STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

State of Illinois, Department of Central Management Services (Department of Human Services),	)	
Employer	)	
and	)	
American Federation of State, County and Municipal Employees, Council 31,	)	Case No. S-DE-14-222
Labor Organization-Objector	)	
and	)	
Deborah Daniels, George Dirks, Jayne Halcomb, Alex Jordan, Cassandra Laird, Debra Murrill, Kelly Schultz, and Steve Totten	)	
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, 479 U.S. 62 (1990), and be completely exempt from jurisdiction B of the Personnel Code, 20 ILCS 415/8b through 8b.20 (2012), see 20 ILCS 415/4 through 4d (2012);
4) it must be a term appointed position pursuant to Section 8b.18 or 8b.19 of the Personnel Code, 20 ILCS 415/8b.18, 8b.19 (2012); or
5) it must authorize an employee in that position to have "significant and independent discretionary authority as an employee" by which the Act means the employee is either
    (i) engaged in executive and management functions of a State agency and charged with the effectuation of management policies and practices of a State agency or represents management interests by taking or recommending discretionary actions that effectively control or implement the policy of a State agency; or
    (ii) qualifies as a supervisor of a State agency as that term is defined under Section 152 of the National Labor Relations Act, 29 U.S.C. 152(11), or any orders of the National Labor Relations Board interpreting that provision or decisions of courts reviewing decisions of the National Labor Relations Board.

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

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

As noted, Public Act 97-1172 and Section 6.1 of the Illinois Public Labor Relations Act became effective on April 5, 2013, and allow the Governor 365 days from that date to make such designations. The Board promulgated 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.

I. PETITION

On February 10, 2014, the Illinois Department of Central Management Services (CMS), on behalf of the Governor, filed the above-captioned designation petition pursuant to Section 6.1 of the Act and Section 1300.50 of the Board's Rules. The petition designates 69 Public Service Administrator (PSA), Option 1 positions at the Department of Human Services (DHS) for exclusion from the self-organization and collective bargaining provisions of Section 6 of the Act. The petition indicates that all of the positions qualify for designation under Section 6.1(b)(5). The petition indicates that the positions were certified on January 10, 2010 in Case No. S-RC-08-036.

In support of its petition, CMS provided position descriptions (CMS-104s) for each position and affidavits from individuals who supervise the listed positions. CMS also provided documentation identifying the position number, title, name of incumbent, bargaining unit, certification date and case number, statutory category that serves as the basis for the exemption, and a list of the job duties that support the presumption that the position is supervisory and/or managerial.

II. OBJECTIONS[2]

On February 13, 2014, Kelly Schultz and Steve Totten, employees in designated positions, filed objections to the exclusion of their positions from collective bargaining rights. On February 18, 2014, Debra Murrill, an employee in a designated position, filed an objection to

[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] On February 13, 2014, AFSCME filed a motion for an extension of time within which to file objections in this case. On February 14, 2014, the Board's General Counsel issued an order extending the time for filing objections in this case from February 20, 2014, to February 25, 2014.

the exclusion of her position from collective bargaining rights. On February 19, 2014, Jayne Halcomb, Alex Jordan, and Cassandra Laird, employees in designated positions, filed objections to the exclusion of their positions from collective bargaining rights. On February 20, 2014, Deborah Daniels, an employee in a designated position, filed an objection to the exclusion of her position from collective bargaining rights. On February 24, 2014, George Dirks, an employee in a designated position, filed an objection to the exclusion of his position from collective bargaining rights. All of the individual objectors included personal statements with attachments.

On February 25, 2014, the American Federation of State, County and Municipal Employees, Council 31 (AFSCME) filed timely objections to the exclusion of all 69 positions.[3] In support of its objections, AFSCME provided information forms completed by Denise Banks, Michael Benson, Gladys Brown, Gerrah Caldwell, Deborah Daniels, Edward Fojtik, Kimberly Foy, Jayne Halcomb, John Heyer, Alex Jordan, Cassandra Laird, Julie Lohmar, Pablo Lozada, Jr., Timothy Milbrandt, Elsie Morgan, Debra Murrill, Marsha Northern, Daniel Ojeda, Patricia Pace-Halpin, Jeffrey Peddycoart, Steven Perkins, Siony Pullins, Cynthia Ragusa, Kelly Schultz, Lori Stouffe, Donnie Williams, and Kendra Williams.[4]

AFSCME generally objects to the petition arguing that Section 6.1 of the Act violates due process, the separation of powers doctrine of the Illinois Constitution, equal protection under

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[3] On February 27, 2014, AFSCME filed a late supplemental objection for the position held by John McNamara, an employee in a designated position, asserting that AFSCME did not receive McNamara's information form until February 27, 2014. AFSCME asserts that McNamara had emailed the form to AFSCME, but AFSCME had not received it previously and/or the form was misplaced by AFSCME. Pursuant to Section 1300.60(a)(3) of the Board's Rules and the General Counsel's extension of time, objections were due by February 25, 2014. I recommend that the requirements for a variance from the filing deadline have not been met here. See State of Ill., Dep't of Cent. Mgmt. Servs., 30 PERI ¶ 164 (IL LRB-SP 2014). Although, the deadline set out in Rule 1300.60(a)(3) is not a statutory requirement, CMS has not indicated that it did not object to AFSCME's request. Further, the rules relating to timely filing of objections are not unreasonable or unnecessarily burdensome here. Rule 1300.90 states that requests for extensions of deadlines "will only be granted in extraordinary circumstances after consideration of its potential impact on the Board's ability to meet the time requirements of the Act" and requires the party requesting an extension to set forth in details the grounds for the request. AFSCME has not sufficiently demonstrated that an extraordinary circumstance exists here. The application of the deadlines set by the Rules, and already extended by the General Counsel's Orders, is not unreasonable or unnecessarily burdensome. Thus, AFSCME's supplemental objection is considered untimely and will not be considered.

[4] In its objections, AFSCME included an information form from Stevie Lemon, position number 37015-10-41-151-00-01. However, Lemon's position is not at issue in this case, but rather in Case No. S-DE-14-221. It should be noted that Lemon's information form was properly included with AFSCME's objections in Case No. S-DE-14-221.

Article I, Section 2 of the Illinois Constitution and the Fifth and Fourteenth Amendments of the United States Constitution, and the prohibition against impairment of contracts of the Illinois Constitution.

AFSCME next objects to the petition arguing that the designated positions are not managerial under decisions of the National Labor Relations Board, and courts interpreting the same. AFSCME further objects to the use of position descriptions to support the petitions and to the allocation of the burden of proof. AFSCME asserts that the evidence submitted by CMS in the form of position descriptions, organizational charts, and affidavits merely acknowledges the position's potential responsibilities. Likewise, AFSCME argues that CMS has failed to provide specific evidence that the positions at issue have actual authority to perform the listed job duties. As such, AFSCME argues that the employees in the positions at issue were never informed of their significant and independent discretionary authority to perform supervisory or managerial functions and CMS has not met its burden of demonstrating that the positions possess the requisite significant and independent discretionary authority. In addition, AFSCME argues that the positions at issue are professional and not managerial. AFSCME also maintains that to the extent the affidavits state an employee at issue effectuates policies or is authorized to effectuate policy, and the position description does not define a policy, there can be no showing that the employee is managerial, and the burden is on CMS to show why different duties should not apply to others holding the same title. Therefore, AFSCME maintains that the positions at issue are neither supervisory nor managerial within the meaning of Section 6.1 of the Act.

AFSCME specifically objects to the positions held by Denise Banks, Michael Benson, Gladys Brown, Gerrah Caldwell, Deborah Daniels, Edward Fojtik, Kimberly Foy, Jayne Halcomb, John Heyer, Alex Jordan, Cassandra Laird, Julie Lohmar, Pablo Lozada, Jr., Timothy Milbrandt, Elsie Morgan, Debra Murrill, Marsha Northern, Daniel Ojeda, Patricia Pace-Halpin, Jeffrey Peddycoart, Steven Perkins, Siony Pullins, Cynthia Ragusa, Kelly Schultz, Lori Stouffe, Donnie Williams, and Kendra Williams. AFSCME provided written statements as evidence in support of the conclusion that the positions at issue are not managerial or supervisory within the meaning of the Act. AFSCME asserts that there is a high likelihood that all the position descriptions are inaccurate because specific individuals identified inaccuracies in their own position descriptions. On that 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. As noted above, Deborah Daniels, George Dirks, Jayne Halcomb, Alex Jordan, Cassandra Laird, Debra Murrill, Kelly Schultz, and Steve Totten also filed individual objections.

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 have determined that AFSCME and the employee objectors have failed to raise an issue that would require a hearing. I find the designation to have been properly submitted and consistent with the requirements of Section 6.1 of the Act and 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 the existing inclusion of these positions within any collective bargaining unit.

III. DISCUSSION

A. 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 violated provisions of the United States and Illinois constitutions." State of Ill., Dep't of Cent. Mgmt. Servs., 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.") Thus, AFSCME's constitutional arguments are not addressed in this decision.

B. Non-Constitutional General Objections

AFSCME objects that the positions at issue are not those of managers within the definition used by the National Labor Relations Board. However, the Board has specifically rejected AFSCME's argument that the Board should look first to NLRB precedent in interpreting Section 6.1(c)(i). State of Ill., Dep't of Cent. Mgmt. Servs. (Dep't of Commerce and Econ. Opportunity), 30 PERI ¶ 86 (IL LRB-SP 2013) ("To the extent precedent is relevant to interpretation of Section 6.1(c)(i), we look first to precedent established by Illinois courts, this Board, and where relevant the Illinois Educational Labor Relations Board, then to federal precedent interpreting similarly worded provisions of the NLRA.")

AFSCME's remaining general objections are without merit and do not raise issues of fact or law that might rebut the presumption that the designations have been 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. State of Ill., Dep't of Cent. Mgmt. Servs., 30 PERI ¶ 80 ("Submission of position descriptions that are consistent with the designation made, combined with the presumption of appropriateness, and in the absence of any contrary evidence from objectors like AFSCME that might demonstrate that the designation is inappropriate, leads to the conclusion that the designation comports with the requirements of Section 6.1.") AFSCME's arguments regarding the use of position descriptions, organizational charts, and affidavits to support the petition; the burden of proof; and CMS' failure to provide specific evidence that the positions at issue have actual authority to perform the listed job duties must be rejected because these arguments ignore the presumption and misallocate the burden, which is on AFSCME, not CMS.

The Board has also rejected AFSCME's objections relating to the distinction between managerial and professional status. Dep't of Commerce & Econ. Opportunity, 30 PERI ¶ 86. The terms managerial and professional are not mutually exclusive and "there certainly is no exception for professional employees in the language of Section 3(c)(i) [sic]." Id. Accordingly, the Board has held that a position may be appropriately designated for exclusion if it meets one of the two alternative tests set out in Section 6.1(c)(i), regardless of whether the position is also professional, and even if the position fails to meet the definition of a managerial employee in Section 3(j) of the Act. Id.

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

C. Designation under Section 6.1(b)(5)

A position is properly designable under Section 6.1(b)(5) if it authorizes an employee in that position to have "significant and independent discretionary authority as an employee." The Act provides two tests in Section 6.1(c)(i) and one test in Section 6.1(c)(ii) by which a person can be found to have "significant and independent discretionary authority."

The first test in Section 6.1(c)(i) is substantively similar to the traditional test for managerial status articulated in Section 3(j). Section 6.1(c)(i) provides that a position authorizes

an employee to have significant and independent discretionary authority if he or she "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." Though similar to the Act's general definition of a managerial employee in Section 3(j), the Section 6.1(c)(i) definition is broader in that it does not include a predominance requirement and requires only that the employee is "charged with the effectuation" of policies, not that the employee is responsible for "directing the effectuation." An employee directs the effectuation of management policy when he or she 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 of Cent. Mgmt. Servs. (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 379, 387 (1st Dist. 2004); State of Ill., Dep't of Cent. Mgmt. Servs. (Healthcare & Family Servs.), 23 PERI ¶ 173 (IL LRB-SP 2007). However, in order to meet the first test set out in Section 6.1(c)(i), a position holder need not develop the means and methods of reaching policy objectives. It is sufficient if the position holder is charged with carrying out the policy in order to meet its objectives.

The test in Section 6.1(c)(i) 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. Servs. (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." Healthcare & Family Servs., 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 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.

The second test under Section 6.1(c)(i) also relates to the traditional test for managerial status by reflecting the manner in which the courts have interpreted 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." 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 set out in the Supreme Court's decision in National Labor Relations Board v. Yeshiva University, 444 U.S. 672 (1980). Dep't of Cent. Mgmt. Servs./Ill. Commerce Comm'n v. Ill. Labor Rel. Bd., 406 Ill. App. 766, 776 (4th Dist. 2010), citing Yeshiva, 444 U.S. at 683. Further, the Appellate Court noted that the ILRB, like its federal counterpart, "incorporated 'effective recommendation' 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 test of Section 3(j) because the second test 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). However, "Section 6.1(c)(i) does not require that an employee engage in policy making; rather it allows designation if the employee merely takes discretionary action that effectively implements agency policy." Ill. Dep't of Cent. Mgmt. Servs. (Dep't of Commerce & Econ. Opportunity), 30 PERI ¶ 163 (IL LRB-SP 2014).

The third test under Section 6.1(c)(ii) provides that an employee has "significant and independent discretionary authority" if he or she qualifies as a "supervisor" within the meaning of the National Labor Relations Act. The NLRA defines a supervisor as "any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment." 29 U.S.C. Section 152(11). Thus, employees are supervisors if (1) they hold the authority to engage in any of the 12 listed supervisory functions, (2) their exercise of that 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. State of Ill., Dep't of Cent. Mgmt. Servs. (Dep't of Public Health), 30 PERI ¶ 149 (IL LRB-SP 2013), citing NLRB v. Kentucky River Cmty. Care, Inc., 532 U.S. 706, 713 (2001), and Oakwood Healthcare,

Inc., 348 NLRB 686, 687 (2006). Unlike the definition of supervisor in Section 3(r) of the Act, Section 6.1(c)(ii) does not require that the individuals devote a preponderance of their employment to exercising their supervisory authority.

A position has the responsibility to direct if the position holder has subordinates, decides what jobs his or her subordinates should perform next, and who should perform those tasks. Oakwood Healthcare, 348 NLRB at 691-92. The position holder must also be accountable for his or her subordinates' work and must carry out such direction with independent judgment. Id. In other words, "it must be shown that the employer delegated to the putative supervisor the authority to direct the work and the authority to take corrective action, if necessary," and that "there is a prospect of adverse consequences for the putative supervisor," arising from his direction of other employees. Id. In applying the second portion of the "responsibly direct" test, the statutory presumption that the designation is proper places the burden on the objector to demonstrate that there is not a prospect of adverse consequences for the position holder if he does not direct the work or does not take corrective action where necessary.

1. Denise Banks

Banks is the Family and Medical Leave Act (FMLA)/Workers' Compensation Liaison for the Division of Family & Community Services. Her position description states that she performs duties in relation to the delivery of professional Americans with Disabilities Act (ADA), Workers' Compensation, and FMLA training programs; conducts training programs to implement organizational change and improvements; develops training curricula, materials, and programs; and maintains liaison relationship with other department divisions and administrators. Banks has no subordinates.

Banks asserts that she does not develop or recommend methods and procedures or provide interpretation of rules, regulations, policies, and agreements regarding ADA, FMLA, and Workers' Compensation training. She asserts that she does not have the authority to write policies or recommend the adoption of policies, play a role in the budget process, decide how policies or legislation will be implemented, or recommend any actions that control or implement legislation that affects DHS or DHS policy. Banks does not dispute that she delivers professional training programs to Family & Community Services' field and central office staff; conducts training programs regarding ADA and Workers' Compensation; formulates training

strategies and initiatives in the development of Family & Community Services' FMLA annual training plan; develops training curricula, materials, strategies, and programs; reviews the organization and management of new and existing programs; explores alternative delivery methods via technology; maintains liaison relationships with other divisions and administrators in the formulation of ADA, FMLA, and Workers' Compensation training modules; advises and consults with other divisions regarding training needs and priorities; and works cooperatively to plan and implement special projects, programs, policies, and procedures.

Banks has significant and independent discretionary authority because she is authorized to represent management interests by taking or recommending discretionary actions that effectively control or implement the policy of DHS by formulating training strategies and initiatives; developing training curricula; reviewing the organization and management of new and existing programs; advising and consulting with other divisions regarding training needs and priorities; and planning and implementing special projects, programs, policies, and procedures. Thus, the designation of her position is proper.

2. Michael Benson

Benson works in the Office of Fiscal Services, Bureau of Collection Services. His position description states that he supervises staff who perform duties for the collection of Metro assistance overpayments; establishes goals and objectives for subordinate staff; provides training and assigns duties; sets staff schedules and approves time off; prepares, conducts, and assigns annual performance evaluations for staff; and counsels employees concerning work performance, productivity, and/or conduct. Benson has three subordinates: a quality control supervisor, an administrative assistant, and an office associate. The quality control supervisor has three subordinates. Benson admits that he assigns work to employees and directs employees by providing guidance and instruction.

The objections fail to negate the three-factor test for supervisory status in Section 6.1(c)(ii). The objections did not establish that Benson's authority to assign work and provide guidance and instruction to employees does not require the use of independent judgment or that this authority is not held in the interest of the employer. Moreover, the objections did not assert that there would not be a prospect of adverse consequences for Benson if he did not assign and

direct his subordinates' work or take corrective action where necessary. Thus, the designation of his position is proper.[5]

3. Gladys Brown

Brown is the Cook County Quality Control Unit Manager for the Division of Family & Community Resource Centers, Bureau of Supplemental Nutrition Assistance Program (SNAP) Integrity. Her position description states that she manages and evaluates subordinate staff; monitors the review process for the SNAP program; verifies federally mandated review procedures and reporting methods are completed accurately and timely; serves as working supervisor; assigns and reviews work; provides guidance and training to staff, counsels staff regarding work performance; reassigns staff to meet day to day operating needs; establishes annual goals and objectives; approves time off; and prepares and signs performance evaluations. Brown has nine subordinates: one quality control supervisor, seven quality control reviewers, and one office associate. Brown admits that she assigns reviews to each quality control reviewer from a list of randomly selected cases but asserts that she merely assigns to ensure an equitable distribution of work and has no input in the list of cases. She also asserts that she ensures that staff apply established policy and procedures correctly when completing case reviews.

The objections fail to negate the three-factor test for supervisory status in Section 6.1(c)(ii). The objections did not establish that Brown's authority to assign work and her responsibility for ensuring that staff apply established policy and procedures correctly does not require the use of independent judgment or that this authority is not held in the interest of the employer. Moreover, the objections did not assert that there would not be a prospect of adverse consequences for Brown if she did not assign and direct her subordinate's work or take corrective action where necessary. Thus, the designation of her position is proper.

4. Gerrah Caldwell

Caldwell is the Emergency Food Assistance Program Manager for DHS. Her position description states that she organizes, plans, executes, controls and evaluates the Emergency Food Assistance Program; develops and implements policies for the program; negotiates purchase of

[5] CMS also asserts that Benson, Brown, Caldwell, Dirks, Fojtik, Halcomb, Heyer, Jordan, Laird, Lozado, Milbrandt, Morgan, Ojeda, Peddycoart, Perkins, Pullins, Ragusa, Schultz, Totten, and D. Williams' positions are properly designable under Section 6.1(c)(i). Since these positions qualify for exclusion under Section 6.1(c)(ii), it is unnecessary to determine whether they also qualify for exclusion under Section 6.1(c)(i).

service contracts; serves as a working supervisor; assigns and reviews work; provides guidance and training; counsels staff regarding work performance; reassigns staff to meet day to day operating needs; approves time off; and prepares and signs performance evaluations. Caldwell has three subordinates.

Caldwell asserts that her authority is subject to supervisory approval. She maintains that she is a lead worker as opposed to a supervisor because 90% of the duties that she assigns to her subordinates and reviews, she also performs. She admits that she directs and performs the following tasks to ensure that the Program follows and maintains compliance with federally established rules: tracking and entering program, inventory, and fiscal data and reports; ordering food; and processing travel vouchers and provider payments.

The objections fail to negate the three-factor test for supervisory status in Section 6.1(c)(ii). The objections did not establish that Caldwell's authority to assign and review work, and ensure that the Program follows and maintains compliance with federally established rules employees does not require the use of independent judgment or that this authority is not held in the interest of the employer. Moreover, the objections did not assert that there would not be a prospect of adverse consequences for Caldwell if she did not assign work, responsibly direct, and take corrective action where necessary. Thus, the designation of her position is proper.

5. Deborah Daniels

Daniels is a Budget Analyst for the Division of Family & Community Services, Bureau of Program Support and Fiscal Management, Fiscal Planning and Capital Development Unit. Her position description states that she analyzes expenditure data to develop spending plans; identifies budget issues; evaluates program needs for employment and training programs, income assistance programs, food programs, and other programs as assigned; presents progress reports of activities to DHS management and recommends appropriate action in budget lines based on expenditure trends; implements changes by DHS; prepares detailed and complex financial reports, budgets, and analysis for distribution within the Division and to external agencies and committees; manages fiscal activities associated with federal grants for employment and training programs, income assistance programs, and food programs; and monitors cash estimates, draws, and expenditures.

Daniels states that she does budget projections by projecting out historical data to come up with estimates. These projections are then given to her supervisor, and may be changed by her supervisor and other superior staff. She states that she does not have authority to make any decisions, take any action, or implement policy.

Daniels is engaged in executive and management functions and charged with the effectuation of management policies and practices of DHS and represents management interests by taking or recommending discretionary actions that effectively control or implement the policy of DHS because she is responsible for preparing financial reports, budget, and analysis; monitoring cash estimates, draws, and expenditures; and identifying budget issues. "Executive and management functions" are those that specifically relate to the running of an agency including establishing policies and procedures, preparing a budget, or otherwise assuring that an agency or department runs effectively. Dep't of Cent. Mgmt. Serv. (Pollution Control Bd.), v. Ill. Labor Rel. Bd., State Panel ("PCB"), 2013 IL App (4th) 110877 ¶ 25; Dep't of Cent. Mgmt. Serv./ Illinois Commerce Comm'n v. Ill. Labor Rel. Bd. ("ICC"), 406 Ill. App. 766, 774 (4th Dist. 2010). Although Daniels budget projections may be changed by her superiors, the Illinois Appellate Court has held that where employees implement management policies and practices, the fact that they "do not do so 'independently' is unimportant, given that the Act does not require such independence in management functions." Dep't of Cent. Mgmt. Servs. v. Ill. Labor Rel. Bd., 2011 IL App (4th) 090966 at ¶ 187.

6. George Dirks

Dirks is the Manager for the Long Term Care Intermediate Care Facilities Rate Unit, Bureau of Community Reimbursement, Division of Developmental Disabilities. The position description states that Dirks serves as a working supervisor; assigns and reviews work; 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 time off; and prepares and signs performance evaluations. Dirks has one subordinate, a Management Operations Analyst 2. Dirks contends that he assigns work 15% of the time. He admits that he directs staff and the operations of the Unit. In regard to discipline, he states that he provides input to management as appropriate.

The objections fail to negate the three-factor test for supervisory status in Section 6.1(c)(ii). The objections did not establish that Dirks' authority to assign work and responsibly direct does not require the use of independent judgment or that this authority is not held in the interest of the employer. Moreover, the objections did not assert that there would not be a prospect of adverse consequences for Dirks if he did not assign work and responsibly direct where necessary. Thus, the designation of his position is proper.

7. Edward Fojtik

Fojtik is the Director of Fiscal and Support Services for the Ann M. Kiley Center. He reports to the Facility Director. His position description states that he supervises and evaluates the activities of staff; establishes goals and objectives for subordinate staff; provides training and assigns duties; sets staff schedules and approves time off; prepares, conducts, and signs performance evaluations; counsels employees concerning work performance, productivity and/or conduct; recommends disciplinary action; carries out necessary disciplinary action and hears and adjusts employee grievances; confirms that steps are taken to assist the Department in meeting affirmative action/workplace diversity goals when hiring opportunities occur; and verifies that appropriate training is provided. He has five subordinates: an accountant supervisor, a business manager, a procurement office administrator, a storekeeper, and a dietary manager II.

Fojtik contends that he does not hire, transfer, suspend, lay off, recall, promote, discharge, reward, or discipline. He admits that he assigns work.

The objections fail to negate the three-factor test for supervisory status in Section 6.1(c)(ii). The objections did not establish that Fojtik's authority to assign work does not require the use of independent judgment or that this authority is not held in the interest of the employer. Moreover, the objections did not assert that there would not be a prospect of adverse consequences for Dirks if he did not assign work where necessary. Thus, the designation of his position is proper.

8. Kimberly Foy

Foy is the Manager of Statewide Investigations in the Bureau of Civil Affairs. Her position description states that she manages the Equal Employment Opportunity/Affirmative Action (EEO/AA) activities and investigations for downstate areas; conducts training programs to address EEO/AA issues; formulates and implements training strategies and initiatives in the

development of harassment prevention; develops and recommends appropriate methods and procedures covering assigned scope of responsibility; manages the development of new curriculum and/or revisions as the result of changes in rules, laws, statutes, and regulations; monitors and conducts investigations of allegations of discrimination and harassment in assigned areas to ensure compliance with laws; and prepares detailed progress report, statistical analyses, plans and strategies relative to patterns and trends related to disciplinary action. Foy has four subordinates: one lead investigator, two downstate investigators, and one program coordinator. The investigators investigate complaints of discrimination, sexual harassment, and/or harassment alleged to be Title VII civil rights' violations.

Foy contends that she does not write policies or recommend the adoption of policies, plays no role in the budget process, has no authority to decide how policies will be implemented, and does not recommend any actions that control or implement legislation that affects her agency.

The objections fail to raise an issue that might overcome the presumption that the designation of Foy's position is proper because they fail to show that Foy is not engaged in executive and management functions and charged with the effectuation of management policies and practices and represents management interests by taking or recommending discretionary actions that effectively control or implement policy when she manages the EEO/AA activities and investigations for downstate areas of the Department; formulates and implements training strategies and initiatives in the development of harassment prevention; develops and recommends appropriate methods and procedures covering assigned scope of responsibility; manages the development of new curriculum and/or revisions as the result of changes in rules, laws, statutes, and regulations; monitors and conducts investigations of allegations of discrimination and harassment in assigned areas to ensure compliance with laws; and prepares detailed progress reports, statistical analyses, plans, and strategies relative to patterns and trends related to disciplinary. See Dep't of Commerce & Econ. Opportunity, 30 PERI ¶ 163. Thus, the designation of her positions is proper.

9. Jayne Halcomb

Halcomb supervises the activities of units engaged in the establishment of overpayment claims for the Office of Fiscal Services. Her position description states that she monitors

operations of the central overpayment unit; directs operations of the account support unit; assigns and reviews work; 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 time off; and prepares and signs performance evaluations. Halcomb has two subordinates. Her subordinates also have subordinates.

Halcomb states that while she does supervise her subordinates, she does not have any authority to hire, transfer, suspend, lay off, recall, promote, discharge, reward, or discipline. She admits that she assigns work to employees and directs employees. She ensures that staff are following federal regulations and state statutes, as well as adhering to the rules and directives set forth in the administrative directives and rules, the employee handbook, and the union contract. She maintains that any decision she makes is based on established protocols and must be approved by her supervisor. In regard to discipline, she contends that she merely reports facts to her immediate supervisor as needed.

The objections fail to negate the three-factor test for supervisory status in Section 6.1(c)(ii). The objections did not establish that Halcomb's authority to assign and responsibly direct work does not require the use of independent judgment or that this authority is not held in the interest of the employer. Moreover, the objections did not assert that there would not be a prospect of adverse consequences for Halcomb if she did not direct work and take corrective action where necessary. Thus, the designation of her position is proper.

10. John Heyer

Heyer is the Support Operations Manager for the Illinois School for the Deaf. He directs the Worker's Compensation and Risk Management Program for all extended benefit and temporary total disability claims; reviews worker's compensation injury reports and claims; investigates all incidents; assigns and reviews work; 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 time off; and prepares and signs performance evaluations. His most recent evaluation states that his objectives include completing the paper work for Worker's Compensation/Risk Management program at the Illinois School for the Deaf and the Illinois School for the Visually Impaired; provide guidance and supervision to the security guards and the power plant staff; serve as workplace violence liaison;

continue assisting with the process of EEO investigations at the Illinois School for the Deaf; monitor the fixed assets assigned to the support operations area of supervision; and assure that performance evaluations are completed in a timely manner. Heyer has six subordinates: one building and grounds lead, one stationary engineer chief, one support service lead, one daytime guard, and two night guards. The building and grounds lead and the engineer chief have subordinates as well.

Heyer maintains that he does not have the authority to hire, transfer, suspend, lay off, recall, promote, discharge, or reward employees. He asserts that he does not assign staff because his staff already know which duties they are to perform. He also contends that he does not direct employees, but rather the building and grounds lead and the engineer chief direct their own employees on a daily basis. He asserts that he does not have daily contact with his subordinates.

The objections fail to negate the three-factor test for supervisory status in Section 6.1(c)(ii). The objections did not establish that Heyer's authority to provide guidance and training to staff and to complete performance evaluations, as stated in his evaluation, does not require the use of independent judgment or that this authority is not held in the interest of the employer. Although, his staff may be aware of the duties they are to perform and require little direction, Heyer did not establish that there would not be a prospect of adverse consequences for him if he did not take corrective action where necessary. Thus, the designation of his position is proper.

11. Alex Jordan

Jordan is a public service administrator, option 1 for the Office of Fiscal Services, Bureau of Collections. His position description states that through his subordinate staff, he organizes, plans, controls, and evaluates the activities of the Accounting and Financial Review Units; directs the receipt and reconciliation of payments, accounts adjustments, and completion of receivables reports; assigns and reviews work; establishes annual goals; provides guidance and training to staff; approves time off; prepares and signs performance evaluations; counsels staff; and reassigns staff to meet day to day operations needs. He also completes accounts receivable reports quarterly, which are sent to the Office of the Comptroller. The report is reviewed and approved by the Division Director of Fiscal Services. He has two executive IIs and one executive I who report to him.

Jordan maintains that he has no authority to discipline, change policy, or hire staff. He maintains that he has the authority to ensure that staff are following their job descriptions. He admits that he assigns work to employees and ensures that his subordinates are following their job duties.

The objections fail to negate the three-factor test for supervisory status in Section 6.1(c)(ii). The objections did not establish that Jordan's authority to assign and review work; establish annual goals; provide guidance and training to staff; approve time off; prepare and sign performance evaluations; counsel staff; and reassign staff does not require the use of independent judgment or that this authority is not held in the interest of the employer. Thus, the designation of his position is proper.

12. Cassandra Laird

Laird is the Fiscal Unit Administrator in the Vocational Rehabilitation Support Section of the Division of Rehabilitation Services. She compiles data from existing sources to make projections for grant programs to determine how much funding will be needed in the current and subsequent fiscal year. These projections are monitored monthly. She complies and organizes data and assists with staff to develop the Division's maintenance budget. She also assists in preparing projections; and allocates funding for the local field offices to use when providing direct services to customers. She is also responsible for ensuring administrative expenses supporting the Division are paid timely by staff. Her position description states that she serves as working supervisor; assigns and reviews work for staff engaged in activities of the accounting and financial review; establishes annual goals; provides guidance and training to staff; approves time off; prepares and signs annual performance evaluations; counsels staff; and reassigns staff to meet day to day operations needs. She has three direct reports: two public service administrators and one executive II. Her subordinates also have subordinates.

Laird admits that she directs employees, but only to ensure that they are following the duties listed on their job descriptions. With regard to assigning and reviewing work, Laird contends that each employee is trained on their job duties pursuant to the position functions outlined in their job descriptions. She maintains that once trained, the employees work independently to fulfill the functions outlined in their position descriptions. She states that she

has no authority to hire, transfer, suspend, lay off, recall, promote, discharge, reward, or discipline employees.

The objections fail to negate the three-factor test for supervisory status in Section 6.1(c)(ii). The objections did not establish that Laird's authority to assign and direct work does not require the use of independent judgment or that this authority is not held in the interest of the employer. Thus, the designation of her position is proper.

13. Julie Lohmar

Lohmar is the Personnel Manager for the Administrative Services Division, Bureau of Administration and Quality Assurance, Office of Alcoholism and Substance Abuse (OASA). Her position description states that she plans, directs, organizes, evaluates, and controls the operations of the Office Management Unit and the Office and Source Management Unit; conducts studies to evaluate the efficiency of existing policies and programs; makes recommendations for program and policy changes, continuations, terminations, and enhancement; meets with managers on a regular basis to discuss progress toward achievement of objectives, personnel issues, information preparation for budget, and budget impact; serves as primary personnel liaison and technical resource for the OASA on personnel issues, contractual interpretation, policy interpretation, labor relations issues; interprets agency policy, procedures, and rules for OASA managers and staff; serves as primary personnel coordinator for the statewide operations of the OASA; and confers with and makes recommendations to management to resolve identified issues related to the Division's functions. Lohmar reports to the Director of the Division of Alcoholism and Substance Abuse and the Acting Director of the Division of Mental Health and Developmental Disabilities.

Lohmar contends that the policies she has written and implemented are strictly for office management purposes including timekeeping. She admits that she assists with developing a payroll spending plan to ensure that resources are available in the appropriate funds. She asserts that the budgeted payroll is predetermined, but she does work with others to ensure that they are operating within the payroll budget. She contends that she does not have the authority to decide how policies or legislation will be implemented and does not recommend any actions that control or implement legislation that affect DHS or DHS policy.

The objections fail to raise an issue that might overcome the presumption that the designation of Lohmar's position is proper because they fail to show that Lohmar is not engaged in executive and management functions and charged with the effectuation of management policies and practices when she writes and implements policies and when she assists in developing a spending plan. She also represents management interests by taking or recommending discretionary actions that effectively control or implement the policy of a State agency when she confers with and makes recommendations to management to resolve identified issues related to the Division's functions. Thus, the designation of her position is proper.

14. Pablo Lozada, Jr.

Lozado is the Bureau Chief for the Office of Inspector General's Cook County Bureau. Lozado has five subordinates. His position description states that he supervises and directs all investigations regarding allegations of abuse, neglect, death, or serious injuries in State-operated facilities and community agencies; trains and monitors the quality of all investigations and data collection activities related to the investigation process; makes policy and procedure recommendations to the Inspector General relative to investigative findings, OIG operations, and statewide policy; serves as supervisor to investigative and support staff: assigns and reviews work; 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 time off; adjusts first level grievances; effectively recommends and imposes discipline; prepares and signs performance evaluations; and determines and recommends staffing needs.

Lozado contends that he does not handle grievances, hire, transfer, suspend, lay off, recall, promote, discharge, or reward employees. He admits that he assigns work to all employees in the Bureau. He also admits that he directs employees to conduct abuse, neglect, and exploitation investigations. He contends that he only has the authority to discipline one of his employees.

The objections fail to negate the three-factor test for supervisory status in Section 6.1(c)(ii). The objections did not establish that Lozano's authority to assign, direct, and discipline does not require the use of independent judgment or that this authority is not held in the interest of the employer. Thus, the designation of his position is proper.

15. Timothy Milbrandt

Milbrandt is the Manager of the Community Reimbursement – Purchase of Service Rates Unit for the Division of Developmental Disabilities. His position description states that he directs staff and operations of the Unit; develops, produces, analyzes, and coordinates Medicaid rates and claiming methodologies of the Department's Medicaid program; serves as working supervisor; assigns and reviews work; 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 time off; and prepares and signs performance evaluations. Milbrandt has two management operations analyst IIs who report to him.

Milbrandt states that he has the authority to assign work. He contends that he currently has not made any work assignments, however if he did, the work assignments would be based on the programs maintained by the employees who report to him. He states that he does not make recommendations on discipline and that any recommendations that he would make would be based on facts that he would report to his direct supervisor or to DHS management. He also admits that he directs employees but states that if one of his employees came to him for direction, he would merely follow agency policies and rules of the federal waiver programs or ask his supervisor for guidance.

Although, Milbrandt stated that he has yet to assign work, he does not deny that he is authorized to do so. Milbrandt asserts that his authority to direct is based merely on following agency policies and rules. However, he did not establish that there would not be a prospect of adverse consequences for him if he did not direct his subordinates' work and take corrective action if necessary. The objections fail to establish that Milbrandt's authority to assign and direct does not require the use of independent judgment and that this authority is not held in the interest of the employer. The objections fail to negate the three-factor test for supervisory status in Section 6.1(c)(ii). Thus, the designation of his position is proper.

16. Elsie Morgan

Morgan is a Program Manager for the Bureau of Workforce Development Employment and Training. She is responsible for two employment and training programs: the Center for Economic Progress and City-Wide. She serves as a technical resource to public and private service providers; monitors and facilitates successful implementation of training programs and

training to providers. Her position description states that she assigns and reviews work; 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 time off; adjusts first level grievances' effectively recommends and imposes discipline; prepares and signs performance evaluations; and determines and recommends staffing needs. She has three subordinates.

Morgan maintains that she does not have the authority to hire, transfer, suspend, lay off, recall, promote, discharge, reward, discipline, or direct employees. She maintains that work is assigned as needed, which is not often, because her staff does what is needed based on established assignments. She contends that an example of assignment would be the updating of the provider listing.

The objections fail to establish that Morgan's authority to assign does not require the use of independent judgment or that this authority is not held in the interest of the employer. Thus, the objections fail to negate the three-factor test for supervisory status in Section 6.1(c)(ii). The designation of his position is proper.

17. Debra Murrill

Murrill works in the Deputy Director's Office of the Division of Rehabilitation Services. She reports to the Deputy Director of the Division of Rehabilitation Services. She has no subordinates. She performs duties in cooperation with service bureau staff to address issues related to programs and services for individuals with disabilities; researches issues, prepares documents, reports, and summaries for review and/or approval by service bureau and Division management staff; assists the service bureaus with the preparation of information and materials that address the consistent application of program policies and procedures; conducts studies of issues related to the service bureaus; conducts research, gathers information, and prepares summaries that may include recommendations; assists the service bureaus with preparation of documents related to service delivery systems; assists in policy analysis for the service bureau; and searches federal and state announcements, interpretative bulletins, federal and state regulations and other directives and prepares information regarding the effect on program provisions. Murrill acts as the Division's contact person for the Office of Legislation. The Office of Legislation sends measures that may be of interest to DHS. Murrill will read the

summary page to see if a Division program is mentioned, and if it is, she sends the measure to the appropriate Bureau Chief and indicates that she needs them to analyze it and provide comments. She then takes their comments, puts them in the Office of Legislation's required format, obtains approval from program and supervisory staff, and posts it on the legislative tracking system.

Murrill maintains that she does not write or recommend administrative directives or rules; make program decisions or policy; or proceed without management's approval. In regard to how policies or legislation will be implemented, she maintains that it is the responsibility of senior Division staff. She maintains that if information becomes available to her that affects the Division, she forwards it to senior staff, but does not determine how the information will be used or implemented. She contends that senior staff will notify her if changes to rules, legislation, or policy are necessary. She asserts that when the Division submits legislative proposals, she may assist with editing, but the proposals come from the program areas. She processes the paperwork with the Office of Legislation only after it has been approved by the appropriate Division staff. If the Division is required to review and recommend revisions or changes, that responsibility may be assigned to her, but it has also been assigned to others in the Division as well. Murrill maintains that the majority of her duties are based upon a directive or request from the Director, Assistant Director, the Bureau Chiefs, or another Division. She maintains that she merely researches and coordinates information and serves as a conduit for the Division. She asserts that she does not make management decisions and does not proceed with or submit projects or significant information without the knowledge and/or approval of her supervisor or other superiors. She contends that she is not responsible for the effectuation of policy because she is not responsible for ensuring that policies are updated, implemented, or placed into effect. She maintains that this is the program managers' responsibilities and her role is to merely assist them with the processing of paperwork and information with the main DHS units. In regard to rules, she asserts that she does not act without direction or approval.

The objections fail to raise an issue that might overcome the presumption that the designation is proper because they fail to show that Murrill does not represent management interests by taking or recommending discretionary actions that effectively control or implement agency policy when she prepares and assists in the editing of rules; flags measures sent by the

Office of Legislation; assists with legislative proposals; and reviews and recommends revisions or changes. Thus, the designation of her position is proper.

18. Marsha Northern

Northern is the Director of Human Resources for the Division of Mental Health Bureau of System Support. Her position description states that she initiates personnel actions and coordinates requests for approval to hire for the Division, including central office, all hospitals, and regions; reviews all requests to verify accuracy and completeness of forms, and troubleshoots problems within the requests; monitors and tracks requests through the approval process; works with administrators answering questions and explaining programs and services offered by the Division; coordinates with administrative staff regarding e-travel submissions and approvals; serves as liaison between the Division, regional executive directors, hospital administrators, facility personnel officers, and business administrators; provides interpretations and guidance in the meaning and implementation of new and revised human resource policies and procedures. In her role as lead personnel/human resources officer, her responsibilities include the filing of vacancies, among other things. In this role, she follows CMS guidelines, checks grades, verifies seniority, and establishing salaries. Northern maintains that she does not act independently or exercise discretion, judgment, or preference. She maintains that all actions that she takes are within the parameters set by CMS. She has no subordinates.

The objections fail to raise an issue that might overcome the presumption that the designation is proper because they failed to show that Northern is not engaged in executive and management functions and charged with the effectuation of management policies and practices or does not represent management interests by taking or recommending discretionary actions that effectively control or implement the policy of DHS when she initiates personnel actions and coordinates requests for approval to hire for the Division, fills vacancies, and establishes salaries. Northern maintains that she does not exercise independence or discretion in performing these duties. Regardless, the Illinois Appellate Court has held that where employees implement management policies and practices, the fact that they "do not do so 'independently' is unimportant, given that the Act does not require such independence in management functions."

Dep't of Cent. Mgmt. Servs. v. Ill. Labor Rel. Bd., 2001 IL App (4th) 090966 at ¶ 186. Thus, the designation of her position is proper.[6]

19. Daniel Ojeda

Ojeda is the Upstate Recruitment and Selection Manager for the Office of Human Resources Bureau of Recruitment and Selection. He reviews selection criteria and interview questions to ensure compliance with Rutan mandates; assigns and reviews work; provides guidance and training to assigned staff; counsels staff regarding work performance; reassigns staff to meet day to day operating needs; approves time off; adjusts grievances; recommends and imposes discipline; prepares and signs performance evaluations; and determines and recommends staff needs. He has five subordinates: four human resources specialists and one human resources associate.

Ojeda contends that he has no authority to hire, transfer, suspend, lay off, recall, promote, discharge, reward, or discipline employees. He maintains that assignments are based on a rotation. In regard to directing employees, he asserts that he merely reinforces the proper completion of the required forms and requirements of Rutan. Ojeda maintains that counseling, adjusting grievances, and discipline are the responsibility of the Bureau Chief or the Human Resources Director.

The objections fail to negate the three-factor test for supervisory status in Section 6.1(c)(ii). The objections did not establish that Ojeda's authority to responsibly direct work does not require the use of independent judgment or that this authority is not held in the interest of the employer. Moreover, the objections did not assert that there would not be a prospect of adverse consequences for Ojeda if he did not direct work where necessary. Thus, the designation of his position is proper.

20. Patricia Pace-Halpin

Pace-Halpin is a Budget Analyst for the Division of Family & Community Services, Bureau of Program Support and Fiscal Management, Fiscal Planning and Capital Development Unit. She reports to the Associate Director of the Bureau. She has no subordinates. She does budget projections by projecting out historical data to come up with estimates. The estimates are

[6] CMS also asserts that Northern's position is properly designable under Section 6.1(c)(ii). Since Caldwell's position qualifies for exclusion under Section 6.1(c)(i), it is unnecessary to determine whether the position also qualifies for exclusion under Section 6.1(c)(ii).

then given to the Associate Director, who may make changes. Her position description states that she performs complex specialized data research and analysis to design and develop methodologies and techniques to verify the development, establishment, and maintenance of the Division's budget; analyzes historical and current expenditure data to develop Division spending plans, identifies budget issues, and evaluates program needs; presents progress reports of activities to DHS management and recommends appropriate action in budget lines based on expenditure trends; implements changes desired by DHS; and prepares detailed and complex financial reports, budgets, and analysis for distribution within the Division and to external agencies and committees.

Pace-Halpin contends that her role in the budget process is analytical and advisory. She contends that she does not decide which projects, programs, vendors, or services should be funded or how much they should be funded. She maintains that she provides information on spending and funds so that program and agency administrators can make decisions on how to best use state and federal funds. She maintains that she does not write policies or recommend the adoption of policies, has no authority to decide how policies or legislation will be implemented, and does not recommend any actions that control or implement legislation that affects agency or agency policy.

The objections fail to raise an issue that might overcome the presumption that the designation is proper because they failed to show that Pace-Halpin is not engaged in executive and management functions and charged with the effectuation of management policies and practices or does not represent management interests by taking or recommending discretionary actions that effectively control or implement the policy of DHS when she assists in developing spending plans, identifies budget issues, evaluates program needs, and recommends appropriate action in budget lines. See Ill. Dep't of Cent. Mgmt. Servs. (Dep't of Employment Security), 30 PERI ¶ 168 (IL LRB-SP 2014). Thus, the designation of her position is proper.

21. Jeffrey Peddycoart

Peddycoart is the Data Unit Manager for the Division of Family & Community Services, Bureau of Planning and Evaluation Data Unit. He reports to the Bureau Chief. His position description states that he plans, designs, and directs highly complex and specialized analysis projects; develops and collects specialized data depicting the health benefits of various Division

interventions; performs complex statistical analysis of the data; designs and develops unique methodologies and techniques to ensure the acquisition of needed health, medical, social, and administrative data; confers with contracting firms to direct the evaluation effort in the area of programmatic effect on individual and community health and development outcomes; directs the implementation of changes in project evaluation design desired by the Division; serves as a working supervisor; assigns and reviews work; 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 time off; and prepares and signs performance evaluations. He has two subordinates.

Peddycoart maintains that he does not hire, transfer, suspend, lay off, recall, promote, discharge, reward, or discipline employees. He states that he assigns work to the most capable employee based on their education, abilities, knowledge, skills, and availability. He admits that he directs employees by providing simple technical assistance, for example explaining how to use a particular software package or technique in data analysis. He admits that he reviews his subordinates' work for overall quality, omissions, and grammatical errors. He also provides some guidance to staff with regard to how reports are formatted and presented for style. He contends that he supervises less than thirty minutes each day. He also maintains that he functions more as a lead worker than supervisor. He states that he often takes his subordinates' advice on how to create and present data findings.

The objections fail to negate the three-factor test for supervisory status in Section 6.1(c)(ii). The objections did not establish that Peddycoart's authority to assign and responsibly direct work does not require the use of independent judgment or that this authority is not held in the interest of the employer. Moreover, the objections did not assert that there would not be a prospect of adverse consequences for Peddycoart if he did not direct work where necessary. Thus, the designation of his position is proper.

22. Steven Perkins

Perkins is the Manager of Downstate Recruitment and Selection for the Office of Human Resources Bureau of Recruitment and Selection. He reports to the Bureau Chief. He has eight subordinates. His position description states that he organizes, plans, executes, monitors, and evaluates the Downstate Recruitment and Selection section and the Technical Selection Program;

directs staff in the on-going operations and the implementation of special interviewing projects; interprets program policies for staff; plans, assigns, supervises, and reviews the activities of staff engaged in all phases of the Technician Selection Program; serves as working supervisor; assigns and reviews work; 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 time off; and prepares and signs performance evaluations.

Perkins maintains that the does not hire, transfer, suspend, lay off, recall, promote, discharge, reward, or discipline employees. He admits that he assigns, but states that it is based on a rotation. He contends that he directs employees by providing clarification in regard to policies and procedures.

The objections fail to negate the three-factor test for supervisory status in Section 6.1(c)(ii). The objections did not establish that Perkins' authority to responsibly direct work does not require the use of independent judgment or that this authority is not held in the interest of the employer. Moreover, the objections did not assert that there would not be a prospect of adverse consequences for Perkins if he did not direct work and take corrective action where necessary. Thus, the designation of his position is proper

23. Siony Pullins

Pullins is the Director of Nutrition Management for the Ludeman Center. She reports to the Director of Fiscal Services. She coordinates food service systems including food preparation and sanitation; coordinates food preparation to meet all diet and consistency orders; monitors the food service system and meal preparation in the kitchen for compliance with all applicable local, state, and federal guidelines; provides food and nutrition in service training for support service staff in the kitchen area; works with accounting staff to ensure that all food orders are accurate and in compliance with nutritional requirements; coordinates and supervises all updates and revisions to menus, packing slips, production sheets, and diet orders; serves as a working supervisor; assigns and reviews work; 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 time off; and prepares and signs performance evaluations. She has two subordinates: a dietary manager and a support service coordinator.

Pullins maintains that she does not have the authority to hire, transfer, suspend, lay off recall, promote, discharge, or discipline. She admits that she assigns work to her employees. She also rewards employees by personally giving them something to show that she appreciates their work if she believes their performance should be recognized. She also directs by enforcing policy and procedures. However, she maintains that she does not write policy, and merely reports facts to management and/or her supervisor, who make disciplinary decisions. She contends that she is not able to attend weekly executive meetings. She maintains that she does not run the kitchen entirely by herself, but actually must coordinate and report every detail to management. She states that she implements policies but does not participate in decision making.

The objections fail to negate the three-factor test for supervisory status in Section 6.1(c)(ii). The objections did not establish that Pullin's authority to assign and responsibly direct work does not require the use of independent judgment or that this authority is not held in the interest of the employer. Moreover, the objections did not assert that there would not be a prospect of adverse consequences for Pullins if she did not direct and take corrective action if necessary. Thus, the designation of her position is proper.

24. Cynthia Ragusa

Ragusa is the Supervisor of the Contract and Performance Development Unit for the Division of Family & Community Services, Bureau of Program Support and Fiscal Management. She reports to the Associate Director of the Bureau. Her position description states that she plans, executes, and manages the statewide Serving Clients at the Front Door Program; works closely with local offices, community partners, and central office staff on Serving Clients at the Front Door Program; makes substantive recommendations for policy and procedure implementation based on local demographic data and resources; analyzes fiscal impact of existing and proposed program actions; serves as working supervisor; assigns and reviews work; provides guidance and training; counsels staff regarding work performance; reassigns staff to meet day to day operating needs; establishes annual goals and objectives; approves time off; prepares and signs performance evaluations; as program support manager, verifies that all research has been conducted, provides guidance to staff that are responsible for preparing requests for proposal, reviews drafts, follows through on issuance and successful

implementation; monitors and directs staff that process front door billings; establishes unit processes and implements procedures; and verifies vouchers are processed and current. She has two subordinates.

Ragusa contends that she has no authority to hire, transfer, suspend, lay off, recall, promote, discharge, or reward employees. She contends that she provides guidance to her staff and reviews their work to ensure that it is completely correctly. She maintains that her Associate Director must also review their work for final approval. She admits that she has counseled an employee, but discussed it with the Associate Director for approval prior to initiating. Ragusa admits that she performs performance evaluations and reviews them with staff, but asserts that the Associate Director has the final word on the content of the evaluation and has made changes to the evaluations.

The objections fail to negate the three-factor test for supervisory status in Section 6.1(c)(ii). The objections did not establish that Ragusa's authority to direct does not require the use of independent judgment or that this authority is not held in the interest of the employer. Moreover, the objections did not assert that there would not be a prospect of adverse consequences for Ragusa if she did not direct and take corrective action if necessary. Thus, the designation of her position is proper.

25. Kelly Schultz

Schultz is the Administrative Services Coordinator for the Shapiro Center. She oversees the overall security program at the Center; oversees the overall barbering/beautician work completed through subordinate staff; serves as the Center liaison with the Office of the Inspector General and the Illinois State Police; establishes goals and objectives for subordinate staff; provides training and assigns duty; sets staff schedules and approves time off; prepares, conducts, and signs annual performance evaluations; counsels staff regarding work performance; and ensures that established rules set forth by DHS and the Center are being followed. She has three subordinates: a security chief officer, a barber, and a beautician.

Schultz maintains that she does not have the authority to make decisions with independent judgment and merely follows established DHS and Center procedures, rules, policies, and collective bargaining agreements. She contends that the barber and beautician work independently and require very little oversight. She asserts that she does not have the authority

to hire, transfer, lay off, recall, promote, discharge, or assign employees. She maintains that assignments and objectives are already established through DHS, the Center, and collective bargaining agreements. She asserts that she would counsel an employee regarding work performance, productivity, and/or conduct if warranted. She maintains that the direction that she provides is based on pre-existing guidelines, schedules, objectives, polices, and collective bargaining agreements.

The objections fail to negate the three-factor test for supervisory status in Section 6.1(c)(ii). The objections did not establish that Schultz's authority to direct work does not require the use of independent judgment or that this authority is not held in the interest of the employer. Moreover, the objections did not assert that there would not be a prospect of adverse consequences for Schultz if she did not direct her subordinates' work where necessary. Thus, the designation of her position is proper.

26. Lori Stouffe

Stouffe is a Special Assistant to the Chief of Staff for the Chief of Staff Office. She has no subordinates. Her position description states that she performs a variety of duties of a highly sensitive and critical nature to ensure smooth flow of operations in the divisions in a trouble shooter capacity; researches critical problem areas; prepares reports of research in the form of issue papers; makes recommendations for resolution to the Chief of Staff; serves as primary resource person and liaison between the Chief of Staff and administrative managers; serves as primary point of contact for all issues directed to the Chief of Staff; confers with agency staff on procurement requests; serves as liaison between the Chief of Staff's Office, the Office of Legislation and elected officials; establishes effective working relationships with staff from legislative offices who have interest in DHS programs; analyzes correspondence and reports received by the Chief of Staff to ensure timely awareness of items of a priority nature. Her performance appraisal for 2012-2013 states as one of her objectives: interpret policy as it relates to the daily operation of the agency and the Office of the Chief of Staff.

Stouffe maintains that she does not write polices or recommend the adoption of policies, play any role in the budget process, have the authority to decide how policies or legislation will be implemented, and does not recommend any actions that control or implement legislation that affects agency or agency policy. She states that she does not have significant discretion or

independent judgment. She admits that she updates the Chief of Staff on issues in need of her immediate attention, but maintains that she does not research problem areas, prepare reports of research in the form of issue papers, or resolve issues. She asserts that she merely informs the Chief of Staff, Office of Press and Community Relations and Legislation of these issues.

The objections fail to raise an issue that might overcome the presumption that the designation is proper because they failed to show that Stouffe does not represent management interests by taking or recommending discretionary actions that effectively control or implement the policy of DHS when she decides which issues require the Chief of Staff's immediate attention and informs the Chief of Staff, Office of Press and Community Relations and Legislation of issues. Thus, the designation of her position is proper. As noted, Section 6.1(c)(i) allows designation of a position where an employee merely takes discretionary action that effectively implements agency policy. Dep't of Commerce & Econ. Opportunity, 30 PERI ¶ 163. Thus, the designation of her position is proper.

27. Steve Totten

Totten is the Supervisor of the Fiscal Services of the Title XX Program Unit for the Division of Family & Community Services, Office of Adult Services and Basic Supports, Bureau of Basic Supports. He reports to the Acting Bureau Chief. His position description states that he verifies compliance of services and programs purchased by DHS through the Social Services Block Grant (SSBG) and the Donated Funds Initiative (DFI); coordinates SSBG and DFI ongoing programs with provider agencies; provides programmatic direction to the public and private agencies under contract with DHS; supervisors staff; assigns and reviews work; 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 time off; and prepares and signs performance evaluations. He has five subordinates.

Totten maintains that he does not hire, transfer, suspend, lay off, recall, promote, discharge, reward, or discipline employees. He asserts that he assigns work to employees based on direction he receives from the Acting Bureau Chief and existing policies. He reports that his direction requires no significant discretion or judgment.

The objections fail to negate the three-factor test for supervisory status in Section 6.1(c)(ii). The objections did not establish that Totten's authority to direct work does not require

the use of independent judgment or that this authority is not held in the interest of the employer. Moreover, the objections did not assert that there would not be a prospect of adverse consequences for Totten if he did not direct his subordinates' work and take corrective action where necessary. Thus, the designation of his position is proper.

28. Donnie Williams

Williams is the Bureau Chief of the Office of Inspector General's North Bureau. He reports to the Deputy Inspector General for DHS. He has six subordinates. He supervises and directs all investigations regarding allegations of abuse, neglect, death, exploitation, or serious injuries in State-operated facilities and community agendas; trains and monitors the quality of investigations and data collection activities related to the investigatory process; makes sensitive policy and procedure recommendations to the Inspector General relative to investigative findings, OIG operations, and statewide policy; serves as a supervisor to investigative and support staff; assists the training coordinator in providing training programs; assigns cases and monitors the progress of reviews and approves or rejects all investigations conducted on allegations; and approves recommendations of subordinate staff ensuring the programs, polices, and procedures comply with DHS rules and regulations.

Williams states he has no authority to hire, transfer, suspend, lay off, recall, promote, discharge, reward, or discipline employees. He admits that he assigns work to his subordinates.

The objections fail to negate the three-factor test for supervisory status in Section 6.1(c)(ii). The objections did not establish that Williams' authority to assign and direct work does not require the use of independent judgment or that this authority is not held in the interest of the employer. Moreover, the objections did not assert that there would not be a prospect of adverse consequences for Williams if she did not direct his subordinates' work and take corrective action where necessary. Thus, the designation of his position is proper.

29. Kendra Williams

Williams is the Director of Human Resources for the Division of Mental Health Treatment and Detention Facility. She reports to the Program Director. She has no subordinates. Her position description states that she administers and enforces the Illinois Personnel Code, Personnel Rules of the CMS, and the Pay Plan; provides management direction, advice, guidance, and counsel regarding personnel administration and the application of the Personnel

Code; monitors compliance with the Personnel Code; classifies all positions established within the organization units; drafts and/or revises position descriptions; and routinely meets with the director to keep him apprised of any issues which could adversely impact the facility.

Williams states that although she is responsible for the personnel program, she must follow all existing rules and regulations and does not have authority to make changes or revisions to rules and regulations. She maintains that she does not write policies or recommend the adoption of polices; have authority to decide how polices or legislation will be implemented; or plan a role in the budget process. She admits that she does maintain the staffing plan for the facility. She admits that she can give recommendations regarding staffing levels and which positions should be added or removed, but asserts she has no authority to change the plan without the approval of the Program Director.

The objections fail to raise an issue that might overcome the presumption that the designation is proper because they failed to show that Williams is not engaged in executive and management functions and charged with the effectuation of management policies and practices or does not represent management interests by taking or recommending discretionary actions that effectively control or implement the policy of DHS when she gives recommendations regarding staffing levels, and provides management direction, advice, guidance, and counsel. Regardless of whether Williams must seek approval from the Program Director before making changes, the Act does not require a person to exercise exclusive authority in the effectuation of management policies. Thus, the designation of her position is proper.

30. 40 remaining positions

CMS' designation of the 40 remaining positions is proper because the designations are presumed to be properly made and no specific evidence has been introduced by AFSCME or incumbent employees to suggest that the positions at issue do not have "significant and independent discretionary authority as an employee." AFSCME has not raised issues of fact for hearing simply by asserting that 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). Since no evidence was provided that contradicts the positions' job duties and responsibilities, AFSCME has failed to

raise an issue that overcomes the presumption that the designation of these 40 positions is proper. As such, there is no evidence that the positions do not have significant independent and discretionary authority when performing the tasks set forth in the position descriptions. Thus, CMS properly designated these positions.

IV. CONCLUSION OF LAW

The Governor's designations in this case were 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 with the Department of Human Services are excluded from the self-organization and collective bargaining provisions of Section 6 of the Illinois Public Labor Relations Act:

Position Number	Incumbent	Working Title
37015-10-00-100-00-01	Lori Stouffe	Assistant to the Chief of Staff
37015-10-07-142-00-01	Jayne Halcomb	Field Support Supervisor
37015-10-07-161-00-01	Alex Jordan	Revenue Supervisor
37015-10-07-162-00-01	Michael Benson	Litigation Support Supervisor
37015-10-10-410-00-01	Vacant	Manager of Property/Inventory Control
37015-10-11-210-20-01	Steve Perkins	Manager of Downstate Recruitment & Selection
37015-10-11-250-20-29	Daniel Ojeda	Manager of Upstate Recruitment & Selection
37015-10-11-310-00-01	Vacant	Assistant Bureau Chief of Employee Services
37015-10-11-360-00-01	Janet Sampson	Personnel Manager
37015-10-11-380-00-01	Frances Keeney	Personnel Manager
37015-10-11-390-00-01	Vacant	Personnel Manager
37015-10-11-500-00-01	Wendy Power	Assistant to Payroll & Benefits
37015-10-14-200-00-01	Roland Dejesus	Administrator of Domestic Abuse
37015-10-14-300-00-02	Donnie Williams	Manager of Northern Region
37015-10-14-400-00-29	Pablo Lozada Jr.	Manager of Chicago Metro
37015-10-14-500-00-01	William Diggins	Manager of Central Region
37015-10-14-600-00-01	James Long Jr.	Manager of Southern Region
37015-10-17-910-00-01	Kimberly Foy	Manager of Downstate EEO/AA Office

37015-10-40-120-00-01	Julie Lohmar	Personnel Manager
37015-10-41-900-00-02	Debra Murrill	DRS Policy/ Legislation Liaison
37015-10-41-350-11-01	Cherri Montgomery	Labor Relations Specialist/Home Services
37015-10-41-400-00-01	Cathy Meadows	Manager/Client Assistance Program
37015-10-41-900-00-01	Cassandra Laird	Fiscal/Budget Manager
37015-10-41-910-00-01	Cheryl Bradley	Manager/ Contract Unit
37015-10-43-400-00-01	William Suttiles	Fiscal/Budget Manager
37015-10-43-500-00-20	John Heyer	Support Operations Manager
37015-10-55-300-00-01	Nelson Grinnage	Business Manager/ Blind Services and ICRE Wood Facility
37015-10-66-051-00-01	Vacant	Strategic Planning and Budget
37015-10-66-052-00-01	Troy Markert	Medicaid appeals and complaints
37015-10-66-053-10-01	Vacant	Supervises the Medicaid Unit
37015-10-66-171-00-01	George Bengel	Supervises staff responsible for processing funding requests for CILA program
37015-10-66-172-00-01	Tim Milbrandt	Supervises the operation of the Division's Purchase of Services Unit
37015-10-66-173-00-01	Dirks, George	Supervises the operation of the Division's Purchase of Services Unit
37015-10-66-220-00-01	Boston, Paula	budget development
37015-10-66-510-00-01	McNamara, John	Maintains the Division's data systems
37015-10-67-100-00-01	Randall Waselewski	Fiscal Director
37015-10-70-100-10-21	Edward Fojtik	Director Fiscal/Support
37015-10-72-430-00-21	Siony Pullins	Dietary Services Admin.
37015-10-73-000-00-21	Vacant	Center Investigator/Quality Assurance Manager
37015-10-73-030-00-21	Vacant	HR/Labor Relations
37015-10-73-050-00-21	Debra Muhlstadt	Business Manager
37015-10-75-004-01-21	Ruth Doyle	Business Administrator
37015-10-75-004-01-22	Kelly Schultz	Admin Services Coordinator
37015-10-75-005-01-21	Clinton Yale	Property Services Adm
37015-10-76-120-00-01	Marcia Northern	Director of Human Resources
37015-10-79-500-00-01	Amy Toombs	Business Administrator
37015-10-80-050-01-21	Vicki Fuentes	Quality Manager
37015-10-80-070-00-21	Chris Wells	Business Administrator
37015-10-88-020-00-01	Kendra Williams	Director of Human Resources

37015-10-90-223-30-01	Vacant	Supervisor
37015-10-90-223-44-01	Richard Martin	Supervisor
37015-10-96-445-20-01	Gerrah Caldwell	Manager/Supervisor
37015-10-96-445-30-01	Bill Benedict	Manager/Supervisor
37015-10-96-445-31-01	Steve Totten	Supervisor
37015-10-97-555-10-01	Pamela Clay-Wilson	Managerial/Confidential
37015-10-97-559-10-01	Susan Suchy	Managerial/Supervisory
37015-10-97-561-10-01	Vacant	Managerial/Supervisory
37015-10-97-561-20-01	Gladys Brown	Supervisory
37015-10-97-561-30-01	Thomas Regan	Supervisory
37015-10-97-666-50-01	Elsie Darlene Morgan	Managerial/Supervisory
37015-10-97-666-60-01	Olivia Edwards	Managerial/Supervisory
37015-10-97-888-00-01	Vacant	Managerial/Supervisory
37015-10-99-778-10-01	Jeff Peddycoart	Supervisory
37015-10-99-780-31-01	Debbie Daniels	Budget Analyst
37015-10-99-780-32-01	Patti Pace-Halpin	Budget Analyst
37015-10-99-780-34-01	Vacant	Budget Analyst
37015-10-99-780-40-01	Vacant	Supervisory/Confidential
37015-10-99-780-41-01	Denise Banks	Confidential
37015-10-99-780-60-01	Cynthia Ragusa	Supervisory/Managerial

VI. EXCEPTIONS

Pursuant to Section 1300.90 and Section 1300.130 of the Board's Rules and Regulations, 80 Ill. Admin. Code Part 1300,[7] parties may file exceptions to the Administrative Law Judge's recommended decision and order, and briefs in support of those exceptions, not later than three 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 sent to ILRB.Filing@Illinois.gov. Each party shall serve its exception on the other parties. If the original exceptions are withdrawn, then all subsequent exceptions are moot.

[7] Available at http://www.state.il.us/ilrb/subsections/pdfs/Section%201300%20Illinois%20Register.pdf

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 21st day of March, 2014

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

/s/ Michelle Owen

Michelle Owen
Administrative Law Judge