

**OFFICIAL REPORT OF PROCEEDINGS  
BEFORE THE  
NATIONAL LABOR RELATIONS BOARD**

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**In the Matter of:**

**Case No.: 13-RC-198325**

**UNIVERSITY OF CHICAGO**

**Employer**

**And**

**GRADUATE STUDENTS UNITED**

**Petitioner**

**Place: Chicago, IL  
Date: 06/01/17  
Pages: 1931-2108  
Volume: 10**

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**OFFICIAL REPORTERS**

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Mid-Atlantic Region  
1250 Eye Street, NW – Suite 350  
Washington, DC 20005  
888-777-6690**

UNITED STATES OF AMERICA  
 BEFORE THE NATIONAL LABOR RELATIONS BOARD  
 REGION 13  
 THE UNIVERSITY OF )  
 CHICAGO, )  
 )  
 Employer, )  
 ) No. 13-RC-198325  
 AND )  
 )  
 GRADUATE STUDENTS UNITED, )  
 )  
 Petitioner. )

The above entitled matter came on for hearing pursuant to notice, before CHRISTINA MOLS, Hearing Officer, at The Dirksen Center, 219 South Dearborn Street, Suite 808, on Thursday, June 1, 2017, at 9:00 a.m.

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1 (Time Noted: 9:10am)  
 2 THE HEARING OFFICER: On the record.  
 3 Petitioner can call its next witness.  
 4 MS. AUERBACH: Petitioner calls  
 5 Professor Kenneth Warren.  
 6 (Witness sworn.)  
 7 THE WITNESS: I do.  
 8 THE HEARING OFFICER: Please have a  
 9 seat.  
 10 WHEREUPON:  
 11 KENNETH W. WARREN, PhD,  
 12 called as a witness herein, having been first duly  
 13 sworn, was examined and testified as follows:  
 14 DIRECT EXAMINATION  
 15 BY MS. AUERBACH:  
 16 Q. Can you state and spell your name for  
 17 the record.  
 18 A. Kenneth, K-E-N-N-E-T-H, middle initial  
 19 W, Warren, W-A-R-R-E-N.  
 20 THE HEARING OFFICER: Thank you.  
 21 BY MS. AUERBACH:  
 22 Q. Are you currently employed?  
 23 A. Yes, I am.  
 24 Q. Where is that?  
 25 A. The University of Chicago.  
 Q. What is your position there?

1 In the English department, do you know  
 2 approximately how many graduate students there are  
 3 currently?  
 4 A. I would guess up and down the ladder  
 5 probably about 60.  
 6 Q. And do you know where English ranks in  
 7 terms of major for humanity students in terms of  
 8 how big it is?  
 9 A. It's the largest major in the humanities  
 10 program. We have approximately 188 department  
 11 majors and our classes tend to be the most  
 12 populated classes in the humanities division.  
 13 Q. Have you taught classes in the English  
 14 department where teaching assistants are used?  
 15 A. Yes.  
 16 Q. Are there any humanities core classes  
 17 that you taught where teaching assistants are used?  
 18 A. Yes. Just to clarify, in the humanities  
 19 core they're called writing interns.  
 20 Q. Are these the writing interns who are  
 21 trained at the Little Red School House program?  
 22 A. Yes, it is.  
 23 Q. What humanities core course or courses  
 24 use writing interns?  
 25 A. To my knowledge all of the humanities

1 A. My official title is Fairfax M. Cone  
 2 distinguished service professor in the department  
 3 of English language and literature.  
 4 Q. How long have you held that position?  
 5 A. That particular position, or that  
 6 particular title, probably six years or so, but I'm  
 7 a full professor in the department, and I've been  
 8 that since -- well, I've been at the department at  
 9 the university for 26 years starting as assistant  
 10 professor and was promoted up the ranks to the rank  
 11 of full professor.  
 12 Q. How long have you held the rank of full  
 13 professor?  
 14 A. 16 years roughly.  
 15 Q. What was your educational background  
 16 prior to joining the faculty?  
 17 A. I did my undergraduate years at the  
 18 Harvard College and my graduate studies at Stanford  
 19 University.  
 20 Q. Have you held any other positions at the  
 21 university?  
 22 A. I was for four years, from 2006 to 2010,  
 23 deputy provost for research students on minority  
 24 issues.  
 25 Q. As a professor -- let me ask you this.

1 core courses -- core sequences use writing interns  
 2 to my knowledge. Certainly in my experience I've  
 3 used -- I've had a writing intern for all of my  
 4 teaching.  
 5 Q. What courses in the English department  
 6 are humanity core courses?  
 7 A. To clarify, humanities core courses are  
 8 not in the English department. These are offered  
 9 through the college and so they are part of the  
 10 broader curriculum for all of the university's  
 11 undergraduates.  
 12 One of our distinguishing features  
 13 as an undergraduate institution is our core  
 14 education, and so all of the students have to take  
 15 core courses in the humanities, the social sciences  
 16 and the natural sciences.  
 17 Q. So which core courses have you taught in  
 18 humanities?  
 19 A. Most recently readings in world  
 20 literature and prior to that I taught in reading  
 21 cultures and then a course sequence that no longer  
 22 exists called form problem and event.  
 23 Q. The readings in world literature course,  
 24 when did you last teach that?  
 25 A. Fall of 2016.

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1 Q. What's the format of the teaching of  
2 that class?  
3 A. These are discussion courses of no more  
4 than 19 students. The faculty member is  
5 accompanied by a writing intern who sits in on all  
6 of the courses. The writing intern is trained via  
7 the Little Red School House so we don't provide --  
8 as faculty members, we don't provide any  
9 instruction on how they teach writing.  
10 They're primarily discussion  
11 courses. The philosophy of the course is the best  
12 way to encounter important works of literature is  
13 through direct discussion and short writing  
14 assignments, relatively five pages, three to five  
15 pages in length. Maybe four of them over the  
16 course of the term.  
17 The writing intern is expected to  
18 run independent writing workshops that meet outside  
19 of the regular class meetings and usually involve  
20 small groups. Maybe a third of the class for each  
21 of these courses, and they will help the students  
22 or work over, say, introductory paragraphs one  
23 week. They will then maybe look at thesis  
24 statements the next time. So they meet probably  
25 three or four times outside of the regular course

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1 meetings during the quarter.  
2 Q. Do the writing interns do any grading?  
3 A. Yes, they do.  
4 Q. What grading do they do?  
5 A. It varies from faculty member to faculty  
6 member. Typically what I do is after a -- the  
7 initial grading, which we work together to  
8 calibrate to make sure that we're applying the  
9 standards equally, I will divide up the grading for  
10 each paper so that over the course of the quarter I  
11 will make sure that I've seen all of the papers for  
12 the undergraduates and the writing intern will have  
13 seen them as well.  
14 Q. When you say "all the papers," you mean  
15 papers from all of the students?  
16 A. Papers from all of the students. So the  
17 second assignment I will grade the first half of  
18 the alphabet. The writing intern will grade the  
19 second half of the alphabet. And then for the  
20 second half we'll switch. Then for the final I'd  
21 say I might -- we do that and then I might just  
22 look over because the entirety of the essay is not  
23 grading writing interns have, but it's usually good  
24 for me to have a sense of what the final  
25 assignments were so that if I need to meet with the

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1 students subsequent to them getting their final  
2 grade I will know what the strengths and weaknesses  
3 were present in the paper.  
4 Q. Did you give guidance to the intern on  
5 grading on how to grade the papers?  
6 A. When you say "guidance" you mean --  
7 Q. To the writing intern on the rubric for  
8 grading.  
9 A. I don't provide a rubric. As I said, we  
10 sit, we discuss primarily at the beginning of the  
11 quarter what the expectations are. We decide what  
12 points of emphasis. Effective writing teaching  
13 means you can't sort of focus on everything at  
14 once. You have to get their attention, focus on  
15 particular things so that they can work on them  
16 over the course of the quarter.  
17 Q. And the papers before the final paper  
18 when you do one-half of the alphabet and the intern  
19 does the other half of the alphabet, do you read  
20 over every one of the papers that the intern  
21 graded?  
22 A. No.  
23 Q. Do you read over any of them?  
24 A. Some of them I do.  
25 Q. And for what purpose?

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1 A. Again, just to make sure that we are  
2 applying our standards fairly.  
3 Q. And who does the -- for students carried  
4 out by the writing intern in the readings in world  
5 literature course, who does that benefit?  
6 MR. SALVATORE: Objection.  
7 THE HEARING OFFICER: Grounds?  
8 MR. SALVATORE: The question is not  
9 legible in terms of -- or understandable. I mean,  
10 it needs to be rephrased.  
11 THE HEARING OFFICER: Can you rephrase?  
12 BY MS. AUERBACH:  
13 Q. Who benefitted from the duties carried  
14 out by the writing intern in the readings in world  
15 literature course?  
16 A. Well, most immediately the students in  
17 the course because they get additional writing  
18 instruction that they wouldn't otherwise get if we  
19 did have not have writing students in the course.  
20 The graduate student obviously gets experience  
21 working with students on their writing. The  
22 university benefits because the writing instruction  
23 and humanities core is basically the closest we  
24 have to freshman composition at the University of  
25 Chicago because we don't really have a freestanding

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1 freshman composition program in the way that other  
2 universities do so that the intent to focus on  
3 writing provided in the core courses is central to  
4 the university's project of improving undergraduate  
5 writing. And I benefit as well because the  
6 teaching of writing is very labor intensive, and  
7 with the graduate student as a writing intern,  
8 we're actually able to provide an intensity of  
9 focus that would be impossible if I were doing it  
10 on my own.  
11 Q. Are there other courses you've taught  
12 other than the humanities core courses that use  
13 writing interns?  
14 A. Not writing interns, no.  
15 Q. Are there other courses other than the  
16 humanities core courses in which graduate student  
17 teaching assistants are used?  
18 A. Yes.  
19 Q. What types of courses are those?  
20 A. A range of courses from my own  
21 experience. For example, I've taught in our  
22 introduction to fiction course. To place that in  
23 context, a few years ago the English department  
24 reorganized its undergraduate curriculum.  
25 Among the things we instituted as a

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1 regular part of that was a series of what we call  
2 gateway courses into the major. These are -- we  
3 call them introduction to genre courses, so  
4 introduction to fiction, introduction to poetry,  
5 introduction to drama. We have an introduction to  
6 film, I think, as well. These are lecture courses  
7 taught by the faculty. And because of the  
8 relatively large number of students, the  
9 presumption is that we will have sections taught by  
10 course assistants drawn from the graduate students  
11 in the program.  
12 So when I did it a couple of years  
13 ago, I had approximately 56 students, and for that  
14 I had three-course assistants. Their role was to  
15 run independent discussion sections every Friday in  
16 addition to the two 65-minute, 70-minute lectures  
17 that I gave during the week. My role with them was  
18 to meet with them weekly to go over some of the  
19 points of emphasis for the course.  
20 The other feature of these gateway  
21 courses is that they are meant to introduce  
22 students to the vocabulary and skills that we, as a  
23 department, feel are fundamental to the development  
24 as scholars of literature.  
25 So the graduate students are

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1 important for the purpose of making sure that  
2 they're using those terms and they understand those  
3 terms. The graduate students -- the course  
4 assistants then run independent discussions each  
5 week, and they are responsible as the first-line  
6 graders for the students in their discussion  
7 sections.  
8 I do review a sample of the papers  
9 from each section to make sure that there's a  
10 relative uniformity in term of the standards being  
11 applied and to get a sense of what the kind of  
12 level of writing that the students are producing in  
13 the course.  
14 Q. Do you, at the beginning when you meet  
15 with them, go over what you're looking for in a  
16 grade in a paper to get an A or to get a B?  
17 A. Yes.  
18 Q. Do you read over all the papers that  
19 they grade?  
20 A. No.  
21 Q. Is that type of gateway course -- is  
22 that ever taught without the use of teaching  
23 assistants?  
24 A. No.  
25 Q. Are all what you refer to as gateway

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1 courses taught in a similar fashion with two  
2 lectures a week and then a discussion lead by a  
3 graduate student?  
4 A. Yes, as far as I know. I can't see that  
5 there would be a way to do it otherwise.  
6 Q. Who benefits from the duties carried out  
7 by the teaching assistant in the gateway courses?  
8 A. Again, multiple beneficiaries. I think  
9 the students in the course obviously do. As the  
10 faculty member, I'm able to focus more on the  
11 delivery of my lectures than I might be otherwise  
12 if I had to spend more time grading all of the  
13 papers. It would be impossible to do.  
14 Our curriculum benefits. That is  
15 to say we have defined the curriculum in such a way  
16 such that we're able to deliver the content and the  
17 skills in a manner that I think makes sense to the  
18 students. So by being able to offer these large  
19 introductions to genre courses, with the use of  
20 course assistants, we're able to reach a broader  
21 number of potential majors.  
22 This is a course -- although it's  
23 designed for the major I should say these courses  
24 draw students from across the undergraduate program  
25 as well, and so they do serve to give students an

1 idea of what we do in the English department and  
2 the graduate students get some benefit, again,  
3 running discussion sections.

4 I do give my students the option,  
5 if they would like to take it, of giving one  
6 lecture that then I will give them feedback on.  
7 The last time I took the course all of the course  
8 assistants did volunteer to give a lecture, but the  
9 lecturing is not a requirement of their role as  
10 course assistant.

11 Q. In the humanities core courses that use  
12 the writing interns, are those required only of  
13 humanities majors or all undergraduates?

14 A. All undergraduates. If I didn't  
15 clarify, the writing interns are not drawn only  
16 from the English department. Graduate students,  
17 from any department, can apply to the Little Red  
18 School House to get, I guess, credentials as a  
19 writing intern.

20 Q. Do you know how many writing-type  
21 courses undergraduates have to take?

22 MR. SALVATORE: Object to the form.

23 THE HEARING OFFICER: The question is  
24 how many --

25 MS. AUERBACH: Core humanities cases

1 A. I don't know whether there is a strict  
2 requirement for how many hours a week they do hold  
3 office hours, but I typically include their office  
4 hours on the course syllabus.

5 Q. In the gateway courses that you've  
6 taught, have you given the course assistants any  
7 instructions on what to do with their office hours?

8 A. No.

9 Q. Have you gone to visit any of their  
10 office hours?

11 A. No.

12 Q. Are there any other courses -- types of  
13 courses besides the core courses and the gateway  
14 courses that you've taught that use graduate  
15 students as teaching core assistants?

16 A. Yes.

17 Q. What type of course is that?

18 A. So let's say most recently, which is  
19 this winter, I did a course entitled Modernism in  
20 the Harlem Renaissance, and I had a course  
21 assistant for that.

22 MR. SALVATORE: I'm sorry. You went a  
23 little fast.

24 BY THE WITNESS:

25 A. I'm sorry. The course was called

1 you've referred to as --

2 THE HEARING OFFICER: -- is required to  
3 satisfy the core requirements?

4 BY THE WITNESS:

5 A. I don't know the full measure of the  
6 core. I do know that in that first year they're  
7 expected to do two courses in any individual  
8 sequence. In the readings in world literature  
9 sequence, there's an autumn, required autumn,  
10 required winter quarter course, and there's an  
11 optional spring.

12 BY MS. AUERBACH:

13 Q. That's true for all undergraduates?

14 A. Yes.

15 Q. In the gateway lecture courses,  
16 approximately how many students are usually  
17 enrolled in those courses?

18 A. How many are enrolled? I take it to be  
19 upwards of 50. As I said, I think I had 65 and  
20 some may enroll more than that.

21 Q. In the gateway courses do the graduate  
22 students hold office hours?

23 A. Yes.

24 Q. Are they expected to hold those office  
25 hours for a certain number of hours a week?

1 Modernism in the Harlem Renaissance. I did have a  
2 course assistant. I think the enrollment was 21  
3 students. So there was no independent discussion  
4 section for that student. The role of the course  
5 assistant there was primarily to act as a grader --  
6 to share in the grading work. She also  
7 provided -- and this, again, that depends on the  
8 skills of the student. She also provided some tech  
9 assistance and work with the course website.

10 Q. Did she do some of the grading, you did  
11 some or how is that broken down?

12 A. It was more or less the same process  
13 that I described in sort of the humanities core  
14 course, a division of labor with a smaller number  
15 of papers. I probably -- I didn't look over all of  
16 them, but I probably looked over a higher  
17 percentage of those papers than I do with a larger  
18 number of papers, and she did hold office hours as  
19 well.

20 Q. Who benefitted from duties carried out  
21 by the course assistant in that class?

22 A. Again, the students in the course got  
23 more attention to their writing than they would if  
24 it were me in the course. I think the graduate  
25 student got the benefit of working in an area that

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1 she hadn't worked before and getting feedback on  
2 her grading processes. And, again, for me I was  
3 able to do some things in terms of delivering of  
4 instruction that I wouldn't have been able to do  
5 because I was able to draw on her expertise for  
6 some of the technical, the visual aspects of the  
7 course using projected images and the like. She  
8 was better at that than I was.

9 Q. Did having her assistance affect how  
10 much time you spent on grading papers?  
11 A. Yes. I would be hesitant to put a  
12 percentage on how much as well. And then it  
13 allowed me to focus on other aspects of the course.

14 Q. Do graduate students also hold lecture  
15 positions in the English department?  
16 A. They -- to be clear, they have the  
17 opportunity to apply to teach freestanding courses.  
18 These are courses that they themselves design and  
19 they teach on their own.

20 Q. How are students chosen to do that?  
21 A. We do have a curriculum committee. I  
22 think it's their role to vet the applications and  
23 make the determination which courses seem most  
24 coherent but also which courses best fit with our  
25 curriculum.

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1 Q. Who benefits from the graduate students  
2 teaching the standalone courses?  
3 A. Again, multiple beneficiaries. I want  
4 to stress the benefit to the department because in  
5 any given year we will have a certain number of our  
6 faculty who are on research leave and during that  
7 year they won't be teaching. The fact that we have  
8 freestanding courses taught by our graduate  
9 students means that we're able to populate the  
10 curriculum of our major during the year, during  
11 that time when we have faculty who aren't  
12 available. So the department benefits. The  
13 curriculum benefits. And if the curriculum  
14 benefits, the students benefit. And there's a  
15 great benefit for the students in being able to say  
16 they designed and taught their own courses as well.

17 Q. Have you had any graduate students work  
18 for you as a research assistant?  
19 A. Yes.  
20 Q. What did you have graduate student do  
21 for you as research students?  
22 A. I've in working on and edited --  
23 particularly I edited a volume. I've been able to  
24 have a student track down obscure references  
25 and -- for the purposes of annotation, so that

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1 saves a lot of hours for me in terms of being able  
2 to focus on the substance of the work and then to  
3 be able to have someone go and -- although a lot of  
4 things now can be done, you know, via the web but  
5 to actually go out and dig out references that will  
6 take, you know, an hour or so for me to find.

7 Q. In that case is the graduate student  
8 paid on an hourly basis?  
9 A. Yes.

10 MS. AUERBACH: That's all the questions  
11 I have.

12 THE HEARING OFFICER: Off the record.  
13 (Whereupon, a break was taken,  
14 after which the following  
15 proceedings were had:)  
16 THE HEARING OFFICER: On the record.  
17 Employer can proceed with its  
18 questions for the witness.

19 MR. SALVATORE: Thank you, Madam Hearing  
20 Officer.

21 CROSS-EXAMINATION  
22 BY MR. SALVATORE:  
23 Q. Professor Warren, thanks for your  
24 testimony so far. I have a few questions for you.  
25 A. Sure.

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1 Q. You described several courses. Do any  
2 of those course have exams?  
3 A. Yes.  
4 Q. Which ones?  
5 A. I give an exam in the course that I  
6 mentioned in the Harlem Renaissance. The  
7 humanities core courses do not have exams. They  
8 have a final paper. I did give quizzes but  
9 no -- no, I did give a final exam in the gateway  
10 courses.  
11 Q. Who prepares those final exams?  
12 A. I do with input from the graduate course  
13 assistants.  
14 Q. Why is it important to have input from  
15 the graduate assistants of the course assistants?  
16 A. Because in their role as discussion  
17 leaders, they can give me information about which  
18 areas they feel students need to focus on, where  
19 they were clearest and where they were weakest, and  
20 I can use that information both for quizzes and for  
21 the final exam.  
22 Q. So it's a collaborative process?  
23 A. Yes, it is.  
24 Q. And how do they benefit, the graduate  
25 course assistants, from that?

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1 A. From the collaborative process of  
2 putting together exams and quizzes?  
3 Q. Yes.  
4 A. They learn how to put together exams and  
5 quizzes.  
6 Q. Why is that important?  
7 A. It's important to be able to evaluate in  
8 a fair manner the work that students have done and  
9 the progress that they make in the course.  
10 Q. Why is that important?  
11 A. So that students can assess their -- the  
12 quality of their own learning so they can -- that  
13 they've mastered the material.  
14 Q. Why is it important for the graduate  
15 students?  
16 A. Why is it --  
17 Q. Learning how to put quizzes and exams  
18 and evaluate the results of those results and  
19 exams, why is that important for graduate students?  
20 A. Because they may in future career  
21 courses they teach decide how to give an exam, and  
22 it's good for them to know how to put together a  
23 fair exam.  
24 Q. Do most of the PhDs that graduate from  
25 the University of Chicago go into some form of

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1 teaching?  
2 A. That's a good question. Yes, I would  
3 say most do. I hesitated because the market  
4 conditions are changing so it's hard to predict  
5 what they will be doing.  
6 Q. But in the past?  
7 A. In the past most of them do go into some  
8 form of teaching whether in the tenure or  
9 nontenured capacity.  
10 Q. If they're going to teach, they need to  
11 know how to prepare an exam or a quiz, right?  
12 A. Again, perhaps not all English courses.  
13 I think increasingly many courses don't actually  
14 give exams if they're paper-driven courses.  
15 Q. So let's talk about the papers?  
16 A. Yes.  
17 Q. Who selects the paper topics for the  
18 courses you described?  
19 A. Again, the faculty member -- well, let's  
20 divide it up why just a little bit.  
21 For the humanities core courses,  
22 those paper topics are produced in a collaborative  
23 process with the faculty or instructors who are  
24 teaching in that particular sequence. They get  
25 together and they determine assignments.

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1 And for individual courses, again,  
2 typically it's a faculty member but sometimes in  
3 consultation with the writing student.  
4 Q. Is learning how to design a paper topic  
5 something that a faculty or future faculty  
6 member -- is that a good skill for them to have?  
7 A. Absolutely.  
8 Q. So when you're collaborating with  
9 graduate students in that area, you're helping them  
10 develop their skills, right?  
11 A. Yes. And they're helping me design  
12 better paper topics because I would lose the  
13 benefit of the kind of input that they have in  
14 working closely with the students if I didn't  
15 consult with them.  
16 Q. So it's collaborative again?  
17 A. Again, it's collaborative.  
18 Q. It's something that will help the  
19 graduate student if they determine to go into  
20 teaching as a career, right?  
21 A. One would hope so.  
22 Q. Now, you mentioned that graduate  
23 students in English apply to teach freestanding  
24 courses in the English department?  
25 A. That's correct.

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1 Q. And you mentioned there's a curriculum  
2 committee, that's a curriculum committee of the  
3 English faculty?  
4 A. Yes.  
5 Q. Have you ever served on that curriculum  
6 committee?  
7 A. No, I have not served on the curriculum  
8 committee. I have served in the past on  
9 committees -- let me just -- in the past we had a  
10 faculty committee that reviewed the course  
11 proposals submitted by the course assistants. I  
12 think the curriculum committee currently does that.  
13 So in the past I have served on that faculty  
14 committee.  
15 Q. And what was the principal function or  
16 functions of that committee you served on?  
17 A. Oh, that was to evaluate and determine  
18 which of the course proposals we were going to  
19 reward by allowing them to be taught in the  
20 curriculum for the next year.  
21 Q. Course proposals from the graduate  
22 students?  
23 A. Yes.  
24 Q. The PhD graduate students?  
25 A. The PhD graduate students, yes.



1 Q. So you were involved in vetting those  
2 proposals?  
3 A. Yes. I've done that in the past.  
4 Q. And deciding -- I think you used the  
5 word "reward" -- who you would reward, right?  
6 A. Yes.  
7 Q. So some graduate students in English,  
8 when they applied, got rewarded, correct?  
9 A. Right.  
10 Q. And others did not, right?  
11 A. Correct.  
12 Q. Because you couldn't pick everybody,  
13 correct?  
14 A. Correct.  
15 Q. So you mentioned that you gave the  
16 opportunity to graduate students to volunteer to do  
17 one lecture in one of the courses you described.  
18 Which one was that?  
19 A. This was in the introduction to fiction,  
20 one of the gateway courses.  
21 Q. Intro to fiction. Did you give feedback  
22 to the graduate student after he or she gave their  
23 lecture?  
24 A. Yes.  
25 Q. Tell me about that process.

1 A. I sit down with them typically right  
2 after they've given the lecture and I would ask  
3 them how they thought it went, get their sense of  
4 things and then I would point out what I thought  
5 were strengths and weaknesses in the preparation,  
6 the content and the delivery.  
7 Q. Of their lecture?  
8 A. Of their lecture.  
9 Q. Anything else?  
10 A. In that feedback?  
11 Q. Uh-huh.  
12 A. That's about it, I think.  
13 Q. I take it you make yourself available to  
14 a PhD student who is about to give a lecture if  
15 they had any questions before they gave the lecture  
16 too, right?  
17 A. Sure.  
18 Q. Has that ever happened?  
19 A. It didn't happen in this particular  
20 class. It's happened in other classes.  
21 Q. What was that process?  
22 A. Well, I mean, I guess it's hard to  
23 generalize, but the process was simply someone  
24 might say, I'm debating between talking about these  
25 three texts or do you think it would be better to

1 talk about two? And I would give a response. Talk  
2 about all three or three or three is too many or  
3 something of that sort.  
4 Q. So you give your guidance and wisdom  
5 based on your years of experience teaching?  
6 A. Yeah.  
7 Q. So, Professor Warren, you're aware that  
8 mentoring PhDs is a high priority in the University  
9 of Chicago's humanities division?  
10 A. Yes.  
11 Q. Tell us as fully and completely as you  
12 can how you mentor PhDs?  
13 A. Well, beyond the coursework that they do  
14 it's -- mentoring typically occurs in an office  
15 hour setting, informal conversations about their,  
16 you know -- so at the beginning the defining of  
17 their particular field, moving towards their field  
18 exams, giving them feedback on any of the  
19 substantial papers that they do in their early  
20 work, helping them as they move towards writing a  
21 proposal for a -- their dissertation and then  
22 giving them feedback on the chapters as they are  
23 writing the dissertation. That's the broad account  
24 of what we do.  
25 Q. This takes place over a period of years,

1 correct, this mentoring?  
2 A. Sure.  
3 Q. What's the average time to completion  
4 for an English PhD?  
5 A. I hesitate to say what it is right now  
6 because it's -- I think it's changed. Typically  
7 we're hoping that students will finish in  
8 six-to-seven, eight-year range, and I've seen  
9 students cross that range. Some, more.  
10 Q. Job market is not very good for English  
11 PhDs outside of their grad programs if they're  
12 going to go find a teaching job these days, right?  
13 A. It's a tough job market, yes.  
14 Q. Why do you spend so much time mentoring  
15 PhD students?  
16 A. Well, the important thing to remember  
17 about this profession is that mentoring is built in  
18 all levels. We mentor our junior faculty in order  
19 to provide better success. So if a junior faculty  
20 member comes in, we actually appoint faculty as  
21 mentors. Postdoctoral scholars have to have  
22 mentors. It's very important to help individuals  
23 coming into the profession at all levels, whether  
24 as PhD students or as junior faculty members, to  
25 learn the expectations that we have within the

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1 profession to give them feedback and guidance along  
2 the way.  
3 So there's a continuum of mentoring  
4 that involves PhD students, and it involves our  
5 junior faculty. In fact, we've actually moved  
6 because we're really concerned that when a faculty  
7 members gets tenure that there can be a period of  
8 time where the process of putting together the  
9 second book or second phase of the research career  
10 can feel invisible and inchoate. And so we're  
11 actually moving towards providing more mentoring of  
12 our tenured colleagues in order to help them make  
13 better clear plans as they move up. And having  
14 been in the provost office I've been involved in a  
15 variety of discussions there.  
16 One of the things that we've  
17 discovered is that at an institution like the  
18 University of Chicago, which is a faculty-led  
19 institution, at least we like to believe so, we  
20 often find that the skills that we hope our tenured  
21 faculty have that would lead them to be good  
22 departmental chairs and undergraduate directors of  
23 undergraduate services or graduate services are  
24 things we simply can't assume that they have and we  
25 have to provide some direct mentoring.

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1 So mentoring is just  
2 across-the-board in what we do in the academy. I  
3 can't sort of see any version of the academy in  
4 which mentoring doesn't occur at all levels.  
5 So, yes, we mentor our graduate  
6 students because the process of becoming an  
7 effective professional in the fields in which we  
8 work require mentoring up and down the ladder.  
9 Q. You were mentored at Stanford, right,  
10 when you were getting your PhD?  
11 A. Yes.  
12 Q. This is, as you say, part of the  
13 profession?  
14 A. Yes.  
15 Q. Not only in the English department but  
16 across the University of Chicago?  
17 A. Right.  
18 MR. SALVATORE: Madam Hearing Officer,  
19 could you show the witness Employer's Exhibit  
20 No. 26, please.  
21 BY MR. SALVATORE:  
22 Q. Dr. Warren, I ask you to take a look at  
23 that and tell me if you recognize Employer's  
24 Exhibit 26, which is a memo to all humanities  
25 department chairs from autumn 2011?

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1 A. Do I recognize the document itself? I  
2 don't recognize -- the cover memo is directed to  
3 department chairs so I don't recognize this. The  
4 content seems familiar. I can't say definitively  
5 whether I recognize this document.  
6 Q. Okay. That's fine. Thank you.  
7 Now, if I have it right, the  
8 English department at the University of Chicago  
9 requires its third-year PhD students to take a  
10 course in teaching undergraduate English. I think  
11 that course is also referred to as pedagogy; is  
12 that correct?  
13 A. That's correct.  
14 Q. Do you know how long that's been part of  
15 the English department offerings at the University  
16 of Chicago? You've been here what now? 26 years?  
17 A. I would say probably at least all the  
18 time that I've been there. I'm not 100 percent  
19 sure though.  
20 Q. All third-year English PhD students who  
21 enter your program without a master's degree have  
22 to take that course, correct?  
23 A. Yes.  
24 Q. It's required?  
25 A. Yes.

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1 Q. And the course seeks to provide a  
2 setting in which graduate students prior to their  
3 first formal teaching assignment can explore some  
4 of the elements of teaching English, right?  
5 A. Yes.  
6 Q. And this course is designed primarily as  
7 an introduction to teaching undergraduates English;  
8 is that right?  
9 A. (Nodding head).  
10 Q. And the class includes theoretical  
11 readings on pedagogy, correct?  
12 A. Right.  
13 Q. It provides significant opportunities in  
14 conceptual, designing and running a college-level  
15 course in English, right?  
16 A. Yes.  
17 Q. You ever teach this course?  
18 A. I've never taught pedagogy course.  
19 Q. Have you ever sat in on it?  
20 A. No.  
21 Q. Do you know if they give the third-year  
22 English PhD students and anyone else who may be  
23 taking this course the opportunity to lead a mock  
24 classroom discussion?  
25 A. I presume so. I don't say it happened

1 recently.  
 2 Q. Or to construct a sample syllabus?  
 3 A. Yes. I'm pretty sure that happens all  
 4 the time.  
 5 Q. Or how to grade a common paper?  
 6 A. Yes. I'm pretty sure that happens.  
 7 Q. The folks that are your course  
 8 assistants, do they have to take this course?  
 9 A. Yes.  
 10 MR. SALVATORE: What are we up to?  
 11 THE HEARING OFFICER: I believe this  
 12 would be 66.  
 13 (Employer No. 66 was marked.)  
 14 BY MR. SALVATORE:  
 15 Q. Dr. Warren, I'm showing you what's been  
 16 marked as Employer Exhibit 66 for identification.  
 17 I ask you to take a look at it, please, and tell me  
 18 when you're ready to answer questions about it.  
 19 (Witness peruses document.)  
 20 A. Okay.  
 21 Q. Have you seen what's been marked for  
 22 identification as Employer Exhibit 66 before,  
 23 Dr. Warren?  
 24 A. No, I haven't.  
 25 Q. Does it appear to be the syllabus for

1 hasn't seen it.  
 2 MR. SALVATORE: Come on. He's been  
 3 there for 26 years. This is a learned scholar of  
 4 English who has testified remarkably about teaching  
 5 already. So he's certainly able to answer  
 6 questions about a syllabus.  
 7 MS. AUERBACH: The question is to ask  
 8 him specific questions on this document which he  
 9 said he hasn't seen.  
 10 THE HEARING OFFICER: Is Employer's  
 11 intention concerning the topics discussed to the  
 12 extent those are part of the learning experience of  
 13 graduate students? Am I understanding correctly?  
 14 MR. SALVATORE: Yes.  
 15 THE HEARING OFFICER: I'll allow it to  
 16 that extent.  
 17 MS. AUERBACH: He also said he hasn't  
 18 taught this training course.  
 19 THE HEARING OFFICER: I'll allow it.  
 20 You can continue, Employer Counsel.  
 21 MR. SALVATORE: Thank you, Madam Hearing  
 22 Officer.  
 23 BY MR. SALVATORE:  
 24 Q. So I think we already talked,  
 25 Dr. Warren, about the fact that this pedagogy

1 the course we were just discussing?  
 2 A. It appears to be a syllabus -- yeah, for  
 3 one instance of the course we were just discussing.  
 4 Q. One iteration of the course?  
 5 A. Yes.  
 6 Q. Teaching undergraduate English?  
 7 A. Right.  
 8 Q. Who is Lisa Ruddick?  
 9 A. She's one of my colleagues.  
 10 Q. She's a professor at the University of  
 11 Chicago in the English department?  
 12 A. Yes.  
 13 Q. Is it your knowledge that she teaches  
 14 the undergraduate -- teaching undergraduate English  
 15 pedagogy course?  
 16 A. She's one of the faculty that does so,  
 17 yes.  
 18 Q. Looking at what's been marked as  
 19 Employer Exhibit 66 for identification, it seems  
 20 to in bold on the pages week by week with the  
 21 topics that are covered in this pedagogy English  
 22 course, correct?  
 23 A. That's correct.  
 24 MS. AUERBACH: Objection to further  
 25 questions what's on the document. He says he

1 course focuses on constructing a syllabus at least  
 2 in one part of it. Why is that important? Why is  
 3 constructing a syllabus important for an English  
 4 PhD?  
 5 A. Because the syllabus is the way in which  
 6 you convey to the undergraduates who are taking the  
 7 course, the content of the course, the course plan  
 8 in terms of how the material will be parceled out  
 9 of the course of the term depending on what kind of  
 10 system we have.  
 11 Q. When you were a PhD student, did you  
 12 learn to construct a syllabus at Stanford?  
 13 A. That is a good question. We did have a  
 14 composition course in which we constructed syllabi  
 15 for the teaching of freshman composition. There  
 16 was no formal course for the construction of a  
 17 syllabus for teaching a literature course. We were  
 18 expected, in essence, to kind of learn by doing  
 19 them.  
 20 Q. So Chicago, by offering this, is  
 21 actually giving more to its PhDs than maybe you had  
 22 at Stanford?  
 23 A. Probably, yeah. It was a long time ago  
 24 when I was at Stanford.  
 25 Q. So teaching composition, is that an

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1 important skill for an English PhD?  
2 A. It can be, yes.  
3 Q. Tell me what that means, teaching  
4 composition.  
5 A. Typically it means teaching students how  
6 to master the form of an argumentative essay, an  
7 essay that sets on an argument and determines what  
8 is the appropriate evidence or that argument and  
9 then presents it in clear and cogent prose.  
10 Q. Creating assignments, Dr. Warren, is  
11 that something that a faculty member has to do in  
12 English?  
13 A. Yes.  
14 Q. What does that mean?  
15 A. It means determining work outside of the  
16 classroom or sometimes even you could do  
17 in-classroom exercises with the -- appropriate to  
18 serve the learn objectives of the course.  
19 Q. Since your PhD students are going to be  
20 faculty some day, at least some of them, it's  
21 important for them to know that too, right?  
22 A. Sure.  
23 Q. Is it your experience that different  
24 students have different learning styles?  
25 A. Yes.

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1 Q. So is it important for PhD students who  
2 want to teach English some day to understand how  
3 students learn?  
4 A. Again, I'd say in theory, yes. Whether  
5 or not we teach -- we don't have a formal way of  
6 teaching learning styles. That's not the way we  
7 formally discuss. At least I haven't.  
8 Q. You're familiar with the Center for  
9 Teaching and Learning at the University of Chicago?  
10 A. Yes, I am.  
11 Q. What is that?  
12 A. What is that?  
13 Q. Yes.  
14 A. It is an office that provides a range of  
15 teaching support and instruction for graduate  
16 students but also for faculty. So they provide  
17 such services as classroom observation. They will  
18 help you if you need to put together a teaching  
19 portfolio for a job application. They will help  
20 you do that. They will review your syllabi. They  
21 will review course assignments and give you  
22 feedback on that.  
23 Q. Take a look at Exhibit 66, if you will.  
24 Under November 12th -- I guess that's the week that  
25 they discuss this -- the heading there involved is

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1 "More Discussion--of the heated sort." Do you have  
2 any idea what that means?  
3 A. I have no idea what that means.  
4 Q. The next one says "Grading papers;  
5 learning as a re-acculturation." I assume that's  
6 about grading papers?  
7 A. I assume.  
8 Q. What does "learning as re-acculturation"  
9 mean?  
10 A. Not having talked to my colleague, I'm  
11 not sure what she would mean by that. I could  
12 speculate, but it would be speculative.  
13 Q. Is lecturing -- learning how to lecture  
14 an important skill for an English PhD?  
15 A. Yes.  
16 Q. If you look at 11-30 it talks about  
17 lecturing. You would expect that lecturing would  
18 be part of this English pedagogy course, right?  
19 A. Yes.  
20 Q. Take a look at November 12th, that  
21 entry, which is very intriguing to me at least,  
22 about -- maybe because I'm a lawyer -- more  
23 discussion of the heated sort. It says there's a  
24 reading by Warren. I assume that's the author.  
25 "Managing hot moments in the

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1 classroom," do you have any idea what that means?  
2 A. I'm trying to think if I know this  
3 essay. It's not mine. Well, I have an idea.  
4 Q. What's your idea?  
5 A. You want me to speculate?  
6 Q. I don't want you to speculate, but it  
7 seems that this is getting at the idea of heated  
8 discussions that might occur over literature or  
9 themes in literature in an English class, right?  
10 A. Well, I think possibly right but a hot  
11 moment in the classroom could be when a student or  
12 another faculty member says something that another  
13 student takes to be offensive and then the question  
14 would be how then do you manage that type of  
15 moment. So I don't know whether -- what the essay  
16 was going after or what she was going after there  
17 were hot moments that pertained specifically or  
18 solely to a curricular matter.  
19 Q. It could be interpersonal?  
20 A. Yes.  
21 Q. But one way or the other that's an  
22 important skill for an English PhD to be able to  
23 deal with, correct?  
24 A. Well, yes. I guess -- when you say "an  
25 important skill" -- would it be a skill that

1 we -- if we were hiring, put it this way, if we  
2 were hiring a newly mentored PhD, would I imagine  
3 at the University of Chicago -- would we ask a  
4 question in an interview -- ask them about managing  
5 hot moments in a classroom? I don't recall that  
6 we've ever asked that.

7 So, yes, in broad terms if you're  
8 teaching, being able to handle difficult teaching  
9 situations is a good thing to have. If we have  
10 information that you've done that, that's great.  
11 It's not something that we necessarily would ask  
12 someone.

13 Q. Do you know if at other schools they ask  
14 those kind of questions?

15 A. Do I know?

16 Q. Yes.

17 A. I guess I would be surprised if that  
18 question never came up. Let me put it that way.

19 Q. Have you ever encouraged a student to  
20 participate in the writing program that you  
21 described?

22 A. At the Little Red School House?

23 Q. Yes.

24 A. Have I ever encouraged any student? I  
25 would say, yes, in a general way that when we are

1 talking, say, to perspective students about the  
2 kind of options they would have coming to the  
3 University of Chicago I know that I have mentioned  
4 the Little Red School House as an option that would  
5 be available to them if they came here. That is a  
6 positive thing.

7 Q. Why would it be a position thing for a  
8 English PhD to participate in the Little Red School  
9 House?

10 A. Again, for the reason knowing how to  
11 teach the argumentative essay is a good skill to  
12 have.

13 Q. The same question regarding the CCT,  
14 have you ever encouraged a student to participate  
15 in the CCT?

16 A. Yes.

17 Q. Why?

18 A. Again, for a variety of reasons. If  
19 students are going on the job market and they're in  
20 the process of putting together a teaching  
21 portfolio, the Center for Teaching can help them.  
22 So we encourage them to take advantage of the  
23 workshops and advice that they can get in that  
24 office.

25 Q. Now, Dr. Warren, you said that with

1 respect to those graduate students who volunteer to  
2 teach a free-standing course one of the benefits to  
3 them was that they can say they taught their own  
4 course. I think that's what you said.

5 A. That's correct.

6 Q. You would agree that learning how to  
7 teach is important for an English PhD in connection  
8 with their future job prospects, right?

9 A. Right.

10 Q. And I think we've already discussed that  
11 it's a pretty comparative job market presently for  
12 English PhDs, right?

13 A. It is.

14 Q. There's some ivy-plus peers where  
15 English PhDs graduate with distinction and can't  
16 find tenure track positions these days, correct?

17 A. That is correct.

18 Q. So teaching experience helps your  
19 University of Chicago graduates in English to be  
20 more competitive in the job market, right?

21 A. Right.

22 Q. You mentioned office hours in response  
23 to Union Counsel's question, and I was a little  
24 confused by your answer.

25 You've never given a graduate

1 student any guidance on what to do or not do in  
2 office hours?

3 A. I don't think that's ever come up as a  
4 formal question from a graduate student as to what  
5 should I do with office hours. I think typically  
6 because as students they have actually experienced  
7 office hours. They have the view of what they  
8 think should occur in that situation. So it's just  
9 never come up as to, you know, a student saying to  
10 me, I don't know what I should do.

11 Q. Pretty basic stuff conducting office  
12 hours?

13 A. It can be. I mean, I think there could  
14 be complicated things that may come up later, but  
15 the general structure of holding office hours is,  
16 again, something that we have -- unless I could be  
17 forgetting something, but I have no recollection of  
18 a formal discussion about how to hold office hours.

19 Now, there may be sessions, say, at  
20 Center of Teaching that focus on that, but I'm not  
21 sure.

22 Q. You seem like the kind of professor that  
23 would make himself available to his course  
24 assistants if they had any questions at any time?

25 A. I try to, yes.

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1 Q. And so if something came up in office  
2 hours that was controversial or needed  
3 clarification, your graduate students would feel  
4 comfortable coming to you as far as you know,  
5 right, and asking you about it?  
6 A. Yes. Or if there was a matter that they  
7 felt they needed my input on, they might recommend  
8 that the student might come and see me as well.  
9 Q. You talked about grading in your direct  
10 testimony. Do you remember that?  
11 A. Yes.  
12 Q. And you described your system about how  
13 you work with your graduate assistants in  
14 connection with grading?  
15 A. Yes.  
16 Q. If graduate students didn't participate  
17 with you in that grading process as you described,  
18 then you would be failing in your responsibility to  
19 teach them how to grade so they would be ready to  
20 go out and be future faculty, right?  
21 A. I'm not sure I understand the question.  
22 Q. Let me try to break it down.  
23 So you have a process by which you  
24 teach grading to your grad students, right?  
25 A. That's right.

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1 Q. And if you didn't do that process, they  
2 wouldn't learn from you about how to grade, right?  
3 A. Okay.  
4 Q. And if they didn't know how to grade,  
5 that would be one deficiency they might have as a  
6 newly mentored PhD going out into the tough English  
7 job market, correct?  
8 A. If they didn't know how to grade, yes.  
9 But given that we've talked about the pedagogy  
10 course as a requirement that our students have  
11 prior to their teaching assignments and the fact  
12 that the pedagogy courses focus on grading, our  
13 expectation is that they come into the course with  
14 some knowledge of how to grade, and what we do in  
15 the course is build on that knowledge and then, as  
16 I say, calibrate expectations of a student to  
17 those.  
18 Q. But you would agree with me, Doctor,  
19 that it's one thing to learn how to grade in a  
20 course and it's another thing to learn how to grade  
21 from you?  
22 A. There's obviously some continuity  
23 between the two, yes, but as anything, there's  
24 training and then there's on-the-job training and  
25 the training that you get before you get on the job

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1 and the training that you get while you're doing  
2 the job are not entirely the same sort of thing.  
3 So I would say that, yes, grading in a course  
4 section is like on-the-job training.  
5 Q. And that experiential learning from you  
6 is how you learned to grade from your mentors,  
7 right?  
8 A. Yes.  
9 Q. And you're passing that on now as part  
10 of the profession, aren't you?  
11 A. Yes.  
12 Q. So when you and the university that  
13 you're a part of fulfill this responsibility to  
14 teach grad students how to grade, an unavoidable  
15 byproduct of that is that you get more time to  
16 focus on making that lecture perfect or doing other  
17 things in the course, right?  
18 A. Right.  
19 Q. And I think you would agree with me that  
20 if you didn't teach grad students how to properly  
21 grade they likely would be at a disadvantage in the  
22 tough job market, right?  
23 A. Yes.  
24 Q. Let's talk about the discussion sections  
25 that you described in your testimony on direct. Do

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1 you remember that testimony?  
2 A. Yes, I do.  
3 Q. So the grad students teach those  
4 discussion sections, correct?  
5 A. Correct.  
6 Q. And by doing that and teaching those  
7 sections you're providing your course assistants  
8 with teaching opportunities?  
9 A. Yes.  
10 Q. Now, have you ever taught at another  
11 university besides the University of Chicago?  
12 A. I taught at Northwestern for four years  
13 before joining the faculty here, and I did some  
14 TA'ing in my graduate program at Stanford.  
15 Q. Did you ever go on leave and teach  
16 somewhere else for a semester?  
17 A. I did teach one quarter at the  
18 University of California at Irvine. It was a  
19 fellowship in which I taught one PhD seminar.  
20 Q. So you've seen other schools?  
21 A. Yes.  
22 Q. And how they do it?  
23 You would agree that your peer  
24 competitors all give grad students the kind of  
25 teaching experience of running a discussion

1 section, right?

2 A. No. I wouldn't necessarily agree. I  
3 mean, the point -- now it's probably the case that  
4 most do. Over the course of the time that I've  
5 been at the University of Chicago, the expectation  
6 as to whether a PhD program provides teaching  
7 opportunities has changed because it was not an  
8 industry-wide standard. When I started at the  
9 University of Chicago, we did not guarantee that  
10 our PhD students had opportunities to teach at the  
11 University of Chicago. Many of my students in the  
12 early years often taught at other institutions,  
13 East-West University, the Art Institute, and the  
14 like, as a way of earning money to support their  
15 graduate programs. We moved over the course of the  
16 time that I've been there towards the program where  
17 we can reliably say that we provide teaching  
18 opportunities but that has not -- that's not always  
19 been the case at the University of Chicago. I  
20 can't say it's absolutely the case at other  
21 institutions but probably more likely than not  
22 these days. Institutions that have the doctoral  
23 programs provide teaching opportunities.

24 Q. But the state of play right now at the  
25 University of Chicago is you are providing those

1 teaching opportunities with these discussion  
2 sections and other things to the grad students,  
3 correct?

4 A. Yes. As I said, that's part of the  
5 resulting part of the kind of curricular  
6 commitments that we've made in the English  
7 department for undergraduate teaching.

8 Q. Teaching these discussion sections I  
9 think it's axiomatic that it makes your PhD English  
10 students more attractive candidates on the job  
11 market, right?

12 A. Yes.

13 Q. And by fulfilling the responsibility to  
14 give your course assistants this teaching  
15 experience an inevitable byproduct of that is that  
16 you have more time to focus on giving a great  
17 lecture, right?

18 MS. AUERBACH: Objection. It  
19 misrepresents his testimony. He didn't testify it  
20 was just a byproduct. He testified that was part  
21 of how the course is taught.

22 MR. SALVATORE: Let's not have a  
23 speaking objection where you're trying to educate  
24 the witness. I would object to that. If you want  
25 to have that kind of discussion, we should have it

1 out of the presence of the witness.

2 THE HEARING OFFICER: Could you repeat  
3 the question?

4 MR. SALVATORE: Sure.

5 BY MR. SALVATORE:

6 Q. Dr. Warren, by fulfilling the  
7 responsibility to give these discussion section  
8 teaching opportunities to your course assistants,  
9 an inevitable byproduct of that is that you have  
10 more time, right?

11 THE HEARING OFFICER: Don't answer yet.  
12 I have to rule. I mean, I think he's already  
13 testified that this is the case. I don't  
14 understand what further you're seeking.

15 MR. SALVATORE: Well, I think I asked  
16 him about grading. I'm asking him about discussion  
17 sections now.

18 THE HEARING OFFICER: But on direct he  
19 testified that --

20 MS. AUERBACH: He testified who  
21 benefits.

22 MR. SALVATORE: But this is  
23 cross-examination. I'm allowed to ask questions to  
24 probe his direct testimony.

25 MS. AUERBACH: The question is its

1 misrepresenting his direct testimony.

2 MR. SALVATORE: Believe me Dr. Warren is  
3 no fool, okay? He'll be able to tell me if I've  
4 misrepresented his direct testimony, Counsel.

5 THE HEARING OFFICER: I'll allow the  
6 answer.

7 By having course assistants cover  
8 these discussion sections, is it a fair  
9 characterization that that allows you to have more  
10 time to devote to lectures?

11 BY THE WITNESS:

12 A. Well, see, now I'm overthinking perhaps  
13 the question. Because, well, I guess the question  
14 is what's the structural feature of this  
15 pedagogical environment? The structural feature of  
16 the pedagogical environment is after you are  
17 teaching a large lecture you have to have  
18 discussion sections in order to focus on the  
19 material selection that's built in.

20 So -- I guess my question is if  
21 something is built into the structure, does that  
22 satisfy your account of what an inevitable  
23 byproduct would be? I guess the only reason I'm  
24 asking this is because since the course could not  
25 be taught without the discussion section it seems

1 you're describing the features of it rather than an  
 2 outcome. So I'm not sure.  
 3 If I say that -- it seems to me  
 4 that it's a structural feature of the course that  
 5 the delivery of the material requires the height  
 6 and focus of a discussion section.  
 7 BY MR. SALVATORE:  
 8 Q. And that heightened focus of a  
 9 discussion section provides a teaching opportunity  
 10 to your grad students?  
 11 A. That's correct.  
 12 Q. And when your grad students are part of  
 13 the architecture of this course in teaching those  
 14 discussion sections, that gives you more time to do  
 15 the other things that are connected with the  
 16 course, right?  
 17 A. Well, it gives me the time necessary to  
 18 do the lectures of the course because the point  
 19 being without the sections the course could not be  
 20 taught.  
 21 Q. And the -- withdrawn.  
 22 Now, the grad students that  
 23 volunteer to teach -- I'm sorry. The grad students  
 24 that volunteer to do a lecture in a course, I think  
 25 you testified that you give them the opportunity to

1 MS. AUERBACH: Objection.  
 2 THE HEARING OFFICER: For what purpose?  
 3 MR. SALVATORE: To confirm his signature  
 4 on the bottom of it.  
 5 MS. AUERBACH: Objection.  
 6 THE HEARING OFFICER: I mean, is the  
 7 Employer intending to ask questions about these  
 8 documents?  
 9 MS. AUERBACH: This was already objected  
 10 to, and the objection was sustained with the prior  
 11 witness.  
 12 THE HEARING OFFICER: We didn't show it  
 13 to the prior witness either so I don't --  
 14 MS. AUERBACH: I mean, this was objected  
 15 to and discussed with the Regional Director when it  
 16 was identified. I have the same objections.  
 17 THE HEARING OFFICER: I'm going to  
 18 sustain the objection.  
 19 MR. SALVATORE: I just want to make sure  
 20 the record is clear. You're not permitting the  
 21 witness to see a letter that he cosigned saying --  
 22 entitled "Professor Support Grad Student  
 23 Unionization"?  
 24 MS. AUERBACH: Objection for the same  
 25 reasons that was discussed with the last witness

1 volunteer?  
 2 A. That's correct.  
 3 Q. Do most students volunteer to do that?  
 4 A. Most? I would say probably a slight  
 5 majority do.  
 6 Q. By volunteering to do a lecture, they're  
 7 indicating that they think that would benefit them  
 8 that teaching opportunity, doesn't it?  
 9 A. Yes.  
 10 Q. And the grad students who teach their  
 11 own course, they design it as well?  
 12 A. Yes, they do.  
 13 Q. They volunteer to do that?  
 14 A. They choose to do it.  
 15 Q. You've encouraged people to do it over  
 16 the years?  
 17 A. Yes.  
 18 Q. Why?  
 19 A. It's a good experience.  
 20 Q. Dr. Warren, you're the vice president of  
 21 the University of Chicago AAUP chapter, correct?  
 22 A. Yes, I am.  
 23 MR. SALVATORE: I'd like to show, Madam  
 24 Hearing Officer, Dr. Warren Employer Exhibit 52,  
 25 which was not admitted.

1 and sustained after it went to the Regional  
 2 Director as to questions regarding this document  
 3 and further discussions regarding it.  
 4 THE HEARING OFFICER: I'm going to  
 5 sustain the objection. You're correct, Employer's  
 6 Counsel.  
 7 MR. SALVATORE: Would you show, Madam  
 8 Hearing Officer, Dr. Warren Employer's Exhibit 54.  
 9 MS. AUERBACH: Objection for the same  
 10 reasons.  
 11 THE HEARING OFFICER: Again, objection  
 12 sustained.  
 13 MR. SALVATORE: So for the record,  
 14 you're not permitting, Madam Hearing Officer, the  
 15 witness to see Exhibit 54 for identification which  
 16 on the second page has his electronic signature on  
 17 it and the title of the document is "In Support of  
 18 Student Workers Unionization At the University of  
 19 Chicago," correct?  
 20 THE HEARING OFFICER: I guess my  
 21 question before I give my final ruling is what the  
 22 Employer is seeking to show with these documents?  
 23 If it's what's previously been discussed, then that  
 24 matter has already been ruled on. If it's  
 25 something additional, then, you know, please state



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1 it for the record so it can be given due  
2 consideration.  
3 MR. SALVATORE: I just wanted him with  
4 respect to both documents to confirm that these  
5 were letters that he signed onto.  
6 MS. AUERBACH: Objection. Same reasons  
7 as stated previously.  
8 THE HEARING OFFICER: Objection  
9 sustained.  
10 MR. SALVATORE: Thank you.  
11 BY MR. SALVATORE:  
12 Q. Dr. Warren, have you been at any  
13 meetings of any kind where graduate students have  
14 been present concerning unionization?  
15 MS. AUERBACH: Objection.  
16 THE HEARING OFFICER: Sustained.  
17 BY MR. SALVATORE:  
18 Q. Dr. Warren, have you ever solicited or  
19 collected a union authorization card concerning  
20 grad student unionization at the University of  
21 Chicago?  
22 MS. AUERBACH: Objection.  
23 THE HEARING OFFICER: Sustained.  
24 BY MR. SALVATORE:  
25 Q. Dr. Warren, have you ever been present

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1 when a union authorization card has been collected  
2 or solicited concerning grad student unionization  
3 at the University of Chicago?  
4 MS. AUERBACH: Objection.  
5 THE HEARING OFFICER: Sustained.  
6 BY MR. SALVATORE:  
7 Q. Dr. Warren, have you ever made any  
8 speech or made any remarks to the students at the  
9 University of Chicago concerning student  
10 unionization?  
11 MS. AUERBACH: Objection. Sustained.  
12 MR. SALVATORE: We make an offer of  
13 proof at this time that if he was allowed to look  
14 at Exhibit 52 and Exhibit 54 he would have said  
15 that he signed onto them and their contents.  
16 We make an offer of proof that he  
17 has been at meetings where grad student  
18 unionization has been discussed and cards have been  
19 collected.  
20 THE HEARING OFFICER: I will consult  
21 with the Regional Director about the Employer's  
22 offer of proof. Off the record.  
23 (Whereupon, a break was taken,  
24 after which the following  
25 proceedings were had:)

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1 THE HEARING OFFICER: On the record.  
2 So the regional director has  
3 considered the Employer's offer of proof concerning  
4 what I believe the witness would testify with  
5 regarding Employer's Exhibits 53 and 54 -- sorry,  
6 52 and 54. I apologize. However, the ruling  
7 remains the same as with the prior witness. The  
8 Regional Director is not going to permit this line  
9 of questioning in the proceedings at this time.  
10 MR. SALVATORE: Well, we don't have to  
11 but I'll state our exception -- taking exception to  
12 that ruling. We don't have to under the election  
13 rules, but the one thing I would say is that it  
14 would greatly facilitate the filing of an unfair  
15 labor practice charge to be able to have this  
16 testimony for the Region so that they can assess  
17 whether the petition should be struck based on  
18 supervisory taint. So I would ask that the  
19 Regional Director consider that in that context.  
20 THE HEARING OFFICER: I can relate to  
21 you that that has been considered. However, even  
22 with that consideration the Regional Director has  
23 made his ruling.  
24 MR. SALVATORE: Note our exception,  
25 please.

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1 THE HEARING OFFICER: Noted for the  
2 record.  
3 MR. SALVATORE: We move Employer  
4 Exhibit 66 into evidence.  
5 MS. AUERBACH: Objection. The witness  
6 didn't -- said he hadn't seen it.  
7 MR. SALVATORE: Let me say this  
8 was -- is a document that was printed within the  
9 last hour, hour and a half, from the English  
10 department website at the University of Chicago.  
11 THE HEARING OFFICER: Even so the  
12 witness was not able to fully authenticate the  
13 document. He didn't teach this course. He hasn't  
14 seen this particular document. He was able to  
15 testify about his knowledge concerning the  
16 particular topic so that is in the record. So  
17 having said that, I don't believe it's been  
18 properly authenticated so therefore Employer  
19 Exhibit 66 is rejected.  
20 MR. SALVATORE: Okay. So we have to  
21 call a rebuttal witness, I guess, to have it put  
22 into evidence. We'll get somebody lined up on  
23 Monday.  
24 MR. FASMAN: I have to say also for the  
25 record that we have agreed to introduce a slug of

1 documents that have never been authenticated by any  
2 witness at all on this same exact basis. We've  
3 agreed that they're authentic. We don't agree that  
4 they're relevant, but if that's the way this  
5 hearing is going to go, then we are not going to  
6 agree to put these exhibits in. We'll just go back  
7 because that's an objection that we could make to  
8 every one of the Union's proffered exhibits. We've  
9 looked at all of these things. They have never  
10 been authenticated by anyone else. No one has  
11 identified them, and what we're going to look at is  
12 all kinds of documents from all kinds of  
13 departments where there's no basis in the record  
14 for doing this.

15 This gentleman testified that  
16 there's a pedagogy course. We're asking him to  
17 look at the syllabus and to discuss the syllabus.  
18 If that's your ruling, then we are not going to  
19 agree that these are going in the record. I'm just  
20 stating it for the record. Period. End of  
21 discussion.

22 And those things that you gave us  
23 this morning, we don't agree to their going into  
24 the record. Period. We object to their going into  
25 the record and all the others that have been

1 marked. We're not going to agree to that.

2 MS. AUERBACH: The ones previously  
3 marked were authenticated by Employer Counsel after  
4 the Employer verified independently that they were  
5 on the website is what I was told. The ones being  
6 marked today that were handed to Counsel outside of  
7 the hearing record were pursuant to subpoena by the  
8 Employer.

9 MR. FASMAN: So what. They're not  
10 relevant. They haven't been authenticated by a  
11 witness.

12 MS. AUERBACH: The Union doesn't have  
13 any knowledge of this document. It doesn't show  
14 where it comes from and this witness hasn't  
15 identified it.

16 MR. FASMAN: Have a nice day. I'm just  
17 saying we are withdrawing our agreement. If this  
18 is the ruling, we are withdrawing our agreement to  
19 the entry of all those other exhibits which we've  
20 agreed have been authenticated, but they're not  
21 relevant. We don't agree to their admission into  
22 the record. You can call witnesses and produce  
23 each witness to go and put them into the record if  
24 that's the way that we're going to do it.

25 And as to the slug that you offered

1 us earlier, the answer is we're not even going to  
2 discuss them. They're just part of the production  
3 here, and you have an independent obligation to  
4 introduce them into the record and to establish  
5 their authenticity and their relevance.

6 I'm sorry. That's just -- if we  
7 want to hold this hearing on for three weeks, we  
8 can do it. If that's the ruling, then we're going  
9 to have do it otherwise we're going to call witness  
10 after witness after witness to authenticate  
11 documents. I think that's a waste of time, and I  
12 think this objection is ill taken and is  
13 particularly ill taken in light of the spirit or  
14 cooperation that we have had throughout this  
15 proceeding in terms of authenticating documents and  
16 saying, that's fine, we'll put it into the record  
17 so the Region has a complete record. But if that's  
18 the way this works, fine, then we withdraw all of  
19 our prior agreements.

20 MS. AUERBACH: I suggest that we finish  
21 with this witness and then have a separate  
22 discussion on exhibits that this witness has not  
23 identified.

24 THE HEARING OFFICER: So I will defer my  
25 ruling on Employer Exhibit 66 at this time. Let's

1 finish with Professor Warren and then we can  
2 discuss the matter further and I will give my final  
3 ruling on its admission once the parties -- the  
4 Petitioner can seek to independently identify the  
5 document if it so wishes. We can further discuss  
6 the outstanding documents that have not yet been  
7 moved into the record but it's my understanding  
8 were going to be moved today.

9 So in the interest of not leaving  
10 Professor Warren stranded up here, let's finish  
11 with the questions for him.

12 MR. FASMAN: No problem.

13 THE HEARING OFFICER: So the ruling is  
14 deferred for that one. So if the Employer has any  
15 further questions for Professor Warren.

16 MR. SALVATORE: No further questions for  
17 Professor Warren at this time.

18 BY THE HEARING OFFICER:

19 Q. Professor Warren, I have a few questions  
20 for you before you leave.

21 A. Sure.

22 Q. For those humanity core courses that you  
23 taught, do you recall how many discussion sections  
24 there were for your particular course?

25 A. Humanities core course, all of the --

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1 all of the sessions can be described as discussion  
2 sections, small group discussion, so those courses  
3 are taught typically twice a week for an hour and  
4 20 minutes each time. So each of those sections  
5 would count as a discussion section.  
6 The writing intern holds a separate  
7 set of workshop section sessions, and those I think  
8 are 50-minute sections. I'm not entirely sure and  
9 they're held prior to each of the writing  
10 assignments, and I believe there are four writing  
11 assignments over the course of the quarter.  
12 Q. How many students are there typically in  
13 each discussion section?  
14 A. The writing core or -- the humanities  
15 core or a discussion section in an English  
16 department course?  
17 Q. In the humanity core.  
18 A. The humanities core the enrollment is  
19 limited to no more than 19 students in order to  
20 facilitate discussion. So these courses would  
21 have -- I would say they average 15 -- 15 to 19 is  
22 probably common. Although some will be smaller.  
23 None will be larger.  
24 Q. How many students would be present in  
25 the lecture portion?

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1 A. For the department courses?  
2 Q. Yes.  
3 A. Again that depends on the course. My  
4 experience with the introductory gateway courses is  
5 typically around 60 to perhaps as many as 90, but I  
6 suspect that more often than not it's in the mid to  
7 upper 60s.  
8 Q. So then talking about the gateway  
9 courses -- so there were how many lectures per week  
10 for the gateway course?  
11 A. Two.  
12 Q. How many discussion sections per week?  
13 A. Each of the course assistants ran one  
14 session a week.  
15 Q. Did you run any of the discussion  
16 sections yourself?  
17 A. No.  
18 Q. If you had not had -- let me rephrase  
19 that.  
20 For the humanities core courses,  
21 taking into account all the discussion sections, do  
22 you know if the English department has a sufficient  
23 number of faculty members that would be able to  
24 cover all those discussion sections if there were  
25 no course assistants?

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1 A. To clarify, the humanities core courses  
2 are staffed not solely by the English department.  
3 They're staffed by the humanities departments from  
4 across the university. It is a commitment of the  
5 institution that it's tenure line faculty teach in  
6 humanities core. Although, from department to  
7 department the number of faculty that actually do  
8 so varies. The incentive for teaching -- well, the  
9 other thing I should say about the humanities core  
10 course is that typically speaking faculty in those  
11 courses are teaching outside of their research  
12 special -- area of research specialization. So  
13 you're teaching material that you're not the person  
14 who could be said to have the final word on. So  
15 you are learning material as you are teaching it  
16 through the efforts -- through the work of  
17 colleagues who constitute the staff of that course.  
18 The structure of that course then  
19 depends on the faculty member getting up to speed  
20 on the course material and the writing intern  
21 helping with the writing instruction that the  
22 course requires.  
23 Q. Is there a core coordinator for the  
24 humanities courses?  
25 A. Yes. For each course a faculty

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1 member -- perhaps in some cases it may be a  
2 lecturer -- serves as the coordinator for that  
3 core.  
4 Q. Have you ever been a course coordinator?  
5 A. No, I have not.  
6 THE HEARING OFFICER: Those are all of  
7 my questions.  
8 REDIRECT EXAMINATION  
9 BY MS. AUERBACH:  
10 Q. In the courses you've taught in which  
11 the graduate students have helped with grading,  
12 what is the reason that you ask them to help with  
13 grading?  
14 A. Multiple reasons. To help with grading  
15 is one. The other would be to, I guess -- it feels  
16 so straightforward. To -- I mean, there is an  
17 instructional component for the graduate student,  
18 as I say, to give them guidance on how I think a  
19 paper ought to be graded. It's also a benefit to  
20 the student, the undergraduate student in the  
21 course to have an additional person who can allow  
22 for more commentary, particularly on essays.  
23 You know, I should say -- I  
24 mentioned before that writing instruction and the  
25 teaching of essays is highly labor intensive. You

1 are better at it the more precise and clear you can  
2 be in the comments and having another person who is  
3 able to provide that kind of attention does provide  
4 a benefit to the undergraduate writers.

5 Q. And does it also help you?

6 A. It helps me, yes.

7 Q. Have you ever taught one of the gateway  
8 courses without having graduate students help to  
9 grade?

10 A. No.

11 Q. And why is that?

12 A. They're designed on the presumption that  
13 graduate students will serve as discussion leaders.  
14 So there are courses that presume part of the  
15 instruction will be delivered in discussion  
16 sections. If we didn't have that structure, we  
17 would not be able to teach those courses in that  
18 way. We would have to do something else.

19 Q. So does the grading go along with  
20 leading the discussion section?

21 A. Yes, it does.

22 MS. AUERBACH: That's all I have.

23 THE HEARING OFFICER: Does Employer have  
24 any further questions for the witness?

25 MR. WEITZMAN: Could we have a moment,

1 please?

2 THE HEARING OFFICER: Sure. Off the  
3 record.

4 (Whereupon, a break was taken,  
5 after which the following  
6 proceedings were had:)

7 THE HEARING OFFICER: On the record.

8 MR. SALVATORE: Dr. Warren, I have no  
9 further questions. You've been a very helpful  
10 witness. Thank you.

11 THE HEARING OFFICER: Thank you very  
12 much, Dr. Warren. You are excused.

13 So before we move on, over our  
14 brief recess, I further considered the matter of  
15 Employer Exhibit 66. There are other documents in  
16 the record that have had similar manners of, call  
17 it, partial authentication concerning their  
18 substance, if not the explicit document itself.  
19 Having considered it I'm going to receive Employer  
20 Exhibit 66. However, what weight the document will  
21 be given will be within the discretion of the  
22 Regional Director at the time of the decision.

23 MR. FASMAN: Thank you. May I add to my  
24 prior comments that there are many documents that  
25 the Petitioner wishes to introduce that the

1 petitioner has averred in a general fashion, not to  
2 each specific document, have been taken from the  
3 university's website, that do not have a URL on  
4 them but that have been marked as exhibits such as  
5 Petitioner's 48 which is a graduate student  
6 handbook from the romance languages and literatures  
7 department, and we've not objected to those. We're  
8 accepting their proffer that these have been  
9 authenticated, that they took them from the  
10 university's website.

11 As to their relevance, as to the  
12 weight they should be given, that's up to the  
13 Regional Director but that is the reason that I  
14 reacted in that fashion with regard to this  
15 document.

16 The strict Rules of Evidence do not  
17 apply in our case proceedings as I'm sure you know  
18 having been the R case officer for this Region for  
19 sometime, and that is the reason that we reacted in  
20 that fashion. But I think this notion of saying  
21 that it's not been authenticated where you have a  
22 proffer from Counsel that this was taken off the  
23 university's website in the last hour should be  
24 sufficient for our purposes. Thank you for your --  
25 for reconsidering your ruling.

1 MS. AUERBACH: I just wanted to respond  
2 to those comments. All the documents that have so  
3 far been identified but not received into evidence  
4 that the Union proffered to University Counsel in  
5 all the cases where there did not show a printout  
6 from the website notation I informed Steve Porzio  
7 where on the website those documents were taken  
8 from, and I was told by him that all -- that the  
9 Employer knew -- authenticate all of those  
10 documents having been obtained from the website and  
11 I was only told that the Employer was agreeing to  
12 agree to authenticity after a period of time and  
13 after I had told him where they had been taken from  
14 and my understanding was the Employer had reviewed  
15 them.

16 In this case, today, that it was  
17 not shown to me ahead of time and told to me where  
18 it was on the website and offered through witnesses  
19 when they testify.

20 MR. FASMAN: Sauce for the goose. Sauce  
21 for the gander. If we're going to take them in one  
22 way, we'll take them in one way, but it has to  
23 apply for us. It has to apply across-the-board.

24 MS. AUERBACH: No. I'm just disagreeing  
25 with statements made that you based it on my

1 representation because that was not the  
 2 communications that I had with Mr. Porzio.  
 3 THE HEARING OFFICER: I think the  
 4 parties have stated its position on this matter.  
 5 Off the record.  
 6 (Whereupon, a discussion was  
 7 had off the record.)  
 8 THE HEARING OFFICER: On the record.  
 9 The Petitioner can call its next witness.  
 10 MS. AUERBACH: Petitioner calls Shane  
 11 DuBay.  
 12 (Witness sworn.)  
 13 THE WITNESS: I do.  
 14 WHEREUPON:  
 15 SHANE DUBAY,  
 16 called as a witness herein, having been first duly  
 17 sworn, was examined and testified as follows:  
 18 DIRECT EXAMINATION  
 19 BY THE HEARING OFFICER:  
 20 Q. Can you please state and spell your name  
 21 for the record.  
 22 A. Shane DuBay, S-H-A-N-E, D-U, capital B,  
 23 A-Y.  
 24 THE HEARING OFFICER: Thank you.  
 25

1 BY MS. AUERBACH:  
 2 Q. Are you currently a graduate student at  
 3 the University of Chicago?  
 4 A. Yes.  
 5 Q. What degree are you pursuing?  
 6 A. I am pursuing a PhD in evolutionary  
 7 biology.  
 8 Q. That's in the biology sciences division?  
 9 A. Yes.  
 10 Q. When did you begin your graduate studies  
 11 at the university?  
 12 A. In fall of 2012.  
 13 Q. How are you currently funded?  
 14 A. So I am funded -- I have been funded  
 15 through divisional funds for my entire time.  
 16 Q. The divisional funds, do you have any  
 17 teaching requirements?  
 18 A. Yes. So after my second year, so in my  
 19 third year, being in the divisional funds I'm  
 20 required to teach one quarter each year.  
 21 Q. As the -- is the title teaching  
 22 assistant?  
 23 A. Yeah. I have to TA one quarter of the  
 24 year.  
 25 Q. I'm going to hand you a document marked

1 Petitioner Exhibit 85.  
 2 (Petitioner No. 85 was marked.)  
 3 Can you identify what this document  
 4 is?  
 5 A. Yes. It's the TA handbook. The most  
 6 up-to-date handbook.  
 7 MS. AUERBACH: I move to introduce  
 8 Petitioner Exhibit 85.  
 9 MR. WEITZMAN: No objection.  
 10 THE HEARING OFFICER: Petitioner  
 11 Exhibit 85 is received.  
 12 BY MS. AUERBACH:  
 13 Q. Which year did you first start as a TA?  
 14 A. So I was first required to TA in my  
 15 third year. I did not teach my first.  
 16 Q. So what quarter would that have been?  
 17 A. That would have been the academic year  
 18 starting in fall 2014.  
 19 Q. And you TA'd in the fall quarter of that  
 20 year?  
 21 A. I did not. I took the TA training for  
 22 that.  
 23 Q. When did you fulfill another TA  
 24 assignment?  
 25 A. The following year, fall 2015.

1 Q. Have you done another one since then?  
 2 A. I have, fall 2016, this academic year.  
 3 Q. Do you know if you're going to be on  
 4 divisional funding again next year?  
 5 A. Presumably. I have no reason to believe  
 6 I wouldn't be on the same funding.  
 7 THE HEARING OFFICER: Could I ask a  
 8 quick clarifying question? This may be my own  
 9 confusion.  
 10 You said you did the TA training in  
 11 fall 2014. Did you do your first TA in that same  
 12 quarter?  
 13 BY THE WITNESS:  
 14 A. I did not.  
 15 Q. Which quarter of that year did you do  
 16 your first TA?  
 17 A. So it's an interesting scenario where  
 18 given my -- I'm out of the country for winter  
 19 and -- for much of winter and spring quarters so my  
 20 funding requirement it required me to TA. I was  
 21 able to -- because I couldn't find a course, I  
 22 asked for an exemption to then use this TA training  
 23 instead.  
 24 Q. In lieu of?  
 25 A. In lieu of for that year, for 2014.

Page 2011

1 THE HEARING OFFICER: Thank you.  
2 BY MS. AUERBACH:  
3 Q. And so if you're on divisional funding  
4 next year, do you expect to TA, again, one quarter  
5 next year?  
6 MR. WEITZMAN: Objection. Calls for  
7 speculation.  
8 MS. AUERBACH: Well, he testified he  
9 presumed to stay on divisional --  
10 MR. WEITZMAN: That's double  
11 speculation. The first one I allowed. The second  
12 one goes too far.  
13 MS. AUERBACH: I think it's an  
14 appropriate question understanding the  
15 requirements.  
16 THE HEARING OFFICER: He can testify to  
17 the extent that he is aware of the requirements  
18 expected of him in the program and whether or not  
19 that would, to his understanding, include  
20 additional TA'ing in additional years.  
21 Is that -- what I just said there,  
22 is that your understanding that you -- I'm sorry.  
23 Can you repeat the question,  
24 Counsel.  
25

Page 2012

1 BY MS. AUERBACH:  
2 Q. As you expect to happen and you are on  
3 divisional funding next year, do you know whether  
4 you will have a teaching requirement next year?  
5 A. If I'm on divisional funding, I will be  
6 required to teach one quarter next year.  
7 THE HEARING OFFICER: How do you know  
8 that?  
9 BY THE WITNESS:  
10 A. It's required for a stipulation of  
11 having that funding is that there's a teaching  
12 requirement associated with it.  
13 THE HEARING OFFICER: Okay. Thank you.  
14 BY MS. AUERBACH:  
15 Q. That requirement is one quarter each  
16 year?  
17 A. Yes.  
18 Q. Do you have a say in which quarter you  
19 do the teaching?  
20 A. Yes. I can choose any of the three.  
21 Q. In the first -- the TA position that you  
22 held in your -- the first one that you did after  
23 the training course, what type of a course was  
24 that?  
25 A. It was a -- the course was called

Page 2013

1 ecology and conservation. It was two lectures a  
2 week. There were two TAs, myself and another  
3 professor and a full-time lecturer, and there were  
4 lectures of lab associated every week and field  
5 trips out into the greater Chicago area. Some  
6 overnight weekend trips with the undergraduate  
7 students in the course.  
8 Q. And what were your responsibilities?  
9 A. My responsibilities were to attend the  
10 lectures to make sure that when I talk with  
11 students I could -- I was consistent with the  
12 content that the instructors were providing. I  
13 helped with the lab, the four of us. It was this  
14 open lab set up with a lot of computer modules, and  
15 all four of us would circulate around and help  
16 students as needed. And then for the field  
17 courses, the field trips, part of the  
18 responsibilities were helping the students collect  
19 data during those trips, driving, things like that.  
20 Q. How about the TA-ship you had in the  
21 fourth year? What type of course was that?  
22 A. That course was called grants and  
23 publications and it was a course for  
24 incoming -- first-year graduate students that are  
25 applying for external fellowship money, and I read

Page 2014

1 their essays, their grant applications and would  
2 provide feedback alongside the professors.  
3 Q. Do you have taxes withheld by the  
4 university from your divisional funding?  
5 A. I do not.  
6 Q. In what time periods are you paid that?  
7 A. What time periods --  
8 Q. I mean quarterly? Biweekly?  
9 A. I'm paid quarterly.  
10 Q. Have you been instructed by anybody in  
11 the division as to what your tax responsibilities  
12 are with respect to those?  
13 A. Yes. So I've received instruction that  
14 I'm required by law to pay estimated quarterly  
15 taxes and self-report.  
16 Q. On your quarterlies?  
17 A. On my quarterly study.  
18 Q. Do you do that?  
19 A. Yes, I do.  
20 (Petitioner Nos. 86 and 87 were  
21 marked.)  
22 BY MS. AUERBACH:  
23 Q. I'm handing you two documents marked as  
24 Petitioner Exhibit 86 and Petitioner Exhibit 87.  
25 Can you identify what Petitioner Exhibit 86 is

Page 2015

1 under forwarded message about a third of the way  
2 down, the e-mail from Diane J. Hall dated  
3 December 7, 2016?  
4 A. Yes. This was an e-mail sent to the BSD  
5 graduate students which I received.  
6 Q. Does the BSD graduate students include  
7 all the PhD graduate students in the biology  
8 sciences division?  
9 A. I imagine so. I think in practice it's  
10 supposed to.  
11 Q. But you received this document?  
12 A. Yes, I received it because I am on the  
13 list.  
14 Q. The bottom of the second page of  
15 Petitioner Exhibit 86 it shows an attachment to the  
16 e-mail. Would you look at Petitioner Exhibit 87  
17 and identify what that is?  
18 A. This is the attachment from that e-mail  
19 which is the fellowship support. It was a document  
20 sent about fellowship support through RA positions  
21 in BSD.  
22 Q. Who is Diane Hall?  
23 A. She is an assistant dean in the office  
24 of graduate and postdoctoral affairs. That's  
25 the -- in BSD that's the office of Dr. Vicky

Page 2016

1 Prince.  
2 Q. Did you receive Petitioner's Exhibit 86  
3 and 87 on or about the date that the e-mail  
4 Petitioner Exhibit 86 is dated December 7, 2016?  
5 A. Yes, that's when I received it.  
6 MS. AUERBACH: I move to introduce  
7 Petitioner's Exhibits 86 and 87.  
8 MR. WEITZMAN: May I decide whether to  
9 object or not after the break? I have not seen the  
10 document before.  
11 THE HEARING OFFICER: Well, I mean you  
12 can voir if you would like.  
13 MR. WEITZMAN: I would just like to  
14 reserve. If it's bona fide, I'm going to say no  
15 objection. As long as we're taking a break, I  
16 would like to do that.  
17 MS. AUERBACH: He's identified them,  
18 that he received them.  
19 THE HEARING OFFICER: Let's proceed with  
20 direct.  
21 BY MS. AUERBACH:  
22 Q. Have you held any teaching positions  
23 outside of the biological sciences division?  
24 A. Yes. I've worked for the writing  
25 program.

Page 2017

1 Q. In what position?  
2 A. As a lecturer for the Little Red School  
3 House.  
4 Q. When have you done that?  
5 A. I was a lecturer in winter of this year.  
6 Winter quarter 2017.  
7 Q. When you served as a lecturer, were the  
8 students you taught grad students or undergraduate  
9 students?  
10 A. They were undergraduate students.  
11 MS. AUERBACH: Those are all the  
12 questions I have.  
13 THE HEARING OFFICER: Okay. So then we  
14 will take a break and resume at 1:00 o'clock.  
15 MR. WEITZMAN: Thank you.  
16 THE HEARING OFFICER: Off the record.  
17 (Whereupon, a lunch break was  
18 taken, after which the  
19 following proceedings were  
20 had:)  
21 THE HEARING OFFICER: On the record.  
22 The Employer can proceed with its  
23 questions for the witness.  
24 MR. WEITZMAN: Thank you.  
25

Page 2018

1 CROSS-EXAMINATION  
2 BY MR. WEITZMAN:  
3 Q. Good afternoon, Mr. DuBay.  
4 A. Good afternoon.  
5 Q. The biological sciences division, or  
6 BSD, has a two-year requirement; is that correct?  
7 A. Yes.  
8 Q. One of those requirements can be  
9 fulfilled by taking the TA training course in lieu  
10 thereof, correct?  
11 A. Yes.  
12 Q. So when you had your training course,  
13 that was part of the degree requirement, correct?  
14 A. It was used towards that, yes.  
15 Q. When you did your second TA, that was  
16 your second TA experience fulfillment of your  
17 degree requirement, correct?  
18 A. Yes.  
19 Q. You are in the evolutionary biology  
20 program?  
21 A. I am.  
22 Q. So my laymen definition of that is it's  
23 a program that studies changes to organisms over  
24 time?  
25 A. Generally, yes, that's a fair

1 assessment.  
 2 Q. What is your area of research?  
 3 A. I study birds that live at the top of  
 4 mountains, high elevation, what allows them to live  
 5 up there.  
 6 Q. To study that you need to be outside a  
 7 lot, right?  
 8 A. The -- not necessarily for my  
 9 dissertation research. I have chosen to have a  
 10 strong field component to it but plenty of people  
 11 study that topic.  
 12 Q. Your research is field research and not  
 13 lab research, correct?  
 14 A. It's both. I do -- yeah. I have field  
 15 and lab components to it.  
 16 Q. What percentages?  
 17 A. Oh, man. I'm doing all lab stuff now.  
 18 While last year I was in the field for months at a  
 19 time.  
 20 Q. When you say "field," field is?  
 21 A. Yeah. So I study birds in the greater  
 22 Himalayan regions so I'm physically in the  
 23 mountains studying the organisms and collecting  
 24 samples to then bring back to the lab.  
 25 Q. In direct testimony you mentioned that

1 month to two months with maybe a month in either  
 2 side to do lab work in the city because I don't  
 3 bring physical samples back for legal reasons.  
 4 Q. So you're off campus for how many weeks  
 5 in total?  
 6 A. How many weeks in total? My first year  
 7 I was away for four weeks.  
 8 Q. That was in China?  
 9 A. That was in China. The last year I was  
 10 away for five months.  
 11 Q. In China?  
 12 A. Yeah. In between each year there's been  
 13 somewhere in between one month to five months.  
 14 Q. What are your career aspirations?  
 15 A. I would like to continue what I'm doing  
 16 now, teach and do research.  
 17 Q. So you want to go into higher education?  
 18 A. Um-hum. At this point, yes.  
 19 Q. Are you interested in -- withdrawn.  
 20 Are you aware of any research  
 21 grants that support the research that you do?  
 22 A. Yes. I mean, there's a whole variety of  
 23 grants that -- yes, I would say.  
 24 Q. Have you applied for any of them?  
 25 A. Yes.

1 you were away a spring and a winter semester  
 2 quarter?  
 3 A. Yeah. So not the entirety of either but  
 4 overlapping the end of winter and the beginning of  
 5 spring which -- yeah.  
 6 Q. That's when you were in the Himalayans?  
 7 A. Last year, yes. It has changed in  
 8 years.  
 9 Q. Let's get some detail on that. Tell me  
 10 the places you have been for your -- all the places  
 11 you've been for your field trips and when?  
 12 A. Okay. All the places I've been? For my  
 13 direct research or as my time as a graduate?  
 14 Q. For your direct research.  
 15 A. So primarily in China or exclusively in  
 16 China for my dissertation research, Beijing,  
 17 Chengdu, Xishuangbana are cities that I work out of  
 18 and then the Hengduan mountains in the Province of  
 19 Sichuan where giant pandas are so the physical  
 20 location is Gonggashan National -- it's the  
 21 equivalent of a national reserve there and then  
 22 from there south to the boarder of Myanmar in  
 23 Yunnan Province.  
 24 Q. And the duration?  
 25 A. That has varied. Usually in the field a

1 Q. Have you been successful?  
 2 A. Yes.  
 3 Q. Are they supporting you now?  
 4 A. They're supporting my research to  
 5 actually conduct the research, to fund my research,  
 6 like plane tickets to conduct -- yeah, the physical  
 7 dissertation research.  
 8 Q. Let me refine my question. Are you  
 9 aware of any research grant that would fund your  
 10 stipend?  
 11 A. Yes.  
 12 Q. Have you applied for that?  
 13 A. The main one that most incoming students  
 14 apply for I was not eligible for which is the GRFP  
 15 by the National Science Foundation because I came  
 16 in with a master's already so it made me ineligible  
 17 to apply for that. And there are others  
 18 that -- yeah, I just -- for various reasons might  
 19 not be eligible.  
 20 Q. So for one reason or another, you're not  
 21 eligible for research grants to cover your stipend,  
 22 correct?  
 23 A. Some of the most relevant ones that I  
 24 would say other people in my -- other graduate  
 25 students in my program are applying for or have



1 received.  
 2 Q. But you are ineligible for that for one  
 3 reason or another?  
 4 A. For like the GRFP, yes.  
 5 Q. So what I think you just told me is that  
 6 other PhD graduate students in evolutionary biology  
 7 are getting their stipends covered by grants,  
 8 correct?  
 9 A. Yes.  
 10 Q. And you're not?  
 11 A. Yes.  
 12 Q. How many PhD graduate students are in  
 13 evolutionary biology?  
 14 A. I do not have the answer to that but in  
 15 my cohort there are six of us.  
 16 Q. Of the six how many have their stipends  
 17 supported by research grants?  
 18 A. I wouldn't have the answer to that  
 19 either because for some of their time maybe they  
 20 did and they didn't and they go in and out of  
 21 funding cycles or funding may last a year, two  
 22 years, three years but rarely the entire tenure of  
 23 the graduate program.  
 24 Q. Because your funding does not come from  
 25 a research grant it is paid out of BSD funds,

1 A. To my knowledge, she is not a tax  
 2 attorney.  
 3 MR. WEITZMAN: No further questions.  
 4 THE HEARING OFFICER: So then before we  
 5 move on, what the Employer has stated its  
 6 position --  
 7 MR. WEITZMAN: No objection. Thank you  
 8 for your patience.  
 9 THE HEARING OFFICER: So Petitioner  
 10 Exhibit 86 and Petitioner Exhibit 87 are received  
 11 into evidence.  
 12 BY THE HEARING OFFICER:  
 13 Q. So I know you had testified about your  
 14 divisional funding for those quarters that you were  
 15 TA'ing but what about winter 2017 when you were a  
 16 writing lector? Did you receive separate money for  
 17 that position?  
 18 A. I did.  
 19 Q. How was that paid to you?  
 20 A. That was paid through Workday.  
 21 Q. So that's like a payroll software?  
 22 A. Yeah, biweekly.  
 23 Q. You receive checks biweekly?  
 24 A. I received payments biweekly to an  
 25 electronic account.

1 correct?  
 2 A. Yes.  
 3 Q. You call that provision divisional  
 4 funding, correct?  
 5 A. And they call it divisional funding.  
 6 Q. Your stipend is not subject to state and  
 7 federal withholdings, correct?  
 8 A. To my understanding it is.  
 9 Q. Are state and federal taxes withheld?  
 10 A. Oh, yeah. So they're not withheld. So,  
 11 yes, you --  
 12 Q. I'm correct?  
 13 A. Yes.  
 14 Q. I'm also correct that you do not receive  
 15 a W-2, correct?  
 16 A. For my stipend from BSD, yes.  
 17 Q. You said that you received Exhibit 87  
 18 and the attachment -- withdrawn.  
 19 You said that you received the  
 20 e-mail which is Petitioner's Exhibit 86 and the  
 21 attachment which is Petitioner's Exhibit 87 from  
 22 Diane Hall, correct?  
 23 A. Correct.  
 24 Q. As far as you know, Diane Hall is not a  
 25 tax attorney, correct?

1 Q. Did you also receive a pay stub for  
 2 those payments?  
 3 A. Not physically in the mail.  
 4 Q. Do you know if it's listed on work  
 5 sheets?  
 6 A. I actually do not know. I've never  
 7 looked for my pay stub.  
 8 THE HEARING OFFICER: That was all of my  
 9 questions.  
 10 REDIRECT EXAMINATION  
 11 BY MS. AUERBACH:  
 12 Q. Do you know whether taxes are withheld  
 13 from the lector payments?  
 14 A. I believe they are.  
 15 Q. Do you know if you've gotten W-2s for  
 16 those?  
 17 A. Because it was this year I wouldn't  
 18 receive it until -- that's also why I haven't  
 19 looked for pay stubs yet. It'll be on next year's  
 20 report.  
 21 MS. AUERBACH: I don't have anything  
 22 else.  
 23 THE HEARING OFFICER: Does the Employer  
 24 have any further questions?  
 25

## 1 RE-CROSS-EXAMINATION

2 BY MR. WEITZMAN:

3 Q. The lector position is one that  
4 you -- withdrawn.5 Did you take the training to be a  
6 lector?

7 A. I did. In fall of 2016.

8 Q. And your decision to take the training  
9 to be a lector was a voluntary decision, correct?10 A. It was a requirement to be able to work  
11 as a lector.12 Q. The decision to want to be a lector was  
13 voluntary, correct?

14 A. Yes.

15 MR. WEITZMAN: No further questions.

16 THE HEARING OFFICER: Anything further?

17 MS. AUERBACH: No.

18 THE HEARING OFFICER: With that,  
19 Mr. DuBay, you are excused. Thank you.20 If Petitioner is ready, you can  
21 call your next witness.22 MS. AUERBACH: Petitioner calls Eric  
23 Powell.

24 (Witness sworn.)

25 THE WITNESS: I do.

1 studies?

2 A. Fall of 2012.

3 Q. Have you -- what teaching positions have  
4 you held?5 A. I've held three teaching assistantships  
6 and one lectureship.7 Q. Have the teaching assistantships all  
8 been in the English department?

9 A. They have.

10 Q. What courses were those?

11 A. Introduction to poetry, history of the  
12 novel, and Shakespeare's histories and comedies.13 Q. Were your responsibilities similar for  
14 all three of those?

15 A. Yes.

16 Q. What were those responsibilities?

17 A. I had to attend the lectures and then  
18 run a discussion section on Fridays with a select  
19 group of the students and grade papers. Often  
20 there's a web component to the class on chalk and  
21 so I was responsible for that as well. Also  
22 occasionally grading quizzes.23 Q. In those three courses did you get  
24 feedback in all of those courses on your grading  
25 from the professor?1 THE HEARING OFFICER: Please have a  
2 seat.

3 WHEREUPON:

4 ERIC POWELL,  
5 called as a witness herein, having been first duly  
6 sworn, was examined and testified as follows:

## 7 DIRECT EXAMINATION

8 BY THE HEARING OFFICER:

9 Q. Can you state and spell your name for  
10 the record.11 A. Yes. It's Eric Powell, E-R-I-C,  
12 P-O-W-E-L-L.

13 THE HEARING OFFICER: Thank you.

14 BY MS. AUERBACH:

15 Q. Are you currently a graduate student at  
16 the University of Chicago?

17 A. I am.

18 Q. And in what division?

19 A. I'm in the humanities division.

20 Q. In what department?

21 A. The department of English, language and  
22 literature.

23 Q. What degree are you pursuing?

24 A. PhD.

25 Q. When did you begin your graduate

1 A. No.

2 Q. Did you get feedback at some of them?

3 A. I did.

4 Q. In which ones did you not get feedback?

5 A. In introduction to poetry we had a  
6 meeting to discuss grading near the beginning of  
7 the course after the first paper. After that I got  
8 no feedback at all on my grading of papers.9 Q. What grading -- what were you  
10 responsible for grading? How many papers?11 A. I don't remember the exact number of  
12 students I had in my discussion section, but it was  
13 somewhere between 15 and 20. There were, I  
14 believe, two papers in the class, one midterm and  
15 one final paper.16 Q. What did you do in that class with the  
17 papers after you graded them?

18 A. Returned them to the students.

19 Q. Did you convey the grades to the  
20 professor?

21 A. Yes, but not the papers, only comments.

22 Q. Just the grades?

23 A. That's right.

24 Q. In the other two classes, how did it  
25 work, the grading?

1 A. In the Shakespeare course I would do an  
2 initial round of grading of the papers. I would  
3 then submit the papers with my comments and grades  
4 to the professor who would review them and then we  
5 would together decide on the final grades after  
6 this process. The same was the case with the  
7 history of the novel course.

8 Q. When you held the discussion sections in  
9 those three courses, did the professor attend any  
10 of your discussion sections?

11 A. In the Shakespeare course the professor  
12 came to one discussion section and the other two  
13 courses they did not.

14 Q. Did you receive instructions in any of  
15 those courses as to what to discuss in the  
16 discussion sections?

17 A. That varied from course to course. Some  
18 professors were more hands on about what was  
19 brought up in the discussion sections. Others were  
20 more hands off but generally it was basically left  
21 to us to decide what we wanted to focus on in  
22 discussion sections.

23 Q. And it goes for how many minutes each  
24 week, the discussion sections?

25 A. 50 minutes.

1 romanticism.

2 Q. Was this an established course or one  
3 that you designed?

4 A. I designed it.

5 Q. How did you go about applying for it?

6 A. The English department puts out a call  
7 for teaching applications at the end of each year,  
8 and I applied for two different standalone lecture  
9 courses and they chose one for me. I had to submit  
10 a preliminary syllabus for the course as well as a  
11 course description and a reading list.

12 Q. How often did the course meet?

13 A. The course meets twice a week.

14 Q. These were for lectures?

15 A. It was a mixture of lecture and  
16 discussion.

17 Q. And were you responsible for all of the  
18 course assignments and grading?

19 A. Yes.

20 Q. Did you receive separate payment for  
21 your stipend and for the teaching assignments?

22 A. Yes.

23 Q. How was the teaching paid out?

24 A. It was paid through Workday biweekly.

25 Q. Were there taxes withheld from the

1 Q. Did you also hold office hours in all  
2 three of those courses?

3 A. I did.

4 Q. How many hours a week was that?

5 A. I held office hours for two hours a week  
6 each time and also met with students outside of the  
7 office hours if they needed to which did happen  
8 with each course.

9 Q. How did the students contact you to set  
10 up those meetings?

11 A. Via e-mail.

12 Q. Did the professors attend any of your  
13 office hours?

14 A. No.

15 Q. Did they give you any instructions on  
16 what to do during your office hours?

17 A. No.

18 Q. Did you hold a lectureship in the  
19 English department?

20 A. I did.

21 Q. When was that?

22 A. That was winter of this year, winter  
23 2017.

24 Q. For what course?

25 A. It was a course called radical

1 teaching pay?

2 A. Yes.

3 Q. Did you receive W-2 forms for the  
4 teaching for the ones prior to this year?

5 A. Yes.

6 Q. Have you held other -- any other  
7 positions for pay at the university?

8 A. Yes.

9 Q. What is that?

10 A. Well, there are many.

11 Q. You've been a workshop coordinator?

12 A. Yes.

13 Q. And are you currently -- well, did you  
14 do that this year?

15 A. Yes. I've been a workshop coordinator  
16 for the last two academic years.

17 Q. So that's 2015 to '16 and 2016 to '17?

18 A. Correct.

19 Q. Was that for the same workshop both  
20 years?

21 A. That's right.

22 Q. What workshop was that?

23 A. It's poetry and poetics workshop.

24 Q. That's one of the workshops associated  
25 with the Council on Advanced Studies?

1 A. Yes.  
 2 Q. What's the nature of that workshop?  
 3 A. We meet every other week and discuss a  
 4 paper which is typically a work in progress from  
 5 either a graduate student or a faculty member and  
 6 discuss the paper which has been precirculated with  
 7 the assumption that everyone reads it in advance,  
 8 and the workshop is designed to basically help  
 9 improve the work in progress that's been  
 10 circulated.  
 11 Q. What were your responsibilities as  
 12 workshop coordinator?  
 13 A. I was responsible for -- I should say  
 14 that I was a co-coordinator so I had, both years,  
 15 someone else in the position with me. We were  
 16 responsible for setting the schedule of the  
 17 workshop which meant finding outside guests to  
 18 bring in to the workshop which is one of the major  
 19 functions of the workshop is to bring in top  
 20 scholars in the area of the workshop, to share new  
 21 work with the faculty and graduate students here.  
 22 Also, finding graduate students here to share their  
 23 work which is another major function, and these two  
 24 workshops every quarter have to be graduate  
 25 students at the University of Chicago sharing their

1 Other work shops I know things work  
 2 differently occasionally. They might have a  
 3 respondent, for example, who gives the discussion  
 4 and that will vary from week to week.  
 5 Q. But you have described how it's worked  
 6 in your workshop for the last two years?  
 7 MR. PEARLMAN: Objection. Leading.  
 8 THE HEARING OFFICER: Overruled. I'm  
 9 going to allow him to answer.  
 10 Can you repeat the question,  
 11 Counsel.  
 12 BY MS. AUERBACH:  
 13 Q. The way you've just described it is how  
 14 it's worked in your workshop over the last two  
 15 years?  
 16 MR. PEARLMAN: That's leading.  
 17 BY THE WITNESS:  
 18 A. That's correct.  
 19 THE HEARING OFFICER: Overruled. Next  
 20 question.  
 21 BY MS. AUERBACH:  
 22 Q. Were you paid for the workshop duties  
 23 both years?  
 24 A. I was.  
 25 Q. How much?

1 work.  
 2 So we would first set the schedule  
 3 of people to share their work in the workshop. We  
 4 are also responsible for purchasing and bringing  
 5 snacks and wine and water, et cetera, refreshments,  
 6 to the workshop and then we are also responsible  
 7 for reading the work that's been circulated in  
 8 advance, reading it very carefully because the  
 9 workshop coordinator not only is expected to  
 10 provide feedback to -- on the work being presented  
 11 but also to carry on the discussion. If there's  
 12 any moment in the workshop at which the  
 13 conversation seems to be dying, then it sort of  
 14 falls on the workshop coordinator to carry on the  
 15 discussion by entering into the conversation.  
 16 Q. The workshops you've conducted, does the  
 17 workshop coordinator also begin the discussion?  
 18 A. That's right. We usually begin by  
 19 introducing the guest or the person presenting the  
 20 work. Then everyone introduces themselves and then  
 21 we basically give the floor to whoever is  
 22 presenting their work to let them say a few words  
 23 by way of introduction and then we open up for  
 24 discussion. This is how it functions in the poetry  
 25 and poetics workshop.

1 A. It's \$750 a year so it's \$1,500 for a  
 2 single coordinator and that's split if you have a  
 3 co-coordinator so \$750 a year.  
 4 Q. In what increments is that paid out?  
 5 A. Quarterly.  
 6 Q. How is that paid to you?  
 7 A. It's paid to me through Workday.  
 8 Q. In Workday if the workshop -- are the  
 9 workshop duties assigned any number of hours per  
 10 week?  
 11 A. They are.  
 12 Q. What is that?  
 13 A. If you're a single coordinator, it's  
 14 five hours a week. If you're a co-coordinator like  
 15 I've been, it's two and a half.  
 16 MS. AUERBACH: That's all I have.  
 17 MR. PEARLMAN: May we go off the record,  
 18 Madam Hearing Officer?  
 19 THE HEARING OFFICER: Off the record.  
 20 (Whereupon, a break was taken,  
 21 after which the following  
 22 proceedings were had:)  
 23 THE HEARING OFFICER: On the record.  
 24 The Employer can proceed with its  
 25 questions for the witness.

## CROSS-EXAMINATION

BY MR. PEARLMAN:

Q. Good afternoon, Mr. Powell. I'm going to ask you some questions. If you don't understand any of my questions, just let me know, and I'll do my very best to rephrase it for you, okay?

A. Sure thing.

Q. Let's first start with your position as a workshop coordinator. You described a number of duties it sounds largely administrative. Is that an accurate characterization in your opinion?

A. I suppose so. I don't like that word but...

Q. What don't you like about it?

A. I don't know. It makes it seem too bureaucratic I guess. It's not really so bureaucratic. I meet biweekly with colleagues that I know very well and we talk about poetry.

Q. But in doing that there were various ministerial types of acts that you carried out such as ordering wine you said or ordering drinks or food, coordinating?

A. Um-hum.

Q. Inviting folks --

MR. WEITZMAN: Excuse me. We need the

witness to say yes or no. Um-hum is hard to transcribe.

THE HEARING OFFICER: Sorry. Yeah, you have to say yes or yeah or however you wish to respond. Um-hum is sometimes hard to pick up.

THE WITNESS: Got you.

BY MR. PEARLMAN:

Q. So would you feel comfortable characterizing those types of activities as ministerial?

MS. AUERBACH: Objection to the form of the question. It was like a series of words so I'm not clear if the question is the ordering wine, food and drinks part or the requesting the guest part. Maybe it could be broken out into actual questions.

THE HEARING OFFICER: I think we can break it down by task.

MR. PEARLMAN: That's going to take twice as long, but I'm happy to do it if you would like.

THE HEARING OFFICER: Or group it.

MR. PEARLMAN: I can do that too. It'll be a lot shorter, of course.

BY MR. PEARLMAN:

Q. So e-mailing folks to attend the workshop, ordering wine, drinks and food, putting together an agenda, would you characterize those types of activities as organizational?

A. Yes.

Q. And you also said that you had to very carefully review the papers and are familiar with the text. Do I have that correct?

A. Correct.

Q. And you learned from doing that, correct?

A. Yes. Often the work is covering something that is not particularly familiar to me.

Q. So that's a learning experience for you?

A. Yeah, I do learn from the workshop, yes.

Q. You refer -- when talk about what you did as a workshop coordinator, on numerous occasions you refer to the word "work." I want to understand what you meant. You said outside guests come to share their work. You're referring to by work their papers, correct?

A. That's right.

Q. Likewise you said that you had to find graduate students to share their work. That's a

reference to their own work product. Meaning the papers they put together; is that correct?

A. That's correct.

Q. You also said I have read their work. By that that's a reference to their work product, their papers, true?

A. Correct.

Q. And you said that you gave feedback on the work. That, too, is a reference to the papers, correct?

A. Correct.

Q. And you invited guests -- you introduced the guests who were presenting their work. Work there is a reference to their papers too, correct?

A. Correct.

Q. How many hours per week did you spend on these workshop coordinator activities?

A. Well, it varies from week to week because the workshop is biweekly so it's hard to say on a weekly basis but weeks when we have the workshop, including the time of the workshop itself and often dinners or other social activities after the workshop, I would say it's somewhere between 10 to 15 hours on those weeks.

Q. How much time would you spend on the

1 dinners?  
 2 A. That varies, you know, like an hour or  
 3 two?  
 4 Q. And these workshops are related to your  
 5 course of study, correct?  
 6 A. Yes.  
 7 Q. Mr. Powell, let me turn your attention  
 8 to the English pedagogy course for a moment.  
 9 I would ask, Madam Hearing Officer,  
 10 if you could please furnish Employer Exhibit 66 to  
 11 Mr. Powell?  
 12 Mr. Powell, if you could take a  
 13 moment to look at this document. Are you familiar  
 14 with this document?  
 15 A. No.  
 16 Q. You took a pedagogy course that was  
 17 specific to the English department, correct?  
 18 A. Correct.  
 19 Q. Does this document refresh your  
 20 recollection as to the course you took?  
 21 A. No.  
 22 Q. What did you learn in the English  
 23 pedagogy course that you took?  
 24 A. Not much to be honest.  
 25 Q. Did you attend the course?

1 A. I did.  
 2 Q. Who was the professor?  
 3 A. Debbie Nelson. Debra Nelson I should  
 4 say.  
 5 Q. Did you discuss creation of a syllabus?  
 6 A. Yes.  
 7 Q. Did you discuss teaching composition?  
 8 A. I don't believe so.  
 9 Q. Did you discuss creating assignments?  
 10 A. Yes.  
 11 Q. Did you discuss methods of interacting  
 12 with students?  
 13 A. Somewhat, yes.  
 14 Q. Did you discuss -- what did you discuss  
 15 in that regard or what did you learn in that  
 16 regard?  
 17 A. We talked about how to effectively lead  
 18 discussion in the classroom, how to deal with  
 19 various problems that might come up in discussion.  
 20 Q. How long did this course last?  
 21 A. For one quarter.  
 22 Q. How many different sessions were there?  
 23 A. I don't recall. A few of them were  
 24 cancelled.  
 25 Q. Do you recall the grade that you got in

1 the course?  
 2 A. There was no grade.  
 3 Q. You passed of course?  
 4 A. I believe it was pass/fail.  
 5 Q. You passed it?  
 6 A. I did, yes.  
 7 Q. There were certain aspects of the course  
 8 that related to pedagogy that related in turn to  
 9 what you did as a teaching assistant, correct?  
 10 A. I was a teaching assistant before I took  
 11 the pedagogy course.  
 12 Q. My question is a little bit different  
 13 than that though. I just want to make sure you  
 14 understood that. When you took the pedagogy  
 15 course, there were aspects of the teaching that  
 16 related to things that you would do as a TA,  
 17 correct?  
 18 A. Yes. We were discussing teaching, yes.  
 19 Q. And you taught some courses as a TA  
 20 before and after you took this English pedagogy  
 21 course, correct?  
 22 A. That's correct.  
 23 Q. Did you take any orientation courses  
 24 that related to pedagogy or teaching?  
 25 A. No.

1 Q. Did you take any courses in the CCT?  
 2 A. No.  
 3 Q. Did you take any courses in the Little  
 4 Red School House?  
 5 A. No.  
 6 Q. What other topics were discussed in the  
 7 English pedagogy course?  
 8 A. Grading. I think we already mentioned  
 9 designing syllabi. We also talked about sort of  
 10 brain stormed about innovative ways of teaching in  
 11 the classroom.  
 12 Q. Was that useful to you?  
 13 A. The course as a whole I didn't find very  
 14 useful.  
 15 Q. I'm just asking a very targeted question  
 16 about innovative teaching method.  
 17 A. No. I didn't find it very useful.  
 18 Q. Why is that?  
 19 A. Because the discussion was, I think, too  
 20 loose and not connected with how to actually apply  
 21 these things in the classroom. It was more of  
 22 brainstorming.  
 23 Q. You could have talked to the professor  
 24 with targeted questions that you had, correct?  
 25 A. Sure.

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1 Q. The professor was accessible to you?  
2 A. Somewhat.  
3 Q. You didn't take advantage of that, did  
4 you?  
5 A. I did in the classroom, not outside.  
6 Q. That answers my question.  
7 Now, Union's Counsel asked you what  
8 things you did for pay. You mentioned being a  
9 workshop coordinator but your answer indicated that  
10 there were a host of other things that you did for  
11 pay as a graduate student. What were they?  
12 A. I have worked in the library in the  
13 Special Collections Research Center both as an  
14 accession's assistant. Also on a special project  
15 co-curating an exhibit at the exhibit space in the  
16 Special Collections Research Center and editing a  
17 catalog on 19th century British poetry from a  
18 collection that was donated to Special Collections.  
19 I am an editorial assistant at Critical Inquiry.  
20 I'm the managing editor of the Chicago Review.  
21 I've also been the book review assistant at  
22 Critical Inquiry. I think that's all.  
23 Q. In each of these things that you just  
24 listed, you did all of those voluntarily, correct?  
25 A. Yes.

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1 Q. When you edited a catalog, did you do  
2 that with a professor?  
3 A. No.  
4 Q. When you were an editorial assistant,  
5 did you do that with a professor?  
6 A. No.  
7 Q. Were any of those other activities that  
8 you just mentioned done with a professor?  
9 A. No.  
10 Q. Were any of those activities related to  
11 your course of study?  
12 A. Yes.  
13 Q. From which ones?  
14 A. The -- well, the question is too vague,  
15 I think. It depends on what you consider related.  
16 Chicago Review publishes contemporary poetry and  
17 fiction. I studied poetry and poetics but my own  
18 research focuses on 19th century poetry so it's not  
19 directly related but it's tangentially related in  
20 the sense that it's poetry. The catalog of the  
21 Walks Collection was more directly related because  
22 it's 19th century English poetry which is what my  
23 research focuses on. Critical inquiry is  
24 tangentially related because it's a theoretical  
25 journal that's very influential in my field more

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1 broadly but not directly related to my own  
2 research.  
3 Q. Okay. Thank you.  
4 MR. PEARLMAN: I ask, Madam Hearing  
5 Officer, to please show Mr. Powell Employer  
6 Exhibit 24.  
7 BY MR. PEARLMAN:  
8 Q. Could you take a moment just to  
9 familiarize yourself?  
10 A. Sure.  
11 (Witness peruses document.)  
12 Q. Do you recognize this document from the  
13 university's website?  
14 THE HEARING OFFICER: Can you represent  
15 for the record which one you are reading and  
16 looking at? We want to make sure --  
17 MR. PEARLMAN: I'm looking at the first  
18 page of Employer's Exhibit 24.  
19 THE HEARING OFFICER: With the heading?  
20 MR. PEARLMAN: PhD Student Teaching.  
21 THE HEARING OFFICER: Thank you.  
22 BY THE WITNESS:  
23 A. I don't recall seeing this. Maybe I  
24 have at some point in my program.  
25

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1 BY MR. PEARLMAN:  
2 Q. Let me see if this refreshes your  
3 recollection. The first sentence says,  
4 "Pedagogical training is a vital part of the  
5 educational experience in doctoral students." You  
6 don't have any reason to disagree with that, do  
7 you?  
8 A. Yeah, I do actually. I don't think  
9 that -- well, I think that the educational  
10 experience and pedagogical training are two kind of  
11 separate things.  
12 Pedagogical training I see is  
13 preparing me for getting a job as a professor where  
14 as the educational experience I would consider  
15 something very different.  
16 Q. So are you saying that you do not  
17 believe the pedagogical training at the University  
18 of Chicago in humanities and English in particular  
19 is a vital part of the educational experience of  
20 the doctoral student?  
21 A. Yes.  
22 Q. So have you discussed that view with  
23 anyone?  
24 A. No. No one has asked me.  
25 Q. And it says, "Doctoral students are

1 strongly encouraged to seek a range of teaching  
2 experience during your graduate career." Do you  
3 disagree with that as well?

4 A. I don't feel that I've been encouraged  
5 to do that, no.

6 Q. You've gotten five GAI points to  
7 present, correct?

8 A. That's right.

9 Q. What is your career goal?

10 A. I think I would like to be a professor.  
11 Teach literature.

12 Q. In order to be a professor in  
13 literature, you need pedagogical training, true?

14 A. No. I think you could, as Professor Ken  
15 Warren said earlier, you could very well go through  
16 a PhD program and not have any pedagogical training  
17 and then to get a job as a professor and learn  
18 pedagogy on the job much as you do with any other  
19 job. You learn the job after you get hired. So I  
20 don't think it's necessary, no, prior to getting  
21 the job.

22 Q. In order to get hired, you need certain  
23 credentials, right?

24 A. The university clearly thinks that it's  
25 important to have -- give us some training in

1 teaching prior to.

2 Q. But you know this to be true, don't you,  
3 to get a job in teaching --

4 A. No, I don't.

5 Q. Let me finish. To get a job in teaching  
6 you need to have experience in knowing how to teach  
7 so you can demonstrate that to somebody who you  
8 want to hire you; isn't this a practical reality?

9 A. No, I don't know that that's true, no.

10 Q. You know that it's difficult to obtain a  
11 job as an English literature teacher these days?

12 A. Certainly.

13 Q. And you know that you have a lot of  
14 competition out there?

15 A. Certainly.

16 Q. And folks at peer schools and ivy  
17 schools and highly educated and smart people like  
18 yourself are going to be on the job market,  
19 correct?

20 A. Thank you. Yes.

21 Q. In order to compete for a job, you need  
22 to have certain credentials in this market,  
23 correct?

24 A. I assume so, yes.

25 Q. And having experience in learning how to

1 teach and knowing how to teach is the type of  
2 credential that you need in order to compete with  
3 folks like yourself from your peer schools, true?

4 A. I don't know that that's true. What I  
5 do know is that obviously they -- when they're  
6 hiring someone, they're considering a variety of  
7 different factors. How those different factors are  
8 weighed in terms of deciding who to hire and who  
9 not to is a matter that's fairly opaque to me to be  
10 honest. I've --

11 Q. So you --

12 A. -- job market yet. For example, I  
13 believe that the graduate students at Princeton in  
14 my field don't have any teaching requirements at  
15 all and they get jobs. No, it's not clear to me  
16 that you have to have training in pedagogy to get a  
17 job.

18 Q. Wouldn't you suspect that it would help  
19 to have that credential on the job market?

20 MS. AUERBACH: Objection. This is  
21 repetitive. It's the same question over and over  
22 to get a different answer.

23 MR. PEARLMAN: I would just like a  
24 direct answer. That's all.

25 MS. AUERBACH: Well, he's asked the same

1 question.

2 MR. PEARLMAN: You're speaking. That's  
3 a speaking objection. You know that's improper.

4 MS. AUERBACH: It's an objection to  
5 repetitive question. The same question has been  
6 asked.

7 MR. PEARLMAN: You said that three times  
8 now.

9 THE HEARING OFFICER: I'll allow this  
10 one last question, but this is all opinion based.  
11 I think he's clearly stated --

12 MR. PEARLMAN: Okay. Then let's move to  
13 the next question.

14 BY MR. PEARLMAN:

15 Q. Why are you teaching all of your  
16 standalone courses?

17 A. I'm teaching because it's a requirement  
18 of my PhD program. I have to have five teaching  
19 points. I also enjoy teaching as well.

20 Q. Do you intend to obtain additional GAI  
21 points?

22 A. If I am -- I can't teach next year  
23 because I'll be on fellowship. If I'm still here  
24 the year after that, I'll probably apply for  
25 classes, yes.



1 Q. Now, let's talk for a moment about the  
2 courses that you TA'd. You said there were three,  
3 intro to poetry. What was the second one? History  
4 of -- something with a novel.

5 A. History of the novel.

6 Q. And the third one is Shakespeare history  
7 and comedy?

8 A. Close. Shakespeare's histories and  
9 comedies.

10 Q. Who is your professor for intro to  
11 poetry?

12 A. Lisa Ruddick.

13 Q. Who is your professor for the history of  
14 novel?

15 A. Maud Ellmann.

16 Q. Who is your professor for Shakespeare?

17 A. Richard Strier. They weren't  
18 technically my professor. They were the professor  
19 teaching the course.

20 Q. Okay. That's what I was getting at so I  
21 appreciate it.

22 A. I just wanted to be clear on that.

23 Q. You were mentioning testimony that you  
24 heard earlier today so I'll ask you have you had a  
25 mentoring relationship with each of those

1 accessible. More so than the other two  
2 but -- well, let me ask you what mean by  
3 accessible. Can you define that?

4 Q. Well, if you wanted to talk with them  
5 about any sort of a question that came up, could  
6 you contact them and expect a response?

7 A. Yes, of course.

8 Q. And you, in fact, have done that?

9 A. Of course.

10 Q. And they've given you useful productive  
11 responses?

12 A. I don't recall all of the conversations  
13 we had and how productive their responses were so I  
14 can't answer that question.

15 Q. Were you satisfied with the responses  
16 that they've given you when you've reached out to  
17 them?

18 A. I don't recall all the conversations so  
19 I can't answer that question.

20 Q. Did they respond to you each time that  
21 you reached out to them?

22 A. I believe so, but I'm not sure.

23 Q. Now, you were asked questions that were  
24 in some respects lumped together and called what  
25 your responsibilities were.

1 professors?

2 A. Mentoring is not the word I would use.

3 Q. What would you use?

4 A. They treated us like colleagues. It was  
5 a collegial relationship.

6 Q. How so?

7 A. We discussed the goals of the course  
8 together with intro to poetry for example. We  
9 being the other TAs and myself met with Professor  
10 Ruddick and discussed the assignments of the  
11 course, for example, quizzes and so on. So it felt  
12 like rather than the kind of mentoring relationship  
13 a very kind of collegial one which I very much  
14 appreciated from all of those professors. They  
15 treat us like colleagues and not like children.

16 Q. They're accessible to you, true?

17 A. Well, different professors are  
18 accessible at different levels. So I can't say  
19 that across-the-board.

20 Q. Is Professor Ruddick accessible to you?

21 A. Yes.

22 Q. Professor Ellmann?

23 A. Yes.

24 Q. Professor Strier?

25 A. Professor Strier was particularly

1 You attended lectures for each of  
2 these professors, correct?

3 A. That is correct.

4 Q. Did you volunteer to lecture in any of  
5 the three courses that you TA?

6 A. No. I was asked to give a lecture in  
7 the history of the novel course because Professor  
8 Ellmann was out of town.

9 Q. Did you give that lecture?

10 A. I did.

11 Q. Did you discuss the lecture with  
12 Professor Ellmann?

13 A. No.

14 Q. Did you discuss it with Professor  
15 Ellmann after you delivered it?

16 A. No.

17 Q. How did you know how to deliver the  
18 lecture?

19 A. Because I've done so before.

20 Q. Did you have any difficulty in doing  
21 that?

22 A. No. I was a little nervous at first but  
23 once I got rolling, it was cool.

24 Q. You said that you graded papers and  
25 graded quizzes in both of these courses?

1 A. There were quizzes in the introduction  
2 to poetry class. There were not in either of the  
3 other two.  
4 Q. What about papers?  
5 A. There were papers in all of the courses.  
6 Q. Ultimately Professors Ruddick, Ellmann  
7 and Strier were responsible for the grades in their  
8 respective courses, true?  
9 A. What do you mean by responsible?  
10 Q. They're the final arbiter of the grade?  
11 A. They submit the grades, yes. Well,  
12 actually, for introduction to poetry, I submitted  
13 the final grades. For the other two courses, I  
14 submitted my grades as I mentioned to Professor  
15 Strier and to Professor Ellmann. Then they  
16 reviewed the grades and the papers and submitted  
17 the final grades.  
18 Q. You showed the grades that you suggested  
19 for intro to poetry to Professor Ruddick, correct?  
20 A. Correct.  
21 Q. And Professor Ruddick ultimately  
22 approved the grades, correct?  
23 A. Correct.  
24 Q. You discussed grading with each of these  
25 professors, correct?

1 A. With Professor Ruddick we, as I  
2 mentioned, got together and compared different  
3 papers and the grades that each of the TAs assigned  
4 to them to try to make sure that all of us were  
5 kind of on the same page in terms of the grading.  
6 With professor Strier and Professor Ellmann, I  
7 believe that we had a brief initial discussion of  
8 grading policies and then each of the TAs submitted  
9 their grades to them for the first papers and then,  
10 as I said, received feedback from the professors on  
11 our grades.  
12 Q. Let's talk for a moment, Mr. Powell,  
13 about discussion sections. What did you do in your  
14 discussion sections in each of these courses?  
15 A. We talked about the readings.  
16 Q. How many students would you meet with at  
17 a time in a discussion section?  
18 A. Each of the classes was between 15 and  
19 20 students.  
20 Q. How large were the discussion sections  
21 themselves? That same number?  
22 A. That's the discussion sections, yeah.  
23 The classes themselves were more like 60, 50 to 60  
24 students or more perhaps.  
25 Q. You testified that you received the

1 direction that you received from professors with  
2 respect to what to do in discussion sections varied  
3 by professor, true?  
4 A. True. Yes.  
5 Q. What direction did you receive from  
6 professors that varied amongst them? You have a  
7 quizzical look. I can make the question easier if  
8 you like.  
9 What direction did you receive from  
10 Professor Ruddick with respect to how to conduct  
11 discussion sections?  
12 A. Very little.  
13 Q. What was discussed?  
14 A. Between -- in the discussion section or  
15 between myself and Professor Ruddick?  
16 Q. The latter.  
17 A. Well, basically she told us that we  
18 needed to discuss whatever was being read that week  
19 for the lecture course. Other than that she  
20 basically left it to us to decide how we wanted to  
21 use that time.  
22 Q. Did you have any questions for professor  
23 Ruddick on how to conduct a discussion course?  
24 A. I don't recall that I did. What was  
25 incredibly helpful was conversations that I had

1 with the other TAs for the course. That's where  
2 most of the learning came from was from the three  
3 of us talking about how our discussion section went  
4 each week, talking about various strategies and  
5 thinking together about how to best use that time.  
6 Q. If you had questions on how to conduct a  
7 discussion course, you felt comfortable that you  
8 could have gone to Dr. Ruddick with them, true?  
9 A. Sure.  
10 Q. What direction did you receive from  
11 Dr. Ellmann with respect to conducting a discussion  
12 course?  
13 A. Also very little. Basically what I  
14 received from Lisa Ruddick. She -- again, we  
15 were -- with that class in particular we read  
16 several novels in ten weeks so there's only so much  
17 you can discuss in 50 minutes. So there was a huge  
18 amount of leeway for the teaching assistants to  
19 decide what in particular we were going to focus  
20 on. Often this would be something supplemental to  
21 what Professor Ellmann had lectured on that week in  
22 the class.  
23 Q. If you had questions related on how to  
24 discuss a discussion course, you could have gone to  
25 Professor Ellmann with that?

1 A. Of course.  
2 Q. You found Professor Ellmann helpful in  
3 that regard?

4 A. I don't recall if I asked her questions  
5 about the discussion section. Again, it was much  
6 more helpful to talk with my fellow teaching  
7 assistants. You have to understand that a lot of  
8 these professors didn't perform this role in their  
9 graduate studies so they've never led a discussion  
10 section of a larger lecture course so I don't think  
11 that they really have that much insight into that  
12 aspect of things. It's much more helpful to  
13 talk --

14 Q. If you wanted --

15 A. I wasn't done.

16 Q. I move to strike. This goes well beyond  
17 the question.

18 MS. AUERBACH: The Employer keeps  
19 insisting that the witnesses should be allowed to  
20 answer the question.

21 MR. PEARLMAN: There comes a point when  
22 it goes beyond the question.

23 THE HEARING OFFICER: I agree. It's  
24 going beyond the question at this point. You could  
25 ask your next question.

1 BY MR. PEARLMAN:

2 Q. Professor Strier, what direction did you  
3 receive from Professor Strier with respect to  
4 conducting discussion sections?

5 A. Professor Strier would often e-mail us  
6 to say that there were particular things that he  
7 didn't get to in his lecture that he wanted us to  
8 be sure to touch on in discussion section. Beyond  
9 those things, again, we had leeway to decide what  
10 we wanted to focus on.

11 Q. Now, you mentioned that you did a  
12 lectureship, correct?

13 A. That's correct.

14 Q. What's the title of that course? What's  
15 the full title?

16 A. Radical romanticism. The subtitle of  
17 the course was poetry, piracy, pornography. So  
18 radical romanticism: Poetry, piracy and  
19 pornography.

20 Q. You designed that course?

21 A. I did.

22 Q. You did so voluntarily, correct?

23 A. Well, I mean, I had to fulfill my  
24 teaching requirements so I needed to teach a  
25 lecture course.

1 Q. But that course design you did  
2 voluntarily, correct?

3 A. Well, it was a requirement of the  
4 program. I mean, it depends on -- I mean, nobody  
5 was twisting my arm and making me design the  
6 course, but I had to fulfill my teaching  
7 requirements.

8 Q. You interacted with the professor in  
9 doing so, correct?

10 A. No.

11 THE HEARING OFFICER: Are you referring  
12 to the design of the course?

13 MR. PEARLMAN: Yes.

14 THE HEARING OFFICER: Thank you.

15 MR. PEARLMAN: Okay. I have no further  
16 questions.

17 BY THE HEARING OFFICER:

18 Q. So you said that you had been a workshop  
19 coordinator for the past two years; is that  
20 correct?

21 A. Yes.

22 Q. So you had mentioned for your prior TA  
23 positions that you had received a W-2. For the  
24 time that you were workshop coordinator in the past  
25 tax year, did you also receive a W-2 for that

1 money?

2 A. So everything in Workday is all lumped  
3 together and paid to me, and I got a W-2 for all of  
4 that all together so it's not...

5 Q. Separated out?

6 A. It's not separated. That's right, which  
7 makes it very confusing when you're working several  
8 jobs knowing when you have actually been paid.

9 THE HEARING OFFICER: I think those were  
10 my only questions.

11 REDIRECT EXAMINATION

12 BY MS. AUERBACH:

13 Q. With respect to your responsibilities as  
14 workshop coordinator, how did you and your  
15 coordinator go about deciding what guest speakers  
16 to invite?

17 THE HEARING OFFICER: Do what? What was  
18 that last word?

19 MS. AUERBACH: To invite.

20 BY THE WITNESS:

21 A. We basically had conversations together  
22 about -- and came up with a list of people that we  
23 thought would be good people to bring. We  
24 also -- so every workshop has faculty sponsors. We  
25 have three for the poetry and poetics workshop and

1 we would, you know, ask them if someone in  
2 particular they thought would be interesting to  
3 bring. We don't have to invite that person. So we  
4 have complete control, in other words, over -- as  
5 coordinators over who we invite.

6 We have a certain budget for the  
7 workshop for the year so as long as we stay within  
8 that budget. I should have mentioned earlier part  
9 of the work also is that we have to book flights.  
10 We have to book hotel rooms, et cetera, for these  
11 outside guests, right, so we have to do that as  
12 well.

13 So we solicit feedback from the  
14 faculty sponsors but then we basically decide based  
15 on who we think would be an interesting person to  
16 bring. Our consideration is guided by who we think  
17 are sort of the best scholars working in poetry and  
18 poetics right now.

19 MS. AUERBACH: That's all I have.

20 THE HEARING OFFICER: Does Employer have  
21 any further questions for the witness?

22 MR. PEARLMAN: No, thank you.

23 THE HEARING OFFICER: Mr. Powell, you  
24 are excused. Off the record.  
25

1 MR. FASMAN: Oh, okay. Thank you. So  
2 until there we have no objection to the  
3 authenticity. We do have a strong objection to the  
4 relevance. These are documents that are being  
5 submitted into the record in a lump which merely  
6 are university documents. There's been no  
7 testimony about them. There's no  
8 authentication -- there's authentication that the  
9 documents are from us, but there's no proffer as to  
10 why they are relevant. They're going into the  
11 record without any supporting testimony.

12 And as you said, Madam Hearing  
13 Officer, to the extent that any weight is to be  
14 attached to them, as you said with regard to  
15 Exhibit 15, the only weight that can be afforded to  
16 them is such weight as is in the record and it  
17 supports them.

18 So while we have no problem with  
19 their authenticity and we are not objecting on  
20 those grounds, we do object to their relevance.  
21 There's been no proffer as to the relevance of  
22 these documents, and we object on those grounds.

23 MS. AUERBACH: I want to clarify that  
24 Petitioner Exhibit 29 through 59 and Petitioner  
25 Exhibit 61 are not documents produced pursuant to a

1 (Whereupon, a discussion was  
2 had off the record.)

3 THE HEARING OFFICER: On the record.

4 So as a housekeeping matter there  
5 are some outstanding exhibits that have been marked  
6 for identification. The Petitioner, I believe, is  
7 going to move to enter them into the record; is  
8 that accurate?

9 MS. AUERBACH: Yes. Petitioner moves to  
10 introduce into evidence the documents previously  
11 identified as Petitioner's Exhibits 29 through 59  
12 and Petitioner 61.

13 THE HEARING OFFICER: Any objection?

14 MR. FASMAN: We object on relevance  
15 grounds. These are documents that were produced in  
16 response to the subpoena in our effort to resolve  
17 those issues. We have no problem with the  
18 authenticity of these documents. They were  
19 produced. They're Bates stamped, and we produced  
20 them with the exception of the last three.

21 THE HEARING OFFICER: Those haven't been  
22 identified yet.

23 MR. FASMAN: Pardon me?

24 THE HEARING OFFICER: Those haven't been  
25 identified yet.

1 subpoena. These were documents downloaded from the  
2 university's website and verified by Counsel for  
3 the Employer that they are, in fact, the most  
4 recent versions of these documents on the website  
5 as of the time of this hearing.

6 MR. FASMAN: Yes. We agree with that.  
7 I didn't realize we were looking at that. On the  
8 other hand, we, again, state our relevance  
9 objection and also note that these documents are  
10 not supported by any testimony. No one is going  
11 further about them. As such, they're documents  
12 that are just standing in the record by themselves,  
13 which in our view, should be afforded no weight.

14 THE HEARING OFFICER: So the parties'  
15 positions are noted. As the parties have  
16 stipulated to the documents' authenticity, I'm  
17 going to receive them into the record. As Employer  
18 Counsel pointed out, the weight that they are given  
19 is within the discretion of the Regional Director  
20 at the time of decision. So therefore Petitioner's  
21 Exhibits 29 through 59 inclusive and Petitioner  
22 Exhibit 61 are received in evidence.

23 It's my understanding the  
24 Petitioner has some additional documents it wishes  
25 to identify for the record.

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1 MS. AUERBACH: Yes. Petitioner  
2 Exhibit 88 is -- Petitioner's Exhibit 88  
3 through 122 were all produced by the Employer  
4 pursuant to subpoena. Some of them are  
5 also -- were produced from the university's  
6 website. Some were not.  
7 Petitioner Exhibit 88 is from the  
8 university's web page Division of Social Sciences  
9 Department of Anthropology, Environmental Studies  
10 and it lists the positions in that department.  
11 Petitioner Exhibit 89 is from the  
12 university's web page Division of Social Sciences  
13 Department of Anthropology, Latin American Studies  
14 CA Preceptorship.  
15 MR. FASMAN: Can I raise a question? We  
16 discussed these as a group off the record.  
17 THE HEARING OFFICER: They haven't been  
18 identified for the record.  
19 MR. FASMAN: But as you identify them,  
20 then I would like to at least object as to  
21 relevance. There's been no proffer on any of  
22 these, but go ahead if you wish to identify them.  
23 MS. AUERBACH: The Hearing Officer asked  
24 me to identify them for the record.  
25 THE HEARING OFFICER: That's how we did

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1 it with the prior grouping so for consistency sake.  
2 MS. AUERBACH: Petitioner Exhibit 90 is  
3 from the Division of Social Science Department of  
4 Anthropology website for the page Undergraduate  
5 Preceptorships in Anthropology.  
6 Petitioner 91 is from the  
7 university's web page for Center for Latin American  
8 Studies BA Preceptorship.  
9 Petitioner Exhibit 92 is from the  
10 university web page Department of Anthropology  
11 Center for the Study of Race, Politics and Culture.  
12 Petitioner Exhibit 93 is from the  
13 university's web page Political Science Teaching  
14 Opportunities.  
15 Petitioner Exhibit 94 is from the  
16 university's web page The College Apply for  
17 Humanities Core Lectureships.  
18 Petitioner Exhibit 95 is from the  
19 web page The College Apply for Jobs in the Social  
20 Sciences Collegiate Division.  
21 Petitioner Exhibit 96 is a template  
22 admission letter for a doctoral studies program at  
23 the School of Social Service Administration.  
24 Petitioner Exhibit 97 is a template  
25 for an Admission Letter for the Division of

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1 Communities.  
2 Petitioner Exhibit 98 is a template  
3 Final Aid Statement for the Division of Humanities.  
4 Petitioner Exhibit 99 is a Division  
5 of Humanities Financial Aid Terms Document.  
6 Petitioner Exhibit 100 is a Physics  
7 Department Teaching Assistant Statement of  
8 Financial Assistance Document.  
9 Petitioner Exhibit 101 is a  
10 Physical Sciences Division Terms and Conditions for  
11 Admitted Applicants Document.  
12 Petitioner Exhibit 102 is a sample  
13 admission letter for the PhD program and computer  
14 science.  
15 Petitioner Exhibit 103 is a sample  
16 admission letter to the graduate program and the  
17 Department of Geophysical Sciences.  
18 Petitioner Exhibit 104 is a sample  
19 Statement of Financial Assistance for the  
20 Department of the Geophysical Sciences.  
21 Petitioner Exhibit 105 is a sample  
22 PhD admission letter for the program in  
23 mathematics.  
24 Petitioner Exhibit 106 is a sample  
25 admission letter for the PhD program in

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1 computational and applied mathematics.  
2 Petitioner Exhibit 107 is a  
3 template admission letter for the department -- for  
4 the graduate program in astronomy and astrophysics.  
5 Petitioner Exhibit 108 is a  
6 template admission letter for the PhD program in  
7 statistics.  
8 Petitioner Exhibit 109 is a  
9 template admission letter for the chemistry  
10 department, PhD program.  
11 Petitioner Exhibit 110 is an offer  
12 letter for the position of the market teaching BA  
13 preceptorship.  
14 Petitioner 111 is an offer letter  
15 for a Neugarten lecturer in the department of  
16 comparative community development.  
17 Petitioner Exhibit 112 is an e-mail  
18 from Margaret Jaffrey winter 2007 TA assignments in  
19 the department of computer sciences.  
20 Petitioner Exhibit 113 is an offer  
21 letter regarding the Bessie Pierce preceptorship in  
22 history.  
23 Petitioner Exhibit 114 is an offer  
24 letter for the BA preceptor position in the  
25 department of political science.

1 Petitioner Exhibit 115 is a request  
 2 for a teaching assistant position document for the  
 3 department of psychology.  
 4 Petitioner Exhibit 116 is a memo to  
 5 graduate students in the class simulated programs  
 6 regarding positions in that department.  
 7 Petitioner Exhibit 117 is an  
 8 application for teaching assistantships in Near  
 9 Eastern languages.  
 10 Petitioner Exhibit 118 is an  
 11 application for course assistant lecture and other  
 12 positions in the department of cinema and media  
 13 studies.  
 14 Petitioner Exhibit 19 is the --  
 15 THE HEARING OFFICER: 119.  
 16 MS. AUERBACH: Petitioner Exhibit 119 is  
 17 the Department of Ecology and Evolution Graduate  
 18 Student Handbook 2015 to 2016.  
 19 Petitioner Exhibit 120 is the  
 20 Department of Public Health Sciences Student  
 21 Handbook PhD Program 2016.  
 22 Petitioner Exhibit 21 --  
 23 MR. FASMAN: 121.  
 24 MS. AUERBACH: 121 -- thank you -- is a  
 25 grant application in the biological sciences

1 authenticity grounds to anything up to 123, 124,  
 2 125. We have no way to ascertain the authenticity  
 3 of those documents, but they've been supplied by  
 4 the Petitioner and we're willing to take Petitioner  
 5 at their word that they're authentic documents.  
 6 So with that being stated, we have  
 7 no objection on authenticity of any of these  
 8 documents that are being offered. We do have the  
 9 same objection that I stated previously with regard  
 10 to a lump sum of documents -- dumping a lump sum of  
 11 documents into the record without any proof as to  
 12 relevance. So we object to each of these on  
 13 relevant grounds. We think there's been nothing to  
 14 tie them into the issues in this case. And from  
 15 our viewpoint, as I said, they're just documents  
 16 that are being put into the record. There's no  
 17 testimony about them. We don't know anything about  
 18 them. They're just a bunch of documents so we  
 19 object to their relevance. There's been no proffer  
 20 as to their relevance in this case and that is our  
 21 position.  
 22 Now, having said that, with the  
 23 Union's and GSU's introduction of those documents,  
 24 I note that one of them, that is No. 96, appears to  
 25 be a letter, a form letter for admission into the

1 division.  
 2 Petitioner Exhibit 122 is a grant  
 3 application for the training program in  
 4 developmental biology.  
 5 Those were the documents produced  
 6 pursuant to a subpoena. And then the other  
 7 Petitioner documents are Petitioner 123, an  
 8 admission letter to the division of social sciences  
 9 dated February 15, 2016.  
 10 Petitioner Exhibit 24, an  
 11 appointment letter --  
 12 THE HEARING OFFICER: 124.  
 13 MS. AUERBACH: 124 is an appointment  
 14 letter dated June 22, 2016, to a position of  
 15 lecturer in the division of social sciences.  
 16 And Petitioner Exhibit 125 is an  
 17 appointment letter dated August 28, 2015, for a  
 18 lecturer position in the division of social  
 19 sciences.  
 20 Petitioner moves to admit into  
 21 evidence Petitioner's Exhibits 88 through 125.  
 22 THE HEARING OFFICER: What was the  
 23 Employer's position?  
 24 MR. FASMAN: Our position is  
 25 several-fold. First of all, we do not object on

1 social service program and I believe in an  
 2 off-the-record conversation that based upon this  
 3 letter GSU is withdrawing any objection it had to  
 4 the chart that we had previously marked as Employer  
 5 Exhibit 15, 15A or 15B, whichever one is the most  
 6 recent version of that, but I think his answers and  
 7 questions the GSU had about teaching requirements,  
 8 or in this case nonrequirements, within the social  
 9 service program at the University of Chicago.  
 10 MS. AUERBACH: Well, I'm not sure how it  
 11 can alleviate those claims though if you're  
 12 challenging it on relevance because that would  
 13 claim to make that document relevant.  
 14 THE HEARING OFFICER: So let's do one at  
 15 a time. The Employer's position as with the prior  
 16 grouping of documents are noted for the record.  
 17 As the parties are willing to  
 18 stipulate as to authenticity, I'm going to receive  
 19 in evidence Petitioner's Exhibit 88 through 125  
 20 inclusive. Again, as with the others the weight  
 21 that these documents will be afforded is within the  
 22 discretion of the Regional Director at the time of  
 23 decision.  
 24 So now that these documents are  
 25 received into evidence, do the parties have

1 anything further concerning their positions on  
2 Employer Exhibit 15A? It's received in evidence.

3 MR. FASMAN: There was some question  
4 though -- as you said, it hadn't been tied up with  
5 regard to that one issue and now that we have that  
6 in evidence, I think there's no reason for there to  
7 be any question about that. I mean, we're happy to  
8 address that in a brief, too, if the GSU doesn't  
9 want to address it, but I think that's wrong.

10 MS. AUERBACH: No. I'm saying that  
11 based on Petitioner Exhibit 96 in the  
12 representation from the university producing it  
13 that this is the accurate admission letter given to  
14 applicants, and I assume accurately reflects the  
15 terms of admission that based on that  
16 representation that it seems to be in conformance  
17 with what is Petitioner 15 and 15A with respect to  
18 the special services administration's role. I'm  
19 just questioning why the Employer would take the  
20 position that Petitioner 96 is not relevant if it's  
21 relevant to clarifying Employer Exhibit 15 and 15A.

22 MR. FASMAN: You know, on that whole  
23 subject we've received not one offer as to the  
24 relevance of any of these documents, and I really  
25 think in the record, especially because we're going

1 to write briefs here, I think we ought to have a  
2 proffer of why these things are being introduced.  
3 What's going on here? I mean, these are just a  
4 random selection of documents among the many that  
5 we have produced. I mean, it's like throwing stuff  
6 against the wall. I don't understand why -- I  
7 mean, we've stated our position on the record, but  
8 at the very least, the record ought to have a  
9 proffer of relevance, don't you think?

10 MS. AUERBACH: We believe that all of  
11 these documents go to employment status of the  
12 petition for individuals. I mean, they describe  
13 the conditions of their funding. They describe the  
14 teaching and other requirements and what the  
15 responsibilities are, how they're characterized.  
16 We think those all go to the issue of the employee  
17 status.

18 MR. FASMAN: Well, there's many of these  
19 that do not do that. We'll reserve the right  
20 to -- there's no page limit on the brief, is there?

21 THE HEARING OFFICER: No. I haven't  
22 stated that in the record.

23 MR. FASMAN: We may produce an appendix  
24 as to these documents and why we think they're  
25 totally irrelevant without regard to the brief.

1 MR. SALVATORE: Could I address one  
2 housekeeping issue with regard to Exhibit 66?

3 THE HEARING OFFICER: Yes.

4 MR. SALVATORE: I just want to apologize  
5 that I misspoke when I was cross-examining  
6 Dr. Warren. Exhibit 66 did not come from the  
7 university's website but came from the English  
8 department.

9 THE HEARING OFFICER: So then you're  
10 saying it is maintained by the English department?

11 MR. SALVATORE: Yes.

12 MR. FASMAN: I'll join that apology  
13 because I believe I said that too because I believe  
14 that's what we both believed at the time.

15 MR. SALVATORE: I apologize.

16 THE HEARING OFFICER: Thank you for  
17 clearing that up.

18 I believe I've received the  
19 outstanding Petitioner exhibits minus one. Off the  
20 record.

21 (Whereupon, a discussion was  
22 had off the record.)

23 THE HEARING OFFICER: On the record.

24 Now, there is the outstanding  
25 matter of the petition to revoke. There were --

1 the outstanding items were Items 1, 2, 3 and part  
2 of Item 6 which the Region deferred ruling. So now  
3 that these proceedings are heading to conclusion  
4 where is the Petitioner's position on the petition  
5 to revoke?

6 MS. AUERBACH: The Petitioner is not  
7 seeking any further action on the -- any further  
8 compliance with the subpoena.

9 THE HEARING OFFICER: So as it seems the  
10 subpoena -- the Employer has substantially complied  
11 with the subpoena, and I don't believe any  
12 additional documents are necessary to complete the  
13 record. I am going to consider the matter  
14 resolved. Again, Items 1, 2, 3 and part of 6 of  
15 the Petitioner subpoena duces tecum that was served  
16 on the Employer.

17 If there's nothing further about  
18 that, we're going to move on to the outstanding  
19 matter of the eligibility and mechanics with  
20 regards to the Petitioner's position.

21 So if Petitioner would like to  
22 state its petition for the record.

23 MR. SALVATORE: Before you do that.  
24 Just one thing. I just wanted to state for the  
25 record that we have no rebuttal witnesses.

1 THE HEARING OFFICER: Thank you.  
 2 You can proceed.  
 3 MS. AUERBACH: The Petitioner's position  
 4 is that the Region should determine that a lookback  
 5 period is appropriate for voter eligibility so that  
 6 individuals who have petitioned for a unit who  
 7 worked in any of the petition for a position in the  
 8 fall of 2016 quarter, winter 2016 quarter or spring  
 9 2017 quarter would be eligible to vote in an  
 10 election.  
 11 The Employer submitted a document  
 12 marked as Employer Exhibit 65 listing 12 cases  
 13 involving graduate students. As the Employer  
 14 noted, one of those, No. 10, Cornell was not a  
 15 Board-directed election, and there was no issue  
 16 determined by any region of the Board as to the  
 17 appropriate eligibility. So that is of no  
 18 persuasive value.  
 19 With respect to the other ones --  
 20 of the other 11, in eight of them there was no  
 21 discussion of the appropriate eligibility formula  
 22 so all of the region-directed elections in which --  
 23 regional determinations in which there was a  
 24 standard eligibility Cornell tied, there was no  
 25 discussion of the appropriate eligibility period

1 for any of those cases.  
 2 The only three in which there was a  
 3 discussion of the appropriate eligibility formula  
 4 were the Columbia University, New School and Duke  
 5 University cases. In all three of those cases in  
 6 which the appropriate eligibility formula was  
 7 discussed, the Regional Directors determined that a  
 8 one-year lookback period was appropriate.  
 9 In the New School Case 02-RC-143009  
 10 at Page 7 of the decision in discussing pattern of  
 11 employment, the petition states, "The record  
 12 establishes that the majority of students received  
 13 multiple assignments in a substantial cohort of the  
 14 student's received assignments in multiple  
 15 semesters."  
 16 It also states, "The fact that a  
 17 student is granted an assignment in one semester  
 18 and not the next does not definitively establish  
 19 that that student has no chance of receiving  
 20 another assignment."  
 21 The petition decision further finds  
 22 that, "The existence of students that receive  
 23 assignments in nonconsecutive semesters supports  
 24 the finding that a "lookback" period is necessary  
 25 to ensure that bargaining unit members are not

1 improperly disenfranchised based solely on the fact  
 2 that they happen to not receive an assignment in a  
 3 semester in which the election takes place."  
 4 In New School that was in the  
 5 second supplemental decision and direction of  
 6 election.  
 7 In Columbia University in the  
 8 supplemental decision and direction of election in  
 9 case, 02-RC-143012 at Page 4, the Regional Director  
 10 found that a lookback was an appropriate finding  
 11 that "I believe the formula is in keeping with the  
 12 Board's interest in minimizing in  
 13 disenfranchisement."  
 14 In the Berlitz School of Languages  
 15 231 NLRB 776 1977 the Board expanded on a Regional  
 16 Director's and Petitioner's proposed formula to  
 17 include a consideration of past employment within  
 18 the prior one year rather than the prior six  
 19 months. The Board noted that while it's formula  
 20 would enfranchise some teachers who have taught  
 21 much less than others given the vagaries of the  
 22 employer's employment structure the formula will  
 23 not did disenfranchise those who have a reasonable  
 24 expectancy of future employment. And that's citing  
 25 to Berlitz School of Languages at 767.

1 And in the decision and direction  
 2 of election in Duke University case, 10-RC-187957  
 3 before it went to the Board the Regional Director  
 4 found that, "It is clear from the record that  
 5 students on nine-month stipends do not service RAs  
 6 and TAs continuously during their degree program.  
 7 Students in some departments may choose which  
 8 semesters they serve while others may not. The  
 9 fact that a student is not serving as a TA or RA  
 10 during the semester is not an indication that they  
 11 will not do so in the future. This is true even if  
 12 the student has completed all of his or her  
 13 required services.  
 14 For example, students in their  
 15 sixth year and beyond who may longer be fully  
 16 funded can still serve as TAs or instructors of  
 17 record in order to generate income."  
 18 The Union submits that in this case  
 19 there has been testimony from both Employer and  
 20 union witnesses showing that graduate students have  
 21 held position in the petition for unit over a  
 22 period of time that may not necessarily include  
 23 consecutive quarters.  
 24 The executive director of the  
 25 writing program testified that more graduate



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1 students are -- hold positions in the -- as writing  
2 interns in the following spring -- rather in the  
3 fall and winter than they do in the spring and a  
4 number of union witnesses testified to holding a  
5 TA-ship in one quarter of one year and another  
6 quarter of the next year but not necessarily two or  
7 three quarters in the same year.  
8 So in the interest of not  
9 disenfranchising individuals who have a continued  
10 interest in the unit appropriately should be  
11 allowed to vote. The Union submits that a lookback  
12 eligibility formula is absolutely appropriate in  
13 this case.  
14 With respect to the mechanics of  
15 the election, the Union is no longer requesting a  
16 mail ballot election.  
17 MR. SALVATORE: I'm sorry?  
18 MS. AUERBACH: The Union is no longer  
19 requesting a mail ballot election. The Union is in  
20 agreement with the university that it's not  
21 feasible to hold a manual election during the  
22 summer and that it should not be held until after  
23 the fall quarter starts. The Union does not  
24 believe that a one-day election is sufficient given  
25 the size of the unit and also given the fact that a

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1 number of individuals in the unit may not  
2 necessarily be on campus every day of the week.  
3 They may only have either classes or teaching or  
4 research or responsibilities in some cases on  
5 certain days or may have responsibilities away from  
6 the campus that may make it more difficult if it's  
7 only a one-day election.  
8 The Union submits that ideally  
9 there should be three-day election on a Tuesday,  
10 Wednesday and Thursday and that at an absolute  
11 minimum a two-day election which we would suggest  
12 to be held on a Tuesday and Wednesday in order to  
13 allow sufficient opportunity to vote.  
14 We would be in agreement with the  
15 9:00 a.m. to 9:00 p.m. hours suggested by the  
16 Employer.  
17 With respect to location, however,  
18 the Employer suggested two buildings which are both  
19 science buildings and one which is a building that  
20 a lot of students are familiar with and is  
21 difficult to get around so we have alternative  
22 suggestions and given the size of the unit we're  
23 suggesting four locations.  
24 One is the Social Services  
25 Administration building, 969 East 60th Street, and

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1 the suggested location is any classroom that would  
2 be available on the election dates.  
3 The second is Crerar, C-R-E-R-A-R,  
4 Library which is the science library at 5730 South  
5 Ellis Avenue in the Kathleen A. Zar, Z-A-R, Room.  
6 The third is the Regenstein Library  
7 which is the main library at 1100 East 57th Street  
8 in Room 122.  
9 MR. FASMAN: Hang on one second.  
10 MS. AUERBACH: Regenstein Library, 1100  
11 57th Street in Room 122 which is an event space.  
12 And Four, in Eckhart Hall which is  
13 the math building, 1118 East 58th Street in any  
14 classroom that is available on the election date.  
15 With respect to the election dates,  
16 the Petitioner proposes first October 17th, 18th  
17 and 19th and second, October 10th, 11th and 12th.  
18 MR. SALVATORE: I'm sorry. What was the  
19 second one?  
20 MS. AUERBACH: October 10th, 11th and  
21 12th.  
22 THE HEARING OFFICER: And at the four  
23 locations mentioned the proposal is that the polls  
24 will be run simultaneously from 9:00 a.m. to  
25 9:00 p.m.?

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1 MS. AUERBACH: Correct.  
2 THE HEARING OFFICER: Anything further  
3 from the Petitioner with regard to eligibility and  
4 mechanics?  
5 MS. AUERBACH: No.  
6 THE HEARING OFFICER: And I had -- in an  
7 off-the-record discussion, I asked the Employer if  
8 he could seek some additional information  
9 concerning the location it had proposed and its  
10 position concerning the mechanics of the election  
11 buildings were mentioned. I had requested that  
12 they seek some additional information concerning  
13 potential rooms. It's my understanding the  
14 Employer has done that.  
15 MR. SALVATORE: We do. We have rooms,  
16 and I'd like to make a brief response to the  
17 Union's position on eligibility and mail ballot.  
18 THE HEARING OFFICER: Brief.  
19 MR. SALVATORE: Very brief. Okay. The  
20 Kent Chemical Laboratory building we would propose  
21 Room 114, Stewart Hall, the Cox Lounge, C-O-X,  
22 Lounge and in the Biological Learning Sciences  
23 Center the fourth floor lounge.  
24 Let me start with that briefly  
25 while we're talking about buildings. We appreciate

1 the Union's modification of its position to -- from  
 2 a mail ballot to a manual ballot and specifically  
 3 recognizing that there should not be an election  
 4 held over the summer until the fall semester has  
 5 begun and the dates they're proposing are a few  
 6 weeks into the semester so that the issues can be  
 7 discussed on campus about the election. Everyone  
 8 has notification. We appreciate multiple days for  
 9 the election to be held and with extended hours so  
 10 that voter turnout is encouraged and we would have  
 11 a higher turnout.

12 With respect to their locations,  
 13 I'm unable to comment right now just because  
 14 getting buildings and rooms on campus it's very  
 15 difficult, and we have to coordinate that through  
 16 several layers of administration to be able to  
 17 identify and coordinate. And I can imagine, if any  
 18 is issued, we would have some time to work out  
 19 those details after that. So I'll leave that at  
 20 that for now without agreeing to those locations.

21 On eligibility, the NLRB -- this is  
 22 a new area. The NLRB has only addressed it once  
 23 and it's addressed it in Duke University and in  
 24 doing so it has restated that the existing law  
 25 which is that it is the Union's burden to produce

1 that folks will teach over a certain period and  
 2 research over a certain period in a way which  
 3 supports this.

4 The NLRB in Duke rejected what  
 5 Union Counsel has read as the Regional Director's  
 6 ruling on eligibility is that you're wrong. We  
 7 reverse you. So it would be reversible error for  
 8 this Regional Director to order a lookback based on  
 9 the Union's absolute failure to produce any  
 10 evidence here that a lookback is appropriate.  
 11 Indeed the university's evidence, which is not its  
 12 burden to meet, but has put into the record -- the  
 13 only evidence into the record is that there is no  
 14 continuing pattern for teaching or research that  
 15 would justify an eligibility lookback at the  
 16 University of Chicago. Thank you.

17 MS. AUERBACH: Since the Employer got a  
 18 response, I would like to respond, too.

19 THE HEARING OFFICER: That's what I was  
 20 going to say. So I will give the Petitioner an  
 21 opportunity to respond but then we're done with  
 22 this topic. So Petitioner, with your response.

23 MS. AUERBACH: Right. So, I mean, I  
 24 noted that Duke was -- before it was with this  
 25 Board. The other two were separate regional

1 evidence that a lookback period is required.

2 The record is now closed in this  
 3 matter, and the record is devoid of any evidence  
 4 that has been produced by the Union. It's failed  
 5 to meet its burden in any way whatsoever that a  
 6 lookback period is required.

7 Indeed what the university's  
 8 evidence has shown is that this is an extremely  
 9 decentralized university with different divisions  
 10 doing their own thing, a hodgepodge of practices  
 11 for better or worse in terms of how people are  
 12 scheduled to meet their teaching requirements for  
 13 their academic degrees as well as for fulfilling  
 14 the other positions that the Union has wanted to  
 15 lob together into this coupled together bargaining  
 16 unit, that they're proposing that teaching  
 17 requirements and research requirements don't follow  
 18 a pattern.

19 The witness testimony from not only  
 20 our witnesses but the Union witnesses has shown  
 21 that. And there's no expectation as there was at  
 22 Columbia and at the New School where the UAW  
 23 proffered evidence in support of their position  
 24 that there should be a lookback where there's been  
 25 no proffer of evidence by the Union here whatsoever

1 decisions out of Region 2, Columbia and New School,  
 2 which I also read and the Union believes that there  
 3 has been evidence put on by the Union's case which  
 4 does support a lookback period. With respect to  
 5 the -- and that should be apparent when the whole  
 6 record is reviewed.

7 With respect to the Employer's  
 8 Counsel's stray comments about a union coupled  
 9 together, this is now the close of the hearing and  
 10 for the first time the Employer is throwing out  
 11 comments about a unit which it did not object to  
 12 prior to or during the hearing, so that issue has  
 13 waived any arguments that it's now making about a  
 14 coupled together unit because the Employer did not  
 15 object to the appropriateness of the unit other  
 16 than for certain eligibility issues.

17 MR. SALVATORE: I'm not going to respond  
 18 but that's not true. Our position is stated --

19 THE HEARING OFFICER: It's in the  
 20 record.

21 MR. SALVATORE: It's very clear that  
 22 that there are position sections in the unit.

23 THE HEARING OFFICER: Moving on from  
 24 eligibility and mechanics. During an  
 25 off-the-record discussion the Employer Counsel had

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1 stated a desire to file posthearing briefs and  
2 submitted to the Region for consideration a  
3 document, which I have marked as Employer  
4 Exhibit 67. I am going to move to receive Employer  
5 Exhibit 67 into the record.  
6 Any objection?  
7 MS. AUERBACH: No objection.  
8 THE HEARING OFFICER: Employer  
9 Exhibit 67 is received.  
10 MR. SALVATORE: May we go off the record  
11 for one moment?  
12 THE HEARING OFFICER: Sure. Off the  
13 record.  
14 (Whereupon, a discussion was  
15 had off the record.)  
16 THE HEARING OFFICER: On the record.  
17 So having received the Employer's  
18 special request to submit posthearing briefs does  
19 the Employer have anything further it wishes to add  
20 with regard to that request.  
21 MR. SALVATORE: Nothing except that we  
22 would request a minimum of 14 days to file the  
23 brief.  
24 THE HEARING OFFICER: What is the  
25 Petitioner's position concerning posthearing

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1 briefs?  
2 MS. AUERBACH: The Petitioner does not  
3 believe posthearing briefs are necessary.  
4 THE HEARING OFFICER: So having had the  
5 opportunity to review the Employer's request,  
6 considered how such cases have been treated in  
7 other regions throughout the country, the issues  
8 considered in these proceedings, as well as the  
9 lengths of these proceedings, the Regional Director  
10 has concluded that briefs may be filed. There is  
11 no page limits on the briefs. However, I do ask  
12 that the parties have the briefs be double spaced,  
13 one inch margins, Times New Roman, 12 point font.  
14 The Regional Director has  
15 determined that briefs will be due by the close of  
16 business on Thursday, June 15th. Briefs may be  
17 filed by e-filing on the Board's website, by mail  
18 or by hand delivery but may not be filed by fax.  
19 MR. SALVATORE: When you say "the close  
20 of business," you mean 11:59 p.m.?  
21 THE HEARING OFFICER: Assuming that it  
22 is e-filed that is accurate.  
23 Before we move to the closing, I'm  
24 going to ask the Petitioner is the Petitioner  
25 prepared to proceed in an election in any unit

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1 found appropriate by the Regional Director or the  
2 Board?  
3 MS. AUERBACH: Yes.  
4 THE HEARING OFFICER: So to summarize,  
5 the matters that have been raised for consideration  
6 in these proceedings is the issue of whether or not  
7 the individuals in the petition for a unit are  
8 employees under Section (2)(3) of the Act and also  
9 the matter of whether or not there is a community  
10 of interest between the petition for individuals  
11 and master students individuals who have taught  
12 beyond their academic requirements, workshop  
13 coordinators, and nonlaboratory research  
14 assistants.  
15 So as I stated in the beginning of  
16 these proceedings with regard to the (2)(3)  
17 question is that concerns a statutory matter. If  
18 the party is seeking exclusion on those grounds,  
19 the Employer bears the burden.  
20 Additionally, with regards to the  
21 community of interest matter, if the party is  
22 seeking exclusion on those grounds, the Employer  
23 also bears the burden. So if the Employer would  
24 like to summarize its position on those matters for  
25 the record.

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1 MR. FASMAN: I'd be happy to do so. We  
2 have been sitting in this hearing room, and I will  
3 not go back and do my opening statement which went  
4 on for a while.  
5 Two things. Initially, as I said  
6 in our opening statement, initially we believed  
7 Columbia was wrongly decided. We reserved the  
8 right to challenge that ruling at any subsequent in  
9 this proceeding. I think I made that reservation  
10 not less than three times when we started so I will  
11 make it one time for the record.  
12 As to the (2)(3) issue that you  
13 mentioned, I think the record will show that TAs  
14 are not employees. They are students. I think the  
15 record has shown that these are TAs in Chicago, are  
16 materially differently situated, and the TAs who  
17 were discussed in Columbia under any test I think  
18 they are not -- they are not employees, that they  
19 are students. I will not burden the record by  
20 going through this reason again.  
21 As to the lab RAs, I think that we  
22 also have shown that the lab RAs are materially  
23 differently situated than were the lab RAs  
24 considered in the Columbia case and also that  
25 Columbia was wrong with regard to that

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1 classification of individuals.  
2 As to the exclusions from the unit,  
3 I think the record will show that master students  
4 who teach only very rarely at the University of  
5 Chicago are not similarly situated to TAs in the  
6 event that TAs are considered employees and within  
7 an appropriate unit master students should be  
8 excluded. I think we've made the same position  
9 clear with regard to PhD students who teach in  
10 excess of their GAI requirements for the reasons I  
11 stated originally in the record. I think we have  
12 established that nonlaboratory RAs also have a  
13 different community of interest and are not  
14 similarly situated to RAs or TAs to the extent that  
15 they're found to be employees.  
16 And finally, I think we've shown  
17 that workshop coordinators who principally perform  
18 coordination and administrative organizational  
19 duties are not similarly situated to TAs should  
20 they be included in the bargaining unit.  
21 So we think those four separate  
22 classifications should be excluded from the unit.  
23 And that, by the way, less there be any questions,  
24 that's been our position from the start of the  
25 hearing. It was in my opening statement. It

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1 continues to be our position. We've objected to  
2 the appropriate unit on multiple occasions and have  
3 litigated the case on this basis so I'm not sure  
4 what the Union Counsel was talking about when she  
5 said there was no challenge to the unit. There  
6 definitely has been a challenge to the unit.  
7 THE HEARING OFFICER: I apologize. I  
8 forgot to ask this earlier, but I think it should  
9 be addressed. Since the Employer -- assuming the  
10 Regional Director finds that these individuals are  
11 employees concerning the (2)(3) issue with regards  
12 to the community of interest issue, what is the  
13 Employer's position concerning what unit would  
14 capture the individuals in the job classifications  
15 that are in dispute?  
16 MR. FASMAN: I think we've made that  
17 clear. I think the unit that we stated in our  
18 position statement. If TAs and RAs are considered  
19 employees under the Columbia test, then they and  
20 they alone should be within the unit in the four  
21 categories that I just outlined and should not in  
22 the unit.  
23 THE HEARING OFFICER: I understand but  
24 my question was theoretically -- this is kind of a  
25 standard hypothetical we ask in these situations.

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1 What unit would capture those people, the excluded  
2 people that the Employer is seeking to exclude?  
3 MR. FASMAN: What unit? The unit that's  
4 been described as sought by the Petitioner asks for  
5 a broad inclusive unit. I think the unit has to  
6 exclude those four classifications, and I don't  
7 know quite what to say. I'm not going to  
8 reformulate a unit here. To the extent that  
9 there's a TA-RA unit that's certified, it would  
10 then have to state that these categories are  
11 excluded.  
12 THE HEARING OFFICER: So what is the  
13 Petitioner's summary concerning the matters at  
14 issue in these proceedings?  
15 MS. AUERBACH: The Petitioner's position  
16 is that the evidence in this hearing has shown that  
17 University of Chicago graduate students who are  
18 employed in the petition for a petition are not  
19 substantially different from those at Columbia who  
20 were found to be employees under Section (2)(3) of  
21 the Act and that all of the petitions for  
22 individuals are employees within the meaning of the  
23 Act.  
24 The Petitioner's position is that  
25 their evidence shows that there is a community of

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1 interest among all the petition for employees and  
2 that master students who serve in petition for  
3 petitions, PhD students who teach in excess of  
4 their required teaching, what the Employer has  
5 referred to as nonlab research assistants which is  
6 not a term used by anybody in either in that  
7 position or anybody who in that petition report to  
8 but the research assistants who do not work in labs  
9 and workshop coordinators all share a community of  
10 interest with the others for the petition in the  
11 unit and the Employer has not established any  
12 evidence sufficient to show that they do not share  
13 a community of interest included in the unit.  
14 The Employer has not come forward  
15 with any other appropriate unit in which those  
16 positions it seeks to exclude should be included  
17 but another reason to include them in the unit  
18 because certainly those individual if they're  
19 employed under the Act have a right to engage in  
20 concerted protective activity and to form a unit.  
21 Therefore, if they are employees, there has to be  
22 some unit that is appropriate for them to be  
23 included in and the unit -- the petition for unit  
24 is an appropriate unit, and it doesn't have to be  
25 the most appropriate unit under the Act. It just

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1 has to be an appropriate unit.  
2 THE HEARING OFFICER: Anything further  
3 on the summaries?  
4 (No response.)  
5 THE HEARING OFFICER: With that so it's  
6 my understanding from the Employer's statement of  
7 position and as was contradicted about with the now  
8 addendums what are now marked as Board Exhibit 3A  
9 and 3B that the number of individuals within the  
10 petition for unit was 2,344. Those individuals the  
11 Employer is seeking to exclude from the unit on  
12 free of interest grounds number 1,024 individuals.  
13 MR. SALVATORE: That's correct. 169  
14 masters students, 111 workshop coordinators, 305  
15 nonlab RAs and 498 PhDs teaching in excess of their  
16 requirements -- their academic requirements.  
17 THE HEARING OFFICER: Thank you. My  
18 document wasn't numbered. I didn't have time to  
19 calculate them all up so I appreciate that.  
20 MR. SALVATORE: Some of those categories  
21 there's some overlap.  
22 THE HEARING OFFICER: It was brought up  
23 when these proceedings began in the course of these  
24 proceedings. The petition and direction of  
25 election issued in the petition, the representation

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1 case concerning the library employees, so the  
2 Regional Director in that decision there were 27  
3 individuals who fit -- who could fit both into that  
4 petition for a unit and this petition for a unit.  
5 Those 27 individuals will be subject to challenge  
6 in that election.  
7 I imagine you may see a similar  
8 thing should the Regional Director direct an  
9 election in this matter. I just wanted to make  
10 that clear for the record.  
11 The Regional Director will issue a  
12 decision in this matter as soon as practical and  
13 will immediately transmit the documents to the  
14 parties and their designated representatives by  
15 e-mail, facsimile or by overnight mail if neither  
16 e-mail address nor facsimile number is provided.  
17 If an election is directed, the  
18 Employer must provide the voter list to be timely  
19 filed and served. The voter list must be received  
20 by the Regional Director and the parties named in  
21 the direction within two business days after the  
22 issuance of the direction unless a longer period  
23 based on extraordinary circumstances is specified  
24 in the decision and direction of election.  
25 A certificate of service on all

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1 parties must be filed with the Regional Director  
2 when the voter list is filed. The Region will no  
3 longer serve the voter list.  
4 The Employer must submit the voter  
5 list in an electronic format approved by the  
6 General Counsel unless the Employer certifies that  
7 it does not have the capacity to produce the list  
8 in the required format. The list must be filed in  
9 common everyday electronic file format that can be  
10 searched accordingly unless otherwise agreed to by  
11 the parties. The list must be provided in a table  
12 in a Microsoft Word file .doc or .docx or a filed  
13 that is compatible with Microsoft Word .doc or  
14 .docx. The first column in the list must begin  
15 with each employee's last name and the list must be  
16 alphabetized overall or by department by last name  
17 because the list will be used during the election.  
18 The font size of the list must be equivalent to  
19 Times New Roman 10 or larger. That font does not  
20 need to be used but the font must be that size or  
21 larger.  
22 A sample optional form of a list is  
23 provided on the NLRB website. The Board stated  
24 that it's presumptively appropriate for the  
25 Employer to produce multiple versions of the list

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1 where the data required is kept in separate  
2 databases or files so long as all the lists link  
3 the information to the same employees using the  
4 same names in the same order and are provided  
5 within the allotted time.  
6 The 79 Federal Regulation 74 356,  
7 if the Employer provides multiple lists, the list  
8 used at the election will be the list containing  
9 the employees' names and addresses. The list must  
10 include the full names, work locations, shifts, job  
11 classifications and contract information, including  
12 home addresses, available personal e-mail addresses  
13 and available home and personal cellular telephone  
14 numbers of all eligible voters.  
15 The Employer must also include in a  
16 separate section of that list the same information  
17 for those individuals the parties have agreed will  
18 be permitted to vote subject to challenge or those  
19 individuals who according to decision and direction  
20 of the election will be permitted to vote subject  
21 to challenge.  
22 Parties are reminded that they  
23 should request an expedited copy of the transcript  
24 from the court reporter.  
25 If there is nothing further, the

1 hearing will be closed.

2 MR. SALVATORE: We would just like to  
3 say, Madam Hearing Officer, that on behalf of the  
4 University of Chicago and my colleagues, we thank  
5 you very much for running an excellent hearing in  
6 this matter.

7 THE HEARING OFFICER: All right. So if  
8 there's nothing further, the hearing is now closed.

9 Off the record.

10 (Thereupon, at 4:45 p.m. the  
11 hearing was concluded.)  
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1 CERTIFICATION

2 This is to certify that the attached  
3 proceedings before the National Labor Relations  
4 Board (NLRB), Region 13, in the matter of The  
5 University of Chicago and Graduate Students United,  
6 Case No. 13-RC-198325, at Chicago, Illinois, on  
7 June 1, 2017, was held according to the record, and  
8 that this is the original, complete, and true and  
9 accurate transcript that has been compared to the  
10 recording, at the hearing, that the exhibits are  
11 complete and no exhibits received in evidence or in  
12 the rejected exhibit files are missing.  
13  
14

15 YVETTE BIJARRO-RODRIGUEZ, CSR  
16 LICENSE No. 084-003734  
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