

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

State of Illinois, Department of Central Management Services, (Department of Children and Family Services),	)	
	)	
Petitioner	)	Case No. S-DE-14-230
	)	
and	)	
	)	
American Federation of State, County and Municipal Employees, Council 31,	)	
	)	
Labor Organization-Objector	)	
	)	
and	)	
	)	
Chrystal Alexander and Rosie Arnette,	)	
	)	
Employee-Objectors	)	

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

Section 6.1 of the Illinois Public Labor Relations Act, 5 ILCS 315/6.1 (2012) *added by* Public Act 97-1172 (eff. April 5, 2013), allows the Governor of the State of Illinois to designate certain public employment positions with the State of Illinois as excluded from collective bargaining rights which might otherwise be granted under the Illinois Public Labor Relations Act. There are three broad categories of positions which may be so designated: 1) positions which were first certified to be in a bargaining unit by the Illinois Labor Relations Board on or after December 2, 2008, 2) positions which were the subject of a petition for such certification pending on April 5, 2013 (the effective date of Public Act 97-1172), or 3) positions which have never been certified to have been in a collective bargaining unit. Only 3,580 of such positions may be so designated by the Governor, and, of those, only 1,900 positions which have already been certified to be in a collective bargaining unit.

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

- 1) it must authorize an employee in the position to act as a legislative liaison;

- 2) it must have a title of or authorize a person who holds the position to exercise substantially similar duties as a Senior Public Service Administrator, Public Information Officer, or Chief Information Officer, or as an agency General Counsel, Chief of Staff, Executive Director, Deputy Director, Chief Fiscal Officer, or Human Resources Director;
- 3) it must be designated by the employer as exempt from the requirements arising out of the settlement of Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990), and be completely exempt from jurisdiction B of the Personnel Code, 20 ILCS 415/8b through 8b.20 (2012), see 20 ILCS 415/4 through 4d (2012);
- 4) it must be a term appointed position pursuant to Section 8b.18 or 8b.19 of the Personnel Code, 20 ILCS 415/8b.18, 8b.19 (2012); or
- 5) it must authorize an employee in that position to have “significant and independent discretionary authority as an employee” by which the Act means the employee is either
  - (i) engaged in executive and management functions of a State agency and charged with the effectuation of management policies and practices of a State agency or represents management interests by taking or recommending discretionary actions that effectively control or implement the policy of a State agency; or
  - (ii) qualifies as a supervisor of a State agency as that term is defined under Section 152 of the National Labor Relations Act, 29 U.S.C. 152(11), or any orders of the National Labor Relations Board interpreting that provision or decisions of courts reviewing decisions of the National Labor Relations Board.

Section 6.1(d) creates a presumption that any such designation made by the Governor was properly made. It also requires the Illinois Labor Relations Board to determine, in a manner consistent with due process, whether the designation comports with the requirements of Section 6.1, and to do so within 60 days.<sup>1</sup>

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<sup>1</sup> 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.

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

On March 17, 2014, the Illinois Department of Central Management Services (CMS), on behalf of the Governor, filed the above-captioned designation pursuant to Section 6.1 of the Act and Section 1300.50 of the Board's Rules. On March 20, 2014, Chrystal Alexander, an employee of the State of Illinois who occupies one of the positions designated as excluded from collective bargaining rights filed objections to the designation. On March 26, 2014, the American Federation of State, County and Municipal Employees, Council 31 (AFSCME) filed objections to the designation pursuant to Section 1300.60(a)(3) of the Board's Rules. On March 27, 2014, Rosie Arnette, an employee of the State of Illinois who occupies one of the positions designated as excluded from collective bargaining rights filed objections to the designation. Based on my review of the designation, the documents submitted as part of the designation, the objections, and the documents and arguments submitted in support of those objections, I find that the designation was properly submitted, that it is consistent with the requirements of Section 6.1 of the Act, and that the objections fail to raise an issue of law or fact that might overcome the presumption that the designation is proper. Consequently, I recommend that the Executive Director certify the designation of the positions at issue in this matter as set out below and, to the extent necessary, amend any applicable certifications of exclusive representatives to eliminate any existing inclusion of these positions within any collective bargaining unit.

The following five Public Service Administrator, Option 1 positions within the Department of Children and Family Services are at issue in this designation:

37015-16-20-710-00-01	General Services Administrator	Alan Bucari
37015-16-64-300-20-01	Contracts Administrator	Melanie Campbell
37015-16-64-300-30-01	Contracts Administrator	Vacant
37015-16-64-300-40-01	Contracts Administrator	Chrystal Alexander
37015-16-64-300-50-01	Contracts Administrator	Rosie Arnette

CMS's petition indicates the positions at issue qualify for designation under Section 6.1(b)(5) of the Act which permits designation if the position authorizes an employee in that position to have "significant and independent discretionary authority."<sup>2</sup> AFSCME objects to designation of all listed positions. Chrystal Alexander and Rosie Arnette objected to the designation of their own positions.

### **I. Objections**

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

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

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<sup>2</sup> CMS filed position descriptions (CMS-104s) for the positions and affidavits in support of its assertion. These positions are currently represented by AFSCME.

AFSCME also filed position-specific exceptions with respect to the positions held by Alan Bucari, Chrystal Alexander, Melanie Campbell, and Rosie Arnette. AFSCME states that none of these employees have a role in the budgetary or legislative process. Further, it asserts that Alexander, Campbell, and Arnette have no role in establishing policies. AFSCME also states that Bucari's role is limited to presenting policies for approval to the State Records Commission and that he provides only professional input to his superiors.

In addition, AFSCME asserts that Bucari and Alexander exercise no independent judgment in performing the enumerated supervisory functions and that they have not been held accountable in any meaningful way for the mistakes of their subordinates. AFSCME asserts that Campbell and Arnette exercise supervisory authority only with respect to assignment. AFSCME states that Arnette's assignment of work is routine and not independent because it is based on geography and may be changed by her supervisor.

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

Chrystal Alexander objected to the designation of her own position, asserting that she does not write policy and has no role in deciding how policies will be implemented. She denies that she has authority to hire, transfer, suspend, layoff, recall, promote, discharge, reward, or discipline her subordinates.

Rosie Arnette objected to the designation of her own position, asserting that upper management may change her decision concerning assignment of work. Further, she asserts that she does not make independent decisions when overseeing her subordinates. Finally, she states that she has no authority to write policies or to decide how legislation is implemented.

## **II. Material Facts**

### **a. General Services Administrator, Alan Bucari - (37015-16-20-710-00-01)**

Alan Bucari's position description provides that he oversees three subordinates. It further states that he serves as a working supervisor. In that capacity, he 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/disapproves time off requests, and prepares and signs performance evaluations.

Bucari denies that he has authority to hire, transfer, suspend, layoff, recall, promote, discharge, reward, assign, and discipline employees. He does not deny that he directs his subordinates. He admits that he ensures that his subordinates' daily assignments are "within the parameters of their job description and performance evaluation." Further, he does not state that the description he provided is the sole means by which he directs his subordinates. He does not deny that he prepares performance evaluations, establishes annual goals and objectives, and reviews his subordinates' work.

b. Contracts Administrators - Melanie Campbell (37015-16-64-300-20-01);

Melanie Campbell's position description provides that she oversees seven subordinates. It further states that she serves as a working supervisor. In that capacity, 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/disapproves time off requests, and prepares and signs performance evaluations.

Campbell denies that she has authority to hire, transfer, suspend, layoff, recall, discharge, reward, discipline, and direct her subordinates. She admits that she "assign[s] providers to contract staff members."

c. Chrystal Alexander (37015-16-64-300-40-01);

Chrystal Alexander's position description provides that she oversees eight subordinates. It further states that she serves as a working supervisor. In that capacity, 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/disapproves time off requests, and prepares and signs performance evaluations.

Alexander denies that she has the authority to hire, transfer, suspend, layoff, recall, promote, discharge, reward, or discipline her subordinates. However, she admits that she provides direction to her subordinates to help them understand established rules, laws, and policies. She also admits that she assigns work to her subordinates. Alexander does not deny

that she completes performance evaluations for her subordinates. Further, she admits that she makes recommendations to her immediate supervisor concerning the reassignment of employees to meet day-to-day needs, the counseling of employees regarding work performance, and the initiation of corrective action.

d. Rosie Arnette (37015-16-64-300-50-01)

Rosie Arnette's position description provides that she oversees eight subordinates. It further states that she serves as a working supervisor. In that capacity, 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/disapproves time off requests, and prepares and signs performance evaluations.

Arnette admits that she serves as a "working supervisor to make sure the work is done, which include[s] giving directions, providing feedback, checking work, making sure staff have what is needed to do their jobs, and evaluating performances." However, she notes that the staff she supervises is also supervised by upper management. She states that "my decisions are not independent of them" and that "what is recommended is what goes." She admits that she assigns work based on job description and geography, however, she notes that her decision may be changed by upper management.

### **III. Discussion and Analysis**

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

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

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

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

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

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

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

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

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

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

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

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

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

Under the NLRA, a supervisor is an employee who has “authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such

authority is not of a merely routine or clerical nature, but requires the use of independent judgment.” 29 U.S.C.A. § 152(11).

In other words, “employees are statutory supervisors if (1) they hold the authority to engage in any 1 of the 12 listed supervisory functions, (2) their ‘exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment,’ and (3) their authority is held ‘in the interest of the employer.’ ” NLRB v. Kentucky River Comm. Care, Inc. (“Kentucky River”), 532 U.S. 706, 713 (2001) (quoting NLRB v. Health Care & Retirement Corp. of America, 511 U.S. 571, 573-574 (1994); See also Oakwood Healthcare, Inc. v. United Auto Automobile, Aerospace and Agricultural Implement Workers of America (“Oakwood Healthcare”), 348 NLRB 686, 687 (2006). A decision that is “dictated or controlled by detailed instructions, whether set forth in company policies or rules, the verbal instructions of a higher authority, or in the provisions of a collective bargaining agreement” is not independent. Oakwood Healthcare, 348 NLRB at 689.

#### d. Constitutional Arguments

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

#### e. Non-Constitutional General Objections

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

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

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

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

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

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

f. Vacant (37015-16-64-300-30-01);

CMS's designation of this position is proper because the designation is presumed to be properly made and AFSCME has introduced no specific evidence to suggest that CMS has limited the position holder's discretion or independent authority, within the meaning of Section

6.1(c)(i) or (ii). State of Ill., Dep't of Cent. Mgmt. Serv., 30 PERI ¶ 164 (IL LRB-SP 2014) (objectors must provide specific examples to negate each of the three tests in Section 6.1(c)); see also State of Ill., Dep't Cent. Mgmt. Serv., 30 PERI ¶ 85 (IL LRB-SP 2013).

AFSCME has not raised issues of fact for hearing by asserting that there is a “high likelihood” that the position description is 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).<sup>3</sup>

Thus, CMS properly designated these positions.

a. General Services Administrator, Alan Bucari - (37015-16-20-710-00-01)

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

Bucari has significant and independent discretionary authority because he possesses authority to responsibly direct his subordinates. First, the position description states that the position holds the authority to act as a working supervisor and that the position is responsible for reviewing subordinates' work, establishing annual goals and objectives, and preparing and signing performance evaluations. Bucari confirms that he responsibly directs his subordinates because he admits that he ensures that his subordinates' daily assignments are “within the parameters of their job description and performance evaluation” and does not deny that he prepares performance evaluations, establishes annual goals and objectives, and reviews his subordinates' work. Based on this evidence, the position holder, Bucari, exercises the use of independent judgment and is responsible for his subordinates' work because the designation is presumed proper under Section 6.1(d) of the Act and the position description does not expressly limit the position holder's discretion, accountability, or independent authority.

Thus, the designation of this position is properly made.

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<sup>3</sup> The alleged constitutional implications of this ruling are not addressed here for reasons set forth above.

b. Melanie Campbell (37015-16-64-300-20-01)

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

Campbell has significant and independent discretionary authority because she possesses authority to assign work to her subordinates. First, the position description states that the position holds the authority to assign work to employees and Campbell confirms that she "assign[s] providers to contract staff members." Further, based on this evidence, the position holder, Campbell, exercises the use of independent judgment and materially effects her subordinates' terms and conditions of employment because the designation is presumed proper under Section 6.1(d) of the Act and the position description does not expressly limit the position holder's discretion or independent authority.

Thus, the designation of this position is properly made.

a. Chrystal Alexander (37015-16-64-300-40-01)

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

Alexander has significant and independent discretionary authority because she possesses authority to responsibly direct her subordinates. First, the position description states that the position holds the authority to act as a working supervisor and that the position is responsible for reviewing subordinates' work, establishing annual goals and objectives, and preparing and signing performance evaluations. Alexander confirms that she provides direction to her subordinates to help them understand established rules, laws, and policies. Further, she does not deny that she completes their performance evaluations or establishes their annual goals and objectives. Based on this evidence, the position holder, Alexander, exercises the use of independent judgment and is responsible for her subordinates' work because the designation is presumed proper under Section 6.1(d) of the Act and the position description does not expressly limit the position holder's discretion, accountability, or independent authority.

Thus, the designation of this position is properly made.

b. Rosie Arnette (37015-16-64-300-50-01)

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

Arnette has significant and independent discretionary authority because she possesses authority to assign work to her subordinates. First, the position description states that the position holds the authority to assign work to employees and Arnette admits that she “assigns work based on job description and geography.” Further, based on this evidence, the position holder, Arnette, exercises the use of independent judgment and materially effects her subordinates’ terms and conditions of employment because the designation is presumed proper under Section 6.1(d) of the Act and the position description does not expressly limit the position holder’s discretion or independent authority.

Contrary to AFSCME’s contention, it has not raised an issue for hearing by noting that Arnette’s assignment decisions may be changed by her superior because AFSCME has introduced no evidence that he has ever done so. Likewise, Arnette’s assignment of work, based on job descriptions and geography, does not raise issues for hearing as to Arnette’s exercise of independent judgment because she does not assert that those are the sole factors she considers in making such assignments.

Thus, the designation of this position is properly made.

**IV. Conclusions of Law**

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

**V. Recommended Order**

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

37015-16-20-710-00-01	General Services Administrator	Alan Bucari
37015-16-64-300-20-01	Contracts Administrator	Melanie Campbell
37015-16-64-300-30-01	Contracts Administrator	Vacant

37015-16-64-300-40-01  
37015-16-64-300-50-01

Contracts Administrator  
Contracts Administrator

Chrystal Alexander  
Rosie Arnette

**VI. Exceptions**

Pursuant to Section 1300.90 and 1300.130 of the Board's Rules and Regulations, 80 Ill. Admin. Code Parts 1300,<sup>4</sup> parties may file exceptions to the Administrative Law Judge's recommended decision and order, and briefs in support of those exceptions, not later than 3 days after service of the recommended decision and order. All exceptions shall be filed and served in accordance with Section 1300.90 of the Board's Rules. Exceptions must be filed by electronic mail to [ILRB.Filing@illinois.gov](mailto:ILRB.Filing@illinois.gov). Each party shall serve its exceptions on the other parties. If the original exceptions are withdrawn, then all subsequent exceptions are moot. A party not filing timely exceptions waives its right to object to the Administrative Law Judge's recommended decision and order.

**Issued at Chicago, Illinois this 3rd day of April, 2014**

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

*/s/ Anna Hamburg-Gal*

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**Anna Hamburg-Gal  
Administrative Law Judge**

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<sup>4</sup> Available at <http://www.state.il.us/ilrb/subsections/pdfs/Section%201300%20Illinois%20Register.pdf>.