

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

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**In the Matter of:**

**Case No.: 18-RC-228797**

**THE TRUSTEES OF GRINNELL COLLEGE  
Employer**

**And**

**UNION OF GRINNELL STUDENT DINING  
WORKERS  
Petitioner**

**Place: Grinnell, IA  
Date: 10/17/18  
Pages: 1-309  
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**OFFICIAL REPORTERS**

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2 UNITED STATES OF AMERICA  
3 BEFORE THE NATIONAL LABOR RELATIONS BOARD  
4 REGION 18

5 In the Matter of: )  
6 THE TRUSTEES OF GRINNELL COLLEGE, )  
7 Employer, )  
8 and ) Case No.  
9 UNION OF GRINNELL STUDENT DINING ) 18-RC-228797  
10 WORKERS, )  
11 Petitioner. )

12  
13  
14 The above-entitled matter came on for  
15 hearing pursuant to notice, before MARTHA FREEBERG,  
16 Hearing Officer, at Grinnell College Golf Clubhouse,  
17 933 13th Avenue, Grinnell, Iowa, on Wednesday,  
18 October 17, 2018 at 9:00 a.m.

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P R O C E E D I N G S

(Time Noted: 9:18 a.m.)

HEARING OFFICER FREEBERG: On the record.

The hearing will be in order. This is a formal hearing in the matter of the Trustees of Grinnell College, Case No. 18-RC-228797 before the National Labor Relations Board.

The hearing officer appearing for the National Labor Relations Board is Martha Freeberg, M-A-R-T-H-A F-R-E-E-B-E-R-G. All parties have been informed of the procedures at formal hearings before the board by a service of description of procedures in certification and decertification cases, with the notice of hearing. I have additional copies of this document for distribution, if any party wants more.

Will the parties' representatives please state their appearances for the record, and if you could spell your names for the court reporter. For the petitioner?

MR. MCCARTAN: Cory McCartan for the petitioner, C-O-R-Y M-C-C-A-R-T-A-N.

MR. XU: Zijun Xu for the petitioner. That is Z-I-J-U-N X-U.

HEARING OFFICER FREEBERG: Thank you. For

1 the employer?

2 MR. CUNNINGHAM: Sure. Thomas Cunningham  
3 for the employer. T-H-O-M-A-S C-U-N-N-I-N-G-H-A-M.

4 My -- as you are aware, Your Honor,  
5 my partner, Frank Harty, F-R-A-N-K H-A-R-T-Y, will  
6 be joining us mid-morning.

7 HEARING OFFICER FREEBERG: Thank you.

8 MR. KINGTON: Raynard Kington, R-A-Y-N-A-R-D  
9 Kington, K-I-N-G-T-O-N.

10 HEARING OFFICER FREEBERG: Thank you. Are  
11 there any other appearances? Let the record show no  
12 response. Are there any other persons, parties or  
13 labor organizations in the hearing room who claim an  
14 interest in this proceeding? Let the record show no  
15 response.

16 I now propose to receive the formal  
17 papers. They have been marked for identification as  
18 the Board's Exhibit 1A through 1H, 1H being an index  
19 and description of the entire exhibits. The exhibit  
20 has been shown to the parties.

21 Are there any objections to the  
22 receipt of these exhibits onto the record? If you  
23 could state yes or no.

24 MR. MCCARTAN: No, none.

25 MR. CUNNINGHAM: And the employer has no

1 objections, Your Honor.

2 HEARING OFFICER FREEBERG: Thank you.

3 Hearing no objections, the formal papers are  
4 received in evidence.

5 (Whereupon, Board Exhibits 1A  
6 through 1H were marked for  
7 identification and received into  
8 evidence.)

9 HEARING OFFICER FREEBERG: Are there any  
10 motions to intervene in these proceedings to be  
11 submitted to the Hearing Officer for ruling by the  
12 regional director at this time? Are the parties  
13 aware of any other employers or labor organizations  
14 that have an interest in this proceeding?

15 MR. MCCARTAN: No, Your Honor.

16 MR. CUNNINGHAM: No, Your Honor.

17 HEARING OFFICER FREEBERG: Are there any  
18 prehearing motions made by any party that needs to  
19 be addressed at this time?

20 MR. MCCARTAN: No, Your Honor.

21 MR. CUNNINGHAM: Your Honor, at this point  
22 in time, the employer would move to admit Exhibit A  
23 which is its position statement that was filed  
24 yesterday. I have a copy for Mr. McCartan, although  
25 I think he already has a copy. Here is the

1 original.

2 (Whereupon, Employer's Exhibit A  
3 was marked for identification.)

4 MR. CUNNINGHAM: As -- as part of this, Your  
5 Honor, we are also asking a motion for leave to  
6 amend that portion of our brief that deals with  
7 issue four.

8 The purpose of this is that there was  
9 some language contained in that in terms of the  
10 terminology. Not the argument, but the terminology  
11 that was used. That was not cleared by my client.  
12 Quite -- quite frankly, we're advocates and  
13 sometimes in the heat of advocacy, we say things  
14 that were not intended.

15 The point of that brief point is that  
16 the concern is that the imposition of collective  
17 bargaining regime on the petition for unit would  
18 erode the egalitarian nature of Grinnell College,  
19 which is certainly at the -- at the core of their  
20 mission and their character. Some of the language  
21 employed seemed -- seemed contrary to that, and that  
22 was not what was intended.

23 So as I said, there's no -- there's  
24 no substantive change to the issue, but we  
25 respectively request leave after this hearing to

1 file an amended brief on that point.

2 HEARING OFFICER FREEBERG: Okay. Then I  
3 will -- I'm going to reserve ruling on whether that  
4 will be admitted or not once we've all had a chance  
5 to review it and any issues can be weighed at that  
6 time.

7 MR. CUNNINGHAM: Okay. Very good. But may  
8 the position statement be entered?

9 HEARING OFFICER FREEBERG: Yes.

10 MR. CUNNINGHAM: Okay.

11 HEARING OFFICER FREEBERG: Are there any  
12 objections to the receipt of Employer Exhibit A?

13 MR. XU: Yes, Your Honor. I'm referring to  
14 page four of the presentation attached in the  
15 Statement of Position.

16 HEARING OFFICER FREEBERG: So that's page  
17 four of the Power Point?

18 MR. CUNNINGHAM: Of the slide?

19 MR. XU: Of the slide.

20 HEARING OFFICER FREEBERG: Or the slide,  
21 okay.

22 MR. KINGTON: What slide number?

23 MR. CUNNINGHAM: Slide four.

24 HEARING OFFICER FREEBERG: Okay.

25 MR. XU: So, Your Honor, the employer's

1 legal position has been well explained in their  
2 brief, and any more reiteration in the presentation  
3 of that legal position result and in foundation  
4 pursuant to rules of evidence 702 will be improper  
5 opinion testimony.

6 Furthermore, I object to the use of  
7 slide 26. It is a quote from Ms. Janet Moser,  
8 Director of Dining Services.

9 MR. CUNNINGHAM: I'm sorry, what slide are  
10 you on?

11 MR. XU: Slide 26.

12 MR. CUNNINGHAM: Twenty-six, okay.

13 MR. XU: The quote from Janet Moser is  
14 inadmissible hearsay. It is out of court statement  
15 made by Ms. Moser made for truth or not asserted.  
16 Quote: That the number one reason students don't  
17 choose dining services to work is that they can --  
18 they can do homework.

19 HEARING OFFICER FREEBERG: Okay. What is  
20 the employer's position on these two objections --  
21 or objections to the one exhibit?

22 MR. CUNNINGHAM: Certainly, Your Honor.  
23 First, as to exhibit -- as to slide six --

24 HEARING OFFICER FREEBERG: Four? Is it  
25 four?



1 MR. KINGTON: Slide four. It was slide  
2 four.

3 MR. CUNNINGHAM: Oh, I'm sorry, slide four.  
4 Oh, okay. Well, this is a statement of position.  
5 This is a statement that -- and the purpose of this  
6 hearing is to provide factual basis for that  
7 position. That's why this outline of what's going  
8 to be President Kington's testimony is submitted. I  
9 think it's perfectly proper, it's demonstrative,  
10 it's illustrative, and he can explain the basis for  
11 that statement. In fact, he will.

12 Into exhibit -- or excuse me, slide  
13 26, you know, again, the strict application of the  
14 rules of evidence do not apply here. President  
15 Kington is going to, in fact, testify as to the  
16 basis of that quote. And I believe it is -- it is  
17 perfectly appropriate, given the nature of this type  
18 of hearing, to allow this to be admitted.

19 HEARING OFFICER FREEBERG: Okay. The -- the  
20 petitioner's objection is noted on the record. And  
21 to the extent that it's part of the position  
22 statement submitted by the employer and the  
23 employer's -- reflective of the employer's position,  
24 it will be admitted onto the record and the union  
25 will have an opportunity to provide counter

1 arguments or rebut any arguments that it disagrees  
2 with.

3 MR. XU: Yes, Your Honor.

4 MR. CUNNINGHAM: Am I correct, then, that  
5 Exhibit A is received?

6 HEARING OFFICER FREEBERG: Employer Exhibit  
7 A is received.

8 (Whereupon, Employer's Exhibit A  
9 is received into the record.)

10 HEARING OFFICER FREEBERG: And one  
11 clarification by the hearing officer. The list of  
12 voter names and the departments.

13 MR. CUNNINGHAM: Right.

14 HEARING OFFICER FREEBERG: Will that also be  
15 offered to the record?

16 MR. CUNNINGHAM: Does it need to be? I'm  
17 not quite certain how -- this is my first quick  
18 election rule hearing on this. I mean, I can offer  
19 that.

20 HEARING OFFICER FREEBERG: Just so that the  
21 reader of the record can have a clear itemized list  
22 of the classifications or, in this case, departments  
23 at issue.

24 MR. CUNNINGHAM: I will need to make some  
25 copies of those and we can offer them a little

1 later.

2 HEARING OFFICER FREEBERG: Okay.

3 MR. CUNNINGHAM: Okay.

4 HEARING OFFICER FREEBERG: Are there any  
5 other motions that either party wishes to make at  
6 this time?

7 MR. MCCARTAN: No, Your Honor.

8 MR. CUNNINGHAM: No, Your Honor.

9 HEARING OFFICER FREEBERG: The parties to  
10 this proceeding have executed a document which is  
11 marked as Board Exhibit 2. That exhibit contains a  
12 series of stipulations including, among other  
13 things, that the petitioner is a labor organization  
14 within the meaning of the Act. There is no contract  
15 bar, and the employer meets the jurisdictional  
16 standards of board.

17 Are there any objections to the  
18 receipt of Board Exhibit 2?

19 MR. MCCARTAN: No, Your Honor.

20 MR. CUNNINGHAM: No, Your Honor.

21 HEARING OFFICER FREEBERG: Hearing no  
22 objection, Board Exhibit 2 is received in evidence.

23 (Whereupon, Board's Exhibit No.  
24 2 is offered and received into  
25 evidence.)

1 HEARING OFFICER FREEBERG: In our  
2 discussions before going on the record, we discussed  
3 whether the parties can stipulate as to the  
4 inclusion or exclusion of any particular  
5 classifications. The parties stated that -- that  
6 they do not plan on doing so at this time, but as  
7 the proceeding continues, if it becomes clear that  
8 the parties can reach any agreements on any of those  
9 issues, we'll address them at that time.

10 Are there any petitions pending in  
11 any other regional offices involving other  
12 facilities of the employer?

13 MR. MCCARTAN: No, Your Honor.

14 MR. CUNNINGHAM: Not that I'm aware of, Your  
15 Honor.

16 HEARING OFFICER FREEBERG: The parties are  
17 reminded that prior to the close of the hearing, the  
18 hearing officer will solicit the parties' positions  
19 on the type, date, times, and location of the  
20 election, and the eligibility period, including the  
21 most recent payroll ending date, and any applicable  
22 eligibility formulas, but will not permit litigation  
23 of those issues.

24 The Hearing Officer will also inquire  
25 as to the need for foreign language ballots and

1 notices of election. Please have the relevant  
2 information with respect to these issues available  
3 at that time.

4 The parties have been advised that  
5 the hearing will continue from day to day as  
6 necessary until completed, unless the regional  
7 director concludes that extraordinary circumstances  
8 warrant otherwise.

9 The parties are also advised that  
10 upon request, they shall be entitled to a reasonable  
11 period at the close of the hearing for oral  
12 argument. Post hearing briefs shall be filed only  
13 upon special permission of the regional director.

14 In addition, a party may offer into  
15 evidence a brief memo of points and authorities,  
16 case citations, or other legal arguments during the  
17 course of the hearing or before the hearing closes.

18 The employer has offered, and I have  
19 received, a Statement of Position in this matter. I  
20 would like to clarify for the record, the  
21 petitioner's position on, first, the issue that  
22 undergraduate students at Grinnell are not employees  
23 for the purposes of the National Labor Relations  
24 Act. Just briefly, for the record, what is the  
25 petitioner's petition on that issue?

1 MR. MCCARTAN: Your Honor, it's petitioner's  
2 position that undergraduate students at Grinnell are  
3 employees for purposes of the National Relations  
4 Act.

5 REPORTER: I'm sorry, employees?

6 MR. MCCARTAN: For the purposes of the  
7 National Relations Act.

8 REPORTER: Okay. You need to speak up.

9 MR. MCCARTAN: Sorry.

10 REPORTER: That's okay. Thank you.

11 MR. KINGTON: Excuse me, is it possible to  
12 get a mike?

13 MR. MCCARTAN: I can talk louder.

14 HEARING OFFICER FREEBERG: Let's go off the  
15 record.

16 (Whereupon, a brief recess was  
17 taken off the record.)

18 HEARING OFFICER FREEBERG: Go back on the  
19 record. And what is the petitioner's position with  
20 respect to the issue raised by the employer in its  
21 Statement of Position that there is no community of  
22 interest among employees within the petitioned for  
23 unit?

24 MR. MCCARTAN: It's the petitioner's  
25 position, Your Honor, that there is a strong

1 community of interest between all of the employees  
2 in the petitioned for unit, and also with the  
3 employees in the existing dining services unit,  
4 which petitioner seeks to have an election.

5 HEARING OFFICER FREEBERG: Okay. And the --  
6 I note that the employer's position statement, as I  
7 read it, did not raise any issues specifically with  
8 the Armour Globe issue of whether the petitioned for  
9 unit can be appropriately combined with the existing  
10 bargaining unit.

11 So as those issues are not raised in  
12 the statement position, I don't anticipate any  
13 arguments on that particular matter. Is that  
14 understanding correct?

15 MR. CUNNINGHAM: That's correct.

16 HEARING OFFICER FREEBERG: Okay. And what  
17 is the petitioner's position as to the number of  
18 employees in each classification or location or  
19 employee grouping that the -- just briefly, for  
20 record, if you could explain the petitioner's  
21 position specifically on the groups that you seek to  
22 have included. So that it's clear who the union  
23 wants to be included.

24 MR. MCCARTAN: So the petitioner's position  
25 is that all student employment positions at Grinnell

1 College, excluding those in the existing unit in  
2 dining services are in this unit, and we believe  
3 that's about 915 employees but we don't have an  
4 exact number.

5 HEARING OFFICER FREEBERG: And that reflects  
6 a variety of -- of classifications and positions.

7 MR. MCCARTAN: Yes, Your Honor. We don't  
8 have a complete list of all the classifications as  
9 that information and -- that's what the employer  
10 has. But there's a -- there's a -- a long list of  
11 classifications.

12 HEARING OFFICER FREEBERG: Okay. The  
13 regional director has directed that the issues  
14 will -- the following issues will be litigated in  
15 this proceeding: The question of whether  
16 undergraduate students at Grinnell are, and in  
17 particular the petition for unit, are employees for  
18 the purposes of the National Labor Relations Act,  
19 and whether there's a community of interest within  
20 the petition for bargaining unit.

21 Mr. McCartan, what is the  
22 petitioner's position regarding the date, time, and  
23 location of the election and the eligibility period,  
24 including most recent payroll ending dates, and any  
25 applicable eligibility formulas?



1           MR. MCCARTAN: Your Honor, the petitioner's  
2 position as regards the election, that it should be  
3 held -- I believe our petition says November 1st  
4 from 8 a.m. till 5 p.m. We suggested Room 101 of  
5 the Joe Rosenfield Center, but any large room  
6 essentially located on the employer's premises would  
7 be acceptable to petitioner and would suggest a  
8 manual election.

9           As regards to the eligibility  
10 formula, given that many employees in the unit work  
11 not that many hours a week, we believe that anyone  
12 who is on payroll from the pay period starting  
13 September 16th and running through September 30th  
14 should be eligible to vote in the election.

15           HEARING OFFICER FREEBERG: And,  
16 Mr. Cunningham, what is the employer's position as  
17 to those issues, including any applicable  
18 eligibility formulas?

19           MR. CUNNINGHAM: In our Statement of  
20 Position, Your Honor, we had -- we agreed on the  
21 eligibility period of September 16th through  
22 September 30th. We agreed on a manual election  
23 ballot. We have -- we have not yet discussed date  
24 and time and location. I'd like to reserve stating  
25 our position on that at this time and we'll have

1 something for you before the end of the hearing.

2 HEARING OFFICER FREEBERG: Okay. That's  
3 fine. And if the petitioner changes its position on  
4 that, you can also state that later. And then with  
5 respect to the eligibility formula, do you have any  
6 positions on that that you'd like to --

7 MR. CUNNINGHAM: Not at this time, Your  
8 Honor. I want -- I want to have an opportunity to  
9 discuss that further with my partner, Mr. Harty, and  
10 President Kington.

11 HEARING OFFICER FREEBERG: Are there any  
12 other facts that the regional director should be  
13 aware of before scheduling an election for the  
14 earliest practicable date in this case, should an  
15 election be directed? Any major events or  
16 situations that would prevent an election on a  
17 particular date, for example? And if you need to  
18 answer that later, that's fine. We can get come  
19 back to that. Okay. Just something else to keep in  
20 mind, we'll come back to that.

21 Does any party anticipate the need  
22 for the notice of election and ballots to be  
23 translated into any other language.

24 MR. MCCARTAN: No, Your Honor.

25 MR. CUNNINGHAM: That's fine.

1 HEARING OFFICER FREEBERG: Okay. And no?

2 MR. CUNNINGHAM: No. Yeah, I'm sorry.

3 HEARING OFFICER FREEBERG: Is it -- then, is  
4 it accurate in a sense to say that the petitioner is  
5 seeking essentially a wall to wall unit of all  
6 employees within the particular -- all employees  
7 essentially, as you've described?

8 MR. MCCARTAN: Yes, Your Honor.

9 HEARING OFFICER FREEBERG: Okay. Then  
10 please be aware that because a single facility unit  
11 involves a presumption under board law, the burden  
12 lies with the party seeking to rebut the  
13 presumption.

14 You must present specific detailed  
15 evidence in support of your position. General  
16 conclusionary statements by witnesses will not be  
17 sufficient.

18 And if there's nothing else to be  
19 addressed before we continue, the employer can  
20 present your first witness.

21 MR. CUNNINGHAM: Very good. At this point,  
22 I will call President Reynard -- Raynard Kington,  
23 President of Grinnell College.

24 (Whereupon,

25 PRESIDENT RAYNARD KINGTON,

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

4 \* \* \* \* \*

5 MR. CUNNINGHAM: Your Honor, do you prefer  
6 that I remain seated or stand while questioning the  
7 witness.

8 HEARING OFFICER FREEBERG: Whatever your  
9 preference is fine.

10 MR. CUNNINGHAM: I think I'll remain seated  
11 if that's all right?

12 HEARING OFFICER FREEBERG: That is fine.  
13 And before you begin, if you could, please, state  
14 your name and spell it again for the record.

15 THE WITNESS: Raynard, R-A-Y-N-A-R-D,  
16 Kington, K-I-N-G-T-O-N. I left my clicker there.

17 HEARING OFFICER FREEBERG: Okay. And for  
18 the record, I understand that the witness will be  
19 showing a Power Point presentation, but the physical  
20 paper copies have also been made available and will  
21 be offered to the record as an exhibit?

22 MR. CUNNINGHAM: Well, they're part of the  
23 position statement, Your Honor. It's the Power  
24 Point that was connected to that, so we -- it's  
25 already in evidence.

1 HEARING OFFICER FREEBERG: I understand,  
2 okay.

3 MR. CUNNINGHAM: Okay. May I proceed?

4 HEARING OFFICER FREEBERG: Yes, please.

5 [EXAMINATION OF PRESIDENT KINGTON]

6 BY MR. CUNNINGHAM:

7 Q Thank you. President Kington, you are the  
8 President of Grinnell College, correct?

9 A Yes, I am.

10 Q How long have you held that position, sir?

11 A I'm in my ninth year.

12 Q Can you tell us a little bit about your  
13 educational background and credentials.

14 A Born and raised in Baltimore. A B.S. and an  
15 M.D. from the University of Michigan. Residency at  
16 the one of the University of Chicago teaching  
17 hospitals. Fellowship at University of Pennsylvania  
18 where I obtained my MBA and a Ph.D. from the Wharton  
19 School. Following that, worked at the Rand  
20 Corporation and UCLA. Ran a big study at the CDD.  
21 Spent 10 years at AIH, mostly as the principal  
22 deputy director, and I came here from there.

23 Q You understand that the petitioner, the  
24 union of Grinnell Student Dining Workers, has asked  
25 the National Labor Relations Board to consider all

1 students who do any type of paid work at Grinnell  
2 college be considered employees within the meaning  
3 of the National Labor Relations Act?

4 A Yes.

5 Q And you understand that those petitioners  
6 have requested the NLRB to hold an election for  
7 those students to elect the UGSDW as their  
8 collective bargaining representative?

9 A Yes.

10 Q All right. And that unit would include all  
11 students -- well, the petition for inclusion refers  
12 to all paid students, other than the dining hall  
13 students who are all -- or dining hall workers who  
14 are already parts of the collective bargaining unit?

15 A Yes.

16 Q Okay. And the college is here asking the  
17 National Labor Relations Board to deny that request  
18 for an election, and from exercising jurisdiction in  
19 this matter?

20 A Yes.

21 Q And briefly, before we begin your testimony  
22 to explain why, you wanted to make a -- a statement,  
23 did you not, regarding the position statement?

24 A Yes. I just wanted to make a comment that  
25 we did not have the opportunity to clear the

1 statement. And there was language, particularly in  
2 Section 4, that we thought was inflammatory and we  
3 would never have approved, and we'd like the  
4 opportunity to correct it. There was a -- a  
5 comparison with a fuel system and caste -- I mean,  
6 it was language that we just would never have used,  
7 and we think it's inappropriate.

8           There was one factual mistake as well  
9 in that. There was the -- the suggestion that we  
10 believe that if there was a union, all students who  
11 were not on financial aid would be denied  
12 opportunity to work. And we don't make that  
13 suggestion. We believe that we'd have to  
14 prioritize, and I'll talk about that later.

15       Q   Exactly. And we'll get to your testimony  
16 now. And so safe to say, the -- the generalized  
17 position is that imposing this collective bargaining  
18 regime would not only eliminate the -- or reduce the  
19 flexibility needed for the college to fulfill its  
20 mission, but also could erode the egalitarian nature  
21 of -- of the college?

22       A   Yes, in that it would weaken our core  
23 mission. It would hurt our core mission, and that's  
24 we object.

25       Q   Okay. Now, you prepared a -- a Power Point

1 to illustrate your testimony here today?

2 A Yes, I'm an academic.

3 Q And --

4 A We do Power Points.

5 Q That's going to aid you -- aid you in

6 explaining your testimony to the judge?

7 A Yes, I hope.

8 Q Okay. And you're familiar were its

9 contents?

10 A Yes.

11 Q And the information that is contained in

12 that Power Point presentation?

13 A Yes, sir.

14 Q And does it accurately summarize the

15 testimony you're about to give today?

16 A Yes, I believe it does.

17 Q Very good. I will ask that -- oh, it's

18 already up there, Exhibit A is --

19 A Let me just make sure it works. Yes, it

20 works.

21 Q All right. And let's start out, President

22 Kington, what is the purpose of Grinnell College?

23 What's its mission; why does it exist?

24 A Grinnell College was founded in 1846 by

25 abolitionists who came west to create an opportunity



1 to fundamentally, it founded the college to create  
2 the opportunity for young people to learn in a  
3 particular style of education focused on liberal  
4 arts, and connected that way of education with an  
5 understanding that we are preparing them to go out  
6 into the world and to make a difference.

7                   And for -- ever since our founding in  
8 1846, that has informed every single thing that  
9 we've done.

10       Q    Okay. So the mission is education, not --  
11 not work?

12       A    Yes.

13       Q    Okay.

14       A    And you'll see that this is our -- the  
15 mission statement. And work is mentioned only in  
16 the context of that's what we expect students to do  
17 once they leave. And that we hope we prepare  
18 students to do that when they leave.

19       Q    Okay.

20       A    And to excel.

21       Q    So what are the -- the -- the three features  
22 of the education at Grinnell?

23       A    Well, we think that the three biggest  
24 features, most important features are: That  
25 students come to receive a particular type of

1 education, a liberal arts education. Liberal  
2 meaning, liberating, opening their minds.

3           And we see the three significant  
4 components of that. One is what happens in the  
5 classroom, and we devote a lot of time, we are  
6 known, nationally ranked for the quality of what  
7 happens in the classroom.

8           But we also believe that what is  
9 essential is what happens outside the classroom,  
10 too. And we create this residential learning  
11 community. And -- and to compliment that, we work  
12 really hard, and particular of the last ten years or  
13 so, to also help students begin to learn how to  
14 translate the liberal arts education they receive,  
15 into a successful life and career once they leave.

16           So those three components. What  
17 happens in the classroom, this residential, intense  
18 learning experience outside the classroom in this  
19 community, and then working together with the  
20 college in helping students begin to translate that  
21 education into an effective life and career once  
22 they leave.

23           Q    Okay. And so, we already have a unit, a  
24 bargaining unit, that is in the -- in the dining  
25 hall, I believe. And it's in -- concerns not only

1 the dining hall, but the grill workers and I think  
2 the catering workers; is that correct?

3 MR. XU: Objection. Leading. May I be  
4 heard, Your Honor?

5 MR. CUNNINGHAM: I'm just making a  
6 foundational question, Your Honor.

7 HEARING OFFICER FREEBERG: Okay. If you  
8 could pose it more in the form of a question that  
9 would be great.

10 Q (By Mr. Cunningham) Sure. Let's -- very,  
11 very briefly, why did the college consent to a union  
12 in the dining hall?

13 A When we were approached about the  
14 possibility of forming a union, which I believe is  
15 the first one undergraduate in the United States, we  
16 didn't oppose it because we asked ourselves, what  
17 impact would it have on our mission, and there was  
18 no connection, really, no credible case that forming  
19 that union would affect our -- our mission.

20 And we believed -- we also asked sort  
21 of basic questions. Would -- the basic question  
22 being, would people, other than students, be likely  
23 to be hired in these types of positions. And the  
24 answer is yes, we do hire people other than  
25 students. And for us that -- that was the test. Is

1 this integrally related to our core mission, and the  
2 answer was no.

3           So there was no credible reason to  
4 oppose them and we supported the first union  
5 undergraduate United States. So we support that.  
6 We're proud of that support as well.

7           Q    But the jobs that are encompassed by the  
8 petition for a unit, how does -- generally speaking,  
9 how does that fit the model?

10          A    Well, we think that these positions, while  
11 every job sorts of helps prepare students for life,  
12 that's just, in general, true, we believe that these  
13 positions weren't meaningful tied to the educational  
14 objectives of the college.

15                So we decided that that it -- we  
16 couldn't make that argument because it wasn't tied  
17 to those three things. The -- the -- what happens  
18 in the classroom, sort of the residential living  
19 learning experience, or sort of specific activities  
20 geared toward careers.

21                I suppose in some -- some might have  
22 made the case that it was related to preparing  
23 students for life. We just didn't think it was a  
24 strong case, so we didn't make that case.

25          Q    Okay. So moving on then, what -- what are

1 the -- the values that established then, the -- the  
2 culture at Grinnell College and -- and particularly,  
3 how employment relates to that?

4 A The college has been very consistent from  
5 its founding in really paying attention to two  
6 concepts. One, the notion of -- of diversity.  
7 Again, we're founded by abolitionists and we were  
8 relatively early in the game in diversifying our  
9 student body for both women and people of color.

10 But there's a second important value,  
11 and that's access. From the very beginning there  
12 was almost sort of this -- this legend like of -- of  
13 the college taking students who hadn't had broad  
14 experiences and didn't have a lot of money, and  
15 giving them an opportunity to have this  
16 transformative educational experience, and then  
17 letting them go out and have an impact on the world.  
18 And that sort of arc has informed the thinking about  
19 the college from its -- from its very founding.

20 And we now live a version, what I  
21 would argue, of being even more informed and more  
22 deeply understood commitment to those values. So we  
23 are one of forty or so institutions in America that  
24 are -- that admit students without regard to need,  
25 domestic students, and commit ourselves to funding a

1 hundred percent of their demonstrated need.

2           There are colleges that admit need  
3 blind, but then don't give the money and their  
4 students graduate with crippling debt. We don't do  
5 that.

6       Q    So -- so --

7       A    We have a very egalitarian culture.

8       Q    Okay. I was going to ask you --

9       A    Yeah.

10      Q    -- how does -- we -- we used the term  
11 earlier in our opening statement about the  
12 egalitarian culture. How does that factor into  
13 access and diversity?

14      A    You know, every college has its own culture.  
15 And in throughout everything we do is very much this  
16 notion that we -- we want students to have a level  
17 playing field. We know that we are in an  
18 increasingly bifurcated society with increasing  
19 income and wealth disparities and we -- that's  
20 constantly at the back of our minds, even today.

21                   And we think that it's important to  
22 give an experience in which that where people are --  
23 where students are on the economic ladder doesn't  
24 inform their educational experience.

25                   And that's something that we've done

1 for a long time. Up until 1911, we operated our own  
2 high school. You know why? We operated it because  
3 many small poor communities throughout the midwest  
4 didn't have high schools. So we ran our own high  
5 school for our students to come here.

6 Q So given -- given that attempt to reduce  
7 economic barriers to access to a Grinnell education,  
8 do -- do the faculty and staff members for the most  
9 part who are creating jobs, know who's on financial  
10 aid?

11 A No, they shouldn't know, and we're -- we're  
12 very careful about that. We have -- and what's  
13 interesting about our culture is I think 75 percent  
14 of students work. And many students, even students  
15 who don't necessarily have financial need, often  
16 work because that's sort of part of the culture and  
17 that's the great thing about this experience is who  
18 works does not tell you who has wealth who doesn't  
19 have wealth.

20 Q And so I note in your slide you talk about  
21 opportunities regardless of financial need. Can you  
22 expound on that a little bit? How does that -- how  
23 does that generally work?

24 A Well, it works in all sorts of ways. First  
25 of all, when -- when students apply, coming through

1 the door, we don't know for domestic students, what  
2 their economic positions are. We work very hard to  
3 create opportunities, and I think -- I think our  
4 diversity reflects that. So we -- we have a very  
5 accomplished, very smart, and very diverse  
6 community. And that's hard to get. And the reason  
7 why some of this is particularly relevant, is  
8 because this is part of this ecosystem. And this  
9 one question before us has implications of this  
10 whole ecosystem that is our institution in our  
11 community.

12 Q So, looking, I see you have some statistics  
13 on slide seven. Where do those statistics come  
14 from?

15 A They are the statistics that we report.  
16 Some cases we report to the federal government. We  
17 monitor ourselves, we have a whole unit that  
18 collects information. And we're known for -- for  
19 actually an extraordinary thing in that we have  
20 extremely accomplished students. The average SAT  
21 score is 1423. Unbelievably accomplished students,  
22 and we have a diverse student with -- student body  
23 with a substantial number, almost 20 percent. We  
24 fluctuate somewhat but around 20 percent, up to 20  
25 percent of Pell eligible. Those are students who



1 have the largest financial need.

2           We have a significant representation  
3 of first generation students. And -- and that's  
4 unusual. Because, in America, your academic  
5 performance, including SAT scores, are deeply tied  
6 to your economic status and your race and ethnicity.  
7 And for us to do both of those is almost like  
8 levitation.

9           Getting both, really accomplished  
10 students and having a very diverse student body.  
11 And that's what almost every elite school in America  
12 wants.

13         Q   And just looking at the next couple of  
14 slides kind of demonstrates those -- those  
15 demographic, does it not?

16         A   In ways that are important. What -- what  
17 people don't realize is that in America now, elite  
18 institutions like Grinnell are increasing becoming  
19 exclusively the -- the setting for very wealthy  
20 families. And the increase in wealth and  
21 disparities are actually driving that. And we're  
22 able, in spite of the fact that we're sort of known  
23 as sort of an elite school, we actually don't have  
24 the same distribution as some of our peers.

25           So this slides shows the percentage

1 of parents in the top one percent of America's  
2 income distribution, just approximate. And you'll  
3 see that we are at the bottom. These are 16 or so  
4 schools that we compare ourselves to, the usual  
5 suspects. Williams, Everest, Vassert --

6 Q And where do those statistics come from?

7 A And they came from -- actually they came  
8 from a study that was published in the New York  
9 Times about this issue of income inequality and  
10 where students with wealth go.

11 You look at the top point one  
12 percent, again, we're near the bottom in terms of  
13 percentage of students from the top point one  
14 percent. At Williams, 17 percent, almost 18 percent  
15 of students come from that slice. And it's relevant  
16 because it's another indication of our deep  
17 commitment to economic diversity, and this notion of  
18 equality pervades almost everything that we do and  
19 these days, show that we're very different compared  
20 to a lot of elite institutions where increasingly  
21 they're becoming the institutions of just the very  
22 wealthy.

23 Because more and more wealthy  
24 families are pouring money into their children to  
25 prepare them to get an elite education, and they're

1 winning the game.

2           At Grinnell, that's not yet the case.  
3 You look at sort of this next slide, these are the  
4 40 or so schools that are need blind and provide a  
5 hundred percent of demonstrated need and the  
6 percentage of students who are full pay. So these  
7 are percentage of students whose families are  
8 writing checks for 60 to \$70,000 a year without  
9 blinking an eye. You'll see that --

10       Q    And this came from the National Center --

11       A    National for Education Statistics. We're at  
12 the very bottom of that. And because what many of  
13 our peers, the way that they're able to make it  
14 work, many of them have just recently gotten to  
15 about access to students with need. The way they're  
16 able to make it work is that they have now a growing  
17 number of students who are very poor, and they pay  
18 for it because they have lots and lots of really  
19 wealthy students. And -- and these days show that,  
20 again, Grinnell's in an unusual position.

21           And the reason why I bring this up is  
22 because you need to understand the ecosystem of a  
23 college to really understand our position about this  
24 more narrow question.

25       Q    Okay. And so --

1 HEARING OFFICER FREEBERG: Just to interrupt  
2 briefly so that the record is clear, is there a page  
3 number for this slide?

4 MR. KINGTON: Oh, it's missing.

5 HEARING OFFICER FREEBERG: Okay.

6 MR. CUNNINGHAM: But it would be --

7 MR. KINGTON: Slide ten.

8 MR. CUNNINGHAM: It would be slide --

9 MR. KINGTON: Ten, I think. Because next is  
10 11. Even I can do that math.

11 MR. CUNNINGHAM: I went to law school  
12 because they said there would be no math.

13 MR. KINGTON: I think it's 10, isn't it?  
14 It's 10.

15 HEARING OFFICER FREEBERG: Okay. Thank you.

16 MR. KINGTON: Entitled: Access and  
17 diversity percentage of full based students for  
18 Grinnell and need blind peers in 2015 was the last  
19 year that national data were collected.

20 Q (By Mr. Cunningham) Okay. So how does that  
21 translate then to graduation rates for you?

22 A It translates -- Grinnell's also able to  
23 have a fairly sort of actually a remarkable record  
24 of getting students through. So many schools  
25 have -- allow students to enter in a fairly open

1 way, but you look at their graduation rates, and  
2 there's a huge differences based on -- on race and  
3 ethnicity, and economic status. Grinnell has some  
4 differences, they're far more narrow. So this slide  
5 that is presenting right here, gives a six year  
6 graduation rate by various groups. All students at  
7 Grinnell, international students, Pell students,  
8 first generation, domestic students of color, and  
9 although there are some differences, there is a  
10 clustering. And what's remarkable, is that almost  
11 all of them are over 80 percent, and they tend to be  
12 over 80 percent. And you compare that to other  
13 private colleges in America, six year graduation  
14 rates in the 60's percentage.

15                   So we both admit students, and we get  
16 them through. And the reason why this is important,  
17 is because really the ability to get social mobility  
18 is graduation that gets social mobility. Because if  
19 you don't get graduate, you end up with debt and no  
20 degree, and you can't get the jobs to help you pay  
21 off the debt.

22           Q   Well, President Kington, this is -- this is  
23 all good but can you then explain Grinnell's  
24 financial structure? In other words, how -- what  
25 allows Grinnell to accomplish -- to get these goals?

1           A     You know, every school has its own sort of  
2 financial fingerprint. Ours -- and I know every  
3 school says they're unique, but we really are  
4 unique. We really are different compared to other  
5 schools in lots of ways, and it's true with our  
6 financial structure as well.

7                     So we have -- we're known for having  
8 a large unrestricted endowment. We probably have  
9 the largest unrestricted endowment in America. So  
10 we have over a million dollars per student that  
11 generations of Grinnellians donated money and  
12 invested money so that we have that money to  
13 actually open doors for students to achieve our  
14 mission of education.

15                    But the interesting thing about  
16 our -- our picture, is while we have a big endowment  
17 and it makes it seem like the Williams and the  
18 Amherst and the other wealthy schools in America, we  
19 don't have the other two big sources of revenue.

20                    So as I said earlier, we don't have a  
21 lot of full pay students, and we're comfortable with  
22 that. Vast -- vast majority of the rest of the  
23 schools in that group, again, have up to 50 percent  
24 of their students with parents writing 50 to 60 to  
25 \$70,000 checks a year for four years, without

1 blinking an eye. So we don't have those wealthy  
2 students who pay that. And second, we don't have  
3 the gifts. We have almost -- we have the highest  
4 percentage of graduates among liberal private  
5 colleges in America. The highest percentage who go  
6 on to work in either non profits or in the  
7 government. They don't make the money that many  
8 students at Colgate and Williams where there's a  
9 steady path to Wall Street and McKinsey. We don't  
10 do that. We have a very different culture. And I  
11 think, if you look at the data, so here is the --  
12 the net tuition revenue per student, that's a rough  
13 marker for how much students pay, and it also is a  
14 rough marker for what their economic status is.  
15 We're the lowest in our peer group.

16 Q And where do these statistics come from?

17 A These come from our internal data that we  
18 collect and ultimately report. So low -- low  
19 payment per student, which is great. But believe  
20 me, we have to worry about how we make this equation  
21 work so that we can do that. When you look at our  
22 endowment, we're near the top. We used to be even  
23 higher. We used to be one or two in our peer group,  
24 and despite great returns, they've raised a lot more  
25 money than we have.

1           So even though we have a fair amount  
2 of endowment, we don't -- we're still -- we're not  
3 at the absolute top, but we're close to the top.  
4 You look at our giving per student -- this is sort  
5 of annual giving. Sort of check writing per year.  
6 Our alum don't -- aren't going off to Wall Street  
7 and making millions and millions by and large. We  
8 have some, but not many. And they can't write those  
9 checks that many of our peers have that underwrite  
10 almost everything that happens at those schools.

11           And the reason why, again, why I  
12 bring this up, is because you need to understand  
13 this equation to understand the potential impact of  
14 a union on our mission and on our financial status,  
15 and on our ability to do all these things.

16           So when you look at our revenue sort  
17 of composition, this is sort of the picture that's  
18 true for Grinnell. So over half of our budget every  
19 year, so half of the money that goes to educating  
20 all of our students, it's like winning the lottery  
21 every year. We get 53 percent of our budget before  
22 we even admit one student, we know that we have that  
23 money, and that allows us to do great things.

24           Q   And so if I might ask you if we can pause  
25 here for just a moment. These figures are taken



1 from the colleges -- or these percentages are taken  
2 from the college's current budget; is that correct?

3 A These are -- these are the fiscal year '19.  
4 So we're in fiscal year '19. These are the  
5 distribution, 53 percent of our budget comes from  
6 our endowment, the over a million dollars per  
7 student. Forty-one percent coming from revenue, and  
8 six percent from gifts.

9 And the reason why this is important  
10 is because you don't see profit anywhere in our  
11 outcomes. It's not like there's a union and the  
12 money comes from the people who are getting profit  
13 into the pockets of workers. That's not the  
14 equation here. We're all about, in essence, the  
15 students, the workers.

16 Everything we do is about this  
17 educational experience, and there is no profit to  
18 erode here. So I think that's particularly  
19 important. But -- but these resources also allow us  
20 to have a truly extraordinary package of financial  
21 aid that we're able to give.

22 Q Let me ask, could you explain that. And I'd  
23 like you to -- to move to the next slide if you  
24 could. And -- and demonstrate and explain to us  
25 these statistics.

1                   Now as I understand it, this is from  
2 the past school year, or is this from the current?

3           A    This is from '17, so the previous year.

4           Q    Okay. So for the last academic year.

5           A    And, again, I would argue -- well, we  
6 know --

7           Q    I'm sorry --

8                   HEARING OFFICER FREEBERG: I just want the  
9 record to be clear again this is page 18 of the  
10 Power Point.

11                   MR. KINGTON: Yes.

12                   MR. CUNNINGHAM: I was trying to keep track  
13 here.

14                   MR. KINGTON: It's our formatting that's the  
15 problem, but that's another story.

16           Q    (By Mr. Cunningham) All right. So back to  
17 the -- to the testimony, Mr. President. If you  
18 could kind of take us through these statistics that  
19 came from our records for the last academic year --  
20 the last fiscal year.

21           A    So there is no college in America that has  
22 these numbers. There's not a single one in the  
23 whole country. Even the wealthy schools that have  
24 this. Eighty-five percent of students receive some  
25 form of financial aid. We are the -- have the

1 largest program of merit aid among any of the elite  
2 institutions in America. Meaning, that in addition  
3 to giving mostly need based aid, we also give aid to  
4 students who at least by our reckoning, don't have a  
5 large financial need, but we think that they would  
6 help contribute to this diverse society. We --  
7 diverse community economically, in particular.

8           But -- so we want students that have  
9 lots of different backgrounds. And in order to do  
10 that, we offer merit aid to support some students  
11 who technically don't have financial need.

12 Eighty-five percent. So that means only 15 percent  
13 of our students are writing checks to cover the --  
14 the list price. And the list price dramatically  
15 underwrites the total cost because we have this big  
16 endowment.

17           Twenty-three percent of our students  
18 and it varies somewhere between up to 30 -- about  
19 30 percent, so between a quarter, just under a  
20 quarter, to 30 percent of our students receive  
21 enough grant aid, that means aid non form of loans,  
22 grant aid, so that it covers tuition. So they, in  
23 essence, receive free tuition. Again, none of our  
24 peers have anything remotely like that. Thirty-five  
25 percent of our students receive financial assistance

1 above, in excess of tuition.

2 Q What does that mean, in excess of tuition?

3 A So it means that they, in addition to  
4 receiving aid even in forms of grant, and we mostly  
5 do grants, but we do have some loans, they are able  
6 to cover their tuition, and to go beyond that.  
7 Because there are living costs as well.

8 Forty-five percent of our students  
9 graduate with no student debt, very unusual. Those  
10 who do leave, have accumulated average debt of  
11 19,000 -- about 19,000. It is the lowest average  
12 debt in the state. We are substantially lower than  
13 the average state at the -- at public institutions.  
14 University of Iowa, Iowa State, and UNI.

15 And, again, the reason why this is  
16 relevant, is because we have this peculiar sort of  
17 ecosystem that allows us to do things that no other  
18 school in America can do. And it only works when  
19 we're able to balance the cost and the revenue in a  
20 way that we think allows us to do these things for  
21 students.

22 So we -- our total budget for  
23 financial aid every year, \$59 million. I wanted to  
24 say thousand. \$59 million a year of aid. The  
25 average financial aid package, \$47,000 over four

1 years, about 190,000.

2 For many of the students who receiver  
3 aid at Grinnell, this gift from the college is the  
4 single greatest economic transfer of their lives,  
5 excluding their parent's cost of raising them.

6 Q And that is for their education?

7 A It's for their education. It is the  
8 singling greatest gift. And it is a gift for many  
9 students. That's up to 200,000 almost of aid for  
10 those who have the highest need. Without -- with a  
11 minimum amount of debt. And that's extraordinary.  
12 No other school has that type of record.

13 Q And then when we talk about the average need  
14 based grant, what are we talking about?

15 A So it's about 165,000. Again, for many  
16 students, it's the single largest gift to them that  
17 they'll receive in their lives from anyone other  
18 than their family.

19 Q So bringing this back down to -- to them,  
20 having set this stage, can you kind of explain to us  
21 then, what role student employment and work study  
22 plays in this mix?

23 A So there are two dimensions of this. One is  
24 the financial part of it. There's a program in  
25 which we get relatively modest amount of funds from

1 the federal government, and we have about 168,000  
2 last year in which that's designated through a  
3 federal program for work study.

4 Q And this -- and you're on slide which?

5 A Nineteen.

6 Q Okay. And on slide 19, we have -- am I  
7 correct, we have statistics from the last full  
8 academic year 2017/2018?

9 A Right.

10 Q And those came from your -- that is the  
11 college's records, financial aid records?

12 A It came from our records. And we -- this is  
13 our common data set so the data sort of feed into  
14 other data sets, so it's the best data that we have.  
15 Over two million dollars was earned by students who  
16 were working at the college. Only about  
17 eight percent of that came from this federal  
18 program. So all of the other dollars, you can think  
19 of it as half of all those other dollars came from  
20 our endowment.

21 Q So I want to -- I want to break that out  
22 just a little bit. When we talk about federal work  
23 study, we're talking about a form of financial aid  
24 from the federal government --

25 A From the federal government.

1 Q -- is that correct?

2 A And it's eight percent. All the rest of the  
3 money comes from the college.

4 Q So in other words, when we're talking about  
5 the wages that students were paid from any type of  
6 employment on campus in the last academic year,  
7 we're talking just a little over two million dollars  
8 is that correct?

9 A Two million dollars.

10 Q And those types of jobs would include  
11 research assistants, true?

12 A Well, I'll come back and give you the  
13 breakdown by categories --

14 Q Okay.

15 A -- in a minute, and -- but they include the  
16 full range of -- some of them, a minority of them,  
17 are jobs that are really work jobs. Jobs that  
18 almost -- that we might, in a different world, might  
19 hire outside people to do. The majority of them are  
20 deeply tied to this sort of community of residence  
21 community of learning. And -- and because of our  
22 culture, again, 75 percent of the students work  
23 somewhere.

24 Many of those students technically  
25 didn't need to work. But they work because of the

1 culture, and because they saw it as part of their  
2 educational experience. Joining things like a  
3 research assistantship or working in the library or  
4 there are lots of things that -- and I think that's  
5 one of the reasons why we have such a high  
6 percentage of working, because students see it not  
7 just as a way to earn money. It's also a way to  
8 build a resume and to learn how to work in a  
9 capacity that's related to their education and to  
10 prepare them.

11           And we work really hard on the debt  
12 part of this. So in 2008, not great timing, it was  
13 before the crash, but the college made a decision  
14 that we were going to work on debt. And a lot of  
15 the schools were going in the opposition direction,  
16 they were increasing the amount of debt.

17           So we actually intentionally decided  
18 to take money from endowment and to start limiting  
19 the amount of debt in various ways that student  
20 receive. And you see that our debt per student went  
21 down at a time when it was going in the opposite  
22 direction for the country at large. It went up.  
23 And that was a choice.

24           We decided and we -- we started to  
25 get more sensitive to the debt burden, even though



1 we were already at the lowest among the lowest. We  
2 decided to get even better. And we reduced the  
3 debt, and we even kept -- it's crept up a little  
4 bit because these are not inflation adjusted, but  
5 we've been very focused on using our resources to  
6 control debt.

7 Q Okay. So I'm going to ask you then, to  
8 please put all this information you've given us in  
9 context. You mentioned that 75 percent of all  
10 students worked in some capacity last year. Can you  
11 please explain to the court, you know, all of this  
12 student employment in the context of learning.

13 A Well, first of all, there -- the single  
14 organizing principle here, students don't come to  
15 Grinnell, Iowa to work. They come here to get an  
16 education from this institution, by and large.  
17 There's one other small community college, but  
18 that's it. We are the -- people come here to get an  
19 education. They don't come here to work.

20 And they come here to get an  
21 education that integrates sort of living and  
22 learning and work across those domains for students.  
23 It's one of the advantages of having these small  
24 sort of residential experiences. We have this  
25 extraordinary ability to integrate across all those

1 domains.

2                   Students never come here to work.  
3 They come here to get an education. And we come --  
4 we are here to give that education and it forms  
5 everything that we do. So we think that we're  
6 unique.

7                   We are -- have a highly  
8 individualized curriculum. So there's only one  
9 required course other than the major courses, it's  
10 the introductory tutorial. And we think part of  
11 that is because we -- students come from all sorts  
12 of different backgrounds, and we help students  
13 receive a balance, broad, liberal education. That,  
14 again, that's liberal in the sense of liberating  
15 their minds.

16           Q    So --

17           A    Yes?

18           Q    I'm sorry. So if we can move on then, if --  
19 are -- are we saying then, that the majority of the  
20 work in the petition for unit would fall into those  
21 types of jobs; is that what we're talking about?

22           A    Yes. And, in fact, we've become like a  
23 national leader. In fact, there have been recent  
24 articles in the Chronical of Higher Education and  
25 other places that have talked about our career

1 services and how we've gotten so committed to  
2 integrating career preparation into the -- the  
3 educational experience.

4 Q So in the -- in the learning category, what  
5 are the type of jobs listed here in the unit that --  
6 that would fall into that category?

7 A So very explicit learning jobs like being a  
8 research assistant or a language mentor or a tutor,  
9 helping with writing, peer tutoring with writing and  
10 reading and math, and -- and those skills, those are  
11 experiences in which we know students learn  
12 themselves by helping other students learn. That's  
13 what makes it so transformative.

14 We also have these positions that are  
15 really about helping students in their community  
16 residential experience, so peer educators or student  
17 leaders. We think the leaders of student  
18 government, for example.

19 And then there's a third category of  
20 work that's very directly tied to career goals,  
21 often community service or paid internships.

22 Grinnell, I think has a budget of around 400,000 a  
23 year -- I can get the actual dollar figure -- where  
24 we help students who can't afford to do internships  
25 without pay, to get paid internships. And, again,

1 it's because we see it as such an integral part of  
2 the educational experience.

3           When you look at the -- this slide  
4 sort of divides up all the work that's held here by  
5 students. The vast majority of it, 78 percent of  
6 it, is very clearly educational in its nature, and  
7 not labor.

8           We -- a few categories, dining,  
9 lifeguard, mail delivery work, we don't make the  
10 argument that that's a substantial educational  
11 experience. Although I will note that even in the  
12 handbook, for example, for lifeguards, it's noted  
13 that when you are off -- during your rotation and  
14 taking a break, you're allowed to study. And even  
15 in those positions that aren't technically academic,  
16 it's understood through the culture that you can use  
17 your down time to study.

18           So you look at those categories:  
19 Academic support, things like teaching assistant or  
20 helping faculty in various forms of teaching.  
21 Classroom support, similarly. Research where  
22 students are often hired to help faculty in their  
23 research. Residential learning of various types.

24           Q    What is residential learning?

25           A    Well, we -- we work really hard to try to

1 link what happens in the living environment with  
2 learning experiences that compliment what happens in  
3 the classroom. It's the only reason why we have a  
4 residential college. I mean, we'll never -- you  
5 would never replace that on line. So the students  
6 that we hire to help craft and shape and maintain  
7 that learning experience, we think, is very  
8 important. And we think there are some that are --  
9 that are less directly tied, and -- and dining,  
10 clearly, is one of those.

11 Q I mean, that's I would assume, even in  
12 dining, there's probably not a lot of time to sit  
13 and do your homework?

14 A There's not a lot of time to sit and do your  
15 homework, and to be honest that's -- that's one of  
16 the reasons. We were talking to the head of dining  
17 services, and -- and she very clearly said that, you  
18 know, one of the reasons students don't like dining  
19 is because they can't study there.

20 Q So -- so if I understand then, correctly,  
21 when we talk about student employment as labor,  
22 we're talking about that narrow category of jobs  
23 like dining, that really don't serve an academic  
24 purpose?

25 A Yes. I mean, I think -- you know, it can

1 help build discipline and help students learn what  
2 it means to have a job and responsibility, but we  
3 don't make the case that it's deeply tied to our  
4 mission. In fact, we -- there are occasions when we  
5 hire non students for -- and that's not true for all  
6 these other jobs. We don't hire non students for  
7 these other jobs.

8 Q You wouldn't hire a non student as a  
9 research assistant or a peer tutor?

10 A We would never do that. And we've actually  
11 looked to make sure if there are any cases and we  
12 couldn't find any. Because our -- our guiding  
13 principal is this notion of our educational  
14 experience for students.

15 Q And so, those jobs exist primarily for the  
16 students' educational benefit, would that be  
17 accurate?

18 A It's -- absolutely. I mean, we know that,  
19 you know, there are lots of employers now who won't  
20 even look at a resume unless there are two  
21 internships, two. That's how competitive it is in  
22 many of these jobs. So we help students get  
23 experiences that prepare them to make the case that  
24 they can be a good hire.

25 Q This quote here regarding the dining

1 service, I wanted to -- to ask you about this  
2 statement here. The -- the collective bargaining  
3 unit has -- has been in place and a contract has  
4 been in place for one full academic year; is that  
5 correct?

6 A I think that's true.

7 Q Okay.

8 A I think that is true.

9 Q But at least during that time, they  
10 negotiated a higher wage?

11 A Which is what often happens with the union.

12 Q It almost always happens in collective  
13 bargaining. The -- my question to you is there --  
14 there's a notion that dining jobs are least  
15 attractive. Are you aware as to whether there are  
16 any unfilled shifts in the dining hall?

17 A I know that they are constantly struggling  
18 to maintain staffing levels. And, again, we -- we  
19 supported the increases in wages. You know -- you  
20 know, we probably would have gone there anyway  
21 because you needed to do it to get students to work  
22 here, and we needed those positions filled.

23 And we -- we don't make the case that  
24 aside from sort of the discipline that any job can  
25 provide, that there's some unique dimension of that

1 job that's tied to our mission of education.

2 Q And your testimony is that Ms. Moser made  
3 this statement to you; is that correct?

4 A Yes, she made it to my -- the vice  
5 president.

6 Q Okay.

7 HEARING OFFICER FREEBERG: And, again, so  
8 the record is clear, this is the page 26 of the  
9 slide.

10 MR. CUNNINGHAM: That's correct.

11 HEARING OFFICER FREEBERG: And the  
12 petitioner's objection was noted earlier.

13 Q (By Mr. Cunningham) So President Kington,  
14 when -- when we remove the few, if you will,  
15 strictly labor jobs, if you will, like the dining  
16 hall, jobs that -- that you can hire outside people  
17 to do if you had to, what does student employment  
18 really mean at Grinnell?

19 A Well, we -- we see it as an integral part of  
20 the educational experience, we just do. It's -- it  
21 informs almost everything that we do. We work very  
22 hard to make sure that the jobs are substantive.  
23 I've give you an example. We have -- we manage our  
24 endowment with other managers. We hire students to  
25 work in those jobs, often their economics majors so



1 they understand -- and many of them go on to careers  
2 in investment banking.

3           Because we -- we think that's a great  
4 example of learning the connection between these  
5 theories of economics, typically micro economics  
6 and -- but micro economics as well, and work so they  
7 work in our endowment management office. And  
8 they -- many have used that as a launching, that  
9 connection, the experience to be able to say, look,  
10 I'm an economic major from Grinnell, but I also  
11 worked and was at our school's endowment office, and  
12 was able to sort of see in these ways how my  
13 education informed work that was tied to our  
14 mission.

15           Even our endowment office is directly  
16 tied to our mission. We have our chief investment  
17 officer come to our senior faculties meetings --  
18 senior staff meetings.

19       Q    Well, and those students working in the  
20 endowment office are -- are gaining skills and  
21 education that they would not get just from the  
22 classroom; is that correct?

23       A    They wouldn't get it from the classroom, and  
24 they also wouldn't get it if they just went and got a  
25 summer job at Goldman Sachs. It's a different type

1 of experience. And these unique positions that are  
2 these nexus positions between the real world and  
3 academic world are really important parts of the  
4 educational experience.

5 Q If you could move on then, I wanted to ask  
6 you about your statement on slide 28 about studies  
7 coming first. You have several bullet points there.  
8 How do -- how do these characteristics fit in to the  
9 way employment -- student employment, the vast  
10 majority of it, works at Grinnell College? You've  
11 got a statement there about being decentralized.  
12 What does that mean?

13 A We are very fortunate today in that our sort  
14 of ecosystem, we are able to balance revenue and  
15 costs in a way that allows us to achieve our  
16 missions, which is students having this incredible  
17 educational experience.

18 And we've been able to decentralize a  
19 lot of decision-making. So at the vast majority of  
20 schools in America, there's central control of work  
21 study. There's -- there a budget, they control it  
22 directly. We don't do that. Because in our sort of  
23 ecosystem, we're able, because a lot of the decision  
24 making about what jobs are formed and jobs are so  
25 tightly tied often to academic things like research,

1 that we're allowed to have this decentralized  
2 process.

3 That -- that won't be possible if  
4 we -- if these jobs are unionized. We work very  
5 hard --

6 Q Why will it not be possible?

7 A Because we will have additional burden of,  
8 one, assuring that all jobs comply with the  
9 contract. Two, we will have to prioritize so that  
10 high need students get the jobs first. And we will  
11 insist upon that, because that's directly related to  
12 our mission. And we'll have to monitor because we  
13 won't be able to -- we won't have the luxury of a  
14 distributive decision-making system. We will have  
15 to centralize.

16 Because we'll have to monitor, both  
17 in terms of compliance with the contract, and if --  
18 if, as always happens with unionization, wages go  
19 up, they'll become a more important issue in terms  
20 of our budget. And we will have to control it, and  
21 we will control it tightly, because we'll have to.

22 We also sort of -- we'll have to  
23 create, right now decisions -- individual professors  
24 can say, you know, I need a researcher in Y. I need  
25 a Chinese language translator for this piece, I know

1 a great student who's been -- had four years of  
2 Chinese and is wonderful at translation, I'm going  
3 to hire Joe or Jane. And they call HR, get a job  
4 description, and are able to work out and hire that  
5 person, and no one in the office of the President or  
6 senior administration ever knows.

7 Q Well, and in point of fact, if you imposed a  
8 collective bargaining regime, that type of  
9 flexibility would be greatly reduced; would it not?

10 A It would have to be because we would have  
11 greater obligations for both for making sure that  
12 jobs are prioritized first to students with high  
13 need, it warrants almost everything we do, but also  
14 because we'd have more obligations in terms of  
15 contracts and process.

16 Q Well, you would to have bargain for the  
17 creation of the job, probably?

18 MR. XU: Objection. Counsel's testifying.

19 A We would have to bargain --

20 HEARING OFFICER FREEBERG: Oh, sorry, just  
21 let me rule on the -- Could you repeat your question  
22 or what was your -- it was more of a statement.

23 MR. CUNNINGHAM: I was about to ask him,  
24 would they have to bargain for the creation of the  
25 job.

1 HEARING OFFICER FREEBERG: Okay. So I'll  
2 sustain the objection and with his rephrased  
3 question I think you can go ahead and answer.

4 Q (By Mr. Cunningham) Okay. Based on your  
5 knowledge of how collective bargaining works, a  
6 faculty -- would it be possible for a faculty member  
7 to just decide they were going to create a job?

8 A It's -- it's -- it's inconceivable to me  
9 that we would be able to have a distributive system  
10 in the -- in the -- when we had a central contract.  
11 We'd have to sort of monitor. We'd have an  
12 obligation as an institution.

13 And it's interesting, if you look  
14 through, you know, I've said a lot about education  
15 in forming all our jobs. Even if you look in our  
16 handbook, for example, in the student employee  
17 handbook, I don't know if I'm allowed to -- at the  
18 core values of student employment the first thing is  
19 education learning beyond the classroom.

20 MR. XU: Facts not in evidence. I don't  
21 believe the student employee handbook is in  
22 evidence.

23 HEARING OFFICER FREEBERG: It is not. Does  
24 the employer wish to offer it as an exhibit?

25 MR. CUNNINGHAM: Not at the moment. Not at

1 the moment so.

2 MR. KINGTON: So what I will say is,  
3 throughout a lot of our administrative rules,  
4 infused in even in things like the lifeguard  
5 position which we make the case is not directly  
6 tied, they'll be statements about education comes  
7 first. You're allowed to study when you aren't  
8 actively engaged. It infuses amazing amounts of  
9 everything we do because it's our core mission, it's  
10 what we do.

11 Q (By Mr. Cunningham) If you would move on  
12 then. We were talking about faculty and staff being  
13 able to create jobs.

14 And I think you mentioned -- well,  
15 let me ask you, there are funds to create those  
16 jobs; is that correct?

17 A So faculty are given funds, modest amounts  
18 of funds, that they can use in pursuit of their  
19 scholarship, which is a big -- one of the big  
20 objectives of their jobs here. They are teaching,  
21 and they are scholars. And we give resources.

22 They often sometimes also receive  
23 funds from outside agencies or foundations,  
24 sometimes that is in conjunction with other  
25 institutions. Like, we have a big grant with Mellon

1 Foundation with the University of Iowa. So those  
2 jobs are created through the faculty, and they are  
3 driven by a faculty need, and the faculty  
4 understanding of what opportunities are to hire.

5           And it's hard to imagine how we would  
6 not have to change that in terms of prioritizing who  
7 is allowed to get which jobs when. Right now, it's  
8 distributive. Because the faculty are the ones who  
9 know who's the -- the best translator of Chinese who  
10 can sort of be hired to -- to work on translating a  
11 document. No, we don't know that, no one else knows  
12 that.

13           And it is inconceivable that we would  
14 be able to have a union without having some  
15 structure sort of imposing a structure on that in  
16 ways that would always take authority away from  
17 faculty and staff, but also sort of add a burden.  
18 And this is particularly relevant because we have 14  
19 week -- two blocks of 14 weeks. And -- and -- and  
20 we have very little time, actually, when you think  
21 about it, to hire and get someone up and running on  
22 a project.

23           HEARING OFFICER FREEBERG: I'm sorry, just  
24 what do you mean by two --

25           MR. KINGTON: We have two semesters of 14

1 weeks each, and that's where the bulk of the work  
2 occurs. And so you have this window that's not the  
3 same as an assembly line. We don't have that work,  
4 we have very specific blocks of time. And in those  
5 blocks, every day loss in hiring someone means you  
6 get behind.

7 Q (By Mr. Cunningham) And when -- and  
8 generally speaking, these funds that departments and  
9 faculty members are provided for for their  
10 scholarship they can decide, currently, how those  
11 are to be used or how they're going to be used?

12 A Yes, they have discretion.

13 Q So it could be creating a research assistant  
14 job, or it could be going to a conference or  
15 something of that nature; is that true?

16 A They have discretion. And obviously,  
17 they're weighing the value of hiring, typically  
18 students, against the value of other uses. And  
19 there's a other complication as well, some of our  
20 grants are joint with other students. Where they  
21 basically have a choice of either hiring at Grinnell  
22 or hiring at a peer institution, at the  
23 collaborating institution.

24 And those are choices they'll have to  
25 make. And those choices will be more difficult when



1 the -- the time cost and the actual cost of hiring  
2 go up as a result of unionization. We think that it  
3 will fundamentally change the relationship in ways  
4 that will harm our core mission.

5 Q So if -- and when faculty create these types  
6 of jobs, there's an educational benefit for the  
7 student, true? Like a research assistant position?

8 A Absolutely. Now, you know, does a faculty  
9 ever hire someone to photocopy? Probably. But  
10 that's not the bulk of what students do now.  
11 Especially with the technology that we have now.  
12 Used to be that, you know, students were hired to  
13 run to the library and get a -- photocopy an  
14 article. That's just not done anymore. A lot of  
15 those activities are no longer what students are  
16 hired for.

17 They are increasingly hired for  
18 substantive, intellectual work related to that  
19 topic, and related to their interests usually.

20 Q Are some jobs utilized to support students  
21 who may be struggling academically? I'm not talking  
22 about peer tutors, but something that the student  
23 themselves does?

24 A So we have -- we have a great deal of  
25 discretion. I'll give you a case where I was --

1 there was an academic challenge of a student who was  
2 an extraordinary student, but was -- had a hard time  
3 with this semester, and was in trouble. And it was  
4 appealed up to me. And I was able to intervene and  
5 say, one, you know, the student was going to take  
6 courses during the summer at a local community  
7 college like a transfer, and then come back and take  
8 a very clear curriculum. I even had the student  
9 report to me weekly what was happening academically  
10 but more -- almost as important, we were able to get  
11 a job we -- we got through to HR and said find a job  
12 for this student that allows the student who had  
13 financial need, to also study. And I had -- we  
14 found a job that allowed the student to study.

15 Q Do you recall what that was?

16 A She was working in development and alumni  
17 relations and it was the type of where if you worked  
18 really fast, you could get the work done and  
19 still -- and meet the obligations and still have  
20 time to do some studying between some of the work.

21 And that -- that type of discretion,  
22 that vast majority of students and probably a lot of  
23 faculty don't know happens. No one knew that  
24 happened with that student. There were probably  
25 five people in the whole school who knew that was

1 what happened.

2 But that's what happened, because we  
3 had the discretion to say, this student, we're going  
4 to get this student over the finish line and we're  
5 going to get this student, in a way that allowed the  
6 student both to meet financial need and to study and  
7 to take academic seriously, and the student actually  
8 now is doing extraordinarily well. It was one of  
9 the best investments this college has ever made was  
10 that job.

11 Q How is student employment then  
12 coordinated --

13 A Well --

14 Q -- currently at the college?

15 A Over the last year -- several years,  
16 certainly since I've been here, we've been  
17 increasingly focused on being more deliberate and  
18 intentional in making sure that work is tied to our  
19 mission in all sorts of ways, and that students are  
20 supported in hiring.

21 So we created a new position that's  
22 responsible for oversight of student employment, and  
23 we created it in 2014. And the -- the goals were  
24 to, one, good service to students. We -- we -- some  
25 students were falling between the cracks in creating

1 jobs, and we really needed to address that. Support  
2 the learning goals and to have that infused more  
3 deliberately across the -- the -- the jobs, and to  
4 manage regulatory compliance. Because at least a  
5 part of these dollars come from the federal  
6 government with obligations to comply with federal  
7 law, and we thought that we needed to do a better  
8 job and that -- and we created that -- that  
9 position.

10 Q That hasn't impacted the decentralization of  
11 the creation of a number of these jobs, has it?

12 A No, in fact it made us feel more comfortable  
13 in having a decentralized system. Because we had  
14 some support for those creating and monitoring and  
15 hiring practices within those jobs.

16 So we -- it helped us have a  
17 decentralized system that it -- the person  
18 ultimately was also the lead for the -- dealing with  
19 the union. This -- this -- this responsibility  
20 would increase if we had to -- we would almost  
21 certainly have to hire at least one other person to  
22 deal with these -- the complexity of a unionization.

23 Q So let's talk about then, what the  
24 implications of a union would be in a collective  
25 bargaining unit that would encompass all paid

1 student positions at the college --

2 A Well, first --

3 Q -- what is some of the -- what are some of  
4 the assumptions you're concerned about?

5 A I think it's really important that we start  
6 off by saying, we have nothing against unionization.  
7 We already have two. We a have a student union, and  
8 our facility workers are unionized as well. So we  
9 have nothing philosophically against unionization,  
10 we think it's a great thing in many cases, but it  
11 has to be used appropriately. And this is not the  
12 setting for it in these types of jobs.

13 We -- we assume that the things that  
14 normally happen with the unionization will happen  
15 here, and that's just fact. We think that there  
16 would be --

17 MR. XU: Objection, Your Honor. May I be  
18 heard?

19 A That is supposition.

20 HEARING OFFICER FREEBERG: Sorry, what was  
21 the basis of the objection?

22 MR. XU: Objection, improper opinion. Dr.  
23 Kington might be knowledgeable on general facts  
24 within the college and practice and procedures, but  
25 you -- for Dr. Kington to assume certain

1 implications of unionization of student work is  
2 improper opinion and improper foundation has not  
3 been laid to qualify Dr. Kington to be able to give  
4 such testimony.

5 For example, Dr. Kington has not  
6 testified to the method used in making this  
7 assumption, nor what if you reliably apply this  
8 method, whether facts and data to rely about and are  
9 sufficient and so forth.

10 MR. KINGTON: Can I withdraw --

11 MR. CUNNINGHAM: No, no, excuse me. Let me  
12 respond to this, Your Honor. President Kington just  
13 testified, he laid the foundation, he's got two  
14 unions currently that he deals with. One for the  
15 maintenance employees, and one for the dining  
16 workers.

17 He is certainly knowledgeable about  
18 collective bargaining and what has happened and what  
19 the college's experience has been with those unions,  
20 and he was talking about what his -- the question  
21 was aimed at what his concerns were in imposing  
22 those types of structures on the rest of the  
23 petitioned for unit. I think there's adequate  
24 foundation here.

25 HEARING OFFICER FREEBERG: Okay. And so

1 you're asking -- and the basis of your question is  
2 his concerns; is that correct?

3 MR. CUNNINGHAM: Right.

4 HEARING OFFICER FREEBERG: Okay. The reader  
5 of the record and decision-maker will be basing  
6 decision based on the facts in evidence offered so,  
7 to the extent you want to put on the record your  
8 concerns. Is your argument that that is relevant  
9 to --

10 MR. CUNNINGHAM: Well, he's objecting to my  
11 question.

12 HEARING OFFICER FREEBERG: Yeah.

13 MR. CUNNINGHAM: I'm asking -- I'm saying  
14 why my question is proper.

15 HEARING OFFICER FREEBERG: And tell me  
16 again, so your question is just about the -- the  
17 concerns that the effect of unionization will cause?

18 MR. CUNNINGHAM: Sure. My -- my -- the  
19 purpose of this hearing is, from our standpoint, is  
20 to demonstrate that the NLRB should not exercise its  
21 jurisdiction in this case because the relationship  
22 of these students to this institution is primarily  
23 educational, not economic. And, therefore, they  
24 should not be considered employees within the  
25 meaning of the NLRA.

1                   One of the -- one of the -- the  
2 policy considerations is what imposing that kind of  
3 economic structure that a -- that collective  
4 bargaining would place in a -- in the petitioned  
5 for, would, you know, could potentially have.

6                   And so I am -- I'm not asking him to  
7 predict the future, I am asking him, based on his  
8 experience, what his concerns are about why this  
9 petitioned for unit would be inappropriate.

10                  HEARING OFFICER FREEBERG: Okay. I would  
11 say to the extent that you want to make legal  
12 arguments or legal conclusions, that can be done,  
13 you know, through the position statement, which it  
14 has done and through any supplementary position  
15 statements that you want to offer and -- rather than  
16 through testimony. So I will -- I'll allow the  
17 question to be answered but then, again, let's just  
18 focus on facts rather than speculation and -- and  
19 legal arguments can be presented that way.

20                  MR. CUNNINGHAM: Okay. All right. Thank  
21 you.

22                  MR. XU: Okay.

23                  HEARING OFFICER FREEBERG: Do you wish to  
24 make any further comments?

25                  MR. XU: Your Honor, I was not objecting to



1 the question, I raise objection as soon as Dr.  
2 Kington started testifying to all the potential  
3 impacts of student unionization in the college, as  
4 it clearly states on the slide it states:  
5 "Implications of union -- of union for all student  
6 work." This is what I'm objecting to. It's highly  
7 speculative, prejudicial, and no proper foundation  
8 has been laid.

9 HEARING OFFICER FREEBERG: Okay.

10 MR. CUNNINGHAM: Can I -- I don't know the  
11 process here.

12 HEARING OFFICER FREEBERG: Yeah. Well, I  
13 think that -- I think the objection has been noted  
14 and the -- in particular, it's referencing this  
15 slide number 32. I think that --

16 MR. CUNNINGHAM: Let me rephrase the  
17 question. Can I do that?

18 HEARING OFFICER FREEBERG: Yes.

19 Q (By Mr. Cunningham) Okay. President  
20 Kington, as you just testified, you have two unions  
21 operating at Grinnell College, true?

22 A Yes.

23 Q Okay. Based on your familiarity with those  
24 unions, when you're faced with a decision to  
25 challenge the petitioned for unit here, what are

1 some of the assumptions, based on your experience,  
2 that you work with?

3 A Okay. So we are here because we have  
4 thought through the potential implications,  
5 otherwise we wouldn't be here. We're here because  
6 we believe, having thought through the potential  
7 implications, that unionization would harm the  
8 mission of the college.

9 Q And how would that come about?

10 A So we believe that it is entirely credible  
11 to assume, and based on my experience, we've seen  
12 higher wages, and at the very least, a lot more  
13 control of the job process, the hiring process.  
14 Now, a lot of dimensions of that are standard, in my  
15 experience, in dealing with unions.

16 So all I can say is, we think that  
17 based on those assumptions, which are entirely  
18 credible, that there are things that would happen  
19 that would impact the mission of the college. So,  
20 one, we'd have to centralization oversight of  
21 student workers. We couldn't be responsible parties  
22 to a contract without having oversight  
23 responsibilities, and we don't have that now.

24 And there would be costs associated  
25 and the costs would come from somewhere. We'd have

1 to closely monitor budgets because right now in this  
2 distributive system, the ecosystem works. We're  
3 able to have a lot of financial aid, we're able to  
4 pay faculty at reasonable rates, and staff at  
5 reasonable rates, we're able to educate students  
6 without a lot of debt.

7           That's sort of the -- the goal of  
8 lots of schools, and we're able to do that, and that  
9 ecosystem would be upset by this. Because we'd have  
10 to monitor much more closely, and -- and if we saw  
11 the budget creeping up, we would simply curtail.  
12 We'd have to, in order to make our budget.

13         Q     So you have a set budget for financial aid,  
14 correct?

15         A     Every year we decide how much money we have,  
16 and it's a big chunk. It's almost \$60 million. So  
17 we spend a lot of money every year on gifts to  
18 students. And we'd have to figure out where the  
19 money would come from to pay for this. To -- and  
20 and we would monitor the total amounts so that we  
21 would make sure that we didn't overstep our  
22 commitment in various ways, and we would feel  
23 obligated to have a system that prioritized.

24           We would insist upon a system that  
25 prioritized hiring opportunities to students with

1 high need. We don't have to do that now because  
2 there are lots of jobs and lots of distributive  
3 opportunity. That would not be the case if we  
4 controlled it.

5 Q You're familiar -- well, are you familiar  
6 with the concept of federal work study?

7 A Yes.

8 Q Okay. And generally speaking, under normal  
9 work study rules, about how many hours are work  
10 study recipients required to work?

11 A Well, typically, I believe nationally --  
12 typically, we -- mostly it's ten, I think, minimum,  
13 but we have a maximum of 20.

14 Q Okay.

15 A And -- and some of the nuances of how we do  
16 that, I would defer to our financial aid director  
17 and give you lot more detail on that.

18 Q Sure.

19 A But 20 is the absolute cut off for everyone.

20 HEARING OFFICER FREEBERG: That would be 20  
21 hours weekly?

22 MR. KINGTON: Twenty hours a week. Because,  
23 again, we think if you get over 20, you're probably  
24 not spending a whole lot of time focusing on your  
25 education.

1 Q (By Mr. Cunningham) If there were -- is --  
2 is one of the -- I note on your third bullet point  
3 on slide 32, you talk about a system to assure  
4 students with financial need are prioritized for job  
5 placement. And I'm just -- I'm just curious about  
6 that. Is that -- is that because you'd have to  
7 reduce the number of work study hours or -- or what?

8 A Well, we'd have to look at our budget, and  
9 if the wages go up that we -- if we didn't expand  
10 budget, we'd have to control the number of hours.  
11 We would tighten the number of hours, we would  
12 centralize control of hiring, and for us as sort of  
13 a non negotiable, one thing that we would absolutely  
14 insist on is that students with financial need get  
15 those jobs first.

16 Now right now, because we have a  
17 system with lots of jobs and it's distributed and  
18 there are lots of opportunities, we don't have to do  
19 that.

20 We don't even -- many of us don't  
21 even know who's on financial aid or not, because we  
22 have lots of jobs and lots of opportunities, and  
23 it's a distributed system. We would centralize that  
24 and we'd have to know exactly who was on financial  
25 aid. And in all probability, we'd have to

1 communicate that to the union. Because we would  
2 insist upon that those students must be given  
3 priority for hiring opportunities.

4 And right now, they don't because  
5 there are lots of job opportunities out there, and  
6 we don't -- we have this distributive system.

7 If you look at sort of, you know, we  
8 sort of thought about sort of what this would mean.  
9 One, we'd have to sort of intervene on this  
10 dimension of the educational experience in a way  
11 that we don't now. We have a very highly specific  
12 individualized curriculum. We'd have to intervene  
13 now in this domain of that educational experience.

14 Q And why is that?

15 A Because we'd have to monitor, we'd have to  
16 prioritize for student need, and we'd have to look  
17 at the whole budget. And we'd have to monitor for  
18 compliance with any contract.

19 Q Okay.

20 A We think that that would inevitably lead to  
21 a shift away from education as the defining  
22 dimension, to labor as a defining dimension of what  
23 these jobs are about.

24 Q Well, and you mentioned disclosing  
25 information. Disclosing what kind of information to

1 whom?

2 A So right now there are federal laws that  
3 control individual information about the education  
4 of students, so the FERPA. Federal Education  
5 Responsibility Privacy Act. The R I'm having  
6 trouble with.

7 Q I think the R is the records.

8 A Records. Federal Education Records Private  
9 Act, FERPA. Well, it means that we can't -- it's  
10 analogous -- I came from the medical world -- it's  
11 analogous to sort of rules about disclosing  
12 confidential medical records. There's similar  
13 records -- rules for disclosing financial status as  
14 well. And it's hard for us to imagine how we would  
15 not have to disclose which students were on  
16 financial aid in -- to the union, in order to  
17 prioritize those students' hiring. We just can't  
18 see how it would work otherwise.

19 And inevitably, that would put us up  
20 against -- we would probably violate federal law in  
21 order to do that. And we don't see how we could not  
22 do that. But -- and so -- so we think that that  
23 would change both the nature of our relationship  
24 with students, this focus on education, and would  
25 shift the sort of the burden of confidentiality and

1 would reveal -- ultimately reveal which student --  
2 would make us reveal which students were on  
3 financial aid and which ones weren't.

4 Q So in order to prioritize then, students  
5 records would be given to whoever the bargaining  
6 agent was for the union; is that --

7 A We'd have to at least give some information  
8 about who was on -- was high need, and who we  
9 believe -- insisted would be priority. I mean, we  
10 care about those with greatest need. When it comes  
11 to distributing dollars, those with the greatest  
12 need should be given the opportunity to get the  
13 resource. And that is true with grant aid and it's  
14 true -- it will have to be true with hiring. It  
15 would mean loss of flexibility in all sorts of ways  
16 for faculty and staff.

17 We -- if -- if the wages go up, and  
18 in my experience that's what happens, we'd have to  
19 monitor the number of hours and the amount of budget  
20 much more closely because we would have an  
21 obligation to. There's no profit to erode.

22 Either we'd have to come up with  
23 additional sources of revenue from somewhere to pay  
24 for it, or we'd have to cut costs from somewhere.  
25 And -- and we have labor costs, we have facilities



1 costs, we have financial aid costs, we have program  
2 costs. Something would have to pay, or we'd have to  
3 get new sources of revenue.

4 Q And so would it be accurate then, that we  
5 come back to -- to where we began. And that is the  
6 vast majority of these jobs in this bargaining unit,  
7 petitioned for bargaining unit, relate to  
8 educational benefits for the students; is that  
9 correct?

10 A They are educational. We would not create  
11 the jobs if they weren't educational, and the  
12 students wouldn't be here without this education  
13 being their primary reason for being here.

14 And inevitably, we think that it  
15 would change the nature of this relationship in a  
16 core way. It's sort of ironic that at a time when  
17 most of higher ed is really pushing schools to be  
18 much more intentional in helping students translate  
19 their education into successful careers and lives,  
20 we think this would be an impediment to that.

21 Because we have this very thoughtful  
22 but distributed system in which students learn on  
23 jobs while they're working here at our mission and  
24 at on toward their goal of an education.

25 We have this -- we have the added

1 burden, also, in that every year, 25 percent of the  
2 membership would shift. And every four years there  
3 would be a hundred percent turnover, which adds an  
4 administrative burden as well, in ways that I think  
5 tilt it even more against this being a proper and  
6 reasonable use of the funds that are largely funds  
7 given by donors over time to -- to fund the  
8 educational experiences of our students.

9 MR. CUNNINGHAM: I don't think I have  
10 anything further. Thank you, President Kington.

11 HEARING OFFICER FREEBERG: Okay.

12 MR. CUNNINGHAM: Your Honor, if I may, we've  
13 been going for almost two hours here. Would it be  
14 appropriate to take a break at this point?

15 HEARING OFFICER FREEBERG: Yes. I have just  
16 a few questions.

17 MR. CUNNINGHAM: Sure.

18 HEARING OFFICER FREEBERG: So if it would be  
19 okay with everyone, I'd like to -- maybe I'll just  
20 ask my clarification questions and then we could  
21 take a break then the petitioner can cross examine  
22 President Kington. Okay.

23 So my first question is, I just want  
24 to clarify on page 24 and 25. There's a pie chart  
25 and I --

1 THE WITNESS: Yes.

2 HEARING OFFICER FREEBERG: -- the charts  
3 look different but the data, it says it's for spring  
4 2017/fall 2017? What -- can you just explain the  
5 difference between these two?

6 THE WITNESS: Yes. Thank you. One is the  
7 number of jobs, the other is the amount of dollars.

8 HEARING OFFICER FREEBERG: I see.

9 THE WITNESS: So that's the -- that's why.  
10 We thought it was important to give both the number  
11 of jobs and the amount of expenditures per those  
12 categories.

13 HEARING OFFICER FREEBERG: So number -- page  
14 24 is the number of jobs?

15 THE WITNESS: Right.

16 HEARING OFFICER FREEBERG: Page 25 is the  
17 dollars?

18 THE WITNESS: And you'll see that because  
19 wages have gone up for dining, it's a higher  
20 percentage of total dollars. Probably because we  
21 increased the wages to attract more students. So it  
22 shifts a little bit. There are some -- I think the  
23 overall story is the same, but there's subtle shifts  
24 because of the different wage rates by each of these  
25 categories.

1 HEARING OFFICER FREEBERG: Okay. Okay.  
2 Then one of these pieces of the pie is residential  
3 learning, and you testified a little bit about that.  
4 Could you just clarify what -- what does that mean,  
5 what positions are included in that, what type of --

6 THE WITNESS: There are positions that sort  
7 of were hired by students. Students are hired to  
8 facilitate educational experiences in the learning  
9 environment of -- of class -- of the residence  
10 halls. So some of them are things like problematic  
11 support. We hire some students in language houses,  
12 for example. So there are opportunities where we  
13 help students -- students in the learning  
14 environment help to facilitate what's happening in  
15 the residential environment.

16 And we'd be happy to sort of give --  
17 what we had to do is we classified these, and --  
18 based on sort of the content. And we'd be happy to  
19 sort of give more detail about what goes into each  
20 of these categories.

21 HEARING OFFICER FREEBERG: Okay. That would  
22 be great.

23 THE WITNESS: Leadership, things like the --  
24 our student government leaders are paid. That's  
25 very much an experience. That's about helping

1 students learn to make decisions and lead.

2 HEARING OFFICER FREEBERG: The position that  
3 was created in 2014 that you testified about  
4 earlier, what is that -- could you just elaborate,  
5 what is that title or position and what is the  
6 authority of that position?

7 THE WITNESS: So it's HR Training and  
8 Student Employment Coordinator. The person is  
9 responsible for things like job descriptions, the  
10 hiring process for students. Making sure there's  
11 information that's distributed so that the most  
12 number of students know about jobs where it really  
13 is appropriate to open to more students than  
14 specific -- a narrow number. Compliance with the  
15 union contract.

16 So it's all this sort of HR type of  
17 responsibilities, but it's -- we hired a special  
18 person because those positions -- because we know  
19 these positions for students are very different from  
20 the -- compared to the other HR positions. Because  
21 they're so tightly tied to educational experience  
22 so -- and that's why we created that position.  
23 Because we are committed -- we also expanded  
24 dramatically the number of people in our career  
25 office as well for similar reasons.

1 HEARING OFFICER FREEBERG: Okay. Okay.  
2 Those are all my questions at this time, so we can  
3 go off the record, we'll take a little break. And  
4 the time, it's 11. We could do a short break and  
5 then -- would that be okay with you?

6 MR. CUNNINGHAM: That would be fine.

7 MR. KINGTON: Ten minutes?

8 HEARING OFFICER FREEBERG: Just a 10 minute  
9 break. So by 11:10.

10 (Whereupon, a brief recess was  
11 was taken off the record.)

12 HEARING OFFICER FREEBERG: We'll go back on  
13 the record. Before the petitioner begins their  
14 cross examination, I believe the employer said off  
15 the record they have an exhibit they would like to  
16 offer.

17 MR. CUNNINGHAM: Sure. In response to your  
18 questions, Your Honor, we'll offer Exhibit J, which  
19 is the classifications of the different jobs that  
20 went into the different categories of those pie  
21 charts.

22 HEARING OFFICER FREEBERG: Okay.

23 MR. CUNNINGHAM: If you want, I can lay a  
24 foundation with President Kington but --

25 HEARING OFFICER FREEBERG: Sure. Maybe,

1 briefly.

2 Q (By Mr. Cunningham) Okay. President  
3 Kington, I have presented to you what we have marked  
4 as Exhibit J.

5 (Whereupon, Employer's Exhibit J  
6 was offered into evidence.)

7 Q (By Mr. Cunningham) And wanted to ask for --  
8 ask you if these are the jobs that went into the  
9 categories for creating the -- the pie charts on  
10 pages 24 and 25 -- or slides 24 and 25 of Exhibit A?

11 A Yes. We -- we didn't have -- because we  
12 don't centrally control, we didn't have a listing of  
13 every single position by category. So we thought  
14 these were reasonable groupings of activities that  
15 support directly the academic mission where they're  
16 working with faculty and senior staff in very  
17 clearly academic domains. You know, working at the  
18 Prairie Studies Center or Roosevelt Program.

19 Those are very career oriented that  
20 help students develop skills, you know, the art  
21 galleries, students particularly interested in  
22 working museums would work there, for example. And  
23 then classroom support where there are student  
24 assistants and tutors and sort of other things that  
25 are helping -- students who are helping directly in

1 the classroom. Dining, mail service.

2           These are really the pots -- sort of  
3 the pots of money, and they're divided up by that,  
4 of various types of grants or some are very generic.  
5 Like research -- student research might be just all  
6 faculty research that is funded by the college.

7  
8           And then residential learning, some  
9 of them are things like the bookstore, where we  
10 build in there, it's understood that students have  
11 the opportunity and are explicitly students have the  
12 opportunity to study. So we put sort of those jobs  
13 there.

14           There's jobs even when they aren't  
15 directly related to teaching and learning, they are  
16 built in so that they have time to allow students to  
17 study while on the job. And we put those in that  
18 category. Others are very clearly related to  
19 student leadership type activities like the -- the  
20 student government association cabinet, where we  
21 think those are directly related to building  
22 leadership within the non classroom. That's what  
23 the term residential just applies to everything  
24 outside the classroom.

25           Q   And so these are -- then the positions



1 listed in Exhibit J are the ones that are included  
2 in the statistics that make up the percentages in  
3 the pie charts under those particular job  
4 classifications?

5 A Yes, 24 and 25, I think -- 24 is -- are  
6 jobs, 25 is dollars spent in each -- in jobs in each  
7 of those categories.

8 MR. CUNNINGHAM: All right. I move to  
9 admit, Your Honor.

10 HEARING OFFICER FREEBERG: Thank you. Are  
11 there any objections to the receipt of employer  
12 Exhibit J?

13 MR. MCCARTAN: No, Your Honor.

14 MR. XU: No objection, Your Honor.

15 HEARING OFFICER FREEBERG: Okay. Employer  
16 Exhibit J is received.

17 (Whereupon, Employer's Exhibit J  
18 was offered into evidence.)

19 HEARING OFFICER FREEBERG: And are there any  
20 other exhibits that you wanted to offer at this  
21 time?

22 MR. CUNNINGHAM: Not at this time, Your  
23 Honor. Thank you.

24 HEARING OFFICER FREEBERG: Then the  
25 petitioner, you may cross examine Mr. -- President

1 Kington.

2 MR. XU: May I proceed?

3 HEARING OFFICER FREEBERG: Yes.

4 [EXAMINATION OF DR. KINGTON]

5 QUESTIONS BY MR. XU:

6 Q Dr. Kington, so first of all, I would like  
7 to ask you a few questions about the financial  
8 resources of Grinnell College.

9 A Yes.

10 Q So the college has an endowment totaling  
11 over \$2 billion, is that number about right?

12 A Varies from day to day but, yeah, it's about  
13 2 billion.

14 Q That's roughly a million dollars for each  
15 student enrolled at Grinnell College?

16 A Yes.

17 Q And moreover, this endowment is  
18 unrestricted?

19 A About 70 of it is what's technically called  
20 quasi endowment because it came from taking money  
21 that had been given to us, investing it well and  
22 getting high returns, and not spending it. So  
23 turning a lot of return back into it. So about 70  
24 percent is unrestricted, meaning that there are no  
25 legal constraints, aside from our core mission, to

1 how we spend the money.

2 Q So how it can be spent, it's safe to say, or  
3 distributed, are at the total discretion of Grinnell  
4 College?

5 A There are some legal constraints. We can't,  
6 you know, we couldn't spend it on, you know, racing  
7 horses. I mean, we would have to spend it on the  
8 mission, and there are constraints in terms of  
9 things like salaries and you need to -- there are  
10 all sorts of federal laws and Internal Revenue  
11 Service laws that -- tied to our non profit status  
12 that constrain what we can -- and we have to have a  
13 board that oversees and takes fiduciary  
14 responsibility.

15 Q So, Dr. Kington, just to clarify, besides  
16 the core mission and these legal constraints,  
17 Grinnell College has huge latitude in deciding how  
18 to deal with its endowment?

19 A Within our mission.

20 Q So, as an example, in 2016, Grinnell College  
21 purchased this golf course we're sitting in right  
22 now?

23 A Yes.

24 Q For more than a million dollars?

25 A I don't think it was a million. I think it

1 was, like, 600,000. I don't think it was over a  
2 million.

3 Q Six hundred thousand dollars?

4 A Yeah. And the rationale was that this was  
5 adjacent to our property. We have a golf team, and  
6 the community used it a lot and we've had other  
7 communities around where the golf course closed, and  
8 it became derelict and actually dramatically  
9 impacted the community.

10 So we decided that because of our  
11 commitment to sort of academics and athletics, and  
12 we had a golf team and this was adjacent to the  
13 property, that there was a compelling justification  
14 for it.

15 Q So just to clarify again, in 2016, Grinnell  
16 College uses its financial resources to purchase  
17 this country club for around \$600,000?

18 A Yes. Now, there's a facility for swimming  
19 and athletics and it was great that it was right  
20 adjacent to all of our playing fields, so it made  
21 perfect sense.

22 Q Okay. So Grinnell College also prioritized  
23 financial aid for students, correct?

24 A Yes. We were able to purchase this  
25 without -- because we had some discretionary pooled

1 resources, we were able to use those resources to  
2 purchase this.

3 Q Dr. Kington, let me rephrase my question.  
4 So moving on to financial aid which is unrelated to  
5 purchase the golf course, financial aid for students  
6 is a priority for Grinnell College?

7 A It's \$60 million a year, you believe it's a  
8 priority.

9 Q So many students at Grinnell College receive  
10 financial aid packages?

11 A Seventy-five percent. No, more than that.  
12 It's 85 percent of our students receive some type of  
13 financial aid.

14 Q And for many of them, campus employment is  
15 part of their financial aid package?

16 A Yes, I forgot the exact percentage but, yes.

17 Q Yes. So many of them do receive campus  
18 employment as part of their financial package?

19 A Yes.

20 Q And these students will be assigned their  
21 first job when they first come to Grinnell College?

22 A There's some discretion, and actually, I  
23 don't know the process about the allocation of jobs  
24 to students exactly, but we have the HR person who  
25 oversees that and can give you a lot more detail

1 about that.

2                   So I know there's a process of  
3 connecting students with opportunities. I  
4 understand many start out work at dining, but then  
5 over time, as they learn more and take on more  
6 opportunities, move away from that.

7           Q    I'll move on.

8           A    Excuse me?

9           Q    I'll move on.

10          A    Okay.

11          Q    So on direct examination you testified  
12 student employees positions are essential to many  
13 students' education?

14          A    We believe so, yes.

15          Q    So but to your knowledge, as the president  
16 of Grinnell College, students do not receive any  
17 academic credit for engaging in campus department  
18 position?

19          A    Yeah, and that's true of a lot of the  
20 educational experience. We don't receive credit --  
21 they don't receive for athletics, for lots of other  
22 things that we think are actually student  
23 leadership, being head of the student government,  
24 they don't receive credit for it, and, man, is that  
25 important.

1                   So we believe there are lots of  
2 things that are important that we don't give credit  
3 for.

4           Q    So the students do not receive academic  
5 credit for their campus employment?

6           A    Right.

7           Q    And the -- are students required to hold any  
8 campus employment?

9           A    Actually, let me say, there are some  
10 positions which they receive credit for.  So,  
11 students are -- there's some academic positions they  
12 receive, some service positions that they receive  
13 credit for.  So they -- and we can get back to you  
14 about the specific ones, but there are some in which  
15 they receive credit.

16          Q    So for those positions that -- where  
17 students receive academic credits, are they also  
18 financially compensated by Grinnell College?

19          A    Yes.  Yes.

20          Q    What exact positions are --

21          A    I'd be happy to get back to you.  I can't  
22 tell you the exact ones.  We'd have to get back to  
23 you with those specific courses -- courses and jobs.

24          Q    Okay.  So just to, you know, give a few  
25 examples, students in admission office do not

1 receive academic credit for their work?

2 A Absolutely not.

3 Q Students in the math lab do not receive  
4 academic credit for their work?

5 A That's right.

6 Q Students in international student affairs do  
7 not receive academic credit for their work?

8 A Yep. I will concede that the -- probably  
9 the vast majority of positions on this list don't  
10 receive academic credit.

11 Q Right, just exactly. So the vast majority  
12 of positions we just talked about, they -- students  
13 working them, do not receive any academic credit?

14 A That's right.

15 Q Is holding a campus -- holding an on campus  
16 employment position is not a requirement to get a  
17 degree or to graduate?

18 A No, it isn't.

19 Q In other words, students can graduate  
20 without working any on campus employment position.

21 A Right. Just as we have an unrestricted core  
22 curriculum, so that we have very -- it's consistent  
23 with our philosophy that students are so diverse, it  
24 would be kind of hard for us to -- to figure out a  
25 way to do it in a way that made sense. So we let



1 students decide. And fortunately, many of them do.

2 Q So students do not have to have an on campus  
3 employment position to be able to graduate?

4 A Absolutely not.

5 Q Now, finally, let's talk about the existing  
6 union within dining services. So the union started  
7 in 2016?

8 A Uh-huh.

9 Q And were you --

10 A I think.

11 Q Yeah. Were you the president --

12 A Yes, I was.

13 Q -- of Grinnell College in 2016? So since  
14 2016, the union and Grinnell College have reached  
15 agreement, two collective bargaining agreements?

16 A Uh-huh.

17 Q Would you recognize copies of them if I  
18 showed them to you today?

19 A I could probably -- I don't remember  
20 actually seeing them because they are often, done  
21 the details are done, I'm not the signer. So I  
22 don't -- I'm sure I could --

23 MR. CUNNINGHAM: Excuse me, Your Honor. A  
24 point of order here. We have someone recording the  
25 proceeding in violation of the court's order.

1 HEARING OFFICER FREEBERG: Okay. Thank you.

2 Q (By Mr. Xu) Repeat my question. Would you  
3 recognize copies of collective bargaining  
4 agreements --

5 A I probably could recognize them. I haven't  
6 see the actual agreements, because they are  
7 negotiated below me.

8 Q But to your knowledge, during 2016 and  
9 today, there have been two agreements --

10 A Yes.

11 Q -- agreed upon?

12 A I think so.

13 MR. XU: I have no further questions, Your  
14 Honor.

15 HEARING OFFICER FREEBERG: Okay. You  
16 mentioned that the human resources individual could  
17 provide some more information about some of the  
18 questions. I guess, maybe this is a question for  
19 counsel. Do you plan to call that person as a  
20 witness to testify?

21 MR. CUNNINGHAM: I believe they have  
22 subpoenaed him. Whether I will call him or not, I  
23 don't know, but he will be here.

24 HEARING OFFICER FREEBERG: Okay.

25 MR. KINGTON: He is here.

1 HEARING OFFICER FREEBERG: Okay. Do you  
2 have any further questions on redirect?

3 MR. CUNNINGHAM: Just -- just one. Not --  
4 or I should say a series of one, how about that.

5 [RE-DIRECT EXAMINATION OF MR. KINGTON]

6 QUESTIONS BY MR. CUNNINGHAM:

7 Q Notwithstanding the fact that students who  
8 work in the math lab don't receive academic credit  
9 for doing so, do they receive an academic benefit,  
10 an educational benefit from doing so?

11 A We believe that many of these jobs and the  
12 ones that are -- and that type of job in particular,  
13 is an important dimension of the educational  
14 experience. We can't -- we've decided that there  
15 are schools who do a lot of credit for these types  
16 of activities. We've just decided that, you know,  
17 students have to live here and the vast majority of  
18 students work here. We think that we don't need to  
19 impose that, that sort of burden on top of the  
20 system.

21 MR. CUNNINGHAM: Nothing further.

22 HEARING OFFICER FREEBERG: Okay. Do you  
23 have anything on -- any further question?

24 MR. XU: I have nothing further.

25 HEARING OFFICER FREEBERG: Nothing further?

1 Okay. Then you may step down.

2 MR. KINGTON: Thank you.

3 HEARING OFFICER FREEBERG: You may call your  
4 next witness.

5 MR. CUNNINGHAM: At this time, I will call  
6 Marie Tapias, please.

7 (Whereupon,

8 DEAN MARIA TAPIAS,  
9 was called as a witness by and on behalf of the  
10 Employer and, after having been duly sworn, was  
11 examined and testified as follows:)

12 HEARING OFFICER FREEBERG: Please state your  
13 name and spell it for the record.

14 THE WITNESS: Sure.

15 HEARING OFFICER FREEBERG: And be sure to  
16 speak up for the court reporter.

17 THE WITNESS: My name is Maria Tapias,  
18 T-A-P-I-A-S. First name, M-A-R-I-A.

19 HEARING OFFICER FREEBERG: Thank you.

20 [DIRECT EXAMINATION OF DEAN TAPIAS]

21 QUESTIONS BY MR. CUNNINGHAM:

22 Q Good morning, Dean Tapias. Thank for  
23 your -- for your patience. Could you please tell  
24 the court who you are, what position you hold with  
25 the college?

1           A     Sure.  I am a faculty member in the  
2 Department of Anthropology, and also the Senior  
3 Associate Dean at the college for academic affairs.

4           Q     And -- and you're a full tenured profession  
5 of anthropology?

6           A     Yes.

7           Q     Is that credit?

8           A     Yes, I am.

9           Q     In your -- could you describe for the court  
10 generally what your duties as associate dean of the  
11 college is -- are?

12          A     Sure.  So I have several departments that  
13 report to me, including the registrar's office,  
14 academic advising, the Faulkner Gallery, the Center  
15 for Teaching, Learning and Assessment, and the  
16 Office for Disability Resources.

17          Q     And what does that --

18          A     And I also oversee our tenure and promotion  
19 process at the college.

20          Q     Okay.  In your role are you somewhat  
21 familiar with the role academic research plays in  
22 the opportunities for students at Grinnell College  
23 to have employment on campus?

24          A     Sure.  So from 2012 until this past spring,  
25 I oversaw the student research program at the

1 college. And so I'm quite familiar with the  
2 research opportunities that are extended to our  
3 students.

4 Q Okay. Well, so let's -- let's get to it,  
5 then. Can you please explain the role that research  
6 and -- and particularly research jobs during the  
7 academic year play in the educational mission of the  
8 college?

9 A Sure. So as Raynard mentioned, President  
10 Kington mentioned earlier, Grinnell is a liberal  
11 arts college, a residential liberal arts college,  
12 and so there are several venues through which  
13 students may acquire research experience. And I  
14 want to state that research is very central to our  
15 mission here. We are very much committed to  
16 providing every Grinnell student with a opportunity  
17 to conduct research, okay?

18 And so those -- there are two ways in  
19 which students might acquire this research  
20 experience. One, is through the curriculum, right?  
21 So by enrolling in particular classes, seminars,  
22 right, that have research opportunities. MAPs for  
23 instance, Mentored Advanced Projects are a  
24 opportunity for research. But also, we have a non  
25 curricular component, if you will, in terms of non

1 credit bearing. And that is when they can serve as  
2 research assistants to -- to faculty and staff.

3 Q And these are paid employee -- employment  
4 positions, correct?

5 A Yes, they are.

6 Q Okay. And would it be accurate to say that  
7 these jobs are created primarily for the students'  
8 education?

9 A Yes, I think that would be accurate.

10 Q Okay. So, and -- and across the academic  
11 department, which departments participate in these  
12 research assistant positions?

13 A Well, all -- all departments can participate  
14 in this. Again, when we are talking about hiring  
15 students, these come primarily from -- well, there's  
16 two sources. A main source of that is from faculty  
17 development funds.

18 Faculty development funds are granted  
19 to every full time faculty member, it's actually  
20 \$3,000 a year, to develop their own skills as  
21 teachers and researchers.

22 And basically that -- those funds can  
23 be used to attend conferences, they can used to  
24 purchase books, they can be used to hire student  
25 researchers, which is at the discretion of the

1 faculty. So the faculty member, basically, can  
2 identify a student they -- who they would like for  
3 them to assist and this has implications for the  
4 faculty being able to move forward their research,  
5 and also has implications for tenure and promotion.

6 Q And in terms of the students, what  
7 implications does it have?

8 A Sure. For our students, I think one of the  
9 unique opportunities is to be closely mentored by a  
10 faculty member, right, in the research process.

11 So for instance, a student might be  
12 hired to conduct a statistical analysis. Or, I'm a  
13 French professor, and I need someone to translate or  
14 do a survey of literature in the French language, or  
15 in the Russian language or in the German language,  
16 to scan that literature and provide me, you know,  
17 provide me, as a faculty member who might be  
18 preparing a manuscript or an article, with a summary  
19 of that, right?

20 Or there might be opportunities in  
21 which a student is performing statistical analysis,  
22 for instance, for faculty. So for instance, we have  
23 a data analysis and social inquiry lab on campus  
24 where we employ several students, and they are  
25 working with faculty under sort of the -- the



1 supervision of a director, right, who is also a  
2 faculty member. And they, you know, work on  
3 particular projects for that faculty.

4 Q And these types of jobs are not jobs that  
5 are posted for people outside the college to apply  
6 for, correct?

7 A No. They are posted just internally, and I  
8 would say that the most typical when faculty hire  
9 research assistants, they are hiring people that  
10 either have taken classes with them, or who they  
11 know as majors, right? So they are looking for  
12 particular skill sets that they can rely upon,  
13 right, which students bring, so.

14 Q Would it be accurate to state that these --  
15 and I think you've probably given some -- some good  
16 examples here -- would it be accurate to state that  
17 the skill sets required for these different research  
18 assistants are incredibly varied and unique?

19 A Absolutely.

20 Q Can you give me some examples of that?

21 A Sure. So, for instance, if you have a  
22 faculty member that might need a map developed for a  
23 manuscript, right? That requires knowledge of  
24 working GIS, right? Not every student has that  
25 capability. Language is obviously an example I

1 already stated, but you know, fluency in a language.  
2 And sometimes it's not just fluency. We have plenty  
3 of native speakers on campus, but maybe they're not  
4 necessarily well versed in the particular discipline  
5 in which the research is taking. So that would  
6 further narrow our pool, right?

7           So, for instance, just to use myself  
8 as an example, when I was working on my book  
9 manuscript, I needed somebody not only who had  
10 knowledge of the field of medical anthropology, but  
11 also had -- was, you know, fluent in Spanish, right?

12           So these are -- are jobs that require  
13 significant skills, right, that we draw upon our  
14 students. And hope that in the process as well,  
15 they are also acquiring and honing those skills,  
16 right? That's an opportunity to practice those  
17 skills and an opportunity to learn about the  
18 research project if, again, if it's not within the  
19 context of the curriculum.

20           Q    Okay. And so it would be accurate to say so  
21 many times these positions are -- and opportunities  
22 are created with either a particular student or a  
23 small group of students in mind; would that be  
24 right?

25           A    Yes, I would say that's correct.

1 Q Okay. And so -- well, let me back up. In  
2 addition to those types of -- of research type jobs  
3 that are directly with the faculty, I wanted to ask  
4 you whether student employment can play a role in  
5 supporting students who may be struggle  
6 academically.

7 I'm not talking about peer tutors or  
8 people working in the math lab or whatever, but just  
9 generally speaking, I mean you're aware of certain  
10 positions that are used in that way?

11 A Uh-huh. Sure.

12 Q Can you describe that for us, please?

13 A Sure. I think any employment that allows  
14 students the flexibility to get their own work done  
15 is very desirable on campus, right? So for  
16 instance, working in the circulation desk at the  
17 library, right? When things are busy, obviously  
18 you're doing the work that you need to do, but also  
19 when there's down time or when things are slow, you  
20 can be working on your things.

21 So these are opportunities, for  
22 instance, where perhaps students who are struggling,  
23 as President Kington mentioned, right, how do we  
24 have the flexibility to ensure that students that  
25 might be struggling but yet have some financial

1 need, can have access to those opportunities.

2 Things like checking someone into the  
3 rec center, right, into the -- the Bear, right? Or  
4 answering phones, right, at security, things like  
5 that. So there are -- there are certain types of  
6 jobs where we actually know that the student will  
7 have the opportunity to move further on their work.  
8 And we actually -- we like when students can work,  
9 you know, while they're -- you know, at their jobs  
10 as well.

11 Q Okay. So let's go back then, to the -- to  
12 how some of these jobs get created, and we'll start  
13 with the research jobs which are -- which are, I  
14 think, kind of your particular domain.

15 You mentioned faculty development  
16 funds and they have discretion. Can you kind of  
17 explain how that works?

18 A Sure.

19 Q And kind of what the time frame in which  
20 they create these jobs?

21 A Sure. So each year, a full time faculty  
22 member has access to what are known as faculty  
23 development funds. That's \$3,000 a year typically,  
24 \$2,000 for our term faculty. From that, from those  
25 \$3,000 then, a faculty member decides, okay, how am

1 I going to enhance my scholarly productivity, how am  
2 I going to enhance my teaching, right? And so they  
3 have discretion in how those funds are used.

4 So, for instance, they may attend  
5 their professional conference with those funds.  
6 They may be purchasing books with those funds. They  
7 may hire a student work, right, to, you know, to  
8 work with them on a particular project.

9 So, for instance, if I'm invited to a  
10 conference and I need a student to do some work for  
11 me, I can hire a student. So I go to a student and  
12 hire them to help me with that project, right, prior  
13 to that conference.

14 So, basically those are funds that  
15 then the faculty submits, you know, for  
16 reimbursement and that would be something that  
17 everyone has access to among the faculty.

18 We also have some competitive funds,  
19 right? So if -- if faculty, you know, have an  
20 extraordinary need for something, they can apply for  
21 those competitively, and that is vetted by the  
22 committee for the support of faculty scholarship.  
23 And that's a faculty committee, and I chair that  
24 committee as well, and we review those proposals.

25 Q But if you need to create -- if you need a

1 research assistant fairly quickly, and I understand  
2 there's circumstances where that may happen correct?

3 A Uh-huh.

4 Q How does that get done?

5 A Well, you basically call Marcia Baker and  
6 tell her that you would like to hire somebody and to  
7 do specific, you know, amount of hours for -- for  
8 the research.

9 Q What if you have a particular student in  
10 mind?

11 A Well, I would say that's typically the route  
12 it takes. You will either go, depending on what  
13 your field is, you will either go to students who  
14 have taken classes with you, or students that have  
15 been in your tutorial or majors in general, right,  
16 so your close colleagues can say, oh, I've got this  
17 excellent student, you know, and they can help you,  
18 right?

19 So -- but -- so I would say in  
20 general that faculty, when they are relying on  
21 research assistants, have a particular student or a  
22 group of students in mind.

23 HEARING OFFICER FREEBERG: And did you say  
24 Marcia Baker?

25 THE WITNESS: Yes.

1 HEARING OFFICER FREEBERG: And who is that?

2 THE WITNESS: Marcia Baker, what's Marcia's  
3 title. She works in the Dean's office. She's the  
4 person who does all the reimbursement and then they  
5 connect also with Mark Watts and, you know, get the  
6 position sort of established.

7 HEARING OFFICER FREEBERG: Okay. And who's  
8 Mark Watts?

9 THE WITNESS: He is -- yes, he's coming up.  
10 And I'm not sure what Mark's official title is.  
11 Mark, I'm sorry. Okay.

12 REPORTER: I didn't hear any of that.

13 HEARING OFFICER FREEBERG: That's okay.  
14 Yeah, that was not on the record, that's okay.

15 Q (By Mr. Cunningham) Well, in addition to,  
16 you know, those types of employment that are either  
17 research assistants or -- or that are -- are done to  
18 help students who are struggling, are there other  
19 forms of employment that are designed to help  
20 students academically?

21 A Uh-huh.

22 Q And one of the things we've heard about are  
23 the peer tutors.

24 A Sure.

25 Q And as a -- and as a faculty member in the

1 anthropology department, I assume you have contact  
2 with the peer tutors, correct?

3 A It depends. I think that we rely on peer  
4 tutors for different responsibilities, if you will.  
5 So we might have --

6 Q So can you explain who they are and what  
7 they do?

8 A Sure, sure. So we have the peer tutoring  
9 where we have students tutoring students, right?  
10 And those are basically connected, usually, to some  
11 sort of lab. So it might be the writing lab, it  
12 might be the language learning centers, right, where  
13 we have students with particular skills that are  
14 able to help students, tutor students, right?

15 So we also have some pre-orientation  
16 programs that rely on peer tutors, and those are for  
17 students prior -- first year students prior to  
18 starting their academic career at Grinnell have  
19 those orientation programs, and we hire peer -- peer  
20 mentors, right, to -- to -- to assist and to -- and  
21 to mentor students -- you know, their students and  
22 to help them gain familiarity with -- with the  
23 institution.

24 All of these students receive  
25 training, right, so they're actually trained by



1 faculty or staff, right? And they are, you know,  
2 prepared to undertake these roles.

3 Q Is there a notion in education that students  
4 helping students not only assist the student being  
5 helped, but the student doing the teaching?

6 A Absolutely. And I mean, in -- in a sense  
7 that you're given the opportunity to put your skills  
8 into practice, right? And so, you know, students  
9 are definitely continuing to learn as they teach as  
10 well.

11 So they're -- it's a -- it's a lovely  
12 application of what they're often learning in the  
13 classroom, you know, in the context of working with  
14 the students.

15 Q Okay. And -- and then you also have the  
16 students who are selected by the faculty to work in  
17 certain labs, and I think you mentioned is it the  
18 DASIL lab, is that what you said?

19 A Right, the Data Analysis and Social Inquiry  
20 Lab.

21 Q And what are they doing?

22 A So they have a number of, you know, students  
23 that are working that know particular types of  
24 software, for instance. State IGIS, you know, any  
25 number of statistical softwares. And that lab was

1 precisely developed to support the academic  
2 endeavor.

3           So, for instance, faculty members  
4 might request, can you have a student come and do a  
5 demo for us, right? And so the student will go and,  
6 you know, be in a classroom and provide a demo on  
7 how to use a particular software.

8           And the lab also has evening hours  
9 where students that have questions can go to the lab  
10 and, you know, get support from the -- from the  
11 student tutors and student mentors there. You know,  
12 that would be one -- one example.

13         Q    Okay. So we've talked about research, we've  
14 talked about the peer tutors. We've talked about  
15 the folks who work in the various academic labs, and  
16 we have talked about students that may be assigned a  
17 job where they have significant down time to  
18 facilitate their -- their general study.

19           Any others, you know, that I'm  
20 leaving out here in which in -- in which those types  
21 of positions, you know, might be called academic  
22 support, might be called research, are -- are used  
23 to -- for this purpose?

24         A    Sure. So language tutors, for instance --

25         Q    Okay.

1           A    -- right, will be an example where maybe a  
2 fourth year student, right, is assisting newcomers  
3 to the language, right? They might be working with  
4 those students, for instance.

5                   I know that some of our grants, for  
6 instance, have a particular line in them to not only  
7 employ students, right, for instance our HHMI grant  
8 which is Howard Hughes Medical Institute Grant,  
9 had -- had a part of their budget is devoted to  
10 giving students an opportunity to just spend time in  
11 the lab, right, very early on.

12                   So that really fosters a sense of  
13 belonging, right, in the -- in the lab. In the lab  
14 environment, you know, familiarizing them with the  
15 lab environment. So that would be another area,  
16 right, where, you know, that's -- it's very, very  
17 closely tied to the learning process here at the  
18 college.

19           Q    Okay. Dean Tapias, at my request did your  
20 staff or you do some -- some research of the types  
21 of work in the -- in terms of that students would  
22 both work for pay and educationally focused jobs on  
23 campus they're doing?

24           A    Sure.

25           Q    And what -- what did you determine in terms

1 of the number of -- of area that were recording  
2 hours were students?

3 A Sure. We have students working in over a  
4 hundred and ten places, right? In other words, we  
5 have students working in the book store. We have  
6 students in our departments working, you know,  
7 providing support to academic units, right. We have  
8 students working in the registrar's office, in the  
9 financial aid office, and with admissions, right?  
10 So there are lots of different places in which  
11 students might be working.

12 And, again, I think that the --  
13 the -- the last exhibit that was submitted gives a  
14 little bit of a sample, right, of some of the --  
15 some of the places where people are actually  
16 employed.

17 HEARING OFFICER FREEBERG: Just a  
18 clarification, that was Exhibit J that you're  
19 referring to?

20 THE WITNESS: Yes.

21 HEARING OFFICER FREEBERG: Okay. And is  
22 this a sample, or is this an exhaustive list?

23 THE WITNESS: Well, I think -- I believe  
24 it's an exhaustive list. But I don't have the  
25 numbers, the specific numbers here, but just this is

1 the list.

2 HEARING OFFICER FREEBERG: Okay.

3 Q (By Mr. Cunningham) In -- in creating jobs  
4 as -- as the faculty sometimes does, is flexibility  
5 a -- a hallmark of the ability to do that  
6 effectively?

7 A Yes, I would think.

8 Q Can you explain that, please?

9 A Sure. An academic year starts, and you are  
10 invited to give a talk at another institution or at  
11 a conference, right? And you have some work that  
12 you still need to do on the bibliology and to run a  
13 statistical analysis, right? So the timing of when  
14 a faculty member needs assistance is crucial. It's  
15 not necessarily something that will be steady  
16 throughout the academic year. It's kind of -- it  
17 can be an intense sort of bust of -- of hours that  
18 might be needed.

19 And so I would say that, yes, it  
20 varies from faculty member to faculty member.

21 Q If -- if you or another faculty member was  
22 required in that kind of a time sensitive situation  
23 to have to stop and bargain with a union to create  
24 such a position, what -- what problems do you  
25 foresee?

1 A Well, I think the main issue --

2 MR. MCCARTAN: Your Honor, objection.

3 Improper opinion. Dean Tapias does not know what  
4 would happen if a union was in place, and to what  
5 extent that would impact her ability to hire  
6 students for a whole other faculty. She's being  
7 asked to offer opinions not substantiated by fact or  
8 experience.

9 HEARING OFFICER FREEBERG: Your position?

10 MR. CUNNINGHAM: My position is I'm not  
11 asking her to predict the future. I'm asking her,  
12 based on her knowledge of how the system works now,  
13 if there was a requirement to bargain every time  
14 they created a position, what concerns would that  
15 cause them.

16 HEARING OFFICER FREEBERG: To the extent the  
17 objection is to the foundation of her knowledge on  
18 this issue, she can testify about her knowledge on  
19 the subject.

20 A So I think I would be -- I would have  
21 concerns about any loss of any flexibility, right,  
22 in the ability to hire when you need to hire on a  
23 timeline sometimes, right? I would think that would  
24 be a -- a concern that I would raise.

25 I think another issue is that, you

1 know, as I mentioned, we have budgets, right, and  
2 the faculty development funds. If a faculty member  
3 had to determine how to allocate their funds, and I  
4 think it is safe to say wages might go up, that  
5 would eat into a faculty member's budget. And so  
6 they would really have to think about how they would  
7 be expending those funds.

8           And my concern, from an educational  
9 point is, would we see a reduction in these  
10 educational opportunities of unrelated to research.

11       Q    (By Mr. Cunningham) Have you had situations  
12 in your position as Dean -- or Associate Dean, that  
13 you're aware of, where a faculty member may have had  
14 to terminate a student employee who wasn't working  
15 out? And I'm asking you to give any names or --

16       A    Sure.

17       Q    -- or divulge any -- any information, I'm  
18 just asking, does that situation come up sometimes?

19       A    Well, you may realize -- maybe you may  
20 realize that, oh, this student doesn't have the  
21 level of expertise that I need in a particular  
22 field, right, and so you might reassign or, you  
23 know, reassign what tasks you might give to that  
24 student? Right. Or you might just say, this person  
25 doesn't have the skills that I need in order to

1 conduct this research.

2 Q Okay. Okay.

3 HEARING OFFICER FREEBERG: And so in that  
4 instance, the faculty member could make the decision  
5 to -- to terminate that relationship?

6 THE WITNESS: To terminate, yes. Yes, they  
7 could.

8 HEARING OFFICER FREEBERG: Okay.

9 Q (By Mr. Cunningham) And so the faculty and  
10 staff filling these positions really rely on their  
11 interactions with the students; is that correct, in  
12 identifying the people that have the ability to best  
13 do the roles?

14 A Yes, I would say that they -- they have that  
15 discretion. This is a small community, you're  
16 interacting -- or classes are very small, we  
17 interact with students on a daily basis, right, and  
18 so we know, you know, what -- what -- our students  
19 fairly well, and we can -- we can assess whether  
20 they have the skills, right?

21 Q Okay. If you could just take a look at  
22 Exhibit J here for a moment. And I wanted to -- to  
23 just be clear with you. I think we established this  
24 is a -- this was a list that was used for the basis  
25 of the pie chart that was taken from the payroll for



1 the last academic year, correct?

2 A Uh-huh. Yes.

3 Q Okay. And so, you know when we see, for  
4 example, under the area of the -- the job class  
5 of -- of research, are you familiar with some of  
6 these positions or any of these positions?

7 A Yes.

8 Q Okay. And so, for example, some of them  
9 just talk about B M & E. What does that refer to?

10 A The buildings and maintenance --

11 Q Okay.

12 A -- and --

13 Q Okay.

14 MR. KINGTON: Is it engineering?

15 Q (By Mr. Cunningham) Is that engineering?

16 AUDIENCE MEMBER: It's equipment.

17 A Equipment, thank you.

18 Q (By Mr. Cunningham) Okay.

19 MR. MCCARTAN: Your Honor, Dean Tapias was  
20 not aware of what E stood for until someone from the  
21 audience refreshed her memory.

22 HEARING OFFICER FREEBERG: Yes, that's --  
23 the audience should refrain from testifying. You're  
24 not under oath, the witness is under oath. Thank  
25 you.

1 Q (By Mr. Cunningham) Take a look further down  
2 there, there's a slot known as faculty research,  
3 student wage. Is that --

4 A Right.

5 Q What does that reflect; do you know?

6 A I would say that that reflects any faculty  
7 member that is hiring a student research to help  
8 them with their -- with their research. Sometimes  
9 our grants, as I mentioned, may have a line item in  
10 their budget to hire students.

11 And, in fact, there are several  
12 grants that have the explicit mission to create  
13 research opportunities for students. It helps them  
14 in, you know, learning about the field. It helps  
15 them in going onto graduate school. Faculty members  
16 often publish with students, right, and so there are  
17 lots of educational benefits. And some grants make  
18 that explicit as, you know, one of the criteria.

19 MR. CUNNINGHAM: Thank you. I don't think I  
20 have anything further. Thank you.

21 HEARING OFFICER FREEBERG: Okay. Petitioner  
22 can cross examine the witness.

23 [CROSS EXAMINATION OF DEAN TAPIAS]

24 QUESTIONS BY MR. MCCARTAN:

25 Q Dean Tapias, you talked about faculty

1 development funds.

2 A Uh-huh.

3 Q It's fair to say the purpose of those funds  
4 is to develop a faculty's research and teaching and  
5 personal teaching style further; is that -- would  
6 that be a fair assessment of the purpose of faculty  
7 development funds?

8 A Yes. It's to keep our faculty up to, you  
9 know, abreast, up to date with what's happening in  
10 their field. It's to move their -- their own  
11 research agendas forward, right, to enhance their  
12 productivity. So, yes, those are -- that's what the  
13 funds -- those are -- that's what the funds would be  
14 used for.

15 Q And that -- the college allocates money for  
16 faculty development research is indicative of the  
17 fact that the college values this faculty  
18 development as a component of its educational  
19 mission in it's core mission statement; is that  
20 correct?

21 A That's correct.

22 Q Now, so you mentioned, for example, I  
23 believe a -- a -- that you had a book manuscript you  
24 wanted to prepare.

25 A Uh-huh.

1 Q That would be a book that you were writing  
2 yourself, faculty themselves were writing.

3 A Uh-huh.

4 HEARING OFFICER FREEBERG: And make sure to  
5 answer yes or no.

6 A Yes. Sorry, yes, yes.

7 Q (By Mr. McCartan) But you said you could  
8 hire a student to help you in the preparation of  
9 that manuscript, correct?

10 A Yes.

11 Q So that student is helping the faculty's  
12 individual development and research goals?

13 A Yes.

14 Q Now, would those books be taught in the  
15 classroom?

16 A Yes.

17 Q The same book the faculty is currently  
18 working on is also in part of the curriculum?

19 A Well, the book -- I know several faculty  
20 have used my book in their classrooms.

21 Q Let me rephrase. So we're talking about a  
22 specific book. Could you tell us what that book is?

23 A It's called, Embodied Protests.

24 Q So when you were writing Embodied Protests,  
25 you hired a student to help you in preparation of

1 the manuscript, correct?

2 A Yes.

3 Q And at the time you were writing the book,  
4 Embodied Protests was not on the curriculum of any  
5 course because it was being written, correct?

6 A Correct.

7 Q Okay. And so at the time you hired the  
8 student to help you prepare this for your personal  
9 faculty development which, as you said, goes to the  
10 college's education mission.

11 A Yes.

12 Q Then moving on now, in your testimony you  
13 mentioned students flexibility to get work done on  
14 the job, sort of that slack time. And you listed  
15 some positions, and I believe you listed circulation  
16 workers, correct?

17 A Uh-huh.

18 Q And --

19 A Yes.

20 Q -- you listed campus safety phone operators?

21 A Yes.

22 Q Are these positions open to -- to your  
23 knowledge, are these positions open to all student  
24 workers --

25 A Yes.

1 Q -- at Grinnell? Regardless of their  
2 financial aid?

3 A Yes.

4 Q Regardless of their academic status?

5 A I believe so, yes.

6 Q Do students, to your knowledge, disclose  
7 their transcript grades or any other relevant  
8 academic information in their job applications for  
9 these positions or any other positions?

10 A Well, I'm not privy to the applications  
11 themselves. When I hire students to help me, I was  
12 thinking of students that were planning to go on to  
13 graduate school in medical anthropology. I was  
14 thinking of students that would benefit from  
15 learning the -- the -- how research takes place,  
16 right? How an ethnography is -- is developed and  
17 comes to -- to publication, right?

18 And so that -- I was looking for  
19 particular skills. Fluency in Spanish was important  
20 to me because my interviews were conducted in  
21 Spanish.

22 Q In your experience, when you have hired  
23 students, do you review their transcripts?

24 A No.

25 Q And I think finally, just on faculty

1 development funds again, have faculty development  
2 funds always been set at \$3,000 per non term  
3 faculty? Has that been constant since the college's  
4 inception in 1846?

5 A No, there was recently an increase. It had  
6 been stable for many years, and there was recently  
7 an increase to address, you know, the fact that  
8 flying to a conference is more expensive or you  
9 know, so that -- that --

10 Q So external factors in costs play into the  
11 college's allocation of faculty development funds?

12 A I think in this particular case, the -- the  
13 funds had been flat for many, many, many years.

14 Q But to answer my question, external  
15 circumstances and changes in prices and other things  
16 outside the college's control do impact the  
17 college's determination and allocation of faculty  
18 development funds?

19 MR. CUNNINGHAM: Objection, lack of  
20 foundation.

21 HEARING OFFICER FREEBERG: Well, I suppose  
22 the witness can answer the question if she knows the  
23 answer.

24 THE WITNESS: I was not part of that  
25 conversation. Dean Latham's part of that

1 conversation, with Elaine Marzluff, and the chair of  
2 the faculty at that -- well, Elaine was the chair of  
3 the faculty at the time. And so there was  
4 significant research to examine whether, you know,  
5 how we were compared to our peers, for instance, and  
6 the flexibility for -- for -- to use those faculty  
7 development funds.

8 Q But the faculty development funds did  
9 increase recently?

10 A They did.

11 MR. MCCARTAN: Thank you. No further  
12 questions, Your Honor.

13 HEARING OFFICER FREEBERG: Okay. Could you  
14 spell -- there was some names that you mentioned.  
15 Could you spell those names for the court reporter?

16 THE WITNESS: Oh, sure. So Dean Latham.  
17 He's our Dean of Academic or -- VP for Academic  
18 Affairs. And then Elaine Marsluff, M-A-R-Z-L-U-F-F  
19 was the chair of the faculty. And Dean --

20 REPORTER: And how do you spell Latham?

21 THE WITNESS: L-A-T-H-A-M.

22 REPORTER: Thank you.

23 HEARING OFFICER FREEBERG: Do you have any  
24 further questions?

25 MR. CUNNINGHAM: I do, just a few, Your



1 Honor.

2 [RE-DIRECT EXAMINATION OF DEAN TAPIAS]

3 QUESTIONS BY MR. CUNNINGHAM:

4 Q Going back to this faculty development fund,  
5 just so we're clear, when a student is hired as a  
6 student research assistant, the faculty is not  
7 paying them out of their own fund, true? They --  
8 they get -- they get paid by the college, right?

9 A Yes. Yes.

10 Q Okay. And secondly, even though these  
11 development funds are earmarked for faculty  
12 professional development, it is clear, is it not,  
13 that one of the ways the faculty use those are to  
14 create these research assistant positions, true?

15 A Yes.

16 Q All right. Does -- as -- as the associate  
17 dean of the college, and as a tenured professor, do  
18 you have -- well, do the, in your view, do these  
19 students receive some kind of educational benefit to  
20 their own by working as a research assistant?

21 A Absolutely. You're mentoring students,  
22 right, you're teaching them how to apply what  
23 they're learning in the classroom to a particular  
24 context, right? You're giving them an opportunity  
25 to hone those skills. You're talking about them

1 with them about articles that they've read, you  
2 know, things that they're summarizing. So there's a  
3 lot of give and take, right, between a faculty  
4 member and a research assistant.

5 Q Okay. And in point of fact, it would allow  
6 that student potentially to delve deeper and broaden  
7 their subject matter knowledge in whatever they're  
8 doing the research in, true?

9 A Sure. I think it would also, you know, it  
10 benefits the faculty as well. We're often asked to  
11 write letters of recommendation, right? And if  
12 you're working closely with a student, you can speak  
13 directly to the skills that they have brought to  
14 you, you know, to your work and, you know, how  
15 you've helped mentor them in many ways.

16 Q And -- and that brings it up. If there is  
17 a -- although you may not ask for somebody's  
18 transcript, probably you wouldn't be asking a  
19 student who you didn't -- you didn't think had the  
20 academic chops to -- to do the research work, true?

21 A Well, I think you -- it depends. You would  
22 be looking for somebody that helps you with your,  
23 you know, research goals, right? You might also be  
24 looking at -- at, you know, students that would  
25 benefit from this close interaction with the faculty

1 member, right? In terms of, you know, helping them  
2 gain a greater insight, you know, to the field, for  
3 instance, right?

4           So if you're thinking, I see  
5 potential for this person to go on in anthropology,  
6 for instance, in my case, right. So there were  
7 specific instances I had a student who was very  
8 interested in medical anthropology. This was, you  
9 know, an indispensable opportunity for her to learn  
10 more about the field so.

11           MR. CUNNINGHAM: No further questions.  
12 Thank you.

13           HEARING OFFICER FREEBERG: Okay.

14           MR. MCCARTAN: Wish to re-cross, Your Honor.

15           HEARING OFFICER FREEBERG: Yes, go ahead.

16           [RE-CROSS EXAMINATION OF DEAN TAPIAS]

17           QUESTIONS BY MR. MCCARTAN:

18           Q    So just to go back to the subject of the  
19 selection of students. Isn't it true that some of  
20 these research assistant positions are advertised  
21 publicly at the college to the student body at  
22 large? Would it help if I was more specific?

23           A    Yes, that would be --

24           Q    Are you familiar with Pioneer Link?

25           A    Uh-huh.

1 HEARING OFFICER FREEBERG: Make sure to  
2 answer yes or no.

3 A Yes, sorry.

4 HEARING OFFICER FREEBERG: Thank you.

5 Q (By Mr. McCartan) This is the college's --  
6 used to be the college's internal jobs posting  
7 board, correct?

8 A Uh-huh.

9 Q And that has since been replaced by  
10 Handshake, another on line system for job postings,  
11 correct?

12 A Yes, uh-huh.

13 Q Are research positions ever advertised --  
14 were they ever advertised on Pioneer Link?

15 A Well, I can't speak about what's currently  
16 advertised there. When I have used -- when I have  
17 relied on a student, it has been within the context  
18 of the major, right, where I -- where I knew the  
19 student and worked with the student there and I was  
20 looking for particular skills, right?

21 Q Certainly. But can you state with certainty  
22 that all students hired as research assistant  
23 positions are hand picked by the faculty without a  
24 general application process?

25 A I can't state that with certainty. I don't

1 know what is -- you know, what particular faculty  
2 members might be looking for.

3 Q And to your knowledge, do departments send  
4 out e-mails to the students in that department  
5 advertising these research positions?

6 A If somebody is looking for a research  
7 assistant, yes, they might be making the majors  
8 aware of that.

9 Q So it's possible that students who are  
10 not -- have not previously been introduced to a  
11 professor, could end up applying to and even working  
12 for them in a research assistant position?

13 A Yes.

14 MR. MCCARTAN: No further questions, Your  
15 Honor.

16 MR. CUNNINGHAM: Nothing further.

17 HEARING OFFICER FREEBERG: Okay. Just a  
18 couple clarifications. Was it your testimony that  
19 the research assistants, their payment does not come  
20 from the faculty development funds?

21 THE WITNESS: Well, the faculty don't get --  
22 they're not gifted, if you will, \$3,000 as the  
23 beginning of an academic year. This is a -- a  
24 source of funds that faculty can draw upon, with a  
25 limit of \$3,000, right? But they're not paying the

1 student directly. It's the college that is paying  
2 the -- the -- the students.

3 HEARING OFFICER FREEBERG: Okay. And who  
4 determines the wages, the amount that they're paid?

5 THE WITNESS: That's an HR question.

6 HEARING OFFICER FREEBERG: Okay.

7 THE WITNESS: We have different categories  
8 for the different types of labor that's --

9 HEARING OFFICER FREEBERG: Okay. So it's  
10 not the faculty member who determines that?

11 THE WITNESS: No.

12 HEARING OFFICER FREEBERG: Okay. And I  
13 think, was it your testimony earlier that you don't  
14 review job applications? Or maybe -- I might have  
15 misunderstood earlier.

16 THE WITNESS: Yes. So for instance, I  
17 don't -- when I was overseeing student research, for  
18 instance, I didn't -- you know, I wasn't privy to  
19 the applications that are coming in.

20 HEARING OFFICER FREEBERG: Okay. Those --  
21 okay.

22 THE WITNESS: Or the request to use a  
23 student assistant, right? That's at the discretion  
24 of the faculty member.

25 HEARING OFFICER FREEBERG: Okay. Does

1 either party have any further questions based on --

2 MR. MCCARTAN: Just -- if it's okay?

3 HEARING OFFICER FREEBERG: Yep.

4 [FURTHER RE-CROSS EXAMINATION OF DEAN TAPIAS]

5 QUESTIONS BY MR. MCCARTAN:

6 Q Just following up. So faculty  
7 development funds are sort of earmarked in the  
8 budget --

9 A Yes.

10 Q -- it's an internal account?

11 A Uh-huh.

12 Q If a faculty hires a student and the student  
13 is paid, the funds used to pay that student would be  
14 subtracted from the faculty's development fund?

15 A Yes.

16 Q Even though the money comes from the  
17 college --

18 A Yes.

19 Q -- at large?

20 A Yes.

21 MR. MCCARTAN: Thank you.

22 HEARING OFFICER FREEBERG: Okay.

23 MR. CUNNINGHAM: Nothing further.

24 HEARING OFFICER FREEBERG: Okay. Then --

25 and you have no further questions?

1 MR. MCCARTAN: I have no further questions.

2 HEARING OFFICER FREEBERG: Then you can step  
3 down. Thank you.

4 MR. CUNNINGHAM: Want to take a lunch break?

5 HEARING OFFICER FREEBERG: It's 12:05.

6 Okay. Yeah, let's take a break. We'll go off the  
7 record.

8 (Whereupon, a lunch recess was  
9 taken off the record from  
10 approximately 12:05 p.m. to 1:00  
11 p.m.)

12 HEARING OFFICER FREEBERG: On the record.

13 And I understand the employer is going to offer  
14 another exhibit.

15 MR. CUNNINGHAM: Yes, Your Honor. At the  
16 beginning of the hearing, you had asked whether the  
17 employer was going to offer into evidence the -- the  
18 list that we had filed with the position statement  
19 required under the rules. And the answer to your  
20 question is, yes, and now I have them.

21 Exhibit B, which I've already  
22 provided the union, is the list file that would be  
23 the persons eligible -- or under the -- that would  
24 be part of the defined or petitioned for unit.

25 As you can see, there are, you know,



1 by the -- by the departments, some of these people  
2 hold more than one employment position. And so  
3 their name, the name of the -- of the student  
4 employee appears only once, okay?

5 HEARING OFFICER FREEBERG: Okay.

6 MR. CUNNINGHAM: Exhibit D then, is the list  
7 required under Exhibit D those we believe should be  
8 excluded. They're identical lists right now, but  
9 they are there. So I offer into evidence Exhibits B  
10 and D. Employer's Exhibits B and D.

11 HEARING OFFICER FREEBERG: And they're --  
12 you said they're identical?

13 MR. CUNNINGHAM: They are.

14 HEARING OFFICER FREEBERG: Okay. Are there  
15 any objections to the receipt of Employer Exhibit B  
16 or D?

17 MR. MCCARTAN: No, Your Honor.

18 HEARING OFFICER FREEBERG: Okay. Then they  
19 are received.

20 (Whereupon, Employer Exhibits B  
21 and D were offered into evidence  
22 and received into evidence.)

23 MR. CUNNINGHAM: Thank you.

24 HEARING OFFICER FREEBERG: And you may call  
25 your next witness.

1 MR. CUNNINGHAM: Very good. At this time  
2 the employer will call Brad Lindberg.

3 (Whereupon,

4 BRAD LINDBERG,  
5 was called as a witness by and on behalf of the  
6 Employer and, after having been duly sworn, was  
7 examined and testified as follows:)

8 HEARING OFFICER FREEBERG: Please state your  
9 name and spell it clearly for the record.

10 THE WITNESS: Sure. My name is Brad  
11 Lindberg. It's B-R-A-D L-I-N-D-B-E-R-G.

12 [DIRECT EXAMINATION OF MR. LINDBERG]

13 QUESTIONS BY MR. CUNNINGHAM:

14 Q Mr. Lindberg, what's your title and position  
15 at Grinnell College?

16 A Sure. I am the Assistant Vice President of  
17 Enrollment, and also the Director of Financial Aid.

18 Q Okay. And how long have you been in that  
19 role?

20 A I've been in that role at Grinnell College  
21 for over two years. Prior to that, I've been at the  
22 college a total of four years, going on five years,  
23 as the Director of Financial Aid.

24 Q Okay. Can you tell us, briefly, what your  
25 duties are as the Assistant Vice President for

1 Enrollment?

2 A Sure. As the Assistant Vice President of  
3 Enrollment, I am in charge of logistics of  
4 technology within the enrollment division. The  
5 enrollment division encompasses both the admission  
6 and financial aid office. So I work on technology  
7 issues, globally, and admission and tech --  
8 admission and financial aid. And then I also work  
9 on forecasting an analysis in that capacity as well.

10 Q Okay. And in your role of Director of  
11 Financial Aid, what does that encompass or what are  
12 your duties in that role?

13 A Yeah. So my role as Director of Financial  
14 Aid are really three-fold. First, and what we  
15 would -- my office considers most important, is to  
16 serve as an advocate and the conduit to answer  
17 student questions involving college financing,  
18 college affordability and access.

19 The vast majority of the work we do  
20 is meeting directly with students and families  
21 regarding their individual financial circumstances.

22 Second, it's my role to ensure that  
23 we are adequately and appropriately meeting federal  
24 regulatory requirements that relates to financial  
25 aid. Because it deals in finances, and because

1 there are federal funds available for participating  
2 in Title IV financial aid programs, the process is  
3 heavy regulated, as you might expect.

4           And then lastly, it's our job as  
5 financial aid officers to ensure that we are  
6 appropriately stewarding the institution's resources  
7 when it comes to both analysis for need for  
8 financial aid, and then the distribution of grant  
9 assistance from the college to students to help them  
10 afford the cost of educating.

11       Q    So would it be accurate in your role then,  
12 that you are knowledgeable and familiar with the  
13 various components of financial aid available to and  
14 awarded to Grinnell students?

15       A    Yes.

16       Q    And would it also be accurate to say that  
17 you are knowledgeable about how student employment  
18 focuses in financial aid?

19       A    Yes, absolutely. My role for -- in the  
20 student employment realm is to make sure we are,  
21 again, adequately meeting the federal regulatory  
22 requirements as they relate to student employment  
23 and work study. And then secondly, award of this  
24 part of a financial aid package to students who are  
25 on financial aid.

1 Q Okay. And you were present in the hearing  
2 room earlier today when you -- when President  
3 Kington and Dean Tapias testified regarding the --  
4 the types of student employment positions at  
5 Grinnell and how they play into the educational  
6 mission of the school and the education of students,  
7 correct?

8 A I was present, yes.

9 Q Okay. So -- then we don't have to repeat  
10 all that.

11 A Okay.

12 Q So how -- can you -- can you kind of explain  
13 and clarify, because we heard in this testimony,  
14 references to work study and work as part of  
15 financial aid. So I'd like you, if you would, to  
16 please clarify those concepts for us. The  
17 difference between federal work study and then work  
18 as part of financial aid.

19 A Absolutely. And it can be as clear as mud,  
20 so I will step back a little bit first, if that's  
21 okay, to just talk about the financial aid program  
22 and how it works.

23 Q Let's -- let's do that. Why don't you --  
24 let's start at ground zero then.

25 A Okay.

1 Q And explain to us how the financial aid  
2 program actually works at Grinnell.

3 A Sure. So as President Kington and others  
4 described, for our domestic students applying for  
5 financial aid, we are both need blind and meet 100  
6 percent of demonstrated need. And I'd like to talk  
7 a little bit about that concept, because it's  
8 something probably outside the -- the realm of what  
9 we normally talk about.

10 The idea that the college meets  
11 demonstrate need, comes from the back -- the basis  
12 that we believe that educating -- financing an  
13 education at Grinnell is a three way partnership  
14 between the students, the parents, and the  
15 institution.

16 What we do as a financial aid office  
17 is -- is as equitably as we can, determine a  
18 family's ability to pay for financial aid. We  
19 consider that their family contribution.

20 Q And -- and when you're talking about paying,  
21 I assume you're also -- you're talking not only just  
22 about tuition, the price of admission, but also  
23 living expenses and -- and other items, room and  
24 board?

25 A Absolutely. So we have what we call the

1 cost of attendance. Includes tuition, mandatory  
2 fees, room, board, personal supplies, and  
3 transportation as its main components. So we use  
4 that in the family's ability to pay, to determine  
5 their eligibility for financial aid.

6 We then meet that -- the difference  
7 between their ability to pay and that cost of  
8 attendance, with three different pieces of aid.

9 Q And what are those -- those pieces of aid?

10 A Sure. The first is grant assistance. The  
11 vast majority of the aid we offer at Grinnell is in  
12 the form of grants. You testified to earlier that  
13 there's \$59.5 million in total financial aid  
14 dispersed at Grinnell in the 17/18 academic year.  
15 Of that, over \$50 million is in the form of grant  
16 assistance. That's the first piece.

17 The second two pieces are pieces we  
18 refer to as self help. And that's where student  
19 employment comes in to play. There -- there's  
20 student loans, and student employment. Those two  
21 pieces are the self help component of a financial  
22 aid package. The three pieces of those components,  
23 equal up to meet a family's need for financial aid.

24 Q Okay. And so, let's -- let's go back then,  
25 and talk about the difference between those terms

1 that we -- we heard earlier.

2 A Sure.

3 Q Federal work study and work as -- as part of  
4 financial aid.

5 A Absolutely. So every year the federal  
6 government gives to Grinnell, for the purpose of  
7 campus employment or work study, an allotment of  
8 federal funding. In 2017, that allotment was but  
9 \$168,500s.

10 Now, as participants in Title IV aid  
11 programs, it's our requirement to match that  
12 allotment by 25 percent. So that is three-quarters  
13 of the total federal work study or federal campus  
14 employment allotment. And the institution then, as  
15 a good steward of those resources, gives that last  
16 one-quarter, for -- for the total hundred percent of  
17 federal work study.

18 Now, it's important to know that  
19 federal work study's a very small component of the  
20 entire work program at Grinnell. We spent last year  
21 over \$2 million on work and in paid wages to  
22 students. The federal share or the federal  
23 allotment of that was just over \$200 thousand,  
24 including the institution's required contribution.

25 Q And -- and just so we're clear, and I wanted



1 to go back, we're still on this self help component.

2 But to go back to that --

3 A Sure.

4 Q -- the -- the notion of -- of the grants,  
5 that is just -- so that's nothing the students have  
6 to pay back?

7 A That's correct.

8 Q Okay.

9 A So the -- the differentiating factor between  
10 self help and grant, is the is a gift. It does not  
11 need to be repaid. It -- then self help is the  
12 student's personal expectation towards their  
13 contribution towards their education.

14 Q Okay. And so if we had a -- a deficit  
15 between -- what did you say 200,000 in federal work  
16 study?

17 A Right. Sure.

18 Q And a hundred and -- or and 2 million in  
19 wages, that includes all student employment; is that  
20 correct?

21 A Correct.

22 Q So where -- how is that deficit covered?

23 A Currently, that deficit is covered by  
24 institutional resources.

25 Q Okay. And can you talk about then, the

1 different types of classifications of work as part  
2 of a component of financial aid?

3 A Absolutely. And when I speak to  
4 classifications, it will be a different type of  
5 terminology than my colleagues in human resources  
6 may use to talk about classification.

7 In the financial aid office, I've  
8 already described the first denominator or the first  
9 descriptor. There's funds that are provided by the  
10 federal government, and there's funds that are  
11 provided by the institution. Those are the two  
12 different types of funding we have for student  
13 employment at the college.

14 Now I should mention, and I think  
15 it's worth backing up a little bit, that that's  
16 transparent to students on campus right now, with  
17 one exception. Students generally do not know where  
18 their employment funding is coming from. They  
19 consider it student employment. And it's because we  
20 have able to keep all of our jobs open to all  
21 students on campus, that it can be transparent to  
22 them.

23 There's one exception to that in our  
24 service learning area, where the federal government  
25 requires that students who are doing federal

1 community service, as defined by the federal  
2 government, have federal work study in the form of  
3 community service work study.

4 Q But other than that, students are blind, if  
5 you will, in terms of whether someone is working  
6 because they're on work study, or someone is working  
7 because they're simply employed by the college?

8 A That's correct.

9 Q Okay. And -- and so, is that somehow unique  
10 to Grinnell or -- is -- and can you kind of explain  
11 how that -- how that relates to this issue here?

12 A Absolutely. In my experience, it is unique.  
13 And I want to talk about it in terms of how work  
14 study and campus works for financial aid, and then  
15 how that globally fits into what happens on campus.

16 So we talked about the self help  
17 expectation of -- of the student's financial aid  
18 package. We break that up between loan and student  
19 employment. We don't require students to either  
20 borrow or work. We offer those as opportunities for  
21 students to take part in their education, and most  
22 students take that on as -- as -- as part of their  
23 helping themselves through funding a college  
24 education.

25 So when we distribute financial aid

1 as a part of -- or work, excuse me, as a part of a  
2 financial aid package, the expectation is that  
3 students will work somewhere between eight and ten  
4 hours per week to help fund their education.

5 Now, the point of work study, and we  
6 take this directly from the -- the federal register  
7 or the federal student aid handbook, is two-fold.  
8 First, it's to provide opportunity for students to  
9 work on campus to earn funds towards their  
10 education. And that's the key point that we use  
11 when we're awarding work study as part of financial  
12 aid. We are using those funds to help them cover  
13 the cost of their education.

14 Q What's the other point?

15 A The second point is that as to the extent  
16 that possible, those positions should try to do one  
17 of two things. The first, provide community service  
18 opportunities to students in the community in which  
19 the campus resides.

20 Q That would be a form of paid community  
21 service?

22 A Paid community service, that's absolutely  
23 right.

24 Q And the other?

25 A The second is to promote the student's

1 academic achievement and academic activity. So we  
2 try to, as much as we can, match the student's  
3 academic interests with the jobs that they  
4 participate in. And that's directly in the federal  
5 requirement that we have, and we carry that  
6 requirement over to our internal student employment  
7 process as well. We like to see that the jobs that  
8 we are offering to students, as much as possible,  
9 are matching their academic end pursuits.

10 Q And -- and how does that occur?

11 A Sure. So students, as -- can, as it's been  
12 discussed, are free to find jobs on campus that meet  
13 their -- their academic interests. As part of work  
14 study or their financial aid process, we're  
15 expecting them to work eight to ten hours in those  
16 positions.

17 Now, because we have been able to,  
18 and because the funding exists and the positions  
19 exist, we're able to extend employment beyond just  
20 the financial aid obligation, or the self help  
21 expectation of financial aid.

22 Q Can you explain that?

23 A Sure. So what we, like I said, we use  
24 between eight to ten hours of work per week as a  
25 part of the student's financial aid expectation.

1     However, students are allowed to work up to 20 hours  
2     per week on campus. And we do that for a number of  
3     reasons.

4                     One is, is because we know that our  
5     students might have obligations beyond just covering  
6     the cost of education. They may need --

7             Q     What do you mean by that?

8             A     Sure. They may need the opportunity to --  
9     they may decide that they don't want to borrow.  
10    There's been a lot of talk recently about borrowing.  
11    So a student may not wish to borrow the loan that's  
12    offered to them as part of their financial aid  
13    package. So instead, they may choose to work to  
14    help cover the cost of what the expectation from  
15    borrowing might be.

16                    And then the -- the second piece to  
17    that is that students who are not on financial aid,  
18    are also allowed to work in campus positions. Which  
19    is unique. Generally, in my experience what happens  
20    is students are allowed to work on campus in a work  
21    study position up to their financial aid allotment.

22                    They are given first priority for  
23    jobs because our goal is to ensure we are meeting  
24    the need, hundred percent demonstrated need of  
25    students. So we want to make sure that if we

1 include student -- the opportunity to work, that  
2 students have the opportunity to find jobs.

3 And I think it's really important to  
4 note, we don't guarantee the opportunity to work.  
5 We guarantee the opportunity to find hours.  
6 Students then go out and find those hours on their  
7 own.

8 Q Sure. And so, when you say it's -- it's  
9 unique, you're talking about it's unique to allow  
10 anyone to work on campus, or is it unique in terms  
11 of allowing them to go up to 20 hours?

12 A Both, actually.

13 Q Oh, okay.

14 A So in my experience, it's unique to allow  
15 students who are not on financial aid to work on  
16 campus until -- up until and all of the student's  
17 who are on financial aid have procured a job to meet  
18 their obligation from their financial aid award.  
19 Once that happens, jobs can be opened up outside of  
20 the financial aid process, to students who might be  
21 interested in working on campus.

22 The second piece that's unique is  
23 allowing students to work above the prescribed  
24 amount in their financial aid awards. And we are  
25 able to do that because of the funds available to

1 us, and also because of the jobs available on  
2 campus.

3 So allowing students to work more  
4 than what's prescribed in their financial aid award  
5 is also unique.

6 Q And so that -- and allowing students to do  
7 that -- I want to make certain that I'm  
8 understanding it --

9 A Uh-huh.

10 Q -- understanding it, we're talking about the  
11 a work study students, okay. We're saying we allow  
12 them to go beyond the ten hours they're allotted in  
13 their financial aid award?

14 A That is correct.

15 Q Basically, that is college subsidizing that;  
16 is that right?

17 A That's correct.

18 Q Okay. And then in regard to students who  
19 maybe are not work study, but have employment or  
20 self help as part of their package --

21 A Sure.

22 Q -- it's in the form of, well, I really don't  
23 want to borrow this, I'm going to go pursue this  
24 employment and -- and do we monitor those hours?

25 A I want to be clear as to the terminology.



1 Q Sure.

2 A Every student who has a need based financial  
3 aid package, will have a work component.

4 Q Okay.

5 A Whether or not that component is paid  
6 through the federal work study program or  
7 international -- or the institutional work study  
8 program, excuse me, is almost blind to the student.  
9 The student doesn't know.

10 So really, the denominator that --  
11 the deviating line is, when have -- when have  
12 students on financial aid earned above their  
13 financial aid expectation, versus students who  
14 aren't on financial aid who can just work 20 hours  
15 per week on campus.

16 Q Okay. And there's -- there's nothing that  
17 identifies this student who's maybe working work  
18 study to the other students; is that correct?

19 A That's correct. With the exception of  
20 federal community work study in the service learning  
21 area, there would be no way for students or  
22 supervisors currently to know whether a student was  
23 on financial aid or not.

24 Q Okay. We heard some discussion from  
25 President Kington about Pell grants.

1           A    Yes.

2           Q    And I wanted to ask you about that.  What is  
3 a Pell grant?

4           A    A Pell grant is the federal entitlement  
5 program.  It is directed, generally, towards the  
6 neediest students in the United States to help them  
7 cover their costs of education.  So the neediest  
8 U.S. students are awarded a Pell grant.

9           Q    Okay.  And in your role in -- in enrollment  
10 and financial aid, are you kind of familiar with the  
11 statistics that we showed earlier that talked  
12 about -- talked about the graduation rates of -- of  
13 Pell grant recipients?

14          A    I am.

15          Q    And what can you tell us about those?

16          A    Nationally, we generally see Pell grant  
17 recipients graduating at lower rates than non Pell  
18 grant recipients.  In the most recent research I've  
19 seen, Pell grant recipients are graduating at about  
20 a 50 percent rate and non Pell grant recipients,  
21 nation wide, are graduating upwards of at a  
22 65 percent rate, if my memory is serving me.

23          Q    And at Grinnell, what is that rate?

24          A    At Grinnell, it's different.  So we saw a  
25 chart earlier presented in the testimony.  Our Pell

1 grant recipients here at Grinnell are graduating in  
2 six years, six year graduation rate is 83 percent, I  
3 believe. Our non Pell grant recipient graduation  
4 rate is around 86 percent in six years.

5 Q So just a couple of percentage points  
6 different?

7 A A couple of percentage points.

8 Q Okay. Okay. So we've been -- we've been  
9 talking about Grinnell's uniqueness in this -- in  
10 this financial aid package. And I wanted to ask  
11 you, you know, how this relates to whether students  
12 are -- who are on campus, you know, and what we're  
13 talking about here is the petition for a unit of  
14 this union, should be considered employees under the  
15 NLRA. What's the relationship among all this?

16 A Well, I think from a financial aid  
17 perspective, the relationship is -- is directly  
18 correlated to funding sources. As we've discussed,  
19 this is all a very interconnected ecosystem.

20 And right now, we're very fortunate  
21 to be able to allow employment opportunities to  
22 every student on campus who seeks one out, whether  
23 they're on need base financial aid or not.

24 As wages increase, we will have to  
25 obviously look at -- which might be expected if a

1 union were in place -- we would have to look at  
2 budgets and ensure, because we're including student  
3 employment as part of a need based financial aid  
4 package and because we meet a hundred percent of  
5 demonstrated need, we're going to have to ensure  
6 that need based students have the opportunity to  
7 work on campus as a part of that financial aid  
8 opportunity that we provided to them.

9 Q Okay. And so are you concerned about what  
10 imposing a collective bargaining relationship or  
11 collective bargaining frame work on this student  
12 employment paradigm might have for that?

13 A So I'm concerned in the fact that it will  
14 change the relationship about -- it may change the  
15 relationship of how employment works on campus.

16 Specifically, currently, students do  
17 not have to identify themselves as a need based  
18 financial aid student versus a non need based  
19 financial aid student.

20 Secondly, jobs, we've talked about  
21 research assistant jobs, mentoring jobs, highly  
22 skilled specific jobs. It's important, also, on the  
23 other hand to keep those jobs open to all students  
24 who may benefit from them. So I think the nature of  
25 student employment may change, yes.

1 Q Okay. Obviously Grinnell has a set budget  
2 for -- for financial aid.

3 A Sure.

4 Q And as you said, assuming wages increase,  
5 how -- how would that possibly work? I mean --

6 A You know, I want to first address the idea  
7 that we have a set budget for financial aid.

8 Q Okay.

9 A Because we meet a hundred percent of  
10 demonstrated need, we are obligated to aid the  
11 students who are admitted as part of our admission  
12 process. So we, as a -- in the financial aid  
13 budgeting arena, we don't have a specific set  
14 budget. I'm not told that I can spend \$60 million  
15 on financial aid.

16 Instead, we forecast as to what we  
17 assume will be required for the financial aid  
18 expenditure for the next year, looking back at what  
19 has happened in prior years. We have strong  
20 commitment to access and diversity. We are able to  
21 know within relative reason, what a class of  
22 students will need for financial aid. So that's  
23 where we start from.

24 But that lives within the much  
25 broader ecosystem of the campus and college budget

1 overall. So as we think about rising costs, it's  
2 not just a financial aid issue, it is a college  
3 issue. The college will need to determine where  
4 those -- where those funds come from and how those  
5 expenses will be covered as a part of that overall  
6 budgeting process.

7 Q Is there -- and so when we -- when we talk  
8 about that, it's possible there may be a limitation  
9 of -- of hours; is that correct?

10 A It's possible.

11 Q Okay. So let's -- let's go to another  
12 topic. And that is, now you talked -- I asked you  
13 if you were familiar with the various privacy laws  
14 as they pertain to financial aid.

15 A Yes.

16 Q And about student records in general,  
17 correct?

18 A Yes.

19 Q Okay. So, if you could, kind of just  
20 educate us a little bit about the -- the work world  
21 you live in and dealing with -- with the -- the  
22 privacy of student information concerning financial  
23 aid, in general.

24 A Absolutely. So as are all departments  
25 within the institution, we obviously follow FERPA

1 requirements. But beyond that, the federal  
2 government in their Title IV federal aid  
3 regulations, has specific privacy requirement as it  
4 relates to the distribution of individually  
5 identifiable information in regards to financial  
6 aid.

7           So every student fills out the FAFSA.  
8 The free application for student financial aid. We  
9 use that FAFSA as one of our indicators for a  
10 student's needs for financial aid.

11           Because we are using that FAFSA to  
12 determine a student's eligibility for work study, we  
13 are not allowed to share that information in a  
14 personally identifiable way, outside of our office,  
15 without the express written permission of the  
16 student, for that individual purpose.

17           Q   For -- for the purpose of education and  
18 financial aid?

19           A   Yes. So that the information can be used  
20 for the -- for the formulation of a financial aid  
21 award, or if there -- or if it is just aggregated,  
22 for lack of a better -- or if it's aggregated,  
23 excuse me, for lack of a better term.

24           So, for example, we have grant  
25 programs, which the college has put in place,

1 because we recognize that students have needs that  
2 may extend beyond financial aid.

3           For example, we have an emergency  
4 fund. And the emergency fund is put in place for  
5 students who may have experienced some sort of  
6 unexpected scenario that would keep them from  
7 successfully completing their education here at  
8 Grinnell. An example might be a medical expense or  
9 a fire. Something that could be not explained, but  
10 has a direct impact on their ability to afford  
11 Grinnell.

12           For us to administer the emergency  
13 fund with the student affairs office, the student  
14 must give their express written consent for the  
15 financial aid office to share their level of need  
16 with the student affairs office, so the  
17 determination on the amount of funding can be used.  
18 And it can only be used for that one instance. If  
19 the student has another request, they would need to  
20 provide us with their consent again.

21           Another good example is my colleagues  
22 in the CLS have many programs that help students  
23 prepare for life after Grinnell. We, again, if we  
24 share financial aid related data, we have to do that  
25 at the student's request for each individual



1 release.

2 Q Okay. And so, if -- if we were to limit the  
3 number of hours available for work on campus, due to  
4 increased costs, wage costs, what would that mean in  
5 terms of the priorities that are -- that are there  
6 for work related financial aid?

7 A Yeah, sure. As President Kington testified  
8 to, we would need to ensure that our students with  
9 demonstrated financial need had preference for jobs  
10 on campus. And as part of that preference, we would  
11 need to disclose which students of our students are  
12 eligible to work, so have need for that work.

13 Q Disclose to whom?

14 A I -- I would presume whomever at the union  
15 would need that information to know who was eligible  
16 to work as a part of the union.

17 Q Okay. Is there anything that you're aware  
18 of in the financial privacy laws that would permit  
19 disclosure to a union for this type of -- of this  
20 type of information?

21 A Not that I'm aware of.

22 Q Okay. We talked a little bit about the  
23 concept of work study --

24 A Sure.

25 Q -- and the purpose of work study. And I

1 believe, at that time, you had mentioned the purpose  
2 was to -- to provide work as -- as part of their aid  
3 package.

4 A Uh-huh.

5 Q And then there was a requirement about  
6 lining up the job with their education. Could you  
7 please expound on that --

8 A Yes.

9 Q -- or clarify that for me?

10 A Sure. To the extent that we're able, a  
11 portion of the federal regulatory requirements ask  
12 that we align a student's educational interests with  
13 their employment opportunity.

14 Q Okay. And generally speaking, are you  
15 familiar with the types of jobs that are -- that are  
16 out there for both work study and for employment  
17 as -- as part of financial aid?

18 A So generally speaking, I am. And I'd also  
19 like to clarify again, every job on campus is  
20 available to every student.

21 Q Okay.

22 A There is no demarcation line, for lack of a  
23 better term, between jobs that are available to work  
24 study or need based. I prefer to use the need based  
25 financial aid students.

1 Q Okay.

2 A Compared to those who are not on need based  
3 financial aid.

4 Q All right. All right. Go ahead.

5 A The really, the determining factor is in the  
6 funding source on the back end.

7 Q Okay. How would -- You heard Dean Tapias  
8 testify about faculties' ability to create research  
9 jobs, those -- those types of -- of positions.

10 A Sure.

11 Q How would -- how would imposing collective  
12 bargaining -- I mean, what are the concerns you have  
13 in terms of -- of how that would relate to financial  
14 aid?

15 A Well, again -- yeah, again, my -- my main  
16 concern is the -- a funding concern. Because the  
17 financial aid regulations are, at best, unclear as  
18 to the relationship between federal financial aid  
19 and unions, the main concern I have are two-fold:  
20 One, funding source; and two, as an enrollment  
21 manager, students who come to Grinnell are often  
22 interested in the different experiences that are  
23 available to them.

24 It is wonderful that we can tell  
25 students that they can work with professors and

1 involve themselves in research as part of their work  
2 study experience. And that's a -- our students  
3 typically are interested in going on to things like  
4 graduate school, and pursuing their education  
5 outside of dafter the classroom. And it helps us in  
6 our enrollment process by being able to say, every  
7 student has the opportunity to work on campus and  
8 that work can be research, if you're interested.

9 Q Okay. How would that work if a research --  
10 well, let me back up.

11 If say, for example, a student wants  
12 to apply for, I believe they're called community  
13 advisers, these are the -- the people that live and  
14 do the residential advising; is that correct?

15 A Yes.

16 Q Okay. How -- how does that work in terms of  
17 how that might relate to their financial aid package  
18 if they were on work study?

19 A Yeah. So right now, that process is outside  
20 of the work study or the campus employment --

21 Q Okay.

22 A -- portion of financial aid.

23 Q Got it.

24 A If resources became limited, we may need to  
25 change how that relationship works.

1 Q Okay. And when you're saying limited, if we  
2 have to pay higher wages or reduce hours; is that  
3 correct?

4 A Correct.

5 Q Okay. Is there anything else you wanted to  
6 add to your testimony today?

7 A At this point, I don't think so.

8 MR. CUNNINGHAM: Okay. I'm done. Thank  
9 you, sir.

10 THE WITNESS: Thank you.

11 HEARING OFFICER FREEBERG: Go ahead.

12 [CROSS EXAMINATION OF MR. LINDBERG]

13 QUESTIONS BY MR. MCCARTAN:

14 Q Mr. Lindberg, starting again with students  
15 who are on financial aid --

16 A Yes.

17 Q -- and for whom campus employment is part of  
18 their financial package.

19 A Yes.

20 Q In general, this is identified when students  
21 first enter Grinnell. That is, for the vast  
22 majority of students, whether they fall in this  
23 class is known before they enter Grinnell in their  
24 first year, correct?

25 A It's known to the student, yes.

1 Q Right. And so, as part of that process, the  
2 vast majority of the students are assigned the jobs  
3 before arriving at Grinnell; is that correct?

4 A My understanding is that when first year  
5 students arrive to Grinnell, they are given the  
6 opportunity to join the dining services office, the  
7 dining services department, as -- as one of the  
8 opportunities available to them to -- to cover  
9 campus employment. Because the -- we know that  
10 there are always needs in that department to cover  
11 costs.

12 Now, they're not required to work in  
13 the dining services office. They can use Handshake,  
14 we've been -- we've referred to Handshake before, to  
15 obtain or identify a job that meets their  
16 educational requirements, or is of interest to them.

17 Q But students are to -- there's a spot held  
18 for them in dining services when they first arrive  
19 on campus; isn't that correct?

20 A So that's probably a better question for my  
21 colleague in human resources, Mr. Watts, but I will  
22 give you my understanding. There's not necessarily  
23 a job held for them. Students are given the  
24 opportunity to work in dining services because the  
25 need exists. But I would, again, encourage you to

1 ask that question to Mr.Watts.

2 Q Now, as -- as you testified -- well, as Dr.  
3 Kington testified, the college does not see these  
4 jobs in dining services as necessarily playing into  
5 the educational experience of the college, directly.

6 A Sure.

7 Q Now, in the context of what you talked about  
8 in need to align work study opportunities with  
9 campus employment, does the, if not assignment,  
10 encouragement of students to work for dining  
11 services first years, in any way contradict your  
12 statutory obligations to align educational  
13 opportunities with jobs offered?

14 A It does not, for two reasons. The first  
15 being, that we are obligated to align jobs to  
16 educational opportunities or educational interests  
17 to the extent that we are able.

18 Secondly, no first year student is  
19 offered federal work study. They are never paid  
20 from the bucket of money that comes directly from  
21 the federal government, because we don't know where  
22 they're going to work. Simply stated, we're not  
23 sure if they're going to work in a job that is  
24 pursuant to their educational interests, or not.

25 I'll give you another example of how

1 this works. As part of our federal regulatory  
2 requirement, we are not allowed to pay students from  
3 federal work study who work in any capacity that has  
4 a religious connection. So if a student works at  
5 the CRSSJ or were to be doing work in Herrick  
6 Chapel, we, again, would not be able to pay them  
7 from that federal pot of money.

8 HEARING OFFICER FREEBERG: And could you --  
9 what is the CRRSJ?

10 THE WITNESS: I'm sorry. It's the center  
11 for religious -- let's see. The Center for  
12 Religion, Spirituality, Social Justice.

13 MR. CUNNINGHAM: Thank you.

14 THE WITNESS: I believe I got that right.  
15 My whole world is filled with acronyms and my brain  
16 is filled with financial aid acronyms.

17 HEARING OFFICER FREEBERG: Thank you.

18 Q (By Mr. McCartan) Thank you, Mr. Lindberg.  
19 Returning, again, to students who have campus  
20 employment as part of their financial aid package.

21 A Yes.

22 Q On they required to work as part of their  
23 financial aid?

24 A They are not required to work as part of  
25 their financial aid package. We include the ability



1 to work as part of their financial aid package.

2 Q And you mentioned eight to ten hour  
3 expectation for -- for students on -- who have  
4 campus employment as part of their financial aid  
5 package. Just to clarify, those eight to ten hours  
6 are not mandated required. A student could work  
7 four hours or two hours or twelve hours; is that  
8 correct?

9 A That's absolutely correct.

10 Q Now if a student's financial aid package  
11 includes campus employment and they choose not to  
12 hold campus employment, they will still receive the  
13 rest of their financial aid package; is that  
14 correct?

15 A Yes, absolutely.

16 Q Now, moving to students whose financial aid  
17 packages do not include campus employment.

18 A Yes.

19 Q Are there any such students?

20 A There are not. So every -- I don't want to  
21 say without exception because there might be one  
22 exception that I'm not aware of, but every student  
23 who applies for need based financial aid and who is  
24 eligible for need based financial aid, has a self  
25 help student campus employment expectation as part

1 of their -- opportunity, as part of their financial  
2 aid package.

3 Q Now, the college offers merit aid to some  
4 students; is that correct?

5 A Yes.

6 Q And that merit aid is still considered  
7 financial aid?

8 A It is, yes. Any of the institutional  
9 resource that goes directly to a student for the  
10 purpose of financing their education would be  
11 considered financial aid.

12 Q So the merit aid awards come along with --  
13 work study opportunities?

14 A In some cases they do, yes.

15 Q In some cases. And in some cases they might  
16 not?

17 A In some cases, they may not.

18 Q So that class of students who receive  
19 financial aid but not necessarily have a work  
20 component of that financial aid, they can also work?

21 A They can also work.

22 Q They're also going to be compensated by the  
23 college?

24 A They are going to be compensated.

25 Q And they're going to be compensated at the

1 same rate as students who's financial aid package  
2 does include one?

3 A That's correct.

4 Q Now, moving onto students who don't receive  
5 any financial aid at all.

6 A Sure.

7 Q They can also hold student employment  
8 positions as you testified?

9 A They can.

10 Q And they're also compensated?

11 A They are.

12 Q And they are compensated at the same rate as  
13 students on financial aid?

14 A That's correct. But, and I should say, when  
15 we're talking about the same rate, they.

16 Q As students --

17 REPORTER: Hang on, guys. Don't talk over  
18 each other, okay?

19 THE WITNESS: Sorry.

20 MR. MCCARTAN: Apologize.

21 REPORTER: Thanks.

22 THE WITNESS: Yeah, as students who are in  
23 the same job category as financial aid students.

24 Q (By Mr. McCartan) Thank you, Mr. Lindberg.

25 So just to summarize, student employees holding the

1 same position, are compensated at the same rate  
2 regardless of their financial aid status?

3 A Yes.

4 Q And how much you earn from campus employment  
5 depends on which jobs you work and how many hours  
6 you work them?

7 A That's correct.

8 Q Okay. Thank you. Turning now to low income  
9 students at Grinnell.

10 A Sure.

11 Q In your capacity as Director of Financial  
12 Aid, you presumably have interaction with a good  
13 number of low income students; is that correct?

14 A Every day, absolutely.

15 Q Mr. Lindberg, do you know anything about the  
16 Lending Library?

17 A I do.

18 Q Could you tell me a little bit about what  
19 the Lending Library is and what it does?

20 A Yeah. So the Lending Library was set up by  
21 two students actually, at Grinnell, who are  
22 involved, in my understanding, with the Quest Bridge  
23 program. They set up a Lending Library specifically  
24 for low income students to help them cover the cost  
25 of their books.

1                   Now, when we determine a student's  
2 need for financial aid, books are a component of  
3 our -- our -- our formulation -- of our calculation  
4 of need for aid and aid available to students. But  
5 we also realize that students have many obligations.  
6 So when the opportunity to help students afford  
7 their books arose, we -- we gladly partnered with  
8 the students and the CRSSJ to help promote the  
9 opportunity to have textbooks available at lower or  
10 no cost in this situation.

11           Q    And are you familiar with approximately how  
12 many students would qualify for use of the Lending  
13 Library?

14           A    So approximately, yes. I would not wish  
15 to -- to tell you an exact number. We generally use  
16 Pell eligibility as a determiner of or who may be  
17 eligible to use the Lending Library. But it's  
18 important to note that we have 20 percent of our  
19 students, who by basis of their nationality, are not  
20 eligible for a Pell grant. So what I like to say,  
21 is Pell like students, or students who come from the  
22 same background as a student who would receive a  
23 Pell grant.

24           Q    So as Dr. Kington testified as is provided  
25 in Exhibit A of the employer, around 20 percent of

1 this college's students receive Pell grants. And so  
2 you would say that that 20 percent, plus  
3 international students or others who are Pell like,  
4 would, in theory be eligible for use of the Lending  
5 Library; is that correct?

6 A That's very -- that's true, yes.

7 Q And when we say eligible for use in the  
8 Lending Library, this mean that they could face  
9 difficulties, or do face difficulties in affording  
10 textbooks?

11 A It means that for my perspective as a  
12 financial aid officer, it means that these are  
13 students who come from the lowest income  
14 backgrounds, compared to other students on campus.  
15 So we help provide to them opportunities to obtain  
16 their textbooks in various ways, yes.

17 Q Great. Now, continuing on this subject of  
18 low income students, do you know anything about the  
19 food pantry?

20 A I'm becoming aware of the food pantry, yes.

21 Q Could you tell me right now what you know  
22 about the food pantry?

23 A What I'm aware of the food pantry right now  
24 is that it's another student led initiative, in  
25 conjunction with the CRSSJ to help students who may

1 feel food insecure, to obtain food and other items  
2 to help them with that insecurity. My understanding  
3 of it is -- it's very basis at this point. But I --  
4 it's specifically focused, I believe, towards  
5 students during break periods or during other  
6 periods where college might not be in session to  
7 help fill the needs between when they are able to  
8 use college resources for things like food and when  
9 they're not.

10 Q So it's fair to say that at least at some  
11 points during the year, there are some students who  
12 face difficulties in affording --

13 A I think it's fair to say, yes, that there  
14 are students at some point in the year who feel food  
15 insecurity. Now, part -- part of my job, as the  
16 Director of Financial Aid, in thinking about need  
17 for financial aid, is I become concerned when I hear  
18 that.

19 Because part of our process in the  
20 financial aid office is to determine a student's  
21 need for financial aid. And that includes  
22 determining the ability to help them afford dining  
23 services, and the ability to eat meals on campus.

24 So when I hear -- when I hear from  
25 students that they are food insecure, I like to

1 encourage them to come see me. Because I want to  
2 know the circumstances behind that, because it's my  
3 obligation as the Director of Financial Aid and as  
4 the arbiter of institutional resources in this case,  
5 to learn more about that.

6 Not necessarily in this case that  
7 we're talking about or the food pantry, but a lot of  
8 times in my line of work, we deal with the idea of  
9 need for financial aid and perceived need for  
10 financial aid. Families who look very much alike,  
11 make very different financial decisions. So the  
12 best that we can do in our program is to make sure  
13 we treat those families equitably.

14 What I might consider to be an  
15 affordable car, my wife might have a very different  
16 idea of what an affordable car is. And I use that  
17 as an example not for food insecurity, but for an  
18 example of if students are experiencing trouble, I  
19 greatly encourage them to visit us in the financial  
20 aid office. And I'm also glad that there's -- I  
21 have colleagues who I can work with on campus who  
22 are there to step in and field those needs as well.

23 Q So just back on the food pantry.

24 A Yeah.

25 Q While to the extent of your knowledge it



1 sounds like you view this might be facing heavier  
2 traffic during times the college is on break, to  
3 your knowledge the food pantry is open throughout  
4 the academic year?

5 A I am not sure, I'm sorry.

6 Q Okay. So then turning now to the last thing  
7 you testified to which was compliance with federal  
8 statutes.

9 A Yes.

10 Q To your knowledge, has the college, to date,  
11 say in the last five years, fully complied with  
12 FERPA and the Higher Education Act and Title IV?

13 A To my knowledge, yes.

14 Q And I believe you were in the room, correct,  
15 when Dr. Kington testified?

16 A Yes, I was.

17 Q So you're aware of the existing union of  
18 dining services?

19 A I am.

20 Q And that it was started in the spring of  
21 2016?

22 A I am aware of that, yes.

23 Q I wonder if you could speak to the impact  
24 that that existing collective bargaining  
25 relationship has had on the college's compliance

1 with FERPA and these other statutes?

2 A Well, I don't want to speak to FERPA,  
3 because that's not my area of expertise. But what I  
4 can speak to is a federal -- Title IV federal  
5 regulatory compliance.

6 And because every student can work on  
7 campus right now, without regard to their need for  
8 financial aid or financial status, we are, as lists  
9 that are required, and I guess I'm making an  
10 assumption that we currently provide lists to the  
11 union, I don't know that as fact. But if a list  
12 were required, we could theoretically provide that,  
13 because we are not violating anyone's financial aid  
14 privacy.

15 Q So to summarize, given the college's  
16 existing sort of blindness on the face of things to  
17 letting students know where their funding source  
18 comes from, given that's the current college's  
19 policy, the existing collective bargaining  
20 relationship between dining services has not caused  
21 compliance issues with things you work on, which are  
22 Title IV and the Higher Education Act?

23 A None financial aid, exactly.

24 MR. MCCARTAN: No further questions, Your  
25 Honor.

1 HEARING OFFICER FREEBERG: Okay. Do you any  
2 additional questions?

3 MR. CUNNINGHAM: I do, Your Honor.

4 [RE-DIRECT EXAMINATION OF MR. LINDBERG]

5 QUESTIONS BY MR. CUNNINGHAM:

6 Q Mr. Lindberg, I wanted to go back and -- and  
7 get a -- a couple of clarifications.

8 A Sure.

9 Q When we talk about students not working,  
10 if -- if they don't work, and there's -- there's  
11 several ways to comply with that, as you call  
12 that -- that self help component cent --

13 A Absolutely.

14 Q -- of their cost of attendance, right?

15 A Absolutely.

16 Q If they're fortunate enough that their  
17 families can simply write a check for that  
18 difference --

19 A Sure.

20 Q -- that's one way, true?

21 A Yeah. So there are many ways.

22 Q And another way would be if they wanted to  
23 take advantage of the student loan?

24 A Absolutely.

25 Q Right? Okay. And the other way would be to

1 get one of the petitioned for unit jobs that -- that  
2 looked for their -- looked toward their academic  
3 interest, true?

4 A True.

5 Q Okay. And one of the things that when you  
6 say they're not required to work --

7 A Right.

8 Q -- that doesn't mean they're not required to  
9 pay the full cost of attendance?

10 A That's correct. They are not -- we do not  
11 require students to work, because many times when we  
12 talk what -- in my line of work, we try to treat  
13 families equitably.

14 Q And what -- I'm sorry.

15 A Yeah. And a part of that is -- is looking  
16 at their financial circumstances and determining  
17 their ability to pay. Now some families are able to  
18 come up with other resources to help them.

19 For example, I wouldn't want to force  
20 someone to work if they received an outside  
21 scholarship from the Kiwanis or a local organization  
22 that supplanted their need to work on campus.

23 Q Okay. And you were asked some questions on  
24 cross about the rate that -- that students may be  
25 paid for the work, whether they were work study or

1 they were just working as -- as -- to -- to work as  
2 part of their interests or employment, correct?

3 A Correct.

4 Q Okay. And I believe, am I correct your  
5 concern was not about the rate but what the source  
6 of the funding; is that true?

7 A In financial aid, my concern is about the  
8 source of the funding.

9 Q And can you just re -- reiterate that for  
10 us?

11 A Sure. As it relates to wages, my concern is  
12 that we are able to the -- we are able, to the  
13 extent that we can, to continue to service the need  
14 of campus to have employment, and all -- student  
15 employment, and also allow students to work, both  
16 for financial aid purposes, and for earning  
17 additional money, whether it be for pocket or to  
18 send home or to do with it what they need.

19 Q Can anyone use the food pantry?

20 A I am not clear on that.

21 Q Okay. And so, when we talk about compliance  
22 with federal privacy laws, am I correct, based on  
23 your original testimony and your -- your testimony  
24 in response to Mr. McCartan, the concern was that if  
25 hours had to be cut, and there was a need to

1 prioritize who got jobs, correct?

2 A Correct.

3 Q Okay.

4 A Absolutely.

5 MR. CUNNINGHAM: I have nothing further.

6 Thank you.

7 HEARING OFFICER FREEBERG: Do you have  
8 additional questions?

9 MR. MCCARTAN: Briefly, Your Honor.

10 [RE-CROSS EXAMINATION OF MR. LINDBERG]

11 QUESTIONS BY MR. MCCARTAN:

12 Q Just briefly, you mentioned, Mr. Lindberg,  
13 the possibility of a student receiving outside  
14 financial grants from a community service  
15 organization like the Kiwanis; is that correct?

16 A Absolutely.

17 Q Now, is it -- isn't it true that it's  
18 federal policy that if a student receives outside  
19 scholarship aid, that the college reduce their  
20 institutional grant aid to ensure that the student  
21 is not provide over their federally determined need?

22 A That's not true at all, no.

23 Q Could you elaborate for me --

24 A Absolutely.

25 Q -- to what extent or even if you could --

1 A Yeah.

2 Q -- provide an example or the time line you  
3 would -- took away a student's work requirement in  
4 response to outside grant aid?

5 A Sure. So I'll give you an example of a  
6 general financial aid offer. And I'm giving this as  
7 general, it does not match anything that we do. I'm  
8 just for illustrative purposes, I'll give you  
9 some -- a general illustration of a financial aid  
10 package.

11 Let's say a student has the need for  
12 \$10,000 in resources to cover their need at the  
13 college. And the institution gives \$8,000 worth of  
14 grant, and \$2,000 worth of self help: Loan and/or  
15 student employment.

16 Our policy is you are -- students are  
17 federally obligated to notify the financial aid  
18 office when they receive outside sources of aid.  
19 Our policy is to reduce their self help, before we  
20 would ever touch a grant offered to a student. And  
21 this gets complicated. And I don't want to overly  
22 complicate it to bore you all to death. But we --  
23 there are two different needs analysis processes in  
24 play in my office.

25 One, is an institutional needs

1 analysis. Two, is the federal or the FAFSA needs  
2 analysis. And our policy is always to the extent we  
3 can, to -- to while remaining within federal  
4 regulatory compliance, allow students outside  
5 scholarships to benefit them. We will not reduce  
6 grant unless federal regulatory requirement insists  
7 that we do.

8                   And students who get these funds,  
9 still have the opportunity to borrow and still have  
10 the opportunity to work. They can just do that  
11 outside of the need based program, if that makes  
12 sense.

13                   MR. MCCARTAN: It does. Thank you. No  
14 further questions, Your Honor.

15                   THE WITNESS: Thank you.

16                   MR. CUNNINGHAM: No further questions, Your  
17 Honor.

18                   THE WITNESS: Thank you.

19                   HEARING OFFICER FREEBERG: And I just have a  
20 clarification myself.

21                   THE WITNESS: Sure.

22                   HEARING OFFICER FREEBERG: You testified  
23 about the Lending Library and the food pantry.

24                   THE WITNESS: Yes.

25                   HEARING OFFICER FREEBERG: Are those areas



1 where students would work, are those, like, student  
2 employment positions or --

3 THE WITNESS: So the answer to that question  
4 is yes and no. So there are students who work in  
5 the Lending Library, for example, and I believe, and  
6 I would defer to my colleague, Mark Watts, that they  
7 are compensated for that work.

8 HEARING OFFICER FREEBERG: Okay.

9 THE WITNESS: But other students can use the  
10 resources provided by the Lending Library and the  
11 food pantry to help them cover their expenses to the  
12 extent that's possible. And we support that  
13 because -- in a -- in a way that we are the ones who  
14 reach out to students to let them know this resource  
15 exists to them, because we cannot release that  
16 information to either the students who run the  
17 Lending Library, or the CRSSJ where it -- where it  
18 lives.

19 Instead, we reach out as the  
20 financial aid office to let students know that this  
21 is a resource that's available to them. They then,  
22 come to us, waive their right to privacy for this  
23 particular purpose, and then can use the Lending  
24 Library.

25 HEARING OFFICER FREEBERG: Okay. So -- I

1 guess, this is just a note that if the petitioner  
2 could make clear for the record at some point,  
3 whether there are positions, you know, involving  
4 those two areas, the Lending Library or the food  
5 pantry, that the unit -- that the union is seeking  
6 to include or not, just so that's clear for the  
7 reader of the record.

8 MR. MCCARTAN: Should I answer now?

9 HEARING OFFICER FREEBERG: You can -- yeah,  
10 sure, now or later in closing argument.

11 MR. HARTY: So to the extent that those  
12 positions are classified as student employment  
13 positions, they are part of the wall to wall  
14 bargaining unit, and it is the petitioner's position  
15 that they are included.

16 HEARING OFFICER FREEBERG: Okay. Thank you.  
17 Do you have any further questions for the witness?

18 MR. CUNNINGHAM: I do not, Your Honor.

19 HEARING OFFICER FREEBERG: Okay. Then you  
20 can step down.

21 MR. CUNNINGHAM: Your Honor, may we have a  
22 moment to confer? Mr. Harty is going to take the  
23 next witness and I am just going to --

24 HEARING OFFICER FREEBERG: Yeah. Five  
25 minutes or?

1 MR. CUNNINGHAM: Five minutes.

2 HEARING OFFICER FREEBERG: Okay. So we'll  
3 go off the record and take five minutes.

4 (Whereupon, a brief recess was  
5 taken off the record.)

6 HEARING OFFICER FREEBERG: Okay. We're on  
7 the record. And feel free to call your next  
8 witness.

9 MR. HARTY: Thank you. The college would  
10 call Mark Watts.

11 (Whereupon,

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

16 HEARING OFFICER FREEBERG: Please state your  
17 name and spell it for the record.

18 THE WITNESS: My name is Mark Watts, M-A-R-K  
19 W-A-T-T-S.

20 MR. HARTY: May I proceed, Your Honor?

21 HEARING OFFICER FREEBERG: Yes.

22 [DIRECT EXAMINATION OF MR. WATTS]

23 QUESTIONS BY MR. HARTY:

24 Q Mr. Watts, would you give -- you told us who  
25 you are. Would you just introduce yourself to the

1 Hearing Officer, explain who you are title is, and  
2 what you do here at Grinnell College.

3 A I'm Mark Watts. I'm the student  
4 employment -- HR Training and Student Employment  
5 Coordinator officed in the Office of Human  
6 Resources, and I -- I help coordinate and manage the  
7 student employment environment here on campus.

8 Q Can you give us just a little bit of your  
9 personal background? Where you're from, where you  
10 live now?

11 A I'm a local guy, I grew up in Montezuma just  
12 down road, and have spent some time as a middle  
13 school math teacher, as well as an information  
14 technology services person before finding my way  
15 over to HR and doing student employment work.

16 Q How long have you been at Grinnell College?

17 A I've been at Grinnell College 20 years.

18 Q And how long have you been in your current  
19 position?

20 A I -- I came into this position four years  
21 ago when the position was created.

22 Q All right. If you would, tell us your title  
23 again?

24 A HR Training and Student Employment  
25 Coordinator.

1 Q All right. And you've had that job for four  
2 years?

3 A Yes.

4 Q Tell us what that entails.

5 A Obviously, as listening to it, there are two  
6 parts to the position. The one -- the training  
7 portion is dealing with training our faculty and  
8 staff on various issues surrounding employment here  
9 at Grinnell. So it might be something like the new  
10 payroll system that we implemented this year. It  
11 might be work place stuff, it might be training on  
12 to do interviews, that sort of thing. And  
13 coordinating just the basic training that happens  
14 for the staff on campus.

15 The -- the student employment piece  
16 is basically having to do with the regulation and  
17 the -- the kind of oversight of all of the student  
18 jobs on campus. So making sure from the time that  
19 we on board them and making sure we fill out the  
20 I-9's and W-4's and those sort of things  
21 appropriately. Make sure that we cross our T's and  
22 dot our I's to -- to properly employ the students.

23 And then assisting the supervisors  
24 that hire students on campus with everything from  
25 advertising to creating job descriptions to the

1 hiring process. And then helping them if they run  
2 into trouble with a student employee down the road.

3 Q As part of your responsibilities, do you --  
4 do you have any input into the -- the creation of  
5 documents that relate to student employment, like,  
6 for example, student employment opportunity  
7 handbooks?

8 A Yeah. So we have a general handbook that we  
9 created in my office that talks about student  
10 employment in the broad swope -- swoop of things.  
11 It talks about some of the regulations. It  
12 references federal work study, it references just  
13 kind of basic employment guidelines that we expect  
14 our employees to follow here. It gives them  
15 instructions on how to enter their time into the  
16 timekeeping system and that sort of thing. And then  
17 I do help as requested with various departmental  
18 handbooks as -- as needed.

19 We also keep a treasure trove of job  
20 descriptions that we -- that we use to help with the  
21 hiring and following through on that.

22 Q Thank you. As part of this process, the --  
23 the petitioner subpoenaed certain documents,  
24 including all of the job descriptions, and the  
25 student employee handbooks. So we're going to look

1 at a few of those, but I want to just ask you a  
2 little bit about, in general, your role and your  
3 focus.

4 How important is the educational  
5 aspect of campus employment here at Grinnell  
6 College?

7 A I would argue it's very important. When the  
8 position was created, there were three major players  
9 that were involved in determining what this should  
10 be. There was the financial aid component, there  
11 was a payroll component, and the careers, life, and  
12 service component.

13 And I have worked very closely with  
14 the -- the folks over in career, life, and services  
15 to talk about outcomes that we're looking for that  
16 can dovetail with what they're looking for as far as  
17 career readiness, making sure that we prepare  
18 students to be good employees when they leave  
19 Grinnell College.

20 Q And so that -- that educational component,  
21 is that something that you focus on in connection  
22 with the -- the creation of job descriptions and  
23 handbooks, etc.?

24 A I think it's always something that we  
25 consider and want to talk about. We -- we have

1 sections in the handbooks that talk about outcomes  
2 that, you know, the good ones all talk about what is  
3 it that we want you to get from this. What is it  
4 that -- that is the desired outcome of this  
5 position. As well as, we hold twice a year  
6 trainings for those supervisors to update them on  
7 everything as well as provide opportunities to  
8 enrich their supervisory expertise, and then have  
9 that trickle down to the students so that they can  
10 provide learning opportunities on the job.

11 MR. HARTY: May I approach, Your Honor?

12 HEARING OFFICER FREEBERG: Yes.

13 MR. HARTY: We're going to offer this as  
14 Exhibit K.

15 (Whereupon, Employer's Exhibit K  
16 was offered for evidence.)

17 MR. HARTY: And, Cory, you guys have this.

18 Q (By Mr. Harty) I'm going to hand you -- Do  
19 you have your own copy?

20 A I do.

21 MR. HARTY: And if it's all right, Your  
22 Honor, I'm going to let you keep this one and we'll  
23 have him work off of his copy.

24 HEARING OFFICER FREEBERG: Okay.

25 Q (By Mr. Harty) All right. Can you pull your



1 copy of Exhibit K up?

2 A Yep, it's right here.

3 Q All right. For the record, what is this?

4 A This is the student employee handbook that  
5 the office -- or that my office has created for the  
6 employment on campus.

7 Q And -- and how long has this handbook been  
8 in existence? If you can -- in some way, shape, or  
9 form?

10 A Since I created the -- or since I started in  
11 the position. It was one of the first things that I  
12 created.

13 Q All right. And the document does, in fact,  
14 describe what its purpose is, but can you just  
15 generally tell us what this handbook is intended to  
16 achieve.

17 A It's intended to give a broad view of what  
18 the employment environment looks like on campus. So  
19 it's guidance, it's -- it touches on the educational  
20 benefit of employees. It touches on work study, it  
21 touches on all sorts of various things. Disability  
22 accommodations for somebody that might need some  
23 help in the job that they're doing.

24 So it's designed to at least be that  
25 resource that -- that a student employee could go to

1 to look and at least find their way to somebody that  
2 can help them.

3 Q When this was created, was it -- was it done  
4 so with a nod towards the educational aspect of all  
5 of these student employment here on campus?

6 A It's -- it's one of the first things on the  
7 document. So, yeah, it's very, very important.

8 Q Can you, using your copy and for, Her Honor,  
9 can you point to the -- the portions of the handbook  
10 that emphasize the educational aspect of every  
11 campus employment opportunity here at Grinnell  
12 College?

13 A Midway down on page six there is a core  
14 values of student employment. And that would be the  
15 overriding piece that talks about that.

16 Q All right.

17 A However, there's also a piece down under  
18 work limitations that says: "Academics at Grinnell  
19 are the top priority of our students while classes  
20 are in session."

21 Q Okay. You're getting ahead of me here.  
22 Let's back up for just a second, if you don't mind.

23 A Okay.

24 Q Focusing on core values, this is on page  
25 six. It's the portion of the hand book entitled,

1 Core Values of Student Employment. Can you -- can  
2 you just highlight for our hearing officer what  
3 the -- the very first element of the core values  
4 under mission, what that is.

5 A Education. Learning beyond the classroom.

6 Q How important is that?

7 A We feel it's very important. We feel  
8 that -- that it's one piece of the -- the education  
9 that the students are getting here when they're at  
10 Grinnell College. It's been very eloquently stated  
11 in many of the presentations before me, that we  
12 value the work and the experience outside of the  
13 classroom as part of the growth of the student.

14 Q Okay. Thank you. And you were going to --  
15 you were going to call out, on page seven, the --  
16 the portion of the handbook entitled, Work  
17 Limitations.

18 A Correct. So work limitations were put in  
19 place with the same idea in mind. That the top  
20 priority of our students is their education. And so  
21 we don't want the -- the employment to step on the  
22 toes of their education. But we do also understand  
23 that it is a valuable part of the education.

24 We -- we have -- we can cite many  
25 studies that talk about at what point the -- the job

1 starts to encroach on the educational experience,  
2 and that's pretty standard across the board.

3 Q Thank you. All right. On the same page, if  
4 you would look at the second paragraph. And I want  
5 to make it clear, if you do not know or if one of  
6 the questions I ask you relates to an area that  
7 really is more in someone else's bailiwick, please  
8 just let me know, okay?

9 A Sure.

10 Q But the second paragraph indicates that  
11 the -- that the program encourages match work  
12 related to the student's course of study. Can  
13 you -- can you tell me what that means?

14 A On campus, that -- that means that the  
15 students are free and encouraged to find an  
16 education -- or a work opportunity that allows them  
17 to work in an area that would help them along the  
18 way. Whether that be in a research assistantship,  
19 whether that be working in a typical administrative  
20 office that they might have an interest in. Many  
21 students will say, I didn't know that I liked  
22 admission work until I worked in admission, and then  
23 they go on to pursue a career in that.

24 The off campus studies, I'm going to  
25 defer to my colleague who is a little bit more

1 versed in that.

2 Q All right. Excellent, thank you. Can you  
3 continue, if you would in the handbook, and just  
4 point out for us any other provisions that highlight  
5 the core value of education as the -- the heart of  
6 this campus employment. Let me do this, maybe --  
7 maybe it will be easier for us. Turn to page 11, if  
8 you would. And under the title, Scheduling and  
9 Absences.

10 A Okay.

11 Q Just can you just summarize for us what that  
12 says and then tell us how that works. And, again, I  
13 don't want to be overly repetitive, but to the  
14 extent that you deal with it, tell us -- tell us  
15 what this is intended to achieve.

16 A Well, the -- the purpose or the -- the --  
17 the benefit of the on campus employment for the  
18 students is having a full schedule of academics and  
19 studying that they all have, and a very rigorous  
20 course work here at Grinnell, the scheduling piece  
21 allows them to find the positions that meet their  
22 needs.

23 That is, either early in the morning  
24 they get up and run to work and then they're off to  
25 the day, and that's taken care of. It's finding an

1 evening shift or a weekend shift that doesn't  
2 interfere with -- with studies or labs or -- or any  
3 other activities that are involved with, either in a  
4 co-curricular or a curricular basis.

5           The absences, what -- what we talk  
6 about in here is really, we don't have a global  
7 absence policy, leaving it up to the individual  
8 departments and the hiring managers to say whether  
9 or not this is flexible enough to accommodate the  
10 schedules that might change from day to day.

11           And by and large, we find that a lot  
12 of employers are very comfortable with being able to  
13 adjust for test schedules or -- or lab schedules or  
14 football games or whatever it is that pulls them  
15 away from their job.

16           Q    Okay. To be fair, there are campus  
17 employment opportunities that really don't allow for  
18 a student to -- to catch on their duties during work  
19 time like the dining service?

20           A    Absolutely. I mean there's a lot of very  
21 public facing place where the presence and the work  
22 that is done is either of the importance of a  
23 presence, like monitoring in an art gallery or at a  
24 fitness center where they really can't be away from  
25 that, so the absence piece would be there.

1                   And then a lot of jobs where they do.

2    You know, I have a student job in -- in my office.

3    And we have plenty of work for that student to do,

4    so that's not a place where we would necessarily

5    want someone who feels like they need some time,

6    extra time to study, because we've got a lot of work

7    to do in our office.

8           Q    You were here when President Kington  
9    described one aspect of the educational role of the  
10   campus employment opportunities being the ability to  
11   assign someone who might be struggling academically  
12   to one of the positions that allows them to study.

13          A    Right.

14          Q    I want to make sure we clarify your role.  
15   Are you involved in those assignments or is that  
16   someone else that does that?

17          A    Normally not. I'm not -- I'm not very  
18   involved with the placement of students in  
19   positions. That's handled through Handshake and the  
20   application process. And so I have not been  
21   involved in placing any students for that reason.

22          Q    Okay. But are you aware of the fact that  
23   there are jobs that are -- that are conducive to  
24   allowing --

25          A    Yes.

1 Q -- students to spend time studying?

2 A Yes.

3 Q Okay. And is that consistent with the core  
4 values and goals of -- of your area as you  
5 understand them?

6 A Yeah, it is.

7 Q All right. I want to look at a couple of  
8 other handbooks. To be clear on this, this is  
9 the -- the general handbook, Exhibit K?

10 A Correct.

11 Q And then, tell me how these other -- we've  
12 got a number of other handbooks. We've produced all  
13 of these student campus opportunity handbooks to the  
14 petitioner in this case, all right? We're not going  
15 to go through all of them, thankfully.

16 But -- but can you tell me how those  
17 generally come about? How do these other handbooks  
18 come into existence?

19 A Most of the time they come into place  
20 because there are specific jobs, duties, rules  
21 regulations, dress codes, whatever it is, that --  
22 that is different or -- or specific about the job  
23 that -- that they represent. And so the expectation  
24 for dress or -- or for the -- the work being done is  
25 very different if you're working in the technology



1 center, versus working in the security office,  
2 versus working in the athletic center, so the  
3 expectations can be different.

4 The -- even the rules for how do you  
5 call in if you're not sick can be very, very  
6 different -- or if you are sick, excuse me -- can be  
7 very, very different based on where you work and --  
8 and what the need for coverage is.

9 Q What role, if any, do you have in the  
10 creation of those other handbooks?

11 A I would just be in an advisory role. I  
12 would not usually have my hands in creating them.

13 Q In connection with the creation of the other  
14 handbooks, do you offer advice concerning ensuring  
15 that the core value of education is -- is mentioned,  
16 is addressed?

17 A We -- we encourage that as much as possible.  
18 So in the handbooks or in the job descriptions we  
19 want to make sure that they have a nod to the  
20 educational purpose of -- of the position, and --  
21 and what they can expect to gain from it.

22 HEARING OFFICER FREEBERG: Before we move  
23 on, do you want to offer Employer Exhibit K or are  
24 you going to --

25 MR. HARTY: I am. I am, Your Honor. I just

1 want to make sure if I'm going to offer a stack. We  
2 will offer Exhibit K at this time, Your Honor.

3 HEARING OFFICER FREEBERG: Okay. Any  
4 objections to receipt?

5 MR. KINGTON: No objection, Your Honor.

6 HEARING OFFICER FREEBERG: No objection,  
7 okay. Employer Exhibit K is received.

8 (Whereupon, Employer's Exhibit K  
9 is received into evidence.)

10 MR. HARTY: May I approach, Your Honor?

11 HEARING OFFICER FREEBERG: Yes.

12 Q (By Mr. Harty) I'm going to hand you what's  
13 been marked Exhibit G. I want to just review a few  
14 of -- of these, I guess I can call them additional  
15 handbooks. We've handed you Exhibit G. Are you  
16 familiar with this handbook?

17 A Yes.

18 Q And what is this?

19 A It's the student handbook for the affiliated  
20 internship experience through CLS.

21 Q All right. Tell me -- tell me what that  
22 means. What the affiliated internship means.

23 A Well, it's an opportunity for students to --  
24 to gain work experience and professional experience  
25 through internships.

1 MR. HARTY: We would offer Exhibit G, Your  
2 Honor.

3 (Whereupon, Employer's Exhibit G  
4 was offered into evidence.)

5 HEARING OFFICER FREEBERG: Any objections?

6 MR. XU: Yes, Your Honor. The petitioner  
7 objects to relevance. Specifically, the petitioner  
8 does not seek to represent our students offered  
9 internship opportunities founded by the CLS. It is  
10 not part of our petition for unit. Thus, any  
11 handbook of these students are not -- it's not  
12 relevant to this case.

13 HEARING OFFICER FREEBERG: Okay.

14 MR. HARTY: Would you like a response?

15 HEARING OFFICER FREEBERG: Yes, please.

16 MR. HARTY: Your Honor, I think it's been  
17 described as a wall to wall petition. And I'm not  
18 aware of any of the student employment opportunities  
19 at Grinnell College that have been excluded by  
20 virtue of the petition. Perhaps you have a  
21 different version than I.

22 HEARING OFFICER FREEBERG: I was not aware  
23 of any exclusions that were --

24 MR. XU: Your Honor, the petitioner does not  
25 view internships -- interns funded by Grinnell

1 College that may occur off campus as a student  
2 opportunity employment position. Therefore, it is  
3 excluded by the board and in our petition.

4 HEARING OFFICER FREEBERG: And so the  
5 distinguishing factor is employment off campus? Is  
6 it based on the location or what is the --

7 MR. MCCARTAN: Well, I mean, it hasn't been  
8 testified to, but we're not even sure the extent at  
9 which the positions covered by this handbook are  
10 even funded by the college. And certainly, they're  
11 external to college, not under the control of the  
12 college, and not occurring on the college's  
13 premises.

14 So, I mean, we were unaware these  
15 positions were even in the realm of discussion in  
16 the context of the unit, as they don't occur  
17 anywhere. I mean, if we need to amend the petition  
18 to specifically exclude this class component we  
19 would be happy to, because it's completely  
20 irrelevant to the -- to the issues at hand.

21 HEARING OFFICER FREEBERG: Okay. So just --  
22 so I just want to clarify. This relates to interns  
23 paid by -- and I'll get both parties' position on  
24 this -- but paid by entities other than Grinnell  
25 College, is that the case.

1           MR. XU: So for Grinnell funded internships,  
2 students often engage in off campus internship  
3 opportunities that may be paid or unpaid. They are  
4 not performing a service for Grinnell College, they  
5 are not under the control of Grinnell College.  
6 Instead, they work at an external organization that  
7 is off campus, anyway in the country and anywhere in  
8 the world, but they are funded by Grinnell College  
9 so that Grinnell students can afford to take up  
10 these internship opportunities.

11           HEARING OFFICER FREEBERG: Okay.

12           MR. HARTY: With that clarification, if they  
13 are not attempting to include in the unit the  
14 interns that are -- they are compensated by Grinnell  
15 College, mileage and certain expenses, but if they  
16 are not attempting to include them, then we'll  
17 withdraw this exhibit.

18           HEARING OFFICER FREEBERG: Okay. And maybe  
19 if the parties can agree on that, we could just have  
20 a stipulation that the parties agree that student  
21 interns are excluded, is that --

22           MR. MCCARTAN: Just to phrase this, yeah, we  
23 would stipulate that internship positions under the  
24 control of external organization, would be excluded  
25 from the unit.

1 MR. CUNNINGHAM: And which are not paid for  
2 by the college; is that correct?

3 MR. MCCARTAN: Regardless of whether the  
4 college supplements internship with its own funding,  
5 as long as the internships occur off campus and are  
6 under the control of external organizations, we  
7 would certainly stipulate that those are excluded  
8 from the petitioned for unit.

9 HEARING OFFICER FREEBERG: Okay.

10 MR. MCCARTAN: So the test would be is it  
11 off campus, external organization, the college is  
12 funding these, for our position not relevant.

13 HEARING OFFICER FREEBERG: Okay. Does  
14 that -- does the employer have any issue with that  
15 or agreement or?

16 MR. HARTY: It doesn't clarify it  
17 completely, Your Honor.

18 HEARING OFFICER FREEBERG: Yeah. I just --  
19 I do want it to be very clear who we're talking  
20 about that we would be included or excluded.

21 MR. MCCARTAN: We can just -- I don't know  
22 if the employer can speak to this, but as far as  
23 we're concerned, like, none of the students on -- in  
24 Attachment B would be listed as working in a  
25 department that would be subject to the control of

1 this handbook. So even by the college's own  
2 production of the list, this is -- I mean, it's not  
3 a unit.

4 HEARING OFFICER FREEBERG: Okay.

5 MR. HARTY: Can we just take a short break,  
6 Your Honor, just to make sure we're on the same  
7 page?

8 HEARING OFFICER FREEBERG: Sure. Yeah,  
9 we'll just go off the record for a minute.

10 (Whereupon, a brief recess was  
11 taken off the record.)

12 HEARING OFFICER FREEBERG: Let's go on the  
13 record.

14 MR. CUNNINGHAM: Okay. Thank you, Your  
15 Honor. Just a point of order before we begin. I've  
16 know we've had people in the audience coming in and  
17 out all day. But I want it to be clarified, because  
18 I believe we have people recording again, or at  
19 least -- I don't know, maybe somebody's live  
20 Tweeting, I don't know. But there are -- I believe  
21 you've imposed an order that there won't be any  
22 recording of the proceedings, other than our  
23 reporter here.

24 So I don't know if -- if it was  
25 recording or if was just Tweeting.

1 MR. MCCARTAN: Just to verify, Your Honor,  
2 if a member -- just for the personal audience's  
3 understanding, a member of the audience writes down  
4 their recollection of what was spoken at the  
5 hearing, is that a violation of your order against  
6 recording?

7 HEARING OFFICER FREEBERG: I don't have an  
8 issue with it, really. I mean --

9 MR. CUNNINGHAM: Just as long as they're  
10 not recording, I suppose.

11 HEARING OFFICER FREEBERG: Yeah. Right. If  
12 the parties agree that you want to exclude that type  
13 of but --

14 MR. MCCARTAN: We have no knowledge. But we  
15 certainly don't want them recording either. I just  
16 want to clarify for the audience's purpose. We  
17 don't of anyone that's recording.

18 MR. CUNNINGHAM: Okay.

19 HEARING OFFICER FREEBERG: Okay.

20 MR. CUNNINGHAM: We had one earlier. Can we  
21 make certain that nobody is recording right now?

22 HEARING OFFICER FREEBERG: Okay. So we --  
23 the parties sort of agreed at the beginning there  
24 would not be recording. If anyone is recording  
25 audio or video, we ask that you don't. But if



1 anyone has an issue with that, please let me know.

2 Okay. Thank you.

3 MR. CUNNINGHAM: Thank you, Your Honor.

4 HEARING OFFICER FREEBERG: Yeah. Did you  
5 also want to address the issue --

6 MR. HARTY: I can, Your Honor. May I ask  
7 just a couple of voir dire questions to lay the  
8 ground work here? And I think we're going to offer  
9 the exhibit.

10 HEARING OFFICER FREEBERG: Okay.

11 [VOIR DIRE EXAMINATION BY MR. HARTY]

12 Q Mr. Watts, the -- the internships that are  
13 governed by the exhibit in front of you, all right.  
14 Can we agree that -- that those individuals do not  
15 receive a wage from Grinnell College for the time  
16 they spend on that internship; is that correct?

17 A Correct.

18 Q But are those all students who might hold  
19 other student employment opportunities here at  
20 Grinnell College?

21 A Yes.

22 Q And does Grinnell College actually support  
23 that internship employment with travel expenses  
24 and -- and other reimbursements?

25 A In some instances, yes.

1 Q All right. And is it your understanding  
2 that Grinnell College has an ongoing responsibility  
3 for the -- the welfare, safety, for example, Title  
4 IX, with regard to those individuals, those  
5 students, those wards of the college, if you will,  
6 while they're engaged in those internships?

7 A Yes.

8 Q And is the handbook that is in front of you,  
9 is that drafted consistent with your understanding  
10 of the core values of the institution, as reflected  
11 in student employment opportunities?

12 A I believe so, yes.

13 MR. HARTY: Yeah. We would offer it, Your  
14 Honor.

15 HEARING OFFICER FREEBERG: Okay. And the  
16 petitioner's position?

17 MR. MCCARTAN: Yeah. I mean, we maintain  
18 that regardless of whether the employees -- whether  
19 the people who will be covered by this handbook also  
20 happen to work other employment opportunities on  
21 campus is not relevant. If an assembly line  
22 happened to hold a second job at McDonald's, the  
23 McDonald's handbook is not binding even on the  
24 employee at both places. The offered exhibit reads,  
25 on page nine at the bottom: "You are governed by

1 the employer's employment policies, practices and  
2 procedures," referring to the outside employer, to  
3 which the employees subject to control.

4           So, I mean, I don't know if we  
5 need -- if we need the permission of the employer to  
6 amend our petitioner? But for clarity and for the  
7 consensus of the record, we would like to amend the  
8 petition to exclude positions off campus not under  
9 the control of Grinnell College.

10           HEARING OFFICER FREEBERG: Okay. And the  
11 employer's position is it that those positions  
12 should be included?

13           MR. HARTY: No, Your Honor. Our position is  
14 that given -- given the representation of the union,  
15 the positions, the actual internships, we don't  
16 believe are included in the petitioned for unit.

17           But we believe that the exhibit is  
18 relevant, and that is because it tends to prove the  
19 existence of a fact in question. That fact being,  
20 whether Grinnell College focuses on the educational  
21 aspect of all of the employment opportunities on  
22 this campus, in a pervasive manner. And that's why  
23 we offered it.

24           HEARING OFFICER FREEBERG: Okay. But you  
25 agree that it does not relate -- this does not cover

1 the employment conditions of the petitioned for unit  
2 insofar as it doesn't relate to those employees  
3 directly? I mean, tangentially, I don't --

4 MR. HARTY: We -- we -- given their  
5 stipulation, I think it's accurate that this doesn't  
6 relate directly to positions that they proposed to  
7 include in the unit. But given the college's  
8 position that all of these positions, admittedly  
9 employment for purposes of, for example, tax law or  
10 withholding, etc., are, in fact, incidental to and  
11 ancillary to the educational mission of the college,  
12 and the college has ongoing responsibilities for  
13 these individuals. And that's why its relevant  
14 for -- to this proceeding.

15 HEARING OFFICER FREEBERG: Okay. Is  
16 there -- if the purpose of the exhibit is just to  
17 point to the importance of the educational nature,  
18 which seems be the argument that's being made.  
19 Would you like to make an offer of proof as to that  
20 point or --

21 MR. HARTY: Well, if you're going to -- if  
22 you're not going to admit it I will.

23 HEARING OFFICER FREEBERG: Okay. Well, I  
24 just -- I'm inclined to not admit it because, you  
25 know, the parties have stipulated -- well, I'll have

1 you stipulate -- maybe, let's stipulate now just so  
2 it's clear that the parties agree that interns, as  
3 we have been discussing, are excluded from the  
4 petitioned for unit. Is that a stipulation that the  
5 parties can reach right now?

6 MR. MCCARTAN: Yes.

7 MR. HARTY: Yes.

8 HEARING OFFICER FREEBERG: Okay. So based  
9 on that, and the fact that this would refer to those  
10 excluded groups, I would allow the employer to make  
11 an offer of proof. And I will otherwise likely  
12 sustain the objection to the receipt of the exhibit.

13 MR. HARTY: Thank you, Your Honor. We will  
14 make a very, very brief offer of proof, because we  
15 do have other handbooks that we're going to go  
16 through.

17 HEARING OFFICER FREEBERG: Okay.

18 Q (By Mr. Harty) Looking at the -- the exhibit  
19 in front of you, would you just turn to page two  
20 under the heading of Internship, Outcomes, and  
21 Goals. Can you just describe for us what the -- the  
22 institutional desire is in connection with -- with  
23 these internships?

24 A It's stated at the beginning. It's designed  
25 to expand the depth and breadth of academic learning

1 for you in your area of study. And so everything  
2 that happens in here, really does point back to  
3 expanding your knowledge about the industry,  
4 expanding your knowledge about different jobs and  
5 what -- what might interest you and what might not  
6 interest you.

7           Developing the skills and the  
8 knowledge that it takes to succeed in a particular  
9 industry, or certainly be a viable candidate for a  
10 position in that industry, you know.

11           The -- the learning goals are listed  
12 there. Academic theory linking to your discipline.  
13 Advocating for your own learning. Demonstrating  
14 awareness of community issues. So all of the things  
15 that we want for our students here to -- to be able  
16 to get out and -- and be productive members in the  
17 workforce are listed.

18           Q    Okay. And if you would, about halfway down  
19 page two, there's a paragraph with a number of  
20 bullet points. It begins: "By the end of the  
21 internship, our hope is that you will have", and  
22 then there are a number of those bullet points.  
23 Correct?

24           A    Yes.

25           Q    Do you see that? I don't want to go through

1 all of those, but I want to ask you generally, the  
2 reason I started off with this one is, this goal as  
3 set forth in the internship, is that any different  
4 than the goal that Grinnell College and your  
5 department have in connection with every single  
6 campus opportunity here at the college?

7 A It would be very similar to what we expect  
8 from our employment.

9 Q Okay. And then I just want to, if you would  
10 turn to page three. And, again, I don't want to get  
11 too -- too far in the weeds on this, but this  
12 diagram shows a number of -- of objectives and  
13 stages. Do you see that?

14 A Yes.

15 Q And, again, I assume this is far more  
16 elaborate, given the internship, but is this  
17 fundamentally the same as -- as the goals that you,  
18 the college, has attempted to build into the  
19 employment opportunities here at Grinnell?

20 A Yes, it's very similar to what it is that we  
21 expect the students to learn while working on  
22 campus.

23 Q Okay. Thank you.

24 MR. HARTY: That's all I have for the offer  
25 of proof, Your Honor.

1 HEARING OFFICER FREEBERG: Okay.

2 MR. XU: Your Honor, may I respond?

3 MR. MCCARTAN: May we respond?

4 HEARING OFFICER FREEBERG: Yes.

5 MR. MCCARTAN: So the -- the -- I mean, the  
6 employer's offer of proof is akin to them offering a  
7 syllabus to show that the college has a primarily  
8 educational mission. The parties have already  
9 stipulated the handbook in question does not cover  
10 employment opportunities.

11 We would agree and even stipulate  
12 that outside employment opportunities, the college  
13 mission is primarily educational. This handbook  
14 really re-enforces what is already known by everyone  
15 in the room, which is that the college strives to  
16 inject education into things outside of work. It  
17 has no value to the -- to the -- to the true  
18 questions this hearing is designed to address, which  
19 are, just are the students employees under the  
20 purposes of the Act, and is there a community  
21 interest.

22 HEARING OFFICER FREEBERG: Okay. Do you  
23 wish to comment?

24 MR. HARTY: I don't. We've made our offer.

25 HEARING OFFICER FREEBERG: Okay. The offer



1 of proof is received and the objection to the  
2 exhibit is sustained. But it will go in the  
3 rejected exhibit file.

4 MR. HARTY: And in the record?

5 HEARING OFFICER FREEBERG: Yes.

6 MR. HARTY: Thank you. May I approach?

7 HEARING OFFICER FREEBERG: Yes.

8 (Whereupon, Employer's Exhibit G  
9 was rejected from evidence.)

10 Q (By Mr. Harty) Can you recognize Exhibit E?

11 A Yes, it's the Information Technology  
12 Services Student Technology Consultants Handbook.

13 Q Is this one of the handbooks that you  
14 described earlier that was developed by various  
15 departments?

16 A Yes.

17 Q With your input?

18 A Yes.

19 MR. HARTY: We would offer Exhibit E.

20 HEARING OFFICER FREEBERG: Are there any  
21 objections to the receipt of Exhibit E?

22 MR. XU: No objection, Your Honor.

23 HEARING OFFICER FREEBERG: Okay. Employee  
24 Exhibit E is received.

25 (Whereupon, Employer's Exhibit E

1                   was offered and received into  
2                   evidence.)

3           MR. HARTY: Thank you, Your Honor.

4           Q     (By Mr. Harty) Would you please turn to  
5 the -- the first page of Exhibit E that contains  
6 text?

7           A     Okay.

8           Q     Can you tell us, if you would, in your own  
9 words, how does this explain the educational  
10 components of the employment opportunities covered  
11 by Exhibit E?

12          A     It allows an information about what the job  
13 in ITS would -- would be about. And it most  
14 certainly describes working to -- working with other  
15 community members. It talks about several students  
16 that had experienced and associated their post  
17 graduate success with the department. The fact that  
18 we have hired, from my time in ITS, several members  
19 that were student employees, and then moved onto be  
20 regular employees with us post graduation.

21                   It talks about the different skills  
22 that you would learn outside of the classroom.  
23 Certainly, you know, problem solving, equipment  
24 repair, working with the public, those sort of  
25 things that -- that -- that are very valuable skills

1 to have in the workforce.

2 Q All right. In the third paragraph it says:  
3 "We encourage you to use your time as a student  
4 technology consultant as a learning opportunity, as  
5 well as a job." Do you see that?

6 A Yes.

7 Q Is that consistent with the college's design  
8 on virtually every employment opportunity here on  
9 campus?

10 A Yes, it is.

11 Q And if you would, let's skip ahead to  
12 page -- my pages don't have numbers, but if you go  
13 about six pages in it says, "General ITS  
14 Guidelines," and there's a heading that says,  
15 Downtime. Let me know when you're there.

16 A Okay. Found it.

17 Q All right. Can you explain for the --  
18 the -- the court what this is intended to convey to  
19 the individuals who have these positions in ITS?

20 A So the idea of the downtime paragraph would  
21 be to let the student employees know that while  
22 there are tasks to be done and -- and jobs that need  
23 to be taken care of, periodically there would be a  
24 little bit of downtime between jobs. And so what  
25 they would like them to do, number one, is to learn

1 about offering to help other people, jumping in,  
2 pitching in.

3 And then also, to take advantage of  
4 some of the other training resources that they have  
5 to improve their own skills.

6 Q Is that part of the education mission?

7 A It absolutely is.

8 Q I handed you Exhibit F.

9 A Yes.

10 Q Do you recognize this?

11 A Yes.

12 Q What is it?

13 A The peer educator handbook.

14 Q And, again, like -- like the -- the ITS  
15 handbook and others you discussed and described, is  
16 this one of the handbooks that -- that is developed  
17 by one of the other areas of the college?

18 A Correct.

19 Q But with your input?

20 A Yes.

21 MR. HARTY: We'd offer Exhibit F, Your  
22 Honor.

23 HEARING OFFICER FREEBERG: Any objections?

24 MR. XU: No objection.

25 HEARING OFFICER FREEBERG: Okay. Employer

1 Exhibit F is received.

2 (Whereupon, Employer's Exhibit F  
3 was offered and received into  
4 evidence.)

5 Q (By Mr. Harty) Okay. Just starting on the  
6 very first page of this, can you just highlight for  
7 Her Honor the portions of the handbook that  
8 emphasize the educational nature of the employment  
9 opportunities?

10 A The -- the second paragraph very succinctly  
11 describes the -- the roles and responsibilities of  
12 there. So they -- they are trained to assist in  
13 peer education and then in core issues about basic  
14 interactions they have with the people that they are  
15 working with, as well as content specific training  
16 and information that are -- that are offered by  
17 their direct supervisors. So learning what it is  
18 that they will specifically be training on and not  
19 just best training practices.

20 Q Okay. And what do -- what do peer educators  
21 do, in a nutshell?

22 A They -- they provide support to students who  
23 need assistance with different classes.

24 Q And they're paid for that?

25 A Yes.

1 Q But if you would, turn to the next page  
2 under, Mission, third paragraph. Where it says  
3 research. "Research has shown that peer education  
4 has a positive impact on the peer tutor or mentor."  
5 That's the individual being paid to serve as a  
6 tutor?

7 A Yes, that is.

8 Q And, again, does this highlight the  
9 educational nature of this employment opportunity?

10 A Yes, it does.

11 MR. HARTY: Bear with me just a minute, Your  
12 Honor. Thank you.

13 Q (By Mr. Harty) Is there any other aspect of  
14 that handbook that you have identified as relating  
15 and -- and -- and highlighting the educational role  
16 of that campus employment opportunity? And if  
17 there's not, there's not. I just want to make sure.

18 A Right. Not -- not right offhand, no.

19 Q Okay. All right. We've also produced this  
20 the case a number of job descriptions. And you  
21 earlier described those job descriptions as being  
22 either created by or in connection with your  
23 department; is that right?

24 A Correct.

25 MR. HARTY: We're going to go off all the

1 job descriptions from Exhibit L.

2 HEARING OFFICER FREEBERG: These are --  
3 sorry, these are what?

4 MR. HARTY: All the job descriptions for the  
5 positions petitioned for.

6 HEARING OFFICER FREEBERG: Okay.

7 Q (By Mr. Harty) All right. I've handed you  
8 what we've marked as Exhibit L. Would you please  
9 just take enough time to -- I'll represent to you  
10 that these are the job descriptions that were  
11 produced pursuant to subpoena in this matter. Will  
12 you just familiarize yourself enough to make sure  
13 that you can tell me that you don't disagree, okay?

14 A It looks very thorough.

15 Q All right. Thankfully, we're not going to  
16 go through each of these, but I do want to ask you  
17 about the descriptions in general. And then I want  
18 to, if you -- if you -- if there's one that  
19 highlights a response, will you please point it out  
20 for the court? And that is, did you say that --  
21 that these position descriptions were prepared  
22 pursuant to a template that you had developed?

23 A Correct. I -- I -- when someone needs to  
24 create a new job description, I send them a template  
25 and supporting documents to help them with it.

1 Q All right. And if you would, can you tell  
2 us if your template pays homage, if you will, to the  
3 educational nature, the core value of education as  
4 being the -- the focus of each of these positions?

5 A Yeah. The -- the third section down on each  
6 of the job descriptions has a section, it's a  
7 professional development section. It talks about  
8 the specific skills that are required or developed  
9 as part of this position, as well as the  
10 transferable skills that are learned to help  
11 students understand what it is that they are  
12 learning in this position, outside of the -- the --  
13 the -- the new skills that they're having. So some  
14 of those soft skills, if you will.

15 Q Okay. And is it fair to say that some of  
16 these under the qualifications and professional  
17 development heading have more robust descriptions  
18 than others?

19 A Yes.

20 Q And is it -- how unique are a number of  
21 these jobs? We've got descriptions for literally  
22 hundreds of jobs. Are some of these unique each --  
23 each position unique?

24 A They're very -- most of them are unique to  
25 the position that's being filled.



1 Q Okay. Why is it that on each of your  
2 templates on the first page and the very -- after  
3 it's essentially a description of the job, you have  
4 a -- a division entitled, Qualifications and  
5 Professional Development?

6 A It goes back to my work with the CLS  
7 department when we first started creating these.  
8 The desire was to make sure that students understood  
9 what this position was going to help them learn and  
10 going to help them to sell themselves to a potential  
11 employer or grad school down the road.

12 Q So -- so in summary, the -- the jobs, these  
13 descriptions that -- that you have in front of you,  
14 are -- are these -- these positions that are by and  
15 large, are they filled by students here at Grinnell  
16 College?

17 A Yes.

18 Q And the creation of the -- the job in each  
19 one of those, do you look into and -- and analyze  
20 the educational component of that -- that employment  
21 opportunity?

22 A Yeah. The -- the -- the job description is  
23 isn't complete, in my mind, until that section is  
24 filled in. Because we do want to know what the  
25 outcomes are.

1 Q Thanks.

2 MR. HARTY: We would offer the job  
3 descriptions, if I haven't.

4 HEARING OFFICER FREEBERG: Exhibit L? Are  
5 there any objections to receipt of Employer L.

6 MR. XU: No objection.

7 HEARING OFFICER FREEBERG: Okay. Employer  
8 Exhibit L is received. And just make sure that the  
9 court reporter gets a copy.

10 (Whereupon, Employer's Exhibit L  
11 was offered and received into  
12 evidence.)

13 MR. HARTY: We will. I don't have any other  
14 questions for Mr. Watts at this time.

15 HEARING OFFICER FREEBERG: Okay. Petitioner  
16 like to cross examine the witness?

17 MR. XU: Yes, Your Honor. May I proceed?

18 HEARING OFFICER FREEBERG: Yes.

19 [CROSS EXAMINATION OF MR. WATTS]

20 QUESTIONS BY MR. XU:

21 Q So, Mr. Watts, first, I would like to talk  
22 to you about what student employees do at work, all  
23 right? So, on direct examination you were offered a  
24 few handbooks. May I direct your attention to the  
25 ITS Student Technology Consultants handbook.

1 A Okay.

2 Q Directing your attention to page one,  
3 Welcome Message, first paragraph. It says: "Our  
4 role is to provide technology services and support  
5 to faculty, staff, students throughout the college."  
6 Is that a fair description of what ITS student  
7 consultants do?

8 A Yes.

9 Q Moving on to Peer Educator, I would like to  
10 direct your attention to the corresponding handbook.  
11 On the first page, there is -- there is a Welcome  
12 Letter from Mike Latham, Dean of the college.

13 Directing your attention to the first  
14 paragraph in the middle of the first paragraph, it  
15 says: "As a peer educator, you will provide  
16 leadership to others and help to build a strong and  
17 vibrant academic community." Is that correct?

18 A That's what it says, yes.

19 Q And a strong, vibrant, academic community is  
20 beneficial to admission of Grinnell College?

21 A Yes.

22 Q Okay. And there are student employees in  
23 many other departments, correct?

24 A Yes.

25 Q For example, libraries regularly hire

1 student employees, correct?

2 A Yes, they do.

3 Q Would you recognize a copy of the Grinnell  
4 College library staff handbook if I showed you  
5 today?

6 A I -- I will see.

7 MR. XU: Showing Mr. Harty what's been  
8 marked as Petitioner Exhibit 6. And I'm handing  
9 the witness the same.

10 HEARING OFFICER FREEBERG: Do you have one  
11 for me?

12 MR. XU: I will give the one to you.

13 Q (By Mr. Xu) Now, Mr. Watts, do you recognize  
14 this document?

15 A Yes.

16 Q Were it also developed with your advice?

17 A It -- it came through my office, yes.

18 Q Okay. Does this seem to be a fair and  
19 accurate copy to you?

20 A Yes.

21 MR. XU: Your Honor, at this time,  
22 petitioner offers Exhibit 6 into evidence.

23 HEARING OFFICER FREEBERG: Are there any  
24 objections?

25 MR. HARTY: No objection.

1 HEARING OFFICER FREEBERG: Okay.

2 Petitioner's 6 is received.

3 (Whereupon, Petitioner's Exhibit  
4 No. 6 is offered received into  
5 evidence.)

6 Q (By Mr. Xu) Great. So directing your  
7 attention to page three, the welcome message. In  
8 the first paragraph there is this bold faced  
9 sentence saying: As an academic library, we rely  
10 heavily on our student assistants to help with many  
11 tasks, such as pulling and shelving library  
12 materials, and staff the public service desk in  
13 multiple locations. Is that a fair -- is it fair  
14 and accurate description of what student requires to  
15 do in libraries?

16 A Yes.

17 Q Good. So there is another section in the  
18 same -- same handbook about non work activities on  
19 page eight? Yes?

20 A Yes.

21 Q And there -- under non work activities,  
22 there is another boldface statement saying:  
23 "College equipment should not be used for personal  
24 purposes, including e-mail during work time." Is  
25 that a fair description of the policy in libraries?

1 A Yes.

2 Q Now, among the stack of job descriptions you  
3 have right now, they include job descriptions from  
4 dining services?

5 A Yes.

6 Q Such as making pizzas, such as making  
7 sandwiches?

8 A Correct.

9 Q And these job descriptions are created for  
10 using the same template with any other jobs on  
11 campus?

12 A They were, yes.

13 Q Now, at job, student workers are subject to  
14 certain policies, correct?

15 A Yes.

16 Q And most policies -- and the policies are  
17 laid out in the general student employee handbook.  
18 So directing your attention to the student employee  
19 handbook --

20 HEARING OFFICER FREEBERG: And I just want  
21 the record to be clear the witness nodded.

22 THE WITNESS: I'm sorry, yes.

23 Q (By Mr. Xu) Direct your attention to page  
24 five of the student employee handbook. It says on  
25 page -- it says in the third paragraph, given the

1 examples we talked about, do you agree with  
2 statement that for Grinnell student employees play a  
3 critical role in the operations of the college.  
4 Departments on campus rely on this workforce to  
5 accomplish a substantial portion of the work  
6 necessary for daily operations. The student  
7 employment office generally regard this statement as  
8 true?

9 A Yes.

10 Q Now in addition to the student employment  
11 handbook, the policies in the student employee  
12 handbook, students are, in addition, subject to  
13 their corresponding department policies, correct?

14 A Yes.

15 Q That would include, you know, absence  
16 policies?

17 A Yes.

18 Q Dress code?

19 A Yes.

20 Q Whether you can do homework at your job?

21 A Correct.

22 Q And if you do not follow these policies,  
23 could you be disciplined?

24 A Yes.

25 Q Is it possible that you can be terminated

1 from these policies -- from these positions?

2 A Yes.

3 Q Now moving on, all the student employee  
4 positions we talked about are compensated  
5 financially by Grinnell College, correct?

6 A Yes.

7 Q And there is a tiered campus wide wage  
8 scale?

9 A Yes, there is.

10 MR. XU: Now, I'll show you, Mr. Harty,  
11 what's been marked as Petitioner's Exhibit 11.  
12 Approaching the witness with the same.

13 (Whereupon, Petitioner's Exhibit  
14 No. 11 was marked for  
15 identification.)

16 Q (By Mr. Xu) Mr. Watts, are you familiar with  
17 this table?

18 A Yes, I am.

19 Q So what is this table?

20 A This is my index of job descriptions on  
21 campus for my use in finding the individual job  
22 descriptions when I need to.

23 Q So and each position falls in the -- a  
24 certain pay category?

25 A Yes.



1 Q And this pay category is consistent across  
2 campus?

3 A It uses the standard pay matrix that we use,  
4 yes.

5 Q So can you -- I just want you to walk the  
6 court through this table. What does sup students  
7 mean in the table?

8 A Sup students would identify whether or not  
9 that position is a position that is a student  
10 that -- that supervises other students.

11 Q Okay. And moving on to the next column,  
12 what does this column stand for?

13 A Community service.

14 Q And what about the next column?

15 A Reading tutor.

16 Q Why is that related to the sat opportunity  
17 employment position?

18 A It's related because in-service learning  
19 work study positions, some of the funding can be  
20 used to tutor younger leaders out in the community.

21 Q Okay. So what about next column  
22 R-E-L-S-P-I-R?

23 A That's my shorthand for religious or  
24 spiritual positions which the federal work study  
25 dollars cannot be used to pay for.

1 Q What about minors?

2 A That was added recently as we implemented  
3 the minors on campus policy. And so there's a  
4 corresponding box on the job description that  
5 denotes whether or this position will be used -- or  
6 whether this position will have contact with minors  
7 while they're performing their duties.

8 Q Understood. What about current JD?

9 A It's kind of a housekeeping thing that I was  
10 using. This -- this we're in the midst of updating  
11 and refreshing all of the job descriptions. And so  
12 I'm just kind of noting on there which ones still  
13 have work to be done.

14 Q What about HS?

15 A That is for hourly or salaried or stipend  
16 based pay.

17 Q Does the table seem to be fair and accurate?

18 A As accurate as it can be in the midst of the  
19 work that we're doing, yes.

20 MR. XU: Okay. Great. Your Honor, I'm  
21 approaching the court, I'm approaching the bench  
22 with the exhibit I was using, Petitioner Exhibit 6  
23 which is the student -- library student staff  
24 handbook.

25 HEARING OFFICER FREEBERG: And do you have a

1 Petitioner 11 for me?

2 MR. XU: We -- Your Honor, we do not intend  
3 to enter that into evidence.

4 HEARING OFFICER FREEBERG: Okay.

5 MR. XU: Your Honor, we did not know what  
6 this table stood for, so we were asking Mr. Watts  
7 these questions to ascertain what this document  
8 means and whether we intend to offer it into  
9 evidence. And based on Mr. Watts' answers, we  
10 decided we need not enter it into evidence.

11 HEARING OFFICER FREEBERG: Okay.

12 Q (By Mr. Xu) Now, moving forward, Mr. Watts,  
13 there is no limit how many student employment  
14 positions one student can hold at same time,  
15 correct?

16 A There's not a limit on the number of  
17 positions.

18 Q For example, one could work in dining  
19 services and the physics department at the same  
20 time?

21 A Correct.

22 Q For example, one can work in say mail  
23 services, and admission office at the same time?

24 A Correct.

25 Q Or that you could work five positions at the

1 same time?

2 A Yes.

3 Q As long as they -- as long as one  
4 academic -- one class is in session that student  
5 does not work over 20 hours per week?

6 A Correct.

7 Q And that's because it is believed by student  
8 employment office of working too much would impede  
9 student's academic performance?

10 A Among other things, yes.

11 Q And can one work one student employment  
12 position this semester and a different one the next  
13 semester?

14 A Yes.

15 Q And, for example, one can work for dining  
16 services one semester and then say the athletic  
17 center the next semester?

18 A Yes.

19 Q And then one can work -- now, this -- do you  
20 have a copy of the exhibit, Employer's Exhibit B  
21 with you?

22 A I don't believe so.

23 MR. XU: Your Honor, I'm approaching Mr.  
24 Hart with a copy of prior Exhibit B, which is  
25 already in evidence. Approaching the witness with

1 the same.

2 Q (By Mr. Xu) Now, Mr. Watts, this is a list  
3 of all students that's currently employed by  
4 Grinnell College and what departments they work for,  
5 correct?

6 A That's what it appears. I'm not familiar  
7 with the document.

8 Q Okay. So based off this document, would it  
9 be fair to say that many students hold different  
10 jobs in more than one department?

11 A Yes.

12 Q And to your knowledge, in the past academic  
13 year, how many students have changed their jobs  
14 between departments?

15 A I have no idea.

16 Q Are you aware that some students did that?

17 A Define change. Like, are you saying not at  
18 an additional job but -- give me some clarification.

19 Q So to clarify, for -- by change, I'm -- I  
20 can think of two scenarios. For example, if I am  
21 working in dining service this semester and I decide  
22 to work as a writing man for the next semester,  
23 that's a change. In addition, if I work dining  
24 services this semester and add a different job to my  
25 previous job and work two jobs now, that's also

1 change.

2 A Okay.

3 Q Are you aware that students can do that?

4 A Yes.

5 Q And to your knowledge, do many students do  
6 that or do a few students do that?

7 A I think quite a few do, yes.

8 Q Now going forward moving on. So all student  
9 employment positions are managed by the student  
10 employment office?

11 A You'll need to tell me what managed means.

12 Q So student employment office oversees the  
13 administration of all student employment positions?

14 A I'm still not sure. So -- so you want to  
15 know whether I'm in charge of what? Like, what --  
16 what duties are you asking me about? Because that's  
17 very general what you're talking about.

18 Q So in your day to day job responsibilities  
19 as the student employment office, do you have any  
20 interaction with all student employment positions on  
21 campus regarding their creation, their continuation,  
22 their compensation and so forth?

23 A Yes.

24 Q And all student employment positions are  
25 subject to the same student employee handbook in

1 addition to department policies?

2 A Yes.

3 Q And are student employees -- and, again,  
4 just to clarify, all student employment positions  
5 are compensated by Grinnell College?

6 A Yes.

7 Q According to the same campus wide current  
8 wage scale?

9 A Yes.

10 Q Now finally, Mr. Watts, I would like to ask  
11 you a few questions about the existing bargaining  
12 relation between the union and Grinnell College.  
13 And the union of Grinnell student body workers have  
14 represented student employees in dining services  
15 since April, 2016 correct?

16 A Yes.

17 Q And you were the student coordinator back in  
18 April, 2016?

19 A I was.

20 Q And since its founding, the union has  
21 negotiated two contracts for student employees in  
22 dining services?

23 A Yes.

24 Q And -- and both, would you recognize copies  
25 of these collective bargaining agreements if I

1 showed them to you today?

2 A I would.

3 MR. XU: I'm showing Mr. Harty what's been  
4 previously marked as Petitioner Exhibit 2. I'm  
5 approaching witness with the same.

6 (Whereupon, Petitioner's Exhibit  
7 No. 2 was marked for  
8 identification.)

9 Q (By Mr. Xu) Mr. Watts, what is this  
10 document?

11 A It's a copy of the agreement that we reached  
12 with UGSDW.

13 Q And in negotiating with UGSDW, you were in  
14 all the bargaining sessions, correct?

15 A Yes.

16 Q Now I would like to talk about specifics  
17 provisions in this collective bargaining agreement.  
18 The term of this agreement is from October the 1st,  
19 2016 to June the 3rd -- June the 30th, 2017?

20 A Yes.

21 Q And I would like to direct your attention to  
22 Article Three, Section One, Employee Roster. And it  
23 says, "The parties recognize that in order to  
24 fulfill its obligation to represent employees during  
25 this agreement, the union should have access to the



1 names and contact information of the employees  
2 covered by the agreement. And furthermore, the  
3 parties recognize and agree that employed students  
4 may choose to keep their confidential information  
5 confidential." Is that correct?

6 A That's what it says.

7 Q And that furthermore, directing your  
8 attention to Article Two, Section One. And it is  
9 about the mutual obligations of the college and the  
10 union. Yes?

11 A Yes.

12 Q And we agree that the college and union  
13 mutually agree and acknowledge that employees  
14 covered by this agreement are first and foremost  
15 students. Advancement of the educational goals of  
16 employees, referring to employees in dining  
17 services, and the efficient operation of the college  
18 dining services under mutual obligations of the  
19 parties; is that correct?

20 A Yes.

21 MR. XU: Your Honor, I offer Exhibit 2 into  
22 evidence.

23 HEARING OFFICER FREEBERG: Are there any  
24 objections? To receipt of Petitioner 2?

25 MR. HARTY: Yeah, may I voir dire the

1 witness?

2 HEARING OFFICER FREEBERG: Yes.

3 [VOIR DIRE BY MR. HARTY]

4 MR. HARTY: I want to make sure it's clear.

5 Two is the contract that covers students working in  
6 dining services, right?

7 THE WITNESS: Correct.

8 MR. HARTY: And by virtue of the -- the  
9 petitioned for unit, those individuals are excluded  
10 by definition; is that your understanding?

11 THE WITNESS: Yes.

12 MR. HARTY: That's for the same relevancy  
13 argument that they made on the internship handbook.  
14 I would argue that this is irrelevant, too.

15 HEARING OFFICER FREEBERG: Would you like to  
16 respond?

17 MR. MCCARTAN: Unlike the offsite internship  
18 handbook, this collective bargaining agreement and  
19 the one we intend to offer into evidence next are  
20 incredibly relevant because the unit we are seeking  
21 and we seek to add it to the existing unit by an  
22 honorable election. It's important to show  
23 community of interest. And also it directly goes  
24 to, you know, the college is raising policy  
25 objections to the board's assertion of jurisdiction

1 in this matter on the basis of interference with the  
2 educational relationship.

3 Given that the college has direct  
4 firsthand experience with collective bargaining in  
5 its educational relationship, these bargaining  
6 agreements, and the testimony surrounding them,  
7 directly add value and help the court ascertain, the  
8 extent of relationship, and the extent to which the  
9 employer's policy objections are warranted.

10 HEARING OFFICER FREEBERG: Does the  
11 employer --

12 MR. HARTY: Nothing further, Your Honor.

13 HEARING OFFICER FREEBERG: -- still object  
14 to the receipt of that based on that clarification?

15 MR. HARTY: We understood that was the  
16 reason they were offering it.

17 HEARING OFFICER FREEBERG: Okay. And the  
18 objection remains?

19 MR. HARTY: Yes.

20 HEARING OFFICER FREEBERG: Okay. And what  
21 is your position, I guess, you identified that the  
22 basis for the objection is that -- I'm sorry, could  
23 you just clarify, again, the basis for your  
24 objection?

25 MR. HARTY: Yes. I believe the objection to

1 the internship handbook was that the positions  
2 covered by it were excluded by definition from the  
3 petition for unit.

4 HEARING OFFICER FREEBERG: Right.

5 MR. HARTY: And the same -- the same  
6 rationale would apply.

7 HEARING OFFICER FREEBERG: Okay. My  
8 understanding is that the employer did not contest  
9 the -- the Armour Globe issue, that there was no  
10 challenge to that issue; is that correct.

11 MR. HARTY: No, there is, Your Honor. It's  
12 the -- it's that the Armour Globe issue is, we  
13 believe, is -- its on all four square with the  
14 petition itself. And that is, the determination as  
15 to whether the NLRB should exercise jurisdiction  
16 over educational positions addresses both the --  
17 the -- the jurisdictional issue and Armour Globe.  
18 They're one and the same.

19 HEARING OFFICER FREEBERG: Okay.

20 MR. HARTY: But we have taken the position  
21 that there is no community of interest of the  
22 hundreds of positions covered by these various job  
23 descriptions, if the board exercises jurisdiction,  
24 we would argue, imprudently.

25 HEARING OFFICER FREEBERG: Okay. And so if

1 the board exercises jurisdiction and it determines  
2 that there is a community of interest, do you raise  
3 the Armour Globe issue as still being an issue that  
4 the petitioned for unit is -- I -- I am not aware of  
5 that issue having been raised in the statement of  
6 position or at any prior time. That that is a  
7 distinct issue where the employer believes there is  
8 no community of interest between the petition for  
9 unit and the existing unit so.

10 MR. HARTY: We -- maybe I'm not being clear.  
11 It is, to the extent that we have -- we argue that  
12 there is no community of interest among any of these  
13 various positions.

14 HEARING OFFICER FREEBERG: Right. And to  
15 the extent, I guess -- well, I'm still maybe not  
16 clear on the Armour Globe position. I understand  
17 the argument that -- that your position is there is  
18 no community of interest among the petitioned for  
19 unit. If the board decides that there is a -- or if  
20 the regional director decides there is a community  
21 of interest there, what is the employer's position  
22 as to the community of interest with the existing  
23 unit?

24 MR. HARTY: There may be a community of  
25 interest with the existing unit with some of the

1 positions, but there certainly isn't with the  
2 totality of the petitioned for unit.

3 HEARING OFFICER FREEBERG: Okay.

4 MR. HARTY: And that was -- we argued in our  
5 brief that there is no community of interest among  
6 the various positions.

7 HEARING OFFICER FREEBERG: Right. Right.  
8 Okay.

9 MR. XU: May I respond?

10 HEARING OFFICER FREEBERG: Yes.

11 MR. MCCARTAN: So first of all, with regard  
12 to the Armour Globe issue, from our understanding,  
13 this issue was never raised in statement position.  
14 And Mr. Cunningham did not mention this argument  
15 during -- before we opened on the record when Your  
16 Honor asked about our positions on different issues.

17 And furthermore, even then we can  
18 litigate Armour Globe issue into this case. This  
19 collective bargaining agreement is extremely  
20 relevant, and should be admitted into evidence  
21 because it has a tendency to show that things in  
22 this agreement we agreed that employees covered in  
23 the unit are both students and employees, and it is  
24 the mutual obligation of the union and the employer  
25 to advance such goals.

1                   That shows, and as Mr. Watts and  
2 multiple other witnesses testified, this is the view  
3 of Grinnell College, that education is very  
4 important. We say that it is consistent across the  
5 dining services unit, and the petitioned for unit.

6                   Furthermore, it shows -- it addresses  
7 the policy objections raised in the statement of  
8 position by employer that having the collective  
9 bargaining relationship within the unit and the  
10 college, while hampered the educational  
11 relationship. Because as this, again, as this  
12 collective bargaining agreement shows -- in this  
13 agreement, we both agree to this mission, and we  
14 believe the union and employer can achieve this  
15 mission together.

16                   HEARING OFFICER FREEBERG: Based on the  
17 discussion that we've had, I do see a distinction  
18 between the exhibit that's being offered now and the  
19 exhibit that was rejected in that the -- for the  
20 reasons that have been identified, and the fact that  
21 I'm not -- I don't believe that the Armour Globe  
22 issue is being litigated in this proceeding. And,  
23 therefore, I will accept the exhibit to the record.

24                   MR. XU: Your Honor, I'm showing Mr. Harty  
25 what's been previously marked as Petitioner Exhibit

1 3. The second collective bargaining agreement.  
2 (Whereupon, Petitioner's Exhibit  
3 No. 3 was marked for  
4 identification reporter.)

5 Q (By Mr. Xu) I'm approaching the witness with  
6 the same. Approaching the court with exhibit. So  
7 this is No. 2 and that's to be Exhibit 3, what we're  
8 discussing right now.

9 Q (By Mr. Xu) Now, Mr. Watts do you recognize  
10 this document?

11 A I do.

12 Q What is this?

13 A It's the current contract.

14 Q And this is a fair and accurate copy?

15 A Appears to be.

16 Q And were [sic.] also present at all the  
17 bargaining sessions around this contract?

18 A Yes.

19 MR. XU: Your Honor, I offer Exhibit 3 into  
20 evidence.

21 HEARING OFFICER FREEBERG: Are there --

22 MR. HARTY: Same objection as the others.

23 HEARING OFFICER FREEBERG: Same objection,  
24 okay. And Exhibit 3, Petitioner Exhibit 3 will be  
25 received for the same reasons we just discussed.



1                   (Whereupon, Petitioner's Exhibit  
2                   No. 3 was received into  
3                   evidence.)

4           Q    (By Mr. Xu) I would like, again, direct your  
5 attention to Article Three, section One. It  
6 contains identical language about giving union  
7 employer roster?

8           A    Yes.

9           Q    As the previous bargaining agreement?

10          A    Yes.

11          Q    And then finally, I would like to direct  
12 your attention to Article Two, Section One.

13                         Again, in the -- this second  
14 collective bargaining agreement, the college and  
15 union mutually agree and acknowledge that the  
16 employees covered by this agreement referring to  
17 dining service employees, are first and foremost  
18 students in advancement of education and goals of  
19 employees and efficient operation of college dining  
20 services are mutual objections of the parties,  
21 correct?

22          A    Yes.

23          Q    Now, finally, I would like to ask you a few  
24 questions about how the dining services union bring  
25 change to the Grinnell College dining services. So

1 in both agreements there has been a wage increase  
2 negotiated by the union, correct?

3 A Yes.

4 Q And to your knowledge, was there any  
5 decrease in number of positions offered in dining  
6 services?

7 A There were some changes in staffing levels  
8 that happened during the 2017 year.

9 Q Yes. So Mr. Watts, I'm referring to the  
10 number of position offered that's available to  
11 student employees. Had that number decreased?

12 A The total number, let's call them work  
13 slots.

14 Q Yeah.

15 A There was a decrease in those in the 2017  
16 year.

17 Q Is it because of the wage increase?

18 A I -- I can't speak exactly to why because  
19 the dining services staff did this to -- to help  
20 with something I'm not -- I'm not exceptionally  
21 aware of why that happened.

22 Q You do not know whether the said decrease  
23 has anything to do with negotiated wage increase,  
24 correct?

25 A No, I do not know.

1 Q And you were at the bargaining table for  
2 both of these agreements?

3 A Yes, I was.

4 MR. XU: I have nothing further, Your Honor.

5 HEARING OFFICER FREEBERG: Would you like to  
6 ask additional questions?

7 MR. HARTY: I do. I would.

8 [RE-DIRECT EXAMINATION OF MR. WATTS]

9 QUESTIONS BY MR. HARTY:

10 Q Let's start first with the exhibit --  
11 Petitioner's Exhibit 11 that you were asked about.

12 MR. HARTY: Your Honor, we would offer  
13 Petitioner's Exhibit 11 at this time.

14 HEARING OFFICER FREEBERG: Okay. I do not  
15 have a copy, number one. And would you like to  
16 offer it, then, as employer exhibit -- I mean, I  
17 guess maybe for clarity of the record.

18 MR. HARTY: We can offer it as -- let's  
19 offer it as Exhibit M then.

20 HEARING OFFICER FREEBERG: Okay. So this  
21 document was previously referred to as Petitioner's  
22 11, it is now being marked at Employer M. And are  
23 there any objections to the receipt of Employer M?

24 MR. XU: No objection, Your Honor.

25 HEARING OFFICER FREEBERG: Then Employer

1 Exhibit M is received.

2 (Whereupon, Employer's Exhibit M  
3 was offered and received into  
4 evidence.)

5 Q (By Mr. Harty) Thank you. I have just one  
6 very brief line of questioning on this spread sheet  
7 of yours.

8 A Yes.

9 Q So you still have it in front of you? You  
10 were asked about this. I want to make sure we  
11 understand. In the categories where it says Sup  
12 students, S-U-P students.

13 A Right.

14 Q Do I understand you correctly that you said  
15 that that denotes students, members of positions  
16 contained in this petitioned for unit, who actually  
17 supervise other students?

18 A Yes.

19 Q Also, members of the unit, as you understand  
20 it petitioned for by the petitioner?

21 A That's correct.

22 HEARING OFFICER FREEBERG: Sorry, could you  
23 clarify. What page was that on?

24 MR. HARTY: The very first page.

25 HEARING OFFICER FREEBERG: Oh, page one.

1 MR. HARTY: If I may approach, Your Honor?

2 HEARING OFFICER FREEBERG: Yeah. Okay.

3 Q (By Mr. Harty) So for the record, so it's  
4 clear it's the second category in says S-U-P  
5 students, and there are X's next to every one of  
6 these positions that actually supervises other  
7 students?

8 MR. MCCARTAN: Objection, Your Honor. Just  
9 object to this line of questioning on the grounds  
10 that the supervisor status employees of the unit is  
11 not litigable. The employer did not raise any  
12 objections to this on this issue and therefore the  
13 issue --

14 REPORTER: I'm sorry, that therefore?

15 MR. MCCARTAN: Cannot be litigated at this  
16 hearing.

17 HEARING OFFICER FREEBERG: I will overrule  
18 the objection to the extent that counsel is just  
19 asking the witness to identify the area of the  
20 exhibit that's in -- on the record. And -- and  
21 that's my ruling.

22 MR. HARTY: Thank you. That's all I have.  
23 Exhibit M, I'm done with that. I do have more  
24 questions.

25 Q (By Mr. Harty) The handbooks that you were

1 shown, Exhibit E, the ITS handbook, you were asked  
2 about the -- what I'll call the employment aspects  
3 of this. Let's make sure one thing is clear.  
4 Exhibit E, ITS, in order to qualify to be, basically  
5 qualified for the positions covered by Exhibit E, do  
6 you have to be a student at Grinnell College?

7 A Yes.

8 Q All right. And you were also asked about  
9 Exhibit F, the peer educator handbook. In order to  
10 make -- to meet the basic qualifications for peer  
11 educator and the handbook that it covers, do you  
12 have to be a student at Grinnell College?

13 A Yes.

14 Q And you were also asked about the dining  
15 or -- I'm sorry, the library handbook. And is it  
16 also your understanding that in order to qualify for  
17 the positions described in that library handbook,  
18 you have to be a student at Grinnell College?

19 A Yes.

20 Q Now, contrast that, if you would, with the  
21 positions in dining services. Does the college hire  
22 individuals off the street, so to speak, for the  
23 positions in dining services?

24 A Yes.

25 Q You were asked about the impact of

1 collective bargaining on the dining unit. I'm not  
2 going to -- I'm not going to bore you with -- with  
3 details, but let me ask you this: The number of  
4 unfilled shifts that were in existence prior to the  
5 creation of the -- the unit, has that changed?

6 A Not substantially, no.

7 Q And you may not be aware of this, but are  
8 there still a number of unfilled shifts?

9 A Yes, there are.

10 Q And has it reached the point such that the  
11 catering operation, which is contained in dining,  
12 has essentially closed its doors for 30 days? Are  
13 you aware of that?

14 A I was not.

15 MR. XU: Objection. Facts not in the  
16 evidence. Counsel, has talked about catering  
17 services and its closure. It has not been -- it has  
18 not been established on record that the -- that --  
19 if -- if the employer wants to pursue this line of  
20 questioning, we would like foundation laid to the --  
21 Mr. Watts' knowledge about catering service and its  
22 recent closure.

23 HEARING OFFICER FREEBERG: Could you just  
24 repeat those last questions?

25 MR. HARTY: Yeah, I will. And actually,

1 I'll make it even more clear.

2 Q (By Mr. Harty) The collective bargaining  
3 agreements that is were shown, Exhibits 2 and 3.

4 A Yes.

5 Q Does Exhibit 3 actually govern positions  
6 that are in catering services?

7 A Yes.

8 Q Yeah, okay.

9 HEARING OFFICER FREEBERG: Okay. So with  
10 that clarification, do you still have an objection?

11 MR. XU: Yes. So the objection about a  
12 recent closure and why Mr. Watts would have that  
13 knowledge. Mr. Watts does not oversee catering  
14 services. There's no reason to assume, other than  
15 the employer's leading question, that he had  
16 knowledge of its closure.

17 HEARING OFFICER FREEBERG: And your position  
18 on that?

19 MR. HARTY: We're simply following up on the  
20 door that was opened by the petitioner by asking  
21 about working conditions in dining services as by  
22 comparison to the petitioned for unit, Your Honor.

23 HEARING OFFICER FREEBERG: Right.

24 MR. XU: Your Honor, the -- closed for 30  
25 days because of that. His question clearly suggests



1 an answer that about a closure of catering services,  
2 which is an inadmissible leading question.

3 HEARING OFFICER FREEBERG: Well, if the  
4 basis of the objection is what it was a leading  
5 question, could you rephrase the question?

6 Q (By Mr. Harty) Sure. Do you know whether  
7 dining services, the sub unit, if you will,  
8 catering, has indicated that it cannot operate for  
9 the next 30 days?

10 A I personally do not know that.

11 MR. HARTY: Then I withdraw the question.

12 HEARING OFFICER FREEBERG: Okay.

13 MR. HARTY: I think I'm done, Your Honor.  
14 Let me just look at my notes briefly. No other  
15 questions, Your Honor.

16 HEARING OFFICER FREEBERG: Okay.

17 MR. MCCARTAN: Motion to re-cross, Your  
18 Honor?

19 HEARING OFFICER FREEBERG: Yes.

20 [RE-CROSS EXAMINATION OF MR. WATTS]

21 QUESTIONS BY MR. MCCARTAN:

22 Q Drawing your attention, again, Mr. Watts, to  
23 Petitioner -- sorry, Employer Exhibit M, this list  
24 for your own purposes.

25 A Yes.

1 Q In determining whether or not to put an X in  
2 the column marked Sup students, do you use the  
3 colloquial definition of supervised or are applying  
4 some sort of legal test?

5 A I am looking at the job description and  
6 there is a check box that says, this position  
7 supervisors other students. And I make that X in  
8 there determined on whether or not the staff  
9 supervisor says that they supervise other students.

10 Q To your knowledge, can a student employee  
11 who works in one of these positions marked Sup  
12 Students, unilaterally fire or discipline a fellow  
13 student? Unilaterally?

14 A My -- I don't know that for sure. My -- my  
15 inclination would be to say no.

16 Q Moving on then past Exhibit M. I'm sorry,  
17 no further questions, Your Honor.

18 HEARING OFFICER FREEBERG: Okay. Do you  
19 have any additional questions?

20 MR. HARTY: I don't. I don't.

21 HEARING OFFICER FREEBERG: Okay. Then let  
22 me make sure I didn't have any questions. Okay. I  
23 have no questions for you, so you can step down.

24 THE WITNESS: Thank you.

25 HEARING OFFICER FREEBERG: The employer like

1 to call your next witness?

2 MR. HARTY: Yes. We call Cory McCartan.

3 (Whereupon,

4 CORY MCCARTAN,

5 was called as a witness, by and on behalf of the

6 Employer and, after having been duly affirmed, was

7 examined and testified as follows:)

8 HEARING OFFICER FREEBERG: Please state your  
9 name and spell it for the record.

10 THE WITNESS: My name is Cory McCartan.  
11 That's C-O-R-Y M-C capital C-A-R-T-A-N.

12 MR. HARTY: Thank you. May I proceed?

13 HEARING OFFICER FREEBERG: Yes.

14 [DIRECT EXAMINATION OF MR. MCCARTAN]

15 QUESTIONS BY MR. HARTY:

16 Q Mr. McCartan, will you tell us where you're  
17 from?

18 A I grew up in the Seattle, Washington area.

19 Q And how long did you live in Seattle,  
20 Washington area?

21 A Until I began attending Grinnell College at  
22 the age of eighteen.

23 Q And where do you live now, here in Grinnell?

24 A That's correct.

25 Q What brought you to Grinnell, Iowa?

1           A    Well, I applied to Grinnell College and was  
2   accepted and then decided to attend Grinnell  
3   College, and that's why I live in Grinnell, Iowa.

4           Q    Without -- without getting too detailed and  
5   personal, can you tell us, is it correct that  
6   Grinnell was one of the institutions that you looked  
7   at when you were deciding where to go to college?

8           A    Yes, I looked at several institutions and  
9   Grinnell was one of them.

10          Q    And can you just tell us a couple of the  
11   other institutions that were on your short list, if  
12   you will?

13          A    Yeah, I mean I think I should make clear  
14   that, I mean, I applied to a lot. I don't have them  
15   all in my head right now. But I will certainly  
16   speak to the ones that I was sort of finally  
17   deciding between --

18          Q    Yeah, short list.

19          A    -- and -- and just to make clear that  
20   that -- that list was sort of preselected by  
21   financial considerations. So I think I ended up  
22   deciding for the University of Washington, Grinnell  
23   College, McAllister College, Lafayette College. I  
24   think after financial considerations were made,  
25   those were sort of my final schools I was deciding

1 between.

2 Q Why did you choose Grinnell?

3 A To be frank, because Grinnell College had a  
4 substantial financial aid package which would allow  
5 me to actually attend the institution and I knew I'd  
6 be given the opportunity to work for the institution  
7 to help supplement that financial aid and help form  
8 education, something which would not have been  
9 nearly as possible or possible at all at some of  
10 these other institutions.

11 Q Fair enough. So I don't want to ask you any  
12 question about your personal financial position,  
13 okay? But I do want to ask you, at Grinnell  
14 College, is it -- is it fair to say that the student  
15 body is not class conscious?

16 A No, that's not a fair characterization. I  
17 would say the student body's incredibly class  
18 conscious.

19 Q Really?

20 A I would. I think that despite perhaps the  
21 administration's or some of the idealist statements  
22 of the college, class permeates the Grinnell College  
23 experience and that students are often keenly aware  
24 of the class of themselves and their fellow peers and  
25 how they fit into that. That spills over not just

1 in educational life, but also work life and campus  
2 life. And to try to separate class from any aspect  
3 of the Grinnell experience would be a gross  
4 mischaracterization of students' actual experiences.

5 Q Based on your personal experience and  
6 beliefs?

7 A Yes, and also, of course, my discussions  
8 with and understanding of other students' views on  
9 this matter and their experiences.

10 Q What about wealth conscious, would you say  
11 that the student body is also wealth conscious?

12 A I mean, to the extent that class and wealth  
13 intersect and that, you know, a wealthy family is --  
14 comes from the upper class, certainly. Now, do  
15 students talk about, you know, my family has a, you  
16 know, net worth of X. No, but to -- to, again, to  
17 pretend that students at the college are not aware  
18 to some extent of the wealth of their peers, and the  
19 wealth of their administrators and faculty, would,  
20 again, be misleading and wrong.

21 Q Do you -- have you taken a poll or notice,  
22 if you will, of which of your classmates receive  
23 financial aid?

24 A I wonder if you could be more specific?

25 Q Yeah. For example, are you aware of which

1 of your classmates that receive Pell grants?

2 A And when you say my classmates, how large a  
3 circle are you drawing there? Are we talking about  
4 my immediate friends, my classmates in classes I've  
5 had, or the Grinnell campus community as a whole?

6 Q Well, let's talk about the petitioned for  
7 unit. Let's call them your classmates.

8 A Okay. So you're asking me am I aware of  
9 say, are we talking personally identifiable  
10 information, or are we talking the overall  
11 percentage of students in this -- in this unit?

12 Q I think we're all aware of the general  
13 statistics. I want to know if you know, for  
14 example, if one of your -- one of the -- the -- the  
15 individuals that you live and go to school with on a  
16 daily basis receive financial aid in the form of a  
17 Pell grant, for instance?

18 A So the answer to your question, I do not  
19 personally have -- have met the vast majority of  
20 students in this position. So if one of them were  
21 to walk up to me and introduce themselves as a  
22 member of the petitioned for unit, if that was my  
23 only interaction of them, I would not be able to say  
24 whether or not they had received a Pell grant.

25 Q Okay.

1           A     But if we're talking about students I have  
2 interacted with in the petition, I'd say I'd be able  
3 to say with relative certainty whether or not that  
4 student is needy or comes from a lower class.  
5 Whether or not, you know, they have been given a --  
6 a Pell grant by the federal government, is subject  
7 to a whole host of factors that I would not be privy  
8 to having just met them, I can't speak to that.

9                     But if we're talking about financial  
10 aid in general, I would say that, yes, better than a  
11 random chance I would be able to identify, for a  
12 given student, whether or not they're on financial  
13 aid, given sort of factors that I'd be observing  
14 about them and my interaction with them.

15           Q     Is it important to you, to you personally to  
16 know the financial status of the individuals you  
17 attend college with here at Grinnell?

18           A     And when you say financial status, are  
19 referring for go whether or not they're on financial  
20 aid, or just in general they're sort of class?

21           Q     Financial status. I think that's fair.

22           A     Sorry, could you clarify? I'm not quite  
23 what you're asking. Are you asking, am I aware of  
24 their financial aid status, or am I aware of their  
25 general class?



1 Q General class.

2 A Okay. So I'd say it's important to me to  
3 try to understand the extent to which class has  
4 shaped their experiences here and how I interact  
5 with them. Do I care about whether or not they are  
6 on financial aid, no, not -- not in and of itself.  
7 Only to the extent to which financial aid and their  
8 financial situation overall negatively impacts their  
9 Grinnell College experience. So care about that at  
10 a personal level.

11 If we're talking of my position in  
12 the union, it's not relevant to me at all in my  
13 interactions with anyone whether or not they receive  
14 financial aid or anything like that. We don't  
15 discriminate on the basis of class.

16 Q Are you familiar with the concept of  
17 implicit bias?

18 A I would say that I am.

19 Q And do you -- do you at least agree that  
20 it's a laudable goal for Grinnell College to want to  
21 create an educational environment that is not class  
22 or wealth conscious?

23 A It's certainly a laudable goal.

24 Q Okay. Thank you. Would you want your  
25 classmates, and I'm talking about the several

1 hundred that have been petitioned. Not the comrades  
2 that you work with on a regular basis, but your  
3 general classmates, your -- your, you know,  
4 acquaintances, let's say, would you want them to  
5 know what your academic standing is?

6 A And when you say academic standing, are you  
7 referring to my status as a fourth year student at  
8 Grinnell College, or in general my academic  
9 performance in terms of my grade point average?

10 Q The latter.

11 A The latter. So just to repeat your  
12 question, you're asking if I -- it's important to me  
13 that the petitioned for unit and the members of the  
14 union and petitioned for unit know my academic  
15 status. I would say that, no, it's not important to  
16 me that they know that.

17 Q Okay. What's your current role with the,  
18 what I'll call the -- the -- the dining union?

19 A As in the organization UGSDW?

20 Q Yeah.

21 A I am the adviser to the executive board and  
22 currently the chairman of the organizing committee.  
23 And, I guess, I'm temporarily serving as their press  
24 secretary.

25 Q And you've had other roles. Can you just

1 briefly describe those for us?

2 A Certainly. As you are probably aware, I --  
3 I founded the organization In March of 2016 and  
4 served as its president from our first officer  
5 elections in May of 2016, and until December 31st of  
6 2017.

7 Q And you've -- you've bargained across the  
8 table from Mr. Watts and me and others, right?

9 A Correct.

10 Q And -- and you did an excellent job. It  
11 appeared that you took your obligation seriously;  
12 did you?

13 A I definitely took my obligation seriously.

14 Q And is it fair to say that you didn't pull  
15 any punches, if you will, because you had an abiding  
16 love for Grinnell College?

17 A I think to answer your question, I have to  
18 make a distinction here, which is that, in my mind,  
19 the college as an institution as an ideal is  
20 different from the college as embodied by the  
21 administrators and staff that work to run it day to  
22 day.

23 So I do have an abiding love for  
24 Grinnell College as an institution. I think there's  
25 a lot to be said about the things it does well and

1 the thing it does uniquely. And I view my --

2 Q Let me start over. Because I obviously  
3 asked a bad question. I wasn't implying that you  
4 didn't like the institution.

5 What I was asking you is, did you do  
6 your best to represent everyone covered by the  
7 collective bargaining agreements that have been  
8 marked as Petitioner's Exhibits 2 and 3?

9 HEARING OFFICER FREEBERG: I just -- I don't  
10 quite understand the -- the relevance of this  
11 particular issue. There's an objective standard as  
12 to the issues that we're litigating today. So I --

13 MR. HARTY: If I can, Your Honor, I'll tie  
14 it up in about one more question.

15 HEARING OFFICER FREEBERG: The relevance?

16 MR. HARTY: Yes.

17 HEARING OFFICER FREEBERG: Well, could you  
18 explain the relevance before we proceed?

19 MR. HARTY: Yes. I can. It goes directly  
20 to a fifth of the points that we identified for you  
21 concerning the -- the fact that the collective  
22 bargaining construct cannot be overlaid in conflict  
23 with other federal laws. And I'm going to get to  
24 that right now.

25 HEARING OFFICER FREEBERG: Okay.

1           A    So to answer your question, Mr. Harty --  
2    could you just restate it one more time?  Because  
3    I'm a little confused between pulling the punches  
4    and the -- could you just restate it one more time,  
5    please?

6           Q    (By Mr. Harty) Yeah.  Did you do your best  
7    to fulfill your fiduciary obligation to represent  
8    the people covered by Exhibits 2 and 3?

9           A    I mean, I'm not aware of a legal fiduciary  
10   obligation that existed on my part.  I did the best  
11   to represent the interests of our members, which  
12   were both economic interests and educational  
13   interests, as our members are students.  So I,  
14   throughout the collective bargaining process, I kept  
15   in mind both the ideals of Grinnell College and the  
16   ideals and its goals as you've talked about, and  
17   also the economic -- immediate economic well-being  
18   and long term economic well-being of our members,  
19   that's correct.

20          Q    Yes or no, you've read our position  
21   statement submitted to the board, correct?

22          A    I have read 80 percent of it.

23          Q    You were asking questions about -- of  
24   Mr. Lindberg about FERPA; do you recall that?

25          A    I -- Yes, I remember that I asked him

1 questions regarding FERPA. Although, my question  
2 primarily focused on Title IV and the HEA  
3 amendment --

4 Q FAFSA?

5 A -- given that Mr. Lindberg was not an expert  
6 in FERPA.

7 Q Right. Will you agree with me that there is  
8 an inherent conflict between FERPA and Grinnell's  
9 obligation to maintain confidentiality of student  
10 educational records, and your role and your  
11 obligation to fully represent individuals covered by  
12 the collective bargaining agreement?

13 MR. XU: Objection.

14 A No, it's okay, I'll answer.

15 HEARING OFFICER FREEBERG: Well, should we  
16 hear the objection, please?

17 MR. XU: Yes. This question clearly asks  
18 for improper opinion by Mr. McCartan as to whether  
19 there is an inherent conflict between Grinnell  
20 College's statutory obligations and the federal law  
21 and regulations and its core mission. Mr. McCartan  
22 has no legal training and has no knowledge exactly  
23 to the core mission of Grinnell College is and how  
24 it's manifested, accepted in context of compliance  
25 with federal regulations. It's also improper for

1 Mr. McCartan to answer this question.

2 HEARING OFFICER FREEBERG: And it did appear  
3 to be sourcing a legal conclusion. What is your  
4 position on that?

5 MR. HARTY: It's not a legal conclusion,  
6 Your Honor, it's his belief as to the -- what we  
7 believe to be conflicting legal precedence and his  
8 role as the chief bargaining officer. But we'll  
9 withdraw the question. I'll ask a different  
10 question.

11 HEARING OFFICER FREEBERG: Okay.

12 Q (By Mr. Harty) Isn't it true, Mr. McCartan,  
13 that while you were serving in your role with the  
14 union, you filed an unfair labor practice charge  
15 against Grinnell College because Grinnell College  
16 asserted that FERPA and the confidentiality  
17 obligations built into that law prevented the  
18 college from providing you personal confidential  
19 information concerning students at the college? Yes  
20 or no, did you file --

21 A No -- okay, yes, we filed an unfair labor  
22 practice. We did not file an unfair labor practice  
23 alleging what you said in your question. So if I  
24 could be allowed to clarify on the basis of the  
25 unfair labor practice Mr. Harty's reference?

1           Q    I'll actually, I'll ask you some more  
2 detailed questions. You asked for information  
3 concerning the identities and certain other personal  
4 information concerning students who were not in  
5 the -- the bargaining unit as covered by Exhibits 2  
6 and 3, correct?

7           A    That is not correct. As we tried to make  
8 clear at the time, throughout the processing of the  
9 ULP, I will continue to make clear now, all  
10 information requested outside the current bargaining  
11 unit was we asked for dis -- I'm sorry, for  
12 aggregated information. We did not ask for any  
13 personal -- we made it clear several times to both  
14 employer and their representatives, that we did not  
15 want financially identifiable information. I see no  
16 conflict between our ability to get information to  
17 represent our members, and the FERPA obligations to  
18 college, and our three year collective bargaining  
19 history is a testament to that.

20          Q    Let's make sure we're clear on this. You  
21 filed an unfair labor practice charge because the  
22 college refused to give you information that it  
23 believed and told you was confidential?

24          A    Could you say that one more time, please?

25          Q    Yes. You filed an unfair labor practice



1 charge with the board because Grinnell College  
2 refused to provide you with information that it  
3 claimed was confidential?

4 A As you have stated that, because the college  
5 claimed it was confidential, then I believe the  
6 answer would be yes.

7 Q Thank you. Do you currently have any campus  
8 employment?

9 A I do.

10 Q Can you tell us where?

11 A I work as a tutor for the mathematics and  
12 statistics department, and I also work in the  
13 mathematics lab.

14 Q Do you have Exhibits 2 and 3 in front of  
15 you? And I see that you don't.

16 A I don't.

17 Q You recall the -- the provision that your  
18 colleague asked Mr. Watts about, and that is the  
19 resuscitation of the mutual goals and obligations of  
20 the bargaining parties?

21 A I recall that testimony.

22 Q You participated in the negotiation of that  
23 provision, right?

24 A I participated in negotiating the contract.  
25 My recollection is not clear as to the extent in

1 which I participated in the negotiation of that  
2 section.

3 Q Okay. And you would agree, would you not,  
4 that Exhibit 3 shows that this contract will expire  
5 on June 30th of 2019, right?

6 A Yes, that -- that is -- that was what's in  
7 the contract.

8 Q Will you be here then?

9 A Will I be here meaning --

10 Q In Grinnell?

11 A -- in the town of Grinnell?

12 Q Yeah.

13 A I can't speak to that at this moment.

14 Q Will you be attending Grinnell College?

15 A As in will I be a current student of

16 Grinnell College?

17 Q Yeah.

18 A On June 30th, 2019, barring unfortunate  
19 circumstances, I will not be a student of Grinnell  
20 College.

21 Q That's my point. You didn't come here with  
22 the idea of attending Grinnell College for 10 or 20  
23 years, right?

24 A I certainly hoped that wouldn't be the case.

25 Q Your goal was to matriculate in four or five

1 years, whatever?

2 A That is correct.

3 Q And can we assume that when you do leave  
4 Grinnell College, graduation, following your career,  
5 you won't be serving as a math tutor at Grinnell  
6 College, right?

7 A I don't have plans currently to continue  
8 employment in the mathematics and statistics  
9 department. Although I have not been informed by my  
10 supervisor nor any other agent of the college that  
11 those two aren't incompatible.

12 Q Okay. And would you agree that although  
13 you're certainly in an advisory capacity right now,  
14 the folks who are in the current leadership roles in  
15 the -- the dining -- the student dining union, those  
16 are the individuals who -- who get to make decisions  
17 concerning what provisions in a collective  
18 bargaining agreement are important enough to -- to  
19 take firm positions on; is that right?

20 A That's not correct. All decisions about the  
21 collective bargaining agreement and what priorities  
22 are, are made by the membership after a democratic  
23 vote.

24 Q And I'm presuming that, okay, I'm presuming  
25 that. But can you agree with me that -- that the

1 provision that your -- your colleague emphasized  
2 that concerning mutual cooperation, that provision  
3 can be removed from the contract with a single  
4 bargaining session, can't it?

5 A So you're asking, is it possible that the  
6 parties could mutually agree to remove Section 2.1?

7 Q No, I'm asking if -- if the union can insist  
8 upon removal of that provision in future bargaining?

9 A It's my understanding that Section 2.1 does  
10 not cover a mandatory subject to bargaining, and  
11 therefore, the union would not be able to insist on  
12 the exclusion of that provision to impasse.

13 Nor would I add, does the union wants  
14 to remove Section 2.1 from this contract or any  
15 future contract.

16 Q That's your belief?

17 A Well, that's my understanding of our  
18 member's belief right now.

19 Q The members who are currently attending  
20 Grinnell College, right?

21 A Correct.

22 Q And is it fair to say, can we -- can you and  
23 I agree that all those members, like you, hope to be  
24 gone in four years?

25 A I would agree that there is turnover in the

1 unit.

2 MR. HARTY: Okay. I don't have any other  
3 questions.

4 HEARING OFFICER FREEBERG: Would you like to  
5 cross examine?

6 MR. XU: Yes, Your Honor.

7 [CROSS EXAMINATION OF MR. MCCARTAN]

8 QUESTIONS BY MR. XU:

9 Q Mr. McCartan, I just have a few questions  
10 about the different union involvements that you  
11 have. First, Mr. Harty asked you many questions  
12 about an unfair labor practice charge that the union  
13 filed back in 2017. Can you tell us what  
14 circumstances or events contributed to that  
15 decision?

16 A Certainly. As part of its study on  
17 understaffing at the college, and specifically in  
18 dining services, the union -- well, I should preface  
19 this by saying, the union became concerned about  
20 understaffing after objection -- that issue was  
21 raised by members. And so to study this issue of  
22 understaffing, the union decided it would be  
23 necessary to understand how employees move about  
24 campus and transfer jobs.

25 And so to elucidate that, it provides

1 some natural hard data from which to work from, we  
2 requested from the employer a list -- and I should  
3 add, that I mean, was in the room, we talked about  
4 this, privacy concerns were foremost in our mind at  
5 that time, and we specifically formulated our  
6 information request so as to stay in line with FERPA  
7 and other statutes.

8           We asked the employer for a list of  
9 employees in the unit and the job classifications  
10 that they worked, nothing beyond that. And we also  
11 asked for simply the number of employees in other  
12 departments on campus.

13           What we could have asked for and what  
14 would have been even more useful would have been to  
15 ask for essentially employer Exhibits B and D, which  
16 provide each student employee and the departments,  
17 but we did not ask for that.

18           Now to continue on that question of  
19 circumstances, after the college repeatedly refused  
20 to provide the requested information, the union  
21 filed an unfair labor practice for that information,  
22 which, again, did not include personally  
23 identifiable information on students outside the  
24 existing unit. And furthermore, had no mention of  
25 federal work study or academic standing status.

1 That petition was withdrawn. I think it was finally  
2 dismissed and withdrawn a month or two ago.

3 Q So was the issue resolved then?

4 A Was the issue resolved?

5 Q Yes.

6 A I mean, I'm no longer an officer of the  
7 union, but it's my understanding among myself and  
8 other -- the current leadership that we -- we now  
9 have the information we need to continue our study  
10 of understaffing, and the ULP is no longer an issue  
11 for us.

12 Q Now, moving on the context of collective  
13 bargaining, so the UGSDW started in spring of 2016?

14 A That's correct.

15 Q And were there any members that graduated in  
16 2106?

17 A There were. I believe -- sorry, could you  
18 clarify? Were -- are you asking were there  
19 members --

20 Q Who graduated from Grinnell College --

21 A In 2016.

22 Q -- in May, 2016?

23 A No. At the time of the -- of Grinnell  
24 College commence services in 2016, none of the  
25 graduating class were members of the union.

1 Q Were there any members that graduated in  
2 2017?

3 A There were members that graduated in 2017.

4 Q Were there members that graduated in 2018?

5 A There were members who graduated in 2018.

6 Q And now are these members are the current  
7 members. Has anyone ever indicated to you anything  
8 about the mutual obligation provision in any of the  
9 contracts?

10 A Could you elaborate slightly?

11 Q So in direct examination, Mr. Harty asked  
12 you about mutual obligations provisions in our  
13 contracts?

14 A Uh-huh.

15 Q And during your year at -- during your time  
16 at Grinnell College, you've been -- has any member  
17 raised any concern about it?

18 A Well, I mean, I'm sure they're concerned  
19 broadly. I'm thinking now to our meetings, our  
20 general meetings at which we discussed collective  
21 bargaining priorities. And I'm not going to be able  
22 to recall specific words that were spoken, nor would  
23 I imagine would those be admissible, but certainly  
24 the sentiment was made clear by a substantial number  
25 of our members at these meetings that they felt we



1 were primarily students, and all off our bargaining  
2 demand should be interpreted in that context.

3 And so, I mean, has any student  
4 expressed a desire to eliminate these provisions  
5 from our contract or any other contracts, no. Have  
6 they instead offered their strong view that they are  
7 fundamental to a contract in this context, yes, they  
8 have.

9 Q Now, furthermore, during bargaining  
10 sessions, do you recall any heated back and forth  
11 around this provision?

12 A To my recollection, this provision was  
13 offered as boilerplate by the employer during our  
14 first -- or very first -- what's the word -- package  
15 proposal. Proposal was the word I'm looking for, in  
16 the very first proposal in June or July, 2016.

17 And in our conference call following  
18 up on the proposal, both parties agreed, if I  
19 remember heartily, that these provisions were  
20 necessary and we both agreed to them, and since  
21 then, these Section 2.1 has not been raised at all  
22 in any further bargaining sessions.

23 MR. XU: I have nothing further, Your Honor.

24 HEARING OFFICER FREEBERG: Okay. Any other  
25 questions on direct -- redirect?

1 MR. HARTY: Yes, Your Honor. Just one or  
2 two brief questions.

3 [RE-DIRECT EXAMINATION OF MR. MCCARTAN]  
4 QUESTIONS BY MR. HARTY:

5 Q You just testified that in -- in -- forming  
6 the request for information that was at issue in the  
7 unfair labor practice charge, you -- I think you  
8 heard you correctly say, you quote, could have asked  
9 for more. But you -- but you chose not to.

10 A Well, I think when I say could have, I mean  
11 that it would have been possible for us, and indeed,  
12 might have been useful for us to put that down.  
13 However, we have wide latitude and discretion in  
14 choosing what to put in the information request.  
15 And my statement that we could have, was in no way  
16 an indication that I thought we had a legal right to  
17 the information or contractual right to the  
18 information.

19 Q And, in fact, you could ask for information  
20 concerning the academic performance of each of the  
21 members of the union, couldn't you?

22 A We could ask for their shoe size, we're not  
23 going to get it. It's not relevant, we wouldn't ask  
24 for it. We would not ask for the academic  
25 information. We could put that request into

1 writing, we would not expect it to be granted. We  
2 would not want it to be granted.

3 Q The answer's yes, you could ask?

4 A Would we be physically able to, yes. Yes,  
5 the answer's yes.

6 Q And you could ask for financial status  
7 concerning financial aid?

8 A Again, stressing that this does not in any  
9 way impact our legal right to that information, I  
10 believe that, yes, we could put that into writing  
11 and request that.

12 MR. HARTY: I have nothing further.

13 HEARING OFFICER FREEBERG: Okay.

14 MR. XU: I have no further questions.

15 HEARING OFFICER FREEBERG: No further  
16 questions, okay. You can step down. We can take a  
17 short break. Ten minutes.

18 (Whereupon, a brief recess was  
19 taken off the record.)

20 HEARING OFFICER FREEBERG: We will go on the  
21 record.

22 MR. MCCARTAN: Your Honor, petitioner moves  
23 to amend the RC petition. We'd like to add to the  
24 previous students who should excluded, employees  
25 should be excluded from the union. We'd like to

1 exclude any service learning work study program  
2 positions.

3 HEARING OFFICER FREEBERG: Okay. Service  
4 learning work study positions?

5 MR. MCCARTAN: Yes.

6 HEARING OFFICER FREEBERG: And what is the  
7 employer's position on that?

8 MR. CUNNINGHAM: Well, at this point, Your  
9 Honor, we're not taking a position on it. We  
10 haven't had a chance to analyze this. Because I  
11 think you indicated this is something the regional  
12 director will have to rule upon. Right now, they  
13 are defined in the unit by the -- by the definition  
14 in the petition. So at this point, we will reserve  
15 our position. Right now they're still in the unit.  
16 I think we need to go ahead and take our -- our  
17 evidence on this and then proceed.

18 HEARING OFFICER FREEBERG: Okay. The motion  
19 is received to amend the petition, and we will  
20 present that issue to the regional director and  
21 provide a ruling later.

22 MR. MCCARTAN: Thank you.

23 HEARING OFFICER FREEBERG: And at this time,  
24 the employer, I understand, has a witness to call?

25 MR. CUNNINGHAM: We do, Your Honor. We'll

1 call Susan Sanning.

2 (Whereupon,

3 SUSAN SANNING,

4 was called as a witness, by and on behalf of the

5 Employer and, after having been duly sworn, was

6 examined and testified as follows:)

7 \* \* \* \* \*

8 HEARING OFFICER FREEBERG: Okay. Please  
9 state your name and spell it for the record.

10 THE WITNESS: Susan Sanning, S-U-S-A-N  
11 S-A-N-N-I-N-G.

12 HEARING OFFICER FREEBERG: Thank you.

13 MR. CUNNINGHAM: May I proceed.

14 HEARING OFFICER FREEBERG: Yes.

15 [DIRECT EXAMINATION OF SUSAN SANNING]

16 QUESTIONS BY MR. CUNNINGHAM:

17 Q Good afternoon, Ms Sanning. Thank you for  
18 your patience today. Could you please tell us what  
19 your position is here at Grinnell College?

20 A So I'm the Associate Dean in the Center for  
21 careers Life and Service, and also the Director for  
22 Service and Social Innovation in the CLS. Center  
23 for Careers Life and Service, CLS.

24 Q And how long have you been in this position?

25 A Approximately seven years.

1 Q How long have you been employed at Grinnell  
2 College?

3 A That's more complicated. This is my second  
4 time. This time, seven years.

5 Q Okay. Very good. Could you tell us,  
6 briefly, the purpose of the Center for Careers Life  
7 and Service? What does it do?

8 A Sure. The center for Careers Life and  
9 Service functions as the college's career center.  
10 We do that a little bit differently. Rather than  
11 define career only as what somebody does for pay,  
12 for work, over time it's the coming together of  
13 one's professional, personal, and civic aspirations.

14 And what we try to do is provide  
15 advising so that students can explore how those  
16 intersect for each -- each student, as well as offer  
17 experiential learning opportunities that further the  
18 educational mission of the college.

19 Q And in your current role, do you supervise a  
20 program known as the service learning work study  
21 program?

22 A I probably do.

23 Q Okay. And this is a -- a paid community  
24 service program; is that correct?

25 A That's correct.

1 Q And -- and a program by which the college is  
2 the employer of record?

3 A Correct.

4 Q All right. Could you please describe the  
5 program briefly.

6 A Sure. What we do -- so the -- what we do is  
7 we offer students the opportunity to work and do  
8 community service at the same time. First, and  
9 foremost, the program is focused on community driven  
10 service, as well as student learning, and  
11 secondarily as a mode of employment. I feel  
12 strongly that service, volunteering, time away is a  
13 privilege that some of are students can't afford.  
14 And so this allows all of our students to be able to  
15 participate in transformational experiences in the  
16 community, and explore the civic aspect of their  
17 identity.

18 Q And how is the employment aspect of this --  
19 so they're -- they paid, correct?

20 A Correct.

21 Q And you're sending these students out to  
22 different locations, if you will --

23 A Uh-huh.

24 Q -- institutions, organizations to do work?

25 A Correct. So we send students to Blank Park

1 Zoo, to Drake Community library, to the schools, to  
2 hospice facilities, to organizations that deal with  
3 immigrant rights. And so we serve as the employer  
4 of record, and the site provides a mentor, a  
5 learning mentor for the student on site.

6 Q Okay. And how is -- how is this payment  
7 funded?

8 A Brad can probably go a little bit more  
9 further into this. But it has -- there's a number  
10 of different pots of money. One of that is the  
11 federal work study money that Brad was talking about  
12 earlier. I believe he mentioned that the federal  
13 government requires that we spend at least  
14 seven percent of the federal work study dollars on  
15 something called community service work study, which  
16 is what the program was called when I first  
17 inherited it.

18 The college -- since I felt strongly  
19 that it was a stigmatized program at that point,  
20 because only students who had literally federal work  
21 study in their financial aid packages, even if they  
22 had work study that was funded by things other than  
23 the federal government, were not eligible for the  
24 program. And so now we have another bucket of money  
25 so that the program is available to any student on



1 campus who can legally work on campus.

2 Q Okay. Very good. And -- and as part of the  
3 student's participating in these paid service  
4 opportunities, are -- are they given a -- a student  
5 handbook?

6 A They are given a student handbook.

7 Q Okay. Let me show you, and if I may  
8 approach, Your Honor? And I'm handing to  
9 Mr. McCartan, what will be identified as Exhibit C,  
10 and is this the original.

11 Ms. Sanning, I'm showing you what has  
12 been marked as Employer Exhibit C. And can you  
13 identify this for me, please, what is this?

14 A It's the Grinnell College service learning  
15 work study student handbook.

16 Q Okay. And is this something that was  
17 developed by your department to cover these student  
18 employees who go do the paid community service?

19 A That's correct. Because the program  
20 includes students who are being paid through federal  
21 work study, there are additional requirements in  
22 addition to what is in the general student handbook  
23 on campus that we have to comply with. And so, we  
24 added that into here as well as the values and our  
25 learning goals.

1 Q Okay. And let's talk about that then. If  
2 you look at the -- the cover -- oh, I'm sorry, so  
3 this is -- Exhibit C is a true and accurate copy of  
4 the student handbook, true?

5 A It is.

6 Q And it's the current student handbook?

7 A It's the current student handbook. They're  
8 always in process.

9 Q Very good. I offer Exhibit C, Your Honor.

10 HEARING OFFICER FREEBERG: Okay. Are there  
11 objections?

12 MR. XU: No, Your Honor.

13 HEARING OFFICER FREEBERG: Okay. Employer C  
14 is received.

15 (Whereupon, Employer's Exhibit C  
16 is offered and received into  
17 evidence.)

18 Q (By Mr. Cunningham) Thank you. Looking at  
19 the cover then, Ms. Sanning, could you take a look  
20 at the last sentence there refers to the program  
21 providing a community based campus employment  
22 position. Do you see that?

23 A I do.

24 Q And can you explain exactly what that means?

25 A What it means is that the college is the

1 employer of record, not the work site.

2 Q Okay. And there are certain aspects that  
3 the college -- or certain standards that the college  
4 has for the students engaging in this community  
5 service, true?

6 A True.

7 Q All right. And would it be accurate to say  
8 that these positions are somewhat unique? Meaning,  
9 the different positions require a different set of  
10 skill sets or a different set of interests?

11 A Each of the positions have their own job  
12 description. The job description is designed by the  
13 community partner. And then the community partner,  
14 and then we work with the student to apply for those  
15 positions through Handshake with cover letters,  
16 resumes, those kinds of things. So each one is  
17 distinctive, yes.

18 Q Okay. And what, generally speaking, if you  
19 look at the second page of the handbook, it starts  
20 under the vision section. It talks about the -- the  
21 opportunity here is to -- is to allow the students  
22 to, quote, intentionally explore how service and  
23 social innovation may blend with one's personal  
24 values, academic interests, and emergency  
25 professional skills and goals, close quote. Do you

1 see that?

2 A I see that.

3 Q Can you explain or elaborate how that works  
4 in the context of this program?

5 A So some of it happens organically on site  
6 during the experience. I think exploration happens  
7 as you're actually doing work with somebody. But  
8 then we also give students additional opportunities  
9 to intentionally reflect and self assess where they  
10 are in terms of looking at the intersection between  
11 their personal, professional, and civil aspirations.

12 We have -- so if you assume that a  
13 position -- not all student positions are like this,  
14 but you assume that it's a nine month position. The  
15 students do a self assessment at the beginning, in  
16 the middle around winter break, and then towards the  
17 end, so that's their self assessment.

18 Q And what purpose does -- and how do those  
19 self assessments relate to the educational mission  
20 of the college?

21 A The program itself has learning goals.  
22 Those learning goals are mapped to the learning  
23 goals both for the Center for Careers Life and  
24 Service, and to the college's learning goals. And  
25 those -- those learning goals shape the questions

1 that students are asked to reflect upon.

2 Q All right. And so, again, this is all for  
3 the student's benefit?

4 A And the community partners, too.

5 Q Well, that's right. And I didn't mean to --  
6 I didn't mean to imply that. But I meant in terms  
7 of doing the self assessment, that was to aid the  
8 student --

9 A In that reflective process, correct.

10 Q Yes, okay. If you look at page four of  
11 Exhibit C. There are those student learning goals  
12 that you mentioned.

13 A Uh-huh.

14 Q And the first goal is, as you see there,  
15 is -- is that basically, one of the goals is that  
16 the students will be able to -- and I'm  
17 paraphrasing -- leverage those aspects of their  
18 education and apply that in multiple disciplines,  
19 correct?

20 A So, yes. What we're saying is they're  
21 studying multiple disciplines, and what we're hoping  
22 that they can do is to use those lenses to solve  
23 problems that are facing people around the world and  
24 to serve the common good.

25 Q Okay. And by doing that, you're attempting

1 to fulfill the educational mission of the college in  
2 giving them another aspect of education through  
3 community based -- paid community based service,  
4 true?

5 A True.

6 Q Okay. And if you -- in terms of the types  
7 of work that the students who are being paid do for  
8 these community partners, can you kind of describe,  
9 in general, what it is they -- they might do?

10 A In the most general terms, we tell our  
11 community partner a number of things. One of -- one  
12 of which is that the work that the student does  
13 should be able to be done by a volunteer, given  
14 reasonable training. It can't displace other  
15 workers. So it can't be -- so, for instance, one  
16 of -- if you're working in a preschool, what you're  
17 doing can't replace work of a, like, a teacher who  
18 would otherwise be employed because of ratios that  
19 are needed between student and children. So it  
20 would have to be capacity building in that sense.  
21 So it can't displace other workers. So in a very  
22 general sense, that's -- each community partner  
23 defines what the students do. But those are the  
24 general parameters.

25 Q All right. And and they're paid for this

1 service?

2 A They're paid by the college for the service.

3 Q Okay. And how does -- I just want to make  
4 certain we are clear here. And I know Mr. Lindberg  
5 discussed this earlier, but how does the federal --  
6 federal work study financial aid fit into this  
7 particular program?

8 A So seven percent of what the federal  
9 government gives to -- actually the college actually  
10 does more than the seven percent. So the college is  
11 required to spend at least seven percent of the  
12 federal work study dollars on community service work  
13 study, is what their language is.

14 Q All right.

15 A The college actually spends more, usually,  
16 of the federal work study money than that, which is  
17 unique. And then the college also adds another  
18 \$30,000 to that so that students who have work study  
19 in their financial aid package but it's not federal  
20 work study can participate, as well as students who  
21 don't have that in their financial aid package at  
22 all.

23 Q And to that end, as we were preparing for  
24 this hearing, we talked about those students who  
25 participate in this program and are employed through

1 this program. And I think I'm referring to a list.

2 I don't know that you've seen it in this form.

3 But -- and I'm referring to Exhibit B.

4           There are students who have entries  
5 that refer to community service center; is that  
6 correct?

7           A    Which is what -- what was happening when I  
8 first got here, correct. It just has -- the name  
9 hasn't been updated in your list.

10          Q    Understood. What I was getting at is, those  
11 are students in your program or in the program we've  
12 been discussing?

13          A    Correct.

14          Q    Okay. And I understand that there are other  
15 students who are participating in the program, but  
16 may not be doing through federal work study, and  
17 those students on this list, some of them, reflect  
18 the Department of Financial Aid; is that correct?

19          A    I believe the students on your list -- I  
20 think I'm getting into FERPA issues here.

21          Q    Oh, okay. Okay. That's fine.

22          A    And I'm a little concerned because I don't  
23 know who has the list and I don't want to go there.

24          Q    I wanted to be -- I -- I don't want to run  
25 afoul of anything here. But I just wanted to make



1 certain that we could identify, if we needed to,  
2 which workers we're -- we're talking about. So that  
3 would be -- some would be marked by community  
4 service center; is that right?

5 A That is correct.

6 Q And there would be others on here that are  
7 not marked with that, but are marked with a  
8 different indication; is that true?

9 A Correct.

10 Q Okay.

11 HEARING OFFICER FREEBERG: Is there a way  
12 to -- just so the record is clear, is there a way  
13 to --

14 THE WITNESS: I gave Mr. Cunningham a list  
15 of the students in the program.

16 HEARING OFFICER FREEBERG: Right. Is there  
17 any way for the record to be clear as to which, you  
18 know, classification this includes without  
19 identifying names or something like that?

20 MR. CUNNINGHAM: I'm not aware of any at the  
21 moment, Your Honor. We'll have to discuss that off  
22 the record.

23 HEARING OFFICER FREEBERG: Okay. Maybe the  
24 parties could stipulate to which classification this  
25 includes?

1 MR. MCCARTAN: We would stipulate that any  
2 work location listed as community service center  
3 indicate that a student on the list works for the  
4 service learning work site study program.

5 THE WITNESS: There are more than that.

6 MR. CUNNINGHAM: Yeah, there are more than  
7 that and those are the that ones we're concerned  
8 about.

9 HEARING OFFICER FREEBERG: Okay.

10 MR. CUNNINGHAM: So, and I think the witness  
11 already testified to that, so.

12 HEARING OFFICER FREEBERG: Yeah. So my  
13 understanding -- do you plan to have additional  
14 questions?

15 MR. CUNNINGHAM: No, I'm actually done with  
16 this witness, Your Honor.

17 HEARING OFFICER FREEBERG: Okay. And did  
18 you intend to cross examine the witness?

19 MR. MCCARTAN: I will have two questions.

20 HEARING OFFICER FREEBERG: Okay. Go ahead.

21 [CROSS EXAMINATION OF MS. SANNING]

22 QUESTIONS BY MR. MCCARTAN:

23 Q Ms. Sanning, these community partners --  
24 these community partners, it's fair to say these  
25 community partner oversee the day to day operations,

1 day to day work of the students who participate in  
2 this program?

3 A Correct. What we like to say is they mentor  
4 the students on site; and Keira Wilson and K-E-I-R-A  
5 W-I-L-S-O-N, is the supervisor on record.

6 Q And you mentioned the Blank Park Zoo  
7 program?

8 A Uh-huh.

9 Q Are you familiar with the students who work  
10 that?

11 A I am. Well --

12 Q Currently?

13 A -- I am familiar with some of them. It's  
14 not just work study students that do that. We  
15 have -- the way that the program often works is our  
16 service learning work study students supervise a  
17 group of volunteers, and serve as a liaison between  
18 the organization and campus. And so there are  
19 students that I am not familiar with who work with  
20 the Blank Park Zoo, and there are -- we have some  
21 that are doing as that as well.

22 Q But the students who lead the Blank Park Zoo  
23 program, you know them and who they are? Who get  
24 paid for their work, too --

25 A There are -- there are students who do that,

1 yes.

2 Q And you're aware who those are?

3 A I don't know that I could tell you their  
4 names right off the top of my head.

5 Q But let's -- so, for example, and if you  
6 don't, that's okay. But are you --

7 A I don't have the list in front of me.

8 Q But so would you -- do you know if  
9 Ms. Carolyn Morris works for the service learning  
10 work site program at the Blank Park Zoo?

11 A I would, to the best of my knowledge, say  
12 yes.

13 MR. MCCARTAN: Okay. May I approach the  
14 witness, Your Honor?

15 HEARING OFFICER FREEBERG: Yes.

16 Q (By Mr. McCartan) Ms. Sanning, this is  
17 Employer Exhibit D. Actually, it's the same thing  
18 as B. This is the list of students the employer has  
19 provided who work these sorts of jobs. And I'm  
20 wondering if you could look at this and would you  
21 agree that this is alphabetized?

22 A Uh-huh. Yes.

23 Q So now turning to the L's, can you tell me  
24 if Ms. Lorch's name appears on this list?

25 REPORTER: I'm sorry, who's name?

1 Q (By Mr. McCartan) Lorch, L-O-R-C-H.

2 A I don't see it.

3 MR. MCCARTAN: Thank you, Ms. Sanning. No  
4 further questions.

5 THE WITNESS: It might be that the student  
6 withdrew from the position and I don't know that,  
7 though.

8 HEARING OFFICER FREEBERG: Okay.

9 THE WITNESS: I will say that --

10 HEARING OFFICER FREEBERG: Well, I mean, if  
11 there's no other questions then.

12 MR. CUNNINGHAM: Nothing further. Thank  
13 you, Your Honor.

14 HEARING OFFICER FREEBERG: Thank you. You  
15 can step down. And is it still correct that the  
16 employer has not taken a position one way or another  
17 as to whether, if there was a unit found  
18 appropriate, whether or not service learning work  
19 study positions should be included or excluded?

20 MR. HARTY: That's right.

21 HEARING OFFICER FREEBERG: That there is no  
22 position taken?

23 MR. HARTY: Right. It's consistent with our  
24 position that there's no community service among --  
25 or community of interest.

1 HEARING OFFICER FREEBERG: Okay.

2 MR. HARTY: Among any of the petitioned for  
3 positions.

4 HEARING OFFICER FREEBERG: Okay. Do you  
5 have one more witness to call.

6 MR. CUNNINGHAM: No, I don't believe so,  
7 Your Honor.

8 HEARING OFFICER FREEBERG: Okay.

9 MR. CUNNINGHAM: Are we done? I think we're  
10 done.

11 HEARING OFFICER FREEBERG: Okay. Let's go  
12 off the record.

13 (Whereupon, a brief recess was  
14 taken off the record.)

15 HEARING OFFICER FREEBERG: Back on the  
16 record. The petitioner would like to call their  
17 first witness.

18 MR. MCCARTAN: Yeah. Your Honor, Petitioner  
19 calls Nancy Combs.

20 (Whereupon,

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

25 \* \* \* \* \*

1 HEARING OFFICER FREEBERG: State your name  
2 and spell it for the record.

3 THE WITNESS: My name is Nancy Combs  
4 N-A-N-C-Y, C-O-M-B-S.

5 [DIRECT EXAMINATION BY MS. COMBS]

6 QUESTIONS BY MR. MCCARTAN:

7 Q Ms. Combs, could you describe your  
8 relationship with the college?

9 A I am the Controller and Assistant Treasurer.

10 Q And how long have you served in this  
11 position?

12 A I've been at the college for sixteen years.  
13 The con -- the assistant treasurer title has come in  
14 the last several years.

15 Q And, Ms. Combs, what is your educational  
16 background?

17 A I have a -- an accounting degree from the  
18 University of Iowa, and I'm a licensed CPA.

19 Q And apart from your licensure, what other  
20 professional experience do you have in accounting?

21 A Prior to coming to the college, I worked at  
22 several for profit institutions. A bank holding  
23 company, a leasing company, Fortune 500 training  
24 company, those type of positions.

25 Q And, Ms. Combs, would you just briefly

1 detail your job responsibilities as the controller  
2 and assistant treasurer at the college?

3 A So as the controller, that means the  
4 accounting department reports to me. So that would  
5 include accounts payable, payroll, the cashier  
6 office, financial reporting, audit, various tax  
7 reporting such as our 990, and various compliance  
8 and survey reporting.

9 Q And could you elaborate on more specifically  
10 what your role in the tax compliance involves?

11 A So it would be, you know, as the college we  
12 have several tax reporting requirements, whether  
13 it's 1099s in our accounts payable, or 1098 T's  
14 through the cashier office, W-2's through payroll,  
15 and the completion of 990, which is our information  
16 return to the IRS on an annual basis.

17 Q So let's talk about the -- the 990 and other  
18 tax compliance. In examining and preparing these  
19 tax returns and -- I mean, do you follow the IRS  
20 instructions and regulations?

21 A Yes.

22 Q Now, for the 990 and for tax withholding  
23 purposes, and in general for tax purposes, does the  
24 college classify workers in student employment  
25 positions as independent contractors?



1           A    Students who are classified as working  
2 through the college are -- receive a W-2 through  
3 payroll.

4           Q    So are they classified as independent  
5 contractors?

6           A    No.

7           Q    Does the college classify these workers in  
8 student employment positions as employees, just for  
9 the purposes of tax compliance?

10          A    Yes.

11               MR. MCCARTAN:  No further questions, Your  
12 Honor.

13               HEARING OFFICER FREEBERG:  Okay.  Would you  
14 like to cross examine?

15               MR. HARTY:  No questions.

16               HEARING OFFICER FREEBERG:  No questions.  
17 Okay.  Then you can step down.  Then let's adjourn  
18 for the day and so we can go off the record.

19                               (The hearing was adjourned for  
20                               the day at 5:00 p.m.)

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P R O C E E D I N G S

(Time Noted: 9:07 a.m.)

HEARING OFFICER FREEBERG: At the end of the day -- actually, during the hearing yesterday, the employer made a motion to amend its statement of position, and we've just discussed that off the record. The regional director has granted that and so, as I understand it, the employer will be offering, as an exhibit, the amended statement of position; is that correct?

MR. HARTY: That's correct.

HEARING OFFICER FREEBERG: Okay. And if you'd like to do that at this time, you can or --

MR. HARTY: We'll just do it at the close.

HEARING OFFICER FREEBERG: At close, okay. And the other motion that was made yesterday was by the petitioner to amend the petition to exclude service learning work study positions; is that accurate.

MR. XU: Yes.

HEARING OFFICER FREEBERG: And I've also discussed that with the regional director. The motion to amend the petition is granted. As to -- you know, and that is just with respect to the

1 petition itself. So as to whether that will  
2 ultimately be included or excluded, if any unit is  
3 found appropriate, will probably be determined by  
4 the decision writer, but that is granted with  
5 respect to amending the petition.

6 Are there any other motions that you  
7 would like to address on the record at this time?

8 MR. MCCARTAN: No, Your Honor.

9 HEARING OFFICER FREEBERG: And, I guess, I  
10 will also clarify for the record. My understanding  
11 as to the employer's position on that issue is  
12 that -- that there is no overall community of  
13 interest and, therefore, no community of interest  
14 among the petition for unit for service learning  
15 work study positions, but the employer has not taken  
16 a position as to this particular classification  
17 specifically.

18 MR. HARTY: Right. As of yesterday, we  
19 do -- our position is that they should be included  
20 because they are, in fact, part of the -- the entire  
21 petition for unit as described. And the amendment,  
22 from our point of view, doesn't clarify exactly who  
23 would and would not be covered. And they are still,  
24 by contract, as I understand the -- the petitioner's  
25 position, because they believe they have different

1 working conditions, report to different supervisory  
2 personnel, etc. By contract, the college is  
3 responsible for them still. So we believe that to  
4 the extent any of these positions are -- are  
5 applicable, they are, too.

6 HEARING OFFICER FREEBERG: Okay.  
7 Understood. And will the petitioner be -- or will  
8 the parties be able to clarify on the record their  
9 positions as to who is covered within the scope of  
10 service learning work study positions? Not names  
11 necessarily, but just classifications.

12 MR. CUNNINGHAM: I think we can, yeah.

13 MR. MCCARTAN: Yes.

14 HEARING OFFICER FREEBERG: Okay. Great.  
15 Okay. Then would union like to call your first  
16 witness for the day?

17 MR. XU: Yes, Your Honor. Petitioner calls  
18 Dr. Scott.

19 (Whereupon,

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

24 \* \* \* \* \*

25 HEARING OFFICER FREEBERG: Good morning.

1 Please state your name and spell it for the record.

2 THE WITNESS: My name is Kesho Y. Scott,  
3 K-E-S-H-O, Y is my middle initial, and my last name  
4 is Scott, S-C-O-T-T.

5 MR. XU: Proceed?

6 HEARING OFFICER FREEBERG: Yes.

7 [DIRECT EXAMINATION OF DR. SCOTT]

8 QUESTIONS BY MR. XU:

9 Q Dr. Scott, what is your position at Grinnell  
10 College?

11 A I am a professor of Sociology and American  
12 Studies at Grinnell College. I'm also joint  
13 appointed in the American Studies concentration.

14 Q Now, Dr. Scott, can you tell us more about  
15 your educational background?

16 A Sure. I have a Ph.D. in American Studies  
17 from the University of Iowa, so I'm a Hawk, and I  
18 will admit that. I also grew up in Detroit in a  
19 political community. So I have two degrees in  
20 sociology. Undergraduate in sociology, and a MA in  
21 political sociology from the University of Detroit.

22 And my other educational area that I  
23 think is significant is I do diversity and inclusion  
24 in equity training in the United States and around  
25 the world. And that required some learning and

1 training.

2 Q So what is diversity learning and training?

3 A I think the most important and significant  
4 part of it, in an institutional setting and  
5 educational institutional setting, is for the  
6 institution to look at their process of how they  
7 include, exclude, and create equity for all of the  
8 members of the community.

9 Q And how long have you been a professor at  
10 Grinnell College?

11 A Thirty-two years.

12 Q Well, what is your job responsibility as a  
13 professor?

14 A Wow, I haven't been asked that in a long  
15 time. It has changed over 32 years. I am primarily  
16 responsible for contributing to the curriculum in  
17 American Studies and Sociology. I'm responsible for  
18 being a member of a department, which in my case,  
19 I've chaired two departments in my 32 years. My  
20 responsibility is to advise students, which involves  
21 mentoring and a number of other requirements. Write  
22 letters of recommendation for students and for  
23 primarily being a citizen with my colleagues around  
24 training and ideas. And because Grinnell is a  
25 school that's admitted to interdisciplinary learning

1 with students, we work across the curriculum to do  
2 that.

3 Q Well, just to clarify, by contributing to  
4 the curriculum, do you mean teaching classes?

5 A Yes, I teach courses.

6 Q So how -- can you tell us more about the  
7 individual advising relationship with you and your  
8 students; how does that work?

9 A All right. Because each professor is  
10 required to teach a tutorial, one of the ways that  
11 we gain advisees is through teaching the tutorial  
12 course. The second way is that students request,  
13 upon taking a course with us, or other ways, that we  
14 consider being their adviser. So advising is a  
15 requirement of the teaching responsibility at  
16 Grinnell College.

17 Q So in tutorial, you advise all students in  
18 that class?

19 A Say that again?

20 Q So in the tutorial you teach, do you  
21 teach -- do you advise all students in that class?

22 A Yes.

23 Q Now, so how many classes are you teaching  
24 this semester?

25 A This semester I'm teaching three courses.

1 Q Okay. Can you tell us what they are?

2 A Of course. I'm teaching two courses in  
3 Introduction to American Studies. And I'm teaching  
4 a course on race and ethnicity in the U.S.

5 Q So on average, how many students are in the  
6 classes you teach this semester?

7 A Nineteen -- there's a cap at 25, but there's  
8 anywhere between 19 and 23.

9 Q So overall they are around, like, 65  
10 students you're teaching?

11 A Fifty-six, 57, yes.

12 Q Fifty-six, 57. And how many students are  
13 you advising this semester?

14 A All right. Let me say something about  
15 advising. There's a formal advising, those people  
16 that are given -- given opportunity through my  
17 department and the major in sociology or the  
18 American Studies concentration. I have 15 students  
19 that I advise. But I think in the -- in  
20 the informal way that I advise, I'm an African  
21 American faculty at Grinnell College. And I have  
22 been in the -- in the informal advising capacity  
23 since I got to Grinnell College in 1987.

24 So I think that that role has been --  
25 I might advise students, faculty and staff, and I



1 have historically.

2 Q So do you, as a faculty member, do you  
3 interact much with other faculty members?

4 A Absolutely.

5 Q So are you familiar with Dean Marie Tapias?

6 A Yes, I am.

7 Q To your knowledge, how many classes is she  
8 teaching this semester?

9 A She is an associate dean right now so I'm  
10 not sure how many courses she's teaching at this  
11 point.

12 Q Okay. So where is your office located?

13 A In the Carnegie 112.

14 Q So can you explain what Carnegie Hall is in  
15 the overall campus environment?

16 A Well, it's right next door to Herrick  
17 Chapel, which is one of the most important  
18 institutions -- I would say structures in the -- in  
19 the campus. My office is in the Carnegie Building,  
20 which is a contribution of Andrew Carnegie, one of  
21 the 500 museums that he set up in this country. And  
22 I've been lucky enough to be in that space for 32  
23 years.

24 So it is, I think, center to the  
25 campus, across the street from Nollen House, and a

1 whole range of other buildings.

2 Q Are classes taught in Carnegie Hall?

3 A There are a few places that they are taught,  
4 but mostly adjunct to Carnegie is the ARH Building,  
5 in which most of the courses that I've taught in my  
6 32 years have been in that building.

7 Q Do faculty members hold office hours in  
8 Carnegie Hall?

9 A Absolutely. And we hold office hours  
10 wherever our office space is.

11 Q And moving forward, are you aware where Dean  
12 Tapias office is?

13 A Yes, it's in Nollen.

14 Q Can you tell us what's Nollen House?

15 A It's the office of the president and the, I  
16 think, administrative staff and other associate  
17 deans of the college.

18 Q So to your knowledge, is there any class  
19 that's taught in the Nollen House?

20 A Not at -- not to my knowledge.

21 Q And same to your knowledge, do faculty  
22 members hold office hours in the Nollen House?

23 A Not to my knowledge.

24 Q Now moving forward, during your 30 plus  
25 years at Grinnell College, how many students,

1 roughly, have you taught?

2 A You know what, I looked that up. About  
3 3,000.

4 Q And during the 30 plus years at Grinnell,  
5 how many students have you roughly advised in a  
6 formal matter -- in a formal manner?

7 A I also looked that up, as a matter of fact,  
8 and that's about 300.

9 Q Okay. So how many students have you advised  
10 informally during your time at Grinnell College?

11 A Oh, my goodness, gracious. I would say  
12 hundreds. Because I have been often been put in a  
13 position of a student wanting to study a curriculum  
14 area that we have not covered, inasmuch as Grinnell  
15 College has been a Eurocentric institution, and --  
16 in its offerings, in the beginning when I got here.

17 And what has happened is students, as  
18 we made the commitment to greater diversity, wanted  
19 to study an area. And they do what most students  
20 do, they would go to the faculty that they think  
21 understand that, and that would have been me at one  
22 historical point in the college.

23 Q Now, currently, as a faculty member, are you  
24 required to advise students on campus employment?

25 A No.

1 Q During your 32 years at Grinnell College  
2 have you ever been required to advise students on --

3 A No.

4 Q -- campus employment? No.

5 A No.

6 Q Were you ever required to incorporate campus  
7 employment or job -- or job prospects as part of the  
8 curriculum?

9 A No.

10 Q Now moving on to your student employees to  
11 dining services, prior to August, 2016 have you  
12 taught any students working for Grinnell College  
13 dining services?

14 A Absolutely.

15 Q And since August of 2016 -- oh, I'm sorry --  
16 prior to August, 2016, have you advised any students  
17 working for dining services?

18 A Absolutely.

19 Q And after August, 2016, have you taught any  
20 students working for dining services?

21 A Absolutely.

22 Q And after August of 2016, have you advised  
23 any students working for dining services?

24 A Yes, I have.

25 Q Now, just in general, in teaching what kind

1 of relationship do you aspire to establish between  
2 you and students?

3 A Would you say that again?

4 Q Oh, I'm sorry. In teaching, what kind of  
5 relationship do you want to create between you and  
6 your students?

7 A All right. So the most important  
8 relationship is I'm a transfer of knowledge to them  
9 about the area of the curriculum that they are --  
10 that they are studying, right? And I'm pretty  
11 rigorous. So I have students that come and talk to  
12 me often. It is almost -- it is absolutely a  
13 requirement in my syllabus that they actually come  
14 and visit me at least two times.

15 So that is for us to discuss, in my  
16 mind, a curriculum and other connected questions  
17 that they have and how they were building on that  
18 course to consider majors and -- and that's  
19 important.

20 Q So in advising, whether it's informal or  
21 formal, what kind of relationship do you seek to  
22 establish between you and your students?

23 A I think in advising, I'm a mentor, right?  
24 Because I'm interested in them succeeding, you know,  
25 based on what they also contribute and bring to the

1 campus. I think in advising, I'm in some ways a  
2 hand holder of them seeing how they can build the  
3 curriculum so that they can meet the -- many  
4 students what to double major and double -- you  
5 know, and have concentrations. So I'm sort of a  
6 nav -- helping them navigate how to do that. And I  
7 think for the seniors, the juniors and seniors, who  
8 are asking that big question of what am I going to  
9 do when I leave, I'm absolutely part of creating  
10 some sort of vision of how they're going to leave  
11 the campus and start a career. So my advising  
12 involves all of those things. Can I add one more  
13 thing?

14 Q Sure.

15 A I think it's also personal. I mean, when I  
16 shut that door and students are telling me about the  
17 things in their lives that -- that they are impacted  
18 by, my responsibility, since I'm interested in them  
19 graduating, is to help them frame and understand  
20 those things. So I think a lot of the advising is  
21 also that, and I see that as part of my job.

22 Q Okay. Finally, before -- between before and  
23 after August, 2016, from experience, has the  
24 relationship between you and your students working  
25 with dining services changed in any meaningful way?

1           A    I don't think it has changed in the sense  
2   that a student isn't coming to me and talking about  
3   their relationship to dining services.  But they're  
4   coming and talking about the things that impact  
5   their life, and I'm sure their work life impacts,  
6   you know, their being a student.

7                        So I think the demands of advising  
8   and teaching are pretty much the same over 32 years.

9           Q    So what do you mean how work impacts the  
10   life of students?

11          A    Well, if a student -- if I'm aware of a  
12   student who is working to send money back home, and  
13   many students are doing that at Grinnell College,  
14   then I know that impacts their school performance.  
15   If they share that information with me, I now know  
16   it.  And just like I'm required to report any  
17   difficulties a student have, and we have many  
18   variations of that, in knowing that information, I  
19   try to find a way to be helpful to them in -- in  
20   their being successful in the course.  So I think  
21   that's where the advising is very personal, and it  
22   is very much related to their work.

23          Q    Now, finally, since August in 2016 from your  
24   own experience, has the relationship between you and  
25   your students working dining services in terms of

1 advising changed in any way?

2 A I'd say yes and no, in the sense that it  
3 hasn't changed because the responsibility as  
4 somebody who wants them to succeed, I have to talk  
5 about what they want to be advised around, so that  
6 hasn't changed. But where it has changed, is every  
7 student lives a life in the body they bring to this  
8 campus, and each of them have different experiences.

9 So when a student walks in to be  
10 advised, I'm not sure they want to talk about. But  
11 whatever it is, I talk about that. And if they've  
12 been a target of racism, then I talk about that.

13 If they've been a -- if they're  
14 having difficulty purchasing books and they're  
15 sharing book with other students and Xeroxing them,  
16 then I talk about that, or maybe an extra copy that  
17 I have. So I think that's where it has changed.  
18 But I -- I see that more as a fluidness than  
19 anything else.

20 Q And you will always pursue these goals  
21 establishing relationship with your students?

22 A Yes.

23 MR. XU: I have nothing further, Your Honor.

24 HEARING OFFICER FREEBERG: Go ahead.

25



1 [CROSS EXAMINATION OF DR. SCOTT]

2 QUESTIONS BY MR. HARTY:

3 Q Thank you. Dr. Scott, we've met, I'm Frank  
4 Harty, I'm here on behalf of Grinnell College.

5 And let me just say before I start,  
6 that I greatly admire your body of work and I'm  
7 proud to call you a fellow Hawk-eye.

8 A Thank you.

9 Q I just have a couple of questions.

10 A Sure.

11 Q Of all the students that you've advised over  
12 the years, can you just give us a general idea as to  
13 the -- the reasons that they've given you as to why  
14 they came to Grinnell?

15 A I'm going to divide -- yes, I can. I'm  
16 going to divided that into two camps, all right?  
17 And I'm going to start with the one that's probably  
18 most difficult for me to talk about, and that is  
19 those students who have to make those decisions  
20 around financial aid issues and Grinnell is  
21 extremely generous. Many of the students of color  
22 that come to Grinnell College are students who are  
23 more than capable of being admitted to Grinnell  
24 College and other such schools. They choose  
25 Grinnell because of it's general -- it's general --

1 generous financial aid policy.

2           Because they also, what they do in  
3 doing so, is that they live in the cornfield, they  
4 live in a predominantly white community, and they  
5 know that's going to be part of their experience of  
6 being at Grinnell College.

7           And then, I think the other group of  
8 students are the students who have experience going  
9 to very well prepared high schools and prep schools,  
10 prep high schools, who want to continue a rigorous  
11 education and be successful. And Grinnell, that's  
12 what Grinnell does well. And so they make that  
13 decision based on that. And so those are the two  
14 pools that I would draw from the most.

15       Q    Thank you.

16       A    Uh-huh.

17       Q    You're obviously very familiar with the  
18 concept of implicit bias?

19       A    Yes, I am.

20       Q    Is the -- the -- the concept of implicit  
21 bias, as it relates to socioeconomic status in the  
22 educational setting, is that -- is that real?

23       A    Okay. I'm going to answer it this way:

24       First, implicit bias is -- is the current  
25 theoretical framework that we are using to

1 understand micro aggressions, right? It is the way  
2 that we're trying to understand how, in a legal  
3 framework, when it is illegal and irresponsible and  
4 hurtful to engage in certain institutional or  
5 individual behavior, how -- and people know that and  
6 people are not doing that -- how they continue to  
7 make aggressions against people of color  
8 particularly, all right?

9 All right. So implicit basis is  
10 what -- is the go to theory to try to explain why  
11 people continue to do things when they know it's  
12 inappropriate, right? So, yes, I'm familiar with  
13 that, right? It becomes part of the modality in  
14 teaching in any kind of diversity and inclusion in  
15 equity training. It has some weaknesses and  
16 strengths, but that's -- that's basically it.

17 Now how is it related to  
18 socioeconomic? Since all ism's, I think that's what  
19 you're asking me, we're looking at all of the ism's,  
20 right? Okay. Socioeconomic bias is absolutely  
21 there. Because people wear those experiences and  
22 they bring those experiences to the campus.

23 Q Thank you. You mentioned Grinnell College  
24 and the financial support that it provides students.  
25 In your experience, since 1987, has the institution

1 changed its -- its focus on ensuring that it is a --  
2 a diverse egalitarian institution?

3 A Absolutely.

4 Q Do you -- you weren't here for Dr.  
5 Kingston's [sic.] presentation, were you?

6 A No.

7 Q Does Grinnell College, in your opinion  
8 again, as someone with -- with your background and  
9 your famous propensity for calling things what they  
10 are, is the college -- does the college have a -- a  
11 genuine, maybe not perfect, but a genuine commitment  
12 to maintaining a diverse egalitarian campus?

13 A Yes. For someone who trains police  
14 departments, university professors, board trainings  
15 and all of the work that I have done over a period  
16 of 30 years, I would say that Grinnell is probably  
17 more successful at doing that, for two reasons.

18 One, it is no longer resistant to the  
19 question of diversity. And I think that's the  
20 biggest hurdle for many institutions. They have to,  
21 first, own what their history is. And I think they  
22 have followed course by institutionalizing  
23 diversity. So by having the staff and -- available  
24 to continue to work, as opposed to having outsiders  
25 come and do the work. I think that means that it is

1 successful in doing it.

2 Now, with 30 years into this  
3 diversity moving, right? So we know that there are  
4 going to be other elephants in the room, and that  
5 means that we -- that for most institutions, they  
6 have to look at what their institutional history is  
7 to see are there any ways in which people are being  
8 excluded. And I think that's the very difficult  
9 work that Grinnell is doing, and many progressive  
10 schools. So I would put Grinnell in that category  
11 of -- of doing the work. Is it easy? Hell, no.  
12 I'm going to just be blunt, it's not. Is it  
13 inclusive, yes, there have to be many parts to do  
14 that work.

15 And students are -- are the  
16 significant bearers of that, of being witness to  
17 whether that is working, in my opinion.

18 Q Thank you. I just have one last question --

19 A You got it.

20 Q -- the financial aid that you've described,  
21 would you be concerned and very careful about any  
22 change in -- in the -- in the campus that would  
23 potentially harm the current financial aid model?

24 A Yes, because that would be contradictory to  
25 the philosophy, educational philosophy and

1 opportunity for all students that Grinnell would --  
2 would -- advocates. So if tomorrow there was not  
3 need blind financial assistance in all of the other  
4 ways that that takes place, I would be very worried  
5 about that.

6 MR. HARTY: Thank you, Doctor. I have no  
7 other questions.

8 THE WITNESS: Thank you.

9 HEARING OFFICER FREEBERG: Do you have any  
10 further questions?

11 MR. XU: Yes, Your Honor.

12 THE WITNESS: All right.

13 [RE-DIRECT EXAMINATION OF DR. SCOTT]

14 QUESTIONS BY MR. XU:

15 Q Just a few questions on the topic of  
16 implicit bias in terms of socioeconomic status. As  
17 a diversity trainer, and to your knowledge, what are  
18 some of the processes that can help address this  
19 problem?

20 A Explicit bias?

21 Q Implicit bias.

22 A Implicit bias? Okay. How much time do we  
23 have? No, I'm joking. Take you through an exercise  
24 right now. Okay.

25 MR. HARTY: I'm going to get another

1 notebook.

2       A All right. Okay. First of all, in terms of  
3 the scholarship, the scholarship is divided as to  
4 whether or not this is a central idea to dealing  
5 with micro aggressions, all right? So that the --  
6 the scholarship is divided. Of the -- of those who  
7 believe that that is the cornerstone of -- of micro  
8 aggressions, I think that one of the ways that -- is  
9 to help people see that they did not learn that --  
10 that the -- that the unlearning process is a -- is a  
11 central component of looking at one's implicit bias.  
12 That -- getting people to do that, is extremely  
13 difficult.

14               The more privilege that they have,  
15 the more difficult that is to do, right? So part of  
16 the training is to get people to feel safe enough to  
17 talk about what their own histories have been so  
18 that they can begin to un-package that experience.

19               And so that is one of the most  
20 effective ways to do that. And that is  
21 uncomfortable for most people. Most people are  
22 embarrassed that they have the ignorance that they  
23 have about diversity, in general, in this country.  
24 And it has to be done in a way that's respectful in  
25 order to have those dialogues and discussions, and

1 that's been my modality of doing the work.

2 Q Now, using that framework, from 30 years of  
3 experience at Grinnell College, and interaction with  
4 students and other faculty members, did you see any  
5 socioeconomic related divide or implicit bias within  
6 Grinnell College?

7 A Yes.

8 Q Can you please elaborate.

9 A Yes, because in the first 10 years of being  
10 at Grinnell College, or at least the first five,  
11 there was just tremendous resistance on the part of  
12 the administration to even talk about diversity. I  
13 think we were the first task force that was  
14 established at the college, I was on it, with  
15 President Drake, a person I admire greatly. Who  
16 just was raising the question of multi-cultural  
17 education, period.

18 I think the next decade was where the  
19 school was beginning to ask questions about what  
20 that looks like in its curriculum, in its staff  
21 hiring, in its increasing of students of color.  
22 Great work, successful at it. But that created a  
23 whole series of -- of ways in which, if you ask the  
24 question about the big ones, the big ones, race,  
25 gender, then we're going to have to talk about



1 class. And in that instance, I think that is the  
2 one that has been the most difficult to talk about.  
3 And I think what Grinnell is doing the best on right  
4 now in three different ways: One, talking about  
5 first generation students. Two, having  
6 organizations that have emerged that deal with class  
7 differences. I mean, there are several on campus.

8           And the third way in which they've  
9 began to talk about, you know, inclusion and equity  
10 for those people who are disadvantaged and providing  
11 resources. And I think the student affairs office  
12 has been the strongest components of doing the work  
13 to create a greater even playing field for students  
14 who are of socioeconomically less advantaged. Let's  
15 say it like that, not disadvantaged, let's say  
16 advantaged, right?

17       Q    Correct me if I'm wrong, so Grinnell has  
18 been successful in addressing different divides by  
19 actively acknowledging it --

20       A    It has been more successful, yes.

21       Q    More successful by actively acknowledging  
22 and engaging them?

23       A    Yes. I think so, from what I know.

24       Q    And finally, as a professor advising  
25 thousands of students --

1 A Yes.

2 Q -- how -- how does campus employment, or  
3 employment outcomes, in general, interact with a  
4 student's class advising relation with you?

5 A All right. I'm going to be honest, okay?

6 Q Okay.

7 A In this way. If you come to Grinnell  
8 College, you know you're going to navigating, and  
9 you're a person of color, you're going to be  
10 navigating your race your entire experience at  
11 Grinnell College and in this community.

12 Q Yes.

13 A Right? You come to Grinnell College and  
14 you're not of this middle class bias or privilege --  
15 greater socioeconomic privilege, you're going to be  
16 navigating that at Grinnell College constantly,  
17 right?

18 Q Yes.

19 A And I think the third thing is that that's  
20 going to show up sometimes in your preparedness to  
21 be a student, and you have to take the  
22 responsibility for the catch up work that's  
23 required. If you went to a less successful high  
24 school, you're going to catch up with that work  
25 here, all right?

1 Q All right.

2 A So you're lucky to be at a school, in my  
3 mind, that has resources to help you do that. If  
4 they didn't have a writing lab, a math lab, and all  
5 of these labs to respond to the students who have  
6 been less advantaged, then we -- those students  
7 wouldn't have resources to do that.

8 So I -- I don't think socioeconomic  
9 is invisible, I think it's just the least talked  
10 about at Grinnell College. And I think what I'm  
11 enjoying today is that that is becoming part of the  
12 discourse when we talk about ism's now.

13 Q Now to clarify, how does campus employment  
14 factor into this?

15 A Because it -- because if you come to this  
16 campus -- there are ways to be stigmatized, right?

17 Q Yes.

18 A And if you're working, what does that  
19 suggest, right? For some, it suggests that they  
20 have less or they're different or they're  
21 disadvantaged, right? So a student might have to  
22 navigate that dis -- that personal disadvantage on a  
23 regular basis, right? And there are -- there's a --  
24 there's a kind of a stratification of what kind of  
25 jobs you do, right? I don't think that any student

1 that I have met that I've advised, is not willing to  
2 work, right? But I think that there is a connection  
3 that between those stigmas of where you work and --  
4 and the work that you're doing and the community  
5 perception. Because let's remember, all ism's  
6 operate because of how other people perceive them.  
7 Not the person who's targeted by them, right?

8 Q So is it fair to say that this  
9 stratification is present on the campus of Grinnell  
10 College?

11 A It is part of the culture, absolutely. It's  
12 just not talked about in a public way. But I think  
13 in my advising capacity, I've -- certainly I've  
14 talked to students about it. You know, we call it  
15 the closed door session, right?

16 MR. XU: Thank you, Dr. Scott. I have no  
17 further questions.

18 HEARING OFFICER FREEBERG: Okay. Thank you.  
19 Does the employer have any additional questions?

20 MR. HARTY: I just have -- I just have one  
21 follow-up given that. I apologize.

22 THE WITNESS: That's okay.

23 [RE-CROSS EXAMINATION OF DR. SCOTT]

24 QUESTIONS BY MR. HARTY:

25 Q In your opinion, and based on your

1 experience, does Grinnell College do its best to  
2 minimize this stratification that you just  
3 described?

4 A Well, I -- there's -- there's -- yes, I  
5 think there is programming for -- in students  
6 affairs. There is the emergence of student  
7 organizations who take responsibility for under --  
8 creating that cultural understanding between class  
9 differences, yes. But I think more importantly have  
10 been my colleagues who have began to bring race  
11 with, race and gender, to bring class issues to the  
12 curriculum.

13 And I think that that makes for a way  
14 to mitigate the -- the impact that students feel.  
15 Because the subject is important enough to talk  
16 about in the curriculum, then it's important enough  
17 to come out of the closet about, right? Everybody  
18 doesn't have to pass for middle class, right? Just  
19 like I can't pass for black -- I mean for white. I  
20 can pass -- I pass in other areas, right?

21 So I think that's the pressure that  
22 many students have felt. And this has been not just  
23 for students of color, but for students who don't  
24 come from those socioeconomic backgrounds where they  
25 have -- where money and privilege have been part of

1 their experience.

2 MR. HARTY: Thank you.

3 THE WITNESS: You're welcome.

4 MR. HARTY: No other questions.

5 HEARING OFFICER FREEBERG: Okay. Does  
6 petitioner have any other questions?

7 MR. XU: No, Your Honor.

8 HEARING OFFICER FREEBERG: Okay. I just  
9 wanted to clarify, and I apologize if you already  
10 testified about this, have you or do you supervise  
11 student employment, so students in employment  
12 positions?

13 THE WITNESS: I do not supervise students  
14 who -- in any employment positions.

15 HEARING OFFICER FREEBERG: Okay.

16 THE WITNESS: Except, I've had students that  
17 have been part of student workers that have worked  
18 with me as a professor and we have projects. But  
19 not in -- not in any dining service capacity or any  
20 other capacity at the college.

21 HEARING OFFICER FREEBERG: Okay. And --  
22 okay. In, like, a paid capacity where they're being  
23 paid for the work?

24 THE WITNESS: Student assistants that work  
25 with professors are being paid, yes.

1 HEARING OFFICER FREEBERG: Okay.

2 THE WITNESS: And my -- my responsibility is  
3 to supervise them.

4 HEARING OFFICER FREEBERG: Okay. And could  
5 you just explain a little bit about the positions  
6 that you've supervised, the types of work that  
7 they've done --

8 THE WITNESS: Oh, sure.

9 HEARING OFFICER FREEBERG: -- in your  
10 experience?

11 THE WITNESS: When we have a student that  
12 works in the capacity of working with a professor,  
13 they work -- help work on a particular project that  
14 I'm working with. And I think the main work is  
15 bibliographical work, library research work, writing  
16 drafts, a number of things, reading texts. Helping  
17 facilitate focus groups, setting up Power Points,  
18 all those kind of things that are related to the  
19 project.

20 And they -- and sometimes this is  
21 fluid, in the sense that as the project unfolds,  
22 they do a different kind of work, or sometimes it's  
23 very specific. They're spend the whole summer  
24 translating an interview and having it ready for the  
25 next stage of the project that I'm working on.

1 HEARING OFFICER FREEBERG: So you have a  
2 direct role in -- or do you have a role in -- in  
3 directing what type of work, what they're working on  
4 and --

5 THE WITNESS: Yes.

6 HEARING OFFICER FREEBERG: -- okay.

7 THE WITNESS: Yeah. It wouldn't be to my  
8 advantage to have a student who couldn't do any of  
9 that work, so I select the student that can do that  
10 work.

11 HEARING OFFICER FREEBERG: Okay.

12 THE WITNESS: Of the pool that I have.

13 HEARING OFFICER FREEBERG: And the pool that  
14 you have, would that be -- what is -- can you  
15 describe that, what that is?

16 THE WITNESS: I ask the department for a  
17 student assistant. There are a pool of students who  
18 have been approved by that process. I look at  
19 their -- who they are and their skills, and whether  
20 or not they've worked for another faculty in the  
21 capacity that I'm in -- that I need them in, and  
22 then I make a selection that involves me contacting  
23 the student, talking to them, seeing if they're  
24 willing to do the work with the hours that work,  
25 and -- and if they're capable of doing the work.



1 And most times it works well.

2 HEARING OFFICER FREEBERG: Okay. And so are  
3 you able -- you're able to determine how -- like,  
4 how long the project will last and the amount of  
5 hours it's going to take and -- and that type of  
6 thing? Or --

7 THE WITNESS: I would say I know how long  
8 the work, the particular work to the project is  
9 going to last.

10 HEARING OFFICER FREEBERG: Okay.

11 THE WITNESS: But not the project itself. I  
12 mean, when you're writing an autobiography, you  
13 never know.

14 HEARING OFFICER FREEBERG: Okay.

15 THE WITNESS: Yeah.

16 HEARING OFFICER FREEBERG: Great. All  
17 right. Thank you.

18 THE WITNESS: Thank you so much.

19 HEARING OFFICER FREEBERG: Any further  
20 questions in light of my questions? No.

21 MR. XU: No.

22 MR. HARTY: I do have one in light of your  
23 question.

24 THE WITNESS: Okay.

25

1 [FURTHER CROSS EXAMINATION OF DR. SCOTT]

2 QUESTIONS BY DR. HARTY:

3 Q The relationship that you just described  
4 with the campus employment, is there an educational  
5 component to -- to working with you on projects of  
6 that -- of that nature?

7 A Well, first of all, most of the students  
8 that I've been involved with, they -- they have the  
9 skills that I need to work on the project. Is it an  
10 educational component in the sense that they might  
11 be looking at the subject area that I'm working on,  
12 yes, of course, it is. I would say it is.

13 MR. HARTY: Thank you.

14 MR. XU: No further questions.

15 HEARING OFFICER FREEBERG: Okay. And I  
16 actually thought of one more, sorry.

17 THE WITNESS: All right.

18 [EXAMINATION OF DR. SCOTT]

19 QUESTIONS BY HEARING OFFICER FREEBERG:

20 Q So I believe earlier you testified that in  
21 your teaching role, you are teaching about 56 to 57  
22 students currently; is that --

23 A Something --

24 Q Something roughly?

25 A -- around that, yeah, I'll have to add it

1 up, uh-huh.

2 Q Okay.

3 A Anywhere between 40 and 75 at different  
4 times, yeah.

5 Q Okay. And currently, formally advising  
6 approximately 15?

7 A Yes.

8 Q Okay. And do you have an estimate as to  
9 currently how many student employment positions  
10 you're either supervising or directing currently?

11 A I am not using a student assistant at this  
12 time.

13 Q Okay.

14 A In my 32 years, I think I've used six.

15 Q Okay. Great. Thank you.

16 THE WITNESS: Thank you.

17 MR. HARTY: Nothing further. Thank you.

18 THE WITNESS: Thank you.

19 HEARING OFFICER FREEBERG: Nothing further?  
20 Thank you very much. The petitioner can call your  
21 next witness.

22 MR. MCCARTAN: Your Honor, petitioner calls  
23 Quinn Ecolani.

24 (Whereupon,

25 QUINN ECOLANI,

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

4 \* \* \* \* \*

5 HEARING OFFICER FREEBERG: Please state your  
6 name and spell it clearly for the record.

7 THE WITNESS: My name is Quinn, Q-U-I-N-N  
8 Ercolani, E-R-C-O-L-A-N-I.

9 [DIRECT EXAMINATION OF MR. ERCOLANI]

10 QUESTIONS BY MR. MCCARTAN:

11 Q Mr. Ercolani, what is your relationship with  
12 Grinnell College?

13 A I am a student and a worker at Grinnell  
14 College.

15 Q Mr. Ercolani, how long have you been a  
16 student?

17 A I have been a student for slightly over two  
18 years now, I'm in my third year.

19 Q So you started in August of 2016; is that  
20 correct?

21 A Yes.

22 Q And how long have you been a worker or an  
23 employee of Grinnell College?

24 A The same amount of time.

25 Q And as -- as an employee of Grinnell

1 College, what specific jobs have you worked?

2 A Well, I have been a research assistant for a  
3 professor in the economics department. I have been  
4 a staff member at the Spencer Grill. I have been a  
5 student leader at the Spencer Grill. I have been a  
6 senator in the student government association. I've  
7 been the assistant treasurer of the student  
8 government association, and I am currently the  
9 treasurer of the student government association.

10 Q Thank you. And, Mr. Ercolani, what is your  
11 relationship to petitioner?

12 A I am currently the president of the union of  
13 Grinnell Student Dining Workers.

14 Q And what other roles have you held in the  
15 union?

16 A Various roles over the -- the course of  
17 my -- my term with the union. I've been in a  
18 relationship with the union for almost exactly the  
19 same amount of time, give or take a week or two,  
20 that I have been in a relationship with the college.

21 I have served as a committee chair in  
22 the past, a union representative, an ex-officio  
23 union representative, the chief grievance officer,  
24 the treasurer of the union, the vice presidency of  
25 the union, and I believe that is all the positions

1 I've held.

2 Q Thank you, Mr. Ercolani. Returning then, to  
3 your jobs, just to restate, you said you did work in  
4 dining services; is that correct?

5 A Yes, for four semesters.

6 Q And when you started your position in dining  
7 services, was your job represented by petitioner?

8 A No, it was not.

9 Q And is that job you held, is that job  
10 currently covered by a collective bargaining  
11 agreement negotiated by the petitioner?

12 A Yes, it is.

13 Q In your time working in that job in dining  
14 services, did the position become covered under that  
15 collective bargaining agreement?

16 A As I was working for dining services, the  
17 position become covered by the CBA, yes.

18 Q Can you describe the impact that collective  
19 bargaining agreement had on your earnings?

20 A It increased them.

21 Q And why is it important that it increased  
22 your earnings? Or is it important that it increased  
23 your earnings?

24 A It certainly is. My earnings go completely  
25 to the payment of tuition, and so this allows for a

1    lessened personal burden.

2           Q    So let's talk about that.  Do you receive  
3   financial -- if you're comfortable sharing, do you  
4   receive financial aid from the college?

5           A    Yes, I do.

6           Q    And is a component of that financial aid  
7   work study?

8           A    Yes, it is.

9           Q    And do you receive a Pell grant,  
10   Mr. Ercolani?

11          A    Yes, I do.

12          Q    And just to reiterate, all of your work  
13   study earnings go toward paying tuition?

14          A    Yes.  One of the forms that is signed as, I  
15   believe every student worker engaged in student  
16   employment at the college, is a form asking for a  
17   percentage amount of earnings that should be either  
18   sent directly to the student account associated with  
19   the -- with the college, or to the bank account  
20   associated with that student's account.  All of my  
21   money has been set aside to go directly to my  
22   student account to pay for tuition and the  
23   comprehensive fee of the college.

24          Q    And without engaging too much in  
25   hypotheticals, how integral are your work study

1 earnings to ensuring you're able to attend Grinnell  
2 College?

3 A Extremely. I would not feel comfortable  
4 being in a position where I was not earning the work  
5 study award, and attending such -- an institution  
6 with such a large comprehensive fee, regardless of  
7 the additional merit and non merit aid that I'm  
8 receiving from the college as a need blind hundred  
9 percent demonstrated financial need institution.

10 Q So would you say -- would you say that if  
11 you were not able to work, that would cause  
12 significant financial burden, potentially to the  
13 point of forcing you to withdraw from the college?

14 A I mean, I -- yes, that's been a  
15 consideration even with the financial aid that I'm  
16 awarded.

17 Q Which includes?

18 A Which includes the federal work study and  
19 the college employment, yes.

20 Q Mr. Ercolani, would you remind us again what  
21 position you're working now?

22 A I am the treasurer of the student government  
23 association of Grinnell.

24 Q And in that capacity, about how many hours  
25 are you working a week?



1 A At least 20.

2 Q So at least half time job?

3 A Yes.

4 Q And, Mr. Ercolani, are you familiar with  
5 sort of the college's definition of the term credit  
6 hour?

7 A I --

8 Q Or do you understand -- are you familiar  
9 with the college's system of credits and courses?

10 A Yes, I am. To the extent in which I am a  
11 student who takes classes for credit and know the  
12 system by which I need to graduate.

13 Q Right. And how many classes are you taking?

14 A I am currently taking four classes.

15 Q And so about how much work, in terms of  
16 class time and homework, does that add up to a week?

17 A I would -- I would estimate somewhere  
18 between 20 and 40 hours.

19 Q So it's fair to say that you spend between  
20 half and a third of your time at Grinnell College  
21 working?

22 A It would be fair to say that I spend at  
23 least that much time, yes.

24 Q Thank you. Returning then, to your role as  
25 the student government association treasurer, in

1 that capacity are you involved with administrative  
2 work regarding student employment positions as part  
3 of the student government association?

4 A Can you clarify what you mean by  
5 administrative work?

6 Q Do you, for example, have access to a list  
7 of students who work as employees of the student  
8 government association?

9 A Through payroll, yes.

10 Q So you're familiar with the policies  
11 governing student employment?

12 A Generally speaking, yes.

13 Q And are you familiar with student employment  
14 positions which could be classified as student  
15 oriented or student leadership oriented?

16 A Yes. I believe the positions in the student  
17 government, generally speaking, would fall into at  
18 least one of those categories, so I would say yes.

19 Q And would you -- are you familiar with  
20 student employment positions which are classified as  
21 student safety positions or safety positions?

22 A I would imagine that -- this is  
23 speculative -- but based on my understanding, it  
24 would be those positions working with the campus  
25 safety office or those positions working with all

1 campus event student safety.

2 Q Great. Now, as a student of Grinnell  
3 College, are you aware of any policies which govern  
4 your conduct as a student?

5 A Yes.

6 Q In what way are these policies communicated  
7 to you?

8 A Those policies are communicated through the  
9 student handbook.

10 Q And have you made yourself familiar with, if  
11 not the entire student handbook, at least the  
12 relevant sections of it?

13 A I've read through it at least once and am,  
14 generally speaking, familiar with the sections that  
15 would be day to day applicable to my life.

16 Q So you would recognize a copy of the student  
17 handbook if I showed it to you today?

18 A Yes.

19 MR. MCCARTAN: Your Honor, I'm showing  
20 opposing counsel what's been marked as petitioner's  
21 Exhibit 4 for identification.

22 (Whereupon, Petitioner's Exhibit  
23 No. 4 was marked for  
24 identification by the reporter.)

25 MR. MCCARTAN: And I am approaching the

1 witness with the same.

2 Q (By Mr. McCartan) Mr. Ercolani, is this an  
3 excerpt from the student employee handbook you were  
4 talking about?

5 A To the best of my knowledge, yes.

6 Q And could you read the heading about three  
7 inches down the page?

8 A Begins with eligibility?

9 Q Yes.

10 A Okay. "Eligibility for student leadership  
11 and/or safety related student employment."

12 Q And could you read that first sentence under  
13 that heading?

14 A Of course. "Student employees who serve in  
15 positions of leadership or in a safety related role  
16 on campus must be in good conduct and academic  
17 standing, i.e., not on conduct probation, to be  
18 eligible for those positions."

19 Q Are you familiar with conduct probation?

20 A In the general sense, yes.

21 Q To your knowledge, what sorts of behaviors  
22 would cause an employee to be put on conduct  
23 probation?

24 A I don't believe an employee would be placed  
25 on conduct probation.

1 Q Sorry. Could you clarify the process to --  
2 to your knowledge of conduct probation?

3 A Yes. So to my knowledge, a student who is  
4 found to be in violation of college policies can be  
5 issued a conduct warning if it is decided that they  
6 have breached the -- the student handbook. I know  
7 that there are various set of bodies on campus that  
8 govern that. Some examples would be the judicial  
9 and the college hearing board. When -- there are  
10 certain offenses, to the best of my understanding,  
11 and how it has been presented to me by various deans  
12 of students that there are certain conduct  
13 violations that would immediately have someone  
14 placed on conduct probation, and there are others  
15 where it would be an accrual process, and others  
16 where it would be a case by case consideration by  
17 those bodies that would render a responsible or not  
18 responsible verdict.

19 Q And so to your knowledge, what sorts of  
20 behaviors would cause a person -- could -- could  
21 lead to these processes to a person being placed on  
22 conduct probation or receiving a conduct probation?

23 A Well, for conduct probation are you -- are  
24 you expanding that to be both conduct and academic  
25 as defined in the first section of the policy?

1 Q Let's begin with conduct probation.

2 A Okay. In my capacity formerly as a student  
3 government association senator, we were presented a  
4 list by then dean of students Sarah Moschenross, who  
5 is now at a higher level position within the  
6 college.

7 The list was not complete at the time  
8 it was provided to us because, again, as it was  
9 presented to us, it is often times a case by case  
10 consideration. However, some of the examples, if  
11 I'm not mistaken, were violence, arson, drug abuse,  
12 and there was a trailing other, if I'm not mistaken  
13 at the end of the list.

14 Q So a student who, for example, was found to  
15 be drinking under age could, in theory, be placed on  
16 conduct probation for that behavior --

17 A I would not want --

18 Q -- depending on the circumstances of the  
19 case?

20 A I would say potentially, but I wouldn't want  
21 to speculate.

22 MR. MCCARTAN: Your Honor, petitioner  
23 submits Exhibit 4 into evidence.

24 HEARING OFFICER FREEBERG: And could you  
25 clarify, what handbook is this a page from?

1 THE WITNESS: If I am not mistaken, this is  
2 the -- the student handbook.

3 HEARING OFFICER FREEBERG: This -- is this a  
4 page out of what's on the record as Exhibit K?

5 MR. XU: No, Your Honor. There are two  
6 different handbooks. The student employee handbook  
7 governs student employment positions. The student  
8 handbook governs our students.

9 HEARING OFFICER FREEBERG: Okay. So this  
10 student handbook is not on the record?

11 MR. MCCARTAN: No, not yet.

12 HEARING OFFICER FREEBERG: Okay. Do you  
13 plan to enter it?

14 MR. MCCARTAN: We just plan to enter this  
15 page.

16 HEARING OFFICER FREEBERG: Just this page,  
17 okay?

18 MR. MCCARTAN: Yeah.

19 HEARING OFFICER FREEBERG: Are there any  
20 objections to receipt of Petitioner 4?

21 MR. HARTY: Yes, Your Honor, just on the --  
22 the -- the concept of inclusion and the -- the fact  
23 that we don't have an objection, if the rest of the  
24 handbook is also offered as an exhibit.

25 HEARING OFFICER FREEBERG: Okay. Is it here

1 today?

2 MR. MCCARTAN: It is not, Your Honor. It  
3 totals, I believe, 500 pages and is not relevant  
4 except for this page as regards the issues of  
5 dispute in this hearing.

6 HEARING OFFICER FREEBERG: Okay. And so in  
7 light of the fact that it's 500 pages, is it your  
8 position that the entire thing would need to be  
9 entered into the record?

10 MR. HARTY: Yes. In the doctrine of  
11 inclusion. And, again, we have no objection to  
12 the -- to the entry of the handbook. We could  
13 actually help facilitate it in obtaining the  
14 electronic copy if that's -- if that's more  
15 convenient.

16 HEARING OFFICER FREEBERG: Okay. I am going  
17 to defer ruling on this particular exhibit at this  
18 time, and I will respond with my ruling at a later  
19 time. So for now, this is going to be set aside as  
20 offered and not yet ruled upon.

21 MR. HARTY: Thank you, Your Honor.

22 Q (By Mr. McCartan) Just to summarize,  
23 Mr. Ercolani, student's conduct, not necessarily on  
24 the job, can impact their ability to be hired for  
25 student employment positions?



1 A To the best of my knowledge, yes.

2 MR. MCCARTAN: I have no further questions,  
3 Your Honor.

4 HEARING OFFICER FREEBERG: Okay. Would you  
5 like to cross examine the witness?

6 MR. HARTY: I do. I have just a couple.

7 [CROSS EXAMINATION OF MR. ERCOLANI]

8 QUESTIONS BY MR. HARTY:

9 Q Mr. Ercolani, we know each other well.

10 A Yes.

11 Q Just a couple of -- of clarifications.  
12 Where are you from originally, where is home?

13 A Well, home for me is Michigan, suburbs of  
14 Detroit, but I was born in Honolulu, Hawaii.

15 Q And how long have you been here at Grinnell  
16 College?

17 A Since August of 2016.

18 Q Why did you come to Grinnell?

19 A I came to Grinnell because it provides  
20 unique experiences. And, again, I -- I know other  
21 have testified to this, or I -- it provides  
22 substantial financial aid to meet the burdens  
23 that -- to meet my need as a -- as a student.

24 Q Thank you. And you talked about the course  
25 load you're taking right now.

1 A Yes.

2 Q Did you say you're taking four courses?

3 A Yes.

4 Q Is that 16 credit hours?

5 A I believe so, yes.

6 Q And the standard that I hear now is that for  
7 every hour in class, a typical student at Grinnell  
8 spends three to four hours in prep time or --

9 MR. MCCARTAN: Objection. Counsel's  
10 testifying, that's not in the record, and he's not  
11 established Mr. Ercolani has knowledge of this  
12 standard or where it comes from.

13 HEARING OFFICER FREEBERG: And your  
14 response?

15 MR. HARTY: I was leading him because he's  
16 an adverse witness, Your Honor, and I hadn't  
17 finished my question yet.

18 HEARING OFFICER FREEBERG: Okay. Would you  
19 mind starting at the beginning?

20 MR. HARTY: I'd be happy to.

21 Q (By Mr. Harty) So you spend 16 hours every  
22 week actually in class, in theory?

23 HEARING OFFICER FREEBERG: I'll allow the  
24 question. It is leading but the witness can answer  
25 as to whether that's accurate or not.

1 A Can you repeat that again? I'm sorry.

2 Q You're taking 16 credit hours. Can we  
3 presume that you spend about 16 hours every week  
4 actually in the classroom or a lab?

5 A Can you give me just a moment to tally up  
6 the hours in my head? I would say that's a  
7 roughly -- a roughly accurate estimation, yes.

8 Q Okay. And -- and would you agree that your  
9 academic advisers and the -- the faculty here expect  
10 you to spend time preparing for and working on your  
11 course studies outside of the actual classroom?

12 A I think that they would be disappointed in  
13 me if I did not.

14 Q Have you heard the rule of thumb that you  
15 spend about three hours outside of the classroom for  
16 every hour in the classroom?

17 A I -- I've heard it as it varies from between  
18 a one to one ratio to a greater than one to one  
19 ratio, yeah.

20 Q Okay. Thank you. And then as far as  
21 your -- the -- your campus employment opportunity,  
22 can we agree that with regard to the financial aid  
23 package that you've described, you are expected to  
24 work about eight to ten hours per week in some  
25 campus employment opportunity?

1           A    Either that or make up that contribution as  
2 a personal burden rather than having through work  
3 study. But that 2,000 however many dollars is  
4 expected to be contributed in some fashion, yes.

5           Q    Okay. Okay. And this college allows you to  
6 work more than that, you said you're working almost  
7 20 hours a week?

8           A    At least 20, yes.

9           Q    And -- and do you like what you're doing?

10          A    Usually, yes.

11          Q    Well, that's why they call it work  
12 sometimes, right?

13          A    Yes, exactly.

14               MR. HARTY: I don't have any other  
15 questions. Thank you.

16               HEARING OFFICER FREEBERG: Okay.

17               MR. MCCARTAN: Just one clarifying question,  
18 Your Honor.

19               [RE-DIRECT EXAMINATION OF MR. ERCOLANI]

20               QUESTIONS BY MR. MCCARTAN:

21           Q    Mr. Ercolani, on cross examination you just  
22 testified to your choosing Grinnell, in part,  
23 because of its financial aid package. At the time  
24 that you selected Grinnell, was that financial aid  
25 package made aware to you? Like, were you aware of

1 the financial aid package when you selected  
2 Grinnell?

3 A I believe so, yes.

4 Q And part of that financial aid package  
5 included work study?

6 A Yes, it did.

7 Q So you came to Grinnell with the expectation  
8 of working; is that correct?

9 A That is correct.

10 MR. MCCARTAN: No further questions, Your  
11 Honor.

12 HEARING OFFICER FREEBERG: Okay.

13 MR. HARTY: No questions.

14 HEARING OFFICER FREEBERG: Okay. I just  
15 have a few questions. So in your position as the  
16 treasurer of the student government association, it  
17 was your -- was it your testimony that you're paid  
18 in that role?

19 THE WITNESS: Yes.

20 HEARING OFFICER FREEBERG: Yes. And how  
21 many students work on the or for the student  
22 government association?

23 THE WITNESS: I do not have an accurate  
24 representation of the number of students who work in  
25 the student government association. Given some

1 time, I could come up with a number. I do know that  
2 there are many, at least -- more than -- there are  
3 many dozens of students who work for the student  
4 government association, in some capacity.

5 HEARING OFFICER FREEBERG: Okay. And who  
6 supervises you in that role, or who do you report  
7 to?

8 THE WITNESS: I report to the -- the cabinet  
9 as a whole and the trio of executives. And also the  
10 student senate.

11 HEARING OFFICER FREEBERG: And the trio of  
12 executives, could you elaborate on who that is and  
13 who is in the cabinet?

14 THE WITNESS: Yeah. So the cabinet is  
15 comprised of 10 members: The three executives, the  
16 president, the vice president of student affairs,  
17 and the vice president of academic affairs. The  
18 cabinet, as a whole, contains those three persons,  
19 myself, the assistant treasurer, the diversity and  
20 outreach coordinator, the all campus events chair,  
21 the services coordinator, as well as the concert's  
22 chair.

23 HEARING OFFICER FREEBERG: Okay.

24 THE WITNESS: That should be ten.

25 HEARING OFFICER FREEBERG: Okay. And what

1 is the nature of the supervision?

2 THE WITNESS: Well, the primary supervision,  
3 I would say, comes from the fact that we all work  
4 together and require each other to do our jobs  
5 properly for the functioning of everyone else's job.

6 The executives have a specific  
7 authority that they can petition the student senate  
8 to impeach any member of the cabinet. So in that  
9 function, they are responsible for ensuring that I,  
10 as a cabinet member and other cabinet members, are  
11 doing their jobs.

12 HEARING OFFICER FREEBERG: Okay. And do  
13 you, like, do you log your hours or how do you  
14 record your work time?

15 THE WITNESS: Generally speaking, I would be  
16 recording hours into the Nova time payroll system  
17 that the college is -- that the college uses. Those  
18 hours would be approved by the assistant treasurer.

19 HEARING OFFICER FREEBERG: Okay. And are  
20 you -- is there any -- we talked about the student  
21 handbook that has not been ruled on yet, but are  
22 there any other handbooks that would apply to you?

23 THE WITNESS: In -- in past years, there  
24 have been versions of a student government  
25 association handbook. I'm also bound by the

1 policies laid out in the student government  
2 association constitution and bylaws. There is also  
3 a handbook internally kept by the treasurer's office  
4 of -- of the student government association.  
5 However, it's generally speaking, not requirements  
6 insofar that it includes the responsibilities and  
7 the constitution and the bylaws, but contains mostly  
8 suggestions.

9 HEARING OFFICER FREEBERG: And are there any  
10 employment related handbooks that would apply to  
11 you?

12 THE WITNESS: I imagine all generally and  
13 broadly applicable student employment handbooks  
14 would apply to my position.

15 HEARING OFFICER FREEBERG: Okay. And did  
16 you say that the other positions, student employment  
17 positions you've had were research assistant and  
18 what was the other?

19 THE WITNESS: I was a research assistant, I  
20 was a staff member at the Spencer Grill. I was a  
21 student leader at the Spencer Grill, and I was the  
22 assistant treasurer of the student government  
23 association for a time, as well as a student  
24 government association senator.

25 HEARING OFFICER FREEBERG: Okay. Thank you.



1 I don't have any further questions. Does petitioner  
2 have any --

3 MR. MCCARTAN: We have some clarifications  
4 and a couple questions, Your Honor.

5 [FURTHER RE-DIRECT EXAMINATION OF MR. ERCOLANI]

6 QUESTIONS BY MR. MCCARTAN:

7 Q Mr. Ercolani, the student government  
8 association is headed by the student government  
9 association president; is that correct?

10 A That would be a fair characterization, yes.

11 Q Does the SGA president -- could he, for  
12 example, fire you?

13 A Not unilaterally, no.

14 Q Could he walk up to you and tell you to stop  
15 what you're doing and do something else?

16 A He could ask. I don't know necessarily  
17 believe that if he told me to do something, I would  
18 be bound by any sort of policy to do so.

19 Q And I mean, the funds that come -- as SGA  
20 treasurer, right, you're familiar with the funding  
21 sources for student employment positions in the  
22 student government?

23 A Yes. All -- all funds come from the general  
24 fund provided to the student government association,  
25 yes.

1 Q And where does that fund come from?

2 A That fund comes from an equivalency of  
3 two-thirds of the student activities fee per  
4 semester, with some subtractions and some  
5 supplementation.

6 Q So the college provides you with the funds  
7 to pay -- I mean, student -- student government  
8 employees are paid out of college funds; is that  
9 correct.

10 A I believe that would be a fair  
11 characterization, yes.

12 Q And would you describe your interactions  
13 with college administration in your position as a  
14 leadership -- leader in the student government  
15 association?

16 A Yes, we have regular meetings with the --  
17 the colloquial phrase for the group is the deans and  
18 directors meeting, and also with Angela Voos and  
19 President Kington. Those meeting are, generally  
20 speaking, biweekly meetings. Also, just in the  
21 general course of doing my business, college  
22 administration and staff working to ensure that the  
23 requests that are being processed through my office  
24 are being met. So, for example, the accounts  
25 payable and accounting departments over at the old

1 glove factory, as well as Michael Simms in student  
2 affairs through the student activity -- for concerts  
3 and, etc.

4 Q So just to pull out a bit of your answer  
5 there, the payroll and accounting departments  
6 instruct you on how to perform some of your  
7 administrative duties as SGA treasurer?

8 A Yes.

9 MR. MCCARTAN: No further questions, Your  
10 Honor.

11 HEARING OFFICER FREEBERG: All right.

12 MR. HARTY: I just have a couple.

13 [FURTHER RE-CROSS EXAMINATION OF MR. ERCOLANI]

14 QUESTIONS BY MR. HARTY:

15 Q You are considered a leader, right?

16 A Under the not yet accepted Exhibit 4, I  
17 believe that would -- yes.

18 Q Okay. So as such, you are subject to the  
19 provision that you discussed with Mr. McCartan, in  
20 that to maintain your position you have to be in  
21 good conduct and academic standing?

22 A To the best of my knowledge, yes.

23 Q Okay. And what is the -- what is the  
24 student government association budget?

25 A The student government association's budget

1 is approximately 400 to \$450,000 per academic year.

2 Or fiscal year, I apologize.

3 Q And that comes from Grinnell College?

4 A Yes.

5 Q And then the people that -- you were asked  
6 about handbooks. Would you agree, there is no  
7 employment handbook that is specific to the student  
8 government association?

9 A Not one that I am particularly aware of,  
10 other than the outlines responsibilities in the  
11 constitution and bylaws of the student government  
12 association.

13 Q Thank you. And then the individuals that  
14 you described by position, there's some lofty  
15 titles. President, vice president academic affairs;  
16 is that right?

17 A Yes.

18 Q The people that you consider yourself  
19 reporting to in a hierarchal way?

20 A That is how the organizational chart in my  
21 office goes.

22 Q Okay. Let's make it clear, these are all  
23 fellow students, right?

24 A Yes.

25 MR. HARTY: Okay. Thank you. No other

1 questions.

2 HEARING OFFICER FREEBERG: Does petitioner  
3 have any further questions?

4 MR. MCCARTAN: No further questions, Your  
5 Honor.

6 HEARING OFFICER FREEBERG: Okay. You can  
7 step down.

8 MR. HARTY: Let's just take a five minute  
9 break, we'll go off the record.

10 (Whereupon, a brief recess was  
11 taken off the record.)

12 HEARING OFFICER FREEBERG: Go on record.  
13 And the petitioner you can call your next witness.

14 MR. XU: Petitioner calls Caitlin Richter to  
15 the stand.

16 (Whereupon,

17 CAITLYN RICHTER,  
18 was called as a witness, by and on behalf of the  
19 Employer and, after having been duly affirmed, was  
20 examined and testified as follows:)

21 \* \* \* \* \*

22 HEARING OFFICER FREEBERG: Please state your  
23 name and spell it clearly for the record.

24 THE WITNESS: Caitlin Richter, C-A-I-T-L-I-N  
25 R-I-C-H-T-E-R.

1 HEARING OFFICER FREEBERG: Thank you.

2 MR. XU: May I proceed?

3 HEARING OFFICER FREEBERG: Yes.

4 [DIRECT EXAMINATION OF MS. RICHTER]

5 QUESTIONS BY MR. XU:

6 Q Ms. Richter, what is your relationship with  
7 Grinnell College?

8 A I'm a student and employee.

9 Q Now, let's talk about that employment  
10 aspect. What campus employment positions do you  
11 have currently?

12 A I work in the dining hall.

13 Q How many hours do you work per week?

14 A Eight.

15 Q And what class are you now in, Ms. Richter?

16 A 2019, I'm a fourth year.

17 Q And during your time at Grinnell College,  
18 have you worked any other student employment  
19 position?

20 A I have not.

21 Q Have you been offered any other student  
22 employment positions?

23 A Yes, I was offered a mentor position for a  
24 psychology class.

25 Q Have you ever considered any other campus

1 employment opportunities than working for dining  
2 services?

3 A Well, I've also thought about, like, working  
4 in the library or in the mail room or something like  
5 that, but decided not to do that.

6 Q So why -- why did you decide not to pursue  
7 any of these opportunities outside dining services?

8 A Well, mainly, I wanted to stay in dining  
9 services for a few different reasons. I'm really  
10 concerned with scheduling and pay, and also the free  
11 meals that come with it.

12 Q Well, let's -- let's go -- let's walk  
13 through the factors, one by one. First, scheduling.  
14 Why is it important for you to decide where you want  
15 to work?

16 A Yeah. So, because I'm a student, I go to  
17 class obviously, and I need to be able to, like,  
18 choose my shifts in order to not encroach on class  
19 time. So when I'm in the dining hall, like when I'm  
20 working for the dining hall, I have the freedom to  
21 choose my schedule there, which helps me a lot with  
22 time management. And if I were in another position  
23 like, if I had accepted the mentor position, my  
24 schedule would be really dictated by that one class.  
25 So I wanted to, like, keep that freedom of

1 scheduling.

2 Q Just to clarify, like, dissatisfactory  
3 scheduling may encroach on your academic  
4 commitments?

5 A Right. I wouldn't want to, like, ever have  
6 to skip class to work or something like that.

7 Q Going on to compensation, how does that  
8 factor into your decision?

9 A Dining services is the highest paid position  
10 right now so I definitely wanted to stay there  
11 because of that.

12 Q So as -- during -- as a fourth year, when  
13 did you start attending Grinnell College?

14 A In fall of 2015.

15 Q Between 2015 and 2018 now, has position --  
16 have position in dining services hours been paid  
17 higher?

18 A No, the -- the wage has increased, which for  
19 me is a good reason to stay there.

20 Q To your knowledge, why -- when did wage  
21 increase?

22 A It was a few different times. Like, it was  
23 in increments, not just all at once over the course  
24 of my years here.

25 Q So let's talk -- can you just go through



1 with these wage increases one by one. When did --  
2 when it first increased at dining services?

3 A I don't know exact time lines.

4 Q Like, what year?

5 A I believe it was in my second year.

6 Q So that would be 2016?

7 A The 2016 to 2017 year.

8 Q Okay. So to your knowledge, during  
9 2015/2016, academic year, your first year at  
10 Grinnell College, was your position at dining  
11 services represented by the union?

12 A Well, no, the union didn't start until  
13 spring of 2016.

14 Q Right. And during 2016 and 2017, did you  
15 know that your position was represented by the  
16 union?

17 A Yes.

18 Q And the wage had increased once your  
19 position got represented?

20 A Uh-huh. Oh, yes.

21 Q Now, going on to free meals, can you explain  
22 to the court how free meals with your position in  
23 dining services work?

24 A Yes. So when someone is working in the  
25 dining hall, when you show up for work you get a

1 free meal with that shift. And this allows me to  
2 choose the cheaper meal plan, which has fewer meals  
3 per week. Because, like, when I go to work I get to  
4 eat that way, so I don't have to spend as much money  
5 on a bigger meal plan.

6 Q So working in dining helps you save even  
7 more money; is that correct?

8 A Right.

9 Q Now, let's go back to these -- okay. Beside  
10 the three things: Compensation, scheduling, and the  
11 free meals, were any other considerations about what  
12 job you want to work on campus?

13 A Not much. That's -- that's the main  
14 reasons. I mean, of course, I like to see my  
15 friends when I'm at work, but I was really concerned  
16 about money.

17 Q Were you concerned about educational  
18 components of different jobs on campus?

19 A Well, if I had been working as a mentor,  
20 maybe that would have been more in tune with my  
21 educational goals but for me, like, the money factor  
22 trumps that.

23 Q Okay. So finally, Ms. Richter, why do you  
24 work any job at Grinnell College?

25 A I need some source of income, like, to

1 afford tuition. Like, to afford to be a student  
2 here, I need to be able to make at least a little  
3 bit of money. Otherwise, I wouldn't be able to  
4 attend.

5 MR. XU: I have nothing further.

6 HEARING OFFICER FREEBERG: Okay. Would you  
7 like to cross examine?

8 MR. HARTY: Just a couple of questions.

9 [CROSS EXAMINATION OF MS. RICHTER]

10 QUESTIONS BY MR. HARTY:

11 Q Frank Harty here on behalf of the college.

12 A Hi.

13 Q Where are you -- we didn't get all  
14 background. Where are you from originally?

15 A Oh, I'm from Sarasota, Florida.

16 Q And what -- what is your major or course of  
17 concentration?

18 A I have a double major. Psychology and  
19 gender woman's and sexuality studies.

20 Q And you hope to graduate this spring?

21 A Yes.

22 Q What do you -- what do you hope to do then?

23 A I'm not sure. But I was thinking about  
24 something in the social work realm.

25 Q Have you -- and I'm enough detached from the

1 process. Are you in the -- in the process of  
2 actually looking for post graduate employment right  
3 now?

4 A I haven't started. I'm hoping to take fall  
5 break to really think about future plans.

6 Q Okay. Your dining position, are you  
7 familiar with the problems that dining is having  
8 filling shifts?

9 A I would say, yes.

10 Q Does that actually impact you sometimes?

11 A Occasionally. Usually we help each other  
12 out, but I think it would be nice to have more  
13 students working there.

14 Q When you -- when you made your -- your  
15 collegiate choice, did you choose Grinnell in part,  
16 because of the strength of the academic programs  
17 that -- that, you know, that you're double majoring  
18 in?

19 A Honestly, no.

20 Q What did you -- what caused you to choose  
21 Grinnell?

22 A It had the best financial aid. For me, I  
23 didn't really have the freedom to choose a college  
24 based on, like, how good it might be in different  
25 aspects. I was only able to choose based on money.

1 Q And you're from Sarasota, you said?

2 A Uh-huh.

3 Q Are you -- you've grown accustomed to our  
4 winters?

5 A No, I'm still cold.

6 Q Would it be fair to say that you did not  
7 come to Grinnell, Iowa to work in the dining  
8 services?

9 A Right. I did not know where I would be  
10 working.

11 MR. HARTY: Okay. Thank you. I don't have  
12 any other questions.

13 HEARING OFFICER FREEBERG: Okay. Any  
14 further questions?

15 MR. MCCARTAN: Just a brief clarification,  
16 Your Honor.

17 [RE-DIRECT EXAMINATION OF MS. RICHTER]  
18 QUESTIONS BY MR. MCCARTAN:

19 Q Do you receive financial aid from the  
20 college, Ms. Richter?

21 A Yes.

22 Q And you were aware of your financial aid  
23 package before you enrolled at the college? As you  
24 testified, this is why you picked Grinnell College?

25 A Yes.

1 Q And were you, as part of that financial aid  
2 package, were you offered work study?

3 A Yes.

4 Q So you came to Grinnell College with the  
5 expectation of working; is that correct?

6 A Uh-huh. That's correct.

7 MR. MCCARTAN: No further questions, Your  
8 Honor.

9 HEARING OFFICER FREEBERG: Okay. Just one  
10 question from me. In your position, your student  
11 employment position, who do you report to or who is  
12 your supervisor?

13 THE WITNESS: Well, there are multiple  
14 supervisors in the dining hall at any given time.

15 HEARING OFFICER FREEBERG: And what are  
16 those positions or --

17 THE WITNESS: Like, specific positions that  
18 I work?

19 HEARING OFFICER FREEBERG: The positions  
20 that you report to?

21 THE WITNESS: Well, the supervisors are --  
22 like, what do you call it, full time staff, I guess,  
23 as opposed to a student like me.

24 HEARING OFFICER FREEBERG: Okay. Thank you.  
25 No other questions me. Does any other party have

1 any further questions?

2 MR. MCCARTAN: No.

3 MR. HARTY: I do, in follow-up to that.

4 [RE-CROSS EXAMINATION OF MS. RICHTER]

5 QUESTIONS BY MR. HARTY:

6 Q Did the -- I would not have asked you this,  
7 but since you disclosed that you do receive  
8 financial aid I just want to ask you, are you -- it  
9 can always be better, I understand, but are you  
10 generally satisfied with the financial aid that  
11 Grinnell College has been providing?

12 A No.

13 Q Okay. You think you are entitled to more?

14 A That would certainly make things easier.

15 Q Okay. And you were asked about your -- your  
16 chain of command. Can we just make sure we're clear  
17 on one thing? You work for dining services, not for  
18 any of the positions that are the subject of this  
19 proceeding; is that right?

20 MR. XU: Objection, Your Honor, lack of  
21 personal knowledge. Ms. Richter does not know what  
22 jobs or positions are requesting in this proceeding.  
23 She is just testifying to her personal experience  
24 with campus employment. If Mr. Harty can rephrase  
25 his question, that would be appreciated.

1 HEARING OFFICER FREEBERG: Or perhaps the  
2 parties can even just stipulate to that. I don't -  
3 is there any dispute? I don't think --

4 MR. XU: No. Let me just object --

5 MR. HARTY: I was just referring to that Ms.  
6 Richter works for dining services.

7 HEARING OFFICER FREEBERG: Right.

8 MR. XU: I mean, she testified she does not  
9 work any other jobs. And since dining services is  
10 not the question today.

11 HEARING OFFICER FREEBERG: I don't think  
12 there's been a foundation established for her  
13 knowledge as to who's in the petition for unit.

14 MR. HARTY: I'll withdraw the question. I  
15 mean it's clear that she doesn't -- we all know that  
16 she doesn't work in any of the positions at issue  
17 here today.

18 HEARING OFFICER FREEBERG: Okay. Is that  
19 something the parties can stipulate to?

20 MR. MCCARTAN: Yes, Your Honor.

21 HEARING OFFICER FREEBERG: Okay. Thank you.  
22 Any other questions?

23 MR. HARTY: No.

24 HEARING OFFICER FREEBERG: Okay. Thank you.  
25 You can step down.



1 MR. MCCARTAN: Your Honor, petitioner calls  
2 Peter Cipriano.

3 (Whereupon,

4 PETER CIPRIANO,  
5 was called as a witness, by and on behalf of the  
6 Employer and, after having been duly sworn, was  
7 examined and testified as follows:)

8 \* \* \* \* \*

9 HEARING OFFICER FREEBERG: Please state your  
10 name and spell it clearly for the record.

11 THE WITNESS: My name is Peter Cipriano.  
12 P-E-T-E-R, last name is C-I-P-R-I-A-N-O.

13 HEARING OFFICER FREEBERG: Thank you. Go  
14 ahead.

15 [DIRECT EXAMINATION OF MR. CIPRIANO]

16 QUESTIONS BY MR. MCCARTAN:

17 Q Mr. Cipriano, what is your relationship with  
18 Grinnell College?

19 A I'm a student and employee of Grinnell  
20 College.

21 Q And how long have you been a student at  
22 Grinnell College?

23 A I've been a student at Grinnell College  
24 since fall -- or August of 2015.

25 Q And how long have you been an employee of

1 Grinnell College?

2 A I have been employee of Grinnell College  
3 since the fall of 2016, my second year at Grinnell  
4 College.

5 Q And what positions have you worked in your  
6 capacity as a student employee?

7 A Worked multiple different positions. I  
8 think I first started working as a lifeguard at the  
9 Charles Benson Bear facility. I then, after that,  
10 worked as a TA for a lab for the intro physics. I  
11 have worked as a summer research student. And I  
12 have worked as a -- and then I'm currently working  
13 both as a lifeguard and -- and as a physics mentor  
14 for the intro physics students. And then, I believe  
15 there's one more job in there and I'm having  
16 struggle -- just struggling remember them, but  
17 I've -- I mentioned my TA, I mentioned my lifeguard,  
18 I mentioned the summer research. I think that's all  
19 that I can remember at the moment.

20 Q And did you have a supervisor are in each of  
21 these jobs, Mr. Cipriano?

22 A Yes.

23 Q And were you compensated for working those  
24 jobs?

25 A Yes, I was paid.

1 Q And let's talk about compensation  
2 specifically. You say you work as a lifeguard.  
3 Could you tell me what the pay rate is as a  
4 lifeguard?

5 A I'm currently paid \$12 an hour.

6 Q And to your knowledge, are any other  
7 positions on campus paid at \$12 an hour or higher?

8 A To my knowledge, there's no other job on  
9 campus that is paid over \$12 an hour.

10 Q Mr. Cipriano, are there special  
11 qualifications you need to have in order to apply  
12 for a lifeguard position?

13 A I am required to have a certification, a  
14 lifeguard certification. I think American First  
15 [sic.] Cross.

16 Q And so to your knowledge, is that why these  
17 positions are paid \$12 an hour?

18 A No. I think there's other reasons.

19 Q Why are they paid \$12 an hour?

20 A Well, why are they paid \$12 dollars an  
21 hour --

22 MR. HARTY: Can I voir dire the witness for  
23 purposes of forming an objection, Your Honor?

24 HEARING OFFICER FREEBERG: Yes.

25 MR. HARTY: Mr. Cipriano, have you ever had

1 any role in setting the pay of lifeguards at  
2 Grinnell College?

3 THE WITNESS: No.

4 MR. MCCARTAN: We'll withdraw the question,  
5 Mr. Harty, Your Honor. I apologize.

6 HEARING OFFICER FREEBERG: Okay.

7 Q (By Mr. McCartan) So let's go back and talk  
8 about your enrollment as a student at the college.  
9 Have you been a student of the college continuously  
10 since you first enrolled?

11 A I have not. Since -- okay. Last year, I  
12 think during the summer when I was a research --  
13 researching here with my adviser, I had received the  
14 news from the financial aid office here at Grinnell  
15 College that they were going to double it, my  
16 financial aid. And this was, in part, because I  
17 also had another sister who was enrolled at another  
18 university --

19 Q Mr. Cipriano, briefly, could you just -- you  
20 said the financial aid office doubled your financial  
21 aid?

22 A I'm sorry, they did not double, thank you  
23 for correcting me. They halved it, okay. They  
24 increased -- they doubled the tuition payment.  
25 Sorry. Thank you for clarifying that.

1 I'm absent-minded at times. But  
2 continuing on with my story, my sister, who before  
3 my third year at college, was currently enrolled in  
4 another university. She had graduated and the  
5 financial aid office had realized that my family was  
6 only required now to only pay one tuition bill. And  
7 then, therefore, they assumed that my family would  
8 have the ability to pay pretty much half of my  
9 tuition. Not -- well, pay more. And this was not  
10 the case.

11 And because my tuition payment was  
12 essentially doubled, my family couldn't afford it,  
13 and I had to take the second semester off. And the  
14 only reason I'm still here today is because  
15 fortunately I have a little brother who also got  
16 enrolled in another university and, therefore, the  
17 tuition payment got halved and it's down to the  
18 approximate levels beforehand. A little higher but  
19 because tuition raises every single year but, yeah.

20 Q Thank you, Mr. Cipriano. And could you just  
21 give us what -- what is the -- you said you took the  
22 semester off. What's sort of the technical name for  
23 that?

24 A It's the leave of absence.

25 Q Okay. So what is the process for taking a

1 leave of absence from the college?

2 A Process of leave of absence is essentially  
3 you have to make your way up to the suite of offices  
4 that holds the office of student success and  
5 academic advising. I had to make an appointment  
6 with the dean of student advising. And once the  
7 appointment was in place, I would have to undergo a  
8 series of questions that was asking, well, why did I  
9 want to take my leave of absence. And I essentially  
10 informed the dean that I was unable to -- my family  
11 was unable to afford it.

12 And along with making that statement,  
13 I was also given a couple of documents and sheets of  
14 papers that were informing the -- the condition --  
15 outlining the conditions of being on leave.

16 Q Would you recognize a copy of that document  
17 outlining the conditions of being on leave if I  
18 showed it to you today?

19 A I would.

20 MR. MCCARTAN: Your Honor, I am showing  
21 Mr. Harty what has been marked as Petitioner Exhibit  
22 1 for identification. And giving the witness the  
23 same.

24 (Whereupon, Petitioner's Exhibit  
25 No. 1 was marked for

1 identification.)

2 Q (By Mr. McCartan) Mr. Cipriano, is this the  
3 document that you were just speaking about?

4 A Yes, it is.

5 Q Does it appear to be a fair and accurate  
6 copy?

7 A It does.

8 MR. MCCARTAN: I wonder if you could -- Your  
9 Honor, petitioner submits Exhibit 1 into evidence.

10 MR. HARTY: No objection.

11 HEARING OFFICER FREEBERG: Okay. Petitioner  
12 Exhibit 1 is received.

13 (Whereupon, Petitioner's Exhibit  
14 No. 1 was offered and received  
15 into evidence.)

16 Q (By Mr. McCartan) Mr. Cipriano, I wonder if  
17 you could read for me under item eight the sentence  
18 starting with, Students who live?

19 A Yes. Near the bottom of that paragraph it  
20 says: "Students who live in town during their leave  
21 may seek to work at the college as a non student."

22 Q Now, Mr. Cipriano, did you avail yourself of  
23 this option to work a student employment position as  
24 a non student?

25 A Are you saying that did I consider --

1 Q During your leave of absence did you --

2 A Did I -- did I consider working here when I  
3 was on leave of absence is that --

4 Q Did you actually work here?

5 A I did not work here on my leave of absence.

6 Q Where -- what did you do during your leave  
7 of absence?

8 A I went back home and then I worked a job  
9 that -- one job -- actually, I worked two jobs. One  
10 job was, like, 33 hours a week, the other job was  
11 eight hours a week, practically full time job.

12 Q And, Mr. Cipriano, had you not taken leave  
13 of absence from the college, what would you have  
14 been doing during the spring of 2018?

15 A I would have been abroad. I had planned on  
16 going abroad but --

17 Q And, Mr. Cipriano, abroad would you have  
18 been taking classes?

19 A Yes, I would have been taking classes  
20 abroad.

21 Q And did you take classes during your leave  
22 of absence?

23 A I did not.

24 Q So -- I mean, could you just talk maybe  
25 briefly about how this taking this leave of absence



1 and working full time instead has affected your  
2 educational experience at Grinnell College?

3 A Well, how was I affected, I mean  
4 essentially, like, I would have been very happy to  
5 take 16 more credits, if I could. And I tried to at  
6 least enroll in classes while I was gone at the  
7 local community college but my family had told me  
8 that it would have been best -- in the interests of  
9 our family, in the interests of me completing the  
10 rest of my education, to continue to work to at  
11 least pay for my tuition and pay off my debt that I  
12 currently owed to Grinnell College.

13 And they -- wasn't able to take as  
14 much education -- as much classes as I would have  
15 wanted to or preferred to.

16 Q And, Mr. Cipriano, about how many hours are  
17 you working for the college this semester?

18 A Let me think. Let me tally it in my head  
19 for a second. I think around about eight or ten  
20 hours approximately.

21 HEARING OFFICER FREEBERG: Is that per week  
22 or --

23 THE WITNESS: Per week.

24 Q (By Mr. McCartan) And if these eight hours  
25 of your -- your time weren't compensated, would you

1 be working them?

2 A I would not be doing -- I would not be  
3 working them.

4 MR. MCCARTAN: No further questions, Your  
5 Honor. Thank you, Mr. Cipriano.

6 HEARING OFFICER FREEBERG: Okay. Mr. Harty,  
7 you may cross examine the witness.

8 [CROSS EXAMINATION OF MR. CIPRIANO]

9 QUESTIONS BY MR. HARTY:

10 Q Thank you. Mr. Cipriano, I -- I just have a  
11 couple of questions for you. Where is home?

12 A Home is Flossmoor, Illinois. It's a suburb  
13 of Chicago.

14 HEARING OFFICER FREEBERG: For the record,  
15 how do you spell that?

16 THE WITNESS: F-L-O-S-S-M-O-O-R.

17 HEARING OFFICER FREEBERG: Thank you.

18 Q (By Mr. Harty) I mean, what's your estimated  
19 graduation right now?

20 A Currently, plans are not specific. I'm  
21 hoping to graduate in May of this -- this -- this --  
22 I'm sorry -- in this school year, May of 2019.

23 Q Do you have a declared major?

24 A Yes, I'm a physics major.

25 Q What do you -- do you have plans post

1 graduation?

2 A Nothing that's particularly certain at this  
3 moment. I am -- I do have post graduate plans, both  
4 either into Ph.D. or master's programs either in the  
5 field off physics education or into physics, purely.  
6 Other than that, I'm also considering applying my  
7 major to more social -- social ends as well.

8 Q Have you applied for any programs?

9 A I have not. I'm actually planning on  
10 figuring that all out when I take a year between my  
11 graduation and applying.

12 Q Just for our purposes here, are there any  
13 post graduate programs like that at Grinnell  
14 College?

15 A For my post graduate plans for --

16 Q For your major?

17 A For my major? From my understanding, I --  
18 well, I think -- in fact, I think there is an  
19 opportunity. I do know of one particular physics  
20 major who did graduate here from Grinnell College  
21 and ended up working as a post baccalaureate  
22 position, I think in the physics department and in  
23 science division.

24 I have not been made particularly  
25 aware of that opportunity to me, but I do know that

1 such a position exists.

2 Q Otherwise you'd be looking at other  
3 institutions?

4 A I'm not -- well, I'm currently not looking  
5 at that position right now. I mean, I'm -- I'm  
6 looking -- I'm considering looking at other  
7 institutions, too.

8 Q And what is the -- is it WSA or WSI that you  
9 have to have to be a guard here?

10 A Are you talking about the certification?

11 Q Yeah.

12 A I think it's the American Red -- American  
13 Red Cross is the certification.

14 Q And I would not have asked you this, but  
15 you -- but you volunteered about your -- your  
16 financial aid package.

17 Were you offered a more generous  
18 financial aid package at any other institution?

19 A No, I was not.

20 MR. HARTY: Thank you. I don't have any  
21 other questions.

22 HEARING OFFICER FREEBERG: Okay. I have a  
23 question about Petitioner Exhibit 1. Looking at  
24 paragraph eight, what does MAPS refer to; do you  
25 know?

1           THE WITNESS: That's a reference to the  
2           Mentored Advanced Projects. It's a research, I  
3           think, professor who comes up with an idea, they  
4           have a research proposal, they make it and then they  
5           get students to help them work with it. And I was  
6           selected to be on the MAP.

7           HEARING OFFICER FREEBERG: Okay. Was that  
8           one of the positions you testified about earlier?

9           THE WITNESS: Yes, it was, in the summer of  
10          2000 -- 2017.

11          HEARING OFFICER FREEBERG: Okay. And just  
12          very briefly would you describe that position?

13          THE WITNESS: Yeah. So I lived on campus.  
14          And, basically, I was every single day, 8:00, I  
15          would come in. Part of that would be reading  
16          textbooks, reading papers, and then there's labs on  
17          campus and I worked in the lab. And my supervisor  
18          would, at times, would tell me, like, instruct me on  
19          how to do certain work within the lab. Other times,  
20          I think, there's a bit of a -- yeah, but I am  
21          particularly under control of the research for my  
22          professor slash adviser.

23          HEARING OFFICER FREEBERG: Okay. That -- so  
24          this position you're testifying about, that --  
25          you're a research assistant for which department

1 or --

2 THE WITNESS: This is the physics  
3 department.

4 HEARING OFFICER FREEBERG: It was the  
5 physics department, okay. And then, you also were a  
6 TA for an intro to physics lab?

7 THE WITNESS: That's correct.

8 HEARING OFFICER FREEBERG: And then also a  
9 lifeguard?

10 THE WITNESS: Yes.

11 HEARING OFFICER FREEBERG: And did you do  
12 any of those positions at the same time or were they  
13 all at different times?

14 THE WITNESS: Well, I was -- I think some of  
15 them were at the same -- same time. I do know --  
16 and I -- I actually did forget. I was thinking -- I  
17 remembered I was forgetting a position, but I was a  
18 TA for also a modern physics lab, and I did  
19 lifeguard during that time concurrently. As being a  
20 TA in the physics lab, I was also a lifeguard.

21 And I was also -- I think the other  
22 job I forgot to mention was I also a welcome desk  
23 supervisor at the Charles Benson Bear facility, too.  
24 And I think the fall semester before I took my leave  
25 of absence, I was working those three jobs at the

1 same time.

2 HEARING OFFICER FREEBERG: Sorry, which  
3 three were those? That was welcome desk --

4 THE WITNESS: That was modern physics TA for  
5 the lab portion, that was lifeguard, lifeguarding,  
6 and that was also welcome desk supervising.

7 HEARING OFFICER FREEBERG: Okay. And for  
8 each of those positions, did you log your hours?

9 THE WITNESS: Some of the them were just  
10 clock in, clock out. My lifeguard position is a  
11 clock in clock out system. I did have to -- I was  
12 required to log in my hours for my TA job.

13 HEARING OFFICER FREEBERG: But not the other  
14 position?

15 THE WITNESS: I did clock in for my welcome  
16 desk supervising position, too.

17 HEARING OFFICER FREEBERG: And was there a  
18 cap on the number of hours you could work overall or  
19 for each individual position or any cap at all?

20 THE WITNESS: I think the work for my TA job  
21 was constrictive to just -- it was just constricted  
22 the class time. I mean I think -- there was also  
23 some preparation time, yes. So preparation time  
24 only limited to be -- I'm not particularly sure what  
25 the amount is. And then there was also just the

1 class time itself. The welcome desk supervising and  
2 the lifeguarding, I think that was capped. Like, if  
3 I were to mesh them together, I was capped at the  
4 standard campus wide cap of 20 hours a week. But  
5 there wasn't any kind of cap to those positions.

6 HEARING OFFICER FREEBERG: Okay. But the 20  
7 hours, does that refer to 20 hours for each  
8 individual position or for all the positions?

9 THE WITNESS: For all the positions.

10 HEARING OFFICER FREEBERG: Okay. And --  
11 okay. Those are all my questions. Does petitioner  
12 have --

13 MR. MCCARTAN: One question, Your Honor.

14 [RE-DIRECT EXAMINATION OF MR. CIPRIANO]

15 QUESTIONS BY MR. MCCARTAN:

16 Q So let's talk specifically about the fall of  
17 2017 when you said you were working three jobs, and  
18 just to go back to how those hours were recorded.  
19 You said it was a lifeguard and as a welcome desk  
20 supervisor you clocked in your hours?

21 A That is correct.

22 Q But as a peer mentor, you logged them into  
23 -- what system did you log them into?

24 A I think at the time, the system was called  
25 ADP.



1 Q Yeah.

2 A I think. E Time, ADP E Time, I think.

3 Q When you logged into ADP E Time, was that --  
4 I mean, that system, that online system, did it show  
5 the hours that you had clocked in at these other two  
6 jobs, if you recall?

7 A I can't recall very well, but I think so.

8 Q So to your knowledge, there's a -- there's a  
9 single pay system for the college?

10 MR. HARTY: Calls for speculation.

11 HEARING OFFICER FREEBERG: Could you lay the  
12 foundation as to whether this witness has knowledge  
13 of the subject you're asking?

14 MR. MCCARTAN: We'll withdraw. No further  
15 questions, Your Honor.

16 HEARING OFFICER FREEBERG: Okay. Mr. Harty,  
17 would you like to cross examine?

18 MR. HARTY: Just a couple of follow-ups  
19 based on your questions, Your Honor.

20 [RE-CROSS EXAMINATION OF MR. CIPRIANO]

21 QUESTIONS BY MR. HARTY:

22 Q With regard to what you described as -- as  
23 MAPS, you were asked about MAPS, M-A-P-S. What does  
24 that stand for again?

25 A Mentored Advanced Project.

1 Q Mentored Advanced Project. And yours  
2 occurred during a summer?

3 A Yes.

4 Q Grinnell College doesn't otherwise offer  
5 summer school, right?

6 A No, they don't offer summer classes.

7 Q Okay. But you received credit hours as a --  
8 a result of that MAPs project?

9 A I did, yeah.

10 Q And how many, do you remember?

11 A Four.

12 Q Four credit hours? And you were also paid a  
13 living stipend, right?

14 A Well, what do you mean as a -- I mean,  
15 yeah --

16 Q Well --

17 A -- depending -- I mean, yeah.

18 Q I'll be more precise. You weren't paid any  
19 amount through payroll while you were participating  
20 in the MAPs?

21 A It was a --

22 MR. MCCARTAN: Objection, calls for  
23 speculative. Witness doesn't know the source of  
24 funds for --

25 THE WITNESS: Yeah, I don't know the

1 department.

2 HEARING OFFICER FREEBERG: Your question is  
3 if he was paid through a payroll versus --

4 MR. HARTY: Right. I can be more precise.

5 HEARING OFFICER FREEBERG: Okay.

6 Q (By Mr. Harty) How were you paid by the  
7 college while you were participating in the MAPs  
8 program?

9 A How was I paid?

10 Q Yeah.

11 A I -- I do not know what department I was  
12 paid through. I do not know the agency. I just  
13 remember looking on the app that I used to manage  
14 my -- my finances and seeing, oh, I got paid. I  
15 don't particularly remember what the title was  
16 actually associated with it.

17 Q And it's fair to say that you -- you weren't  
18 paid by the hour, right?

19 A I was not paid by the hour.

20 Q And did you look at your -- at your payroll  
21 stubs to determine that there was no withholding, no  
22 payroll withholding on your paycheck?

23 A No, I did not.

24 MR. HARTY: Thank you. That's all I have.

25 HEARING OFFICER FREEBERG: So you were not

1 paid by the hour?

2 THE WITNESS: From my knowledge, I was not  
3 paid by the hour.

4 HEARING OFFICER FREEBERG: Do you know how  
5 you were paid? How that was determined?

6 THE WITNESS: I was just told it was through  
7 a stipend.

8 HEARING OFFICER FREEBERG: Okay.

9 MR. MCCARTAN: Your Honor, to be clear for  
10 the record, petitioner is not seeking to represent  
11 summer research positions.

12 HEARING OFFICER FREEBERG: Okay. Thank you  
13 for clarifying.

14 MR. MCCARTAN: Those are inherently academic  
15 and as the witness has testified to, are paid  
16 differently, controlled differently. We are not  
17 seeking to represent those, and it's our  
18 interpretation the knowledge -- that the language of  
19 the petition is that these positions would not be  
20 included in that language.

21 HEARING OFFICER FREEBERG: Okay. And can we  
22 classify that as a summer research assistant  
23 position?

24 MR. MCCARTAN: If it would help clarity  
25 for -- to the extent it would clarify what we

1 already thought was part of the petitioned for unit,  
2 I believe the correct language to list as a  
3 additional exclusion to clarify would be MAP  
4 participants.

5 HEARING OFFICER FREEBERG: Okay. The -- can  
6 the parties stipulate that any unit -- if any unit  
7 is found appropriate that it would exclude MAP  
8 participants? Is that something the employer would  
9 stipulate to?

10 MR. HARTY: I'd have to consider it.

11 HEARING OFFICER FREEBERG: Okay. So  
12 excluding the MAP position --

13 MR. XU: Yes.

14 HEARING OFFICER FREEBERG: The -- oh, it's  
15 just a question for the witness.

16 MR. XU: Oh, I'm sorry.

17 HEARING OFFICER FREEBERG: The other  
18 positions that you described that you worked, were  
19 those hourly, paid hourly?

20 THE WITNESS: Yes, all those were paid  
21 hourly.

22 HEARING OFFICER FREEBERG: Okay. I have no  
23 further questions for this witness. Does the  
24 petitioner or employer?

25 MR. MCCARTAN: No, Your Honor.

1 HEARING OFFICER FREEBERG: Okay.

2 MR. HARTY: Just one.

3 HEARING OFFICER FREEBERG: Okay.

4 [FURTHER RE-CROSS EXAMINATION OF MR. CIPRIANO]

5 QUESTIONS BY MR. HARTY:

6 Q When you served as the welcome desk  
7 supervisor, who did you supervise?

8 A Just the desk. I mean, for -- for one weird  
9 reason it was just called -- the position was called  
10 welcome desk supervisor. I would just sit at a  
11 desk.

12 Q You supervised a piece of furniture?

13 A Yeah, I -- it wasn't a particularly great  
14 job but, you know.

15 MR. HARTY: That clarifies it. Thank you.

16 THE WITNESS: All right.

17 HEARING OFFICER FREEBERG: Okay. If there  
18 are no further questions, then you can step down.  
19 Thank you.

20 MR. MCCARTAN: Your Honor, petitioner has  
21 one more witness, however, the witness is currently  
22 at work.

23 HEARING OFFICER FREEBERG: Okay.

24 MR. MCCARTAN: So we would present two  
25 options to Your Honor. Either taking a early lunch,

1 after which the witness would be available, or  
2 recessing for about 25 minutes, after which the  
3 witness will be available, Judge.

4 HEARING OFFICER FREEBERG: Okay.

5 MR. MCCARTAN: It's really important we try  
6 to call her and see if she can leave work. She has  
7 been served with a subpoena but --

8 HEARING OFFICER FREEBERG: Well, I think we  
9 could take a lunch break and does the employer have  
10 any objections to that?

11 MR. HARTY: No, Judge.

12 HEARING OFFICER FREEBERG: Let's go off the  
13 record and we'll break for lunch.

14 (Whereupon, a lunch recess was  
15 taken off the record from  
16 approximately 11:07 a.m. until  
17 12:00 noon.)

18 HEARING OFFICER FREEBERG: Let's go on  
19 record. Before the petitioner calls their next  
20 witness, I will rule on exhibit -- Petitioner's  
21 Exhibit 4. The employer objected on grounds that  
22 the entire handbook should be produced. And I just  
23 want to clarify first, that the employer is not  
24 contending that there's any other elements of the  
25 handbook specifically that should be included or

1 that would be relevant to the issues, but rather  
2 it's simply for the -- adding the completed exhibit  
3 should be offered.

4 MR. HARTY: Under the doctrine of  
5 completeness, and we have the handbook as an  
6 exhibit. It's not as quite as long as it was  
7 described. And we are willing to withdraw our  
8 objection if the entire Exhibit 4 is offered as the  
9 handbook. But our contention also, is that there  
10 are -- given that our contention that these are  
11 students and that employment is purely ancillary to  
12 their role as students, the student handbook, we  
13 weren't going to offer it, but because questions  
14 were asked about Exhibit 4 and it was essentially  
15 brought into play by the students, we -- we will  
16 offer it.

17 HEARING OFFICER FREEBERG: Okay.

18 MR. HARTY: And we do think it's relevant.

19 HEARING OFFICER FREEBERG: Okay. And does  
20 the petitioner object to receipt of the entire  
21 exhibit?

22 MR. MCCARTAN: No, Your Honor.

23 HEARING OFFICER FREEBERG: Okay. So then  
24 perhaps, would the petitioner like to withdraw  
25 Exhibit 4 to the extent that --



1 MR. MCCARTAN: It's contained --

2 HEARING OFFICER FREEBERG: It's contained  
3 in.

4 MR. MCCARTAN: -- employer's exhibit?

5 MR. XU: Let's look at it.

6 HEARING OFFICER FREEBERG: Okay. I'll let  
7 you look at that.

8 MR. XU: Yes. No objection, Your Honor.

9 HEARING OFFICER FREEBERG: No objection?

10 MR. XU: No.

11 HEARING OFFICER FREEBERG: Okay. And for  
12 the record, it doesn't look like there are page  
13 numbers. Is there any way to identify the page?

14 MR. XU: Yes.

15 MR. MCCARTAN: The page in question?

16 HEARING OFFICER FREEBERG: In question.

17 MR. MCCARTAN: Yeah. We will try to find it  
18 here, Your Honor.

19 MR. XU: The nature of the handbook is a  
20 hyperlink, on line document so --

21 MR. MCCARTAN: Oh, here it is. The page in  
22 question, Your honor, I believe the exhibit is  
23 divided into three portions, each with separate page  
24 numbers in the lower right hand corner, separate  
25 portions. So the portion of 49 pages, the page in

1 question is page 18/49.

2 HEARING OFFICER FREEBERG: Okay. So down in  
3 the bottom left corner it says 18 of 49.

4 MR. XU: Yeah. Now, there's not -- there's  
5 more than 49 pages in the exhibit obviously but,  
6 yes, that's the page number.

7 HEARING OFFICER FREEBERG: Okay. And --  
8 sorry, did you say that you will withdraw Exhibit 4.

9 MR. MCCARTAN: Petitioner withdraws Exhibit  
10 4.

11 HEARING OFFICER FREEBERG: Okay. And for  
12 the record, we've clarified that petitioner's  
13 Exhibit 4 is the one page document identified in the  
14 bottom left corner of Employer's Exhibit N.

15 MR. HARTY: N.

16 HEARING OFFICER FREEBERG: N, that says 18  
17 of 49. Employer Exhibit N is offered; is that  
18 correct?

19 MR. HARTY: Yes.

20 HEARING OFFICER FREEBERG: And there's no  
21 objection to receipt of Employer's Exhibit N?

22 MR. MCCARTAN: There is not, Your Honor.

23 HEARING OFFICER FREEBERG: Okay. So  
24 Employer Exhibit N is received.

25 (Whereupon, Employer's

1                   Deposition Exhibit N was offered  
2                   and received into evidence.)

3                   HEARING OFFICER FREEBERG: Okay. Would the  
4 petitioner like to call your next witness and last  
5 witness?

6                   MR. XU: Yes, Your Honor. Petitioner calls  
7 Allyson Leicht.

8 (Whereupon,

9                   ALLYSON LEICHT,  
10 was called as a witness, by and on behalf of the  
11 Employer and, after having been duly sworn, was  
12 examined and testified as follows:)

13                                   \* \* \* \* \*

14                   HEARING OFFICER FREEBERG: Please state your  
15 name and spell it clearly for the record.

16                   THE WITNESS: Allyson Leicht A-L-L-Y-S-O-N  
17 L-E-I-C-H-T.

18                   HEARING OFFICER FREEBERG: Thank you. Go  
19 ahead.

20                   [DIRECT EXAMINATION OF MS. LEICHT]

21                   QUESTIONS BY MR. XU:

22                   Q    What is your relationship with Grinnell  
23 College, Ms. Leicht?

24                   A    I am a student and an employee.

25                   Q    As a student, what class year are you?

1 A 2019.

2 Q Now I'm just going to talk about your  
3 employment at the college a bit. During your time  
4 at Grinnell, what departments have you worked for as  
5 a student employee?

6 A I've worked in residence life as a community  
7 adviser. I have worked in the chemistry department  
8 as a tutor and a grader. Worked in the physics  
9 department as a grader, and the E Con department as  
10 a tutor and a grader, and then I also co run the  
11 textbook Lending Library at the CRSSJ.

12 Q Can you explain what Lending Library is?

13 A Yeah, the textbook Lending Library provides  
14 students who cannot otherwise afford their books  
15 with textbooks for their courses.

16 Q And for clarification, what does CRSSJ stand  
17 for?

18 A The Center for Religious Life, Social  
19 Justice -- it's something there's spirituality in  
20 there, too, at some point.

21 Q Now, Ms. Leicht, what departments do you  
22 work for as a student employee now?

23 A Currently, I grade for the chemistry  
24 department. I also am a tutor, and then I grade for  
25 physics, and I run the Lending Library.

1 Q So on average, how many hours do you work  
2 per week this semester?

3 A During the beginning and end of the semester  
4 it's anywhere from 20 to 40 hours a week getting the  
5 Lending Library set up and running and closed down  
6 for the semester, and then average it's about five  
7 to ten during the school year for the other jobs.

8 Q Are you paid for your positions in Lending  
9 Library?

10 A Yes.

11 Q Are you paid for position in the physics  
12 department including specifically grading?

13 A Yeah.

14 Q Are you paid for the position as a tutor for  
15 the chemistry department?

16 A Yes.

17 Q Are you paid for a position as a grader for  
18 the chemistry department?

19 A Yes.

20 Q Now let's talk about your compensation. Do  
21 you receive any financial aid from Grinnell College?

22 A I do. I'm on a pretty extensive financial  
23 aid package.

24 Q And that financial aid included on campus  
25 employment?

1           A    Yeah, I had work study allocated into my  
2 financial aid package when I was given -- when I  
3 started here.

4           Q    So before you started enrolling at Grinnell  
5 College, you learned about the work study component  
6 of your financial aid package?

7           A    Yes.

8           Q    And would you say that coming to Grinnell,  
9 you were expecting to work for Grinnell College?

10          A    Yes, I was.

11          Q    So moreover, like how do -- how do you  
12 allocate your income from student employment?

13          A    So the student employment goes in addition  
14 with the return on my financial aid. Because I live  
15 off campus so I get money back that doesn't cover  
16 the room and board that I would normally have to  
17 pay, and so that goes in to cover rent and books and  
18 any other things I should need during the semester,  
19 food, clothes.

20          Q    Okay. So you mentioned -- you just  
21 mentioned you live off campus. Why do you choose to  
22 live off campus instead of living on campus in a  
23 dorm?

24          A    After my second year working as a community  
25 adviser, I realized that in order to continue coming

1 here, I would need to move off campus because my  
2 family financial situation was going to drastically  
3 change. And so I needed to find a way that was  
4 somewhat cheaper than I had the ability to afford  
5 and continue going here.

6 Q Were you guaranteed an opportunity to live  
7 off campus?

8 A I was not. I had to go and fight to live  
9 off campus. I had to plead my case and talk to the  
10 head of residence life to get approval.

11 Q If you would explain to us more how you need  
12 to fight for the chance to give off campus?

13 A So the way it's -- like a lottery system,  
14 kind of. It's whoever has the best number gets to  
15 live off campus, and so my number wasn't good enough  
16 to live off campus in the third year. So I had to  
17 go and explain my financial situation to several  
18 members of the residence life team, and explain that  
19 I would not be able to come back the next year if I  
20 could not move off campus.

21 Q And by living off campus for you, it's  
22 cheaper than living in a dorm?

23 A Yes.

24 Q So moving on to food, was your income from  
25 financial aid or student employment enough for you

1 to purchase food right now?

2 A No. I did go off the dining plan because  
3 it's cheaper to go off the dining plan, and in  
4 addition to that I have food stamps to supplement  
5 any income that I make so that I can afford to  
6 continue going here and living off campus.

7 Q So you're on food stamps?

8 A Yes.

9 Q Now, let's talk about your education as a  
10 student at Grinnell College. Do you work a lot --  
11 how do you balance your campus employment and your  
12 academic needs?

13 A I try and schedule my classes in ways that  
14 allow me to work in different things. So the way  
15 I've been able to schedule classes have either been  
16 taking only 12 credit hours some semesters in order  
17 to be able to work, or just moving things around and  
18 taking different classes so that I can fit in the  
19 jobs that I have.

20 Q So you just mentioned you were taking 12  
21 credits per semester. Can you put that into context  
22 of academic units of Grinnell College for us?

23 A So, I mean a 12 credit semester is about  
24 three courses. Most students tend to take four to  
25 five, depending how many credits they are. And so,



1 taking only 12 credits is the max you can -- the  
2 minimum you can take to still receive your full  
3 financial aid package.

4 Q So you have been taking fewer classes to be  
5 able to work more?

6 A Yes.

7 Q So, Ms. Leicht, why do you work any campus  
8 jobs at Grinnell College?

9 A Because I can't afford not to.

10 Q Were there -- weren't there any benefits  
11 other than economic benefits to these jobs?

12 A A few of them, but the majority of them are  
13 economic benefit.

14 Q Such as?

15 A I mean, tutoring, I learn more while I'm  
16 tutoring, but grading and working at the Lending  
17 Library is just economic benefit.

18 Q Okay. So finally, just given these  
19 potential educational component benefits of these  
20 campus employment positions, would you work these  
21 same positions if they were unpaid?

22 A I wouldn't be able to continue to go here  
23 and do all these unpaid -- and do unpaid positions.

24 Q Because of?

25 A Because I wouldn't be able to afford it. I

1 don't have a financial support system at home.

2 MR. XU: I have nothing further, Your Honor.

3 HEARING OFFICER FREEBERG: Okay. Would you  
4 like to cross examine the witness.

5 MR. HARTY: Thank you. I just a couple of  
6 questions.

7 [CROSS EXAMINATION OF MS. LEICHT]

8 QUESTIONS BY MR. HARTY:

9 Q Where are you from?

10 A Missouri.

11 Q What's your major?

12 A I'm doubling in chemistry and economics.

13 Q When you were considering college, were  
14 there any other institutions that offered you a  
15 financial aid package more generous than Grinnell  
16 College?

17 A No.

18 Q You live off campus?

19 A Uh-huh.

20 Q Do you receive --

21 HEARING OFFICER FREEBERG: Oh, sorry, just

22 a --

23 THE WITNESS: Oh, yes.

24 HEARING OFFICER FREEBERG: Thank you.

25 Q (By Mr. Harty) I wouldn't ask you about

1 financial aid except for the fact that -- that you  
2 volunteered it on direct. Do you receive financial  
3 aid from the college to support your -- your living  
4 off campus?

5 A The way it works in my financial aid package  
6 is that my financial aid grant from the school and,  
7 like, Pell grants and stuff from the government,  
8 they cover tuition and any other fees, and then on  
9 top of that I take out loans. Then the loans are  
10 what I get back to support my living off campus and  
11 paying for food and rent during the semester.

12 Q So directly or indirectly it does have some  
13 flow through of Grinnell College?

14 A Yes.

15 Q Okay. Your -- the work study commitment  
16 that you said you were aware of prior to committing  
17 to Grinnell College, you understood that if your  
18 situation changed, if you won the lottery, for  
19 example, you wouldn't have to do that -- that work,  
20 right?

21 A Correct.

22 Q Your -- the commitment, as I understand it,  
23 it's what, eight to ten hours a week?

24 A It's normally about ten hours a week.

25 Q And is there -- is there some financial aid

1 component attached to that eight to ten hours a  
2 week?

3 A I'm not sure exactly how it works.

4 MR. HARTY: Okay.

5 HEARING OFFICER FREEBERG: I just wanted to  
6 clarify. The commitment that you just discussed,  
7 ten hours per week, that's a commitment -- you made  
8 a commitment to work ten hours per week?

9 THE WITNESS: So you can have a balance on  
10 your account of up to, I think it's about \$1100.  
11 And so that goes into -- you work ten hours a week,  
12 and they take the money out of your paycheck. So  
13 you can allocate how much you want to go for that.  
14 And so that's how they -- like, you pay off part of  
15 your student, like, your tuition or whatever they  
16 didn't cover.

17 HEARING OFFICER FREEBERG: But you -- can  
18 you choose to work fewer than ten hours per week?

19 THE WITNESS: Yes, and then you would have  
20 to pay in another way to cover that amount.

21 HEARING OFFICER FREEBERG: Okay. Thank you.  
22 Sorry, go ahead.

23 MR. HARTY: Thanks. That's -- I was trying  
24 to -- to get at that, the relationship between  
25 the -- the campus employment opportunity and the

1 financial package. I think that -- I think that  
2 covered it nicely.

3 Q (By Mr. Harty) Do you -- have you ever  
4 considered working in dining to get free food?

5 A I have worked in dining for food. I did not  
6 like it after my first semester, so I chose to go a  
7 different route.

8 Q When do you graduate?

9 A This year, in May.

10 Q Do you have plans?

11 A I'm going to grad school.

12 Q Where are you going to go?

13 A I'm not sure yet, I'm still filling out  
14 applications.

15 Q Not at Grinnell, though?

16 A Well, no, Grinnell doesn't offer grad school  
17 programs.

18 MR. HARTY: Okay. Thank you. Nothing else.

19 HEARING OFFICER FREEBERG: Does petitioner  
20 have additional questions?

21 MR. XU: No, Your Honor.

22 HEARING OFFICER FREEBERG: Okay. I just  
23 have a few more clarifications. Was it your  
24 testimony that you've worked as a community adviser  
25 as part of Resident Life?

1 THE WITNESS: Yes.

2 HEARING OFFICER FREEBERG: Okay. And as  
3 part of that role, does it have any requirements or  
4 conditions related to living on campus or in a  
5 certain building or anything like that?

6 THE WITNESS: So when I was a community  
7 adviser, I worked in the Langan cluster, which is  
8 one of the north campus clusters. I was in charge  
9 of two floor. And during that time, I was required  
10 to be on campus and live on campus. And so living  
11 on campus, I did have a meal plan at that point.

12 But I was also required to show up to  
13 a certain amount of meetings and have a certain  
14 amount of events for the students, but it did come  
15 with a compensation package. That was a stipend for  
16 each semester.

17 HEARING OFFICER FREEBERG: And that -- did  
18 that cover living in the building or --

19 THE WITNESS: No. It was just, like, a  
20 baseline compensation for your work. You still had  
21 to pay full tuition and room and board.

22 HEARING OFFICER FREEBERG: Okay. And in  
23 running the Lending Library, was it your testimony  
24 that you sometimes work up to 40 hours per week just  
25 on that position?

1           THE WITNESS: Yes. When we get it started  
2 in the beginning of the semester, it's run by two  
3 students and so we have about almost 400 students  
4 that are eligible to receive textbooks from the  
5 Lending Library, and we worked with the financial  
6 aid department to determine that need.

7           And so we have to get book requests  
8 and pull books and re-shelve books, and we also get  
9 donations. And so we have to figure out how those  
10 fit it into our shelves.

11          HEARING OFFICER FREEBERG: Okay. And do you  
12 clock your hours or how is that --

13          THE WITNESS: Yeah, we log them on the  
14 system, so it's self logged on the -- I think it's  
15 changed, it's Nova time.

16          HEARING OFFICER FREEBERG: Okay. And then  
17 did you say that you also could work five to ten  
18 hours on other jobs in addition to that 20 to 40  
19 hours per week running the Lending Library?

20          THE WITNESS: So the 20 to 40 hours is just  
21 at the very beginning and very end of the semester  
22 because those are our heavy times when students are  
23 getting books or returning books. Otherwise, right  
24 now we're down to about two to four hours a week at  
25 the Lending Library.

1 HEARING OFFICER FREEBERG: Okay. And do you  
2 need any special permission or -- in order to work  
3 40 hours, for example? There was testimony on the  
4 record earlier, I don't know if you were in the  
5 room, about there being a 20 hour --

6 THE WITNESS: There's a 20 hour cap, but  
7 normally we either -- the -- it's -- it's weird how  
8 it works because it's the first week of classes and  
9 so the -- no one has come to me saying, hey, you  
10 can't work 40 hours that first week or the week  
11 before classes starts. Because normally we tart  
12 working the week before to set everything up and  
13 responding to e-mails and pulling books off shelves.  
14 So it's those first two weeks, and then the -- they  
15 become a little more lenient on your hours in the  
16 first two weeks of class or the week before and the  
17 week of class.

18 HEARING OFFICER FREEBERG: And have you  
19 worked any other positions other than -- I think the  
20 ones you testified about, were those all of the  
21 positions you've worked in student employment?

22 THE WITNESS: I've also worked in the dining  
23 hall my first semester. Only a few hours there,  
24 though.

25 HEARING OFFICER FREEBERG: Okay. I have no



1 further questions. Could you spell for the record  
2 the name of resident hall that you were --

3 THE WITNESS: Langan L-A-N-G-A-N.

4 HEARING OFFICER FREEBERG: Thank you. Does  
5 the employer have any further questions?

6 MR. HARTY: I just have two.

7 HEARING OFFICER FREEBERG: Okay.

8 Q (By Mr. Harty) The work in the Lending  
9 Library, you said it's -- you spent almost 40 hours  
10 a week, did you say, at the -- was that before  
11 school started?

12 A Yes, it's normally in the first few days  
13 leading up to the first day of class.

14 Q Okay. And then does it equal out? You say  
15 you're working what, two --

16 A I work an hour a week right now at the  
17 Lending Library, just because we don't have the  
18 influx of people that need textbooks right now.

19 Q So have you ever tried to average out what  
20 that -- that equalizes to over the course of a  
21 semester?

22 A No, because it really depends on each  
23 semester what we have to do. So there was -- last  
24 year we had to move the Lending Library, and so that  
25 was a very intensive process and it required a lot

1 more hours. And this year, we're trying to save on  
2 hours so that we can train new people since my  
3 co-supervisor and I are graduating and we need  
4 someone to take over our positions so that they can  
5 continue for future students.

6 Q Okay. Again, I apologize for asking this  
7 but it's necessitated by virtue of the fact that you  
8 were -- you were asked a number of questions on  
9 direct by your fellow students about your financial  
10 aid situation.

11 So my question to you is, have you  
12 ever attempted to determine what percentage of the  
13 aid that you receive through Grinnell College,  
14 either from the federal government or from the  
15 college, from your -- your employment, your campus  
16 employment, what percentage of that total package is  
17 related to your campus employment?

18 A No.

19 Q Not even a -- a ballpark?

20 A I mean, I depend pretty much primarily on  
21 campus employment to feed and house and clothe  
22 myself, in addition to financial aid.

23 Q But the aid pays for your tuition and, I  
24 think, did you also say that your -- your off campus  
25 housing is likewise subsidized in part?

1 A Yes, I get part of it subsidized from --

2 Q Okay. And you just never tried to figure  
3 out what percentage of that --

4 MR. XU: Objection. Asked and answered.  
5 The -- the witness already answered his question  
6 whether she had determined the percentage and she  
7 said no.

8 HEARING OFFICER FREEBERG: Okay. That's  
9 true. I think but this question was a new question  
10 in that he asked have ever tried to determine and  
11 so --

12 MR. XU: Okay. As long as it's a new  
13 question, I'll withdraw my objection.

14 HEARING OFFICER FREEBERG: Okay. Yeah. Go  
15 ahead.

16 Q (By Mr. Harty) I'll go ahead and finish it.  
17 You did testify earlier that you don't know what the  
18 percentage is. My question is, have you ever --  
19 have you ever tried to figure that out?

20 A I'm not exactly sure why I would need the  
21 percentage. I just look at the -- how it fits into  
22 my budget for the semester. And since I don't get  
23 any financial support from my family, what I make is  
24 what I have to live on.

25 MR. HARTY: Thanks. Nothing else.

1 HEARING OFFICER FREEBERG: Okay. Any  
2 further questions?

3 MR. XU: Yes. Briefly, Your Honor.

4 [RE-DIRECT EXAMINATION OF MS. LEICHT]

5 QUESTIONS BY MR. XU:

6 Q So when were you a community adviser?

7 A During the second year of my time here.

8 Q And you started living off campus after you  
9 left the position?

10 A Yes.

11 Q Because of your financial situation?

12 A Yes.

13 Q Now, to your knowledge, the policy -- the  
14 general student employee policy is that there's a  
15 cap of 20 hours per week when class is in session.

16 A Correct.

17 Q And 20 hours is like your hours in all your  
18 jobs combined?

19 A Correct.

20 MR. XU: I have nothing further.

21 HEARING OFFICER FREEBERG: Okay. Would you  
22 also just briefly describe your work as a tutor and  
23 grader in the chemistry department, and did you say  
24 physics department?

25 THE WITNESS: Yes.

1 HEARING OFFICER FREEBERG: Okay.

2 THE WITNESS: So for the grading positions,  
3 I'm given problem sets and I have, like, about a  
4 week to turn them back around and give them to the  
5 professor graded. They give answer keys and so it's  
6 really just taking something off their plate, and  
7 then grade it. For tutoring I get -- I have --  
8 right now I have a few two T's and so we meet twice  
9 a week and we go over different concepts.

10 HEARING OFFICER FREEBERG: And did you apply  
11 for those positions or how did you come to be in  
12 those noise positions?

13 THE WITNESS: I did. Every semester you  
14 have to reapply for the positions, and so it's never  
15 guaranteed that I will get them.

16 HEARING OFFICER FREEBERG: Okay. And in  
17 that role, you report to the professor who teaches  
18 the course?

19 THE WITNESS: Yes, I report to the  
20 professors and talk to the teachers -- or the  
21 professors who are in charge of those students about  
22 what we can and cannot go over.

23 HEARING OFFICER FREEBERG: Okay. Thank you.  
24 Mr. Harty?

25 MR. HARTY: Nothing further.

1 MR. XU: Nothing further, Your Honor.

2 HEARING OFFICER FREEBERG: Okay. Then you  
3 may step down. And does the petitioner rest?

4 MR. XU: Yes, petitioner rests.

5 HEARING OFFICER FREEBERG: Okay. I don't  
6 believe there are any outstanding exhibits or  
7 motions, but if there are, please advise me now.

8 MR. HARTY: There are.

9 HEARING OFFICER FREEBERG: There are. I do  
10 have the, as you requested, we have the amended  
11 statement of issues.

12 (Whereupon, Employer's  
13 Deposition Exhibit O was marked  
14 for identification by the  
15 reporter.)

16 MR. HARTY: We would offer that as Exhibit  
17 O.

18 HEARING OFFICER FREEBERG: Okay. Let's  
19 just -- we're going to go off the record for a  
20 minute so that we have time to just look at it and  
21 so that I have time to look at it and then we'll go  
22 back on the record.

23 (Whereupon, a brief recess was  
24 taken off the record.)

25 HEARING OFFICER FREEBERG: So let's go back

1 on the record. If -- if you are prepared to or able  
2 to, could you identify the changes from Exhibit O --  
3 in Exhibit O from Exhibit A?

4 MR. HARTY: I -- I cannot because I did not  
5 make them, but it's my understanding that, with the  
6 exception of perhaps a correction of a typographical  
7 error that all the changes are in Section 4.

8 HEARING OFFICER FREEBERG: Okay. So we will  
9 go off the record now.

10 (Whereupon, a brief recess was  
11 taken off the record.)

12 HEARING OFFICER FREEBERG: On the record.  
13 Has the petitioner had an opportunity to review  
14 Employer's Exhibit O?

15 MR. MCCARTAN: We have, Your Honor.

16 HEARING OFFICER FREEBERG: Okay. And are  
17 there any objections?

18 MR. MCCARTAN: So I wonder if you could just  
19 clarify for us as unrepresented parties. Has this  
20 exhibit been admitted? Like, the employer yesterday  
21 moved that this be submitted as an amendment and the  
22 regional director has agreed that it could be  
23 submitted, in addition to the existing statement of  
24 position. Is the Employer submitting Exhibit O as a  
25 statement of position?

1           HEARING OFFICER FREEBERG: My understanding  
2 is, is that the employer's intention is to have  
3 Exhibit O constitute the amendment to the initial  
4 statement of position; is that correct?

5           MR. HARTY: Yes. But it doesn't change the  
6 position -- the position of the employer from a  
7 substantive standpoint.

8           HEARING OFFICER FREEBERG: Okay. And to be  
9 clear, the initial position statement that was  
10 submitted, is still on the record and this is  
11 submitted as an amendment. That's my understanding.

12           MR. MCCARTAN: So to the extent that  
13 Mr. Harty's explained, petitioner opposes the  
14 inclusion of Exhibit O on the grounds that it was  
15 not timely filed when the employer's statement  
16 position was due, and that the changes made here,  
17 compared to the position statement that was filed,  
18 while characterized as language changes, change the  
19 language in such a way as to change the facts that  
20 they're representing to this hearing officer and the  
21 court in a way that does change the position of the  
22 college.

23                           And since, again, these change the  
24 positions, new positions, on factual issues were  
25 not, you know, submitted by noon Tuesday, that this



1 should not be admitted.

2 HEARING OFFICER FREEBERG: Okay. I am going  
3 to -- because I have not had a chance to review it  
4 fully, and in light of these objections that are  
5 raised, I am going to defer ruling at this  
6 particular moment on Exhibit O.

7 Before we -- and we'll rule on that  
8 before we conclude the -- the hearing. I will be  
9 giving the parties an opportunity and, in fact, I'll  
10 be asking you to state your positions on the unit  
11 before we close. And if you'd like some time off  
12 the record to prepare your oral arguments as to that  
13 we can --

14 MR. HARTY: We don't need any time. But  
15 before you close the record I do -- I think there's  
16 one stipulation concerning Petitioner's Exhibit 1,  
17 paragraph eight.

18 Mr. Cipriano was asked about his  
19 withdrawal from the college, and I wanted to -- I  
20 think the parties agree that the sentence that he  
21 was asked to read and to confirm, which was quote:  
22 Students who live in town during their leave may  
23 seek to work at the college as a non student,  
24 unquote, I think the stipulation is that that would  
25 be as temporary casual employee, and not as a

1 student employee as described in the petition on  
2 this matter.

3 HEARING OFFICER FREEBERG: Okay. And does  
4 the petitioner stipulate to that or agree?

5 MR. MCCARTAN: We do, Your Honor.

6 HEARING OFFICER FREEBERG: Okay. And so the  
7 record's clear, that's the second to last sentence  
8 of paragraph eight in Petitioner Exhibit 1.

9 MR. HARTY: It is.

10 MR. MCCARTAN: Yes.

11 HEARING OFFICER FREEBERG: Okay. I will  
12 also be asking the parties to confirm their final  
13 positions on the election details, if this matter is  
14 to proceed to an election: Date, time, place,  
15 location, payroll period, and any eligibility  
16 formulas. I'm just giving you forewarning of that.

17 So let's -- we'll take a brief break  
18 off the record and then we'll come back and I will  
19 rule on this exhibit and go over the final  
20 positions.

21 (Whereupon, a brief recess was  
22 taken off the record.)

23 HEARING OFFICER FREEBERG: Okay. So we  
24 are -- we'll go on the record. The regional  
25 director has considered the motion to amend the

1 statement of position and the petitioner's objection  
2 to the receipt of the motion and amendment. The  
3 regional director will allow the amendment.

4 On the record, as I briefly talked  
5 about previously when we discussed this issue, in  
6 other words, the initial position of statement of  
7 position will be on the record. Exhibit O is  
8 received.

9 (Whereupon, Employer's Exhibit O  
10 was received into evidence.)

11 And the reasoning, or part of the  
12 reasoning for that is, the legal arguments don't  
13 appear -- there don't appear to have been legal  
14 arguments added as to issues regarding the scope of  
15 the unit. And the arguments that are presented  
16 there have already been discussed on the record, and  
17 that does not appear to have changed. And,  
18 therefore, Exhibit O is received.

19 At this point, I would like to  
20 summarize and have the parties summarize on the  
21 record their final positions regarding the  
22 appropriate unit.

23 I would ask that you please be  
24 specific regarding inclusion and exclusion and any  
25 positioning you have. If petitioner would please

1 start?

2 MR. MCCARTAN: This is just stating our  
3 position, not oral argument?

4 HEARING OFFICER FREEBERG: Yes. And also  
5 making your arguments as to the inclusion or  
6 exclusion or any appropriate unit.

7 MR. MCCARTAN: Okay. Your Honor, Mr. Harty,  
8 simply, students are workers and workers deserve  
9 rights. Petitioner believes that all student  
10 employees at Grinnell College, minus the necessary  
11 inclusions, the existing unit in dining services,  
12 the service learning work study positions, the  
13 Mentored Advanced Projects, that that unit of  
14 student employees at issue here, are clearly  
15 statutory employees and share a strong community of  
16 interest, as the record shows. And accordingly,  
17 that the region should direct an election in this  
18 matter.

19 Now, Your Honor, the employer opposes  
20 the petition on five grounds. First, that students  
21 are not employees under Section 23 of the Act.  
22 Second, that exercising jurisdiction here would deal  
23 a fatal blow to the heart of a Grinnell education.  
24 Third, that students in the petitioned for unit do  
25 not share a community of interest. Fourth, that

1 collective bargaining would stigmatize and separate  
2 needy students from their wealthier peers, and  
3 fifth, that collective bargaining and its  
4 obligations are incompatible with other federal  
5 statutes.

6 First, I'd like to address the  
7 community of interest, both within the petitioned  
8 for unit and between the petitioned for unit in the  
9 existing dining services union.

10 All of the students follow to a  
11 readily identified group of student employees. All  
12 of these students work in close geographic proximity  
13 on the Grinnell campus. All of these students have  
14 regular and frequent interchange and regular  
15 contact.

16 Mr. Watts, in his testimony, showed  
17 that students work multiple jobs, often at the same  
18 time and that students regularly change between  
19 their jobs, even holding positions in dining and the  
20 petitioned for unit, at the same time and moving  
21 freely between those.

22 And in addition, students in the unit  
23 have regular contact, both inside and outside their  
24 jobs.

25 Mr. Watts testified that all of these

1 students share a common wage scale, and  
2 substantially similar benefits. Mr. Watts -- well,  
3 as shown by the student employee handbook, all of  
4 these students are paid on the same day. And as the  
5 testimony revealed, students enter their time into  
6 the same time card system and managed by the same  
7 departments.

8 All of these students are subject to  
9 common supervision and control. Again, the student  
10 employee handbook, Employer's Exhibit K, applies to  
11 everyone in the unit and details things as their  
12 dress code and their supervisors and other things  
13 they can and cannot do on the job.

14 Petitioner's Exhibit -- or Employer's  
15 Exhibit N, sorry, Your Honor, the student handbook  
16 contains a conduct policy, whereby students'  
17 behavior in and out of a job can affect their  
18 eligibility for campus employment.

19 And finally, as several witnesses  
20 have testified to, there's a 20 hour cap which is  
21 not applied -- which is not applied separately to  
22 each job, but rather applies to all the jobs in the  
23 unit, including work in dining services. Any hours  
24 worked in any positions, count toward this 20 hour  
25 cap, clearly establishing a community of interest in

1 that regard.

2                   Finally, Mr. Watts testified that all  
3 of these students in all these positions, both  
4 inside and outside of dining, have job descriptions  
5 created from the same template, job descriptions  
6 that are created with regard to educational mission  
7 of the college.

8                   All of these factors I've listed are  
9 precisely the factors that are traditionally used,  
10 and recently reaffirmed in PCC Structural, to  
11 determine whether or not a community of interest  
12 exists.

13                   Now the employer is going to rely on  
14 Mr. Watts and Dean Tapias testimony that student  
15 jobs are tailored to educational interests and that  
16 some job descriptions are unique. But the burden of  
17 proof rests with the employer, to show that no  
18 community of interest exists.

19                   Mr. Watts, by his own testimony,  
20 mainly performs administrative functions in his  
21 oversight of student employment, and his vague and  
22 general statements about tailoring jobs, do not  
23 definitively establish the absence of a community  
24 interest.

25                   Given the strong community of

1 interest between the existing dining services unit  
2 and the petitioned for unit, and in light of the  
3 employer's experience with collective bargaining in  
4 the former unit, the employer policy objections to  
5 the election can be simply put to rest.

6           The employer has firsthand experience  
7 with collective bargaining, in a context which is  
8 substantially similar, as evidenced by that  
9 community of interest. And so we should look to  
10 that as to whether or not collective bargaining is  
11 workable in this context in this unit.

12           So, first, regarding the  
13 compatibility with other statutes, the employer has  
14 raised objections that collective bargaining would  
15 make them pick between obeying the NLRA and obeying  
16 FERPA, or the HEA or Title IV, and they're just  
17 advancing this series of specious hypotheticals that  
18 are not supported by the record.

19           Mr. Lindberg testified there have  
20 been no compliance issues to date, even though the  
21 employer has maintained a collective bargaining  
22 relationship with the union over the last three  
23 years in the union dining services. Mr. Lindberg  
24 testified that these positions are open to all,  
25 regardless of financial aid or academic status. And



1 in fact, he testified that it is -- this is, in  
2 fact, open to all, and that the employer does not  
3 discriminate in employment on the basis of financial  
4 aid, that the college has not had a problem in  
5 complying with these statutes to date.

6 But, again, more importantly, the  
7 employer has actual experience with collective  
8 bargaining in an educational context and how that  
9 relates to compliance with federal statutes.

10 Section 3.1 of both collective  
11 bargaining agreements, that's Petitioner's Exhibit 2  
12 and 3, read that the parties recognize that to  
13 fulfill its obligation to represent employees under  
14 this agreement, the union should have access to the  
15 names and contact information of employees covered  
16 by this agreement. And the parties recognize and  
17 agree that employee students may choose to keep  
18 their contact information confidential.

19 So the only first hand evidence we  
20 have of how this would work, shows that there are no  
21 compliance issues, and that student privacy is  
22 fundamentally compatible with a collective  
23 bargaining relationship.

24 Furthermore, the Board, in Columbia,  
25 wrote that issues with FERPA and other statutes were

1 best negotiated in collective bargaining. This  
2 agreement and its predecessor, demonstrate the  
3 workability of such a proposition.

4           Second, to the employer's assertion  
5 that collective bargaining would deal a fatal blow  
6 to the heart of a Grinnell education, and we've  
7 heard a lot about education. In fact, we've only  
8 heard about education. Education this, education,  
9 that. We're not disputing that these jobs have  
10 educational value. The employers suggesting simply  
11 because these jobs provide educational benefits,  
12 they should somehow be excluded the protections of  
13 the Act.

14           But by that logic, any job that  
15 provides non wage benefits could be excluded for  
16 some sort of policy consideration. The fact that a  
17 job is instructive to the person who works it, has  
18 no bearing on whether or not, as regards the  
19 economic aspect of that relationship, collective  
20 bargaining is appropriate.

21           But to go to education, since  
22 the employer is so keen on -- on education.  
23 Professor Scott testified that as regards her  
24 relationship with the students that she's advised  
25 and taught, there's been no change in her

1 educational relationship since -- from before to  
2 after the implementation of the dining services  
3 contract, which covered as Mr. Kington testified,  
4 about 20 percent of student employees, which are  
5 about 75 percent of the student body.

6           Professor Scott also testified that  
7 as regards Grinnell's individually advised  
8 curriculum, no part of that curriculum of her  
9 advising responsibilities includes advising students  
10 about campus employment.

11           Mr. Watts testified that in Exhibits  
12 2 and 3, the existing collective bargaining  
13 agreements are short, one or two year terms. The  
14 employer raised in the statement position the  
15 hypothetical that long term collective bargaining  
16 agreements would prevent institutional memory, and  
17 make collective bargaining unworkable. But as the  
18 actual evidence shows, shorter contracts are  
19 practiced and possible, and allow for institutional  
20 memory. Several witnesses were actually present at  
21 the bargaining table multiple times, as the record  
22 shows.

23           If anything, collective bargaining  
24 would further the college's educational mission by  
25 putting more money into students' pockets, and

1 reducing the inherent conflict between work time and  
2 study time.

3 Mr. Cipriano, Ms. Richter, and Ms.  
4 Leicht and Mr. Ercolani all testified that they have  
5 to balance school and work, and sometimes have to  
6 reduce their educational opportunities, take fewer  
7 classes or whatever, in exchange for making sure  
8 that they have the financial resources they need to  
9 attend the college.

10 Third, to the employer's absurd and  
11 offensive assertion that collective bargaining would  
12 lead to a caste system and a underclass of SERFS,  
13 which I know they have tried to walk back, but it's  
14 still on the record, and while couched in different  
15 language, goes to the same thing. I mean, I don't  
16 know what to say. If the employer's concerned about  
17 inequity between low income students and the  
18 wealthier peers manifesting itself in terms of  
19 campus employment, I'd suggest they take a hard look  
20 at their current system where students like  
21 Ms. Leicht and Ms. Richter and Mr. Cipriano are  
22 forced to choose between school and work and forced  
23 to work sometimes up to 40 hours a week so that they  
24 can stay here, while their more financial secure  
25 peers can just focus on their schoolwork.

1                   But to the actual substance of their  
2 argument, such as it is, Mr. Watts testified that he  
3 knew of no connection between the wage increases in  
4 dining services and the number of positions offered  
5 there.

6                   To the employer's assertion that  
7 collective bargaining would necessarily reduce the  
8 number of work study opportunities, which would  
9 force them to prioritize and put more low income  
10 students into those positions is simply not  
11 substantiated by the record.

12                   Second, as President Kington  
13 testified to, the employer is well resourced, and  
14 have significant discretion in how it uses its large  
15 endowment, large unrestricted endowment.

16                   Furthermore, in the employer's  
17 statement of position and in so witnesses testified  
18 to, there was substantial creation of these jobs on  
19 the fly to the employers by faculty. And so, the  
20 ability of the employer to sort of set a cap on the  
21 number of positions in order to manage their budget,  
22 has not really been established that that's the  
23 case. In fact, they don't have that much control  
24 over the number of jobs because there's this on the  
25 fly creation.

1           I mean, fundamentally, the employer  
2 is building hypotheticals on hypotheticals on  
3 hypotheticals, and is providing no evidence to back  
4 up their claims, while all the evidence we actually  
5 had about collective bargaining actually words,  
6 shows that it is possible to have this collective  
7 bargaining relationship.

8           So to summarize, Your Honor, the  
9 employer's policy objections to collective  
10 bargaining in the unit, are completely without  
11 merit. The board in Columbia, rightly pointed out  
12 the Brown University decision, which Columbia  
13 overruled, relied too heavily on theoretical claims,  
14 instead of testable facts.

15           Here, the existing dining services  
16 unit, has provided the laboratory, absent in both  
17 and Brown and Columbia, and it is clear from the  
18 employer's experience with this existing unit, that  
19 collective bargaining is workable in this particular  
20 educational context.

21           Turning then, to the heart of the  
22 matter: Whether students are employees are under  
23 Section 2.3 of the Act. The determination of  
24 statutory employment under Section 2.3 is simple, in  
25 light of the Board's 2016 decision in Columbia

1 University.

2                   While it is clear that students in  
3 the petitioned for unit have an educational  
4 relationship with the employer, that's not relevant  
5 here. The Board made it clear in Columbia that, and  
6 I'm quoting from the decision here: "Student  
7 assistants who have a common law employment  
8 relationship with their University, are statutory  
9 employees under the Act."

10                   A finding that the students in the  
11 petitioned for unit are employees under Section 2.3,  
12 is not an extension of the Act's protections. It's  
13 merely a correct application of the existing law to  
14 the facts at hand.

15                   So to the common law test. Students  
16 clearly provide services to the employer. They  
17 deliver mail, they staff desks, they provide  
18 administrative help, they grade papers, they mentor  
19 students, they help faculty on research projects,  
20 and a lot more.

21                   In the student employee handbook,  
22 Exhibit K, signed by Mr. Mark Watts, it reads: "For  
23 Grinnell, student employees play a critical role in  
24 the operations of the college. The departments on  
25 campus rely on this workforce to accomplish a

1 substantial portion of the work necessary for day to  
2 day operations."

3           Second, that student employees  
4 receive compensation can hardly be questioned, and  
5 is really not under dispute here. Mr. Watts already  
6 testified to the common wage scale. Witnesses have  
7 testified receiving being paid hourly.

8           And even though many of the students  
9 in the unit receive financial aid, as Mr. Lindberg  
10 as testified to, that financial aid is not -- while  
11 the financial aid may include work study, students  
12 not required to work, nor are they required to put  
13 their earning towards tuition. So financial aid's  
14 really not an issue in the sense of determining  
15 whether or not a common law employment relationship  
16 exists.

17           Third and finally, students are  
18 clearly under the control and direction of the  
19 employer as they carry out their job duties and  
20 certain mission of the college.

21           Mr. Watts has testified, again, that  
22 all student employees are subject to the provisions  
23 in the student employee handbook. That all students  
24 in the unit are supervised by a college employee,  
25 and that all students can be disciplined and fired.



1 And, again, all students are subject to that same 20  
2 hour cap.

3           So Mr. Watts' testimony clearly  
4 establishes that as it goes to the traditional  
5 common law test, students are common law employees.  
6 But even more importantly, if there were any  
7 remaining doubts as to the common law employment  
8 status of those employees, Your Honor, we look no  
9 further than employer's current practice. By its  
10 own admission, it already treats student employees  
11 as common law employees.

12           Ms. Nancy Combs, the assistant  
13 treasurer who works in tax compliance, says that for  
14 tax purposes, student employees are employees under  
15 the IRS definition of employees. But, Your Honor,  
16 the IRS definition of employee is precisely the  
17 common law definition of employee. So the employer  
18 has -- currently it has presumably for years,  
19 already considered students common law employees.  
20 And such, as common law employees, therefore,  
21 statutory employees under Section 2.3 of the Act.

22           So to conclude, Your Honor, it's  
23 abundantly clear that these student employees are  
24 common law employees, and, therefore, statutory  
25 employees under the Board's in Columbia. And

1 furthermore, these employee share a strong community  
2 of interest, both with each other and with the  
3 employees in dining services.

4 At Grinnell College, collective  
5 bargaining has the potential to address  
6 long-standing issues of class and of privilege, and  
7 to further the educational mission of the college.

8 Indeed, student employees and the  
9 union have, in the last three years, demonstrated  
10 the practicality and the success of a collective  
11 bargaining in this educational context.

12 Given these facts, it would be wrong,  
13 legally and morally, to deny these students the  
14 protections of the Act and the right to choose their  
15 collective bargaining representative. Thank you.

16 HEARING OFFICER FREEBERG: Thank you. And I  
17 just want to -- could you restate just the  
18 classifications that you said at the very beginning  
19 that the petitioner is seeking to exclude?

20 MR. MCCARTAN: So we're looking for a wall  
21 to wall unit of student employment positions,  
22 excluding those covered by the existing union in  
23 dining services. So dining services positions  
24 aren't included. Service learning work study  
25 positions aren't included.

1 HEARING OFFICER FREEBERG: Sorry, I'm going  
2 to make sure I catch that.

3 MR. MCCARTAN: Sorry.

4 HEARING OFFICER FREEBERG: Say that again.

5 MR. MCCARTAN: So dining service positions  
6 are excluded. Service learning work study positions  
7 are excluded, because we don't consider them to be  
8 part of that class of student employment positions.  
9 I believe we both stipulated that off campus  
10 internships are not part of the unit, because  
11 they're not student employment positions. And then,  
12 Mentored Advanced Projects, or MAPs, those positions  
13 are also excluded, as they're not student employment  
14 positions.

15 HEARING OFFICER FREEBERG: And do you know  
16 the approximate number of em -- of individuals in  
17 each of these categories?

18 MR. MCCARTAN: The excluded categories?

19 HEARING OFFICER FREEBERG: Yes, the ones  
20 that you just --

21 MR. MCCARTAN: As to dining services, I  
22 believe that's around 350 to 400, although what  
23 number fluctuates. As to service learning work  
24 study, I'm not sure. I believe it's measured in the  
25 tens, not -- not too many employees. As to Mentored

1 Advanced Projects, those are created on an ad hoc  
2 basis by faculty and I have no knowledge of the  
3 total number of those positions. I believe most of  
4 them occur during the summer. And then I have no  
5 clue about the number of off campus internships.

6 HEARING OFFICER FREEBERG: Okay. Is the  
7 number that you estimated at the -- or the  
8 petitioner estimated at the beginning of the hearing  
9 as to the number of employees sought the same? I  
10 think it was around 915.

11 MR. MCCARTAN: Yes. We certainly were not  
12 including the mentored projects, the internships or  
13 dining services in that number, so -- and I think  
14 maybe our estimate is that service learning work  
15 study was maybe, like, ten or something so I guess  
16 thereabout 905 employees, once we've spell down  
17 those positions.

18 HEARING OFFICER FREEBERG: Okay. And -- so  
19 that the reader of the record is clear on the  
20 exclusions sought, is it possible to identify in  
21 employer Exhibit B or Employer Exhibit J the  
22 excluded, either work location by department or  
23 description or job class?

24 MR. MCCARTAN: Not being familiar with the  
25 employer's payroll codes, we couldn't, at this time,

1 specify this but we certainly could do that -- if an  
2 individual employee came up whose status was in  
3 question, we would have no problem stipulating to  
4 whether or not they were included. They were pretty  
5 clear in our minds, you know, you can identify from  
6 the payroll codes.

7 HEARING OFFICER FREEBERG: Okay. Maybe --  
8 and I'll allow the employer to make a presentation  
9 as well, but -- well, I'll let you do that now and  
10 then we can clarify afterwards. Maybe you'll  
11 address those issues.

12 MR. HARTY: I won't.

13 HEARING OFFICER FREEBERG: Okay. You won't,  
14 okay.

15 MR. HARTY: No, I will -- I will comment,  
16 but I won't -- I won't solve the confusion.

17 HEARING OFFICER FREEBERG: Okay.

18 MR. HARTY: And that's not by design,  
19 it's -- it's because there's no choice.

20 HEARING OFFICER FREEBERG: Okay.

21 MR. HARTY: So briefly, we are going to  
22 stand on our -- our brief and the evidence that's  
23 been submitted. Our position has not changed. We,  
24 obviously, see things differently. The students did  
25 an excellent job, you'd expect nothing less from

1 Grinnellians. But they did an excellent job of  
2 proving -- proving our very points, whether they  
3 intended to do so or not.

4           Every single one of the students that  
5 testified, told us why they're here. They're here  
6 to get an education. They're here because Grinnell  
7 College offered them the most generous financial  
8 package that was offered to them. None of them are  
9 here because they were looking forward to whatever  
10 student employment opportunities they may have,  
11 whether they're at one end of the spectrum, where  
12 it's clear that it's -- it's literally an integral  
13 part of the educational process. Or the other end  
14 of the spectrum where, admittedly, and the college  
15 position with regard to dining was just this: And  
16 that is, you know what, we think you -- we think, as  
17 an institution, you are correct. We wish it weren't  
18 the case, but this is labor, and as consistent  
19 with -- with the college's philosophy, the college  
20 took a neutral position on that.

21           That's not the case here. As  
22 Professor Kington clearly explained, this is very  
23 different. The students, every single one of them,  
24 proved our -- our very points for us. And we have  
25 never taken the position that students here, who

1 draw a wage from the college, aren't quote, unquote  
2 employees under the IRS test or the common law test.

3 Our position has always consistently  
4 been, that they are not employees for purposes of  
5 the National Labor Relations Act because of the  
6 prudence exercised by the board for over 30 years,  
7 and we believe will be again. And that is that --  
8 by the way, this is completely distinguishable from  
9 any reported decision of the board, whether it's on  
10 appeal or not, because we're dealing here with  
11 purely an undergrad student population that, on  
12 average, works less than ten hours, and they do so  
13 as part of their -- their financial aid package.

14 But it's clear, they are here to  
15 learn. We -- we reassert our brief points one and  
16 two in our position.

17 With regard to the community of  
18 interest, again, we believe -- I wish it weren't the  
19 case, but I would tell you I'm not too proud to say  
20 that I think that today's testimony did as good a  
21 job of proving our case as our own evidence. And  
22 that is, each of these individuals talked about the  
23 unique jobs that they had, how different they were  
24 from each other.

25 Professor -- Dr. Scott's testimony

1 was fantastic because she described the, you know,  
2 in a -- and it wasn't hypothetical, it was  
3 anecdotal, but it was a very descriptive version of  
4 what -- what we offered at the onset. And that is,  
5 that collective bargaining is inconsistent with the  
6 way a number of the positions are created, are  
7 eliminated, and are -- are monitored and  
8 administered.

9                   And then, I just want to point out  
10 some of the factual misstatements. There is  
11 evidence in the record, Mr. Ercolani testified he  
12 has no supervisor. So to say that there's common  
13 supervision, is -- is simply not -- not factually  
14 accurate. And to the extent he does have a  
15 supervisor, I think he testified that, in theory,  
16 it's another student.

17                   And if you look at the exhibit that  
18 shows there are literally hundreds of students here  
19 who may or may no be excluded by the definition used  
20 by the student petitioners, because they're  
21 identified as supervisors.

22                   With regard to that community of  
23 interest and we think, again, the testimony that we  
24 offered, but also as it's really explained by Dr.  
25 Scott, it -- it points out how, really, these



1 positions are very different. They are supervised  
2 by different arms of the college, different  
3 departments, they have different work rules. Some  
4 of them are allowed to -- to study, encouraged to  
5 study, if they're having academic problems.

6 We believe that collective bargaining  
7 would negatively impact that. And, again, Dr. Scott  
8 testified entirely consistent with President Kington  
9 concerning the very real fear of stratification.  
10 And that is we're not walking back that fear. And  
11 that fear is real.

12 And as is the fear expressed in  
13 our -- our briefing that in -- in vigorously  
14 performing what they believe to be their duty,  
15 they're running roughshod over the rights of other  
16 students, at the peril of the institution.

17 And there's no better evidence of  
18 that than the testimony offered here today where  
19 each of these students got up and they were asked by  
20 a fellow student about their financial situation,  
21 about their financial aid package. All of these  
22 things, Grinnell College goes to great lengths to  
23 maintain absolute confidentiality.

24 Why did they do that? They did it  
25 because they had a goal to achieve. The goal is

1 approval of the petitioned for unit and  
2 unionization. We don't -- we don't believe that  
3 that's -- it's an admirable goal, it's well  
4 intentioned. But that -- the -- the approach that  
5 they took today and yesterday, demonstrates  
6 precisely the fear that the college has that  
7 foisting collective bargaining on this academic  
8 institution, would set federal law against itself.

9           And that is, I have no doubt and  
10 they've demonstrated it, that they would, if it  
11 furthered a goal under the National Labor Relations  
12 Act, under their duty of fair representation, they  
13 would either risk a DFR claim, or they would expose  
14 the college, and perhaps themselves, to alleged  
15 violations of FAFSA and FERPA. And there's no  
16 better evidence of that than what happened here  
17 today.

18           And I have no doubt that the  
19 individuals who -- who testified knew exactly, you  
20 know, what they were in for. I'm not -- I'm not  
21 alleging that there was anything that was not purely  
22 voluntary. But, it demonstrates the willingness to  
23 subordinate one interest, as protected by a federal  
24 law, in favor of another. It's a very real concern.  
25 As is the concern about stratification concerning

1 implicit bias as explained further by Dr. Scott.

2 Our position remains the same. And I  
3 add, though, with regard to the actual contours of  
4 this unit, I don't think there's any way from this  
5 record to determine what they are, because I  
6 certainly don't. It's been -- it's been amorphous,  
7 and it's been fluid the entire -- the entire time.  
8 They've changed several times. I don't know what  
9 the unit is. Nothing further.

10 HEARING OFFICER FREEBERG: Okay. Is the  
11 petitioner -- or rather, does the petitioner wish to  
12 proceed to an election in any alternative unit, if  
13 the unit sought is found to be inappropriate by the  
14 regional director?

15 MR. MCCARTAN: Your Honor, while, again, the  
16 petitioner believes that the existing unit is  
17 appropriate, should the regional director decide  
18 that a subset of employees that would be in our  
19 petitioned for unit separately constitute an  
20 acceptable bargaining unit and that no larger  
21 bargaining unit and community of interest can be  
22 found, the employer would -- the petitioner would  
23 accept an election for that classification that  
24 smaller subset.

25 HEARING OFFICER FREEBERG: Okay. Now I'd

1 like to explore election details in the event an  
2 election is directed. If an election is directed,  
3 does any party who is entitled to receive the voter  
4 list, which is just the petitioner, wish to waive  
5 the ten day requirement for the list. The purpose,  
6 in order to proceed to a faster election date.

7 MR. MCCARTAN: We can just -- we can waive a  
8 certain number of days; is that correct, Your Honor?

9 HEARING OFFICER FREEBERG: Right. The union  
10 is entitled to ten days.

11 MR. MCCARTAN: Okay. So I think we would  
12 waive up to five of those days. So as long as we  
13 have the list for five days, and the need to start  
14 getting election as soon as possible, we would waive  
15 up to five days.

16 HEARING OFFICER FREEBERG: And, Mr. Harty,  
17 what is the name, if you could provide this  
18 information, the name, address, contact information  
19 for an employer's on-site representative to whom the  
20 regional director should transmit the notice of an  
21 election, if an election is directed.

22 MR. HARTY: Me.

23 HEARING OFFICER FREEBERG: Okay. I think  
24 that your contact information is already on the  
25 record on Exhibit A. It looks like we've got your

1 e-mail address.

2 MR. HARTY: It is. And we also submitted --  
3 submitted it as such.

4 HEARING OFFICER FREEBERG: Okay. If an  
5 election is directed, may the region communicate  
6 with your election observer regarding election  
7 procedures, and any issues that arise during an  
8 election, the pre-election conference, and the  
9 ballot count.

10 MR. HARTY: Yes.

11 HEARING OFFICER FREEBERG: Yes, okay.

12 MR. MCCARTAN: Yes, Your Honor.

13 HEARING OFFICER FREEBERG: Okay. The  
14 regional director will issue a decision in this  
15 matter as soon as practical, and will immediately  
16 transmit the document to the parties, and their  
17 designated representatives by e-mail, facsimile or  
18 by overnight mail if neither an e-mail address nor  
19 facsimile number is provided.

20 If an election is directed, the  
21 employer must provide the voter list, to be timely  
22 filed and served. The voter list must be received  
23 the regional director, and the parties named in the  
24 direction, within two business days after the  
25 issuance of the direction, unless a longer period,

1 based on extraordinary circumstances, is specified  
2 in the decision and direction of election.

3 A certificate of service on all  
4 parties must be filed with the regional director  
5 when the vote list is filed. The region will no  
6 longer serve the voter list. The employer must  
7 submit the voter list in an electronic format  
8 approved by the general counsel, unless the employer  
9 certifies that it does not have the capacity to  
10 produce the list in the required format.

11 The lists must be filed in common,  
12 every day electronic file formats that can be  
13 searched accordingly, unless otherwise agreed to by  
14 the parties. The list must be provided in a table  
15 in a Microsoft word file dot DOC or dot DOCX, or a  
16 file that is compatible with Microsoft Word.

17 The first column of the list must  
18 begin with each employee's last name and the list  
19 must be alphabetized overall, or by department by  
20 last name.

21 Because the list will be used during  
22 the election, the font size of the list must be  
23 equivalent of times New Roman 10 or larger. That  
24 font does not need to be used, but the font must be  
25 that size or larger.

1           A sample optional form for the list  
2 is provided on the NLR website.

3           The board stated that it is  
4 presumptively appropriate for the employer to  
5 produce multiple versions of the list where the data  
6 is required -- where the data require is kept in the  
7 separate data bases or files, so long as all of the  
8 lists link the information -- so long as all of the  
9 lists link the information to the same employees,  
10 using the same names in the same order and are  
11 provided within the allotted time.

12           See, 79 Federal Regulation at 74356.  
13 If the employer provides multiple lists, the list  
14 used at the election will be the list containing the  
15 employee's names and addresses. The list must  
16 include the full names, work location, shifts, job  
17 classifications and contact information, including  
18 home addresses available, personal e-mail addresses,  
19 and available home and personal cell -- cellular  
20 particular telephone numbers of all eligible voters.

21           The employer must also include, in a  
22 separate section of that list, the same information  
23 for those individuals the parties have agreed will  
24 be permitted to vote, subject to challenge, or those  
25 individuals who, according to the decision and

1 direction of election, will be permitted to vote,  
2 subject to challenge.

3 Mr. Harty, what is the employer's  
4 position on the need for briefs or the employer's  
5 desire to file a brief?

6 MR. HARTY: We don't believe that there's  
7 any post hearing briefing necessary.

8 HEARING OFFICER FREEBERG: Okay. What is  
9 the petitioner's position.

10 MR. MCCARTAN: We do not believe any post  
11 hearing brief is necessary, Your Honor.

12 HEARING OFFICER FREEBERG: Okay. The  
13 parties are reminded that they should request an  
14 expedited copy of the transcript from the court  
15 reporter, if they would like a transcript. The  
16 regional director has indicated that briefs would be  
17 allowed in this instance, but as the parties do not  
18 wish to file briefs, they will not be required to do  
19 so.

20 And if there is nothing further, the  
21 hearing will be closed. Are there any further  
22 issues or motions that either party would like to  
23 address?

24 MR. XU: No, Your Honor.

25 MR. HARTY: Not from the college.



1 HEARING OFFICER FREEBERG: Okay. Then the  
2 hearing is now closed.

3 (Whereupon, the hearing was  
4 adjourned.)

5 HEARING OFFICER FREEBERG: So we will just  
6 briefly go back on the record to add a few details  
7 that, I believe, have either been agreed to or --  
8 okay, maybe they have been agreed to. This is  
9 regarding the election, if an election is ordered.

10 Would the petitioner like to explain that?

11 MR. MCCARTAN: Yes. So the petitioner's  
12 position I believe the employer agreed to regarding  
13 an election, if it is so directed, would be that the  
14 election be held from 9 a.m. to 5 p.m. on Friday,  
15 November 9th by manual ballot in the Joe Rosenfield  
16 Center, 1115 8th Avenue, Grinnell, Iowa in Room 101.

17 And that the -- for purposes of voter  
18 eligibility, any person on payroll as a student  
19 employment position from September 16th to  
20 September 30th in that pay period, would be eligible  
21 to vote.

22 HEARING OFFICER FREEBERG: And does the  
23 employer agree?

24 MR. HARTY: We agree with all of that. On  
25 payroll, having actually worked or what if they are

1 theoretically employed as students but they have not  
2 logged any hours?

3 MR. MCCARTAN: So our one concern there is  
4 that given the college's change in pay system this  
5 fall, there's a lot of confusion and some students  
6 couldn't even enter hours for one or two pay  
7 periods. So our concern would be is these  
8 administrative headaches students who otherwise have  
9 a strong interest in the unit, being able to vote.  
10 We believe this is why some of -- there were some --  
11 I mean, presumably, the time the election -- so the  
12 last pay -- there's been a pay period since --  
13 there'd be additional pay period on the record as of  
14 now.

15 So we would -- and there would be  
16 another one before the election day. So I would say  
17 that if we amended the voter eligibility dates to be  
18 logged any hours from September 16th to  
19 October 15th, active logged hours in payroll, that  
20 would be our proposed voter eligibility.

21 MR. HARTY: That's fine then. That makes  
22 sense.

23 HEARING OFFICER FREEBERG: Okay. Thank you.  
24 And then, did the petitioner also want to amend  
25 the -- the address for service of documents.

1 MR. MCCARTAN: Yes, Your Honor. The college  
2 goes on a break next week, and so we would request  
3 that -- well, we understand that the documents are  
4 served electronically. Any paper follow-ups to be  
5 sent not to the address listed, but instead to 1115  
6 8th Avenue, Box No. 3409, Grinnell, Iowa 50112.

7 HEARING OFFICER FREEBERG: Okay. And is  
8 that care of any particular name.

9 MR. MCCARTAN: That's care of Quinn  
10 Ercolani, our president.

11 HEARING OFFICER FREEBERG: Okay. Thank you.  
12 And I know that's on the record, but could you just  
13 spell the name again.

14 MR. MCCARTAN: Q-U-I-N-N E-R-C-O-L-A-N-I.

15 HEARING OFFICER FREEBERG: Thank you. And  
16 did the employer have anything additional you'd like  
17 to add?

18 MR. HARTY: No.

19 HEARING OFFICER FREEBERG: Okay. Then the  
20 matter -- then the hearing will be closed and is  
21 closed. Thank you.

22 (Whereupon, the hearing was  
23 adjourned at 2:45 p.m.)

24

25

## CERTIFICATION

1  
2 This is to certify that the attached  
3 proceedings before the National Labor Relations  
4 board (NLRB), Region 18, in the matter of Trustees of  
5 Grinnell College Case No. 18-RC-228797, at Grinnell  
6 Iowa, on October 18, 2018 was held according to the  
7 record, and that this is the original, complete, and  
8 true and accurate transcript that has been compared  
9 to the recording, at the hearing, that the exhibits  
10 are complete and no exhibits received in evidence or  
11 in the rejected exhibit files are missing.

12 *Pamela G. Williams*

13  
14 Pamela G. Williams

15 Official Reporter  
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