

BEFORE THE
NATIONAL LABOR RELATIONS BOARD

In the Matter of:

THE TRUSTEES OF COLUMBIA
UNIVERSITY IN THE CITY OF NEW
YORK,

Employer,

and

GRADUATE WORKERS OF COLUMBIA
GWC, UAW,

Petitioner.

Case No. 2-RC-143012

The above-entitled matter came on for Hearing pursuant to Adjournment, before GREG DAVIS, HEARING OFFICER, at the National Labor Relations Board, Region 2, 26 Federal Plaza, Suite 3614, New York, New York 10278, on Wednesday, May 27, 2015, at 9:30 a.m.

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

A P P E A R A N C E S

On behalf of the Employer:

EDWARD A. BRILL, ESQUIRE
BERNARD M. PLUM, ESQUIRE
MATTHEW D. BATASTINI, ESQUIRE
Proskauer Rose, LLP
11 Times Square, 20th Floor
New York, New York 10036-8299

And

PATRICIA S. CATAPANO, ESQUIRE
Associate General Counsel
Columbia University
650 West 168th Street, Suite 239
New York, New York 10032
(212) 342-9009

On Behalf of the Petitioner:

THOMAS W. MEIKLEJOHN, ESQUIRE
NICOLE M. ROTHGEB, ESQUIRE
Livingston, Adler Pulda, Meiklejohn & Kelly, P.C.
557 Prospect Avenue
Hartford, Connecticut 06105-2922
(860) 570-4639

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

I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RE CROSS	VOIR DIRE
Arthur Palmer, III	964	1026	1059		998
					1013
					1045

1

E X H I B I T S

EXHIBIT NUMBER	IDENTIFIED	RECEIVED
PETITIONER'S:		
P-62	959	961
P-63	959	963
P-64	959	963
P-65	960	963
P-66	960	963
P-67	960	963
P-68	960	963
P-69	1044	1047
P-70	1047	1048
P-71	1049	1053
P-72	1053	1054
P-21 (b) (1) thru (3)	1062	1063
EMPLOYER'S:		
E-114	967	968
E-115	972	973
E-116	974	975
E-117	978	983
E-118	986	988
E-119	997	999

2

3

P R O C E E D I N G S

(Time Noted: 10:33 a.m.)

1 HEARING OFFICER DAVIS: On the record.

2
3
4 During an off the record discussion it's my understanding
5 we're going to have one witness today, but at this time the
6 Petitioner would like to offer several exhibits, which you've
7 handed to counsel for the -- for Columbia as well as the
8 Hearing Officer. So, Ms. Rothgeb, would you identify each
9 exhibit for the record?

10 MS. ROTHGEB: Sure. Petitioner's Exhibit 62 is a
11 section from the faculty handbook website entitled Obligations
12 and Responsibilities of Officers of Instruction and Research.

13 (Petitioner's Exhibit 62 identified.)

14 MS. ROTHGEB: Petitioner's Exhibit 63 is also from the
15 faculty handbook website Appendix D as in David, Statement of
16 Policy on Propriety Rights and the Intellectual Products of
17 Faculty Activity.

18 (Petitioner's Exhibit 63 identified.)

19 MS. ROTHGEB: Petitioner's Exhibit 64, also from the
20 faculty handbook website, it's linked at Appendix H and then
21 that links to another site which is the Columbia University
22 copyright policy, which begins with the preamble to the
23 Columbia University copyright policy.

24 (Petitioner's Exhibit 64 identified.)

25 MS. ROTHGEB: Petitioner's Exhibit 65 is a section from

1 the Columbia's sponsored project administration page. The
2 internal forms tab of that website is Petitioner's Exhibit 65.

3 (Petitioner's Exhibit 65 identified.)

4 MS. ROTHGEB: And then in the very last page of
5 Petitioner's Exhibit 65, which is a two-sided document, on
6 Page 4 there are three links on the top of Page 4 and those
7 are the next exhibit. So information regarding the invention
8 agreement letter is Petitioner's Exhibit 66, which is a memo
9 from Claude M. Steele, Provost.

10 (Petitioner's Exhibit 66 identified.)

11 MS. ROTHGEB: The invention agreement letter is
12 Petitioner's Exhibit 67, which starts with the line,
13 "Assignment to the University of Certain Inventions,
14 Discoveries, and Associated Technology.

15 (Petitioner's Exhibit 67 identified.)

16 MS. ROTHGEB: And the sample cover letter link is
17 Petitioner's Exhibit 68 and it says sample cover letter at the
18 top and it is from Dean, Department Chair, or Director.

19 (Petitioner's Exhibit 68 identified.)

20 HEARING OFFICER DAVIS: Okay. Mr. Brill, do you have
21 any (Petitioner's Exhibit 62 received.)

22 objection to any of these exhibits?

23 MR. BRILL: I do. Can we go through them one-by-one?

24 HEARING OFFICER DAVIS: Please.

25 MR. BRILL: 62 there's no objection.

1 HEARING OFFICER DAVIS: 62 is admitted.

2 (Petitioner's Exhibit 62 received.)

3 MR. BRILL: 63 is the statement of policy on propriety
4 right being electrical products and faculty activity. And as
5 indicated in the preamble in italics on the first page, this
6 policy statement was made applicable to all students of the
7 University in 1992 regardless of whether they hold
8 appointments as student officers of Instruction and Research
9 or not, so my objection to this document, and the same
10 objection would apply actually to 64, is that it's simply a
11 student policy so I don't see the relevance in terms of trying
12 to distinguish between students who are allegedly employees
13 and other students.

14 It's not based -- this policy is not based on whether a
15 student holds an appointment as an officer of Instruction and
16 Research or is simply a graduate student or, indeed, an
17 undergraduate who happens to be performing research in the
18 role of a student. So I don't understand what argument could
19 be made from these documents that would be relevant to the
20 issues in this case of employee status.

21 HEARING OFFICER DAVIS: And 65 through 68?

22 MR. BRILL: Well, 65 through 68 are really derivative of
23 63 and 64. They're just forms that are filled out or cover
24 letters. Well, 65 -- 65 is just an index to other documents
25 linked in the Office of Sponsored Projects Administration so

1 it has no independent relevance, I guess, but 67 and 68 are
2 simply implementation of documents with respect to Exhibit 63.

3 HEARING OFFICER DAVIS: And you have no --- otherwise,
4 aside from that objection, relevance, you do not con --- you
5 agree that these are authentic documents, but you don't object
6 to them --

7 MR. BRILL: No, I don't object to the authenticity, no.

8 HEARING OFFICER DAVIS: Okay. So Ms. Rothgeb, why are
9 these documents relevant?

10 MS. ROTHGEB: Well, I think counsel's argument goes to
11 the weight of the documents and certainly an argument that he
12 can make, but as he has acknowledged these policies do apply
13 to graduate students holding Research positions, if they apply
14 to others, to those same individuals as students, not as
15 student employees as well that doesn't make them irrelevant.

16 And the fact that counsel may not understand an argument
17 we make is not an admissibility objection.

18 HEARING OFFICER DAVIS: Well, I'm sure he understands
19 your argument, it's just that he --

20 MS. ROTHGEB: Well, he said I don't understand what
21 argument could be made from it so --

22 HEARING OFFICER DAVIS: Well --

23 MS. ROTHGEB: -- they do apply on their face to graduate
24 students holding Research appointments.

25 HEARING OFFICER DAVIS: I'm going to admit 62 through 68

1 noting the objections to 654 through 68. I'm going to admit
2 them. I think that they bear some relevance and whatever
3 weight the reader of the record chooses to give them, at least
4 the reader of the record will have that opportunity. So --

5 MR. BRILL: Just for the record, the objection was
6 through 63 through 68.

7 HEARING OFFICER DAVIS: Yes. 62 through 68 are
8 admitted.

9 (Petitioner's Exhibits 63 through 68 received.)

10 HEARING OFFICER DAVIS: Okay. Is our witness here yet?

11 MR. BRILL: He is here.

12 HEARING OFFICER DAVIS: Okay, great. Any other
13 preliminaries before we have --

14 MR. MEIKLEJOHN: We have some other documents, but we
15 can take -- do you want to take care of them now? It's up to
16 you. We can either do them now or --

17 MR. BRILL: We call Professor Art Palmer.

18 HEARING OFFICER DAVIS: Great. Come on up.

19 Okay, please raise your right hand.

20 Whereupon,

21 ARTHUR G. PALMER,
22 was called as a witness by and on behalf of the Employer and,
23 having been first duly sworn, was examined and testified on
24 his oath, as follows:

25 HEARING OFFICER DAVIS: Okay, great. Please just state

1 your full name for the record?

2 THE WITNESS: Arthur G. Palmer, III.

3 HEARING OFFICER DAVIS: And how do you spell your first
4 name?

5 THE WITNESS: A-r-t-h-u-r.

6 HEARING OFFICER DAVIS: Thank you very much.

7 Mr. Brill?

8 DIRECT EXAMINATION

9 BY MR. BRILL:

10 Q. Good morning, Dr. Palmer. Are you currently Employer by
11 Columbia?

12 A. Yes.

13 Q. And what's your position?

14 A. I'm Professor of Biochemistry and Molecular Biophysics
15 and I also serve as Associate Dean for Graduate Affairs in
16 Columbia University Medical Center.

17 Q. Can you briefly give us a summary of your educational
18 employment background?

19 A. I was an undergraduate at Haverford College receiving a
20 degree in Chemistry. I then received a Master's Degree from
21 the University of Michigan and a Ph.D. from the University of
22 North Carolina at Chapel Hill. Following graduate training I
23 was a post-Doctoral scientist at the Scripps Research
24 Institute and in 1992 I came to Columbia University as an
25 Assistant Professor and I've never left.

1 Q. And you are now a full Professor?

2 A. Yes, I am now a full Professor.

3 Q. And what is the department that you're appointed?

4 A. Biochemistry and Molecular Biophysics.

5 Q. What is the -- what does that department --

6 A. So that's -- pardon?

7 Q. What is the intellectual scope of that department?

8 A. So the department engages in fundamental research and
9 biochemistry, molecular biology, and developmental biology,
10 neuro biology and structural biology along with computation
11 and theoretical biology. So it's a very broad tent
12 department.

13 Q. Where does the physics come into this?

14 A. That's applying either mathematical theories or physics-
15 based instruments for studying biological problems.

16 Q. And you also have a position in the graduate school?

17 A. So the department is in the graduate school and is part
18 of the coordinated program in biomedical sciences, which was
19 part of GSAS at Columbia, the Graduate School of Arts and
20 Sciences.

21 Q. But you have a position with respect to graduate
22 education?

23 A. Well, as a Professor I teach and then I also am the
24 Associate Dean for the Graduate Program.

25 Q. And what are your responsibilities as Associate Dean?

1 A. So the office runs the Graduate Program, which is roughly
2 300 Ph.D. students and 50 or 60 MD Ph.D. students who would be
3 doing the Ph.D. part of their joint degree. And my department
4 -- the office then of Graduate Affairs runs everything from
5 admissions to administering progress towards the degree and
6 then signs off eventually that the thesis has been defended.

7 Q. Now, these graduate programs that you're involved in are
8 -- where are they located physically?

9 A. Physically in Columbia University Medical Center which is
10 the complex up around 168th and Broadway sprawling over a
11 number of blocks.

12 Q. Are these departments sometimes known as the Biomedical
13 Department?

14 A. Yes. So we call them the Coordinated Doctoral Programs
15 in Biomedical Sciences. Since that's a mouthful it gets cut
16 down just talking about Biomedical Research or Basic Science
17 as opposed to Clinical Research in the Medical Center.

18 Q. And how do these Biomedical Science Departments fit into
19 the overall administrative structure of the University?

20 A. So we're part of GSAS, the Graduate School of Arts and
21 Sciences that covers all graduate students at Columbia, but we
22 run as a somewhat autonomous division. I answer both to the
23 Vice President for Research at the Medical Center Raffey Kass
24 (Ph.) and also to Kyros Alonso who is head of GSAS on the main
25 campus, but day-to-day we run fairly autonomously up in the

1 Medical Center.

2 Q. And broadly speaking, what is the mission of the
3 Biomedical Science Program the Ph.D. Program of Biomedical
4 Sciences?

5 A. It's to train outstanding Doctoral students in basic
6 research related to biology and human disease within the
7 broadest possible way. There's a total of ten programs within
8 this large umbrella and they range from Genetics and
9 Development to Systems Biology and everything in between.

10 Q. I want to --

11 MR. BRILL: I'm sorry, Do you have note of the next
12 exhibit, Employer?

13 HEARING OFFICER DAVIS: I think it's Employer 114.

14 MS. ROTHGEB: Yes.

15 MR. BRILL: I'm going to mark as -- 114 is the next one?

16 HEARING OFFICER DAVIS: Yes.

17 MR. BRILL: -- 114 a page from the GSAS Columbia
18 University website.

19 (Employer's Exhibit 114 identified.)

20 BY MR. BRILL:

21 Q. Professor Palmer, could you look at the document that
22 we've marked as Employer 114 and first tell us if you can
23 identify this?

24 A. This is one of the pages off of the website for the
25 Graduate Program in the Medical Center --

1 Q. And --

2 A. Listing the various specialties and topics that are
3 studied.

4 Q. This describes the various Ph.D. programs?

5 A. That's right.

6 MR. BRILL: I offer 114.

7 HEARING OFFICER DAVIS: Any objection?

8 MR. MEIKLEJOHN: No objection.

9 HEARING OFFICER DAVIS: 114 is admitted.

10 (Employer's Exhibit 114 received.)

11 BY MR. BRILL:

12 Q. Can you just sort of run through these programs and
13 explain what the various programs are?

14 A. Sure. As I said, there's ten programs. What's a little
15 bit confusing is we use the same name for two different things
16 so there's -- you'll see in bold Integrated Program, so
17 they're Molecular and Biomedical Studies and that's rather an
18 umbrella that covers a large number of specialties which are
19 listed below things like Cell Biology, Stem Cell Biology,
20 Structural Biology, etc., but we also use the integrated name
21 to refer to one specific training program that's also listed
22 there and it's, I suppose, a bit unfortunate, but those are
23 all sub-specialties within a fairly broad range of Molecular
24 Biology.

25 Then there are some programs that are rather distinct, so

1 the Program in Biomedical Informatics has a very strong
2 component in managing research into -- managing information
3 systems in modern medicine, things like electronic medical
4 records.

5 The program in Genetics and Development is very focused
6 on genetics. Students in the more general program might, in
7 fact, do research in genetics, but the program is kept
8 separate because they have such a strong focus in the
9 specialty area.

10 Neurobiology and Behavior is also separate. It's a very,
11 very large program at Columbia that spans both campuses and
12 kept distinct from this kind of overall umbrella.

13 And then there's a series of three programs on the next
14 page that have perhaps edged towards more clinical or applied
15 work in a small sense so again we keep them separate from the
16 general umbrella.

17 Things like pharmacology obviously have a connection to
18 the eventual development or evaluation of pharmaceutical
19 agents, so it's slight different from some more basic that's
20 less applied program even though they're doing basic research
21 there. So we keep them separate from the umbrella. So the
22 overall purposes, of course, is to make it as confusing as
23 possible for students applying for the program to figure out -
24 -

25 (Laughter.)

1 A. -- whether they should actually apply.

2 If they're not smart enough to figure out the website,
3 they can't come to Columbia.

4 Q. And what degrees are --

5 A. So all of these programs offer the Ph.D. degree as the
6 terminal degree with one exception, which is Medical
7 Informatics as the terminal Master's Degree Program that
8 really trains people to run hospital management systems. All
9 the rest, students are admitted as Ph.D. students.

10 Along the way as they pass their qualifying exams, finish
11 their course work will be awarded Master's Degrees, but
12 they're not admitted as Master's students or admitted as
13 Doctoral students.

14 Q. And turning your attention now to the Doctoral Program
15 approximately how many Ph.D. students are admitted each year
16 into all these departments together?

17 A. So the total is around 55. This year it was 56. Since
18 it takes on average about five and a half years to complete
19 the Doctorate, that ends up being a total number of students
20 of, as I said, roughly 300 plus the 50 or 60 MD Ph.D. students
21 who are admitted through a separate t.

22 Q. And you're only responsible for the MD Ph.D. students
23 with respect to the Ph.D. --

24 A. That's correct.

25 Q. -- portion of their studies?

1 A. Yes.

2 Q. Other than that do your programs provide instruction for
3 the medical students, the MD students?

4 A. There are faculty who may give lectures in some of the
5 basic areas in the Medical School curriculum, but we don't
6 have primary responsibility for teaching in the medical
7 curriculum, that's done by the Medical School.

8 Q. And if you could describe a typical candidate for one of
9 the programs how would you describe that person?

10 A. They would normally -- the larger majority of them will
11 have undergraduate degrees in Chemistry, Biochemistry or
12 Biology. There will be some whose undergraduate degrees would
13 be in more physically based departments. Could be Physics,
14 could be Computer Science. Those students would be coming to
15 do research, for example, in genomics that's very heavily
16 computer based these days and, of course, they would all --
17 nearly all of them would have very substantial undergraduate
18 research experience or research experience in post-back
19 programs before coming to graduate school.

20 And, generally speaking, these are all fantastic
21 students. They have incredible undergraduate records.

22 Q. And what are their career aspirations by and large?

23 A. So our goal is to train the next generation of the
24 world's leading researchers. And if we look over time,
25 roughly speaking a third of the students eventually end up as

1 faculty members, a third end up doing research and the
2 pharmaceutical or biotech industries and a third end up doing
3 some kind of science policy, science management, science
4 journalism, very patent law related to science issues.

5 A very small number don't end up with scientific careers
6 of one kind or another. Now, our, to some degree, aspirations
7 is to always to reproduce ourselves and generate faculty, but
8 this one-third, one-third, one-third split I think is actually
9 very healthy.

10 Q. Are the Ph.D. students and Biomedical Sciences
11 financially supported?

12 A. They're completely supported so they're provided with a
13 stipend, health insurance, other fees, computer fees and then
14 their tuition is paid. And this will be true for their entire
15 graduate career.

16 MR. BRILL: I'd like to mark as Exhibit 115 a copy of a
17 sample letter of admission dated February 25th, 2014 to the
18 Ph. D. Program in Neurobiology.

19 (Employer's Exhibit 115 identified.)

20 BY MR. BRILL:

21 Q. Dr. Palmer, have you looked at Exhibit 115?

22 A. Yes.

23 Q. And can you identify it?

24 A. This is an offer letter to a candidate whom we've
25 admitted to, in this case, the Neurobiology Program with a

1 similar letter would be to all the different programs.

2 Q. And that's your signature on the letter?

3 A. It is.

4 MR. BRILL: I offer 115.

5 HEARING OFFICER DAVIS: Any objection?

6 MR. MEIKLEJOHN: No objection.

7 HEARING OFFICER DAVIS: 115's admitted.

8 (Employer's Exhibit 115 received.)

9 BY MR. BRILL:

10 Q. The stipend level indicated here is \$35,088 for a twelve
11 month support?

12 A. That's right. It normally goes up a few percent per
13 year, so it would be slightly larger this coming year.

14 Q. But is that the same stipend for students throughout the
15 Biomedical Science Programs?

16 A. Yes, yes.

17 Q. And on the next page seems to be a reply form for the
18 admission?

19 A. That's correct.

20 Q. I just want to ask you about the title. It says Columbia
21 University Coordinated Doctoral Programs in Biomedical
22 Sciences.

23 A. Um-hum.

24 Q. And what does that refer to?

25 A. That refers to this whole umbrella of the ten programs

1 within Columbia University Medical Center.

2 Q. So that would obviously include then the Program of
3 Neurobiology and Behavior?

4 A. Correct. And that's what you see when you first come to
5 the web page would be Coordinated Doctoral Programs.

6 MR. BRILL: I want to mark this Exhibit 115 -- 116,
7 sorry. It's several pages of excerpts from -- actually, just
8 one page that we've excerpted from the student handbook
9 2014/'15 from the Coordinated Doctoral Program in Biomedical
10 Sciences. We've included the cover page, the table of
11 contents and Page 16. The entire document was produced to the
12 Union counsel.

13 (Employer's Exhibit 116 identified.)

14 BY MR. BRILL:

15 Q. Can you identify Exhibit 116?

16 A. Yes. It's the student handbook.

17 Q. And is this --

18 A. For the Coordinated Doctoral Programs and Biomedical --

19 Q. It's not the whole student handbook, it's just --

20 A. It's not the whole thing. You've given me the table of
21 contents and then one page.

22 Q. Okay. Page 16 includes a schedule of services for
23 Catholic Mass, Jewish and Muslim observation, but actually
24 what I wanted to refer you to was the section below that on
25 compensation.

1 MR. BRILL: I'm going to offer it in evidence first.

2 HEARING OFFICER DAVIS: Any objection?

3 MR. MEIKLEJOHN: Only it appears that this is sort of an
4 incomplete excerpt of the finance section.

5 HEARING OFFICER DAVIS: Well, I have no --

6 MR. MEIKLEJOHN: I think it should include the following
7 page.

8 MR. BRILL: The following page?

9 MR. MEIKLEJOHN: Well, if it's just one page then we
10 ought to get it in as part of this.

11 MR. BRILL: I don't really have any objection to them --

12 MR. MEIKLEJOHN: Whatever. I won't object to this now.
13 When we get our turn we'll go back and take another look at
14 it.

15 HEARING OFFICER DAVIS: Okay.

16 MR. MEIKLEJOHN: No objection.

17 HEARING OFFICER DAVIS: Thank you.

18 HEARING OFFICER DAVIS: Employer 116 is received.

19 (Employer's Exhibit 116 received.)

20 BY MR. BRILL:

21 Q. Dr. Palmer, directing your attention to the portion of
22 Page 16 under Compensation can you look at that and then tell
23 us if that accurately reflects the ways in which Ph.D.
24 students are paid?

25 A. Except for the fact that the amount would be different in

1 the upcoming year, for example, you're correct.

2 Q. So and just if you could explain what it means to be
3 supported either as a pre-Doctoral Fellow or as a graduate
4 Research Assistant as it indicates here? Is it two different
5 categories?

6 A. So graduate Research Assistants are supported on usually
7 Federal grants of their Research Advisors. For example, NIH,
8 National Institutes of Health grants or perhaps National
9 Science Foundation grants. So this is support while they're
10 doing research in that faculty member's lab.

11 Fellows are supported by other sources of funds. For
12 example, during the first year of graduate school students
13 aren't doing full-time research in a particular faculty
14 member's lab, they're doing rotations so they're not paid by a
15 faculty member's research grant, they receive their stipend
16 from other funds. It could be funds from my office, what we
17 call Dean's funds, it could be training grants, it could be
18 departmental funds. It also could be that the student had
19 their own outside fellowship, in which case we would call them
20 a Fellow, not a GRA.

21 After the first year, most students will end up
22 transitioning to being supported off of research funds in a
23 given laboratory and then would become GRA's unless they were
24 appointed to training grants, had their own outside
25 fellowship, or in the event that their Research Advisor didn't

1 have sufficient funds to cover them because grants were in
2 renewal or whatever, in which case they might be back on
3 University or Dean's funds for a while so --

4 Q. And I'll go into each of the last four questions about
5 those various categories. For the moment let me ask you this.
6 Are graduate Research Assistants given a formal appointment in
7 the University? Would they receive an academic appointment as
8 a graduate Research Assistant?

9 A. They're just called graduate Research Assistants. That's
10 their appointment.

11 Q. Okay. And the other categories of Fellows are just
12 called Fellows?

13 A. They're just Fellows and they don't have the same kind of
14 appointment in kind of computer systems that the GRA's --

15 Q. That's what I'm asking --

16 A. Yes.

17 Q. -- about the computer system. So a GRA has an
18 appointment in the University computer system?

19 A. Yes.

20 Q. Now, turning to the academic program of the Ph.D. student
21 can you take us through -- actually, let me introduce a
22 document first and maybe you can walk us through that.

23 MR. BRILL: 117. I'd like to mark as Exhibit 117 a
24 document headed the Integrated Program and Cellular Molecular
25 Biomedical Studies Training Program printout from the Columbia

1 website

2 (Employer's Exhibit 117 identified.)

3 BY MR. BRILL:

4 Q. Do you have Exhibit 117 in front of you?

5 A. I do.

6 Q. And can you identify this?

7 A. This is a description from our website as to the Training
8 Program in one of our ten programs, this one being the
9 Integrated Program. In a lot of strokes the other programs
10 would have similar training programs.

11 Q. So can you take us through the typical progression then
12 of Ph.D. student in this program particularly or through the
13 programs generally where they differ?

14 A. So in the first year, students would be taking graduate
15 level course work. So for example in the Fall semester
16 Entries 2 and 3 are graduate level courses, Molecular
17 Genetics, Biochemistry, Molecular and Cell Biology 1. They
18 would also be doing a laboratory rotation in the Fall
19 semester. They would have picked a faculty member whose lab
20 they'll work in in order to gain experience both in the
21 research activities in that lab and what they're interactions
22 would be with the mentor to see if this would be a good fit
23 for them for their Ph.D. work.

24 In the Integrated Program there's also a seminar series
25 that has both inside and outside speakers and the students are

1 required to attend that as part of their training activities.

2 The Spring semester continues with course work. There
3 are the course that's required of all students, Responsible
4 Conduct of Research. This is a course that's mandated for
5 particular groups of students by the NIH, but we just do it
6 for all students just to make sure everybody gets that
7 training.

8 Q. And what is -- can you just talk about that course for a
9 bit?

10 A. That discusses research ethics, issues about plagiarism,
11 care of animals used in research. It discusses various things
12 associated with career guidance, mentoring, human
13 experimentation, introduction to some of the procedures that
14 are used to manage research on humans or animals in the
15 Medical Center.

16 Q. Is this --- does the course address research techniques
17 or how to conduct research?

18 A. This is -- no, not at the level of what you might do in a
19 laboratory. I mean it discusses things about record keeping
20 and the need to maintain records, but not how you collect
21 data.

22 Q. And how are students taught to do research in this, the
23 basics?

24 A. So for the most part, there are a couple of exceptions,
25 for the most part the course work will be lectures,

1 discussions, problem sessions, small group sessions, but not
2 laboratory work. Maybe there will be some computer work. So
3 the majority of what you do with your hands in the laboratory,
4 students will learn during their rotations.

5 So in the particular labs that they rotate in, they'll
6 learn the techniques of importance in that particular
7 laboratory. Of course remember nearly all of these students
8 have come from undergraduate programs where they've done a
9 significant amount of research already.

10 And you'll also see in the Spring semester there is an
11 elective so all the programs have a certain number of core
12 courses that all students in the program have to take and then
13 there will be some elective courses where the students will
14 typically be taking a course that's more focused on their
15 particular research.

16 Q. And they have a laboratory, a second laboratory which is
17 --

18 A. And there's another laboratory rotation. Shown here
19 actually is the third rotation in the summer. We're shifting
20 those to get both rotations done in the Spring semester so
21 that students can join a lab in the summer and have their
22 first summer be very productive.

23 In the second year --

24 Q. Before you get to the second year what is the purpose of
25 the laboratory rotation?

1 A. It's for the students to get experience in research areas
2 they think they might be interested in for their Doctoral
3 work. And at the end of doing the three, they'll then decide,
4 in consultation with the faculty member, is this a good fit
5 for me, am I going to do my Doctoral research in this lab?

6 And, of course, the faculty member has to decide does
7 this student look like a good fit to what I do in my lab? And
8 then if there's a meeting of the minds, then the student will
9 join one of the three labs.

10 Q. Are there some students who -- the first student to come
11 in when they apply, for example, and say I want to come to
12 Columbia because I want to work with a particular professor or
13 Professor Palmer's laboratory, for example?

14 A. So that of course will happen. I mean students apply to
15 particular graduate programs in some part because the
16 reputation of the school is strong. In other part and perhaps
17 the most important part, they look at the website and identify
18 faculty that they think they'd be interested in, but we
19 require students to still do rotations. It's not uncommon the
20 student will think they want to work for faculty member A, but
21 when they finish their rotations they discover they have a new
22 scientific love and they decide to work for faculty member B.

23 Q. So then by the second year they already hooked up with a
24 particular research laboratory?

25 A. That's right. So they will have joined the lab and in

1 the second year they still will have one or two courses to
2 take as elective depending on the program. And again, by now
3 these would be very focused on what their research area is
4 going to be.

5 They're starting to do their work on their Doctoral
6 research and they're also preparing for their Ph.D. qualifying
7 exam. And depending on the particular program that might be
8 late in the Fall of the second year, it might be in the Spring
9 of the second year that the qualifying exam and the students
10 will generally make a presentation to a faculty, a Committee
11 of three faculty members one of whom is their advisor.

12 The student will make a presentation on the research that
13 they plan to do for their Doctorate and present any
14 preliminary results they already have. They're questioned
15 about their knowledge of the field, etc. The Committee
16 decides if this seems like a reasonable plan for the Doctoral
17 research. The student passes and then that Committee will
18 meet periodically with the student to guide the progress
19 through the rest of the graduate career.

20 That's kind of the big milestone. Once you pass the
21 qualifying exam you're over a big hurdle.

22 Q. And so -- and for the rest of the career --

23 A. So the rest of the time would be spent essentially full-
24 time doing research on the project that's -- projects in the
25 lab you're working in. It could be a student later on might

1 decide to audit a course. They need to know something about
2 some area that's now become relevant to them. They may audit
3 a course, but they wouldn't be taking usually courses for real
4 credit. They don't want to take exams never again in their
5 life once they take their qualifying exam.

6 (Laughter.)

7 MR. BRILL: I'm not sure if I offered Exhibit 117, I
8 think it is.

9 HEARING OFFICER DAVIS: You did not.

10 MR. BRILL: I offer it.

11 MR. MEIKLEJOHN: No objection.

12 HEARING OFFICER DAVIS: 117's admitted.

13 (Employer's Exhibit 117 received.)

14 BY MR. BRILL:

15 Q. And you said how long does a typical student take to
16 finish the Ph.D.?

17 A. The average is five and a half years. I wouldn't say
18 there are any difficult students.

19 Q. And how is the student's work in the research laboratory
20 related to their dissertation or thesis?

21 A. They're the same thing. Their dissertation, their
22 written dissertation is going to be a record of the research
23 that they conducted in the laboratory during their Doctoral
24 training.

25 Q. Now, there's a faculty member who heads each of these

1 laboratories?

2 A. Each lab is headed by a faculty member.

3 Q. And is that faculty member called the principal
4 investigator or --

5 A. Well, on grants they would be called the principal
6 investigator. Within Columbia they're just the faculty
7 member.

8 Q. And what is the responsibility of that faculty member
9 with respect to the Ph.D. students working at his or her
10 laboratory?

11 A. They're basically the mentor of that student and the
12 student is, of course, conducting research in their laboratory
13 in an area that's near and dear to the heart of the faculty
14 member. But at the same time, the faculty member is training
15 the student to be an outstanding scientist and that part of
16 the relationship never ends.

17 Q. When you say it never ends, you mean even after the
18 student graduate?

19 A. After the students graduate and go on, I worry very much,
20 counsel them a lot on where they go to be a Post-Doc, where
21 they go to be a faculty member. We talk about their grant
22 subsequently. It's like somebody with a lifetime commitment
23 once you have someone in your lab.

24 Q. But certainly while they're in the lab you're their
25 primary -- primary mentor. It's the faculty member's

1 responsibility, helped by the Thesis Committee, to make sure
2 that the student is on t to get their Ph.D., that they're
3 making appropriate progress, that the research projects are
4 well designed, etc.

5 Q. Now, going back to the type of support that the Ph.D.
6 students receive, I think you testified about first year
7 support. Could you just briefly restate that?

8 A. Yes. The first year students are supported most commonly
9 by what we would call University funds, funds from my Office
10 of Graduate Affairs or funds from the Department. Some first
11 year students and certain programs might be funded by training
12 grants as well, which I'm sure we'll talk about in a little
13 while, but they're not funded by research grants because
14 they're not doing full-time research yet, they're doing their
15 rotations, they're taking classes.

16 Q. Well, we are going to -- I am going to ask you now about
17 training grants so --

18 A. Okay.

19 Q. -- you won't have to wait very long. What is a training
20 grant?

21 A. So for the most part training grants are NIH funded
22 programs although now there are a smaller number of training
23 grant programs coming from other foundations or agencies, but
24 by and large we can think of them as an NIH funded program
25 that funds, as it says, the training program in a particular

1 area of biological research and which the investigators
2 running the training grant have been able to design a training
3 program that will train people in particular sub-specialties
4 that are viewed as important for the future workforce of the
5 -- future scientific workforce of the country.

6 So training grant funds supports students during their
7 Doctoral years, but it's not funding that's tied to a
8 particular research lab. The training program has the funds
9 to support a student so a student might be doing research in a
10 particular laboratory and not be supported by research grants
11 to their particular faculty member.

12 They might be supported by a training grant or in the
13 program or in the programs that support students in the first
14 year, they might be supported by a training grant rather than
15 say funds from my office.

16 MR. BRILL: I'd like to mark as Exhibit 118 certain
17 excerpts that we've put together from the NIH Grants Policy
18 Statement which is, in fact, a Government publication just for
19 the convenience of the record. The entire policy statement is
20 many, many pages so we just excerpted out some of the relevant
21 sections.

22 (Employer's Exhibit 118 identified.)

23 BY MR. BRILL:

24 Q. Have you had a chance to look at the excerpts from the
25 NIH Grants Policy Statement that I marked?

1 A. Yes.

2 Q. Are you familiar with this document?

3 A. Yes.

4 MR. BRILL: I can either offer it in evidence or just
5 mark it. I'll be happy to offer it in evidence, but it's --
6 as I said, I think either the Board can take judicial notice
7 of it. I'd like to put it in evidence just so -- for
8 convenience.

9 HEARING OFFICER DAVIS: Yes. Any objection?

10 MR. MEIKLEJOHN: I don't think so. Could I just have a
11 minute?

12 HEARING OFFICER DAVIS: Sure.

13 (Whereupon, Mr. Meiklejohn reviewed the document.)

14 MR. MEIKLEJOHN: Are there sections of this that were
15 skipped or --

16 MR. BRILL: Yeah, that's it. We only --

17 MR. MEIKLEJOHN: It goes through Page 22 to --

18 MR. BRILL: We only put in a few pages.

19 MR. MEIKLEJOHN: I'm just trying to figure out where the
20 gaps are.

21 MR. BRILL: The top right corner will tell you what the
22 pages are.

23 MR. MEIKLEJOHN: Right.

24 MR. BRILL: You can see which ones are missing.

25 MR. MEIKLEJOHN: Okay. No, I have no objections to

1 this.

2 HEARING OFFICER DAVIS: Okay. Employer's 118 is
3 admitted.

4 (Employer's Exhibit 118 received.)

5 HEARING OFFICER DAVIS: If you find that it would be
6 better to substitute the complete document or other excerpts
7 from that document, you're certainly welcome to do that at
8 another time. I'm addressing that to Mr. Meiklejohn.

9 MR. MEIKLEJOHN: I understand. Thank you.

10 HEARING OFFICER DAVIS: Mr. Brill?

11 BY MR. BRILL:

12 Q. So the document is headed Ruth L. Kirrschstein National
13 Resource Service Awards. Is that the title of the NIH
14 training grant program?

15 A. It is in honor of the very long-time director of this
16 program at the NIH.

17 Q. And are there such awards both for individuals and
18 institutions?

19 A. They make both awards, individuals in particular areas
20 that an individual graduate student can apply to. That's
21 fairly limited. Most of the training grant awards are
22 training grant programs to institutions in which the award
23 would support a certain number of students.

24 Q. And then under -- so on Page 21 under Section 11.3,
25 Institutional Research Training Grants, is this the section

1 that would apply to the institutional awards?

2 A. Yes.

3 Q. And just to read into the record the introductory portion
4 of Section 11.3.1, General, this states, "NIH will award
5 Kirrschstein-NRSA institutional research training grants (T32,
6 TL2, T34 and T34)." Do you know what those numbers refer to?

7 A. They're different programs. I believe that nearly all of
8 the ones in the basic sciences would be T32's.

9 Q. To --

10 A. There's not too much difference between them.

11 Q. To eligible institutions to develop or enhance research
12 training opportunities for individuals selected by the
13 institution who are training for careers in specified areas of
14 biomedical, behavioral, and clinical research, the purpose of
15 the Kirrschstein-NRSA Program is to help ensure that a diverse
16 and highly trained workforce is available in adequate numbers
17 and in the appropriate research areas and fields to carry out
18 the nation's biomedical and behavioral research agenda.

19 Is that consistent with your understanding of the
20 training program?

21 A. It is.

22 Q. And is there a requirement under a training grant for an
23 institution that receives a grant, an institutional grant, is
24 there a requirement to prepare a training program?

25 A. There is. So the grant application to the NIH would

1 define a training program in the particular area of the
2 training grant. So for example, I had our training grant in
3 molecular biophysics so we've defined a training program in
4 molecular biophysics that's part of the training grant program
5 so supported students participate in that training program.

6 Q. What would the elements of the training program be?

7 A. So the training program would usually have a curricular
8 element so course work that normally would overlap partially
9 with, but not completely with the programs of any single
10 department.

11 So essentially on the molecular training grant, for
12 example, would be taking an additional course in molecular
13 biophysics beyond what would be required by any program in the
14 ten programs. So one of the electives for that student would,
15 in fact, be foreordained to be the second semester of
16 biophysics.

17 Similarly in genetics or whichever other training program
18 one looked at there could be courses required that were now in
19 addition beyond the normal course work and then would take up
20 an elective. In addition, in training programs all having
21 emphasis on getting students to interact with faculty,
22 interact with each other, build connections that might go
23 forward so training programs would normally have some kind of
24 retreat where students make presentations, might have a
25 seminar series, but things outside of the classroom that get

1 people in the training program together so it's kind of a
2 program rather than just the disparate collection of people.

3 Q. Is there a specific faculty that's appointed under a
4 training program?

5 A. So the training program itself would have a Program
6 Director or principal investigator and then there would be
7 training faculty who run the curriculum, etc. Depending on
8 the nature of the training grant, this isn't a requirement one
9 way or the other, some training grants would have any faculty
10 member who had a student in their lab who was supported on the
11 training grant would be a member -- have to be a member of the
12 training faculty and other training programs don't necessarily
13 require that.

14 But there would always be a training faculty because you
15 need people to be teaching the courses, running these other
16 activities associated with the training program.

17 Q. What students are eligible to be supported under the
18 training program?

19 A. The students have to be U.S. citizens or have green
20 cards.

21 Q. And how are they selected?

22 A. The training programs -- none of the training programs in
23 the coordinated Doctoral programs at Columbia University
24 admits students directly into the training, into a training
25 program. Some Universities do. At Columbia you're admitted

1 into the graduate program and then you might be appointed to a
2 training grant after you're here, but each training grant will
3 have its own committee that solicits nominations and reviews
4 the students' qualifications and the nomination letter to
5 decide whether this student will be appointed or not.

6 It's always the case that there are more qualified
7 students to be on the training grant than there are funded
8 positions so one wants to be picking the very best and these
9 are rather competitive actually.

10 Q. Do you know how many students throughout the Bioscience
11 Ph.D. Program, approximately how many are on training grants
12 at any one time?

13 A. I don't know that number off the top of my head. We
14 could supply the exact number. It's probably certainly below
15 a quarter.

16 Q. I think actually I may have a document that I'll show you
17 later.

18 And how many -- how long are students supported on the
19 training grants?

20 A. Again, depending on the particular training grant it
21 would be one to three years. It would be very unusual for
22 someone to be supported more than that. After all, these are
23 training grants. One hopes by the time somebody is a fifth
24 year graduate student that they're nearing the end of their
25 training period so usually one to three years.

1 Q. And what support is provided by the training grant?

2 A. The training grants provide stipends and a very low level
3 of other funding in so-called indirect costs. The stipend
4 levels and the other costs provided aren't equal to the
5 package that the students get from Columbia, so my office
6 supplements all training grants up to the normal, same level
7 as everyone else.

8 Q. In terms of the stipend level --

9 A. Stipend level, coverage of their health insurance,
10 payment of their tuition, etc.

11 Q. And then you said there's also an F&A amount?

12 A. There's a small amount of F&A. I think it's half of
13 eight percent to help with some of the administrative costs of
14 running a training program.

15 Q. Would that be equivalent to what would sometimes be known
16 as independent cost recovery?

17 A. Yes.

18 Q. Which for a regular research grant is typically around 60
19 percent at Columbia?

20 A. That's correct. So the training grants are capped by the
21 NIH at a very low level of indirect cost recovery.

22 Q. What is the process of applying for training grants?

23 A. So usually some group of faculty who have related
24 research interests will decide they're interested in
25 formalizing their training of graduate students in a training

1 program. One of them will be selected to be the Program
2 Director and take the lead in writing a grant. There are
3 fixed application deadlines per year at the NIH.

4 One produces the grant application describing the
5 training program that you envision and also documenting that
6 you actually have a pool of students that would be served by
7 this training program. The proposals are reviewed at the NIH
8 by study sections in their usual way and then hopefully are
9 funded.

10 Q. And assuming that the training program is funded and the
11 students are selected for the training program, what do they
12 actually do while they're on the training grants?

13 A. So of course they have to fulfill whatever the extra
14 course requirements are. They have to participate in retreats
15 or whatever the other activities are, but beyond that they're
16 doing research in the laboratory where they're doing their
17 Doctoral research the same as any other student support by any
18 other mechanism.

19 Q. Is it possible for a student to go back and forth between
20 a training grant and a research grant?

21 A. It's possible and it's normal because again, the student
22 would normally be supported for one to three years on a
23 training grant. Graduate school typically takes five and a
24 half years so there's going to be a couple of years where
25 they're going to be funded either on University funds or

1 research grants and it's not uncommon to see over a course of
2 a student's career that they switch back and forth between
3 these different mechanisms of funding.

4 Q. And is there any difference in their duties and
5 responsibilities in the laboratory when they're on a training
6 grant as opposed to a research grant?

7 A. None.

8 Q. Now, I think you said before that students who are on a
9 training grant do not receive a formal University appointment
10 in the University's computer system, is that correct?

11 A. Yes.

12 Q. Do the students -- are they advised that they're on a
13 training grant?

14 A. Well, of course. I mean the student -- in order to
15 become appointed they have to apply so there will be a review
16 of their CV, their qualifications, etc. And since these are
17 competitive, it's somewhat non-horrific to be on the training
18 grant. Students will list it on their CV for their future.

19 Q. Are you familiar with any provision in the NIH grants
20 policy statement that -- do you still have that in front of
21 you, Exhibit 118?

22 A. Yes.

23 Q. Are you familiar with a provision which addresses the
24 stipends that are received by the Ph.D. students?

25 A. Yes. I have to page through and remind myself which of

1 these pages. Yes.

2 Q. So that's on Section 11.3.8.2

3 A. Yes.

4 Q. Now, this section says that the stipend is paid as a
5 subsistence allowance to help defray living expenses during
6 the research training experience. The stipend is not salary,
7 it is not provided as a condition of employment with either
8 the Federal Government or the grantee organization. Do you
9 see that?

10 A. Yes.

11 Q. And does Columbia follow that provision in connection
12 with the stipends that it pays?

13 A. Yes.

14 Q. Are you personally involved in any training grants?

15 A. So I direct our training program in Molecular Biophysics.
16 I'm also training faculty in two or three other training
17 programs.

18 MR. BRILL: Before we move on to the next document can
19 we take a short break?

20 HEARING OFFICER DAVIS: Sure, that will be fine. Let's
21 go off the record. Let's take five minutes.

22 (Whereupon, a recess was taken from 11:34 a.m. to 11:41 a.m.)

23 HEARING OFFICER DAVIS: On the record.

24 Mr. Brill?

25 MR. BRILL: Yes. I'd like to mark as Exhibit 118 --

1 MS. ROTHGEB: 19.

2 HEARING OFFICER DAVIS: 119.

3 MR. BRILL: -- 119 excerpts from an application for a
4 training grant for the Training Program on Molecular
5 Biophysics. The original document which we produced to the
6 counsel for the Petitioner is well over 300 pages so we just
7 included basically the entire narrative section and then a
8 number of exhibits, but we left out some of the very lengthy
9 tables and exhibits --

10 HEARING OFFICER DAVIS: Okay.

11 MR. BRILL: -- for purposes of the exhibits. So that's
12 what I'd like to mark and I'll give copies to the Court
13 Reporter and --

14 (Employer's Exhibit 119 identified.)

15 MR. MEIKLEJOHN: This is only an excerpt?

16 BY MR. BRILL:

17 Q. Professor Palmer, can you identify Exhibit 119?

18 A. Yes.

19 Q. What is it?

20 A. It's the training grant application for a renewal of the
21 Molecular Biophysics Training Program.

22 Q. And when was this submitted?

23 A. In May 25th, 2012.

24 Q. And was the training grant awarded by NIH?

25 A. It was.

1 Q. And these are -- obviously, as I said, these are -- it's
2 not the complete application, it's the excerpt?

3 A. It's the excerpt, some of the narrative section and some
4 of the tabular information.

5 MR. BRILL: I'd like to offer Exhibit 119.

6 HEARING OFFICER DAVIS: Any objection?

7 MR. MEIKLEJOHN: Can I just have a minute?

8 HEARING OFFICER DAVIS: Sure.

9 (Whereupon, Mr. Meiklejohn reviewed the document.)

10 MR. MEIKLEJOHN: I just have a couple of questions on
11 voir dire, if I could.

12 HEARING OFFICER DAVIS: Okay.

13 MR. MEIKLEJOHN: I mean I'm not going to ask you to
14 explain the whole thing, I just have some very quick
15 questions.

16 VOIR DIRE EXAMINATION

17 BY MR. MEIKLEJOHN:

18 Q. Just could you look at the second page? Under Number 19
19 there's a Christopher Davis, Sr., project officer.

20 A. Yes.

21 Q. An authorized representative?

22 A. Yes.

23 Q. He's the representative of Columbia?

24 A. That's correct.

25 Q. And what's his role in the process?

1 A. He's a grants officer so I, in fact, can't submit grants
2 myself to outside agencies. They're submitted through the
3 Grants Office at Columbia University on my behalf and Chris
4 Davis happens to be the Program Officer who submits this one
5 so he has to check that -- I mean he doesn't check the
6 science, but he has to check that the budgetary amounts are
7 correct, that the right forms have been filled out, etc. and
8 he actually sends it on to the agencies.

9 MR. MEIKLEJOHN: That's voir dire, so I'm not going to
10 -- okay, the next question wasn't voir dire so I'm not going
11 to ask it.

12 Okay, no objection.

13 HEARING OFFICER DAVIS: Okay. Just for the record, no
14 relation between Chris Davis and the Hearing Officer.

15 (Laughter.)

16 HEARING OFFICER DAVIS: Employer 119 is admitted.

17 (Employer's Exhibit 119 received.)

18 MR. BRILL: So this is the only witness that we'll be
19 presenting about training grants and there's an issue in the
20 case about students on training grants so I do want to take
21 this witness through the document --

22 HEARING OFFICER DAVIS: Sure.

23 MR. BRILL: -- very carefully just to make sure that the
24 record is complete.

25 MR. MEIKLEJOHN: Could I just -- I think this might be

1 an appropriate time to inquire what the Employer's position is
2 with respect to students on training grants and GRA's? I
3 think your position is nobody's an employee, but --

4 MR. BRILL: Right.

5 MR. MEIKLEJOHN: -- if they're found to be employees?

6 MR. BRILL: If the Board finds that students who provide
7 services to their institutions are employees based on common
8 law test of employment, if you will, then our position would
9 be that the graduate research assistants and the teaching
10 assistants would be considered employees and part of an
11 appropriate bargaining unit, but that the students on training
12 grants are simply not employees because they're not employed
13 in a University position, that they're simply supported by the
14 Government to be students and they don't provide a service to
15 the University.

16 MR. MEIKLEJOHN: Okay, thank you. I just wanted -- I
17 thought that was your position, but it seemed appropriate to
18 clarify it at this point --

19 HEARING OFFICER DAVIS: Okay.

20 MR. MEIKLEJOHN: -- for the benefit of the proverbial
21 reader of the record.

22 HEARING OFFICER DAVIS: And also if you decide to do
23 cross, but in any event, Mr. Brill?

24 MR. BRILL: Yes, thank you.

25 BY MR. BRILL:

1 Q. So just going through some of the highlights of this
2 document, if I can take you through, I'm going to refer to the
3 page numbers in the -- on the bottom of the pages.

4 A. I hope the highlights you're referring to are my writing.

5 Q. What's that?

6 A. I hope the highlights you referred to are my prose.

7 Q. Yes. On Page 8 is a reference to under Other to Columbia
8 supplementing the training grant stipend?

9 A. Yes.

10 MR. MEIKLEJOHN: Page 8, not the Bates Stamp number. I
11 got it. I'm there. Thank you. I'm sorry.

12 BY MR. BRILL:

13 Q. There's a reference to Columbia supplementing the
14 training grant stipends up to the current levels.

15 A. Yes.

16 Q. Is that -- does that reflect what you testified to about
17 the need to supplement the stipends?

18 A. It does.

19 Q. And on Pages 9 and 10 you are indicated as a senior key
20 person.

21 A. I'm the Program Director.

22 Q. The PDPR, that's the Program Director?

23 A. Yes.

24 Q. And this is your biographical sketch?

25 A. It is.

1 Q. Now, going to Pages -- Page 17, this is something that
2 you wrote?

3 A. It is.

4 Q. And so there's a statement of a rational of the training
5 program?

6 A. Correct.

7 Q. And you might want to refer to that, but did you just
8 testify in your own words to what is the rational or purpose
9 of the training -- this particular training program?

10 A. So this is to train Doctoral students in the general area
11 of Molecular Biophysics which is a field that both uses,
12 mathematical or physical principles to understand biological
13 systems, but also then uses in a very physically based
14 techniques biological systems.

15 So students in the program might be doing computer
16 simulations, they might be doing x-ray crystallography whether
17 using x-rays to study structures of molecules, they might be
18 doing magnetic resonance so physical based techniques or
19 physical and mathematical theories all aimed at understanding
20 biological problems.

21 Q. How many students would you apply to have supported under
22 this grant?

23 A. So this grant supports seven students and we support them
24 for two or three years. So there's seven slots and students
25 would be on it for two or three years. And this grant doesn't

1 support students in the first year. They're only appointed
2 once they've joined the laboratory.

3 Q. On Page 19 there's a discussion, I guess, of your own
4 background of your administration. And in the second
5 paragraph there's a reference to a number of pre-Doctoral and
6 post-Doctoral scientists that have completed training with
7 you. Is that -- what is the current number of students that
8 have completed training with you?

9 A. 16 have finished training and there's two currently in my
10 lab.

11 Q. Those are pre-Doctoral?

12 A. Pre-Doctoral.

13 Q. Incidentally, are there training grants that support
14 post-Doctoral --

15 A. Yes. This one doesn't, but again, when you establish
16 your training program you decide do we want to support pre-
17 Doctoral students, post-Doctoral students or a combination of
18 and you ask for a certain number of slots in each area. So
19 there will be training grants at Columbia that support post-
20 Docs as well as graduate students. This one is just all pre-
21 Doctoral students.

22 Q. And then on Pages 20 through 27 or 28 there's a listing
23 of program faculty and I take it these are the faculty members
24 who are designated as training faculty under the --

25 A. That's correct. And --

1 Q. Are they from a variety of different departments?

2 A. This particular training grant supports Biophysics across
3 both campuses at Columbia University so there's faculty from
4 my department, the Department of Biochemistry and Molecular
5 Biophysics, but also faculty from other departments in the
6 Medical Center and also faculty from departments on the
7 Morningside Campus. And then this would vary from training
8 program to training program.

9 Q. Beginning on Page 28 there's a description of the post
10 training, on B.3 Proposed Training.

11 A. Yes.

12 Q. And again, there's an overview within and the specifics.
13 Can you just take us through what the overview of the training
14 is and then some of the central features?

15 A. Um-hum. So the overview is to provide, you know,
16 didactic training in areas of Molecular Biophysics, expose
17 students to a range of topics in modern Biophysics. There's
18 some in our programs in colloquia and then have students
19 engage in cutting edge research, an area of Biophysics.

20 So the courses are listed here that the students in the
21 training program take a full year in Molecular Biophysics and
22 Biophysical Chemistry and then an additional elective in
23 Biophysics. They also then do their research. There's, as I
24 said, a colloquia or seminar series that they attend.

25 Students on the training program write annual reports

1 that are then reviewed by both their Thesis Committee and the
2 Operating Committee for the training grants to keep t of
3 progress. When -- and then in some cases we want to make sure
4 that the training -- the interests of the training grant are
5 represented in the Thesis Committee so we may appoint someone
6 with kind of core in the training grant to be on the Thesis
7 Committee.

8 If the work that's being done perhaps seems like there's
9 a risk of it being somewhat peripheral to the training
10 program. We want to have some direct representation helping
11 mentor the student.

12 Q. As the PI or PD under the training grant do you have a
13 responsibility to submit a progress report to NIH?

14 A. Well, there's annual progress reports and these include
15 progress reports written by the students on what they've
16 accomplished, lists of papers, lists of whether students have
17 graduated, whether new students have been appointed, whether
18 there's been any change in the proposition of the training
19 faculty as faculty come and go from Columbia.

20 Q. Is there any specific deliverable that you have or the
21 training faculty have to NIH in terms of what you have to
22 accomplish doing specific research or accomplish any other
23 goals?

24 A. Again it's a training program so every five years there's
25 a renewal and at the renewal time we document what the

1 previous ten years' worth of students have done, how long it's
2 taken them to graduate, what they've done for post-Docs, what
3 they're doing in their subsequent careers. So the basis of
4 the renewal is are we really training people who are
5 outstanding and going on to leadership positions. So it's not
6 deliverable in the physical sense, it's the deliverable in
7 terms of human profit that we have to document.

8 Q. And if you move to Page 35 there's a discussion of
9 monitoring the progress of the students. Well, is there an
10 obligation to review and evaluate the students who are
11 supported by the training grants?

12 A. Yes. And this actually more or less codifies what we do
13 for all students now whether they're in a training grant or
14 not, that there are meetings of their Thesis Advisory
15 Committee at least annually and then written progress reports.

16 This particular language reflects the fact that some
17 years ago, after students -- as I said, students would
18 normally be on GRA funding for some period after they finish
19 on the training grant. And some years ago, once they rotated
20 off the training grant we kind of forgot about them and this
21 language here is to emphasize now that we continue to get
22 progress reports from students as long as they're a Doctoral
23 student even after they've gone off the training grants.

24 We can keep an eye on their progress in that way, but now
25 we really across the board look to have more regular progress

1 reports, etc., for all students regardless of whether they're
2 on a training grant. It's just good practice.

3 Q. On Page 41 there's a description of the course in
4 Responsible Conduct of Research. Is that the course that you
5 described earlier?

6 A. It is. This is -- the faculty change from year-to-year
7 as to who participates in it. I co-direct this course with
8 Jamie Rubin, but the series of lecturers varies year-to-year.
9 The topics -- most of the topics are actually specified by the
10 NIH, but there are a few elective topics in here that we
11 change from year-to-year in order to keep the course kind of
12 fresh.

13 Q. And then beginning at Page 42 there are profiles of
14 current trainees who are supported by grant.

15 A. That's correct.

16 Q. We've taken out the names of the individual students, but
17 these are students who were supported under the grant at the
18 time of the renewal application?

19 A. That's correct.

20 Q. And what is described for each student then?

21 A. Each student describes what their thesis research project
22 is and then gives a report on current progress and describes
23 what they hope to accomplish in the future in their graduate
24 career.

25 Q. Now, I just want to go over a few of the tables that are

1 included in the exhibit. If you turn to Table 3 which appear
2 in Pages 133 to 135, it's headed Institutional Training
3 Grants, etc.

4 A. So this is a list of, at least as of the time when this
5 grant was submitted, a list of all the training grants
6 centered at Columbia University Medical Center.

7 Q. So if you added up the numbers in the column, it looks
8 like five columns over from the right, Pre-Doctoral Trainees
9 Supported this year --

10 A. Yes, that would give rise to asking in that year to the
11 number you asked me about that I couldn't remember.

12 Q. Okay.

13 A. Now, on this table --

14 Q. But this table actually excludes the grant that's being
15 applied for. These are the grants, I think, other than the
16 training grant in Molecular Biophysics.

17 A. Oh, let me just look and see. It may or may not.

18 Q. All right.

19 A. There's not any rule about that.

20 Q. Okay. In any event, what were you going to say?

21 A. I was going to say this table does list the medical
22 scientist training program on Page 134. That's the ending
23 Ph.D. Program, that's not -- I mean it's listed in this table,
24 but it's not available to graduate students; at the bottom,
25 the last entry on Page 135.

1 Q. This is for the MD Ph.D. students?

2 A. That's right.

3 Q. Then on Table 5A, which is here at Pages 146, it goes on
4 for quite a number of pages to 175 that's headed Pre-Doctoral
5 Trainees, Participating Faculty Members Alphabetically for
6 Faculty Member for the Past Ten Years.

7 MR. MEIKLEJOHN: So what page are we on?

8 MR. BRILL: That's from 146 to 175.

9 BY MR. BRILL:

10 Q. Can you indicate what that table shows?

11 A. So this table is a record for the past ten years from
12 point of submission of the grant as to the academic history
13 and current position of trainees on the training grant so this
14 would indicate where people are currently working for example
15 if they finished their Doctorate.

16 Q. Is this required by the NIH?

17 A. This is required.

18 Q. And so, for example, on Page 158 and 159 under Arthur
19 Palmer these are those students that have been in your
20 laboratory who've been supported by the training grant?

21 A. That's correct.

22 Q. And I think we've redacted the names in the exhibit but,
23 you know --

24 A. No.

25 MR. MEIKLEJOHN: No, you haven't.

1 MR. BRILL: Oh. I thought we did.

2 MR. MEIKLEJOHN: I think this is probably FOIA-able
3 information from the Government once you send it in.

4 BY MR. BRILL:

5 Q. All right. I want to look into whether we did
6 inadvertently included those names and if we did we'll
7 substitute a copy of the exhibit with the names redacted, but
8 for now the names are there and I don't know whether, as Mr.
9 Meiklejohn suggests, by virtue of being in the grant
10 application there's no need for protection.

11 But in any event, these names do appear in the exhibit.
12 These are the students who are in your laboratory?

13 A. That's correct.

14 Q. And in the right-hand column, this is what their
15 positions were as of the date of the application?

16 A. Correct. Now, not all of these in this table were
17 students who were supported on the training. These are
18 students who we would say were part of the Molecular
19 Biophysics training program umbrella without necessarily
20 having been supported on the training grant.

21 Q. So what's the distinction that you have?

22 A. Well, the distinction is the NIH would like there to be a
23 pool of students in a particular training area that's much
24 larger than the number of slots they're supporting so that
25 you're only supporting the top echelon of the pool. So we

1 need to be documenting what the total pool is as well as has
2 been supported.

3 So for example, on Page 159, Nicolo Turbovich (ph.) was
4 not funded on the training grant. He's a German citizen and
5 wouldn't be eligible for the training grant, but he was in my
6 laboratory so he's listed here as one of the people who, under
7 other circumstances could have been supported.

8 Q. So the last exhibit that I want to ask you about is Table
9 12A, which appears on Pages 297 through 306. It's training
10 supported by this training plan.

11 A. You remind me that it's almost time to start rewriting
12 this.

13 Q. Renewal/revision applications and non-competing
14 continuous progress reports only. Can you describe what this
15 exhibit shows?

16 A. So this grant -- this table now shows for people who were
17 supported on the training grant what their history was over a
18 ten year period with the different acronyms indicating how
19 they were supported during the years they were at Columbia.
20 So here you have redacted. So at the bottom of Page -- just
21 let me find --

22 Q. Look at 301, for example.

23 A. All right. So Page 301 in the middle, the redacted
24 University of Connecticut entry, you can see the person came
25 into Columbia in the '03/'04 year, 2003/2004, and their first

1 year they were supported on University funds designated UF.
2 Then they were on a research grant in their second year so
3 this would have been their advisor's research funds.

4 Then they were appointed to the training grant. They
5 were on the training grant for three years and then they went
6 back on to research funds of their advisor and finished in the
7 2008/2009 year. You then have the title of the thesis
8 project, dates of their various degrees, and then what their
9 current position is.

10 Q. And this person/student would have been doing -- saying -
11 - working on the same research project throughout?

12 A. They would have been working on the same research project
13 through the whole time. From the standpoint of what they did
14 day-to-day in the lab, it will be independent of which funding
15 source they were on.

16 Q. And just to pick another example, the last student on
17 that page from Colgate College, that student -- would you take
18 us through that student's support?

19 A. So here the student came into Columbia 2004/2005 and were
20 supported on University funds. So again this would mean
21 either funds from the department or funds from my office.
22 Then they were appointed to the training grant in their second
23 year. They were on the training grant for three years.

24 In their fifth year they were on the research grant for
25 -- of their advisor and then in the last year they were back

1 on University funds. This presumably reflected that there was
2 probably some budgetary problem in the lab of the research
3 advisor and the research advisor couldn't support the pattern
4 temporarily so my office ended up or the department, we don't
5 know which from the notation here, either the department or my
6 office covered the student's pattern until they finished.

7 MR. MEIKLEJOHN: Before you leave the page could I just
8 ask a couple of questions to clarify so that we don't get --

9 HEARING OFFICER DAVIS: Sure.

10 MR. MEIKLEJOHN: -- and I think it will be easier if we
11 do it now.

12 MR. BRILL: I have no objection.

13 HEARING OFFICER DAVIS: Okay.

14 VOIR DIRE EXAMINATION

15 BY MR. MKEIKLEJOHN:

16 Q. What does IF stand for if you look at the Carnegie Mellon
17 person there's a code on the last page?

18 A. The code doesn't include --

19 Q. It says Fulbright --

20 A. Yes, I'm going to say independent fellowship. The IF
21 would be an general category for an outside fellowship of some
22 kind from some private foundation, so independent fellowship.

23 Q. And also on that page with respect to the first one the
24 Northwest University?

25 A. Yes.

1 Q. It says TG5?

2 A. It's actually months. So there's actually funny kind of
3 calendar accounting by the NIH as to when somebody has to be
4 appointed in order that we have the slot for a full 12 months.
5 So there's an occasional issue in which people are appointed
6 for only a fraction of what the NIH thinks of as a calendar
7 year because somebody else came off the training grant perhaps
8 because they got an outside fellowship.

9 So it's not important for --

10 Q. Okay.

11 A. -- anything to do with funding, it's just the peculiarity
12 that if you don't have people funded -- appointed to the
13 position by a certain point in the year you lose the funding
14 for the full year. We occasionally have to deal with that
15 aspect of the Government because we don't want to lose a
16 year's funding.

17 Q. And I guess if you bear with me while we go into this,
18 back on Page 159 that you testified about previously and maybe
19 there's an explanation here, I didn't see it, there are --

20 A. Give me a moment to find Page 159.

21 Q. Okay. There's some. I'm sorry --

22 A. Okay.

23 Q. You got it?

24 A. Yes.

25 Q. There's some asterisks, a lot of asterisks.

1 A. Um-hum.

2 Q. Is there someplace on here that tells what the asterisks
3 refer to or --

4 A. The asterisks would indicate I believe that the -- I mean
5 this is probably specified in the instructions form the NIH
6 which is why they've not been put in as a footnote.

7 Q. Yeah, but --

8 A. One set of asterisks indicates students who would be
9 eligible for the training grant and the other would be
10 students who actually were on the training grant. So if I
11 just kind of remember here I would say one asterisk indicates
12 students who are eligible to be on the training grant, no
13 asterisk would mean someone who we counted in the training
14 program, but they weren't eligible usually because they were a
15 foreign student here on a student visa rather than a green
16 card. And then two asterisks would mean it was actually
17 somebody who was supported on the training grant.

18 Q. Okay.

19 A. Of course we could double check that that's the case and
20 actually confirm that to you. I have to look back at the
21 instructions from the NIH on filling out these tables to be
22 absolutely sure.

23 Q. Well, as far as I'm concerned unless we hear otherwise we
24 can assume you're -- I mean you'll check and if it turns out
25 that's wrong you'll get the word back to Mr. Brill who can

1 tell us.

2 A. Absolutely. All that would happen is that I flipped the
3 two, I flipped the meaning of one asterisk versus two
4 asterisks.

5 BY MR. BRILL:

6 Q. I would like to move on now to research grants. In
7 general can you describe what a research grant is?

8 A. So a research grant is the result of an application to
9 some funding agency. It could be the NIH, the NSR, Department
10 of Energy or it could be a private foundation. The grant is
11 written around some topic of research that will be engaged
12 again by the faculty member in his laboratory.

13 There are generally two kinds. There are what are called
14 investigator initiated grants, so I think up something I think
15 it would be interesting to do. I write a grant and submit it
16 to the NIH in one of their investigator initiated programs.
17 So NIH has lots of acronyms so RO1, for example, is an
18 investigator initiated program that anybody that's at a
19 qualified institution is allowed to apply to or has an
20 appropriate position at an appropriate institution.

21 But then there are also rent programs that issue requests
22 for applications or requests for proposals in particular
23 targeted areas. And then investigators who work in those
24 areas might write an application to receive funding.

25 Once the money arrives, there's not very much difference

1 between whether it's investigator initiated or response to a
2 request for applications.

3 Q. And when the money arises who does the money go to?

4 A. The money goes to Columbia and then most grants have what
5 are called direct costs and indirect costs. The direct costs
6 then go to an account that is used by the faculty member or
7 Lab Director to pay the salaries, pay the expenses, pay for
8 supplies, etc., to conduct the research.

9 And then the indirect costs go to the dean or, you know,
10 depending on which school you're in, whatever the appropriate
11 official's budget is that then gets apportioned out to run the
12 enterprise of the University.

13 Q. And --

14 A. Or I should say run the allowed supporting costs that are
15 allowed by indirect -- there's rules on what the indirect
16 costs can be used for. You can't use them to buy automobiles.

17 Q. What does the term principal investigator refer to?

18 A. So that's the person who's the leader of the grant. It's
19 usually the author of the grant. There could be co-PI's if
20 there's two people who are collaborating.

21 Q. What is the responsibility of a principal investigator?

22 A. So both to direct the research and ensure that the monies
23 are spent in the allowed, you know, appropriate way, the
24 financial management of the grant is appropriate --

25 Q. And you have answered this already --

1 A. -- as to -- and part of the grant, of course, would be
2 supporting students or post Docs in the laboratory so the PI
3 of the grant or the faculty member is responsible for
4 directing those individuals in the conduct of research that's
5 called for in the grant that they're participating in.

6 Q. But if a grant is going to support a graduate student
7 would that have to be proposed as part of the application?

8 A. So generally when you write the application there is
9 going to be a budget, so you have the budget or the salaries
10 that they're supported on the grant to post Docs, one graduate
11 student, let's say, plus all the supplies, instrument costs,
12 etc., that are needed for the research.

13 Depending on the grant program there may be more or less
14 flexibility in deciding oh, I asked for two post Docs, but a
15 year later I'd rather have another graduate student than one
16 less post Doc, so depending on the program there's some
17 flexibility about re-budgeting and their rules, of course, for
18 the NIH, NSF, etc., about when you can re-budget locally and
19 when you have to go back to the Agency.

20 So it's not completely fixed, but roughly speaking the
21 number of people is more or less fixed, whether it shifts a
22 little bit as to how many post Docs versus how many graduate
23 students could depend on the flow of the project over the
24 years that it exists.

25 Q. And when a student -- when a graduate student is

1 appointed under a grant, the graduate student would have a
2 position as a graduate research assistant?

3 A. That's correct.

4 Q. And what would a student who has such an appointment do?

5 A. Well, they'd be doing the same kind of thing that any
6 other student in the lab was doing for their Doctoral
7 research, they'd be carrying out their Doctoral research in
8 that lab in the areas specified in the grant, but their day-
9 to-day life, they may have a lab partner sitting at the next
10 desk who is on a training grant or has their own outside
11 fellowship, but their day-to-day activities would go on in
12 parallel. All three of them would be working towards their
13 Doctoral research.

14 Q. Would there be any difference to an outside observer in
15 terms of what duties and responsibilities the GRA had as
16 compared to the --

17 A. No.

18 Q. Let me just finish the question.

19 A. Oh.

20 Q. -- as compared to the student who was on an outside
21 fellowship or a training grant in that lab?

22 A. No.

23 Q. And the student on the GRA, in the GRA position, how does
24 his or her stipend compare to the stipend of the other
25 students?

1 A. The stipends are identical.

2 Q. What --

3 A. This is the compensation package, health fees -- health
4 insurance fees, tuition.

5 Q. And are there specific years when the students can be
6 supported on a research grant? You said the first year
7 they're not --

8 A. The first year they're not because they're not doing
9 their Doctoral research yet, but after the first year, no,
10 they can be supported on research grants right up till they
11 finish. Many students will be. They'll just be supported on
12 research grants their whole time after their first year.

13 Q. Do you currently hold any research grants?

14 A. Yes.

15 Q. Do you have any graduate students working for you on
16 those grants --

17 A. Right now I have two.

18 Q. And what research are those students doing?

19 A. It's details you want?

20 Q. Well, not a lot because it's getting close, it's getting
21 late in the day, but in general?

22 A. So they're both engaged in the area of Structural Biology
23 trying to understand how the structures of proteins or changes
24 in structures of proteins are important for their function;
25 for example, in binding to particular genes to turn them on or

1 off, binding compounds that might be drugs or might be toxins.

2 Q. Now, are both of the students on -- supported by the
3 grant or by a training --

4 A. Right now one of them is supported by my research grants
5 and the other is supported on the training grant, but his time
6 on the training grant will end this summer and then he'll go
7 on to a research grant as well.

8 Q. And will there be any change in what he's doing in the
9 laboratory?

10 A. No.

11 Q. Are you required to have graduate students on your
12 grants?

13 A. No.

14 Q. Well, how would you get the research done if you didn't
15 have these graduate students?

16 A. Well, I could just hire post Docs and technicians. I
17 could hire people who already had Ph.D.'s to do the work.

18 Q. And is there a reason that you don't do that?

19 A. I like graduate students so I mean most people, I think,
20 University are there in part because I think they want to help
21 train the next generation of students. People adjust their
22 own mix.

23 I usually have probably twice as many graduate students
24 as post Docs at any one time, but that ratio will change from
25 lab-to-lab. There would be labs that are all graduate

1 students, labs that are predominantly post Docs, but there's
2 no rule about that mix. It's --

3 Q. Wouldn't it be --

4 A. -- the feeling of the individual faculty member, how they
5 want to constitute their group.

6 Q. How would you compare the economics of having a graduate
7 student versus a post Doc working in your laboratory?

8 A. They're actually similar with respect to the NIH. The
9 NIH basically states that the total compensation for a first
10 year graduate student is the same as that of a first year post
11 Doc in the NIH salary scale.

12 Of course Columbia has to pay a little bit more than the
13 NIH salary scale or no post Doc would come try to live in New
14 York, but basically a post Doc is getting, you know, salary
15 and fringe benefits. The graduate student is getting stipend,
16 tuition, health insurance, computer fees, but the total
17 package by the NIH rules are going to be matched in the first
18 year.

19 So the result of that is from the standpoint of the Lab
20 Director there's not really a financial reason for preferring
21 one over the other. Of course later on post Docs get to be
22 much more expensive. Post Doc with four years of experience
23 has to be paid more than one with one year, but new post Doc
24 versus new graduate student there's not really any financial
25 difference between them.

1 So it's really just a matter of the faculty member's
2 sense of do they want to be training another graduate student
3 at this moment or do they want to have somebody working on the
4 project who's already more senior?

5 Q. And what about this notion of the indirect cost recovery,
6 isn't that a source of profit for the University?

7 A. Well, I'm told all the time by the Dean that basic
8 scientists are a money losing operation, that the indirect
9 costs aren't enough to recoup all the costs of keeping the
10 buildings, the laboratories running. Certainly from the
11 standpoint of, you know, an individual faculty member writing
12 grants, how much of the grant turns into indirect costs isn't
13 -- isn't a primary concern.

14 At the NIH the indirect costs are always added on to the
15 direct costs, so I write a budget based on what I need to get
16 the work done. Then there's a calculation that's independent
17 of anything I do that determines what the indirect costs are
18 to Columbia. So if Columbia's indirect cost rate goes up or
19 down a little bit it doesn't make any difference at all to my
20 direct costs.

21 Q. And I just have a few more questions outside of the grant
22 area. You mentioned some other ways in which students can be
23 supported and I just want to make sure we understand those.

24 You mentioned individual fellowships. What would they
25 pay?

1 A. So there are a small number of individual fellowships
2 from the NIH and NSF that students apply for. Columbia has
3 been fairly successful in getting these because of course the
4 students are fantastic. So for example, this year I think we
5 got nine NSF fellowships, quite a large number.

6 There are also a small number of students who come with
7 fellowships from other agencies. These are mostly foreign
8 students who might come with Fulbright's or a Government
9 fellowship from their home country.

10 Q. And how long, if someone's on an NSF fellowship, for
11 example, how long would that support them?

12 A. Again, those rules are set by the funding Agency, so an
13 NSF fellowship is three years. Fulbright's I think are only
14 one or two years and then somebody would be on a research
15 grant. Singapore, I think the Government fellowships last
16 forever.

17 Q. But hopefully the student doesn't take forever to finish.

18 A. Yes. Hopefully the students finish in five and a half
19 years.

20 Q. And again, just for the record, students on these
21 independent fellowships are -- is there any difference in what
22 they're doing in terms of their work in the lab for you?

23 A. No. Again, if that outside fellowship paid less than
24 Columbia's stipend we would be supplementing them up to the
25 same level as everyone else, so the financial packages are the

1 same. And when working in the lab, there would be no
2 difference in what they would be doing relative to any other
3 graduate student in the group.

4 MR. BRILL: Thank you. I don't have anything further.

5 HEARING OFFICER DAVIS: Offer 119?

6 MR. BRILL: No, but --

7 HEARING OFFICER DAVIS: Yes, you did.

8 MR. MEIKLEJOHN: But I did some work with characterizing
9 it as not proper voir dire.

10 HEARING OFFICER DAVIS: Just to cover my bases 119 is
11 admitted.

12 Would you like to do cross now or do you need to take a
13 break?

14 MR. MEIKLEJOHN: I'd like to take a break. I'd like to
15 keep it as a short break.

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

17 (Whereupon, a recess was taken from 12:28 p.m. to 12:53 p.m.)

18

19

20

21

22

23

24

25

1

2

3

4

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

5

(Time: 12:53 p.m.)

6

7 HEARING OFFICER DAVIS: Okay, let's go on the record.

8 Mr. Meiklejohn.

9

CROSS EXAMINATION

10 BY MR. MEIKLEJOHN:

11 Q. Good afternoon, Professor Palmer.

12 A. Good afternoon.

13 Q. You understand that I'm representing the Union in this
14 matter and that I also have some questions for you?

15 A. Yes.

16 Q. So one thing I noticed is that you're able to figure out
17 where the questions are going before the question is
18 concluded, but if you could just try to be patient and wait
19 till I finish my questions?

20 A. I was warned to do that and I forgot.

21 Q. Well, did they tell you that that nasty lawyer from the
22 Union would say something to you if you didn't remember?

23 MR. BRILL: That's attorney/client privilege.

24 MR. MEIKLEJOHN: Okay.

25

(Laughter.)

1 BY MR. MEIKLEJOHN:

2 Q. Fairly early in your testimony you testified that one of
3 the programs in the Biomedical area under your direction is
4 shifting from having the third rotation be in the Summer to
5 having it done in the Spring semester the first year, do you
6 recall that testimony?

7 A. Yes.

8 Q. Which area is that change being made in?

9 A. That change has already happened in the Integrated
10 Program, but in fact we're making that change in all of the
11 programs because some programs were always doing the three
12 rotations within the academic year.

13 Some programs were doing one in the Fall semester, one in
14 the Spring semester and one in the Summer and that made it
15 difficult for students to do rotations across kind of program
16 boundaries, so we've been trying to reduce the boundaries to
17 students doing their research in a different program to where
18 they were admitted and that's hard if the rotations are out of
19 phase with each other.

20 So I think this year all of them are on the same schedule
21 finally of one in the Fall and two in the Spring so that
22 students can start their research in the Summer after their
23 first year.

24 Q. And I think that you said that as a result of this change
25 their Summer research could be very productive. The word I

1 recall you using is productive. Can you explain what you mean
2 by the research being very productive starting in the Summer?

3 A. Because in the Fall and Spring during the academic year
4 one of the labs that they did the rotation in is the lab where
5 they are now going to do their Doctoral research. So they've
6 been doing some research in that laboratory, but they've been
7 doing course work, etc. at the same time so they haven't had
8 the full amount of time to devote to the research.

9 So now Summer comes, they have no courses, there's a
10 block of three months where they can focus now for the very
11 first time on what's going to be their Doctoral research and
12 hopefully get a good jump before the Fall when they're going
13 to be taking a couple of elective classes again.

14 So the Fall of their second year they're probably going
15 to still be taking at least one class which is going to, of
16 course, take some time away from their ability to be
17 conducting research so the good thing about the Summer is
18 hopefully they get their project jump started before they get
19 the little distraction again in the second year, whereas
20 before if they did their third rotation in the summer that
21 might not be the lab they join.

22 They might decide to join the lab where they rotated in
23 the previous Fall, so now it's September of their second year
24 and they're trying to get started on their Doctoral research
25 while they also now are taking an elective course though it's

1 just more things to be juggling.

2 Q. So you're saying that during the summer they can get a
3 lot more research done?

4 A. A lot more done. Days are long.

5 Q. All right. You said that when this process of the
6 graduate student and the faculty member making decision
7 whether the grad student is going to work in a particular lab,
8 that one of the things that the faculty member looks for is
9 whether the grad student is a good fit. Can you explain what
10 goes in -- what characteristics the faculty member would be
11 looking for in determining whether a particular student would
12 be a good fit?

13 A. I would say that those vary, you know, quite widely from
14 faculty member to faculty member. There wouldn't necessarily
15 be any particular, I would think principle that would extend
16 across all the faculty, but a faculty member might be or will
17 have some record, some experience.

18 The student has just done the rotation so they have some
19 idea from that of what the strengths and weaknesses of the
20 student seems like they might be. For example, you might
21 decide the student as we say has golden hands, they can go
22 into the lab and make things work or you might decide they
23 seem like they're really, you know, a fantastic computer
24 expert.

25 So you have some idea of what their strengths are. You

1 may have some idea of where you're over-subscribed in the lab,
2 for example. I tend to have people -- some people -- the
3 graduates who like to be in the lab actually doing things with
4 chemicals and another group of people who just like to work
5 primarily on computers and instruments.

6 So if I start to have too many of one at any one time in
7 the lab, things get out of whack. It's hard to make progress
8 if things get unbalanced so I might be thinking does this
9 person fit the needs well of the -- what's going on in my lab.
10 At the same time the faculty member is also trying to think am
11 I a good fit for the student.

12 You know, is the student a good fit to me, but also am I
13 good fit for the student? So my lab -- labs do particular
14 things, right, we're all kind of increasingly over-specialized
15 so I'll be talking to the student about what they think their
16 career goals are. Do they see themselves down the road
17 wanting to be an academic researcher working in the
18 pharmaceutical industry?

19 Of course they're students. Things are a little vague.
20 They don't yet know exactly what they want to do. How
21 interested are they in theoretical versus experimental work to
22 decide whether I can offer them the kind of training that they
23 seem like they would be most interested in having.

24 So fit. On one side does a person fit the needs of the
25 lab as to where the projects are and fit on the other side is,

1 is this the right lab for this person to be trained in or
2 would they be better off being trained in one of the other
3 labs at Columbia where there would be a closer fit between
4 kind of the interests of the faculty member and the kind of
5 training the faculty member can give a student.

6 Q. So just to boil this down, your answer got a little bit
7 -- the side of your answer that relates to the fit of the lab,
8 what you're looking for is somebody who has the talent and the
9 interest to service or to fit the needs of the lab.

10 A. Sure.

11 Q. Okay. Now, does -- I'm trying to figure out a way to ask
12 this without asking something that I won't understand the
13 answer to, but you're interested in conducting research in, I
14 guess, probably in a variety of areas. You seem to have a
15 number of specific interests, is that right?

16 A. Yes.

17 Q. And is it part of the function or the mission of the
18 Columbia University Medical Center to conduct new inter-
19 regional research?

20 A. Of course.

21 Q. And to increase, I guess, human knowledge?

22 A. Yes.

23 Q. That doesn't sound too --

24 A. That's our hope.

25 Q. That's your hope. Okay.

1 A. It's incremental.

2 Q. Right, I understand that you're not going to solve all
3 the problems of the world in the next six months, but you hope
4 to make some contribution?

5 A. Yes.

6 Q. And the work that's done in the lab is for one of the
7 purposes of the research that's done in this labs is to
8 fulfill that part of the mission of Columbia University
9 Medical Center, correct?

10 A. Yes.

11 Q. And the work that's done by the funded graduate Research
12 Assistant furthers that mission, correct?

13 A. That's right and furthers their training so one also is
14 deciding at any moment. Since the lab usually is a mix of
15 students and post Docs, one's trying to decide what's
16 appropriate for the student to do and what's appropriate for
17 the post Doc to do and some things I wouldn't have a student
18 do because I wouldn't think they'd be very good for his
19 training even though I need them done and then they might be
20 more appropriate for a technician or a post Doc to do.

21 Q. Do you know whether all the faculty members in Columbia
22 Medical School are as scrupulous about ensuring that
23 assignments are made in that fashion?

24 A. I think the -- I don't know if I'm scrupulous or not, you
25 should ask my students, but one reason --

1 Q. We really don't have any here. I'd love to.

2 A. One reason that we have a committee structure to track
3 graduate students through their career is to have some degree
4 of oversight over this process. And if the student is doing
5 things, you know, that seem like they're turning the crank in
6 some practical way that's moving the lab forward, but it's not
7 generating what we would think of as advance of, you know,
8 knowledge in that will constitute a dissertation, we want the
9 committee to say, you know, things need to be redirected here.

10 Now, does every committee work perfectly well? Probably
11 not, but you know, I think my office tries not to rely
12 completely on the, you know, big races of individual faculty
13 members, but we have to make sure people have theses that
14 constitute Columbia University worth dissertations at the end
15 of the day. So the committee is our way of trying to keep
16 that on track.

17 Q. So to get back to the original point --

18 A. Yes.

19 Q. -- probably I did ask a somewhat divert -- divergent
20 question, but so what you're saying is that the work done by
21 the graduate Research Assistant benefits the -- contributes to
22 the research being done by the lab and also benefits the
23 education of the student?

24 A. Exactly.

25 Q. And in fact, there's no inconsistency between the two.

1 One can both learn and work at the same time.

2 A. Yes.

3 Q. And in fact, I assume that you feel that you're
4 continuing to learn as you conduct the research or supervise
5 the research in your lab?

6 A. One hopes.

7 Q. Now, what about a student who's working on a project in
8 the lab who is being funded by a training grant, does the work
9 done by that student also contribute to the research being
10 done in the lab?

11 A. Of course.

12 Q. And hopefully, if it's successful, experience human
13 knowledge?

14 A. Yes.

15 Q. And that individual is getting paid a stipend for the
16 time spent working in the lab, correct?

17 A. Well, their stipend is for their training. Because it's
18 a training grant, NIH, you know, documents state this is a
19 stipend for their training, it's not employment, but of course
20 the research is convoluted in with their training in a way
21 that can't really be parsed out, but they get the same stipend
22 as any other student.

23 Q. You spend a lot of time -- so if the -- if the NIH funds
24 their -- well, strike that.

25 The NIH funding falls short of the level of stipends that

1 you offer your students?

2 A. Yes.

3 Q. And so where does the money come to -- come from to
4 supplement that training grant?

5 A. That comes from my Office of Graduate Affairs and the
6 money that funds my office comes from the Dean's budget at
7 Columbia University Medical Center. And that money, you know,
8 comes from all of the general sources that are supporting
9 Columbia University Medical Center.

10 Q. And those sources include, I guess -- well, I don't know
11 what else. We have some financial records and I don't know if
12 they break out to where the Medical Center gets its funds.

13 Do -- the reason that you supplement the amount of money
14 provided for stipends by the NIH, I take it, is a question of
15 fairness, is that right?

16 A. Yes.

17 Q. And you have two people who are doing similar work or
18 essentially the same work, working side-by-side in the lab and
19 they hope to get paid the same amount?

20 A. Um-hum.

21 Q. That was a yes?

22 A. Yes.

23 Q. Okay. That's another thing. I won't ask whether he told
24 you that, but --

25 A. He didn't tell me that.

1 Q. Okay, but it's hard to get the um-hum's and ah's right on
2 the record.

3 And I guess while we're at it the rotation that these
4 students do in their first year, that's an opportunity for
5 them to be exposed to different types of research that they
6 might consider devoting them to in the upcoming years?

7 A. Yes.

8 Q. But do they also contribute to the work being done in the
9 lab during that time?

10 A. That would depend very much from lab-to-lab on the nature
11 of the work because the rotation is going to be a few months
12 in length and in many areas it would be impossible for a
13 student to learn enough to actually make any substantial
14 contribution to the field in a few months.

15 In other cases that might be possible. So in my own lab
16 in 23 years, I think two rotation students have ended up on
17 papers for work that they did during their rotation. The
18 other -- well, the total number of rotation students plus
19 graduate students that I've had is probably more like 30
20 rotation students.

21 The other 28 or so, they learned, came to the lab to try
22 to see if they liked what we worked on, but they didn't really
23 accomplish enough that they would be part of any papers. We
24 take papers as the quantum of advancement that we make, so it
25 could vary. Sometimes they just get enough done to know I

1 like this general area, but they wouldn't really have pushed
2 human knowledge forward.

3 Q. But they -- I mean they make contributions that fall to a
4 lesser --

5 A. But they --

6 Q. Wait, wait. -- to a lesser extent than enough to warrant
7 putting their names on a paper?

8 A. Yes.

9 Q. Okay. Just so that it's clear, when you -- when you
10 write these extensive -- and are successful in being awarded
11 these extensive training grants, the funds for that go to the
12 University, they don't go directly to the student, is that
13 correct?

14 A. The funds go to the University and then the University
15 issues checks to the student for the stipend.

16 Q. Right. And they pay their health insurance premiums,
17 etc.?

18 A. Correct.

19 Q. And that -- but it appears that you devoted a substantial
20 amount of effort to generating funds for training grants for
21 the Medical School. It looks like

22 A. Yes. a pain to do all that paperwork anyway. Is that
23 true? Have you done a lot of work to get those training
24 grants?

25 Q. And I guess one of the benefits of that is that it

1 enables the University or the Medical School to train more
2 potential future -- I forget what the term you used was, but
3 future researchers, correct?

4 A. Yes.

5 Q. But by having more funds available to fund more students
6 who are conducting research does it enable Columbia Medical
7 Center to conduct more research?

8 MR. BRILL: I'm sorry, could you --

9 Q. What if it didn't have the funding?

10 MR. BRILL: Could you rephrase the question or repeat
11 it?

12 HEARING OFFICER DAVIS: Did you understand the question?

13 THE WITNESS: If the --

14 MR. BRILL: Well, he's asking if you understood the
15 question first.

16 THE WITNESS: Yes, I understand the question.

17 HEARING OFFICER DAVIS: Okay, you can answer.

18 MR. BRILL: Could I have it read back? I --

19 MR. MEIKLEJOHN: No, if the witness understood the
20 question then --

21 MR. BRILL: The lawyer is entitled to hear it. I didn't
22 hear the question, counsel. I may have an objection if I
23 could hear the question.

24 HEARING OFFICER DAVIS: Okay. If you can, please read
25 back the question.

1 MR. MEIKLEJOHN: You want me to try to ask it again?

2 MR. BRILL: I was asking Adrian, actually.

3 HEARING OFFICER DAVIS: No, ask me. Is it easier? I
4 mean -- let's play back the question.

5 MR. MEIKLEJOHN: Pardon?

6 HEARING OFFICER DAVIS: Go to the video tape. I mean
7 the audio tape.

8 (Whereupon, a portion of the record was played back
9 by the Court Reporter.)

10 HEARING OFFICER DAVIS: That's as loud as it can go?

11 MR. BRILL: Now I've totally forgotten what the question
12 was.

13 HEARING OFFICER DAVIS: Yeah.

14 (Whereupon, a portion of the record was played back
15 by the Court Reporter.)

16 HEARING OFFICER DAVIS: No, it was way after this.

17 THE WITNESS: I sound like my cousin which I find
18 annoying.

19 (Laughter.)

20 (Whereupon, a portion of the record was played back
21 by the Court Reporter.)

22 MS. ROTHGEB: Getting there.

23 (Whereupon, the question was played back
24 by the Court Reporter.)

25 HEARING OFFICER DAVIS: That's it.

1 MR. BRILL: Well, my objection --

2 HEARING OFFICER DAVIS: Wait, wait, wait.

3 MR. MEIKLEJOHN: He just said do you understand the
4 question.

5 HEARING OFFICER DAVIS: So what is the objection?

6 MR. BRILL: It's a compound question. He asked him two
7 questions. He said isn't it true this and then in other words
8 that, so I don't know what the question was.

9 HEARING OFFICER DAVIS: The question, as I understood it
10 and we just replayed it, was as a result of getting funding
11 from outside grants does that enable you to fund --

12 MR. BRILL: No.

13 HEARING OFFICER DAVIS: No?

14 MR. MEIKLEJOHN: I've got no problem with the Hearing
15 Officer's question.

16 HEARING OFFICER DAVIS: Okay.

17 MR. MEIKLEJOHN: I would like to ask the Hearing Officer
18 to --

19 MR. BRILL: But that wasn't his question. His question,
20 I think, was with regard to the training grants.

21 MR. MEIKLEJOHN: Yes.

22 HEARING OFFICER DAVIS: Okay, here's what we're going to
23 do. You're going to replay the question again. I'm going to
24 overrule the objection and you're going to answer the
25 question. Okay?

1 MR. MEIKLEJOHN: Can we ask the witness if it's
2 necessary to replay it or not?

3 HEARING OFFICER DAVIS: It's necessary for me, okay, not
4 the witness.

5 MR. MEIKLEJOHN: All right.

6 (Whereupon, the question was replayed again
7 by the Court Reporter.)

8 HEARING OFFICER DAVIS: Okay. Having replayed that
9 question twice do you recall the question?

10 THE WITNESS: I do.

11 HEARING OFFICER DAVIS: And please answer the question.

12 THE WITNESS: The answer to that question is a little
13 complicated --

14 (Laughter.)

15 THE WITNESS: -- because there's a difference between an
16 individual training program and the graduate program as a
17 whole. So within an individual lab or training program the
18 presence of the training grant allows more students to be
19 trained.

20 If I have somebody in my lab who's supported on the
21 training grant for two or three years, that's an extra person
22 that I couldn't have supported off of my research grants and
23 they're doing work that's moving all the research in the lab
24 forward. So that's clearly, in that case, I'm able to train
25 an extra student and that student is contributing to the

1 research in the lab.

2 So each training program has that -- has that benefit.
3 But for the graduate program as a whole there's a sense that
4 one needs a certain size graduate program because we have a
5 certain size faculty and faculty want to have graduate
6 students. So if the graduate program was so small that a
7 faculty member had very little opportunity to have a graduate
8 student in their lab, they would get very upset because most
9 faculty members are at a University because in some part they
10 like graduate students.

11 Otherwise they would be at a research institute where
12 they wouldn't have to deal with any of this. So if training
13 grants -- if the Molecular Biophysics training grant
14 disappeared in three years that would reduce the likelihood
15 obviously that I would have somebody in my lab supported by a
16 training grant that doesn't exist, but would the graduate
17 program as a whole shrink by seven people.

18 It might not because there would be tremendous pressure
19 to find funds elsewhere to keep the size the same because it's
20 somewhat matched to the size of the faculty. So the answer to
21 your question, I think, is yes, obviously at the level of
22 individual labs it can make a huge difference if you have
23 somebody in your lab supported on a training grant because
24 that's someone you couldn't have supported otherwise. With
25 large for the whole graduate program it's less clear.

1 BY MR. MEIKLEJOHN:

2 Q. You might have to find other sources of funds?

3 A. Yes.

4 Q. Okay. You used the term PDPI at one point in your
5 testimony.

6 A. Um-hum.

7 Q. You said PD refers to -- well, you said that that refers
8 to Program Director, is that --

9 A. Or Project Director. They're the same thing.

10 Q. That's the PD part?

11 A. Yes.

12 Q. And the PI part is -- what does the PI part stand for, if
13 you know?

14 A. Principal investigator.

15 Q. So the Program Director is also considered a Principal
16 Investigator?

17 A. Yes.

18 Q. Or Project Director. Do you still have Employer Exhibit
19 119 handy?

20 A. Yes.

21 Q. I think it was Page 301 where there was a --

22 MR. KEIKLEJOHN: you know what, I'm going to withdraw the
23 question, Your Honor. I won't ask the question I was going to
24 ask. I have some additional documents I'd like to introduce
25 and I think the witness -- through the witness.

1 The first of these -- I'd like this document to be marked
2 Petitioner's 61 --

3 MS. ROTHGEB: 9.

4 HEARING OFFICER DAVIS: 9.

5 MR. MMEIKLEJOHN: 9.

6 (Petitioner's Exhibit 69 identified.)

7 BY MR. MEIKLEJOHN:

8 Q. Have you had an opportunity to review Petitioner's
9 Exhibit 69?

10 A. Yes.

11 Q. Is this a page from the University Medical Center
12 webpage?

13 A. It appears to be.

14 Q. And it contains a description of the -- the research
15 mission of the University Medical Center?

16 A. Correct.

17 MR. MEIKLEJOHN: I'll move the admission of Petitioner's
18 69.

19 HEARING OFFICER DAVIS: Any objection?

20 MR. BRILL: Yeah. This appears to relate to the medical
21 research, not the basic science research.

22 HEARING OFFICER DAVIS: Can you elaborate on the
23 difference --

24 MR. BRILL: I'm not sure it's a relevant document.

25 HEARING OFFICER DAVIS: -- between the Medical Center

1 and what did you say, basic science research?

2 MR. BRILL: Well, it says health care research so this
3 appears to be research that's being done by MD's in the
4 Medical School, not by the basic science -- I mean it lists --

5 MR. MEIKLEJOHN: Are you asking me?

6 MR. BRILL: No, it's a question to the witness.

7 HEARING OFFICER DAVIS: Could you ask the question in a
8 non-leading manner of the witness as part of voir dire for
9 this document?

10 MR. BRILL: Probably not, but --

11 HEARING OFFICER DAVIS: You can do it better than I can
12 so --

13 VOIR DIRE EXAMINATION

14 BY MR. BRILL:

15 Q. Do you know whether this document from the webpage
16 applies to research in the basic science area?

17 A. I couldn't answer the question in the sense that on Line
18 3 where it says sponsored research totaling more than \$600
19 million, I couldn't answer the question whether that includes
20 research coming to basic scientists or not. The word
21 Biomedical Investigation could include basic science. I can't
22 tell from context here.

23 On the other hand on the left-hand side the Coordinated
24 Doctoral Program isn't listed as a specific entity.

25 Q. You're not part of the College of Physicians and

1 Surgeons?

2 A. The faculty would belong to the College of Physicians and
3 Surgeons, but the graduate program is its own entity. So this
4 page is a little bit that they could mean the whole thing or
5 they could be being more specific. It's difficult to tell.

6 MR. BRILL: To me, given the ambiguity, I'm not sure
7 what the purpose of this paper is.

8 HEARING OFFICER: Mr. Meiklejohn?

9 BY MR. MEIKLEJOHN:

10 Q. The MD Ph.D. students who are -- who are going to receive
11 a medical degree as well as a Ph.D. they would be enrolled in
12 the Medical School as well as in your program, correct?

13 A. That's right, depending on which part of their training
14 they're in.

15 Q. And does the research conducted at -- the basic research
16 conducted within the Ph.D. part of the program contribute to
17 the creation of new knowledge in therapies to improve health
18 in individuals and population?

19 A. It would depend, of course, on the particular research.
20 I mean research done in my lab is unlikely to lead the new
21 therapies in any short-term sense, but the student, an MD
22 Ph.D. student could be working in the lab in which generation
23 of new therapies might be a fairly short-term goal. It's
24 possible.

25 Q. So some of the Ph.D. students would contribute to this?

1 A. Yes.

2 MR. MEIKLEJOHN: Okay. I'll move it on that basis. I
3 do recognize that the \$600 million, I guess, is not applicable
4 to this part of the program.

5 HEARING OFFICER DAVIS: Yeah, I don't know what it's
6 worth. It bears some relevance so I'm going to admit the
7 document. And as I said before, the reader of the record will
8 ascribe what weight to assign.

9 MR. MEIKLEJOHN: This one I know I got from the --

10 MR. BRILL: I just want to say for the record it's not
11 just the weight of the document, I think it's the ambiguity of
12 what --

13 HEARING OFFICER DAVIS: I agree, but I'm going to admit
14 it.

15 (Petitioner's Exhibit 69 received.)

16 MR. MEIKLEJOHN: I'd like this one marked as
17 Petitioner's 70 and I didn't screw up on this one.

18 (Petitioner's Exhibit 70 identified.)

19 BY MR. MEIKLEJOHN:

20 Q. Obviously you've had a chance to review Petitioner's 70,
21 is that correct?

22 A. I have.

23 Q. Does this come from the Columbia University Medical
24 Center webpage?

25 A. Yes.

1 Q. And does that describe -- does the description on there
2 include the graduate School of Basic Sciences Program?

3 A. Yes, this page does unlike the previous one.

4 MR. MEIKLEJOHN: I move Petitioner's 70.

5 HEARING OFFICER DAVIS: Any objection?

6 MR. BRILL: No, but I think given 70, I'd like to ask
7 the Hearing Officer to reconsider his ruling on 69 because
8 comparing the two it's clear that the graduates from Basic
9 Sciences is listed on the left-hand column of 70 and it's not
10 listed on 69.

11 HEARING OFFICER DAVIS: I'm going to admit 70 and
12 although I reconsidered your objection to 69, it's still going
13 to remain in the documents.

14 (Petitioner's Exhibit 70 received.)

15 BY MR. MEIKLEJOHN:

16 Q. Now, is there an office or organization within Columbia
17 University that supports funding application, the funding
18 application process for the Basics Research in -- at Columbia
19 University Medical Center that you're involved in?

20 A. Could you ask that again, please?

21 Q. Yeah. Is there an Office of Sponsored Research or
22 something like that that supports grant writing for the
23 programs that you oversee?

24 A. Yes.

25 Q. And is that part of the Medical Center or is that part of

1 the larger University?

2 A. I actually don't know the organizational structure of
3 that.

4 Q. Are you familiar with something called the Office of the
5 Executive Vice President for Research?

6 A. Yes.

7 Q. Is that part of the University or part of the Medical
8 Center?

9 MR. BRILL: I object to the form of that question.

10 MR. MEIKLEJOHN: Okay, I'll withdraw the question and
11 I'll show him another document and this time I'll let him tell
12 me what it is.

13 HEARING OFFICER DAVIS: Thank you. So it's Petitioner's
14 71?

15 MR. MEIKLEJOHN: This will be Petitioner's 71, yes.

16 (Petitioner's Exhibit 71 identified.)

17 BY MR. MEIKLEJOHN:

18 Q. Have you had an opportunity to review Petitioner's 71?

19 A. Yes.

20 Q. And is the research -- are the research organizations or
21 research funding support organizations described on these
22 pages, are they available to support research writing or grant
23 writing rather than that you're involved in?

24 A. They don't real -- depends what you mean by support
25 because they don't provide support in the sense that they

1 would help write documents. The Office of Sponsored Research
2 ensures that grants that go in are submitted properly to the
3 Agency, that the form -- that the right number of forms, that
4 if they need to have particular approvals at the University
5 they have those approvals, but if I seek to write a training
6 grant or a research grant I'm going to have to write it
7 myself.

8 And in the case of the training grants, there's usually
9 someone within a department, an administrative position within
10 a department, not within Sponsored Research that would help
11 with constructing these enormous tables. So Sponsored
12 Research, they don't help us write the grants, they do the
13 submission and make sure form pages are there so the
14 Government doesn't reject them.

15 Q. So this office is part of your grant submission process,
16 okay.

17 A. Oh, yes, absolutely.

18 Q. They just don't provide the kind of help you'd really
19 like to have. You don't have to -- I'll withdraw that.

20 (Laughter.)

21 MR. MEIKLEJOHN: I'm afraid it would be interpreted -- I
22 move Petitioner's 71.

23 MR. BRILL: You know, again my objection is that while
24 some portions of this seem to be relevant to Basic Sciences,
25 it's a document that relates to the Medical School. For

1 example, it talks about clinical trials, which I don't believe
2 has anything to do with basic science research.

3 So I just think the document itself is not relevant to
4 his testimony. And what he said about the Sponsored Programs
5 Office obviously is testimony, but the document itself is from
6 a different area of the University essentially that happens to
7 have some overlap with support for the Basic Sciences.

8 MR. MEIKLEJOHN: Can I ask some more foundation
9 questions, please?

10 HEARING OFFICER DAVIS: Okay.

11 BY MR. MEIKLEJOHN:

12 Q. All right. You have Petitioner's 71 in front of you?

13 A. Yes. Actually, it doesn't have a stamp on it. Well,
14 actually it's in a different place. You fooled me.

15 Q. The Office of Executive Vice President for Research, does
16 that office provide -- whatever services it provides, do those
17 services apply to the basic science research that you're
18 engaged in?

19 A. The answer is kind of yes. That office is relatively new
20 at the University and while it's a University-wide position
21 the Medical Center has operated more or less autonomously for
22 so long, I would say that office is still in the process of
23 evolving as to what the eventual relationship is going to be
24 between the two campuses. I think the answer to that is just
25 really hard to say definitively.

1 Q. Well, if you could take a look at the -- I know there's
2 more than one sentence -- the third line down -- the first
3 sentence. It says that the Executive Vice President for
4 Research reporting directly to the President of the University
5 has overall responsibility for the University's research
6 enterprise encompassing a broad spectrum of research
7 departments, institutes. etc. in the natural and biomedical
8 sciences. Would that include your department?

9 A. It would.

10 Q. Let's skip Columbia -- does Columbia Clinical Trials,
11 does that apply to -- it references the Medical Center. Does
12 that just apply to the Medical Center?

13 A. It would be quite unlikely that a basic scientist would
14 be involved in clinical trials.

15 Q. Sponsors projects administration, does that apply to your
16 department?

17 A. That's where grants get submitted through, so yes.

18 Q. And sponsored projects financed, does that also apply to
19 your department?

20 A. So yes in the sense that that's the umbrella. Each
21 department or unit typically has its own finance administrator
22 who's administering the finances for particular grants within
23 that unit and then of course the unit above, but that finance
24 person would be reporting to, to make sure that everything is
25 compliant. So I wouldn't deal myself directly with this

1 office, it would be my department finance person between me
2 and them.

3 Q. So that your department finance person would deal with
4 the Sponsored Projects Finance Department?

5 A. Yes.

6 Q. Okay.

7 A. To make sure that all Federal regulations are complied
8 with.

9 Q. I'm not going to ask you about any of the subsequent
10 sections in here which may or may not be relevant that are not
11 going to be part of my argument. I mean may not apply, but I
12 don't think they're relevant. I'm sure you do have to apply
13 the -- well, strike that.

14 MR. MEIKLEJOHN: So I now move Petitioner's 71 and
15 specifically with respect to those three areas that he's
16 identified as having responsibility for Biomedical Research.

17 HEARING OFFICER DAVIS: 71 is admitted.

18 (Petitioner's Exhibit 71 received.)

19 BY MR. MEIKLEJOHN:

20 Q. I've got a grant of yours that I've taken excerpts from
21 also.

22 HEARING OFFICER DAVIS: So this will be 72?

23 MR. MEIKLEJOHN: This will be Petitioner's 72.

24 (Petitioner's Exhibit 72 identified.)

25 MR. BRILL: We produced this.

1 MR. MEIKLEJOHN: Yes. That's why it has your Bates
2 Stamp on it.

3 MR. BRILL: Okay.

4 BY MR. MEIKLEJOHN:

5 Q. Have you got it --

6 A. I know this grant.

7 Q. Okay, yeah. Do you recognize Petitioner's Exhibit 72 as
8 an excerpt or some excerpts from a research grant that you
9 obtained from the -- from NIH?

10 A. Yes.

11 MR. MEIKLEJOHN: I move Petitioner's 72.

12 HEARING OFFICER DAVIS: Any objection?

13 MR. BRILL: I just -- I'm just looking to see what's
14 been included here. I guess my only objection would be -- oh,
15 okay. No objection.

16 HEARING OFFICER DAVIS: Okay. Petitioner's 72 is
17 admitted.

18 (Petitioner's Exhibit 72 received.)

19 BY MR. MEIKLEJOHN:

20 Q. I ask you to turn to the second to the last -- the third
21 to the last page which is Bates Stamped 3433 and it's Page
22 Number 21.

23 A. Yes.

24 Q. There's a listing here of the personnel who are going to
25 be working on this project?

1 A. Yes.

2 Q. Including yourself, of course.

3 A. Yes.

4 Q. And you have a post-Doctoral research scientist working
5 with you on this?

6 A. Yes.

7 MR. BRILL: I just want to clarify that the uses of the
8 tense because this is an old grant so --

9 MR. MEIKLEJOHN: I understand.

10 MR. BRILL: So current tense I think should be
11 understood to apply to the period of time that the grant was
12 applied for. Thank you.

13 MR. MEIKLEJOHN: I appreciate that. I'll rephrase the
14 question.

15 BY MR. MEIKLEJOHN:

16 Q. You had a post-Doctoral scientist working on this?

17 A. Yes.

18 Q. Okay. And this was not intended to trap you or your
19 testimony that you said you weren't using any. And can you
20 just explain why you chose to use a post Doc on this one, if
21 you remember?

22 A. Well, most of the grants that I've written have had a mix
23 of graduate students and post Docs on them because one is
24 trying to, again, think about what aspect of the work is going
25 to be more appropriate for a post Doc versus a graduate

1 student.

2 And as we said some earlier, some aspects of the work
3 have more of an evident training component to them. Other
4 aspects of the work may not and be less appropriate for a
5 student or the post Doc might have, you know, particular
6 skills. Remember, the post Doc has already completed a Ph.D.

7 As part of their Ph.D. they've done cutting edge
8 research. So they have a set of skills that they may be able
9 to bring, you know, directly to bear on a problem of interest
10 in the grant in a way that a graduate student might take some
11 years to develop those skills.

12 Q. Do you remember whether Dr. Lee or is it Dr. Ying had any
13 particular skills?

14 A. Oh, yes, lots.

15 Q. Okay. So he was --

16 A. She. Dr. Lee, in fact, had come being -- she had been
17 trained in a different area from what we work in, from kind of
18 the sister area and we had the idea that some of the
19 techniques that she had worked on in her graduate area would
20 be applicable as very novel approaches in what we worked at.
21 So she was kind of bringing a whole new set of skills and
22 knowledge base into the group than we had had previously. And
23 that's frequently what post Docs do.

24 Q. Now, you have two graduate Research Assistants listed.

25 You have two people listed here as graduate Research

1 Assistants working on this, correct?

2 A. Correct.

3 Q. And one of them, the first one listed there, a fifth year
4 graduate student, she -- you were seeking funding for her
5 stipend on this grant?

6 A. That's correct.

7 Q. And do you recall did she have any particular skills that
8 were of particular value to this project?

9 A. Well, of course, they all -- the students all have
10 particular skills or they wouldn't be in graduate school.

11 MR. BRILL: They'd be in law school.

12 (Laughter.)

13 THE WITNESS: So she, in fact, had come from a Physics
14 background and was interested in the particular problem called
15 Protein Folding in the field. And we had a collaboration with
16 a colleague in another University where we had worked on this
17 molecule in the last line of that section called the Villain
18 Headpiece Domain, but the student who had worked on that had
19 finished his Ph.D. and left the lab.

20 So when Nicole indicated that she was interested in
21 Protein Folding it seemed like that was a natural part of work
22 in the lab for her to contribute to. She would learn the
23 experimental techniques involved in studying Protein Folding
24 and then we'd be able to continue this aspect of the grant
25 that we had been previously working on.

1 Q. And the other -- the third year student was listed as
2 working. He was -- first of all, he's still characterized as
3 a graduate Research Assistant, correct?

4 A. Yes.

5 Q. In the grant papers?

6 A. What do you mean?

7 MR. MEIKLEJOHN: Strike that. I won't --

8 BY MR. MEIKLEJOHN:

9 Q. But this individual was supported by a training grant so
10 you did not need to get any money from the NIH on this grant
11 to support his work, at least in the first year, is that
12 correct?

13 A. That's correct.

14 Q. And if he had not been on the training grant would you
15 have still wanted his skills and abilities to work on this
16 project?

17 A. Yes.

18 Q. And would you, under those circumstances, have sought
19 funding from NIH as part of this grant to cover his salary?

20 A. Well, NIH grants tend to -- there's two styles of NIH
21 grants in the RO1 Program. One is called a Modular Budget and
22 in my area it's very hard to do anything other than the
23 Modular Budget. So a Modular Budget grant is basically fixed
24 in size.

25 So if he wasn't on the training grant, I may well not

1 have been able to alter the budget in order to put his stipend
2 and tuition, fees, etc. into the budget without going over the
3 modular amount. So at that point I might have decided that I
4 had to write a separate grant to support him, that there
5 wouldn't be room to fit him into the budget.

6 Q. So you still would have wanted him to do the
7 investigations of OE Case, whatever that means?

8 A. ODC ACE.

9 (Laughter.)

10 BY MR. MEIKLEJOHN:

11 Q. Okay. But you still would have wanted him to do that
12 work?

13 A. Yes, yes.

14 MR. MEIKLEJOHN: No further questions.

15 HEARING OFFICER DAVIS: Mr. Brill?

16 MR. BRILL: Yeah. I just want to clarify something that
17 Mr. Meiklejohn was just asking about on the same exhibit, Page
18 21.

19 REDIRECT EXAMINATION

20 By MR. BRILL:

21 Q. Actually you referred -- Mr. Geise is listed as a
22 graduate Research Assistant on Page 21, but he is supported by
23 a training grant, is that -- do I understand correctly?

24 A. Yes. So in fact, now that you draw my attention to it
25 that is an error by me on the grant, he should have been

1 listed as a Fellow, as a pre-Doctoral Fellow because as long
2 as he's on the training grant, that's how he's classified in
3 the system. On the other hand, I probably cut and pasted and
4 didn't notice that I needed to make the change.

5 Q. And at some point did Mr. Geise become supported by the
6 research grant?

7 A. He -- just his time on the training grant and exactly
8 when that was we would have to look at the training grant
9 tables, but he ultimately decided to leave the program before
10 completing his Ph.D. so I actually don't remember whether he
11 was supported on a research grant for a while before he left
12 the program or whether he had decided to leave the program
13 while he was still supported on the training grant. I would
14 have to look back at that.

15 MR. BRILL: All right. I don't have anything further.
16 Thank you.

17 HEARING OFFICER DAVIS: Mr. Meiklejohn?

18 MR. MEIKLEJOHN: That didn't prompt any further
19 questions from me, no.

20 HEARING OFFICER DAVIS: Okay, thank you. It's been a
21 real pleasure. You're excused.

22 THE WITNESS: Thank you.

23 (Witness excused.)

24 HEARING OFFICER DAVIS: Is there anything else, any
25 other matters?

1 MR. MEIKLEJOHN: We've got more documents, that's all.
2 I did go over my allotted time, but I'd like to get those
3 appendices in.

4 (Discussion off the record.)

5 HEARING OFFICER DAVIS: So we're on the record.

6 In an off the record discussion counsel for the
7 Petitioner has informed me that she intends to offer three
8 documents which relate to a document which has already been
9 entered into evidence as Petitioner 21. So, Ms. Rothgeb,
10 could you identify the documents that you now wish to
11 introduce?

12 MS. ROTHGEB: Petitioner's Exhibit 21(b)(1) is Appendix
13 B, which begins with Bates Stamp Number 3345 and goes through
14 3365. Petitioner's Exhibit -- and it relates to Arts and
15 Sciences.

16 MR. MEIKLEJOHN: It's a survey of the duties performed
17 by Teaching Fellows in the Arts and Sciences Department.

18 HEARING OFFICER DAVIS: Okay.

19 MS. ROTHGEB: Petitioner's Exhibit 21(b)(2) is the
20 Appendix B that begins with Bates Stamp 3366 and goes through
21 3386 and it relates to the survey -- the documents then
22 describe what departments they relate to.

23 So Petitioner's Exhibit 21(b)(3) beginning with Bates
24 Stamp 3387 through 3407 and likewise it is an Appendix B. All
25 three of these Appendix B's are referenced in Petitioner's

1 Exhibit 21 on the first page of Petitioner's Exhibit 21.

2 (Petitioner's Exhibit 21(b)(1), (2) and (3) identified.)

3 HEARING OFFICER DAVIS: Is there any objection?

4 MR. BRILL: No objection, but just to clarify for the
5 record, so I think Dr. Phillips and Mark Olsen testified the
6 appendices were generated in response to surveys that were
7 conducted across the Arts and Sciences and there was an
8 individualized appendix for each department.

9 So what we produced and what's now been offered into
10 evidence are representative examples of the Appendix B's. The
11 first, Exhibit 21(b)(1) was the Appendix B for Philosophy,
12 which also includes all of the responses from the Humanities
13 Departments.

14 MR. MEIKLEJOHN: It's Humanities. That's the division.
15 (b)(1) is Humanities, (b)(2) is Social Sciences, and (b)(3) is
16 Natural Sciences.

17 MR. BRILL: Right, but just for the clarity in the
18 record, (b)(1) actually was the Philosophy Department. That's
19 what's highlighted in some of the charts. And (b)(2) was for
20 Political Science and again represents the responses for all
21 the Social Science Departments. And (b)(3) was the response
22 for the Psychology Department and then it includes the
23 responses for all the Natural Science Departments.

24 HEARING OFFICER DAVIS: Great. I think that's helpful
25 and I think it's -- okay, great. No objection? 21(b)(1),

1 (b) (2) and (b) (3) are all admitted.

2 (Petitioner's Exhibits 21(b) (1) through (b) (3) received.)

3 MR. MEIKLEJOHN: And there were two terms in those
4 documents which were not readily understandable by somebody
5 who doesn't do the work. One of the functions performed by
6 Teaching Fellows according to the survey was grading rubrics
7 and as a result of an off the record discussion, I believe
8 we've agreed that grading rubrics means that the Teaching
9 Fellows define the grading standards and criteria.

10 And the other undefined term counsel is looking up.

11 MR. BRILL: It's managing clickers or ARS and the
12 question was how often are TF's in the department involved
13 with in class activities that involves students submitting
14 answers or reactions to lecturer via clickers, which are more
15 generally called audience response systems or ARS.

16 HEARING OFFICER DAVIS: Okay. So I'm taking you're
17 offering those as stipulations?

18 MR. MEIKLEJOHN: Correct,

19 MS. HAJJAR: Yes, we agree to those terms.

20 HEARING OFFICER DAVIS: Okay. So if there's no
21 objection, Employer's stipulations are admitted.

22 Is there anything else at this time?

23 MR. BRILL: No.

24 MR. MEIKLEJOHN: No.

25 HEARING OFFICER DAVIS: Okay, great. Let's go off the

1 record. Thank you.

2 (Whereupon, at 2:08 p.m., the hearing was
3 adjourned sine die.)

4

1

C E R T I F I C A T E

This is to certify that the attached proceedings done before the NATIONAL LABOR RELATIONS BOARD REGION 2:

In the Matter of:

THE TRUSTEES OF COLUMBIA UNIVERSITY
IN THE CITY OF NEW YORK,

Employer,

and

GRADUATE WORKERS OF COLUMBIA GWC, UAW,

Petitioner.

Case No.: 2-RC-143012

Date: May 27, 2015

Place: New York, New York

were held as therein appears, and that this is the original transcript thereof for the files of the Board

ADRIAN MORRIS,
Official Reporter

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