UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGAL CINEMAS, INC.
Employer

and

Case 19-UC-360345

TEAMSTERS LOCAL UNION 690, AFFILIATED WITH THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS
Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Order Clarifying Bargaining Unit is denied as it raises no substantial issues warranting review.[1]

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[1] In denying review of the Regional Director's conclusion that the Assistant Managers do not possess the authority to discipline or effectively discipline employees, we emphasize that the Employer's alleged progressive discipline policy explicitly states that "all four steps in this procedure may not be used for every problem"; that "there will be occasions when it will be necessary to take advanced steps or immediate action to correct a performance or conduct issue"; and that, "at the discretion of management, cast members may receive verbal counseling on multiple occasions for the same or different conduct." General Manager Justin Powell confirmed that employees "can receive multiple [counselings] for the same infraction or even, like, you know, different – different infractions before it being determined to move to the second step." The Regional Director thus found that the Employer does not follow a progressive disciplinary policy, given that the policy expressly states that the Employer's managers have the discretion to skip or repeat steps. The Employer does not directly dispute this finding, which is consistent with Board precedent requiring Employers to prove the existence of such a policy. See, e.g., *Veolia Transportation Services*, 363 NLRB 902, 909 (2016); *Republican Co.*, 361 NLRB 93, 99 fn. 8 (2014). In the absence of such a policy, we find that the verbal and written counselings issued by the Assistant Managers do not constitute job-affecting discipline or contain recommendations for job-affecting discipline. See *Ohio Masonic Home*, 295 NLRB 390, 394 (1989). We further find—for the reasons discussed in the Regional Director's decision—that the Employer has not met its burden to prove that the Assistant Managers utilize independent judgment when making disciplinary decisions.

In denying review of the Regional Director's determination that these individuals do not have the statutory authority to discipline, Member Mayer does not agree with the Regional Director's finding that their authority to issue verbal warnings under a progressive discipline policy may be discounted merely because the policy allows the Employer to combine or skip steps in the disciplinary process. In his view, it defies reason to suppose that a verbal warning for absenteeism that indisputably advances an employee in a progressive discipline system lacks disciplinary consequences merely because the Employer reserves the right to skip the next step

JAMES R. MURPHY,	CHAIRMAN
DAVID M. PROUTY,	MEMBER
SCOTT A. MAYER,	MEMBER

Dated, Washington, D.C., July 10, 2026.

(written warning) and immediately discharge an employee for subsequently assaulting a coworker. Denying supervisory status solely on those grounds would be unduly restrictive of supervisory status and contrary to the intent of Congress when it added Sec. 2(11) to the Act. See *Progressive Transportation Services*, 340 NLRB 1044, 1046 (2003) (requiring rigid and inflexible disciplinary system for discipline to be supervisory "does not comport with industrial practicality…"; instead, "it is sufficient that the discipline has the real potential to lead to an impact on employment."). In this case, however, he agrees with his colleagues that, under the restrictive standard established by extant precedent, the Employer failed to provide that Assistant Managers use independent judgment in making disciplinary decisions.

The Employer objects to the instant unit clarification proceedings on the ground that the Act's removal protections for Board members are unconstitutional. However, as stated by the Regional Director, there is no evidence that the Employer has suffered any harm from the Board's removal protections. See *Winco Holdings, Inc.*, 374 NLRB No. 37, slip op. at 1, fn. 3 (2026); *K & R Contractors, LLC v. Keene*, 86 F.4th 135, 148-149 (4th Cir. 2023) ("[R]egardless of how we answer the constitutional question presented by the removal provisions, we would be required to deny the petition because K & R has not asserted any harm resulting from the allegedly unconstitutional statutes[.]").