

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MICHAEL L. SHAKMAN, et al.,)	
)	
Plaintiffs,)	
)	Case Number: 69 C 2145
v.)	
)	Judge Edmond E. Chang
CLERK OF COOK COUNTY, et al.,)	Mag. Judge Gabriel Fuentes
)	
Defendants.)	
)	

**FOURTH REPORT OF THE COMPLIANCE ADMINISTRATOR
FOR THE CLERK OF COOK COUNTY**

Cardelle B. Spangler, County Clerk Compliance Administrator (“CCCA”)¹, by and through her attorney, Matthew D. Pryor, pursuant to the Memorandum Opinion and Order filed on April 17, 2020 (the “Appointment Order”), submits this Fourth Report:

I. Introduction

On August 2, 2021, Ms. Spangler filed her Third Report to the Court (the “Third Report”, Dkt. 7526) wherein she described progress on updating the Cook County Clerk’s² Exempt List, the Clerk’s limited progress on revising its Policy Manual (the “2020 Manual”) and its lack of consistent compliance with its 2020 Manual. Since the Third Report, the following has occurred: (1) the Court ruled on the Clerk’s motion to amend the Exempt List; (2) the parties and CCCA agreed to an Amended Manual on which the Clerk’s Office recently conducted training employees; (3) the Clerk’s HR department experienced performance issues requiring significant involvement from the Deputy Chief of Staff to

¹ “CCCA” hereinafter shall refer to the County Clerk Compliance Administrator and/or her staff.
² The “Cook County Clerk”, the “Clerk”, and/or the “Clerk’s Office” hereinafter shall refer to the Clerk, Karen Yarbrough, and/or her staff.

remain afloat and a new Deputy Clerk of HR who began this month; (4) the Clerk made minimal progress creating updated and accurate Non-Exempt Job Descriptions and Organizational Charts and complying with its existing employment policies; (5) the Clerk's Office circulated its updated policy on political solicitations; (6) the Clerk continued to be in noncompliance with its Assumption of Duties ("AOD") Hiring Plan due to unresolved academic credentials for four employees and many incomplete Posting Files; and (7) the Clerk has not been consistently responsive to the CCCA's requests for information and documentation concerning Employment Actions and two ongoing investigations.

Overall, the current landscape does not reflect an office nearing compliance with its obligations under the Appointment Order. The Clerk just trained employees on its updated Manual – 18 months after acknowledging the 2020 Manual required significant overhaul – and is doing so with another new Deputy Clerk of HR (its third such Deputy in that span) and with continued HR assistance from the Deputy Chief of Staff. Given the Clerk did not demonstrate consistent compliance with its 2020 Manual and has an HR department still trying to find its footing, the CCCA has concerns about the Clerk's ability to demonstrate consistent compliance – and that a durable remedy has been established – by her next report. Finally, there are two investigations related to the Clerk's HR department (discussed briefly as they are ongoing). Updates are below.³

II. Clerk's Efforts to Comply with Appointment Order

A. Updating Clerk's Exempt List

The first duty set forth in the Appointment Order is for the CCCA to "[w]ork with the Clerk's Office (with input from Plaintiff's Counsel) to develop a list of Shakman

³ With limited exceptions, this Report includes updates and communications between the Clerk and CCCA through December 2, 2021.

Exempt Positions to be approved by the Court.” Appointment Order at 41-42. At the time of the Third Report, the parties and CCCA had agreed on 30 Exempt Positions and the Court was considering a pending motion from the Clerk to add an additional 10 Exempt Positions to the List. Since the Third Report, the Court ruled on the Clerk’s motion (granting it in part and denying it in part), and the parties and CCCA provisionally agreed to add one additional Exempt Position (as explained below). What remains outstanding are: (1) the Clerk filing with the Court an updated and accurate Exempt List and (2) the Clerk finalizing Job Descriptions for its approved Exempt Positions.

1. Updating the Exempt List

On August 11, 2021, the Court issued a memorandum opinion and order (the “Court’s Exempt List Order”) wherein it granted in part and denied in part the Clerk’s motion to amend the Exempt List. *See* Aug. 11, 2021 Order Approving Clerk Exempt List (Dkt. 7541). Specifically, the Court made the following decisions regarding the Clerk’s proposed 10 new Exempt Positions:

- Granted two Positions: (1) Director of Cybersecurity and (2) Director of Elections Operations Center.
- Denied six Positions (four without prejudice): (1) Director for the Clerk of the Board; (2) Director of IT; (3) Director of Training and Professional Development; (4) Director of Vital Records; (5) Manager – Tax Extensions/GIS; and (6) Director of Human Resources.
- Granted provisionally⁴ two Positions: (1) Director of Recording Operations

⁴ For these two positions, the Court’s Exempt List Order requires that, “[e]very 45 days (starting with the entry of this Order), the Clerk must provide the Plaintiffs and the Compliance

and (2) Director of Real Estate and Tax Services.

On September 9, 2021, the CCCA emailed the Clerk and Plaintiffs' Counsel noting that despite the Court's Exempt List Order (which dealt with the 10 disputed Exempt positions in the Clerk's motion), the Clerk's Office still lacked a complete and accurate Exempt List approved by the Court. Despite the CCCA and Plaintiffs' Counsel making several follow-up calls and emails regarding the issue, the Clerk has not yet circulated a draft Agreed Exempt List.⁵ Given the Appointment Order's requirement that an updated List be approved by the Court (as well as Clerk's history of stated confusion about which positions are properly Exempt (Appointment Order at 23-24)), it is imperative the Clerk and Plaintiffs file with the Court an Exempt List consistent with the parties' agreements and Court's ruling.

2. Finalizing Job Descriptions for Approved Exempt Positions

As noted in the Third Report, finalization of the Clerk's approved Exempt Positions has been pending since April 2021. Third Report at 4. The CCCA understands the Clerk has finite resources and has had significant turnover in its Human Resources Department; however, having approved, clear and accurate Job Descriptions for all Exempt Positions helps ensure "there is clarity and transparency on the duties, responsibilities, and Minimum

Administrator with relevant evidence that the role is being fulfilled in a way that warrants the exemption." Order at 10.

⁵ This List should contain 35 positions - the 30 Positions agreed to by the parties prior to the CCCA's Third Report, the two positions approved by the Court in its Exempt List Order, the two positions approved provisionally by the Court in its Exempt List Order, and one new position – Multimedia Producer and Videographer – that Plaintiffs' Counsel and CCCA provisionally agreed to on November 18, 2021. The Clerk agreed to provide the following information every 45 days after the position is filled: (1) details of the volume of social media posts; (2) details of the volume of written responses to taxpayer questions; and (3) confirmation from the employee of the extent to which they are operating autonomously when posting on social media and responding to taxpayer questions.

Qualifications of the approved Exempt Positions.” *Id.* at 5. Further, the Clerk is required to post all approved Exempt Job Descriptions on its website. Amended Manual § IV.E.3.b. Without an updated Exempt List approved by the Court and posted Exempt Job Descriptions on its website, the CCCA does not believe the Clerk has satisfied this section of the Appointment Order.

B. Status of Manual Updates and Clerk’s Adherence to the Existing Manual and Interim Hiring Policy

The second duty assigned to the CCCA by the Court is to review the Manual: “to determine whether the policy is in fact applied in the observance rather than the breach . . . identify any discrepancies in the application of the policy, and propose any appropriate revisions.” Appointment Order at 41. In her Third Report, she described recent progress to update the 2020 Manual resulting in the Manual being on the “doorstop of completion,” although the CCCA noted the need for the Clerk to conduct all-office training on the revised Manual afterward. Third Report at 5-7. Since then, the parties and CCCA agreed on an Amended Manual which the Clerk provided to all employees. Unfortunately, training on the Amended Manual took months to create and the final training decks were lacking. Updates on these matters as well as on the Clerk’s lack of demonstrated compliance with its 2020 Manual (and Interim Hiring Policy) are below.

1. Updating the Clerk’s Manual and Status of Manual Training

The CCCA described in her Third Report the lack of urgency with which the Clerk’s Office had approached the task of updating its 2020 Manual for over a year after acknowledging it required significant revisions. Third Report at 5-6. By the time of the Third Report, the parties and CCCA were nearing the end of the revision process and the CCCA was hopeful the completion of a final draft was imminent as the Clerk anticipated

conducting employee training sessions on the Manual in mid-August 2021. *Id.* Since then, the parties and CCCA agreed to an Amended Manual (but not until early October) and the Clerk provided employees with a copy of the Amended Manual on December 1, 2021. While the CCCA understands the development of the training took considerable time and effort – particularly considering the Clerk’s June termination of the Director of Training and October termination of the Deputy Clerk of HR – training on the Amended Manual did not begin until November 29 after significant feedback from the CCCA on the decks.

The Clerk first provided draft written training decks of most policies in late August while the parties and CCCA were discussing final points in the Amended Manual. The CCCA provided feedback including over a dozen pages of identified inaccuracies in the decks and recommended changes aimed at improving the effectiveness of the training (*e.g.*, add illustrative examples, focus on key takeaways for employees to remember). By the end of November, the Clerk had adopted most of the CCCA’s accuracy-related edits but not her other recommendations.

The CCCA will include in her next report details on how the Clerk’s training was received by employees, how the Clerk compiled and responded to employee questions on the policies, as well as updates on the Clerk’s efforts to conduct other training required in the Manual (*i.e.*, HR Personnel Training, Supervisor Training, Interviewer Training).

2. Clerk’s Adherence to its 2020 Manual

The Amended Manual is finalized and went into effect on December 13. Prior to that, the Clerk was operating under the 2020 Manual. Regarding compliance with the 2020 Manual, the CCCA noted in her Third Report: (1) the Clerk’s continued outstanding production of updated and accurate Job Descriptions for all its Non-Exempt Positions; (2)

the Clerk's lack of an updated and accurate organizational chart of all CCCO employees; and (3) widespread concerns with the Clerk's implementation of various policies in its current Manual. *See* Third Report at 7-24. Since the Third Report, the Clerk made minimal progress on the outstanding Job Descriptions and organizational charts and continued to demonstrate a lack of consistent adherence to its employment policies. As the Clerk's Amended Manual just became effective, this will be the final report discussing at length the Clerk's compliance with the 2020 Manual. As described in prior reports and below, the Clerk never demonstrated consistent compliance with the employment policies contained therein. Undoubtedly some of the recent lack of progress may be attributed to performance issues and turnover within the Clerk's Human Resources Department which are discussed first below.

a. Status of Clerk's Human Resources Department

For the last several reports (and in this report), the CCCA has noted concerns with the Clerk's human resources function including: (1) a lack of responsiveness and clarity when responding to CCCA questions and requests for information and documents and (2) continual violations of the Clerk's hiring policies resulting in significant feedback from the CCCA on nearly every step of a hiring process to prevent further violations. *See, e.g.*, Third Report at 7-17. In response to these issues, the Clerk enlisted the assistance of the Deputy Chief of Staff to assist HR and replaced its Deputy Clerk of HR.

During the October 5 status, the Clerk's Deputy Chief of Staff and Labor Counsel, Jim Gleffe, informed the Court that he would serve as a liaison to the CCCA to: (1) review correspondence from HR to the CCCA to ensure it was policy compliant and responsive to the CCCA's feedback and questions; and (2) help HR become "more comfortable with the

policies” it is charged with implementing. *See* Dkt. 7611 at 27:19-30:1. Mr. Gleffe noted that this arrangement would be temporary as “HR at some point is going to become self-sufficient and able to engage in these communications without [Mr. Gleffe’s assistance]” as the policies become “second nature” to HR. *Id.* at 29:8-18.⁶ Since this announcement, Mr. Gleffe has actively engaged on issues previously handled exclusively by HR and the CCCA has seen improvement on issues such as communications regarding hiring sequences which have been more consistent and cohesive over the last few months. However, as explained throughout the remainder of this Report, non-compliance persisted. Further, the necessity of the Deputy Chief of Staff’s oversight shows that the Clerk does not yet have an HR Staff capable of fulfilling its duties under the 2020 Manual (and Amended Manual).

Further complicating matters is that on October 22, 2021, the Clerk terminated her Deputy Clerk of HR; a replacement (Michael Simpkins) started only within the past few days. As described further below, events related to the former Deputy Clerk of HR are currently under investigation by the Clerk’s Office. The CCCA also is investigating the Clerk’s initial attempt to fill the vacancy left by the Deputy’s departure. *See below* at 15. Additional HR turnover has slowed its efforts to fill vacancies (in HR and elsewhere).⁷

⁶ In response to Mr. Gleffe’s announcement (which he had shared with the CCCA and Plaintiffs’ Counsel prior to the status), the CCCA noted Mr. Gleffe’s agreement to “pull back [from this role] in enough time for us to be able to really monitor how the HR department is handling compliance with various policies, how the HR department on its own is responding to requests and providing information...” *Id.* at 31:15-22.

⁷ The Clerk’s HR Generalist resigned in July, resulting in an HR staff consisting of four employees: a Deputy Clerk, Director, Executive Assistant and Administrative Assistant. The Clerk created and posted the Positions of Leave of Absence Coordinator in late July and Senior HR Generalist in August. Both postings have stalled with HR at the application review stage. The Clerk also posted for a Director of Training in September. That hiring sequence paused while the Deputy Chief of Staff conducts a hiring process-related investigation. *See below* at 17-18.

Accordingly, the Clerk has not demonstrated possessing an HR staff with a proven track record of implementing and enforcing its employment policies such that a durable remedy has been established.

b. Status of Organizational Chart and Non-Exempt Job Descriptions

Despite the CCCA first requesting an accurate and updated Organizational Chart on May 4, 2020, the Clerk's Office still has not provided one (nor corresponding Non-Exempt Job Descriptions). By the time of her Third Report, the CCCA had given the Clerk feedback on its most recent draft organizational chart that identified: (1) dozens of positions on the Organizational Chart for which the Clerk had not provided a Job Description; (2) 18 positions the CCCA had job descriptions for but were not reflected on the Organizational Chart; and (3) many positions where the titles on the Job Descriptions differed from those on the Organizational Chart. *See* Third Report at 8-10. After this feedback, the CCCA and Clerk agreed that individual meetings with each department's Deputy Clerk would help expedite answers to the CCCA's questions. *Id.* The CCCA then had meetings with the Deputy Clerks of the Elections, Information Technology and Recording Operations Departments that were informative and productive. The Court agreed, identifying that the meetings appeared to have "advanced the ball quite a bit" and recommending that "on the order of...weeks not months to continue these meetings and really try to finalize the organizational chart." *See* Aug. 12, 2021 Hr'g Tr. (Dkt. 7558) at 29:6-10. After HR did not schedule additional Deputy meetings for a few months, at the October status, the Clerk's counsel requested the CCCA provide a list of Deputies and said he would help schedule

their meetings. *See* Dkt. 7611 at 36:18-22. The CCCA sent that list on October 18 and, despite multiple follow ups, the Clerk has not arranged either of the requested meetings.⁸

Despite no additional meetings with Deputy Clerks taking place, the Clerk produced what it termed “the most up to date version” of its Organizational Chart on October 20, 2021. While the chart provided was much more visually coherent, it did not address the majority of the CCCA’s issues with prior versions, and indeed presented new questions that the CCCA posed to the Clerk on December 2, 2021. As such, the Clerk remains without an updated and accurate Organization Chart and, outside of hiring sequences that began since the Third Report, has not produced the outstanding Non-Exempt Job Descriptions referenced in the CCCA’s Third Report. *See* Third Report at 8.

c. Hiring

Since the Third Report, the Clerk completed six hiring sequences (four for Exempt Positions and two for Non-Exempt Positions) all but one of which included material noncompliance with its hiring policies. Further, the Clerk’s filling of one Exempt Position was problematic in that: (1) the Clerk did not give the CCCA timely notice of the potential hire before making an offer; (2) the Clerk did not inform the CCCA until last week that the Candidate had been hired and began employment in late October; and (3) the Candidate was hired despite not meeting the Minimum Qualifications on the Job Description (a fact that the CCCA, not HR, identified). Also, since the Third Report, the Clerk’s first attempt to fill another Exempt Position was abandoned after the CCCA raised concerns that the

⁸ The CCCA’s October 18 email requested meetings with just two Deputy Clerks. In response, Clerk counsel committed to providing proposed meeting dates “in the next day or two” but never provided any dates. Additionally, on November 8, the CCCA sent Clerk’s counsel a two-page list of questions for five other Deputy Clerks in hopes that meetings with those deputies would not be necessary. The Clerk provided responses to these questions on December 1-2. The CCCA is reviewing those responses and will follow-up with the Clerk, as necessary.

Candidate did not meet the Minimum Qualifications for the Position. The Third Report also included a reference to the Clerk's abandoned attempt to hire someone into a Position not on the Court-approved Exempt List. Additional information about that circumstance has come to light and is discussed further below. Finally, the Clerk's Office continued to struggle in its efforts to comply with its Interim Hiring Policy (which covers Non-Exempt Positions) although the appointment of the Deputy Chief of Staff to assist HR likely prevented additional noncompliance from occurring.

(1) Exempt Hiring

Since the Third Report, the Clerk filled the following four Exempt Positions: (1) Special Assistant to the Clerk for Government Affairs; (2) Director of Real Estate and Taxes; (3) Director of Elections Operation Center; and (4) Deputy Clerk of HR. All of the hiring sequences had compliance issues. The Clerk filled the Special Assistant to the Clerk for Government Affairs without providing the CCCA and Plaintiffs' Counsel proper notice and despite the CCCA raising concerns that the selected Candidate did not meet the education Minimum Qualifications on the Job Description. For the two Director positions, the original hiring paperwork provided by HR, and HR's analysis of the same, required additional information to ensure the selected Candidates met the Minimum Qualifications for their positions.⁹ Finally, while the sequence resulting in the Deputy Clerk of HR's hire did not have any compliance issues, it followed a first attempt to fill the position with an unqualified Candidate that is the subject of an ongoing investigation.

⁹ The Clerk may select whomever she wants for Positions on the Court-approved Exempt List, so long as the selected individual is verified by the Deputy Clerk of HR or Designee to meet the Minimum Qualifications for the Position. *See* Manual § 4.6(a)(2). For the first attempt to hire a Deputy Clerk of HR, the Deputy Chief of Staff determined the Candidate met the Minimum Qualifications. Only after the CCCA reviewed the application and raised serious concerns with that determination did the Clerk opt not to proceed with the hire.

These were not the Clerk's first problematic validations of the credentials of candidates for Exempt Positions. The OIIG issued a report noting the Clerk's lack of a robust process for confirming Candidates for Exempt Positions meet the Minimum Qualifications of the Exempt Positions they hope to fill. *See* Second Report at 6-8. While the Clerk's Office disagreed with the OIIG's findings and declined to adopt its recommendations to strengthen its process for reviewing Exempt Position credentials, *see* Third Report at 13-15, the CCCA notes that since the Third Report, HR began providing more detailed and structured explanations of validations when presenting them to the CCCA for review. Unfortunately, as explained below, the level of HR's scrutiny of credentials remains lacking.

(a) Non-Compliant and Unsuccessful Attempts to Fill Exempt Positions

Since the Third Report, the Clerk hired for one Exempt Position without notifying the CCCA of the hire (and despite unresolved concerns raised by the CCCA of the Candidate's qualifications). The Clerk also withdrew its first attempt to hire a Deputy Clerk of HR after the CCCA raised significant – and irrefutable – concerns with the Candidate's qualifications. Details on both problematic Exempt hiring sequences follow.

i. Special Assistant to the Clerk for Government Affairs

On October 28, 2021, the Director of HR provided the CCCA with the hiring documentation and analysis supporting the hire of a Candidate for the Special Assistant to the Clerk for Government Affairs.¹⁰ One Minimum Qualification was a “minimum of two years of education at an accredited college or university.” The Director of HR initially did

¹⁰ The Clerk created this vacancy after terminating the former Special Assistant to the Clerk for Government Affairs on October 26, 2021.

not provide the CCCA with the Candidate's education credentials but did so on October 29 upon the CCCA's request. After review, the CCCA requested the Director explain how the transcript supported a finding that the Candidate possessed the required education. The Director responded that the transcript showed the Candidate attended a university for nearly three years and attended classes for "exactly 2 years."

The CCCA replied on November 3 that while the Candidate was enrolled for five semesters, one semester resulted in no earned credits while another semester resulted in three earned credits (versus an average of 14 credits earned in the other three semesters). The CCCA concluded that the Candidate only had three semesters of qualifying education – one semester short of the two years required by the Minimum Qualification.¹¹ The Director did not respond but the Deputy Chief of Staff spoke with CCCA Counsel about the CCCA's concerns and informed that the Clerk may propose edits to the Job Description. The CCCA was not aware of any further activity regarding this position until after providing the Clerk's Office with a draft of this Report.

The Deputy Chief of Staff informed the CCCA that, upon reading the draft Fourth Report, he realized he had "never made clear [to the CCCA and Plaintiffs' Counsel] that [the Candidate] was in fact being hired into the position." He further explained that his "assumption was that everyone understood that [the Candidate] would serve in this position until we could rectify the issues relating to the minimum qualifications to the job description." The email included proposed edits to the Minimum Qualifications the Deputy

¹¹ Per agreement with the CCCA and Plaintiffs' Counsel – and acknowledged in the Director of HR's October 28 email providing the CCCA with the Candidate's resume – the Clerk was utilizing the Exempt Hiring Process under the Amended Manual for this hiring sequence despite the Amended Manual not yet being effective.

Chief of Staff explained “better address the skills and experience necessary for a candidate to succeed in this position.” There are several concerns with the Clerk’s actions here.

First, contrary to the Deputy Chief of Staff’s contention, there were no issues with the Minimum Qualifications for the position that needed to be rectified. The Job Description had been updated and approved by the parties and CCCA on April 26, 2021. The Director of HR affirmed the accuracy of the Job Description in her October 28 email presenting the Candidate’s resume to the CCCA: “The Clerk’s Office previously came to an agreement on the job description with the Compliance Administrator and the Plaintiffs. In addition, I have reviewed this job description and can confirm that this job description is accurate.” The issue was that the Candidate the Clerk wanted to (and did) hire for the position did not meet one of those qualifications (a fact which the Clerk’s HR Director did not flag in her validation, and which the Clerk did not dispute after the CCCA raised it).

Second, the Deputy Chief of Staff’s statement that he did not make it clear to the CCCA and Plaintiffs’ Counsel that the Candidate “was in fact being hired into this position,” obscures the full sequence of events and breadth of the Clerk’s hiring process violations. The CCCA first notified the Clerk of her concerns with the Candidate’s qualifications on November 3 – after which the Deputy Chief of Staff and CCCA Counsel discussed the same. The selected Candidate, however, had already begun working at the Clerk’s Office on October 28 – the same day the Director of HR first provided his resume. Despite the CCCA exchanging several emails with the Director of HR on the Candidate’s qualifications and discussing the same with the Deputy Chief of Staff – nobody from the Clerk’s Office notified the CCCA the Clerk had already hired the Candidate.

Third, the Clerk’s hiring of the Candidate the same day it provided the CCCA with

the Candidate's resume violated Section IV.E.4.a of the Amended Manual (which requires HR to provide the documentation to the CCCA "for review and comment at least 2 business days *before extending an offer* to the Candidate." (emphasis added)) Here, the Clerk had already offered *and hired* the Candidate when it provided the CCCA the above-required documentation.

Finally, if the Clerk believed the Job Description necessitated edits, the Clerk was required to: (1) provide the proposed revisions to the Chief Ethics Officer, Plaintiffs' Counsel and CCCA for "review and comment" and, after finalizing the edits, (2) include the final Job Description with the Candidate's application or resume to the CCCA two business days before extending the offer. *Id.* § IV.E.3-4. The Clerk is not permitted by the Amended Manual to move forward with an Exempt hire prior to providing the CCCA, Plaintiffs' Counsel (and the Chief Ethics Officer) with the opportunity to review and comment on proposed edits to the underlying Job Description. *Id.* The Clerk's actions are troubling and not reflective of an office that has rectified its troubled history of non-compliant Exempt hiring. *See, e.g.*, Second Report (Dkt. 7298) at 8-9.

ii. Deputy Clerk of HR

The Clerk withdrew its initial proposed hire for Deputy Clerk of HR after the CCCA raised serious concerns that the Candidate did not possess the credentials listed on their resume, including those necessary to meet the Minimum Qualifications. The CCCA's review of the Candidate's resume resulted in an investigation which is nearing completion. The CCCA will issue an Interim Report detailing the investigation and any findings and recommendations.

(b) Successful Exempt Hires

Since the Third Report, the Clerk successfully hired for three Exempt Positions, although two of these hires were not without issue. Neither Candidate's applications demonstrated that they met the Minimum Qualifications for the position as required by the 2020 Manual, but the CCCA – not the Clerk's Office – had to raise those issues. The CCCA did not have any concerns with the paperwork provided by the Clerk concerning the third position (Deputy Clerk of HR); below are details on the other two Exempt hires.

In October, the then-Deputy Clerk of HR provided the CCCA with documents and analysis in support of Candidates for the Director of Real Estate and Tax Services and Director of Elections Operations Center. The CCCA reviewed the documentation and concluded it did not demonstrate that either Candidate met certain Minimum Qualifications on their respective Job Descriptions. For one Candidate, the Deputy Clerk of HR had given credit for seven years of work experience despite it not being in the fields required in the Minimum Qualification. For the other Candidate, the Deputy Clerk of HR wrote that she had confirmed with the Candidate they met one Minimum Qualification (proficiency with Microsoft Excel), but the Candidate's resume was silent on such proficiency. Finally, both Candidates' resumes did not clearly show their qualifying work experience was "full-time" as the Job Descriptions required. In response, the Deputy Clerk of HR provided updated resumes that resolved the CCCA's concerns.

While the above two Exempt hires ultimately complied with the Exempt Hiring Policy, HR's scrutiny of the qualifications of the Clerk's proposed Exempt hires lacked thoroughness and must be heightened to prevent (potentially) unqualified Candidates from filling vacant Exempt Positions. But for the CCCA's involvement here, two Candidates

would have been hired despite their applications not demonstrating they met the Minimum Qualifications for their respective positions.

(c) Update to Clerk's Erroneous Attempt to Use Exempt Hiring Process to hire Director of Training

In the Third Report, the CCCA detailed that the Clerk attempted to hire a Director of Training as Exempt in June, while the Clerk's contested motion to amend the Exempt List was pending with the Court. *See* Third Report at 12-13. The Clerk rescinded the proposed hire only after the CCCA intervened, explaining the attempt as a simple miscommunication internally. *Id.* Since then, the Clerk posted the position using the Actively Recruited Hiring Process to fill it. Conflict of interest-related issues explained below resulted in a temporary suspension of the hiring process still in effect today.

After the Court denied the Clerk's request to add the Director of Training Position to the Exempt List, with approval of the CCCA and Plaintiffs' Counsel, the Clerk posted the position on September 16 using the Actively Recruited Hiring Process. After the Posting expired, the Deputy Clerk of HR notified the Chief Ethics Officer that one of the Applicants was "someone that I have worked with in the past." The Applicant at issue was the same person the Clerk (via the Deputy Clerk of HR) attempted to hire for the same position in June prior to the CCCA's interjection; however, the Deputy Clerk of HR did not disclose this fact to the Chief Ethics Officer. The Chief Ethics Officer emailed the Deputy Clerk a list of questions utilized in his Conflict-of-Interest inquiries, to which the Deputy gave limited responses – again failing to disclose her prior interview of the Applicant even as multiple questions from the Chief Ethics Officer were broad enough to require such disclosure. The Chief Ethics Officer then asked if the individual was the same person the Deputy attempted to hire previously for the same Position. At that point, the

Deputy confirmed it was the same person but said she did not have any contact with the Applicant when attempting to hire the individual in June. Without further inquiry or action (that the CCCA is aware of) the Chief Ethics Officer determined a Conflict-of-interest existed for the Deputy Clerk of HR and installed the Director of HR as the employee responsible for completing the hiring sequence.

This circumstance prompted the CCCA to reach out to the Clerk to express serious concerns about the former Deputy Clerk of HR's lack of disclosure and transparency, and the Chief Ethics Officer's inquiry into the same. The CCCA and Clerk decided to begin a joint investigation into the matter and agreed that the Deputy Chief of Staff would issue a report on behalf of the Clerk's Office at the investigation's conclusion. The investigation remains ongoing. Given the nature of the investigation, the CCCA has stressed to the Deputy Chief of Staff her desire for the investigation to be completed as soon as possible.

(2) Non-Exempt Hiring

Since the Third Report, the Clerk's Office has filled Non-Exempt positions using the AOD Hiring Process¹², Interim Hiring Policy, and initiated a hiring process under the new Actively Recruited Hiring Policy.¹³ Consistent with prior CCCA reports, the Clerk did not demonstrate consistent compliance or the ability to independently implement the Interim Hiring Policy since the issuance of the Third Report. Overall, under the Interim Hiring Policy, the Clerk's Office has initiated 17 postings involving 13 Non-Exempt

¹² For the AOD hire, the Clerk utilized a list of Candidates who had been interviewed and ranked when the AOD positions were originally posted in late 2020/early 2021. The CCCA did not have any concerns with this hire; however, as noted below, certain documentation regarding AOD hiring sequences remains outstanding. *See below* at 26-28.

¹³ This was for the Director of Training posting noted above at 14-16. This hiring process was suspended by the Clerk's Office while the Clerk and CCCA investigated concerns related to a Conflict-of-Interest inquiry so no further analysis of this sequence is included in this report.

Positions¹⁴ and submitted draft job descriptions and/or draft postings for three others. The Clerk has completed three of the 17 posted hiring sequences. The others have encountered roadblocks during the review of applications and have stagnated with the Clerk as they attempt to address process issues and deal with turnover in HR.¹⁵

On November 18, the CCCA provided feedback on the three hiring sequences under the Interim Hiring Policy the Clerk completed: (1) Election Technology Engineering Manager (“ETEM”)¹⁶, (2) Field Coordinator, and (3) GIS Chief Analyst. The feedback (as well as prior feedback given earlier in the hiring sequences) included:

- Lack of understanding of the initial steps of the hiring process. The CCCA consistently provided detailed guidance to HR during its efforts to draft the various Applicant and eligibility lists required by the Policy. Issues included HR skipping required steps, not referencing the applicable Policy, validating under Minimum Qualifications different from those on the posting and, at one point, admitting it was unsure which Policy was operative. Most of these issues persisted until the Deputy Chief of Staff’s assignment to HR began.

¹⁴ Three Positions posted in March - Vital Records Clerk V, GIS Specialist and Elections Support Clerk - never reached conclusion of the respective hiring sequences. The job description for GIS Specialist was revised and posted as GIS Chief Analyst, Elections Support Clerk V was revised and posted as Clerk V – Elections Data Unit, and Vital Records Clerk V was revised and re-posted without a title change. Additionally, Field Coordinator was re-posted after a vacancy remained following the conclusion of the hiring sequence.

¹⁵ Additionally, in her Third Report, the CCCA relayed concerns regarding the Clerk’s continued retention of seasonal election workers and the lack of any written process for the same. On November 15, the Clerk identified six total “remaining seasonal workers,” three of whom have since been terminated and one of whom received a permanent position via a Memorandum of Understanding with the Union, and the other two remain employed. The CCCA will provide further updates on these “remaining” seasonal workers in her next report. Relatedly, the Clerk notified the Court that it will procure the services of a third-party vendor to supply the elections employees it needs in the future. *See* Dkt. 7611 at 17:14-19:11. The Clerk said that standard disclosures for the vendor would be present in any contract, including the prohibition for hiring based on discriminatory factors such as politics. The Deputy Clerk of Elections would not confirm, however, what the scope of the Clerk’s influence on the hires would be, citing a “challenging environment” where a vendor is not likely to “come in and immediately be able to fill 100 percent of our needs” in obtaining the type of elections workers desired, and expressing the ambition to “cast the widest net” to achieve that goal. *Id* at 22:12-23:13. The Deputy Chief of staff clarified, stating that the Clerk “would not be actively steering particular employees or individuals to the vendor.” *Id* at 24:3-8. The Clerk has not provided any further updates since the October status.

¹⁶ The ETEM hiring process was completed shortly before the CCCA issued her Third Report.

- Lack of production of No Political Consideration Certifications (“NPCC”). A NPCC “must accompany or be included on forms relating to any Employment Action.” *See* Interim Hiring Policy § 1.2. The language was not incorporated on any of the forms for the three hiring sequences, and no NPCCs were provided pursuant to two of the hiring sequences. For the remaining position, NPCCs were executed by the Interview Panelists nearly one month after the interviews were concluded, and only provided after the CCCA requested them. NPCCs for the remaining steps of that hiring sequence remain outstanding.
- Failure by interview panelists to explain scores on the Interview Evaluation Forms. Section 1.4(i)(4) of the Interim Hiring Policy requires that “[a]ll scores must be explained by the interviewer on his or her Interview Evaluation Form.” A review of the forms yielded many examples where the panelists did not provide clear, or sometimes any, explanations for their scores. The CCCA reported previously on this issue, *see* Second Report at 25-26, and reiterated this concern within training feedback to the Clerk.
- Failure to provide complete Posting Files. The CCCA has yet to receive complete Posting Files for all three positions as required by Section 1.4(m) of the Interim Policy. The Posting Files are required to be provided at the conclusion of the hiring sequence. The Clerk’s Office has not provided Posting Files for two hiring sequences that concluded on July 16 (ETEM) and August 6 (Field Coordinator), respectively. The Posting Files are needed to confirm the Clerk executed the proper NPCCs, completed a Justification to Hire Form, included the required documentation from the Ranking Meetings and verified that the selected Candidates possess all the required educational and/or certification credentials. Given the Clerk hired several employees in the AOD process who ultimately were unable to verify (or admitted to not) possessing the minimum education credentials, this last concern is not academic.

In her November 18 feedback, the CCCA requested the Clerk provide her with the missing Posting File documents by December 2. None has been provided to date.

The other in-process Interim Hiring Policy sequences have stagnated prior to the interview stage. Concerns noted by the CCCA included: HR constructing inaccurate Applicant Lists, and incorrectly validating and sorting Applicants based on Preferred

Qualifications in accordance with the policy.¹⁷ As noted previously, the assignment of Mr. Gleffe to assist HR helped slow additional policy noncompliance from HR. The CCCA will report more fully on these hiring sequences after their completion.

Given the Clerk's recent rollout of its Amended Manual, future reports will focus on the Clerk's adherence to the hiring processes in the Amended Manual.¹⁸ At present, the CCCA encourages the Clerk to consider the CCCA's feedback on the Clerk's compliance with the AOD and Interim Hiring Policies and conduct meaningful training of HR on the Amended Manual hiring policies so prior violations are less likely to recur.

d. Performance Management

In the Third Report, the CCCA detailed the myriad issues resulting from the Clerk's utilization of a revised Performance Management Policy that was unilaterally finalized by the Clerk, and the hasty training that preceded its finalization. *See* Third Report at 18-20. Since the Third Report, the Clerk issued three performance evaluations pursuant to the Performance Management Policy.¹⁹ The evaluations were issued timely and the one

¹⁷ The CCCA also identified numerous circumstances where Applicants did not appear to answer a Disqualifying or Prescreening Question. When this issue was encountered previously during the AOD Hiring Process, the Clerk determined that an Applicant would not be given credit for the answer, resulting in ineligibility for unanswered Disqualifying Questions. Given one posting had over 100 Applicants without answers to Disqualifying Questions, the CCCA raised the issue with Deputy Chief of Staff who agreed to review the matter. He found that for many Applicants who applied via a popular social media portal, the Disqualifying and Prescreening Questions did not populate for them – meaning they were not asked (and did not have the opportunity to answer) the questions. The Clerk reached out to its online application provider and resolved the issue, but many Applicants were negatively impacted prior to the fix.

¹⁸ One anticipated exception concerns the March 2021 Director of HR hire which was under the Interim Hiring Policy. The CCCA discussed concerns with this hiring sequence during a subsequent Court status, *see* Apr. 13, 2021 Hr'g Tr. at 6:18 – 8:17 (Dkt. 7379); however, given it is now the subject of an ongoing investigation, she will include her analysis of the sequence in a separate report after the investigation is completed.

¹⁹ The Performance Management Policy in the Amended Manual is substantially the same as the stand-alone policy developed previously. Therefore, despite the Clerk still training employees on

evaluation drafted by the Recording Operations Legal Counsel was in-depth and included the required written explanations for each score and category; however, the process followed for the three evaluations did not adhere to the Policy as follows:

- None was preceded by the required “Milestone Meetings” (meant to convey performance expectations and the evaluation process to probationary employees in the first 30 days of employment). Amended Manual § VI.G.1.
- None included the required “Check-in meetings” (designed to provide probationary Employees with interim feedback on their performance before the 60th day of the probationary period.) *Id.*
- The CCCA was not copied on any emails confirming the internal review of the evaluations or provided notice of any meetings regarding the same (as required by the policy) and therefore cannot verify that the three evaluations complied with the requirement that “[t]he Immediate Manager of the Manager who prepared the Performance Evaluation Form shall review [the evaluation] . . . and raise any questions or concerns with the evaluation via email, in-person or telephonic meeting.” *Id.* § VI.G.3.
- One evaluation included an outdated evaluation form, resulting in the Employee being reviewed in categories that other Clerk Employees, including those in the same job title, were not.
- The written feedback in two of the evaluations did not comply with the Policy’s requirement that “[f]or each score that is provided, the Manager completing the Performance Evaluation Form must provide a written explanation for why the Manager is giving a particular score in each category.” *Id.* at G.2.

The CCCA believes that more effective Supervisor Performance Management training could remedy these issues.

e. Discipline Monitoring

In her Third Report, the CCCA noted that while the Clerk made some improvements addressing disciplinary matters, areas of concern remained including

the Amended Manual, the CCCA will reference the Performance Management Policy in the Amended Manual here.

consistent application and enforcement of the Discipline Policy, and proper documentation of the same. Third Report at 20 – 22. Since the Third Report, the Clerk’s notice of disciplinary proceedings to the CCCA continues to be timely; however, disparate and inconsistent application of the Discipline Policy continues to be a serious concern. Issues with insufficient documentation have also persisted. Some of the issues the CCCA has observed (and provided feedback to the Clerk) pertaining to discipline are below as is discussion of a termination the Clerk did not provide the CCCA timely notice of and about which questions remain unanswered.²⁰

- As noted in the Third Report, the Clerk held Pre-Disciplinary Hearings in June for 10 employees for failure to complete Security Mentor Training (“Security Training”) in a timely manner. Third Report at 21. Despite being similarly situated, some of the Employees were disciplined, and some received a warning. *Id.* Additionally, dispositions for three other employees for whom hearings were held on the same infractions are still outstanding – five months later. Yet another employee did not show up to the hearing and it was never rescheduled. This is a violation of Section 2.3 of the Clerk’s 2020 Manual which requires that discipline be documented and processed in a “timely” manner. *See* 2020 Manual at 16.
- Sections 2.3(c) and (f) of the 2020 Manual require the Clerk to provide an Incident Docket Sheet tracking the progress of the incident throughout the process. Manual at 16-17. Yet this form remains outstanding in most instances of discipline issued by the Clerk and is often only provided to the CCCA upon request (rather than provided as a matter of course).
- The Clerk has issued discipline inconsistently to employees accused of committing the same infractions without clear, or sometimes any, explanation for the inconsistent treatment. For example, the Clerk had disciplined only two employees for working unauthorized overtime despite a CCCA audit showing this issue is rampant amongst dozens of employees. The first instance of discipline for this violation was brought as a Minor Cause Infraction for which the employee received a written reprimand. Months later, a second employee was disciplined for the same infraction and was charged with a major cause violation (but issued only a verbal reprimand). Despite inquiry from the CCCA, the Clerk has not explained the inconsistent treatment of these two employees

²⁰ The CCCA also monitored a disciplinary process concerning a violation of the Clerk’s dual employment policy. The CCCA is currently engaged with the Chief Ethics Officer on follow-up questions on that matter and will report on the same in her next report, as necessary.

or explained why other employees have escaped discipline altogether for apparently committing the same infraction.

(1) *Procedural deficiencies in termination of Employee*

On August 9, the Clerk terminated a Non-Exempt, Non-Union Employee without providing notice to the CCCA of the Employment Action. After the Clerk alerted the CCCA that it would like to fill the new vacancy, the CCCA asked HR how the vacancy arose. Only at that point did the Clerk notify the CCCA of the termination, in the form of providing the termination notice with no accompanying details.²¹ Given the paucity of information, on August 19, the CCCA requested clarity on the reasoning and procedures related to the termination. After being prompted by CCCA follow-up, the former Deputy of HR provided limited and vague responses. The CCCA sent additional follow-up questions on September 21. The Clerk did not respond and the CCCA followed up on October 20. The Clerk's Office provided partial responses on October 28; however, it said it was unable to answer the CCCA's questions about the former Deputy Clerk of HR's role in the termination as she had been terminated the week prior.

Altogether, the Clerk's responses painted the following picture: the Clerk's Office did not conduct any investigation prior to terminating the employee, but rather the former Deputy Clerk of HR "strongly relied" on the Director of HR's "first-hand account" of the incident as well as the Employee's previous verbal altercations with co-workers and Deputy Clerk.²² The Director of HR informed the CCCA that she did not have any "first-

²¹ The Director of HR's termination letter to the employee lists CCCA Counsel as a carbon copy; however, the letter was not provided to CCCA Counsel or any other member of the CCCA's staff prior to the CCCA's post-termination inquiry.

²² The Employee received separate Disciplinary Action Forms (DAFs) on May 25 and 26, relating to alleged incidents between co-workers, including the co-worker from the August 5 incident. The Employee was cited with two Major Cause Infractions on the May 25 DAF: (1) Fighting or

hand account” of the alleged incident and, moreover, did not document what she had learned of the incident via discussions with the involved Employees and witnesses. The Clerk’s Office also provided the names of four Security personnel (and written statements from two of them) although none of whom had personally witnessed the altercation. The written statements were dated August 20 – which was 11 days after the termination. Left unanswered are the CCCA’s question of why notice of the termination was not timely provided and why she was not provided an opportunity to monitor deliberations leading up to the termination.

The CCCA is concerned with the Clerk’s failure to provide the CCCA the opportunity to monitor the termination deliberations and issuance as well as its disparate handling of this matter in relation to prior similar allegations against the same employee. While the 2020 Manual allows for the termination of an at-will employee for any legal reason, it does not inoculate the Clerk from its obligation to notify the CCCA of Employment Actions and provide the opportunity to monitor the same. Not providing the CCCA the opportunity to monitor deliberations resulting in the termination of a Non-Exempt employee raises serious concerns with transparency and whether improper factors were at play. Additionally, the Clerk’s documentation of the Employment Action was lacking and was handled differently than when similar allegations had been levied against the same employee months prior. In addressing those prior allegations, the Clerk took over

Disruptive Behavior; and (2) Intimidation. The Employee was cited with the same Major Cause Infractions on the May 26 DAF, as well as two others: (1) Harassment and (2) Gross Insubordination. A Pre-Disciplinary Hearing on both DAFs was held on June 17, but decisions were not rendered until August 4. Both infractions on the May 25 DAF were dismissed, but counseling was recommended. Three of the four infractions on the May 26 DAF were dismissed. The fourth, Gross insubordination, was sustained for refusing to follow a directive. The Employee was issued a Verbal Reprimand. The Counseling was never provided.

six weeks to render decisions after the associated Pre-Disciplinary Hearings and ultimately dismissed all but one of the six charges. Given that for the August allegations, the Clerk chose to eschew past practice, declined to utilize available options such as an Emergency Suspension (*see* Manual § 2.4) while it investigated the allegations, prevented the CCCA from monitoring the Employment Action, did not timely respond to the CCCA's questions, and ultimately provided incomplete responses, the CCCA has serious concerns with HR's actions in connection with this termination. While the CCCA does not have any reason at this time to believe the termination was motivated by Political Reasons or Factors, it is not difficult to see how such factors could easily impact a termination when HR acts as it did here.

Based on the above, the CCCA does not believe the Clerk has demonstrated effective compliance with its Discipline Policy.

f. Training

As noted above, the Clerk recently rolled out its Amended Manual training but the CCCA has concerns with whether the training will be effective. *See above* at 6. Still outstanding are required trainings for the following groups: HR Personnel, Supervisors and Interviewers. Amended Manual § IV.C. The CCCA encourages the Clerk's Office to develop these outstanding trainings soon because – if done well – they should help the Office implement the Amended Manual smoothly, bringing a durable remedy much closer to hand.

g. Temporary Assignments

In the Third Report, the CCCA detailed feedback to the Clerk that identified procedural deficiencies in relation to the draft Temporary Assignment (“TA”) Policy

regarding nine TAs initiated by the Clerk. Third Report at 23. The draft TA Policy was utilized by the Clerk due to the lack of a formal TA Policy in the 2020 Manual. The feedback noted, among other issues, a lack of written support for why Employees were selected over others, the absence of the specific Position Title the Employees were being temporarily assigned to, and a lack of proper notice of the TA to the Employees.²³ *Id.* Since the Third Report, the Clerk initiated three TAs that improved upon previous submissions but still had compliance issues.

The three TAs cited various components of the draft policy in its notice – which was an improvement from earlier TAs. While the Clerk provided notice of the requested TAs, the Clerk had not notified the CCCA whether the TAs began and, if they did, if the Supervisor held the required meeting with the assigned employee. Amended Manual § VIII.E.1. Last week, the Clerk informed that two of the three Temporary Assignments never commenced. The third one started on November 8 and the Director of HR held the required meeting with the employee but did not provide the CCCA the opportunity to monitor the same as the Policy requires. Amended Manual § VIII.E.1.

h. Time and Attendance

In her Third Report, the CCCA referenced a partial Time and Attendance audit the CCCA issued to the Clerk on May 24 that detailed many ways in which the Clerk's Office was not abiding by the policy's requirements to: (1) memorialize altered work schedules, (2) discipline employees with three or more tardies in a calendar month (including some with over 20 instances of tardiness in a calendar month) (3) discipline employees

²³ The CCCA also noted that the Clerk had yet to respond to this feedback. The feedback was initially provided on June 28. The CCCA followed up on September 1, requesting specific responses to the issues raised and questions posed. The former Deputy Clerk of HR responded later that day saying none of the planned TAs ultimately took effect.

responsible for (seemingly over 7400 hours of) unauthorized overtime worked in 2021, (4) hold employees accountable for the utilization of benefit time outside of policy parameters and (5) discipline employees for failing to swipe in or out. Third Report at 24. To date, the CCCA has not received a response from the Clerk and the noncompliance cited remains at issue. Based on the foregoing, the CCCA does not believe the Clerk has demonstrated substantial compliance with its Time and Attendance Policy but will monitor the Clerk's implementation of its Amended Manual.

C. Recommend Policies Concerning Solicitation of Political Donations

The third task assigned to the CCCA in the Appointment Order is to "recommend policies to govern the solicitation of political donations or support and the reporting of any such solicitations." Appointment Order at 42. As previously reported by the CCCA, the Clerk's Amended Manual adopts the Cook County's policy on political solicitations as found in the County's Ethics Ordinance; (2) requires Employees to report violations of the same only to the OIIG or County Ethics Board (consistent with the Ethics Ordinance) and (3) allows Employees (at their discretion) to report such allegations to the Clerk's Chief Ethics Officer. Third Report at 25. The CCCA will monitor implementation of this new policy and report on the same.

D. Review Hiring-Related Aspects of the Assumption of the Recorder's Duties into the Clerk's Office

The fourth task assigned to the CCCA is to "review the incorporation of the Recorder's Office into the County Clerk, to determine, among other things, whether political considerations are improperly used in deciding which Recorder's Office non-exempt employees are retained by the County Clerk." Appointment Order at 42. The CCCA previously reported on the Clerk's non-compliance with the process developed to

govern this hiring activity (the “AOD Plan”).²⁴ In the Third Report, the CCCA described the delay of, and deficiencies within, the Clerk’s production of hiring related documentation (the “Posting Files”) which is required to be delivered “at the conclusion of a hiring process.” Third Report at 26-28 (citing AOD Plan §IV.X). Highlighted amid the deficiencies was the failure to produce No Unlawful Consideration Certifications (“NUCCs”) and missing educational and license/certification verification for 16 AOD hires. *Id.*

Since the Third Report, the Clerk received (and provided to the CCCA) satisfactory documentation for eight of the 16 AOD hires. Four hires were either terminated or had resigned prior to fully providing the required documents, and one Employee acknowledged they did not possess the bachelor’s degree indicated in their submission. The Clerk terminated this Employee for falsifying an employment record. The documentation for the three other Employees remains outstanding. Additionally, as noted above, the Clerk has hired one other Employee pursuant to the AOD process since the Third Report. Verification of the required credentials remains outstanding for this most recent hire as well (despite the employee starting employment on August 2, 2021).

While the partial production of the required documentation verifies that the hires possess the qualifications they were credited for, it did not cure all outstanding non-compliance with the AOD Policy.²⁵ As the CCCA pointed out in March 2021 feedback to the Clerk, the Posting Files were deficient in several other ways. These deficiencies impact

²⁴ Namely that the Clerk (and outside vendor) relied heavily on the CCCA for issue spotting, guidance and recommended course corrections. *See* Second Report at 19-27.

²⁵ The CCCA notes that verifying credential documentation was to be procured by the Clerk “prior to [the employees’] start date.” AOD Plan § IV.W. Any Candidate who did not provide the documentation in that timeframe was to be “deemed disqualified for the position.” *Id.*

transparency in that it makes difficult to determine the factors that led to Applicants advancing or being removed from the process, especially as time elapses from the conclusion of the hiring sequences. Some, but not all, of the additional issues include:

- Some Posting Files do not contain the most recent and accurate Validated Eligibility List and/or Sorted Preliminary Eligibility Lists. These lists detail the order that Applicants are reviewed; verification of whether the Applicant meets the Minimum Qualifications and any Preferred Qualifications; and the order eligible Candidates will be selected for interview.
- Regarding offers for interview (*see* AOD Plan § IV.Q.2) and offers of employment (*id.* § IV.T), multiple Posting Files did not contain the required copies of correspondence verifying one or more of the following: (1) the offer itself; (2) the acceptance of the offer; (3) the declination of the offer.
- None of the Posting Files contained the applications and resumes of the Candidates on the Interview List (*Id.* § IV.O.2 in conjunction with § IV.X.)
- NUCCs remain outstanding for several hiring sequences. Third Report at 28.
- Finally, the Clerk has not yet remedied the organizational structure issues within AOD Positions noted in the Third Report²⁶, and remains in noncompliance with its Manual given several employees are not working within the Job Descriptions into which they were hired.

The CCCA notes the above continued non-compliance so the record on the Clerk's compliance with its AOD Hiring Process is clear but recognizes that with the rollout of the Amended Manual, the AOD Hiring Process will not be used again (even for Positions that were created under the Clerk's assumption of the Recorder's duties). Nevertheless, the CCCA believes the Clerk should still correct certain outstanding deficiencies that impact current employees' eligibility and job scope and/or directly implicate whether the AOD hiring processes were impacted by Unlawful Political Discrimination. To that end, the CCCA recommends the Clerk: (1) make final determinations on the four employees hired

²⁶ *See* Third Report at 30-32, describing at least one Assistant Manager, and two IT Employees carrying out duties that do not comport with the Job Descriptions to which they were hired.

under the AOD process who have still not yet provided clear confirmation they have the educational credentials required for their Positions; (2) address the issue with the employees in Recording Operations not working within their hired positions; and (3) secure the missing NUCCs from those involved in the AOD hiring process.

E. Recommendations for Remedies of Discovered Violations of the Consent Orders

The final task assigned to the CCCA in the Appointment Order is to “make recommendations as to how to remedy any violations of the Consent Orders that she might find in conducting the foregoing activities.” Since the Third Report, the CCCA has provided the Clerk with feedback on its adherence to its AOD and Interim Hiring Policies as well as various employment policies in its 2020 Manual. The CCCA also provided extensive feedback on the Clerk’s draft training presentation for the Amended Manual. The CCCA’s feedback is focused on helping the Clerk’s Office identify noncompliance with its policies, craft ways to address that noncompliance, and, where appropriate, consider policy amendments. The Clerk has improved its responsiveness to the CCCA’s feedback and questions although, as noted above, significant feedback remains outstanding while other feedback (particularly concerning the Amended Manual training presentation) was not adopted by the Clerk in significant ways. The CCCA appreciates the efforts of the Deputy Chief of Staff and Chief Ethics Officer to improve the Clerk’s responsiveness to the CCCA’s feedback and recommendations and hopes responsiveness continues to trend positively under the new HR leadership.

III. Conclusion

The Clerk still has substantial work ahead given the significant delays in the Clerk amending its Manual and training its employees on the same, as well as the recent shakeup

in HR leadership. To address the first and fourth prongs of the Appointment Order, the CCCA recommends the Clerk (1) file a comprehensive agreed Exempt List with the Court and finalize Job Descriptions for all Positions on the Exempt List and (2) cure the outstanding issues with the AOD hiring process noted above. The bulk of the Clerk's efforts should be focused on developing a robust HR department and demonstrating consistent adherence to and enforcement of its Amended Manual. The CCCA encourages the Clerk – and its HR department – to focus on developing the remaining Manual-required training presentations so employees of all levels are given the tools and expertise necessary to properly implement and abide by the Amended Manual. The CCCA will continue to work with the Clerk on all issues raised above and will file interim reports on the ongoing investigations when they are completed.

Respectfully Submitted,

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