

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 21, 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

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Anita Mastroieni	1009	1030		1048	--
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Erika Gross	1052	1070		1077	1078
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1		<u>E X H I B I T S</u>	
2	<u>EXHIBITS</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>
3	EMPLOYER'S		
4	E-29	1008	1008
5	E-30	1017	1018
6	E-31	1018	1019
7	E-32	1020	1020
8	E-33	1020	1021
9	E-34	1021	1022
10	E-35	1023	1024
11	E-36	1055	1058
12	E-37	1058	1058
13	E-38	1062	1069
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P R O C E E D I N G S

(Time Noted: 10:32 a.m.)

HEARING OFFICER LEACH: On the record.

During the course of this hearing, the Employer presented a subpoena to the Union and the Union filed a petition to revoke subpoena. I am going to rule on that today. Today I will grant the petition to revoke the subpoena. Does the Employer wish to discuss this issue?

MR. JOHNS: The Employer would like to put its position on the record with respect to the subpoena.

HEARING OFFICER LEACH: Okay. So at this time can we go off this record? I need to create a separate record for the subpoena.

COURT REPORTER: I can just make a note of that, yes, ma'am.

HEARING OFFICER LEACH: Okay.

(Off the record from 10:33 a.m. to 10:50 a.m.)

HEARING OFFICER LEACH: Back on the record.

We had earlier testimony from an Employer witness who was in the nursing department and I asked for an admissions letter to a student admitted to the nursing department. The Employer will now put that into evidence.

MR. JOHNS: Yes, Madam Hearing Officer. It's the School of Nursing, not the nursing department I would say.

HEARING OFFICER LEACH: Oh, sorry.

1 MR. JOHNS: And it is not a specific one, but a general
2 admission letter from the School of Nursing that is issued to
3 nursing students accepted into the program. We're going to
4 mark it as Employer Exhibit 29.

5 (Employer's E-29 identified.)

6 HEARING OFFICER LEACH: Any objection from the Union?

7 MS. ROSENBERGER: No objection.

8 HEARING OFFICER LEACH: Employer 29 is received. Thank
9 you.

10 (Employer's E-29 received.)

11 HEARING OFFICER LEACH: Okay. Is the Employer ready to
12 call their witness now?

13 MR. JOHNS: We are. We call Anita Mastroieni.

14 HEARING OFFICER LEACH: Good morning.

15 THE WITNESS: Good morning.

16 HEARING OFFICER LEACH: How are you?

17 THE WITNESS: All right. How are you?

18 HEARING OFFICER LEACH: Good. Can you say and spell your
19 first and last name, please?

20 THE WITNESS: Anita, A-N-I-T-A, Mastroieni, M-A-S-T-R-O-I-
21 E-N-I.

22 HEARING OFFICER LEACH: Will you raise your right hand,
23 please?

24 (Whereupon,

25 ANITA MASTROIENI,

1 was called as a witness by and on behalf of the Employer, and
2 after having been duly sworn was examined and testified as
3 follows:)

4 HEARING OFFICER LEACH: Thank you. The Employer may
5 proceed.

6 DIRECT EXAMINATION

7 BY MR. JOHNS:

8 Q Good morning, Anita.

9 A Good morning.

10 Q Who do you work for?

11 A I work for the University of Pennsylvania.

12 Q How long have you worked at Penn?

13 A About 22 years.

14 Q What's your current position?

15 A I'm Executive Director of Graduate Education and
16 Initiatives.

17 Q To whom do you report in that role?

18 A The Vice Provost for Education, Beth Winkelstein.

19 Q Can you give us a sense of your job duties in that
20 position?

21 A I'm responsible for making sure our schools adhere to
22 university-wide academic policies. I staff the Council of
23 Graduate Deans, as well as some other deans' councils. I'm
24 responsible for graduate life, graduate student life
25 initiatives.

1 Q When did you get that position?

2 A I started in February.

3 Q Of 2017?

4 A Yes.

5 Q What position did you hold before you were in that
6 position?

7 A I was Director of the Graduate Student Center and the
8 Family Resource Center.

9 Q How long were you in that role?

10 A Director of the Graduate Student Center for 15 years and
11 the Family Center for the last 7 years. I did both
12 simultaneously.

13 Q I'm going to focus a little bit on the Graduate Student
14 Center. What is that?

15 A It's a building on campus. It's dedicated strictly to
16 serve graduate and professional students at the university.
17 The Center provides them a place to hang out, activities and
18 programs specifically for graduate and professional students,
19 as well as resources for students.

20 Q Can you give us some sense of the types of activities, the
21 resources, the services available to graduate students at that
22 center?

23 A Sure. We provide academic support services specifically
24 for PhD students. We provide personal development programs
25 like learning how to garden or getting your first mortgage.

1 And we do some social activities as well. And we run new
2 student orientation for new graduate students. We bundle
3 together on our web site all of the resources around the
4 university that serve students so they only have to look in one
5 place to find everything through the Grad Center. We also help
6 students who will come to us personally or email us to tell
7 them if they have an issue or a problem that needs solving
8 we'll help direct them to the right resource.

9 Q Are the services available at the Graduate Student Center,
10 are they available to undergraduates?

11 A No.

12 Q How about to employees of the university?

13 A No.

14 Q Now does the Graduate Student Center keep any records of
15 how many students use the facility each week?

16 A Yes.

17 Q How are those numbers generated?

18 A We have a door counter that records people coming into the
19 building so we know how many people come in each day.

20 Q In your position as director of the Graduate Student
21 Center for 15 years, approximately 15 years, did you review
22 those numbers from time to time to see what they look like?

23 A All the time, yes.

24 Q I want to get a sense of whether the numbers of students
25 who are using the Graduate Student Center, whether it declines

1 in the summer.

2 A Oh, significantly, yes, it does.

3 Q Can you give us a sense of those numbers?

4 A On average during the week, during the academic year,
5 we'll have about 550 students come into the building. In the
6 summer, it's less than 100. Usually, around 80 or so students
7 are coming in the building during the week in the summer.

8 Q And so 550, would that be consistent with the numbers for
9 either the fall academic term or the spring academic term?

10 A That's correct. The average is pretty consistent over
11 both terms.

12 Q Do those numbers stay consistent during the time you ran
13 the Graduate Student Center?

14 A Yes. I mean there was -- the center opened in 2001 so in
15 the beginning the numbers were less. But over time they grew
16 and they are pretty consistent the last several years at that
17 550ish number.

18 Q In your role in the Graduate Student Center did you
19 sometimes have opportunities to talk to PhD students about
20 their summer plans?

21 A Yes.

22 Q Do PhD students travel during the summer to do research?

23 A They often do. And part of what we do is we remind them
24 to register with the global activities registry if they're
25 going abroad, things like that.

1 Q Do they travel to visit family during the summer?

2 A Yes.

3 Q How many of Penn's PhD students are international
4 students?

5 A About a third of our students are international.

6 Q A third of all PhD students?

7 A Yes.

8 Q Do those students sometimes travel internationally to
9 visit family?

10 A Yes.

11 Q Do graduate students often change addresses in the summer?

12 A Yes. When a new student joins the university, they'll
13 typically move to Philadelphia. Most of our students come from
14 outside of Philadelphia. They'll typically move there over the
15 summer, July or August usually. So if they are going to move
16 at any point in time, they have a one-year lease, the lease is
17 up in July or August, so that's the time they're going to move
18 again.

19 Q Do students tend to move during the time they are there as
20 PhD students?

21 A Yes. Again, because our students come from outside of the
22 city, they often take either an on-campus apartment or an
23 apartment that they found online. It's not unusual to be
24 unhappy with that. So after a year or two when they know the
25 city better they'll move. That's pretty -- that's pretty

1 frequent.

2 Q Is there any requirement that students update their
3 addresses when they move?

4 A No.

5 Q Does Penn prompt students to update their addresses with
6 respect to the summer?

7 A No.

8 Q During the summer, does Penn communicate by regular U.S.
9 mail with graduate students?

10 A No.

11 Q How do the graduate groups communicate with students after
12 they arrive on campus?

13 A Typically, through email.

14 MR. JOHNS: Madam Hearing Officer, I want to show the
15 witness the petition, which we are not going to mark separately
16 because I believe it's in the formal papers that have already
17 been submitted.

18 HEARING OFFICER LEACH: Okay.

19 MR. JOHNS: I have copies, though, if you want just to
20 get --

21 MS. ROSENBERGER: Yeah, thank you.

22 MR. JOHNS: Here you go.

23 MS. ROSENBERGER: Thanks a lot.

24 MR. JOHNS: Ms. Leach, would you like one as well?

25 HEARING OFFICER LEACH: Sure, that's fine.

1 MR. JOHNS: Okay.

2 HEARING OFFICER LEACH: Yeah, I think my formal papers are
3 over there, so thank you.

4 BY MR. JOHNS:

5 Q Ms. Mastroieni, I'm showing you a document that I think
6 all parties have agreed is already in evidence as part of the
7 formal papers. And this is part of the petition, part of the
8 formal papers that was submitted by the Union in this case. If
9 you could just take a moment to look at that and then I have
10 some questions about it.

11 A Um-hum.

12 Q Are you good?

13 A Yep.

14 Q Okay. The petition includes graduate students in certain
15 classifications from seven schools that have PhD students but
16 excludes two others that also have PhD students. Is that
17 correct?

18 A yes.

19 Q Those other two schools are what?

20 A Wharton and the School of Engineering and Applied Science.

21 Q With respect to the petition and these seven schools that
22 are grouped together, does Penn have any organizational
23 structure that includes those seven schools but excludes
24 Wharton and the School of Engineering?

25 A No.

1 Q Does it have any administrative structure that includes
2 those seven schools but excludes Wharton and engineering?

3 A No.

4 Q Does Penn have any lines of supervision that report
5 through just those seven schools but does not have Wharton and
6 engineering?

7 A Not that I know of, no.

8 Q Does Penn have any organizational structures that includes
9 the nine PhD schools with Wharton and engineering?

10 A Yes.

11 Q Tell us about that.

12 A The Council of Graduate Deans is made up of the graduate
13 deans from each of the schools that grants a PhD. There are
14 nine schools at Penn which grant the PhD and that Council of
15 Graduate Deans includes all of the schools, including Wharton
16 and engineering.

17 Q Do you play any role with respect to that council?

18 A I staff that council.

19 Q Who chairs that council?

20 A The Vice Provost for Education, Beth Winkelstein.

21 Q Just so I'm understanding it right, there is a graduate
22 dean from the nine schools at Penn that include PhD students on
23 that council?

24 A Yes, every -- yes, each of the schools has a graduate dean
25 on that council.

1 Q Does the vet school, the dental school, or the law school
2 have a representative on that committee?

3 A No. They don't grant PhDs.

4 Q Are you aware of any university policies that apply just
5 to the seven schools that are noted in the petition, but not to
6 PhD students in Wharton or engineering?

7 A No.

8 (Employer's E-30 identified.)

9 BY MR. JOHNS:

10 Q Can you take a moment to look at the document that we've
11 marked as Exhibit E-30 and tell us when you're ready?

12 A Yep, ready.

13 Q Do you recognize E-30?

14 A Yes.

15 Q If you turn to the second page of E-30, you'll see a list
16 of policies that fall under graduate students. Do you see
17 that?

18 A Yes.

19 Q Do these policies that are listed there apply to students
20 from all the different graduate schools with PhD students
21 including Wharton and SEAS?

22 A Yes.

23 Q Do they apply to employees, these policies?

24 A No.

25 Q Now up at the top, you see a reference to Pennbook. What

1 is Pennbook?

2 A It's the collection of all the university's policies that
3 apply to students.

4 Q Do those apply -- do the policies in Pennbook apply to
5 Wharton and SEAS students including these other seven schools?

6 A Yes.

7 Q Does the Pennbook apply to employees of the university?

8 A No.

9 MR. JOHNS: We would move for the admission of
10 Exhibit E-30.

11 HEARING OFFICER LEACH: Does the Union object?

12 MS. ROSENBERGER: No objection.

13 HEARING OFFICER LEACH: Employer 30 is received.

14 (Employer's E-30 received.)

15 MS. ROSENBERGER: Thank you.

16 (Employer's E-31 identified.)

17 BY MR. JOHNS:

18 Q Anita, do you recognize the document that we've marked as
19 Exhibit E-31?

20 A Yes.

21 Q What is this document?

22 A This is the section of the Pennbook that includes the code
23 of academic integrity and the code of -- well, I guess it's
24 just the code of academic integrity.

25 Q Does this apply to graduate students from all the schools

1 that admit PhD students at Penn including Wharton and SEAS?

2 A Yes.

3 Q Does the code of academic integrity apply to employees?

4 A No.

5 MR. JOHNS: We would move for the admission of
6 Exhibit E-31.

7 HEARING OFFICER LEACH: Does the Union object to E-31?

8 MS. ROSENBERGER: No objection.

9 HEARING OFFICER LEACH: Employer 31 is received.

10 (Employer's E-31 received.)

11 HEARING OFFICER LEACH: May I ask what is E-30? I think
12 you went right to Page 2, but the witness didn't actually say
13 what 30 was.

14 BY MR. JOHNS:

15 Q Go ahead and answer.

16 A Yes. E-30 is the collection of policies that applies to
17 students and faculty and staff at the university. It's a web
18 site that lists all of those specific sets of policies.

19 Q And with respect to E-30, is it delineated between
20 graduate student policies, undergraduates, or faculty and staff
21 separate sections?

22 A Yes. There is a section for undergraduates, a section for
23 faculty and staff, and a separate section for graduate
24 students.

25 HEARING OFFICER LEACH: Thank you.

1 (Employer's E-32 identified.)

2 BY MR. JOHNS:

3 Q Do you recognize Exhibit E-32?

4 A Yes.

5 Q Tell us what it is.

6 A It's the section of the Pennbook that covers the code of
7 student conduct.

8 Q Does this policy apply to graduate students from all the
9 different schools admitting PhDs including Wharton and SEAS?

10 A Yes.

11 Q Does it apply to any employees of the university?

12 A No.

13 MR. JOHNS: We would move for the admission of
14 Exhibit E-32.

15 HEARING OFFICER LEACH: Any objection from the Union?

16 MS. ROSENBERGER: No objection.

17 HEARING OFFICER LEACH: Employer 32 is received.

18 (Employer's E-32 received.)

19 MS. ROSENBERGER: Thank you.

20 (Employer's E-33 identified.)

21 BY MR. JOHNS:

22 Q I've shown you a document that we have marked as Exhibit
23 E-33. Can you tell us what this document is?

24 A This is the section of the Pennbook that outlines student
25 grievance procedures.

1 Q Again, this is a policy that applies to graduate students
2 at the university?

3 A Yes.

4 Q And does this policy apply to all graduate students at the
5 university who admit -- all graduate schools at the university
6 that admit PhD students including students from Wharton and
7 SEAS?

8 A Yes.

9 MR. JOHNS: We would move for the admission of
10 Exhibit E-33.

11 HEARING OFFICER LEACH: Any objection from the Union?

12 MS. ROSENBERGER: No objection.

13 HEARING OFFICER LEACH: Employer 33 is received.

14 (Employer's E-33 received.)

15 MS. ROSENBERGER: Thank you.

16 (Employer's E-34 identified.)

17 BY MR. JOHNS:

18 Q I've shown you a document that we've marked as
19 Exhibit E-34. If you could take a moment to look at this and
20 then tell us if you recognize this document?

21 A I do.

22 Q What is this?

23 A This is the section of the Pennbook that outlines family
24 friendly policies for PhD students.

25 Q For PhD students. Is this a policy that applies to PhD

1 students at the university?

2 A Yes.

3 Q Does it apply to PhD students from all nine schools that
4 admit PhD students at the university including Wharton and the
5 School of Engineering and Applied Science?

6 A Yes.

7 Q With respect to the family friendly policy, is there a
8 separate process for accommodations that applies to employees
9 with respect to child birth?

10 A Yes.

11 Q And where is that handled, out of what office?

12 A Human resources.

13 Q That's not who handles these things for graduate students?

14 A No.

15 MR. JOHNS: We would move for the admission of
16 Exhibit E-34.

17 HEARING OFFICER LEACH: Any objection from the Union?

18 MS. ROSENBERGER: No.

19 HEARING OFFICER LEACH: Okay. Employer 34 is received.

20 (Employer's E-34 received.)

21 BY MR. JOHNS:

22 Q Now do graduate students at the university have
23 representation in the student government?

24 A Yes.

25 Q What is the student government?

1 A It's GAPSA, which stands for the Graduate and Professional
2 Student Assembly.

3 Q How are students appointed to that assembly?

4 A GAPSA has an executive board and they are elected by
5 members of the general assembly. The general assembly is made
6 up of students representing each school at Penn and those
7 students are appointed by their school governments.

8 Q Does that include students from beyond, just the PhD
9 students but also from the professional schools as well?

10 A That's right. It's the Graduate and Professional Student
11 Assembly, so it's all 12 schools.

12 Q Does GAPSA have representation from Wharton and the School
13 of Engineering and Applied Science?

14 A Yes.

15 (Employer's E-35 identified.)

16 BY MR. JOHNS:

17 Q Anita, I've shown you a document we've marked as Exhibit
18 E-35. If you could just take a moment to look at this and then
19 tell us if you recognize this document?

20 A Yes. This is GAPSA's web site.

21 Q Does this provide a description of what GAPSA does with
22 respect to graduate students at the university?

23 A Yes.

24 Q Do the programs and benefits that are outlined in Exhibit
25 E-35, do they apply to all PhD students including students from

1 Wharton and SEAS?

2 A Yes, as well as professional students.

3 MR. JOHNS: We would move for the admission of

4 Exhibit E-35.

5 MS. ROSENBERGER: No objection.

6 HEARING OFFICER LEACH: Okay. Employer 35 is received.

7 (Employer's E-35 received.)

8 BY MR. JOHNS:

9 Q I want to talk about a couple of other resources for
10 graduate students at the university. The Family Resource
11 Center, can you tell us what that is?

12 A Yes. It's a center that serves all students and post-docs
13 at the university who have children.

14 Q When was that established?

15 A In 2010.

16 Q How did this Family Resource Center come to be established
17 in 2010?

18 A I worked with student leaders at the time from GAPSA as
19 well as students who have children to write a proposal for the
20 university to open the family center. It was based on a
21 similar model we had seen at the University of Chicago.

22 Q I assume based on your testimony that that proposal was
23 accepted?

24 A That proposal was accepted.

25 Q What types of services does the Family Resource Center

1 have?

2 A It's a space where a student or a caregiver can bring
3 children. There's a lot of toys, and books, and fun things for
4 kids to hang out. Not much of the campus is good for children
5 so this is a place where you can have your children. We also
6 provide a lot of activities both for parents as well as
7 activities for the children. And we provide a lot of
8 information about resources at the university for student
9 parents, as well as resources in the community like daycare
10 centers, and schools, and things like that.

11 Q Are the services that are provided at the Family Resource
12 Center available to graduate students from all the different
13 PhD schools including Wharton and SEAS?

14 A Yes.

15 Q Does the Family Resource Center provide services to
16 employees of the university?

17 A No.

18 Q Are you familiar with something called the Weingarten
19 Learning Resources Center?

20 A Yes.

21 Q Can you tell us what that is?

22 A Yes. Weingarten is part of the Division of the Vice
23 Provost for University Life and they are a center that provides
24 academic support services for all students at the university.

25 Q What types of services might Weingarten offer to graduate

1 students?

2 A They run workshops, as well as they do one on one
3 advising.

4 Q Are the services available at the Weingarten Center, are
5 they available to all graduate students including students from
6 Wharton and SEAS?

7 A Yes.

8 Q Are those services available to employees at the
9 university?

10 A No.

11 Q Student Disability Services, are you familiar with that?

12 A Yes.

13 Q Can you tell us what that is?

14 A Yes. Again, that's part of the Division of the Vice
15 Provost for University Life and they support students who have
16 academic disabilities or physical disabilities while they're at
17 the university.

18 Q Are the services that are offered in that organization
19 available to graduate students from all the different schools
20 that admit PhDs including Wharton and SEAS?

21 A Yes.

22 Q Are those services available to employees?

23 A No.

24 Q Is there a separate process or office at the university
25 that deals with disability issues and accommodations for

1 employees?

2 A Yes.

3 Q Who handles that?

4 A That would be handled jointly between human resources and
5 the Office of Affirmative Action.

6 Q Are you familiar with something called the Office of
7 Sexual Violence and Education?

8 A yes.

9 Q What is that?

10 A Again part of Vice Provost for University Life. That's an
11 office that provides education around the issues of sexual
12 violence and relationship violence, and attempts to put
13 preventative programs in place.

14 Q The services offered at the Office of Sexual Violence and
15 Education, do they cover graduate students from all the schools
16 including Wharton and SEAS?

17 A Yes.

18 Q Are you familiar with something called the Center for
19 Teaching and Learning?

20 A Yes.

21 Q Can you tell us what that is?

22 A Yes. The Center for Teaching and Learning is part of the
23 Division of the Vice Provost for Education. And it provides
24 services to anyone who has instructional responsibilities at
25 the university to help them improve their teaching.

1 Q Why does Penn have this Center for Teaching and Learning?

2 A Almost all universities I'm pretty sure have something
3 similar. It's to help always improve teaching at the
4 university so that students get the best experience they can.

5 Q What types of things are offered in the Center for
6 Teaching and Learning for graduate students to help them in
7 that regard?

8 A They run a series of workshops for students. Some of them
9 are discipline specific and some of them are more general. And
10 they also offer a certificate in teaching for graduate
11 students. That's an optional program they can use.

12 Q Let's talk about a teaching certificate, the teaching
13 certificate program that's offered to graduate students at CTL.
14 What are the general requirements that a student has to
15 complete in order to get that certificate?

16 A You have to attend a certain number of workshops. You
17 have to have an observation while you're in the classroom
18 teaching. That's typically video recorded and then you get
19 feedback on that. And then there is a short seminar. I don't
20 know how many sessions, but it's basically a short class on
21 college teaching.

22 Q Why do students seek these certifications from the Center
23 for Teaching and Learning?

24 A A student who has that certification, it does appear on
25 the transcript. And then it just shows an extra commitment to

1 being a college teacher.

2 Q So that certification appears on the student's academic
3 transcript at the university?

4 A Yes.

5 Q Now switch gears and back to the graduate center for a
6 second. Does the graduate center sometimes offer positions to
7 graduate students there?

8 A Yes.

9 Q What are the types of duties that a graduate student might
10 have who is working in the Graduate Student Center?

11 A All of our students staff the center. They sit at the
12 desk. They answer the phone. They make coffee. And then in
13 addition each student who works for the grad center has a
14 responsibility either for a line of programming like academic
15 support programs or, or is responsible for supporting the web
16 site, or something like that.

17 Q Do any of the students who work in the Graduate Student
18 Center have teaching or research duties in the student center?

19 A Oh, not in the student center, no.

20 Q When serving in those roles in the Graduate Student
21 Center, I think you said they make coffee. Is that something
22 that's a significant part of their responsibility there?

23 A Yes. We give out free coffee all day long. A lot of
24 students come in and a lot of coffee gets consumed.

25 Q When serving in those roles, what classification do they

1 hold in Penn's system?

2 A They're student workers.

3 Q Are students who are in that role as a student worker, are
4 they paid on an hourly basis?

5 A Yes, at least in our shop they are. In the grad center,
6 they are.

7 Q Yeah, that's what I'm taking about with respect to those
8 students in the grad center.

9 MR. JOHNS: No further questions. The Union may have some
10 questions for you.

11 CROSS-EXAMINATION

12 BY MS. ROSENBERGER:

13 Q Good morning.

14 A Good morning.

15 Q My name is Amy Rosenberger and I am one of the lawyers
16 representing the Union in this case. And, yes, I have some
17 questions for you. You mentioned a number -- you talked about
18 a number of policies that apply to all of the graduate students
19 in the nine schools that provide PhDs. In some of those -- in
20 at least one of those schools -- let me step back a second. Is
21 it also -- do those policies also apply to masters students?

22 A Some do, some don't. It would depend on which policy
23 you're talking about.

24 Q With regard to those that apply to masters students, do
25 they apply to masters students taking programs in the College

1 of Liberal and Professional Studies?

2 A I would need to know like which policy you're talking
3 about. I'm not sure.

4 Q So of the policies that are in front of you can you name
5 one that applies to masters students just as an example?

6 A Sure. Well, the code of academic integrity and the code
7 of student conduct apply to all students at the university for
8 example.

9 Q All students meaning graduate, undergraduate --

10 A Yes.

11 Q -- professional graduate programs, PhD programs, masters
12 programs, everything.

13 A Yes.

14 Q And it includes people in -- students even in non-degree
15 programs, maybe in a certificate program?

16 A I believe so.

17 Q So using those two as an example, would a masters student
18 -- take as an example a masters student in the College of
19 Liberal and Professional Studies who is also a Penn employee.
20 We've heard that sometimes Penn employees may take courses in
21 that college, right?

22 A Um-hum.

23 Q You have to say yes or no.

24 A Yes. I'm sorry. Yes.

25 Q Those policies apply to those sorts of students, too,

1 don't they?

2 A Yes.

3 Q And other policies apply to those individuals who are
4 students, apply -- the other policies related to employment out
5 of the HR department apply to those individuals in their
6 capacity as employees at the university, isn't that right?

7 A Yes.

8 Q So it's not an either/or, it's both, right?

9 A For folks who are pursuing both a degree and are full-time
10 employees, yes, that's correct.

11 Q Do you have master students outside the College of Liberal
12 and Professional Studies and other programs, in the other
13 programs in the nine schools, who are also employees of Penn?

14 A Yes.

15 Q I'm not talking about graduate employees --

16 A Yeah.

17 Q -- that we're talking about here but like someone who
18 might have a job elsewhere and one of the benefits for
19 employees at Penn is some sort of tuition remission, is that
20 true?

21 A That's correct.

22 Q And people take advantage of that, right?

23 A Yes.

24 Q So those employees who are in some other masters program
25 outside the College of Liberal and Professional Studies, they

1 are covered by both any employment policies in their capacity
2 as employee, right?

3 A Yes.

4 Q And the code of academic integrity and the code of student
5 conduct in their capacity as a student, right?

6 A Yes.

7 Q If you would turn to Employer Exhibit 30?

8 A Yes.

9 Q I think you said is the list of policies --

10 A Yes.

11 Q -- that apply to a number of groups that are listed there.
12 So you referred specifically on Page 2 to the list of
13 university-wide policies that is reflected under the heading
14 graduate students, right?

15 A That's right.

16 Q Then below that there is a category called graduate
17 handbooks.

18 A Yes.

19 Q What are those?

20 A So these are additional policies that some schools have
21 set for their students and these are in this case graduate
22 students.

23 Q It looks like the schools that are represented there as
24 having graduate handbooks are eight of the nine that are at
25 issue here, right? Eight of the nine that are at issue in this

1 hearing?

2 A No. Nine schools give PhDs. Those are the nine you're
3 referring to.

4 Q Well, the medical school in the biomedical studies program
5 does, too, right?

6 A The College of Liberal and Professional Studies doesn't
7 give PhDs.

8 Q Oh, I'm sorry. Yes, you're right.

9 A So this is one, two, three, four, five, six, seven schools
10 that give PhDs are listed here with additional policies for
11 their students. But these policies might apply to both PhD and
12 professional students.

13 Q And master students?

14 A That's what I mean by professional student, the master
15 student, yes.

16 Q Okay. And each of these are specific to the school in
17 which the student is involved, right?

18 A Yes.

19 Q The school in which their graduate program resides.

20 A Yes.

21 Q Although it's not listed on Employer Exhibit 30, there is
22 yet another level of handbooks, or procedures, or policies,
23 they go by different names, that also apply to the students in
24 all of these schools but not -- to not all of the students, but
25 that are at a lower level of specificity like a departmental

1 level handbook, right?

2 A That should be included in these school handbooks.

3 Q Oh, so your understanding is these are -- what's listed
4 here are links on the web site, right?

5 A Yes.

6 Q And is it your understanding that for example under School
7 of Nursing, if I clicked on that link I would get to a handbook
8 that would include information general to the School of Nursing
9 but then also specific to a particular doctoral degree program?

10 A That's what you should find.

11 Q That's the purpose of this. You're just not guaranteeing
12 to me that I would find it, right?

13 A Yes.

14 Q I'm not sure if you said this, the Pennbook that you
15 referred to, that applies to all students in all 12 schools,
16 right?

17 A Yes.

18 Q Graduate, undergraduate, professional, right?

19 A Yes, yes. Although, the Pennbook does have -- as you see,
20 it does break out specific sections of the Pennbook would be
21 for specific categories of students.

22 Q But the code of student conduct applies to all students of
23 every type, right?

24 A That's correct.

25 Q And the code of academic integrity applies to all students

1 of any type, right?

2 A That's correct.

3 Q And the student grievance procedure section of the
4 Pennbook applies to all students, isn't that right? That's
5 Employer Exhibit 33.

6 A Yes. Let me just look at it. Yes, this applies to all
7 students.

8 Q Now then at the bottom -- on Employer Exhibit 33, starting
9 at the bottom of the first page and continuing on to the second
10 page, it looks like it talks about there are additional
11 grievance procedures that are school specific. Am I right
12 about that?

13 A It's -- yeah, yes.

14 Q And it looks like then on the top of Page 2 is another set
15 of links that would go to the grievance procedures for those
16 schools that are listed there, right?

17 A That's correct.

18 Q The fact that you have sort of these layers of policies or
19 layers of grievance procedures university-wide but then also
20 school specific is related to the -- well, let me withdraw that
21 question. Would you agree with me that there are -- that Penn
22 is decentralized in its administration in that large portions
23 of its administration are run by the school, the individual
24 schools as opposed to the university as a whole?

25 A Yes.

1 Q And these are just -- the examples that we just talked
2 about on Employer Exhibit 30 and Employer Exhibit 33 are just
3 two examples of how things are run differently from school to
4 school, right?

5 A Yes. Certain schools will have specific policies based on
6 the professional needs of their students.

7 Q And indeed certain departments will have, within a school
8 will have different policies, right?

9 A Yes. Yes.

10 Q You talked about GAPSA. That's a university-wide student
11 association?

12 A It's a student government.

13 Q Student government. With representatives of all 12
14 schools?

15 A That's correct.

16 Q And if I understood you correctly, those representatives
17 are appointed by the individual student government associations
18 of each school?

19 A The general assembly of GAPSA has -- yes, those students
20 in the general assembly are appointed by the student
21 governments in each school. And the representation is based on
22 the population in the school, a certain number of PhDs and a
23 certain number of professional students representing that
24 population within each school.

25 Q So each of the 12 schools has its own student government

1 association?

2 A Yes.

3 Q What do those individual student government associations
4 do besides appoint delegates to the general assembly?

5 A Yes. The purpose of having a government in each school is
6 so those students have the ability to address issues with their
7 own deans that are specific to the students in the school.

8 Q So similar to the policies, there may be student issues
9 that are specific to a school or student issues that sort of
10 span -- that are of interest to all students across the
11 university?

12 A Right. And so the dual structure supports those students
13 can feed into GAPSA if they see that the issue is
14 university-wide, or more general they can address it at that
15 level. And if not it can be addressed at the school level.

16 Q Do you know whether there are similar student government
17 entities within departments within a school or is it just the
18 school level is the bottom rung of that hierarchy?

19 A I wouldn't call it a school government, but some
20 departments have an association of students who plan activities
21 that are specific to the interests of students in that
22 department.

23 Q And does that include departments that grant -- that have
24 PhD programs?

25 A Yes.

1 Q You talked about -- no. Do any graduate students perform
2 teaching or research work in connection with GAPSA?

3 A No.

4 Q That's entirely a student government association?

5 A Yes. And those students are volunteers. They're not --
6 well, they volunteer to hold those roles.

7 Q Are they compensated?

8 A They are not compensated. Some of the school governments
9 I believe provide research awards to students who serve on the
10 school government, travel grants for example.

11 Q That's something that a particular school's student
12 government association may raise funds to provide travel
13 grants, is that what you mean?

14 A No. They don't raise funds. All the school governments
15 are funded with student fee, a portion of the student fee.
16 Some of the school governments have responsibility for taking
17 that portion of their budget and awarding travel grants to
18 students in that school. It's a conflict of interest if they
19 give themselves travel grants. It's also a disincentive to
20 serve on the government if you can't qualify for travel grants.
21 So some schools give their students on the government a travel
22 grant automatically to negate that tension.

23 Q You talked about the Weingarten Learning -- what's the
24 name of that center?

25 A Weingarten Learning Resources Center.

1 Q Okay, I can't read my writing. That provides academic
2 support services for all students, not just PhD or master
3 students?

4 A No. It also serves undergraduates.

5 Q And professional?

6 A Yes.

7 Q And when I say professional, I mean law, medical, dental,
8 veterinary, provides services to them as well?

9 A Yes.

10 Q Same with the Student Disability Services Center?

11 A That's correct.

12 Q The Center for Teaching and Learning is broader yet, isn't
13 it? That provides services to students, but also employees?

14 A Also faculty.

15 Q Does it provide for faculty services like what you
16 described for graduate students, observation in class, video
17 recording, workshops, etc.?

18 A I know they provide workshops for faculty. I'm less
19 familiar with the other services they provide faculty.

20 Q That's because in your role at the Graduate Student Center
21 you would have referred graduate students there and not
22 faculty?

23 A Exactly, exactly.

24 Q The Family Resource Center that you talked about --

25 A Yes.

- 1 Q -- that's only for students, yes?
- 2 A And post-docs.
- 3 Q And post-docs. Post-docs are not students. They're not
4 obtaining a degree. They're working for the university, right?
- 5 A They're attending -- they're at the university for
6 training, for post-doctoral training.
- 7 Q But they're not going to get a degree.
- 8 A No. They already have a doctoral degree.
- 9 Q Right. Does the Family Resource Center provide childcare?
- 10 A No.
- 11 Q So it's just a place that if I were a graduate student and
12 if I had a child, and I -- my babysitter couldn't come that day
13 or something, I had some need that I needed to bring my child
14 to campus with me, I could use the space there with my child?
- 15 A Exactly. You or -- the parent or a designated caregiver
16 can be in the space with the child.
- 17 Q That's true for any graduate student including PhD and
18 masters?
- 19 A And undergraduates, yes.
- 20 Q Oh, and undergraduates.
- 21 A Yes.
- 22 Q So the Family Resource Center is for any student.
- 23 A For any student.
- 24 Q And post-doc.
- 25 A And post-doc.

1 Q But not staff.

2 A That's correct.

3 Q So the Family Resource Center is not in the Graduate
4 Student Center?

5 A It's in the same building.

6 Q Do you come through the same door to get to the Family
7 Resource Center?

8 A There are two doors.

9 Q You talked about how you keep track of people, how many
10 students I think is what you said come to the Graduate Student
11 Center by using a door counter. What is a door counter?

12 A It's a little electronic device at the front door of the
13 building that records every time somebody walks past.

14 Q So it's not recording individual -- it's not like Amy
15 Rosenberger came in, it's somebody walked past.

16 A That's correct.

17 Q So people who are coming in there to work walk past,
18 right?

19 A That's correct.

20 Q And if a graduate student came in and, you know, got in,
21 got set up and realized, oh, I left my phone back in my car,
22 went out, came back in, they're going to be counted again,
23 right?

24 A That's correct.

25 Q So it's not -- the number you gave are numbers of how many

1 people pass the door, right?

2 A That's correct.

3 Q So it's not necessarily -- and I didn't catch is it 500 --
4 during the spring and fall, 550 students per week, per
5 semester, per --

6 A On average per day during the week.

7 Q 550 students per day?

8 A Yes, on a weekday.

9 Q On a weekday. And so it's not necessarily 550 students.
10 If someone is coming and going, they're going to be counted
11 multiple times. But that's the best count you have.

12 A That's right.

13 Q Does someone have to show their grad student ID to get in?

14 A No.

15 Q So how does one know that undergraduates aren't using that
16 space?

17 A We're pretty good at telling the difference between grads
18 and undergrads, and so are graduate students. They come to us
19 and will tell us if they think there is an undergraduate in the
20 space. If we think there is someone that doesn't belong, we do
21 ask to see their ID.

22 Q Same thing if say a lecturer came in and used, same idea,
23 somebody might not realize they are staff or might suspect and
24 report, but it's only if someone suspects and reports that you
25 would find out?

1 A That's correct. But as I said, we are pretty good at
2 identifying people who don't belong. So either it's reported
3 to us or we suspect it.

4 Q Is there programming all year round at the Graduate
5 Student Center?

6 A Pretty much except the month of July.

7 Q You talked about student workers who are graduate
8 students. At any given point in time, about how many student
9 workers on staff?

10 A Between 10 and 13 at the grad center and another 5 at the
11 family center.

12 Q Are they hired for a semester at a time or something like
13 that?

14 A Generally, an academic year.

15 Q Meaning August to May or August through August?

16 A We keep a smaller staff on from August -- from May to
17 August so the students who haven't graduated or who are still
18 around in the summer will remain on staff in the summer.
19 Generally, only about five students work in the summer at the
20 grad center.

21 Q I think you said there is no, no teaching assistant type
22 work or research assistant type work going on there.

23 A No, no.

24 Q Okay. There's no -- there's no tracking, or sign-in, or
25 anything to track where the students who use the center are

1 from, what programs they're from?

2 A No. We do know -- students sign up for our programs so we
3 do know what students are coming, are attending programs, and
4 they have to tell us their school so we know that.

5 Q Is there any charge for any -- I mean do you buy tickets
6 to a program kind of thing?

7 A We often offer discounted tickets to theater or music
8 productions for example so students are paying for those. But
9 if it's an in-house workshop or activity there is usually no
10 cost.

11 Q And participation in the Graduate Student Center programs
12 is not required for anyone's degree?

13 A No.

14 Q You said that during the summer the university does not
15 communicate with students by U.S. mail. Do they communicate
16 with students by U.S. mail during the school -- during the fall
17 and spring?

18 A Not usually, no.

19 Q So all year round, communication is usually by email?

20 A That's correct.

21 Q If I were a student -- are you familiar with something
22 called -- gee, I don't know what it's called. Are you familiar
23 with an online platform where students can update their contact
24 information?

25 A Yes. They can do that through the Penn directory.

1 Q Penn directory, okay. And there is a page on that called
2 My Profile, right?

3 A Yes.

4 Q Where they can input a change of address, right?

5 A Yes.

6 Q And that goes into Penn's system then, right?

7 A Yes.

8 Q That's where they have other things like emergency
9 contact --

10 A Exactly.

11 Q -- and permanent address, right?

12 A Yes.

13 Q When you say that most of the contact with students is by
14 email, that's Penn provides an email address to all students,
15 right?

16 A Yes.

17 Q Is that the official place -- let me rephrase that. Are
18 students expected to monitor that email address for official
19 communications from Penn?

20 A Yes. Although, they could use a different -- they could
21 go into the same system and update to a different email address
22 if they prefer to.

23 Q So if I were a student -- and this is any student, not
24 just graduate students, right?

25 A That's right.

1 Q If I were a student, I could go -- and I didn't want to
2 have two email addresses, and I have my Gmail account, and I
3 want all my Penn stuff to come to my Gmail account, I could go
4 into that -- now I'm forgetting the name you said for the
5 platform.

6 A The Penn directory.

7 Q The Penn directory. And I could change the email account
8 to my Gmail account?

9 A Yes. Or you could forward your Penn email to your Gmail
10 account.

11 Q Okay. But in any event if Penn is communicating primarily
12 with students of any type through email, there is an
13 expectation that students are watching their email for official
14 communications from Penn, right?

15 A Yes. At least we hope so.

16 Q Well, you hope so in the same way that if you were
17 communicating with them by U.S. mail, you'd hope they were
18 checking the U.S. mail, too, right?

19 A Yes. Except that we give them an email address. We don't
20 necessarily give, you know, we don't know their -- don't
21 necessarily give them a mailing address unless they're living
22 on campus.

23 Q Can anyone other than a graduate student get a certificate
24 in teaching from the Center for Teaching and Learning?

25 A No.

1 Q Is that true for -- is it any graduate student in any of
2 the 12 schools or just the 9 that offer PhDs?

3 A I believe it's just the nine that offer PhDs.

4 MS. ROSENBERGER: That's all I have at this time. Thank
5 you.

6 HEARING OFFICER LEACH: Does the Employer have questions,
7 follow-up?

8 MR. JOHNS: Just a couple.

9 REDIRECT EXAMINATION

10 BY MR. JOHNS:

11 Q You said there's no programming in the Graduate Student
12 Center in July?

13 A I said that and then I remembered that we do, do a little
14 bit of programming for new international students who are
15 typically here in the month of July. It's pretty small.

16 Q Other than that there is no other general programs or
17 other types of events for graduate students in July?

18 A That's right.

19 Q Why?

20 A There's just nobody around. I mean if we had activities,
21 nobody would be there.

22 Q You didn't say that with respect to August. Does the
23 Graduate Student Center do any particular programming in August
24 geared to a certain event?

25 A In August, we're running new student orientation programs,

1 strictly new student orientation programs, nothing else.

2 Q And that's for students who are coming to the university
3 for the fall academic term?

4 A New students, yes.

5 Q New students, okay.

6 MR. JOHNS: That's all I have.

7 HEARING OFFICER LEACH: Just a couple of follow-up
8 questions. I missed something in the beginning of your
9 testimony where you said you were the Director of the Graduate
10 Student Center for 15 years?

11 THE WITNESS: Yes.

12 HEARING OFFICER LEACH: And then you mentioned that you
13 ran something for seven years and I missed that.

14 THE WITNESS: The Family Resource Center. That was
15 concurrent with the grad center, so I was director of both.

16 HEARING OFFICER LEACH: I just wanted to clarify, the
17 Graduate Student Center, is that for masters and PhDs?

18 THE WITNESS: Yes, and other professional students.

19 HEARING OFFICER LEACH: You talked about student workers.
20 So Penn classifies certain individuals in payroll as student
21 workers or do you know, is that true?

22 THE WITNESS: That's correct.

23 HEARING OFFICER LEACH: Could a student worker be a
24 teaching assistant or research assistant at the same time
25 they're a student worker? Or if you don't know, you can say I

1 don't know.

2 THE WITNESS: Probably not. The university prohibits
3 students from working more than 20 hours a week while they're
4 in course work. And so a student worker job, unless it were
5 only five hours a week or less would probably put them over the
6 limit.

7 HEARING OFFICER LEACH: And a student worker could be a
8 PhD student or a masters student?

9 THE WITNESS: Yes.

10 HEARING OFFICER LEACH: Okay. The Office of Sexual
11 Violence and Education, is that available to employees as well?

12 THE WITNESS: No, only in that they train employees on how
13 to support a student who might be a victim of sexual assault or
14 trying to report sexual assault.

15 HEARING OFFICER LEACH: But that means whatever services
16 are offered, are offered to graduate students only.

17 THE WITNESS: And undergraduate students.

18 HEARING OFFICER LEACH: Oh, all, okay.

19 THE WITNESS: Yes.

20 HEARING OFFICER LEACH: Does that include professional
21 students?

22 THE WITNESS: Yes.

23 HEARING OFFICER LEACH: I don't have any other questions.
24 Does the Employer?

25 MR. JOHNS: No.

1 HEARING OFFICER LEACH: Union?

2 MS. ROSENBERGER: Miraculously, no.

3 HEARING OFFICER LEACH: Okay. We're done for today.

4 THE WITNESS: Thank you.

5 HEARING OFFICER LEACH: Thank you very much. I appreciate
6 it.

7 (Witness excused.)

8 HEARING OFFICER LEACH: Can we go off the record?

9 (Whereupon, at 11:51 a.m., a lunch recess was taken.)

10

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

2 (Time Noted: 1:10 p.m.)

3 HEARING OFFICER LEACH: On the record.

4 The Employer can call their next witness.

5 MR. FRYMAN: The Employer calls Erika Gross.

6 HEARING OFFICER LEACH: Good afternoon.

7 THE WITNESS: Good afternoon. How are you?

8 HEARING OFFICER LEACH: Good. How are you?

9 THE WITNESS: Good, thank you.

10 HEARING OFFICER LEACH: Can you say and spell your first
11 and last name for the record, please?

12 THE WITNESS: Sure, Erika, E-R-I-K-A, Gross, G-R-O-S-S.

13 HEARING OFFICER LEACH: Okay. Can you raise your right
14 hand?

15 (Whereupon,

16 ERIKA GROSS,

17 was called as a witness by and on behalf of the Employer, and
18 after having been duly sworn was examined and testified as
19 follows:)

20 HEARING OFFICER LEACH: The Employer can continue.

21 MR. FRYMAN: Thank you.

22 DIRECT EXAMINATION

23 BY MR. FRYMAN:

24 Q Good afternoon, Ms. Gross.

25 A Hello.

1 Q Where are you employed?

2 A The University of Pennsylvania.

3 Q How long have you been employed there?

4 A 24 years.

5 Q What is your current position?

6 A I am the Director of Finance, Administration, and Risk
7 Management, and Student Health Service.

8 Q How long have you held that position?

9 A About six and a half years.

10 Q Could you briefly run through your employment history at
11 Penn?

12 A Sure. I started in 1993 in the Office of Risk Management
13 and Insurance. I was there for 16 years. My final position
14 there was associate director. And left there to go to the
15 Office of International Programs, where I was the Director of
16 Risk Management for International Programs. I was there for
17 about two years. And then I left there and was over in Student
18 Health.

19 Q Who do you report to?

20 A The Executive Director of Student Health, who then reports
21 up through the Vice Provost of University Life.

22 Q If you know, generally what is the Vice Provost for
23 University Life responsible for?

24 A They oversee university life activities for students on
25 campus, so there's some health and wellness services, cultural

1 services, educational services.

2 Q Does the Vice Provost for University Life have
3 responsibility for matters regarding employees or staff or
4 faculty?

5 A No, students.

6 Q So you mentioned ultimately your responsibility is within
7 the Student Health Service?

8 A Correct.

9 Q What is the Student Health Service?

10 A Student Health consists of two distinct areas. One is
11 clinical services that are provided to students, primary care,
12 sports medicine, women's health, a full complement of clinical
13 services, all outpatient. And then campus health, which is our
14 public health component of Student Health, so that's health
15 education, health promotion, advocacy, and some data
16 surveillance that we do in conjunction with public health
17 entities like the Philadelphia Department of Public Health and
18 the Pennsylvania Department of Health.

19 Q You said that these services are available to students.
20 Does that include graduate students?

21 A It does.

22 Q And those seeking masters and PhD degrees?

23 A Correct.

24 Q Across any of Penn's 12 schools?

25 A Yes.

1 (Employer's E-36 identified.)

2 BY MR. FRYMAN:

3 Q I've put in front of you what we've marked as
4 Employer's 36. Do you recognize this document?

5 A I do. It's from our web site.

6 Q There is a series of colored circles. Do you see those?

7 A I do.

8 Q What do those colored circles represent?

9 A Those are various service areas that we have within the
10 Student Health, the clinical side of Student Health.

11 Q If you wouldn't mind, could you briefly describe each of
12 those services?

13 A Well, all of them are labeled so they are somewhat
14 self-explanatory. But they are acupuncture, allergy,
15 immunizations. One of the things that we do with immunizations
16 is also the immunization compliance process for the university,
17 so all matriculating students have to have certain
18 immunizations in order to enroll and begin their course work.
19 Massage, men's health, nutrition, dietary, primary care. That
20 takes a large component of the clinical services that we
21 provide. Sexual health, smoking cessation, sports medicine,
22 stress reduction, trans health, travel health, women's health,
23 and then our campus health which I had mentioned earlier.

24 Q Let me back up a moment because I don't think I asked you,
25 you identified your position but I don't think I asked you what

1 your duties and responsibilities are. What does your role
2 entail?

3 A So I oversee many of the administrative functions within
4 Student Health, so the finance and HR issues. I also oversee
5 the insurance and immunization compliance processes within
6 Student Health. I do a lot of day to day activity and
7 communication with the individual schools. I oversee various
8 staff members.

9 Q To stay with that for a moment, you mentioned HR issues.
10 That would be with respect to those individuals who are working
11 as employees within Student Health?

12 A Correct. We have about 75 FTEs. And then between
13 temporary staff and others it swells to about 120 during the
14 academic year.

15 Q Those are not students. Those are full-time employees?

16 A Some are temporary staff. Some are work study.

17 Q Got you. Returning to Employer's 36, all of the services
18 that you described, are all of those available to graduate
19 students?

20 A They are.

21 Q Are any of them available to faculty and staff?

22 A No.

23 Q Are all these services available to students pursuing a
24 PhD in a graduate group within the School of Arts & Sciences?

25 A Yes.

1 Q Are all of these services available to students pursuing a
2 PhD degree within the Wharton School?

3 A Yes.

4 Q Are all of these services available to students pursuing a
5 PhD degree within the School of Engineering?

6 A Yes.

7 Q How do students pay -- do students pay for any of these
8 services that are reflected on Employer's 36?

9 A Students get access to Student Health Service by payment
10 of a clinical fee, which is automatically charged to all
11 full-time matriculating students. And then that covers 90
12 percent of the services that we provide. There is an
13 additional fee for acupuncture, massage, and the individual
14 immunizations. Almost all of our services are covered by that
15 clinical fee payment, but there are some -- the immunizations
16 themselves and some medications have an additional charge
17 associated with those.

18 Q Is there an analogous health service that's available to
19 faculty and employees?

20 A No. That would be like their primary care doctor.

21 Q To your knowledge, is that different than your peer
22 institutions?

23 A Some of our peer -- within the IP-Plus Group (ph.), of
24 which we're associated, some of them do see faculty and staff
25 on campus. We don't.

1 (Employer's E-37 identified.)

2 HEARING OFFICER LEACH: Does the Union object to
3 Employer 36?

4 MS. ROSENBERGER: No.

5 HEARING OFFICER LEACH: Employer 36 is received.

6 (Employer's E-36 received.)

7 BY MR. FRYMAN:

8 Q Employer's 37, do you recognize this?

9 A I do.

10 Q What is this?

11 A This is a wellness guide that was put together to bring
12 awareness to all the diverse opportunities that exist on campus
13 to support wellness activities for students.

14 Q Are those reflected on the first page of Employer's 37?

15 A They are.

16 Q Who put this together?

17 A It was put together by a group of students in conjunction
18 with campus health and other offices within the Vice Provost
19 for University Life.

20 MR. FRYMAN: Move for the admission of Employer's 37.

21 MS. ROSENBERGER: No objection.

22 HEARING OFFICER LEACH: Okay. Employer 37 is received.

23 (Employer's E-37 received.)

24 BY MR. FRYMAN:

25 Q Do students have access to dental care?

1 A Yes.

2 Q That covers the full range of students from undergraduates
3 through graduate students?

4 A They are all eligible to obtain dental care on campus.

5 Q Again that would apply equally to a graduate student
6 seeking a PhD in the School of Nursing, just as it would a
7 graduate student seeking a PhD in Wharton or Engineering?

8 A Yes.

9 Q What is CAPS?

10 A Counseling and Psychological Services.

11 Q What's the relationship if any between the Student Health
12 Service and CAPS?

13 A CAPS is a colleague office that reports up through the
14 Vice Provost for University Life.

15 Q What does CAPS do or what does it provide?

16 A It provides counseling and psychological services to Penn
17 students.

18 Q Again, the full range of students from undergraduates
19 through masters, PhD, professional?

20 A Yes.

21 Q And those services are available to PhD students
22 regardless of the degree of program or study?

23 A Yes.

24 Q Are faculty employees eligible to access the CAPS
25 services?

1 A No.

2 Q Does the university provide any type of counseling
3 services for its employees?

4 A The closest equivalent would be EAP, which is the Employee
5 Assistance Program.

6 Q Does the Vice Provost for University Life administer that
7 program?

8 A They do not.

9 Q Do you know who does?

10 A Human resources, in conjunction with Penn Behavioral
11 Health.

12 Q What is the Student Health Advisory Board?

13 A The Student Health Advisory Board, also known as SHAB, is
14 the advisory board that is compiled of both undergrad and grad
15 students that help to provide advice and guidance to the
16 Student Health Service.

17 Q Do you have interaction with that board?

18 A I do.

19 Q What's the nature of your interaction?

20 A They meet monthly in our office to come up with some
21 programming or evaluate activities that they are working on.
22 So I sit in on those meetings monthly.

23 Q That would encompass graduate students within any of the
24 university's 12 schools?

25 A Yes.

1 Q And regardless of degree program?

2 A Yes.

3 Q Are University of Pennsylvania students required to
4 maintain health insurance?

5 A Yes, there is a health insurance requirement.

6 Q Regardless of program of study, undergraduate, graduate?

7 A Correct.

8 Q Going back to Employer 36 for a moment, on the right-hand
9 side there is a list of -- since this is from a webpage, I
10 assume it's a list of links on which you can click. And about
11 three from the bottom above for parents there is something
12 called Penn student insurance plan (PSIP). Do you see that?

13 A Yes.

14 Q What is the Penn student insurance plan?

15 A That is the student health insurance plan that Penn puts
16 together that students are eligible to purchase in order to
17 meet the insurance compliance requirement that we have.

18 Q If a PhD student is provided funding that includes health
19 insurance, is this the insurance they would receive?

20 A Yes.

21 Q When you testified earlier about the clinical fee for
22 Student Health Service, if a Penn PhD student is provided as
23 part of their funding package fees, would that fee be included,
24 that clinical fee be included in those fees?

25 A It would.

1 Q And I'm sorry, did I ask you can you describe the Penn
2 student insurance plan?

3 A It is a comprehensive health insurance plan that is
4 underwritten by Aetna Student Health.

5 Q Is it available to any member of the Penn community other
6 than students?

7 A No.

8 Q Is it available to doctoral students pursuing a degree
9 within Wharton?

10 A Yes.

11 Q A PhD student pursuing a degree within the School of
12 Engineering?

13 A Yes.

14 Q Is it available to students seeking a PhD in any of other
15 -- any of the other graduate groups within other schools at
16 Penn?

17 A It is.

18 Q Is the Penn student insurance plan available to Penn
19 employees?

20 A It is not.

21 (Employer's E-38 identified.)

22 BY MR. FRYMAN:

23 Q You said that the Penn student insurance plan is available
24 for students. So I take it then faculty employees have a
25 different health insurance plan or plans available to them?

- 1 A Yes. There are several plans.
- 2 Q Who administers the Penn student insurance plan?
- 3 A You mean who underwrites it or who --
- 4 Q No, just in terms of --
- 5 A The coordination and access to it?
- 6 Q Exactly.
- 7 A Student Health.
- 8 Q Your office?
- 9 A My office.
- 10 Q You mentioned underwriting. Who does the underwriting?
- 11 A Aetna Student Health underwrites it.
- 12 Q What is Aetna Student Health?
- 13 A Aetna Student Health is a branch of Aetna Health Insurance
- 14 that is specifically targeted to the student market.
- 15 Q Does the Penn Student Health Service have a dedicated
- 16 Aetna Student Health representative?
- 17 A We do. They are onsite, five days a week.
- 18 Q What is what we've marked as Employer's 38?
- 19 A This is a summary of the major plan features of PSIP. The
- 20 Penn student -- Penn talks with a lot of acronyms so I
- 21 apologize. The Penn student insurance plan, which is referred
- 22 to as PSIP.
- 23 Q Now looking up at the top, it says it's for 2017-2018. So
- 24 this is not yet -- has this gone into effect, this particular
- 25 summary?

1 A No. This particular summary has not. It doesn't go into
2 effect until August 1st. Our plan year runs August 1st to
3 July 31st.

4 Q And in fact up at the top there it has the word draft on
5 there.

6 A Correct.

7 Q But does this Employer's 38 nonetheless reflect the
8 current features and benefits in the Penn student insurance
9 plan somewhat?

10 A It does. The only changes that are for the upcoming year
11 are noted in the orange color.

12 Q Are you familiar with -- I'll give you another acronym and
13 then you can give the full name, SHIAC, S-H-I-A-C.

14 A Yes, I am.

15 Q What does that stand for?

16 A The Student Health Insurance Advisory Committee.

17 Q What is that committee?

18 A That is a committee that is made up of faculty, staff, and
19 students, that provides guidance to the president and provost
20 on health insurance issues, and also makes recommendations and
21 decisions regarding what PSIP looks like.

22 Q When you say health insurance issues, would those be
23 health insurance issues confined to student health?

24 A To the health of the students on campus, yes.

25 Q Who sits on that committee?

1 A Faculty and staff, undergraduate, graduate students. It's
2 chaired by Beth Winkelstein, who is the Vice Provost for
3 Education. We also have two or three members of the Student
4 Health Service who are there as support staff.

5 Q When you say staff sit on this committee, what's the
6 nature of the staff that sits on the committee?

7 A We have the Director of Risk Management/Insurance because
8 of their expertise in insurance issues; the Director of
9 Counseling and Psychological Services is a participant; several
10 student affairs members from various schools, law school,
11 Wharton. We have -- I'm trying to think of what other staff
12 members are on there. Two representatives from Vice Provost
13 for University Life; myself; our Executive Director of Student
14 Health, Max King, who is the Associate Vice Provost for
15 University Life; our Director of Campus Health. I think that's
16 it.

17 Q And so the activities of the or the work of the SHIAC
18 committee, would that impact all students who obtain insurance
19 through Penn?

20 A Yes.

21 Q That would include all graduate students?

22 A Yes.

23 Q Regardless of their program of study?

24 A Yes.

25 Q Bear with me if you would on this question. Let's say we

1 had a PhD from the graduate student (sic) and that student in
2 the fall of 2017 semester is going to serve as a teaching
3 assistant, when that PhD student becomes a teaching assistant
4 will he or she no longer be eligible for student health
5 services?

6 A They would continue to be eligible for student health
7 services.

8 Q Would that teaching assistant who is a PhD graduate
9 student still be eligible to participate in the Penn student
10 insurance plan?

11 A Yes.

12 Q Now let's change it a little bit. Let's take a PhD
13 student who received their PhD, graduated in May of 2017, and
14 then obtained a position at Penn as a post-doc. This fall in
15 2017, would that individual be eligible to participate or
16 access student health services?

17 A They would not.

18 Q Why not?

19 A Post-docs aren't eligible to receive student health.

20 Q Is that because they are employees?

21 A It's because they are post-docs.

22 Q Would the post-doc be eligible to participate in the Penn
23 student insurance plan?

24 A They would not.

25 Q Going back a moment to Employer's 38, if you're able to do

1 so are you able to articulate how the Penn student insurance
2 plan differs from the plans available to employees?

3 A Sure, I may not with great specificity but generally.

4 Q Could you do so?

5 A Our out of pocket maximum is lower than the out of pocket
6 maximum for the employee plans. So when an individual hits
7 their out of pocket max, once that out of pocket max is
8 reached, all costs over that are covered at 100 percent for
9 in-network areas. So we try to keep the internal costs as low
10 as possible on the student health insurance plan in order to
11 minimize the expenses students incur when they're on the
12 student health plan.

13 Our copays are fairly equivalent. Our transgender care
14 coverage has been in place longer than Penn's plan -- the
15 employee plans have had in place. Our behavioral health
16 coverage is included under Aetna Student Health and not a
17 separate plan the way that many of the employee plans are.
18 We're also not a high deductible plan, which is one of the
19 options under the employee plans. And we're also not an HMO,
20 we're a PPO. So the employee plans have various options. I
21 think there's two PPOs, one HMO, and a high deductible plan.
22 And this is neither an HMO or a high deductible plan. Is that
23 what you were looking for?

24 Q Sure. Now do you have some familiarity with the employee
25 plans by virtue of the hat you wear as an employee?

1 A Yes.

2 Q Do you have a view as to whether the Penn student
3 insurance plan is inferior or superior to employee plans?

4 A I think its superior to the employee plan.

5 Q Does the Student Health Service or anyone in your office
6 play any role in the administration of the employee health
7 insurance plans?

8 A We do not.

9 Q I also take it in your role as a Penn employee there is a
10 suite of employee fringe health and welfare benefits available
11 to you.

12 A Yes.

13 Q Are any of those available to students, to your knowledge?

14 A In terms of like dental coverage?

15 Q Any of the fringe benefits that you enjoy as a staff
16 member.

17 A So dental coverage is available to students as well as to
18 employees, vision.

19 Q Other than the health benefits?

20 A Employees get or have access to life insurance policies
21 which students don't.

22 Q Retirement benefits?

23 A We have access to retirement benefits. Students don't
24 have access to retirement benefits.

25 Q Disability insurance?

1 A We have access to disability insurance. Students I don't
2 believe have access to disability insurance.

3 Q Are you eligible for paid time off, vacation, and sick
4 leave?

5 A I am; we are.

6 Q That's available to students, to your knowledge?

7 A Not to my knowledge.

8 MR. FRYMAN: I move for the admission of Employer's 37
9 and 38.

10 MS. ROSENBERGER: No objection.

11 HEARING OFFICER LEACH: Employer 37 and 38 are received.
12 (Employer's E-38 received.)

13 BY MR. FRYMAN:

14 Q You testified about the clinical services that are
15 available to students.

16 A Yes.

17 Q And those are available through both the Student Health
18 Service and through CAPS?

19 A Yes.

20 Q I assume those -- they are sites on campus?

21 A Yes.

22 Q When can students go and access those services?

23 A Student Health and CAPS are both open five days a week.
24 We're actually open six days a week. We're open 8:00 to 7:30,
25 three days, Monday, Tuesday, Wednesday, till 5:30 Thursday and

1 Friday, and then during the academic year, 11:00 to 4:30 on
2 Saturdays. I believe CAPS is open in the evenings on Tuesday,
3 Wednesday, and Thursday, and I don't know if they are still
4 having Saturday hours or not.

5 Q With respect to mental health services, do students have
6 access to that at any time?

7 A Yes.

8 Q How does that work if a student in the middle of the night
9 or on the weekend is having an issue?

10 A They can call either office and they are transferred to
11 the operator, the hospital operator that pages the provider on
12 call.

13 MR. FRYMAN: Those are all the questions I have. Thank
14 you.

15 HEARING OFFICER LEACH: Union?

16 MR. FRYMAN: Ms. Rosenberger may have some questions for
17 you.

18 CROSS-EXAMINATION

19 BY MS. ROSENBERGER:

20 Q Hi.

21 A Hi.

22 Q My name is Amy Rosenberger and I'm one of the lawyers
23 representing the Union in this case.

24 A Sure.

25 Q And I do have some questions for you. Do you have -- in

1 order to access all of the health services that you discussed
2 does a student have to be a full-time student?

3 A They do not have to be a full-time student.

4 Q So a part-time student has access to those services as
5 well?

6 A If they have paid the clinical fee, yes.

7 Q As far as employees of the university that get the
8 benefits like you described that are available to you as an
9 employee, is there a threshold? Do you have to be a full-time
10 employee to get those benefits?

11 A No, you can be a part-time employee to get those benefits.

12 Q You just might have to pay more for them?

13 A You have to pay more.

14 Q So we've heard testimony that from time to time people who
15 are employees of the university also take degree --

16 A Absolutely.

17 Q Degree-providing courses whether part-time or full-time,
18 or what have you, and for someone in that situation can they
19 access student health services if they pay the clinical fee?

20 A Depends on their primary status with the university.

21 Q How does that get determined? You don't know. That's
22 above your pay grade?

23 A It all depends on primary status. I, I really don't know
24 who or where that's determined. I don't know if that's through
25 the HR system. I don't know, I just don't know.

1 Q You just know that there is something called primary
2 status.

3 A Absolutely.

4 Q And is that true with regard to -- just so that we're
5 clear, that's true with regard to Student Health Services,
6 right?

7 A Yes.

8 Q And CAPS?

9 A I don't work in CAPS so I'm not going to make that
10 determination on behalf of CAPS. But, generally speaking, yes,
11 student primary status dictates what an individual is based in
12 the university.

13 Q And all of the health related benefits that you described,
14 the health insurance plan, CAPS, and their various iterations
15 apply to all students, not just graduate students, right?

16 A Correct.

17 Q With regard to -- you talked about employees getting paid
18 leave of various types but students, graduate students not
19 getting paid leave. Graduate students do from time to time
20 take a leave of absence, isn't that right?

21 A They do. All students take leave of absence.

22 Q Well, not everybody does.

23 A No, but all --

24 Q All categories.

25 A It's not just graduate students that take leave of

1 absences. All students are able to take a leave of absence
2 from the programs that they are in.

3 Q Okay. And if I understand you correctly, it's just that
4 when they take a leave of absence they don't get any sort of
5 pay or their funding cuts off for that period of time, right?

6 A I think it all depends on the program that they are in.

7 Q When they're on a leave of absence, can they access
8 student health services?

9 A It depends on when the leave is processed and how the
10 leave is processed.

11 Q So sometimes yes, sometimes no.

12 A Correct.

13 Q You said that part of your responsibilities is day to day
14 communication with the various schools. What kinds of things
15 would you be in communication with the various schools within
16 Penn -- about which kind of things would you be in
17 communication with the schools?

18 A One of the primary things is actually concussions, and
19 illnesses, and activities that may be impacted by a physical
20 health related activity. Students, not just graduate students
21 but all students are very mindful of missing academic
22 activities. They're not in class, they're not in a lab,
23 they're not where they should be, and we will communicate with
24 the agreement of the student patient that there is a physical
25 health issue that's impacting their ability to attend class or

1 participate in whatever the program happens to be.

2 Q One of the things that is listed on Employer Exhibit 38 --
3 36, I'm sorry, this is the one with the colored circles.

4 A Yep.

5 Q Is travel health. What is that service that you provide?

6 A All students travel quite a bit whether it is in
7 conjunction with the program they are on, recreational
8 activities, things like that. So we do travel consultations in
9 order to prepare them for the areas or the multiple areas that
10 they're going to, and then also provide immunizations,
11 prophylactic, antibiotics, medications, anything as to their
12 travel.

13 Q You talked about the Student Health Advisory Board or
14 SHAB. That includes -- and you said that includes graduate
15 students from all 12 schools. That also includes undergraduate
16 students, right?

17 A It does. It's not every single school has somebody on
18 SHAB, but any student can apply to be a member of SHAB.

19 Q Some of your students -- let me step back a second. Not
20 all of your students participate in the PSIP, Penn student
21 insurance plan, right?

22 A Correct.

23 Q Some may be, particularly if they are under 26 and as long
24 as the affordable --

25 A Still be on their parents' plan, absolutely.

1 Q Right, as long as the Affordable Care Act requirement
2 remains in place. Or they might have their own insurance from
3 somewhere else, a spouse, something along those lines.

4 A So long as it meets our requirements, there is a handful
5 of requirements that the health insurance needs to meet in
6 order to be acceptable, but, yes, they can stay on so long as
7 it meets those requirements.

8 Q That's true for students at all levels, in all schools,
9 right?

10 A Correct.

11 Q Do post-docs get any insurance benefit from Penn?

12 A I'm not a post-doc and I don't oversee post-docs, but
13 post-docs have access to health insurance benefits.

14 Q To the employee plans?

15 A They have their own plan.

16 Q So there is a separate post-doc health insurance plan?

17 A There is.

18 Q And a separate plan for all students. And a separate set
19 of plans for employees.

20 A Correct.

21 Q Please look at Employer Exhibit 37. On the top right
22 there are four entities that are discussed. Can you describe
23 what they are?

24 A In the right-hand corner?

25 Q Yeah.

1 A Penn Wellness, it's a Penn student group. VP-Well is the
2 Vice Provost for University Life. UA is the undergraduate
3 assembly. And PUHC is the Penn Undergraduate Health Coalition.

4 Q So the undergraduate assembly is just undergraduate
5 students?

6 A yes.

7 Q And PUHC is an organization that's just for
8 undergraduates?

9 A Correct.

10 Q So Penn Wellness you said is a student organization, but
11 what is it?

12 A It is a student organization, a student club. It's made
13 up of students.

14 Q For what purpose?

15 A To address wellness across campus.

16 Q Is it a club or an organization of all types of students
17 or just undergraduates or just graduates?

18 A I don't know what their makeup is.

19 Q Why are these four -- I mean I understand why based on the
20 testimony why the division of the Vice Provost for University
21 Life -- boy, that's hard to read, the reference there -- but
22 why are the other organizations referenced on this web page?

23 A They all focus on -- well, they all look at ways to
24 centralize resources in a way that's easy for students to
25 understand and access, so they're all looking at health and

1 wellness issues that address the Penn student community.

2 MS. ROSENBERGER: That's all the questions I have right
3 now. Thank you.

4 HEARING OFFICER LEACH: Does the Employer have any other
5 questions?

6 REDIRECT EXAMINATION

7 BY MR. FRYMAN:

8 Q You provided some testimony and Ms. Rosenberger asked you
9 some questions about employees who kind of have a dual role so
10 to speak. They're an employee of the university, but they are
11 also taking some classes or in some program of study as a
12 student.

13 A Yes.

14 Q I believe you used the term primary status.

15 A Yes.

16 Q As determining whether they would be eligible to
17 participate in the Student Health Service and the Penn student
18 insurance plan, is that right?

19 A Yes.

20 Q And am I to understand your testimony that that
21 individual, it's not they don't have a choice as to
22 participating in one versus the other.

23 A They do not.

24 Q That choice is made for them by virtue of what their,
25 quote, primary status is.

1 A Correct.

2 Q And based on factors or criteria with which you're not
3 fully familiar, they would be deemed either effectively an
4 employee as their primary status or as a student as their
5 primary status.

6 A Correct.

7 Q If that primary status is as a student, then they would be
8 eligible and have access to all of the things to which you've
9 testified with respect to Student Health Service and Penn
10 student insurance plan.

11 A Yes.

12 Q But if their primary status was as an employee, they would
13 not have access or eligibility to any of those things
14 notwithstanding the fact that they also have some role as a
15 student.

16 A Yes.

17 MR. FRYMAN: That's it.

18 HEARING OFFICER LEACH: Okay. Oh, I'm sorry, sure, no
19 problem, go ahead.

20 RE CROSS EXAMINATION

21 BY MS. ROSENBERGER:

22 Q So a couple of things about that. But that's a status
23 that is determined by Penn, just you don't know who at Penn,
24 right?

25 A Yes.

1 Q And that rule about primary status is a rule created by
2 Penn, right?

3 A Big picture, yes.

4 Q The person who -- let's say you have someone who Penn
5 determines their primary status is a student, as I understand
6 it they're going to have access to the student health plans,
7 the various benefits you talked about, right?

8 A Correct.

9 Q And they're not going to have -- if their primary status
10 is as a student according to Penn, they're not going to have
11 access to the employee health plans.

12 A Correct.

13 Q But that doesn't mean that Penn is saying they're not an
14 employee. It's just not their primary status, right?

15 A It's not their primary status.

16 Q And it doesn't affect -- if their primary status is as
17 student but they also have I guess secondary status as a
18 bookkeeper in the finance office, they're still going to get
19 paid according to their wage rate or salary, and get whatever
20 other sort of -- other than benefits, whatever goes along with
21 being an employee they're going to get from Penn, right?

22 A If their primary status is student?

23 Q Um-hum.

24 A If their primary status is student, I think they're only
25 going to be eligible to work in various roles.

1 Q So they're not going to be able to keep their job?

2 A If their primary status is student, I don't know that they
3 can have also a full-time job at the university.

4 Q But they could have a part-time job.

5 A As a student worker.

6 Q The example that I asked you about before that Mr. Fryman
7 was asking you follow-up questions about was someone who is an
8 employee, who then pursues a degree or classes at Penn. And
9 you said -- so I guess my question is are you saying that if
10 that person is determined by Penn to be primarily a student,
11 they then wouldn't be allowed to continue in the job that they
12 had?

13 A If their primary status is a student, I don't know that
14 they can hold a regular full-time employee job also. I just
15 don't know the answer to that question.

16 Q Okay.

17 A That is an "I don't know."

18 Q Okay. I'm sorry, I was hearing it as an "I don't
19 believe." But you're saying you don't know one way or the
20 other, got you. I'm sorry. And for the record you need to say
21 something other than wave your hands.

22 A Yes. I don't know in terms of I don't know.

23 Q Okay, got you. Thank you. Sorry about that.

24 HEARING OFFICER LEACH: Okay. Just a few follow-up
25 questions.

1 THE WITNESS: Sure.

2 HEARING OFFICER LEACH: When you described what you do and
3 what you oversee, I think you mentioned the term temporary
4 staff. What's temporary staff? You said you oversee --

5 THE WITNESS: It says temporary staff. So we have staff
6 members that are not full-time members of the university that
7 are in temporary positions for less than a year or so.

8 HEARING OFFICER LEACH: Are these students or staff?

9 THE WITNESS: Staff.

10 HEARING OFFICER LEACH: We may have covered this, but
11 Employer 37, this says wellness guide or wellness activity for
12 students, is that for all students?

13 THE WITNESS: Yes.

14 HEARING OFFICER LEACH: Undergrads, grads, professionals?

15 THE WITNESS: Yes.

16 HEARING OFFICER LEACH: That's actually all I had. Does
17 the Employer have any follow-up?

18 MR. FRYMAN: I do not.

19 HEARING OFFICER LEACH: The Union?

20 MS. ROSENBERGER: No.

21 HEARING OFFICER LEACH: Okay, that's it for today. Thank
22 you very much.

23 THE WITNESS: Thank you.

24 HEARING OFFICER LEACH: I appreciate it.

25 (Witness excused.)

1 HEARING OFFICER LEACH: So yesterday we had some
2 conversation about --

3 MS. ROSENBERGER: Are we still on the record?

4 HEARING OFFICER LEACH: Yes.

5 MS. ROSENBERGER: Okay, I'm sorry.

6 HEARING OFFICER LEACH: Can we go off the record?

7 (Off the record from 2:01 p.m. to 2:07 p.m.)

8 COURT REPORTER: Back on the record.

9 HEARING OFFICER LEACH: We had some conversation yesterday
10 about educational fellowship recipients. And I believe that
11 that's a classification that the Union petitioned for, but the
12 Employer thinks should be excluded.

13 I believe that the Union was going to agree to exclude
14 that classification?

15 MS. ROSENBERGER: We can agree to exclude that
16 classification, but I just want to be clear that individuals
17 who are holding that classification -- some individuals would
18 be in, in our view, by virtue of their also holding other
19 classifications on an intermittent basis like teaching
20 assistant, research assistant, etc.

21 But, yes, educational -- it gets to the issue of the
22 voting eligibility. But the classification as opposed to the
23 individuals, the classification we can agree is out.

24 HEARING OFFICER LEACH: Okay. Does the Employer have
25 any --

1 MR. FRYMAN: I think I agree, but let me try and
2 articulate it --

3 MS. ROSENBERGER: Put it another way.

4 MR. FRYMAN: -- just to make sure we're all on the same
5 page and to I think make sure we make a distinction between a
6 unit classification issue and a voter eligibility issue.

7 With respect to included classification, the Employer's
8 position is, to which I believe the Union agrees, is that
9 someone who holds the classification of educational fellowship
10 recipient and no other is out regardless of the year in which
11 they are in their program of study.

12 If they also then hold a position of teaching assistant or
13 teaching fellow, they would be in. And I think that is, and so
14 that the unit description would not have educational fellowship
15 recipient in it.

16 MS. ROSENBERGER: Right. Right.

17 MR. FRYMAN: I think then there is a second separate issue
18 in terms of eligibility, voter eligibility on which the parties
19 are not of the same --

20 MS. ROSENBERGER: Right, exactly.

21 MR. FRYMAN: And where the Employer's view is that only
22 those who currently hold or at least as of the payroll
23 eligibility hold positions that are listed within the unit
24 description would be eligible to vote. And you would think
25 otherwise.

1 MS. ROSENBERGER: Our position is, as we articulated on
2 the first day, is that we would do a one-year lookback period
3 to catch folks who are employed intermittently, who are
4 actively working intermittently.

5 HEARING OFFICER LEACH: Right, okay. And I know that
6 that's an issue that we'll discuss later. But even in that
7 situation, if an educational fellowship recipient is only doing
8 -- if that's their only title, and they are not teaching or
9 researching, they would not be included, correct?

10 MS. ROSENBERGER: Correct, yeah.

11 HEARING OFFICER LEACH: All right. So then at this point
12 it looks like we have an agreement that that title educational
13 fellowship recipient would not be included --

14 MS. ROSENBERGER: In the unit description, that's right.

15 HEARING OFFICER LEACH: -- in the unit description. Okay.

16 MR. FRYMAN: Correct.

17 HEARING OFFICER LEACH: So then outside of -- we don't
18 need to take any additional testimony on that. And, again, the
19 parties both reserve their right to discuss the voter
20 eligibility issue at the end when we get to that. Okay.

21 And student workers, okay, yesterday Dan said he would --
22 he was going to get some more information about that. I'm not
23 sure if -- of course, he's not here right now.

24 MR. FRYMAN: Well, no, I can --

25 HEARING OFFICER LEACH: Do we want to wait or does the --

1 you want to talk about that? Okay.

2 MR. FRYMAN: I'm not Dan, but I can address it in the
3 sense that I can represent where the Employer is on this which
4 is that we still are thinking about it and talking about it.

5 MS. ROSENBERGER: And I'm still getting -- I mean I would
6 also say I needed to talk to my folks to get more clarity,
7 given what the back and forth was yesterday. And I'm still
8 getting that. So we hope to have more clarity tomorrow, but I
9 hoped that yesterday, too.

10 MR. FRYMAN: Right. And also in terms of putting
11 witnesses off, to the extent I mean we're still preparing to
12 have testimony on that but perhaps by deferring that, which we
13 have done, perhaps we might avoid that testimony. Which is
14 another reason why it's 2:15 and we don't have another witness
15 today, because we don't want to needlessly put on testimony
16 about student workers if we don't have to.

17 HEARING OFFICER LEACH: I understand. So let's see if we
18 can revisit that tomorrow. At this point, student worker is
19 still a classification that's at issue.

20 MR. FRYMAN: Correct.

21 HEARING OFFICER LEACH: But I do believe that there has
22 been some testimony in the record from various witnesses about
23 what student workers do.

24 MR. FRYMAN: Oh, absolutely, correct.

25 HEARING OFFICER LEACH: Right, okay.

1 MR. FRYMAN: I think we probably -- if we don't reach
2 agreement on it, I think there likely will be some more,
3 drilling down a little bit further on that.

4 HEARING OFFICER LEACH: Okay. And then the other issue,
5 what the Union has called pre-doctoral trainees, were we ready
6 to get -- we tried to come I guess --

7 MS. ROSENBERGER: So I think there is no dispute that
8 they're in. The Employer hasn't contested that they're -- I
9 mean they contest that they are employees.

10 HEARING OFFICER LEACH: Right.

11 MS. ROSENBERGER: That if they are employees. They're not
12 saying that classification is out on a different ground than
13 everybody else.

14 HEARING OFFICER LEACH: I think I just wanted to get some
15 clarity because we really have not heard pre-doctoral trainee
16 as a term. People just called them doctoral students. So I
17 believe if you just clarify that a pre-doctoral trainee is
18 what's been referred to as a doctoral student --

19 MR. FRYMAN: Well, no. I'm sorry to interrupt.

20 HEARING OFFICER LEACH: I'm sorry.

21 MR. FRYMAN: The latter is broader than the former. In
22 other words, pre-doctoral trainee is not a synonym for just
23 generally a PhD student.

24 HEARING OFFICER LEACH: Okay. What do you call it then,
25 because we really have not heard the term pre-doctoral trainee

1 and I need some sort of definition, because I believe that it's
2 not clear in the record.

3 MR. FRYMAN: And we can provide that I believe.

4 HEARING OFFICER LEACH: Okay. If you need more --

5 MR. FRYMAN: Somebody can correct me -- I'm sure somebody
6 will correct me if I'm wrong, but I believe that is a title
7 used in connection with students who -- in connection with some
8 external grants that they are given that classification in the
9 research realm.

10 MS. ROSENBERGER: That's consistent with my understanding
11 that it really is a distinction that has to do with the source
12 of the funding, but they're still getting paid through the
13 university and what have you. So they are --

14 MR. FRYMAN: Right. So not unlike a research fellow.

15 MS. ROSENBERGER: Right. It's a distinction made for
16 purposes of fund, identifying a separate kind of funding.

17 MR. FRYMAN: Funding source, correct.

18 HEARING OFFICER LEACH: Okay. And I was mistaken. I do
19 have in my notes here that it also refers to, I believe from
20 yesterday, masters or a PhD student. Is that still --

21 MR. FRYMAN: I don't know that we'll find a masters
22 pre-doctoral trainee.

23 MS. ROSENBERGER: Yeah, I don't know of any in that
24 category, either.

25 HEARING OFFICER LEACH: Okay. But I guess today you're

1 not ready to put on, I guess to agree on a definition. It's
2 clear that both parties are okay with that title being
3 included, pre-doctoral trainee.

4 MR. FRYMAN: Correct.

5 HEARING OFFICER LEACH: Again, I just wondered because
6 that's not typically a term that the witnesses have used. If
7 we can just have some sort of explanation or definition in the
8 record of what that individual is?

9 MR. FRYMAN: That's fine, we can.

10 MS. ROSENBERGER: Maybe we should work on something that
11 we could jointly agree on the wording of. I mean I think we
12 agree they're in.

13 MR. FRYMAN: Sure, yes, we do. And I think we agree that
14 if they're employees, they're in.

15 MS. ROSENBERGER: Yes.

16 HEARING OFFICER LEACH: Right.

17 MS. ROSENBERGER: And but it's not the kind of succinct
18 description that I think the hearing officer is --

19 HEARING OFFICER LEACH: Yesterday, when we talked about
20 it, my notes say PhD -- an individual in a PhD program
21 performing research activities that may receive funding that's
22 funneled through the university doing similar work as an RA or
23 RF, that the title may deal more with the source of funding.

24 MR. FRYMAN: That's it.

25 HEARING OFFICER LEACH: Is that it?

1 MS. ROSENBERGER: Yes.

2 HEARING OFFICER LEACH: Oh, okay, great. So the Employer
3 and the Union agree to that. Right?

4 MS. ROSENBERGER: Yes.

5 HEARING OFFICER LEACH: Okay, sounds good. So we will
6 leave that, that classification is in if these individuals --

7 MR. FRYMAN: Right.

8 HEARING OFFICER LEACH: -- are found to be employees and,
9 okay, we have some clarity. I appreciate that. Then that's
10 all I have. The other issues that we mentioned yesterday, Dan
11 said that the Employer was working on and hopefully they will
12 come in tomorrow, so that's fine. That was the organizational
13 chart and --

14 MR. FRYMAN: Oh, yes. That will be here tomorrow.

15 HEARING OFFICER LEACH: Okay. And copies of funding
16 letters from NIH and/or NSF with the related document, just to
17 show kind of the relationship of what, you know, the
18 relationship to the two based on the testimony from one of the
19 witnesses.

20 MR. FRYMAN: My understanding is that will be here
21 tomorrow morning as well.

22 HEARING OFFICER LEACH: Okay. Then I don't have anything
23 else for today. Does either party?

24 MR. FRYMAN: No.

25 MS. ROSENBERGER: No.

1 HEARING OFFICER LEACH: Okay, I appreciate it.
2 We'll go off the record.
3 (Whereupon, at 4:47 p.m., the hearing in the
4 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 21, 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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