

## SUPERVISORY STATUS ANALYSIS

Careful preparation is critical to a successful strategy to counter a union organizing campaign. In light of recent National Labor Relations Board decisions, likely passage of the “RESPECT Act” and a clear trend toward expedited union elections, early preparation is now more important than ever.

IRI’s Supervisory Status Analysis is a proactive determination of which employees would be classified as a “supervisor,” and an essential part of an organization’s comprehensive labor preparedness program.

The National Labor Relations Act (NLRA) defines a "supervisor" as an employee with the authority to "hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or to responsibly direct them, or to adjust their grievances, or effectively to recommend such action." These criteria apply if a supervisor’s authority requires the use of "independent judgment.”

The NLRB’s Kentucky River and Oakwood decisions clarified the definition of “supervisor.” But a more dramatic shift will be passage of the union-backed RESPECT Act (Re-Empowerment of Skilled and Professional Employees and Construction Tradeworkers). This bill would limit which workers can be classified as supervisors and therefore ineligible as union members under a collective bargaining agreement.

Through the RESPECT Act and other challenges to current law, labor’s goal is to strictly narrow the definition of “supervisor” in order to expand the pool of employees eligible to vote in a union representation election.

Our Supervisory Status Analysis is a process in which we work closely with Human Resources to review written job descriptions and responsibilities to ensure that supervisory duties are clearly and adequately defined to comply with NLRB guidelines. The analysis then goes beyond the HR manual and job description, using interviews to identify what an employee in a particular position actually does and the work they perform in that role.

As part of this Supervisory Status Analysis, IRI structures and conducts supervisor interviews – or, alternately, trains clients’ HR professionals in the process -- to review the full range of their responsibilities, document their authorities that qualify under NLRA criteria for a “supervisor,” and establish their use of independent judgment.

These interviews are designed to document each supervisor’s:

- Hours
- Compensation

- Position in the staffing structure
- Number of direct reports
- Job responsibilities
- Accountability
- Autonomy
- Acting authority
- Disciplinary authority
- Managerial duties

We then provide an analysis based on past cases, legal precedent and past union challenges to determine how a hospital can build the strongest case and protect the supervisory status of its key managerial employees.

### ***BUILDING A FOUNDATION FOR A STRONG CASE***

The Supervisory Status Analysis lays important groundwork for any organization facing a potential union organizing campaign, either in preparation for an NLRB hearing under current law, or the kind of rapid-fire campaign and voting process that might be the standard if labor law is changed, as expected, to include provisions for expedited elections. Additionally, the process presents organizations with what may be a limited opportunity before the law changes to strengthen job descriptions and duties for supervisors and train them as valuable members of the management team.



#### ***CONTACT IRI CONSULTANTS TODAY***

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