

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

CHICAGO HISTORICAL SOCIETY

Employer

and

Case 13-UC-365716

**CHICAGO HISTORY MUSEUM WORKERS UNITED,
AFSCME COUNCIL 31**

Petitioner

DECISION AND ORDER CLARIFYING UNIT

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board to determine whether it is appropriate to clarify the existing bargaining unit represented by the Petitioner to include the job classifications of Lead Building Technician, Lead Cashier, and Accounting Coordinator. Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board.¹

I. Issue and Parties' Positions

On April 9, 2025, the following bargaining unit was certified in Case 13-RC-360949:

Included: All full-time and regular part-time professional and non-professional employees employed by Employer who work at the facility currently located at 1601 N. Clark St., Chicago, IL 60614, in Research and Access, Rights and Reproductions, Communications, Institutional Advancement, Education, Curatorial, Exhibitions, Visitor Services, Properties, Special Events, Collections, and North & Clark Café.

Excluded: All other employees, interns, employees at other Employer locations, confidential employees, managerial employees, guards and supervisors as defined by the Act.

¹ Upon the entire record in this proceeding, I find:

- a. The parties stipulated, and I find, that 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.
- b. Chicago History Museum Workers United, AFSCME Council 31 is the exclusive bargaining representative of the existing unit of the Employer at issue herein.

The certification further stated:

Others Permitted to Vote: The parties have agreed that the classifications of Digital Humanities Fellow; Lead Cashier; Visitor Services Operations Coordinator; Visitor Services Ticketing and Reservations Systems Coordinator; Photographer Imaging Specialist; Lead Building Maintenance Technician; Bar Services Supervisor; and employees who work in the Accounting and Finance Department who are not otherwise excluded may vote in the election but their ballots will be challenged since their eligibility has not been resolved. No decision has been made regarding whether the individuals in these classifications or groups are included in, or excluded from, the bargaining unit.

In the instant petition filed on May 15, 2025, the Petitioner seeks to clarify the existing bargaining unit to include the Digital Humanities Fellow; Lead Cashier; Visitor Services Operations Coordinator; Visitor Services Ticketing and Reservations Systems Coordinator; Photographer Imaging Specialist; Lead Building Maintenance Technician; Bar Services Supervisor; and employees who work in the Accounting and Finance Department who are not otherwise excluded. The Employer, however, seeks to exclude the lead building maintenance technician, lead cashier, and accounting coordinator from the existing bargaining unit. Specifically, the Employer takes the position that the employees holding the lead building maintenance technician and lead cashier classifications are supervisors under Section 2(11) of the Act and thus should be excluded from the bargaining unit. Additionally, it is the Employer's position that the employees holding the accounting coordinator classification should be considered confidential and thus excluded from the bargaining unit.

II. Decision and Order

For the reasons discussed below, the undersigned finds that it is appropriate to clarify the existing bargaining unit, covered by a collective bargaining agreement between the Petitioner and the Employer. The employees holding the lead building maintenance technician, lead cashier, accounting coordinator, digital humanities fellow, photographer imaging specialist, bar services supervisor classifications should be accreted into the unit represented by Petitioner.

Accordingly, IT IS HEREBY ORDERED that the existing unit be clarified to include the above classifications into the unit description as follows:

Included: All full-time and regular part-time professional and non-professional employees employed by Employer who work at the facility currently located at 1601 N. Clark St., Chicago, IL 60614, in Research and Access, Rights and Reproductions, Communications, Institutional Advancement, Education, Curatorial, Exhibitions, Visitor Services, Properties, Special Events, Collections, and North & Clark Café, including all full-time and regular part-time employees who work in the classifications of Digital Humanities Fellow; Lead Cashier; Photographer Imaging Specialist; Lead Building Maintenance Technician; Bar Services Supervisor; and Accounting Coordinator.

Excluded: All other employees, interns, employees at other Employer locations, confidential employees, managerial employees, guards and supervisors as defined by the Act.

III. Statement of Facts

A. Employer's Operations and Procedural Background

The Employer, the Chicago Historical Society, an Illinois not-for-profit corporation, is the curator and maintainer of the Chicago History Museum, a museum located in Chicago, Illinois, currently located at 1601 N. Clark St., Chicago, IL 60614. On April 9, 2025, through a stipulated *Sonotone* election in NLRB case 13-RC-360949, Chicago History Museum Workers United, AFSCME Council 31 became the exclusive representative of some of the Chicago History Museum employees.

At the time of the stipulated election, the Employer and the Union disagreed about the eligibility of several job classifications to join the prospective bargaining unit. The parties agreed that the Digital Humanities Fellow, Lead Cashier, Visitor Services Operations Coordinator, Visitor Services Ticketing and Reservations Systems Coordinator, Photographer Imaging Specialist, Lead Building Maintenance Technician, Bar Services Supervisor, and employees who work in the Accounting and Finance Department that were not otherwise excluded (as employees at other Employer locations, confidential employees, managerial employees, guards and supervisors as defined by the Act) were permitted to vote under challenge. The parties agreed that the eligibility or inclusion of these job classifications would be resolved, if necessary, following the election.

On May 15, 2025, the Union/Petitioner filed the instant unit clarification petition seeking to add the job classifications that voted under challenge, as listed above, to the bargaining unit. The Visitor Services Operations Coordinator and Visitor Services Ticketing and Reservations Systems Coordinator were removed from consideration as those roles are currently vacant. By stipulation, the Employer formally withdrew its objection to the inclusion of the Digital Humanities Fellow, Photographer Imaging Specialist, and Bar Services Supervisor to the existing bargaining unit and I hereby approve that stipulation.

On December 9, 2025, a hearing was held to assess the Lead Building Maintenance Technician, the Lead Cashier, and the Accounting Coordinator's eligibility to join the existing bargaining unit.

B. The Lead Building Maintenance Technician

Director of Properties Terrance Lewis testified that there are four positions in the maintenance department – two off-site property caretakers, an on-site technician and an on-site Lead Technician. Lewis testified that the on-site technician performs daily rounds and daily maintenance. According to Lewis, the Lead Technician also performs daily rounds and makes sure that everything is working correctly inside the building. Once the Lead Technician identifies any mechanical, electrical or other issues, the Lead Technician determines what steps need to be taken next. The Lead Technician will then either take those steps or “push out work to whoever it needs to go to.”

Lewis testified that the Lead Technician position is currently vacant. It was previously filled by Rene Artega. Artega held the position for approximately four months. Prior to Artega the position was held by Hysen Mustafa. When the role was filled, the Lead Technician worked the same hours as the technician – 7:30 a.m. to 3:30 p.m. Both the Lead Technician and technician do rounds for approximately two hours at the beginning of their day, which consists of preventive maintenance and other tasks. According to Lewis, once the technician completes their rounds on a given day, the Lead Technician decides the level of importance of any outstanding tickets, emergencies, and mechanical issues and “push out the work to whomever it needed to take care of.” In that capacity, the Lead Technician uses a scale of 1 to 5 to determine the priority of jobs. With respect to assigning overtime, Lewis explained that the Lead Technician can assign overtime in emergencies and special event situations. However, no examples of such assignments were provided on the record.

The Lead Technician has a Home Depot credit card and has access to accounts with other suppliers, but the Lead Technician must get pre-approval for purchases exceeding \$1,500. When necessary, the Lead Technician is authorized to direct the work of outside contractors.

No evidence was presented concerning the Lead Technician’s ability to discipline employees. Lewis noted that if the issue ever arose, the Lead Technician would be able to inform Lewis of any disciplinary issues. Lewis was asked about verbal reprimands and Lewis testified that the Lead Technician would be able to tell the technician about misconduct, misdoings or other issues. However, it is unclear whether such statements were ever made, and, even if they were made, that they comprised verbal discipline. When asked whether he ever informed a former Lead Technician that he could discipline employees, Lewis answered that the Lead Technician could stop a procedure or determine a proper course of action. Lewis also ultimately admitted that the issue of discipline by a Lead Technician never came up and acknowledged that two former Lead Technicians never issued any discipline.

With respect to hiring, Lewis testified that the Lead Technician previously attended interviews that Lewis conducted and that the Lead Technician gave their “seal of approval” for a candidate who was eventually hired. But when asked to elaborate, Lewis explained that the Lead Technician opined as to who he would like to work with and who they did not want to work with.

C. The Lead Cashier

Director of Special Events Lorelei Kroulaidis testified that her department oversees all special events, including external rentals from social events, corporate events, nonprofit galas, daytime meetings, morning meetings and the Adult Group Tours program. The in-house café also falls under her department. Kroulaidis testified that the café employs a café manager, a Lead Cashier, three dual role cook/cashiers, and a part-time cashier. The Lead Cashier’s duties include taking customer orders, assisting guests, responding to guest complaints, opening banks, closing banks, tasking out, ensuring staff take breaks, ensuring staff are doing tasks on a daily checklist, setting up catering orders, doing inventory, checking in orders, making sure that equipment is in working order, bringing behavioral challenges to management, and acting as the café manager when the café manager is off.

According to Kroulaidis, when the Lead Cashier acts for the café manager, the lead cashier may do scheduling, coding invoices, handling inventory, and doing coaching and counseling if needed.

Kroulaidis testified that the Lead Cashier assigns daily tasks by looking at the daily task log and parceling out the tasks on the log. Management may add additional tasks to these task logs such as preparing a large catering order. The Lead Cashier may also contact maintenance in order to address maintenance issues. Furthermore, the Lead Cashier has the ability to assign overtime on busy days, and to close the café early and let employees leave. However, upon cross-examination Kroulaidis testified that she was not aware of any time that the Lead Cashier has approved overtime for an employee. Also, upon cross-examination, Kroulaidis could not provide any examples to show that the Lead Cashier has made the decision to open or close the café earlier than usual. Kroulaidis also testified that the lead cashier ensures that employees take breaks as per a time slot sheet that the employees completely independently.

Regarding the ability to discipline, Kroulaidis testified that the Lead Cashier may participate in disciplinary meetings, but the Lead Cashier's role in the decision-making process concerning discipline was unclear. There was a reference to "active coaching," but this term was left undefined and, based on the record evidence, such coaching may amount to the Lead Cashier redirecting employees when they engage in behavior such as excessive cell phone use. There are no examples of the Lead Cashier issuing or recommending discipline. Kroulaidis testified that the Lead Cashier signed a disciplinary document as a second witness, but it is framed that this occurred because there was a conflict-of-interest involving management and the lead cashier was someone available to be an unbiased witness at the time. There is no record evidence that the Lead Cashier either issued or recommended this discipline.

With respect to hiring, Kroulaidis testified that the Lead Cashier participates in the interview process. Upon cross-examination, Kroulaidis clarified that she did not know of any interviews in which the Lead Cashier participated.

D. The Accounting Coordinator

Director of Accounting Steven Holloway testified that he is responsible for the accounting operations and supervises a Staff Accountant and the Accounting Coordinator. Holloway is supervised by the Chief Financial Officer, Robert Chielweski. Holloway reported that the Accounting Coordinator's primary job responsibilities are in accounts payable, including making payments from vendor invoices and taking purchase requisitions and orders. The Accounting Coordinator also is responsible for cash application, which would include ensuring cash is applied correctly for outstanding receivables or for any donations. Lastly, the Accounting Coordinator handles expense charting for credit cards and travel, manages petty cash, and acts as a customer service liaison.

When asked, Holloway confirmed that the Accounting Coordinator might encounter attorney invoices during their work, submitted due to collective bargaining negotiations. When prompted, Holloway confirmed that these invoices may be detailed, including the activity occurring, and the date and time of that activity. Holloway later clarified on cross-examination that the Accounting Coordinator's role in reviewing attorney invoices is solely checking for accuracy, such as the appropriate date and time, and that the Accounting Coordinator is not informed of the specific activity conducted by their attorneys. According to Holloway, the Accounting Coordinator ensures that there are no errors in the total amount owed to their attorneys before applying the invoice to the accounting system. The Accounting Coordinator does not have conversations with Holloway about what the attorneys are working on and does not communicate with the attorneys.

Holloway also testified that Chielweski, the Chief Financial Officer, is the individual involved in collective bargaining agreement negotiations when it comes to potential economic proposals. The Accounting Coordinator does not sit in on any meeting when labor relations decisions are being discussed. Holloway affirmed that the Accounting Coordinator's job role is strictly financial. Further, when asked about his understanding of the current status of negotiations, Holloway testified that he is only generally aware that an economic proposal has been requested and no economic proposals have been exchanged yet based on his communication with Chielweski.

The Accounting Coordinator does not have access to payroll information in the course of their work. In the event an employee requests a payroll check by paper, the Accounting Coordinator would have access solely to the employee's name, address, and department, but would not see any detailed payroll information. Holloway testified that the Accounting Coordinator does not act in his stead when he is absent.

IV. Appropriateness of Unit Clarification

Under Section 102.60(b) of the Board's Rules and Regulations, a party may file a petition for clarification of an existing bargaining unit even though no question of representation exists. The Board will process a unit clarification (UC) petition where employees were permitted to vote subject to challenge, their status was not determinative of the election results, and the parties were unable to resolve the status of those nondeterminative challenged voters after the certification issued. See, e.g., *MV Transportation, Inc.*, 373 NLRB No. 8, slip op. at 4 (December 27, 2023) (citing *Kirkhill Rubber Co.*, 306 NLRB 559, 559 (1992)); NLRB Casehandling Manual (Part Two), Representation Proceedings, Sec. 11490.1. In these situations, the applicable legal standard is the same standard that would have been applied had the issue been litigated prior to the underlying election. *MV Transportation, Inc.*, slip op. at 4.

Unit clarification petitions are appropriate vehicles for resolving whether a job classification should be excluded from a bargaining unit based on either a statutory exclusion or an exclusion for policy reasons, such as being a confidential employee or possessing 2(11) supervisory status. *Washington Post Co.*, 254 NLRB 168, 169 (1981).

The only impediment to the Board considering a unit clarification petition seeking to exclude a position on a statutory or policy basis is the petition being untimely. *Bethlehem Steel Corp.*, 329 NLRB 243, fn. 5 (1999). Here, neither party has asserted that the petition was not timely filed. There is no evidence of bars precluding the processing of the petition or other procedural barriers to addressing the status of the three job classifications at issue. Further, no evidence has been presented indicating that the petition was untimely or that the Petitioner has waived its arguments concerning the three job classifications at issue. Therefore, I find that the issue of whether the Unit should be clarified to include the Lead Building Maintenance Technician, Lead Cashier, and Accounting Coordinator is properly before me.

V. Applicable Board Law on the Issues Raised by the Employer

A. Board Law Regarding Supervisory Status

Section 2(11) of the Act defines a supervisor as:

Any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not merely of a routine or clerical nature, but requires the use of independent judgment.

Under Section 2(11) of the Act, individuals are statutory supervisors if they have the authority to perform any one of the indica, in the interest of the employer, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. *Oakwood*, 348 NLRB 686, 691-692, 687 (2006). Consistent with *NLRB v. Kentucky River Community Care, Inc.*, 532 U.S. 706, 712–13 (2001), the *Oakwood* Board adopted an interpretation of “independent judgment” that applies to any supervisory function at issue “without regard to whether the judgment is exercised using professional or technical expertise.” *Id.* at 692. The Board explained that “professional or technical judgments involving the use of independent judgment are supervisory if they involve one of the 12 supervisory functions of Section 2(11).” *Id.* The Board then set forth standards governing whether the exercise of the Section 2(11) acts are carried out with independent judgment: “actions form a spectrum between the extremes of completely free actions and completely controlled ones, and the degree of independence necessary to constitute a judgment as ‘independent’ under the Act lies somewhere in between these extremes.” *Id.* at 693. The Board found that the relevant test for supervisory status utilizing independent judgment is that “an individual must at 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. (emphasis added). Further, the judgment must involve a degree of discretion that rises above the “routine or clerical.” *Id.* at 693

Section 2(11)’s definition is read in the disjunctive, and thus, the Board considers possession of any one of its enumerated powers, if accompanied by independent judgment and exercised in the interest of the employer, sufficient to confer supervisory status. *Kentucky River*, 532 U.S. at 713. To meet this standard, the party bearing the burden must establish that an individual “actually possesses” a supervisory power; mere inferences or conclusory statements of such power are insufficient. See *Golden Crest Healthcare Center*, 348 NLRB 727, 731 (2006).

The burden of proving supervisory status rests on the party asserting that status. See *Kentucky River*, 532 U.S. at 711; *Oakwood Healthcare, Inc.*, 348 NLRB at 687. Since supervisors are excluded from the Act’s protection, the Board has been careful to avoid construing statutory language too broadly. *Avante at Wilson, Inc.*, 348 NLRB 1056, 1058 (2006) (citing *Oakwood*, 348 NLRB at 686). The Board requires supervisory status be established by a preponderance of the evidence. *Dean and DeLuca New York, Inc.*, 338 NLRB 1046, 1047 (2003). Lack of evidence is construed against the party asserting supervisory status. *Id.* at 1048.

Moreover, where evidence is in conflict or otherwise inconclusive for a particular Section 2(11) indicium, the Board will decline to find supervisory status for that indicium. See *Dole Fresh Vegetables, Inc.*, 339 NLRB 785, 793 (2003). Accordingly, job titles, job descriptions, or similar documents are not given controlling weight and will be rejected as mere paper, absent independent evidence of the possession of the described authority. *Golden Crest*, 348 NLRB at 731 (citing *Training School at Vineland*, 332 NLRB 1412, 1416 (2000)).

Indicia other than those enumerated in Section 2(11) of the Act are secondary indicia. Although secondary indicia may be considered in determining supervisory issues, they are not dispositive. In the absence of one of the enumerated primary indicia, secondary indicia, standing alone, are insufficient to establish supervisory status. *St. Francis Medical Center-West*, 323 NLRB 1046 (1997).

B. Board Law Concerning Confidential Employees

In *NLRB v. Hendricks County Rural Electric Corp.*, 454 U.S. 170, 189 (1981), the Supreme Court affirmed a two-prong test for determining whether employees are confidential. First, an employee is confidential when they assist and act “in a confidential capacity to persons who formulate, determine and effectuate management policies in the field of labor relations.” *B.F. Goodrich Co.*, 115 NLRB 722, 724 (1956). The terms “formulate,” “determine,” and “effectuate” are read in the conjunctive, requiring the performance of all three. *Weyerhaeuser Co.*, 173 NLRB 1170, 1172 (1968). Second, and alternatively, an employee is confidential when they have access to confidential information, regardless of whether the employee is in a confidential relationship with a member of management responsible for the employer’s labor policy. Specifically, an employee is confidential if they have regular access to information “concerning anticipated changes which may result from collective-bargaining negotiations.” *Pullman Standard Div. of Pullman, Inc.* 214 NLRB 762, 762-63 (1974). Access to personnel or statistical data upon which the employer bases its labor relations policy is insufficient to establish that an employee is confidential. *Id.* at 763. Rather, the Board looks to whether the employee has regular access to advance information regarding the employer’s bargaining strategy or the labor terms to which the employer would agree. *Id.*; *Bakersfield Californian*, 316 NLRB 1211, 1213 (1995).

The party asserting confidential status has the burden of providing evidence to support its assertion. *Crest Mark Packing Co.*, 283 NLRB 999, 999 (1987). Conflicting testimony or a lack of evidence is construed against the party asserting confidential status. Cf. *Phelps Cmty. Med. Ctr.*, 295 NLRB 486, 490 (1989). The standard for establishing confidential status is to be narrowly construed. See *B.F. Goodrich Co.*, 115 NLRB 722, 724 (1956).

VI. Application of Board Law

A. The Lead Building Maintenance Technician

The Employer asserts that the Lead Building Maintenance Technician is a 2(11) statutory supervisor based on their alleged authority to influence hiring decisions, discipline or effectively recommend discipline, assign work, and responsibly direct employees, while exercising independent judgment.

1. Hire

It is well-established that a putative supervisor does not effectively recommend hiring where acknowledged supervisors also interview candidates. *Peacock Productions of NBC Universal Media*, 364 NLRB No. 104, slip op. at 4–5 (2016). A hiring recommendation is not effective unless the recommendation is relied on without further inquiries. *Adco Electric*, 307 NLRB 1113, 1124 (1992); *Waverly-Cedar Falls Health Care*, 297 NLRB 390, 392 (1989).

The Employer has failed to meet its burden to establish that the Lead Building Maintenance Technician position has the authority to effectively recommend job candidates for hire. The Employer does not assert that the Lead Building Maintenance Technician possesses the ability to outright hire job applicants but rather that they may give their “seal of approval” and may have attended interviews. Concerning the said “seal of approval,” this was clarified to be the Lead Building Technician offering their opinion on which candidate they would or wouldn’t like to work with. Within context, this appears to have been personal opinion and not within authority held in the interest of the Employer. Their involvement in hiring, according to the record, appears to be merely routine. Although the Employer presented evidence that it once followed the Lead Building Maintenance Technician’s opinion, this was not without an independent investigation on the Employer’s part in which the candidate formally applied for the job, met the qualifications, and completed the Employer’s set interview process.

Therefore, the evidence is insufficient to establish that the Lead Building Maintenance Technician possesses the authority to effectively recommend a candidate for hire.

2. Discipline

The Employer has failed to meet its burden to establish that the Lead Building Maintenance Technician position has the authority to discipline its employees or effectively recommend such discipline. While the Employer presented evidence through a written job description that the Lead Building Maintenance Technician has the ability to inform superiors of disciplinary issues and could also give verbal warnings and reprimands, this evidence is conclusory in nature. When asked if the Lead Building Maintenance Technician was ever informed that he could discipline an employee, Director of Property Terrance Lewis testified that he did not do so, that the issue never came up, and that he was unaware of any discipline given or recommended by the Lead Building Maintenance Technician. Lead Building Maintenance Technician Hysen Mustafa specifically denied having the authority to discipline employees. The Employer’s assertion of authority to discipline employees is merely conclusory and not supported by the record.

Therefore, the evidence is insufficient to establish that the Lead Building Maintenance Technician possesses the authority to issue discipline or effectively recommend discipline.

3. Assign

The Employer has failed to meet its burden to establish that the Lead Building Maintenance Technician position possesses the authority to assign work while exercising independent judgment. The Board in *Oakwood* defined assigning work as “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.” *Oakwood*, 348 NLRB at 689.

The undisputed record reflects that the Lead Building Maintenance Technician performs daily rounds along with another technician to establish what tasks need to be done for the day. The Lead Maintenance Technician’s assignment and prioritization of tasks is based on a rating system provided by the Employer. This rating system categorizes particularized tasks based on urgency on a scale of 1 to 5, where a 1 rating is given the least importance and a 5 rating is given the most. For example, testimonial evidence from Director of Property Terrance Lewis provides examples detailing that the Employer expects that a light bulb out in a single lamp would be rated lower than

a leak in one of the bathrooms. After completing daily rounds, the Lead Maintenance Technician is expected to follow the Employer's criteria to denote what rating each task should be given. This ensures that the Employer's emergencies are naturally prioritized over daily tasks. In the absence of a Lead Building Maintenance Technician, the remaining technician performs this duty. The record reflects that the Employer, through Terrance Lewis, has spoken with the currently hired Technician about what should and should not be prioritized. For example, in his testimony, Terrance Lewis opined that any type of emergency such as leaks, power failures, outages, and shut offs would have a higher rating than changing a light bulb or putting up a sign. Based on the evidence provided, these actions are merely routine or clerical in nature, thus lacking independent judgment. See e.g. *Oakwood*, 348 NLRB 686 at 693 (2006) (An employee's judgment must involve a degree of discretion that rises above the "routine or clerical" to be considered independent judgment).

The Employer asserts, through Director of Properties Terrance Lewis's testimony, that the Lead Building Maintenance Technician can assign overtime in emergency or event situations but did not show that the Lead Building Maintenance Technician actually possesses this authority. Lead Building Maintenance Technician Hysen Mustafa specifically denied that he possessed the authority to demand that the other technician work overtime or possessed control over the other technician's schedule. Concerning overtime itself, Mustafa testified that it was incredibly rare. In the approximately six years that Mustafa worked for the Employer, he was asked to work overtime only three to four times due to building emergencies. The Employer's assertion of the Lead Building Maintenance Technician's authority to assign overtime is not supported by the record.

Therefore, the evidence is insufficient to establish that the Lead Building Maintenance Technician possesses the authority to assign work or overtime.

4. Responsibly Direct

The Employer has failed to meet its burden to establish that the Lead Building Maintenance Technician position has the authority to responsibly direct other employees. For direction to be responsible, the person directing must have oversight of another's work and be accountable for the other's performance. To establish accountability, it must be shown that the putative supervisor is empowered to take corrective action and is at risk of adverse consequences for others' deficiencies. *Oakwood*, 348 NLRB at 691-692, 695.

The record reflects that the Employer provided testimonial evidence that asserted that the Lead Building Maintenance Technician could stop a procedure or determine a proper course of action. For example, Director of Properties Terrance Lewis provided a hypothetical situation where if the secondary technician did not change a seal correctly, and that action would put the technician or the equipment in danger, the Lead Building Technician could intervene. However, Lewis did not provide specific examples on the record to establish that this has actually occurred. Director of Properties Terrance Lewis further testified that there was never an issue in which the secondary technician did not perform his job correctly. Additionally, there is no evidence that the Lead Building Maintenance Technician would be held accountable for the secondary technician's actions, including risk of adverse consequences for his work deficiencies. Lewis conceded that the Lead Building Maintenance Technician was never informed that he could face consequences if the secondary technician didn't complete the tasks assigned to him.

Therefore, the evidence is insufficient to establish that the Lead Building Maintenance Technician possesses the authority to responsibly direct other employees.

B. The Lead Cashier

The Employer asserts that the Lead Cashier is a 2(11) statutory supervisor based on their alleged authority to participate in hiring, discipline or effectively recommend discipline, assign work, and responsibly direct employees, while exercising independent judgment.

1. Hire

The Employer has failed to meet its burden to establish that the Lead Cashier position has the authority to hire or effectively recommend job candidates for hire. While the Employer presented evidence, through a written job description and testimony from Directory of Special Events Lorelai Kroulaidis, that asserted that the Lead Cashier could participate in interviews with job candidates, the same testimony clarifies that the Lead Cashier has not actually done this. The Employer did not provide any other evidence to establish that the Lead Cashier has any other involvement with the Employer's hiring process or that the Lead Cashier's potential attendance at interviews would have any impact on the Employer's decision to hire an interviewee. The current Lead Cashier, Emma Wiederkehr, testified that she does not have the authority to hire and that she has never sat in on an interview.

Therefore, the evidence is insufficient to establish that the Lead Cashier possesses the authority to hire or effectively recommend job candidates for hire.

2. Discipline

The Employer has failed to meet its burden to establish that the Lead Cashier position has the authority to discipline employees or effectively recommend that employees be disciplined. Director of Special Events Lorelei Kroulaidis broadly asserted in her testimony that the Lead Cashier may participate in disciplinary meetings and may engage in active coaching. However, Kroulaidis did not provide evidence about the Lead Cashier's role in the decision-making process concerning discipline or the actual frequency of their attendance at disciplinary meetings. While Kroulaidis testified about Lead Cashier's alleged authority to engage in "active coaching," this term was left largely undefined by the Employer. At most, Kroulaidis noted that the Lead Cashier may redirect employees if they exhibit excessive cell phone use, but it is unclear what impact this may have, if any, through the Employer's disciplinary process or policy. In addition, Kroulaidis did not testify to any concrete examples establishing the Lead Cashier's use of this alleged authority. Moreover, the record also does not reflect any evidence of the Lead Cashier actually issuing or recommending formal discipline. Current Lead Cashier, Emma Wiederkehr provided one example where she signed a disciplinary document as a second witness, but it is framed that this occurred because there was a conflict-of-interest involving management and she was someone available to act as an unbiased witness at the time. The record evidence does not establish that the Lead Cashier issued the discipline or recommended the discipline given at the meeting. Lead Cashier Wiederkehr testified that after she signed the document, she approached Café Manager Olga Castrejon to clarify that she was not acting in a managerial role for the meeting and to ensure that the document solely listed her as a witness. The provided example fails to present the Lead Cashier exercising independent judgment or agency on behalf of the Employer. Rather, it appears that this signature was effectively routine or clerical in nature.

Therefore, the evidence is insufficient to establish that the Lead Cashier possesses the authority to discipline or effectively recommend discipline.

3. Assign

The Employer has failed to meet its burden to establish that the Lead Cashier has the authority to assign work while exercising independent judgment. Director of Special Events Lorelei Kroulaidis testified that the Employer provides a list of tasks to the Lead Cashier, who then ensures that these tasks are distributed to employees working during the shift. However, current Lead Cashier Emma Wiederkehr clarified in her testimony that there are two pre-existing task checklists provided by the Employer, one for the “back of house” and one for the “front of house,” that detail everything that needs to be completed by the end of the shift. The Lead Cashier receives these set task lists to be completed from the Employer, along with the rest of the employees working at the café. Wiederkehr asserted that Employees independently refer to these checklists to ensure that every task is addressed. Lead Cashier Wiederkehr denied assigning the tasks, noting that at most she would check in with everyone to make sure the checklist tasks were completed timely. Wiederkehr emphasized that café employees use basic communication to determine amongst themselves where they want to work in the café and what they want to work on from the task lists. Based on the totality of the record evidence, the Employer has failed to establish that the Lead Cashier actually possesses the authority to assign work while exercising independent judgment.

Director of Special Events Lorelei Kroulaidis broadly asserted that the Lead Cashier had the authority to assign overtime on busy days and to close the café early (letting employees leave early in the process). However, Kroulaidis did not provide any specific examples where the Lead Cashier has approved overtime for an employee. Moreover, Kroulaidis did not provide any examples of the Lead Cashier opening or closing the café early. When asked, Lead Cashier Emma Wiederkehr testified that she did not have the authority to approve time off for employees. She emphasized that she couldn’t send employees home early without permission from her supervisor. Further, Lead Cashier Emma Wiederkehr testified that the break schedule is determined by employees themselves. Wiederkehr noted that employees select their own breaks by placing their name by one of the open slots on a pre-set schedule provided by the Employer. In the above ways, the record does not reflect that the Lead Cashier possesses actual authority to determine the timing of employees’ shifts outside the control of a superior at the Employer or in a way that is not merely routine or clerical in nature.

Therefore, the evidence is insufficient to establish that the Lead Cashier has the authority to assign work while exercising independent judgment.

4. Responsibly Direct

The Employer has failed to meet its burden to establish that the Lead Cashier has the authority to responsibly direct other employees. The record is absent of evidence establishing that the Lead Cashier could be held responsible for the actions of other employees in the Employer’s café. For example, there is no evidence of potential adverse consequences or discipline for the Lead Cashier if the café employees perform poorly or fail to complete a task.

Therefore, the evidence is insufficient to establish that the Lead Cashier possesses the authority to responsibly direct other employees.

C. The Accounting Coordinator

The Employer asserts that the Accounting Coordinator is a confidential employee based on their ability to assist and act in a confidential capacity to persons who formulate, determine, and effectuate management policies in the field of labor relations or because of their regular access to information concerning anticipated changes which may result in collective-bargaining negotiations.

1. Assist and Act in a Confidential Capacity to Persons Who Formulate, Determine, and Effectuate Management Policies in the Field of Labor Relations

The Accounting Coordinator does not assist or act in a confidential capacity to any person who formulates, determines or effectuates management policies in the field of labor relations. No evidence was provided that the Accounting Coordinator's direct supervisor, Director of Accounting Steven Holloway, is a person that formulates, determines, or effectuates management policies in the field of labor relations. Holloway testified that Chief Financial Officer Robert Chmielewski is responsible for the ongoing collective-bargaining negotiations and the Employer's economic proposal. Holloway noted that he is aware that an economic proposal had been requested but not of any details because Chmielewski is the lead. Accounting Coordinator Cynthia Mendez testified that she does not participate in discussions with management about labor relations and does not have access to any internal management communications regarding labor policies. Thus, the Accounting Coordinator position is not confidential.

2. Regular Access to Information Concerning Anticipated Changes Which May Result from Collective-Bargaining Negotiations

Director of Accounting Steven Holloway testified that the Accounting Coordinator processes invoices from the Employer's attorneys sent during the course of collective-bargaining negotiations. The Employer asserts that the Accounting Coordinator's access to these invoices is reason to designate the job classification as confidential. However, here, the facts do not show that Accounting Coordinator's access to attorney invoices provides anticipated changes which may result from collective bargaining negotiations. Holloway initially suggested these invoices could be detailed, including the activities performed by the Employer's attorneys during collective-bargaining negotiations. However, Holloway later clarified that the Accounting Coordinator's role is checking accuracy on the date, time, and monetary time of the invoice before applying it to the accounting system. Holloway stated that the Accounting Coordinator is not informed of the amount of activity conducted by the Employer's attorneys. According to Holloway, he does not have discussions with the Accounting Coordinator about what the Employer's attorneys are working on. Moreover, Holloway testified that the Accounting Coordinator does not communicate with the Employer's attorneys. Accounting Coordinator Cynthia Mendez emphasized in her testimony that when working with invoices, she only looks at the total amount owed and the date of the invoice, which are on the bottom line.

The Board has previously held that access to such information alone does not render an employee confidential. In *The Washington Post Co.*, 254 NLRB 168 (1981), the employer argued that its accounts payable supervisor—whose department was responsible for processing bills and invoices for payment, including accounts of the Post's labor counsel—should be excluded from the bargaining unit as a confidential employee. The Board held that the mere fact that the accounts payable supervisor had access to all the employer's accounts, including those of labor counsel, did not make her a confidential employee. Also, the Board found that even if the labor counsel's accounts listed services performed by labor counsel, they are not of the nature of such confidential information as to render the position handling such items to be confidential. *Id.*

Thus, the Accounting Coordinator position is not confidential.

Conclusion

Based on the above, I conclude that the petition for clarification is appropriate and the Employer has failed to meet its burden to demonstrate that (1) the Lead Building Maintenance Technician and Lead Cashier are statutory supervisors within the meaning of Section 2(11) of the Act, and (2) the Accounting Coordinator is a confidential employee. Thus, the Petitioner's request to add these classifications to the existing unit is granted, and the bargaining unit represented by the Union is clarified as ordered above.

Right to Request Review

Pursuant to Section 102.67(c) of the Board's Rules and Regulations you may obtain a request for review of this Decision by filing a request with Executive Secretary of the National Labor Relations Board. The request for review must conform to the requirements of Section 102.67 (d) and (e) of the Board's Rules and Regulations and must be filed by October 28, 2026.

Pursuant to Section 102.5(c) of the Board's Rules and Regulations, a request for review must be filed by electronically submitting (E-Filing) it through the Agency's web site (www.nlr.gov), unless the party filing the request for review does not have access to the means for filing electronically or filing electronically would impose an undue burden. A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. 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.

Dated at Chicago, Illinois this October 14, 2026

/s/ **Angie Cowan Hamada**

Angie Cowan Hamada, Regional Director
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