

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

State of Illinois, Department of)	
Central Management Services)	
(Department of Children and)	
Family Services),)	
)	
Petitioner)	
)	
and)	
)	
American Federation of State, County)	Case No. S-DE-14-232
and Municipal Employees, Council 31,)	
)	
Labor Organization-Objector)	
)	
Daniel Hauter, William Karr, C. Janel Loucks,)	
Anita McKeever, Lynda Petrick, Karen Waller,)	
Stacy Short, Dawn Moyer, Amy Naish,)	
Raymond Gates and Nicole Bennett-Neely,)	
)	
Employee-Objectors)	

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

Section 6.1 of the Illinois Public Labor Relations Act, 5 ILCS 315 (2012), allows the Governor to designate certain employment positions with the State of Illinois as excluded from collective bargaining rights which might otherwise be available under Section 6 of the Act. This case involves such designations made on the Governor’s behalf by the Illinois Department of Central Management Services (CMS). On April 8, 2014, Administrative Law Judge (ALJ) Anna Hamburg-Gal issued a Recommended Decision and Order (RDO) in this case, finding that the designations were properly made. We agree.

CMS petitioned to designate for exclusion 85 positions at the Illinois Department of Children and Family Services classified as Public Service Administrator Option 6.¹ All were designated for exclusion pursuant to Section 6.1(b)(5) of the Act, which allows designation of positions with “significant and independent discretionary authority.”²

Ten of the employees holding designated positions filed objections to the petition pursuant to Section 1300.60 of the Board’s rules for implementing Section 6.1 of the Act. 80 Ill. Admin. Code §1300.60. So did the American Federation of State, County and Municipal Employees, Council 31 (AFSCME), raising objections that all the designations were unconstitutional or improper for other generally applicable reasons, and that 42 of the designations were improper for reasons specific to those positions.

The ALJ declined to address the constitutional objections and rejected the other generally applicable objections. Addressing the positions that were specifically objected to in categories by working job title, but with reference to the assertions and evidence specific to each position, the ALJ rejected the specific objections as well.

Non-substantive objections were raised with respect to two positions: that of Administrator of Foster Support Services held by Raymond Gates and that of Day Care Licensing Supervisor held by Debbie Pimentel. The ALJ acknowledged Gates’ assertion that his position had been given the wrong position number, but noted that Gates did not deny that the

¹ CMS regulations classify Public Service Administrator positions as Option 6 if they involve working in “Health and Human Services.” 80 Ill. Admin. Code 310.50.

² This phrase is defined by Section 6.1(c) of the Act:

For the purposes of this Section, a person has significant and independent discretionary authority as an employee if he or she (i) is 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 or any orders of the National Labor Relations Board interpreting that provision or decisions of courts reviewing decisions of the National Labor Relations Board.

position designated was his and admitted that he gives direction to subordinates in that position, activity that tends to demonstrate applicability of Section 6.1(c)(ii) and thus of Section 6.1(b)(5). The ALJ also acknowledged Pimentel's assertion that the application for her current position had held a different position number, noting that it appeared from the position description form that the number for Pimentel's position had been changed and thus the position designated was indeed Pimentel's.

AFSCME filed timely exceptions to the ALJ's RDO pursuant to Section 1300.130 of the Board's rules, 80 Ill. Admin. Code §1300.130, and so did Raymond Gates. As did the ALJ, we decline to address AFSCME's constitutionally-based exceptions for the reasons we articulated in State of Illinois, Dep't of Cent. Mgmt. Servs. and Am. Fed'n of State, Cnty. & Mun. Empl., Council 31, Case No. S-DE-14-005 et al., 30 PERI ¶80 (IL LRB-SP 2013). Based on our review of the exceptions, the record, and the RDO, we also reject AFSCME's other generally applicable exceptions, and the exceptions specific to particular positions for reasons expressed by the ALJ. We specifically note that the weight of the evidence supports the ALJ's finding that CMS had properly designated the positions held by Raymond Gates and Debbie Pimental. We also reject AFSCME's position that an employee's unadorned response of "no" to AFSCME's question whether the employee directs subordinates is not determinative of that issue where other evidence, including sworn evidence submitted by CMS and evidence submitted by AFSCME and the individual employees tends to support the ALJ's finding that the employees direct or effectively recommend direction or discipline.

Finding the designations comport with the requirements of Section 6.1, we adopt the RDO and direct the Executive Director to issue a certification consistent with our findings.

BY THE STATE PANEL OF THE ILLINOIS LABOR RELATIONS BOARD

/s/ John J. Hartnett

John J. Hartnett, Chairman

/s/ Paul S. Besson

Paul S. Besson, Member

/s/ James Q. Brennwald

James Q. Brennwald, Member

/s/ Michael G. Coli

Michael G. Coli, Member

/s/ Albert Washington

Albert Washington, Member

Decision made at the State Panel's public meeting held in Chicago, Illinois, on May 13, 2014;
written decision issued at Springfield, Illinois, May 15, 2014.

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

State of Illinois, Department of Central Management Services, (Department of Children and Family Services),)	
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Petitioner)	Case No. S-DE-14-232
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Amy Naish, Raymond Gates,)	
and Nicole Bennett-Neely)	
)	
Employee-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, 497 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 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 March 17, 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. On March 19, 2014, C. Janel Loucks, an employee of the State of Illinois who occupies one of the positions designated as excluded from collective bargaining rights filed objections to the designation. On March 20, 2014, Lynda Petrick, Stacy Short, and William Karr, employees of the State of Illinois who occupy some of the positions designated as excluded from collective bargaining rights filed objections to the designation. On March 21, 2014, Dawn Moyer, an employee of the State of Illinois who occupies one of the positions designated as excluded from collective bargaining rights filed objections to the designation. On March 25, 2014, Anita McKeever, an employee of the State of Illinois who occupies one of the positions designated as excluded from collective bargaining rights filed objections to the designation. On March 26, 2014, Karen Waller, Daniel Hauter, Amy Naish, and Nicole Bennett-Neely, employees of the State of Illinois who occupy some of the positions designated as excluded from collective bargaining rights filed objections to the designation. On March 28, 2014,² the American Federation of State, County and Municipal Employees, Council 31 (AFSCME) filed objections to the designation pursuant to Section 1300.60(a)(3) of the Board's Rules. Based on my review of the designation, the documents submitted as part of the designation, the objections, and the documents and arguments submitted in support of those objections, I find that the designation was properly submitted, that it is consistent with the requirements of Section 6.1 of the Act, and that the objections fail to raise an issue of law or fact that might overcome the presumption that the designation is proper. Consequently, I recommend

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.

² The General Counsel granted AFSCME an extension to file on this date.

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.

The following 85 Public Service Administrator, Option 6 positions within the Department of Children and Family Services are at issue in this designation:

37015-16-00-241-10-01	ACR Program Manager	Bridget McKnight-Barnes
37015-16-00-241-20-01	ACR Program Manager	Vacant
37015-16-00-241-30-01	ACR Program Manager	Jamie Ralph
37015-16-00-241-40-01	ACR Program Manager	Mickey Owen
37015-16-00-242-10-01	ACR Program Manager	Patricia Massey
37015-16-00-242-30-01	ACR Program Manager	Jeffrey Walker
37015-16-00-243-00-01	ACR POS Administrator	Jerryce Moore-Humphrey
37015-16-13-110-10-01	APT Supervisor	Pedro Mendoza
37015-16-13-110-20-01	APT Supervisor	William Karr
37015-16-13-110-30-01	APT Supervisor	C. Janel Loucks
37015-16-13-110-40-01	APT Supervisor	Candace Woosley
37015-16-13-120-10-01	APT Supervisor	Beverly Clark
37015-16-13-120-20-01	APT Supervisor	Terrence Weck
37015-16-13-120-30-01	APT Supervisor	Janice Horne
37015-16-13-120-40-01	APT Supervisor	Tanya Smith
37015-16-13-200-30-01	APT/ILO/TLP Monitoring Supervisor	Vacant
37015-16-13-200-40-01	APT/ILO/TLP Monitoring Supervisor	Julie Michael
37015-16-13-200-60-01	APT/ILO/TLP Monitoring Supervisor	Nicole Neely
37015-16-13-200-70-01	APT/ILO/TLP Monitoring Supervisor	Anita McKeever
37015-16-13-210-10-01	Residential Monitor Supervisor	Eric Smith
37015-16-13-210-20-01	Residential Monitor Supervisor	Amy Naish
37015-16-13-210-30-01	Residential Monitor Supervisor	Gail Mayer
37015-16-13-210-40-01	Residential Monitor Supervisor	Stacy Short
37015-16-13-220-10-01	Residential Monitor Supervisor	Stacey Mixon-Newton
37015-16-13-220-20-01	Residential Monitor Supervisor	Chandra McFall

37015-16-13-220-30-01	Residential Monitor Supervisor	Donald Jurkowski
37015-16-13-550-10-01	A&I Licensing Team Supervisor	Vacant
37015-16-13-550-20-01	A&I Licensing Team Supervisor	Chyrel Graham-McGee
37015-16-13-550-30-01	A&I Licensing Team Supervisor	Vacant
37015-16-13-550-40-01	A&I Licensing Team Supervisor	Vacant
37015-16-13-550-50-99	A&I Licensing Team Supervisor	Vacant
37015-16-13-550-60-01	A&I Licensing Team Supervisor	Dawn Moyer
37015-16-13-550-70-01	A&I Licensing Team Supervisor	Vacant
37015-16-13-550-80-01	A&I Licensing Team Supervisor	Vacant
37015-16-13-610-10-01	Day Care Licensing Supervisor	Shirley Penny
37015-16-13-610-20-01	Day Care Licensing Supervisor	Eileen Carr
37015-16-13-610-30-01	Day Care Licensing Supervisor	Annette Stafford
37015-16-13-610-40-01	Day Care Licensing Supervisor	Barbara Korasek
37015-16-13-610-50-01	Day Care Licensing Supervisor	Michael Britt
37015-16-13-610-60-01	Day Care Licensing Supervisor	Susan Cohen
37015-16-13-610-70-01	Day Care Licensing Supervisor	Celestine Williams
37015-16-13-620-10-01	Day Care Licensing Supervisor	Vacant
37015-16-13-620-20-01	Day Care Licensing Supervisor	Joel Lamz
37015-16-13-620-30-01	Day Care Licensing Supervisor	Carolyn Jordan
37015-16-13-620-40-01	Day Care Licensing Supervisor	Stany D'Souza
37015-16-13-620-50-01	Day Care Licensing Supervisor	Debbie Pimentel
37015-16-13-630-10-01	Day Care Licensing Supervisor	Vacant
37015-16-13-630-20-01	Day Care Licensing Supervisor	Richard Sherrard

37015-16-13-630-30-01	Day Care Licensing Supervisor	Lolita Smith
37015-16-13-630-40-01	Day Care Licensing Supervisor	Jeffrey Haley
37015-16-13-630-50-01	Day Care Licensing Supervisor	Paula McClain
37015-16-13-630-60-01	Day Care Licensing Supervisor	Lynda Petrick
37015-16-13-640-10-01	Day Care Licensing Supervisor	Denise Hughes
37015-16-13-640-20-01	Day Care Licensing Supervisor	Kenneth Yordy
37015-16-13-640-30-01	Day Care Licensing Supervisor	Mary Harlan
37015-16-13-710-10-01	Foster Home Licensing Team Supervisor	Karen Waller
37015-16-13-710-20-01	Foster Home Licensing Team Supervisor	John Ellison
37015-16-13-710-30-01	Foster Home Licensing Team Supervisor	Fae Jones
37015-16-13-710-40-01	Foster Home Licensing Team Supervisor	Melissa Kasel
37015-16-13-710-50-01	Foster Home Licensing Team Supervisor	Cindy McCleary
37015-16-13-720-10-01	Foster Home Licensing Team Supervisor	Vacant
37015-16-13-720-20-99	Foster Home Licensing Team Supervisor	Vacant
37015-16-13-720-30-01	Foster Home Licensing Team Supervisor	Yvonne Sales
37015-16-13-720-40-01	Foster Home Licensing Team Supervisor	Adrienne Taylor
37015-16-18-110-10-01	Child Intake and Recovery Unit Supervisor	Beverly Jordan
37015-16-18-110-20-01	Child Intake and Recovery Unit Supervisor	Lisa Timberlake
37015-16-18-110-30-99	Child Intake and Recovery Unit Supervisor	Carmen Alvarez
37015-16-18-110-40-01	Child Intake and Recovery Unit Supervisor	Marilyn Hyde
37015-16-18-110-50-01	Child Intake and Recovery Unit Supervisor	Cherlyn Shelby
37015-16-18-110-60-01	Child Intake and Recovery Unit Supervisor	Barbara Duminie
37015-16-18-422-10-01	State Central Register Call Floor Supervisor	Sherry Towns

37015-16-18-422-20-01	State Central Register Call Floor Supervisor	Vacant
37015-16-18-422-30-01	State Central Register Call Floor Supervisor	Margaret Jones-Washington
37015-16-18-422-40-01	State Central Register Call Floor Supervisor	Daniel Hauter
37015-16-18-422-50-99	State Central Register Call Floor Supervisor	Alice Ferree
37015-16-18-422-60-01	State Central Register Call Floor Supervisor	Lisa Pellowski
37015-16-18-422-70-01	State Central Register Call Floor Supervisor	Kimberley Johnson
37015-16-18-422-80-01	State Central Register Call Floor Supervisor	Margaret Frank
37015-16-60-231-00-01	Adoption Manager	Vacant
37015-16-15-211-00-01	Case Tracking Administrator	Jane Gantner
37015-16-15-213-00-01	Statewide Developmental Disabilities Manager	Michael Wonderlich
37015-16-15-830-00-01	Administrator of Foster Support Services	Raymond Gates
37015-16-24-130-00-01	Consent Supervisor	Tanya McGhee
37015-16-24-140-00-01	Consent Supervisor	Bobby Evans
37015-16-64-350-00-01	Contract Administrator- Cook Co Day Care Unit	Doris McDonald

CMS’s petition indicates the positions at issue qualify for designation under Section 6.1(b)(5) of the Act which permits designation if the position authorizes an employee in that position to have “significant and independent discretionary authority.”³ AFSCME objects to designation of all listed positions. Daniel Hauter, William Karr, C. Janel Loucks, Anita McKeever, Lynda Petrick, Karen Waller, Stacy Short, Dawn Moyer, Amy Naish, Raymond Gates, and Nicole Bennett-Neely each object to the designation of their own positions.

I. Objections

First, AFSCME states that Section 6.1 of the Act is unconstitutional, on its face and as applied, both under the Illinois Constitution and the Constitution of the United States of America because it deprives AFSCME of due process and violates the equal protection clauses, the prohibition against impairment of contracts, and the separation of powers clause of the Illinois

³ CMS filed position descriptions (CMS-104s) for the positions and affidavits in support of its assertion. These positions are currently represented by AFSCME.

Constitution.

Further, AFSCME generally objects to the use of position descriptions to support the petition and to the allocation of the burden of proof. AFSCME also argues that there can be no showing of managerial authority based solely on an affidavit, which states that the position at issue is authorized to effectuate departmental policy, where the position description does not reference any specific policy. Further, AFSCME states that CMS has presented no evidence that the employees at issue ever exercised their referenced supervisory or quasi-managerial authority. Similarly, AFSCME asserts that CMS has not shown that it told the employees they possessed such authority. In addition, AFSCME argues that the positions at issue are professional and not managerial. Finally, AFSCME urges the Board not to rely on the Petitioner's affidavits because the affidavits do not explain how the affiant is familiar with the job duties of the positions at issue.

AFSCME also filed position-specific exceptions with respect to the positions held by Carmen Alvarez, Michael Britt, Susan Cohen, Stany D'Souza, Barbara Duminie, John Ellison, Margaret Frank, Raymond Gates, Chyrel Graham-McGee, Daniel Hauter, Marilyn Hyde, Kimberly Johnson, Fae Jones, Margaret Jones-Washington, Melissa Kasel, Barbara Korasek, C. Janel Loucks, Paula McClain, Cindy McCleary, Tanya McGhee, Anita McKeever, Bridget McKnight-Barnes, Pedro Mendoza, Julie Michael, Stacey Mixon-Newton, Dawn Moyer, Amy Naish, Nicole Bennet-Neeley, Shirley Penny, Lynda Petrick, Debbie Pimentel, Jamie Ralph, Cheryl Lynn Shelby, Richard Sherrard, Stacy Short, Annette Stafford, Lisa Timberlake, Sherry Towns, Celestine Williams, Michael Wonderlich, Candace Woosley, and Kenneth Yordy. AFSCME also notes that Beverly Jordan informed AFSCME by an email, dated March 17, 2014, that she and her counter parts, Timberlake, Alvarez, Hyde Shelby, and Duminie, "do not work in any of the positions listed" and that they instead work under a different supervisor. AFSCME requests that these employees "be retained in the bargaining unit for reasons stated in [their] questionnaire and because of the information contained therein."

More generally, AFSCME denies that (1) any authority possessed by these employees requires independent judgment; (2) that any authority possessed by the employees is held in the interest of the employer; (3) that the employees have any authority to take corrective action with respect to subordinates; (4) that there would be a prospect of adverse consequences if the

employees did not exercise authority properly; and (5) that the employees have authority to adjust grievances or effectively recommend the same.

AFSCME concludes that there is a high likelihood that all the position descriptions are inaccurate because specific individuals identified inaccuracies in their own position descriptions. On this basis, AFSCME asserts that the Board should order a hearing on all positions at issue because to decline to do so would compel speech in violation of the First Amendment.⁴

II. Material Facts

- a. **ACR Program Managers** - Bridget McKnight-Barnes (37015-16-00-241-10-01); Vacant (37015-16-00-241-20-01); Jamie Ralph (37015-16-00-241-30-01); Mickey Owen (37015-16-00-241-40-01); Patricia Massey (37015-16-00-242-10-01); Jeffrey Walker (37015-16-00-242-30-01)

All Administrative Case Review (ACR) Program Managers are responsible for overseeing subordinates. Each ACR Program Manager position has subordinates. The position descriptions for the ACR Program Manager positions state that the position holders serve as working supervisors. In that capacity, they assign and review work, provide guidance and training to assigned staff, counsel staff regarding work performance, reassign staff to meet day-to-day operating needs, establish annual goals and objectives, approve/disapprove time off requests, and prepare and sign performance evaluations.

McKnight-Barnes admits that she provides direction to her subordinates. She states that “case reviewers consult with [her] about cases and [she] gives some direction on whether a case review should be critical or an alert.” She further states that she assigns employees to geographic work areas. She states that her authority to assign, plan monitor, and coordinate is “done within...very narrow rules, procedures, and Administrative Case Review practices.” She denies that she possesses any other supervisory authority.

Ralph admits that he directs his subordinates by “providing supervision to [his] staff which includes setting time frames for the completion of their work.” In addition, he asserts that he assigns work to his subordinates to “make sure each reviewer receives their equitable share of reviews.” He denies that he has authority to hire, transfer, suspend, lay off, recall, promote, discharge, reward, and discipline employees.

⁴ The individual-objectors’ substantive objections are addressed in the following section.

- b. **Agency Performance Team (APT) Supervisors** - William Karr (37015-16-13-110-20-01); C. Janel Loucks (37015-16-13-110-30-01); Candace Woosley (37015-16-13-110-40-01); Beverly Clark (37015-16-13-120-10-01); Terrence Weck (37015-16-13-120-20-01); Janice Horne (37015-16-13-120-30-01); Tanya Smith (37015-16-13-120-40-01); Pedro Mendoza (37015-16-13-110-10-01)

All Agency Performance Team (APT) Supervisors are responsible for overseeing subordinates. Each APT Supervisor position has subordinates. The position descriptions for the APT Supervisor positions state that the position holders serve as working supervisors. In that capacity, they assign and review work, provide guidance and training to assigned staff, counsel staff regarding work performance, reassign staff to meet day-to-day operating needs, establish annual goals and objectives, approve/disapprove time off requests, and prepare and sign performance evaluations.

Loucks admits that she directs her subordinates. She consults with them about their work product and any problems or issues concerning agencies' compliance with performance contracts. She provides her subordinates with guidance and technical support. Loucks does not deny that she prepares and signs her subordinates' evaluations.

Mendoza admits that he directs his subordinates. He consults with them about their work product and any problems or issues concerning agencies' compliance with their performance contracts. In addition, he assists them in "locating answers in policy and procedure or through consultation with another Department division." He provides his subordinates with guidance and technical support. Mendoza does not deny that he prepares and signs his subordinates' evaluations. He denies that he has any other supervisory authority.

Woosley admits that she directs her subordinates. She states "I review monitoring monthly reports," but asserts that her manager must approve them. Woosley does not deny that she prepares and signs her subordinates' performance evaluations. She denies that she has the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, and discipline her subordinates. She does not deny that she evaluates her subordinates.

Karr admits that he directs his subordinates to follow up on issues around their agencies. He further states that he assigns work to his subordinates but that he does not assign employees

the territory to cover. He denies that he has authority to hire, transfer, suspend, lay off, recall promote, discharge, reward, and discipline his subordinates.

- c. **APT/ILO/TLP Monitoring Supervisors** - Vacant (37015-16-13-200-30-01); Julie Michael (37015-16-13-200-40-01); Nicole Neely (37015-16-13-200-60-01); Anita McKeever (37015-16-13-200-70-01)

All Agency Performance/Independent Living/Transitional Living (APT/ILO/TLP) Monitoring Supervisors are responsible for overseeing subordinates. Each APT/ILO/TLP Monitoring Supervisor position has subordinates. The position descriptions for the APT/ILO/TLP Monitoring Supervisor positions state that the position holders serve as working supervisors. In that capacity, they assign and review work, provide guidance and training to assigned staff, counsel staff regarding work performance, reassign staff to meet day-to-day operating needs, establish annual goals and objectives, approve/disapprove time off requests, and prepare and sign performance evaluations.

McKeever admits that she assigns, assesses, monitors, and recommends tasks to her subordinates. She provides guidance and recommends training. Further, she states that she counsels and monitors tasks/goals to evaluate staff annually. McKeever's superior must approve the performance evaluations McKeever completes for her subordinates. McKeever denies that she possesses any other indicia of supervisory authority. She states that she does not exercise independent judgment when assigning work to staff because she cannot reassign staff workloads and cannot reassign staff different POS agency assignments.

Michael admits that she directs her subordinates. She states that she "assign[s], assess[es], monitor[s,] and recommend[s] tasks." She further states that she provides her subordinates guidance and training. She counsels her subordinates and monitors their annual goals. She notes that she completes her subordinates' performance evaluations but that the evaluations are not considered final until they are approved by her superior. She denies possessing any other supervisory authority.

Neely admits that she directs her subordinates by assessing and monitoring their annual goals and tasks. Further, she recommends that they perform certain tasks. In addition, she provides them with guidance and training. She further admits that she completes their performance evaluations. However, she states that the evaluations are not final until her manager

approves them. She denies that she has authority to hire, transfer, suspend, lay off, recall, promote, discharge, reward, and discipline employees. She states that she exercises no independent judgment in assigning her subordinates work because she cannot reassign staff to different assignments or change their workloads.

- d. **Residential Monitor Supervisors** - Eric Smith (37015-16-13-210-10-01); Amy Naish (37015-16-13-210-20-01); Gail Mayer (37015-16-13-210-30-01); Stacy Short (37015-16-13-210-40-01); Stacey Mixon-Newton (37015-16-13-220-10-01); Chandra McFall (37015-16-13-220-20-01); Donald Jurkowski (37015-16-13-220-30-01)

All Agency Residential Monitor Supervisors are responsible for overseeing subordinates. Each Residential Monitor Supervisor position has subordinates. The position descriptions for the Residential Monitor Supervisor positions state that the position holders serve as working supervisors. In that capacity, they assign and review work, provide guidance and training to assigned staff, counsel staff regarding work performance, reassign staff to meet day-to-day operating needs, establish annual goals and objectives, approve/disapprove time off requests, and prepare and sign performance evaluations.

Mixon-Newton admits that she directs her subordinates because she “has supervision regarding agenc[y] issues and how they will be addressed.” Further, she states that she assigns work based on the rules given by her field service manager. She denies that she has authority to hire, transfer, suspend, recall, promote, discharge, reward, and discipline employees.

Naish admits that she drafts her subordinates’ performance evaluations but states that they are not final until her manager approves them. Naish admits that she directs her subordinates to complete work assignments based on their job duties and established procedures. In addition, if one employee is out sick and cannot complete his mandatory duties, she will direct another employee to complete those duties instead. She denies that she has authority to hire, transfer, suspend, layoff, recall, promote, or discharge employees, or to recommend such action. She further states that high level management determines her subordinates’ job duties and the work they are required to complete.

Short admits that she oversees one subordinate. She does not deny that she directs her subordinate. She admits that she completes her subordinate’s performance evaluations, but state

that it must be approved by her manager before it is final. She denies that she has authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline her subordinate.

- e. **A&I Licensing Team Supervisors** - Vacant (37015-16-13-550-10-01); Chyrel Graham-McGee (37015-16-13-550-20-01); Vacant (37015-16-13-550-30-01); Vacant (37015-16-13-550-40-01); Vacant (37015-16-13-550-50-99); Dawn Moyer (37015-16-13-550-60-01); Vacant (37015-16-13-550-70-01); Vacant (37015-16-13-550-80-01)

All Agencies and Institutions Licensing Supervisors are responsible for overseeing subordinates. Each Agencies and Institutions Licensing Supervisor position has subordinates. The position descriptions for the Agencies and Institutions Licensing Supervisor positions state that the position holders serve as working supervisors. In that capacity, they assign and review work, provide guidance and training to assigned staff, counsel staff regarding work performance, reassign staff to meet day-to-day operating needs, establish annual goals and objectives, approve/disapprove time off requests, and prepare and sign performance evaluations.

Graham-McGee admits that she assigns work to her subordinates. She also notes that she recommended an employee for A&I recognition. She admits that she directs her subordinates. Specifically, she states that she directs staff to “initiate and complete investigating licensing complaints; monitoring activities of their assigned facilities; and to request staff to engage in POS cooperation of responses of background unit, Central Office of Licensing Assignments, and Adjudicated Sex Offenders Database.” Finally, she asserts that she has authority to discipline and provide her superiors with the factual basis for disciplinary action. She denies that she has any other supervisory authority.

Moyer does not deny that she directs her subordinates and assigns them work. She admits that she makes recommendations to her superior concerning the discipline of her subordinates. She denies that she has authority to hire, transfer, suspend, lay off, recall, promote, discharge, or reward her subordinates.

- f. **Day Care Licensing Supervisors** - Shirley Penny (37015-16-13-610-10-01); Eileen Carr (37015-16-13-610-20-01); Annette Stafford (37015-16-

13-610-30-01); Barbara Korasek (37015-16-13-610-40-01); Michael Britt (37015-16-13-610-50-01); Susan Cohen (37015-16-13-610-60-01); Celestine Williams (37015-16-13-610-70-01); Vacant (37015-16-13-620-10-01); Joel Lamz (37015-16-13-620-20-01); Carolyn Jordan (37015-16-13-620-30-01); Stany D'Souza (37015-16-13-620-40-01); Debbie Pimentel (37015-16-13-620-50-01); Vacant (37015-16-13-630-10-01); Richard Sherrard (37015-16-13-630-20-01); Lolita Smith (37015-16-13-630-30-01); Jeffrey Haley (37015-16-13-630-40-01); Paula McClain (37015-16-13-630-50-01); Lynda Petrick (37015-16-13-630-60-01); Denise Hughes (37015-16-13-640-10-01); Kenneth Yordy (37015-16-13-640-20-01); Mary Harlan (37015-16-13-640-30-01)

All Day Care Licensing Supervisors are responsible for overseeing subordinates. Each Day Care Licensing Supervisor position has subordinates. The position descriptions for the Agencies and Institutions Licensing Supervisor positions state that the position holders serve as working supervisors. In that capacity, they assign and review work, provide guidance and training to assigned staff, counsel staff regarding work performance, reassign staff to meet day-to-day operating needs, establish annual goals and objectives, approve/disapprove time off requests, and prepare and sign performance evaluations.

Britt admits that he assigns his subordinates “new applications based on geography which was prescribed by administration” and that he “will assign complaints based on staff case assignment.” He admits that he directs employees by “ensur[ing] that they maintain their schedules that they have developed[,] approv[ing] their casework, and sign[ing their] time sheets.” He also notes that they have team meetings to discuss issues. He denies that he possesses any other supervisory authority.

Cohen admits that she provides “supervision to [her] staff” by providing them guidance and ensuring they follow the Rules and Procedures. She instructs them to follow those rules and procedures if they do not do so. She admits that she provides her staff with consultation on a day-to-day basis and that she completes her subordinates’ performance evaluations. Cohen denies that she possesses any other supervisory authority.

D’Souza admits that he provides “supervisory guidance to staff to follow-up with the mandates laid out in the Rules and Procedures of the Department.” He directs them to follow the

Rules and Procedures if they are not following them. D'Souza states that he does not establish any performance goals and only guides staff in achieving them. He asserts that he does not have enforcement authority to ensure that his subordinates follow agency policy because he has no authority to discipline. However, he does not deny that he evaluates his subordinates.

Korasek admits that she directs her subordinates. She states that she provides "direction to staff in bi-monthly individual supervision concerning the completion of job tasks."

McClain admits that she directs her subordinates. She states that she is "responsible [for] ensur[ing] that" her subordinates "complete...their required monitoring of licensed facilities." She admits that she assigns work to her subordinates. She admits that she completes her subordinates' performance evaluations, but notes that her superiors must grant final approval. She further admits that she explains and enforces agency policies, procedures, and statutes. She denies that he possesses any other supervisory authority.

Penny admits that she directs her subordinates. She states that she "provide[s] supervision, consultation, direction[,] and assistance to [her] staff, in order to follow up on their cases and ensure that they are in compliance[,] and [that] the work is done [in a] timely [fashion]." She admits that she completes her subordinates' performance evaluations. She further asserts that she assigns licensing cases to her subordinates based on zip code. She denies that she has authority to suspend, lay off, recall, promote, discharge, reward, or discipline her subordinates.

Petrick admits that she directs her subordinates. She states that she reviews licensing files completed by staff, identifies missing items in a file or items that were not addressed, and instructs the staff to complete those items and resubmit the file. She denies that she has the authority to fire, transfer, suspend, lay off, recall, promote, discharge, reward, and discipline employees. She asserts that she assigns work by distributing it equally.

Pimentel admits that she directs her staff by instructing them to follow established Department rules and procedures which outline the manner in which they perform their duties. She reviews their work product to determine if it is in compliance with the Department's established protocols, licensing procedures, rules and standards. If those rules require clarification, she has no authority to interpret them. She asserts that she assigns cases to her subordinates, but that in doing so she follows a set of established guidelines which requires her to assign the work evenly among her team members. She cannot reassign employees to meet the

department's day-to-day needs. Pimentel asserts that she evaluates her subordinates but that management must approve the evaluation. Further, she notes that "there have been occasions where upper management has directly ordered changes to an employee's evaluation[,] giving that employee a total[ly] different ranking from that which was originally given." Pimentel states that the goals and objectives are set by management and cannot be changed by her. Pimentel denies that she has authority to hire, transfer, suspend, lay off, recall, promote, discharge, reward, or discipline employees, or make recommendations on such matters. Pimentel states that the position number as listed on the designation (37015-16-13-62050-01) is not the position number that was listed on the job vacancy notice and on the CFS 700 that she signed when taking the position (37015-16-13-533-30-01). The position description submitted by AFSCME contains a typed position number that reflects the number on the vacancy notice and on the CFS 700. That number is crossed out and is replaced by the number listed on the designation.

Sherrard admits that he directs his subordinates by reviewing their day care licensing files. If required items are missing from the file or if the files are incomplete, he returns the files to staff to correct or complete and resubmit them. He further asserts that he assigns work to staff by geographic area. He denies that he has authority to hire, transfer, suspend, lay off, recall, promote, reward, discharge, and discipline employees.

Stafford admits that she directs her subordinates. She asserts that she monitors and signs off on employees' paperwork and ensures that paperwork is timely complete. She also facilitates team meetings. She does not deny that she completes her subordinates' performance evaluations. She denies that she has authority to hire, transfer, suspend, lay off, recall, promote, reward, discharge, assign, and discipline employees.

Yordy does not deny that he directs his subordinates. Rather, he states that "most direction is already built into the system." He notes that he may assist subordinates with their caseload by performing hands-on work or by keeping track of the work completed. He does not deny that he completes his subordinates' performance evaluations. He asserts that he has authority to recommend discipline of his subordinates. Finally, he states that he has no authority to hire, transfer, suspend, lay off, recall, discharge, assign, or reward his subordinates.

Williams asserts that she assigns work to her subordinates based on geographic location. She further states that she directs her subordinates to "assure that the employee is working to assure the Providers are following the standards, rules, and guidelines within the prescribed

timelines.” She informs her staff of her expectations so that they are able to perform the required tasks. She does not deny that she completes their performance evaluations. Williams denies that she has authority to hire, transfer, suspend, lay off, recall, promote, discharge, reward, or discipline her subordinates.

- g. **State Central Register Call Floor Supervisors** - Sherry Towns (37015-16-18-422-10-01); Vacant (37015-16-18-422-20-01); Margaret Jones-Washington (37015-16-18-422-30-01); Daniel Hauter (37015-16-18-422-40-01); Alice Ferree (37015-16-18-422-50-99); Lisa Pellowski (37015-16-18-422-60-01); Kimberley Johnson (37015-16-18-422-70-01); Margaret Frank (37015-16-18-422-80-01)

All State Central Register Call Floor Supervisors are responsible for overseeing subordinates. Each State Central Register Call Floor Supervisor position has subordinates. The position descriptions for the State Central Register Call Floor Supervisor positions state that the position holders serve as working supervisors. In that capacity, they assign and review work, provide guidance and training to assigned staff, counsel staff regarding work performance, reassign staff to meet day-to-day operating needs, establish annual goals and objectives, approve/disapprove time off requests, and prepare and sign performance evaluations.

Frank admits that she directs her subordinates. She asks them to take a call if it is urgent to ensure that the matter is handled. She answers their questions regarding the appropriate type of intake required. She admits that she assigns work to her subordinates when necessary, “if something gets faxed into the hotline.” Frank denies that she possesses any other supervisory authority.

Hauter denies that he has authority to discipline, hire, or fire his subordinates. He further asserts that “management’s oversight of the supervisors is very close” and that there is “very little room for individual decision making.” Hauter does not deny that he directs his subordinates or that he completes their performance evaluations.

Johnson admits that she makes recommendations concerning the discipline and discharge of her subordinates. She does not deny that her superiors accept her recommendations. She denies that she possesses any other supervisory authority.

Washington denies that she possesses the authority to hire, transfer, suspend, recall, promote, discharge, assign, reward, discipline, or direct her subordinates. She asserts that she is “not allowed to make any decision.” She does not deny that she makes recommendations with respect to those indicia.

Towns admits that she directs her subordinates. She states that she may ask them to take a call if it is urgent to make sure it is handled. She also assists in answering their questioning regarding the “appropriate type of intake.” She states that she assigns work to her subordinates if “something gets faxed into the hotline.” She denies that she has authority to hire, transfer, suspend, lay off, recall, promote, discharge, reward, and discipline her subordinates.

h. Child Intake and Recovery Unit Supervisors - Beverly Jordan (37015-16-18-110-10-01); Lisa Timberlake (37015-16-18-110-20-01); Carmen Alvarez (37015-16-18-110-30-99); Marilyn Hyde (37015-16-18-110-40-01); Cherlyn Shelby (37015-16-18-110-50-01); Barbara Duminie (37015-16-18-110-60-01)

All Child Intake and Recovery Unit Supervisors are responsible for overseeing subordinates. Each Child Intake and Recovery Unit Supervisor position has subordinates. The position descriptions for the Child Intake and Recovery Unit Supervisor positions state that the position holders serve as working supervisors. In that capacity, they assign and review work, provide guidance and training to assigned staff, counsel staff regarding work performance, reassign staff to meet day-to-day operating needs, establish annual goals and objectives, approve/disapprove time off requests, and prepare and sign performance evaluations.

Alvarez admits that she has authority to assign her subordinates work. She does not deny that she has the authority to direct her subordinates.

Duminie admits that she has authority to assign work to her subordinates. She further states that she monitors staff’s daily activities and makes “suggestions and recommendations regularly.”

Hyde admits that she assigns her subordinates work. She states that “assigned work is rotated to [e]nsure equal distribution” and that it is not based on ability or experience. Hyde denies that she possesses any other supervisory authority. She also denies the authority to direct

her subordinates. She does not deny that she makes recommendations with respect to the indicia of supervisory authority or that her superiors accept her recommendations.

Shelby asserts that she provides “routine hands on day-to-day interaction with the staff for which [she is] responsible” by reviewing her subordinates during and after their assigned shifts. She denies that she provides guidance and training to staff regarding work performance. On her questionnaire, next to each indicium of supervisory authority, she indicates “does not apply.” However she does not deny that she makes recommendations concerning these indicia nor does she deny that she completes performance evaluations for her subordinates.

Timberlake admits that she monitors and reviews her subordinates’ activities and reviews “the entered efforts in the database.” She assert that she assigns work to her subordinates to ensure equal distribution. She denies that she has authority to hire, transfer, suspend, lay off, recall, promote, discharge, reward, discipline, and direct her subordinates. Timberlake does not deny that she has authority to recommend with respect to these indicia of supervisory authority.

- i. **Foster Home Licensing Team Supervisors** - Karen Waller (37015-16-13-710-10-01); John Ellison (37015-16-13-710-20-01); Fae Jones (37015-16-13-710-30-01); Melissa Kasel (37015-16-13-710-40-01); Cindy McCleary (37015-16-13-710-50-01); Vacant (37015-16-13-720-10-01); Vacant (37015-16-13-720-20-99); Yvonne Sales (37015-16-13-720-30-01); Adrienne Taylor (37015-16-13-720-40-01)

All Foster Home Licensing Team Supervisors are responsible for overseeing subordinates. Each Foster Home Licensing Team Supervisor position has subordinates. The position descriptions for the Foster Home Licensing Team Supervisor positions state that the position holders serve as working supervisors. In that capacity, they assign and review work, provide guidance and training to assigned staff, counsel staff regarding work performance, reassign staff to meet day-to-day operating needs, establish annual goals and objectives, approve/disapprove time off requests, and prepare and sign performance evaluations.

Ellison, McCleary, Waller, and Jones assert that they plan, review, and coordinate the activities of their staff. They review licensing files completed by staff and identify missing items in a file, or items that the subordinate did not address. They then instruct their subordinates to complete those items and resubmit the file for further review. They further assert that they

assign work based on caseload and geography. They deny that they possess any other supervisory authority.

Kasel admits that she directs her subordinates. She meets with her team members to review files to assure that they are in compliance with licensing standards. She discusses cases with them to assess the status of the case in the licensing process. She asserts that she assigns work based on geographical location. She denies possessing any other supervisory authority.

Korasek admits that she directs her subordinates. She states that she provides “direction to staff in bi-monthly individual supervision concerning the completion of job tasks.”

j. **Statewide Developmental Disabilities Manager** - Michael Wonderlich
(37015-16-15-213-00-01)

Wonderlich oversees subordinates. His position description provides that he serves as working supervisor. In that capacity, he assigns and reviews, provides guidance and training to assigned staff, counsels staff regarding work performance, reassigns staff to meet day-to-day operating needs, establishes annual goals and objectives, approves/disapproves time off requests, prepares and signs performance evaluations, effectively recommends renewal or termination of contract of consultants assigned to assist staff in designing and implementing clinical interventions and corrective action.

Wonderlich admits that he “direct[s] as a supervisor in consultation with staff.” He further admits that he assigns his subordinates tasks, “under consultation.” He denies that he has the authority to hire, transfer, suspend, lay off, recall, promote, discharge, reward, and discipline subordinates.

k. **Administrator of Foster Support Services** - Raymond Gates (37015-16-15-830-00-01)

Gates oversees subordinates. His position description provides that he serves as working supervisor. In that capacity, he assigns and reviews, provides guidance and training to assigned staff, counsels staff regarding work performance, reassigns staff to meet day-to-day operating needs, establishes annual goals and objectives, approves/disapproves time off requests, and prepares and signs performance evaluations.

Gates admits that he directs his subordinates. “If they need direction and it is simple[,] I give direction.” He further notes that he assigns work to a few employees “under the direct

supervision of [his] supervisor, and with his authority.” Gates denies that he possesses any other supervisory authority. He notes that he “think[s] the PIN [position number] [he] is in[,] is not the PIN for which [he] was told [he] was being put in.”

1. **Consent Supervisors** - Tanya McGhee (37015-16-24-130-00-01); Bobby Evans (37015-16-24-140-00-01)

All Consent Supervisors are responsible for overseeing subordinates. Each Consent Supervisor position has subordinates. The position descriptions for the Consent Supervisor positions state that the position holders serve as working supervisors. In that capacity, they assign and review work, provide guidance and training to assigned staff, counsel staff regarding work performance, reassign staff to meet day-to-day operating needs, establish annual goals and objectives, approve/disapprove time off requests, and prepare and sign performance evaluations.

McGhee admits that she directs her subordinates and has authority to make numerous written and verbal requests for a worker to obtain a medical update for a medically complex ward by specific dates. She notes that if those dates have passed, then she may give her subordinates a directive to obtain the medical update by a new due date. However, she asserts that she may only give such a directive in the presence of another supervisor. She states that “someone else always ha[s] to be present for a directive to [be] given” and that this constitutes evidence that she does not possess significant and independent discretionary authority.

III. Discussion and Analysis

- a. Tests for Designations made under Section 6.1(b)(5)

Section 6.1(b)(5) allows the Governor to designate positions that authorize an employee to have “significant and independent discretionary authority.” 5 ILCS 315/6.1(b)(5). The Act provides three tests by which a person may be found to have “significant and independent discretionary authority.” Section 6.1(c)(i) sets forth the first two tests, while Section 6.1(c)(ii) sets forth a third. In its petition, CMS contends that the at-issue positions confer on the position holder “significant and independent discretionary authority” as further defined by either Section 6.1(c)(i) or both Section 6.1(c)(i) and (ii).

To raise an issue that might overcome the presumption that the designation is proper, the objector must provide specific examples to negate each of the three tests set out in Section 6.1(c).

If even one of the three tests is met, then the objector has not sufficiently raised an issue, and the designation is proper. Ill. Dep't Cent. Mgmt. Serv., 30 PERI ¶ 85. Each of the three tests is discussed below.

i. The first test under 6.1(c)(i) — management and executive functions and effectuating management policies and practices

The first test under Section 6.1(c)(i) is substantively similar to the traditional test for managerial exclusion articulated in Section 3(j). To illustrate, Section 6.1(c)(i) provides that a position authorizes an employee in that position with significant and independent discretionary authority if “the employee is...engaged in executive and management functions of a State agency and charged with the effectuation of management policies and practices of a State agency.” 5 ILCS 315/6.1(c)(i).

However, the Section 6.1(c)(i) definition is broader than the traditional test because it does not include a predominance element and requires only that the employee be “charged with the effectuation” of policies, not that the employee be responsible for directing the effectuation. An employee directs the effectuation of management policy when he oversees or coordinates policy implementation by developing the means and methods of reaching policy objectives, and by determining the extent to which the objectives will be achieved. Ill. Dep't Cent. Mgmt. Serv. (Ill. State Police), 30 PERI ¶109 (IL LRB-SP 2013) (citing Cnty. of Cook (Oak Forest Hospital) v. Ill. Labor Rel. Bd., 351 Ill. App. 3d at 387); INA, 23 PERI ¶173 (IL LRB-SP 2007). However, in order to meet the first test set out in Section 6.1, a position holder need not develop the means and methods of reaching policy objections. It is sufficient that the position holder is charged with carrying out the policy in order to meet its objectives.

The Section 6.1(c)(i) test is unlike the traditional test where a position is deemed managerial only if it is charged with directing the effectuation of policies. Under the traditional test, for example, “where an individual merely performs duties essential to the employer’s ability to accomplish its mission, that individual is not a managerial employee,” Ill. Dep't of Cent. Mgmt. Serv. (Dep't of Revenue), 21 PERI ¶ 205 (IL LRB SP 2005), because “he does not determine the how and to what extent policy objectives will be implemented and the authority to oversee and coordinate the same.” INA, 23 PERI ¶ 173 (citing City of Evanston v. Ill. Labor Rel. Bd., 227 Ill. App. 3d 955, 975 (1st Dist. 1992)). However, under Section 6.1(c)(i), a position

need not determine the manner or method of implementation of management policies. Performing duties that carry out the agency or department’s mission is sufficient to satisfy the second prong of the first managerial test.

- b. The second test under 6.1(c)(i) — represents management interests by taking or recommending discretionary actions

The second test under Section 6.1(c)(i) also relates to the traditional test for managerial exclusion because it reflects the manner in which the courts have expanded that test. A designation is proper under this test if the position holder “represents management interests by taking or recommending discretionary actions that effectively control or implement the policy of a State agency.” 5 ILCS 315/6.1(c)(i). The Illinois Appellate Court has observed that the definition of a managerial employee in Section 3(j) is very similar to the definition of managerial employee in the Supreme Court’s decision in Nat’l Labor Rel. Bd. v. Yeshiva Univ. (“Yeshiva”), 444 U.S. 672 (1980). Dep’t of Cent. Mgmt. Serv./ Illinois Commerce Com’n v. Ill. Labor Rel. Bd. (“ICC”), 406 Ill. App. 766, 776 (4th Dist. 2010)(citing Yeshiva, 444 U.S. at 683). Further, the Court noted that the ILRB, like its federal counterpart, “incorporated ‘effective recommendations’ into its interpretation of the term ‘managerial employee.’ ” ICC, 406 Ill. App. at 776. Indeed, the Court emphasized that “the concept of effective recommendations...[set forth in Yeshiva] applies with equal force to the managerial exclusion under the Illinois statute.” Id.

In light of this analysis, the second test under Section 6.1(c)(i) is similar to the expanded traditional managerial test because it is virtually identical to the statement of law in Yeshiva which the Illinois Appellate Court and the Illinois Supreme Court have incorporated into the traditional managerial test. Id. (quoting Chief Judge of the Sixteenth Judicial Circuit v. Ill. State Labor Rel. Bd., 178 Ill. 2d 333, 339-40 (1997)).

- c. The third test under 6.1(c)(ii) — qualifies as a supervisor as defined by the NLRA

Under the NLRA, a supervisor is an employee who has “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.A. § 152(11).

In other words, “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 Comm. Care, Inc. (“Kentucky River”), 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. v. United Auto Automobile, Aerospace and Agricultural Implement Workers of America (“Oakwood Healthcare”), 348 NLRB 686, 687 (2006). A decision that is “dictated or controlled by detailed instructions, whether set forth in company policies or rules, the verbal instructions of a higher authority, or in the provisions of a collective bargaining agreement” is not independent. Oakwood Healthcare, 348 NLRB at 689.

d. Constitutional Arguments

It is beyond the Board’s capacity to rule that the Illinois Public Labor Relations Act, as amended by Public Act 97-1172, either on its face or as applied, violates provisions of the United States and Illinois constitutions. State of Ill., Dep’t of Cent. Mgmt. Serv., 30 PERI ¶ 80 (IL LRB-SP 2013) (citing Goodman v. Ward, 241 Ill. 2d 398, 411 (2011) (“Administrative agencies ... have no authority to declare statutes unconstitutional or even to question their validity. [citations omitted] When they do so, their actions are a nullity and cannot be upheld.”)). Accordingly, these issues are not addressed in this decision.

e. Non-Constitutional General Objections

AFSCME’s general objections are without merit and do not raise issues of fact or law that might rebut the presumption that the designation is properly made.

First, the Board has previously rejected AFSCME’s objections concerning the statutorily-mandated presumption, the burden of proof, and the manner in which ALJs have applied them. See State of Ill., Dep’t of Cent. Mgmt. Serv., 30 PERI ¶ 80 and all subsequent Board designation cases.

Here, most of AFSCME's objections may be restated as objections to this now well-established framework because they presuppose that CMS must initially prove that the designation is proper. For example, AFSCME argues that CMS "failed to carry its burden of proof" and "presented no evidence" that the employees at issue ever exercise their purported authority or were told they possessed it. Similarly, AFSCME asserts that "there can be no showing of managerial authority based solely on [an] affidavit," which is phrased in general terms. Likewise, AFSCME states that "there is no demonstration [by CMS] that the employees at issue have...authority to complete the job duties...[in their]...position descriptions." Finally, AFSCME generally asserts that CMS's affidavits are unreliable because there is no indication that they are accurate.

Contrary to AFSCME's general assertion, the burden is on AFSCME, not CMS. Accordingly, these objections must be rejected because they ignore the presumption and misallocate the burden.

Second, the Board has similarly rejected AFSCME's objections based on the bald statement that the designated positions do not have significant and independent discretionary authority because they are professional rather than managerial positions. State of Ill., Dep't of Cent. Mgmt. Servs. (Dep't of Cent. Mgmt. Servs.), 30 PERI ¶ 85 (IL LRB-SP 2013). The terms managerial and professional are not mutually exclusive and there is no exception for professional employees in the language of Section 6.1(c)(i). State of Ill, Dep't of Cent. Mgmt. Servs. (Dep't of Commerce & Economic Opportunity), 30 PERI ¶ 86 (citing Dep't of Cent. Mgmt. Servs. / Ill. Pollution Control Bd., 2013 IL App (4th) 110877). As such, where a position meets one of the two alternative tests set out in Section 6.1(c)(i), it may appropriately be designated by the Governor for exclusion from collective bargaining rights regardless of whether it is also a professional position. Id.

In sum, AFSCME's general objections do not raise issues of fact or law that might rebut the presumption that CMS's designation is properly made.

- f. Vacant - (37015-16-00-241-20-01); Mickey Owen - (37015-16-00-241-40-01); Patricia Massey - (37015-16-00-242-10-01); Jeffrey Walker - (37015-16-00-242-30-01); Jerryce Moore-Humphrey - (37015-16-00-243-00-01); William Karr - (37015-16-13-110-20-01); Beverly Clark - (37015-

16-13-120-10-01); Terrence Weck - (37015-16-13-120-20-01); Janice Horne - (37015-16-13-120-30-01); Tanya Smith - (37015-16-13-120-40-01); Vacant - (37015-16-13-200-30-01); Eric Smith - (37015-16-13-210-10-01); Gail Mayer - (37015-16-13-210-30-01); Chandra McFall - (37015-16-13-220-20-01); Donald Jurkowski - (37015-16-13-220-30-01); Vacant - (37015-16-13-550-10-01); Vacant - (37015-16-13-550-30-01); Vacant - (37015-16-13-550-40-01); Vacant - (37015-16-13-550-50-99); Vacant - (37015-16-13-550-70-01); Vacant - (37015-16-13-550-80-01); Eileen Carr - (37015-16-13-610-20-01); Vacant - (37015-16-13-620-10-01); Joel Lamz - (37015-16-13-620-20-01); Carolyn Jordan - (37015-16-13-620-30-01); Vacant - (37015-16-13-630-10-01); Lolita Smith - (37015-16-13-630-30-01); Jeffrey Haley - (37015-16-13-630-40-01); Denise Hughes - (37015-16-13-640-10-01); Mary Harlan - (37015-16-13-640-30-01); Karen Waller - (37015-16-13-710-10-01); Vacant - (37015-16-13-720-10-01); Vacant - (37015-16-13-720-20-99); Yvonne Sales - (37015-16-13-720-30-01); Adrienne Taylor - (37015-16-13-720-40-01); Beverly Jordan - (37015-16-18-110-10-01); Vacant - (37015-16-18-422-20-01); Alice Ferree - (37015-16-18-422-50-99); Lisa Pellowski - (37015-16-18-422-60-01); Vacant - (37015-16-60-231-00-01); Jane Gantner - (37015-16-15-211-00-01); Bobby Evans - (37015-16-24-140-00-01); Doris McDonald - (37015-16-64-350-00-01).

CMS's designation of these positions is proper because the designation is presumed to be properly made and AFSCME has introduced no specific evidence to suggest that CMS has limited the position holders' discretion or independent authority, within the meaning of Section 6.1(c)(i) or (ii). State of Ill., Dep't of Cent. Mgmt. Serv., 30 PERI ¶ 164 (IL LRB-SP 2014) (objectors must provide specific examples to negate each of the three tests in Section 6.1(c)); see also State of Ill., Dep't Cent. Mgmt. Serv., 30 PERI ¶ 85 (IL LRB-SP 2013).

AFSCME has not raised issues of fact for hearing by asserting that there is a "high likelihood" that the position descriptions are inaccurate because AFSCME has not specifically identified any such alleged inaccuracies. State of Ill., Dep't of Cent. Mgmt. Servs. (Dep't of

Revenue), 30 PERI ¶ 110 (IL LRB-SP 2013) (general statement that position description is inaccurate does not raise issues of fact for hearing).⁵

Thus, CMS properly designated these positions.

- g. **ACR Program Managers** - Bridget McKnight-Barnes (37015-16-00-241-10-01); Jamie Ralph (37015-16-00-241-30-01)

CMS's designation of these positions is proper because the designation is presumed to be properly made and AFSCME has introduced no specific evidence to suggest that CMS has limited the position holders' discretion or independent authority, within the meaning of Section 6.1(c)(ii).

McKnight-Barnes and Ralph have significant and independent discretionary authority because they possess authority to responsibly direct their subordinates. First, their position descriptions state that the positions hold the authority to act as working supervisors and that the positions are responsible for reviewing subordinates' work and preparing and signing performance evaluations. McKnight-Barnes confirms that she responsibly directs because she admits that she consults with her subordinates about cases and gives them direction on whether a case review should be critical or an alert." Further, she does not deny that she prepares and signs their performance evaluations. Similarly, Ralph confirms that he responsibly directs because he admits that he "provid[es] supervision to [his] staff which includes setting time frames for the completion of their work." Based on this evidence, the position holders exercise the use of independent judgment because the designation is presumed proper under Section 6.1(d) of the Act and the position descriptions do not expressly limit the position holders' discretion, accountability, or independent authority.

Thus, the designation of these positions is properly made.

- a. **Agency Performance Team (APT) Supervisors** - C. Janel Loucks (37015-16-13-110-30-01); Candace Woosley (37015-16-13-110-40-01); Pedro Mendoza (37015-16-13-110-10-01); William Karr (37015-16-13-110-20-01)

⁵ The alleged constitutional implications of this ruling are not addressed here for reasons set forth in section III.d. of this RDO.

CMS's designation of these positions is proper because the designation is presumed to be properly made and AFSCME has introduced no specific evidence to suggest that CMS has limited the position holders' discretion or independent authority, within the meaning of Section 6.1(c)(ii).

Loucks, Woosley, and Mendoza have significant and independent discretionary authority because they possess authority to responsibly direct their subordinates. First, their position descriptions state that the positions hold the authority to act as working supervisors and that the positions are responsible for reviewing subordinates' work and preparing and signing performance evaluations. Loucks and Mendoza confirm that they responsibly direct because they admit that they consult with their subordinates about their work product, and provide them with guidance and technical support. Similarly, Woosley confirms that she responsibly directs because she does not deny that she directs her subordinates. Likewise, Karr states that he directs his subordinates to follow up on issues around their agencies. Further, none of these employees denies that they prepare and sign their subordinates' performance evaluations. Based on this evidence, the position holders exercise the use of independent judgment because the designation is presumed proper under Section 6.1(d) of the Act and the position descriptions do not expressly limit the position holders' discretion, accountability, or independent authority.

Thus, the designation of these positions is properly made.

- b. **APT/ILO/TLP Monitoring Supervisors** - Julie Michael (37015-16-13-200-40-01); Nicole Neely (37015-16-13-200-60-01); Anita McKeever (37015-16-13-200-70-01)

Michael, Neeley, and McKeever have significant and independent discretionary authority because they possess authority to responsibly direct their subordinates or to make effective recommendations concerning the direction of their subordinates. First, their position descriptions state that the positions hold the authority to act as working supervisors and that the positions are responsible for reviewing subordinates' work and preparing and signing performance evaluations. Further, they confirm that they assess, monitor, and recommend tasks, provide guidance and recommend training, and counsel and monitor their subordinates' tasks/goals. While they state that their superiors must approve the evaluations they prepare for their subordinates, they do not deny that their superiors accept their recommended evaluations

unchanged. AFSCME's blanket denial that these employees do not make effective recommendations does not carry weight where AFSCME has provided no specific examples demonstrating that the position holders' superiors have ever rejected any of their recommendations. Based on this evidence, the position holders exercise the use of independent judgment because the designation is presumed proper under Section 6.1(d) of the Act and the position descriptions do not expressly limit the position holders' discretion, accountability, or independent authority.

Thus, the designation of these positions is properly made.

- c. **Residential Monitor Supervisors** - Amy Naish (37015-16-13-210-20-01); Gail Mayer (37015-16-13-210-30-01); Stacy Short (37015-16-13-210-40-01); Stacey Mixon-Newton (37015-16-13-220-10-01).

Naish, Short, and Mixon-Newton have significant and independent discretionary authority because they possess authority to responsibly direct their subordinates or to make effective recommendations concerning the direction of their subordinates. First, their position descriptions state that the positions hold the authority to act as working supervisors and that the positions are responsible for reviewing subordinates' work and preparing and signing performance evaluations. Mixon-Newton confirms that she responsibly directs because she admits that she "has supervision regarding agenc[y] issues and how they will be addressed." Similarly, Naish confirms that she directs her subordinates to complete work assignments based on their job duties and established procedures. Likewise, Short does not deny that she has the authority to responsibly direct her subordinates. None of these employees denies that they complete their subordinates' performance evaluations. While Naish and Short state that their superiors must approve the evaluations they prepare for their subordinates, they do not deny that their superiors accept their recommended evaluations unchanged. AFSCME's blanket denial that these employees do not make effective recommendations does not carry weight where AFSCME has provided no specific examples demonstrating that the position holders' superiors have ever rejected any of their recommendations. Based on this evidence, the position holders exercise the use of independent judgment because the designation is presumed proper under Section 6.1(d) of the Act and the position descriptions do not expressly limit the position holders' discretion, accountability, or independent authority.

Thus, the designation of these positions is properly made.

d. **A&I Licensing Team Supervisors** - Chyrel Graham-McGee (37015-16-13-550-20-01); Dawn Moyer (37015-16-13-550-60-01)

Graham-McGee has significant and independent discretionary authority because she possesses authority to responsibly direct her subordinates. First, her position descriptions states that the position holds the authority to act as a working supervisor and that the position is responsible for reviewing subordinates' work and preparing and signing performance evaluations. Further, Graham-McGee admits that she directs her staff to initiate and complete investigating licensing complaints, monitor activities of their assigned facilities, and "to engage in POS cooperation of responses of background unit, Central Office of Licensing Assignments, and Adjudicated Sex Offenders Database." She does not deny that she prepares and signs their performance evaluations. Based on this evidence, the position holders exercise the use of independent judgment because the designation is presumed proper under Section 6.1(d) of the Act and the position descriptions do not expressly limit the position holders' discretion, accountability, or independent authority.

Moyer has significant and independent discretionary authority because she possesses the authority to effectively recommend the discipline of her subordinates. Moyer admits that she makes recommendations to her superior concerning the discipline of her subordinates. She does not deny that her superiors accept her recommendations. Based on this evidence, the position holder exercises the use of independent judgment because the designation is presumed proper under Section 6.1(d) of the Act and the position description does not expressly limit the position holder's discretion, accountability, or independent authority.

Thus, the designation of these positions is properly made.

e. **Day Care Licensing Supervisors** - Shirley Penny (37015-16-13-610-10-01); Annette Stafford (37015-16-13-610-30-01); Michael Britt (37015-16-13-610-50-01); Susan Cohen (37015-16-13-610-60-01); Stany D'Souza (37015-16-13-620-40-01); Debbie Pimentel (37015-16-13-620-50-01); Richard Sherrard (37015-16-13-630-20-01); Paula McClain (37015-16-13-630-50-01); Lynda Petrick (37015-16-13-630-60-01); Kenneth Yordy

(37015-16-13-640-20-01); Celestine Williams (37015-16-13-610-70-01);
Barbara Korasek - (37015-16-13-610-40-01)

Penny, Stafford, Britt, Cohen, D'Souza, Korasek, Pimentel, Sherrard, McClain, Petrick, Williams, and Yordy have significant and independent discretionary authority because they possess the authority to responsibly direct their subordinates or to make effective recommendations concerning direction. First, their position descriptions state that the positions hold the authority to act as working supervisors and that the positions are responsible for reviewing subordinates' work and preparing and signing performance evaluations. Further, Britt admits that he ensures his subordinates maintain the schedules he develops and that he approves their casework. Cohen and D'Souza admit that they provide their subordinates guidance and ensure they follow relevant rules and procedures. Korasek admits that she provides "direction to staff in bi-monthly individual supervision concerning the completion of job tasks." McClain admits that she ensures they complete their required monitoring of licensing facilities. Penny admits that she "provide[s] supervision, consultation, direction[,] and assistance to [her] staff, in order to follow up on their cases and ensure that they are in compliance and [that] the work is done [in a] timely [fashion]." Petrick and Sherrard admit that they review licensing files, completed by staff identify missing items in a file or items that were not addressed, and instruct the staff to complete those items and resubmit the file. Pimentel admits that she instructs her subordinates to follow established Department rules and procedures and that she reviews their work product to determine if it is in compliance with the Department's established protocols, licensing procedures, rules, and standards. Yordy does not deny that he directs his subordinates and admits that he assists subordinates with their caseload by performing hands-on work or by keeping track of the work completed. Stafford admits that she directs her subordinates by monitoring and signing off on employees' paperwork, and ensuring that their work is timely completed. Williams states that she assures her subordinates are "working to assure the Providers are following the standards, rules, and guidelines within the prescribed timelines." None of these employees denies that they complete their subordinates' performance evaluations. Although some assert that their manager must grant final approval of their performance evaluations, they do not deny that their managers accept their recommended evaluations. Based on this evidence, the position holders exercise the use of independent judgment because the designation is presumed proper under Section 6.1(d) of the Act and the position descriptions do

not expressly limit the position holders' discretion, accountability, or independent authority.

Contrary to Pimentel's and AFSCME's assertion, CMS properly identified Pimentel's position number and corresponding position description. Pimentel admits that the position for which she applied is position number 37015-16-13-533-30-01. CMS submitted the position description for that position number. Further, that position description notes that CMS altered that position's number to the position number designated by CMS, 37015-16-13-62050-01. Thus, CMS properly designated Pimentel's position even though her current position number is not the same as it was when she applied for the position.

In sum, the designation of these positions is properly made.

- f. **State Central Register Call Floor Supervisors** - Sherry Towns (37015-16-18-422-10-01); Margaret Jones-Washington (37015-16-18-422-30-01); Daniel Hauter (37015-16-18-422-40-01); Kimberley Johnson (37015-16-18-422-70-01); Margaret Frank (37015-16-18-422-80-01)

Towns, Jones-Washington, Hauter, and Frank have significant and independent discretionary authority because they possess the authority to responsibly direct their subordinates or to make effective recommendations concerning direction. First, their position descriptions state that the positions hold the authority to act as working supervisors and that the positions are responsible for reviewing subordinates' work and preparing and signing performance evaluations. Further, Frank, and Towns admit that they direct their subordinates to take a call if it is urgent to ensure that the matter is handled and they answer their subordinates' answers their questions regarding the appropriate type of intake required. Hauter does not deny that he directs his subordinates. Washington asserts that she is "not allowed to make any decision" with respect to the indicia of supervisory authority, but she does not deny that she has authority to make recommendations with respect to their direction. None of these employees denies that they complete their subordinates' performance evaluations. Based on this evidence, the position holders exercise the use of independent judgment because the designation is presumed proper under Section 6.1(d) of the Act and the position descriptions do not expressly limit the position holders' discretion, accountability, or independent authority.

Johnson has significant and independent discretionary authority because she possesses the authority to effectively recommend the discipline of her subordinates. Johnson admits that

she makes recommendations concerning the discipline and discharge of her subordinates. She does not deny that her superiors accept her recommendations. Based on this evidence, the position holder exercises the use of independent judgment because the designation is presumed proper under Section 6.1(d) of the Act and the position description does not expressly limit the position holder's discretion, accountability, or independent authority.

Thus, the designation of these positions is properly made.

- g. **Child Intake and Recovery Unit Supervisors** - Beverly Jordan (37015-16-18-110-10-01); Lisa Timberlake (37015-16-18-110-20-01); Carmen Alvarez (37015-16-18-110-30-99); Marilyn Hyde (37015-16-18-110-40-01); Cherlyn Shelby (37015-16-18-110-50-01); Barbara Duminie (37015-16-18-110-60-01)

Alvarez, Duminie, Hyde, Shelby, and Timberlake have significant and independent discretionary authority because they possess the authority to responsibly direct their subordinates or to make effective recommendations concerning direction. First, their position descriptions state that the positions hold the authority to act as working supervisors and that the positions are responsible for reviewing subordinates' work and preparing and signing performance evaluations. Further, Alvarez does not deny that she has the authority to direct her subordinates. Duminie confirms that she monitor's staff's daily activities and makes "suggestions and recommendations regularly." Hyde does not deny that she makes recommendations with respect to the indicia of supervisory authority or that her superiors accept her recommendations. Shelby admits that she provides "routine hands on day-to-day interaction with the staff for which [she is] responsible" by reviewing her subordinates during and after their assigned shifts. Further, she does not deny that she makes recommendations concerning the direction of her subordinates. Timberlake admits that she monitors and reviews her subordinates' activities and reviews "the entered efforts in the database." None of these employees denies that they complete performance evaluations for their subordinates. Based on this evidence, the position holders exercise the use of independent judgment because the designation is presumed proper under Section 6.1(d) of the Act and the position descriptions do not expressly limit the position holders' discretion, accountability, or independent authority.

Contrary to AFSCME's assertion, these positions are properly designated even though Jordan states that she and her five counterparts report to a different supervisor. Neither Jordan nor AFSCME has alleged that the positions designated do not correspond to the position holders in this case.

Thus, the designation of these positions is properly made.

- h. **Foster Home Licensing Team Supervisors** - John Ellison (37015-16-13-710-20-01); Fae Jones (37015-16-13-710-30-01); Melissa Kasel (37015-16-13-710-40-01); Cindy McCleary (37015-16-13-710-50-01); Karen Waller (37015-16-13-710-10-01).

Ellison, McCleary, Waller, Jones, and Kasel have significant and independent discretionary authority because they possess the authority to responsibly direct their subordinates or to make effective recommendations concerning direction. First, their position descriptions state that the positions hold the authority to act as working supervisors and that the positions are responsible for reviewing subordinates' work and preparing and signing performance evaluations. Further, Ellison, McCleary, Waller, and Jones admit that they plan and coordinate the activities of their staff, and that they review licensing files completed by staff and identify missing items in a file or items that the subordinate did not address. They further assert that they instruct their subordinates to complete those items and resubmit the file for further review. Kasel admits that she meets with her team members to review files to assure that they are in compliance with licensing standards. None of these employees denies that they complete performance evaluations for their subordinates. Based on this evidence, the position holders exercise the use of independent judgment because the designation is presumed proper under Section 6.1(d) of the Act and the position descriptions do not expressly limit the position holders' discretion, accountability, or independent authority.

Thus, the designation of these positions is properly made.

- i. **Statewide Developmental Disabilities Manager** - Michael Wonderlich (37015-16-15-213-00-01).

Wonderlich has significant and independent discretionary authority because he possesses the authority to responsibly direct his subordinates. First, his position description states that the

position holds the authority to act as a working supervisor and that the position is responsible for reviewing its subordinates' work and preparing and signing performance evaluations. Further, Wonderlich admits that he "direct[s] as a supervisor." He does not deny that he prepares his subordinates' performance evaluations. Based on this evidence, the position holder exercises the use of independent judgment because the designation is presumed proper under Section 6.1(d) of the Act and the position description does not expressly limit the position holder's discretion, accountability, or independent authority.

Thus, the designation of this position is properly made.

j. **Administrator of Foster Support Services** - Raymond Gates (37015-16-15-830-00-01)

Gates has significant and independent discretionary authority because he possesses the authority to responsibly direct his subordinates. First, his position description states that the position holds the authority to act as a working supervisor and that the position is responsible for reviewing its subordinates' work and preparing and signing performance evaluations. Further, Gates admits that "if they need direction and it is simple[,] I give direction." He does not deny that he prepares his subordinates' performance evaluations. While Gates asserts that he believes he was assigned the wrong position number, he does not deny that the position designated is his. Based on this evidence, the position holder exercises the use of independent judgment because the designation is presumed proper under Section 6.1(d) of the Act and the position description does not expressly limit the position holder's discretion, accountability, or independent authority.

Thus, the designation of this position is properly made.

k. **Consent Supervisor** - Tanya McGhee (37015-16-24-130-00-01)

McGhee has significant and independent discretionary authority because she possesses the authority to responsibly direct her subordinates. First, her position description states that the position holds the authority to act as a working supervisor and that the position is responsible for reviewing its subordinates' work and preparing and signing performance evaluations. Further, McGhee admits that she has authority to make numerous written and verbal requests for a worker to obtain a medical update for a medically complex ward by specific dates. McGhee states that someone else (ie, a member of management) must always be present when she issues

a directive, and argues that the presence of management suggests that she does not possess significant and independent discretionary authority. Contrary to McGhee’s contention, the presence or absence of her superior during the issuance of her directives does not warrant any such inference. In addition, McGhee does not deny that she completes her subordinates’ performance evaluations. In sum, based on this evidence, the position holder exercises the use of independent judgment because the designation is presumed proper under Section 6.1(d) of the Act and the position description does not expressly limit the position holder’s discretion, accountability, or independent authority.

Thus, the designation of this position is properly made.

IV. Conclusions of Law

The Governor’s designation in this case is properly made.

V. Recommended Order

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

37015-16-00-241-10-01	ACR Program Manager	Bridget McKnight-Barnes
37015-16-00-241-20-01	ACR Program Manager	Vacant
37015-16-00-241-30-01	ACR Program Manager	Jamie Ralph
37015-16-00-241-40-01	ACR Program Manager	Mickey Owen
37015-16-00-242-10-01	ACR Program Manager	Patricia Massey
37015-16-00-242-30-01	ACR Program Manager	Jeffrey Walker
37015-16-00-243-00-01	ACR POS Administrator	Jerryce Moore-Humphrey
37015-16-13-110-10-01	APT Supervisor	Pedro Mendoza
37015-16-13-110-20-01	APT Supervisor	William Karr
37015-16-13-110-30-01	APT Supervisor	C. Janel Loucks
37015-16-13-110-40-01	APT Supervisor	Candace Woosley
37015-16-13-120-10-01	APT Supervisor	Beverly Clark
37015-16-13-120-20-01	APT Supervisor	Terrence Weck
37015-16-13-120-30-01	APT Supervisor	Janice Horne
37015-16-13-120-40-01	APT Supervisor	Tanya Smith
37015-16-13-200-30-01	APT/ILO/TLP Monitoring Supervisor	Vacant
37015-16-13-200-40-01	APT/ILO/TLP Monitoring	Julie Michael

37015-16-13-200-60-01	Supervisor APT/ILO/TLP Monitoring Supervisor	Nicole Neely
37015-16-13-200-70-01	Supervisor APT/ILO/TLP Monitoring Supervisor	Anita McKeever
37015-16-13-210-10-01	Residential Monitor Supervisor	Eric Smith
37015-16-13-210-20-01	Residential Monitor Supervisor	Amy Naish
37015-16-13-210-30-01	Residential Monitor Supervisor	Gail Mayer
37015-16-13-210-40-01	Residential Monitor Supervisor	Stacy Short
37015-16-13-220-10-01	Residential Monitor Supervisor	Stacey Mixon-Newton
37015-16-13-220-20-01	Residential Monitor Supervisor	Chandra McFall
37015-16-13-220-30-01	Residential Monitor Supervisor	Donald Jurkowski
37015-16-13-550-10-01	A&I Licensing Team Supervisor	Vacant
37015-16-13-550-20-01	A&I Licensing Team Supervisor	Chyrel Graham-McGee
37015-16-13-550-30-01	A&I Licensing Team Supervisor	Vacant
37015-16-13-550-40-01	A&I Licensing Team Supervisor	Vacant
37015-16-13-550-50-99	A&I Licensing Team Supervisor	Vacant
37015-16-13-550-60-01	A&I Licensing Team Supervisor	Dawn Moyer
37015-16-13-550-70-01	A&I Licensing Team Supervisor	Vacant
37015-16-13-550-80-01	A&I Licensing Team Supervisor	Vacant
37015-16-13-610-10-01	Day Care Licensing Supervisor	Shirley Penny
37015-16-13-610-20-01	Day Care Licensing Supervisor	Eileen Carr
37015-16-13-610-30-01	Day Care Licensing Supervisor	Annette Stafford
37015-16-13-610-40-01	Day Care Licensing Supervisor	Barbara Korasek
37015-16-13-610-50-01	Day Care Licensing Supervisor	Michael Britt
37015-16-13-610-60-01	Day Care Licensing Supervisor	Susan Cohen

37015-16-13-610-70-01	Supervisor Day Care Licensing Supervisor	Celestine Williams
37015-16-13-620-10-01	Day Care Licensing Supervisor	Vacant
37015-16-13-620-20-01	Day Care Licensing Supervisor	Joel Lamz
37015-16-13-620-30-01	Day Care Licensing Supervisor	Carolyn Jordan
37015-16-13-620-40-01	Day Care Licensing Supervisor	Stany D'Souza
37015-16-13-620-50-01	Day Care Licensing Supervisor	Debbie Pimentel
37015-16-13-630-10-01	Day Care Licensing Supervisor	Vacant
37015-16-13-630-20-01	Day Care Licensing Supervisor	Richard Sherrard
37015-16-13-630-30-01	Day Care Licensing Supervisor	Lolita Smith
37015-16-13-630-40-01	Day Care Licensing Supervisor	Jeffrey Haley
37015-16-13-630-50-01	Day Care Licensing Supervisor	Paula McClain
37015-16-13-630-60-01	Day Care Licensing Supervisor	Lynda Petrick
37015-16-13-640-10-01	Day Care Licensing Supervisor	Denise Hughes
37015-16-13-640-20-01	Day Care Licensing Supervisor	Kenneth Yordy
37015-16-13-640-30-01	Day Care Licensing Supervisor	Mary Harlan
37015-16-13-710-10-01	Foster Home Licensing Team Supervisor	Karen Waller
37015-16-13-710-20-01	Foster Home Licensing Team Supervisor	John Ellison
37015-16-13-710-30-01	Foster Home Licensing Team Supervisor	Fae Jones
37015-16-13-710-40-01	Foster Home Licensing Team Supervisor	Melissa Kasel
37015-16-13-710-50-01	Foster Home Licensing Team Supervisor	Cindy McCleary
37015-16-13-720-10-01	Foster Home Licensing Team Supervisor	Vacant
37015-16-13-720-20-99	Foster Home Licensing Team Supervisor	Vacant
37015-16-13-720-30-01	Foster Home Licensing	Yvonne Sales

37015-16-13-720-40-01	Team Supervisor Foster Home Licensing Team Supervisor	Adrienne Taylor
37015-16-18-110-10-01	Child Intake and Recovery Unit Supervisor	Beverly Jordan
37015-16-18-110-20-01	Child Intake and Recovery Unit Supervisor	Lisa Timberlake
37015-16-18-110-30-99	Child Intake and Recovery Unit Supervisor	Carmen Alvarez
37015-16-18-110-40-01	Child Intake and Recovery Unit Supervisor	Marilyn Hyde
37015-16-18-110-50-01	Child Intake and Recovery Unit Supervisor	Cherlyn Shelby
37015-16-18-110-60-01	Child Intake and Recovery Unit Supervisor	Barbara Duminie
37015-16-18-422-10-01	State Central Register Call Floor Supervisor	Sherry Towns
37015-16-18-422-20-01	State Central Register Call Floor Supervisor	Vacant
37015-16-18-422-30-01	State Central Register Call Floor Supervisor	Margaret Jones-Washington
37015-16-18-422-40-01	State Central Register Call Floor Supervisor	Daniel Hauter
37015-16-18-422-50-99	State Central Register Call Floor Supervisor	Alice Ferree
37015-16-18-422-60-01	State Central Register Call Floor Supervisor	Lisa Pellowski
37015-16-18-422-70-01	State Central Register Call Floor Supervisor	Kimberley Johnson
37015-16-18-422-80-01	State Central Register Call Floor Supervisor	Margaret Frank
37015-16-60-231-00-01	Adoption Manager	Vacant
37015-16-15-211-00-01	Case Tracking Administrator	Jane Gantner
37015-16-15-213-00-01	Statewide Developmental Disabilities Manager	Michael Wonderlich
37015-16-15-830-00-01	Administrator of Foster Support Services	Raymond Gates
37015-16-24-130-00-01	Consent Supervisor	Tanya McGhee
37015-16-24-140-00-01	Consent Supervisor	Bobby Evans
37015-16-64-350-00-01	Contract Administrator- Cook Co Day Care Unit	Doris McDonald

VI. Exceptions

Pursuant to Section 1300.90 and 1300.130 of the Board's Rules and Regulations, 80 Ill. Admin. Code Parts 1300,⁶ parties may file exceptions to the Administrative Law Judge's recommended decision and order, and briefs in support of those exceptions, not 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. Exceptions must be filed by electronic mail 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 8th day of April, 2014

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

/s/ Anna Hamburg-Gal

**Anna Hamburg-Gal
Administrative Law Judge**

⁶ Available at <http://www.state.il.us/ilrb/subsections/pdfs/Section%201300%20Illinois%20Register.pdf>.