

**In The Matter Of:**  
*BARNARD COLLEGE and*  
*BARNARD COLLEGE FACULTY, UAW,*  
*LOCAL 2110*

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*Vol. 8*  
*July 1, 2015*

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*Burke Court Reporting, LLC*  
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BEFORE THE  
NATIONAL LABOR RELATIONS BOARD

In the Matter of:

BARNARD COLLEGE,

Employer,

Case No. 02-RC-154022

And

BARNARD CONTINGENT FACULTY,  
UAW, LOCAL 2110,

Petitioner.

The above-entitled matter came on for hearing pursuant to Notice, before MORIAH BERGER, Hearing Officer, at the Jacob K. Javits Federal Building, 26 Federal Plaza, New York, New York, 10278, in Room 3607A, on Wednesday, July 1, 2015, at 9:30 a.m.

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	I N D E X					
	WITNESS	DIRECT	CROSS	REDIRECT	RE CROSS	VOIR DIRE
1						
2						
3						
4						
5	Linn Cary Mehta	1131	1151	1164	1165	--
6						
7	Sonam Singh	1167	1216	--	--	1181
8		1181				1200
9		1204				
10						
11	Karen Fairbanks	1238	--	--	--	--

	E X H I B I T S		
	EXHIBITS	IDENTIFIED	RECEIVED
1			
2			
3	Employer's		
4	E-23	1226	1226
5	E-24(a) & 24(b)	1227	1228
6	E-25	1227	(ruling reserved)
7	E-26(a) & 26(b)	1231	(ruling reserved)
8	E-27	1231	1237
9	Petitioner's		
10	P-13	1132	1133
11	P-14	1178	1179
12	P-15	1179	1179
13	P-16	1180	1181
14	P-17	1181	1184
15	P-18	1186	1186
16	P-19	1187	1188
17	P-20	1188	1188
18	P-21	1189	1189
19	P-22	1190	1190
20	P-23	1190	1191
21	P-24	1192	1192
22	P-25	1193	1193
23	P-26	1196	1203
24	P-27	1199	1203
25	P-28	1200	1203

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E X H I B I T S (Continued)

EXHIBITS	IDENTIFIED	RECEIVED
Petitioner's		
P-29	1206	1210
P-30	1212	1212
P-31	1212	(Rejected - 1215)

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

(Time Noted: 10:16 a.m.)

HEARING OFFICER BERGER: On the record.

Petitioner has additional witnesses, I believe?

MR. LEVINE: Yes. We have two additional witnesses and the Union calls Dr. Linn Mehta.

THE WITNESS: Good morning, good to be here.

HEARING OFFICER BERGER: Good morning. If you would raise your right hand, please?

(Whereupon,

LINN CARY MEHTA,

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

HEARING OFFICER BERGER: If you could just repeat your name and spell it for the court reporter?

THE WITNESS: Okay. Linn Cary Mehta, Linn is L-I-N-N, middle name C-A-R-Y, and surname M-E-H-T-A.

HEARING OFFICER BERGER: Thank you.

## D I R E C T E X A M I N A T I O N

BY MR. LEVINE:

Q Dr. Mehta, could you tell us what your educational background is?

A I received by BA from Yale in 1977, in English and French. I received a second BA from Oxford. I went up in 1977 and

1 stepped down in '79. That formally becomes an MA in 1984, as  
2 it turned out, also in English. And then I got an MPhil from  
3 Columbia in 1989, in Comparative Literature, and completed my  
4 doctorate in Comparative Literature, Columbia, in 2004.

5 Q You have completed your doctorate after you began teaching  
6 at Barnard?

7 A I did.

8 Q Give us some of the highlights of your work history prior  
9 to starting at Barnard.

10 Q In 1990, I began teaching lit-hum at Columbia University,  
11 which I did in '91 and '92, received an award for teaching.  
12 Then I went on and I did a college seminar at Yale, on the  
13 subject of my dissertation, poetry and decolonization. Then I  
14 taught at Vassar for three years as an adjunct assistant  
15 professor. Then actually we were in California. I was writing  
16 my dissertation. We came back and I started at Barnard in  
17 2000.

18 Q So you began teaching at Barnard in 2000?

19 A Yes.

20 Q I'm going to show you a document I've marked as Union  
21 Exhibit 13.

22 (Petitioner's P-13 identified.)

23 BY MR. LEVINE:

24 Q Can you identify this document for us?

25 A It's my curriculum vitae.



1 Q Is it current?

2 A It is current, yes.

3 MR. LEVINE: I would move for the admission of Union 13.

4 HEARING OFFICER BERGER: Any objection?

5 MS. MUNOZ: No objection.

6 HEARING OFFICER BERGER: Okay. 13 is received.

7 (Petitioner's P-13 received.)

8 BY MR. LEVINE:

9 Q Do you teach part-time or full-time at Barnard?

10 A Officially part-time. I teach one to two courses per  
11 semester.

12 Q Tell us how you were first hired to teach at Barnard.

13 A I went to speak to Professor Jim Basker in the department.  
14 He was a friend. And he sent me to speak to Margaret  
15 Vandenburg. And after an interview and reviewing my materials,  
16 she hired me to teach first-year English.

17 Q Do you teach in any programs other than first-year  
18 English?

19 A Yes. I have also taught in first-year seminar and also  
20 when I was first at Barnard, I taught upper level courses for  
21 the department.

22 Q For the English department?

23 A For the English department. And then I also advised  
24 students with their senior thesis in the comparative literature  
25 department. And I have also taught at Columbia, but that's

1 seconded, I guess, that was a term of fellowship.

2 Q So you told us how you were hired to teach in the  
3 first-year English program. How were you hired to teach in  
4 first-year seminar?

5 A There is a sequence of first-year English and first-year  
6 seminar courses for which Margaret Vandenburg has traditionally  
7 made recommendations. So the first-year English recommends us  
8 to first-year seminar and we are appointed by the head of  
9 first-year seminar.

10 Q Am I correct that first-year seminar is not part of the  
11 English department?

12 A It is not.

13 Q It's a multidisciplinary program?

14 A Multidisciplinary, across the college, with senior  
15 faculty, junior faculty, and part-timers as well.

16 Q Are you hired semester by semester?

17 A I am.

18 Q Have you not worked any semesters since 2000?

19 A There was one semester I did not work and I was appointed  
20 a research scholar. I wanted to keep my library privileges.  
21 So there was continuity even that semester.

22 Q So just one semester in the last 15 years?

23 A I think that's right, yes.

24 Q And if you know or can describe for us, what's the process  
25 by which you are reappointed every semester?

1 A Margaret has been our principle supervisor and she usually  
2 sends out an email the previous semester asking when we would  
3 like to teach. And I give her a time and she comes back and  
4 confirms that time. Then there is a subsequent, but not  
5 always, letter of appointment that arrives a couple of weeks  
6 into the semester which we are actually teaching.

7 Q What is your current title at Barnard?

8 A Lecturer -- oh, now it's adjunct lecturer.

9 Q What was it previous to that?

10 A Before my PhD, I was an associate. And then once I got  
11 the PhD, it's lecturer. And then in 2009, there was a paper  
12 change to adjunct lecturer. It was never cleared with us,  
13 but --

14 Q Were you given formal notice of the change to adjunct  
15 lecturer?

16 A No. We found it on the website.

17 Q Were there any practical changes that resulted from your  
18 becoming a lecturer from having been an associate in terms of  
19 what you could or couldn't teach?

20 A Yes. I was that year asked to teach an upper level course  
21 in Indian literature or literature of the Indian subcontinent  
22 in English. And it was a slight change in salary. I also  
23 taught critical writing, which was a -- it's a required course  
24 for the department, generally has sophomores and juniors in it.  
25 I had a senior, too. But, so I was given some upper level

1 teaching, at that time.

2 Q And it's your understanding that you would not have been  
3 as an associate?

4 A I would not have been as an associate.

5 Q Who do you consider to be your supervisor or supervisors?

6 A The head of first-year English, Margaret Vandenburg, has  
7 been our primary supervisor. And then in first-year seminar  
8 currently, Elizabeth Hutchinson. And, I guess, at times, too,  
9 the English department, head of the English department, Bill  
10 Sharpe, at that time, hired me. But currently we don't deal  
11 directly with the head of the English department.

12 Q What courses did you teach during the last academic year?

13 A I taught first-year English, Reinventing the Dry History,  
14 the Americas Part I, and then as a first-year seminar, I taught  
15 again the Americas Part II.

16 Q So focusing on the first-year English course to begin  
17 with, is that a course you developed?

18 A I inherited it, but I worked with Margaret to develop it.  
19 I think she'd say I was a principle developer of that course.  
20 But she made final decisions.

21 Q To what extent did you add new content to that course?

22 A Almost every year I added something new or restructured  
23 it, shifted orders. And I don't want to take full credit. I  
24 worked with the other people teaching the Americas. But I  
25 have, without a doubt, been a leader in that over the last 15

1 years.

2 Q What's the process that you go through before teaching the  
3 course to prepare for -- well, strike that. What's the process  
4 by which you contribute to the new content semester by  
5 semester?

6 A Well, actually, I'm also preparing an anthology of  
7 comparative work of North and South American literature, and so  
8 I'm constantly gathering new material for that and submitting  
9 new material that we can teach. So I guess for me it's an  
10 ongoing review of the literature and the primary sources that  
11 are available.

12 Q So if you add several readings, for example, in a given  
13 semester, how much work goes into choosing those readings?

14 A I think there was one year in which we had a curriculum  
15 review and I was reading new books. The problem is I do it  
16 anyway. How much do -- quantify it in terms of hours or --

17 Q Well, you know, if you're adding several readings, how  
18 many readings are you selecting from? How many have you  
19 reviewed in order to choose the ones you add?

20 A Right. A whole -- a range of, you know, I may be reading  
21 8 or 10 new works in South American literature over the course  
22 of the summer and selecting from that 1 or 2.

23 Q Is there anything else you need to do before you teach  
24 that course in a given semester to prepare for the course?

25 A Certainly, I go through the structure of the course and

1 the sequence, and think about the assignments I will use. I  
2 guess it's and prepare the syllabus. I do what I would do for  
3 any other course, yes, I do.

4 Q Who determines the grading standards for that course?

5 A We are allowed to determine our own grading standards.  
6 There is some -- there are collective meetings both for first-  
7 year English and for first-year seminar in which we discuss  
8 occasionally the gradings of papers. And that's been very  
9 useful as a guidelines, but the decision has been ours, that  
10 awarding grades.

11 Q What types of faculty teach in the first-year English  
12 program?

13 A First-year English has had, I'd say, a range of three  
14 groups. One are people who came while they were doing or soon  
15 after they completed their PhD and stayed. Another group are  
16 currently doing work towards their PhD and may leave when that  
17 work is over. And then there is some who come and move on into  
18 tenure track jobs and that would be the third group and, I  
19 think, in some ways us being the minority. But, yes, that was  
20 what the program was designed for, for people to pass and go  
21 onto tenure track jobs.

22 Q Do part-time and full-time faculty teach in that program?

23 A I guess technically we are all part-time, although, we may  
24 teach two or more courses. It adds -- a single course is seen  
25 as a third of our time, so none of us teaches three, or rarely,

1 I should say. Actually, there are exceptions.

2 Q This is it's a first-year course, so it's taken by first-  
3 year students, presumably.

4 A Predominantly. There are sometimes second-year students,  
5 transfer students.

6 Q Okay. Now let's move onto first-year seminar. What do  
7 you teach again in the first-year seminar?

8 A I've taught under two rubrics. One is the Americas and  
9 the other only once, in fact, global literature.

10 Q What types of faculty teach in the first-year seminar?

11 A A whole range, from very senior faculty to new tenure  
12 track faculty, to seasoned, as it were, adjuncts who have  
13 taught for a long time the context of the college.

14 Q So full-time, non-tenure track as well?

15 A As well, yes.

16 Q And tenure track and tenured faculty.

17 A Absolutely.

18 Q To what extent do you contribute to the content for those  
19 courses?

20 A Well, because it's a continuation of the course that we  
21 teach under first-year English, I also helped to design the  
22 course I teach in first-year seminar.

23 Q And would your method of giving input be the same or  
24 similar to that what you described for the first-year English  
25 program?

1 A In the course -- the case go global literature, I proposed  
2 my own syllabus and that was approved by a panel first-year  
3 seminar. In the case of the Americas, it was under a rubric  
4 that Margaret Vandenburg is in charge of, so I was essentially  
5 proposing modifications, but not the whole course.

6 Q Are there meetings of the faculty in the first-year  
7 seminar program?

8 A There are, yes.

9 Q And do all of the types of faculty who teach in that  
10 program attend?

11 A All do. The senior faculty attend less as opposed to the  
12 rest, yes.

13 Q How are the grading standards determined for those  
14 courses?

15 A Similarly. We are given room to make our own judgment.  
16 But there are times when we collectively discuss the grading  
17 status that we use.

18 Q And, again, all levels of faculty who participate in those  
19 meetings participate in those discussions?

20 A We do, yes.

21 Q And that's first-year students primarily who take the  
22 course?

23 A Yes, primarily.

24 Q Do you hold office hours?

25 A Yes.



1 Q Are they required?

2 A They are required. We are required to hold two hours of  
3 office hours a week. And then because we are working  
4 intensively with first-year writing, we meet with each student,  
5 on each paper, at least once. So I teach four papers per term,  
6 which means I have an additional set of -- so the class is 15,  
7 I usually need at least 15 minutes, so that's 4 hours of  
8 meeting for each of those papers additionally.

9 Q And there are writing assignments in both first-year  
10 English and first-year seminar?

11 A There are.

12 Q And you're responsible for grading those assignments?

13 A Absolutely, yes.

14 Q You may have touched on this already, but are there  
15 courses that you've designed for the English department?

16 A Yes. I designed the Indian -- the literature of Indian  
17 subcontinent, which I taught as an upper level course. I  
18 designed the global literature course under first-year seminar,  
19 which covered some of the main material. And I have  
20 contributed to the design of the Americas throughout. And when  
21 I taught critical writing, again, there were certain parameters  
22 that are given, but I designed that syllabus as well.

23 Q So focusing first on the global literature course, it was  
24 global literature?

25 A It was.

1 Q Okay. How did it come about that you developed a new  
2 course for the first-year seminar program?

3 A Margaret came to me and said we have this rubric and we'd  
4 like you to suggest something for it. And then she said we'd  
5 particularly like you to teach something based on Indian  
6 literature and asked me to present a syllabus, which I did.  
7 And that went to a committee meeting. It was reviewed. A few  
8 suggestions were made and I incorporated them into the  
9 syllabus, and then it was approved.

10 Q What kind of work did you have to do to prepare the  
11 syllabus and then to prepare a new course for the first time?

12 A Well, clearly, read and keep current in the field. I'll  
13 make a series of selections. I also included films actually in  
14 that course, and went to the Columbia Center for New Media,  
15 Teaching, and Learning, and worked with them on a wonderful  
16 program called media thread, which allows students to comment  
17 on films. So I brought in new media to that particular course.

18 And having come up with a syllabus, I guess I thought  
19 about the writing assignments, and ordered them, and prepared  
20 to teach them.

21 Q Can you give us an estimate of how much work was involved  
22 in preparing that course before you taught it?

23 A Let's see, if I consolidate it into weeks, I guess two or  
24 three weeks of work, at least, but it's based, of course, on  
25 reading and many semesters of thought.

1 Q Did you receive any additional compensation for preparing  
2 a new course?

3 A No.

4 Q Now tell us how it came about that you designed the new  
5 upper level course that you described?

6 A Well, when I -- after I got my doctorate, Barnard at that  
7 time had someone teaching post-Colonial literature, Caz  
8 Phillips, who is excellent, and they were considering a tenure  
9 track position, which they opened the following year. And I  
10 was very much considered for that position. I did not get it.  
11 They hired someone called Bashir Abu Manneh, who did not get  
12 tenure, actually, left. But so in the course of being  
13 considered for a tenure track position, I was also offered an  
14 upper level course to teach.

15 Q Did you have to -- to what extent were the things you  
16 needed to do to prepare that as a new course similar or  
17 different from what you've already described with the global  
18 literature course?

19 A I would say it was quite similar to what I did to prepare  
20 the global literature course. Again, reading in the field,  
21 making selection, yes, and then there was an approval for the  
22 course, itself, a discussion with the chair about salary, and  
23 the preparation was as I described.

24 Q Was the work you did in preparing the new course for  
25 Barnard, again were you compensated for that work?

1 A No.

2 Q Other than the office hours you hold, are you required to  
3 perform additional service for Barnard as part of your  
4 position?

5 A I don't think I'm required to, no.

6 Q Do you, in fact, perform additional service?

7 A Yes, we certainly do. Those who have stayed have become  
8 involved with the students we teach. We see them. We advise  
9 them informally. We write recommendations for them. They come  
10 back. I've taught independent studies, at times, and advised  
11 them as seniors particularly in comparative literature.

12 Q Do you report to anybody on how many recommendations you  
13 write?

14 A No. I've never been asked. I've written up to 20 a year,  
15 actually.

16 Q You spoke about being a senior thesis advisor. How did  
17 that come about?

18 A I'm exceeding well qualified in comparative literature.  
19 I've had all the top people in my field over the years and it  
20 is, I suppose, where my heart lies. And but because comp lit  
21 has not allowed part-time faculty, it's more through friendship  
22 and their need for someone with my background that they have  
23 come to me and asked me to advise certain theses.

24 Q So are you formally assigned as their thesis advisor or  
25 are you an informal advisor?

1 A I'm formally assigned as a thesis advisor, but the process  
2 of assignment is informal.

3 Q Are you given additional compensation for serving in that  
4 role?

5 A I'm not.

6 Q So if you're not formally required to provide the  
7 additional services required, why do you do so?

8 A I suppose for the satisfaction of intellectual challenge  
9 and giving, helping students learn.

10 Q To what extent do you view that as part of your job?

11 A I view it as an essential part of my job.

12 Q Do you have any way of knowing whether the additional  
13 service you provide has anything to do with your reappointment  
14 year after year or not?

15 A Well, I think maintaining excellence in my field is a  
16 definite requirement for being reappointed.

17 Q What role, if any -- strike that. Are you familiar with  
18 the Middle States Commission on Higher Education?

19 A I am, yes.

20 Q And what is that?

21 A It's a formal process of accreditation that every  
22 educational institution goes through about every 10 years.

23 Q What role, if any, did you have in connection with the  
24 last Middle States' review at Barnard?

25 A Margaret asked if my class could be visited and evaluated,

1 and it was. And she said it went well. And then there was  
2 some general discussion of standards and objectives, I guess,  
3 for the courses. That happened more in the context of first-  
4 year seminar, so we had a collective role, as well as being  
5 observed.

6 Q By the way, are you assigned as a major advisor?

7 A I am not right now, no. I could volunteer to be one, but  
8 I have not done that.

9 Q Do you, in fact, or to what extent do you provide advice  
10 to upper level students?

11 A To what extent do I provide advice to?

12 Q Academic advice to upper level students.

13 A Upper level students. My students come back to me often  
14 about key decisions, and what to major in, who to take courses  
15 from, whether to go abroad for a term of study, whether to  
16 transfer to another organization, another college, focusing a  
17 senior thesis, an extra reading of the senior thesis, a  
18 recommendation for graduate school, for Oxford, where I was  
19 particularly. Another student came back after graduating to  
20 get a series of higher level recommendations. That happens  
21 periodically.

22 Q You have testified concerning the meetings held by first-  
23 year seminar program. Outside of those meetings, to what  
24 extent is there informal discussion between the faculty that  
25 you work with in either the writing program or the first-year

1 seminar program?

2 A There is certainly informal discussion. There is  
3 friendships. There is discussion over the coffee machines,  
4 discussion around the offices. There is discussion in the  
5 context of faculty meetings or department meetings that come  
6 up. There used to be a faculty table where we all had lunch  
7 and discussed even further, but that disappeared after some  
8 time.

9 Q And to what extent do those discussions involve, as  
10 opposed to personal issues, issues about scholarship, pedagogy,  
11 etc.?

12 A Frequently, because that's one of the things we all have  
13 in common.

14 Q Do those discussions occur across title?

15 A Yes.

16 Q By the way, I want to go back for a moment. You said you  
17 applied for a tenure track position?

18 A Yes.

19 Q And was a national search involved?

20 A Yes.

21 Q Where did you get -- how far did you get in that process,  
22 were you a finalist?

23 A I wasn't one of the last two or three, no.

24 Q Did you make it past the first round, if you will?

25 A Yes, I'm sure I was in the last five or six maybe. I was

1 interviewed.

2 Q Since beginning at Barnard, have you engaged in  
3 scholarship?

4 A Yes.

5 Q In fact, I'm not sure I need to ask you in detail because  
6 your resume, your CV --

7 A Speaks for it, it does.

8 Q -- speaks of what I think the record will show is fairly  
9 extensive scholarship. Are you required formally to engage in  
10 scholarship as a condition of your position?

11 A I guess it's not explicit, but I would understand it to be  
12 a part of the process of reappointment, yes.

13 Q And why, in fact, other than the fact that you think it  
14 may be part of the reappointment determinations, if it's not  
15 required, are there other reasons why you engage in  
16 scholarship?

17 A Well, because I see myself as a scholar. That is my  
18 profession. That is my work and by extension I teach.

19 Q How does the scholarship relate to your role as a teacher?

20 A Directly. It is my research and my scholarship underlie  
21 what I teach in the classroom.

22 Q Does your department hold faculty meetings?

23 A Yes.

24 Q Are you required to attend?

25 A No, we are not required. In fact, at one point, we were



1 asked not to attend, but the that was reversed and we were  
2 recruited again.

3 Q Have you in the past attended meetings?

4 A I did frequently at the beginning.

5 Q During the time or at the meetings you did attend, what  
6 happened at those meetings?

7 A There was general discussion of issues concerning all the  
8 faculty, sometimes in the department. Sometimes, there was  
9 discussion of issues that concerned only tenure track or senior  
10 faculty, at which time, sometimes, we were asked to leave. But  
11 most often we were included.

12 Q Were you ever present when a chair was decided on?

13 A No, not on hiring decisions or appointments within the  
14 department.

15 Q Are you invited to attend Barnard-wide faculty meetings?

16 A Yes.

17 Q And do you attend?

18 A I have, yes. Occasionally, I'd say. I used also to  
19 attend that, sure.

20 Q And if you're able, can you estimate when you've attended  
21 how many people were at the meetings you were at?

22 A Typically, I've seen 40 to 60.

23 MR. LEVINE: Okay. I have nothing further.

24 HEARING OFFICER BERGER: I have a couple of questions just  
25 to clarify some of the responses you gave.

1 THE WITNESS: Yes.

2 HEARING OFFICER BERGER: You mentioned that your syllabus  
3 for the first-year seminar course has been reviewed by a panel.  
4 Who is on that panel?

5 THE WITNESS: I can't name specific people, but there is a  
6 head of the first-year seminar program. There is an office.  
7 And when new courses are put forward, I think the head is  
8 appointed and a group of two or three faculty members who  
9 review it. I should know exactly how they are appointed, but  
10 I'm afraid I don't.

11 HEARING OFFICER BERGER: And those are faculty who are  
12 also teaching in the first-year seminar?

13 THE WITNESS: Yes.

14 HEARING OFFICER BERGER: Okay.

15 THE WITNESS: And I believe they are all senior faculty.

16 HEARING OFFICER BERGER: Have you ever been asked to be on  
17 a panel like that?

18 THE WITNESS: No, I have not.

19 HEARING OFFICER BERGER: And then just one other point  
20 about your work as a senior thesis advisor.

21 THE WITNESS: Yes.

22 HEARING OFFICER BERGER: You said I believe that you were  
23 asked to assist with that. Who made that request of you?

24 THE WITNESS: The head of the comparative literature  
25 program, at this point, Professor Grimm.

1 HEARING OFFICER BERGER: Do you know Professor Grimm's  
2 title?

3 THE WITNESS: He's a tenured professor.

4 HEARING OFFICER BERGER: He's a full tenured professor,  
5 okay.

6 THE WITNESS: Yes.

7 HEARING OFFICER BERGER: Any questions from the Employer?

8 MS. MUNOZ: Can we break for a few minute?

9 HEARING OFFICER BERGER: Sure. Go off the record for  
10 about 10, 15 minutes.

11 (Recess from 10:44 a.m. to 11:22 p.m.)

12 HEARING OFFICER BERGER: Let's go back on the record.

13 CROSS-EXAMINATION

14 BY MS. MUNOZ:

15 Q Hello, Professor Mehta, how are you?

16 A Okay.

17 Q Are you currently employed by any other employer besides  
18 the college?

19 A Yes. I also teach at NYU's Gallatin School of  
20 Individualized Study.

21 Q Okay. And in what capacity are you employed there?

22 A Employed to teach upper level courses, interdisciplinary  
23 seminars, which I used to teach at Barnard but no longer can,  
24 so I'm teaching there, usually juniors and seniors. And I  
25 split my time now between Barnard and NYU, so I teach a course

1 at each institution, each semester.

2 Q And so you receive a salary at NYU, as well?

3 A I do.

4 Q Is it paid per course or --

5 A It's paid per course. NYU does have a union for its  
6 adjunct faculty, so that's set by the union.

7 Q That makes sense, well, there you go. And you testified  
8 that you, I believe, were referred by a friend to the job at  
9 Barnard?

10 A Yes.

11 Q And I believe you also said that you submitted a CV and I  
12 believe you also said materials?

13 A Yes.

14 Q What other materials?

15 A Writing sample, typically.

16 Q Do you remember for sure that you --

17 A It was a portion of my dissertation, yes, now published.

18 Q I see. And were you interviewed by the provost when you  
19 were hired at Barnard?

20 A No, I was not.

21 Q Did you interview with the full department, when you were  
22 hired?

23 A No, I was not.

24 Q Did you meet with any students?

25 A Not prior to teaching, no.

1 Q Did you give any sample presentations or lectures?

2 A No. It was just a direct interview, but not any public  
3 lecture.

4 Q Again, the direct interview was with?

5 A Was with Margaret Vandenburg.

6 Q You also testified that you are or have been a senior  
7 thesis advisor?

8 A Correct.

9 Q Are you paired with a tenured professor?

10 A Yes.

11 Q I believe it was your testimony, correct me if I'm wrong,  
12 you volunteered to do this?

13 A Yes.

14 Q Could you have declined?

15 A Yes.

16 Q You said that at NYU, you're paid on a per course basis  
17 set by the union.

18 A Yes.

19 Q At Barnard, are you also paid on a per course basis?

20 A I am.

21 Q And how much are you paid per course, approximately?

22 A Let's see, it started at \$4,000. I think it's something  
23 like \$4,518 now, 15 years later.

24 Q How many courses did you teach this past semester?

25 A One at Barnard, one at NYU.

1 Q Oh, so one. So if that course had been cancelled at  
2 Barnard, you would not have been paid?

3 A Correct.

4 Q Okay. So your pay is directly related to your teaching of  
5 the course at Barnard?

6 A That is correct.

7 Q And the college does not provide you medical insurance?

8 A No.

9 Q And it doesn't provide you dental insurance?

10 A No.

11 Q And you don't receive a college funded life insurance  
12 policy?

13 A I do not.

14 Q Are you eligible to participate in a retirement plan at  
15 the college?

16 A No, not now. I have -- I've been teaching full-time  
17 elsewhere and under other certain other circumstances, but not  
18 at Barnard.

19 Q But currently you're not full-time teaching anywhere?

20 A No, no.

21 Q Okay. Let's turn to the first-year English and first-year  
22 seminar. These are -- the courses under first-year English and  
23 first-year seminar, are they required by the college  
24 curriculum?

25 A Yes.

1 Q Have you taught first-year English since 2000?

2 A I have.

3 Q Every year?

4 A Yes.

5 Q Okay. And have you taught first-year seminar every year  
6 since 2000?

7 A No.

8 Q How many years did you not teach first-year seminar?

9 A I did not teach it the first, I'd have to check, but I  
10 think four years. But, thereafter, I did teach every year.

11 Q Okay. And for this course, isn't it true you're given a  
12 template syllabus?

13 A No.

14 Q You're not given any guidelines?

15 A I wouldn't say template. Let's see, template just seems  
16 to me the wrong word.

17 Q Okay. What's the correct word?

18 A We've agreed upon a common syllabus which we can modify.

19 Q And it's a shared syllabus?

20 A Yes.

21 Q That syllabus, it sets a number of assignments that have  
22 to be completed?

23 A Yes. I also should say I've also helped to create that  
24 syllabus, so I'm not simply given it. I have input into it.

25 Q For the --

1 A For both first-year English and first-year seminar.

2 Q For the particular course that you're teaching.

3 A Yes.

4 Q You can add to the existing template.

5 A Exactly.

6 Q And to prepare, you review and read the literature?

7 A Absolutely.

8 Q Let's see, you said you use grading guidelines, but you  
9 have some flexibility in the grading?

10 A Actually, I put it the other way around. We have complete  
11 flexibility, but we are also given some guidelines.

12 Q When you say complete flexibility, do you mean that an 80  
13 percent doesn't necessarily equal a B, you could have it be a  
14 C? Or do you mean you, in your judgment -- it's your judgement  
15 on the grades, you make the --

16 A It's our judgment on the grades, correct.

17 Q Okay. And first-year seminar and first-year English, they  
18 are primarily taught by adjuncts?

19 A No. First-year seminar is primarily taught by tenure and  
20 tenure track faculty, and both full and part-time professors.  
21 And the first-year English is taught by people hired to teach  
22 first-year English who are, I guess, yeah, we're adjuncts.  
23 Nobody is full-time that I'm aware of.

24 Q Okay. And so --

25 A Except I mean there are full-time faculty who will step in



1 and teach alongside us. But primarily, yes, they're hired by  
2 the course and may teach one or two sections.

3 Q One or two sections, okay. And once you've taught the  
4 course, you're familiar with the syllabus template?

5 A Again, I don't like the word template, but with the  
6 syllabus.

7 Q I know, I'm sorry. In my brain, that's how --

8 A I see, yes, we are.

9 Q Framework.

10 A With the framework for the syllabus, that's fine. That's  
11 better.

12 Q We'll go framework.

13 A Good.

14 Q I can do that. And you're also familiar with the  
15 materials?

16 A Correct.

17 Q And you're familiar with the assignments?

18 A Yes.

19 Q Okay. You testified, I believe, that comp-lit is your  
20 specialty?

21 A That is true.

22 Q But first-year seminar and first-year English, they're not  
23 focused on just comp-lit?

24 A They're not, except that the course that I happen to teach  
25 is called Literature of the Americas. It's comparative North

1 and South America literature, which my background in Spanish  
2 and French is also important.

3 Q Got it. Since 2000, how many times have you taught  
4 critical writing?

5 A Only once.

6 Q You said you were given parameters or --

7 A Yes.

8 Q Who gave you those parameters?

9 A The department had sample syllabi from previous courses  
10 and also expectations about what we should cover.

11 Q Was it your testimony that you taught critical writing,  
12 that was when you were in the tenure track process?

13 A The Literature of the Indian Subcontinent is definitely in  
14 the tenure track process. The critical writing came soon  
15 after. Was it 2005?

16 Q I'm sorry, is she looking at notes?

17 A Oh, I'm sorry, I'm looking at my own CV.

18 BY MS. MUNOZ:

19 Q Oh, okay, it's a CV? Okay. Just making sure.

20 A It's been submitted.

21 Q I was like, oh, no. I missed that entirely. So  
22 approximately 2005, you said.

23 A Yes.

24 Q But it is in your CV.

25 A Yes, exactly right.

1 Q So that was around the time that you were in the tenure  
2 track?

3 A That's right.

4 Q Okay. On the global literature course, you testified that  
5 you designed the course, but you had to adhere to a first-year  
6 seminar rubric.

7 A That's right.

8 Q And that was Margaret Vandenburg's rubric?

9 A No, the first-year seminar rubric is not Margaret  
10 Vandenburg's. That's independent, at this point. Elizabeth  
11 Hutchinson is the head of that committee. At that time, it was  
12 actually Lisa Gordis, one of her predecessors.

13 Q And Lisa Gordis was in what position?

14 A She was the head of first-year seminar, at the time. She  
15 also has been chairman of the English department.

16 Q So that was the English department, first-year seminar,  
17 got it. Okay. And you testified that you were asked to  
18 develop a syllabus?

19 A Yes.

20 Q And one other adjunct was also asked to develop a  
21 syllabus, correct?

22 A Others have been, not only one other, but, yes.

23 Q And which others?

24 A Well, I think in global literature, I believe that Sonam  
25 has done so. There was someone else before me of Indian

1 background who was teaching that course, who left. I'm not  
2 thinking of who it was. But, yes, under the global literature  
3 group, there has been a series of new syllabi.

4 Q And those syllabi, you testified they were reviewed by a  
5 committee?

6 A Yes.

7 Q And that was the first-year seminar oversight committee?

8 A Yes.

9 Q And they didn't go to the COI?

10 A I believe not.

11 Q Okay. You are currently not teaching global lit?

12 A I am not.

13 Q How many times did you teach it?

14 A I did that only once. My heart has been in the Americas,  
15 so I've stayed with that.

16 Q You testified as well that you believe your scholarship  
17 and service are considered in the decision to reappoint you.

18 A Yes.

19 Q I'm going to show you what is in the record as Employer  
20 Exhibit 19. Have you seen that form before?

21 A I have not, no.

22 Q So if you haven't seen it before, you've never completed  
23 it?

24 A I have never completed it.

25 Q Okay. And so you're not required to report your

1 scholarship and service?

2 A Not that -- I mean other -- no, not formally.

3 Q Not formally, okay. When you say not formally, do you  
4 informally submit?

5 A I certainly speak to Margaret as being our most direct  
6 supervisor, I speak to her about what I've been doing, what  
7 I've done.

8 Q And when do you speak to her about that?

9 A When it happens in the course of the semester.

10 Q I see, okay. You testified as well that you've been asked  
11 not to attend faculty meetings?

12 A There was a moment when Mary Gordon was head of the  
13 English department that they non-tenure track faculty were not  
14 invited to meetings for a period of time.

15 Q Do you know how long?

16 A I think it was two years.

17 Q Two years, okay.

18 HEARING OFFICER BERGER: So did that include people who  
19 were in the titles of lecturer --

20 THE WITNESS: Just thinking about that, I think senior  
21 lecturers were included. I think it was only people who were  
22 lecturers or part-time instructors in the department.

23 BY MS. MUNOZ:

24 Q When you say instructors, do you know if that was -- I'm  
25 sorry, no? Strike that. When you say lecturers, I know that

1 there has been some testimony that individuals who now have the  
2 title adjunct lecturer were also called lecturers.

3 A Yes.

4 Q Do you mean full-time lecturers and part-time lecturers  
5 or --

6 A Right. At that time, you're right, we were lecturers.  
7 Adjunct had not been added to our title. And so some were --  
8 there were full-time and part-time. There's a certain  
9 ambiguity, because when you teach two courses, you're not full  
10 time, if you're a lecturer. You're only full-time if you're a  
11 full tenure track professors. So people who were teaching two  
12 or three courses and they were technically part-time and we  
13 were excluded.

14 Q Okay, thank you. You have testified that you applied for  
15 a tenure track position.

16 A I did, yes.

17 Q And that was a full-time position?

18 A That would have been a full-time, yes.

19 Q You also testified that you did not get that position.  
20 You were interviewed.

21 A That's correct.

22 Q Have you ever applied for any other full-time position at  
23 Barnard?

24 A At Barnard, actually, yes. I applied at one point to be  
25 freshman dean, a number of us did, and one of us was chosen,

1 Lisa Holibaugh. So clearly I did not make that transition to  
2 administration, either.

3 MS. MUNOZ: I think I'm almost done. Just give me one  
4 second.

5 HEARING OFFICER BERGER: Okay, let's go off the record.

6 (Recess from 11:36 a.m. to 11:41 a.m.)

7 HEARING OFFICER BERGER: Back on the record.

8 BY MS. MUNOZ:

9 Q I have two more.

10 A Sure.

11 Q You testified that you share your service and scholarship  
12 with Margaret Vandenburg when it comes up.

13 A Yes.

14 Q So this is informally?

15 A Yes.

16 Q And you are not formally reviewed?

17 A No.

18 Q Also, I don't know if I took it back or not, do you still  
19 have Exhibit 19?

20 A Yes, I do.

21 Q There has been testimony this week that the full-time  
22 reviewed and renewable faculty are required to complete this  
23 form. Do you have any knowledge of that?

24 A I guess I've seen a friend, Peggy Ellsberg, and I'm aware  
25 of her doing it; in other words, through other people, but not

1 thorough the administration.

2 Q So it wouldn't surprise you that they have to complete  
3 that form?

4 A It would not surprise me.

5 MS. MUNOZ: That's all I have.

6 HEARING OFFICER BERGER: Any further redirect?

7 MR. LEVINE: I have just a few questions.

8 HEARING OFFICER BERGER: Go ahead.

9 REDIRECT EXAMINATION

10 BY MR. LEVINE:

11 Q I wasn't entirely clear. You spoke about having a rubric  
12 or a framework that you used I think for both first-year  
13 writing and first-year seminar. Correct?

14 A First-year English and first-year seminar.

15 Q first-year English, excuse me. So rather than nodding, if  
16 you would say yes or no.

17 A Yes. Yes.

18 Q Thank you. And you testified that you then make choices  
19 concerning what you will teach within that rubric or framework?

20 A I made additions to it. I made subtractions to it. I can  
21 change the order. I can propose a new structure for the next  
22 year. So I'm not working within a template, which is the word  
23 I rejected. But, yes. There is an agreed upon core set of  
24 materials that we can then shape, I think, to our own choosing.

25 Q What I wasn't clear about is the extent to which you have



1 influenced the creation of the rubric or framework for those  
2 two sequences.

3 A I think if you spoke to Margaret Vandenburg, you would  
4 find that she'd say I had a significant influence on the  
5 creation of the rubric for those two sequences.

6 Q You said you began teaching first-year seminar after you  
7 had been at Barnard for four years.

8 A I should check that, either three or four; but, yes, it  
9 was --

10 Q What I was wondering is if that had anything to do with  
11 the completion of your PhD?

12 A I think it was exactly that, yes. I finished the PhD in  
13 2004.

14 Q And then finally I'm not sure if I asked you this before,  
15 you were asked about course cancellations. Have you ever had a  
16 course you were scheduled to teach cancelled as a --

17 A No, I haven't.

18 Q -- result of low enrollment?

19 A No.

20 MR. LEVINE: I have nothing further.

21 MS. MUNOZ: If I could just follow-up?

22 RE CROSS EXAMINATION

23 BY MS. MUNOZ:

24 Q Sticking with first-year seminar and first-year English,  
25 has Margaret Vandenburg ever made any unilateral changes to

1 your syllabi?

2 A At the end of each year and sometimes each term, we'll sit  
3 down and evaluate what we've done, how we like it, how it's  
4 gone, talk about needed changes for the next year. And then  
5 coming into the summer, Margaret would usually collect all  
6 those comments and put them into her preferred syllabus. We  
7 still don't feel completely bound by that syllabus. One of her  
8 remarkable abilities has been to give us each the right to make  
9 our own decisions and change the course as it suits our own  
10 teaching style. So but she would -- she does give us a  
11 syllabus in the summer to which we've had some input and from  
12 which we can deviate somewhat. But we have a strong guideline  
13 choice coming into the semester.

14 Q Better than template.

15 A Better than template, yes.

16 Q And she approves your syllabi?

17 A Well, she has approved what she gives us then in the  
18 summer. And then if we're making changes, we usually discuss  
19 them with her. So to that extent, yes, she approves the  
20 changes.

21 Q If Margaret said that you need to put something into your  
22 syllabi, would you have to put it in?

23 A Definitely, yes.

24 MS. MUNOZ: Okay. That's all I have.

25 MR. LEVINE: I have nothing further.

1 HEARING OFFICER BERGER: Thank you so much. You are  
2 excused.

3 (Witness excused.)

4 HEARING OFFICER BERGER: Additional witnesses from the  
5 Petitioner?

6 MR. LEVINE: Yes. The Union calls Sonam Singh.

7 HEARING OFFICER BERGER: Good morning. Raise your right  
8 hand.

9 (Whereupon,

10 SONAM SINGH,  
11 was called as a witness by and on behalf of the Petitioner and,  
12 after having been duly sworn, was examined and testified as  
13 follows:)

14 HEARING OFFICER BERGER: Have a seat. Could you say your  
15 name again and spell it, please?

16 THE WITNESS: My name is Sonam Singh, S as in Steven, O, N  
17 as in Nancy, A, M as in Matthew. Last name Singh, S-I-N-G-H.

18 HEARING OFFICER BERGER: Thank you.

19 DIRECT EXAMINATION

20 BY MR. LEVINE:

21 Q Dr. Singh, could you tell us what your educational  
22 background is?

23 A I have a bachelor's from Haverford College. I have a  
24 master's and a PhD from Cornell University, all in -- major in  
25 as an undergrad was English and both of the higher degrees are

1 in English.

2 Q And what was your dissertation on?

3 A 1930s British literature. I can be more specific, but I  
4 don't think anyone wants that.

5 Q That's fine. When did you start teaching at Barnard?

6 A Spring 2013.

7 Q And as a part-time or full-time faculty member?

8 A Part-time.

9 Q What is your rank?

10 A I was hired as a lecturer. I've come to know through  
11 these proceedings mostly I am now categorized as an adjunct  
12 lecturer.

13 Q Did you have any previous teaching experience before  
14 coming to Barnard?

15 A Yes. I taught for four years as a graduate student at  
16 Cornell, my own courses, not as a TA. And I taught for two  
17 years as a lecturer at the University of Nebraska-Lincoln.

18 Q What is your area of specialization?

19 A 20th century British literature, literary theory.

20 Q Prior to coming to Barnard, what scholarship, if any, did  
21 you do other than your dissertation?

22 A In addition to my dissertating, I had an article published  
23 in Comparative Literature, which is a peer review journal. I  
24 had a review essay published in a cultural studies journal in  
25 Canada called Topia. And should I get into conference

1 participation, too?

2 Q Sure.

3 A I have presented prior to Barnard three times at the  
4 International Conference of the Modernist Studies Association,  
5 twice at the International Conference of the American  
6 Comparative Literature Association, and two different sessions  
7 in the same year at the International Conference of the Modern  
8 Language Association, which is the leading literature and  
9 language association.

10 Q What was the process by which you were hired by Barnard?

11 A A friend of mine who is on the tenure track faculty at  
12 Barnard made a recommendation on my behalf to Margaret  
13 Vandenburg.

14 Q What happened thereafter?

15 A Margaret called me -- I don't remember the exact sequence.  
16 She may have requested materials. But she called me in for an  
17 interview. I was interviewed. And the next time she had an  
18 open course, it was offered to me.

19 Q Are you hired semester by semester?

20 A Yes.

21 Q And are you paid on a per course basis?

22 A Yes.

23 Q What's the process by which you are rehired semester by  
24 semester?

25 A It's through Margaret. She will generally send an email

1 soliciting our preferred teaching times for the next semester.  
2 She will sometimes often stop by our office, knock on our door  
3 and ask to confirm those teaching times. And, at some point,  
4 she will send out an email with the list of all teaching times  
5 so we know we're on the roster for the following semester.

6 Q Have you been asked back for next semester?

7 A Yes.

8 Q How do you know that?

9 A To the extent that it has followed the pattern from  
10 previous semesters, I received an email from the current  
11 director of first-year English, Wendy Schor-Haim, indicating  
12 that -- confirming my preferred teaching time.

13 Q How many courses do you teach?

14 A It varies, one or two a semester. My first semester,  
15 spring 2013, I taught one. The 2013-2014 academic year, I  
16 taught two and two. Last semester, which would have been fall  
17 2014, I taught one. And this semester I'm teaching two again.  
18 This semester that just ended, I taught two.

19 Q Have you also taught in the higher education opportunity  
20 program?

21 A Yes. One summer, I taught in the higher education  
22 opportunity program at Barnard.

23 Q And what is that?

24 A That is a summer program, and I may not get the exact  
25 description, but for incoming students who have been accepted

1 to the college from under-resources high schools. It is an  
2 introduction to the expectations of academic -- of college  
3 academic standards, and a gentle introduction.

4 Q If you know, have any full-time faculty members taught in  
5 that program?

6 A Yes.

7 Q Have there been any semesters -- I think you've covered  
8 this, but have there been any semesters where you have not  
9 worked since starting?

10 A No.

11 Q Have you ever had a course cancelled for low enrollment?

12 A No, that's never -- the courses we teach are required  
13 courses. That's not really a possibility.

14 Q Who do you consider to be your supervisor?

15 A Until this semester, in the first-year English courses,  
16 Margaret Vandenburg; in the first-year seminar, Elizabeth  
17 Hutchinson.

18 Q Other than the summer program that you've discussed, what  
19 courses do you teach or have you taught?

20 A So in first-year English, I teach the Legacy of the  
21 Mediterranean sequence, Legacy of the Mediterranean I in the  
22 fall, Legacy of the Mediterranean II in the spring. In the  
23 first-year seminar program, I teach a course I designed myself  
24 called Tradition and Modernity: Gandhi India and Blessed.

25 Q So let's focus first on Legacy of the Mediterranean I and

1 II. This is not a course you developed?

2 A No.

3 Q To what extent do you determine the content from semester  
4 to semester?

5 A As Linn has explained I think very clearly, we are given a  
6 reading list. The reading list indicates sections of certain  
7 texts that are considered required. Beyond that, we are given  
8 a significant amount of leeway to add additional sections, to  
9 bring in additional materials, contextual materials. And I  
10 think one thing I would emphasize is it is simply a reading  
11 list. It is not discussion guidelines. It is not learning  
12 goals. It is simply these are the texts. What we do with the  
13 texts in the classes are entirely up to us. Margaret  
14 Vandenburg has always said that we should all teach, I believe  
15 I'm quoting her directly, in our own inimitable styles. We are  
16 each inimitable.

17 Q I have no doubt. So what do you actually do each semester  
18 before teaching that course to prepare?

19 A So assuming not the first time, I reflect on which  
20 choices, beyond the ones that are agreed upon as we will all  
21 teach, I think about which excerpts worked well or did not work  
22 well, which additional contextual historical or biographical  
23 documents worked or did not work well, take out old choices,  
24 put in new choices, look at -- again, there is a number of  
25 pages and a number of essays we are required to assign, but the



1 content of those essays is up to us.

2 One of them has to be a research paper, but even then  
3 there is, I know from personal experience, wide disparity in  
4 the types of research paper. So I think about my goals for the  
5 research paper assignment, how narrow or specific I did it in a  
6 previous semester, and how much -- how I might want to adopt it  
7 in the next semester.

8 So I look over the content of the assignments, which are  
9 my own creation, adopt them from some prior experience. I look  
10 over the reading list, do any appropriate research to fill in  
11 other background that would be useful, do research on other  
12 readings that might be useful to bring in, and construct the  
13 syllabus around the skeleton of the required readings which  
14 everyone shares.

15 Q You said something about you're required to have a certain  
16 number -- have them read a certain number of page?

17 A Not a certain number of pages, certain parts of certain  
18 texts.

19 Q To what extent do you get to choose selections within the  
20 texts or not at all?

21 A Can you ask that again?

22 Q So you're given various readings.

23 A Yeah.

24 Q Are you told specifically which sections are the complete  
25 readings or do you pick section?

1 A No, we excerpt a lot. So we might be told, and this is  
2 just a hypothetical, assign Book 9 of Paradise Lost. Beyond  
3 that, I could assign all the other books, if I wanted to, too.

4 Q How are the grading standards determined?

5 A Entirely by me.

6 Q To the extent -- I think you've said that you create the  
7 writing assignments.

8 A Yes.

9 Q And you evaluate them?

10 A Yes.

11 Q And for both of these courses, these are courses for  
12 first-year students?

13 A Yes. The first-year seminar will occasionally have a  
14 second-year student who didn't pass it or didn't take it the  
15 first time around. But, yes, they are designed for first-year  
16 students.

17 Q Legacy of the Mediterranean I and II, what types of  
18 faculty members teach that course?

19 A As far as I'm aware, part-time faculty teach, like I said  
20 Mediterranean I and II.

21 Q What type of faculty teach in the first-year seminar?

22 A Across the whole college, senior, full professors, on  
23 down.

24 Q So let's now turn to the course you say you created. How  
25 did it come about that you created this course?

1 A The initial impetus, I couldn't speak to. But at one  
2 point, Margaret approached me and said that Elizabeth  
3 Hutchinson had an opening for a first-year seminar. She got us  
4 in touch, and Elizabeth Hutchinson and I had a meeting. And  
5 she solicited course, you know, possible courses I was ready to  
6 teach. So I gave her two courses, one I had taught before, one  
7 was a new course I had not taught before. And she said let's  
8 go with the second one. And then I designed a syllabus and  
9 went from there.

10 Q So what were the two courses you suggested?

11 A The two courses, the first course was a version of a  
12 course I had taught three times at Cornell called the Rhetoric  
13 of Gay Rights, which was about debates around homosexuality  
14 that hinged on textural interpretations such as the Bible, the  
15 Constitution, and Shakespeare sonnets. The second course was a  
16 new course based on scholarship that had been coming out of my  
17 dissertation based on early 20th century India and it was about  
18 debates around Gandhi's thoughts. And Elizabeth's response was  
19 I am uncomfortable putting a course about homosexuality onto  
20 this list because it goes to parents, so I did the Gandhi  
21 course instead, which is a little bit shameful.

22 Q Tell me what was involved in developing the proposed  
23 syllabus and then in preparing to teach that course for the  
24 first time.

25 A So I had a sense of the central literary text I would

1 read, because they were a part of my ongoing scholarship and  
2 conference work, emerging from my dissertation. I had to,  
3 though, evaluate the existing scholarship on Gandhi because  
4 that was new for me. So I read several biographies by Gandhi.  
5 I looked at essays that were centrally focused on how Gandhian  
6 ideas influenced the two literary texts that were the core of  
7 my course. And it sort of went from there. It was a somewhat  
8 labor intensive process.

9 Q What was the process, if you know, if any, by which your  
10 syllabus was approved?

11 A I sent it to Elizabeth, who said -- I only dealt with her,  
12 directly. She said she would -- the feedback she sent me was  
13 always in terms of this is what the first-year seminar  
14 committee has to say about your course.

15 Q Were you given any additional compensation for designing  
16 this course?

17 A Oh, no.

18 Q Are you required to hold office hours?

19 A Yes.

20 Q Are you required to perform additional service?

21 A No.

22 Q You do attend -- there are pedagogy meetings for first-  
23 year seminar?

24 A There are pedagogy meetings which I go to for first-year  
25 English. Margaret will have generally one a semester.

1 First-year seminar I have gone to. I have not this past  
2 semester gone to, because my other work schedule does not allow  
3 it.

4 Q Is there addition service you performed, even though  
5 you're not required to do so?

6 A Yes. Over the course of the last year, several aspects of  
7 the academic curriculum review focused on first-year  
8 foundations. I teach both in first-year English and in first-  
9 year seminar which are both -- they are first-year foundations.  
10 So I did attend a department meeting at which first-year  
11 foundation was on the agenda, along with the future of the  
12 library. I did attend a meeting held by the first-year  
13 foundations committee of the academic -- subcommittee of the  
14 academic curriculum review. And I did attend a meeting which  
15 was held by Wendy about the future of our track for first-year  
16 English.

17 Q If that service wasn't required, why did you do it?

18 A Because these are courses that I teach and I felt I had  
19 sort of an obligation to be intellectually involved in their  
20 shaping since, excuse me, since they were under review. And,  
21 you know, I cared about what the courses looked like. And my  
22 voice was solicited, so I offered it.

23 Q What scholarship have you been involved in, in the two and  
24 a half years since coming to Barnard?

25 A Less. I have been continuing to work on an article which

1 is based on the switch from 1930s Britain to 1930s English on  
2 India which influenced the Gandhi course. I was slated to, was  
3 accepted to present again at a third American Comparative  
4 Literature Association meeting, but withdrew for financial  
5 reasons. And I have presented once since at a Modern Language  
6 Association meeting.

7 Q Did Barnard give you any support in connection with the  
8 Modern Language Association's conference?

9 A Yes. Barnard gave me \$150 in support of that conference.

10 MR. LEVINE: I have marked a document as Union Exhibit 14.  
11 (Petitioner's P-14 identified.)

12 BY MR. LEVINE:

13 Q Can you identify this document for us?

14 A Yes. These are an email chain primarily between me and  
15 Peter Platt, who was at that point the chair of the English  
16 department.

17 Q And what subject does it address?

18 A It addresses my request for reimbursement for conference  
19 expenses for attending the Modern Language Association  
20 conference.

21 MR. LEVINE: With the exception of the top lines showing  
22 that this document was forwarded to me, I move for the  
23 admission of Union 14.

24 HEARING OFFICER BERGER: Any objection?

25 MS. MUNOZ: No.

1 HEARING OFFICER BERGER: Okay. Union 14 is received.

2 (Petitioner's P-14 received.)

3 MR. LEVINE: I have marked another document as Union  
4 Exhibit 15.

5 (Petitioner's P-15 identified.)

6 BY MR. LEVINE:

7 Q Can you identify this document for us?

8 A Yes. This is a subsequent email chain also related to the  
9 issue of the conference, expense reimbursement, indicating that  
10 payment was made.

11 MR. LEVINE: Again minus the top line showing this  
12 document was forwarded to me, I move for admission of Union 15.

13 MS. MUNOZ: Can I finish reading it?

14 HEARING OFFICER BERGER: Sure, go ahead.

15 MS. MUNOZ: Thank you.

16 (Pause.)

17 MS. MUNOZ: No objection.

18 HEARING OFFICER BERGER: Union 15 is received.

19 (Petitioner's P-15 received.)

20 BY MR. LEVINE:

21 Q Are you required to engage in scholarship as part of your  
22 position at Barnard?

23 A No.

24 Q So why do you do it?

25 A Because it directly influences my ability to teach the

1 classes I teach at a high level. Because, for example, in  
2 teaching the Gandhi class, I wouldn't be able to teach it well.  
3 I believe the invitation to teach it in the first place was  
4 based on the understanding that it was an area in which I was  
5 intellectually interested in developing my interest in a  
6 scholarly fashion.

7 Q Have you served as an advisor?

8 A No.

9 Q Have you been invited to serve as an advisor?

10 A Yes, every year.

11 MR. LEVINE: Mark a document for identification as Union  
12 Exhibit 16.

13 (Petitioner's P-16 identified.)

14 BY MR. LEVINE:

15 Q Take a look at this and tell us if you can identify this  
16 document.

17 A Yes. This is an email I received in May 2015 soliciting  
18 me and others as to whether we would advise first-year students  
19 in the following academic year.

20 Q Had you received a similar invitation during the other  
21 years you've taught?

22 A Yes.

23 MR. LEVINE: I'd move for the admission of Union  
24 Exhibit 16.

25 HEARING OFFICER BERGER: Any objection?



1 MS. MUNOZ: Just a quick question.

2 VOIR DIRE EXAMINATION

3 BY MS. MUNOZ:

4 Q On the "to," who is the "to" and the "cc," if you know?

5 A I didn't make any changes. It was probably blind cc'd to  
6 the entire group, which is why those fields are empty.

7 Q So it did come directly to you?

8 A Yes.

9 MS. MUNOZ: No objection.

10 HEARING OFFICER BERGER: Okay. 16 is received.

11 (Petitioner's P-16 received.)

12 HEARING OFFICER BERGER: Did you have any conversations  
13 with anyone else who received this? Do you know of others who  
14 also received it?

15 THE WITNESS: Through these hearings, I'm aware that my --  
16 yes. But, no, not at the time, I didn't.

17 HEARING OFFICER BERGER: Okay.

18 THE WITNESS: I think in the text, itself, indicates all  
19 faculty at the college received it, but that's an inference. I  
20 don't know that for a fact.

21 MR. LEVINE: Mark a document, this will be a new  
22 exhibit, 17.

23 (Petitioner's P-17 identified.)

24 CONTINUED DIRECT EXAMINATION

25 BY MR. LEVINE:

1 Q Can you identify this document for us?

2 A I can. This is a syllabus, schedule and syllabus, as it  
3 says, for the Revisiting the Classic seminar that was offered  
4 to Barnard alumni in the spring 2013 semester.

5 Q We've had testimony about this program, but could you  
6 briefly tell us what it is and what your involvement, if any,  
7 was in this program?

8 A I was asked by Margaret Vandenburg to teach one of the  
9 sessions in this alumni semester. And you can see I'm listed  
10 as the leader of the April 3rd session on Joseph Conrad's Heart  
11 of Darkness. It would be worthwhile to point out for that  
12 seminar, I chose a different edition of Heart of Darkness than  
13 the one that had been used prior in Legacy of the  
14 Mediterranean, and subsequent to that Margaret took my  
15 recommendation and we've been using my chosen edition in Legacy  
16 of the Mediterranean.

17 Q What's the difference between editions, for those of us  
18 who don't know?

19 A Often the level of editing. But, in this case, the  
20 quality of the contextual documents included in the Norton  
21 Critical Edition and the ability to teach the text in different  
22 ways. And so the edition they had been using sort of limited  
23 the ways that the novel could be approached and the Norton  
24 Critical Edition opened it up in ways that I thought were  
25 valuable.

1 Q If you glance at this, can you tell us what types of  
2 faculty participated?

3 A Absolutely. There are full professors with endowed  
4 professorships. There are part-time faculty. There are  
5 associate professors who have tenure. There are directors of  
6 programs and senior lecturers.

7 HEARING OFFICER BERGER: Can I ask you to do something --  
8 sorry.

9 THE WITNESS: Yes.

10 HEARING OFFICER BERGER: If you know, for example, you are  
11 listed on here as a lecturer, but we know now from your  
12 testimony that you are part-time.

13 THE WITNESS: Yes.

14 HEARING OFFICER BERGER: So to the extent that you know  
15 for the people who are listed on here as lecturer, can you  
16 inform us which ones are part-time?

17 THE WITNESS: To the extent of my knowledge.

18 HEARING OFFICER BERGER: Yes, only if --

19 THE WITNESS: This is from two years ago.

20 HEARING OFFICER BERGER: Only if you know.

21 THE WITNESS: Georgette Fleischer would have been  
22 part-time is my understanding. I was part-time. I believe  
23 Mary Cregan is part-time. And to the extent of my knowledge,  
24 that is it.

25 HEARING OFFICER BERGER: Okay, thanks.

1 BY MR. LEVINE:

2 Q How much time did it take to prepare and present the  
3 lecture that you gave for this program?

4 A I believe it was a two-hour session, yes, two-hour  
5 session. It took several hours spread over a few days simply  
6 because it had to be -- this was not a credit course. It had  
7 to be engaging and entertaining, on top of having substantial  
8 value to it. So, again, in terms of collecting materials that  
9 would shed light on the text and making a decision about which  
10 issues to emphasize, yes, 5 to 10 hours over several days.

11 Q Were you compensated for this program?

12 A Yes.

13 Q How much were you compensated?

14 A My guess is around \$200. I don't remember, I'm sorry.

15 MR. LEVINE: I move for the admission of Union 17.

16 HEARING OFFICER BERGER: Any objection?

17 MS. MUNOZ: No objection.

18 HEARING OFFICER BERGER: Okay. Union 17 is received.

19 (Petitioner's P-17 received.)

20 BY MR. LEVINE:

21 Q Does your department, in this case, I guess, that would be  
22 the English department I'm referring to, hold faculty meetings?

23 A Yes.

24 Q Are you required to attend?

25 A No.

1 Q Are you invited to attend?

2 A Yes.

3 Q Have you attended?

4 A Once.

5 Q Why did you go to the one meeting you went to?

6 A Because the agenda included both the future of the  
7 library, which was of concern to me since as a teacher of  
8 first-year English, research papers are a required part of the  
9 course and we use library resources extensively. And, second,  
10 because issues relating to the academic curriculum review, as  
11 they would affect first-year English, was on -- were on the  
12 agenda.

13 Q Did you participate in that meeting?

14 A Yes.

15 Q Were other part-time faculty members present?

16 A Yes.

17 Q Were any votes taken?

18 A No.

19 Q By the way, you've referred to the library. As a  
20 part-time faculty member, do you receive as a benefit full  
21 access to the library?

22 A Yes.

23 Q Are you invited to attend Barnard-wide faculty meetings?

24 A Yes.

25 Q And do you attend those meetings?

1 A No.

2 Q Why not?

3 A They are often held when I'm teaching. And, otherwise, I  
4 don't have the time.

5 MR. LEVINE: Marked for identification a document as  
6 Union's Exhibit 18.

7 (Petitioner's P-18 identified.)

8 BY MR. LEVINE:

9 Q And can you tell us what this document is?

10 A This is an email I received from the provost's office  
11 inviting me to the opening faculty meeting of this past  
12 academic year.

13 Q Did you receive a similar email the year before?

14 A Yes.

15 MR. LEVINE: I move for the admission of Union Exhibit 18.

16 MS. MUNOZ: One second.

17 MR. LEVINE: I'm sorry, was that no objection or one  
18 second?

19 MS. MUNOZ: Just one second. Sorry.

20 MR. LEVINE: Okay.

21 (Pause.)

22 MS. MUNOZ: No objection.

23 HEARING OFFICER BERGER: Okay. Union 18 is received.

24 (Petitioner's P-18 received.)

25 BY MR. LEVINE:

1 MR. LEVINE: Is there a copy of Union Exhibit 1 that the  
2 witness can be shown?

3 HEARING OFFICER BERGER: Yes.

4 MR. LEVINE: Thank you.

5 BY MR. LEVINE:

6 Q Do you know what this document is?

7 A Yes.

8 Q And what is it?

9 A It's the faculty guide to Barnard College. It's dated as  
10 of July 30, 2012.

11 Q Have you -- when is the last time you've seen this  
12 document online, on the Barnard website?

13 A What day? Sorry.

14 HEARING OFFICER BERGER: Today is July 1st.

15 BY MR. LEVINE:

16 Q The 1st, today is --

17 A Two days ago. It was two days ago.

18 Q It was the same document?

19 A Yes.

20 MR. LEVINE: I've marked a document as Union Exhibit 19.

21 (Petitioner's P-19 identified.)

22 BY MR. LEVINE:

23 Q Can you tell me what this document is?

24 A This is a description of the Barnard College 403(b) plan,  
25 which I downloaded from the Barnard College website, human

1 resources section, yesterday.

2 MR. LEVINE: I move for its admission.

3 MS. MUNOZ: No objection.

4 HEARING OFFICER BERGER: Okay. Union 19 is received.

5 (Petitioner's P-19 received.)

6 HEARING OFFICER BERGER: Do you participate in this plan?

7 THE WITNESS: No.

8 MR. LEVINE: We are now in the document portion of Dr.  
9 Singh's testimony. I've marked for identification Union  
10 Exhibit 20.

11 (Petitioner's P-20 identified.)

12 BY MR. LEVINE:

13 Q Can you tell us what this document is?

14 A It's the mission statement of Barnard College found on its  
15 website which I printed yesterday.

16 MR. LEVINE: I move for its admission.

17 MS. MUNOZ: No objection.

18 MR. DiGIOVANNI: Can we just confirm, sorry, I assume  
19 Page 3 just was a blank page on the printing? I just want to  
20 make sure there wasn't any information on it.

21 THE WITNESS: Yes. There was no information on Page 3.

22 MR. DiGIOVANNI: Then no objection.

23 HEARING OFFICER BERGER: Okay, thanks. Union 20 is  
24 received.

25 (Petitioner's P-20 received.)



1 MR. LEVINE: I've marked another document as Union  
2 Exhibit 21.

3 (Petitioner's P-21 identified.)

4 BY MR. LEVINE:

5 Q Please tell us what this is.

6 A This is a description about the college found on Barnard  
7 College's website, which I printed, yesterday.

8 MR. LEVINE: I'll move for its admission.

9 MS. MUNOZ: No objection.

10 HEARING OFFICER BERGER: Okay. Union 21 is received.

11 (Petitioner's P-21 received.)

12 MS. MUNOZ: To the extent that you have a bunch of stuff  
13 off the website, if we could just look at them all, we could  
14 stip to their entry, rather than having making him say he  
15 printed and downloaded it.

16 MR. LEVINE: I think there's not a lot more. There are a  
17 couple of documents that are not off the website, so I think  
18 it's probably easier at this point --

19 MR. DiGIOVANNI: All right, trying to save some time, but  
20 that's fine.

21 MR. LEVINE: -- if we just proceed.

22 MS. MUNOZ: All right.

23 MR. LEVINE: But I appreciate the offer. Okay. If you  
24 want to stipulate, I'll be happy to have you do so.

25 MR. DiGIOVANNI: Yeah, we'll stip to Union 22.

1 HEARING OFFICER BERGER: Could you just identify it for  
2 me?

3 MR. DiGIOVANNI: I'm sorry. It's an article titled  
4 Barnard faculty and students, history in Central Park  
5 excavation project.

6 (Petitioner's P-22 identified.)

7 MR. DiGIOVANNI: And we'll stipulate that it came from  
8 Barnard's website.

9 HEARING OFFICER BERGER: What's the relevance of Union 22?

10 MR. LEVINE: We'll put in a series of documents that show  
11 changed status for several faculty members. In this case,  
12 Union 22 and Union 23 show that this individual, Meredith Linn,  
13 who started as an adjunct, subsequent became a term professor.

14 HEARING OFFICER BERGER: I see. So Union 22 is received  
15 then.

16 (Petitioner's P-22 received.)

17 MR. LEVINE: I'm sorry, was 23 admitted into evidence?

18 HEARING OFFICER BERGER: I haven't heard yet from the  
19 college on whether they have any objection.

20 (Petitioner's P-23 identified.)

21 MR. DiGIOVANNI: Just to the extent that because it's  
22 being put in, sort of confirm whether there was a status  
23 change, to the extent that today we can just confirm that this  
24 being the case, so if we could hold off on -- we're just going  
25 to check our records on the break just to confirm it.

1 MS. MUNOZ: Now we have a name.

2 MR. DiGIOVANNI: Now that we have the name.

3 MR. LEVINE: If I may, these are documents off the  
4 website. There can be testimony to that. Obviously, the  
5 Employer has the right to rebut it, if it's inaccurate.

6 HEARING OFFICER BERGER: Right.

7 MR. LEVINE: So on that basis, I would think it should be  
8 actually admitted.

9 HEARING OFFICER BERGER: Are you --

10 MR. DiGIOVANNI: Yeah, to the extent that there are --

11 HEARING OFFICER BERGER: Are you representing that these  
12 aren't accurate documents?

13 MS. MUNOZ: No. We're representing we want to confirm  
14 that they are.

15 MR. DiGIOVANNI: But, yes, to the extent that they're --

16 HEARING OFFICER BERGER: And you're certainly welcome to  
17 do that, but --

18 MR. DiGIOVANNI: To the extent that they are authentic,  
19 we're not objecting.

20 HEARING OFFICER BERGER: Okay. Well, then I'm receiving  
21 Union 23. And you're welcome to provide, present any rebuttal  
22 that you deem necessary.

23 (Petitioner's P-23 received.)

24 MR. LEVINE: And to the extent it's necessary, we will  
25 have Professor Singh testify to having gone to the Barnard

1 website and downloaded this documents.

2 HEARING OFFICER BERGER: I don't think that's necessary.

3 MR. DiGIOVANNI: That's not required from us, yeah. No,  
4 that's fine.

5 HEARING OFFICER BERGER: Okay.

6 MR. LEVINE: So Union 24.

7 (Petitioner's P-24 identified.)

8 BY MR. LEVINE:

9 Q Dr. Singh, what was the professor at issue here, numbers  
10 -- a number are represented?

11 A Union 24?

12 Q Yes.

13 A Sonia Pereira, who is listed on Union 24 as a term  
14 assistant professor of economics.

15 MR. LEVINE: I would move for the admission of Union 24.

16 MR. DiGIOVANNI: No objection.

17 HEARING OFFICER BERGER: 24 is received.

18 (Petitioner's P-24 received.)

19 HEARING OFFICER BERGER: I'm sorry, I didn't follow, what  
20 was the significance again?

21 THE WITNESS: In the assistant professor ranks, on the  
22 first set, Sonia Pereira is the second name.

23 HEARING OFFICER BERGER: Yes.

24 THE WITNESS: And it's indicated that she's a term  
25 assistant professor.

1 HEARING OFFICER BERGER: I see, okay.

2 MR. LEVINE: And we'll now submit another document that  
3 also references Sonia Pereira.

4 HEARING OFFICER BERGER: Okay. Now I'm with you.

5 (Petitioner's P-25 identified.)

6 MR. LEVINE: Okay. Will you stipulate to the admission  
7 of 25?

8 MS. MUNOZ: Yep.

9 HEARING OFFICER BERGER: Okay. Then 25 is received.

10 (Petitioner's P-25 received.)

11 HEARING OFFICER BERGER: So am I correct that you printed  
12 this information?

13 THE WITNESS: Yes.

14 HEARING OFFICER BERGER: Can you just explain, I see the  
15 web address at the bottom of Union Exhibit 24,  
16 Barnrd.edu/catalog/department/eco, so where was this found  
17 within the website?

18 THE WITNESS: 24?

19 HEARING OFFICER BERGER: Yes.

20 THE WITNESS: It was found in a pdf of the catalogue for  
21 the academic year for which at some point Barnard stopped  
22 producing printed paper catalogues, so the only catalogue was  
23 an online version. And once a year, that online catalogue  
24 would be pdf'd for archival purposes. And so this is off of an  
25 archived catalogue on the Barnard website.

1 HEARING OFFICER BERGER: What information is in the  
2 catalogue?

3 THE WITNESS: In the catalogue is information about the  
4 college, the history of the college, a welcome from the  
5 president, a faculty list for all departments, courses for all  
6 departments, lists of endowed chairs, list of the board of  
7 trustees, all the material that would have traditionally been  
8 in the paper catalogues that were once produced for the  
9 college.

10 MR. LEVINE: If I may, that document, we have no problem  
11 with its admission. It's over 800 pages long, which is why I  
12 chose not to bring it in.

13 HEARING OFFICER BERGER: No, I'm just trying to understand  
14 the documents that have been presented. I'm not looking for  
15 the full catalogue. Was that something that was prepared on an  
16 annual basis, is that your understanding?

17 THE WITNESS: That is my understanding. I have in the  
18 Barnard archives previously seen, they no longer -- that is the  
19 official record that the archives hold, a printout of the 800  
20 pages for that year's catalogue.

21 HEARING OFFICER BERGER: So this, as far as we know, is  
22 from which catalogue? The date at the bottom is 7/29/2014.

23 THE WITNESS: That is a good question. I would have to  
24 look at the entire pdf. I don't think that's entirely reliable  
25 to figure out which academic year this catalogue covered, but I

1 could look at that pdf and let you know.

2 HEARING OFFICER BERGER: I think that information would be  
3 helpful to know which catalogue this was.

4 MR. LEVINE: Can we go off the record for a moment?

5 HEARING OFFICER BERGER: Yes.

6 (Discussion off the record from 12:25 p.m. to 12:26 p.m.)

7 HEARING OFFICER BERGER: Back on the record.

8 There has been some discussion while we were off the  
9 record trying to determine the academic year from which Union  
10 Exhibit 24 was printed, which course catalogue. The witness  
11 was unable to recall initially, but has refreshed his  
12 recollection by looking at the full catalogue, the electronic  
13 version, on this laptop and will then be able to confirm the  
14 academic year from which this came.

15 So, Dr. Singh, having looked now at the electronic record,  
16 from which academic year did Union Exhibit 24 come from?

17 THE WITNESS: The 2013-2014 academic year.

18 HEARING OFFICER BERGER: Okay, thank you. And then if I  
19 could ask you more about where you found Union Exhibit 25?

20 THE WITNESS: The website currently.

21 HEARING OFFICER BERGER: Okay. Thank you. So the Union  
22 moves for the admission of Union 25. I think 24 has already  
23 been admitted. If not, I move for the admission of that.

24 HEARING OFFICER BERGER: Okay. Any objection to either?

25 MR. LEVINE: I'm happy to make a representation as to

1 relevance, if that would be helpful for the record.

2 MS. MUNOZ: No objection.

3 HEARING OFFICER BERGER: Union 24 and 25 are received.

4 Go ahead and make a connection. I do think it would be  
5 helpful.

6 MR. LEVINE: These two documents appear to show that the  
7 faculty member at issue was a term professional, which we've  
8 been told means serving for either three or five years, and  
9 subsequently I would infer from these documents after the term  
10 was completed was rehired in a part-time capacity.

11 HEARING OFFICER BERGER: Okay.

12 (Petitioner's P-26 identified.)

13 MR. LEVINE: Are you willing to stipulate to this?

14 MS. MUNOZ: 26?

15 MR. LEVINE: 26.

16 (Pause).

17 MR. DiGIOVANNI: Just the relevance of this particular  
18 document. Dr. Singh already testified that he presented here.

19 MR. LEVINE: The relevance is twofold. First of all, this  
20 shows and confirms the testimony that there is a range of  
21 faculty, from a range of titles that have participated in the  
22 pre-college programs. But, in addition, it shows the status as  
23 of when this document was made of one particular professor that  
24 we will submit additional documents concerning, which is the  
25 last professor listed here, Sevin Yildiz.



1 HEARING OFFICER BERGER: And how do we know when this  
2 document was made, what you've marked as Union 26? I don't see  
3 that information.

4 BY MR. LEVINE:

5 Q Dr. Singh?

6 A The URL from archive.org's way back machine indicates in  
7 the URL that it was archived on March 23, 2013.

8 HEARING OFFICER BERGER: So we know that's when it was  
9 archives, but not necessarily when it was created.

10 THE WITNESS: Yes.

11 HEARING OFFICER BERGER: But maybe that's all we'll know.  
12 Then just one other question, so some of these folks, it  
13 doesn't specify what their title is. Do you know if they are  
14 -- if they appear in Attachment B to the Employer's position  
15 statement, would we find their titles there?

16 MR. LEVINE: I know that some of them do. But I believe  
17 and Dr. Singh may have more information that those whose titles  
18 are listed appear. And it may be that some of the others, for  
19 example, the second person on the list, it says Theodore Barrow  
20 was pursuing his PhD in art history at the graduate center at  
21 CUNY. I'm not sure if that individual is actually a faculty  
22 member of Barnard and Dr. Singh may be able to help us.

23 But, in any event, because some people's titles are  
24 listed, it does show that there are a mix of individuals whose  
25 titles are identified.

1 BY MR. LEVINE:

2 Q Do you know the answer to that, Dr. Singh?

3 A Some of the people on this document I do identify as  
4 faculty at the college, for example, Mindy Aloff on the first  
5 page is identified as an adjunct associate professor of dance  
6 and lecturer in first-year seminar. Laurie Postlewate, on what  
7 is Page 4, she's identified as a senior lecturer in the French  
8 Department at Barnard. I'm sure there are others. Should I  
9 keep going?

10 And then on the last one, which you had indicated, Sevin  
11 Yildiz is identified as an adjunct assistant professor in the  
12 urban studies program at Barnard.

13 Q So it may in fact be some of these individuals are not  
14 identified as faculty who are, because we've had testimony from  
15 Elizabeth -- I'm sorry, Laurie Postlewate is identified as a  
16 Barnard College faculty and senior lecturer.

17 HEARING OFFICER BERGER: So my concern with the relevance  
18 and helpfulness of this document is that it's at least two  
19 years old and so doesn't help us determine the positions that  
20 people currently hold. And it doesn't even identify positions  
21 of some people. We have had testimony about who participates  
22 in this program. But I do want to see the other document you  
23 have, the connection you're trying to make, because then this  
24 may become more relevant.

25 MR. LEVINE: That's fine. So we can hold off on this. I

1 will tell you that in this document, Professor Yildiz is  
2 identified as an adjunct professor. And I will now present for  
3 evidence a document from the Barnard website that identifies  
4 more recently that same individual as a term assistant  
5 professor.

6 HEARING OFFICER BERGER: Okay. So I feel that -- let me  
7 review this subsequent document. But if that connection can be  
8 made, then I think as a set these documents are relevant and  
9 should be admitted. But I'm going to review the other one  
10 first.

11 (Petitioner's P-27 identified.)

12 MR. DiGIOVANNI: Can we raise an objection, depending on  
13 how you rule after reviewing it?

14 HEARING OFFICER BERGER: Yes.

15 MR. DiGIOVANNI: Okay.

16 HEARING OFFICER BERGER: Let's see what's next in line.

17 BY MR. LEVINE:

18 Q Dr. Singh, can you tell us -- I'm sorry, my document I  
19 only marked as Union 2, so if I didn't mark it as 27 on any of  
20 the other copies, you should correct that. Can you tell us  
21 what this document is and how you obtained it?

22 A This is a posting on the provost's section of the Barnard  
23 College website indicating new faculty for the 2014-2015  
24 academic year. I printed it off the website, yesterday.

25 MR. LEVINE: And so I would move for the admission of

1 Union 26 and 27 -- well, why don't we wait. I actually have  
2 one more document which is part of the set on Professor Yildiz.

3 HEARING OFFICER BERGER: Okay.

4 (Petitioner's P-28 identified.)

5 BY MR. LEVINE:

6 Q Dr. Singh, what is this document?

7 A This is a page I printed from the Barnard website,  
8 yesterday, currently the profile for Professor Sevin Yildiz.

9 MR. LEVINE: So I would now move for the admission of  
10 Union 26, 27, and 28.

11 HEARING OFFICER BERGER: Okay. Any objection?

12 MR. DiGIOVANNI: The college objects to Union 26. 27 and  
13 28 appear to come from the college's website and they seem  
14 consistent.

15 VOIR DIRE EXAMINATION

16 BY MR. DiGIOVANNI:

17 Q Union 26, Dr. Singh you can correct me if I'm wrong,  
18 you're not on the -- you didn't present at this particular  
19 conference?

20 A I'm sorry, 26 is not a conference.

21 Q I'm sorry.

22 A No, I didn't teach in the program that year.

23 MR. DiGIOVANNI: These are faculty members not only from  
24 Barnard, but it appears from other institutions. Our  
25 assumption is that people -- these folks on this list probably

1 submit their own miniature bio. The fact that we don't have  
2 anyone to testify whether they did or not, we can't say whether  
3 the information on this particular one is correct. And I think  
4 as you pointed to, there's no titles on some of them. Some of  
5 them are from other institutions. And to sort of present it as  
6 evidence of showing some sort of discrepancy between 27 and 28,  
7 we don't think is appropriate.

8 We don't object to 27 or 28, but we do object to Union 26.

9 MR. LEVINE: Again, it's our view and there can be more  
10 testimony about the process by which such documents are  
11 archived, but this document was on the Barnard website.  
12 Certainly, it's hard to imagine why somebody who was a  
13 full-time professor would represent themselves as a part-time  
14 professor. But, in any event, at a minimum, I think this is  
15 either hearsay admission against interest or analogous to such.  
16 I mean Employer is in the best position to rebut it, if it's  
17 inaccurate.

18 MR. DiGIOVANNI: I think the two 27 and 28, as I said,  
19 whether or not someone would present themselves as a full-time  
20 or a part-time can only be spoken to by that person. The fact  
21 that Attorney Levine thinks that they wouldn't have, I don't  
22 think that that's enough to get this in, especially because  
23 there is no basis for it. As I said, 27 and 28, we have no  
24 objection to; but, this is more of a hodgepodge from various  
25 folks. And the fact that titles aren't on some of them,

1 different institutions are for some of them.

2 HEARING OFFICER BERGER: Do you have any information on  
3 how Union 26 was put together? Does someone from the college  
4 compile these bios and put together this document, and then  
5 publicize it for people who are participating in this program?  
6 I mean what I know from looking at the document, itself, is  
7 that it's an official Barnard College document. So to the  
8 extent that there are mistakes in it, I'm not going to assume  
9 that.

10 This is a document that the college has put its name on  
11 and released to the world online. So I don't think there is  
12 any doubt about its authenticity. We have now been -- we now  
13 understand its relevance and I think it is relevant for the  
14 purpose of its connection to Union 27 and 28.

15 So your concern about people who are listed in Union 26  
16 who aren't even associated with Barnard, you know, it is not  
17 being considered for or admitted for that purpose, to consider  
18 those people. It's being admitted for the purpose of examining  
19 the career path of this particular individual, Sevin Yildiz.

20 MR. DiGIOVANNI: My concern is that, though, there's no  
21 testimony about how this information was submitted, how it is  
22 compiled. And I understand that --

23 HEARING OFFICER BERGER: Which is what I'm saying, there  
24 is not --

25 MR. DiGIOVANNI: And this isn't a current website, either.

1 HEARING OFFICER BERGER: -- and you don't have that  
2 information now. But Barnard College has puts it sign and seal  
3 on this document. So, therefore, I am receiving it over that  
4 objection that you just made. If you want to present that  
5 information and indicate that there is some reason to question  
6 the bio listed for this particular individual, you're welcome  
7 to do that. So I'm receiving Union 26, 27, and 28.

8 (Petitioner's P-26, P-27, and P-28 received.)

9 MR. DiGIOVANNI: Can we also just note for the record that  
10 this is an archived document. It's not on the current website.  
11 The URL is web.archive.org, as opposed to the other URL which  
12 is barnard.edu.

13 HEARING OFFICER BERGER: Can you explain how you accessed  
14 Union 26?

15 THE WITNESS: Yes. Through archive.org, and archive.org  
16 has a service where they crawl the web at selected dates  
17 archive-wide pages. So for this pre-college -- what is it  
18 called, high school pre-college programs, archive.org indicates  
19 all the dates on which it had archived Barnard's official  
20 version of that page. And I selected this one and printed it  
21 out.

22 MR. DiGIOVANNI: I guess on that basis, Barnard would  
23 further object to that. Archive.org is now not Barnard putting  
24 its signature on it. This is from a different website. And to  
25 the accuracy of that, you know, unless we get someone from that

1 particular I guess website to talk about this, I don't think we  
2 can -- we won't admit to the accuracy of this because as Dr.  
3 Singh just stated, it's not from a Barnard website. It's from  
4 an archival service.

5 CONTINUED DIRECT EXAMINATION

6 BY MR. LEVINE:

7 Q If you know, Dr. Singh, what does it mean to archive a  
8 webpage?

9 A Just a snapshot, digital snapshot.

10 MR. DiGIOVANNI: The college understands what that means.  
11 We're just simply objecting to the authenticity of it, because,  
12 as I said, it's not Barnard's website as 27 and 28 are. And  
13 it's not a Barnard archive, either.

14 HEARING OFFICER BERGER: Okay. So now I do understand  
15 that this isn't directly off of the Barnard website. We all  
16 can appreciate that information that at one time appeared  
17 online doesn't necessarily go away just because it is no longer  
18 on the Barnard website. I don't think there is any basis to  
19 conclude that because this was from a site that has gathered  
20 archived materials that were once online and was once on the  
21 Barnard website that we have a reason to doubt this.

22 You have been asked in the subpoena to provide information  
23 about appointments held by people in the petitioned-for unit  
24 and that would include this individual. And you have been  
25 given time to gather documents and you have gathered some, but



1 you haven't gathered what's needed apparently for this  
2 particular individual. So what we have here in lieu of that is  
3 this information from archive.org.

4 So I hope that you appreciate that what we are relying on  
5 now may not be what you consider the best evidence and may not  
6 be what I consider the best evidence or the regional director  
7 considers to be the best evidence. But in light of your  
8 failure to present all of the subpoenaed documents, which I  
9 recognize is part of the limited timeline under the new R-case  
10 rules, but still, nonetheless, we don't have the documents from  
11 the personnel file of this particular individual.

12 If you want to get that and present them, please do. But  
13 for now I am admitting this. And if there are additional  
14 documents that speak to this as well, I'd like to see them and  
15 admit those, too. But this is all we have. And I don't see a  
16 reason to doubt that this, at some point, was a document that  
17 appeared on Barnard's website.

18 MR. DiGIOVANNI: I think the basis of our objection and  
19 what you've said are two separate things. But just so it's  
20 noted for the record, our objection is this came from a website  
21 that isn't represented by Barnard College. It's an archival  
22 website that there is no way to verify this. But if it's going  
23 to be admitted into evidence, obviously with your ruling --

24 HEARING OFFICER BERGER: Okay. Your objection is noted.

25 MR. LEVINE: And I'll state for the record that again I

1 think the rationale for admitting a document like this is, in  
2 part, that the Employer is in the best position to verify or  
3 rebut the accuracy of these documents and they are certainly --

4 MR. DiGIOVANNI: And I think 27 and 28 did that.

5 MR. LEVINE: Excuse me. Excuse me. And they are  
6 certainly welcome to do so.

7 HEARING OFFICER BERGER: Okay. We're moving on.

8 MR. DiGIOVANNI: Thank you.

9 MR. LEVINE: I've marked for identification a document as  
10 Union Exhibit 29.

11 (Petitioner's P-29 identified.)

12 BY MR. LEVINE:

13 Q Dr. Singh, would you explain what this document is,  
14 please?

15 A This is a job posting I found on the web and pdf'd, as the  
16 date says, about two weeks ago now, June 19th, for an adjunct  
17 or a term assistant professor in biology at Barnard College.

18 Q Have you previously had occasion to use or access the  
19 HigherEdJobs website?

20 A Yes.

21 Q And based on your experience, what is that website and why  
22 have you accessed it?

23 A I'm not currently in the academic job market; but, when I  
24 was, it was one of several sites which would collect job  
25 postings for academic jobs nationally.

1 MR. LEVINE: I move for the admission of Union 29.

2 MR. DiGIOVANNI: The college objects to this admission.  
3 Again, it's not a Barnard website. And I believe this is the  
4 same objection to the Union's attempt to, I think it was  
5 Union 4, earlier which was sustained to the effect that this is  
6 a non-Barnard website. And, also, I think Dr. Singh just said  
7 for an adjunct. This looks like for a full-time. But, either  
8 way, our objection is to the authenticity of this, that Barnard  
9 didn't specifically post this. This is from an independent  
10 website.

11 MR. LEVINE: So if I may, at the time Union 4 was  
12 rejected, I believe that was a similar related document, it was  
13 a different document that we withdrew, I believe.

14 HEARING OFFICER BERGER: It is Union 3.

15 MR. LEVINE: Okay, thank you. We withdrew it as  
16 essentially similar to another document that was produced by  
17 Barnard. At that time, this document was specifically  
18 referenced, the fact that we had accessed also a job posting  
19 for biology. And a request was made for the Employer to get in  
20 contact with the department in order to find out what postings  
21 were or were not issued by that department. That was, I  
22 believe, six days ago.

23 This is, we believe, the best evidence there is. Again,  
24 the Employer is in a position to rebut this or to give us the  
25 actual job posting, if it's different, that was promulgated by

1 the department. But in the absence of that, we think that this  
2 is relevant.

3 MR. DiGIOVANNI: And we addressed the postings issue and  
4 we gave them what we had, as was required by the subpoena and  
5 as was ordered by the hearing officer. Our objection to this  
6 is the same as it was for Union 3. This isn't a Barnard  
7 website. And the fact whether it's still posted on the  
8 website, it's obviously not because, again, they found this  
9 through some independent third-party website. And it's not --

10 HEARING OFFICER BERGER: Okay, hold on. Okay. I don't  
11 think what you've said is accurate, that you gave them what you  
12 -- what Barnard has for job postings. You gave them what  
13 you've been able to find, to date. But your witnesses informed  
14 us that in addition to posting job postings through what is now  
15 a somewhat newly created human resources online forum, that  
16 department chairs don't always use that forum and oftentimes  
17 post jobs in other means and on other forums.

18 And so you have indicated, as we have been continuing with  
19 this hearing, that you've been communicating with your  
20 department chairs and asking them to provide postings that they  
21 have put elsewhere, not through Barnard, and that you have  
22 gotten some responses. But at no point have you indicate that  
23 you've gotten all responses.

24 And so, again, as with the -- with information in  
25 personnel files, we're left with what you've been able to

1 produce thus far and have had to get additional information  
2 through other means and on other forums. So here we have  
3 HigherEdJobs. I think the witness has testified to the nature  
4 of that site and it's standing in the academic community, and  
5 how it is used by people searching for careers in academia.  
6 And so with that, again, I agree with Union counsel that at  
7 this point this is the best evidence we have of this particular  
8 posting. And you are welcome to present additional evidence on  
9 this or --

10 MR. DiGIOVANNI: The witness testified to his use of this  
11 particular website. He's not an administrator. He didn't  
12 testify to the fact that this was posted by Barnard. And the  
13 same inaccuracies issue remains as they were in Union 3, that  
14 these things get taken to an independent site. They are not  
15 verified. And this can't be put in as proof that Barnard  
16 listed this with the specific language, because we've had that  
17 issue before and there was inaccuracies in that post because it  
18 was a third party.

19 HEARING OFFICER BERGER: Absolutely, okay. So Union 3 was  
20 withdrawn because you were able to present evidence of the  
21 inaccuracies. So if you would like to present that evidence  
22 now in response to Union 29, you may certainly do so. But, at  
23 this point, this is all we have on this particular posting and  
24 I am going to receive it.

25 If you want to find the correct posting for this position,

1 that is what you consider to be the official Barnard posting,  
2 please do. We've been waiting for you to provide those for  
3 eight days now. So in lieu of that, I'm receiving Union 29.

4 (Petitioner's P-29 received.)

5 MR. DiGIOVANNI: And we'll just reiterate for the record  
6 that our objection is that this is an independent, third-party  
7 website that literally anybody could have posted on. The  
8 witness has seen it, himself, on the internet, then I guess --

9 MR. LEVINE: I would also like --

10 MS. STEPHEN: And also I think we need to address the fact  
11 that we had a witness' testimony to the extent that chairs have  
12 no summer obligation to remain on campus or in contact with the  
13 college, and so while we did, you know, and we are continuing  
14 to attempt to receive information, that may or may not exist  
15 because we have no accuracy that there is even this position  
16 available. You have the testimony of the existing provost that  
17 this information may not be available during the summer, which  
18 is the time that the Union decided to issue this petition.

19 HEARING OFFICER BERGER: Okay. And I appreciate that.  
20 You have produced what you've been able to come up with. So  
21 this is what we are left with. Your objection is noted. That  
22 will be taken into consideration when this document is  
23 reviewed. It will go to the weight of the evidence, not its  
24 relevance and not its admissibility. Okay. So the document is  
25 a part of the record and will be handled accordingly by the

1 decision-maker. And your objections and your explanations are  
2 also noted on the record.

3 MR. LEVINE: May I add one thing for the record, which is  
4 that the time that the Union withdrew Union 3, I believe I  
5 specifically noted and the record should reflect that we  
6 reserved the right to try to admit documents pulled from third  
7 party websites concerning postings subsequently when the  
8 individual who had in fact found those postings was present to  
9 testify, as he is, today.

10 BY MR. LEVINE:

11 Q Dr. Singh, do you have something additional you'd like to  
12 say about this document?

13 A I would like to say that having been on the academic job  
14 market several times, it is highly unusual for individuals to  
15 look for openings on college websites individually because  
16 that's an incredibly inefficient way. Third party websites are  
17 the norm in terms of promulgating openings. Third party  
18 websites could include HigherEdJobs, could include the  
19 Chronicle of Higher Education, could include lists compiled by  
20 field organizations such as the Modern Language Association.  
21 It's the norm.

22 Q Thank you.

23 MR. DiGIOVANNI: Can we just -- are we still on voir dire?

24 HEARING OFFICER BERGER: No, the document has been  
25 received. If you have questions on cross-examination, you're

1 welcome to ask them, but we're moving on.

2 MR. LEVINE: I'll mark a document as Union Exhibit 30.

3 (Petitioner's P-30 identified.)

4 MR. LEVINE: I'll wait, this is off the website, so I will  
5 wait and see if Employer's counsel is willing to stipulate to  
6 the admission of this document.

7 MR. DiGIOVANNI: No objection.

8 HEARING OFFICER BERGER: Okay. Union 30 is received.

9 (Petitioner's P-30 received.)

10 MR. LEVINE: And, finally, I have one additional document.

11 (Petitioner's P-31 identified.)

12 BY MR. LEVINE:

13 Q Dr. Singh, please tell us what this document is and how it  
14 was created.

15 A This is a spreadsheet I created. It is a list, first of  
16 all, of the ladder faculty at Barnard and it indicates their  
17 ranks, full professor, assistant professor, associate  
18 professor, and their department. The names to the ladder  
19 faculty were pulled from the website's department lists, so on  
20 the Barnard College website, for each faculty member, using --  
21 I don't remember the numbers, but the college's -- documents  
22 the college has submitted as to the composition of elected  
23 committees and appointive committees, I have simply indicated  
24 committee service for those members of the on-ladder faculty.

25 MR. LEVINE: And could the witness be shown Employer's



1 Exhibit 4(a) and 4(b)?

2 THE WITNESS: I believe I have those, right?

3 HEARING OFFICER BERGER: Faculty committees and standing  
4 appointative committees.

5 MR. LEVINE: Yes, thank you.

6 BY MR. LEVINE:

7 Q Are those the documents you were referring to that you  
8 compiled the list of elected committees and appointive  
9 committees membership for the on-ladder faculty for?

10 A They are.

11 MR. LEVINE: Move for the admission of Union 31.

12 MR. DiGIOVANNI: Objection, best evidence. It's already  
13 in there. He relied on evidence that's already on the record  
14 to create a table. There is no need for this. All the other  
15 information is available elsewhere, either through exhibits  
16 that we have here or public. I don't see how the witness can  
17 simply create a table and submit it as evidence, so we're going  
18 to object.

19 MR. LEVINE: So information as he has testified concerning  
20 committee membership certainly exists in the record. What  
21 doesn't exist in the record is the actual positions for -- we  
22 know from the record which off-ladder faculty serve on  
23 committees and how many do or do not. That is in the record.  
24 What is not in the record is how many individual tenured and  
25 tenure track faculty serve on the record.

1           He, in fact, did review the website to put this  
2 information together. That is not in dispute. But we think  
3 it's relevant to show what percentage of on-ladder faculty  
4 serve on committees in comparison to what percentage of  
5 off-ladder faculty serve on committees.

6           HEARING OFFICER BERGER: But we're not determining whether  
7 there is a community of interest between tenured and tenurable  
8 faculty, and off-ladder faculty. So could you explain a little  
9 bit more why this is relevant?

10          MR. LEVINE: It appears to the Petitioner, this may or may  
11 not be the case, that -- and, in fact, it has been raised  
12 explicitly in the testimony of some of the Employer's  
13 witnesses, that some of the faculty members it is challenging  
14 are in fact more aligned with the tenure track and tenured  
15 faculty in terms of their interests and community of interest  
16 than they are with the part-time faculty.

17          MR. DiGIOVANNI: I think our legal strategy hasn't been  
18 determined yet for how we're going to argue this, but we've  
19 been -- I believe that the case at bay here is whether or not  
20 the full-time faculty have a community of interest with the  
21 adjuncts. Whether or not they also have a community of  
22 interest with the tenure folk is relevant, as you just stated.

23          Again, if they pulled this off the website, you know, the  
24 Union is obviously competent in printing stuff of the website.  
25 If they want to get all of these profiles to put in, that's the

1 best evidence in this case. But a table that one of an adjunct  
2 professor at Barnard put together, I --

3 MR. LEVINE: We could, for example, cite in our brief or  
4 closing where the region could find all of this information.  
5 We thought it would be easier for the region, and they can  
6 review it in the next number of days before closings or briefs.  
7 We thought it would be easier for the region to compile it. If  
8 the record holder doesn't think that's the case, that's fine.

9 HEARING OFFICER BERGER: Okay. You haven't convinced me  
10 of the relevance. And I appreciate the time you spent putting  
11 this together.

12 THE WITNESS: Thank you.

13 HEARING OFFICER BERGER: But in light of the fact that  
14 this was prepared -- this is a document prepared for the  
15 purposes of this litigation and I'm not even sure how relevant  
16 it is to the litigation, I am not receiving Union 31.

17 MR. LEVINE: I have nothing further, at this time.

18 HEARING OFFICER BERGER: Okay. Let's go off the record.

19 (Recess from 12:59 p.m. to 2:30 p.m.)  
20

## A F T E R N O O N   S E S S I O N

(Time Noted: 2:30 p.m.)

HEARING OFFICER BERGER: Back on the record.

Before you begin your cross-examination, I wanted to note it has come to my attention that the transcript produced by the reporting service thus far on the cover page have misidentified the Petitioner as Barnard College Faculty, UAW, Local 2110. I want the record to be clear that the identity of the Petitioner is Barnard Contingent Faculty, UAW, Local 2110, as listed on the petition, which is included in the formal papers which were received as Board's Exhibit 1. So in any place in which the Petitioner appears as Barnard College Faculty that is incorrect.

I also just wanted the record to reflect we had had some off the record conversation about this. In the Employer's statement of position, they argue for the exclusion of faculty who would otherwise be included in the unit but who teach only online courses. Employer's counsel has represented to me that there are currently no such individuals. Is that correct, Employer counsel?

MS. MUNOZ: That is my understanding, yes.

HEARING OFFICER BERGER: Okay. So with that, please begin your cross-examination.

MS. MUNOZ: All right, thank you.

CROSS-EXAMINATION

1 BY MS. MUNOZ:

2 Q Good afternoon.

3 A Good afternoon.

4 Q Are you currently employed by any other Employer than  
5 Barnard College?

6 A No.

7 Q When you were hired by Barnard, I believe you said you  
8 were referred through a friend?

9 A Yes.

10 Q After that referral, did you meet with the chair of the  
11 department?

12 A No.

13 Q Who did you meet with?

14 A Margaret Vandenburg.

15 Q And she is the director of --

16 A At that time, she was the director of first-year English.

17 Q First-year English, okay. Did you meet with anyone else?

18 A No.

19 Q Did you give a job talk?

20 A No.

21 Q Okay. So currently at Barnard, you are paid on a per  
22 course basis?

23 A Yes.

24 Q Are you -- how much are you paid per course?

25 A For first-year English, I'm paid \$4,300 a course. I'm

1 actually not sure what for first-year seminar. It's something  
2 around \$4,000, plus a stipend that I believe all first-year  
3 seminar instructors receive which is something like \$1,500.

4 Q If you can remind me again how many courses you taught  
5 last semester?

6 A Yes, spring 2015, I taught two courses.

7 Q And you've either taught one or two?

8 A Yes.

9 Q When you have taught one, were you paid less than when you  
10 teach two?

11 A Yes.

12 Q So if your course load is reduced, your pay is reduced?

13 A Yes.

14 Q And so your pay is directly related to your teaching a  
15 course?

16 A Yes.

17 Q Are you provided medical insurance by the college?

18 A No.

19 Q Are you provided dental insurance by the college?

20 A No.

21 Q Are you provided a life insurance policy by the college?

22 A No.

23 Q Are you eligible to participate in the college's  
24 retirement plan?

25 A No.

1 Q Okay. I believe you testified that you consider your  
2 service to the college to include your office hours, correct?

3 A Yes.

4 Q You have not served on any college committees?

5 A No.

6 Q So during your office hours, do you discuss assignments  
7 with your students?

8 A Yes.

9 Q Do you review drafts of their work?

10 A Yes.

11 Q So your office hours are part of your teaching duties?

12 A Yes.

13 Q Okay. You testified as well that your scholarship, I  
14 believe you said has been less in the last two and a half  
15 years?

16 A Yes.

17 Q And why is that?

18 A Time.

19 Q Time. Not enough time to do scholarship?

20 A Right, not enough time.

21 Q Is that because of your teaching obligations?

22 A Partly, yes, and -- yes.

23 Q You testified as well that you haven't gone to faculty  
24 meetings because of your other work schedule.

25 A Yes.

1 Q Is that your work at Barnard?

2 A No, that's freelance tutoring, which is not employed by  
3 anyone.

4 Q So you're freelance. So you do have another source of  
5 income?

6 A Right, but it's not an employer.

7 Q It's tutoring?

8 A Yes.

9 Q What do you tutor students in?

10 A LSAT, GRE, GMA (ph.).

11 Q Got it, okay. So you are not required to attend faculty  
12 meetings?

13 A No.

14 Q And you, I believe it was Union Exhibit 16, the email  
15 regarding advising?

16 A Okay.

17 Q You said that you have not advised since you've been at  
18 Barnard?

19 A I have not.

20 Q So it's optional for you to advise?

21 A Yes.

22 Q And it's first-year advising?

23 A It sounds like it, yes.

24 Q Okay. Can I show you also Employer 19, prior to  
25 discussion about that. Have you seen that document before?



1 A No.

2 Q And so you have never completed this form before?

3 A No.

4 Q You may have heard testimony, but are you aware that  
5 full-time reviewed and renewable faculty are required to  
6 complete that form?

7 A Other than what I've heard today, I was not aware of that.

8 Q I'm going to draw your attention to I believe it's Union's  
9 Exhibits 23, 24, 25, 26, 27, 28, and I think Union 30 might be  
10 included in this, but I'm not 100 percent, the ones that refer  
11 to individuals who have held different job titles.

12 A 30 is just a list of faculty on leave. Did you want to  
13 include that?

14 Q Okay. It's not going to -- okay.

15 A No, 29 was a job posting.

16 Q All right, so through 28 then, thank you.

17 A 23 to 28?

18 Q Yes. Thank you.

19 A Okay.

20 Q Do you know under what --

21 A Actually, 22 is also a part of that set.

22 Q Thank you, so 22 through 28, Union's exhibits.

23 A Yes.

24 Q Okay. Do you know under what circumstances the  
25 individuals discussed in those documents changed titles?

1 A No.

2 Q So you don't know if there was a formal search?

3 A No.

4 Q And you don't know if they were appointed by the provost?

5 A No.

6 Q There was testimony today or testimony during these days  
7 of hearing, actually, by the Union's witnesses that their  
8 titles have changed while they've been at Barnard.

9 A Yes.

10 Q And further testimony that those title changes did not  
11 necessarily change their job duties.

12 A Yes.

13 Q Do you know if the individuals in Union 22 through 28 had  
14 their job duties changed with their title changes?

15 A No.

16 Q So you know what you found on the website.

17 A Yes.

18 MS. MUNOZ: That's all I have, thank you.

19 MR. LEVINE: I have nothing further.

20 THE WITNESS: Shall I leave these here?

21 HEARING OFFICER BERGER: Okay, thank you, you are excused.

22 Yes, you can leave them there.

23 THE WITNESS: Okay. Thank you.

24 HEARING OFFICER BERGER: You're welcome.

25 (Witness excused.)

1 HEARING OFFICER BERGER: Let's go off the record.

2 (Recess from 2:38 p.m. to 4:08 p.m.)

3 HEARING OFFICER BERGER: On the record.

4 In discussions off the record, the parties have agreed to  
5 the following stipulations.

6 With regard to the visiting professors, to the extent it  
7 can be shown that the visiting professors, so this includes the  
8 title visiting professor, visiting associate professor,  
9 visiting assistant professor, and tinker visiting professor,  
10 the first of those two, there are currently no employees.  
11 There is one visiting assistant professor and one tinker  
12 visiting professional.

13 So to the extent that they are -- there is evidence that  
14 those individuals hold tenure positions elsewhere and are,  
15 therefore, truly visiting professors at Barnard, the parties  
16 have agreed that those individuals will be excluded from the  
17 petitioned-for unit.

18 However, there hasn't been sufficient evidence produced of  
19 that to date, so the stipulation is that those two individuals  
20 will be permitted to vote subject to challenge.

21 MR. LEVINE: If I may?

22 HEARING OFFICER BERGER: Yes.

23 MR. LEVINE: The language we had proposed for the  
24 stipulation when this first came up, which is the language we  
25 are still proposing and willing to accept, involves truly

1 visiting professors of all ranks who retain tenure at another  
2 academic institution. So that's slightly different.

3 HEARING OFFICER BERGER: I'm not sure I agree that it's  
4 different than what you stated, but could you just expand on  
5 that?

6 MR. LEVINE: So the difference is as opposed to have  
7 tenure, that they retain tenure, and that it's at another  
8 academic institution. So we're adding academic.

9 HEARING OFFICER BERGER: You're adding academic.

10 MR. LEVINE: Well, when I say adding, adding to what was  
11 just read into the record. This is what we originally stated.

12 HEARING OFFICER BERGER: Is there a distinction -- so you  
13 just want to clarify also that instead of saying that they have  
14 tenure, that they have tenure at another academic institution  
15 when they come to Barnard and they are at Barnard --

16 MR. LEVINE: Yeah, that they retain that.

17 HEARING OFFICER BERGER: They haven't given up their  
18 tenure.

19 MR. LEVINE: Exactly.

20 HEARING OFFICER BERGER: Okay. Sorry if that wasn't  
21 clear. I can appreciate the details.

22 MR. LEVINE: And the addition of the word academic.

23 HEARING OFFICER BERGER: Absolutely.

24 MR. LEVINE: Because there may be tenure at other types of  
25 institutions.

1 HEARING OFFICER BERGER: Okay. So with that modification  
2 and explanation, do both parties agree to this stipulation?

3 (Pause.)

4 HEARING OFFICER BERGER: Please state your position on the  
5 record.

6 MS. MUNOZ: Yes.

7 MR. LEVINE: And Petitioner agrees to that.

8 HEARING OFFICER BERGER: Okay. Now for the titles of  
9 postdoc fellow and post doctoral research associate, the  
10 college has produced evidence and information that these  
11 individuals, there are two in the postdoc research associate  
12 title and one in the postdoc fellow title, that they do not  
13 have teaching responsibilities and have only research  
14 responsibilities.

15 So the parties have agreed to stipulate that non-teaching  
16 individuals in the title of postdoc fellow and post doctoral  
17 research associate will be excluded from the bargaining unit.  
18 And the information we have is that the people currently in  
19 those positions are, indeed, non-teaching.

20 Is that accurate? Petitioner?

21 MR. LEVINE: On that basis, we are willing to enter into  
22 that stipulation.

23 HEARING OFFICER BERGER: And Employer?

24 MS. MUNOZ: We are as well.

25 HEARING OFFICER BERGER: Okay. So now the Employer has

1 additional evidence and witnesses to present on rebuttal. Is  
2 that correct?

3 MS. MUNOZ: Should we mark the documents?

4 HEARING OFFICER BERGER: Yes, let's start with the  
5 documents.

6 MS. MUNOZ: Okay. Because I will forget. I'd like to  
7 mark what is -- what we have represented is a sample, there is  
8 actually one of the contracts for the guest artist appointment.  
9 We have redacted all confidential information or information  
10 that is not already publicly available per the confidentiality  
11 agreement in that document.

12 We have also explained that that is representative of the  
13 same agreement with all of the guest artists. And we would  
14 like to have it marked and entered into evidence as  
15 Employer 23.

16 (Employer's E-23 identified.)

17 HEARING OFFICER BERGER: Any objection?

18 MR. LEVINE: No, no objection.

19 HEARING OFFICER BERGER: So Employer 23 is received.

20 (Employer's E-23 received.)

21 MS. MUNOZ: And similarly we have the appointment letters  
22 for the postdoc research associate and the senior activist  
23 fellows that we would like to have marked as Employer 24.

24 HEARING OFFICER BERGER: Since there has been a  
25 stipulation for the two postdoc titles, I don't think it's

1 necessary to present the letters for those individuals.

2 MS. MUNOZ: So you just want the senior activist fellows  
3 then?

4 HEARING OFFICER BERGER: The inclusion or exclusion of  
5 those folks is not going to be decided in light of the parties'  
6 agreement.

7 MS. MUNOZ: Right, okay.

8 HEARING OFFICER BERGER: So that doesn't need to be part  
9 of the record. But for the senior activist fellow, yes, please  
10 identify that.

11 MR. LEVINE: So are we going to then mark the cover page  
12 that identifies the individuals as a separate exhibit that will  
13 not be entered into the record at this time and the region will  
14 reserve?

15 HEARING OFFICER BERGER: Yes, correct.

16 MS. MUNOZ: So it will be Employer 24(a) and 24(b), the  
17 two letters for the senior activist fellow positions.

18 HEARING OFFICER BERGER: Okay.

19 (Employer's E-24(a) and E-24(b) identified.)

20 HEARING OFFICER BERGER: And then if you could also mark  
21 the index as 25?

22 MS. MUNOZ: Okay, Employer 25 is the index. Employer  
23 24(a) and Employer 24(b) are the two letters.

24 (Employer's E-25 identified.)

25 MR. LEVINE: Just so I want to make sure we're on the same

1 page here, 24(a) is the letter dated December 11th, 2014.

2 MS. MUNOZ: yes.

3 HEARING OFFICER BERGER: And 24(b) is the letter dated  
4 August 4, 2014.

5 MS. MUNOZ: Correct.

6 HEARING OFFICER BERGER: So is there any objection from  
7 the Petitioner to the admission of 24(a) and (b)?

8 MR. LEVINE: No, there isn't.

9 HEARING OFFICER BERGER: Okay. So 24(a) and (b) are  
10 received.

11 (Employer's E-24(a) and E-24(b) received.)

12 HEARING OFFICER BERGER: And with 25, I assume your  
13 positions are the same as the other day.

14 MS. MUNOZ: Correct.

15 HEARING OFFICER BERGER: But I'll give you an opportunity  
16 to restatement, if you would like.

17 MR. DiGIOVANNI: The college's position as it was for  
18 Employer's exhibit -- I don't have the specific number, with  
19 their names attached to the appointment letters that were  
20 presented by the Union is that the specific names attached to  
21 the index do not need to be admitted. We don't see their  
22 relevancy. To the extent they predict confidential personnel  
23 records, we would like them not to be admitted into the record  
24 based on our same objection to the names index the appointment  
25 letters for the 45 R&Rs.



1 HEARING OFFICER BERGER: Okay.

2 MR. LEVINE: And the Petitioner's position is that the  
3 information is relevant, that there shouldn't be concerns about  
4 confidentiality, though. Certainly, the Petitioner has no  
5 intention of publishing that data, but that it should be able  
6 to argue from the names and the region should be able to  
7 consider the individuals.

8 MR. DiGIOVANNI: Just one more concern. I think because  
9 some of the transcript has been posted on public forums, that  
10 we are also concerned about the exhibits, so we will reiterate  
11 the confidentiality issue, why we want to keep those names off.

12 HEARING OFFICER BERGER: Okay. So I would encourage --  
13 there will be time to prepare closing arguments, so I would  
14 encourage to the extent that either party would like to draw a  
15 connection between documents, the testimony, etc., and can do  
16 that, and minimize the need to include the names as part of the  
17 record, I encourage that. The region has decided to serve  
18 ruling on whether the index of names will be received.

19 MS. MUNOZ: Do we want to on the record address --

20 MR. LEVINE: Let's go off the record, first.

21 HEARING OFFICER BERGER: Okay. Off the record.

22 (Discussion off the record from 4:18 p.m. to 4:20 p.m.)

23 HEARING OFFICER BERGER: Let's go back on the record.

24 Are you prepared to call your rebuttal witness or do you  
25 want to start with the documents?

1 MS. STEPHEN: We wanted to do the documents so that --

2 MS. MUNOZ: The rebuttal witness is like six questions.

3 HEARING OFFICER BERGER: Okay.

4 MS. STEPHEN: What was raised by --

5 HEARING OFFICER BERGER: Before you begin, I'm sorry, I  
6 don't have a copy of all the exhibits. Can I just have a copy  
7 of everything?

8 (Pause.)

9 HEARING OFFICER BERGER: Thank you. So why don't we mark  
10 each of these and then go through them. You have another index  
11 of names. Let's mark that as Employer's 26.

12 MR. LEVINE: You may want to combine, the way we did last  
13 time. They actually have a supplement, a supplement index and  
14 a supplement letter.

15 HEARING OFFICER BERGER: Okay. So we'll mark the index as  
16 26 and then the letters, I have -- oh, well, they're all in the  
17 index, right. So we have an additional nine letters, is that  
18 right?

19 MS. STEPHEN: There is one more.

20 HEARING OFFICER BERGER: Okay.

21 (Pause.)

22 HEARING OFFICER BERGER: Are these related?

23 MS. STEPHEN: Yes.

24 HEARING OFFICER BERGER: Can we mark 26(a) and 26(b) as  
25 the two indices and then 27, all 10 of the actual letters?

1 MS. STEPHEN: Okay.

2 HEARING OFFICER BERGER: So (a) is the index with nine  
3 letters.

4 MS. STEPHEN: Nine letters, okay.

5 HEARING OFFICER BERGER: And 26(b) is the index with one  
6 letter.

7 (Employer's E-26(a) and E-26(b) identified.)

8 HEARING OFFICER BERGER: And then 27 will be all of the  
9 letters.

10 (Employer's E-27 identified.)

11 HEARING OFFICER BERGER: Great. So go ahead and explain.

12 MS. STEPHEN: So there was discussion with regard to the  
13 Union's Exhibit 5?

14 MR. LEVINE: 6.

15 MS. STEPHEN: 6, okay, and questions raised by the  
16 information and index provided. So I can go through, well,  
17 basically, with the index numbers, so we had APPTLTR006 was not  
18 a full-time renewable and reviewed faculty member. That was  
19 included in error. Actually, this was a postdoc. So we  
20 checked and it was just included in error.

21 The next issue that was raised was APPTLTR007. And the  
22 issue raised was that this faculty member was listed as a POPP  
23 on Employer's Exhibit D, but the appointment letter indicated  
24 that she was a senior lecturer. And so what we have provided  
25 is actually an appointment letter that we missed which provided

1 that she was promoted. So we included that.

2 HEARING OFFICER BERGER: What's the relation of that  
3 appointment letter to the one in Union Exhibit 6? It's a  
4 subsequent letter?

5 MS. STEPHEN: Yes, that's a subsequent letter.

6 MR. LEVINE: Can I raise issues or questions, at this  
7 point?

8 HEARING OFFICER BERGER: Yes.

9 MR. LEVINE: The questions that were raised concerning  
10 what was marked with the digits ending 007 involves the same  
11 individual as what's now been marked with the digits ending, as  
12 is shown here, 047 and 048.

13 If you look at the new documents, 047 and 048, they both  
14 seem to indicate, unless I'm missing something, that this  
15 individual is a senior lecturer. The original problem was that  
16 the documents in 007 also identify this individual, well, as a  
17 lecturer, but she's on the list provided by the Employer with  
18 their statement of position as a POPP.

19 MS. STEPHEN: I'm sorry. In 048, where do you see her  
20 addressed as a lecturer?

21 MR. LEVINE: I'm sorry, it's 007.

22 MS. STEPHEN: No, I asked in 048, you said both documents.

23 MR. LEVINE: No, she's addressed as a senior lecturer.

24 MS. STEPHEN: In 048? I'm looking for where you say she  
25 is --

1 MR. LEVINE: Okay. So if I look at 048, it says -- 048,  
2 she is not addressed in any position, any title at all.

3 MS. STEPHEN: Right.

4 MR. LEVINE: Yes. So why does that clarify why all of the  
5 documents in the record identify her as a lecturer or senior  
6 lecturer, when she's identified in Appendix B and D to the  
7 position statement as a POPP?

8 MS. STEPHEN: Because basically her personnel records  
9 showed that in July 1st of 2010, she received this letter  
10 referencing the promotion to the POPP position when she had  
11 been a senior lecturer for which there is no promotion  
12 available.

13 MR. LEVINE: These documents obviously speak for  
14 themselves. She received a document on March 8th  
15 congratulating her on her reappointment as a senior lecturer.  
16 And then a few months later, there is a letter that states that  
17 it involves salary and details on your appointment status, but  
18 it doesn't reference POPP anywhere.

19 HEARING OFFICER BERGER: Also, I hadn't understood to this  
20 point that promotion between the ranks of lecturer and POPP is  
21 a possibility?

22 MS. STEPHEN: No, I'm trying to clarify that she received  
23 a reappointment in the earlier letter, reappointment to the  
24 senior lecturer position. And it does not reference the POPP  
25 position to which she had been basically moved into. But I was

1 just trying to address that she received a reappointment  
2 letter. The earlier one was in the same level.

3 HEARING OFFICER BERGER: Okay. So, if anything, what has  
4 happened here is that there is inconsistent information from  
5 the college on the title that this individual holds, whether  
6 she is a lecture, a senior lecturer, or in the POPP ranks. So,  
7 to me, figuring this out does not further the analysis of  
8 whether all of these titles share a community of interest and I  
9 don't think it's worth our time trying to do that now.

10 In the event that the region determines that some of these  
11 people belong in the unit while others of them out, if there is  
12 an issue with this person's classification, it may be that he  
13 or she is voting subject to challenge until we figure out the  
14 appropriate classification. But I don't think it's worth our  
15 time to continue this just now.

16 MR. LEVINE: Okay. I just wanted to be sure I understood  
17 what was being, you know, what the Employer was representing  
18 these letters showed. And I agree.

19 HEARING OFFICER BERGER: Right, okay. So what's next?

20 MS. STEPHEN: Let's see. So then the faculty member  
21 labeled with the Index Number 009, so --

22 HEARING OFFICER BERGER: 049?

23 MS. STEPHEN: No, sorry, 009 on the original index.

24 HEARING OFFICER BERGER: Okay, right.

25 MS. STEPHEN: Sorry. Basically, we haven't addressed that

1 with an additional document. We looked at the file. This is  
2 an issue where she was incorrectly listed as a senior associate  
3 on the Exhibit D. She received her PhD and received an  
4 appointment letter as a lecturer because associates are those  
5 who are hired who don't have a PhD. She then received her PhD.  
6 And it looks like it wasn't updated.

7 HEARING OFFICER BERGER: So this is a mistake in  
8 Attachment B.

9 MS. STEPHEN: In D, yes.

10 HEARING OFFICER BERGER: B and D?

11 MS. STEPHEN: Exactly.

12 HEARING OFFICER BERGER: Okay. So, again, it's a  
13 misclassification that while unfortunately I don't think needs  
14 to be explored further for the purposes of the analysis of  
15 community of interest. So let's move on.

16 MS. STEPHEN: The next one is the Index Number that ends  
17 with 011. And so the issue was that this person did not appear  
18 on Exhibit D. We checked. The name was incorrect on  
19 Exhibit D. It was only a partial name. Her full name is  
20 listed on the index and we included her, her proper name and  
21 her appointment letters. Sorry, she was listed correctly on  
22 Exhibit D, incorrectly on this original index. So we provided  
23 the document.

24 HEARING OFFICER BERGER: Okay.

25 MS. STEPHEN: The next issue was faculty with the index

1 number ending 041. She was listed on Exhibit D as a lecturer,  
2 but her initial appointment letter said associate. And she  
3 received her PhD in May 2012, and so the rank was changed to  
4 reflect that.

5 HEARING OFFICER BERGER: Do you know when the rank was  
6 changed?

7 MS. STEPHEN: It was effective July 1, 2012.

8 HEARING OFFICER BERGER: Okay.

9 MS. STEPHEN: In addition, sorry, in addition, we realized  
10 that we had not provided appointment letters for Patricia  
11 Denison, Joan Snitzer, and John Miller. And so we -- or that  
12 we did not provide two. We provided one for Joan Snitzer, Jean  
13 Vadakkan, sorry, and so we provided additional ones in these  
14 set of documents so that they would be consistent with  
15 everybody, which were the last two appointment letters.

16 HEARING OFFICER BERGER: So these are supplements, not --

17 MS. STEPHEN: Supplements to those.

18 HEARING OFFICER BERGER: -- corrections or --

19 MS. STEPHEN: No. Yeah.

20 HEARING OFFICER BERGER: And don't require explanation.

21 MS. STEPHEN: It wasn't raised. But when we were  
22 reviewing the files, we realized that those were not --

23 HEARING OFFICER BERGER: There were additional letters  
24 that hadn't been presented. Okay.

25 MS. STEPHEN: And then the Union raised that we had



1 provided 43, not 45. We looked through our files. The missing  
2 ones were John Miller and Patricia Denison, so we have included  
3 their two letters each in this submission.

4 HEARING OFFICER BERGER: Okay. So with that explanation,  
5 is there any objection to receipt of Union's -- I'm sorry,  
6 Employer's Exhibit 27?

7 MR. LEVINE: I'm sorry, just hang on one moment.

8 HEARING OFFICER BERGER: No problem.

9 MR. LEVINE: No, the Union has no objection.

10 HEARING OFFICER BERGER: So 27 is received.

11 (Employer's E-27 received.)

12 HEARING OFFICER BERGER: And 26(a) and (b), the situation  
13 is the same as it is with Employer 25 and Union 6. I will  
14 reserve ruling on the admission of those until a later date.

15 Okay, would you call your rebuttal witness now, please?

16 MR. DiGIOVANNI: Sure. The college calls Karen Fairbanks.

17 HEARING OFFICER BERGER: Raise your right hand, please.

18 (Whereupon,

19 KAREN FAIRBANKS,

20 was called as a witness by and on behalf of the Employer and,  
21 after having been duly sworn, was examined and testified as  
22 follows:)

23 HEARING OFFICER BERGER: Give us your name one more time  
24 and spell it, please.

25 THE WITNESS: Karen Fairbanks, K-A-R-E-N,

1 F-A-I-R-B-A-N-K-S.

2 DIRECT EXAMINATION

3 BY MR. DiGIOVANNI:

4 Q Good afternoon, Professor Fairbanks. How are you?

5 A Well, thanks. How are you?

6 Q Well, ask me in a half an hour.

7 A I'll be quick.

8 Q By whom are you employed?

9 A Barnard College.

10 Q What is your title at Barnard?

11 A Professor of professional practice and chair of the  
12 architecture department.

13 Q I don't know if you have it in front of you, do you have  
14 Union 27 and 28? If not, I can --

15 A This stuff right here, yes, U-27?

16 Q Yep.

17 A Okay, got it.

18 HEARING OFFICER BERGER: And 28 should be there, too.

19 THE WITNESS: Yeah.

20 BY MR. DiGIOVANNI:

21 Q There was some conversation earlier about Sevin Yildiz.

22 Are you familiar -- do you know Ms. Yildiz, if I'm pronouncing  
23 that correctly? If not, feel free to correct me.

24 A I don't know that I'd do that much better. Sevin Yildiz,  
25 yes, I do.

1 Q How do you know her?

2 A She teaches in the urban studies department at Barnard.

3 Q To your knowledge, has she ever been an adjunct at  
4 Barnard?

5 A Yes.

6 Q Again, to your knowledge, has she ever applied for another  
7 job at Barnard?

8 A Yes. She applied for a position in my department, in  
9 architecture.

10 Q Do you recall what position she applied for?

11 A A two-year term professor position.

12 Q Are you familiar with the application process?

13 A Yes.

14 Q Can you briefly describe what the application process that  
15 Ms. Yildiz went through when applying for that job?

16 A Sure. She submitted a CV, a portfolio of work, a syllabi  
17 from previous courses. That's probably the extent of it. And  
18 research, and her research.

19 Q Was there a national search --

20 A Yeah.

21 Q -- for this position?

22 A Yeah.

23 Q Did she enter into that search?

24 A Yes.

25 Q Were there other candidates besides her?

1 A Yes.

2 Q After the national search was conducted, was she  
3 ultimately accepted?

4 A No.

5 Q Was she ultimately hired, I'm sorry, for that position?

6 A She was not hired.

7 Q If you're aware, did she ever apply for any other  
8 positions at the college?

9 A Yes, the term position in urban studies. That wasn't part  
10 of the search, but that's the position she holds now.

11 Q To your knowledge, was there a national search similarly  
12 conducted?

13 A I assume so, but I wasn't on the committee.

14 Q But as your role as department chair, is it your  
15 experience that a national search is performed when Barnard  
16 hires a term professor?

17 A I believe so, yeah.

18 Q Are you aware if she got the job?

19 A Yeah, she's teaching. She's a five-year term professor.

20 MR. DIGIOVANNI: That's all for the Employer.

21 MR. LEVINE: I have nothing.

22 HEARING OFFICER BERGER: Okay, thank you.

23 THE WITNESS: You're welcome.

24 (Witness excused.)

25 HEARING OFFICER BERGER: So let's go off the record.

1 (Recess from 4:38 p.m. to 5:13 p.m.)

2 HEARING OFFICER BERGER: On the record.

3 Just to make sure the record is clear, is there any  
4 additional evidence to be presented by either party?

5 MS. MUNOZ: I don't think at this time, no.

6 MR. LEVINE: No.

7 HEARING OFFICER BERGER: Okay. To tie up some loose ends,  
8 at the outset of the hearing, the Employer filed a petition to  
9 revoke the Union's subpoena. Over the course of the hearing,  
10 many of the documents and much of the information requested in  
11 that subpoena was presented; however, not all of it that was  
12 requested. But the Petitioner has stated that it is not  
13 seeking to prolong this hearing and keep this record open while  
14 it awaits full compliance with the subpoena. Is that correct,  
15 Mr. Levine?

16 MR. LEVINE: That is, without waiving any claim that the  
17 remaining evidence is relevant.

18 HEARING OFFICER BERGER: So in that case the petition to  
19 revoke is moot and I do not need to formally rule on it.

20 The issues that we are left with are whether there is a  
21 community of interest between the following titles so that they  
22 may be included in an appropriate bargaining unit. And those  
23 titles are adjunct assistant professor, adjunct associate  
24 professor, adjunct associate, adjunct lecturer, adjunct  
25 professor, adjunct senior associate, adjunct visiting assistant

1 professor, and adjunct visiting professor, guest artist,  
2 associate professor of professional practice, associate  
3 assistant professor of professional practice, lecturer,  
4 professor of professional practice, senior associate, senior  
5 lecturer, senior activist fellow, senior scholar, distinguished  
6 fellow, Anna Quindlen writer-in-residence, term assistant  
7 professor, term associate professor, term assistant professor  
8 of professional practice, term lecturer, term professor, and  
9 distinguished artist-in-residence.

10 Did I miss any titles?

11 MS. MUNOZ: I don't think so.

12 HEARING OFFICER BERGER: Okay. The parties have agreed,  
13 at this point, that the following classifications will be  
14 excluded. Can we go off the record for a second?

15 (Discussion off the record from 5:16 p.m. to 5:17 p.m.)

16 HEARING OFFICER BERGER: Back on the record.

17 I neglected to mention the laboratory associates, which  
18 the parties have agreed are included in the bargaining unit.

19 Excluded are graders, teaching assistants, research  
20 professors, research scientists, and research scholars, to the  
21 extent that those people are not in paid positions; the  
22 visiting professor, visiting associate professor, visiting  
23 assistant professor, and tinker visiting professor, to the  
24 extent that those people retain tenure at another academic  
25 institution, not Barnard College.

1 MR. LEVINE: Excuse me.

2 HEARING OFFICER BERGER: Yes?

3 MR. LEVINE: The word truly visiting?

4 HEARING OFFICER BERGER: Truly visiting, in other words,  
5 they are truly visiting professors. And I believe those are  
6 the only specific classifications that there has been agreement  
7 are excluded. Is that correct?

8 MS. MUNOZ: Yes.

9 HEARING OFFICER BERGER: Okay. So does --

10 MS. STEPHEN: Oh, wait.

11 HEARING OFFICER BERGER: Sorry?

12 MS. STEPHEN: The postdocs?

13 HEARING OFFICER BERGER: Oh, sorry. And also excluded are  
14 the postdoc fellow and the post doctoral research associate,  
15 and to the extent that those individuals are not performing  
16 teaching duties, but only performing research.

17 So now I'd like the Petitioner to state on the record  
18 whether it wishes to proceed to an election in any alternate  
19 unit found appropriate by the regional director?

20 MR. LEVINE: The Petitioner is willing to proceed to  
21 election on any alternate unit that the region finds to be  
22 appropriate.

23 HEARING OFFICER BERGER: Okay. And just to be clear,  
24 also, on what the agreement is with regard to eligible and  
25 ineligible individuals, for the four visiting professor titles,

1 which is visiting professor, visiting associate professor,  
2 visiting assistant professor, and tinker visiting professor,  
3 since there hasn't been information on whether those  
4 individuals are truly visiting professors, the parties have  
5 agreed that they will be voting subject to challenge. Correct?

6 MR. LEVINE: Correct.

7 MS. MUNOZ: Yes.

8 HEARING OFFICER BERGER: Okay. So we will adjourn for the  
9 day and reconvene on Monday, July 13th. At that time, the  
10 record will be reopened for the presentation of closing  
11 arguments, in either written or oral form. Also, at that time,  
12 I will ask for the parties' positions on the details of the  
13 election in the event that one is directed by the regional  
14 director. So that would include the manner in which the  
15 election is conducted and when the election is conducted.

16 Also, I don't know if you are able to speak to this now,  
17 but if an election is directed, does the Petitioner, who is  
18 entitled to receive a voter list, wish to waive the 10-day or  
19 any portion of the 10-day notice requirement?

20 MR. LEVINE: So the 10-day, can you elaborate?

21 HEARING OFFICER BERGER: Sure. Let's go off the record.

22 (Discussion off the record from 5:20 p.m. to 5:21 p.m.)

23 HEARING OFFICER BERGER: Back on the record.

24 With regard to any timing and -- timing issues regarding  
25 when voter lists are received and how soon after that an



1 election is scheduled, the parties will present their positions  
2 on July 13th.

3 Does either party anticipate the need for the notice of  
4 election and ballots to be translated?

5 MS. MUNOZ: No.

6 MR. LEVINE: No, I don't.

7 HEARING OFFICER BERGER: When we reconvene, I will need  
8 information for an Employer representative to whom we should  
9 send notice of election information.

10 So now bear with me as I read some concluding script here.  
11 The regional director will issue a decision as soon as  
12 practical and will immediately transmit the document to the  
13 parties and their designated representatives.

14 If an election is directed, the Employer must provide the  
15 voter list. To be timely filed and served, the voter list must  
16 be received by the regional director and the parties named in  
17 the direction of election within two business days after the  
18 issuance of the direction of election, unless a longer period  
19 based on extraordinary circumstances is specified in the  
20 decision and direction of election.

21 A certificate of service on all parties must be filed with  
22 the regional director when the voter list is filed. The region  
23 will no longer serve the voter list.

24 The Employer must submit the voter list in an electronic  
25 format approved by the General Counsel unless the Employer

1 certifies it does not have the capacity to produce the list in  
2 the required format.

3 The list must be filed in common, everyday electronic file  
4 formats that can be searched. Accordingly, unless otherwise  
5 agreed to by the parties, the list must be provided in a table,  
6 in a Microsoft word file, or a file that is compatible with  
7 Microsoft Word. The first column in the list must begin with  
8 each employee's last name and the list must be alphabetized by  
9 last name.

10 Because the list will be used during the election, the  
11 font size of the list must be the equivalent of Times New  
12 Roman 10 or larger. That font does not need to be used, but  
13 the font must be that size or larger.

14 The list must include full names, work locations, shift,  
15 job classifications, and contact information, including home  
16 addresses, available personal email addresses, and available  
17 home and personal cell phone numbers of all eligible voters.

18 The Employer must also include in a separate section of  
19 that list the same information for those individuals the  
20 parties have agreed will be permitted to vote subject to  
21 challenge.

22 All right. So then on the 13th, you will be welcome to  
23 present your closing arguments and will -- you'll have an  
24 opportunity then to give your positions on eligibility formula,  
25 and method and manner and time of election. Okay?

1 MS. MUNOZ: All right. Thank you.

2 HEARING OFFICER BERGER: All right, off the record. Thank  
3 you.

4 (Whereupon, at 5:25 p.m., the above-entitled matter adjourned,  
5 to reconvene on Monday, July 13, 2015.)

## C E R T I F I C A T E

This is to certify that the attached proceedings done before  
the NATIONAL LABOR RELATIONS BOARD REGION TWO

In the Matter of:

BARNARD COLLEGE,

Employer,

And

BARNARD CONTINGENT FACULTY, UAW, LOCAL 2110,

Petitioner.

Case No.: 02-RC-154022

Date: July 1, 2015

Place: New York, New York

Were held as therein appears, and that this is the original  
transcript thereof for the files of the Board

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Official Reporter

BURKE COURT REPORTING, LLC  
1044 Route 23 North, Suite 206  
Wayne, New Jersey 07470  
(973) 692-0660

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