

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 01**

BABSON COLLEGE

Employer

and

Case 01-RC-374712

**AMERICAN COALITION OF PUBLIC SAFETY
(ACOPS)**

Petitioner

DECISION AND DIRECTION OF ELECTION¹

Babson College (the Employer) operates a private, non-profit college. American Coalition of Public Safety (ACOPS) (the Petitioner) seeks to represent a bargaining unit comprised of police officers, community service officers, detectives, parking enforcement officers, community engagement officers and police sergeants employed by the Babson College Police Department (the Department) at its campus in Wellesley, Massachusetts.

The Employer asserts that the six police sergeants should be excluded from the bargaining unit as statutory supervisors based upon their authority to assign work, issue discipline, responsibly direct employees, effectively recommend promotion, and adjust grievances. The Employer additionally takes the position these sergeants should be excluded for managerial status.² The parties agree that any appropriate unit should include the police officers, community service officers, detectives, parking enforcement officers, and community engagement officers.

I have carefully considered the positions and arguments presented by the parties. For the reasons set forth below, I find that the Employer has not met its burden of establishing the supervisory or managerial status of the sergeants. Accordingly, I am directing an election in the unit sought by the Union, which includes sergeants.

¹ I have the authority to hear and decide these matters on behalf of the Board under Section 3(b) of the Act; the petitions in these cases were filed under Section 9(c) of the Act. The parties were provided opportunity to present evidence on the issues raised by the petition at a hearing held before a hearing officer of the National Labor Relations Board (the Board).

² The parties and the witnesses at hearing used the terms sergeant, police sergeant, and patrol sergeant interchangeably to refer to the petitioned for employees who report to the Patrol Lieutenant. In this decision, I refer to those individuals simply as sergeants.

FACTS

Department Operations

The Department is responsible for the safety and security of students, faculty, staff, and visitors on the Employer's property, the adjacent Olin College campus, and the surrounding areas. The Department is a component of the Babson College Public Safety Department, which also includes Emergency Management and OneCard³ and Parking Services.

The Department operates under the command of Chief of Police Erin Carcia. The deputy chief is Joseph O'Leary. Patrol Lieutenant Kevin Richardson, who has worked at the Employer for fourteen years (the last four as patrol lieutenant) testified that he, the administrative sergeant, and the administrative lieutenant report to O'Leary. Lieutenant Richardson oversees the Patrol Unit. Together, the chief, deputy chief, administrative lieutenant and patrol lieutenant make up the command staff. In the Patrol Unit, the sergeants report to Lieutenant Richardson. Police officers, community service officers (CSOs), and parking enforcement officers, report to the sergeants. There are approximately 6 sergeants, 8 police officers, 6 CSOs and 1 parking enforcement officer in the Patrol Unit.

The Patrol Unit operates continuously seven days a week. A day shift covers from 7:00 a.m. to 3:00 p.m., an evening shift from 3:00 p.m. to 11:00 p.m., and an overnight shift 11:00 p.m. to 7:00 a.m. Sergeants, police officers, and CSOs are assigned to each shift, with the lone parking enforcement officer working the day shift. The command staff typically works the day shift Monday to Friday. A member of the command staff is always on-call in case of emergent or unexpected situations outside of business hours. Sergeants have a set shift and work four days on and two days off, with one or two sergeants working each shift, depending on the day in the rotation. On occasion, no sergeant is on duty; when this occurs a police officer with the necessary training is designated the officer in charge and is the responsible party for that shift.

Sergeants' Role in Assignment

Scheduling

Police officer, CSO, and sergeant shift schedules are assigned in an annual shift bid, based upon seniority. Once the officers enter their preference for day, evening, or overnight, Lieutenant Richardson sets the schedule for the full patrol staff for the following year.

There is a minimum staffing level of sworn officers and CSOs required to be on-duty each shift, typically set by Lieutenant Richardson. If, due to call-outs, a shift will be under the minimum required staffing level, the Employer may assign others to work an additional shift to meet the minimum, unless someone volunteers to take the shift. The Department maintains a "force list," based on seniority, which determines who will be required to work an additional shift to ensure minimum staffing. Sergeant James Bogins, who has worked as a sergeant for the Employer for two years, testified he is not able to deviate from the force list and can never go below the minimum

³ OneCard is Babson University's photo identification card system, which is also used for building access and for making certain on-campus purchases.

staffing level without seeking approval from command staff. Lieutenant Richardson testified that sergeants have the discretion to send a forced employee home if the shift is not busy.

Prior to April 2025, sergeants had authority to oversee scheduling and staffing for patrol officers and CSOs on their shifts. Sergeant Bogins testified that prior to April 2025 he had the ability to approve time off and relieve officers currently on shift, even if that caused the shift to dip below a predetermined “minimum staffing level.” In an April 2025 email, Chief Carcia informed the sergeants that they no longer have oversight authority over staffing and scheduling. According to Sergeant Bogins, he has not had the authority to approve time off or relieve officers since the April 2025 email. Lieutenant Richardson is now in charge of managing staff coverage and leave, with another lieutenant as a backup.

There is disagreement in the record on who currently manages leave requests when there are fewer than five days remaining prior to the requested leave.⁴ Lieutenant Richardson testified that this leave is approved by sergeants. Sergeant Bogins testified that since April 2025 such requests only go to Lieutenant Richardson and that he has not made any of these approvals since April 2025. Sergeant Bogins testified that he receives calls from officers for same-day sick leave call outs, but has no ability to deny a call out for sick leave. The chief’s email states that requests made during nonbusiness hours for leave under 24 hours could go to the on-duty shift supervisor or officer in charge for approval, but the official request would still be routed to Lieutenant Richardson.

Place and Duty

During each shift, police officers and sergeants patrol the Babson and Olin campuses and respond both to emergency and non-emergency calls for service. Before patrol, sergeants lead roll call, a meeting attended by all on-shift sergeants, CSOs and police officers. During this meeting, sergeants provide updates and discuss patrol duties. Sergeant Bogins testified he also sometimes proposes hypothetical scenarios to roll call attendees, asking officers to talk through how they would respond to a situation in the field. After roll call, Sergeant Bogins typically responds to emails and performs other tasks as needed, such as security assessments and vehicle maintenance work, prior to starting his own patrol duty.

Patrol duties are divided geographically. At least one police officer or sergeant is always assigned to patrol the Babson campus, and one is assigned to patrol the Olin campus. When there are more police officers and sergeants on duty, Babson campus is split into multiple patrol assignments. One CSO always works out of the communication center to act as a dispatch, answering calls and sending officers to calls and alarms. If a second CSO is on duty, they work “on the road” assisting in service calls, such as helping students locked out of their dorms.

Lieutenant Richardson testified that sergeants have the responsibility to assign police officers and CSOs to their duties at the beginning of each shift and can reassign these officers if additional resources are needed. According to Lieutenant Richardson, sergeants have discretion in determining the assignments of officers.

⁴ At the hearing Lieutenant Richardson was the only witness called by the Employer, and Sergeant Bogins was the only witness called by the Petitioner.

Sergeant Bogins testified that on his shift, the police officers chose their own patrol duties for the night, and he patrolled the area not chosen. According to Sergeant Bogins, CSOs also chose their own assignment for the overnight shift and that three other sergeants he has worked with also allowed officers to choose their own assignment. Sergeant Bogins testified that police officers were equally qualified to patrol each sector and that he has never considered an individual officer's strengths or weaknesses for patrol. If there is a disagreement among police officers or among CSOs about their duty on Sergeant Bogins' shift, officers play Rock-Paper-Scissors, with the winner assigned their preferred duty. According to Sergeant Bogins, he believes he could overrule these duty choices, but he never has.

Lieutenant Richardson testified that during these shifts, sergeants can reassign employees if additional resources are needed. The Employer provided one example of a sergeant giving an officer on shift a new task. In a two-page police report (in which all but five sentences are redacted) Sergeant Steven Pope wrote that he told one officer to stay on campus while he and a second Babson police officer transport an individual to the Wellesley Police Department in a police cruiser. In the same report Sergeant Pope wrote that he later instructed the second officer to follow an ambulance to a hospital with the same cruiser. In addition, in an email from Lieutenant Richardson to the sergeants, he summarized a discussion at a meeting with sergeants about how to respond to forced door alarms:

We discussed that Sergeants will need to use their discretion on what kind of response is needed based off the type of alarm, the location and time of day. Checking the cameras to see what happened with a door is one acceptable means of investigating, but note a physical response may also be necessary depending on the circumstances and to ensure the integrity of the door is intact.

A forced door alarm is triggered when door that either was broken open or triggered an alarm upon opening.

Sergeants' Role in Discipline

The Department's policy on discipline states that sergeants are able to give verbal warnings for minor infractions and may present a written warning report up the chain of command with recommendations for more serious infractions. Both Lieutenant Richardson and Sergeant Bogins testified that, in practice, sergeants give "counselings," which are face-to-face conversations with patrol officers/CSOs about incidents, and "To-Froms" in which they request a patrol officer/CSO to send the sergeant an email detailing the incident/misconduct, why it occurred, and corrective steps. Lieutenant Richardson testified that sergeants additionally have the authority to issue verbal warnings. Sergeant Bogins testified that he has issued counselings and a To-From, and knew of other sergeants who did the same.

The policy states that the Department follows a progressive discipline system consistent with the Employer's Human Resources employee handbook.⁵ The Department policy describes corrective actions ranging from counseling and remedial training, verbal warning, written warning, final written warning, to termination. The written policy states the system is a guide which will "always consider additional factors in the assessment and decision of discipline to include aggravating factors, negligence, gross negligence, and mitigating factors." Under the policy "a violation may be so egregious" that even a first violation could require "maximum punitive action." The policy does not describe whether a previous violation/corrective action is factored into future corrective actions. Additionally, the policy states that a line supervisor may relieve any employee of duty, in conjunction with command staff, for a list of violations including "insubordination; [...] improper use of the agency's property [...] untruthfulness and or any other violation of department policies or procedures."

Lieutenant Richardson testified that there are no guidelines for when a sergeant elevates counselings to a To-From, which is solely up to the sergeant's discretion. Sergeant Bogins similarly stated that, while he considered To-Froms to be for repetitive issues, other sergeants operate on different standards. Lieutenant Richardson testified that higher levels of discipline may impact whether employees receive an annual merit raise, as disciplinary history is included in the evaluation process. The decision on merit pay is ultimately up to the chief of police. Lieutenant Richardson was not aware of any instance of an officer not receiving their merit increase because of the evaluation process.

A separate policy governs tardiness. The written tardiness policy provides that employees must submit To-Froms for first and second tardiness offenses. Employees who are tardy two or more times may additionally receive a verbal warning. The policy states additional tardiness offenses involve discipline in conjunction with Human Resources. The Employer provided one instance of sergeants issuing a verbal warning. This warning, regarding tardiness, was issued by Sergeants Kekic and Lopez. Lieutenant Richardson testified that a member of the Employer's Human Resources team, Manager of Employee and Labor Relations Noel McCann, determined that the employee's pattern of tardiness violated the Employer's policy. McCann drafted a verbal warning which the sergeants reviewed (including correcting an inaccurate date) and issued to the employee in a meeting with McCann.

Sergeants' Role in Responsible Direction

In addition to the duties discussed above, sergeants review police officers' police reports for completeness and accuracy. The sergeant position description states sergeants "shall have immediate control of the personnel under their command and be held strictly accountable for their efficiency, effectiveness, discipline, appearance, and overall conduct." Lieutenant Richardson testified that if sergeants fail to exercise control over the police officers and CSOs on duty he would step in and have a conversation with the sergeant. He said this could rise to a counseling conversation or he could require the sergeant to send him a To-From. Lieutenant Richardson testified that he could not recall any incident in which failure to sufficiently review a report led to

⁵ The employee handbook was not introduced into the record. The Employer instead provided a document drafted by Human Resources titled "Employment Guidelines" containing many of the elements of an employee handbook but lacking a progressive discipline system.

consequences for a sergeant. Sergeant Bogins testified that he had been told by Lieutenant Richardson to hold officers accountable. Sergeant Bogins remembered being told by a superior to check in with an officer about not completing a required training, but he could not recall an instance of being held accountable for an officer not meeting a deadline for training.

Sergeants' Role in Adjusting Grievances

All police officers and CSOs participate in evaluations in which they meet with sergeants to discuss performance and fill out a written evaluation form. This form, in addition to asking about strengths and challenges, asks officers to write their objectives related to mutual respect, communication, additional responsibilities, and professional development, among other goals. These evaluations occur every year, or every quarter for probationary officers.

After evaluation meetings with probationary officers, sergeants send a summary of the evaluation to Lieutenant Richardson. Lieutenant Richardson testified that he expects sergeants to ask officers about workplace issues and to be prepared to take suggestions up the chain of command. Sergeant Lopez sent one such summary to Lieutenant Richardson, writing that a CSO was having an issue with the reorganization of the communication center, which was making it hard to find things. According to the summary, Sergeant Lopez assured the CSO that she would remind the other CSO to send an email when making a change to the communication center.

Sergeant Bogins testified that employees sometimes come to him with workplace concerns. For scheduling problems or issues with policy changes, Sergeant Bogins said he attempts to help the officer, either by providing information about the policy or providing other assistance if it was in his capacity. Sergeant Bogins provided one example of this assistance: after an employee was denied time off, Bogins personally offered to volunteer to cover that shift so the officer could take the night off. When employees came with other concerns, such as issues with a sergeant, day-to-day operational issues, or claims of inappropriateness, Sergeant Bogins gathered the information and provided it to Lieutenant Richardson.

Sergeants' Role in Promotion

All Patrol Unit employees are involved with internal promotions. Lieutenant Richardson testified that the first step of promotion is a panel interview, with himself, and a combination of sergeants, officers, and CSOs. After the interview, the panel makes recommendations on which employees should advance to an interview with the chief and deputy chief. The chief and deputy chief make the ultimate decision to promote. Lieutenant Richardson also has sought and received written recommendations from sergeants for promotion of officers. He provides those written recommendations to the chief and deputy chief before they make the final decision. Lieutenant Richardson testified that, prior to a final decision on promotion, he talks with the chief and deputy chief about the sergeant's recommendations, the pros and cons, and makes his own recommendation. In one instance Sergeant Bogins recommended a CSO for promotion to police officer; this CSO was originally chosen for promotion but was ultimately disqualified during a background investigation process.

Secondary Indicia

Sergeants approve timecards for payroll. Once a week Sergeant Bogins checks to make sure the timecard for officers on his shift matches the information in the separate scheduling system, which is maintained by Lieutenant Richardson. If the timecard does not match, Sergeant Bogins reaches out to the employee and clarifies any discrepancy. Once the timecard is correct, Sergeant Bogins approves it.

Sergeants attend monthly sergeant meetings with Lieutenant Richardson. Other members of the Command Staff sometimes attend these meetings. Lieutenant Richardson testified that he uses these meetings to provide sergeants with updates and to give sergeants an opportunity to bring forward any questions, concerns, or issues they have that could be addressed by the Command Staff.

While both sergeants and police officers patrol on their shift, there are other differences in their work. There is a sergeant's office with two desks and computers, which also holds some patrol equipment, including the portable breath tests. The office is unlocked, and patrol unit members sometimes come into the office to retrieve supplies. Two sergeants are in charge of maintaining the Department's vehicles, and are allowed to use a Department credit card for vehicle maintenance without prior approval. There is a police vehicle that is marked "Supervisor" which is reserved for the sergeant or officer in charge. Sergeants are on a higher wage scale than police officers, with the lowest rate on the sergeant scale higher than the highest rate on the police officer scale.

The Department updated its Staffing, Schedules and Additional Assignment Policy in 2025. In February 2025, Chief Carcia emailed the full department requesting the entire department to review and provided feedback through edits and comments to this policy. In August 2025, Chief Carcia emailed sergeants asking for further input, and provided a document available for command staff and sergeants. Some sergeants made edits and suggestions for changes which were incorporated in the final policy, some suggestions were not incorporated into the final policy.

ANALYSIS

Pursuant to Section 2(11) of the Act, the term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively recommend such action, where the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. To qualify as a supervisor, it is not necessary that an individual possess all of the powers specified in Section 2(11) of the Act. Rather, possession of any one of them is sufficient to confer supervisory status, *Chicago Metallic Corp.*, 273 NLRB 1677, 1689 (1985).

The burden of proving supervisory status rests on the party alleging that such status exists, *NLRB v. Kentucky River Community Care*, 532 U.S. 706 (2001). The status of a supervisor under the Act is determined by an individual's duties, not by his title or job classification, *New Fern Restorium Co.*, 175 NLRB 871 (1969). It is well-settled that job descriptions, job titles, employee handbooks, and similar items that constitute "paper authority" do not, without more, demonstrate actual supervisory authority. *Golden Crest Healthcare Center*, 348 NLRB 727, 731 (2006); *Chi*

Lake-Wood Health, 365 NLRB 51, 51 fn. 1 (2016); *Peacock Productions of NBC Universal Media*, 364 NLRB 1523, 1524-25 and fn. 6 (2016). Likewise, conclusory statements are insufficient to establish supervisory authority. Rather, the statute requires evidence of actual supervisory authority visibly translated into tangible examples demonstrating the existence of such authority, rather than unsupported assertions that supervisory authority has been conferred on a particular person. *Golden Crest Healthcare Center*, supra at 731.

The Board refrains from construing supervisory status too broadly, because the inevitable consequence of such a construction is to remove individuals from the protection of the Act, *Quadrex Environmental Co.*, 308 NLRB 101, 102 (1992).

Here, the Employer contends that the sergeants are statutory supervisors because they assign, discipline, and responsibly direct other employees, and effectively recommend the promotion of other employees, and adjust their grievances.

No party argues, and no evidence suggests, that sergeants hire, transfer, suspend, lay off, recall, reward, or discharge other employees. I will analyze in turn whether the record evidence establishes that sergeants possess authority to assign or responsibly direct other employees, adjust their grievances, or discipline or promote them. Within each section, as applicable, I will also examine whether they effectively recommend any of these actions and whether they exercise independent judgment in wielding their authorities.

Assignment and Responsible Direction

In *Oakwood Healthcare, Inc.*, 348 NLRB 686 (2006), the Board refined its analysis of the terms “assign,” “responsibly direct,” and “independent judgment” in assessing supervisory status. The Board announced that it construes the term “assign” to refer to “the act of designating an employee to a place (such as a location, department, or wing), appointing an employee to a time (such as a shift or overtime period), or giving significant overall duties, i.e., tasks, to an employee.” Id. at 689. However, ad hoc instructions to employees to perform discrete tasks does not rise to level of “assigning.” Id. Merely possessing the authority to assign work does not establish supervisory status if it is not made with independent judgment.” *Tracy Auto*, 372 NLRB No. 101, slip op. 23 (2023).

As regards “responsible direction,” the Board explained in *Oakwood* that, if a person has “men under him” and if that person decides what job shall be undertaken next or who shall do it, that person is a supervisor, provided that the direction is both “responsible” and carried out with independent judgment. For direction to be “responsible,” the person directing the oversight of the employee must be accountable for the performance of the task by the other. To establish accountability, it must be shown that the employer delegated to the putative supervisor’s authority to direct the work and take corrective action, if necessary. It also must be shown that there is a prospect of adverse consequences for the putative supervisors if they do not take these steps. *Oakwood*, supra, at 689-692.

Finally, the Board held in *Oakwood* that to establish that an individual possesses supervisory authority with respect to any of the statutory functions, the individual must also exercise independent judgment in exercising that authority, which depends on the degree of

discretion with which the function is exercised. “[T]o exercise independent judgment, an individual must at a minimum act, or effectively recommend action, free of the control of others and form an opinion or evaluation by discerning and comparing data.” Id. at 693. “[A] judgment is not independent if it is dictated or controlled by detailed instructions, whether set forth in company policies or rules, the verbal instructions of a higher authority, or in the provisions of a collective-bargaining agreement.” Id. The Board also stated that the degree of discretion exercised must rise above the “routine or clerical.” Id.

Sergeants do not appoint employees’ times of work. All officers bid for their shift in the departmental shift bid each year. The shift bid is based upon seniority and maintained by Lieutenant Richardson. Forced overtime is determined by the forced list, with sergeants at most playing a routine or clerical role by following the forced list. Lieutenant Richardson testified that sergeants can allow forced officers to be relieved from duty if work is not very busy. Sergeant Bogins testified, however, that sergeants have not had the ability to relieve officers since April 2025, when Police Chief Carcia announced Lieutenant Richardson would take over primary oversight of staffing/scheduling management. There is no evidence in the record of a sergeant relieving an employee from work since April 2025 without the permission of command staff.⁶ See *Community Education Center* 360 NLRB 85, 94 (2014) (finding testimony that putative supervisors possess authority to allow employees to leave early does not establish assignment if not supported by specific examples).

Nor did the Employer establish sergeants assign officers to an overall duty or location. Sergeant Bogins testified that on shifts with four of the six sergeants, officers chose their own duties. There is no evidence of any sergeant assigning any officer to their overall duty.

Further, Sergeant Bogins provided uncontradicted testimony that officers were equally qualified to perform the different patrol duties and that he has never considered the strength or weaknesses of the officers in relation to their assignment. Lieutenant Richardson testimony that this assignment is up to the sergeant’s discretion is not sufficient to prove independent judgment. See *G4S Government Solutions, Inc.*, 363 NLRB 977, 978 (2016) (finding lack of independent judgment in assignment when only supported by vague testimony lacking even general examples).

The evidence does not establish that sergeant’s role in “reassigning” duties during patrols rises to the level of assignment or involves independent judgment. Lieutenant Richardson testified that sergeants have the authority to reassign patrol officers if additional resources are needed. The Employer’s two examples, a police report and a discussion about forced door alarm response, in support of this authority are not compelling.

First, the Employer points to the heavily redacted report of Sergeant Pope instructing one officer to stay on campus and another officer to transport a student to the Wellesley police station and later to drive to the hospital. The record does not identify any criteria Sergeant Pope would use in determining which officer would perform each role. Lieutenant Richardson testified he had no first-hand knowledge of the incident outside of reading the report. The five unredacted sentences in the report provide no indication that the incident involved the sergeant weighing the

⁶ The sergeants’ authority in grant time off prior to April 2025 is irrelevant, as evidence demonstrates that any former authority to grant leave requests was eliminated at that time, with a potential exception for emergency requests.

officers' strengths or skills to determine which should travel off campus. Further, instructing an officer to drive a car to a police station and later instructing the same officer to drive to a hospital are discrete, ad hoc tasks, not significant overall duties, which do not rise to the level of assignment.

Second, the Employer contends that sergeants use discretion when they reassign officers to respond to forced door alarms. The record is inconclusive as to whether sergeants have ever assigned other officers to respond to door alarms. Both Lieutenant Richardson and Sergeant Bogins testified that the CSO in the communications unit reviews door alarms and dispatches officers on service calls. There is no example in the record of a sergeant assigning an officer to respond to an alarm. The Employer relies on an email from Lieutenant Richardson that does not indicate whether sergeants use discretion in assigning others to the task, or discretion in their own investigatory process in responding to the alarm. At best, this evidence is speculative. Further, even assuming the sergeants do dispatch other officers to door alarms, the inspection of a door, whether physically or through surveillance cameras, is a discrete task which does not rise to the level of assignment to an overall duty.

Finally, the Employer contends that the sergeants assign work when they add items to a roll call agenda. Sergeant Bogins adds hypothetical discussion questions which can extend the length of roll call and delay patrol. Posing these hypotheticals for employees to respond to is, at most, an ad hoc or discrete task, not an assignment of overall duties. Nor is delaying the start of patrol appointing an individual to a time, which consists of assigning shifts or overtime periods. See *Oakwood Healthcare*, supra at 689.

With respect to directing work, sergeants review officers' reports and tell them to correct parts of the reports. They also instruct officers to transport students off campus to the town police station or the hospital as necessary. However, the Employer has not established that sergeant's direction is "responsible." Lieutenant Richardson testified that he holds sergeants accountable if the sergeants do not hold their officers accountable, including by using To-Froms and counselings. This statement is vague, conclusory, and not supported by specific evidence in the record. The Employer did not produce any examples of sergeants receiving counselings, To-Froms, evaluations, or discipline regarding their direction of employees. As discussed below, To-Froms are not discipline and the record does not establish that they lead to job-affecting consequences, or the loss of merit pay. Without specific evidence that there is a prospect of sergeants receiving adverse consequences or commendations for other employees' performances, the Employer failed to meet its burden that sergeants are accountable in their direction. See *Peacock Productions of NBC Universal Media*, 364 NLRB at 1526.

Discipline

To establish the supervisory authority to discipline, the exercise of the asserted disciplinary authority "must lead to personnel action without independent investigation by upper management." *Veolia Transportation Services*, 363 NLRB 902, 908 (2016). Written or oral warnings that do not affect job status or tenure do not establish supervisory authority. *Transdev Services* 373 NLRB No. 122, slip op. at 7 (2024). "[T]he mere factual reporting of oral reprimands and the issuance of written warnings that do not alone affect job status or tenure do not constitute supervisory authority." *Passavant Health Center*, 284 NLRB 887, 889 (1987).

A warning may qualify as disciplinary if it “automatically” or “routinely” leads to job-affecting discipline by operation of a defined progressive disciplinary system. *Veolia Transportation Services*, 363 NLRB No. 98, slip op. at 8 (2016). The party asserting supervisory status bears the burden of proving such a progressive system exists, as well as the role that warnings play in the system. *Republican Co.*, 361 NLRB No. 15, slip op. at 7 (2014). The evidence also must show that an allegedly progressive disciplinary system is consistently applied. For example, in *Lucky Cab Co.*, 360 NLRB 271 (2014), the Board held that a progressive disciplinary policy was not established where the handbook provided that employer reserved right to skip steps or deviate from progressive discipline.

The Employer failed to demonstrate that sergeants possess true authority to issue verbal or written warnings. The written discipline policy states that sergeants can issue written and verbal warnings, but that is mere paper authority, which cannot alone establish supervisory status. In the single example of sergeants issuing a verbal warning, the actual warning was both determined and written by a human resource manager. These sergeants had a reportorial role in informing the patrol lieutenant of a CSO’s tardiness issues, but Lieutenant Richardson testified that a human resources manager determined the underlying activity violated the Employer’s rules and wrote the warning. The sergeants’ issuance of the warning was administrative, giving the disciplined employee information determined by their superiors. This issuance involved no independent judgment. A sergeant did correct a date on the finalized warning form, but this too is mere clerical work, not disciplining with independent judgment.

Turning to counselings and To-Froms, these corrective actions by sergeants do not routinely or automatically lead to job-affecting discipline as part of a progressive discipline system. Though testimony and documents describing the discipline system as “progressive,” the policy itself does not reflect a defined progressive discipline system. Under the policy section titled “progressive discipline” there is no description of how discipline automatically progresses from one type of corrective action to the next. Rather, the policy states that it is a guide which “will always consider additional factors” and reserves the right to use “maximum punitive action” on a first violation. Further, the Department policy states in another section that any employee may be relieved of duty for any violation of department policies or procedures. Like in *Lucky Cab Co.*, the Employer here expressly reserves the right to deviate or ignore its self-described progressive disciplinary policy.

Further testimony cuts against the existence of a progressive discipline system in practice. Lieutenant Richardson testified that there are no guidelines for when counselings are elevated to a To-From. Instead of following a defined system, Lieutenant Richardson said it was up to a sergeant’s discretion whether a repeat policy violation should elevate a counseling to a To-From. Sergeant Bogins also testified that sergeants do not follow a consistent standard in deciding when to request a To-From from an employee. If a progressive discipline system exists, and if counselings and To-Froms are part of such a system, then there would be guidelines for when and how counselings routinely lead to further corrective action. The lack of any guideline being used in practice undercuts the claim that discipline at the Employer is based upon a defined progressive system.

This is also true for the Employer’s claim that counselings and To-Froms affect merit pay. The Department employees receive pay increases every July. Although Lieutenant Richardson testified that later steps in the disciplinary process could lead to an employee not receiving the

merit pay increase, he was not aware of any instance of an officer not receiving their pay increase because of their disciplinary history in the evaluation process. Merit pay is ultimately the decision of the chief of police. The fact that counselings or To-Froms, *could* lead to further discipline and that further discipline *could* in turn lead to a loss of merit pay, absent any specific evidence, is insufficient to establish that the sergeant's actions routinely or automatically lead to job affecting discipline. See *Veolia Transportation Services*, 363 NLRB 902, 909 (2016).

Promotion

I find the Employer has not met its burden to prove sergeants effectively recommend promotion. The Board has held that participation in an interview process does not confer supervisory status, where admitted supervisors also participate and independently investigate the suitability of the candidates. See *J.C. Penney Corp.*, 347 NLRB 127, 129 (2006); *Los Angeles Water & Power Employees' Assn.*, 340 NLRB 1232, 1234-1235 (2003); *Ryder Truck Rental, Inc.*, 326 NLRB 1386, 1387-1388 fn. 9 (1998). In the Department, sergeants sit on promotion panels and provide written recommendations for promotions. The chief and deputy chief independently interview all candidates for promotion. The chief and deputy chief also discuss the written recommendations of sergeants with the patrol lieutenant, who also makes a recommendation, and discusses the pros and cons of the candidate. Because the evidence demonstrates that the chief and deputy chief make the final decision only after their own independent investigation, the Employer has not met its burden.

Adjustment of Grievances

To establish the statutory authority to adjust grievances, the putative supervisor must do more than resolve squabbles or minor disputes. *Ken-Crest Services*, 335 NLRB 777, 779 (2001). Here, no testimony was presented at hearing that sergeants are involved with a formal grievance process in the Department.

The Employer contends that the sergeants' role in performance evaluations involves the adjustment of grievances. These evaluations involve a self-assessment, in which officers evaluate their own strengths and weaknesses. After this self-assessment, officers discuss their performance and future goals with a sergeant. Lieutenant Richardson testified that he expects sergeants to ask officers about issues that could be improved upon and to be available to take suggestions up the chain of command. In one performance evaluation of a probationary CSO, the sergeants encouraged the CSO to ask for assistance and to provide feedback on how trainings can be improved. Though the Employer characterizes this encouragement as "soliciting grievances," there is no evidence indicating a sergeant changed officer training due to officer feedback. The solicitation of grievances alone does not establish that a sergeant also adjusted those grievances.

The other performance evaluation incident the Employer identified as adjusting grievances, which involved the reorganization of the communication center, similarly lacks evidence of adjustment. In that evaluation, Sergeant Lopez assured a CSO that she would remind the other CSO to notify employees when reorganizing the communication center. No individual with direct knowledge of this issue testified at hearing, and there is no evidence that this issue was actually resolved. Assuming that the matter was indeed resolved, the resolution of minor complaints, such

as a personality conflict, is not sufficient to constitute an adjustment of grievances for purposes of establishing supervisory status. *Community Education Centers Inc.*, 360 NLRB 85, 93 (2014).

The fact that Sergeant Bogins volunteered to take over the shift of an officer who was previously denied a time-off request is likewise not evidence of grievance adjustment. All officers are allowed to volunteer to take over shifts through the shift bidding system. The authority to grant time off is a secondary indicium of supervisory status, not a primary indicium, and is only considered in borderline cases. *Pratt Towers*, 338 NLRB 61, 71 (2002).

The Employer additionally argues that Sergeant Bogins testified that he has the authority to resolve employee disputes regarding patrol assignments. While testimony indicated that officers play Rock Paper Scissors to determine patrol assignment, no record evidence suggests that Sergeant Bogins is personally involved in these games.

Finally, the Employer submits, relying on *HS Lordships*, 274 NLRB 1167, 1174 (1985), that Sergeant Bogins adjusts grievances by reviewing employees' timesheets for accuracy, reaching out to employees if there is a discrepancy in the amount of sick time requested. This reliance is misplaced. In *HS Lordship* a supervisor was found to be adjusting grievances when, after employees came to him with complaints about their wage payments, he investigated and resolved the payroll issue. There is no evidence in the record that a sergeant has ever resolved a complaint about wages by an employee, as existed in *HS Lordship*. Rather, Sergeant Bogins' actions of comparing the correct amount of sick time and contacting employees to confirm accuracy is a routine and clerical activity that does not require independent judgment. Finally, approving timecards for accuracy is a secondary indicia of supervisory status, not an adjustment of a grievance.

Secondary Indicia

The Employer argues that numerous secondary indicia weigh toward finding that sergeants are supervisors. Notably, the sergeants approve timesheets; their job description refers to sergeants as supervising lower ranked employees; and they are paid higher rates than police officers and CSOs. The Employer also contends that the sergeants are perceived as supervisory, grant time off, and attend management meetings. The Board has long held, however, that secondary indicia are insufficient by themselves to establish supervisory status when there is no evidence presented that an individual possesses any one of the several primary Section 2(11) authorities. *Golden Crest Healthcare Center*, supra, at fn.10; *Ken-Crest Services*, supra. The Employer also points out that sergeants are the highest-ranking individuals on the Employer's premises much of time. Sergeants being the highest-ranking employee on duty is insufficient to demonstrate supervisory status and is further undercut by the fact that there is a member of the command staff on-call at all times. *Golden Crest Healthcare Center*, supra.

Finally, the Employer argues that two other factors are secondary indicia of supervisory status: sergeants' discretionary power in vehicle maintenance, and their role in suggesting policy changes. The Employer submits that by suggesting changes to a department policy, which were accepted by management, sergeants "play a direct and key role in formulating management policies." While an employee's role in policy formation or in budget allocation could impact managerial status, the

Employer cites no case, and I can find none, which suggests that either activity supports a finding of supervisory status.

Managerial Status

The Board has held that an individual is considered managerial, and therefore excluded from employee status under the Act, if they “formulate and effectuate management policies by expressing and making operative the decisions of their employer.” *NLRB v. Bell Aerospace Co.*, 416 U.S. 267, 288 (1974). The party asserting managerial status has the burden of proof. *The Republican Co.*, 361 NLRB 93, 96 (2014). “Although the Board has established no firm criteria for determining when an employee is so aligned, normally an employee may be excluded as managerial only if he represents management interests by taking or recommending discretionary actions that effectively control or implement employer policy.” *NLRB v. Yeshiva Univ.*, 444 U.S. 672, 683 (1980).

The Employer argues that sergeants are managerial employees. As discussed above, Police Chief Carcia requested that sergeants provide input on the Department’s staffing and scheduling policy. Sergeants provided suggestions on a draft of the policy document through comments on the document. A portion of these comments led to changes which were approved by Chief Carcia, while others were not adopted. This role in suggesting changes to one policy, which still needed to be approved by command staff, does not reach the level of independent discretion necessary to establish managerial status.

CONCLUSION

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer’s rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.⁷
3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employers.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

⁷ The Employer, Babson College, a Massachusetts corporation with an office and place of business in Wellesley, Massachusetts, is engaged in operation of a private college. During the past twelve months, the Employer derived gross revenues available for operating expenses in excess of \$1 million and purchased and received at its Wellesley, Massachusetts facility goods and materials valued in excess of \$5,000 directly from points located outside the Commonwealth of Massachusetts.

5. There is no contract bar or other bar to election in this matter.
6. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

Included: All full-time and regular part-time Police Officers, Community Service Officers, Detectives, Parking Enforcement Officers, Community Engagement Officers, and Police Sergeants employed by the Employer at its facility located at 231 Forest Street, Babson Park, MA 02457.

Excluded: All Administrative Sergeants, Detective Sergeants, Emergency Managers, office clerical employees, confidential employees, managers, and professional employees and supervisors as defined in the Act, and all other employees.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by American Coalition of Public Safety (ACOPS).

A. Election Details

The election will be held on **Wednesday, August 26, 2026**, from 6:30 a.m. to 7:30 a.m. and 2:30 p.m. to 3:30 p.m. at the Employer's premises.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **Saturday, August 1, 2026**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. In a mail ballot election, employees are eligible to vote if they are in the unit on both the payroll period ending date and on the date they mail in their ballots to the Board's designated office.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period, and, in a mail ballot election, before they mail in their ballots to the Board's designated office; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3)

employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names (that employees use at work), work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by **Tuesday, August 11, 2026**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election, which will issue once the room is finalized, in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to

12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 10 business days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review must be E-Filed through the Agency's website and may not be filed by facsimile. To E-File the request for review, go to www.nlrb.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001, and must be accompanied by a statement explaining the circumstances concerning not having access to the Agency's E-Filing system or why filing electronically would impose an undue burden. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review. Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated: August 7, 2026

A handwritten signature in black ink that reads "John D. Doyle, Jr." with a stylized flourish at the end.

John D. Doyle, Jr., Acting Regional Director, Region 01
National Labor Relations Board
Thomas P. O'Neill Jr. Federal Building
10 Causeway St, Room 1002
Boston, MA 02222-1001

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

BABSON COLLEGE

Employer

and

Case 01-RC-374712

**AMERICAN COALITION OF PUBLIC SAFETY
(ACOPS)**

Petitioner

AFFIDAVIT OF SERVICE OF: Decision and Direction of Election

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on August 7, 2026, I served the above-entitled document(s) by **electronic mail**, as noted below, upon the following persons, addressed to them at the following addresses:

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August 07, 2026

Date

Elizabeth C. Person, Designated Agent of NLRB

Name

Elizabeth C. Person

Signature