

OSA, 8 OCB2d 28 (BOC 2015)

(Rep) (Docket Nos. AC-1573-14, AC-1574-14, and AC-1575-14)

Summary of Decision: The Union sought to amend Certification No. 3-88 to add the titles Program Manager, Training and Development, Levels I and II; Assistant Director of Workforce Training and Development Managerial Pay Plan II and III; and Director of Workforce Training and Staff Development. HHC argued that the titles were excluded from collective bargaining. The Board found that the employees in the titles are eligible for collective bargaining and appropriately added to Certification No. 3-88. (*Official decision follows.*)

**OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION**

In the Matter of the Certification Proceeding

-between-

ORGANIZATION OF STAFF ANALYSTS,

Petitioner,

-and-

THE NEW YORK CITY HEALTH AND HOSPITALS CORPORATION,

Respondent.

DECISION AND ORDER

On February 7, 2014, the Organization of Staff Analysts (“Union”) filed three petitions, subsequently consolidated, requesting that the Board of Certification add the titles Program Manager, Training and Development, Levels I and II (Title Code Nos. 004651 and 004652) (“PM”), Assistant Director of Training and Development Managerial Pay Plan II and III (Title Code Nos. 004662 and 004663) (“AD”), and Director of Workforce Training and Staff Development (Title Code No. 000456) (“DW”) to Certification No. 3-88, a bargaining unit including titles such as Training Development Specialist, Training and Development Associate,

Training and Development Representative, and Supervising Training and Development Associate. The New York City Health and Hospitals Corporation (“HHC”) argues that the titles are managerial and/or confidential and, therefore, all employees in the PM, AD, and DW titles should be excluded from collective bargaining pursuant to § 12-305 of the New York City Collective Bargaining Law (New York City Administrative Code, Title 12, Chapter 3) (“NYCCBL”) or, in the alternative, pursuant to the New York City Health and Hospitals Corporation Act, N.Y. Unconsolidated Law §§ 7381-7406 (“HHC Act”). The Board has repeatedly found that the NYCCBL provides the applicable standard to determine eligibility. The Board finds that HHC did not establish that the employees are managerial and/or confidential under the NYCCBL. Accordingly, the PM, AD, and DW titles are eligible for collective bargaining and are appropriately added to Certification No. 3-88.

BACKGROUND

There are approximately 30 employees in the PM, AD, and DW titles.¹ They work in a variety of positions in HHC’s Central Office and several other facilities including Bellevue, Coler, Gouverneur, Lincoln, and Woodhull, in departments such as Workforce Development, Organizational and Staff Development/Breakthrough, Nursing - Education and Research, and Program Management Office Training and Development (“PMO Training”). These employees are involved in developing and facilitating various training, development, and/or process improvement programs.

¹ Twenty-three employees testified over eight days of hearing, and twenty-five surveys were submitted. All surveys that were submitted were considered by the Board.

Program Manager, Training and Development²

According to the job specification, a PM Level I “develops, plans and establishes training, educational and development programs in order to enhance skills, remedy deficiencies, upgrade human resources and meet forecasted skill requirements of [HHC]. Manages and administers the day-to-day activities of the group training section including planning, supervision, coordination, control and direction of the training section/group.”³ (PM Pet. Ex. A;

² When employees in a title have held different positions with a wide-range of work responsibilities, this Board has often organized the facts by individual employee and conducted an individual-by-individual analysis. However, where, as here, the duties of employees are sufficiently similar, they can be summarized and analyzed as a group. *See OSA*, 8 OCB2d 19 (BOC 2015); *see also Matter of City v. Bd. of Certification*, Index Nos. 402466/10 & 402496/10 (Sup. Ct. N.Y. Co. Oct. 27, 2011) (Kern, J.) (affirming a Board decision that did not summarize duties by employee and noting that “[t]here is no requirement that each employee be discussed individually.”). To the extent that an employee’s job duties have significant differences from the group, we summarize the individual duties and conduct an individual analysis.

³ The PM job specification lists the following typical tasks:

1. Manages the development and presentation of the management, professional, technical and education training continuum which consists of courses, seminars and workshops on a wide range of topics, practices and skills.
2. Provides consulting on management problems, specialized training and development needs and the use of outside educational resources.
3. Directs research to determine management and employee training and development needs and the use of outside educational resources.
4. Develops and conducts programs to support training needs identified by line and staff management.
5. Manages the investigation and recommendation of external general management and professional development programs for high potential senior management.
6. Directs extensive consulting to managers on individual management problems, specialized education and training needs. Directs development of customized training programs to satisfy the operational needs of [HHC].
7. Responsible for several training, development and educational support systems, participant enrollment, program

PM Ans. Ex A) A PM Level II performs all of the duties of a PM level I and “manages the planning and development of training programs through consultation with appropriate staff at facilities to insure training programs are suitable for the Human Resources needs of [HHC]; performs special assignments for the Department Head” *Id.*

Although the job duties of PMs differ across facilities and departments, many of them perform substantially similar tasks involving developing and facilitating various training, development, and/or process improvement programs (“Programs”). Programs cover a variety of different topics including, but not limited to, computer skills, patient experience, engagement initiatives, and leadership development. Additionally, Programs are delivered in various formats such as e-learning and in-person trainings. Typical duties of a PM include: creating Program request forms; providing advice regarding what type of Program would be best for a particular group of people or particular subject matter; monitoring performance metrics; reviewing patient satisfaction survey scores; developing and implementing end user curriculum materials for

administration, procedures tracking, systems and materials development and distribution.

8. Evaluates effectiveness of training and development programs and makes recommendations regarding modifications and new programs.
9. Coordinates the activities of training sector with those of other training sector groups. Monitors the activities of the unit.
10. Supervises, directs and evaluates the efforts of training specialists, analysts and support staff. Ascertains current status of program implementation. Provides technical advice and guidance.
11. Evaluates staffing, unit assignments, work performance and special personnel problems in order to maximize operating efficiency.
12. Supervises program implementation, develops training programs for implementation and follow-up systems to assure effectiveness and attainment of objectives.

(*Id.*)

Programs; coordinating, teaching, and evaluating Programs; performing skills assessments; completing research; assisting colleagues with their training programs; and representing their department in meetings.⁴ They also make recommendations to their superiors about Programs such as improving Program topics or resources, adding assessments or takeaway guides, and roll out schedules. Some PMs testified that the Programs they develop are reviewed by a superior at each stage of the development process, while others have limited supervision throughout the process. Some PMs present the results of their Programs to senior leadership.⁵

A few of the PMs also perform one or more of the additional tasks described below. They coach HHC employees, they are indirect supervisors, they draft grant proposals, they participate in Rapid Improvement Events and/or Breakthrough initiatives, and/or they make recommendations to their supervisors about the cost of personnel, materials, resources, or vendors that they will need in the next budget year.⁶ With respect to coaching, some PMs coach employees that have performance or developmental issues, other PMs coach employees through

⁴ The development of a Program often includes research and meeting with content providers and senior leadership to discuss the main topics and objectives of the Program. The content of the Programs may be provided to the PM or developed by the PM completely from scratch. PMs may teach the Programs themselves or manage the individuals teaching the trainings. Through the Programs, some PMs disseminate policies, but they do not create the policies.

⁵ Some employees with duties referenced in this paragraph include: at Bellevue, Daniel Cashman, Alexander Hong, Brendon Nimphius, and Tian Wei; at Central Office, Margaret Hudson, Melissa Jorge, Jean Kennealy, Hyung Kune Shim, and Michelle Thomas-Hanson; at Coler, Jamie Siriamonthe; at Gouverneur, Katee Lee.

⁶ Rapid Improvement Events are generally four and a half day events that use the “Lean” method to analyze the current state of a process or problem, develop a target state, and perform experiments to see what can be done to reduce waste. If successful, the result of the event is to implement standard work. Standard work is a detailed description of the steps and expected outcomes of work to be performed by staff, including what needs to be done as well as how and when it needs to be done.

final projects that are required to complete the Leadership Development Program, and a few PMs coach leaders on reaching professional development goals and improving work performance.

A number of PMs perform additional and/or slightly different duties than the typical activities described above. These duties are described below.

Six PMs work in the South Manhattan Health Network's Organizational Staff Development/Breakthrough department ("OSD/B"), which is staffed with employees assigned to several facilities including Bellevue, Gouverneur, and Coler. Two of the PMs report to the OSD/B Senior Associate Director and perform tasks such as facilitating improvement events and coaching. With respect to improvement events, the PMs guide multidisciplinary teams through the analysis of a process or problem in a specific area such as financial performance or patient satisfaction and encourage the team to develop recommendations to improve the process or problem. As a result of these events, teams may make recommendations such as altering the physical layout of a department, purchasing equipment, capital improvements, or modifying staffing levels.⁷ Additionally, PMs may continue to progress team recommendations and/or make their own recommendations for changes to improvement events, or mandating training programs.⁸ With respect to coaching, they work with senior leaders to review hospital

⁷ For example, one PM was involved in an event that resulted in senior leadership deciding to remove the expiration date from B-1 invasive consent forms.

⁸ For example, one PM recommended to the Associate Executive Director ("AED") of OSD/B that the Green Certification program (a one-day course that describes the basics of the "Lean" methodology) become a mandatory part of new employee orientation. The AED and the Head of Human Resources adopted the recommendation. Additionally, as part of the patient experience value stream, that PM recommended that when an employee is terminated for cause, the position should not be treated like a normal vacancy but should be made a top-priority to fill. This recommendation was also adopted by more senior staff.

performance and discuss possible improvement events.⁹ They also perform duties such as facilitating breakthrough and certification programs and tracking and analyzing performance metrics. In their roles, they may have access to information such as clinical or financial performance of the hospital and/or individuals within the hospital, state regulations or violations, personal health, and staffing.

Two PMs report to the OSD/B Associate Director. They perform tasks such as consulting with departmental leaders on the employee partnership survey results, Breakthrough support, and data input and analysis. For example, for departments with weak employee partnership survey scores, they conduct focus groups and meet with department leaders to design customized interventions and training programs. Additionally, at least one of them enters Bellevue employee exit interview data into a database. Sometimes this data is used to make reports for senior leadership on issues such as the main reasons for attrition.¹⁰

One PM reports to the OSD/B Associate Executive Director and runs reports for the Senior Associate Executive Director for Human Resources as requested. For example, when the State or Joint Commission comes to inspect the hospital, the PM compiles a record of staff training and compliance. She is able to access employee records from PeopleSoft including salary, hire, and discharge information.

⁹ One PM is a resource for Bellevue's Chief Strategy Officer in the selection of improvement events, team members, and process owners and provides feedback on the progress of team members and improvement data. The Chief Strategy Officer is a regular member of the Joint Labor and Management Committee. Another PM discusses process improvement with the Deputy Executive Director of Clinical Services who has a role in collective bargaining negotiations. However, the PM asserted that he is not personally involved in or privy to information relating to collective bargaining negotiations.

¹⁰ One of these PMs testified that he sometimes helps facilitate discussions regarding the goals and objectives of the hospital at a meeting attended by senior leadership, including cabinet members.

The last PM in OSD/B reports to an AD. She also assists the Senior Associate Executive Director of Human Resources by coaching employees with developmental or performance needs and interviewing staff for feedback on managers that are overseen by the Network Director of Human Resources.

Nine PMs serve as Instructional Designers (“IDs”) in Central Office’s PMO Training department and report to the Director of Training and Development.¹¹ The IDs develop training materials that will be used to educate end users on EPIC, a new Electronic Medical Record system that HHC is preparing to implement at its facilities. Each ID is responsible for developing a curriculum for a different training module such as Ambulatory, Cardiology, Clinical Documentation, Emergency, Labor and Delivery, Oncology, Ophthalmology, Radiology, or Pharmacy.¹²

The IDs generally take out-of-the-box training material templates provided by EPIC and incorporate HHC workflows and policies into those materials.¹³ IDs go to the facilities and/or speak with subject matter experts to get current workflows, research protocols and developments for their specific module, attend meetings where IDs and the individuals who are responsible for building the EPIC platform share the content they have obtained from the facilities and discuss edits to the platform; attend work group sessions where the EPIC platform is demonstrated to end users; and incorporate the end users and builders changes into the training materials. The

¹¹ All nine IDs submitted nearly identical surveys and testified that they perform almost exactly the same duties.

¹² Curriculums have to be developed for each role in the department since each role has different workflows. For example, within the emergency department, the nurses will have different training materials from the clerks.

¹³ Curriculums follow EPIC’s learning style and consist of lesson plans, quick tip sheets, quick start guides, and other materials. Certain course materials must be developed from scratch.

IDs also attend change control meetings at which they primarily listen and take notes so that they can report any changes back to their team. It is anticipated that in the future IDs will be supervisors of credentialed trainers. During the process of developing the training materials, some IDs make recommendations on topics such as workflow, which employees should be grouped together for a training class, and how EPIC screens should appear. Ultimately, the training materials are reviewed and approved by the Director of Training and Development, the end users, and EPIC employees.¹⁴

Assistant Director of Training and Development

According to the job specification, an AD is “responsible for organizing, directing and coordinating the activities of a Central Office or facility training and development program.”

(AD Pet., Ex. A; AD Ans., Ex. A) The job specification also states that an AD:

Plans and implements the management of programs and projects in the designated areas of authority to insure the promotion and attainment of organizational objects in the training, development and optimization of human resources. May serve as deputy to the Director and assume full responsibility and authority in the latter’s absence in delegated areas of responsibility.¹⁵

¹⁴ Some PMs with duties referenced in this paragraph include: John Armento, Abigail Bermudez, Claire Cordiano, Louis DeCastro, Ginu John, Noel Kisslan, Rimma Macer, Larry Payano, and Zully Vallejo.

¹⁵ The AD job specification lists the following typical tasks:

1. Translates policy decisions into working plans.
2. Initiates and supervises the planning and execution of policy studies to needs for training.
3. Acts as liaison with operating departments in the development of interest in the training and development program.
4. Directs, coordinates and evaluates operations of assigned organizational sector.
5. Assesses in the establishment of programs and policies reflecting the philosophy and objective of the division or department.

(*Id.*)

Although the job duties of ADs differ across facilities and departments, many of them perform substantially similar tasks to PMs, including developing and facilitating various Programs. For example, ADs perform duties such as: providing advice on types of Programs suitable for a particular group or subject matter; monitoring performance metrics; developing and implementing Programs; coordinating, facilitating, and evaluating Programs; drafting grant proposals; and proposing Program personnel and necessary materials and resources. They also make recommendations to their superiors to modify the number of students assigned to a particular unit or Program, provide targeted training classes for managers and other staff, create Program waitlists, or establish a database to track specific certifications.¹⁶

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6. Provides recommendations and direction regarding proposed programs and projects.
 7. Formulates and develops methods and procedures for monitoring and evaluating program implementation and effectiveness in meeting human resource training and development needs.
 8. Supervises program and project activities through assignment of qualified key personnel by establishing and monitoring programmatic budgets and necessary services.
 9. Supervises the staff assigned to organizational sector and provides for their professional and management development.
 10. Plans and implements programs to establish performance standards to attain increased productivity and accountability.
 11. Provides consultative services regarding training and development programs.
 12. Participates in staff meetings and conferences and coordinates activities with key Central Office, Network and health facilities personnel.

(*Id.*)

¹⁶ Some employees with duties referenced in this paragraph include: at Central Office, Danielle Caron; at Gouverneur, Sona Joshi; at Lincoln, Juan Diego Cruz; and at Woodhull, Mercedes Shannon.

In addition to working on training and development programs, one AD runs the Health Workforce Retraining Initiative (“HWRI”) grant program for the Workforce Development Department, one AD coaches employees that have performance or developmental issues, one AD is a facilitator for Lean/Breakthrough events, and one AD is responsible for overseeing the nursing student clinical program at Woodhull.

The AD whose primary duty is to oversee the HWRI grant program works in Central Office’s Workforce Development Department and reports to the Senior Director of Workforce Development. She wrote the HWRI grant proposal, which was approved by her superiors, and now she coordinates the grant.¹⁷ More specifically, she allocates funds to each facility, monitors spending, coordinates scheduling, tracks the classes, markets the classes, enrolls participants, completes quarterly reports on expenditures and narratives to grantor, and handles audit requests. She also tracks the office’s spending of the Tax Deferment Annuity funds.¹⁸

The AD who coaches employees works in OSD/B. She reports to the Associate Executive Director, and she supervises one PM. Her primary duties are to oversee all training, organizational development, and coaching activities for Gouverneur. Like some of the PMs, she assesses organizational needs using partnership survey scores, conducts focus groups, meets with senior leaders and other managers, and designs customized interventions and training programs.

¹⁷ The HWRI grant proposal included more certification courses than past proposals to improve employees expertise. Since the certification courses are more expensive, the AD had to adjust the budget.

¹⁸ Tax Deferment Annuity funds are used for expenditures such as law firm or consultant services. The AD tracks outstanding and paid expenses and sometimes discusses this information at meetings with the Senior Assistant Vice President, Human Resources/Workforce Development.

Additionally, she coaches employees that have performance or developmental issues.¹⁹ She also helps the Senior Associate Executive Director for Human Resources, by providing consultative services and subject matter expertise in the areas of organizational development, coaching, and training. With respect to Organizational Development interventions and coaching, she handles information such as performance evaluations and employee records. She is also a trainer and user of the PeopleSoft system.

The AD who is a Facilitator in Generation Plus Network's Breakthrough department is responsible for carrying out functions as a Facilitator for Lean/Breakthrough events for various value streams. He meets with steering committees who determine what events, such as Rapid Improvement Events and "A3" Projects will be covered over a period of time.²⁰ He is then responsible for facilitating those events. As facilitator, his role is to coach and advise. Participants in these events determine and implement any actions or decisions that result. He is also responsible for training personnel in the Lean methodology. In addition to the meetings that he facilitates, he attends meetings with the department chairs, at which he gathers and provides information, and reminds attendees to use the various tools that his department offers.

The AD who oversees the nursing students doing their clinical work at Woodhull keeps records on all of the students and assigns the students to their clinical units. Her supervisor, the

¹⁹ When a manager believes that an employee needs coaching, the manager discusses the employee with the AD, and sometimes the manager will allow the AD to review the employee's personnel file. Next, the employee and the manager develop an action plan based on the specific goals the employee needs to work on. Then the AD coaches the employee two or three times a month. The AD may have to recommend termination or demotion if an employee does not improve after coaching. On one occasion, the AD recommended that an employee be terminated, but the employee's manager decided to reassign the employee to another department.

²⁰ A3 Projects follow a similar format to Rapid Improvement Events, but take longer than four and a half days.

Senior Associate Director of Nursing, is involved in the administration and enforcement of collective bargaining agreements, but she does not share information from labor relations meetings with the AD. She also has never told the AD about an employee who was about to resign or be terminated.

Director of Workforce Training and Development

According to the job specification, the DW has the following purpose: “[u]nder the direction of the Network/Central Office executive director of adult and professional education, formulates and develops policies and plans, directs, supervises, and coordinates workforce training and staff development programs to meet the goals and objectives of the Network(s)/Central Office.”²¹ (DW Pet., Ex. A; DW Ans., Ex. A)

²¹ The DW job specification lists the following typical tasks:

1. Develops and directs studies to determine the training/staff development needs to meet the identified goals and objectives of the Network/Central Office.
2. Formulates training/staff development policies and programs using knowledge of identified training/development needs, operating systems, and changes in regulations, procedures, or services.
3. Develops, implements, and monitors the fiscal and operational plan for Network/Central Office workforce training and staff development.
4. Directs informational studies, analyzes statistical data and other reports concerning aspects of training/staff development programs to evaluate progress and recommend change.
5. Develops, coordinates and/or participates in the planning and development of training, career development, and/or educational programs to improve staff recruitment, retention, and customer satisfaction.
6. Coordinates educational programs with training agencies, colleges, universities and/or other educational institutions to meet the goals and objectives of the Network/Central Office.
7. Determines funding requirements for Network/Corporate training/staff development programs and develops funding

The one employee in the DW title works in the Workforce Development Department at Central Office, reports directly to the Senior Director of Workforce Development, and is responsible for managing the training functions between Central Office and the facility level.²² She designs, develops, and oversees training programs including a Supervisor Development Program, a Management Development Program, and a New Employee Orientation Program. She often develops the curricula from scratch. In order to do this, the DW meets with senior leadership to identify the knowledge gaps and discuss the main topics and learning objectives for the programs; performs research; meets with subject matter experts; and uses a variety of models and frameworks. After a program has been developed, the DW organizes and facilitates the program. She uses PeopleSoft to enroll, drop, and assign employees to trainings, as well as to perform other tasks. Once a program has concluded, she oversees the evaluation of that program. If an evaluation highlights an area that can be improved upon, then she may make changes to the program. The DW also created and administers a corporate-wide learning needs assessment, which is used to identify knowledge gaps in the HHC workforce. She develops corporate workforce strategic training initiatives to address identified knowledge gaps. Through many of the trainings, the DW reinforces policies that already exist, such as EEO policies.

As part of her duties, the DW also identifies what the projected needs are for the training portion of the Workforce Development budget including the cost of books, equipment, tools, and

strategies including the identification and application for grant funding.

8. Coordinates Network/Central Office employment opportunity and career development activities with various governmental and private agencies.

(Id.)

²² These duties are taken from the testimony and survey of Loretta Maggiore.

vendors, and submits this information to her supervisor. She directly supervises two employees and indirectly supervises two PMs who also report to her supervisor. She attends meetings such as the Training Directors Council and Strategic Planning. During the Training Directors Council meetings, the DW leads the discussion about the New Employee Orientation program and may make recommendations about best training practices or approaches such as how to track the New Employee Orientation program. During the Strategic Planning meetings, the DW and her supervisor discuss how they are going to reach goals set for their group by senior leaders. The DW and her supervisor jointly decided to split the Supervisor Development Program into a Manager Development Program and a Supervisor Development Program, and to focus one curriculum on newly promoted and newly hired managers.

POSITIONS OF THE PARTIES

HHC's Position

HHC argues that the evidence presented demonstrates that the PM, AD, and DW titles perform managerial and/or confidential duties that preclude them from collective bargaining. Specifically, HHC claims that “[t]he central function of these titles is the formulation and implementation of training and development policies after identifying specific areas of need.”²³

²³ According to HHC:

[a]s HHC moves further into the digital age, and with the passage of the Affordable Care Act, it is imperative that the workforce is trained adequately in order to perform their jobs efficiently, which ultimately translates into delivering optimal patient care. As such, the role of [these employees] . . . is crucial in the formulation of policy and procedure that governs the overall operations of the health system. The input of [these employees] . . . regarding training and translating the health system missions, goals and priorities has a direct impact on how HHC shapes its policies.

(HHC Br. at 1) It maintains that these employees have significant managerial and executive discretion, as well as latitude for independent judgment, initiative, and decision-making. Further, HHC asserts that “any of the employees who have been shown to play a role within labor relations unit[s] at any of HHC’s Facilities or in Central Office must be deemed managerial and/or confidential and must be excluded from collective bargaining.” (HHC Br. at 10)

With respect to confidentiality, HHC asserts that employees in the AD and DW titles are confidential as they routinely act in a confidential capacity to employees “responsible for the formulation, determination and effectuation of management policies concerning personnel administration.” (HHC Br. at 12-13, 14) HHC also contends that the PM job duties “encompass a broad amount of discretion, and effectuate the mission of the employer in a managerial capacity. Further, in certain cases, some of the [PMs] act in confidential capacities to such high level officials and therefore should be deemed to be confidential in status.” (HHC Br. at 18) HHC notes that each employee is not required to embody all the possible indicia of managerial and/or confidential status. Thus, HHC argues that these titles are managerial and/or confidential employees within the meaning of Civil Service Law (“CSL”), Article 14 § 201.7(a) (“Taylor Law”) and the NYCCBL and are therefore ineligible for collective bargaining.

HHC also argues that the HHC Act, precludes the PM, AD, and DW titles from being represented.²⁴ Specifically, HHC asserts that these employees should be precluded from representation when considered under the exclusions established by the HHC Act § 7385(11), which it claims provides a much broader exclusion from the right to representation than the

(HHC Br. at 28)

²⁴ These arguments regarding the HHC Act are identical to the arguments made by HHC in *OSA*, 8 OCB2d 19 (BOC 2015), which issued after the post-hearing briefs were filed in this case.

Taylor Law or the NYCCBL, and any inconsistencies must be resolved in favor of the HHC Act. Further, HHC contends that the Board's decisions in *CWA*, 40 OCB 5 (BOC 1987) and *OSA*, 74 OCB 1 (BOC 2004) did not consider or correctly address the conflict between HHC Act § 7385(11) and the Taylor Law as to the managerial criteria or the preemptive effect of HHC Act § 7405.

Accordingly, HHC concludes that it has satisfied its burden of proving that these titles are managerial and/or confidential employees ineligible for collective bargaining.²⁵

Union's Position

The Union seeks to add the PM, AD, and DW titles to its bargaining unit. It argues that HHC has not met its burden of establishing that the PM, AD, or DW titles should be designated managerial or confidential. Furthermore, the Union maintains that the PM, AD, and DW titles share a community of interest with titles that it already represents.

The Union argues that there is a presumption of eligibility for collective bargaining rights in the Taylor Law and the NYCCBL. Although the NYCCBL provides a limited exception for those employees whom the Board of Certification finds to be managerial or confidential, the Union asserts that HHC did not meet its burden of demonstrating the managerial or confidential status of any of the PM, AD, or DW employees. The Union contends that these employees all lack the autonomy or regular and active participation in policy-making at their agencies to qualify for managerial status and that they lack the discretion to make financial decisions that would impact the mission of the agency.

²⁵ HHC did not address whether PMs, ADs, or DWs have a community of interest with the titles represented by the Union.

Additionally, the Union argues that the PM, AD, and DW titles should be accreted to its bargaining unit because they perform similar duties, share similar working conditions, and require similar qualifications as titles that they already represent. Some of these titles are Administrative Staff Analyst, Senior Management Consultant, Training and Development Specialist, Training and Development Associate Levels A and B, Training and Development Representative, and Supervising Training and Development Associate.

Regarding HHC's argument that the HHC Act provides the applicable standard for determining whether employees are eligible, the Union asserts that HHC Act § 7390(5) and NYCCBL §§ 12-303(g) and 12-304(b) grants the Board jurisdiction over HHC and its employees and that HHC Act § 7390(5) and NYCCBL § 12-305 mandates that the Board to apply Taylor Law § 201.7(a) to determine the eligibility of HHC employees for collective bargaining. The Union also argues that the Board should apply the doctrines of collateral estoppel and *stare decisis* because the Board previously rejected the identical arguments in *CWA*, 40 OCB 5 (BOC 1987), and in *OSA*, 74 OCB 1 (BOC 2004).

Thus, the Union contends that PMs, ADs, and DWs are eligible for collective bargaining and should be added to the Union's bargaining certificate.

DISCUSSION

This Board has applied the same standard for exclusion from collective bargaining to all public employees, including HHC, for more than 40 years. *See, e.g., OSA*, 78 OCB 5 (BOC 2006), *affd., Matter of NYC Health & Hosps. Corp. v. Bd. of Certification of the City of NY*, 2007 N.Y. Slip. Op 30921(U) (Sup. Ct. N.Y. Co. Apr. 23, 2007) (Tolub, J.); *DC 37*, 10 OCB 41, at 13-14 (BOC 1972) (finding that Taylor Law § 201.7(a) applies to HHC employees). The Board has

previously rejected HHC's arguments on the perceived conflict between HHC Act § 7385(11) and Taylor Law § 201.7(a) and the preemptive effect of HHC Act § 7405. *See OSA*, 8 OCB2d 19, at 34 (BOC 2015); *OSA*, 74 OCB 1, at 6-7; *CWA*, 40 OCB 5, at 16-23. We find no change in circumstances to warrant deviating from our prior conclusions and rationales. *See OSA*, 8 OCB2d 19. Since the HHC Act and the NYCCBL remain consistent in their mandates to apply Taylor Law § 201.7(a) to HHC employees, there is no conflict between the NYCCBL and the HHC Act, and, therefore, no basis for preemption under HHC Act § 7405. As such, we reaffirm the conclusions and rationales of this Board's prior decisions on identical HHC arguments and find that the clear and unambiguous language of the HHC Act and NYCCBL require the Board to apply Taylor Law § 201.7(a) to determine the eligibility of HHC employees for collective bargaining.

In granting public employees the right to bargain collectively, the NYCCBL provides a limited exception for those employees whom this Board finds to be managerial and/or confidential:

Public employees shall have the right to self-organization, to form, join or assist public employee organizations, to bargain collectively through certified employee organizations of their own choosing and shall have the right to refrain from any or all of such activities. However, neither managerial nor confidential employees shall constitute or be included in any bargaining unit, nor shall they have the right to bargain collectively; provided, however, that *public employees shall be presumed eligible for the rights set forth in this section*, and no employees shall be deprived of these rights unless, as to such employee, a determination of managerial and confidential status has been rendered by the board of certification.

NYCCBL § 12-305 (emphasis added). The definitions of managerial and confidential are set forth in Taylor Law § 201.7(a). Accordingly, when evaluating a public employer's assertion that

an employee should be excluded from collective bargaining as managerial and/or confidential, the Board applies the following statutory standard:

Employees may be designated as managerial only if they are persons (i) who formulate policy or (ii) who may reasonably be required on behalf of the public employer to assist directly in the preparation for and conduct of collective negotiations or to have a major role in the administration of agreements or in personnel administration provided that such role is not of a routine or clerical nature and requires the exercise of independent judgment. Employees may be designated as confidential only if they are persons who assist and act in a confidential capacity to managerial employees described in clause (ii).

CSL § 201.7(a); *see, DC 37*, 78 OCB 7, at 39 (BOC 2006), *affd.*, *Matter of City of New York v. NYC Bd. of Certification*, No. 404461/06 (Sup. Ct. N.Y. Co. Sept. 19, 2007)(Wetzel, J.); *see also Matter of Shelofsky v. Helsby*, 32 N.Y.2d 54, 58-61 (1973) (finding that the statutory criteria for managerial and confidential designations are not unconstitutionally vague). “Significantly, the exclusions for managerial and confidential employees are an exception to the Taylor Law’s strong policy of extending coverage to all public employees and are to be read narrowly, with all uncertainties resolved in favor of coverage.” *CWA, L. 1180*, 2 OCB2d 13, at 11 (BOC 2009) (quoting *Matter of Lippman v. Pub. Empl. Relations Bd.*, 263 A.D.2d 891, 904 (3d Dept. 1999)) (internal quotation marks omitted); *see also Matter of NYC Health & Hosp. Corp. v. Bd. of Cert. of the City of New York*, 2007 NY Slip Op. 30921 (U) (Sup. Ct. N.Y. Co. Apr. 23, 2007) (Tolub, J.).

The first type of manager excluded from collective bargaining is a manager “who formulate[s] policy.” Taylor Law § 201.7(a)(i). Policy has been defined as “the development of the particular objectives of a government or agency thereof in the fulfillment of its mission and the methods, means and extent of achieving such objectives.” *State of New York*, 5 PERB ¶ 3001, at 3005 (1972); *see also EMS SOA*, 68 OCB 10, at 21 (BOC 2001); *USCA*, 66 OCB 4, at

26 (BOC 2000). Employees who formulate policy “include not only a person who has the authority or responsibility to select among options and to put a proposed policy into effect, but also a person who participates with regularity in the essential process which results in a policy proposal and the decision to put such proposal into effect.” *State of New York*, 5 PERB at ¶ 3005; *see also OSA*, 78 OCB 1, at 7 (BOC 2006).

The Board has held that “[p]articipation in the formulation of policy must be ‘regular,’ ‘active,’ and ‘significant’ to support a finding of managerial status.” *CWA*, 78 OCB 3, at 11 (BOC 2006) (citing *UFOA, L. 854*, 50 OCB 15, at 20 (BOC 1992)). The definition of policy formulation encompasses “those relatively few individuals who directly assist the ultimate decision-makers in reaching the decisions necessary to the conduct of the business of the governmental entity.” *State of New York (Dept. of Env. Conservation)*, 36 PERB ¶ 3029, at 3085 (2003) (finding managerial an employee who initiated a regulatory change proposal with “significant statewide implication” and formulated the long-term policy for the direction of the New York State Nursery program). For example, this Board has designated positions as managerial when the employees formulated policy by deciding how to protect the water supply system and planning Department of Health and Mental Hygiene’s response to emergencies. *See CWA*, 2 OCB2d 13, at 16-21.

There is a key distinction between setting policy and promulgating procedures. “Policy sets the agency’s course whereas procedures are the practical steps taken to implement such policy, including the determination of methods of operation that are merely of a technical nature.” *Local 621, SEIU*, 4 OCB2d 57, at 24-25 (BOC 2011) (internal quotations omitted) (quoting *Matter of City v. Bd. of Certification*, Index Nos. 402466/10 & 402496/10, slip. Op. 4-5 (Sup. Ct. N.Y. Co. Oct. 27, 2011) (Kern, J.); *see also Lippman*, 263 A.D.2d at 899; *City of*

Binghamton, 12 PERB ¶ 3099, at 3185 (1979), *affd.* Additionally, “exercising a high level of expertise and technical skill in performing one’s duties does not warrant excluding that employee from collective bargaining.” *Local 621, SEIU*, 4 OCB2d 57, at 24 (citing *OSA*, 3 OCB2d 33, at 47). This is because “[t]he exercise of discretion, alone, is insufficient for a managerial designation It is the conditions under which discretion may be exercised, not the exercise of discretion itself, which we find relevant in determining manageriality.” *CWA, L. 1180*, 2 OCB2d 13, at 13. Thus, “[e]mployees who exercise their discretion only when permitted by policy, and exercise it within the specified guidelines of that policy, do not have the degree of freedom or authority to make decisions necessary to invoke managerial status.” *Id.* (quoting *UFOA, L. 854*, 50 OCB 15, at 23) (internal quotation marks omitted).

Notably, “budgetary duties are not dispositive of managerial status.” *CWA, L. 1180*, 2 OCB2d 13, at 14 (internal quotations omitted). “[W]hile involvement in budget formulation is one of the factors that this Board has considered in interpreting the Taylor Law definitions of managerial, those employees with budgetary duties who do not formulate policy or have a significant involvement in labor relations or personnel administration are not excluded from collective bargaining as managerial.” *Id.*, at 15 (citing *CWA*, 78 OCB 3). Duties that “are insufficient to establish that an employee formulates policy” include “preparing budget proposals, overseeing and maintaining unit budgets, overseeing OTPS budget, preparing management reports and tracking spending[,] calculating overtime needs based on prior years’ expenditures, determining historical trends and anticipating expenses, implementing budget reductions, budget reconciliation, grant oversight, and entering into contracts with vendors” *Id.*, at 22; *see also OSA*, 78 OCB 1, at 21, 25-26, 34-36.

Here, none of the employees at issue formulate policy. Many of the PMs, ADs, and DWs perform substantially similar tasks involving designing, developing, and facilitating Programs. For example, some employees develop training materials that will be used to educate end users on a new Electronic Medical Record system, some develop basic computer skills training programs, some develop orientation programs, and some develop leadership development programs. Typical duties include: providing advice regarding what type of Program would be best for a particular group of people or particular subject matter; monitoring performance metrics; speaking with subject matter experts to get current workflows; meeting with senior leadership to discuss learning objectives; performing research; writing, developing and implementing end user curriculum materials; coordinating, teaching, and evaluating Programs; facilitating Lean/Breakthrough events; representing their department in meetings; and drafting grant proposals.

Additionally, they make recommendations to their superiors, such as improving Program topics or resources, adding assessments or takeaway guides, grouping employees into training classes based on some commonality, setting roll out schedules, and suggesting workflows. Finally, some employees in these titles coach employees. These duties involve a high-level of expertise, technical skill, and in some instances effective communication of policies, but do not rise to the level of policy formulation under the NYCCBL. Further, to the extent that a few employees make recommendations to their supervisors about the cost of personnel, materials, resources, or vendors that they will need in the next budget year, we reiterate that these budgetary duties alone are insufficient to establish that an employee formulates policy. *See CWA, L. 1180, 2 OCB2d 13, at 22.*

Indeed, PMs, ADs, and DWs perform duties similar to other employees who are eligible for collective bargaining. For example, the Board found eligible an Administrative Manager at the James Satterwhite Academy, a unit responsible for training ACS employees and employees of contracted private agencies. *See CWA, L. 1180*, 2 OCB2d 13 (BOC 2009). The employee reported to the Executive Director of the training Academy and managed and implemented a Common Core training program, a State initiative to provide foundation training to all child welfare staff; coordinated meetings, including advisory board meetings; completed training needs assessments; identified gaps in implementation, and implemented new trainings to address those gaps:

Concerning implementation gaps, she and advisory board committee members determined that the State's curriculum for case workers and supervisors would not be effective without training for managers and that supervisors needed an additional coaching component to help with implementation. She managed the contracts with the consultants who developed the coaching component, explained the scope of the project to them, and, at curriculum meetings with them, gave input on mentoring and coaching and communicated the goals of the Executive Director. . .

CWA, L. 1180, 2 OCB2d 13, at 23. The Board also found eligible an Administrative Manager functioning as the Director of Curriculum who conducted focus groups in field offices to assess the need for training, developed training programs on two advisory boards, and made recommendations concerning training programs and the implementation of new policies. *Id.*, at 23-24. The Board found both of these employees eligible because their work involved high-level administrative and/or supervisory work, or participation in policy implementation, not policy formulation. *Id.*, at 23-24; *see also OSA*, 78 OCB 1 (BOC 2006) (finding eligible for collective bargaining employees who, among other duties, created corporate training policies and

procedures, coordinated trainings, and drafted policies and procedures for entry of medical notes into the electronic medical record).

In addition to the duties discussed above, some PMs, ADs, and DWs perform other duties such as preparing reports on subjects such as attrition, staff training, and compliance for senior leadership; overseeing the HWRI grant; overseeing a nursing student clinical program; creating and administering a learning needs assessment to identify knowledge gaps in the workforce; and/or developing training initiatives to address knowledge gaps. The scope of these duties may be HHC-wide or be performed with senior staff and require a high-level of technical skill, but do not rise to the level of policy formulation under the NYCCBL. *See OSA*, 78 OCB 1, at 19 (finding a title at HHC eligible for bargaining because “they gather and analyze data for use by upper management but are not directly involved in making decisions”); *DC 37*, 60 OCB 4 at 37 (BOC 1997) (finding Project Planners eligible for bargaining because their tasks are “more in the nature of gathering and analyzing data, or making reports and suggestions, used in the formulation of policy”); *CWA, L. 1180*, 2 OCB2d 13, at 23.

The second type of manager excluded from collective bargaining is one who “assist[s] directly in the preparation for and conduct of collective negotiations or has a major role in the administration of agreements or in personnel administration provided that such role is not of a routine or clerical nature and requires the exercise of independent judgment.” Taylor Law § 201.7(a)(ii). To fall within this exclusion, an employee must be “a direct participant in the preparation of the employer’s proposals and positions in collective negotiations and an active participant in the negotiating process itself . . . hav[ing] the authority to exercise independent judgment in the employer’s procedures or methods of operation as necessitated by the implementation of [collective bargaining] agreements,” or, concerning personnel administration,

“exercise independent judgment and fundamental control over the direction and scope of the employer’s mission.” *County of Rockland*, 28 PERB ¶ 3063, at 3141-3142 (1995) (quoting *City of Binghamton*, 12 PERB ¶ 4022, at 4035, *affd.*, 12 PERB 3099 (1979)).

However, “[t]here is a critical and long-standing distinction between managers involved in labor relations/personnel administration, who are excluded from collective bargaining, and the broader category of employees who perform supervisory functions, who are eligible for collective bargaining.” *OSA*, 3 OCB2d 33, at 66-67 (quoting *Lippman*, 263 A.D.2d at 901-902) (internal quotation marks omitted). Thus, employees with a substantial role in hiring, firing, promotional, disciplinary, and staffing decisions have been found eligible for collective bargaining. *Id.* at 67; *see also CWA, L. 1180*, 2 OCB2d 13, at 92; *Local 621, SEIU*, 78 OCB 2, at 21 (2006); *CWA, L. 1180*, 76 OCB 4, at 23-24 (BOC 2005). Additionally, this Board has found eligible for collective bargaining employees that perform routine personnel tasks such as “developing training programs and monitoring overtime and advising when units are reaching their caps; . . . and serving as a personnel liaison.” *OSA*, 3 OCB2d 33, at 72 (BOC 2010), *affd.*, *Matter of City v. Bd. of Certification*, Index Nos. 402466/10 & 402496/10 (Sup. Ct. N.Y. Co. Oct. 27, 2011) (Kern, J.); *see also EMS SOA*, 68 OCB 10, at 23-24 (BOC 2001) (finding eligible for collective bargaining the Division Commander in Charge of Training for EMS).

There is no evidence that PMs, ADs, or DWs prepare for or conduct collective negotiations or play a major role in the administration of agreements. The record reflects that a few employees in these titles perform supervisory duties such as overseeing the work of employees, and training and coaching employees. However, such supervisory duties do not warrant the exclusion of these employees from collective bargaining. Additionally, although the majority of employees in the PM, AD, and DW titles develop training programs and/or monitor

performance or other metrics, we do not find that these routine duties warrant the exclusion of these employees from collective bargaining.

As to confidentiality, “[e]mployees may be designated as confidential only if they are persons who assist and act in a confidential capacity to managerial employees described in clause (ii).”²⁶ CSL § 201.7(a). The employer has the burden to establish confidentiality. *See* NYCCBL § 12-305. To do so, it must show that the employee satisfies both prongs of a two-pronged test: “(1) the employee . . . must assist a [CSL] § 201(7)(a)(ii) manager in the delivery of labor relations[/ personnel administration] duties described in that subdivision-a duty oriented analysis; and (2) the employee . . . must be acting in a confidential capacity to that manager-a relationship oriented evaluation.”²⁷ *OSA*, 3 OCB2d 33, at 38-39 (BOC 2010) (quoting *Lippman*, 263 A.D.2d at 902); *see also UFA*, 4 OCB2d 57, at 28 (BOC 2011); *DC 37*, 78 OCB 7, at 40.

Regarding the duty-oriented prong of the test for confidential status, it is “the employee’s involvement in collective negotiations, the administration of collective bargaining agreements, or personnel administration makes him or her ineligible for inclusion in collective bargaining.” *OSA*, 78 OCB 5, at 41 (BOC 2006), *affd. Matter of NYC Health & Hosps. Corp. v. Bd. of Certification of the City of NY*, 2007 N.Y. Slip. Op 30921(U) (Sup. Ct. N.Y. Co. Apr. 23, 2007) (Tolub, J.); *see also Town of Dewitt*, 32 PERB ¶ 3001, at 3003 (1999)(noting that designations have been based on personnel functions with exposure “to information which has a direct

²⁶ Managerial employees described in clause (ii) are those “who may reasonably be required on behalf of the public employer to assist directly in the preparation for and conduct of collective negotiations or to have a major role in the administration of agreements or in personnel administration provided that such role is not of a routine or clerical nature and requires the exercise of independent judgment.” CSL § 201.7(a)(ii).

²⁷ To be clear, “work that employees perform for a person who is managerial due to the formulation of policy does not qualify the employees for confidential designation.” *Lippman*, 263 A.D.2d at 902; *see Taylor Law* § 201.7(a).

relationship to and impact upon collective negotiations and the administration of collective bargaining agreements”).

Regarding the relationship-oriented prong of the test for confidential status, an employee “must be serving in a position the nature of which is one of trust and confidence, *vis-a-vis* the § 201.7(a)(ii) manager.” *Town of Dewitt*, 32 PERB ¶ 3001, at 3003; *see also Town of Ulster*, 36 PERB ¶ 3001, at 3002 (2003) (finding the relationship prong satisfied when the manager relies upon the employee’s input in preparation of the town’s budget and negotiating proposals).

Notably, “the secretive or highly sensitive nature of an employee’s work alone does not compel a confidential designation.” *OSA*, 3 OCB2d 33, at 82 (internal quotation marks omitted) (quoting *OSA*, 78 OCB 5, at 41); *see Town of Dewitt*, 32 PERB ¶ 3001, at 3003 (“Simple access to existing personnel or financial information . . . is not sufficient for a confidential designation.”); *see also New York Power Auth.*, 38 PERB ¶ 3003, at 3008 (2005) (running a computer program that randomly selects an employee for drug testing does not satisfy the duty prong); *County of Orange*, 31 PERB ¶ 3016, at 3029 (1998) (limited access to personnel records and exposure to finalized disciplinary matters is insufficient to satisfy duty prong). Indeed, “access to personnel files, training records, performance appraisals, addresses, salaries, . . . internal investigations . . . are insufficient for a confidential designation in the absence of confidential assistance to a manager with significant involvement in labor relations or personnel administration.” *CWA, L. 1180*, 2 OCB2d 13, at 106-107 (BOC 2009). Since, knowledge of personnel or disciplinary matters is often inherent in supervisory positions, it “does not warrant a confidential designation where . . . it is limited and does not encompass labor relations information significant to the basic mission of the employer.” *Lippman*, 263 A.D.2d at 903.

Thus, standing alone, “employees’ access to and involvement in personnel records and matters . . . [are] insufficient to support a confidential designation.” *Id.*

Similarly, involvement in budget formulation is not dispositive. *See Lippman*, 263 A.D.2d at 903 (finding that “limited involvement in budget preparation” does not support a confidential designation when the public employer “has not shown that the information to which they are exposed, and the duties they perform, have a direct relationship to and impact upon collective negotiations and the administration of collective bargaining agreements, or present actual or apparent conflicts of interest, or clashes of loyalties, with their representation”), *affg. State of New York (Unified Court Sys.)*, 30 PERB ¶ 3067, at 3167-3168 (1997) (finding that employee who prepared the policy committee’s annual budget was not confidential).

Here, none of the PM, AD, or DW titles are confidential. They are involved in training, professional development, and “Lean” methodology problem solving. These employees do not assist with collective negotiations, the administration of collective bargaining agreements, or in personnel administration. For example, one PM in the OSD/B discusses process improvement with the Deputy Executive Director Clinical Services, he is not involved in or privy to information surrounding collective bargaining negotiations nor does he act in a confidential capacity to this manager with respect to personnel administration.²⁸ Other employees in this department run reports, coach employees, and provide subject matter expertise in the areas of organizational development, coaching, and training, at the request of the Senior Associate Executive Director for Human Resources. The record does not establish that these employees or

²⁸ Another PM in this department is a resource for Bellevue’s Chief Strategy Officer when it comes to: the selection of improvement events, team members and process owners; and providing feedback on the progress of team members and improvement data. In this role, the PM may have access to information such as clinical and financial performance of the hospital and/or individuals within the hospital. However, mere access to sensitive information is insufficient for a confidential designation. *OSA*, 3 OCB2d 33, at 82.

any of the other PMs, ADs, or the DW assist a manager with collective negotiations, the administration of collective bargaining agreements, or in personnel administration, as required by the first prong of the confidentiality test. *OSA*, 80 OCB 1, at 15 (BOC 2007); *see also CWA, L. 1180*, 2 OCB2d 13, at 108 (finding an employee with significant training responsibilities not confidential). Accordingly, PMs, ADs, and DWs, are eligible for collective bargaining.

For the reasons stated above, the Board finds that HHC has not met its burden of proving that the PM, AD, or DW titles are managerial or confidential. Therefore, the employees are eligible for collective bargaining. Additionally, the evidence did not rebut the Union's assertion that the PM, AD, and DW titles have a sufficient community of interest with members of the Union's bargaining unit, which includes other titles involved in training and professional development. Accordingly, the PM, AD, and DW titles are appropriately added to Certification No. 3-88.

ORDER

NOW, THEREFORE, pursuant to the powers vested in the Board of Certification by the New York City Collective Bargaining Law (New York City Administrative Code, Title 12, Chapter 3), it is hereby

ORDERED, that employees in the titles Program Manager, Training and Development, Levels I and II (Title Code Nos. 004651 and 004652), Assistant Director of Training and Development Managerial Pay Plan II and III (Title Code Nos. 004662 and 004663), and Director of Workforce Training and Staff Development (Title Code No. 000456) are eligible for collective bargaining; and it is further,

ORDERED, that Certification No. 3-88 (as previously amended) be, and the same hereby is, further amended to include the titles Program Manager, Training and Development, Levels I and II (Title Code Nos. 004651 and 004652), Assistant Director of Training and Development Managerial Pay Plan II and III (Title Code Nos. 004662 and 004663), and Director of Workforce Training and Staff Development (Title Code No. 000456) subject to existing contracts, if any.

DATED: September 9, 2015
New York, New York

SUSAN J. PANEPENTO
CHAIR

CAROL A. WITTENBERG
MEMBER

ALAN R. VIANI
MEMBER



OFFICE OF COLLECTIVE BARGAINING

100 Gold St., 4th Floor
New York, N.Y. 10038
(212) 306-7160
FAX (212) 306-7167

IMPARTIAL MEMBERS

SUSAN J. PANEPENTO, CHAIR
CAROL A. WITTENBERG
ALAN R. VIANI

DEPUTY CHAIRS

MONU SINGH
STEVEN E. STAR

CITY MEMBERS

M. DAVID ZURNDORFER
PAMELA S. SILVERBLATT

LABOR MEMBERS

CHARLES G. MOERDLER

NOTICE OF AMENDED CERTIFICATION

This notice acknowledges that the Board of Certification has issued an Order Amending Certification as follows:

DATE: September 9, 2015 **DOCKET # :** AC-1573-14
AC-1574-14
AC-1575-14

DECISION: 8 OCB2d 28 (BOC 2015)

EMPLOYER: New York City Health and Hospitals Corporation
125 Worth Street - Room 500
New York, NY 10013

CERTIFIED/RECOGNIZED BARGAINING REPRESENTATIVE:

Organization of Staff Analysts
220 East 23rd Street, Suite 707
New York, NY 10010

AMENDMENT: Certification No. 3-88 has been amended to add the following titles/codes:

Added: **Program Manager, Training and Development, Levels I and II**
(Title Code Nos. 004651 and 004652)

Assistant Director of Training and Development Managerial Pay Plan II and III
(Title Code Nos. 004662 and 004663)

Director of Workforce Training and Staff Development
(Title Code No. 000456)