COMMONWEALTH OF PENNSYLVANIA
LABOR RELATIONS BOARD

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IN THE MATTER OF THE

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EMPLOYEES OF THE UNIVERSITY Nos.: PERA-R-17-355-W
OF PITTSBURGH

* PERA-C-19-95-W

* * * * * * * * *

HEARING TRANSCRIPT

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BEFORE: STEPHEN HELMERICH, Hearing Examiner

HEARING: Tuesday, May 14, 2019

9:01 a.m.

LOCATION: Piatt Place

301 Fifth Avenue

Room 2026

Pittsburgh, PA 15222

WITNESSES: Dennis R. Bachy, Casey Madden, Timothy Barr, Shelby Brewster, Jeffrey Cech, Caitlin Schroering, Emily Ackerman, Steven Suway

Reporter: Valerie B. Gregory

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PROCEDINGS

HEARING EXAMINER: We're on the record in PERA-C-19-95W and PERA-R-17-355W, both entitled In the Matter of the Employees of the University of Pittsburgh.

My name is Stephen Helmerich. I'm the Hearing Examiner appointed to this matter. Counsel for Steelworkers, identify yourself, please.


ATTORNEY HEALEY: Mike Healey, Healey, Block and Hornack in Pittsburgh, Pennsylvania.

HEARING EXAMINER: Counsel for the University?


HEARING EXAMINER: She's admitted to practice before me. That's what we discussed,
practice before the Board.

Before we begin, do the parties agree to stipulate that the University is a public employer?

ATTORNEY FARMER: Yes.

ATTORNEY MANZOLILLO: Got you.

HEARING EXAMINER: And that the Steelworkers are an employee representative pursuant to the Act?

ATTORNEY FARMER: Yes.

ATTORNEY MANZOLILLO: Yes.

HEARING EXAMINER: I hereby consolidate for the purposes of these proceedings PERA-C-1995-W and PERA-R-17-355. There is exceptions to the Board's conduct under the PERA-R-17-355 number that was filed by the Steelworkers. And then there was the separate unfair practices charge filed by the Steelworkers in the PERA-C-1995-W.

The following hearing and all its exhibits would be consolidated and will be used for both of those logically separate issues. And then whatever order or document that I prepare, we'll treat both of those at the same time.

Does anybody have any objections to
that?

ATTORNEY FARMER: No.

ATTORNEY MANZOLILLO: No, Your Honor.

HEARING EXAMINER: Okay.

The way we're going to proceed is, we're going to proceed first with the exceptions to the Board's election conduct which was filed by the Steelworkers. My investigations into past instances where the Board had such exceptions filed is that the Board - the Hearing Examiner in that matter took an investigatory stance and did a direct - did an investigation into the fact by calling witnesses on Direct and introducing exhibits to investigate the conduct of the Board. And then the parties were able to Cross Examine the Board's witnesses.

I'm going to do that and then we'll move on to the PERA-C-19-95W, which is a, quote, unquote, typical unfair practice charge where the Steelworkers will then move with the burden and present their case. Does anybody - anyone have any objections to having the hearing in that manner?

ATTORNEY FARMER: No.

ATTORNEY MANZOLILLO: NO.

HEARING EXAMINER: All right.

Would - the Steelworkers, would you
like to make an opening statement at this time?

ATTORNEY MANZOLILLO: Yes. On or about December 17th, 2017, United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC, or the Union for short, filed a petition to represent graduate assistants employed by the University of Pittsburgh, a public employer under the Public Employee Relations Act or PERA.

The Pennsylvania Labor Relations Board or PLRB conducted a representation election April 15th through the 18th, 2019 among graduate employees of the University of Pittsburgh to see if they wished to be represented by the Union.

The vote was 675 in favor of representation, 712 opposed, with approximately 14 unresolved challenged ballots. The Union filed timely labor practice charge allegations against the employer for conducting affecting the results of the election pursuant to Subsection 95.58 of the PLRB's rules and regulations, as well as objections to the conduct of PLRB agents were conduct - conduct affecting the results of the election pursuant to Subsection 95.57 of the PLRB's rules and regulations.
Article One of PERA provides that public employees have a right to organize and choose freely their representatives and that procedures shall be established for the protection of these rights. Article Four of PERA, again, codifies these rights. Article Five of PERA gives the PLRB authority to enforce these rights and to make, amend, and rescind such rules and regulations as necessary to achieve this.

Article Six of PERA grants the PLRB authority to conduct secret ballot elections and determine the desire of public employees to form a union. It also requires the PLRB to establish rules and regulations for the conduct of such elections which ensure the secrecy of the ballots.

Article 12 of PERA establishes that public employers are prohibited from interfering with or restraining or coercing public employees in the exercise of their rights.

Facts in this case shall establish that the PLRB failed to conduct the election, in this case, using rules and procedures that protect the belief of public employees if they choose to vote or not vote for a representative in confidence, free from coercion or intimidation by their
The PLRB not only did not prohibit the University from openly and independently tracking who voted in the election, but the PLRB encouraged it. Despite having a list of only 11 individuals who they claim to challenge from the voter list, the University poll watchers, who were all managerial or supervisory, in violation of Section 95.52 of the PLRB rules and regulations, were allowed to openly and in plain view maintain an independent list of everyone who voted in the election.

They were allowed to ask every voter to read off and/or spell their names or ask the PLRB to ask employees to do that, voters to do that. They were able to view IDs of anyone they chose to so that they could make sure that they were accurate in tracking every single person who voted.

The PLRB agents conducting the election actively assisted the University watchers in carrying out this duty and made clear to voters they were doing so.

While the objection-ability of this type of conduct has never been litigated before the PLRB, the National Labor Relations Board or NLRB for short, has long held that such conduct that presumes
to coerce and intimidate voters is grounds by itself for setting aside an election and directing a new one in any context, and especially when the election results are also very close such as in this case.

The NLRB recognizes that when an employer or a union, for that matter, keeps an independent list of who is voting, it will tend to undermine the belief in voters that their vote is confidential or that their choice to vote or not is confidential.

For example, see case A.D. Julliard and Company 110 NLRB 2197, Act 2199, Sound Refining Inc., 267 NLRB 1301, Act 130102, Masonic Homes of California, Inc., 255 NLRB 41, Act 48, and Mead Coated Board, Inc., 337 NLRB 497.

The impact of this is especially clear in a multi-day election such as the one held in this case. Emails sent by agents of the employer during the week further created a very clear impression that the University was using information it gathered through maintaining an independent list of all voters was being closely reviewed and scrutinized, and information was being shared widely.

The PLRB's irregular and inconsistent
practices in checking whoever's ID was added to this issue by creating an impression that international students who voted were being especially closely tracked.

The facts in this case shall also establish that the University per top administrators sent emails to all eligible voters in the days immediately leading up to the election that either directly or impliedly (sic) threatened withholding annual raises of graduate students - graduate employees voting for a union, threatened that future raises would likely be smaller if graduate employees voted to form a union, threatened substantially more onerous working and academic conditions would be likely if graduate employees voted to form a union, and threatened futility and very limited scope of willingness to bargain if graduate employees voted to form a union.

Under vote PLRB case law and NLRB case law, such conduct is unlawful. While the PLRB has very little case law on election objections, the NLRB has long established such threats as clear grounds for setting aside election results and directing a new election.

The PLRB has produced almost no case
law in dealing with the election objections, and the
ULP seeking a remedy of setting aside election
results while the NLRB has ruled on thousands of
such cases. Where the PLRB has very little to no
precedent, the PLRB generally turns to the NLRB for
guidance on how to proceed. The very limited PLRB
case law on election objections cites sustained
standards relied on by the NLRB.

For most ULPs such as threats, there's
an objective standard or if a statement has been
proven to have been made, it would have - if it
would have the tendency in general to restrain or
coerce employees of the exercise of their protected
rights, it is presumed to be unlawful. There's no
burden to establish a threat has actually produced a
specific outcome.

With regard to election objections,
while the NLRB does place the burden on the
objecting party to establish a material impact on
the election outcome, there is no requirement that
the objecting party actually produce intimidated
witnesses to testify that the vote was actually
changed by the election conduct.

The NLRB recognizes this would be
extremely difficult and would be problematic.
Instead, the NLRB finds that the employee free choice has been compromised when the election is tainted by conduct or statements that tend to induce employees to vote, not based upon conviction, but upon fear or on other improperly induced consideration. See Pearson Education, Inc., 336 NLRB 979, citing Ziegler Refuse Collection versus NLRB, F.2d 1000 at 1005, Third Circuit.

The NLRB is particularly sensitive of conduct when the results of an election are close. See Cambridge Tool and Manufacturing Company, 316 NLRB 716 and Hopkins Nursing Care Center, 309 NLRB 958.

In this analysis, the NLRB looked at several factors in determining whether pre-election or election conduct should lead to setting aside the results. These factors include the number of incidents and their severity, how many bargaining unit members were exposed to the conduct, how likely the conduct was to cause fear among bargaining unit members and how soon the conflict occurred before the election. See Avis Rent-A-Car System, 280 NLRB 580581.

Under such analysis but separately and cumulatively, this conduct described above clearly
violates an employee's rights under PERA and is grounds for setting aside the election results and directing a new one in this case. And the Union requests this be done.

The Union further requests that the employer be required to conspicuously post an electronic distributed notice informing bargaining unit employees of its unlawful actions stating their rights under PERA and making it clear it will respect those rights going forward.

HEARING EXAMINER: Would you like to defer, ma'am?

ATTORNEY FARMER: Yes.

HEARING EXAMINER: All right.

We'll go off the record for one moment.

---

(WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

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HEARING EXAMINER: Back on the record. I've handed the parties the documents which I'll now identify for the record.

PLRB 1 is an Order directing submission of eligibility list dated 7 - March 7th, 2019 in PERA-R-17-355-W.
Whereupon, PLRB Exhibit 1, Order Directing Submission of Eligibility List, was marked for identification.

HEARING EXAMINER: PLRB - PLRB 2 is the Order and Notice of Election dated March 29th, 2019 in PERA-R-17-355W.

HEARING EXAMINER: PERA (sic) 3A and 3B are emails both dated April 15th to Dennis Bachy from Steelworkers representatives.

HEARING EXAMINER: PLRB 4 is returns of election in PERA-R-17-355W.

(Whereupon, PLRB Exhibit 4, Returns of Election,
was marked for identification.)

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HEARING EXAMINER: PLRB 5 is stipulations by the party regarding challenged ballots dated the last date of May 2nd, 2019.

---

(Whereupon, PLRB Exhibit 5, Stipulations, was marked for identification.)

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HEARING EXAMINER: Do the parties have any objection to the admission of these documents?

ATTORNEY MANZOLILLO: No.

ATTORNEY FARMER: No.

HEARING EXAMINER: All right. They're admitted.

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(Whereupon, PLRB Exhibit 1, Order Directing Submission of Eligibility List, was admitted.)

(Whereupon, PLRB Exhibit 2, Order and Notice of Election, was admitted.)

(Whereupon, PLRB Exhibit 3A, Email 4/15/19, was admitted.)

(Whereupon, PLRB Exhibit 3B, Email 4/15/19, was admitted.)

(Whereupon, PLRB Exhibit 4, Returns of Election,
was admitted.)

(Whereupon, PLRB Exhibit 5, Stipulations, was admitted.)

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HEARING EXAMINER: Raise your right hand for me.

---

DENNIS BACHY,
called as a witness in the following proceeding, and having first been duly sworn, testified and said as follows:

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HEARING EXAMINER: Say and spell your name for us.

THE WITNESS: My name is Dennis Bachy. Last name is spelled B-A-C-H-Y.

HEARING EXAMINER: What is your position with the Labor Relations Board?

THE WITNESS: I'm an administrative officer for the Pennsylvania Labor Relations Board and I'm in charge of the Pittsburgh office.

HEARING EXAMINER: How long have you been in that position?


HEARING EXAMINER: Were you involved
in the recent University of Pittsburgh graduate
student election?

THE WITNESS: I was.

HEARING EXAMINER: What roles did you
play?

THE WITNESS: I was the Board agent in
charge of that election.

HEARING EXAMINER: What does that mean
- what does that mean?

THE WITNESS: If you go back to when
the case was filed, the first thing - one of the
first things that happens is we have a conference
call amongst the parties where I try and get them to
agree to go straight to an election. We had that in
this case probably sometime in early 2018. I don't
remember exactly when. Didn't work out. They went
to a hearing.

The Hearing Examiner issued an Order
directing submission of eligibility list early March
2019, and after that I contacted the parties -.

HEARING EXAMINER: Let me stop you.
My question is more what - being the officer in
charge of the election in more regular speech, what
does that mean?

THE WITNESS: Get the election set up,
HEARING EXAMINER: Thank you.

When did you first become aware that there would be an election in this matter?

THE WITNESS: When the Hearing Examiner issued his order directing submission of eligibility list.

HEARING EXAMINER: Me?

THE WITNESS: Yes, you.

HEARING EXAMINER: Is that PLRB 1?

THE WITNESS: It is.

HEARING EXAMINER: Okay.

Now, the ODSEL orders Pitt to submit a list. Did they submit a list?

THE WITNESS: They did, by email and an Excel spreadsheet.

HEARING EXAMINER: And then after that list was submitted, what happened next?

THE WITNESS: I contacted the parties to talk about time, date and place for an election. Based on - because this was grad students at the University of Pittsburgh, we wanted to conduct the election before the end of the spring 2019 school year, and we wanted to get it in before the finals week.
So after discussing it with the parties, we agreed to conduct the election on April 15, 16, 17 and 18.

HEARING EXAMINER: Who – when you say discuss with the parties, can you remember who was involved in these discussions?


HEARING EXAMINER: Who are both here obviously?

THE WITNESS: Yes.

HEARING EXAMINER: Okay.

And there was a – there was an Order and Notice of Hearing issued?

THE WITNESS: Yes.

HEARING EXAMINER: Is that PLRB 2?

THE WITNESS: It is.

HEARING EXAMINER: Okay.

Were you involved in the creation of this document?

THE WITNESS: Yes. I met with a University representative to look at some rooms.

The parties had discussed what they thought might be appropriate rooms in an email exchange. And based on that, the University provided floor spaces that
were available for those days, one in Posvar Hall. They had a space in Cathedral Learning. They had a space in the Engineering Building and they had the space in the O'Hara Student Center.

After reviewing the spaces, I decided that the spaces in Posvar and at the O'Hara's Center were ideal for this election based on location and size of the room, ease of access to the room, handicapped access, things like that. And the spaces in the Cathedral Learning and the Engineering Building were going to be too small for my purposes.

HEARING EXAMINER: Can you pick up Exhibit PLRB 2, which is the O&H? Look at page two. There's four dates and locations. Is that - are those the dates and the locations that the election was actually held?

THE WITNESS: Yes, it was.

HEARING EXAMINER: Okay. Did - during the creation of the O&H and shortly after it was submitted, did the Steelworkers bring any concerns to you?

THE WITNESS: They had - we had initially discussed doing it in the Student Union which I think was their preferred site, but that was just not available. So the Posvar Hall is
relatively close to the student union, so we picked that for a couple of the days based on availability.

HEARING EXAMINER: All right.

So the Notice of Hearing was issued and the election obviously happened. So let's fast forward to April 15th. Did anything happen before the election on April 15th?

THE WITNESS: We arrived at Posvar. We set up the polling location and then approximately 15 minutes before the election started at nine o'clock, we had a pre-election briefing. We told the parties how we were going to proceed with the election.

Folks were going to come in. They were going to sign in. They would take their ballot to - we had three polling booths set up. They would mark their ballot, they would bring it back and put it in a ballot box.

Before that and during that pre-election briefing we also showed them an empty ballot box. And then in front of them we taped it up, got it ready and set it on the table.

We also met the watchers for both parties at that time. Steelworkers, I believe, had a concern about the watchers for the employer. They
thought they might be managers or supervisors, so I asked a series of questions to the watchers for the employer.

    HEARING EXAMINER: And what did you ask them?
    THE WITNESS: I asked each of them if they supervised grad students.
    HEARING EXAMINER: And what did they say?
    THE WITNESS: Each of them said, no, they did not.
    HEARING EXAMINER: Did you ask them anything else?
    THE WITNESS: Yes. I asked them if they supervised anybody. Each of them said yes. They supervised clerical employees in their office.
    HEARING EXAMINER: And did you ask them anything else?
    THE WITNESS: I asked them what they did. It sounded to me like they were senior clerical employees for administrators at the University of Pittsburgh.
    HEARING EXAMINER: And based upon your investigation, what decision did you make with them?
    THE WITNESS: I decided to allow them
as watchers because I didn't think it was going to be coercive.

HEARING EXAMINER: Just to take a step back, why were you concerned over their supervisory status at all?

THE WITNESS: The Board has a rule and regulation for not letting supervisors watch at elections.

HEARING EXAMINER: Okay.

And just to go back, this pre-election briefing, who was there on behalf of the parties, not including the watchers?

THE WITNESS: Organizers for the union, Brad Manzolillo and Jeff Cech and Stephanie Hoogendoorn for the University.

HEARING EXAMINER: Are Hoogendoorn and Cech here today?

ATTORNEY MANZOLILLO: Yes, they are.

ATTORNEY FARMER: Yes.

HEARING EXAMINER: Okay.

Now, let's move - did anything else happen in the pre-election briefing before we move in to the election proper?

THE WITNESS: Nope.

HEARING EXAMINER: Okay.
So now we're in - we're in Posvar Hall.

Right?

THE WITNESS: We're in Posvar, yeah.

HEARING EXAMINER: Okay.

Can you describe, again - first, who was there on behalf of the PLRB?

THE WITNESS: Myself, Joe Gralewski, Rebecca McClincy and Kathy Owens.

HEARING EXAMINER: And then we'll - when we take a break, we'll spell those for the Hearing Examiner - for the court reporter. And then what were their roles on that first day?

THE WITNESS: Each and every one of us was a Board agent with the election. We had several duties. Because of the way Posvar is set up, there was a large room that was in the election order where the voters were to enter and then there was another large room behind it with a couple of entrances where the polling location was actually set up.

So one of our people sat in the large room to make sure that anybody who walked in, we would greet them, tell them this is where the election is, send them back to the polling location.
And then we had one person basically waiting around until somebody needed a break. And then we had one person running our sign-in book and issuing ballots to voters on the eligibility list. And we had one person running our challenge station who would issue ballots on any voter who was challenged.

HEARING EXAMINER: And I think you mentioned it again, but just again, how was the room set up, those two rooms?

THE WITNESS: There was - in Posvar, there's a large room. I think it was 2501. Yeah. That was the room in the Order and then there was - 2500 was behind it. The reason I picked those two rooms instead of having the one was because I thought it might be possible we could have as many as 100 or 200 voters at a time, and I wanted a large space so that they would be able to congregate in the polling location and not have to go in to the hallway.

I felt that was going to be particularly important if we got a lot of voters at the end of the day so that they would - because our policy is anybody who is in line by five o'clock gets to vote. So I wanted to have a space large
enough to accommodate everybody. As it turns out, it wasn't necessary, but that was our thinking.

HEARING EXAMINER: Now, thinking about that first day and actually all four days, how - what was the policy for - and what was the practice with regards to checking names?

THE WITNESS: The - it was pretty much hit or miss the first two days. Joseph Gralewski and Kathy Owens have the title of representation elections officers. They're the ones that go into the field and conduct our elections. And our normal procedure in a small election is to - or pretty much any election, is to only ask for ID if we felt it was necessary in order to find somebody on the voter eligibility list.

Normally, they would just simply ask them their name. They would say their name. You would find their name on the list. They would sign, they get a ballot, they'd go vote.

In this particular election, that's the way that those two individuals did it. They would only ask for ID if they were having trouble finding their name on the list. And they would occasionally ask them to spell their name if they were still having trouble finding the name on the
list. And then if they didn't find their name on the list, they'd send them to the challenge station. We wanted to make sure that any voter who was on the list didn't accidentally get challenged.

As far as myself and Rebecca McClincy, we asked for IDs every time everybody that came up - Pitt has a very nice ID with large letters that you can see even with my old eyes, easily. So I was able to use that. I would ask everybody for their ID and set it down in front of me between the watchers. And then check their name off the list, hand them their ID and ballot back and then they would go vote. That was Monday and Tuesday.

Wednesday, we made the decision that we were just going to check everybody's ID because it would make these go a little faster.

HEARING EXAMINER: Okay.
And that was followed?
THE WITNESS: That was followed by everybody, yeah.

HEARING EXAMINER: You were - maybe I asked you this. You were there all four days?
THE WITNESS: I was.
HEARING EXAMINER: 8:00 to 5:00?
THE WITNESS: Yeah, yeah, yeah. From
7:30 'til 5:30 or 6:00.

HEARING EXAMINER: I want to ask you again - now think about the first day and then also all four days, and then we'll eventually get to days two, three and four. If you look at PLRB 4, which is in front of you -.

THE WITNESS: Returns of election?

HEARING EXAMINER: Yeah. Line six, it says 153 challenged ballots.

THE WITNESS: Yes.

HEARING EXAMINER: Can you describe to me what challenged ballots are and what the process PLRB followed on handling them during the election?

THE WITNESS: Yes. If a voter is not on the eligibility list, that voter is challenged by the Pennsylvania Labor Relations Board, and that person is - in this particular election, because of the size of it, we had a separate station for that right - literally right next to the person signing in the book. That person would take a step aside. We checked IDs for each one of those because we needed an accurate spelling of their names so that we made sure. At the end of the election, if the challenges could matter that we'd be able to figure it out who these people are, they
would sign their name on a sheet next to their printed name, in most cases. And then there would be a spot who challenged them - it was either the PLRB - a couple challenges were made by the employer to folks on the list.

Then they would be given a ballot and a small envelope that didn't have any way to identify that person on it. They would take their ballot, small envelope. They would go to the polling booth. They would make their mark, they folded up the ballot, put it in the small envelope, came back to the challenge table. They were given a large envelope that identified them. They put the small envelope in the large envelope and they put the large envelope in the ballot box.

HEARING EXAMINER: Okay.

Before I get to chain of custody with the ballots, going back to that first day at Posvar Hall and then I guess off to the second day, how were the watchers set up?

THE WITNESS: The - if you were facing the table as a voter, on the right side was the Union watcher then there was the ballot box, then there was the sign in sheet. And on Monday, Tuesday and half of Wednesday, there was the challenge
location. And then on the far left was the employer's watcher - as the voter would be facing the table.

HEARING EXAMINER: And then both parties had watch - just on the first day, both parties have watchers there the entire day?

THE WITNESS: Yes.

HEARING EXAMINER: Okay.

THE WITNESS: They rotated them? They had a series of watchers that they rotated every few hours.

HEARING EXAMINER: All right.

And then I have one more question. It's more of a general question on how you conducted the election with regard to chain of custody. The chain of custody of the ballots, what was the procedure for a chain of custody of the ballots?

THE WITNESS: When a ballot box got full, we taped the ballot box shut in front of the watchers and - whichever watchers were there for the parties. At the time we closed the ballot box, they would sign over the tape. We'd put the ballot box behind us in plain sight of everybody. And at the end of the day, we did the same thing for the remaining ballot box.
And then I would take the ballot boxes. There were two on Monday, two on Tuesday, three on Wednesday and two on Thursday, and I brought them down to my office upstairs here in this building.

HEARING EXAMINER: Okay.

THE WITNESS: And put them in my office and locked them in.

HEARING EXAMINER: And we'll get to the election term later, so going back to the first day, did any Steelworker representative raise concerns with you?

THE WITNESS: Not on the first day, I mean, other than with the watchers.

HEARING EXAMINER: What was - what concern was that?

THE WITNESS: With the watchers? They had concerns that they were managers or supervisors.

HEARING EXAMINER: All right. That was during the pre-election briefing.

THE WITNESS: The pre-election briefing, yes.

HEARING EXAMINER: If you look at PLR 3B - PLRB 3B?
THE WITNESS: Yes.

HEARING EXAMINER: This is an email to you from Brad on April 15th. Did you get that email that day?

THE WITNESS: That day, no, because I didn't check my email until Friday. However, he - on Tuesday morning before the election, he verbally said the same thing.

HEARING EXAMINER: All right.

Before we get to that then, so sticking with the first day, other than what you mentioned, did anything else notable happen on that first day?

THE WITNESS: No. It was pretty calm. People came in, they voted, they left.

HEARING EXAMINER: All right.

Let's move to the second day of the election which was the 16th of April.

THE WITNESS: Uh-huh (yes).

HEARING EXAMINER: It was in the same building.

THE WITNESS: Yes. It was in Posvar.

HEARING EXAMINER: Same set up?

THE WITNESS: Exactly the same.

HEARING EXAMINER: Same PLRB
employees?

THE WITNESS: Yes.

HEARING EXAMINER: Okay.

And then the watchers rotated?

THE WITNESS: Yes.

HEARING EXAMINER: Did - now you were mentioning Mr. Manzolillo brought something to your attention. What was that?

THE WITNESS: He had said that they had concerns that the employer had a list which they were checking off in plain view of the students. And I told him that we didn't have a rule against a party having a list.

HEARING EXAMINER: And did anything else come out of that conversation?

THE WITNESS: He expressed concern that the list and the checking off of the list would be intimidating. He found it - he thought they would be intimidating to the voters. During my four days there, I didn't see anybody that looked intimidated at all.

HEARING EXAMINER: And did you take any action with regard to Mr. Manzolillo's concerns?

THE WITNESS: I did not.

HEARING EXAMINER: So sticking on the
second day, which is - did anything else notable happen on that day?

THE WITNESS: I went to lunch and when I came back from lunch the watcher for the Steelworkers brought to my attention that she felt that Joe Gralewski was treating the watcher for the employer better than he was treating the watcher for the union.

HEARING EXAMINER: And then did you investigate that at all?

THE WITNESS: I talked to Joe. He said he was simply trying to maintain control. I talked to the watcher. She told me that she asked a question that she thought was substantially similar to a question asked by the University watcher, and the University's watcher was given an answer and she was told to be quiet.

HEARING EXAMINER: And then what happened next with regard to that?

THE WITNESS: Her shift was almost over a few minutes later. I took her - we went into 1501. I asked her more about it. She basically said that she felt that he wasn't treating her properly. And I apologized on behalf of the Board and for the rest of that day, I had Mr. Gralewski
greet voters in 1501. And then the polling location was run by myself, Rebecca McClincy and Kathy Owens.

HEARING EXAMINER: Okay.

Anything else notable happen that day?

THE WITNESS: No. Again, another calm election, other than the one incident. People came in, they voted. They didn't look intimidated. They put the ballot in the ballot box and they left.

HEARING EXAMINER: Moving to day three, we changed locations?

THE WITNESS: Yes. On day three, we went to the O'Hara Student Center. We were on the second floor in the ballroom. We set up - once we set up our polling location, we got there around 7L00 in the morning. We set up the polling location for the day.

And unlike Posvar, O'Hara had a pair of steps that came up onto a landing. And from that landing, there was a double door into the ballroom where we were located. You could clearly see the polling area form the landing.

So I made the decision that we could work this with three people instead of four because we didn't need a greeting - or a greeter. And we had a lot of work to do here in the office so I sent
Mr. Gralewski back to the office to run Board stuff here. And we ran it with three people for most of the day; myself, Rebecca McClincy, Kathy Owens, and about one o'clock in the afternoon, Nate Bortner came to lend us a hand.

HEARING EXAMINER: And who is he?

THE WITNESS: Nate Bortner is the secretary for the Pennsylvania Labor Relations Board.

HEARING EXAMINER: Okay. Anything notable happen on day three besides what you mentioned?

THE WITNESS: Nope. It was a nice, calm election. People came in, they voted, they left.

HEARING EXAMINER: Day four, where was the location of day four?

THE WITNESS: Day four was located in the O'Hara Student Center. Same setup as day three. On day four, we had the four people that were working at the end of day three and at around one o'clock in the afternoon, Mr. Bortner went back to Harrisburg. And it was myself, Rebecca McClincy and Kathy Owens.

The only interesting things that
happened on day three - or I'm sorry, on day four, were each of the watchers noticed something unusual going on, and they brought it to my attention. I don't remember which order it was in, but the watcher for the Union saw some people taking pictures or perhaps filming and brought it to my attention.

I went out, asked them to stop taking pictures or filming, asked them who they were. They said they were with the Pitt News. I said you can't take pictures of the polling area, but if you want to go downstairs you can take whatever pictures you want. They did so.

HEARING EXAMINER: And that was day four, approximately what time?

THE WITNESS: Two o'clock in the afternoon, approximately.

HEARING EXAMINER: After lunch?

THE WITNESS: Yes.

HEARING EXAMINER: All right.

THE WITNESS: Also on day four, the employer watcher brought to my attention that there was somebody standing in the doorway trying to talk to people - talk to people as they left. I again went up to that person. I told her she wasn't
allowed to be standing in the polling area. I asked her who she was. She said she was a reporter for the Pitt News doing an exit poll.

I said you can't do it in the polling area. And she went down - outside of the view of the polling area, I guess. I said, can you go do it down on the downstairs or on the landing? And to the best of my knowledge, she did so. She certainly wasn't in the doorway any longer.

That's about it for fun things on Thursday.

HEARING EXAMINER: Okay.

Now, we talked generally about a chain of custody. What happened then to the ballots at the end of day four?

THE WITNESS: End of day four, we taped the boxes up and I brought them down to the office here and stacked them with the others.

HEARING EXAMINER: And looking at PLRB 4 -

THE WITNESS: Uh-huh (yes).

HEARING EXAMINER: - do you remember how this document was created?

THE WITNESS: Yeah, it was created at the end - on April 26th, we canvassed the ballots.
We opened up all nine ballot boxes. We counted the ballots. The ballots were counted by Joe Gralewski and Kathy Owens. I was there as well overseeing things. A number of reporters came in, so I talked to the reporters and told them what they could or could not do.

And at the - we kept handwritten notes. Okay.

Let's step back. We - first, we counted the ballots and made them in stacks of 50. We put those stacks - once we had a stack of 50, we put them in plain view of the parties. And this was conducted in the courtroom across the hall from this one.

And then at the end, we counted up all the ballots, and we came up with the numbers of 675 for Steelworkers, 712 for no rep, which was a total of 1,387 ballots, which was about 70 percent of the voters. I figured we'd get about 60 to 70 percent and we got almost 70 percent.

There was a 153 challenged ballots that led up to 1,540 total ballots. And then unfortunately, the challenged ballots could interfere - could affect the outcome of the election. So I talked to the attorneys and -.
HEARING EXAMINER: Well, let's not get to that. Hold on one second. At the bottom, is that, were Ms. Farmer and Mr. Manzolillo there?

THE WITNESS: Yes, they were both there.

HEARING EXAMINER: All right. And they signed at the bottom there?

THE WITNESS: They did, along with Joseph Gralewski.

HEARING EXAMINER: Okay. And then I think you were moving on to PLRB 5 which is the stipulations on challenged ballots?

THE WITNESS: Yeah. So I had a telephone conference with the attorneys for the parties, Brad and Shannon. And we outlined a general procedure. We - the parties were able to agree on three people who - both sides felt their ballots should be canvassed. The parties agreed that 139 - well, at the time it was a little bit more. The University didn't decide whether or not there was some people they wanted to add. But in the end, it was a 139 challenged ballots would not be canvassed. And then there were approximately 11 ballots that the parties would want to have a
hearing over if necessary. They couldn't agree on those 11 names.

HEARING EXAMINER: All right.

THE WITNESS: I sent them a stipulation by email. They signed it and mailed the original back to me - or Steelworkers hand delivered it.

HEARING EXAMINER: And I believe PLRB 5 is the one signed by everybody.

THE WITNESS: That's correct.

HEARING EXAMINER: Yeah. Okay. At this time, we'll go off the record. The parties can prepare to Cross Mr. Bachy. Okay? Steelworkers will go first on Cross. Off the record.

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(WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

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HEARING EXAMINER: Steelworkers Cross Examination.

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CROSS EXAMINATION

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BY ATTORNEY MANZOLILLO:

Q. Hi, Mr. Bachy. Just a few - well,
several questions for you.

A. Whatever you need.

Q. Okay.

So you mentioned that you learned the name of the University watchers in that pre-election conference 15 -.

A. Monday, the 15th. That's correct.

Q. On Monday the 15th, which took place - you learned that those names were on attendance - prior attendance before the election started?

A. That is correct.

Q. And do you recall the names of the watchers?

A. I do not.

Q. See if these names refresh your memory at all.

A. Uh-huh (yes).

Q. Amy Tuttle.

A. Sounds right.

Q. Peggy King.

A. That sounds right.

Q. Amanda Brodish.

A. That sounds right.

Q. And Victoria Lancaster.

A. That sounds right, going by first names.
So I'm just going to move on from that.
Now, when did you first become aware the University was keeping a list of people who were voting?
A. As soon as the election started on the 15th.
Q. And how did you become aware of that?
A. I saw it.
Q. Okay.
A. I didn't actually look at the list, but it looked substantial, yes.
Q. And you mentioned that there was some instances where voters were asked to repeat their names, or spell their names?
A. Yes.
Q. Okay.
A. Yes. If there was a line, it occurred in front of the people that was standing in line.
Q. And wasn't one of the reasons you were doing this to make sure that the University watchers
captured the name correctly?

A. We did it so that both watchers could capture the name correctly. While I was aware at the time that the Steelworkers had told me that they were not going to challenge anybody - and the University told me they had a few challenges. At any time the parties could change their mind. It is our normal practice that both watchers - we have - we asked the people to say their name loud enough so that both watchers can file a challenge to them.

And again, I understood that Steelworkers said that they didn't have any challenges, but at any time they could have changed that. So it was done for the benefit of both watchers.

Q. Wasn't it clear that the University was tracking every name?

A. The - what I could see, the University had a list and it appeared they were making the marks on the list, nut I didn't actually see what they were doing.

Q. Appeared to be doing that for every person who voted?

A. That is correct.

Q. And -.

HEARING EXAMINER: Are you talking
about just the first day or generally across all four days?

BY ATTORNEY MANZOLILLO:

Q. I should clarify that.
A. It was all four days.
Q. This took place across all four days, okay.

Were you aware that the University planned to challenge approximately 11 voters from the list?

A. I knew that they had a small amount of challenges, yes.

ATTORNEY MANZOLILLO: I'm actually going to move to an exhibit to enter in to the record.

ATTORNEY FARMER: Okay.
Do you have a copy for me?
ATTORNEY MANZOLILLO: Yes.
ATTORNEY FARMER: Okay.
HEARING EXAMINER: We can make copies if you don't have any.
ATTORNEY MANZOLILLO: Yes.
HEARING EXAMINER: We got copies.
Okay. Off the record for a moment.

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(WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

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HEARING EXAMINER: All right.

We're back on the record. Union Exhibit 1.

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(Whereupon, Union Exhibit 1, Email 4/15/19, was marked for identification.)

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HEARING EXAMINER: Go ahead. Mr. Manzolillo.

ATTORNEY MANZOLILLO: I'm just moving to admit this as the parties have stipulated this was the - the list of individuals the employer indicated that they were going to challenge before the election.

HEARING EXAMINER: Did you put one copy up at the witness stand? Just because that's going to be the Hearing Examiner's copy. Exhibit -1 is an email dated April 15th from Ms. Farmer to Mr. Manzolillo. It's admitted into the record. Go ahead.

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(Whereupon, Union Exhibit 1, Email 4/15/19, was admitted.)
BY ATTORNEY MANZOLILLO:

Q. Mr. Bachy, is this your understanding of your approximate number of people that the University intended to challenge?

A. Yeah. I think I counted 12. That sounds about right. It was a small number, small being based on - we had 2,016 I believe, voters on the eligibility list.

ATTORNEY MANZOLILLO: Okay.

I move to admit this.

HEARING EXAMINER: It's admitted.

BY ATTORNEY MANZOLILLO:

Q. Now, you mentioned the University had a list. That list was not left with you at the end of each day.

Correct?

A. No. We had no control over it whatsoever.

Q. You were describing, I think starting to describe, on your Direct Examination that you had up - that you had a certain practice of how the election was conducted and where the watchers were placed Monday, Tuesday, and the first part of Wednesday. And then you said that up until
Wednesday at lunch. What changed Wednesday at lunch?

A. Wednesday at lunch we had our – it was our busiest voting time. It was approximately 12:15 and it got very loud to the extent that the watcher that was sitting furthest away - in this case, it was the University's watcher - was having trouble hearing. So we were slowing the process down.

So what I did was I moved the challenge spot to the outside of the table and I moved the University's watcher next to the person running the book. So that put them in equal distance with the Steelworkers' watcher.

Q. Okay.

So - and what did you - and you said you checked IDs regularly from that point on?

A. Yes. Probably starting - I said Wednesday, but it probably actually started Tuesday afternoon. We started checking every ID.

Q. So in the instances – once you moved the watcher, the University watcher, next to you, -

A. Uh-huh (yes).

Q. - isn't it true that you would, just to simplify the process, often just set the ID down between yourself - you have the PLRB officer
checking the list and the University watcher who was checking their list?

A. Yeah. That's correct. If you - as you were signing in the book, and then there was, I don't know, maybe a one-foot space between the PLRB and the - the employer watcher.

I set - I set the ID in front of me and a bit to the right. In my opinion, either watcher could have seen it, but the University watcher was interested and the Steelworkers' watcher was not. So yeah, substantially, that's correct.

Q. And isn't it true the Steelworker watcher was several feet over to your left where the PLRB officer -?

A. No. The Steelworkers' watcher was equally distant at that particular time, maybe a foot away. There wasn't a lot of space. It was a couple of tables approximately as large as the ones that both counsels are sitting at now pushed together. So the watcher would have been about as far from me as co-counsel is from you.

Q. And isn't it correct that this was all - that the University's watcher sitting next to the PLRB officer and the ID being placed between them, that that took place in clear view of the voters?
A. Yes. The voters could see.
Q. Okay.
And both observers or watchers had to wear badge depicting they were a watcher. Correct?
A. That is correct. Everybody that was sitting at the table had a badge. They were small sheets of white paper, and a Board agent had a Board agent printed on it. The watchers said election watcher.
Q. And now, you mentioned that the Union raised concern about the - about this practice or about the practice of the University tracking the list on Monday morning or Tuesday morning, the 17th - 16th?
A. Yes. The Union asked me if I got their email from Monday night. I said I did not, and they asked - they said we're aware of - and I'm paraphrasing, that the University has a list and that they're tracking it, and we think it might be coercive. I said, yes, I know they have a list. We permit either side of the party to have a list. And I stated at that time that I didn't see anybody who looked coerced on Monday.
Q. Did the Union raise this issue again -
that individual who spoke to you was -

A.  Was you.
Right?

Q.  - Brad, yes. And so - and so the individual who spoke to you was myself, Brad Manzolillo?

A.  That is correct.

Q.  And did I speak to you again on Wednesday morning about this issue?

A.  You may have. I don't recall.

Q.  Do you recall a conversation where I raised the issue about the University sending an email and perhaps having - that there maybe some escorting of - an email indicating that they were aware -?

A.  I believe you mentioned some emails. That being completely out of the PLRB's control, if I had said anything, it was like there's nothing I can do about that.

Q.  Do you recall indicating that - to the Union that it was free to file objections of the PLRB?

A.  Yes. I do recall that now that you refreshed my memory.

Q.  Do you remember any of the Union
observers raising a concern about the list being intimidating or coercive during the election process?

A. I don't remember that at all.

Q. You mentioned you were in conversation with a University, I mean a Union watcher who felt they were being treated unfairly or differently than the University watcher.

A. That is correct.

Q. And that was approximately lunchtime on Tuesday, I believe?

A. Probably around 1:00 in the afternoon.

Q. So -.

A. Approximately.

Q. So that individual at that time, didn't they also raise a concern about the list, that the list can be intimidating?

A. That I don't recall.

Q. Okay.

A. My conversation with the Union watcher was about the conduct of Mr. Gralewski and how she was unhappy with the way she was being treated. So I told her I would do what I could and I did. I put him outside for the rest of that election and I had him work in the Pittsburgh office for the final few
days.

So a concern was raised and I proactively did something about it that I thought was fair to all parties.

Q. And so you don't recall whether or not she asked you that question?

A. I do not.

Q. Do you recall a conversation on Thursday morning around the time the polls opened with Mr. Nathan Bortner about the issue, about the University keeping a list of voters?

A. No, I'm sorry. I don't recall that conversation.

Q. Okay.

So you don't recall Mr. Bortner raising that issue at all with you?

A. I do not.

Q. Okay.

HEARING EXAMINER: What was the question about Mr. Bortner?

ATTORNEY MANZOLILLO: Did Mr. Bortner - did he recall whether he had a conversation with Mr. Bortner when Mr. Bortner raised concerns about the University using a list.

HEARING EXAMINER: Go ahead.
BY ATTORNEY MANZOLILLO:

Q. I have a couple questions left. Okay. Now, you mentioned that Tuesday - I'm sorry, Thursday afternoon that some concerns were raised to you about some photography taking place or video recording taking place?

A. Yeah. Mid-afternoon, I'd say approximately two o'clock, the Union watcher raised a concern that somebody was taking pictures or perhaps filming the election. I did not see that from where I was seated, but he pointed it out to me. They were kind of hidden behind the door.

I went out. I told them they weren't allowed to film or take pictures of the polling area. I asked them who they were. They told me they were reporters from Pitt News. I told them if they wanted to take pictures, they had to go downstairs which - they left the area. I don't know where they went after that.

Q. And you did that because - out of concern that the voters might feel intimidated or coerce if they knew they were being filmed?

A. The Board has a policy of not allowing filming or picture taking in the polling area. I was enforcing that policy.
Q. It's your understanding that policy exists to prevent the sense of coercion or intimidation or feeling that your confidentiality may be lost.

A. No, my - yeah, the last part. My understanding is we don't want - it would be problematic in maintaining the secrecy of the ballot.

Q. But they're not actually videoing the actual ballot. They're just videoing the person who is going in.

A. No - we - yeah. I mean, they were - from where they were, they would not be able to see the ballots.

Q. Okay.

So wouldn't the same concern arise about confidentiality or whether the person attended voting or not in an issue with the University keeping its own independent list and taking it out of the voting area? Wouldn't - if the concern is that somebody could be photographed or videoed in or around the polling, they would expose that they voted or -?

A. That's not our concern as far as picture taking. Our picture taking concern, I believe, is
because we want to maintain the secrecy of the ballot.

HEARING EXAMINER: Is this - is this in the PA Code, this regulation, or is this just Board policy?

THE WITNESS: It's Board policy in a verbal kind of sense.

HEARING EXAMINER: Okay.

THE WITNESS: It's not in the rules and regs. It's not in the Code. It's not in the statute.

HEARING EXAMINER: How elections are run?

THE WITNESS: Yeah.

BY ATTORNEY MANZOLILLO:

Q. Now, you mentioned that you're able to - your assessment was that nobody was intimidated during the voting process?

A. Yes. I didn't see any voter who appeared intimidated on any of the four days. That's correct.

Q. And what are the - what's your basis for determining whether somebody is intimidated?

A. It was based on an orderly conduct of the election. The voters came in. They waited in line
to the extent that there was a line. They came up, you know, they said their name, presented their ID. They got a ballot. They marked the ballot. They came back. I did not see any voter look at the table where the - or where the - where we were handing out the ballots and then turn around and walk out.

I didn't see anybody who even - I didn't see any concerned looks on anybody's faces.

Q. Did you ask anyone?
A. I did not.

Q. Or take any corrective steps?
A. No. I didn't ask anybody if they felt intimidated or coerced.

Q. Okay.

Do you have any specific qualifications that would allow you to assess whether people were intimidated or not?

A. I have eyes.

Q. Okay.

HEARING EXAMINER: I'll judge the credibility of his opinion. All right. Did you see anybody balk at providing their identification?

THE WITNESS: I did not.

HEARING EXAMINER: Go ahead.
ATTORNEY MANZOLILLO: We don't have anything further.

HEARING EXAMINER: I just want to clear up just one thing on Direct for the facts. We've been talking about lists. Functionally and concretely, what was the PLRB's list during the election?

THE WITNESS: We had a small binder that had a list of every employee on the eligibility list double spaced with tabs by alphabet so that we could get to them quickly and they would have room to sign their name.

HEARING EXAMINER: And there were any one? PLRB only had one list?

THE WITNESS: We had one list with the election, and we had a back up that we did not bring to the election.

HEARING EXAMINER: And so that is different from what the Steelworkers are asking about now with regard to University's list?

THE WITNESS: Yes. The University list was something that they brought.

HEARING EXAMINER: And did you notice what form it was in? Was it paper? Was it electronic?
THE WITNESS: It was paper.

HEARING EXAMINER: All right.

THE WITNESS: And they were making marks with a pen.

HEARING EXAMINER: You can ask follow up. I just asked that to clear up the record. Do you have any follow up on that?

ATTORNEY MANZOLILLO: No, not at this time.

HEARING EXAMINER: All right.

Ms. Farmer?

ATTORNEY FARMER: Thank you.

HEARING EXAMINER: We can take a break if you want a break.

ATTORNEY FARMER: No. I'm good. Thanks.

HEARING EXAMINER: All right.

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CROSS EXAMINATION

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BY ATTORNEY FARMER:

Q. How long have you worked for the PLRB?

A. Since 2002.

Q. Always in the same job title?

A. Yes. I've been the administrative
officer for the Pennsylvania Labor Relations Board since November of 2002.

Q. And your training is as an attorney. Is that right?
A. That's correct.
Q. How long have you been overseeing elections for the PLRB?
A. Since spring of 2003, I oversaw - well, it was a training period for about, I don't know, maybe three months. And then all that summer of 2003, I oversaw the elections for the western part of the Pennsylvania Labor Relations Board, anything with a W on the back side of it.

Q. Okay.

And if - I know it's not an exact number, but about how many elections have you been involved in overseeing during your career with PLRB?
A. I'll call it 100 a year. Well, okay.
Since 2011, I've done it for the entire state, so call that 100 a year and maybe 50 or so a year from 2002 to 2011.

Q. And -.
A. So 800 or 900.
Q. Okay.

And just again, total ballpark, roughly
how many of those would you say were in person versus mail ballot?

A. Ninety-five (95) percent.

Q. In person?

A. Yes.

Q. And you were - you supervised the conduct of this election.

Right?

A. That's correct.

Q. Okay.

And you directed the work of the other PLRB staff who were at the election?

A. That's correct.

Q. You were present -?

A. Before, during and after.

Q. Okay.

And you - also, in addition to that, you personally took shifts sitting at the table doing the sign-in book?

A. That is correct. I took a shift at every position that we had.

Q. In conducting this election, did you follow the normal procedures that you had followed in those other 800 or 900 elections?

A. Okay.
To clarify, I was not physically at most of those elections. I am in charge of the election process, but we have two elections officers to go out. But to the extent that if they had a problem, I would be there to call. I'd make a decision at a polling area. I would inform them of my decision and then they would enforce it. But I was not physically at most of those elections.

Q. I understand.

And was the conduct of this election consistent with the procedures that you employed at those other elections through your direction?

ATTORNEY MANZOLILLO: Objection. Not able - foundation that you would be able to know what the procedures are.

HEARING EXAMINER: It's overruled. Go ahead and answer the question.

THE WITNESS: Okay.

Yes. I would talk with the elections officers at various times as to how they conduct the various elections. It's not all of them. But yeah, generally, they ask for a name, they say their name and if there's a problem they check ID.

BY ATTORNEY FARMER:

Q. If one party has an objection to
something that happens during an election, is that something you expect to be raised as soon as possible so it could be addressed?

A. As soon as possible and whoever is in charge of the election makes a decision at that time as to which way we're going to go. We can tell a party that they can have a watcher or they can't have certain watchers. So they can do this, but not that.

Q. And during the conduct of this election, was there anything that happened that you considered to be outside the PLRB's procedures other than the people who were filming who you said you asked to leave?

A. There was a Pitt News reporter that was conducting an exit poll in the polling area. So that was unusual.

Q. Anything else?

A. And I asked them to stop and they did.

Q. Anything else?

A. There was a - a bit of an altercation amongst - but I wasn't actually there for this - this is an after the fact, but I was told by the watcher for the Union that she felt she was being treating differently from the Employer's watcher.
And I discussed it with her and told her I'd do what I could to fix it.

Q. And then you took steps to address that problem?

A. I took steps. Yes, I did. Immediately.

ATTORNEY FARMER: How do you want to mark the University exhibits?

HEARING EXAMINER: What would you like to be called today?

ATTORNEY FARMER: Well, the Union is using U.

HEARING EXAMINER: All right. We can do Employer.

ATTORNEY FARMER: Without prejudice to our position, of course, that -.

HEARING EXAMINER: You employ somebody.

ATTORNEY FARMER: The graduate students are not employees, yes.

HEARING EXAMINER: Well, you stipulated you're a public employer.

ATTORNEY FARMER: That's true.

HEARING EXAMINER: Or you can do Pitt 1.

ATTORNEY FARMER: I already marked it.
HEARING EXAMINER: Okay.

Employer.

ATTORNEY FARMER: P is confusing, too, because that sounds like petitioner.

HEARING EXAMINER: Thank you.

BY ATTORNEY FARMER:

Q. Okay.

I'm showing you what I've marked as Employer's Exhibit 1. Have you seen this before?

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(Whereupon, Employer's Exhibit 1, Instructions for Election Observers, was marked for identification.)

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THE WITNESS: Yes.

BY ATTORNEY FARMER:

Q. Can you identify what this is?

A. This is a document that the Pennsylvania Labor Relations Board sends to the parties.

Q. And this actually goes - is sent to the parties with the Order and notice of election?

A. Yes.

Q. This is something that's prepared by the PLRB?

A. That is correct.
Q. Okay.

Were you involved in the creation of this document?

A. That's an ancient document. It was created before my time.

Q. It says at the bottom it was revised in 2011.

HEARING EXAMINER: It might have been 1911. Go ahead.

BY ATTORNEY FARMER:

Q. Got you.

A. No. I was not involved in the revision.

Q. Okay.

In looking at it, do you believe that it summarizes what the expectations are for election observers?

HEARING EXAMINER: Did Steelworkers get this document?

ATTORNEY MANZOLILLO: I don't recall.

HEARING EXAMINER: Did you get this document?

THE WITNESS: I would have obviously got it.

ATTORNEY FARMER: Yeah. It would have came with the order and the direction of election.
THE WITNESS: I was reading. Could you repeat your question?

BY ATTORNEY FARMER:

Q. Yes. I said do you believe that it accurately summarizes what the expectations are for election observers?

A. It accurately summarizes our expectations for them.

Q. That's what I meant, the PLRB's expectations.

A. Yes.

Q. Okay.

What's the purpose of having election observers?

A. Maintain the fairness of the election. Each party, make sure everything is - that the election is conducted in a fair manner to their particular party, I suppose. And to make sure the secrecy of the ballot is maintained. That's my understanding.

Q. And is - and one of the roles of observers is to identify voters?

A. Yes. That's correct. It's - at an onsite election, if somebody wants to make a challenge, it has to be made through their election
Q. Now, you said that you held a pre-election briefing before the start of the election on Monday morning?
A. That's correct.
Q. Is that customary?
A. We do it every time.
Q. Is it customary to have non-observer representatives for the parties at that briefing?
A. Anybody can be there.
Q. And during the briefing in this instance, the University's watchers identified themselves?
A. They did.
Q. Okay.
They gave their titles?
A. They did.
Q. And you said that you asked each of them if they were supervisors?
A. I first asked them if they supervised grad students, and then I asked them if they supervised anybody.
Q. And you said that the Union's counsel raised concerns. What was said by the Union's counsel? And the specific Union counsel was Brad,
who is present.

HEARING EXAMINER: Thank you.

ATTORNEY FARMER: Yes, sir.

THE WITNESS: He raised concerns that
the employer's watchers might be managers or
supervisors, which prompted me to ask some specific
questions.

BY ATTORNEY FARMER:

Q. And after you asked those specific
questions, did Brad say anything else about the
watchers?

A. He didn't agree to them.

Q. Did you raise any concerns about the
identity of the watchers with me or any
representative of the University?

A. No. After I asked them the questions, I
allowed them to be watchers.

Q. And you didn't ask the University to get
different watchers?

A. I did not.

HEARING EXAMINER: Just to go back, we
do have on the record that Mr. Manzolillo sent an
email regarding the watchers. You asked him did he
say anything else about the watchers, and he said
no. But I just want to make sure we're all clear
that he did send an email which is 3B.

ATTORNEY FARMER: The email is not about -.

HEARING EXAMINER: I'm sorry. Continue on.

ATTORNEY FARMER: The email is not about the watchers.

HEARING EXAMINER: All right. Go ahead.

BY ATTORNEY FARMER:

Q. Okay.

Did you believe that the identity of the watchers was consistent with PLRB policy?

A. No. They were supervisors, but I allowed it anyway because it didn't seem that these particular supervisors were going to be known to anybody that - one of the parties did specifically tell them, hey, this person works for the University and supervises whoever. Once I determined they didn't supervise grad students and it seemed to me that they were not in any way close to the grad students, that the grad students probably wouldn't recognize it for the most part, I allowed them to be watchers.

Q. And was this consistent with how watchers
were handled in the election that occurred among graduate students at Penn State the prior year?

ATTORNEY MANZOLILLO: Objection, relevance to this situation.

HEARING EXAMINER: Deferred. Go ahead and answer it.

THE WITNESS: I don't think we asked Penn State watchers those questions because I don't believe the Union raised any concerns.

BY ATTORNEY FARMER:

Q. Do you recall, in connection with the election that occurred at Penn State, graduate students telling me that having University watchers from the Office of the Dean of Graduate Studies was fine as long as they didn't supervise graduate students?

ATTORNEY MANZOLILLO: Same objection.

HEARING EXAMINER: Deferred. Go ahead.

BY ATTORNEY FARMER:

Q. Do you recall that?
A. I don't recall that conversation.
Q. At any other time during the election, were there any concerns raised about the conduct by the University's watchers?
A. Other than the tracking of the - using the list to track employees, I don't remember anything off the top of my head.

Q. Did you see any actions done by the University watchers that appeared to be coercive?

A. I did not.

Q. During the pre-election conference, did you tell all of the watchers that if they couldn't hear the name of the voter or the spelling, that they can ask the person who was checking voters in to repeat it?

A. It was actually Joe that said that, but yes, that was said at the pre-election briefing.

Q. And you've testified that the PLRB provides for a secret ballot election. How does it do that?

A. We provide a polling location, and we have polling booths that have screens on them. And the - there's screens on three sides and there's an opening on one side. The opening is away from the area where the watchers, the Board agent and the folks voting can't see behind there.

And we also arrange the polling location in such a way when we have more than one that the voters can't see what the voter is doing. We space
them - we try to space them far apart. We try to space them in a line in such a way that the only person that can see the ballot is the person that's making the mark on it. Then they fold the ballot up and they put it in the ballot box, and we maintain control of the ballot box. And in this way, we maintain the secrecy of the election.

Q. Is there any way for anybody to know how the votes were cast on a given day during the election?

A. No.

Q. Do you do count - do any count of the ballots during the course of the election on a multi-day election?

A. No, we don't. We seal the ballot boxes and then we - on a case - in a normal election, we do the count immediately. In a large election like this, a multi-day election, we seal the ballot boxes and then we have a date set aside where we open them.

Before we open them, we have the parties look at them to make sure that the integrity of the ballot box has been maintained. In this particular case, that was done, and the parties agreed that the ballot boxes were sealed when we opened them.
Q. Does either or both parties keeping track of who voted diminish the secrecy of the ballot?

ATTORNEY MANZOLILLO: Objection. That's speculative, no basis.

HEARING EXAMINER: Say that again.

ATTORNEY FARMER: I said does either or both parties keeping track of who voted diminish the secrecy of the ballot?

HEARING EXAMINER: And you're asking secrecy in terms of the Board's stated policy to ensure secrecy?

ATTORNEY FARMER: Correct.

HEARING EXAMINER: I'm going to overrule. Go ahead.

THE WITNESS: I don't see how it could have.

BY ATTORNEY FARMER:

Q. Did - in this instance, did you have any surprise that the University was keeping track of who voted?

A. No, that wasn't a surprise. The surprise was that the Union was not.

Q. Because it's common for both sides to keep track?

A. Yes.
Q. But do you recall asking the Union's counsel if they had a list to keep track?
A. I don't recall.
Q. Do you recall at some point during the election being asked and saying words to the effect of while this may not be prohibited under the Federal Board, we don't have a rule against doing this?
A. I don't recall that exact conversation, but it sounds like something I would have said.
Q. Do you recall staff from the PLRB asking you - actually asking the University watchers to double check where the PLRB was having trouble finding student names on the list so that every eligible voter could vote?
A. We did do that, yes, several times. The University - we were going to send somebody to the challenge station, and the University said, hey, they're on my list. We double checked our list and in those cases, we found them. And instead of being challenged, they were issued a vote. That happened maybe three or four times.
Q. And is that part of the reason for having watchers to help identify voters, to make sure that every eligible voter votes and only eligible voters
vote?

A. Yes. That's one of the purposes, especially in the small elections where everybody knows everybody.

Q. You testified that there was a change in the seating arrangements, I think you said around lunchtime on Wednesday?

A. That's correct.

Q. Did the University watchers ask to move closer?

A. They did not. They were having trouble hearing, so I moved them closer.

Q. And that put them at the same relative distance to the checking and as the Union observer had been the entire time?

A. Yes.

Q. At any point, did you notify me or any representative of the University that the Union had complained about the University keeping track of the voters?

A. I don't recall doing that, no.

Q. You - 3B is an email that you received from the Union's counsel that was dated Monday evening. You testified that you didn't see it until Friday?
A. That's correct.
Q. And at that time, did you notice that nobody from the University was copied on it?
A. I didn't notice that until just now.
Q. Okay.

Did you consult with the chief counsel of the PLRB about any concerns raised by the Union during the election?

HEARING EXAMINER: I'm going to stop you there. We'll go off the record. I'm going to think about that question.

ATTORNEY FARMER: Okay.

HEARING EXAMINER: All right. We'll go off the record for ten minutes - eight minutes.
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(WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)
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HEARING EXAMINER: Mr. Bachy, who was your chief counsel for - what time period are you asking about?

ATTORNEY FARMER: During the election.

HEARING EXAMINER: During the election, okay, who was chief counsel at that time?


HEARING EXAMINER: During the
THE WITNESS: Oh, no. That was after Pete Lassey.

HEARING EXAMINER: And -.

THE WITNESS: Sorry.

HEARING EXAMINER: Besides being chief counsel, did Pete Lassey have another role, another formal role?

THE WITNESS: Oh. yeah. He's the Board representative.

HEARING EXAMINER: Okay.

And what's the Board representative generally -?

THE WITNESS: For a representation petition, the Board representative is the person that signs the election order. He's the only person that can issue and sign an election order.

HEARING EXAMINER: His administrative function - that's an administrative function?

THE WITNESS: Yes.

HEARING EXAMINER: All right.

Again, you talked to Mr. Lassey about during the election?

THE WITNESS: The only thing I can recall is -.
HEARING EXAMINER: Don't tell me if you did, what it was. Just yes or no.

THE WITNESS: Yes.

HEARING EXAMINER: Okay.

Can you discern the difference between talking to Mr. Lassey about legal issues concerning the Board and talking to Mr. Lassey about administrative policy questions you may have about administrative - administering the election?

THE WITNESS: I believe I can do so.

HEARING EXAMINER: Right. You can ask him about policy - discussions you had with Mr. Lassey about policy discussions, but not about legal discussions he had in his role as chief legal officer but as his role of Board representative?

ATTORNEY FARMER: I was actually just going to ask if he spoke with him. My question was actually, did he speak with him about the Union's objection to University maintaining -.

THE WITNESS: As Board representative?

ATTORNEY FARMER: I was actually asking if he spoke to him about it at all, period.

HEARING EXAMINER: Okay.

Did you speak to him about - answer the question.
THE WITNESS: No.

HEARING EXAMINER: There you go.

ATTORNEY FARMER: That's what I was looking for.

HEARING EXAMINER: Well, if that comes up again, we set the groundwork now -

ATTORNEY FARMER: Okay.

HEARING EXAMINER: - for what I think proper questions are with regard to Mr. Mowry and Mr. Lassey.

BY ATTORNEY FARMER:

Q. Thank you.

You testified that at some point you started having the PLRB representative check all student IDs. You said that was probably sometime around Tuesday afternoon?

A. Yes.

Q. Okay.

Why did you do that?

A. It was easier.

Q. Why was it easier?

A. The University ID is - the name is nicely printed so that you can easily visually see the name. And it made it easier to find that person on the list. Asking them their names and asking them
to spell their names was going slower at times. Presenting the student ID made it a lot easier for us to find their name on the list.

Q. Was anyone turned away for not having an ID?
A. They were not.
Q. Before you went to the policy of checking all of the IDs, did the PLRB target international students when asking for IDs?
A. Absolutely not.
Q. Did any student complained about being asked for their ID?
A. Not that I recall. Some students didn't have a Pitt ID so they showed their driver's license. And one student that I recall when I was running the sign-in book didn't have an ID, and I simply said, well, if you know your name, I'll let you sign it. And they ended up showing me their banking card.

Q. Okay.
Did you observe any University watcher speak directly to any voter?
A. No. Any question that the University watcher had would have been directed to the Board agent running the book.
Q. Did you ever observe any University watcher ask any student for ID?
A. No. That didn't happen.
Q. And did any University watcher ever ask a student to repeat or spell their name?

ATTORNEY MANZOLILLO: Object. And Mr. Bachy can't speak for all the agents.

HEARING EXAMINER: In your experience.
Just ask him in his experience.

BY ATTORNEY FARMER:
Q. In his experience - in your experience did that happen?
A. Well, let me take a step back and tell you how long I was there. I was directly there for every minute of the election except for 40 minutes on Tuesday and 40 minutes on Thursday. So other than those times when I was at lunch on those two days only, I was able to directly observe the election. And could you ask your question again?
Q. Sure.
Did you - just to make sure that the question is there, did you observe any University watcher ask any student for ID?
A. No, they did not.
Q. Did you observe any University watcher
ask any student to say or spell their name?
   A. No. They would have asked the Board agent if they needed that.
   Q. Did you ever see any University watcher engage in any behavior that appeared to be photographing voters?
   A. I did not. I would have put a stop to it if I had seen it.
   Q. Did anybody complain to you that University watchers appeared to be photographing voters?
   A. No. The only complaint about photography was the Union watcher saw some people outside taking pictures. We discussed that. It was Pitt News and I sent them somewhere else.
   Q. Did Union watchers sometimes have their cell phones out while they were at the table?
   A. Yes.
   Q. Did PLRB staff sometimes have their cell phones out while they were at the table?
   A. Not while they were - when there was no voters there? Okay. I'm going to go with yes. But not when there were voters there.
   Q. Is there any voter who left without voting who was eligible to your knowledge?
A. I didn't see anybody leave without voting.

Q. Did any voter make any complaints about the conduct of the election to you or any PLRB staff who reported it to you?

A. None of the voters, no.

Q. Did you observe any conduct by University watchers that you considered to be improper?

A. No. I would have put a stop to it.

Q. Did the Union - did Brad come to the election site each day?

A. In the morning and then in the evening, before we opened the polls and after we closed the polls.

Q. And did he speak to you about the election each day?

A. Briefly, I mean, there was the Tuesday morning conversation about lists. That's the one I recall mostly. I mean, we may have briefly chatted about things other than that, but I don't recall directly.

Q. And was any representative of the University present when you had these conversations?

A. The University had Stephanie Hoogendoorn in the mornings and the evenings. She would have
been nearby. I don't know if she was within earshot.

Q. Did you say anything to Stephanie or to me about any concerns that were raised to you by Brad at any point during the election?

A. I did not.

ATTORNEY FARMER: I have nothing further.

HEARING EXAMINER: Would you like some time for Redirect or Recross?

ATTORNEY FARMER: Oh, I'm sorry. Can I ask one -?

HEARING EXAMINER: Yeah, go ahead. ATTORNEY FARMER: I have one - sorry, another question.

BY ATTORNEY FARMER:

Q. You testified that when voters came in and were checked in, you had asked them to sign your list?

A. That's correct.

Q. Okay.

The University watchers didn't ask the students to sign anything. Did they?

A. They did not.

ATTORNEY FARMER: And nothing further.
HEARING EXAMINER: All right.
Would you like some time for Recross?
ATTORNEY MANZOLILLO: I have just a few -.

HEARING EXAMINER: Go ahead.
ATTORNEY MANZOLILLO: Oh, you're going to go?

HEARING EXAMINER: Well, I'm done on the Direct.

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RE CROSS EXAMINATION
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BY ATTORNEY MANZOLILLO:

Q. Now, Mr. Bachy, in your experience, the employer is the party that's responsible for selecting their observers.
Correct?
A. Yes. The employer selects the employer's watcher, yes.

Q. It's not the Union's responsibility to select the employer's watchers.
Correct?
A. Correct.

Q. The email - the PLRB Exhibit 3B -
A. Uh-huh (yes).
Q. - the email I sent, did you have a chance
to review that after you - on Friday after the
election?
A. Yes. I read it.
Q. And in that email, in fact, the Union
does raise a concern about the University watchers
being managerial.
Correct?
A. Would you care to direct my attention to
it?
Q. The last sentence of the first paragraph.
A. Oh, there we are. It's hard to find
things when you're looking real quick. I mean, it's
in the - it's in the email. And it was also raised
verbally at the pre-election brief on Monday.
Q. And that was in the presence of the
University representatives during the pre-election
conference on Monday?
A. It was in front of everybody and I
believe everybody heard it.
Q. Now, you spoke a little bit about your
experience with running elections. What percentage
are you actually at in person?
A. In person? A number so small that you
probably can't even count it, but I can give you the
exact number. The exact number is me being onsite for an onsite election is three. Me being present for a mail ballot election is pretty much any one conducted in our office, but even that number is probably under 50.

Q. Now, how many - how many multi-day elections have you been involved with?
   A. Two. I mean, as I was at the election polling area or involved with in any capacity whatsoever?

Q. Let me ask you. How many in person multi-day elections were you involved with in person?
   A. When I was at the election site?
   Q. Yes.
   A. Two.
   Q. All right.
   
So just counting mail ballots, how many were you - have you been involved with, period?

HEARING EXAMINER: Multi-day?
ATTORNEY MANZOLILLO: Yeah.

HEARING EXAMINER: There's no multi-day mail ballots at all, I think.

THE WITNESS: No, no, no, multi-day elections?
HEARING EXAMINER: Yeah.

THE WITNESS: Anything in the west since 2002 and anything in the state since 2011, I don't have an exact number for.

BY ATTORNEY MANZOLILLO:

Q. Do you have an approximation of how many of those had more than 2,000 voters?

A. Oh, more than 2,000 voters? One. The Penn State election had 4 - we ran a couple of elections for - those were mail ballots. We're not counting mail ballots. Right? Okay. So over 1,000 voters? Two.

Q. How about over 500?

A. Maybe another ten.

Q. And how about over 100?

A. Over 100 people? We don't do those multi-day,

Q. Okay.

How many elections have you had, period, with over 100 people, just a rough estimate?

A. Twenty (20) percent.

Q. Okay.

A. I would say a typical number of folks in an election is going to be a municipal election for a road crew, and that's usually around ten. You'd
have to get to states and school districts and things like that, so maybe 20 percent? Most of our elections are small.

Q. Okay.

ATTORNEY MANZOLILLO: I don't have anything further.

ATTORNEY FARMER: I just have one.

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RECROSS EXAMINATION ---

BY ATTORNEY FARMER:

Q. The - you testified that everyone had to wear a badge that's provided by the PLRB?

A. Correct.

Q. And that the watcher just say watcher?

A. Election watcher.

Q. Election watcher. They don't say who they're a watcher for, do they?

A. They do not.

ATTORNEY FARMER: Nothing further.

HEARING EXAMINER: All right.

At this time, is everyone finished with Mr. Bachy?

ATTORNEY MANZOLILLO: Yes.

ATTORNEY FARMER: Yes.
HEARING EXAMINER: All right.
You can step down, sir. Thank you.
Now we can continue. You have the burden for the exception to the Board's election. You can continue with that or you can move in and comply it with the UP. It's up to you.

ATTORNEY MANZOLILLO: We're going to provide evidence combined.

HEARING EXAMINER: All right.
So the parties do you want to break now or get started? It's only 11:15.

ATTORNEY MANZOLILLO: Just give us about five minutes.

HEARING EXAMINER: All right.
We'll come back in five minutes, and then we'll probably do a witness and then break for lunch.

---
(WHEREUPON, A SHORT BREAK WAS TAKEN.)
---

HEARING EXAMINER: Warren Mowry was the chief counsel during the election. It wasn't - so I got that wrong. He was right on the stand. I don't think it matters, Counsel.

All right.
ATTORNEY FARMER: I'm going to move in my exhibit.

HEARING EXAMINER: Yeah, go ahead.

ATTORNEY FARMER: I move Employer's Exhibit 1.

HEARING EXAMINER: Any objection to this?

ATTORNEY MANZOLILLO: No.

HEARING EXAMINER: All right. That's admitted.

(Whereupon, Employer's Exhibit 1, Instructions for Election Observers, was admitted.)

HEARING EXAMINER: So go ahead with your case, sir.

ATTORNEY MANZOLILLO: Union calls Casey Madden.

HEARING EXAMINER: Raise your right hand for me.

CASEY MADDEN,

CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS Follows:
HEARING EXAMINER: Your witness, sir.
Wait - spell your name for us.
HEARING EXAMINER: Okay.
Your witness, sir.
---
DIRECT EXAMINATION
---
BY ATTORNEY MANZOLILLO:
Q. Hi, Casey. Are you a graduate student at the University of Pittsburgh?
A. Yes.
Q. And were you any of a TATF GSA or DSR employed by the University during the spring semester of 2019?
A. Yes.
Q. So you were in the bargaining unit and eligible to vote?
A. Yes.
Q. Did you serve as the election observer slash watcher for the Union?
A. On Tuesday from 9:00 a.m. until 5:00 p.m., with an hour break around noon for lunch. And on Thursday from 9:00 a.m. until 5:00 p.m., with
about an hour and half break at 12:30 for lunch.

Q. Did you take any other breaks during the day either?

A. There's a 15 minute break around 3:00 p.m.

Q. And you were replaced by other Union observers during this time?

A. Correct.

Q. Okay.

So can you briefly describe what your duties were as watcher?

A. Just to ensure that there was no sort of coercive behavior happening or election viewing happening within the polling location, that no one was taking photographs, just to make sure that things ran smoothly.

Q. Okay.

Can you describe where you were seated relative to the PLRB agents and the University watchers during the election?

A. On both days, I was sitting - if you were looking at the table from behind, I was sitting to the left of the Board agent. On Tuesday, the University watcher was all the way across the table. And on Thursday the watcher had been moved to the
right of the Board agent.

Q. How far were you from the - to the left from the Board agent?
A. On Thursday?
Q. On Tuesday.
A. On Tuesday, two or three feet.
Q. Okay.

And how far on Thursday?
A. Two or three feet.
Q. There was some testimony that during -
well, I'll come back to that. Okay. So did you keep a list tracking who voted while you were poll watching?
A. No.
Q. And why not?
A. We were told not to keep a list as it may appear coercive in some fashion.
Q. Who told you that?
A. The United Steelworkers' attorneys.
Q. So the Union didn't ask you to keep a track or who voted either?
A. Correct. They asked us not to.
Q. Were there - so there were PLRB agents who conducted the election. Do you remember any of them?
A. I only remember first names. There was Dennis, Joe, Kathy. And on Thursday there was a new one name Nate.

Q. Okay.

A. There was someone else as well. I do not remember her name.

Q. Okay.

Did you observe the University watchers keeping an independent list of voted – of who voted?

A. I did.

Q. And what did you see?

A. They had a clipboard with a pretty large stack of paper on it. And as voters would come in and announce their names to the Board agent, the Board agent would check their name off. The University watcher would also rifle through their stack of paper and they appeared to make some mark, probably indicating the person who had voted.

Q. After every voter?

A. After every voter.

Q. And was this done openly in the present of voters?

A. Yes.

Q. Now, did the PLRB agents ever ask voters to repeat a name or to spell a name?
A. Yes.

Q. And how often was that?

A. Probably 20 percent of the time.

Q. And was this done in a widely audible fashion so anybody in the polling area could hear?

A. Yes.

Q. Did you ever witness the University watchers request the PLRB agents to have a name repeated or to spell it?

A. Yes.

Q. How often was that?

A. Fairly often, especially when it got busier and it was louder.

Q. And was this done in the present of voters in an audible fashion?

A. Yes.

Q. Did the PLRB agents ever indicate why they were having voters spell out their names?

A. Because they couldn't find their name in the book or those - on some occasions. On other occasions, it was specifically stated so that the watcher could also get the name.

Q. Did you ever hear any of the University watchers ask PLRB agents anything about how they - how they were keeping tracks of name?
A. Yes. On Tuesday, I witnessed one of the watchers asking Joe, I believe, if he had any sort of tips or tricks for how to navigate the list faster.

Q. And did you hear Joe give a response?
A. Yes. Joe indicated that oftentimes you only need the first three letters of the last name. That'll help you flip through it faster. And he also instructed her to put Post-It notes as like makeshift tabs on their lists. So those were labeled A through Z, and they could just flip to last names faster.

Q. And the - did the University follow that practice themselves, the University watchers?
A. Yes.

Q. Okay.
You saw them keeping tabs or Post-It notes on their list?
A. I saw them make the tabs and put them on the list and use them.

Q. Okay.
And was this done visibly in front of voters?
A. Yes.

HEARING EXAMINER: Was that Tuesday?
THE WITNESS: Yes.

BY ATTORNEY MANZOLILLO:

Q. Do you remember around what time on Tuesday?

A. Before lunch.

Q. Now, you were there Tuesday even in the afternoon. Did the - I should ask, did the - let me rephrase this question. They're two different questions.

Did any of the voters - did you ever witness any voters express concern about the anonymity being preserved?

A. Yes.

Q. While in the polling area they expressed this?

A. Yes.

Q. And can you describe what happened?

ATTORNEY FARMER: Objection. Hearsay.

HEARING EXAMINER: Overruled. Well, deferred. Let's see what he has to say.

THE WITNESS: There were some people who asked at the first Board agent that they made contact with like why do I have to say my name? I thought this was anonymous. The Board agent would then explain this is just to verify that you are on
the list of eligible voters. I saw a lot more
concern with challenged ballots.

ATTORNEY MANZOLILLO: Now -.

HEARING EXAMINER: Hold on, just one
second. There definitely is hearsay issues there if
you're going to use those statements in any way to
show coercion because you have no opportunity to
Cross them.

ATTORNEY FARMER: Correct.

HEARING EXAMINER: However, we're
going to leave it in the record because it may be
useful for notice or other issues. And to hear how
the - how the PLRB responded to those issues is also
proper. Okay?

Go ahead.

BY ATTORNEY MANZOLILLO:

Q. And in those instances where people
raised - you heard them raise concern about
anonymity, were the University watchers -.

HEARING EXAMINER: Well, you said
persons and he said one person. Was it only one
person?

THE WITNESS: It was more than one
person.

HEARING EXAMINER: Okay.
BY ATTORNEY MANZOLILLO:

Q. Do you remember approximately how many?
A. I don't remember how many, but I would guess - over the course of Tuesday and Thursday, I saw probably over 15 people raise concern about their anonymity.

Q. Okay.
A. I don't remember how many, but I would guess - over the course of Tuesday and Thursday, I saw probably over 15 people raise concern about their anonymity.

Q. Okay.
A. I don't remember how many, but I would guess - over the course of Tuesday and Thursday, I saw probably over 15 people raise concern about their anonymity.

Q. And in each of these instances, was the University watchers tracking who they were on their list?
A. Yes.

Q. Was that open and visible to the voter?
A. Yes.

HEARING EXAMINER: Go back to when - can you give another example - what example did you use for something that they said?

THE WITNESS: Like when they first approached the Board agent and were asked for their names, just asking, why do I have to give my name? I don't understand. I thought this was an anonymous process.

HEARING EXAMINER: All right.
I know there's a hearsay objection on that, and that's probably definitely hearsay to use for their state of mind. However, I wanted to hear
how did PLRB respond to those comments?

THE WITNESS: They would explain that they needed to offer up their name to verify that they were eligible for a non-challenged ballot.

HEARING EXAMINER: Okay.

Go ahead.

BY ATTORNEY MANZOLILLO:

Q. Did the University challenge any voters while you were observing?

A. Yes.

Q. How many?

A. One.

Q. And the list they were keeping, did that - did that appear to have hundreds of names on it?

A. I would estimate over 1,000.

Q. Okay.

Now, did the - how many - how many ballots did you witness the PLRB challenge?

A. Over 100.

Q. Did the PLRB agents ever discuss keeping a list with you?

A. Yes. On Thursday morning in like the ten minute window before the polls opened, I think Nathan was his name, was the new Board agent who was sitting next to me. He checked in with the
University watcher about getting their list situated. And then he turned to me and asked me if I would be working off a list as well.

Q. And what did you say?

A. I told him that I would not be working off a list and I expressed concern to him that it may be coercive to keep a list and I wasn't entirely sure why the University was allowed to keep one.

Q. And what did Nathan do in response to that?

   ATTORNEY FARMER: Objection.

   HEARING EXAMINER: Overruled. Go ahead. Well, what's your objection?

   ATTORNEY FARMER: Hearsay. There - it's not -.

   HEARING EXAMINER: Asked him what he did and that's what he said. Go ahead and answer the question. Did he do anything in response to that?

   THE WITNESS: He raised concern with Dennis.

   HEARING EXAMINER: You asked Dennis about it and he didn't remember?

   ATTORNEY MANZOLILLO: Yes, sir.

   HEARING EXAMINER: All right.
Go ahead.

BY ATTORNEY MANZOLILLO:

Q. What did - did you overhear any of the conversation?

A. What I overheard Dennis say was that it wasn't a problem because voters weren't sure who in the room was a PLRB employee or not. And they had no way of knowing that the election watchers were not PLRB employees.

HEARING EXAMINER: What you said didn't make any sense to me. Can you say that again?

THE WITNESS: Dennis said there was no threat of coercion because the voters didn't know that the election watchers were not PLRB employees.

HEARING EXAMINER: All right.

BY ATTORNEY MANZOLILLO:

Q. And the - you wore a badge depicting you were an election watcher?

A. Yes.

Q. And did the University watcher do the same?

A. Yes.

Q. Okay.

Now, did the PLRB agents ask voters for
IDs during the time you were observing?
   A. Yes.
   Q. Was it done on a consistent basis?
   A. No.
   Q. Okay.
   So on Tuesday, the time you were observing on Tuesday, did they appear to target any particular demographic group and ask them for IDs?
   A. They appeared to be disproportionately asking people who appeared to be of either Asian or Middle Eastern descent for their IDs.
   Q. And was this before they gave their names?
   A. Yes.
   Q. So they were asking preemptively?
   A. Correct.

HEARING EXAMINER: That doesn't - that doesn't make sense. What do you mean asking before they gave their names?

ATTORNEY MANZOLILLO: Were they asking -?

HEARING EXAMINER: When they walk - when they walked up to the desk?

THE WITNESS: In most cases, the Board agent was not asking for ID at all. In other cases
the moment they saw a person they were asking them for ID.

HEARING EXAMINER: Okay.
Go ahead.

BY ATTORNEY MANZOLILLO:

Q. And you noticed that this - that - can you say it again? What - what - if you notice a particular demographic group being asked before they stated their names for IDs?

A. It appeared to be people who were of Asian or Middle Eastern descent.

Q. Okay.
Do you recall by Tuesday afternoon the PLRB asking all voters for IDs?

A. They began to more consistently ask people for IDs, but they were still not asking every person.

HEARING EXAMINER: Just to go back. In shorthand, you're alleging they were visually profiling Asian and Middle Eastern students?

THE WITNESS: Yes.

HEARING EXAMINER: Okay.

Were you - is that something you were on a lookout or thought of to be on the lookout for before the election started, or is that just
something that jumped out to you and it became clear
to you even though you weren't expecting it?

THE WITNESS: That was something that
became clear to me despite not expecting it.

HEARING EXAMINER: All right.
So no one told you before the
election, hey, watch out. Make sure they don't
racially profile, visually profile, racially profile
the voters?

THE WITNESS: No one said anything
like that to me.

HEARING EXAMINER: Go ahead.

BY ATTORNEY MANZOLILLO:

Q. Now, how about on Thursday, did the
practice change in terms of checking IDs?

A. Yes. IDs were being checked
significantly more consistently. And oftentimes it
was like a preemptive thing. People weren't even
being asked for their names, to give their names or
to spell them. They were just looking at the IDs.

Q. Now did anything change in terms of the
placement of watchers between Tuesday and Thursday?

A. The University watcher moved from the far
right end of the table to directly next to the PLRB
agent.
HEARING EXAMINER: Far right, facing the students coming in to vote?

THE WITNESS: Correct.

HEARING EXAMINER: All right.

BY ATTORNEY MANZOLILLO:

Q. Now, when the University - when the PLRB agent asked for IDs, what did they do with those - those IDs on Thursday?

A. They would take the ID and place it directly between the Board agent and the University observer.

Q. Now, you were sitting to the left of the PLRB agent?

A. Correct.

Q. Could you see the IDs from where you were sitting?

A. I could not.

Q. So when those IDs were being placed between them, could you see what the parties were doing?

A. I could see what the Board agent was doing. I could not see what the University observer was doing.

Q. Okay.

But they both were checking the ID?
A. Yes. Well, I could see that the University observer was rifling through the list and making marks on it.

Q. Okay.

While they - while they - while they had the ID in front of them?

A. Right.

Q. Okay.

And was this done in the presence of voters?

A. Yes.

Q. Was the process you described earlier of disproportionate targeting of certain demographic groups done in the presence of voters?

A. Yes.

Q. Did you observe the University watchers using their phones in the polling area during the election?

A. Yes.

Q. What did you see?

A. I saw during down times when there were not voters in the room, they would be on their phones. I don't know what they were doing on them. When voters returned to the rooms, they were often just leaving their phones out on the table.
Q. Were they out in plain view of the -?
A. Yes.
Q. Okay.

So I'm going to talk to you a little bit about the weeks leading up to the campaign now.

HEARING EXAMINER: All right. So we're switching - go ahead. Could you Cross on just that?

ATTORNEY FARMER: I'd rather just do it - I mean, they've been consolidated.

HEARING EXAMINER: All right.

ATTORNEY FARMER: And there's overlap.

HEARING EXAMINER: Go ahead. Just do the whole thing at once then.

BY ATTORNEY MANZOLILLO:

Q. Okay.

So I'm going to show you some exhibits.

HEARING EXAMINER: Thank you ma'am.

BY ATTORNEY MANZOLILLO:

Q. Casey, there is an exhibit placed in front of you called Union's Exhibit 2. Can you tell us what that is?

---

(Whereupon, Union Exhibit 2, Email 3/27/19, was marked for identification.)
THE WITNESS: It is an email from the Vice Provost of Graduate Studies, Nathan Urban.

BY ATTORNEY MANZOLILLO:

Q. And is this an email that you received?
A. Yes.

Q. Is this an email, to your knowledge, that was sent out to the entire eligible set of voters?
A. Yes.

HEARING EXAMINER: How would he know that?

ATTORNEY MANZOLILLO: We have a stipulation to that effect.

HEARING EXAMINER: Oh, okay. Go ahead. Is that stipulation on the record?

ATTORNEY FARMER: No.

HEARING EXAMINER: Why don't we talk about that stipulation now?

ATTORNEY MANZOLILLO: Okay. Well, the parties have stipulated that Exhibit 2 was sent from the administration to all eligible voters.

HEARING EXAMINER: You agree?

ATTORNEY FARMER: Yes. It might have
been - it might have been sent to additional people, but at very least - there are some - there are some emails that were sent to both graduate students who were eligible and not. I can't, from looking at this, specifically say that it was limited only to eligible voters, but it included eligible voters.

HEARING EXAMINER: Mr. Urban's here. We can ask him.

ATTORNEY FARMER: I mean, I don't know specifically which ones went to which.

HEARING EXAMINER: So what are we doing with this?

ATTORNEY MANZOLILLO: Are we agreeing that they were sent at least -

ATTORNEY FARMER: Yeah, that's -.

ATTORNEY MANZOLILLO: - to the - all eligible voters, to the parties?

HEARING EXAMINER: All right. That's on the record. Go ahead. Are we on 2 or 3?

ATTORNEY MANZOLILLO: That was 2.

HEARING EXAMINER: Okay. Go ahead.

ATTORNEY MANZOLILLO: I'm going to show you another. You have this?
HEARING EXAMINER: I have 2 and 3.
ATTORNEY MANZOLILLO: Okay.
HEARING EXAMINER: And I've got 4.
ATTORNEY MANZOLILLO: Well, why don't we just hand out this whole packet?
HEARING EXAMINER: We'll go off the record for one moment.

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(WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

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HEARING EXAMINER: All right. Back on the record. The -.

ATTORNEY FARMER: I think there are more.

HEARING EXAMINER: Back off.

---

(WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

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HEARING EXAMINER: All right. Back on the record. The Union has handed me a packet of emails labeled Union Exhibits 2 through 10. Two is entitled Graduate Unionization Effort dated 3/27/19.
Exhibit - Union Exhibit 3 is entitled You Asked, We Answer: Stipends, Accommodations, and Unionization dated Friday, 3/29/19.
(Whereupon, Union's Exhibit 3, Email 3/29/19, was marked for identification.)

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(Whereupon, Union's Exhibit 4, Email 4/04/19, was marked for identification.)

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HEARING EXAMINER: Five is You Asked: What could I expect from a collective bargaining agreement if a union were - is certified? That's dated Friday 4/5/2019.

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(Whereupon, Union's Exhibit 5, Email 4/5/19, was marked for identification.)

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(Whereupon, Union's Exhibit 6, Email 4/10/19 Email, was marked for identification.)

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HEARING EXAMINER: Seven, Union 7 is entitled Please Vote: A Message from the Provost dated Sunday 4/14/2019.

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(Whereupon, Union's Exhibit 7, Email 4/14/19, was marked for identification.)

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(Whereupon, Union's Exhibit 8, Email 4/15/19, was marked for identification.)

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HEARING EXAMINER: Union's Exhibit 9 is entitled Good news, there's still time to vote, dated 4/16/2019.

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(Whereupon, Union's Exhibit 9, Email 4/16/19, was marked for identification.)

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(Whereupon, Union's Exhibit 10, Email 4/18/19, was marked for identification.)

HEARING EXAMINER: And I believe that the University is willing to stipulate that all of these documents were set to eligible voters defined by the ODSCL?

ATTORNEY FARMER: Correct.

HEARING EXAMINER: Okay.

They are all admitted. Go ahead with your Direct.

(Whereupon, Union's Exhibit 2, Email 3/27/19, was admitted.)

(Whereupon, Union's Exhibit 3, Email 3/29/19, was admitted.)

(Whereupon, Union's Exhibit 4, Email 4/04/19, was admitted.)

(Whereupon, Union's Exhibit 5, Email 4/05/19, was admitted.)

(Whereupon, Union's Exhibit 6, Email 4/10/19, was admitted.)

(Whereupon, Union's Exhibit 7, Email 4/14/19, was admitted.)
(Whereupon, Union's Exhibit 8, Email 4/15/19, was admitted.)

(Whereupon, Union's Exhibit 9, Email 4/16/19, was admitted.)

(Whereupon, Union's Exhibit 10, Email 4/18/19, was admitted.)

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BY ATTORNEY MANZOLILLO:

Q. So once again, Casey, Union Exhibit 2 in March 27th. Your received that email?

A. Yes.

Q. And Exhibit 3, March 29th, you received that email?

A. Yes.

Q. Okay.

Now, using Exhibit 4, first of all, did you receive this email?

A. I received this one as well.

Q. And if you look down, there's - the font color on here, there's Learn More About Unionization. Can you tell us - was that - was that a link to anything else?

A. It was a link to a website run by the University.

Q. So if you click this, it would take you
to that web - from section of that website?

A. Yes.

Q. Okay.

Union Exhibit 5, dated April 5th, was that an email that you received?

A. Yes.

Q. Okay.

And Union Exhibit 6, dated April 10th, was that an email that you received?

A. I received this one as well.

Q. Okay.

We have Union Exhibit 7 dated April 14th. Did you receive that?

A. Yes.

Q. And if you see at the bottom, the very bottom of the first page and top of the second page, Learn All You Can in a slightly different font color. Was that another webpage link?

A. Yes.

Q. And that took you to the University webpage?

A. Yes.

Q. Okay.

Union Exhibit 8, dated April 15th, did you receive this email?
A. I did.

Q. And look at the back page of this exhibit. Get the Facts is in a different colored font. Was that a link to the University's webpage?

A. Yes.

Q. And Union Exhibit 9 dated April 16th, did you receive that email?

A. Yes.

Q. Okay.

And if you look at the second page of that, there are several spots. Set the Record Straight, Your Thoughtful Questions, What to Expect, Supporting Graduate Students Success, all in different colored fonts. Are those links to sections of the University's webpage?

A. Yes.

Q. And finally Union Exhibit 10 dated April 17th, did you receive that email?

A. Yes.

Q. And if you look at the second page, well, the first page there's a slightly different font, compile their concerns. And on the second page near the bottom, similarly, get the facts. Were those also links to the University's webpage?

A. Yes.
Q. Okay.

ATTORNEY MANZOLILLO: We went through 2 through 10. So we may want to go off the record again. We've got six more.

HEARING EXAMINER: Off the record.

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(WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

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HEARING EXAMINER: On the record.

Eleven (11) is a printout from a webpage entitled Collective Bargaining Basics.

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(Whereupon, Union's Exhibit 11, Collective Bargaining Basics, was marked for identification.)

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HEARING EXAMINER: Union 12 is a FAQ or FAQ election timing process.

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(Whereupon, Union's Exhibit 12, FAQ, was marked for identification.)

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ATTORNEY FARMER: Just to be -

HEARING EXAMINER: Yeah?

ATTORNEY FARMER: - clear, other than
14, Union Exhibit 14, these are all of the - so, 12, 13, 15 and 16 -

HEARING EXAMINER: Yeah.

ATTORNEY FARMER: - are all sections -

HEARING EXAMINER: All right.

ATTORNEY FARMER: - of the same FAQ. They just have different answers opened.

HEARING EXAMINER: I got it.

ATTORNEY FARMER: And they all have different - they all have the same questions. They just show different answers. It's all the same FAQ.

HEARING EXAMINER: Okay.

ATTORNEY MANZOLILLO: Yeah, I agree to that.

HEARING EXAMINER: What did you say, 12 through what?

ATTORNEY FARMER: Twelve (12) - it's not 13. So it's 12, 14, 15 and 16.

ATTORNEY MANZOLILLO: It's actually 12.

ATTORNEY FARMER: I'm sorry, not 14. Sorry. 12, 15 and 16.

ATTORNEY MANZOLILLO: 12, 13, 15 and 16.

ATTORNEY FARMER: There we go. 14 is
not. I'm sorry. 12, 13, 15 and 16.

HEARING EXAMINER: Twelve (12), 13, 15 and 16.

ATTORNEY MANZOLILLO: No, no, no, no. I stand corrected. It's 12, 13 and 16. You're correct. 14 and 15 are different.

ATTORNEY FARMER: No, 15 is the same.

HEARING EXAMINER: All right.

Everyone be quiet and look at it.

ATTORNEY MANZOLILLO: I have two 14s. That's why. Okay. Yeah, I agree. We also have one -.

HEARING EXAMINER: Stop, stop, stop, stop. Twelve (12), 15 and 16 are the FAQ?

ATTORNEY FARMER: And 13.

HEARING EXAMINER: And 13. All right. 12 - okay, for the record, 12, 13, 15 and 16 are all unclasped sections of the FAQ. 14 is entitled Fact Check Union Organization.

---

(Whereupon, Union's Exhibit 13, FAQ, was marked for identification.)

(Whereupon, Union's Exhibit 14, Fact Check, was marked for identification.)

(Whereupon, Union's Exhibit 15, FAQ, was
marked for identification.)
(Whereupon, Union's Exhibit 16, FAQ, was marked for identification.)

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ATTORNEY FARMER: Wait, where does it say Union Organization?

HEARING EXAMINER: Unionization.

Excuse me. Graduate Student Unionization Fact Check. And is that it, after 16?

ATTORNEY MANZOLILLO: We have that apparently we didn't make extra copies of.

ATTORNEY FARMER: Yeah. I have Union Exhibit 17.

HEARING EXAMINER: All right. We're off the record.

---

(WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

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HEARING EXAMINER: Okay.

Back on the record. Seventeen (17) is a continuation of the FAQ series.

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(Whereupon, Union's Exhibit 17, FAQ, was marked for identification.)

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HEARING EXAMINER: Eleven (11) through 17 are admitted.

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(Whereupon, Union's Exhibit 11, Collective Bargaining Basics, was admitted.)

(Whereupon, Union's Exhibit 12, FAQ, was admitted.)

(Whereupon, Union's Exhibit 13, FAQ, was admitted.)

(Whereupon, Union's Exhibit 14, Fact Check, was admitted.)

(Whereupon, Union's Exhibit 15, FAQ, was admitted.)

(Whereupon, Union's Exhibit 16, FAQ, was admitted.)

(Whereupon, Union's Exhibit 17, FAQ, was admitted.)

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HEARING EXAMINER: The University has stipulated that these were published on their website.

ATTORNEY FARMER: Correct.

HEARING EXAMINER: All right.

Go ahead.

BY ATTORNEY MANZOLILLO:
Q. Casey, just looking at the Union's Exhibit 12, is this a section of the University webpage that's you've seen?
A. Yes.
Q. And can you sort of tell us how the website works?
A. So you're presented with this list of links that you can click on. When you click on them they extend out into like a text block.
Q. Okay.
So if we look at the second page of Exhibit 12, underneath what can be bargained, what we see beneath that is what would expand when you click on the bottom of page two?
A. Correct.
Q. So what's beneath the bold. Okay.
And these links we discussed earlier on several exhibits, email exhibits, are they linked to these webpages?
A. Yes.
Q. Okay.

ATTORNEY MANZOLILLO: Nothing further.

HEARING EXAMINER: Cross Examination.

Cross and then lunch.
ATTORNEY FARMER: Huh?
HEARING EXAMINER: Cross and then lunch.

ATTORNEY FARMER: Okay.
I need a couple of minutes.
HEARING EXAMINER: All right.
So we just do lunch?
ATTORNEY FARMER: I'm just saying it might be more efficient.
HEARING EXAMINER: All right. Be back at one everybody.

ATTORNEY FARMER: Okay.
HEARING EXAMINER: Sir, please do not talk to anybody about your testimony.
Okay?
THE WITNESS: Okay.
HEARING EXAMINER: And we'll be back at 1:00.

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(WHEREUPON, A LUNCH BREAK WAS TAKEN.)
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HEARING EXAMINER: You ready? Cross Examination?
ATTORNEY FARMER: Thank you.
---
CROSS EXAMINATION
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BY ATTORNEY FARMER:

Q. When did you start as a graduate student at Pitt?
   A. Fall of 2017.
   Q. What program are you in?
   A. Graduate School of Public Health, Behavioral and Community Health Sciences.
   Q. In the Ph.D. program?
   A. Master's.
   Q. And what kind of program were you on in the spring of 2019?
   A. GSA.
   Q. The - did you have an opportunity, when you were sitting as a watcher, you said Tuesday and Thursday. Did you come in contact with all of the University watchers?
   A. Yes.
   Q. All four of them?
   A. Yes.
   Q. Okay.
   Had you ever had to deal with any of them as a graduate student?
   A. I couldn't tell you.
HEARING EXAMINER: What do you mean by deal with?

BY ATTORNEY FARMER:

Q. Did you know who they were other than as University watchers?
A. No.
Q. And you never had any contact with them?
A. I couldn't tell you.
Q. Not that you recall?
A. Not that I recall.
Q. And you didn't hear any voter make any comment about recognizing or knowing the watchers, the University watchers, did you?
A. Not that I recall.
Q. Now, let's talk about the issue of IDs. You - you said that about 20 percent of the time the PLRB asked voters to repeat or spell their names. Do you recall that?
A. Correct.
Q. Was that when the PLRB was not uniformly checking IDs?
A. Correct.
Q. Okay.
And then at some point you said they increased the frequency with which they were
checking IDs?

A. On Thursday.

Q. You never heard any Pitt observer ask any student to see an ID. Did you?

A. They would ask the Board agent to ask the student to repeat their name.

Q. Not to – you never heard any Pitt observer ask any student to see an ID. Right?

A. Correct.

Q. And you didn't hear any Pitt observer directly ask a student to say or spell their name. Right?

A. No, they asked the Board agents to do that.

Q. And while you were there, did you see any instances or observe any instances where the University observers actually caught eligible students whom the PLRB agent had missed when looking at the list?

A. I don't remember that happening.

Q. You said that there were approximately 15 students who you heard raise concerns with the PLRB about being required to give their names. Is that right?
A. Concerns about anonymity.
Q. Okay.

Which was not wanting to give their names.
Is that correct?
A. Names or IDs.
Q. Okay.

And did - were any of those voters turned away?
A. Nobody was turned away.
Q. Did any of those voters leave without voting?
A. I don't believe so.
Q. You testified that you believed that the PLRB was profiling Asian or Middle Eastern appearing students in asking for IDs.
Right?
A. Correct.
Q. Did you make a concern to anyone at the -?

HEARING EXAMINER: I think I called it profiling.

ATTORNEY FARMER: He agreed.

HEARING EXAMINER: Okay.

Go ahead.
BY ATTORNEY FARMER:

Q. Did you raise a concern to anyone at the PLRB about that?
   A. No.

Q. Did you raise a concern to anybody about that during the election?
   A. I can't recall.

Q. Were there instances where students walked up and handed the PLRB, took their ID without being asked?
   A. There were some instances where students just offered up their ID.

Q. Now, you said that when the PLRB was checking IDs, they would put them down on the table between the PLRB agent and the University watcher. Right?
   A. Correct.

Q. And you said that you couldn't see the IDs.
   Is that right?
   A. Correct.

Q. Did you ever ask to see the IDs?
   A. No.

Q. Did you ever ask to move closer to the PLRB official so you can see or hear better?
A. No.

Q. You testified that the University watchers sometimes had their phones out while there was new - no voters and then they would sit them on the table.

A. Correct.

Q. Is that right?

Okay.

And did you have your phone out when there was no voters?

A. When there were no voters, yes.

Q. Okay.

And did PLRB staff have their phones out when there was no voters?

A. Yes.

Q. And you didn't see anybody from the University appearing to take pictures of students, did you?

A. I couldn't tell what they were doing on their phones.

Q. But you said their phones - they were using their phones when there was no voters?

A. Yes.

Q. So did you see anything that appeared to be taking pictures of voters?
A. I couldn't tell what they were doing on their phones.

Q. Were they holding their phones up when there were voters in front of the table?

A. No.

Q. And nobody complained that they thought that they were being photographed, did they?

A. No, at least not to my knowledge. I don't know who anyone would have complained to.

Q. Well, nobody complained in your hearing. Nobody complained to you or to PLRB in your hearing?

A. Not within my earshot.

Q. Okay.

Now, the Union was asking people not at the polling booth, but to tell them how they were voting, weren't they?

A. I'm not understanding you.

Q. Well, the Union was asking people to tell the Union whether – how they had voted, wasn't it?

A. Like after the facts in conversation with friends, I believe people discussed how -.

Q. Or on social media or emails?

A. I don't recall any social media asking how people voted.

Q. And you don't recall any emails saying
something like tell us you voted best or anything like that?

A. It's possible.

Q. But you're not sure?

A. I don't check my email very often.

Q. Now, you checked your emails and got the University -?

A. I checked my University email quite often.

Q. I see. Got you. Got you.

ATTORNEY MANZOLILLO: Objection.

Objection. That's not relevant to this proceeding at all.

ATTORNEY FARMER: It's not -.

ATTORNEY MANZOLILLO: The email language speaks for itself. It's not about subjective interpretation.

ATTORNEY FARMER: The Union is
complaining that these emails are so - from the
charge, the Union is claiming that these emails are
so threatening and coercive that it requires you to
overturn the election. How are we supposed to
defend that without being told what portion of it
the Union believes is threatening or coercive?

HEARING EXAMINER: Let me think about
it.

ATTORNEY MANZOLILLO: That's a legal -
you're asking upon a - asking a legal question.

HEARING EXAMINER: Yeah. As far as -
correct me if I'm wrong. It's subjective, Counsel.

ATTORNEY FARMER: But we still have to
know what portion.

HEARING EXAMINER: I know. Hold on.
It's correct it's an objective test.

Right?

ATTORNEY FARMER: I believe - I mean
some of the other cases describe it that way, but
it's the Union's burden to prove the conduct.

HEARING EXAMINER: Are we doing PLRB
law or are you guys thinking of NLRB?

ATTORNEY FARMER: PLRB has case law on
this and that's what's controlling.

HEARING EXAMINER: And then what
you're trying to figure out is to narrow down exactly what parts of these 17 emails and webpages was coercive?

ATTORNEY FARMER: And threatening.
Correct.

HEARING EXAMINER: Is this the best witness for that?

ATTORNEY FARMER: I have no idea of what other witnesses the Union intends to put on, but they have to prove the threatening or coercive. How can we defend if we don't even know what they're claiming to be threatening?

HEARING EXAMINER: Go ahead.

ATTORNEY MANZOLILLO: We're not - we're not -.

HEARING EXAMINER: Would you answer that, Mr. Manzolillo?

ATTORNEY MANZOLILLO: We would - we're not using these witnesses as evidence of their coerciveness. We're using the language itself.

ATTORNEY FARMER: Again, I'm not asking -.

HEARING EXAMINER: I think you can ask him was he threatened or coerced by any of these emails?
ATTORNEY FARMER: But that's not the - that's not the issue here, whether he's subjected - the question is the Union has not identified what portions they believe to be threatening or coercive. How can we respond and - respond to that and argue to you what is or is not when they haven't even identified what language in these communications is threatening and coercive?

HEARING EXAMINER: Are you planning on offering any more evidence to specify exactly what parts -?

ATTORNEY MANZOLILLO: Certainly in our briefs, which in our experience, they will have an opportunity to respond to.

ATTORNEY FARMER: But how can we put on -?

HEARING EXAMINER: Yeah. I understand your objection.

ATTORNEY FARMER: Yeah. I mean, the case is saying totality of the circumstances in context, but I don't even know what it is that I'm responding to.

ATTORNEY MANZOLILLO: The whole point of objective test is to avoid having to have individuals scrutinize whether they felt threatened.
ATTORNEY FARMER: And that's why I wasn't asking him that. I mean, I'm just - he was put up as a Union witness. I'm not asking whether he subjectively -.

HEARING EXAMINER: Let's go off the record.

ATTORNEY FARMER: Okay.

HEARING EXAMINER: And clear the room except for the lawyers, please.

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(WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

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HEARING EXAMINER: All right. Is the University finished with their Cross?

ATTORNEY FARMER: Yes.

HEARING EXAMINER: Any further Direct of that witness?

ATTORNEY MANZOLILLO: No, I don't think so.

HEARING EXAMINER: Okay. I'm going to direct the University - the Union now to please specify to the University what parts of those Exhibits 2 through 17 are specifically relevant to their case. Okay? Off the record again.
WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.

HEARING EXAMINER: In an off-the-record discussion at the direction of the Hearing Examiner, the parties discussed and the University showed the University more specifically what language the University communications support the Union's charges.

Is that correct?

ATTORNEY FARMER: That is correct.

ATTORNEY MANZOLILLO: Yes.

HEARING EXAMINER: All right.

And I believe you have another exhibit for us?

ATTORNEY MANZOLILLO: Yes.

HEARING EXAMINER: Eighteen (18)?

ATTORNEY MANZOLILLO: Yes.

HEARING EXAMINER: Eighteen (18) is a forwarded message entitled Three Things All STEM Students Should Know if a Union is Certified, dated April 4th, 2019.

(Whereupon, Union's Exhibit 18, Email 4/30/19,
was marked for identification.)

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HEARING EXAMINER: Any objections to this?

ATTORNEY FARMER: No.

HEARING EXAMINER: All right.

It's admitted.

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(Whereupon, Union's Exhibit 18, Email 4/30/19, was admitted.)

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ATTORNEY MANZOLILLO: We would want it stipulated that this was sent to STEM students.

ATTORNEY FARMER: Yes.

HEARING EXAMINER: Just STEM students?

ATTORNEY FARMER: Correct.

ATTORNEY MANZOLILLO: Yes.

HEARING EXAMINER: Okay.

That is tested. All right. Would you like to shoot off the record and get everyone back in the room and carry on?

ATTORNEY FARMER: Yes.

ATTORNEY MANZOLILLO: Yes.

HEARING EXAMINER: All right.

So off the record.
WHEREUPON, A PAUSE IN THE RECORD WAS HELD.

HEARING EXAMINER: The next witness for the University - for the Union.

ATTORNEY HEALEY: We would - the Union would call Tim Barr.

TIMOTHY BARR, CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS Follows:

HEARING EXAMINER: Spell your name for us.


HEARING EXAMINER: Okay. Your witness.

DIRECT EXAMINATION

BY ATTORNEY HEALEY:

Q. Sir, can you state your name and address for the record?
A. My name is Timothy J. Barr. I live at 38-3928 Nantasket Street, Pittsburgh, PA 15207.

Q. And have you been a graduate student employed at the University of Pittsburgh?

A. Yes.

Q. And could you describe the time frame and what positions you held?

A. I have been a graduate employee for the last seven years. I have been on both TA and TF contracts.

Q. And in what department or departments?

A. Department of Communication.

Q. Okay.

In the recent Union election, did you serve as an election observer for the Union?

A. I did on Monday, the first day, from 9:00 a.m. to noon.

Q. Okay.

And on that first day, did you attend a pre-election conference?

A. Yes.

Q. And who conducted that conference?

A. That was the - Dennis from the PLRB, along with the Union observers who were there, as well as the University observers.
Q. And had you met the University observers before?
   A. I had not.
Q. And did they introduce themselves at some point in that conference?
   A. Yes.
Q. And from the introductions, were you able to ascertain or did you hear what they said their positions were?
   A. They were various managerial positions.

Q. Okay.

You said somebody from the PLRB conducted the pre-election conference. Was that Dennis Bachy who testified earlier today?
   A. Yes, it was.
Q. Okay.

During the pre-election conference, what was talked about by Mr. Bachy?
   A. He went over the norms and regulations for what the observers would do, so things like no photography, whether or not - he asked us whether we would have challenges. We - the Union had no challenges. The University did have challenges so he went over that. He asked us to remove buttons, election buttons, so it was those kinds of things
that were discussed.

Q. And did the University at that time in your presence indicate approximately how many challenges they had?
A. They did. I can't remember the exact number, but I remember it being - I can't remember the number, so I don't want to specify that, but they did -.

Q. During that pre-election conference, did any - Dennis Bachy or anyone from the PLRB talk about lists of voters or tracking voters?
A. No, it was not discussed.

Q. Okay.

You served as an observer for - a watcher for that morning.

Is that correct?
A. Correct.

Q. Did you keep a list of any sort?
A. No.

Q. Okay.

Could you observe whether or not University watchers were keeping a list?
A. Yes, they were. I observed this, and the - as we heard in previous testimony from Casey Madden, we were at two separate ends of the table.
I was at the left end from - sitting behind the table and the University observers at the far right hand. And I saw that they had what appeared to be two lists, so one short list or single sheet list and another one which seemed to be kind of like stapled or attached at the upper right-hand corner that they were moving through and making marks on as voters entered and voted.

Q. You said making marks. Just correct me if I'm wrong, so someone with - they'd give a name, and they would mark something - they would do some kind of marking?

A. Yeah, after the name. So the voting would happen, you know, later. So it was really - they seemed to be marking down names on the list.

Q. How did they know of the names or hear of the names?

A. So as a voter approached the table, the Hearing Officer would ask them to find their name on the list. And then they would say their name out loud. And they would frequently explain to the voter - they would say we have to say this loudly enough so that both the Union and the University observers can hear. And they would indicate, you know, each of us respectively at the ends of the
Q. And in the morning that you were there, did they say it loudly enough so voters standing in line could hear?
A. Definitely.
Q. While you were there, do you recall either the Union or the University making any challenges to any voters?
A. There were two balks, I call them because –.

HEARING EXAMINER: B-A-L-K-S?

THE WITNESS: Yeah. The University made an attempt to challenge and then it seemed that after they got sorted out, something out, they realized it wasn't on their list.

But there were two moments - one that I remember because I knew the voter. And there was another one where it seemed like there was a challenge. And I don't - but there were moments also where someone was not on the list and then the PLRB asked them to move over to file a challenge ballot.

BY ATTORNEY HEALEY:
Q. Okay.

Now, you said it appeared that the
University watchers had two lists.

Is that correct?

A. Yes. That's what I observed.

Q. From what you observed, were you able to tell which list was a challenge list and which list seemed to be a larger voter list?

A. I would infer that the short one was the challenge list, and that the one - the larger one was the one where everyone's names were.

Q. Now, while you were there, did you observe people pulling out their IDs?

A. So people - we - and we had instructed people beforehand in an instructional video to bring their IDs with them. And I was under the impression that IDs were required. So people were coming up to the hearing agents with their IDs visible. Most of the time, the hearing agent would say, you don't need your IDs. They kind of kept repeating this, you don't need your ID, you don't need your ID.

In some cases, though, the person would approach with their ID and they would look at it. And in those cases, it appeared to me that they were doing those in cases where - the names, they were having difficulty pronouncing names of people who were of East Asian or South Asian descent. And so I
therefore asked Dennis about this at a moment where there was a lull in the voters. And I said, why are they not checking everyone's IDs? So he brought the election order over to me. He seemed a little bit - well, I don't want to speak to his state of mind, but he brought the election order over to me and said, see, it's up to my discretion whether or not IDs have to be checked.

So I brought that to his attention, but it ended up remaining kind of - it was not a consistent practice between whose IDs were being looked at and whose IDs were not being looked at.

Q. Did you have any conversation with anyone from the PLRB concerning the use of lists by University watchers?

A. The list I didn't bring up directly to the PLRB. I did, immediately after voting on the first day, bring it to the attention of Union representatives because this seemed - we were explicitly instructed this is something we should not do. So I said why is this happening, you know? Is this something that we - is this something that's allowed?

Q. You did not keep a list.

Is that correct?
A. No. I did not keep a list, no.

Q. Did you see watchers, election observers or watchers, will telephones out?

A. Yes.

Q. What, if anything, were any watchers doing with telephones?

A. I couldn't say. Yeah.

Q. Leading up to the election, did you receive emails from the University?

A. I did.

Q. Okay.

Right in front of you are Union Exhibits 2 through 10, and you've reviewed these -

A. Yes.

Q. - before taking the witness stand.

Is that correct?

A. Yes.

Q. Did you receive each and every one of those emails -

A. I did.

Q. - at those times?

A. Yes.

Q. And did you read them?

A. Yes.

Q. While you were serving as an observer,
did you have a badge on?
   A. Yes.
   Q. And what did your badge say?
   A. I believe it said election observer.
   Q. Okay.
Did the University observers have badges on?
   A. They did.
   Q. What - what did those say?
   A. They said election observers.
   Q. Okay.
   Did they distinguish between the Union or the University?
   A. They didn’t on the badges. There were some times, informally, as I mentioned before, where as the Board agent was explaining to the person why they were saying their names so loudly, they said - they would say, you know, both the University and the Union, and they would kind of gesture with their hands. So there were moments were they were indicating that informally.
   Q. Did the PLRB representatives have badges on -
   A. I think that they did.
   Q. - if you can recall?
A. I think they did, yeah.

Q. Now, do you recall what those badges said?

A. I don't remember what the exact - they indicated that they were, you know, the election officers.

ATTORNEY HEALEY: That's all I have on Direct.

HEARING EXAMINER: Would you like a moment, ma'am?

ATTORNEY FARMER: No. I think I'm okay.

HEARING EXAMINER: All right. Cross Examination.

ATTORNEY FARMER: Thanks.

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CROSS EXAMINATION

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BY ATTORNEY FARMER:

Q. Let's stick first with that badges question. How big were these badges?

A. They were nametags.

Q. Like regular sort of like two by three or whatever?

A. The kind that you buy when you want
people to see what name you have, yeah.

Q. Okay.

And they were provided by the PLRB?

A. Yes.

Q. Now, did you ever observe anybody from the - any of the University observers asking any students for their ID?

A. They asked the - it was audible to the students when they asked the Board agents for people to repeat their names.

HEARING EXAMINER: She's asking about IDs.

THE WITNESS: Did - they never asked directly a student to show ID, no.

BY ATTORNEY FARMER:

Q. Did you know any of the University observers -

A. No.

Q. - before that?

And while you were - and you were just there on Monday?

A. Yes.

Q. Did I get that right? Okay.

While you were there, were there instances where the University observers actually
found names on the list that the PLRB officials had missed, therefore letting the students vote as eligible voters?
   A. If I understand your question correctly, you're asking whether - I'm sorry. Could you rephrase the question?
   Q. Sure. Absolutely.
   So you testified the process was a student would come up, either show their ID or just be - give their name. The PLRB would look at the list.
   Right?
   A. Right.
   Q. Find the student's name on the list. If the student's name is on the list, then they'd have the student sign.
   Is that right?
   A. Correct.
   Q. Okay.
   What happened if the PLRB couldn't find the student's name on the list?
   A. If they couldn't find the student's name on the list, they would ask them to file a challenge ballot. And so they would move to the side. While I was there on the first day, there was a little bit
of a kerfuffle about the correct procedure for that. It hadn't been fully ironed out. And Dennis and I believe, Joe left the room at one point to kid of reorganize that procedure. But basically, they just moved to the side, the side closer to the University observer where there was someone else sitting with a book, and they went through the challenge ballot process.

Q. While you were there, the order was you, the PLRB person who was checking in voters, then the PLRB person who was doing challenge ballots, and then the University observer?

A. Correct.

Q. All right. Okay.

Now, were there instances where the PLRB didn't initially see somebody's name on the list and would have challenged it, and the University observer found the name on the list and pointed it out the PLRB?

A. I don't remember that happening.

Q. Now, I want to understand on this testimony about the - the IDs. So I believe you said some students, because - the Union had told people to bring ID and the University had also communicated to students bring their IDs.
A. Right.
Q. And some students would walk in and just have their IDs ready. Right?
A. Right. Yes.
Q. And then you said, I believe, in some instances or most instances, the PLRB while you were there were just saying we don't need them. Is that right?
A. Yeah. They were saying putting your IDs away. We don't need them.
Q. Okay.
A. Yeah.
Q. Then I think you said in some instances where the PLRB was having trouble understanding the names, then they asked for ID. Is that what happened?
A. I just want to be very specific about what happened and what I observed.
Q. Okay.
A. So people were - most - many if not most people were walking up with their IDs visible.
Q. Okay.
A. They were frequently saying to someone as they were walking towards the desk to put their IDs
away. When someone – certain people approached with the ID and they did not tell them to do that, and they looked at their IDs. In those cases, I observed that those were people mostly East Asian or South Asian – of South Asian descent.

So they did not ask – there were a couple occasions where they asked someone to show them their ID after they had already asked their name, and there was some confusion about the name. But in most of the cases where I observed that, if the person did already have their ID visible – but they just didn't ask them to put it away.

Q. And how many times would you say that occurred?
A. I saw probably, in the course of being there, 120 voters. I would say that probably happened 20 times.

Q. Did any of those voters leave without voting?
A. Not that I observed. I couldn't see people – I don't know what people did because the voting happened behind us, but –.

Q. Did any of – where any of those voters turned away?
A. No one was turned away.
Q. Did any of those voters, when they were asked for their ID, did any of them refused and walked out?

A. No one — again, no one was asked for their ID. When I said that there were a couple people, it was already after they had gone through a list. There was like one or two cases where someone's names was not audible to someone, so they asked them to show the ID that they did have in their hand but wasn't visible. So there weren't cases were people were being asked for IDs where they didn't already have in their hands.

HEARING EXAMINER: Are you aware of anyone who left without voting?

THE WITNESS: No, I'm not.

HEARING EXAMINER: When — and I'm asking the counsel here. When we say ID, everyone is talking about Pitt ID. Right? The student ID?

ATTORNEY FARMER: Yeah. I believe Dennis testified that there were a few students who didn't have their student IDs who showed something else.

HEARING EXAMINER: It was like a bank card. Okay.

But no one's alleging PLRB or
University was asking for government identification. Right?

ATTORNEY MANZOLILLO: No.

HEARING EXAMINER: Okay. Go ahead.

BY ATTORNEY FARMER:

Q. Okay. When you were sitting as a watcher, there were times when you had your phone out. Is that right?

A. Yes.

Q. And the PLRB staff sometimes had their phones out as well?

A. Yes. We were instructed that that would be fine during the pre-election briefing.

Q. To have your - it would be fine to have your phones out?

A. When there were no voters in the room and not to use it for photographic purposes.

Q. Okay.

And the University watchers complied with those instructions. Right?

A. As far as I am aware. I don't know because I was only there for three hours.
Q. You didn't observe any conduct —
A. No.
Q. — by them that didn't comply with that?
A. No, I didn't.
Q. Okay.

Now, you testified that you received the documents that were marked Union Exhibits 2 through 10.
Is that right?
A. Yes.
Q. Okay.

And during the time period leading up to the election, the few weeks leading up to the election, when you were receiving those emails, were you also receiving emails or other communications from the Union?
A. Yes, I was.
Q. Okay.

And those communications from the Union, did they respond to statements that were being made by the University in Exhibits 2 through 10 or otherwise other similar statements?
A. There were instances where there was attempts to clarify things that were being communicated by the administration.
Q. And are you aware that the Union asking people to tell the Union that they voted yes?

A. We - there were - people were asked through house calls, you know, if they were allowed to volunteer information.

HEARING EXAMINER: What's a house call?

THE WITNESS: A house call would be, you know, you would visit someone's house after a day of voting when they had told us that they, you know, had voted on that day. And we'd say, oh, did you get a chance to vote? So they were basically voting reminders with an opportunity to tell us how they had voted.

BY ATTORNEY FARMER:

Q. And some people did that, right, told you how they had voted?

A. Yes.

Q. Back to the voting for a second, you said that you noticed about 20 people where the PLRB officials didn't tell them to put their IDs away who appeared to be of Asian or Middle Eastern descent.

A. I didn't say Middle Eastern. That was the other witness, but yes.

Q. I apologize. Did you report a concern
over that to anyone at the PLRB?

A. As I said before, I didn’t bring up the concern as one of racial profiling. I brought up the concern because I just wondered why are they - why are they not checking everyone's IDs, which was my way of bringing up that concern without - to the PLRB at that moment. And then that's when I was showed the election Order. So yes, I did.

ATTORNEY FARMER: Nothing further.

HEARING EXAMINER: Redirect?

ATTORNEY HEALEY: No questions.

HEARING EXAMINER: No further questions, you can step down, sir. Our next witness?

ATTORNEY MANZOLILLO: One thing on the record real quickly is the Union forgot the - we are withdrawing allegation 12 from the ULP.

HEARING EXAMINER: Okay.

ATTORNEY MANZOLILLO: In fact, we'll call Shelby Brewster.

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SHELBY BREWSTER,

CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS FOLLOWS:
HEARING EXAMINER: Can you spell your name for us?


HEARING EXAMINER: Go ahead, sir.

ATTORNEY MANZOLILLO: Thank you. Just a minute here.

HEARING EXAMINER: I believe you testified at our last hearing. Right?

THE WITNESS: I did. That's correct.

HEARING EXAMINER: Do you want five minutes?

ATTORNEY MANZOLILLO: Yeah, if we can have five minutes.

HEARING EXAMINER: Off the record, five minutes.

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(WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

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HEARING EXAMINER: We're back on the record. Witness has been sworn.

---

DIRECT EXAMINATION
BY ATTORNEY MANZOLILLO:

Q.  Okay.

Hi, Shelby. Can you tell us, were you a graduate student - are you a graduate student at the University of Pittsburgh?

A.  Yes.

Q.  And did you hold an appointment in the spring semester of 2019?

A.  Yes.

Q.  What was that?

A.  A TF appointment.

Q.  Okay.

So you were in the bargaining unit and eligible to vote?

A.  Yes.

Q.  And did you serve as an election observer for the Union?

A.  I did.

Q.  And what times and days would you serve in that role?

A.  Wednesday, the 17th, all day with a short break in the middle of the day for lunch, and another short break in the afternoon.

Q.  Okay.
Do you remember around when those breaks were?

A. Lunch was noon-ish and then another break in the three o'clock hour –

Q. Okay.

A. – for like 15 to 20 minutes.

Q. Okay.

And can you briefly describe what your duties were when you were observing?

A. Yes. So to ensure that the election was proceeding fairly, securing ballot boxes once they were closed.

Q. And did you – where were you seated?

A. I was at the end of – one end of the long table. There were several long tables together. And the PLRB agent with the list was next to me for the whole day.

Q. Okay.

And where was the University watcher?

A. At the beginning of the day, the University observer was at the opposite end of the table, so we had the two PLRB agents between us. But that had changed after I came back from lunch. And so I was seated at one end next to the PLRB agent with the list. The University observer was
now seated on their other side, and the other PLRB
agent with the challenge ballots was at the end of
the table.

Q. Okay.

And did you keep a list of tracking the
voters while you were poll watching?

A. I did not.

Q. And why not?

A. It was my understanding that this can be
seen as a form of intimidation and jeopardize the
results of the election.

Q. And where did you get your understanding?

A. From the Union.

Q. Okay.

So the Union did not ask you to track the
voters?

A. Correct.

Q. Do you recall any of the PLRB agents who
conducted the election while you were watching?

A. I remember Dennis.

Q. Okay.

And did you observe the University
watchers keeping an independent list of who voted?

A. Yes.

Q. What did you see?
A. I saw a hefty stack of papers. I believe it was on a clipboard with a blank sheet on the top that the University observer was using to make a mark after a voter said their name.

Q. And this was done after every voter?
A. Yes.

Q. And was - did this list appear to have hundreds of names on it?
A. Yes.

Q. Did you ever ask - did they ever ask PLRB agents to repeat a name or spell a name?
A. Yes.

Q. How often was this?
A. I couldn't say for certain the number, whenever they had trouble hearing -

Q. Okay.
A. - the voters say their own name.

Q. And did this take place in front of the voter in question?
A. Yes.

Q. In front of others in the voter poll - the voters in the polling area?
A. Yes.

Q. Was it audible to anybody in that area?
A. Yes.
Q. Okay.

Did PLRB agents ask employees to spell out their names?

A. Sometimes, yes.

Q. Okay.

Did they ever repeat these names that they're spelling?

A. Sometimes, yes.

Q. Did it appear this would be done so the University watcher could mark their names down?

A. Yes.

Q. Was this widely audible?

A. Yes.

Q. Widely visible?

A. Yes.

Q. Did they ever do this after the PLRB agents asked them to do it?

A. Could you repeat that?

Q. Did they ever have a name spelled out after a PLRB agent asked them - I'm sorry. Did they ever do so after a University watcher asked them - did they ever - did PLRB agents ever ask anybody to spell it out?

A. Not that I recall.

Q. Okay. Okay.
Did you - PLRB agents ask voters for IDs?

A. Sometimes, yes.

Q. And was this done on a consistent basis?

A. No.

Q. What - what was inconsistent about it?

A. So there seemed to be very little - there was not equal distribution of folks who were asked for their ID upon approaching the table. At times, they asked people to say their name. At times, before asking them to say their names, they just asked for their ID. And this often occurred with students who read as not white.

Q. Okay.

HEARING EXAMINER: One witness said Middle Eastern and Asian, and another said South Asian and -

ATTORNEY FARMER: East Asian.

HEARING EXAMINER: - East Asian. In your opinion, was there any other than not white?

THE WITNESS: I'm sorry. Can you repeat that?

HEARING EXAMINER: In your opinion was there any focus besides not white?

THE WITNESS: I mean there were a fair amount of East Asian students who voted on the day
that I observed.

HEARING EXAMINER: And they - in your opinion, from what you saw, the PLRB agents were disproportionately focused on them with their queries?

THE WITNESS: Insofar as they asked for IDs before asking them to say their names.

HEARING EXAMINER: Okay. Go ahead.

BY ATTORNEY MANZOLILLO:

Q. Okay.

So once the - you mentioned that after lunch the position of the PLRB - I mean, the University watcher had changed.

A. Yes.

Q. Did the practice of requesting IDs change at that point?

A. Yes, insofar that I observed a PLRB agent taking an ID from a student and setting it down between themself and the University observers, so that the University observer could look at the ID and find the name on their list.

Q. And so the University - it was in wide view of the University observer?

A. Yes.
Q. Could you see it?
A. If I leaned around and looked, -
Q. Okay.
A. - since it was on my other side.
Q. And was this - was - this placing of the ID in front of or near the University watcher so they could see it, was that done in the presence of voters?
A. Yes.
Q. And was that readily visible?
A. Yes.
Q. Did the University appear to mark down names after an ID was put down?
A. Yes.
Q. And was that visible then to the voter?
A. Yes.
Q. And to any voter in the area?
A. Uh-huh (yes).

ATTORNEY MANZOLILLO: I don't think I have anything further.

HEARING EXAMINER: Cross?
---
CROSS EXAMINATION
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BY ATTORNEY FARMER:
Q. Were you familiar with any of the University observers before that day?
   A. Yes, because I had attended the election conference on Monday.

Q. Before the election conference on Monday, were you familiar with any of them?
   A. No.

Q. None of the University observers asked any students for ID?
   A. Not that I recall.

Q. And none of the University observers asked students to say or spell their names. Right?
   A. Not that I recall.

Q. No students were turned away by the PLRB for not having IDs. Correct?
   A. Not that I recall.

Q. And did any student object to showing ID?
   A. Not that I remember, no.

Q. Do you recall any students who were eligible voters who left without voting?
   A. I don't recall that, no.

Q. Did you raise a concern to anyone from the PLRB that they appeared to be asking students of
Asian descent for their IDs more readily?

A. I did not.

Q. Did you raise a concern about that to anyone during the election?

A. I expressed concern that IDs were being asked for because when I had voted two days prior, my ID was not checked.

Q. And who did you express that to?

A. Union representative.

Q. After the election?

A. During the election.

Q. But you didn't express that to Dennis or anyone else from the PLRB?

A. No.

ATTORNEY FARMER: Nothing further.

HEARING EXAMINER: Okay.

Redirect?

ATTORNEY MANZOLILLO: Yeah. Just a follow up —

HEARING EXAMINER: Sure.

ATTORNEY MANZOLILLO: — to a question earlier.

---

REDIRECT EXAMINATION

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BY ATTORNEY MANZOLILLO:

Q. Did the list, the University watcher, did you observe you were at the initial pre-election conference?

A. Yes.

Q. Was there a representative from the University who was not a watcher there?

A. Yes.

Q. And did you ever see at any point the watchers meet with this person?

A. Yes.

Q. And can you describe the situation?

A. So on Thursday following the ending of voting, I observed the watcher who had been there meeting with this person in the building where voting had been taking place.

HEARING EXAMINER: I'm entirely confused. What are you - what are we asking her about?

ATTORNEY MANZOLILLO: If she saw the any of the University watchers meeting with the University representative, and she's describing an instance.

HEARING EXAMINER: All right, but this is too vague for me.
ATTORNEY MANZOLILLO: Okay.

HEARING EXAMINER: Who's the University rep?

BY ATTORNEY MANZOLILLO:

Q. Do you know the University rep's name?
A. I don't recall her name. No.

HEARING EXAMINER: Okay.

Can you describe the watcher generally? What kind of person? Who was the watcher speaking to?

THE WITNESS: The - I observed the watcher speak with a woman who had been at the pre-election conference, but who is not an observer.

HEARING EXAMINER: All right.

So was the University rep was - was it 20 years old, 50 years old?

THE WITNESS: Fifty (50).

BY ATTORNEY MANZOLILLO:

Q. Is the University representative in this room?
A. Yes.

HEARING EXAMINER: Oh, great. Who is it?

THE WITNESS: This woman back here.

HEARING EXAMINER: All right.
What's your name?

**MS. HOOGENDOORN:** Stephanie Hoogendoorn.

**HEARING EXAMINER:** Okay.

Would the parties agree it was Ms. Hoogendorf (sic)?

**ATTORNEY FARMER:** Yes.

**HEARING EXAMINER:** Okay.

**MS. HOOGENDOORN:** Doorn.

**HEARING EXAMINER:** Hoogendoorn. And then the watcher, who was the -?

**THE WITNESS:** I don't know.

**HEARING EXAMINER:** Is the watcher in the room?

**THE WITNESS:** I don't believe so, no.

**HEARING EXAMINER:** All right.

So now, the University is on notice of what that allegation was.

**ATTORNEY FARMER:** Okay.

But can we - I'm sorry. I was confused. Are you going to bring out the when, Brad, because I was just confused on that?

**ATTORNEY MANZOLILLO:** Yes. Yes.

**ATTORNEY FARMER:** Okay.

Thank you.
BY ATTORNEY MANZOLILLO:

Q. What did you ever see the - any of the watchers meet with Stephanie with the list?
A. I believe so, yes.

Q. And when was that?
A. At the end of the voting on Thursday.

HEARING EXAMINER: Thursday was the last day?

BY ATTORNEY MANZOLILLO:

Q. So it appeared to be with the list meeting with her immediately after the vote?
A. Yes.

Q. Okay.

Did you ever see Stephanie with the list at any other point around the election times?
A. Yes.

Q. When was that?
A. Wednesday morning before voting had started.

Q. Where was she located?
A. Right outside the polling area.

Q. And she was reviewing what appeared to be the same Board list?
A. Yes.
ATTORNEY MANZOLILLO: Nothing further.

HEARING EXAMINER: Okay.

Any Cross on that?

ATTORNEY FARMER: Yeah, just briefly.

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RE CROSS EXAMINATION

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BY ATTORNEY FARMER:

Q. Did you ever see Stephanie in the polling area at any point during the election times?

A. No.

ATTORNEY FARMER: I have nothing further.

HEARING EXAMINER: Okay.

Ma'am, you may step down.

THE WITNESS: Thank you.

HEARING EXAMINER: Thank you testifying again. You had said you guys had someone coming at 3:00, I overheard maybe?

ATTORNEY MANZOLILLO: Yeah, we've got a couple people.

HEARING EXAMINER: Oh, you have people now? Last time we had 800 exhibits. Now, we've got 25 or so.

ATTORNEY FARMER: Right. A bunch of
those were yours. So far, I only have one. Should we just take a few minutes?

HEARING EXAMINER: All right. We'll go off the record for a moment.

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(WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

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HEARING EXAMINER: Next witness?

ATTORNEY FISHER: The Union calls Jeff Cech.

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JEFFREY CECH,

CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS FOLLOWS:

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HEARING EXAMINER: Spell your name for us.

THE WITNESS: J-E-F-F-R-E-Y, C-E-C-H.

HEARING EXAMINER: C-E-C-H. Okay. Your witness then.

---

DIRECT EXAMINATION

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BY ATTORNEY FISHER:
Q. Jeff, who is your employer?
A. The United Steelworkers.
Q. And what is your position or title?
A. I'm an organizer.
Q. And were you involved with the University graduate student employee organizing campaign?
A. Yes.
Q. In what capacity?
A. As lead organizer.
Q. Do you know if the Union told its election observers to keep a track of who was voting during the election?
A. No. I'm aware that we did not.
Q. Okay.
And why did you not tell them to do that?
A. Because we believe that to be coercive and unlawful surveillance.
Q. Did the Union reach out to potential voters in any way?
A. Yes.
Q. And can you describe how the Union did that?
A. So we reached out to people who had indicated, either by signing a union authorization card or a union support card or participate in one
of our collective actions or you know, showed support in some other way. We got in touch with those folks who we believed to be supporters.

Q. So prior to the election, you had to have graduate students sign cards?
A. Yes.

Q. Okay.

And you reached out to them as prior card signers?
A. Yes.

Q. And others, you said, who had indicated support in other ways?
A. Yes.

Q. Did you reach out to any potential voters beyond goes on our supporting list?
A. No, we only reached out to people who we believed to be supporters in the immediate lead up to the election, of course.

Q. Okay.

ATTORNEY FARMER: I'm sorry. I didn't hear that last part.

HEARING EXAMINER: Yeah. I didn't hear it either.

THE WITNESS: In the immediately lead up to the election. Obviously, at one point we were
talking to Board people.

BY ATTORNEY FISHER:

Q. But in the weeks prior to the election -
A. Yes.

Q. - or during the election, you were reaching out to supporters?
A. Yes.

Q. Okay.

A. Yes. We reached out to people who we spoke to prior to the election who had indicated that they would be voting to confirm that they had voted.

Q. And again, would that have been beyond the supporter list?
A. No.

Q. Did at any point the Union ask people how they voted?
A. In like face-to-face conversations, it may have come up, but primarily our communications were asking people to confirm that they had made it to the polls after they had made a prior plan to do so.
Q. At any point, did you send a follow up or a reminder to those people?
A. Yes.

ATTORNEY FISHER: That's all I have.

HEARING EXAMINER: Cross Examination
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CROSS EXAMINATION
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BY ATTORNEY FARMER:

Q. I just want to make sure I understand. Is it - so it's your testimony that in the weeks leading up to the election, you were not communicating with all eligible voters?
A. Primarily, we were focused on people who were supporters. We did send some communications out to a broader list. But to people who we were turning out to vote, we were turning out people who were - on our supporter list.

Q. And there was nothing that prohibited you from sending additional communications to all eligible voters if you had chosen to.

Right?

A. If we had chosen to, yes.

Q. Now, as I understood your testimony about asking people how they voted, was it your testimony...
that you were not keeping track of the number of people who were voting yes?

A. I didn't answer a question to that fact.

Q. Okay.

So were you trying to keep track of how many people you thought were voting yes?

A. Yeah. Our observers were giving us a rough estimate of how many people they believe came through the polls but we weren't, obviously keeping an exact tally.

Q. Okay.

Who is that - who's Kim Garrett?

A. Kim is - she's in Human Genetics. She's a - occupational and environmental health and she's a graduate student.

HEARING EXAMINER: What's her role with the Union?

THE WITNESS: Oh, she is a member of the organizing committee.

BY ATTORNEY FARMER:

Q. And are you aware that she told the Pitt News that as of Wednesday night, meaning during the election, the organizers believed they had confirmed at least 700 yes votes? Are you are of that?

A. I did. I read the article.
Q. And do you have any reason to doubt that she said that to the Pitt News?
A. No.

ATTORNEY FARMER: We'll just mark that as E-2.

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(Whereupon, Employer's Exhibit 2, Pitt News Article, was marked for identification.)

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HEARING EXAMINER: Who's - who's Pitt News? Is that a campus paper? Anybody know?
ATTORNEY MANZOLILLO: I think so.
HEARING EXAMINER: Do you know who Pitt News is?
THE WITNESS: Yeah, undergraduate student newspaper.
HEARING EXAMINER: Okay.
We'll call this Pitt News April 18th Article, April 18th, 2019.

BY ATTORNEY FARMER:
Q. This is the article for the Pitt News that we were just referring to?
A. Yes.
Q. And you read this at the time?
A. Yes.
ATTORNEY FARMER: I have nothing further.

HEARING EXAMINER: Any objection to E-2?

ATTORNEY MANZOLILLO: There's some question to relevance, but we're not going to object.

HEARING EXAMINER: It's admitted.

(Whereupon, Employer's Exhibit 2, Pitt News Article, was admitted.)

HEARING EXAMINER: Although that one comment is hearsay.

ATTORNEY FARMER: What's hearsay? Her statement?

ATTORNEY MANZOLILLO: Yeah.

ATTORNEY FARMER: It's an admission by a party. It's a party.

HEARING EXAMINER: It's not hearsay.

ATTORNEY MANZOLILLO: Not a party?

ATTORNEY FARMER: She'll represent if she's a community organizer.

HEARING EXAMINER: She's not - he says she's on the steering committee. Steering committee
that you said?

THE WITNESS: Organizing committee?

ATTORNEY MANZOLILLO: She's a bargaining unit member, though.

THE WITNESS: Uh-huh (yes).

ATTORNEY MANZOLILLO: Not an employee of the Steelworkers.

THE WITNESS: Not an employee of the Union. Not a spokesperson.

HEARING EXAMINER: Any other questions for him?

ATTORNEY FARMER: Not by me.

ATTORNEY MANZOLILLO: May we have just a moment?

HEARING EXAMINER: Yeah. No one else leaves. Go off the record.

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(WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

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HEARING EXAMINER: Back on the record.

Any further direct?

ATTORNEY FISHER: Yes, just a couple questions on Redirect.

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REDIRECT EXAMINATION
BY ATTORNEY FISHER:

Q. Looking at Employer Exhibit 2, the statement that we just looked at from Ms. Garrett, do you know if this was an authorized statement by the Union?

A. No. She made her - she speaks for herself.

Q. And do you know where this 700 number could have come from?

A. She's probably giving the number of people who told us that they had voted, not necessarily yes votes, because obviously we know how the vote went.

Q. So you testified earlier that in the weeks leading up to the election and during the election, we were asking our supporters to confirm if they voted?

A. Yes.

Q. Okay.

And so I think your testimony now was this was based on an assumption that the number of supporters who voted would have voted yes?

A. Yes.

Q. Okay.
But we didn't have any confirmation that the people we reached out to regarding whether or not they voted how they had actually voted?

A. Yes.

Q. Okay.

HEARING EXAMINER: Any Cross on that?

ATTORNEY FARMER: No.

HEARING EXAMINER: Okay.

You can step down, sir.

THE WITNESS: I'm also quoted in the article. We didn't talk about that.

HEARING EXAMINER: That's because we have you here. All right. Next witness. Leave those papers up here, sir.

THE WITNESS: I did.

HEARING EXAMINER: Okay.

Great.

ATTORNEY MANZOLILLO: Just two minutes?

HEARING EXAMINER: Off the record.

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(WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

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HEARING EXAMINER: Back on the record.

Raise your right hand for me, ma'am.
CAITLIN SCHROERING,

CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND
HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS
FOLLOWS:

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HEARING EXAMINER: Say and spell your
name for us.

THE WITNESS: Caitlin Schroering,

HEARING EXAMINER: Okay.

Go ahead.

---

DIRECT EXAMINATION

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BY ATTORNEY FISHER:

Q. Hi, Caitlin. Are you a student at Pitt?
A. Yes, I am.

Q. And were you a TA, TF, GSA or GSR
employed by the University during the spring
semester of 2019?
A. Yes. I was and am a GSR.

Q. So you were in the bargaining unit and
eligible to vote?
A. Yes, I was.
Q. And did you serve as an election observer or watcher for the Union?
A. I did.
Q. What times and days did you serve in this role?
A. I served approximately between 12:00 noon and 3:00 p.m. on Monday and from approximately 11:40 to 1:00 p.m. on Tuesday.
Q. Can you briefly describe what your duties as a watcher were?
A. My main duty was simply to be present and to make sure that as students came in and gave their names, that their name were found and they were given a ballot to vote. And if for some reason there was a - they weren't on the list, that they were given the proper procedure to receive a challenge ballot so that they could cast that.
Q. Did you keep a list of everyone who voted while you were poll watching?
A. No, I didn’t.
Q. Is there any specific reason why you didn't do this?
A. Yes. I mean, we were told not to do that.
Q. Who told you note to do it?
A. Well, the Union did.
Q. Did the Union give any explanation as to why?
A. Yeah. I mean, our whole stance is that we wanted people to come vote, and that, well, one, keeping a list is illegal, and two, I mean, it's because it could be perceived as intimidating to students to track who's voting.
Q. While you were observing, were there PLRB agents who conducted the election?
A. Yes, there were.
Q. And do you remember who they were?
A. I do. I don't remember full names.
Q. Do you remember their first names?
A. So Dennis and Joe and Rebecca. And the fourth woman, I cannot remember her name.
Q. Were you present when the PLRB agents first introduced themselves?
A. I was, yeah. We were - those of us watching on the first day were instructed to get there by 8:30 and we did that. So I was present for the beginning introductions and instructions.
Q. And do you remember sort of - you said you were instructed to be there at 8:30. Do you remember what time those introductions happened?
A. A little later than that as I recall. We were like - it was pressing right up to 9:00, so 8:45, 8:50.

Q. And were you also present when the University watchers introduced themselves?

A. Yes, I was.

Q. And did that occur around the same time?

A. Right, it did.

Q. Did you observe University watchers keeping a list of who voted?

A. I did, which was a surprise to me.

Q. And can you describe what you saw?

A. Well, they had a big - I mean, a very big like folder with presumably the name of every single graduate student and were checking off every single name as people voted.

Q. You said presumably the name of every graduate student. Why did you think it was the name of every graduate student?

A. I mean, I guess, I didn't physically see every single name in there, but I feel pretty certain it was every graduate student because every single person who came in and voted while I was there, including myself, there would be - you know, they would check the name off. And if they couldn't
hear the name the first time it was stated, they
would ask for it to be repeated. And sometimes it
was spelled multiple times, and then they would find
it and check it off and give the cue that they were
ready for us to proceed. So they were checking
names off.

Q. Okay.

So were the PLRB agents also maintaining
a list of voters?

A. Right. They were.

Q. Okay.

And so the PLRB agents were asking
employees for their names?

A. Yes.

Q. And you testified that at times, names
were asked to be repeated?

A. Right. I mean, so what would happen is,
you know, students would come in in some case. I
was kind of there during the lunch hour rush on
those two days, so there would be a line. And
people would come up and they would state their
name. And then the PLRB agent would try to find
their name, usually couldn't find it the first time
around, and so they would ask them to spell it, or
in some cases would ask for an ID and would look at
the ID and would find it. And then the University
person, most of the time, couldn't catch it the
first time and so would ask it to be repeated and
then the name would be spelled and repeated until
everyone got it checked off. And then we'd move on
to the next person.

Q. And when the University watcher asked for
it to be repeated, who was the University watcher
asking?

A. I mean, it was directed at the PLRB
agent. They alternated who was the person with the
- who was, you know, the main person taking the
names.

Q. And then the PLRB agent would ask the
student to repeat it?

A. That did happen a few times, but
sometimes the PLRB agent would repeat it or spell
it.

Q. Was this done audibly?

A. Yeah, definitely. It was audible to
everyone in the room.

Q. So voters in the room could hear names
being repeated?

A. Sure, yes.

Q. Or spelled?
A. Uh-huh (yes). Yes.

Q. Did the PLRB agents at any time ever explain why they were audibly saying names or audibly spelling names?

A. Not every time, but especially when there was, you know, a line forming. I could tell that people were getting antsy and kind of making faces at each other in the room. And I observed a few times when the PLRB agent directed to the student when they had to ask them to repeat the name or when they were spelling, you know, sorry, I just have to make sure that the observer - and then pointed and directed at the University observer - can also get the name and check it off.

Q. Did the PLRB agent ask voters to see IDs?

A. That was inconsistent.

Q. Okay.

Can you describe the inconsistency or what you observed?

A. What I observed is that initially, you know, people would come in and they would just ask for their name, and then we'd move on. But as people would come in and the name was complicated, and I mean, frankly, often if the student appeared to be Asian or had a Hispanic name, they then would
just ask to like see the ID so that they could see
the spelling and find the name.

But if someone, you know, came in and was
like a white man and said my name is David Smith,

Q. So you said - would they preemptively ask
some students for ID?

A. It was inconsistent. But they did start
preemptively asking some, yeah. They would start to
walk up and they would ask for the ID.

Q. And who again, were they preemptively
asking?

A. I mean people who looked to be Asian or
Hispanic.

Q. Did this take place in view of other
voters in the polling area?

A. Well, it did, I mean, because the - it's
not like people stood outside the room. A line
would form within the room. So whatever was
happening there was audible and visible to everyone
in the room. And at times that would be, I would
say, up to and over a dozen other students.

Q. You mentioned that you voted during the
election.

A. I did, yes.
Q. Were you asked for ID?
A. I wasn't, although I was anticipating being asked for ID because that is how - what I was instructed would happen. So I kind of had my ID out and then when I went up, I stated my name and they didn't really take my ID.

HEARING EXAMINER: What day did you - what day did you vote?

THE WITNESS: I voted Monday early like not long after 9:00 a.m. And actually, when I went to vote, the University person observing was like we have a challenge. And I stood there quietly, and there was a few back and forth and they're like, oh, never mind. Sorry. And I got to vote.

BY ATTORNEY FISHER:

Q. Did you notice when you voted, when you gave your name, did the University watcher check your name off on a list?
A. Yes.
Q. Did you witness any challenge ballots while you were observing?
A. I did.
Q. And did everyone - did anyone ever mention to you how many people the University
intended to challenge?

A. Yeah. I mean, that was stated, I'm pretty sure it was Joe who gave all of the like introductions. And so around 8:50 a.m. on Monday, kind of clarify, okay, the University of a list of 11 that their challenging. Correct? And then looked to Brad and said, and you all aren't challenging anyone. Correct? And that was affirmed and we moved on.

Q. While you were observing, did you ever ask any questions or raise any issues with any of the PLRB agents?

A. I did, yes, twice.

Q. Can you describe those two issues?

A. Sure. Well, the first one occurred on Monday and a student had come up and their name wasn't on the list. So they were being given instructions to cast a challenge ballot. And one of - so that process the - another PLRB agent was facilitating that, and had to fill out various fields on the form envelope.

And so asked for the student's, you know, appointment, title and the student said teaching fellow and then the person, the PLRB agent, said, oh, fellow. Well, fellow and teaching fellow are
very different. One is in the bargaining unit and one isn't. So I turned to Dennis and said, may I ask a question? And he said sure. And I said can you make sure that it's clarified what their appointment is because I'm hearing those two things are very different.

So he did that and then once the room cleared and there were no students in the room, he said, you know, that was a great catch, make sure you do that again. And also pass that on to the other observers if something similar happens to do that.

Do you want me to describe the second interaction now?

HEARING EXAMINER: Yes.

THE WITNESS: Okay.

So then I - the next day something similar happened, but this time Dennis was on lunch break or something, and I did the same thing but to Joe. And he yelled at me and told me that I was not allowed to talk. And that was a little startling because, A, I had been told previously to do that, but also he had just let the University observer ask a question that actually she directed to the student and he didn't jump all over her.
HEARING EXAMINER: What did she ask the student?

THE WITNESS: Same thing I was, to clarify their appointment, you know, because that was unclear.

HEARING EXAMINER: And you were saying? I'm sorry.

THE WITNESS: So I decided, you know, I'm observing, I was going to be silent. I finished my shift and then afterwards outside of the room, I did speak to Dennis about that issue. I don't know if he -.

HEARING EXAMINER: What did Dennis say to you, if anything?

THE WITNESS: Dennis told me that he was sorry, that it was inappropriate, and if he could send Joe home, he would, but he couldn't because he needed four people. And I also, at that point, made mention to him that I found it inappropriate that the University was keeping a list. But I left it at that because I needed to be somewhere else, and I told him, you know, I needed to get going. So that was - that was the limited engagement.

HEARING EXAMINER: Okay.
Go ahead.

BY ATTORNEY FISHER:

Q. Sorry.

So two questions on that, the conversation with Joe where he, I think you testified told you that you couldn't -

A. Uh-huh (yes).

Q. - speak? Was that in the presence of voters?

A. Yeah, it was.

Q. And you testified that you briefly raised with Dennis during your conversation with Dennis about the University tracking voters?

A. Uh-huh (yes).

Q. Can you describe more what you said to Dennis at that time?

A. Yeah. Well, I mean, I knew - you know, I had already sat through the day before and seen this happen which was a surprise because my understanding was that couldn't be done. And I knew that it - that that was a point of concern that I think Brad or somebody maybe brought up at the end of Monday or early Tuesday. Right?

And so I wasn't really trying to spend time engaging with him on it, but I just - he was
there, I'd already talked to him about this other thing, and I told him that I thought it was inappropriate. But we didn't get in a back and forth about it. I - and then I was like I need to get going, so bye.

Q. Did any PLRB agent ever ask you as an observer if you were keeping a list of voters?
A. No.

Q. Did you ever hear any voters express concerns about anonymity?
A. Within - within the voting room?

HEARING EXAMINER: Yes.
THE WITNESS: No, because I mean, people aren't really talking in there. I mean, I did have students express concern about anonymity within - when I was out canvassing before the election, but within that space, no.

BY ATTORNEY FISHER:
Q. Did you observe University watchers using their phones in the polling area?
A. Yeah.

Q. And can you describe what you saw?
A. I mean, people had their phones out and I, you know, kind of would have it out when there was like not a lot of people in there. But even at
times when people were walking in, would check it - checking, I don't know, texts, emails, who knows. And I - I had kind of been told that we couldn't have electronics, like to bring a book.

So I did finally ask if I could take my phone, and I think it was Dennis was like, yeah, you know, you can have your phone out, so - but everyone had their phones out at one point or another.

Q. Okay.
Were you present after the close of the election on Thursday?

A. I was, yes. I was - came back for when the polls closed and was present in the room when the boxes were being sealed.

Q. And when you left on Thursday, did you see any of the University watchers leave?

A. Yeah, I did.

Q. And did you see where they went or where the University - where any of the University watchers went?

A. I mean, yeah. I - because I was also, - we were on our way out and I observed the University watcher meeting with someone that I have recognized at many University-sponsored things. I think her name is Stephanie, and they were sitting down with
each other within - you know, in that building.

Q. Did you see whether or not the University
watcher had the list during that meeting?
A. Yeah, she had it. Yeah, they had the
list.

Q. So sitting in front of you should be a
number of exhibits that have already been admitted.
A. Okay.

Q. Okay.

Actually, scratch that.

You testified that you did have people
raise concern about anonymity not during the
election, but I believe you said while you were
canvassing?

A. Uh-huh (yes).

Q. Can you describe those conversations?
A. Sure. I mean, well, I've been out, you
know, talking to other graduate students, canvassing
for years, months, right in this process. And many
times people would express concern about anonymity
about if they signed, you know, a union card, if
they signed anything that they didn't want to be
tracked or about voting. And then if their advisor
at the University could know which way they voted.

And so I would always assure people that,
you know, it's a secret ballot, and no one would
know how they voted or frankly, if they voted. That
it was just the PLRB that was tracking that to make
sure people couldn't vote once or twice.

So that's kind of the extent to those -
or those conversations that happened across the
course of that election.

HEARING EXAMINER: You told people
that the University would have no way of knowing if
they voted?

THE WITNESS: I told people that the
University would have no way of knowing if they
voted yes or no.

HEARING EXAMINER: Right.

THE WITNESS: I didn't have extensive
conversation with them about this. But -

HEARING EXAMINER: Okay.

THE WITNESS: - I also did not
anticipate - I thought it was illegal for the
University -

HEARING EXAMINER: I understand.

THE WITNESS: - or us in the room to
keep a list.

HEARING EXAMINER: I understand. I'm
just clarifying -
THE WITNESS: Yeah.


ATTORNEY FISHER: That's all.

HEARING EXAMINER: Cross Examination.

---

CROSS EXAMINATION ---

BY ATTORNEY FARMER:

Q. So you met the - excuse me, the University watchers at that the pre-election conference on Monday?

A. Correct. Yes.

Q. Did you know any of them before then?

A. Faces might be familiar, but no, I didn't know them. I'd never seen them. I didn't -.

Q. Not anyone you had to interact with as a graduate student?

A. No.

Q. And you didn't witness any University observer asking any students for IDs, did you?

A. No.

Q. You testified that there were - there were inconsistencies in how the PLRB asked students for IDs preemptively. Is that a good description of
your testimony?

A. I think so, yes.
Q. Okay.

Did any students complain about being asked for their ID?

A. There - there were - I mean, one student complained about not being asked for the ID.
Q. Okay.

A. And I think there was a lot of just kind of hesitancy and uncertainty, you know, about like what was happening, because again, if you're in the room voting and there's 15 other people in the room, you observe that there's five or 15 different ways of handling it. But no, in terms of verbal expressions of discontent, I did not hear, but I saw body language of what I would say uncertainty and discomfort.

Q. And that was your interpretation -
A. That is -.
Q. - of the - of the voters?
A. Yes.
Q. Okay.

And no student complained to you about being asked or not asked for their ID?
A. No. No one came up and spoke to me.
Q. Okay.
Did anybody leave without voting in while you were there?
A. Yes, actually.
Q. And was that somebody who was on the eligible list?
A. Yes, they were.
Q. When did that occur?
A. I'm pretty sure this occurred Monday, but frankly, it could have occurred Tuesday. The student came in. They wanted to see a ballot. They kind of looked at the ballot and then they like - they left.
Q. So had the student even give their name?
A. They had given their name.

HEARING EXAMINER: Was there a sample ballot available?

THE WITNESS: No. I don't think there was.

HEARING EXAMINER: Well, what ballot did they see?

THE WITNESS: They handed them a blank ballot.

HEARING EXAMINER: That's what I meant.
THE WITNESS: Oh.

HEARING EXAMINER: A sample ballot.

THE WITNESS: Okay.

ATTORNEY FARMER: So -.

HEARING EXAMINER: A blank ballot?

THE WITNESS: Yes.

HEARING EXAMINER: Okay.

BY ATTORNEY FARMER:

Q. So for instance, a student comes in.

A. Uh-huh (yes).

Q. Were they asked for their ID? Do you remember?

A. As I recall, I don't think they were. And also related to what I testified around, it was a white man. So they weren't generally asking for those IDs.

Q. So student gives their name, there - did they sign on the list?

A. I don't believe they did.

Q. Okay.

And then they asked to see a ballot and they left?

A. Correct.

Q. Were there any other students while you were there who left without voting who were on the
eligible list?

A. Not in my presence.

HEARING EXAMINER: When you say - this whole time you've been talking about IDs.

THE WITNESS: Uh-huh (yes).

HEARING EXAMINER: You've been referring to school ID.

Correct?

THE WITNESS: Correct.

HEARING EXAMINER: All right.

BY ATTORNEY FARMER:

Q. And the incident that you described with Joe, you testified that this occurred in the presence of voters?

A. Yes.

Q. Where he told you that you weren't allowed to speak?

A. Correct.

Q. Okay.

About how many voters would you say were there at the time?

A. Two to five. It wasn't - you know, it wasn't an empty time because there people in the room, but it wasn't one of the huge like rushes.

Q. And what happened after he said that?
A. Well, we, you know, proceeded. They proceeded with the election, and I decided I was going to sit quietly. I think after there were no voters in the room, he made a statement about, you know, we can't have anyone talking. And I said, well, you know, I understand that, but yesterday Dennis told me to do what I did, and also that, you know, the - I pointed out that the University person had spoken and he hadn't jumped all over her.

HEARING EXAMINER: I just want to get the timing down.

THE WITNESS: Yeah.

HEARING EXAMINER: You tried to say something - what you were ask - you were clarifying something about fellow versus teaching fellow?

THE WITNESS: Right. So that distinction is important because a fellow is -.

HEARING EXAMINER: I know all about it.

ATTORNEY FARMER: He's employed.

THE WITNESS: I know.

HEARING EXAMINER: And the - and you started - you started to say something and then he - characterized his response to you. I don't want to put words in your mouth, so -.
THE WITNESS: Well, so then he just looked at me and said you can't talk like.

HEARING Examiner: Okay.

Now, did a time lapse happen before you further conversed with him or did you further converse with after that?

THE WITNESS: No. I decided I was not going to engage while there were students in the room.

HEARING Examiner: Okay.

THE WITNESS: That didn't seem appropriate. So then -.

HEARING Examiner: Okay.

So then there was a period of time?

THE WITNESS: Yes.

HEARING Examiner: All right.

That's what I didn't understand.

THE WITNESS: Yes.

HEARING Examiner: Okay.

THE WITNESS: Yes.

HEARING Examiner: So then a period of time elapsed, and then this conversation where you followed up with Joe happened?

THE WITNESS: Correct.

HEARING Examiner: Okay.
So continue there. Re-describe that follow-up conversation, please.

THE WITNESS: I mean, it was - he - he just, once there were - there was no one in the room, made another comment about we can't - you know, that you're not allowed to interact with people. And I said something to the effect of, well, okay, yesterday I did the same thing. I was told to do that because it's an important distinction between the two. And then also pointed out that the University observer had been allowed to speak.

And then I dropped it. I didn't want to get in a back and forth. And as I testified already, I then took it up with Dennis afterwards.

HEARING EXAMINER: Okay.

And then were you there the next day?

THE WITNESS: So what I just described happened my second day of observing -

HEARING EXAMINER: Right.

THE WITNESS: - Tuesday. So no, I was not there Wednesday.

HEARING EXAMINER: Okay.

BY ATTORNEY FARMER:

Q. So after you spoke to Dennis, you weren't
there at all.

A. Not in the -.

Q. Right?

A. Right. Other than coming back to like watch the boxes be sealed on Thursday.

Q. I believe - on Thursday, after the election -

A. Right.

Q. - closed. And Joe was not there?

A. No. I did not see him.

Q. Okay.

So after you had that follow-up conversation with Joe and before you raised it with Dennis - which was on your way out? Right? You said -?

A. Uh-huh (yes).

Q. Okay.

During that time period, did you hear the University observer have any direct communication with students?

A. No, I didn't, but it was - that - probably I had about I don't know, 45 minutes left.

HEARING EXAMINER: So to go back to the initial when Joe cut you off.

THE WITNESS: Uh-huh (yes).
HEARING EXAMINER: Were you attempting
to talk to a student?

THE WITNESS: I was attempting to talk
to Joe to tell Joe -

HEARING EXAMINER: Okay.

THE WITNESS: - to talk to the student
because, again -

HEARING EXAMINER: Right.

THE WITNESS: - as you know, that
distinction is different.

HEARING EXAMINER: I understand.

Thank you. Anything else?

ATTORNEY FARMER: No.

HEARING EXAMINER: Anything else?

ATTORNEY FISHER: No.

HEARING EXAMINER: Okay.

Ma'am, you can step down.

Next witness?

ATTORNEY FISHER: Can we have a very
quick break?

HEARING EXAMINER: Five minute break.

ATTORNEY FISHER: Thank you.

HEARING EXAMINER: Off the record.

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(WHEREUPON, A SHORT BREAK WAS HELD.)
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HEARING EXAMINER: Back on the record.
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EMILY ACKERMAN,
CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND
HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS
FOLLOWS:
---

HEARING EXAMINER: Spell your name for us.

THE WITNESS: E-M-I-L-Y,
A-C-K-E-R-M-A-N.

HEARING EXAMINER: Go ahead.
---

DIRECT EXAMINATION
---

BY ATTORNEY MANZOLILLO:

Q. Emily, you are a graduate student at the University of Pittsburgh?
A. I am.

Q. In what department are you in?
A. Chemical engineering.

Q. And how long have you been in the department?
A. Four years.
Q. Four years.
   I'm going to show you a couple of exhibits. And I just want you to tell us if you recognize these exhibits. First is marked Union Exhibit 19.

   ---

(Whereupon, Union's Exhibit 19, Email 4/30/19, was marked for identification.)

---

THE WITNESS: I do, yes.

BY ATTORNEY MANZOLILLO:

Q. And what is that?
   A. It's an email from the engineering grad student organization that we received that morning or the afternoon, I guess, one of the days of the election.

Q. Is that - the EGSO short, is that the acronym for the -
   A. Yes.

Q. - engineering grad student organization?
   A. Yes, it is.

Q. And can you tell us, just briefly, what EGSO is?
   A. It's a student group. It's under Swanson School of Engineering, and each department has a
representative and then there are some overarching representatives: president, vice president, kind of things. They do like student activities like career building things, social activities and they're all aimed at engineering graduates.

Q. Okay.

And I'm going to show you another.

A. Okay.

Q. This is marked Union Exhibit 20.

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(Whereupon, Union's Exhibit 20, Email 4/30/19, was marked for identification.)

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BY ATTORNEY MANZOLILLO:

Q. Can you tell us what that is?

A. This is an email sent from the Department chair of chemical engineering. We also got it that day, I think the same day, and this went to my department.

Q. So there's a date and time. Is that when you received the email?

A. Yes, it is.

Q. Okay.

Thank you.

A. Yep.
Q. And so he's the chair of your department?
A. Yes.
Q. Okay.

ATTORNEY MANZOLILLO: I'm just going to move for admission of Exhibit 19 and 20.

HEARING EXAMINER: Any objection?

ATTORNEY FARMER: So my only objection to Union Exhibit 20 is that the email had a number of attachments that are not included.

HEARING EXAMINER: What are the attachments?

ATTORNEY MANZOLILLO: Attachments are a video recording of -.

ATTORNEY FARMER: There's a transcript.

ATTORNEY MANZOLILLO: Yeah, a transcript of a video recording of both - myself and Mr. Urban were separately invited by EGSO to speak to engineering students.

HEARING EXAMINER: Do you want - you think that would be a more complete exhibit?

ATTORNEY FARMER: Yes.

HEARING EXAMINER: Do we have it?

ATTORNEY FARMER: I have it.

HEARING EXAMINER: All right.
We'll go off the record for a moment and show that to Mr. Manzolillo.

---

(WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

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HEARING EXAMINER: Back on the record. The objection is overruled as to the attachments to Union Exhibit 20. You will have the opportunity to move those exhibits in during your case.

ATTORNEY FARMER: I'm just going to confirm them with the witness on Cross Examination.

HEARING EXAMINER: That's fine.

ATTORNEY FARMER: Yeah, that's fine.

HEARING EXAMINER: Okay.

Continue on. 19 and 20 are admitted.

Continue on with your questions.

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(Whereupon, Union's Exhibit 19, Email 4/30/19, was admitted.)

(Whereupon, Union's Exhibit 20, Email 4/30/19, was admitted.)

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ATTORNEY MANZOLILLO: I have no further Direct.
HEARING EXAMINER: Oh, wow. We're back to where we were. Go ahead.

ATTORNEY FARMER: All right. Just give me a second.

---

CROSS EXAMINATION

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BY ATTORNEY FARMER:

Q. Ms. Ackerman, I'm showing you what is marked as Exhibit 3.

---

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

---

THE WITNESS: Okay.

BY ATTORNEY FARMER:

Q. When you received the email from Dr. Little, it had two attachments to it.

A. Uh-huh (yes).

Q. Did you look at those attachments?

A. I did.

Q. Okay.

What I'm showing you is Employer Exhibit 3. That was one of the attachments.

A. Yes.
Q. Is that right?
A. Yes.
Q. I'm going to show you what's Employer Exhibit 4.
---
(Whereupon, Employer's Exhibit 4, Transcript 4/10/19, was marked for identification.)
---
THE WITNESS: Okay.

BY ATTORNEY FARMER:
Q. Was that the other attachment?
A. I think so. I don't remember if it was the full manuscript or not.
Q. Okay.
A. I'm pretty sure it was.
Q. And in fact, I'm just going to show you what we've marked as - what the Union has previously marked as Employer Exhibit 20.
A. Uh-huh (yes).
Q. In the email, does it reference that it attached the transcript of the information session that EGSO held?
A. Yes.
Q. Okay.

Thank you.
A. Yes.

HEARING EXAMINER: Okay.
Any objections to 3 and 4?
ATTORNEY MANZOLILLO: Yes. I'm objecting of the basis of not knowing the purpose of their conclusion with the exhibit, if there's any planned argument based on any of the content of these exhibits. We have a right to have that pointed out to us.

HEARING EXAMINER: Do you have a response, ma'am?

ATTORNEY FARMER: Yes. There's - so the Union claims that there was - that this email was improper. It's a specific paragraph in the ULP. And if there's an allegation being made about this email, I believe that there needs to be a complete copy of what was being said if there's a claim that this was threatening and coercive.

HEARING EXAMINER: Yeah. Overruled. It's admitted. 3 and 4 are admitted.

---

(Whereupon, Employer's Exhibit 3, Questions, was admitted.)

(Whereupon, Employer's Exhibit 4, Transcript 4/10/19, was admitted.)

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HEARING EXAMINER: Anything else with this witness?

ATTORNEY MANZOLILLO: No.

HEARING EXAMINER: All right.

Ma'am, thank you for testifying.

THE WITNESS: Thank you.

HEARING EXAMINER: Next witness.

ATTORNEY MANZOLILLO: Steve Suway.

HEARING EXAMINER: Raise your right hand for me.

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STEVEN SUWAY,

CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS FOLLOWS:

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HEARING EXAMINER: Spell your name for us.

THE WITNESS: Steven, S-T-E-V-E-N.

Suway, S-U-W-A-Y.

HEARING EXAMINER: Okay.

Go ahead.

---

DIRECT EXAMINATION
BY ATTORNEY MANZOLILLO:

Q. And Steve, are you a graduate student at the University of Pittsburgh?
A. Not currently, no.
Q. Okay.

Were you as of the period of the election?
A. I was.
Q. Did you just graduate?
A. At the end of April. Correct.
Q. Congratulations.
A. Thank you.
Q. Okay.

So I just want to ask you, first of all, did you receive - I'm going to point you to Union Exhibit 18. Did you receive this email?
A. Yes, I did.
Q. And can you just tell us what STEM stands for?
A. STEM stands for science, technology, engineering and mathematics.
Q. So it's your understanding this went to the STEM students, this email?
A. Correct.
Q. Okay.

I'm going to show you another exhibit. This was marked Union Exhibit 21.

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(Whereupon, Union's Exhibit 21, List, was marked for identification.)

---

BY ATTORNEY MANZOLILLO:

Q. Can you describe to us what that is?

A. This is a list of students in the Chemical and Petroleum Engineering Department who were eligible to vote during the election.

Q. And you compiled this list?

A. I did.

Q. Okay.

And so there were a total of how many?

A. I believe it was 48. It looks like maybe it's - I'm not sure if this is a complete list.

Q. Yeah.

ATTORNEY MANZOLILLO: Okay.

We have another issue with - issue with a copy of an exhibit. This exhibit should be two sided.

HEARING EXAMINER: What we're going to do is you'll submit to me by email -
ATTORNEY MANZOLILLO: Okay.

HEARING EXAMINER: - a PDF of the complete Exhibit 21.

ATTORNEY MANZOLILLO: Okay.

And I will do that, and I have nothing further for this witness.

HEARING EXAMINER: Can't Cross him on it. Sorry. You can't Cross him on an incomplete exhibit.

ATTORNEY FARMER: Yes.

HEARING EXAMINER: Do you have any objection to 21?

ATTORNEY MANZOLILLO: We'll obviously copy you on the same thing.

ATTORNEY FARMER: Yeah.

ATTORNEY MANZOLILLO: We can show you the -.

ATTORNEY FARMER: Got you. Okay. I mean, the student is, for what he has claimed it to be, I think it's fine.

HEARING EXAMINER: All right.

So 21 is admitted with the understanding that University will send to me for the official record a PDF.

---
(Whereupon, Union's Exhibit 21, List, was admitted.)

---

ATTORNEY MANZOLILLO: You mean the Union.

HEARING EXAMINER: Yeah, the Union. The Union will send - why are they both U? The Steelworkers will send to me a PDF for the document by the end of the week.

All right. Cross?

ATTORNEY FARMER: Yes, thank you.

---

CROSS EXAMINATION

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BY ATTORNEY FARMER:

Q. What - you said you graduated at the end of April of 2019?

A. Correct.

Q. And what program were you in?

A. Neurobiology.

Q. So why did you compile Union Exhibit 21?

A. To establish the impact of the email sent to the department.

Q. What department?

A. The Chemical Engineering Department.
Q. Are you part of -?
A. Chemical and Petroleum.
Q. Are you part of the Chemical Engineering Department?
A. No, I'm not.
Q. Okay.
So the information contained on Union Exhibit 21, you don't have any firsthand knowledge of?
A. I guess not.
Q. Okay.
So how did you compile Union Exhibit 21?
A. We maintain a database. The organizers maintain a database of the potential eligible voters including their departments.
Q. And where did you get that information about their departments?
A. It's offered on the Pitt website. There's the directory. There's permanent listings.
Q. So you looked people up in the Pitt directory, and then you compiled this list of the people who the Union believed were in Chemical and Petroleum Engineering?
A. That information was compiled. I just pulled from it.
Q. Okay.

So you didn't even - you didn't even enter this information in the database or look it up yourself?

A. No.

Q. Okay.

So you went into a database that was compiled by the Union of people who were in Chemical and Petroleum Engineering who are eligible voters?

A. Correct. It's maintained by the organizers.

Q. Okay.

And then you just basically pulled the list of who the organizers believe are people in Chemical and Petroleum Engineering who are eligible to vote?

A. That's correct.

Q. Did you check the name of the students against the official eligibility list?

A. I did.

Q. Okay.

But the eligibility list, of course, doesn't have the Department information?

A. Correct.

Q. Okay.
And when did you do this?

A. A couple days ago.

Q. For purposes of this year?

A. Correct.

Q. So do you have any firsthand knowledge of Union Exhibit 20?

A. Sorry. Which is 20?

Q. That's the email from Dr. Little.

A. I was not sent that email.

Q. Because you're not in - were never in Chemical and Petroleum Engineering?

A. Correct.

Q. And I'm sorry. Did you receive Union Exhibit 19?

A. And which is that?

Q. The email from EGSO.

A. This was also for the Chemical Engineering Department? I'm sorry. I'm not sure what you're referring to.

Q. No it's - do you know what EGSO is?

A. No. I think it was stated, but I don't recall.

Q. Okay.

A. So I guess my answer is no.

Q. So I have - so the list that you compiled
as Union Exhibit 21, do you know how many of these students, if any, actually voted?

A. No, I don't.

ATTORNEY FARMER: I have nothing further.

HEARING EXAMINER: Redirect?

ATTORNEY MANZOLILLO: I have nothing further.

HEARING EXAMINER: I'm losing it a bit at the end of the day. What were you trying to show with this list?

ATTORNEY MANZOLILLO: The exposure of people - the number of people exposed to the - emails from Little, Exhibit 20.

HEARING EXAMINER: All right. Understood. All right. You can step down, sir.

Nothing else for today?

ATTORNEY MANZOLILLO: No.

HEARING EXAMINER: Would you like to - call anyone out of order that's here?

ATTORNEY FARMER: No.

HEARING EXAMINER: Okay.

Because we have an hour and half until -

ATTORNEY FARMER: So are you done?
ATTORNEY MANZOLILLO: With the exception of -.

ATTORNEY FARMER: But you're done in your -.

ATTORNEY MANZOLILLO: We have somebody -.

ATTORNEY FARMER: Tomorrow at 10:00. Right.

HEARING EXAMINER: I know we have somebody at ten o'clock.

ATTORNEY FARMER: Yes, who we're taking out of order.

HEARING EXAMINER: Right.

ATTORNEY FARMER: It's fine. And we will plan - I believe that we both plan to put on a witness, but we thought the Union was going to take all day. So we don't have -.

HEARING EXAMINER: All right.

Well, we've been going since 9:00 so we can stop. All right. Off the record and we'll be back here at nine o'clock.

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HEARING CONCLUDED AT 3:36 P.M.

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CERTIFICATE

I hereby certify that the foregoing proceedings, hearing held before Hearing Examiner Helmerich, was reported by me on 05/14/19 and that I, Valerie Gregory, read this transcript, and that I attest that this transcript is a true and accurate record of the proceeding.

Dated the 11th day of June, 2019

Valerie Gregory
Court Reporter
Valerie Gregory