

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

State of Illinois, Department of Central)	
Management Services, (Department of)	
Commerce and Economic Opportunity),)	
)	
Petitioner,)	
)	
and)	Case No. S-DE-14-053
)	
American Federation of State, County)	
and Municipal Employees, Council 31,)	
)	
Labor Organization-Objector)	

**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; or

- 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 emergency rules to effectuate Section 6.1, which became effective on April 22, 2013, 37 Ill. Reg. 5901 (May 3, 2013), and the Board promulgated rules

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.

for the same purpose effective on August 23, 2013, 37 Ill. Reg. 14,070 (Sept. 6, 2013) (collectively referred to as the Board's rules). These rules are contained in Part 1300 of the Board's Rules and Regulations, 80 Ill. Admin. Code Part 1300.

On August 20, 2013, 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 September 9, 2013, 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 designations, 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 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 five positions within the Department of Commerce and Economic Opportunity are at issue in this designation:

37015-42-00-040-21-02	Samantha Hufnagel	Attorney
37015-42-00-040-31-01	Rachel Powell	Attorney
37015-42-00-040-31-03	Addrena Kim	Attorney
37015-42-00-040-60-01	Matthew Stonecipher	Attorney
37015-42-00-040-60-02	Vacant	Attorney

CMS's petition indicates the positions at issue qualify for designation under Section 6.1(b)(5) of the Act.² AFSCME objects to designation of all positions on the grounds set forth below.

² CMS filed position descriptions (CMS-104s) for the positions in support of its assertion. These positions are not subject to a pending petition and are not currently represented by AFSCME.

I. AFSCME's Objections

First, AFSCME argues that it was not afforded due process because CMS gave AFSCME no notice as to the basis for the exclusion. In support, AFSCME notes that CMS submitted no information indentifying the basis for the exclusion, submitted no evidence in support of its petition, and merely stated generally that the positions qualify for designation under Section 6.1(b)(5). Nevertheless, AFSCME observes that most of the designated positions have no subordinates and that there is no indication from the position descriptions that they perform any indicia of supervisory authority. AFSCME concludes, on that basis, that CMS designated these employees based on their presumptive managerial authority under Section 6.1(b)(5)(i) but argues against both grounds for exclusion.

AFSCME also asserts that the Board should apply an analytical framework to these designation petitions which conforms to case law from the National Labor Relations Board and places the burden of proving the exclusion on the party who asserts it.³ As such, AFSCME argues that CMS has the burden to prove that the designation is proper and that the Board should construe the Act's exclusions narrowly in assessing CMS's evidence.

Finally, AFSCME asserts that the designated positions are professional rather than managerial. In support, AFSCME states that the work of the designated positions requires the exercise of technical expertise and not managerial discretion because one of the position descriptions states that the position prepares legal summaries and legal interpretations. AFSCME does not reference any other portion of any other position description in support of its arguments.

II. Position Descriptions

a. 37015-42-00-040-21-02 - Samantha Hufnagel

This position works under the administrative direction of the Springfield legal counsel and functions as a legal advisor to the Director and the operational divisions of the Department. In relevant part, the position provides legal opinions, interprets the Workforce Investment Act (WIA), and "advises the General Counsel on WIA developments and recommended resolutions."

³ The National Labor Relations Act does not include a managerial exclusion, but the NLRB and the Federal Courts have created one. NLRB v. Bell Aerospace Co., 416 U.S. 267, 275 (1974).

Further, the position recommends procedural processes, compliance with federal rules and regulations and legal interpretations for administering, monitoring and complying with 29 CFR Part 37, Implementation of Non-Discrimination Policies and Procedures for the Workforce Investment Act. In addition, the position acts as hearing officer and departmental representative in administrative hearings and appeals brought pursuant to the Illinois Administrative Procedure Act, departmental rules, or federal regulations. In that capacity, it conducts all legal research for cases and prepares determinations and legal decisions at the Agency level. Next, it serves as the Agency's representing attorney in lawsuits, discrimination charges, and civil service hearings. Finally, it drafts and negotiates terms and conditions of loan agreements and supporting documentation, modifications, settlement agreements, and demand and referral letters.

This position has one subordinate and is labeled a supervisor on the position description. However, the position description does not detail the position's supervisory responsibilities "in a detailed duty statement with a time percentage allotted" as the position description itself requires.

b. 37015-42-00-040-31-01 - Rachel Powell

This position works under the administrative direction of the Chicago Senior Public Service Administrator (SPSA) legal counsel and functions as a legal advisor to the Director and the operational divisions of the Department. In relevant part, the position drafts and interprets administrative rules and communicates with state legislative staff concerning the interpretation and implementation of legislation and administrative processes. Finally, the position represents the Department in bankruptcy matters.

This position has no subordinates and is not labeled a supervisor on the position description.

c. 37015-42-00-040-31-03 - Addrena Kim

This position works under the direction of the Chicago Deputy General Counsel. In relevant part, the position provides legal interpretation and counsel to the Deputy Directors, their staff, and senior level management of the Agency on legal issues and policies and procedures pertaining to federal and state legislation and regulations. Further the position advises the General Counsel on related legal developments and recommended resolutions. In addition, it recommends procedural processes for compliance with federal and state legislation. Next, it

formulates procedures, conducts and reviews legal research on federal and state laws, and drafts and prepares memoranda and opinions on issues affecting state- and federally-funded programs administered by the Agency. Finally, it reviews proposed legislation and assists in drafting and reviewing administrative rules.

This position has no subordinates and is not labeled a supervisor on the position description.

d. 37015-42-00-040-60-01 - Matthew Stonecipher

This position works under the administrative approval of the Chicago Deputy General Counsel to track and manage all litigation matters for the Agency. In relevant part, the position provides legal interpretations and counsels the Deputy Directors and senior level management of the Agency on legal issues, policies, and procedures pertaining to federal legislation and grants as they relate to business development for various Agency programs. Finally, the position reviews proposed legislation and assists in drafting and/or approving administrative rules for codification into Illinois statutes.

This position has no subordinates and is not labeled a supervisor on the position description.

e. 37015-42-00-040-60-02 - Vacant

This position works under the administrative direction of the Chicago Deputy General Counsel to prepare legal summarizations and legal interpretations in regulatory and law interpretations of Homeland Security market developments. The position revises, amends, and reviews complex federal legislation for Homeland Security. Further, it formulates procedures, directs and reviews legal research on federal laws, and prepares legal memoranda and opinions on issues affecting state- and federally-funded programs administered by the Agency for Homeland Security marketplace development. In addition, it reviews proposed legislation and assists in drafting and/or approving administrative rules for codification into Illinois statutes. Next, it tracks all federal grant and appropriation opportunities and proposed appropriations which are currently available. Finally, it develops and prepares information including legal interpretations for use by Illinois companies assessing opportunities to develop new business ventures in the marketplace of Homeland Security.

This position has no subordinates and is not labeled a supervisor on the position description.

III. Discussion and Analysis

a. Procedural Issues

The character of CMS's submissions to the Board did not deprive AFSCME of due process because those submissions adequately placed AFSCME on notice as to the basis of the designation.

Here, CMS's petition placed AFSCME on notice as to the basis of the petition because CMS indicated that it sought exclusion under Section 6.1(b)(5) of the Act and submitted position descriptions for the positions in question to support its designation. As such, CMS clearly sought exclusion based on the assertion that the positions authorize the holders with "significant and independent discretionary authority." Accordingly, AFSCME had notice as to grounds for the petition.

Notably, AFSCME received proper notice, even though CMS did not specify whether the nature of that authority was supervisory or managerial, because the CMS-104s describe the positions and express, with a checkbox, whether the positions in question are deemed supervisory or not. Accordingly, AFSCME had ample information from which to ascertain the basis for the proposed exclusion and properly proceeded to argue against both of them.

Thus, the character of CMS's submissions to the Board did not deprive AFSCME of due process.

b. Substantive Issues

i. Analytical framework

AFSCME has the burden to demonstrate that the designation is improperly made and the Board must follow Illinois case law with respect to the managerial exclusion.

First, the Act states that the objector (here, AFSCME) bears the burden of proving that the designation is not proper because the Act provides that "any designation made by the Governor...shall be presumed to have been properly made." 5 ILCS 315/6.1 (2012). In this case, CMS designated this position under Section 6.1(b)(5) which provides that the position must "authorize an employee in that position to have significant and independent discretionary

authority as an employee.” 5 ILCS 315/6.1(b)(5) (2012). Under Section 6.1(c), a position authorizes its holder with the requisite authority if the position is supervisory, within the meaning of the National Labor Relations Act and the National Labor Relations Board’s case law, or managerial, within the meaning of the Illinois Public Labor Relations Act (discussed below). Accordingly, the burden is on the objector to demonstrate that the designation is not proper and that the employer has not conferred significant discretionary authority upon that position.

Second, the Board must apply Illinois case law pertaining to the managerial exclusion because it is applicable both substantively and under the plain language of the Act. Substantively, Illinois precedent is applicable because the definition of managerial employee in designation cases is similar to that used in traditional representation cases. While there are differences between the two definitions (“traditional definition” versus “designation definition”), they do not alter this conclusion. First, although the traditional definition contains a predominance element while the designation definition does not, this difference does not hamper the application of existing managerial case law to designation petitions because the court’s qualitative assessment of a position’s duties remains the same. Second, although the designation definition includes reference to effective recommendations, omitted in the traditional definition, Illinois precedent remains applicable despite this difference because the designation definition merely codifies existing case law pertaining to the traditional definition. See, Dep’t of Cent. Mgmt. Serv./Ill. Commerce Com’n, 406 Ill. App. 3d 766, 775 (4th Dist. 2010) (an advisory employee who makes effective recommendations can be managerial within the meaning of the Act).

Further, the plain language of the Act suggests that the Board should apply Illinois precedent to the managerial exclusion in designation cases because the legislature did not direct the Board to look to different case law. Here, the legislature does not specify that the Board should assess the managerial exclusion in light of NLRB case law. However, it did include such a directive with respect to the supervisory exclusion in designation petitions. If the legislature had intended the Board to consider NLRB case law to assess the managerial exclusion, it could have done so, as it did with respect to the supervisory exclusion. The fact that it did not, strongly suggests that the legislature intended the Board to follow Illinois case law in assessing the managerial exclusion in designation cases.

Thus, AFSCME has the burden to prove the designation is improperly made and the Board must consider Illinois case law with respect to the managerial exclusion to make its determination.

ii. Relevant Case Law

All but one of the positions in question have no subordinates. Further, because of my findings that the designations are proper by virtue of the positions' managerial authority, it is unnecessary to address the supervisory status of the single position that is marked as a supervisor. Accordingly, the relevant case law in this case addresses the managerial exclusion.

Under Illinois case law, "management functions" include such activities that relate to running a department, formulating policy, preparing the budget, and assuring effective and efficient operation of the department. Dep't of Cent. Mgmt. Serv. (Dep't of Healthcare and Family Serv.) v. Ill. Labor Rel. Bd. (State Panel), 388 Ill. App. 3d 319, 330 (4th Dist. 2009) (citing Vill. of Elk Grove Vill. v. Ill. State Labor Rel. Bd., 245 Ill. App. 3d 109, 121-22 (2nd Dist. 1993)). Other managerial duties include using discretion to make policy decisions rather than simply following established policy, changing the focus of an organization, responsibility for day-to-day operations, negotiating with employees or the public on behalf of the employer, or pledging the employer's credit. Id., at 330-331, citing Dep't of Cent. Mgmt. Serv., 21 PERI ¶ 205 (2005). Central to the determination of whether an employee is a managerial employee is the employee's ability to broadly affect the department's goals and means of achieving those goals. Dep't of Cent. Mgmt. Serv., 278 Ill. App. 3d at 87.

An employee need not necessarily formulate policy to be considered a managerial employee; rather, directing effectuation of policy is the hallmark of an employee engaged in running a department. Dep't of Cent. Mgmt. Serv. (Illinois Commerce Commission), 406 Ill. App. 3d at 780. The Fourth District has also noted that directing a division of a department "in a hands-on way" is evidence of managerial activity. Dep't of Cent. Mgmt. Serv., 2011 IL App (4th) 090966. The court further noted that "exclusivity in the implementation of management policy is not a requirement" of the Act, and that an employee may be deemed managerial if he makes effective recommendations on policy actions. Dep't of Cent. Mgmt. Serv., 406 Ill. App. 3d at 777 (effective recommendations are those that are accepted almost all the time.)

Each position is discussed in turn below in light of these precedents.

iii. Managerial status of the positions

1. 37015-42-00-040-21-02 - Samantha Hufnagel

CMS's designation of this position is proper because the designation is presumed to be properly made, the position description supports that conclusion, and AFSCME has introduced no evidence to suggest that CMS has not authorized this position to exercise managerial discretion.

As a preliminary matter, the designation is presumed to be properly made. Moreover, the position description supports CMS's assertion that the position is managerial because the position drafts and negotiates terms and conditions of loan agreements and settlement agreements on behalf of the employer. See Dep't of Cent. Mgmt. Serv. (Dep't of Healthcare and Family Serv.), 388 Ill. App. 3d at 330-331, citing Dep't of Cent. Mgmt. Serv., 21 PERI ¶ 205 (2005) (managerial functions include negotiating with employees or the public on behalf of the employer and pledging the employer's credit). Further this position acts as hearing officer and departmental representative to prepare determinations and legal decisions at the Agency level. Dep't of Cent. Mgmt. Serv./Ill. Commerce Com'n, 406 Ill. App. 3d at 776 (advisory employees such as administrative law judges who make legal decisions or recommendations at the agency level are managerial if their recommendations are effective and if they broadly affect the agency's mission). Finally, AFSCME has introduced no evidence to show that CMS has not authorized this position to exercise managerial discretion. Consequently, in light of these assigned duties, the statutory presumption, and the absence of evidence to the contrary, the Board must conclude that the character of the position holder's authority satisfies the managerial exclusion and that the position is properly designated.

Contrary to AFSCME's assertion, there is no indication from the position description that the position requires the exercise of technical and professional expertise to the exclusion of managerial discretion. Indeed, courts have held that managerial discretion and the use of technical or professional expertise are not mutually exclusive because an employee's exercise of "professional expertise is indispensable to the formulation and implementation of [the employer's] policy." State of Ill., Dep't of Cent. Mgmt. Serv. (Ill. Commerce Comm'n), 29 PERI ¶ 76 (IL LRB-SP 2012) (citing, N.L.R.B. v. Yeshiva Univ., 444 U.S. 672, 689-690 (1980) ("The

Board nevertheless insists that these decisions are not managerial because they require the exercise of independent professional judgment. We are not persuaded by this argument.”)) Thus, AFSCME’s argument does not undermine the presumption that the designation is proper because a position may both authorize an individual to act with managerial discretion and require the position holder to apply his professional expertise.

Thus, this position is properly designated as managerial. Accordingly, it is unnecessary to determine whether this position is also supervisory.

2. 37015-42-00-040-31-01 – Rachel Powell

CMS’s designation of this position is proper because the designation is presumed to be properly made, the position description supports that conclusion, and AFSCME has introduced no evidence to suggest that CMS has not authorized this position to exercise managerial discretion.

As a preliminary matter, the designation is presumed to be properly made. Moreover, the position description supports CMS’s assertion that the position is managerial because the position drafts and interprets administrative rules and communicates with state legislative staff concerning the interpretation and implementation of legislation and administrative processes. See Dep’t of Cent. Mgmt. Serv. (Dep’t of Healthcare and Family Serv.), 388 Ill. App. 3d at 332 (drafting rules and policies is an executive and management function which may satisfy the managerial exclusion); Dep’t of Cent. Mgmt. Serv. (Ill. Commerce Comm’n), 29 PERI ¶ 129 (IL LRB-SP 2013) (drafting proposed rules and amendments to legislation renders employee managerial). Finally, AFSCME has introduced no evidence and has presented no argument⁴ to show that CMS has not authorized this position to exercise managerial discretion.

Consequently, in light of these assigned duties, the statutory presumption, and the absence of evidence to the contrary, the Board must conclude that the character of the position holder’s authority satisfies the managerial exclusion and that the position is properly designated.

⁴ See discussion on page ten addressing the relationship between managerial discretion and professional expertise.

3. 37015-42-00-040-31-03 - Addrena Kim

CMS's designation of this position is proper because the designation is presumed to be properly made, the position description supports that conclusion, and AFSCME has introduced no evidence to suggest that CMS has not authorized this position to exercise managerial discretion.

As a preliminary matter, the designation is presumed to be properly made. Moreover, the position description supports CMS's assertion that the position is managerial because the position reviews proposed legislation and assists in drafting and reviewing administrative rules. See Dep't of Cent. Mgmt. Serv. v. Ill. Labor Rel. Bd., 2011 IL App (4th) 090966 ¶ 186 (exclusivity in the implementation of management policy is not a requirement under that Act; employees who developed and revised agency policies were managerial); Dep't of Cent. Mgmt. Serv. (Dep't of Healthcare and Family Serv.), 388 Ill. App. 3d at 332 (drafting rules and policies is an executive and management function which may satisfy the managerial exclusion); Dep't of Cent. Mgmt. Serv. (Ill. Commerce Comm'n), 29 PERI ¶ 129 (IL LRB-SP 2013) (drafting proposed rules and amendments to legislation affecting the department renders employee managerial). Finally, AFSCME has introduced no evidence and has presented no argument⁵ to show that CMS has not authorized this position to exercise managerial discretion.

Consequently, in light of these assigned duties, the statutory presumption, and the absence of evidence to the contrary, the Board must conclude that the character of the position holder's authority satisfies the managerial exclusion and that the position is properly designated.

4. 37015-42-00-040-60-01 - Matthew Stonecipher

CMS's designation of this position is proper because the designation is presumed to be properly made, the position description supports that conclusion, and AFSCME has introduced no evidence to suggest that CMS has not authorized this position to exercise managerial discretion.

As a preliminary matter, the designation is presumed to be properly made. Moreover, the position description supports CMS's assertion that the position is managerial because the position reviews proposed legislation and assists in drafting and/or approving administrative

⁵ See discussion on page ten addressing the relationship between managerial discretion and professional expertise.

rules for codification into Illinois statutes. See Dep't of Cent. Mgmt. Serv. (Dep't of Healthcare and Family Serv.), 388 Ill. App. 3d at 332 (drafting rules and policies is an executive and management function which may satisfy the managerial exclusion); Dep't of Cent. Mgmt. Serv. (Ill. Commerce Comm'n), 29 PERI ¶ 129 (IL LRB-SP 2013) (drafting proposed rules and amendments to legislation affecting the department renders employee managerial). Finally, AFSCME has introduced no evidence and has presented no argument⁶ to show that CMS has not authorized this position to exercise managerial discretion.

Consequently, in light of these assigned duties, the statutory presumption, and the absence of evidence to the contrary, the Board must conclude that the character of the position holder's authority satisfies the managerial exclusion and that the position is properly designated.

5. 37015-42-00-040-60-02 - Vacant

CMS's designation of this position is proper because the designation is presumed to be properly made, the position description supports that conclusion, and AFSCME has introduced no evidence to suggest that CMS has not authorized this position to exercise managerial discretion.

As a preliminary matter, the designation is presumed to be properly made. Moreover, the position description supports CMS's assertion that the position is managerial because the position amends federal legislation for Homeland Security, formulates procedures concerning federally-funded programs administered by the Agency for Homeland Security marketplace development, and assists in drafting and/or approving administrative rules for codification into Illinois statutes. See, Secretary of State v. Ill. Labor Rel. Bd., State Panel, 2012 IL App (4th) 111075 ¶ 122 (establishing procedures for an agency constitutes a management function); Dep't of Cent. Mgmt. Serv. (Dep't of Healthcare and Family Serv.) v. Ill. Labor Rel. Bd., 388 Ill. App. 3d at 332 (drafting rules and policies is an executive and management function which may satisfy the managerial exclusion); Dep't of Cent. Mgmt. Serv. (Ill. Commerce Comm'n), 29 PERI ¶ 129 (IL LRB-SP 2013) (drafting proposed rules and amendments to legislation affecting the department renders employee managerial). Finally, AFSCME has introduced no evidence

⁶ See discussion on page ten addressing the relationship between managerial discretion and professional expertise.

and has presented no argument⁷ to show that CMS has not authorized this position to exercise managerial discretion.

Consequently, in light of these assigned duties, the statutory presumption, and the absence of evidence to the contrary, the Board must conclude that the character of the position holder's authority satisfies the managerial exclusion and that the position is properly designated.

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 Commerce and Economic Opportunity are excluded from the self-organization and collective bargaining provisions of Section 6 of the Illinois Public Labor Relations Act:

37015-42-00-040-21-02	Attorney
37015-42-00-040-31-01	Attorney
37015-42-00-040-31-03	Attorney
37015-42-00-040-60-01	Attorney
37015-42-00-040-60-02	Attorney

VI. Exceptions

Pursuant to Section 1300.90 and 1300.130 of the Board's Rules and Regulations, 80 Ill. Admin. Code Parts 1300,⁸ 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

⁷ See discussion on page ten addressing the relationship between managerial discretion and professional expertise.

⁸ Available at <http://www.state.il.us/ilrb/subsections/pdfs/Section%201300%20Illinois%20Register.pdf>.

filing timely exceptions waives its right to object to the Administrative Law Judge's recommended decision and order.

Issued at Chicago, Illinois this 17th day of September, 2013

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

/s/ Anna Hamburg-Gal

**Anna Hamburg-Gal
Administrative Law Judge**