

BEFORE THE
NATIONAL LABOR RELATIONS BOARD

In the Matter of:

THE NEW SCHOOL,

Employer,

And

STUDENT EMPLOYEES AT THE NEW
SCHOOL - SENS, UAW,

Petitioner.

Case No. 2-RC-143009

The above-entitled matter came on for hearing pursuant to Adjournment, before GREG DAVIS, Hearing Officer, at the National Labor Relations Board, Region 2, Jacob K. Javits Federal Building, 26 Federal Plaza, Suite 3614, New York, New York 10278, in Room 3611,1 on Monday, May 4th, 2015, at 9:30 a.m.

BURKE COURT REPORTING, LLC
1044 Route 23 North, Suite 316
Wayne, New Jersey 07470
(973) 692-0660

A P P E A R A N C E S

On behalf of the Employer:

DOUGLAS P. CATALANO, ESQUIRE
Norton, Rose, Fullbright, USA, LLP
666 Fifth Avenue
New York, New York 10103-3198

On Behalf of the Petitioner:

THOMAS W. MEIKLEJOHN, ESQUIRE
NICOLE M. ROTHGEB, ESQUIRE
Livingston, Adler, Pulda, Meiklejohn & Kelly, PC
557 Prospect Avenue
Hartford, Connecticut 06105-2922

1

BURKE COURT REPORTING, LLC
1044 Route 23 North, Suite 316
Wayne, New Jersey 07470
(973) 692-0660

1
2

I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS	VOIR DIRE
K. Breidenbach	253	292			274 277 279 280 282 285
Laura Copland	315	334			331
Michael Schober	343	366	392	396	

E X H I B I T S

Employer's:	IDENTIFIED	RECEIVED
E-37	255	255
E-38	258	259
E-39	260	261
E-40	261	262
E-41	262	262
E-42	265	265
E-43	265	266
E-44	265	266
E-45	269	269
E-46	269	269
E-47	274	274
E-48	277	277
E-49	278	279
E-50	280	281
E-51	282	283
E-52	286	286
E-53	286	286
E-54	288	288
E-55	290	290
E-56	291	291

BURKE COURT REPORTING, LLC
1044 Route 23 North, Suite 316
Wayne, New Jersey 07470
(973) 692-0660

E X H I B I T S

Employer's:	IDENTIFIED	RECEIVED
E-57	316	316
E-58	330	333/(Withdrawn)
E-59	321	334
E-60	321	334
E-61	321	334
E-62	344	344
E-63	357	359
E-64	357	359
E-65	358	359
E-33	(prev)	366/(withdrawn)
PETITIONER'S:		
P-15	309	310
P-16	310	311
P-17	311	312

BURKE COURT REPORTING, LLC
1044 Route 23 North, Suite 316
Wayne, New Jersey 07470
(973) 692-0660

1 P R O C E E D I N G S

2 (Time Noted: 9:46 a.m.)

3 HEARING OFFICER DAVIS: On the record.

4 Mr. Catalano, do you have a witness?

5 1 MR. CATALANO: I do. Dr. Breidenbach, please.

6 HEARING OFFICER DAVIS: Okay, raise your right hand.

7 Whereupon,

8 KATHLEEN BREIDENBACH,

9 having been called as a witness by and on behalf of the
10 Employer

11 and having been first duly sworn, was examined and testified on
12 her oath, as follows:

13 HEARING OFFICER DAVIS: Please state your full name and
14 spell your first and last name for the Reporter.

15 THE WITNESS: My name is Kathleen Breidenbach spelled K-
16 a-t-h-l-e-e-n, last name is B-r-e-i-d-e-n-b-a-c-h.

17 HEARING OFFICER DAVIS: Great. Mr. Catalano?

18 DIRECT EXAMINATION

19 BY MR. CATALANO:

20 Q. Dr. Breidenbach, just so you know that the Court Reporter
21 through this instrumentation over here is taking down what
22 you're saying and counsel has to hear it, so if you don't mind,
23 make sure that you're speaking in a tone that everyone can
24 hear, if you don't mind.

25 A. No problem.

BURKE COURT REPORTING, LLC
1044 Route 23 North, Suite 316
Wayne, New Jersey 07470
(973) 692-0660

- 1 Q. Thank you. Okay. By whom are you employed?
- 2 A. The New School.
- 3 Q. And what's your current position?
- 4 A. My current position is Vice Dean Public Engagement.
- 5 Q. And how long have you had that position?
- 6 A. I've been in that position since fall 2011.
- 7 Q. And how long have you been at The New School?
- 8 A. I've been at The New School since August 2003. Previously
- 9 I was Associate Dean at Eugene Lang College.
- 10 Q. And is that the only other position you've had at The New
- 11 School?
- 12 A. Yes.
- 13 Q. Would you mind telling us your academic accomplishments?
- 14 A. I have a Ph.D. in English from Stonybrook University, a
- 15 Bachelor's Degree in English also from Stonybrook University.
- 16 Q. And prior to coming to The New School did you have any
- 17 other employment?
- 18 A. A number of years I was Assistant Dean for Curriculum at
- 19 Stonybrook in the College of Arts & Sciences.
- 20 Q. All right. The Court Reporter has been kind enough to
- 21 pre-mark a number of documents including your CV. Would you
- 22 mind identifying it and if counsel has no objection I offer it?
- 23 A. Yes.
- 24 Q. And --
- 25 MR. MEIKLEJOHN: No objection.

1 HEARING OFFICER DAVIS: Employer 37 is admitted.

2 (Employer's Exhibit 37 identified and received.)

3 BY MR. CATALANO:

4 Q. Generally speaking what are your duties?

5 A. I'm responsible for working with school leadership, around
6 curriculum and I get into planning, development of new programs
7 and new initiatives. I oversee student affairs, budget and
8 finance, facilities planning, faculty hiring, staff hiring and
9 evaluation.

10 Q. And can you tell us whether NSPE has either or both
11 undergraduate or graduate students?

12 A. We have both undergraduate and graduate students.

13 Q. And just as an estimation can you tell us, if you know,
14 what the breakdown is approximately?

15 A. I believe we've got about 1,400 graduate students and
16 about 600 undergraduates, but we teach many more undergraduates
17 outside of our own programs.

18 Q. Thank you. Okay, now in connection with the graduate
19 students who may be quote housed, unquote, because there's been
20 some testimony about one could be a graduate student in a
21 different division, but serve in a role outside of his division
22 so to speak, so would you tell us whether at NSPE there are in
23 this proceeding six punitive categories of graduate students
24 who are alleged to be possible employees? And I'll go through
25 them and I want you to tell us whether NSPE has such

- 1 categories.
- 2 Teaching assistants?
- 3 A. Yes.
- 4 Q. Teaching fellows?
- 5 A. Yes.
- 6 Q. Research assistants?
- 7 A. Yes.
- 8 Q. Research fellows?
- 9 A. No.
- 10 Q. And course assistants?
- 11 A. Yes.
- 12 Q. And tutors?
- 13 A. Yes.
- 14 Q. And in connection with both the undergraduates as well as
- 15 the graduates can you tell us the types that are offered to
- 16 students who choose to enroll at The New School in the NSPE
- 17 Division?
- 18 A. You mean --
- 19 Q. Well, we can do the types of areas such as media studies
- 20 and the like. We'll get into what kinds of degrees are
- 21 offered.
- 22 A. So we offer a Bachelor of Arts, Bachelor of Science in
- 23 Liberal Arts. We also have undergraduate degrees in
- 24 psychology, food studies, media studies and writing.
- 25 Q. Okay.

1 A. And then on the graduate level we have writing, media
2 studies, media management, international affairs, management,
3 urban policy and writing and teaching English to speakers of
4 other languages.

5 Q. And there has been some testimony about, "continuing
6 education," which was at one time largely engaged in by The New
7 School as far as fostering learning among graduates. Do you
8 still have any such courses?

9 A. All of our undergraduate courses are available to be taken
10 by continuing education students, so yes.

11 Q. And if you touched upon it in your prior answer, pardon
12 me, but tell us what literal degrees one can obtain at NSPE?

13 A. So we offer BA, BS, BFA, MFA, MA, MS and Ph.D.

14 Q. Now, you did advise us that there are teaching assistants
15 as PE and can you tell us if there are any number of such
16 positions and an approximate number of individuals who serve in
17 those roles?

18 A. There are about 45 TA's.

19 Q. TA's? Can you tell us and counsel what does a TA
20 ordinarily do at NSPE?

21 A. A TA is typically expected to attend all of the classes,
22 to work very closely with the faculty member. Very often
23 they'll be assigned to teach their own section so they'll have
24 direct instructional responsibility for the students in that
25 section. And, of course, they're responsible for all grading

1 and evaluation lists.

2 Q. Can you tell us whether they integrate with faculty and/or
3 administrators or both, TA's?

4 A. TA's work very closely with the faculty of record teaching
5 the course. I realize in my previous answer I was thinking
6 course assistants as opposed to teaching assistants so when I
7 said that's not a TA because a TA is responsible for his or her
8 own section.

9 Q. And is there a description that is extant that -- at NSPE
10 of what a teach assistant ordinarily might do?

11 A. Yes, particularly in the School of Media Studies.

12 1 MR. CATALANO: Mr. Court Reporter, would you mind
13 providing -

14 BY MR. CATALANO:

15 Q. I'm going to show you a document which the Court Reporter
16 has. I think it's been pre-marked as 38.

17 (Employer's Exhibit 38 identified.)

18 A. Yes, this is a description for a TA.

19 Q. Media Studies TA.

20 A. Yes.

21 Q. Explain that in some detail or greater detail what you
22 meant by Media Studies, that one program or one --

23 A. Media Studies offers an MA in Media Studies and an MS in
24 Media Management. Because they only hire Media -- because they
25 only use Media Studies graduate students as Media Studies

1 courses, they do not work through the Provost Office process
2 for appointing TA's. The Provost Office runs a substantial
3 process for appointing TA's around the rest of the University.

4 Q. And is this separate and apart from that appointment
5 process in Media Studies?

6 A. Yes, Media Studies runs their own process.

7 Q. And Number 38 is a description of what ordinarily is
8 assumed to be the role or is the role assumed by teaching
9 assistants in Media Studies?

10 A. In Media Studies, yes.

11 1 MR. CATALANO: I offer it.

12 MR. MEIKLEJOHN: No objection.

13 HEARING OFFICER DAVIS: Employer Exhibit Number 38 is
14 admitted.

15 (Employer's Exhibit 38 received.)

16 BY MR. CATALANO:

17 Q. Okay. Now, in connection with becoming a Teaching
18 Assistant how does one, generally speaking?

19 A. Typically the Provost Office will put out the call for
20 applications. Students will apply for those positions.
21 Programs will identify the courses for which they are
22 requesting the teaching. The Provost Office will then
23 disseminate those, that student information to individual
24 Program Chairs and faculty.

25 Faculty and Program Chairs will review the applications

1 most typically to try and identify who would be the best fit
2 for that particular instructor of the course.

3 Q. And then a graduate student might apply to become a
4 Teaching Assistant?

5 A. Yes.

6 Q. And if he or she -- is there some notification that is
7 provided to him or her?

8 A. Yes. The Provost Office notifies students who have been
9 selected to serve as Teaching Assistants.

10 Q. And in that regard, pre-marked as Exhibit 39, Mr. Court
11 Reporter, identifying that document and whether this pertains
12 to that process?

13 (Employer's Exhibit 39 identified.)

14 A. Yes, this is Media. This is the formal notification of
15 selection for the Teaching Assistantship.

16 Q. You said the Provost Office. Am I led to believe by that
17 statement that this is disseminated to graduate students beyond
18 PE?

19 A. Yes.

20 Q. And do you know with some precision or not whether this
21 form is used or this application/acceptance document is used
22 for the other divisions?

23 A. Yes.

24 Q. If you know? You do?

25 A. Yes.

1 1 MR. CATALANO: Okay, I offer it.

2 MR. MEIKLEJOHN: No objection.

3 HEARING OFFICER DAVIS: Employer Exhibit 39 is admitted.

4 (Employer's Exhibit 39 received.)

5 BY MR. CATALANO:

6 Q. Now, referring to the middle of the page, if you might,
7 Dr. Breidenbach, there are references to support and
8 pedagogical techniques, that's my word, not that it's used in -
9 - that are characterized in this document as "An Introduction
10 to Teaching Workshop" and it tells you when it would be held
11 and then "A Six Session University Pedagogy Seminar," which
12 also refers to the time in which it need be taken. Are you
13 familiar with those programs?

14 A. I know of them.

15 Q. Yes.

16 A. And do you know that TA's these programs?

17 A. Yes, TA's are required to attend both workshop and
18 seminar.

19 Q. Now, in that regard can you look at Exhibit 40, please,
20 and tell us what this pertains to?

21 (Employer's Exhibit 40 identified.)

22 A. This is the agenda for the Introduction to Teaching
23 Workshop that -- yeah, that is offered for UGS.

24 Q. Okay.

25 1 MR. CATALANO: If I didn't offer it, I surely do now.

1 MR. MEIKLEJOHN: 40? No objection.

2 HEARING OFFICER DAVIS: Employer 40 is admitted.

3 (Employer's Exhibit 40 received.)

4 BY MR. CATALANO:

5 Q. The teaching workshop, the acceptance letter indicates
6 that's there a University pedagogy seminar that need be
7 undertaken and are you familiar with whether that seminar
8 issued to the perspective teaching assistant?

9 A. Yes.

10 Q. Okay. Would you mind looking at 41, please?

11 (Employer's Exhibit 41 identified.)

12 BY MR. CATALANO:

13 Q. And pursuant to 39 it says that the -- this too is to be
14 undertaken as course work by the Teaching Assistant. Do you
15 know that to be accurate?

16 A. Yes.

17 Q. Now, can you tell us --

18 MR. CATALANO: 41's in?

19 MR. MEIKLEJOHN: No, I don't think so.

20 HEARING OFFICER DAVIS: I'm sorry, you didn't offer it.

21 MR. CATALANO: I didn't use the words I offer?

22 MR. MEIKLEJOHN: No objection.

23 HEARING OFFICER DAVIS: Employer 41 is admitted.

24 (Employer's Exhibit 41 received.)

25 MR. CATALANO: Thank you.

1 BY MR. CATALANO:

2 Q. Now, we've now seen certain of the course work, the
3 application and who might be a TA. Can you tell us why the
4 University, to your knowledge, has established Teaching
5 Assistantships?

6 A. For graduate students and to provide opportunities to
7 learn more about their disciplines, to learn how to explain
8 matters in their discipline or disciplines and to gain that
9 experience. It's very important to have those kinds of
10 opportunities.

11 Q. In the main, can you tell us the length of a Teaching
12 Assistantship at NSPE?

13 A. One semester.

14 Q. Say it again?

15 A. One semester.

16 Q. And is the student advised that there is any expectation
17 of recurrence in that role?

18 A. No.

19 Q. What are they advised?

20 A. That they would need to reapply for another teaching
21 assistantship.

22 Q. Were you ever, inasmuch as I think I heard that you -- I
23 know I heard that you are a Ph.D., were you ever a TA?

24 A. Yes.

25 Q. And can you -- was it -- can you tell us whether in your

1 own experience it was relevant serving as a TA to the
2 attainment of your degree?

3 A. Completely. It provided me the opportunity to observe an
4 instructor who was very talented to -- at the time I was
5 intending to teach myself.

6 Q. There's been -- in connection with your notification to us
7 of certain programs, I'm not sure you ever mentioned if there's
8 a Riggio Honors Program and if you did or did not tell us what
9 it is if it's extant?

10 A. The Riggio's Honors Program is a program in writing,
11 Riggio's Honors Program Writing in Democracy.

12 Q. Okay. Can you add a little more to that? When you say
13 it's an Honors Program is it only graduate -- only students who
14 do well, is it one step beyond English 1, what is it?

15 A. Yes, it's undergraduates expressly selected. There's a
16 scholarship that's provided to them in the program. There are
17 about 50 students in the program.

18 Q. And in connection with this program are there applications
19 to become TA's who are embedded in this program?

20 A. Yes. Part of the program provides support for graduate
21 students in the end to be able to service TA's in the
22 undergraduate Riggio Honors Program.

23 Q. And in that regard, there's a document that has been pre-
24 marked, which says Dear Applicant, "Congratulations. We're
25 pleased to offer you a Teaching Assistant position with the

1 Riggio Honors Program Writing in Democracy." Can you -- do you
2 have that document?

3 Okay. And it's numbered 42.

4 (Employer's Exhibit 42 identified.)

5 BY MR. CATALANO:

6 Q. And can you tell us what this document is and absent Mr.
7 Meiklejohn's objection I'm going to offer -- I'm going to offer
8 it and absent his objection it might be accepted. So tell us
9 what that is?

10 A. This is a letter notifying graduate student of acceptance
11 into a TA-ship in the Riggio Honors Program. So this would
12 have been sent to graduate students in the NFA in writing.

13 Q. And the offer to the student is for how many semesters?

14 A. One semester.

15 MR. CATALANO: I offer it.

16 MR. MEIKLEJOHN: No objection.

17 HEARING OFFICER DAVIS: Employer 42 is admitted.

18 (Employer's Exhibit 42 received.)

19 BY MR. CATALANO:

20 Q. Now, 43 and 44 gives some description of the Riggio
21 Writing in Democracy Program. Can you identify those
22 documents?

23 (Employer's Exhibits 43 and 44 identified.)

24 A. The first one is the announcement of available Teaching
25 Assistantships through the Riggio Writing in Democracy Program

1 and one is a script that is used by the two people who will
2 receive the program for a Teaching Assistantship training that
3 they run for graduate students accepted into the Teaching
4 Assistantship in the Riggio Writing Program.

5 MR. CATALANO: I offer them.

6 MR. MEIKLEJOHN: Can I just look at them?

7 HEARING OFFICER DAVIS: Yeah, Employer 43 has been titled
8 Riggio Writing in Democracy Program Teaching Assistantship
9 writing at the New School and Employer 44 is entitled Riggio
10 Honors Program Writing in Democracy.

11 MR. MEIKLEJOHN: No objection to either document.

12 HEARING OFFICER DAVIS: Okay. Employer 43 and Employer
13 44 are admitted.

14 (Employer's Exhibits 43 and 44 received.)

15 BY MR. CATALANO:

16 Q. Now, are there distinctions between serving as a TA,
17 particularly with the Riggio Program and what a part-time
18 faculty member does or does not do in connection with his or
19 her employment?

20 A. The TA's in the Riggio Writing Program are working closely
21 with the faculty who are teaching the program.

22 Q. And are they given guidance in addition to the documents
23 adverted to before?

24 A. Yes, the faculty member works very closely providing
25 mentorship and assistance in teaching writing, in assisting

1 students with readings and developing their writing skills.

2 Q. There's something characterized as a sample lesson plan.

3 Can you look to that, one page?

4 A. Yes, the last page.

5 Q. Well, mine's uncoupled, happily.

6 MR. MEIKLEJOHN: It's a standalone page.

7 MR. CATALANO: Standalone?

8 THE WITNESS: Is that 45?

9 BY MR. CATALANO:

10 Q. I don't have a number, but I'll give you mine.

11 HEARING OFFICER DAVIS: It should be 45.

12

13 BY MR. CATALANO:

14 Q. And does this pertain to the Riggio Writing Program as far
15 as guidance?

16 A. Yes, this is a sample less on plan that's provided to
17 students who have been accepted to help them think about how
18 they would be working with students.

19 Q. Now, in addition to TA's, I think you mentioned that there
20 are Teaching Fellows at NSPE?

21 A. Yes.

22 Q. And approximately how many are there currently?

23 A. I think there are about fifty.

24 Q. Fifty? And do you know in what areas they serve in those
25 roles, the programs or disciplines, generally speaking?

1 A. Primarily work in Psychology because NSSR has a very large
2 Psychology Department. They may also work in other areas of
3 the undergraduate program such as art.

4 Q. And in connection with the process of obtaining one of
5 those positions can you describe the process and we'll refer to
6 certain documents along the way. Tell us the process of
7 becoming a Teaching Fellow?

8 A. This process is very similar to the Provost Office process
9 for appointing Teaching Assistants. A call goes out. The
10 Provost Office identifies courses that would be available to
11 Teaching Fellows. Teaching Fellows apply through an online
12 process.

13 The Provost Office disseminates those applications to
14 Chairs in undergraduate programs who have requested Teaching
15 Fellows. The Chairs will typically meet with the students who
16 they identify as potential Teaching Fellows and then will
17 notify the Provost Office of which Teaching Fellows they would
18 like to appoint.

19 Q. And there is a document for the year 2015/'16 called A
20 University-Wide Call for Applicants Teaching Fellowship
21 Opportunities. Can you refer to that document and identify it
22 as to NSPE?

23 A. Yes. This is the University-wide call for applicants to
24 the Teaching Fellowship Program.

25 Q. And that would be for NSPE?

1 A. Yes.

2 MR. CATALANO: I offer it.

3 MR. MEIKLEJOHN: No objection.

4 HEARING OFFICER DAVIS: Okay, Before we move on, are you
5 offering 45 as well?

6 MR. CATALANO: I am.

7 MR. MEIKLEJOHN: No objection.

8 HEARING OFFICER DAVIS: Okay. Employer 45 and 46 are
9 admitted.

10 (Employer's Exhibits 45 and 46 identified and received.)

11 BY MR. CATALANO:

12 Q. Tell us the purpose of establishing Teaching Fellowships
13 based upon your own knowledge at The New School?

14 A. The Teaching Fellowship Program was created to provide
15 financial aid and teaching opportunities for graduate students.

16 Q. All right. Now, with respect to the payment for TA's and
17 TF, what do they receive, those amounts? What do they get?

18 A. A stipend.

19 Q. And can you tell us whether these stipends are intended to
20 be a form of financial aid or not?

21 A. Yes.

22 Q. And does the stipend -- if one is advised that he or she
23 is going to receive a stipend, and let's pick a random number,
24 \$2,500, is he or she submitting a time sheet or will that
25 \$2,500 vary based upon hours per week that he or she expends in

1 the role?

2 A. No.

3 Q. Now, is it similar to the process you've described with
4 respect to TA's that the Teaching Fellow does or does not
5 interact with faculty member? Who is interacting with the
6 Teaching Fellow?

7 A. A Teaching Fellow is responsible for his or -- management
8 of his or her own course and works very closely, most typically
9 in developing the syllabus, considering lesson plans, thinking
10 about how to approach the material, working with the students
11 in his or her class.

12 Q. And this Teaching Fellowship role, has it been created at
13 The New School in order to assist that graduate student in the
14 attainment of his or her degree and if so in what way?

15 A. Yes, it's very important for graduate students to have
16 opportunities to be able to teach skills of material,
17 understanding how different people learn. They also -- you
18 know, what's the saying that if you really want to learn
19 something, teach it. And so it provides excellent
20 opportunities to -- for graduate students to develop those
21 skills and deepen their knowledge of their material.

22 MR. CATALANO: Could we go off the record just for a
23 second?

24 HEARING OFFICER DAVIS: Off the record.

25 (Off the record.)

1 HEARING OFFICER DAVIS: On the record.

2 BY MR. CATALANO:

3 Q. Now, in the attainment of your Ph.D. service did you serve
4 as a Teaching Fellow?

5 A. It wasn't called a Teaching Fellow, but yes.

6 Q. Okay.

7 A. I had responsibility for teaching my own class.

8 Q. And tell us whether that did or did not enhance your
9 ability to obtain the Ph.D.?

10 A. It was an essential part of my graduate experience.

11 Q. In what way?

12 A. It provided the opportunity to work very closely with the
13 Chair of the program to really develop a deeper understanding
14 of the material that I was teaching. We learned to communicate
15 that material effectively. Yeah, it was essential.

16 Q. Now, with respect to the training or learning that's in
17 the role of Teaching Fellows can you tell us whether the
18 documents, 40 and 41, have any role that must be undertaken by
19 the graduate student in connection with attaining that?

20 A. Your Introduction to Teaching Workshop and Pedagogy
21 Seminar, yes, those are required of the students selected as
22 Teaching Fellows.

23 Q. And can you tell us whether the dollars they receive as
24 Teaching Fellows and as a sub-text as a Teaching Assistant is
25 intended by the University to be a form of financial aid?

- 1 A. Yes, that's why the program was created.
- 2 Q. Does the Teaching Fellow have an expectation that he or
3 she would serve beyond the initial appointment of perhaps one
4 semester?
- 5 A. No.
- 6 Q. What need they do to have that role again?
- 7 A. They would need to reapply.
- 8 Q. Generally speaking, what's the length of that role?
- 9 A. Generally speaking they're applying for a semester.
- 10 Q. Now, in connection with Milano, can you tell the Hearing
11 Officer -- Milano --
- 12 A. It's the Milano School of International Affairs, Urban
13 Policy and Management is one school within The New School for
14 Public Engagement.
- 15 Q. And did you tell us previously that there are Research
16 Assistants at NSPE?
- 17 A. Yes.
- 18 Q. And how many are there approximately?
- 19 A. About 250.
- 20 Q. And are there at the Milano School?
- 21 A. Yes.
- 22 Q. There's a research --
- 23 A. Not all 250 of them.
- 24 Q. I know that. What does a Research Assistant AT NSPE
25 ordinarily do?

1 A. A Research Assistant would work very closely in support of
2 the faculty member either conducting research that's directly
3 supporting the faculty member's project. Very often it's also
4 related to course work that the faculty might be delivering and
5 that the student who's serving as a Research Assistant may have
6 taken.

7 MR. CATALANO: I think the document that I was referring
8 to before, Mr. Davis, might not be in evidence. University
9 Teaching Fellowship Program 2015/'16.

10 HEARING OFFICER DAVIS: Additional information, that's
11 the next sentence?

12 MR. CATALANO: Yes.

13 HEARING OFFICER DAVIS: Okay.

14 MR. CATALANO: I offer it in connection with Dr.
15 Breidenbach's prior testimony pertaining to Teaching Fellowship
16 programs.

17 HEARING OFFICER DAVIS: I don't think she's identified
18 this.

19 BY MR. CATALANO:

20 Q. Well, take a look and tell us what that is?

21 A. So this is a description of the types of courses and
22 programs that would be available for students selected into the
23 Teaching Fellows Program to be able to teach.

24 MR. CATALANO: I offer it.

25 MR. MEIKLEJOHN: I think I have a question on voir dire.

1 This indicates -- oh, okay.

2 VOIR DIRE EXAMINATION

3 BY MR. MEIKLEJOHN:

4 Q. Would the jobs, the Teaching Fellow appointments at Lang
5 also be accorded to a NSPE student?

6 A. Yes.

7 MR. MEIKLEJOHN: I have no objection.

8 HEARING OFFICER DAVIS: Okay, Employer 47 is admitted.

9 (Employer's Exhibit 47 identified and received.)

10 BY MR. CATALANO:

11 Q. So going back the topic of Research Assistants, which you
12 preliminarily alluded to, tell us what, generally speaking, a
13 Research Assistant does at NSPE?

14 A. A Research Assistant would work very closely with the
15 faculty member. Sometimes they'll write, sometimes they'll do
16 the bibliography search. In the sciences, they might actually
17 be doing more scientific research. They may also be working
18 with the faculty member in preparing materials for presentation
19 of the faculty going to a conference, or preparing a website in
20 order to be able to disseminate the research.

21 Q. All right. Now, in connection with that interaction can
22 you tell us whether that interaction between the faculty member
23 and the student is directed from above? In other words, is
24 there any direction from the President on down or is it a
25 matter of the personal requirements of as envisioned by the

1 faculty member?

2 A. All of the interaction is directly between the student and
3 the faculty member.

4 Q. And can you tell us, if you know based on -- and of course
5 one size might not -- whether the Research Assistant and the
6 faculty member interact on a recurring basis? And, if you
7 know, how often based on your own experience or in your
8 administrative role, how often do they interact?

9 A. I'm sure it varies, I mean by project, but I would imagine
10 that most faculty work very closely and regularly with their
11 RA's.

12 Q. Now, before one becomes an RA does he or she need to
13 undertake any education seminars or training, if you know?

14 A. No only what they've done as a graduate student in that
15 program.

16 Q. However, they'd be in good standing in order to ensure
17 that the other features of their attainment of the degree are
18 not going unnoticed or unhandled by the student?

19 A. Yes, faculty are going to want strong students as their
20 RA's.

21 Q. And when serving as a Research Assistant can you tell us
22 whether they receive any financial aid and what it's designed
23 to be?

24 A. Yes, they receive a stipend as financial aid.

25 Q. And on a varying number of hours or is it a fixed sum?

1 A. It's a fixed sum.

2 Q. How does one become an RA? If you've touched upon it
3 briefly, that's fine, but I'd like to know. How does one
4 become a Research Assistant for Dr. Smith?

5 A. After a faculty member is notified that they're approved
6 through the Provost Office Student Assistance Fund that they
7 are eligible for an RA, they may post it through The New School
8 jobsite. More frequently they will simply approach a student
9 that they know and have worked with who's probably been in
10 their class and offer them the RA-ship.

11 Q. Now, going back to what Research Assistants do, there are
12 two documents which I'd like to have before you when --

13 MR. MEIKLEJOHN: Can we go off the record for a second?

14 HEARING OFFICER DAVIS: Yes, let's go off the record.

15 (Off the record.)

16 HEARING OFFICER DAVIS: On the record.

17 Mr. Catalano?

18 MR. CATALANO: Yes.

19 BY MR. CATALANO:

20 Q. In connection with serving as a Teaching Fellow is there a
21 form application and thereafter a notification to the student
22 that he or she has been appointed as a Teaching Fellow?

23 A. Yes, the Provost Office notifies students selected as
24 Teaching Fellows.

25 Q. I believe pre-marked as Exhibit 48 is a document. Can you

1 tell us whether that's the notifica --

2 (Employer's Exhibit 48 identified.)

3 A. Yes, that's the formal notification to the student.

4 MR. CATALANO: Okay, I offer it.

5 MR. MEIKLEJOHN: Just one question.

6 HEARING OFFICER DAVIS: Sure.

7 VOIR DIRE EXAMINATION

8 BY MR. MEIKLEJOHN:

9 Q. Like the Teaching Assistant letter that you identified
10 earlier this is a standard form letter used throughout The New
11 School?

12 A. Yes.

13 MR. MEIKLEJOHN: No objection.

14 HEARING OFFICER DAVIS: Employer 48 is admitted.

15 (Employer's Exhibit 48 received.)

16 BY MR. CATALANO:

17 Q. We've touched briefly on what a Research Assistant does
18 and is there a document, in fact, that describes in the
19 simplest of terms what the Research Assistant might do?

20 A. Do you want me to look at this?

21 Q. Do you have that?

22 A. I don't.

23 Q. Now, this Court Reporter is going to be kind enough to
24 give you the next one.

25 COURT REPORTER: Which is this, sir?

BURKE COURT REPORTING, LLC
1044 Route 23 North, Suite 316
Wayne, New Jersey 07470
(973) 692-0660

1 THE WITNESS: These two go together, yeah. This should
2 be stapled.

3 COURT REPORTER: I have that as 51 and 52. What is it?

4 HEARING OFFICER DAVIS: 49.

5 MR. CATALANO: This is 49?

6 JUDGE ESPOSITO: Let's go off the record.

7 (Discussion off the record.)

8 HEARING OFFICER DAVIS: On the record.

9 Counsel identified Employer 48 as consisting of three
10 pages. The second page of that document again,
11 "Congratulations on your employment," and the third page of the
12 document has The New School as Employer information and
13 employee information is the third page, notice of
14 acknowledgment of pay rate and pay date. So those three pages
15 comprise Employer 48, is that correct?

16 MR. CATALANO: Yes, sir.

17 HEARING OFFICER DAVIS: And there's no objection to
18 those?

19 MR. MEIKLEJOHN: There's no objection.

20 HEARING OFFICER DAVIS: Okay. So Employer 48 has been
21 admitted and is admitted, etc.

22 So Employer 49 is entitled Research Assistant Job
23 Description, is that correct?

24 MR. CATALANO: Yes, sir.

25 (Employer's Exhibit 49 identified.)

1 BY MR. CATALANO:

2 Q. So can you advise us with 49, Dr. Breidenbach, what is
3 that document?

4 A. This is a job description for a Research Assistant
5 specific to the School of Media Studies.

6 MR. CATALANO: I offer it.

7 HEARING OFFICER DAVIS: Any objection?

8 VOIR DIRE EXAMINATION

9 BY MR. MEIKLEJOHN:

10 Q. What makes this specific to this School of Media Studies?

11 Q. So the School of Media Studies has created a pool of money
12 to be able to provide financial aid to students and provide
13 additional support to faculty outside of the Provost Office
14 Student Assistance Fund. So the Provost Office has a large
15 pool of money that they make available for faculty to apply to
16 be able to appoint Research Assistants. Media Studies created
17 its own separate additional pool of fund.

18 MR. MEIKLEJOHN: No objection.

19 HEARING OFFICER DAVIS: Employer 49 is admitted.

20 (Employer's Exhibit 49 received.)

21 BY MR. CATALANO:

22 Q. And there is an additional document called Samples of Job
23 Descriptions, which we can number 49 if the Court Reporter --

24 HEARING OFFICER DAVIS: 50.

25 MR. CATALANO: It's called 50? Okay, pardon me, 50 and

1 the document -- 50.

2 (Employer's Exhibit 50 identified.)

3 BY MR. CATALANO:

4 Q. Can you tell us what this pertains to, Dr. Breidenbach?

5 A. So these are several Research Assistant descriptions
6 prepared by the Milano School seeking Research Assistants to
7 work with specific faculty. So for instance, sample of
8 Research Assistant job description for Ana Baptista is a
9 faculty member in the Sustained Ability Management Master's
10 Program.

11 Q. I see. That's at the top of Number 50, the first sample
12 of Research Assistant job description for Ana Baptista.

13 A. Yes.

14 Q. Close paren.

15 MR. CATALANO: I offer it.

16 MR. MEIKLEJOHN: Could I just ask about the second page?

17 HEARING OFFICER DAVIS: Sure.

18 VOIR DIRE EXAMINATION

19 BY MR. MEIKLEJOHN:

20 Q. The job listed Sample Graduate Assistant job description
21 Urban Policy Rep, is that an RA job or is that a --

22 A. No.

23 Q. -- job?

24 A. That's what it looks like, yes.

25 Q. But the other one, two, three, four -- the first four

1 positions listed are those all the kind of work that a Research
2 Assistant would be assigned?

3 A. I think that second one is a little unusual. That seems
4 more like working with a program. The graduate assistant
5 needed to work in collaboration with persons in research
6 existing initiatives at The New School directed and addressing
7 the issues of climate change and divest -- that sounds more
8 like a Research Assistant who would be supporting some program
9 initiative. I think that's unusual.

10 Q. The others are more typical?

11 A. The first one is probably most typical and the third one.

12 MR. MEIKLEJOHN: I have no objection.

13 HEARING OFFICER DAVIS: Okay, Employer 50 is admitted.

14 (Employer's Exhibit 50 received.)

15 BY MR. CATALANO:

16 Q. Is the Research Assistantship ordinarily available on a
17 discreet basis, whether it be a semester, a month, an academic
18 year? What is your experience?

19 A. I think most Research Assistants are appointed on a year.

20 Q. Do you know whether there are such appointments on less
21 than an academic year basis?

22 A. Yes, particularly in Media Studies. Those Research
23 Assistants are only for the semester.

24 Q. Okay. And can you tell us what the rationale has been for
25 the University to create Research Assistantships?

1 A. To provide financial aid to students and to provide
2 students the opportunity to work very closely with a faculty
3 member to really explore the material that they're going to use
4 in the degree program in great depth to learn how to develop
5 the research skills necessary in that particular field and to
6 enhance their overall education.

7 Q. The document dated July 7, 2014, it's an e-mail. It's
8 called at the top Student Assistance Fund Notification. Can
9 you take a look at that, please, marked as 51?

10 (Employer's Exhibit 51 identified.)

11 A. So this is an e-mail forwarding the notification that this
12 professor received that she was awarded student assistance to
13 appoint a Research Assistant and this is particular Professor
14 Shannon Mattern. She is forwarding the notification to a
15 person in my office who will set up her automated account to
16 receive the stipend payments.

17 MR. CATALANO: I offer it.

18 MR. MEIKLEJOHN: I do have some questions to try to
19 clarify this one.

20 VOIR DIRE EXAMINATION

21 BY MR. MEIKLEJOHN:

22 Q. So the person in your office that you're referring to is -
23 -

24 A. Cecilia Endirk.

25 Q. Cecilia Ponte?

1 A. Yes. Actually, let me be totally clear. Cecilia Ponte is
2 Director of Faculty Affairs who notifies the faculty that
3 they've received the award. Then up at the top when it says
4 Hello, Cecilia Endirk, Cecilia Dirk is the one who processes
5 the paperwork for the RA.

6 Q. And Shannon Mattern is a faculty member?

7 A. Yes.

8 Q. Who is --

9 A. She is a Professor in Media Studies.

10 MR. MEIKLEJOHN: No objection.

11 HEARING OFFICER DAVIS: Employer 51 is admitted.

12 (Employer's Exhibit 51 received.)

13 BY MR. CATALANO:

14 Q. Now, are there Course Assistants at NSPE?

15 A. Yes.

16 Q. And tell us -- can you tell us whether there are any
17 gradations in experience and/or education between TF's, TA's
18 and Course Assistants in your experience at NSPE?

19 A. NSPE does have -- there's basically, if you think about
20 what a Course Assistant does versus a TA versus a TF, it's
21 essentially a continuum where the Teaching Fellow has the
22 greatest direct teaching responsibility. The Teaching Fellow
23 is managing his or her own class in collaboration with the
24 Program Chair.

25 A TA is most typically managing a part of a class, very

1 often a discussion section and working very closely with the
2 full-time faculty of record who is -- who has general oversight
3 of the entire class.

4 A Course Assistant is not teaching her own section working
5 very closely with the faculty member and the students in the
6 class to support the students' learning, very often meeting the
7 students outside of class. If it's an online class working
8 with students who are having difficulty with the online
9 environment. They may also do some other assistance in the
10 course such as photocopying, doing equipment setup, showing
11 students how to use equipment, demonstrating equipment.

12 Q. And what is the intendment -- what's the reason why Course
13 Assistantships are available to graduate students?

14 A. In order to provide financial aid for students and to
15 provide opportunities for students to be able to learn how to
16 explain material effectively and to learn the material that
17 they're learning in their own degree program in greater depth.

18 Q. If those two missions were not intended by the University
19 to be served would you need Course Assistants or could you go
20 out and get other -- get employees to do so?

21 A. We could, but we might not do so.

22 Q. Okay. And whom does the Course Assistant interact with?

23 A. The faculty member who's teaching the class and the
24 students in that class.

25 Q. And need there be some training or education for the

1 Course Assistant before he or she assumes the role?

2 A. My recollection is that Course Assistants with a couple of
3 exceptions, there's no specific training. They work directly
4 with the faculty member who communicates their expectations for
5 what -- how the Course Assistant will support the course.

6 Q. And how do they get their financial aid, Course
7 Assistants?

8 A. They receive a stipend.

9 Q. And is it a fixed amount?

10 A. Yes.

11 Q. Now, there is something characterizing as Course Assistant
12 Job Description. Would you mind looking at that and identify
13 it for the record?

14 A. This is again specific to Media Studies, their description
15 of what the responsibilities of a Course Assistant would be.

16 Q. And then there is a subsequent document within greater
17 length which is characterized as School of Media Studies
18 Student Course Assistantship. Identify that.

19 A. This is the call for applications to be a Student
20 Assistant -- I mean a Course Assistant.

21 MR. CATALANO: Okay, I offer both of them.

22 VOIR DIRE EXAMINATION

23 BY MR. MEIKLEJOHN:

24 Q. If you could look at Exhibit 53, the Course
25 Assistantships, on the second page it talks about some other

1 positions, Technical Assistants and Teaching Assistants.

2 A. The Teaching Assistant is the one, when I was describing
3 the training, the Teaching Assistants are the exception. They
4 do receive some additional orientation and training in order to
5 support this particular course.

6 Q. Okay, so this is different from our regular Teaching
7 Assistant that we talked about?

8 A. Yes, this is specific to Media Studies understanding -
9 because only Media Studies students are eligible to be TA's.

10 MR. MEIKLEJOHN: I have no objection to the document.

11 HEARING OFFICER DAVIS: Okay, Employer 52 and 53 are
12 admitted.

13 (Employer's Exhibits 52 and 53 identified and received.)

14 HEARING OFFICER DAVIS: I do have a question just to
15 clarify the record.

16 You testified, I believe, that Course Assistants work
17 closely or work with the faculty member. By faculty member are
18 you referring to --

19 THE WITNESS: No, I'm referring to the full-time or part-
20 time faculty member who is assigned to teach that course.

21 HEARING OFFICER DAVIS: Okay, thank you.

22 BY MR. CATALANO:

23 Q. Is there any expectation advised by a faculty member to or
24 an administrator to the Course Assistant that he or she expects
25 in his or her role as a Course Assistant?

1 A. No, the appointment is for one semester.

2 Q. And to your knowledge is there a need to "reapply" or to
3 take some other steps in order to assume the position again?

4 A. Yes, the student would have to reapply.

5 Q. And can you tell us whether there are "tutors" at NSPE?

6 A. Yes.

7 Q. Tutor. And how many are there approximately in this
8 semester?

9 A. I think there are around 15 to 20. A tutor works one-on-
10 one with an individual student.

11 Q. And --

12 HEARING OFFICER DAVIS: Let's go off the record.

13 (Off the record.)

14 HEARING OFFICER DAVIS: On the record.

15 BY MR. CATALANO:

16 Q. There's a Course Assistantship document before we go on to
17 tutors which I'm reminded that I pre-marked and that happens to
18 be the one that Mr. Meiklejohn took.

19 MR. MEIKLEJOHN: Ohh, did I?

20 BY MR. CATALANO:

21 Q. Can you identify that?

22 A. Yes, this is the Media Studies process for accepting
23 applications and appointing the Course Assistants in Media
24 Studies.

25 MR. CATALANO: I offer it.

1 MR. MEIKLEJOHN: No objection.

2 HEARING OFFICER DAVIS: Employer 54 is admitted.

3 (Employer's Exhibit 54 identified and received.)

4 (Employer's Exhibit 55 identified.)

5 BY MR. CATALANO:

6 Q. Take a look at Paragraph 5, the first line. "Andrea and
7 Tracy work with students and faculty to successfully determine
8 the best match for a course." Can you advise us as to whether
9 or not that has any connection with the desire of the
10 University to have this serve as a learning technique?

11 A. Yes. I mean it's very important to ensure that a student
12 who would be working as a Course Assistant in a particular
13 course has the necessary tools and that it will be beneficial
14 for the student to be able to be participating as a Course
15 Assistant so that it's valuable for the student who is selected
16 as a Course Assistant.

17 Q. Not only with the faculty member, but the student --

18 A. The students in the class, yes.

19 Q. -- in that course.

20 A. Yes. As with all teaching, the idea is to be able to
21 develop greater knowledge of the areas that you're studying and
22 to learn how to communicate that information.

23 Q. And we just started to segway into the issue of tutors and
24 whether there are such individuals at NSPE and I think you said
25 there are approximately 15 of them. And if so, if my

1 recollection is correct, can you tell us what they do? I know
2 you've touched upon it.

3 A. We appoint tutors in foreign languages and English as a
4 second language to work directly with students who are
5 struggling in those classes.

6 Q. And what's the purpose of the University in establishing
7 these tutor positions for graduate students?

8 A. Provides an additional form of support and also provides
9 additional support to the undergraduate students.

10 Q. And does the University and have you been part of the
11 discussion as to whether this is helpful to the attainment of a
12 degree by the tutor?

13 A. Typically being able to communicate, helping students
14 learn, understanding different learning styles, understanding
15 how you can help a student develop greater knowledge and deepen
16 their skills is something that is valuable for any graduate
17 student.

18 Q. And who -- with whom does the tutor interact as far as
19 receiving guidance, if any, or mentoring?

20 A. It would be the Chair of Foreign Languages or of English,
21 English as a second language.

22 Q. And do they receive any form of financial aid while
23 serving in that role?

24 A. Yes.

25 Q. And what is that?

1 A. They receive a stipend.

2 Q. And is that a fixed amount?

3 A. I believe so.

4 Q. And do they -- is there a call or an opportunity to obtain
5 these positions that is set forth in writing?

6 A. Yes.

7 Q. And in that regard, I would refer to Exhibit -- if I'm not
8 mistaken -- well, I don't want to --

9 HEARING OFFICER DAVIS: 55.

10 MR. CATALANO: Thank you.

11 (Employer's Exhibit 55 identified.)

12 BY MR. CATALANO:

13 Q. Is that the process to obtain such a position?

14 A. Yes.

15 MR. CATALANO: Okay, I offer it.

16 MR. MEIKLEJOHN: No objection.

17 HEARING OFFICER DAVIS: It's admitted.

18 (Employer's Exhibit 55 received.)

19 BY MR. CATALANO:

20 Q. And is there a job description of Foreign Language that's
21 disseminated by NSPE?

22 A. Yes.

23 Q. If you wouldn't mind taking a look at it?

24 A. Okay.

25 MR. CATALANO: I offer it.

1 HEARING OFFICER DAVIS: The document is entitled Foreign
2 Language Tutoring Job Description.

3 MR. CATALANO: And that one as well.

4 HEARING OFFICER DAVIS: 56.

5 MR. MEIKLEJOHN: And did she identify it?

6 THE WITNESS: Yes.

7 MR. MEIKLEJOHN: Okay, I have no objection.

8 HEARING OFFICER DAVIS: Employer's 56 is admitted.

9 (Employer's Exhibit 56 identified and received.)

10 BY MR. CATALANO:

11 Q. Now, in the establishment of these various graduate
12 positions can you tell us whether, based on your length of
13 service with The New School, whether the amount of financial
14 aid has increased to graduate students over the years by the
15 creation of these positions?

16 A. The amount available for aid to graduate students has
17 increased substantially. The Provost Office made a de-
18 commitment a number of years ago to establish various ways in
19 which we can provide additional to graduate students, various
20 opportunities that also allow them to -- opportunities to be
21 more meaningful for their degree programs.

22 MR. CATALANO: I have nothing else.

23 MR. MEIKLEJOHN: Could we have a break?

24 HEARING OFFICER DAVIS: Yes. Five minutes, ten minutes?

25 Okay, it's 12 minutes to 11:00. Let's resume at 11:00.

1 (Whereupon, a recess was taken from 10:48 a.m. to 11:11 a.m.)

2 HEARING OFFICER DAVIS: On the record.

3 CROSS EXAMINATION

4 BY MR. MEIKLEJOHN:

5 Q. Good morning, Ms. Breidenbach. You understand that I
6 represent the Petitioner in this case?

7 A. Yes.

8 Q. And you do understand that you have to answer verbally to
9 my questions?

10 A. Yes.

11 Q. You indicated that for all of the job classifications that
12 you described that the students in those classifications are --
13 receive the same pay regardless of the number of hours they
14 work in a given week?

15 A. Yes.

16 Q. Could you take a look at Employer Exhibit 56?

17 A. Yep.

18 Q. That's the Foreign Language tutor job description?

19 A. Yes.

20 Q. And I would draw your attention to the section at the
21 bottom of the page labeled Salary and Scheduling?

22 A. Yup.

23 Q. And what does that indicate as the pay rate for tutors?

24 A. Pay rate is \$17 an hour.

25 Q. And isn't it the case that tutors are required to fill out

1 time sheets reflecting their hours worked in order to be paid?

2 A. That's what it looks like.

3 Q. If you take a look at Exhibit 55 and turn to the second
4 page, the part -- I guess Part 11, Time Sheets, it indicates
5 that tutors are required to fill out time sheets in order to
6 get paid for the time they work.

7 A. Um-hum.

8 Q. So is it in fact the case that tutors are paid on an
9 hourly basis?

10 A. It would appear to be, yes.

11 Q. And isn't it also true that Course Assistants are paid on
12 an hourly basis?

13 A. I don't think so.

14 Q. It's somewhere. We'll find out, maybe not today.

15 Are there -- or do you know are there instances in which
16 Course Assistants are assigned to assist with or to run
17 sections for the larger classes?

18 A. To my knowledge, no. Those would be TA's.

19 Q. Are the TA's intended to or expected to attend lectures as
20 well as run their sections?

21 A. Very often.

22 Q. That's up to the faculty member?

23 A. I believe so.

24 Q. If you could look at Exhibit 38 are the duties described
25 there typical of the duty -- you testified that this job

1 description is specific to Milano?

2 A. Media Studies.

3 Q. Media Studies, I'm sorry, yeah. Is this -- are these
4 duties typical of the duties performed by Teaching Assistants
5 throughout the school?

6 A. I think so.

7 Q. To the best of your knowledge?

8 A. Yes.

9 Q. Now, in order for -- well, strike that.

10 The responsibility for reading and grading a percentage of
11 the assigned course work, do you see that?

12 A. Um-hum.

13 Q. That refers to the course assignments written by or
14 prepared by the undergraduate students taking the class?

15 A. Reading and grading a percentage of the assigned course
16 work would be course work that the undergraduates in the class
17 are doing, yes.

18 Q. And it's part of the expectation of the undergraduate
19 students who are paying -- whether they're paying tuition or
20 not, I suppose, that they would get grades on their course
21 work, correct?

22 A. Yes.

23 Q. So the Teaching Assistants are fulfilling the school's
24 obligations to the undergraduates in helping with the grading,
25 correct?

1 A. Yes.

2 Q. And they, the Teaching Assistant also makes themselves
3 available to the students for -- to provide individual academic
4 assistance?

5 A. Yes.

6 Q. And that is -- one of the purposes of that is to enable
7 the undergraduate students to succeed in their education?

8 A. Yes.

9 Q. Now, you describe the role of the Provost or the Provost
10 Office, I guess the Provost personally probably doesn't do too
11 much of that, but you described the role the Provost in filling
12 positions at Teaching Assistant positions. How do you know
13 what the Provost Office is doing in this process?

14 A. Because I work very closely with the Adrian Marcus and
15 Carolyn Kaminsky previously who does that work in the Provost
16 Office.

17 Q. And --

18 A. The process is actually reviewed by the Divisional
19 Associate Deans when the Teaching Fellow and Teaching
20 Assistantship process was created, so it was developed
21 collaboratively.

22 Q. And are you also familiar with the role they play in
23 filling Teaching Fellowships?

24 A. Yes.

25 Q. And what role does the Provost Office play in filling

1 Fellowship positions?

2 A. They solicit the needs of the programs for the courses
3 that they would like to be offering that they believe Teaching
4 Fellows would be appropriate for. They make that information
5 available to graduate students across the University. They
6 receive applications from graduate students and they
7 disseminate those applications to the Program Chairs.

8 Q. So essentially the same things they do for the Teaching
9 Assistant?

10 A. Yes.

11 Q. The other thing is even though it's really obvious what my
12 question's going to be, if you can wait till I finish asking it
13 so the record will be more clear, the typed record so we're not
14 talking at the same time?

15 You said they disseminate the positions to the University
16 Committee? I didn't get the phrase exactly right, but the
17 Provost Office lets the graduate students know about the
18 openings, correct?

19 A. Yes.

20 Q. Both for TA's and Teaching Fellowships?

21 A. Yes.

22 Q. And you say one of the things they do that is through a
23 University portal?

24 A. Yes.

25 Q. In fact, isn't it the case that the Provost Office also

- 1 posts Teaching Fellowships and Teach Assistant jobs on job
2 websites such as Monster.com?
- 3 A. I'm not aware of that.
- 4 Q. So you know that they publicize these jobs, correct?
- 5 A. Yes.
- 6 Q. And you know that they publicize these jobs through a
7 University website of some sort?
- 8 A. Yes.
- 9 Q. That's available to all students, presumably?
- 10 A. Yes.
- 11 Q. But you don't know whether they go outside of the
12 University system to publicize the jobs?
- 13 A. I do not.
- 14 Q. Could you turn to Employer Exhibit 39, please? This is
15 the standard form letter sent by the Provost Office to students
16 selected for Teaching Assistant positions?
- 17 A. Yes.
- 18 Q. And after the introductory paragraph is a series of bullet
19 points, the first one of which is your compensation?
- 20 A. Yes.
- 21 Q. And that refers to the stipend that the Teaching
22 Assistants receive?
- 23 A. Yes.
- 24 Q. And that's compensation for performing the duties of a
25 Teaching Assistant, correct?

1 A. Yes.

2 Q. And the supervising faculty member would be the individual
3 responsible for ensuring that the TA performs the duties that
4 are required to fulfill the obligations of a TA?

5 A. Yes.

6 Q. Now, you testified that there were no pay for Teaching
7 Assistants doesn't vary according to the number of hours worked
8 in a week?

9 A. Correct.

10 Q. But in determining the stipend for a particular position
11 one of the factors that's taken into consideration is that
12 fourth bullet point, the average number of hours each week that
13 the individual be expected to work as a teaching assistant?

14 MR. CATALANO: Objection.

15 BY MR. MEIKLEJOHN:

16 Q Is that correct?

17 HEARING OFFICER DAVIS: Hold on. What's the objection?

18 MR. CATALANO: If he's asking him to read what's set
19 forth in writing, no need to do so.

20 HEARING OFFICER DAVIS: Overruled.

21 THE WITNESS: Can you ask the question again, please?

22 BY MR. MEIKLEJOHN:

23 Q. Is the average number of hours per week that a Teaching
24 Assistant is expected to perform the duties of that position a
25 factor taken into consideration in determining the compensation

1 for the position?

2 A. No. I presume what that bullet point means is that a
3 faculty member is going to meet with his TA and say here are
4 the things you're going to be doing as part of this course.
5 This is about how much time you can expect to be spending on
6 this thing or that thing. That's the way I interpret that
7 bullet.

8 Q. And it may vary from week-to-week?

9 A. Yeah.

10 Q. But when the TA is selected for that position, the TA is
11 informed of how many hours he or she is expected to devote to
12 fulfilling the duties of the position, correct?

13 A. Yeah.

14 Q. Okay. The TA's and other classification who are paid on a
15 stipend basis are paid biweekly, is that correct?

16 A. Yes.

17 Q. And are faculty also paid biweekly?

18 A. Yes.

19 Q. And students are -- student employees are paid on Fridays,
20 correct?

21 A. Yeah.

22 Q. And you're also paid on Fridays?

23 A. Yes.

24 Q. You meaning faculty members.

25 A. (No oral response.)

1 HEARING OFFICER DAVIS: is that yes?

2 THE WITNESS: Yes.

3 BY MR. MEIKLEJOHN:

4 Q. And does the work that you do in a given week vary from
5 week-to-week?

6 A. Yes.

7 Q. Sometimes you get stuck spending hours in some silly
8 hearing testifying about -- strike that. You don't have to
9 answer that.

10 Does the amount that you get paid vary depending on how
11 many hours you put in in a given biweekly period?

12 A. No.

13 Q. If you could look at Employer Exhibit 40? This is the
14 agenda I think was the word you used for the Introduction to
15 Teaching Workshop for newly appointed TA's and Teaching
16 Fellows.

17 A. Yes.

18 Q. Is the purpose of these items that the students are
19 taught, is it to train the students or teach the student --
20 strike that. Let me rephrase -- let me withdraw that and try
21 to rephrase it more articulately.

22 Is the purpose of the items in this agenda to prepare the
23 Teaching Assistants and Teaching Fellows to do a better job in
24 those positions?

25 A. It's to assist them in developing the skills and

1 understanding that they're going to need to be successful, yes.

2 Q. And by be successful you mean do an effective job of
3 teaching the undergraduates in their classes?

4 A. I would say for them to have a good experience as a TA or
5 a Teaching Fellow.

6 Q. So they would benefit from doing the -- from getting this
7 training, correct?

8 A. Yes.

9 Q. Are there benefits to the undergraduates of having
10 Teaching Assistants and Teaching Fellows who have been trained?

11 A. If they're trained well, yes.

12 Q. And the idea at least, the hope is that these programs
13 described in 40 and 41 will do a good job of preparing the
14 Teaching Assistants and Teaching Fellows.

15 A. I would say that training is probably not the right word
16 because it's an ongoing process of developing, you know getting
17 started the first day of class, learning how to think about the
18 material that they'll be presenting and how they'll be
19 communicating that and helping students learn that material,
20 yes.

21 Q. When you refer to an ongoing process, maybe this isn't
22 where you were going, but the philosophy of the -- I guess one
23 of the philosophies of The New School is that learning is a
24 lifetime process?

25 A. Yes.

1 Q. And that philosophy applies, I guess, to continuing
2 education students, obviously, but is it also applied to
3 faculty members?

4 A. Yes.

5 Q. And so the hope is that as and the expectation is that as
6 a faculty member's career continues that she or he also
7 continues to learn and also continues to become a more
8 effective teacher?

9 A. Yes.

10 Q. Are there pedagogy workshops provided for adjunct faculty
11 or regular tenured faculty?

12 A. Sometimes.

13 Q. Under what circumstances if you know?

14 A. Speaking just for my Division, we ran a few pedagogy
15 workshops a couple of years ago about assessment and thinking
16 about the syllabus.

17 Q. And who participated in those workshops, not by name, but
18 by category?

19 A. Some part-time faculty, some full-time faculty.

20 Q. And Teaching Assistants or Teaching Fellows participate in
21 that?

22 A. No, there were only four people.

23 Q. Pardon?

24 A. There were only four people.

25 Q. It didn't -- you didn't get the attendance you were

1 looking for.

2 A. Yes.

3 Q. You need to push harder for people to go. Could you take
4 a look at Exhibit 42? If you take a look at the third
5 paragraph, it states, "The work of the Teaching Assistants is
6 vital to the success of the students in their Riggio Honors
7 Program," and it goes on to explain how. Do the Teaching
8 Assistants also play a role in the success of other classrooms
9 that they work in?

10 A. Yes.

11 Q. You testified that students appointed in almost all of the
12 categories, Teaching Assistants, Teaching Fellows, Research
13 Assistants and Course Assistants anyway are normally appointed
14 on a -- for a one-semester basis?

15 A. Yes.

16 Q. And then if they want to continue to provide those
17 services for another semester they have to reapply?

18 HEARING OFFICER DAVIS: Is that yes?

19 THE WITNESS: I'm thinking. I believe it's an annual
20 application process so unless for some reason they were
21 specifically selected to be one of those categories in both the
22 Fall and the Spring, I believe they would then have to wait
23 until the following year.

24 BY MR. MEIKLEJOHN:

25 Q. Well, we have some payroll records anyway showing -- is it

1 -- do you know, is it common for, whatever the frequency is, is
2 it common for students to reapply for Teaching Assistant and
3 Teaching Fellow, etc., positions?

4 A. I believe so, yes.

5 Q. And are you familiar with the criteria that are used in
6 deciding whether someone will be appointed for more than one
7 semester?

8 A. No.

9 Q. Do you know whether one of the considerations is whether
10 the individual did a good job in the previous assignment?

11 A. No, I don't know.

12 Q. In describing the selection process for Teaching
13 Assistants and Teaching Fellows you indicated that one of the
14 stages of the process is an interview process?

15 A. Yes.

16 Q. And the purpose of that interview process is to determine
17 the individual's qualifications for the position?

18 A. The appropriateness to the particular course.

19 Q. And when you say appropriateness you mean whether they're
20 qualified to handle the responsibilities?

21 A. Well, if they have the relevant knowledge and it's going
22 to be a benefit, yeah.

23 Q. When you say relevant knowledge, you mean whether they're
24 adequately familiar with the subject matter of the class?

25 A. Yes.

1 Q. So that they can communicate that knowledge to the
2 students?

3 A. Yes.

4 Q. Are there other qualifications that you would look for in
5 selecting a Teaching Assistant or Teaching Fellow?

6 A. I believe there's a minimum GPA requirement.

7 Q. You still have Exhibit 42 in front of you?

8 A. No.

9 (Whereupon, a document is handed to the witness.)

10 MR. MEIKLEJOHN: Never mind, I'm not going to ask that
11 question.

12 BY MR. MEIKLEJOHN:

13 Q. Hang on to it. I want to see if you can answer this
14 question. If you look at Exhibit 42, it indicates that this TA
15 would be paid a total of \$4,500 for the Spring semester?

16 A. Yes.

17 Q. And if you look at Exhibit 46 it indicates that the
18 Teaching Fellow -- somewhere I saw this -- I could swear I saw
19 it in here somewhere that the Teaching Fellow is going to be
20 paid \$5,500. That's on the second page of Exhibit 46?

21 A. Yes.

22 Q. Can you explain why the compensation, if you know why the
23 compensation for the Teaching Fellowship is higher than the
24 compensation for the Teaching Assistant in the Riggio Program?

25 A. I don't know how this rate was established.

1 Q. Does the Teaching Fellowship position require more
2 responsibility than a Teaching Assistantship?

3 A. If you think that in terms of teaching a standalone class
4 versus working more directly with a faculty member, yes.

5 Q. Do you know whether that's a factor in determining the
6 compensation?

7 A. I do not.

8 Q. Do you know generally how stipend amounts are set?

9 A. No.

10 Q. So a number of times you've said that the compensation
11 paid to these individuals who fulfill these responsibilities is
12 intended as financial aid.

13 A. Yes.

14 Q. By financial aid do you mean that it's intended to enable
15 the students to pay their bills while they're students at The
16 New School?

17 A. Yes.

18 Q. Do you get -- well, I think we've established that you get
19 paid for your position?

20 A. Yes.

21 Q. And do you use the pay that you receive to pay your bills?

22 A. Yes.

23 Q. You testified that the -- withdraw that.

24 MR. MEIKLEJOHN: Could we go off the record for a second?

25 HEARING OFFICER DAVIS: Off the record.

1 (Off the record.)

2 HEARING OFFICER DAVIS: On the record.

3 BY MR. MEIKLEJOHN:

4 Q. Could you take a look at Exhibit 53? Do you have 53?

5 A. Yes.

6 Q. The Course Assistant and -- on the second page, I'm sorry,
7 Page 2 of 4, it says that the Course Assistant and the
8 Technical Assistant are compensated at the rate of \$1,500 for
9 the semester for an average of or approximately eight hours per
10 week.

11 A. Yes.

12 Q. Do you see that?

13 A. Yes.

14 Q. And the Teaching Assistants for Understands Media Studies
15 is \$2,000 for eight to ten hours per week?

16 A. Yes.

17 Q. Do you know whether that difference in compensation
18 reflects the difference in expected hours?

19 A. I assume so.

20 Q. And if you look at Technical Assistants -- Technical
21 Assistant, first of all do you know if the Technical Assistant
22 classified for payroll purposes, if you know, as either a
23 Course Assistant or a Teaching Assistant?

24 A. They would not be.

25 Q. That's a separate classification?

1 A. Yes.

2 Q. And what -- can you describe in as much detail as you know
3 what the Technical Assistant does?

4 A. I only know what's here.

5 Q. Okay. Do you know whether the duties of the Technical
6 Assistants are teaching or instruction related?

7 A. As I say, I only know what's here.

8 Q. Okay. All right. If you could go back to Exhibit 51 and
9 that's the letter from Cecilia Ponte about the amount of
10 interest in the funding. It says, the third line from the
11 bottom of the body of the letter from Cecilia Ponte it says,
12 "All funding requests will be proportionately awarded. 89 is
13 more than five percent." Can you explain?

14 A. I don't know what that 89 is more than five percent is.
15 What happens is if more faculty apply then this -- faculty are
16 eligible to apply for up to \$5,100 in funds for Research
17 Assistants. If more apply than would allow that to be
18 distributed, the amount available to the faculty is reduced
19 across the board.

20 Q. So that's some kind of a reduction formula?

21 A. Yeah.

22 Q. Okay. And you don't understand --

23 A. Looks like a typo to me, frankly.

24 Q. So they would get a smaller sum of money than \$5,100?

25 A. Correct.

1 Q. And does that mean that the Research Assistants would be
2 expected to work fewer hours than they might otherwise?

3 A. I do not know.

4 Q. Do you know what a website called Higher Ed Jobs is?

5 A. I've heard of it.

6 Q. What is it? I'm not asking whether you've been going
7 there personally.

8 A. My understanding is it's a website where you can post
9 positions in -- available in higher education.

10 Q. And it's generally available through the Internet?

11 A. Yeah.

12 MR. MEIKLEJOHN: Can we go off the record one more time?

13 HEARING OFFICER DAVIS: Off the record.

14 (Off the record.)

15 HEARING OFFICER DAVIS: On the record. I'm lost with
16 Petitioner's exhibits.

17 MR. MEIKLEJOHN: I know. I'm waiting for someone to tell
18 me.

19 HEARING OFFICER DAVIS: I think the last one I have is
20 14.

21 MR. MEIKLEJOHN: 15 is next?

22 MS. ROTHGEB: Correct.

23 MR. MEIKLEJOHN: Okay. Could I have this marked as
24 Petitioner's 15, please?

25 (Petitioner's Exhibit 15 identified.)

1 MR. MEIKLEJOHN: May I approach the witness?

2 HEARING OFFICER DAVIS: Yes.

3 BY MR. MEIKLEJOHN:

4 Q. Could you take a look at Petitioner's Exhibit 15, please?
5 Do you recognize Petitioner's Exhibit 15 as a letter or is it a
6 communication that is sent by The New School Media Studies
7 Program Manager to an individual selected for a position as a -
8 - I'm sorry -- Technical Assistant?

9 A. Yes.

10 MR. MEIKLEJOHN: I tried to pick the best one, but I will
11 -- I'm not sure we're seeking Technical Assistants, but I'll
12 move the introduction of Petitioner's Exhibit 15.

13 HEARING OFFICER DAVIS: Any objection?

14 MR. CATALANO: No. I do have a question. I had this
15 before, so this is a good time to ask it.

16 Do you know how many Technical Assistants there are?

17 THE WITNESS: No.

18 MR. CATALANO: Thank you.

19 MR. MEIKLEJOHN: I didn't hear the -- the answer was no?

20 THE WITNESS: I said no.

21 (Petitioner's Exhibit 15 received.)

22 MR. MEIKLEJOHN: So let me have this one marked as 16.

23 (Petitioner's Exhibit 16 identified.)

24 MR. MEIKLEJOHN: If I didn't --

25 HEARING OFFICER DAVIS: 15 is admitted.

1 MR. MEIKLEJOHN: I'm sorry.

2 BY MR. MEIKLEJOHN:

3 Q. Have you had an opportunity to review Petitioner's Exhibit
4 16?

5 A. Yes.

6 Q. And do you recognize that as a communication sent by the
7 Program Manager to the School of Media Studies to an individual
8 selected as a Research Assistant?

9 A. Yes.

10 MR. MEIKLEJOHN: I move Petitioner's 16.

11 MR. CATALANO: No objection.

12 HEARING OFFICER DAVIS: Petitioner's 16 is admitted.

13 (Petitioner's Exhibit 16 received.)

14 MR. MEIKLEJOHN: Do you mind if I use the highlighted
15 one?

16 HEARING OFFICER DAVIS: No.

17 MR. MEIKLEJOHN: And then I can substitute a clean one.

18 HEARING OFFICER DAVIS: This will be marked as
19 Petitioner's Exhibit 17.

20 (Petitioner's Exhibit 17 identified.)

21 BY MR. MEIKLEJOHN:

22 Q. Do you have Petitioner's Exhibit 17 now?

23 A. Yes.

24 Q. And have you had a chance to review it?

25 A. Yes.

1 Q. Do you recognize that as a communication sent by the same
2 individual to a student selected for a position as a Course
3 Assistant?

4 A. Yes.

5 MR. MEIKLEJOHN: I move Petitioner's 17.

6 MR. CATALANO: No objection.

7 HEARING OFFICER DAVIS: Petitioner's 17 is admitted.

8 (Petitioner's Exhibit 17 received.)

9 MR. MEIKLEJOHN: I believe that's all I have. Could I
10 just have a moment?

11 HEARING OFFICER DAVIS: Sure.

12 (Pause.)

13 MR. MEIKLEJOHN: Okay. Yes, one other area, if I could,
14 please?

15 HEARING OFFICER DAVIS: Sure.

16 BY MR. MEIKLEJOHN:

17 Q. Do you know if there are individuals at The New School for
18 Public Engagement who are paid in the classification of Student
19 Assistants?

20 A. Yes.

21 Q. Do you know, are they in Categories 1, 2, and 3 or -- if
22 you know?

23 A. I don't understand the question.

24 Q. Well, we've seen some documents earlier that indicates
25 that there are as classifications Student Assistant 1, Student

1 Assistant 2, and Student Assistant 3.

2 A. I see. Yes.

3 Q. Do you know which classifications are in use for students
4 at The New School for Public Engagement? Did I get the name
5 right?

6 A. Yeah. I'm just not understanding the question. I'm sure
7 we have Student Assistants 1 and 2 and 3, if that's what you're
8 asking.

9 Q. And do you know what the student -- what type of services
10 the students classified as Student Assistants perform?

11 A. Work.

12 Q. Pardon? They do work?

13 A. They are office assistants, they are program assistants,
14 they answer telephones, they do photocopying.

15 Q. What does a program assistant do?

16 A. Could be answering phones, could be doing maybe updating
17 the website.

18 Q. Well, it's performing administrative functions?

19 A. Yes. Thank you, yes.

20 Q. And do you know whether Student Assistant 3's perform that
21 same kind of work or do they --

22 A. I'm not familiar enough with the categories off the top of
23 my head to really answer.

24 Q. Do you know what -- I'm sorry. Do you know whether any
25 student assistants provide teaching or research services?

1 A. They would not.

2 MR. MEIKLEJOHN: Thank you. I have no further questions.

3 MR. CATALANO: Nor do I.

4 HEARING OFFICER DAVIS: Okay, great. You're dismissed.

5 THE WITNESS: Okay.

6 (Witness excused.)

7 MR. MEIKLEJOHN: And just so that it's clear, you are
8 still free to go. I'm not trying to keep you here. In an
9 earlier session, I think the second day of the hearing, we had
10 indicated we're seeking Student Assistants 3 at the Parsons
11 School because there was testimony that they perform research
12 services.

13 So just to be clear for the record, we are not seeking to
14 represent Student Assistants at The New School for Public
15 Engagement.

16 HEARING OFFICER DAVIS: Thank you. Do you have another
17 witness at this time, Mr. Catalano?

18 MR. CATALANO: I do. Can we just take a three-minute
19 break, four-minute break and we're ready to go?

20 HEARING OFFICER DAVIS: Yes, let's go off the record.
21 It's five to 12:00

22 (Whereupon, a recess was taken from 11:55 a.m. to 12:04 p.m.)

23 HEARING OFFICER DAVIS: On the record. Please take the
24 stand.

25 MS. COPLAND: Good afternoon.

1 HEARING OFFICER DAVIS: Good afternoon. Raise your right
2 hand.

3 Whereupon,

4 LAURA COPLAND,
5 having been called as a witness by and on behalf of the
6 Employer and having been first duly sworn, was examined and
7 testified on her oath, as follows:

8 HEARING OFFICER DAVIS: Okay, great. Spell your first
9 and last name for the Reporter?

10 THE WITNESS: Laura, L-a-u-r-a, Copland, C-o-p-l-a-n-d.

11 HEARING OFFICER DAVIS: Okay, thank you.

12 Mr. Catalano.

13 MR. MEIKLEJOHN: Yeah.

14 DIRECT EXAMINATION

15 BY MR. CATALANO:

16 Q. By whom are you employed?

17 A. The New School.

18 Q. And what's your current position?

19 A. I'm the Assistant Dean for Faculty Affairs at Eugene Lang
20 College.

21 Q. And how long have you had that position?

22 A. Since July 2012.

23 Q. And just give us a brief overview of your education and
24 prior experience in any fashion, in a professional sense, prior
25 to coming to The New School.

1 A. I have a BA from Brooklyn College. I have a JD from
2 Fordham and an MA from NCSR in Historical Studies. Prior to
3 working at The New School I was a professional actor for 15
4 yrs. Then I became an attorney. I was an attorney in private
5 practice for 12 years and then I began working at The New
6 School in 2003 as -- do you want me to tell you what I've been
7 doing at The New School?

8 Q. It appears that I have it on your CV so why don't we
9 expedite the process by taking a look at your CV and we'll
10 offer it.

11 A. This is it.

12 MR. CATALANO: I offer it.

13 MR. MEIKLEJOHN: No objection.

14 HEARING OFFICER DAVIS: That's Employer 57, is that
15 correct? So Employer 57 is admitted.

16 (Employer's Exhibit 57 identified and received.)

17 BY MR. CATALANO:

18 Q. In your current position as Assistant Dean for Faculty
19 Affairs generally speaking what are your duties?

20 A. I deal with all things faculty so with the full-time
21 faculty I handle their promotion reviews, reappointment
22 reviews, that kind of thing. I'm involved in searches. I
23 draft the contract letters.

24 With the part-time faculty we have a Union and I assist
25 the Chairs and the Associate Dean on issues about part-time

1 faculty, some issues that might come up. I also work closely
2 with the Chairs on selecting the Teaching Fellows who work at
3 Lang.

4 Q. So that you do have some currency as far as working with
5 graduate students in some role. Can you tell us what graduate
6 students in the punitive categories of alleged employment that
7 exists at Lang and I can go through them. Do you have Research
8 Assistants?

9 A. We do.

10 Q. Research Associates?

11 A. No.

12 Q. Teaching Assistants?

13 A. Yes.

14 Q. Teaching Fellows?

15 A. Yes.

16 Q. Course Assistants?

17 A. Yes, but we call them graders. The official term, I
18 understand is Course Assistant, but at Lang they're called
19 graders.

20 Q. And do you have Tutors?

21 A. We do not.

22 Q. What are the types of programs offered at Lang?

23 A. Lang is an undergraduate school in Liberal Arts, so we
24 offer BA's in Liberal Studies, the Arts, Theater, Music,
25 Philosophy, Sociology, Anthropology, Economics, Literary

1 Studies, Urban Studies, Journalism and Design, etc.

2 Q. So there are no graduate degrees offered?

3 A. Correct.

4 Q. At Lang?

5 A. Correct.

6 Q. Now, even though you suggested that there are Teaching
7 Fellows you've at the same time said that there are no graduate
8 students so tell us how a Teaching Fellow "winds up" or
9 performs services at Lang if there are no graduate students
10 enrolled in Lang?

11 A. The Provost Office puts out a call every year for graduate
12 students to apply as Teaching Fellows or also Teaching
13 Assistants. The Associate Dean at Lang will tell the various
14 programs how many Teaching Fellows they're allowed to hire,
15 two, three per year, two per semester, etc.

16 The students will then apply and the Provost Office will
17 send to each Program Chair the Teaching Fellow applicants in
18 their Divisions. So the Chair for Politics will get the
19 politics Teaching Fellow applicants. He will review them,
20 perhaps with other members of his department and will select if
21 he's allowed to have two
22 Teaching Fellows, he'll select three people and he'll send me a
23 list of their names.

24 I will then look at those names and inquire as to whether
25 or not they have ever taught in the University before or at

1 Lang before. If they have never taught anywhere I send them an
2 e-mail and say please come in and we're going to have a chat.
3 If they have taught before and their course evaluations are
4 stellar, I don't meet with them. If their course evaluations
5 have raised some issues that I think are worth addressing, I
6 will have them come in and have a chat with me.

7 When we meet, I don't talk to them at all about their
8 discipline. I'm assuming, because they've been chosen by the
9 Chair, that they know what they're doing in terms of the
10 discipline. What I talk to them about is what are you going to
11 be faced with in the classroom at Lang. I asked them if
12 they've looked at the website, if they know something -- what
13 do they know about Lang students, etc.

14 Q. Now, as far as the application process, in evidence as
15 Exhibit 39 is the acceptance document for being a Teaching
16 Assistant, and pardon me for losing the thread, but the one
17 also in evidence pertains to the Teaching Fellow candidate
18 having been accepted.

19 Are those the same forms, same documents that are used --

20 A. Yes.

21 Q. -- at Lang?

22 A. Yes.

23 Q. Okay.

24 A. I mean they're put out by the Provost Office.

25 Q. And they are used for the retention of individuals who are

1 grad students matriculating at other Divisions to perform
2 services at Lang?

3 A. Correct.

4 Q. Now, in that regard, also in evidence are various
5 documents indicating the types of pedagogy or teaching
6 workshops and those are 40 and 41. Can you tell us whether
7 those documents similarly pertain to the grad students who
8 perform TA or TF positions at Lang?

9 A. Correct.

10 Q. Now, do these TA's and TF's receive any form of financial
11 aid?

12 A. They both -- they each get a stipend. I just -- I just
13 need to make sure that you understand. Lang has very few
14 Teaching Assistants. We have maybe two or three.

15 Q. Well, we have --

16 A. Okay.

17 Q. We have an overview, which we'll get to as far as numbers
18 --

19 A. Okay.

20 Q. -- in the last two years. Now, with respect to certain
21 roles assumed by the graduate student in this regard,
22 essentially TA and TF, can you tell us whether there are
23 certain documents that pertain to the services they will be
24 performing at Lang?

25 A. I can't see what you --

1 Q. Well, you don't have to. He'll show you three documents,
2 the next succeeding three documents after the CV.

3 A. Okay. So after --

4 Q. Well, wait.

5 A. Sorry. I know what they are.

6 Q. Yeah, but we all have to know.

7 A. Sorry.

8 MR. CATALANO: Let the Hearing Officer so designate them.

9 HEARING OFFICER DAVIS: I can take help wherever I can
10 get it.

11 MR. CATALANO: Did we Pre-mark these? I thought so Mr. --
12 they're here, probably. 59 -- may I?

13 HEARING OFFICER DAVIS: 57 was the CV, right.

14 MR. CATALANO: Yes. And then I thought for this purpose
15 I want to show her 59, 60 and 61 and 58, your recitation of
16 students.

17 HEARING OFFICER DAVIS: So 59 is the New Faculty
18 Orientation Letter to Lang?

19 THE WITNESS: Correct, yes.

20 HEARING OFFICER DAVIS: And 60 is the Workshop Resource
21 Package?

22 THE WITNESS: Yes.

23 HEARING OFFICER DAVIS: And 61 is What You Teach?

24 THE WITNESS: Yes.

25 (Employer's Exhibits 59, 60 and 61 identified.)

1 BY MR. CATALANO:

2 Q. Now, if you could identify them seriatim or all at once,
3 but tell us what those three documents are and when referring
4 to them, please, as we just went through this, you will note
5 that referring to a number is all important.

6 A. Right. Okay. So 60 and 61, after I meet with the
7 student, I will then contact the Chair and say I think this
8 student will do very well in a Lang classroom as a Teaching
9 Fellow. I get that number. There are maybe 30 Teaching
10 Fellows. I will then contact them and send them these two, 60
11 and 61, these two articles about teaching. They give sort of
12 tips on how to manage a classroom and things to look out for.
13 59 is an orientation handout that I give to the faculty,
14 to people who are teaching classes at Lang who are new to Lang.
15 And this will happen in the beginning of the -- prior to the
16 semester starting in the Fall and the Spring and it's a walk
17 through. It has important deadlines, when they're syllabi are
18 due, when the class -- when the guest speaker form -- requests
19 are due.

20 It talks about when you meet your class please be
21 sensitive to gender, how students want to identify. It talks
22 about the academic calendar, when grades are due, etc.

23 Q. All right. Now, are these documents also delivered to
24 students who serve as TA's or TF's?

25 A. No. Well, no, none of them.

1 Q. Now, when serving as a Teaching Assistant I think you
2 mentioned that the individual serves as a -- gets a stipend.

3 A. Yes.

4 Q. Can you tell us whether there's any recurrence of
5 prospective service in that role?

6 A. Neither the TA nor the TF has a presumption of
7 reappointment. They --

8 Q. What are they told?

9 A. They are told that if you want to do this again you have
10 to reapply.

11 Q. And can you tell us what the rationale is for establishing
12 both the TA and TF positions based on your discussions with
13 others in the Provost Office or otherwise thereby stemming from
14 your personal knowledge? What's the rationale for assuming
15 these roles?

16 A. Well, it's a form of supporting the students financially,
17 helping to support them financially, but it's also an integral
18 part of their education in having them become more fluent in
19 their discipline by being in a classroom for a TA, working with
20 the faculty member and perhaps leading a discussion session,
21 understanding how students receive the material, how they
22 explain the material back in papers and whatnot, questions that
23 the students ask.

24 It's vital for the graduate student in understanding his
25 or her own discipline to have that kind of interaction.

1 Similarly with the Teaching Fellow, they are managing their own
2 class. And, you know, they have a book, they know the subject,
3 but it's very different knowing the subject intellectually and
4 expressing that subject or explaining that subject to students.
5 And what they get back from the student is a way for them to
6 better understand what it is that they know.

7 Q. Now, one of the words oft used throughout these
8 proceedings is that, from other witnesses, is that this is a
9 pedagogical technique to allow them to serve in these roles.

10 In fact, taking a look at 40 and 41 can you tell us
11 whether these documents pertain to the mentoring and/or
12 guidance --

13 A. Yes.

14 Q. -- given to them --

15 A. Yes.

16 Q. -- to serve as TA's or TF's?

17 A. Yes, the -- yes.

18 Q. Yes, they are provided?

19 A. Yes. Sorry.

20 Q. No, go ahead.

21 A. So 40 is the agenda for the teaching workshop which all
22 TA's and TF's are required to attend. And 41 is part of the --
23 it's a six-week course that TA's and TF's have to attend to
24 give them information about handling a class.

25 The pedagogy workshop also is an opportunity for the

1 student, for the student in the classroom to say, you know,
2 this is happening in my classroom. I have a student who always
3 has her hand up, is always dominating the conversation. Do
4 other people have that? What do you do about it? How can I
5 cope with this? What's a method of addressing that?

6 So not only is the pedagogy workshop -- you know, it has
7 introduction and second workshop and third workshop, but it's
8 also an opportunity for the graduate students to work with each
9 other and the person leading the workshop in helping to become
10 better at what they do.

11 Q. Now, is that answer for both Teaching Assistants and
12 Teaching Fellows?

13 A. Both of them have to attend the introduction and the
14 pedagogy workshop.

15 Q. And so as direct source to ensure that the record is
16 clear, are these assignments for any specific duration in the -
17 -

18 A. Again, it's a -- by semester. They have to --

19 Q. Okay. And they -- I meant Teaching Assistant and Teaching
20 Fellow?

21 A. Correct.

22 Q. Do you have Research -- incidentally, we put into evidence
23 -- we referred to 39, which is the Teaching Assistant and there
24 is another document in evidence, again pardon me, this is the
25 one that we didn't have another copy of that pertains to

1 Teaching Fellow and those are the identical documents given out
2 by the -- -

3 A. Yes.

4 Q. -- Provost Office which pertain to students who serve in
5 these roles at Lang, is that correct?

6 A. Yes.

7 Q. Now, is that also true for Exhibits 46 and 47, which is
8 the University call for applications for Teaching Fellows --

9 A. Yes.

10 Q. -- and University Teaching Fellowship Programs.

11 A. Yes.

12 Q. So these are materials disseminated from the Provost
13 Office which pertain to TF's at Lang, is that correct?

14 A. Yes.

15 Q. And specifically so because if you look at 47 it refers on
16 the first page to Lang.

17 A. Yes.

18 Q. Now, do you also have Research Assistants?

19 A. We do.

20 Q. And what type of services are Research Assists performing
21 at Lang?

22 A. Research Assistants are very closely connected to the
23 particular faculty member who chooses him or her. So it varies
24 very much, their duties vary very much depending on what the
25 faculty member wants. The student might be asked to help in

1 translations, prepare for conferences, that kind of thing.

2 It's really -- it's so dependent on whatever it is that the
3 faculty member needs.

4 Q. And can you tell us whether there is a mentoring of the
5 graduate student by the faculty member while he or she serves
6 during a semester as the case may be as a Research Assistant?

7 A. Well, yes. I mean that's implicit in -- they're working
8 very closely with this expert in the field on a particular
9 program or a particular topic and so there's close mentoring,
10 close guidance, close whatever it is that the faculty member
11 needs to get from the student.

12 Q. Can you tell us in the main how often -- excuse me -- for
13 what duration a Research Assistant is appointed at Lang?

14 A. It will either be for a semester and then they have to
15 reapply or for the whole year.

16 Q. And can you tell us, based on your personal knowledge,
17 whether you have been involved in discussions as to what the
18 purpose of expanding the Research Assistant Program or creating
19 these positions in the first place? What was the University's
20 intent in so doing?

21 A. Well, this is a form of financial aid for the students in
22 addition to helping them understand and get a greater depth of
23 knowledge about their particular discipline. So the -- what
24 happens is that there's a student assistant fund that the
25 faculty member applies for there. Everyone is entitled to

1 \$5,100 or up to \$5,100 and that number, that amount has
2 increased over the years because the University understands
3 that what we need is a way of helping graduate students
4 financially.

5 Q. You also have Course Assistants at Lang?

6 A. We have what we call graders.

7 Q. And tell the Hearing Officer and counsel what does this
8 individual do in that role?

9 A. So a grader will be a -- a faculty member will be assigned
10 a grader if there are a certain number of students in the
11 class. So say if there are 75 students in the class, the
12 faculty member will be told that he can hire three graders and
13 the graders grade the papers, but it's not so simple. It's not
14 like grading, you know, multiple choice questions.

15 These are papers that the students write so the grad
16 student works closely with the person, the faculty member
17 teaching the class on what counts as a good argument, what will
18 be an A, what will -- what will be a failing grade, what am I
19 looking for in these papers that the students are producing so
20 that the grader can grade them successfully.

21 Q. And can you tell us what the purpose is as you are aware
22 of establishing these positions of graders and whether there's
23 some form of pedagogical outcome stemming from their serving in
24 these roles?

25 A. Well, the student who is -- a student in Media Studies,

1 say, or something, that student is learning his discipline,
2 learning his craft. And by serving as a grader, this is a
3 mentoring relationship so that they be understand what's a good
4 argument. Eventually this person's going to have to write a
5 dissertation so serving as a grader is a great opportunity for
6 them to know what counts and what works and what's relatively a
7 good answer.

8 Q. What's the ordinary duration of one's service as a Course
9 Assistant or grader as the name -- as the nomenclature is used
10 at Lang?

11 A. A semester.

12 Q. And is there any presumption or is someone advised that he
13 or she will have a recurring role?

14 A. No, there's no presumption of reappointment. Again, they
15 have to reapply.

16 Q. And how often -- generally -- you said it's a semester?

17 A. Yes. I'm not actually sure if they apply for the whole
18 year and then they get chosen in the Fall and another one
19 chosen in the Spring. I'm not fur sure how that works.

20 Q. And are you aware, as you just adverted to, that not only
21 is this a pedagogical technique, if you will, but also is this
22 intended to be a form of financial aid for the Course
23 Assistants?

24 A. Absolutely.

25 Q. Now, I'm going to show you, which I referred to before, a

1 document which I believe has been pre-marked -- -

2 MR. CATALANO: Mr. Court Reporter, this one.

3 HEARING OFFICER DAVIS: It's 58?

4 COURT REPORTER: That's the way I have it.

5 MS. ROTHGEB: 58.

6 HEARING OFFICER DAVIS: 58. Okay, thank you.

7 (Employer's Exhibit 58 identified.)

8 BY MR. CATALANO:

9 Q. Okay. And can you just identify what that is?

10 A. Yeah, this is a list of the students who served in these
11 particular functions.

12 Q. Over a two-year period?

13 A. Yeah. Yes, sorry.

14 MR. CATALANO: Just a moment.

15 (Pause.)

16 MR. CATALANO: I have nothing else. Thank you.

17 HEARING OFFICER DAVIS: I'm feeling old looking at this
18 document. So are you offering 58 through 61?

19 MR. CATALANO: Yes.

20 HEARING OFFICER DAVIS: Are there any objections?

21 MR. MEIKLEJOHN: Let's see. I have no objections on 59,
22 60 and 61. I'd like to have some voir dire on Employer Exhibit
23 58, the big chart or in some cases the little chart.

24 HEARING OFFICER DAVIS: Yes. All right.

25 MR. MEIKLEJOHN: We got this in advance and my

1 Administrative Assistant was kind enough to figure it out, but
2 her version I can't read.

3 VOIR DIRE EXAMINATION

4 BY MR. MEIKLEJOHN:

5 Q. Exhibit 58 is arranged by job classification, correct?

6 A. Yes.

7 Q. So that if somebody served as a Course Assistant and then
8 as a Research Assistant and then as a Teaching Fellow or some
9 other combination, that individual's name would appear in more
10 than one section of the chart, correct?

11 A. I presume so.

12 Q. And -- well, that would be cross exam. The line
13 indicating supervisor, that would be generally the faculty
14 member responsible for the individual's work?

15 A. No, no. What I'm looking at -- I see what you mean about
16 needing a micro --

17 Q. Would you like to --

18 A. For example, on the -- let's take the first line, Verna De
19 La Mose.

20 Q. Is it De La Mose? All right, those columns are switched
21 so her first name is Verna?

22 A. Correct.

23 Q. Okay.

24 A. Verna De La Mose is the HR liaison at Lang, so Verna would
25 be the one who would be putting in the payroll documentation

1 for the student.

2 Q. So just for purposes of clarity in the record, the column
3 labeled supervisors first name is the supervisor's last name.

4 A. Yes.

5 Q. And the column labeled supervisor's first name is the
6 supervisor's last name.

7 A. Correct.

8 Q. It looks like on the names of the individuals they're in
9 the right order though, correct?

10 A. Yes.

11 Q. Yes. And under payroll fund code description about
12 halfway across?

13 A. Yes.

14 Q. That indicates that these payments come from the
15 University's operating budget?

16 A. It would appear so. I'm not sure what that means.

17 Q. Okay. And -- all right. For some of the supervisors it
18 indicates NA. Do you know why that -- that doesn't mean
19 they're not supposed to get paid, does it?

20 A. No. I don't know.

21 MR. MEIKLEJOHN: I'm going to -- I'm going to object to
22 the document on the grounds I think it's misleading. We have
23 Employer Exhibit 7 that has the people's names arranged by --
24 the individuals arranged by names so that it shows in one place
25 all the semester appointments for each individual name.

1 offered them and are there any objections?

2 MR. MEIKLEJOHN: No objection.

3 HEARING OFFICER DAVIS: Okay. So 59, 60 and 61 are
4 admitted.

5 (Employer's Exhibits 59, 60 and 61 received.)

6 HEARING OFFICER DAVIS: Do you have any further questions
7 of the witness at this time?

8 MR. CATALANO: No.

9 HEARING OFFICER DAVIS: Mr. Meiklejohn, do you have any
10 cross examination?

11 MR. MEIKLEJOHN: Yes. I don't think I will have too
12 much.

13 HEARING OFFICER DAVIS: I'm just going to ask the
14 witness, when Mr. Meiklejohn asks you a question just wait
15 until he completes the question before you attempt to answer.

16 THE WITNESS: Yes.

17 HEARING OFFICER DAVIS: Good.

18 CROSS EXAMINATION

19 BY MR. MEIKLEJOHN:

20 Q. Good afternoon, Ms. Copland.

21 A. Good afternoon, sir.

22 Q. You were asked questions about Employer Exhibit I think
23 it's 40 and 48, but could the witness be shown Exhibit 48?

24 (Whereupon, a document was handed to the witness.)

25 A. Yes, this is the Teaching Fellow.

1 Q. And this is -- you testified that this -- well, there's
2 earlier testimony this is a standard letter and you confirm
3 that this is sent -- this particular one is sent to Teaching
4 Fellows at Lang?

5 A. That's correct.

6 Q. And I also -- I think you admitted or acknowledged having
7 a background as an attorney. We can't hold that against you
8 here since we share that curse. I was really more interested
9 in hearing about your background as an actor, as a performer,
10 but I guess that's not relevant.

11 If you look at the second paragraph from the bottom of
12 Exhibit 48?

13 A. Okay.

14 Q. The second sentence begins, "A Teaching Fellowship
15 constitutes student employment at The New School and this
16 appointment carries no entitlement to employee status." I
17 guess sort of my question is whether you as an attorney played
18 a role in drafting what one might suggest or might suspect was
19 language in which a lawyer played a role. Did you play a role
20 in drafting this?

21 A. Not me.

22 Q. Do you know -- do you know if this language was written by
23 an attorney?

24 A. No idea.

25 Q. You have no idea who wrote it?

1 A. I know it came from the Provost Office. I don't know who
2 crafted it.

3 Q. Is it based -- I know you don't have a particular
4 background as an employment attorney, but is it your
5 understanding that this is entitled to ensure that the -- that
6 language entitled to ensure that the Teaching Fellows don't
7 have a legal claim to continue in their positions?

8 A. I have no idea.

9 Q. Okay. Exhibit -- do you have Exhibit 59? That's one that
10 you put in. It's the new faculty orientation.

11 A. Yes.

12 Q. You say that this program is not offered to or this --
13 we'll start that over.

14 Is this a program or is this just a document that's
15 distributed?

16 A. I run this orientation and I run it every semester for the
17 new people who are going to be working at Lang in control of a
18 classroom, managing a classroom. That's why the Teaching
19 Assistants are not invited to this, but the Teaching Fellows
20 are because they -- they have their own class.

21 So this information is a walkthrough of the semester for
22 all new people so that they -- so that they're familiar with
23 the way things work at Lang. So if you go through it, you see
24 that there are various things that won't help them become
25 successful during the semester. And so they come to this

1 orientation and we -- I go through it with them and I answer
2 their questions.

3 The Dean comes, gives a little talk, the Associate Dean
4 comes, gives a little talk, so that it's a way of introducing
5 them to Lang and to what to expect during the semester and also
6 to identify the various senior secretaries for each of their
7 programs so if they're hired in Culture and Media, they meet
8 the Culture and Media secretary so that they know who she is
9 and know who to go to for various issues that come up.

10 Q. So this program is both for newly hired adjunct faculty
11 and for Teaching Fellows?

12 A. And for full-time faculty, anybody new running a class.

13 Q. At Lang?

14 A. At Lang, yes.

15 Q. Regardless of whether they run classes at some other --

16 A. Well --

17 Q. -- less distinguished institution.

18 A. Oh, you mean like Columbia? Yes.

19 Q. And you testified that you interview Teaching Fellows to
20 know -- to find out -- prospective teaching fellows to find out
21 if they know what they're getting themselves into, as it were,
22 if they've had no teach, prior teaching experience.

23 A. At Lang.

24 Q. At Lang. So if they served as a Teaching Assistant or
25 even a Teaching Fellow at The New School for Public Engagement

1 you'd still run them through this interview process?

2 A. Unless I looked at their course evaluations and they were
3 terrific and there was nothing that I would want to talk to
4 them about.

5 Q. Now, when selecting adjuncts is there somebody who's
6 responsible for ensuring that the potential of a future adjunct
7 is going to be a good teacher?

8 A. Well, the adjunct will work with the Chair. I don't run
9 any kind -- I don't interview the adjuncts, I don't send them
10 60 and 61, I don't meet with them, I don't ask them any
11 questions about do you know anything about Lang students. I
12 assume that the Chair -- but you know, they're also
13 professional teachers.

14 So when someone is an adjunct at Lang, for the most part,
15 that person has taught before. So these are not professional
16 teachers. Teaching Fellows are novices and we need to give them
17 as much support as we can.

18 HEARING OFFICER DAVIS: Just for the record, you
19 mentioned 60 and 61. What is that?

20 THE WITNESS: Oh --

21 HEARING OFFICER DAVIS: Oh, the Employer exhibits? Okay.

22 THE WITNESS: Exhibits 60 and 61.

23 HEARING OFFICER DAVIS: Thank you.

24 BY MR. MEIKLEJOHN:

25 Q. So you say in the hiring of a Teaching Fellow it's the

1 function of the Department Chair to ensure that the individual
2 has sufficient familiarity with the subject matter in the class
3 to ensure that they can teach it?

4 A. Yes.

5 Q. And in your experience does -- do our Teaching Fellows
6 selected to teach in an area that is different from the focus
7 of their graduate studies if they have --

8 A. At Lang?

9 Q. At Lang.

10 A. Teaching Fellows are also sometimes assigned to what we
11 call first year writing. So the first year writing program is
12 a program that all first year students at Lang take. They take
13 Writing the Essay 1, Writing the Essay 2. And although the
14 program has certain pedagogical -- certain pedagogical
15 framework, things that their faculty teach those classes, meet
16 with the Chair and are told this is what we need to -- these
17 are the learning outcomes, this is the way we want you to
18 structure the class, the particular subject of that class is
19 chosen by the person who teaches it.

20 So if the Teaching Fellow is an anthropology student whose
21 dissertation is on Post Traumatic Stress Syndrome, then her
22 first year writing class will be about the Iraq War and how it
23 has affected the soldiers.

24 If someone is a Teaching Fellow in the Politics Department
25 and is working on Immigration, then -- and is working for the

1 First Year Writing Program, then his topic will be on
2 Immigration and so on.

3 But the other Teaching Fellows work in the particular subject
4 that they are -- that is their discipline.

5 Q. And are they always selected from students for whom that
6 is the subject of their advance studies or are students
7 sometimes selected who have a familiarity with the subject
8 matter of the class based upon their earlier education?

9 A. I think what you are asking me is are Anthropology
10 students sent to the Anthropology Chair and the answer is yes.

11 Q. And exclusively?

12 A. Except for the First Year Writing. So when they apply,
13 they might say I'm interested in First Year Writing. And so
14 then those students would go to the First Year Writing Chair to
15 select, choose from among.

16 Q. So you testified that you -- the Lang uses graders and my
17 understanding is that for purposes of the payroll system
18 they're classified as Course Assistants, is that correct?

19 A. That's yes.

20 Q. That's your understanding as well?

21 A. Yes.

22 Q. Okay. And long has the Lang school been using graduate
23 students as graders?

24 A. I don't know.

25 Q. A long time?

1 A. I don't know.

2 Q. Okay. You several times described this -- these what is
3 referred to in the appointment letters as student employment as
4 financial aid. Does -- I know the Researchers of The New
5 School are limited, but are relatively anyway -- does the
6 University offer other forms of financial aid?

7 A. I don't know. I mean --

8 Q. Do they offer other -- are there some scholarships
9 available to some students?

10 A. Yes.

11 Q. And how does this form of financial aid differ from a
12 scholarship?

13 A. Well, it's also merit based as scholarships are, but
14 scholarships might also be need based. This is not need based.
15 There -- it's a -- I don't know what the scholarships are
16 offered for so it's hard for me to answer that question. This
17 financial aid is offered for particular duties that the person
18 performs.

19 MR. MEIKLEJOHN: No further questions.

20 MR. CATALANO: Nor do I. Thank you.

21 HEARING OFFICER DAVIS: Okay, great. You're dismissed.
22 Thank you very much.

23 THE WITNESS: Thank you, sir. Thank you, thank you.

24 (Witness excused.)

25 HEARING OFFICER DAVIS: All right, let's go off the

1 record.

2 (Whereupon, a luncheon recess was taken from

3 12:45 p.m. to 1:45 p.m.)

4

BURKE COURT REPORTING, LLC
1044 Route 23 North, Suite 316
Wayne, New Jersey 07470
(973) 692-0660

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

2 (Time: 1:47 p.m.)

3 HEARING OFFICER DAVIS: We're back on the record.

4 Do you have another witness?

5 MR. CATALANO: I do. Dr. Schober.

6 HEARING OFFICER DAVIS: Okay. Dr. Schober, please take
7 the stand.

8 Raise your right hand.

9 Whereupon,

10 MICHAEL SCHOER,

11 having been called as a witness by and on behalf of the
12 Employer and having been first duly sworn, was examined and
13 testified on his oath, as follows:

14 JUDGE ESPOSITO: Please spell your first and last name
15 for the Reporter?

16 THE WITNESS: First name Michael, M-i-c-h-a-e-l. Last
17 name Schober, S-c-h-o-b-e-r.

18 HEARING OFFICER DAVIS: Mr. Catalano.

19 MR. CATALANO: Yeah.

20 DIRECT EXAMINATION

21 BY MR. CATALANO:

22 Q. Dr. Schober, you have to ensure that the reader of the
23 record, which happens to be that recording device, hears you so
24 please articulate somewhat loudly, if you can, so that we can
25 all hear you. Okay? So can you tell us whether you're

BURKE COURT REPORTING, LLC
1044 Route 23 North, Suite 316
Wayne, New Jersey 07470
(973) 692-0660

1 employed by The New School and if so in what capacity?

2 A. I am employed by The New School. I am a Professor of
3 Psychology and Associate Provost for research.

4 Q. And having reviewed your impressive and I mean it as a
5 definition Curriculum Vitae, can you just give us a brief
6 summary of your education and then I'll put it into evidence
7 assuming that Mr. Meiklejohn and counsel have no objection.

8 A. My undergraduate degree was at Brown University in
9 Cognitive Science. My Ph.D. was in Psychology from Stamford
10 University and I had a few Foundation Post-Doctoral Fellowship
11 teaching at Occidental College.

12 Q. And we've pre-marked to your right, the Court Reporter
13 will -- you'll see your Curriculum Vitae. Can you just
14 identify it and it's number for the reader of the record?

15 A. Exhibit Number E-62.

16 MR. CATALANO: I offer it.

17 MR. MEIKLEJOHN: No objection.

18 HEARING OFFICER DAVIS: Employer's Exhibit 62 is
19 admitted.

20 (Employer's Exhibit 62 identified and received.)

21 BY MR. CATALANO:

22 Q. And are these your grants and awards and positions that
23 you've held?

24 A. Yes.

25 Q. And in connection therewith have you engaged in any number

1 of research projects throughout the years?

2 A. Yes.

3 Q. Tell the Hearing Officer and counsel how many types of
4 projects that you've been involved in personally, you know, I'm
5 not segwaying yet into Teaching Assistants or Research, I'm
6 just talking about on your own what kind of projects are you
7 involved in?

8 A. So I started out doing mostly laboratory experiments on
9 people understanding and misunderstanding each other in
10 dialogue and the extent to which people using the words may
11 understand different things by those same words while they
12 think they're understanding each other.

13 That started a line of research on survey interviews and
14 the extent to which there may be social mis-measurement, mis-
15 measurements because of misunderstandings by say people
16 answering the current population survey from which we get the
17 unemployment index and whether we might be measuring jobs
18 wrong.

19 That has then morphed into further studies on how data
20 collection in survey interviews is changing with mediation of
21 communication now that we can't rely on landline telephones for
22 collecting data from official -- surveys from which we get high
23 impact efficient statistics. It's important to understand how
24 video mediation and texting and other modes of interaction will
25 or will not facilitate getting large skill data.

1 Q. How many -- what's your current role at The New School?

2 A. I am half time Professor of Psychology and half time
3 Associate Provost for Research.

4 Q. And please advise us of your prior roles at The New
5 School, if any?

6 A. I started as an Assistant Professor in Psychology in 1992.
7 I became an Associate Professor for Psychology in '99, I think
8 and became Department -- I was Department Chair of Psychology
9 for five years with one year off in between, and from 2006 to
10 2013 I was Dean of the Graduate Faculty of The School for
11 Social Research.

12 Q. And how many -- what department do you provide your
13 teaching services or research services in?

14 A. In Psychology.

15 Q. And how many faculty both full and part-time are in the
16 Psychology Department?

17 A. There are 15 full-time faculty members in Psychology as of
18 last year. There are four visiting full-time faculty and eight
19 part-time faculty.

20 Q. And in which school or division is the Psychology
21 Department?

22 A. The New School for Social Research.

23 Q. When a student applies to the -- well, does NSSR offer
24 Master's Degrees or Ph.D. Degrees?

25 A. Yes, both.

1 Q. And more specifically in the Psychology Department?

2 A. Yes, both.

3 Q. Now, when a student applies, for example for a Master's or
4 Ph.D. admission where does he or she apply? What's the process
5 in the main?

6 A. Master's and Ph.D. are different, but in both cases
7 applications are sent to the Admissions Office and those
8 applications are then routed to the Psychology Department for
9 faculty to make judgments about admissions.

10 Q. And have you participated in those judgments?

11 A. Yes.

12 Q. And based on your own experience and your interactions
13 with other faculty, generally speaking upon what criteria do
14 you rely in admitting either a Master's student and/or and
15 Ph.D. student?

16 A. Again, they're a little different in the two cases. For
17 the Master's those are all external admissions. Actually, some
18 come from internal from the University as well, but they're all
19 -- we look at the students' fit with the program, their prior
20 academic record, their -- the extent to which they have
21 outlined a project, a research project or a course of study
22 that is consistent with what we have to offer.

23 For the Ph.D. Program we only have admissions from inside
24 the MA Program and so for those applications we look very
25 closely at who the candidate has nominated as being the person

1 they would like to work with or the team they would like to
2 work with for a dissertation project and we assess the fit, the
3 extent to which we can provide the appropriate supervision for
4 those projects, the capacity of the faculty members who have
5 been nominated, whether they have room to do the mentoring that
6 is needed, etc., and the quality of the writing and the quality
7 of the course work and their likelihood of eventual
8 professional success.

9 Q. And upon admission to the Master's or Ph.D. Program have
10 there been instances in the Psychology Department and clearly
11 in MSSR where an individual has sought to become a Teaching
12 Assistant or Teaching Fellow?

13 A. Yes.

14 Q. And in evidence are two documents which indicate
15 acceptance as a TA or a TF and may I assume you've seen those.
16 as an example, Exhibit 39 and 40?

17 A. Yes, yes.

18 Q. So having been accepted as a TA or a TF, can you tell the
19 Hearing Officer and counsel whether or not there is a financial
20 aid component that accompanies the appointment as a TA or a TF?
21 What --

22 A. Yes.

23 Q. Do they get financial aid?

24 A. Yes.

25 Q. Tell the Hearing Officer in what fashion and for what

1 reason?

2 A. In what fash -- so --

3 Q. Do they get a stipend, hourly rate? Is it for a semester,
4 is it for the length of their role? You tell us the
5 circumstances.

6 A. So Teaching Assistantships are applied for on -- both
7 Teaching Assistantships and Research Assistantships are applied
8 for in an annual competition. The appointments are for, in the
9 case of Teaching Assistantships, a semester and in my
10 department at least for Research Assistantships for an academic
11 year and then you apply again the next time around. There's a
12 stipend associated with each of those that depends on the
13 nature of the appointment.

14 Q. And is it a fixed sum depending on the hours --

15 A. It's a fixed sum.

16 Q. -- assumed in that role?

17 A. Yes.

18 Q. Now, in ordinary course, in order to obtain a Ph.D. --
19 let's specify the Psychology Department, generally speaking
20 what are the areas that must be undertaken or the student must
21 be involved with in order to obtain a Master's and then
22 secondly a Ph.D.? What are the
23 -- what's the framework for each?

24 A. There's -- at the Master's level there is course work, 30
25 credits of course work that usually takes two years if they're

1 full-time as a student. There is also a research component.
2 Every student, either through course work or through a Master's
3 thesis, carries out research.

4 Q. And must one do a dissertation or engage in
5 comprehensives?

6 A. For admission to the Ph.D. Program one must pass a
7 comprehensive exam which either takes the form of a very long
8 all day or two-day exam, or the research Master's thesis that
9 can fulfill that requirement. The expectation is that students
10 will have engaged in a research project before they begin the
11 Ph.D. either through a class, the Research Methods class or
12 through this other project.

13 So at the Ph.D. level then there is additional course
14 work, an additional 30 credits for the Cognitive Social
15 Developmental Ph.D., and another 60 credits for the Clinical
16 Ph.D. so that --

17 Q. Okay. And with respect to the attainment or seeking the
18 attainment of the degree can you tell us whether research is
19 engaged in by the Master student or the Ph.D. student and if so
20 when upon becoming a student?

21 A. It varies from student-to-student. There are students who
22 arrive at the MA with a very clear idea of the research they
23 would like to begin and a clear professional outcome on the
24 other end and they engage in research from day one. They
25 contact faculty and say I would like to be in your lab and

1 participate in research projects, volunteer, step on up to
2 eventually leading out my own research.

3 There are others who do not show up with a clear idea of
4 what the research is they want to do and they take courses,
5 they attend different labs group, they shop around in a way to
6 get a sense of what they would most like to do whether it is
7 continuing into the Ph.D. Program with us or whether it is
8 using our MA Degree to apply to Ph.D. Programs elsewhere or
9 whether they realize they would like to finish with an MA as
10 their final degree.

11 Q. Generally speaking what number of years is consumed for
12 the attainment of a Master's and/or a Ph.D.?

13 A. So two years is the typical length for the Master's. For
14 the Ph.D. it is an additional two years of course work and for
15 the Clinical Psychology Degree it's an additional four years of
16 course work, so starting from the beginning of Master's to the
17 end of Ph.D. it's either four years or six years at minimum.

18 Many of our students take longer than that, five years,
19 six years, seven years and for the Clinical it can be longer
20 than that.

21 Q. Now, have you ever acted as an advisor to a Ph.D. or
22 Master's student?

23 A. Yes.

24 Q. And have you done so in connection with an assumption by
25 that graduate students of one of the roles of Research

1 Assistant, Research Associate, TA, TF, Course Assistant or
2 Tutor? Have you ever acted as an advisor to the grad student
3 when he or she is acting in those capacities?

4 A. For Teaching Assistant, yes, for Research Assistant, yes,
5 for Research Associate, yes. Not for the other roles.

6 Q. And for your discipline is the Ph.D. candidate or Master's
7 candidate encouraged to act as a Teaching Assistant?

8 A. Yes.

9 Q. And okay, can you tell us the reason for it?

10 A. Being a Teaching Assistant is an excellent training and
11 learning experience. Having to articulate the material for
12 others is a great way to learn it. And in doing that, you
13 learn how much you didn't know already and how much you need to
14 step up in order to really be able to teach well.

15 So I think there are a lot of benefits for being a
16 Teaching Assistant. There is the understanding classroom
17 management, understanding how Universities work, understanding
18 depending upon what the circumstances are how you collaborate
19 within a University system with others in the similar roles,
20 you know, sort of navigating bureaucracies, understanding the
21 online tools that are becoming more and more part of what
22 faculty professors need to be navigating in order to carry out
23 a teaching role in the future.

24 I would say it's a useful role not only for those who want
25 to go into academia, but also for those who are interested in

1 non-academic careers in that, again articulating the material
2 in interaction with students is.

3 Q. Now, there is in evidence Number 40 and Number 41 and can
4 you tell us whether these are characterized as Introduction to
5 Teaching Workshop, Number 40, and Syllabus Topics in Pedagogy,
6 Number 41, okay? And are those -- do you recognize those to be
7 documents that pertain to the guidance or mentoring or
8 assistance that the school gives to the person assuming those
9 roles as Teaching Assistants?

10 A. Yes, yes.

11 Q. Now, in connection with acting in that capacity you
12 mentioned before that there was a stipend afforded to the
13 Teaching Assistant and I'm not sure whether you said Teaching
14 Fellow, but if there is one please so advise us for acting as a
15 Teaching Fellow. Is there a stipend as well?

16 A. There is.

17 Q. And can you tell us whether there is some expectation of
18 hours to be expended in connection with those roles per week,
19 per semester, per otherwise as the case may be?

20 A. It probably varies per course, but there is a maximum
21 number of hours expected in those roles.

22 Q. And what's the reason that there is some guidance or
23 limitation on the hours that he or she might expend as a
24 Teaching Assistant or Teaching Fellow?

25 A. The Ph.D. student is engaged in their own course work or

1 if they've completed -- and also their own research. And so
2 there's a limit to how much time it makes sense to spend on
3 those activities.

4 Q. And who assigns the Teaching Assistant and the Teaching
5 Fellow to their position and upon what basis?

6 A. Students -- well, in my department students -- throughout
7 the NSSR students apply for the position and so it is faculty
8 members who make the selection. The applications are assembled
9 to, in our department, one spreadsheet where we see all the
10 names of those who have applied and the courses they believe
11 they are eligible to be Teaching Assistants for and are
12 interested in being Teaching Assistants for and there is then a
13 faculty selection process that leads to assignments.

14 Q. And once the assignment is made does the faculty member or
15 a faculty member have a relationship with the student acting
16 as, an example, TA or TF?

17 A. Well, I can speak to TA's because I don't supervise TF's,
18 so TA's, yes.

19 Q. And tell the Hearing Officer what it is and how extensive
20 that relationship is?

21 A. In my experience, extremely extensive. So if you have a
22 TA for a graduate course, I meet regularly with that Teaching
23 Assistant weekly and I am in communication via e-mail regularly
24 discussing what happened in the discussion section that they
25 were leading, discussing grading rubrics if they're helping

1 with grading, discussing what kind of feedback they are getting
2 in their sections that would change how I might change my
3 lecture, depending on what's being understood and what's not,
4 whether there are particular issues to hammer home more in the
5 lecture as a result.

6 If the -- if it we're like a University lecture course
7 where I would have multiple TA's who are running multiple
8 sections, my tradition is to have regular weekly meetings after
9 the lecture with the TA's to discuss what is happening in the
10 discussion sections, what particularly worked or didn't work in
11 the lecture, what needs clarification and if there's grading we
12 have lots and lots of e-mail discussion about rubrics and
13 making sure there is consistency across the different sections
14 when there are questions about say a response on an exam that
15 does not look like one we had expected, what should be done
16 about that and discussing amongst each other.

17 Q. And do you review along the way that Teaching Assistant's
18 role in serving as a Teaching Assistant?

19 A. Yes.

20 Q. And how do you do so? Is it what you just articulated or
21 do you encourage or have classroom observances?

22 A. So it's informal and it sort of varies depending on the
23 course. If I have an extremely experienced Teaching Assistant
24 then it will be a different kind of thing then if it's the
25 first time they've taught. With a first time teacher I would

1 want to spend a lot of time talking with them about how's the
2 classroom management going? And if you have lots and lots of
3 sections, if there's one section that suddenly has behavioral
4 issues in the class there will be a different kind of
5 conversation then you have if you have one that has a
6 completely different dynamic.

7 So it's quite specific to each TA and each TA assignment.
8 And if it's material that the -- particularly in the graduate
9 courses I would only ever have TA's who have taken that course
10 before with me. And if there's new material, we end up talking
11 about that material.

12 In other courses where they may not have taken the class
13 before with me, because it's a new class that I'm offering,
14 we'll have a different kind of conversation about the material.

15 Q. The Teaching Assistant's role in the classroom, can you
16 tell us whether the subject matter does or does not pertain to
17 his or her area of study?

18 A. It does. I would not select a TA who does not have
19 expertise relevant to the material in the course or for whom
20 the experience would not contribute to their education and
21 study.

22 Q. Now, do you also have Ph.D. students at NSSR and
23 particularly in the Psychology Department who are supported by
24 research grants?

25 A. Yes.

1 Q. And tell us what an external grant is and how the process
2 is undertaken in the first instance?

3 A. So an external grant is an application by a faculty
4 member, principal investigator or PI proposing usually a multi-
5 year, three-year often line of research efforts that will
6 result in intellectual products at the other end of some sort
7 or another.

8 The faculty member takes the initiative to apply for the
9 grants. It is a large effort, very long process, explaining
10 the particulars of the project that you are interested in
11 engaging in and molding it to being something the funding
12 agency will find exciting and worth funding.

13 Q. Now, in that regard there are three documents that we've
14 pre-marked, one characterized National Science Foundation Doc
15 dated September 20, 2010, Dr. Schober, right to your right.
16 What's that number?

17 A. That is Number 63.

18 (Employer's Exhibit 63 identified.)

19 BY MR. CATALANO:

20 Q. And rather than have me identify it for the reader of the
21 record tell us what that is and whether you're familiar with
22 it?

23 A. I am familiar. This is the award letter for my most
24 recent NSF, National Science Foundation grant.

25 Q. And was it successful as far as an award?

1 A. It was.

2 Q. And that's 63. Is that the award itself?

3 A. This is the letter of award.

4 Q. And in order to obtain that award there is a multi-faceted
5 document which may or may not be the proposal.

6 A. Yes, there's a proposal, Exhibit 64.

7 (Employer's Exhibit 64 identified.)

8 MR. MEIKLEJOHN: Can I just -- can I just verify that we
9 got

10 --

11 THE WITNESS: This is the one. So this is a
12 collaborative grant with two institutions. The Frederick
13 Conrad is the PI at the other institution and if you look at
14 the second page that's the one that shows my name, the back of
15 Page 2.

16 BY MR. CATALANO:

17 Q. And then the third document, hopefully marked as 65?

18 A. Is the final reports that I submitted to NSF after the
19 conclusion of the four years of the award.

20 (Employer's Exhibit 65 identified.)

21 MR. CATALANO: Okay. So I offer them.

22 JUDGE ESPOSITO: Any objection?

23 MR. MEIKLEJOHN: No objections.

24 HEARING OFFICER DAVIS: Exhibits 63, 64, and 65 are
25 admitted.

1 (Employer's Exhibits 63, 64, and 64 received.)

2 BY MR. CATALANO:

3 Q. Okay. So what I would like to do in referring to these
4 documents, Dr. Schober, is to have us hear from you as to what
5 this project pertained to in short fashion and then I want to
6 inquire further about the role of the Research Associate and
7 funding, if any, and the interaction between you and him or her
8 along the way.

9 So in the first instance, tell us what this pertains to,
10 this research application?

11 A. So this project was interested in survey data collection
12 on Smart Phones, I Phones in particular and the extent to which
13 the data quality in a survey administered on a Smart Phone,
14 which is a normal way people are now communicating would be
15 different if people respond via text messaging versus voice and
16 when the survey is administered by a human interviewer versus
17 an automated system.

18 So the project was trying to understand if you recruit
19 people to participate in this really on their I Phone what the
20 nature of the interaction looks like and what the nature of the
21 data quality is in a survey when people participate in these
22 different modes.

23 And secondly, if they are invited in one of those modes
24 and have the option to choose to participate in a different
25 mode that might be more convenient or conducive to them at the

1 moment, how does that affect the quality of the data? Does
2 that lead to better quality data, worse quality data? Will
3 people disclose more sensitive information or less sensitive
4 information? Will they round and estimate more? Will they
5 give non-differentiated answers more or less? That was the
6 major research question.

7 Q. And since we are all and I mean it sincerely interested
8 what did you learn?

9 A. We learned --

10 Q. What outcome did we arrive at?

11 A. So the first publication was just accepted so I'm very
12 pleased to say the outcome was better quality data in text and
13 voice independent of whether it's a human or a machine on the
14 other end. Now, this is, of course, with people who had agreed
15 to participate in the survey on their I Phone so whether that
16 generalized everything else I don't know, but it's a start just
17 trying to understand it.

18 And interestingly, this is despite the fact that text
19 interviews take way longer, are spread out over a long time
20 period, people are answering and multi-tasking and doing other
21 things along the way and nonetheless we're getting more precise
22 data and people are happier to have participated because they
23 could do it when they wanted to and in a way that was
24 convenient for them and we're not seeing a reduction in data
25 quality, in fact improvement.

1 Q. Now, along the way in connection with the publication of
2 your first outcome in written form, tell us what the Research
3 Associate, if any, did? What did the Government provide to him
4 or her and explain in some detail what the role of the Research
5 Associate was along the way?

6 A. So there were multiple Research Associates on this grant.
7 It was a collaborative grant between -- there are two grants
8 collaboratively associated between two institutions, The New
9 School and the University of Michigan. We also had
10 collaborators at AT&T Research Labs and within The New School
11 we had Research Associates from my Division, the Psychology
12 Department and also from Parsons School of Design from the
13 Design and Technology Program.

14 So it was a multi-site, multi-way collaboration. It was a
15 big project to manage, shall we say. So the Research
16 Associates who participated, and there were some on the
17 Michigan side as well, joined in weekly and more than weekly
18 team meetings that were video mediated usually or telephone
19 that will hang out most often in which we had plotted out all of
20 the steps it would take in order to build the automated systems
21 for text employees interviewing that would be used in the
22 study, selecting the survey items that would allow us to
23 measure the quality of data in the way that we wanted to,
24 thinking through the logistics of doing text messaging
25 interviews that would -- with a vendor that would not keep

1 those text messages in a scary way so we could do ethical data
2 collection learning a lot about recruiting from online sources
3 from Craig's List and Amazon and Mechanical -- and the likes.

4 So there were a lot of logistical steps and we had every
5 person who was a member of the team, and that included the
6 Research Associates in on those meetings and we had sub-group
7 meetings regularly. So there was every week multiple
8 conversations and assignments of work for coming back to doing
9 more.

10 Q. Okay. Was any of this at the direction of the President
11 of the University?

12 A. No.

13 Q. Did he or his administrators have any role or direction in
14 telling you as the PI, co PI or the Research Associates, "what
15 to do?"

16 A. No.

17 Q. And as far as your role with the Research Associates tell
18 the Hearing Officer what you did. You gave us in some fashion
19 that the weekly meetings and the like, but were you advising
20 Research Associates what to do or was it a mentoring or did
21 they tell you what they thought so both -- so that it went both
22 ways? Tell us about the relationship.

23 A. It went both ways. Obviously, we selected people to be on
24 the team because of their prior experience and what they would
25 bring to the table, as well as what they would learn from the

1 experience. So a student in Psychology who was on for the
2 project, she has outside life in working for a speech dialogue
3 systems company that builds Probo interactive dialogue systems
4 and so she had that background that she brought to the table.

5 She was on the team that helped build our interactive
6 speech survey system along with the AT&T Research Labs partners
7 and she helped with the mapping out of dialogues, structure and
8 the like, but she -- so she learned a huge amount about the
9 nature of grammars and automated speech recognition from this,
10 but she also brought things to the table.

11 We met regularly in smaller sub-groups working on the sub
12 parts of the projects that she was in on.

13 Q. Did any of the Research Associates receive a stipend from
14 the U.S. Government as a result of this project along the way?

15 A. A stipend through the grant, yes.

16 Q. And was it directed to be part and parcel of the research
17 only or the outcomes only stemming from the grant application?

18 A. I'm not sure what you mean.

19 Q. Okay, withdraw the question. Okay.

20 Was it -- were the funds directed towards the Research
21 Assistant to perform these services in connection with the
22 grant?

23 A. Yes.

24 Q. Now, can you tell us whether this was typical and I don't
25 mean the project itself, but is this the typical interaction

1 that you've had with other Research Assistants or Research
2 Associates in your other endeavors and in your other grant
3 applications?

4 A. In grant funding this is the typical way that I interact
5 with the Research Associates on grammar, yes.

6 Q. And can you tell us whether there was an extensive amount
7 of mentoring by you with the Research Associate or not
8 extensive?

9 A. Extensive, absolutely. So this particular Research
10 Associate I was mentioning is now about to defend her
11 dissertation proposal, which is based -- which is using the
12 data that we collected here to test new hypotheses about the
13 paralinguistic correlates of disclosing sensitive information
14 so her participation in the project led to her being able to
15 propose this dissertation.

16 Q. And is she seeking a Ph.D. in Clinical Psychology or --

17 A. In Cognitive and Social Developmental Psychology.

18 Q. Did any Ph.D. candidate ever advise you that he or she was
19 enrolling at The New School in order to obtain compensation?

20 A. No.

21 Q. Or become employed?

22 A. No.

23 Q. Now, in connection with this funding can you tell us
24 whether the role assumed by the Research Associate ever, beyond
25 his or her attaining of the degree, ever resulted in the

1 seeking of a recommendation from you by reason of his or her
2 acting with you as a Research Associate or Assistant?

3 A. Yes. So as students who have worked with me in any
4 capacity, whether it's one of these or in a different capacity,
5 regularly ask me for letters of recommendation and one of the
6 things I can write, if they have worked with me on a grant or
7 as an Assistant, is I can document in detail what their
8 performance has been like and --

9 Q. Beyond the most recent mentioned student who's attempt to
10 do her dissertation on this body of work, is your experience or
11 has your experience been that the Research Assistants/Research
12 Associates will have also served in these roles? Can you tell
13 us whether that has been helpful or instrumental in their
14 attainment of the degree?

15 A. Yes. I would say it absolutely has in each case. Whether
16 they ended up doing a dissertation directly based on that or
17 whether they used the experience from their participation in
18 this project in doing and developing their own research that
19 was on a different track, I would say yes.

20 Q. Now as a model, I asked you specifically whether the
21 President of The New School had directed you in pursuing this
22 research grant and knowledge and you said no. Can you tell us
23 whether administrators or other supervisors at The New School
24 have ever involved themselves in the direction to you or
25 whether this is just essentially an outgrowth of your own

1 independent judgment in order to seek this grant and to pursue
2 the research?

3 A. I have fully directed all that so --

4 MR. CATALANO: I have nothing else.

5 And incidentally, as an aside for the record, we had put
6 into evidence for admission Number 33, which there was some
7 question about whether it was a complete document or otherwise.
8 I'd like to withdraw it because this is from documents 64, 5,
9 and 3 now are the complete set of a different of a complete set
10 of papers and therefore it's unnecessary to have 33 and I
11 withdraw it.

12 HEARING OFFICER DAVIS: Okay. 33 is withdrawn.

13 (Employer's Exhibit 33 withdrawn.)

14 HEARING OFFICER DAVIS: Mr. Meiklejohn, do you have cross
15 examination?

16 MR. MEIKLEJOHN: Yes.

17 CROSS EXAMINATION

18 BY MR. MEIKLEJOHN:

19 Q.

20 (Petitioner's Exhibit 18 received.)

21

22 (Petitioner's Exhibit 19 identified.)

23 BY MR. MEIKLEJOHN:

24 Q. Good afternoon, Dr. Schober.

25 A. Good afternoon.

1 Q. I was tempted to ask if you ever thought of doing a study
2 of how witnesses hear the questions that lawyers ask, but I
3 guess I would just ask that you wait until I finish asking the
4 question even though often you can figure out where I'm going
5 before I get there.

6 You still have your CV in front of you? You probably
7 don't need it to remember the -- I need it, but you've worked
8 as an adjunct for a year or two at -- a year as an adjunct at
9 Occidental College?

10 A. Yes.

11 Q. And you applied to get a tenure track position, I mean
12 here at New School?

13 A. Yes.

14 Q. Did you ask anyone at Occidental College for letter of
15 references or reports on the work that you had done for
16 Occidental College?

17 A. I believe I did.

18 Q. And was your work at Occidental College cited in that
19 letter of recommendation?

20 A. I'm sure it must have been. I mean I didn't see the
21 letters.

22 Q. As a member of the faculty of the Department of Psychology
23 are you involved in hiring any faculty members for any faculty
24 positions?

25 A. I -- yes, I've been on Department search committees as we

1 hire new faculty.

2 Q. And do you look at the prior experience in previous jobs
3 that potential faculty hires might have held?

4 A. Yes.

5 Q. To decide whether to hire them?

6 A. Among many things, yes.

7 Q. You understood my question even though apparently I didn't
8 finish it. Okay. No, I had stopped talking. It was not
9 inappropriate for you to start to answer. I just didn't finish
10 my sentence which happens sometimes.

11 Your position is, in addition to being a Professor of
12 Psychology you are the Associate Provost for Research. What
13 are your duties and responsibilities as the Associate Provost
14 for Research?

15 A. I am in charge of the Office of Research Support at The
16 New School, which is in the Provost Office and helps faculty
17 who are applying for grants, supports them pre-award in
18 assembling all the appropriate documentation, getting all of
19 the right agreements at the University that will support the
20 grant should it be awarded, and with post-award functions as
21 well.

22 The office is also responsible for the Human Research
23 Protection Program, the Human Subjects Protection Program at
24 The New School and generally research integrity at the
25 University and we have faculty and student development outreach

1 activities of various sorts for improving the research culture
2 of the University.

3 I run the group called the University Research Council
4 which advises on policy for research at the University.

5 Q. If I can get back to that first role for a minute which I
6 should have written down what you said, but you said that you
7 support or provide assistance to faculty who are applying for
8 grants?

9 A. (No verbal response.)

10 Q. You have to answer verbally.

11 A. Yes, yes.

12 Q. And is -- I mean in your direct testimony you made some
13 comment about what a -- how much work is involved in applying
14 for a grant. There's a tremendous amount of paperwork
15 involved, is that right?

16 A. Yes.

17 Q. And there's all sorts of criteria that have to be met in
18 order to improve your chances of getting the grant, is that
19 right?

20 A. Yes.

21 Q. And so the role of the Associate Provost's Office and the
22 people you oversee is to assist faculty members in getting that
23 paperwork done properly?

24 A. Yes.

25 Q. And also giving them guidance and assistance in how to

1 come up with ideas that will be attractive to the Government or
2 other funding sources?

3 A. Making sure the people who are applying are fully aware of
4 the mission of the funder and making -- and seeing if there is
5 a way to make them aware of how they can pitch their interests
6 in a way that will be attractive to the lender.

7 Q. And obviously, the reason for doing that is to increase
8 the likelihood that the grant application will be approved,
9 correct?

10 A. Correct.

11 Q. And is this activity funded by the University in some
12 fashion? Do you have a budget for this part of your
13 operations?

14 A. There is a budget for the University Research Office that
15 is essentially for the personnel who work in the office and it
16 also -- we also administer a small seed research fund internal
17 to the University that faculty can apply for.

18 Q. To get back to the -- how many people -- well, I won't ask
19 that.

20 Why would the Univer -- why does the University -- well,
21 strike that.

22 I mean supporting your office in helping faculty members
23 obtain grants would you characterize that as an investment by
24 the University?

25 A. Yes.

1 Q. And what return does the University anticipate getting or
2 what type of return does it anticipate getting for that
3 investment?

4 A. It helps faculty development. It helps in their own
5 careers and in the research they are carrying out. It supports
6 the intellectual development of students who are supported by
7 those grants so that a faculty can apply for NSF funds that
8 helps support students in their projects.

9 So it -- and to the extent that exciting research is
10 coming out of The New School that The New School will be known
11 for, this is an excellent public visibility and face of the
12 University for this reputation that matters a lot.

13 Q. It also brings money into the University, correct?

14 A. It brings -- yes, for grants, for Federal grants for which
15 there is an indirect cost rate that is negotiated, yes, it
16 does.

17 Q. You described earlier in your testimony the academic
18 programs offered in the Department of Psychology and you said
19 there's a Master's Program and a Ph.D. Program?

20 A. Yes.

21 Q. And I think you did testify that many of the Ph.D.
22 students in your program come from the Master's Program, is
23 that right?

24 A. All students, all Ph.D. students come from the Master's
25 Program in our department.

1 Q. That was more than many. So you don't hire any -- I'm
2 sorry. You don't bring in any Master's -- students who've
3 obtained their Master's at a different institution?

4 A. Not directly. We -- if a student has a Master's Degree
5 from another University, they can be admitted to the Master's
6 Program and have a shorter course to applying to the Ph.D.
7 Program, but we have no external admits to the Ph.D.

8 Q. And do Master's students sometimes work as Teaching
9 Assistants or Tutors or any of the other classifications we've
10 talked about?

11 A. In the -- quite rarely, I would say. The Ph.D. -- the
12 Teaching Assistantships for the graduate classes are only ever
13 Ph.D. students. Master's students are eligible to apply for
14 Teaching Assistantships around the University, as I understand
15 it and occasionally one may be appointed as a Teaching
16 Assistant at the undergraduate level.

17 Q. Okay. And that student who works as a Teaching Assistant
18 at the undergraduate level while a Master's student might move
19 on to serving as a Teaching Assistant or a Research Assistant
20 during his or her time as a Ph.D. student if she was admitted
21 to the Ph.D. Program?

22 A. Yes and if they applied for and were awarded one of those,
23 yeah.

24 Q. Right. You mentioned that -- you testified that students
25 when they apply for admission to the academic programs in the

1 Department of Psychology are not applying to get the money
2 they're applying to get the education, correct?

3 A. Correct.

4 Q. But there is a separate application process that students
5 go through to obtain positions as Teaching Assistants or
6 Research Assistants, correct?

7 A. Correct.

8 Q. And it's fair to say that when they apply for those
9 positions they are at least in part looking to make some money?

10 A. They are looking for the support, absolutely.

11 Q. Thank you. Support comes in the form of money, correct?

12 A. Yes.

13 Q. There's some terminology that -- I'm not sure it's clear
14 on the record, but I can't always remember everything that's in
15 the record here, but the term Ph.D. candidate, is that a term
16 of art as used at The New School? That is does it apply only
17 to someone who has completed their comprehensive exams or do
18 you use that to refer to any Ph.D. student?

19 A. They are not a Ph.D. student until they have completed the
20 comprehensive exams, which are prior to admission. So once
21 they are admitted to the Ph.D. Program I would call them a
22 Ph.D. candidate.

23 Q. Okay, because they've -- I've got it.

24 And do you refer to the Master's students as candidates or
25 is that a term reserved for Ph.D. students?

1 A. On the ground every day, no, but at the commencement
2 ceremony they are candidates for the Master of Arts, so yeah.

3 Q. Okay, fair enough. Do students receive any course credit
4 for serving as a Teaching Assistant?

5 A. Not that I'm aware of, no.

6 Q. Do they receive any course credit for serving as a
7 Research Assistant or a Research Associate?

8 A. Not that I'm aware of.

9 Q. And being a Teaching Assistant is not required in order to
10 obtain either a Master's or a Ph.D., correct?

11 A. Correct.

12 Q. You testified that Teaching Assistants generally -- I
13 think the term you used is Recitation Sections, is that the
14 term you used --

15 A. I believe I used the term discussion sections.

16 Q. Discussion sections, that's right. And you testified that
17 the discussion sections or the discussions in those sections
18 provide information that comes to you in the form of feedback
19 as to how the lectures are going, is that right?

20 A. As to how the lectures are going, as to how students in
21 the class are learning, what they are understanding and what
22 they are not understanding.

23 Q. I take it that feedback allows you and Teaching Assistants
24 working with you to improve the -- at least the ideas that
25 allow you to improve the quality of the teaching that's going

1 on?

2 A. Yes.

3 Q. When you interview applicants for Teaching Assistant
4 positions do you ask questions designed to ascertain how good
5 of a teacher they're going to be?

6 A. Yes.

7 Q. Does the University provide suggested interview questions
8 for interviewing applicants for Teaching Assistant positions?

9 A. I don't believe so. I don't think so.

10 Q. You described this -- well, let's start with the first
11 page. Could you take a look at Employer Exhibit 63, which is
12 the letter approving the grant or informing you that the grant
13 had been approved?

14 A. Yes.

15 Q. That letter is actually addressed to Dr. J. Robert Kerry
16 who was back at -- well, the date's cut off, but at the time of
17 this letter he was President of The New School.

18 A. Yes.

19 Q. And why is the letter addressed to him and not to you if
20 this is your grant?

21 A. National Science Foundation grants are awarded to the
22 University.

23 Q. So the funds --

24 A. And the funds that come in are awarded to the University
25 and administered through the University.

1 Q. And you described this as a -- you described this as a big
2 project to manage, which I can imagine, I can only imagine how
3 complicated this would be working across the country or halfway
4 across the country and just coordinating with AT&T as well?

5 A. With two researchers who were at the time at ATT&T
6 Research Labs.

7 MR. MEIKLEJOHN: Could the witness be provided with a
8 copy of Employer Exhibit 34?

9 (Whereupon, the document was handed to the witness.)

10 BY MR. MEIKLEJOHN:

11 Q. Do you have the document?

12 A. I do.

13 Q. In your capacity as a prolific researcher and the Vice
14 Provost for Research at The New School are you familiar with
15 OMBA-21?

16 A. Yes, I have seen it.

17 Q. And you understand as it states in 45(a)(1) that with
18 respect to graduate students working on the project it is a
19 requirement that the individual be conducting activities
20 necessary to the sponsored agreement?

21 A. Yes.

22 Q. And as the principal investigator on this project about I
23 Phone surveys is it your responsibility to ensure that at least
24 the graduate students at The New School who are working on this
25 project are conducting activities necessary to the sponsored

1 grant?

2 A. Yes.

3 Q. Now, the -- I'm going to ask you some questions about the
4 Employer Exhibit 64, which is here. And you testified that you
5 -- strike that.

6 You and Professor Conrad together prepared this proposal?

7 A. Yes.

8 Q. And you as part of the process of preparing this or any
9 proposal you have to prepare a budget describing the
10 expenditures that you're going to make in connection with the
11 research?

12 A. Yes.

13 Q. And was it your responsibility particularly to prepare the
14 budget for the portion of this that relates to The New School?

15 A. Yes, it was.

16 Q. And I would -- well, do these have numbers? They have
17 numbers, but they're all -- well, actually now it looks like it
18 might have pages.

19 MR. MEIKLEJOHN: Can we go off the record for a minute?

20 HEARING OFFICER DAVIS: Off the record.

21 (Off the record.)

22 HEARING OFFICER DAVIS: On the record.

23 BY MR. MEIKLEJOHN:

24 Q. If you turn to the fifth page you see that this is NSF
25 Proposal 1026225?

1 A. Yes.

2 Q. And is that a number that they assigned to you or you put
3 that number on it when you're preparing the application?

4 A. That is a number they assign through the automated system
5 when you submit the application?

6 Q. And if you look at the fourth page -- well, the fourth
7 page doesn't say anything so let's forget about that. But if
8 you go to --well, maybe I misunderstood. If you go to the next
9 page, it's labeled 1025645. Is that -- is the reason you have
10 two numbers because you have two institutions? Does that
11 explain it?

12 A. Yes. So it's under NSF rules considered a collaborative
13 proposal which means that there are two institutions
14 collaborating on a single proposal. They are linked. The
15 awards are separately made to each University.

16 Q. I -- okay, good. I'm glad we don't have to follow it. I
17 was afraid -- if you go about three-quarters of the way through
18 the packet, you'll find a summary proposal budget for The New
19 School and the operations?

20 A. Um-hum.

21 Q. Actually there's at least -- there's a few similar pages.
22 What do you have listed as the funds requested for the graduate
23 student on the page you're looking at?

24 A. I'm looking at the cumulative budget, which is the final
25 one.

- 1 Q. Okay. That's -- well, it's easier if you could move back
2 --
- 3 A. Sure.
- 4 Q. -- three or four pages to the first page?
- 5 A. Year one?
- 6 Q. Year one. Only it's easier because it has numbers that
7 end in a bunch of zeros and it's easier to work with.
- 8 A. Okay.
- 9 Q. So the page we're looking at is about three-quarters of
10 the way through the document. It's labeled Summary Proposal
11 Budget Year One at the top of the page.
- 12 A. Yes.
- 13 Q. The organization is The New School and the principal
14 investigator is Michael Schober.
- 15 A. Yes.
- 16 Q. And I just said all of that basically for the benefit of
17 whoever has the -- is charged with the task of reading this
18 afterward. So this proposal calls for the sum of \$30,000 to be
19 paid for one graduate student?
- 20 A. Yes.
- 21 Q. That's what the Line B3 refers to?
- 22 A. Well, the cost of one graduate student, yes.
- 23 Q. And those are -- that's considered personnel costs of the
24 study, correct?
- 25 A. Correct.

1 Q. And then after Section B there's a line for total salaries
2 and wages which in this case is \$30,000 again because the
3 graduate student is the only person who's going to receive a
4 salary from this part of the proposal, is that right?

5 A. Correct.

6 Q. And that's what it's considered is either -- well, in this
7 case it's considered as salary, correct?

8 A. That is the term, yes.

9 Q. And then there are in additional costs listed in Section
10 F, I think --

11 A. Yes.

12 Q. -- of \$32,002. Can you tell me what those -- what those
13 expenditures would be for?

14 A. So the expenditures are -- there's actually a page that
15 describes the budget explanation for The New School that
16 describes the tuition and stipend support. So right after the
17 cumulative budget, a few pages in there's a budget explanation,
18 New School, that describes what the funds are for exactly. So
19 it is tuition remission and stipend support.

20 Q. And --

21 A. For one full-time graduate student Research --

22 Q. Is that in addition to the \$30,000 salary that is --

23 A. So there's the 30,000 and the 29,502 are tuition and
24 stipend.

25 Q. Okay. And then there's \$3,000 for I guess miscellaneous

1 costs, other direct costs?

2 A. So the budget explanation describes it under other direct
3 costs, equipment costs.

4 Q. Okay. I'm not finding the other -- the explanation.

5 HEARING OFFICER DAVIS: Two more pages.

6 BY MR. MEIKLEJOHN:

7 Q. Budget explanation, okay. That's pretty clear. All
8 right.

9 So where do we find the --

10 A. Under other direct costs.

11 Q. Okay. Oh, there it is, equipment costs, laptop or desktop
12 computer. That's what that money goes for?

13 A. Yes.

14 Q. Okay. And then, and you're going to probably tell me that
15 I missed the explanation of this also, but if you go down to
16 Line I there are some calculations of indirect costs?

17 A. Yes.

18 Q. Is there a clear explanation of that somewhere in here
19 also?

20 A. That is every University has a Federally negotiated
21 indirect cost rate that there is a basis on which indirect
22 costs are calculated and any application for a grant that goes
23 through that agency must include indirect costs at that
24 Federally negotiated rate. At The New School the rate at the
25 time was 61.5 percent based on salaries and wages only as the

1 NSF categories go and not on any other direct costs.

2 Other Universities have different rates that might include
3 other costs besides salaries and wages.

4 Q. And did you play a role in negotiating this for The New
5 School?

6 A. I did not.

7 Q. So the 30,000 -- so the way you determined that the
8 indirect costs to be received by the University is you multiply
9 the rate which is 61.5 times the salary of the graduate
10 student, is that correct?

11 A. Times the base so if there had been salary, other
12 salaries, it would be all salaries and wages. If it were the
13 PI salary or if it were post doc salary or any other salaries
14 all those salaries would get added as of the base and then it
15 would be 61.5 percent of that.

16 Q. But in this particular case?

17 A. In this particular case it was salary for graduate
18 student.

19 Q. And that's \$18,450 which is the product of all the
20 calculations?

21 A. Correct.

22 Q. That's funds that the University can use to offset its
23 overhead and facilities costs and --

24 A. Correct.

25 Q. -- whatever it was to use the money for?

1 A. Correct.

2 Q. And --

3 HEARING OFFICER DAVIS: If you don't mind, Tom, refer to
4 a page number when you're talking about --

5 MR. MEIKLEJOHN: Does it have page numbers?

6 HEARING OFFICER DAVIS: Well, I have 1026225 down at the
7 bottom right.

8 MR. MEIKLEJOHN: That's all the pages. All the pages
9 have the same number.

10 HEARING OFFICER DAVIS: Oh, is this the grant?

11 THE WITNESS: That's the grant.

12 HEARING OFFICER DAVIS: Yeah, but you have the cumulative
13 on the last page. Then you have year three, year two, year one
14 and you were just referring to certain lines and I'm not sure -
15 -

16 MR. MEIKLEJOHN: I'll clarify that. I understand.

17 BY MR. MEIKLEJOHN:

18 Q. You went through that with me. We were referring to the
19 calculations that we just went through, the 61.5 times 30,000,
20 yield being 18,450 was referring to the summary proposal budget
21 year one for The New School, Michael Schober, principal
22 investigator, that page, correct?

23 A. Correct.

24 MR. MEIKLEJOHN: And I would be amenable to numbering the
25 pages during an off the record discussion. In fact, maybe

1 could we go off the record now?

2 HEARING OFFICER DAVIS: Oh, yes. Off the record.

3 (Discussion off the record.)

4 HEARING OFFICER DAVIS: On the record.

5 In an off the record discussion, I've asked counsel to try
6 as best he could to identify the particular page he's referring
7 to in this particular document, which is Employer Exhibit 4,
8 noting that it's not paginated and the numbers that appear at
9 the bottom right-hand corner are, in fact, numbers which refer
10 to the grant proposal and are not page numbers.

11 So with that in mind, counsel asked several questions
12 concerning at page Summary Proposal Budget Year One involving
13 The New School and subsequent answers and questions were asked
14 about a page approximately three pages later entitled Budget
15 Explanation New School, which was referred to by the witness as
16 answers relative to
17 -- his answers to counsel's questions.

18 So do you have further questions regarding this document,
19 Mr. Meiklejohn?

20 MR. MEIKLEJOHN: I actually have questions about the page
21 labeled Budget Explanation.

22 HEARING OFFICER DAVIS: All right. Let's start there.

23 MR. MEIKLEJOHN: Okay.

24 BY MR. MEIKLEJOHN: On that page there's a description of the
25 -- of the work to be performed by the graduate students. Are

1 you on the Budget Explanation page?

2 A. I'm on the Budget explanation page.

3 Q. And there's a description two paragraphs later -- and
4 there's two paragraphs labeled graduate students?

5 A. Yes.

6 Q. And that contains a description of the services to be
7 performed by the graduate students on this project?

8 A. The collaboration of the graduate students, yes.

9 Q. Well, for example, in the second paragraph it states that
10 the proposal includes studies that require technical expertise
11 in work that cannot be done by inexperienced or uncommitted
12 part-time assistants who do not fully understand the project's
13 rational.

14 A. Correct.

15 Q. You wrote that?

16 A. I did.

17 Q. And basically what you're telling the Government is that
18 you need to hire a graduate student to perform this function,
19 these technical functions because you need that expertise to
20 get the work done right, correct?

21 A. I would also add that so supporting the collaboration of
22 graduate students is critical to the success of the project.
23 The -- both the proposal document and annual reporting require
24 explaining and mentoring functions that the graduate
25 collaborators will be carrying out, so both are in the

1 proposal.

2 Q. Yes, they are. One of the -- I think you testified about
3 this. One of the graduate students you worked with on this
4 project was a design student at Parsons, is that right?

5 A. Yes, actually more than one Parsons student worked on the
6 project over the life of the project.

7 Q. And they were paid for out of this budget that we've --
8 that you've testified about already, correct?

9 A. Yes.

10 Q. And can you -- Parsons students were not enrolled in the
11 Department of Psychology, correct?

12 A. They were enrolled in the MFA Program in Design and
13 Technology with mentor Dave Carroll from that program.

14 Q. And you have no particular skills or qualification to
15 mentor a Design student at Parsons, is that right?

16 A. I've actually co-taught courses called Design in
17 Psychology that have had students between Psychology and the
18 Design and Technology Program, taught that three times in
19 collaboration with Design and Technology faculty member so I've
20 had long-standing connections with that department and have
21 participated in Kolab Studios with a different faculty member
22 there.

23 So even though I'm not a member of that department it has
24 been part of the sort of trans-disciplinary move at The New
25 School that faculty from different Divisions work together and

1 the Design and Technology Program is one that I am more
2 familiar with than most, but Dave Carroll, who is a
3 collaborator on the project and whose letter of agreement is
4 part of the proposal, explains his role in that mentoring.

5 Q. And so you are not the mentor for those students?

6 A. I was the mentor in the sense that they were part of the
7 project team, they were in on all those conversations and the
8 training and mentoring they received during the course of this
9 project included working with the AT&T Research Lab's partners
10 and being mentored by them. That is what the annual -- the
11 final report describes, the learning outcomes and the
12 experience that were gained by the various students from The
13 New School who participated in the project over its lifetime.

14 Q. You -- I may have been confused about this. You mentioned
15 there was somebody who worked on this project who had a job or
16 a position in private industry? Is that one of the graduate
17 students?

18 A. One of the graduate students is -- also works at Nuance
19 Speech Dialogues Systems, yes.

20 Q. What is it, Nuance?

21 A. Nuance is the name of the company.

22 Q. And does -- what does that -- without going into too much
23 detail can you explain what that individual does for Nuance?

24 A. She --

25 MR. CATALANO: Objection.

1 HEARING OFFICER DAVIS: Overruled.

2 THE WITNESS: What she does for Nuance, she is a -- I'm
3 trying to remember what her exact current title is. She is a
4 creative project director I believe is the name or something
5 like that and she helps clients in testing speech dialogue
6 systems that Nuance is building.

7 BY MR. MEIKLEJOHN:

8 Q. And did she -- did her work in that capacity for Nuance
9 was that helpful to her in performing her functions on this
10 grant?

11 A. Yes. I would say for every graduate student who
12 participated on this grant their various kinds of experience
13 helped. Whatever experience they've had in prior lives or
14 simultaneous lives are relevant to their participation in the
15 project.

16 Q. Is there any similarity between the work she does for
17 Nuance and the work she did on this project, if you know?

18 A. Yes, in terms of her bringing expertise about dialogue
19 management and building systems to the table. Though what we
20 were building was rather different from what her work usually
21 is.

22 Q. But her relationship with Nuance where she performs those
23 functions, that is an employment relationship, correct?

24 A. That is an employment relationship.

25 MR. MEIKLEJOHN: I have another document that hasn't been

1 copied that I'd like to show the witness.

2 HEARING OFFICER DAVIS: Please show it to counsel first.

3 MR. MEIKLEJOHN: Yes.

4 (Whereupon, Mr. Meiklejohn showed a document to Mr. Catalano.)

5 MR. MEIKLEJOHN: Could I have this marked as Petitioner's
6 Exhibit 18?

7 (Petitioner's Exhibit 18 identified.)

8 BY MR. MEIKLEJOHN:

9 Q. Have you had a chance to review Petitioner's Exhibit 18?

10 A. I have.

11 Q. Do you recognize this as a posting for Research Assistant
12 positions at The New School Psychology Department?

13 A. I've never seen this posting, but it looks like it's from
14 The New School.

15 MR. CATALANO: Objection. He says that he hasn't --

16 HEARING OFFICER DAVIS: What's your objection? He hasn't
17 offered it yet.

18 MR. CATALANO: Yeah. The witness says he doesn't
19 recognize it today.

20 MR. MEIKLEJOHN: All right. I won't offer it on that
21 basis.

22 HEARING OFFICER DAVIS: Can I see it?

23 MR. MEIKLEJOHN: Oh, yeah.

24 (Whereupon, Mr. Meiklejohn handed the document to the
25 Hearing Officer.)

1 BY MR. MEIKLEJOHN:

2 Q. Just one last question. Do you know whether Research
3 Assistant positions at The New School for the Psychology
4 Department are posted on Monster.com or other job search
5 websites?

6 A. I've never heard of that.

7 MR. MEIKLEJOHN: I have no further questions.

8 MR. CATALANO: Mr. Catalano?

9 MR. CATALANO: I'd just like a second with my colleagues.

10 HEARING OFFICER DAVIS: Okay.

11 MR. CATALANO: Because I may ask one question, but other
12 than that, no.

13 HEARING OFFICER DAVIS: All right. Let me ask my
14 question first and then we'll go off the record.

15 With respect to the grant proposal we've been discussion,
16 do you recall how many students, grad students from The New
17 School worked on that project?

18 THE WITNESS: Worked on it in a paid Research Associate
19 way or participated ever in conversations in some way?

20 HEARING OFFICER DAVIS: Well, let's start with the paid.
21 How many students were paid, if you know?

22 THE WITNESS: Four.

23 HEARING OFFICER DAVIS: Four. And they were --

24 THE WITNESS: Perhaps five during the course of the life
25 of it.

1 HEARING OFFICER DAVIS: Five?

2 THE WITNESS: Yeah.

3 HEARING OFFICER DAVIS: And what I will say positions,
4 roles did they have? Were they Teaching Assistants or --

5 THE WITNESS: No, this was all Research Associates.

6 HEARING OFFICER DAVIS: All Research Associates.

7 THE WITNESS: Yes.

8 HEARING OFFICER DAVIS: Okay. And were there any other
9 grad students involved in the project who were not paid?

10 THE WITNESS: Yes.

11 HEARING OFFICER DAVIS: And what -- how many students
12 were involved and not necessarily -- when I say paid, I mean
13 receive a stipend, just for clarification.

14 THE WITNESS: Yes. Over the life of the project anywhere
15 from -- there were different degrees of engagement.

16 HEARING OFFICER DAVIS: Sure.

17 THE WITNESS: There were some students who, for the first
18 year, were in on every weekly meeting and were never paid for
19 that. There were others who came to my lab group meetings
20 where we were discussing this and there was like five to ten
21 other students who were not part of the grant, but who were
22 benefiting from the discussion and contributing to the
23 discussion along the way.

24 HEARING OFFICER DAVIS: Right.

25 THE WITNESS: So there's just a whole different level of

1 ranges of engagement by students who were not supported by the
2 grant.

3 HEARING OFFICER DAVIS: So for the students who were more
4 or less -- you had contact, but were not paid is there a
5 particular reason that they didn't receive stipends for their
6 contributions or for the interaction with you?

7 THE WITNESS: I had -- the funding that was awarded was
8 the amount that I had available. If I had had lots more money,
9 I would have been delighted to provide more support to more
10 people.

11 HEARING OFFICER DAVIS: Okay. You answered my questions.
12 Thank you.

13 Let's go off the record.

14 (Off the record.)

15 HEARING OFFICER DAVIS: Let's go back on the record.

16 Mr. Catalano?

17 MR. CATALANO: Yes.

18 REDIRECT EXAMINATION

19 BY MR. CATALANO:

20 Q. Dr. Schober, if I've read the Proposal Number 64 correctly
21 and understood your testimony, the use of the term indirect
22 cost by the Federal Government relates to those costs that come
23 through the grant to provide a stipend for the -- to provide
24 among other things the stipend to the Research Associate? Is
25 that characterized as an indirect cost?

- 1 A. The indirect cost is the additional charge on the grant
2 that is a negotiated rate with the Federal Government that
3 every University has. In the case of The New School it is
4 based on all salaries and wages and no other costs. That can
5 include faculty salaries, it can include wages and stipends.
- 6 Q. All right. That's the definition.
- 7 A. Yeah.
- 8 Q. But I want to apply it, okay?
- 9 A. Yes.
- 10 Q. So if this grant were for, pick a number, \$257,000 --
- 11 A. Yes.
- 12 Q. -- what does the University get over and above the cost of
13 running the program? Does it get one percent, two percent,
14 three percent of that \$257,000 or nothing?
- 15 A. The \$257,000 total award and budget will include a portion
16 that is the indirect cost so there will be -- so the total that
17 was awarded will have a 61.5 percent of salaries and wages
18 portion in it.
- 19 Q. So is there any way to discern what the University obtains
20 over and above the cost of running the program?
- 21 A. The University obtained the indirect cost that's in the
22 budget. That's it.
- 23 Q. 61 percent of \$257,000 or is it --
- 24 A. 61.5 percent of the salaries and wages that are the direct
25 cost in the grant contribute to the grand total of 257.

1 There's nothing beyond the 257. That's the total that is
2 awarded to the University.

3 Q. Excuse me just for a minute. I heard your answer, but I'm
4 -- may I just resume --

5 HEARING OFFICER DAVIS: Yeah, let's go off the record.

6 (Off the record.)

7 HEARING OFFICER DAVIS: Let's go back on the record.

8 BY MR. CATALANO:

9 Q. If I understand the funding and pardon me if I've been
10 somewhat obtuse about this, but if 61 percent of 257,000 is the
11 -- pick a number, \$260,000 to go towards the funding of the so-
12 called indirect cost, which are stipends -- no?

13 A. The indirect costs are not the stipend so the total budget
14 if it adds up to 25,000 includes direct costs and indirect
15 costs and those indirect costs are calculated on the basis of
16 some percentage of the direct cost that has been agreed to by
17 the Federal Government.

18 Q. What is a stipend, a direct or an indirect cost?

19 A. Direct.

20 Q. So then the University would be left with \$160,000?

21 A. It would be left with 61.5 percent of whatever the
22 salaries and wages were that were part of the direct costs.

23 And if there were other direct costs --

24 Q. Which in this instance --

25 A. Yes.

1 Q. -- is \$100,000. Well, if it were 257?

2 A. If the grant were only salaries and wages then it would be
3 -- that would be right. There are other costs in the grant as
4 well, like travel costs and equipment costs --

5 Q. Yeah.

6 A. -- that are not computed as part of the base.

7 Q. And there are administrative costs that are not factored
8 into this proposal such as the University providing for your
9 office? Not you, but your office or secretarial costs or
10 overhead costs and real estate costs and all the rest of it?

11 A. Yes. My understanding is that this is why there are these
12 negotiated indirect costs for Universities is because there's
13 a, every five years or something, renegotiation of what the
14 rate -- what rate makes sense for the University's support for
15 the research projects and that includes all sorts of overhead
16 costs.

17 Q. Okay. And in the end --

18 A. And the University gets to decide what it does with the --

19 Q. But at the end of the day, based on your knowledge, can
20 you tell us whether there's any surplus over and above the
21 costs, whether they're indirect or direct costs, to fund this
22 project?

23 A. There is no surplus. This is -- these are all costs.

24 MR. CATALANO: Thank you.

25 HEARING OFFICER DAVIS: So just for the reader of the

1 record, with respect to the documents referred to previously,
2 if we look at Summary Proposal Budget Year One down near the
3 bottom and designated I, there's something that refers to
4 indirect costs which I think is what counsel is referring to.

5 So in this instance, indirect cost has a rate of 61.5 and
6 the base, I guess, is 30,000, which is based on the salary and
7 so that's how that was computed. Would that be correct?

8 THE WITNESS: Correct.

9 HEARING OFFICER DAVIS: Okay. So the witness testimony
10 consistent that indirect cost is a multiplied factor of the
11 salary -- I don't want to misquote -- total salary, wages --
12 total salary and wages. I don't know if that helps or hurts,
13 but at least it gives the reader of the record a document to
14 reflect on relative to the testimony.

15 Mr. Meiklejohn do you have a question?

16 MR. MEIKLEJOHN: Yes.

17 RE CROSS EXAMINATION

18 BY MR. MEIKLEJOHN:

19 Q. So your last answer was that at the end of the day
20 there's no surplus.

21 A. From the grant funding. This is it.

22 Q. Everything that the Government awards has to be either
23 spent on direct costs or other specified costs in the grant or
24 they have to be expended by the University to cover its
25 indirect costs or its overhead costs, is that correct?

1 A. Yes, though I don't believe the Federal agencies tell the
2 University exactly how they must expend those indirect costs.
3 Those indirect costs are awarded to the University and
4 Universities have their own policies for how they use them.

5 Q. And that money can be used to pay for grounds keeping, it
6 can be used to pay for repairs on the building, or it can be
7 used to pay the President's salary, whatever the University
8 chooses?

9 A. Universities are able to do what they will with the
10 indirect costs. We have a new policy at the University that
11 returns 60 percent of the indirect costs to the PI for use on
12 research related expenses.

13 MR. MEIKLEJOHN: Okay.

14 HEARING OFFICER DAVIS: PI stands for?

15 THE WITNESS: Principal investigator.

16 HEARING OFFICER DAVIS: Thank you.

17 MR. MEIKLEJOHN: I have no further questions.

18 MR. CATALANO: Nor do I.

19 HEARING OFFICER DAVIS: Great. Thank you very much.
20 You're excused.

21 (Witness excused.)

22 HEARING OFFICER DAVIS: And are there any more witnesses
23 today, Mr. Catalano?

24 MR. CATALANO: No, sir.

25 HEARING OFFICER DAVIS: Mr. Meiklejohn?

1 MR. MEIKLEJOHN: No, sir.

2 HEARING OFFICER DAVIS: Okay, great. We're adjourned.

3 (Whereupon, at 3:15 p.m., the hearing was adjourned sine die.)

4

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 22:

In the Matter of:

THE NEW SCHOOL,

Employer,

And

STUDENT EMPLOYEES AT THE NEW SCHOOL - SENS, UAW,

Petitioner.

Case No.: 2-RC-143009

Date: May 4, 2015

Place: New York, New York

were held as therein appears, and that this is the original
transcript thereof for the files of the Board

BARRINGTON G. MOXIE
Official Reporter

BURKE COURT REPORTING, LLC
1044 Route 23 North, Suite 316
Wayne, New Jersey 07470
(973) 692-0660