof shifts to the objector to prove that the designation is, in fact, improper.

b. Designations under Section 6.1(b)(5)

The Act provides that any designation made by the Governor is presumed proper and requires the Illinois Labor Relations Board to determine, in a manner consistent with due process, whether the designation comports with the requirements of Section 6.1, and to do so within 60 days. 5 ILCS 315/6.1 (2012). Here, CMS' designation of the positions at issue are proper according to Section 6.1(b)(5) of the Act. Under the Act, to be properly designated, the position must authorize an employee in that position to have "significant and independent discretionary authority as an employee." 5 ILCS 315/6.1 (2012). Because the petitioned-for employees are properly designated as supervisors under Section 6.1(c)(ii) of the Act, I will not address managerial exclusion.

Section 6.1(c)(ii) of the Act

The Act qualifies an employee as a supervisor of a State agency as that term is defined under Section 152 of the National Labor Relations Act, 29 U.S.C. 152(11), or any orders of the National Labor Relations Board interpreting that provision or decisions of courts reviewing decisions of the National Labor Relations Board.

> "The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment." 29 U.S.C. §152 (11).

Accordingly, "employees are statutory supervisors if (1) they hold the authority to engage in any 1 of the 12 listed supervisory functions, (2) their 'exercise of such authority is not

of a merely routine or clerical nature, but requires the use of independent judgment,' and (3) their authority is held 'in the interest of the employer." NLRB v. Kentucky River Community Care, Inc. 532 U.S. 706, 713 (2001) (quoting NLRB v. Health Care & Retirement Corp. of America, 511 U.S. 571, 573-574, (1994); See also Oakwood Healthcare, Inc., 348 NLRB 686, 87 (2006).

The term "assign" means "the act of designating an employee to a place (such as a location, department, or wing), appointing an employee to a time (such as a shift or overtime period), or giving significant overall duties, i.e., tasks, to an employee." Oakwood Healthcare, Inc., 348 NLRB 686, 89 (2006).

A position has the responsibility to direct if the position holder has subordinates, decides what jobs his subordinates should perform next, and who should perform those tasks. Id at 691-92. To be considered a supervisor with "responsibility to direct," there must be accountability on the supervisor's part if the directed task is not performed properly. Id. at 691-92.

Employee Duties

Hannah Bettis states that she has approximately 20 subordinate staff that report directly to her. She does not deny that she directs staff on patient needs and implementation of treatment plans, reviews nursing assessments and nursing care plans for completeness, accuracy and appropriateness of plans, and approves/denies overtime requests.

Jacqueline Boyd admits that she has 10 subordinates in which she assign tasks and directs them by making sure their reports are correct and complete. Boyd also recommends staffing needs to her superiors.

Joseph Brady states that he has 20 subordinates that report to him and when they are unsure as to what to do, Joseph directs his subordinates and ensures that they are following their job duties and responsibilities as outlined in their job descriptions. He also recommends evaluations and overtime and does not deny that these recommendations are effective.

Lillian Burton admits that she has five subordinates and she has the authority to transfer them from unit to unit. She also assigns them work and work areas daily. Burton directs her subordinates on certain medical restraints, charting and with ordering medical equipment. Lastly, Burton recommends discipline to her superior and does not deny that these recommendations are effective.

Barbara Christiansen admits that she assigns specific tasks to her subordinates to ensure the safety and cleanliness of their working environment. She also ensures her subordinates are following plans of care for all patients. Christiansen provides direction to her subordinates and if a subordinate is not following established policies and procedures, she directs and counsels them as needed.

Ashley Clement states that she has 16 subordinates who are her direct reports. She provides input on nursing policies and procedures. She also reports facts to her superior regarding her subordinates performance or non-performance but she states that these reports do not amount to effective recommendations of discipline. Although she does not have the authority to lay off employees, she does have the authority to recall employees from layoff or recommend to management which employees are recalled. Clement also assigns work to nurses and technicians and provides direction regarding their treatment of patients. She also reviews their written work and recommends revisions to ensure all assigned duties are completed.

Thomas Comeford has 37 subordinates that report to him. He admits that he assigns them specific tasks to ensure safety and cleanliness and makes sure they are following their patient's care plans. Comeford initiates discipline but states that this discipline must be approved by his superiors. Comeford does not deny that these recommendations are effective. He also states that he provides direction to ensure his subordinates are following the established policy and procedures of the job.

Tammy Craig has seven direct reports who she assigns specific tasks and provides technical assistance to when they are dealing with more difficult cases. She also directs her subordinates regarding clinical care of patients and completes their performance evaluations.

Harvey Daniels has 17 subordinates and he completes their performance evaluations even though they are reviewed and corrected by his superior. Daniels does not deny that his evaluation recommendations are effective a majority of the time. Daniels also provides input on nursing policies and procedures. Additionally, he assigns work and provides direction with regard to the treatment of patients. Lastly, Daniels reviews written work and recommends revisions when necessary to ensure all assigned duties are properly completed.

Colleen Delaney has 35 direct subordinates for which she performs annual and periodic performance evaluations. These evaluations are reviewed and signed by her superior. Delaney also adjusts grievances at the first level regarding overtime disputes and can issue oral or written

reprimands in accordance with the attendance policy. Delaney assigns and directs her subordinates making sure the patients' plans of care are followed and assigns specific tacks to ensure safety and cleanliness of the environment. If an employee does not follow the policies and procedures, Delaney counsels and directs them as needed.

Holly Hawkins has nine subordinates that she assigns specific tasks, provides technical assistance and directs regarding more difficult tasks. She also provides direction regarding work assignments and direct care personnel.

Nancy Horbostel-Guthethle has three subordinates that she assigns specific tasks, provides technical assistance and directs regarding more difficult tasks including work assignments and direct care personnel.

Deborah Helsel has six subordinates and she assigns them work and directs them in the completion of work assignments. She also reviews their work performance through monitoring nursing outcomes to assure compliance with relevant standards, policies, procedures, rules and regulations. Lastly, Helsel initiates corrective action, conducts annual performance evaluations and assures timely completion of work assignments.

Patricia Houde has 38 direct subordinates for whom she performs annual and periodic performance evaluations. These evaluations have to be reviewed and signed by her superior. Houde also adjust grievances at the first level regarding overtime disputes and can issue oral or written reprimands in accordance with the attendance policy. Houde assigns and directs her subordinates making sure their patients' plans of care are followed and assigns specific tasks to ensure safety and cleanliness of the environment. If an employee does not follow the policies and procedures, Houde counsels and directs them as needed.

Athalyn Hunt has 21 subordinates and she does not deny that she assigns and directs their work assignments. She also provides training on new or revised policies and procedures.

Gracy Itteera has 22 subordinates whom she supervises. She establishes goals and objectives for her staff. She also provides training and assigns their duties. She sets staff schedules and approves time off. Itteera also recommends policies regarding patient care.

Ryma Hope Jackson has 30 direct subordinates for whom she performs annual and periodic performance evaluations. These evaluations are reviewed and signed by her superior. Jackson also adjusts grievances at the first level regarding overtime disputes and can issue oral or written reprimands in accordance with the attendance policy. Jackson assigns and directs her

subordinates making sure the patients' plans of care are followed and assigns specific tasks to ensure safety and cleanliness of the environment. If an employee does not follow the policies and procedures, Jackson counsels and directs them as needed.

Lise Jankowski has two employees who report directly to her. She assigns them work which is divided equitably. She makes recommendations regarding hiring and does not deny her authority to layoff or recall an employee. She merely states that the occasion to lay off or recall has never arisen. She has disciplined an employee on at least one occasion.

Cara Johnston has approximately 20 subordinates that report to her. She initiates discipline but states that the issuance of such is done by her superior. She directs her subordinates in their job duties to ensure that they are performing within the scope of their job description, union agreement, policies, procedures, guidelines and protocol of the center.

Jagdeesh Kaur has 28 direct subordinates for whom he performs annual and periodic performance evaluations. These evaluations have to be reviewed and signed by his superior. Kaur also adjust grievances at the first level regarding overtime disputes and can issue oral or written reprimands in accordance with the attendance policy. Kaur assigns and directs his subordinates making sure the patients' plans of care are followed and assigns specific tacks to ensure safety and cleanliness of the environment. If an employee does not follow the policies and procedures, Kaur counsels and directs them as needed.

Karen Klunk has one employee who reports directly to her. She reports the facts related to all discipline but the discipline is handled by her superior. She directs her employee to ensure she is properly performing her duties. She does not deny being responsible for her subordinate's work product.

Robin Kress has one employee who reports to her. She has the authority to initiate and recommend discipline even though she does not make the final disciplinary decision. When warranted she can also counsel an employee regarding work performance, productivity, and conduct and carry out any necessary action from a pre-disciplinary meeting. Kress also directs her subordinate to ensure he/she is following proper protocol, policies and procedures.

Ellen Lacey has two nurses that report to her. She assigns them duties daily and directs them by assisting them with setting priorities and completing their work based on operational needs, guidelines and standards. Lacey also assists with the interpretation of guidelines from the Illinois Department of Public Health, Board of Education, OSHA, and Food Sanitation

Guidelines and recommends how they apply to the specific residential school environment in which she works.

Lisa Liss has 19 subordinates that report to her and she assigns them duties and provides direction regarding the treatment of patients. She also reviews their written work and recommends revisions as needed. Lastly, Liss ensures the assigned duties of the staff are properly completed.

Leda Mangahas has 24 direct subordinates for whom she performs annual and periodic performance evaluations. These evaluations have to be reviewed and signed by her superior. Mangahas also adjusts grievances at the first level regarding overtime disputes and can issue oral or written reprimands in accordance with the attendance policy. Mangahas assigns and directs her subordinates making sure the patients' plans of care are being followed and assigns specific tacks to ensure safety and cleanliness of the environment. If an employee does not follow the policies and procedures, Mangahas counsels and directs them as needed.

Christie Modglin has eight direct reports and she assigns them specific tasks, provides technical assistance regarding more difficult tasks and directs their work as it relates to their work assignments and direct care personnel.

Jeffery Pilario has 26 direct reports for whom he performs annual and periodic performance evaluations. These evaluations have to be reviewed and signed by his superior. Pilario also adjusts grievances at the first level regarding overtime disputes and can issue oral or written reprimands in accordance with the attendance policy. Pilario assigns and directs his subordinates making sure the patients' plans of care are being followed and assigns specific tacks to ensure safety and cleanliness of the environment. If an employee does not follow the policies and procedures, Pilario counsels and directs them as needed.

Susan Roth states that she does not have any direct reports but that she is responsible for facility wide functions and incidents while on shift. Roth states that she also assigns specific tasks to ensure safety and cleanliness and that she directs subordinates to ensure they are following proper protocol and established procedures. She also has the ability to counsel her subordinates as needed.

Angela Scarpa, according to her job description, has 27 subordinates. Scarpa adjusts grievances at the first level regarding overtime disputes and can issue oral or written reprimands in accordance with the attendance policy. Scarpa assigns and directs her subordinates making

sure the patients' plans of care are being followed and assigns specific tacks to ensure safety and cleanliness of the environment. If an employee does not follow the policies and procedures, Scarpa counsels and directs them as needed

Pamela Smith has 17 direct subordinates that report to her and she assigns them duties and provides direction regarding the treatment of patients. She also reviews their written work and recommends revisions as needed. Lastly, Smith ensures the assigned duties of the staff are properly completed.

Jeffery Vesley states that he does not have any direct reports but that he is responsible for facility wide functions and incidents while on shift. Vesley maintains that he assigns specific tasks to ensure safety and cleanliness and that he directs subordinates to ensure they are following proper protocol and established procedures. He also has the ability to counsel subordinates as needed.

David Ward, according to his job description, has 27 direct reports. Ward maintains that he assigns his subordinates specific tasks to ensure safety and cleanliness and that he directs subordinates to ensure they are following proper protocol and established procedures. He also has the ability to counsel subordinates as needed. Ward also adjusts grievances at the first level regarding overtime disputes and can issue oral or written reprimands in accordance with the attendance policy

Kari Waters has four direct subordinates for whom she assigns daily duties to meet the operational needs of the unit. She also provides direction to ensure those needs are met.

Sherrill Weddersten has 17 subordinates that report directly to her and she assigns them duties and provides direction regarding the treatment of patients. She also reviews their written work and recommends revisions as needed. Lastly, Weddersten ensures the assigned duties of the staff are properly completed.

Stacia Woods has 23 subordinates. Woods does not refute that she directs her staff on patient needs and implementation of treatment plans, reviews nursing assessments and nursing care plans for completeness, accuracy and appropriateness of plans, and approves /deny overtime requests.

Here, the designation of the petitioned-for positions are proper as these positions are supervisory under Section 6.1(b)(5) of the Act. The parties' objections fail to negate the three-factor test for supervisory status in Section 6.1(c)(ii). The petitioned-for employees provided

direct evidence that establishes their authority to assign or direct work requires the use of independent judgment and that this authority is held in the interest of the employer. Moreover, the objections did not assert that there would not be a prospect of adverse consequences for the petitioned-for employees if they did not assign and direct work as necessary.

These positions are also tasked with training and evaluating staff, which are other indications of supervisory status. B & B Insulations, 272 NLRB 185 (1984) (supervisory authority established where employee has responsibility for training, assignment and direction to ensure quality and safety of work). Thus, the designation of these positions is proper.

Therefore, I recommend the Board find the designation proper.

III. CONCLUSIONS OF LAW

The designations in this case are properly made.

IV. RECOMMENDED ORDER

Unless this Recommended Decision and Order Directing Certification of the Designation is rejected or modified by the Board, the following positions are excluded from the self-organization and collective bargaining provisions of Section 6 of the Illinois Public Labor Relations Act:

Public Service Administrator, Option 8N
Employed at Department of Human Services

Position No.	Working Title	Incumbent
37015-10-45-100-30-01	ISVI Nursing Director	Ellen Lacey
37015-10-56-200-00-01	ICRE Wood Nursing Director	Harvella Washington Ballard
37015-10-66-400-10-01	Statewide Nursing Coord for Div of Developmental Disabilities	Arden Gregory
37015-10-67-332-10-01	PM Nursing Supervisor	Vacant
37015-10-67-332-20-01	PM Nursing Supervisor	Chris A. Darlington
37015-10-67-333-00-01	MN Nursing Supervisor	Vicki S. Krople
37015-10-70-210-30-21	Nursing Supervisor	Gertrude Kilpatrick
37015-10-70-240-30-21	Nursing Supervisor	Rhodora Jones
37015-10-70-250-30-21	Nursing Supervisor	Paula Fain
37015-10-72-210-00-21	Nursing Sup.	Edward Cole
37015-10-72-220-00-21	Nursing Sup.	Richard Donnelly
37015-10-72-230-00-21	Workers Comp./HC Supervisor	Deborah Helsel
37015-10-72-250-00-21	Nursing Sup.	Helen Ruffins
37015-10-72-310-00-21	Nursing Sup.	Jacqueline Boyd
37015-10-72-310-10-21	Assistant Director of Nursing	Lillian Burton

37015-10-75-002-03-21	Nurse Manager	Mary Coulman
37015-10-75-002-03-22	Nurse Manager	Robin Kress
37015-10-75-002-03-23	Nurse Manager	Cynthia Holeman
37015-10-75-002-03-24	Nurse Manager	Cara Johnston
37015-10-75-002-03-25	Nurse Manager	Joseph Brady
37015-10-77-620-00-88	Clinical Nurse Manager	Kathy Williams Jackson
37015-10-77-630-00-88	Clinical Nurse Manager	Hannah Bettis
37015-10-77-640-00-88	Clinical Nurse Manager	Nattlie Sutton
37015-10-77-650-00-88	Clinical Nurse Manager	Leslie Augustyn
37015-10-77-660-00-88	Clinical Nurse Manager	Vacant
37015-10-77-670-00-88	Clinical Nurse Manager	Stacia Woods
37015-10-77-690-00-88	Clinical Nurse Manager	Karen Klunk
37015-10-78-260-71-21	Clinical Nurse Manager	Vacant
37015-10-78-260-72-21	Clinical Nurse Manager	Holly Hawkins
37015-10-78-260-73-21	Clinical Nurse Manager	Tammi Craig
37015-10-78-260-74-21	Clinical Nurse Manager	Christie Modglin
37015-10-78-260-75-21	Clinical Nurse Manager	Nancy Hornbostel-Guethle
37015-10-78-260-78-21	Clinical Nurse Manager	Vacant
37015-10-79-121-10-01	Clinical Nurse Manager	Lilly Alex
37015-10-79-121-20-01	Clinical Nurse Manager	Connie Zuniga
37015-10-79-122-10-01	Clinical Nurse Manager	Gary Johnson
37015-10-79-122-10-22	Clinical Nurse Manager	Vacant
37015-10-79-123-10-01	Clinical Nurse Manager	Vacant
37015-10-79-123-20-01	Clinical Nurse Manager	Richard Kowalewicz
37015-10-80-000-10-01	Health Services Coordinator	Vacant
37015-10-80-120-41-21	Clinical Nurse Manager	Vacant
37015-10-80-120-42-21	Clinical Nurse Manager	Ashlee Bartruff
37015-10-80-120-43-21	Clinical Nurse Manager	Stephen Frizzell
37015-10-80-123-00-21	Clinical Nurse Manager	Athalyn Hunt
37015-10-80-200-41-21	Nursing Supervisor 1st Shift	Vacant
37015-10-80-200-42-21	Nursing Supervisor 2nd Shift	Vacant
37015-10-80-200-43-21	Nursing Supervisor 3rd Shift	Vacant
37015-10-81-211-01-88	Clinical Nurse Manager	Jagdeesh Kaur
37015-10-81-212-01-88	Clinical Nurse Manager	Lorrie Campbell
37015-10-81-213-01-88	Clinical Nurse Manager	Patricia Houde
37015-10-81-214-01-88	Clinical Nurse Manager	Colleen Delaney
37015-10-81-215-01-88	Clinical Nurse Manager	David Ward
37015-10-81-216-01-88	Clinical Nurse Manager	Thomas Comeford
37015-10-81-217-01-88	Clinical Nurse Manager	Ryma Hope Jacobson
37015-10-81-410-11-88	Clinical Nurse Manager	Barbara Christiansen
37015-10-81-410-11-88	Clinical Nurse Manager	Jeffrey Vesely
37015-10-81-410-12-88	Clinical Nurse Manager	Susan Roth
37015-10-81-830-00-22	Clinical Nurse Manager	Angela Scarpa
37015-10-81-850-00-22	Clinical Nurse Manager	Leda Mangahas
37015-10-81-870-00-22	Clinical Nurse Manager	Janet Schrock
37015-10-81-880-00-22	Clinical Nurse Manager	Jeffery Pilario

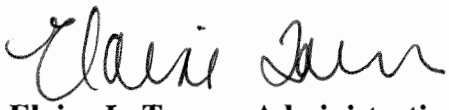
37015-10-82-500-00-21	Clinical Nurse Manager	Martha Alexander
37015-10-82-500-00-22	Clinical Nurse Manager	Yvonne Robinson
37015-10-82-500-00-23	Clinical Nurse Manager	Evelyn Carreon
37015-10-82-570-30-21	Clinical Nurse Manager	Vacant
37015-10-82-570-40-21	Clinical Nurse Manager	Elena Cruz
37015-10-82-570-50-21	Clinical Nurse Manager	Gina Bermudez
37015-10-82-570-60-21	Clinical Nurse Manager	Vacant
37015-10-82-570-70-21	Clinical Nurse Manager	Rena Raju
37015-10-82-570-80-21	Clinical Nurse Manager	Gracy Iteera
37015-10-83-223-00-01	Clinical Nurse Manager	Sherrill Weddersten
37015-10-83-224-00-01	Clinical Nurse Manager	Harvey Daniels
37015-10-83-225-10-88	Clinical Nurse Manager	Ashley Clement
37015-10-83-225-20-88	Clinical Nurse Manager	Vacant
37015-10-83-226-00-01	Clinical Nurse Manager	Lisa Liss
37015-10-83-227-00-01	Clinical Nurse Manager	Pamela Smith
37015-10-90-113-70-01	Mgr/Southern Nurse Supervisor	Lise Jankowski
37015-10-90-113-80-01	Mgr/ Northern Nurse Supervisor	Vacant
37015-10-43-240-00-20	ISD Nursing Director	Kari Waters

V. EXCEPTIONS

Pursuant to Section 1300.90 and 1300.130 of the Board's Rules and Regulations, 80 Ill. Admin. Code Parts 1300, parties may file exceptions to the Administrative Law Judge's recommended decision and order, and briefs in support of those exceptions, no later than 3 days after service of the recommended decision and order. All exceptions shall be filed and served in accordance with Section 1300.90 of the Board's Rules and Regulations. Exceptions must be filed by electronic mail sent to ILRB.filing@illinois.gov. Each party shall serve its exceptions on the other parties. If the original exceptions are withdrawn, then all subsequent exceptions are moot. A party not filing timely exceptions waives its right to object to the Administrative Law Judge's recommended decision and order.

Issued at Chicago, Illinois this 24th day of March 2014.

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL



Elaine L. Tarver, Administrative Law Judge