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COMMONWEALTH OF PENNSYLVANIA

LABOR RELATIONS BOARD

* * * * *

PSEA, COALITION OF GRADUATE *
 EMPLOYEES, *

Petitioner * No.: PERA-R-17-40-E

~vs~ *

PENNSYLVANIA STATE *

UNIVERSITY, *

Respondent *

* * * * *

HEARING TRANSCRIPT

* * * * *

BEFORE: STEPHEN A. HELMERICH, Hearing Examiner

HEARING: Tuesday, September 5, 2017

9:20 a.m.

LOCATION: Penn State Hotel & Conference Center

215 Innovation Boulevard

State College, PA 16803

WITNESSES: Michael Lehmier, Kevin Reuning, Nathan Geiger, Brianne Pragg, Ethan Ake-Little

Reporter: Lindsey Deann Richardson

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HEARING EXAMINER: Okay. We're here today on PERA-R-17-40E. The case has been styled Coalition of Graduate Employees, PSEA versus Pennsylvania State University.

My name is Stephen Helmerich. I'm the Hearing Examiner appointed by the Board to hear this petition. Will counsel for the Association identify themselves, please?

ATTORNEY CANAMUCIO: Joseph Canamucio.

ATTORNEY BRUMFIELD: Raziya Brumfield.

HEARING EXAMINER: And Counsel for the Penn State?

ATTORNEY FARMER: Shannon Farmer.

ATTORNEY SWARTZ DANTE: Meredith Dante.

HEARING EXAMINER: We had an off-the-record discussion about some prehearing issues and now we're ready to start.

Mr. Canamucio, does the Association have an opening statement?

ATTORNEY CANAMUCIO: Yes, it does.

HEARING EXAMINER: Wait one second. Do the parties agree that Penn State is a public employer?

ATTORNEY CANAMUCIO: Yes.

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ATTORNEY FARMER: Yes.

HEARING EXAMINER: And do the parties agree that Coalition of Graduate Employees, PSEA is a public employer representee - employee representative pursuant to the Act?

ATTORNEY CANAMUCIO: Yes.

ATTORNEY FARMER: Subject to our reservation that we do not believe that they potentially represent any employees, yes, in the issue that we raised.

ATTORNEY CANAMUCIO: I'm prepared to prove it, if you like. Also, I think it's something that's squarely within your ability to take judicial notice of.

HEARING EXAMINER: All right. Go ahead, Mr. Canamucio.

ATTORNEY CANAMUCIO: All right. You mean for the opening?

HEARING EXAMINER: Yes.

ATTORNEY CANAMUCIO: So - and I may call them the Coalition as opposed to the Association.

HEARING EXAMINER: That's fine.

ATTORNEY CANAMUCIO: We're referring to the Coalition of Graduate Employees, PSEA NEA. They filed a representation petition back in February. And

1 the petition proposes a bargaining unit of, quote, all
 2 full time and part time graduate workers, including
 3 teaching assistants, and research assistants, as well
 4 as all other graduate assistants and fellows, end
 5 quote. Pursuant to Section 604, it's now up to you to
 6 determine the appropriateness of that unit.

7 So despite the very lengthy case you're
 8 about to hear, in spite of the many potential issues
 9 that will be raised, we are all just here to give you
 10 the information you need to decide whether that's an
 11 appropriate unit.

12 Under 604, your decision is based on two
 13 things, whether these employees share an identifiable
 14 community of interest, and the effect of
 15 overfraternization.

16 There's good news for you as you conduct
 17 this analysis. There's Board precedent directly on
 18 point. However, during the course of the Board's
 19 decision in the matter of the Employees of Temple
 20 University of the Commonwealth System of Higher
 21 Education, that's number PERA-R9958E. And as you might
 22 know, Penn State, along with Temple, and those two
 23 other universities in Pennsylvania comprise the
 24 Commonwealth System of Higher Education. So Temple is
 25 directly relevant.

1 And in Temple, the Board certified a
2 unit that's essentially identical to the one we're
3 asking you to certify here. In that case, it was
4 either the teaching assistants, graduate assistants,
5 research assistants, and what they call the training
6 grant holders. And the Board, Board representative Jim
7 Crawford, signed off on that unit.

8 They didn't have to do that. It was
9 discretionary. And it was a reasoned Decision. The
10 Board held that this type of unit is appropriate under
11 the Act. That unit's now existed for over 15 years.
12 They've bargained four CBAs.

13 With that precedent in mind, here's what
14 we think you are going to see over the next couple
15 days. If you entertain the University's issue of
16 whether the individuals in the proposed unit are
17 employees, the evidence is going to show that they
18 unquestionably are.

19 Graduate workers perform various
20 services for the University, including lecturing,
21 proctoring exams, writing and grading exams and
22 assignments, instructing labs, tutoring, performing
23 scholarly research, et cetera. They perform these
24 services for compensation in the form of money directly
25 deposited by the University in their personal bank

1 accounts and subsidized health insurance. They perform
2 these services usually for periods of one to six years.

3 They don't receive traditional academic
4 credits performing these services. And there's no
5 academic requirement that a graduate student must
6 perform graduate assistant services in order to obtain
7 a degree.

8 Although some graduate assistants might
9 be lucky enough to find graduate assistant work that's
10 somehow relevant to their field of study, that's not
11 guaranteed. And in any case, that's not inconsistent
12 with employee status.

13 In short, the evidence is going to show
14 that the grad assistants at Penn State are just like
15 the peers at Temple and just like their peers in
16 numerous other colleges and universities throughout the
17 country that have organized graduate workforces.

18 Simply put, Penn State has not
19 reinvented the field of higher education. And we would
20 ask you to remain consistent with the state and federal
21 labor law in finding that these folks are employees.

22 As for the reason we think we're up
23 here, the actual issue we think you're going to decide
24 whether these individuals share community of interest.
25 The evidence will show that they unquestionably do. As

1 you know, the standard for us as well with community of
2 interest does not require perfect uniformity in work
3 conditions. And can exist despite differences in
4 wages, hours, working conditions, and all the other
5 factors.

6 The Coalition, however, will run the
7 gambit for these community of interest factors.
8 There's substantial similarity throughout this
9 population in work performed, education and skill
10 requirements, the available compensation of benefits,
11 the structure of their compensation of benefits. And
12 the list goes on.

13 And so I'm confident that once you hear
14 all the evidence, you'll find that these folks share a
15 strong community of interest, and that our proposed
16 unit is perfectly appropriate under Act 195.

17 HEARING EXAMINER: Thank you. Why don't
18 you tell me what you think the description of the unit
19 you're asking for is, so I can write it down.

20 ATTORNEY CANAMUCIO: Sure. Well, yeah.
21 Beside the -. And that's a great point. So I used the
22 word graduate assistants pretty broadly. But I think
23 there's basically four populations of people that I'm
24 using under that umbrella term.

25 There's research assistants. There's

1 teaching assistants. There's I don't have a better
2 word, but miscellaneous graduate -.

3 HEARING EXAMINER: Hold on one second.
4 Research assistants. What was the second one?

5 ATTORNEY CANAMUCIO: Teaching
6 assistants.

7 HEARING EXAMINER: Okay.

8 ATTORNEY CANAMUCIO: There's
9 miscellaneous graduate assistants. They do like
10 program coordination work for the departments and
11 programs that they're in.

12 And then finally there are graduate
13 fellows.

14 HEARING EXAMINER: Right.

15 ATTORNEY CANAMUCIO: And so I'm open
16 to -.

17 HEARING EXAMINER: We'll define fellows.
18 Right?

19 ATTORNEY CANAMUCIO: Absolutely. We'll
20 define all of those for you.

21 HEARING EXAMINER: Okay.

22 Ms. Farmer, I know you said before we
23 started you were going to do your opening statement at
24 the beginning of your case. But would you like to make
25 any comments now.

1 ATTORNEY FARMER: No, I'll hold it for
2 the start of our case.

3 HEARING EXAMINER: All right.
4 With that, you can call your first
5 witness.

6 ATTORNEY CANAMUCIO: Okay. Michael
7 Lehmier.

8 HEARING EXAMINER: And I'm getting -.
9 Do any of you have printing here? I'm getting an
10 appearance sheet e-mailed to me. And then we'll print
11 it out and get it to everyone.

12 ATTORNEY FARMER: We can do that on a
13 break.

14 HEARING EXAMINER: Yeah. Okay. One
15 second. I want to e-mail my assistant here.

16 I'll do it on a break. Okay.

17 ---

18 MICHAEL LEHMIER,
19 CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND
20 HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS
21 FOLLOWS:

22 ---

23 HEARING EXAMINER: Say and spell your
24 name for us.

25 THE WITNESS: Michael, M-I-C-H-A-E-L,

1 Lehmier, L-E-H-M-I-E-R.

2 HEARING EXAMINER: L-E-H-M-E?

3 THE WITNESS: I'm sorry. L-E-H-M-I-E-R.

4 HEARING EXAMINER: Got it. Okay. Go
5 ahead.

6 ---

7 DIRECT EXAMINATION

8 ---

9 BY ATTORNEY CANAMUCIO:

10 Q. Good morning. By whom are you employed?

11 A. Pennsylvania State Education Association.

12 Q. And how long have you been employed by PSEA?

13 A. Just over 11 years.

14 Q. And what's your job title?

15 A. My title is region field director.

16 Q. And where's your office located?

17 A. State College, Pennsylvania.

18 Q. And what are your main job responsibilities?

19 A. As region field director, I oversee a team
20 of two offices in State College and in Port Allegheny.
21 I work out of the State College office.

22 I act as somewhat the team leader,
23 overseeing the daily operation of two offices. But
24 then I also -. My responsibility is with organizing
25 and representing 16 locals, including all of Blair

1 County, as well as State College, and Philipsburg-
2 Osceola and Centre County. So I do representation work
3 as well as traditional kind of office work as well.

4 ATTORNEY CANAMUCIO: And can you please
5 turn to Exhibit 1 in that binder in front of you?

6 ---

7 (Whereupon, Petitioner's Exhibit 1, PSEA
8 Constitution and Bylaws, was marked for
9 identification.)

10 ---

11 BY ATTORNEY CANAMUCIO:

12 Q. And let me know if you recognize the
13 document.

14 A. Yes.

15 Q. And what is it?

16 A. PSEA Constitution and Bylaws.

17 Q. Okay.

18 And I guess in your own words you can use.
19 But what's the mission or the purpose of PSEA?

20 A. We are to represent public sector employees
21 in - with regard to wages, hours, terms and conditions
22 of employment.

23 Q. About - if you know, about how many local
24 affiliates does PSEA have?

25 A. I would suspect somewhere around a thousand.

1 Q. And I think you mentioned a minute ago, but
2 how many of those are you responsible for the contracts
3 of?

4 A. Sixteen (16).

5 Q. What types of employers does PSEA generally
6 have local affiliates at?

7 A. The vast majority of our affiliates are with
8 public school districts.

9 Q. And are those public employers?

10 A. Yes, they are.

11 Q. Could you please explain the organizing
12 process that PSEA generally uses when it's going to
13 have a new local affiliate?

14 A. Sure. Generally, what will happen is either
15 is A, either we will identify a target or a group that
16 we're interested in, or most likely we have folks that
17 reach out to us and indicate that they would like us to
18 - to be their exclusive representative. Or at the
19 minimum, you know, have a discussion to see whether we
20 would be the right fit for them. So that is kind of
21 the initial step.

22 At that point, we would meet with their
23 leadership team to talk about the unit itself, who
24 would be involved. Taking a look at what level of
25 commitment is currently there, the structure that they

1 have in place.

2 From there, we would work with the
3 leadership team to see where they are, do they need any
4 assistance? And then start to put together an
5 organizing plan, whether that be including
6 communications, how we're going to run the card drive,
7 how we're going to get people involved.

8 Ultimately, the goal being that, you know,
9 we would reach the threshold of at least -. And our
10 threshold might vary, but at least the minimum
11 threshold of 30 percent cards indicating support for
12 election.

13 Q. What's the relationship between PSEA and the
14 Coalition of Graduate Employees?

15 A. At this point we have enough cards that have
16 been signed. We have been working with them for well
17 over probably a year and a half, going on two years.
18 And the cards have been signed, indicating that they
19 request that we be the exclusive representative of the
20 school.

21 Q. Were you involved in the process of -?
22 Well, so I guess I should say, you mentioned a minute
23 ago -. Was this a situation where the Coalition chose
24 PSEA?

25 A. Yeah. It's my understanding they were

1 looking at a number of national or state types of
2 organizations. I believe AFSCME was one of them.
3 Maybe a couple of others.

4 I actually sat in on an interview process,
5 where we met with a number of the CGE leadership team
6 to talk about what we had to offer. And ultimately in
7 late December, they - I think it was 2015, they
8 indicated that they had selected PSEA as the group to
9 be their representative.

10 Q. Okay.

11 What services has PSEA provided to the
12 Coalition as part of this process?

13 A. We have provided a lot of support with
14 regard to training, whether it be training for the
15 leadership, assisting with constitution and bylaws. As
16 well as communications, and with assisting in setting
17 up the card drive, going out and canvassing and
18 organizing. And so pretty much I would say support in
19 the vast majority of areas of the campaign.

20 ATTORNEY CANAMUCIO: I have no further
21 questions at this time. I ask that whatever we're
22 calling it, my first exhibit be admitted.

23 HEARING EXAMINER: Why don't we just
24 wait to do all the exhibits at the end of your case in
25 chief.

1 ATTORNEY CANAMUCIO: That's fine.

2 HEARING EXAMINER: Does that make sense?

3 Then we can probably work through all the evidentiary

4 issues at that time.

5 ATTORNEY FARMER: That's fine with us.

6 HEARING EXAMINER: Cross Examination.

7 ATTORNEY FARMER: Can we have a break,

8 please?

9 HEARING EXAMINER: Excuse me?

10 ATTORNEY FARMER: Break, please.

11 HEARING EXAMINER: Do you need a break?

12 ATTORNEY FARMER: Yes.

13 HEARING EXAMINER: Okay. We're off the

14 record.

15 ---

16 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

17 ---

18 HEARING EXAMINER: All right. Ready?

19 ATTORNEY FARMER: Yes.

20 HEARING EXAMINER: All right. Cross

21 Examination?

22 ATTORNEY FARMER: We have no questions.

23 HEARING EXAMINER: Okay. You can step

24 down.

25 THE WITNESS: Get my steps in for the

1 day.

2 ATTORNEY FARMER: That's right.

3 HEARING EXAMINER: Next witness.

4 ATTORNEY CANAMUCIO: Kevin Reuning.

5 HEARING EXAMINER: Raise your right
6 hand.

7 ---

8 KEVIN REUNING,
9 CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND
10 HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS
11 FOLLOWS:

12 ---

13 HEARING EXAMINER: All right. Say and
14 spell your name.

15 THE WITNESS: Kevin. Do you want me
16 to -?

17 HEARING EXAMINER: Go ahead.

18 THE WITNESS: Kevin, K-E-V-I-N, Reuning,
19 R-E-U-N-I-N-G.

20 HEARING EXAMINER: Go ahead.

21 ATTORNEY CANAMUCIO: So this might be -.
22 I'm going to have just a piece of paper for you to sign
23 in just a second.

24 HEARING EXAMINER: I'm explaining for
25 the record. Penn State is going to ask all graduate

1 student witnesses to sign a FERPA waiver. Do you
2 understand what a FERPA waiver is?

3 THE WITNESS: Could you explain what
4 exactly part of the FERPA is waiving?

5 HEARING EXAMINER: We'll go off the
6 record.

7 ---
8 (WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

9 ---
10 HEARING EXAMINER: All right. We'll go
11 back on the record. What we'll do from now on is
12 before each witness, we'll go off the record and get
13 that straightened out.

14 These aren't going to be part of the
15 record.

16 Right?

17 ATTORNEY FARMER: No.

18 HEARING EXAMINER: Okay. Thanks. All
19 right. Thanks.

20 ATTORNEY SWARTZ DANTE: Thank you.

21 HEARING EXAMINER: Okay. Go ahead with
22 the Direct.

23 ---
24 DIRECT EXAMINATION

25 ---

1 BY ATTORNEY CANAMUCIO:

2 Q. Good morning.

3 A. Morning.

4 Q. Are you enrolled in a graduate program here
5 at Penn State University?

6 A. Yes.

7 Q. What kind of degree are you working toward?

8 A. Ph.D. in Political Science.

9 Q. And do you have any positions or provide any
10 service to the University?

11 A. Yes.

12 Q. What kind of service?

13 A. It's varied over the time I've been here.
14 I've been a graduate assistant the whole time. But the
15 specifics of that position have varied, depending on
16 the year and semester.

17 Q. Okay. I won't get any further into that.

18 But are you involved in any organizations
19 made up of other graduate assistants at Penn State
20 University?

21 A. Yes.

22 Q. What organization?

23 A. The Coalition of Graduate Employees.

24 Q. And what is the Coalition of Graduate
25 Employees?

1 A. The Coalition of Graduate Employees is an
2 organization that we formed to represent the interests
3 of graduate assistants here at Penn State. The purpose
4 of it was that we recognize that we were all
5 experiencing similar problems. And we knew that by
6 working together we would hopefully be able to solve
7 some of those problems.

8 Q. And do you currently hold a leadership
9 position in the Coalition?

10 A. Not currently.

11 Q. Have you?

12 A. I've previously been the record keeper for
13 the Coalition of Graduate Employees.

14 Q. And when did you stop being the record
15 keeper?

16 A. In May, I think, of this year.

17 Q. So were you the record keeper when the
18 Coalition, well, when the representation petition was
19 filed in this case?

20 A. Yes.

21 Q. What were the duties of that position within
22 the Coalition?

23 A. I kept notes at the meetings, distributed
24 those notes. I also helped do a lot of the online
25 stuff at that point. But that's now changed to a

1 different position.

2 And then participated basically in
3 leadership meetings that were happening weekly to
4 discuss strategy for the card drive, and then for after
5 the card drive, as well as other things we could be
6 working on, too. And held votes on different issues
7 when applicable.

8 Q. And how long have you been a part of the
9 Coalition?

10 A. It's three years-ish now, depending on how
11 you want to start the - define the actual start date of
12 the Coalition of Graduate Employees.

13 Q. Can you talk just a little bit about how it
14 started?

15 A. Yeah. So I actually first got involved in
16 the organizations that would become CGE in the spring
17 of my first year. So that would be about four years
18 ago now, I guess.

19 And this was, it would have been in 2014,
20 spring of 2014. And this was in response to some
21 healthcare issues that we were experiencing, health
22 insurance issues.

23 After trying some of the formal mechanisms
24 that are there for us, we realized that they were not a
25 very good and very useful pursuit. And so eventually,

1 after about a year, we started have serious discussions
2 about moving towards forming a graduate union here at
3 Penn State.

4 We picked the name Coalition of Graduate
5 Employees in the summer of 2015. We had discussions
6 prior to that about what, you know, this would be. We
7 had a lot of discussions over the perfect name.

8 And so yeah, it depends on when you want to
9 say it started. We had a name at least something like
10 June of 2015.

11 ATTORNEY CANAMUCIO: Could you please
12 turn to Exhibit 2 in the binder in front of you, tab
13 two?

14 ---
15 (Whereupon, Petitioner's Exhibit 2, CGE Mission
16 Statement, was marked for identification.)

17 ---

18 A. Yep.

19 BY ATTORNEY CANAMUCIO:

20 Q. And let me know if you recognize that
21 document.

22 A. Yep. It is our current mission statement on
23 our website. And I actually helped write this.

24 Q. And you don't have to read from it. But in
25 your own words, what's the mission? And you kind of

1 talked about it, but what's the mission and purpose of
2 the Coalition?

3 A. CGE's core purpose is basically improving
4 the situation for graduate employees at Penn State.
5 This touches on a lot of issues from, you know,
6 problems with stipend, problems with just being part of
7 an actual democratic process about the things that
8 affect us.

9 Issues of discrimination, sexual harassment
10 that are sadly endemic to the graduate, to almost all
11 institutions of higher education right now. Trying to
12 give a voice to graduate employees and improve the
13 situation in general.

14 Q. What are the criteria, if any, for becoming
15 a member of the Coalition?

16 A. You have to be a graduate employee at Penn
17 State.

18 Q. And this might sound like a silly question.
19 But does the Coalition exclude anyone on the basis of
20 race, color, creed, national origin or political
21 affiliation?

22 A. Nope.

23 Q. What's the relationship between the
24 Coalition and the PSEA?

25 A. So we started working with the PSEA a few

1 months or almost six months, I guess, after that start
2 date when we had a name. So at the end of 2015.

3 What brought us to there is, in the fall of
4 2015, we decided that we were going to do this and do
5 it seriously. We are going to have to work with a
6 larger organization, a national union.

7 We had held an event on Labor Day, actually,
8 of 2015. And after that we got an e-mail, I think,
9 from Lucy Harlow saying she saw it. She was excited
10 for what was happening. So we knew about PSEA's
11 existence because of that.

12 So we e-mailed them. We also e-mailed, I
13 think, contacts at the UAW. Also organized graduate
14 unions, USCW. And we had been in contact with some
15 people at the steel workers previously.

16 We met with all of them or had phone
17 conversations with all of them at least. Decided at
18 that point that PSEA would be a good organization for
19 us to work with. We had a vote in the end of that year
20 to vote to affiliate with them. And then after that,
21 we started working with them on the card drive,
22 basically.

23 Q. And when did you -? I'm sorry. When did
24 you say the vote occurred, approximately?

25 A. December of 2015. Like literally around

1 Christmas, because I was checking e-mails around
2 Christmas about it.

3 Q. And what types of services has PSEA provided
4 for the Coalition in this process?

5 A. It's mainly been a combination of strategy
6 and legal help. So you know, one thing is like how do
7 you actually go about and make the cards that people
8 sign to form a graduate union?

9 I have no experience in that. So they
10 helped us with that, and general communication
11 strategy. They provide pizza at some of our meetings,
12 things like that.

13 Q. And what's your -? Just to have it from
14 your perspective. What is your expectation of what
15 will happen if you're successful in forming a graduate
16 employee union?

17 A. In the context of PSEA or in general?

18 Q. In general.

19 A. I mean, if we are successful, we'll be able
20 to start bargaining a contract with Penn State. We'll
21 hopefully be able to get some improvements over, you
22 know, at least a higher minimum stipend for graduate
23 employees, a few other issues.

24 A better process to deal with discrimination
25 and sexual harassment, hopefully. But that will depend

1 on what our actual members want us to have in that
2 contract. Yeah.

3 Q. Did the Coalition ever ask the University to
4 voluntarily recognize the Coalition as the, you know,
5 representative for graduate employees?

6 A. Yes.

7 ATTORNEY FARMER: Objection, relevance.
8 He doesn't have voluntary recognition.

9 HEARING EXAMINER: Overruled. Go ahead.

10 A. Yes, we did. About four of us had a meeting
11 with President Barron and Dean Younken. I think it was
12 the fall of 2015, where we brought this up. And we
13 were told -. It might have been fall of 2016. It was
14 one of those two.

15 We brought this up. And we were told that
16 they wanted to let the process play out, the process
17 meaning the card drive and everything else.

18 ATTORNEY CANAMUCIO: And could you
19 please turn to Exhibit 3 in your binder. And let me
20 know if you recognize that document.

21 ---

22 (Whereupon, Petitioner's Exhibit 3, Letter to
23 President Barron, was marked for identification.)

24 ---

25 A. Yep.

1 BY ATTORNEY CANAMUCIO:

2 Q. What is it?

3 A. So this is a letter that we delivered to
4 President Barron when we filed for our union election
5 with the PLRB. And we, again, asked them to not
6 interfere with the process.

7 Q. Is that your name on the bottom?

8 A. Yes, it is.

9 Q. Are you involved in any other organizations
10 at Penn State University that involve graduate
11 assistants?

12 A. So I'm involved in organizations that either
13 have a small subset of graduate assistants in them or
14 contain a larger subset and graduate assistants are
15 part of that. So I'm involved in my departmental
16 organization, the Graduate Association of Political
17 Science that represents, you know, political science
18 graduate assistants.

19 I'm also currently involved in the Graduate
20 and Professional Student Association, which represents
21 all graduate and professional students at Penn State.
22 And also, from what we've been told, students at
23 Hershey Medical and graduate students through the world
24 campus, too, we've been told should be represented
25 through that process.

1 Q. Do those organizations, in your experience,
2 address the concerns that you were talking about a few
3 minutes ago?

4 A. No.

5 Q. And - maybe another silly question. But in
6 your experience at CGE, in the Coalition, and in the
7 other organizations you just talked about, have
8 graduate assistants ever collective bargained before at
9 Penn State?

10 A. No.

11 ATTORNEY CANAMUCIO: Thank you. That's
12 all the questions I have.

13 HEARING EXAMINER: Cross Examination.

14 ATTORNEY FARMER: We need a break,
15 please.

16 HEARING EXAMINER: Are you going to need
17 a break for every Cross?

18 ATTORNEY FARMER: Probably.

19 HEARING EXAMINER: Okay. Go ahead. Off
20 the record.

21 ATTORNEY FARMER: Thank you.

22 ---

23 (WHEREUPON A SHORT BREAK WAS TAKEN.)

24 ---

25 HEARING EXAMINER: All right. We're

1 back on the record. Again, I ask the audience to
2 please refrain from using their phones to take pictures
3 or otherwise in court. Proceed with Cross Examination.

4 ATTORNEY FARMER: Yes, thank you.

5 ---

6 CROSS EXAMINATION

7 ---

8 BY ATTORNEY FARMER:

9 Q. Mr. Reuning, why did you decide to apply for
10 a Ph.D.?

11 A. Because I believed that -. I believe at the
12 time I was pretty confident I wanted to become a
13 professor in academics. I wanted to research the
14 things that I found interesting about political issues
15 and social dealings in particular.

16 Q. Is that still something that's your
17 interest?

18 A. Generally, yes.

19 Q. What did you do before you came to Penn
20 State?

21 A. I worked for three years in Washington, D.C.

22 Q. You, in your Direct testimony, mentioned
23 that while you've been at Penn State, you've always
24 been a grad assistant, but that your duties have
25 varied?

1 A. Yes.

2 Q. Have you created a résumé or a CV that lists
3 your experience?

4 A. Yes.

5 ATTORNEY FARMER: Would you mark this as
6 Exhibit 1?

7 ---

8 (Whereupon, Respondent's Exhibit 1, Mr. Reuning's
9 Curriculum Vitae, was marked for identification.)

10 ---

11 HEARING EXAMINER: Employer 1.

12 ATTORNEY FARMER: Yes.

13 HEARING EXAMINER: Or do you like the
14 term employer?

15 ATTORNEY FARMER: We are using
16 Respondent, in fact.

17 HEARING EXAMINER: We'll call it
18 University 1. How about that?

19 ATTORNEY FARMER: That's fine. They're
20 labeled. We had preprinted labels. So they're labeled
21 Respondent.

22 HEARING EXAMINER: Thank you.

23 BY ATTORNEY FARMER:

24 Q. I'm showing you what we've marked as Exhibit
25 1. Do you recognize that document?

1 A. Yes.

2 Q. Is that your CV that you created?

3 A. Yeah.

4 Q. Did I give you two copies?

5 A. Yeah.

6 Q. Okay. That explains why I couldn't find
7 mine.

8 A. A relatively recent version, it looks like.

9 Q. And is this something that you posted on
10 your website?

11 A. Yes.

12 Q. Have you, also on your website, put up
13 information about your research and teaching
14 experience?

15 A. Yes.

16 HEARING EXAMINER: I have two copies,
17 too.

18 ATTORNEY FARMER: Apparently passing
19 papers is not -.

20 HEARING EXAMINER: I was going to say,
21 that's a really long CV.

22 ATTORNEY FARMER: Yeah.

23 HEARING EXAMINER: I had two copies.

24 Thank you.

25 ATTORNEY FARMER: This is 2. I'm

1 showing you what we're marking as Exhibit 2.

2 ---

3 (Whereupon, Respondent's Exhibit 2, Kevin Reuning's
4 Research Document, was marked for identification.)

5 ---

6 BY ATTORNEY FARMER:

7 Q. Is this a document that you created about
8 your research experience?

9 A. It's a document about my research.

10 Q. Okay.

11 Was there a distinction?

12 A. It is about the current ongoing projects
13 that I'm trying to publish. It's not about the
14 experiences I've had researching, but about here are
15 papers that I have out there with other co-authors,
16 including faculty members at both Penn State and other
17 universities that we are working on publishing.

18 Q. Great. Thank you so much for that
19 clarification.

20 ATTORNEY FARMER: This will be Exhibit
21 3. Showing you what we are marking as Exhibit 3.

22 ---

23 (Whereupon, Respondent's Exhibit 3, Mr. Reuning's
24 Teaching Experience, was marked for
25 identification.)

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BY ATTORNEY FARMER:

Q. Is Exhibit 3 also a document that you created and put on your website?

A. Yes.

Q. And what was the purpose of creating this page called teaching?

A. To demonstrate the teaching I've done here at Penn State.

Q. Does this highlight your teaching philosophy?

A. Yes.

Q. And is that something that's important for going on the job market?

A. Yes.

Q. When you do project finishing your Ph.D.?

A. Hopefully May of this coming year.

Q. Good luck with that.

So are you currently going on the job market?

A. Yes.

Q. So this teaching philosophy that you summarize on Exhibit 3, is that something that you've developed through the experience that you've gained at Penn State?

1 A. That and other experiences, yes.

2 Q. Who -?

3 A. I actually talk in depth of the teaching
4 philosophy. I also learned this while working in D.C.,
5 and as an undergraduate as well.

6 Q. Who is your faculty advisor?

7 A. Lee Ann Banaszak.

8 Q. She's the head of -?

9 HEARING EXAMINER: One sec. Can you
10 spell that, please, to your best -?

11 THE WITNESS: Oh, God. B-A-N-A-S-Z-A-K.

12 HEARING EXAMINER: Okay. Go ahead.

13 THE WITNESS: Lee Ann, two words.

14 BY ATTORNEY FARMER:

15 Q. She's the head of the department.

16 Correct?

17 A. Yes.

18 Q. And she's encouraged you to get teaching
19 experience while you're at Penn State.

20 Hasn't she?

21 ATTORNEY CANAMUCIO: Object.

22 A. In what?

23 HEARING EXAMINER: Hold on. Hold on.
24 Go ahead. Please state your objection.

25 ATTORNEY CANAMUCIO: I think that's

1 hearsay. She's asking about an out-of-court statement
2 on behalf of someone like his advisor.

3 ATTORNEY FARMER: I'm asking about what
4 was shared with him about whether he was given certain
5 advice by his advisor.

6 HEARING EXAMINER: Overruled. Go ahead.

7 A. We have talked about me getting teaching
8 experience. But she did not -. There was no moment
9 where she said, you need to go in the classroom right
10 now.

11 In fact, I actually, when I first came in
12 here was looking for teaching experience, too, because
13 I wanted to experience what that was like.

14 BY ATTORNEY FARMER:

15 Q. On your résumé, your CV, I'll use them
16 interchangeably, you mentioned that you're a university
17 graduate fellow?

18 A. I was, yeah.

19 Q. Okay.

20 And you -. And during what period of time
21 were you a fellow?

22 A. I was a post-doctoral fellow the last
23 academic year. So 2016-2017 academic year.

24 Q. Okay.

25 And what does that mean?

1 A. It meant I had a fellowship through the
2 Quantitative Social Science Institute here at Penn
3 State, with the purpose of trying to expand research on
4 quantitative methodologies, basically.

5 Q. What are you doing this - this year?

6 A. I am a - what's called a GRIP, Graduate
7 Research Internship Program, I think is what the
8 acronym stands for, for the dean of the college - the
9 assistant dean of undergraduate studies with the
10 College of Liberal Arts. I think he's an assistant
11 dean.

12 I'm working on surveying undergraduates so
13 that the College of Liberal Arts has a better idea of
14 what undergraduates are interested in taking for
15 classes.

16 Q. And is that something that you sought out as
17 an experience?

18 A. I applied for it, if that's what you mean.

19 Q. Yes.

20 A. I did not -. Though it has some benefits
21 for me, in that I'm interested in administration to
22 some extent, too, and in that side of the college
23 experience -. I also sought it out because I knew I
24 had other alternatives coming at me as a graduate
25 assistant this coming year that I was not as interested

1 in.

2 Q. You're familiar with a Professor John
3 McCarthy.

4 Right?

5 A. Yes.

6 Q. Okay.

7 And he's a professor in sociology?

8 A. Yes.

9 Q. And you've actually -. He's on your
10 dissertation committee.

11 Right?

12 A. Yes.

13 Q. And you've worked on some research projects
14 with him.

15 Right?

16 A. Yes.

17 Q. And is that because you sought out the
18 experience of working with him?

19 A. Yes.

20 Q. Are you aware that he's identified himself
21 as a faculty advisor to CGE?

22 A. Yes.

23 Q. And what participation has he had with CGE?

24 A. He has at times supported us and talked to
25 us about what his experiences have been, but has been

1 relatively hands off. That title is more to make him
2 feel good about his participation.

3 Q. So what kind of advice has he provided?

4 A. He's talked about his experience with Penn
5 State. He's been here for I think 30 years or
6 something. I'm not actually certain. So just talking
7 about how Penn State responds to things like this.

8 Q. Did he assist in the organizing drive?

9 A. I mean, what do you mean by assist? We
10 talked to him. But he wasn't out there going door to
11 door, knocking on doors getting graduate cards. He
12 wasn't like, you know, doing anything beyond basically
13 answering some questions we had about what Penn State
14 was like at the administrative apparatus.

15 ATTORNEY FARMER: No further questions.

16 HEARING EXAMINER: Redirect?

17 ATTORNEY CANAMUCIO: One question for
18 you.

19 ---

20 REDIRECT EXAMINATION

21 ---

22 BY ATTORNEY CANAMUCIO:

23 Q. When you leave Penn State University and
24 your graduate assistant days are behind you, do you
25 ever plan on taking a job that doesn't advance your

1 professional interests or provide you with viable
2 experiences?

3 A. No.

4 ATTORNEY CANAMUCIO: Thank you.

5 HEARING EXAMINER: Any objection to Penn
6 State 1 through 3?

7 ATTORNEY CANAMUCIO: No.

8 HEARING EXAMINER: Admitted.

9 ---

10 (Whereupon, Respondent's Exhibit 1, Mr. Reuning's
11 Curriculum Vitae, was admitted.)

12 (Whereupon, Respondent's Exhibit 2, Kevin Reuning's
13 Research Document, was admitted.)

14 (Whereupon, Respondent's Exhibit 3, Mr. Reuning's
15 Teaching Experience, was admitted.)

16 ---

17 HEARING EXAMINER: You can step down,
18 sir. Thank you very much.

19 THE WITNESS: What do I do with these?

20 HEARING EXAMINER: Leave those up there.
21 If you're on a subpoena, you're released to go. But I
22 think you're going to probably stay.

23 Right?

24 THE WITNESS: For a while, yes.

25 HEARING EXAMINER: All right. Next

1 witness.

2 We'll go off the record.

3 ---

4 (WHEREUPON AN OFF RECORD DISCUSSION WAS HELD.)

5 ---

6 HEARING EXAMINER: All right. Next

7 witness.

8 ATTORNEY CANAMUCIO: Nathan Geiger.

9 ATTORNEY FARMER: Sorry, what was the
10 first name?

11 ATTORNEY CANAMUCIO: Nathan. Well,
12 actually I'm not sure if that's just your nickname or
13 not.

14 HEARING EXAMINER: We'll figure it out.
15 Raise your right hand for me.

16 ---

17 NATHAN GEIGER,
18 CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND
19 HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS
20 FOLLOWS:

21 ---

22 HEARING EXAMINER: All right. Say and
23 spell your name for us.

24 THE WITNESS: Okay. Do you want my full
25 name or my -?

1 HEARING EXAMINER: However you go by.

2 THE WITNESS: Nathan Geiger.

3 HEARING EXAMINER: Spell that for us.

4 THE WITNESS: N-A-T-H-A-N, G-E-I-G-E-R.

5 HEARING EXAMINER: You're going to have
6 to speak up about double.

7 THE WITNESS: G-E-I-G-E-R.

8 HEARING EXAMINER: All right. Go ahead.

9 ---

10 DIRECT EXAMINATION

11 ---

12 BY ATTORNEY CANAMUCIO:

13 Q. So just to clarify, is Nathan your given
14 name or -?

15 A. My full name is Austin Nathan Geiger. But I
16 go by Nathan.

17 Q. Thank you.

18 Are you enrolled in a graduate program at
19 Penn State University?

20 A. Yes.

21 Q. And what you do study there?

22 A. I study psychology.

23 Q. And what department or program is that a
24 part of?

25 A. I'm in the psychology program. I'm studying

1 social psychology. So I'm doing - it's like the
2 research - kind of the research angle of psychology
3 rather than clinical.

4 Q. To what degree are you working?

5 A. Towards a Ph.D.

6 Q. And what's required for you to obtain that
7 Ph.D.?

8 A. I need to pass the milestones required by
9 the department, which include passing a comprehensive
10 exam and defending - successfully defending a
11 dissertation.

12 Q. How long have you been enrolled in that
13 program at Penn State University?

14 A. This is my sixth year. So five years.

15 Q. Do you perform any services for the
16 University?

17 A. Yes.

18 Q. What kind of services?

19 A. This past semester I was a research
20 assistant. So I was working towards doing - conducting
21 research.

22 Q. And how did you come to fill that position?

23 A. How did I come to -?

24 Q. Yeah. How did you get that position?

25 A. I was offered that position by my advisor.

1 ATTORNEY CANAMUCIO: And could you
2 please turn to Exhibit 4 in the binder in front of you
3 or tab four.

4 ---

5 (Whereupon, Petitioner's Exhibit 4, Contract for
6 Nathan Geiger, was marked for identification.)

7 ---

8 BY ATTORNEY CANAMUCIO:

9 Q. Do you recognize that document?

10 A. Yes.

11 Q. What is it?

12 A. This is my - my contract that I was offered
13 last year. Basically this was what I was offered. In
14 exchange for my payment, this was the work I was
15 expected to do.

16 Q. In your role as a research assistant, what
17 are your main responsibilities?

18 A. Well, basically I've pretty much been
19 involved with all parts of the research that we've been
20 conducting. So designing the study, working with
21 collaborators, collecting data, analyzing the data,
22 writing up the data for publication.

23 Q. And is there a specific location that you
24 perform those services?

25 A. Typically in my office.

1 Q. And where's that located?

2 A. My office is located in the psychology
3 building.

4 Q. If you can, on average, how many hours per
5 week do you perform research assistant services?

6 A. Yeah. So the research assistant services
7 last semester, I was expected to work at least 20 hours
8 a week. And I was usually do more than that last
9 semester, because we were trying to - we were trying
10 to -.

11 Basically there was a grant that was
12 finishing up. And I was informally encouraged to work
13 a little more. So I was working probably about 40
14 hours a week or 50 hours a week on the research
15 services.

16 Q. Is your schedule or was your schedule as a
17 research assistant set or flexible?

18 A. It was a little bit of both. There were
19 certain times I was expected to attend meetings and do
20 certain things. There was certain things that I was
21 able to do, you know, at my own kind of flexibility.

22 Q. Who, if anyone, evaluated you in your role
23 as a research assistant?

24 A. Primarily my advisor.

25 Q. Okay.

1 And just looking at the Exhibit 4, is that
2 person Sherry Jurlan or Jolynn?

3 A. My advisor was - is my graduate advisor,
4 which is Janet Swim.

5 Q. Oh.

6 A. Yeah. So she was the one evaluating me,
7 giving me feedback on what I was doing.

8 Q. Are you permitted to have other jobs while
9 you're a graduate assistant or while you're a research
10 assistant?

11 A. I don't believe so.

12 Q. You do?

13 A. I believe at least that it's frowned upon.
14 I'm not sure whether it's technically illegal or not.

15 Q. Do you get a grade for your research
16 assistant services?

17 A. No.

18 Q. Are you paid for your research assistant
19 services?

20 A. Yes.

21 Q. How are you paid?

22 A. I'm paid -. As shown on this contract, I'm
23 paid a certain amount every month in exchange for
24 working at least 20 hours a week.

25 Q. How do you receive that money?

1 A. I receive it through a paycheck.

2 Q. Are you taxed on that money?

3 A. Yes.

4 Q. Do you get a W-2 from the University?

5 A. Yes.

6 Q. What relationship, if any, is there between
7 the work you do as a research assistant and the degree
8 you're working towards?

9 A. Well -.

10 Q. The Ph.D.

11 A. Yeah. So my dissertation I was working on
12 last semester. But that was separate from the research
13 that I was getting paid for.

14 HEARING EXAMINER: Can you just -? What
15 was your dissertation on?

16 THE WITNESS: My dissertation is
17 basically looking at -. It's evaluating
18 characteristics of people, and how those
19 characteristics of people can be transferred to
20 characteristics of objects that those people are
21 associated with.

22 HEARING EXAMINER: And then what was
23 your research as a graduate assistantship appointment,
24 what was that regarding?

25 THE WITNESS: So I was basically -.

1 Yeah. I was - the graduate assistantship appointment
2 was I was working towards a specific grant that my
3 advisor had with collaborators. We were working on
4 science communication in museums, aquariums and
5 national parks.

6 HEARING EXAMINER: Science information?

7 THE WITNESS: Science communication.

8 HEARING EXAMINER: Okay. At aquariums
9 and national parks. Okay. Go ahead.

10 BY ATTORNEY CANAMUCIO:

11 Q. Did you get academic credit for the work you
12 did as a research assistant?

13 A. No.

14 Q. I think you just answered this. But in so
15 many words, will you use the research you did as a
16 research assistant for the purposes of your
17 dissertation?

18 A. No, not directly.

19 Q. In your experience, are research
20 assistantships offered to anyone who doesn't already
21 have a Bachelor's degree?

22 A. The research assistantship, the type of
23 research assistantship that I got generally is not
24 offered to people without a Bachelor's degree.

25 Q. How often do you interact with other

1 graduate assistants, and I'm using that term broadly,
2 in the course of your research assistant position? How
3 often do you interact with other graduate assistants?

4 A. I would say fairly often. There's other
5 graduate assistants that are also working under my
6 advisor. So we have a lot of interaction.

7 ATTORNEY CANAMUCIO: That's all for me
8 for now. Thank you.

9 HEARING EXAMINER: Would you like a
10 break?

11 ATTORNEY FARMER: Yes, please.

12 HEARING EXAMINER: Off the record.

13 ---

14 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

15 ---

16 HEARING EXAMINER: All right. Cross
17 Examination.

18 ---

19 CROSS EXAMINATION

20 ---

21 BY ATTORNEY SWARTZ DANTE:

22 Q. Good morning, Mr. Geiger.

23 A. Good morning.

24 Q. If I could direct your attention to what was
25 marked as, I guess, Union 4 in front of you, which I

1 believe is your terms of offer.

2 A. Uh-huh (yes).

3 Q. So this document doesn't appear to be
4 signed. But did you sign this document at some point?

5 A. I did sign a version of this document.

6 Q. You did?

7 A. Yes.

8 Q. Okay.

9 A. Yeah. I don't have the copy that I signed.

10 Q. Okay.

11 But this reflects the information on the
12 document that you ultimately did sign?

13 A. As far as I know.

14 Q. Okay.

15 And if I could direct your attention down to
16 the boxes that appear about an inch from the bottom of
17 the first page.

18 Do you see those?

19 A. Yes.

20 Q. Are those boxes checked yes?

21 A. They are checked yes.

22 Q. And so everything that you performed in
23 connection with the assistantship is a condition of
24 receiving the degree.

25 Correct?

1 A. Ever - sorry, could you say that again?

2 Q. The duties, and I'm reading from a document.
3 Quote, the duties assigned to the student be required
4 of every degree candidate in the applicable program as
5 a condition of receiving a degree, end quote.

6 Do you see that?

7 A. Yes, I do see that.

8 Q. And as a result of the duties assigned to
9 you under this assistantship, being a condition of
10 receiving a degree, you realize that you do not have
11 state withholdings or FICO withholdings taken out from
12 your stipend.

13 You understand that?

14 A. I'm not actually familiar with whether or
15 not I have -. I do have withholdings taken out of my
16 stipend, but I'm not familiar with which ones I have.

17 Q. So you're not aware of whether FICO or state
18 withholdings were taken out of your stipend?

19 A. Not off the top of my head.

20 Q. Okay.

21 Have you presented a dissertation proposal
22 yet?

23 A. Yes, I have.

24 Q. What was the title of your dissertation?

25 A. That's a good question. My - the reason why

1 it's a good question is because based on the feedback I
2 got for my proposal, the title's actually changed. And
3 so the title of my dissertation currently is different
4 than it was in my proposal.

5 Q. Can you give us both, before and after?

6 A. I'm not sure if I remember them off the top
7 my head. It's changed a few times.

8 HEARING EXAMINER: Do you have it in
9 front of you?

10 ATTORNEY SWARTZ DANTE: I don't.

11 ATTORNEY FARMER: We don't have it.

12 HEARING EXAMINER: Go ahead.

13 THE WITNESS: I have it in my phone. I
14 can look it up on my phone.

15 HEARING EXAMINER: Go ahead.

16 ATTORNEY SWARTZ DANTE: Sure. That
17 would be great. Thank you.

18 ---

19 (WHEREUPON, WITNESS COMPLIES.)

20 ---

21 A. Okay. So my - the title of my proposal -.
22 And again, the title has changed. But the title of my
23 proposal back in July, when I submitted it for my
24 dissertation, was called Perceptions of Activists and
25 Support for Social Change: A Situational Approach.

1 BY ATTORNEY SWARTZ DANTE:

2 Q. Okay.

3 Does the research that you've performed in
4 connection with developing your dissertation involve
5 studying environmental behaviors?

6 A. So I haven't yet conducted research in
7 relation to developing my dissertation. Well, I have
8 conducted a couple pilot studies, which was like these
9 really small studies. But I haven't actually conducted
10 my full dissertation research yet. That will be
11 conducted this fall and in the spring.

12 Q. Okay. Are you receiving funding this fall
13 and in the spring?

14 A. I am.

15 Q. Do you know what type of funding you're
16 receiving?

17 A. This fall, I am an instructor, so I'm
18 getting paid for instructing a class.

19 Q. What class?

20 A. It's Elementary Statistics in Psychology.

21 HEARING EXAMINER: What's the course
22 number?

23 THE WITNESS: Psych II, I believe.

24 BY ATTORNEY SWARTZ DANTE:

25 Q. Do you have a website that contains

1 information about the research that you've been
2 performing as a graduate student?

3 A. I do.

4 ATTORNEY SWARTZ DANTE: I'll show you
5 what I will mark for the record at Respondent's 4.

6 ---

7 (Whereupon, Respondent's Exhibit 4, Mr. Geiger's
8 Website Printout, was marked for identification.)

9 ---

10 HEARING EXAMINER: Four.

11 BY ATTORNEY SWARTZ DANTE:

12 Q. Mr. Geiger, do you recognize this document?
13 What is it?

14 A. This is the front page of my website.

15 Q. And on this website, will we find also some
16 of the active projects that you're involved in?

17 A. Yes, that's correct. Although, it hasn't be
18 updated in a while. So some of it may not be active
19 anymore, but yes.

20 ATTORNEY SWARTZ DANTE: Okay. I'll show
21 you what I'll mark for the record as Respondent 5.

22 ---

23 (Whereupon, Respondent's Exhibit 5, Mr. Geiger's
24 Current Research, was marked for identification.)

25 ---

1 BY ATTORNEY SWARTZ DANTE:

2 Q. Do you recognize this document?

3 A. Yes.

4 Q. Is this a summary of some of the active
5 projects, albeit maybe not the most up-to-date summary
6 of the active projects?

7 A. Yes, that's correct.

8 Q. Okay.

9 Do you also have your CV on your website?

10 A. I do.

11 Q. Okay.

12 ATTORNEY SWARTZ DANTE: I'm going to
13 show you what I've marked for the record as Respondent
14 6.

15 ---

16 (Whereupon, Respondent's Exhibit 6, Mr. Geiger's
17 Curriculum Vitae, was marked for identification.)

18 ---

19 BY ATTORNEY SWARTZ DANTE:

20 Q. Mr. Geiger, do you recognize that document?

21 A. Yes.

22 Q. What is it?

23 A. This is my CV.

24 Q. And I think you mentioned your advisor's
25 name is Janet Swim.

1 Is that correct?

2 A. That's correct.

3 Q. And you've collaborated with her on a number
4 of research projects.

5 Is that correct?

6 A. That is correct, yes.

7 Q. And has that collaboration led in some
8 instances to publications?

9 A. It has.

10 Q. Will we find some of those publications
11 listed on your résumé?

12 A. Yes.

13 Q. And you would agree with me that a lot of
14 these publications seem to be in line with the research
15 interests that you include on the top of your résumé.

16 Is that correct?

17 A. Yes, that's correct.

18 Q. And would you also agree with me that in
19 performing this research, you gained valuable
20 experience when it comes to researching skills,
21 methodologies and the like?

22 A. Yes.

23 Q. When you were asked on Direct Examination by
24 Mr. Canamucio whether you intended to use the research
25 that you've performed directly in your dissertation, I

1 think you responded not directly. Do you recall that?

2 A. Yes.

3 Q. Why did you qualify your response?

4 A. Well, I think ultimately that my research
5 ideas are driven by a lot of life experiences I've had,
6 including experiences related to my work, and including
7 experience related to other things. But the actual
8 research that I'm doing is not directly informed by
9 the -.

10 The actual research I'm doing for my
11 dissertation is not directly informed by the research
12 that I was paid to do for the grant, because the topics
13 are not related. Are not directly related, at least.

14 Q. Are they potentially related?

15 A. I was say very loosely. But in the context
16 of social psychology, they're kind of seen as two
17 different things.

18 Q. How did you come up with your dissertation
19 topic?

20 A. It was kind of a convergence of different
21 things. I'd been reading some books in my own time and
22 kind of just paying attention to -. You know, having
23 some conversations with friends, paying attention to
24 things that were going on around me. And that led to
25 my development of my dissertation research.

1 Q. Will you work with or look to the advice of
2 Dr. Swim as you engage in your dissertation research
3 this coming year?

4 A. Yes, Dr. Swim and the other members of my
5 dissertation committee as well.

6 ATTORNEY SWARTZ DANTE: I have no
7 further questions for this witness.

8 HEARING EXAMINER: Redirect.

9 ---

10 REDIRECT EXAMINATION

11 ---

12 BY ATTORNEY CANAMUCIO:

13 Q. When you leave Penn State University and -
14 would you ever take a job that doesn't advance your
15 professional interest or provide you with valuable
16 experience in your field?

17 A. No.

18 Q. Will you stop getting advice from your
19 professors when you take jobs in the future?

20 A. No.

21 ATTORNEY CANAMUCIO: Thank you.

22 HEARING EXAMINER: And you are released
23 from your subpoena and you can step down. Thank you
24 very much for testifying.

25 Next witness. Do we have the FERPA

1 already signed.

2 ATTORNEY CANAMUCIO: We do.

3 HEARING EXAMINER: And by the way, it's
4 F-U-R-P-A (sic).

5 Right?

6 ATTORNEY SWARTZ DANTE: F-E-R-P-A.

7 HEARING EXAMINER: F-E-R-P-A. Yeah.

8 We'll go off the record for one minute.

9 ---

10 (WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

11 ---

12 HEARING EXAMINER: Okay. Back on the
13 record.

14 ---

15 BRIANNE PRAGG,
16 CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND
17 HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS
18 FOLLOWS:

19 ---

20 HEARING EXAMINER: State and spell your
21 name for us.

22 THE WITNESS: Brianne Pragg,
23 B-R-I-A-N-N-E, P-R-A-G-G.

24 HEARING EXAMINER: One second, ma'am.
25 Was there any objection to Penn State 4 through 6?

1 ATTORNEY CANAMUCIO: There is not.

2 HEARING EXAMINER: All right. They're
3 admitted.

4 ---

5 (Whereupon, Respondent's Exhibit 4, Mr. Geiger's
6 Website Printout, was admitted.)

7 (Whereupon, Respondent's Exhibit 5, Mr. Geiger's
8 Current Research, was admitted.)

9 (Whereupon, Respondent's Exhibit 6, Mr. Geiger's
10 Curriculum Vitae, was admitted.)

11 ---

12 HEARING EXAMINER: Okay. Direct.

13 ---

14 DIRECT EXAMINATION

15 ---

16 BY ATTORNEY CANAMUCIO:

17 Q. Hello. Are you enrolled in a graduate
18 program at Penn State University?

19 A. Yes.

20 Q. What are you studying?

21 A. I am in the dual-title program of sociology
22 and demography.

23 Q. And what department or program does that
24 come under?

25 A. Sociology.

1 Q. Toward what kind of degree are you working?

2 A. Ph.D.

3 Q. And what's required of you to obtain that
4 degree?

5 A. For Ph.D., you have to take comprehensive
6 exams, defend comprehensive exams, defend dissertation
7 proposal, and then defend the dissertation.

8 Q. And how long have you been enrolled in that
9 program at Penn State?

10 A. I - this is my fourth year.

11 Q. Do you perform any services for Penn State
12 University?

13 A. Yes, I am a research assistant right now.

14 Q. Okay.

15 What position did you hold when this
16 petition was filed?

17 A. I was a graduate fellow.

18 Q. Is it common to transfer between those
19 positions like that?

20 A. Yes. Just in the past year I've been an
21 instructor, research study and development.

22 HEARING EXAMINER: At the same time?

23 THE WITNESS: No.

24 BY ATTORNEY CANAMUCIO:

25 Q. And how did you come to get -? So let's

1 talk about the fellow position. How did you come to
2 get that position?

3 A. I applied for this fellowship - it's a grant
4 - and got it. It was a two-year fellowship.

5 Q. And if you could please turn to the fifth
6 tab of the binder in front of you. Do you recognize
7 that document?

8 A. Yes.

9 Q. What is it?

10 A. That is my appointment letter for that
11 fellowship.

12 Q. In your role as a fellow, what were your
13 main responsibilities?

14 A. So my main responsibilities were to work for
15 my advisor, and then also to use -. So this
16 fellowship, I only had a ten-hour work requirement with
17 my advisor. And then I was expected to use the other
18 ten hours to work on my own research and research with
19 other professors.

20 Q. And was there a particular location that you
21 performed those service?

22 A. Mostly in my office.

23 Q. And where's your office located?

24 A. It's in the Oswald Tower on campus.

25 Q. Was your schedule set or flexible?

1 A. It was flexible.

2 Q. Who, if anyone, evaluated you in the
3 performance of your fellow services?

4 A. Primarily my advisor. But also the Board
5 that - of the program that was giving out these
6 fellowships.

7 Q. Are you permitted to have other jobs during
8 the term of your fellowship?

9 A. No.

10 Q. Do you get a grade through your fellowship
11 services?

12 A. No.

13 Q. Are you compensated for those services?

14 A. Yes.

15 Q. And how are you compensated?

16 A. Through a paycheck. And I also have health
17 insurance, partially-covered, and other benefits that
18 come along with being a graduate assistant.

19 Q. And how do you receive the paycheck?

20 A. It's direct-deposited.

21 Q. What relationship, if any, is there between
22 the work you do as a graduate fellow and the degree
23 you're working towards?

24 A. So toward that work and my dissertation
25 work?

1 Q. Uh-huh (yes).

2 A. None.

3 Q. Do you get academic credit for the work you
4 do - did as a fellow?

5 A. No.

6 Q. Will the research you did as a fellow be
7 used as part of your dissertation?

8 A. No.

9 Q. Are you required to do this fellowship to
10 obtain your degree?

11 A. No.

12 Q. In your experience, are fellowships ever
13 offered to someone who doesn't already have a
14 Bachelor's degree?

15 A. At least not this kind, no.

16 Q. And how often do you interact with other
17 graduate assistants in the course of performing your
18 fellowship duties?

19 A. Pretty often.

20 Q. Thank you.

21 HEARING EXAMINER: All right. So -.

22 THE WITNESS: I don't have my CV online,
23 sorry.

24 ATTORNEY SWARTZ DANTE: Thank you for
25 saving us the time.

1 HEARING EXAMINER: All right. Do you
2 need a quick break, then, and then we can finish her
3 before lunch?

4 ATTORNEY FARMER: We're going to need a
5 couple minutes still.

6 HEARING EXAMINER: Why don't you take 15
7 minutes. And then we'll finish her Cross.

8 And then we'll break for lunch. And
9 then when we break for lunch, you can look up the next
10 witness.

11 ATTORNEY FARMER: Yep.

12 HEARING EXAMINER: Okay. So 15-minute
13 break.

14 ATTORNEY FARMER: Okay.

15 ---

16 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

17 ---

18 HEARING EXAMINER: Cross Examination.

19 ATTORNEY FARMER: Thank you.

20 ---

21 CROSS EXAMINATION

22 ---

23 BY ATTORNEY FARMER:

24 Q. Ms. Pragg, have you submitted your
25 dissertation proposal?

1 A. No.

2 Q. Have you passed your comps at this point?

3 A. Nope.

4 Q. So at this point, are you primarily enrolled
5 in thesis research credits?

6 A. What is it? I think it is -.

7 Q. 600?

8 A. Yes.

9 Q. Now, taking a look at this letter that you
10 received, Exhibit 5. Do you have a copy in front of
11 you?

12 A. Uh-huh (yes).

13 Q. Okay.

14 So this is actually a traineeship, not a
15 fellowship.

16 Is that correct?

17 A. Well, it is a fellowship. But it's called a
18 traineeship, yes. So they're kind of interchangeable.
19 They're government grants.

20 Q. So your understanding is that a fellowship
21 is also based on a government grant?

22 A. Yes.

23 Q. So this is - this is actually a National
24 Institute of Health traineeship.

25 Right?

1 A. Yes.

2 Q. Meaning that the money that you're receiving
3 as your stipend is actually coming from the NIH?

4 A. Well, not exactly. It goes to Penn State
5 first. And then it's through the T32, is what it's
6 called. It goes first to Penn State and then they give
7 the money out.

8 Q. And this is something that you applied to
9 participate in.

10 Is that right?

11 A. Yes.

12 Q. And the rules in terms of, you know, you're
13 not being able to engage in other things and things
14 like that, those are actually things that are set by
15 NIH, as part of the training grant.

16 Is that right?

17 A. I guess so. I don't know. I can't say for
18 certain.

19 Q. And this directs that you should be spending
20 your full-time attention to your academics.

21 Is that right?

22 A. Well, it says full-time effort to the
23 training program.

24 HEARING EXAMINER: Where are you
25 looking? Where are you looking, Ms. Farmer?

1 ATTORNEY FARMER: So I was just asking
2 her if she was - had to spend full time on her
3 academics.

4 HEARING EXAMINER: I know. Where in
5 this letter does it say that? Where were you reading
6 from?

7 ATTORNEY FARMER: I was not reading from
8 a provision of the letter.

9 HEARING EXAMINER: Okay. I
10 misunderstood.

11 ATTORNEY FARMER: Okay.

12 BY ATTORNEY FARMER:

13 Q. Now, in the third paragraph of the letter,
14 it talks about as a predoctoral trainee, you'll make
15 rapid progress towards your Ph.D., like taking a full
16 course of academic credits, or devoting full attention
17 to your dissertation proposal, comprehensive exams,
18 dissertation research, et cetera, while working with a
19 mutually-agreed-on faculty mentor.

20 Right?

21 A. Yes.

22 Q. Okay.

23 And that ten hours a week that you
24 mentioned, this specifies that that's
25 demographic-related research learning experiences.

1 Correct?

2 A. Yes, that's what it says.

3 Q. And this also funded you over the summer.

4 Correct?

5 A. Yes.

6 Q. Okay.

7 And it specifies that the summer should be
8 spent doing full-time course work, dissertation
9 research or other productive, career-enhancing
10 activities?

11 A. Yes, it does say that.

12 Q. Okay.

13 And is the mentor that you're working with
14 on this traineeship the same as your faculty advisor?

15 A. Yes.

16 Q. And who is that?

17 A. Valarie King. Dr. Valarie King.

18 ATTORNEY FARMER: I have no further
19 questions.

20 HEARING EXAMINER: Redirect?

21 ATTORNEY CANAMUCIO: I have no
22 questions.

23 HEARING EXAMINER: All right. You may
24 step down. We have time. Why don't we get the Direct
25 in of the next witness. And then you can prepare the

1 Cross over lunch.

2 ATTORNEY CANAMUCIO: And actually, this
3 should not be -. This is not a verbal witness.

4 HEARING EXAMINER: Okay.

5 ATTORNEY CANAMUCIO: Ethan.

6 HEARING EXAMINER: Raise your right hand
7 for me.

8 ---

9 ETHAN AKE-LITTLE
10 CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND
11 HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS
12 FOLLOWS:

13 ---

14 HEARING EXAMINER: Please state and
15 spell your name.

16 THE WITNESS: My name is Ethan. First
17 name E-T-H-A-N. Last name Ake-Little, A-K-E, dash,
18 L-I-T-T-L-E.

19 HEARING EXAMINER: Can you say that
20 again?

21 THE WITNESS: A-K-E, dash, L-I-T-T-L-E.
22 It's a hyphenated name.

23 HEARING EXAMINER: Thank you. Go ahead.

24 ---

25 DIRECT EXAMINATION

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BY ATTORNEY CANAMUCIO:

Q. What do you do?

A. I am currently the president of the Temple University Graduate Students Association. I'm also the research assistant for the university. And I am a Ph.D. student in Urban Education, as well as a superintendent letter of eligibility candidate in the College of Education there.

Q. What is your graduate assistant position called?

A. I am formally a research assistant in the office of the Senior Vice-Provost for Undergraduate Study. And that position involves me doing research on behalf of the university for their General Education Program, which is their core curricular program for the undergraduate students.

Q. Can you please turn to tab six in the binder?

A. Yes.

Q. Do you recognize that document?

A. Yes.

Q. What is it?

A. It is my official contracted letter for my research assistant.

1 Q. And what types of responsibilities do you
2 have as a research assistant?

3 A. My main focus is to do data analysis for the
4 university. That involves looking at institutional
5 data from various departments, including admissions,
6 university institutional research and assessment and so
7 on. Student-level data, instructor-level data and so
8 on.

9 And my job is to analyze them for
10 policy-making decisions that the senior vice-provost
11 has regarding the General Education Program.

12 Q. Are you paid for fulfilling those
13 responsibilities?

14 A. Yes.

15 Q. How are you paid?

16 A. I'm paid monthly through a direct deposit in
17 the amount that's stipulated in this contract.

18 Q. Do you receive academic credit for your
19 services as a research assistant?

20 A. No, I do not receive what is known as direct
21 academic benefit.

22 Q. And do you have to perform your services in
23 order to get your degree?

24 A. No.

25 Q. What type of institution is Temple?

1 A. Temple is a Research I Institution. It's
2 classified as a very large research university. It's
3 also part of the Commonwealth System of Higher
4 Education.

5 Q. And have the graduate assistants at Temple
6 formed a union?

7 A. Yes. They formed a union in 2001, under the
8 Pennsylvania Labor Relations Board. They had voted at
9 the time -. I believe 290 out of 313 voted in favor of
10 having TUGSA as the exclusive representer for the
11 bargaining unit.

12 Q. Can you turn to tab seven, please? Do you
13 recognize that document?

14 A. Yes.

15 Q. Yes, it is the NISI order of certification
16 that formally recognizes Temple, the TUGSA as the
17 official representation of the bargaining unit.

18 Q. And in your own words, or you can look at
19 those, but who is in your bargaining unit?

20 A. So the bargaining unit is comprised of 850
21 graduate assistants out of a total of 1,400 graduate
22 assistants in the university. Our bargaining unit is
23 under - chartered under - to include all teaching
24 assistants, as well as all graduate assistants who do
25 not receive academic benefit.

1 Academic benefit for us is defined as
2 individuals who are using data analysis or any kind of
3 research that they're doing, which is directly part of
4 either their dissertation or they're receiving a grade
5 for that work. So out of the 1,400 graduate assistants
6 on campus, 850 fall within our bargaining unit.

7 Q. What - are you affiliated with any state or
8 - local, state or national agencies?

9 A. Yes, we are under the American Federation of
10 Teachers. We're Local 6290. We also, by virtue of
11 being under the American Federation of Teachers, are
12 also under the AFL-CIO, as well as the Philadelphia
13 State and National AFL-CIO.

14 Q. And you do hold any -? You might have said
15 this, but do you hold any leadership positions in your
16 local union?

17 A. Yes. I am the elected president of the
18 organization.

19 Q. In that role, do you participate in
20 bargaining?

21 A. Yes. In fact, this year is a collective
22 bargaining year for TUGSA. Our contracts extend every
23 four years, starting in 2002, when the first contract
24 went into effect.

25 So now we're at the fourth contract that

1 would go into effect, starting from 2018 to 2022. The
2 contract expires on February 15th, 2018. And so we
3 will begin the collective bargaining process this fall.

4 Q. Can you turn to tab eight, please?

5 HEARING EXAMINER: Has there ever been a
6 labor stoppage?

7 THE WITNESS: No, there has not been.

8 BY ATTORNEY CANAMUCIO:

9 Q. And I guess the first page is blank. I'm
10 not sure why that is. But you do recognize -? You can
11 glance through the document.

12 It's a little bit lengthy. But do you
13 recognize it, after you've had a chance to look at it?

14 A. Yes, I know it very well. It is our
15 Collective Bargaining Agreement for 2014 to 2018.

16 Q. What are some of the local union's main
17 concerns at the bargaining table?

18 A. The concerns usually fall into two
19 categories, economic and noneconomic concerns.
20 Economic concerns usually revolve around compensation
21 and benefits. Compensation mainly being the stipend
22 that's negotiated with the University. And benefits
23 tend to be mostly centered around healthcare, but
24 include tuition remission fees, and any of those kind
25 of benefits that are associated with being an employee

1 of Temple University.

2 Noneconomic concerns involve working
3 conditions. And so, therefore, the amount of hours
4 that are worked, paid and sick leave, as well as
5 grievance procedures, sexual harassment and so on.

6 Q. And I think the Hearing Examiner asked this.
7 But has there ever been a period of working without
8 contract since the local one?

9 A. No. Contract negotiations can extend beyond
10 February 15th. They have in the past. But it usually
11 - the terms of the previous contract are in effect
12 until a new tentative agreement has been signed with
13 the university.

14 Q. Has the existence of your union interfered
15 with your ability to be a research assistant?

16 A. Not at all. In fact, I work for the
17 administration. As I've worked in the Senior
18 Vice-Provost Office, it has never been an issue. And
19 especially given the fact that I'm an officer in the
20 union. It has never come to being an issue.

21 Q. In your experience, has it hurt the quality
22 of the academics at Temple?

23 A. No. In fact, I would say if we were to look
24 at Temple's rise in the rankings since 2001, their
25 programs have rise - risen quite tremendously. In

1 education, which is the field I'm in, is now a top 50
2 program, as well as medicine, law and business are all
3 in the top 15. And Temple has experienced a national
4 rise in ranking since 2001.

5 Q. And has it benefitted the terms and
6 conditions of your - of the employment of graduate
7 assistants like you?

8 A. In fact, it has. Our provost instituted a
9 few years ago -. It used to be that Temple students
10 could come under as part-time students, in which they
11 did not receive funding. Now, all Ph.D. students that
12 come into the university automatically receive four
13 years of funding.

14 And so they become part of our bargaining
15 unit. And that was a decision made by the provost at
16 the University.

17 HEARING EXAMINER: Is that why the
18 numbers went from 300-odd to 800-odd?

19 THE WITNESS: Yes.

20 BY ATTORNEY CANAMUCIO:

21 Q. Is this a FICO tax withheld from your
22 paycheck?

23 A. No. Under IRS tax code, we are not required
24 to pay FICO taxes.

25 ATTORNEY CANAMUCIO: Thank you.

1 HEARING EXAMINER: You done?

2 ATTORNEY CANAMUCIO: Yes.

3 HEARING EXAMINER: Okay. Would you like
4 a break?

5 ATTORNEY FARMER: Yeah.

6 HEARING EXAMINER: We'll break until -
7 we'll go until 1:15.

8 ATTORNEY FARMER: That's fine.

9 HEARING EXAMINER: Mr. Canamucio, can
10 you be back by then?

11 ATTORNEY CANAMUCIO: Sure.

12 HEARING EXAMINER: Okay. Thank you.

13 ---

14 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

15 ---

16 HEARING EXAMINER: Cross Examination.

17 ATTORNEY FARMER: Yes, thank you.

18 ---

19 CROSS EXAMINATION

20 ---

21 BY ATTORNEY FARMER:

22 Q. Mr. Ake-Little, you've never been enrolled
23 as a graduate student at Penn State.

24 Have you?

25 A. No, I have not.

1 Q. So you have no firsthand knowledge about
2 graduate education at Penn State.

3 Correct?

4 A. No, I do not.

5 Q. When did you enroll at Temple as a graduate
6 student?

7 A. I started in fall of 2014.

8 Q. When did you become the president of the
9 union?

10 A. Last year. So it would be fall of 2016.

11 Q. Before you enrolled at Temple as a graduate
12 student, did you have a previous affiliation with
13 Temple?

14 A. No, I did not.

15 Q. So you don't have any way of knowing if
16 there was any labor disruption before your time at
17 Temple.

18 Do you?

19 A. I do. As the president of the union, I do
20 have access of all the records dating back to the NISI
21 order and before. And to my recollection, there was no
22 work stoppage or formal union strikes that occurred in
23 TUGSA's history.

24 Q. What's your dissertation in?

25 A. I have yet to actually propose a

1 dissertation.

2 Q. Okay. What's your area of academic
3 research?

4 A. Urban Education. Specifically, teacher
5 turnover and the teacher labor market.

6 Q. So you mentioned this research that you're
7 doing on your RA as it relates to basically teacher and
8 student evaluation.

9 Is that a fair way to put it?

10 A. Yes.

11 Q. Okay.

12 Is that something that you sought out?

13 A. Actually, I was offered - made aware of that
14 position through my advisor.

15 Q. Now, you mentioned that Temple is an R I
16 research institution.

17 Right?

18 A. Yes.

19 Q. Okay.

20 Do you know when Temple become an R I
21 research institution?

22 A. No, I do not know the exact date when that
23 occurred.

24 Q. Would it surprise you to know that was in
25 2016?

1 A. Oh, okay.

2 Q. And the R I designation, that's something
3 that's given by an outside third party?

4 A. Yes, it's the Carnegie Foundation.

5 Q. Is Temple an AAU institution?

6 A. I don't know what the AAU is.

7 Q. Okay. That's fine.

8 Now, you testified that the definition of
9 direct academic benefit at Temple is whether any part
10 of the research is going to be used for your
11 dissertation or for a grade.

12 Right?

13 A. Yes.

14 Q. And are you aware that that's something that
15 was defined through bargaining, not by the PLRB?

16 A. That was -. My understanding was that that
17 was part of our side letter to the PLRB defining the
18 extent to the bargaining unit. So the parameters of
19 the bargaining unit at the time were established that
20 individuals with direct academic benefit would not be a
21 part of it.

22 Q. That was something that was agreed to by the
23 parties?

24 A. Yes, by the university and TUGSA at the time
25 of the union formation.

1 Q. Now, at Temple, students use a form to
2 declare whether there's an academic benefit and
3 determine whether they're covered by the bargaining
4 agreement.

5 Right?

6 A. Yes.

7 Q. And you actually included your form for the
8 current year as the last page?

9 A. Yes, it is actually pro-forma part of the
10 contract.

11 Q. So part of your - part of the award of an
12 assistantship includes that form?

13 A. Yes.

14 Q. So that's something that can change semester
15 to semester.

16 Right?

17 A. Actually, the agreement only -. Once a
18 decision is made, it is in effect for the duration of
19 the contract. So therefore, in a middle of a contract,
20 a student cannot elect to have or not have direct
21 academic benefits.

22 Q. And could an assistantship appointment be
23 for a semester or is it always a whole year?

24 A. It can be for a semester. So if - that
25 would be outlined in the terms of the contract. And

1 therefore, the direct and nondirect academic benefit
2 would apply for the term of that contract.

3 Q. And then the student is the one who declares
4 whether there's an academic benefit or not, -

5 A. Yes.

6 Q. - not the university.

7 Correct?

8 A. No.

9 Q. So it can change from term of appointment to
10 term of appointment, let's say?

11 A. In theory, yes. It can.

12 Q. So this is something that has to be filled
13 out with every new appointment?

14 A. Yes. Every student who receives a contract,
15 whether teaching -. Well, teaching wouldn't apply.
16 But a research assistant getting a contract would have
17 to declare whether or not they have direct academic
18 benefit.

19 Q. Now, you said that there wouldn't be such a
20 form as it relates to teaching?

21 A. No, because teaching would not have a
22 component where the person would be deriving a direct
23 academic benefit. In terms of there would be no data
24 collection done in a teaching assignment that would be
25 part of their work.

1 Q. Are there programs at Temple which require
2 teaching as an academic requirement?

3 A. Not that I know of. There are -. There is
4 what is known as a one-credit teaching in higher
5 education course that Ph.D. students can take. It's
6 not required. But it's really about how to build a
7 syllabus, and get to know students, and things like
8 that.

9 Q. So if there were programs that required
10 teaching as an academic requirement, that would be an
11 academic benefit to teach.

12 Right?

13 A. In theory, it would be. Of course the
14 details involved with that would entail.

15 Q. And if there were programs where students
16 got academic credit related to their teaching activity,
17 it would be the same thing.

18 Right?

19 A. Under our definition, if you're receiving a
20 grade by some sort of authority, a faculty member, then
21 it falls under direct academic benefit.

22 Q. So - and now you said a grade. Could there
23 be a circumstance where somebody was getting academic
24 credit but not a letter grade?

25 A. That would be very difficult, actually.

1 Because in order for something to be -. To argue that
2 something is direct academic benefit, there needs to be
3 a notation on the transcript that somehow there's a
4 link between what is being done and what is on the
5 transcript as the record of the activity being done.

6 Usually - even if it's a pass-fail, or a
7 letter grade, or something that just says, you know,
8 three credits, the research apprenticeship received
9 academic benefit.

10 Q. So there's academic credit. Got you.

11 A. Yes.

12 Q. Okay.

13 Have you ever declared an academic benefit?

14 A. No, I have not.

15 Q. Are you aware that students in the same
16 programs could choose differently about getting an
17 academic benefit?

18 A. Yes, because the academic benefit depends on
19 the work being done and not necessarily the program.

20 Q. And students on the same kind of
21 assistantship could choose differently about getting an
22 academic benefit.

23 Right?

24 A. Again, it depends on the work that's being
25 done.

1 Q. Have you ever published based on the
2 research you've done?

3 A. Yes, I have.

4 HEARING EXAMINER: Did you understand
5 that question to mean research that you did as part of
6 your research assistant?

7 THE WITNESS: Yes, I understand that.

8 HEARING EXAMINER: Research assistant.

9 THE WITNESS: Yes.

10 BY ATTORNEY FARMER:

11 Q. Only about 13 percent of those students who
12 are eligible to be in the bargaining unit because they
13 have declared no academic benefits are actually members
14 of the union.

15 Is that right?

16 A. Yes.

17 ATTORNEY CANAMUCIO: Objection.
18 Relevance.

19 HEARING EXAMINER: Overruled.

20 BY ATTORNEY FARMER:

21 Q. I'm sorry, I just want to make sure we could
22 hear your answer.

23 A. I'm sorry. Could you just repeat that
24 again?

25 Q. Only about 13 percent of those who are

1 eligible to be in the bargaining unit because they've
2 declared no academic benefit are actually members of
3 the union.

4 Is that right?

5 A. I'm not sure about the exact specific
6 statistic. But I know that not everybody who has -
7 does not have direct academic benefit is not a member
8 of the union.

9 HEARING EXAMINER: Say that again.

10 ATTORNEY FARMER: I think you had a few
11 negatives.

12 A. Yeah. So just because someone has - is
13 eligible to be in the bargaining unit does not mean
14 they're automatically our member. They would elect to
15 be a member.

16 And that could be either full dues-paying
17 member or if they're outside the bargaining unit, an
18 associate membership.

19 BY ATTORNEY FARMER:

20 Q. And not everybody who's eligible to be a
21 member has elected to do so.

22 Right?

23 A. Yes, that is the case.

24 Q. And in fact, not even a majority?

25 A. No, we are not a majority.

1 ATTORNEY FARMER: I have no further
2 questions.

3 HEARING EXAMINER: Redirect.

4 ---

5 REDIRECT EXAMINATION

6 ---

7 BY ATTORNEY CANAMUCIO:

8 Q. Besides Temple and Penn State, what other
9 schools are in the Commonwealth System of Higher
10 Education, if you know?

11 A. You mean just of schools or as in -?

12 Q. Yes, what other institution?

13 A. In the Commonwealth System, I know
14 University of Pittsburgh is. And then there is the -.

15 ATTORNEY FARMER: They're not -.

16 HEARING EXAMINER: Go ahead.

17 ATTORNEY FARMER: Never mind. Go ahead.

18 BY ATTORNEY CANAMUCIO:

19 Q. There's Lincoln, Pitt, Penn State and
20 Temple?

21 A. Yes, Lincoln, Pitt, Penn State, and Temple.
22 And then there's the separate PASSHE system, which is
23 the state's other school systems.

24 Q. Right.

25 HEARING EXAMINER: You can have a -.

1 You can have your witnesses explain what the difference
2 is.

3 ATTORNEY FARMER: The distinction, yep.

4 HEARING EXAMINER: Go ahead.

5 BY ATTORNEY CANAMUCIO:

6 Q. You answered a question that says you have
7 published work that you've done as a research
8 assistant?

9 A. Yes.

10 Q. Is that the same as saying that you used it
11 for your dissertation?

12 A. No. Actually, I published two articles this
13 year, using the data and the work that I did under my
14 research assistantship. But those two articles do not
15 constitute in any way either a requirement for a course
16 or a dissertation project.

17 Q. And as for the members, or I should say the
18 nonmembers, the associate members of TUGSA, the
19 population -. I don't know if they were there at the
20 time in 2001, probably not, but that population was
21 eligible to vote in the election.

22 Is that right?

23 A. So my understanding is associate membership
24 is for anybody who is outside the bargaining unit who
25 would not be eligible to be a full member. This is

1 usually done for people who've received direct academic
2 benefit. And they end up getting to have a say in
3 union matters.

4 We found that a lot of times, as you pointed
5 out, people do go between - in and out between direct
6 academic benefit. So presumably someone could have
7 direct academic benefit one term and then their
8 department assigns them a teaching assistantship, in
9 which they would be back into the bargaining unit.

10 Q. And I appreciate that clarification. And I
11 guess I didn't say my question that well.

12 A. Okay.

13 Q. And this is only if you know. But do you
14 know whether or not those people ultimately choose to
15 be members, if they're eligible. Did they get to vote
16 in your representation election?

17 A. I don't know that, from 2001.

18 Q. Fair enough.

19 ATTORNEY CANAMUCIO: I have nothing
20 further.

21 HEARING EXAMINER: Recross?

22 ATTORNEY FARMER: None.

23 HEARING EXAMINER: Okay. You can step
24 down. Thank you very much for driving up. I think we
25 got a short day today.

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ATTORNEY CANAMUCIO: Yes, sir.

HEARING EXAMINER: Okay. So he doesn't have any more witnesses for today. You know who he's calling next?

ATTORNEY FARMER: We do not, but we are going to agree to do that.

HEARING EXAMINER: Okay. And then you plan on being finished tomorrow?

ATTORNEY CANAMUCIO: Yes, sir.

HEARING EXAMINER: Can you get witnesses for tomorrow? Maybe not?

ATTORNEY FARMER: Perhaps it would be helpful to just have an off the record about the scheduling.

HEARING EXAMINER: We'll go off the record now. And you two can go.

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HEARING CONCLUDED AT 1:27 P.M.

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CERTIFICATE

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I hereby certify that the foregoing proceedings,
hearing held before Hearing Examiner Helmerich was
reported by me on 9/5/17 and I Lindsey Deann Richardson
read this transcript and that I attest that this
transcript is a true and accurate record of the
proceeding.



Lindsey Deann Richardson,
Court Reporter