

nerBEFORE THE
NATIONAL LABOR RELATIONS BOARD

In the Matter of:
BARNARD COLLEGE,
Employer,
And
BARNARD CONTINGENT FACULTY,
UAW, LOCAL 2110,
Petitioner.

Case No. 02-RC-154022

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, June 24, 2015, at 9:30 a.m.

A P P E A R A N C E S

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	<u>I N D E X</u>					
	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
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5	Patricia Denison	--	5	36	55	--
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1		<u>E X H I B I T S</u>	
2	<u>EXHIBITS</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>
3	Employer's		
4	E-8	30	30
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7	E-11	129	131
8			

1 department, at the beginning of each semester, there is a
2 process by which students are auditioned and placed in
3 performance classes?

4 A Yes. I've run those auditions when I chaired the theater
5 department.

6 Q Isn't it true that the adjunct faculty of that department
7 participate in that process?

8 A If they are teaching a class, yes, they are there to
9 audition the students for that class.

10 Q And that's prior to the beginning of their courses for
11 each semester?

12 A It is on the first and the second day of classes, so it is
13 during the term. The term has begun. It is not outside of the
14 term.

15 Q Is there any additional compensation provided for that
16 service, their participation in that process? I'm just asking
17 for a yes/no answer, if you know.

18 A It would be there is no compensation. It is part of their
19 planning, to use your phrasing from the last time, they are
20 readying for the class. It is part of their class preparation.
21 They are deciding which students would be appropriate, if they
22 fit in a Shakespeare class, in a lower level class. They are
23 deciding which students are appropriate. So they cannot run
24 the class unless they meet the students. They don't want to
25 run the class unless they meet the students.

1 Q But this process is run prior to students being assigned
2 to any individual courses.

3 A If you look in the Columbia -- if you look in the
4 bulletin, the director of classes, there is a note that says
5 you cannot preregister for this class. No one will be accepted
6 into this class until you have come to auditions. You will not
7 be accepted in the class. So they cannot teach the class until
8 they have met the students in the class.

9 Q So the answer is, yes, students have not been assigned to
10 courses prior to the auditions?

11 A I'm trying to make it clear to you they cannot, they
12 cannot register for the class until they are in the audition.
13 It says very clearly you may not register for the class until
14 you have auditioned. It is by audition only.

15 Q And are all students who are auditions placed in a class
16 or are some deemed not appropriate for enrollment in the
17 courses they've sought?

18 A It depends entirely -- the numbers vary from semester to
19 semester. The ambition is to place every student. If they
20 have a very large number of students, then they may not find
21 time. Or they may find a time that they could get into a
22 class, but they're already in another class.

23 Q Might it be that some students are applying for more
24 advanced courses anyway and are deemed not sufficiently skilled
25 to be in those courses?

1 A The judgment is made during the audition. It's not quite
2 as simple as you're describing it because they make it very
3 clear they're not necessarily looking, unless it is something
4 say that is described as advanced acting. Then they would say
5 you need to have taken other courses and you need to have shown
6 that you have come into Barnard or Columbia and you have had
7 experience elsewhere that would warrant you being placed there.

8 What they are looking for in those classes are a mix of
9 students in the class, the composition of the class. It's not
10 at all unlike seminars in other departments where the note will
11 be you are not accepted into this class until you have come to
12 the class. And, for example, a class I teach, public speaking,
13 same point, there may be 40 students who say they are
14 interested in the class. Not until the first day when you come
15 in and you meet the students, you get information from them,
16 you're then at that point you select the 14 students. And it's
17 not --

18 Q But you are not auditioning for non-performance classes,
19 isn't that correct?

20 A To go back to theater, it is an audition. That's what
21 theater acting classes are. You're talking solely about the
22 acting classes.

23 Q I was just addressing your analogy. Performance, I mean
24 the fact that there is an audition makes it different than for
25 a non-performance set of classes, correct?

1 A It is a theater acting class and that's what the note says
2 in registration.

3 Q So the process, all faculty who are available to attend
4 those auditions from the theater department participate are all
5 -- I'm sorry, all faculty who teach performance classes, is
6 that correct?

7 A All faculty who are teaching acting classes that require
8 auditions.

9 Q And who are those people by rank, are there any tenured
10 faculty members who are teaching performance classes in
11 theater?

12 A They are adjunct faculty who teach the acting classes.

13 Q And it's a collaborative process, the evaluating, the --

14 A Yes.

15 Q The auditions and deciding which courses might be
16 appropriate?

17 A Yes. And the department chair participates in that, as
18 well.

19 Q Okay, thank you. I want to get back briefly to the issue
20 of course load. Was it your testimony that the course load for
21 a term faculty is five courses a year?

22 A Yes.

23 Q And for a POPPs, it's four courses a year?

24 A Yes.

25 Q And for other reviewed and renewable, it's six courses a

1 year?

2 A Yes, for the lecturers and associates.

3 Q Right, that's other, other than POPPs. And are there
4 documents that set this forth that you're aware?

5 A I would need to look in those personnel procedures, but I
6 think that is about reappointment and promotion. I assume it
7 is written down somewhere. I am not sure which document I
8 would reference.

9 Q Do you know --

10 A I mean where I suspect it is written down, if you remember
11 the point at which the tenured and tenurable went from a
12 3-and-2 teaching load to a 2-and-2, at that point, I think you
13 would find it in the record that the, the course loads for the
14 others would be specified there in contrast to the tenured and
15 the tenurable.

16 Q In the record of what?

17 A I suspect you could find it in faculty meetings and the
18 provost would have records of that. That's a record I don't
19 have. I assume that the provost would have that. So I would
20 put that question to the provost as to where you would find
21 them.

22 Q And if I asked you how those course load expectations are
23 communicated to those groups of faculty members, do you know
24 the answer? No need to speculate or assume. If you know, let
25 us know, and if you don't, that's fine.

1 A Well, if you remember when I referenced the faculty
2 personnel forms that go to the chairs and to the provost, in
3 those, you specify the number of courses you are teaching, and
4 so it is clear every year that you are filling in the number of
5 courses that you have agreed to seek as, say, as a seat (ph.)
6 or lecturer.

7 Q And that may reflect what was taught and the fact that if
8 it always reflects those numbers, it was somehow communicated
9 to them.

10 A Yes.

11 Q But do you know how it is communicated to them so they
12 know how many teaches they're required to teach.

13 A Yeah. I would -- I would go to the provost on that.

14 Q What's the maximum teaching load for adjuncts?

15 A It's semester by semester and it's two courses one
16 semester, two courses the second semester.

17 Q And again if you know, are you aware of what document, if
18 any, that's set forth in?

19 A I would ask the provost that question.

20 Q There was some discussion over the last two days that
21 national searches were the reviewed and renewable faculty.

22 A Yes.

23 Q Is one reason -- I'm not sure if you addressed this, but
24 is one reason that national searches are conducted to make sure
25 that the college is in compliance with EEO standards?

1 A I would certainly assume -- I don't know what EEO is.

2 Q Equal employment opportunity.

3 A That's what I assumed. I would assume, yes, that they
4 would be in compliance with national standards. And the second
5 reason would be they're looking for the best qualified
6 candidates in national search, so they want, your reference,
7 Barnard being, your adjective, was an elite institution, we are
8 looking for the best.

9 Q And new positions need to be approved. You testified to
10 that.

11 A Yes, they do, through the faculty budget and planning
12 committee.

13 Q Did you say that postings need to be approved?

14 A Yes. Once the search is approved, then the chair of the
15 department will put -- there is a search form that is online,
16 on the provost's webpage, and that search form would need to be
17 filled out by the department chair. That form would then go to
18 the dean for diversity and development. She will look to see
19 that it has met all of the appropriate categories, such as
20 where you're advertising, how have you described the job, what
21 are the needs, who are going to be the members on the search
22 committee.

23 And then when she approves that, it then goes to the
24 provost's office. And then in the provost's office, they will
25 work in conjunction with human resources to post the position.

1 That is how we are operating now.

2 Q The forms you references that you said were on the
3 provost's webpage, I'm assuming those forms are not forms
4 available to the public on the webpage. They are forms within
5 the internal portion of the webpage, do you know?

6 A That's a good question. I don't know where that document
7 is located. The webpage is a public page. There is also a
8 provost file, but that's an internal document.

9 Q It sounds like there are a lot of documents generated in
10 connection with this process. Is that true?

11 A I mean the documents that I know of is the document that
12 are sent from the chair requesting a line in the department,
13 specifying the needs of the department. That goes to the
14 faculty budget and planning committee.

15 Q And then there's the form that's fill out online with the
16 proposed posting, which then has to be sent on and reviewed,
17 correct?

18 A To the dean of faculty and development.

19 Q And then presumably there's the final posting and some
20 indication that it's been approved.

21 A Yes.

22 Q And I would assume if one of the reasons for doing this,
23 and grant you it's only one is to make sure you're in
24 compliance with EEO standards, that these are documents that
25 are maintained to show that that, in fact, is the case.

1 A As I said, there has been -- I can only speak for myself,
2 for what has been happening in the past year. That's what I
3 know is the process during the past year.

4 Q So there at least should be those documents for the past
5 year. You couldn't speak to what there was prior to the past
6 year.

7 A Yes, that's -- yes, yes, absolutely.

8 Q Okay. Who is the head of the HR department? Who runs
9 human resources?

10 A Catherine Geddis.

11 Q What's her title, do you know?

12 A No. I assume it's something like director of human
13 resources, but I don't have her title in front of me.

14 Q And what's the mechanism, if there is one, by which the
15 provost's office interacts with human resources?

16 MR. DIGIOVANNI: I'm going to object. What's the
17 relevancy of this question here?

18 MR. LEVINE: We're trying to establish a chain. There was
19 discussion about it going through human resources when there
20 are postings, when there are new positions advertised. We've
21 asked for documents that we think are highly relevant. And
22 we're trying to establish who might know about those documents
23 and where they might be stored.

24 MR. DIGIOVANNI: I think that this is -- they're trying to
25 fish for documents here, which I think we tried to address the

1 last two days. I don't think that the witness is here to
2 testify about whether or not certain documents are relevant.
3 That's a question for the subpoena, which we have addressed,
4 too, in our petition. And so I think for the extent that this
5 is relevant to the hearing here, we don't think that it is and
6 we're going to object again to relevancy. He clearly stated
7 this is more for finding of documents, which we've already
8 addressed with him the past two days.

9 MR. LEVINE: We certainly are not asking this witness to
10 address whether those documents are relevant or not, which is
11 not her role clearly.

12 MR. DiGIOVANNI: But you're asking her --

13 MR. LEVINE: I'm asking to find out what documents exist,
14 where they might exist, because there have been questions
15 concerning whether these documents can be produced, whether
16 they exist or not.

17 MR. DiGIOVANNI: And we have addressed that. I don't
18 think the assistant provost needs to address that in her
19 testimony.

20 HEARING OFFICER BERGER: All right, I've heard you. I'm
21 going to sustain the objection to the extent that we have tried
22 to resolve these subpoena questions off the record. While they
23 are certainly important questions, I feel they are more
24 appropriate for a subpoena record than for this record on the
25 community of interest analysis. So if we can't resolve the

1 subpoena issues, then we have to create a subpoena record. At
2 that time, I think these questions will be more than
3 appropriate. But for purposes of the record we are trying to
4 create now on the community of interest, I agree these
5 questions about documents aren't relevant.

6 BY MR. LEVINE:

7 Q Would a posting set forth expected duties and
8 responsibilities?

9 A I would have to look at a posting. It would certainly
10 talk about the fields, the requirements, the degree
11 requirements, and I would need to see a form to answer that.

12 Q So you don't know whether it would set forth what someone
13 was actually being hired to do?

14 A If I had glanced at that form recently, I could answer the
15 question.

16 Q There's been considerable discussion about committees and
17 committee service.

18 A Yes.

19 Q Are you aware of any documentary evidence showing how many
20 full-time, non-tenure track faculty actually vote for committee
21 representatives, for the elected committees?

22 A We run faculty elections. So if we went into the faculty
23 elections, we could count the number of people who have voted.
24 That's -- you vote according -- on the faculty elections, some
25 are open to all faculty, some are open to divisions. That's

1 going to -- I think it would be hard to generalize across
2 those. You could get the records as to who voted in which
3 divisions, for which elections, and that's going to vary from
4 year to year, according to what openings there are on the
5 committees.

6 Q Is it fair to say that most appointative committees are
7 mixed faculty and administration committees in terms of who
8 serves?

9 A I have to look at Exhibit 4(b). I would say, just
10 glancing at these, the majority of these committees, the
11 majority of members of these committees are faculty members.
12 On some committees, there are students and other members of the
13 administration. Some are solely faculty. So I'm not sure I
14 would say necessarily most of them. You'd have to go on a one
15 by one basis and you could start running through them. So,
16 yes, I mean it's pretty clear on each one of those. You have
17 that document.

18 Q Okay, fair enough. Are you aware of the fact that there
19 are adjuncts serving on the Phi Beta Kappa committee?

20 HEARING OFFICER BERGER: Is that a standing appointative
21 committee or an elected?

22 MR. LEVINE: Yes, since it's listed in 4(b).

23 HEARING OFFICER BERGER: Okay.

24 MR. LEVINE: There was testimony about it. I do not
25 believe all the members are listed here, just the officers.

1 THE WITNESS: If I remember, yeah.

2 HEARING OFFICER BERGER: All right. I think the question
3 -- are you asking whether there are any officers of --

4 MR. LEVINE: No, not any officers, but are there any
5 members of the committee, if you're aware of the fact that
6 there are, in fact, adjuncts who serve on that committee.

7 THE WITNESS: I am not aware, but that is a committee that
8 is elected by members of Phi Beta Kappa. I also know that that
9 committee nature has changed during the past year. A
10 longstanding member died and there has been organization within
11 the dean of studies as to who is actually organizing, how that
12 committee is organized.

13 BY MR. LEVINE:

14 Q Okay. But --

15 A Someone else has retired. That's why I would -- I don't
16 know that -- there was change during this past year. The four
17 faculty members are elected to serve as officers. Officers are
18 selected by faculty members who are members of the society. So
19 that's as much as I know.

20 Q You previously testified -- I know this is one --

21 A I know.

22 Q -- committee.

23 A Yeah.

24 Q And you previously testified that adjuncts could not serve
25 on any of these committees. So I'm asking you do you know

1 sitting here, today, that if an adjunct was a member of Phi
2 Beta Kappa and wanted to serve on that committee, whether they
3 would be precluded from doing so.

4 A I don't know the answer to that.

5 HEARING OFFICER BERGER: This phrase is something I'd like
6 to clear up.

7 THE WITNESS: Yeah.

8 HEARING OFFICER BERGER: So these Exhibits 4(a) and
9 4(b) --

10 THE WITNESS: Right.

11 HEARING OFFICER BERGER: -- which list the various
12 classifications that serve on these committees, are those lists
13 of just the officers of the committee and then there may be
14 members in addition to those people who aren't listed in these
15 exhibits --

16 THE WITNESS: No, that's as far as --

17 HEARING OFFICER BERGER: -- or is, are those lists the
18 extent of the individuals participating in the committee?

19 THE WITNESS: Yeah. It's a good question, because they
20 don't use the word -- this one uses -- Phi Beta Kappa uses
21 officers. Most, most of them are simply stating the members.
22 So when I look through this, I see no adjunct listed as a
23 member on any of these committees. So that's why I am puzzled
24 by the question.

25 HEARING OFFICER BERGER: So to your knowledge for the

1 committees listed in those two exhibits, Employer 4(a) and
2 4(b), for the titles that are listed under each committee --

3 THE WITNESS: Yes.

4 HEARING OFFICER BERGER: -- those positions are -- they
5 comprise the entire committee, is that an accurate statement?
6 Is that what your understanding is?

7 THE WITNESS: The understanding is that the members who
8 are listed are the committee, itself. I have not seen adjunct
9 listed as a member.

10 HEARING OFFICER BERGER: So just to be clear, I'm talking
11 not just about Phi Beta Kappa her, but all of the committees --

12 THE WITNESS: All of them.

13 HEARING OFFICER BERGER: -- listed in these two exhibits?

14 THE WITNESS: Yeah. Yes, that's right. They're all --
15 when it lists members, those are the members of the committees.

16 HEARING OFFICER BERGER: And that's --

17 THE WITNESS: And that's it.

18 HEARING OFFICER BERGER: And there are no additional
19 members.

20 THE WITNESS: No, that's why I'm not quite sure about the
21 question.

22 BY MR. LEVINE:

23 Q I'm only asking you about, again, that one committee.

24 A Yeah, I know.

25 Q It may be that all the members are listed for the other

1 committees, but the Phi Beta Kappa committee --

2 A The members are --

3 Q -- that may not be the case and that's why I'm asking
4 about that committee.

5 A No, the members are listed here. They are not adjuncts.

6 Q The people listed here I understand are not adjuncts.

7 A That's right.

8 Q And do you know for a fact that there aren't additional
9 members?

10 MR. DiGIOVANNI: I'm going to object. He's asked this now
11 three times. I think she's answered that.

12 THE WITNESS: You know, I just --

13 HEARING OFFICER BERGER: Overruled. It's overruled.

14 THE WITNESS: There are four members listed. Those are
15 the members of the committee. Yes, I think it is as simple as
16 that. And there is not an adjunct listed there as a member of
17 the committee. I've not seen an adjunct listed as a member of
18 the committee.

19 BY MR. LEVINE:

20 Q I wasn't clear. Are term faculty members required to
21 attend faculty meetings?

22 A They are full-time members of the faculty at faculty
23 meetings. It says all full-time members are expected to attend
24 faculty meetings.

25 Q And are they voting members, the term faculty?

1 A The term faculty are not voting members, but they are
2 expected to participate and to be -- they're expected to teach
3 their five classes and to come to the faculty meetings.

4 Q By the way, if you know, why is the course load for term
5 faculty members lower than that for the reviewed and renewable?

6 A Yeah. That's a good question and I'd like to go back to
7 that again, because you had asked that, yesterday. The term
8 faculty are here with the assumption that they will teach five
9 classes and they have a three year contract, a terminal
10 contract, that then can be renewed for an additional two years
11 if the department requests and puts together a need for that.

12 So they are full-time faculty, but they are not full-time
13 faculty of the kind of renewed and renewable because we can be
14 renewed after we have been reviewed. We can be renewed after
15 that -- it's that seven year cycle. They are not in that
16 cycle. So the renewed and reviewable are a long-term faculty.
17 The terms are just as it says, they are terms. So they are
18 expected to be part of the department, but they are not voting
19 members because votes are often talking about the long-term in
20 the college. They are here short-term.

21 Q I believe you testified that they have lower service
22 requirements than the renewed and renewable, is that true?

23 A It is because they --

24 Q Excuse me, I don't mean to interrupt.

25 A Sure.

1 Q I'm not asking you why. I'm just asking if that's the
2 case, that they have less service requirements.

3 A I would say they have less service requirements because
4 they are here because of the kinds of research they are doing.
5 Remember you had asked, and this is related to your question,
6 because I did look into the question. You asked the question
7 about grants, yesterday, and this I think does help to explain
8 what they are doing.

9 They are here because of the work they are doing. They
10 are encouraged to continue to do their academic work. They are
11 eligible for the grants, the faculty conference grants and the
12 mini grants, during their first two years. They are not
13 eligible in their terminal year. So they are encouraged to
14 continue to do their academic research and they are, therefore,
15 bringing that into the classroom. That is the strength of that
16 group.

17 Q So I'm not clear if you've answered the question. I
18 apologize.

19 A Yeah.

20 Q Are there service requirements --

21 A In terms of committee work. I would think that the
22 service requirement is not the same as renewed and renewable.
23 And because we looked at the --

24 Q Are you suggesting that they have greater scholarship
25 requirements than the renewed and renewable?

1 A Yeah, all right, that's a good question, because if you
2 look at the majority of the terms, they are term assistant
3 professors. If you say where have we seen the assistant
4 professor category, it is in the tenurable category. So the
5 assumption is they are going to go be at Barnard and they are
6 going to leave Barnard and apply for tenure at another
7 institution, is that making sense?

8 Q Well, I believe the assistant category is used across the
9 ranks. I mean there are assistant POPPs, aren't there? There
10 are assistant -- adjunct assistant professors. So I'm not sure
11 that -- are you sure that that's the case, what you just
12 testified to?

13 A I think I'm testifying solely in terms of the term
14 assistant professors. I think there is the assumption,
15 although, the individual member could change their mind, that
16 they would continue in academia, and would leave Barnard and
17 apply for positions elsewhere in academia.

18 Q And does that assumption not exist for other reviewed and
19 renewable faculty if they leave Barnard or are not renewed?

20 A I think the commitment on the renewed and reviewable is a
21 long-term commitment and it is -- I keep going back to it is
22 renewable. They are not renewable.

23 Q A moment ago, you referred again to the seven year cycle
24 which we addressed yesterday. And I believe you testified you
25 were basing your testimony on that cycle to your own experience

1 which was more than a decade ago. Are you --

2 A No, no, my last review was in -- we're in '15. It was
3 in '13.

4 Q So as an existing senior lecturer, you're reviewed every
5 seven years?

6 A Yes.

7 Q And that's what you were referring to a moment ago, when
8 you spoke about the seven year cycle?

9 A Yes.

10 Q You weren't talking about the initial appointment or
11 appointments of people in the renewed and renewable, reviewed
12 and renewable category.

13 A No. We were talking about the reappointment. Remember
14 the document we were looking at in terms of the personnel
15 procedure?

16 Q Let's go back to that document.

17 A Okay.

18 Q This is Employer's Exhibit 1. Your testimony on Monday
19 was that people in the reviewed and renewable category were
20 reviewed after one year and then after either five or six
21 years. Can you show me where that's reflected in this
22 document? And if it's helpful, the Roman II, the numbers at
23 the bottom, the Roman II category is for the POPPs, and the
24 Roman III category is for the other reviewed and renewables.

25 A All right. As we discussed, yesterday, the personnel

1 procedures have been revised over nearly a two year process by
2 the ATP. So my reference would have been to -- I was talking
3 about my sense of what had been. And I think if you're looking
4 at anything that is in here, this is the criteria. I would go
5 to what is in this document.

6 Q As opposed to if there's any disparity between that and
7 your testimony, you would go to this document?

8 A Oh, I would go to this document. I mean you can go to
9 minutes from faculty meetings to see where this document was
10 discussed. It was in the March faculty meeting of this year.
11 The personnel procedures were brought to full faculty to
12 discuss. And I think there was even reference in, not to say
13 this has been over nearly a two year process, within the
14 committee that I do not serve on so I cannot talk about the
15 process, itself. I can just say this is the document, the
16 personnel procedures that came out of that process.

17 So if you're wanting to -- any questions of that kind, I
18 would think could be answered here. So there may have been a
19 moment in the past earlier where there was a one year
20 appointment. It may be that they have decided this is not --
21 they want to have the procedure moving forward and this is the
22 document to use.

23 Q You testified, yesterday, to what was meant when the term
24 faculty, with a capital F was used. Do you recall that?

25 A Are we referencing the -- where were we referencing that,

1 the faculty guide?

2 Q No, I believe --

3 A Or where were we?

4 Q I'm not sure. I believe we were looking at the faculty
5 meeting document, which was Employer Exhibit 3.

6 A Yes, that was the voting in the first --

7 Q Right. And you said this is -- I'm paraphrasing, but you
8 said this is faculty with a capital F and that means, and what
9 does it mean when faculty with a capital F is used? Your
10 testimony was that refers to which faculty members?

11 A Full-time faculty.

12 Q All full-time faculty, any category.

13 A I think that would take us back to the, to the college
14 statutes. I'm thinking of the votes that are normally held --
15 we were talking about the academic curriculum review vote. And
16 that was very clearly spelled out as to who were the voting
17 members.

18 Q I'm not asking you who were the voting members for that
19 vote. I was trying to go back to specific testimony you gave
20 about what was meant when the term faculty was used with a
21 capital F. Do you recall that testimony? Are you prepared to
22 say now, today, what that term refers to?

23 A My understanding is faculty is full-time faculty.

24 Q So if it says here only members of the faculty have the
25 right to vote, faculty with a capital F, that would be all

1 full-time faculty, including term faculty?

2 A I see where the question is going. And I think you would
3 need to see if there is documentation on the full-time, the
4 term being able to vote. The only documentation I have on that
5 is the academic curriculum review.

6 Q Were you aware -- if faculty with a capital F is a term of
7 art within the college, are you aware of any document that
8 defines that and says what is meant by it?

9 A I am not going to call that a term of art. That would be
10 a question I would put to the provost.

11 Q How would full-time faculty members or other faculty
12 members know whether they were voting members of the faculty?

13 A I think you would probably need to go to the, and I don't
14 know if we have it on the record here. I don't see it. When
15 the faculty elections are sent out to the faculty, it clearly
16 specifies who is eligible to vote on those, the elections.

17 Q That varies by committee, doesn't it?

18 A That doesn't seem to me to be an appropriate description.
19 Let me try to refine it. All faculty can vote and that will be
20 clearly defined as for an all-faculty vote, there would be
21 clearly defined as who are in the category of all faculty.
22 That's where you could find that information.

23 Q So the definition of all-faculty would vary depending on
24 the individual vote?

25 A If you go back to the committees, some are voted by all of

1 the faculty are voting on it. Other committees are restricted
2 to only tenured members of the faculty. Other elections are
3 only off-ladder. Other elections are only within a particular
4 division and it will specify tenured or non-tenured.

5 Q So for those votes --

6 A So that's why there are so many different categories in
7 which you can vote.

8 Q How about at a faculty meeting, how would a faculty member
9 know if they were a voting member of the faculty for faculty
10 meeting purposes?

11 A There would be emails that would have gone out, just as
12 there are emails that go out for the elections.

13 Q I'm sorry, does it vary by faculty meeting or is it for --
14 I thought that you were either a voting member of the faculty
15 or not at faculty meetings, for all faculty meetings. Did I
16 misunderstand that?

17 A There are rare occasions -- faculty meetings, usually
18 there are not voting issues that come up. I mean there are
19 specific times where there are votes in faculty meetings.

20 Q So you're saying when there is a vote taken, that a notice
21 would go to the faculty telling them whether they were eligible
22 to vote in that particular vote?

23 A Yes. Yes. That's yes.

24 Q I'd like you to look at Union Exhibit 1, the faculty guide
25 to Barnard College, 2012-2013. Do you have that?

1 A No.

2 MS. MUNOZ: Can we go off the record for one second, I
3 have the -- or I guess we can stay on the record, that's fine,
4 but I have the complete copy that we're talking about.

5 HEARING OFFICER BERGER: Oh, sure, let's go off the record
6 for a second.

7 (Discussion off the record from 10:32 a.m. to 10:33 a.m.)

8 HEARING OFFICER BERGER: All right, so the Employer has
9 just entered or has marked, assuming there is no objection to
10 it being entered, Carl?

11 MR. LEVINE: I have no objection to these documents being
12 entered.

13 MS. MUNOZ: Entered, Employer Exhibit Number 8, which are
14 two pages or I guess two screen shots, really. When you click
15 on the Barnard provost resources publications page and click on
16 the link to the faculty guide dated July 30, 2012, there are
17 two sets of pages or disclaimers that you go through before you
18 get to the guide, and those two pages have now been entered
19 into the record.

20 (Employer's E-8 identified.)

21 HEARING OFFICER BERGER: Okay. Any objection from the
22 Petitioner?

23 MR. LEVINE: No objection.

24 HEARING OFFICER BERGER: Employer's 8 is received.

25 (Employer's E-8 received.)

1 BY MR. LEVINE:

2 Q Okay. So I'd like you to turn to Page 4 of the faculty
3 guide, itself. And under the faculty definition, 2,
4 subsection B, membership, do you see that?

5 A I do.

6 Q And I'd like you to turn to the portion of that paragraph,
7 certainly feel free to read the whole paragraph, but I'm
8 particularly focusing on the portion on Page 5 where it says to
9 be eligible for voting membership in the faculty, part-time
10 faculty must satisfy one of the following requirements. Are
11 you familiar with these rules?

12 A I would answer that in terms of saying that the faculty
13 manual is currently being revised and it may contain this
14 information.

15 Q Do you know sitting here, today, whether this is accurate
16 information or not? If you don't, that's fine. I understand
17 you think -- you testified that it may be being revised.

18 A No, no, no. This document -- as I testified earlier, this
19 document, the document you have in your hand, the 2012, that
20 document the previous associate provost had begun revising it.
21 The revision was not complete. I am going to need to go back
22 and follow up on the revisions that were made and revise the
23 document in conjunction with the provost. So it is an ongoing
24 revision and that is why that disclaimer is in there that it
25 may contain misinformation.

1 Q But my question for you was simply do you know whether
2 this is still an accurate reflection, that portion on whether
3 certain members of the part-time faculty, the adjunct faculty
4 are voting members of the faculty. The answer is either, yes,
5 it is; no, it isn't; or I don't know.

6 A Can you ask that question again, because I'm reading this?

7 Q Okay. So read it, make sure that you're familiar with it.
8 I'm asking you whether this description of when adjunct faculty
9 members are voting members of the faculty, whether you know
10 whether it's accurate or inaccurate, or if you don't know
11 that's fine, you should just tell us you don't know.

12 A I would defer that question to the provost.

13 Q Does that mean you don't know?

14 A I do not know of any part-time faculty voting since I have
15 been associate provost. And the folks that I have seen, in the
16 previous vote, as a senior lecturer, that came before I did
17 this, I do not believe the part-time faculty voted in that
18 election, either.

19 Q Okay. Thank you.

20 A That's just speaking from my experience.

21 Q You testified concerning the range of salaries given per
22 course for adjunct faculty.

23 A Yes.

24 Q Can you give us similar estimates for the salaries for the
25 reviewed and renewable faculty, by category if you can?

1 A No, I cannot give you that range. The provost would have
2 that range.

3 Q Why would you be familiar, I'm just wondering, for one
4 group of employees, the adjuncts, but not for others?

5 A Only because I had seen as they were pulling information
6 together -- well, all right, let me back up on that. Because
7 the adjunct action forms come to me as an associate provost, so
8 this year I have been seeing those.

9 Q The action forms for other faculty members do not come to
10 you?

11 A That is the point, they do not. So the full-time faculty,
12 I do not deal with the full-time faculty. That is in the --
13 the provost deals with full-time faculty. Those records would
14 be her records, not my records.

15 Q When you were testifying about the adjuncts, you testified
16 extensively about the need to hire adjuncts when other faculty
17 members were absent or went on leave for various purposes. Do
18 you recall that, yes or no?

19 A I recall that that does occur, yes.

20 Q Is it true that many adjuncts teach at Barnard for many
21 years?

22 A I don't know how you define many. But do I know that
23 there are some, yes.

24 Q And you know there are some who teach for 10 years or
25 more.

1 A I know there are some.

2 Q And talking about the department where your primary
3 affiliation is, you know, for example, that Georgette Fleischer
4 has taught for -- well, how long has she, do you know?

5 A I don't know for certain, but I would say I would estimate
6 12 years.

7 Q And how about Kate Levin?

8 A I don't know how long Kate Levin has taught.

9 MR. LEVINE: I have -- actually, let me take a brief
10 caucus. I may be done.

11 HEARING OFFICER BERGER: Okay, off the record.

12 (Recess from 10:30 a.m. to 10:44 a.m.)

13 HEARING OFFICER BERGER: On the record.

14 Petitioner, anything further?

15 MR. LEVINE: Petitioner has nothing more on cross, at this
16 time, no.

17 HEARING OFFICER BERGER: There are a couple of things I
18 wanted to ask about, just to get some more information. You
19 referenced divisions. What are the divisions at Barnard?

20 THE WITNESS: Those are the voting divisions. They often
21 breakdown, say, humanities and the arts, the social sciences,
22 and the sciences; but, if you notice, those would be three
23 divisions. So they try to have departments with similar
24 interests, so there are actually four divisions. That would be
25 listed -- it's on the provost webpage and it is for voting

1 membership on these committees, you know, for the academic
2 curriculum review.

3 HEARING OFFICER BERGER: And then also there was some talk
4 of search committees for the full-time positions.

5 THE WITNESS: Yes.

6 HEARING OFFICER BERGER: And what classifications are
7 eligible to serve on search committees?

8 THE WITNESS: The search committees, I would defer to the
9 provost on that. My understanding, though, is that the search
10 committees, if you are looking, for example, for an assistant
11 professor in a department, then members of the search committee
12 could be assistant professor level and up. If you are looking,
13 for example, for a renewed and renewable appointment, you would
14 have renewed and renewable tenurable and tenured. So it is
15 usually a combination of them. Sometimes, the search
16 committees are within a department, but often they will have a
17 member who is from another department, who is in a related
18 field, if that's helping.

19 HEARING OFFICER BERGER: Do you know if a member of the
20 adjunct faculty has ever served on the search committee?

21 THE WITNESS: To my knowledge, no.

22 HEARING OFFICER BERGER: And how are search committee
23 members selected?

24 THE WITNESS: Yeah, they are selected, but the chair would
25 speak with the provost and a committee would be put together

1 also in consultation with the dean of faculty development and
2 diversity. And those committees need to be agreed upon between
3 the provost, the dean for faculty development and diversity,
4 and the chair of that individual department.

5 HEARING OFFICER BERGER: Okay, thank you.

6 THE WITNESS: You're welcome.

7 HEARING OFFICER BERGER: Does the Employer have any
8 redirect?

9 MS. MUNOZ: I do, thank you.

10 HEARING OFFICER BERGER: Go ahead.

11 REDIRECT EXAMINATION

12 BY MS. MUNOZ:

13 Q You testified that the percentage that a reviewed and
14 renewable -- I'm sorry, the percentage of service, let's focus
15 on service, that a reviewed and renewable performs in
16 comparison to the teaching load depends on the specific faculty
17 member.

18 A The specific faculty member would put their name forward
19 for committees. They would be elected. They may not be
20 elected. They may then fill out the personal preference form
21 to be on standing appointative committees.

22 Q And is that similarly true for the professors of
23 professional practice?

24 A That would be true for professors of professional
25 practice.

1 Q And regardless of the amount, are the reviewed and
2 renewables required to perform service as part of their duties
3 at the college?

4 A Yes, they are absolutely required because in that review
5 process, when they put their dossier together for promotion or
6 for reappointment, they have to specify their service to the
7 college. And it's a critical part. The two key factors are
8 the teaching and service, and the third factor is the
9 scholarship that feeds in. Or if you're talking about
10 professors of professional practice, scholarship would also be
11 their creative work that would be a part of their service.
12 That is what they do for the college, so it's that tripartite.

13 Q Okay. I believe you alluded to it, is that the same --
14 are the professors of professional practice also required to
15 perform service?

16 A They also perform service.

17 Q But are they required to?

18 A Yes.

19 Q Are the term faculty required to perform service?

20 A No, they are not required to perform service.

21 Q And are the adjuncts required to perform service?

22 A No, they are not required to perform service.

23 Q All right, if you would, can you look at Employer Exhibit
24 Number 1, Roman Numeral II-5, yeah, II-4 to II-5?

25 MR. LEVINE: What page is that on?

1 MS. MUNOZ: Roman Numeral II-5.

2 MR. LEVINE: I'm sorry, I thought you were --

3 MS. MUNOZ: I am, II-5. Oh, it's Roman Numeral II, so go
4 in --

5 MR. LEVINE: No, no, but it's --

6 MS. MUNOZ: Same document.

7 MS. STEPHEN: It changes.

8 MS. MUNOZ: Oh, it does change?

9 (Pause.)

10 MR. DIGIOVANNI: It's Employer 1.

11 HEARING OFFICER BERGER: It's the faculty guide, right?

12 MS. MUNOZ: No.

13 MR. DIGIOVANNI: No, procedures and -- it says faculty
14 guide.

15 HEARING OFFICER BERGER: Oh, yeah, here we go.

16 MR. LEVINE: I'm sorry, but we're looking at Employer
17 Exhibit 1?

18 MS. MUNOZ: Yes.

19 BY MS. MUNOZ:

20 Q So Subparagraph 3 talks about criteria for reappointment
21 and promotion --

22 A Sorry, I was just handed the document. What page are we
23 on?

24 Q We're in Roman Numeral Section II.

25 A Yes.

1 Q Pages 4 to 5.

2 A Right, I'm there.

3 Q Okay. There is the Subparagraph 3, criteria for
4 reappointment and promotion.

5 A Yes.

6 Q If an assistant professor of professional practice does
7 not perform service, will he or she get reappointed?

8 A No.

9 Q And flip over to -- let's stay right there. Actually,
10 let's go to Page 9, stay on Roman Numeral II, same exhibit, and
11 skip over to Pages 8 and 9 in Roman Numeral II, in Employer 1.
12 Again, you have a Subparagraph 3 entitled criteria for
13 reappointment.

14 A Yes.

15 Q Okay. Would you look at that? If an associate or a full
16 professor of professional practice does not perform service,
17 will he or she get reappointed?

18 A No.

19 Q All right. And if you look at the same document, let's
20 move to Roman Numeral III, Page 4, you'll see a Subparagraph 3
21 again and the criteria for reappointment and promotion. Are
22 you there?

23 A Yes, I am, on Page 4.

24 Q Okay. If a reviewed and renewable faculty member does not
25 perform service, will he or she get reappointed?

1 A No.

2 Q And finally staying in the same document, same Roman
3 numeral, but turning to Page 7, Subparagraph 3, criteria for
4 reappointment, right?

5 A Yes.

6 Q If a senior lecturer or a senior associate does not
7 perform service, will he or she get reappointed?

8 A No.

9 Q All right. If a term faculty member does not get --
10 perform service, will he or she get reappointed?

11 A The service does not affect the term, so it's not a
12 factor. So the appointment would be not -- service is not a
13 factor.

14 Q Okay. And if an adjunct does not perform service, would
15 it affect their job status?

16 A Service is not a factor.

17 Q Okay. Let's turn -- we can put Exhibit 1 down for now.
18 Do professors of professional practice have professional
19 accomplishment requirements as part of their job duties at the
20 college?

21 A Yes.

22 Q And do other reviewed and renewables have scholarship
23 requirements?

24 A Yes, as the scholarship would directly relate to their
25 teaching.

1 Q And for our professors of professional practice, what is
2 the significance, if any, of the professional accomplishment
3 requirements?

4 A The professional accomplishments would be directly related
5 to their profession, whatever that is, so that's what is
6 critical. That is the distinction. All right, put the
7 question again and let's see if I can answer it more directly.

8 Q I believe it was your testimony that for other than the
9 professors of professional practice, for the reviewed and
10 renewables, so we're talking the associates and the lecturers.

11 A Yes.

12 Q Your associates and your lecturers, you said that yes --
13 you testified, yes, they have scholarship requirements and that
14 those scholarship requirements, and if I misstate it, I know
15 you'll correct me, that those scholarship requirements are
16 directly related to their pedagogy?

17 A Yes. Yes, because the pedagogy and the service are the
18 key categories for the senior lecturers and associates. And
19 then your scholarship would feed in, so you would show all
20 evidence that you have of the scholarship you have done and
21 professional accomplishment that would feed into your teaching.
22 So that's evidence you are providing.

23 Q Now is that professional accomplishments for the
24 associates and lecturers or were you referring to the
25 professors of professional practice?

1 A No, I am referring to say a professional -- it would be
2 say invitations to participate in a conference, to give a
3 lecture in an area. And I'll give my example, it would be if
4 I'm invited by a theater to come and give a lecture or run a
5 panel after there is a performance or beforehand, or to talk
6 about the history of a play to help an audience, or to talk to
7 the director. So those are the kinds of examples.

8 Q Okay. Do the term faculty have any scholarship
9 requirements as part of their job duties?

10 A Do they have?

11 Q Do they have any scholarship requirements that -- as part
12 of their job duties, let me phrase it that way.

13 A Part of their job duties. Their job duties are in the
14 teaching and they are eligible for grants to continue their
15 scholarship. So --

16 Q If they did not do scholarship, would they -- I believe
17 you testified -- well, I'll just let you answer the question
18 again.

19 A Sure.

20 Q If a term faculty member does not perform or does not have
21 scholarship, would they be reappointed?

22 A I would -- I would think that that would be when they're
23 up for renewable, when they are up --

24 Q I guess that's the renew --

25 A If their term, yeah, if their term is ending and they are

1 going to apply to the budgetary committee, the chair, that
2 would be a factor. I would think that the chair would factor
3 that in to say this is someone who has continued to be active
4 and, therefore, would be -- we want them to continue to teach
5 these classes. So, yes, the scholarship is important for them.

6 Q Do adjuncts have any scholarship or professional
7 accomplishment requirements as part of their job duties?

8 A No.

9 Q Again, if you'll go back to Employer Exhibit 1, the
10 policies and procedures, Roman Numeral II, Page 5, again.

11 A Okay.

12 Q Are you there?

13 A Yes.

14 Q Okay. If an assistant professor of professional practice
15 fails to demonstrate substantial creative and professional
16 accomplishments before they are reviewed, will he or she get
17 reappointed?

18 A No.

19 Q And still in Roman Numeral II, same exhibit, if you flip
20 to Page 9, if an associate or a full professor of professional
21 practice fails to demonstrate substantial creative and
22 professional accomplishment before his or her review, will he
23 or she be reappointed?

24 A No.

25 Q Okay. If you would please move with me to Section 3 of

1 this document, Page 4. Are you there?

2 A Yes. Thank you.

3 Q If a reviewed and renewable faculty member does not engage
4 in scholarship or demonstrate professional accomplishment and
5 recognition, will he or she get reappointed?

6 A No.

7 Q And if you look at the same section, Section 3, same
8 document, Page 8 -- Page 7 to 8, if a senior lecturer or senior
9 associate does not engage in scholarship or demonstrate
10 professional accomplishment and recognition, will he or she get
11 reappointed?

12 A No.

13 Q Now if a term faculty member does not engage in
14 scholarship or demonstrate professional accomplishment and
15 recognition, will he or she be -- I believe the term you used
16 was renewed?

17 A I don't -- they're in a different category. It is not --
18 they are in a different category.

19 Q So is your answer no?

20 A My answer would be it could be a factor, but it would not
21 be -- I could not say -- I could say it could factor in, but it
22 is not a no of this kind. If you might want to reformulate
23 that? Am I answering that question? It is a different -- it's
24 a different category.

25 Q Okay. So that's your answer.

1 A Yeah, it is just -- I mean the main thing is a different
2 category.

3 Q Okay. And if an adjunct does not engage in scholarship or
4 demonstrate any professional accomplishment and recognition
5 would it affect their job status?

6 A No.

7 Q All right, we can put Employer Exhibit 1 down. Let's turn
8 to your -- you testified on cross-examination, you were asked
9 questions about advising.

10 A Yes.

11 Q So are professors of professional practice required to
12 engage in major advising of students?

13 A Yes.

14 Q Are the other reviewed and renewables required to engage
15 in major advising students?

16 A Yes.

17 Q Okay. And would you briefly explain what major advising
18 entails?

19 A It's a large responsibility. You meet with students and
20 you meet with them regularly to make sure that they are taking
21 the courses that, in the major that are required for
22 graduation. And if those students don't meet those major
23 requirements, they will not graduate. And you are part of that
24 advising system where they will come in and they'll speak to
25 you about courses they're wanting to take. You will need to

1 check to make sure on their degree audit that this course
2 would, in fact, meet a major requirement and that they are not
3 making a mistake in choosing their courses, because they cannot
4 come back after they have taken a course and say I
5 misunderstood, because at that point they have taken the course
6 and they still would have other courses that they need to take.

7 So it's a very large responsibility, because if you don't,
8 if you don't have those conversations, then there are students
9 who may reach graduation, and you look at their record, and you
10 see that they have not met them and they are not going to
11 graduate. They have to continue, they have to continue taking
12 courses because they have not met the required courses.

13 And they will call you and set up appointments. And
14 they'll often, if you don't, they'll call you and they'll say
15 your office hours conflict with a class I'm taking, you will
16 then meet with them outside of your office hours. And you must
17 do that. You must see and speak to all of your advisors. So
18 often it is well beyond -- I guess why it is such a large job
19 is that you know you cannot -- you must have those
20 conversations with them before they register, so they must
21 physically see you.

22 Q So that sort of dovetails into my next question which is,
23 is the advising that is required by the professors of
24 professional practice, the other reviewed and renewables, in
25 your opinion, is that different than a faculty member simply

1 providing advice to a student if they encounter the student or
2 the student comes to office hours?

3 MR. LEVINE: I'm going to object. I know I've been very
4 loose on this point, but these kinds of detailed, leading yes
5 or no questions I really don't think are appropriate and I
6 think can be asked in other ways.

7 MS. MUNOZ: I asked for an opinion.

8 HEARING OFFICER BERGER: Yeah, overruled. You can answer
9 that question.

10 BY MS. MUNOZ:

11 Q You may answer the question.

12 A All right. I was distracted by that exchange. Ask me the
13 question again, please.

14 Q In your opinion, is the advising that is required by the
15 professors of professional practice and the reviewed and
16 renewables, other reviewed and renewables, is that in any way
17 different than a faculty member simply providing advice to a
18 student that he or she engages in the hallway or during office
19 hours?

20 A That's a very different situation. That's a conversation
21 that you happen to occur, happens to because you happen to run
22 into the student and you sort of say how are things and they'll
23 say, oh, well, let me tell you what I'm doing right now.
24 That's not formal advising. You would certainly have that
25 conversation, but it's not formal academic advising.

1 Q Are professors of professional practice and reviewed and
2 renewables, are they required to undergo any training before
3 they advise, provide -- yeah, before they do advising?

4 A Yes. They are required to attend. It would be sessions
5 that are held for all academic advisors that are held before
6 the semester, before the year begins. And there are usually
7 two sessions right now and you're required to attend one of
8 them.

9 Q Are adjuncts required to engage in the advising of
10 students?

11 A No, they are not required to.

12 Q If adjuncts do not engage in any advising, would it affect
13 their employment status with the college?

14 A No, it would not.

15 Q Yesterday, you were also asked questions related to
16 governance broadly. But would you be able to confirm whether
17 professors of professional practice are able to serve on
18 faculty committees?

19 A Yes.

20 Q And on the same question for the other reviewed and
21 renewables, can you confirm whether they also are able to serve
22 on faculty committees?

23 A Yes.

24 Q Are professors of professional practice restricted in any
25 way from serving as chairs of those committees?

1 A No, unless I can think of the two committees that are
2 solely tenured members.

3 Q And are other reviewed and renewables restricted in any
4 way from serving as chairs of committees?

5 A No, they are not. And they do serve.

6 Q Are you aware of whether or not adjuncts can serve on
7 committees?

8 A No, they cannot.

9 Q Let's turn briefly to course load. Again, you were asked
10 questions about that today as well, but how many courses are
11 reviewed and renewables, to your knowledge, expected to teach
12 during a semester?

13 A Three courses per semester.

14 Q So that's?

15 A That's a total of six per year.

16 HEARING OFFICER BERGER: To the extent she has already
17 responded to these questions, we don't need to repeat them
18 again. That information is in the record. If you have --

19 MS. MUNOZ: Okay.

20 HEARING OFFICER BERGER: -- questions that would elicit
21 additional information, that's fine.

22 MS. MUNOZ: I can switch onto something else, that's fine.
23 No worries.

24 HEARING OFFICER BERGER: Thank you.

25 MS. MUNOZ: Yeah, sure.

1 BY MS. MUNOZ:

2 Q Let's talk just briefly about pay and benefits and then
3 we'll be done.

4 A Okay.

5 Q How are professors of professional practice compensated?

6 A They have a salary and benefits.

7 Q And how are the other reviewed and renewables compensated?

8 A Salary and benefits.

9 Q Are adjuncts paid a salary?

10 A They are paid per individual course.

11 Q Let's do all of the reviewed and renewables together, both
12 the professors of professional practice and the others just for
13 efficiency. If they were to have a course cancelled, would his
14 or her pay be reduced?

15 A If an adjunct is to have a class --

16 Q No, no, I'm sorry, the reviewed and renewables, not an
17 adjunct.

18 A Would their pay be reduced? No.

19 Q And if an adjunct has a course cancelled, would he or she
20 have his or her pay reduced?

21 A An adjunct?

22 Q Yes.

23 A They would have no salary because they would not be
24 teaching that individual course. There would be no payment.

25 Q Hold on just one second, one more thing in Exhibit number

1 -- oh, here.

2 MS. MUNOZ: I'd like to have this marked as -- I've handed
3 you what has been marked as Employer Exhibit Number 9.

4 (Employer's E-9 identified.)

5 BY MS. MUNOZ:

6 Q Have you had a chance to review it?

7 A Quickly.

8 Q Do you recognize this document? Have you seen it before?

9 A Yes.

10 Q Okay. And when was that?

11 A Every year, you would go in, for example, you would look
12 at flexible spending. Every year, it's usually in November,
13 you are asked to see whether you want to make any changes in
14 your benefits. For example, in medical would be flexible
15 spending, if you want to join or withdraw from the dental
16 program, if you want to do anything different in any of these.
17 If you want, for example, to add on your vision category and if
18 you, for example, have a child who is in -- if you are seeking
19 tuition assistance for undergraduate tuition, then you would
20 need to fill that form in every year. You would need to say
21 the name of your child, where the child is attending, you know.
22 In other words, yes, yes.

23 Q May I interrupt you?

24 A Yes, go ahead.

25 Q My question, so is it your testimony that you review this

1 document --

2 A Yes.

3 Q -- yearly?

4 A Yes, certainly yearly, and often to refresh your mind.

5 You may see it -- you certainly go back into it more.

6 Q And what does this document describe? I think you were
7 doing a description of it.

8 A It describes all of the benefits that you are eligible for
9 and you receive as a renewed and renewable.

10 Q And you anticipated my question, but can you just briefly,
11 to yourself, review the -- all right, strike that. Are the
12 reviewed and renewables, including the professors of
13 professional practice, eligible for the college provided
14 benefits listed in Exhibit Number 9?

15 A The renewed and renewable, yes. It's very important.

16 Q Is there any language -- you say you review this yearly.
17 Is there any language in Exhibit 9 that would indicate that
18 they are exempt from receiving any of the benefits listed in
19 Exhibit 9?

20 A Exempt? No.

21 Q Okay. And are adjuncts eligible for the college provided
22 benefits in Exhibit 9?

23 A No, they are not.

24 Q And do you know whether or not -- do you know if term
25 faculty are eligible for any of the benefits listed in Exhibit

1 Number 9, if you know?

2 A I would think they are because they are full-time salaried
3 appointments. They have a terminal end. While they are here,
4 I would assume that they would have benefits.

5 Q But you're not 100 percent sure?

6 A I'm not 100 percent sure, because I don't handle those
7 appointments.

8 MS. MUNOZ: All right, that's all the Employer has. Thank
9 you.

10 HEARING OFFICER BERGER: Do you seek to have this --

11 MS. MUNOZ: Oh, I'm sorry, thank you. Yes, the Employer
12 would like to move to enter Exhibit Number 9.

13 HEARING OFFICER BERGER: Do you have any objection?

14 MR. LEVINE: No objection.

15 HEARING OFFICER BERGER: Okay. Employer 9 is received.

16 (Employer's E-9 received.)

17 HEARING OFFICER BERGER: I want to revisit the issue of
18 advising.

19 THE WITNESS: Sure.

20 HEARING OFFICER BERGER: So the conversation we just had
21 was about major advising. But there are other advising
22 relationships, is that right?

23 THE WITNESS: You can advise first and second year
24 students.

25 HEARING OFFICER BERGER: Okay. Before we talk more about

1 that, still focusing on the major advising --

2 THE WITNESS: Yes.

3 HEARING OFFICER BERGER: Do the faculty or who are
4 referred to as the term faculty, do they do major advising, do
5 you know?

6 THE WITNESS: I don't know.

7 HEARING OFFICER BERGER: And so then the first and second
8 year advising, which classifications of faculty advise the
9 first and second year students?

10 THE WITNESS: Usually, they are full-time faculty, so that
11 would include renewed and reviewable. When I think about the
12 terms, I think that's a tricky one because it sort of depends.
13 They certainly would not be advising in their first year,
14 because they wouldn't know anything about the college. I could
15 imagine maybe they would be asked to advise, but maybe not. I
16 don't know.

17 But in terms of who does first and second year advising,
18 normally, those are the full-time faculty, the renewed and
19 renewable, the tenurable and the tenured.

20 HEARING OFFICER BERGER: Could an adjunct do the first and
21 second year advising?

22 THE WITNESS: I know that adjuncts have done first and
23 second year advising and they receive a stipend for doing that.

24 HEARING OFFICER BERGER: Okay. I believe you did cover
25 that.

1 THE WITNESS: Yeah, we did cover that, yes.

2 HEARING OFFICER BERGER: Okay. Any recross from the
3 Petitioner?

4 MR. LEVINE: Yes, thank you.

5 RECROSS EXAMINATION

6 BY MR. LEVINE:

7 Q Renewed and renewable, if they do first and second year
8 advising, I think we covered this, but also receive a stipend?

9 A Yes, we did. Yes, there is consistency on that.

10 Q And given that's where we ended, let's keep it at Employer
11 Exhibit 9. There are benefits, in fact, in this document that
12 adjuncts are eligible for, aren't there?

13 A This one here?

14 Q I think you testified they weren't eligible for any of
15 these, so let me --

16 A I -- yeah, you can follow.

17 Q Page -- well, there's no pagination here, but I think it's
18 even referred to in the first paragraph, it talks about
19 government mandated benefits apply to all faculty. That
20 doesn't include adjuncts because it uses the term faculty?

21 A I'm not sure what government mandated -- what page are you
22 on?

23 Q Well, I'm on the first page now, the very first paragraph.

24 A So you're referring to the exception of government
25 mandated benefits?

1 Q Well, this says with the exception of government mandated
2 benefits. The other ones it says apply to all faculty. Would
3 that apply to all faculty? So I'm asking which ones -- you
4 said that these only applied to full-time faculty. This
5 document seems to say otherwise. I want to give you a chance
6 to correct that.

7 A I don't work for human resources. My understanding is
8 that you receive these benefits if you are a full-time faculty
9 member with a salary, an annual salary.

10 Q Perhaps if you don't work for human resources, you
11 shouldn't have testified concerning this document.

12 MR. DiGIOVANNI: I'm going to object.

13 HEARING OFFICER BERGER: No, no, no, wait. Wait.

14 THE WITNESS: I was asked about do these apply -- do I
15 read these as a faculty member, as a full-time faculty member,
16 do I have these benefits. Do I, once a year, have to make
17 decisions as to which of these, such as the dental, or the
18 vision, or how much money I want to put into my flexible
19 spending account, I do that on an annual basis.

20 And then I was talking about people -- some people will
21 put money into their life insurance, will top their -- you make
22 that decision every year and you submit a form back into human
23 resources.

24 BY MR. LEVINE:

25 Q Do you know whether there are benefits in this document

1 that apply to adjuncts? I think you testified to that, but
2 I'll ask you that.

3 A My understanding is that unless you are a fully salaried
4 employee, these benefits do not apply.

5 Q So let me call your attention -- it's second, third,
6 fourth, fifth, I think it's the sixth page, counting each one
7 even though they are back to back, and there is a section
8 mandated benefits.

9 A You mean like social security?

10 Q Family and medical leave, workers compensation,
11 unemployment insurance. Those apply to everybody, right? It
12 says that here?

13 MS. MUNOZ: I'm just going to object to the extent that
14 the first paragraph explains what he's asking, so the document
15 speaks for itself.

16 MR. LEVINE: Yes. But you asked her testimony concerning
17 the documents.

18 HEARING OFFICER BERGER: She can answer whether she know
19 if they apply, to whom they apply, etc.

20 MS. MUNOZ: I think she testified --

21 HEARING OFFICER BERGER: If you know.

22 THE WITNESS: Well, it does say, it does say employees,
23 faculty employees, so I would assume that adjuncts would have
24 social security. It seems to me those are probably the four
25 categories that you're looking at.

1 BY MR. LEVINE:

2 Q And I'm going to ask you about some other categories. So
3 is it your testimony that your understanding is that adjuncts
4 would be counted here under employees, rather than under
5 Barnard faculty?

6 A No, no, no, I did not say that. I saw faculty employees
7 and it says mandated, and I assume that's the federal mandated,
8 the government mandated that is in the first paragraph that you
9 referenced.

10 Q And do you know whether adjuncts would be under this
11 description of mandated benefits part of the Barnard faculty or
12 part of the employees?

13 MR. DiGIOVANNI: I'm going to object. I understand his
14 question here, but the beginning of this clearly, and I think
15 federal law clearly states what certain individuals have the
16 right to have as a benefit. This clearly carves them out.

17 I think what she testified earlier to is that the full-
18 time benefits, not including those exceptions that apply to the
19 full-time faculty, I understand sort of where you're going with
20 this, but I think the document speaks for itself.

21 HEARING OFFICER BERGER: All right. So the record -- I'm
22 going to overrule your objection. The record will be clear
23 regarding what she testified to. But there has been extensive
24 discussion over faculty; faculty with capital F, faculty with a
25 lower case F, faculty employees, and if this witness can help

1 explain the way that these individuals are referenced in these
2 documents in various ways, if she knows, that testimony will
3 certainly be helpful. I agree the document speaks for itself.
4 But what we're asking now is for an explanation of the terms
5 that Barnard uses in this document. And she may not know. But
6 if she does know, that would be helpful.

7 So I believe the question is we're looking here under
8 mandated benefits.

9 THE WITNESS: Yeah.

10 HEARING OFFICER BERGER: And the sentence is there are
11 four mandated programs available to all Barnard faculty and
12 employees, these are, and then they are listed below. And so
13 the question is, when this says all Barnard faculty, do you
14 know the classifications that that is referring to?

15 THE WITNESS: I do not know. But I assume because of that
16 first paragraph that that would apply to everyone, because
17 those are federal policies, those four categories.

18 MR. LEVINE: I don't think it's responsive, but I'll move
19 on.

20 BY MR. LEVINE:

21 Q At the very bottom of that page, there is a heading that
22 then continues to the next page, it says voluntary benefits.

23 A Right.

24 Q Do you know whether any of those benefits apply to
25 adjuncts? Can they get discounts on life insurance or access

1 to Chase banking for that program, if you know?

2 A I do not know. I just would say you have more information
3 available through human resources, so I would go to human
4 resources to ask that question.

5 Q When Barnard College hires an adjunct to teach a course,
6 the elite institution that it is, is the college concerned with
7 hiring people who are current in their fields?

8 A I think they are concerned with the quality of the
9 teaching. And that --

10 Q And would that include being abreast of current
11 scholarship?

12 A That would certainly be something that could affect their
13 teaching. Although, I think an adjunct could be -- could do
14 something very well in a classroom with -- if current means
15 contemporary, they could teach very well with something that is
16 scholarship that is not necessarily current. So it depends on
17 their field. But I --

18 Q Well, certainly, in the sciences, for example, you would
19 want them to be abreast of current scientific developments that
20 might change the field, correct?

21 A I think that is a fair -- I think there would be that
22 hope. I think it would be judged really on what happens in the
23 classroom. So, if they are not -- if it appears that they are
24 not performing well in the classroom that could be a factor.

25 Q And if they weren't able to answer questions about the

1 current state of the field, would that reflect in their
2 performance in the classroom?

3 A It could reflect on their performance in the classroom as
4 depending on the field.

5 Q Even if somebody -- you're in the humanities, correct?

6 A Yes.

7 Q Even if somebody was teaching say about 18th century
8 literature or ancient Greek civilization, there is contemporary
9 scholarship in each of those fields, is there not?

10 A Yes.

11 Q And normally speaking to be a competent teacher, would you
12 expect somebody to be abreast of current scholarship in those
13 fields, if they were teaching in those areas?

14 A You would normally be in touch, but it would vary
15 tremendously I think from sort of how your syllabus is
16 constructed. I mean if you look at the syllabi, it is not
17 unusual to look at syllabi and to find that there are many
18 references to let's say books, articles that are -- occurred
19 quite a while ago because they are part of the tradition of
20 scholarship. So that's why I'm answering it that way.

21 Q You testified that, I believe, and I may be paraphrasing,
22 that an adjunct might be evaluated on that basis. How would
23 the chair know whether they were abreast of current thinking in
24 their field, say if they've been there 5 or 10 years?

25 A It would depend as to whether a student had come to the

1 chair or had spoken very directly in student evaluations about
2 that kind of issue.

3 Q So you would leave it to the students to determine whether
4 the professor who or the adjunct who was charged with imparting
5 knowledge to them knew what the current knowledge was in the
6 field that they were being taught?

7 A That's why I put the chair in there as well, because, yes,
8 the student evaluations are very important, but it's not solely
9 on the student evaluations. It is the chair. It's the chair's
10 decision.

11 Q And what would the chair rely on other than student
12 evaluations?

13 A You might, for example, as a chair, have a student come to
14 you to talk about a class that is being taught by an adjunct.
15 You would then talk to the adjunct and say these are sorts of
16 issues, let me get a clear sense of what are you doing in the
17 classroom, can you tell me from your perspective. So you would
18 have a conversation with the adjunct. So that is not relying
19 solely on student evaluations.

20 Q But it would be relying on student evaluations as the
21 point of entry, right? I mean you're saying they'd have a
22 discussion based on something the student raised with them?

23 A No, you can have students come in during the term to talk
24 about a particular class.

25 Q But then wouldn't that be relying on the student --

1 A No.

2 Q -- to make a determination in the first instance that
3 there was something not contemporary or up to date about what
4 was being imparted?

5 A It's not about that -- you're staying still with the
6 contemporary and I'm staying -- saying there can still be
7 issues in the classroom that are not solely based on the
8 current. They are based on what is happening in the classroom.

9 Q I get that. I am focusing on how you would know that the
10 adjunct is a scholar who is sufficiently astute in --

11 A Oh, well.

12 Q -- their particular area over time to continue teaching at
13 Barnard.

14 A That's a good question, because I think what you would do
15 as a chair, as a chair you collect the syllabi and so the
16 evidence would be in the syllabi.

17 Q So you might -- when you are considering whether to
18 re-employ an adjunct, the chair might look at the syllabi?

19 A I think that's yes, certainly.

20 Q And do they ever do observations in the classroom?

21 A Yes.

22 Q Okay. So they could make a judgment on their own
23 concerning the quality of the teaching, but also of the
24 material?

25 A Depending what the field of the chair is.

1 Q Good, thank you.

2 A In other words, the chair could advise another member of
3 the faculty who is -- whose particular field the adjunct is
4 teaching in, to come in. You know there are many ways of doing
5 it. That's why I'm --

6 Q Okay.

7 A And it depends how small the department is, how large.

8 Q But they would evaluate or they might evaluate on that
9 basis and that might factor into whether the adjunct was
10 re-employed?

11 A Yes.

12 Q Thank you. Now you testified that part of the duties at
13 the college, you used the term at the college, of the
14 professors of professional practice was to have professional
15 accomplishments. You were referring to primarily professional
16 accomplishments outside of the college, were you not?

17 A I don't remember the context of that question.

18 Q I believe you were being asked based on Employer's
19 Exhibit 1, there is language about the need to have
20 professional accomplishments and that's part of how you're
21 evaluating.

22 A Yes.

23 Q And you said that that as part of their duties at the
24 college to have professional accomplishments. I just want to
25 clarify that I understand that that may be an important part of

1 their dossier and may be important for their reappointment,
2 without necessarily conceding that point, but I want to clarify
3 that we're talking primarily about whether they have
4 accomplishments outside of Barnard as whatever, dancers,
5 actors, musicians, architects.

6 A So we're talking about professors of professional practice
7 here.

8 Q Yes. And I'm talking about your testimony on redirect.

9 A I would assume that at the college, I was just talking
10 generally about being a member of the college. I really don't
11 understand the point of the question, so there seems to be a
12 point.

13 Q I'll back up and I'll re-ask the question you were asked
14 maybe in a different form.

15 A Okay.

16 Q Is it a requirement of a professor of professional
17 practice that they continue to have professional
18 accomplishments in their field?

19 A Yes.

20 Q And why is that a requirement?

21 A As a professor of professional practice?

22 Q Yes.

23 A Because it is -- it's in the personnel procedures. It's
24 in document E-1.

25 Q What is the purpose of having that as a requirement, if

1 you know?

2 A The purpose of it?

3 Q Yes.

4 A Because -- I mean why would there be professors of
5 professional practice?

6 Q Why, in order to be reappointed, must they demonstrate
7 continued professional accomplishments outside of Barnard?

8 MR. DiGIOVANNI: I'm going to object again only because --

9 THE WITNESS: I don't understand.

10 MR. DiGIOVANNI: -- it's a requirement in the handbook.
11 She testified that it is a requirement. The fact that the
12 college has an idea of why it is, I don't think is relevant
13 here.

14 MR. LEVINE: She testified more than that. She testified
15 that you would not be reappointed unless you --

16 MR. DiGIOVANNI: And that's what the procedure says --

17 THE WITNESS: Yes, yes.

18 HEARING OFFICER BERGER: Okay.

19 MR. LEVINE: And are you basing that entirely on the
20 procedure that you have in front of you?

21 HEARING OFFICER BERGER: Okay, hold on. There's been an
22 objection here and I'm going to overrule. I mean she has
23 testified extensively about the importance of scholarship and
24 how that's connected to Barnard's status as an elite
25 institution in various ways, and this is a similar type of

1 question and I think that she can speak to why this requirement
2 exists for the professors of professional practice.

3 BY MR. LEVINE:

4 Q Do you need me to restate the question?

5 A It is in the personnel procedures. And so it is a
6 requirement for a professor of professional practice. I do not
7 serve on the ATP committee that put these procedures together.
8 I know only this document. So I would reference you to this
9 document.

10 Q So when you testified that you would not be reappointed as
11 a POPP unless you had --

12 A Yes.

13 Q -- continued professional accomplishments.

14 A Yes.

15 Q You were basing that exclusively on the document in front
16 of you?

17 A That is the current policy and that's what I'm responding
18 to. I'm referring to this document.

19 Q So do you have any idea the extent to which you need to
20 have professional accomplishments to be reappointed?

21 A The extent?

22 Q Yeah. If you have one performance in front of an audience
23 of 50 people, is that sufficient?

24 A That would be the judgment of the committee. I can't
25 speak to -- I can't speak to the committee who would be judging

1 this person.

2 Q So when you said definitively, no, you would not be
3 reappointed, you don't know for sure whether any exceptions
4 have been made. You're just basing that on what's stated in
5 this document?

6 A I am referring to this document.

7 Q And is that true, as well, when you stated that you would
8 not be reappointed without scholarship to any of the other
9 reviewed and renewable positions?

10 A The reference was to scholarship and professional
11 practice. You're referring to the lecturers and senior
12 associates?

13 Q Yes, the non-POPPs. You have the lecturers, the senior
14 lecturers, the associates and senior associates. And you
15 testified that if they did not show scholarship, participate in
16 scholarship --

17 A No, you're using -- I'm using an "and" there, you're using
18 a one. I'd have to find -- it's in two -- it's scholarship and
19 professional accomplishment.

20 Q Even for the associates and the -- okay.

21 A That's what I'm saying.

22 Q So, again, you're relying on the document. My question is
23 do you know whether exceptions have ever been made? If
24 somebody was an outstanding teacher, maybe they were
25 reappointed, do you know, or are you assuming on the basis of

1 this document that, no, they would not be, unless they showed
2 that?

3 A I am working from this document.

4 Q You have no direct knowledge of the reviews, themselves,
5 in which this was considered?

6 A I have direct knowledge of my reviews.

7 Q Okay. So turning now to the issue of service, you
8 similarly testified that if they did not participate in
9 service, they would not be reappointed. Again, you were basing
10 that on your reading of this document?

11 A I'm saying this is the personnel procedures, yes.

12 Q And so would you know how much service somebody has to
13 provide in order to meet that requirement?

14 A That is the same question you asked before. And that
15 would be the determination of the committee that is judging the
16 dossier that has been put forward.

17 Q Okay, fair enough. I'll move on. You testified
18 concerning advising. And you gave one example of informal
19 advising, a sort of anecdotal description of what somebody
20 might be asked. But informal advising could involve other
21 things, could it not? Somebody might talk to their adjunct
22 about what major they should pursue, or their professor
23 interests or internships, or other matters?

24 A Any student can have a conversation.

25 Q So you were just giving one example of what might be

1 informal advising.

2 A I think that there is advising, there is formal advising.
3 Students -- no one would prohibit a student or a faculty member
4 from talking and having conversations.

5 Q Are you aware of the fact that there are programs in which
6 adjuncts serve as the primary people developing internships for
7 students?

8 A I don't know what you're referring to.

9 Q So you're not aware of that. When Kate took over a couple
10 of your advisees, was that major advising or first and second
11 year advising, if you remember?

12 A If I remember, that was an exceptional case. And I think
13 you're probably quite accurate as to say that she was asked by
14 the chair for that semester to take a couple of my advisors. I
15 was not part of that process. I knew that I could not -- I was
16 not going to be teaching. I was going to be interim. So I
17 think it was a very unusual case and it was an exception.

18 Q And do you recall whether it was major advising or first
19 and second year advising, or both?

20 A It could have been both. I don't know, because I was not
21 the one who made -- that was done through the chair. Or if it
22 was first or second, it would have been through the dean's
23 office.

24 MR. LEVINE: I need a very brief caucus.

25 HEARING OFFICER BERGER: Okay, we'll go off the record.

1 (Recess from 11:43 a.m. to 11:50 a.m.)

2 HEARING OFFICER BERGER: We'll go back on the record.

3 BY MR. LEVINE:

4 Q So with Employer's Exhibit 9, again, if you know, that's
5 the benefits document.

6 A Yes.

7 Q It's my understanding that the contributions for pensions
8 may be different for full-time ladder and full-time off-ladder
9 faculty. Do you have any knowledge one way or the other about
10 that?

11 A Contributions for pensions. Is this in this document?

12 Q It does not state in this document whether that's the case
13 or not.

14 A Then I would say at this moment I do not know. I probably
15 could find it somewhere else, but I do not know right now.

16 Q And one other question about you taught in first year
17 seminar for many years, right?

18 A Yes. And I, for one year, ran the first year seminar
19 program.

20 Q Isn't it the case that adjuncts are required to
21 participate in I believe it's six pedagogy meetings during each
22 semester, for each year, as part of their being adjuncts for
23 that course?

24 A Anyone teaching in a first year seminar is required to
25 attend the pedagogy sessions.

1 Q And how many are there of those sessions?

2 A There are usually three, sometimes two.

3 Q Per semester?

4 A Per semester.

5 Q And that's -- the compensated for that is based on their
6 per course compensation. There is nothing additional?

7 A In the first year seminar, you are paid for teaching and
8 there may be a stipend. I think that's where your question is
9 going, that there is a stipend if you are teaching in first
10 year seminar.

11 Q So the teaching fee may be slightly higher?

12 A Teaching fee? I don't know what a fee is.

13 Q The compensation for teaching that course may be slightly
14 higher because there is a stipend associated?

15 A You are paid -- if you are an adjunct, you would be paid
16 for the course. If you are teaching that class, I believe
17 there is a stipend to compensate for the time in the pedagogy
18 sessions. Again, that was -- I ran that program a while ago.
19 And I believe that is still the case, but, you know, I would
20 say the budget office would have that answer.

21 MR. LEVINE: I have nothing further.

22 HEARING OFFICER BERGER: Okay. I'm unclear what we are
23 talking about here. I just want to make sure that the reviewer
24 of the record --

25 THE WITNESS: Sure.

1 HEARING OFFICER BERGER: -- appreciates what first year
2 seminars are.

3 THE WITNESS: It's a particular --

4 HEARING OFFICER BERGER: I'm sure you all know, but I
5 don't.

6 THE WITNESS: Yeah. All right, when students are in their
7 first year at Barnard, and the titles of these have changed.
8 There is one semester a student would take -- traditionally, a
9 student would take a first year English class. They may be
10 changing the title of that. The second semester, they would
11 teach a first year seminar that is more broadly
12 interdisciplinary.

13 HEARING OFFICER BERGER: And so all first year students
14 take this exact same seminar.

15 THE WITNESS: They are in the program. The courses differ
16 in the seminars, yes. So there are different syllabi, but,
17 yes, they are all seminars for first year students.

18 HEARING OFFICER BERGER: Do you know how many are offered?

19 THE WITNESS: I don't know for sure.

20 HEARING OFFICER BERGER: So the component of the seminar
21 that you called English, though the name may have changed or
22 may be slightly different, so a student in that component of
23 the seminar, are they taught by one instructor for that part?

24 THE WITNESS: Oh, yes. Yes.

25 HEARING OFFICER BERGER: Okay. And then what about the

1 interdisciplinary part?

2 THE WITNESS: There is one instructor.

3 HEARING OFFICER BERGER: One instructor, okay. And so
4 these instructors, what rank could they be?

5 THE WITNESS: Usually, they are full-time instructors.
6 All right, okay, we're talking about the different ones. I
7 would say that in the first year English, there are adjuncts
8 teaching in the first year English. I mean there is no
9 question there are adjuncts teaching in first year English, as
10 well as full-time faculty.

11 When you go into the first year seminar courses, I would
12 say the ratio shifts in that one and the majority would be
13 full-time faculty.

14 HEARING OFFICER BERGER: And you're talking about the
15 interdisciplinary component of the seminar?

16 THE WITNESS: Interdisciplinary seminar, right, right.

17 HEARING OFFICER BERGER: Do you know if adjuncts have
18 taught in that component?

19 THE WITNESS: I do know an adjunct has taught in that,
20 yes. And there may be more than one.

21 HEARING OFFICER BERGER: Okay. I think it's clear now.
22 Thank you.

23 THE WITNESS: Okay. Does that help?

24 HEARING OFFICER BERGER: Yes. Thank you. Anything
25 further?

1 MS. MUNOZ: No, nothing further.

2 HEARING OFFICER BERGER: Okay, you may step down.

3 (Witness excused.)

4 HEARING OFFICER BERGER: And let's go off the record.

5 (Recess from 11:46 a.m. to 1:44 p.m.)

1 A F T E R N O O N S E S S I O N
2 (Time Noted: 1:44 p.m.)

3 HEARING OFFICER BERGER: On the record.
4 Ms. Munoz, does the Employer have additional witnesses?

5 MS. MUNOZ: I do. We would like to call the provost,
6 Linda Bell.

7 HEARING OFFICER BERGER: I'm sorry. Could you give that
8 name again?

9 MS. MUNOZ: Oh, I'm sorry. Linda Bell.

10 HEARING OFFICER BERGER: Please raise your right hand.
11 (Whereupon,

12 LINDA BELL,
13 was called as a witness by and on behalf of the Employer and,
14 after having been duly sworn, was examined and testified as
15 follows:)

16 HEARING OFFICER BERGER: Have a seat. And could you
17 please spell your name for the record?

18 THE WITNESS: Sure, B-E-L-L, Bell, first name Linda,
19 L-I-N-D-A.

20 HEARING OFFICER BERGER: Okay, thank you.

21 THE WITNESS: Sure.

22 DIRECT EXAMINATION

23 BY MS. MUNOZ:

24 Q Good afternoon.

25 A Good afternoon.

1 Q Provost Bell, by whom are you employed?

2 A By Barnard College.

3 Q How long have you been a provost?

4 A Since October of 2012.

5 Q How long have you been employed by Barnard?

6 A Since October of 2012.

7 Q So you've been the provost the entire time?

8 A Yes, that's correct.

9 Q And to the extent that you are able, would you please
10 describe briefly your duties and functions as the provost?

11 A How much time do you have?

12 Q Yeah, exactly.

13 A So the provost, I call it the chief academic officer of
14 the college, so essentially it oversees all of the academic
15 program including the, you know, appointment of full-time
16 faculty, hiring and firing, and promotion; the curriculum, the
17 academic rules of conduct; grading, course evaluation; the
18 budget for the academic program, including the resources for
19 the faculty, for travel, for scholarship, etc. I set salaries
20 for all the faculty. I oversee the library. And within the
21 library, I oversee as well a good portion of the instructional
22 technology. There is some overlap with information technology,
23 which is overseen by the COO, but a large portion of that. I
24 oversee all the centers, academic centers. I have full
25 responsibility for the administrative staff in those centers.

1 I think that's the portfolio.

2 Q Thank you. And when you say full-time faculty, does
3 full-time faculty include tenured faculty?

4 A Yeah, so full-time faculty include tenured and
5 tenure-eligible faculty, and there are something like 141 of
6 those people in those ranks. Then they include what we used to
7 call off-ladder faculty.

8 But per some of the changes that have been instituted as
9 we went over the personnel procedures and guidelines, we now
10 have sort of distinguished them into three categories and those
11 are the professors of professional practice at all ranks, the
12 lecturers at all ranks, and the associates at all ranks. Those
13 were the three groups that constituted the of-ladder faculty.

14 So we have the ladder faculty who are the tenured and
15 tenure-eligible. You have the off-ladder, previously off-
16 ladder, which were the POPPs lecturers and associates at all
17 ranks. And then other full-time faculty include term faculty.
18 All term faculty are full time, currently. And they can be
19 appointed either for a single year, for a three year renewable
20 appointment with a terminal of five years. So by code, term
21 faculty can't be appointed for more than five years.

22 In addition to that, there are three special full-time.
23 They're not -- they're full-time in terms of their affiliation
24 with Barnard, but their duties are prescribed somewhat
25 differently. Those are the sort of guest artist, the

1 distinguished scholar in residence, and the Anna Quindlen
2 writer in residence. So, one of those, each of those three
3 people hold very unique, somewhat idiosyncratic appointments.
4 Their duties to the college don't look like they're full-time,
5 but they could be represented as full-time faculty.

6 Q You were talking about -- let's start with the term
7 faculty. Would you be able to provide for us the criteria for
8 evaluating and reviewing term faculty?

9 A Yeah, so term faculty are called term because they're on
10 terminal appointments, so they're not reviewed as according to
11 the procedures. They do have a more informal review process,
12 but let me describe it. So I think it would be helpful to talk
13 about the appointment process as well, if I may.

14 Q Yes.

15 A So for all full-time faculty, there is a formal
16 appointment process which begins with a petition to the FBPC.
17 That's the committee -- the faculty committee which the provost
18 chairs, which the COO is a member of on finance, budget, and
19 planning. And that call for petitions for full-time faculty
20 goes out in the fall and we review them in the spring.

21 It's the duty of that committee to make recommendations to
22 the provost and president for those appointments. That
23 includes appointments for term faculty, multiyear term faculty,
24 and I'll distinguish in a second what I mean by that, POPP
25 faculty, associate faculty, lecturer faculty, assistant

1 professor faculty, associate professor faculty, and full
2 professor faculty.

3 Those searches, you know, the requests always exceed the total
4 number of searches that we can do, at least in my three years
5 of experience doing it. And so the committee has tough
6 judgments it needs to make about who to appoint.

7 What it then does is it looks at criteria at the
8 department level to evaluate the efficacy of that appointment
9 in a tight budget world, so looks at the number of enrollments.
10 It looks at the total number of faculty already in the
11 department who are teaching full-time faculty, who are already
12 teaching. Looks at the number of majors, the number of minors,
13 the number of advisors that would be necessitated by that
14 majors and minors, and then makes an evaluation of need
15 essentially. So FBPC then makes a recommendation to me, which
16 is discussed and authorized by the provost -- by the president
17 for those lines.

18 The single exception to what I've said is one year terms.
19 And one year terms, because they are just to sort of fill a gap
20 for a single year, they are always by acute need, can be
21 petitioned to the provost, who has the authority to make that
22 decision essentially on the spot without the committee's
23 recommendation and without that formal process.

24 We have, since I've been at Barnard, I've tried to
25 standardize those appointments of the term faculty. So the

1 term faculty are appointed on what we call now three year
2 renewable terms.

3 MS. MUNOZ: Excuse me for a moment. Could I shut the
4 door?

5 HEARING OFFICER BERGER: Sure.

6 MS. MUNOZ: I'm having trouble hearing her. Shut that,
7 thank you.

8 THE WITNESS: So the term faculty are three year renewable
9 appointments. After the end of the third year, the department
10 chair is expected to make a case for renewing that term. That
11 renewal can happen because of need or it could be denied
12 because of need because there's other more acute needs. And it
13 should be accompanied with some kind of either verbal or email
14 kind of correspondence regarding how well that term is
15 performing.

16 So I'm expected to ask the question which is -- and the
17 renewal is at my authority, at the provost's authority, so I'm
18 expected to ask can you -- how well is the term doing. Did you
19 take a look at their teaching evaluations; are their teaching
20 evaluations strong?

21 If a department chair says to me they're doing a great
22 job, they're teaching record is really strong, I looked at
23 their evaluations, they're great to have around, and then I
24 determine that the department needs that position to staff its
25 courses, then it's expected that I'll renew up until the

1 maximum term of five years. But then it's over.

2 BY MS. MUNOZ:

3 Q And if you would begin with the appointment process and
4 discuss the review process of what we here have been referring
5 to as the reviewed and renewable, but that would include the
6 POPPs, the professors of professional practice, all ranks, and
7 the lecturer, senior lecturer, associate, senior associate.

8 A Right. So that appointment process begins in much the
9 same way, so with a petition to the FBPC. I think it's worth
10 distinguishing because not everybody knows probably in the
11 room, maybe by now you do, but the distinction between POPP
12 associate and lecturers.

13 So the associates, let's start with that, those faculty,
14 are typically faculty who possess a certain sort of -- a set of
15 strong qualifications but do not necessarily hold a terminal
16 degree. So a terminal degree is most often in an academic
17 sense a PhD, but it could be an MFA for a performer, or
18 something like that. So they are appointed at the rank of
19 associate.

20 A lecturer is someone who hold the terminal degree always,
21 and we've standardized the appointments to reflect that, and is
22 really hired as with a responsibility to teach, with a sort of
23 very strong responsibility to teach. Both associates and
24 lecturers teach a six course standard load. That's what
25 constitutes their full-time status.

1 POPPs are, in some sense, a kind of creation of the
2 academy for artists, and writers, and practitioners who have
3 established a really strong credential in a field like
4 architects, for example, who are scholarly in an artistic
5 sense, who may have established themselves as builders, people
6 who build buildings, but are not -- are more difficult for a
7 mixed group of people in a tenure kind of committee to
8 evaluate. And so it's a rank that is common across many
9 institutions have this professor of professional practice rank.
10 It's very similar to a tenure rank.

11 It's just an acknowledgement that the body of scholarship,
12 so-called body of scholarship is so heterogeneous among that
13 group as to be difficult to evaluate in the same kind of
14 standard the way you would evaluate for tenure. So the POPP
15 faculty, because the expectation of them with regard to either
16 their public professional work, or their public intellectual
17 work, or their public artistic is equivalent to that for a
18 tenure line faculty with respect to their scholarship, they
19 teach a four course load, as do the tenured faculty. So a POPP
20 line is a little bit distinguished from the associate and the
21 lecturer line.

22 So the call for proposals goes out to the faculty. The
23 department chair -- the department chairs are expected to make
24 a claim for either the associate lecturer or POPP rank to the
25 FBPC. The FBPC evaluates those appointments and I can tell you

1 that the FBPC is directed to evaluate those appointments as
2 long term appointments. They are not term in any way. They
3 are not restricted to a certain number of years. They have a
4 review and renewal cycle that looks very similar to the review
5 and renewal cycle for tenured line faculty.

6 When we evaluate those positions, we recognize and we
7 impute, Rob and I, the COO and I, in our minds impute a kind of
8 long term financial obligation of the college for those
9 individuals who are appointed in that way. And so those
10 decisions, along with tenured line decisions, are made with,
11 you know, sort of I would call great fortitude, a lot of very,
12 you know, a lot of due diligence to ensure that the college can
13 long term support those appointments.

14 Saying that, their relationship to the college is such
15 that they are reviewed after, you know, their review process
16 follows similar to the tenured line faculty, except that
17 tenured line faculty, once reviewed and tenured, are not
18 necessarily reviewed again. And POPPs, lecturers, and
19 associates are.

20 So the review process happens this way. And we just
21 finished the procedures and guidelines. So the review process
22 happens that after all three ranks -- I think I'll try to do
23 it, together, okay? If I get too confusing, I'm happy to do it
24 apart, too, one by one.

25 But the lecturers, associates, and POPP faculty are

1 reviewed after their third year. They are reviewed by the
2 committee on tenure and promotions. The review process happens
3 primarily at the department letter -- level. The department is
4 expected to form a committee. The committee consists of
5 individuals who are at higher rank than the individual being
6 evaluated. So for assistant POPPs, that could include
7 associate POPPs and any tenured line faculty. For a lecturer,
8 it could include senior lecturers and any tenured line faculty.

9 Following that evaluation, a letter is prepared. That
10 letter, plus a CV, plus any other additional materials is sent
11 to the committee on tenure and promotions. There is a
12 recommendation of the committee. The committee on tenure and
13 promotions looks at the material, looks at the CV, looks at the
14 teaching evaluation, makes the determination on the third year
15 review. The chair of the committee on diversity and
16 development sits in on that review.

17 And then the individual is affirmed, assuming that the
18 individual is reviewed. And, in my experience, every
19 individual at the third year has been reviewed positively. We
20 see it kind of as an opportunity to provide guidance to our
21 typically younger faculty or I should use the term more
22 inexperienced faculty who could use the direction as to how to
23 progress well throughout the ladder ranks and off-laddered
24 ranks. So that's the third year review.

25 The three categories of faculty then begin to diverge at

1 the seven year review process. So the next review happens in
2 the seventh year, mandated by our procedures. What happens
3 then is that the associate and lecturer faculty are reviewed
4 and either reappointed and promoted, so they would be
5 reappointed and promoted to senior associate or senior
6 lecturer, or not renewed. Again, in my experience, every
7 single case I've been on, a lecturer or associate has been
8 renewed and -- reviewed, renewed, and promoted.

9 The POPP faculty are, in the seventh year, reviewed and
10 the review criteria become a little bit more deliberate in the
11 seventh year and onerous in the seventh year for the POPP
12 faculty. We're expected to obtain external letters from
13 scholars, artists, writers, whatever the relevant disciplinary
14 group would be. There are letters from -- there is a standard
15 letter from the department chair. There are teaching
16 evaluations as part of the portfolio. It's a very rigorous
17 review, very similar to a tenure review. And that's how we
18 wrote it in the guidelines.

19 The seven year review for senior lecturer and senior
20 associate is also rigorous, but the level of rigor in terms of
21 the attention paid to the quality of the external work,
22 whatever it might be, is significantly more in the case of the
23 POPP.

24 And so if a POPP is successful in their seventh year
25 review, they are reappointed from assistant POPP to associate

1 POPP. Now you remember in the tenure ranks, when you are
2 reappointed from -- when you're reappointed from assistant to
3 associate, that associate is, by definition, with tenure. We
4 don't have long term, non-tenured associates. So we have in
5 the new procedures guideline treated that promotion at the
6 seventh year for POPPs as if it were a promotion with tenure.
7 We really are thinking of it in those terms.

8 And that's what the personnel procedures are trying to
9 reflect. So that's the seventh year. Thereafter, all
10 associates, lecturers, and POPPs are reviewed on a seven year
11 cycle.

12 Associate POPPs, similar to tenured line faculty, may
13 choose to stand for full professor of professional practice and
14 that review looks very similar to the review of a tenured
15 faculty member who is moving from associate professor of
16 professional practice to full professor of professional
17 practice. I'm sorry, did I say that right?

18 Q Um-hum.

19 A Okay. I think the really important thing to note is that
20 when you're tenured at the associate level after your seventh
21 year, you don't have to go up for full professor. You don't
22 actually have to ever be reviewed again. So you're tenured and
23 baring some sort of really poor performance, you're pretty
24 much, you know, without -- you could go through the rest of our
25 academic career without review. That's not true for the POPPs,

1 so they mirror the tenured line faculty, same with the
2 lecturers, they mirror the tenured line faculty, same with the
3 associates, but at seven years, post that seven year review,
4 they are reviewed formally again by our committee on tenure and
5 promotions.

6 So is that clear? So the process is very similar to --
7 the process is similar, the criteria are similar. The rigor of
8 the evaluation is somewhat similar. And particularly a little
9 more similar in the case of POPPs at the seven year rank.

10 Q Do you have any involvement in the review of adjuncts?

11 A No, I really don't. So what happens in the adjunct hiring
12 process since I've been provost is that departments put in
13 requests for essentially a course replacement. So we have, you
14 know, we have a fairly generous sabbatical policy, which allows
15 faculty, after six years of teaching, to take a semester off at
16 full pay or a year off at half pay.

17 Many of our faculty supplement that with a sort of
18 research leave policy called the SFRL policy, research leave
19 policy, something like that, I don't remember what the acronym
20 is, which allows faculty after three years to take a semester
21 off at half pay or full pay. And then in addition to that,
22 faculty supplement with grants.

23 So at any given time, I think it's fair to say that among
24 our faculty and within the departments there is -- we're not
25 leave-proof, so there's always faculty on leave and we always

1 have to replace those courses.

2 So the process for appointing adjuncts is very different
3 from the process for appointing associates, lecturers, and
4 POPPs. So the way that works is in their budget that they
5 submit to us, the department chairs will put together a
6 teaching line thing in its projected leave. And they'll write
7 a narrative that says we're down four courses and I want
8 permission to replace two of them, and I need to replace two of
9 them because this one is the most important course in the
10 department with respect to early, you know, majors and I need
11 someone else to teach that, so I need someone to teach this.
12 So they're working on their course schedules around the time
13 they submit their budget.

14 If they get budget approval, they are free to -- they are
15 free to appoint an adjunct. And I changed the policy a little
16 bit in that we appoint by position, so I give authority for a
17 department chair to appoint replacement for three courses,
18 let's say. That department chair may choose to replace those
19 three courses with one adjunct or with three adjuncts, so one
20 adjunct teaching three courses or three adjuncts teaching one
21 course. It's at the discretion of the department chair.

22 The other thing that's different and also I think it's
23 really important everybody understand is that for multi-term
24 appointments -- multiyear term appointments and for all of the
25 ranks that we've been talking about, associates, lecturers,

1 POPPs, those have to be, they are mandated, and I follow up on
2 being national searches. So the searches look different. The
3 search procedure looks totally different.

4 In all of those cases, the multiyear terms, the lecturers,
5 associates, and POPPs, as well as the tenured line faculty,
6 there is a job ad that needs to be approved by me after the
7 recommendation of FBPC. So if dance wants a professor of
8 professional practice in ballet and that's what's approved by
9 FBPC, their job ad better look like looking for someone in
10 ballet. It can't look like they've decided they want to teach,
11 I don't know, modern folk dance, if there is one. So it can't
12 look like that. So I check to make sure that their job ad
13 reflects what FBPC has authorized.

14 They then have to sort of get authority to post the ad in
15 all kinds of places. And they need authority because there's
16 budget implications. So I review that or someone in my office
17 reviews that. And in the end, it's posted. And the dean for
18 diversity and development needs to get involved and make sure
19 that the list of applicants are reviewed according to the EEOC
20 standards, that we are compliant with all kinds of Title 9 and
21 EEOC provisions.

22 Then, very often, in all cases actually for multiyear
23 terms, associates, lecturers, and POPP, the faculty are invited
24 to campus. There is a sort of selection of finalists. They're
25 invited to campus. I meet with the candidates for maybe 15

1 minutes to a 1/2 hour to an hour, depending on the level and
2 rank, and the type of appointment. They meet with other
3 members of the department. They typically give a lecture that
4 is publicly attended by department members, by students, etc.
5 Then there is an evaluation that happens of that search
6 committee.

7 There is a formal search committee, I'm sorry, I forgot
8 that. There's an evaluation by the search committee. There is
9 a recommendation by the search committee. It has to go through
10 me. I speak with the chair of the search committee, who tells
11 me why this is the recommended person. It has to go through
12 the dean for diversity and development. And then an offer is
13 made. So that's a very prescribed and rigorous appointment
14 process for those full-time employees, by design and by
15 definition, and we feel really strongly about that.

16 Adjunct faculty are appointed. After the budget process
17 is approved, the chair of the department has the responsibility
18 essentially to staff the courses. And so the adjunct faculty
19 are appointed very often through contacts and connections to
20 staff courses. They are highly qualified, very much a part,
21 you know, very much, you know, we look for people who we know
22 will teach well to our students. We care that our classes are
23 taught well. But the appointment is made by the department
24 chair. There is no visit to campus necessarily. There is no
25 lecture given. There is no search committee forum. There is

1 no review by -- there is no process through FBPC, nor a review
2 by the provost, nor review by the president, or any of that
3 kind of thing.

4 So it's really like -- it's like a best business practice.
5 When you have a really rigorous scholarly faculty who are going
6 on leave very often, have many opportunities to do scholarship,
7 and you know you're going to have gaps in your curriculum, you
8 need to have a kind of system for filling those gaps.

9 Because people have individual specialties, those gaps
10 have to be filled in a reasonable way, based on those
11 individual specialties. We benefit tremendously by being in
12 New York City. We benefit tremendously by virtue of that and
13 in our appointments of adjunct faculty, and primarily, you
14 know, we take advantage of that in many disciplines in which
15 New York is really offering a contingent of interesting people
16 to teach courses.

17 Q Let me just briefly -- well, actually, let me ask a
18 follow-up question on something you said earlier discussing the
19 review and renewal process, the promotional processes. Just to
20 clarify, can reviewed and renewable faculty who are not
21 promoted, and I think you may have been drawing some
22 distinctions, be renewed at the same level?

23 A That's a complicated question. At the seven year review
24 point, associates and lecturers are either reappointed and
25 promoted or they are not reappointed. I have not known of a

1 case of someone not being appointed during my tenure. And I
2 would have to look back; I don't think it's happened period at
3 Barnard. So that's one answer to your question.

4 After the seven year review, however, associates and POPP
5 can be -- are just reappointed, so there's no promotion.

6 You're done. You're a senior lecturer or senior associate for
7 the rest of your time at Barnard College.

8 For POPPs, at the seven year point -- now I've omitted the
9 third year point, of course, because the third year point,
10 you're just reappointed. You're not reappointed and promoted,
11 you're just reappointed. For the POPPs at the third year
12 point, you're just reappointed, this is most typically. And at
13 the seven year point, you are reappointed and promoted, or you
14 are not reappointed. And then, thereafter, you can be either
15 just reappointed, meaning stay an associate POPP for life, just
16 like a tenured faculty member can stay an associate professor
17 for life, or you can be reappointed and promoted just like an
18 associate professor can be promoted to full professor.

19 Q I'm going to, actually, keep down this path. Is it
20 possible for reviewed and renewable faculty to receive multiple
21 one year appointments? Has that ever happened?

22 A No.

23 Q And I think you may have answered this, but again a
24 clarifying question, can a lecturer remain a lecturer for more
25 than seven years?

1 A Can a lecturer remain -- under the personnel guidelines, a
2 lecturer must be reviewed in their seventh year and promoted.

3 Q Thank you. What are annual faculty reports?

4 A Annual faculty reports are -- they're kind of -- they're
5 part of the normal cycle of kind of update on scholarly
6 activity for the most part. So there is a series of questions
7 about what did you teach, who did -- how many advisees did you
8 have, what activities did you particularly take part in, what
9 kind of scholarly contributions did you make, what was
10 published this year, what was -- what is ready to be published
11 next year, has been accepted but not yet appearing, what kind
12 of talks did you give. So it's an update on their CV. It's
13 essentially a download of the most recent annual activity from
14 their CV.

15 I use it in the following context. I have a spreadsheet.
16 I read those. I use them -- I have a very small merit and
17 promotional pay and equity pay pool, and so I use those. I
18 read them very carefully. I kind of grade them in a weird way.
19 Sometimes, it's a numerical system. Sometimes, it's stars.
20 Sometimes, it's whatever I feel like. There's a numerical
21 system; I'm still perfecting it. But I keep a spreadsheet
22 after reading those things. And then I take the pool of
23 whatever merit pay there is and use that report to allocate
24 appropriately.

25 So if the faculty member, for example, had a book

1 published, or won a Guggenheim, or had seven articles
2 published, or gave a key note lecture at a major conference or
3 something like that, that would be in that report and I would
4 try to use it to give them a little bit more in compensation.
5 So I do that. I read all of those, keep that record before I
6 do my salary adjustments for the year.

7 Q And who prepares the faculty reports?

8 A The faculty. I mean they go to all -- meaning who
9 prepared what.

10 Q When you say all faculty, do you mean --

11 A Oh, I'm sorry, who are they distributed to?

12 Q Yes. That's a better question.

13 A So the following ranks of faculty are expected to submit
14 reports to me. They are the professors, associate professors,
15 assistant professors, associate, senior associates, lecturers,
16 senior lecturers, assistant POPPs, associate POPPs, and full
17 professor POPPs.

18 Q Do adjuncts prepare them?

19 A No.

20 Q If we could, let's turn to advising. Are the reviewed and
21 renewable faculty required to be major advisors?

22 A This is a very touchy subject. So no one is required to
23 be an advisor. People are asked to advise. And they're
24 sometimes -- oh, major, sorry, major advisor. I ask that the
25 last statement I made be stricken from the record.

1 So major advising is determined at the departmental level.
2 So department chairs, depending on the number of majors and the
3 number of full-time faculty, will decide who is advising
4 seniors in any given, and juniors, in any given year. It is
5 expected like in a steady state, it's expected that all, what
6 we used to call -- I don't remember the term you're using,
7 renewable and --

8 Q Neither do we. No, I'm just kidding.

9 MS. STEPHEN: Reviewed and renewable.

10 THE WITNESS: So it is expected that all associate
11 lecturers, POPPs, assistant associate, and full professors will
12 be doing major advising at any given point in time.

13 BY MS. MUNOZ:

14 Q And do you know how this expectation is communicated to
15 them?

16 A In department meetings. I mean the same way in which --
17 so if you think about department meetings where
18 responsibilities are essentially allocated at a given time in a
19 year, so they're allocated -- the courses are determined. When
20 faculty will teach is determined. Who will teach what is
21 determined. And how many people would do senior thesis
22 supervision is determined. How the seniors will be allocated
23 among the existing faculty is determined. And it's really left
24 at the department discretion.

25 So in some cases, for example, seniors can choose who

1 their major advisor will be, someone who they have worked with
2 or something like that. In other cases, it is seniors can
3 submit a paper where they list what they want to do their
4 thesis on and major advisors are assigned based on specialty,
5 so someone who would be the best advisor for a particular
6 project. And in other cases, they're just divided among the
7 group of faculty. It can be maybe all of that group of faculty
8 I mentioned or it may be a subset of that group of faculty,
9 depending on what the department chair determines is
10 appropriate in any given year. But, the department -- the
11 chair and the department, because it's a very equitable system.

12 Q I don't think I heard you mention this group, but I just
13 want to make sure, are terms required to be? And, again, I'm
14 talking about major advising.

15 A Terms, again, because, and I just want make this, because
16 a lot of this happens at the department level, my knowledge of
17 it is a little bit diffuse. But terms, in my discussions with
18 department chairs, and this includes at department chair
19 meetings, I discourage that terms would be -- I discourage the
20 use of terms as senior advisors, because it's part of our
21 experience, it's like a culminating experience.

22 We've just done a curriculum review and we think of the
23 curriculum, we think of the curriculum as consisting of the
24 experience in the major, experience of the general education
25 requirements, and then this culminating senior experience. And

1 so we really want the students to have access to someone who is
2 a bit more permanent on the faculty.

3 But I think terms -- so terms are not expected. I think
4 they are less likely than associates, lecturers, POPPs,
5 assistant associate, and full professors, I think they are less
6 likely. And I'm sure particularly in the cases of some of
7 those multiyear terms that they are major advisors, that they
8 did have some seniors working with them, and that they're doing
9 really strong and effective jobs at this.

10 Again, I just -- I look to the departments chair's report
11 and I look to, you know, that the department chair is doing the
12 right due diligence on who -- deciding who teaches what.

13 Q Okay. Do you know if adjuncts are required to be major
14 advisors?

15 A No. I mean I, again, at those chairs meetings, I suspect
16 and encourage, I would not -- I do not know of adjuncts being
17 major advisors ever.

18 Q Who oversees first and second year advising?

19 A First and second year advising is overseen by the dean of
20 studies. Her name is Natalie Friedman, currently.

21 Q Do you know who does the majority of first and second year
22 advising?

23 A So first and second year advising is primarily done by the
24 ranks of faculty that we've been talking about, so that
25 includes -- I'm going to keep repeating myself, because we

1 don't have a common terminology and I'm uncomfortable with the
2 terminology that's being used. So it's with the associate,
3 lecturer, POPP, assistant associate, and full professors, at
4 all ranks, okay. So that's the primary, the bulk of the
5 advising. There are a handful of -- of first and second year
6 advising.

7 There are a handful of adjuncts primarily in English who
8 did do some first year advising this past academic year. There
9 are 6 of them out of a total number of 120 advisors or so,
10 academic advisors and out of -- you have the numbers, 170 or so
11 adjunct faculty.

12 And then there are a couple of deans who do advising. I
13 do advising. I think the president does advising.

14 Q This is the first and second year or --

15 A First and second year, yeah.

16 Q And the faculty groups you described, are they paid to
17 advise first and second years?

18 A They are, currently.

19 Q And what is the form of that payment?

20 A It's a per student payment. It's administered through
21 another office. I think it's \$500 per student -- no? I don't
22 know what -- \$100 per student, so let's just say I don't know.
23 I'm not sure what it's paid.

24 Q Let's go back. You've been discussing the department
25 chairs and their roles. Do you know how department chairs are

1 selected?

2 A So department chairs are Barnard are rotating chairs with
3 a few exceptions that I'm trying to change. And I've only been
4 here three years. So the typical rotating chair is there for
5 three years. And what happens then is that the department gets
6 together and decides who will replace the chair.

7 Again, it's a democratic process. I intervene only when
8 it's hard to find someone to chair a department or there is
9 some ranker over who is going to be the next chair.

10 Q When you say the department, everyone in the department
11 makes the decision or who is making the decision on the chair?

12 A So departments are, again, they're all -- it's a
13 decentralized system. Even some departments actually have
14 their own written, not completely codified rules of conduct
15 that are their departmental rules. But the members of the
16 department from the perspective of my office constitute the
17 full-time faculty within the department.

18 Q And so are the, at the risk of you not liking the term,
19 what we have referred to as the reviewed and renewable, are
20 they part of the decision to select a chair?

21 A Yes.

22 Q And can those faculty members, can they chair a
23 department?

24 A Yes.

25 Q Can they chair a department that has tenured and tenurable

1 faculty member in it?

2 A Yes, and they do.

3 Q And are there any limitations on their service as a chair?

4 A No, none at all. They're some of our best chairs.

5 Q Are you required to approve a non-tenured chair?

6 A No. Same procedure for -- the same procedure for

7 selecting the chair is applied at all those ranks.

8 Q Are there any limitations on the duties of the chair,

9 those are reviewed and renewable faculty?

10 A No.

11 Q Let's turn to course load. We touched on it some already.

12 But could you please describe for us what the course load

13 expectations are for a full-time faculty?

14 A Full-time faculty are expected to teach a four course

15 load, two and two, typically, two in one semester, two in the

16 next.

17 Q And does that include the POPPs?

18 A I'm sorry, so full-time assistant, associate, and full

19 professors, in addition to professors of professional practice,

20 associate professors of professional practice, and assistant

21 professors of professional practice are expected to teach a

22 four course load.

23 Q And what is the course load for lecturers, senior

24 lectures, associates, and senior associates?

25 A Their course load is six.

1 Q What is the course load expectation for adjunct faculty?

2 A Adjunct faculty are hired on a per course basis, so there
3 is no expectation other than that they teach -- they are
4 part-time faculty, which means they teach one, two, three, or
5 four courses.

6 Q That is during a semester?

7 A Throughout the academic year.

8 Q The academic year. And what are the course load
9 expectations for term faculty?

10 A Term faculty teach five courses, if they are of the -- if
11 they are term assistant, associate, or professor faculty. And
12 if they are term lecturers or term associates, they teach six
13 courses. And if they are term POPPs, they teach five courses.

14 Q And how are these expectations communicated to the
15 faculty?

16 A Remember that all these appointments have to be approved
17 by the provost. So the communication happens once the faculty
18 member is hired. It also happens in chairs meetings. It also
19 happens in individual correspondence with chairs and the
20 provost.

21 Q And is this information written down anywhere, any
22 documentation on this?

23 A We're in the process of basically rewriting our faculty
24 guide and our chair's manual so that comport with practice. It
25 probably is written down somewhere on the website, but a lot of

1 those -- some of the information in those documents needs to be
2 consolidated and brought up to date.

3 Q In the past couple of days, we've talked a lot about
4 appointment letters, so I'd like to turn to those. Who
5 receives appointment letters?

6 A So appointment letters go out from my office to all full-
7 time faculty, so that include one year term appointments who go
8 through that special search procedure, three multiyear term
9 appointments, all lecturer appointments, all associate
10 appointments, all POPP appointments, assistant, associate, and
11 full professor appointments.

12 Q And so do term faculty receive appointment letters?

13 A Yes, they do.

14 Q And do adjuncts receive appointment letters?

15 A No, they don't.

16 Q And do adjuncts receive any type of documentation about
17 their --

18 A Adjuncts receive like an action form. There is some kind
19 of an action form that's processed in HR. And so there is a
20 record kept of that. And I believe they receive a copy.

21 MS. MUNOZ: Could I have just one second? Thank you,
22 sorry about that.

23 BY MS. MUNOZ:

24 Q So you were saying they receive an action form. I guess
25 more broadly is there, to your knowledge, is there any

1 difference between an appointment letter and an action form, or
2 is that just terminology?

3 A No, it's a very big difference, because I oversee
4 appointments. But remember that the way the adjunct process
5 happens, it's a budgetary process in some sense, so a budget is
6 approved. The department chair is told that she or he can hire
7 three adjuncts, adjuncts to teach three courses, let's say.
8 They are told at what rate they can hire those adjuncts. HR is
9 informed of that decision. And once the adjunct is hired, it
10 goes through an HR system. As I reviewed previously, the sort
11 of search and appointment procedure for terms and all of those
12 other ranks is much different.

13 Q If you can turn to discussing -- I believe you mentioned a
14 faculty vote. Who are the voting members of faculty, of the
15 faculty?

16 A You know we just went through this because of the
17 curriculum review, so the voting members of the faculty were
18 all the full-time faculty who were on the renewable
19 appointments, so that would constitute the lecturers,
20 associates, POPP at all rank, assistant, associate, and full
21 professors. In addition, the president is a voting member of
22 the faculty. The provost is a voting member of the faculty.
23 And the dean of the college is a voting member of the faculty.

24 Q How do you know those are the voting members of the
25 faculty?

1 A There is a statute -- there is a manual called the
2 statutes governing Barnard's whatever it's called.

3 Q This is one of the documents --

4 A Statues and procedures, or something statutes. And that's
5 a board authorized document that sets out the terms for various
6 things and that's where it list the faculty of record for
7 voting purposes.

8 MS. MUNOZ: Can I have this marked as an Employer exhibit?
9 I'm at 10?

10 HEARING OFFICER BERGER: Yes, you're at 10.

11 (Employer's E-10 identified.)

12 HEARING OFFICER BERGER: Is this more of what you
13 presented as Employer 7 the other day?

14 MS. MUNOZ: Yes. These are the statutes, yes.

15 HEARING OFFICER BERGER: Okay. So is Employer 10 plus
16 Employer 7 the complete document or are there still parts
17 missing?

18 MS. MUNOZ: There are not parts missing. Employer 7 is
19 encompassed in Employer 10.

20 HEARING OFFICER BERGER: Okay. So it begins at Part 3.
21 Are there Parts 1 and 2 that we don't have?

22 MS. STEPHEN: Right, so is that what -- the cover page of
23 what was 7 actually included other documents that were kind of
24 bound together at one point, which were the charter, the bylaws
25 and a copy of the intercorporate agreement. So we copied the

1 full and complete statutes.

2 HEARING OFFICER BERGER: I see, but not the charters and
3 the bylaws.

4 MS. STEPHEN: Yeah, right.

5 HEARING OFFICER BERGER: Okay. I understand.

6 BY MS. MUNOZ:

7 Q You mentioned the statutes. Do you recognize this
8 document?

9 A I do.

10 Q Can you tell us what it is?

11 A It's the statutes document.

12 Q And how do you know this?

13 A Because I reviewed it prior to the curriculum review,
14 along with the faculty governance and procedures committee.

15 Q And why was the document reviewed, at that time?

16 A It was reviewed because the faculty governance and
17 procedures committee, the FGP, have the responsibility to
18 oversee the vote on the curriculum. Since I've been at
19 Barnard, there hasn't been a vote of faculty on anything
20 formal, so this was my first occurrence of a vote of the
21 faculty. So working with the FGP, we came up with the
22 procedures for the vote. Chief among them was who had the
23 rights to vote.

24 MS. MUNOZ: And if we could have the other -- the
25 curriculum vote? I'm going to also show the witness Employer

1 Exhibit 5.

2 BY MS. MUNOZ:

3 Q Do you recognize that document?

4 A I do.

5 Q And what is it?

6 A It's the procedures for faculty vote that was sent by FGP
7 to the faculty.

8 Q What was the vote about?

9 A About the academic curriculum review.

10 Q So this is the vote that --

11 A That I was speaking about that just happened at the
12 May 4th faculty meeting.

13 Q And the description in Employer Exhibit 5, do you know
14 whether or not the description of those who can vote, is it the
15 same in Employer Exhibit 10 and Employer Exhibit 5?

16 A No. I mean we needed -- Employer Exhibit 10, the statutes
17 document, is our presiding document, but it is old. I can use
18 the word old in that context. To define a document, you're
19 allowed to use the word old, so it's an old document, but it's
20 all we have. So we, to the best of our ability, needed to
21 interpret the information contained in the statutes document,
22 update it to be relevant to the kinds of appointments we have.
23 And so to the extent that they differ, they differ in our
24 interpretation of the original intention of the statutes
25 document. So the first principle was to maintain the original

1 intention of the statutes document, that is the governing
2 document, and then to apply it to our current appointments.

3 Q Do you know if Employer Exhibit 10 refers to -- strike
4 that. Let me rephrase the question. Are there any faculty
5 listed in Employer Exhibit 10 who are not currently eligible to
6 vote?

7 A Any faculty?

8 Q Are there any -- does -- I'm going strike that all
9 together. Let's just go with Employer Exhibit 5. Does
10 Employer Exhibit 5 discuss those faculty members who are
11 eligible to vote?

12 A Yes.

13 Q Is there anyone missing from Employer Exhibit 5 who is
14 eligible to vote?

15 A No.

16 Q Okay. Are there circumstances under which the voting
17 members of the faculty change?

18 A Other than new individuals coming into these ranks or
19 individuals leaving the college, no. So there is a normal
20 pipeline. But this set defines the eligible faculty from the
21 perspective of, you know, by title, defines the eligible
22 faculty. The faculty, themselves, may change, but the titles
23 will not change.

24 Q And are there different types of faculty voting?

25 A I'm not sure what you mean. In the context of the faculty

1 meeting, which is relevant here for this vote, I mean I assume
2 there's faculty voting that happens at the department level or
3 something like that. But within the faculty meeting, this
4 defines the eligible population for voting.

5 Q Going with your context, are there different context in
6 which faculty may vote, aside from the faculty meeting or
7 department? For example, can faculty vote in committees?

8 A Do faculty vote on committees? I mean there are
9 committees in which faculty, you know, the committee members
10 vote.

11 (Pause.)

12 BY MS. MUNOZ:

13 Q Let me show you, maybe this will help, let me show you
14 what's been entered as Employer Exhibit 4(a) and 4(b).

15 A Okay.

16 Q So in the past couple of days, we've had testimony
17 regarding this exhibit. If you would look at Exhibit 4(a), on
18 the right-hand side, the column there, the category of the
19 elected committees, do you see that?

20 A Yes.

21 Q Who is eligible to vote on the -- the members of those
22 committees?

23 A Oh, so the selection -- so these committees, the elected
24 committees, the vote goes out to that group of faculties that
25 are listed as being able to vote in the faculty meeting.

1 Q All right.

2 A So appointment to those committees is, as well, governed
3 by the sort of criteria that you see here, as it's written, and
4 can include those members of the faculty, the associates,
5 lecturers, and POPPs.

6 Q Thank you. And if you could, I know you've got Employer
7 Exhibit 5, but would you please describe how the voting
8 process, itself, works?

9 A For membership on these committees?

10 Q Sure, you can start there. Thank you.

11 A My office, my associate provost works with a staff person
12 in my office and with FGP, the faculty governance and
13 procedures committee, to establish first of all vacancies on
14 these committees, because many of these committees are
15 multiyear terms. So we establish a matrix of vacancies on
16 these committees. We then, working again with the faculty
17 governance and procedures committee, establish a list of
18 eligible faculty to fill those vacancies.

19 That eligible list of faculty to fill those vacancies is
20 then sent out to the faculty at large, who vote either in total
21 or by division for a divisional representative, for their
22 representative. And it sometimes takes multiple rounds.

23 I have to confess that, you know, because I have taken
24 that responsibility and sort of assigned it to my associate
25 provost working with FGP, so I don't know the logistics of how

1 many rounds it typically takes or how many semi-finalists there
2 are. I just see the final committee as it is constituted.

3 Q I see. You referred to a list of those who are eligible
4 to serve?

5 A Yeah, because I mean if you look at the description, well,
6 I haven't for some time, but if you look at the description of
7 some of these committees, it will say, you know, it will be
8 fairly explicit. So it'll say like -- I can give you an
9 example, so if you look at FGP, it will say membership, one
10 tenured, one non-tenured from each of the four divisions. So
11 imagine you have a vacancy in a -- and they're multiyear terms.
12 So imagine you have a vacancy in a non-tenured, Division 2,
13 slot. Then you want to give the full list of eligible faculty
14 in that non-tenured Division 2 slot, which includes tenure
15 eligible, so assistant professors, lecturers, senior lecturers,
16 associates, senior associates, POPP of all ranks. Those are
17 our non-tenured, Division 4, eligible faculty for that vote.

18 Q Thank you. Turning back to the faculty meeting vote, how
19 do you or how did you know -- has the curriculum vote happened?

20 A Yes, it has.

21 Q And how do you know who voted?

22 A Well, we knew that there were 181, I think, eligible
23 voters, including myself, the president, the dean of the
24 college. The total vote was 120 to 34 in favor of the
25 curriculum review. It was an anonymous vote, so I don't know

1 who voted and who didn't vote, but we know that the majority of
2 the eligible faculty voted, the vast majority.

3 Q Is any record kept of that vote?

4 A Yes.

5 Q That was during the -- the vote was taken during the
6 faculty meeting?

7 A Yes, it was.

8 Q And --

9 A Let me clarify. It was taken during the faculty meeting,
10 except for there was an ability for faculty who were unable to
11 be at the faculty meeting either due to a conflict or because
12 they're on leave, to vote as well. And so I think there was
13 about 45 votes that came in from outside the faculty meeting.
14 It was sort of a prescribed timeline and all that. It was very
15 carefully worked out. The FGP did a really good job with that
16 vote.

17 Q What was the mechanism for which those 45 voted?

18 A The director of institutional research, her name is Becky
19 Friedkin, she sent out a voting proxy to those members who
20 identified themselves as being unable to attend the faculty
21 meeting. She then crossed their names off the list of eligible
22 faculty such that at the faculty meeting itself we were ensured
23 that no faculty member would vote twice. So she helped to --
24 so imagine we had a list of 181 faculty members that could
25 vote. We sent out to all those 181 faculty members an email

1 giving them the ability to vote by in absentia, if they were
2 unable to attend the faculty meeting. We then crossed their
3 names off the list of eligible faculty. At the faculty
4 meeting, itself, there were division boxes for the vote. The
5 vote was a simple ballot, yes/no. The ballot was placed in
6 those boxes and then the sum of the vote in absentia, plus the
7 ballots in those four boxes were counted.

8 Q Thank you. And are term faculty voting members of the
9 faculty?

10 A No.

11 Q Are adjuncts voting members of the faculty?

12 A No.

13 Q Thank you.

14 HEARING OFFICER BERGER: Do you want to move for the
15 admission of Employer 10?

16 MS. MUNOZ: I always forget that. That's why I usually
17 enter it at the beginning because I always forget. Yes, I do,
18 thank you. Yes, I'd like to move to enter Employer Exhibit 10.

19 MR. LEVINE: Voir dire.

20 HEARING OFFICER BERGER: Sure. So we're looking at the
21 statutes again. Mr. Levine has a few questions.

22 VOIR DIRE EXAMINATION

23 BY MR. LEVINE:

24 Q Yes, I have some questions for you.

25 A Sure.

1 Q Obviously, the document won't be impugned if I agree with
2 you that this is a very old document. You were given an
3 earlier partial version that said that it was with amendments
4 to January 1, 1975. Could that be, to the best of your
5 knowledge, an accurate date for when there were last changes
6 made to Exhibit 10?

7 A To the best of my knowledge, yes.

8 Q You said that because it was so old, there was a need to
9 interpret its intent. Who is responsible for doing that?

10 A I should -- I want to contain that statement, if I can,
11 just with I said that there was a need to interpret its intent
12 with respect to who constituted the voting population.

13 Q Okay.

14 A And essentially the primary role and responsibility was
15 given to the faculty governance and planning committee. And
16 they consulted with me. They consulted with general counsel.

17 Q It didn't need to go back to the board of trustees?

18 A No. Although, they approved. I mean they were notified
19 and they approved the interpretation.

20 Q Are you familiar with what I believe is the last complete
21 version of the faculty guide to Barnard College dated 2012 to
22 2013.

23 A I am.

24 MR. DIGIOVANNI: I'm just going to object because this is
25 for authenticity of this particular document. He'll have time

1 to question her about the other ones. But I'm not sure that
2 this is helping authenticate a 1975 document. I think he'll be
3 able to question her about there are changes to it and there
4 are interpretations to it, but I don't think that's the purpose
5 of voir dire.

6 MR. LEVINE: That's fair. I'll wait.

7 HEARING OFFICER BERGER: Okay, sure.

8 BY MR. LEVINE:

9 Q Are there other parts of this document that are out of
10 date in terms of current practice, to your knowledge?

11 A I didn't spend the time on it to respond to that. I
12 wouldn't know right now.

13 MR. LEVINE: My only question is the usefulness and
14 relevance of this document, if it's out of date and needs to be
15 interpreted, and this witness doesn't know if there are other
16 portions that are out of date and no longer relevant. So on
17 that basis, I would object to its admission.

18 HEARING OFFICER BERGER: Okay. Well, I'm going to receive
19 it. And I feel that the reviewer of the record will be able to
20 take that into consideration when deciding what weight to give
21 this document.

22 (Employer's E-10 received.)

23 CONTINUED DIRECT EXAMINATION

24 BY MS. MUNOZ:

25 Q So thank you for that. When you were describing your

1 duties and responsibilities, provost, you mentioned the budget
2 and salaries. And so I'm going to just ask you how is
3 compensation determined for adjuncts?

4 A First of all, there is a separate aggregate budget for
5 adjunct, TA, and grader compensation. And that's allotted to
6 me by the COO. So there's some back and forth. It doesn't
7 come from the sky. But, you know, I have a certain amount of
8 money I can spend on that. That's distinct from the amount of
9 money I spend -- I have to spend on full-time faculty.

10 Then I inherited a system that, you know, in which there
11 wasn't really thorough explanation of differences in adjunct
12 compensation. It's on a per course basis. And I have
13 background and training in the field of labor economic and
14 compensation. And so I've set out, along with the committee
15 who governs compensation, to sort of look at adjunct, adjunct
16 compensation generally.

17 But it's on a per course basis. It's not salaried. It
18 does not include benefits, adjunct compensation. There is a
19 total limit of what I can spend. And I would say that I've
20 tried -- I've made an effort along with that committee to
21 standardize adjunct pay.

22 Q How is compensation determined for what we have been
23 calling the reviewed and renewable?

24 A The reviewed and renewable faculty, their compensation is
25 put, you know, they are salaried employees. Their compensation

1 includes benefits. I have a spreadsheet which I track over
2 time that records both their notional and their effective
3 salaries. Their notional salary is the salary independent of
4 course release or, you know, course buy-out, or if they receive
5 a grant or something like that, or if they're on half-time
6 leave without pay, or things like that. So I can track the
7 path of their compensation over time, so I know if someone
8 received a five percent increase one year, a three percent the
9 next year, etc.

10 Prior to my coming here, it wasn't done that way. So that
11 imagine a faculty member who earned \$100,000 one year and then
12 went on leave the next year after a 3 percent raise would earn
13 \$51,500. So it would be recorded as a huge drop in their
14 compensation and there's no way to track it. For every
15 renewable -- for every renewable and reviewed faculty member, I
16 keep a longitudinal spreadsheet.

17 I'm given an amount of money to spend, which is based on
18 our prescribed percentage increase across the board for
19 faculty. So this year's increase was approved by the board,
20 prescribed at three percent. So my increase pool is three
21 percent of my total aggregate amount, which I have to
22 distribute across all those different ranks of faculty.

23 I'm also given a promotional pool for faculty who have
24 been recently promoted. That includes the people who have been
25 promoted to senior associate, senior lecturer, associate POPP,

1 full POPP, associate professor, and professor. And so I take
2 that promotional money and distribute it among that promotional
3 class of faculty.

4 I also have an equity pool, which is to -- and I fought
5 for that when I first came, which is to sort of correct some of
6 the long-term trends in compensation which might put people
7 outside of their bands, so to speak. And then I have a merit,
8 small merit pool that I can assign randomly.

9 Those salaries are due in by mid-July for the July payroll
10 and they become effective July 1.

11 Q Thank you.

12 A Sure.

13 Q I'm going to turn now, there have been some -- there are
14 other positions that the union has petitioned for that we've
15 had some discussion about. One would be and the title is
16 distinguished fellow. Would you be able to describe for us
17 what this position is?

18 A So the distinguished fellow is Leymah Gbowee, who is a
19 Nobel peace prize laureate from Liberia. She completed two
20 years at the college. Her first year involved co-teaching one
21 course with a full-time faculty member and offering several
22 lectures, public lectures, as well as kind of mentoring of
23 students in small groups. She is hugely inspirational. We
24 were thrilled to have her.

25 Her second year was a little bit different. She did a

1 little bit more kind of mentoring students in small groups.
2 She was assigned as a fellow in both the Barnard Center for
3 Research on Women and in the Athena Center. She just did --
4 she didn't actually have direct -- she guest-lectured in
5 classes, rather than having direct co-responsibility for a
6 single class.

7 Q Would you be able to describe for us her hiring process,
8 if there was one?

9 A This was a very unique opportunity that the president
10 learned of, and seized upon, and brought to my attention, of a
11 benefactor of the college who knew Ms. Gbowee fairly well and
12 knew of her desire to have some affiliation with Barnard
13 College, and had the resources through various means to fund
14 the position. And so it was brought to both of our attentions,
15 the president brought it to me to execute.

16 I met with Leymah several times. We talked about what her
17 responsibilities would look like. I met with the center
18 directors. I met with the person she was going to be
19 co-teaching with to make sure that it aligned with their
20 interests. And then we went about to hire her on a year by
21 year basis.

22 Q You mentioned this as unique and you also mentioned
23 funding. How was this position funded?

24 A This position was funded through a gift.

25 Q Through a gift, okay, just to clarify. Was this position

1 considered a full-time position?

2 A It was considered a full-time position. It was
3 compensated like a full-time position.

4 Q Compensated, okay. And so is there any difference -- in
5 your opinion, is there any difference in this position and any
6 of the other faculty members?

7 A Which faculty members?

8 Q Let's start with what we've been calling the reviewed and
9 renewable.

10 A Yeah, I think it's a different kind of position. It's an
11 honorary position, in some sense. It's a position that -- it's
12 a position that -- it's an opportunistic position, in some
13 sense. Really great institutions have to do this kind of
14 thing. I mean they have to take advantage of amazing people
15 who are onsite and available.

16 If you think through the processes of what I described as
17 a normal search process for renewable and reviewed faculty, it
18 didn't involve FBPC. It didn't involve, you know, it was an
19 executive decision in some sense, a decision by the president
20 in consultation with her provost to make this appointment after
21 considerable due diligence on the criteria for appointing her,
22 as well as consultation with the relevant faculty. And it was
23 fantastic for our students.

24 It's really like a one -- it's best seen as a kind of
25 unique situation. There's only one Leymah Gbowee. And if you

1 ever meet her, you will know there is only one Leymah Gbowee.

2 HEARING OFFICER BERGER: Have there been other
3 distinguished fellows prior to her?

4 THE WITNESS: I don't -- there are two others who kind of
5 fit her category right now. So in our faculty, that's a very
6 small number. And they are somewhat different. They're all
7 idiosyncratic.

8 HEARING OFFICER BERGER: So which two others are you
9 referring to?

10 THE WITNESS: There is Twyla Tharp's position is --

11 MS. STEPHEN: Distinguished artist in residence.

12 THE WITNESS: Say it again?

13 MS. STEPHEN: Distinguished artist in residence.

14 THE WITNESS: Distinguished artist in residence.

15 HEARING OFFICER BERGER: If you could let her do the
16 testifying, please.

17 MS. STEPHEN: I'm sorry.

18 BY MS. MUNOZ:

19 Q I'm going to ask about those. I was going to ask the same
20 series of questions about what is called the distinguished
21 artist in residence and you had mentioned the Anna Quindlen
22 writer in residence.

23 A Right. So those are the three. The distinguished --
24 would you like me to tell you about the distinguished artist in
25 residence?

1 Q Yes, please.

2 A So the distinguished artist in residence is now a fully --
3 it is a -- it will be a fully endowed chair, okay. So that
4 will, under the terms and stipulations of the endowed chair, it
5 will be a rotating chair. Whereas most chairs don't rotate,
6 this will be a rotating chair with the expectation that the
7 artist will rotate. Endowed chairs are usually held by full
8 professors who are there for a very long time. This is a
9 unique idiosyncratic in that way. And I say it will be fully
10 endowed because the gift is coming in incrementally over four
11 years, so the position will be fully funded within four years.

12 Currently, Twyla Tharp's salary is being partially -- was
13 being paid, for the 2014-15 year, Twyla Tharp's salary was
14 partially paid by the college. Okay. Twyla Tharp, for those
15 of you who might not know, is again a world famous dancer,
16 choreographer, composer, who has done lots of work,
17 compositional work in dance, established her own dance company,
18 one of the first women to have done that, and an
19 internationally recognized artist of great acclaim. She is
20 also an alum (sic) and she is now also a trustee.

21 She, you know, opportunistically, we learned that she
22 might be willing to come and teach a class in dance through one
23 of the dance faculty, so we -- she met with the president. She
24 then met with the provost. Faculty appointments go through the
25 provost of these sorts. And I negotiated with her over a

1 series of meetings for this arrangement at the college.

2 Q So when you say fully endowed chair, will Twyla Tharp stay
3 on with the college or --

4 A No. There was never any expectation that it would be held
5 in perpetuity by Twyla. So Twyla taught at the college for the
6 2014-15 year and may or may not teach in the '15-16 academic
7 year.

8 Q But that position will remain?

9 A That position will remain and someone will be put in place
10 to fulfill that chair. And the stipulation of the chair,
11 again, is that it will rotate.

12 Q Is that the same for the distinguished fellow, will that
13 position remain?

14 A The distinguished fellow chair position is not endowed.
15 It was a gift to support the operating budget in support of
16 that particular position. And unless we can find a gift in
17 support of that chair, it will not be filled.

18 Q If you would please briefly describe the Anna Quindlen
19 writer in residence, what is that position?

20 A So the Anna Quindlen writer in residence is another one of
21 these positions, again idiosyncratic and again opportunistic in
22 all the right ways. We received a major gift from -- in
23 support of it, both from Anna Quindlen and from other
24 additional sources to fund the position. And the first person
25 to hold that chair is Jenny Finney Boylan. She's on a five

1 year appointment. It's a renewable appointment, so she could
2 be renewed for a period of time up to 10 years under the
3 stipulation.

4 So they're all idiosyncratic. They're all different. The
5 appointments happen not through national searches, but through
6 opportunistic, you know, the opportunistic hiring. And the
7 arrangements for what's being taught and what the contribution
8 is very significant based on the artist or the scholar who is
9 holding the position.

10 Q Thank you. If we could, another classification that's
11 been under discussion is what is called a guest artist. Would
12 you please describe for us what a guest artist at Barnard is?

13 A A guest artist is -- so a guest artist is, well, I think
14 there might be a confounding, we currently have Twyla's position.
15 Twyla's position -- I'm a little confused, actually. A guest
16 artist? Are you referring to Twyla's position?

17 Q I'm not. But if you don't know, that's fine.

18 A Yeah, I'm not sure. Well, I'm not sure what that refers
19 to.

20 Q Okay, no problem. Let's turn -- I'm going to show you
21 what is Employer Exhibit 2 and take a look at that. Do you
22 recognize that document?

23 A I do.

24 Q Could you tell us what it is?

25 A It's what we call our academic code.

1 Q How do you know that that is the academic code?

2 A Because I recognize it.

3 Q Could you please describe for us what is in the academic
4 code?

5 A The academic code, as you see in front of us, specifies
6 all kinds of rules and regulations, the ones that currently are
7 subject to the fiduciary oversight of the board. So this is
8 the -- this document is reviewed by the board of trustees. And
9 we are obligated, if there are any changes, to have those
10 changes explicitly brought to the board for approval.

11 Q Who makes the changes?

12 A I have not, in my tenure at the colleges thus far made,
13 any changes. But I am aware of changes -- of the need to work
14 on this document and to make, to sort of improve it -- not
15 improve it, but to make it consistent with policy and
16 procedure.

17 Q Are those changes made, will they go to the board?

18 A So typically the changes are -- in the best practices, in
19 the case of best practices, we would suggest changes, bring it
20 to the faculty for approval, and then bring it to the board for
21 approval. Then it becomes codified and incorporated in the
22 code, in the academic code. We wouldn't bring to the board
23 something that hadn't gone to the faculty that was related to
24 the faculty.

25 Q When you say faculty, is it the full faculty, a faculty

1 committee, what are we talking about?

2 A We are talking about the faculty who are the reviewed and
3 renewable faculty.

4 Q And the other faculty members?

5 A For the purpose of the issues at hand in the academic
6 code, I would imagine that certain of the issues would pertain
7 to a larger group of faculty, for example, academic freedom is
8 a broad term. But mainly I think we're talking about -- we
9 could go through these one by one. If you think about you have
10 the grades of office, ladder/off-ladder ranks, if we were to
11 make changes there, we would need to inform the voting faculty
12 members.

13 I think for the purposes of what we're talking about for
14 the academic code, it would be the voting faculty members, at
15 faculty meetings. And you could go through each one of these
16 and, really, the document, if you think about it, talks about
17 ladder ranks, it talks about sabbatical leaves, it talks about
18 our pregnancy and childbirth policy, it talks about
19 reappointment policies. The cohort of faculty for whom this
20 code applies is the associate, lecturer, POPP at all ranks, and
21 the tenure line faculty.

22 Q And do you know is that document current?

23 A This document is -- needs to be -- I would say it is our
24 current document. It is our document by which we abide. There
25 have been changes even in my term in office that require some

1 minor modifications to the code, a rewrite of the code which
2 need to be brought to the board, we're in process, specifically
3 concerning some modest changes in the personnel procedures.

4 Q That leads to the next document. Let me show you what is
5 Employer Exhibit 1.

6 A Thank you.

7 Q Do you recognize that document?

8 A Oh, do I recognize this document.

9 Q Could you please tell us what that document is?

10 A I could recite from this document, if you'd like me to.

11 Q No, I think that's okay for now. Could you please tell us
12 what it is?

13 A This is the procedures for reappointment and promotion of
14 all full-time officers of instruction.

15 Q And who are the full-time officers of instruction?

16 A The full-time officers of instruction are all faculty in
17 the tenure line ranks, all faculty in the professor of
18 professional practice ranks, and faculty in the ranks of
19 lecturers and associates.

20 Q Is this document a current document?

21 A Yes, it is.

22 Q Could you tell us is this document applied prospectively
23 going forward or -- is it prospective?

24 A This document was finalized from the perspective of the
25 faculty and faculty acceptance of the document. It was

1 finalized in the early spring of 2015, after significant review
2 by the committee on tenure and promotions, rewrite by the
3 committee on tenure and promotions, and reviewed by the
4 committee on governance and procedures, the FGP.

5 It then went to the full faculty for discussion at a
6 faculty meeting and was affirmed by the faculty. It was not an
7 official vote. There was no objection to the document.

8 It essentially rewrites our personnel procedures. It
9 makes them consistent with current practice. It eliminates
10 some of the cumbersome appendices. It's written beautifully.
11 it doesn't have any grammatical errors. It would get an A from
12 an English teacher. It's clear. You can follow it. You can
13 actually go to a specific section and figure out what you're
14 supposed to do if you're a chair. So this represents, as
15 trivial as this may seem, this represents a really, you know, a
16 really step forward in policies and procedures because of its
17 clarity.

18 There are, as I mentioned, as I alluded to, we're not
19 completely done the procedure because there are some minor
20 changes, for example, the timeline for review changed not under
21 me. It's just described here in this document now accurately
22 and it hasn't been updated in the code. So we are aware of
23 some, you know, we're in transition with respect to fully
24 implementing new aspects within this document, which is
25 approved by the faculty, gone through all the procedures of the

1 faculty, putting it in the code, and getting approval by the
2 board.

3 I should note that the board does know about this
4 document. The academic affairs committee knows about this
5 document. It's aware of the changes. It's just we, we being
6 some members of the faculty, the FGP, the faculty governance
7 committee, members of the ATP, and with the help of senior
8 administration need to focus -- our next major project is
9 focusing on this thing, on the code, updating it.

10 MR. LEVINE: I'm going to ask that we take a short break.

11 MS. MUNOZ: That would be great, yes.

12 HEARING OFFICER BERGER: Sure, okay. Would you like about
13 10 minutes?

14 MR. LEVINE: That's fine.

15 HEARING OFFICER BERGER: Okay, off the record.

16 (Recess from 3:21 p.m. to 3:40 p.m.)

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

18 MS. MUNOZ: I would like to, and I believe we're up to 11,
19 have this document marked as Employer Exhibit 11.

20 (Employer's E-11 identified.)

21 BY MS. MUNOZ:

22 Q Do you recognize this document?

23 A Yes. This is the chair's manual.

24 Q Would you briefly describe for us what the chair's manual
25 is?

1 A The chair's manual sort of is -- was -- is intended to
2 give background related to the roles and responsibilities of
3 the chairs of each of the departments. It talks about the
4 faculty. It talks about the curriculum and then obligations
5 concerning curriculum, teaching assignments. It talks about
6 major advising and then it talks about a whole bunch of
7 administrative things that chairs do.

8 Q Is this document current?

9 A This document is not current. It's being revised as we
10 speak, this summer.

11 Q And who is responsible for the revising?

12 A There are two people in my office who will be responsible
13 for taking the chair's manual and the faculty guide, and
14 combining them into a single document.

15 Q Actually, if I could, I'd like to show you what first two
16 pages have been marked --

17 MS. MUNOZ: I'm going to move to enter this document into
18 evidence, Employer Exhibit 11.

19 HEARING OFFICER BERGER: I have a couple of questions
20 about it initially. My copy, towards the back, there is an
21 Appendix B and then there is an Appendix K, but there is no
22 Appendix A, and there is no Appendix C through J.

23 MS. MUNOZ: You know what, now that you say that, I've got
24 an A, Appendix A, Appendix B --

25 THE WITNESS: They're a little out of order, so maybe you

1 have them.

2 MS. MUNOZ: I've got A and L.

3 THE WITNESS: Yeah, because mine is all totally out of
4 order.

5 HEARING OFFICER BERGER: Oh, I'm sorry, I do have an A.

6 MR. LEVINE: A, B, J, L.

7 HEARING OFFICER BERGER: I have an A and B, but I don't --
8 but then I go from B to K.

9 MR. LEVINE: Exactly, A, B, K, L, M.

10 MS. STEPHEN: So if you look here, it says Appendices C
11 through J have been replaced by personnel procedures.

12 HEARING OFFICER BERGER: Okay, that explains it.
13 Petitioner, any objection?

14 MR. LEVINE: No, with the understanding that we don't yet
15 know what has actually been changed and what's in effect or
16 not. No objection.

17 HEARING OFFICER BERGER: Okay. Employer's 11 is received.
18 (Employer's E-11 received.)

19 BY MS. MUNOZ:

20 Q I'm going to show you -- the first two pages, so you know,
21 have been entered as Employer Exhibit 8. And the rest of the
22 document has been entered as Union Exhibit 1.

23 A That's this document or this one? This one?

24 Q Yeah, yeah. Is this the faculty guide to which you just
25 referred?

1 A The back part of it is the faculty guide, yes.

2 Q Is it the current faculty guide?

3 A It is the most recent faculty guide we have available.

4 Q Is the faculty guide accurate?

5 A The faculty guide -- I'm going to answer that question
6 eventually, okay. I just want to provide appropriate context.

7 Q Please.

8 A So prior to my coming to Barnard, my understanding is that
9 the chair's manual and the faculty guide were owned in some
10 sense by the provost and so the provost kind of updated these
11 things. She was a long-serving provost. She had served for 17
12 years. So prior, you know, in the early stages of updating, it
13 involved printing out a hard copy which just had a new year.
14 So let's say -- I think one of them says, you know, they all
15 say the year, so a faculty guide to Barnard College, '12-13, so
16 she would update each year.

17 Sometimes, and I assume it was her and her staff, and they
18 were updated in good faith to reflect current practices, I
19 assume. When I first came to Barnard, I recognized that there
20 were things in the chair's manual that didn't comport with
21 things in the faculty guide. And there were also redundancies
22 between the two documents. And so it occurred to me -- the
23 other thing is that I think one of the most important things we
24 do in the provost office is the hiring, reappointment, and
25 promotion of faculty. And the chair's manual, which had all

1 the appendices that were all messed -- I'm sorry, the faculty
2 guide which had all the appendices that were all messed up, it
3 made the personnel procedures very difficult to follow, less
4 clear, and impinged on their, you know, I think on their weight
5 and stature.

6 So I have set out in each of my annual goals to work on
7 the documents in my office. The most important document,
8 because the most important thing we do is to hire, promote,
9 reappoint, review faculty was the personnel's procedures
10 guideline. That's completed. That has been taken out of the
11 relevant document because it is no longer -- the new personnel
12 procedures supersede the original appendix.

13 Q And to clarify the appendices, that was out of the chair's
14 manual or the --

15 A The appendices are in the -- let me just double check.

16 Q Sure.

17 A Five years from now when I answer this question, it will
18 be done document. Those are the appendices in the chair's
19 manual.

20 Q Okay.

21 A Then you asked me the question, if you could repeat it?

22 Q Yes, I think the original question was is this --

23 A Is this the most current?

24 Q Is the faculty guide the most current version.

25 A So both the faculty guide and the chair's manual have a

1 kind of disclaimer on top of it that they were currently being
2 revised. They are the most current we have. But prior to my,
3 you know, well, from my day one in office, I noted
4 irregularities between practice procedure, between procedures
5 that were established in separate, small memo document type
6 things and certain things in each of these manuals.

7 So they are under revision. They will be combined. And
8 the rule governing updating these documents will be that they
9 need to go to the appropriate committees and then the faculty
10 need to be informed of any changes. And that, as best as we
11 can tell, as I can discern, that was not the procedure prior to
12 my coming.

13 Q Would you be able to give an example of an inconsistency
14 between what is in the faculty guide --

15 A I think one inconsistency is that in the process for
16 review of faculty, it talks about a five year review process,
17 but the review process was actually changed to seven years
18 under my predecessor, and none of the documents were
19 appropriately updated. There are other small things about the
20 amount of, you know, how leave can be counted, taken, amount of
21 money you can get and where you apply for things, and things
22 like that. We are currently compiling a comprehensive list.

23 Q Of the inconsistencies?

24 A Of the inconsistencies.

25 Q Is that kept anywhere?

1 A No. We've got some -- I've had a lot of turnover in my
2 office and so we are -- it's a project that had been started by
3 my previous associate provost, but we are going to be starting
4 again.

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

6 HEARING OFFICER BERGER: I wanted to ask you a few
7 questions. Starting with these guides, the faculty guide and
8 the chair's manual, give what you've described as
9 inconsistencies and things not actually matching current
10 practice, if a faculty member or a chair needs information
11 about an issue that's covered in these guides, where do they
12 turn for that information?

13 THE WITNESS: They go to these documents and they -- when
14 I say there are inconsistencies, the inconsistencies are
15 typically small and they relate to, as best I can tell, they
16 relate to something being updated and something else not being
17 updated.

18 And so my first year, the '12-13 was my first year, we
19 tried to update these manuals to make them as consistent as
20 possible, but we recognized that there was a larger project.
21 But for the most part, you know, I don't want to overstate the
22 inconsistencies, I don't want to overstate the redundancies,
23 but even minor inconsistencies and redundancies bother me.

24 So these are still on the website and these are the
25 documents. There are also -- there are other places on my

1 website in which people can, for example, find information
2 about how to apply for money for research leaves and things
3 like that, which are more current than some of the information
4 here.

5 HEARING OFFICER BERGER: A totally different topic, the
6 question of voting. There was talk of voting at the faculty
7 level and voting at the committee level. And then you
8 mentioned briefly that departments may have internal department
9 votes. Do you know who participates in that department level
10 voting?

11 THE WITNESS: Yeah, so in departmental level voting, it
12 depends on the nature of the vote. The one that I oversee, so
13 that I know most directly, and because I talked about
14 idiosyncrasies at the departmental level, but the one that I
15 oversee is the vote of the department for tenure and promotion
16 cases and for promotion of off-ladder faculty cases.

17 So the guidelines specify that the voting members of a
18 department, of a committee, for a review for reappointment, or
19 for a promotion or for a tenure decision in the case of
20 on-ladder faculty are faculty holding a higher rank, equivalent
21 or higher rank depending on what category we're talking about.

22 So, for example, in the case of a promotion for a lecturer
23 to senior lecturer, if that were -- the department has to make
24 a recommendation. That's the recommendation that goes to the
25 committee on tenure and promotions. So the voting members of

1 the department for that vote would be all senior lecturers and
2 all tenured faculty members.

3 If it were, by contrast, a vote for the promotion of a
4 faculty member from associate to full, then the relevant voting
5 body would only be full professors in that department.

6 HEARING OFFICER BERGER: And are there other, in addition
7 to votes on promotion, are there other departmental vote?

8 THE WITNESS: I suspect there are. They're not
9 articulated to me, because they don't interact with my office,
10 but I suspect there are votes about, you know, how to structure
11 a senior course or whether to move towards a two-semester or
12 one-semester thesis requirement.

13 HEARING OFFICER BERGER: Do you have any information about
14 who participates in votes of that nature?

15 THE WITNESS: My understanding is that in votes of that
16 nature, all permanent, what we're calling renewable and
17 reviewed faculty participate in those votes.

18 HEARING OFFICER BERGER: And tenure --

19 THE WITNESS: No, not in the -- so it's really important
20 to understand, so I'll say it again, in the tenure -- let's do
21 it this way. In the reappointment and promotions reviews,
22 which constitute the full body of our reviews, you are either
23 reappointed at same rank or you're reappointed and promoted.
24 The relevant body for voting is always the group within the
25 constituent body, whether it's the department or a committee

1 that's constituted, and of people of higher rank, except for
2 the case of full professor or professor of professional
3 practice, or full professor, which is people of equivalent or
4 higher rank.

5 HEARING OFFICER BERGER: Sure. But just to clarify, the
6 other example of something that departments might vote on that
7 you gave was changes to courses.

8 THE WITNESS: Let's say changing in curriculum.

9 HEARING OFFICER BERGER: Sure. And when you listed the
10 voting members, you said the reviewed and renewable. And so
11 what I'm asking is do the voting members also then include the
12 tenure eligible and tenured faculty on those kind of --

13 THE WITNESS: Yes. Yes, they do. And to really the best
14 of my knowledge, the entire across all departments, the voting
15 faculty for votes of that nature, curricular votes, includes
16 lecturers, associates, and POPPs at all ranks, and assistant,
17 associate, and full professors.

18 HEARING OFFICER BERGER: Okay. I think one more question.
19 You described at the beginning of your testimony the process
20 for creating a new position, that a petition is sent by the
21 department chair to the finance and budget planning committee,
22 and that there are limited resources and so not every petition
23 for a new position is going to be granted.

24 In your experience, has it ever been the case where a
25 department chair receives a negative decision on the petition,

1 that, sorry, it's not within the budget to hire a full-time
2 person for this position, that then the department chair would
3 hire an adjunct to fill what they had hoped would have been a
4 full-time position?

5 THE WITNESS: That's a good question. Not really, because
6 the timing is different. So the petitions for those
7 appointments, lecturer, associate, professor of professional
8 practice, assistant, associate, and full, they are timed for --
9 so the authority to search involves a whole year search and
10 that whole year search means that you're staffing courses the
11 next academic year. So, for example, we just went through the
12 process. So the '14-15 positions are not for faculty who will
13 be here in '15-16, but they are for faculty who will be here,
14 present, teaching in '16-17.

15 Adjunct requests are done on an annual basis, so the
16 request for adjuncts for '15-16 are, by definition, independent
17 of those decisions in any kind of short term, in any kind of
18 cross section, because the timing doesn't align.

19 HEARING OFFICER BERGER: Petitioner, do you need time for
20 your cross-examination?

21 MR. LEVINE: Off the record?

22 HEARING OFFICER BERGER: Sure. We can go off the record.
23 (Whereupon, at 3:58 p.m., the above-entitled matter adjourned.)

24

25

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: June 24, 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

Official Reporter

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