COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF	:	
	:	
	:	Case No. PERA-U-26-55-E
	:	
CITY OF PHILADELPHIA	:	

PROPOSED ORDER OF DISMISSAL

On March 3, 2026, the American Federation of State, County, Municipal Employees, District Council 47, Local 2186 (Union or Local 2186) filed with the Pennsylvania Labor Relations Board (Board) a Petition for Unit Clarification under the Public Employe Relations Act (PERA or Act) seeking to include the position of Correctional Industries Assistant Director (CIAD) at the Philadelphia Department of Prisons (PDP) in the unit of first-level supervisors represented by the Union. In the Petition, the Union alleges that the CIAD supervises Industry Shop Supervisors (ISSs) and that the ISSs do not supervise any City of Philadelphia (City) employes.

On April 2, 2026, the Secretary of the Board issued an Order and Notice of Hearing directing that a hearing be held on Wednesday, June 24, 2026, in Harrisburg. The hearing was continued at the request of the City and rescheduled for July 22, 2026, via Microsoft TEAMS. During the video hearing on that date, both parties in interest had a full and fair opportunity to present testimony, introduce exhibits, and cross-examine witnesses. On October 19, 2026, the Union and the City filed separate post-hearing briefs in support of their respective positions.

The Examiner, on the basis of the testimony and exhibits presented at the hearing, and from all the matters and documents of record, makes the following:

FINDINGS OF FACT

1. The City is a public employer within the meaning of Section 301(1) of PERA. (N.T. 17-18)

2. The Union is an employe organization within the meaning of Section 301(3) of PERA, and it is the exclusive representative of over 1000 first-level supervisory and civil service employes in approximately 300 positions across various City departments and offices. Local 2186 represents approximately 18 first-level supervisory employes in the PDP. (N.T. 74-78, 81-82)

3. Vernell Pacheco is the CIAD for the PHILACOR program within the PDP. She was hired into that position on August 5, 2024. She is a civil service employe of the City. She works Monday through Friday from 8:00 a.m. to 4:00 p.m. PHILACOR is designed to give inmates special vocational training in various trades to be productive in society when they are released from prison. These trades include, for example, carpentry, printing, dry cleaning, upholstery etc. The inmates' goods and services are sold to other City

departments and offices as well as local non-profits. (N.T. 17-21, 36, 53-54, 126-128, 131-132, 138-140, 151)

4. Ms. Pacheco is the only CIAD within the PDP. She monitors the industrial shops and oversees the ISSs to ensure that they have needed supplies. She also does their timekeeping and tracks their attendance. ISSs do not make other requests of Ms. Pacheco other than leave. Ms. Pacheco believes that tracking the ISSs' leave and time is clerical in nature. She contacts the PDP business office to purchase supplies for the shops upon request from the ISSs through the Procurement Specialist in the Business Office. Ms. Pacheco fills in for ISSs when short-staffed. (N.T. 21-22, 28, 113-117, 137-138, 152)

5. Ms. Pacheco's primary work location is at the Philadelphia Industries Correction Center (PICC) which is 1 of the City's jails. Ms. Pacheco begins her workday checking and responding to emails and phone messages to see if anyone has called off or late for work. She then goes to the shops to see if deadlines are being met for products being supplied to other City departments and to learn the needs of the ISSs at the PICC. She sometimes makes deliveries, and she believes that visiting shops is routine. (N.T. 23-24, 114-117)

6. After checking the shops at the PICC, Ms. Pacheco may travel by car to the other City jails to learn the needs of the ISSs at those facilities. There are 4 industry shops outside of the PICC. There are 2 industry shops within the Curran-Fromhold Correctional Facility (CFCF), which is another jail. Altogether, there are 13 shops within the PHILACOR program. She then returns to the PICC. (N.T. 24, 128, 157)

7. Ms. Pacheco oversees 17 ISSs, 1 Data Service Support Clerk, 1 Clerk III, and 1 Administrative Technician. The Data Service Support Clerk orders property tags, fills out delivery tickets, and contacts customers to communicate about order deliveries. The Clerk III, Ms. Bonsen, pays some of PHILACOR's bills, i.e., whatever the Procurement Specialist does not pay. The Administrative Technician controls the incoming financials. He corresponds with the Business Office regarding bills; he provides pricing and billing information to customers; and he receives money from other City departments for products. (N.T. 25, 40, 168)

8. The ISSs oversee, train, pay, and evaluate inmates in the PHILACOR program. The ISSs monitor and account for all the tools and chemicals used in the industrial shops. They make sure that the inventory of tools and chemicals is accurate and that nothing is missing. Tools are constantly counted and inspected before inmates arrive in the shops and after they leave. ISSs must report any missing tools. (N.T. 26-28, 64, 136)

9. Ms. Pacheco completes performance evaluations for the ISSs, and she holds meetings with them. Although all prison employes are responsible for security, Ms. Pacheco and ISSs are not primarily responsible for securing inmates, and they are not permitted to be in the presence of inmates without the presence of a corrections officer. They do not break up fights between inmates, prevent escape, or search inmates. They do not wear protective gear to keep them safe from violence. They do not issue discipline to inmates, and they have never filled in for a corrections officer. (N.T. 28-34, 163-164)

10. A corrections officer is posted for every shop area. Corrections officers have a visual on all inmates averaging 17 inmates to 1 corrections

officer. Only corrections officers can search inmates. If there is an emergency, the ISS will get the corrections officer who is posted in a booth near the shop. The corrections officer posted at the Cleaners shop is inside the shop because that shop is located outside a secure jail perimeter. (N.T. 62-63, 69-71, 159-160)

11. Dr. Samantha Baker is the Assistant Deputy Commissioner of Programs and Education. Dr. Baker oversees all Psychology Services, PHILACOR, Education, and the Pennypack School, which is part of the Philadelphia School District and is dedicated to providing high school diplomas to incarcerated minors up to the age of 22. Currently, Ms. Pacheco reports directly to Dr. Baker. Ms. Pacheco would report directly to the Correctional Industries Director, but that position is vacant. Dr. Baker currently performs the duties of the Correctional Industries Director. Ms. Pacheco meets every Tuesday with Dr. Baker and others. (N.T. 35-37, 84, 120-124, 126-127, 153, 183-184)

12. Dr. Baker often visits the PHILACOR shops and the ISSs. She visits the jails within the PDP. In a weeks' time, Dr. Baker will visit every shop on a rotating schedule as part of her leadership tours. (N.T. 157)

13. Ms. Pacheco has no involvement with the budget or finances of PHILACOR. The PHILACOR budget is set annually through the City's procurement process by the PHILACOR business agent. The Administrative Technician tracks the PHILACOR bank account for purchases. Ms. Pacheco does not create any PDP policies, and there are no policies that she can choose not to enforce. Ms. Pacheco does not bid on or develop pricing for jobs for PHILACOR or seek customer approval for jobs. (N.T. 39-43, 50, 54, 66-67, 142)

14. The ISSs price individual jobs based on the cost of materials, supplies, and labor. Those prices are approved by the PHILACOR Business Office. Mr. Gold is the Administrative Technician, and Mr. Jacobson is the Service Clerk in the Business Office. They contact customers to seek their approval for the price. After customer approval, Gold or Jacobson obtain approval from someone else in the PDP. Once approved, Ms. Pacheco allows the job to start. (N.T. 54, 66-71)

15. AFSCME District Council 33 Local 159B represents a bargaining unit of corrections officers, sergeants, lieutenants, maintenance workers, and ISS employes in the PDP. Corrections officers do not report to civilian supervisors in Local 2186. Only Prison Management can discipline a Local 2186 employe. Local 159B employes have not disciplined any Local 2186 employes. No civilian Local 2186 employes in the PDP have supervised any 159B employes. (N.T. 95-103, 183-184, 198-199)

16. Ms. Pacheco is not involved in the hiring or transfer of any employes, and she has never made any recommendations regarding transfers. She is involved in discipline and writing up ISSs. Ms. Pacheco testified that she can start progressive discipline. In the first 3-4 months as CIAD, Ms. Pacheco issued disciplinary paperwork to 1 or more ISSs. (N.T. 58-59, 109)

17. Ms. Pacheco is not involved in layoffs, recalls, or promotions. She does not assign the work in the shops that she visits within the PDP. The ISSs take inventory, pay inmates, and run the shops. Ms. Pacheco can request reports from ISSs and evaluates the ISSs' work. These evaluations have no effect on rewarding or sanctioning ISSs. (N.T. 110-112)

18. Policy 5A.6 provides the framework for PHILACOR operations. Since she began her tenure as the CIAD in August 2024, Ms. Pacheco has not recommended any changes to the policy, which has not been revised since 2013. (N.T. 185-186, 203-205 ; CX-1)

19. ISSs run their own shops and ensure compliance with safety protocols and inspections. Ms. Pacheco lets the ISSs self-rectify any problems. If an ISS cannot resolve their own issue or compliance with a vendor delivery, Ms. Pacheco contacts higher authorities to obtain what the ISSs need. (N.T. 112-113)

DISCUSSION

In order to include the position of CIAD in the PDP into the supervisory unit represented by Local 2186, the Union has the burden of establishing that the duties of the CIAD satisfy the statutory definition of supervisor, which is more burdensome and specific than demonstrating that the CIAD oversees other employes as a lead worker. In the Matter of the Employes of Borough of Riverside, 56 PPER 12 (Order Directing Submission of Eligibility List, 2024).

Section 301 of PERA provides the following definition for a statutory supervisor:

(6) "Supervisor" means any individual having authority in the interests of the employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employes or responsibly to direct them or adjust their grievances; or to a substantial degree effectively recommend such action, if in connection with the foregoing, the exercise of such authority is not merely routine or clerical in nature but calls for the use of independent judgment.

43 P.S. § 1101.301(6).

In Riverside, supra, the Examiner articulated the factors and considerations when applying the statutory definition and stated the following:

> The Board will only consider the actual job duties performed by the employe in question and will only consider written job descriptions to corroborate testimony of actual job duties. Elizabeth Township, 33 PPER 33053 (Final Order, 2002); Lower Bucks County Joint Municipal Authority, 39 PPER 95 (PDO, 2008). Written descriptions alone are not substantial, competent evidence of job duties. Lower Bucks, supra. Furthermore, "[a] mere job title or appellation, such as, supervisor or manager is not sufficient to overcome the actual duties performed as evidence of being a supervisor under Section 301(6) of PERA." West Perry School District v. PLRB, 752 A.2d 461, 465 (Pa. Cmwlth. 2000), *appeal den'd*, 568 Pa. 675, 795 A.2d 984 (2000). The Board has long held that the "*hallmark* of supervisory status under the Act in this regard is the ability to effect reward or sanction." Findlay Township Water Authority, 21 PPER 21130 (Final Order, 1990)(emphasis added). Pursuant to Section 604(5) of the Act, the Board must consider the frequency, duration and importance of the required duties performed. West Perry, supra; State System of Higher Education v. PLRB, 737 A.2d 313, 316 (Pa. Cmwlth. 1999). The Board will not find an employe to be a

> supervisor if the employe only exercises supervisory authority sporadically. Pennsylvania State University, 19 PPER 19156 (Final Order, 1989). The Board will not find an employe to be a supervisor if the employe's exercise of supervisory authority is as a substitute for his or her own supervisor. Monroe County, 18 PPER 18002 (Final Order, 1986). Also, the Board will not find an employe to be a supervisor if the employe's recommendations are not given controlling weight. In The Matter of the Employes of Philadelphia Housing Authority, 22 PPER 22082 (Order Directing Submission of Eligibility List, 1991); Keystone Central School District, 12 PPER 12044 (Nisi Order or Unit Clarification, 1981); Chester County Solid Waste Authority, 18 PPER 18021 (Order Directing Submission of Eligibility List, 1986).

Riverside, 56 PPER at 59. "It is insufficient for an employe to perform only some of the supervisory duties or to perform those duties sporadically and not for a substantial portion of his/her work time." In the Matter of the Employes of Borough of Doylestown, 53 PPER 45 at 253 (Proposed Decision and Order, 2022)(emphasis added).

The record in this case shows that the job duties performed by Ms. Pacheco as the CIAD in the PDP do not satisfy the necessary elements of Section 301(6) of the Act and that Ms. Pacheco's position is that of a task leader or lead worker rather than a supervisor. Ms. Pacheco monitors the shops and the ISSs to ensure they are well supplied. She submits requests for purchases of tools and supplies when they are needed, and she makes deliveries to the shops when needed. She also approves and tracks leave for the ISSs. However, these duties are routine and clerical in nature and they are not supervisory duties under the statute. Ms. Pacheco also fills in for ISSs when short staffed further demonstrating that she is a lead worker. Although not supervisory functions, Ms. Pacheco is also not directly involved in procurement, bills, financials, pricing, or budgets for PHILACOR.

Ms. Pacheco completes performance evaluations for the ISSs, and she holds meetings with them. However, there is no evidence that these evaluations can result in the reward or sanction of any employes, which is the "hallmark" of supervisory authority. Moreover, Ms. Pacheco is not at all involved in the hiring or transfer of any employes, and she has never made any recommendations regarding transfers. Ms. Pacheco is not involved in layoffs, recalls, or promotions. She does not assign the work in the shops that she visits. The ISSs take inventory, pay and train the inmates, and run the shops and the jobs. Ms. Pacheco can request reports from ISSs, but again that is not a supervisory function; rather it is routine and clerical in nature.

Although Ms. Pacheco testified that she has been involved in discipline, the record does not show the level of discipline, how many employes may have been disciplined, or how many times that she issued discipline. She also indicated that the discipline that she issued occurred in the first 3-4 months of her tenure as the CIAD and not since. Discipline is the only supervisory function under the statute that Ms. Pacheco has performed, and she does not spend a substantial amount of time performing that function. The fact that Ms. Pacheco does not perform other functions delineated in the statutory definition prevents the conclusion that she consistently performs more than some supervisory duties for a substantial portion of her work time and more than sporadically, as required by Doylestown, supra, and Luzerne County Community College, supra.

The City contends that the CIAD should be excluded from the supervisory unit because it is a managerial position. (City Brief at 6-10). The City also argues that the CIAD should be excluded from the supervisory unit because it is a prison guard position. (City Brief at 11-13). However, given the conclusion that the CIAD is not supervisory within the meaning of the Act and given the order dismissing the petition on that basis, determining the alleged managerial or prison guard status of the CIAD is no longer necessary or ripe for disposition.

CONCLUSIONS

The hearing examiner, therefore, after due consideration of the foregoing and the record as a whole, concludes and finds as follows:

1. The City is a public employer within the meaning of Section 301(1) of PERA.

2. The Union is an employe organization within the meaning of Section 301(3) of PERA.

3. The Board has jurisdiction over the parties hereto.

5. The position of Correctional Industries Assistant Director in the City's Department of Prisons is not a statutory supervisor within the meaning of Section 301(6) of PERA.

ORDER

In view of the foregoing and in order to effectuate the policies of PERA, the hearing examiner

HEREBY ORDERS AND DIRECTS

that the Petition for Unit Clarification is dismissed.

IT IS HEREBY FURTHER ORDERED AND DIRECTED

that in the absence of any exceptions filed with the Board pursuant to 34 Pa. Code § 95.98(a) within twenty days of the date hereof, this decision and order shall be final.

SIGNED, DATED AND MAILED at Harrisburg, Pennsylvania, this twenty-seventh day of October, 2026.

PENNSYLVANIA LABOR RELATIONS BOARD

JACK E. MARINO/S

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JACK E. MARINO, Hearing Examiner