

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

American Federation of State, County and Municipal Employees, Council 31,)	
)	
Petitioner/Labor Organization,)	
)	
and)	Case No. S-RC-21-021
)	
Oak Lawn Public Library,)	
)	
Employer.)	

ORDER

On July 23, 2021, Administrative Law Judge Anna Hamburg-Gal, on behalf of the Illinois Labor Relations Board, issued a Recommended Decision and Order in the above-captioned matter. No party filed exceptions to the Administrative Law Judge’s Recommendation Decision and Order during the time allotted, and at its September 23, 2021 public meeting, the Board, having reviewed the matter, declined to take it up on its own motion.

THEREFORE, pursuant to Section 1200.135(b)(5) of the Board's Rules and Regulations, 80 Ill. Admin. Code §1200.135(b)(5), the parties have waived their exceptions to the Administrative Law Judge’s Recommended Decision and Order, and this non-precedential Recommended Decision and Order is final and binding on the parties to this proceeding.

Issued in Chicago, Illinois, on September 24, 2021.

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
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/s/ Helen J. Kim
Helen J. Kim
General Counsel

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ADMINISTRATIVE LAW JUDGE’S RECOMMENDED DECISION AND ORDER

On October 19, 2020, the American Federation of State, County and Municipal Employees, Council 31, (Petitioner or Union), filed a petition with the Illinois Labor Relations Board (Board) seeking to represent the employees in the titles of librarian and local history coordinator employed by the Oak Lawn Public Library (Library or Employer). The Employer opposed the petition, asserting that the employees sought to be represented are excluded from coverage under the Illinois Public Labor Relations Act (Act), 5 ILCS 315 (2014), as amended, pursuant to the exemption for supervisory employees.

In accordance with Section 9(a) of the Act, an authorized Board agent conducted an investigation and determined that there was reasonable cause to believe that a question concerning representation existed. A hearing on the matter was conducted on March 29, 30, and 31, 2021. Both parties elected to file post-hearing briefs.

I. PRELIMINARY FINDINGS

The parties stipulate and I find:

1. The Employer, Oak Lawn Public Library, is a public employer within the meaning of Section 3(o) of the Illinois Public Labor Relations Act.
2. The Employer is subject to the jurisdiction of the Board’s State Panel pursuant to Section 5(a-5) of the Act.
3. The American Federation of State, County and Municipal Employees, Council 31, is a

labor organization within the meaning of Section 3(i) of the Act.

II. ISSUES AND CONTENTIONS

The issue is whether the individuals in the petitioned-for librarian titles are supervisors within the meaning of Section 3(r) of the Act.

The Employer argues that all the petitioned-for employees are statutory supervisors. The Employer contends that they satisfy the principal work requirement and that they perform one or more indicia of supervisory authority with the requisite independent judgment. Specifically, the Employer argues that they exercise authority to direct their subordinates, reward them, discipline them, and adjust their grievances. The Employer also argues that some of the petitioned for employees have authority to make effective recommendations on hiring. Finally, the Employer contends that all the petitioned-for employees spend a preponderance of their work time exercising supervisory authority under the qualitative test because their supervisory functions are critically important to the functioning of the library.

The Union asserts that none of the petitioned-for employees are supervisors within the meaning of Section 3(r) of the Act. It contends that one of the petitioned-for employees cannot be a supervisor because he lacks subordinates. It further contends that none of the petitioned-for employees exercise any indicia of supervisory authority with the requisite independent judgment and therefore cannot spend the preponderance of their work time exercising supervisory authority. The Union also takes issue with the sufficiency of the evidence presented with respect to three of the petitioned-for employees, and notes that the Employer failed to call any witnesses who had first-hand knowledge of their job duties.

III. FACTS

A director heads the library, which is organized into the following departments: The Administration Department, the Customer Services Department, the Adult/Young Adult Department, the Technical Services Department, and the Youth Services Department. A department head manages each department, except for the Administration Department which is overseen by the director. The department heads of the various departments oversee the petitioned-

for titles. The library has approximately 90 employees.

Carol Williams is the director of the library. She assumed her position in January 2021. Kathy Szott, the library's business and personnel manager served as acting director of the library for six months, from July of 2020 to January 2021. Jim Deiters served as director prior to July 2020.

The department head of the Customer Services Department is Tippi Price. She has an office in the lobby near one of the entrances, where the Customer Services employees work. She oversees all personnel within her department.

The department head of the Adult/Young Adult Services (AYA) Department is Julia Churchill. Churchill works in the Adult/Young Adult work room with employees who work in the Adult Young/Adult Services Department, and she oversees the personnel of her department. Mary Williams held the department head position prior to Churchill. When Williams was the AYA Department Head, Churchill served as Assistant Department Head. The AYA Department also has an Assistant Department Head, Lana Magnavite.

The department head of the Technical Services Department is Jenny B. She assumed her position a month before hearing. Prior to that, the Technical Services Department was without a department head for one and a half to two years. The Technical Services department head works in the Technical Services Unit, alongside employees in that unit.

The department head of the Youth Services Department is Jenny Abler. She works in the youth services work room along with the rest of her staff and oversees the personnel in her department.

Business and Personnel Manager Kathy Szott oversees the human resources (HR) coordinator, Judy Texter, and the financial assistant. None of the petitioned-for employees have ever reported directly to Szott. Szott has an office in the north basement of the library. She has not performed a time study to determine how much time any of the petitioned-for employees devote to performing their different job duties.

HR Coordinator Texter manages personnel files, distributes and processes all paperwork related to personnel, reviews time sheets, and distributes notices to department heads twice a month that state how much accrued benefit time employees have left. Texter accepts leave

requests but does not review them.

1. The Employer's Policies and Procedures

- a. Grievance Policy

The library maintains a grievance policy. It states that employees who wish to express a concern, complaint, or grievance are encouraged to discuss the issue with their direct supervisor, as appropriate. Szott testified that the immediate supervisor has authority to adjust a grievance at the first step and rectify a problem. The library has not had a formal grievance in many years. Szott testified that she was not aware of any grievances that were filed with any of the petitioned-for employees. She further stated that she believes that the petitioned-for employees routinely resolve issues before they reach HR but did not describe the basis for her belief.

The petitioned-for employees are also the first step in the grievance process for sexual harassment complaints, if the complaint does not involve them. There have been no formal sexual harassment complaints filed with any of the petitioned-for employees.

- b. Position Reassessment Policy

The library maintains a policy regarding position reassessment. It states that library positions may be reassessed for possible upgrade, downgrade, elimination, or change in status regarding part-time/full time levels. It further provides that the relevant supervisor, department head, and director will carefully discuss and assess such staff development and deployment issues. Szott testified that the immediate supervisor determines if there is a need for a position reassessment and makes a recommendation to that effect to the department head and the director. If an employee receives a position upgrade, the employee receives "a salary increase equal to 2.5% of that employee's previous salary or the beginning salary of the new grade, whichever is greater."

- c. Attendance Policy

The library maintains an attendance policy. Under the library's personnel policy, the direct supervisors are responsible for monitoring employee attendance. It states that "if indications of attendance problems begin to arise, the immediate supervisor bears primary responsibility for counseling the employee. If counseling fails, the supervisor shall follow library disciplinary procedures." The policy defines indicators of excessive absenteeism. It states that if an employee

accrues more than 9 unanticipated absences, the supervisor should issue discipline.

Szott testified that petitioned-for employees have addressed attendance issues before their subordinates have accrued 9 unexcused absences. However, she testified that, on a day-to-day or week-to-week basis, she does not know how any of the petitioned-for employees check and monitor the work of their subordinates.

d. Disciplinary Policy

The library maintains a disciplinary policy. It describes different types of disciplinary action including a spoken reprimand, a formal written reprimand, re-evaluation, suspension, and termination. A spoken reprimand is a verbal warning, which is the least severe of the disciplinary actions. A superior of a subordinate accomplishes a verbal warning by briefly discussing a problem with the subordinate. The library's disciplinary action form indicates that a spoken reprimand is documented and retained in a supervisor's records.

A formal reprimand is considered serious and is issued when a subordinate violates the rules or fails to perform his duties. The document informs the employee in writing of a specific violation and it sets forth a constructive plan for improving the employee's performance. The employee's supervisor and the director must both sign the document. The director must review the document and concur with it before the document is presented to the employee. A formal reprimand is placed in an employee's personnel file. It can serve as the basis for future disciplinary action.

Re-evaluation occurs subsequent to a formal reprimand or an evaluation score that is lower than "meets standards." Under the policy, a subordinate's superior will complete an evaluation at the beginning and end of the re-evaluation period. A subordinate's failure to achieve a rating of good or better on the end-point evaluation may result in termination.

Suspension is an involuntary temporary separation of an employee from the library premises and/or from active pay status. The director determines the duration of the suspension. Szott testified that petitioned-for employees have authority to recommend suspensions. However, Szott did not have any first-hand knowledge that any of the petitioned-for employees have recommended suspensions.

The director has authority to terminate employees. The director may terminate introductory employees whose job performance is deemed unsatisfactory by their supervisors. An

employee's failure to maintain an overall rating of meets standards and to follow procedures and standards of conduct may result in disciplinary action or termination.

The petitioned-for employees have access to their subordinates' personnel files. Szott testified that the petitioned-for employees have discretion to decide whether a subordinate's conduct warrants discipline, and that in doing so, they consider the subordinate's disciplinary record, the facts of the situation, and the severity of the infraction. However, Szott testified that she did not have any first-hand knowledge as to whether the department heads have told the petitioned-for employees that they need the department head's approval before initiating any discipline.

e. Evaluation Process

The petitioned-for employees complete evaluations for their subordinates. Each evaluation is comprised of the following three sections: The key results area (KRA) section assesses the duties described in the subordinate's job description. The goals section assesses the goals set in the prior year. The core competencies section considers general workplace attributes such as effective communication, initiative, personal development, and attendance. Each part of the evaluation is divided into subsections that the petitioned-for employees score separately. For each subsection, the petitioned-for employees rate their subordinates as exceeds, meets, or needs improvement. The petitioned-for employees also give their subordinates an overall rating of exceptional, above standards, meets expectations, or inconsistent performance. They select the rating based on their personal assessment of how well the employee performed on specific duties and different evaluation categories. The petitioned-for employees also make comments on the evaluations. However, the drafting process is not uniform among the petitioned-for employees. To the extent the process differs, it is discussed separately for each petitioned-for employee.

The department head and the director review and sign all evaluations. Szott testified that it is always a given that a reviewer would ask for changes in the comments. After the department head and the director review and approve the evaluation, the petitioned-for employees meet with their subordinates to discuss the evaluation and to discuss goals set for the following year.

Szott testified that the library accepts the petitioned-for employees' evaluations 99.9% of the time. However, Szott did not survey the department heads to determine how many times they requested changes to the evaluations before approving them. Szott also testified that she does not

have first-hand knowledge of how the petitioned-for employees draft performance evaluations and does not know the extent to which department heads review rough drafts.

A good evaluation can result in a merit increase for the evaluated subordinate if the subordinate is not yet at the top of the pay scale. A poor evaluation can result in disciplinary action, a performance improvement plan, or termination.

2. Angela Romano

Angela Romano is the Fiction and Reference Librarian. She works in the Adult and Young Adult Services Department and reports to Department Head Churchill. Romano previously reported to former Department Head Williams.

Romano oversees one subordinate, Areej Jibrin. Jibrin is a part-time employee who works 20 hours a week. In the past, Romano also oversaw a full-time Library Associate, Grade 6, who retired. Williams and Churchill both informed Romano that the Employer would not replace that position.

Romano orders the books for the fiction collection for adults and some books for the non-fiction section. She also helps organize some programming including “book buzzes,” social media programming, and technology classes. Romano works at the reference desk 12 to 16 hours a week, where she addresses patron requests. If staffing levels are low, Romano spends up to 20 hours working at the reference desk.

Romano is responsible for the work performance of her subordinate. The Employer evaluates Romano on how well she hires, trains, supervises, and evaluates staff. Romano testified that she performs most of her functions, pertaining to subordinate employees, in conjunction with her department head.

Romano’s subordinate, Jibrin, works mostly at the reference desk. She orders a small section of works, which pertain to world languages, and works on the library’s collection of multiple copies for book clubs. She also makes special displays for the fiction collection. Jibrin does not approve time off and does not conduct evaluations.

Romano’s position requires an advanced degree. Jibrin’s position does not require an

advanced degree.

a. Direction

i. Review

Romano reviews time sheets for her subordinate. She counts the hours to ensure they are correct and ensures that they match the established schedule.

ii. Scheduling/Assignment

Romano schedules a new subordinate during the first week of orientation. Romano establishes the training schedule and decides how much training to provide in the different subjects. However, Romano does not schedule her subordinate after orientation is complete. Assistant Department Head Lana Magnavite performs that task and decides what hours the subordinate will work at the reference desk. If Romano's subordinate wishes to change her schedule, she must speak to Magnavite.

Romano testified that she does not assign work to her subordinate, Jibrin, on a daily basis. Romano did not describe the basis on which she makes assignments. While Szott initially testified that the petitioned-for employees consider the strengths and weaknesses of their subordinates, as well as other factors, she admitted on cross examination that she has no first-hand knowledge as to what factors any petitioned-for employee uses in assigning work.

iii. Training

Romano conducts the part of orientation for new hires that pertains to her department. She explains departmental procedures and rules, provides the employee with keys as applicable, provides the employee with a name tag and job description, and explains the telephone training. She also schedules the new hire for computer training.

iv. Time off

Romano signs leave requests for her subordinate. She receives a document from HR that summarizes her subordinate's remaining benefit time. Romano signs the leave request to ensure that the subordinate has enough sick time and vacation hours to take the time off. She then forwards the document to Assistant Department Head Magnavite. Magnavite has sometimes

denied an employee's request for time off, even if the employee has the available time. However, Romano has never denied such a request.

When Williams was the department head, she informed Romano not to sign leave requests during the summer (June 1 through August) and between Thanksgiving and New Year's. Williams directed that subordinates send those requests directly to her because there would be multiple, competing leave requests during those periods.

Szott testified that Romano decides whether to grant a leave request and does not need to check with anyone before granting it. Szott further testified that Romano bases her decision on whether there is adequate coverage, whether there is a deadline for work, the reason for the leave, and whether the requesting employee has benefit time. Romano's testimony on this issue is granted greater weight than Szott's because Szott does not directly oversee Romano and could not expressly rebut the more detailed approval and review process Romano described.

v. Evaluations

Romano completes an initial six-month evaluation for a newly hired subordinate. She then completes subsequent evaluations annually.

When Williams was department head, Romano created a rough draft of the evaluation to send to Williams either in hard copy or digital form. Williams added comments directly onto the evaluation or identified parts Romano should edit. After Williams reviewed the evaluation, Romano would print it so that she and Williams could sign it. Director Deiters would also sign the evaluation before Romano discussed it with the employee. Romano testified that she selected the ratings for former subordinate Anne Curran's evaluation, and that no one told her to change them.

In one case, Director Deiters told Williams that an employee's rating should be changed from "meets expectations" to "exceeds expectations." Neither Romano or Williams wanted to change the rating, and the original rating remained.

Szott testified that Romano decides the ratings, decides whether to draft notes and comments, determines whether the subordinate has met their goals for the year, and does not need to have anyone's prior review or approval before she completes a performance evaluation. However, Szott also testified that she does not have first-hand knowledge of what review the

department head conducts of the evaluations drafted by Romano before they are finalized.

b. Discipline

Romano has issued spoken reprimands to subordinates, but only at the direction of her department head. In one case, someone noticed that Curran was coming in early and informed Williams, who then instructed Romano to issue Curran a spoken reprimand. In another case, Williams instructed Romano to give Kristin Lansdown a verbal reprimand for being late. Romano informed Williams that she did not believe that it was warranted, but Williams required Romano to issue the reprimand anyway.

At Department Head Williams's direction, Romano issued former subordinate Anne Curran a formal written reprimand for a policy violation for working from home. The reprimand included a performance improvement plan. Williams learned that Curran was impermissibly working from home when Williams received a work email from Curran while Curran was away from the office. Romano did not receive Curran's email. Williams informed Romano of the email and stated, "Anne is working from home, we have to discipline her." Williams instructed Romano to issue a formal written reprimand. Romano drafted the document in Williams' office in Williams' presence. Williams told Romano what to write in the document. Curran received the discipline in Williams' office. Both Williams and Romano were present. This was the first time Romano issued such disciplinary action to a subordinate.

Szott testified that Romano drafted the reprimand based on her observation of the employee's misconduct and then created a performance improvement plan for the employee. However, Szott conceded that she did not have any first-hand knowledge of how this disciplinary decision was made.

Romano is aware that under library policy, an immediate supervisor can issue formal written reprimands. However, Romano has not received any training on the Employer's discipline policy.

c. Grievances

No one has ever filed a grievance with Romano. The Employer never informed Romano that she has a role in the grievance process. She has not received training in the grievance

procedure.

d. Hiring

Romano participates in the hiring process. Williams was the Department Head when Romano last participated in the hiring process. Romano and Williams received resumes from Human Resources. They both read all the resumes. They then discussed them and decided which candidates to interview based on consensus.

Romano and Williams conducted all the interviews together. Romano completed the rating form in Williams's presence and they both determined what information to include on the form. They reached consensus on a candidate to hire.

Romano completed a hiring recommendation form to recommend Areej Jibrin for hire as a part-time library associate. The form reflected the panel's consensus. Williams determined the salary that would be paid to the candidate they selected. The hours of the selected candidate were based on the hours worked by the person she was replacing. The library ultimately hired Jibrin.

Szott suggested that Romano made the hiring recommendation individually and suggested the hourly pay for the candidate. However, Szott did not dispute the format of the hiring process, described above.

Romano has never conducted an interview for a position at the library without the department head. However, she has participated in interviews where both the department head and assistant department head were present. The three-member panel likewise reached a decision based on consensus.

In one case, Romano and Williams disagreed on which candidate to hire. The Employer hired the candidate of Williams's choice.

e. Preponderance

Romano testified that she spends approximately 5% of her work time engaging in duties related to hiring, directing, rewarding, disciplining employees, and adjusting their grievances. Szott does not observe Romano on a day-to-day basis and has not done a time study of how much time Romano spends on her different job duties. However, Szott testified that Romano's supervisory activities are critically important because the department head relies heavily on the

supervisor to supervise their units, which in turn allows the library to function.

3. Kevin Korst

Kevin Korst is the Local History Manager, grade 10. He works in the Adult/Young Adult Services Department and reports to Department Head Churchill. Korst previously reported to Department Head Mary Williams.

Korst is responsible for preserving the community's history through exhibits, collection development, public programming, and research. He performs interviews with local residents regarding Oak Lawn history and runs special exhibits in the local history section. He also works at the Adult Services Desk for approximately 10-15 hours a week where he assists patrons with research questions and finding materials.

Korst's job description states that he is responsible for supervising and coordinating the activities of staff, interns, and volunteers. However, Korst currently has no subordinates.

In the recent past, Korst oversaw two subordinates, a Librarian grade 10, level 1, and a Senior Library Assistant grade 5, level 2.¹ The holder of the grade 10 position worked 8 hours a week. The holder of the grade 5 position worked 20 hours a week. Korst's subordinates transcribed local history interviews and worked to identify the locations and people in local history pictures. The subordinates helped him with exhibits. They did not approve time off or give work assignments.

The Senior Library Assistant resigned in September 2020. The Employer laid off the Librarian grade 10 and eliminated her position due to budget cuts in October 2020.² Korst was not involved in the decision to eliminate the position or to lay off the position holder. Churchill informed Korst several weeks prior to hearing that she was not aware of any plans to fill the position of the subordinate who resigned. Szott stated that she is not currently aware of any plans to fill either vacant position. Korst testified that there was a delay in hiring new subordinates because of the hiring freeze and because he has had limited time to train a new hire.³ Korst hopes

¹ Korst identified these positions as a Local History Assistant, grade 5, and a Local History Assistant, grade 10.

² The Union filed its petition on October 19, 2020.

³ Szott testified that Korst asked the library to wait on hiring because he was overwhelmed with COVID and could not take the time to train personnel.

to have subordinates in the future.

1. Direction

- a. Review

When Korst had subordinates, he reviewed their time sheets for accuracy. He verified that the hours stated matched the established schedule and he ensured that the employee included all documentation of the leaves they had requested. If there was a mistake on a timesheet, he would consult with the employee and then fix the mistake.

- b. Scheduling

Korst scheduled his subordinates. One of Korst's subordinates had health issues and he accommodated them. The subordinate worked the hours she was able to work and then reported back to Korst on the hours she had worked. Korst scheduled his other subordinate sitting down with her and determining the best hours for her and for his unit. She informed Korst of the hours that would work best for her and those hours did not vary from week to week.

Korst performed scheduling on a monthly basis, but the schedule was often the same month to month. During special events, he would need to adjust the hours of his subordinates. For example, if the library had an exhibit opening, he would request that his subordinates be there before the opening.

- c. Assignment

Korst testified that he did not assign his subordinates work on a day to day basis. He would assign them larger projects and they would work independently.

- d. Training

Korst trains his subordinates. When the library transferred Jan Schaller to the Local History Unit from the Periodicals Unit, Korst trained her on the unit's functions and her duties. Korst is responsible for the work performed by his subordinates and for all the work of his unit.

- e. Time off

When Korst had subordinates he signed his subordinate's leave requests if the employee

had the available benefit time. He never denied a subordinate's leave request if the employee had the available time. He consulted the benefit summary report provided by HR to determine whether the employee had the available benefit time.

f. Evaluations

When Korst had subordinates, he completed evaluations for them annually. When Korst performs evaluations for his subordinates, he decides the ratings that he gives his subordinates, the goals he sets, and the comments. He bases his evaluation on his observations of his subordinates and how they perform throughout the year. He does not appear to submit a draft of his evaluation to a superior before signing it. Korst has drafted evaluations that resulted in merit increases for the evaluated employee.

2. Discipline

Korst was involved in the disciplinary process in one instance. Department Head Williams and Director Deiters asked him to verbally reprimand one of his subordinates for something she had posted on social media. The matter came to the Director's attention after a member of the library board approached him about it. They directed Korst to tell the employee to watch what she was posting on social media. Korst did not know if that matter was memorialized in the employee's personnel file. He could not recall any other disciplinary action with which he was involved.

The library instructed Korst to review the library's personnel manual, but never gave him any formal training on how to conduct discipline. Korst testified that he believes he has authority to issue a formal written reprimand. He testified that he could provide counseling instead of discipline if he felt counseling was warranted.

3. Adjustment of Grievances

No employee ever filed a grievance with Korst. He never received any training on the library's grievance policy.

4. Hiring

Korst worked with the department head to submit a position reclassification request. A

petitioned-for employee makes a reclassification request when he recognizes that a position needs to be reclassified and suggests that the library upgrade the position. Korst believed that the library assistant position held by Schaller required more index research than what was reflected in the position's standing. He approached Department Head Williams about it, and she agreed. Williams and Korst both approached Director Deiters and the personnel committee, comprised of library staff members. The library ultimately approved the request.

5. Preponderance

When Korst had subordinates, he spent approximately 10% of his work time on duties involving hiring, directing, rewarding, disciplining employees, and adjusting grievances.

Szott testified that Korst's supervisory activities are critically important to the functioning of the library because they give him the opportunity to gain experience and move up the chain of command. She further testified that the library also needs him as a supervisor to be able to function properly.

4. Izabel Gronski

Izabel Gronski is the Young Adult Librarian, grade 10, and the page supervisor. She works in the Adult and Young Adult Services Department and reports to Department Head Churchill. Gronski previously reported to former-Department Head Williams.

Gronski oversees the teen room, an enclosed space for high school students to use after school. She sometimes staffs the teen room herself. She oversees the young adult collection, which includes fiction and non-fiction. She also contributes to collection development for adult graphic novels and some adult non-fiction. She staffs the adult services reference desk. She also creates programming for high school students, contributes to programming for all of adult services, and performs outreach. Gronski's position requires an advanced degree. Gronski's job description states that she is responsible for supervising and coordinating the activities of the young adult staff and the young adult pages. It also requires her to evaluate, train, schedule, and assign work to her subordinates. Gronski is responsible for the work of her subordinates.

Gronski oversees a total of seven subordinates and is responsible for their work. She oversees four part-time level 1 pages, who work approximately 12 hours per week. She oversees one part-time level 2 page, who works 20 hours per week. Gronski also oversees one library

assistant and one library associate who each work 12 hours per week. The pages keep the books in order and return them to the shelves. They also perform clean up. The library associate is primarily responsible for staffing the teen room, organizing volunteer activities for high school students, creating projects related to the library's maker space, and creating displays related to young adults. The library assistant likewise staffs the teen room and also performs inventory for both the maker station and the physical collections. Gronski's subordinates do not conduct anyone's evaluations; they do not assign work.

a. Direction

i. Oversight/assignment

Gronski does not give the pages direction on a day-to-day basis unless there is some special project because their work is very routine. If Gronski's subordinates ask her questions, she answers them. She also tells them how she wants them to perform certain work.

ii. Review

Gronski reviews and approves her subordinates' time sheets. She checks to ensure that the hours stated match the scheduled hours, that excused absences are reflected on the time sheet, and that her subordinates have completed the required leave forms. When Gronski's subordinates make mistakes on their time sheets, Gronski asks them to fix them.

Gronski also developed an effective method of testing shelving accuracy.

iii. Scheduling

Gronski schedules her subordinates. During COVID, the pages worked in pods, meaning that staff had designated days to work on site. Gronski coordinated the schedules of the pages so that their pods would be on the same schedule as the customer service employees' pods, because they would be the only staff members in the building at that time. In Gronski's evaluation, her department head noted that the "logistics of this planning was very complicated." She had to coordinate with the Customer Service Department to complete these scheduling tasks. Gronski also needed to readjust schedules for her subordinates when some of them were exposed to COVID-19 and were forced to quarantine.

Under ordinary conditions, Gronski schedules pages to ensure there is coverage for the

entire day. The pages frequently have conflicts such as school, as they are usually under 16 years old,⁴ but Gronski is usually able to accommodate their obligations. Gronski's evaluation states that she has needed to readjust staff schedules for months on end.

iv. Time off

Gronski approves leave requests for her subordinates. Only one of Gronski's subordinates, a page, has paid time off. Gronski's other subordinates can request unpaid excused absences.

Gronski grants leave requests when her subordinates have benefit time. In addition, she grants all requests for unpaid excused absences, which arise when an employee is absent from a scheduled shift but has no benefit time. Gronski usually approves requests for excused absences after the fact.⁵ Gronski has never denied an employee's request for an excused absence.

Former Department Head Williams instructed Gronski to direct all requests for bereavement leave to her because it was discretionary leave, and the amount granted to each employee depends on the circumstances.

v. Training

Gronski trains the pages when they start. She is responsible for ensuring that they know their duties. Gronski completes an orientation checklist for employees newly hired into her unit. She is responsible for the part of the orientation applicable to the department. This standard orientation required Gronski to explain department rules and emergency evacuation plans, and to provide the new employee with necessary documents and equipment.

Williams created a more specific orientation check list and provided it to Gronski. This included providing the employee with the location of telephones and desk, information about breaks and mealtimes, location of desk schedules, food storage, and access to the employee drive.

⁴ Szott testified to the age of the pages when discussing the hiring process used by petitioned-for employee Burns. Tr. P. 434.

⁵ When an employee calls off to take an excused absence, they complete the leave form when they return.

Gronski also drafted a Page Manual to help with training of pages.

vi. Evaluation

Gronski drafts performance evaluations for employees who report to her. She decides on the rating based on her judgment of the subordinates' performance throughout the year. She also drafts the comments and establishes the subordinates' goals for the following year.

When Gronski reported to Williams, Gronski sent drafts of her evaluations to Williams if the evaluation was non-routine. If the evaluation was routine, Williams did not require a draft. Williams discussed each evaluation with Gronski before signing them as the department head.

Interim Director Kathy Szott once asked Gronski to make changes on the evaluations she drafted. Szott informed Gronski that the overall rating did not match the ratings assigned to the subsections. Szott told Gronski that she could keep the existing ratings if she added comments to explain them. Gronski pointed out that she had already included comments, and she asked for clarification on Szott's instructions, given this new information. Szott eventually allowed Gronski to proceed with the evaluation she originally submitted, as written. Gronski testified that no one from the library had asked her to make a change on any other evaluation she drafted.

The department head and the director must sign the evaluations before Gronski can provide them to the employee.

Two of Gronski's subordinates, Lechert and Patricia Pollard, are at the top of the pay scale. Gronski's evaluations of these employees do not impact their pay.

b. Discipline

Gronski has never issued, or recommended the issuance, of discipline. Gronski has not received training in the library's discipline policy, but the library instructed her to read the personnel policy and to be aware of any changes.

c. Hiring

Gronski participates in the hiring process. She has worked to hire a library associate and a page for her unit. She has also worked to hire a page in Kathy O'Leary's unit.

Gronski and then Department Head Williams worked together to fill the Young Adult Library Associate, grade 6 position. Gronski and Williams recommended that the library fill this

position, and indeed, they had sought to fill it for years. Gronski created the KRAs (Key Results Areas/job description for the position. After Gronski received the applications from HR, she and Williams reviewed the paperwork together and decided which three candidates to interview. Gronski and Williams drafted the interview questions together. Gronski and Williams attended the interview and took turns reading the questions. They kept one set of notes. At the end of the third interview, Gronski and Williams reached agreement on which candidate was the best fit for the library. They reached consensus to recommend Kathryn Adolfo for the position. The Library hired Adolfo. Gronski testified that Williams was part of the interview process when the library sought to hire an employee at the associate level or higher.

Gronski drafted the hiring recommendation to hire Adolfo. Williams was present when Gronski drafted the hiring recommendation and directed Gronski to place only Gronski's name on the hiring recommendation. Williams signed the recommendation days later, but Gronski speculated that Williams did not sign until Gronski had gathered all the documentation in support of the recommendation.

Gronski worked with other librarian grade 10s to hire pages. In one case, Gronski and O'Leary interviewed candidates for a page position in O'Leary's unit. They conducted the interviews together. Gronski and O'Leary completed a hiring recommendation together to recommend Eleanor McLaughlin for hire as a page. They recommended that the library pay her at the starting salary. The Employer hired McLaughlin as a page. In another case, Gronski and Melissa Lachcik, another librarian grade 10, interviewed pages for Gronski's unit. At the end of the interview process, Gronski issued a hiring recommendation for Jules Rollberg. Gronski testified that when she recommends pages for hire, she recommends that they receive the standard starting salary. The Employer hired Rollberg as a page.

There is a lot of staff turnover in Gronski's unit. Gronski's evaluation states that her position "involves hiring and training a large turnover of employees."

d. Adjustment of Grievances

No employees have ever filed grievances with Gronski. She has not received any training on the library's grievance policy.

In one case, HR Coordinator Texter spoke to the mother a page after receiving complaints about the page from customer service staff. Gronski testified that she should have handled the

situation because she was the employee's supervisor.

e. Preponderance

Gronski testified that she spends less than 10% of her time on alleged supervisory duties, but she also indicated that she wanted her responsibility over the pages to be removed because it takes time away from her other duties. Szott has done no time study to determine how much time Gronski spends on her various job duties. Szott further stated that, prior to COVID-19, she would see Gronski about only once a month for ten minutes.

Szott testified that Gronski's supervisory activities are critically important to the library. She stated that the library would not be able to function without her oversight of the pages and it relies heavily on Gronski's evaluation and oversight of the pages. The library gave Gronski a 3% wage increase for the increased responsibility she assumed due to overseeing additional pages.

5. Kathleen O'Leary

Kathleen O'Leary is an Adult Services Librarian. She works in the Adult and Young Adult Services Department and reports to Department Head Churchill. She formerly reported to Mary Williams, the previous department head.

O'Leary currently has one subordinate, Library Assistant Ramona "Mona" Garcia, who works 25 hours a week.⁶ O'Leary previously oversaw Senior Page Kay Gibson, but the library permanently eliminated her position in November 2020.⁷

O'Leary manages the adult periodicals collection and provides patrons with reference and genealogy services. She orders books, proofreads transcripts of oral history interviews, works at the reference desk, runs book club and genealogy club, and addresses genealogy questions. O'Leary testified that Garcia's job is completely different from hers.

Garcia processes periodicals. She stamps, labels, and shelves them. She transcribes oral history interviews, indexes obituaries, maintains the supplies, and maintains the "beyond books" collection. When the library eliminated Gibson's position, Garcia assumed most of her duties, which included indexing local newspapers and keeping the reference desk stocked with supplies.

⁶ She previously worked 28 hours a week, but in November or December 2020, the library reduced her hours because of budgetary concerns.

⁷ Four years ago, O'Leary oversaw pages. O'Leary ceased overseeing the pages in July or August 2017. She does not oversee the work of any pages except for Senior Page Gibson.

Garcia does not approve time off or give work assignments.

a. Direction

i. Review

O’Leary proofreads oral history transcripts, transcribed by her subordinate and other library employees who do not report to her.⁸ If O’Leary finds errors, she corrects them. O’Leary does not know who drafted the transcript when she reviews it.

O’Leary also reviews and approves time sheets submitted by her subordinate. She checks the timesheet against the information in the scheduling software. She ensures that Garcia has completed all required leave requests and has attached them to her timesheet. During the COVID pandemic, the library temporarily switched from paper time sheets to Excel time sheets. Since then, O’Leary has been completing Garcia’s time sheets because they are maintained on Excel, a program that Garcia does not know how to use. However, Garcia will be filling out her own time sheets once she learns the Excel program, and O’Leary will resume reviewing them.

If Garcia needed correction or redirection, O’Leary would provide it. She has counseled employees and corrected their work, to show them the right way to perform a task but this is an infrequent occurrence.

ii. Scheduling/ Assignment/ Training

Garcia and O’Leary worked out Garcia’s schedule together. Garcia previously worked 28 hours spread out over five days. O’Leary recommended that Garcia switch to a four-day schedule after the library reduced her hours. Then-Department Head Williams accepted her recommendation.

When the library eliminated Gibson’s duties, O’Leary shuffled Gibson’s duties to others, including Garcia. O’Leary worked with Garcia to help her manage her time and extra duties during this change. To that end, O’Leary spoke to Garcia about the beyond books collection, supply maintenance, indexing the obituaries, and doing the mail, and showed her how to perform most of these duties.⁹ She directed Garcia to ensure that holds were placed far in advance and in time for

⁸ The staff members who transcribe oral histories work in the audio-visual unit and the computer center. O’Leary does not have any responsibilities over these employees apart from reviewing their oral history transcripts.

⁹ Local History Manager Korst showed her how to perform the obituary related work.

the books to be received at the library and picked up by book club participants. One of O’Leary’s goals for the coming year is to ensure that her subordinate takes computer courses to meet the technology standards for her position.

O’Leary does not give assignments or direction to Garcia on a day-to-day basis because Garcia is a long-time employee who knows her job.

iii. Time off

O’Leary approves Garcia’s leave requests. O’Leary checks to ensure that Garcia has enough hours for the benefit time she is taking. Each pay period, O’Leary receives a benefits summary report from HR Coordinator Texter which includes the relevant information. O’Leary has never denied a leave request.

iv. Evaluation

O’Leary prepares annual evaluations for her subordinate based on her observations of the subordinates throughout the year. When she reported to Williams, she would provide a draft evaluation for Williams to review, and Williams would add a few comments. In O’Leary’s 2020 evaluation of Garcia, Williams instructed O’Leary to add the comment “Mona does a good job communicating[,] but in the future less socializing with coworkers would be an improvement.” Williams also suggested that O’Leary add a comment encouraging Garcia to learn Excel and Microsoft word in greater depth. O’Leary testified that she did not believe Williams had ever changed any of the ratings in any of the evaluations she drafted. No library director has ever asked O’Leary to add comments to an evaluation.

Szott testified that O’Leary determines what ratings to give, whether to include notes, and what notes to write. However, she also conceded that she does not know how any petitioned-for employee drafts their evaluations and does not know what discussions occur between O’Leary and her department head before the library finalizes the evaluation.

b. Adjustment of Grievances

No one has ever filed a formal grievance with O’Leary. O’Leary has had not training in the grievance procedure. However, she has tried to address her subordinates’ concerns and helped

them deal with issues at work.

c. Discipline

O’Leary has never issued discipline to Garcia. However, she has issued discipline against other employees. She has also recommended termination of a page. The Department Head and the Director reviewed this recommendation, accepted it, and terminated the page. O’Leary is aware that she has authority to issue certain levels of discipline under the library’s policy.

d. Hiring

O’Leary has participated in hiring pages. She served on an interview panel with another librarian, Gronski. She drafted a hiring recommendation at the end of the interview process. Gronski and O’Leary completed a hiring recommendation together to recommend Eleanor McLaughlin for hire as a page. They recommended that the library pay her at the starting salary, as is customary for all pages. Department Head Williams and the director reviewed the recommendation and accepted it. Neither participated in the interview process.

e. Preponderance

O’Leary testified that she spends approximately 5-6% of her time directing, rewarding, disciplining her subordinate or adjusting her grievances. Currently during the COVID pandemic, she spends most of her time proofreading oral history transcripts, working the reference desk, and “doing genealogy questions.” O’Leary spends approximately 12-16 hours performing work at the Adult/Young Adult Services desk or performing phone reference work.

Szott sees O’Leary once a week for five to 10 minutes and has not done a time study of how much time she spends performing her different job functions. Szott testified that she relies on O’Leary to perform her supervisory functions to help the department head. Szott further stated that O’Leary’s work allows the library to function smoothly.

6. Megan Moran

Megan Moran held the position of Inter-Library Loan Coordinator in the Customer Services Department from July 2016 to March 16, 2021. Since March 16, 2021, Moran has served as Resource Sharing Librarian in the same department. The library created this position for

Moran after she obtained a Masters of Library Science. Moran reports to Customer Services Department Head Tippi Price.

Moran currently has three subordinates. She oversees Sheila Spee and Mary Kate Murray who are both library assistants, grade 3, and work 20 hours a week on average. She also oversees Senior Library Assistant (AV) Laura Longo, grade 5, who works full time. The library added Longo as Moran's subordinate in March 2021, when the library reorganized to move the audio-visual unit into customer services.

Moran processes incoming and outgoing materials moved between libraries for inter-library loan. She responds to patron requests and contacts patrons if there are any issues with their requests. She attends meetings for a library consortium, keeps up with the technology related to inter-library loans, performs community outreach, and conducts staff training. She also conducts statistical work related to inter-library loans and maintains records for submission to the Illinois Secretary of State. She customarily performs work at the circulation desk but has performed less of that work since the pandemic began because the demand for inter-library loan is very high. Moran also performed the above-referenced duties while holding her prior title but assumed more community outreach work in her new title.

Moran's job description requires her to train, hire, and supervise staff members and volunteers who work in the Customer Services Department. Although Moran's title changed in 2021, her authority over her subordinates remained the same as it was under her prior title. Moran is ultimately responsible for the work of her subordinates and the work performed in her unit. Her position requires an advanced degree.

Moran's subordinates fulfill patron requests for inter-library loan materials and receive materials requested from other libraries for the library's patrons. They follow up on missing materials or materials that are returned in incomplete form and do some of the billing and invoicing of materials if books are damaged. They also fill in at the circulation desk. Moran's subordinates do not give work assignments, conduct evaluations, or approve time off.

a. Direction

i. Review

Moran reviews time sheets for her subordinates. Moran's subordinates submit their time sheets to her. She checks them for accuracy then sends them to her department head. If she catches

a mistake, she talks to the employee to clarify the issue or she makes the adjustment herself before sending the time sheets to her department head. Currently, Moran reviews the time sheets in an electronic format as opposed to paper because of the COVID-19 pandemic. However, the review process is the same.

ii. Assignment

Once a week Moran assigns her subordinates sections to pull within the library. She goes through a daily rotation so that her subordinates do not get bored. Her subordinates rotate through the audio-visual section, the youth services or juvenile section, the adult non-fiction section, and the adult fiction section. They then access the requests generated by other libraries to pull the books within their assigned sections. Once Moran assigns her subordinates to these sections, they know what they need to do and require no further instruction.

iii. Training

Moran trains her subordinates when there are enhancements from SWAN/RAILS or new ideas from management. She trains them on Inter Library Loan carts and procedures. Moran's evaluation states that she "walks alongside [her subordinates] during all newly assigned responsibilities."

Under Moran, the Inter Library Loan unit began monthly meetings, training for each staff member, and fair division of labor. Moran created manuals, at Price's direction, and worked with her subordinates individually for about eight hours at a time to ensure they were comfortable with the materials.

The Employer evaluates Moran on how well she trains personnel. Moran's evaluation commended her on producing a well-trained staff that can work independently.

iv. Scheduling

Moran schedules the work of her subordinates. Moran modified the work schedule of library assistant Spee at Spee's request. Spee preferred to work earlier in the morning, and Moran determined that the schedule worked with the library's needs.

Moran recommended a modification to Murray's schedule, at Murray's request, because Murray likewise wished to work earlier in the day. Moran testified in general terms that she

considered library resources and the library's best interests when making the recommendation. Price accepted Moran's recommendation on an interim basis. However, she noted that she might restore Murry's schedule so that the library could have a staff assistant present during the afternoons.

Moran established a Saturday rotation for all members of her unit, including herself because one of her subordinates no longer wanted to work every Saturday. Moran recommended the change to her department head, and her department head approved it.

Moran added Senior Library Assistant Longo to the rotation when Longo became Moran's subordinate. However, Moran has not otherwise changed Longo's schedule from the schedule she worked prior to the reorganization.

v. Time off

All of Moran's subordinates have paid benefit time. Moran reviews and approves their requests for time off. For each pay period, HR provides Moran with a benefit summary document for each subordinate. When Moran receives requests for benefit time, she doublechecks the benefit summary document to ensure that the subordinate has available benefit time. She initials the form and sends the request to her department head for signature. Moran has never denied a request for leave.

After granting a leave request, Moran decides whether she will fill in for the absent employee, whether someone else will fill in, or whether the work has to wait. Moran typically fills in for the absent employee because the library assistants work 25 hours a week, and their maximum is 28 hours. Moran cannot make them take on a whole additional shift. If something does not get done in a given day, it can be completed in the near future.

vi. Evaluation

Moran prepares evaluations for her subordinates. Prior to drafting the evaluation, Moran and Price discuss each subordinate's reviews, ratings, and goals for the next year. Moran describes her observation of her subordinates' performance to Price and expresses her thoughts. Price shares her thoughts. Usually they agree on the appropriate rating. Moran then drafts the evaluations, selects the ratings, writes the comments and provides a copy to Price. Price has never changed Moran's ratings or comments. Price and the director both sign the evaluations. Moran then

tenders each employee their evaluation and discusses it with them.

Szott suggested that Moran completes the evaluations unilaterally but conceded that she does not know what discussions take place between Moran and her department head before Moran completes the evaluation.

Moran's evaluation of subordinate Spee would have resulted in a merit increase, had the library not implemented a freeze on increases during the pandemic.

b. Discipline

Moran has never issued discipline to a subordinate or recommended that an employee receive discipline. Moran testified that the Employer never informed her that she has any disciplinary authority. She has not received any training in the library's discipline policies.

c. Hiring

Moran participates in the hiring process for her unit¹⁰ and for the unit overseen by Hare. Moran, Hare, and Department Head Price review all applications to determine whom to interview. Moran, Hare, and Price then participate on an interview panel. Moran participates in asking questions and can decide what questions to ask. After every interview, each panelist completes a rating form. Then the panelists discuss the merits of the applicants and make a decision together about whom to recommend for hire. The panelists have never disagreed on whom to recommend for hire.

In one case, Moran and Hare served on an interview panel without Price because Price was on medical leave. Hare completed the hiring recommendation form and recommended that the library hire Meghan Bertetto. The library accepted Hare's recommendation and Bertetto now reports to Hare. Moran has never completed a hiring recommendation form.

d. Adjustment of Grievances

No one has ever filed a formal grievance with Moran. The library has never told Moran what role she has in the grievance process, and the library has not trained her on the library's

¹⁰ The last time Moran had involvement in the hiring process for an employee in her unit was in December 2018, when the library hired Murray.

grievance process.

In 2017 or 2018, Moran and Department Head Price discussed giving Library Assistant Spee an overall score of two on her evaluation. Moran left the overall rating blank. Price filled out the overall rating and mistakenly gave Spee a score of 1. Price and the director then signed the evaluation.

Spee became upset when Moran discussed the evaluation with her because Price had given her an overall score of one, instead of the higher score. Spee approached HR about the matter and spoke with Moran about it afterwards to tell her she had called the director. Moran called Director Deiters to discuss the situation and stated that she and Price never discussed giving Spee an overall score of one. Deiters stated that he needed to wait for Price to return before remedying the situation. When Price returned, Moran brought the matter to Price's attention. Price confirmed that she had marked the wrong box. The library modified the evaluation.

Library Assistant Murray expressed to Moran that she would like to work fewer Saturdays. She had been working every Saturday from June or July to November 2020. Moran realized that she could resolve the situation by establishing a rotation. Moran recommended the change to Department Head Price, who accepted the recommendation.

e. Preponderance

Moran spends approximately 5-10% of her time on duties related to hiring, directing, rewarding, disciplining her subordinates, and adjusting their grievances. Moran spent 8-16 hours training Murray after the library hired her. Moran spends 10-12 hours per week pulling and processing materials, receiving materials, performing billing and invoicing, following up on missing items, processing patron requests, and contacting libraries to clarify issues with particular inter-library loan requests. If Moran is working on a Saturday, she spends an additional five hours performing such work because she is the only one there to do it. Szott does not observe Moran performing her work on a day-to-day basis and has conducted no time study to ascertain how much time Moran spends performing her different job functions.

Szott testified that she considers Moran's supervisory activities to be critically important because the department heads rely on the supervisors to perform their duties so that the library can function smoothly. Moran testified that her obligation to ensure that "personnel are well-trained

efficiently utilized and supervised fairly” is an important part of her job responsibilities.¹¹

7. Nathan Hare

Nathan Hare is the Circulation Librarian, Grade 10.¹² Hare reports to Tippi Price, the Department Head of Customer Services.

Hare works at the circulation desk. He is responsible for the library’s hot spot collection¹³ and curbside services. He also performs outreach duties to homebound patrons and compiles circulation and patron statistics for the monthly board reports. In the near future, Hare will also have collection management duties for audio-visual materials. Hare currently oversees 13 subordinates, all of whom work part time. Hare is ultimately responsible for the work performance of his unit.

Hare’s subordinates hold the title of Library Assistant, grade 3. Eleven library assistants work 8-19 hours per week and two library assistants work 20-28 hours a week. Nine library assistants work at the circulation desk, where they check materials in and out, make library cards, answer phones, collect money for fines, and perform reception duties for the library. Four library assistants work at the audio-visual desk where they respond to patron questions about audio visual materials, place holds on such materials, and clean and shelve them. Hare obtained oversight over the library assistants at the audio-visual desk in March 2021 when the library effectuated its decision to merge the audio-visual unit into the Customer Services Department.

Hare’s subordinates are not involved in the hiring process, they are not responsible for cross training or evaluating employees, they do not give assignments, and they do not approve time off requests. Hare testified that much of his work is the same as that of his subordinates but conceded that he has more responsibilities. His position also requires an advanced degree, while

¹¹ This phrase is drawn from Moran’s old job description, which was effective prior to March 2021, but her current job description contains similar language.

¹² He previously held the position Circulation Services Coordinator, grade 7 or 8. The library promoted him when he received his Master of Library Science.

¹³ The hotspot collection is for patrons who do not have internet at home.

theirs does not.

a. Direction

i. Oversight/Scheduling /Assignment

Hare establishes a schedule for his subordinates each month. He creates the schedule in an application that is part of Microsoft Teams. The schedule lists start and end times for his subordinates and where they will be working for the day. The assignment locations include the circulation desk, pulling for inter-library loan, or checking in materials in quarantine. Each staff member performs one designated assignment for a whole shift. Hare rotates his subordinates through the various assignments so that they have an opportunity to perform all the different types of tasks within the unit. Hare sends his proposed schedule to Department Head Price for approval but does not need approval to change the schedule when there is call off due to illness or a vacation request.

Hare is aware of staff members' availability. Two staff members have second jobs, some staff members are in school, and others have personal obligations that prevent them from working certain days. Hare schedules them according to departmental needs and hourly limits. He tries to accommodate his subordinates' lives and schedules. If there is conflict between his subordinate's needs and the library's needs, the library expects him to maintain the library's needs to have the circulation desk covered. However, Hare has never scheduled one of his subordinates to work a time when they have told him they cannot work due to a conflict. Hare usually fills in to perform the work himself.

ii. Time off

Hare approves leave requests for his subordinates. He verifies that the employee has enough accrued benefit time to take the requested leave. Employees who do not have benefit time are allowed to take excused absences. If a staff member takes time off, Hare tries to arrange coverage. Hare's job description requires him to ensure that the unit is adequately staffed at all times. However, typically, each subordinate is already scheduled for their maximum number of hours. In such cases, Hare fills in for the absent staff members.

In one case, Hare signed a subordinate's special leave request form. The subordinate sought three weeks of unpaid leave so that she could conduct flight attendant training for a flight

attendance job she had been offered. Hare discussed the request with his department head. They discussed whether the library could spare an employee for three weeks. He and his department head reached a decision together that the library could accommodate the leave. Szott testified that Hare was authorized to unilaterally approve the leave and did not need to ask a superior's permission to grant approval. However, the special leave request form signed by Hare has a space for the initials of "Department Head/Director," and that space bears a set of initials. Furthermore, the standard leave request forms expressly state that, if the request is for an extended leave, as it was in this case, the director must approve it.

Although Szott testified that Hare, on his own, reached a determination on the special leave request, her testimony is granted less weight than Hare's because she did not offer details to explain the basis for her assertion.

Szott was unaware of any instance in which Hare denied a request for leave.

iii. Oversight/Review

The library's evaluation of Hare states that Hare offers staff "very clear instructions for the tasks assigned and swiftly communicates when corrections need to be made." Hare's desk is located in the workroom behind the circulation staff so that he can observe his subordinates and help out. However, Hare testified that he does not need to provide his subordinates with day-to-day direction because they simply follow the assigned schedule.

Hare reviews time sheets submitted by his subordinates. He checks their time sheets against the schedule he set to verify their accuracy. He sometimes finds mistakes in time sheets. The most common type of mistake is a mathematical error or an employee's failure to sign the time sheet. Depending on the type of error, he either corrects the error himself or asks his subordinate to correct the error.

iv. Training

He completes an orientation for each new employee. He introduces the new employee to unit heads and coworkers, provides the employee with a position description, KRA, and name tag, provides the employee with appropriate keys, explains department procedures and rules, explains use of computers and telephone system, requests access to computer system and email, and explains emergency evacuation plans. The orientation training lasts 12 to 16 hours, which is split

up into two or three sessions. Hare testified that he does not provide ongoing training to his subordinates after the orientation training.

Hare's evaluation states that he "thinks of ways to educate [his subordinates] on technology system updates. It further states that he offers staff clear instructions for the tasks assigned and swiftly communicates when corrections need to be made.

Hare's job description requires him to ensure that customer service desk staff are well trained and knowledgeable of other units in the library. Hare is responsible for cross training the library assistants who work at the circulation desk and the library assistants who work at the audio-visual desk.

v. Evaluation

Hare prepares evaluations for his subordinates. He drafts the evaluation based on his observations of his subordinates and is responsible for observing his subordinates all year long. Hare determines the rating for the evaluation and determines what notes to write based on his subjective judgment and observation of the employee. He creates the subordinate's goals for the following year. Hare then gives a paper copy of the evaluation to Department Head Price, who reviews it, signs it, and then sends it to the director who likewise signs it.

In one case, Director Deiters asked Hare to change a rating in an evaluation he had prepared. The evaluation concerned employee Barbara Master. Hare had given Master a rating of above standards. Deiters believed that, based upon Hare's comments, the score should have been a "meets expectations." Hare changed the rating. Deiters did not request changes in any other evaluations completed by Hare. This was the only instance in which anyone ever asked Hare to change an evaluation rating or comment that he drafted.

If an employee is not at the top of the pay scale and if there is no merit increase freeze, a good evaluation will result in a wage increase. Hare has issued evaluations to subordinates that resulted in wage increases.

b. Discipline

Hare has never issued discipline to an employee that resulted in documentation that the library placed in an employee's personnel file. He has also never recommended such discipline.

Hare stated that if an employee were to make a mistake on a time sheet, Hare would counsel

his subordinate to be more vigilant about completing the time sheets accurately. Hare testified that he believed he would be empowered to determine whether an employee made a good faith mistake or whether the situation warranted disciplinary action. However, he asserted that he would consult his department head before taking any action.

c. Hiring

Hare participates in the hiring process. He reviews applications collectively with Librarian Moran, and Department Head Price to determine which candidates to interview. The interview panel generally includes Moran, Hare, and Department Head Price. Hare creates interview questions. After the interview, the panelists each complete a rating sheet. They each rate the candidate in a number of knowledge categories and skill categories from zero to five. The numbers correlate to ratings of excellent, above average, fully qualified, below average, fair, and unacceptable/unobserved.

Hare completes the rating sheet based on his assessment of the candidate's answers in the interview and Hare's impression of the candidate as a potential employee. The panelists then discuss the applicants' strengths and make a decision on whom to recommend for hire. Hare testified that he could not recall an instance in which the panelists disagreed on whom to recommend for hire.

In one case, Hare participated in a second-round hiring panel that did not include Department Head Price. Price was present for the first round of interviews, but when the successful candidate declined the position, interviewing continued. At that time, Price was out on medical leave and could no longer participate in the interviews. Accordingly, Hare and Moran interviewed candidates without Price.

Hare does not typically draft hiring recommendations. In cases where he interviews candidates with Moran and Price, Price completes the hiring recommendation form. However, Hare has drafted hiring recommendations on two occasions. One on occasion, he drafted the recommendation at the Department Head Price's request after the panel agreed to select Brennan Walls for hire. Hare testified that he believed that Price made this request because she was off

work for the holidays.¹⁴ In another case, Hare drafted a recommendation to Hire Meghan Bertetto after he and Moran completed second round interviews while Price was on medical leave. The stated salary for Bertetto was the general base salary. The Employer accepted Hare's hiring recommendation and hired Bertetto.

On one occasion when Hare's department head was absent, Hare requested a posting for an open circulation staff position after the former position holder left the position. Hare completed a job posting request for a library assistant position and requested that the position be posted both externally and internally. The director approved the posting. Hare testified that he does not perform requests for job postings when his department head is available.¹⁵

d. Adjustment of Grievances

No employee has brought any formal grievance to Hare's attention. He has not received any training in the library's grievance process. Staff in Hare's department approached him because an autistic staff member was making them uncomfortable and violating social distancing protocols. Hare contacted the staff member's supervisor, Izabel Gronski, who informed him that she would speak to then-Department Head Williams about it. Hare did not receive confirmation that Williams had spoken to the autistic staff member. Accordingly, Hare spoke to the autistic staff member and informed his supervisor of the discussion. Hare thereby addressed the concerns of his subordinate employees.

Hare's evaluation states that "staff applaud [Hare's] demeanor when addressing their concerns and having their back when needed."

e. Preponderance

Hare spends 20 hours a week, just over 50% of his time working at the circulation desk. Hare spends approximately 5-10% of his work time hiring, directing employees, rewarding employees, disciplining employees, and adjusting grievance. Szott sees Hare every other day for five to 10 minutes. Szott has done no time studies based on her observation of him to determine

¹⁴ Szott offered general testimony about the petitioned-for employees' authority to hire, but admitted that she did not know the details of who participated in the interviews for Walls's position, did not know Price's involvement in the process, and did not know how the library determined the starting salary.

¹⁵ Szott testified that the library does not post for a position until it receives a request from Hare.

how much time he devotes to his different job duties.

Szott testified that Hare's performance of supervisory duties is important because it keeps the library running smoothly. Hare's evaluation states that "having a motivated work force is fundamental to delivering excellent services" and that Hare is an "excellent leader ...who inspires staff to give their best work [and]...has improved staff morale which increased [staff] productivity.

8. Roger Burns

Roger Burns is a Librarian Grade 10, Page Supervisor, in the Youth Services Department. He reports to Jen Abler, the Youth Services Department Head. His position requires an advanced degree.

Burns is responsible for providing patrons with quality reference and readers advisory services. He serves as summer reading coordinator. He also assists his department head with collection development. Burns's job description states that he is responsible for supervising, evaluating, training, scheduling, and assigning work to his subordinates. Burns is ultimately responsible for the work performance of his subordinate pages and provides them with oversight.

Burns oversees four pages. Three of the pages work 12 hours a week on average. One of the pages works four to eight hours a week on average. The pages shelve books, ensure they are in order, and keep the department tidy. The page positions are the lowest rank in the library and are usually held by those who are under 16 years old. Page positions do not require an advanced degree. Pages do not approve time off for anyone and they do not conduct evaluations or give work assignments.

a. Direction

Burns assigns pages to perform shelf-reading. He also gives pages special projects and asks them to help with programs when they meet or exceed expectations in shelf reading.

Burns approves his subordinates' leave requests. None of the pages Burns oversees get paid benefit time. Burns's self-evaluation states that "due to scheduling conflicts and sporadic page turnover, we sometimes fall short [of] maintaining a fully staffed schedule, but I do my best to accommodate and provide the best possible coverage each day."

Burns reviews his subordinate's work. He reviews his subordinates' time sheets to ensure they are accurate. He also provides the pages with feedback if he finds that a DVD is in the wrong

case. He takes a photo of the item and sends it to the page to check the case. He also reviews the accuracy of pages shelf reading

Burns created/revised an onboarding plan for newly hired pages. Burns created a training schedule for new pages and made shelf-reading a priority for them.

On August 7, 2018, Burns issued his subordinate, Max Kasick, a memorandum outlining “goals to work towards.” It stated that Kasick should build speed and accuracy in his shelf reading, increase confidence in his decision-making and job knowledge, and improve his presentation and demeanor.

On April 20, 2019, Burns issued Kasick a performance improvement plan. It identified areas of concern, including shelf-reading accuracy and speed, time management, closing procedures, floor etiquette, and judgment regarding basic tasks and responsibilities. The plan noted observations made by Burns, Tom Kochinski, Mary Donovan, and Department Head Abler. The plan stated that Burns and Department Head Abler would provide the subordinate with feedback. The plan states that failure to meet its expectations or any display of gross misconduct would result in further disciplinary action up to and including termination. The plan contained progress checkpoints. Burns signed the plan but Abler did not.

On May 29, 2019 the library issued Kasick a performance evaluation entitled “re-evaluation...follow-up from P.I.P.” It stated that he had inconsistent performance. It stated that the library would evaluate him again and instructed him to “adhere to guidelines established in the PIP and Performance Evaluation.” The evaluation is signed by the unit supervisor, the department head, and the director.

Szott testified that she did not know the involvement of the department head in the decision to issue or create a performance improvement plan. The department head did not sign the PIP, but Szott testified that she did not have knowledge that the department head was not involved in its creation. The library evaluated Burns on how well he documented performance deficiencies of the poor-performing page.

Burns completes annual evaluations for his subordinates. Szott initially testified that Burns completes his evaluations independently but later conceded that she did not know the process by which any of the petitioned-for employees drafted their evaluations. She further conceded that she did not know what, if any, discussions occur between Burns and the department head before Burns

gives the employee the evaluation.

b. Hiring

Burns interviews candidates for page positions. Another individual participates in the interview process, but the rank of the second participant is not clear from the record. During each interview, Burns completes an interview rating form, which rates the candidate in a number of categories.

Burns completes hiring recommendations for pages. The record contains three examples of hiring recommendations drafted by Burns. The library accepted all three recommendations and hired the selected applicant. Szott could not recall an instance in which the library had rejected Burns's hiring recommendations, but she did not know whether the department head was present in the interviews.

c. Preponderance

Szott testified that she considers Burns's oversight of the pages to be critically important to the smooth functioning of the library. Szott sees Burns at work once a week for 10-15 minutes. She has not done a time study of how much time he devotes to his different job functions.

Szott testified that Burns's responsibility to participate in Youth Services programs and collection development, and to answer patron questions that arise in the Youth Services Department are also extremely important parts of his job because they are identified as KRAs in his job description.

9. Natalie DeJonghe - Technical Services Department

Natalie DeJonghe is the Technology Engagement Librarian and works in the Technical Services Department. Since March 22, 2021, she has reported to Jenny B, the Department Head of Technical Services. She previously reported to former-Department Head Williams in Adult/Young Adult Services, but still held the title of Technology Engagement Librarian. DeJonghe directly oversees one subordinate, Patricia Lerner, who is also petitioned-for in this case.

DeJonghe works at the computer desk approximately 8 to 12 hours per week. She plans and hosts technology training for adults, works with the Youth Services Department to plan and host technology programs, gathers statistics for the library, and manages part of the library website.

DeJonghe's job description requires her to supervise the computer lab and staff, to evaluate, schedule, train them, and assign them work. She is responsible for overseeing and coordinating the activities of the computer center staff, using the senior library assistant's services, as appropriate. DeJonghe is ultimately responsible for the work of her subordinates. Her position requires an advanced degree.¹⁶

Lerner is the desk supervisor for the computer center. She is a full-time employee and primarily works at the computer center desk. She also prepares the computer center desk schedule, writes reviews for the eight library assistants who work at the computer desk, and assists DeJonghe in the hiring process when there is an opening in the computer center.

Lerner's subordinates, the library assistants, are also DeJonghe's subordinates. The library assistants are responsible for keeping the computers clean, helping the patrons use the computers, and managing the copy and fax machines. One of the Library Assistants works 20 hours per week, the other seven work 12 hours per week.

a. Direction

i. Scheduling / Time off

DeJonghe is responsible for scheduling Lerner but has not changed Lerner's pre-established schedule.

If one of Lerner's subordinates calls in sick and Lerner is unavailable, DeJonghe determines who will fill in for the person who called in sick. She determines whom to select based on the number of hours that staff members have available to work that week. If the staff members are already scheduled for their maximum number of hours, DeJonghe takes the shift.

DeJonghe signs her subordinate's leave requests after assuring that her subordinate has sufficient time available, as judged by the benefit statements she receives every pay period from the HR Coordinator.

DeJonghe considers leave requests for Lerner's subordinates in Lerner's absence. She has never denied a leave request when someone has the time available. Only one of the computer assistants has paid time off. The remaining computer assistants work less than 20 hours a week

¹⁶ Prior to March 22, 2021, DeJonghe also worked at the adult services desk from 10-12 hours per week, performed adult non-fiction collection development, participated in adult programming, and also gathered collection statistics about the adult and young adult materials collection. DeJonghe is no longer performing duties directly related to Adult and Young Adults Services.

and get no benefit time.

On direct examination, Szott testified that DeJonghe makes decisions on leave requests based on coverage and workload. However, on cross examination, Szott testified that she is unaware of the factors that DeJonghe considers in signing leave requests.

ii. Review

DeJonghe reviews her subordinate's time sheets. Prior to COVID, DeJonghe reviewed only Lerner's time sheets. During COVID, and at the time of the building's closure, the library began tracking time on excel spreadsheets, and DeJonghe reviewed time sheets for the entire computer center unit, including Lerner's subordinates. When reviewing the time sheets, she checks that the hours on the time sheet match the schedule and ensures that the time sheet includes all leave requests.

iii. Training

DeJonghe worked with Lerner to train staff on additional programs and technologies including resume software and a 3d printer. DeJonghe also conducts computer training for library staff members when they begin work.

If DeJonghe sees an employee doing something incorrectly, she shows them the proper way to perform the task. She has provided training and counseling to employees but could not recall ever having counseled an employee about the library's policies or procedures.

The record includes an evaluation of DeJonghe, which mentions that DeJonghe and Lerner created a performance improvement plan for a new hire who did not perform well, continued to perform poorly, and later resigned. The performance improvement plan does not appear in the record and the record contains no further details about this matter.

iv. Evaluation

DeJonghe evaluates her subordinate, Lerner, based on her observation of Lerner on the job. When DeJonghe reported to Williams, she would create a rough draft of the evaluation and provide it to Williams, who would give comments or suggest changes and discuss the evaluation with her. DeJonghe would make the changes and then sign the evaluation. Williams did not change any of DeJonghe's ratings. Szott initially testified that DeJonghe is not required to obtain anyone's

approval before drafting the evaluation, but later admitted that she did not know the process by which any of the petitioned-for employees draft evaluations or the extent of the department heads' participation in the process.

The director signs the evaluations after DeJonghe and the department head sign. In one case, Director Deiters informed DeJonghe that he had approved one of the evaluations she helped draft even though he believed that the evaluation score had been too low.

DeJonghe's subordinate, Lerner, is currently at the top of the pay scale. Accordingly, DeJonghe's evaluations of Lerner, going forward, will have no impact on her pay. However, DeJonghe helped complete an evaluation of Lerner before she reached top of scale and Lerner received a pay increase as a result of that evaluation. Williams completed part of the evaluation herself because DeJonghe did not yet work for the library during the first part of the evaluation period.

b. Discipline

DeJonghe has never issued discipline and the library did not train her on its discipline policy. DeJonghe testified that she believes she has authority to discipline her subordinates but also stated that former Department Head Williams told her to review any potential discipline with her before taking action.

DeJonghe testified that she believes she has authority to address an issue with counseling and training as opposed to discipline. However, the record includes no examples in which this has ever occurred.

c. Hiring

DeJonghe submitted a job posting request for a new library assistant 1 position. Williams brought the matter to then-Director Deiters, who granted the request. DeJonghe has also requested that the library fill positions when a position holder leaves.

An evaluation of DeJonghe states that DeJonghe worked with Lerner to fill three open positions. Szott testified that DeJonghe interviews candidates for positions at the library, but also noted that the department head is sometimes involved in interviewing candidates. It is not clear

whether DeJonghe's department head was present during the interviews DeJonghe helped conduct.

d. Adjustment of Grievances

DeJonghe has not received training on the library's grievance procedure. However, DeJonghe has helped address misunderstandings between staff members. Librarian Nathan Hare approached DeJonghe because two of his subordinates had reported an issue with DeJonghe's subordinate, Lerner. DeJonghe spoke with Williams to discuss the situation. They decided to meet with Lerner to hear her side of the story. DeJonghe and Williams determined that the issue arose because of a personality clash and suggested to all the employees involved that they be civil to each other and that they avoid each other whenever possible.

DeJonghe also helped address a concern raised by Lerner regarding a low evaluation score she had received. DeJonghe brought the matter to Williams's attention and presented Williams with all the information. DeJonghe testified that she and Williams discussed the points together to determine whether "we felt it was appropriate" to recommend a change to the rating. Once they decided such a recommendation would be appropriate, Williams presented the recommendation to Director Deiters, who then approved the change.

e. Preponderance

DeJonghe testified that she spends 5-10% of her time each year performing work related to hiring, directing, rewarding, disciplining employees, and adjusting grievances. Szott testified that she does not observe DeJonghe performing her work on a day to-day basis. Szott sees her once every two weeks for five minutes. Szott has not done a time study of the time she spends performing her various job duties.

Szott testified that DeJonghe's activities in overseeing her subordinate are critically important to smooth functioning of the library.

10. Patricia Lerner - Technical Services Department

Patricia Lerner is a Senior Library Assistant, Grade 5. She works in the Technical Services Department and reports to Natalie DeJonghe, the Technology Engagement Librarian. She previously reported to Unit Head Janet Orzech and Department Head Mary Williams. Lerner

oversees eight Library Assistants, Grade 3.

Lerner provides assistance to patrons and ensures full and efficient coverage of the computer services desk with well-trained and skilled staff. She prepares the monthly schedule and reviews applications for positions in her unit at the library. She assists in maintaining the computer center equipment and supplies. She assists the Technology Engagement Librarian in evaluating equipment and software and in conducting the computer classes. Lerner is responsible for the work of her subordinates. Lerner's job description states that she is responsible for evaluating, training, scheduling, and assigning work to her subordinates.

The library assistants who report to Lerner are part-time computer center personnel. They help patrons in the computer center. They man the copy machine, the fax machine, and the computers. Lerner's subordinates do not approve time off, conduct evaluations, or give work assignments.

a. Direction

i. Review

Lerner reviews the time sheets for her subordinates. She verifies that the information is accurate and that the subordinate has attached supporting documentation of leave requests.

ii. Training

Lerner completes the orientation check list which provides initial training for new subordinates in her unit. She is also responsible for providing other training to computer center staff. She trains staff members to ensure they are aware of the computer center's policies and procedures. An evaluation of Lerner states that "a retraining plan was also created for a previous staff member."

iii. Time off /Scheduling

Lerner reviews and approves leave requests. Szott testified that when a subordinate submits the request, Lerner checks whether the subordinate has the available leave time, reviews

the reason for the leave, and decides whether to grant the request.

Lerner makes adjustments to the schedule when needed. An evaluation of Lerner states that Lerner “make[s] sure that staff time off requests are respected” and that “she is always willing to make adjustments when unexpected things come up.”

iv. Evaluation

Szott testified that Lerner completes evaluations for her subordinates but conceded that she did not have first-hand knowledge of how any of the petitioned-for employees draft evaluations or the extent to which the department head reviews rough drafts. Szott testified that she did not know whether former Department Head Williams ever asked Lerner to change an evaluation she drafted. Although Szott testified that the library accepts the petitioned-for employees’ evaluations 99.9% of the time, she did not survey the department heads to determine how many times they requested changes to evaluations.

b. Discipline

Both Lerner and then-Unit Supervisor Janet Orzech have issued verbal warnings to Lerner’s subordinates. However, it is not clear whether these warnings were documented.

In 2011, Lerner signed a formal written reprimand that the library issued to subordinate Eric Baker. The written reprimand was for poor quality of work, dress code, and attendance. The disciplinary document included a performance improvement plan for the subordinate. Unit Supervisor Janet Orzech, Department Head Mary Dunbek, and Director James Casey signed the disciplinary form. Szott testified that she did not know what role the department head played in the disciplinary decision. Szott was not part of any discussions related to this discipline.

Later in 2011, Lerner signed a final formal reprimand, issued to subordinate Baker, for failure to follow dress code violations, poor attendance, and failure to follow procedures. The disciplinary document included another performance improvement plan. It stated that the employee’s further non-compliance in reporting to work as schedule, handing out change, using headphones and violating the dress code would result in termination. Unit Supervisor Janet Orzech and Director James Casey signed this disciplinary form. Both Baker and the department head

signed the form before Lerner signed.

In 2013, Lerner signed another final formal reprimand for failure to report to work as scheduled. The document warned that the library would terminate Baker for any further infractions of any kind. It also set forth a performance improvement plan. Lerner, Barker, and the Department Head all signed the document.

Szott testified that it was Lerner's decision to issue the disciplinary actions. She further stated that Lerner had authority to choose between training, discipline, or to overlook the infraction. However, Szott testified that she did not know what role Unit Supervisor Orzech, and the department head, or the director had in the decision-making process for any of these actions.

c. Hiring

Lerner participates in the hiring process. She selects applicants for interview, develops questions, and interviews candidates. When Lerner interviews candidates, there is always another library employee present to observe and rate the candidates. It is not clear from the record who served on the hiring panel with Lerner. Lerner drafted a hiring recommendation to hire Diane Dee as a part-time Library Assistant Grade 3. The library accepted her recommendation and hired Dee.

Szott testified that Lerner determines what she would like to offer as the rate of pay and the starting date. However, Szott clarified that her testimony on the hiring process was based solely on the fact that Lerner signed the recommendation form. To Szott's knowledge, the library has accepted all of Lerner's hiring recommendations.

d. Preponderance

Szott testified that Employer considers Lerner's supervisory functions to be important because the department head could not handle the entire department. She stated, "we rely heavily on these supervisors to supervise." Szott has not observed Lerner on a regular basis performing her duties. Szott has not done a time study of Lerner to determine how much time she spends on different job duties.

11. Pam Taylor - Technical Services Department

Pam Taylor is a Senior Library Assistant Coordinator, Grade 7, in the Technical Services

Department. She reports to Jenny B, the new department head for Technical Services. Taylor oversees one subordinate, Jenny Goetz, a Library Assistant II (Cataloguing), grade 4.¹⁷ Goetz works 20 hours a week. The library's organizational chart indicates that Taylor formerly had two positions who reported to her. However, the library has no current plan to give Taylor additional subordinates.

Taylor is responsible for cataloging and classifying library materials, overseeing and directing the acquisition, processing, and repair of library materials, overseeing and directing department workflow, and coordinating staff and activities. She is also responsible for training her subordinate, coordinating her subordinate's tasks, reviewing her subordinate's time sheets, and evaluating her subordinate's work. Taylor is ultimately responsible for the work performed by her subordinate.

Library Assistant II Goetz is responsible for receiving and entering newspaper and periodical materials into the database, maintaining item and bibliographic records in the database, reclassifying materials, coordinating inventory reports, editing the database, and acting as a back up to the senior library assistants, when needed. Goetz does not conduct evaluations or give work assignments.

i. Direction

Taylor reviews and approves her subordinate's time sheets. She ensures that the time sheet is accurate by comparing it to the hours she scheduled and that it includes all applicable leave requests.

Taylor reviews and approves leave requests. Szott testified that Taylor decides whether to grant a leave request. Taylor's evaluation states that "she strives to have the department adequately staffed most of the time." It further states that "she needs to be more careful when approving leave requests to assure adequate coverage."

Taylor completes evaluations for her subordinate. On direct examination, Szott testified that Taylor decides the ratings for each category, drafts the comments, determines whether to add comments, creates the goals for the coming year, and need not obtain approval before drafting the evaluation. However, on cross-examination, Szott conceded that she did not have first-hand knowledge of how any of the petitioned-for employees draft performance evaluations or the extent

¹⁷ Kathy Szott, who testified about Taylor's title offered unclear testimony about the title held by Taylor's current subordinate. Accordingly, I rely on the Employer's Exhibit 12.

to which their department head reviews rough drafts. Evaluations completed by Taylor's superiors state that Taylor merely provides "input" into evaluations. One of the evaluations included in the record bears the signatures of only Taylor and the director because Taylor did not have a department head at the time. Taylor currently reports to a department head.

Taylor's subordinate, Goetz, is currently at the top of the pay scale. A good evaluation therefore does not have an impact on her pay.

ii. Remaining Indicia

Neither Taylor nor her direct supervisor testified at hearing, which thereby limits both the quality and quantity of evidence presented regarding Taylor's exercise of supervisory authority.

One of Taylor's evaluations states that she consistently enforces departmental and library policies and standards with tech services staff. However, it is not clear how she does so. There is no evidence that Taylor has ever issued discipline.

iii. Preponderance

Taylor's 2019 evaluation states that her primary responsibility is to coordinate the activities of library assistants in Technical Services, but it also notes that "in recent years, her job has turned more and more to making the [processing/cataloguing] robot function properly."

Szott testified that Taylor's functions in overseeing her subordinates are critically important to the library because they allow the Technical Services Department to function properly, which in turn allows the library to function properly.

IV. **DISCUSSION AND ANALYSIS**

1. Supervisory Exclusion

As discussed below, none of the petitioned-for employees are supervisors within the meaning of Section 3(r) of the Act.

Section 2 of the Act grants public employees full freedom of association, self-organization, and designation of representatives of their own choosing for the purpose of negotiating wages, hours, and other conditions of employment. 5 ILCS 315/2. Section 3(n) of the Act defines the term public employee and excludes "supervisors [from that definition] except as provided in [the]

Act.” 5 ILCS 315/3(n).

The first paragraph of Section 3(r) defines the term supervisor and sets forth a four-part test for establishing supervisory status in non-peace officer employment. Under that test, individuals are supervisors if they (1) perform principal work substantially different from that of their subordinates, (2) possess authority in the interest of the employer to perform one or more of the 11 indicia of supervisory authority enumerated in the Act, (3) consistently use independent judgment in exercising supervisory authority, and (4) devote a preponderance of their employment time to exercising that authority. 5 ILCS 315/3(r); City of Freeport v. Ill. State Labor Rel. Bd., 135 Ill. 2d 499, 505-6 (1990).

In a representation case, the party that seeks to exclude an individual or job classification from a proposed bargaining unit via a statutory exclusion has the burden of proving that exclusion by a preponderance of the evidence. Chief Judge of the Circuit Court of Cook County, 18 PERI ¶2016 (IL LRB-SP 2002). It “cannot satisfy its burden by relying on vague, generalized testimony or contentions as to an employee’s job function.” Cnty. of Cook, 28 PERI ¶ 85 (IL LRB-LP 2011). The employer must present specific evidence as to each petitioned-for employee and connect that evidence to the controlling law. Sec’y of State v. Illinois Labor Relations Bd., State Panel, 2012 IL App (4th) 111075, ¶ 55. In other words, the employer needs to develop arguments as to each specific employee that synthesize, analyze, and explain to the finder of fact how the facts show the petitioned-for employees are supervisory. Sec’y of State, 2012 IL App (4th) 111075 ¶ 57.

In addition, the Board generally requires parties to present specific examples of alleged supervisory, managerial, or confidential authority to prove the exclusion. State of Ill., Dep ’t of Cent. Mgmt. Servs. (PSA Option 1), 25 PERI ¶ 184 (IL LRB-SP 2009); State of Ill., Dep ’t of Cent. Mgmt. Servs. (Dep’t of Public Health), 24 PERI ¶ 112 (IL LRB-SP-2008); Cnty. of Union, 20 PERI ¶ 9 n. 2 (IL LRB-SP 2003).

However, there is some dispute among the districts of the Illinois Appellate Court on whether specific examples of the exercise of supervisory authority are required as proof. For instance, the Fifth District has held that conferring authority to perform supervisory indicia is enough to satisfy the requirements of the Act even if there is no evidence that the individual has performed that duty. Village of Maryville v. ILRB, 402 Ill. App. 3d 369, 374-5 (5th Dist. 2010); see also Illinois Department of Central Management Services v. ILRB. State Panel, 2011 IL App 4th 090966 (Fourth District opinion discussing authority to perform supervisory tasks even

in apparent absence of concrete examples of performance); but see Illinois Department of Central Management Services v. ILRB, State Panel, 382 Ill. App. 3d 208, 228-29 (4th Dist. 2008) (finding that, although job description purported to give authority to alleged supervisors, these alleged supervisors did not “in practice” perform the tasks with significant discretionary authority). The First and Third districts have focused on specific examples of authority as exercised in analyzing the supervisory test and have found that rules and regulations or job descriptions, while important, are not alone sufficient to meet the burden of proof. See Village of Broadview v. ILRB, 402 Ill. App. 3d 503, 508-9 (1st Dist. 2010); cf. City of Peru v. ISLRB, 167 Ill. App. 3d 284, 291 (3rd Dist. 1988).

1) Principal Work

In determining whether the principal work requirement has been met, the initial question is whether the work of the alleged supervisor and that of his or her subordinates is obviously and visibly different. City of Freeport, 135 Ill. 2d at 514. If the answer is yes, the principal work requirement is satisfied. Id. If the answer is no, the determinative factor is whether the “nature and essence” of the alleged supervisor's principal work is substantially different than the “nature and essence” of his or her subordinates' principal work. Id. This requires the Board to consider the petitioned-for employees’ supervisory authority and the ability to exercise it at any time, and to identify the point at which the employee's supervisory obligation conflicts with his or her participation in union activity with the employees he or she supervises. Id. at 518. However, the “mere possession of any indicia of supervisory authority” is insufficient to change the nature and essence of substantially similar principal work. Chief Judge of the Circuit Court of Cook County, 6 PERI ¶ 2047 (IL SLRB 1990). The Board has found the performance of certain administrative duties can render a petitioned-for employee’s work substantially different from that of his subordinates in nature and essence. State of Ill., Dep’t of Cent. Mgmt. Servs. (Dep’t of Public Health), 27 PERI ¶ 10 (IL LRB-SP 2011) aff’d by State of Ill., Dep’t of Cent. Mgmt. Servs. v. Illinois Labor Relations Bd., 2012 IL App (4th) 110209; County of Cook and Sheriff of Cook County (Department of Corrections), 15 PERI ¶3022 (IL LLRB 1999); Village of

Bolingbrook, 11 PERI ¶2020 (IL SLRB 1995).

2) Supervisory Indicia and Independent Judgment

With respect to the second and third prongs of the Act’s supervisory definition, the Employer must establish that the employee at issue has the authority to perform or effectively recommend any of the 11 indicia of supervisory authority listed in the Act, namely, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, discipline, or adjust grievances, and consistently exercise that authority with independent judgment. The use of independent judgment must involve a consistent choice between two or more significant courses of action and cannot be routine or clerical in nature. City of Freeport, 135 Ill. 2d at 521 & 532.

Moreover, the alleged supervisor must exercise his independent judgment in the “interest of the employer.” 5 ILCS 315/3(r). In City of Freeport, the Court held that decisions made merely on the basis of the alleged supervisor’s superior skill, experience, or knowledge do not require the petitioned-for employee to exercise independent judgment “in the interest of the employer.” City of Freeport, 135 Ill. 2d at 532. The Board has clarified that the petitioned-for employee’s exercise of superior, skill, experience, and knowledge does not itself preclude a finding of supervisory authority. See infra. Rather, the critical question is whether the petitioned-for employee uses those attributes to ensure that his subordinates comply with standards established by the employer, thereby acting in the interest of the employer, or simply to ensure compliance with industry-wide or professional norms and standards. County of Cook and Sheriff of Cook County (Department of Corrections), 15 PERI ¶3022; State of Illinois (Department of Central Management Services), 11 PERI ¶2021 (IL SLRB 1995); see also Chief Judge of the Circuit Court of Cook County, 19 PERI ¶ 123 (IL LRB-SP 2003).

i. Direction

The term “direct” encompasses several distinct but related functions: giving job assignments, overseeing and reviewing daily work activities, providing instruction and assistance to subordinates, scheduling work hours, approving time off and overtime, and formally evaluating job performance when the evaluation is used to affect the employees’ pay or employment status. County of Lake, 16 PERI ¶ 2036 (IL SLRB 2000); County of Cook, 16 PERI ¶3009 (IL LRB 1999); County of Cook and Sheriff of Cook County (Department of Corrections), 15 PERI ¶3022;

City of Naperville, 8 PERI ¶2016.

However, employees cannot be found to be statutory supervisors based solely on their authority to direct unless they also possess significant discretionary authority to affect their subordinates' employment in areas likely to fall within the scope of union representation, such as discipline, transfer, promotion, or hire. County of Cook v. Illinois Labor Relations Bd.-Local Panel, Serv. Employees Int'l Union, Local 74-HC, 351 Ill. App. 3d 379, 396-7 (1st Dist. 2004) (citing City of Freeport, 135 Ill. 2d 499); Illinois Dept. of Cent. Mgmt. Services (State Police) v. Illinois Labor Relations Bd., State Panel, 382 Ill. App. 3d 208, 224 (4th Dist. 2008) aff'ing State of Illinois, Departments of Central Management Services and State Police, 23 PERI ¶38 (IL LRB-SP 2007); County of Lake, 16 PERI ¶ 2036; County of Cook and Sheriff of Cook County (Department of Corrections), 15 PERI ¶ 3022.

a. Oversight and Monitoring

Petitioned-for employees' oversight/review of their subordinates' work is performed "in the interest of the employer" when they require their subordinates to perform the work in the manner prescribed by the standards and regulations established by the employer. County of Cook and Sheriff of Cook County (Department of Corrections), 15 PERI ¶ 3022; State of Illinois (Department of Central Management Services), 11 PERI ¶2021; cf. Chief Judge of the Circuit Court of Cook County, 19 PERI ¶ 123. Petitioned-for employees' exercise of superior skill, experience, and expertise does not preclude a finding that they exercise independent judgment in the interest of the employer, provided that they ensure the work is performed according to the employer's standards. State of Illinois (Department of Central Management Services), 11 PERI ¶2021 (distinguishing City of Freeport, 135 Ill. 2d 499).

In addition, the petitioned-for employees must oversee and review their subordinates' work with the consistent exercise of independent judgment, which requires actively checking, correcting, and giving instructions to subordinates, without guidelines or review by others. County of Lake, 16 PERI ¶ 2036; City of Lincoln, 4 PERI ¶ 2041 (IL SLRB 1988); City of Chicago, 10 PERI ¶ 3017 (IL LLRB 1994). Furthermore, their oversight and review activities must not be

routine or clerical. City of Freeport, 135 Ill. 2d at 520.

b. Assignment

A purported supervisor exercises independent judgment in making assignments when he considers discretionary factors such as his knowledge of the individuals involved, the nature of the task to be performed, the employees' relative levels of experience and skill, and the employer's operational needs. County of Cook and Sheriff of Cook County (Department of Corrections), 15 PERI ¶ 3022. However, assignment of work that merely balances the workload among employees does not require the use of independent judgment. Chief Judge of Circuit Court of Cook County v. Am. Fed'n of State, County & Mun. Employees, Council 31, AFL-CIO, 153 Ill. 2d 508, 518 & 522; Serv. Employees Int'l Union, Local 73 v. Illinois Labor Relations Bd., 2013 IL App (1st) 120279, ¶ 52. Likewise, an assignment of tasks that is determined by standard operating procedures or a rotation system does not require independent judgment. City of Freeport, 135 Ill. 2d at 524 & 531.

c. Training

Training in and of itself is not a supervisory function, "but it can be when a supervisor is choosing between discipline or training." State of Ill., (Dep't of Cent. Mgmt. Servs.), 26 PERI ¶116 (IL LRB-SP 2010).

d. Evaluation

As noted above, responsibility for formally evaluating or rating work performance is evidence of the authority to direct when the rating or evaluation is used to affect the employees' pay or employment status. City of Carbondale, 27 PERI ¶ 68 (IL LRB-SP 2011); Vill. of Hinsdale, 22 PERI ¶ 176 (IL SLRB 2006); County of Lake, 16 PERI ¶ 2036; State of Ill., Dep't. of Cent. Mgmt. Services (Division of Police), 4 PERI ¶ 2013 (IL SLRB 1988). And in this case, it is undisputed that evaluations determine whether employees will receive wage increases.

However, for a recommended evaluation to qualify as evidence of the authority to direct, the recommendation must also be effective. Recommendations are effective if they are accepted as a matter of course with little, if any, independent review. Chicago Park District, 9 PERI ¶ 3007 n. 3 (IL LLRB 1993) (collecting cases). However, a recommendation need not be rubber-stamped

to be effective because the term “recommendation” implies some form of review by the person to whom the recommendation is made. City of Peru v. Illinois State Labor Relations Bd., 167 Ill. App. 3d 284, 290 (3d Dist. 1988).

ii. Reward

The Board has adopted the dictionary definition of reward which is “money given or offered for a special service.” Chicago Park District, 9 PERI ¶ 3007 (relying on dictionary definition); see also County of Lake, 16 PERI ¶ 2036; Northwest Mosquito Abatement District, 13 PERI ¶ 2042 (IL SLRB 1997), aff’d, 303 Ill. App. 3d 735 (1999); In some cases, the Board has held that petitioned-for employees have authority to reward their subordinates through their evaluations of them where the evaluations impact the subordinates’ pay. City of Chicago, 28 PERI ¶ 86 (IL LRB-LP 2011); Village of Streamwood, 26 PERI ¶ 134 (IL LRB-SP 2010); cf. Peoria Housing Authority, 10 PERI ¶ 2020 (IL SLRB 1994), aff’d by unpub. order, Docket No. 3-94-0317 (3rd Dist. 1995).

However, decisions reached by consensus, particularly those impacted by a superior's influence, are not indicative of supervisory authority. Stephenson County Circuit Court, 25 PERI ¶ 92 (IL LRB-SP 2009); County of Lake, 16 PERI ¶ 2036; Peoria Housing Authority, 10 PERI ¶ 2020 (IL SLRB 1994), aff’d by unpub. order, Docket No. 3-94-0317 (1995) (decisions made by consensus are not independent); Illinois Dep’t of Cent. Mgmt. Servs. (Dep’t of Children and Family Servs.), 8 PERI ¶ 2037 fn. 2 (IL SLRB 1992) (considering influence of superior when determining whether recommendations exhibited the requisite independent judgment). Similarly, when an individual's authority is exercised in conjunction with a second individual, with their decisions and recommendations made jointly, it lacks the requisite independent judgment. City of Naperville, 20 PERI ¶ 184 (IL LRB-SP 2004); City of Chicago (Chicago Public Library), 10 PERI ¶ 3016 (IL LLRB 1994); see also County of Cook (Health & Hospital System), 31 PERI ¶ 154 (IL LRB-LP 2015) (“group decisions are neither independent nor supervisory”). Also, for a recommendation to be deemed “effective” within the meaning of the Act, it must be adopted as a matter of course, with little, if any, independent review by the alleged supervisor's superiors.

Chicago Park District, 9 PERI ¶ 3007 n. 3 (collecting cases).

iii. Discipline

To constitute discipline within the meaning of the Act, reprimands must have an impact on an employee's job status or terms and conditions of employment. Village of Bolingbrook, 19 PERI ¶ 125 (IL LRB-SP 2003). Documented verbal reprimands constitute supervisory authority to discipline if 1) the individual has the discretion or judgment to decide whether to issue such a reprimand, 2) the reprimand is documented, and 3) the reprimand can serve as the basis for future disciplinary action, that is, it functions as part of a progressive disciplinary system. Village of Hinsdale, 22 PERI ¶ 176 (citing Metropolitan Alliance of Police v. Illinois Labor Relations Board, 362 Ill. App. 3d 469, 478 (2nd Dist. 2005)); see also Northern Illinois University (Department of Safety), 17 PERI ¶ 2005 (IL LRB-SP 2000) (verbal reprimands that are not recorded are not discipline within the meaning of the Act). In other words, verbal or written warnings are not supervisory in nature unless they are included in the employee's personnel file or somehow impact the employee's job status. County of Lake, 16 PERI ¶ 2036.

iv. Hiring

Where an individual participates in a committee which includes his or her supervisors, his or her recommendation is not "effective" within the meaning of the Act. State of Illinois, Department of Central Management Services, 25 PERI ¶ 184; County of Lake, 16 PERI ¶ 2036; Village of Downers Grove, 6 PERI ¶ 2035 (IL SLRB 1990), aff'd 221 Ill. App. 3d 47 (2nd Dist. 1991); see also Village of Bolingbrook, 19 PERI ¶ 125 n. 13 (addressing transfer). Furthermore, decisions reached by consensus of the petitioned-for employee and his supervisor are not supervisory within the meaning of the Act. Peoria Housing Authority, 10 PERI ¶ 2020 (addressing hiring); County of Lake, 16 PERI ¶ 2036 (addressing promotion). However, a hiring recommendation may still be deemed independent when made by two co-equal employees who reach consensus on the recommendation, as long as the recommendation is not impacted by the influence of a supervisor. Illinois Dep't of Cent. Mgmt. Servs. (Dep't of Children and Family

Servs.), 8 PERI ¶ 2037 fn. 2.

v. Adjustment of Grievances

The term “grievance” within the meaning of Section 3(r) of the Act refers to “any complaint by an employee concerning any aspect of the employment relationship” and is not limited to formal grievances filed pursuant to the parties’ collective bargaining agreement. State of Illinois (Department of Central Management Services), 12 PERI ¶ 2032 (IL SLRB 1996). Resolving workplace complaints that involve issues such as inequitable work assignments, personality disputes, and equipment problems can also qualify as “grievances” within the meaning of the Act. City of Freeport, 135 Ill. 2d at 530; Vill. of Roselle, 27 PERI ¶ 59 (IL LRB-SP 2011); City of Springfield, 27 PERI ¶ 69 (IL LRB-SP 2011). However, “[w]here the adjustment of grievances extends only to minor matters of a routine nature, the exercise of that authority does not require the consistent use of independent judgment.” State of Illinois, Dep’t. of Cent. Mgmt. Servs., 26 PERI ¶ 113 (IL LRB-SP 2010); State of Illinois, Dep’t of Cent. Mgmt. Serv., 25 PERI ¶ 184; Village of Bolingbrook, 19 PERI ¶ 125 (citing City of Freeport, 135 Ill. 2d at 532). The Board requires evidence that the employees have authority to provide substantive relief, such as relief against the employer’s pecuniary interest. State of Illinois, Dep’t of Cent. Mgmt. Servs., 26 PERI ¶ 113. Mere designation as the first step in a grievance procedure, without more, does not constitute supervisory authority under the Act. Village of Bolingbrook, 19 PERI ¶ 125.

3) Preponderance

To satisfy the fourth prong of the supervisor test, the Employer must demonstrate that the petitioned-for employees spend a preponderance of their employment time exercising supervisory authority. 5 ILCS 315/(r)(1). Preponderance of time can be measured quantitatively or qualitatively. Dep’t of Cent. Mgmt. Services v. Illinois State Labor Relations Bd., 278 Ill. App. 3d 79, 86 (4th Dist. 1996) (“‘Preponderance’ can mean superiority in numbers or superiority in importance”). Measured quantitatively, an employee spends a preponderance of his time on supervisory functions when he spends more time on supervisory functions than on any one nonsupervisory function. City of Freeport, 135 Ill. 2d at 533. Measured qualitatively, an employee spends a preponderance of his time on supervisory functions when these functions are more significant than his nonsupervisory functions, regardless of the amount of time spent on those

supervisory functions. State of Ill. Dep't of Cent. Mgmt. Serv., 278 Ill. App. 3d at 86. The employer must provide details with respect to the amount of time the purported supervisor spends engaged in supervisory functions or the significance of these functions. Sec'y of State, 2012 IL App (4th) 111075, ¶ 108-116.

1. Angela Romano - Adult and Young Adult Services Department

Angela Romano is not a supervisor within the meaning of Section 3(r) of the Act.

a. Principal work

Romano satisfies the principal work requirement because her principal work, while not obviously and visibly different from that of her subordinate, is different in nature and essence. The principal work of Romano and Jibrin is facially similar because they both spend a significant amount of their work time manning the reference desk and ordering books. However, Romano has administrative functions that render the nature and essence of her principal work substantially different from that of her subordinate's principal work. She evaluates her subordinate, considers requests for time off, provides her subordinate training, reviews her time sheets, participates in the disciplinary process, and participates in the hiring process. City of Freeport, 135 Ill. 2d at 528 (lieutenants' authority to direct their subordinates distinguished their principal work from that of the firefighters even though the direction they provided did not satisfy the independent judgment requirement); Vill. of Elk Grove Vill., 8 PERI ¶ 2015 (IL SLRB 1992); Village of Bellwood, 19 PERI ¶106 (IL LRB-SP 2003); Pike County Housing Authority, 28 PERI ¶ 13 (IL LRB-SP 2011) (considering petitioned-for employee's unique administrative functions in determining, in the alternative, that her work was different in nature and essence).

b. Direction

Romano does not direct her subordinate with the requisite independent judgment.

She does not direct with independent judgment when she reviews and approves her subordinate's time sheets because such review is a routine and clerical task. She simply performs basic math to ensure that the number of hours worked matches the scheduled hours. Circuit Clerk of Champaign County, 17 PERI ¶ 2032 (IL LRB-SP 2001) (addressing timecards); County of

McHenry, 15 PERI ¶ 2014 (IL SLRB 1999) (same).

Romano does not direct with the requisite consistent use of independent judgment when she schedules her subordinate. Romano schedules her subordinate only during the first week of orientation, and there is insufficient evidence that she consistently exercises independent judgment in doing so because the record does not reveal the basis for her scheduling decisions. Romano decides how much time to devote to each training category when setting the training schedule, but it is not clear how she makes these decisions and whether the selection requires a choice between two or more significant courses of action.

Romano does not exercise independent judgment when assigning work to her subordinate. Romano has one subordinate, and assignment of work to a single subordinate does not require the consistent use of independent judgment because there is “only one obvious and self-evident” choice for the assignment of work. Oakwood Healthcare Inc., 348 NLRB 686, 693. In the alternative, there is insufficient evidence that Romano exercises independent judgment when assigning work to her subordinate because the record does not contain reliable evidence concerning the basis for her decision-making.

There is insufficient evidence that Romano directs with the requisite independent judgment when she performs training. Much of the training is routine and follows a checklist. Although Romano made a list of subjects that she needed to cover for Department-specific training, there is insufficient evidence that the formulation of that list required the consistent exercise of independent judgment. Romano testified that these were the tasks that her subordinate needed to learn to perform her job. It stands to reason that such tasks are based upon the subordinate’s job description and not a matter in which the superior, Romano, exercises any discretion.

Romano does not direct with the consistent use of independent judgment when signing leave request forms. Her approval of leave requests is routine because she grants the requested leave if the subordinate has the available benefit time. Furthermore, the preponderance of the evidence demonstrates that in cases where consideration of the request would require a choice between two or more significant courses of action, the department head or the assistant department head make the decision. Former Department Head Williams instructed Romano to forward all leave requests to her in times where the library anticipated numerous overlapping requests, such as during the summer and during the winter holiday period, e.g., Thanksgiving through New Year’s. Furthermore, Assistant Department Head has exercised discretion to deny requests

granted by Romano, even in cases where the employee had the available leave time. Northern Illinois University (Department of Safety), 17 PERI ¶ 2005 (no independent judgment where leave requests were routinely granted and conflicting time off requests were resolved by petitioned-for employees' superior; no independent judgment in overtime where petitioned-for employees merely signed and forwarded overtime requests up the chain of command).

Romano does not direct her subordinate through her recommended evaluations of them. She does not exercise independent judgment when drafting the evaluation because her department head has instructed her to make changes during the planning process, i.e., before she submits a final draft for formal review and signature. Decisions made jointly or collaboratively with one's supervisor are not supervisory. State of Illinois, Department of Central Management Services, 25 PERI ¶ 161 (IL LRB-SP 2009). Furthermore, when considering a petitioned-for employee's authority to evaluate, the court has noted that a petitioned-for employee does not exercise independent judgment in the initial drafting process where the superior requires the petitioned-for employee to submit a draft during the planning process and sometimes directs her to revise it. Illinois Dept. of Cent. Mgmt. Services (State Police), 382 Ill. App. 3d at 227 distinguishing Vill. of Hinsdale, 22 PERI 176 (IL LRB-SP 2006).

The court has distinguished this type of pre-review process from that in which the superior reviews a draft and makes the changes to it himself for the first time after the petitioned-for employee formally submits the evaluation. Illinois Dept. of Cent. Mgmt. Services (State Police), 382 Ill. App. 3d at 227 (4th Dist. 2008) distinguishing Vill. of Hinsdale, 22 PERI 176 (IL LRB-SP 2006). In cases where the superior reviews the evaluation only after formal submission, the petitioned-for employee's evaluation is deemed an independent recommendation, and the remaining inquiry is whether the superior accepts the recommendation with little if any independent review. Vill. of Hinsdale, 22 PERI 176. If, in such a case, the rating determines the impact on a subordinate's terms and conditions of employment, the Board's focus is on whether or how often the reviewer changes the ratings. Id. Furthermore, where there are multiple levels of review, the Board and the courts are less likely to find that the recommendation is effective. Dep't of Cent. Mgmt. Services, 2012 IL App (4th) 110209 ¶¶ 29 & 31.

Here, Romano submits a rough draft to her department head before submitting a final draft for review. And before Romano signs the evaluation, Romano's department head involves herself in the drafting process, both by requesting Romano to edit the rough draft and also by directly

editing the document herself to add comments. This process represents joint decision-making and is more collaborative than independent. While the department head has not modified the scores of Romano's rough drafts, it is still difficult to find that Romano makes any independent recommendation where the department head participates in the drafting process before Romano submits the document with her signature. Illinois Dept. of Cent. Mgmt. Services (State Police) v. Illinois Labor Relations Bd., State Panel, 382 Ill. App. 3d 208, 217 & 227 (4th Dist. 2008) (finding similar process lacked independence even though superior did not expressly ask petitioned-for employee to change draft ratings).

The Employer emphasizes that former Director Deiters once disagreed with an evaluation drafted by Romano and former Department Head Williams yet declined to change it over their objections. However, this observation does not change the character of the initial decision-making process which is joint and collaborative. It also does not reveal anything about Romano's authority, as distinguished from that of her department head, because Romano and her department head opposed Deiters's change together.

c. Reward

Romano does not exercise authority to reward her subordinate through the evaluations she drafts because Romano does not exercise independent judgment in evaluating her subordinate. In turn, any reward that Romano's subordinate receives from a good evaluation does not reflect Romano's authority or independent decision-making.

d. Discipline

There is insufficient evidence that Romano exercises authority to discipline with the consistent use of independent judgment.

Romano has issued spoken reprimands to her subordinates, which qualify as discipline because they are documented and serve as the basis for more severe disciplinary action. However, Romano does not exercise independent judgment in doing so. In each case where Romano issued a spoken reprimand, she did so at the direction of her department head. Furthermore, the preponderance of the evidence demonstrates that, contrary to the written policy and Szott's testimony, Romano lacks authority to determine the point at which a subordinate's conduct warrants disciplinary action. For example, in one case, Williams directed Romano to issue a

verbal reprimand to subordinate Lansdown for lateness, over Romano's objections. In another case, Williams instructed Romano to issue another subordinate a spoken reprimand for failing to adhere to her schedule, even though Romano herself did not witness the infraction. Notably, there are no instances in which Romano disciplined a subordinate on her own accord.

Furthermore, Romano does not exercise independent judgment in issuing, or effectively recommending the issuance of higher-level discipline such as written reprimands. Although Romano participated in the issuance of a written reprimand and signed her name to it, Department Head Williams directed her to issue it and told her what to write in the document. Romano made no recommendations regarding this disciplinary action because Williams identified the misconduct and unilaterally determined the appropriate course of action.

The Employer suggests that Department Head Williams was heavily involved in this discipline because this was the first instance in which Romano put her name to a disciplinary document. However, the circumstances of the discipline indicate that Williams became involved because she observed the misconduct.

e. Adjustment of Grievances

Romano does not possess authority to adjust grievances with the requisite independent judgment. Romano has never adjusted any grievances filed by her subordinates, and there is accordingly insufficient evidence from which to conclude that she would be called upon to regularly choose between two or more significant courses of action when resolving a grievance.

The mere fact that the library's grievance policy designates a subordinate's superior as the first step in the grievance process, does not without more, demonstrate that Romano has authority to adjust grievances with the requisite independent judgment. Village of Bolingbrook, 19 PERI ¶ 125.

Furthermore, in this case, the Employer's failure to instruct Romano on how to go about adjusting grievances weighs in favor of finding that she lacks authority to adjust grievances in practice, particularly where she has never adjusted a grievance. State of Illinois, Department of Central Management Services, 21 PERI ¶ 46 (IL LRB-SP 2005) (addressing impact of an

employer's failure to instruct a petitioned-for employee on how to exercise supervisory authority).

f. Hiring

Romano does not make effective hiring recommendations. As noted above, where an individual participates in a committee which includes his or her supervisors, his or her recommendation is not "effective" within the meaning of the Act. Similarly, decisions or recommendations reached by consensus of the petitioned-for employee and his supervisor are not supervisory within the meaning of the Act.

In this case, Romano has always conducted interviews with at least one superior, Department Head Williams, and the hiring recommendations she has drafted reflect the consensus of the interview panelists. Thus, Romano's recommendations are not independent because they are colored by supervisory influence and they are also ineffective because her supervisor independently reviews all candidates for hire. Peoria Housing Authority, 10 PERI ¶ 2020; (addressing hiring); County of Lake, 16 PERI ¶ 2036 (addressing promotion).¹⁸

The Employer notes that Romano's name appears alone on the hiring recommendation, but this is insufficient evidence of an independent decision where Department Head Williams also participated in the entire process and where the written hiring recommendation reflected a consensus.

g. Preponderance

Romano does not spend a preponderance of her work time exercising supervisory authority because she does not exercise any indicia of supervisory authority with the requisite independent judgment.

In sum, Romano is not a supervisor within the meaning of Section 3(r) of the Act.

2. Kevin Korst - Adult and Young Adult Services Department

Korst is not a supervisor because he lacks subordinates. To be considered a supervisor, a petitioned-for employee must have subordinates. 5 ILCS 315/3(r); Vill. of Justice, 17 PERI ¶ 2007 (IL SLRB 2000); County of Kane (Kane County Sheriff), 7 PERI ¶ 2043 (IL SLRB 1991); Village

¹⁸ Given this framework it is not surprising that Williams's decision controls in cases where Williams and Romano do not reach consensus.

of Maywood, 4 PERI ¶ 2014 (IL SLRB 1988). There is insufficient evidence that Korst had subordinates when the Union filed its petition on October 19, 2020. Although Korst previously oversaw two positions, a Senior Library Assistant and a Librarian grade 10, the Senior Library Assistant resigned in September 2020, and the Employer eliminated the Librarian grade 10 position sometime in October of that year.¹⁹ Korst remained without subordinates as of March 31, 2021, when the hearing closed in this case.

Furthermore, the prospect that Korst will have subordinates in the future remains uncertain. While Korst's position description includes the responsibility to oversee subordinates, the Employer has not yet hired anyone for the Senior Library Assistant position and has not established a definite date, or even a tentative date, for when such hiring will occur. The Employer suggests that hiring is imminent because it lifted the hiring freeze that had been in place during the COVID-19 pandemic, but it also appears to have granted Korst the discretion to remain without subordinates, until his schedule allows him time to conduct orientation training. Under these circumstances, it is difficult to find that Korst has subordinates.

a. Principal Work

In the alternative, if the Board determines it is appropriate to consider Korst's supervisory authority in the absence of current subordinates, I recommend that the Board apply the following analysis.

Korst's principal work is obviously and visibly different from that of his prospective subordinate, the senior library assistant.²⁰ Korst's principal work is to conduct interviews with Oak Lawn residents about local history and to run special exhibits. The principal work of the senior library assistant, by contrast, is to transcribe local history interviews and to identify the places and people in historical photographs. Although the senior library assistant also assists Korst with exhibits, the assistant is not responsible for running them.

b. Direction

Korst does not direct with the requisite consistent use of independent judgment, as

¹⁹ Notably, it was the Employer's burden to prove that Korst had a subordinate as of October 19, 2020, but the ambiguities in the record preclude such a finding.

²⁰ This analysis compares Korst's principal work solely to that of the senior library assistant position because that is the only position that the library could fill in the future.

discussed below.

He does not direct with independent judgment when he reviews and approves his subordinate's time sheets because such review is a routine and clerical task. He simply ensures that the number of hours worked match the scheduled hours. Circuit Clerk of Champaign County, 17 PERI ¶ 2032; County of McHenry, 15 PERI ¶ 2014.

Korst does not direct with the requisite consistent use of independent judgment when he schedules his subordinates. In the past, he scheduled his subordinate based on his subordinate's preferences, which does not evidence the exercise of independent judgment. Vill. of Justice, 17 PERI ¶ 2007 (sergeant's authority to change a subordinate's beat when the subordinate expressed boredom did not evidence independent judgment). While Korst also indicated that he considered the needs of his unit, this testimony was left undeveloped. There is notably no indication that he had ever overridden his subordinate's needs and preferences in scheduling their hours.

There is insufficient evidence that Korst directs with the requisite independent judgment when he assigns work to his subordinates because the record lacks reliable evidence concerning the factors Korst uses to assign such work. The Employer did not ask Korst to describe the process by which he assigns work. And while Szott testified that the petitioned-for employees make assignments based on the strengths or weaknesses of their subordinates, the needs of the department, and what the subordinate can handle, she admitted that she had no first-hand knowledge as to what factors any petitioned-for employee uses in making assignments.

There is insufficient evidence that Korst directs with the requisite independent judgment when he performs training. Korst trained a new subordinate on her duties and the unit's functions. However, it is not clear how he undertook such training or whether he made a choice between two or more significant courses of action in performing this task. There is also insufficient evidence that he exercises authority to choose between training and discipline. While Szott testified that each petitioned-for employee can make such a choice, the Employer did not provide any examples in which Korst had done so. Furthermore, there is insufficient evidence that Korst has authority to choose between a non-disciplinary versus a disciplinary approach because there is insufficient evidence that he has authority to discipline with independent judgment, as discussed further below.

Korst does not direct with the consistent use of independent judgment when signing leave request forms because he routinely grants such requests if the employee has the available benefit time. County of DuPage and DuPage County Sheriff, 6 PERI ¶ 2018 (IL SLRB 1990) (petitioned-

for employee signed request slips “virtually automatically”; approval routine). While Szott testified that petitioned-for employees consider a number of discretionary factors when deciding whether to approve leave requests, her testimony is granted less weight. The basis for her testimony was a special leave request involving another petitioned-for employee, she provided no testimony specific to Korst’s decision-making process, and she did not expressly rebut the testimony Korst provided, which was specific to him.

There is insufficient evidence that Korst makes effective recommendations on his subordinate’s evaluations. Korst exercises independent judgment in drafting the evaluations. He judges his subordinate in a number of subjective categories, determines the appropriate rating, sets the goals for the following years, writes the comments, and does not appear to submit a draft of the evaluation to his superior before signing it. However, there is insufficient evidence that his superiors accept his evaluations with little if any independent review. The department head and the director each review the evaluation, but the record does not reveal the nature of the review process. There is also insufficient reliable evidence concerning the rate at which the Employer accepts his evaluations. Although Szott testified that the library accepts the petitioned-for employee’s evaluations 99% of the time, without change, Szott testified that she did not know how often a department head requested a librarian to modify an evaluation. And while the Employer appears to have accepted Korst’s recommendations on the two evaluations submitted into evidence, the Employer’s acceptance of those evaluations does not necessarily reflect the acceptance rate overall. Indeed, the Employer asserted that the exhibits are merely exemplars and not a comprehensive collection of all the evaluations completed.

c. Reward

Korst does not exercise authority to reward his subordinates through his evaluations of them because there is insufficient evidence that he makes effective recommendations on those evaluations. In turn, any reward that Korst’s subordinates receive from a good evaluation is not attributable to Korst’s recommendations and does not reflect his authority to reward.

d. Discipline

Korst does not exercise authority to discipline with the consistent use of independent judgment or effectively recommend the same. Korst has never issued a subordinate any disciplinary action on his own accord or recommended the issuance of discipline, and it is therefore

impossible to determine whether he would consistently exercise independent judgment in doing so. While Korst once issued a subordinate a verbal reprimand for her social media posts, he did not exercise independent judgment in doing so because his Department Head and the Director told him to do so based on a complaint the Director received from a member of the library board who had observed the posts.

Korst speculated that he believed he could provide counseling instead of discipline if he felt counseling was warranted. However, this testimony fails to reveal the basis on which he would make such a decision and therefore precludes a finding that he would consistently exercise independent judgment. See Vill. of Bolingbrook, 19 PERI ¶125 n. 8 (IL LRB SP 2003).

Korst likewise testified that he believed that he has authority to issue a formal written reprimand, but the preponderance of the evidence demonstrates that he lacks authority to do so unilaterally. All formal reprimands must be signed and “receive the concurrence of” the director before presentation to the employee, and in practice, the department head also signs formal written reprimands.

Furthermore, there is insufficient evidence that Korst effectively recommends the issuance of formal written reprimands with the requisite independent judgment as he has made no such recommendations to date. Indeed, there is no evidence concerning the basis for such recommendations, and no indication that his superior would accept his recommendations as a matter of course with little if any independent review. Village of Frankfort, 20 PERI ¶ 83 (IL LRB-SP 2004).

e. Adjustment of Grievances

Korst does not possess authority to adjust grievances with the requisite independent judgment.

Korst has never adjusted any grievances filed by his subordinates, and there is accordingly insufficient evidence from which to conclude that he would be called upon to regularly choose between two or more significant courses of action when resolving a grievance. Village of Bolingbrook, 19 PERI ¶ 125 (requiring evidence showing the basis for the petitioned-for employees’ decisions; addressing grievances); Village of Frankfort, 20 PERI ¶ 83 (addressing discipline); Vill. of Glen Carbon, 8 PERI ¶ 2026 (IL SLRB 1992) (addressing overtime).

The Employer notes that an employee’s superior is responsible for handling their

subordinates' grievances under the Employer's policy; however mere designation as the first step in a grievance procedure, without more, does not constitute supervisory authority under the Act. Village of Bolingbrook, 19 PERI ¶ 125.

In addition, Korst has received no training on how to resolve grievances, which further supports a finding that he lacks authority to adjust grievances with the requisite independent judgment. State of Illinois, Department of Central Management Services, 21 PERI ¶ 46.

f. Hiring

There is no indication that Korst has participated in the hiring process to date, and no evidence that he would exercise independent judgment in hiring or that he would make effective hiring recommendations.

The Employer notes that Korst recommended that a subordinate's position be reclassified, but it is not clear how this recommendation fits into the supervisory analysis. To the extent that this recommended reclassification is relevant to any supervisory indicium, the preponderance of the evidence demonstrates that Korst's recommendation on this matter was not effective, i.e., accepted with little if any independent review. Indeed, the library subjected his recommendation to three levels of review, including that of the department head, the director, and the personnel committee. The fact that the library ultimately approved the reclassification under these circumstances does not indicate that the recommendation was effective. See Dep't of Cent. Mgmt. Services, 2012 IL App (4th) 110209 ¶¶ 29 & 31.

g. Preponderance

Korst does not spend a preponderance of his work time exercising supervisory authority because he does not exercise any indicia of supervisory authority with the requisite independent judgment.

Thus, Korst is not a supervisor within the meaning of Section 3(r) of the Act.

3. Izabel Gronski - Adult and Young Adult Services Department

Gronski's principal work is obviously and visibly different from that of her subordinates, the pages, the library associate, and the library assistant. Gronski's principal work is to oversee operations of the teen room, oversee and contribute to collection development, staff the adult

services reference desk, and create programming for adults and high school students. The principal work of the pages is obviously and visibly different from Gronski's because the pages simply keep the books in order, return them to the shelves, perform clean up, and undertake none of the higher-level work performed by Gronski. The principal work of the library associate and the library assistant is also obviously and visibly different from Gronski's. The library associate and the library assistant staff the teen room, perform inventory work, create displays, create maker space projects, and organize volunteer activities. Gronski does not perform most of these duties. While Gronski sometimes staffs the teen room, her principal responsibility is to ensure that it is staffed, rather than to perform the work herself.

a. Direction

Gronski does not direct with the requisite consistent use of independent judgment.

She does not direct with independent judgment when she oversees her subordinates and assigns them work. She does not need to direct them on a day to day basis because their duties are well-defined and routine. Circuit Clerk of Champaign County, 17 PERI ¶ 2032.

While Gronski testified that she sometimes provides her subordinates with direction when they have special projects, the record does not reveal the type of direction she provides other than to tell them how she wants them to perform the work. Absent further detail about the nature of the project and the nature of the instruction, it is not clear whether she exercises independent judgment in the interest of the employer. Indeed, the record does not reveal whether she is ensuring they complete the task in accordance with library policies or, instead, in accordance with professional norms and standards.

Gronski does not direct her subordinates with independent judgment when she reviews their work. She reviews her subordinates' shelving accuracy but assessing work for such accuracy does not require the consistent exercise of independent judgment. County of Cook (Health & Hospital System), 31 PERI ¶ 154. She reviews her subordinates' time sheets, but such review is likewise a routine and clerical task because she merely ensures that the number of hours worked match the scheduled hours and that the document is complete and accurate. Circuit Clerk of Champaign County, 17 PERI ¶ 2032.

Gronski does not schedule her subordinates with the requisite consistent use of independent judgment because she is restricted by the library's guidelines and the availability of her

subordinates, who are all part-time employees. For example, during COVID-19, Gronski's scheduling responsibilities followed strict guidelines established by the Employer which mandated that she schedule the pages in pods and match their schedules with those of employees in the Customer Services Department. Likewise, while Gronski must frequently change the pages' schedules she does so to accommodate their outside obligations, including school, and appears to balance the remaining work among those who remain in a manner that does not require the consistent use of independent judgment.

Gronski does not direct with the consistent use of independent judgment when signing leave request forms because she routinely grants all requests. When leave requests are non-routine, the department head makes the decision on whether to grant the leave. For example, former Department head Williams instructed Gronski to send all requests for bereavement leave to her because bereavement leave is discretionary, and the amount of time granted varies depending on the circumstances. Northern Illinois University (Department of Safety), 17 PERI ¶ 2005 (no independent judgment where leave requests were routinely granted, and conflicting time off requests were resolved by petitioned-for employees' superior).

There is insufficient evidence that Gronski directs with the requisite independent judgment when she trains her subordinates. The orientation training is routine and follows a checklist provided by the library and Gronski's department head. While Gronski created a training manual, the Employer did not submit it into evidence, and it is not clear whether she exercised independent judgment in drafting it or whether she merely elaborated on the information set forth in short form on the checklist. Furthermore, while Szott testified that all petitioned-for employees have authority to choose between discipline and training, there is no evidence that Gronski has done so.

Gronski does not evaluate her subordinates with the requisite consistent use of independent judgment. Gronski testified that in cases where an evaluation was not a routine matter, her department head, Williams, directed her to provide a draft and they would discuss the evaluation before Williams signed it. Williams's requirement that Gronski submit a draft strongly indicates that Williams sought to preserve her authority to direct changes to the evaluation during the planning process, as she did with other librarians she oversaw. This is indicative of a jointly conducted process rather than an independent one. State of Illinois, Department of Central Management Services (Department of Public Health), 27 PERI ¶10 (IL LRB-SP 2011) (noting that joint disciplinary decisions are not independent); State of Illinois, Department of Central

Management Services, 25 PERI ¶161 (IL LRB-SP 2009) (evaluation jointly or collaboratively determined by alleged supervisor and his superior were not independent).

In the alternative, there is insufficient evidence that Gronski makes effective recommendations on her evaluations because the library does not accept them as a matter of course with little if any independent review. The level of review in this case is material because the department head requires Gronski to submit a draft for non-routine evaluations and to discuss all evaluations with her before they each sign. Notably, the department head's review is necessarily informed by her own observation of staff because she works in proximity to both Gronski and Gronski's direct reports. The director then serves as an additional layer of review.

The Employer notes that no one at the library has ever changed an evaluation drafted by Gronski. However, the fact that an employer ultimately accepts a petitioned-for employee's recommendation, does not necessarily mean that the employer accepted it "as a matter of course." Dep't of Cent. Mgmt. Services, 2012 IL App (4th) 110209, ¶ 31.

The Employer likewise emphasizes that in one case Acting Director Szott asked Gronski to change an evaluation, and later declined to impose the change. However, this only underscores the existence of a multi-level review process, which likewise diminishes the effectiveness of Gronski's recommendation. Notably, Szott backed down from requiring the change only after Gronski pointed out an oversight on Szott's part. Szott observed that the overall rating did not match the ratings for the subsections, and she told Gronski that she could maintain the discrepancy only if she added comments. Gronski pointed out that she had already included comments and sought clarification from Szott as to whether the change was still required. Szott never responded.

b. Reward

Gronski does not exercise authority to reward when she evaluates her subordinates because there is insufficient evidence that Gronski completes the evaluations independently or makes effective recommendations on those evaluations. In turn, any reward that Gronski's subordinates receive from a good evaluation is not attributable to Gronski's authority.

c. Discipline

Gronski does not discipline her subordinates with the consistent use of independent judgment or effectively recommend the same.

She has never issued a subordinate any disciplinary action or recommended the issuance

of discipline, and it is therefore impossible to determine whether she would consistently exercise independent judgment in doing so. Village of Frankfort, 20 PERI ¶ 83; County of Kane and Kane County Sheriff, 2 PERI ¶ 2048 (IL SLRB 1986). While Szott described the petitioned-for employees' participation in the disciplinary process and the factors they allegedly consider when deciding when to issue it, her testimony lacked foundation. Szott lacked first-hand knowledge of how any of the petitioned-for employees perform discipline in practice. She has never held a librarian position, she has never had direct oversight of any petitioned-for employee, and she does not observe Gronski on a day-to-day basis.

Moreover, in this case, Gronski never received training on how to impose discipline. Such failure to instruct employees as to how to exercise supervisory authority, particularly where it is rarely exercised, demonstrates that they do not have that authority. State of Illinois, Department of Central Management Services, 21 PERI ¶ 46. While the library told Gronski to read the personnel policy and to be aware of any changes, such conduct is not evidence of discipline-specific training.

Szott's speculation that any of the petitioned-for employees may discipline their subordinates with independent judgment if the situation were to present itself, does not support a finding that they in fact exercise authority to discipline. State of Illinois, Department of Central Management Services, 26 PERI ¶ 39 (IL LRB-SP 2010).

d. Hiring

Gronski makes effective recommendations on hiring pages. However, she does not make effective recommendations on hiring higher-level employees such as library associates.

Gronski exercises independent judgment when recommending pages for hire. She assesses the candidates in several categories, based on her own assessment of their performance, and without any guidelines. Although she worked together with another individual to make the recommendation in each instance, her independent judgment was preserved because the other individuals she worked with were of the same rank and pay grade as her—Librarian, Grade 10s. Illinois Dep't of Cent. Mgmt. Servs. (Dep't of Children and Family Servs.), 8 PERI ¶ 2037 fn. 2.

Furthermore, Gronski's recommendations to hire pages are effective. A recommendation is effective within the meaning of Section 3(r) of the Act when it is adopted as a matter of course, with very little, if any, independent review. Village of Justice, 17 PERI ¶ 2007; Chicago Park

District, 9 PERI ¶ 3007 n. 3. Here, Gronski's supervisor and the director each reviewed and approved the recommendations, but the review was minimal because they did not observe the candidates.

However, Gronski does not make effective recommendations to hire library associates and other higher-level positions because her department head participates in the selection process. Gronski and her department head interview candidates together, and the hiring recommendations are based on a consensus between Gronski and her department head. See cases supra.

The Employer notes that the recommendation document for Library Associate Adolfo bears only Gronski's name as the recommender. However, Gronski explained that she signed the form at Williams' direction after the two reached consensus to hire that candidate.

Even if Gronski had marked her choice separately and the library approved of that selection, Williams participation in the interview process would undermine any claim that Gronski's recommendation was effective because Williams independently reviewed all the candidates.

e. Adjustment of Grievances

Gronski does not possess authority to adjust grievances with the requisite independent judgment.

Gronski has never considered a grievance, as none of her subordinates have lodged any with her, and there is accordingly insufficient evidence from which to conclude that she would be called upon to regularly choose between two or more significant courses of action when resolving a grievance. Village of Bolingbrook, 19 PERI ¶ 125 (requiring evidence showing the basis for the petitioned-for employees' decisions; addressing grievances); Village of Frankfort, 20 PERI ¶ 83 (addressing discipline).

The Employer notes that an employee's superior is responsible for handling their subordinates' grievances under the Employer's policy; however mere designation as the first step in a grievance procedure, without more, does not constitute supervisory authority under the Act. Village of Bolingbrook, 19 PERI ¶ 125.

The Employer emphasizes that Gronski believes she should have handled a complaint lodged by other employees against one of her subordinate pages. However, a petitioned-for employee's desire to resolve a workplace matter does not translate into actual supervisory authority

when, in practice, the authority to resolve the matter rests with another individual. In this case, HR Coordinator Texter handled the matter, without informing Gronski, who learned about the underlying problem after Texter had resolved it.

Gronski also received no training on how to resolve grievances, which further supports a finding that she lacks authority to adjust grievances with the requisite independent judgment. State of Illinois, Department of Central Management Services, 21 PERI ¶ 46.

Thus, Gronski lacks authority to adjust grievances with the requisite independent judgment.

f. Preponderance

Gronski does not spend a preponderance of her worktime exercising supervisory authority.

Applying the quantitative test, there is insufficient evidence that Gronski spends more time on supervisory functions than on any one non-supervisory function. The record does not contain a summary of the amount of time Gronski spends on her various non-supervisory functions, and this omission precludes the required comparative analysis.

Applying the qualitative test, there is likewise insufficient evidence that Gronski's supervisory functions are more important than her non-supervisory functions. The sole aspect of Gronski's job that qualifies as supervisory is her authority to effectively recommend the hire of pages. However, there is insufficient evidence that her authority to effectively recommend on hiring is more important than her other functions, which include non-supervisory oversight and evaluation of her staff, collection development, programming, and work at the reference desk.

While Szott testified that the library relies heavily on Gronski to be a "supervisor" and to evaluate the pages, Gronski does not consistently use independent judgment when directing her subordinates in any respect, including when she evaluates them. Her functions in relation to her subordinates may well be important, but they do not warrant her exclusion from the bargaining unit unless they are both supervisory and more important than her non-supervisory functions. In this case, they are not.

Thus, Gronski is not a supervisor within the meaning of Section 3(r) of the Act.

4. Kathleen O'Leary - Adult and Young Adult Services Department

O'Leary's principal work is obviously and visibly different from that of her subordinate, Library Assistant Mona Garcia. O'Leary's principal work is to manage the adult periodicals

collection, order books, proofread transcripts of oral history interviews, work at the reference desk, and run book clubs. Library Assistant Garcia performs none of this work and instead processes periodicals, completes transcripts of oral history, indexes obituaries, maintains the supplies, and maintains the beyond books collection. Notably, O’Leary confirmed that Garcia’s job is completely different from hers.

a. Direction

O’Leary does not direct her subordinates with the requisite consistent use of independent judgment, as discussed below.

She does not review her subordinate’s work with independent judgment. She reviews her subordinate’s time sheets but that review is routine, to ensure that the time sheet matches the schedule and that her subordinate has completed all the necessary leave request forms. She proofreads and corrects oral history transcripts completed by her subordinate to ensure accuracy, but such review is likewise a routine and clerical task. County of Cook (Health & Hospital System), 31 PERI ¶ 154; Village of Broadview, 25 PERI ¶ 63 (IL LRB-SP 2009); County of DuPage and DuPage County Sheriff, 6 PERI ¶ 2018 (checking for completeness and spelling errors was routine review).

O’Leary generally testified that she would correct or redirect her subordinate’s work, if necessary, to show her the right way to perform a task. However, absent further details about the nature of the errors, it is unclear whether O’Leary exercises the consistent use of independent judgment in the interest of the employer.

O’Leary does not direct her subordinate with the requisite independent judgment when she schedules her subordinate’s hours because there is no indication that she is called upon to consistently exercise independent judgment in doing so. In one case, O’Leary successfully recommended that the library change her subordinate’s schedule from five days a week to four, after the library reduced her subordinate’s hours. However, the record does not reveal the basis for her recommendation and therefore precludes a finding that she exercised the requisite independent judgment.²¹

There is insufficient evidence that O’Leary assigns work with the requisite independent

²¹ I decline to consider whether O’Leary or any of the other petitioned-for employees schedule their subordinates’ lunch breaks with the requisite independent judgment because Szott testified on cross-

judgment. As a preliminary matter, there is insufficient reliable evidence concerning the basis for O’Leary’s assignment decisions. O’Leary did not explain how she makes decisions to assign work, and Szott admitted that she lacked any first-hand knowledge as to factors used by petitioned-for employees when assigning work. Moreover, O’Leary has one subordinate, and assignment of work to a single subordinate does not require the consistent use of independent judgment because there is only one obvious choice for the assignment of work. Oakwood Healthcare Inc., 348 NLRB 686, 693.

O’Leary does not direct her subordinate with the requisite independent judgment when she provides her subordinate with training. O’Leary provides her subordinate with on-the-job training, but there is insufficient evidence that O’Leary exercises independent judgment by choosing between training and discipline. Szott testified that all petitioned-for employees have authority to choose between discipline and training, but there is insufficient evidence that O’Leary has in fact made such a choice.

O’Leary does not direct her subordinate with the requisite independent judgment when she approves leave requests. O’Leary approves all leave requests, which strongly suggests that the approval is a routine function. County of DuPage and DuPage County Sheriff, 6 PERI ¶ 2018. While Szott testified that petitioned-for employees weigh a number of factors when deciding to grant such a request, including the reason for the leave and whether there is sufficient coverage, the basis for her knowledge regarding these subjective factors was a special leave request (i.e., for long-term leave) considered by a different librarian, and it also does not reflect the review process O’Leary described.

O’Leary does not exercise independent judgment in drafting her subordinates’ evaluations. She submits a rough draft to her department head before submitting a final draft for review and the final draft represents a collaborative effort between O’Leary and her department head. Before O’Leary signs the evaluation and submits it for formal review, O’Leary’s department head involves herself in the drafting process, by adding her own comments and instructing O’Leary to add comments. While the Employer notes that O’Leary’s department head has never altered the ratings O’Leary initially placed on the document, the subsequent joint, collaborative process still

examination that she did not have any first-hand knowledge that any petitioned-for employees perform this task, and none of the petitioned-for employees claim to have done so.

limits O'Leary's independence. Illinois Dept. of Cent. Mgmt. Services (State Police), 382 Ill. App. 3d at 217 & 227.

Even if the Board determines that O'Leary makes an independent recommendation, the preponderance of the evidence demonstrates that the recommendation is not effective. The library does not accept O'Leary's recommendations as a matter of course with little if any independent review. The comments added by Department Head Williams demonstrate that she has granular, first-hand knowledge of how O'Leary's subordinates have performed during the evaluation period and can independently assess their performance, apart from O'Leary's input. For example, in one case, Department Head Williams instructed O'Leary to add that her subordinate should engage in less socializing. In another case, Williams told O'Leary to add a comment encouraging the subordinate to gain greater familiarity with Excel and Word. Furthermore, the evaluations are subject to yet another level of review, which further undermines a finding that the recommendations are effective. Dep't of Cent. Mgmt. Services, 2012 IL App (4th) 110209, ¶ 29 & 31.

Under these circumstances, it is immaterial that the final evaluation scores almost always match the scores of O'Leary's rough draft, as the Employer emphasizes on brief. The fact that an employer ultimately accepts a petitioned-for employee's recommendation, does not necessarily mean that the employer accepted it "as a matter of course." Dep't of Cent. Mgmt. Services, 2012 IL App (4th) 110209, ¶ 31.

b. Reward

O'Leary does not exercise authority to reward when she evaluates her subordinate because there is insufficient evidence that O'Leary completes the evaluations independently or makes effective recommendations on those evaluations. In turn, any reward that O'Leary's subordinate receives from a good evaluation is not attributable to O'Leary's authority.

c. Discipline

There is insufficient evidence that O'Leary has authority to discipline or effectively recommend the discipline of her subordinates with the requisite independent judgment.

There is no dispute that O'Leary has issued disciplinary actions against her subordinates in the past or recommended the same. She once recommended that the library terminate a page, and

the library ultimately accepted her recommendation. However, the testimony does not reveal the details of any of these disciplinary actions, from which to determine whether O’Leary exercised independent judgment in taking or recommending such action. There is no evidence concerning the subject matter of the infractions or the nature and extent of any review process for O’Leary’s disciplinary recommendations. While Szott mentioned certain factors that librarians consider when issuing discipline, Szott lacked first-hand knowledge of how any particular librarian effectuates discipline. Moreover, the Employer failed to ask O’Leary to explain the details of these prior disciplinary incidents and declined to provide any written records of these disciplinary actions to permit independent examination of them.

d. Adjustment of Grievances

There is insufficient evidence that O’Leary possesses authority to adjust her subordinate’s grievances with the requisite independent judgment. O’Leary testified that she tries to address her subordinates’ concerns and help them deal with issues at work, but such testimony is insufficient to demonstrate that O’Leary exercises independent judgment in adjusting grievances. Indeed, there is nothing to indicate that such “concerns” and “issues” are anything more than minor matters of a routine nature, that do not require the consistent use of independent judgment to resolve. City of Freeport, 135 Ill. 2d at 532; State of Illinois, Dep’t. of Cent. Mgmt. Servs., 26 PERI ¶ 113; State of Illinois, Dep’t of Cent. Mgmt. Serv., 25 PERI ¶ 184; Village of Bolingbrook, 19 PERI ¶ 125.

The Employer notes that an employee’s superior is responsible for handling their subordinates’ grievances under the Employer’s policy; however mere designation as the first step in a grievance procedure, without more, does not constitute supervisory authority under the Act. Village of Bolingbrook, 19 PERI ¶ 125.

e. Hiring

O’Leary makes effective recommendations on hiring pages.

She exercises independent judgment when recommending pages for hire. She assesses the candidates in several categories, based on her own assessment of their performance, and without any guidelines. The record contains one example in which O’Leary recommended a page for hire. And although she worked together with another individual (Gronski) to make the recommendation, her independent judgment was preserved because the other individual she worked with was of the

same rank and pay grade as her—Librarian, Grade 10. Illinois Dep’t of Cent. Mgmt. Servs. (Dep’t of Children and Family Servs.), 8 PERI ¶ 2037 fn. 2.

Furthermore, O’Leary’s recommendation to hire a page was effective. A recommendation is effective within the meaning of Section 3(r) of the Act when it is adopted as a matter of course, with very little, if any, independent review. Village of Justice, 17 PERI ¶ 2007; Peoria Housing Authority, 10 PERI ¶ 2020; Chicago Park District, 9 PERI ¶ 3007 n. 3. Here, O’Leary’s department head and the director each reviewed and approved the recommendation, but the review was minimal because they did not observe the candidates.

f. Preponderance

O’Leary does not spend a preponderance of her worktime exercising supervisory authority.

Under the quantitative test, there is insufficient evidence that O’Leary spends more time on supervisory functions than on any one non-supervisory function. O’Leary spends only 5-6% of her work time on alleged supervisory functions, whereas she spends almost half of her work time serving at the AYA services desk or performing phone reference work.

Applying the qualitative test, the preponderance of the evidence demonstrates that her supervisory functions are not more important than her non-supervisory functions. While Szott testified that O’Leary’s supervisory functions were of great importance because they allowed the library to function properly, Szott did not address the *relative* importance of O’Leary’s supervisory functions as compared to her non-supervisory functions. Moreover, from a practical standpoint, it is unlikely that O’Leary’s oversight of one part-time subordinate is more important or critical to the library’s functioning than her obligation to serve as the periodicals librarian, attending to patron needs.

5. Megan Moran - Customer Services Department

Moran satisfies the principal work requirement because her principal work is substantially different in its nature and essence from that of her subordinates. Both Moran and her subordinates are principally responsible for fulfilling and processing patrons’ interlibrary loan requests. However, Moran has administrative functions that render the nature and essence of her principal work substantially different from that of her subordinates. For example, she evaluates her subordinates, considers requests for time off, gives work assignments, schedules them, provides

her subordinates training, reviews their time sheets, and participates in the hiring process. She also conducts statistical work related to inter-library loans and maintains records for submission to the Illinois Secretary of State. Moran's subordinates, by contrast, perform none of this work.

a. Direction

Moran does not direct her subordinates with the requisite consistent use of independent judgment.

She does not review her subordinates' work with independent judgment. She reviews her subordinate's time sheets but that review is routine, to ensure that the time sheet matches the established schedule.

Moran does not exercise independent judgment when assigning work to her subordinates. Assignment of work is not indicative of supervisory direction where it is based primarily on rotation or other routine factors. County of Vermillion, 18 PERI ¶ 2050 (IL LRB-SP 2002). Even the establishment of a rotation system for assignment does not evidence the consistent use of independent judgment when the work itself is routine and where the purpose of the rotation system is to avoid burnout. Shaw, Inc., 350 NLRB 354, 356 (2007). Here, Moran rotates her subordinates to pull books in different areas of the library so that they do not get bored, and this method of assignment does not entail the exercise of substantial discretion or the consistent use of independent judgment. This remains true even if Moran herself chose to implement the rotation system, as the Employer emphasizes on brief. Shaw, Inc., 350 NLRB at 356.

There is insufficient evidence that Moran directs her subordinates with independent judgment when she trains them on new responsibilities as there is no indication that she chooses between training and discipline. While Szott testified that each petitioned-for employee can make such a choice, the Employer did not provide any examples in which Moran had done so. As discussed further below, Moran was not even aware of this choice because the Employer never informed her that she possessed disciplinary authority.

Moran does not schedule her subordinates with the requisite independent judgment. Scheduling decisions based on expressed preferences of employees or a desire to balance the workload do not require the consistent exercise of independent judgment. Chief Judge of Circuit Court of Cook County, 153 Ill. 2d at 518 and 522 (balancing workload); Village of Campton Hills, 31 PERI ¶ 132 (IL LRB-SP 2015) (assignment based on employees' choosing); Children's Farm

Home, 324 NLRB 61, 64 (1997) (same). Here, in each case where Moran changed her subordinates' schedules or recommended such a change, she did so because her subordinates requested the changes and preferred modified schedules. In one case, where she established a Saturday rotation, she did so both in response to employee preference and also to balance the workload. These considerations do not require the consistent use of independent judgment. Village of Campton Hills, 31 PERI ¶ 132 (sergeant did not exercise independent judgment in scheduling where officers offered him dates and shifts for when they were available to work); Children's Farm Home, 324 NLRB at 64 (schedule changes based on employees' expressed preferences do not demonstrate exercise of independent judgment).

The Employer notes that Moran also determined that her subordinate's preferences fit the library's needs; however, the library's needs did not spur any of these changes. Moreover, the preponderance of the evidence demonstrates that when a scheduling decision has the potential to impact operations, the department head determines whether or to what extent the schedule change can persist. For example, when Moran recommended that Murray switch to a morning schedule, thereby placing both assistants on mornings, Price allowed it, but indicated that she would reassess the arrangement later and restore the original schedule if the modification did not work for the library.

Moran does not direct her subordinates with the requisite independent judgment when she approves leave requests. Moran approves all leave requests, provided that the employee has the available benefit time, which strongly suggests that the approval is a routine function. County of DuPage and DuPage County Sheriff, 6 PERI ¶ 2018. While Szott testified that petitioned-for employees weigh a number of subjective factors when deciding whether to approve a request, Szott's testimony is granted less weight than Moran's. Szott did not appear to have direct knowledge of Moran's process and instead based her testimony on the process pertaining to a special leave request considered by a different librarian. Contrary to the Employer's suggestion, Moran's decisions on how to handle overflow work, after granting a leave request, have no bearing on her initial decision to approve the request.²²

Moran does not direct her subordinates when she evaluates them. She prepares the

²² Moran's decisions on how to handle overflow also do not impact employees' terms and conditions of employment. Moran can decide whether to fill in for the employee who takes leave, or whether another employee should fill in, but her subordinates are typically already scheduled for their allotted hours, and Moran lacks authority to require a subordinate to work overtime.

evaluations jointly with her supervisor, Department Head Price. Moran and Price discuss each subordinate's rating and goals before Moran undertakes the drafting process, and they usually reach agreement on the appropriate rating. This joint, collaborative decision-making process removes Moran's exercise of independent judgment. State of Illinois, Department of Central Management Services, 25 PERI ¶ 161. The fact that Price ultimately accepts the evaluations Moran drafts does not demonstrate that Moran makes effective recommendations because the underlying recommendation was not independent. See cases supra.

Even assuming that Moran had authority to complete the evaluations on her own and exercised independent judgment in making the recommendations, there is insufficient evidence that Price would accept such evaluations as a matter of course, as this has never occurred.

b. Reward

Moran does not exercise authority to reward when she evaluates her subordinates because she does not complete the evaluations independently and does not make effective recommendations on those evaluations. In turn, any reward that Moran's subordinates receive from a good evaluation is not attributable to Moran's authority.

c. Discipline

Moran does not discipline her subordinates with the consistent use of independent judgment or effectively recommend the same.

She has never issued a subordinate disciplinary action or recommended that a subordinate receive discipline, and it is therefore impossible to determine whether she would consistently exercise independent judgment in doing so. Village of Frankfort, 20 PERI ¶ 83; County of Kane and Kane County Sheriff, 2 PERI ¶ 2048. While Szott described the petitioned-for employees' participation in the disciplinary process and the factors they allegedly consider when deciding when to issue it, her testimony lacks foundation. Szott lacked first-hand knowledge of how any of the petitioned-for employees perform discipline in practice. She has never held a librarian position, she has never had direct oversight of any petitioned-for employee, and she does not observe Moran on a day-to-day basis.

Moreover, in this case, Moran never received training on how to impose discipline, and the library never expressly informed her that she has authority to discipline her subordinates. Such

failure to instruct employees as to how to exercise supervisory authority, particularly where it is rarely exercised, demonstrates that they do not have that authority. State of Illinois, Department of Central Management Services, 21 PERI ¶ 46.

Szott's speculation that any of the petitioned-for employees may discipline their subordinates with independent judgment if the situation were to present itself, does not support a finding that they in fact exercise authority to discipline. State of Illinois, Department of Central Management Services, 26 PERI ¶ 39.

d. Hiring

Moran does not make effective recommendations on hiring with the consistent use of independent judgment. In all but one case, Moran participated in the hiring process by serving on a hiring panel that included her supervisor, Department Head Price, and reaching consensus with the panelists on whom to recommend for hire. This is not evidence of supervisory authority to hire or to effectively recommend the same. See Peoria Housing Authority, 10 PERI ¶ 2020; County of Lake, 16 PERI ¶ 2036.

There was one occasion on which Moran served on a hiring panel with a co-equal (librarian Hare) and reached consensus with him, in a manner that preserved her independent judgment,²³ but this one instance does not demonstrate that Moran is called upon to consistently exercise independent judgment in hiring. When assessing independent judgment, one must consider the number of times in which independent judgment might be required in performing a particular supervisory function, rather than the number of times it was actually exercised. City of Freeport, 135 Ill. 2d 499, 521. In this case, the number of times in which independent judgment might be required is exceedingly rare because Moran exercises this authority only on a sporadic basis when her superior is absent. Courts, labor boards, and ALJs at this agency have recognized that an employee does not acquire supervisory status by temporarily or sporadically taking over the duties of an absent supervisor. NLRB v. Sayers Printing Co., 453 F.2d 810, 815 (8th Cir. 1971); Quality Chem., Inc., 324 NLRB 328, 331 (1997); Potomac Elec. Power Co., 111 NLRB 553, 560 (1955); County of Clinton and State's Attorney, 6 PERI ¶ 2026 (IL SLRB ALJ 1990) ("The fact that Chief Deputies may be given more responsibility in the event that an officeholder is temporarily absent

²³ See Illinois Dep't of Cent. Mgmt. Servs. (Dep't of Children and Family Servs.), 8 PERI ¶ 2037 fn. 2.

does not require they be excluded from the proposed units”). The Board has also observed that “extreme infrequency is relevant to determining if the employee truly possesses authority to perform a task.” State of Illinois, Department of Central Management Services, 26 PERI ¶ 39.

Here, the preponderance of the evidence demonstrates that Department Head Price retains control over the hiring process, except when she is out on medical leave, and that Moran assumes a greater role in candidate selection only sporadically, when Price is temporarily absent. Indeed, there is only one case in which Moran contributed to a hiring recommendation without Price’s participation. In every other instance, Price both attended the interview and controlled the hiring recommendation. Thus, Moran’s sporadic exercise of authority does not demonstrate that she is called upon to consistently exercise independent judgment in making hiring recommendations.

e. Adjustment of Grievances

Moran does not possess authority to adjust grievances with the requisite independent judgment because her authority is limited to minor matters of a routine nature. In one case, Moran resolved a complaint about an inequitable work assignment, raised to her by Library Assistant Murray. Murray informed Moran that she had been working every Saturday from June to November and wanted to work fewer Saturdays. To resolve this complaint in an equitable manner, Moran effectively recommended a Saturday rotation, so that she and her subordinates each worked an equal number of Saturdays. However, resolving complaints about inequitable work assignments does not require the consistent exercise of independent judgment. City of Freeport, 135 Ill. 2d at 530, 532; Vill. of Downers Grove, 6 PERI ¶ 2035 n. 9 (IL SLRB 1990).

The preponderance of the evidence demonstrates that Moran lacks the authority in practice to resolve more weighty issues involving matters that impact a subordinate’s record, even when the appropriate resolution is readily apparent. When Library Assistant Spee complained about a low score she received on her evaluation, Moran could not resolve the matter, even though she knew the low score had been given in error. When Moran called Director Deiters to explain the error, Deiters indicated that he could not resolve the issue until Department Head Price returned to work. Thus, Moran lacked any authority to adjust Spee’s grievance on her own accord.

There is also no indication that Moran made any effective recommendation to resolve the grievance. To the contrary, Director Deiters performed an independent review of the circumstances surrounding Spee’s complaint by confirming with Department Head Price that the

low score was inaccurate.

f. Preponderance

Moran does not spend a preponderance of her work time exercising supervisory authority because she does not exercise any indicia of supervisory authority with the requisite independent judgment.

Thus, Moran is not a supervisor within the meaning of Section 3(r) of the Act.

6. Nathan Hare - Customer Services Department

Hare satisfies the principal work requirement because his principal work is substantially different from that of his subordinate library assistants in its nature and essence. Both Hare and his subordinates work at the circulation desk. However, Hare has additional administrative and oversight functions that his subordinates do not perform. He is ultimately responsible for the work of his subordinates. He also assigns them work, cross trains them, completes their evaluations, and approves their time off requests. In addition, he compiles library statistics and is responsible for the library's hot spot collection and curbside services, while his subordinates' tasks are more limited in scope.

a. Direction

Hare exercises the authority to direct with the requisite independent judgment when he makes effective recommendations on his subordinates' evaluations. However, he does not exercise authority to direct in other respects, as discussed first below.

Hare does not review his subordinate's work with the requisite consistent use of independent judgment. He reviews his subordinate's time sheets but that review is routine, to ensure that the time sheet matches the established schedule. Circuit Clerk of Champaign County, 17 PERI ¶ 2032; County of McHenry, 15 PERI ¶ 2014.

There is insufficient evidence that Hare monitors and oversees his subordinates with the requisite independent judgment in the interest of the employer. The record provides few details concerning the manner in which Hare checks and corrects his subordinates' work. Although the library's evaluation of Hare states that he issues clear instructions and communicates corrections when necessary, such a statement is too vague to support the Employer's assertion that Hare

oversees and monitors his subordinates with the requisite independent judgment. There is no indication of whether Hare provides such correction without pre-established guidelines and to ensure conformity with the Employer's policies, as is required of independent judgment exercised in the interest of the employer. Accordingly, it is equally likely that Hare's corrections involve a non-supervisory exercise of his superior skill and experience as a librarian to ensure compliance with professional norms of library science.

Hare does not exercise independent judgment when he assigns his subordinates work. He assigns his subordinates to a rotation, which is a routine method of assignment that does not require consideration of his subordinates' relative levels of experience and skill, and the employer's operational needs. See cases supra.

Hare's scheduling decisions likewise turn on routine factors because he merely balances the workload among the available employees by scheduling his subordinates for their maximum number of hours while considering their personal schedules and availability. This is more akin to a sign-up system than one that requires the consistent use of independent judgment. Quincy Public Library, 11 PERI ¶ 2041 (IL SLRB 1995); Village of Campton Hills, 31 PERI ¶ 132 (addressing assignment based on employee choosing); Children's Farm Home, 324 NLRB at 64 (preference); see also Chief Judge of Circuit Court of Cook County, 153 Ill. 2d at 518 and 522 (balancing workload). While Hare may change employees' schedules to ensure coverage, the preponderance of the evidence demonstrates his independent judgment is constrained by the fact that he cannot schedule employees for more than their allotted hours and has no control over his subordinates' conflicting obligations. Indeed, Hare has commented that he appreciates his subordinates' flexibility but is also mindful that his subordinates work part-time and have other obligations apart from their work at the library, including school, other jobs, and personal obligations. The Employer asserts that Hare has an obligation to keep the circulation desk covered even in the face of employee conflicts, but Hare usually does so by filling in for the absent employee himself. Indeed, Hare has never mandated that an employee come into work when they have informed him of a conflict.

Similarly, Hare does not exercise independent judgment in approving standard leave requests because he approves them all and has never denied a request. County of DuPage and DuPage County Sheriff, 6 PERI ¶ 2018. While he must ensure that the circulation desk remains staffed, he works at the circulation desk himself as part of his regular functions and customarily

fills in for absent employees.

Hare does not exercise independent judgment when he recommends approval of special leave requests because he reaches such recommendations jointly with his department head. Petitioned-for employees who engage in collaborative or joint decision-making with their superiors do not exercise independent judgment. Dep't of Cent. Mgmt. Services, 2012 IL App (4th) 110209, ¶ 25; County of Kane and Sheriff of Kane County, 7 PERI ¶ 2043 (recommendation that was a product of joint consideration did not qualify as independent; addressing hiring); City of Chicago (Chicago Public Library), 10 PERI ¶ 3016. Here, Hare and his department head jointly decided that the library could spare an employee for three weeks while that employee engaged in training for another job. And Hare signed the form to recommend approval of the leave request only after reaching a joint decision with his superior.

Szott indicated that Hare could have granted/recommended the approval of the special leave without consulting his superior. However, “a finding of actual authority to perform a function cannot be based on mere speculation or even an employer’s statement of what authority a supervisor “would have’ if the occasion ever arose.”²⁴ Ill. Dep't of Cent. Mgmt. Servs. (Dep't of Prof'l Regulation), 11 PERI ¶ 2029 (IL SLRB 1995) aff'd by unpub. ord. no. 4-95-0624 (citing City of Chicago (Mayor's Office of Information and Inquiry), 10 PERI ¶ 3003 (IL LLRB 1993).

Hare does not exercise independent judgment in training because there is insufficient evidence that he makes a choice between discipline and training. Szott’s assertion that all-petitioned-for employees are empowered to make such a choice, if the occasion were to arise, does not warrant a finding that Hare in fact exercises independent judgment in this respect. See cases supra. Furthermore, while Hare noted that he could identify a timekeeping issue that might warrant discipline as opposed to mere counseling, he also stated that he would not take action without first consulting his superior. More importantly, it is also impossible to assess the extent of his authority to exercise independent judgment in taking or recommending action on such an issue where it has never arisen.

However, Hare exercises independent judgment when he evaluates his subordinates. He assesses his subordinates in eight core competencies, seven of which require a subjective

²⁴ While there are some cases that suggest a petitioned-for employee’s discretionary consultation may still preserve his exercise of independent judgment, the preponderance of the evidence demonstrates that Hare had little choice but to consult. Indeed, he did not even know how to classify the request or what forms to complete. This lack of knowledge on such basic matters strongly suggests that consultation was imperative.

assessment of the subordinate's work.²⁵ He also assesses his subordinates in their key results areas to determine how well they have performed their assigned functions and provides comments to explain the ratings, when he believes comments are required. Notably, Hare does not submit a rough draft to his department head or discuss the evaluations with his department head before signing the evaluation.

Furthermore, Hare's evaluations qualify as effective recommendations. The review conducted by Hare's superiors is minimal and they accept his recommendations almost all the time. His department head has never altered any comment or any rating he has drafted, nor has she directed him to change a rating or comment. The review conducted at the director level is likewise minimal, and based upon the dates of the signatures, it occurs after Hare has signed the evaluation himself. In the vast majority of cases, the director has simply approved Hare's evaluations without comment, and he has only requested modification of a rating in one case.

Thus, Hare directs with independent judgment when he evaluates his subordinates, but not in any other respect.

b. Reward

Hare exercises authority to reward his subordinates through his evaluations of them. He makes effective recommendations on the evaluations he drafts, and his subordinates receive a wage increase if he gives them a good overall evaluation rating, provided they are not yet at the top of the pay scale. In addition, Hare has in fact made effective recommendations on evaluations that resulted in wage increases for his subordinates.

c. Discipline

There is insufficient evidence that Hare disciplines his subordinates with the requisite independent judgment or effectively recommends the same.

It is not clear from the record whether Hare has ever issued any formal discipline. He testified that he has not issued discipline that the Employer placed in a subordinate's personnel file. There is also no evidence that Hare has issued documented spoken reprimands, which would be maintained in his own files. The Employer did not seek clarification on this point during cross

²⁵ The eighth core competency is more objective because it assesses the timeliness and accuracy of completed work.

examination.

Absent examples of Hare's exercise of disciplinary authority, there is insufficient evidence to show that Hare is called upon to consistently use independent judgment in disciplining his subordinates. Hare speculated that he was empowered to make an initial assessment of whether a subordinate's time sheet error was an oversight or an attempt at time theft. However, he also noted that he would consult his superior to determine the appropriate course of action in such a case. While discretionary consultation does not necessarily remove the exercise of independent judgment, the record contains ambiguities about whether Department Head Price requires such consultation. Szott testified that she did not have any first-hand knowledge as to whether the department heads have instructed any of the petitioned-for employees that they needed the department head's approval before initiating discipline, and Hare's supervisor, Department Head Price, did not testify in this case.

d. Hiring

Hare does not make effective recommendations on hiring with the consistent use of independent judgment. In all but one case, Hare has participated in the hiring process by serving on a hiring panel that included his supervisor, Department Head Price, and reaching consensus with the panelists on whom to recommend for hire. This is not evidence of supervisory authority to hire or to effectively recommend the same. See Peoria Housing Authority, 10 PERI ¶ 2020; County of Lake, 16 PERI ¶ 2036.

There was one occasion on which Hare served on a panel with a co-equal (librarian Moran), reached consensus with her, and effectively recommended a candidate for hire,²⁶ but this one instance does not demonstrate that Hare is called upon to consistently exercise independent judgment in making hiring recommendations. When assessing independent judgment, one must consider the number of times in which independent judgment might be required in performing a particular supervisory function, rather than the number of times it was actually exercised. City of Freeport, 135 Ill. 2d at 521. In this case, the number of times in which independent judgment might be required is exceedingly rare because Hare exercises this authority only on a sporadic basis when his superior is absent. Courts, labor boards, and ALJs at this agency have recognized

²⁶ This type of consensus likely evidences an independent process. Illinois Dep't of Cent. Mgmt. Servs. (Dep't of Children and Family Servs.), 8 PERI ¶ 2037 fn. 2.

that an employee does not acquire supervisory status by temporarily or sporadically taking over the duties of an absent supervisor. Sayers Printing Co., 453 F.2d at 815; Quality Chem., Inc., 324 NLRB at 331; Potomac Elec. Power Co., 111 NLRB at 560; County of Clinton and State’s Attorney, 6 PERI ¶ 2026 (ALJ noted that “[t]he fact that Chief Deputies may be given more responsibility in the event that an officeholder is temporarily absent does not require they be excluded from the proposed units”). The Board has also observed that “extreme infrequency is relevant to determining if the employee truly possesses authority to perform a task.” State of Illinois, Department of Central Management Services, 26 PERI ¶ 39.

Here, the preponderance of the evidence demonstrates that Department Head Price retains control over the hiring process, except when she is out on medical leave, and that Hare has a greater role in candidate selection only sporadically, when Price is temporarily absent. Indeed, there is only one case in which Hare made a hiring recommendation without Price’s participation. In every other instance, Price both attended the interview and controlled the hiring recommendation. Thus, Hare’s sporadic exercise of authority, in Price’s absence, does not demonstrate that he is called upon to consistently exercise independent judgment in making hiring recommendations.

While there was one other occasion on which Hare drafted a hiring recommendation, it does not evidence independent judgment because he did so at Price’s direction and in conformity with the panel’s consensus decision.²⁷

e. Adjustment of Grievances

Hare does not possess authority to adjust grievances with the requisite independent judgment because his authority is limited to minor matters of a routine nature. In one case, Hare’s subordinates complained that one of Librarian Moran’s subordinate pages was making them uncomfortable by violating social distancing protocols. Hare resolved the matter by speaking to the page. This is akin to resolution of a personality dispute, which does not require the consistent exercise of independent judgment. City of Freeport, 135 Ill. 2d at 530, 532; Vill. of Downers

²⁷ Contrary to the Employer’s suggestion, Hare’s recommendation to post for an open position does not qualify as a recommendation to hire any particular applicant. The Employer has cited to no case to suggest that a recommendation to post is equivalent to a recommendation to hire. Furthermore, the evidence demonstrates that Hare only performs this function sporadically, when his superior is absent, and therefore does not consistently exercise independent judgment in making such recommendations. See cases supra.

Grove, 6 PERI ¶ 2035 n. 9 (IL SLRB 1990).

The Employer notes that an employee's superior is responsible for handling their subordinates' grievances under the Employer's policy; however, the evidence in this case shows that Hare's authority is limited to adjusting grievances of a minor or routine nature that do not require the consistent exercise of independent judgment.

f. Preponderance

Hare does not spend a preponderance of his work time exercising supervisory authority under either a quantitative or a qualitative assessment.

Turning to the quantitative approach, Hare does not spend more time on supervisory functions than on any one non-supervisory function. He spends more than half his work time performing the non-supervisory function of helping patrons at the circulation desk. By contrast, Hare spends far less time performing alleged supervisory duties because they comprise only 5-10% of his work time, in the aggregate.²⁸ Notably, the Employer's witnesses were unable to rebut these time estimates.

Turning to the qualitative approach, there is insufficient evidence that Hare's supervisory functions are more important than his non-supervisory functions. The witnesses, including Hare, generally agree that Hare's supervisory functions are important, but none of them address the key question—the *relative* importance of Hare's supervisory functions as compared to his non-supervisory functions. While Szott repeatedly emphasized that the petitioned-for employees' supervisory functions are "critically important," she also offered telling testimony that indicates their supervisory duties are of no greater importance than their non-supervisory functions. For example, when counsel asked Szott to explain why she had characterized one of the petitioned-for employee's supervisory functions as "critically important," she explained that every function identified in the job description as an KRA (Key Results Area) is an "extremely important task."²⁹ Here, Hare's job description includes a number of KRAs, including ones that do not involve his

²⁸ I rely on this aggregate estimate because the record contains no evidence concerning the amount of time Hare spends on the sole aspect of his work that qualifies as a de facto supervisory task, namely the direction he provides through the evaluation of his subordinates.

²⁹ Szott offered this testimony when describing the duties performed by Burns, but her reliance on the job description KRAs is equally applicable to the other petitioned-for employees. See Tr. Day 2, p 63. Moreover, the testimony she offered regarding the importance of each petitioned-for employee's duties was substantively the same.

subordinates. Indeed, the very first KRA in his job description describes the non-supervisory duty of working at the circulation desk, to directly address patron needs.

The Employer may note that Hare is responsible for overseeing the circulation desk in addition to working there himself, but Hare's oversight and monitoring of his subordinates does not qualify as supervisory direction. Even if the Board finds that Hare's oversight and monitoring qualifies as supervisory direction, he is still responsible for directly providing services to patrons under a separate KRA within his job description. And Szott's testimony about the importance of all KRAs makes it difficult to find that the alleged supervisory functions outlined in one KRA are more important than the non-supervisory functions outlined in a different KRA.

The remaining testimony offered by Director Williams and Szott on the issue of importance likewise does not warrant a contrary result. Szott generally asserted that the smooth functioning of the department depends on the petitioned-for employees performing their supervisory duties, but the same is true of their remaining duties, if they are likewise "extremely important," as Szott claimed. Director Williams similarly asserted that she relies on managers and supervisors to see that staff complete their day to day responsibilities, but this claim is too imprecise to demonstrate that Hare's supervisory functions are more important than his non-supervisory ones. Indeed, it fails to draw any distinction between de facto supervisory tasks, and the general non-supervisory oversight and monitoring that Hare performs.

Thus, Hare is not a supervisor within the meaning of Section 3(r) of the Act.

7. Roger Burns - Youth Services Department

Burns satisfies the principal work requirement because his principal work is obviously and visibly different from that of his subordinate pages. Burns's principal work is to provide patrons with quality reference and readers advisory service, oversee his subordinate pages, serve as summer reading coordinator, and assist in collection development. The pages do not perform any of these tasks and simply shelve books, ensure they are in order, and keep the department tidy.

a. Direction

Burns does not exercise the supervisory authority to direct. Although he exercises independent judgment when directing his subordinates in one respect, he lacks significant

discretionary authority to impact his subordinates' terms and conditions of employment.

Burns exercises independent judgment when he gives his subordinates special assignments because he considers their relative skill and experience. Burns, in his self-evaluation, stated that he assigns pages to special projects and programs when they have proven to exceed expectations in shelf-reading.

However, there is insufficient evidence that Burns exercises independent judgment in making regular assignments as the record does not include reliable evidence concerning the basis on which he makes them. Szott admitted that she did not have first-hand knowledge of how any of the petitioned-for employees make assignments, and Burns did not testify at hearing to explain his process. There is some indication that Burns redistributes the available work among all pages, when some pages are absent, but this does not require the consistent use of independent judgment. See Service Employees International Union, Local 73, 2013 IL App (1st) 120279, ¶ 52 (balancing workload is routine function).

There is insufficient evidence that Burns exercises independent judgment in approving leave requests. There is no indication that Burns has ever denied a leave request. And while his self-evaluation states that he tries to “provide the best possible coverage each day,” it also indicates that he does so by accommodating page scheduling conflicts and redistributing their work as needed, rather than by denying requests.

Burns does not exercise independent judgment in reviewing his subordinates' work. Burns reviews his subordinates' time sheets, but such review is a routine and clerical task. Burns checks to ensure that his subordinates have placed audio visual materials into the correct cases, but this is a likewise a routine and clerical task. Burns reviews his subordinate's shelf-reading to ensure that it is accurate, but there is insufficient evidence that he is doing so in the interest of the employer. The employer introduced no library policies involving shelf reading, and it appears that Burns simply ensures that their shelf reading conforms to the professional norms and standards of library science, which does not require the consistent exercise of independent judgment in the interest of the employer.

Burns does not train his subordinates with the requisite independent judgment because there is insufficient evidence that he has authority to choose between discipline and training. While Szott testified that all petitioned-for employees have authority to choose between discipline and

training, there is no indication that Burns has done so with independent judgment.

Furthermore, the examples in the record show that Burns' training of his subordinates is either routine or significantly guided by supervisory influence. For example, on one occasion, Burns drafted a memo outlining goals that his subordinate should work towards, but its issuance did not require the consistent exercise of independent judgment because Burns thereby merely instructed the subordinate to perform the duties as outlined in the job description or key results areas.³⁰ See Sec'y of State, 2012 IL App (4th) 111075, ¶ 98 aff'g Illinois Secretary of State, 28 PERI ¶ 68 (IL LRB-SP 2011).

The record also includes a performance improvement plan signed by Burns, which is part of the re-evaluation process, but there is insufficient evidence that he exercised independent judgment in deciding to issue it or in determining its contents. Burns had no discretion in determining whether to place his subordinate on the plan because the Employer's policy states that a superior "should" place his subordinate on re-evaluation status if the subordinate receives a poor evaluation.³¹ In this case, Burns's subordinate received a poor evaluation, and the performance improvement plan was part of the mandated re-evaluation process.

The Employer may note that Burns participated in drafting the initial evaluation that served as justification for the subsequent performance improvement plan and re-evaluation. However, there is insufficient evidence that the first evaluation represented Burns's independent decision-making or an effective recommendation. That evaluation was subject to review by Burns's department head and the director, but it is impossible to determine whether the library accepted Burns's recommended evaluation with little if any independent review absent testimony from Burns or the department head. While Szott testified that the library accepts the petitioned-for employees' evaluations almost all the time, she did not know the process by which the petitioned-for employees complete the evaluations or how often a department head required them to change their contents. Thus, it is difficult to conclude that Burns had any meaningful authority over the

³⁰ This document does not appear to be disciplinary, as it contains no warning or reference to future adverse actions if the subordinate does not improve. In addition, it does not appear on a disciplinary action form, which, under the Employer's policy "shall be used to facilitate and enhance documentation of disciplinary actions." At best, it is a written reminder to keep track of employee misconduct and not part of a progressive disciplinary system, even if superiors refer to it later. See Village of Western Springs, 24 PERI ¶ 24 (IL LRB-SP 2008).

³¹ The policy states that "re-evaluation should occur subsequent to a[n]... 'improvement needed' or 'unsatisfactory' performance evaluation." Er. Exh. p 5.

poor evaluation that justified the performance improvement plan and re-evaluation.

Furthermore, the evidence strongly suggests that Burns and his department head determined the contents of the performance improvement plan as part of a joint effort, and that the formal assessment of the subordinate's performance following the plan's completion was likewise a joint decision. The performance improvement plan repeatedly incorporates Department Head Abler's observations of the employee's performance. In addition, it expressly notes that the follow ups will be conducted by "Roger Burns/Jen Abler," which indicates a joint decision-making process. While the performance improvement plan also evidences Burns's participation in the drafting process, such as his signature and initials to the exclusion of Abler's, the incorporation of Abler's comments and her expressly stated responsibility to conduct follow-ups preclude a finding that Burns created the document independently. Moreover, to the extent that there are ambiguities in the record concerning the process by which the library created the documents discussed above, they must be construed against the Employer, who bears the burden in this case and declined to call either Burns or Abler to testify. County of Cook (Health & Hospital System), 31 PERI ¶ 154 (ambiguities in representation petition are construed against the employer).

Finally, there is insufficient evidence that Burns makes independent or effective recommendations on his subordinates' evaluations. As noted above, the evaluations are subject to review by Burns's department head and the director, yet it is impossible to determine whether the library accepts Burns's recommended evaluations with little if any independent review absent testimony from Burns or the department head.

b. Reward

Burns does not exercise authority to reward his subordinates through his evaluations of them because there is insufficient evidence that he makes independent or effective recommendations on those evaluations. In turn, any reward that Burns's subordinates receive from a good evaluation is not attributable to Burns's authority or independent decision-making.

c. Discipline

There is insufficient evidence that Burns disciplines his subordinates with the requisite independent judgment or effectively recommends the same. There is no record evidence that Burns has ever issued his subordinate a disciplinary action form or recommended its issuance.

There is accordingly insufficient evidence Burns would be called upon to consistently exercise independent judgment in making disciplinary decisions or recommendations. See cases supra.

Assuming, *arguendo*, that the Board considers the performance improvement/re-evaluation process to be part of the disciplinary process, there is still insufficient evidence that Burns consistently exercises independent judgment in initiating or completing it. The trigger for re-evaluation status is a poor initial evaluation, and there is insufficient evidence that Burns makes effective recommendations on such evaluations. The drafting of the performance improvement plan and the follow up appear to be a joint effort between Burns and his superior, which limits Burns' exercise of independent judgment. Finally, absent testimony from Burns or his department head, there is insufficient evidence that Burns makes independent or effective recommendations on the formal re-evaluation at the conclusion of the performance improvement plan.

d. Hiring

There is insufficient evidence from which to conclude that Burns makes effective recommendations on hiring.

Burns serves on a hiring panel and drafts hiring recommendations after completing the interview process, and the library has accepted the recommendations he signed. However, it is impossible to determine whether his recommendations are independent and effective absent further information about the panel's composition and the decision-making process in Burns's department.³²

e. Adjustment of Grievances

There is insufficient evidence that Burns has authority to adjust grievances with the consistent use of independent judgment.

There is no indication from the record that Burns has ever considered or resolved a grievance. There is no indication that the Employer has trained Burns on how to resolve grievances. In turn, there is no evidence to demonstrate that Burns would be called upon to regularly choose between two or more significant courses of action, if a grievance were presented

³² There was testimony concerning the process for hiring pages in the Adult/Young Adult Services Department, but it is not clear whether the same process applies across departments.

to him for resolution. See cases supra.

The Employer notes that an employee's superior is responsible for handling their subordinates' grievances; however mere designation as the first step in a grievance procedure, without more, does not constitute supervisory authority under the Act. See cases supra.

f. Preponderance

Burns does not spend a preponderance of his worktime exercising supervisory authority because he does not exercise any indicia of supervisory authority. Although he directs with independent judgment when he gives his subordinates special assignments, his authority to direct is not supervisory because he lacks significant discretionary authority to impact his subordinates' terms and conditions of employment in areas most likely to fall within the scope of union representation. County of Cook, 351 Ill. App. 3d at 396-7.

In sum, Burns is not a supervisor within the meaning of Section 3(r) of the Act.

8. Natalie DeJonghe - Technical Services Department

DeJonghe satisfies the principal work requirement. DeJonghe's principal work is obviously and visibly different from the library assistants who report indirectly to her through Lerner. DeJonghe's principal work is to plan and host technology training, to gather library statistics, to manage part of the library's website, and to coordinate activities of the computer center staff. The library assistants who work in the computer center perform none of these functions and instead keep the computers clean, manage the fax and copy machines, and help patrons use the computers.

DeJonghe's principal work is substantially different in nature and essence from that of her direct report, Lerner. While Lerner and DeJonghe work together to coordinate the activities of the computer staff, DeJonghe is ultimately responsible for Lerner's work and also the work of computer center staff. Furthermore, DeJonghe has additional administrative responsibilities, such as managing part of the library's website, hosting technology programs, and gathering library statistics, that distinguish the nature and essence of her principal work from Lerner's. See cases

supra.

a. Direction

DeJonghe does not direct her subordinates with the requisite consistent use of independent judgment.

She does not direct with independent judgment when making scheduling decisions. She does not schedule Lerner with the requisite independent judgment because she has never changed Lerner's schedule, and there is no indication that she would need to exercise independent judgment if called upon to make alterations.

DeJonghe also does not schedule Lerner's subordinates with independent judgment when determining, in Lerner's absence, who will fill in for an absent computer staff employee. She bases her decisions on routine factors, such as the number of hours that employees have available to work, and she cannot require employees to work more than the maximum number of hours the library has set for them. If the subordinates are already scheduled for their maximum number of hours, DeJonghe performs the work herself.

DeJonghe does not exercise independent judgment when considering her subordinate's leave requests. DeJonghe approves Lerner's leave requests if Lerner has the available benefit time, which strongly suggests that the approval is a routine function. County of DuPage and DuPage County Sheriff, 6 PERI ¶ 2018.

DeJonghe also does not exercise independent judgment when considering the leave requests submitted by Lerner's subordinates, in Lerner's absence. DeJonghe has never denied a leave request when a subordinate has available leave time. While DeJonghe could approve or deny an unpaid leave for a subordinate who has no paid leave, there is no indication that anyone has submitted a request under those circumstances, and insufficient reliable evidence as to the basis for DeJonghe's decision-making. While Szott initially testified that the petitioned-for employees weigh a number of discretionary factors when deciding whether to grant a leave request, Szott admitted that she did not know what factors DeJonghe actually considers.

DeJonghe does not review Lerner's work or the work of Lerner's subordinates with the requisite consistent use of independent judgment. She reviews time sheets, but that review is routine because it merely ensures that the time sheet matches the established schedule. There is also no indication that DeJonghe consistently checks and corrects Lerner's work or the work of

the computer staff.

There is insufficient evidence that DeJonghe trains her subordinates with the requisite independent judgment. DeJonghe participated in training one of Lerner's subordinates, through the performance improvement plan process, but there is insufficient evidence that she exercised independent judgment in doing so. One of the library's evaluations of DeJonghe states that she participated in the creation of a performance improvement plan for one of Lerner's subordinates, that the subordinate failed to improve, and ultimately resigned. However, it is impossible to determine whether DeJonghe exercised independent judgment in this process absent additional details of this event. Indeed, neither the performance improvement plan nor the subsequent re-evaluation appears in the record, and the Employer declined to question DeJonghe on the matter. The Employer's primary witness, Szott, did not appear to have personal knowledge of this incident and merely quoted from DeJonghe's evaluation.

Furthermore, while Szott testified that all petitioned-for employees have authority to choose between discipline and training, there is insufficient evidence that DeJonghe has done so. For a petitioned-for employee to make a choice between two or more significant courses of action, the petitioned-for employee must be empowered to effectuate both, and as noted below, DeJonghe does not have authority to discipline or to make effective disciplinary recommendations.

The remaining testimony regarding training was too generalized to demonstrate that DeJonghe exercises independent judgment. While DeJonghe has shown subordinates in the computer unit how to perform a task properly, this type of instruction appears akin to providing subordinates objective factual information about the job, which does not require the exercise of independent judgment. See City of Naperville, 8 PERI ¶2016.

DeJonghe does not exercise independent judgment in drafting her subordinate's evaluations because she submits a rough draft to her department head before submitting a final draft for review, and the final draft represents a collaborative effort between DeJonghe and her department head. Before DeJonghe signs the evaluation and submits it for formal review, DeJonghe's department head involves herself in the drafting process, by making comments and suggestions for changes to DeJonghe's comments. While the Employer notes that DeJonghe's department head has never altered the ratings DeJonghe initially placed on the document, the process on the whole is still joint and collaborative because it occurs before DeJonghe signs the document and submits it to that same department head for formal review. Illinois Dept. of Cent.

Mgmt. Services (State Police), 382 Ill. App. 3d at 217 & 227 (petitioned-for employee lacked independence in evaluating subordinate where superior participated in evaluation during the planning process, even though superior did not expressly instruct petitioned-for employee to change the rating).

The Employer notes that Director Deiters once approved an evaluation completed by DeJonghe even though he personally disagreed with it and believed the score was too low. However, this observation does not change the character of the initial decision-making process, which is joint and collaborative.

In the alternative, there is insufficient evidence that DeJonghe makes effective recommendations on her evaluations because the library does not accept them as a matter of course with little if any independent review. The level of review in this case is material because the department head requires DeJonghe to submit a draft of all evaluations and both directs changes to DeJonghe's comments and adds comments of her own, necessarily based on her own direct observations of staff. The director then serves as an additional layer of review, which further undermines a finding that the recommendations are effective. Dep't of Cent. Mgmt. Services, 2012 IL App (4th) 110209, ¶ 29 & 31.

Under these circumstances, it is immaterial that the final evaluation scores almost always match the scores of DeJonghe's rough draft, as the Employer emphasizes on brief. The fact that an employer ultimately accepts a petitioned-for employee's recommendation, does not necessarily mean that the employer accepted it "as a matter of course." Id.

b. Reward

DeJonghe does not exercise authority to reward when she evaluates her subordinate because she does not complete the evaluation independently and does not make effective recommendations on those evaluations. In turn, any reward that DeJonghe's subordinate receives from a good evaluation is not attributable to DeJonghe's authority. Furthermore, DeJonghe's subordinate is currently at the top of the pay scale and a good evaluation no longer impacts her pay.

c. Discipline

DeJonghe does not exercise authority to discipline with the requisite independent judgment

or to effectively recommend the same.

As a preliminary matter, DeJonghe does not have authority to unilaterally impose discipline. While DeJonghe asserted that she believes she possesses the authority to discipline her subordinates, her explanation of the process demonstrates that she could not do so on her own. DeJonghe indicated that Department Head Williams effectively precluded her from taking unilateral action by setting an expectation that DeJonghe review any proposed discipline with her. Although DeJonghe now reports to a different department head, Jenny B, the Employer declined to call Jenny B as a witness to explain whether she had conveyed any expectations about the disciplinary process that were different from the directives issued to DeJonghe by Williams.

There is also insufficient evidence that DeJonghe exercises authority to make effective recommendations on discipline. There is no record evidence that DeJonghe has ever recommended discipline of her subordinates. It is therefore impossible to determine whether her recommendation would necessitate the exercise of independent judgment and whether her department head would accept the recommendation as a matter of course with little if any independent review. Village of Frankfort, 20 PERI ¶ 83; County of Kane and Kane County Sheriff, 2 PERI ¶ 2048.

Contrary to the Employer's suggestion, DeJonghe's belief that she has authority to address an issue with counseling and training as opposed to discipline does not evidence authority to discipline with independent judgment absent evidence concerning the basis for her decision. See Vill. of Bolingbrook, 19 PERI ¶125 n. 8.

d. Hiring

There is insufficient evidence that DeJonghe makes effective hiring recommendations. Although DeJonghe successfully advocated for the creation of a new position and has requested that the library post for vacated positions, there is insufficient evidence concerning her participation in the decision to select candidates. The record contains no hiring recommendations drafted by DeJonghe. And while DeJonghe worked with her subordinate, Lerner, to fill three open positions, the evidence concerning the panel's composition was left undeveloped. Szott acknowledged that the department heads sometimes participate in the interview process, but it is unclear whether the department head participated in these cases. The ambiguity on this issue demonstrates that the Employer failed to meet its burden on this indicium. County of Cook (Health

& Hospital System), 31 PERI ¶ 154 (ambiguities in representation petition are construed against the employer).

e. Adjustment of Grievances

DeJonghe does not exercise authority to adjust grievances with the requisite independent judgment because she engages in joint decision-making with her superior. As a general matter, petitioned-for employees who engage in collaborative or joint decision-making with their superiors do not exercise independent judgment. Dep't of Cent. Mgmt. Services, 2012 IL App (4th) 110209, ¶ 25 (discipline); County of Kane and Sheriff of Kane County, 7 PERI ¶ 2043 (hiring). In one case, Williams and DeJonghe collaboratively discussed a matter involving a personality dispute between Lerner and other employees, jointly decided to meet with the employees, and decided to give them instructions to be civil and avoid contact.³³ In another case, involving Lerner's complaint about an unfavorable evaluation, DeJonghe and Williams reached a decision together that it was appropriate to recommend a change to the rating. Notably, it is unsurprising that DeJonghe and Department Head Williams engaged in this effort together where Williams participated in drafting the evaluation that Lerner had grieved.

f. Preponderance

DeJonghe does not spend a preponderance of her worktime exercising supervisory authority because she does not exercise any indicia of supervisory authority with the requisite independent judgment.

9. Patricia Lerner - Technical Services Department

Lerner satisfies the principal work requirement because her principal work is substantially different in nature and essence from that of her subordinates, the library assistants. Both Lerner and her subordinates are principally responsible for directly assisting patrons in the computer center. However, Lerner, unlike her subordinates, performs this function both directly and through oversight of her staff. She ensures full and efficient coverage of the computer services

³³ Even if the Board determines that DeJonghe had authority to address this issue on her own, the resolution of such personality disputes does not require the consistent exercise of independent judgment. City of Freeport, 135 Ill. 2d at 530, 532; Vill. of Downers Grove, 6 PERI ¶ 2035 n. 9 (IL SLRB 1990).

desk with well-trained and skilled staff, participates in hiring, prepares the monthly schedule, helps conduct computer classes and evaluate new equipment, and is responsible for her subordinates' work. See cases supra.

a. Direction

Lerner does not direct her subordinates with the consistent use of independent judgment.

She does not review her subordinates' work with independent judgment. While Lerner reviews her subordinate's time sheets, that review is routine, to ensure that the time sheet matches the established schedule. There is insufficient evidence that she reviews her subordinates' work in other respects or, in the alternative, that she is actively engaged in checking and correcting it.

Lerner does not direct her subordinates with independent judgment when she provides her subordinates with training because there is insufficient evidence that she exercises independent judgment when choosing between training and discipline. While there is some evidence that she has participated in both processes, there is insufficient evidence that she made independent decisions with respect to either. An evaluation of Lerner states that "a training plan was...created for a previous staff member," but the evaluation's use of the passive voice makes it difficult to discern the nature and extent of Lerner's participation in that process.³⁴ And as discussed below, Lerner likewise lacks the authority to unilaterally take or effectively recommend a disciplinary approach.

Lerner does not direct with the requisite consistent use of independent judgment when she considers leave requests and schedules her subordinates. Lerner approved all the leave requests in the record and the Employer failed to show that she had ever denied a request, which indicates that approval is a routine, ministerial function. See cases supra. While Szott testified that petitioned-for employees weigh a number of subjective factors when deciding to grant a leave request, the basis for Szott's testimony was her knowledge of a special leave request considered by a different librarian, which does not necessarily reflect Lerner's review process. Indeed, the library's evaluation of Lerner suggests that she grants all requests and makes scheduling adjustments to accommodate them, effectively balancing the workload among the remaining subordinates in a manner that does not require the exercise of independent judgment. Specifically,

³⁴ Moreover, the evidence indicates that at least one of her superiors participated in the creation of this plan, which demonstrates that Lerner's contribution lacked the requisite independent judgment.

her evaluation states that she “make[s] sure that staff time off requests are respected” and that “she is always willing to make adjustments when unexpected things come up.” Such comments do not indicate that Lerner exercises independent judgment in scheduling or in approving leave requests.

There is insufficient evidence that Lerner makes independent or effective recommendations on her subordinates’ evaluations. Lerner did not testify at hearing to describe the process by which she drafts evaluations. And Szott did not know how any of the petitioned-for employees complete their evaluations, the extent to which the department head reviews rough drafts, or how often a department head asks for changes.

Assuming, arguendo, that Lerner selects the ratings and comments on the evaluations herself and does not first submit a rough draft for her superior’s review, there is still insufficient evidence that the library accepts her evaluations as a matter of course with little if any independent review. Most of Lerner’s evaluations are subject to three levels of review, which weighs against a finding that her recommendations are effective. Furthermore, the record does not reveal the nature and extent of the review process by any of these individuals or the extent to which the library ultimately accepts Lerner’s recommendations. While Szott testified that the library accepts the petitioned-for employee’s evaluations 99% of the time, without change, Szott admitted that she did not know how often a department head asked a librarian to modify an evaluation.³⁵

b. Reward

Lerner does not exercise authority to reward her subordinates through the evaluations she drafts because there is insufficient evidence that Lerner exercises independent judgment in evaluating her subordinates. In turn, any reward that Lerner’s subordinates receive from a good evaluation does not reflect Lerner’s authority or independent decision-making.

c. Discipline

There is insufficient evidence that Lerner disciplines her subordinates with the requisite

³⁵ While two of the evaluations signed by Lerner were reviewed only by the unit supervisor and the director, the record still does not reveal the nature or extent of the review process as to those evaluations. Another evaluation is signed by only Lerner, but it appears not to have been finalized as it is not signed by either the director or the evaluated employee.

independent judgment.

Lerner issued a subordinate a verbal warning, but it is not clear whether that warning was documented such that it would qualify as discipline under the Board's case law. No record of its documentation appears in the record and the Employer did not call Lerner to question her on this point.

There is insufficient evidence that Lerner has authority to unilaterally issue or effectively recommend the issuance of higher-level discipline, such as formal written reprimands and final formal written reprimands. Although Lerner's name appears on such documents, it is clear that she lacks authority to unilaterally issue them because such documents also bear the signatures of the department head and/or unit head, and the signature of the director. There is also insufficient evidence that such documents qualify as evidence of effective recommendation. Indeed, it is impossible to determine whether Lerner in fact made any independent recommendations in these cases, or whether the library accepted them with little if any independent review. While Szott claimed that it was Lerner's decision to issue the discipline, in each case, Szott admitted that she was unaware of the role that the unit head, the department head, and/or the director had in the decision-making process. Indeed, her testimony appeared to be based on the documents alone.

d. Hiring

There is insufficient evidence from which to conclude that Lerner makes effective recommendations on hiring.

Lerner serves on a hiring panel with another individual and drafts hiring recommendations after completing the interview process where both panelists rank the candidates. However, it is impossible to determine whether her recommendations are independent and effective absent further information about the panel's composition and the decision-making process. See Illinois Dep't of Cent. Mgmt. Servs. (Dep't of Children and Family Servs.), 8 PERI ¶ 2037 fn. 2. Szott's claim that Lerner makes independent and effective recommendations is granted little weight because it was based exclusively on the fact that Lerner signed the recommendation form and not on her knowledge of the actual process in Lerner's case.

e. Adjustment of Grievances

There is insufficient evidence that Lerner has authority to adjust grievances with the

consistent use of independent judgment.

There is no indication from the record that Lerner has ever considered or resolved a grievance. In turn, there is no evidence to demonstrate that Lerner would be called upon to regularly choose between two or more significant courses of action, if a grievance were presented to her for resolution. See cases supra.

The Employer notes that an employee's superior is responsible for handling their subordinates' grievances; however, mere designation as the first step in a grievance procedure, without more, does not constitute supervisory authority under the Act. See cases supra.

f. Preponderance

Lerner does not spend a preponderance of her work time exercising supervisory authority because she does not exercise any indicia of supervisory authority with the requisite independent judgment.

Thus, Lerner is not a supervisor within the meaning of Section 3(r) of the Act.

10. Pam Taylor - Technical Services Department

Taylor satisfies the principal work requirement because her principal work is obviously and visibly different from that of her subordinate, Library Assistant Goetz. Taylor's principal work is to catalogue and classify all library materials, and oversee the acquisition and repair of library materials, and to direct department workflow and coordinate staff activities. By contrast, Goetz is responsible for receiving and cataloging a narrow subset of library materials into the database (periodicals), editing the database, reclassifying materials, and coordinating inventory reports.

In the alternative, Taylor's principal work is substantially different from Goetz's in nature and essence. Although both Taylor and Goetz perform some cataloguing work, with Goetz working on periodicals and Taylor performing that task with respect to a wider array of materials, Taylor has greater responsibilities. She is charged with directing department workflow and coordinating staff and activities, training her subordinate, coordinating her subordinate's tasks, reviewing her subordinate's time sheets, and evaluating her subordinate's work. These greater responsibilities and administrative functions render her principal work substantially different in

nature and essence from the work of her subordinate. See cases supra.

a. Direction

Taylor does not direct her subordinate with the requisite independent judgment in any respect.

Taylor does not review her subordinate's work with the consistent use of independent judgment. She reviews her subordinate's time sheets but that review is routine, to ensure that the time sheet matches the established schedule. There is insufficient evidence concerning the manner in which she reviews other aspects of her subordinate's work.

There is insufficient evidence that Taylor assigns work with the requisite independent judgment. Taylor did not testify at hearing, and Szott conceded that she did not have first-hand knowledge of how any of the petitioned-for employees assign work.

There is insufficient evidence that Taylor exercises independent judgment in reviewing and approving leave requests. Szott testified that petitioned-for employees weigh a number of subjective factors when deciding to grant a leave request including the reason for the leave and whether there is sufficient coverage. However, the basis for her knowledge regarding these subjective factors was a special leave request considered by a different librarian, rather than specific knowledge of Taylor's decision-making process. And while the library's evaluations of Taylor from prior years indicate that she should have been more careful in granting leave requests to ensure adequate coverage, it is not clear that she is currently called upon to exercise any such independent judgment. In the past, Taylor appears to have had a greater number of subordinates and may have been faced with competing requests and an uncertainty about how many subordinates were needed to complete the available work. Currently, however, Taylor has only one part-time subordinate and therefore makes no such subjective choices about the adequacy of coverage.

There is insufficient evidence that Taylor exercises independent judgment when making recommendations on the evaluation of her subordinate. Taylor did not testify at hearing concerning the process by which she evaluates her subordinates, and Szott testified that she did not have first-hand knowledge of how any of the petitioned-for employees complete their evaluations.

Even assuming that Taylor completes the evaluations independently, there is insufficient evidence that her recommendations are effective. Szott testified that the library accepts the

petitioned-for employee's recommended evaluations 99% of the time but also conceded that she did not know whether or to what extent a department head might request changes. While Taylor operated without a department head for two years, the authority she exercised during that time is not representative of her authority now, with a new department head in place. Thus, there is insufficient basis from which to conclude that the library accepts Taylor's recommended evaluations as a matter of course with little if any independent review.

There is insufficient evidence that Taylor directs her subordinates in any other respect. Szott's testimony describing the petitioned-for employees' authority was conclusory and often presented without sufficient foundation, as demonstrated during cross-examination.

b. Reward

Taylor does not exercise authority to reward her subordinate through her evaluations. First, there is insufficient evidence that Taylor exercises independent judgment in evaluating her subordinate or that she makes effective recommendations on the evaluations she drafts. In addition, her sole subordinate is already at the top of the pay scale and a good evaluation would no longer result in a wage increase.

c. Discipline

Taylor does not discipline her subordinate with the consistent use of independent judgment or effectively recommend the same.

There is no record evidence that Taylor has ever issued or recommended discipline, and it is therefore impossible to determine whether she would consistently exercise independent judgment in doing so. While Szott described the factors the petitioned-for employees allegedly consider when deciding whether to issue discipline, Szott lacked first-hand knowledge of how any of the petitioned-for employees perform discipline in practice. Furthermore, Szott's speculation that petitioned-for employees could discipline their subordinates with independent judgment if the situation were to present itself, does not support a finding that they in fact exercise authority to discipline. State of Illinois, Department of Central Management Services, 26 PERI ¶ 39; see also Ill. Dep't of Cent. Mgmt. Servs. (Dep't of Prof'l Regulation), 11 PERI ¶ 2029 aff'd by unpub. ord.

no. 4-95-0624.

d. Adjustment of Grievances

There is insufficient evidence that Taylor has authority to adjust grievances with the consistent use of independent judgment. There is no indication from the record that Taylor has ever considered or resolved a grievance. In turn, there is no evidence to demonstrate that Taylor would be called upon to regularly choose between two or more significant courses of action, if a grievance were presented to her for resolution. Furthermore, mere designation as the first step in a grievance procedure, without more, does not constitute supervisory authority under the Act.

e. Preponderance

Taylor does not spend a preponderance of her worktime exercising supervisory authority because she does not exercise any indicia of supervisory authority with the requisite independent judgment.

Thus, Taylor is not a supervisor within the meaning of Section 3(r) of the Act.

V. CONCLUSIONS OF LAW

None of the petitioned-for employees are supervisors within the meaning of Section 3(r) of the Act.

VI. RECOMMENDED ORDER

Unless this Recommended Decision and Order is rejected or modified by the Board, the Board shall tabulate the results of the preference poll by including the votes of all the petitioned-for librarian titles. Once the results of the preference poll have been determined, the Board shall calculate majority status for either a combined unit or separate units, based on the results of the poll. Should a combined unit or a unit of non-professional employees achieve majority support, that Board shall certify the unit.

VII. EXCEPTIONS

Pursuant to Section 1200.135 of the Board's Rules and Regulations, 80 Ill. Admin. Code Parts 1200-1240, the parties may file exceptions to this recommendation and briefs in support of

those exceptions no later than 14 days after service of this recommendation. Parties may file responses to any exceptions, and briefs in support of those responses, within 10 days of service of the exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the recommendation. Within five days from the filing of cross-exceptions, parties may file cross-responses to the cross-exceptions. Exceptions, responses, cross-exceptions and cross responses must be filed with the General Counsel of the Illinois Labor Relations Board, to either the Board's Chicago Office at 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103 or to the Board's designated email address for electronic filings, at ILRB.Filing@Illinois.gov. All filing must be served on all other parties. Exceptions, responses, cross-exceptions and cross-responses will not be accepted at the Board's Springfield office. Exceptions and/or cross-exceptions sent to the Board must contain a statement listing the other parties to the case and verifying that the exceptions and/or cross-exceptions have been provided to them. If no exceptions have been filed within the 14-day period, the parties will be deemed to have waived their exceptions.

Issued at Chicago, Illinois this 23rd day of July, 2021

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

/s/ Anna Hamburg-Gal

**Anna Hamburg-Gal
Administrative Law Judge**