

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :  
TEMPLE UNIVERSITY : Case No. PERA-U-12-332-E  
: (PERA-R-1123-E)

**FINAL ORDER**

The Temple Association of University Professors (Union or TAUP) filed timely exceptions with the Pennsylvania Labor Relations Board (Board) on November 20, 2014, to a Proposed Order of Unit Clarification (POUC) issued on October 31, 2014. In the POUC, the Hearing Examiner clarified the existing certified faculty bargaining unit represented by TAUP<sup>1</sup> to exclude the Department Chairpersons as both supervisors and management level employees. Following an extension of time granted by the Secretary of the Board, TAUP filed a timely brief in support of the exceptions on December 22, 2014. Temple University (Temple or University) also obtained an extension of time and filed its brief in response to the exceptions on February 6, 2015.

Over the course of eight days of testimony, TAUP and Temple presented testimony and documentary evidence. Upon hearing the testimony and examining the evidence, the Hearing Examiner made credibility determinations and rendered Findings of Fact based thereon. The Hearing Examiner's Finding of Fact are set forth at length in the POUC and are summarized as follows.

Temple's governing body is its Board of Trustees, comprised of thirty-six voting members, twenty-four of whom are elected and twelve of whom are appointed by officials of the Commonwealth of Pennsylvania. (FF 6 and 8). The Board of Trustees has final authority and responsibility for the policies and governance of Temple. (FF 7).

Below the Board of Trustees, Temple's President is responsible for supporting and managing all of Temple's academic, administrative, and financial operations. (FF 10). Assisting the President in managing Temple's research and educational operations, support services, and institutional outreach is a team of senior administrators, one of whom is Temple's Provost. (FF 11). Temple's Provost is the Chief Academic Officer of Temple, who is responsible for the overall leadership of academic affairs. (FF 12).

Temple is comprised of seventeen Schools and Colleges and a Division of Theater and Film and Media Arts. (FF 4). Each School, College and Division has a Dean (or Acting or Interim Dean) who reports to the Provost. (FF 13). Temple's Deans are the Chief Academic Officers of their respective Schools, Colleges, and Division, and are responsible for academics, research, budgeting, and planning for their respective Schools, Colleges, and Division. (FF 14). Most Deans have appointed Vice, Associate, or Assistant Deans to aid them in effecting the work of the School, College or Division. (FF 15).

Within each School, College and Division, there are academic departments. (FF 16). Each department has a Department Chair (or Acting or Interim Chair). (FF 17).

There are four types of faculty at Temple - tenured, tenure track, non-tenure track ("NTT"), and part-time or "adjunct" faculty. (FF 22). Tenure track faculty are charged with Temple's tripartite mission of service, teaching, and research. (FF 24). NTT faculty typically focus on one of the three parts of the mission and are appointed for a term at the end of which they may be reappointed. (FF 25). Adjuncts are part-time faculty appointed to fill the specialized needs of the department - *i.e.*, for a specialty that is essential to the department, to teach a particular course that requires a particular expertise or to fill a last-minute vacancy because a faculty member goes out on leave or because there is some other emergency. (FF 26).

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<sup>1</sup> PLRB Case No. PERA-R-1123-E, as amended at PERA-U-87-266-E and PERA-U-90-265-E.

In 1973, TAUP was certified by the Board as the exclusive collective bargaining representative of tenure track and NTT faculty, including the department chairs, in twelve of the Schools and Colleges and the Division. The 1973 certification described the unit as follows:

...all full-time faculty including department chairmen employed at Temple University including professional Librarians on the Paley Library budget, librarians in the School of Social Administration, the College of Education, and the College of Allied Health Professions; counselors and academic advisors at the College of Liberal Arts, Counseling Center and Student Resources Center; supervisors of practice teaching at the College of Education; non-faculty support professionals in the intern teaching program for college graduates; other support professionals who meet the definition of being necessary or adjunct to the teaching of students or research projects of the University, excluding the faculty at Rome, Italy and the faculty at the Medical School, Law School and Dental School and the Hospital, and further excluding all other non-faculty and professional employes, computer personnel, management, supervisors, first-level supervisors and confidential employes as defined in Act 195.

(FF 2).

In 2005, Temple created a job description for its Department Chairs, which was distributed to all Deans and Department Chairs. (FF 27). The description made clear that the Department Chairperson is the "designated head of an academic department or degree granting program" and stated that the job duties of Department Chairs included review of department faculty for promotion and tenure; initiation of dismissal or discipline of faculty; consultation with the Dean on the processes of appointment, reappointment and promotion for NTT faculty; and nomination of faculty for merit and consultation with the Dean regarding merit awards. According to the job description, other duties that could be assigned by the Dean at his/her discretion to the Department Chairs include class scheduling; faculty assignment; review of tenure track and NTT faculty for contract renewals; mentoring new faculty; review of departmental budgets, reporting for the Administration to the faculty; reporting for the faculty to the Administration; overseeing non-faculty department staff; annual review of faculty; reviewing student academic grievances and other student matters; leading and overseeing curricular matters; leading departmental strategic planning, periodic program reviews and accreditation reviews; monitoring departmental compliance with University policies; attending and participating in leadership meetings as requested by the Dean; supervising non-faculty staff; and directing, overseeing, and/or supervising the work of graduate teaching assistants and graduate research assistants. (FF 27 and 28). The Department Chair job description also states that the University may, in its sole discretion, assign other management rights and responsibilities to the Department Chairperson and further explained that a faculty member shall receive additional compensation for serving as a Chairperson, which could include a reduction in the base teaching load, an administrative attachment to salary for the duration of service as a Department Chairperson, a stipend for summer service or a combination thereof. (FF 29).

In 2008, during negotiations for a new collective bargaining agreement, Temple asked for the Union's agreement to exclude Department Chairs from the collective bargaining agreement. (FF 30 and 31). The Union would not agree. However, the Union did agree that the University may assign management rights and responsibilities to Department Chairs. Article 16 (E) of the CBA states, in relevant part:

The University may, in its sole discretion, assign management rights and responsibilities to the Department Chairs which may include but are not limited to:

1. Class scheduling and faculty assignment
2. Review of faculty for tenure and promotion

3. Review of faculty for merit pay awards
4. Review of departmental budgets
5. Reporting for the Administration to the faculty and the faculty to the Administration

(FF 32).

Consistent with the 2005 policy, the Department Chairs are responsible for managing the operating budget for their departments. The Chairs receive the department budget from the Dean's office and it then becomes the Chair's responsibility to make certain that all expenditures are within the budget. In administering department funds, Department Chairs may encourage faculty to consider course offerings that would have high enrollments, may increase the number of summer classes and summer credit hours available in the department, and can market the department offerings to business and academia to provide income to the department. (FF 57). In addition to efforts to increase the department budget through enrollments, Department Chairs may also encourage faculty to obtain grants for research, a portion of which then goes into the Chair's discretionary fund for use in the department budget. (FF 58, 60 and 65). In addition to the research grant allotments, the Chair's discretionary funds also include, "overhead return," "recovery dollars" and "gift accounts". (FF 54). Department Chairs have used these discretionary funds to add to the starting salary for new faculty, send students to conferences, pay for faculty travel, purchase equipment, technology, supplies and repairs, and bring in guest speakers. (FF 62 - 67).

In addition to overseeing the budget, Department Chairs are also involved in hiring faculty. Department Chairs "hire the adjuncts," and effectively recommend the hiring of NTT faculty. (FF 35 and 38). Department Chairs regularly evaluate tenure track, NTT and adjunct faculty. In evaluating the faculty, the Chairs utilize the Faculty Development Plan (FDP) form, which evaluates the faculty's teaching, research and service in the department. (FF 44). The Chairs use the evaluation of faculty to determine work assignments and course load reductions; to determine whether to renew non-tenure track faculty; to determine whether to renew adjuncts; to recommend merit pay; and for strategic planning and curriculum development. (FF 45). In evaluating department faculty, Department Chairs must determine whether there is a continuing need for an adjunct, both in terms of whether the department will continue to teach a particular course taught by an adjunct and whether to bring back the particular adjunct based on the Chair's assessment of that individual's performance. (FF 47).

Many departments also have non-faculty staff such as secretaries and technical professionals. The Department Chairs are responsible for hiring non-faculty staff and assigning them work. The non-faculty staff report to the Department Chair. (FF 53). Department Chairs evaluate the non-faculty staff using a personal development plan (PDP), which impacts the salary increase that the particular non-faculty staff member will receive. (FF 49, 50 and 53).

Based on the extensive record, the Hearing Examiner determined that Department Chairs are supervisors within the meaning of Section 301(6) of PERA because they act in the interests of Temple to, *inter alia*, hire, recall, assign, and reward other employes, or effectively recommend such actions to the Dean. The Hearing Examiner also found that Department Chairs are involved in policy determinations and are responsible for implementation of policy within their department. Thus, the Hearing Examiner concluded that Department Chairs are management level employes within the meaning of Section 301(16) of PERA. Accordingly, the Hearing Examiner issued a POUC excluding the Department Chairs from the collective bargaining unit represented by TAUP.

On exceptions, TAUP challenges the Hearing Examiner's conclusion that the Department Chairs are management level employes under Section 301(16) of PERA. An employe will be held to be managerial if any one of the following three factors is established: (1) the employe is involved directly in the determination of policy; (2) the employe directs the implementation of policy; or (3) the employe is above the first level of

supervision. 43 P.S. §1101.301(16); **Pennsylvania Association of State Mental Hospital Physicians v. PLRB**, 554 A. 2d 1021 (Pa. Cmwlth. 1989); **Lackawanna Career Technology Center**, 33 PPER ¶ 33201 (Final Order, 2002). In **Horsham Township**, 9 PPER ¶ 9157 (Final Order, 1978), the Board stated as follows:

An individual who is involved directly in the determination of policy would include not only a person who has the authority or responsibility to select among options and 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 a proposal into effect.

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[O]ne "who responsibly directs the implementation (of policy) ... include[s] those persons who have a responsible role in giving practical effect to and ensuring the actual fulfillment of policy by concrete measures, provided that such role is not of a routine or clerical nature and bears managerial responsibility to ensure completion of the task.

**Horsham Township**, 9 PPER at 327. The Board further held in **Pennsylvania State University**, 19 PPER ¶19156 (Final Order, 1988), as follows:

[M]anagerial status may not be based on decision making which is part of the routine discharge of professional duties. Only if the activities of professional employees fall outside the scope of the duties routinely performed by similarly situated professionals will they be found aligned with management.

**Id.** at 378 (*quoting Montefiore Hospital and Medical Center*, 261 N.L.R.B. 569 (1982)); **Abington Heights School District**, 42 PPER 18 (Final Order, 2011); *see also*, **City of Lebanon**, 4 PPER 24 (1974) ("To define the problem and directly implement the proposed solution to a problem is not the same as performing a function within a known discipline with competence. The former has to do with policy and the latter deals with technical expertise"). Matters of budget are generally outside the scope of duties routinely performed by "rank and file" professional employees, and are key indicators of managerial authority. **Pennsylvania Association of State Mental Hospital Physicians, supra.**; **University of Pittsburgh**, 21 PPER ¶21203 (Final Order, 1990). So long as the employee is found to play an effective role in the formation of policy or budgetary matters, the fact that an employee's decisions are reviewed by others higher up in management, will not affect the employee's status as a management level employee under Section 301(16). **Carlynton School District**, 377 A.2d 1033 (Pa. Cmwlth. 1977); **Pennsylvania Attorney Examiners**, 12 PPER ¶12131 (Final Order, 1981).

TAUP excepts to the Hearing Examiner's finding that Department Chairs "develop" the department budget, and argues that Findings of Fact 54, 55 and 66, reflecting the Department Chairs' management of the department budget, are not supported by substantial evidence of record.<sup>2</sup> With respect to the Hearing Examiner's determination that Department Chairs are managers based on their budget authority, the Hearing Examiner properly distinguished this case from **Berks County**, 35 PPER 25 (Final Order, 2004). In the PDO, the Hearing Examiner reasoned as follows:

[O]ne basis for finding the Department Chairs "responsibly direct the implementation of policy" is that they decide how to spend the non-personnel portion of the department's budget. The Deans give the chairs an overall non-personnel budget to follow. The Chairs then exercise discretion on how to maintain the appropriate level of expenses and income within that budget. The Department Chairs make a myriad of spending decisions on such things as paying adjuncts additional money, sending students to conferences, supporting and hiring students and replacing equipment and supplies. These are the

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<sup>2</sup> The Hearing Examiner's Findings of Fact must be supported by substantial evidence of record. **PLRB v. Kaufmann Department Stores, Inc.**, 345 Pa. 398, 29 A.2d 90 (1942). Substantial evidence is such relevant evidence as a reasonable mind would accept as adequate to support the finding. **Id.**

Department Chairs' decisions and not their recommendations. This is evidence that demonstrates that the Department Chairs exercise authority over matters that go beyond the "academic expertise" cited in **University of Pittsburgh** as an insufficient basis to find management level status.

These actual spending decisions are evidence that the Chairs responsibly direct the implementation of policy. They go beyond the recommendation of purchasing equipment found to be insufficient facts to establish management level status in **Berks County**, 35 PPER 25 (Final Order, 2004), at p. 82. Furthermore, the making of the non-personnel portion of the budget and the spending within that budget is entirely under the authority of department chairs, unlike the budgetary role of the athletic directors in **State System of Higher Education**, 28 PPER ¶ 28046 (Final Order, 1997), which was to pass on to the respective coaches the athletic department budgets made by "universities' student government associations and/or the athletic committees." Id. at 100.

On the revenue side of the budget, the Chairs make decisions to increase the discretionary part of the budget. As an example, Dr. Arvind Parkhe, Chair of the Strategic Management Department in the Fox School of Business, has worked to increase the summer enrollments, which increases his discretionary budget. Dr. Mohammed Kiani, Chair of the Mechanical Engineering Department, worked to increase the research funds for the department. He succeeded in increasing those funds from \$200,000 to \$2 million per year. The increased revenue allows Dr. Kiani to send students to conferences and to give more money in hiring packages.

(POUC at 17). Unlike **Berks County**, and similar Board cases that involve an employe spending monies budgeted by others for a particular routine expenditure, here there is substantial evidence that Department Chairs have and do generate income for their departments and have autonomy to allocate and spend that income and significant discretionary funds.

Indeed, "[f]aculty chairs are responsible for two things. One is revenue generation, the other is cost containment." (N.T. 332). While the dean's office sets the department budget, the Department Chair "set[s] priorities in terms of how funds should be expended based on [his or her] beliefs about [a] particular project." (N.T. 303). The Department Chairs control their projects and have discretion as to where to allocate funding within the department. (N.T. 332). "[T]he chair is the custodian of the operating budget. But there are also other budgets..." (N.T. 101), such as "overhead return", "recovery dollars", and "gift accounts" (N.T. 101-102) "that could be used at the discretion of the chairperson." (N.T. 102). The Department Chairs have the discretionary funds at their disposal, but have two or three budgets that they control and oversee. (N.T. 206). "The chair is the one - in fact he's the sole one who delegates it. He's the sole one who has access to all of the budgets within the department." (N.T. 102). "The chair also has to make determinations about the best allocation of funds within the budget." (N.T. 102). In addition to allocating funds, "chairs also generate revenue ... through grants and other means..." and have that money at their disposal and "have a choice in how they want to use it." (N.T. 332). For example, if a Department Chair generates more grant money, that will result in money flowing back to the department. (N.T. 332-333). The portion of research grants given back to the school, college or division, is for the Department Chair "to use for discretionary purposes, to invest in new initiatives, [or] do whatever." (N.T. 103). "The dollars that come back to the department are overseen by the department chair and can be spent by the department chair at the department chair's discretion." (N.T. 103.).

Furthermore, uncontested Findings of Fact 56 through 65 and 67, also support the Department Chairs' managerial authority over the department's budget. Specifically, the Hearing Examiner found that Dr. Arvind Parkhe, Department Chair for Strategic Management in the Fox School of Business, appointed a faculty member as an internal budget control person. Dr. Parkhe also increased revenue for the department by increasing summer courses and enrollments, and marketed the department offerings to international business and entrepreneurship academic directors. Dr. Robert Levis, Chair of the Chemistry Department, increased his department's annual research funding from about \$800,000 to \$5-6 million.

Mohammed Kiani, Chair of the Department of Mechanical Engineering, increased his department funds from \$200,000 to \$2 million per year through research funding, and used the excess funds generated to send students to conferences and increase faculty hiring packages. Dr. Andrew Mendelson, Chair of the Department of Journalism, has used the discretionary funds in the department budget to add to the starting salary of adjuncts, and has used non-compensation money in the department budget to purchase technology and bring in guest speakers. Dr. Marsha Weinraub, Chair of the Department of Psychology, has used the discretionary funds in the department budget to purchase technology and supplies and pay for travel expenses. Dr. Weinraub also increased the department's revenues by encouraging faculty research and using the department's portion of the research funding to hire staff such as assistant directors. Dr. Deborah Howe, Chair of the Department of Community and Regional Planning, has used the discretionary funds in the department budget to increase the rate of pay for adjunct faculty, to support student travel for conferences, to replace equipment, to hire students, and to donate to Earthfest.

As the record shows, the Department Chairs are directly involved in the development of their department budget with regard to income and allocation of discretionary funds. Thus, TAUP's exceptions to Findings of Fact 54, 55 and 66 as insufficient to evidence managerial authority are dismissed.

TAUP also excepts to the Hearing Examiner's determination that:

Another basis for finding the Department Chairs "responsibly direct the implementation of policy" is that the Department Chairs effectively assign workloads, assign courses and assign faculty service requirements. In **Carlynton Area School District**, 377 A.2d 1033 (Pa. Cmwlth. 1977), the Board determined that the principals and assistant principal were management level employees where they were involved in hiring, room and course assignments, preparation of master schedules, and teacher evaluations, even though their policy determination and any implementation were subject to rejection, change, approval, or acceptance by the superintendent or school board. Therefore, it follows that the Department Chairs in the present case, who make such decisions without being subject to review by their superiors, are also management level employees.

In this regard, TAUP argues that the Hearing Examiner erred in relying on **Carlynton School District** to find that alleged supervisory duties of the Department Chairs renders the Department Chairs management level employees. We believe TAUP misses the import of the Hearing Examiner's discussion. Readily apparent from the record is that as the "designated head of an academic department of degree granting program" the Department Chair develops the educational direction of the department, and plays an effective role in the formation of that policy. The Department Chairs then responsibly direct the implementation of that policy (i.e. the educational direction of the department) through assigning faculty workloads, courses, and service requirements. The fact that the Department Chair's decisions may be reviewed by the Dean, Provost or Board of Trustees, does not negate the fact that the Department Chairs are part of the overall management team, and thus excluded from the collective bargaining unit. **Carlynton School District**, *supra*.

On this record, the Hearing Examiner did not err in concluding that Temple has satisfied its burden of proving that the Department Chairs responsibly direct the implementation of policy, and thus are management level employees under Section 301(16) of PERA. Accordingly, TAUP's exceptions to the Hearing Examiner's Findings of Fact and Conclusion as they relate to the exclusion of Department Chairs as management level employees are dismissed.

TAUP argues on exceptions that the Hearing Examiner erred in failing to make certain findings of fact. Initially, we note that the Hearing Examiner does not need to make finding on all of the evidence presented, **Page's Department Store v. Velardi**, 464 Pa. 276, 346 A.2d 556 (1975), and indeed the credibility determinations and weight of the evidence afforded by the Hearing Examiner plays a significant role in the rendering of the Findings of Fact. **Mt. Lebanon Education Association v. Mt. Lebanon School District**,

35 PPER 98 (Final Order, 2004) (Hearing Examiner's credibility determinations will not be disturbed on exceptions absent the most compelling of circumstances). We have thoroughly reviewed TAUP's proposed findings, none of which would alter the Hearing Examiner's conclusions in this case. Accordingly, TAUP's exceptions to the Hearing Examiner's failure to make the proposed findings of fact is dismissed.

TAUP also argues on exceptions that the Hearing Examiner erred in finding that the duties of the Department Chairs had changed since the original certification in 1973, and thus the Hearing Examiner's conclusion that the Department Chairs are supervisory must be reversed. In the 1973 proceeding, Department Chairs were held to be bargaining unit employees despite Temple's contention that Department Chairs were supervisory. **Temple University**, 3 PPER 209 (Final Order, 1973). Therefore, in order to establish that Department Chairs are now supervisors, Temple would have to show a change in circumstances with respect to their wages, hours and working conditions. **Gateway School District v. PLRB**, 470 A. 2d 185 (Pa. Cmwlth. 1984); **Philadelphia Community College**, 19 PPER ¶ 19110 (Final Order, 1988).<sup>3</sup>

The record is replete with substantial evidence supporting the Hearing Examiner's Findings of Fact regarding a change in the duties of the Department Chairs since 1973. The Hearing Examiner's finding that Department Chairs who were previously selected by faculty committees are now appointed by the Dean and serve at the pleasure of the Dean, (FF 19), is supported by substantial evidence as cited in the Finding of Fact. Furthermore, uncontested Findings of Fact 27 through 29 establish that in 2005 Temple issued a job description for Department Chairs which included supervisory duties, and in 2008 TAUP and Temple agreed to changes in the duties of the Department Chairs, including the assignment of managerial responsibilities. Accordingly, the Hearing Examiner did not err in determining that circumstances of the Department Chairs have changed, such that Temple could assert in the present petition that Department Chairs are supervisors within the meaning of Section 301(6) of PERA.

Section 301(6) of PERA defines a supervisor as follows:

[A]ny individual having authority in the interests of the employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees 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). Section 604(5) of PERA, provides that "[i]n determining supervisory status the board may take into consideration the extent to which supervisory and nonsupervisory functions are performed." 43 Pa. C.S. §1101.604(5); **West Perry School District v. PLRB**, 752 A.2d 461 (Pa. Cmwlth. 2000), *petition for allowance of appeal denied*, 568 Pa. 675, 795 A.2d 984 (2000).

TAUP argues that the Hearing Examiner's Findings of Fact regarding the supervisory duties of the Department Chairs are not supported by substantial evidence. We disagree. Upon review of the record, Findings of Fact 38, 39, and 43 are supported by substantial evidence, and show that the Department Chairs effectively recommend the hiring of NTT faculty. Indeed, Chancellor Dr. Richard Englert testified that Department Chairs effectively recommend hiring of NTT faculty, which was corroborated by Deputy Provost Dr. Michael R. Sitler, and Department Chairs Dr. Robert Levis, Dr. Michael Klein and John Nyquist. Findings of Fact 44 through 47, also supported by the credited testimony of Dr. Englert, Dr. Kiani, Dr. Ronald Anderson, Dr. Parkhe, Dr. Rajan Chandran, and Dr. Klein, establish that Department Chairs determine faculty work assignments, course load reductions, evaluate faculty and effectively recommend faculty merit pay. Findings of Fact 49 through 53<sup>4</sup> are supported in the record by the testimony of Dr. Parkhe, Dr. Kiani, Dr. Anderson, Dr. James Byrne and Professor Jerry

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<sup>3</sup> As astutely noted by the Hearing Examiner, the managerial status of the Department Chairs was not litigated in the 1973 representation proceedings. Therefore, Temple had no obligation to establish a change in circumstances with respect to its assertion that Department Chairs are management level employees.

<sup>4</sup> Finding of Fact 52 is not contested on exceptions.

Ratcliffe, and evidence the Department Chairs' authority to hire, fire, evaluate, and supervise non-faulty staff in their department. In Findings of Fact 35 through 37 and 40 through 42, which are not contested on exceptions, the Hearing Examiner finds that the Department Chairs have exclusive authority to hire adjunct faculty, and to make unilateral determinations with respect to their renewal and continued employment at Temple. Accordingly, TAUP's exceptions to the Hearing Examiner's Findings of Fact regarding the supervisory duties of the Department Chairs are dismissed.

Even if the Department Chairs perform supervisory duties, TAUP contends that the Hearing Examiner erred by failing to discuss the extent to which the Department Chairs perform those supervisory duties. Section 604(5) of PERA provides that in determining supervisory status, the Board may consider the extent to which supervisory and non-supervisory duties are performed. In Findings of Fact 35 through 53, the Hearing Examiner extensively discussed the supervisory duties of the Department Chairs. The Hearing Examiner's discussion of the Department Chairs' supervisory duties clearly evidences the extent to which those duties are performed. Indeed, the record evidence shows that "the vast majority of [a Department Chair's] time is administrative, running the department." (N.T. 920). The duties of the Department Chair are "more or less the day-to-day running of the department, and it's putting out the fires and keeping the trains running [on] time ...[which] probably takes most of [the] time..." (N.T. 204). As Dr. Mendelson testified, "I get ... e-mail all the time as chair ... Unfortunately it does impinge on other things, too, you know, on my sleeping hours, too... I am chair all the time and get disgruntled ... students e-mailing me and prospective adjuncts, alums, things like that." (N.T. 1002). To accommodate his Department Chair duties, Dr. Mendelson's teaching workload is reduced to one course per semester. (N.T. 920). Dr. Deanna Geddes similarly had her faculty teaching load reduced by half (from two courses a semester to one) to accommodate her time as Department Chair. (N.T. 1124). Dr. Parkhe also teaches one course per semester, but has a three course reduction per semester for his duties as Department Chair. (N.T. 302-303). Given the Hearing Examiner's Findings of Fact and the substantial evidence of record regarding the duties of the Department Chairs, TAUP's exception that the Hearing Examiner failed to further discuss the extent to which supervisory duties are performed is dismissed.

After a thorough review of the exceptions and all matters of record, the Hearing Examiner's Findings of Fact are supported by substantial evidence of record, and the Hearing Examiner did not err in concluding that the Department Chairs at Temple are management level employees within the meaning of Section 301(16) or supervisors under Section 301(6) of PERA. Accordingly, TAUP's exceptions are dismissed, and the PDO shall be made absolute and final.

**ORDER**

In view of the foregoing and in order to effectuate the policies of the Public Employee Relations Act, the Board

**HEREBY ORDERS AND DIRECTS**

that the exceptions filed by Temple Association of University Professors are hereby dismissed, and the October 31, 2014 Proposed Decision and Order, be and hereby is made absolute and final.

SEALED, DATED and MAILED at Harrisburg, Pennsylvania pursuant to conference call meeting of the Pennsylvania Labor Relations Board, L. Dennis Martire, Chairman, Robert H. Shoop, Jr, Member, and Albert Mezzaroba, Member this twenty-first day of April, 2015. The Board hereby authorizes the Secretary of the Board, pursuant to 34 Pa. Code 95.81(a), to issue and serve upon the parties hereto the within order.