

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

U.S. Equal Employment Opportunity
Commission,

Plaintiff,

v.

The George Washington University,

Defendant.

Case No. 1:17-cv-01978 (CKK)

**THE GEORGE WASHINGTON UNIVERSITY'S COMBINED REPLY IN SUPPORT OF
ITS MOTION FOR SUMMARY JUDGMENT AND OPPOSITION TO
THE EEOC'S CROSS-MOTION FOR SUMMARY JUDGMENT**

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
ARGUMENT	3
I. The EEOC’s Cross-Motion Should Be Denied Because Its Memorandum of Law Violates Local Civil Rule 7(h) And The Court’s Scheduling Order.	3
II. The Court Should Grant The University’s Motion for Summary Judgment Because No Reasonable Juror Could Conclude The University Violated The Equal Pay Act.....	6
A. The Record Contradicts The EEOC’s Assertion That Williams Spent The “Vast Majority” Of Her Time On Non-Clerical Tasks.....	7
1. Williams Input Information Into Non-Financial Form Contracts, While Aresco Drafted And Negotiated Coach Contracts	10
2. Williams Checked On The Status Of Projects At Nero’s Request, While Aresco Helped Manage The Department’s Strategic Plan.....	15
3. Williams Scheduled Interviews And Booked Travel, While Aresco Made Hiring Decisions and Drafted HR Policies	16
4. Williams’s Testimony Regarding Her Budget Management Duties Is Contradicted By The Record.....	20
5. Williams Allegedly Supervised Student Interns, While Aresco Supervised The Men’s Rowing Coach	24
6. Williams Printed Materials And Placed Them In Folders, While Aresco Researched And Prepared Presentations For The Board.....	25
7. Williams Managed Special Projects Like Sending The Department’s Holiday Card, While Aresco Managed Budget Cuts	26
8. Only Williams Believes She Was On The Senior Staff.....	28
B. The EEOC Does Not Dispute That Aresco Had Multiple Responsibilities That Williams Did Not.....	30
C. The University Has Established That The Pay Difference Between Williams And Aresco Was Based On Factors Other Than Sex.....	32
III. This Court Also Should Grant Summary Judgment To The University On The EEOC’s Title VII Claim.	34
A. The University Did Not Subject Williams To An Adverse Employment Action.....	35
B. Even Assuming That Williams Had Suffered An Adverse Employment Action, There Are No Facts To Suggest It Was Discriminatory.	42
C. The University Has Shown Legitimate, Nondiscriminatory Reasons For Any Adverse Employment Action.....	44
CONCLUSION.....	45

TABLE OF AUTHORITIES

	<u>Page(s)</u>
CASES	
<i>Agelli v. Burwell</i> , 164 F. Supp. 3d 69 (D.D.C. 2016).....	13
<i>Barnette v. Chertoff</i> , 453 F.3d 513 (D.C. Cir. 2006).....	42
<i>Bartko v. SEC.</i> , 845 F.3d 1217 (D.C. Cir. 2017).....	6
<i>Bostock v. Clayton Cty.</i> , 140 S. Ct. 1731 (2020).....	35
<i>Brooks v. City of Utica</i> , 275 F. Supp. 3d 370 (N.D.N.Y. 2017).....	39
<i>Burlington Indus., Inc. v. Ellerth</i> , 524 U.S. 742 (1998).....	34, 36
<i>Chambers v. Sebelius</i> , 6 F. Supp. 3d 118 (D.D.C. 2013).....	41
<i>*United States ex rel. El-Amin v. George Wash. Univ.</i> , 533 F. Supp. 2d 12 (D.D.C. 2008).....	5
<i>Gaujacq v. EDF, Inc.</i> , 601 F.3d 565 (D.C. Cir. 2010).....	34
<i>Goodrich v. Int’l Bhd. of Elec. Workers, AFL-CIO</i> , 815 F.2d 1519 (D.C. Cir. 1987).....	19, 23
<i>Greer v. Paulson</i> , 505 F.3d 1306 (D.C. Cir. 2007).....	37
<i>Hajjar-Nejad v. George Wash. Univ.</i> , No. 10-cv-626, 2013 WL 12407402 (D.D.C. May 13, 2013).....	5
<i>Headfirst Baseball LLC v. Elwood</i> , 168 F. Supp. 3d 236 (D.D.C. 2016).....	37
<i>Hein v. Oregon Coll. of Educ.</i> , 718 F.2d 910 (9th Cir. 1983).....	23

TABLE OF AUTHORITIES
(continued)

	<u>Page(s)</u>
<i>Holcomb v. Powell</i> , 433 F.3d 889 (D.C. Cir. 2006).....	10
* <i>Jimenez v. Wolf</i> , No. 19-cv-2055, 2020 WL 13546497 (D.D.C. Sept. 29, 2020).....	7, 18
<i>Johnson v. Dist. of Columbia</i> , 947 F. Supp. 2d 123 (D.D.C. 2013).....	14, 16
<i>Johnson v. Wash. Metro. Area Transit Auth.</i> , 883 F.2d 125 (D.C. Cir. 1989).....	13, 23
<i>Kolstad v. American Dental Ass’n</i> , 527 U.S. 526 (1999).....	6
* <i>Lash v. Lemke</i> , 786 F.3d 1 (D.C. Cir. 2015).....	21
<i>Lucas v. Brennan</i> , No. 17-cv-8964, 2020 WL 127768 (N.D. Ill. Jan. 10, 2020).....	43
<i>Mickelson v. N.Y. Life Ins. Co.</i> , 460 F.3d 1304 (10th Cir. 2006)	32
<i>Muldrow v. City of St. Louis</i> , 30 F.4th 680 (8th Cir. 2022)	18
<i>Mulhall v. Advance Sec., Inc.</i> , 19 F.3d 586 (11th Cir. 1994)	23
<i>Musgrove v. Gov’t of Dist. of Columbia</i> , 775 F. Supp. 2d 158 (D.D.C. 2011).....	24
<i>Nyman v. FDIC</i> , 967 F. Supp. 1562 (D.D.C. 1997).....	32
<i>Polak v. Va. Dep’t of Env’t Quality</i> , 57 F.4th 426 (4th Cir. 2023)	7
* <i>Payne v. Dist. of Columbia</i> , 741 F. Supp. 2d 196 (D.D.C. 2010), <i>aff’d</i> , 722 F.3d 345 (D.C. Cir. 2013).....	5
<i>Smith v. Lynch</i> , 115 F. Supp. 3d 5 (D.D.C. 2015).....	45

TABLE OF AUTHORITIES
(continued)

	<u>Page(s)</u>
<i>St. Mary’s Honor Ctr. v. Hicks</i> , 509 U.S. 502 (1993).....	45
* <i>Sykes v. Dudas</i> , 573 F. Supp. 2d 191 (D.D.C. 2008).....	38, 39
<i>Walden v. Patient-Centered Outcomes Research Inst.</i> , 304 F. Supp. 3d 123 (D.D.C. 2018).....	44
<i>Waters v. Turner, Wood & Smith Ins. Agency</i> , 874 F.2d 797 (11th Cir. 1989)	28, 29
<i>Wilkins v. Dist. of Columbia</i> , No. 17-cv-884, 2019 WL 3767164 (D.D.C. Aug. 9, 2019).....	4
 STATUTES	
29 U.S.C. § 206.....	7, 23, 32
 RULES	
Local. Civ. R. 7(h)	1, 3, 4, 5
Fed. R. Civ. P. 56.....	1
 OTHER AUTHORITIES	
Lindemann, Grossman & Weirich, 1 <i>Employment Discrimination Law</i> (5th ed. 2012).....	19, 28

INTRODUCTION

By both seeking summary judgment, the George Washington University and the EEOC (together, the “Parties”) have agreed there are no genuine disputes of material fact that warrant a trial in this case. Although the Parties provide different descriptions of the duties that Charging Party Sara Williams performed as the executive assistant to former University Athletics Director Patrick Nero, only the University has substantiated its account with citations to the record. Remarkably, even though the EEOC’s first Motion for Summary Judgment was stricken due to its failure to comply with Local Civil Rule 7(h) and this Court’s Order, the EEOC filed a renewed Motion that contains not a *single fact citation* in the entire “Analysis” section of its brief. *See* Dkt. 134 (“EEOC Br.”) at 23-43. The cites that the EEOC does provide in its “Fact Summary” section likewise fail to support the EEOC’s lofty description of Williams’s role. To take just one example, the EEOC maintains that Williams “coordinated the hiring process for two Senior Associate Athletics Directors.” *Id.* at 7. The EEOC cites 25 paragraphs of its Statement of Undisputed Material Facts (“EEOC SMF”) to support this assertion. EEOC Br. at 7 (citing EEOC SMF ¶¶ 40-54, 198-209). But those paragraphs show that Williams “coordinated” hiring by “schemat[ing] all of the candidates’ phone screens” and “book[ing] the candidates’ travel and lodging.” EEOC SMF ¶¶ 45-46. The EEOC cannot create a “genuine dispute” of “material” fact where none exists by relying on ambiguous, undefined terms like “coordinate” in its brief. Fed. R. Civ. P. 56(a).

Actual examination of the evidence shows that Williams and Aresco received different pay for substantially different work: Williams provided clerical support as the *assistant to* the Athletics Director, while Aresco had policymaking authority as an *Assistant Athletics Director*. *See* Dkt. 112-1 (“Univ. Br.”) at 1-2. Although the EEOC attempts to salvage its Equal Pay Act (“EPA”) claim by arguing that Williams, too, had “wide-ranging responsibility” for contracts, human

resources, budgets, and project management, EEOC Br. at 4, the record reveals that to the extent Williams touched these areas, she was only carrying out instructions or relaying messages from her boss, Nero—not exercising independent judgment or authority. Under these circumstances, no reasonable juror could find that she and Aresco performed substantially equal work.

This Court also should reject the EEOC’s Title VII claim because the EEOC has offered no evidence that Williams suffered any adverse employment action—much less one due to gender. The EEOC appears to have abandoned its original argument that the University discriminated against Williams by failing to promote her to the Special Assistant role (likely because such an argument is foreclosed by Williams’s admitted failure to apply for the job). *See* EEOC Br. at 35. Instead, the EEOC now argues that the University violated Title VII by denying Williams an amorphous “opportunity for advancement.” *Id.* at 35, 37. But the only tangible “opportunity for advancement” that the University denied Williams was her request that the University create an entirely new position for her that has never existed. *See* Dkt. 112-2 (“Univ. SMF”) ¶¶ 103-07. The EEOC has cited no caselaw—and the University is aware of none—that would support a Title VII claim based on an employer’s failure to create a new role for an employee simply because she asked for it. And of course, the EEOC does not explain why—if the University had been motivated to discriminate against Williams due to her gender—it would have gone on to hire her for a different position that did exist outside the Athletics Department, where she ultimately earned *more* than the male comparator at the heart of the EEOC’s EPA claim in this case. *See id.* ¶ 337.

At bottom, the EEOC’s case rests on nothing more than Williams’s uncorroborated, self-serving narrative, which conflicts with the documentary record and does not suffice to create a “genuine” dispute of material fact. For these reasons, and those set forth in the University’s Motion, the University is entitled to summary judgment.

ARGUMENT

I. **The EEOC’s Cross-Motion Should Be Denied Because Its Memorandum of Law Violates Local Civil Rule 7(h) And The Court’s Scheduling Order.**

This Court struck the EEOC’s entire initial summary judgment filing for failure to comply with Local Civil Rule 7(h) and the Court’s Scheduling Order. *See* Dec. 21, 2022 Minute Order. Although the EEOC had more than five weeks to cure the defects in its original filing, the EEOC returned with a new Cross-Motion for Summary Judgment that again flouts the Court’s Order and the Local Rule.¹ This Court directed the parties to “furnish **precise citations** to the portions of the record on which they rely” “when briefing motions for summary judgment.” Dkt. 111 at 2 (emphasis in original). Despite the Court’s bolded language, such “precise citations” are nowhere to be found in the EEOC’s brief. The EEOC’s repeated failure to abide by the Court’s Order in and of itself justifies denial of the EEOC’s summary judgment bid. At minimum, none of the EEOC’s unsupported factual assertions should be credited.

The entire “Analysis” section of the EEOC’s brief does not contain a *single* citation to the record. *See* EEOC Br. at 23-43. The agency instead forces the University—and the Court—to forage through the brief’s “Fact Summary” section to attempt to ascertain whether the EEOC’s arguments do, indeed, have support in the record. Unfortunately, even the “Fact Summary” section affords little help to the reader. Rather than furnish the “**precise citations**” required by the Court’s Order, the EEOC cites to broad paragraph ranges in its SMF, forcing the reader to undertake an unguided expedition through the record. *See, e.g.*, EEOC Br. at 7 (citing EEOC SMF ¶¶ 26-39);

¹ The EEOC’s Opposition (the “Opposition”) to the University’s Statement of Undisputed Material Facts likewise violates both Local Civil Rule 7(h) and this Court’s Order. Although the University brought the deficiencies in the Opposition to the EEOC’s attention in accordance with Local Civil Rule 7(m), the EEOC declined to cure the deficiencies, which required that the University move to strike the EEOC’s Opposition. *See* Dkt. 141. As set forth in the University’s Motion to Strike, the EEOC’s Opposition should be stricken and all facts in the University’s Statement of Undisputed Material Facts should be deemed admitted. *See id.*

id. at 8 (citing EEOC SMF ¶¶ 55-70); *id.* at 9 (citing EEOC SMF ¶¶ 82-104); *id.* at 14 (citing EEOC SMF ¶¶ 138-72, 148-67). To give one egregious example, the EEOC claims that former Athletics Director Patrick Nero “planned to give Aresco . . . work that Williams already was doing.” EEOC Br. at 10. The EEOC then directs the reader to **67 paragraphs** in its SMF that supposedly support this assertion, *see id.* (citing EEOC SMF ¶¶ 105-172), even though none of those paragraphs actually contains evidence that Nero intended to or did transfer Williams’s job duties to Aresco. These citations do not comply with Local Civil Rule 7(h) or this Court’s Order. *See, e.g., Wilkins v. Dist. of Columbia*, No. 17-cv-884, 2019 WL 3767164, at *2 (D.D.C. Aug. 9, 2019) (Kollar-Kotelly, J.) (where proper “references to the record are lacking,” a court cannot “decide motions for summary judgment efficiently and effectively”).

The EEOC’s brief is also replete with factual assertions that lack *any* evidentiary support, even in the “Fact Summary” section. For example, the EEOC offers a host of speculative reasons why Aresco’s transfer from Assistant Athletics Director for Operations, Events, and Facilities to the Special Assistant role supposedly could not have been a lateral move, but not one of these assertions is accompanied by a citation to the record. *See* EEOC Br. 12-13. Similarly, the EEOC claims that Aresco had “no” experience working in athletics administration before he became the Special Assistant and that the Special Assistant position was not one that “required or used” the prior “Athletics experiences” that Aresco did have. *Id.* at 2, 25. But the EEOC offers nothing beyond its own say-so to prove that these assertions are true. And the actual evidence in the record demonstrates that they are false. *See, e.g., Univ. SMF* ¶ 208 (Aresco “highlighted his experience as an Assistant Athletics Director at the University” in his application for Special Assistant); *id.* ¶¶ 193, 212-15 (Vogel and Nero viewed Aresco’s prior experience “as a sport administrator and serving on the senior staff” as helpful for the Special Assistant position, which listed among its

preferred qualifications “4+ years administrative experience in [a] similar role”).

The EEOC’s rhetoric—devoid of proper record citations—provides no basis for the Court to grant the EEOC’s Cross-Motion. “The Court does not accept factual assertions by counsel that are not supported with citations to the record, nor does it scour the record for evidence that will support a party’s claims.” *Payne v. Dist. of Columbia*, 741 F. Supp. 2d 196, 216 n.9 (D.D.C. 2010) (Kollar-Kotelly, J.). “Judges are not like pigs, hunting for truffles buried in briefs or the record.” *Hajjar-Nejad v. George Wash. Univ.*, No. 10-cv-626, 2013 WL 12407402, at *1 (D.D.C. May 13, 2013) (Kollar-Kotelly, J.). “In these situations, . . . the Court has no choice but to conclude” that the EEOC has failed to support its arguments “with specific evidence and references to the record because [it] cannot—the evidentiary foundation is not there.” *United States ex rel. El-Amin v. George Wash. Univ.*, 533 F. Supp. 2d 12, 19 (D.D.C. 2008) (Kollar-Kotelly, J.).

Here, the EEOC’s pervasive failure to provide factual support for its arguments in and of itself justifies denying the EEOC summary judgment. This outcome is warranted because the agency’s disregard for this Court’s Order and Local Civil Rule 7(h) is only the latest example in a long-running pattern of unreasonable litigation conduct. From the outset of this case in 2017, the EEOC has pursued a scorched-earth litigation strategy that is far out of proportion to the amount in controversy in this case, which involves—at most—a \$90,000 wage differential. *See* Dkt. 53 at 2-3 & n.2. The EEOC unreasonably terminated the conciliation process, eliminating the prospect of an early resolution that could have saved resources for both sides. *See* Dkt. 10-1 at 21-23. The EEOC then engaged in a series of abusive discovery tactics, documented by Magistrate Judge Harvey in three lengthy, published opinions. *See* Dkts. 53, 69, 107. Now, after more than two years of discovery, the EEOC has not even bothered to support the arguments in its brief with citations to the thousands of documents that it insisted the University produce. Enough is enough.

The EEOC's flagrant disregard for the Rules throughout this litigation justifies denial of summary judgment to the EEOC. At a minimum, the Court should disregard each factual assertion in the EEOC's brief that lacks a "precise citation" to the record. Dkt. 111 at 2 (emphasis omitted).²

II. The Court Should Grant The University's Motion for Summary Judgment Because No Reasonable Juror Could Conclude The University Violated The Equal Pay Act.

The University demonstrated in its Motion why the EEOC's EPA claim is meritless: Williams received lower pay than Aresco because her duties were largely clerical, while he held a senior leadership role within the Athletics Department. *See* Univ. Br. at 12-30. The EEOC counters that Williams, too, had "significant and wide-ranging responsibility," with duties that allegedly overlapped with Aresco's in contracts administration, project management, human resources, budget management, and special projects. *See* EEOC Br. at 4-5. But the agency's exaggerated account of Williams's job rests on its use of vague descriptions, including **13** uses of the word "coordinate" to mask in broad strokes the specific tasks that Williams actually performed.

² Even if the Court were inclined to grant some portion of the EEOC's Cross-Motion, the Court still should reject the EEOC's Cross-Motion with respect to the University's *Kolstad* and unclean hands defenses. *Kolstad v. American Dental Ass'n*, 527 U.S. 526, 545 (1999), provides that, "in the punitive damages context, an employer may not be vicariously liable for the discriminatory employment decisions of managerial agents where these decisions are contrary to the employer's good-faith efforts to comply with Title VII." Here, the University strictly prohibits discrimination based on sex, and its Compensation Department follows robust procedures for setting salaries based on merit, including by examining education and years of experience. Dkt. 135-4 at 69-72 (Univ. Resp. to EEOC Interrog. No. 12). The Compensation Department reviewed Aresco's pay as Special Assistant and found that it was justified as a "lateral transfer." Dkt. 135-7 at 57. Nothing about that process shows that the University failed to implement its Title VII policies in good faith. And the EEOC's suggestion that the University cannot rely on the *Kolstad* defense because it "refuse[d] to produce information or documents regarding the ultimate question presented by *Kolstad*" already has been rejected by Magistrate Judge Harvey. Dkt. 107 at 47-49. As to unclean hands, the EEOC is incorrect that this defense is unavailable when the government sues as a plaintiff. EEOC Br. at 41. Although an agency "may not be estopped on the same terms as any other litigant," the unclean hands defense remains available where the government's interest "is outweighed by the countervailing interest of citizens in some minimum standard of decency, honor, and reliability in their dealings with their Government." *Bartko v. SEC*, 845 F.3d 1217, 1227 (D.C. Cir. 2017). That is the case here. The EEOC's brief does not address, much less defend, the egregious litigation conduct that supports the University's unclean hands defense.

See, e.g., EEOC Br. at 5 (Williams “*coordinated* contract workflow”); *id.* at 6 (“Williams *coordinated* with OGC, head coaches, the finance director, Facilities and Nero for approval and payment”); *id.* at 6 (Williams was responsible for “*coordination* of senior staff meetings”); *id.* at 7 (Williams “*coordinated* the presentation of new and significant Human Resources processes”) (emphases added). Tellingly, the EEOC often fails to describe what this “coordination” entailed. Where the EEOC does rely on exhibits to illustrate this “coordination,” the exhibits show Williams “coordinated” tasks by serving as a mere information-gatherer or information-provider on behalf of Nero. These exhibits make clear that it was, in fact, a combination of Nero and Aresco—not Nero’s executive assistant—who had “wide-ranging responsibility” in contracts administration, project management, human resources, budget management, and special projects. The EEOC cannot survive summary judgment armed only with vague generalizations and Williams’s “self-serving testimony, unsupported by corroborating evidence, and undermined . . . by other credible evidence.” *Jimenez v. Wolf*, No. 19-cv-2055, 2020 WL 13546497, at *3 (D.D.C. Sept. 29, 2020); *see also Polak v. Va. Dep’t of Env’t Quality*, 57 F.4th 426, 430 (4th Cir. 2023) (affirming summary judgment to employer under EPA where the plaintiff relied “mostly on her own declaration” and “on broad generalizations at a high level of abstraction”).

A. The Record Contradicts The EEOC’s Assertion That Williams Spent The “Vast Majority” Of Her Time On Non-Clerical Tasks.

To prove a violation of the EPA, the EEOC must show that Williams earned less money than Aresco for performing work that required “equal skill, effort, and responsibility.” 29 U.S.C. § 206(d)(1). Here, the University has produced evidence that Aresco functioned as a chief of staff to Nero and had authority over Athletics Department contracts, human resources, and strategic planning. *See, e.g.*, Univ. SMF ¶ 238. The EEOC attempts to show that Williams “performed the same core tasks” as Aresco, EEOC Br. at 14, but the record either refutes the EEOC’s allegations

or shows that Williams merely assisted with the projects over which Aresco had real responsibility.

As a threshold matter, the record does not support the EEOC's assertion that Williams's "primary" duties were "to provide project, financial, . . . and human resources support." EEOC Br. at 25. In its opening brief, the University offered a wealth of evidence that proves the functions Williams performed as Nero's executive assistant were principally clerical in nature. The University's exhibits included inch-thick stacks of emails, showing that Williams spent her workday printing documents, scheduling meetings, and submitting expenses for reimbursement. *See* Dkt. 113-5; Dkt. 113-9; Dkt. 113-13. The University also pointed to Williams's own contemporaneous descriptions of her job duties, which contradict her newfound claim that she performed only "*some* clerical tasks." Dkt. 135-10 ¶ 5 (emphasis added). In the annual self-assessment she completed in 2015, for example, Williams described her role as follows: "On a daily basis I provide assistance and clerical support for the Athletic Director (AD) and senior administrators, as well as office management/receptionist functions for the athletic office including managing calendars, answering phones, responding to messages and assisting with walk-ins." Univ. SMF ¶ 23 (quoting Dkt. 115-10). Similarly, Williams's LinkedIn profile listed her principal duties as "[o]versee daily calendar, scheduling of meetings, and management of task list systems," along with "[p]lan and manage Director of Athletics and Recreation travel." Dkt. 115-5.

The EEOC argues that the University takes an overly narrow view of Williams's job duties based on her official job description while "ignoring" her testimony that she handled more than just "clerical duties." EEOC Br. at 25. But the University is not arguing that the Court should look only at Williams's job description, to the exclusion of other evidence. The job description is merely one piece of evidence cited by the University, all of which confirms Williams's "principal responsibilities" consisted of tasks such as "managing [the] calenda[r]," "scheduling meetings,"

and “preparing travel itineraries.” Univ. SMF ¶¶ 23, 27, 37, 39, 41. Williams herself conceded at deposition that she understood these tasks—that is, “managing the calendar” and “scheduling meetings”—to be among her “principal job functions” when she applied to be Nero’s executive assistant. Dkt. 115-2 at 21:23-22:18, 30:22-32:8, 38:22-39:7. And Williams described her executive assistant duties on her resume to include “scheduling” and “processing and filing financial receipts and tracking expenses.” Univ. SMF ¶ 98. Nowhere on her resume, LinkedIn profile, or annual self-assessment did Williams claim to have performed significant work on “contract administration, managing multiple budgets, project management . . . or human resource support,” much less assert that she spent the “vast majority of [her] time and effort” on these tasks. Dkt. 135-10 ¶ 5. Indeed, the reason that Williams applied for several different jobs during her tenure as Nero’s executive assistant was that she *wanted* to work on these tasks but did not. As she said at the time, “I don’t want to just do the schedule anymore.” Univ. SMF ¶ 83.

Even the EEOC’s own SMF makes clear that Williams served in an administrative support role and did not exercise the same degree of authority that Aresco possessed. The agency asserts, for example, that Williams “*assisted* . . . with the . . . performance evaluation process.” EEOC SMF ¶ 49 (emphasis added). But Aresco actually conducted performance reviews for the men’s rowing coach, whom he supervised. Univ. SMF ¶ 288. Williams supposedly “*coordinated* the presentation of new or significant Human Resources processes at senior staff meetings.” EEOC SMF ¶ 53 (emphasis added). But Aresco delivered presentations at senior staff meetings about Athletics Department policies that he had crafted. Univ. SMF ¶¶ 239, 306; Ex. E-16 at GWU_044001 (agenda reflecting Aresco presentations). Williams allegedly also “*coordinated* the hiring process” for two Senior Associate Athletics Directors. EEOC SMF ¶ 43 (emphasis added). But Aresco led the search process and helped decide whom to hire as the head women’s basketball

coach, the head sailing coach, an assistant softball coach, an assistant women's gymnastics coach, and an assistant women's lacrosse coach. Univ. SMF ¶¶ 250-52. Williams claims to have performed certain "sport administrator functions" for the men's basketball team for at least a brief period of time, EEOC SMF ¶ 101, but Aresco served as the sport administrator for the men's rowing program throughout his tenure as Special Assistant, Univ. SMF ¶ 281.

Although the EEOC focuses on eight areas of alleged overlap between Williams's and Aresco's duties, the evidence shows that in each area, Williams merely provided clerical support (at most) whereas Aresco exercised substantive responsibility. As the D.C. Circuit has recognized, "[a]ssisting with a task is not the same as having ultimate responsibility" for it under the EPA. *Holcomb v. Powell*, 433 F.3d 889, 898 (D.C. Cir. 2006).

1. Williams Input Information Into Non-Financial Form Contracts, While Aresco Drafted And Negotiated Coach Contracts

The EEOC first contends that Williams and Aresco performed substantially equal work because they both were involved in contract administration for the Athletics Department. *See* EEOC Br. at 15. But Aresco negotiated and drafted major Athletics Department contracts, Univ. SMF ¶¶ 248-50, while Williams's role with respect to contracts was a purely clerical one, *id.* ¶ 36.

According to the EEOC, Williams "administered" contracts by sending them through interoffice mail and collecting signatures from the Office of General Counsel ("OGC"), the Finance Department, and Athletics Department administrators. *See* EEOC Br. at 5; *see also* EEOC SMF ¶ 16 (asserting that Williams "coordinated workflow" to "obtain all appropriate signatures on game and team contracts"). The EEOC claims that Williams also "ensured that financial obligations" under the contracts "were met," citing to testimony from former University Finance Director Rosemarie Sanchez Chee-Wah. EEOC Br. at 5 (citing EEOC SMF ¶ 16). But Chee-Wah testified only that Williams brought the contracts to her (Chee-Wah) so *she* could confirm the

Department had sufficient funding to satisfy its obligations under the contract—and to inform Nero if it did not. *See* Dkt. 135-8 at 49:13-19 (Finance Director testifying, “If I see that they’re negotiating for 95,000 and the budget is only for 80, where are you getting the other 15,000 from? [Williams]’d go back and have those conversations with . . . Patrick [Nero]”).

The EEOC contends that the most “importan[t]” aspect of Williams’s contract administration duties was filling out game contracts. EEOC Br. at 5. Although the EEOC describes these contracts as “voluminous,” *id.* at 15, they are one-paragraph form agreements that list the date and time of a game and the names of the teams scheduled to compete. *See* Nero Suppl. Decl. (Univ. Ex. D) ¶ 14 & Ex. D-1. Creating these contracts required collecting the schedules from coaches and plugging this information into what the EEOC describes as “a form-fillable template.” EEOC Br. at 5; Dkt. 135-11; Nero Suppl. Decl. ¶ 17; *see also* Univ. SMF ¶ 36 (same). The vast majority of game contracts were “non-financial, meaning there was no guaranteed money that one school would pay the other school.” Nero Suppl. Decl. ¶ 14. For the approximately 10% of game contracts that involved a financial obligation, Nero required Williams to obtain his specific authorization before sending the game contract to the other school for signature. *Id.* ¶ 18.

Williams claims, for the first time in her declaration, that she actually created the form-fillable template and obtained approval for it from the University’s OGC. EEOC Br. at 5. But Nero, Williams’s boss, attested that he had no knowledge of Williams ever creating such a template, much less obtaining approval for it from OGC. Nero Suppl. Decl. ¶ 19. Rather, Nero testified that he told OGC game contracts were “boilerplate documents” that he did not believe merited attorney review at all. *Id.* ¶ 20. Regardless, even assuming that Williams did create the “form-fillable template,” that shows only she was adept at using software to make her data-entry process more efficient, not that she had any substantive responsibility for contractual content.

The EEOC also asserts that Williams created a “tracking system” for game contracts, which previously resided in a mere “hard copy” binder. EEOC Br. at 5.³ But the fact that Williams kept track of contracts does not suggest she had a substantive role in drafting or negotiating them. And while the EEOC suggests Williams created a tracking system for the “contracting process” generally, EEOC Br. at 5, the testimony that the EEOC cites makes clear that Williams simply kept a record of game contracts—no more. EEOC SMF ¶ 23 (citing Dkt. 135-8 at 48:11-49:19).

Filling in the blanks on boilerplate contracts and keeping track of those contracts are administrative support tasks consistent with the role of an executive assistant, and are not comparable to the contract-related work that Aresco performed. As the Assistant Athletics Director for Operations, Events, and Facilities, Aresco negotiated a contract to rent space in the University athletics arena to the Washington Kastles. Univ. SMF ¶¶ 134-35. Aresco’s work on the Kastles agreement helped show Nero that Aresco had the skills to serve as Special Assistant—a role that gave him oversight of (among other things) coaching contracts. *Id.* ¶¶ 242, 274-77. Ultimately, Aresco helped negotiate and draft the University’s contracts with several Department coaches, including head women’s basketball coach Jennifer Rizzotti. *Id.* ¶¶ 276, 255-56.

The EEOC disputes that Aresco negotiated the University’s contract with Nike, arguing that “record evidence shows that the Nike contract was . . . already [in] place” by the time Aresco became Special Assistant and that Aresco “simply forwarded” the renewal agreement to Nero. EEOC Br. at 15, 28. But the exhibit on which the EEOC relies addresses a *separate* contract between Nike and Mike Lonergan, the former men’s basketball coach, which was signed in 2015—before Aresco became Special Assistant. *See* EEOC SMF ¶ 176 (citing Dkt. 140-23). The EEOC

³ As support for its assertion that Williams created an electronic tracking system, the EEOC cites Chee-Wah’s deposition testimony. But Chee-Wah described Williams’s alleged tracking system as “a binder of sorts.” Dkt. 135-8 at 48:11-17.

offers no evidence to rebut the testimony of multiple University witnesses, all of whom swore that Aresco negotiated the University's contract with Nike. *See* Univ. SMF ¶¶ 276-77. Similarly, the EEOC purports to dispute that Aresco drafted portions of the Rizzotti contract, asserting that "OGC drafted the contract." EEOC Br. at 26 (citing nothing). But the EEOC supports this assertion with nothing more than its own say-so. *Id.* The EEOC's bare assertion does not create a genuine dispute of material fact when the University has produced testimony from *two* witnesses, both of whom said that Aresco drafted portions of the Rizzotti contract. *See* Univ. SMF ¶¶ 255-56.

The EEOC also alleges that Williams "negotiated certain contracts herself": namely, a contract with Xerox for the use of copy machines at two University campuses and a contract with Marriott to host the senior honors breakfast. EEOC Br. at 5-6. But the agency fails to substantiate that assertion with anything other than Williams's own self-serving testimony, EEOC SMF ¶¶ 24-25, and, as explained below, the documentary record refutes that Williams negotiated these contracts. Williams's bare assertion that she negotiated these contracts does not suffice to create a genuine dispute of material fact precluding summary judgment. *See, e.g., Johnson v. Wash. Metro. Area Transit Auth.*, 883 F.2d 125, 128 (D.C. Cir. 1989) (a plaintiff cannot defeat summary judgment "when a plaintiff's claim is supported solely by the plaintiff's own self-serving testimony, unsupported by corroborating evidence, and undermined . . . by other credible evidence"); *Agelli v. Burwell*, 164 F. Supp. 3d 69, 76 (D.D.C. 2016) (concluding that plaintiff's "self-serving affidavit cannot, without more, create a genuine dispute of material fact" where the allegations in the affidavit were "flatly contradicted" by other evidence in the record).

The only correspondence between Williams and Xerox in the record are emails in which Williams requests help from Xerox representatives with malfunctioning printers. On one occasion, Williams informed a Xerox representative that the Athletics Department was "out of black toner

again” and needed an “expedited” shipment of four cartridges because “we cannot use our printer until we have our black toner replaced.” Ex. E-9. On another occasion, Williams informed Xerox that the “admin password is not working again” and asked for it to be reset. Ex. E-8. The company advised that she “reboot the machine.” *Id.* These emails are the full extent of Williams’s alleged Xerox “contract administration” duties.

The record also undermines the EEOC’s assertion that Williams “negotiated” a \$23,000 contract with a local Marriott hotel to host the senior honors breakfast. EEOC Br. at 6; EEOC SMF ¶ 97. The actual Marriott contract, which the EEOC does not attach as an exhibit to its Motion, is a standard form agreement created by the hotel. Marriott’s logo appears at the top above the title, “Group Sales Agreement.” Ex. E-11. The University had held the senior honors breakfast at the Marriott for years prior to Williams becoming Nero’s executive assistant, and Williams’s role with respect to the contract was simply to tell the hotel how many guests to expect for the annual reception and what kind of audio-visual equipment the University required. Nero Suppl. Decl. (Ex. D) ¶ 50. Admittedly, Williams once asked if the hotel would lower the standard per-person cost of the breakfast. Marriott declined, but it did offer a consolation: “We are not able to lower the cost of the breakfast but I have included hashbrowns and given the option of turkey bacon for the guests that will require it.” Ex. E-10. Securing these breakfast choices as a consolation marks the full extent of Williams’s negotiation of this “significant” contract, EEOC Br. at 6—which cost the University \$10,295 (as can be seen from the face of the document), rather than the \$23,000 the EEOC claims, Ex. E-11.

Based on the undisputed evidence, no reasonable jury could conclude that Williams and Aresco performed “substantially equal” work with respect to contracts. *See, e.g., Johnson v. Dist. of Columbia*, 947 F. Supp. 2d 123, 130 (D.D.C. 2013).

2. Williams Checked On The Status Of Projects At Nero's Request, While Aresco Helped Manage The Department's Strategic Plan

The EEOC contends that Williams and Aresco each attended Athletics Department meetings and took charge of “project management of the tasks assigned during the meetings.” EEOC Br. at 6, 14-15. But the EEOC does not dispute that Williams and Aresco played different roles at the meetings themselves. Nor could it. Aresco participated in the substantive discussion at these meetings, whereas Williams simply listened and took notes. Univ. SMF ¶ 306; EEOC SMF ¶ 34; Ex. E-16 at GWU_044001. The EEOC suggests that Williams somehow influenced the discussion at meetings by drafting an agenda in advance and “plot[ting] agenda items based on the strategic needs of the Department.” EEOC Br. at 6. But “plotting agenda items” in plain English meant that Williams “collected agenda items from senior staff” and pasted them into a Word document prior to the meeting. EEOC Br. at 6; Nero Suppl. Decl. (Ex. D) ¶ 39. Williams would then send her draft to Nero, with a copy to Aresco, so they could “tell her the order” in which the topics should “appear on the agenda.” Nero Suppl. Decl. ¶ 40; Ex. E-16. In other words, Williams exercised no independent judgment or decision-making authority, even with respect to the order in which the agenda items were discussed; that judgment and authority resided in Nero and Aresco. *See* Nero Suppl. Decl. ¶ 40; Ex. E-16.

The record also does not support the EEOC's claim that Williams managed projects assigned at senior staff or head coaches' meetings. *See* EEOC Br. at 6-7. The EEOC contends that “Williams was responsible for keeping track of deadlines and reminding the staff members when their deadlines were approaching.” *Id.* But Williams sent these reminders on Nero's behalf. *See* Dkt. 135-12. She did not have independent authority to review, revise, or complete Department projects herself. The lone document the EEOC provides to illustrate Williams's “project management” duties says simply: “Patrick did not receive the second half of the report.

Please follow up on Monday to get it.” *Id.* In other words, Williams’s “project management” was limited to relaying a message from Nero. *See id.* Williams’s role was even less significant with respect to head coaches’ meetings than senior staff meetings. Nero advised Williams that she did not even need to sit in on head coaches’ meetings: “Since we do not take minutes at these meetings it is really not necessary for you [to] attend,” he wrote. Univ. SMF ¶ 37. The EEOC’s brief does not address this email, even though the University quoted it in its opening brief. Univ. Br. at 26.

The EEOC describes Williams’s other alleged project management duties in such vague terms that it is impossible for the University to discern what specific tasks she claims to have performed. For example, the agency alleges that Williams “coordinated with senior staff to assist in completing tasks and expediting processes,” without explaining what the “coordination” entailed or how she “assisted” in completing unspecified “tasks” or in “expediting” unidentified “processes.” EEOC Br. at 7. Regardless, this language suggests Williams provided support to the senior staff members who, in turn, were the persons with substantive responsibility for Department projects. That clerical support role does not “equal” or “substantially equal” the management role held by Aresco, *Johnson*, 947 F. Supp. 2d at 130, who functioned as chief of staff for the Athletics Department and had independent responsibility not only for “following up” with members of the senior staff about specific projects, but also for tackling projects himself and ensuring that Nero’s long-term strategic goals for the Department were accomplished—whether that meant deciding how to implement a University-mandated 20% budget cut, developing Athletics Department HR policies, or negotiating coaching contracts. *See, e.g.*, Univ. SMF ¶¶ 238, 242, 297, 307.

3. Williams Scheduled Interviews And Booked Travel, While Aresco Made Hiring Decisions and Drafted HR Policies

One of Aresco’s principal responsibilities as Special Assistant was “overseeing HR” for the Athletics Department. Univ. SMF ¶ 240. In that role, Aresco drafted hiring plans, including

salary proposals, for coaches, trainers, and other Department employees, *id.* ¶¶ 244-45; he screened resumes, interviewed job candidates, and participated in decisions about which coaches to hire, *id.* ¶¶ 248-50; he managed the merit pay increase process for Department employees, *id.* ¶ 260; and he participated in deliberations about whether to fire a coach, *id.* ¶¶ 261-62. The EEOC asserts in its brief that Williams maintained her own “substantial Human Resources duties,” EEOC Br. at 7, but none of these alleged duties bears the faintest resemblance to Aresco’s.

First, the EEOC claims that Williams “coordinated the hiring process for two Senior Associate Athletics Directors, Ed Scott and Tanya Vogel.” EEOC Br. at 7. But as the EEOC goes on to describe—and as its cited exhibits make clear—“coordinating” in this context simply meant that Williams “booked travel” for Vogel and Scott and scheduled times for them to meet with other members of the Athletics Department. *Id.* In other words, Williams “scheduled candidates for phone screens” and “handled . . . reimbursements for trip expenses,” *id.*—the very types of clerical tasks the University contends were the core elements of her job as Nero’s executive assistant.

The agency tries to bolster Williams’s role with respect to Vogel and Scott’s hiring, arguing that Williams also “assembled interview panels with head coaches.” EEOC Br. at 7. But the underlying document the EEOC cites shows only that Williams contacted the specific coaches who Nero decided should conduct the interviews. EEOC SMF ¶ 45 (citing Dkt. 140-6). Her email to these coaches reads: “*Patrick would like you to be involved* in [the] interview process of the candidates for Senior Associate Athletic Director.” Dkt. 140-6 at 6 (EEOC0001386) (emphasis added). Similarly, the EEOC contends that Williams “worked closely” with Kaithlyn Kayer in the HR office on Vogel and Scott’s hiring. EEOC Br. at 7. But the same exhibit shows that Williams simply relayed requests from Nero to Kayer. Nero emailed Williams, “Can I get the applications to look at this am,” and Williams then forwarded that request to Kayer, writing: “Patrick would

like you to provide the applications this morning, please.” Dkt. 140-6 at 3 (EEOC0001289). The EEOC contends that Williams “handled budget allocations” for the expenses that Vogel and Scott incurred for their travel to the University. EEOC Br. at 7. But, once again, she did so only as Nero’s agent and had no independent authority to decide where the University would draw these funds. Williams told the interim Finance Director: “I spoke to Patrick and *he has advised* that the expenses for Ed and Tanya’s trip . . . be allocated to the Administration budget.” Dkt. 140-6 at 2 (EEOC0000988) (emphasis added).

Similarly, the record reflects that Williams’s only role with respect to “hiring plans” was to relay information from Nero to the Finance Director regarding the Athletic Department’s anticipated hiring needs. EEOC SMF ¶ 47. Chee-Wah, whose testimony the EEOC cites, stated that “Sara would get me answers. She would meet with Patrick, get whatever answers are necessary [to] keep the process flowing.” Dkt. 135-8 at 40:8-41:14 (cited at EEOC SMF ¶ 47).

The EEOC also offers *no* evidence, beyond Williams’s late-breaking, self-serving declaration, that she “worked with coaches on their hiring needs,” nor does it provide any details about what that work allegedly entailed. EEOC Br. at 7; EEOC SMF ¶ 48. Williams’s vague, one-sided, and uncorroborated account that she assisted coaches with unspecified hiring needs is not “persuasive” evidence “capable of defeating” the University’s Motion. *Muldrow v. City of St. Louis*, 30 F.4th 680, 688 (8th Cir. 2022); *see also Jimenez*, 2020 WL 13546497, at *3.

Nor does the EEOC offer any evidence that Williams routinely “created hiring packets.” EEOC Br. at 7. To the contrary, Williams claims she created a hiring packet only once—when Aresco allegedly neglected to submit the packet.⁴ EEOC SMF ¶ 202. As Williams acknowledged,

⁴ Of course, the only evidence that Aresco neglected to submit the hiring packet for this employee is Williams’s self-interested declaration. EEOC SMF ¶ 202 (citing only Dkt. 135-10 ¶ 80).

creating such packets fell outside of her ordinary job duties: “Mike Aresco handles all of our HR and hiring information” for the Athletics Department, Williams wrote at the time. Univ. SMF ¶ 243. The EEOC makes the same concession in its SMF, stating that Williams appointed herself to “step in” and submit this paperwork even though it was among “*his* [Aresco’s] HR duties.” EEOC SMF ¶¶ 200-01 (emphasis added). The fact that Williams assisted with a hiring packet on a single occasion does not render her job substantially equal to that of Aresco. The job-equality inquiry “focuses on the primary duties of each job,” not one-off examples of overlapping work. *Goodrich v. Int’l Bhd. of Elec. Workers, AFL-CIO*, 815 F.2d 1519, 1523-24 (D.C. Cir. 1987).

The EEOC also claims that Williams assisted with “onboarding” new employees. EEOC Br. at 7. At deposition, however, Williams identified only one such onboarding task: she claimed to have drafted “offer letters” during the brief period between Brian Hamluk’s departure as Assistant Athletics Director in August 2015 and Aresco’s assumption of Hamluk’s duties that fall. EEOC SMF ¶ 42; Dkt. 135-20 at 215:3-18; Nero Suppl. Decl. (Ex. D) ¶ 64. Even assuming that Williams temporarily performed this task, there is no evidence that “onboarding” new employees was a permanent or substantial part of her role. *See, e.g., Lindemann, Grossman & Weirich*, 1 *Employment Discrimination Law* § 19-30 (5th ed. 2012) (“An employee temporarily filling in for a higher-paid person cannot normally be said to be performing the same job.”).

To round out Williams’s alleged human resources duties, the EEOC claims that Williams “submitted all performance reviews,” EEOC Br. at 7, but this task involved nothing more than asking sport administrators to bring her a signed “hard copy” of completed performance reviews so she could deliver them “for Patrick’s signature.” Dkt. 135-18; EEOC SMF ¶ 52. Aresco, meanwhile, managed the merit pay process and actually completed performance reviews for the

men’s rowing coach, who reported to him.⁵ Univ. SMF ¶¶ 260, 288. The EEOC also asserts that Williams “coordinated the presentation of new and significant Human Resources processes at senior staff meetings.” EEOC Br. at 7. But the agency does not say what “coordinat[ing]” the presentation of these “processes” involved—it could simply mean that Williams added an item to the senior staff agenda or set up PowerPoint slides in a conference room. *See* Dkt. 135-13 (email from Williams to HR, requesting copy of new staffing policy she could attach to minutes of senior staff meeting). Aresco, on the other hand, actually gave presentations at senior staff meetings about new Department policies that *he developed*. Univ. SMF ¶¶ 263-67.

4. Williams’s Testimony Regarding Her Budget Management Duties Is Contradicted By The Record

As sport administrator for the men’s rowing program, Aresco exercised oversight of the men’s rowing budget and reviewed the head coaches’ requests for major purchases and team travel—facts the EEOC does not dispute. *See* Univ. SMF ¶¶ 281, 285. The EEOC contends that budget management also constituted one of Williams’s “most significant responsibilities,” EEOC Br. at 7, but the agency once again rests this assertion on Williams’s testimony and fails to confront other, undisputed evidence in the record that undermines her exaggerated account.

Both the current and former Athletics Directors disputed that Williams managed any budgets. When the EEOC’s lawyer asked Nero, Williams’s boss, whether Williams managed any budgets, his answer was an unambiguous “No.” Univ. SMF ¶ 48. The current Athletics Director, a woman—who, at the time, was a Senior Associates Athletics Director—testified in lockstep with Nero, stating that Williams “didn’t manage any budgets” and that long-term budget forecasting “was not part of Sara’s role.” *Id.* ¶ 52. Williams’s own, contemporaneous description of her job

⁵ The EEOC does not claim that Williams prepared performance reviews for the student interns whom she allegedly supervised, which is further proof that her supervisory duties were not substantially equal to Aresco’s. *See* pp. 24-25, *infra*.

as Nero's executive assistant likewise reflects that her budget duties were limited to submitting expenses for reimbursement and ensuring they were paid from the accounts Nero had designated. *Id.* ¶ 98; Nero Suppl. Decl. (Ex. D) ¶¶ 27-28. The University's 2016 desk audit reached this same conclusion, finding that Williams performed only "aspects" of the finance associate role—a position the Finance Director likened to a "worker bee" who "just process[es] expense reports." Univ. SMF ¶¶ 330-31. Nor would it have made sense for Williams to perform finance functions beyond these rote tasks: She was not a member of the Finance Department, she did not report to Chee-Wah (the Finance Director), and she had no background in finance.⁶

The EEOC fails to address any of this evidence in its brief, instead asserting that Williams managed three budgets worth millions of dollars and, for each of them, was "responsible for five-year forecasting, conducting quarterly budget reviews, and monthly and weekly reconciliation, as well as processing and filing receipts." EEOC SMF ¶ 57. The EEOC rests this claim entirely on Williams's uncorroborated declaration and deposition testimony, untethered to a single document in the record. "When opposing parties tell two different stories, one of which is blatantly contradicted by the record, so that no reasonable jury could believe it, a court should not adopt that version of the facts for purposes of ruling on a motion for summary judgment." *Lash v. Lemke*, 786 F.3d 1, 6 (D.C. Cir. 2015).

Here, Nero attested that budget forecasting was *his* responsibility, and in that capacity, he asked Williams to help him gather information from other members of the Athletics Department. Nero Suppl. Decl. (Ex. D) ¶ 31. Williams served as a mere "conduit" between him and members

⁶ Indeed, the record suggests that Williams's only foray into finance prior to serving as Nero's executive assistant was the D+ grade she earned in her financial accounting course at West Chester University. *See* Dkt. 11-2 at 19 n.3 (citing SMF ¶ 12). This is in stark comparison to Aresco, who, among other things, held a graduate degree in business administration. Univ. SMF ¶ 215.

of the senior staff; she “did not do the forecasting herself.” *Id.* If anything appeared amiss in a budget, Nero simply “would ask Williams to obtain additional information” so he could “assess . . . whether there had been some kind of error.” *Id.*

The documentary evidence also refutes the EEOC’s assertion that Williams assumed the financial responsibilities of a sport administrator for the men’s basketball team, including “managing the men’s basketball budget.” EEOC Br. at 15. Instead, following the departure of Associate Athletics Director Ed Scott in October 2016, Nero began “taking over financial responsibility from Ed” for the men’s basketball budget. Ex. D-3; *see also* Dkt. 113-1 ¶ 65. At the time, Williams told an accounting manager in the Finance Office that “*Patrick has asked me to help*” with that budget and requested to be copied on emails. Ex. D-3 (emphasis added). Williams’s own correspondence thus shows not that she managed the men’s basketball budget or served as a quasi-sport administrator for that team, but only that Nero did, and that he asked her to “help” by obtaining copies of relevant emails. *See id.* Her email to the accounting manager also was dated less than two months before she left her job as Nero’s executive assistant. *Id.*; EEOC SMF ¶ 314. Whatever support she provided with respect to the basketball budget during her final two months as Nero’s executive assistant does not justify the claim that she was performing “substantially equal” work as Aresco for her entire tenure.

The EEOC also does not offer a shred of evidence that Williams “worked on” unidentified “complicated issues” with the men’s basketball budget. EEOC Br. at 8. Even Williams herself does not claim to have done so. Williams’s own supplemental declaration states only that she “assisted” the directors of basketball operations (“DOBOs”) for men’s and women’s basketball “with their respective budget plans” following Scott’s departure, without representing that this assistance involved complex decision-making. Dkt. 135-10 (Williams Decl.) ¶¶ 38-39. Although

Williams goes on to claim that she trained the DOBOs on forecasting methods and helped them “identif[y] potential revenue streams from games,” *id.*, the EEOC fails to substantiate this testimony with citations to any documents, and Nero disputes it. He has sworn that Williams was never “responsible for training any Department employee on how to complete five-year forecasting” because she did not perform “five-year forecasting herself.” Nero Suppl. Decl. (Ex. D) ¶ 32. Because Williams’s claim that she—a non-member of the Finance Department with no background in finance—“trained” others on budget forecasting is “so undermined as to be incredible,” it does not suffice to create a genuine issue of material fact. *Johnson*, 883 F.2d at 128.

Unable to establish that Williams had the substantial budget authority she claims, the EEOC instead resorts to denigrating Aresco’s skills at budget management. The agency quotes the Finance Director, who supervised neither Williams nor Aresco, opining that Aresco required “hand holding” on budget matters, while Williams “would knock [it] out of the park.” EEOC Br. at 15. Although the University disputes the EEOC’s baseless attacks on Aresco’s competence, they are ultimately irrelevant. “In Equal Pay Act cases, we compare the jobs, not the individual employees holding those jobs.” *Mulhall v. Advance Sec., Inc.*, 19 F.3d 586, 592 (11th Cir. 1994). In other words, “only the skills actually required by those jobs, not the abilities of the persons currently in those positions,” are important. *Goodrich*, 815 F.2d at 1524.⁷ The Finance Director’s personal opinion of Williams’s and Aresco’s respective performance in two different roles—neither of which was in the Finance Department—plays no part in the EPA analysis.

⁷ Courts look to the skills required by the two jobs, and not the abilities of the individuals holding those jobs, in deciding whether a plaintiff has stated a prima facie claim under the EPA. *See, e.g., Hein v. Oregon Coll. of Educ.*, 718 F.2d 910, 914 (9th Cir. 1983). However, a defendant may rely on a male comparator’s skills, experience, education, or training to prove an affirmative defense that a pay difference is justified by a factor “other than sex.” 29 U.S.C. § 206(d)(1).

5. Williams Allegedly Supervised Student Interns, While Aresco Supervised The Men's Rowing Coach

The EEOC next argues that Williams and Aresco exercised comparable supervisory authority—she over two student interns and he over Mark Davis, the head men's rowing coach. The EEOC protests that the University “inaccurately” describes the students as interns; it prefers to use the phrase “student employees.” Dkt. 134-2 (“EEOC Resp. to Univ. SMF”) ¶ 61. But one of the student workers whose timesheet Williams signed listed his own “job title” as “Athletics intern.” Dkt. 140-9. And in at least two cover letters she submitted with job applications, Williams herself referred to “supervising the office interns.” Dkt. 115-20 at 17; Dkt. 115-21 at 17. Irrespective of the terminology, there is no dispute that these students worked on a part-time, per-semester basis and handled clerical tasks such as photocopying and mailing. EEOC Br. at 16 (noting students were hired “each semester”); Dkt. 140-9 (showing student worked 20 hours per week); Univ. SMF ¶ 63. No “rational” jury would conclude that Williams's alleged management of part-time, temporary student helpers equaled Aresco's oversight of a head coach of a Division I athletics program. *Musgrove v. Gov't of Dist. of Columbia*, 775 F. Supp. 2d 158, 167 (D.D.C. 2011), *aff'd*, 458 F. App'x 1 (D.C. Cir. 2012).

The EEOC suggests that Williams's supervisory duties were *superior* to Aresco's because she could “discipline” student workers, whereas Aresco “was not responsible for deciding any disciplinary matters regarding the rowing team.” EEOC Br. at 16. Neither of these assertions finds support in the record. First, Nero attested that Williams was not “responsible for disciplining student workers” and that she would have been acting “outside the scope of her authority” if she ever did so without approval from him or one of the Assistant or Associate Athletics Directors (such as Aresco). Nero Suppl. Decl. ¶ 49. And the EEOC provides no citation to support its bare assertion that Aresco lacked disciplinary authority over the men's rowing coach. EEOC Br. at 16.

The EEOC also argues that Aresco’s authority over Davis was “minimal” because Aresco did not “direct him how to coach” or have the independent ability to increase his salary. EEOC Br. at 27. But the EEOC has no foundation for its assertion that sport administrators such as Aresco were supposed to micromanage the coaching staff by “directing” them how to do their jobs. And Aresco testified that sport administrators did provide oversight on significant operational questions such as how to comply with NCAA rules or distribute scholarship funds to student-athletes, among other issues. Univ. SMF ¶¶ 284, 287. The EEOC likewise fails to offer evidence that *any* supervisor at the University could unilaterally award raises. To the contrary, the record reflects that salary decisions at the University required several layers of approval, including by members of HR and the University’s Compensation Department. *See, e.g.*, Dkt. 115-22. The fact that Aresco fails to satisfy the EEOC’s invented standards for what constitutes a supervisory role does not mean he had only “minimal” responsibilities as a sport administrator. EEOC Br. at 27.

6. Williams Printed Materials And Placed Them In Folders, While Aresco Researched And Prepared Presentations For The Board

As Special Assistant, Aresco “contributed extensively” to senior staff deliberations about revising the Athletics Department’s strategic plan and prepared Nero for “extensive meetings” with the University’s Board of Trustees about the plan. Univ. SMF ¶¶ 298-99. The EEOC claims that Williams likewise “prepared briefings and reports for Nero” and “coordinated” his reports to the Board of Trustees, EEOC Br. at 8-9, but its assertions again lack support in the record.

The alleged “briefings” Williams prepared, which the EEOC declined to attach as exhibits, consisted of printing out documents and placing them in a folder at Nero’s direction. Nero Suppl. Decl. (Ex. D) ¶¶ 43-44. In one example, Nero asked Williams: “Can you print out the agenda and supplements section. Put in a folder for me to take with me when I leave on Wednesday.” Ex. D-4; Nero Suppl. Decl. ¶ 44. In another, he asked: “Can you print out the attached maps and put

them in my A10 WBB folder,” referring to a folder he planned to bring to an Atlantic 10 Conference meeting. Ex. D-5; Nero Suppl. Decl. ¶ 44. The EEOC points to no documents suggesting that Williams did anything more than print the documents that Nero requested she print.

Nor did Williams “coordinate” information that Nero presented to the Board of Trustees. Other members of the Athletics Department, including Aresco, created content for those presentations. Nero Suppl. Decl. (Ex. D) ¶ 45. That is why Nero emailed Aresco and other Assistant Athletics Directors after the February 2016 Board meeting to thank them for their “assistance with the Board of Trustees video and presentation,” which left the Board “very impressed.” Ex. D-7. Williams did not receive the email because “she had no involvement whatsoever in the Board presentation.” Nero Suppl. Decl. ¶ 45. Williams simply sent a reminder to Aresco and Associate Athletics Director Brian Sereno that the Board required two documents for the February meeting, noting that “*Mike Aresco will take the lead*” on the first submission, while “Brian Sereno has the lead” on the second. Ex. E-17 (emphasis added). The EEOC has cited no evidence that Williams ever took the lead on Board presentations.

7. Williams Managed Special Projects Like Sending The Department’s Holiday Card, While Aresco Managed Budget Cuts

As Special Assistant, Aresco managed “special projects in support of key priorities” of the Athletics Department, such as revising the Department’s strategic plan and identifying targets for a University-mandated 20% budget cut. Univ. SMF ¶¶ 167, 297. Nero created the Special Assistant position specifically to ensure that his long-term goals for the Department were being accomplished. *Id.* ¶¶ 183, 238. The EEOC contends that Williams also “worked on a host of special projects,” EEOC Br. at 9, but the agency conceives of special projects as any one-time tasks outside of Williams’s day-to-day workstream. It fails to show that the miscellaneous projects to which Williams contributed advanced the long-term strategic goals of the Department like

Aresco's did, or that she had any role in these "projects" beyond providing clerical support.

At deposition, Williams identified the special projects on which she worked as sending out the Department's holiday card, helping to organize the seniors honors breakfast, and coordinating with other University departments on a special commencement for graduating athletes. Univ. SMF ¶ 68. But each of these alleged "special projects" illustrates that Williams served in an administrative support role. She informed the Marriott how many people would attend the senior honors breakfast and provided a list of required audio-visual equipment. Ex. E-10; Nero Suppl. Decl. ¶ 50. With respect to the special commencement, she forwarded the invitation to the Athletics Department staff and sent a reminder to the student speaker when he failed to respond to an email from University Events requesting a copy of his remarks. Ex. E-12; Ex. E-13. None of these emails shows that Williams had any role beyond conveying basic logistical information on behalf of the Athletics Department.

The EEOC asserts that Williams "planned" events and "coordinated" travel to Hawaii for a men's basketball tournament. EEOC Br. at 16. But the emails the EEOC attaches "evidencing" her "duties relating to the trip" show more of the same administrative support consistent with her role as Nero's executive assistant. Dkt. 135-10 ¶¶ 50, 51. These documents show that Williams compiled RSVPs for a reception, forwarded the basketball team's flight information to the University President's office, and looked up directions on Google Maps to estimate the driving time from the team's hotel to Pearl Harbor. Dkt. 135-15. Although the EEOC claims that Williams also "authorized payment to an outside vendor for an event," EEOC SMF ¶ 87, she merely provided Nero's credit card to the vendor after he gave her specific instructions to do so. Ex. D-9. These examples confirm, rather than undermine, the University's position that a core function of the executive assistant role was to plan and organize Nero's travel, not to manage special

projects of long-term strategic importance to the Athletics Department.

The EEOC asserts, finally, that Williams “managed” the Athletics Department’s account with Nike—a job that supposedly required “handling contracts, quotes, procurement and tracking inventory” and stabilizing “its financial records.” EEOC Br. at 9. But Nero attested that Williams was never “responsible for managing the University’s account with Nike or ordering Nike equipment.” Nero Suppl. Decl. (Ex. D) ¶ 55. And no witness testified that Williams personally handled Nike contracts or procurement. Chee-Wah, the Finance Director, stated only that Williams would give her “the breakdown *from Patrick* on, you know, this coach should get 2,000, and this coach should get 10,000” in Nike merchandise for their teams. Dkt. 135-8 at 46:11-19 (cited at EEOC SMF ¶ 93) (emphasis added). The EEOC also asserts that Williams “*exchanged* hundreds of emails with Nike” to “straighten out the account.” EEOC SMF ¶ 90 (emphasis added). But Williams, whose testimony the agency cites, claims only that she “*went through* hundreds of emails” that *others* had exchanged with Nike. Dkt. 135-20 at 175:4-14 (emphasis added). In any event, Williams reported during the University’s 2016 desk audit that handling “Nike Inventory” was not part of her “normal job function” and that she “helped” with this task only temporarily “due to staff vacancy.” Dkt. 115-19. The temporary support that Williams provided is insufficient to show her role was substantially equal to Aresco’s—who was never responsible for Nike inventory in any event. *See* Lindemann, Grossman & Weirich, *supra*, § 19-30; *see also, e.g., Waters v. Turner, Wood & Smith Ins. Agency*, 874 F.2d 797, 799 (11th Cir. 1989).

8. Only Williams Believes She Was On The Senior Staff

The EEOC does not dispute that Aresco sat on the Athletics Department’s senior staff. EEOC Resp. to Univ. SMF ¶¶ 139-41. And the agency offers no support for its unadorned

assertion that Williams *also* was on the senior staff. EEOC Br. at 4.⁸ As the University noted in its opening brief, no witness other than Williams testified that she sat on the senior staff, and her name does not appear on any organizational chart listing the members of the senior staff. Univ. Br. at 15 (citing SMF ¶¶ 139-41). Williams did not claim on her LinkedIn profile that she served on the senior staff, *see* Univ. SMF ¶ 70; the Athletics Department desk audit did not identify her as a member of the senior staff, *id.* ¶ 141; and Williams was not a sport administrator, even though all members of the senior staff were sport administrators, *id.* ¶¶ 142-43. Moreover, Williams described her role with respect to senior staff meetings as “making sure that the meeting was placed on Mr. Nero’s Google calendar”; “sending out a calendar invitation to the senior staff” (not to herself); compiling the agenda based on feedback from others (not herself); and taking meeting minutes, which she then sent to Nero and Aresco for approval. *See id.* ¶¶ 156-64. Without confronting any of this evidence, or offering any of its own, the EEOC insists that Williams had a place on the senior staff. EEOC Br. at 4. The agency’s bare allegations, unsupported by any citation, are insufficient to survive the University’s properly supported record evidence, all of which demonstrates that Williams was not, in fact, a member of the Department’s senior staff.

* * *

“The standard for determining whether jobs are equal in terms of skill, effort, and responsibility is high.” *Waters*, 874 F.2d at 799. Although employees do not have to prove jobs are identical to sustain an EPA claim, they have to prove “substantial identity of job functions.” *Id.* The EEOC has failed to carry that high burden here.

⁸ At times, the EEOC appears confused as to whether it is even arguing that Williams was a member of the senior staff or not. *See* EEOC Br. at 7 (asserting that Williams “coordinated with senior staff,” not that Williams coordinated with *other members of* the senior staff); EEOC SMF ¶ 35 (alleging that Williams “coordinated separately with members of the senior staff *to assist them*”); *id.* ¶ 81 (alleging that Williams “worked with senior staff”).

B. The EEOC Does Not Dispute That Aresco Had Multiple Responsibilities That Williams Did Not.

Even if the Court were to accept the EEOC's unsupported account of Williams's job duties, which it should not, the Court still should grant summary judgment to the University because Aresco held multiple responsibilities that Williams did not share, including serving as a sport administrator, developing Athletics Department policies, contributing to the Department's strategic plan, and creating championship bid packages. The EEOC attempts to downplay the importance of each of these duties, but its arguments once again lack support in the record.

Serving as a Sport Administrator. The EEOC does not dispute that Aresco served as sport administrator for the men's rowing program and that Williams never served as sport administrator for any University team. EEOC Br. at 15-16. Instead, the EEOC argues that Aresco's sport administrator duties were only "marginal" based on a misrepresentation of his testimony. *Id.* The University's job posting for the Special Assistant position included a catchall category under the "Job Duties" heading for "other duties as assigned," which the posting, in turn, stated were "marginal" rather than "essential" aspects of the job. Dkt. 115-28 at GWU_061094. When the EEOC's lawyer asked Aresco at deposition what "other duties as assigned" included, Aresco responded that one job duty "*not mentioned*" in the posting was his "sport administration" functions. Dkt. 135-5 at 273:10-15 (cited at Dkt. 134-2 ¶ 295) (emphasis added). Aresco never suggested that his oversight of the men's rowing program constituted a "marginal" aspect of his job. To the contrary, he testified that sport administration consumed approximately 15% of his time and that it included functions such as reviewing and approving major purchase and travel requests; meeting weekly with the coach to discuss recruiting and scholarships; mentoring student-athletes; participating in disciplinary decisions; traveling with the team; and planning the rowing team's annual regatta on the Potomac River. Univ. SMF ¶¶ 281-95. Williams indisputably

performed none of these functions.

Drafting Athletics Department Policies. As Special Assistant, Aresco had responsibility for devising Athletics Department policies, presenting them to other members of the senior staff, and memorializing them in writing. Univ. SMF ¶¶ 264-67 (citing Dkt. 114-33). The EEOC misrepresents the record when it argues that “Aresco assisted with ‘drafting’ policies only insofar as he told the leadership team . . . about policy recommendations Kayer had made.” EEOC SMF ¶ 188. Nero testified that Kayer or “others on campus” would sometimes contribute ideas for new HR policies that the Athletics Department should formalize or develop. Dkt. 115-13 at 64:3-10. But Aresco also generated policy ideas himself, and researched and drafted new policies for consideration by the senior staff. *Id.* at 64:11-24. Aresco testified that he “personally created” a relocation guide, a sport administrator guide, and a team family travel policy, among others. Dkt. 115-16 at 201:2-12. This testimony is undisputed. Williams, by contrast, had no policymaking role within the Athletics Department. Univ. SMF ¶ 74.

Revising the Strategic Plan. As Special Assistant, Aresco was responsible for “driving the process” for revising the Athletics Department’s Strategic Plan. Univ. SMF ¶ 296. The EEOC claims there is no “contemporaneous evidence” showing Aresco had this role. EEOC Br. at 15. But Nero and Aresco both testified that Aresco participated in long-term strategic planning, including how to implement a University-mandated 20% budget cut, and “contemporaneous evidence” *does* confirm this testimony. As Tanya Vogel, then a Senior Associate Athletics Director, prepared to join the Department, Nero wrote to her and said: “Mike [Aresco] . . . will work most closely with you on items such as . . . the process of Strategic Plan.” Dkt. 113-26. Williams indisputably had no role in revising or contributing to that Plan. Univ. SMF ¶ 78.

Preparing Championship Bids. The EEOC does not dispute that, as Special Assistant,

Aresco prepared bid packages to host NCAA championship events. EEOC Br. at 17. Williams did not. Yet the agency argues that this responsibility was insignificant because the only bid package in the record is 12 pages long.⁹ *Id.* However, Nero testified that these packages often totaled 100 pages, Univ. SMF ¶ 272, and the EEOC offers no evidence to rebut that testimony. Nor is there any merit to the EEOC’s argument that Williams’s role required “*greater* skill, effort, and responsibility” because she allegedly managed the championship budget. EEOC Br. at 17 (emphasis added). As the Finance Director testified, Williams’s role with respect to that budget involved acting as a “representative of what . . . Patrick wants to see happen” and “following through on Patrick’s intentions.” Dkt. 135-8 at 94:15-19. In other words, Williams acted at Nero’s direction and had no independent authority to make budgetary decisions herself. *See id.*

C. The University Has Established That The Pay Difference Between Williams And Aresco Was Based On Factors Other Than Sex.

Even if the EEOC somehow had proven that Williams and Aresco performed substantially equal work—it has not—the Court still should reject the EEOC’s EPA claim because the University has established that the pay differential between Williams and Aresco was based on at least two “factor[s] other than sex.” 29 U.S.C. § 206(d)(1). Citing out-of-circuit authority, the EEOC argues that the *University* bears a “heavy” burden under the EPA to prove this affirmative defense. EEOC Br. at 30. But courts in this District have rejected that burden of proof and held that defendants need only satisfy the ordinary preponderance of the evidence standard. *Nyman v. FDIC*, 967 F. Supp. 1562, 1577 (D.D.C. 1997). The University readily meets that standard here.

First, Williams’s and Aresco’s pay difference was justified by Aresco’s superior educational credentials and work experience. Univ. Br. at 30-32; *see also Mickelson v. N.Y. Life*

⁹ The EEOC’s argument that preparing a 12-page bid package was an insignificant job duty suggests that Williams’s job of filling in one-page game contracts was all the more so.

Ins. Co., 460 F.3d 1304, 1312 (10th Cir. 2006). The EEOC counters that the Court should disregard Aresco's prior experience in college athletics because Aresco held only "non-administrative" roles before becoming Special Assistant. EEOC Br. at 31-32. But the agency offers no support, other than its say-so, for its characterization of Aresco's previous jobs. Just before becoming Special Assistant, Aresco served as Assistant Athletics Director for Operations, Events, and Facilities—a role that placed him on Nero's staff and gave him oversight of four employees and a \$2.4 million budget, among other responsibilities. Univ. SMF ¶¶ 128-135. And Nero and Vogel, who led the search for the Special Assistant, both testified that Aresco's prior experience in athletics administration, along with his master's degree in *business administration*, qualified Aresco for the role and were important reasons for hiring him. *Id.* ¶ 215.

Second, Aresco's \$77,000 salary as Special Assistant was justified because that was the salary he already was earning as an Assistant Athletics Director, and the move he made within the Athletics Department was a "lateral" one. Univ. Br. at 21-32. The EEOC disputes that this job change constituted a lateral move and insists that Aresco took a "voluntary demotion" when he became Special Assistant. EEOC Br. at 36. But the EEOC does not provide ***a single citation to the record*** to substantiate this position anywhere in its brief, and the record refutes the agency's assertion. The University's hiring proposal for Aresco stated: "[The] Compensation [Department is] approving salary as *lateral transfer*." Dkt. 135-7 at 57 (GWU_005892) (emphasis added).

The EEOC argues that the University cannot rely on its stated policy of allowing employees to retain their salary when they change jobs within the University because it supposedly did not apply this policy uniformly. EEOC Br. at 32-33. As evidence of the University's supposed inconsistency, the EEOC argues that the University required Kayer to take a pay cut when she moved from a role in the vice provost's office to a position in the University's HR department. *Id.*

But unlike Aresco, who switched jobs *within* the Athletics Department, Kayer moved from the vice provost’s office to another department—HR—because she was seeking an entirely “new career path.” Dkt. 135-21 at 63:4-64:14. The University sometimes requires employees to accept a pay cut when they are “completely changing” careers by switching departments. Dkt. 115-29 at 79:18-82:3. However, the University “does not reduce an employee’s salary when he or she makes a lateral move” within the same department. Univ. SMF ¶ 225. The University, in other words, did not apply its policy inconsistently to Aresco and Kayer; it had different policies in place for employees moving within a department as opposed to employees moving between departments.¹⁰

III. This Court Also Should Grant Summary Judgment To The University On The EEOC’s Title VII Claim.

In denying the University’s motion to dismiss the EEOC’s Title VII claim, this Court warned the EEOC that “[f]urther evidence likely would be necessary to survive summary judgment” on this claim. Dkt. 23 at 16. Despite more than two years of discovery, the EEOC has failed to adduce any such evidence. Indeed, the EEOC cannot even explain how the University allegedly subjected Williams to an adverse employment action. Although the EEOC devotes several pages of its brief to alleged defects in the University’s process for hiring Aresco as the Special Assistant, the agency disclaims that it is pursuing a “failure-to-promote” claim with respect to that position. EEOC Br. at 35. And none of the other allegedly adverse actions taken against Williams—such as refusing to create a nonexistent job she requested—caused her to suffer a “significant change in employment status.” *Burlington Indus., Inc. v. Ellerth*, 524 U.S. 742, 761

¹⁰ The EEOC is also wrong when it argues that the University cannot establish its affirmative defense if it “exercises discretion” or applies “subjectiv[e]” factors in deciding whether employees can keep their salary when making a lateral move. EEOC Br. at 32. Employers may base salary decisions on “subjective factors . . . provided that there are demonstrable reasons for the decision, unrelated to sex.” *Gaujacq v. EDF, Inc.*, 601 F.3d 565, 575 (D.C. Cir. 2010) (sustaining employer’s affirmative defense). That is the case here.

(1998). Even assuming that the EEOC had identified an adverse employment action, the University still would be entitled to summary judgment because the EEOC has failed to show that the University intentionally discriminated against Williams because of her sex. *See Bostock v. Clayton Cty.*, 140 S. Ct. 1731, 1740 (2020).

A. The University Did Not Subject Williams To An Adverse Employment Action.

The EEOC asserts that the “basis of” its Title VII claim is that the University denied Williams “an opportunity for advancement that it gave to male employees.” EEOC Br. at 35 (internal quotation marks omitted). None of the EEOC’s arguments as to how the University supposedly denied Williams an “opportunity for advancement” has merit.

Hiring Aresco as Special Assistant. First, the EEOC contends that the University “flouted” its own policies by hiring Aresco as Special Assistant without interviewing other candidates and by paying him an inflated salary. EEOC Br. at 36. But the record does not support the EEOC’s assertion, and even if it did, the University’s decision to hire Aresco does not amount to an adverse employment action *against Williams*—who did not apply for the job.

Despite the EEOC’s assertion to the contrary, the University did not violate its own policy by selecting Aresco to be the Special Assistant without interviewing at least two other people first. *See* EEOC Br. at 36. Although the University typically interviews three candidates for open internal positions, if fewer than three candidates apply for a job, then the University will “just intervie[w] the number of candidates that applied.” Dkt. 135-21 at 161:13-20. That was the case here. The two women who led the search for the Special Assistant position, Vogel and Kayer, planned to interview three people, but they received only one application—from Aresco. Univ. SMF ¶¶ 185, 187. The University did not violate its own policies, much less Title VII, by interviewing and then hiring the only candidate—especially when that candidate’s skills and qualifications were already well known to the senior leadership of the Athletics Department. *Id.*

Nor did the University violate any internal policy when it permitted Aresco as Special Assistant to keep the same salary that he was already earning as Assistant Athletics Director for Operations, Events, and Facilities. The EEOC’s argument that Aresco’s salary was “too high” rests on the false premise that his move was a “voluntary demotion.” EEOC Br. at 36. But there is no evidence that Aresco’s transition to Special Assistant was a demotion—and the EEOC cites none. Instead, the record shows that the University Compensation Department approved Aresco’s Special Assistant salary “as a lateral transfer.” Univ. SMF ¶¶ 225-26. The EEOC also relies on comments by the Compensation Department that Aresco’s salary appeared high based on his years of work experience. *See* EEOC SMF ¶ 151. But Aresco’s pay did not exceed the maximum salary for the position, which was \$80,880, and the Department reasonably concluded that Aresco should keep the same salary as he transitioned from one senior leadership role into another. *Id.* ¶ 146.

Even assuming that the University somehow had violated its policies by hiring Aresco without competition or paying him near the top of the salary range, the EEOC has not shown how either of these actions could constitute an adverse employment action *against Williams*. It is undisputed that Williams did not apply for the Special Assistant position, EEOC SMF ¶ 129, and the EEOC has stated that it is not asserting that the University wrongfully failed to promote her to the role. EEOC Br. at 35 (“EEOC does not plead a failure-to-promote claim”).¹¹ Because the EEOC has not shown that Williams’s job title, salary, or benefits changed after Aresco became Special Assistant, the EEOC cannot prove that Aresco’s job move caused the “significant change” in *Williams*’s “employment status” that Title VII requires. *Burlington Indus.*, 524 U.S. at 761.

¹¹ Confusingly, the EEOC states that it “does not plead a failure-to-promote claim, *and even if it did*, the prima facie case would be met” because it would have been futile for Williams to apply for the Special Assistant job. EEOC Br. at 35 (emphasis added). At this point, the EEOC should know its own case. The EEOC’s statement that it “does not plead a failure-to-promote claim” therefore should be taken at face value.

The EEOC asserts that Williams was deterred from applying for the Special Assistant position and that Aresco was pre-selected for the role, thereby suggesting that even if Williams had applied, her application would have been futile. EEOC Br. at 12. But again, these allegations are irrelevant absent a failure-to-promote claim—which the EEOC has said it is not pursuing. In any event, the EEOC’s assertions also lack evidentiary support.

The EEOC first contends that Mike Kohn, a former HR client partner, told Williams Aresco had been pre-selected for the Special Assistant role. EEOC Br. at 12. In support, the EEOC cites Williams’s declaration. *See id.* (EEOC SMF ¶¶ 123-25). That kind of “sheer hearsay”—to the extent offered to show that Aresco *was* pre-selected—“counts for nothing on summary judgment.” *Greer v. Paulson*, 505 F.3d 1306, 1315 (D.C. Cir. 2007).

The EEOC’s next assertion—that Vogel dissuaded Williams from applying to the Special Assistant role, EEOC Br. at 12—conflicts with Williams’s own deposition testimony and thus should be accorded no weight. When asked at deposition how Vogel allegedly discriminated against her, Williams said that Vogel “never once encouraged me to apply or asked if I would be interested” in the Special Assistant role. Ex. E-1 at 137:16-138:8. Williams did *not* testify that Vogel dissuaded her from applying or told her that it would be futile to apply. *See id.* Now, after the close of discovery, Williams alleges for the first time that Vogel *discouraged* her from seeking the promotion. Dkt. 135-10 ¶¶ 75-76. She has not explained why her testimony changed on this issue between the time she was deposed and the time she submitted her declaration. Williams’s eleventh-hour attempt to revise her testimony should not be credited. *See, e.g., Headfirst Baseball LLC v. Elwood*, 168 F. Supp. 3d 236, 248 n.9 (D.D.C. 2016) (explaining that the sham affidavit rule “precludes a party from creating an issue of material fact by contradicting prior sworn testimony unless the shifting party can offer persuasive reasons for believing the supposed

correction is more accurate than the prior testimony”). Regardless, Williams does not dispute that Kayer—the HR client partner responsible for the Special Assistant posting—“specifically told” her to apply. Univ. SMF ¶ 196. Given this admission, Williams cannot credibly claim she was deterred from submitting an application.

Yet the EEOC also argues that Aresco dissuaded Williams from applying for the Special Assistant job by telling her the role had been “promised to him.” EEOC SMF ¶ 121. However, the EEOC cannot maintain a Title VII claim based on discouraging words from a competing job candidate who had no authority to make the hiring decision, particularly when—even if the candidate did make the statement alleged—there is no evidence that his comment reflected sex-based animus as opposed to self-interest. *See* Univ. Br. at 39. The University made this argument in its opening brief, and the EEOC did not refute it. Thus, the Court now should treat the argument as conceded. *See Sykes v. Dudas*, 573 F. Supp. 2d 191, 202 (D.D.C. 2008) (Kollar-Kotelly, J.).

Transferring Williams’s Job Duties to Aresco. The EEOC next asserts that the University engaged in an adverse employment action against Williams when “Nero began attempting to reassign all of Williams’s duties to Aresco” while asking her to perform “diminutive tasks, such [as] running errands.” EEOC Br. at 36. But the agency’s claim that Nero revoked Williams’s duties and handed them to Aresco rests on thin air. The EEOC identifies only one job function that Nero allegedly transferred to Aresco: management of the Athletics Director, administration, and championship budgets. EEOC Br. at 18 (citing EEOC SMF ¶¶ 209-11).¹² However, in the

¹² The EEOC asserts, without citation, that Nero also “tried to reassign” unspecified “contracts administration” and “human resources” duties to Aresco. EEOC Br. at 17. The EEOC fails to respond to the University’s argument that removing HR duties from Williams does not qualify as an adverse employment action because she performed these duties only temporarily after Assistant Athletics Director Brian Hamluk left the University in August 2015. Univ. Br. at 41, 44. By ignoring this argument, the EEOC again concedes it. *See Sykes*, 573 F. Supp. 2d at 202.

same breath, the agency claims that “the reassignment did not last long” because Aresco allegedly performed his budgetary duties poorly. EEOC SMF ¶ 210. Even assuming that managing these budgets was *ever* Williams’s responsibility—and Nero and Vogel vigorously disputed it was—the EEOC offers no support for its assertion that this fleeting reassignment from Williams to Aresco and back again amounts to an adverse employment action.

As to the EEOC’s claim that Nero asked Williams to run errands, the agency fails to address the University’s arguments that Williams volunteered to assist Nero with these tasks and, even if she had not, menial assignments do not amount to adverse employment actions. *See Univ. Br.* at 41. The Court should again treat these points as conceded. *See Sykes*, 573 F. Supp. 2d at 202.

Eliminating the Executive Assistant Position. As yet another basis for its Title VII claim, the EEOC asserts that Nero contemplated eliminating Williams’s position shortly after Aresco became Special Assistant. EEOC Br. at 36. In early March 2016, Associate Athletics Director Garrett Klassy (not Nero) informed HR that the Athletics Department had identified the executive assistant position as one that could be cut without affecting “our student-athletes.” Dkt. 135-21 at 120. But those discussions about terminating Williams’s position never progressed, and the mere prospect of job loss that does not materialize is not an adverse employment action as a matter of law. *See Brooks v. City of Utica*, 275 F. Supp. 3d 370, 378 (N.D.N.Y. 2017) (collecting cases). That is especially true here, where the EEOC does not assert that Williams learned at the time that her role was in jeopardy or detrimentally relied on that information.

Reclassifying the Special Assistant Position. The EEOC next asserts that the University engaged in an adverse employment action against Williams when it “reclassified” the Special Assistant position as an Assistant Athletics Director position in the “[m]anagement stream.” EEOC Br. at 37. But the agency’s brief nowhere contains a citation to prove that the Special

Assistant position was, in fact, reclassified, and the evidence refutes that it was. University records show that the classification code for Aresco's position *did not change* during his tenure as Special Assistant. Univ. Resp. to EEOC SMF ¶¶ 338-42. Even assuming such a change had occurred, it would have had no real-world effect. From the beginning, the Athletics Department treated the Special Assistant position as equivalent to an Assistant Athletics Director position. Univ. Br. at 42. The EEOC asserts that reclassification into the “[m]anagement” stream afforded Aresco long-term “opportunities to advance in salary,” EEOC Br. at 37, but Aresco never received a raise after becoming Special Assistant in February 2016. Univ. SMF ¶ 228. And he was already an Assistant Athletics Director *before* he became Special Assistant. *Id.* ¶¶ 127, 220.

Nor does the record support the EEOC's assertion that the University treated Williams differently from Aresco because it “did not promote her or reclassify her to a stream with higher earning potential.” EEOC SMF ¶ 285. To the contrary, after the University's desk audit identified Williams as performing “aspects” of the finance associate role, *id.* ¶ 307, HR proposed in November 2016 that “Ms. Mutalib . . . be *reclassified*” into that role without the need for a “competitive [job] posting.” Dkt. 140-26 at GWU_033235 (emphasis added). The only reason Williams (née Mutalib) never received this reclassification is that she voluntarily left the executive assistant job for another role within the University two weeks later, *id.*—a job that paid more than Aresco ever earned during his tenure at the University. Univ. SMF ¶¶ 221, 228, 336-37. Had she instead chosen to stay in the Athletics Department, all evidence indicates Williams would have received the reclassification the EEOC claims she was wrongfully denied. *See* Dkt. 140-26.

Denying Williams the Promotion She Designed for Herself. Finally, the EEOC asserts that Williams suffered an adverse employment action when Nero ignored her request that he create a position for her within the Athletics Department that she termed the Assistant Athletics Director

for Staff and Student-Athlete Development. EEOC Br. at 37. According to the EEOC, Nero rewarded Aresco with a raise and noncompetitive promotion to Assistant Athletics Director for Operations, Events, and Facilities after Aresco “asserted himself” and began assuming new responsibilities in 2014. *Id.* at 36-37. But when Williams asked Nero to craft a “new role” for her as “an Assistant AD for Staff and Student-Athlete Development,” Univ. SMF ¶ 103, Nero “completely ignored” her, EEOC Br. at 37. The agency’s attempt to base a Title VII claim on Nero’s failure to create an entirely new position for Williams suffers from at least two fatal defects.

First and foremost, this Court has specifically rejected the argument that an employee can state a Title VII claim based on her employer’s failure to create a job that does not already exist. *Chambers v. Sebelius*, 6 F. Supp. 3d 118, 127 (D.D.C. 2013) (Kollar-Kotelly, J.). Williams sought promotion into a nonexistent role that she designed by picking and choosing job functions of interest to her: “I think the job could encompass life skills, diversity and inclusion, SAAC, and leadership academy,” she wrote. Dkt. 113-31. But “courts in this Circuit have focused on the need for showing an *available position* for which promotion was denied.” *Chambers*, 6 F. Supp. 3d at 127 (emphasis added). There was no such available position.

Second and relatedly, the EEOC has not made any showing that the new position Williams concocted would satisfy an unmet need in the Athletics Department, as opposed to her personal goals for career advancement. When the University promoted Aresco to Assistant Athletics Director for Operations, Events, and Facilities in 2015, his workload had naturally increased because the University had “capital projects that were upcoming” and “a larger need for facility maintenance.” Dkt. 140-1 at 64:10-18. Similarly, when the University hired Aresco as Special Assistant in 2016, Nero expressed that this new chief of staff role was “desperately needed” to drive the Department’s long-term strategic plan. Dkt. 113-26. But when Williams solicited a

promotion, she focused on the benefits that would accrue to *her*: “It would give me an opportunity to supervise a full-time employee (Madison) and learn from Tanya’s expertise,” she wrote. Dkt. 113-31.¹³ The University did not discriminate against Williams by denying her a promotion into a nonexistent job for which there was no apparent business need—and that has never existed.

B. Even Assuming That Williams Had Suffered An Adverse Employment Action, There Are No Facts To Suggest It Was Discriminatory.

Even if the EEOC had established that Williams “suffered an adverse employment action,” which it has not, the agency still would need to show that “the unfavorable action gives rise to an inference of discrimination” to withstand summary judgment. *Barnette v. Chertoff*, 453 F.3d 513, 515 (D.C. Cir. 2006). The EEOC argues that such an inference is warranted here because Nero “treated” women other than Williams “less favorably than men.” EEOC Br. at 38. But the vague, subjective, and unsubstantiated allegations the EEOC levels against Nero are insufficient to raise an inference of discrimination.

The EEOC first asks the Court to infer sex-based discrimination based on the testimony of two witnesses who claim that Nero declined to meet with them. EEOC Br. at 21, 38. Chee-Wah, the Finance Director, claimed Nero was reluctant to meet with her and would send Williams to gather information in his place. But according to Chee-Wah, Nero’s reluctance to meet did not have to do with her sex; it had to do with a supposed desire to “avoid accountability.” Dkt. 135-8 at 29:3-9. Kayer testified that she, too, had difficulty getting an audience with Nero. While any number of factors could have explained Nero’s limited availability, Kayer testified: “My *feeling*

¹³ Williams’s expressed desire in 2016 to be promoted to a role in which she would “supervise a full-time employee” casts doubt on the assertion she makes in this litigation—that as of 2016, she already *did* supervise “student employees” in a manner akin to Aresco’s supervision of the men’s rowing coach. *See* pp. 24-25, *supra*. Likewise, her expressed desire to “learn from Tanya [Vogel’s] expertise” similarly casts doubt on her newfound claim that she was a member of the senior staff. If Williams already were a member of the senior staff when she sent this email, it is unclear why she would have a desire to learn from the “expertise” of a fellow senior staff member.

around that was because of gender.” Dkt. 135-21 at 44:4-5 (emphasis added). But Kayer conceded that “someone can be dismissive for many, many reasons,” including the fact that they “don’t like HR,” and she conceded she could not know for certain why she perceived Nero as dismissive, reiterating, “it’s—again, it’s a feeling” only, for which she did not “have specifics to give.” Ex. E-4 at 57:18-60:19. Of course, a plaintiff must produce “evidence of a discriminatory or retaliatory motive other than her feeling” to sustain a Title VII claim. *Lucas v. Brennan*, No. 17-cv-8964, 2020 WL 127768, at *4 (N.D. Ill. Jan. 10, 2020). Moreover, here, the EEOC seeks to sustain a Title VII claim on behalf of *Williams* based on a feeling by someone else—*Kayer*—that Nero may not have wanted to meet with her due to gender. That is insufficient as a matter of law. *See id.*¹⁴

The EEOC also suggests Nero treated women less favorably than men because he would allegedly “rip . . . up” the financial reports that Chee-Wah gave him. Dkt. 135-8 at 42:15-19. But Nero attested that he simply tore up copies of outdated budget reports—regardless of who gave them to him—so he would not confuse them with the current versions. Nero Suppl. Decl. (Ex. D) ¶ 37. As further evidence of Nero’s alleged discrimination, the EEOC asserts he reduced the number of sports teams overseen by Mary Jo Warner, a former (female) Senior Associate Athletics Director. EEOC SMF ¶ 268. But Warner lost some of those responsibilities only when Nero restructured the Athletics Department to introduce a “sport administrator” system similar to that used by “the vast majority of other schools in the NCAA.” Nero Suppl. Decl. ¶ 8. Warner used to manage 20 teams, and Nero “did not think that structure allowed for the care and attention that

¹⁴ To the extent that the EEOC seeks to rely on Kayer’s testimony to substantiate its EPA or Title VII claims, it bears noting that Kayer perceived Williams’s position to be substantially different from Aresco’s. As Kayer explained, “my understanding of . . . the special assistant was doing high-level executive support to the Athletics Department, the leadership team, as well as Patrick,” whereas the executive assistant needed to perform “administrative” support tasks such as “scheduling, travel reimbursement, things like that.” Dkt. 135-21 at 243:8-16.

each team should be given”—an instinct confirmed by student-athlete surveys. *Id.* ¶¶ 6-7. Nero attested that his decision to adopt a new model where responsibility was shared among multiple administrators “had absolutely nothing to do with . . . gender,” and Warner’s salary and benefits stayed the same after the introduction of the new system. *Id.* ¶ 8. Thus, none of these facts raises a reasonable inference of sex discrimination against anyone—much less against Williams.

Lacking any evidence of sex-based animus on the part of Nero, the EEOC relies heavily on an offensive quote from an anonymous source in an online news article that Nero has “become the talk of the recruiting world for being a sexually aggressive creep.” EEOC Br. at 21 (citing EEOC SMF ¶¶ 276-84). This unattributed quote is unreliable hearsay that can form no part of the Court’s decision on summary judgment. *Walden v. Patient-Centered Outcomes Research Inst.*, 304 F. Supp. 3d 123, 134 n.4 (D.D.C. 2018). Even worse, Magistrate Judge Harvey already ruled that a video of Nero on which the news article relies is “probative of nothing relevant to this case.” Dkt. 53 at 41 n.14. The EEOC violates the spirit, if not the letter, of that ruling by continuing to push this irrelevant and inflammatory hearsay evidence into the summary judgment record.

C. The University Has Shown Legitimate, Nondiscriminatory Reasons For Any Adverse Employment Action.

Even assuming that the EEOC could show the University took some form of adverse employment action against Williams, the Court still should grant summary judgment to the University because it has produced evidence of a legitimate, nondiscriminatory reason for failing to advance Williams’s career within the Athletics Department—namely, Nero had good reason for not trusting her with confidential information. Univ. Br. at 44. The EEOC asserts that this explanation is too “vague” to carry the University’s burden. EEOC Br. at 40. But far from making a “vague” claim that Williams did not keep confidentiality, the University described multiple, specific incidents in which Williams either disclosed information that she should have kept private

or reviewed confidential materials not intended for her—including one instance in which Williams made a telephone call without Nero’s permission to another university’s athletic department concerning a coach who was allegedly unfaithful to his wife. *See* Univ Br. at 44. Nero’s belief that Williams could not be trusted with confidential information—which is undisputed, and was a belief shared by several others within the Athletics Department, including Vogel, *see, e.g.*, Univ. SMF ¶ 108; University HR Director Suzanne Alritz, *id.*; and Aresco, *id.* ¶ 116—“would permit the conclusion that there was a nondiscriminatory reason” for failing to promote her within the Athletics Department. *St. Mary’s Honor Ctr. v. Hicks*, 509 U.S. 502, 509 (1993).

The EEOC argues that the University’s reasons for failing to advance Williams’s career in athletics must be pretextual because Nero supposedly only raised concerns about Williams’s inability to maintain confidentiality in order to avoid scrutiny of his own conduct. EEOC Br. at 41. But the only evidence that Nero’s confidentiality concerns were insincere is Williams’s self-serving declaration. *Id.* at 20-21. Such testimony does not suffice to create a genuine dispute about whether Nero’s reasons for any adverse employment actions were pretextual. “[A]n employer is entitled to summary judgment where the plaintiff created only a weak issue of fact as to whether the employer’s explanation was untrue and there is abundant and uncontroverted independent evidence that no discrimination has occurred.” *Smith v. Lynch*, 115 F. Supp. 3d 5, 14 n.5 (D.D.C. 2015) (brackets omitted). That is the case here.

CONCLUSION

For all these reasons, this Court should grant the University’s Motion for Summary Judgment and deny the EEOC’s Cross-Motion.

Dated: February 17, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on February 17, 2023, I caused a true and correct copy of the George Washington University's Combined Reply in Support of its Motion for Summary Judgment and Opposition to the EEOC's Cross-Motion for Summary Judgment to be electronically filed through the Court's CM/ECF system, which will send a notice of filing to all registered users.

Dated: February 17, 2023

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ING AIN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DISTRICT OF COLUMBIA

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

v.

THE GEORGE WASHINGTON
UNIVERSITY,

Defendant.

Case No. 17-cv-1978 (CKK)

**DEFENDANT THE GEORGE WASHINGTON UNIVERSITY'S RESPONSE TO
THE EEOC'S STATEMENT OF UNDISPUTED MATERIAL FACTS IN
SUPPORT OF THE EEOC'S MOTION FOR SUMMARY JUDGMENT**

1. In September 2014, Defendant hired Sara Williams to work in the Athletics Department as the Executive Assistant. PX I, Williams Decl. ¶¶ 1, 4; PX J, Williams Dep. 20-21, Ex. 2.

1. **Admitted In Part And Denied In Part.** The University admits that it hired Williams in September 2014 to work as an executive assistant. The University denies that Williams was the executive assistant “in the Athletics Department.” Williams served as the executive assistant to the Director of Athletics and Recreation, Patrick Nero—not to the entire Department. *See* Univ. SMF ¶ 16.

2. During this litigation, Defendant filed an Executive Assistant Job Description in the Docket and said that it constituted the official University position description for the Executive Assistant position that Williams held. ECF No. 10-5, p. 2; ECF No. 10-1, p. 12, n. 2.

2. **Admitted.**

3. The Executive Assistant Job Description that Defendant identified as Williams’ official job description is attached as PX A.

3. **Admitted.**

4. From 9/15/14 to 12/11/16, Defendant paid Williams less than \$40,000 per year to work as the Executive Assistant in Defendant's Athletics Department. PX B, EE00000252.

4. **Admitted In Part And Denied In Part.** The University admits that it paid Williams less than \$40,000 per year to work as an executive assistant. The University denies that Williams was "the Executive Assistant in Defendant's Athletics Department." Williams served as the executive assistant to the Director of Athletics and Recreation, Patrick Nero—not to the entire Department. *See* Univ. SMF ¶ 16.

5. On 1/5/16, Defendant posted a Special Assistant position in the Athletics Department. PX C, Vogel Dep. Ex. 8.

5. **Denied.** The position was posted on January 4, 2016. ECF No. 112-2 at ¶ 188.

6. The Special Assistant job posted on 1/5/16 did not say how much money the job would pay to the person hired for the job, nor did it provide a range of pay. *Id.*

6. **Admitted In Part And Denied In Part.** The University admits that the job posting did not say how much money the job would pay or provide a range of pay. The University denies that the job opening was posted on January 5, 2016. ECF No. 112-2 at ¶ 188.

7. The Special Assistant job was posted for internal consideration only and closed after three days on 1/8/16. PX C, Vogel Dep. Ex. 5, Ex. 8.; PX D, Aresco Dep. Ex. 5.

7. **Admitted.**

8. Before the Special Assistant position was posted, Michael Aresco, a male who had been moved from Facilities to administration, spoke with Patrick Nero, the Athletics Department Director, "about taking over" the Special Assistant position. PX D, Aresco Dep. 157:14-158:14.

8. **Admitted In Part And Denied In Part.** The University admits that Michael Aresco is a male and that he spoke with Nero about the position that ultimately became known as the Special Assistant position prior to applying to that position. The University denies that Aresco "had been moved from Facilities to administration" on the grounds that it is vague, ambiguous, and unsupported by the evidence cited in this Paragraph. Rather, Aresco was the Department's Assistant Athletics Director for Operations, Events, and Facilities. Shortly after Associate Athletics Director for Administration Brian Hamluk left the University in late August 2015, Nero asked Aresco (and Aresco agreed) to move to the Department's main office at the Smith Center and, on an interim basis, perform some of Hamluk's duties, including his HR-related duties. Univ. SMF ¶¶ 128, 172–175.

9. Defendant hired Aresco for the Special Assistant job that was posted on 1/5/16. PX C, Vogel Dep. Ex 9 at Interrog. 6.

9. **Admitted In Part and Denied In Part.** The University admits it hired Aresco for the Special Assistant job. The University denies that the Special Assistant job was posted on January 5, 2016. ECF No. 112-2 at ¶ 188.

10. Defendant did not offer to hire Williams for the Special Assistant job that Defendant hired Aresco to fill, nor did Defendant offer her the opportunity to transfer to that job. PX E, EE00000254-261.

10. **Admitted In Part And Denied In Part.** The University admits that it hired Aresco for the Special Assistant job. The phrases “offer to hire” and “offer . . . the opportunity to transfer” are vague and ambiguous, and, on that basis, the University denies the remaining allegations in Paragraph 10. The University posted the Special Assistant job to internal University applicants, and Williams did not submit an application even though she was aware of the posting at the time. Univ. SMF ¶¶ 195, 197.

11. Defendant paid Michael Aresco more than \$77,000/year to work as the Special Assistant in the Athletics Department. PX F, Hess Dep. Ex. 4 at GWU 001196-001197.

11. **Admitted.**

12. During the entire period when Williams worked as the Executive Assistant, Defendant paid her less to work as the Executive Assistant than Defendant paid Aresco to work as the Special Assistant. PX B, EE00000252.

12. **Admitted.**

13. Patrick Nero was Williams’ immediate supervisor when she was the Executive Assistant and he approved Williams’ pay. PX CC, Der s Resp. to EEOC’s 1st Interrog., p. 11-12.

13. **Admitted.**

14. Nero was Aresco’s immediate supervisor when he was the Special Assistant and he approved Aresco’s pay. PX C, Vogel Dep. Ex. 9 at Interrog. 3; PX C, Vogel Dep. 6 (explaining the use of Aresco’s Facilities salary to fund the Special Assistant position).

14. **Admitted.**

15. When Williams worked as the Executive Assistant, one of her main responsibilities was contract administration. PX I, Williams Decl. ¶ 5.

15. **Denied.** Neither the posting for the executive assistant position (which listed the position's principal duties) nor Williams's contemporaneous descriptions of her job duties refer to "contract administration." See Dkt. 113-3 (executive assistant job posting) at GWU_000931-32; Dkt. 115-5 (LinkedIn current as of August 5, 2019) at EEOC000309; Dkt. 115-18 (September 2015 job application) at GWU_059354-55; Dkt. 115-21 (March 2016 job application) at GWU_059401-03.

16. Concerning contract administration, Williams coordinated workflow between the Athletics Director Patrick Nero, head coaches, the University's Office of General Counsel (OGC), University facilities staff, and the University business office to draft and obtain all appropriate signatures on game and team contracts, ensure space was reserved for the subject games, track contract progress and history, and ensure payment on any outstanding financial obligations under the contracts. PX J, Williams Dep. 23-24, 162-166, Ex. 2, p. 6-7, Ex. 14, p. 1; PX G, Chee-Wah Dep. 25-26, 48-50, 52-53.

16. **Denied.** The phrase "coordinated workflow" is vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 16. The University further denies the allegations in Paragraph 16 on the ground that Williams did not "draft" game or team contracts. Supp. Nero Decl. ¶ 17. The University also denies the allegations in Paragraph 16 on the ground that the testimony cited at Dkt. 135-8 at 49:7-50:14 does not support the assertion that Williams "ensure[d] payment on outstanding financial obligations under [Athletics Department] contracts." The testimony states that Williams would "route" contracts to the Finance Director, who was responsible for ensuring funds were available to satisfy the University's contractual obligations. *Id.*

17. When Williams started working as the Executive Assistant, each game contract needed to be individually reviewed and approved by OGC, resulting in a time-consuming process that slowed the approval process for game contracts. PX I, Williams Decl. ¶ 27.

17. **Admitted In Part And Denied In Part.** The University admits that, when Williams started as Nero's executive assistant, each game contract was individually reviewed by OGC. The phrase "time-consuming process that slowed the approval process" is vague and ambiguous, and on that basis, the University denies the remaining allegations in Paragraph 17.

18. Recognizing an opportunity to capture efficiencies in the contracting process, Williams created a form-fillable template with standardized language that ensured the accuracy of game contracts. Id.

18. **Denied.** Williams did not create a form-fillable template for game contracts. Rather, game contracts had existed in substantially the same form for years before Williams started as Nero's executive assistant. Supp. Nero Decl. ¶ 16. At most, Williams might have taken an existing game contract and converted it into a "Google doc" or similar form into which she could type in team names and other event-specific information. But her former boss, Nero, attested that he had no knowledge she had ever even created such a "form-fillable template." Supp. Nero Decl. ¶ 19; *see also* Ex. D-1.

19. The template that Williams created was approved by OGC, and its use enabled OGC to approve multiple game contracts in bulk, which significantly increased the speed of the contract approval process. Id.

19. **Denied.** Williams did not create any template that was approved by OGC. Supp. Nero Decl. ¶ 19.

20. Williams also created another new system for contract management. PX G, Chee-Wah Dep. 48:11-50:14.

20. **Denied.** The phrase "created another new system for contract management" is vague and ambiguous, and, on that basis, the University denies the allegation in Paragraph 20. *See also* Supp. Nero Decl. ¶ 17 (stating that Williams at most only inputted information into template game contracts).

21. Before Williams was the Executive Assistant, all game contracts were kept in hard copy in a binder, before and after completion, but each time a stakeholder needed an update, Williams had to go through a time-consuming process to determine where the contract was in the drafting and approval process. PX I, Williams Decl. ¶ 32.

21. **Admitted In Part And Denied In Part.** The University admits that, prior to Williams's tenure as Nero's executive assistant, game contracts were kept in hard copy. The University denies the remaining allegations in Paragraph 21 on the grounds that Williams was not responsible for overseeing or determining "where [a] contract was in the drafting process," Supp. Nero. Decl. ¶¶ 17-19, and on the grounds that the phrase "time-consuming process" is vague and ambiguous and reflects a subjective value judgment not capable of being proven true or false.

22. Williams created a system to track where each contract was in the approval process so that she could easily provide the necessary information to any party who needed it, further improving the efficiency of contract routing and approval. *Id.*; PX G, Chee-Wah Dep. 48:1150:14.

22. **Denied.** The testimony cited at Dkt. 135-8 at 48:11–17 does not support the assertion that Williams “created” a system to track contract approval, as it states only that Williams kept track of game contracts using “a binder of sorts,” and game contracts were already kept in a binder “[b]efore Williams was the Executive Assistant,” Dkt. 135-10 ¶ 32.

23. Indeed, Williams created and managed the whole process of contract approval. PX G, Chee-Wah Dep. 48:11-49:19, 52:20-53:6.

23. **Denied.** The phrase “created and managed the whole process of contract approval” is vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 23. The University further denies the allegations in Paragraph 23 on the ground that the testimony cited at Dkt. 135-8 at 48:11–49:19, 52:20–53:6, does not support the assertion that Williams managed “the whole process of contract approval,” as it is limited to a discussion of Williams’s alleged role with respect to game contracts and does not state that Williams had any involvement in the Athletics Department’s contract approval process more generally. The University further denies the allegations in Paragraph 20 on the ground that Williams’s job duties in connection with game contracts were to type information provided to her by coaches into a form contract and send that contract to the other school for review and signature. Supp. Nero Decl. ¶ 17.

24. Williams was also responsible for a Xerox contract. PX J, Williams Dep. 65-66. Williams handled machine maintenance, price negotiation, and she streamlined the contract. *Id.*

24. **Admitted In Part And Denied In Part.** The University admits that Williams “handled [Xerox] machine maintenance,” insofar as she would inform Xerox representatives when the Athletics Department’s Xerox machines ran low on toner or had trouble operating. Ex. E-8; Ex. E-9. The University denies the remaining allegations in Paragraph 24, as Williams had no responsibility for any contract with Xerox or for negotiating prices with Xerox. Supp. Nero Decl. ¶ 25. The University further denies the allegations in Paragraph 24 on the ground that the phrase “streamlined the contract” is vague and ambiguous.

25. Williams also negotiated a \$23,000 contract with Marriott for a student event. PX J, Williams Dep. 184:10-20.

25. **Denied.** Williams did not “negotiate” a contract with Marriott. Marriott offered a standard, per-person price for a breakfast event, and Williams told Marriott how many attendees to expect and what kind of audio-visual equipment the University required. Supp. Nero Decl. ¶

50; Ex. E-10. The University further disputes the allegations in Paragraph 25 on the ground that the student event in question cost \$10,295, not \$23,000. *See* Ex. E-11.

26. Williams was also responsible for coordinating senior staff and head coaches' meetings and project management for tasks assigned in the meetings. PX I, Williams Decl. ¶ 5.

26. **Denied.** The phrases "responsible for coordinating . . . meetings" and "project management for tasks" are vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 26. The University further denies that Williams had any role with respect to "project management for tasks assigned in the meetings" other than to occasionally send emails on behalf of her boss, Patrick Nero, reminding individuals to complete tasks. Dkt. 135-12.

27. During senior staff meetings, the senior staff discussed ongoing Department projects and other updates regarding important and confidential topics that impacted many aspects of the Department, including personnel decisions, budgetary decisions, and student-athlete development and affairs. PX I, Williams Decl. ¶ 11.

27. **Admitted In Part and Denied In Part.** The University admits that, during senior staff meetings, the senior staff discussed topics such as personnel decisions, budgetary decisions, and student-athlete development and affairs. The University denies the remainder of the allegations in Paragraph 27 on the grounds that the phrase "important and confidential topics" is vague and ambiguous and reflects subjective value judgments not capable of being proven true or false.

28. Williams also scheduled head coaches' meetings and senior staff meetings, created the agendas for those meetings, attended them, and took minutes for them. PX J, Williams Dep. 176:6-13, Ex. 14.

28. **Admitted In Part And Denied In Part.** The University admits that Williams: "scheduled" meetings to the extent that she sent the calendar invitation for the meetings; "created the agenda" for meetings to the extent that she compiled agenda items submitted by coaches or members of the senior staff; and attended senior staff meetings for the sole purpose of taking minutes. The University denies that Williams "created the agenda" for senior staff meetings, insofar as that implies that she exercised independent judgment or authority to decide what was on the agenda; she did not. Supp. Nero Decl. ¶¶ 39–40. The University also denies that Williams attended head coaches' meetings. *See* Univ. SMF ¶ 37.

29. Before Williams started working as the Executive Assistant, senior staff meetings were run “round robin,” with each senior staff member providing updates about their projects, which was not conducive to collaboration among the staff. PX I, Williams Decl. ¶ 12.

29. **Denied.** Senior staff meetings were not run “round robin” before Williams became Nero’s executive assistant. Supp. Nero Decl. ¶ 38. The University further denies the allegations in Paragraph 29 on the grounds that the phrase “not conducive to collaboration among the staff” is vague and ambiguous and reflects a subjective value judgment not capable of being proven true or false.

30. To increase productivity and efficiency, Williams created detailed agendas for senior staff and head coaches’ meetings by contacting senior staff or head coaches to ask whether they had items to place on the agenda, proposing agenda items herself, and plotting items into the agenda based on their strategic importance to the Department. PX I, Williams Decl. ¶ 10; PX J, Williams Dep. 178:15-24.

30. **Admitted in Part and Denied in Part.** The University admits that Williams contacted senior staff or head coaches to ask whether they had items to place on meeting agendas. The University denies that Williams proposed agenda items herself or that she decided the order in which items would be placed on the agenda “based on their strategic importance to the Department.” Williams sent draft agendas to Nero so that he could determine the order in which items would be discussed. Supp. Nero Decl. ¶¶ 39–40.

31. In creating the agenda, Williams also included follow-up on prior agenda items to provide updates. PX J, Williams Dep. 178:25-179:4.

31. **Denied.** Williams did not “creat[e]” the agenda; she merely compiled agenda items submitted by coaches or members of the senior staff. Supp. Nero Decl. ¶ 39.

32. After the senior staff meetings, Williams was responsible for ensuring tasks assigned to senior staff at the meetings came to fruition by keeping track of the deadlines that were set and reminding the responsible senior staff member when the deadline was approaching. PX I, Williams Decl. ¶ 13.

32. **Denied.** Williams’s role with respect to senior staff meetings was limited to clerical tasks such as sending out calendar invitations or reserving the conference room. Univ. SMF

¶¶ 156–164. To the extent Williams sent reminders about deadlines, she did so only at Nero’s specific direction or request, not because she herself was “responsible for ensuring tasks” were completed. *See* Dkt. 135-12.

33. Williams created a system for tracking projects and ensuring that deadlines were appropriately set and met. *Id.* ¶ 14.

33. **Denied.** The University denies the allegation in Paragraph 33 on the grounds that the nature of the alleged “tracking system” is vague and ambiguous. Additionally, the record contains no evidence that Williams created such a system other than her declaration submitted after the close of discovery.

34. Williams prepared minutes for senior staff and head coaches’ meetings to memorialize updates and action items from the meetings, which included analyzing what should be shared. PX I, Williams Decl. ¶ 15; PX J, Williams Dep 78:18-79:20, Ex. 14, p. 1.

34. **Admitted In Part and Denied In Part.** The University admits that Williams prepared minutes for senior staff meetings. The University denies that Williams prepared minutes for head coaches’ meetings. Nero told Williams that was “not necessary” for her to attend those meetings because “we do not take minutes.” Univ. SMF ¶ 37.

35. Williams also coordinated separately with members of senior staff to assist them in completing tasks and expediting processes necessary to assure completion of tasks and meeting goals. PX I, Williams Decl. ¶ 16; PX G, Chee-Wah Dep. 54:1-55:19.

35. **Denied.** The phrases “coordinated . . . with members of senior staff to assist them in completing tasks,” and “processes necessary to assure completion of tasks and meeting goals” are vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 35.

36. If a member of the Athletics Department was not properly responding to emails or communicating properly, Williams’ interceded to assure open lines of communication. PX I, Williams Decl. ¶ 17; PX G, Chee-Wah Dep. 98:3-10.

36. **Denied.** The phrases “not properly responding to emails or communicating properly” and “interceded to assure open lines of communication” are vague and ambiguous, and, on that basis, the University denies the allegation in Paragraph 36.

37. In December 2014, Williams emailed an Assistant Athletic Director to try to track down the second half of an incident report regarding a sensitive matter, instructing him to provide

the second half by the following Monday. PX I, Williams Decl. ¶ 18. When he did not meet the deadline, Williams emailed him again to ask for compliance. *Id.*

37. **Admitted.**

38. After a senior staff meeting, Williams called another meeting with Brian Sereno, Nicole Early, and Steven Farmer, the Director of Basketball Operations, to discuss the game times for the men's and women's basketball schedule for the season and make decisions about the schedules. PX I, Williams Decl. ¶ 17; PX H (EE000001069-0001073).

38. **Denied.** Williams was not responsible for convening meetings or for “mak[ing] decisions” about game schedules. At most, she was responsible for emailing senior staff and other Department staff to see when they were available, scheduling the meeting based on their availability, and reserving a conference room for them to meet in. Supp. Nero Decl. ¶ 41. The University further denies the allegations in Paragraph 38 on the ground that PX H does not bear the Bates numbers provided by the EEOC and does support the allegations in this Paragraph.

39. Williams convened and led the meeting with Sereno, Early, and Farmer, and followed up to ensure decisions were scheduled and implemented. PX I, Williams Decl. ¶ 17.

39. **Denied.** Williams was not responsible for convening or leading meetings. At most, she was responsible for emailing senior staff and other Department staff to see when they were available, scheduling the meeting based on their availability, and reserving a conference room for them to meet in. Supp. Nero Decl. ¶ 41.

40. Williams performed hiring and HR duties until Aresco was hired as the Special Assistant. PX I, Williams Decl. ¶ 77; PX J, Williams Dep. 248:7-18, 249:1-249:22.

40. **Denied.** The phrase “performed hiring and HR duties” is vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 40. The University further denies the allegation in Paragraph 40 on the ground that it is not supported by the cited evidence. Williams stated in the cited deposition testimony that she “helped” and “supported” former Associate Athletics Director for Administration Brian Hamluk “when he was in charge of” the “hiring and HR process.” Dkt. 135-20 at 248:10–18, 249:9–11. Williams also testified that “she took over that function once left, to do the senior associate AD hires for Tanya [Vogel] and Ed [Scott].” *Id.* But the record contradicts Williams’s assertion that she “took over” the hiring process for Vogel and Scott. Instead, the record shows that Williams provided clerical support such as scheduling times for other members of the Athletics Department to interview Vogel and Scott and submitting their travel expenses for reimbursement. Dkt. 140-6; Dkt. 113-1 ¶¶ 41–43; Supp. Nero Decl. ¶¶ 47–48.

41. After hiring Aresco as Special Assistant, Nero directed Williams to train Aresco in the hiring and HR duties that she was performing as Executive Assistant. PX I, Williams Decl. ¶ 77; PX J, Williams Dep. 249:1-250:3.

41. **Denied.** Nero did not direct Williams to train Aresco regarding any job duties. Supp. Nero Decl. ¶ 65.

42. Williams helped Human Resources prepare offer letters for new Athletics Department employees and kept HR on track to address Department needs. PX J, Williams Dep. 215:3-13; PX I, Williams Decl. ¶ 21.

42. **Denied.** The phrases “helped Human Resources prepare offer letters” and “kept HR on track” are vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 42. The University further denies the allegations in Paragraph 42 on the grounds that the Paragraph is not supported by the cited evidence. Williams stated in the cited deposition testimony that Assistant Athletics Director Brian Hamluk had “responsibility” for preparing offer letters until he left the University in August 2015 and that she “was assisting HR” with those letters only until Aresco “assumed responsibility” for the offer letters in the fall of 2015. Dkt. 135-20 at 215:3–18.

43. Williams coordinated the hiring process for two new Senior Associate Athletics Directors, Tanya Vogel and Ed Scott, including drafting offer letters and communicating about offer acceptance. PX I, Williams Decl. ¶¶ 19-20; PX J, Williams Dep. 248:14-18.

43. **Denied.** The phrases “coordinated the hiring process” and “communicating about offer acceptance” are vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 43. Williams did not participate in the hiring process for Vogel or Scott beyond providing clerical support such as scheduling times for other members of the Athletics Department to interview them and submitting their travel expenses for reimbursement. Dkt. 140-6 at 6–13; Supp. Nero Decl. ¶¶ 47–48.

44. When the Senior Associate Athletics Director position was posted, Williams kept Kaithlyn Kayer, HR Client Partner/Manager, on track with sending the resumes to Williams to provide to Nero and explained Nero’s priorities and interests for applications he wanted to review to Kayer. PX I, Williams Decl. ¶¶ 20-21.

44. **Denied.** The University denies the allegations in Paragraph 44 on the grounds that the phrase “kept Kaithlyn Kayer . . . on track” is vague and ambiguous. The University further denies that Williams explained Nero’s priorities and interests for applications to Kayer on the ground that the documents incorporated in the cited paragraphs of Williams’s declaration show that Nero merely asked Williams to obtain copies of resumes from Human Resources, and Williams relayed that request to Kayer. EEOC Ex. I-4 (sealed).

45. For a Senior Associate Athletics Director position, Williams scheduled all of the candidates’ phone screens, helped develop phone screen questions, assembled panels of head coaches, senior staff, and cross-campus partners to interview the candidates, and set full-day interview schedules. PX I, Williams Decl. ¶ 20; PX C, Vogel Dep. 39:20-41:25.

45. **Admitted In Part And Denied In Part.** The University admits that Williams scheduled the candidates’ phone screens and emailed coaches and other Department staff to see when they would be available to conduct interviews of the candidates. In that sense only, Williams “assembled panels of coaches, senior staff, and cross campus partners to interview the candidates.” The exhibit incorporated into Williams Decl. ¶ 20 (Dkt. 140-6) shows that Nero selected the coaches who would interview the job candidates, and Williams contacted those coaches on Nero’s behalf. The University denies that Williams “helped develop phone screen questions.” Supp. Nero Decl. ¶ 48.

46. In addition, Williams booked the candidates’ travel and lodging and handled budget allocations and reimbursements for expenses associated with their trips. PX I, Williams Decl. ¶ 20; PX C, Vogel Dep. 39:20-41:25.

46. **Admitted In Part And Denied In Part.** The University admits that Williams booked Vogel’s and Scott’s travel and lodging and submitted their expenses for reimbursement. The University denies that Williams “handled budget allocations.” The exhibit incorporated into Williams Decl. ¶ 20 (Dkt. 140-6) states that “Patrick [Nero] . . . has advised that the expenses . . . be allocated to the Administration budget,” and Williams merely relayed that information to the interim Finance Director.

47. Williams also worked on hiring plans. PX I, Williams Decl. ¶ 22; PX G, Chee-Wah Dep. 40:8-40:18, 43:16-45:7.

47. **Denied.** The phrase “worked on hiring plans” is vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 47. The University further denies Paragraph 47 on the ground that the testimony cited at Dkt. 135-8 at 40:8–18, 44:16–19 states only that Williams would serve as “a conduit between finance, HR[,] and Patrick,” not that she had any role in developing hiring plans herself. *See also* Supp. Nero Decl. ¶ 48.

48. Williams' responsibilities for hiring plans included collecting and reviewing start dates, working with coaches to determine hiring needs and intentions, facilitating onboarding, and collecting data and documents to assure synergy between Human Resources and finance. Id.

48. **Denied.** Williams did not have any responsibility with respect to hiring plans. *See* Supp. Nero Decl. ¶ 48. The University further denies Paragraph 48 on the ground that the phrases "working with coaches to determine hiring needs and intentions," "facilitating onboarding," and "assure synergy" are vague and ambiguous. The University also denies Paragraph 48 on the ground that the testimony cited at Dkt. 135-8 at 40:8–18, 44:16–19 states only that Williams would serve as "a conduit" for information, not that she had any role in developing hiring plans herself.

49. In 2014 and 2015, Williams assisted Human Resources with the Athletics Department performance evaluation process. PX I, Williams Decl. ¶ 23; PX J, Williams Dep. 245-246.

49. **Denied.** The phrase "assisted . . . with the . . . performance evaluation process" is vague and ambiguous, and, on that basis, the University denies Paragraph 49. The University further denies Paragraph 49 on the ground that Williams confirmed in the testimony cited at Dkt. 135-20 at 245-246 that she was "not part of the performance evaluation process" except in 2015, when her role was limited to sending copies of previous performance reviews "to coaches and staff that requested them," ensuring Nero had signed reviews, and scanning and sending copies to Human Resources.

50. The performance evaluation process was important because staff pay increases were determined, in part, by performance appraisals. PX I, Williams Decl. ¶ 23.

50. **Admitted In Part And Denied In Part.:** The University admits that staff pay increases were determined, in part, by performance evaluations. The University denies the remainder of the allegations in this Paragraph on the grounds that whether the process "was important" is a subjective value judgment not capable of being proven true or false.

51. Williams created a tracking system to ensure receipt of all performance reviews and follow-up with reviewers about outstanding reviews. PX I, Williams Decl. ¶ 24.

51. **Admitted In Part And Denied In Part.** The University admits that Williams filled in a spreadsheet with the names and titles of Athletics Department employees and the status of their performance review and, to that extent, kept a "tracking system." *See* PX I-6. The University denies that this spreadsheet facilitated "follow-up about outstanding reviews" because the exhibit cited at Williams Decl. ¶ 24 (citing Dkt. 140-7) does not support the assertion that there was follow-up with reviewers on the basis of the tracking system.

52. After collecting the performance reviews, Williams ensured that Nero and all reviewers had signed the reviews and then gave them to Kayer. PX J, Williams Dep. 246:15-20.

52. **Admitted** for purposes of summary judgment only.¹

53. Williams also coordinated the presentation of new or significant Human Resources processes at senior staff meetings. PX I, Williams Decl. ¶ 25.

53. **Denied.** The phrase “coordinated the presentation of new or significant Human Resources processes” is vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 53.

54. When Defendant was planning to use a new classification system for position descriptions and compensation, Williams worked with Human Resources to summarize and distill the information and facilitated a presentation about the new system to the senior staff and the Department at large. Id.

54. **Denied.** The phrases “worked with Human Resources” and “facilitated a presentation” are vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 54. In addition, Williams was not responsible for summarizing or distilling information from HR. Supp Nero Decl. ¶ 42.

55. As Executive Assistant, Williams had budget management responsibilities. PX J, Williams Dep. 38:10-21, 48:10-49:7; PX G, Chee-Wah Dep. 33:15-34:20.

55. **Denied.** Williams was not responsible for managing budgets; rather, her budgetary responsibilities were limited to (1) collecting information for Nero or Chee-Wah, and (2) processing expenses. Univ. SMF ¶ 48–49, 52; Supp. Nero Decl. ¶¶ 26–28.

56. Williams managed three budgets that had combined discretionary operations budgets in excess of \$1.5 million and a significantly higher combined total value: the Athletics

¹ The University admits for summary judgment purposes only certain facts that it believes are immaterial and/or that it presently does not have sufficient evidence to dispute, given that the facts are based on assertions made for the first time in Williams’s declaration, which was submitted after the close of discovery. The University reserves its rights to dispute such facts at a later stage, including at trial. The University incorporates this footnote into each and every response to a Paragraph that contains an admission for purposes of summary judgment only.

Director budget, the championships budget, and the administration budget. PX I, Williams Decl. III 34, 35; PX J, Williams Dep. 48:10-23, 167:6-16, Ex. 21; PX G, Chee-Wah Dep. 87:4-89:11, 92:7-96:9.

56. **Denied.** Williams was not responsible for managing budgets; rather, her budgetary responsibilities were limited to (1) collecting information for Nero or Chee-Wah, and (2) processing expenses. Univ. SMF ¶¶ 48–49, 52; Supp. Nero Decl. ¶¶ 26–28. The University further denies the allegations in Paragraph 56 on the grounds that the phrase “significantly higher combined total value” is vague and ambiguous.

57. For each of the three budgets she managed, Williams was responsible for five-year forecasting, conducting quarterly budget reviews, and monthly and weekly reconciliation, as well as processing and filing receipts and tracking expenses in day-to-day operations. PX I, Williams Decl. ¶ 36; PX J, Williams Dep. 48:19-49:22.

57. **Admitted in Part and Denied in Part.** The University admits that Williams “was responsible for . . . processing and filing receipts.” The University denies the remaining allegations in Paragraph 57, including the allegations that Williams managed budgets, engaged in five-year forecasting, conducted quarterly budget reviews or monthly and weekly reconciliation, or tracked expenses in day-to-day operations. Univ. SMF ¶¶ 48–59, 52; Supp. Nero Decl. ¶¶ 26–29, 31.

58. Five-year forecasting required Williams to analyze where Department finances were spent in the previous five years, to project where finances may go in the next five years, and to ensure that each budget reflected those predictions. PX J, Williams Dep. 167-168; PX G, Chee-Wah Dep. 98:17-100:20.

58. **Denied.** Williams did not do five-year budget forecasting. Univ. SMF ¶ 52; Supp. Nero Decl. ¶ 31.

59. In 2016, Williams assisted the Directors of Basketball Operations (DOBOs) for both men’s and women’s basketball with their respective budget plan, team travel including chartered flights, equipment and uniforms, identifying potential revenue streams from games, and preparing the five-year forecasts for their teams’ budgets. PX I, Williams Decl. ¶ 38. Because the DOBOs were new to their positions, Williams trained them on appropriate methods of completing

the forecast, and Williams reviewed, corrected and prepared for completion the forecast for submission to the Finance Director and Nero. PX I, Williams Decl. ¶¶ 38-39.

59. **Denied.** The phrases “assisted . . . with their respective budget plan,” “appropriate methods,” and “prepared for completion the forecast for submission” are vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 59. The University further denies that Williams assisted the DOBOs with the men’s or women’s basketball budget, with booking team travel, with ordering equipment, with identifying potential revenue streams from games, or with preparing five-year forecasts for their team’s budgets. Supp. Nero Decl. ¶¶ 23, 31, 33, 55. The University also denies that Williams “reviewed, corrected and prepared for completion” the budget forecast. *Id.* ¶ 31. In addition, because Williams did not do budget forecasting, she also did not train others, like the DOBOs, on how to do so. *Id.* ¶ 32. Finally, Paragraph 59 violates the Court’s Order limiting paragraphs to one factual assertion and should be stricken on that basis. *See* Dkt. 111 at 2.

60. Williams also managed the completion of the budget planning template for the Athletics Department as a whole, assuring that the appropriate parties promptly executed their duties. PX G, Chee-Wah Dep. 98:11-16.

60. **Denied.** The phrase “managed the completion of the budget planning template” is vague and ambiguous, and, on that basis, the University denies the allegation in Paragraph 60. In addition, Williams did not do budget planning. Supp. Nero Decl. ¶ 31.

61. In managing the athletic director, championship, and administration budgets, Williams met with Nero quarterly to review the budgets and compare actual spending to forecast budgets. PX J, Williams Dep. 168:16-23.

61. **Admitted In Part And Denied In Part.** The University admits that Williams met with Nero quarterly regarding budgets. The University otherwise denies the allegations in this Paragraph, including the allegation that Williams “manag[ed] the athletic director, championship, and administration budgets.” Williams did not manage any budgets, and she did not review the budgets *with* Nero at their quarterly meetings. Univ. SMF ¶¶ 48–49, 52; Supp. Nero Decl. ¶¶ 26–29. Rather, Nero reviewed budgets and compared actual to forecasted spending himself, and then used the quarterly meetings to tell Williams information that he needed regarding, *e.g.*, a particular line item in the budget, after which Williams would collect that information and report back to Nero. Supp. Nero Decl. ¶ 29.

62. Williams worked closely with the Finance Director, Rosemarie Chee-Wah, to review spending plans on a regular basis, ensure budgets were appropriately accounted, and ensure

the budget planning process was on track in support of Nero's budget responsibilities for the entire Department. PX I, Williams Decl. ¶ 40; PX G, Chee-Wah Dep. 36:4-40:7; 105:6-106:2.

62. **Denied.** The phrases "worked closely," "regular basis," "ensure budgets were appropriately accounted," and "ensure the budget planning process was on track in support of Nero's budget responsibilities for the entire Department" are vague and ambiguous, and, on that basis, the University denies the allegation in Paragraph 62. The University further denies that Williams reviewed spending plans with Chee-Wah or "ensure[d]" that any budgets were "on track." Supp. Nero Decl. ¶ 34. Instead, she met with Chee-Wah to gather budgetary information that Nero had requested or to relay questions from Chee-Wah to Nero. *Id.*

63. Williams also reconciled the budgets on her own on a monthly basis, tracking actual versus forecast budget, so that she could immediately notify Nero of outstanding issues and make recommendations for moving funds, if necessary, to keep the budgets on track. PX J, Williams Dep. 168:23-7; PX G, Chee-Wah Dep. 125:14-21, 150:9-151:2, 262:1-264:10.

63. **Denied.** Williams's budgetary responsibilities were limited to (1) collecting information for Nero or Chee-Wah, and (2) processing expenses. Supp. Nero Decl. ¶ 26.

64. On a daily or weekly basis, in managing the budgets, Williams was responsible for processing expense reports and claims and approving expenses that needed to be assigned to each budget. PX J, Williams Dep. 169:8-170:2; PX G, Chee-Wah Dep. 156-159, 161-164.

64. **Admitted In Part And Denied In Part.** The University admits that Williams was responsible for processing expense reports. The University denies that Williams managed budgets. Univ. SMF ¶ 48-49, 52; Supp. Nero Decl. ¶ 26. Except to the extent that Nero had pre-approved a particular expense, the University denies that Williams "approv[ed] expenses" because she had no decision-making or approval authority with respect to Department budgets. Supp. Nero Decl. ¶ 27.

65. When requested funds had already been budgeted for, Williams could approve them independently; if they had not been budgeted for, Williams first discussed her recommendations regarding approval with Nero. PX I, Williams Decl. ¶ 41.

65. **Admitted In Part And Denied In Part.** The University admits that Williams could process expense reports for expenses that Nero already had approved, and that she could not process expense reports for expenses that Nero had not approved. The University denies that

Williams made “recommendations” regarding the allocation of Department funds. Suppl. Nero Decl. ¶ 33.

66. The Finance Director confirmed that Williams “was acting on behalf of [Nero] as the . . . budget manager, so she had full authority to review and approve spending to those orgs” as a typical part of her responsibility to manage budgets assigned to her. PX G, Chee-Wah Dep. 162:4-10.

66. **Admitted In Part And Denied In Part.** The University admits that the above quotation appears in Chee-Wah’s deposition transcript. The University denies the remainder of the allegations in Paragraph 66 on the grounds that Williams did not manage budgets and did not have decision-making or approval authority with respect to the Department’s budgets. Supp. Nero Decl. ¶¶ 26–28.

67. Expenditures from the budgets Williams managed had to be approved before they went for review as a matter of accountability. PX G, Chee-Wah Dep. 160:10-162:14, Ex. 10.

67. **Admitted in Part and Denied in Part.** The University admits that Williams could not allocate expenses to particular budgets without approval from Nero. Supp. Nero Decl. ¶¶ 27, 33. The University denies that Williams managed any budgets. Univ. SMF ¶¶ 48–49, 52; Supp. Nero Decl. ¶ 26.

68. Regarding budgets, Williams had high-level responsibility. As the Finance Director testified, “[Williams] needs to be responsible or held accountable for any expenses that come through that — to make sure that they are, the business rationale is legitimate for it or she’s going to — she’s the — basically the throat to choke.” PX G, Chee-Wah Dep. 162:11-16.

68. **Admitted In Part And Denied In Part.** The University admits that the above quotation appears in Chee-Wah’s testimony (on page 161, not 162). The University denies the remainder of the allegations in Paragraph 68 on the grounds that the phrases “had high-level responsibility” and “she’s . . . the throat to choke” are vague and ambiguous. The University also denies the allegations in Paragraph 68 on the grounds that Williams’s budgetary responsibilities were limited to (1) collecting information for Nero or Chee-Wah, and (2) processing expenses. Supp. Nero Decl. ¶ 26.

69. Williams’ budget management responsibilities mirrored to budgets handled by some sport administrators, although she was more skilled in budget management than many sports administrators. PX G, Chee-Wah Dep. 98:17-99:21, 160:10-162:14.

69. **Denied.** Williams was not responsible for managing budgets and did not have budgetary duties comparable to those of a sport administrator. Rather, her budgetary responsibilities were limited to (1) collecting information for Nero or Chee-Wah, and (2) processing expenses. Supp. Nero Decl. ¶ 26. When Nero became sport administrator for the men's basketball program in October 2016, Williams "help[ed]" him by tracking down information he required, but she did not herself serve as a sport administrator or have a sport administrator's budgetary responsibilities. Ex. D-3; Univ. SMF ¶ 143; Supp. Nero Decl. ¶ 30. Finally, the University denies the allegations in Paragraph 69 on the grounds that the phrase "more skilled in budget management" is vague, ambiguous and a subjective value judgment not capable of being proven true or false.

70. The Finance Director often had to tell others in the Athletics Department how to handle budgets and manage them, but Williams already understood that job and had experience working on budgets in the Department. PX G, Chee-Wah Dep. 98:17-99:21.

70. **Denied.** The University denies the allegations in Paragraph 70 on the grounds that they are not supported by the cited testimony. Chee-Wah did not testify that she "often had to tell others in the Athletics Department how to handle budgets and manage them." Rather, she stated that she would work with Department staff "and spend time going through the numbers, talking through the . . . fiscal impact of how they're spending, what their history is, [and] have lengthy discussions so that they can understand what they have to do and why it's important and what the outcome is." Dkt. 135-8 at 99:9-16. The University further denies the EEOC's assertions that Williams "understood that job" and "had experience working on budgets." Williams's only experience working on budgets involved submitting expenses and gathering information for Nero and/or Chee-Wah. Supp. Nero Decl. ¶ 26.

71. Williams' duties also included preparing Nero for meetings/events by gathering information and preparing briefing folders. PX J, Williams Dep. 68-70; 92-93; Ex. 7, pp. 31-33.

71. **Admitted In Part And Denied In Part.** The University admits that Williams gathered information for Nero at his request and printed out documents and put them in folders for Nero. The University otherwise denies the allegations in Paragraph 71 on the ground that Williams was not responsible for substantively preparing or "briefing" Nero for meetings or events. Supp. Nero Decl. ¶ 43.

72. To create briefing folders, Williams gathered information for talking points, provided bios of other participants so that Nero understood what they might be speaking about or where they were coming from, and provided information about other persons from the University or donors who were planning to attend. PX I, Williams Decl. ¶ 57; PX J, Williams Dep. 37:1738:8, 94:1-17.

72. **Admitted In Part And Denied In Part.** The University admits that Williams gathered information for Nero at his request and printed out documents that Nero identified for her and put them in folders for Nero. The University denies that Williams was responsible for “creat[ing] briefing” content of any kind. Supp. Nero Decl. ¶¶ 43–44.

73. Williams also provided updates to prepare Nero for board meetings. PX J, Williams Dep. 25:1-13.

73. **Denied.** The phrase “provided updates” is vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 73. The University also denies the allegations in this Paragraph on the grounds that Williams did not prepare Nero for meetings with the Board of Trustees. Supp. Nero Decl. ¶ 45.

74. To prepare Nero for board meetings, Williams contacted other Athletics Department staff members to gather information for Nero’s report to the board; reviewed that information to ensure that it was complete, addressed the board’s concerns, and aligned with the presentation planned for the meeting; and compiled the pertinent information for Nero. PX I, Williams Decl. ¶ 59; PX J, Williams Dep. 26:7-24.

74. **Denied.** Williams did not prepare Nero for meetings with the Board of Trustees, and she had no say in what was included in presentations to the Board. Supp. Nero Decl. ¶ 45 & Ex. D-7.

75. If Williams’ preparation for board meetings revealed gaps in information provided, she went back to the Department staff with specific questions to fill the gaps or worked with Nero to get the information by running reports from available tools, making necessary calculations, or following up with head coaches. PX J, Williams Dep. 26:25-27:12.

75. **Denied.** Williams did not prepare Nero for meetings with the Board of Trustees, and she had no say in what was included in presentations to the Board. Supp. Nero Decl. ¶ 45. The University further denies the allegations in Paragraph 75 on the ground that the phrases “running reports from available tools,” “making necessary calculations,” and “following up with head coaches” are vague and ambiguous.

76. In overseeing Nero’s calendar and meetings, Williams scheduled meetings between Nero and other Athletics Department staff as well as other University constituents and external parties, including the University president and provost. PX J, Williams Dep. 71:2-77:2.

76. **Admitted.**

77. Williams' responsibility for drafting and sending correspondence on behalf of Nero included managing, drafting and sending emails from the GW athletic director (GWAD) email account, which was Nero's public-facing email account. *Id.* at 40:21-42:15.

77. **Admitted In Part And Denied In Part.** The University admits that the GWAD account was Nero's public-facing email account, and that Williams drafted and sent certain correspondence from the GWAD account with Nero's approval (*e.g.*, provided event logistics and meeting minutes). Univ. SMF ¶¶ 53–58. The University denies the remainder of the allegations in Paragraph 77 on the grounds that the phrase “managing . . . the [GWAD] email account” is vague and ambiguous.

78. As Executive Assistant, Williams supervised two paid student employees each semester. PX I, Williams Decl. 1142; PX J, Williams Dep. 166-167, Ex. 14.

78. **Admitted.**

79. As Executive Assistant, Williams had complete responsibility for managing and hiring student employees. PX J, Williams Dep. 45:2-17.

79. **Denied.** Williams assisted with the hiring and management of student interns, but did not have “complete responsibility” for that function, in part because she had no authority to discipline the student interns. Univ. SMF ¶¶ 62–63.

80. Regarding student employees, Williams solicited recommendations for applicants, selected student candidates for interview, conducted the interviews, and selected candidates to hire for student positions without the need for further approval. PX I, Williams Decl. ¶ 43.

80. **Denied.** Williams had no say in the selection of student interns; rather, she helped them “fill out the paperwork” when they were hired. Univ. SMF ¶ 62.

81. As Executive Assistant, Williams worked with senior staff to determine appropriate projects for student workers, managed the workloads of student workers, signed their time sheets, and disciplined them when necessary. *Id.* ¶ 44.

81. **Admitted In Part And Denied In Part.** The University admits that Williams assisted in the management of student workers by giving them clerical work to do, overseeing their

performance of that clerical work, and signing their time sheets. Univ. SMF ¶ 63. The University denies that Williams disciplined student workers. Supp. Nero Decl. ¶ 49.

82. Williams also planned travel for some men's and women's basketball games and championships. PX I, Williams Decl. ¶ 46; PX J, Williams Dep. 172-173, Ex. 14.

82. **Denied.** Williams did not plan or book team travel for the men's or women's basketball teams. Supp. Nero Decl. ¶¶ 23–24.

83. In handling team travel, Williams worked with coaches and the Director of Basketball Operations, coordinated with travel agencies, and handled contracts regarding flights to ensure the trips were successful. PX I, Williams Decl. ¶ 47.

83. **Denied.** The phrases “handling team travel,” “worked with coaches and the Director of Basketball Operations,” “coordinated with travel agencies,” “handled contracts” and “ensure the trips were successful” are vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 83. The University further denies the allegations in Paragraph 83 on the grounds that Williams was not responsible for planning or booking team travel or contacting and negotiating with, or getting quotes from, vendors. Supp. Nero Decl. ¶¶ 23–24. In addition, her responsibilities in connection with so-called “team contracts” were limited to filing or making copies of the contracts. *Id.* ¶¶ 21–22.

84. The team travel Williams coordinated ranged from chartering flights for a single game to coordinating a Hawaii trip for a men's basketball tournament, which included multiple events Williams planned. *Id.* ¶ 48.

84. **Denied.** The phrases “travel Williams coordinated,” “coordinating a . . . trip,” and “multiple events . . . planned” are vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 84. The University further denies the allegations in Paragraph 84 on the grounds that Williams was not responsible for planning or booking team travel, Supp. Nero Decl. ¶¶ 23–24, and Williams's role in connection with the trip to Hawaii was clerical. For example, Williams “planned” a luau by asking team members' parents and other potential guests whether they wanted to come to a luau and conveying the number of attendees to the luau event company. *Id.* ¶ 54.

85. Organizing the travel to Hawaii was complicated, with multiple last-minute changes and additions, which required Williams to engage in significant oversight and ongoing communication with the travel agency. It also required confirming compliance with conference rules and regulations regarding travel. *Id.* ¶ 49.

85. **Denied.** The phrases “organizing the travel . . . was *complicated*” and “*significant* oversight and ongoing communication” are vague, ambiguous and reflect subjective value judgments not capable of being proven true or false, and, on that basis, the University denies the allegations in Paragraph 85. The University further denies the allegations in Paragraph 85 on the grounds that Williams was not responsible for planning or booking team travel, and Williams’s role in connection with the trip to Hawaii was clerical. Supp. Nero Decl. ¶¶ 23–24, 54.

86. For the Hawaii trip, Williams worked closely with the DOBO to plan the schedule of events, track RSVPs, and answer questions for representatives of the President’s office and the University Office of Military and Veteran Affairs because a high-ranking member of the military was involved in the trip. Id. ¶ 50.

86. **Admitted In Part And Denied In Part.** The University admits that Williams “compil[ed] the RSVP list” for a reception in Hawaii. PX I-10 at EEOC0001209. The University also admits that Williams “answer[ed] questions for representatives of the President’s office” to the extent that she provided: logistical information such as Google maps directions to Pearl Harbor and other locations (PX I-10 at EEOC0001210); the name and address of a restaurant for dinner (*id.* at EEOC0001214); and the start time of basketball games (*id.*). The University also admits only for purposes of summary judgment that a high-ranking member of the military was involved in the trip. The University otherwise denies the allegations in Paragraph 86 on the grounds that the phrase “worked closely with the DOBO to plan the schedule of events” is vague and ambiguous, and Williams’s role in connection with the trip to Hawaii was clerical. *See* Supp. Nero Decl. ¶ 54.

87. For the Hawaii trip, Williams arranged for and authorized payment to an outside vendor for an event that included transportation for 91 players and other guests. Id. ¶ 51.

87. **Admitted In Part And Denied In Part.** The University admits that Williams sent the luau event company a credit card authorization form. *See* PX I-11. The University denies that Williams “authorized” payment. Instead, Nero authorized payment to the vendor on his credit card, and Williams filled out and sent a credit card authorization form on his behalf. Supp. Nero Decl. ¶ 54; Ex. D-9.

88. Williams also planned and arranged a last-minute post-game reception for Nero and the President’s office. Id.

88. **Admitted In Part And Denied In Part.** The University admits that Williams compiled RSVPs for a post-game reception. *See* Dkt. 135-15 at EEOC0001207. The phrase “planned and arranged” is vague and ambiguous, and, on that basis, the University denies the remaining allegations in Paragraph 88. To the extent that Williams “planned and arranged” the reception, she did so only by compiling the RSVP list. Dkt. 135-15 at EEOC0001207.

89. Williams took on the Nike account even though it required so much attention that coaches wanted a full-time staffer devoted to the account. PX J, Williams Dep. 174-175, Ex. 14.

89. **Denied.** The phrase “took on the Nike account” is vague and ambiguous, and, on the basis, the University denies the allegations in Paragraph 89. The University further denies the allegations in Paragraph 89 on the grounds what “coaches wanted” is speculative and supported (if at all) only by inadmissible hearsay. Dkt. 135-20 at 174:25–175:1 (“The coaches had been calling for this to be a full-time position.”). In addition, Williams was not responsible for managing the University’s Nike account. Supp. Nero Decl. ¶ 55.

90. When she took on the Nike inventory, Williams found that the finances were a mess, with invoices that had not been paid or processed, and she exchanged hundreds of emails with Nike Game Day to straighten out the account. *Id.* 175:4-14.

90. **Denied.** The phrases “took on the Nike inventory” and “the finances were a mess” are vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 90. To the extent “the finances were a mess” is not vague and ambiguous, it is a characterization or opinion—not a fact—and, accordingly, requires no response. In addition, the University denies the allegation that Williams “exchanged hundreds of emails with Nike Game Day” because it is unsupported by the cited testimony, which states only that Williams “went through” emails. Dkt. 135-20 at 175:4–8. In addition, Williams was not responsible for managing the University’s Nike account or for any non-clerical tasks regarding Nike invoices. Supp. Nero Decl. ¶¶ 55–56.

91. In her management of the Nike account, Williams also assisted with ordering team equipment. *Id.* 174:1-22, Ex. 14.

91. **Denied.** Williams was not responsible for managing the University’s Nike account or ordering Nike equipment. Supp. Nero Decl. ¶¶ 55–56. Moreover, the allegation in Paragraph 91 is not supported by the cited evidence; Exhibit 14 to the Williams deposition states only that Williams “[h]elped with Nike inventory due to a vacancy in the [D]epartment,” not that she “manage[d]” the account. Dkt. 115-9 at GWU_002478. Indeed, this exhibit says that “Nike Inventory” was “[n]ot [a] normal job function” for Williams. *Id.* at GWU_002479.

92. Williams’ involvement with Nike required her to provide significant oversight of the account, which included handling “purchase orders, meaning contracts, agreements, and then you know, actually getting quotes and sending them through our procurement division and seeing that through.” PX G, Chee-Wah Dep. 45:15-21.

92. **Admitted In Part And Denied In Part.** The University admits that the above quotation appears in Chee-Wah’s deposition testimony. The phrases “involvement with Nike” and “provide significant oversight” are vague and ambiguous, and, on that basis, the University denies the allegation in Paragraph 92. In addition, the word “significant” is a characterization or opinion—not a fact—and, accordingly, requires no response. The University further denies the allegations in Paragraph 92 on the grounds that Williams was not responsible for any non-clerical tasks related to Nike purchase orders. Supp. Nero Decl. ¶ 56.

93. Williams’ management of the Nike account also required her to coordinate coaches’ “comp monies” associated with their Nike spending, track Nike orders, and coordinate with the facilities department to assure receipt and remedy any errors with shipment. Id. 46:1-48:3.

93. **Denied.** Williams was not responsible for managing the University’s Nike account. Supp. Nero Decl. ¶ 55. In addition, the phrases “coordinate coaches’ ‘comp monies’” and “coordinate with the facilities department” are vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 93. The University further denies the allegations in Paragraph 93 on the grounds that the cited testimony’s discussion of “comp monies” describes Williams relaying to Chee-Wah “the breakdown from Patrick” regarding how much money coaches should get. Dkt. 135-8 at 46:1–19.

94. As Executive Assistant, Williams was responsible for coordinating Athletics Council meetings, Student Athlete Special Commencement, and the Senior Honors Breakfast. PX J, Williams Dep. 134:23-135:9, Ex. 13.

94. **Denied.** The phrase “responsible for coordinating” is vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 94.

95. Throughout her second year as Executive Assistant, Williams worked on numerous special projects. Id.

95. **Denied.** The phrase “worked on numerous special projects” is vague and ambiguous, and, on that basis, the University denies the allegation in Paragraph 95.

96. In handling the Student Athlete Special Commencement, Williams coordinated with the central events team to book a theater, ensured that invitations went out, prepared for the provost and a student commencement speaker, and helped the student speaker. PX I, Williams Decl. ¶ 55; PX J, Williams Dep. 183:9-14.

96. **Admitted In Part And Denied In Part.** The University admits that Williams “ensured that invitations went out” for the Student Athlete Special Commencement to the extent that she forwarded an email invitation for the special commencement ceremony from University Events to certain members of the Athletics Department. *See* Ex. E-12. The University also admits for purposes of summary judgment that Williams may have booked a theater. The phrases “coordinated with the central events team,” “prepared for the provost and a student commencement speaker,” and “helped the student speaker” are vague and ambiguous, and, on that basis, the University denies the remaining allegations in Paragraph 96. The University further denies that Williams helped the student speaker beyond reminding the speaker to respond to an email from University Events. *See* Ex. E-13.

97. In handling the Senior Honors Breakfast, Williams negotiated a \$23,000 contract with Marriott. PX I, Williams Dec1. ¶ 52; PX J, Williams Dep. 184:10-20.

97. **Denied.** Williams did not “negotiate” the contract with Marriott. Instead, Marriott had a form contract called a “Group Sales Agreement” that set a standard, per-person cost for a breakfast event, and Williams informed Marriott how many attendees would be present. Ex. E-11; Supp. Nero Decl. ¶ 50. In addition, the contract with Marriott was for \$10,295, not \$23,000. *See* Ex. E-11.

98. Regarding the Senior Honors Breakfast, Williams also negotiated better rates for the student gifts that constituted a significant cost, researched vendors, obtained quotes, reviewed samples, engaged in a bidding process with vendors, invited guest speakers, invited student athlete’s parents, and prepared a presentation and slide show. *Id.* ¶ 53; PX J, Williams Dep. 184:10-20.

98. **Admitted In Part And Denied In Part.** The University admits that Williams invited student-athletes’ parents to the Senior Honors Breakfast. The University denies the remaining allegations in Paragraph 98. Williams was not responsible for researching, negotiating with, or obtaining quotes from vendors regarding student gifts, or for reviewing samples of those gifts. Williams also was not responsible for preparing a presentation or slide show. Moreover, Williams was not responsible for inviting guest speakers to the Breakfast because there were no guest speakers; rather, the only people with speaking roles were Nero, senior staff members who presented awards, and student-athletes who won those awards. Supp. Nero Decl. ¶¶ 51–53.

99. Williams also worked with the Associate Athletics Director for Compliance to track student athletes and employee compliance data. PX J, Williams Dep. 132-135, 187, Ex. 12-14.

99. **Denied.** Williams was not responsible for compliance-related tasks. Supp. Nero Decl. ¶¶ 58–59. The University further denies the allegation in Paragraph 99 on the grounds that the phrase “track student athletes and employee compliance data” is vague and ambiguous.

Williams testified that she typed data into the NCAA’s website after “verifying first with the educational support services” that the information was accurate, which Williams described as “a compliance task.” Ex. E-1 at 185:17–187:9. Assuming that Williams did type data into a web site, the University denies that this data-entry task was equivalent to “track[ing] student athletes and employee compliance data.”

100. During her first year as Executive Assistant, Williams worked with Compliance and improved processes to make them more efficient and helpful for students, such as identifying and piloting a better way to complete student athlete book requests. *Id.* 132:2-25, Ex. 12.

100. **Admitted In Part And Denied In Part.** The University admits only for purposes of summary judgment that Williams piloted a way to electronically complete the student-athlete book-request process. The University denies the remaining allegations in Paragraph 100 on the grounds that the phrases “improved processes to make them more efficient and helpful,” and “better way” are vague, ambiguous, and opinions—not facts—and, accordingly, require no response.

101. Williams also took on sport administrator functions for an extended period, including managing the men’s basketball budget. PX J, Williams Dep. 50-51, 53; PX G, Chee-Wah Dep. 126:7-11; PX I, Williams Decl.

101. **Denied.** Williams never took on sport administrator functions and never served as a sport administrator. Univ. SMF ¶¶ 143, 147; Supp. Nero Decl. ¶ 30. Williams testified that the “sport administrator function” she allegedly took on was “managing the men’s basketball budget with Chris Holm[]” following the departure of Senior Associate Athletics Director Ed Scott. Dkt. 135-20 at 50:15–51:12. That testimony conflicts with an email Williams sent in October 2016 stating that *Nero* was “taking over financial responsibility from Ed” for the men’s basketball budget and had simply asked her “to help.” Ex. D-3; *see also* Dkt. 113-1 ¶ 65. To the extent that Williams provided this help, the University disputes it was “for an extended period.” Williams allegedly began helping in October 2016 and left the Athletics Department less than two months later, on December 11, 2016. EEOC SMF ¶ 314; Supp. Nero Decl. ¶ 30.

102. When Ed Scott left the University, Nero asked Williams to take on the task of managing the men’s basketball budget. PX J, Williams Dep. 50:21-51:4; PX G, Chee-Wah Dep. 118:13-119:14.

102. **Denied.** Nero never asked Williams to manage the men’s basketball budget. Supp. Nero Decl. ¶ 30. To the contrary, Williams’s own emails from the time of Scott’s departure state that Nero was “taking over financial responsibility from Ed” for the men’s basketball budget. Ex. D-3.

103. Williams conducted forecasting and planning for future years and provided updates to Nero. PX J, Williams Dep. 51:2-4; PX G, Chee-Wah Dep. 119:11-14, 127:21-128:8.

103. **Denied.** Williams did not conduct budget forecasting or planning. Supp. Nero Decl. ¶ 31.

104. The men's basketball budget is the most significant and most spotlighted budget for the Athletics sports divisions. PX G, Chee-Wah Dep. 121:6-12.

104. **Denied.** The allegation in Paragraph 104 is a characterization or opinion—not a fact—and, accordingly, requires no response.

105. In early June 2015, Nero began the process to create a new position by completing a Position Justification Form to be reviewed and approved by the provost; at the time, the new position was called Assistant Athletics Director in Administration. PX P, Nero Dep. 22:17-25:11; PX K, Kayer Dep. 93:20-94:22, Ex. 5.

105. **Admitted In Part And Denied In Part.** The University admits that Nero began the process for creating a new position in June 2015, which required completion of a Position Justification Form to be reviewed and approved by the Provost. The University denies that in June 2015, the position was called “Assistant Athletics Director in Administration.” Rather, the Position Justification Form requested the creation of a position called “Assistant Athletic Director.” PX K at 107.

106. Nero initially wanted the new position to be a Chief of Staff-type position that primarily served him, PX P, Nero Dep. 44:1-9, Ex. 5; PX K, Kayer Dep. 186:16-22, Ex. 8, p. 5-6, but by September 2015, Nero decided the position should support all senior staff in Athletics administration. PX P, Nero Dep. Ex. 5; PX C, Vogel Dep. Ex. 3.

106. **Admitted.**

107. On 8/31/15, Nero announced at a senior staff meeting that Michael Aresco would “begin to transition responsibilities to more administration.” PX I, Williams Decl. ¶ 67. Around the same time, Aresco moved into the main administrative office. PX P, Nero Dep. 21-22, 45:16-

19, 47:6-9; PX D, Aresco Dep., 144-145, 146-147; PX K, Kayer Dep. 205:9-16; PX C, Vogel Dep. 55-56, 107:19-21.

107. **Admitted.**

108. Before moving into the administrative office, Aresco worked in Facilities. PX D, Aresco Dep. 66:6-20.

108. **Admitted.**

109. Aresco's annual salary as Director of Events in Facilities was \$48,960. PX L, GWU 001345.

109. **Admitted In Part And Denied In Part.** The University denies the allegations in this Paragraph to the extent that it implies Aresco's salary was \$48,960 per year for his entire tenure as Director of Events. When Aresco first became Director of Events, he made \$48,000 per year, but his salary was subsequently increased to \$48,960 per year. Univ. SMF ¶¶ 125–26.

110. Aresco testified that in June of 2014, as Director of Events, he began "asserting" himself by taking on additional responsibilities outside of his own job duties. PX D, Aresco Dep. 17:2-7, 37:17-38:1, 133:22-134:3.

110. **Admitted In Part And Denied In Part.** The University admits that Aresco testified to "asserting [himself]" by asking questions, making sure that tasks got done and were "not . . . dropped," and sharing with his co-workers the knowledge that he had regarding what facilities-related tasks needed to be done "on a cyclical and annual cycle." Dkt. 140-1. The University denies the allegation in Paragraph 110 that Aresco began to take on additional responsibilities outside of his job duties on the grounds it is not supported by the testimony cited. *See* PX D (citing Aresco Dep. 17:2-7, 37:17-38:1, 133:22-134:3).

111. In the Fall of 2014, Aresco met with Nero and told him he had a job offer. PX D, Aresco Dep. 133:1-14. At that time, Aresco also told Nero he had been "doing additional responsibilities since, say, mid-summer," and that he would "like to be recognized for that." *Id.* 133:16-20.

111. **Admitted.**

112. In response, Nero promoted Aresco to Assistant Athletic Director for Operations, Events, and Facilities and increased his salary to \$75,000. *Id.* 133:15-134:3; PX P, Nero Dep. 15:20-17:11, Ex. 1.

112. **Admitted In Part And Denied In Part.** The University admits that Aresco became the Assistant Athletics Director for Operations, Events, and Facilities and in that role earned \$75,000 per year. The University denies that Nero unilaterally promoted Aresco into that role or unilaterally increased Aresco's salary. Rather, the promotion was approved by the University's Equal Employment Opportunity ("EEO") Office, and Aresco's salary in the role was agreed to by both the EEO Office and the Compensation Department. Dkt. 115-22.

113. Aresco named the pay for his new position. PX M, GWU 024367. On 10/24/14, just two weeks before Nero authorized Aresco's promotion, Hamluk emailed Nero asking, "Did [Aresco] ever come back to you with a salary number?" to which Nero responded "75k." PX M, GWU 024367.

113. **Admitted In Part And Denied In Part.** The University admits that PX M contains the above quotations. The University denies the remaining allegations in Paragraph 113 on the grounds Aresco did not "name[] the pay." He requested \$75,000 as part of a salary negotiation, and Nero thought that it was a reasonable, appropriate amount to pay Aresco for the role based in part on what the previous holder of the position had been paid. *See* Supp. Nero Decl. ¶ 12; Dkt. 135-26 at 17:12–18:8. Moreover, as part of the salary-setting process, both the University's EEO Office and the Compensation Department agreed to Aresco's new salary. Supp. Nero Decl. ¶ 12; Dkt. 115-22.

114. Aresco did not have to apply for the Assistant Athletic Director position. PX D, Aresco Dep. 134:4-5.

114. **Admitted.**

115. Instead, the University's EEO office and Compensation team approved of Aresco's appointment to the position as a "noncompetitive promotion." PX N, GWU 001206.

115. **Admitted In Part And Denied In Part.** The University admits that the University's EEO Office approved Aresco's promotion to Assistant Athletics Director for Operations, Events, and Facilities as a noncompetitive promotion. The University denies that the University Compensation Department approved Aresco's appointment to the position; the Compensation Department does not approve or deny individuals' being hired or promoted into

particular roles. Rather, the Compensation Department serves an advisory function regarding how much to pay University employees. *See* Dkt. 135-36 at Univ.’s Resp. to EEOC’s Interrog. 2.

116. At that time, Nero also awarded Aresco a \$13,000 bonus, which he claims was intended to compensate Aresco for the time he had spent overseeing Facilities on an interim basis. PX P, Nero Dep. 11:25-12:16; PX O, GWU 001340-001341.

116. **Admitted In Part And Denied In Part.** The University admits that, in the fall of 2014, Aresco received a \$9,000 bonus and a \$4,000 bonus (for a total of \$13,000), and that the bonus was “for the increased responsibility and workload that [Aresco] ha[d] picked up since the departure of a previous staff member.” PX O (GWU_001340–41). The University denies that Nero himself unilaterally awarded Aresco a bonus. Rather, as Nero testified, the bonus “would have been approved by HR and EEO.” Ex. E-3 at 13:25–14:5.

117. By September 2015, Williams knew that a new administration position was in development and she had seen the June 2015 PJF describing a position that sounded very much like her job. PX I, Williams Decl. ¶ 66.

117. **Denied.** The University lacks information sufficient to admit or deny what Williams claims she “knew” or “had seen” and, on that basis, denies the allegation in Paragraph 117 that Williams “knew” what was “in development” or had “seen” the PJF as early as September 2015. The University further denies the allegation in Paragraph 117 on the grounds that the description of “a position that sounded very much like her job” is a characterization, opinion, or legal argument—not a fact—and, accordingly, requires no response.

118. The September 2015 summary of the Special Assistant job described the same work that Williams was performing as Executive Assistant. PX K, Kayer Dep. Ex. 5.

118. **Denied.** The University denies this Paragraph on the grounds that it is a characterization, opinion, or legal conclusion—not a fact—and, accordingly, requires no response.

119. Williams’ official Executive Assistant Job Description said she provided administrative support for the Director; coordinated workflow between the Director and the University; planned and managed the Director’s meetings, coordinated with staff on briefings and donor contact; assisted in managing the Director’s budgets; served as the administrative interface between the Director, the University, Conference colleagues, and others; and worked on hiring and managing student employees. PX A; ECF No. 10-5, p. 2.

119. **Denied.** The University denies the allegations in Paragraph 119 on the grounds that it mischaracterizes or incorrectly summarizes the contents of the cited document, which speaks for itself. For example, Paragraph 119 states that, according to the job description, the executive assistant “assisted in managing the Director’s budgets” (plural). In fact, the job description states that job duties include: “Assist in management of Athletic Director budget by processing and filing financial receipts and tracking expenses in coordination with Department of Athletics and Recreation Business Office.” PX A, ECF No. 10-5.

120. On 9/15/15, Williams and Aresco discussed the new administration position during an event at the Smith Center. PX I, Williams Decl. ¶¶ 68-70; PX J, Williams Dep. 143-145.

120. **Admitted.** The University admits that Williams and Aresco discussed what would become the Special Assistant during an event at the Smith Center. The University admits only for purposes of summary judgment that the discussion took place on September 15, 2015.

121. At the event on 9/15/15, Aresco told Williams that the new administration position had been created for him, promised to him, and that Williams should not apply for it. *Id.*

121. **Denied.** Aresco did not say that Williams should not apply for the position or that it had been created for him or promised to him. Dkt. 115-16 at 171:6–7; Univ. SMF ¶ 203. Rather, in response to Williams asking him if he thought she should apply for the position, Aresco said “if it were me, I would not.” Dkt. 115-16 at 164:14–18. He responded that way because he believed Williams was not qualified for the position. *Id.* at 164:19–169:5; *see also* Dkt. 114-1 ¶¶ 62–65.

122. During his deposition, Aresco confirmed that he discouraged Williams from applying for the new position. PX D, Aresco Dep. 163:18-164:18.

122. **Denied.** Paragraph 122 mischaracterizes the deposition testimony, which does not contain a “confirm[ation]” that Aresco “discouraged” Williams from applying for the position. Rather, Aresco testified that, in response to Williams asking him if he thought she should apply for the position, he said: “if it were me, I would not.” Dkt. 115-16 at 164:14–18. He responded that way because he believed Williams was not qualified for the position. *Id.* at 164:19–169:5; *see also* Dkt. 114-1 ¶¶ 62–65.

123. In October 2015, Williams asked then-Senior HR Client Partner for Athletics, Mike Kohn, about the new position. PX I, Williams Decl. ¶ 71.

123. **Admitted** for purposes of summary judgment only.

124. Kohn told Williams that Aresco already was acting in the position and confirmed he would be selected for it when the job posted. *Id.*; PX J, Williams Dep. 211-212, 216-217.

124. **Admitted.** The University admits for purposes of summary judgment only that Kohn may have said to Williams that he believed Aresco was already acting in the position and that he thought Aresco would be selected for it. To the extent that the EEOC offers this testimony to prove that Aresco in fact would be selected for the job when posted, it is inadmissible hearsay. *See Fed. R. Evid.* 802.

125. Kohn told Williams that because moving Aresco to the new position would be a lateral move, Nero did not have to post or advertise the new position, but he planned to post it so it would seem like a fair and transparent process. PX I, Williams Decl. ¶ 71.

125. **Admitted.** The University admits for purposes of summary judgment only that Kohn may have said that Nero was planning to post the position even though he did not have to do so in order to make the process appear fair and transparent. To the extent that the EEOC offers this testimony to prove that the University advertised the new position only so that the University would “seem” to have “a fair and transparent process, it is inadmissible hearsay. *See Fed. R. Evid.* 802.

126. In approximately November 2015, Tanya Vogel made clear to Williams that the new position was not for her. PX I, Williams Decl. ¶¶ 73-75.

126. **Denied.** The phrase “made clear to Williams that the new position was not for her” is vague and ambiguous, and, on that basis, the University denies the allegation in Paragraph 126. Additionally, Vogel testified that she never spoke to Williams about the Special Assistant position. Ex. E-2 at 203:20–204:8. When she met with Williams in or around November 2015, Vogel spoke to Williams about her career ambitions more generally and testified that “anytime somebody says to me that they’re looking to advance in their career, I’m going to encourage them.” *Id.* at 197:18–203:3.

127. When they met in approximately November 2015, Williams told Vogel that she had been working very closely with Hamluk before he left and that her ultimate goal was to be an assistant or associate athletics director in athletics administration. Id.

127. **Admitted.** The University admits that Williams told Vogel in or around November 2015 that “she wanted to advance in athletics administration.” Ex. E-2 at 197:18–199:20. The University admits the remaining allegations in Paragraph 127 for purposes of summary judgment only.

128. After hearing Williams say she wanted to be an assistant or associate athletics director, Vogel said that it did not look like that was an option for her at the University and suggested that she consider how to position herself better for the next opportunity. Williams’

immediate understanding from Vogel's response was that the new position in administration would be permanently filled by Aresco. Id.

128. **Denied.** Vogel testified that, when Williams told her she wanted to advance in athletics administration, Vogel "probably encouraged her." Vogel stated that anytime somebody says to me that they're looking to advance in their career, I'm going to encourage them." Ex. E-2 at 202:19–203:3. The University further denies that it would have been reasonable for Williams to infer on the basis of this encouragement that "the new position in administration would be permanently filled by Aresco."

129. Williams did not apply for the Special Assistant position because she was told by an HR Client Partner that the position was intended for Aresco; was told by Vogel that advancing to an assistant athletics director wasn't going to happen; was told the position was for Aresco and not to apply, because if she did, it would "create controversy." PX I, Williams Dec1.11680-76; PX E, EE00000256 — 000261.

129. **Denied.** The University denies that Vogel told Williams that "advancing to an assistant athletics director position wasn't going to happen." Vogel instead encouraged Williams's ambitions for career advancement. Ex. E-2 at 202:19–204:8. The University further denies that Aresco told Williams that it would "create controversy" if she applied for the Special Assistant position. Rather, Aresco testified that, in response to Williams asking him if he thought she should apply for the position, he said "if it were me, I would not." Dkt. 115-16 at 164:14–18. He responded that way because he believed Williams was not qualified for the position. *Id.* at 164:19–169:5; *see also* Dkt. 114-1 ¶¶ 62–65. The University admits for summary judgment purposes only that HR Client Partner Kohn may have told Williams that the position was intended for Aresco.

130. Before the new position was posted in January 2016, the position was changed from Assistant Athletics Director to Special Assistant. PX K, Kaye Dep. 197:9-198:20; 200:20-201:5.

130. **Admitted.**

131. The job changed to a Special Assistant position because the duties of the job more appropriately aligned with the Special Assistant classification title. Id.

131. **Denied.** The University denies Paragraph 131 on the ground that the EEOC has not stated what job duties allegedly align with the Special Assistant classification. The University further denies Paragraph 131 on the ground that the assertion is not supported by the material cited, because Kaithlyn Kaye testified in the cited portions of her deposition transcript that "I don't

know exactly” why the position was named Special Assistant and that her guess was based on knowledge she acquired later “beyond [her] time in athletics.” Dkt. 135-21 at 197:15–198:20.

132. The Special Assistant job posting identified administrative support work, coordinating workflow, serving as interface between the Director and others, handling projects, and serving as senior staff. PX A; ECF No. 15-1, p. 8-9.

132. **Denied.** The University denies the allegations in Paragraph 132 on the grounds that it mischaracterizes or incorrectly summarizes the contents of the cited document, which speaks for itself. For example, Paragraph 132 states that, according to the job posting, the Special Assistant would provide “administrative support work,” when in fact the posting said the Special Assistant’s responsibilities would include “[l]eading the administrative function of the Office of the Director of Athletics and Recreation.” Dkt. 113-29. Paragraph 132 further states that the Special Assistant would be charged with “handling projects,” when in fact the posting said the Special Assistant’s responsibilities would include “[a]cting as a project manager for special projects in support of key priorities for the Department of Athletics and Recreation.” Dkt. 113-29.

133. The University’s expectation was for Aresco to “apply and be selected for” the newly created Special Assistant position. PX K, Kayer Dep. 205:9-22.

133. **Denied.** The University denies the allegation in Paragraph 133 on the grounds that it is not supported by the cited testimony. Kayer was testifying about her *own* expectations—not those of the University as a whole. *See* Dkt. 135-21 at 205:3–4 (“It must have meant . . .”). In addition, although Nero had Aresco in mind as a strong candidate for the job, he testified that he wanted the position to go to the best, most-qualified candidate. Dkt. 113-1 ¶ 107.

134. On 12/15/15, Vogel sent an email to the Interim Finance Director discussing how to move forward with the posting of the new position — which Vogel’s referred to as the Special Assistant position. Id.

134. **Denied.** The University denies the allegation in Paragraph 134 on the grounds that it is not supported by the cited evidence (an “Id.” that equates to Dkt. 135-21 at 205:9–22). The cited deposition testimony does not refer to Vogel sending an email of any sort.

135. On 1/4/16, Kayer updated the Special Assistant description in the PeopleAdmin 7 system. PX S, Alrutz Dep. 35-36, 38-39, 160-162, 179-180, Ex. 13 at GWU 059229-059230. That system update identified the job as Executive Special Assistant with a typical pay range of \$49,000 to \$67,400. PX S, Alrutz Dep. 184:8-185:5, Ex. 13 at GWU 059230.

135. **Admitted.** The University admits the allegations in Paragraph 135, subject to the clarification that the position had a typical *hiring* range of \$49,000 to \$67,400.

136. On 1/5/16, Special Assistant position was posted. PX C, Vogel Dep. Ex. 8.

136. **Denied.** The position was posted on January 4, 2016. ECF No. 112-2 at ¶ 188.

137. Vogel interviewed Aresco for the Special Assistant job after the posting closed, and the interview lasted less than 30 minutes. PX C, Vogel Dep. 131:13-133:24.

137. **Admitted.**

138. Aresco was selected as Special Assistant. PX K, Kayer Dep. 210-212, Ex. 7.

138. **Admitted.**

139. The Hiring Proposal selecting Aresco for the Special Assistant position was entered in the PeopleAdmin 7 system on 1/22/16. Id.; PX F, Hess Dep. 93-94, Ex. 4 at GWU 001196-97.

139. **Admitted.**

140. The Hiring Proposal listed Aresco's title as Special Assistant in Athletics with a proposed salary of \$77,257.21. PX F, Hess Dep. 93-94, Ex. 4 at GWU 001196-001197.

140. **Admitted.**

141. Vogel and Nero "were involved in the decision to pay [Aresco] approximately \$75,000 per year as Special Assistant." PX C, Vogel Dep. Ex. 9 at Interrog. 3.

141. **Admitted In Part And Denied In Part.** The University admits that both Vogel and Nero were involved in the decision to pay Aresco approximately \$75,000 per year as Special Assistant. The University denies that the above quote appears in the University's response to the EEOC's Interrogatory No. 3. *See* Dkt. 135-4 at 60–61.

142. Kayer advised Aresco that his new job was Special Assistant, not Assistant Athletics Director. PX K, Kayer Dep. Ex. 4.

142. **Denied.** The University denies the allegation in Paragraph 142 because it is not supported by the evidence cited. The cited exhibit is an email thread dated December 4, 2015, which predates Aresco's applying for, being offered, or accepting the Special Assistant position. Dkt. 135-21 at 91 (GWU_RandomSample_018579). In other words, Aresco did not have a "new job" about which to be advised at the time of the cited email. The University further denies the

allegation in Paragraph 142 on the grounds that the email thread cited does not state that the Special Assistant is not an Assistant Athletics Director position.

143. Defendant's Compensation Department works with HR to review compensation and advise if a proposed salary is appropriate. PX F, Hess Dep. 16:8-17:21; 60-65.

143. **Denied.** The University denies the allegations in Paragraph 143 on the grounds that it is not supported by the cited testimony, which does not say that the Compensation Department "advise[s] if a proposed salary is appropriate." Rather, Ann Hess testified that the Compensation Department reviews hiring proposals "if [HR] ask[s] for a review or if" a proposed salary is "outside of the identified experience range." Dkt. 135-7 at 64:19-65:15.

144. Defendant's Compensation Department reviews hiring proposals referred by HR when a proposed salary is outside of the applicable range. PX F, Hess Dep. 64:11-65:15.

144. **Admitted.**

145. In Defendant's pay system, each pay grade is split up into three ranges. PX F, Hess Dep. 65:6-10. The typical hiring range is the minimum salary at the bottom of the entry range to the midpoint of the emerging range. *Id.* 65:16-19.

145. **Admitted.** The University admits the second sentence in Paragraph 145 for purposes of summary judgment only.

146. The Special Assistant Hiring Proposal identified three available pay ranges for the job: Entry Rate \$49,000-\$58,800; Emerging Rate \$60,660-\$74,140; and Expert Rate \$67,400-\$80,880. PX F, Hess Dep. 97:9-16, Ex. 4 at GWU 001197.

146. **Admitted.**

147. The Hiring Proposal for Aresco proposed paying him \$77,257.21 a year, within the "Expert" range, to work as the Special Assistant. PX F, Hess Dep. 93-94, Ex. 4.

147. **Admitted.**

148. After Defendant selected Aresco for the Special Assistant job, his Hiring Proposal was sent to Defendant's Compensation Department. PX F, Hess Dep. 74-79, Ex. 3; PX K, Kayer Dep. 214-219.

148. **Admitted.**

149. On 1/22/16, Aresco's proposed salary was sent to the Department of Compensation for a Compensation Out of Range Review through the PeopleAdmin 7 system. PX K, Kayer Dep. 109:18-110:4, 213-216, Ex. 7, pg. 7; PX F, Hess Dep. 74-79, Ex. 3.

149. **Admitted.**

150. Defendant's Compensation Department determined that the salary of \$77,257.21 was too high to pay Aresco to work in the Special Assistant position and advised against paying Aresco \$77,257.21. *Id.*; PX F, Hess Dep. 69-70, 74:16-79, 98-99, Ex. 3 at GWU 005892; PX K, Kayer Dep. 219:17-220:16.

150. **Denied.** The Compensation Department did not advise against paying Aresco \$77,257.21 to work as Special Assistant. Rather, it believed that Aresco's proposed salary as Special Assistant was high based on his years of work experience. Dkt. 135-7 at 100:21-101:7. But the Compensation Department ultimately *approved* Aresco's proposed salary "as a lateral transfer," Univ. SMF ¶ 226, allowing him to keep the same salary he was already earning as Assistant Athletics Director for Operations, Events, and Facilities, *id.* ¶ 221.

151. The Compensation Department documented its advice against paying Aresco \$77,257.21 to work as Special Assistant. PX F, Hess Dep. 69-70, 78-79, 98-99, Ex. 3, pg. 6.

151. **Denied.** The Compensation Department did not document any advice against paying Aresco \$77,257.21 to work as Special Assistant, because it did not give that advice. The exhibit cited in this Paragraph states that the Compensation Department *approved* Aresco's proposed salary "as a lateral transfer based on [a] conversation with" the HR Client Partner. Univ. SMF ¶ 226. Although the exhibit states that the compensation is "high" based on Aresco's credentials, it states only that "we'll monitor going forward," not that the Compensation Department advised against paying this salary. Dkt. 135-7 at 57 (GWU_005892).

152. Kayer also concluded that Defendant should not pay Aresco \$77,257.21 to work as the Special Assistant in the Athletics Department because that salary was too high. PX K, Kayer Dep. 20-21; 219-220.

152. **Denied.** The allegation in Paragraph 152 is not supported by the cited evidence. Kayer did not testify as to what *she* concluded with respect to Aresco's proposed salary or whether the University should pay it. Rather, Kayer stated her understanding of why the Compensation

Department considered the proposed salary to be high based on Aresco's years of work experience. Dkt. 135-21 at 219:3–220:13.

153. Kayer described the experience relevant to the Special Assistant job as providing “high level executive support to an administrator,” which is “more office management, leading committees, special projects, things along those lines,” than a background in facilities and operations. PX K, Kayer Dep. 20:17-21:15, 27:9-17, 219:13-220:13.

153. **Denied.** The allegations in Paragraph 153 are not supported by the cited evidence. Specifically, the cited testimony discusses Kayer's understanding of what sort of background would be “more aligned with *a* special assistant role,” not *the* Special Assistant, Athletics position. Dkt. 135-21 at 219:19–220:16 (emphasis added). Special assistant positions exist in many University departments. *See* Ex. E-5 at 87:1–5. In the cited testimony, Kayer specifically acknowledged that there are “specifically different needs in athletics” for special assistants. Dkt. 135-21 at 220:1–12.

154. Although Kayer and Compensation concluded the salary in the Hiring Proposal for Aresco to work as Special Assistant was too high, Kayer tried to get the salary approved as a “lateral transfer” because that is what Nero wanted. PX K, Kayer Dep. 220-221, Ex. 3, pg. 6.

154. **Admitted In Part And Denied In Part.** The University admits that Kayer advocated with the Compensation Department to get Aresco's proposed salary approved because she was “expressing the will of [her] client,” Dkt. 135-21 at 220:17–221:7, but denies the remaining allegations in Paragraph 154. Specifically, Kayer's client was not Nero; it was the Athletics Department. *See* Dkt. 115-19 at 153:2–4. In addition, Kayer testified that it likely was Vogel—not Nero—who communicated to Kayer that the Athletics Department agreed with Aresco's proposed salary. Moreover, Kayer did not say in her testimony anything about what *she* or the Compensation Department *concluded* with respect to Aresco's proposed salary. Rather, Kayer stated her understanding of why the Compensation Department initially considered the proposed salary to be high based on Aresco's credentials. Dkt. 135-21 at 219:3–220:13.

155. The Compensation Department entered a note in Defendant's system warning that the Athletics Department should “not to try to inflate the salary any more without cause.” PX F, Hess Dep. 83:15-84:8.

155. **Denied.** The cited testimony does not support the assertion that the Compensation Department left a note in the system stating that the Athletics Department should “not to try to inflate the salary any more without cause.” The note Compensation left in the system stated: “We are in agreement that this salary is high based on the employees credentials, and that we'll monitor going forward.” Dkt. 135-7, PX K (p. 57 of 61).

156. After the Compensation Department approved Aresco's salary as a "lateral transfer," the hiring proposal eventually was sent to Fair for an "EEO/AA Review." PX K, Kayer Dep., Ex. 7.

156. **Admitted.**

157. The University's EEO office was required to review every hiring proposal to ensure equal employment opportunity and that diverse candidates were considered. PX Q, Fair Dep. 127:12-128:6, Ex. 1 at GWU 008425.

157. **Denied.** Fair testified that the EEO Office only needed to ensure that "diverse candidates were considered *if they were qualified.*" Dkt. 140-21 at 128:4-6 (emphasis added).

158. The EEO review is intended to include a "comprehensive analysis "of the position description, an assessment of whether the chosen candidate meets minimum qualifications, and an assessment of the applicant pool as a whole to determine whether there are diversity concerns." PX Q, Fair Dep. Ex. 1 at GWU 008425.

158. **Admitted.**

159. In practice, however, the EEO office did not perform an EEO analysis of every hiring proposal that came through for review. PX Q, Fair Dep. 146:11-19.

159. **Admitted.**

160. If EEO's review did raise concerns, the EEO office had the power to reject the hiring proposal and prevent the hiring process from proceeding unless the EEO concerns were resolved. PX Q, Fair Dep. 127:19-128:22.

160. **Admitted.**

161. University policy required that hiring managers interview at least three candidates for a given position. PX K, Kayer Dep. 161:13-16; PX Q, Fair Dep. 137:14-17.

161. **Denied.** Although the University “[g]enerally” required interviewing three candidates, three interviews were not required if there were fewer than three qualified applicants. Dkt. 140-21 at 137:14–138:20; *see also* Dkt. 135-21 at 158:1–3 (“They had to interview three people, as long as there were three people in the pool”); *id.* 161:17–20 (“Q. And what if there were fewer than three candidates? A. Then you could just interview the number of candidates that applied.”).

162. According to Fair, fewer than three applicants in the pool “would require a whole audit analysis” of why there were not three applicants, the efforts that were made to post the position, what the job is, where it was posted, and how long it was posted. PX Q, Fair Dep. 137:14–138:13, 165:3-9.

162. **Admitted** for purposes of summary judgment only.

163. If any of the fewer than three candidates did not meet minimum qualifications, the University would “definitely..., need to repost.” PX K, Kayer Dep. 162:11-16; PX Q, Fair Dep. 138:14-20.

163. **Admitted** for purposes of summary judgment only.

164. Kayer testified that Fair had pushed back when there were fewer than three applicants for a position, asking for justifications regarding why the position would not be reposted. PX K, Kayer Dep. 162:22-163:9.

164. **Admitted.**

165. As part of EEO’s review of a hiring proposal, EEO would review the proposed compensation if someone raised a concern about the compensation. PX Q, Fair Dep. 134-136.

165. **Denied.** The University denies the allegation in Paragraph 165 as misleading and unsupported by the cited evidence. “EEO Review [of a hiring proposal] and salary analysis are separate.” Dkt. 140-21 at 135:15–18. In addition, the EEO Office did not perform a “compensation analysis” or “salary analysis” if it received *any* complaint or concern about compensation; rather, it performed such an analysis if it received a complaint or concern regarding proposed compensation as compared to *another employee’s* compensation. *Id.* at 134:10–136:8. Where there was no concern raised vis-à-vis another employee’s compensation, the EEO Office was “not engaged in” the process of setting or approving compensation. *See id.* 134:16–17.

166. The hiring proposal Fair received for the Special Assistant position indicated on its face that Aresco had been the only candidate to apply for the position, and, at the time the hiring proposal was passed to Fair for an EEO review, notes regarding the hiring proposal in PeopleAdmin 7 indicated that Compensation and Kayer agreed that Aresco's salary was too high given his "credentials." PX F, Hess Dep. Ex. 4 at GWU 001197; PX Q, Fair Dep. Ex. 9.

166. **Admitted In Part And Denied In Part.** The University admits that the hiring proposal for the Special Assistant position stated that "only one candidate applied" for the position, and that before being sent to the EEO Office for review, the following note appeared in the PeopleAdmin7 system: "Compensation approving salary as lateral transfer based on conversation with CP. We are in agreement that this salary is high for the classification and based on the employee's credentials, and that we'll monitor going forward." The University denies the allegation in Paragraph 166 that the salary was "too high," on the grounds that that phrase does not appear in the comments and the documents speak for themselves.

167. Nonetheless, Fair did not recall actually reviewing the hiring proposal or anyone approaching her about the proposal; the Special Assistant position was not reposted after Aresco turned out to be the only applicant; and the hiring proposal for Aresco was approved and sent on to the HR Client Partner for the next stage without comment from Fair or anyone else in EEO. PX Q, Fair Dep. 158:8-11, 162:1-8; PX Q, Fair Dep. Ex. 9 at GWU 005890-005892.

167. **Admitted.**

168. Aresco did not become the Special Assistant as the result of a bona fide transfer. PX F, Hess Dep., Ex. 2, p. 2.

168. **Denied.** The term "bona fide transfer" is vague, ambiguous, and undefined, and, on that basis, the University denies the allegations in Paragraph 168. In addition, the University denies the allegations in Paragraph 168 on the ground that Aresco's hiring as the Special Assistant was, in fact, a "lateral transfer." Dkt. 135-7, PX F (p. 57 of 61).

169. Even where an employee moves as part of a genuine "lateral transfer," that does not mean the employee can retain their prior pay. PX K, Kayer Dep. 62:15-65:9.

169. **Denied.** When an employee moves within a Department as a lateral transfer, that does mean the employee can retain their prior pay. *See* Ex. E-5 at 79:18-82:3.

170. Kayer made a lateral move from a special assistant position into a HR client partner position. PX K, Kayer Dep. 62:15-63:3, 64:16-65:9.

170. **Admitted.**

171. The special assistant position from which Kayer transferred has the same classification as the HR client partner position to which she transferred. PX K, Kayer Dep. 64-65.

171. **Admitted In Part And Denied In Part.** The University admits that both the special assistant and HR client partner positions were Individual Contributor, Level 2 positions, but the University denies the remaining allegations in Paragraph 171 because the special assistant and HR client partner positions are in different job families. Ex. E-6 at 196:9–197:7; Dkt. 135-21 at 63:4–15.

172. However, when Kayer transferred to the human resources client partner position, she was not permitted to retain her special assistant pay and had to take a pay cut of approximately \$10,000. PX K, Kayer Dep. 63:4-64:7.

172. **Admitted In Part And Denied In Part.** The University admits that Kayer took an approximately \$10,000 pay cut when she accepted a job in human resources. The University denies that “she was not permitted to retain” her previous salary. Rather, she willingly accepted the pay cut in order to change her career path because she “really liked the work” and “it seemed like a great opportunity for [her].” Dkt. 135-21 at 63:8–64:14. Even when someone stayed in the same career stream (*e.g.*, Individual Contributor) and level (*e.g.*, Level 2), if they were changing their job family—by moving Departments, as Kayer did—the Compensation Department often “would support cutting their pay.” Ex. E-5 at 80:2–82:3.

173. According to Nero, the three “significant components” of Aresco’s job duties as Special Assistant, which Nero claimed were “high-level administrative responsibilities,” were working with the OGC on significant contracts, working with Kayer on Human Resources matters, and “help[ing] ... move forward our strategic planning process.” PX P, Nero Dep. 46-48.

173. **Admitted in Part and Denied in Part.** The University admits that Nero testified that Aresco’s “high-level administrative responsibilities” included the “HR component,” “working with our general counsel on significant contracts,” and “moving forward our strategic planning process.” Dkt. 135-26 at 46:24–47:25. The University denies that Nero testified that Aresco had only three significant responsibilities. He testified that these were “*some* of the bigger components of the job.” *Id.* at 47:20–21 (emphasis added).

174. “Move forward our strategic planning process” meant sitting in on senior staff and leadership team meetings, reminding the senior staff or leadership team members of timelines they were required to meet and reminding them of what their recommendation had been. PX P, Nero Dep. 58:1-13, 58:23-59:4, 59:9-60:10.

174. **Denied.** The University denies the allegations in Paragraph 174 on the grounds that “[m]oving forward our strategic planning process” involved more than “sitting in” on meetings and “reminding” senior staff of upcoming deadlines. Nero testified that Aresco “contributed extensively in the conversation” and was “driving the process” and “making recommendations” about the long-term strategic vision for the Athletics Department. Dkt. 135-26 at 59:18–23. Although part of Aresco’s role was to keep the Athletics Department’s senior leadership “on task” to ensure they met University-mandated deadlines, strategic planning also involved addressing a University-mandated 20% budget cut and developing presentations for the University’s Board of Trustees, which with Aresco was “very involved.” *Id.* at 58:1–59:23.

175. Nero identified the significant contracts Aresco worked on as a Nike contract, HR contracts, and the Washington Kastles contract. PX P, Nero Dep. 52:24-53:4.

175. **Admitted In Part And Denied In Part.** The University admits that Nero testified that Aresco worked on the Department’s contract with Nike, its contract with the Washington Kastles, and HR-related contracts. Nero, however, also testified that Aresco worked on contracts related to facilities and contracts related to marketing. *See* Dkt. 135-26 at 51:22–53:10.

176. University emails show that the Nike contract was a multi-year contract that predated Aresco’s move into administration, and during Aresco’s tenure in administration, it was a matter of simply reviewing a few changes and obtaining the appropriate signatures for subsequent renewal of the Nike contract. PX T, GWU 032292-032293.

176. **Denied.** The cited exhibit does not support the allegation in Paragraph 176 that the University’s contract with Nike predated Aresco’s move to the Athletics Department’s main office in the Smith Center. The contract referred to in the cited exhibit was between Nike and former men’s basketball head coach Mike Lonergan—**not** between Nike and the University. *See* Ex. E-14.

177. Likewise, the Washington Kastles contract was completed when Aresco was in Facilities, not when he was Special Assistant. PX P, Nero Dep. 54:13-56:2, Ex. 6.

177. **Admitted.**

178. Compiling bid paperwork consisted of filling out templates, with information such as facility name, address, and seating capacity, and information about ticket sales and hotels in the area. PX P, Nero Dep. 49:12-21, 67:23-25, 68:25-69:12, 70:10-73:3, Ex. 7. In the only bid form produced in this litigation Aresco filled out a 12-page form requesting basic information about facilities, and he did so before he was the Special Assistant. PX P, Nero Dep., Ex. 7.

178. **Admitted In Part And Denied In Part.** To the extent that Paragraph 178 is meant to refer to bid packages to host NCAA and conference championships, the University admits that the bid process included filling out paperwork with information such as facility name, address, seating capacity, anticipated ticket sales, and hotels in the area, but denies that these were the only elements involved in preparing a bid package. Bid packages could be as long as 100 pages, and sometimes “there were ten people on the committee to put the bid together.” Dkt. 135-26 at 48:25–49:24. The University admits only for purposes of summary judgment that Ex. 7 to the Nero deposition is the only bid form produced in this litigation. The University admits that Exhibit 7 to the Nero deposition was prepared before Aresco became Special Assistant.

179. Preparing bid paperwork was simple enough that it could be done on short-notice. PX U, GWU RandomSample 036619.

179. **Denied.** The phrases “simple enough” and “done on short-notice” are vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 179. Whether preparing bid paperwork was “simple” is also a characterization, opinion, or legal conclusion—not a fact—and, accordingly, requires no response.

180. On December 30, 2015, Vogel emailed Aresco asking who typically submits bids to host championships because she thought a particular bid should be made that year, and it was due January 15, 2016. PX U, GWU RandomSample 036619.

180. **Admitted.**

181. Aresco responded to the above email stating he usually submitted the bids and thanked her for reminding him, indicating he had not worked on the bid at that time. PX U, GWU RandomSample 036619.

181. **Admitted.**

182. On January 4, Vogel emailed Aresco to remind him again, and told him to let her know if he needed another remaindering the following week, suggesting Aresco could pull the bid together in time for the deadline even if he hadn't started until four days before it was due. PX U, GWU RandomSample 036619.

182. **Admitted.**

183. Aresco performed "typical administrative support for a meeting" for the leadership team meetings. PX C, Vogel Dep. 180:19-20.

183. **Admitted.**

184. Nero explained in his deposition that Aresco did not "lead" the leadership team meetings but rather "organized" the leadership team, a responsibility Nero further described as Aresco being "the one that kept us on task to make sure that we were making the decisions and we were having the discussions that we said we would." PX P, Nero Dep. 60:8-10.

184. **Admitted.**

185. Aresco's Special Assistant duties relating to HR consisted of asking others to complete or sign paperwork, collecting paperwork, and giving it to Kayer. PX D, Aresco Dep. 200:2-6, 200:10-14, 203:22-205:14; 214:11-215:8.

185. **Denied.** Although Aresco's HR-related duties *included* completing, signing, and collecting paperwork, these were not the full extent of his duties so it is not accurate to say this is what the duties "consisted of." See Univ. SMF ¶¶ 240–62.

186. The hiring tasks Aresco helped complete were minimal. PX D, Aresco Dep. 200:15-201:1, 202:3-5, 202:10-13, 252:4-16.

186. **Denied.** The phrases "hiring tasks," "helped complete," and "minimal" are vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 186. In addition, the EEOC's assertion that particular tasks were "minimal" is a characterization, opinion, and/or legal conclusion—not a fact—and, accordingly, requires no response. In any event, the University denies the allegations in Paragraph 186 because the hiring-related tasks that Aresco performed included developing job postings, drafting hiring plans and developing salary proposals,

negotiating employment contracts with coaches, and participating in hiring searches by reviewing job applications and participating in interviews. Univ. SMF ¶¶ 242–59.

187. When Athletics Department personnel presented Aresco with questions relating to HR protocols or guidance, he relayed them to Kayer. PX D, Aresco Dep. 210:7-11, 215:9-216:3.

187. **Admitted In Part And Denied In Part.** The University admits the allegations in Paragraph 187 insofar as Aresco sometimes relayed HR questions to Kayer, but denies the allegations insofar as Paragraph 187 suggests that he relayed *all* questions “relating to HR protocols or guidance” to Kayer.

188. Aresco assisted with “drafting” policies only insofar as he told the leadership team or senior staff about policy recommendations Kayer had made or about information Aresco gathered on what other schools were doing with similar policies. PX P, Nero Dep. 64-66, 67:620; PX D, Aresco Dep. 201:2-9.

188. **Denied.** The allegations in Paragraph 187 are directly contradicted by the evidence cited. *See, e.g.*, Dkt. 115-16 at 201:2–9 (“***I personally created*** a relocation guide policy. ***I*** created a sport administrator guide policy. ***I*** created a team family travel policy. ***I*** created a priority hiring policy.” (emphases added)); Dkt. 135-26 at 65:22–66:11 (testifying that Aresco “would provide recommendations,” including recommendations regarding bonuses, championship rings, family travel, car allowances, and leave time). *See also* Dkt. 114-1 ¶¶ 93–95; Dkt. 114-33.

189. When the leadership team made decisions regarding what they wanted their policies to be, Aresco checked to make sure the decision was documented in a written policy or in the meeting minutes. Id.

189. **Admitted.**

190. Any policies or policy changes had to receive final approval from the provost. PX P, Nero Dep. 67:6-20.

190. **Admitted.**

191. Aresco sometimes handled expense reports for Nero. PX D, Aresco Dep. 277:4-6.

191. **Admitted.**

192. As Special Assistant, Aresco's supervisory responsibilities were also minimal. PX D, Aresco Dep. 100-101, 129-130, 131-134, Ex. 3, p. 17-19.

192. **Denied.** The word "minimal" is vague, ambiguous, and a characterization, opinion, and/or legal argument—not a fact—and, accordingly, requires no response. The University further denies the allegations in Paragraph 191 on the grounds they are not supported by the cited evidence. For example, pages 129–34 of the Aresco deposition transcript and pages 17–19 of Exhibit 3 to the Aresco deposition do not relate to his "supervisory responsibilities" with respect to the University's men's rowing coach.

193. Aresco did not discipline Mark Davis, the rowing coach, did not approve his leave requests, did not direct him in how to coach, and did not have independent authority to raise his salary. PX D, Aresco Dep. 100-101.

193. **Admitted.**

194. After Aresco moved into the administrative office in 2015, Nero directed Williams to train Aresco to handle job duties that Williams had been performing as Executive Assistant. PX I, Williams Decl. ¶ 77, 88; PX J, Williams Dep. 213:22-215:2.

194. **Denied.** Nero did not direct Williams to train Aresco regarding any job duties. Supp. Nero Decl. ¶ 65.

195. Then Nero tried to reduce Williams' role. PX G, Chee-Wah Dep. 205:1-4.

195. **Denied.** The phrase "tried to reduce Williams'[s] role" is vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 195. To the extent Paragraph 195 alleges that Nero reassigned job duties from Williams to Aresco, the University denies the allegations in Paragraph 195 on the grounds that Nero did not reassign any job duties from Williams to Aresco. Supp. Nero Decl. ¶ 66.

196. In Fall 2015, Nero directed Williams to train Aresco to handle game contracts. Id.; PX G, Chee-Wah Dep. 205:7-13.

196. **Denied.** Nero did not direct Williams to train Aresco regarding any job duties. Supp. Nero Decl. ¶ 65.

197. Aresco did not successfully administer game contracts, and Nero reassigned that job back to Williams. PX I, Williams Decl. ¶ 88; PX J, Williams Dep. 213:22-215:2.

197. **Denied.** The phrase “successfully administer game contracts” is vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 196. The University further denies the allegations in Paragraph 196 on the grounds that Nero did not reassign any job duties from Aresco to Williams. Supp. Nero Decl. ¶ 66.

198. After Aresco was officially hired as Special Assistant, Nero directed Williams to train Aresco in human resources duties, and he was supposed to handle human resources matters for the Department. PX I, Williams Decl. ¶¶ 77, 79; PX J, Williams Dep. 247:9-248:6, Ex. 19.

198. **Admitted In Part And Denied In Part.** The University admits that, as Special Assistant, Aresco oversaw and was “supposed to handle” Human Resources for the Athletics Department. *See* Univ. SMF ¶¶ 240–62. The University denies the remaining allegations in Paragraph 198 on the grounds that Nero did not direct Williams to train Aresco regarding any job duties. Supp. Nero Decl. ¶ 65.

199. In 2016, Nero also directed that Aresco handle the performance review process that Williams had been responsible for in 2014 and 2015. PX I, Williams Dec. ¶ 77; PX J, Williams Dep. 243:13-246:25, Ex. 18.

199. **Denied.** Nero did not reassign any job duties from Williams to Aresco, Supp. Nero Decl. ¶ 66, and Williams was never responsible for “the performance review process,” *id.* ¶¶ 61–63.

200. Aresco failed to perform his HR duties, leaving Williams to step in and perform the work correctly when HR and individual employees reached out to her for help. PX J, Williams Dep. 247:9-248:6, 249:16-250:3.

200. **Denied.** Williams did not perform HR duties. *See* Univ. SMF ¶ 75; Supp. Nero Decl. ¶ 64.

201. For example, from May 25, 2016 through at least July 7, 2016, an employee was not paid because Aresco did not submit his paperwork. PX I, Williams Decl. ¶ 80.

201. **Admitted** for purposes of summary judgment only.

202. Because Aresco did not timely submit the employee’s hiring packet, the employee was not paid for over a month. PX I, Williams Decl. ¶ 80.

202. **Admitted** for purposes of summary judgment only.

203. The employee approached Williams about the situation and Williams resolved it by obtaining and completing the necessary paperwork. PX I, Williams Decl. ¶ 80.

203. **Admitted** for purposes of summary judgment only.

204. In Summer 2016, Aresco was supposed to assist Chandra Bierwirth with coordinating interviews for a Softball Head Coach but did not do so. PX I, Williams Decl. ¶ 81.

204. **Denied.** The phrase “assist . . . with coordinating interviews” is vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 204. The University also denies the allegations in Paragraph 204 on the grounds that the cited paragraph of Williams’s declaration does not establish that Aresco was “supposed to coordinate” the interviews. Dkt. 135-10 ¶ 81.

205. Williams coordinated the interviews that Aresco was supposed to coordinate. PX I, Williams Decl. ¶ 81.

205. **Denied.** The phrase “coordinated the interviews that Aresco was supposed to coordinate” is vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 205. The University also denies the allegations in Paragraph 205 on the ground that the cited evidence does not establish that Aresco was “supposed to coordinate” the interviews. Dkt. 135-10 ¶ 81.

206. The Finance Director had to coordinate with Williams to finalize the Department’s merit increases because Aresco and Nero went over budget and Nero refused to say how he planned to fund the overage despite a looming deadline. PX G, Chee-Wah Dep. 148:2-150:6, Ex. 9.

206. **Denied.** The phrases “coordinate . . . to finalize” and “looming deadline” are vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 206. Moreover, the cited evidence does not support the allegation that Chee-Wah “had to coordinate with Williams.” Rather, Chee-Wah testified that she needed Nero’s authorization—not Williams’s—because “agreement on the allocation of . . . funds from [Nero’s] operating budget up to his personnel budget . . . is something that [no one] has the authority to do without Nero’s weigh-in.” Ex. E-7 at 138:7–150:6.

207. Department staff continued to view Williams as an HR liaison and continued to go to her with HR Questions. PX I, Williams Decl. ¶¶ 82-83.

207. **Denied.** The phrase “Department staff continued to view Williams as an HR liaison” is speculative, vague, and ambiguous and unsupported by admissible evidence, and, on that basis, the University denies the allegations in Paragraph 207.

208. While Williams conducted five-year forecasting for the HR budget in the Fall of 2015, by the Fall of 2016, Nero later assigned Aresco to manage the Human Resources budget, which made Aresco responsible for the forecasting. PX I, Williams Decl. ¶ 86.

208. **Admitted In Part And Denied In Part.** The University admits only for purposes of summary judgment that Aresco was responsible for forecasting for the Human Resources budget. The University denies the remaining allegations in Paragraph 208 on the grounds that Williams did not do five-year budget forecasting, and Nero did not reassign any job duties from Williams to Aresco. Supp. Nero Decl. ¶¶ 31, 66.

209. Aresco struggled to understand the \$10,000 Human Resources budget, and Williams had to walk him through it. PX I, Williams Decl. ¶ 86.

209. **Denied.** The phrases “struggled to understand” and “had to walk him through it” are vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 209. The University also denies the allegations in Paragraph 209 on the grounds that Williams did not train Aresco to perform any job duties with respect to budgets. Supp. Nero Decl. ¶ 65.

210. Nero also briefly reassigned management of the Athletics Director, administration, and championship budgets to Aresco, but the reassignment did not last long because Aresco was unable to perform that function successfully. PX I, Williams Decl. ¶ 85.

210. **Denied.** Nero did not reassign any job duties from Williams to Aresco. In addition, Williams was not responsible for managing budgets. Rather, her budgetary responsibilities were limited to (1) collecting information for Nero or Chee-Wah, and (2) processing expenses. Supp. Nero Decl. ¶¶ 26, 66.

211. After briefly assigning Aresco the budgets mentioned above, by Fall 2016, Nero assigned them back to Williams, and Williams again managed those budgets, including handling the five-year forecasting. PX I, Williams Decl. ¶¶ 34, 85.

211. **Denied.** Nero did not reassign any job duties from Williams to Aresco. In addition, Williams was not responsible for managing budgets or conducting budget forecasting. Rather, her budgetary responsibilities were limited to (1) collecting information for Nero or Chee-Wah, and (2) processing expenses. Supp. Nero Decl. ¶¶ 26, 31, 66.

212. Defendant also briefly assigned Williams' duties planning team travel to Aresco, but those duties were also ultimately reassigned back to Williams. PX I, Williams Decl. ¶ 87.

212. **Denied.** Nero did not reassign any job duties from Williams to Aresco. Supp. Nero Decl. ¶ 66. Williams also at no time had responsibility for planning team travel. *Id.* ¶ 23.

213. University emails show that Aresco completed University paperwork providing basic details relating to the Japan trip; sent some questions on behalf of Nero; scheduled conference calls for Nero; and sent a draft contract for review. PX V, GWU 012141-012147; DX B-41-43.

213. **Admitted.**

214. According to that paperwork, the Japan trip was planned by the travel agency. PX V, GWU 012145 and GWU 012147; DX B-42 (filed under seal).

214. **Admitted.**

215. University emails show that Anthony Travel negotiated and coordinated on the University's behalf with the JBA regarding travel, transportation, and housing and meals for the student-athletes. PX W, GWU 021012-16.

215. **Admitted.**

216. University emails show that Anthony Travel received direction on the above items directly from Nero and from other Department personnel Klassy and Scott. *Id.*; PX DD, GWU RandomSample 039487-88; PX W, GWU 021012-13; PX Y, GWU 014348-49.

216. **Admitted In Part And Denied In Part.** The University admits that Nero responded to some of Anthony Travel's emails on threads on which Aresco—who was helping to plan the Japan trip—was copied. The University denies that the cited evidence supports the allegation that “Anthony Travel received direction . . . directly from . . . Klassy and Scott.” None of the cited exhibits contains emails from Klassy or Scott to Anthony Travel, although one does contain an email from Klassy to Nero that said “Mike [Aresco] and I have been following up with [Chee-Wah]” regarding “the agreement and payment,” and that “everything ha[d] been submitted to risk management and GC.” Dkt. 135-31 at 2 (GWU_024713).

217. University emails show that by early October 2015, Nero and the JBA had negotiated directly regarding the number of games to be played and the portion of revenue from ticket sales and other sources to which the University would be entitled. *Compare* PX X, GWU RandomSample 088289-92 with DX B-42 (filed under seal).

217. **Admitted.**

218. As with the management of budgets, Nero reassigned matters relating to the Japan trip back to Williams. PX I, Williams Decl. ¶ 87.

218. **Denied.** Nero did not reassign any job duties from Williams to Aresco or vice versa. In addition, Williams was not responsible for managing budgets. Rather, her budgetary responsibilities were limited to (1) collecting information for Nero or Chee-Wah, and (2) processing expenses. Supp. Nero Decl. ¶¶ 26, 66.

219. As Nero moved Aresco into the main administrative office Nero began to ask Williams to perform more menial tasks, including personal errands such as picking up his medication from a pharmacy, picking up his tuxedo from the dry-cleaner, getting him coffee and going to his home to wait for Comcast to hook up his cable. PX I, Williams Decl. ¶ 89.

219. **Denied.** The phrase “more menial tasks” is vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 219. The University further denies the allegations in Paragraph 219 on the grounds that Williams *volunteered* to run personal errands for Nero (Nero did not “ask” her to do so), and many of those errands took place prior to Aresco moving his office to the Athletics Department’s main office in the Smith Center in or around September 2015. Dkt. 113-1 ¶ 34; Dkt. 113-15 at EEOC000340, 348 (February and July 2015 offers to get coffee), EEOC000340 (February 2015 offer to bring Nero his jacket), EEOC000356 (August 2015 offer to go to and wait at Nero’s house for Comcast), and EEOC000363 (August 2015 offer to get Nero lunch).

220. Williams expressed concerns to Vogel that Nero was taking away her job responsibilities, but Vogel did not address her concerns. PX C, Vogel Dep. 208:12-23, 211:12-15.

220. **Admitted.**

221. In Fall 2015, the Finance Director saw that Nero was marginalizing Williams by reassigning her job duties to Aresco, which caused “high concern.” PX G, Chee-Wah Dep. 198:1-202:18; 205:1-4.

221. **Admitted In Part And Denied In Part.** The University admits that Chee-Wah testified that she had “high concern” based on her perception that Nero was “demonstrating use and reliance on Mike Aresco for things that were Sara’s duties.” The University denies the allegations in Paragraph 221 to the extent that they are offered to support the conclusion that Nero *did* “reassign[] [Williams’s] job duties” to Aresco, on the grounds that Chee-Wah was not Williams’s supervisor and lacked personal, firsthand knowledge of her duties or any reassignment, so Chee-Wah’s assertion that such a reassignment may have occurred is inadmissible hearsay to the extent offered to support the fact of a reassignment. *See* Univ. SMF ¶¶ 24–26; *see also* Fed. R. Evid. 802. The University further denies the remaining allegations in Paragraph 221 on the grounds that Nero did not reassign duties from Williams to Aresco, Supp. Nero Decl. ¶ 66, and on the grounds that the phrase “Nero was marginalizing Williams” is vague and ambiguous and involves a characterization or statement of opinion—rather than a fact—and therefore requires no response.

222. Nero directed Kayer and the Finance Director to go to Aresco for tasks that Williams previously performed, such as processing merit pool funds. PX G, Chee-Wah Dep. 201:1-202:9.

222. **Denied.** Nero did not reassign any job duties from Williams to Aresco. Supp. Nero Decl. ¶ 66.

223. Although Nero tried to reduce Williams’ role, the Finance Director had to hold Aresco’s hand because he did not know how to do the job, and when Aresco could not complete a task the Director gave it to Williams who resolved it. PX G, Chee-Wah Dep. 205:4-6; 253:4-255:2 (“what [Aresco] could not do [Williams] would knock out of the park, period, end of story.”).

223. **Denied.** The phrases “tried to reduce Williams’[s] role” and “had to hold Aresco’s hand” are vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 223. The University further denies the allegations in Paragraph 223 on the grounds that Nero did not reassign any job duties from Williams to Aresco. Supp. Nero Decl. ¶ 66. The University also denies the allegations in Paragraph 223 on the ground that the Finance Director did not supervise Aresco or Williams or have authority to assign either of them work. Univ. SMF ¶¶ 24–26; Dkt. 115-24 (Univ. Ex. C-23 at GWU_002377).

224. Aresco did not understand the job and was “lost” about what he was supposed to be doing, often leaving Chee-Wah to pick up the slack. PX G, Chee-Wah Dep. 253:19-254:18.

224. **Denied.** The phrases “did not understand the job,” “was ‘lost’ about what he was supposed to be doing,” and “leaving Chee-Wah to pick up the slack” are vague and ambiguous, and, on that basis, the University denies the allegations in Paragraph 224. The University further denies the allegation that “Aresco did not understand the job” on the grounds that the cited testimony from Chee-Wah does not constitute admissible evidence about what Aresco understood or did not understand.

225. Less than three weeks after Aresco officially began in the Special Assistant position, the Athletics Department tried to eliminate the Executive Assistant position. PX K, Kayer Dep. Ex. 10, p. 5.

225. **Denied.** The Athletics Department did not “tr[y] to eliminate” the executive assistant position. *See infra*, Univ.’s Add’l Facts ¶¶ 343–49.

226. In February 2016, Klassy met with Kayer and proposed eliminating Williams’ Executive Assistant position. PX K, Kayer Dep. 233-234, 238:2-19, Ex. 10, p. 5.

226. **Admitted In Part And Denied In Part.** The University admits that Kayer and Klassy had an in-person discussion in February 2016. The University denies the remaining allegations in Paragraph 226 on the grounds that Klassy did not propose eliminating Williams’ position. Rather, he stated: “We want to *look at* eliminating the Executive Assistant for the Athletics Director position. We are taking a look at positions that would be least impactful to our student-athletes and feel that this is an area we can cut. What information do you need from me to proceed?” Dkt. 135-21 at 120 (GWU_008566) (emphasis added); *see also infra*, Univ.’s Add’l Facts ¶¶ 346–47.

227. Kayer understood, based on this conversation, that Klassy had Nero’s approval to eliminate the Executive Assistant position. PX K, Kayer Dep. 235:16-236:15.

227. **Denied.** Paragraph 227 is not supported by the cited evidence. Kayer testified in the cited portions of the deposition transcript that she did not “recall” Klassy specifically telling her Nero had approved elimination of the executive assistant position. She stated only, “I do feel that it was with Patrick’s approval.” Dkt. 135-21 at 236:16–235:15.

228. Williams’ position was the only position the Athletics Department proposed eliminating at that time. PX K, Kayer Dep. 235:1-3.

228. **Denied.** Paragraph 228 is not supported by the cited evidence. Kayer did not testify that Williams's position "was the only position the Athletics Department proposed eliminating at that time." Rather, when asked "And that was the only position that [Klassy] discussed eliminating at that time," Kayer responded: "That's all that I can recall." Dkt. 135-21 at 235:1–3.

229. When the Athletics Department tried to eliminate Williams' position, the Finance Director and Kayer became more concerned. PX G, Chee-Wah Dep. 204:10-21; PX K, Kayer Dep. 239:4-241:20, 242:2-10.

229. **Denied.** The Athletics Department did not "tr[y] to eliminate Williams'[s] position." *See infra*, Univ.'s Add'l Facts ¶¶ 343–49.

230. When Nero tried to transfer Williams' responsibilities to Aresco and then tried to eliminate Williams once Aresco was in position, Kayer and Chee-Wah became further concerned that Nero was intentionally trying to replace Williams with Aresco. PX G, Chee-Wah Dep. 204:10-21; PX K, Kayer Dep. 239:4-241:20, 242:2-10.

230. **Admitted In Part And Denied In Part.** The University admits only for purposes of summary judgment that Chee-Wah had the perception that Nero was "transitioning all of Sara's duties to Mike . . . and I believe then putting Sara's position up for" possible elimination. Dkt. 135-8 at 204:10–21. The University denies that Kayer shared the same concern; this allegation is not supported by the cited testimony. Kayer testified she was "concerned" because a position elimination is "a tough thing in general" and she "was friends with Sara." Kayer also testified she was concerned because "we had just created the additional position of the special assistant." Dkt. 135-21 at 242:2–12. The University denies the remaining allegations in Paragraph 230. Nero did not reassign any job duties from Williams to Aresco. Supp. Nero Decl. ¶ 66. In addition, Nero did not "tr[y] to eliminate Williams." The EEOC states in other numbered paragraphs that the "Athletics Department" (rather than Nero) considered eliminating Williams's position. *See supra* ¶¶ 225, 228–29, 232–33; *see also infra*, Univ.'s Add'l Facts ¶¶ 343–49.

231. The Finance Director testified that Nero "transitioning all of Sara's duties to Mike ... [and] then putting Sara's position up for the RIF ... looks intentional." PX G, Chee-Wah Dep. 204.

231. **Admitted.**

232. The Athletics Department tried to eliminate Williams' position without following university protocol, meaning. PX G, Chee-Wah Dep. 208:1-212:10; PX K, Kayer Dep. 246:2-

248:10. The proposal was not included in the Department’s five-year plan, nor was it reviewed and vetted by other University departments, such as human resources, OGC, and the Provost’s office, nor was there any business rationale provided that would justify the elimination. *Id.*

232. **Denied.** The Athletics Department did not “propos[e]” eliminating or “tr[y] to eliminate Williams’[s] position.” *See infra*, Univ.’s Add’l Facts ¶¶ 343–49. The Department took only a preliminary “look at” eliminating the executive assistant position, and it had a legitimate business reason for doing so: “We are taking a look at positions that would be least impactful to our student-athletes and feel that this is an area we can cut.” Dkt. 135-21 at 120 (GWU_008566). In addition, the first sentence in Paragraph 232, which presumably was intended to explain the meaning of “without following [U]niversity protocol,” is incomplete, and, on that basis, the University denies the first sentence of Paragraph 232.

233. When the Athletics Department proposed eliminating Williams, the Finance Director asked that Williams come work for her when the opportunity presented itself because “[Williams] was fabulous;” she demonstrated trustworthiness, follow-up, follow-through, leadership and financial skills; and she could “manage and maintain internal controls.” PX G, Chee-Wah Dep. 238:19-239:10.

233. **Admitted In Part And Denied In Part.** The University admits that Chee-Wah testified that she would “take [Williams], because she was fabulous,” and that Chee-Wah would “have [Williams] provide support to whomever you delegate [budgetary] duties to because she demonstrated trustworthiness. She demonstrated follow-up and follow-through. She demonstrated leadership. She demonstrate[d] that she can work in spreadsheets. She can calculate. She demonstrated that she can manage and maintain internal controls.” Dkt. 135-8 at 239:2–10. The University denies, however, that Chee-Wah asked Williams to come work for her when the Athletics Department floated eliminating Williams’s position in February to March 2016 because that claim is not supported by the cited deposition testimony, which concerns an October 2016 PowerPoint discussing the creation of a Finance Associate position. *See* Ex. E-7 at 217:6–245:13; Dkt. 135-21 at 116–20 (GWU_008562–66). The University denies the remaining allegations of Paragraph 233 on the grounds that the Athletics Department did not “propose[] eliminating Williams” or the executive assistant position. *See infra*, Univ.’s Add’l Facts ¶¶ 343–49.

234. On 3/7/16, GW assistant men’s basketball coach Hajj Turner asked Williams to make a phone call to someone in athletics administration at Fordham University because he received an email from its head men’s basketball coach that he believed could indicate a hacked email account. PX J, Williams Dep. 251-255; PX I, Williams Decl. ¶¶ 100-101.

234. **Denied.** Turner told Nero that he (Turner) did not ask Williams to make this call. Supp. Nero Decl. ¶ 67.

235. At that time, Williams did not know the content of the email nor its subject matter. PX J, Williams Dep. 253:11-18, 254:1-5, 255:5-12, 258:4-8; PX I, Williams Decl. ¶ 103.

235. **Denied.** Nero overheard Williams talking about the substance of the email. Univ. SMF ¶ 312.

236. As Williams ended the call, Nero walked in, heard the very end of the call, and told Williams to get in his office along with Vogel. PX J, Williams Dep. 256-257; PX I, Williams Decl. ¶ 104.

236. **Admitted In Part And Denied In Part.** The University admits that Nero walked into the Athletics Department's office suite, heard the end of the call, and called Williams and Vogel into his office. The University denies that, by the time Nero walked into the office suite, Williams already was "end[ing] the call." Rather, he had to tell Williams to "please get off the call" and "[p]lease hang [up] the phone." Dkt. 115-13 at 148:10-12.

237. Nero was visibly angry and yelled at Williams, "what are you doing? I've had it up to here," while raising his hand over his head. PX J, Williams Dep. 257; PX I, Williams Decl. ¶ 105.

237. **Admitted** for purposes of summary judgment only.

238. Continuing to yell, Nero told Williams she shouldn't get involved in scandals and told her the email had contained scandalous accusations that Fordham's coach was engaged in some form of misconduct. PX J, Williams Dep. 255:5-12, 257:6-15; PX I, Williams Decl. ¶ 106.

238. **Admitted** for purposes of summary judgment only.

239. After Williams and Vogel left Nero's office, Vogel invited Williams into her own office. PX I, Williams Decl. ¶ 107.

239. **Admitted.**

240. At that time, Vogel noted that things were very challenging with Nero and that Williams' position didn't seem to be working for Williams or Nero. PX I, Williams Decl. ¶ 108.

240. **Denied.** Vogel expressly denied that she told Williams that Williams's position was not working. When asked "Did you tell her that 'getting along with this AD just wasn't working out for [Williams]," Vogel responded "No." Ex. E-2 at 208:9-11.

241. Vogel told Williams she should start applying for other jobs and thinking about her future in another position. PX E, EE00000260.

241. **Denied.** The University denies the allegations in Paragraph 241 on the grounds that the cited evidence (Williams's written request for an informal grievance hearing) is inadmissible hearsay to the extent that it is offered to support what Vogel allegedly told Williams. Additionally, when asked at deposition whether she had advised Williams to think about what she wanted to do next and start applying for other jobs, Vogel testified: "Not a chance." Ex. E-2 at 207:12-208:11.

242. Vogel told Williams stated that a man could go into the Athletics Director's office at the University and have one conversation and then a job is made for him, but that didn't happen for women. Id.

242. **Denied.** Vogel testified that she "never said" that a man could go into the Athletic Director's office and have a conversation and have a job made for him but that a woman could not. Ex. E-2 at 209:15-210:14.

243. Describing Vogel's statements to her on the matter, Williams testified that Vogel communicated to her an understanding that women in the industry were subjected to disparate treatment and unfair treatment compared to men. PX J, Williams Dep. 289:23-290:6.

243. **Admitted In Part And Denied In Part.** The University admits that Williams's deposition testimony contains the following quotation: "In that incident that you were talking about earlier today, you mentioned about March 7. Tanya Vogel, while in her office, had a real conversation with me and very specifically said that a man can walk into the director's office and have one conversation and then a job is created for him. That's not the same for women, and she wasn't happy about it." Dkt. 135-20 at 289:23-290:6. The University denies the remaining allegations in Paragraph 243 on the grounds that Vogel did not make the statements alleged. Ex. E-2 at 209:15-210:2.

244. When Nero yelled at Williams on 3/7/16 and Vogel suggested Williams find another job because of the discriminatory treatment women receive in athletics, it was the final incident that prompted Williams to file a request to initiate the University's Informal Grievance Process for EEO complaints. PX J, Williams Dep. 220:25-221:3; PX E, EE00000254-000261.

244. **Admitted In Part And Denied In Part.** The University admits that Nero raised his voice at Williams and that the scolding Nero gave Williams on March 7, 2016 instigated the filing of Williams's internal grievance. The University denies that Vogel suggested Williams "find another job because of the discriminatory treatment that women receive in athletics." When asked at deposition whether she had advised Williams to think about what she wanted to do next and start applying for other jobs, Vogel testified: "Not a chance." Ex. E-2 at 207:12–208:11.

245. Williams filed her internal grievance with University Equal Employment Opportunity & Employee Relations Executive Director Vickie Fair on 3/10/16. PX E, EE00000254-000261.

245. **Admitted.**

246. Williams described the 3/7/16 incident, including Nero's yelling and Vogel's comments that "a man can go into the director's office and have one conversation and then a job is made for him," but that doesn't happen for women and is "just the way this industry is." PX E, EE00000254-000261.

246. **Admitted In Part And Denied In Part.** The University admits that Williams's grievance contains the above quotations. The University denies that Williams's grievance accurately "described the 3/7/16 incident." Vogel denied telling Williams that "a man can go into the director's office and have one conversation and then a job is made for him," but that doesn't happen for women and is "just the way this industry is." Ex. E-2 at 209:15–210:14.

247. Williams further stated, "I believe I am being discriminated against due to my gender and fear that my job is in jeopardy." *Id.*

247. **Admitted.**

248. Williams elaborated that on 8/31/15, Nero announced that, "Mike Aresco will begin to transition responsibilities to more administration with facilities reporting to one of the Sr. Associate ADs once they begin," and since that time, Nero had been delegating Williams' responsibilities to Aresco even though he had less experience than Williams in managing a senior executive. *Id.*

248. **Admitted In Part And Denied In Part.** The University admits that the grievance contains the above quotation. The University denies that Williams "elaborated" that Nero had

been delegating Williams’s responsibilities to Aresco, or that he had been doing so “since [August 31, 2015].” Rather, the document, which speaks for itself, says: “Mr. Nero has been delegating my responsibilities to a white male with less experience than me in ‘managing a senior executive.’” PX EE at EEOC000260.

249. Williams also described the September 2015 conversation she had with Aresco wherein Aresco told Williams that Nero had promised him that he could have the then-developing Assistant Athletics Director of Administration position and that Williams should not apply for it because it would create “controversy” and “reflect poorly” on her. Id.

249. **Admitted In Part And Denied In Part.** The University admits that the grievance contains the quotations “controversy” and “reflect poorly.” The University disputes that the grievance accurately “described the September 2015 conversation [Williams] had with Aresco.” Univ. SMF ¶¶ 202–04.

250. Further, Williams described the October 2015 conversation she had with Mike Kohn wherein Kohn told Williams that because the move to the Assistant Athletics Director of Administration would be a “lateral” move for Aresco, Nero technically did not have to post the position but planned to post it “so it *seems* fair and transparent.” Id. (emphasis added).

250. **Admitted.**

251. Williams further stated the Nero was transitioning her work to Aresco, that she believed she was going terminated, and that Nero was trying to replace her with a male who had an inflated salary. Id.

251. **Admitted.**

252. In October 2016, while Williams’ grievance and EEOC charge were pending, [REDACTED], also filed a grievance “regarding pay inequity between [REDACTED] and Mike Aresco.” PX Z, GWU 007567
Reproduced-GWU 007573 Reproduced.

252. **Admitted.**

253. Unlike ██████'s grievance, Williams' grievance languished until January 6, 2017, when she received a one-page notice from "Equal Employment Opportunity & Employee Relations" informing her, "it has been concluded" that none of her claims of discrimination "could be substantiated." PX R, EE00000289.

253. **Admitted In Part And Denied In Part.** The University admits that, on January 6, 2017, the University's Equal Employment Opportunity & Employee Relations office sent Williams a letter, informing her that the investigation into her grievance—during which each of Williams's allegations had been "thoroughly reviewed"—had concluded and that none of her claims of discrimination could be substantiated. The phrase "Williams'[s] grievance languished" is vague and ambiguous and, to the extent it is not vague and ambiguous, is a characterization or opinion—not a fact—and the University denies the remaining allegations in Paragraph 253 on that basis.

254. Williams and ██████ were not the only women who experienced discrimination by Nero in the Athletics Department. PX K, Kayer Dep. 43:20-44:7.

254. **Denied.** The University denies this Paragraph on the grounds that it is a legal conclusion—not a fact—and therefore requires no response. The University further denies that Nero discriminated against Williams, ██████, or any other female University employee. *See* Nero Decl. ¶ 163.

255. For example, Kayer testified that during her tenure working with the Athletics Department, Nero refused to meet with her or provide responses to her. PX K, Kayer Dep. 36:21-44:20.

255. **Denied.** Kayer did not testify that Nero "refused" to meet with or provide responses to her; rather, she testified that she was "having trouble with . . . [b]eing able to meet with [Nero] to find out the direction he wanted to move for his decision-making," and that she generally "wasn't being able to create a relationship with Patrick." Dkt. 135-21 at 39:5–40:8. In addition, the University denies that Kayer's testimony is an "example" of discrimination, which, in any event, is a legal conclusion—not a fact—that is inappropriate for a statement pursuant to Local Rule 7(h).

256. Kayer's supervisor, Mike Kohn, had to step in on multiple occasions to get Nero to provide responses to Kayer. *Id.*

256. **Admitted In Part And Denied In Part.** The University admits that Kayer testified that she "remember[ed] Mike stepping in on occasion to get responses and results from Patrick."

Dkt. 135-21 at 38:18–20. The University denies the remaining allegations in Paragraph 256 on the grounds that the phrase “had to step in” is vague and ambiguous.

257. Kaye testified that Nero’s refusal to work with her was “because of gender.” PX K, Kaye Dep. 43:20-44:7.

257. **Denied.** Kaye did not testify that Nero refused to work with her; rather, she testified that she was “having trouble with . . . [b]eing able to meet with [Nero] to find out the direction he wanted to move for his decision-making,” and that she generally “wasn’t being able to create a relationship with Patrick.” Dkt. 135-21 at 39:5–40:8. Kaye also did not testify that Nero’s alleged refusal” to work with her was “because of gender.” She stated: “*My feeling* around that was because of gender.” Dkt. 135-21 at 43:20–44:7 (emphasis added). Kaye added that “it could be” because Nero did not “like HR. . . . I can’t say why he behaved the way he did.” Ex. E-4 at 57:18–60:19.

258. In Spring 2016, Kaye was transferred out of Athletics because she had “broken confidentiality with the client in athletics.” PX K, Kaye Dep. 34:19-36:5.

258. **Denied.** The University denies the allegation in Paragraph 258 on the grounds that Kaye did not testify she was transferred out of Athletics because she had broken confidentiality. Rather, in response to being asked “why did you transition away athletics,” Kaye said: “It had been an ongoing conversation about a potential move to support enrollment and retention. There was discussion about another client partner, HR rep, having a better relationship with Patrick Nero, and I had . . . been warned that I had broken confidentiality with the client in athletics and would be moving to support enrollment management.” Dkt. 135-21 at 35:17–36:5.

259. Alritz told Kaye that she had “broken confidentiality” by informing Williams that “[Williams] was not being considered for a position within HR because of her open concerns about equal employment . . . with our EEO office.” PX K, Kaye Dep. 47:5-16.

259. **Admitted** for purposes of summary judgment only.

260. The University reassigned Kaye’s work with the Athletics Department in large part to Mafona Shay, a male human resources worker, amidst “discussion about [Nero’s] reception to [Kaye] as a female and that Mafona may [sic] better results.” PX K, Kaye Dep. 37:6-38:9.

260. **Admitted In Part And Denied In Part.** The University admits that Mafona Shea is a male HR employee. The University denies the remaining allegations in Paragraph 260 on the grounds that the phrases “in large part” and “amidst discussion” are vague and ambiguous. The University further denies the remaining allegations in Paragraph 260 on the grounds that Kaye

testified she transitioned “some of [her] work” to Shea, and that she “remember[ed] giving some work to Patricia Garcia.” Dkt. 135-21 at 45:2–15.

261. Similarly, Chee-Wah experienced Nero’s discrimination during her time supporting the Athletics Department. PX G, Chee-Wah Dep. 26-31.

261. **Denied.** The University denies this Paragraph on the grounds that it is a legal conclusion—not a fact—and accordingly requires no response. The University further denies that Nero discriminated against Williams, Chee-Wah, or any other female University employee. *See* Nero Decl. ¶ 163.

262. From the beginning of her time working with the Athletics Department, Nero was “dismissive” with the Finance Director, avoided meeting with her, and tore up and threw away the financial reports she provided to him. PX G, Chee-Wah Dep. 26:9-27:17, 31:7, 32:10-19.

262. **Denied.** Nero did not avoid meeting with Chee-Wah, and the only budget reports that he threw in the trash were old iterations of reports that had contained errors. Supp. Nero Decl. ¶¶ 35, 37. The allegation that Nero was “dismissive” of Chee-Wah is a statement of opinion, not a fact capable of being proven true or false.

263. When the Finance Director told her superiors at the University about Nero’s behavior, she discovered that Nero had been “telling them that [she] wasn’t meeting with him, and he didn’t know what his numbers were, and he didn’t have insider information, but in actuality, he was avoiding meeting with [her].” PX G, Chee-Wah Dep. 32:10-19.

263. **Denied.** Nero did not tell Chee-Wah’s supervisors that she was not meeting with him or that she was not providing him with sufficient information about Department budgets, nor did Nero avoid meeting with Chee-Wah. Supp. Nero Decl. ¶¶ 35–36. The University further denies this Paragraph on the grounds that the cited testimony is inadmissible to the extent it is being offered to demonstrate what Nero allegedly was telling Chee-Wah’s supervisors. Dkt. 135-8 at 30:4–32:19.

264. The Finance Director testified that Nero engaged in these behaviors to “avoid accountability.” PX G, Chee-Wah Dep. 29:3-9.

264. **Admitted.**

265. The University assigned the Finance Director to oversee the Athletics Department to “attempt to engage with [Nero] to help get them on appropriate track and keep [her] eyes and

ears open for any inappropriate activity” because “[Nero] is very slick. He’s avoided a number of situations where he should have been held accountable.” PX G, Chee-Wah Dep. 29:10-31:3.

265. **Admitted In Part And Denied In Part.** The University admits that above quotations appear in Chee-Wah’s deposition testimony (subject to the clarification that “activity” should be “activities”). The University, however, denies both that it assigned Chee-Wah to oversee the Athletics Department or that it did so “because” Nero is “slick.” The cited testimony does not support the assertion that Chee-Wah was speaking on behalf of the University, nor does it support that Chee-Wah exercised any oversight authority over the Athletics Department. Chee-Wah testified only that her “up-line” asked her to “keep my eyes and ears open for any inappropriate activities,” without specifying what those alleged inappropriate activities might be. Dkt. 135-8 at 29:10–30:20.

266. University personnel told the Finance Director to “document everything” and “do not trust anything that [Nero] does or says.” PX G, Chee-Wah Dep. 29:18-31:3.

266. **Admitted In Part And Denied In Part.** The University admits Chee-Wah testified that her “up-line” told her “to document everything” and “[d]o not trust anything that [Nero] does or says.” The University denies the allegation to the extent that “personnel” is vague and ambiguous and might be understood to imply more than one person communicated this message.

267. The University knew about Nero’s discriminatory conduct from the beginning of his tenure as Athletics Director. PX AA, Warner Dep. 40:4-6, 44:4-45:5, 45:22-46:20, 67:4-19, 94:3-95:10.

267. **Denied.** Whether Nero engaged in “discriminatory conduct” is a legal conclusion—not a fact—and therefore requires no response. Regardless, the University denies that Nero discriminated against Williams or any other female University employee. *See* Nero Decl. ¶ 163.

268. Mary Jo Warner worked in the Athletics Department for more than thirty years and served as a Senior Associate Director of Athletics for more than 20 years of her tenure. PX AA, Warner Dep. 11:9-12:18.

268. **Admitted.**

269. Warner “loved” her job until she began working with Nero, who began to slowly strip away her duties. PX AA, Warner Dep. 31:21-34:2.

269. **Denied.** Warner testified that she “loved” her job, not that she loved it until she began working with Nero. Dkt. 140-25 at 32:9–17. Nero also did not “strip away” Warner’s duties. Rather, he implemented a sport administrator system. Supp. Nero Decl. ¶¶ 6–8.

270. Nero reduced the number of sports she oversaw by more than half and changed the reporting structure, reducing Warner’s number of direct reports. PX AA, Warner Dep. 31:21-34:2.

270. **Admitted.**

271. In June 2013, Nero asked Warner when she planned to retire and told her that he would “take [her] title and [her] compensation.” PX AA, Warner Dep. 29:8-30:5.

271. **Denied.** Nero never asked Warner when she was planning to retire, and he never told her that he would “take her title and her compensation.” Supp. Nero Decl. ¶ 9.

272. ██████ lodged multiple complaints with the University regarding Nero’s treatment of her, including a grievance with the University’s EEO office. PX AA, Warner Dep. 40:4-6, 44:4-45:5, 45:22-46:20, 67:4-19, 94:3-95:10.

272. **Admitted.**

273. In one of her complaints, she sent her email directly to Steven Lerman, the University’s Vice President/Provost at the time. PX AA, Warner Dep. 67:4-13.

273. **Admitted** for purposes of summary judgment only.

274. Lerman never responded to ██████’s email or otherwise addressed ██████’s complaint with her. PX AA, Warner Dep. 67:4-19.

274. **Admitted** for purposes of summary judgment only.

275. Despite Defendant’s knowledge of Nero’s treatment of women who worked in the Athletics Department, Defendant permitted Nero to remain in his position until it received an anonymous tip that Nero’s conduct would be made public. PX P, Nero Dep. Ex. 32.

275. **Denied.** This Paragraph is not supported by any admissible evidence. The Deadspin article that is the only citation for this Paragraph constitutes inadmissible hearsay to the extent that it is offered to demonstrate any conduct on the part of Nero.

276. In October 2017, someone sent an anonymous tip to the University alleging that Nero had, according to a Deadspin article about the incident, “become the talk of the recruiting world for being a sexually aggressive creep.” PX P, Nero Dep. Ex. 32 at p. 25.

276. **Denied.** This Paragraph is not supported by admissible evidence. The Deadspin article that is the only citation for this Paragraph is inadmissible hearsay to the extent that it is offered to demonstrate any conduct on the part of Nero.

277. The University asked for proof of Nero’s misconduct, and the person responded with a description of Nero making “several vulgar signs” and “walk[ing] over to a male student . . . who is sitting alone in a chair. P. Nero mounts/straddles the student and simulates sexual act. The original video has a label that says ‘Call the police.’ PX P, Nero Dep. Ex. 32 at p. 26.

277. **Denied.** This Paragraph is not supported by any admissible evidence. The Deadspin article that is the only citation for this Paragraph is inadmissible hearsay to the extent that it is offered to demonstrate any conduct on the part of the University.

278. On 10/25/17, the University asked to see the photographs and videos. PX P, Nero Dep. Ex. 32 at p. 26.

278. **Denied.** This Paragraph is not supported by any admissible evidence. The Deadspin article that is the only citation for this Paragraph is inadmissible hearsay to the extent that it is offered to demonstrate any conduct on the part of the University.

279. The person agreed to produce the materials only upon a guarantee of “anonymity, protection from reprisal from Nero, and a commitment from the school to follow up on the accusations,” according to the article about the incident. PX P, Nero Dep. Ex. 32 at p. 27.

279. **Denied.** This Paragraph is not supported by any admissible evidence. The Deadspin article that is the only citation for this Paragraph is inadmissible hearsay to the extent that it is offered to demonstrate what an anonymous “person” allegedly agreed to “produce” to the University.

280. The University provided such assurances, and the person provided the materials. PX P, Nero Dep. Ex. 32 at p. 27.

280. **Denied.** This Paragraph is not supported by any admissible evidence. The Deadspin article that is the only citation for this Paragraph is inadmissible hearsay to the extent that it is offered to demonstrate what an anonymous “person” allegedly did or what “assurances” the University allegedly “provided.”

281. On 11/17/17, the University’s general counsel’s office told the person that they “were able to access” what the person had sent and then told the person that there would be no additional updates provided about the investigation. PX P, Nero Dep. Ex. 32 at p. 27.

281. **Denied.** This Paragraph is not supported by any admissible evidence. The Deadspin article that is the only citation for this Paragraph is inadmissible hearsay to the extent that it is offered to demonstrate what the University allegedly told an anonymous person.

282. The materials provided by the person, according to Deadspin, showed a video of Nero “straddl[ing a] . . . much younger guy” and while on top of him “look[ing] back at the camera and wag[g]ing his tongue between his index and middle fingers, the international gesture among cads for cunnilingus,” as well as “another photo . . . show[ed] Nero sitting at a table making the same tongue-between-the-fingers gesture.” PX P, Nero Dep. Ex. 32 at p. 27.

282. **Denied.** This Paragraph is not supported by any admissible evidence. The Deadspin article that is the only citation for this Paragraph is inadmissible hearsay to the extent that it is offered to demonstrate any conduct on the part of Nero. Additionally, Magistrate Judge Harvey already ruled that this video is “probative of nothing relevant to this case.” Dkt. 53 at 41 n.14.

283. On 11/27/17, and again on 12/10/17, the person messaged the University with concern that Nero was still “on the job” and informing the University that the material would “not stay off widespread internet/media for much longer.” PX P, Nero Dep. Ex. 32 at p. 28.

283. **Denied.** This Paragraph is not supported by any admissible evidence. The Deadspin article that is the only citation for this Paragraph is inadmissible hearsay to the extent that it is offered to demonstrate what an anonymous “person” allegedly told the University.

284. Nero announced his resignation eight days after the 12/10/17 message. PX P, Nero Dep. Ex. 32 at p. 2, 28-29.

284. **Denied.** This Paragraph is not supported by any admissible evidence. The Deadspin article that is the only citation for this Paragraph is inadmissible hearsay to the extent that it is offered to demonstrate any conduct on the part of Nero.

285. Williams asked for promotional opportunities in the Athletics Department, but while she was in that Department Defendant did not promote her or reclassify her to a stream with higher earning potential. PX S, Alrutz Dep. 160:10-163:25, Ex. 13; PX J, Williams Dep. 291-96, Ex. 21.

285. **Admitted.**

286. The Special Assistant position was reclassified without any change in duties on May 31, 2016. PX S, Alrutz Dep. 160:10-163:25, Ex. 13; PX Q, Fair Dep, Ex. 12.

286. **Denied.** The Special Assistant position was not reclassified in May 2016. Univ.'s Add'l Facts ¶¶ 338–42.

287. Because Aresco was reclassified as Special Assistant, he had the opportunity to earn a higher salary. Id.

287. **Denied.** The Special Assistant position was not reclassified while Aresco held the position. Univ.'s Add'l Facts ¶¶ 338–42.

288. The Special Assistant position was reclassified on May 31, 2016. PX S, Alrutz Dep. 160:10-163:25, Ex. 13.

288. **Denied.** The Special Assistant position was not reclassified in May 2016. Univ.'s Add'l Facts ¶¶ 338–42.

289. When the Special Assistant position was reclassified Aresco gained higher earning potential without having to compete or apply for it. PX J, Williams Dep. 283:18-285:22; PX S, Alrutz Dep. Ex. 13.

289. **Denied.** The Special Assistant position was not reclassified in May 2016. Univ.'s Add'l Facts ¶¶ 338–42.

290. Because Aresco was reclassified, he had the opportunity to advance to higher level positions. PX K, Kayer Dep. Ex. 9 at GWU 001019.

290. **Denied.** The Special Assistant position was not reclassified in May 2016. Univ.’s Add’l Facts ¶¶ 338–42. The University further denies the allegations in Paragraph 290 on the ground that they are unsupported by the cited evidence. The exhibit, a position description for “Special Assistant, Athletics,” indicates that the position has the class code DC321 (Management Stream, Level 2). But this position description was no longer operative when Aresco became Special Assistant. Indeed, it has a “Last Review Date” of December 1, 2015—*i.e.* more than one month before the Special Assistant position was posted. Dkt. 135-21 at 115 (GWU_001019); Univ. SMF ¶ 188. The position description was updated before the University posted the position. *See* Dkt. 135-29 at 38 (GWU_059229) (“Last Updated At was changed from ‘2015-12-01 . . .’ to ‘2016-01-04’”). And at the time the position was posted, the position’s classification code was CC221 (Individual Contributor, Level 2); *see also* GWU_000776–77 (Special Assistant job posting listing position as Individual Contributor, Level 2).

291. Aresco would not have had the opportunity to earn a higher salary as Special Assistant if the University had not reclassified his position in May 2016. PX K, Kayer Dep. 231--233, Ex. 9.

291. **Denied.** The Special Assistant position was not reclassified in May 2016. Univ.’s Add’l Facts ¶¶ 338–42.

292. The reclassification required supervising a minimum of 2 other full-time staff, which Aresco admitted he did not do as Special Assistant. PX F, Hess Ex. 1, p. 3; PX D, Aresco Dep. 269:13-270:4, Ex. 19, p. 2.

292. **Admitted In Part And Denied In Part.** The University admits that Aresco did not supervise two or more full-time staff. The University otherwise denies the allegations in Paragraph 292 on the grounds that the Special Assistant position was not reclassified in May 2016. Univ.’s Add’l Facts ¶¶ 338–42.

293. When Senior Associate Athletic Director Ed Scott left the University in Fall 2016, his responsibilities had to be reassigned, including his responsibility, as sport administrator for men’s basketball, in overseeing the men’s basketball budget, which Nero asked Williams to assist with. PX J, Williams Dep. 291-292, Ex. 21 at GWU 001423.

293. **Admitted.**

294. As Senior Associate Athletics Director, Scott had been responsible for staff and student-athlete development, including life skills. PX J, Williams Dep. 291:2-292:9, Ex. 21.

294. **Admitted.**

295. Williams emailed Nero and proposed a reclassification of Scott's former position as Senior Associate Athletics Director to create a new Assistant Athletics Director for Staff and Student-Development role encompassing gaps left by Scott's departure. PX J, Williams Dep. 292:10-296:5, Ex. 21 at GWU 001423.

295. **Denied.** Creating a new position is not the same as a "reclassification." *See, e.g.*, Dkt. 135-7 at 50. The University further denies the allegations in Paragraph 295 on the grounds that the cited email that Williams sent Nero does not request a reclassification or refer to Scott's former position at all; instead, Williams requested that Nero create an entirely "new role as Assistant AD for Staff and Student-Athlete Development." Dkt. 135-20 (p. 234).

296. Williams knew that Aresco had been given an Assistant Athletics Director for Administration position that had not previously existed and seemed to be a reclassification of the Associate Athletics Director for Administration job that had been vacated by Hamluk. PX J, Williams Dep. 292:10-296:5, Ex. 21 at GWU 001423.

296. **Denied.** Aresco was not "given an Assistant Athletics Director for Administration position." Rather, Aresco applied for and was selected to be the Department's Special Assistant, Univ. SMF ¶¶ 207, 215, which was also referred to as Assistant Athletics Director for Administration, *id.* ¶ 191. The University also denies the allegations in Paragraph 296 on the ground that Williams's subjective perception that the Assistant Athletics Director for Administration job "seemed to be a reclassification" reflects a subjective value judgment not capable of being proven true or false.

297. As Aresco had done when Nero had offered him a promotion to Assistant Athletics Director in Fall 2014, Williams pointed out to Nero that she had been taking on more and more additional duties in recent months, at Nero's request, and that she would like to be recognized for that with additional compensation. PX J, Williams Dep. Ex. 21.

297. **Admitted In Part and Denied In Part.** The University admits that Williams wrote in the cited email that "I am happy to take on these additional responsibilities and would like to continue to grow professionally, but feel it should be accompanied with additional compensation." The University denies that Aresco had "pointed out to Nero that []he had been taking on more and more duties in recent months" "when Nero had offered him a promotion." Rather, Aresco told Nero that he had a job offer at another institution and, in order to get Aresco to stay, Nero offered Aresco a promotion, which Aresco accepted. Dkt. 114-1 ¶¶ 20-24; Supp. Nero Decl. ¶ 11.

298. Williams noted that Nero had asked her, that day, to assist the men's basketball Director of Basketball Operations with managing the men's basketball budget, and further noted her increased responsibilities, her management of 3 other budgets accounting for over 1.5 million dollars in operating expenses, her coordination of staff development activities, and her contract management work. PX J, Williams Dep. Ex. 21.

298. **Admitted.**

299. Williams also noted that in previous roles, when she had been responsible for budgets as large as the ones she was managing at the University, there was "a significant salary difference." PX J, Williams Dep. Ex. 21.

299. **Admitted.**

300. Nero did not respond by offering Williams a promotion, as he had done for Aresco; instead, he ignored her and never responded. PX J, Williams Dep. 298:14-19.

300. **Admitted In Part And Denied In Part.** The University admits that Nero did not respond to Williams's email that appears as Ex. 21 to the Williams deposition. The University denies that Nero "ignored" the email, which he forwarded to Human Resources, seeking advice on how to respond. Univ. SMF ¶ 106. The University also denies that Aresco received a promotion in response to an email to Nero requesting one. *See* Supp. Nero Decl. ¶ 11; Dkt. 114-1 ¶¶ 21-24.

301. In the fall of 2016, while Williams' grievance was pending, the Athletics Department was audited by Baker Tilly. DX C-23, ECF No. 115-4, at GWU 002384.

301. **Denied.** The University denies the allegations in Paragraph 301 on the grounds that "while Williams'[s] grievance was pending" is unsupported by the cited evidence and is, in any event, inaccurate. Williams filed her request for informal grievance hearing on March 10, 2016. Univ. SMF ¶ 315. Baker Tilly audited the Athletics Department in late 2015 and early 2016. *See, e.g.*, Ex. E-18 (August 2015 email scheduling meeting for then-upcoming audit); Ex. E-19 at GWU_004611 (July 2016 email stating "the Baker Tilly Audit . . . was conducted earlier this year"). To the extent the EEOC intended to refer to the University's own "desk audit" of certain positions in the Athletics Department that happened *after* the Baker Tilly audit, the University admits that the desk audit was conducted while Williams's grievance was pending.

302. The “primary goal of the Desk Audit was to understand the current fiscal responsibilities and over functions of the position in relation to desired/clarified fiscal duties, and how it impacts the position.” DX C-23, ECF No. 115-4, at GWU 002384.

302. **Admitted**, subject to the clarification that the document is misquoted. The document actually said: “The primary goal of the Desk Audit was to understand the current fiscal responsibilities and overall functions of the position in relation to desired/clarified fiscal duties, and how it impacts the position.” Dkt. 115-24 at GWU_002384 (emphasis added).

303. “The desired outcome [was] to: ensure all impacted fully understand their financial stewardship responsibilities; identify any training necessary to make them successful with their roles; ensure that positions are properly classified and compensated for these roles; and identify any additional headcount that is necessary to support financial stewardship within the department.” DX C-23, ECF No. 115-4, at GWU 002384.

303. **Admitted.**

304. Audit findings in October 2016 described the sports administrators’ responsibilities, which include:

- Works with [the respective] Head Coach and Finance Director to develop budgets, financial projects, as well as business cases for recurrent and new activity
- Responsible for the Department’s financial performance and oversee department financial controls:
 - Manages department activities within budget limits
 - Reviews and approves expenditures
 - Assures expenses incurred are allowable, reasonable, and allocable to the department
- Understands the Departments income and expenditure
- Upholds the University’s policies and procedures
- Engages in long-term financial planning for the future direction of the department

DX C-23, ECF No. 115-4, at GWU 002386.

304. **Admitted**, subject to the clarification that, to the extent Paragraph 304 purports to quote the cited document, “oversee” should be “oversees.”

305. Those identified as sports administrators concurred with those responsibilities. DX C-23, ECF No. 115-4, at GWU 002387.

305. **Admitted.**

306. As a result of the Baker Tilley Audit, it was recommended, and ultimately agreed upon, that a “Finance Associate” position be created. DX C-23, ECF No. 115-4, at GWU 002390.

306. **Denied.** No Finance Associate position was recommended to be created as a result of the Baker Tilly audit. To the extent the EEOC intended to refer to the desk audit conducted by University HR, the University admits that one of the recommendations was that a Finance Associate position be created. The University denies the remaining allegations of Paragraph 306 on the grounds that they are not supported by the cited evidence, which says only that “a Finance Associate position description ha[d] been created.” Dkt. 115-24 at GWU_002390 (emphasis added).

307. The Baker Tilley Audit also found that Williams was “currently perform[ing] many aspects of the Finance Associate role.” DX C-23, ECF No. 115-4, at GWU 002391.

307. **Denied.** The Baker Tilly audit did not find that Williams was performing many aspects of the Finance Associate role. To the extent the EEOC intended to refer to the desk audit conducted by University HR, admitted.

308. It was recommended that Williams, along with two other positions, be reclassified to Finance Associates. DX C-23, ECF No. 115-4, at GWU 002392.

308. **Admitted.**

309. The “typical hiring range” for the Finance Associate position was set at \$49,000 - \$67,000, the same as the typical hiring range that was set for the Special Assistant position in January 2016. DX C-23, ECF No. 115-4, at GWU 002390; PX S, Alrutz Dep., Ex. 13.

309. **Admitted.**

310. Considering the “financial impact” of the Baker Tilley Audit, it was recommended that Williams’ position be paid \$49,000—the lowest end of the “typical hiring range”—but a 19% increase, or \$9,098 more than she was then being paid by Defendant. DX C-23, ECF No. 115-4.

310. **Admitted**, subject to the clarification that the recommendation came out of the University's own desk audit, not the Baker Tilly audit.

311. It was further recommended that Williams, along with the two other identified employees, receive "bonuses with merit" because they were "performing many of the Finance Associate responsibilities." DX C-23, ECF No. 115-4, at GWU 002392.

311. **Admitted.**

312. Ultimately, both Jamie Mera and Brenda Devaughn received these bonuses "for July 1 — November 30, 2016", as confirmed by the Vice Provost for Budget and Finance Rene O'Neal. PX BB, GWU 033231.

312. **Admitted** for purposes of summary judgment only.

313. Williams, however, did not receive any bonus. Id.

313. **Admitted.**

314. On December 12, 2016, Williams left the Athletics Department and began working in Defendant's Business Management and Analysis Group. PX J, Williams Dep. 298:20-299:9.

314. **Admitted.**

315. Effective March 31, 2017, Aresco resigned his employment with the University. PX S, Alrutz Dep. 191:21-192:10, Ex. 13, p. 2.

315. **Admitted.**

316. In August 2017, the Special Assistant position was "repurposed" so that the budget for the vacant position was used to fill an "Administrative Assistant III" position instead of a "Special Assistant" position. PX S, Alrutz Dep. 193:13-196:7, Ex. 13, p. 1-2.

316. **Admitted In Part And Denied In Part.** The University admits that, in August 2017, the position held by Aresco was vacant, and that it was repurposed and reclassified based on new job duties. The University further admits that divisions of the University sometimes "repurposed" jobs in order to simply reallocate previously approved budget funds rather than abolish a position, create "a new head count," and seek to fund that "new head count." The University denies the remaining allegations in Paragraph 316 on the grounds that they are

unsupported by the cited evidence, which does not shed light on why the position held by Aresco was repurposed.

317. While a new job description was created for the Administrative Assistant III position that removed, from the old Special Assistant job description, references to “high-level” administrative support and “lead[ing]” the administrative function of the Office of the Athletics Director, the Administrative Assistant III job description continued to described duties that were performed by Aresco and Williams. PX S, Alruz Dep. 193:13-194:23, Ex. 13, p. 2.

317. **Denied.** The University denies that “a new job description was created.” Rather, as part of the repurposing and reclassification based on new job duties, Ex. E-6 at 193:13–194:23, the job description summary—which speaks for itself—was updated. *See* Dkt. 135-29 at 38 (GWU_059229). The University denies the remaining allegations of Paragraph 317 on the grounds that they are not supported by the cited testimony, which does not purport to say what job duties Aresco or Williams performed. To the extent the EEOC claims that the description “continued to described [sic] duties that were performed by Aresco and Williams,” that is an argument—not a fact—and, accordingly, requires no response.

318. When the position was repurposed from a Special Assistant to an Administrative Associate III, it also was reclassified to a step down within the University’s classification structure, with a lower typical hiring range. PX S, Alruz Dep. 194:12-23, 196:8-198:25, Ex. 13, p. 2.

318. **Admitted.**

319. The new typical hiring range for the Administrative Associate III position was an hourly rate of \$19.88 to \$25.87 (annualized to roughly \$41,350 to \$53,809 per year). PX S, Alruz Dep., Ex. 13.

319. **Admitted** for purposes of summary judgment only.

320. Ultimately, Shatara Stokes, a woman, was hired for the Administrative Associate III position, and Nero described her as his Executive Assistant. PX S, Alruz Dep. 203:6-11; PX P, Nero Dep. 166:19-25.

320. **Admitted.**

THE UNIVERSITY'S ADDITIONAL FACTS

The University's Classification Of The Special Assistant And Executive Assistant Roles

321. Beginning in or around November 2015, the University began implementing its “Career Path program.” Ex. E-5 at 18:7–16.

322. “Career Path” is the University’s job classification structure. *Id.*

323. Classifications, not titles, determine the available pay ranges for a position. *Id.* at 113:12–13.

324. Each classification has three available pay ranges that are based on the amount of experience relative to the minimum qualifications of a job: entry, emerging, and expert. Dkt. 135-7 at 65:6–10, 100:16–101:7.

325. The “entry range is for candidates that have zero to two years of experience over the minimum qualifications.” *Id.* at 100:21–101:1.

326. The “[e]merging range is typically for candidates that have between two and six years of experience over the minimum qualifications.” *Id.* at 101:2–4.

327. The “expert range is typically for candidates that have six or more years of experience over the minimum qualifications.” *Id.* at 101:4–7.

328. A job’s “classification code” is a “unique identifier for each classification” made up of two letters (job family and subfamily, respectively) and three numbers (“stream,” “level,” and full- or part-time status, respectively). Ex. E-5 at 31:6–13; Ex. E-6 at 196:8–198:4.

329. There are four different “streams”: Executive, Management, Individual Contributor, and Service and Support. Ex. E-5 at 21:4–11; *see also* Dkt. 135-7 at 45 (Ex. 1 to Hess Dep. at 3).

330. Within each “stream,” there can be multiple levels, which “indicate the general mastery required to fill positions at that level.” Dkt. 135-7 at 46 (Ex. 1 to Hess Dep. at 4); Ex. E-5 at 42:1–13.

331. The classification code for the Special Assistant, Athletics position was—from the time the job opening was posted until after Aresco left the University—CC221, which corresponded to Administration, Administrative/Operations, Individual Contributor, Level 2, full-time. *See* Dkt. 135-29 at 38–39 (GWU_059229–30); Ex. E-6 at 197:3–23.

332. By contrast, the classification code for the Executive Assistant position was—from the time Career Path was implemented until after Williams left the Department—CC211, which corresponded to Administration, Administrative/Operations, Individual Contributor, Level 1, full-time. *See, e.g.*, Ex. E-15.

333. In other words, whereas the Special Assistant role was an Individual Contributor, Level 2 position, the Executive Assistant position was an Individual Contributor, Level 1 position, meaning there was more “general mastery” required to fill the Special Assistant position than there was the Executive Assistant position. Dkt. 135-7 at 46 (Ex. 1 to Hess Dep. at 4); Ex. E-5 at 42:1–13.

The University’s EEO Office Evaluated And Approved Aresco’s Hiring Proposal

334. When the University’s Equal Employment Opportunity (“EEO”) Office received a hiring proposal for a job for which there were fewer than 3 applicants, it conducted an “audit analysis” by “engag[ing] in conversations with the HR Business Partner.” Dkt. 140-21 at 164:19–165:15.

335. After the EEO Office received the hiring proposal for Aresco to fill the Special Assistant position, it had conversations with HR regarding the hiring proposal because there were fewer than three people in the applicant pool. Dkt. 140-21 at 165:16–167:6.

336. Other than the size of the applicant pool, there were no other EEO “concerns regarding Mr. Aresco’s hiring proposal,” including his proposed salary. *See id.* at 167:7–9.

337. After the EEO Office spoke with HR and confirmed that there had only been one candidate for the job, the EEO Office approved Aresco’s hiring proposal. *See* Dkt. 115-30 at GWU_005890–91; Dkt. 140-21 at 167:18–169:5.

The Special Assistant Position Was Not Reclassified While Aresco Held The Position

338. When the Special Assistant position was posted in January 2016, its classification was “CC221.” Dkt. 135-29 at 39 (GWU_059230).

339. When, in May 2016, the position description was updated to change its title, the classification code did not change. *See id.* at 38 (GWU_059229).

340. If there had been any change made to the position other than to its title, that change would have shown up in the People Admin7 system. Ex. E-6 at 190:1–191:13.

341. The classification code did not change until after Aresco had left the University. Dkt. 135-29 at 38–39 (GWU_059229–30)

342. In other words, the Special Assistant position was classified as “CC221” (corresponding to Individual Contributor, Level 2) the entire time that Aresco held the position. *See id.*

The University Did Not Try To Eliminate Williams’s Position

343. Nero did not recall ever having a specific discussion regarding the potential elimination of the executive assistant position. Ex. E-3 at 137:3–17.

344. Nero did not remember “discussing getting rid of Sara with anyone.” *Id.* at 138:3–5.

345. Nero thinks he might have “consider[ed]” eliminating the executive assistant position for budgetary reasons after Williams left the position. *Id.* at 137:19–24 (“[W]e were facing a 20 percent budget cut, so there may be a time where we talked about lots of positions. We downsized in staff across the board.”).

346. On March 2, 2016, Senior Associate Athletics Director Garrett Klassy emailed Kaithlyn Kayer, saying, “we want to look at eliminating the Executive Assistant for the Athletics Director position. We are taking a look at positions that would be least impactful to our student-athletes and feel that this is an area we can cut. What information do you need from me to proceed?” Dkt. 135-21 at 120 (GWU_008566).

347. Klassy’s email was not a proposal to eliminate the executive assistant position, but, rather, a request “for more information on what a process would be like” as the Athletics Department “consider[ed] to look at positions that would be least impactful to their unit.” Ex. E-6 at 92:19–94:2.

348. At the time, the Athletics Department was “doing a holistic review” of where it could cut spending and “was not singling out positions.” *Id.* at 97:18–22.

349. “There was no request to eliminate” the executive assistant position. *Id.* at 95:6–96:19. Rather, Finance Director “Rosemarie Sanchez Chee-Wah and [University Vice Provost for Budget & Finance] Rene Stewart O’Neal ha[d] jumped to conclusions” when they characterized Klassy’s request for information as a request to eliminate a position. *Id.* at 95:6–96:19.

The 2016 Desk Audit

350. The findings of the 2016 Desk Audit—and, therefore, recommendations flowing therefrom—were not finalized until December 2016. *See* Ex. E-20; Dkt. 140-26.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

v.

THE GEORGE WASHINGTON
UNIVERSITY,

Defendant.

Case No. 17-cv-1978 (CKK)

**INDEX OF EXHIBITS SUBMITTED IN SUPPORT OF
DEFENDANT THE GEORGE WASHINGTON UNIVERSITY'S
MOTION FOR SUMMARY JUDGMENT**

<u>Exhibit</u>	<u>Dates(s)</u>	<u>Description</u>	<u>Bates Range</u>
D	2/17/2023	SUPPLEMENTAL DECLARATION OF P. NERO	N/A
1	8/22/2016	Game Contract with New Jersey Institute of Technology	GWU_058842
2	4/20/2016	Email from S. Williams to P. Nero	GWU_044424
3	10/11/2016	Email from S. Williams to P. Nero et al.	GWU_009907–GWU_009909
4	10/4/2014	Email from P. Nero to S. Williams	GWU_005949–GWU_005950
5	2/27/2015	Email from P. Nero to S. Williams	GWU_019125–GWU_019126
6	10/14/2015	Email from P. Nero to S. Williams	GWU_005453–GWU_0054554
7	2/5/2016	Email from P. Nero to M. Aresco et al.	GWU_014586
8	12/16/2014	Email from S. Williams to P. Nero et al.	GWU_013149–GWU_013150
9	12/19/2014	Email from P. Nero to S. Williams	GWU_020089
E	2/17/2023	SUPPLEMENTAL DECLARATION OF M. SAPPINGTON	N/A
1	3/4/2021	Excerpts from Deposition Transcript of S. Williams	N/A
2	3/16/2021	Excerpts from Deposition Transcript of T. Vogel	N/A
3	3/25/2021	Excerpts from Deposition Transcript of P. Nero	N/A

<u>Exhibit</u>	<u>Dates(s)</u>	<u>Description</u>	<u>Bates Range</u>
4	3/31/2021	Excerpts from Deposition Transcript of K. Kayer	N/A
5	4/5/2021	Excerpts from Deposition Transcript of A. Hess	N/A
6	4/7/2021	Excerpts from Deposition Transcript of S. Alrutz	N/A
7	4/8/2021	Excerpts from Deposition Transcript of R. Sanchez	N/A
8	July 2016– Aug. 2016	Email Exchange Between S. Williams and R. Garibay	GWU_RandomSample_017929– GWU_RandomSample_017930
9	9/27/2016	Email from S. Williams to J. Raymond	GWU_RandomSample_017113
10	June 2016– Sept. 2016	Email Exchange Between S. Williams and T. Wiggins et al.	GWU_011703–GWU_011718
11	Sept. 2016	University Procurement Form and Associated Contract with Marriott	GWU_004409–GWU_004414
12	5/3/2016	Email from S. Williams to A. Julien et al.	GWU_027631–GWU_027632
13	5/3/2016	Email from S. Williams to D. Henry et al.	GWU_028995
14	2/3/2017	Email from P. Nero to M. Joseph and attachment	GWU_032292–GWU_032296
15	Printed on 9/28/2016	Job Description - Executive Assistant to the Director of Athletics and Recreation	GWU_001008–GWU_001011
16	2/12/2016	Email from S. Williams to P. Nero et al. and attachment	GWU_044000–GWU_044001
17	12/17/15	Email from S. Williams to M. Aresco et al.	GWU_029434
18	8/25/2015	Email from S. Williams to P. Nero	GWU_017818–GWU_017819
19	July 2016– Aug. 2016	Ex. 8 to Alrutz Dep.	GWU_004606–GWU_004614
20	Dec. 2016	PowerPoint Containing Desk Audit Findings	GWU_007662–GWU_007686