UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

PRESCHOOL OF AMERICA, INC.
Employer

and Case 2-RC-23509

COMMUNITY AND SOCIAL AGENCY
EMPLOYEES' UNION, DISTRICT COUNCIL
1707, AFSCME, AFL-CIO
Petitioner

ORDER

Employer's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.[1]

WILMA B. LIEBMAN, CHAIRMAN

CRAIG BECKER, MEMBER

BRIAN E. HAYES, MEMBER

Dated, Washington, D.C., September 22, 2010.

[1] The Employer contends, among other things, that Article 47 of the New York State Health Code mandates that assistant teachers be supervised, and therefore that the Head Teachers are supervisors. For the following reasons we reject that contention. First and foremost, the Employer offered no argument or authority for the proposition that the term "supervision" has the same meaning under the Code as under the National Labor Relations Act. Second, under Code Section 47.01(b), an assistant teacher's supervisor may be the facility director and need not be the head teacher in the classroom. Third, although Section 47.01(i) defines "group teacher," which the Employer contends is the legal status of its Head Teachers, as "a person who ... is responsible for planning and supervising age appropriate activities for a given group of children," the most natural reading of that language is that the group teacher "supervises," i.e., oversees, the children, not that the group teacher supervises an assistant teacher. See Section 47.23. Fourth and finally, the Employer made no showing that it is, in fact, complying with the New York State Health Code. For those reasons, as well as those relied upon by the Regional Director, we decline to grant review.