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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION SIX

YOUNG SCHOLARS OF WESTERN PA
CHARTER SCHOOL
Employer
and
YOUNG SCHOLARS OF WESTERN PA
EDUCATION ASSOCIATION, PSEA/NEA
Petitioner

Case No. 6-RC-210615

The above entitled matter came on for hearing pursuant to notice, before JULIE STERN, Hearing Officer, in Room 904, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222, on Thursday, December 7, 2017, commencing at 11:10 a.m.

MORSE, GANTVERG & HODGE, INC.
112 Washington Place, Suite 1-R
Pittsburgh, Pennsylvania 15219
412/281-0189

1 APPEARANCES:

2 On behalf of the Employer:

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7 On behalf of the Petitioner:

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| 2 | | | | | | VOIR |
| 3 | WITNESSES: | DIRECT | CROSS | REDIRECT | RECROSS | DIRE |
| 4 | ----- ADEM OKSUZ | ----- 15 | ----- 61 | ----- | ----- | ----- 30 55 |
| 5 | (recalled) | 182 | 186 | | | |
| 6 | ASHLEY MCCANN | 109 | 142 | | 167 | |
| 7 | ROBERT HANCOVSKY | 169 | 179 | | | |
| 8 | | E-X-H-I-B-I-T-S | | | | |
| 9 | EXHIBIT | | IDENTIFIED | | IN EVIDENCE | |
| 10 | ----- Board | | ----- | | ----- | |
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1 P-R-O-C-E-E-D-I-N-G-S

2 THE HEARING OFFICER: Let's go on the record. Morning
3 everyone. The hearing will be in order. I see a couple of cell
4 phones. Please make sure the sound is off on them.

5 This is a formal hearing in the matter of the Young
6 Scholars of Western PA Charter School, Case No. 6-RC-210615
7 before the National Labor Relations Board. The hearing officer
8 appearing for the National Labor Relations Board is Julie Stern.
9 All parties have been inform of the procedures of formal
10 hearings before the board by service of the description of
11 procedures and certification and the certification pages with
12 notice of hearing. I have additional copies of this document
13 for distribution if any party wants more. I'll ask for
14 appearances for the Petitioner, please.

15 MR. EBERLE: For is the Petitioner Robert A. Eberle. Do
16 you need contact information too?

17 THE HEARING OFFICER: Sure.

18 MR. EBERLE: P.O. Box 44290, Pittsburgh, PA 15205.

19 THE HEARING OFFICER: And for the employer?

20 MR. LALLEY: Paul N. Lalley with Campbell, Durrant,
21 Beatty, Palombo & Miller, 535 Smithfield Street, Suite 700,
22 Pittsburgh, PA 15222.

23 THE HEARING OFFICER: Are there any other appearances?
24 Let's the record show no response. Are there any other persons,
25 parties or labor organizations in the hearing room that claim an

1 interest in this proceeding? Let the record show no response.
2 (Board Exhibit 1A through 1D were marked for identification.)

3 THE HEARING OFFICER: I now propose to receive the
4 formal papers. They have been marked for identification as
5 Board Exhibit 1A through 1D inclusive. Exhibit 1D is an index
6 and description of the entire exhibit. This exhibit has been
7 shown to the parties. Are there any objections to the receipt
8 of Board Exhibit 1 into the record?

9 MR. EBERLE: No objection.

10 MR. LALLEY: No objection.

11 THE HEARING OFFICER: Hearing no objection the formal
12 papers are received into evidence.

13 (Board Exhibit No. 1A through 1D were admitted into evidence.)

14 THE HEARING OFFICER: Are there any prehearing motions
15 that need to be addressed at this time?

16 MR. EBERLE: None for the Petitioner.

17 MR. LALLEY: None for the Employer.

18 (Board Exhibit No. 2 was marked for identification.)

19 THE HEARING OFFICER: Thank you. The parties to this
20 proceeding have executed a document which is marked as Board
21 Exhibit 2. That exhibit contains a series of stipulations
22 including, among other things, that the Petitioner is a labor
23 organization with in the meaning of the Act. There is no
24 contract bar, and the Employer meets the jurisdictional
25 standards of the board. Are there any objections to the receipt

1 of Board Exhibit 2?

2 MR. EBERLE: No objection.

3 MR. LALLEY: No objection.

4 THE HEARING OFFICER: Board Exhibit 2 is received.

5 (Board Exhibit No. 2 was admitted into evidence.)

6 (Joint Exhibit No. 1 was marked for identification.)

7 THE HEARING OFFICER: The parties have discussed the
8 potential bargaining unit in this case and have agreed upon what
9 I understand will be offered into evidence as Joint Exhibit 1
10 and this lays out the positions that the parties have agreed
11 should be included in the unit and should be excluded in the
12 unit. There's also classifications that the Employer wants to
13 include but the Petitioner wants the exclude and there's
14 classifications that the Employer wants to exclude and the
15 Petitioner wants to include. So with the parties approval, I'll
16 receive into evidence Joint Exhibit 1.

17 MR. EBERLE: Ma'am Hearing Officer, I would trust that
18 this satisfies the Petitioner's obligation to respond to the
19 Employer's statement of position as to what positions are at
20 issue in the here?

21 THE HEARING OFFICER: Yes.

22 MR. EBERLE: With that, the Petitioner agrees to the
23 admission of Joint Exhibit 1.

24 THE HEARING OFFICER: Mr. Lalley?

25 MR. LALLEY: The Employer agrees tot he admission of

1 Joint Exhibit 1.

2 THE HEARING OFFICER: Joint Exhibit 1 is received.

3 (Joint Exhibit No. 1 was admitted into evidence.)

4 THE HEARING OFFICER: So under those circumstances I
5 would like to ask for a stipulation from the parties that any
6 unit found appropriate by the regional director should include
7 those listed on Joint Exhibit 2 as the agreed upon inclusions
8 which are all full anytime and regular part time professional
9 employees including teachers, assistant teachers, counselor and
10 nurse and that a unit should exclude, as stated on Joint Exhibit
11 1, teacher aids, the principal, the coordinator for discipline,
12 the chief executive officer, the business manager, the business
13 administrator, the extended day coordinator, substitute,
14 custodians, office clerical employees and guards and supervisors
15 in the meaning of the Act. Mr. Lalley, do you stipulate for the
16 Employer?

17 MR. LALLEY: I stipulate for the Employer.

18 THE HEARING OFFICER: Mr. Eberle, for the Petitioner?

19 MR. EBERLE: Yes. The Petitioner so stipulates.

20 THE HEARING OFFICER: The stipulation is received. Are
21 there any petitioner pending any other regional office involving
22 the facilities of the Employer that either party is aware of?

23 MR. EBERLE: None that the Petitioner is aware of.

24 MR. LALLEY: None that the school is aware of.

25 MR. EBERLE: Ma'am Hearing Officer, if we can go back to

1 Joint Exhibit 1 for a moment, the two job classification that
2 the Petitioner seeks to exclude. The document itself does not
3 give a reason for the Petitioner's position and if I may
4 clarify.--

5 THE HEARING OFFICER: You can. We will get to the
6 positions of the parties on these positions.

7 MR. EBERLE: That's fine. I just want to make sure what
8 I meet my burden to respond to the statement of position.

9 THE HEARING OFFICER: You will. At this point I want to
10 remind the parties that prior to the close of the hearing I will
11 solicit the parties position on the type, date and time of the
12 location of the election and the eligibility period including
13 the most recent payroll ending date and any applicable
14 eligibility formulas that will not submit litigation of those
15 issues. I will also inquire of to the need for foreign language
16 ballots and notice of election. Please have the relevant
17 information with respect to these issues available at that time.

18 Parties have been an advised that the hearing will
19 continue day-to-day as necessary until completed unless the
20 regional director concludes that extraordinary circumstances
21 warrant otherwise. Parties are also advised that upon request
22 they shall be entitled to a reasonable period at the close of
23 the hearing for oral argument. Post hearing briefs shall be
24 filed only upon special permission of the regional director. In
25 addition, a party may offer into evidence a brief memo of points

1 and authorities, case citations and other legal arguments during
2 course of the hearing and before the hearing closes.

3 (Board Exhibit No. 3 was marked for identification.)

4 THE HEARING OFFICER: The Employer has completed and I
5 have marked for identification as Board Exhibit 3 a statement of
6 position in this matter. Are there any objections to receiving
7 Board Exhibit 3 into the record?

8 MR. EBERLE: No objection.

9 MR. LALLEY: No objection.

10 THE HEARING OFFICER: Hearing no objection, Board
11 Exhibit 3 is received.

12 (Board Exhibit No. 3 was admitted into evidence.)

13 THE HEARING OFFICER: As we discussed earlier in Joint
14 Exhibit 1 there are the classifications at issue that are listed
15 and at that time I would like to take the parties positions
16 about those disputed classifications. So first with respect to
17 the IT specialist and the assistant counselor, I understand that
18 the Petitioner wants to exclude those positions from the unit.
19 Mr. Eberle, could you explain first for the IT specialist the
20 Petitioner's position about why that classification should and
21 excluded?

22 MR. EBERLE: Yes. The Petitioner's understanding is
23 that the IT specialist is not employed in a professional
24 capacity and is more in a vein of a paraprofessional or a
25 support person. The IT specialist doesn't have any teaching

1 function and doesn't have any professional responsibility that
2 would justify inclusion in the unit.

3 THE HEARING OFFICER: And Mr. Lalley, if you could
4 please explain the Employer's position of why the IT specialist
5 should be included in the unit?

6 MR. LALLEY: Yes. It's the Employer's position that the
7 IT specialist does possess the qualifications and
8 characteristics and the position. The duty that person performs
9 that qualifies a professional employee under the Act and the job
10 description Mr. Oksuz is here the testify to that.

11 THE HEARING OFFICER: Would you spell his name please?

12 MR. OKSUZ: A-d-e-m, first name. Last name, O-k-s-u-z,
13 Oksuz.

14 THE HEARING OFFICER: Thank you. Next -- and am I
15 correct that there is one person in the IT specialist position;
16 is that right?

17 MR. LALLEY: That is correct.

18 THE HEARING OFFICER: And next with respect to the
19 assistant counselor position, Mr. Eberle, could you explain the
20 Petitioner's position as to why you want that position excluded?

21 MR. EBERLE: Yes. The Petitioner's understanding is
22 that the assistant counselor, similar to the IT specialist, does
23 not have any professional responsibility and is employed in a
24 support or paraprofessional capacity, and so it would not
25 warrant inclusion in a professional unit.

1 THE HEARING OFFICER: And, Mr. Lalley, the Employer's
2 position of why the assistant counselor should be included in
3 the unit?

4 MR. LALLEY: Is that the assistant counselor performs
5 duties and responsibilities that would render as a professional
6 employee under the Act with respect to counselor and the
7 counselor position which is agreed upon in the bargaining unit.

8 THE HEARING OFFICER: Am I correct that there is one
9 assistant counselor; is that right?

10 MR. LALLEY: There is one assistant counselor.

11 THE HEARING OFFICER: There are four positions that are
12 listed on Joint Exhibit 1 that the Employer wants to exclude and
13 the Petitioner wants to include. Again, let's start here with
14 the Employer for the Title 1 coordinator. I understand from the
15 position that the Employer contents this is a managerial or
16 supervisory position. Could you please explain, Mr. Lalley, the
17 position for the Title 1 coordinator?

18 MR. LALLEY: Yes. For the Title 1 coordinator and
19 actually also for the ESL coordinator and cluster head
20 coordinator positions, it's the school's position that these
21 positions do perform some managerial duties and there's a job
22 description here and Mr. Oksuz will testify about what duties
23 they actually perform and that would qualify them as performing
24 a managerial function and therefore being appropriately in the
25 unit.

1 THE HEARING OFFICER: Am I correct that the Title --
2 there's one Title 1 coordinator; is that right?

3 MR. LALLEY: That's correct.

4 THE HEARING OFFICER: And one ESL coordinator?

5 MR. LALLEY: That's correct.

6 THE HEARING OFFICER: And there's five individuals in
7 the cluster head coordinator position?

8 MR. LALLEY: That's correct.

9 THE HEARING OFFICER: With respect to the behavior --

10 MR. LALLEY: I'm sorry. The behavior consultant is a
11 position that's performing paraprofessional duties the perform.
12 The person in the position now has a contract that are
13 specifying they are in fact performing paraprofessional duties,
14 and we will introduce that contract into the record.

15 THE HEARING OFFICER: Again, that's one individual; is
16 that correct?

17 MR. LALLEY: That's one person. Correct.

18 THE HEARING OFFICER: Mr. Eberle, with respect to the --
19 these positions that the Petitioner wants to include first with
20 the Title 1 coordinator?

21 MR. EBERLE: The Title 1 coordinator has, to the best of
22 the Petitioner's understanding, no managerial function or
23 responsibility. The coordinator is more in the nature of a
24 liaison than it is an indicator of some kind of managerial
25 responsibility.

1 THE HEARING OFFICER: And the ESL coordinator?

2 MR. EBERLE: The characterization would be the same for
3 all seven of the coordinators.

4 THE HEARING OFFICER: And with respect to the behavior
5 consultant, what is the Petitioner's position on that?

6 MR. EBERLE: The behavior's consultant may have a
7 contract that characterizes her as paraprofessional, but she
8 performs duties that are taken to and connected with teaching
9 responsibilities and she has a professional degree and she has
10 professional responsibilities with respect to the students that
11 she comes into contact with and she works with the teacher to
12 develop individual plans for students. So the Petitioner
13 contends that she's a professional member of the staff.

14 I think you'll also hear that the behavior consultant is
15 considered by the Employer to be professional. She attends the
16 professional staff meetings and the record will support that
17 characterization as well that the Employer regards her as
18 professional.

19 THE HEARING OFFICER: Thank you. Is there anything else
20 that we need to discuss at this point. Mr. Lalley?

21 MR. LALLEY: Nothing from the Employer.

22 THE HEARING OFFICER: Mr. Eberle.

23 MR. EBERLE: Only what I mentioned off the record. I
24 have two witnesses under subpoena and I would like to keep an
25 eye on the progress of the hearing and the clock if we can get

1 them in today and not bring them back a different day we would
2 appreciate that consideration.

3 THE HEARING OFFICER: We will certainly keep that
4 consideration in mind. The clock in here is an hour fast. The
5 issues to be litigated in this hearing are only the issues
6 related to the positions that we -- both parties have just
7 describe that they have not agreed upon should be included in
8 the unit. That would be the IT specialist and the assistant
9 counselor, the behavior consultant and the individuals in the
10 coordinator positions; Title 1 coordinator, ESL coordinator and
11 cluster head coordinator.

12 Please be aware that because managerial status involves
13 statutory exclusion the parties seeking to exclude employees on
14 this basis bears the burden of proof. You must present specific
15 detailed evidence in support of your position. General
16 conclusion or statements by witnesses will not be sufficient.
17 If there's nothing further I'm ready to take the first witness.
18 Mr. Lalley, would you like to call your witness?

19 MR. LALLEY: Sure. The school calls Adem Oksuz.

20 ADEM OKSUZ
21 called as a witness by the Employer, having been first duly
22 sworn, was examined and testified as follows:

23 THE HEARING OFFICER: Again, state your name and spell
24 your name for the record.

25 THE WITNESS: Adem, A-d-e-m. Last name, O-k-s-u-z,

1 Oksuz.

2 THE HEARING OFFICER: Just remind you to keep your voice
3 up so we can all hear you.

4 THE WITNESS: Okay.

5 THE HEARING OFFICER: Thank you.

6 DIRECT EXAMINATION

7 BY MR. LALLEY:

8 Q. Mr. Oksuz, can you tell us what position that you have
9 currently with the Young Scholars of Western Pennsylvania
10 Charter School?

11 A. I'm the chief executive offer.

12 Q. How long have you been the CEO of the school?

13 A. Since July 1, 2017.

14 Q. Just because we're on the record here I would ask that
15 you wait until I finish asking my question before you start an
16 answer.

17 A. Okay.

18 Q. Just a quick reminder. You'll have to answer all
19 questions verbally so that the court reporter is able to get
20 your responses to mine and to Mr. Eberle's questions. Okay?

21 A. Uh-huh.

22 Q. Yes?

23 A. Fine. Yes.

24 Q. Thank you. So I'm sorry. You have been CEO of the
25 school for how long?

1 A. Since July 1, 2017. So it's about becoming six months.

2 Q. And prior to those six months, did have you any other
3 role or function with the charter school?

4 A. I was helping the charter school as a consultant. I was
5 working for them as an a consult. I was not a full time
6 employee before then.

7 Q. If you could just tell us about the charter school.
8 Where is it located?

9 A. The address is 600 Newport Drive, Pittsburgh; ZIP code
10 15234.

11 Q. Is it in -- what township or community is it?

12 A. Baldwin Township.

13 Q. What grade levels does the charter school provide
14 education for?

15 A. We are serving kindergarten through 8th grade.

16 Q. When did the school initially become chartered?

17 A. I believe in 2007. No. I'm sorry. In 2011.

18 Q. And which entity issued the charter for the school?

19 A. We are on the Baldwin Whitehall School District but our
20 charter was granted by the Department of Education in
21 Harrisburg.

22 Q. And are you -- what is the -- do you have a current
23 charter term for the charter?

24 A. Yep.

25 Q. What is the current term for this school's charter?

1 A. It's five years. It was renewed one year ago. So we
2 are chartered until June 30, 2021.

3 Q. Okay. So this is your -- you're in your second renewal?

4 A. Yes.

5 Q. Or first renewal; second charter; correct?

6 A. This is our second renewal. Yes.

7 Q. And how many students in grades K to 8 does the school
8 currently have enrolled?

9 A. We have 310 students right now.

10 Q. Did the school always -- has it always been a K to 8
11 school since it's inception, or did the compensation of your
12 grade offerings change over time?

13 A. We started as kindergarten through 4 I believe -- 4 or 5
14 and then we added one grade per year.

15 Q. And what -- does the school have any particular focus or
16 function in its educational mission?

17 A. Yeah. Our differentiating features is small class size.
18 We teach both languages through 8th grade. We use technology.
19 We emphasize on personalized education, personalized needs of
20 the students. So these are the main ones.

21 Q. The school is a nonprofit corporation; is that correct?

22 A. Yes.

23 Q. What is the -- what is the management structure of the
24 charter school?

25 A. So there's composed of five members and then I -- as the

1 CEO I am the staff to the board. So I have my assistants and I
2 have cluster heads and then teachers.

3 Q. Just in terms of your own educational or professional
4 background, do you have any degrees or certifications? What is
5 your education professional background?

6 A. I have master's in education of leadership -- in
7 teaching leadership from Penn State. Nowadays I'm almost
8 completing my doctorate in K through 12 systems leadership.

9 Q. Is that through Penn State University also?

10 A. The doctorate is from Widener near Philadelphia.

11 Q. Widener University. If you could explain what are your
12 duties and functions in general terms of the CEO of the school?

13 A. I'm the top leader of the school. So I plan. I report
14 to the board. I am in charge of everything in terms of like
15 managing the school, staffing the school, leading the
16 implementation plans and things like that.

17 Q. Do you know the total number of people who are employed
18 by the school irrespective if they're in the proposed bargaining
19 unit?

20 A. They're not here.

21 Q. How many?

22 A. What is the question again?

23 Q. Do you know the total number of employees of the school?

24 A. Yes. We have part time and full time all together 59
25 employees right now.

1 Q. Thank you. Now, I want to turn to some of the cluster
2 head coordinator positions that are in dispute with the union --
3 with the PSEA. I'd like show you what I'll mark as Employer's
4 Exhibit No. 1.

5 (Employer Exhibit No. 1 was marked for identification.)

6 MR. LALLEY: If we can go off the record for one second.

7 THE HEARING OFFICER: Sure. Off the record.

8 (Discussion off the record.)

9 THE HEARING OFFICER: On the record.

10 BY MR. LALLEY:

11 Q. Mr. Oksuz, I'm going to show you what has been marked as
12 Employer Exhibit 1, and if I could ask you to identify -- the
13 top of this document is dated August 23rd, 2017 on the first
14 page; is that correct?

15 A. Yes.

16 Q. And it says "Dear Ashley McCurry;" is that correct?

17 A. Yes.

18 Q. Who is Ashley McCurry?

19 A. She is the coordinator for K through 1 cluster in our
20 school; kindergarten and 1st grade teachers cluster coordinator.

21 Q. If we look at the first three pages of Employer Exhibit
22 1 can you explain or depict what those three pages are?

23 A. These are the responsibility -- managerial
24 responsibilities that she agreed to do so that she got
25 compensated for them; doing her duty.

1 Q. I'll ask you specific questions about it. Is it the job
2 description for the job that Ms. McCurry performs as the K to 1
3 cluster head coordinator?

4 A. Yes.

5 Q. And then if we could on page -- on the third page of
6 this document is that -- to your knowledge is that Ms. McCurry's
7 signature on the document?

8 A. Yes.

9 Q. Now, if we turn to page -- what are actual pages 4 and 5
10 -- in sequence of Employer Exhibit 1 what are the fourth and
11 fifth pages of Employer Exhibit 1?

12 A. This are her job responsibilities from last year. We
13 changed her job --

14 Q. We will get to that. So these are the job
15 responsibilities from 2016/'17?

16 A. Yes.

17 Q. And it's dated at the top August 19th, 2016; right?

18 A. Yes. Can I say something? At that time her title was
19 cluster head. She was not cluster coordinator.

20 Q. Just to clear what these documents are for the record,
21 the last two pages are -- pages 4 and 5 of Employer Exhibit 1 am
22 I correct are the duties and description for cluster head K to 1
23 that Ms. McCurry performed in the 2016/2017 year?

24 A. Yes.

25 Q. And it's actually -- in terms of the description of the

1 duties, they just appear entirely on page 4; is that correct?

2 A. Yes.

3 Q. And it's her signature on the last page of this document
4 for the 2016 year?

5 A. Yes.

6 Q. Now, there's a description of the position as you
7 indicated already. It goes from cluster head K to 1 to K to 1
8 cluster coordinator from 2016 to the present year 2017; is that
9 correct?

10 A. Yes.

11 Q. And it looks like you go from one page of duties to
12 approximately a little over three pages of duties for the K to 1
13 cluster coordinator description; correct?

14 A. Yes.

15 Q. So who made the determination to change -- to make the
16 change from what Ms. McCurry had in 2016 to what she currently
17 has with this job description?

18 A. So I prepared it in consultation with my board and then
19 I presented it to her by an email. She agreed and she signed
20 it.

21 Q. Why was there a change from the position description as
22 it existed in 2016 -- let me finish the question please -- to
23 what we have in August of 2017?

24 A. Okay. We wanted to reduce our managerial workload in K
25 through 1 so we needed somebody who can help us in terms of

1 managing certain things. That is why; just to reduce
2 administration's workload as a -- as regarding some of these
3 managerial duties from kindergarten through 1.

4 Q. When you say "us" and "reduce the managerial workload,"
5 who are you referring to?

6 A. I'm referring to myself. There's a principal and I have
7 a curriculum supervisor and I have somebody in charge of
8 discipline. So she was helping us at this capacity as a cluster
9 coordinator.

10 Q. Now, the job description -- first of all for the record,
11 do you believe that the job description that's in the first
12 three pages of Employer Exhibit 1 accurately describes the
13 expectations of what Ms. McCurry is to perform in those duties?

14 A. They are and by an email I asked her if she has any
15 questions and I requested to sign and then return it to me if
16 these duties meet her understanding and acceptance.

17 Q. Okay. So in the -- under the first rubric of K to 1
18 cluster chair we have a 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and
19 actually on the second page 11 and 12 separately listed
20 descriptions. What is management's expectation in terms of what
21 the K to 1 cluster chair duties under instructional involve?

22 A. So she is in charge of monitoring the instructional
23 needs of the cluster. She meets with the cluster members,
24 teachers and assistant teachers, weekly and then she meets with
25 the administration every week. Every week she has meetings and

1 she makes recommendations regarding staff needs and say
2 assignments. She coordinates tutorial needs of the cluster
3 students. She supports cluster teachers in areas that they need
4 including but not limited to grading, pacing the instruction --

5 THE HEARING OFFICER: Let me stop you for a second. You
6 don't need to read the exhibit. I mean, I think what you were
7 asked is if generally what fits under this group if you can
8 paraphrase it or describe what she does with her instructional
9 responsibility but it's not necessary to read the document.

10 A. Yeah. She was in charge of helping us to help manage
11 teacher's instructional needs to support them.

12 Q. Do you know approximately -- "K to 1" I assume is
13 referring to kindergarten and 1st grade classes?

14 A. Yes.

15 Q. Do you know how many kindergarten and 1st grade teachers
16 have you at the school?

17 A. I have two for each.

18 Q. So four total teachers?

19 A. Yeah. One is including Ms. McCurry.

20 Q. So four teachers?

21 A. Four teachers and I have assistant teachers and I have
22 aids also.

23 Q. In terms of the duties with respect to the K to 1
24 cluster structure, do you have an organizational chart that
25 describes hierarchy of the Young Scholars of Western

1 Pennsylvania Charter School?

2 A. Yes.

3 Q. How do the cluster heads, the K to 1 cluster head like
4 Ms. McCurry, rank in the organizational chart?

5 A. She's above teachers and teaching assistants and a below
6 supervisor for curriculum and instruction and principal. So
7 from top she's the fourth highest ranking manager in our school.

8 Q. And if we turn to the second page of the job description
9 it has a subcategory called curriculum?

10 A. Yes.

11 Q. What responsibility or role does the K to 1 cluster
12 coordinator have with respect to curriculum?

13 A. So they initiate the discussion and need for curriculum
14 change if they want to change the curriculum. They do the
15 research and they tell us if they want to change it or not.

16 Q. Okay.

17 A. I mean, the curriculum change is not like -- it is
18 recommended and then I have to present it to the board.

19 Q. Okay. And what is the effect of their recommendation of
20 whether or not there should be curriculum changes? In other
21 words would you be following any recommendations that they make
22 for curriculum changes or do you provide separate input to any
23 curriculum recommendations?

24 A. We rely on the accommodations, but there has to be a
25 consensus with the other cluster coordinators, because whatever

1 curriculum I'm using in K through 1 there has to be a
2 continuation in upper grades. If there's a consensus with all
3 of the cluster coordinators, we go with their recommendation.
4 We had done it last year as I described here. Last year we did
5 some changes in our curriculum. It was based on recommendation
6 from cluster coordinators and -- yeah.

7 Q. Okay. Does the K to 1 cluster coordinator and other
8 coordinators have any responsibility for the evaluation of
9 teachers in the school?

10 A. They provide us informal feedback. They -- since they
11 are not certified administrators they don't have to evaluate the
12 teachers formally. Somebody should have either supervisory or
13 administrative 1 or administrative 2 certificates. Since they
14 don't have those, we get feedback from them about other teachers
15 but those are all informal, but the data is used for, you know,
16 professional development of the teacher they're providing
17 feedback for.

18 Q. So is it taken into account, this informal information
19 or evaluation that you get from the cluster, for the purpose of
20 evaluating those teachers?

21 A. Yes.

22 Q. But just to be clear, that formal rating and evaluation
23 is done by somebody else?

24 A. As I said we get data from them and feedback from them,
25 but financial decision is ours.

1 Q. And specifically just for the record who would be the
2 one that would sign off on a rating?

3 A. I will sign off. There is somebody else doing
4 observations right now, but the final teacher evaluation --
5 annual evaluation will be signed by me.

6 Q. In terms of -- if we could return also to Employer
7 Exhibit 1, in terms of the rubric that says communication, what
8 are the duties and responsibilities of this position with
9 respect to communication just in general terms?

10 A. I mean, we're expecting them to help the flow of
11 communication and information within their assigned area of
12 responsibility. That is the main thing. Like between the
13 administration and teachers they -- since they meet with them
14 per week and they meet with us per week. So they pass certain
15 information on them and discuss with them.

16 Q. The second point under this subcategory, quote, "makes
17 recommendations regarding the resolution of conflict within her
18 area of responsibility," end quote. To whom is she making --
19 would she be making the recommendations?

20 A. It depends. Sometimes it may come to me or sometimes to
21 curriculum person or sometimes it may go to the discipline
22 person. It's based on the conflict. They can make
23 recommendations to each of us; either to me or to the curriculum
24 person or discipline person. If it's something about behavior
25 issues, she can make recommendation to me or to the person who

1 is in charge of student behavior.

2 Q. Okay. And if we look at the next category No. 1
3 indicates "prepares budget recommendations for her area of
4 responsibility." What is that duty or responsibility involve?

5 A. So when we are preparing the budget we tell them to let
6 us know what they need in their cluster -- in their cluster or
7 classroom. So in consultation with each other she's in charge
8 of deciding what are the things to prioritize to purchase.

9 Q. Has she actual -- prior to this year's performance of
10 the duties, has Ms. McCurry been required to provide budget
11 information to you?

12 A. This is new. In the past also she provided. In the
13 past we were asking everybody individually, but now we will be
14 collecting budget information through cluster coordinators.
15 That's why it's in there. She's in charge of deciding what
16 other things, supplies, textbooks, that we will be buying for
17 the cluster. This is something new. In the past, like I said,
18 every teacher was letting us know if they needed something. We
19 were sharing a Google doc with the teachers and they were
20 letting us know if they need anything. This is a new thing, and
21 she will be in charge of deciding the budget or the needs in the
22 classroom.

23 Q. Okay. And then on No. 3 it indicates, "prepares cluster
24 reports as requested by the supervisor of curriculum,
25 instruction and principal." What kind of reports are you

1 referring to here?

2 A. We're expecting them, for example, response to
3 intervention like data how students are doing and how students
4 are behaving and those things, like how the cluster is
5 functioning overall. So that is what they will do.

6 Q. Okay. And in terms of organizational participation what
7 are the -- what are the functions that this position performs
8 with respect to cluster meetings and departmental meetings?

9 A. Can you repeat again?

10 Q. What are the roles or functions that this K to 1 cluster
11 coordinator performs with respect to meetings of the cluster?

12 A. So they're the coordinators. So they report to the
13 principal or supervisor for instruction and curriculum. So I
14 mean, they help to manage these duties or coordinate these
15 duties for us so that our workload is reduced.

16 Q. What is the expectation in terms of -- in general terms
17 of the interaction between the cluster head and the other
18 teachers that are in that cluster; in other words the
19 kindergarten and 1st grade teacher?

20 A. So they have weekly meetings. They can mentor them.
21 They can coach them. They can provide feedback to them. They
22 are very powerful. Everybody knows that they're their
23 coordinator in between the administration.

24 Q. Do they have any authority to direct the other teachers
25 as to how they can run the class?

1 A. They can direct them how to teach, how to discipline
2 students. They can -- for example, they can change the schedule
3 for the assistant teachers; like how to use the assistant
4 teacher. That is what they do in their cluster.

5 Q. Okay. And with respect to the last series of items in
6 this list, "implements board policies, administrative
7 regulations, and directive conveyed either in writing or
8 orally," what are you describing there in terms of the K to 1
9 cluster coordinator's responsibilities?

10 A. They make sure that board policies are implemented in
11 the cluster. They're in charge of making sure that whatever
12 policies that we have school-wide. They will be another eye to
13 manage the implementation of those policies.

14 Q. Do they have to get your approval over how they
15 interpret a particular board policy before they convey that or
16 implement that policy?

17 A. If there's a misunderstanding they can consult with me,
18 but usually they just implement it.

19 MR. LALLEY: At this point I would like to move into
20 evidence Employer Exhibit 1.

21 THE HEARING OFFICER: Any objections?

22 MR. EBERLE: May I voir dire the witness on the exhibit
23 please?

24 THE HEARING OFFICER: Sure.

25 VOIR DIRE

1 BY MR. EBERLE:

2 Q. Mr. Oksuz, am I correct in understanding that this is
3 actually two separate documents?

4 A. Yes.

5 Q. So at the time that the first three pages were presented
6 to Ashley McCurry and she signed it were the last two pages
7 attached to the document?

8 A. That is from last year. We just put it in there for
9 comparison.

10 Q. Understood.

11 A. It was separate. It was not there.

12 MR. EBERLE: With respect, I would ask that the two
13 documents be separated because I don't think that it -- I
14 understand it's comparison, and I don't have any objection to
15 either coming in as separate documents, but they are separate
16 and they were presented and signed at two different points in
17 time.

18 THE HEARING OFFICER: I can suggest, if the parties
19 agree, we can refer to them as A and B within the exhibit so
20 they are designated separately.

21 MR. LALLEY: I don't have a problem with referring to
22 the second as long as the transcript is clear what I refer to as
23 pages 4 and 5 on Exhibit 1 will now be Employer's Exhibit 2.

24 THE HEARING OFFICER: Let's go off the record.

25 (Discussion off the record.)

1 (Employer Exhibit No. 2 was marked for identification.)

2 THE HEARING OFFICER: Let's go on the record. So after
3 off the record discussion the parties have agreed that what will
4 be referred to as Employer Exhibit 1 is the position description
5 that is dated August 23rd, 2017 and what Mr. Lalley had been
6 referring to as the 4th and 5th page of that exhibit will now be
7 designated as Employer Exhibit 2 and that will be a document the
8 first page of which at the top has the date August 19th, 2016.
9 Do you have that correct?

10 MR. LALLEY: That's correct.

11 THE HEARING OFFICER: Does that work for you,
12 Mr. Eberle?

13 MR. EBERLE: Yes. And no objection to the admission of
14 Employer Exhibits 1 and 2.

15 THE HEARING OFFICER: So I'll accept these as --
16 Employer Exhibit 1 and Employer Exhibit 2 will be received into
17 the record.

18 (Employer Exhibit Nos. 1 and 2 were admitted into evidence.)

19 MR. LALLEY: Thank you.

20 THE HEARING OFFICER: Just make sure that the reporter
21 has a directly designated copy.

22 MR. LALLEY: Can we go off the record so we can address
23 some issues?

24 THE HEARING OFFICER: Off the record.

25 (Discussion off the record.)

1 THE HEARING OFFICER: On the record. Okay. Mr. Lalley?

2 BY MR. LALLEY:

3 Q. Actually before I move onto these exhibits, in terms of
4 Ms. McCurry compensation that we were talking about previously
5 as to the K to 1 cluster coordinator, does she receive extra
6 compensation for the performance of these duties?

7 A. Yes. She's paid -- yeah.

8 Q. Do you happen to know what she gets?

9 A. She's paid \$2,400.

10 Q. And she's also a classroom teacher?

11 A. Yeah.

12 Q. Is she's paid for those duties as well?

13 A. Yes.

14 (Employer Exhibit 3 through 6 were marked for identification.)

15 MR. EBERLE: We can maybe advance the cause. We can
16 stipulate to the admission of Employer Exhibits 3, 4, 5 and 6
17 which are the other cluster coordinator, 2017/2018 employment
18 agreements.

19 THE HEARING OFFICER: Thank you.

20 MR. LALLEY: That's okay. I'll read into the record
21 which ones they are so we know which one 3 and which one 4 is.

22 THE HEARING OFFICER: That's fine.

23 MR. LALLEY: So Exhibit 3 is the employment agreement
24 position description for Sara Richards as a foreign language
25 cluster coordinator description.

1 THE HEARING OFFICER: I want to note as we mentioned in
2 off the record discussion that Sara Richards is on the employee
3 list as Sarah Paluzzi.

4 THE WITNESS: Actually her name is Sarah Paluzzi. No.
5 Sarah Richards. I think that her name is Sarah Richards but her
6 former name is Paluzzi, but they're the same people.

7 THE HEARING OFFICER: For purpose of the list that's
8 attachment D to the Employer's statement of position where it
9 says Sarah Paluzzi, the Sarah Richards is the same person.

10 MR. LALLEY: That is the same person. Correct.

11 THE WITNESS: The name on the list is from the payroll.
12 So Richards is her former name.

13 MR. EBERLE: That's P-a-l-u-z-z-i.

14 THE HEARING OFFICER: You can distribute them in a pile
15 if you want to.

16 MR. LALLEY: Okay. Employer Exhibit 4 is also the grade
17 4 to 5 cluster coordinator description for Alexander Neely.

18 MR. EBERLE: I thought that it was Alexandra.

19 MR. LALLEY: Did I say Alexander?

20 MR. EBERLE: Yeah.

21 MR. LALLEY: Alexandra. Employer Exhibit 5 is the grade
22 6 to 8 cluster coordinator description or position currently
23 held by Destiny Day.

24 Employer Exhibit 6 is the grades 2 to 3 cluster
25 coordinator description by the person currently held by Nicole

1 Eljoufri -- I think is her last name.

2 THE WITNESS: Yes.

3 MR. LALLEY: Thank you.

4 THE HEARING OFFICER: Can we go off the record?

5 (Discussion off the record.)

6 THE HEARING OFFICER: Let's go back on the record.

7 After off the record discussions I understand that the Employer
8 wants to introduce Exhibits 3, 4, 5 and 6 and the Petitioner
9 does not have an objection; is that correct?

10 MR. EBERLE: That's correct. The Petitioner does not
11 object to the Employers 3, 4, 5 and 6.

12 THE HEARING OFFICER: I will receive Employer Exhibits
13 3, 4, 5 and 6.

14 (Employer Exhibit Nos. 3 through 6 were admitted into evidence.)

15 THE HEARING OFFICER: I also understand that the parties
16 are willing to stipulate that these descriptions in Exhibits 1,
17 3, 4, 5, 6 are current for those positions and they reflect the
18 Employer's expectations for these positions. Do I have that
19 correct?

20 MR. EBERLE: Yes. The Petitioner would so stipulate.

21 THE HEARING OFFICER: Mr. Lalley.

22 MR. LALLEY: That is what we would be offering this for.
23 Thank you.

24 THE HEARING OFFICER: I'll accept that stipulation.

25 Thank you.

1 BY MR. LALLEY:

2 Q. Mr. Oksuz, in terms of these other coordinator cluster
3 head positions am I correct that each one of them is also paid
4 an additional amount of money for the performance of these
5 duties and responsibilities?

6 A. Yes.

7 Q. Okay. Just in terms of -- this may be covered by the
8 stipulation, but just to be clear, is it your expectation as the
9 CEO of the school that whoever is in the position of the 3 to 4
10 cluster or 5 to 6 cluster heads that they perform the same role
11 and functions just with different grade levels compared to the K
12 to 1 or 5 to 6 cluster heads?

13 A. Yes. Expectations are the same. Some are more
14 skillful than the others. So there's differences there because
15 of that.

16 Q. Is there any difference of expectation of duties?

17 A. The expectations are the same.

18 Q. And also is this -- your testimony about specifically
19 with respect to Ms. McCurry referenced in Employer Exhibit 2
20 which is her prior year's employment agreement and Exhibit 1,
21 which is the current description agreement, was there similar
22 changes made with respect to these other cluster head
23 coordinator positions?

24 A. Yes, sir.

25 Q. So fair to say this was all done for the start of this

1 school year?

2 A. Yes.

3 THE HEARING OFFICER: Clarify one thing before we go on.
4 With respect to Ms. McCurry, you said that she also worked as a
5 teacher. Is that similar for the other cluster head position?
6 Do those individuals also work as teachers?

7 THE WITNESS: Yes.

8 THE HEARING OFFICER: Thank you.

9 Q. There is one position -- two positions that are in the
10 role of coordinator that I haven't -- we haven't discussed yet
11 that are uncovered by the already admitted exhibits one of which
12 is the ESL coordinator. For the record what is ESL?

13 A. ESL is about teaching English as a second language.

14 Q. So is it students who are non-native English speakers?

15 A. English language learners.

16 Q. Do you have a lot of students who are from English as a
17 second language enrolled in school?

18 A. ESL is one of our differentiating features i the school.
19 That's how we are chartered. When we applied for the charter
20 there's a lengthy section how we will teach ESL or the English
21 language to nonEnglish speaking students. So I have about 15 to
22 20 students but we used to have more in the past. This year we
23 don't have -- it is less this year.

24 Q. Do you have ESL teachers at the school?

25 A. Actually she the only certified ESL teachers, but now

1 because of the changes in the law even regular education
2 teachers are responsible to teach ESL to English learners.

3 Q. Who is the ESL coordinator for the school right now?

4 A. Rebecca Creasy.

5 Q. What are her duties and functions or responsibilities as
6 the ESL coordinator?

7 A. She is making sure that all of the requirements are met
8 in terms of teaching English to nonEnglish speaking students.
9 She is in charge of assisting all of the reporting requirements
10 -- compliance reporting requirements. She represents our school
11 in ESL coordinator meetings with a AIU. So she is the person
12 that makes sure that we can meeting the requirements in terms of
13 teaching ESL or teaching English language learners.

14 THE HEARING OFFICER: Can you tell us with AIU is?

15 THE WITNESS: Allegheny County Intermediate Unit.

16 THE HEARING OFFICER: What is for that for record?

17 THE WITNESS: It is the intermediate unit. They have
18 coordinators meetings for various positions like English as a
19 second language or special education. She was there. She
20 learns things and then she helps us implement in the school.

21 THE HEARING OFFICER: So other individuals who have a
22 similar position in other schools would attend the things that
23 she attends?

24 THE WITNESS: Yes.

25 THE HEARING OFFICER: Thank you. Okay.

1 Q. And just to note does the intermediate unit have any
2 role with special education services that are provided by school
3 districts in Allegheny County?

4 A. We are getting some services from them. We aren't
5 paying them. We work with them. They are a vender to us.

6 Q. So in terms of the responsibilities and roles of the ESL
7 coordinator, does the ESL coordinator make any recommendations
8 about whether or not staff are performing ESL teaching functions
9 or performing their jobs adequately?

10 A. Actually -- can you repeat the question again?

11 Q. Sure. What role or responsibility does the ESL
12 coordinator have in evaluating teachers who are providing ESL
13 instruction?

14 A. So she is in charge of making sure that regular
15 education teachers are doing their job in terms of teaching ESL
16 and letting us know. If they are not -- that's the expectation
17 from them.

18 Q. If a teacher is not providing ESL instruction in
19 accordance with the law or policy of the school what are the
20 consequences for that?

21 A. I mean, it is going to be applied to their annual
22 evaluation. If they are not doing or if they're not doing what
23 they're required to do in terms of teaching English language
24 learners and we find out about that, we will talk to that person
25 first so that he or she does teach or help those English

1 language learners. If not it's going go be -- there will be
2 some consequences.

3 Q. Would there be discipline?

4 A. There can be.

5 Q. The information as to whether or not the teacher is
6 compliant or not compliant with English as a second language
7 obligation, that's going to come from the ESL coordinator?

8 A. Yeah. She tells me and our supervisor for instruction
9 and curriculum tells me.

10 (Employer Exhibit No. 7 was marked for identification.)

11 Q. I'm going to mark as an exhibit Employer Exhibit 7.
12 I'll give Mr. Eberle a few minutes to look at this one.

13 MR. EBERLE: That's fine. We can move on.

14 Q. Mr. Oksuz, can you tell us what Employer Exhibit 7 is?

15 A. She -- her name a Christy Baldesberger. She is our
16 Title 1 coordinator.

17 THE HEARING OFFICER: Excuse me for a second. Are we
18 done with the ESL coordinator?

19 MR. LALLEY: Yeah.

20 THE HEARING OFFICER: Do you have a job description for
21 the ESL coordinator?

22 MR. LALLEY: I don't have one as an exhibit.

23 THE HEARING OFFICER: I just want to make sure. Sorry.
24 Go ahead.

25 Q. Mr. Oksuz, the Title 1 -- well, just for the record what

1 is Title 1? What are you referring to as Title 1?

2 A. Title 1 is a special federal funding we receive through
3 the state. Using that fund we have to provide intervention
4 services to the students who need academic intervention or
5 behavior intervention and so it's a special funding. So we have
6 to have somebody in charge of the program so we meet the
7 requirements of law.

8 Q. And Christy Baldesberger currently holds the position of
9 Title 1 services coordinator for the school?

10 A. Yes.

11 Q. And it looks like her job description for the Title 1
12 coordinator is somewhat more truncated than for the cluster head
13 coordinator; is that correct?

14 A. Yeah.

15 Q. In general terms could you explain what other roles or
16 functions you expect the Title 1 coordinator to perform in that
17 role?

18 A. First, she is in charge of meeting with the families,
19 educating them on Title 1 and what is -- our Title 1 program is
20 about. Second, she is in charge of drafting all of the policies
21 for Title 1 and then be presented to our board for approval.
22 She drafts all of the Title 1 policies. I help her, but she's
23 the main person to draft -- like, parental engagement policies
24 she drafts or we have a school compact policy she drafts.

25 THE HEARING OFFICER: Compact?

1 THE WITNESS: Compact.

2 THE HEARING OFFICER: What does that mean?

3 THE WITNESS: We list responsibilities of the school and
4 responsibilities of the families.

5 THE HEARING OFFICER: Like an agreement?

6 THE WITNESS: An agreement.

7 THE HEARING OFFICER: I understand.

8 A. So she is in charge of deciding who will get Title 1
9 services from the students. She chooses those students from the
10 data. She makes sure that assessment is conducted properly.
11 She works with the students assisting kids using assessment
12 tools that we have and there are at least two staff members who
13 directly report to her. She works with them. She makes
14 schedule for them for the staff. She makes schedule for the
15 kids and when they will pull out and where -- who will enter
16 there through the services, who will exit.

17 Q. And does she have a job at the school other than Title 1
18 services coordinator?

19 A. She's the Title 1 service coordinator but she also
20 provides intervention services. She pulls out and she teaches
21 them. She does that too.

22 Q. So reading instruction?

23 A. Reading instruction. Our Title 1 is focused on reading
24 and writing. So she does reading as much as her time permits
25 and she does all of the other administrative duties for Title 1,

1 and she presents us in the meetings for Title 1 coordinates with
2 other meetings. If I have to send somebody from my school to
3 represent us, as a Title 1 coordinator, she goes.

4 Q. Does she have any -- let me back up a little bit. Does
5 the Title 1 program apply to services or instruction that all of
6 the teachers in the school are providing to students or are
7 there only certain teachers that are implicated with how Title 1
8 works?

9 A. Title 1 services are for targeted students. We decide
10 on though kids based on the data. If they need for help in
11 reading or writing, we pull them out or we push in. So that's
12 what --

13 Q. Do the regular classroom teachers have any role in that
14 process?

15 A. No.

16 Q. Ms. Baldesberger is the Title 1 services coordinator
17 gets paid \$2,400 for that function; correct?

18 A. Yeah. She's paid this one and also paid other salary as
19 a Title 1 teacher.

20 MR. LALLEY: I'd like to move for the admission of
21 Employer Exhibit 7.

22 THE HEARING OFFICER: Any objection?

23 MR. EBERLE: No objection.

24 THE HEARING OFFICER: Employer Exhibit 7 is received.
25 (Employer Exhibit No. 7 was admitted into evidence.)

1 MR. LALLEY: Could we go off the record for a minute?

2 THE HEARING OFFICER: Sure. Off the record.

3 (Discussion off the record.)

4 THE HEARING OFFICER: On the record. As I understand
5 that's the -- you finished your evidence on the coordinator
6 positions; is that right, Mr. Lalley?

7 MR. LALLEY: That's correct.

8 THE HEARING OFFICER: What are we hearing about next?

9 MR. LALLEY: The next position that I'd like to move
10 onto what is identified as behavior consult apt. I'll have
11 Mr. Oksuz explain who the person is and what that function is
12 right now.

13 THE HEARING OFFICER: Thank you. Go right ahead.

14 (Employer Exhibit No. 8 was marked for identification.)

15 BY MR. LALLEY:

16 Q. Mr. Oksuz, I'm going to show you what has been marked as
17 -- what I'll mark as Employer Exhibit 8. Mr. Oksuz, I'm sorry.
18 I'll give Mr. Eberle another minute or two.

19 MR. EBERLE: Thank you. You can go ahead.

20 Q. Mr. Oksuz, can you identify what Employer Exhibit 8 is?

21 A. Christina Kostosky.

22 Q. Well, that is the person who is related to this
23 document. What is the document?

24 A. Sorry?

25 Q. What is the actual document?

1 A. This is the employment agreement. The title is behavior
2 specialist employment agreement for Christina Kostosky.

3 Q. So Christina Kostosky is identified in the Employer's
4 position statement as a behavior --

5 A. Consultant.

6 Q. -- consultant; correct?

7 A. Yes.

8 Q. What duties -- so this -- when was Ms. Kostosky hired to
9 work for the school?

10 A. She was hired in early August. August 7th I signed the
11 contract.

12 Q. Of 2017?

13 A. Yes.

14 Q. Had she worked for the school prior to 2017?

15 A. She was not an employee before that.

16 Q. And according to the third paragraph of this agreement
17 it says, "Whereas, upon the terms and subject of the conditions
18 of this Agreement, the Employee is being employed as a behavior
19 specialist and S-p-e-d Paraprofessional of YSWPCS;" correct?

20 A. Yeah. She --

21 Q. Let me ask you a question.

22 A. Sure.

23 Q. We will break this down. Sped, what does that mean?

24 A. Special education.

25 Q. And YSWPCS is referring to the school; is that correct?

1 A. Yes.

2 Q. So she's identified as a paraprofessional -- behavior
3 specialist and paraprofessional in this employment; correct?

4 A. In this agreement.

5 Q. Why did you identify her as a special education
6 paraprofessional?

7 A. Actually she was supposed to have her certification for
8 behavior specialist and my agreement with her was if she has no
9 license to become a professional behavior specialist she was
10 supposed to act as paraprofessional. So she didn't have her
11 certification for behavior specialist. That's why she's acting
12 as paraprofessional right now.

13 Q. Okay. What kind of -- in general terms what kind of
14 duties and responsibilities is she performing for the school?

15 A. She is -- mainly she is one-on-one aid to some of the
16 kids who have severe behavior issues.

17 Q. Do you have other teacher aids that work in the school?

18 A. Yes.

19 Q. How many other teacher aids do you have?

20 A. I have at least two. Well, I hired two more through an
21 outside agency. So at least four now.

22 Q. Just in general terms what do the teacher aids to?

23 A. Usually they're assigned to the students one-on-one to
24 help them and direct them and redirect them.

25 Q. Is that similar to what you described as what

1 Ms. Kostosky does?

2 A. Yes.

3 Q. And just so I'm clear she does not currently possess
4 behavior specialist certification in Pennsylvania?

5 A. She has no certification. Actually to work in special
6 education department by law we have -- they have to have
7 certification. We cannot use anyone as a teacher or a behavior
8 specialist without certification since it is federal. IDA is a
9 federal requirement.

10 So since she did not have her behavior specialist
11 certification as of yet, she's a paraprofessional. This is an
12 agreement between me and her. So she was expecting to get it
13 sooner, but she didn't. So she wasn't able to pass the test and
14 she's a paraprofessional.

15 MR. LALLEY: I move for the admission of Employer
16 Exhibit 8.

17 THE HEARING OFFICER: Any objection?

18 MR. EBERLE: No objection.

19 THE HEARING OFFICER: I just have a question,
20 Mr. Lalley. The position statement attachment refers to this
21 individual as a behavior consultant, which is not to title that
22 is in the employment agreement. I just want to know what the
23 correct title is for the record so we know what individual is at
24 issue here.

25 MR. LALLEY: The correct title of her job is behavior

1 specialist and S-p-e-d paraprofessional. That's the duties that
2 she's performing currently.

3 THE HEARING OFFICER: So it's not a behavior consultant?
4 Is there someone that holds the position behavior consultant
5 with that title?

6 MR. LALLEY: I can have Mr. Oksuz explain it.

7 THE HEARING OFFICER: Is there someone that holds that
8 position?

9 THE WITNESS: We have a contracted person coming to our
10 school.

11 THE HEARING OFFICER: So Ms. Kostosky is not the
12 behavior consultant?

13 THE WITNESS: Ms. Kostosky, I mean, her title is
14 behavior consultant -- it's this the payroll somehow it appeared
15 like that, but she's paraprofessional.

16 THE HEARING OFFICER: I want to know what her title is.

17 THE WITNESS: Her title is special education
18 paraprofessional.

19 THE HEARING OFFICER: Is there anyone who we need to be
20 concerned with whose title is behavior consultant?

21 THE WITNESS: For behavior consultant, I have somebody
22 from out that comes and works with some of the kids.

23 THE HEARING OFFICER: Is that person employed by the
24 school?

25 THE WITNESS: No. They provide TSS services in our

1 school, and they have a behavior consultant.

2 THE HEARING OFFICER: That's not an employee?

3 THE WITNESS: It is not.

4 THE HEARING OFFICER: So is behavior consultant not the
5 correct title for this individual? That's my question.

6 MR. LALLEY: I think it's probably accurate to describe
7 her as what the contract says; behavior specialist and special
8 education paraprofessional. It's apparent that according to our
9 payroll records -- because our lists are generated from the
10 November 15th payroll date -- that in the payroll date she's
11 identified as a behavior consultant.

12 THE HEARING OFFICER: And she is employed by the school;
13 is that right?

14 THE WITNESS: Yes.

15 THE HEARING OFFICER: For purposes of Joint Exhibit 1
16 where there's a reference to behavior consultant I want to make
17 sure that the parties understand that that refers to the
18 position held by Christina Kostosky currently that's reflected
19 in Employer Exhibit 8; is that correct?

20 MR. LALLEY: That's our position, yes.

21 MR. EBERLE: Could you say that again?

22 THE HEARING OFFICER: Sure. In Joint Exhibit 1 there's
23 a reference to behavior consultant. The person who that refers
24 to, if I understand correctly, is Christina Kostosky -- the
25 position currently held by Christina Kostosky and reflected in

1 Employer Exhibit 8. Do you understand that to be what we're
2 referring to?

3 MR. EBERLE: I understand that to be the testimony, yes.

4 THE HEARING OFFICER: I want to make sure that the
5 parties agree there is no one called behavior consultant who the
6 director needs to refer to in this decision; is that right?

7 MR. LALLEY: There's only one person and it's Christina
8 Kostosky. So there isn't a separate position held by somebody
9 else for behavior consultant.

10 THE HEARING OFFICER: Behavior consultant isn't a
11 position that we need to make a decision on; is that correct?

12 MR. LALLEY: It doesn't currently exist as an employed
13 position in the school is our position.

14 THE HEARING OFFICER: We may revisit that. I'm
15 concerned because the parties had agreed that the behavior
16 consultant position -- they were taking positions on that title,
17 and I'm being told now there is no behavior consultant employed
18 by the employer.

19 MR. LALLEY: All I want to do is put on the record where
20 the information comes from. On payroll records she's identified
21 as behavior consultant. There's just -- I have a job
22 description for the behavior consultant position. She is
23 currently employed, at least Ms. Christina Kostosky, in this
24 position as behavior specialist and what we call special
25 education paraprofessional.

1 It may be that Mr. Eberle's evidence is going to be that
2 they don't believe what she is doing presently that really
3 qualifies as paraprofessional responsibilities, but that's how
4 we've characterize it in her employment.

5 THE HEARING OFFICER: Just so I'm clear, it's the
6 Employer's position that the job description reflected in
7 Employer Exhibit 8 should be excluded from the bargaining unit;
8 correct?

9 MR. LALLEY: Correct. As paraprofessionals would be
10 excluded as a professional employee.

11 THE HEARING OFFICER: Am I correct, Mr. Eberle, that the
12 Union believes this position reflected in Employer Exhibit 8
13 should be included in the unit?

14 MR. EBERLE: If I may --

15 THE HEARING OFFICER: Sure.

16 MR. EBERLE: I think what's going on -- what I
17 understand Mr. Oksuz to be describing is that the intention of
18 the Employer would be that they would fill the position of
19 behavior consultant and Ms. Kostosky would fill it if she had
20 the certification. They hired her in the expectation that once
21 she gets it she's going to be the behavior consultant. I think
22 that the position exists in the organizational structure and I
23 do think that it needs to be addressed as part of the decision
24 making process in this hearing.

25 What I understand the Employer to be further saying is

1 that she's holding a paraprofessional employment agreement and
2 acting in the position as behavior consultant and I think that
3 that needs to be fleshed out in the record, but I'm not ready to
4 say that because of the position of behavior consultant appears
5 to be empty on a performance basis right now doesn't need
6 addressed in the decision. I think that it does have to be
7 addressed.

8 THE HEARING OFFICER: Okay. At some point I would like
9 to know what the Union's position is on this particular position
10 that's represented by Employer Exhibit 8 so it's clear on the
11 record.

12 MR. EBERLE: So when you say the position in Employer
13 Exhibit 8, the paraprofessional position?

14 THE HEARING OFFICER: Yes. The position that's
15 described here that says behavior specialist and Sped
16 paraprofessional. So I just need to -- the Employer believes
17 that position should be excluded. I need to know what the Union
18 position is on this position.

19 MR. EBERLE: The Petitioner would agree that you exclude
20 a paraprofessional position.

21 THE HEARING OFFICER: Okay.

22 MR. EBERLE: But I don't think from that you can say
23 that this person is ineligible or this position of behavior
24 consultant does not need to be addressed. I think that they do
25 and I anticipated on cross-examination I would probably get a

1 lot of this information. So I was waiting, but I think that's
2 where it's headed.

3 THE HEARING OFFICER: Let's see how it develops. It's
4 something that I didn't want to forget in the process. Go
5 ahead.

6 MR. LALLEY: I moved for Employer Exhibit 8 to be
7 admitted and I'm not sure where we are.

8 MR. EBERLE: Yes. It's in. Yes.

9 THE HEARING OFFICER: Employer Exhibit 8 is received.
10 (Employer Exhibit No. 8 was admitted into evidence.)

11 BY MR. LALLEY:

12 Q. Anticipating what Mr. Eberle related there, what was the
13 school's intention in terms of what duties ultimately or long
14 term would be having Ms. Kostosky have -- I'm sorry; that's
15 incorrect -- Ms. Kostosky performing?

16 A. Our goal was to either hire a paraprofessional or
17 behavior specialist. So, I mean, either/or. So she said that
18 she will have her certificate soon and then my agreement with
19 her was that, "We will hire you as paraprofessional," and then
20 she would be as paraprofessional.

21 So we -- either paraprofessional or behavior specialist
22 but she did not have the behavior specialist qualification. So
23 she's a paraprofessional right now. She didn't have a license.
24 She might have studied something. She might have done a
25 master's degree or undergraduate. She might have taken some

1 courses, but without a license I cannot hire her as a behavior
2 specialist because it's a special education position, and it's
3 illegal for me to fund a special education position who has no
4 license.

5 MR. LALLEY: I would like to move on at that point the
6 two positions that the Employer wishes to include in the unit.

7 THE HEARING OFFICER: Okay. Which one are we addressing
8 first?

9 MR. LALLEY: The assistant school counselor.

10 BY MR. LALLEY:

11 Q. Mr. Oksuz, does the school employee a school counselor?
12 Is that right?

13 A. Yes.

14 Q. What does the school counselor do in general terms?

15 A. She provides student counseling services. She counsels
16 individual students. She is in charge of their developing
17 curriculum for the school -- counseling curriculum. She makes
18 sure that the counseling curriculum is implemented and those are
19 the duties that she mainly does.

20 Q. Is that a full time position? Does that person have any
21 other position?

22 A. The full time position.

23 Q. Is it a certificate position?

24 A. Yes.

25 Q. Is the person who is the in this counselor position

1 currently have counselor certification?

2 A. Yes.

3 (Employer Exhibit No. 9 was marked for identification.)

4 Q. I want to show you what I'll mark as Employer Exhibit 9.

5 Mr. Oksuz, can you identify what Employer Exhibit 9 is?

6 A. It is the job description for assistant school
7 counselor.

8 Q. Okay. And is there a person in the position of
9 assistant school counselor currently?

10 A. Yes.

11 Q. What does that person do as the assistant school
12 counselor?

13 A. She is assisting our counseling department in variety of
14 ways.

15 One thing that she does is that she's in charge of
16 teaching schools counseling and charter education program called
17 positive action. She teaches that and she helps in the
18 counseling of individual students.

19 I mean, she works with some students individually.
20 Like, nowadays she's assigned to some of the kids who have
21 emotional disturbance issues. She helps us in developing
22 positive behavior plans and utilized evidenced based
23 intervention.

24 Q. Does the person do any individual counseling with
25 one-on-one students?

1 A. She doesn't do one-on-one counseling, but she's the
2 assistant. She doesn't do one-on-one counseling.

3 Once we diagnose issues she may be assigned some kids to
4 sit with them and things like that.

5 Q. And does she have certification in Pennsylvania?

6 A. Her background is in psychology and she has a temporary
7 certification for counseling.

8 Q. Temporary certification from the Department of
9 Education?

10 A. Yes.

11 Q. And in terms of the rest of the requirements of the
12 position are those out lined here in Employer's Exhibit 9?

13 A. She has those, yes.

14 MR. LALLEY: I move for the admission of Employer
15 Exhibit 9.

16 THE HEARING OFFICER: Any objection?

17 MR. EBERLE: May I voir dire?

18 THE HEARING OFFICER: Yes.

19 VOIR DIRE

20 BY MR. EBERLE:

21 Q. Mr. Oksuz, is that the job posting or a job description
22 or is it both?

23 A. This is both.

24 Q. Is it currently in effect?

25 A. Yes.

1 Q. Is it -- was this posted in order to fill the position
2 with the person who is in it now?

3 A. Yes.

4 Q. I forget the person's name.

5 A. This is what we needed and what we advertised and on
6 that we hired the person, yeah.

7 Q. I forget this person's name.

8 THE HEARING OFFICER: Mucella Bursal is listed as the
9 assistance counselor.

10 Q. Is Ms. Bursal the person in the position now?

11 A. Yes.

12 MR. EBERLE: That's all of the questions that I have
13 about the exhibit.

14 THE HEARING OFFICER: Do you have any objection to the
15 introduction?

16 MR. EBERLE: No.

17 THE HEARING OFFICER: Exhibit 9 is received --
18 Employer's Exhibit 9.

19 (Employer Exhibit No. 9 was admitted into evidence.)

20 BY MR. LALLEY:

21 Q. Mr. Oksuz, I think that you just testified that
22 Ms. Baldesberger is in the position currently?

23 A. Yes.

24 Q. How long has she been employed by the school?

25 A. Since August -- August 15th or so.

1 Q. Of 2017?

2 A. Yes.

3 Q. So did she work for the school prior to the school year?

4 A. No.

5 Q. In terms of -- the school also has an IT specialist;
6 correct?

7 A. Uh-huh.

8 (Employer Exhibit No. 10 was marked for identification.)

9 Q. I'd like to show you what I'll mark as Employer Exhibit
10 10, and, Mr. Oksuz, could you explain what Employer Exhibit 10
11 is?

12 A. It is the job description for the IT specialist
13 position.

14 Q. Do you currently have someone employed as the school's
15 IT specialist?

16 A. Yes.

17 Q. And IT is referring to what?

18 A. Information technology.

19 Q. Who is the person that is in the position now?

20 A. His name is Mr. Baltali.

21 Q. How long has he been employed as the school's IT
22 specialist?

23 A. He's been employed by the school I believe two years --
24 maybe three years.

25 Q. And what educational degrees or education does he have

1 to your knowledge?

2 A. He used to be a technology teacher. He just completed
3 his master's in technology education. Before then he was a
4 technology teacher. So he's a teacher by training and
5 profession.

6 Q. Without going through and reading what the job
7 description says, what are the day-to-day functions that this
8 gentleman performs as the school's IT specialist?

9 A. Three main thing that is he does for us. One, he
10 teaches robotics to our students during the after school time.
11 He's in charge of teaching robotics curriculum.

12 Q. You mentioned that's an after school program?

13 A. It's an enrichment, yes.

14 Q. Enrichment?

15 A. Yes.

16 Q. Is that something that the families pay extra for or
17 part of the school service?

18 A. They don't pay for it. It's in our charter to provide
19 extended day -- he's in charge of teaching robotics.

20 Q. And --

21 A. And one thing -- I'm --

22 Q. I'm sorry. Do you know how many students are in the
23 robotics class with this gentleman?

24 A. Nowadays he has more kids; maybe like ten -- up to ten;
25 five to ten I think.

1 Q. And what other responsibilities or duties does he
2 perform as the IT specialist?

3 A. So second, he is in charge of training teachers how to
4 use technology in the classroom. We have smart boards. For
5 example, he helps teachers how to use smart boards. If there
6 are issues with the smart boards it's his duties to make sure
7 that it's functioning.

8 He's also in charge of making sure the Chromebooks,
9 laptops that we use in the classroom, teachers are able to use
10 those and use the applications and everything. Whatever needs
11 they have in terms of assistance and training, they go to him
12 and he teaches -- help teaches how to use instructional
13 technology tools; as I said smart board, Chromebooks and other
14 things.

15 Q. Does the school use any application that would be on the
16 iPads and things like that?

17 A. Yeah.

18 Q. Does he have any role?

19 A. Yes. He's in charge of those and he's in charge of
20 helping teachers how -- on our database how to use the database
21 to enter grades, attendance and other things.

22 Q. It sounds like it's a lot different then when Mr. Eberle
23 and I used to write on a blackboard and use pencils.

24 A. Yes.

25 Q. Is this type to have technology incorporated in the

1 classroom instruction at every level of the school?

2 A. Yes. This is one of the critical features of our
3 charter that we use technology. That's why we are charter. So
4 it's his duty to make sure that the teachers know how to use
5 technology in the classroom and how to use the other
6 applications and he supports teachers.

7 Q. Let's say that you have a problem with your computer
8 network, is he the person that would address network malfunction
9 issues?

10 A. For the network he's not responsible. We use outside
11 vendors for the wiring and network. If we have issues in the
12 curriculum we use outside vendors. He will coordinate with
13 them and he will let them know that there are issues with the
14 network so they can come and do. He's not in charge of the IT
15 infrastructure like the wiring and installing service and things
16 like that. He just makes sure that, you know, he's helping
17 teaching how to use technology in the classroom.

18 MR. LALLEY: Thank you. And that's all -- I move for
19 the admission of Employer Exhibit 10.

20 THE HEARING OFFICER: Any objection?

21 MR. EBERLE: No.

22 THE HEARING OFFICER: Employer Exhibit 10 is received.
23 (Employer Exhibit No. 10 was admitted into evidence.)

24 THE HEARING OFFICER: Any other questions?

25 MR. LALLEY: No further questions of Mr. Oksuz.

1 THE HEARING OFFICER: Let's take a ten minute break
2 before we go further. Let's go off the record.

3 (Recess taken.)

4 THE HEARING OFFICER: On the record. Mr. Eberle, your
5 questions.

6 MR. EBERLE: Yes.

7 CROSS EXAMINATION

8 BY MR. EBERLE:

9 Q. Mr. Oksuz, I'm going to go in reverse order. I'm going
10 to start with the IT specialist. Okay?

11 A. Yes.

12 Q. Did I understand you to say that he used to be a
13 technology teacher?

14 A. Not in this school but his background is teaching. In
15 this school he did not teach.

16 Q. You mentioned that he teaches robotics to students in an
17 after school program?

18 A. Yes.

19 Q. Is he paid separately for that -- performing that task?

20 A. Yes. He's paid additional.

21 Q. Sorry?

22 A. He's paid additional.

23 Q. How is that handled?

24 A. He is hourly. I mean, it's the same for everybody who
25 does after school activities, school sponsored activities. I

1 forgot now, but 25 hours or so per period.

2 Q. What other after school activities do teachers get
3 compensated to perform?

4 A. We have many. They can tutor students. They can
5 sponsor enrichment activities. I have -- I don't know how many,
6 but I have many of them.

7 Q. Was this one -- was the robotics Mr. Baltali's choice?

8 A. We wanted him to do that, because I didn't have anybody
9 else who was qualified to teach robotics. I wanted him to
10 sponsor it actually.

11 Q. You mean that you asked him to do that?

12 A. Uh-huh. Because he had the qualifications and teaching
13 background.

14 Q. Do you know if he was doing that last school year?

15 A. He has done it last year too, but this year I wanted him
16 to continue with his teaching.

17 Q. How much time is involved in that each week?

18 A. Actually nowadays he spends more because it's
19 competition season for robotics, but I mean, it's at least --
20 they meet sometimes on the weekend -- at least once or twice per
21 week and they do continue their education in summers teaching --
22 like they had a robotics camp last year.

23 Q. When you say "they," do you mean the students that --

24 A. Students and he in his leadership.

25 Q. He continues to instruct them through the summer?

1 A. He had wanted a camp for the kids.

2 Q. Okay. Do you know if he has any other after school
3 activities that is he performs and gets compensated for?

4 A. No.

5 Q. No, you don't know or no, he doesn't have any?

6 A. He doesn't have any to the best of my knowledge. If
7 anybody else is signing his paycheck, I don't know.

8 Q. Is it required of the teachers to have some type of
9 after school activity in addition to their teaching?

10 A. Because it's in our charter we expect our teachers to
11 sponsor at least two days; either tutor or clubs. They can
12 choose. They can tutor twice per week or they may sponsor clubs
13 twice per week or tutor one day and then club but that's what we
14 expect and they are paid additional for that.

15 Q. So I just want to make sure that I understand what
16 you're describing. When you say that a teacher is expected to
17 do that, I use the term require. Is there any difference in
18 your mind?

19 A. Right now we require at least two days either tutoring
20 or clubs, but it's not in their contractual pay. It's an
21 additional pay. It's hourly that we pay them. If they're there
22 until 5:15 or so they get paid 50 or 50-some dollars if they're
23 sponsoring a club. \$50 dollars I think or \$45.

24 Q. I'm trying to understand though. If is required by
25 virtue of being a teacher to also do this work after school --

1 MR. LALLEY: I'm going to object to that question. I
2 think that he has answered his question twice in the prior
3 answer.

4 THE HEARING OFFICER: I guess I can understand the
5 distinction. Put it this way: Does every teacher have to do
6 something after school?

7 THE WITNESS: Yes.

8 THE HEARING OFFICER: So there -- okay. Does that cover
9 us?

10 MR. EBERLE: Yes.

11 Q. But then does every teacher do at least two things?

12 A. Two things, yes.

13 Q. And they're required to do that?

14 A. Two days.

15 Q. It could be two days in the same type of activity or a
16 day in each?

17 A. I could be one day tutoring or one day club or both of
18 the days clubs or both of the days tutoring, but two days after
19 school time they have to work an extended day.

20 Q. How does the IT specialist meet that requirement?

21 A. Since we have technology focus in our charter I needed
22 somebody to teach robotics technology. So we wanted him to
23 offer it. Even though -- he could have rejected it, but we
24 needed somebody to teach robotics. That's why he's teaching
25 robotics. He's not required to offer two clubs because he has

1 to do troubleshooting and things like that during after school
2 time, train teachers during after school time. During class
3 time he can't. So we don't require him to offer two clubs, but
4 he's doing it.

5 Q. Does he have any scheduled teaching activities during
6 his regular workday?

7 A. He has robotics. Other than that, no.

8 Q. My understanding is that he has some shared
9 responsibilities at some other facility in addition to your
10 school; is that accurate?

11 A. He's not an employee, but he was helping out other
12 schools. He was going there and helping but he was not paid by
13 the other school. He was paid at our location. So he's our
14 employee. He was doing similar things over there. He used to.
15 Now he's not doing it actually. He used to do it last year in
16 beginning of the school year. Nowadays if needed we send him
17 over there.

18 Q. He's paid by your school on a full time basis?

19 A. Yes. He's on our payroll and the other school pays
20 directly to the school for the time that he's there if he's
21 there.

22 Q. They reimburse you for his time?

23 A. Yeah.

24 Q. Does he have an employment contract?

25 A. Yes.

1 Q. Is it executed annually?

2 A. Yes.

3 MR. EBERLE: Do we have a copy of that?

4 MR. LALLEY: I do not.

5 MR. EBERLE: Maybe we can address that at the next
6 break.

7 THE HEARING OFFICER: Okay.

8 Q. When you were describing the three main duties of the IT
9 specialist you said that the second one was training teachers to
10 use technology in the classroom. Is that formal scheduled
11 training or training as based on request?

12 A. Based on the need. Based on the need.

13 Q. Who determines the need?

14 A. Teachers get in touch with him directly or I ask him if
15 I see that a teacher is not able to use all of the database.
16 For example, he goes to them and helps them.

17 Q. Is there any formal scheduled training that he performs
18 for teachers?

19 A. He did one session I think for our in service training
20 for new employees.

21 Q. Was that a one-on-one or for all new --

22 A. To a group of teachers.

23 Q. To whom does the IT specialist report?

24 A. To the principal and to me also.

25 Q. I'm going to switch to the assistant counselor. Does

1 the assistant counselor have an employment contract?

2 A. Yes.

3 Q. Is it a -- is it similar to the contract that the
4 counselor signs?

5 A. Yes. Only the job description is different.

6 Q. I'm sorry?

7 A. It is the same contract; only job description and the
8 title is different. It's the same contract.

9 Q. If I understood you correctly you said that the person
10 who is in the position of assistant counselor has a temporary
11 certificate from the Department of Education?

12 A. Yes. We applied for at the beginning of the school
13 year. It's good for one year. After that she has to get -- her
14 position is kind of like assistant teacher sort of -- teacher
15 assistants.

16 Q. I was going to ask you that. How is her job similar to
17 the job of the assistant teachers?

18 A. The teacher assistants are in charge -- like they
19 co-teach. They teach, I mean, in smaller groups. They help the
20 teachers.

21 She does the same thing. She teaches, and she assist
22 counselor. So it's the same thing actually. Assistant
23 counselor and assistant teacher, in our eyes, they are paid
24 similarly.

25 Q. When you say they're paid similar, do you mean that the

1 assistant teachers are paid similar to the assistant counselor?

2 A. Yeah.

3 Q. How are they similar?

4 A. Similar in the similar range.

5 Q. What is the range?

6 A. There's a pay scale for like they start from somewhere
7 and then there's an escalation for the following years.

8 Q. Do you know what the range is?

9 A. They start from 28 something.

10 THE HEARING OFFICER: When you say "they," who do you
11 mean?

12 THE WITNESS: Assistant teachers and them.

13 Q. Is that the same as the assistant counselor? She starts
14 in the range -- her range starts at 28,000?

15 A. Her range is a little bit higher but similar. The
16 contract is similar.

17 Q. When you say that she teaches, what do you mean by that?

18 A. She teaches positive -- we have a program called
19 positive action, which is our character education and counseling
20 program. So she teaches that in middle school.

21 Q. What is involved in teaching that?

22 A. She teaches. She prepares lesson plans and goes in
23 classroom and teaches and assess students and other things that
24 teachers will do. She will teach positive counseling action
25 program.

- 1 Q. Is it a scheduled course?
- 2 A. Yes. It's scheduled and it's required.
- 3 Q. Pardon me?
- 4 A. It's a required course.
- 5 Q. How many days a week does that class meet? Do you know?
- 6 A. Each grade is taking it once a week. Each section is
- 7 taking it once a week.
- 8 Q. In the middle school?
- 9 A. Yes.
- 10 Q. So would middle school be 6, 7 and 8th grade?
- 11 A. Yes.
- 12 Q. Does she teach every sections for all three grades?
- 13 A. Yes.
- 14 Q. So how many sections are there for each grade?
- 15 A. For 6th graders we have two sections and for 7th graders
- 16 we have two sections for 8th graders we have one.
- 17 Q. Would I be fair in assuming then that she teaches five
- 18 class periods a week in that course?
- 19 A. Yes.
- 20 Q. Does she grade the students?
- 21 A. Pass and fail it is I think.
- 22 Q. But she does grade them?
- 23 A. Yes.
- 24 Q. Who does she report to?
- 25 A. She reports to our discipline coordinator. All of the

1 counselors are reporting to her.

2 Q. The full time counselor reports to the discipline
3 coordinator as well?

4 A. Yeah.

5 Q. And why was it necessary to get a temporary certificate
6 for her?

7 A. Because she's in the process of getting her traditional
8 certificate. So she needed some time.

9 Q. And if I understood your earlier answer, the temporary
10 certificate lasts for one year?

11 A. Yes.

12 Q. What happens when you get to the end of the year and she
13 hasn't obtained her certificate yet?

14 A. She may renew it or she may get her traditional one or
15 if she doesn't have it then we will then make the decision
16 whether we will employ her there or not.

17 Q. I'm not as familiar with you as the process. Does she
18 seek the renewal or do you?

19 A. She does it and we approve it. She has to make the
20 request to the Department of Education and then we have to sign
21 on it.

22 Q. Would I be correct in assuming that she's in the process
23 of gearing up to get her certificate?

24 A. Yes.

25 Q. Once she gets her certificate would her position change?

1 A. May or may not. Maybe she will be counselor; not
2 assistant counselor. Maybe we will need two counselors in the
3 school then or she will stay the same. It depends. I don't
4 know how our budget and other things will dictate us.

5 Q. If she gets the certificate would she be expected to do
6 one-on-one counseling?

7 A. If she has school counseling certificate, she can do
8 that because we need right now.

9 Q. You need that task done?

10 A. We have somebody but it would be good for the school to
11 have another counselor that can do the same thing. I don't know
12 now whether we will have a second counselor. I don't know. So
13 well see in the future.

14 Q. Is the pay range -- the salary range for the counselor
15 similar to the salary range for the assistant counselor?

16 A. Counselors are higher.

17 Q. How much higher? Do you have a percentage or a --

18 A. I mean, I'm guessing at least 20 or 25 percent.

19 Q. One other thing about the assistant counselor is that
20 you mentioned that she develops counseling curriculum. What is
21 that?

22 A. That is positive action curriculum. She does
23 modification and she prepares lesson plans and there's a lot
24 that she does to prepare the classroom. She doesn't write it
25 from scratch. She uses a resource that we give her to teach in

1 the classroom and the counselors helps her too.

2 Q. What is she developing?

3 A. She's developing lesson plans to teach in the classroom.

4 Q. Okay. What does the -- what does the counselor -- what
5 are the primary duties of the counselor?

6 A. The counselor is in charge of providing school
7 counseling services to our students and families.

8 Q. That's her primary function?

9 A. School counselor, yes.

10 Q. Does she have any teaching responsibilities?

11 A. School counselor?

12 Q. Yes.

13 A. She teaches PBIS classes also but it's not scheduled.

14 She teaches PBIS. PBIS is positive behavior support system.

15 She does that too. She goes into the classrooms and teach some
16 manners and values in the classrooms.

17 Q. How much of a percentage of her time would you say that
18 the counselor devotes to that teaching?

19 A. I don't think that it's more than 5 percent.

20 Q. What about what the assistant counselor, how would you
21 gauge that as a percentage of her overall workload?

22 A. I think that she is like maybe 15 or 20 percent.

23 Q. Let's me switch gears to --

24 A. Nowadays it may be more because she is twice per day she
25 is helping a student that's taking online classes because of her

1 special needs. So it may be more than 10 or 20 percent. It's
2 maybe 3 periods per day. So 40 percent per day.

3 Q. For the assistant counselor?

4 A. Yes.

5 Q. Okay. Let me switch to the behavior consultant. Am I
6 correct in understanding that if Ms. Kostosky gets her
7 certificate the plan would be to move her into the position of
8 behavior consultant?

9 A. We have that option to assign her for those duties, yes.
10 I have that option.

11 Q. So I understand that you have the option that you would
12 determine whether you needed that and whether she was the right
13 person?

14 A. Yes.

15 Q. But what I'm asking is: Is that the plan?

16 A. I have option to use her as our behavior specialist when
17 she's certified.

18 Q. Well, you just --

19 A. Right now she's not certified. I cannot use her right
20 now as a behavior specialist.

21 Q. Right. You described that when you hired her you and
22 she reached an agreement that she would be in this position of
23 essentially the paraprofessional position until she got a
24 certificate?

25 A. Yes.

1 Q. Did you discuss with her the plan or what would happen
2 once she got the certificate?

3 A. I did not.

4 Q. So there was no expectation that you conveyed to her
5 about what would happen once she gets it?

6 A. Yeah. Once she's certified then we will -- it's likely
7 that she will become behavior specialist, but I am waiting for
8 her certification. It is like -- we may use her for that title.

9 Q. So she's in the behavior -- if I understand, she's in
10 the behavior specialist position. The other position is the
11 behavior consultant. You're looking at me like I'm not making
12 sense.

13 A. Let me tell you the difference between those two titles.

14 Q. Okay.

15 A. Behavior consultant -- to become behavior specialist you
16 need to be certified but for behavior consultant I didn't see
17 that title listed requiring that. I don't know what it is.
18 It's a mistake on the payroll records actually. We were
19 supposed to write in there behavior specialist, but somehow we
20 said behavior consultant.

21 Q. So the position that she would need a certificate to
22 hold is a behavior specialist position?

23 A. Yes.

24 Q. What does a behavior specialist do?

25 A. They assess students behaviors and come up with IEPs for

1 them; individualized plan for them. They can write IEPs on
2 behavior.

3 THE HEARING OFFICER: Just for the record, what does an
4 IEP stand for?

5 THE WITNESS: Individualized education plan.

6 THE HEARING OFFICER: Thank you.

7 A. But she never writes an IEP right now. She can't.

8 Q. She's not permitted to by law?

9 A. Yes. That's why she's paralegal -- paraprofessional.

10 Q. Does your organizational chart have a position of
11 behavior specialist?

12 A. Yes.

13 Q. Does it have a different position called behavior
14 consultant?

15 A. No.

16 Q. So your organizational chart does not have a position
17 behavior consultant?

18 A. That's why I'm saying it's a mistake.

19 MR. EBERLE: Okay. I don't know if it would be
20 appropriate to address that right now.

21 THE HEARING OFFICER: Let's go off the record.

22 (Discussion off the record.)

23 THE HEARING OFFICER: Let's go back on the record. From
24 our off the record discussions we have clarified -- and I'm sure
25 the parties will correct me if I got this wrong -- there is no

1 position of behavior consultant. Is that correct, Mr. Lalley?

2 MR. LALLEY: That's correct.

3 THE HEARING OFFICER: Mr. Eberle, you agree?

4 MR. EBERLE: Yes, I agree.

5 THE HEARING OFFICER: So references to behavior
6 consultant should come out but there is a position of behavior
7 specialist?

8 MR. LALLEY: Yes. That's a position in the
9 organizational chart for behavior specialist.

10 THE HEARING OFFICER: And there's a question of whether
11 behavior specialist should be in or out of the unit. Is that
12 correct?

13 MR. EBERLE: I would agree, yes.

14 THE HEARING OFFICER: With that clarification, why don't
15 you continue on with your questioning.

16 MR. EBERLE: In all fairness I think it's fair to go on
17 one sentence further and make Paul's point for him.

18 MR. LALLEY: Of course, our evidence is that the person
19 who is that job or has a contract that provides for, quote,
20 "behavior specialist and special Ed paraprofessional" is
21 actually performing paraprofessional duties, but I think that
22 would have been the next sentence for me.

23 MR. EBERLE: It's not clear the to me if she's a dual
24 function employee but because up until this point Mr. Oksuz has
25 testified a moment ago there's no behavioral consultant position

1 in the org chart and there is a there's a behavioral specialist
2 position it seems there's a separate question about her
3 eligibility once it's determined whether behavior specialist
4 belongs in the unit or not.

5 THE HEARING OFFICER: Correct.

6 MR. EBERLE: Okay.

7 THE HEARING OFFICER: Do you have more questions about
8 this particular position; the behavior position?

9 MR. EBERLE: Yes.

10 BY MR. EBERLE:

11 Q. Does Ms. Kostosky have any responsibility to do after
12 school duties similar to what the teachers do?

13 A. Our -- yeah. I think that she does some things.

14 Q. Do you know what?

15 A. I don't recall. I'd have to check.

16 Q. Do you know if she's expected to do two days per week
17 like a teacher is required to do?

18 A. I have to check on that. I don't recall. When we have
19 break we can call and check the records. I don't recall right
20 now.

21 Q. You were describing that she performs one-on-one with
22 certain students?

23 A. Yes.

24 Q. What is the one-on-one directed to? What is the purpose
25 of it?

1 A. Behavior. If there are some kids regular education
2 teachers are having issues to keep them in the classroom because
3 of their needs and behaviors and things like that, she either
4 pushes in or pulls them out from the classroom.

5 Q. Do you know how many one-on-ones that she's responsible
6 for in any particular time?

7 A. Actually she is with one student at a time. She's not
8 meeting with multiple kids at a time. She's spending time
9 mostly with FU kids.

10 Q. What is an FU kid?

11 A. Like maybe four or five but at different times. When
12 they get escalated then we have to -- then she is called in or
13 she is there.

14 Q. So in the particular week if I understand what you're
15 saying she may have responsibility for four or five different
16 students over the course of the week?

17 A. Yes. She was with one kid most of the time. The day
18 before she was with another kid most of the time. So --

19 Q. Now, when you mentioned about the aids that you have and
20 you said that they perform one-on-one as well -- you're shaking
21 your head yes?

22 A. Uh-huh.

23 Q. You have to say yes.

24 A. Yes.

25 Q. -- are the aids assigned to the same student over the

1 course of the whole week?

2 A. Aids are assigned to one, yeah. One-on-one aids are.

3 Q. And in fact wouldn't an aid be normally assigned to the
4 student for the school year?

5 A. Can you repeat again?

6 Q. Wouldn't an aid be assigned to a same student over the
7 course of the school year?

8 A. It depends. It's based on IEP. If the behavior
9 improves then the same aid might be shifted to another kid or if
10 the same kid still needs that one-on-one aid, the aid will
11 continue serving that child. It depends. I mean --

12 Q. What special ed paraprofessional duties does
13 Ms. Kostosky perform?

14 A. As I told you she is helping some kids on one-on-one in
15 improving their behaviors.

16 Q. Is that --

17 A. And those kids are usually special education kids. They
18 have IEPs usually or referred to special education. That's why.

19 Q. Well, I'm making an assumption and maybe it's not a good
20 one, but I'm assuming that special ed paraprofessional has its
21 own set of responsibilities?

22 A. Yes.

23 Q. What are those responsibilities?

24 A. As I told you for her she is helping some kids on
25 one-on-one or, you know, teaching them social studies and things

1 like that and other things, but nowadays she's dealing with
2 these things or she's collecting data on the behavior of some
3 kids and she's not writing IEP. Special education teachers
4 write IEP. She's not writing IEP. She's not writing IEP. She
5 can be part of the team to provide feedback, or observational
6 feedback but she can't.

7 Q. Do you know was there a behavior specialist on staff
8 last school year?

9 A. No.

10 Q. Was there a special ed paraprofessional on staff last
11 school year?

12 A. I believe that there was somebody for the beginning of
13 the school year and then she became assistant teacher. There
14 was someone.

15 Q. As a special ed paraprofessional?

16 A. Professional, yeah, but she was there for a few months I
17 think but she shifted to become kindergarten assistant teacher.

18 Q. Okay. Is there a salary range for the behavior
19 specialist position?

20 A. Her salary is similar to assistant counselor. There's a
21 range. Since she's not certified she is paid less than a
22 special education teacher or counselors.

23 Q. So there's a behavior specialist salary range?

24 A. If she was certified she was supposed to be paid based
25 on the same pay scale as our other professional teachers are

1 being paid. Since she's not certified her salary is less.

2 Q. It's more like a paraprofessional salary?

3 A. Similar, yeah.

4 Q. Let me ask you about the Title 1 coordinator.

5 THE HEARING OFFICER: Let me stop you for the second.

6 Do you have a lot more to go yet? Should we take a break for
7 lunch?

8 MR. EBERLE: At least a half hour I'd say.

9 THE HEARING OFFICER: If you're okay we can finish off
10 your stuff and go from there. Are you all right?

11 THE WITNESS: I'm fine.

12 THE HEARING OFFICER: Title 1 coordinator.

13 BY MR. EBERLE:

14 Q. That's Ms. Baldesberger?

15 A. Yes.

16 Q. She's a dual function person; correct?

17 A. She is a Title 1 coordinator. She has teaching
18 responsibility and coordination responsibility too, yes.

19 Q. And isn't she the reading specialist or a reading
20 specialist?

21 A. Her certification is reading specialist. She's
22 certified in reading specialist. That's why she teaches reading
23 as well.

24 Q. I'm looking at Employer Exhibit 7 which is the letter
25 containing the job description for the Title 1 services

1 coordinator.

2 A. Yes.

3 Q. I'm looking at the first paragraph there and it
4 describes the compensation that will be paid for performing a
5 Title 1 services coordinator. Do you see that?

6 A. Yes.

7 Q. So would I be correct in understanding that her primary
8 job with the charter school is as a program specialist for
9 reading?

10 A. Her -- she is the Title 1 coordinator. She is in charge
11 of all of the Title 1 services. I wrote it there like that,
12 because I had a pay scale for program specialist. So based on
13 that pay scale I determined how much she will make. In addition
14 to that we added more for her like coordination
15 responsibilities, but she is the only one for -- to manager our
16 Title 1 services in addition to the business manager.

17 Q. Understood. My question is: Is her primary job as a
18 program specialist for reading?

19 A. Both. I cannot differentiate reading or -- I mean, I
20 don't have anyone else who is coordinating Title 1. So there's
21 no one else that is qualified to do it. She does it.

22 Q. Does she teach scheduled classes for reading?

23 A. She prepares her own schedule to pull out kids in
24 consultation with the administration, yes.

25 Q. You have to explain that a little more to me.

1 A. She decides when she will pull children in consultation
2 with us. We don't prepare her schedule for her. She decides
3 who will get Title 1 services based on data and she manages
4 other people who are providing Title 1 services. So she is
5 representing us in Title 1 coordination meetings outside.

6 Q. Do you know how much time in her workweek she spends
7 providing reading instruction?

8 A. I'd have to check but --

9 Q. Are you saying that you're not sure?

10 A. No, I know. Like, you want to know percentage-wise?

11 Q. Yeah. That would help.

12 A. At least 80 percent she's teaching.

13 Q. How often does --

14 A. She's teaching means she's with the kids one-on-one.
15 She either pulls out like in smaller groups or sometimes one kid
16 or two children. No more than five students at a time. So she
17 has -- as I said, she has two more people helping her.

18 Q. I'm was going to ask you that too. Who are the two
19 people that report to her?

20 A. They're contracted from AmeriCorps. They are like aids,
21 but they're not our employees. They do similar things as our
22 aids are doing, but they're from AmeriCorps.

23 Q. And so the two people that you're referring to, they're
24 not employees of the charter school?

25 A. They are not, but there's somebody who is teaching

1 writing. So that is also Title 1 services and there is one more
2 teacher who is partially teaching Title 1 services. So she's
3 coordinating with her.

4 Q. Who is the other person?

5 A. Mrs. Thompson, Chelsea. I think that she's one or two
6 periods.

7 Q. How often does the Title 1 coordinator have to go
8 somewhere else to represent to program?

9 A. She went once in the -- we sent her for the training in
10 the fall and she will go again for three days training in
11 February.

12 Q. Maybe I misunderstand. I thought that you said that
13 when you had to have -- I'm sorry. That was with the ESL. I
14 apologize.

15 A. She does the same thing. If there's a training provided
16 in the AIU, Allegheny County Intermediate Unit, for Title 1
17 coordinators she goes there to get training once to learn and
18 come back and do her coordination responsibility, you know,
19 properly, like reporting responsibilities and things like that
20 and she will -- she's scheduled to go again sometime in February
21 or early March for three days.

22 Q. But I thought that you said that if there was meetings
23 where the school was supposed to be represented in Title 1
24 matters --

25 A. Yes.

1 Q. That's what you're talking about; training?

2 A. Training, she has to be there and she has to learn
3 things and bring back to school.

4 THE HEARING OFFICER: Is there something separate that
5 she attends that she represents the school or is there anything
6 other than the training to represent the school?

7 THE WITNESS: Where she represents us it's training;
8 just training. Someone has to learn rules and requirements for
9 Title 1. She's the one who is representing that in the training
10 and bringing back the information.

11 Q. You mentioned that she drafts policies about Title 1?

12 A. Yes.

13 Q. And you mentioned two. The first was parental
14 engagement policy?

15 A. Yes.

16 Q. What is the nature of that policy?

17 A. We had to specify how we were going to engage families
18 in our Title 1 activities and how we would reach out and how
19 they would get involved in their children's education. There
20 has to be a specific policy based on the new law. That's what
21 she drafted.

22 Q. When did she did that?

23 A. She did that sometime in February. No. Sometime in
24 August or September.

25 Q. Of this year?

1 A. Yeah. It's an annual policy that she has to update
2 based on the training that she's getting and based on the
3 changes in the law. So --

4 Q. Go ahead.

5 A. Yeah. That's what she does. That's why she is sent to
6 trainings to learn if there are changes. If you don't have
7 those policies, then you're not in compliance.

8 Q. That's what I was trying to understand. There was
9 already a parental engagement policy in place and she updated
10 it. Is that what you're describing?

11 A. There has to be one, but it has to be updated annually.
12 This year there was more changes with it because the law
13 changed. The new law that replaced No Child Left Behind kicked
14 in this year. So that's why she drafted it.

15 Q. So I'm just making sure is that I understand. This year
16 she updated the existing policy?

17 A. Yes.

18 Q. Do you know when the policy was originally created?

19 A. Again, the policy is not like forever. For Title 1
20 policies, like Title 1 parental engagement, they have to be
21 revised every year. So there was something, but it was supposed
22 to be updated, and she worked on it, and this year there was
23 substantial change with it because of the change in the law.

24 Q. Do you know if the parental engagement policy existed
25 when the school was chartered in 2011?

1 A. Those policies are not included in the charter. For
2 example, one -- in the past we used to call it parent
3 involvement policy. Now it's has to be called parent engagement
4 policy. So there are changes and requirements -- a list of
5 requirements for the policy. So she has to do the research and
6 draft it and then in the charter there are some descriptions of
7 how we will involve families general in the school, but there
8 was nothing for Title 1 specifically because that has to be
9 annual. You cannot do something and use it forever. It has to
10 be revised every year. You may decide to keep it the same, but
11 the law says that you have to revise it.

12 Q. What I'm trying to get at is: Somewhere back in the
13 past it started; right?

14 A. There was something last year.

15 Q. Understood. But somewhere back in the past you created
16 the policy for the first time?

17 A. Uh-huh.

18 Q. Do you know when it was?

19 A. It was there since Title 1 law past. So since we're
20 using Title 1 the policy was in there.

21 Q. When would that be?

22 A. Our school was created in 2011. Since then we had a
23 policy like this so we can use federal funds, because No Child
24 Left Behind says that we have to involve families if I'm using
25 federal funds. So they want to see a policy.

1 Q. Do you know who drafted the original one?

2 A. I don't remember.

3 Q. How about the school compact policy, is that the same
4 thing? Is it that a policy that's renewed and updated each
5 year?

6 A. It's a policy and someone has to draft it in correlation
7 with the families and make sure that the families have a copy,
8 yes.

9 Q. So if I understand, the Title 1 coordinator in 2017 was
10 responsible to revise and update the school compact policy?

11 A. Yes.

12 Q. When she submits revisions who does she submit them to?

13 A. She submits it to me.

14 Q. What do you with it?

15 A. I review it and I consult with our solicitor and I take
16 it with the board.

17 Q. You present it to the board?

18 A. Yeah, some of the policies.

19 Q. Well, I'm asking about the school compact policy.

20 A. School compact was not before the board I think but the
21 parent engagement policy was.

22 Q. So the parent --

23 A. I have to check. Maybe both are approved by the board.
24 I have to check on that.

25 Q. So the parental engagement policy was submitted to the

1 board with revisions this year to be approved?

2 A. Yes.

3 Q. Do I understand that you presented it?

4 A. Yes.

5 Q. Did the Title 1 coordinator accompany you?

6 A. She was not in the meeting.

7 Q. Do you know if the revisions that she suggested were
8 accepted without change?

9 A. Substantially because she's the expert. I'm not. She's
10 the expert. That's why we're sending her for the training.

11 Q. When you say "substantially," does that mean there was
12 there were some things proposed that were not --

13 A. I don't recall any revisions. I don't recall. What she
14 submitted to me I got it approved by the board.

15 Q. The same -- her revisions were presented to you and you
16 presented them and they were accepted without change?

17 A. Yeah. While she was revising we were talking and making
18 notes.

19 Q. You and she were talking?

20 A. We were exchanging ideas. I might have gave her some
21 samples and things like that.

22 Q. You mentioned that she chooses the students to receive
23 Title 1 benefits based on certain assessment tools?

24 A. Yes.

25 Q. What are the assessment tools that you're talking about?

1 A. She developed a criteria to select students for Title 1
2 services. The assessment tool in her criteria is mainly AIMS
3 rep. AIMS rep is an assessment tool that we use. She's
4 entitled to look at other data points we have like Star
5 assessments. She may look at PSSAs. She may consult with
6 teachers. So she's in charge of compiling all of the data from
7 different sources and make her determination. Really she relies
8 on AIMS reps.

9 Q. Once she makes the determination what does she do with
10 that? Does she tell you or tell somebody else?

11 A. She tells us how many and according to the law we can
12 decide how much we can do. So we go from there.

13 Q. What do you mean?

14 A. Like, I mean, based on the funding that I have I have to
15 make a determination of how much of those kids can be served
16 using Title 1 funds or using one, two, three teachers. So
17 that's what -- there has to be -- we decide: These are the kids
18 we can serve using Title 1 funds based on the availability of
19 the resources like essentially teachers and things like that.

20 Q. So I'm not following you then. If she submits a
21 determination to you of who needs assessed as needing Title 1
22 and you make a determination of whether --

23 A. No. I just question whether we have enough resources to
24 serve though kids or not, because once you label somebody with
25 Title 1 you have to serve. So before labeling we just -- you

1 know, in terms of personally whether we have that or not and
2 based on the money that we have.

3 Q. Have you had her determine someone to be Title 1 and
4 then you determine that they weren't?

5 A. No.

6 Q. That's never happened?

7 A. No. I mean, she's thinking -- we had to provide title
8 services in kindergarten but we have no manpower. So we're not
9 doing much for kindergarten this year, but she determined -- her
10 determination is there and since I don't have manpower so that
11 is now -- I have to sort it out soon. I'm not denying that --
12 she has no time. Other Title 1 teaches have no time. So we
13 have to get somebody else for kindergarten kids and up so they
14 can get those intervention services, but this is not denying
15 what she is suggesting to me.

16 Q. Let me move to the ESL coordinator.

17 A. Yes.

18 Q. One of the things that you mentioned was that she
19 represents the school in ESL meetings at the AIU?

20 A. Yes.

21 Q. How often?

22 A. I mean, I don't know if there's a regular schedule like
23 that, but she goes to those meetings. She went to those
24 meetings in the past.

25 Q. Once a year or more than once a year?

1 A. I think that more than once.

2 Q. More than once a year?

3 A. Yeah.

4 Q. Is it the same as what you described earlier that she
5 goes and receives the training and brings it back to the school?

6 A. Brings it back to the school and so she does her job
7 properly also. She learns there and actually for ESL we receive
8 Title 3 funds through AIU. We're part of that consortium. So
9 since we're part of that consortium they provide us training
10 since they're using our money. So she goes there and she works
11 with them.

12 Q. Does she go to meetings representing the school other
13 than training meetings?

14 A. Those meetings are not only training. They teach there
15 like compliance-wise what we have to do. We have to address
16 those kids right, how to assess and when to assess and those
17 things.

18 Q. Maybe I'm missing something, but that sounds like
19 training.

20 A. Yeah.

21 Q. What I'm asking is: Do the meetings serve other
22 purposes in addition to training?

23 A. What kind of purposes?

24 Q. I don't know. I've never gone to one.

25 A. I'm telling you that she goes there and she learns the

1 rules and the strategies and, you know, like assessment and
2 everything else and she comes back. If she was not the ESL
3 coordinator I have to go there to learn all of these things.
4 It's an additional responsibility on me. So that is why I have
5 those coordinators as part of our management. They're part of
6 my management.

7 Q. Does the ESL coordinator have a regular classroom
8 teaching that she provides?

9 A. She has an office, a small classroom; not a full sized
10 classroom. She pulls out.

11 Q. She what?

12 A. She pulls out kids to her office. I think a few times
13 she provides push in services where she goes into the classroom
14 too.

15 Q. Does she teach a regular course like a teacher would?

16 A. No. She teaches one-on-one.

17 Q. You mentioned that she makes recommendations about
18 whether other members of the staff are performing their ESL
19 functions properly?

20 A. Yes.

21 Q. How does that happen?

22 A. I expect her to go to the classroom meetings and make
23 her recommendations and suggestions and learn how those kids are
24 doing and then talk to us.

25 Q. Is it a formal process like an evaluation?

1 A. It is not formal but I mean, because of the changes in
2 the law now all of the regular education teachers are also
3 responsible for ESL and it is her responsibility to let us know
4 if that is happening and she is also in charge of coordinating
5 with regular education teachers and with us.

6 Q. Do you have any kind of a regular or periodic time that
7 you meet with her to find out what she has to tell you or what
8 she has to recommend?

9 A. I meet with her as need basis because she is with us.
10 She is experienced. She is good. I rely on her more. So I
11 didn't schedule a regular meeting with her, but as needed I talk
12 to her and she talks to me.

13 Q. So can you give me example of something that she's
14 recommended where the teacher is not meeting their ESL
15 responsibility properly?

16 A. This year -- it didn't happen this year, but I mean, she
17 will be checking on them to make sure whether they have English
18 language objectives and whether they're teaching those kids. So
19 this year she didn't -- not yet but I will here from her.

20 Q. Has there been a time that one of the staff -- one of
21 the teachers has been disciplined for not performing their ESL
22 functions properly?

23 A. During my time I didn't do that. As I said I will be
24 checking on that. We will do progress monitoring soon. So we
25 will be checking on the teachers and on the students and then --

1 Q. I forgot to ask you: Is there an employment agreement
2 for the ESL coordinator?

3 A. Yes.

4 Q. Do you have it?

5 A. It's not with me now. She has the standard agreement.

6 Q. Similar to the other coordinators that are in the record
7 already?

8 A. It's not like this one. It's just a simple one that she
9 has and job description.

10 Q. It's a simple agreement?

11 A. Like the other agreement. Not a side agreement like
12 this, but an agreement that I have with her with the job
13 descriptions.

14 Q. So you're saying this but the court reporter is not
15 going to figure out what your pointing to. Can you tell her
16 what you were holding up?

17 A. Her coordination responsibilities and job description is
18 not like the other cluster coordinators.

19 THE HEARING OFFICER: It's Employer Exhibit 1.

20 Q. Okay.

21 A. I have one master agreement with her and her job
22 responsibilities are list at the end of the agreement.

23 Q. So I'm going to ask you about the cluster heads now.
24 You mentioned something and I think that you used the words
25 "cluster report" about how students were doing. Do you remember

1 saying that? What were you talking about? What kind of reports
2 are they?

3 A. In the cluster meetings they are expected to talk on
4 data, student data, in coordination with the supervisor or
5 curriculum and instruction come up with RTII plan for them in
6 response to intervention -- an instruction plan for them. I can
7 ask how the cluster is doing in general. So those reports. We
8 didn't do it so far, but we will do because this job description
9 is new.

10 Q. You didn't do what so far?

11 A. I didn't ask them to report me so far to report how they
12 have done in the cluster, but the time is coming up for asking
13 or requesting them for give us the report to see how it's doing
14 so we use the data in our improvement plan for next year.

15 Q. So that I can be sure that I know what you're referring
16 to -- God bless you -- there's cluster meetings for each cluster
17 and then there's a separate cluster heads meeting; right?

18 A. Yes.

19 Q. How often are the cluster meetings held for each
20 cluster?

21 A. Weekly.

22 Q. And how about the cluster head meetings?

23 A. Weekly.

24 Q. Do you ever attend those cluster meetings?

25 A. Some of them.

1 Q. Would you say often or not often?

2 A. As my time permits I attend.

3 Q. That could mean a lot.

4 A. Yeah. I'm not supposed to be in those meetings all of
5 the time. I'm in charge of describing the responsibility duties
6 and I have any assistants that are in there representing me and
7 I get feedback from them.

8 Q. Do you attend the cluster head meetings?

9 A. I had been to a couple of them.

10 Q. Who normally runs the cluster head meetings?

11 A. I mean, if I'm there -- an agenda is prepared in
12 advance. It's not a formal structure. It's informal kind of.
13 We try to address everybody's concerns or questions or whatever
14 the item. If I'm there, I'm kind of vocal and if I'm not there,
15 one of my assistants are there. So --

16 Q. You mentioned that the cluster heads have responsibility
17 to make sure that the board's policies are implemented in the
18 cluster. Do you remember saying that?

19 A. Yes.

20 Q. Can you give us an example?

21 A. For example -- for example, the requirements about
22 response to intervention like finding out kids and serving the
23 child for special education. So they are part of it. So we
24 have a child find policy approved by the board and cluster
25 chairs in consultation with their team members they have to help

1 us find the kids that need referred to special education
2 services. Child find is a very good example.

3 Q. Child what?

4 A. Child find process or policy which is a requirement to
5 find special education kids so that you can intervene or provide
6 services before reaching things like that. This is an -- this
7 is a very good example and they do that. They can refer any
8 child to us based on data.

9 MR. EBERLE: Can I take a moment?

10 THE HEARING OFFICER: That's all right. Off the record.

11 (Discussion off the record.)

12 THE HEARING OFFICER: On the record.

13 MR. EBERLE: I don't have any further questions.

14 THE HEARING OFFICER: Do you have additional questions?

15 MR. LALLEY: I don't have any redirect questions.

16 THE HEARING OFFICER: I have a few questions, but I
17 would like to take a lunch break and when we come back I'll ask
18 you a few more questions, and we will move onto your witnesses
19 if that works.

20 MR. LALLEY: Yes.

21 THE HEARING OFFICER: Should we come back ten to 2:00.
22 Does can that give you enough time to get your witnesses on?

23 MR. EBERLE: Yes.

24 THE HEARING OFFICER: Off the record.

25 (Thereupon, at 12:50 p.m., a luncheon recess was taken to

1 2:00 p.m.)

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

3 THE HEARING OFFICER: Back on the record. I'll remind
4 you you're still under other. Before we get started with the
5 questions I want to mention with off the record discussions
6 there's an individual who is listed on Attachment D to the
7 Employer's position statement, Robert Baier, B-a-i-e-r, with the
8 title supervisor. The parties have agreed that that individual,
9 as well as anybody with the title supervisor, would be excluded
10 from any appropriate unit. Is that right, Mr. Lalley?

11 MR. LALLEY: That's correct.

12 THE HEARING OFFICER: That's right, Mr. Eberle?

13 MR. EBERLE: I think it's supervisor of curriculum.

14 THE HEARING OFFICER: It says supervisor on the list.

15 MR. EBERLE: Right.

16 MR. LALLEY: I think that Mr. Oksuz is going to --

17 THE HEARING OFFICER: What is his title?

18 THE WITNESS: Supervisor of curriculum and instruction.

19 THE HEARING OFFICER: But either way he would not be
20 included in the bargaining unit; is that right?

21 MR. LALLEY: Correct.

22 MR. EBERLE: Yes. Thank you.

23 THE HEARING OFFICER: I have a few questions about your
24 testimony earlier. They're scattered. I want to clear up a
25 couple of things. There's been mention of both the cluster head

1 position and cluster coordinator. Could you explain the
2 difference?

3 THE WITNESS: This year we're using cluster coordinator.
4 Last year we were calling them cluster head, but this year
5 they're coordinators.

6 THE HEARING OFFICER: There's one --

7 THE WITNESS: Cluster heads, as you can see with their
8 job descriptions, they were limited. This year we added more so
9 that they have more supervisory and managerial responsibilities.

10 THE HEARING OFFICER: So this year there's a cluster
11 coordinator but no longer cluster heads; is that correct.

12 THE WITNESS: Yeah.

13 THE HEARING OFFICER: When you were talking about the
14 numbers of teachers you mentioned that there were two for each
15 grade for kindergarten and 1st grade. Two for kindergarten and
16 two for first grade. Did I understand that right?

17 THE WITNESS: Yes.

18 THE HEARING OFFICER: Is it similar are there two
19 teachers for each of the other grades as well?

20 THE WITNESS: Similar but for 4th and 5th we have a
21 writing teacher also for English. After 3rd grade -- yeah. 3rd
22 grade also same with two teachers. 4th and 5th five teachers
23 because of the there are more courses to teach.

24 THE HEARING OFFICER: Five teachers all together for 4th
25 and 5th grades?

1 THE WITNESS: Yeah.

2 THE HEARING OFFICER: And 6th, 7th and 8th?

3 THE WITNESS: It depends on the weight of the course.
4 We have one English teacher. One social studies teacher but
5 they co-teach English sometimes. One science teacher.

6 THE HEARING OFFICER: So they're not specific to the
7 grades at that level?

8 THE WITNESS: Yeah. It's based on how much workload is
9 there for each subject.

10 THE HEARING OFFICER: Okay. You mentioned that the
11 cluster -- cluster coordinator now was the fourth highest
12 ranking manager?

13 THE WITNESS: Yes.

14 THE HEARING OFFICER: Who are the first three?

15 THE WITNESS: First one is me and then principal and
16 then I have supervisor or for curriculum and instruction and
17 discipline coordinator there.

18 THE HEARING OFFICER: Then --

19 THE WITNESS: And then after that cluster coordinators
20 will come and then we have teachers and student teachers and
21 aids.

22 THE HEARING OFFICER: Right. With respect to the Title
23 1 coordinator if I understood you correctly part of that
24 person's responsibility are as the reading specialist; correct?

25 THE WITNESS: Yes.

1 THE HEARING OFFICER: And you mentioned that that person
2 also has responsibilities for scheduling staff who report to the
3 Title 1 coordinator?

4 THE WITNESS: Yeah. For title services we have some
5 assistant teachers or aids. I mean, she making sure that
6 they're serving for that purpose.

7 THE HEARING OFFICER: Just so I'm clear, what staff is
8 she scheduling -- is that position doing the scheduling for?

9 THE WITNESS: For example, first grade assistant teacher
10 is helping. So she is deciding -- she's just choosing the kids
11 and talking to her and what she is doing.

12 THE HEARING OFFICER: When you say "she" who are you
13 referring to?

14 THE WITNESS: The Title 1 coordinator.
15 She has done it. This is what she does.

16 THE HEARING OFFICER: When you say she's scheduling for
17 the staff, are you talking about her scheduling the time that
18 staff works or the time that she spends with students?

19 THE WITNESS: The time that that staff will work for
20 Title 1 services.

21 THE HEARING OFFICER: Okay. So if she spends a period
22 of time as the reading specialist --

23 THE WITNESS: Right.

24 THE HEARING OFFICER: -- is there anyone else who serves
25 as a reading specialist?

1 THE WITNESS: We have a writing teacher on the title
2 services, but we don't have another person who is certified as
3 reading specialist.

4 THE HEARING OFFICER: But there is a writing specialist?

5 THE WITNESS: There's a writing teacher, yeah.

6 THE HEARING OFFICER: With respect to Ms. Kostosky and
7 the position that she holds now, if she were to become certified
8 what responsibility would she have that she does not have now?

9 THE WITNESS: She will be able to write IEPs.

10 THE HEARING OFFICER: Okay.

11 THE WITNESS: She will be entitled to everything the
12 same as any other special education teacher does, but she can't
13 right now. She's a paraprofessional.

14 THE HEARING OFFICER: Other than writing the IEPs --

15 THE WITNESS: She can write. She can teach and she can
16 --

17 THE HEARING OFFICER: I'm more interested in what she
18 cannot do.

19 THE WITNESS: Right now?

20 THE HEARING OFFICER: Yeah. Besides writing the IEPs is
21 there anything else that she is not allowed to do that she could
22 do if she were certified?

23 THE WITNESS: She cannot teach. She cannot develop
24 IEPs. She cannot make sure goals in IEPs are met or things like
25 that.

1 THE HEARING OFFICER: Who is writing the IEPs now?

2 THE WITNESS: Special education teachers and I have a
3 special education coordinator also, and I have some other
4 professionals to help me in that process.

5 THE HEARING OFFICER: You may have mentioned this
6 earlier but I want to make sure. With respect to the IT
7 specialist you said that he does some teaching of robotics after
8 school?

9 THE WITNESS: Yes.

10 THE HEARING OFFICER: Does he have any other
11 responsibilities for teaching students during the regular school
12 day?

13 THE WITNESS: During the regular school day he doesn't
14 teach, but for example, a few days ago he took kids to a
15 robotics competition during school hours. Yeah. He's attending
16 our science meeting. He's part of it with the other teachers.
17 I just -- this is something very important, because he's with
18 the teachers in science and technology.

19 THE HEARING OFFICER: But he doesn't teach students on a
20 regular basis?

21 THE WITNESS: He decides on events like science fair and
22 for example, we have a 3D printer right now. He's working with
23 the teachers talking to the teachers how to use it.

24 THE HEARING OFFICER: Right.

25 THE WITNESS: But he's a member of science committee.

1 Science committee is composed of science teachers. There are
2 some elementary teachers but science teachers that are all
3 there; science and technology.

4 THE HEARING OFFICER: Now, the teachers that he works
5 with -- you said sometimes he works with teachers after school
6 hour; is that right?

7 THE WITNESS: If there are some things that they need
8 help. Like, if teachers have difficulty using database that we
9 use he schedules time including after school or during school
10 hours or he fixes things.

11 THE HEARING OFFICER: If he does those things after
12 school hours is he paid separately for that time?

13 THE WITNESS: If it's like overtime. It didn't happen
14 so far, because he's supposed to be there from -- like eight
15 hours at least. So far he didn't make anything. I mean, he
16 works eight hours as other staff members.

17 THE HEARING OFFICER: But he's paid extra for the time
18 that he does with the robotics team?

19 THE WITNESS: Yes.

20 THE HEARING OFFICER: So if he stays after school,
21 that's different?

22 THE WITNESS: After school means that students are gone
23 by 3:30 or so. They start loading them on the bus around that
24 time. It's during that time, half an hour or so, before
25 teachers are gone he can work with them.

1 THE HEARING OFFICER: Teachers stay after the students
2 are gone? Part of their workday continues after students are
3 gone?

4 THE WITNESS: If they want to stay, they stay. I don't
5 force them to stay.

6 THE HEARING OFFICER: With respect to the assistant
7 counselor as I understood you, she's looking to get a
8 certificate; is that right?

9 THE WITNESS: Yes.

10 THE HEARING OFFICER: Once she gets the certificate, if
11 I understood you correctly, she can do one-on-one counseling; is
12 that right?

13 THE WITNESS: Yes.

14 THE HEARING OFFICER: It is possible that she gets the
15 certificate but remain an assistant counselor?

16 THE WITNESS: I mean, assistant counselors also can be
17 certified counselors and they can provide services. So I prefer
18 her to have -- yeah. She may stay so based on the budget and
19 other dynamics in the school.

20 THE HEARING OFFICER: So the ability to do the
21 one-on-one counseling is not because of her job title but
22 because of the certification?

23 THE WITNESS: Yes.

24 THE HEARING OFFICER: Okay. Again, this special
25 education paraprofessional who helps some kids on improving

1 their behavior; is that right?

2 THE WITNESS: Yes.

3 THE HEARING OFFICER: And you mentioned that teacher
4 aids do something similar? Did I understand that right?

5 THE WITNESS: Some aids can do the same thing.

6 THE HEARING OFFICER: So it's the same thing?

7 THE WITNESS: Similar.

8 THE HEARING OFFICER: What would be different?

9 THE WITNESS: Difference is that special education
10 paraprofessional works with different students at different
11 times. Aids are assigned to a child. They're like -- you know,
12 they have a child and they shadow that child all of the time.

13 THE HEARING OFFICER: So the special education
14 paraprofessional might be for a day or two or some particular
15 instance?

16 THE WITNESS: Based on the need. For example, at this
17 hour she may have to work with this child in this classroom.
18 When the child is de-escalated and he or she is fine, she may be
19 called for something else for other child, because we have four
20 or five high need kids.

21 THE HEARING OFFICER: Okay. The ESL coordinator, does
22 that person do the after school clubs or tutoring?

23 THE WITNESS: She does.

24 THE HEARING OFFICER: Is she required to do that like
25 the teachers are?

1 THE WITNESS: She's expected, yes.

2 THE HEARING OFFICER: Does that mean that she has a
3 choice when you say she's expected?

4 THE WITNESS: She's doing it. Yes.

5 THE HEARING OFFICER: Is that part of her job duty to do
6 that twice a week?

7 THE WITNESS: We expect from our all professional
8 employees to provide that.

9 THE HEARING OFFICER: Do you know what clubs or tutoring
10 the ESL --

11 THE WITNESS: She tutors English language learners
12 mainly. I don't know that she is sponsoring any clubs, but I
13 know that she's tutoring some kids.

14 THE HEARING OFFICER: I think that's all I have.
15 Mr. Lalley, do you have additional questions based on my
16 questions?

17 MR. LALLEY: I don't.

18 THE HEARING OFFICER: Mr. Eberle?

19 MR. EBERLE: No.

20 THE HEARING OFFICER: Thank you, very much. Do you have
21 any other evidence or witnesses that you want to present,
22 Mr. Lalley?

23 MR. LALLEY: No. The Employer rest subject to calling
24 rebuttal.

25 THE HEARING OFFICER: Mr. Eberle, are you ready to get

1 started?

2 MR. EBERLE: Yes. The association calls Ashley McCurry.

3 ASHLEY MCCURRY

4 called as a witness by the Petitioner, having been first duly
5 sworn, was examined and testified as follows:

6 THE HEARING OFFICER: State your name and spell your
7 first and last name for the record please.

8 THE WITNESS: It's Ashley McCurry; A-s-h-l-e-y
9 M-c-C-u-r-r-y.

10 THE HEARING OFFICER: Thank you. Just remember to keep
11 your voice up so we can all hear you. Go ahead.

12 DIRECT EXAMINATION

13 BY MR. EBERLE:

14 Q. Ashley, are you testifying here pursuant to a subpoena
15 that was issued by my office?

16 A. Yes.

17 Q. Would you tell the hearing officer where you're employed
18 at?

19 A. Young Scholars of Western Pennsylvania Charter School.

20 Q. In what capacity are you employed there?

21 A. I am a full time 1st grade teacher and a cluster head
22 coordinator.

23 Q. How long have you been employed at the charter school?

24 A. This is my 7th year.

25 Q. And have you been a teacher for the 1st grade for your

1 entire employment?

2 A. Yes.

3 Q. How long have you been a cluster head?

4 A. This is my second year.

5 Q. Do you work a regular schedule?

6 A. I do.

7 Q. What is the schedule that you normally work?

8 A. 7:45 until 3:45.

9 Q. Is that Monday through Friday?

10 A. Yes, Monday through Friday.

11 Q. Do you have a summer furlough period?

12 A. Yeah, I don't work in the summer.

13 Q. What is the dates of the school year this year? When
14 does it start and when does it end?

15 A. Around August 17th to June 6th; somewhere around there.

16 Q. So you're off for those roughly two months?

17 A. Yes.

18 Q. During your regular weekday schedule do you do any after
19 school duties?

20 A. Yes. Two days a week I tutor after school.

21 Q. What time do the tutoring sessions run?

22 A. Mine end at 4:45.

23 Q. What days of the week?

24 A. Mondays and Tuesdays.

25 Q. Who do you report directly to?

1 A. Mr. B, the principal or Adem, but first Mr. B.

2 Q. And that's his initial, Mr. B?

3 A. Yes.

4 Q. Is that what everyone refers to him as?

5 A. Yeah. I don't think that anybody can pronounce his last
6 name.

7 THE HEARING OFFICER: He's listed B-i-y-i-k-l-i. Okay.

8 Go ahead.

9 Q. Is your teacher contract renewed annually?

10 A. Yes.

11 Q. And do you have a separate contract to perform the
12 cluster head duties?

13 A. Yes.

14 Q. So your you're on your second cluster head contract?

15 A. Yes.

16 Q. What period -- when during year does the school make an
17 offer to you to renew your contract?

18 A. The offer is normally in May or June but then the
19 contract actual starts in August.

20 Q. With the start of the new school year?

21 A. Yes.

22 Q. And I think that we heard it but what cluster are you
23 responsible for?

24 A. Kindergarten and 1st grade.

25 Q. And so I want to ask you first about your general duties

1 as a teacher even though I'm sure that we're all in some sense
2 familiar. Would you please tell us what are your main
3 responsibilities as a teacher at the charter school?

4 A. To instruct students in reading, math, science, social
5 studies and writing, create lesson plans, attend faculty
6 meetings, maintain a grade book.

7 Q. And what -- well, let me ask you this first: Do you
8 attend cluster meetings?

9 A. Yes.

10 Q. And for the cluster that you're apart of how many
11 teachers are involved in these cluster meetings?

12 A. There are three.

13 Q. Three in addition to you?

14 A. No. Well, there's four total.

15 Q. Who are the other three teachers involved along with you
16 in your cluster?

17 A. You want their names?

18 Q. Well, you can just go with what grades.

19 A. Two kindergarten teachers and one other 1st grade
20 teacher.

21 Q. Does anyone else ever attend the cluster meetings?

22 A. Yes. The teacher aids will and the curriculum
23 supervisor will also join them at times.

24 Q. Are there times that either the principal or CEO
25 participates?

1 A. The CEO participated in one of them.

2 Q. What about the principal?

3 A. No.

4 Q. Since you've been cluster head who conducts the meeting
5 for your cluster?

6 A. I do.

7 Q. And I don't know if I asked you, but how often does the
8 cluster meeting take place?

9 A. Once a week.

10 Q. Where is it conducted?

11 A. In my classroom.

12 Q. Is it at the same time every week?

13 A. Yes.

14 Q. Do you know who set that time?

15 A. I believe the principal.

16 Q. And how long is the cluster meeting normally?

17 A. 40 minutes.

18 Q. What goes on in the cluster meeting?

19 A. So the teachers will bring to me any concerns that they
20 have that I can then, you know, communicate whenever we have the
21 cluster head meetings. We discuss best practices. I kind of
22 mentor them with curriculum. We go over test results and I can
23 help them decide what kinds of instructional steps to take and
24 help them decide on who needs tutoring and things of that
25 nature.

1 Q. Do you have a formal agenda for these cluster meetings?

2 A. Not a formal one.

3 Q. Do they tend to follow the same pattern every week or
4 does it differ over time?

5 A. It falls in the same pattern where we first discuss any
6 issues that we're having and things that they want me to bring
7 up at the cluster head meeting and then kind of just things that
8 are happening within the school at that time that we need to
9 discuss like events, parent teacher conferences or upcoming
10 events or things like that.

11 Q. Could you give the hearing officer an example of the of
12 the kinds of things that the cluster teachers have brought to
13 your attention and asked you to take onto the cluster head
14 meetings?

15 A. Yeah. Mainly things like behavior problems that they're
16 having and the support that we would need; in other words to
17 kind of help us. That's one big thing that I feel like I take
18 to the cluster head meetings; things like that mainly behavior
19 issues that we're having and the support that we need to ask
20 that administrators for.

21 Q. How would you characterize the atmosphere in the
22 meetings?

23 A. It's more informal.

24 Q. Is it -- is there a team approach or are you supposed to
25 steer everybody?

1 A. I feel like it's a team approach, because I normally
2 first start out by asking them, "Are there any issues that we
3 need to talk about before I talk about this short list that I
4 may have?" And that short list could include upcoming events or
5 deadlines that we're coming to that I give them reminders of
6 what needs to be done.

7 Q. Is there any meeting or any cluster meeting during year
8 that has any special significance like a meeting for planning
9 for next year or things like that?

10 A. No.

11 Q. They're all pretty much the same sort of profile?

12 A. Yes.

13 Q. And do you -- do you perceive that you have any
14 managerial responsibility in the cluster meetings?

15 A. No.

16 Q. Have you ever been told that you have managerial
17 responsibility in these cluster meetings?

18 A. No.

19 Q. You did say that you -- one of the things that you do is
20 provide mentoring and support to the other teachers?

21 A. Yes.

22 Q. Where do you stand in terms of teaching experience among
23 the four people in the cluster?

24 A. I'm not sure that I understand what you asked.

25 Q. Who has the most time as a teacher among the four of

1 you?

2 A. I do.

3 Q. You do?

4 A. I do.

5 Q. And by a long margin or close?

6 A. No. This is my tenth year teaching, and I think that
7 all of them have only been teaching for under four years.

8 Q. Does that have anything to do with your approach of
9 mentoring the fact that you're more experienced than these other
10 teachers?

11 A. Yes, it does.

12 Q. How?

13 A. So I feel like I have more experience. They often come
14 to me asking questions on what to do, and I provide them with
15 resources on how to better their teaching or just mentor them in
16 whatever area that they need, classroom management or
17 instruction, or lesson plans.

18 Q. Have you ever been given any specific training in how to
19 conduct the cluster meeting?

20 A. No.

21 Q. How did you know what to do when you became a cluster
22 head?

23 A. Just by the contract.

24 Q. Had you been the cluster meeting before you became a
25 cluster head?

1 A. No.

2 Q. You mean they just started last year?

3 A. Yes.

4 Q. You used the term best practices and I don't want to
5 assume too much. So what did you mean when you used that term?
6 What does that refer to?

7 A. Best practices are just practices that teacher do that
8 are effective and are proven to work with students.

9 Q. And where does that come from? Where do you get the
10 best practices from?

11 A. Professional developments and things like that and
12 experience of trial and error of teaching something a certain
13 way.

14 Q. Is that something formal that is set out that these are
15 the best practices?

16 A. Not formal.

17 Q. What is it?

18 A. It's just the experience of a teacher, things that they
19 have tried and that have worked although some best practices
20 have been in professional developments; just like explicit
21 instruction or best practices on how to be a good teacher.

22 Q. You mentioned that there are teachers aids. Are the
23 assistant teachers in the cluster meetings as well?

24 A. Yes.

25 Q. And how many assistant teachers are there for

1 kindergarten and 1st grade?

2 A. There's one for kindergarten and one for 1st grade.

3 Q. Do those two people typically attend the cluster
4 meetings?

5 A. Typically but not always.

6 Q. What is their role or what input do they have as
7 compared to the teachers?

8 A. They really don't have much input. They're just there.

9 Q. Okay. I was asking about the assistant teachers. Do
10 aids also attend the cluster meetings?

11 A. No.

12 Q. Are there any aids currently assigned to the
13 kindergarten or 1st grade?

14 A. Yes.

15 Q. So the aids don't come to the meetings as a matter of
16 course?

17 A. Yes.

18 Q. I want to turn to the cluster head meetings. How often
19 do these meetings take place?

20 A. Weekly.

21 Q. Who normally attends the cluster head meetings?

22 A. The cluster coordinators and Mr. B, the principal and
23 sometimes the CEO and also sometimes the discipline coordinator
24 and the curriculum coordinator but not always.

25 Q. Are you required to attend the cluster head meeting?

1 A. Yes.

2 Q. And where are they held?

3 A. In the principal's office.

4 Q. Who schedules the cluster head meetings?

5 A. Mr. B, the principal.

6 Q. Who runs the meeting?

7 A. The principal.

8 Q. And what takes place in the cluster head meetings?

9 A. Normally the same thing as the regular cluster meetings.

10 It's an open Google doc were we can put any concerns on and
11 that's the agenda for the meeting. So whatever concerns that
12 the cluster coordinators have will write on the document and we
13 will discuss those issues and then normally whatever agenda or
14 whatever things that the principal needs too tell us that we
15 then therefore communicate that with the other teachers within
16 our cluster.

17 Q. Do you make entries in the Google doc before you get to
18 the meeting or is that something that takes place during
19 meeting?

20 A. Normally before the meeting.

21 Q. And do the other cluster heads do the same thing that
22 you do in approaching the meeting?

23 A. Yes.

24 Q. Do you know ahead of time what each of them is entering
25 on the Google doc?

1 A. If I look at it ahead of time, yes.

2 Q. And is the role that you have in these meetings similar
3 to what you see the role of the other cluster heads?

4 A. Yes.

5 Q. Do you all do the same thing?

6 A. Yes.

7 Q. Are those cluster head meetings ever or have they ever
8 in your experience been used to address any disciplinary issue
9 regarding a member of staff?

10 A. No.

11 Q. Have they ever been used to address an evaluation of a
12 member of the staff?

13 A. No.

14 Q. Has there ever been any cluster head meeting where you
15 addressed budgetary matters?

16 A. No.

17 Q. Are there discussions in the cluster head meetings
18 regarding the curriculums at the school?

19 A. Yes.

20 Q. Is that something that's commonly discussed in the
21 cluster head meetings?

22 A. No. And it's not just at cluster head meetings. It's
23 normally talked about with the whole staff and we talk about it
24 more in depth in the cluster head meetings.

25 Q. You talk about what more in depth?

1 A. The curriculum.

2 Q. So if you could expand on that a little bit.

3 A. For example, if the school was talking about getting a
4 new curriculum we would talk about it maybe at a faculty meeting
5 where all of the teachers have a say and then we throw some
6 ideas together on what curriculums we would like to have.
7 Maybe we would have a list of three or four.

8 At the cluster head meeting we would take more about
9 those curriculums and maybe get samples for three of them and
10 then we would look at them with all of the other teachers within
11 our cluster meetings and then make a decision from there.

12 Q. Who makes the decision?

13 A. I'm not sure who makes the financial decision for
14 curriculum.

15 Q. I don't want to assume too much. What are you talking
16 about when you use that word?

17 A. For curriculum it's like the textbooks that we're going
18 to use; the teachers manuals that we're going to use for each
19 subject.

20 Q. So when you're talking about discussing a new curriculum
21 did you mean in reference to a particular subject or an overall
22 curriculum for the whole school?

23 A. For a specific subject. For example, last year we
24 decided to change curriculums for math and for reading.

25 Q. And could you describe how that process played out?

1 A. Like I said before, the teachers got together and said
2 that we weren't happy with the current curriculum that we had.
3 We had meetings with the whole staff about it and then we got
4 samples sent to the school and then within the cluster meetings
5 as a team we would go through the different curriculums and then
6 we would talk about it more in the cluster head meetings as to
7 what the teachers like the most.

8 Q. Did you as a group -- the cluster heads arrive at some
9 type of recommendation?

10 A. Yes, ultimately we did.

11 Q. What did do you with that recommendation?

12 A. Just told it to Mr. B and I think that they had to send
13 it to the board for approval.

14 Q. They being who?

15 A. Administration.

16 Q. How long are the cluster head meetings?

17 A. 40 minutes.

18 Q. It's a class period; is that how it works?

19 A. It's a class period.

20 Q. Do you have -- do have you any training in what you're
21 supposed to do in a cluster head meeting?

22 A. No.

23 Q. Has anyone ever told you what is expected of you in your
24 role in participating in the cluster head meeting?

25 A. Not verbally, but I just know by reading the contract.

1 Q. The job description in your contract?

2 A. Yes. Yes.

3 Q. What is your understanding of what is expected of you?

4 A. To hold meetings once a week and to be a mentor to the
5 other teachers, a communicator between administration and my
6 cluster of teachers and just to be mainly a mentor and
7 communicator back and forth.

8 Q. I'm sorry. I was asking about the cluster head meetings
9 at this point.

10 A. I'm sorry.

11 Q. That's okay. Do you have any understanding of what is
12 expected of you when you participate in the cluster head
13 meetings?

14 A. Just to communicate any issues that the teachers in my
15 cluster are having, to also talk about recommendations for
16 tutoring or special education and things like that.

17 Q. Do you have any role when the other cluster heads bring
18 up similar issues? For instance, do you weigh in on things that
19 other people bring up?

20 A. Yes.

21 Q. How so? What is your role or responsibility?

22 A. Just to give my opinion. If the topic that another
23 teacher brings up is student behavior or the need for more help,
24 I'll chime in with my experiences.

25 Q. What is the atmosphere normally like in the cluster head

1 meetings; formal or informal?

2 A. They are more informal.

3 Q. Do you regard it as a team approach similar to what you
4 said with the cluster meetings?

5 A. Yes.

6 Q. Do they tend to work well? Are they productive in your
7 experience?

8 A. Sometimes.

9 Q. Like any meetings. Is there some responsibility that
10 you have at the end of the cluster head meetings? Do have you
11 to take something and take it back to your people or anything
12 like that?

13 A. Sometimes if there's something specific, an upcoming
14 event or something that the principal wants us to share with the
15 cluster.

16 Q. Can you give us an example?

17 A. Just like upcoming events, like parent teacher
18 conferences and we will talk about that and kind of tell our
19 cluster heads what to focus on for in those parent teacher
20 conferences.

21 Q. Is there ever a time when the cluster head meetings are
22 devoted to either setting or reviewing the school policies?

23 A. No.

24 Q. Does that ever come up; the subject of reviewing the
25 school policies in the cluster head meetings?

1 A. No.

2 Q. Is there anything that you perceive about your
3 participation in the cluster head meetings that you would regard
4 as managerial?

5 A. No.

6 THE HEARING OFFICER: It's kind of vague. Maybe you can
7 explain what you understand that to mean? When he asks you if
8 you think it's managerial, what do you understand that to me?

9 THE WITNESS: For me to be in charge of other people.

10 THE HEARING OFFICER: Okay.

11 Q. Are there professional staff meetings at the charter
12 school?

13 A. Yes.

14 Q. How often are there professional staff meetings?

15 A. Biweekly.

16 Q. And who attends the professional staff meetings? Let me
17 go down the list. I don't want to come at it that way. Do the
18 teachers attend the professional staff meetings?

19 A. Yes.

20 Q. Do the cluster head teachers also attend?

21 A. Yes.

22 Q. What about the ESL coordinator?

23 A. Yes.

24 Q. Does the behavior specialist -- behavior specialist?

25 A. Yes.

- 1 Q. Does the Title 1 coordinator attend?
- 2 A. Yes.
- 3 Q. Does the counselor attend?
- 4 A. Yes.
- 5 Q. What about the principal?
- 6 A. Yes.
- 7 Q. Does the discipline coordinator attend?
- 8 A. Yes.
- 9 Q. Does the supervisor of curriculum and instruction
10 attend?
- 11 A. Yes.
- 12 Q. Does the assistant counselor attend?
- 13 A. Yes.
- 14 Q. Do the assistant teachers attend?
- 15 A. Yes.
- 16 Q. Does the school nurse attend?
- 17 A. No.
- 18 Q. Does the IT specialist attend?
- 19 A. No. I don't think that he does.
- 20 Q. Who runs the professional staff meetings?
- 21 A. The principal.
- 22 Q. What is the purpose of the professional staff meetings
23 if there is one or if there are more than one?
- 24 A. Just overall communication with upcoming events or
25 policies.

1 Q. Is there any connection between what goes on between the
2 professional staff meetings as to what goes on in the cluster
3 meetings and the cluster head meetings?

4 A. Yeah. Normally things talked about in the cluster head
5 meetings are then talked about in the faculty meetings.

6 THE HEARING OFFICER: The faculty meeting, is that the
7 same as professional staff meeting?

8 THE WITNESS: Yes. Yes.

9 Q. How much of your workday or your workweek do you spend
10 in teaching versus how much do you spend in your cluster
11 coordinator role?

12 A. I mean, I would say 90 to 95 percent and teaching and
13 then maybe 5 percent is cluster head.

14 Q. Do you do anything as a cluster head outside of the
15 cluster meeting and the cluster head meeting?

16 A. I mentor.

17 Q. And is that on a formal basis or informal basis?

18 A. I have one that's formal and then two that are informal.

19 Q. When you say one that's formal, what is the basis there?
20 What is going on there?

21 A. With the formal mentorship that I have I meet with them
22 once a month and I help -- they come to me with any questions
23 that they have and I just help them with their behavior
24 management and their instruction.

25 Q. Is that one of the people in your cluster or someone

1 else?

2 A. It is. It's a kindergarten teacher.

3 Q. And with the other two it's less formal?

4 A. Yes, because they're both new to the school So I kind of
5 have to.

6 Q. Okay.

7 THE HEARING OFFICER: Can you explain how that -- how
8 did it become formal?

9 THE WITNESS: Because there's an actual document paper
10 that I have to write down the times that I meet with her and the
11 other two I don't.

12 THE HEARING OFFICER: How does that become assigned to
13 you?

14 THE WITNESS: Well, the curriculum specialist assigned
15 the formal mentorship to me.

16 THE HEARING OFFICER: Okay.

17 Q. Do you interact at all with the behavior specialist?

18 A. Yes, I have.

19 Q. And help me out with her name.

20 A. Kostosky.

21 Q. And her first name Christy?

22 A. Christina.

23 Q. You say that you have interacted with her?

24 A. Yes.

25 Q. For what reason or reasons?

1 A. Because I have a student with severe behavior problems.
2 So she comes in my room and has done observations for a formal
3 behavior plan for that student. It's called an FBA.

4 Q. Once she comes up with the FBA does she consult with you
5 about it at all?

6 A. Yes.

7 Q. What is the nature of that consultation?

8 A. Well, she collects all of the data and kind of shares
9 what is causing the behavior and what are the solutions that
10 could possibly correct the behavior. She will create a behavior
11 plan for us to implement.

12 Q. Does one of you have some supervisory responsibility
13 over the other?

14 A. No.

15 Q. What is the nature of how the two of you address this?
16 Is it cooperative or is it she's tell you or you're telling her?

17 A. No. I feel like it's cooperative.

18 Q. Can you override what she recommends or suggests?

19 A. I don't think so.

20 Q. Does she ever prepare the FBA in the draft and then talk
21 it over with you to get a final result?

22 A. I believe that she will write the FBA and then they talk
23 to the special education teachers about it.

24 Q. So when it comes to you it's a finished product?

25 A. I've never seen a finished product, because I'm not to

1 the point in this student's meeting yet.

2 Q. Okay.

3 A. I know that she collects the data for them and she
4 writes them to present at the meeting for special education.

5 Q. Do you know whether you have any authority to direct her
6 in any way in terms of this process?

7 A. No.

8 Q. No, you don't know?

9 A. No, I don't have authority.

10 Q. How do you know that you don't have authority to direct
11 her in the process?

12 A. I was never told that I have authority to do that.

13 Q. Do you know if she has any authority to direct you?

14 A. I don't believe so, no.

15 Q. Is she relatively new at the school?

16 A. This is her first year.

17 Q. How was she introduced to you?

18 A. As a behavior specialist.

19 Q. Have you ever interacted with her in regard to the other
20 part of her title which is special ed paraprofessional?

21 A. No.

22 Q. Is there anyone else on the staff anywhere that you
23 would go to for that kind of -- for special ed paraprofessional
24 services?

25 A. No.

1 Q. She's it; is that fair to say?

2 A. I didn't even know that was her job description.

3 Q. Okay. Is there a process if you figure out that you
4 need some supplies or some equipment for your classroom for you
5 to get it?

6 A. Yeah. So we fill out a -- it's called a purchase
7 requisition form. We will fill out a form with what we need and
8 we have to get it approved by the principal and then the
9 business manager will order those things if they're approved.

10 Q. Do you do that yourself?

11 A. Each teacher does it for yourself.

12 THE HEARING OFFICER: Do what for yourself?

13 THE WITNESS: Write down on the paper what you need.

14 THE HEARING OFFICER: So you -- but you don't do the
15 ordering yourself?

16 THE WITNESS: No.

17 THE HEARING OFFICER: What you do yourself is write out
18 the form?

19 THE WITNESS: Yeah. We write out the form for what we
20 would like and it has to be approved by the principal and then
21 the principal will approve it and then it will be ordered.

22 Q. Can you give me example of things that you have
23 requested on one of these purchase order forms?

24 A. Things like pencils, erasers and crayons.

25 Q. Are you saying that you would submit a purchase order

1 for something like that if you thought that you needed it for
2 your classroom?

3 A. Yes.

4 Q. Did the other teachers in your cluster ever submit their
5 purchase orders through you?

6 A. No.

7 Q. Have you ever been consulted about the overall budget of
8 the charter school?

9 A. No.

10 Q. Do you have any responsibility in regard to program
11 design at the school in terms of setting up or designing
12 programs?

13 THE HEARING OFFICER: Can you be more specific? What
14 you mean by programs?

15 MR. EBERLE: I don't know. I'm fishing.

16 A. Yeah. I'm not sure.

17 Q. You talked about curriculum change and how that is
18 accomplished. Do you have any responsibility, for instance, in
19 terms of setting up after school clubs or programs?

20 A. No. No.

21 Q. Have you ever been consulted about those kinds of
22 activities at the school?

23 A. No.

24 Q. What about events, you mentioned that events are
25 sometimes a feature of the cluster head meetings?

1 A. Yes. So --

2 Q. Go ahead.

3 A. -- teachers have to sign up for a certain amount of
4 events per year and we are in charge of running those events as
5 a team.

6 Q. When you say that you're in charge of running the event,
7 does that mean include creating the event and deciding what it's
8 going to be?

9 A. Yes.

10 Q. How does that happen?

11 A. So this year it's changed. Before we were assigned the
12 events, but this year we got to chose them. So there's an
13 online Google document and you can sign up for whichever events
14 that there are. I signed up for the Veteran's Day event with a
15 group of teachers and then the group of teachers we get together
16 and decide what that event will look like and we plan it and
17 conduct it.

18 Q. Is it an in school event?

19 A. Yes, but not all of them are in school events.

20 Q. Would that encompass things like field trips?

21 A. No. The events that I'm talking about are not field
22 trips.

23 Q. I'm not sure that I understand then. What would be --
24 what is the Veteran's Day event?

25 A. So for the Veteran's Day event we had veterans from the

1 community come into the school and speak and we had a little
2 assembly for them and then they came into the classrooms and
3 spoke to the students.

4 Q. How many teachers were involved in setting up that
5 event?

6 A. I think six.

7 Q. Did you as a cluster head have to have any more
8 responsibility than anybody else in terms of that event?

9 A. No.

10 Q. Did you have any greater authority than anybody else?

11 A. No.

12 Q. Do you ever work with the Title 1 coordinator?

13 A. I have communications with her.

14 Q. Often or --

15 A. Often. She works with my students every day.

16 Q. How does she interact with your students?

17 A. She pulls them out for one period and instructs them in
18 reading.

19 Q. One at a time?

20 A. No. No, not one at a time. She pulls a group of
21 students. For example, whenever she pulls my students she also
22 pulls the students from the other 1st grade classroom.

23 Q. I guess I should have asked you this but how many
24 students do you typically have in your classroom?

25 A. 20.

1 Q. So she pulls out some subgroup of the 20?

2 A. Yes. The lowest performing in reading.

3 Q. How is it determined that they are the lowest
4 performing?

5 A. By tests that we take. T AIMS web testing and Star
6 testing.

7 Q. Is that something that she administers or you
8 administer.

9 A. No. The teachers administer those tests.

10 Q. How does she find out who the lowest performers are?

11 A. We then forward her the results and they combines them
12 all in a document.

13 Q. Does she talk to you about what is going on with her
14 work with though students?

15 A. No, not really. I know that she's teaching them
16 reading, but we don't have the time to discuss.

17 Q. Do you have any ability to direct or order her in any
18 way?

19 A. No.

20 Q. Do you know if she has any authorities to do the same
21 with you?

22 A. No.

23 Q. No, you don't know?

24 A. I don't know that she has the authority to.

25 Q. Do you interact with the counselor?

1 A. Yes.

2 Q. Often?

3 A. Yes. With my group of students, yes.

4 Q. What is the nature of your interaction with the
5 counselor?

6 A. I am on a committee with her -- a PBIS committee where
7 we discuss positive behavior plans and I talk with her regularly
8 because I have students that need to see her.

9 Q. Do you have any interaction with the assistant
10 counselor?

11 A. She sits in on the PBIS meetings but other than that,
12 no.

13 Q. Would you ever go to the assistant counselor for
14 something that -- of the same nature that you would go to the
15 counselor for? In other words, do you see them as peers?

16 A. Not exactly. I feel like it's her aid; like a helper.

17 Q. Do you do any curriculum mapping?

18 A. I do.

19 Q. What does curriculum mapping mean?

20 A. Curriculum mapping means that you take your whole
21 curriculum for the whole year and pace it out as to how you're
22 going to teach it and how long your going to spend on each unit
23 and you just plan your whole curriculum for the year.

24 Q. Do you do that yourself or in concert with other people?

25 A. With the other 1st grade teacher.

1 Q. You and the other 1st grade teacher do your curriculum
2 mapping together?

3 A. Together, yes.

4 Q. Do you know if the kindergarten teachers do the same
5 thing?

6 A. Yes, they do.

7 Q. Is that common with the other grades as well?

8 A. Yes.

9 Q. Does one of you have more authority in terms of the
10 curriculum mapping than the other?

11 A. No.

12 Q. I never thought to ask you that but you discussed
13 cluster meetings, cluster head meetings or professional staff
14 meetings or faculty meetings. Are there any other types of
15 meetings that you attend on a regular basis at the school?

16 A. The PBIS meeting is also once a week.

17 Q. What does PBIS stand for?

18 A. Positive behavior intervention.

19 Q. And who attends the PBIS meetings?

20 A. The PBIS team which includes the special education
21 teacher, another regular education teacher, the discipline
22 coordinator, the counselor the gym teacher and then a middle
23 schoolteacher.

24 Q. What is the purpose of these meetings?

25 A. It's to incorporate a positive behavior plan into the

1 school. We've been doing it for a few years now. We're
2 implementing a positive behavior plan into our school.

3 Q. Who runs the meeting?

4 A. The discipline coordinator.

5 Q. What is your role in that meeting?

6 A. Just a peer to kind of bounce ideas off of and help
7 implement the plan. I kind of help to get the plan in place and
8 up and running.

9 Q. Do you know if you're there because you're a cluster
10 head or because you're a teacher?

11 A. No, just because I'm a teacher.

12 Q. And is that -- did I cover the universe of meetings that
13 are routinely held?

14 A. I believe so.

15 Q. Is there anything about your position at the school
16 either as a teacher or as a cluster head that you consider to be
17 managerial?

18 MR. LALLEY: Objection. I don't think that we're
19 supposed to be asking her questions as to what --

20 THE HEARING OFFICER: I'm concerned about the term of
21 managerial. I need to know what you're talking about a little
22 more specifically.

23 Q. Have you ever been told that you're part of upper
24 management at the school?

25 A. No, I was never told that.

1 Q. You used the term early in your testimony "the
2 administration." What were you referring to when you used that
3 term "administration"?

4 A. The principal, the CEO, the people that I report to, the
5 leaders of the school, the people who are the managers and are
6 in charge of the school.

7 Q. Do you consider yourself to be at the level where you
8 are part of what you regard as the administration?

9 A. No.

10 Q. Why not?

11 A. I feel like I don't have any authority to do any of the
12 things that an administrator would do.

13 Q. Have you ever been asked to evaluate any other member of
14 the staff?

15 A. Evaluate? No.

16 Q. Have you ever participated in the evaluation process of
17 any member of the staff?

18 A. No.

19 Q. Have you ever participated in any aspect of discipline
20 involving any member of the staff?

21 A. No.

22 Q. In your tenure at the charter school are you aware of
23 anyone there having been fired?

24 A. Yes.

25 Q. Once? More than once?

1 A. More than once.

2 Q. Were you ever involved in that process at all?

3 A. No.

4 Q. And have you ever been involved in the process of hiring
5 or recommending a hire of any member of the staff?

6 MR. LALLEY: Just note that I have an objection. Just
7 to be clear on the record, she's been in this position since the
8 beginning of August. With Mr. Eberle's question, I just want to
9 be clear, he seems to be asking her about any of her functions
10 in the school. Since she's been employed for seven years, it's
11 not fair to what this position is that's in dispute for him to
12 be asking her questions that relate to that other time.

13 THE HEARING OFFICER: That's good. If you can be more
14 specific in your time frame. Well, the position is in dispute
15 is the cluster head coordinator. If you want to know what her
16 experience is in that position or if she's aware of other people
17 in that position over that time, that's fine but that's what
18 we're limited to exploring not what she may have done as a
19 teacher -- solely as a teacher.

20 Q. I'm going to ask in regard to your time as a cluster
21 head since the beginning of the school year 2016/'17 and up
22 through the present. Have you ever been involved in any matter
23 of discipline involving any other member of the staff?

24 A. No.

25 Q. Have you ever in that time frame evaluated any other

1 member of the staff?

2 A. No.

3 Q. In that time frame have you been involved in any process
4 to hire someone or been asked to recommend whether to hire
5 somebody?

6 A. No.

7 Q. Have you ever been told that you have -- any authority
8 to revise the charter school's policies in any way?

9 A. No.

10 Q. How do you find out what -- I'll confine myself to the
11 last '16/'17 school year and the present school year. How do
12 you find out what the schools policies are?

13 A. We have a handbook.

14 Q. And have you ever been asked to apply the handbook to
15 anyone else at the school?

16 A. No.

17 Q. Have you ever been asked to provide any input about what
18 is contained in the handbook?

19 A. No.

20 Q. Do you -- have you ever been told that you have any
21 ability to administer anything in the handbook?

22 A. I'm not sure what you mean.

23 Q. Well, if the handbook -- if I understand you're saying
24 that the handbook sets forth the school's policies. Have you
25 ever been told that you have responsibility to apply any

1 particular policies in that handbook to members of the staff?

2 A. No.

3 Q. Have you ever been involved, as cluster head or cluster
4 coordinator, in any process of long range planning for the
5 charter school?

6 A. Just curriculum mapping.

7 Q. And anything else other than that in terms of long range
8 planning?

9 A. No.

10 MR. EBERLE: That's all of the questions that I have for
11 the witness.

12 THE HEARING OFFICER: You have questions, Mr. Lalley?

13 MR. LALLEY: Yes.

14 THE HEARING OFFICER: Do you want some time before you
15 start asking them?

16 MR. LALLEY: That's a good idea.

17 THE HEARING OFFICER: You can take a walk if you want.
18 We will be back in ten minutes please. Off the record.

19 (Recess taken.)

20 THE HEARING OFFICER: On the record. Mr. Lalley.

21 CROSS EXAMINATION

22 BY MR. LALLEY:

23 Q. Good afternoon, Ms. McCurry.

24 A. Good afternoon.

25 Q. So as I understand it you've been employed by the

1 charter school for seven years?

2 A. Yes.

3 Q. So this is your seventh year?

4 A. Yes.

5 Q. And in the first five years that you were a 1st grade
6 teacher?

7 A. Yes.

8 Q. And did you have any other responsibilities in the first
9 five years other than a classroom teacher?

10 A. No.

11 Q. And so prior to 2016/2017 school year, did the school
12 have the grades organized into clusters?

13 A. No.

14 Q. So that's all new with the 2016 school year?

15 A. Yes.

16 Q. And you become what is referred to as a cluster head for
17 the kindergarten and 1st grade classes; is that correct?

18 A. Yes.

19 Q. If you could look at has been marked as Employer Exhibit
20 2, it's got a No. 2 at the bottom.

21 A. Okay.

22 Q. Okay. This is a description of what you would then --
23 well, let me back up a second. Did you become a cluster head
24 from the K to 1st grade in the 2016/'17 school year?

25 A. Yes.

1 Q. How did you get approached by the other folks in the
2 school about being the K to 1 cluster head?

3 A. I don't recall really. I believe that the principal
4 presented the contract to me.

5 Q. Okay. Was that Mr. B?

6 A. Yes.

7 Q. Did you ask Mr. B what the cluster head duties involved?

8 A. Well, he presented me with the duties. So I just read
9 them. He didn't verbally tell me.

10 Q. Did he give you any explanation of what this cluster
11 head was going to be?

12 A. Just that I would conduct meetings with my cluster and
13 then have a cluster head meeting with him for communication.

14 Q. Okay. Did you ask him anymore details about what the
15 position involved?

16 A. I did not, because I took the paper and just read over
17 it myself.

18 Q. Okay. And you signed it?

19 A. Yes.

20 Q. So you agreed to perform the duties that are described
21 here on Exhibit 2 in the first page?

22 A. Yes.

23 Q. And for the 2016/2017 school year you got paid \$2,000
24 specific to your duties as a cluster head; correct?

25 A. Yes.

1 Q. And that's not -- that's for the whole academic year;
2 that's not a per monthly stipend?

3 A. I wish.

4 Q. At least as I read the numerated duties there's 1
5 through 14?

6 A. On the last years?

7 Q. Yes. I'm still on Employer Exhibit 2. On Employer
8 Exhibit 2 where it's describing what the cluster head duties are
9 for K to 1 there's 14 different responsibilities listed there?

10 A. Yes.

11 Q. Okay. And did you actually do the duties of the cluster
12 head during the K to 1 -- for the K to 1 cluster during that
13 2016/'17 school year?

14 A. Yeah. I don't know if I did every single one of them on
15 there, but yes.

16 Q. Was it your understanding that you would be expect today
17 do what's on here?

18 A. Yes.

19 Q. And that's what you agreed to do when you signed the
20 contract?

21 A. Yes.

22 Q. And then if we go to the first one, which is Employer
23 Exhibit 1, this is the contract that applies for the current
24 school year; correct?

25 A. Yes.

1 Q. And it's accurate that what had been described as just a
2 cluster head in Employer Exhibit 2 actually has under the -- in
3 this description is described as the K to 1 cluster coordinator?

4 A. Yes.

5 Q. And the enumerated duties go for about three pages?

6 A. Yes.

7 Q. And there's -- I -- hopefully my math isn't wrong, but I
8 counted 31 total different numbers if you add up all of the
9 subheadings together; is that right?

10 THE HEARING OFFICER: It's in the record. We're able to
11 see.

12 Q. Does that sound right?

13 A. Yeah. Yeah.

14 Q. How were you presented with this contract that relates
15 to that cluster coordinator job?

16 A. How was I presented with it?

17 Q. How did you receive it or how did you get it?

18 A. Through an email.

19 Q. Did you review it?

20 A. I did.

21 Q. Did you have any questions about whether or not there
22 were any changes in duties from what you had done as cluster
23 head to what this position involved?

24 A. No. I don't have any questions. I could see there --

25 Q. You were seed that there were more things being

1 described there; right?

2 A. Yes.

3 Q. But you didn't have any questions that you felt
4 necessary to ask in administration about it?

5 A. No.

6 Q. Your compensation goes up for these duties from 2016/'17
7 when you were just a cluster head to the coordinator position;
8 correct?

9 A. Yes.

10 Q. And it goes up from \$2,000 to \$2,400. So 20 percent
11 increase from that year to this year; correct?

12 A. Yes.

13 Q. What was your understanding of why the salary or
14 compensation was increased 20 percent from the previous year's
15 position to how it's currently described?

16 A. I wasn't told anything. What was the question?

17 Q. Well, did you have any understanding as to why the
18 position went from only paying \$2,000 when it was just a cluster
19 head job to paying \$2,400 when it's the cluster coordinator job?

20 A. I knew taking the cluster coordinator I also had to be a
21 mentor and the money I thought was because I had to be a mentor.

22 Q. Did you think that that increase in salary had anything
23 to do with the additional responsibilities, just looking at
24 these numbers, of the changes from the previous version to this
25 version of the job?

1 A. I guess it could have been, but I thought that the
2 primary reason was because I had to mentor another staff member.

3 THE HEARING OFFICER: Just so I understand, you said
4 that nobody told you that and that's just what you're assuming
5 based on what you read?

6 THE WITNESS: Yes.

7 THE HEARING OFFICER: Her understanding is -- if it's
8 not based on what was explained to her, I don't know if that's
9 relevant to determining who should be in or out of the unit.

10 Q. Did you ask any questions of Mr. B or Mr. -- Mr. Oksuz
11 is referred to by Mr. Adem by people at school; correct?

12 A. Yes. I did not ask them.

13 Q. Okay. If you feel that you needed to know that
14 information would you be able to go and ask them that?

15 A. Yes.

16 Q. Now, with the focus kept on Exhibit 1 you did sign off
17 on this agreement as well; correct?

18 A. Yes.

19 Q. And you're not disputing at least the school's
20 expectations of what the position involved are what is described
21 in this document; correct?

22 A. Yes.

23 Q. Now, I think that you mentioned that when the -- your
24 cluster involves three other -- three teachers, two kindergarten
25 teachers and one 1st grade teacher; correct?

1 A. Yes.

2 Q. And you have cluster meetings; correct?

3 A. Yes.

4 Q. And at these meetings I think that you indicated that
5 these other teachers in your cluster express concerns to you?

6 A. Yes.

7 Q. What kind of concerns do they express to you?

8 A. Concerns with support, with behavior, with a academics
9 and tutoring.

10 Q. Are you expected as a cluster coordinator to do
11 something with those concerns that are expressed by the
12 kindergarten and 1st grade teacher?

13 A. Yes. I take those concerns and I present them to the
14 principal at our cluster head meetings.

15 Q. That was my next question. You described in the cluster
16 coordinator meetings that there was a discussion of concerns.
17 So you're saying what you're doing is relating to the cluster
18 coordinator in those meetings what you gathered from the your
19 meetings with your cluster individuals?

20 A. Yes.

21 Q. And I understand that you said that you refer to the
22 mentoring responsibilities that you have presently; correct?

23 A. Yes.

24 Q. And you mentioned that you have a document that -- for
25 at least what you were referring to as the formal mentoring, you

1 have to complete this document?

2 A. Yes.

3 Q. This is mentoring of a fellow teacher?

4 A. Yes. A kindergarten teacher that's new to the school
5 this year.

6 Q. What is the purpose of documenting your mentoring
7 sessions with that teacher?

8 A. So that they can get their level 2 certification because
9 in order to get your level 2 certification you need to go
10 through a mentoring program. So this is documentation of their
11 mentoring program.

12 Q. Is this a function that before you were a cluster head
13 you performed at the school?

14 A. No. This function -- this has never been done at this
15 school until this year by anybody.

16 Q. So a person that's hired with -- and I'm a little rusty
17 on the Pennsylvania certification stuff, but as a new teacher
18 they have level 1 certification; is that right?

19 A. Yes.

20 Q. And then in order to move up to the level 2
21 certification -- which they're required to do; correct?

22 A. Yes. Yes.

23 Q. They have -- there's some things that the Pennsylvania
24 Department of Education requires to be done; correct?

25 A. Yes.

1 Q. And so if I'm understanding this correctly then the
2 documentation that you're preparing as part of this mentoring
3 program with this teacher enables that teacher to go from level
4 1 certification to level 2 certification?

5 A. It helps them get there, yes.

6 Q. Can they get there if they don't have this mentoring
7 documentation completed?

8 A. No. No.

9 Q. And again to be clear before you were cluster head you
10 weren't involved in that process? It didn't exist?

11 A. The mentoring program did not exist until this year, but
12 cluster heads are not the only ones who do it. Other teachers
13 can also mentor. It's not a cluster head exclusive duty.

14 Q. Ms. Kostosky -- in terms of the staff meetings are they
15 called professional staff meetings or just staff meetings?

16 A. I only heard them be called staff meetings.

17 Q. They're called staff meeting and they're not called
18 professional staff meetings?

19 A. Yes.

20 Q. Teacher aids can attend them sometimes?

21 A. Teacher aids?

22 Q. Class room aids, do they attend the staff meetings?

23 A. No.

24 Q. You've never seen an aid at a staff meeting?

25 A. A teacher assistant but not an aid.

1 Q. In terms of Ms. Kostosky, just to focus on her position,
2 do you know whether she writes any IEPs for any students?

3 A. I don't believe she does. I believe she writes an FBAs.

4 Q. IEP, we covered this in the record, is individual
5 education plan?

6 A. Yes. Yes.

7 Q. And do you have any students in your class who are
8 currently on an IEP?

9 A. No. I have one in the process of getting one, but it's
10 not finalized.

11 Q. Do you have a team that's put together for that purpose?

12 A. Yes.

13 Q. Who is on that team?

14 A. The special education teacher and the principal and
15 myself and I believe that's it.

16 Q. So Ms. Kostosky is not on that team?

17 A. I don't believe so, but again, we haven't had a meeting
18 on it yet. So I'm not sure. That team hasn't met yet for that
19 student.

20 Q. But you were able to identify who is on it?

21 A. Who is normally in those meetings from previous years,
22 but this year I have not been in an IEP meeting yet with one of
23 my students.

24 Q. And we don't know what Ms. Kostosky -- this is her first
25 year at the school?

1 A. Yes.

2 Q. The Title 1 coordinator function, when students are
3 pulled out of a class to get Title 1 services I think that you
4 indicated that the determination of which students are actual
5 pulled out of the class is based on testing data from tests that
6 the teachers administer?

7 A. Yes. And teacher input as well.

8 Q. And teacher input about how the student is otherwise
9 performing in the class?

10 A. Yes.

11 Q. On reading and --

12 A. Reading specifically but reading and writing for her
13 services.

14 Q. Do you as a classroom teacher decide whether or not a
15 student gets designated as receiving Title 1 services?

16 A. No.

17 Q. Do you know who does that?

18 A. The Title 1 reading specialist.

19 Q. They determine who actually gets those services?

20 A. Yes.

21 Q. And maybe evaluating input from you and the test data
22 but they make the determination of whether or not a particular
23 student is eligible for those services; do they not?

24 A. Yes.

25 Q. And I think that you were asked a question about whether

1 or not you report in any way to the Title 1 coordinator. You
2 don't believe that you report to the Title 1 coordinator?

3 A. No.

4 Q. Do you know whether -- you don't know, I assume, whether
5 a particular teacher was failing to ensure that a student who is
6 entitled to get Title 1 services to which they're entitled would
7 be reported by the Title 1 coordinator to other management; do
8 you?

9 A. Can you say that again? I'm not sure that I understand.

10 Q. If a teacher is failing to comply with the school's
11 Title 1 obligation with respect to failing to provide services
12 to a student and the teacher was somehow involved in failing to
13 provide those services, you don't know what the role of the
14 Title 1 coordinator is in making any recommendations as to
15 whether that person should be disciplined for that?

16 A. No, because the person that provides the services is the
17 Title 1 reading specialist. She's the one that gets the
18 services.

19 Q. But there's some role that the teachers play in helping
20 provide data and information to that person for the Title 1
21 coordinator to be able to make the identification and provide
22 the services; right?

23 A. Yes.

24 Q. So my question is simply: If there's some problem with
25 a particular teacher cooperating, not giving that information to

1 the Title 1 coordinator, and the Title 1 coordinator feels it's
2 interfering with the schools obligations you don't know in your
3 position whether that Title 1 coordinator can go and make
4 recommendations against that teacher?

5 A. I do not think that she can.

6 Q. How do you know that?

7 A. I do not know that.

8 Q. So you don't know?

9 A. I don't know that, but I think that would be an
10 administrator's role.

11 Q. Was there something called a nurse standard operation
12 policy that was circulated to you by Mr. Adem recently?

13 A. Can you say that again?

14 Q. Sure. Was there a standard operating policy or
15 procedure document for nurses circulated by Mr. Adem to you?

16 A. Yes.

17 Q. And was -- what was the reason that that was circulated
18 to you?

19 THE HEARING OFFICER: What does this relate to?

20 MR. LALLEY: It relates to some of these broader
21 function of policy development that they actually do have some
22 input into developing the policies.

23 THE HEARING OFFICER: They who?

24 MR. LALLEY: They meaning the cluster heads -- cluster
25 coordinators. I'm making the same mistake.

1 THE HEARING OFFICER: Go ahead.

2 Q. Did all of the cluster coordinators get copied on a
3 draft of a nurse standard operating policy from the school from
4 Mr. Adem?

5 A. I believe so, but I don't really recall what it was.

6 Q. Were you asked by Mr. Adem along with the other
7 coordinators to review it and provide your input into the
8 development of that policy?

9 A. I don't recall.

10 Q. Do you recall seeing it?

11 A. If you're talking about an email I believe then -- if it
12 was something in an email, I remember seeing the email.

13 Q. Do you remember seeing a draft policy attached to the
14 email?

15 A. I don't think that I opened it.

16 Q. Do you know why it was being sent to you?

17 A. I don't.

18 Q. If you turn to the second page of Employer Exhibit 1 do
19 you see in the middle of the page there is an item No. 1 that
20 says under the description of duties "prepares budget
21 recommendation for her area of responsibility"?

22 A. What page are you on?

23 Q. The second page of your current job description, middle
24 of the page.

25 A. Yes. Clerical.

1 Q. Where it says "prepares budget recommendations for her
2 area of responsibility"?

3 A. Yep, I see that.

4 Q. What is your understanding of what that involves?

5 A. I don't know, because we've never discussed budget
6 recommendations in any cluster head meeting.

7 Q. When you were just the cluster head the year before
8 there wasn't anything in your job description under Employer
9 Exhibit 2 that identifies preparing budget recommendations;
10 correct?

11 A. No. Correct.

12 Q. So this is a new responsibility that you as coordinator
13 are being expected to do?

14 A. Yes.

15 Q. And again you've only been in this job for a little over
16 three months?

17 A. Yes.

18 Q. And do you know whether budgets are done on a monthly
19 basis or an annual basis at this school?

20 A. I honestly don't know, because we've never discussed
21 budgets in the cluster head meeting.

22 Q. Do you have any expectation that at some point you're
23 going to be asked by the school to do what is listed on your job
24 description for budget recommendations for your area of
25 responsibility?

1 A. Once again, it says it on here, but we've never
2 discussed it.

3 Q. If the budgets are done on an annual basis and we're
4 only three months into the school year it's --

5 A. Yes, it's possible.

6 Q. Let me finish the question for the record. -- it's
7 possible that you might not start to do this job until we get
8 into preparing the budget for the next school year; correct?

9 A. Yes.

10 MR. EBERLE: I'm going to object. I don't know what --
11 she's being asked to speculate about what may happen in the
12 future, and I don't know what relevance that could have to the
13 determination of what duties this position actually possesses
14 right now.

15 MR. LALLEY: Well, this is the interesting thing. We're
16 talking about a position that she agrees and we all agree that
17 has been existence since the end of August the way the it
18 currently exists. That's what the board will have to decide
19 whether or not it's in or out of the unit and right now we have
20 lot in here that may not have been triggered yet but management
21 expects and still expects this position to perform.

22 THE HEARING OFFICER: There has been testimony about
23 what management expects and you've asked if anyone has discussed
24 these items with her and beyond that there's no point in having
25 her speculate what she might do. As I said, it's in the job

1 description. If there's been discussion about it, that's
2 relevant but if not, what she speculates might happen is not
3 going to help the director make a decision here. So I'll
4 sustain the objection.

5 Q. Again, I just want to be clear. You haven't been
6 provided yet with any separate training as to what the duties
7 and responsibility of a cluster coordinator actually involve?

8 A. No, I haven't.

9 Q. And I think that you testified that your understanding
10 of what that is comes from the contract?

11 A. Yes.

12 MR. LALLEY: Okay. That's all of the questions that I
13 have.

14 THE HEARING OFFICER: Any additional questions?

15 MR. EBERLE: I do not.

16 THE HEARING OFFICER: I have a few questions that I want
17 to ask to clarify. Let's see if I can find the beginning. You
18 discussed several meetings that you attend as the -- when you
19 were -- with your cluster and also as a cluster head?

20 THE WITNESS: Yes.

21 THE HEARING OFFICER: Are those meetings held during
22 school hours?

23 THE WITNESS: They are, yes.

24 THE HEARING OFFICER: And again we brought this up
25 earlier, but I want to make sure. Mr. Eberle asked if you

1 perceive that you have any managerial responsibility and you
2 said that you did not?

3 THE WITNESS: Yes.

4 THE HEARING OFFICER: What did you understand that to
5 mean? When you said you don't think that you have any
6 management responsibility, what are you referring to?

7 THE WITNESS: That I don't directly manage anybody and I
8 don't have any authority to make any types of decisions for
9 other people that I work with.

10 THE HEARING OFFICER: The cluster head meetings, like
11 you said, are held every week; is that right?

12 THE WITNESS: Yes.

13 THE HEARING OFFICER: Are they held at the same time
14 every week?

15 THE WITNESS: Yes.

16 THE HEARING OFFICER: Do you know who decided what time
17 that would be?

18 THE WITNESS: I believe it was the principal.

19 THE HEARING OFFICER: Why do you believe that?

20 THE WITNESS: Because he did the schedules this year.

21 THE HEARING OFFICER: You mentioned events that you sign
22 up to do with other teachers; is that right?

23 THE WITNESS: Yes.

24 THE HEARING OFFICER: And that -- do I understand
25 correctly that event -- for instance, an event topic is chosen

1 but once the teachers sign up they determine how the event will
2 come to fruition?

3 THE WITNESS: Yes.

4 THE HEARING OFFICER: So you were told, for instance,
5 there should be an event for Veteran's Day and you and the other
6 teachers got together and decided how that would be observed; is
7 that right?

8 THE WITNESS: Yes.

9 THE HEARING OFFICER: Are you given any direction or
10 limits about how that event will be conducted?

11 THE WITNESS: There was an outline of expected things
12 that we need to do, like to plan the event, decorate, purchase
13 posters or gifts and things like that.

14 THE HEARING OFFICER: Do you know who puts that set of
15 expectations together?

16 THE WITNESS: The principal.

17 THE HEARING OFFICER: The Title 1 coordinator you said
18 pulls a group of students out of your classroom for reading?

19 THE WITNESS: Every classroom.

20 THE HEARING OFFICER: And from your classroom is the
21 same number pulled out all of the time?

22 THE WITNESS: Yes. Two.

23 THE HEARING OFFICER: Two.

24 THE WITNESS: Two.

25 THE HEARING OFFICER: Same two?

1 THE WITNESS: Same two.

2 THE HEARING OFFICER: Will that change over the course
3 of the school year?

4 THE WITNESS: It could based on the next round of
5 testing.

6 THE HEARING OFFICER: Who makes the decision about which
7 two or however many students go to the Title 1 coordinator?

8 THE WITNESS: The Title 1 coordinator.

9 THE HEARING OFFICER: So the Title 1 coordinator -- who
10 would notify you as a teacher that certain students had to be
11 pulled out?

12 THE WITNESS: Yes.

13 THE HEARING OFFICER: Who notifies you?

14 THE WITNESS: The Title 1/reading specialist. They're
15 the same person.

16 THE HEARING OFFICER: And who determines the time that
17 those students will be pulled out?

18 THE WITNESS: She does.

19 THE HEARING OFFICER: You mentioned a group that you're
20 in; the positive behavior intervention -- is there another word
21 there?

22 THE WITNESS: System I think.

23 THE HEARING OFFICER: And that meets once a week?

24 THE WITNESS: Yes.

25 THE HEARING OFFICER: Are the only regular teacher in

1 the group?

2 THE WITNESS: No.

3 THE HEARING OFFICER: How many other teachers are in
4 that group?

5 THE WITNESS: There's -- regular ed?

6 THE HEARING OFFICER: Right.

7 THE WITNESS: Two.

8 THE HEARING OFFICER: Okay. And just so I understand,
9 you're there. Are you there because of your cluster coordinator
10 position?

11 THE WITNESS: No.

12 THE HEARING OFFICER: Just as a teacher representative?

13 THE WITNESS: Yes.

14 THE HEARING OFFICER: I want you to take a minute to
15 look through Employer Exhibit 1 and take as much time as you
16 need. I want to know if there are items on this list of
17 responsibilities that you've had specific direction about or
18 consultations with someone superior to you about what your
19 responsibilities will be other than receiving this on paper?
20 Have you had any discussions like that?

21 THE WITNESS: No.

22 THE HEARING OFFICER: Other than the budget that
23 Mr. Lalley pointed out are there other things that you see here
24 that you have not performed at this point?

25 THE WITNESS: Give me a minute.

1 THE HEARING OFFICER: Sure. Take your time.

2 THE WITNESS: No. 8, assist with testing administration,
3 I haven't done that.

4 THE HEARING OFFICER: Has anyone discussed with you if
5 that's something that you will do in the future?

6 THE WITNESS: No. No. 2, monitors the purchase of
7 materials and appropriate for delivery of instruction of the
8 cluster.

9 THE HEARING OFFICER: That's No. 2 under the clerical
10 on page 2?

11 THE WITNESS: Yeah.

12 THE HEARING OFFICER: You have not done that?

13 THE WITNESS: No.

14 THE HEARING OFFICER: Have you had any discussion with
15 anybody about that responsibility?

16 THE WITNESS: No. And No. 3, prepares a cluster report
17 requested by supervisor of curriculum and instruction.

18 THE HEARING OFFICER: You have not been asked to prepare
19 a report?

20 THE WITNESS: No.

21 THE HEARING OFFICER: Do you have any idea what would go
22 in such a report?

23 THE WITNESS: I would guess test scores.

24 THE HEARING OFFICER: But no one has explained to you
25 what a report would consist of?

1 THE WITNESS: No, I haven't had to create one.

2 THE HEARING OFFICER: Okay. And you flipped through the
3 whole thing?

4 THE WITNESS: Uh-huh.

5 THE HEARING OFFICER: You mentioned with respect to the
6 testing that you refer to -- it says testing administration No.
7 8 under instructional -- who administers the tests?

8 THE WITNESS: Each individual teacher.

9 THE HEARING OFFICER: So what do you understand this to
10 mean the testing and administration if you haven't done that
11 yet?

12 THE WITNESS: Help administer a test and put them in
13 another cluster.

14 THE HEARING OFFICER: So you have administered tests in
15 your classroom; correct?

16 THE WITNESS: Yes.

17 THE HEARING OFFICER: But you haven't administered tests
18 in other classrooms; is that right?

19 THE WITNESS: Right, with any of their testing.

20 THE HEARING OFFICER: With respect to the testing that
21 results in Title 1 designation, who conducts that testing? Is
22 that also done by the teacher?

23 THE WITNESS: Yes.

24 THE HEARING OFFICER: On this description at the top it
25 refers to in cluster head position and then it also says cluster

1 coordinator description and through the middle of it there's a
2 reference to cluster chair. Are those all the same thing?

3 THE WITNESS: Yes.

4 THE HEARING OFFICER: So cluster head and --

5 THE WITNESS: Cluster head is what is normally used.

6 THE HEARING OFFICER: That's the phrase that's used?

7 THE WITNESS: Yes.

8 THE HEARING OFFICER: And that was the position that it
9 was called last year?

10 THE WITNESS: Yeah. I didn't realize it was K to 1
11 cluster coordinator until I looked at this.

12 THE HEARING OFFICER: You mentioned being a mentor is
13 not exclusively a duty of a cluster head; is that right?

14 THE WITNESS: Yes.

15 THE HEARING OFFICER: Do you know of other teachers who
16 are serving as mentors who are not cluster heads?

17 THE WITNESS: Yes.

18 THE HEARING OFFICER: Do you know directly how they have
19 been assigned to do that?

20 THE WITNESS: Well, at the beginning of the year the
21 curriculum supervisor asked if we would volunteer to be mentors.

22 THE HEARING OFFICER: And were you in the position to
23 observe other teachers volunteer? Was this at a meeting?

24 THE WITNESS: No. It was through an email that was
25 sent.

1 THE HEARING OFFICER: I guess were teachers other than
2 cluster heads solicited to volunteer?

3 THE WITNESS: Yes.

4 THE HEARING OFFICER: And you know that from the way the
5 email was distributed?

6 THE WITNESS: Yes.

7 THE HEARING OFFICER: Have I generated any other
8 questions?

9 MR. EBERLE: Not from me.

10 THE HEARING OFFICER: Mr. Lalley?

11 MR. LALLEY: Just a couple.

12 RE CROSS EXAMINATION

13 BY MR. LALLEY:

14 Q. You indicated for this mentoring function that other
15 teachers also perform that?

16 A. Yes.

17 Q. And I thought in earlier your cross-examination that you
18 thought the 20 percent increase from 2,000 to 2,400 for your
19 extra duty job was because of the mentoring function?

20 A. Yes. That's correct.

21 Q. Do you know how the other teachers who are performing
22 the mentoring functions are paid, if at all?

23 A. I believe \$200.

24 Q. 200 per person or 200 for doing the function?

25 A. I believe 200 per person.

1 THE HEARING OFFICER: Per teacher being mentored?

2 THE WITNESS: Yes.

3 THE HEARING OFFICER: For the school year?

4 THE WITNESS: Yes. Although I don't know if it was an
5 option to do more than one.

6 MR. LALLEY: That's all I have.

7 THE HEARING OFFICER: Anything else?

8 MR. EBERLE: No.

9 THE HEARING OFFICER: Thank you. Let's go off the
10 record.

11 (Discussion off the record.)

12 THE HEARING OFFICER: On the record. Mr. Eberle another
13 witness.

14 MR. EBERLE: We the Petitioner calls Rob Hancovsky.

15 ROBERT HANCOVSKY

16 called as a witness by the Petitioner, having been first duly
17 sworn, was examined and testified as follows:

18 THE HEARING OFFICER: Please be seated. State your name
19 and spell your first and last name for the record.

20 THE WITNESS: Robert Hancovsky, R-o-b-e-r-t
21 H-a-n-c-o-v-s-k-y.

22 THE HEARING OFFICER: Thank you. Mr. Eberle?

23 MR. EBERLE: Can I have a moment? I lost my notes.

24 THE HEARING OFFICER: Sure.

25 MR. EBERLE: I'm sure I'm the only person here

1 disappointed to hear that.

2 DIRECT EXAMINATION

3 BY MR. EBERLE:

4 Q. By whom are you employed?

5 A. Young Scholars of Western PA Charter School.

6 Q. How long have you been employed with the charter school?

7 A. This is my third year there.

8 Q. And in what capacity are you employed?

9 A. I'm the middle school math teacher. I teach 6th, 7th
10 and 8th grade.

11 Q. Is there more than one section in any of those three
12 grades?

13 A. 6th grade we have two sections and 7th and 8th we each
14 have one.

15 Q. Do you teach both 6th grade sections?

16 A. I do.

17 Q. Do you work a fixed schedule?

18 A. Yeah.

19 Q. What is it?

20 A. Monday through Friday 7:45 a.m. to 3:45.

21 Q. How many classes do you instruct during course of the
22 day?

23 A. In the whole week 32 classes and some days are more than
24 others.

25 Q. And is that a high-side number for teachers; that many

1 classes per week?

2 A. Yeah, on the higher side.

3 Q. Why is that?

4 A. Just being middle school and being math, other subjects
5 they see them five times a week. In math we see them eight
6 times a week. So I have four sections times eight times a week.

7 Q. Is there any other math teacher for 6th, 7th and 8th
8 grade?

9 A. Yes. I co-teach with Mr. D'Amico.

10 Q. Mr. D'Amico?

11 A. Uh-huh.

12 Q. Are you part of a cluster for 6th, 7th and 8th grade?

13 A. Yeah. We're team. We met in cluster meetings once a
14 week.

15 Q. Who are the other members of the cluster that you're on?

16 A. So there's one social studies teacher, myself,
17 Mr. D'Amico, the science teacher, our Spanish teacher and
18 Mrs. Day is our cluster head.

19 Q. What is Mrs. Day's focus? What does she teach?

20 A. Reading and English.

21 Q. And you've been sitting here through the hearing today?

22 A. Uh-huh.

23 Q. And you've heard that testimony so far?

24 A. Yes.

25 Q. Do you attend a weekly cluster meeting for your cluster?

1 A. Yes.

2 Q. Does your cluster function in a manner similar to the
3 description that you heard from Ashley about her cluster?

4 A. No.

5 Q. How are they different?

6 A. Being in middle school we all -- everyone on the team
7 has different contents. We have math, science, social studies,
8 English people. Ours is more we get together and working as a
9 team to determine what would be best for our students and kids
10 in the middle school. So it's not always based on content,
11 because we're teaching something different.

12 Q. As opposed to in the lower grades where they're teaching
13 across the board?

14 A. Correct. Yeah.

15 Q. And so what role do you have and if you could what role
16 does Mrs. Day have in the cluster meetings that you attend?

17 A. Okay. We meet first period on Tuesdays and we get
18 together and we discuss something really simple as like who
19 should have indoor recess duty to things of behavior problems
20 that we're all seeing. So instead of five separate teachers
21 emailing home to a parent, as a team we've all seen this
22 characteristics or behaviors in class so we're coming to you,
23 the parent, as a team. So we talk as a team the plan for that
24 student or maybe as a grade -- maybe 7th grade they have been
25 out of control and they need a talk to. So we will pull

1 together. All the teachers will pull 7th grade together and
2 talk to them or just things that we need to work on as a team.

3 Q. Do you regard Mrs. Day as your supervisor?

4 A. No.

5 Q. Has anyone ever characterized -- anyone in the
6 administration ever characterized her as your supervisor?

7 A. No.

8 Q. Are you on occasion expected to address issues regarding
9 the math curriculum for the middle school?

10 A. Yes.

11 Q. And how do you go about addressing the math curriculum
12 or issues that come up with regard to that curriculum?

13 A. So I got help pick the curriculum and create the
14 curriculum my middle school. My first year I was the only
15 middle school math teacher. So I created the curriculum myself.
16 My second and third year we had other middle school math
17 teachers, and we worked as a team as K through 8 teachers that
18 taught math to pick a curriculum and each teacher made their own
19 curriculum map for their grade.

20 Q. Was -- is the -- was the cluster head last year or the
21 cluster coordinator this year involved in all with any issue
22 addressing your curriculum?

23 A. Not the math curriculum.

24 Q. Why not?

25 A. She teaches English. So we worked as a math team

1 myself, Mr. D'Amico and the 4/5 math teacher and then K through
2 3 all teach math plus all of the other subjects. So we work
3 together.

4 Q. Do you work with anyone in administration in terms of
5 address your curriculum?

6 A. Yes. This year it's Mr. Baier and last year it was
7 Mr. B.

8 Q. So Mr. Baier holds the position of supervisor of
9 curriculum and instruction?

10 A. Yes.

11 Q. How is it that you involve him or he involves you in
12 issues related to your curriculum?

13 A. So we meet and we have a math meeting once a week and we
14 will talk about the curriculum, test results and anything
15 related to math. So it would be myself, Mr. Baier, Mr. D'Amico
16 and then the 3rd grade teacher and the 4/5 math teacher.

17 Q. Does Mr. Baier run those meetings?

18 A. Yes.

19 Q. Can you make suggestions or recommendations to him about
20 changes that you would like to see?

21 A. Yes.

22 Q. Have you in the past made suggests about changes that
23 you would like to see to the curriculum?

24 A. Yeah.

25 Q. Have you had any success getting those changes in place?

1 A. Yeah. From last year to this year we switched
2 curriculums which is something that we wanted to do, and I had a
3 say on which curriculum that I liked best.

4 Q. Was the cluster head last year or the cluster
5 coordinator this year involved in any way in that process of
6 choosing the curriculum you just described?

7 A. Mrs. Day?

8 Q. Yes.

9 A. No.

10 Q. Do you ever have occasion to have to order supplies or
11 equipment for your classroom instruction?

12 A. Yes.

13 Q. And how do you go about doing it?

14 A. Depending on what it is -- if it's at the end of last
15 year I fill out a Google doc on anything that I feel that I need
16 for the following year, and they either get approved or not
17 approved. If I needed something tomorrow, say I needed ten
18 binders, I would just ask Mr. B to fill out a form and Mr. B
19 would approve it or disapprove it.

20 Q. And how easy or difficult has it been in your experience
21 to get things that you need?

22 A. Easy. It's one good thing about school. It's real
23 easy.

24 Q. And is the cluster coordinator involved in that process
25 when you're going about asking to get something?

1 A. No.

2 Q. And do you know if your cluster coordinator is even
3 aware when you're asking for a purchase of that kind?

4 A. Not to my knowledge.

5 Q. Are you familiar with the IT specialist?

6 A. Yes.

7 Q. Do you come into contract with him in the normal course
8 of your work?

9 A. If I need something regarding technology I'll ask him.

10 Q. How often does that come up?

11 A. A few times a year.

12 Q. What sorts of things have you needed that has
13 necessitated you talking to the IT specialist?

14 A. We have -- our math curriculum it has an online
15 component and each grade has their own kind of page in the
16 curriculum, and I can't add students to it. So if a new student
17 comes to school I would send him an email with that student's
18 name and grade and ask if he could add them so they can use the
19 online component of the curriculum.

20 Q. Anything else that has come up that caused you to reach
21 out to the IT specialist?

22 A. No.

23 Q. Do you see him on any kind of regular basis?

24 A. I run into him at school from time to time. His office
25 is by the teacher's lounge. So I'll have conversations with

1 him.

2 Q. On a casual basis?

3 A. Yeah.

4 Q. But in terms of interacting with him in the course of
5 performing your job, does that happen very much?

6 A. No.

7 Q. Are you IT literate?

8 A. Enough. If you ask my brother he would say no.

9 Q. Is it a situation where you don't have need of what he
10 is there to provide?

11 A. In my day-to-day classroom, no.

12 Q. And has he ever provided you with any kind of training
13 or guidance?

14 A. Like PD days we might have a day where we go over how to
15 put grades in or how to take attendance.

16 THE HEARING OFFICER: What kind of days?

17 THE WITNESS: PD, professional development days.

18 THE HEARING OFFICER: On those days if he's presenting
19 something, it's not to you particularly; it's to the staff?

20 THE WITNESS: Correct.

21 Q. Do you have reason to interact with either the counselor
22 or the assistant counselor in the course of your job?

23 A. Yes.

24 Q. With both of them?

25 A. The counselor.

1 Q. With the counselor?

2 A. Uh-huh.

3 Q. What is the nature of your interaction with the
4 counselor?

5 A. If I feel that any of my students need help with
6 feelings or their day-to-day -- something is affecting -- from
7 home might be affecting their school life, I'll give her a heads
8 up so she can pull that student and talk with them.

9 Q. Did you say feelings?

10 A. Yes.

11 Q. Is there anything else that would occasion you to get in
12 touch with the counselor in connection with your job?

13 A. No. Just in -- just if I have a concern about a
14 student.

15 Q. If you have a concern and she's going to address it,
16 does she pull the student from your class?

17 A. I think -- she's busy. So it won't be from my class,
18 but at some point she would pull that student in the day and
19 talk to them.

20 Q. Do you ever have interaction with the assistant
21 counselor?

22 A. No.

23 Q. She's relatively new. Is that my understanding?

24 A. Yes.

25 Q. Have you met her?

1 A. Yes.

2 Q. And have you been given any understanding by anybody
3 about what her role is on the staff?

4 A. She helps our counselor, Mrs. Wells.

5 THE HEARING OFFICER: Is that what someone told you or
6 what you observed?

7 THE WITNESS: I guess it came off as an assumption.

8 THE HEARING OFFICER: Okay.

9 Q. Would you go to the assistant counselor with a problem
10 like what you were describing that you would take to the
11 counselor?

12 A. No.

13 Q. Why not?

14 A. Comfort level. I know the counselor and I know the
15 students trust her and talk to her. So I go to her.

16 Q. And do you have occasion to interact with the behavior
17 specialist in the course of your job?

18 A. Yes.

19 Q. And how so?

20 A. Similar as the counselor but the opposite; just more
21 behavior. Some students have a behavior chart which came from
22 her and the special ed teacher that I help keep track of their
23 behavior and implement that in my classroom.

24 Q. How often do you have reason to interact with the
25 behavior specialist?

1 A. Maybe once a week.

2 Q. Once a week?

3 A. Yeah. It's usually informal. I don't have meetings
4 with her.

5 Q. Have you ever interacted with her in terms of her other
6 responsibility of special ed paraprofessional?

7 A. No.

8 Q. Were you aware that she had that other responsibility?

9 A. Responsibilities of like --

10 Q. A special ed paraprofessional as part of her job title?

11 A. No.

12 MR. EBERLE: That's all of the questions that I have for
13 Rob.

14 THE HEARING OFFICER: Any questions, Mr. Lalley?

15 CROSS EXAMINATION

16 BY MR. LALLEY:

17 Q. Mr. Hancovsky, pardon me. When you refer to the
18 behavior specialist, you're referring to Ms. Kostosky; correct?

19 A. Correct.

20 Q. Just to be clear what is it again that she was
21 interacting with you approximately once a week that she actually
22 does?

23 A. Our kids with behavior plans. She kind of like helps
24 them with their behavior. So something that's detrimental to my
25 classroom, we next to fix that behavior. So she helps create a

1 behavior plan in my classroom that in return helps me teaching
2 my class.

3 Q. Are those students that are designated as special
4 education?

5 A. Not specifically; some are and some are not.

6 Q. So there are some that aren't special ed designated
7 according to your understanding?

8 A. Yes.

9 Q. Who develops the behavior plan?

10 A. To my understanding she does.

11 Q. Do you attend any cluster coordinator meetings?

12 A. Just the ones with my team but not like --

13 Q. That's your cluster meeting; right?

14 A. Yes. Yes.

15 Q. Ms. McCurry was talking about the cluster coordinator
16 meetings. Do you ever attend those?

17 A. No.

18 MR. LALLEY: I don't have any further questions.

19 THE HEARING OFFICER: All right. I have a couple of
20 questions to clarify with you. You said that occasionally you
21 feel that you have issues that the counselor can assist you
22 with?

23 THE WITNESS: Uh-huh.

24 THE HEARING OFFICER: When you go to the counselor do
25 you have to -- or do you generally discuss that with your

1 cluster coordinator before you do that?

2 THE WITNESS: No.

3 THE HEARING OFFICER: Is the cluster coordinator
4 involved in any way with your decision to consult with the
5 counselor?

6 THE WITNESS: No.

7 THE HEARING OFFICER: You said that you go to the
8 counselor as opposed to the assistant counselor; is that right?

9 THE WITNESS: Uh-huh.

10 THE HEARING OFFICER: Have you ever been instructed as
11 to which one you should approach with your issues?

12 THE WITNESS: No.

13 THE HEARING OFFICER: All right. Anything further,
14 Mr. Eberle?

15 MR. EBERLE: No.

16 THE HEARING OFFICER: Mr. Lalley?

17 MR. LALLEY: No.

18 THE HEARING OFFICER: Thank you. Let's go off the
19 record.

20 (Discussion off the record.)

21 THE HEARING OFFICER: On the record. I understand --
22 Mr. Eberle, do you have additional evidence to present?

23 MR. EBERLE: The Petitioner does not.

24 THE HEARING OFFICER: Mr. Lalley, do you have rebuttal?

25 MR. LALLEY: We do. We call Mr. Oksuz.

1 THE HEARING OFFICER: I remind you that you're still
2 under oath.

3 THE WITNESS: Yes.

4 ADEM OKSUZ
5 recalled as a witness by the Employer, having been previously
6 duly sworn, was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. LALLEY:

9 Q. Okay. Mr. Oksuz, did you develop the school year a
10 standard operating policy and procedures for nurses?

11 A. That was based on a discussion in our cluster
12 coordinator's meeting and then I drafted that policy and then I
13 shared it with the cluster.

14 Q. So you did. What is the purpose of this policy?

15 A. It is to have, you know, make sure that all of those
16 steps are taken care of in the head office when the students are
17 in the health office and what are the things that our school
18 nurse should do and how she should communicate with the teachers
19 and with the parents and administration and everything.

20 Q. Did you solicit input from the cluster coordinators
21 regarding this policy?

22 A. Since it was developed based on the discussion in our
23 cluster meetings I shared it with them and I told them to give
24 me feedback within two or three days to finalize it.

25 Q. Just so I'm understanding, the impetus for having this

1 policy came out of discussions at the cluster coordinator
2 meetings?

3 A. Yes.

4 Q. And then you did an initial draft and submitted it for
5 review of the cluster coordinators?

6 A. Yes.

7 Q. And that includes Ms. McCurry?

8 A. Yes.

9 Q. Another topic. With respect to -- when does the school
10 -- does the school prepare a budget on an annual basis?

11 A. We start working on our draft budget sometime in April
12 and May. It's annually, yes.

13 Q. Does your board of trustees or board of directors
14 approve your budget?

15 A. Yeah.

16 Q. When do they do that?

17 A. We start working on it in April or May and this year
18 because of the new job description for the cluster coordinators
19 they will be involved in it for their cluster. So once we
20 finalize the draft we present it to the board before June every
21 year. We have submitted in June before.

22 Q. What role were you expected that the cluster
23 coordinators were going to perform when it comes time in April
24 or May to prepare the budget for the next school year?

25 A. Talk to their team members and prioritize what are the

1 things that they want to purchase or what are the things that
2 they want next year. I want them to prioritize their list of
3 supplies or things for next year so we include them in the
4 budget.

5 Q. Do you expect to rely on the recommendations that those
6 cluster heads made in their departments?

7 A. Yes. Yes.

8 MR. LALLEY: No further questions.

9 THE HEARING OFFICER: Mr. Eberle?

10 MR. EBERLE: I have nothing.

11 THE HEARING OFFICER: Let me just ask to make it
12 clearer: You said with respect to the policy for the nurses you
13 solicited feedback from the cluster coordinators; is that right?

14 THE WITNESS: Yes.

15 THE HEARING OFFICER: Did you get any feedback?

16 THE WITNESS: Some of them, yes.

17 THE HEARING OFFICER: How many?

18 THE WITNESS: A few of them emailed back to me. I would
19 have to check my records. Actually policy development is a team
20 effort in corroboration with the other administrators plus the
21 coordinators. So there are other cluster coordinators who
22 wanted some policies and sometimes they suggest a draft for the
23 policy and then, you know, you finalize it.

24 THE HEARING OFFICER: But this nurse policy is the one
25 in particular that you're referring to today?

1 THE WITNESS: Yeah, because Ms. McCurry was involved in
2 it. That's why.

3 THE HEARING OFFICER: Involved in that you solicited her
4 feedback?

5 THE WITNESS: I solicited feedback from her.

6 THE HEARING OFFICER: With respect to the budget you
7 said that you expect the cluster coordinators will prioritize
8 what their teams need; that is right?

9 THE WITNESS: Yes.

10 THE HEARING OFFICER: Before this year when there were
11 no cluster coordinators how was that done?

12 THE WITNESS: We were sharing a Goggle doc with all of
13 the staff, and we were asking them what do you need without any
14 limit. Just let us know supplies and furniture and they used to
15 make a list of things and we used to deal with it individually,
16 but this year -- I mean, that is a lot of work for us. So this
17 year we -- based on this new job description we want to do it
18 through cluster coordinators.

19 THE HEARING OFFICER: So they in a sense will funnel
20 that information to administration?

21 THE WITNESS: Yes. Yes.

22 THE HEARING OFFICER: Any other questions?

23 MR. EBERLE: No.

24 THE HEARING OFFICER: Mr. Lalley?

25 MR. LALLEY: No. Well, just one more.

1 REDIRECT EXAMINATION

2 BY MR. LALLEY:

3 Q. It looks like all of the cluster coordinators had their
4 salaries increased by \$400; is that correct?

5 A. Yes.

6 Q. That's 20 percent increase. Why was there a 20 percent
7 increase?

8 A. Because their job description has changed and it is --
9 that is why. They have more supervisory and managerial duties
10 in there and maybe I need to emphasize more that they will do
11 those.

12 MR. LALLEY: That's all I have.

13 THE HEARING OFFICER: Anything else? Mr. Eberle?

14 MR. EBERLE: No.

15 THE HEARING OFFICER: Thank you. Off the record.

16 (Discussion off the record.)

17 THE HEARING OFFICER: Let's go back on the record. All
18 right. I understand Mr. Lalley you have no additional rebuttal;
19 is that correct?

20 MR. LALLEY: That's correct.

21 THE HEARING OFFICER: Well, at this point then I will --
22 I appreciate both of you presenting all of your evidence at that
23 stage. I'm going to ask for each party to summarize their
24 position on the issues that will need to be decided in this
25 case. I will use Joint Exhibit 1 as a base for this and we will

1 go through each of the positions that are at issue and I'll ask
2 each party to present briefly what their position is. It may
3 not be any different then what it was when we talked about this
4 at the beginning of the hearing, but I will like to get that on
5 the record.

6 So first are respect to IT specialist, Mr. Eberle, what
7 is the Petitioner's position on the IT specialist?

8 MR. EBERLE: The Petitioner's position is it's not a
9 professional position. It's either support or paraprofessional
10 and would not warrant inclusion in the unit.

11 THE HEARING OFFICER: Mr. Lalley, with respect to the IT
12 specialist?

13 MR. LALLEY: That it is a professional employee position
14 and belongs in unit.

15 THE HEARING OFFICER: The assistant counselor,
16 Mr. Eberle?

17 MR. EBERLE: The Petitioner's position is the assistant
18 counselor is a nonprofessional position and is support and
19 should be excluded.

20 THE HEARING OFFICER: Mr. Lalley, the assistant
21 counselor?

22 MR. LALLEY: That it is a professional employee position
23 and belongs in the unit.

24 THE HEARING OFFICER: The Title 1 coordinator,
25 Mr. Eberle?

1 MR. EBERLE: The -- my understanding is that the basis
2 for the Employer seeking to exclude that position is that it is
3 managerial in nature and the Petitioner asserts that it's not
4 managerial and should be included.

5 THE HEARING OFFICER: Thank you. Mr. Lalley, the Title
6 1 coordinator?

7 MR. LALLEY: And the Employer asserts that it is a
8 managerial position and has to be excluded from the unit.

9 THE HEARING OFFICER: The ESL coordinator, Mr. Eberle?

10 MR. EBERLE: With all respect, ditto.

11 THE HEARING OFFICER: That's fine, and would that be the
12 same for the cluster head coordinator?

13 MR. EBERLE: Yes, it would.

14 THE HEARING OFFICER: So the Petitioner believes those
15 positions should be included; is that correct?

16 MR. EBERLE: Yes. Those seven coordinators, the
17 Petitioner's position is they are non-managerial and should and
18 included.

19 THE HEARING OFFICER: And Mr. Lalley?

20 MR. LALLEY: We will do a similar ditto. We also take
21 the same position that those coordinator positions are
22 managerial.

23 THE HEARING OFFICER: With respect to what we are now
24 correctly calling the behavior specialist, as I explained off
25 the record, we have two different questions here. The first

1 I'll ask is the parties position on whether the position of
2 behavior specialist should be included or excluded from the
3 unit. So, Mr. Eberle, what is the Petitioner's position on the
4 position of the behavior specialist?

5 MR. EBERLE: The Petitioner asserts that the position of
6 behavior specialist is from this record clearly a professional
7 position and should be included this the unit.

8 THE HEARING OFFICER: And then again Mr. Lalley solely
9 with the respect to the position of behavior specialist, what is
10 the Employer's position of whether that should be included?

11 MR. LALLEY: The Employer's position on the behavior
12 specialist as a position is that it would qualify as a
13 professional employee position and be in the unit because it
14 requires certification.

15 THE HEARING OFFICER: With respect to Christina Kostosky
16 whose job description is included as Employer Exhibit 8,
17 Mr. Eberle, what is the Petitioner's position as to whether that
18 position that is currently held by Christina Kostosky whether
19 she would be eligible to vote this a unit that the Petitioner
20 believes is appropriate?

21 MR. EBERLE: The record reflects that she is at best a
22 dual function employee, but she's performing the duties of a
23 behavior specialist at least on an acting basis and doing it
24 consistently and therefore she should be eligible to vote.

25 THE HEARING OFFICER: Mr. Lalley, what the Employer's

1 position with respect to Christina Kostosky?

2 MR. LALLEY: Our position is she would be ineligible to
3 vote. She is I believe performing paraprofessional duties
4 similar to what a few of our aids do with respect to supporting
5 special education students.

6 THE HEARING OFFICER: Thank you. If I understand from
7 the lists that were submitted with the position statement there
8 are 35 employees on the list which is Attachment B that the
9 Employer as argued should be included and the -- there are eight
10 employees -- eight positions that are at issue in the case.
11 Does that sound right to the parties?

12 MR. EBERLE: No. Mine thought is that there are ten
13 positions at issue.

14 THE HEARING OFFICER: I'm sorry. Ten positions at
15 issue. There are ten positions at issue and 33 that have been
16 agreed upon?

17 MR. EBERLE: Yes.

18 MR. LALLEY: 33 was the agreed upon number.

19 THE HEARING OFFICER: Okay. Mr. Eberle, if the -- does
20 the Petitioner wish to proceed to an election any alternate unit
21 if the unit sought is found be inappropriate by the regional
22 director of the board?

23 MR. EBERLE: Yes.

24 THE HEARING OFFICER: Just to make clear, Mr. Lalley,
25 are there any other witnesses or evidence you wish to present in

1 this proceeding?

2 MR. LALLEY: No, there is not.

3 THE HEARING OFFICER: Mr. Eberle?

4 MR. EBERLE: No.

5 THE HEARING OFFICER: All right. I would like to
6 explore at this point election details in the event that an
7 election is directed. If an election is directed does any party
8 who is entitled to receive the voter list, that would be just
9 the Petitioner, wish the waive the ten day or any portion of the
10 ten day requirement?

11 MR. EBERLE: We would be open to a request to waive some
12 portion of the ten day period.

13 THE HEARING OFFICER: Any portion that you would like to
14 identify?

15 MR. EBERLE: I don't know. It would depend because of
16 the holiday break coming up I'm not sure what that might look
17 like. So I would think that it would be tough to try to
18 anticipate, but certainly we're open to some portion of that ten
19 days being waived if we have an agreement on election
20 arrangements.

21 THE HEARING OFFICER: Well, this would be in the case of
22 an election being directed.

23 MR. EBERLE: Understood. I think that what I would
24 anticipate or what I think happens is when the election is
25 directed the region still gets in touch with the parties to try

1 to iron out the details if there's anything left to work out and
2 at that point if there's a request to waive some portion of the
3 ten day notice we would be open to doing so.

4 THE HEARING OFFICER: Okay. Now, with respect to the
5 election detail that were provided in the Petitioner's -- let me
6 back up. Mr. Lalley, I need to know the Employer's position
7 concerning the date, type, time and location of the election and
8 the eligibility period including the most recent payroll ending
9 date if that's any different from what in the statement of
10 position.

11 MR. LALLEY: Certainly the payroll ending date, that was
12 the basis for the preparation of the Employer's Exhibit B and
13 Exhibit D in the position statement, was November 15th, 2017.

14 THE HEARING OFFICER: Okay.

15 MR. LALLEY: In terms of the -- just other information
16 for the election date, the school is closed from December 23rd
17 which is the Saturday through and including January 1st and then
18 resumes on January 2nd of 2017. I think that the school
19 believes that the alternative if -- we have proposed December
20 22nd in the position statement as the Friday -- because the
21 school day -- classes end at 12:00 noon and teachers then do
22 work helping students get on bus, but if that day were to used
23 by the -- or directly the director we would have it start at
24 12:30 to give time for teachers to conclude those duties to help
25 the students get on the buses to get home and then there are no

1 extra curricular activities that afternoon. So there wouldn't
2 be anything else interfering.

3 If that date is too soon based on when the direction for
4 election comes out then we would propose to be the last Friday
5 in the first week of January.

6 THE HEARING OFFICER: And the payroll ending date here
7 is November 15th. Is the pay date every two weeks?

8 MR. LALLEY: Yes.

9 THE HEARING OFFICER: So November 15th is the payroll
10 ending date?

11 MR. LALLEY: The pay is twice a month, the 15th and then
12 the last day.

13 THE HEARING OFFICER: Okay. So the payroll ending dates
14 would be the 15th or the last day of the month; correct?

15 MR. LALLEY: Correct.

16 THE HEARING OFFICER: Under normal circumstances other
17 than that Friday when school would end early, when does the
18 teachers' school day normally end without any after school
19 activities?

20 MR. LALLEY: Can I confer just for a second?

21 THE HEARING OFFICER: Yes.

22 MR. LALLEY: So my understanding is that the class
23 schedule day ends at 3:45 and then at that point the students
24 leave school and the teachers have responsibility for helping
25 the students get on the busses. That can take some time. I

1 would say 4:15; approximately half hour after that that will be
2 finished.

3 THE HEARING OFFICER: Let's go off the record.

4 (Discussion off the record.)

5 THE HEARING OFFICER: Let's go on the record. With
6 respect to the time and the place of the election the Employer
7 had suggested December 22nd in it's statement of position. From
8 off the record discussions if that date is too soon given that
9 there is a going to be a decision issued, the first Friday of
10 January which would be January 5th I believe is a possibility.

11 Fridays are days that there are no after school
12 activities. The parties tell me that the school day ends at
13 3:28 and the teachers day ends at 3:45 and the parties have not
14 currently agreed on the time for the election, but those are the
15 facts that would be considered in making the time for the
16 election. Is that correct, Mr. Lalley?

17 MR. LALLEY: That's the best -- it's not as crisp as
18 3:45. Their time doesn't end at a specific time. They're doing
19 their duties as long as it takes.

20 THE HEARING OFFICER: The duties of getting the students
21 on the bus.

22 MR. LALLEY: The bell rings at 3:28 and students are
23 getting packed up and getting out. It's not an -- we're not
24 dealing with an existing contract that says the teacher day ends
25 at a certain time. They tend to spill out. That's why we

1 believe 4:00 o'clock and a more reasonable start period.

2 THE HEARING OFFICER: Would it be correct to say that
3 teachers would not be released before 3:45?

4 MR. LALLEY: I think that's probably correct.

5 THE HEARING OFFICER: And Mr. Eberle did you agree those
6 are the times we're talking about for --

7 MR. EBERLE: Yes.

8 THE HEARING OFFICER: -- the director will come up with
9 an appropriate time for the election?

10 MR. EBERLE: Yes.

11 THE HEARING OFFICER: And I understand from the Employer
12 that a classroom could be made available for the election to be
13 held in and that would be cleared a half hour before the
14 election begins?

15 MR. LALLEY: That's correct. We would use the art/music
16 room, but if that is not available we will make a suitable
17 classroom available open a half an hour before the stated
18 election time.

19 THE HEARING OFFICER: Does any party anticipate the need
20 for notice of election and ballots to be translated?

21 MR. LALLEY: Yes.

22 THE HEARING OFFICER: Could you explain what would be
23 needed there?

24 MR. LALLEY: We have some employees who are native
25 Turkish speakers. English is their second language and as this

1 board knows four years ago we asked and requested and the board
2 agreed to translate the ballots into Turkish. So we do request
3 that there be some Turkish language ballots available.

4 THE HEARING OFFICER: Do you know how many employees
5 fall into the category at this point?

6 MR. LALLEY: Five people.

7 THE HEARING OFFICER: And would the Employer also
8 anticipate that the notice of election would need to be
9 translated in into Turkish or just the ballots?

10 MR. LALLEY: I think that we would want both.

11 THE HEARING OFFICER: Do you know whether there's
12 written communication between the Employer and these Employees
13 in English under normal circumstances?

14 MR. LALLEY: There is. They get directions in English,
15 but again in 2013 we requested and the board agreed to provide
16 Turkish language ballots for the same reason.

17 THE HEARING OFFICER: Okay. And, Mr. Lalley, what is
18 the name and address, email address and fax number and phone
19 number of the Employer's on site representative to whom the
20 regional director should transmit the notice of election if an
21 election is directed?

22 MR. LALLEY: The on site representative is Adem Oksuz.
23 His name was spelled on the record previously. He's the chief
24 executive officer of the school. His telephone number is
25 412-668-2064.

1 THE HEARING OFFICER: Fax number?

2 MR. LALLEY: Fax number is -- one second.

3 THE HEARING OFFICER: Is it 412-268-2068; is that
4 correct?

5 MR. LALLEY: We're checking to make sure that's
6 accurate.

7 THE HEARING OFFICER: Off the record.

8 (Discussion off the record.)

9 THE HEARING OFFICER: Back on the record. We have the
10 fax number?

11 MR. LALLEY: Fax number is 412-668-2068.

12 THE HEARING OFFICER: Thank you. And email address?

13 MR. LALLEY: Email address is A-D -- as in David -- A --
14 as in Adam -- M -- as in Mary -- @yswpca.org.

15 THE HEARING OFFICER: And the mailing address?

16 MR. LALLEY: The mailing address for the school is 600
17 Newport Drive, Pittsburgh, PA 15234.

18 THE HEARING OFFICER: Thank you. Mr. Lalley, if an
19 election is directed may the region communicate with your
20 election observer regarding election procedures and any issues
21 that arise during an election, the preelection conference and
22 the ballot count?

23 MR. LALLEY: Yes.

24 THE HEARING OFFICER: Mr. Eberle, if an election is
25 directed, may the region communicate with your election observer

1 regarding election procedures and any issues that arise during
2 the election, the preelection conference and the ballot count?

3 MR. EBERLE: Yes.

4 THE HEARING OFFICER: The regional director will issue a
5 decision in the matter as soon as practical and will immediately
6 transmit the document to the parties and their designated
7 representatives by email, fax or overnight mail if neither an
8 email address nor fax number is provided.

9 If an election is directed the Employer must provide the
10 voter list. To be timely filed and served, the voter list must
11 be received by the regional director and the parties named in
12 the direction within two business days after the issuance of the
13 direction unless a longer period, based on extraordinary
14 circumstances, is specified in the direction of election.

15 A certificate of service on all parties must be filed
16 with the regional director when the voter list is filed. The
17 region will no longer serve the voter list. The Employer must
18 submit the voter list in an electronic format approved by the
19 General Counsel unless the Employer certifies it does not have
20 the capacity to produce the list the required format. The list
21 must be filed in common every day electronic file formats that
22 can be searched. Accordingly, unless otherwise agreed to by the
23 parties, the list must be provided in a table, in a Microsoft
24 Word file or a file that is compatible with Microsoft Word. The
25 first column of the list must begin with each employee's last

1 name and the list must be alphabetized overall or by department
2 by last name. Because the list will be used during the
3 election, the font size of the list must be equivalent of Times
4 New Roman 10 or larger. That font does not need to be used, but
5 the font must be that size or larger. A sample, optional form
6 for the list is provided NLRB website at NLRB.gov.

7 The board stated it is presumptively appropriate for the
8 Employer to produce multiple versions of the list where the data
9 required is kept in separate data bases or filed so long as all
10 of the list link the information to the employees using the same
11 name in the same order and are provided within the allotted
12 time. If the Employer provides multiple lists, the list used at
13 election will be the list containing the employee's names and
14 addresses.

15 The list must include the full names, work locations,
16 shifts, job classification and contact information, including
17 home addresses, available personal email addresses and available
18 home and personal cellular telephone numbers of all eligible
19 voters. The Employer must also include in a separate section of
20 that list the same information for the those individuals the
21 parties have agreed will be permitted to vote subject to
22 challenge or those individuals who, according to the decision
23 and direction of election, will be permitted to vote subject to
24 challenge.

25 During an off the record discussion the parties stated

1 that they wished to file post hearing briefs. The regional
2 director has concluded that briefs may be filed. By -- briefs
3 will be due by the close of business on Thursday, December 14th.
4 Briefs may be filed by e-filing on the board's website, by mail
5 or by hand delivery, but may not be filed by fax. I understand
6 that the parties will present their arguments on brief, but do
7 not wish to make oral arguments. Is that correct, Mr. Eberle?

8 MR. EBERLE: Yes.

9 THE HEARING OFFICER: Mr. Lalley?

10 MR. LALLEY: That's correct.

11 THE HEARING OFFICER: The parties are reminded that they
12 should request an expedited copy of the transcript from the
13 court report. Late receipt of the transcript will not be
14 grounds for an extension of time to file briefs. If -- in this
15 case if there is nothing further the hearing will be closed.
16 Thank you. The hearing is closed.

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18 (Thereupon, at 4:54 o'clock p.m., the hearing was
19 concluded.)

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C-E-R-T-I-F-I-C-A-T-E

This is to certify that the attached proceedings before the National Labor Relations Board, Region Six, held in Room 904, William S. Moorhead Federal Building, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222, on Thursday, December 7, 2017, were held according to the record, and that this is the original, complete, true and accurate transcript which has been compared to the reporting accomplished at the hearing; that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.

Jill A. Oliver, Official Reporter

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