

BEFORE THE
NATIONAL LABOR RELATIONS BOARD

<p>In the Matter of:</p> <p>TRUSTEES OF THE UNIVERSITY OF PENNSYLVANIA,</p> <p style="text-align: center;">Employer,</p> <p>And</p> <p>GRADUATE EMPLOYEES TOGETHER-UNIVERSITY OF PENNSYLVANIA (GET-UP), a/w AMERICAN FEDERATION OF TEACHERS,</p> <p style="text-align: center;">Petitioner.</p>	<p>Case No. 04-RC-199609</p>
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The above-entitled matter came on for hearing pursuant to Notice before MARY R. LEACH, Hearing Officer, at the National Labor Relations Board, Region 4, 615 Chestnut Street, Philadelphia, Pennsylvania, 19106, in Hearing Room 3, on Wednesday, June 14, 2017, at 9:00 a.m.

A P P E A R A N C E S

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I N D E X

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	<u>EXHIBITS</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>
1		<u>E X H I B I T S</u>	
2			
3	BOARD'S		
4	B-1	6	6
5	B-2	7	7
6	B-3	9	9
7	EMPLOYER'S		
8	E-1	22	22
9	E-2	45	56
10	E-3	55	95
11	E-4	95	99
12	PETITIONER'S		
13	P-1	119	120
14	P-2	125	127
15	P-3	136	137
16	P-4	137	139
17	P-5	139	143
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P R O C E E D I N G S

(Time Noted: 10:15 a.m.)

HEARING OFFICER LEACH: On the record.

The hearing will be in order. This is a formal hearing in the matter of the Trustees of the University of Pennsylvania, Case Number 04-RC-199609, before the National Labor Relations Board. The hearing officer appearing for the National Labor Relations Board is Mary R. Leach, L-E-A-C-H.

All parties have been informed of the procedures at formal hearings before the Board by service of a description of procedures in certification and decertification cases with the notice of hearing. I have additional copies of this document if it's needed.

I would now like the attorneys to introduce themselves. For the Petitioner?

MS. ROSENBERGER: Yes, Amy Rosenberger of Willig, Williams, and Davidson. And with me today is my law partner, Lauren Hoyer.

HEARING OFFICER TYCE: Okay. And for the Employer?

MR. JOHNS: Daniel Johns, David Fryman, and Meredith Dante from the firm of Ballard Spahr on behalf of the Trustees of the University of Pennsylvania.

HEARING OFFICER LEACH: Are there any other appearances?

(No response.)

HEARING OFFICER LEACH: Let the record show no response.

1 Are there any other persons, parties, or labor
2 organizations in the hearing room who claim an interest in this
3 proceeding?

4 (No response.)

5 HEARING OFFICER LEACH: Let the record show no response.

6 Now I will propose to receive the formal papers. The
7 parties have reviewed them. Are there any objections to
8 receiving the formal papers into evidence? From the Employer?

9 (Board's B-1 identified.)

10 MR. JOHNS: No objection.

11 HEARING OFFICER LEACH: From the Petitioner?

12 MS. ROSENBERGER: No objection.

13 HEARING OFFICER LEACH: The formal papers are received.
14 I'll pick them up in a moment.

15 (Board's B-1 received.)

16 HEARING OFFICER LEACH: Are there any motions to intervene
17 in these proceedings to be submitted to the hearing officer for
18 ruling by the regional director at this time? No response.

19 Are the parties aware of any other employers or labor
20 organizations that have an interest in this proceeding? No
21 response.

22 Are there any pre-hearing motions by any party that need
23 to be addressed at this time? No response.

24 Okay. Now the parties have reviewed Board Exhibit 2 and I
25 believe everybody has signed off on it, so I would like to

1 admit Board Exhibit 2 into evidence.

2 (Board's B-2 identified.)

3 HEARING OFFICER LEACH: Is there any objection from the
4 Employer?

5 MR. JOHNS: No objection. Is that -- I'm assuming that's
6 the stipulation, Board Exhibit 2?

7 HEARING OFFICER LEACH: Yes.

8 MR. JOHNS: Yeah, no objection.

9 HEARING OFFICER LEACH: From the Petitioner?

10 MS. ROSENBERGER: No objection.

11 HEARING OFFICER LEACH: Board Exhibit 2 is received.

12 (Board's B-2 received.)

13 HEARING OFFICER LEACH: Okay, Board Exhibit 2 is received.
14 As far as jurisdiction is concerned, I understand that there is
15 an issue there so I will allow the parties to address that when
16 they give their opening statement -- I'm sorry, I apologize,
17 not jurisdiction. Jurisdiction is okay. Labor organization
18 status, I will allow the parties to discuss that in their
19 opening statement.

20 I also understand that there is an issue with the
21 appropriateness of the unit. I will also allow the parties to
22 discuss that in their opening statement and we'll take evidence
23 on that during this hearing.

24 Are there any petitions pending in other regional offices
25 involving other facilities of the Employer? No, okay.

1 The parties are reminded that prior to the close of the
2 hearing, the hearing officer will solicit the parties'
3 positions on the type, date, time, and location of the
4 election, and the eligibility period including the most recent
5 payroll period ending date and any applicable eligibility
6 formulas, but will not permit litigation of those issues.

7 The hearing officer will also inquire as to the need for
8 foreign language ballots and notices of election. Please have
9 the relevant information with respect to these issues
10 available, at that time.

11 The parties have been advised that the hearing will
12 continue from day to day as necessary until completed, unless
13 the regional director concludes that extraordinary
14 circumstances warrant otherwise.

15 The parties are also advised that upon request they shall
16 be entitled to a reasonable period of time at the close of the
17 hearing for oral argument. Post-hearing briefs shall be filed
18 only upon special permission of the regional director. In
19 addition, a party may offer into evidence a brief memo of
20 points and authorities, case citations, or other legal
21 arguments during the course of the hearing and before the
22 hearing closes.

23 I didn't discuss the brief issue with the regional
24 director so when we get to the end I will discuss that and I'm
25 assuming the parties probably want to file briefs. I don't

1 anticipate that being an issue, but we'll discuss it at the
2 end.

3 The Employer has completed and provided a statement of
4 position which I would like to enter into the record. Each
5 party has a copy of it. The statement of position will be
6 Board 3?

7 COURT REPORTER: Yes, ma'am.

8 (Board's B-3 identified.)

9 HEARING OFFICER LEACH: Any objection from the Employer?

10 MR. JOHNS: No objection.

11 HEARING OFFICER LEACH: The Petitioner?

12 MS. ROSENBERGER: No.

13 HEARING OFFICER LEACH: Okay. So Board 3 is entered into
14 evidence, which is the statement of position.

15 (Board's B-3 received.)

16 HEARING OFFICER LEACH: I think now would be a good time
17 if the parties want to give their opening statements about the
18 issues to be discussed. For the Employer?

19 MR. JOHNS: Thank you, Madam Hearing Officer. I think
20 it's clear from the statement of position that was submitted
21 yesterday by the University that it's the University's position
22 that the petition should be dismissed because the Union here,
23 Get-Up, in this instance, seeks to represent students and not
24 employees within the meaning of the National Labor Relations
25 Act.

1 Hence, students come to the University and I'll say now
2 I'm going to say Penn, I'm going to say university talking
3 about the University of Pennsylvania, in this specific instance
4 the trustees. But we admit our students as students, not as
5 employees. They come to Penn because of their academic
6 interests and they come to Penn to get academic degrees. In
7 this particular instance that could be masters degrees, but for
8 the most part I think we're talking about PhD students who come
9 to get an advanced degree in their field and who often then
10 leave the University to go onto careers in academia and in
11 research.

12 During the time that those students are here, they are
13 trained in many things both with respect to the discipline that
14 they study, as well as trained in how to be teachers as they
15 move on and how to perform academic research. These, Madam
16 Hearing Officer, are clearly students and not employees within
17 the meaning of the Act.

18 Now we have both legal reasons for submitting that and
19 factual reasons. Legally, we have preserved and do not intend
20 to litigate here that *Columbia* was wrongly decided. As you
21 know from our statement of position we have preserved that
22 issue. However, we do believe and there will be evidence
23 presented that Penn students are different from the students in
24 *Columbia*. And *Columbia*, I should add, is not a case in which
25 it decided that there is a presumption that graduate students

1 are employees. It basically said if they meet the common law
2 test of employment status then they may be considered employees
3 despite the fact that they are students. It's our position
4 that Penn students do not meet that common law test to be
5 employees.

6 And among other things, we believe that the students here
7 and you'll hear evidence to this effect are students and not
8 employees for various reasons. First, we admit these students
9 with financial aid. They are not receiving compensation in
10 exchange for services. They are admitted with financial aid
11 packages. Many times they are here just on stipends, tuition,
12 remission, as well as health insurance, with no services
13 whatsoever expected in exchange for that.

14 In some instances, as I said before, they may serve and be
15 teaching assistants or teaching fellows, research assistants or
16 research fellows. Within those positions though they are in
17 those positions both because they are students and learning how
18 to teach and research, and also in some instances as a
19 condition of their funding package. But, it doesn't change the
20 fact that they are students in those positions.

21 You'll hearing evidence throughout this hearing I believe
22 that these students are oftentimes teaching as part of an
23 academic requirement. You will hear evidence with respect to
24 research, a lot of evidence to this effect that when students
25 work in research labs of faculty members they are working in

1 those labs side by side with faculty members on research
2 projects that ultimately result in their dissertation. They
3 are learning how to be researchers and they are performing
4 research that ultimately results in the academic degree that
5 they earn at the University. As I said, these are students and
6 not employees within the meaning of the Act.

7 Again with respect to differences with *Columbia*, Penn does
8 not control the teaching activities of graduate students by
9 removing them for unsatisfactory performance. That doesn't
10 happen. Penn graduate students do not spend significant
11 amounts of time serving the undergraduate population, as was
12 the finding in the *Columbia* decision. And as I said, teaching
13 is an integral part of what they are at the University to
14 learn, which is to learn the discipline and to learn and be
15 trained to move onto careers in academia, and to move onto
16 careers in research with respect to research students.

17 I might add as well that a lot of times the research being
18 performed in labs often and I would say in many of the cases
19 that you'll hear results in co-published papers between faculty
20 members and students with respect to that research. These are
21 individuals learning how to research and performing research to
22 get their degree, to get their dissertation.

23 So for these reasons, Madam Hearing Officer, we submit
24 that the petition fails to raise the question concerning the
25 representation and the petition should be dismissed as it seeks

1 to organize students and not employees within the meaning of
2 the National Labor Relations Act.

3 Now as you noted and as you said we have the right to
4 address, the petition also raises significant unit issues as
5 well. As I understand the unit and I assume this will become
6 clearer as the Union presents evidence, but as I understand the
7 unit, the unit that the Union here seeks to represent is
8 essentially a unit of some schools at the University that have
9 PhD and master students but not all of them. They essentially
10 are saying we're going to put together and group together seven
11 different schools and say we represent or seek to represent the
12 teaching assistants and teaching fellows, the research
13 assistants and research fellows in these seven schools.

14 However, Madam Hearing Officer, they have excluded two
15 other schools within the University that also have PhD students
16 who have similar job duties, if you're going to call it a job
17 and we submit it is not. But in the Union's instance they are
18 submitting it is. There are people who serve in those schools
19 as teaching and research assistants, teaching fellows and
20 research fellows, and they are doing that with respect to their
21 academic work at the University, no different from the
22 employees to use their term that are sought in the petition.

23 It is our position, Madam Hearing Officer, that this is a
24 classic fractured unit within the meaning of the law. The unit
25 that the Union has cobbled together here is not a unit that's

1 readily identifiable as any sort of group of employees within
2 the University. They have cobbled together the six or seven
3 schools that they believe they have the most support in and
4 have excluded other schools that have precisely people in the
5 same positions with the same duties at the University. As I
6 said that is a classic fractured unit.

7 And I don't think you have to take the University's
8 position to heart to understand that. You can also take the
9 position of the Union in this instance, Get-Up, in they
10 released a public statement with respect to what they were
11 doing here. That statement reads as follows.

12 "Dear members, today Get-Up is filing a petition with the
13 National Labor Relations Board to hold a formal recognition
14 election. Following months of dedicated organizing by over 100
15 activists, a strong majority of graduate student workers
16 support our union. We are excited to take this step towards
17 winning recognition and eventually a contract.

18 "Our petition includes graduate student workers in the
19 Annenberg School for Communication, the School of Arts &
20 Sciences, Biomedical Graduate Studies, the School of Design,
21 the Graduate School of Education, the School of Nursing, and
22 the School of Social Policy & Practice. From the beginning of
23 this campaign, our goal was to build the most inclusive union
24 possible in order to empower graduate student workers across
25 Penn. However, all graduate campaigns are faced with difficult

1 decisions about the composition of the bargaining unit and Get-
2 Up's coordinating committee ultimately decided to leave the
3 School of Engineering and Applied Science, and the Wharton
4 School of Business outside of the bargaining unit in our
5 petition for the recognition election.

6 "This decision which followed extensive deliberation with
7 members from all schools allows us to file from the strongest
8 possible position given our limited time frame. We will
9 continue to organize in SEAS," that's the School of Engineering
10 and Applied Science, "and Wharton, and will pursue
11 opportunities for adding members in these schools to a future
12 contract."

13 It is our position, Madam Hearing Officer, that that is an
14 explicit concession released publicly by the Union that this is
15 a classic fractured unit. They sought to organize these
16 students. They sought to group them initially, decided
17 strategically that they didn't have the support, and now seek
18 to exclude them for no discernible reason that you can tell.
19 These are individuals that have the same types of positions as
20 graduate students as the employees sought in the unit and there
21 is no readily identifiable group that you can identify amongst
22 those schools that are sought that would support a finding that
23 this unit should exclude the Wharton School of Business and the
24 School of Engineering and Applied Science. There simply is no
25 reason under the law by which the Board could hold that that's

1 an appropriate unit.

2 To the extent these individuals are determined to be
3 employees, they share an overwhelming community of interest
4 with the employees that are sought in the petition here. They
5 have very similar job duties. They do very similar things.
6 And you will hear testimony on the record that in some
7 instances there will be students who are in the same lab from
8 engineering as well as from the School of Chemistry, perhaps in
9 other schools in the hard sciences, performing research under a
10 single faculty member, doing the same job side by side in the
11 same lab. Some would be represented, some would not. That,
12 Madam Hearing Officer, is a clear fractured unit within the
13 meaning of the law.

14 It is an arbitrary segment of students they have cobbled
15 together here for strategic reasons in order to attempt to win
16 the election. That should not be countenanced in our position.

17 Now there are other significant unit issues that we have
18 raised in the statement of position that I think bear noting.
19 And I should note just for the record Madam Hearing Officer
20 that I have been referring to the Union because that's
21 typically what you see in these proceedings. I will I'm sure
22 slip into calling them Union. It is our position that this is
23 not a labor organization within the meaning of the Act because
24 of the fact that they represent students and not employees
25 within the meaning of the Act. So I just want to state that

1 for the record as we move forward.

2 Okay. As I said, the petition also raises other serious
3 unit issues with respect to what the Union has sought here.
4 First, it seeks to include students who sit in the
5 classification of educational fellowship recipients as an
6 included classification. Madam Hearing Officer, these are
7 students who are receiving a stipend, tuition, or remission, as
8 well as health insurance, with purely no service requirement at
9 the time they are serving in that position. They are literally
10 students either taking classes or working towards their
11 dissertation with no service requirements to the University at
12 all.

13 There is simply no argument under the law that was
14 established in *Columbia* or in any of the cases through the
15 years that have addressed these issues that individuals who are
16 admitted as students under a funding package, with no
17 responsibilities, no service requirements at all to the
18 University, that they are employees within the meaning of the
19 Act. This is a classification that the Union seeks to add in
20 this particular instance.

21 And we would submit that it is patently inappropriate
22 basically because again it raises directly the employee issue
23 that we put into play with respect to the entire unit, but also
24 because classic community of interest standards would suggest
25 that employees who have none of the same responsibilities

1 whatsoever ought not to be grouped together in the same unit.
2 Educational fellowship recipients are students receiving a
3 financial aid package from the University. They are not
4 employees within the meaning of the law and there is no basis
5 by which they should be included in any bargaining unit being
6 sought by the Petitioner in this case.

7 Another unit issue that I think is significant is that the
8 Union also seeks to include students in a student worker
9 classification. These are students who almost by definition
10 should be excluded on classic community of interest grounds
11 with respect to the students who are in the research assistant,
12 research fellow, teaching assistant, teaching fellow
13 classifications at the University. Why? Well, they serve no
14 sort of job duties whatsoever that have any similarity to the
15 students who are being sought to be organized because they do
16 teaching and research. These could be individuals holding all
17 sorts of other positions around the University working in the
18 athletic department, working in administrative positions, they
19 could be working in a restaurant, or anything like that. These
20 are not individuals who on classic community of interest
21 grounds have a community of interest with these students who
22 are being sought for performing teaching and research duties
23 around the University.

24 Other issues to be litigated I understood as you said
25 Madam Hearing Officer, that you don't want to hear testimony

1 relating to dates and times of the election, however, I would
2 note that under the GC memorandum, I think it's 15-06, the
3 Board can hear testimony and should hear testimony concerning
4 both the issue of whether employees are considered seasonal, as
5 well as whether there is a standard eligibility formula being
6 sought.

7 I believe based on the conversation I had with Ms.
8 Rosenberger before the hearing that the Union won't be
9 necessarily seeking a classic standard eligibility formula in
10 this case, so I think that is an issue that will be litigated.
11 It's the University's position with respect to that issue that
12 we are seeking a standard eligibility formula. Why, because
13 employees who are on the payroll at the time of the payroll
14 eligibility date should get to vote in the election. That's
15 our position. We believe it's totally appropriate under the
16 law and with respect to this situation.

17 What's not appropriate, Madam Hearing Officer, is that
18 there is no payroll eligibility date in this particular
19 instance that would make any sense whatsoever until the fall.
20 There is no rational basis to hold an election here in the
21 summer given what you could characterize as the seasonal
22 operations of the University. We as we sit here are in between
23 academic terms at the University. Students will come back in
24 the fall, re-enroll in the University, and then ultimately fill
25 the positions that the Petitioner here seeks to represent.

1 Until we get to that point in time there is no basis whatsoever
2 for the Board to hold an election at a time when students are
3 not in the area oftentimes. Many of our students travel
4 internationally. Many of our students travel domestically.
5 Many of our students do research all around the world, take
6 internships. They are not here. And as well with respect to
7 that the University has multiple addresses for many students
8 and don't ask students to provide summer addresses. The
9 holding of an election during the summer, in between academic
10 terms would disenfranchise hundreds if not thousands of
11 eligible voters. There has never been an election in a
12 graduate student instance in which that has happened, never.

13 I might add with respect to the eligibility formula, there
14 is -- as well as the manner in which this election would be
15 held, there is a specific track record between these parties.
16 There was obviously a proceeding in 2002, which I know you are
17 well aware of, Ms. Leach, and in that there was an in-person
18 election, manual ballot in that instance. That took place
19 during an academic term. There is simply nothing that would
20 suggest that anything else other than that should happen in
21 this particular instance.

22 And I essentially, Madam Hearing Officer, unless you want
23 me to address anything else, I think that tells you the
24 statement of issues that we intend to present evidence on.
25 Thank you.

1 HEARING OFFICER LEACH: Thank you. I just wonder, the
2 public statement that you read from, where is that?

3 MR. JOHNS: I have it right here if you'd like to look at
4 it.

5 HEARING OFFICER LEACH: We can just -- where is it? Was
6 it from --

7 MR. JOHNS: It was released from Get-Up via the Action
8 Network with the subject line Get-Up files for election with
9 the NLRB.

10 HEARING OFFICER LEACH: Were you planning on submitting
11 that?

12 MR. JOHNS: Yes, we are planning on submitting it. I mean
13 we can do it now. Do you mean right now?

14 HEARING OFFICER LEACH: Um-hum.

15 MR. JOHNS: Yeah, we'll submit it right now, sure.

16 HEARING OFFICER LEACH: Does the Union have any objection
17 to that?

18 MS. ROSENBERGER: Just a moment.

19 HEARING OFFICER LEACH: Do you have copies?

20 MR. JOHNS: We do.

21 HEARING OFFICER LEACH: Oh, wait, we can -- what are you
22 -- what is the --

23 MR. JOHNS: Oh, before I show --

24 MS. ROSENBERGER: You know what, before it gets admitted
25 on the record can I just have my folks review what I'm

1 receiving from Mr. Johns to make sure that it's not --

2 HEARING OFFICER LEACH: Sure. Can we go off the record
3 for a moment?

4 (Off the record from 10:37 a.m. to 10:38 a.m.)

5 HEARING OFFICER LEACH: When the Employer did their
6 opening statement, they discussed a public statement released
7 by the Union and they are going to submit that into evidence as
8 Employer 1? Is that 1?

9 COURT REPORTER: It will be 1.

10 HEARING OFFICER LEACH: 1, okay.

11 (Employer's E-1 identified.)

12 HEARING OFFICER LEACH: Does the Union object?

13 MS. ROSENBERGER: No.

14 HEARING OFFICER LEACH: Employer 1 is received.

15 (Employer's E-1 received.)

16 HEARING OFFICER LEACH: Is the Union ready to provide an
17 opening statement?

18 MS. ROSENBERGER: Yes.

19 HEARING OFFICER LEACH: Okay.

20 MS. ROSENBERGER: And to respond to the points raised in
21 the statement of position.

22 HEARING OFFICER LEACH: Definitely, yes. Okay.

23 MS. ROSENBERGER: So as you will have gathered from Mr.
24 Johns' opening this is not the first -- certainly not the first
25 case involving graduate students and not the first case

1 involving these parties. The issues here are ones that are
2 familiar to the Board and other regions, raised by other
3 university and higher education employers in other cases.

4 On the issue of employee status, as Mr. Johns apparently
5 concedes, the current state of the law is the *Columbia*
6 *University* case from the Board. It is controlling. I
7 understand that the University is going to be preserving an
8 argument that it was wrongly decided. But for purposes of the
9 region, *Columbia* is controlling with regard to what the
10 standard is for determining whether or not the graduate
11 students at issue here are employees within the meaning of the
12 Act. That standard is the common law employee test, do the
13 individuals perform services for the University under the
14 direction and control of the University for compensation?

15 I guess to formally respond to the University's position
16 that *Columbia* was wrongly decided, we disagree and would oppose
17 that argument. But that's really a legal argument. On the
18 facts, we think that there is -- that the record will show that
19 in fact the graduate students that are involved, that are
20 sought to be represented in this petition do satisfy the common
21 law employee test and that *Columbia* is not in fact
22 distinguishable. The purported distinctions advanced by the
23 University in its statement of position and in Mr. Johns'
24 opening statement we don't think will be borne out by the
25 evidence and in any event are not -- to the extent that any of

1 them are, the distinctions are not meaningful in terms of
2 making a difference with respect to application of the common
3 law employee test.

4 The evidence that you'll hear will clearly establish that
5 all of the petitioned-for employees perform instructional and
6 research services to the University. And I will make one
7 exception to that that I'll get to when I address our position
8 on educational fellowship recipients. But for those that
9 perform instructional and research services to the University,
10 they are services to the University. The instructional
11 services are everything you can imagine related to the teaching
12 of classes, classes that other students of the University pay
13 to come to the University to take and receive credit for toward
14 their own degrees. The instructional service includes
15 assisting faculty and actually serving as instructor of record
16 in some cases.

17 The evidence will also show that with regard to research
18 assistants similarly, the research services similarly are under
19 -- are provided for the University, at least that's part of the
20 function of the research service that these individuals provide
21 and advances the University's work in creating new knowledge
22 that serves the educational work of the University.

23 The evidence will also establish that these services are
24 performed under the direction and control of the University.
25 You'll hear that there is everything from instructions about

1 how to engage in the service to dictating the number of hours
2 that -- per week that the graduate students will engage in the
3 service, what tasks they are to perform, and contrary to what
4 the University has stated ramifications if they do not perform
5 satisfactorily.

6 Finally, we believe the evidence will show that they are
7 indeed compensated in return for this work. In many cases
8 particularly with regard to the doctoral students that Mr.
9 Johns referenced, their work -- the service is a condition of
10 the funding that they receive. In other cases where it may not
11 be attached to a doctoral funding package, there are explicit
12 payments of a stipend, or a salary, or an hourly rate for the
13 work that is performed by these graduate students.

14 In short, we think the circumstances of this case on the
15 employee status question are indistinguishable from *Columbia*
16 and so the Petitioner -- the petitioned-for employees should be
17 held to be employees with the one exception that I'm going to
18 make in a moment. And, therefore, with regard to labor
19 organization status, the issue raised by the Employer on labor
20 organization status, it appears that the Employer does not or
21 the University does not contest the fact that the Petitioner is
22 an organization in which the petitioned-for employees
23 participate and that it exists for the purpose in whole or in
24 part of dealing with the University concerning grievances,
25 labor disputes, disputes about the work, the wages, the rates

1 of pay, hours of employment, and conditions of work. The only
2 disputed element of the standard test for labor organization
3 status here is whether the petitioned-for individuals are
4 employees. And as we noted, we believe that the evidence will
5 show that they are.

6 There is one issue that was in the Employer's position
7 statement on employee -- that's related to employee status that
8 Mr. Johns didn't specifically mention in his opening but just
9 to respond to the position statement, the Employer has alleged
10 that these folks are temporary -- if they are employees, they
11 are temporary employees. There is no elaboration on about what
12 basis, so we'll see what evidence the Employer intends to
13 present on that issue. But this is again an issue that was
14 made in the *Columbia* case and rejected under similar facts.

15 Now I mentioned that I was -- have one exception on the
16 employee status. There is one area of partial agreement here
17 and I'm going to try to see if I can explain it in a way that
18 is clear for the record. And it relates to the educational
19 fellowship recipients. There are educational fellowship
20 recipients who have not yet engaged in service to the
21 University. In some cases, there are educational fellowship
22 recipients -- there may be educational fellowship recipients
23 who do not engage in service to the University for the duration
24 of their doctoral program. They would be doctoral candidates
25 or students.

1 If they are not performing service, we agree -- or if they
2 have never performed service, we agree that they would not be
3 in the issue. The issue of -- as I understand based in the
4 conversation that I had with Mr. Johns before the hearing that
5 he mentioned, we also discussed this issue. And I mentioned to
6 him that our position on this issue relates to the folks who
7 have never performed the services. But because of an
8 intermittent nature that you will hear about of the service
9 that is provided by graduate students to the University, as we
10 understand it the Employer is saying any person who is not
11 performing service as of the date of the election should not be
12 included because the work is intermittent. We don't agree with
13 that position.

14 If they've performed work and we think the record will
15 show that there is a reasonable expectation that they will
16 perform work, they may perform work again, due to the
17 intermittent nature of the work then those folks we are not
18 agreeing are excluded. I hope that's clear enough. With
19 regard to the student workers, we believe that the evidence
20 will show they do provide instructional services or research
21 services and so should be in.

22 To the extent that the elimination of the -- some of the
23 educational fellowship recipients reduces the number, we don't
24 know how many people on the Employer's list fit in the group
25 that I just defined as being out. To the extent that it brings

1 the number below, we think it would bring it below about 400 or
2 might, below 20 percent, we should suggest that it would be
3 appropriate to defer ruling on the remainder of those folks
4 until post-election but recognize that that's the regional
5 director's decision to make.

6 With regard to the scope of the unit question raised by
7 the Employer, they are essentially raising a *Specialty*
8 *Healthcare* argument. And under *Specialty Healthcare*, the
9 proposed unit need only be readily identifiable as a group with
10 a community of interest. And if that's the case then the
11 Employer, in order to put more people into the bargaining unit,
12 it is the Employer's burden to show that others outside of the
13 petitioned-for group share an overwhelming community of
14 interest. And the way the *Specialty Healthcare* Board described
15 that was virtual overlap of the traditional community of
16 interest factors with those in the readily identifiable group.
17 It's certainly a higher threshold than merely having a
18 community of interest for if it were not a higher threshold it
19 would make the *Specialty Healthcare* rule meaningless.

20 So the mere fact that individuals in the School of
21 Engineering or in the Wharton School of Business might have a
22 sufficient showing -- a sufficient community of interest with
23 graduate student in the other -- in the petitioned-for schools
24 such that the Union could have petitioned for all of them does
25 not mean that there is an overwhelming community of interest

1 such that the petitioned-for unit is inappropriate.

2 The University has argued that the petitioned-for unit is
3 a fractured unit because it only seeks part of the University
4 or part of/some of the schools, not all of the schools. But
5 the standard under *Specialty Healthcare* is that the dividing
6 lines between the petitioned-for folks and the
7 non-petitioned-for folks is to follow -- one of the ways that
8 that can be determined to be an identifiable group is to follow
9 lines that were established by the Employer. And that's what
10 you will find that the evidence will show here is that the
11 lines that are drawn here are lines that are drawn by the
12 Employer for purposes of graduate -- for purposes of the way
13 that it has decided to create subdivisions within the
14 University for Graduate Programs.

15 So we think the record will show that this is not an
16 arbitrary segment but is a cluster of schools; that those
17 dividing lines are the Employer's organizational structure and
18 they are therefore a readily identifiable group.

19 As to the question of overwhelming community of interest,
20 Mr. Johns mentioned similarity of duties which might be the
21 kind of thing that would go toward determining whether there
22 was a community of interest but it's not sufficient in and of
23 itself under the law to show an overwhelming community of
24 interest. Significantly, you'll hear that there are -- that
25 there is different lines of supervision. And to the extent

1 that there is interchange, it is very minimal, not sufficient
2 to establish the Employer's burden of showing an overwhelming
3 community of interest.

4 Just to make -- to be clear about one issue given one
5 comment made by Mr. Johns in his opening statement, he
6 mentioned that there could be someone from the School of
7 Engineering working side by side in a research lab with someone
8 from the Department of Chemistry, which would be within the
9 School of Arts & Sciences. While that may be so, that person
10 who is -- wherever that lab is located is where the work is
11 occurring.

12 The petition seeks to represent individuals performing
13 work in the schools for which we have petitioned. It's not a
14 matter of where they are enrolled. You could have people
15 enrolled any number of places and performing the work in a
16 different segment of the University. The question in any
17 representation case is where the individuals are working, even
18 if they might have some other relationship to the Employer in
19 another -- in a non-work context.

20 In short, we believe that the Employer will not be -- that
21 we have established a readily identifiable group that we are
22 petitioning for here and that the Employer will not be able to
23 show an overwhelming community of interest between this group
24 and the graduate student employees in the excluded schools.

25 I just would note for the record it appears to us in any

1 event that the Employer is not disputing that there is a
2 community of interest sufficient among the petitioned-for
3 schools, that they are not contesting that there is not a
4 community of interest between the graduate students within
5 those/among those schools and it's just a question of whether
6 they can establish an overwhelming community of interest
7 between those individuals and the individuals in the other two
8 schools.

9 With regard to the Employer's position on the timing of
10 the election, the Union's position is that the election -- that
11 the eligibility date should be as soon as -- you know, it's
12 going to -- we're obviously having a hearing and there is
13 obviously going to be some time till we get a decision and
14 direction of election hopefully. And that the eligibility date
15 should be the usual date that would flow from the issuance of a
16 decision and direction of election, and that the election
17 should occur as soon as possible after the decision.

18 The Employer's position with regard to having an election
19 during the summer is we believe will not be borne out by the
20 facts in the way that they have described. We believe the
21 evidence will show that individuals in this group perform
22 service for the University in all three terms. The Union has a
23 fall term, spring term, and a summer term. They perform work
24 for the University in all three terms. They get funding in all
25 three terms many of them. And that it's just not the case that

1 everybody is away on vacation as suggested by the Employer's
2 position statement.

3 Additionally, while it is true that students travel as
4 part of their programs, they may travel abroad for intensive
5 language study or they may be in the field away from campus
6 performing research, but that is true during any of the
7 academic terms. And we believe the record will bear that out
8 as well. It is for that reason that it is the Union's position
9 that any election should be a mail ballot election because to
10 have an in-person election would disenfranchise those
11 individuals who are away from campus at any time of year.

12 With regard to eligibility, Mr. Johns correctly noted that
13 we had spoken about that before the hearing today and it is the
14 Union's position that we should have an eligibility -- a voter
15 eligibility formula similar to that used in *Columbia* and in
16 some of the other cases that have followed, *Duke*, *New School*,
17 which would involve a one-year look-back period to allow
18 individuals who worked at least a term in the previous year to
19 -- preceding the election to vote based on what we believe the
20 record will show about intermittent employment and a reasonable
21 expectation of future employment even if the person is not
22 currently employed or not currently working.

23 Mr. Johns had noted that the Employer wants to be sure
24 that it is individuals who are working as of the eligibility
25 date, performing services as of the eligibility date.

1 Obviously, we're including those folks as well. But we don't
2 want to exclude folks who may be in a hiatus between terms
3 during which they are providing services to the University.

4 The Employer has indicated that they want to present
5 evidence relevant to this issue and we agree that there should
6 be a record from which the -- I know technically we don't get
7 to litigate that issue but there should be a factual record
8 developed to inform the regional director's decision on the
9 manner of the election.

10 There is also -- there's one final issue that's mentioned
11 in the Employer's position statement. It is related to if a
12 decision and direction of election is issued and the production
13 of the voter list on the Employer's position to harmonize the
14 Board's procedures with the requirements of FERPA. We don't
15 oppose the request in the Employer's statement of position to
16 have a subpoena issued from the region or from the Board for
17 the voter list and then the timelines that are laid out in the
18 Employer's statement of position for responding to that are
19 acceptable to the Union.

20 I think that covers the issues in the Employer's statement
21 of position and their opening, and with that we are prepared to
22 proceed.

23 HEARING OFFICER LEACH: Okay.

24 MR. JOHNS: Is it okay if I address something or do you
25 not want me to do that at this time? Just a few minor issues

1 that I think that Amy addressed.

2 HEARING OFFICER LEACH: We can do it quickly, but then I
3 don't want the parties --

4 MR. JOHNS: I get it.

5 HEARING OFFICER LEACH: -- to have a lot of time going
6 back and forth when the witnesses are going to --

7 MR. JOHNS: No problem. I'll try to keep it brief with
8 respect to that. But there's a couple of things I think are
9 worth nothing. One was that Ms. Rosenberger said that
10 essentially given that they are willing to give up a certain
11 segment of educational fellowship recipients that to the extent
12 that brings it below the 20 percent threshold that they would
13 argue that you should defer litigation on that issue, I would
14 submit that makes no sense at all.

15 It's very obvious here that we are going to have a hearing
16 on a number of issues with related evidentiary support for
17 those issues. Given that that's the case, I would see no
18 reason to defer the regional director's ruling on a significant
19 portion of the population. That makes no sense. And given
20 that there is going to be a hearing already, everyone obviously
21 concedes that point, there would be no reason whatsoever to do
22 that.

23 The second point is with respect to our position on
24 *Specialty Healthcare*. First of all, we do submit that these
25 teaching and research assistants in Wharton and the School of

1 Engineering have an overwhelming community of interest with the
2 employees sought in the petition. However, you should note
3 that under *Specialty Healthcare* you don't get to that position
4 unless you're talking about a readily identifiable group of
5 employees. That's oftentimes based on classifications, or
6 departments, or functions. That is not what we have here. We
7 do not have a readily identifiable group of employees.

8 In the *Columbia* -- in the *Specialty Healthcare* decision
9 there actually is discussions of what might be a fractured
10 unit. One of the discussions suggests where a portion of the
11 CNA in that, meaning they would seek some of the CNAs in
12 certain departments within that facility but not other CNAs.
13 They give the example that that is a classic fractured unit.
14 Well, that's precisely what we have here, Madam Hearing
15 Officer, with respect to this unit. They are seeking some of
16 the individuals in those positions but not all of them. That
17 is expressly laid out in *Specialty Healthcare* as a fractured
18 unit. I would point the board to the *Odwalla* decision which
19 also makes that same point as well.

20 The last thing I would note again and I do think there
21 should be testimony on this issue is it may be that there could
22 be some individuals who are not around as of the fall term
23 because they are performing research elsewhere. What the Union
24 seeks to do is to hold the election at a time period when there
25 would be substantially more who fall into that category.

1 At any given time there's going to be people who are on
2 vacation or not there. You hold an election by manual ballot
3 in that instance and you get the votes of those who are here if
4 there is -- if that's substantially representative of the
5 employees in the unit. You don't do it at a time when you
6 ensure that a majority or at least a substantial portion of the
7 workforce are not around. And seeking the election in the
8 summer that would precisely exacerbate the situation that even
9 the Union acknowledges is an issue. It should be held in the
10 fall term, after there is a payroll, at a point when graduate
11 students are back and re-enrolled in school and in the
12 positions sought in the unit. That's our position.

13 HEARING OFFICER LEACH: Does the Union want to add
14 anything?

15 MS. ROSENBERGER: Oh, I understood you didn't want to --

16 HEARING OFFICER LEACH: You don't have to. I mean I
17 believe these issues are going to be borne out in the hearing.
18 But if you --

19 MS. ROSENBERGER: Yeah. I mean we'll -- I said what I
20 have to say on the facts.

21 HEARING OFFICER LEACH: Okay.

22 MS. ROSENBERGER: I mean the only thing I would say I
23 guess is I don't agree with Mr. Johns' reading of *Specialty*
24 *Healthcare*, but I'll argue that in my brief or closing,
25 whichever we end up doing.

1 HEARING OFFICER LEACH: Okay. I appreciate the opening
2 statements from the parties. I'd like to get a little bit of
3 information on the record -- well, let me see. We'd like to
4 get the numbers if we can of the I guess individuals in I guess
5 the petitioned-for unit versus the couple of classifications
6 that the Employer thinks should be included and then these,
7 well, the schools and then these other classifications.

8 Do you think that's something that would come from the
9 Employer's witness or would the parties be able to just put
10 that into the record right now?

11 MR. JOHNS: Well, I think on its face it's sort of in the
12 record right now because if we were to go and look at the list
13 we could actually come up with that.

14 HEARING OFFICER LEACH: Okay.

15 MR. JOHNS: So I think as long as Ms. Rosenberger is
16 acceptable, I think we could probably just state what we think
17 those numbers are and I think we wouldn't need a witness on
18 that issue because it is technically already received into
19 evidence.

20 HEARING OFFICER LEACH: It might be in the SOP?

21 MR. JOHNS: Yeah.

22 MS. ROSENBERGER: It's in the attachments.

23 HEARING OFFICER LEACH: Attachments?

24 MR. JOHNS: It's in the attachments.

25 MS. ROSENBERGER: It's in the attachment to the SOP. But

1 let me just say I'm not going to stipulate that that's an
2 accurate list.

3 HEARING OFFICER LEACH: Right, right.

4 MS. ROSENBERGER: And not because I'm saying to you it is
5 not an accurate list but merely because I got that list at noon
6 yesterday.

7 HEARING OFFICER LEACH: I understand. So not -- I mean it
8 doesn't have to be stipulated if you're not comfortable doing
9 that, but the region does like to have in the record just kind
10 of the numbers.

11 MR. JOHNS: Approximate numbers?

12 HEARING OFFICER LEACH: It's just the way we issue the
13 decision.

14 MS. ROSENBERGER: Totally understandable.

15 HEARING OFFICER LEACH: So I'm guessing everyone has a
16 copy of the petition; that the Union is seeking in the
17 petitioned-for unit teaching assistants, teaching fellows,
18 research assistants, research fellows, educational fellowship
19 recipients -- well, let's not add the EFR and the student
20 workers. But let's continue with the pre-doctoral trainees in
21 the various Schools of Communication, BGS, School of Design,
22 School of Education, Arts and Sciences, School of Nursing, and
23 School of Policy and Practice.

24 So do one of the SOP exhibits show how many students fall
25 into the petitioned-for unit?

1 MR. JOHNS: Yes, the petitioned-for unit. That would
2 be --

3 MS. DANTE: Attachment B. And there's 2,378 individuals
4 listed in Attachment B.

5 HEARING OFFICER LEACH: Does that include the EFR and
6 student workers or no?

7 MS. DANTE: Yes, it does. That's the petitioned-for unit.

8 HEARING OFFICER LEACH: Oh, okay. Okay. And what about
9 the Wharton School, how many would that add if you added the
10 Wharton School and SEAS?

11 MS. DANTE: That's correct. That would add 604. But I
12 note that that number does not include educational fellowship
13 recipients or student worker classifications because the
14 Employer's position is that those classifications should be
15 excluded from any appropriate unit. So Attachment C in the
16 statement of position will have individuals with appointments
17 in the teaching assistant classification, teaching fellowship
18 fellow classification, research assistant, and research fellow
19 classifications in Wharton and SEAS. Again, that totals 604.

20 HEARING OFFICER LEACH: If it doesn't include the
21 educational fellowship and student workers, do you know how
22 many of those would be in those -- in Wharton or SEAS?

23 MS. DANTE: I could provide that to you in a few minutes.
24 I'd have to just look.

25 HEARING OFFICER LEACH: Okay.

1 MS. DANTE: And I can provide you with the numbers in
2 Attachment D in the meaning time if you would like.

3 HEARING OFFICER LEACH: Would Attachment D be the
4 educational fellowship recipients and student workers?

5 MS. DANTE: Attachment D would be educational fellowship
6 recipients and student workers in the petitioned-for unit, so
7 not in the schools that the Employer seeks to add but in the
8 schools that Get-Up has petitioned to include in the proposed
9 unit. So Attachment D is our proposed exclusions from
10 Attachment B is another way to look at it.

11 HEARING OFFICER LEACH: Okay. So then the only thing we
12 need to know is the number of educational fellowship recipients
13 and student workers that could be in Wharton and SEAS. And you
14 would be able to get that number?

15 MS. DANTE: Yes. And just so you have the number for
16 Attachment D, that's 720.

17 HEARING OFFICER LEACH: Okay. I understand that the Union
18 does not want to stipulate to that because you're unsure if
19 those are the correct numbers so I'll just -- if you can put
20 your position on that into the record, if you just want to
21 state that?

22 MS. ROSENBERGER: You mean our position of what the
23 correct numbers are or you mean our --

24 HEARING OFFICER LEACH: Just the fact that why you
25 wouldn't, you know, on this particular issue, yeah.

1 MS. ROSENBERGER: Yeah, yeah. I'm not in a position to
2 stipulate to that merely because we got this particular list
3 yesterday and it's conceivable that our list would be different
4 a little here or there. So I'm just not in a position to
5 stipulate to it.

6 HEARING OFFICER LEACH: Okay.

7 MS. ROSENBERGER: But we'll see if there is anything -- if
8 that changes, I'll let you know till the end of the hearing if
9 I can stipulate to the numbers.

10 HEARING OFFICER LEACH: Okay. That's fine. Again, it's
11 just information to I think help the regional director issue
12 the decision. So as far as the issues to be litigated, the
13 issues to be litigated have been discussed by the parties and
14 are also listed in the SOP.

15 Regarding burdens of proof, please be aware that regarding
16 burdens of proof it involves a presumption under Board law. If
17 it involves a presumption under Board law, the burden lies with
18 the party seeking to rebut the presumption. You must present
19 specific detailed evidence in support of your position.
20 General conclusory statements by witnesses will not be
21 sufficient.

22 And if there is no other issues, we are ready for the
23 Employer to call their first witness.

24 MR. JOHNS: Thank you. Beth Winkelstein.

25 HEARING OFFICER LEACH: Good morning.

1 THE WITNESS: Good morning.

2 HEARING OFFICER LEACH: If you could say your first and
3 last name, and spell it, please?

4 THE WITNESS: Beth Winkelstein, B-E-T-H, W-I-N-K-E-L-S-T-
5 E-I-N.

6 HEARING OFFICER LEACH: Can you raise your right hand?
7 (Whereupon,

8 BETH WINKELSTEIN,
9 was called as a witness by and on behalf of the Employer, and
10 after having been duly sworn was examined and testified as
11 follows:)

12 HEARING OFFICER LEACH: Okay, you may proceed.

13 MR. JOHNS: Thank you. Good morning, Dr. Winkelstein.

14 THE WITNESS: Can you move the mike closer to you, please?
15 I need you to speak louder.

16 COURT REPORTER: They do not amplify, I'm sorry.

17 THE WITNESS: Sorry.

18 MR. JOHNS: I will. Is that better?

19 THE WITNESS: That is. Thanks.

20 DIRECT EXAMINATION

21 BY MR. JOHNS:

22 Q Where are you currently employed?

23 A At the University of Pennsylvania.

24 Q In what position?

25 A I'm the vice provost for Education.

1 Q How long have you held that position?

2 A It'll be two years on July 1st.

3 Q How long have you been at Penn in total?

4 A I came as a faculty member in 2002.

5 MS. ROSENBERGER: I'm sorry. Can I ask that the witness
6 keep your voice up a little bit?

7 THE WITNESS: Yeah. I'm deaf in one ear so sometimes I
8 don't know how loud I'm speaking.

9 MS. ROSENBERGER: Yeah, if you could just try to --

10 THE WITNESS: Is that okay, this?

11 MS. ROSENBERGER: Yeah, that's better. Yes, thank you.

12 THE WITNESS: It feels like I'm yelling at you so I'm
13 sorry.

14 MS. ROSENBERGER: You're not.

15 BY MR. JOHNS:

16 Q Could you tell us your educational background?

17 A Yeah. I was an undergraduate at Penn. I went on and got
18 a PhD in Biomedical Engineering at Duke, did a post doc at
19 Dartmouth, and then returned to the faculty of Penn on the
20 Bioengineering faculty.

21 Q When you pursued your doctorate at Duke, did you serve as
22 a research assistant or teaching assistant?

23 A I was both.

24 Q Did those experiences help shape what you do as a faculty
25 member at Pennsylvania

1 MS. ROSENBERGER: I'm going out object to the relevance of
2 what people did at Duke.

3 MR. JOHNS: I think it is relevant.

4 HEARING OFFICER LEACH: Can you explain that? Why is it
5 relevant?

6 MR. JOHNS: Certainly, Madam Hearing Officer, because and
7 to lay a foundation that those experiences are similar and they
8 again will go to the issues that we're raising here with
9 respect to the differences between Penn and Columbia and how
10 these experiences, for these particular students who are
11 seeking careers in academia help train them for these
12 positions.

13 HEARING OFFICER LEACH: I'm going to sustain that. I
14 don't see that that's necessary what she did at Duke in
15 research and teaching.

16 MR. JOHNS: Very well, I'll move on.

17 BY MR. JOHNS:

18 Q Before your current vice provost role, did you hold any
19 other roles at Penn?

20 A Yeah. Right before becoming vice provost for Education, I
21 was an associate dean for Undergraduate Education in the School
22 of Engineering and Applied Sciences. And before that I was the
23 graduate chair of Bioengineering.

24 Q What is your area of expertise?

25 A I study chronic pain and the relationship between injury,

1 mechanical loading, and the nervous system.

2 Q You said you hold a faculty appointment?

3 A Um-hum.

4 Q Is that appointment in a particular school or department?

5 A My department of Bioengineering is in SEAS. I also have a
6 secondary appointment in neurosurgery, which is in Perelman.

7 Q I need you to explain a couple of terms for us here.

8 A Okay.

9 Q You used the term SEAS. What is that?

10 A It's been called S-E-A-S or School of Engineering and
11 Applied Sciences.

12 Q Then you also mentioned Perelman. What is Perelman?

13 A That's the name of our medical school, Perelman School of
14 Medicine.

15 Q Now do you continue to act as a faculty member
16 notwithstanding your duties as the vice provost?

17 A Yes, I do.

18 Q And you still interact with graduate students?

19 A Yes, I am very active.

20 Q We'll talk about that some more later.

21 (Employer's E-2 identified.)

22 BY MR. JOHNS:

23 Q I've put in front of you, doctor, what we've marked as
24 Employer 2. Can you tell me what this is?

25 A This is the 2016-2017 version of our annual quick facts

1 describing the institution.

2 Q Starting with the cover, there is a list there that starts
3 with Annenberg. Do you see that?

4 A I do.

5 Q What does that list consist of?

6 A Those are the 12 schools at Penn.

7 Q And the far left-hand column, that's the shorthand
8 references?

9 A Yes. Engineering is rebranding itself and calling
10 themselves Engineering and not SEAS.

11 Q The Wharton School, is that also known as the Business
12 School?

13 A It is.

14 Q Then proceeding down there is a line that starts degree
15 levels. Do you see that?

16 A I do.

17 Q What does that then go onto describe?

18 A That describes all of the degrees that we award at the
19 institution.

20 Q Could you just walk us through the different degrees
21 listed there?

22 A Sure. The bachelor's is the undergraduate degree. The
23 master's is the next level that crosses many of the schools
24 that are listed here. The doctoral is referring to the PhDs.
25 And then you've got the last few, MD, VMD, DMD, and JD are the

1 professional doctorates.

2 Q Can we open up the brochure? Looking across the top after
3 some demographic categories, do we see the 12 schools again?

4 A Yes.

5 Q SAS, there's some -- SAS is further broken out. Do you
6 see that?

7 A I do.

8 Q I see Humanities and Social Science. What does that
9 represent?

10 A Those are each what we would consider broader divisions of
11 study within SAS.

12 Q Can you give us some examples of Humanities or Social
13 Science?

14 A That would be English, History, Art, History of Art,
15 Philosophy.

16 Q And then Natural Science, what would that include?

17 A Physics, Chemistry, Math, Biology.

18 Q I want to keep going. I see Perelman there, which you
19 mentioned is the School of Medicine.

20 A Yep.

21 Q Looking at what is underneath each of these categories, we
22 see enrollment totals in the different degree programs, is that
23 right?

24 A Yes.

25 Q And there are numbers under Perelman for degrees other

1 than the MD, is that right?

2 A Yes.

3 Q So who would be the graduate student in the School of
4 Medicine other than medical students?

5 A The PhDs as listed there and they also have small research
6 masters, as well as professional masters programs.

7 Q Does the University have any type of single or unified,
8 for lack of a better term, graduate school?

9 A No.

10 Q You mentioned earlier when describing your employment
11 history at Penn that at one time you served as a "grad group"
12 chair?

13 A Yes.

14 Q What is a grad group?

15 A Because we don't have a single graduate school, we have a
16 number of different graduate groups which are arranged around
17 disciplines and they oversee the graduate admissions and
18 curriculum of the graduate students, PhDs.

19 Q Are those graduate students, are they actually admitted to
20 the school or to the graduate group?

21 A They're admitted to the graduate group.

22 Q Returning to the top list of schools in the brochure, are
23 there graduate groups within engineering?

24 A Yes.

25 Q Can you just give us some examples of that?

1 A My own department has a graduate group. There is a
2 graduate group in material science. There is a graduate group
3 in computer science. There is a graduate group in mechanical
4 and applied mechanics. Keep going?

5 Q That's sufficient. What about Wharton, are there graduate
6 groups in Warton?

7 A Yes.

8 Q Could you give us some examples of those?

9 A There they are affiliated more closely with departments
10 than say my own. There is an applied economics graduate group.

11 Q What is a department, when you use the term department?

12 A So a department is how the faculty are organized. I have
13 a, you know, my department is bioengineering. That's where our
14 affiliation is.

15 Q What are the faculty members representative to the
16 graduate groups?

17 A It varies by faculty member and it varies by graduate
18 group.

19 Q Can you elaborate? How does it vary?

20 A I'm a primary member of bioengineering and I am a member
21 of three graduate groups. One is my -- the one affiliated with
22 my department. One is in mechanical engineering and one is in
23 neuroscience.

24 Q Let's return to Perelman for a moment. Can you give us
25 some examples of the graduate groups in Perelman?

1 A Sure. Neuroscience is one of those, cell and molecular
2 biology, genomics.

3 Q Do you interact with graduate students in both
4 bioengineering and neuroscience?

5 A Yeah.

6 Q Do you have a lab?

7 A Yes.

8 Q Do you interact with graduate student in bioengineering in
9 that lab?

10 A Yes, I do.

11 Q Do you interact with students from neuroscience in that
12 lab?

13 A When they are doing a rotation or working with me on their
14 thesis, yes.

15 Q Let's return to your role as the vice provost of
16 Education. Starting most broadly, what is the responsibility
17 of the Office of the Provost?

18 A Of the provost?

19 Q Yes.

20 A Oversees all internal affairs at the institution from
21 faculty to students.

22 Q All academic or educational?

23 A Yes.

24 Q What is your role, or duties and responsibilities as the
25 vice provost?

1 A I'm the vice provost for Education. I coordinate and
2 facilitate undergraduate and masters education, and directly
3 oversee the PhD through a council that I have. I also oversee
4 the Office of Student Conduct, the Center for Teaching and
5 Learning, the Center for Undergraduate Research and
6 Fellowships, the College House Academic Services Online
7 Learning, which is all of our online education; the Grad
8 Student Center and the Family Resource Center, new student
9 orientation and academic initiatives.

10 Q You mentioned graduate council. Could you explain what
11 that is and what it does?

12 A Sure. Because we don't have a graduate school and all of
13 the PhDs come through my oversight, we have a Graduate Council
14 of the Faculties which oversees the academic and sort of --
15 academic requirements and milestones of those graduate groups
16 that I referred to earlier.

17 Q Who sits on this graduate council?

18 A It's made up of the faculty from all of the different
19 schools that have graduate groups.

20 Q So that would include Engineering and Wharton?

21 A Absolutely.

22 Q You mentioned that the PhDs come through your oversight,
23 if I'm recalling your testimony correctly. What does that
24 mean?

25 A So that Graduate Council of the Faculties is responsible

1 for reviewing the graduate groups, setting the academic
2 policies for all of our PhD students, and recommending those
3 that are -- the degrees to the trustees for conferral.

4 Q A couple of other things that you mentioned, the Grad
5 Student Center, what is that?

6 A That's a physical and I guess inner-web location to
7 support our graduate students.

8 Q Do employees of the University, do they have access to
9 those resources in the Graduate Student Center?

10 A They are for our graduate students.

11 Q Tell us a little bit about the Center for Teaching and
12 Learning, if you would. What is that?

13 A So the Center for Teaching and Learning is a unit which is
14 focused on helping those that are engaged in teaching
15 activities to best serve academic teaching. It provides
16 services to faculty, as well as graduate students.

17 Q Are some students required to access the Center for
18 Teaching and Learning?

19 A The Center for Teaching and Learning offers a -- provides
20 a TA training campus wide.

21 Q Who attends that TA training?

22 A Every graduate student who is TA'ing for the first time is
23 required to go through that.

24 Q I want to return to the graduate groups for a moment. Are
25 there any what for lack of a better term you might call

1 interdisciplinary graduate groups?

2 A Yeah. Yes.

3 Q Could you provide an example of that? What do you mean
4 by, well, by accepting my term interdisciplinary?

5 A Sure. So there are a couple that come to mind.

6 Bioinformatics is interdisciplinary. Applied math and
7 computational science kind of has an affiliation, a very strong
8 and clearly defined affiliation between math and engineering.
9 Bioinformatics has the same kind of strong affiliation with BGS
10 and computer science.

11 Q You mentioned your own experiences that you sit for lack
12 of a better term in more than one graduate group.

13 A Yes.

14 Q Is that unique or is there many faculty who are members of
15 more than one graduate group?

16 A No, that's not unique.

17 Q Turning to the student side of the graduate group
18 equation, will we see students who are admitted to different
19 graduate groups performing research side by side?

20 A Sure.

21 Q Is that extraordinary or unique?

22 A No.

23 Q Could you give an example or two of that?

24 A So I share a lab space with another faculty member in
25 bioengineering and he has graduate students that are coming

1 from physics, bioinformatics, math, bioengineering, I think
2 sometimes cancer biology.

3 Q And the physics and math students, would that fall under
4 what we described before as natural sciences in the School of
5 Arts & Sciences?

6 A Yes.

7 Q I think you also mentioned graduate students in
8 bioengineering?

9 A Sure.

10 Q That student would be or that graduate group is part of
11 the Engineering School?

12 A Its strong affiliation is with the Department of
13 Bioengineering. When I was grad group chair, it was a
14 non-voting member of the BGS Council.

15 Q What is BGS?

16 A It's the Biomedical Graduate Studies.

17 Q What does that graduate group include?

18 A That's neuroscience, cell and molecular biology, those
19 other groups.

20 Q So BGS is kind of an umbrella for a number of different
21 graduate groups?

22 A Yes.

23 Q And BGS, that's affiliated with or resides in?

24 A Perelman.

25 Q The School of Medicine?

1 A School of Medicine.

2 Q Now does the University provide financial support for its
3 incoming PhD students?

4 A Yes.

5 Q What is the nature, components of that support?

6 A An annual stipend, tuition, health insurance.

7 Q Is funding provided for a specified period of time?

8 A Not in the offer letters I've seen; till completion.

9 Q Is it for more than one academic year?

10 A Yes.

11 Q Are there circumstances in which -- strike that. Now
12 admissions decisions or requirements, who sets those?

13 A The graduate groups.

14 Q You mentioned offer letters. Who do those come from?

15 A Those come from the graduate groups.

16 Q Is the funding consistent across the graduate groups?

17 A No.

18 Q How does it vary?

19 A The stipend varies.

20 Q Who is making the determinations as to the amount of
21 funding?

22 A That happens at the graduate group level.

23 (Employer's E-3 identified.)

24 HEARING OFFICER LEACH: Before we discuss Employer 3, does
25 the Union object to Employer 2 being submitted into evidence?

1 MS. ROSENBERGER: No.

2 HEARING OFFICER LEACH: Okay. Employer 2 is received.

3 (Employer's E-2 received.)

4 BY MR. JOHNS:

5 Q I've showed you what we've marked as Employer 3. What is
6 this?

7 A This looks like an offer letter that went to a student
8 that I was trying to recruit to my group.

9 Q For the academic fall semester 2017?

10 A For incoming this year, yes.

11 Q Can you walk us -- in what particular graduate group?

12 A Bioengineering.

13 Q Can you walk us through the funding package that was
14 offered to this particular graduate student?

15 A Yes. It indicates in the letter that it will provide
16 full-time tuition and fees, and the annual stipend of \$31.5 as
17 well as health insurance.

18 Q Are there any -- just sticking with this example, are
19 there any conditions or requirements placed on this student in
20 exchange for the receipt of that funding package?

21 A They must be registered as a full-time student.

22 Q Is the student also provided health insurance?

23 A Yes.

24 Q How long is this funding provided for?

25 A In this case --

1 A Yes.

2 Q -- till the student completes her PhD.

3 Q Why does bioengineering, let's just continue to stick with
4 this particular case, why does bioengineering provide this
5 funding to the student?

6 A A couple of reasons. At the most basic, we want our
7 students to not have hardships having come to pursue a PhD and
8 not be distracted from their academic pursuits.

9 Q The structure of this funding package that we see in
10 Employer 3, is that generally the same throughout the graduate
11 groups?

12 A Yes.

13 MS. ROSENBERGER: Objection I guess as to clarification.
14 Graduate groups across the University or in engineering?

15 MR. JOHNS: Across the University.

16 THE WITNESS: Yes.

17 BY MR. JOHNS:

18 Q In some graduate groups, are the students required to
19 engage in some form of instructional or teaching activities
20 during the pursuit of their PhD?

21 A Yes.

22 Q In those cases, does the tuition remission or tuition
23 provided and the stipend provided vary based on whether they
24 are engaged in those instructional activities or not?

25 A No.

1 Q Now in your particular graduate group, we've heard lots of
2 discussions of research assistants, research fellows, teaching
3 assistants, teaching fellows. Are those monikers that you use
4 to refer to your graduate students?

5 A To be honest, no. They are graduate students.

6 Q Do these designations or classifications, do they vary
7 from graduate group to graduate group?

8 A In some cases.

9 Q Does the designation bear any correlation to the amount of
10 the funding that the student receives?

11 A No. Sorry.

12 Q We also heard the term student worker. Are you familiar
13 with that term?

14 A Yes.

15 Q In your experience, generally what is that term used to
16 describe?

17 A We use it across campus to talk about students who are
18 working in a department office or referring intermurals. I
19 would imagine in the graduate space it could be students who
20 are over 21 and serving as bartenders for appropriate
21 functions.

22 Q Will we find PhD students in the Humanities and Social
23 Sciences who receive funding for an academic year and do not
24 engage in any instructional or teaching activities?

25 A Yes.

1 Q Will that be the case both before and after they perform
2 any required teaching activities?

3 A I'm not sure I understand what you're asking.

4 Q So you mentioned that there will be for these particular
5 graduate students, there will be times in which they are not
6 engaged in any instructional services.

7 A Yes.

8 Q And for some of these students there may be periods when
9 they are required as part of their degree requirements to
10 engage in those activities, is that right?

11 A That is correct.

12 Q The periods when they are not engaged in those activities,
13 will that occur both before and after the period during which
14 they are required to do it?

15 A It could in some cases, yes.

16 Q You may have already hit this but I want to make sure.
17 Will we find students in the hard sciences and BGS who continue
18 to receive funding so long as they are making satisfactory
19 academic progress?

20 A Absolutely.

21 Q That satisfactory academic progress, that includes
22 performing research for their dissertation?

23 A Yes.

24 Q Is the same true for students in engineering?

25 A Yes.

1 Q Now this funding, does it in all cases come from the
2 University?

3 A No, not in all cases.

4 Q What would the other cases entail?

5 A Students can obtain their own competitive fellowships in
6 some cases.

7 Q What about grants, are students sometimes funded by
8 external grants?

9 A Absolutely.

10 Q I'd like to talk a little bit more about degree
11 requirements and the research and teaching that students, in
12 which they engage starting at high level and if it helps, if
13 you want to use one of your own graduate students as an example
14 or graduate groups as an example. What are the requirements
15 for that student to obtain a PhD?

16 A So most broadly it's to take very specific courses in
17 their area of -- their disciplinary field to reach particular
18 and pass through particular milestones, all of which are
19 actually related to their scholarly research. In some cases,
20 they'll have a qualifying exam. In most cases across campus,
21 they have a qualifying exam very early in their time period to
22 evaluate their academic progress, to engage in independent
23 research. They'll do a thesis proposal and then defend that
24 proposal after engaging in the research.

25 Q I'd like to focus on research. Again if you could use one

1 of your graduate students as an example let's say in
2 bioengineering.

3 A Okay.

4 Q Can you walk us through the progression of that student in
5 terms of the research that they are performing from the day
6 they set foot on campus till the day that you confer that PhD
7 degree or the trustees confer?

8 A I was just going to say I don't confer, I recommend. So
9 as is typical in many of the hard sciences across campus, in
10 order for us to attract the students that are the best match
11 with our scholarship, we provide students the opportunity to do
12 rotations in my group. And this happens also in the BGS. So
13 that they are looking to match their intellectual interests and
14 thesis pursuits with a lab or a group that is best equipped to
15 mentor them to doing that. The first year is a lot of course
16 work, as well as independent discovery around making that match
17 for both their project in their intended area of work and
18 mentors to surround themselves with.

19 Q You used the phrase independent discovery. What do you
20 mean by that?

21 A Quite frankly, at the conclusion of a PhD process, that
22 student will have embarked on a very deep intellectual process
23 where they are learning how to put in context a very specific
24 question against the literature, against the field, and to
25 understand how to develop deep intellectual questions about

1 that particular project, and then be able to communicate about
2 it and report out about it so independent scholarship is
3 exactly that endeavor.

4 Q When you say communicate about it, what does that entail?

5 A Orally and written communication about what they have
6 hypothesized or discovered.

7 Q Would that oral communication include any instructional
8 activities in which they engage?

9 A Certainly that helps with your oral communication.

10 Q I kind of stopped you after your description of the first
11 year. Could we keep going?

12 A Sure. Then there is a tapering off from the course work
13 as there is an intensifying of the independent research and
14 that happens as the student is honing their skills around
15 critical thinking to be able to formulate that question that I
16 referred to, and then largely engaged in the act of performing
17 their research, talking to others who will help them think that
18 through and think about how to present it.

19 Q Is that description applicable generally to all graduate
20 groups in the hard sciences and BGS?

21 A It is.

22 Q And engineering?

23 A Yes.

24 Q Which is actually what you were talking about
25 bioengineering, right?

1 A Yes.

2 Q Do students often apply to graduate groups based on the
3 research faculty or the research that the faculty in that group
4 is conducting?

5 A Absolutely.

6 Q Why is that the case if you know?

7 A The students, the applicants understand or foresee that
8 that's the process so they want to be surrounded by
9 opportunities to dive deeply into those areas where they have
10 that interest and also have some freedom to open themselves to
11 side or connecting ideas. And so being surrounded by those
12 faculty who will become those mentors as they are thinking
13 about their questions is what draws the students to the
14 graduate groups regardless of which graduate group it is.

15 Q Are students able to create their own field of research or
16 avenue of research that they want to pursue?

17 A Absolutely.

18 Q Can that be interdisciplinary?

19 A Most definitely.

20 Q In your experience, is research in engineering any
21 different than the hard sciences?

22 MS. ROSENBERGER: I'm going to object to the question.
23 You're asking -- he's asking if it's different in her
24 experience, but we haven't heard any testimony that she's had
25 any experience outside of engineering and other programs.

1 MR. JOHNS: I believe we have that she is a member of the
2 graduate group in BGS and in Perelman, in neuroscience.

3 MS. ROSENBERGER: I'm sorry, okay. So if limited to that
4 then I'll withdraw the objection.

5 HEARING OFFICER LEACH: So we're okay, you're going to
6 withdraw the objection?

7 MS. ROSENBERGER: As long as instead of hard sciences he's
8 asking a question about BGS then I withdraw my objection.

9 HEARING OFFICER LEACH: What is your question?

10 MR. JOHNS: Why don't I rephrase?

11 HEARING OFFICER LEACH: Okay.

12 BY MR. JOHNS:

13 Q The structure of the research program in your experience
14 is that any different than engineering versus the hard
15 sciences?

16 MS. ROSENBERGER: Objection. That's the same question.
17 The objection is --

18 MR. JOHNS: I mean she's a faculty member. We're talking
19 about the structure of the research programs that these -- I
20 mean she's the vice provost for Education.

21 MS. ROSENBERGER: I understand. But the question was
22 about in her experience and we just heard -- we have heard that
23 her experience is in two places, not all of the hard sciences.
24 That's the nature of my objection, lack of foundation for her
25 knowledge about all of the hard sciences.

1 MR. JOHNS: I'm happy to lay that foundation, Madam
2 Hearing Officer.

3 HEARING OFFICER LEACH: Okay. You can do that. And I
4 just wanted to clarify because I don't think I heard it, you
5 said you're the vice provost for what?

6 THE WITNESS: Education.

7 HEARING OFFICER LEACH: Okay.

8 THE WITNESS: Is there any way we can make it warmer in
9 here? I am freezing, sorry.

10 HEARING OFFICER LEACH: I don't know that that changes too
11 much. I'm sorry about that. Can you kind or rephrase? You're
12 using a lot of different terms that I'm going to have to
13 clarify later like hard sciences. I don't know what that is.
14 So if you could when you describe -- just be sure that you
15 describe what that means.

16 MR. JOHNS: I understand. I think we --

17 HEARING OFFICER LEACH: So I can be clear on what the
18 issue is with the objection. You said vice provost of
19 Education. That's for a specific department or just for the
20 entire University?

21 MR. JOHNS: That's for the entire University.

22 HEARING OFFICER LEACH: Okay.

23 MR. JOHNS: And just for the hearing examiner to make sure
24 she understands, maybe we should go back and describe the
25 nature of your role as it relates to all graduate education.

1 HEARING OFFICER LEACH: I was going to clarify that but at
2 the end. I don't like to interrupt questions. But maybe that
3 will help to have a better foundation for the question that
4 you're asking.

5 MR. JOHNS: I'm happy to go there.

6 HEARING OFFICER LEACH: Okay.

7 THE WITNESS: So the question is what now?

8 MR. JOHNS: I'm happy to repeat it.

9 HEARING OFFICER LEACH: I guess if you -- I'm so sorry to
10 interrupt. If you could maybe just explain as vice provost of
11 Education what do you oversee at the University?

12 THE WITNESS: Okay.

13 MR. JOHNS: You can answer that question.

14 HEARING OFFICER LEACH: Yes.

15 THE WITNESS: I oversee all of the PhD education that
16 comes up through the graduate groups. We have talked about the
17 Graduate Council of the Faculties, which is made up of faculty
18 from the different schools, that is what I use as that
19 mechanism to oversee the different graduate groups. That means
20 we are reviewing those graduate groups on a five to six year
21 cycle where we are looking at whether they are putting in place
22 the appropriate milestones that I've just described that the
23 institution sets forward, and making sure that they are
24 evaluating and providing that information to the students.

25 HEARING OFFICER LEACH: When you say you oversee all the

1 PhD education for all the graduate groups does that include the
2 -- does that mean the 12 departments that are listed on the
3 front of E-2? Are you involved in all these departments, PhD
4 students for all these departments?

5 THE WITNESS: Those are 12 schools.

6 HEARING OFFICER LEACH: Right.

7 THE WITNESS: Not all of them have PhDs.

8 HEARING OFFICER LEACH: Okay. So for the schools that
9 have PhDs, you're involved in --

10 THE WITNESS: Yes, ma'am.

11 HEARING OFFICER LEACH: Which schools are those?

12 THE WITNESS: If you open this -- I don't mean to be a
13 smart-aleck.

14 HEARING OFFICER LEACH: No, no, I'm fine.

15 THE WITNESS: I'm honestly trying to help you get through
16 it. You can see through here those that confer PhDs, right?
17 So it is -- I will read them off for the record, SAS -- I need
18 my old lady glasses -- Engineering, Nursing, Wharton,
19 Annenberg, Communication, Design, Education, Perelman, and SP2.

20 HEARING OFFICER LEACH: So you oversee PhD education for
21 all those groups. Are you saying you're involved in choosing
22 students or can you explain that a little bit more?

23 THE WITNESS: So the graduate groups choose students. I
24 would say they admit them. They also -- but they fold up
25 through the Graduate Council of the Faculties.

1 HEARING OFFICER LEACH: When you refer to graduate groups,
2 does that mean -- is that the same terminology as the schools
3 that you mentioned?

4 THE WITNESS: No, ma'am. Those are schools. We have I
5 think between 53 and 56 graduate groups across campus that are
6 made up around academic disciplines and scholarships.

7 HEARING OFFICER LEACH: But those graduate groups are part
8 of the schools that you mention that confer the PhDs?

9 THE WITNESS: The faculty are from all 12 schools. Then
10 the graduate groups often have a department with which they are
11 sort of more affiliated. But that's why we have them come
12 through the Graduate Council of the Faculties. Does that help?

13 HEARING OFFICER LEACH: Some.

14 THE WITNESS: Okay.

15 HEARING OFFICER LEACH: So is it true to say that you
16 listed the schools that prefer PhDs?

17 THE WITNESS: No, ma'am.

18 HEARING OFFICER LEACH: No, before you did, right?

19 THE WITNESS: The schools do not confer the PhD.

20 HEARING OFFICER LEACH: Oh, I'm sorry, not confer.

21 THE WITNESS: Sorry.

22 HEARING OFFICER LEACH: The schools where I guess
23 students, PhD students are in those schools, right?

24 THE WITNESS: They can be.

25 HEARING OFFICER LEACH: And then so you would have the

1 schools and then you have the graduate groups underneath?

2 THE WITNESS: And across.

3 HEARING OFFICER LEACH: Okay.

4 THE WITNESS: It is not a one-to-one alignment.

5 HEARING OFFICER LEACH: Okay. But you're involved --

6 THE WITNESS: They're in five-to-one alignment.

7 HEARING OFFICER LEACH: Okay. But you're involved in with
8 the PhD students in those graduate groups which are from those
9 various schools, is that --

10 THE WITNESS: That's as close as it's going to get I'd
11 say.

12 HEARING OFFICER LEACH: Okay, all right.

13 THE WITNESS: Again, I understand that it's slightly
14 confusing.

15 HEARING OFFICER LEACH: So then I think when we go back to
16 the question, now can you repeat the question that you asked?

17 MR. JOHNS: Sure. I'll set it up.

18 BY MR. JOHNS:

19 Q Given your years as a faculty member and in your role as
20 vice provost for Education, are you familiar with how research
21 is structured across the graduate groups, across the
22 University?

23 A I am.

24 HEARING OFFICER LEACH: Okay.

25 BY MR. JOHNS:

1 Q I asked you earlier about hard sciences and what that
2 encompassed. Do you recall that?

3 A I do.

4 Q Could you just for the Madam Hearing Officer describe
5 again what the hard sciences includes?

6 A Yeah. They are generally considered the natural sciences
7 on this form which would be things like math, chemistry,
8 physics, biology, and engineering.

9 Q You mentioned earlier that the research you conduct is in
10 a lab.

11 A Yes.

12 Q Is that generally true of research in the natural science?

13 A It could be but not exclusively.

14 Q Is that true with respect to research in engineering?

15 A Depends on your definition of a lab.

16 Q What is your definition of a lab?

17 A I consider it a wet lab or a place where there is data
18 acquisition.

19 Q Is research conducted in a lab with respect to biomedical
20 graduate studies or BGS?

21 A Yes.

22 Q Is the research that is conducted in labs, the structure
23 of how the PhD students go about their research or are required
24 to do their research, is that consistent across the different
25 grad groups where there are labs?

1 A Yes.

2 Q In terms of the progressing that you described and I take
3 it in your role as a faculty member and now as vice provost for
4 Education, you're familiar with that progression of research,
5 are you, across the different graduate groups?

6 A Yes.

7 Q Is that progression of research consistent in the hard
8 sciences, engineering, and BGS?

9 A Yes.

10 Q Now let's talk for a moment about humanities and social
11 sciences.

12 MR. JOHNS: And do you recall, Madam Hearing Officer, what
13 we are encompassing there? Why don't you --

14 HEARING OFFICER LEACH: Which schools?

15 MR. JOHNS: The humanities and social sciences.

16 THE WITNESS: Inside.

17 HEARING OFFICER LEACH: SAS?

18 THE WITNESS: Yes, ma'am.

19 HEARING OFFICER LEACH: Okay.

20 BY MR. JOHNS:

21 Q And the humanities and social sciences, like the natural
22 sciences, fall within or are affiliated with the School of Arts
23 & Sciences?

24 A Yes.

25 Q There are grad groups that would be considered grad groups

1 that fall within the humanities and social sciences?

2 A Yes.

3 Q Tell us if you would what the research would look like in
4 terms of this structure or progression for a PhD student
5 admitted to a grad group in the humanities or the social
6 sciences.

7 A So it would be similar to what I've described with a
8 student coming in with an interest in an area and taking the
9 first few semesters to take courses in that area. And through
10 those courses, and seminars, and other activities within their
11 graduate group, explore potential mentors and areas for them to
12 engage in deep thinking around particular topics. The
13 progression is very similar in that they would taper off their
14 course work and increase their individual engagement with a
15 topic, writing papers as they -- ideally writing papers as they
16 go, manuscripts.

17 Q Do you view the research that PhD students perform part of
18 their academic training?

19 A Absolutely.

20 Q Why is that or how so?

21 A One must be engaged with the support and advice of a
22 mentor to take on any activity. And so whether you're working
23 with a piece of literature or you're working in a lab, that
24 research, you often either hit on anticipated roadblocks or
25 need advice about thinking through how you might develop a

1 plan. And that's the same engagement as you're learning how to
2 do this on your own.

3 Q How does the research that graduate students perform
4 relate to their dissertation?

5 A It's almost one-to-one directly.

6 Q Would you be able to separate out any research that
7 students perform related to their dissertation versus research
8 that is not related to their dissertation?

9 A There may be a manuscript that's written where half of
10 that manuscript is not directly related to what the student
11 then propose or defends at the end. However, that exploration
12 would have led to the half that is perhaps part of what they
13 were endeavoring to do or led them to another question.

14 Q Now research, is that -- I think you mentioned earlier
15 that that's often conducted pursuant to an external grant?

16 A In many cases.

17 Q Is your research, the research that you conduct pursuant
18 to an external grant or grants?

19 A Yes. I'm pretty heavily funded.

20 Q Where does that funding come from for your research?

21 A NIH, NSF, private foundations, a few industry sponsors.

22 Q What do NIH and NSF stand for?

23 A National Institutes of Health and National Science
24 Foundation.

25 Q Do any graduate students work with you or research with

1 you on those grants?

2 A Absolutely.

3 Q Could you pick an example or pick a graduate student and
4 explain how that works?

5 A I have an NIH grant that is broadly looking at -- I'm
6 smiling because I don't know if you actually care about the
7 sciences but broadly related to mechanical loading of nerves
8 and how it is that pain may be triggered. I have on that
9 project, I have two graduate students currently who are
10 exploring things within that topic, one of them who will defend
11 in August and one who will defend her proposal in September.

12 Q In which graduate groups do those two students reside?

13 A They are in bioengineering.

14 Q Does the grant prescribe or dictate the research that
15 either of those two graduate students must perform?

16 A No.

17 Q So how is it determined what each of these two graduate
18 students would do?

19 A We have a hypothesis that is related to what I've just
20 described and the students through group meetings are exploring
21 areas of interest within that umbrella topic and through
22 collaborative discussions with me and another faculty member,
23 identify studies that might be interesting to the student and
24 fall under that hypothesis. They then go and do those
25 experiments, report back on their results, and then as a

1 collective group we identify next steps.

2 Q Will that research ultimately end up in their
3 dissertation?

4 A It already is.

5 Q Before we get to the completed dissertation, will these
6 graduate students publish any papers?

7 A Yes.

8 Q Will the graduate student be listed as an author?

9 A Yes.

10 Q Is it common in your graduate groups for there to be
11 publications that are collaborative efforts between the faculty
12 member and the graduate student?

13 A Absolutely.

14 Q Are the students often what's called first authors?

15 A For my discipline, the student is the first author and I
16 am the last one.

17 Q What does that mean?

18 A Position of first authorship goes to the one who has done
19 the largest amount of work on that project, as well as writing
20 the document.

21 Q Is that something that's important for the graduate
22 student?

23 A Oh, absolutely.

24 Q Why?

25 A Quite frankly for most of the students in the sciences, if

1 it's not a published manuscript -- that's their currency.

2 That's how they are going to get their next position.

3 Q Now what you just described, these two graduate students
4 are in bioengineering, the bioengineering graduate group,
5 correct?

6 A Yes.

7 Q That's what we've identified as being either within, or
8 under, or affiliated with the School of Engineering?

9 A Yes.

10 Q You also have graduate students you work with in
11 neuroscience?

12 A Yes. I do not currently have a neuroscience graduate
13 student, but I have in the past and I sit on their committees.

14 Q A neuroscience graduate group, that is a part of which or
15 that's a part of bio BGS?

16 A Yes.

17 Q And taking it up another level, that's under, or within,
18 or affiliated with what school?

19 A The Perelman School of Medicine.

20 Q Is the research that you've described pursuant to an
21 external grant experience? That your two current
22 bioengineering graduate students have, does that differ at all
23 from the research experience of graduate students in
24 neuroscience?

25 A No.

1 Q Would those neuroscience graduate students, would their
2 research be conducted pursuant to an external grant?

3 A Yes.

4 Q With respect to this research, will we find graduate
5 students who receive academic credit for this research?

6 A As I described the tapering, the students are receiving
7 academic credit each semester based on their increase in
8 performing research. They are evaluated.

9 MR. SWEENEY: I missed the end of that, based on their?

10 THE WITNESS: Based on -- I know, I'm sorry. So as they
11 are tapering towards more research activity, that is part of
12 their academic record and requirement.

13 MR. JOHNS: Madam Hearing Officer, would it be convenient
14 now to just take a five-minute break?

15 HEARING OFFICER LEACH: Do you need a break?

16 MR. JOHNS: I'd like one.

17 THE WITNESS: I could use some more water and warming up.

18 HEARING OFFICER LEACH: Okay, we can go off the record.

19 MR. JOHNS: Thank you.

20 HEARING OFFICER LEACH: Sure.

21 (Off the record from 12:07 p.m. to 12:37 p.m.)

22 COURT REPORTER: Back on the record.

23 HEARING OFFICER LEACH: Employer, you can continue.

24 MR. JOHNS: Thank you. I'm going to give this one more
25 shot.

1 BY MR. JOHNS:

2 Q could you please try your best to explain for the hearing
3 officer the administrative structure that the University has in
4 place with respect to the graduate PhD programs?

5 A So maybe it's helpful to think about it in terms of there
6 are different entities that we want to think about that go --
7 that pass through as students are getting their PhDs. There
8 are different schools at Penn. The faculty have appointments
9 in those different schools as their primary home. This is
10 where they are appointed and reviewed for tenure. By example,
11 mine is in the School of Engineering.

12 Faculty can also have because of their scholarly pursuits
13 associations and affiliations to varying degrees and varying
14 formality across the campus. Sometimes that's as a secondary
15 appointment and sometimes that is as an affiliated faculty.
16 And sometimes that is as a graduate group member.

17 In each of those roles, the faculty have different amount
18 of engagement and an allowable engagement. So a member of a
19 graduate group would not be able to talk about unless they were
20 a member of the department the undergraduate curriculum of that
21 department. A graduate group could have faculty from all 12 of
22 these schools or have faculty -- let me think about how to say
23 this. Or have faculty from only one school.

24 Students and their curriculum and course of study are
25 brought into from the very beginning of how they are recruited,

1 how we --

2 Q And I'm sorry to interrupt you but we're now talking when
3 you said students, PhD students?

4 A PhD students. When they would say -- when someone would
5 say I want to study X at Penn, they would find the graduate
6 group that does X or is close to X. They would then move
7 through their system in that graduate group. They would bump
8 up against, and be taught by, and be mentored by, and be
9 evaluated by at these different stages that I've already
10 described by a collection of faculty that might be very closely
11 aligned with a department of the same name or of some partial
12 name, but also a faculty who are studying that same topic but
13 have come from a different department.

14 But the academic kind of handbook if you will for what is
15 required for a PhD is overseen by my office because of the
16 notion and the practice that dates many, many years that Penn
17 does this in graduate groups. My peers outside of Penn oversee
18 a graduate school. So this is a little different at Penn, but
19 it is held across by the faculty, collectively by the faculty
20 with reps from these different schools that offer these
21 graduate groups.

22 HEARING OFFICER LEACH: How do you relate a graduate group
23 to a school? How are they related?

24 THE WITNESS: In some cases, there is a one-to-one
25 relationship. In other cases, there is a department that has a

1 graduate group where the group itself, students and faculty are
2 all over the place and call themselves by that group. Do you
3 know what I'm saying?

4 BY MR. JOHNS:

5 Q Can you give an example of that one?

6 A I talked about applied math and computational sciences.
7 That is a graduate group where the graduate group chair is a
8 math faculty member. But the curriculum is put together and
9 the students that are reviewed and admitted, and their progress
10 is all done as part of a deep collaboration with mechanical
11 engineering, computer science, and other departments in the
12 School of Engineering.

13 I want to say that math also has a graduate group in math.
14 Math department also have a graduate group in math that has a
15 graduate group chair who is also a math faculty member. So
16 that's an example where it's two graduate groups but where
17 would you put them on your flow chart.

18 HEARING OFFICER LEACH: Because they could be related to
19 various schools, that's what you're saying?

20 THE WITNESS: Correct.

21 HEARING OFFICER LEACH: Okay.

22 THE WITNESS: And the curriculum is intentionally drawing
23 in that case and in many of the cases where it is like that,
24 the curriculum is put together because that is what the -- and
25 this goes to the inter-disciplinarity of it. That is what the

1 graduate pursuit involves and requires to be able to ask a
2 question in that field.

3 HEARING OFFICER LEACH: Okay.

4 THE WITNESS: Does that help?

5 HEARING OFFICER LEACH: Some.

6 BY MR. JOHNS:

7 Q You must have experience teaching. I want to just kind of
8 complete this if we could. You mentioned a graduate group
9 chair.

10 A Yes.

11 Q What is the role of the graduate group chair?

12 A The graduate group chair is the person who signs this
13 exhibit.

14 Q Employer 3.

15 A E-3. The graduate group chair is responsible for the
16 admission and evaluation of the students, the academic
17 performance so admission of the students and whether --
18 oversees all activity in evaluating the student performance and
19 progression. The graduate group chair also has the graduate
20 group meetings and evaluates who of the faculty can be included
21 or not included in members of the graduate group.

22 Q Let's take it up a step further. Who oversees the
23 graduate group chairs?

24 A The graduate group chairs are appointed actually by me and
25 my office. So this time of year I will get from the schools,

1 because these faculty have appointments and the graduate groups
2 are loosely aligned in many cases with the departments, I will
3 get notices from the schools say in this case Jason Burdick
4 will be the graduate group chair of bioengineering for the
5 following three years as a recommendation and then I write the
6 formal letter.

7 Q And then you mentioned earlier and let's just review this
8 one more time if we could, the Graduate Council of the
9 Faculties. What role does that serve?

10 A That is the group that reviews the graduate groups. And
11 that is the group that also then sets the policies around what
12 it is that a student must do for academic progress. What do
13 the thesis committees look like? Who would appropriate makeup
14 of those thesis committees? What does a PhD -- how would we
15 file a PhD? We made a decision to go online for thesis, right?
16 That group had to deliberate and vote on that.

17 They are also the group that at the end of each semester
18 we have the recommended PhD recipients who have completed those
19 steps in the process and that is the group that reviews them
20 for appropriateness to send on for conferral of their degree.

21 Q Does that graduate council report to or fall under a
22 school or schools?

23 A No.

24 Q What does it fall under?

25 A I oversee that committee.

1 Q You as the vice provost --

2 A As a deputy of the provost. That's the formal language.

3 Q I want to turn back to research. Do students' funding
4 packages vary at all based on the amount of time or hours they
5 devote to their research?

6 A No.

7 Q Now you mentioned you have a lab.

8 A Yes.

9 Q And graduate students perform research with you in your
10 lab.

11 A Yes.

12 Q Are there any technicians or employees of the university
13 who work in that lab?

14 A Yes.

15 Q Describe them for us if you could. What do they do? What
16 do they look like?

17 A I won't tell you what they physically look like. I will
18 tell you --

19 Q And I was not asking for a physical description.

20 A -- the kinds of things they do. So they in many different
21 -- I mean I will tell you about the two that I've had in the
22 last six months. I currently have one. They are performing
23 cellular assays. I do some animal research so they are doing
24 animal testing. They are performing what the tasks are that
25 I'm discussing with them to go do for particular research

1 endeavors.

2 Q Have you ever disciplined or removed one of these
3 employees from the lab?

4 A Unfortunately, yes.

5 Q For what types of reasons?

6 A For one of them, they abandoned their job and didn't come
7 to work. For another, the data was fabricated.

8 Q How would you address a graduate student in your lab who
9 either was struggling or did not perform to the standards of
10 the lab?

11 A It depends on where they are in their progression. But I
12 have a lab meeting once a week and an individual meeting with
13 my, each of my students prior to their proposing their thesis.
14 After they propose their thesis, they meet with me individually
15 every other week. I would increase -- I use those meetings as
16 a time to have conversations about things that they are
17 struggling with or things that they are succeeding in.

18 I would -- I actually would increase the frequency with
19 which I meet with them. I had a student who was struggling
20 last semester and I asked her to think about how she was
21 planning things. And so instead of being able to increase
22 meeting twice a week, lab meeting and our Wednesday meeting, we
23 worked out a system where she would then sort of send me her
24 thoughts about what she would do for the next week more
25 routine, you know, on a Friday then. So I increased the

1 mentorship.

2 Q Does engaging in research prepare PhD students for their
3 future roles as researchers and faculty members in higher
4 education?

5 A Absolutely.

6 Q How so?

7 A In a couple of ways. Because of the mentorship or the
8 apprenticeship that they are going through, I and others, their
9 mentors, can often anticipate things that are going to happen
10 or might be possibilities in what they've set out in ways that
11 they are obviously just learning how to do. That's why they
12 are engaging in this practice. They will use those same
13 skills, whether -- whatever they pursue, whether they're going
14 after the same kind of problem or a slightly different one.
15 And they will know how to do it. That doesn't matter whether
16 they're teaching or working when they graduate.

17 Q Let's turn now to teaching if we could. Based on your
18 years as a faculty member and also your role as vice provost,
19 are you familiar with the teaching or instructional activities
20 in which graduate students engage?

21 A Yes.

22 Q Are you familiar with those instructional and teaching
23 activities across the University's graduate groups?

24 A As we have set them and as they come through the grad
25 faculties, yes.

1 Q Could you generally describe the types of activities in
2 which -- teaching activities in which graduate student
3 participate?

4 A So in some ways it's not unlike what they are doing in
5 their scholarly research. They have -- they are working with a
6 faculty member who is in charge of a course and so they are
7 doing in some ways involved in the planning of the course but
8 they are at least witnessing how that happens. They are
9 involved in planning homeworks or writing assignments,
10 depending on the discipline, and in evaluating those and making
11 up those keys. And in some cases holding what we call
12 recitations and interacting with students in a smaller setting.

13 Q Is engaging in these teaching activities required in some
14 graduate groups?

15 A In some, yes.

16 Q Is it required in some graduate groups that fall within --
17 I hate to use fall within, but that are associated with the
18 School of Arts & Sciences?

19 A Yes.

20 Q What about engineering, do some of the graduate groups
21 that are affiliated with or fall within engineering require
22 graduate students to engage in teaching activities?

23 A Some do and some don't.

24 Q What is the purpose of having graduate students engage in
25 these teaching activities?

1 A I think you can break it into two purposes. One is this
2 apprenticeship that I talked about where they are simply that,
3 being apprentices to see how it is that a course is developed,
4 and taught, and how we evaluate other students' progress so
5 they could then become members of our profession which is
6 traditionally what the PhD was for. In other cases, it's also
7 to work on communication. We talked about that earlier, but
8 being able to think about how it is that you deliver material
9 is part and parcel of being able to study that material and
10 report on it.

11 Q Are graduate students thrust into the classroom without
12 any preparation or training?

13 A No.

14 Q Can you describe the training that is provided to graduate
15 students?

16 A The Center for Teaching and Learning runs a two and a half
17 day workshop to prepare first time TAs how to do this. They
18 cover things from how to stand up in front of a room. For some
19 students, this may be the first time they've done that. They
20 cover everything from that to covering the University policies
21 so that students know what our policies are interacting with
22 other students and being in the classroom. There are then also
23 graduate groups that have some formalized teaching courses and
24 others that run their own workshops.

25 Q Is the student's education or educational experience

1 enhanced by the teaching activities in which they engage?

2 A Yes.

3 Q How so?

4 A For the reasons that I've said already, if they're
5 engaging with material that they are thinking about for their
6 own research, they will be thinking about it in a different --
7 it will simply add to their intellectual pursuits of their own
8 research. They will also benefit from thinking about and
9 watching modeled behavior of how to interact with other
10 students as a leader in the field.

11 Q Does the University staffer create teaching opportunities
12 solely on the basis of undergraduate enrollment?

13 A No.

14 Q Do the graduate groups admit students based on
15 undergraduate enrollment?

16 A Absolutely not.

17 Q When students engage in these teaching activities, are
18 they doing so within their field or program of study?

19 A Most closely, yes.

20 Q Will we find some graduate groups that provide academic
21 credit for engaging in teaching activities?

22 A Yes.

23 Q In your experience, do students seek and desire this
24 teaching experience?

25 A Yes.

1 Q Why is that?

2 A For some they view it as a trial run. If they want to see
3 whether they may or -- may have entered graduate school with a
4 notion that they do or don't want to go on to teach or be a
5 faculty member in an R1 or a teaching institution, they will
6 embrace that and seek those opportunities out as a way of not
7 unlike testing whether they enjoy working in a particular
8 scholarship area. In other cases, it makes them more desirable
9 for those kinds of positions when they have graduated. It
10 builds a record. And in many cases it provides them the packet
11 if they do go into the classroom after their PhD with the
12 course fully developed.

13 Q Is that often the case that these graduate students
14 proceed to careers in academia?

15 A Many of our students do, yes.

16 Q You provided some testimony about the mentoring that you
17 provide with respect to research. Can you describe the
18 mentoring that you provide with respect to students engaged in
19 teaching activities?

20 A Can you clarify? Do you mean as vice provost for
21 Education or as a faculty member?

22 Q Let's start with as a faculty member.

23 A It's not unlike what I do for my students in our
24 collaboration around the research. I do not teach currently.
25 When I taught, I met with my TAs weekly to go through what it

1 was that I was going to lecture, the problems that the students
2 were having in their recitation, and in some cases to talk
3 through whether the exams that I had prepared were too --
4 whether they were set at the right level for the class we had
5 in front of us.

6 Q What about in your role wearing your vice provost hat,
7 what mentoring did you provide?

8 A The Center for Teaching and Learning also has a year-long
9 program that they offer with ongoing workshops and fellows that
10 they have, that come from different graduate groups, that are
11 interested in pursuing deep evaluations and thought processes
12 around teaching. So that's ongoing support from the CTL.

13 Q Do Penn's PhD students acting or engaging in these
14 teaching activities spend a significant portion of their time
15 taking on the role of Penn's full-time faculty?

16 A No. I will tell you as vice provost for Education, I also
17 oversee the undergraduate education and I would not allow that.

18 Q When you say you oversee the undergraduate education, the
19 PhD students we're talking about and the teaching activities in
20 which they are engaging, these are for the most part
21 undergraduate courses?

22 A Yes.

23 Q As a general matter, do PhD students serve as the primary
24 instructor in Penn's core undergraduate courses?

25 A No, not allowable.

1 MS. ROSENBERGER: I didn't get that.

2 THE WITNESS: Not allowable.

3 BY MR. JOHNS:

4 Q Could the University simply go out and hire part-time or
5 adjunct faculty to teach at a fraction of the cost what Penn
6 spends on funding a graduate student?

7 A I guess they could, yes.

8 Q So why doesn't Penn do that, to your knowledge?

9 A We don't do that because we believe it's part of the
10 educational training and the professionalization for our
11 graduate students.

12 Q Now in your role as vice provost, you have familiarity
13 with the types of teaching activities in which PhD students
14 engage outside of your own home department.

15 A Yes.

16 Q Do we have -- do you have PhD students in the Wharton
17 School who engage in instructional or teaching activities?

18 A Yes.

19 Q And the teaching activities, the form, and structure, and
20 nature of the teaching activities in which Wharton PhD students
21 engage, does that differ at all from the teaching activities in
22 which PhD students in grad groups affiliated with the School of
23 Arts & Sciences engage?

24 A No.

25 Q I think you mentioned that some graduate groups require

1 their PhD students to engage in these instructional activities
2 as part of their group requirements.

3 A Yes.

4 Q Is that prescribed during a particular time during their
5 program of study, a particular year?

6 A It varies.

7 Q I understand it varies, but they may say you need to do it
8 in Years 2 and 3?

9 A Typically, it's at this tapering off period so it's in the
10 early period, not in the first year but in the middle of the
11 time.

12 Q After that period of time where it's required then I
13 assume it's no longer required?

14 A It's not part of their requirement.

15 Q Is it a fact that a graduate student has completed that
16 requirement of engaging in teaching activities indicative of
17 any way that they are going to at some later point engage in
18 teaching activities again?

19 A No.

20 Q Will there be some PhD students who have completed the
21 academic requirement of engaging in some teaching activities
22 who then in subsequent years engage in additional teaching
23 activities?

24 A Yes.

25 Q Under what circumstances?

1 A They would either ask to do so, so that they could have a
2 course that they could take with them. They have found an area
3 that they are interested in. They have found teaching that
4 they are interested in.

5 Q Will we find grad students at Penn who engage in teaching
6 for only a single academic year?

7 A Yes.

8 Q Would that be extraordinary?

9 A No.

10 Q Will we find graduate student at Penn who engage in
11 teaching activities for just a semester?

12 A Yes.

13 Q Would we find graduate students at Penn who don't engage
14 in any type of teaching activities?

15 A Yes.

16 Q Will we find graduate students at Penn who engage in
17 teaching to start out engaging in some teaching activities
18 beginning of the semester but for some reason then don't
19 complete that assignment?

20 A In some cases, yes.

21 Q Can you give an example of that?

22 A So if the student had a health issue. I have a student in
23 mind who had a concussion in the last month of being a TA and
24 had to limit the amount of time they sat in a room with lights
25 on. There's no way that person could have continued on as a

1 TA. They didn't continue on as a TA.

2 Q Was this student's stipend reduced in any fashion?

3 A No.

4 Q Was the student then required to engage in makeup teaching
5 activities?

6 A No.

7 Q Going back to these students who complete the academic
8 requirement of engaging in teaching activities, for those who
9 do not subsequently engage in teaching activities will they
10 continue to receive the same funding?

11 A Yes.

12 Q Are PhD students who engage in teaching activities removed
13 for per performance?

14 A Of their teaching?

15 Q Yes.

16 A No.

17 Q How is that addressed?

18 A Typically, they will meet either with the faculty member
19 who is overseeing that course and in many cases also with the
20 graduate group chair to see how it could be -- how the ship
21 could be righted.

22 Q Will the amount of time that PhD students engage in
23 teaching activities vary across the graduate group?

24 A Yes.

25 Q Will there -- well, why is that?

1 A Just so that I'm clear, you mean across different graduate
2 groups?

3 Q Yes.

4 A Yes. So the professional or discipline preparation may be
5 different across those groups. The curricular requirement or
6 the expectations for communication skills in certain groups may
7 vary. Again, it's set by the curriculum of that graduate
8 group.

9 Q Will the stipend that the student receives vary in any way
10 based on the time devoted to the teaching activity?

11 A No.

12 Q Are the types and nature of the teaching activities
13 performed by graduate students in -- graduate students in the
14 School of Arts & Sciences and BGS the same as the teaching
15 activities performed by graduate student in Wharton and the
16 School of Engineering?

17 A Yes.

18 HEARING OFFICER LEACH: Can we -- for Employer 3, we
19 actually didn't admit that. Does the Union object to
20 Employer 3 being admitted into evidence?

21 MS. ROSENBERGER: No.

22 HEARING OFFICER LEACH: Okay, Employer 3 is received.
23 (Employer's E-3 received.)

24 HEARING OFFICER LEACH: Do you have a copy?
25 (Employer's E-4 identified.)

1 BY MR. JOHNS:

2 Q What is Employer's 4 that I've put in front of you?

3 A Is that for me or her?

4 Q For you.

5 A This is our academic calendar for the next three years.

6 Q If I could actually go back to something that's not on
7 Employer 4, I assume there was a calendar for this past
8 academic year?

9 A Yes.

10 Q When did the spring term for this past academic year end?

11 A It ended, I don't remember the exact date but a week
12 before graduation, which was May 15th or May 18th this year.

13 Q According to E-4, when does the fall 2017 term start?

14 A August 29th is the first day of classes.

15 Q How does that date relate to the graduate students we're
16 talking about? What would happen with them with respect to
17 August 29th?

18 A Well, that's the first day of classes so if you were a
19 graduate student, you would probably -- well, you would show up
20 and have participated in new student orientation on the 23rd
21 through 28th.

22 Q What about returning graduate students, do they need to
23 re-enroll for the new academic year?

24 A Yeah, they enroll every semester.

25 Q So of course we've got a period between May whatever and

1 August 29th that I think you may have heard in the opening
2 statement is referred to as the summer.

3 A Yeah.

4 Q What happens with respect to graduate students during the
5 summer?

6 A For some of them, they are here working on their research.
7 For others, they are elsewhere.

8 Q Maybe you can elaborate on that a little bit more. Let's
9 talk about the first group. Who are the graduate students
10 working on research?

11 A Mostly those that are here working in laboratories or
12 working on their own scholarship as it relates to something
13 here on campus.

14 Q When you say their own scholarship, are they working with
15 respect to their own research?

16 A Yeah. I mean they could be coming into the library and
17 spending time in the archives.

18 Q Are there students conducting research in the summer who
19 are receiving funding pursuant to an external grant?

20 A Yes.

21 Q Is the research that they are performing during the
22 summer, is that related in any way to their own research or
23 their dissertation?

24 A Yes.

25 Q Is any of that not related to their dissertation?

1 A No.

2 Q Students who are not conducting research in labs, are they
3 required to stay on campus during the summer?

4 A No.

5 Q Are they conducting research?

6 A They may be, yes.

7 Q Is there any requirement as to where they conduct that
8 research?

9 A No.

10 Q You mentioned earlier that one of the components of these
11 funding packages is health insurance?

12 A Yes.

13 Q Is that health insurance that's designed specifically for
14 students?

15 A Yes.

16 Q How is that health insurance program or plan developed?

17 A There is another council which I am a member which is the
18 Student Health Insurance Advisory Committee with members from
19 across the schools, across the graduate programs that reviews
20 the plan annually. Every month we have a meeting for that.

21 Q This council, who is on this council?

22 A I don't remember all the specifics, but in general there
23 are graduate students, members of GAPSA, which is our Graduate
24 Student and Professional Student Assembly, student
25 representatives from the different graduate groups, some

1 faculty from the different graduate groups, and members of
2 student health.

3 Q You are also a member of that committee?

4 A I am a member of that committee.

5 Q Do you chair or oversee that committee?

6 A I do.

7 Q That is in your role as the vice provost?

8 A It is.

9 Q Thank you, doctor. That is all the questions I have. Ms.
10 Rosenberger, I'm sure, has some.

11 HEARING OFFICER LEACH: What about Employer 4, any
12 objection to Employer 4?

13 MS. ROSENBERGER: No.

14 HEARING OFFICER LEACH: No objection from the Union, okay.
15 Employer 4 is received.

16 (Employer's E-4 received.)

17 MS. ROSENBERGER: I'm looking at the time and it's about
18 quarter after 1:00, so perhaps we should take a --

19 HEARING OFFICER LEACH: Do you want to have lunch now?

20 MR. FRYMAN: Lunch break? Yeah, that would be --

21 HEARING OFFICER LEACH: Do you want to come back at 2:00?
22 Is that enough time?

23 MS. ROSENBERGER: Yeah.

24 HEARING OFFICER LEACH: Do you need an hour? I'm fine
25 with that.

1 MS. ROSENBERGER: No, no, no. I was going to say I could
2 do a half hour, but whatever.

3 HEARING OFFICER LEACH: Okay, because you know if you
4 leave you're going to have to -- okay. We can go off the
5 record for right now and come back at 2:00.

6 (Whereupon, at 1:18 p.m., a lunch recess was taken.)

7

1 A F T E R N O O N S E S S I O N

2 (Time Noted: 2:17 p.m.)

3 HEARING OFFICER LEACH: We can go back on the record.

4 Before the Union does their cross, when we took a break I
5 noticed that it appeared that someone had something that looked
6 like a recording device in here. I'm not sure if that's what
7 it was or not, but I need to ask the parties do the Union or
8 Employer have any objection if someone that were a guest was
9 recording the proceeding?

10 MR. JOHNS: I think we would object to that, yes.

11 HEARING OFFICER LEACH: I'm not sure. It looked like
12 something that had a microphone attached to it. Someone in the
13 back had it. Is that person still here?

14 UNIDENTIFIED SPEAKER: I think it was quite likely the
15 radio reporter from WHYY.

16 HEARING OFFICER LEACH: Oh, okay. He's not here anymore.

17 UNIDENTIFIED SPEAKER: I think he was taking interviews
18 out in the hall.

19 HEARING OFFICER LEACH: Okay, I wasn't sure if it was a
20 recording device or something he was using just to talk one on
21 one. Just to be clear, the only official recording is what's
22 made by the court reporter and that's all that will be used to
23 write the decision. So from this point forward, if I see
24 someone in the room that has something that appears to be a
25 recording device, if the parties object I would just ask that

1 person to leave. Okay? All right, ready.

2 CROSS-EXAMINATION

3 BY MS. ROSENBERGER:

4 Q Dr. Winkelstein, let's talk big picture first -- sorry,
5 let's talk big picture first. Broadly speaking, the work of
6 the University is education, isn't that right?

7 A Yes.

8 Q So it's basically I mean you're responsible for all of
9 that in the University I guess as vice provost of Education.

10 A Sure.

11 Q And the way the University accomplishes that is through --
12 I'm used to hearing about a tripartite mission of academic of
13 teaching, research, and service. Is that a term that you use
14 at Penn?

15 A I only use tripartite in my research. Those three things
16 you've described is how we evaluate faculty.

17 Q So that's part of what the faculty do is teaching,
18 research, and service?

19 A Sure.

20 Q Yes. The teaching part is part of how Penn accomplishes
21 education, isn't that right?

22 A Sure.

23 Q And that includes undergraduate and graduate programs,
24 right?

25 A The institution has undergraduate and graduate.

1 Q Those who pursue those programs, some of them -- let's
2 start with undergrads. Undergrads pay to pursue their
3 undergraduate degrees by attending classes and engaging in the
4 other educational work that Penn does, right?

5 A Not all undergraduates pay and they don't all pay all.

6 Q Right. There is financial aid. There is scholarships
7 and --

8 A There is a substantial financial aid, yeah.

9 Q But it is there is a transaction that goes on that is
10 paying tuition or paying some part of tuition for most students
11 in exchange for being educated.

12 A With tuition, you are educated.

13 Q Right. And if they successfully complete their
14 undergraduate degree, bachelor's degree, they are conferred a
15 degree by Penn.

16 A If they complete the curriculum associated with their
17 bachelor's degree, they are conferred that degree.

18 Q Similarly, Penn has in addition to understanding programs,
19 they have graduate programs and we've been talking about some
20 of them. They are loosely -- they are generally -- I'm going
21 to use three categories and see if you agree with me. We've
22 got professional degrees like a law degree, medical degree,
23 veterinary medical degree, dentistry degree, and we've got
24 master's degrees, and doctoral degrees that may take different
25 forms. Yes?

1 A I wouldn't say it the way you said it.

2 Q How would you say it?

3 A I would say as I did earlier that we have professional
4 doctorates, which are the ones you listed off.

5 Q Right.

6 A PhDs.

7 Q Yes.

8 A And master students. There are master students who are
9 doing what you would consider graduate work and master students
10 who are getting professional degrees.

11 Q You've talked some about the funding that doctoral -- you
12 talked a lot about the funding that doctoral students generally
13 receive at Penn. Not all folks who enroll in a doctoral
14 program get full funding in the way you described of tuition
15 fees and stipend, do they?

16 A That's not the way I would say it. When they are offered,
17 they get -- in the PhD program they receive stipend, tuition,
18 and insurance.

19 Q In every PhD program, every student gets full funding?
20 There are none who self-fund?

21 A If they bring their own grants, they're self-funded.

22 Q If they are wealthy enough to pay their own tuition or the
23 length of the program can they self-fund?

24 A I'm not aware of students in that category.

25 Q And master students, how about master students, do they

1 get funding in the way that doctoral students do?

2 A I need you to be more -- I'm not hearing what you're
3 asking.

4 Q I'm sorry. Do master students as a general rule pay
5 tuition or some portion of tuition?

6 A It varies across the programs.

7 Q But at a minimum, you would agree with me that unlike the
8 doctoral students, it is not true for master students that
9 virtually everyone gets tuition fees and a stipend for the
10 duration of their --

11 A It is much more variable in the master's category than a
12 PhD.

13 Q In addition to the teaching that some people pay for, some
14 get funding, the University also accomplishes the work of
15 education by developing new knowledge, isn't that right?

16 A I'm not even sure I understand the first part of what you
17 just asked. Some people pay for, some people don't? I need
18 clarification on that.

19 Q I thought you just testified that undergraduates, some pay
20 tuition, some don't pay tuition, some pay some portion of
21 tuition. Right?

22 A Um-hum.

23 Q You need to say yes or no for the court reporter.

24 A Yes. Yes, yes.

25 Q And doctoral students generally don't pay tuition. Right?

1 A Yes.

2 Q And master's as I understand what you're saying somewhere
3 in between. It's a mix. People pay varying amounts.

4 A It varies from graduate program and students within --
5 like a single graduate program have different opportunities.

6 Q Right. So those three groups as a whole, students of
7 Penn, some people pay some amount, some don't, and an amount
8 that is paid is varied. That's what I was talking about. Do
9 you agree with that?

10 A Sure.

11 Q Okay. In addition to that, the course side, the teaching
12 side of their education, the teaching side of what Penn does,
13 Penn also carries out its work of education through research,
14 isn't that right?

15 A Yes.

16 Q The research is about developing new knowledge, isn't that
17 right?

18 A Sure.

19 Q Some of this may be very obvious to you. I want to make
20 sure the record is clear, okay?

21 A It's okay, go ahead.

22 Q I'm not trying to be simplistic. Well, I am trying to be
23 simplistic. That new knowledge that is created through
24 research informs what is taught in the classes, isn't that
25 right?

1 A In some cases but not all.

2 Q It depends on the research?

3 A Depends on the class.

4 Q Right. But one way -- when you talked about faculty being
5 evaluated on teaching, research, and service, so faculty -- not
6 all faculty perform all three things. You have some research
7 faculty, right?

8 A Correct.

9 Q And some faculty who teach but maybe don't do so much
10 research.

11 A Those are both non-standing faculty. I was referring to
12 the standing faculty.

13 Q Just so that the record is clear, when you talk about
14 service that faculty have to do, what's that?

15 A I can give you examples.

16 Q Yeah.

17 A Sitting on university committees. Being an advisor to a
18 student group or a professional group. I am an editor of a
19 journal. That is considered that is professional service.

20 Q Those are examples. But there's a huge range of forms
21 that service can take, right?

22 A Sure.

23 Q But with regard to teaching and research in particular, I
24 want you to consider a faculty member who does both. That
25 faculty member does their research in a self-directed way,

1 isn't that correct? Well, let me step back. You know what I'm
2 going to withdraw that. Let me ask a different question. As a
3 faculty member in engineering, do you -- are you still actively
4 doing your faculty role now that you're in the provost's
5 office?

6 A As I described for many hours this morning, yes.

7 Q Yeah, yeah, okay. So your --

8 A Sorry. Today was that day.

9 Q I know you talked about doing research. Do you also teach
10 classes?

11 A I no longer teach. I give guest lectures in courses in my
12 department.

13 Q The research that you do and that you have done throughout
14 your career at Penn, you write grants, grant applications to
15 fund research that you are interested in, yes?

16 A I do it, yes.

17 Q And you talked about when you have a funded research
18 project that there is a hypothesis that you are then testing
19 through the scientific method presumably, yes?

20 A Presumably.

21 Q Do you develop that hypothesis?

22 A I do it with my co-investigators.

23 Q And co-investigators are faculty?

24 A Yes.

25 Q Do you on the research that is done in your lab, are you

1 what's called a term that I don't know whether we've heard it
2 yet today, principal investigator?

3 A I am a PI, yes, principal investigator.

4 Q So for a grant that you've written the application for and
5 you've gotten funding, you mentioned that you are well funded.

6 A Sure.

7 Q You're the principal investigator. And then you have
8 folks who assist in the research.

9 A Yep.

10 Q And those people who assist in the research, you talked
11 about their -- you talked about research assistants, graduate
12 students, yes?

13 A Yes.

14 Q And you talked about also having staff. You gave two --

15 A Yes.

16 Q An example of two people who you unfortunately had to
17 dismiss, right?

18 A I gave examples of four people.

19 Q Oh, I thought you said two.

20 A Two that I have and two that I dismissed.

21 Q Okay. What position did they hold or do those four people
22 hold?

23 A Well, the ones that are no longer here don't hold any
24 position.

25 Q What did they hold?

- 1 A They hold a variety of different positions, research
2 specialist, research technician, with As and Bs behind them.
- 3 Q And there's staff with Penn?
- 4 A Yes.
- 5 Q The two people that you have now, same positions?
- 6 A Same variance of that, yes.
- 7 Q Do you also have post-doctoral students?
- 8 A I have a post-doctoral fellow. We do not have -- there's
9 no such thing as a post-doctor student.
- 10 Q Right. Are those people who are -- they obviously have
11 already received their doctoral degree.
- 12 A They are PhDs.
- 13 Q And they come to work with you because they are interested
14 in your field of research.
- 15 A Yes.
- 16 Q And you are interested in having them do that work.
- 17 A Sure.
- 18 Q And then you have PhD candidates.
- 19 A Yes.
- 20 Q Do you also have master students who work with you in your
21 lab?
- 22 A Sometimes, yes.
- 23 Q As research assistants?
- 24 A I don't know their title.
- 25 Q How did they come to be assigned to work in your lab?

1 A Some of them are getting their thesis in my lab. So they
2 don't get assigned to my lab. They are recruited and they join
3 in the same way that the PhDs do.

4 Q Okay. When you taught, did the research that you -- did
5 you teach courses that were in your field?

6 A I taught courses in bioengineering, yes.

7 Q Did you teach courses that were related to your research?

8 A Sometimes.

9 Q In those instances, your research informed what you taught
10 in the classroom, isn't that true?

11 A No. Actually, the accrediting body influenced what I
12 taught in the classroom. The curriculum committee influenced
13 what I taught in the classroom. It may have been easier for me
14 to pull an example, but the curriculum was set by the
15 department.

16 Q So let's talk about that. You talked about -- you
17 testified this morning that faculty are attached to a school.
18 And within the school, it's divided into departments.

19 A Yes.

20 Q I'm going to talk specifically about engineering and then
21 I'll ask you whether it's similar across the University. But
22 within engineering, the school is divided into departments.
23 And you are attached to the Department of Bioengineering?

24 A My primary appointment is there.

25 Q Your secondary appointment is?

1 A In Perelman, in neurosurgery.

2 Q When you teach in bioengineering, you're teaching -- your
3 work there is -- the structure of your reporting about that
4 work goes through your department hierarchy, yes?

5 A Can you clarify what you mean by reporting?

6 Q When you were teaching, were you responsible to a
7 department chair?

8 A Yes.

9 Q Were you then -- were there layers of responsibility
10 within the school, sort of a reporting structure for you, if
11 you understand what I'm saying? Like so you're responsible to
12 report to the department chair and then what's the next level
13 of hierarchy?

14 A I can explain that. But that is attached to my role as a
15 faculty member, not my role as a teacher.

16 Q Okay. Then let's talk about it as a faculty member. So
17 what's the hierarchy?

18 A I would report to -- I still report to a department chair.
19 He reports to a dean. The dean reports to the provost and the
20 president. And they report to the board of trustees.

21 Q That structure for faculty member reporting is true across
22 the schools, isn't that true?

23 A Some schools are small enough that they don't have
24 necessarily departments.

25 Q Can you give an example of that?

- 1 A SP2, I think.
- 2 Q And SP2 is shorthand?
- 3 A Social policy and practice.
- 4 Q So there the reporting structure would be from the faculty
5 member to the dean?
- 6 A Yes.
- 7 Q And then to the provost?
- 8 A Yes.
- 9 Q And to the president of the board of trustees.
- 10 A Yes.
- 11 Q That's true with regard to, and I think this is what you
12 were getting at when you corrected me, that's true with regard
13 to the faculty member's work in teaching, research, and
14 service, right?
- 15 A As an entity.
- 16 Q How about for you as a faculty member -- sorry.
- 17 A It's okay.
- 18 Q For you as a faculty member, because you have a secondary
19 appointment in Perelman School of Medicine --
- 20 A Yes.
- 21 Q -- do you have a similar reporting structure there?
- 22 A So I have a dissimilar role in that I am a secondary there
23 so I do different things in my role there. But I am -- I guess
24 my performance and the reason that I continue to be reappointed
25 in that role is because the chairman and the dean agree that

1 I'm doing okay with the job.

2 Q What is your role in that secondary appointment?

3 A So I participate in interviewing their residents. I host
4 residents in my lab who are doing research. I participate in
5 their educational grand rounds. I run a laboratory for them
6 with my collaborator who is in my department.

7 Q Again just so the record is clear, I know you and I both
8 know what you're talking about, when you say residents, you're
9 talking about medical residents?

10 A I am.

11 Q These are folks who have completed their --

12 A They already have MDs.

13 Q But they are completing the rest of their education to
14 be --

15 A They are training to be neurosurgeons.

16 Q When you taught classes in engineering --

17 A Yes.

18 Q Were you from time to time working -- let me start that
19 over again. When you were in engineering teaching classes, did
20 you from time to time have a teaching assistant work with you
21 in connection with a particular class?

22 A From time to time, not all the time.

23 Q When you did, what kind of functions would the teaching
24 assistant perform in connection with the class that they were
25 working with you on?

1 A Depends on the class. Sometimes, they would have a small
2 discussion group to talk about the topic that we were
3 discussing. That was a course that actually I want to note was
4 not associated with my department, but associated with the
5 School of Engineering and had students -- was designed
6 specifically to have students from other schools. It was about
7 technology, so we had a little more discussion than problem
8 solving. Other activities would include helping me to put
9 together problem sets based on what they had heard from other
10 students; working on evaluating whether the exam that I
11 prepared, I would have them take it before I would give it to
12 the students; sometimes grading those exams.

13 Q Grading the exams that you had given to the students.

14 A Correct.

15 Q If you taught the same class without a teaching assistant,
16 because you said it happened from time to time but not always,
17 those are functions you would have done yourself?

18 A I suppose.

19 Q The class you were describing with the discussion
20 sections, is that discussion section the same thing you
21 referred to earlier as a recitation?

22 A I would say because of the content, since we weren't
23 working problem sets that would be a recitation. But I teach
24 courses that have hard science, which we talked about earlier,
25 but working equations that would take the form of having

1 conversations and working problems together.

2 Q In the vernacular in higher ed, that working problems
3 together is not a recitation?

4 A No, that is a recitation.

5 Q Okay. So you're saying both problems --

6 A Recitations take many, many forms.

7 Q Okay. Do you still have in front of you Employer
8 Exhibit 3?

9 A Yes.

10 Q This letter specifically offers whoever this candidate
11 was, this is an offer for someone to begin their doctoral
12 program in bioengineering?

13 A That is correct.

14 Q And this letter offers funding for a one-year period.
15 Right?

16 A The period indicated after the first portion of your
17 fellowship is for a one-year period, yes.

18 Q Okay. This letter doesn't talk specifically about how
19 long the fellowship will last, right?

20 A No, it does not.

21 Q Is there a typical length in the School of Engineering,
22 I'll start with that, is there a typical length for a
23 fellowship for a doctoral program?

24 A When you say fellowship, can you clarify what you mean by
25 that?

1 A I'm referring to -- I'm using that term because the
2 letter, this letter here refers to an offer of a bioengineering
3 research fellowship to fully support your PhD status, so I
4 guess I'm referring to the -- well, let me rephrase the
5 question. How long does it normally take -- is there, is there
6 a typical amount of time for someone to achieve their PhD in
7 engineering?

8 A In engineering, the main time to degree is 5.3 years.

9 Q And then --

10 A I pay attention.

11 Q Of course, that's your job. And so when this letter says
12 the first portion of the fellowship is for the period
13 September 1, 2017, to August 31, 2018, that's the first year of
14 that period of time. And then will there be a second letter in
15 the second year to sort of re-up the fellowship amount or
16 update it?

17 A For this graduate group, at the end of that period the
18 student is taking what I talked about earlier, the qualifying
19 exam. Once they pass that, they receive a letter saying they
20 have passed that and are moving onto the next step.

21 Q And then at the next step, do they again learn the amount
22 of their fellowship payment and all that?

23 A They get notified of their stipend annually.

24 Q Based on your knowledge of what you testified about of how
25 things work in other schools within Penn, would you agree with

1 me that in other schools there are graduate groups that provide
2 the initial letter similar to Employer Exhibit 3 refer to the
3 time period for the length of the fellowship, the length of the
4 funding package?

5 A I wouldn't be able to agree with that statement because I
6 haven't reviewed every offer letter that goes out. I've only
7 seen the ones for the groups that I participate in. Those are
8 done by the graduate groups.

9 Q The ones in engineering -- when you say the ones that you
10 participate in, you're talking about the ones in engineering?

11 A Bioengineering, mechanical engineering, and neuroscience,
12 the three groups I am a member of.

13 Q Okay. So you talked about that your position is over --
14 oversees all of the education at the University and you gave
15 the hierarchy above your position. The provost is -- is it
16 correct that the provost is the head of all things academic at
17 Penn?

18 A I would describe it that way, sure.

19 Q Some universities refer to that position as the chief
20 academic officer. I don't know whether Penn does.

21 A Yes.

22 Q And you mentioned already that the deans all report to the
23 provost, right?

24 A Yes.

25 Q And you report to the provost, right?

1 A Yes.

2 Q You talked about the Graduate Council of the Faculties.
3 You chair that council, don't you?

4 A Yes.

5 (Petitioner's P-1 identified.)

6 BY MS. ROSENBERGER:

7 Q I've handed you a document marked Union Exhibit 1. Do you
8 recognize that?

9 A Yes.

10 Q It comes from the provost office's web site, isn't that
11 right?

12 A Describes the Graduate Council of the Faculties.

13 Q And that indicates that members of that council are --
14 well, that indicates that they're elected by school faculties
15 according to their bylaws, but are they in fact all elected?

16 A According to the school bylaws.

17 Q And it lays out the representation. I don't need you to
18 reiterate what's in here, but does this accurately represent
19 the current composition of the Graduate Council of the
20 Faculties?

21 A Yes.

22 Q That graduate council has representatives from eight
23 schools within Penn, plus biomedical graduate studies, correct?

24 A Give me a moment to count them. Eight schools and BGS.

25 Q You've already testified that BGS is in the Perelman

1 Medical School. Why is BGS represented separately from the
2 medical school on the Graduate Council of the Faculties?

3 A The medical school, honestly, that's a historical piece
4 that predates my knowledge. I can explain that the medical
5 school has other educational offerings which we have already
6 talked about like the MD.

7 Q Right.

8 A So we wrote Perelman. That would be a different group of
9 students.

10 HEARING OFFICER LEACH: Does the Employer object to
11 Union 1?

12 MR. FRYMAN: No objection.

13 HEARING OFFICER LEACH: Union 1 is received.

14 (Petitioner's P-1 received.)

15 BY MS. ROSENBERGER:

16 Q Of the schools that are represented on the Graduate
17 Council of the Faculties, not all of them are for undergraduate
18 degrees, correct?

19 A Correct.

20 Q The School of Arts & Sciences offers undergraduate
21 degrees, right?

22 A Correct.

23 Q And the Annenberg School of Education offers undergraduate
24 degrees?

25 A You just mixed two schools.

1 Q I'm sorry. Yes, I did, you're right. The Annenberg
2 School of Communication offers undergraduate degrees?

3 A Participates with the School of Arts & Sciences in
4 providing the curriculum for communications. The degrees come
5 from SAS.

6 Q Does the nursing school have undergraduate programs?

7 A Yes.

8 Q Does Wharton School of Business have undergraduate
9 programs?

10 A Yes.

11 Q And the School of Engineering and Applied Science has
12 undergraduate programs, right?

13 A Yes.

14 Q The rest all have only graduate programs, correct?

15 A Not entirely, in the same way that Annenberg offers a
16 curriculum as does School of Design.

17 Q Through the School of Arts & Sciences?

18 A School of Arts & Sciences.

19 Q And each school is headed by a dean? Each of the schools
20 -- I'm sorry, let me say that a different way. Each of the
21 schools that are represented on the Graduate Council of the
22 Faculties is headed by a dean, yes?

23 A Yes. But there is no School of BGS.

24 Q Right. When I say schools that are represented on the
25 Graduate Council of the Faculties, I'm talking about the

1 schools, not BGS. I'm going to try to be separate about that.

2 A Yes.

3 Q Each of those schools has -- we talked before about
4 departments, that not every school has departments. Which
5 schools don't have departments?

6 A I wouldn't be able to list those with tremendous
7 confidence because we have a lot of departments.

8 Q Fair enough. But in any event, some of those schools have
9 a department structure?

10 A Correct.

11 Q That you described before. And then they also have
12 graduate groups within and among the schools, yes?

13 A Correct.

14 Q With regard to BGS, does their reporting structure involve
15 -- do they have departments? Does BGS have departments?

16 A Perelman School of Medicine has departments.

17 Q BGS within it does not?

18 A BGS within it has graduate groups.

19 Q Right. Is there a hierarchal structure within BGS that
20 reports to the dean of the School of Medicine?

21 A The director of BGS reports to -- I don't know his
22 official title at this time. I can give you his name and
23 someone can look it up.

24 Q Yeah.

25 A But does not report directly to the dean of Perelman.

1 Q But someone else at Perelman?

2 A Yes, who that person does report to the dean.

3 Q With regard to the schools that are represented on the
4 Graduate Council of the Faculties, I'm going to go through them
5 rather than ask you generally. Annenberg School of
6 Communications has an associate dean of graduate studies, isn't
7 that right?

8 A Yes.

9 Q Someone named Turow, is that right?

10 A Yes.

11 Q The School of Arts & Sciences has an associate dean for
12 graduate studies, correct?

13 A Yes.

14 Q That's Eve Troutt Powell?

15 A That is correct.

16 Q The Wharton School of Business has a vice dean for the
17 undergraduate division.

18 A Correct.

19 Q That is Lori Rosenkopf?

20 A Correct.

21 Q Do they have a similar position for graduate studies?

22 A They have a graduate dean who is also considered -- they
23 have an odd titling structure so they have vice deans in some
24 and associate deans in others.

25 Q The person who is responsible for graduate studies is a

1 vice dean or an associate dean?

2 A I'm not a Wharton faculty member and quite frankly it's
3 too much.

4 Q Fair enough. In engineering, you have an associate dean
5 for undergraduate education, right?

6 A Yes.

7 Q And you have an associate dean for masters programs,
8 right? I don't know if he can --

9 A Sorry.

10 Q You have an associate dean for masters programs?

11 A There is an associate dean, yes.

12 Q And there is a graduate affairs committee.

13 A That is correct.

14 Q I'm not suggesting that's within the dean's office. I'm
15 just saying there is a graduate affairs committee within the
16 School of Education -- School of Engineering, correct?

17 A Yes.

18 Q What's the function of the graduate affairs committee in
19 the School of Engineering?

20 A That is chaired by their graduate dean, who you didn't
21 mention.

22 Q Okay.

23 A They have an associate dean of graduate studies, graduate
24 students. She oversees that. And it is her way of bringing
25 together the graduate group chairs.

1 Q You've already testified about the graduate group chairs.
2 The graduate affairs committee in engineering recommends to the
3 faculty matters relating to graduate students and their
4 education, isn't that true? Do you know?

5 A I don't know what you mean by recommends to the faculty.
6 (Petitioner's P-2 identified.)

7 BY MS. ROSENBERGER:

8 Q I've handed you a document marked Union Exhibit 2. Do you
9 recognize that?

10 A If you give me a second, I will be able to tell you.

11 Q Sure.

12 A I suspect it's a web page.

13 Q Have you seen it before?

14 A Not in this form. That's why I'm hesitating.

15 Q That's okay. I mean it does have the web page --

16 UNIDENTIFIED SPEAKER: URL.

17 MS. ROSENBERGER: The URL, thank you, at the bottom.

18 BY MS. ROSENBERGER:

19 Q But have you seen something with this content on the
20 School of Engineering's web site?

21 A Yes.

22 Q I know it prints out -- sometimes it prints out different
23 than what we're used to seeing. It represents on the second
24 page, it has a reference to the graduate affairs committee. Do
25 you see that there?

1 A Yes.

2 Q And it has Kate -- is it Stebe or Stebe?

3 A Stebe.

4 Q Oh, Stebe. Is that the associate dean that you referred
5 to?

6 A Correct.

7 Q So she chairs that committee. And then the other names
8 that are listed after her, do you recognize those to be the
9 names of the members of that committee?

10 A It is not a complete list of who should be there.

11 Q I don't mean names, but just general.

12 A No, it is incomplete.

13 Q Okay.

14 A It is covering only one, two, three, four -- it has left
15 off material science and engineering.

16 Q So it should be the chairs from the --

17 A Those graduate groups.

18 Q Those graduate groups. And then underneath there it
19 describes the scope of the -- where it says scope, so I'm
20 guessing that's --

21 A Yep.

22 Q -- describing its scope. Does that accurately describe
23 the scope of the graduate affairs committee?

24 A From 2016 to 2017.

25 HEARING OFFICER LEACH: Does the Employer have an

1 objection to Union 2?

2 MR. FRYMAN: No objection.

3 HEARING OFFICER LEACH: Okay. Union 2 is received.

4 (Petitioner's P-2 received.)

5 BY MS. ROSENBERGER:

6 Q Am I correct that that committee -- that the members of
7 that committee are chairs -- I'm sorry, you said that already.
8 Never mind, withdrawn. With regard to the schools, the other
9 schools that are represented on the Graduate Council of the
10 Faculties, is there similar school level oversight let's say
11 for example in design? Is there someone who is charged with
12 overseeing graduate programs there since you said they also
13 have a connection to School of Arts & Sciences for
14 undergraduate programs?

15 A Yes.

16 Q Who?

17 A David Leatherboro.

18 Q What is that person's position?

19 A I couldn't tell you his position title. He's the
20 equivalent of these other people we've talked about.

21 Q The associate dean, the vice dean --

22 A The Eve Troutt Powell.

23 Q Okay. And similarly someone with that kind of a role in
24 education, Graduate School of Education?

25 A Yes.

1 Q And is there a similar person or position in social policy
2 and practice?

3 A Yes.

4 Q And also at Wharton -- oh, we already talked about
5 Wharton.

6 A Yeah, we did that one already.

7 Q For these people in these oversight positions within the
8 schools for graduate programs, do they oversee the graduate
9 groups that are associated with that school?

10 A Who have their primary affiliation with that school. They
11 have a similar structure as you've described in Exhibit 2 in
12 that they have curricular committees that come together, yes.

13 Q You've talked a couple of times about curriculum
14 committees. There is a notion in higher ed of something called
15 shared governance, right?

16 A Yes.

17 Q I don't want to belabor it but just so that in case it's
18 confusing on the record, it involves committees or other
19 structures in which faculty participate to determine things
20 like curriculum, degree requirements, any number of matters
21 relating to the education of students at the University, is
22 that correct globally speaking?

23 A Curriculum.

24 Q Yes.

25 A I don't -- when you say broadly speaking --

1 Q Degree requirements?

2 A Degree requirements go with the Graduate Council of the
3 Faculties, which is why we have multiple reps on there, yes.

4 Q Well, that council is a manifestation of shared
5 governance, isn't it?

6 A Since I wasn't there when it was formed, I would say it
7 may be an example of it.

8 Q Okay, that's what I meant, but, okay. Can you give other
9 examples of shared governance just so that we have a flavor?

10 A Personnel committees in the schools. My graduate deans
11 committee where these people you've called out all come
12 together to talk about similar similarities. There are faculty
13 who care about energy, salaries.

14 Q Service on those committees is part of the service role of
15 faculty members, isn't that right?

16 A In some cases.

17 Q When you said that these associate deans or vice deans of
18 graduate programs, I think you referred to them as your
19 committee of the -- what did you call it, your committee of
20 what?

21 A So the question is what is the committee I have?

22 Q Yes, what you were referring to as my committee of?

23 A The Council of Graduate Deans.

24 Q So in addition to the Council of Graduate Faculties, you
25 also -- do you chair the Council of Graduate Deans?

1 A Yes, ma'am.

2 Q What does that entity do?

3 A We talk about national trends. We talk about ways to
4 support our students. We work on common new student
5 orientation programming.

6 Q And they are all graduate deans from the various schools
7 within --

8 A Yes.

9 Q Is there someone on that committee from BGS?

10 A Yes.

11 Q So the director?

12 A Yes.

13 Q Does that council include the professional, the medical
14 school, the dental school, the law school, the veterinary
15 medicine school?

16 A So for clarification, my council is related to education
17 except for the Graduate Council of the Faculties are related to
18 degree categories. So that is graduate deans who oversee those
19 programs. I have a separate one for professional masters. The
20 doctorates, professional doctorates I do not oversee.

21 Q Where there are graduate programs that we've talked about
22 but there are some that cross the lines between schools, where
23 do those groups report? I'm using that term generally. So if
24 there is a graduate group that crosses the lines between BGS
25 and engineering, do they report to the graduate dean of

1 engineering, or the director of BGS, or both? How do those --

2 A For the graduate group, like I testified to this

3 morning --

4 Q Yeah.

5 A For applied math for example --

6 Q Yes.

7 A -- that particular one, even though it is jointly shared
8 across two schools goes with its -- where the department chair,
9 where the graduate group chair directing program is so in that
10 case it goes to math, which is a single school.

11 Q Do the graduate group chairs change from time to time?

12 A Yes.

13 Q If the next graduate group chair for that came from
14 engineering would the reporting structure go through
15 engineering?

16 A That would be left to be determined within those
17 participating groups. I couldn't speculate.

18 Q Okay. But am I understanding you correctly that generally
19 on these graduate -- for these graduate groups that cross the
20 lines between schools, that their reporting structure is
21 determined by who the graduate group chair is? Or are you
22 saying that it's only -- that's one example where that's going
23 to happen?

24 A So let me clarify because I think we're -- we review, the
25 Graduate Council of the Faculties reviews the graduate groups

1 every five to six years. Every time -- part of the reason we
2 do that is to assess whether it is aligned in the appropriate
3 orientation if you will of primary department if you will or
4 its primary association and curricular content. So it might
5 shift if there is such a finding. I can't specify.

6 Q Can you tell me whether the graduate groups that cross the
7 school lines have what you just referred to as a primary
8 association?

9 A As I said this morning, they have -- they always have an
10 associated -- at any given time they have an associated
11 department. That changes.

12 Q Okay. As I understand what you're saying, it changes
13 based on the review by the Graduate Council of the Faculties.

14 A It can.

15 Q Do you know how many of the -- I think you said there were
16 about 56 graduate groups?

17 A 54.

18 Q Okay. Do you know how many of them cross lines between
19 schools?

20 A I wouldn't be able to do that de novo. That's a lot of
21 numbers.

22 Q Yeah, no, I didn't know if you knew.

23 A In my review of the graduate groups in the two years that
24 I've been in this role, we have reviewed -- let me do it
25 differently. This year we have reviewed two or three graduate

1 groups that have more than one association.

2 Q You testified about circumstances where graduate students
3 working in a given lab may be themselves in graduate programs
4 from different schools. Do you remember that testimony?

5 A Yes.

6 Q The lab that they are working in, is that lab in a
7 particular school?

8 A Can you clarify if you mean the PI or the physical
9 location?

10 Q The PI in a particular school.

11 A Every PI has a home department, which has a home school.

12 Q In your lab, how do students -- how do graduate students
13 come to work in your lab, to do research in your lab? What's
14 the process of them getting there?

15 A How far back do you -- give me a toggle point, please.

16 Q When they -- when a graduate student first comes to work
17 in your lab, how is it that they get there? And what I mean is
18 do they just say I want to come work with this professor or is
19 there a decision made by someone, maybe it's you, maybe it's a
20 graduate group chair, I don't know who it is, if someone makes
21 the decision that Student Jane Doe is going to come and work on
22 your research, in your lab. Can you explain what that process
23 is?

24 A This exhibit explains one way it happens, Exhibit 3.

25 MR. FRYMAN: Employer's 3, just for the record.

1 THE WITNESS: And I'll explain this one and then I'll
2 explain a different scenario. This particular student and I
3 know who it is only by the size of the block, came and
4 interviewed with six to eight faculty members in our graduate
5 group. The reason my name ended up her was she indicated
6 interest in my lab preferentially above all others. I was
7 willing and interested in having her come and participate in my
8 program. There are other letters that come from my graduate
9 group that list two people or three people based on the
10 students' interest. Those students would then come and do
11 rotations.

12 BY MS. ROSENBERGER:

13 Q Among those two or three faculty members.

14 A Among those folks. I can keep going if you -- and then
15 when they have finished that they put in their input as to who
16 they would like to engage -- who they would like as their
17 thesis advisor and that's how they land there.

18 Q But they don't land there merely because they choose to
19 land there because the faculty member accepts them, isn't that
20 true?

21 A I am not allowed by my graduate group to make any offers
22 without the assumption that every student who wants to work
23 with me can participate in my research.

24 Q So if your name is on the letter, on Employer Exhibit 3 or
25 a similar letter --

1 A Or any other one.

2 Q -- then if they say at the end of that rotation, if you
3 were with multiple people, if they say I choose Dr. Winkelstein
4 then they would --

5 A Then they would start.

6 Q -- get that?

7 A They would be welcomed into the spine pain research lab in
8 January.

9 Q Do you know whether that's how it works in all graduate
10 groups for assignment of research assistants?

11 A I know how -- mechanical engineering is very similar to
12 this and I go through the same process with my neuroscience
13 recruits.

14 Q And you don't know whether that's true, whether that's the
15 process in other schools outside of engineering?

16 A Not in my official role.

17 Q Do you have a sense of how many faculty are like -- how
18 many faculty have primary and secondary appointments in
19 different schools like you do?

20 A That's a different vice provost.

21 Q The various schools that have graduate programs have --
22 let me withdraw that. The School of Engineering has its own
23 graduate student handbook, isn't that right?

24 A Each of our graduate groups within the School of
25 Engineering have a handbook.

1 (Petitioner's P-3 identified.)

2 BY MS. ROSENBERGER:

3 Q I've handed you a document that's marked Union Exhibit 3
4 and I will represent to you that I received it from your
5 counsel. I know it's a packet, so I'll give you a chance to
6 look at it.

7 A Yeah. Web form, this way is harder to follow.

8 Q It's the way I got it.

9 A Give me a second to flip through it, please.

10 Q Sure, sure. Do you recognize it?

11 A Parts of it.

12 Q It sort of on its face says that it is a graduate student
13 handbook. On the first page, it says this handbook is for
14 graduate students enrolled in engineering. Am I correct in
15 understanding that this is a graduate student handbook for all
16 graduate students in Penn engineering?

17 A For the parts that are common --

18 Q Right.

19 A -- to those graduate groups.

20 Q Do you know whether there are similar school level
21 handbooks for the parts that are common to the graduate groups
22 affiliated at the schools in the other schools that have
23 graduate programs?

24 A There is a -- yes, yeah.

25 Q Then you mentioned that there is also graduate group level

1 handbooks. And they're more specific, right?

2 A Yes.

3 HEARING OFFICER LEACH: Does the Employer object to
4 Union 4?

5 MR. FRYMAN: No. And we don't object to Union 3.

6 HEARING OFFICER LEACH: I'm sorry, I meant 3. No
7 objection to Union 3 from the Employer, right?

8 MR. FRYMAN: No.

9 HEARING OFFICER LEACH: I'll do 4 next.

10 (Petitioner's P-3 received.)

11 HEARING OFFICER LEACH: You can go ahead.

12 (Petitioner's P-4 identified.)

13 BY MS. ROSENBERGER:

14 Q I handed you a document marked Union Exhibit 4. Again,
15 it's a packet so if you want to look at it.

16 A This one I know.

17 Q Okay. So do you recognize it?

18 A Yes.

19 Q What is it?

20 A It's the bioengineering PhD graduate handbook.

21 Q It's headed at the top Department of Bioengineering, but
22 at the bottom in smaller letters it says graduate group of
23 bioengineering. Is there -- are those two sets that overlap or
24 is the graduate group a subset within the Department of
25 Bioengineering?

1 A It's certainly not a subset within the Department of
2 Bioengineering. If anything it is far bigger than the
3 Department of Bioengineering. I didn't put this together.

4 Q No.

5 A I wouldn't have put it together this way.

6 Q I hear you. If you turn to Page 22 of this handbook,
7 there is a section called financial support. Do you see that?

8 A I do see it.

9 Q And about the sixth line down there is a sentence that
10 starts in the middle that says full-time students are expected
11 to work full-time on research in the summer months. Is that --
12 does that accurately reflect what the policy is about working
13 on research during the summer months in the graduate group in
14 bioengineering?

15 A Some of the students do, yes.

16 Q Are there students working in your lab, in the graduate
17 group of bioengineering this summer?

18 A Yes. As I said, today is the day I was to spend with
19 them.

20 Q Does that happen all summer or just during the formal
21 summer term?

22 A For my students, they are here all summer.

23 Q All summer.

24 HEARING OFFICER LEACH: So no objection to Union 4 from
25 the Employer?

1 MR. FRYMAN: No.

2 HEARING OFFICER LEACH: Union 4 is received.

3 (Petitioner's P-4 received.)

4 MS. ROSENBERGER: I've handed you a one-page document
5 marked Union Exhibit 5.

6 (Petitioner's P-5 identified.)

7 BY MS. ROSENBERGER:

8 Q Do you recognize that?

9 A Yes. It's last year's version of the exhibit from
10 earlier, academic calendar.

11 Q Well, it's last year's version but it includes the current
12 summer term --

13 A Correct.

14 Q -- isn't that right?

15 A Correct.

16 Q On the summer term at the bottom there, the 2017, we're in
17 2017 summer term right now, right?

18 A Correct.

19 Q And it looks like there are 11-week session classes and
20 also 2 sets of shorter classes. Am I right about that?

21 A I'm not sure where you're getting that statement.

22 Q I'm sorry. So down at the bottom on the far left where it
23 says summer?

24 A Yes.

25 Q Underneath that, if you read across it says -- the first

1 line says 11-week session classes begin and the date is May 22,
2 Monday.

3 A Yes, I see that.

4 Q So there are summer session classes -- summer term classes
5 that last 11 weeks?

6 A I think that's a nuance of the way the calendar is
7 written.

8 Q There are not classes that last 11 weeks?

9 A Session 1.

10 Q Well, the second line talks about Session 1 classes begin
11 May 22.

12 A Oh, I see what you're saying, okay.

13 Q Right?

14 A Yep. Sorry, I misread that.

15 Q That's okay. And then Session 1 classes end June 28th,
16 right?

17 A Yes.

18 Q And then the next day Session 2 classes begin.

19 A Yes.

20 Q Then they end August 4th.

21 A Yes.

22 Q I want to make sure I'm clear on how I'm reading this.
23 That's why I was asking the questions I did. It looks -- it
24 reads to me, but you tell me if I'm wrong, like there are
25 Summer Session 1 and Summer Session 2, which are shorter term

1 classes that last for a shorter period of time. And then there
2 are classes that last for 11 weeks in the summer term. My
3 question is, is that right? Am I reading it right?

4 A I suspect so.

5 Q But you don't know yourself?

6 A Well, I could describe how Session 1 works, but I
7 obviously 11 weeks is new to me.

8 Q Okay.

9 A So, no, I don't.

10 Q Well, can you explain how Session 1 works?

11 A So those are mostly undergraduate courses that are offered
12 almost every day in a condensed sort of that period of time.

13 Q Is the same true for Session 2?

14 A That is correct.

15 Q Do students in that condensed period of time since they're
16 there almost every day, do they then get a full term, the
17 equivalent of credit that they would get if they took it over a
18 full term in spring or fall?

19 A Yes. Those are undergraduate courses.

20 Q Right. Are some of those courses taught by graduate
21 students?

22 A They may be.

23 Q Do graduate students also serve as teaching assistants to
24 faculty teaching summer courses?

25 A They may.

1 Q And I gather from your answer you don't know how many of
2 them do that, how many graduate students do that.

3 A I wouldn't have that on the top of my head. Those are
4 undergraduate courses taught by an undergraduate arm.

5 Q But I am correct that your role as vice provost of
6 Education includes the undergraduate programs, too, yes?

7 A I facilitate and coordinate their activity. The
8 undergraduate summer courses are housed solely in LPS.

9 Q Solely in?

10 A In LPS, which is an arm of the college.

11 Q What does LPS stand for?

12 A Liberal and professional studies, I think.

13 Q Oh, it's an arm of the --

14 A It's an arm of SAS.

15 Q Okay.

16 A It changes the acronym every few years, which is why I
17 don't have it memorized.

18 Q Understandable. The graduate students, well, let me
19 rephrase that. Doctoral students can participate in an
20 exchange scholar program, isn't that correct?

21 A I don't know much about what you're -- can you give me a
22 little more detail?

23 Q Sure. Does Penn have arrangements with other universities
24 to allow their doctoral students to do work at those other
25 universities and get credit at Penn for that work?

1 A If they do, it is within the graduate groups.

2 HEARING OFFICER LEACH: Does the Employer object to
3 Union 5?

4 MR. FRYMAN: No objection.

5 HEARING OFFICER LEACH: Okay. Union 5 is received.
6 (Petitioner's P-5 received.)

7 BY MS. ROSENBERGER:

8 Q Do you know whether graduate students do their -- do
9 either -- do research away from the Penn campus from time to
10 time?

11 A Yes.

12 Q Including not just away as in another part of
13 Philadelphia, but in another state or abroad?

14 A Yes.

15 Q That happens -- it can happen during the summer term,
16 right?

17 A I suspect.

18 Q And it can happen during the fall term?

19 A Yes.

20 Q And it can happen during the spring term?

21 A Yes.

22 Q I'm guessing but correct me if I'm wrong that you don't
23 know off the top of your head how many students do that in each
24 of those terms?

25 A I don't know the number. I know the relative magnitude

1 based on graduate group reports I've seen.

2 Q And what would the relative -- I don't know what you mean
3 by the relative.

4 A The wading across the calendar.

5 Q What is that?

6 A It is far more of them are doing it during the summer.

7 Q Does it depend on what program one is in whether they're
8 doing it during the summer?

9 A The programs where I've seen it, it is primarily that that
10 is part of the curriculum. That's how they're doing it. The
11 tendency is to do it during the summer.

12 Q You talked about on direct examination, you testified
13 about the Center for Teaching and Learning.

14 A Yes.

15 Q Does that organization also provide workshops for faculty?

16 A Yes.

17 Q If you know is it possible for a student who has a
18 research assistantship to -- let me step back a second. You're
19 familiar with how in some graduate groups, a research
20 assistantship may be for -- typically be in a set period of
21 time during the PhD program, say Years 2 and 3 or something
22 along those lines.

23 A So the technicality of who is called what is not something
24 that I'm deeply familiar with. I worry about the students in
25 their advancement and curricular.

1 Q And you're not familiar with the timing during which one
2 provides either their teaching assistantship or their research
3 assistantship, or teaching --

4 A You're using terms that go with --

5 Q I'm sorry. I get what you're saying. Are you familiar
6 with the timing during -- in programs across the University,
7 graduate groups across the University during which a graduate
8 -- a doctoral student would provide their service whether it's
9 research or instructional services as part of their program?

10 A Can you say that again because the pew was making noise?
11 I didn't hear the front part.

12 Q That's okay. Are you familiar --

13 A Sorry.

14 Q Are you familiar with the timing during one's -- a
15 student's doctoral program at which they would provide service,
16 whether it's instructional service, or research, or you know as
17 part of their program?

18 A So my familiarity is that it varies.

19 Q So in some schools it's a consecutive period of time,
20 right?

21 A In some graduate groups it's a consecutive period of time.

22 Q Fair enough. And in some graduate groups, it's in a
23 non-consecutive period of time, isn't that true?

24 A It could be.

25 Q And in some graduate groups even where there is a

1 consecutive period of time, and I'm just going to use as a
2 hypothetical for purposes of discussion Years 2 and 3 of a
3 5-year program when the student is to do whether it's
4 instructional services or research, there are graduate groups
5 where that might be if the student gets their own funding from
6 an external source for example deferred to a later term, if you
7 know?

8 A I wouldn't know the details.

9 Q You don't know?

10 A I wouldn't know those details.

11 Q Okay. You testified about some examples of what people in
12 the classification student worker do.

13 A Yes.

14 Q Do some people in that classification also do things like
15 tutoring?

16 A Sure.

17 Q And do they do things like grading?

18 A They may.

19 Q Are there other things that are instructional that a
20 student worker may do?

21 A I wouldn't know all the -- I mean, yeah, wouldn't know.
22 But there's a lot we don't know our students do outside of
23 Penn.

24 Q Outside of?

25 A Penn.

1 Q Oh, oh.

2 A There are people who tutor on the side.

3 Q But they're not being paid for that as student worker by
4 Penn.

5 A They are not.

6 Q Now the people doing this work as a student worker, that's
7 not -- if I say I were one of these folks, if I were going to
8 position as a tutor and my classification was student worker,
9 that's not something that's required for my degree.

10 A That is correct. It's an optional thing a student would
11 choose to do.

12 Q Both doctoral students and masters students can take on
13 assignments doing things like grader or tutor for extra pay
14 separate from their funding package?

15 A I wouldn't say it that way.

16 Q How would you say it?

17 A In my graduate group and I know in others they actually
18 need approval of their PI or their mentor to engage in those
19 activities so they aren't distracted from their academics.

20 Q And some schools have a limit on how many hours they can
21 spend in such activities for example, yes?

22 A I'm not sure if it's a school thing. It could be a
23 graduate group thing. And, again, the limit is to protect the
24 student from diverting their attentions.

25 Q Understood. When a faculty member is a PI on a research

1 grant and has graduate students working with them -- I'm going
2 to give you an example of a faculty member who is -- let me
3 step back and lay some foundation. There are ranks for faculty
4 members, correct?

5 A Yes.

6 Q And they start with -- can you just give us from bottom to
7 top what the ranks are?

8 A Well, I wouldn't say bottom. That would be insulting to
9 the assistant professors. So for most junior, assistant
10 professor, associate professor in some schools and then full,
11 in some schools there is no -- there is a middle gap there I
12 think where maybe tenure is conferred at a different layer.

13 Q And there is a process for a faculty member to be promoted
14 from one rank to the next.

15 A Yes.

16 Q Which is why I said bottom to top, but I understand where
17 you're coming from.

18 A Yeah, I know, but we're careful about that language.

19 Q Yeah, I hear you. So someone who is in a junior,
20 assistant professor who could be a PI on a research grant, yes?

21 A Yes.

22 Q And would have a group of people like you had or have
23 working on their research, yes?

24 A Yes.

25 Q And out of that research would hopefully come some

1 published scholarly work, yes?

2 A Yes.

3 Q That kind of published scholarly work and I think you
4 talked about authorship on articles and what have you, could be
5 submitted as part of the portfolio with the faculty member's
6 application to be promoted to the next rank, isn't that true?

7 A That is true, but also included is the number of PhDs that
8 they are mentoring and that is evaluated as well.

9 Q Yeah. Well, they're evaluated for promotion on teaching,
10 research, and service, isn't that true? I think you had
11 mentioned that mentoring PhDs is service.

12 A No, it's teaching.

13 Q Teaching, okay. Getting back to your testimony about a
14 grant in your -- where you are the PI, you talked about there
15 is a hypothesis and you and the folks in your group are doing
16 research. And it's related -- the research that is done in
17 your lab, though, on that grant is related to the subject
18 matter of that grant, isn't it?

19 A Loosely to the subject matter, yes.

20 Q So you had testified on direct that the graduate students
21 working in your lab pick what they want to focus on.

22 A Yes.

23 Q But it has to be within the parameters, to use your term,
24 loosely within the subject of the grant for it to be funded by
25 that grant, isn't that right?

1 A Yes.

2 Q And your grant, is your grant where the funding comes for
3 the fellowship for those doctoral students?

4 A In some cases.

5 Q In others it comes from where?

6 A In other cases it comes from departmental funds. In other
7 cases the institution puts in that the NIH grant doesn't cover
8 all my students so they are not fully covered by that grant so,
9 yeah, it comes from a number -- gifts that I have from donors.

10 Q Why does -- so NIH and you also said the National Science
11 Foundation?

12 A Yes.

13 Q Provide grants to faculty like yourself to conduct
14 research, right?

15 A Yes.

16 Q Why do they provide money to conduct research?

17 A You would have to ask them that. It's a pretty dicey
18 scenario right now so I am not going to speculate.

19 Q Well, I guess I --

20 A Sorry to be --

21 Q No, no, no. I get what you're saying.

22 A It's not the right time to ask that question.

23 Q I guess what I --

24 A Rephrase it.

25 Q Yeah, I'll rephrase.

1 A Sorry.

2 Q Let me ask a different question. Those are federal
3 government entities, right, that pay you to conduct research --
4 that pay you to conduct research.

5 A They cover the cost of performing research.

6 Q Do you -- when the research is done do they get the
7 product or are they merely providing funding as a sort of
8 advancement of education?

9 A Can you define what you mean by product?

10 Q The results of the research.

11 A Yeah, so they do get that now. There is a data sharing
12 policy with NIH and NSF has an even more stringent one. And
13 they require in many cases that we make our publications open
14 access. So I would argue they do get that. It's that that's
15 the product.

16 Q So I did use the right word.

17 A What's that?

18 Q So I did use the right word.

19 A It's not the word I would have used but --

20 Q No, I, I get it. Bear with me, I'm going through my notes
21 and you've already answered some of this stuff.

22 A I understand.

23 Q I think you testified on direct that you get -- with
24 regard to appointments of graduate group chairs, you get
25 recommendations -- you get notices from the school recommending

1 someone to be the graduate --

2 A That's correct.

3 Q -- group chair.

4 A Correct.

5 Q Who at the school makes that recommendation, the graduate
6 dean?

7 A I wouldn't know. I mean it comes in, in a number of
8 different forms so I wouldn't know who it comes from. Often it
9 comes from the assistant saying that the school makes this
10 recommendation.

11 Q But it is the recommendation of the school?

12 A It comes to my office email. I review the name. You're
13 asking me a detail I --

14 Q Yeah.

15 A I don't have.

16 Q That's fine. I was trying to understand your direct
17 testimony. You talked about the actions you would take if you
18 had a research assistant who was struggling. You said you
19 would increase the frequency of the -- sorry.

20 A It's okay.

21 Q You said you would increase the frequency of your meetings
22 with the person to try to get sort of more --

23 A Yes.

24 Q -- more oversight and direction.

25 A Feedback.

1 Q Feedback, okay. What if the person just continued to
2 struggle and didn't make improvements?

3 A So speaking personally, often what happens there it would
4 become a mutual decision and the graduate group chair would
5 become involved and would help to find a laboratory or a mentor
6 that would better mesh with that student.

7 Q Have there been occasions where a student can't find
8 someone -- can't find a place to land where it's a better fit
9 and ends up leaving the program?

10 A When I was graduate group chair that was not the case. I
11 have seen -- this is part of the reason there are such diverse
12 faculty members as members of graduate groups. It's not
13 typically the case. As vice provost, I actually see some of
14 the requests when this might become an issue if it hasn't found
15 a solution space and my office tends to work with the graduate
16 groups or the students to find a solution. We're invested in
17 these students.

18 Q Yeah. Have there been -- has there ever been an occasion
19 to your knowledge when a student, the graduate student is
20 serving as a teaching assistant and is just not making it for
21 whatever reason, is not showing up, just not performing. Have
22 you ever had that experience?

23 A Can you clarify the not showing up for their teaching
24 activities or not showing up --

25 Q Let's say not showing up for their teaching activities.

1 A I have not had that experience.

2 Q Do you know in your role as vice provost of Education, do
3 you know whether that happens from time to time in a group this
4 large?

5 A If it happens it is handled at the graduate group level.

6 Q Do you personally know how the graduate groups handle that
7 kind of problem?

8 A Not all 54 of them.

9 Q Fair enough. You talked about the two staff members who
10 you had had to let go from your lab. I'm going to use the one
11 example that you said was job abandonment. You had a research
12 assistant -- well, let me step back a second. I assume by job
13 abandonment you mean the person just stopped showing up.

14 A That is correct.

15 Q If you had a research assistant who just stopped showing
16 up in that way would they be in danger of losing their funding?

17 A If they stopped showing up, at some point they're not
18 actually still participating in their education. There are a
19 lot of levels that happen before they are dropped from the
20 program, which is how they would lose their funding.

21 Q So they would lose their funding if they dropped from the
22 program. What about if a graduate student had fabricated --
23 the other example you gave was fabricating evidence I think.

24 A Of my staff person?

25 Q Yes, thank you. What if that had been a graduate student?

1 A So we have an Office of Student Conduct which sits on its
2 own investigating those issues.

3 Q If the Office of Student Conduct investigates and
4 determines a student had engaged in fabrication of data, what's
5 the consequence?

6 A Again, we don't have if that's the case this is what
7 happens. What I can say to you is that the Office of Student
8 Conduct oversees academic integrity of which that is a part.
9 Not all of the schools participate with the Office of Student
10 Conduct. Some of them have their own. And it is kept separate
11 from their -- I don't know the right words to use here but the
12 sanctions are kept separate from the grades in a course.

13 Q Is it your testimony that all teaching assistantships are
14 assigned within the graduate student's field of study? I'm not
15 sure if that's what you were saying on direct and I want to be
16 clear.

17 A I'm not sure if I was asked that.

18 Q That's what I heard you to say. I mean that's what my
19 notes say. But in any event, is that --

20 A You do this more often than I do. It is, yes, broadly
21 within their discipline.

22 Q You talked about -- on direct you talked about graduate
23 students using teaching assistantship to develop their own
24 course.

25 A Yes.

1 Q That happens from time to time? Faculty also develop
2 their own courses from time to time, too, is that right?

3 A That is correct.

4 Q And faculty, I think this gets to what you're saying, when
5 faculty develop their own course, it goes through an approval
6 process, through the curriculum committee and what have you,
7 through shared governance, yes?

8 A Yes.

9 Q Same thing for a graduate student created course?

10 A When I was talking about the graduate student having their
11 own course that was as they shadowed the faculty member who
12 developed the course or had a syllabus in the course packet.
13 Those students when they then had finished and took on their
14 own roles at other institutions or as a faculty member have
15 that packet ready to go.

16 Q Okay. That they developed from working with the faculty
17 member --

18 A Correct.

19 Q -- who taught that course, okay. You testified about an
20 example where a student had a health issue and so did not
21 finish their teaching assignment. Was that a student in a
22 graduate program that did not require teaching to receive the
23 degree?

24 A That is correct.

25 Q So there are graduate students who take on teaching

1 assistantships -- let me step back a second. Was it one of the
2 teaching assistantships that was for additional pay outside the
3 stipend?

4 A This particular student was doing it to develop
5 professional skills as a teacher.

6 Q Were they doing it for pay outside their fellowship?

7 A They received compensation outside of their stipend.

8 Q I'm sorry. The fellowship is the stipend, plus the
9 tuition, plus the fees.

10 MS. ROSENBERGER: That's all I have on cross.

11 HEARING OFFICER LEACH: Do you need to take a restroom
12 break or are you okay to move forward?

13 THE WITNESS: How much more do we have to do?

14 HEARING OFFICER LEACH: You have questions and I have
15 questions, too.

16 THE WITNESS: Then I probably need to go to the bathroom.

17 HEARING OFFICER LEACH: Okay. Can we go off the record?

18 (Off the record from 3:50 p.m. to 3:57 p.m.)

19 HEARING OFFICER LEACH: Back on the record.

20 MR. FRYMAN: All set? Thank you.

21 REDIRECT EXAMINATION

22 BY MR. FRYMAN:

23 Q Dr. Winkelstein, you had testified about this lab
24 technician employee who was removed for fabricating evidence.
25 Was that employee's misconduct addressed by the Office of

1 Student Conduct?

2 A No.

3 Q You also testified that in your lab there are some
4 students who are funded through grants but that there are other
5 students who are not funded through grants.

6 A Correct.

7 Q Are those students performing the same research activities
8 regardless of the source of funding?

9 A Yes.

10 Q Do they have the same ability to pursue their own
11 question, research question or area of interest?

12 A Yes, every student is the same. Most of my students don't
13 know how they are funded.

14 MS. ROSENBERGER: I didn't hear the end of that.

15 THE WITNESS: Most of my students don't know how they are
16 funded.

17 BY MR. FRYMAN:

18 Q Ms. Rosenberger also asked you about bioengineering
19 students who are conducting research this summer.

20 A Yes.

21 Q That research that they are performing this summer is that
22 working for some faculty member or are they conducting their
23 own research?

24 A They are working on either -- if they're in their first
25 year, they're working on their qualifying exam, or they are

1 working on their thesis.

2 Q You talked about that Ms. Rosenberger was making this
3 connection that every lab has a PI, which has a home
4 department, which has a home school. Do you remember that?

5 A Yes.

6 Q And you specifically mentioned by way of example in terms
7 of that structure bioengineering and mechanical -- is it MEAM?

8 A Mechanical engineering and applied mechanics, which we
9 call MEAM.

10 Q And that those folded up in terms of the PI to
11 engineering.

12 A Correct.

13 Q But you also have experience with neuroscience?

14 A Correct.

15 Q Are there PIs in neuroscience labs?

16 A Yes.

17 Q Do they have a home in a particular department or a
18 particular school?

19 A They could have a home in Perelman or SAS in many cases.

20 MS. ROSENBERGER: For? I didn't hear the second one.

21 THE WITNESS: SAS. Sorry, I'm not yelling at you.

22 MS. ROSENBERGER: No. It's the air conditioner.

23 BY MR. FRYMAN:

24 Q On cross, you mentioned that according to your vice
25 provost role this year you reviewed two graduate groups that

1 have I think the phrase was more than one association.

2 A Yes.

3 Q Do you recall which two those were?

4 A One of them was -- I've got to get it right because some
5 of them are a graduate group with two departments and some of
6 them are a department that has two graduate groups. So
7 sociology and demography, we reviewed them. That's one
8 department, but two graduate groups. We did AMCS in the last
9 year which is the applied math and computational sciences. And
10 art history, which has two -- has art history and also has art
11 and archeology in the Mediterranean world which has to
12 associations to it.

13 Q And AMCS, that's the one that cuts across --

14 A The schools.

15 Q You also provided some testimony on cross about the
16 Graduate Council of the Deans. Do you recall that?

17 A The Council of Graduate Deans.

18 Q I'm sorry.

19 A There's a lot of councils and a lot of different deans.

20 Q The Council of Graduate Deans. Are there representatives
21 of Wharton and Engineering that sit on the Council of Graduate
22 Deans?

23 A Correct.

24 Q Ms. Rosenberger asked you about some of the activities in
25 which teaching assistants engage. You mentioned recitations,

1 problem sets, exams, grading. She also asked you if that
2 graduate student wasn't there to do that whether someone else
3 or you would have done that. Is there pedagogical value to any
4 or all of those activities?

5 A Absolutely.

6 Q What is the pedagogical value of having the grad student
7 take the exam?

8 A There are a couple of ways to think about it. Having been
9 involved in the course up until that exam that student would be
10 able to identify potential areas where there is a mismatch in
11 what the faculty member thinks he or she has communicated and
12 what the students have gotten it. They can have a sense of the
13 thought process behind a particular question that the faculty
14 member has asked to be able to evaluate say multi steps in
15 answering a question. A graduate student who is doing that
16 would sort of explicitly see those gates in answering the
17 question which they might not have otherwise experienced.

18 Q What about grading, what is the pedagogical value of
19 grading?

20 A Again it's about looking and learning how it is that the
21 question translates into what a student of your discipline
22 might -- the student whose work you are grading might get
23 tripped up in a question like misunderstand a thing. If you're
24 grading the piece of work that you've helped to for lack of a
25 better word edit or test prior to that you can actually see the

1 effects of -- the thought process that goes into developing an
2 assessment tool.

3 Q You mentioned in the outset of cross that you occasionally
4 will have a master student in your lab.

5 A Yes.

6 Q What is that master student doing in your lab?

7 A They're either performing an independent study for their
8 course work masters where they do a semester long investigation
9 into something that they're interested in. In some cases, they
10 are working on a thesis for their master's degree, which is in
11 essence a miniature PhD, much shorter, much less D.

12 Q Is there any situation or circumstances under which the
13 master's student is conducting research unrelated to their own
14 thesis or course work?

15 A No.

16 MR. FRYMAN: Thank you. That's all the questions I have.

17 THE WITNESS: Okay.

18 HEARING OFFICER LEACH: Okay. So the first question I
19 have will just be kind of just maybe some summary questions
20 just to be sure that I understand the testimony. And then I'll
21 go back if I have some highlighted questions as well. Just to
22 be clear, where the students that we've been talking about that
23 you've discussed today, these are graduate students which would
24 be students pursuing masters degrees and PhDs, right?

25 THE WITNESS: Goes in and out for different conversations

1 today, yes.

2 HEARING OFFICER LEACH: But these are masters and
3 doctoral, right?

4 THE WITNESS: Correct.

5 HEARING OFFICER LEACH: You gave information about --
6 well, no, let me start here. Just in general, just based on
7 your knowledge about the master students generally at the
8 University, once they apply to a program do you know what type
9 of process they go through to be selected or to be granted
10 admission to the University?

11 THE WITNESS: So that's done by the different graduate
12 groups that admit them and it's different for sort of the
13 admission procedure and for lack of a better word assessment is
14 set by those graduate groups. It varies tremendously across
15 the different programs.

16 HEARING OFFICER LEACH: Is that the same for doctoral?

17 THE WITNESS: Correct.

18 HEARING OFFICER LEACH: And I think you explained based on
19 Employer 3 the process that this individual went through to get
20 admitted into your program.

21 THE WITNESS: Correct.

22 HEARING OFFICER LEACH: Okay. Typically, masters degrees
23 take how long to -- how long do those programs typically last?

24 THE WITNESS: Two to three years, one to three years
25 depending on the program.

1 HEARING OFFICER LEACH: You said a PhD is average 5.3?

2 THE WITNESS: That's the mean time to degree in the
3 Engineering school. The mean time to degree at Penn for all
4 PhDs is like 5-7-5.

5 MR. FRYMAN: For clarity of the record, there is a decimal
6 point there.

7 THE WITNESS: 5.75 years.

8 HEARING OFFICER LEACH: I heard that.

9 THE WITNESS: And 5.3 years.

10 HEARING OFFICER LEACH: Okay. I would like to talk a
11 little -- just have a little bit more information about
12 funding. We've talked about a lot of terminology and maybe we
13 can separate that into masters versus doctoral. So if a
14 masters -- and this is just general. An individual that's
15 admitted into a masters program, what type of funding do they
16 typically receive?

17 THE WITNESS: It varies between the programs. In many
18 cases, they're actually paying tuition. They're not unlike the
19 undergraduates I described.

20 HEARING OFFICER LEACH: Okay. So for those who may not
21 pay tuition, what type of funding would they get? Do they get
22 a fellowship?

23 THE WITNESS: That is -- I don't know the terminology that
24 we use. They often get some kind of tuition remission.

25 HEARING OFFICER LEACH: Okay. That would be like a

1 waiver?

2 THE WITNESS: Yes.

3 HEARING OFFICER LEACH: Do master students engage in
4 teaching?

5 THE WITNESS: They would elect to do so, if they do.

6 HEARING OFFICER LEACH: Do you know if master students,
7 would that be a requirement or a part of their funding?

8 THE WITNESS: Those are two separate questions.

9 HEARING OFFICER LEACH: Okay. Would teaching be a part of
10 their --

11 THE WITNESS: It wouldn't be part of their -- in general
12 senses it would not be part of their curriculum.

13 HEARING OFFICER LEACH: Not part of their curriculum?

14 THE WITNESS: No.

15 HEARING OFFICER LEACH: What about part of their funding
16 package?

17 THE WITNESS: If they elected to do it, they might receive
18 funding for it. But those that we offer funding packages are
19 largely to defray them from having to be distracted from doing
20 their work.

21 HEARING OFFICER LEACH: When you say elect, are you saying
22 that they have a choice?

23 THE WITNESS: Yes.

24 HEARING OFFICER LEACH: So you're saying that a master
25 student could be offered some sort of financial package that

1 gives them the option to teach?

2 THE WITNESS: No. I'm saying in the same way that I
3 described it, they could take on a job that we wouldn't even
4 know about.

5 HEARING OFFICER LEACH: Oh, okay.

6 THE WITNESS: They might elect to participate in tutoring.

7 HEARING OFFICER LEACH: I see, okay. What about research,
8 do you know whether or not masters programs would include -- I
9 mean master students, like their funding package would include
10 research assignments?

11 THE WITNESS: So again that's varied across, so the answer
12 is I wouldn't know.

13 HEARING OFFICER LEACH: Okay. And then for doctoral
14 students though I believe you testified that all doctoral
15 students that are admitted receive a funding package?

16 THE WITNESS: That is correct.

17 HEARING OFFICER LEACH: And as far as teaching, do they
18 all -- are they all required to teach?

19 THE WITNESS: It varies across the different graduate
20 group requirements.

21 HEARING OFFICER LEACH: Is that the same answer for
22 research?

23 THE WITNESS: No. To get a PhD, one has to be engaged in
24 independent research. That is the enterprise.

25 HEARING OFFICER LEACH: Okay. Are you talking about

1 they're required to research in order to get their degree.
2 What about research that's part of their financial package?

3 THE WITNESS: I think I need to explain it differently
4 maybe.

5 HEARING OFFICER LEACH: Okay.

6 THE WITNESS: In order to engage in a PhD, you must
7 perform research. That's how you go through the process of it,
8 right? It's not just about taking courses. And so it's part
9 and parcel of what you do to write this thesis that I've been
10 talking about so it's absolutely part of their curriculum.

11 HEARING OFFICER LEACH: What about part of their financial
12 package for their fellowship? I might not be using the right
13 terminology. I'm trying to have an understanding as I
14 understand that some people may or may not teach, but do some
15 of them do research? Is research ever part of their financial
16 package or their funding?

17 THE WITNESS: So their funding is to -- covers their
18 tuition, their health insurance, and provides them a stipend.

19 HEARING OFFICER LEACH: Okay.

20 THE WITNESS: Okay. Part of their academic pursuit is
21 research. It's I don't know how else to explain it because
22 it's not a separate entity from what they are there for. They
23 come to research a topic.

24 HEARING OFFICER LEACH: So then I'll go back to those who
25 -- what about the ones who have the teaching requirement.

1 That's curriculum based?

2 THE WITNESS: When it's part of -- as a requirement, it is
3 part of their curriculum, yes.

4 HEARING OFFICER LEACH: as part of their tuition, health
5 insurance, and stipend, are they just teaching in exchange for
6 any of that, either of those? Are they teaching a class to
7 help cover the cost of their tuition, or health insurance, or
8 their --

9 THE WITNESS: No. They receive their funding package
10 whether they're doing it or not. They must make academic
11 progress. And in some cases, academic progress means engaging
12 in these teaching activities.

13 HEARING OFFICER LEACH: But you would say the teaching
14 activities is a requirement of the curriculum to get the
15 degree?

16 THE WITNESS: When it is a requirement in that program.

17 HEARING OFFICER LEACH: But it's not part of their funding
18 package so to speak?

19 THE WITNESS: I guess the simplest answer to that is no,
20 it is not part of that because they receive a funding for their
21 engagement in their academics and their scholarly research.

22 HEARING OFFICER LEACH: Okay. When a graduate student is
23 required to -- I guess if their curriculum requires them to be
24 a teaching assistant or a teacher, can you give an overview of
25 just what their work would consist of?

1 THE WITNESS: Yes. It's as I've described. They will
2 participate -- so they will never be a teacher. They will
3 participate in developing a syllabus, interacting with students
4 sometimes in a small group setting. They will help develop
5 materials, help evaluate homework assignments, help develop
6 exams and evaluate those, participate in grading. Is that what
7 you --

8 HEARING OFFICER LEACH: Yes. When they are in their
9 capacity of teaching, are they in the classroom by themselves?

10 THE WITNESS: They can be, but that is in a recitation
11 like setting.

12 HEARING OFFICER LEACH: What does that mean when you say
13 recitation like setting?

14 THE WITNESS: A small group setting where they are working
15 with small groups of students outside of a major lecture, kind
16 of this size.

17 HEARING OFFICER LEACH: Okay. And when they are required
18 to teach, is this on a semester basis?

19 THE WITNESS: When they are engaged in teaching
20 assistantships, it is semester based.

21 HEARING OFFICER LEACH: Is it a certain number of I guess
22 sections that they would teach, one class, two classes a
23 semester, or does that vary?

24 THE WITNESS: So they don't teach a whole class as part of
25 their curriculum, right? They're assigned a recitation section

1 at most, to call it a section.

2 HEARING OFFICER LEACH: Okay, a section. Do you know
3 typically how long they are with this section? Is this an hour
4 class or two-hour class?

5 THE WITNESS: Often recitations across the campus are
6 maybe one hour, if it's engaging with a small group of
7 students. If you're working as a TA in a laboratory course
8 that could be for two hours but that's once a week, two or
9 three hours.

10 HEARING OFFICER LEACH: I know you talked about funding.
11 And I just wanted to be sure I was clear on that. I just mean
12 generally how the University gets funding. You mentioned
13 grants.

14 THE WITNESS: So grants that the faculty have obtained.
15 Grants sometimes that graduate groups have obtained. Those
16 would be things like training grants. There are fellowship
17 awards that go to individual students and the institution also
18 covers some of the costs associated with these funding
19 packages.

20 HEARING OFFICER LEACH: And of course the University gets
21 tuition as part of the, I guess the income that the University
22 uses to operate?

23 THE WITNESS: You've used three different words that don't
24 all align with each other in the world of a university.

25 HEARING OFFICER LEACH: Okay.

1 THE WITNESS: If we're covering the cost of the student's
2 tuition then the University is covering its own cost there.
3 Right?

4 HEARING OFFICER LEACH: Um-hum.

5 THE WITNESS: The PhDs are not paying for that tuition so
6 there is no income to the institution. The institution pays
7 that, covers that.

8 HEARING OFFICER LEACH: We were talking about the grad
9 departments and the funding that they receive to I guess at
10 some point pass onto the graduate students, it's usually in the
11 form of grants, fellowship awards, and some of the private I
12 guess awards that you mentioned from NIH and NSF?

13 THE WITNESS: So graduate groups have in some cases
14 funding that they get from different schools or from the
15 institution. And then they also in some cases have sort of
16 graduate group level training grants. And then in some cases
17 the PIs are sort of covering those costs and faculty.

18 HEARING OFFICER LEACH: Based on grants that they receive?

19 THE WITNESS: Yes, or funds that they have.

20 HEARING OFFICER LEACH: With regard to the, I guess the
21 different funding sources that you just spoke about that at
22 some point trickle down to the graduate students, is there
23 money left over from -- I mean I'm sure I know these are
24 million dollar or more grants and fellowship awards, but does
25 all of that go directly towards funding students or is there

1 excess?

2 THE WITNESS: So if we take the example of my grants, the
3 NIH does not cover the tuition and stipend of a student fully.
4 So for every student I put on there, right, that are working in
5 that area, my school or the institution is making up the
6 difference for that tuition. There is no extra from the
7 grants.

8 HEARING OFFICER LEACH: Okay.

9 THE WITNESS: You said you only had a few questions. I
10 can see here pages here and she's nowhere close to being done.

11 (Laughter.)

12 HEARING OFFICER LEACH: No, just a few more. Hey,
13 everybody else got to participate but me today. Let's see,
14 when the graduate students are teaching, who oversees their
15 work?

16 THE WITNESS: The faculty who they are assisting. And
17 then if it's part of their curriculum, their graduate group
18 chair.

19 HEARING OFFICER LEACH: Okay. Do they get some sort of
20 written evaluation about their teaching performance?

21 THE WITNESS: As it is part of their curricular
22 obligation, yes.

23 HEARING OFFICER LEACH: How does that -- can you give an
24 example?

25 THE WITNESS: So I'll give you the example of the one in

1 mechanical engineering, it's part of when the student is
2 evaluated annually, the graduate group talks about how they
3 did. And the faculty who was there overseeing their work as
4 they were participating in that course will sort of be able to
5 talk through where the student may be quite strong and areas
6 where there might be needed improvement. And then when that
7 student would go to the next teaching assistantship, the
8 faculty with whom that student is working then knows how to
9 help mentor to that student's strengths and strengthen their
10 weaknesses. And the student will get a comment about that
11 after that review has happened.

12 HEARING OFFICER LEACH: Is that review in any way linked
13 to their funding?

14 THE WITNESS: No.

15 HEARING OFFICER LEACH: The funding that the students
16 receive, do they ever have to repay it?

17 THE WITNESS: No.

18 HEARING OFFICER LEACH: Is it taxable?

19 THE WITNESS: Depends on where they live.

20 HEARING OFFICER LEACH: Meaning in -- you mean their
21 permanent home?

22 THE WITNESS: I mean if they live in New Jersey, it's a
23 different rule than if they live here.

24 HEARING OFFICER LEACH: Oh, okay. Do you know the rule?

25 THE WITNESS: That's all that I know.

1 HEARING OFFICER LEACH: Okay.

2 THE WITNESS: That's all I know on that topic.

3 HEARING OFFICER LEACH: Just give me a minute, please.

4 When you testified earlier, I have in my notes -- I highlight
5 things that I have questions about and I highlighted external
6 grants. I think you were testifying that some of the graduate
7 students can get their own fellowship. Is that --

8 THE WITNESS: That's correct.

9 HEARING OFFICER LEACH: Can you explain that a little bit
10 more?

11 THE WITNESS: So they could apply for individual grants
12 from the NSF, for example. Some students can apply for
13 foundation grants.

14 HEARING OFFICER LEACH: But this means they do it in their
15 own name?

16 THE WITNESS: They do it in their own name, yes.

17 HEARING OFFICER LEACH: Okay. With regard to Employer 3,
18 was this student required to do any teaching?

19 THE WITNESS: No.

20 HEARING OFFICER LEACH: Do you know whether they would be
21 required to do teaching in the future?

22 THE WITNESS: I know that this graduate group does not
23 require it.

24 HEARING OFFICER LEACH: I have to clarify the -- I need to
25 clarify the testimony you gave about the two individuals who

1 were removed. A research specialist or technician, was that
2 the title of one of them?

3 THE WITNESS: Yes. That's a staff person. That's an
4 employee.

5 HEARING OFFICER LEACH: Oh, so this wasn't a graduate
6 student?

7 THE WITNESS: No, ma'am.

8 HEARING OFFICER LEACH: Oh, okay. That was easy. The
9 other person that was removed because they -- was that the
10 ethical issue where they --

11 THE WITNESS: Correct. That was also an employee, staff
12 person.

13 HEARING OFFICER LEACH: Okay. Not a graduate student.

14 THE WITNESS: Correct.

15 HEARING OFFICER LEACH: When the Union asked you
16 questions, I believe you testified about at a time when you
17 were teaching what your TAs did for you. When was that?

18 THE WITNESS: I stopped teaching -- so that would have
19 applied from 2002 until 2015.

20 HEARING OFFICER LEACH: Okay. I believe when the Union
21 was asking you questions, you talked about what happens when if
22 a student, a graduate student has to leave the program. My
23 notes say as vice provost, you've seen some of these problems
24 where a graduate student has to leave the program and you try
25 to work with them. Can you give me an example of what that

1 means?

2 THE WITNESS: So I would clarify and say that they -- what
3 happens is it will come up to my office before the student has
4 to leave the program. And so what I -- the clarification would
5 be if a student is having trouble finding a match within their
6 program or the person they had worked with leaves the
7 institution, we do not want that burden to fall on the
8 students, so I will work with the graduate group chair and the
9 grad dean to try to facilitate a solution that is within the
10 requirements for the PhD program broadly from my office and
11 supportive of the student.

12 HEARING OFFICER LEACH: And this was I believe, and I'm
13 looking at my notes here, this was in the context of if a
14 graduate student is struggling and not making improvement. If
15 I could just -- this was about teaching. Do you remember Union
16 counsel, was this about --

17 MS. ROSENBERGER: No. This was about research, because it
18 was referring to her direct testimony about what she would do
19 with a research -- student who was researching.

20 HEARING OFFICER LEACH: Okay. I'm sorry. I wanted to be
21 sure I was clear about that. So this is if a student is not --
22 okay, is doing research and not making adequate progress.
23 Okay. And then if a teaching assistant is not performing, you
24 said it's handled at the group level, but there's a lot of -- I
25 know there are 54 different graduate groups, you don't know how

1 they handle that. Do you have any knowledge of what happens if
2 a teaching assistant is not performing well?

3 THE WITNESS: I sit in the graduate group meetings for --
4 meeting where they do have a teaching as part of their academic
5 requirements. And what we try to do is -- what I know that
6 group tries to do is to have students, often where they are
7 struggling is either in time management or in communications
8 skills, so we would send them to the Center for Teaching and
9 Learning so that they could improve some of those skills. We
10 would offer them support in doing so and help to sort of make
11 sure that their advisors in all fronts understand this so that
12 they could sort of wrap around support. So if it's time
13 management, they could help with that.

14 HEARING OFFICER LEACH: And then I believe you went on to
15 say that back to -- okay, now the two staff people that you had
16 to let go, I understand these were not students. Then I think
17 there was a question of what if a research assistant stopped
18 showing up would they lose funding. And I believe you said at
19 that point they would not still be participating in their
20 education. They would lose funding if they stop participating
21 in their education, is that --

22 THE WITNESS: No. I said the only way that they would
23 lose funding is if they are dropped from the program. So if
24 they're not showing up while they're working on their research
25 and they are also not showing up to their courses, they are not

1 making academic progress, right? And that would be noticeable.
2 And the graduate group and the graduate group chair would be
3 engaged in sort of working with them to identify what's going
4 on. They would be supported until they are not in the program.

5 HEARING OFFICER LEACH: And these are research assistants,
6 not teachers, right? The example is about research assistants?

7 THE WITNESS: No. That example -- I mean you started with
8 talking about it as though they were not showing up in their
9 teaching.

10 HEARING OFFICER LEACH: I apologize. I think I was --

11 THE WITNESS: It's kind of all mixed. It is mixed up,
12 confusing.

13 HEARING OFFICER LEACH: What you just described could
14 apply to teachers or research assistants?

15 THE WITNESS: Tell me what I just described? You've got
16 to understand it's eight hours here. I'm exhausted.

17 HEARING OFFICER LEACH: Yeah, okay. I apologize. I'm
18 just trying to get some clarification about what happens if
19 someone is no longer doing their job, whether that's a research
20 assistant or their job as a teacher.

21 THE WITNESS: So let's be clear, they don't have jobs.

22 HEARING OFFICER LEACH: Okay. Their assignment.

23 THE WITNESS: There are students engaged in academic
24 pursuits. They have two kind of broad categories that we've
25 talked about today in terms of academic pursuits, some which is

1 scholarly research and some in some cases which are teaching
2 activities. So there are different scenarios that play out in
3 different ways.

4 HEARING OFFICER LEACH: Right.

5 THE WITNESS: And so if they are not showing up at all for
6 their education that will be -- they get sort of reviewed for
7 that, right? But both of those are their educational pursuits.
8 Does that clarify it?

9 HEARING OFFICER LEACH: I think so. I mean earlier you
10 did talk about the difference between teachers and the
11 research, so I think I have enough there.

12 THE WITNESS: Okay.

13 HEARING OFFICER LEACH: In the same situation with the
14 staff that had to be removed, I highlighted sanctions are kept
15 secret. Does that mean you don't know what happened concerning
16 the person who fabricated the data?

17 THE WITNESS: That's mixed in things again. The person
18 who was removed for fabricating their data is a personnel.
19 Like that's a staff issue. That's separate. That doesn't even
20 fall into the purview of what we're talking about here. When
21 we were discussing sanctions, it was around academic integrity
22 and violation of sort of research misconduct for lack of a
23 better word as I remember that conversation. And that's when
24 the description of -- you know we don't -- when a case goes to
25 Office of Student Conduct, that does not come back to inform

1 any kind of grades. Those sanctions are kept separate.

2 HEARING OFFICER LEACH: Okay. The example that you gave
3 with the student who had a health issue that was on a teaching
4 assignment and could not finish, you said that person was --
5 the program didn't require teaching. And I just had in my
6 notes that had no effect on their funding. Is that correct?

7 THE WITNESS: That is correct.

8 (Pause.)

9 HEARING OFFICER LEACH: I want to be sure that I'm clear
10 about something and this may be something I need to address
11 with the parties, but you stay here because I may need to ask
12 you, too. The groups that you are seeking not in the schools
13 but I guess the classifications, teaching assistants, which I
14 understand, but then there is a research assistant. What am I
15 to understand that the research assistant is doing, because I
16 think I'm a little bit confused. I understand that some and I
17 believe the testimony was that some individuals get this
18 funding package and they teach along with the package. But am
19 I to understand that there is no -- that the only research that
20 goes along with the funding package is really not in the same
21 way as teaching? It's research that PhD students are doing in
22 order to get their degree?

23 MR. FRYMAN: Correct.

24 MS. DANTE: That's right.

25 HEARING OFFICER LEACH: That's what the Employer says.

1 Now I want to ask what is the Union's understanding of that
2 because that's where I think I'm a little unclear.

3 MS. ROSENBERGER: There is research that people do to get
4 their degree, certainly.

5 THE WITNESS: Yes.

6 MS. ROSENBERGER: But there are research assistant
7 assignments that are for a term or two terms. And part of
8 this, you'll get more clarity on this as we hear from more
9 witnesses I think about how it works in different schools.
10 It's not necessarily the kind of granular information that Dr.
11 Winkelstein is going to have. She may, I don't know.

12 MR. FRYMAN: How it works in different grad groups.

13 HEARING OFFICER LEACH: Sorry?

14 MR. FRYMAN: How it works in different grad groups. I
15 just want Dr. Winkelstein to feel like she's --

16 THE WITNESS: That we taught something today.

17 MR. FRYMAN: -- made a point.

18 HEARING OFFICER LEACH: Okay. So --

19 THE WITNESS: Back to you.

20 HEARING OFFICER LEACH: For the witness, just so I'm
21 clear, is your general testimony that -- kind of what I just
22 said that just from what you know, in your position, that there
23 are doctoral students who receive these funding packages and
24 teach as part of their curriculum. Is that true?

25 THE WITNESS: There are some --

1 HEARING OFFICER LEACH: Some, yes.

2 THE WITNESS: Some who teach. All receive funding
3 packages and some teach as part of their curriculum because of
4 the fact that it is different by each of the graduate groups.

5 HEARING OFFICER LEACH: Okay. And then when it comes to
6 the same scenario but as a research assistant, are you familiar
7 with that? Do some receive -- some doctoral students --

8 THE WITNESS: So some doctoral students are research
9 assistants by designation. Some are all sorts of other titles.

10 HEARING OFFICER LEACH: And when you offered the testimony
11 about -- you offered quite a bit of testimony about what
12 happens with teachers. But what about what happens with
13 research assistants when they are doing their work, who is
14 overseeing their work not necessarily the research.

15 THE WITNESS: That is their -- that is their pursuit.

16 HEARING OFFICER LEACH: But they are pursuing their
17 research in the same way like a teacher is doing the
18 instruction? I think that's the distinction I'm trying to be
19 sure that I understand.

20 THE WITNESS: I agree.

21 HEARING OFFICER LEACH: There is research that goes with
22 their -- with them getting their PhD. But then are they also
23 on some sort of separate research assignment just maybe for a
24 semester?

25 THE WITNESS: They would be on that research assignment as

1 it is related to what they are working on for their degree.
2 Does that help clarify it?

3 HEARING OFFICER LEACH: And who would oversee that?

4 THE WITNESS: If they were on that for an independent
5 study related activity, they would be with a mentor who is
6 specifically designated for that. That would be part of what
7 then their graduate group would review or their thesis
8 committee would review in terms of are they making academic
9 progress.

10 HEARING OFFICER LEACH: Can we go off the record for a
11 moment?

12 (Off the record from 4:41 p.m. to 4:43 p.m.)

13 COURT REPORTER: We are back on the record.

14 HEARING OFFICER LEACH: Okay. I appreciate the witness'
15 patience today. I know it has been a very long day. I just
16 want to just clarify something just for my understanding that
17 we've discussed the teaching assignments that some of the
18 doctoral students have. There is still this in my belief open
19 issue about research assistants or research assignments. It's
20 my understanding that the Employer would take the position that
21 whether or not a doctoral student is engaged in a research
22 assignment either as it relates directly to their degree or if
23 it's on a semester by semester basis, that's one in the same.
24 Is that correct, for the Employer?

25 MR. FRYMAN: Yes. That the research they are performing

1 throughout their PhD program is their own research inexplicably
2 intertwined with the degree and their own thesis and
3 dissertation.

4 HEARING OFFICER LEACH: Is that how the witness would
5 describe it as well?

6 THE WITNESS: Yes.

7 HEARING OFFICER LEACH: And then I just want the Union to
8 -- if the Union would kind of say their position on just the
9 research assistant issue?

10 MS. ROSENBERGER: We believe what the evidence will show
11 is that there are PhD -- this is really relevant to the PhD.
12 We're talking about from the PhD context.

13 HEARING OFFICER LEACH: Right.

14 MS. ROSENBERGER: That there will be evidence presented
15 that PhD students are designated as research assistants for
16 particular terms, not necessarily bearing that designation for
17 their entire -- the entire period of their doctoral program,
18 even if they are doing research related to their dissertation
19 all along the way.

20 HEARING OFFICER LEACH: Okay. I don't have any further
21 questions for the witness. Does the Employer have any
22 additional questions?

23 MR. FRYMAN: No, we do not.

24 MS. ROSENBERGER: I just want to clarify one thing that
25 came from your questioning, if I may?

1 RE CROSS EXAMINATION

2 BY MS. ROSENBERGER:

3 Q Because I want to make sure I understand your testimony
4 correctly. With regard to the teaching assistant who couldn't
5 finish because of the concussion, couldn't finish the class
6 because of the concussion, I believe you said when I was asking
7 questions before that that teaching assistant was doing that
8 not as part of -- it was a woman, right?

9 A Yes.

10 Q Not as part of her program or curriculum, but because she
11 wanted to get experience, so she had a separate teaching
12 assistantship that had its own stipend separate from her
13 doctoral program funding. Am I right about that?

14 A Correct.

15 Q And the hearing officer asked you when she couldn't --
16 when that teaching assistant could not finish the teaching
17 assistantship, did it affect her funding? So my question is
18 which funding were you talking about, the funding for her
19 doctoral program, the tuition, fees, health insurance, stipend,
20 or the separate stipend that was for that teaching
21 assistantship?

22 A For this particular case I was referring to her
23 fellowship. I can tell you that when I was teaching and this
24 happened, when someone has mono or some other kind of health
25 situation and it didn't impact that. So if it was part of --

1 if they were doing this as a mechanical engineering student who
2 was participating in my course as a TA, where it's a required
3 part of their curriculum, did not impact their stipend.

4 Q And just so I'm clear, on the person you were talking
5 about who it was separate from their fellowship, did it affect
6 their separate stipend?

7 A I will give you a very honest answer as I have all day
8 which is I never asked her because as her advisor I was much
9 more concerned about her health.

10 Q Okay. I just wanted to make sure that line of questioning
11 was clear.

12 MS. ROSENBERGER: That's all I have.

13 HEARING OFFICER LEACH: Okay. I don't have anything else.
14 Does the Employer?

15 MR. FRYMAN: No.

16 HEARING OFFICER LEACH: Okay, thank you. I appreciate it.

17 THE WITNESS: Thank you.

18 (Witness excused.)

19 HEARING OFFICER LEACH: Can we go off the record?

20 (Whereupon, at 4:47 p.m., the hearing in the
21 above-entitled matter adjourned.)

1

C E R T I F I C A T E

This is to certify that the attached proceedings done before
the NATIONAL LABOR RELATIONS BOARD REGION FOUR

In the Matter of:

TRUSTEES OF THE UNIVERSITY OF PENNSYLVANIA,

Employer,

And

GRADUATE EMPLOYEES TOGETHER-UNIVERSITY OF PENNSYLVANIA
(GET-UP), a/w AMERICAN FEDERATION OF TEACHERS,

Petitioner.

Case No.: 04-RC-199609

Date: June 14, 2017

Place: Philadelphia, Pennsylvania

Were held as therein appears, and that this is the original
transcript thereof for the files of the Board

Official Reporter

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