

1 ROBERTA L. STEELE, SBN 188198 (CA)
2 MARCIA L. MITCHELL, SBN 18122 (WA)
3 AMI SANGHVI, SBN 4407672 (NY)
4 U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
5 San Francisco District Office
6 450 Golden Gate Ave., 5th Floor West
7 P.O. Box 36025
8 San Francisco, CA 94102
9 Telephone No. (415) 522-3071
10 Fax No. (415) 522-3425
11 ami.sanghvi@eoc.gov

12 *Attorneys for Plaintiff EEOC*

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

15 U.S. EQUAL EMPLOYMENT
16 OPPORTUNITY COMMISSION,

17 Plaintiff,

18 and

19 ADRIAN SCOTT DUANE,

20 Plaintiff Intervenor,

21 vs.

22 IXL Learning, Inc.,

23 Defendant.

Case No.: 3:17-cv-02979-VC

**DECLARATION OF AMI SANGHVI IN
SUPPORT OF PLAINTIFFS' JOINT
OPPOSITION TO DEFENDANT IXL'S
MOTION FOR SUMMARY JUDGMENT
AND REPLY IN SUPPORT OF
PLAINTIFFS' MOTION FOR PARTIAL
SUMMARY JUDGMENT**

Date: September 20, 2018
Time: 10:00 am
Courtroom: 4, 17th Floor
Judge: Hon. Vince Chhabria

24 I, Ami Sanghvi, declare as follows:

- 25 1. I am an attorney for the plaintiff in this action, the U.S. Equal Employment
26 Opportunity Commission (EEOC). I am the lead attorney responsible for the litigation of the above-
27 caption case.
- 28 2. Attached hereto and incorporated herein as **Exhibit 29** is a true and correct copy of
excerpts of the deposition transcript of David Keyes, taken on March 5, 2018.
3. Attached hereto and incorporated herein as **Exhibit 30** is a true and correct copy of
transcript excerpts from the deposition of Paul Mishkin as IXL Learning's 30(b)(6) representative

1 and in his personal capacity, taken on March 7, 2018.

2 4. Attached hereto and incorporated herein as **Exhibit 31** is a true and correct copy of
3 excerpts of the deposition transcript of Nemo Curiel, taken on April 17, 2018.

4 5. Attached hereto and incorporated herein as **Exhibit 32** is a true and correct copy of
5 excerpts of the deposition transcript of Maricela Prado, taken on March 1, 2018.

6 6. Attached hereto and incorporated herein as **Exhibit 33** is a true and correct copy of
7 excerpts of the deposition transcript of Jeremy Murphy, taken on March 1, 2018.

8 7. Attached hereto and incorporated herein as **Exhibit 34** is a true and correct copy of
9 excerpts of the deposition transcript of A. Scott Duane, taken on March 27, 2018.

10 8. Attached hereto and incorporated herein as **Exhibit 35** is a true and correct copy of
11 excerpts of the deposition transcript of Kathleen Mattison, taken on March 7, 2018.

12 9. Attached hereto and incorporated herein as **Exhibit 36** is a true and correct copy of
13 excerpts of the deposition transcript of Jennifer Gu as IXL Learning's 30(b)(6) representative and in
14 her personal capacity, taken on March 29, 2018.

15 10. Attached hereto and incorporated herein as **Exhibit 37** is a true and correct copy of
16 excerpts of the deposition transcript of Jenna Mandis, taken on April 17, 2018.

17 11. Attached hereto and incorporated herein as **Exhibit 38** is a true and correct copy of
18 excerpts of the deposition transcript of Isadora Milin, taken on March 2, 2018.

19 12. Attached hereto and incorporated herein as **Exhibit 39** is a true and correct copy of a
20 compilation of email between Scott Duane and Maricela Prado which she is forwarding to Paul
21 Mishkin, dated September 23, 2014 – 11/20/2014 (IXL-1656 to IXL-1661), marked as deposition
22 exhibit 28.

23 13. Attached hereto and incorporated herein as **Exhibit 40** is a true and correct copy of
24 Defendant's Answers to Plaintiff's Second Set of Interrogatories, dated April 9, 2018.

25 14. Attached hereto and incorporated herein as **Exhibit 41** is a true and correct copy of a
26 Facebook post between Scott Duane and Nina Wu, dated January 11, 2015 (EEOC_000363).

27 15. Attached hereto and incorporated herein as **Exhibit 42** is a true and correct copy of a
28 Facebook post between Scott Duane and Nina Wu, dated July 31, 2014 (EEOC_000364).

1 16. Attached hereto and incorporated herein as **Exhibit 43** is a true and correct copy of
2 Scott Duane Working Remotely Plan (IXL-1650), marked as deposition exhibit 50.

3 17. Attached hereto and incorporated herein as **Exhibit 44** is a true and correct copy of a
4 list of terminations at IXL Learning, Inc. (IXL-1240), marked as deposition exhibit 55.

5 18. Attached hereto and incorporated herein as **Exhibit 45** is a true and correct copy of an
6 email string between Scott Duane and Paul Mishkin setting the Janaury 1, 2015 meeting (IXL-1663),
7 marked as deposition exhibit 68.

8 19. Attached hereto and incorporated herein as **Exhibit 46** is a true and correct copy of
9 selected negative posts from Glassdoor, Inc. A certified forensic expert obtained them and confirmed
10 that all intended content was captured by conducting a page-for-page quality control check.

11 20. Attached hereto and incorporated herein as **Exhibit 47** is a true and correct copy of a
12 declaration by Tom O'Brien, Deputy General Counsel of the law department of Glassdoor, Inc.

13 21. Attached hereto and incorporated herein as **Exhibit 48** is a true and correct copy of a
14 Gchat between Kate Mattison and David Keyes, dated December 22, 2014 (IXL-817), marked as
15 deposition exhibit 13.

16 22. Attached hereto and incorporated herein as **Exhibit 49** is a true and correct copy of an
17 email string between Scott Duane and David Keyes/Maricela Prado regarding his return to work,
18 dated December 19, 2014 to December 25, 2014 (IXL-569 to IXL-572), marked as deposition
19 exhibit 45.

20 23. Attached hereto and incorporated herein as **Exhibit 50** is a true and correct copy of an
21 email string between Maricela Prado and Paul Mishkin, Lenore Ockerberg, and David Keyes
22 regarding a 12/30/2014 Glassdoor post titled "Micromanaged and problematic," dated January 7,
23 2015 (IXL-1666 to IXL-1673), marked as deposition exhibit 29.

24 24. Attached hereto and incorporated herein as **Exhibit 51** is a true and correct copy of an
25 email string between Karen Penner and Paul Mishkin regarding Glassdoor postings, dated July 31,
26 2013 (IXL-1349), marked as deposition exhibit 61.

27 25. Attached hereto and incorporated herein as **Exhibit 52** is a true and correct copy of an
28 email between Maricela Prado and Paul Mishkin, Lenore Ockerberg and David Keyes forwarding

1 the Glassdoor Post with writing style comparison emails from Scott Duane, dated January 7, 2015
2 (IXL-1688 to IXL-1695), marked as deposition exhibit 31.

3 26. Attached hereto and incorporated herein as **Exhibit 53** is a true and correct copy of a
4 7/30/2013 Glassdoor Quote, 9/30/2013 Glassdoor Quote and 12/15/2014 Glassdoor Insertion Order,
5 all to IXL Learning (EEOC_001020 to EEOC_001022).

6
7 I declare under penalty of perjury under the laws of the United States that the foregoing is
8 true and correct and that this declaration was executed on August 16, 2018, in San Francisco, CA.

9 /s/ Ami Sanghvi

10 AMI SANGHVI

11 Senior Trial Attorney

12 Equal Employment Opportunity Commission

13 450 Golden Gate Avenue, 5th Fl. W., POB 36025

14 San Francisco, CA 94102

15 (415) 522-3071
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

---000---

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

and

CASE NO. 3:17-cv-02979-VC

ADRIAN SCOTT DUANE,

Plaintiff-Intervenor,

vs.

IXL LEARNING, INC.,

Defendant.

_____ /

DEPOSITION OF DAVID KEYES

Taken before DIANA L. GONZALEZ

CSR No. 7935

March 5, 2018

1 A. HR, Kate.

2 Q. You were involved in hiring Mr. Duane as a
3 product analyst, correct?

4 A. Yeah.

5 Q. And that was in mid-2013; is that correct?

6 A. Yes.

7 Q. Mr. Duane was employed at IXL from July 2013 to
8 January 8th, 2015. Does that seem right to you?

9 A. Yes.

10 Q. So in that period of time, he only held the
11 position of product analyst, correct?

12 A. Yes.

13 Q. Can you -- describe to me some of the more
14 important elements of the product analyst at that time?

15 A. Yes. So, like I said before, writing the
16 specs. That was like the main thing. And the
17 secondary thing was we did not have a QA -- dedicated
18 contact QA team at the time, so we did a lot of testing
19 of the resulting code that the engineers wrote based on
20 specs.

21 Q. Was that testing sometimes done on mobile
22 devices?

23 A. Uh-huh. Yes.

24 Q. Was that part of Scott's job as well?

25 A. Yes.

1 Yeah.

2 Q. Is it still your testimony that you had no
3 knowledge about the nature of Mr. Duane's upcoming
4 surgery?

5 A. That's right. Yeah.

6 Q. And you had no knowledge that the surgery would
7 affect his arm in any way?

8 A. Right.

9 Q. When's the first time that you communicated
10 with Mr. Duane after he began his medical leave in late
11 October of 2014?

12 A. Company holiday party I saw him.

13 Q. That was in December of 2014?

14 A. That's right.

15 Q. Where was that party?

16 A. San Francisco.

17 Q. Did Mr. Duane bring a guest with him to the
18 party?

19 A. Yeah.

20 Q. Can you describe his guest?

21 A. A woman.

22 Q. Did Mr. Duane introduce you to his guest?

23 A. I think so.

24 Q. Did you have any reaction to Mr. Duane's
25 presence at the party?

1 A. No.

2 Q. Were you surprised to see him there?

3 A. I was glad to see him.

4 Q. Why?

5 A. It meant he was doing well.

6 Q. Did he seem to be doing well?

7 A. Yeah. He was at the party.

8 Q. Did it strike you as odd that he was well
9 enough to be at the party and yet still out on medical?

10 A. No. He was coming back soon.

11 Q. Did you discuss Mr. Duane's presence at the
12 holiday party with any other IXL employee?

13 A. I don't remember.

14 Q. Is it possible you did?

15 A. I suppose, yes.

16 Q. Were you surprised to see Mr. Duane with a
17 female guest?

18 A. No.

19 Q. Did you have any impressions prior to this
20 holiday party in 2014 about Mr. Duane's gender
21 identity?

22 A. Can you clarify what you mean by that?

23 Q. I don't know that I can.

24 I'm asking if you -- having interacted with
25 Mr. Duane from July of 2013 when he was hired to

1 December of 2014, if you had formed any impressions
2 about his gender identity?

3 A. I thought he was a gay man.

4 Q. But it wasn't surprising to see him come to the
5 holiday party with a female guest?

6 A. No.

7 Q. After the holiday party -- sorry. Did you --
8 do you remember any specific conversations with
9 Mr. Duane at the holiday party?

10 A. I said hello, he introduced his guest, my wife
11 was with me, I introduced her. I think that was about
12 it.

13 Q. After the interaction at the holiday party,
14 what was the next communication that you had with
15 Mr. Duane?

16 A. I think it was the e-mail he sent me about, you
17 know, coming back.

18 Q. What do you remember about that e-mail?

19 A. He told me he had developed a complication
20 postsurgery and asked if I would be open to him working
21 from home half the time.

22 Q. When you received the e-mail, did you consider
23 it to be a request for a reasonable accommodation?

24 A. Yes, I guess. It was a request.

25 Q. But you did understand it to be a request

1 related to his medical condition, correct?

2 A. Yes. Yeah.

3 Q. So what did you do when you received that
4 e-mail?

5 A. Well, I wasn't comfortable with the arrangement
6 or that he had proposed, so I consulted with HR, I
7 consulted with Kate, and I wrote a response.

8 Q. Who in HR did you consult with?

9 A. Lenore and Maricela.

10 Q. How did you consult with them?

11 A. I talked to them.

12 Q. Well, let's back up one second.

13 When you received the e-mail, did you forward
14 it to Ms. Ockerberg or Ms. Prado?

15 A. I don't remember.

16 Q. Did you schedule a meeting with them or just --

17 A. Uh-huh. Yes.

18 Q. With both of them?

19 A. Yes.

20 Q. When did you schedule that meeting with them?

21 A. Soon after I received the e-mail.

22 Q. And where -- did you meet then with them?

23 A. Yes, over the phone.

24 Q. Were you in the office?

25 A. No, not -- not that day.

1 A. I don't remember.

2 Q. Did you consult anyone other than
3 Ms. Ockerberg, Ms. Prado and Ms. Mattison?

4 A. No.

5 Q. So then what did you do next?

6 A. I sent the e-mail.

7 Q. What did you say in your e-mail to Scott?

8 A. I said, "I prefer you to be in the office
9 because you're more productive here." And then I said,
10 "Is there anything we can do to accommodate you in the
11 office?"

12 Q. When you sent the e-mail to Mr. Duane on -- the
13 follow-up e-mail, excuse me, you sent that on
14 December 22nd; is that correct?

15 A. I don't know.

16 Q. Let me get a document in front of you.

17 I'm going to mark into evidence Exhibit 45, a
18 four-page document that starts at IXL 0569. Just for
19 the record, this version of their production is IXL
20 space 0569. There's no hyphen.

21 It's a printout of e-mails between David Keyes
22 and Scott Duane. The most recent of the thread is
23 dated December 25th, 2014.

24 (Document marked Deposition Exhibit 45
25 for identification.)

1 BY MS. SANGHVI:

2 Q. Does this appear to be an accurate printout of
3 the e-mail communication that we've been referring to
4 between you and Mr. Duane?

5 A. Yes.

6 Q. Does this refresh your recollection that you
7 responded to Mr. Duane on December 22nd, 2014 at
8 3:47 p.m.?

9 A. Yes.

10 Q. When you sent the e-mail on December 22nd,
11 Ms. Ockerberg had already informed you that you were
12 risking a violation of the law if you did not allow
13 Scott to work remotely given his medical situation,
14 correct?

15 MR. WILSON: Objection; form.

16 THE WITNESS: I don't know.

17 BY MS. SANGHVI:

18 Q. I'm going to show you an exhibit already marked
19 as 13.

20 A. (Witness reviewing document.)

21 Q. Does that refresh your recollection that
22 Ms. Ockerberg told you that since IXL allows other
23 product analysts to work remotely, IXL could risk
24 getting sued if you didn't allow Scott to do so as well
25 given his medical condition?

1 A. Yeah.

2 Q. That e-mail was according to the timestamp next
3 to your name at 3:46 p.m., correct?

4 A. Yes.

5 Q. So at the time you sent the e-mail to
6 Mr. Duane, you were aware that there was a risk of
7 violation of the law if you did not allow him to work
8 remotely, correct?

9 A. I was aware that Lenore thought there was a
10 risk, yeah.

11 Q. But you didn't agree with Ms. Ockerberg?

12 A. We were engaging in reasonable accommodations
13 situations, so I didn't fully agree.

14 Q. Can you explain that a little bit more?

15 A. Well, this paragraph in my e-mail, "Is there
16 anything we can do to accommodate your situation so you
17 can work in the office?" is to me trying to find
18 reasonable accommodation.

19 Q. But in the paragraph before where you say, "I
20 would prefer that you be in the office," you were
21 denying his request to work from home or not?

22 MR. WILSON: Objection.

23 THE WITNESS: No.

24 BY MS. SANGHVI:

25 Q. So can you explain that a little bit?

1 A. I was being very open and honest saying I would
2 prefer he be in the office because he showed previous
3 productivity issues when he worked from home. And then
4 I asked him, "Can we accommodate you in the office?" I
5 didn't know the answer to that question yet.

6 Q. And can you talk about the previous
7 productivity issues that you just mentioned?

8 A. Sure. Scott had a series of pre-op
9 appointments in late summer, early fall. I think it
10 was twice a week. And he requested to work remotely on
11 those days, so I said okay. And I noticed a lack of
12 productivity on those days, and we talked about it.
13 And he admitted and agreed that he was not productive
14 on those days. He said the appointments wiped him out.
15 I said, "Okay. I totally get that. What time are the
16 appointments?"

17 "They are like lunch time."

18 "So can you do a half day and then go to the
19 appointment and then rest?"

20 He was like sure. So he did half sick days for
21 the appointment and rest after and then half workdays.

22 Q. So you understood that his prior productivity
23 issues that you've just outlined during the late
24 summer, early fall were due to appointment -- medical
25 appointments that he was having, correct?

1 A. Correct.

2 Q. And based on the information that you had when
3 Mr. Duane e-mailed you on December 19th, the
4 circumstances for his request to work from home in
5 December -- or in January, excuse me, of 2015 were
6 different, correct?

7 MR. WILSON: Objection; form.

8 Go ahead.

9 THE WITNESS: They were different. They were
10 about, I guess, the fistula instead of pre-op
11 appointments.

12 BY MS. SANGHVI:

13 Q. Then Mr. Duane responded to you on
14 December 23rd, correct?

15 A. Yup.

16 Q. What was your immediate impression after
17 reading his response in the e-mail of December 23rd?

18 A. I was kind of surprised, a little upset.

19 Q. Why were you surprised?

20 A. The two previous e-mails were pretty, I don't
21 know, congenial, I guess, friendly, and then this one
22 was not.

23 Q. Do you see where Mr. Duane wrote, "Before I
24 start I want to let you know that I'm writing with the
25 intent of finding a solution with you. There's a

1 chance some of this e-mail could be read as combative
2 or hostile, and that is not the tone I'm intending at
3 all"? Do you see that?

4 A. Yeah.

5 Q. Did you have any reason to not believe his
6 statement there?

7 MR. WILSON: Objection; form.

8 THE WITNESS: I had reason to not believe it.
9 The following text contradicts it.

10 BY MS. SANGHVI:

11 Q. How so? Why did you think the following text
12 contradicted that statement?

13 A. He reached out to attorneys. He, you know --
14 I'm scanning it now. Give me a minute.

15 He says we have to provide him with the
16 accommodation he requests. He offers resources on
17 federal law, a bit of a condescending tone. It's
18 fairly contradictory to me.

19 Q. Do you believe that employees have the right to
20 learn about their rights outside of --

21 A. Absolutely.

22 Q. What did you -- sorry, I think you said you
23 were surprised and shocked, perhaps? Correct me if
24 that's a mischaracterization, but I believe that's what
25 you testified to earlier.

1 A. I said surprised and a little upset.

2 Q. Upset, okay.

3 Can you explain to me why you felt upset?

4 A. Yes. I was trying to work with him for
5 accommodations, and he -- clearly touched a nerve with
6 him, and he didn't think that's what I was doing, so
7 that bothered me.

8 Q. In that last paragraph, do you see where
9 Mr. Duane says he'd "like to find a solution under
10 which I return on the 30th with this accommodation or
11 something very close to it"?

12 A. Yes.

13 Q. Did you not take that as -- excuse me. Did you
14 not take that as Mr. Duane trying to engage in a
15 discussion around accommodations?

16 MR. WILSON: Objection; form.

17 THE WITNESS: It's buried, so he was still
18 doing it but after all this other stuff first, right?
19 So like it's buried, I mean. And that's exactly what
20 we did, we accommodated him based on his ideas in the
21 bottom paragraph.

22 BY MS. SANGHVI:

23 Q. And what did you do once you received this
24 e-mail?

25 A. I talked to Paul on the phone.

1 Q. The first thing you did after you received this
2 e-mail was pick up the phone and call Paul Mishkin the
3 CEO?

4 A. No, no. I believe I forwarded him the e-mail.
5 Well, I certainly forwarded him the e-mail or Lenore or
6 Maricela did. I forwarded the e-mail to HR, and then
7 either they forwarded it to Paul or I did too.

8 Q. Then what happened?

9 A. Then I talked to Paul on the phone.

10 Q. Did you call Paul, or did Paul call you?

11 A. Paul called me.

12 Q. How long after 3:39 p.m. on Tuesday, December
13 23rd? Actually, I'm sorry, I'm going to take that back
14 for a second.

15 Mr. Duane sent this e-mail at 3:39 on December
16 23rd. Do you recall when you might have read it?

17 A. I do, actually. I was driving to L.A., and I
18 was at a rest stop and I read it.

19 Q. Approximately what time?

20 A. I don't remember.

21 Q. Then when did Mr. Mishkin call you?

22 A. I believe the next morning or the morning
23 after. The next morning.

24 Q. What did Mr. Mishkin say?

25 A. Oh, he asked me a bunch of questions, he wanted

1 the background, like how did it come to this point, so
2 I filled him in.

3 Q. So tell me what you told Mr. Mishkin.

4 A. I told him that Scott went on leave for two
5 months and we were coordinating when he was coming
6 back, and he sent this e-mail saying he developed a
7 complication, asked to work remotely half days from
8 home but I had concerns about that, from what I've said
9 before about the pre-op appointments, so I responded
10 with what I responded with, and he responded with what
11 he did, so I was kind of filling him in to that point.

12 Q. And what were some of the questions that
13 Mr. Mishkin had for you?

14 A. Like why was I concerned about productivity, so
15 I explained. I can't think of any other specific
16 questions.

17 Q. By the next morning when Mr. Mishkin called
18 you, had you had any conversations with anyone between
19 the time you read the e-mail to the call you had with
20 Mr. Mishkin with regards to this -- with regards to
21 Mr. Duane's e-mail?

22 A. My wife was in the car with me. I told her I
23 got the e-mail.

24 Q. Did you have any conversations with anyone at
25 IXL?

1 A. No.

2 Q. You had no conversations with anybody in HR?

3 A. Besides forwarding them the e-mail, no.

4 Q. Did you receive a response to the forward?

5 A. I don't remember.

6 Q. Do you remember receiving any advice from HR

7 with regards to how to respond to this e-mail on

8 December 23rd?

9 A. The advice I received was from Paul.

10 Q. And what was that advice?

11 A. To accommodate Scott by allowing him to work

12 remotely and to put a plan in place that I would feel

13 comfortable with letting him do it, which is exactly

14 what Scott proposed, and then reviewing the e-mail I

15 craft -- I wrote before I sent it.

16 Q. So after you got off the phone with

17 Mr. Mishkin, you drafted a responsive e-mail to

18 Mr. Duane; is that correct?

19 A. Yes.

20 Q. And you forwarded that to Mr. Mishkin for his

21 review?

22 A. Yes.

23 Q. And what was Mr. Mishkin's response to that

24 e-mail?

25 A. He said it looks good.

1 Q. Did he tell you that over the phone or in an
2 e-mail?

3 A. I don't remember.

4 Q. Then what did you do?

5 A. I sent Paul the e-mail. Sorry, I sent Scott
6 the e-mail.

7 Q. You wrote here, "Based on your" -- in your
8 response to Mr. Duane dated December 24th, 2014, you
9 wrote, "Based on your doctor's recommendation it sounds
10 like reasonable accommodation in your case is to set up
11 a part-time remote working situation."

12 How did your opinion change on December 24th
13 from five days earlier -- excuse me, two days earlier
14 when you responded on December 22nd?

15 MR. WILSON: Objection; form.

16 THE WITNESS: I mean he made it pretty clear
17 that he needs to be at home, we can't accommodate him
18 in the office, so that changed my opinion. I also
19 liked his idea of like putting some structure in place
20 for productivity goals.

21 BY MS. SANGHVI:

22 Q. And then what happened next after you sent that
23 e-mail on December 24th?

24 A. Scott responded.

25 Q. What was your response -- what was your

1 full time remote?

2 A. I don't remember.

3 Q. Have you always supervised her?

4 A. Yes.

5 Q. Anyone -- I think we were talking right now
6 about people who are currently working full time remote
7 in the past and around the period of 2014.

8 Did you have any other employees that were
9 working in your department who were working remotely
10 part time or full time?

11 A. Yes.

12 Q. Who is that?

13 A. Gina Bland.

14 Q. When did Ms. Bland begin?

15 A. Summer 2014.

16 Q. What were the circumstances around her remote
17 work arrangement?

18 A. It was 50/50. First three months in the
19 office, so -- through mid-fall 2014 she was in the
20 office full time, and then it was like two weeks in
21 D.C., two weeks in SF. Or San Mateo.

22 Q. Do you know why she needed to work remotely
23 50/50?

24 A. Yes. Her husband is a political journalist and
25 decided to stay in D.C.

1 December 30th, 2014; is that correct?

2 A. Yes.

3 Q. Where was he sitting when he returned to work?

4 A. In his cube.

5 Q. It was the same cubicle he had been in for the
6 entirety of his employment?

7 A. No. We -- no. We moved floors.

8 Q. Was it the same cube that he was in prior to
9 going out on leave?

10 A. I think so.

11 Q. Where was your office in relation to
12 Mr. Duane's cubicle?

13 A. Like 40 to 50 -- 40 feet-ish away down ten
14 cubes.

15 Q. And did you have a meeting with Mr. Duane when
16 he returned to work on December 30th, 2014?

17 A. Yes.

18 Q. Can you describe that meeting?

19 A. Yes. It was a catch-up meeting, so what had
20 happened with the team the last two months, where
21 projects were, what -- you know, what we'd done.

22 Q. And in the catch-up portion of the meeting, did
23 you inform Mr. Duane that there had been changes to the
24 team personnel?

25 A. Yes. He was involved in recruiting, so I gave

1 him recruiting update.

2 Q. Did you inform Mr. Duane that Matthew Bleecher
3 had been extended an offer to work remotely full time
4 because of his inability to relocate his family?

5 A. Yes.

6 Q. And at this time, Ms. Bland was working
7 50 percent in D.C. and 50 percent at San Mateo,
8 correct?

9 A. Yes.

10 Q. And did you have any conversation with
11 Mr. Duane about Ms. Bland's arrangement?

12 A. No.

13 Q. But it was known to the team that that was her
14 situation, correct?

15 A. Yes.

16 Q. What were your -- so this is the first time you
17 had met Mr. Duane in person after the December 23rd
18 e-mail that surprised and upset you. So describe the
19 tenor of your conversation.

20 A. Sure. It was very one-sided. He didn't speak
21 at all really. Had his arms crossed most of the time.
22 He was clearly still very upset from the e-mails.

23 Q. So he walked into the office, sat down and
24 didn't say a word?

25 A. Pretty much.

1 Q. Did you ask him any questions?

2 A. I don't remember. Probably did.

3 Q. Did he refuse to give an answer?

4 A. He would nod.

5 Q. And it's -- am I correct to say that you
6 developed a document for Mr. Duane that outlined his
7 remote work from home arrangement, correct?

8 A. Yes.

9 Q. And had you already sent him that document
10 prior to the meeting?

11 A. I don't remember.

12 Q. Did that -- did you discuss that document at
13 this meeting on December 30th?

14 A. Yes.

15 Q. What was the conversation that you had about
16 the arrangement?

17 A. I went over it -- we looked at it together on
18 the screen, and I went over it. Like I said, he was
19 silent.

20 Q. Anything else?

21 A. No.

22 Q. Did you talk to him about his attitude at that
23 meeting?

24 A. No.

25 Q. Did you talk to anyone else about his attitude

1 anything else at that meeting?

2 A. No.

3 Q. Before moving to what you did, can you -- other
4 than this one meeting in which you said Scott was
5 silent on 12-30-2014, what other examples indicated
6 that Scott was being noncommunicative and difficult to
7 work with?

8 A. One, you know, we have a team meeting so --
9 everyone was there but Scott so I went to go get him,
10 and then he was like walking toward the conference
11 room. I was like, "Hey, I was grabbing you for a
12 meeting." And he kind of grunted and walked by me and
13 then sat in the back of the conference room just kind
14 of sulking so --

15 Q. Anything else? Sorry, was Scott late to that
16 meeting?

17 A. Barely, like a minute or two.

18 Q. Other than your impression that he was sulking
19 in the back of the room, any other examples?

20 A. None that come to mind.

21 Q. Did you receive any complaints from co-workers?

22 A. No.

23 Q. Did he have any opportunity between
24 December 30th and January 8th, 2015 to have to work
25 with other employees?

1 A. Yes.

2 Q. And you didn't receive any complaints from
3 those employees, correct?

4 MR. WILSON: Objection.

5 Go ahead.

6 THE WITNESS: That's right.

7 MR. WILSON: For the record, it's been three
8 hours in. Do you have any idea when you're thinking of
9 taking a lunch break?

10 MS. SANGHVI: I'm happy to go and take one now.

11 Let's go off the record.

12 (Lunch recess taken from 12:31 to 1:36.)

13 (Ms. Tuazon leaves proceedings.)

14 BY MS. SANGHVI:

15 Q. I just want to go back to something that we had
16 been talking about, just focusing on the time period of
17 when Mr. Duane returned to work on December 30th.

18 You testified that you had met with
19 Ms. Mattison a little bit after his return to work. Do
20 you recall meeting with her on January 2nd, 2015?

21 A. It was later that week of December 30th so --

22 Q. When was this team meeting that you had
23 referenced where you noticed Mr. Duane being, I think
24 the word you used, was sulking?

25 A. I don't recall the exact date.

1 Q. Would you agree that it is possible?

2 A. Yeah.

3 Q. Was your -- did you believe that his behavior
4 in those two instances was related to the e-mail chain
5 regarding his request for an accommodation?

6 A. Yes.

7 Q. How so?

8 A. It was pretty consistent with the tone of the
9 longer e-mail in that chain.

10 Q. Other than with Ms. Mattison, did you discuss
11 Mr. Duane's behavior that you observed on those two
12 instances with anyone else at IXL?

13 A. No.

14 Q. So what happened after your meeting with
15 Ms. Mattison later in the week of December 30th?

16 A. Like I said, she suggested that I meet with
17 Scott and ask him if anything was bothering him and if
18 we could resolve it, and so I scheduled a meeting.

19 Q. When was that meeting with Scott?

20 A. That would be January 6th.

21 Q. Where was that meeting held?

22 A. In my office.

23 Q. Who else was present?

24 A. Nobody else.

25 Q. What was your intention for that meeting?

1 A. To clear the air and to resolve the conflict.

2 Q. So how did you begin the meeting?

3 A. I said, "I've noticed you've been upset since
4 you've returned. Is there anything I can do to help"?

5 Q. And what was Mr. Duane's response?

6 A. He started talking. He said that he felt he
7 was treated unfairly. He said that we discriminated
8 against him in handling his coming back from leave. He
9 was pretty upset.

10 Q. How could you tell he was upset?

11 A. Tone of voice, hand gestures while speaking.
12 Typical markers of someone being upset.

13 Q. Was he yelling?

14 A. No.

15 Q. So what about his tone of voice? Can you
16 describe his tone of voice, let me ask you that?

17 A. Very accusatory. I don't know if I can give a
18 much better description than that.

19 Q. And can you describe his hand gestures while
20 speaking?

21 A. They were not resting at his side. I mean he
22 was putting them out in front of his face.

23 Q. Was that unusual for Mr. Duane to communicate
24 with his hands while speaking?

25 A. I don't know.

1 Q. I'm trying to understand, Mr. Keyes, only
2 because you gave me two examples of how you understood
3 him to be upset, his tone of voice and the use of hand
4 gestures. So I'm just trying to understand, was he
5 pounding his fists on the desk or something along those
6 lines? Those are the reasons for my question.

7 A. Understood. He was not pounding the desk.

8 Q. So you said he was very accusatory. Did he
9 give you examples of how he felt treated unfairly?

10 A. He said that we had to provide him with
11 reasonable accommodation. I said that we had and had
12 engaged in a conversation about that reasonable
13 accommodation. It was mostly focused around that, like
14 coming back to the e-mails.

15 Q. And what was his reaction when you said you had
16 provided him with reasonable accommodation?

17 A. He didn't believe me.

18 Q. Did he say as much?

19 A. No, he didn't say it. He just --

20 Q. So what made you believe that he didn't believe
21 you?

22 A. Normally when I would -- like you say something
23 like that and the person believes you, they'd be, like,
24 "Yes, I agree" or -- there was no confirmation from his
25 end.

1 Q. Other than referring to the return-to-work
2 accommodation discussion or e-mail discussion, did
3 Mr. Duane give any other examples of why he felt
4 discriminated against?

5 A. I don't remember other specific examples.

6 Q. How long was this meeting?

7 A. Between a half hour and an hour.

8 Q. So you've outlined for me this one interaction
9 about how he said you had to provide him with
10 accommodations and you responded that you had provided
11 accommodations and that he didn't believe you.

12 Did that conversation itself take 30 minutes to
13 an hour?

14 A. That is the main focus of the conversation,
15 yeah.

16 Q. Did he provide more details on what he meant
17 when he said that you had to provide the accommodation
18 or why he was upset?

19 A. He said we did not reasonably -- or we did not
20 provide the reasonable accommodation and that's
21 discrimination. And I said, "We did provide the
22 reasonable accommodation, and I'm sorry you feel this
23 way. What can we do moving forward?"

24 I kept like trying to make it -- like how can
25 we resolve this like frustration he had. And so then

1 he -- it seemed clear that like the way to resolve it
2 was to -- for me to talk to HR about it.

3 Q. Could you understand from Mr. Duane that he was
4 upset that he had to advocate for his accommodation, or
5 was it more that he was -- he still believed he was
6 still not being accommodated?

7 A. Definitely seemed to me like he believed that
8 we did not provide reasonable accommodation. Part of
9 it was the immediacy and just in general he was upset
10 about it.

11 Q. Did he bring up his working remotely plan?

12 A. I don't remember.

13 Q. Did you take any notes during this meeting?

14 A. No.

15 Q. Did you write any notes after the meeting?

16 A. I don't remember.

17 Q. Did you keep a file of handwritten notes
18 related to Mr. Duane's appointment somewhere in your
19 office?

20 A. No.

21 Q. If you would have taken notes, where would you
22 have done them; on a pad of paper or electronically?

23 MR. WILSON: Objection; form.

24 THE WITNESS: Like I said before, it kind of
25 depends. I don't know.

1 BY MS. SANGHVI:

2 Q. Did Mr. Duane bring the fact that other
3 employees were not subject to a detailed remote work
4 from home plan?

5 A. In the January 6th meeting?

6 Q. Yes.

7 A. I don't think so.

8 Q. Going back to that plan, did you draft that by
9 yourself, the remote work from home plan that we have
10 marked previously as Exhibit -- actually, let's back up
11 even further. Hang on.

12 On December 30th, I think you testified earlier
13 that you had a -- you had drafted a remote work from
14 home arrangement or plan for Mr. Duane; is that
15 correct?

16 A. Yes.

17 Q. Had you drafted that in consultation with
18 anybody?

19 A. I had Maricela review it.

20 Q. Anyone else?

21 A. I don't think so.

22 Q. And, again, do you remember how you had
23 Maricela review it? Did you e-mail it to her?

24 A. That would have been e-mailed, yeah.

25 Q. Did you have Ms. Mattison review it?

1 A. I don't remember.

2 Q. Had you ever created a plan like that for
3 anyone else?

4 A. Yes.

5 Q. Who?

6 A. Isidora.

7 Q. And when was that?

8 A. December 2014.

9 Q. Why did you create that plan for Isidora?

10 A. She wanted to work remotely for a week, so I --
11 I was concerned about productivity as well, so -- hers
12 was over e-mail. She e-mailed me her tasks for the day
13 and her tasks for the week.

14 Q. Anyone else -- why were you concerned about her
15 productivity?

16 A. She was on a slower side to turn things in
17 so --

18 Q. And does that remain -- that arrangement, does
19 that remain in place today?

20 A. With Isidora?

21 Q. With Ms. Milin any time she wants to work from
22 home.

23 A. No.

24 Q. Was that a time-limited plan?

25 A. The plan was specific to her specific week of

1 travel.

2 Q. Anyone else that you've created that sort of
3 plan with to control -- to monitor their remote work?

4 A. Yes.

5 Q. Who?

6 A. Matt Bleecher and Gina Bland being my remote --
7 well, Gina wasn't remote yet, but she was 50/50 --
8 being my employees who worked remotely on a regular
9 basis, they started e-mailing me.

10 Q. And was that at your request or just through
11 the natural progression?

12 A. It was at my request.

13 Q. When did you put that in place for Ms. Bland?

14 A. Early 2015.

15 Q. And why did you put that in place for
16 Ms. Bland?

17 A. Because it was helpful for me to hear from them
18 what they were working on since I didn't get to see
19 them as often.

20 Q. But Ms. Bland by this point had already been
21 working remotely, correct?

22 A. A little bit.

23 Q. So I'm curious what led to the change in your
24 approach with Ms. Bland in early 2015?

25 A. I liked the week that Isidora did it. It

1 actually not only was helpful for me, but she commented
2 that it was helpful for her, so I thought I would
3 extend the idea.

4 Q. And with Mr. Bleecher?

5 A. Similar.

6 Q. When did that -- when did the remote
7 arrangement begin?

8 A. The remote like e-mail what they're working on
9 arrangement?

10 Q. Correct.

11 A. Soon after he started.

12 Q. And that was in January -- late January 2014,
13 correct?

14 A. That's correct.

15 Q. So other than what you have testified to with
16 regards to Mr. Duane talking about his belief that IXL
17 did not accommodate him, were there any other examples
18 that he provided during that meeting on January 6th,
19 2015 in your office?

20 A. I don't remember.

21 Q. What did you do at the conclusion of that
22 meeting? How did that meeting end?

23 A. I told Scott that I really wanted to resolve
24 his frustrations and that I would go speak to HR on his
25 behalf and get back to him.

1 Q. How did you feel at the end of that meeting?

2 A. I felt optimistic that we could figure it out.
3 It -- I felt like it was -- I felt like he left that
4 meeting in a better place, and me too, because we
5 talked.

6 Q. So earlier you had described how he was upset
7 during that meeting. But I don't think we had talked
8 about how you had come to a place of resolution. So
9 can you describe that a little bit?

10 A. Yes. I told him multiple times in the meeting
11 that I'm sorry that he felt that way, that I'm
12 acknowledging that he's feeling that way, and that what
13 I would like to do is figure out a way to resolve this.
14 And he was on board with that. He was appreciative
15 that I was going to HR. And so despite the
16 frustrations he shared in the meeting at the end, I was
17 optimistic that we could figure it out.

18 Q. And what did you do next?

19 A. I went to Lenore and Maricela in HR and talked
20 to them.

21 Q. Where did you have that meeting?

22 A. One of the sixth floor rooms.

23 Q. It was yourself, Ms. Ockerberg and Ms. Prado?

24 A. That's right.

25 Q. Was anyone else present?

1 A. Not to start.

2 Q. And then?

3 A. We called Paul on the phone. He was on the
4 phone.

5 Q. Why did you call Paul on the phone?

6 A. Well, Paul had reviewed the e-mail, so he was
7 aware of the general situation. And given how upset
8 Scott was, we thought Paul could help.

9 Q. So prior to -- there's some portion of the
10 meeting in which you, Mr. Ockerberg and Ms. Prado
11 discussed some things prior to calling Mr. Mishkin; is
12 that correct?

13 A. Yes.

14 Q. And what are some of the things that you
15 discussed in that time frame?

16 A. I debriefed them on what Scott and I had just
17 talked about, saying Scott was very upset, he felt we
18 discriminated against him, felt we didn't provide him
19 reasonable accommodation. I told him at the end of the
20 meeting that I would come talk to HR on his behalf.

21 Q. And what did Ms. Ockerberg -- who did more
22 talking in the meeting, Ms. Ockerberg or Ms. Prado?

23 A. I don't remember.

24 Q. What did either Ms. Ockerberg or Ms. Prado say
25 in response to your description of the meeting with

1 Mr. Duane?

2 A. They said, "I think this would be a good thing
3 to call Paul about," so I called Paul.

4 Q. So once you called Paul, I'm assuming you
5 briefed him again on the meeting that you had?

6 A. Yes.

7 Q. And then what happened next? What did he say?

8 A. He said he would be happy and willing to speak
9 with Scott to see if maybe he could help resolve the
10 situation.

11 Q. Did he ask for any information?

12 A. He -- we had, you know, briefed him on what had
13 happened, so no.

14 Q. Did he ask Ms. Prado to collect any e-mails and
15 provide them to him?

16 A. I don't think so.

17 Q. Was this meeting on the same day as your
18 meeting with Mr. Duane?

19 A. Yes.

20 Q. So it was on January 6th?

21 A. Yeah.

22 Q. And what happened next?

23 A. Paul e-mailed Scott saying something to the
24 extent of, you know, "I hear you have some concerns,
25 I'd love to talk to you about them," and a meeting was

1 set up.

2 Q. Were you supposed to be involved in that
3 meeting?

4 A. No.

5 Q. What was your impression of what you needed to
6 do next, if anything?

7 A. My impression was I did not need to do anything
8 and I was hoping the meeting between Paul and Scott
9 would go well and then we could move on.

10 Q. Was there any discussion with Ms. Ockerberg or
11 Ms. Prado while Mr. Mishkin was on the phone about --
12 by IXL's belief that they did accommodate Mr. Duane?

13 A. I don't remember.

14 Q. At this time had you informed Mr. Mishkin about
15 the remote work plan that you had put in place for
16 Mr. Duane?

17 A. Yeah.

18 Q. Had he seen it?

19 A. I'm not sure.

20 Q. Did he ask to see it?

21 A. I don't think so.

22 Q. So at the conclusion of that meeting, it was
23 your understanding that Mr. Mishkin would reach out to
24 Mr. Duane and you had no other follow-up to do --

25 A. Correct.

1 Q. -- with regards to this complaint that
2 Mr. Duane had made?

3 A. Correct.

4 Q. So what is the next thing that you remember
5 with regards to Mr. Duane's employment?

6 A. The next day we got an e-mail from Maricela
7 with a Glassdoor posting in the e-mail.

8 Q. I'm going to show you a document that's been
9 previously marked as Exhibit 15.

10 A. (Witness reviewing document.)

11 Q. Is that the e-mail that you're referring to
12 with regards to Ms. Prado sending you a Glassdoor
13 posting?

14 A. Yes.

15 Q. You'll see that that e-mail is sent to you at
16 11:04 a.m. Do you know when you approximately read it?

17 A. Midday.

18 Q. How do you know that?

19 A. Well, it looks like I forwarded it to Kate at
20 2:00 p.m., so must have been between 11:00 and 2:00.

21 Q. Why did you forward that e-mail to
22 Ms. Mattison?

23 A. To keep her in the loop.

24 Q. So we've talked a fair amount about the steps
25 that you took ever since December 22nd when you

1 THE WITNESS: I don't know for sure.

2 BY MS. SANGHVI:

3 Q. Thinking back to that moment in time that
4 you're remembering informing Ms. Mattison that at some
5 point after Mr. Duane is terminated Paul had made the
6 decision to terminate him because of the Glassdoor.com
7 post -- I'm trying to understand that meeting with
8 Ms. Mattison -- where was it?

9 A. Her office.

10 Q. What was the context of that meeting?

11 A. Communicating to her a decision to terminate
12 Scott.

13 Q. Do you believe it was before that decision had
14 been communicated to Scott or after?

15 A. Before.

16 Q. So somewhere midday you see this e-mail on
17 January 6th, 2015 and you see this post. What happens
18 after you read the post? Do you think the first thing
19 you did was e-mail it to Ms. Mattison?

20 A. I don't know.

21 Q. So what do you remember about what happens
22 after you see this post?

23 A. Well, I remember thinking that Scott wrote it.
24 And I remember having a meeting with Lenore, Maricela
25 and Paul to --

1 Q. Who called that meeting?

2 A. Paul.

3 Q. How did he call that meeting?

4 A. I don't remember. Either e-mail or IM.

5 Instant message.

6 Q. And where was that meeting?

7 A. In a sixth floor room.

8 Q. Who was present for that meeting?

9 A. Paul, Lenore, Maricela and myself.

10 Q. Describe the meeting for me.

11 MR. WILSON: Objection; form.

12 THE WITNESS: We looked at the post, Paul asked

13 me if I was sure it was Scott, and I said yes because

14 it was consistent with his attitude and the writing.

15 And then Paul said that we're going to terminate him

16 for the post.

17 BY MS. SANGHVI:

18 Q. So Mr. Mishkin confirms with you that it was

19 likely Mr. Duane who wrote the post and you were sure

20 of it, correct?

21 A. Yes.

22 Q. And the next thing Mr. Mishkin told you was

23 that Mr. Duane would be terminated?

24 A. Yes.

25 Q. Did you talk about how you felt about the post?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

I, DIANA L. GONZALEZ, a Shorthand Reporter,
State of California, do hereby certify:

That DAVID KEYES, in the foregoing deposition
named, was present and by me sworn as a witness in the
above-entitled action at the time and place therein
specified;

That said deposition was taken before me at
said time and place, and was taken down in shorthand by
me, a Certified Shorthand Reporter of the State of
California, and was thereafter transcribed into
typewriting, and that the foregoing transcript
constitutes a full, true and correct report of said
deposition and of the proceedings that took place;

That before completion of the proceedings,
review of the transcript was requested.

IN WITNESS WHEREOF, I have hereunder subscribed
my hand this 12th day of March 2018.

DIANA L. GONZALEZ, CSR NO. 7935
State of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

---000---

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

and

CASE NO. 3:17-cv-02979-VC

ADRIAN SCOTT DUANE,

Plaintiff-Intervenor,

vs.

IXL LEARNING, INC.,

Defendant.

DEPOSITION OF PAUL MISHKIN

Taken before DIANA L. GONZALEZ

CSR No. 7935

March 7, 2018

1 Q. And what is that? What is that?

2 A. You want me to read it?

3 Q. Yup.

4 A. September 23rd, 2014.

5 Q. Do you know if Mr. Marshall -- how long his
6 tenure with IXL was?

7 A. I don't remember exactly.

8 Q. Was it less than a year?

9 A. I don't remember exactly.

10 Q. Any other teams that we haven't talked about?

11 Sorry. I'm going to take that back.

12 Prior to Mr. Marshall, who was the head of HR?

13 A. That was Lenore Ockerberg.

14 Q. And how long was Ms. Ockerberg the head of HR?

15 A. Quite a while, but I don't remember exactly.

16 MS. SANGHVI: Would you like to take a break?

17 MR. WILSON: Can we take -- and I need to use
18 the restroom.

19 MS. SANGHVI: Off the record.

20 (Break taken from 11:33 to 11:43.)

21 BY MS. SANGHVI:

22 Q. So we were just discussing Ms. Ockerberg's
23 tenure with IXL. Do you know when she began at IXL?

24 A. No, I don't remember her start date.

25 Q. When was she terminated? I'm sorry, I'm going

1 to take that back.

2 Was she terminated?

3 A. She was.

4 Q. When was that?

5 A. So that was April 28th, 2015.

6 Q. What was the reason for her termination?

7 A. It was conduct.

8 Q. What was the conduct that led to her
9 termination?

10 A. Toward the end she was openly going around the
11 office telling people that she was hoping that she would
12 be fired and the company would give her a generous
13 separation package. She also was using company funds
14 to -- to buy some software that was for personal use.

15 Q. How did you come to learn about this use of
16 company funds for personal use?

17 A. I heard that from Jennifer Gu.

18 Q. And how did Ms. Gu learn about the use of
19 company funds for Ms. Ockerberg's personal use?

20 A. I believe she heard it from Tatum Radcliffe.

21 Q. Other than hearing it from other individuals,
22 did IXL have any evidence of Ms. Ockerberg's use of
23 company funds for her personal use?

24 A. I don't know.

25 Q. Were you involved in the decision to terminate

1 Ms. Ockerberg?

2 A. I was.

3 Q. Who else was involved?

4 A. Jennifer Gu was involved also.

5 Q. Anyone else?

6 A. I don't believe so.

7 Q. Who communicated that decision to

8 Ms. Ockerberg?

9 A. I can't remember if it was me or Jennifer.

10 Q. Is it fair to say that Ms. Ockerberg had been
11 an employee with IXL for at least ten years?

12 A. That sounds close. I don't know the exact
13 number of years.

14 Q. Approximately ten years seems correct to you,
15 though?

16 A. Give or take a couple of years either way,
17 yeah.

18 Q. What reason did you give Mr. Ockerberg for her
19 termination?

20 A. I don't remember.

21 Q. Is there something that would help you refresh
22 your recollection?

23 A. Not that I can think of.

24 Q. Is there something that would help you refresh
25 your recollection as to whether IXL had evidence

1 head of HR?

2 A. I'm thinking of the timeline. I think that
3 makes sense. I'm not a hundred percent positive.

4 Q. You testified earlier that Ms. Rodney started
5 around February of 2015 and was employed for
6 approximately one year, which puts her to the beginning
7 of 2016.

8 So my question is, in April of 2015, is it
9 accurate to say that Ms. Rodney was likely the head of
10 HR?

11 MR. WILSON: Objection; form, asked and
12 answered.

13 Go ahead.

14 THE WITNESS: She likely was.

15 BY MS. SANGHVI:

16 Q. And so then what was Ms. Ockerberg's role?

17 A. Lenore was also in charge of operations.

18 Q. So I think you've testified that prior to Brad
19 Marshall, Lenore Ockerberg had been the head of HR for
20 quite a while.

21 Can you explain the shift from Ms. Ockerberg in
22 a HR role to the director of operations?

23 A. Uh-huh. At -- at a certain point we -- she had
24 been doing -- she had been in charge of both, both
25 roles. And we -- we split it out so that Lenore would

1 be in charge of operations and we would have a separate
2 HR role.

3 Q. Approximately when was that?

4 A. I don't really remember.

5 Q. Is there something that will help you refresh
6 your recollection?

7 A. Not that I can think of. I'm looking at the
8 org chart in this document, and it shows Brad Marshall
9 and Lenore both reporting to Jennifer Gu. So that tells
10 me that it must have happened maybe when Brad joined or
11 around that time.

12 MR. WILSON: For the record, you are referring
13 to page IXL-1408, Exhibit 53.

14 BY MS. SANGHVI:

15 Q. And was that Ms. Ockerberg's choice to move
16 more into operations?

17 A. I don't believe so.

18 Q. Whose decision was it?

19 A. It was something that Jennifer and I discussed
20 and agreed upon.

21 Q. And do you recall communicating that decision
22 to Ms. Ockerberg, that she would be taking on more of an
23 operations role rather than an HR role?

24 A. I don't recall communicating that myself.

25 Q. Do you know if anyone did?

1 A. I -- I assume she must have found out somehow.

2 Q. Did IXL communicate to Ms. Ockerberg that she
3 would be taking on an operations role rather than an HR
4 role?

5 A. I don't know what conversation was -- was had
6 with her, but I assume that must have happened.

7 Q. So Mr. Marshall's last date of employment you
8 testified was September 23, 2014. Why was -- why did
9 Mr. Marshall separate his employment with IXL?

10 A. Brad was terminated because he wasn't keeping
11 up with projects, was not being productive.

12 Q. Was IXL aware of any errors that Mr. Marshall
13 had committed in his performance of -- as HR director?

14 A. Errors? I'm sure there were minor mistakes.

15 Q. Did IXL terminate Mr. Marshall due to any
16 errors with how he performed his human resources
17 director role?

18 A. No, I don't believe so.

19 Q. Did IXL ever have the occasion to speak with
20 Mr. Marshall about a complaint from an employee about
21 him?

22 A. I don't know if anyone at the company talked to
23 him about a complaint.

24 Q. Is IXL aware of any complaints about
25 Mr. Marshall's performance as an HR director?

1 A. We're aware of -- I'm aware of a complaint.

2 Q. When did you become aware of a complaint?

3 A. I don't remember exactly.

4 Q. What complaint are you referring to?

5 A. There was a complaint that I heard about that
6 someone didn't like the way that Brad asked them for
7 ethnicity information for an EEOC form.

8 Q. Did you learn about that complaint during
9 Mr. Marshall's tenure as HR director?

10 A. I did.

11 Q. How did you learn about that complaint?

12 A. Someone told me about it. I don't remember
13 who.

14 Q. What did IXL do once it had knowledge of this
15 complaint against Mr. Marshall?

16 A. I don't know how that was handled.

17 Q. Did IXL speak with Mr. Marshall about the
18 complaint?

19 A. I don't know.

20 MS. SANGHVI: I'd like to mark as one exhibit
21 a -- three documents that are Bates numbered EEOC --
22 there should be an underscore -- 000724, EEOC under score
23 0002725 and EEOC 000726. Mark that as Exhibit 58.

24 (Document marked Deposition Exhibit 58
25 for identification.)

1 Q. IXL has also been aware since at least 2013
2 that there's no way to remove a negative post, correct?
3 Excuse me, no way to remove a negative post by a current
4 or former employee; is that correct?

5 A. I -- I don't know. I don't know if that's
6 correct or not.

7 MS. SANGHVI: I'm going to mark as Exhibit 61,
8 a one-page e-mail printout from Karen Penner to Paul
9 Mishkin and Lenore Ockerberg with the subject of
10 Glassdoor mischief with a Bates number IXL-1349.

11 (Document marked Deposition Exhibit 61
12 for identification.)

13 BY MS. SANGHVI:

14 Q. Mr. Mishkin, did you receive this e-mail?

15 A. Give me a minute to read it.

16 I don't really remember it, but it -- I assume
17 that I did.

18 Q. You're listed in the "to" field, correct?

19 A. That's why I'm assuming.

20 Q. And you have no reason to believe that this is
21 an inaccurate depiction of your --

22 A. No.

23 Q. -- having received it, correct?

24 A. No, I don't. Correct.

25 Q. This is how it was produced to us, but it looks

1 like it is encompassing some thread of a discussion
2 going back and forth. If you look towards the bottom of
3 that chunk of text, it looks like on July 30th, 2013 at
4 10:24 p.m. you wrote, "Hi, Karen. I'm almost certain
5 with the 'new low' and 'fed up' reviews are the same
6 person. Unfortunately -- or maybe fortunately -- I know
7 who this person with a vendetta is. What do you think
8 about bringing this up with Glassdoor and asking them to
9 investigate?"

10 Do you see that?

11 A. I do.

12 Q. So what steps -- let me ask you, who did you
13 think the "new low and fed up" reviews were by?

14 A. I don't remember anymore.

15 Q. Do you remember if it was a current or former
16 employee?

17 A. Did I think at the time it was a current -- a
18 current or former employee at the time?

19 Q. Yes. At the time that you wrote this e-mail.

20 A. I think -- I think I thought it was a current
21 employee on the book development team, but I don't
22 remember who that was. We don't even have that team
23 anymore.

24 Q. So if you knew who -- if you had to guess as to
25 who that individual was, what steps did IXL take with

1 regards to these two negative posts?

2 A. Well, I think what I'm asking -- one step would
3 be -- what this shows me asking Karen, I believe, which
4 was is there a way when it -- if there are duplicative
5 posts by the same person to flag them and be able to
6 take them down.

7 Q. And what did IXL learn regarding
8 Glassdoor.com's ability to or willingness to take action
9 when they hear about what you were complaining about?

10 A. I don't really remember what came of that.

11 Q. Who would know?

12 A. Well, this e-mail suggests -- shows that I was
13 asking Karen, so I don't know whether she followed up on
14 that or not. But she's someone who might know.

15 Q. I'm just noting a lit bit above it says on July
16 31st, 2013 at 5:59 p.m. Ms. Penner seems to have
17 responded to your e-mail and said, "I tried flagging
18 reviews, and it's on a case-by-case basis. New low" --
19 carrot -- "was the one they didn't take down."

20 Do you see that?

21 A. Okay. I do, I see that.

22 Q. So does that refresh your recollection that IXL
23 was aware that there would be circumstances in which a
24 negative post would not be removed by Glassdoor.com?

25 A. Well I knew that they -- that that was true,

1 that IXL did not have control over taking down negative
2 posts.

3 Q. As you sit here today, you have no recollection
4 about what you did regarding that current employee who
5 you knew -- or assumed to think you knew was posting
6 negative posts, correct?

7 A. I don't really remember having a clear idea of
8 who that person was.

9 Q. I think earlier you testified you believed it
10 was somebody in the book department, a team that no
11 longer exists; is that correct?

12 A. Well the team doesn't exist anymore. And I
13 remember thinking that it was somebody on that team.

14 Q. So did IXL take any steps to determine who it
15 was that made those posts?

16 A. I don't remember doing that.

17 Q. Was anyone terminated for the "new low and fed
18 up" posts?

19 A. No.

20 Q. Just so I understand Glassdoor correctly, even
21 if IXL did not pay a subscription to IXL -- excuse me,
22 to Glassdoor, individuals could still post about the
23 company, correct?

24 A. That's right.

25 Q. Moving now to topic number four regarding the

1 Q. Other than reading it, did you take any other
2 steps to understand the -- that the post was raising
3 false allegations about the company?

4 A. No.

5 Q. If you look at the fourth paragraph of the post
6 that begins, "There are no politics if you fit in," do
7 you see that paragraph?

8 A. I see it. Uh-huh.

9 Q. Did you understand from that paragraph that the
10 person was complaining that if you work for IXL and
11 you're not white or Asian, that you'll be discriminated
12 against?

13 MR. WILSON: Objection; form, foundation.

14 THE WITNESS: I understood -- I interpreted
15 that as, you know, a damaging statement, untrue about
16 the company's culture aimed at poten -- directly at
17 potential job seekers. Just kind of absurd.

18 BY MS. SANGHVI:

19 Q. When you say it's untrue, that there are
20 statements that are untrue, can you identify for me from
21 the beginning which statements you perceived as untrue?

22 A. "Micromanaged, easy unchallenging work," that's
23 definitely untrue. "The company isn't going anywhere
24 right now," that's definitely untrue. "They play to the
25 traditional classroom," that's certainly untrue. "Don't

1 view this as a claim of discrimination?

2 A. I view this as and angry rant meant to hurt the
3 company. It's not -- it's not any kind of legitimate
4 claim.

5 Q. Do you know the ratio demographic of your
6 company -- what the ratio demographic of your company
7 was in 2014?

8 A. I could talk about that if we could look at
9 that report that we saw earlier.

10 Q. Let's turn our attention to Exhibit 58.

11 Let me ask you first, Mr. Mishkin, when you
12 decided that this was an untrue statement, did you
13 consult any documents regarding the ratio demographic of
14 the company?

15 A. No, I didn't.

16 Q. Is it true that of the 184 employees that were
17 employed at IXL in 2014, 113 of them were white?

18 A. That's true.

19 Q. Is it true that of the 184 employees employed
20 at IXL, 48 of them were Asian?

21 A. That is true.

22 Q. So 161 of the 184 employees employed at IXL in
23 2014 were in fact white or Asian, correct?

24 A. That's correct.

25 Q. You didn't consult that information --

1 word "perception." Do you mean a true perception, as in
2 he actually believed this?

3 Q. Yes. Did you think it was possible that an
4 employee such as Scott Duane believed this?

5 A. I'm sure I must have given that some thought.

6 Q. And what was your conclusion?

7 A. My conclusion was -- was that I -- I didn't see
8 how that could be possible.

9 Q. Why is that?

10 A. Because it's so filled with false information,
11 statements that no intelligent sensible person could --
12 could believe and -- and it seemed very crafted too. I
13 mean just very much designed to turn away app -- you
14 know, to scare away applicants to the company.

15 Q. Did IXL have any policies about posting
16 negative posts on Glassdoor.com?

17 A. No, we didn't.

18 Q. So after reading this and coming to the
19 conclusion that this was an untrue and absurd statement,
20 as you testified, what did you do next?

21 A. I suppose I would have thought about what's --
22 what's the right thing to do about it.

23 Q. What was your next action?

24 A. I don't know about my exact next action. I
25 know that I -- I had a discussion with, I believe, David

1 or Maricela would have taken care of.

2 Q. After that meeting, what did you do?

3 A. The rest of the day I -- I can't remember.

4 Q. Did you talk in that meeting about still
5 proceeding with the scheduled meeting with Mr. Duane on
6 January 8th at 11:00 a.m.?

7 A. Yes.

8 Q. And what was that discussion?

9 A. Well, I still wanted to hear what he had to
10 say.

11 Q. Why is that?

12 A. Because discrimination is not something that I
13 would ever tolerate at the company. And if there had
14 been an instance of discrimination, I wanted to know
15 about it so I could take action about it.

16 Q. Would it have changed your decision to
17 terminate Mr. Duane?

18 A. It would not have.

19 Q. Did you speak to anyone at IXL regarding
20 Mr. Duane's termination the morning of January 8th prior
21 to your meeting with Scott Duane?

22 A. I can't remember whether I did or didn't.

23 Q. Did you speak with Jennifer Gu about your
24 planned termination of Mr. Duane?

25 A. I probably did, but I don't remember any

1 conversation, though.

2 Q. Did you need to seek her input when terminating
3 employees?

4 A. No.

5 Q. Did you speak with anyone on the executive team
6 about your decision to terminate Mr. Duane before you
7 did it?

8 A. Sorry, I need to go look back and see who was
9 on that executive team back then.

10 I'm just thinking a minute if I would have --

11 Q. We have to sort of have to put everything into
12 the record. So let the record reflect that Mr. Mishkin
13 is referring to IXL-1406, which is Exhibit 53.

14 A. I don't believe that I did.

15 Q. So then you had a meeting with Mr. Duane on
16 January 8th at 11:00 a.m., correct?

17 A. I did.

18 Q. Was anyone else present in that meeting?

19 A. No.

20 Q. Where was that meeting held?

21 A. In my office.

22 Q. Describe how that meeting began.

23 A. Scott came in, sat down. I -- I think I asked
24 him or told him I hope he's -- he's feeling well, and I
25 asked him how are things with David. I remember him

1 saying things with David were fine now, and I asked
2 him -- I asked him to talk about -- I don't remember how
3 I phrased it -- to talk about the things that he
4 experienced that he wanted to share with me. May have
5 asked him about did he have an experience with
6 discrimination that he wanted to talk about.

7 He talked about that in his -- his telling of
8 it, David denying his request to work from home and said
9 that that was illegal. And we talked about that a
10 little bit.

11 I -- I remember asking him, you know, didn't --
12 "Wasn't it true that you're less productive when you
13 were working from home before and there was a track
14 record of not being productive on work from home days?"
15 And he said, yes, that that was true. And he also said
16 that it didn't matter that -- I asked him, "Wasn't it
17 appropriate for David to bring that up with you?" And
18 he said it -- it was, but it was still illegal for him
19 to not agree immediately to what he was asking for.

20 Q. Did you have an understanding on the accuracy
21 of his statement that it was illegal to not grant him
22 his work-from-home accommodation?

23 A. At -- well, I -- I don't know about what you
24 just said, not grant them. I -- I think it was a back
25 and forth discussion between David and Scott. And I

1 know by the time that I was having this meeting with
2 Scott, I had done -- I had done research and, you know,
3 I knew that what David -- I knew that there was nothing
4 illegal about what had happened.

5 Q. What research had you done?

6 A. I'd done research on my own online just, you
7 know, reading about how the laws work.

8 Q. Do you remember what information you were
9 accessing about --

10 A. I remember getting information from a variety
11 of sources. I don't remember particular sites.

12 Q. Had you consulted HR on this point?

13 A. I -- I can't remember if -- can't remember if I
14 had or if I hadn't. I remember wanting to get a
15 definitive answer for -- for myself by doing my own
16 research.

17 Q. Did you feel like you would not get a
18 definitive answer from HR?

19 A. I felt like it was a legal issue, legal aspects
20 to it, and, you know, I just wanted to be absolutely
21 sure.

22 Q. I think earlier you had testified that it
23 was -- one of HR's responsibilities was dealing with
24 complaints from employees. So I'm just curious why
25 you -- didn't correct me if I'm mischaracterizing -- why

1 you didn't either feel comfortable or want to go to HR
2 given the legal aspects?

3 A. I said earlier that that's one of HR's
4 responsibilities. It doesn't necessarily mean that
5 they're going to handle every single complaint that
6 there ever is in the company. You know, I've also been
7 CEO of this company for almost -- well, at the time
8 maybe 17 years, dealt with a lot of situations and have
9 a lot of confidence in my own ability to figure out
10 certain situations.

11 Q. Do you have any legal training?

12 A. No, I don't.

13 Q. Have you ever completed any HR certification?

14 A. Nope.

15 Q. How did you go about conducting this research?

16 A. By doing Internet search.

17 Q. Did you start with Google, just Googling
18 something?

19 A. I'm sure I used Google. I also used common
20 sense?

21 Q. Can you -- what does that mean, you also used
22 common sense?

23 A. Common sense would tell you that it doesn't
24 make sense for an employee to make a unilateral demand
25 for there not to be a discussion. I mean that would

1 be -- it literally makes no sense whatsoever.

2 Q. And this research that you did, was it done at
3 IXL?

4 A. Yes.

5 Q. You think on January 7th or the morning of
6 January 8th?

7 A. I don't know.

8 Q. Was it done on your IXL computer?

9 A. Presumably, yeah, it would have been.

10 Q. Do you still have the same computer?

11 A. I do.

12 Q. You said earlier that not every complaint was
13 going to be handled by HR, and given your long history
14 as CEO there was certainly some that you would be able
15 to handle independently.

16 Is that an accurate description of what you
17 said?

18 MR. WILSON: Objection; form.

19 THE WITNESS: It sounds like you're trying to
20 put it into two categories. I don't know that I would
21 do that.

22 BY MS. SANGHVI:

23 Q. I guess I'm trying to understand, when you made
24 that statement, which types of complaints would you take
25 to HR and which would you handle independently?

1 disabilities needs.

2 Q. Do you have an understanding of what
3 limitations there are about what a manager can ask for
4 of an employee in the context of an interactive process?

5 A. Not off the top of my head.

6 Q. So we were talking about the meeting on
7 January 8th, 2015 in your office with Mr. Duane. You've
8 outlined that Mr. Duane raised his concern that being
9 denied his request -- requested accommodation was
10 illegal.

11 And you engaged in a little bit of conversation
12 around that; is that correct?

13 A. He made the claim that it was illegal, yes.

14 Q. And what was your response?

15 A. Like I said, I -- I asked him -- you know, we
16 talked about his productivity, I asked him wasn't it --
17 wasn't it reasonable for David to -- to make this
18 suggestion.

19 Q. What was his response?

20 A. His response was that it was still illegal.

21 Q. Did you discuss anything else with regards to
22 that topic?

23 A. I'm thinking about where the topic ends. He --
24 he said that he had observed many other illegal things
25 at the company, so I asked him about what those were.

1 He said that in a new hire orientation, Maricela had
2 gotten to a section that related to disability benefits
3 and Scott had said that Maricela said to him and the
4 other one or two people in the room, "You look like
5 healthy young guys, I can skip this section."

6 And he also said that -- he said that that made
7 him feel uncomfortable. He also said that he -- that
8 Karen Penner had told him what he considered personal
9 information about one of her direct reports who was
10 taking some time off for -- for medical procedures.

11 Q. Anything else?

12 A. I asked him if there was anything else, and
13 he -- he didn't have anything else to add.

14 Q. Did Mr. Duane bring up the fact that Brad
15 Marshall provided him incorrect information?

16 A. He did say that.

17 Q. And what did he say about that?

18 A. I don't remember any particulars.

19 Q. Did you ask him any particulars?

20 A. I don't remember if I asked him. Yeah, I don't
21 remember.

22 Q. Was this -- was Mr. Duane's allegation the
23 first time you were made aware of Mr. Marshall's errors
24 as a human resources manager?

25 MR. WILSON: Form.

1 THE WITNESS: I can't remember if it was or
2 not.

3 BY MS. SANGHVI:

4 Q. Just for the record, I'll clean that up.

5 Was Mr. Duane's allegation for the -- the first
6 time that you were made aware of Mr. Marshall giving
7 incorrect information?

8 A. I can't remember if it was or not.

9 Q. But you had already by this point fired
10 Mr. Marshall from the position of HR manager, correct?

11 A. That's right.

12 Q. Mr. Marshall had supervised Ms. Prado who
13 remained at IXL, correct?

14 A. Correct.

15 Q. And other than consultation from Ms. Ockerberg,
16 Ms. Prado remained the sole HR representative from
17 September 2014 till about February 2015 when Ms. Rodney
18 began, correct?

19 MR. WILSON: Objection; form.

20 THE WITNESS: I can't remember whether there
21 was anyone on the HR team besides Maricela or Lenore for
22 that period.

23 BY MS. SANGHVI:

24 Q. You weren't concerned that Ms. Prado might be
25 functioning under the same incorrect information that

1 Ms. Keyes could use some more training, specifically
2 about disability issues?

3 A. I'm sorry, I didn't hear.

4 Q. Did Mr. Duane raise to you that Ms. Prado and
5 Mr. Keyes could use more training, specifically training
6 about disability issues?

7 A. That sounds -- I remember a comment along those
8 lines.

9 Q. What did you say in response?

10 A. I told him in general about his -- his
11 responses, that I would talk to the people that he
12 mentioned.

13 Q. But did you follow up about the specific
14 allegation that this HR person and this manager could
15 use more training about disability issues?

16 A. I know I followed up somehow, but I don't
17 remember exactly what I did.

18 Q. Did you follow up with Mr. Duane after he made
19 that allegation?

20 A. You mean in that meeting?

21 Q. Yes.

22 A. No, because it -- it was in that meeting that
23 he -- he told me this, and I told him that I would
24 follow up with the people that he had mentioned
25 obviously after the meeting.

1 direct reports?

2 A. No, it did not.

3 Q. What did it have to do with?

4 A. It had to do with job performance.

5 Q. Who made the decision to terminate Ms. Penner?

6 A. That would have been something that Jennifer Gu
7 and I discussed, and Jennifer made the final decision.

8 Q. Who communicated that to Ms. Penner?

9 A. Jennifer did.

10 Q. Do you know what reason Ms. Penner was
11 provided?

12 A. I don't know exactly what they discussed.

13 Q. Did Ms. Penner apply for and collect
14 unemployment insurance?

15 A. I don't know.

16 Q. Did Ms. Penner receive severance?

17 A. I also don't recall.

18 Q. Would knowing that Ms. Penner had in fact
19 disclosed private medical details about Ms. Antle on
20 January 8th, would knowing that have changed your mind
21 about terminating Mr. Duane?

22 MR. WILSON: Objection; form.

23 THE WITNESS: No, it would not have.

24 BY MS. SANGHVI:

25 Q. You indicated earlier that you had told

1 Mr. Duane that you would speak to Maricela and Karen, is
2 that correct, after the meeting presumably?

3 A. I did tell him that.

4 Q. And did you then have the opportunity to speak
5 with Ms. Prado about her new employee orientation
6 presentation?

7 A. I did.

8 Q. When did you have that conversation with
9 Ms. Prado?

10 A. After meeting with Scott at some point.

11 Q. Within that week?

12 A. I believe so.

13 Q. And who else was present for that conversation?

14 A. My memory is that nobody else was.

15 Q. What was the purpose of that conversation?

16 A. Just to ask her about what he said.

17 Q. Where did you meet?

18 A. I didn't hear, I'm sorry.

19 Q. Where did you meet Ms. Prado?

20 A. The office somewhere.

21 Q. And what did you discuss at that meeting?

22 A. I remember just asking her about it. Yeah,
23 just relaying the comment and asking her about it.

24 Q. And what was Ms. Prado's response?

25 A. I don't remember clearly.

1 Q. Did you conduct any other investigation such as
2 asking her who the other two individuals in that
3 orientation were?

4 A. No, I didn't ask that.

5 Q. Why not?

6 A. I didn't feel the need for that information.

7 Q. Why didn't you feel the need for that
8 information?

9 A. I -- I just -- I just simply didn't. I don't
10 know how to explain any further than that.

11 Q. Did you believe Ms. Prado that she did not skip
12 that -- excuse me, did Ms. Prado in fact confirm that
13 she did not skip that section?

14 A. I don't remember clearly what she told me.

15 Q. Would you have taken any notes at that meeting?

16 A. No.

17 Q. Did you have any follow-up conversations with
18 Ms. Penner?

19 A. I did.

20 Q. And what was that conversation?

21 A. I asked her about -- I shared Scott's comment
22 with her.

23 Q. And when did you share it with her?

24 A. It would have been sometime after the meeting.
25 I don't remember exactly when.

1 Q. Pretty shortly thereafter or much --

2 A. Oh, shortly thereafter, within a few days.

3 Q. Who else was present -- was it a face-to-face
4 meeting?

5 A. It was.

6 Q. Was anyone else present for that meeting?

7 A. No.

8 Q. Where did it occur?

9 A. In our office in San Mateo.

10 Q. Where in your office?

11 A. It might have been her office. It was not my
12 office, I remember that. I don't know for certain.

13 Q. What did you discuss at that meeting with
14 Ms. Penner?

15 A. I told her what Scott said, and she -- she told
16 me that, oh, Bridget is very -- very open about this,
17 that she is -- it related to her having lupus, and that
18 she's an advocate for people with lupus and everybody
19 knows this. And that she had had a minor plastic
20 surgery procedure, cosmetic -- cosmetic procedure at the
21 same time, and she was openly talking about that too.

22 Q. Did you follow up with Ms. Antle?

23 A. I didn't.

24 Q. You referenced, but then we started talking
25 about another topic, the fact that you brought up the

1 Glassdoor post with Mr. Duane; is that correct?

2 A. I did.

3 Q. Can you tell me about what you said first when
4 you brought it up?

5 A. So after Scott had finished talking about the
6 issues that I've shared already, you know, I asked
7 him -- I asked him, "Is there anything else you want to
8 share with me," and he said no.

9 And then I had a printout of the review, and I
10 showed it to him -- or before I said, there's something
11 I'd like to talk about, and I showed him a printout.
12 And, you know, that's how it started.

13 Q. And what did Mr. Duane say in response to
14 seeing the printout?

15 A. Scott said that this wasn't what he was there
16 to talk about that day.

17 Q. And what was your response to that?

18 A. Something along the lines of, yes, but this --
19 that this was something I -- I -- I wanted to talk about
20 now.

21 Q. Did you ask him anything specific about the
22 post?

23 A. I asked him -- I know I asked him about the --
24 the "There are no politics if you fit in section."

25 Q. What do you remember asking him about that

1 section?

2 A. I remember asking him what he meant by that.

3 Q. And what was Mr. Duane's response to your
4 question?

5 A. I remember him -- I remember him saying that as
6 a queer person he -- he didn't fit in. You know, I
7 remember also just -- I think expressing some of my own
8 feelings about just that -- that statement and how
9 that -- that doesn't match at all with -- with the
10 culture at IXL and -- and -- and my values and the
11 values I want to have for the company.

12 And I remember him apologizing. I remember him
13 saying he's sorry, he was angry when he wrote it. I
14 remember him offering to take it down. And I remember
15 asking him, you know, what he -- after he said that
16 about not fitting in, are you asking if -- if he's
17 talking about discrimination or is he talking about
18 friendships, because it sounded to me like he was
19 talking about friendships. And he said that those
20 things blend together.

21 Q. First, what did you understand Mr. Duane to
22 mean when he said that discrimination and friendship
23 blend together?

24 A. I -- I don't know what he meant by that.

25 Q. Did you ask him?

1 that that made him not fit in. So that doesn't address
2 the post, that just addresses fitting in.

3 Q. You do see this post as raising a
4 discrimination complaint, correct?

5 MR. WILSON: Objection; form, argumentative.

6 THE WITNESS: I see it as a general insinuation
7 that -- that there is different treatments depending on
8 certain characteristics.

9 BY MS. SANGHVI:

10 Q. And is different treatment based on certain
11 characteristics the definition of discrimination?

12 MR. WILSON: Objection; asked and answered,
13 form.

14 THE WITNESS: If there's different treatment
15 based on protected categories such as races or
16 promotions, that is -- that would be discrimination.

17 BY MS. SANGHVI:

18 Q. And are there any protected categories that
19 Mr. Duane raised in this post?

20 A. There are -- sure, raised sexual identity.
21 Those are protected categories.

22 Q. So he's raising protected categories and noting
23 differential treatment based on those categories.

24 So I'll ask you again, Mr. Mishkin, didn't you
25 understand Mr. Duane to be raising a discrimination

1 complaint through this post?

2 MR. WILSON: Objection; argumentative, asked
3 and answered repeatedly.

4 THE WITNESS: My -- my answer is no.

5 BY MS. SANGHVI:

6 Q. I'm going to refer back to your testimony at
7 the NLRB when you were specifically talking about this
8 section of the Glassdoor post. Your testimony about
9 this paragraph was, "I wanted -- I mean I wanted to know
10 more about" -- this is you testifying. "So I started
11 asking him more about it. I said what you're saying --
12 you know, what you're saying here is that if you're not,
13 if you work for IXL and you're not white or Asian, if
14 you are not straight or mainstream gay, if you don't
15 like sports, if you don't have kids, that you'll be
16 discriminated against. I told him that's the claim
17 you're making here."

18 Do you remember testifying to that?

19 A. I do.

20 Q. So do you have any reason to believe that
21 testimony given was not true?

22 A. That is true, what I said to Scott.

23 Q. If you didn't follow up with him about his
24 comment that friendship and discrimination blend
25 together, how did you know what he meant by that?

1 A. I suppose I can't know all of the intricacies
2 of what he meant by that.

3 Q. Did you ask him for any examples of why as a
4 queer person he felt that he didn't fit in at IXL?

5 A. I didn't.

6 Q. You also testified earlier that you felt like
7 the statements didn't match your values. How did it go
8 against your values?

9 A. My values are to create an environment where
10 irrelevant things like someone's race, you know, sexual
11 identity, attributes like that are -- are simply -- are
12 simply not a factor in how they're evaluated in the
13 workplace.

14 Q. And how do you know whether your values were in
15 fact reflected in your managers' decisions to --

16 A. I'm sorry, I didn't hear.

17 Q. How do you know whether your values were in
18 fact reflected in your managers' decisions to give
19 flexible hours, interesting projects, praise,
20 promotions, a big yearly raise?

21 A. I know because I've been running the company
22 for a long time, and I can't remember a single example
23 in my nearly 20 years of doing this where any of these
24 factors were -- were ever brought up as when it came to
25 discussing promotions, raises, any kind of career

1 Q. So Mr. Duane brought to you a claim of
2 discrimination, correct?

3 A. He brought a claim to David, David suggested
4 that it would be helpful for me to meet with Scott, and
5 I set up a meeting to hear him out.

6 Q. And he also raised a claim of discrimination in
7 his Glassdoor.com post, correct?

8 MR. WILSON: Objection.

9 THE WITNESS: I -- I don't think that's a
10 correct way of characterizing that.

11 BY MS. SANGHVI:

12 Q. You were aware of Mr. Duane's allegation of
13 discrimination, correct, when you had a meeting with him
14 on January 8th, 2015?

15 A. If you're talking about what he told David
16 Keyes, I was aware that there was -- that concern on his
17 part about discrimination.

18 Q. And you were also aware that on his Glassdoor
19 post, he was making a claim of discrimination, correct?

20 MR. WILSON: Objection; asked and answered.

21 THE WITNESS: No, I -- I don't agree with that.

22 BY MS. SANGHVI:

23 Q. So are you changing your testimony from your
24 prior sworn testimony at the NLRB?

25 MR. WILSON: Objection; argumentative.

1 THE WITNESS: I am not sure -- I don't
2 understand how this would be a change.

3 BY MS. SANGHVI:

4 Q. I'm not sure if it would help you to see the
5 language. So I'm -- I'm not going to mark this entire
6 thing as an exhibit. I'm just going to show you this.
7 It's a proceeding. And that is your testimony. It
8 starts here, if that helps (indicating).

9 A. (Witness reviewing document.)

10 Okay, I can read that.

11 Q. So as you were in the January 8th with
12 Mr. Duane, were you aware that he was raising multiple
13 claims of discrimination against IXL? He was claiming
14 it.

15 A. I think what I'm struggling with is different
16 meanings of the word "claim," is -- is -- the formal
17 claim of discrimination versus more informal usage, you
18 know. Your -- your -- this is something you're
19 claiming, you know.

20 Q. How did you mean it when you said it?

21 A. When I said it, I honestly meant it probably
22 more of a mathematical sense, so this is -- this is what
23 you wrote, you know, that's -- that's your proposition.
24 And I said that I -- I wanted to hear the evidence.

25 Q. But you didn't ask him for specific examples

1 about the evidence, right?

2 A. It was completely clear to me after he -- based
3 on how the meeting had gone up to that point and the way
4 he responded to that question, it was -- yeah, it was --
5 it was obvious to me that there -- he -- he had nothing
6 to back this up.

7 Q. So you didn't investigate any of his
8 propositions of discrimination, correct, prior to
9 terminating him?

10 MR. WILSON: Objection; form, foundation.

11 THE WITNESS: I didn't need to investigate
12 them.

13 BY MS. SANGHVI:

14 Q. And why didn't you need to investigate them?

15 A. Because I know they're untrue.

16 Q. Did you consult all of your managers before
17 deciding to terminate Mr. Duane?

18 A. No.

19 Q. Did you review the promotion decisions for
20 employees in the past year before deciding to terminate
21 Mr. Duane?

22 A. I had reviewed them all, but not -- I -- I had
23 reviewed them all.

24 Q. After reading the post, did you review the
25 promotion decisions from employees in the past year?

1 A. No.

2 Q. After reading the post, did you review the
3 decisions regarding raises for your employees in the
4 past year?

5 A. Not after reading the post.

6 Q. And you had not consulted any EEO-1 data to
7 understand ratio demographic of your workforce, correct?

8 MR. WILSON: Objection.

9 BY MS. SANGHVI:

10 Q. -- after reading the post?

11 MR. WILSON: That's the fourth time you've
12 asked that question.

13 THE WITNESS: I did not do that after reading
14 the post.

15 MR. WILSON: This is getting really
16 argumentative. We've -- we have gone now for over --
17 well over an hour. We've gone over the same argument.
18 At some point you've got to just move on. That's my
19 objection.

20 MS. SANGHVI: Are you done for the record?

21 MR. WILSON: That's my objection.

22 BY MS. SANGHVI:

23 Q. Did you believe Mr. Duane's post was
24 defamatory?

25 A. I did.

1 Q. Why did you believe Mr. Duane's post was
2 defamatory?

3 A. I believed it was defamatory because most of it
4 is -- it's obvious false statements, and I -- and I
5 believed it was intentional and particularly seeing
6 the -- the place where it was posted and the manner in
7 which it was written directly to job seekers.

8 Q. Did you pursue legal action against Mr. Duane
9 for defamation?

10 A. No.

11 Q. Why not?

12 A. I thought -- knowing how important -- I guess I
13 worried about making -- making the situation worse and
14 Scott possibly engaging in -- in more of this type of
15 behavior.

16 Q. Without telling me the contents of any
17 discussion you had with an attorney, did you consult an
18 attorney about a potential defamation claim against
19 Mr. Duane?

20 MR. WILSON: That does reveal a communication
21 with counsel about potential defamation. I don't know
22 how he can -- object. I don't know how he can answer
23 that without, you know, revealing the contents of what
24 he talked about. I'd ask if there's a way that you
25 could rephrase it.

1 A. It's a -- reflects very poor ethics because
2 it's an intentional attempt to sabotage the company that
3 he's working for, you know. At the time, still today,
4 even more so then recruiting -- you know, finding enough
5 employees is -- is extremely difficult for a lot of
6 roles. There's a lot of competition and -- and it's
7 just a well known fact within the company that --
8 that -- how important recruiting is to us.

9 So to -- to draft -- to draft a post like this
10 and to choose all the possible places you could do this,
11 the -- the one spot that hurts us most as a company, the
12 site that perspective job applicants are -- are reading,
13 that's -- I mean it's -- it's treacherous.

14 Q. In January of 2015, IXL had approximately --
15 almost 200 employees; is that right?

16 A. That sounds right.

17 Q. And three years later today, how many employees
18 does IXL employ?

19 A. I believe it's about 420 now, approximately.

20 Q. So in the past three years, IXL has nearly
21 doubled in size, correct?

22 A. That's correct.

23 Q. Would you agree that IXL employees are smart,
24 talented employees?

25 A. I would agree with that, in general.

1 Q. And are the new people that IXL has hired since
2 January 2015, individuals that you believe possess and
3 bring strong talent to the company?

4 A. I can't necessarily say that for every last
5 person, but we try our best.

6 Q. Do you feel like you've succeeded as a company
7 in bringing strong talent?

8 A. I do.

9 Q. Do you have any specific examples of how
10 Mr. Duane's post has harmed the company's recruitment
11 efforts?

12 A. You mean examples of people who might have seen
13 this and decided not to apply?

14 Q. No. Examples -- I imagine you wouldn't be
15 aware of that. So I'm asking about examples that you
16 are aware of how Mr. Duane's post has harmed IXL's
17 recruitment efforts?

18 A. I don't have any examples that I'm aware of.

19 Q. Do you believe that an employee is entitled to
20 make an anonymous discrimination complaint?

21 A. In general, yes.

22 Q. And if an employee makes an anonymous
23 discrimination complaint, is the company required to
24 investigate it?

25 MR. WILSON: Objection; form and foundation.

1 was getting to be a lot to handle, HR and operations
2 together.

3 BY MS. SANGHVI:

4 Q. Focusing on the meeting on January 8th, after
5 Scott had -- I don't think we covered what happened at
6 the end of meeting after you had told Mr. Duane --
7 confronted him about the post, what happened?

8 A. So we -- we talked about the post and at the
9 end I -- I think I may have thanked him again for
10 sharing the information that he shared with me in the
11 beginning of the -- the first part of the meeting. And
12 then I -- I told him I didn't see how there could be a
13 way that we could continue to work together.

14 Q. Did you tell him anything other than you didn't
15 think there was a way to continue working together?

16 A. I don't remember exactly what I said. It's
17 possible.

18 Q. Did you also tell Mr. Duane that what he did
19 was unacceptable and that it showed poor judgment and
20 poor ethical values and that you couldn't trust him?

21 A. I did tell him that.

22 Q. And then what happened?

23 A. When -- at some point he clearly understood
24 that he was being terminated. I don't remember if I
25 actually used the word "termination" or not, but he

1 stood up and said, "You'll be hearing from my lawyer,"
2 and left my office.

3 Q. And did you think you couldn't work together
4 anymore with Mr. Duane because he thought IXL treated
5 certain characteristics of people differently?

6 A. No.

7 Q. There was a back and forth between you and
8 Mr. Marek about what information and what decision you
9 had made prior to the January 8th meeting, and I just
10 want to be -- make sure I'm extremely clear.

11 You had already decided to terminate Mr. Duane
12 prior to the January 8th meeting, correct?

13 A. Yes.

14 Q. And the reason for that termination decision
15 was what?

16 A. It was the Glassdoor posting.

17 Q. And is there anything that Mr. Duane could have
18 told you in that meeting that would have changed that
19 decision for you because it wouldn't have changed the
20 post?

21 A. It's hard to imagine something.

22 Q. You've also made the point with Mr. Marek that
23 the -- that the post was made in a very public forum and
24 it was meant to harm IXL's business, and that's one of
25 the primary reasons you thought it was appropriate to

REPORTER'S CERTIFICATE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I, DIANA L. GONZALEZ, a Shorthand Reporter,
State of California, do hereby certify:

That PAUL MISHKIN, in the foregoing deposition
named, was present and by me sworn as a witness in the
above-entitled action at the time and place therein
specified;

That said deposition was taken before me at said
time and place, and was taken down in shorthand by me, a
Certified Shorthand Reporter of the State of California,
and was thereafter transcribed into typewriting, and
that the foregoing transcript constitutes a full, true
and correct report of said deposition and of the
proceedings that took place;

That before completion of the proceedings,
review of the transcript was requested.

IN WITNESS WHEREOF, I have hereunder subscribed
my hand this 14th day of March 2018.

DIANA L. GONZALEZ, CSR NO. 7935
State of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

---oOo---

U.S. EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
and)
ADRIAN SCOTT DUANE,)
)
Plaintiff-Intervenor,)
)
v.)
IXL LEARNING, INC.,)
)
Defendant.)
_____)

Case No. 3:17-cv-02979-VC

DEPOSITION OF

NEMO CUIEL

April 17, 2018

10:16 a.m.

44 Montgomery Street, Suite 1100

San Francisco, California

Sarah J. Bingham, CSR #13720

1 point.

2 Q. Do you recall discussing why you made a different
3 salary than Jessica Morse?

4 A. I don't recall that.

5 Q. Okay. Did you believe that you were paid more
6 than Jessica Morse because you're a male and she's female?

7 A. Did I believe that I was paid more than
8 Jessica Morse because I'm male and she's female. Did I
9 believe then?

10 Q. Yes.

11 A. No.

12 Q. Do you believe --

13 A. No, I didn't believe that.

14 Q. I'm sorry. Did you believe while you were at IXL
15 that you were paid more in salary than Jessica Morse
16 because you were Latino?

17 A. No.

18 Q. Did you ever have any discussion with Scott Duane
19 while you were at IXL about the diversity of IXL,
20 particularly of Latinos and non-Latino employees?

21 A. The beginning part of the question one more
22 time?

23 Q. Do you recall ever having any discussions with
24 Scott Duane about the diversity of IXL, particularly Latino
25 and non-Latino employees?

1 A. I believe we discussed that at some point,
2 yes.

3 Q. Do you recall what you discussed?

4 A. I don't recall the details precisely. But I
5 recall there being a comment of there were few Latinos,
6 myself included.

7 Q. Did you make that comment or did he make that
8 comment?

9 A. I don't recall that.

10 Q. Do you recall Scott saying anything like "That's
11 the tech industry," "That's typical of the tech industry"?

12 A. I don't recall that.

13 Q. Okay.

14 (Deposition Exhibit 15 was marked for
15 identification.)

16 BY MR. WILSON:

17 Q. Exhibit 15 is -- I'll just put it up on your
18 screen because it's one page.

19 A. Okay.

20 Q. It is a March 11, 2014, e-mail from David Keyes
21 to you, copying Isidora with the subject line "Testing
22 help." And if you could just take a look at that e-mail.

23 Please tell me if you recall receiving this.

24 A. I don't recall this -- receiving this
25 particular e-mail.

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

I, SARAH J. BINGHAM, a Certified Shorthand Reporter, within and for the State of California, do hereby certify:

That NEMO CURIEL, the witness whose examination is hereinbefore set forth, was first duly sworn by me and that this transcript of said testimony is a true record of the testimony given by said witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of April, 2018.



Sarah J. Bingham
CSR #13720

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

---000---

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

and

CASE NO. 3:17-cv-02979-VC

ADRIAN SCOTT DUANE,

Plaintiff-Intervenor,

vs.

IXL LEARNING, INC.,

Defendant.

_____ /

DEPOSITION OF MARICELA PRADO

Taken before DIANA L. GONZALEZ

CSR No. 7935

March 1, 2018

1 activities?

2 A. Yes.

3 Q. Can you describe those?

4 A. Yeah. We had a lot of activities. We had
5 summer socials, holiday parties, birthday celebrations
6 every month, potlucks and things like that. And I used
7 to -- I used to coordinate all of those events, and of
8 course I -- so I still made sure to attend them.

9 Q. When did you stop coordinating those events?

10 A. After I was no longer reporting to Lenore.

11 Q. So in 2013 you were still coordinating some of
12 these activities, correct, since you moved into the HR
13 coordinator role in January of 2014?

14 A. Uh-huh.

15 Q. Do you recall an event for new employees around
16 July of 2013 that Scott Duane might have attended?

17 A. Yes.

18 Q. What was that?

19 A. That was new hire event in San Francisco
20 called -- coordinated by CLASH. I think that was the
21 name of the company that we hired.

22 Q. What was that event?

23 A. It was a scavenger hunt in the City.

24 Q. Do you remember one of the activities in that
25 scavenger hunt being needing to draw on another team

1 member's chest, bare chest?

2 A. Yes.

3 Q. Do you remember Scott Duane participated in
4 that?

5 A. Ys.

6 Q. Were you there at the event?

7 A. I was.

8 Q. And who drew on Scott Duane's chest?

9 A. It was Karen Penner.

10 Q. Did you see the drawing? Did you see her
11 drawing?

12 A. Yes.

13 Q. Did you observe any scars on Scott Duane's
14 chest at that time?

15 A. No. It -- well, yes, I saw scars.

16 Q. Did you ask him about those scars at that
17 scavenger hunt?

18 A. No.

19 Q. Were you curious about the scars?

20 A. At the moment that it happened I -- not --
21 curious is not the word I would say.

22 Q. What is the word you would say?

23 A. I felt -- I felt -- not bad, but just surprised
24 maybe. This is happening a little slow. I wish I can
25 talk a little bit faster.

1 Q. So I understand that Mr. Duane never mentioned
2 anything. Around the beginning of 2015 or around the
3 time that Mr. Duane was terminated, did anyone in
4 management, either your manager or anyone above your
5 manager, ever come and talk to you about Scott Duane's
6 allegation that you skipped that portion?

7 A. No.

8 Q. Would you consider -- did you consider yourself
9 friendly with Mr. Duane?

10 A. Yes.

11 Q. Did that sense of friendliness change over the
12 course of his employment?

13 A. Did it change? No. I mean towards the end it
14 did.

15 Q. How so?

16 A. He was more negative and more angrier, not --
17 he was not friendly.

18 Q. Around when did you start noticing that change?

19 A. It was a few -- it was a couple of months
20 before he left.

21 Q. So you're aware that Mr. Duane took a leave of
22 absence basically two months -- for two months prior to
23 his termination; is that correct?

24 A. Uh-huh. Yes.

25 Q. And would you say that his change in attitude

1 So when he -- he volunteered to -- we were
2 rushing, right, we were going through the list and
3 running around. It was so much fun. And then that --
4 that particular question came up, and we were looking
5 for something to write on. And then Karen was like,
6 oh, I have lipstick, and she brought it out of her
7 purse. And then one of the team members had already --
8 he got into like a -- a laundromat, he went into a
9 dryer, so he had already done something. So then it
10 was like someone else's turn, right. So we were, like,
11 going who's going to go. And he went like -- he
12 volunteered, and then he put up his shirt and then she
13 started drawing. And then, yes, I saw something, but I
14 was more focused on the drawing. And then we took the
15 picture and then we left to do the next activity.

16 But I saw it and I remembered I -- it was like,
17 oh, but it was just so fast because, you know -- and we
18 won first place so we were really going fast.

19 Q. Proof that you were going fast.

20 But you were struck by seeing the scars; is
21 that accurate?

22 MR. WILSON: Objection; form.

23 THE WITNESS: Yes.

24 BY MS. SANGHVI:

25 Q. So when you slowed down a bit and weren't going

1 so fast, did you have an opportunity to ask Mr. Duane
2 about the scars?

3 A. No.

4 Q. Did you talk to anyone else about the scars
5 that you observed?

6 A. No.

7 Q. You didn't talk to Karen Penner and say, "Wow,
8 did you see that?"

9 A. No.

10 Q. Did you have any ideas of why he had those
11 scars? Did it occur -- did you think about it at all?

12 A. No. No, I did not.

13 Q. You said pictures were taken; is that true?

14 A. Yes, pictures were taken.

15 Q. And then are those pictures saved?

16 A. Yes. So -- yes.

17 Q. Where are they saved?

18 A. They -- I saved them in -- that phone -- I used
19 my phone for my group's pictures. And then everybody
20 else's phones that -- for those groups, I took them --
21 or I asked for them, and I uploaded them into our
22 folder at work so people could see them.

23 But I always review all of the photos before I
24 post any of them, of course. Not only so they want to
25 see them, but I want to make sure that they are not,

1 you know, nothing crazy on there. So I -- and I
2 deleted his photo.

3 Q. Why did you delete his photo?

4 A. Because there was -- because I felt that it was
5 nudity, so I didn't think it was appropriate to share
6 his photo.

7 Q. Did every team have a different set of tasks to
8 complete?

9 A. Yes.

10 Q. So nobody else was required to have something
11 drawn on a bare chest?

12 A. Uh-huh. Uh-huh.

13 Q. Is that accurate?

14 A. Yes, that's accurate.

15 Q. So his was the only photo that you deleted?

16 A. I can't be for certain.

17 Q. But you are certain you deleted his photo?

18 A. Yes. Yes.

19 Q. Did you consult with anyone prior to deleting
20 that photo?

21 A. No.

22 Q. And when did you -- when do you recall deleting
23 it?

24 A. I deleted it as soon as I -- as I uploaded
25 them, I looked at all the photos and then I e-mailed

1 A. I think I called him and -- I called him
2 because he was -- we were changing benefits and I
3 wanted to know what he wanted to choose.

4 Q. And did Mr. Duane provide you with the
5 necessary information?

6 A. Yes. Because I had e-mailed him -- if I
7 remember correctly, I had e-mailed everybody. And
8 everybody who was either on leave or on vacation or
9 something like that, I sent an e-mail to their private
10 e-mails and he -- I didn't receive a response for his
11 selections, so I called him and he told me what he
12 wants.

13 Q. And did you attend the December 2014 holiday
14 party?

15 A. Yes.

16 Q. Do you remember that holiday party?

17 A. I -- yes, I attended.

18 Q. Do you -- did you see Mr. Duane at this party?

19 A. I did.

20 Q. Did you have any impressions upon seeing him?

21 A. I thought that it was -- I was surprised
22 because he had not RSVP'd.

23 Q. Why was that -- was the holiday party open to
24 all employees?

25 A. It was open as long as you RSVP'd. Because we

1 had dinner. It was a seated dinner.

2 Q. So employees were told if you didn't RSVP,
3 please don't come?

4 A. No. But it's an expectation that if you're
5 going, you RSVP. And we always ask if you're not
6 coming -- well, if people didn't come -- sorry, let me
7 just answer your question.

8 What was your question again? Next.

9 Q. Was it -- if somebody did not RSVP to the
10 party, were they not allowed to come to the holiday
11 party?

12 A. It's not that they're not -- they're allowed,
13 of course. Yes, they are allowed.

14 Q. And other than being surprised because he had
15 not RSVP'd for the party, did you have any other
16 impressions about Mr. Duane at that party?

17 A. Well, he was out on leave so -- yeah, it was
18 surprising to see him.

19 Q. While he was out on leave, was he still an
20 employee of IXL?

21 A. Yes.

22 Q. So he was invited to the party, correct?

23 MR. WILSON: Objection; asked and answered and
24 argumentative.

25 Go ahead.

1 BY MS. SANGHVI:

2 Q. You can answer.

3 A. What was your question?

4 Q. He was still invited to the party?

5 A. He was invited, yes.

6 Q. And did you think it was rude that he came to
7 the party?

8 A. Rude that he came? Just -- you take a lot of
9 time in planning a party and making sure you get
10 everybody's dinner orders right. So not rude but
11 just -- you know, an inconvenience that if he would
12 have let us know, we would have made sure to have, you
13 know, him and his guest their selected entree.

14 Q. Did Mr. Duane come to that party with a guest?

15 A. Yes.

16 Q. Did you meet his guest?

17 A. I think I did. Yeah, I did.

18 Q. Do you know who he brought to the party?

19 A. I don't remember the name.

20 Q. Was it a woman or a man?

21 A. It was a woman.

22 Q. And were you surprised to meet a woman as his
23 partner?

24 A. No.

25 Q. Did you have any perceptions -- impressions of

1 Mr. Duane's sexual orientation prior to him bringing a
2 female partner to this party?

3 A. I don't understand your question.

4 Q. Did you have any impressions about Mr. Duane's
5 sexual orientation?

6 A. Impressions? Yes.

7 Q. And what was your impression?

8 A. That he was a male.

9 Q. And what about his sexual orientation?

10 A. Well, he told me he was gay.

11 Q. When did he tell you that?

12 A. He told me -- it was towards the beginning of
13 his employment when we were friendlier.

14 Q. And in what context did he tell you that?

15 A. Because we -- I had taken him out to lunch
16 because it was him and another new hire and because --
17 remember how I mentioned that I felt bad because they
18 were in the smaller cube?

19 Q. Yes.

20 A. So we -- I invited him out to lunch and we were
21 getting to know each other, and he mentioned that he
22 was a big LGBT advocate and he had a newspaper and
23 things like that so --

24 Q. So he had told you about his advocacy work; is
25 that correct?

1 A. Right.

2 Q. Did he also -- did you ask Mr. Duane whether he
3 liked to date men or women?

4 A. No.

5 Q. And you have a memory of that lunch?

6 A. Yes.

7 Q. Was Karen Penner present at that lunch?

8 A. Yes.

9 I'd like to correct something I said. He
10 didn't tell me he was gay. He told me that he was
11 dating a woman -- or that he dated a woman so -- but he
12 didn't specifically say, "I'm gay."

13 Q. So it's your testimony that on September of
14 2013 when you were at this lunch, Mr. Duane disclosed
15 to you that he was dating a woman?

16 A. Yes. If that month is the month of hire, then,
17 yes, at that lunch.

18 Q. He was hired in July of 2013.

19 A. Okay. So when he was hired.

20 Q. So when he was hired that month, July 2013, you
21 went out to lunch with him and Karen Penner and one
22 other individual?

23 A. Yes, one other.

24 Q. Do you remember the name of that person?

25 A. Nemo.

1 Q. Nemo Curiel?

2 A. Yes.

3 Q. Did you have another lunch with Mr. Duane
4 around September of 2013, two months later?

5 A. No.

6 Q. And at that lunch, it is your recollection that
7 Mr. Duane said he was dating a female?

8 A. Uh-huh.

9 MS. MALKIND: Is that a "yes" or "no"?

10 THE WITNESS: Yes. That he dated -- that he --
11 he didn't tell me who he was dating. He told me he --
12 that he -- okay. He said he dated an old lady that --
13 like a grandma. He was laughing and he was sharing and
14 he said that he's dated a grandma.

15 BY MS. SANGHVI:

16 Q. He has in the past --

17 A. Yes --

18 Q. -- dated --

19 A. -- in the past, but didn't tell me he was
20 currently dating anybody. He just shared that piece.

21 Q. Earlier you testified that it was your
22 impression that Mr. Duane was gay. So was this
23 confusing to you when you had this lunch in July of
24 2013 when he was telling you that he dated a woman?

25 A. Uh-huh.

1 Q. Did you clarify that with him?

2 A. No, I didn't clarify anything. I just
3 listened.

4 Q. What else did you talk about at that lunch?

5 A. He told me about some of the work that he does,
6 and I thought that was really cool. And that's it.

7 Q. Do you recall in February of 2014 that Scott
8 needed a week of leave? Were you involved in that
9 leave of absence prior to his two-month leave of
10 absence?

11 A. No.

12 Q. Did you discover any inconsistencies with the
13 information that Brad Marshall had given to Mr. Duane
14 about his leave of absence?

15 A. No.

16 Q. I think we've established that you had a
17 meeting on September 29th with David Keyes and Scott
18 Duane and yourself. Was anyone else at that meeting?

19 A. With David Keyes and myself? No, nobody else.

20 Q. Did you take any notes at that meeting?

21 A. No. I think there was -- there's a form where
22 we ask what's your last day, when are you coming back,
23 things like that. So maybe I just filled out the form.

24 Q. And do you remember talking with anyone about
25 Scott's presence at the holiday party in December of

1 THE WITNESS: It was during Christmas because I
2 remember that Paul and David couldn't -- like we would
3 have normally met together. But because it was already
4 Christmas and we weren't at work, we suggested that
5 David should call Paul.

6 BY MS. SANGHVI:

7 Q. Do you -- so Scott returned to work on
8 December 30th, 2014; is that accurate?

9 A. What date is it again?

10 Q. December 30th, 2014.

11 A. Yes, that sounds right.

12 Q. And did you interact with him at all when he
13 returned to work?

14 A. Not that I can remember.

15 Q. Are you familiar with Glassdoor.com?

16 A. Yes.

17 Q. Are you familiar with IXL's contract for
18 services from Glassdoor.com?

19 A. I didn't maintain the page, so I'm not aware of
20 the contract.

21 Q. What is your understanding of IXL's
22 relationship with Glassdoor.com, if any?

23 A. That we had a company profile, and that's it.

24 Q. And did you go on Glassdoor.com, ever?

25 A. Yes.

1 Q. For what purpose?

2 A. I went on there to -- I would get alerts
3 whenever there were new reviews, so I would go on there
4 and read them.

5 Q. How were those alerts set up?

6 A. How -- what?

7 Q. How were those alerts set up?

8 A. It was -- you subscribe to the company and you
9 get -- whenever there's something new.

10 Q. So you were getting daily alerts; is that
11 correct?

12 A. Not daily alerts. It's whenever there was
13 something new on the page it alerts you.

14 Q. And did you come across a Glassdoor.com post
15 around this period of time that was negative?

16 A. Yes.

17 Q. Can you tell me about that?

18 A. The Glassdoor review, I haven't read it in a
19 long time.

20 Q. If you can tell me about how you came upon it,
21 let's start there.

22 A. Okay. So I probably got the alert there was a
23 new post, so I went on there to read it, and I read it.

24 Q. What was your immediate reaction to reading
25 that post?

1 A. I was shocked, uh-huh.

2 MS. SANGHVI: I'm going to show you an exhibit
3 I'm marking as Exhibit 27. It is a two-page document.
4 It's a printout from an e-mail from Karen Penner to
5 Maricela Prado dated Wednesday, January 7, 2015 at
6 11:01 a.m., bearing Bates number IXL-1664.

7 (Document marked Deposition Exhibit 27
8 for identification.)

9 THE WITNESS: Okay.

10 BY MS. SANGHVI:

11 Q. So I just want to clarify. Did you find the
12 Glassdoor.com post or did Ms. Penner send it to you?

13 A. I found it. And because she is the head of
14 recruiting, she also probably has those alerts on.

15 Q. So when she sent you this e-mail at 11:01, had
16 you already seen --

17 A. Yeah, I had already seen it.

18 Q. And --

19 A. And usually -- sometimes -- well, I didn't
20 communicate with her on the reviews, like -- usually
21 she told me if there was like a review or something,
22 but I already see them. So if she sees something, she
23 like -- it's like, hey, head's up.

24 Q. Was this the first time you'd seen a negative
25 review on Glassdoor.com?

1 A. When did I see it first? So -- let's see,
2 January 7th. So it takes a couple of days. I don't
3 know why the system doesn't alert you when it's
4 immediate but -- and I think the -- even the reviews
5 take a little while to post anyway. So I don't know --
6 I can't remember what time I saw it, but I saw it
7 before she saw it. Or before this e-mail.

8 Q. Did you get -- would you get an e-mail alert --
9 you said you set up alerts. And how are you made aware
10 of that alert? Would you receive an e-mail from --

11 A. I would receive an e-mail.

12 Q. -- from Glassdoor?

13 A. Yes, from Glassdoor.

14 Q. When you read the e-mail, what was your
15 immediate thought?

16 A. Well, it tells me that there's a new post, so I
17 clicked on it, and then I read it on the site. And --
18 what was the question?

19 Q. When you read the post, what was your immediate
20 thought?

21 A. Oh, just that -- I thought that it was not
22 true, and I was really shocked at these allegations,
23 and I was disappointed because I thought that it was
24 Scott.

25 Q. Why did you think it was Scott?

1 A. Because -- let me -- the main reason why I
2 thought it was Scott was because some of the -- some of
3 these items here.

4 MR. WILSON: Can you explain what you're
5 referring to?

6 THE WITNESS: "Treatment in the workplace in
7 terms of who gets flexible hours," that "There is
8 essentially no HR knowledge or staff at this company,
9 know your rights when you work here, because they
10 don't, and they don't care to learn. Most management
11 has no idea what the word 'discrimination' means."
12 The -- the main reason why I thought it was him was
13 because of how he makes these lines in between his --
14 his -- in the review.

15 MR. WILSON: Can you point -- I'm saying for
16 the record when you say --

17 THE WITNESS: These lines.

18 MR. WILSON: When you're pointing at these,
19 just explain verbally.

20 THE WITNESS: The dashes, the double dashes.
21 The double dashes is what --

22 BY MS. SANGHVI:

23 Q. Is it the double dashes and that paragraph --

24 A. Uh-huh.

25 Q. -- the two paragraphs that you referred to, the

1 fourth and fifth paragraphs in the post; is that
2 correct?

3 A. Yeah. Because if you notice his other e-mails,
4 they have them.

5 Q. But you also highlighted for us the language in
6 the fourth paragraph and fifth paragraph, correct?

7 MR. WILSON: Objection.

8 THE WITNESS: When I saw the review, yes, it
9 was shocking. And it's -- it -- seeing the dashes made
10 me think that it must be Scott, especially because of
11 the date that it happened, the date that it was posted
12 were the same dates that he came back from leave.

13 BY MS. SANGHVI:

14 Q. But earlier -- and we can go back to your
15 testimony, if you like, but you said because of what he
16 said here and then you read out "Treatment in the
17 workplace, in terms of who gets flexible hours," you
18 read that whole sentence, and then you the read the
19 next sentence.

20 A. Yeah. Sorry. It's just -- it -- like I said,
21 I haven't read this in a long time and I'm try to
22 remember how I felt. But I knew -- I knew that it was
23 him because of the dashes and because of the date, and
24 he had just come back from leave and we -- the tension
25 during that time was not good, so I thought when he

1 came back he was still angry, he was not saying hi, his
2 team was not -- they also were -- his manager mentioned
3 that when he came in in the morning, he would say hi to
4 his whole team and he would not even turn around. So
5 especially being that it was his first day back, you
6 could tell that he still wasn't happy.

7 So -- and that was his first day back and he
8 was not happy so -- and I think -- I remember David and
9 him having a meeting his first day back and Scott -- I
10 don't remember what was said in the meeting but just --
11 he just was angry.

12 Q. Were you at that meeting?

13 A. I was not at that meeting, but David shared
14 that with me. And that was the day. So --

15 Q. And on -- by January 7th, did you have any
16 other information about Mr. Duane raising concerns
17 about discrimination in the workplace?

18 A. No.

19 MS. SANGHVI: I'm going to mark into evidence
20 Exhibit 28. It is an eight-page document -- six-page
21 document, excuse me. It is an e-mail -- printout of a
22 compilation of e-mails, the most recent being from
23 Maricela Prado to Paul Mishkin with a cc to Lenore
24 Ockerberg and David Keyes. The subject is e-mails with
25 Scott Duane, and it starts at Bates number IXL-1656.

1 A. Yes.

2 Q. -- the Glassdoor.com review?

3 A. Yes.

4 Q. So it would not -- is it correct to assume that
5 it would not seem likely that he would have asked you
6 at that meeting to compile the e-mails, that he
7 probably asked you that at an earlier meeting?

8 A. Uh-huh. Yes.

9 Q. Do you remember now an earlier meeting with
10 Paul Mishkin?

11 A. Yes. Yes.

12 Q. And who was at that earlier meeting that
13 probably occurred before January 6th, 2015 at
14 10:33 a.m.?

15 A. Okay. So now I -- I'm remembering now. David
16 did say that there were some -- it was that
17 conversation when he came back, the -- but I -- I'm
18 still confused a little bit about the timeline because
19 he came back -- maybe -- I just know that things were
20 not working out well with David and -- and Scott. So I
21 think that Scott wanted to -- to talk -- he didn't
22 want -- he wanted to talk to Paul.

23 So they were going to have a meeting, and I
24 think that Paul asked me to compile the communications
25 between me and Scott pertaining to his leave, so I gave

1 it to him prior -- for that meeting.

2 Q. You provided Paul e-mails between you and Scott
3 Duane in preparation for Paul's meeting with Scott
4 Duane?

5 A. Yes.

6 Q. What else happened at that meeting other than
7 him asking you to compile the e-mails, do you remember?

8 A. No, I don't remember. I -- I'm pretty sure it
9 was just that, that he asked me -- he told me about the
10 meeting that he has with Scott and he asked to see the
11 communications that I've had with him.

12 Q. When -- who else was at that meeting that we're
13 talking about which -- the meeting that occurred before
14 January 6th at 10:33 a.m.?

15 A. The one with David?

16 Q. Was David present at that meeting with Paul?

17 A. Oh, with Paul, no. The meeting with Scott and
18 him -- it was just them, it was just Scott and Paul.

19 Q. At some point Paul instructed you to compile
20 e-mails, correct? That's what you just testified to.

21 A. I think it was before that meeting.

22 Q. All I'm asking you is when Paul instructed you
23 to compile the e-mails, was anyone else present?

24 A. I don't remember.

25 Q. Then you have a second meeting with

1 REPORTER'S CERTIFICATE

2
3
4 I, DIANA L. GONZALEZ, a Shorthand Reporter,
5 State of California, do hereby certify:

6 That MARICELA PRADO, in the foregoing
7 deposition named, was present and by me sworn as a
8 witness in the above-entitled action at the time and
9 place therein specified;

10 That said deposition was taken before me at
11 said time and place, and was taken down in shorthand by
12 me, a Certified Shorthand Reporter of the State of
13 California, and was thereafter transcribed into
14 typewriting, and that the foregoing transcript
15 constitutes a full, true and correct report of said
16 deposition and of the proceedings that took place;

17 That before completion of the proceedings,
18 review of the transcript was requested.

19 IN WITNESS WHEREOF, I have hereunder subscribed
20 my hand this 8th day of March 2018.

21
22
23
24 _____
DIANA L. GONZALEZ, CSR NO. 7935
State of California
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

---000---

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

and

CASE NO. 3:17-cv-02979-VC

ADRIAN SCOTT DUANE,

Plaintiff-Intervenor,

vs.

IXL LEARNING, INC.,

Defendant.

_____ /

DEPOSITION OF JEREMY MURPHY

Taken before DIANA L. GONZALEZ

CSR No. 7935

March 1, 2018

1 profile?

2 A. No.

3 Q. Have you ever messaged with Mr. Duane on
4 Facebook?

5 A. I don't know. If I had, it was quite a while
6 ago when we first became friends.

7 Q. So after becoming friends with him in June of
8 2015 on Facebook, when do you think you muted his
9 posts?

10 A. Probably pretty close to the beginning, but I
11 can't be sure.

12 Q. Did you form any impressions about Mr. Duane's
13 sexual orientation?

14 A. Yes.

15 Q. What was that?

16 A. That he was gay.

17 Q. When did you form that impression?

18 A. Quite early on he would talk about it openly.

19 Q. What did he talk about?

20 A. I know that he was very involved in the LGBT
21 community, and that would come up quite frequently, and
22 so I drew that -- I made that connection. I made that
23 assumption basically.

24 Q. So within a month of working with him, would
25 you have come to the conclusion that he was gay?

1 A. I would assume so, yes, that seems reasonable.

2 Q. Did you ever have any conversations with other
3 co-workers about Mr. Duane's sexual orientation?

4 A. Not that I recall.

5 Q. Around July of 2014, so about six months into
6 your employment, did you learn that Mr. Duane was
7 dating a woman named Jenna?

8 A. Yes.

9 Q. Can you -- do you remember when Mr. Duane told
10 you that information?

11 A. No.

12 Q. Do you recall asking Mr. Duane if this was his
13 first time dating a woman?

14 A. Yes.

15 Q. And what did Mr. Duane say in response?

16 A. I don't remember.

17 Q. Were you surprised that Mr. Duane was dating a
18 woman?

19 A. A little.

20 Q. Why is that?

21 A. Because I thought he was gay.

22 Q. Other than asking if it was a first time that
23 he had dated a woman, did you have any other
24 conversations with Mr. Duane with regards to him dating
25 Jenna?

1 Q. And you said that you've had some discussions
2 with -- I think you said there's been some discussions
3 with colleagues to sort of plan what people will say if
4 some of the negative Glassdoor things are brought up;
5 is that right?

6 A. I wouldn't say planned, but just let them --
7 make them aware that those Glassdoor posts are out
8 there and basically leave it to them to field the
9 candidate's questions as appropriate. In anybody that
10 gets put into the position of interviewing candidates
11 is somebody -- at least on my team is somebody that I
12 trust to basically convey accurate information to the
13 candidate.

14 So I wouldn't say that I coach them or told
15 them what to say, just made them aware that this is
16 something that could come up.

17 Q. Have you ever been involved in any discussions,
18 either someone telling you or you telling someone else,
19 about what to say if -- if the issue comes up that IXL
20 fired an employee because of a negative Glassdoor post?

21 A. Not that I recall.

22 Q. IXL has encouraged you to post on Glassdoor,
23 correct?

24 A. Yes.

25 Q. And you're aware its encouraged other people to

1 post on Glassdoor?

2 A. Yes.

3 Q. If IXL fires people for posting negatively on
4 Glassdoor, does that make it less likely that people
5 would post truthful things on Glassdoor?

6 MR. WILSON: Objection; speculation, form and
7 foundation.

8 Go ahead and answer if you can.

9 THE WITNESS: I could speak for myself.
10 Certainly if I felt like I couldn't speak the truth at
11 work or outside of work about work, that would curtail
12 my willingness to speak. But I don't feel that's
13 what's happening.

14 People aren't -- there are quite a number of
15 people that have posted negative things about us, some
16 of them are continued employees, I would guess, and I
17 don't know who those people are. But that doesn't get
18 you terminated from my experience.

19 Q. Meaning even if -- right. Posting does not get
20 you terminated; is that your point?

21 A. Well, I don't know what the termination
22 practices are basically, but --

23 Q. Have you ever had to take a leave of absence
24 from work for a health issue?

25 A. No.

1 REPORTER'S CERTIFICATE

2
3
4 I, DIANA L. GONZALEZ, a Shorthand Reporter,
5 State of California, do hereby certify:

6 That JEREMY MURPHY, in the foregoing deposition
7 named, was present and by me sworn as a witness in the
8 above-entitled action at the time and place therein
9 specified;

10 That said deposition was taken before me at
11 said time and place, and was taken down in shorthand by
12 me, a Certified Shorthand Reporter of the State of
13 California, and was thereafter transcribed into
14 typewriting, and that the foregoing transcript
15 constitutes a full, true and correct report of said
16 deposition and of the proceedings that took place;

17 That before completion of the proceedings,
18 review of the transcript was requested.

19 IN WITNESS WHEREOF, I have hereunder subscribed
20 my hand this 8th day of March 2018.

21
22
23
24 _____
DIANA L. GONZALEZ, CSR NO. 7935
State of California
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

---oOo---

U.S. EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	
)	Case No. 3:17-cv-02979-VC
and)	
)	
ADRIAN SCOTT DUANE,)	
)	
Plaintiff-Intervenor,)	
)	
v.)	
IXL LEARNING, INC.,)	
)	
Defendant.)	
_____)	

DEPOSITION OF
ADRIAN SCOTT CAMPE DUANE

March 27, 2018

10:05 a.m.

44 Montgomery Street, Suite 1100

San Francisco, California

Sarah J. Bingham, CSR #13720

1 only performs gender reassignment surgeries.

2 BY MR. WILSON:

3 Q. Do you have any reason to believe Paul Mishkin
4 ever saw that doctor's note?

5 A. I assume that he did since it was part of the
6 discussion about my disability accommodation, but I --
7 that's my assumption is that he saw it.

8 Q. Is there any other reason that you believe that
9 Paul Mishkin may have been informed indirectly that you
10 were transgender?

11 A. I think that there are, again, quite a few
12 avenues by which he could have discovered that
13 information. I think one thing is that, you know, we
14 live in the Bay Area. There are a lot of trans people
15 here and a lot of people know how to see the -- the
16 clues of someone being transgender, and I happen to be a
17 trans -- a trans man that has quite a few of those. So
18 it wasn't out of the question to me that, you know,
19 somebody had just realized that I was trans and -- and
20 told him or that he had realized himself that I was
21 trans. So that's one sector that he could have found
22 out by.

23 There -- I was also doing a lot of
24 trans-related activism. And I -- although I never said,
25 "I'm doing trans related activism because I'm trans," I

1 did talk to several colleagues, including some that were
2 relatively high up at the company, about my trans
3 activism. And I think that it's -- it's reasonable that
4 someone might make the assumption that I am trans based
5 on that activism.

6 Q. You never --

7 A. Can I add something?

8 Q. Go ahead.

9 A. So the other thing was right before I was
10 fired I attended this -- this Christmas party with the
11 ex-partner that you mentioned before, Jenna, and a lot
12 of people -- most people, I would say, in the workplace
13 assumed that I was a gay cisgender man. I'm a queer
14 trans man. So I was dating somebody that was also
15 gender variant. She's a cis woman but she usually gets
16 read as like a butch lesbian. She's very masculine.
17 And when we showed up at the party together, I think
18 that a lot of people sort of questioned what was going
19 on with my gender and sexuality based on that.

20 And I think that there were, you know, quite a
21 few of these like little things that had built up in the
22 workplace, such as them just seeing me every day and,
23 you know, seeing that I'm -- I'm short, I have, you
24 know, a relatively -- not a very deep voice for a man,
25 things like that and, you know, I do this trans

1 activism. And I think that for a lot of people at that
2 company, seeing me with a woman, especially a gender
3 variant woman, was kind of the final clue that sort of,
4 you know, put it in their minds that there was something
5 going on with my gender and not just my sexuality.

6 Q. So other than what you've speculated about what
7 people might have concluded, do you have any evidence or
8 any facts that you can tell me of today that Paul Mishkin
9 knew you were transgender at any time during your
10 employment?

11 MS. SANGHVI: Objection.

12 Go ahead.

13 BY MR. WILSON:

14 Q. Go ahead.

15 A. I think what I've outlined is -- is all I can
16 remember.

17 Q. All right. Number 3 on your request for
18 admission states or asks, "Admit that Mishkin never asked
19 Duane what his medical procedures were." And again, you --
20 you say, "Admit that Mishkin never directly asked Duane
21 what his medical procedures were." Why do you say "never
22 directly" as opposed to just "admit"?

23 A. Well, I know that there was discussion between
24 four people at the company, Paul Mishkin, Maricela
25 Prado, David Keyes, and Lenore Ockerberg. Around the

1 A. As far as I remember, what -- what I meant at
2 that time was folks who were cis gender, not really too
3 gender variant. Kind of stayed within, you know, one
4 standard deviation of what society would consider normal
5 gender presentation or typical gender presentation and,
6 you know, dated specifically their own gender. So cis
7 men dating cis men. Cis women dating cis women.

8 Q. Would a very effeminate homosexual male at that
9 time be considered in your view mainstream gay?

10 A. I think it -- I think it depends, to be
11 honest.

12 Q. Okay. So I'm trying to understand at that point
13 in time, when you said -- or you used the term "mainstream
14 gay" in that post, were you referring to only individuals
15 who were gender variant or something else?

16 MS. SANGHVI: Objection.

17 Go ahead.

18 THE WITNESS: I was referring to gender
19 variance, and really I would -- I -- I think I was
20 probably the only one in that category. There might
21 have been one other, so my sample size is -- is pretty
22 small. But I'd say gender variance and people that have
23 sexualities that are -- that are not just man dating
24 man, woman dating woman. So queer people, bisexual
25 people, poly people, those -- those categorizations are

1 what I was thinking of when I was saying outside of
2 mainstream gay.

3 BY MR. WILSON:

4 Q. Two questions. One is you said you were the only
5 one at that time. Did you mean only person at IXL who was
6 not mainstream gay?

7 MS. SANGHVI: Objection. Misstates his
8 testimony.

9 Go ahead.

10 BY MR. WILSON:

11 Q. Go ahead.

12 A. I perceived myself as I believe the only
13 person who was transgender, and I believe the only --
14 the only person perhaps besides Nina who was -- whose
15 sexuality fell outside of that mainstream, although I
16 don't know for sure because I -- you know, I haven't
17 discussed all of the sexualities of all the people at
18 IXL.

19 Q. Do you know of any of the testimony given by some
20 of your coworkers at that time in this case regarding what
21 they perceived your sexuality to be?

22 A. My understanding is that they perceived me as
23 a gay man.

24 Q. Would you agree or disagree that coworkers other
25 than those that you really confided in would most

1 prepare for today and you saw these words written out, did
2 you do anything to sort of understand what the context was
3 or review anything that might help you understand what the
4 context was?

5 A. Well, I thought about what the time period was
6 and where that would have fit in with the conversations
7 that I was having with David Keyes and with other people
8 at the company and just like where it was with regard to
9 my surgery and I think whether or not -- no, we didn't
10 talk about that. I was going to say whether or not Nina
11 still worked there or not. I believe she didn't at this
12 time. So I just kind of did some thinking about where
13 it -- where it fit into that time line.

14 Q. You didn't review any other documents to help you
15 understand the context; is that right?

16 A. No, I didn't.

17 Q. You say, "he was nicer than he had to be though.
18 like he said something about how he'd notice -- noticed on
19 Tues i didn't get a lot done and i legit almost cried." Do
20 you know what you're referring to in that -- those two
21 sentences?

22 A. Yes, I do.

23 Q. Can you tell me?

24 A. Yeah. So when I was doing my preoperative
25 electrolysis appointments, initially when I -- when I

1 had a conversation with David Keyes about what I would
2 need during that time, I told him, you know, I'm going
3 to have this preoperative appointment. The office was
4 close to where I live in Oakland, so I -- I wanted to
5 work from home on those days to just make it more
6 convenient because the appointment was right in the
7 middle of the afternoon. And so I -- I told him, you
8 know, "Can -- can we do this? This is why, you know, I
9 have this -- this appointment, preoperative appointment
10 in the afternoon." And he agreed to that. And so I
11 tried doing that.

12 And the reason that I initially asked to just
13 work from home is because I didn't -- I didn't feel
14 comfortable taking even a half sick day, asking for a
15 half sick day when I was already saying, you know, I
16 want these two months off. It wasn't a super
17 comfortable workplace to take sick leave in. There was
18 kind of an -- an implication that if you were taking a
19 sick day then you were really working from home. And
20 there was -- because sick days were ostensibly
21 unlimited, there was kind of this culture of guilt
22 around it. So I wanted to avoid that because I knew
23 that this was, you know, a big -- a big ask in the
24 workplace. So I suggested doing the work-from-home
25 thing.

1 And then I think probably about a month into
2 that David asked me to come in and said, you know, "I
3 noticed that you haven't been as productive on
4 Tuesdays." And I remember finding that just upsetting
5 because it's -- because, you know, it's not that he was
6 incorrect, I had this two-hour appointment and I had
7 been attempting to work a full eight hours on top of
8 having this appointment, which was like -- electrolysis
9 is quite painful as well, so it was just a really hard
10 thing to deal with, hard to work out hours, and it was
11 hard to have my appointment. Sometimes I would
12 literally have my computer open during the two-hour
13 appointment and I would just be working with my left
14 hand while my right arm was getting worked on in an
15 attempt to, you know, stay productive and stay -- and
16 stay up.

17 And he wasn't seeing any of that. All he was
18 seeing was that I was a little bit less productive on
19 Tuesdays than I was on other days. And so I -- you
20 know, I told him, "Okay. I'll try harder to do that.
21 I'll try harder to be productive." I was really just
22 trying to handle all of these different things in
23 preparation for this like really major surgery that I
24 was about to have. And I felt like, you know, it was --
25 it was difficult to hear that my boss was not happy with

1 how that was going.

2 So then he called me back in to his office and
3 said, you know, "Really what I meant was why don't we
4 just have you take a half sick day on those days so that
5 you have the -- you know, the" -- I think he said
6 something like, "the space, the time to do those
7 appointments, you don't have to worry about it. And
8 then my expectations as your manager, I can adjust my
9 expectations." And I found that to be -- the fact that,
10 you know, he brought that to me and said, "This is what
11 I'd like to -- I'd like for us to do," I felt -- at the
12 time, until what happened later on with the other
13 disability stuff, I -- I felt that -- I felt thankful
14 that he was bringing that option. And I -- and I
15 definitely, you know, adjusted my behavior on those
16 Tuesdays to reflect that. I took a half day -- I worked
17 a half day on those days, and I was a half day's worth
18 of productive, and then I would take the afternoon to do
19 this -- you know, this -- this appointment. So at the
20 time I -- you know, I was expressing that, you know, I
21 felt positive about that.

22 Q. When -- when David was your supervisor, in fact,
23 you requested a flexible schedule and -- for the purpose of
24 attending LGBT activism work in the evenings, right?

25 A. I don't think it was -- I don't think I

1 requested it. The -- the workplace work -- had some
2 flexibility with hours. That was the typical setup
3 for -- for employees. Some people would come in at 7,
4 some people would come in at 10. And I think what I
5 said was -- like I just wanted to check in with him and
6 say, "Hey, you know, sometimes I have this -- this stuff
7 in the evening." I think at the time I was organizing
8 some events around a book that I had written for or
9 whatever. So I just said, you know, "It's really nice
10 that I can have this flexible schedule and come in early
11 and leave on time for these things." And I wanted to
12 check that that was okay with him.

13 Q. And you in fact told him that the reason was that
14 you needed or appreciated the flexibility was LGBT activism
15 events and work that you did after -- after work, right?

16 A. I -- I believe I told him that, yeah.

17 Q. And you were happy that you had that flexibility
18 at IXL under David Keyes to -- to attend those activism
19 functions, right?

20 MS. SANGHVI: Objection.

21 BY MR. WILSON:

22 Q. Go ahead.

23 A. Yes. I was happy that I could work and do my
24 other work, yes.

25 Q. Were there any other employees at IXL during your

1 good project and that we should have kept going with it.

2 BY MR. WILSON:

3 Q. I just want to ask for clarification on something
4 and if you've already answered it then so be it. I'm going
5 to have to ask you again because I don't remember your
6 answer. But in 2014, at least prior to your return to work
7 on December 30th, give or take, at IXL, do you believe that
8 David Keyes viewed you as a mainstream gay male?

9 A. Prior to my return to work?

10 Q. Correct.

11 MS. SANGHVI: Objection. Asked and answered.

12 Go ahead.

13 BY MR. WILSON:

14 Q. Go ahead.

15 A. I don't believe that he knew my trans status
16 prior to that time. That was my perception. And most
17 people perceived me as a -- as a gay man, so sure.

18 Q. And so I'm just using your terminology just so I
19 have a clear record. He -- as far as you know and believe,
20 he perceived you as a, quote, "mainstream gay male"; is
21 that right?

22 MS. SANGHVI: Objection.

23 THE WITNESS: To be honest, I think that
24 depends on whether he knew about my partner at the time
25 or not and I just don't remember if he did or not.

1 Q. What disability do you have?

2 A. I had gender reassignment surgery and that
3 resulted in a disability, a temporary disability.

4 Q. So when you say "people with disabilities," you
5 include yourself in that for the temporary disability
6 following your reassignment surgery?

7 A. Yes. I was disabled.

8 Q. And what is the basis for you saying that IXL was
9 not welcoming of people of color?

10 A. There were not many people of color working
11 there.

12 Q. You already had admitted that that's typical of
13 the tech community in the Bay Area; isn't that right?

14 A. I would say -- I mean, it's -- it's common.
15 It doesn't mean it's not a problem and it doesn't mean
16 that it wasn't true about IXL.

17 Q. Was there anything that you have identified so
18 far today or can -- or that you can identify to support
19 your comment that IXL was not very welcoming to people of
20 color?

21 MS. SANGHVI: Objection. Argumentative and
22 asked and answered.

23 BY MR. WILSON:

24 Q. Go ahead.

25 A. The makeup of the workplace was certainly

1 among those things. I think that's the primary thing is
2 that, you know, I looked around and it was most white
3 and East Asian folks. Yeah.

4 Q. Is there anything about IXL, at least as of
5 September 2015, that you felt made it less welcoming of
6 people of color than the tech community?

7 MS. SANGHVI: Objection. Calls for
8 speculation.

9 THE WITNESS: Well, I don't really know how to
10 answer that because I don't have knowledge of all tech
11 companies. At the time, you know, I -- I had only
12 worked for IXL.

13 BY MR. WILSON:

14 Q. Right. And so when you told this student
15 interested in working at IXL that IXL was not welcoming --
16 very welcoming of people of color, you were basing it on
17 the fact that the tech community itself doesn't have many
18 people of color?

19 MS. SANGHVI: Objection.

20 BY MR. WILSON:

21 Q. Go ahead.

22 MS. SANGHVI: Mischaracterizes.

23 THE WITNESS: I don't think I would agree with
24 that. I was basing it on my experience at the company.

25 /////

1 BY MR. WILSON:

2 Q. Which is simply you looked around and there
3 weren't a lot of people of color; is that right?

4 A. In addition, I had conversations with Nemo
5 Curiel about that who is a person of color.

6 Q. Any other reason that you told this employ --
7 this student interested in working at IXL that IXL was not
8 welcoming of people of color? Sorry.

9 A. Nothing that I can recall right now other than
10 what I've already told you.

11 Q. Okay. Sitting here today, do you feel that you
12 were being fair in that criticism of IXL regarding people
13 of color?

14 A. Yes, I do.

15 Q. In your Glassdoor post, you didn't mention
16 anything about IXL being not very welcoming of people with
17 disabilities; is that right?

18 MS. SANGHVI: Objection.

19 THE WITNESS: I didn't directly reference
20 disability in that post.

21 BY MR. WILSON:

22 Q. You didn't directly or indirectly, correct?

23 MS. SANGHVI: Objection. Argumentative and
24 misstates the record.

25 /////

1 meeting and I appreciated that he seemed to be taking it
2 seriously, yes.

3 Q. Okay. When you posted on Glassdoor on
4 December 30, 2014, there were several reasons that you
5 wrote and posted that review, right?

6 A. Several reasons?

7 Q. Right. One was that you were upset at that point
8 in time; is that right?

9 A. I'd had a meeting with David Keyes that --
10 that I did not -- that led me to believe that I was
11 being treated differently with regard to my remote work
12 accommodations because of my disability.

13 Q. Okay. So one of the reasons was you were upset;
14 is that right?

15 A. One of the reasons was the conversation with
16 David Keyes.

17 Q. Okay. So -- but my question is one of the
18 reasons that you posted was you were upset at that point in
19 time; is that right?

20 MS. SANGHVI: Objection. Vague.

21 Go ahead.

22 THE WITNESS: I don't remember all my reasons.
23 I don't think -- I don't think the emotionality of it
24 was a primary reason.

25 /////

1 BY MR. WILSON:

2 Q. I didn't ask primary, I said whether it was one
3 of the reasons. And if you don't know, you can say you
4 don't know.

5 A. I'm not sure what all my reasons were.

6 Q. Okay. One of the reasons was that you believed
7 management misled you about the job involving diverse and
8 creative thinking, right?

9 A. Well, one of my complaints was certainly the
10 micromanagement and the lack of creativity, yes.

11 Q. Okay. One of the reasons was you were
12 disappointed with how narrow your job was and how your
13 creativity was not permitted, right?

14 A. That's one of the things I said in the post,
15 yes.

16 Q. Listen. My question is one of the reasons you
17 posted that review on Glassdoor was that you were
18 disappointed with how narrow your job was and how your
19 creativity was not permitted, right?

20 A. I said that was part of the post, but I don't
21 think I would have posted it if I hadn't felt
22 discriminated against in that meeting.

23 Q. So if you'll look on page 114 of your
24 testimony -- excuse me -- at the NLRB trial, on what starts
25 at the top of the page, but specifically line 12, I asked,

1 discrimination and -- and my complaints in particular.

2 That's -- that's not what happened. So if I could

3 unfeel that appreciation, I probably would.

4 Q. So you did -- you felt that appreciation at the
5 time, right?

6 A. With the understanding that this
7 conversation --

8 Q. Okay.

9 A. -- was --

10 Q. Okay.

11 A. -- going to be about discrimination --

12 Q. All right.

13 A. -- and -- yeah.

14 Q. Now, on that day, or that week even,
15 January 2015, you had already decided weeks before then
16 that you were going to leave the company when you found
17 another job, right?

18 A. I had begun looking at next steps for my
19 career but I had no firm plans.

20 Q. You began looking for another job in mid
21 December 2014, correct?

22 A. I don't remember making any specific efforts.
23 I was mostly focused on healing from surgery.

24 Q. All right. So I'm going to turn your attention
25 to page 134, and specifically line 13. I asked you on

1 December 30, 2014, "You had already decided at that point
2 you were leaving the company?"

3 "Answer: I had not decided I was leaving, I had
4 decided I was going to pursue other opportunities, but I
5 wasn't going to leave without another job.

6 "Question: You were looking for a job?"

7 "Answer: Correct.

8 "Okay. And when did you start looking for a job?"

9 "Answer: Around mid December 2014."

10 Now, was that truthful testimony?

11 A. Yeah. I think what I meant there was that I
12 hadn't submitted any applications. I wasn't doing
13 interviews. That's how I interpreted your question a
14 minute ago, so --

15 Q. That's not my question now. My question is, is
16 that -- what I read to you there, was that truthful
17 testimony?

18 A. Well, I think I was -- I was looking into
19 other opportunities but I wasn't applying for jobs. So
20 yes, if -- it depends on how you interpret that
21 question. I think I -- I believe that I interpreted,
22 when you asked it at the NLRB, to be was I -- was I
23 Googling around for -- for other job postings, was I
24 exploring, and I was doing those things but I wasn't
25 submitting applications or doing interviews yet. I

1 that time.

2 Q. Had you made any conclusions about leaving IXL in
3 August or September?

4 A. Really I was pretty laser-focused on getting
5 the surgery. There's a lot of logistics to it. So I
6 wasn't -- I wasn't thinking -- I was thinking very
7 day-to-day at that time.

8 Q. So that's a no, you were not thinking of moving
9 on?

10 A. I can't remember everything that was in my
11 mind at that time.

12 Q. Okay.

13 A. But it -- it wasn't my focus.

14 Q. All right. After your exchange with David Keyes
15 in December, between the 19th and the 24th and -5th of
16 December 2014, you were satisfied with the accommodation
17 reached at that point in time, correct?

18 A. I was satisfied with the accommodation but not
19 the way that we got there.

20 Q. Okay. My question was very simple, which was you
21 were satisfied with the accommodation that was reached
22 after that conversation?

23 MS. SANGHVI: Objection. Asked and answered.

24 /////

25 BY MR. WILSON:

1 Q. Go ahead.

2 A. Well, we came to the accommodation that I
3 requested, but I wasn't happy that I had to advocate so
4 fiercely for myself for something that I felt was a
5 pretty easy ask.

6 Q. Right. Were you satisfied with that
7 accommodation at this point, "yes" or "no"?

8 MS. SANGHVI: Objection. Asked and answered.

9 BY MR. WILSON:

10 Q. Go ahead.

11 MS. SANGHVI: He doesn't have to give you a
12 "yes" or "no."

13 MR. WILSON: Your objection's noted.

14 BY MR. WILSON:

15 Q. Go ahead.

16 A. Well, I was -- I was satisfied with just the
17 accommodation, but the process to get to the
18 accommodation, I thought it was too difficult and there
19 was too much of a burden on me to advocate for myself.
20 I thought that the company owed it to its employees to
21 know more about the accommodation process.

22 Q. Other than having to advocate for those couple
23 days between the 22nd and the 24th or so in December, other
24 than that there was never any accommodation requested by
25 you that IXL rejected in any way; isn't that right?

1 whole -- the system as a whole. It wasn't really about
2 this one individual who was -- it was about -- it was
3 about the bigger picture.

4 Q. So when -- when she said in response, "Be nice.
5 Ur so cold," laugh out loud, your answer is, "You're right
6 I am." You said that, right?

7 A. Yeah, I -- I said that.

8 Q. Okay.

9 A. Yeah.

10 Q. You -- on the next page, you say "I brought up
11 everything. Maricela asking inappropriate questions."
12 With that -- the inappropriate questions comment, you
13 testified about that already in the other case in trial,
14 but -- but she was asking you questions about the arm --
15 arm wrap on -- I'm sorry, arm wrap that you had on covering
16 up your arm; is that right?

17 A. She asked me what happened to my arm and then
18 later she asked why I needed a particular donor site
19 rather than another donor site that she thought would be
20 better.

21 Q. Now, did she say "donor site" and did you guys
22 have that discussion or did she ask you whether whatever
23 was going on with this wrap on your arm whether it could be
24 surgery on -- on your other arm?

25 MS. SANGHVI: Objection. Form.

1 BY MR. WILSON:

2 Q. As opposed to using the words donor site.

3 A. Well, in that meeting I used the word donor
4 site. I said -- as best as I could without revealing
5 the nature of the surgery, I said that my arm was going
6 to be used as a donor site for tissue, and that it would
7 be my right arm, and that was why I had the wrap on, and
8 that was why I would need the -- the equipment
9 accommodations that I was telling her about. And in
10 response to that, she asked why it couldn't be my left
11 arm, which was a decision that my doctor and I made
12 together. It's actually a pretty private decision, so
13 it was uncomfortable to me that she had asked about
14 that.

15 Q. You viewed that as some kind of a violation?

16 MS. SANGHVI: Objection. Vague.

17 THE WITNESS: I viewed it as inappropriate.
18 It was a question about my body from HR.

19 BY MR. WILSON:

20 Q. But so I understand, you were telling her about
21 your body and why you would need an ergonomic mouse because
22 of using, you know, your right hand for a mouse and having
23 that procedure done on your arm, correct?

24 A. I -- I was -- I was telling her what was going
25 to happen. I was telling her about the medical decision

1 that my doctor and I had already made together.

2 Q. All right. And -- and in that context of asking
3 for an ergonomic mouse and explaining that you had a wrap
4 on for the procedure on your arm, her -- her question of
5 why can't they use your left arm, that you were upset about
6 and felt was a violation, right?

7 A. I felt it was an inappropriate question, yes.

8 Q. All right. I think I'm done with this document,
9 I just need to make sure. Okay.

10 In your Glassdoor post on December 30, 2014,
11 you -- you complained about "There are no politics if
12 you fit in. If you don't -- that is, if you're not a
13 family-oriented white or Asian straight or mainstream
14 gay person with 1.7 kids who really likes softball,"
15 that's the way you described it, "then you're likely to
16 find yourself on the outside." And then you -- you said
17 treatment in the workplace in terms of a few things,
18 flexible hours, interesting projects, praise,
19 promotions, big yearly raise seemed to run along these
20 characteristics. I want to ask you about those -- those
21 items.

22 Okay. With respect to flexible hours, is
23 there anything in addition to what you've testified
24 today that would be the basis for you at that time
25 saying that flexible hours are -- are given based on

1 (Record read.)

2 THE WITNESS: I -- I don't really know how to
3 answer that. I -- I don't know all of the sick time
4 that people took or didn't take. But I know, for
5 instance, again, Nemo was -- he wasn't denied because of
6 those things, but -- I was actually not done with my
7 answer when you cut me off a few questions ago, and
8 we -- there was another piece to the gender and the --
9 and the race piece of it.

10 BY MR. WILSON:

11 Q. How about we just answer my question before you
12 go back to the other one. Go ahead.

13 A. I -- I -- I don't really know how to answer
14 that. I -- I think that there was quite a bit of
15 implicit bias in the workplace.

16 Q. Okay.

17 A. And that's where a lot of the discrimination
18 came from.

19 Q. Okay. You went on Glassdoor.com posting a review
20 not saying "I felt" or "could be" these things. You
21 specifically said flexible schedules and yearly raises and
22 a few other things run along these characteristics of being
23 white, Asian, straight, or mainstream gay, 1.7 kids and
24 really like softball. My question is, having made those
25 accusations, whether you know of anybody who was not given

1 the flexible schedule, the raise, or other benefits because
2 they weren't in those categories?

3 A. Well, I know that there was a pay disparity
4 between two of my colleagues, one of whom was male and
5 one of whom was female. The male employee was making
6 \$10,000 more than the female employee for the same job.
7 That was Nemo Curiel and Jessica Morse. They were hired
8 within a couple months of each other for the exact same
9 position, as far as I know, the exact same -- similar
10 qualifications. And it came out after Nemo left. Jess
11 found out -- I don't remember how, but she found out
12 that she, for however long had been working there, had
13 been making \$10,000 less in salary than Nemo had. So
14 she brought that to David Keyes and he corrected it
15 and -- and did -- you know, she got that raise at that
16 time. But then a couple months later, when she was up
17 for a yearly raise, she was given a very small yearly
18 raise with the explanation that she'd already gotten a
19 raise that year. And to me that was a very clear
20 example of gender pay disparity in the workplace.

21 Q. So --

22 A. There was also the fact that while I was
23 working there, Isadora Milin and David Keyes were in
24 similar positions, had started right around the same
25 time. I thought Isadora's work was really good. I

1 loved her ideas and thought she was very smart, and
2 David was promoted above her. And I think she actually
3 ended up working under him, after a while, of him
4 managing some other people. So again I saw those
5 things, you know, falling along those same lines of
6 gender and also of race and -- yeah.

7 Q. Okay.

8 A. So those are -- those are two of the
9 observations. There's also just the fact that, you
10 know, most of management is white and I believe most of
11 the higher-ups are male, although it was better in that
12 regard than it was with regard to race.

13 Q. So the answer I think to my -- well, my question
14 was whether you knew of anyone in those characteristics who
15 were not given raises or flexible schedules. You've
16 identified two white females, correct, Isadora and Jess,
17 correct?

18 A. I don't know how --

19 MS. SANGHVI: Objection. Calls for
20 speculation.

21 BY MR. WILSON:

22 Q. Correct?

23 A. I don't know how Isadora identifies herself.

24 Q. You're the one who created this category or list
25 of categories. We didn't -- I didn't create it, no one

1 else created, you did. You said white or Asian, straight
2 or mainstream gay, okay, with kids that -- softball and
3 kids. What I'm asking you is Jessica and -- and Isadora,
4 were they in that category of white or Asian, straight, or
5 mainstream gay people?

6 A. I don't think I'd put Isadora in that
7 category. I mean, she's an immigrant. I know that he's
8 an immigrant. She has, you know, a green card status
9 that was up in the air at the time. So in my mind, I
10 was putting her in the same category as people of color.

11 Q. Okay. And Nemo is a person of color --

12 A. Yes.

13 Q. -- in your view?

14 A. That's correct.

15 Q. And you're saying Nemo was paid more than the
16 white coworker in the same position named Jessica, right?
17 Correct?

18 A. He was being paid more than a woman doing the
19 same job as him, which is a --

20 Q. Okay.

21 A. -- problem in tech.

22 Q. And you don't say anything about female or male
23 in your Glassdoor post, correct?

24 A. I thought I mentioned gender but I might not
25 have.

1 taking through App Academy was to move into a bit of a
2 different type of position, right?

3 A. I would say that it was -- it was a little bit
4 different. I mean, it definitely required a different
5 skill set. But, you know, I ended up pursuing that
6 after unsuccessfully pursuing ed-tech jobs. Ed-tech
7 is -- it's not huge. And I sort of fell into a weird
8 middle ground between product management and curriculum
9 design. Even my title was kind of an in-between of
10 those things. So I pursued those positions but nothing
11 formulated, and I quickly saw that I was lacking in --
12 in marketable skills, that IXL hadn't, you know, really
13 given me a whole lot of marketable skills within tech,
14 even ed-tech. So I needed to -- I needed to supplement
15 my skill set in order to become employed again, and App
16 Academy was absolutely the fastest and most efficient
17 way to do that, especially because I had to have surgery
18 again that year.

19 Q. When was that?

20 A. I had surgery again in August 2015.

21 Q. How long were you incapacitated from work?

22 MS. SANGHVI: Objection.

23 BY MR. WILSON:

24 Q. Go ahead.

25 MS. SANGHVI: Misstates characterization.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

I, SARAH J. BINGHAM, a Certified Shorthand Reporter, within and for the State of California, do hereby certify:

That ADRIAN SCOTT CAMPE DUANE, the witness whose examination is hereinbefore set forth, was first duly sworn by me and that this transcript of said testimony is a true record of the testimony given by said witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of March, 2018.

Sarah J. Bingham
CSR #13720

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

---000---

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

and

CASE NO. 3:17-cv-02979-VC

ADRIAN SCOTT DUANE,

Plaintiff-Intervenor,

vs.

IXL LEARNING, INC.,

Defendant.

_____ /

DEPOSITION OF KATHLEEN "KATE" MATTISON

Taken before DIANA L. GONZALEZ

CSR No. 7935

February 28, 2018

1 Q. And what do you remember about who he brought
2 to that party?

3 A. He brought a woman.

4 Q. And do you remember having any reaction to
5 that, to him being at that party?

6 A. I was a little surprised because I think he was
7 on medical leave at the time.

8 Q. Why were you surprised that he was there?

9 A. That he was feeling well enough to go to a
10 party, but not well enough to work.

11 Q. Did you discuss that surprise with anyone?

12 A. I don't remember.

13 Q. And you were aware that he was on approved
14 medical -- approved leave until December 30th, 2014,
15 correct?

16 A. Yes.

17 Q. And this holiday occurred before that; is that
18 correct?

19 A. Yes.

20 Q. Did you -- in the time that you were working
21 with Scott Duane, between July of 2013 to January of
22 2015, did you have any impressions about his gender
23 identity?

24 A. My impression was that he was a man.

25 Q. Did you have any impression about his sexual

1 orientation?

2 A. I thought he might have been gay, but I wasn't
3 sure.

4 Q. And what was the basis of that belief?

5 A. When I interviewed Scott, I asked him to give
6 me an example of a time that he showed leadership, and
7 the example he gave me involved LGBTQ
8 anti-discrimination activism. So based on that I
9 thought maybe he was gay, but I also knew there's a lot
10 of straight people who are involved in LGBTQ activism.

11 Q. Any other reason other than the interview
12 answer?

13 A. No.

14 Q. Did you discuss that belief with anybody?

15 A. I don't think so.

16 Q. Did you -- I think you testified earlier that
17 you didn't recall this February 2014 leave of absence.
18 Do you recall when he returned from it whether there
19 were any visible scars on his body?

20 A. I don't recall seeing any.

21 Q. Do you remember ever discussing with Lenore
22 Ockerberg your impressions about Scott's leave of
23 absence or his gender identity?

24 A. No.

25 Q. Do you remember discussing anything regarding

1 REPORTER'S CERTIFICATE

2
3
4 I, DIANA L. GONZALEZ, a Shorthand Reporter,
5 State of California, do hereby certify:

6 That KATHLEEN "KATE" MATTISON, in the foregoing
7 deposition named, was present and by me sworn as a
8 witness in the above-entitled action at the time and
9 place therein specified;

10 That said deposition was taken before me at
11 said time and place, and was taken down in shorthand by
12 me, a Certified Shorthand Reporter of the State of
13 California, and was thereafter transcribed into
14 typewriting, and that the foregoing transcript
15 constitutes a full, true and correct report of said
16 deposition and of the proceedings that took place;

17 That before completion of the proceedings,
18 review of the transcript was requested.

19 IN WITNESS WHEREOF, I have hereunder subscribed
20 my hand this 7th day of March 2018.

21
22
23
24 _____
DIANA L. GONZALEZ, CSR NO. 7935
State of California
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

---oOo---

U.S. EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
and)
)
ADRIAN SCOTT DUANE,)Case No.
)3:17-cv-02979-VC
Plaintiff-Intervenor,)
)
vs.)
)
IXL LEARNING, INC.,)
)
Defendants.)
_____)

DEPOSITION OF JENNIFER GU
MARCH 29, 2018, 9:06 A.M.
San Francisco, California

REPORTED BY:
Katy E. Schmidt
RPR, RMR, CRR, CSR. 13096
155351

1 A. I don't remember.

2 Q. Did you terminate him?

3 A. Paul did.

4 Q. Did Mr. Mishkin consult with you?

5 A. I don't remember.

6 Q. Is there anything that would help you refresh
7 your recollection as to the reason for Mr. Marshall's
8 termination?

9 A. I can't think of anything.

10 Q. Prior to Mr. Marshall, who was the head of HR?

11 A. Lenore Ockerberg.

12 Q. And Ms. Ockerberg had been employed with the
13 company for over 10 years; correct?

14 A. I don't remember. I don't know how long
15 exactly. She's been with the company for a while.

16 Q. When she started with the company, were you
17 responsible for hiring her?

18 A. I don't remember.

19 Q. Did Ms. Ockerberg always -- was she always in
20 the role of head of HR or did she have other functions?
21 Did she have other job responsibilities as well?

22 A. She was also in charge of operations.

23 Q. So it's my understanding that at some point
24 Ms. Ockerberg managed both operations and HR, and then
25 at some point those two functions were separated.

1 Is that accurate?

2 A. Correct.

3 Q. Do you know when about the functions of -- the
4 HR functions and the operations functions were
5 separated?

6 A. I don't remember -- yeah, I don't remember.

7 Q. Do you remember the circumstances of why the
8 operations and HR functions were separated?

9 A. I don't remember.

10 Q. Was it because the company was getting bigger
11 and those two roles couldn't be managed by one person?

12 MR. WILSON: Objection. Form.

13 Go ahead.

14 THE WITNESS: I don't remember.

15 BY MS. SANGHVI:

16 Q. Is Ms. Ockerberg still employed?

17 A. No.

18 Q. Why not?

19 A. She was terminated.

20 Q. What was the reason for her termination?

21 A. I don't know.

22 Q. Did you speak to Paul Mishkin prior to your
23 deposition testimony today?

24 MR. WILSON: Objection. Form.

25 THE WITNESS: No. About this deposition? No.

1 MR. WILSON: Objection. Form. Foundation.

2 THE WITNESS: IXL is -- I mean Glassdoor is a
3 source for IXL.

4 BY MS. SANGHVI:

5 Q. Is a source of what?

6 A. Candidates.

7 Q. Okay. And so what is your understanding of
8 IXL's relationship with Glassdoor?

9 MR. WILSON: Objection. Exceeds the scope of
10 this deposition, and vague as to who you're asking to
11 respond that question.

12 With that, go ahead and answer.

13 THE WITNESS: Can you please repeat the
14 question?

15 MS. SANGHVI: Can you read it back?

16 (Court Reporter reads back.)

17 THE WITNESS: Are you talking about right now,
18 like currently?

19 BY MS. SANGHVI:

20 Q. Yes.

21 A. I'm not a hundred percent certain, but I
22 believe we post some jobs on Glassdoor, job
23 acquisitions.

24 Q. Does IXL -- IXL at some point in 2014, at
25 least, had purchased services from Glassdoor for an

1 enhanced profile page.

2 Are you familiar with that?

3 A. I have heard about that, yes. Or I remember
4 that, yes.

5 Q. Okay. Do you know if IXL continues to
6 purchase those services from Glassdoor?

7 A. We don't currently.

8 Q. Okay. When did that stop?

9 A. I don't remember the exact date but, yeah, it
10 has stopped.

11 Q. Okay. Did it stop in or around 2015?

12 A. Yeah. Again, I don't remember the exact
13 dates.

14 Q. Okay.

15 A. I know it has stopped.

16 Q. Why did it stop?

17 MR. WILSON: Form. Objection.

18 THE WITNESS: My understanding was not cost
19 effective.

20 BY MS. SANGHVI:

21 Q. What was not cost effective?

22 A. Paying for the service.

23 Q. IXL determined that it was not receiving
24 enough candidates through Glassdoor dot com? I'm just
25 trying to understand the analysis of the cost --

1 MR. WILSON: Objection. Form and foundation.

2 THE WITNESS: Yeah. So paying for this
3 enhanced page did not yield with additional candidates.

4 BY MS. SANGHVI:

5 Q. Did the recruiting manager that you -- that
6 directly reported to you ever talk to you about negative
7 posts on Glassdoor dot com?

8 A. Are you referring to Karen Penner?

9 Q. Yeah. Let's talk about Karen Penner.

10 A. Yes.

11 Q. Okay. And what conversations did you have
12 with Ms. Penner with regards to negative posts on
13 Glassdoor?

14 A. She probably had told me about them. I don't
15 remember any specific conversations.

16 Q. Okay. What, if anything, did IXL do in
17 response to those?

18 A. Nothing.

19 Q. Do you know why Mr. Duane was terminated?

20 MR. WILSON: Objection. Asked and answered.

21 THE WITNESS: Because she/he posted an
22 inaccurate or untruthful -- we can just go back to my
23 answer. She posted something on Glassdoor that was
24 untruthful and malicious.

25 ///

1 STATE OF CALIFORNIA)
)
2 COUNTY OF SACRAMENTO)

3

4 I, Katy E. Schmidt, a Certified Shorthand
5 Reporter, do hereby certify:

6 That prior to being examined, the witness in
7 the foregoing proceedings was by me duly sworn to
8 testify to the truth, the whole truth, and nothing but
9 the truth;

10 That said proceedings were taken before me at
11 the time and place therein set forth and were taken down
12 by me in shorthand and thereafter transcribed into
13 typewriting under my direction and supervision;

14 I further certify that I am neither counsel
15 for, nor related to, any party to said proceedings, not
16 in anywise interested in the outcome thereof.

17 In witness whereof, I have hereunto subscribed
18 my name.

19 Dated: April 11, 2018

20

21

22

23

24

Katy E. Schmidt
RPR, RMR, CRR, CSR 13096

25

JENNA MANDIS
U.S. EEOC vs IXL LEARNING

April 17, 2018

1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

---oOo---

U.S. EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
and)
ADRIAN SCOTT DUANE,)
)
Plaintiff-Intervenor,)
)
v.)
IXL LEARNING, INC.,)
)
Defendant.)

Case No. 3:17-cv-02979-VC

DEPOSITION OF

JENNA MANDIS

April 17, 2018

1:19 p.m.

44 Montgomery Street, Suite 1100

San Francisco, California

Sarah J. Bingham, CSR #13720

1 December 30, 2014, Scott came back to work -- yeah, it's
2 been a while.

3 A. Yes.

4 Q. So on December 30, 2014, Scott came back to work
5 at IXL. And if you know, were you living at that point in
6 time with Scott?

7 A. I honestly don't remember. Because we spent
8 so much time together anyway --

9 Q. Sure.

10 A. -- so I saw him like every day, so --

11 Q. Do you recall having any discussion with Scott
12 before the IXL holiday party that you attended about what
13 to expect at the party?

14 MS. SANGHVI: Objection. Vague.

15 BY MR. WILSON:

16 Q. Go ahead.

17 A. I -- I don't remember.

18 Q. Did he talk to you at all about what people might
19 think of him based on the fact that he's bringing you to
20 the party?

21 A. We did discuss that based on the way people
22 perceived us every day.

23 Q. Do you recall what he might have said regarding
24 how he'll be perceived at IXL once they see that you and he
25 are together?

1 A. I think we were -- as I recall, we were -- I
2 don't want to say amused, but we were just expecting
3 that they -- you know, he's a gay man and I looked like
4 a butch lesbian, and so that is just something that
5 people don't externally understand when they just look
6 at us. So, you know, it's just a discussion of like,
7 "Okay. You know, we're going anyway, so --"

8 Q. And how was the reaction and reception by folks
9 at IXL at the party to the both of you?

10 A. People were surprised. It felt like people
11 were surprised. Yeah.

12 Q. Did anybody say anything about it?

13 A. Oh, not that I remember. But I do remember --
14 you know, people were certainly friendly. But it, yeah,
15 was awkward. Yeah.

16 Q. What were you doing for work at that point in
17 time? Were you a teacher?

18 A. Mm-hm.

19 Q. "Yes"?

20 A. Yes, I was a teacher.

21 Q. Were you a teacher at a public school, private
22 school?

23 A. Private.

24 Q. What type of subject did you teach?

25 A. Science.

1 Q. What grade level?

2 A. At the time, middle school, sixth through
3 eighth grade.

4 Q. When you went to the IXL holiday party and when
5 it was over, did Scott say anything to you about how he
6 felt the people at IXL treated you and he?

7 A. I remember him feeling -- I'll just use the
8 word uncomfortable. Like he felt -- I don't want to
9 make up words here. I just remember it being --

10 Q. Yeah.

11 A. -- a little bit negative.

12 Q. Do you know whether or not Scott told you
13 anything about the -- the hours he was going to work at IXL
14 upon returning from that December surgery?

15 A. Yeah, he needed to be part time because he
16 still had -- you know, the recovery is very difficult
17 and he needed, you know, to be able to rest and lie down
18 and -- yeah. So yes, he was planning to have part-time
19 hours but work from home.

20 Q. Did you help him during that recovery with
21 literally just getting things for him and generally being
22 there while he was recuperating?

23 A. Yes.

24 MS. SANGHVI: Object.

25 /////

1 A. Because the second surgery was harder. I
2 think that was -- I think that was after he got fired.

3 Q. So -- just see here. So prior to being fired by
4 IXL, did Scott complain to you at all about IXL
5 discriminating against him --

6 A. Mm-hm. Yes.

7 Q. -- or treating him differently?

8 A. Yes.

9 Q. What did he say?

10 A. He said they didn't -- they weren't going to
11 allow him to work from home half-time and he felt like
12 it -- they allowed other people who were straight men
13 with families to do that.

14 Q. And did he tell you that they had denied him that
15 working at home?

16 A. Mm-hm.

17 Q. Is that a "yes"?

18 A. Yes.

19 Q. And he said it was -- he said it was because --
20 or you said because something about straight men. Could
21 you repeat that?

22 A. He noticed that other people were allowed to
23 do that and they were all -- he just said they were
24 straight men with families. That's what I remember.

25 Q. Thank you.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

I, SARAH J. BINGHAM, a Certified Shorthand Reporter, within and for the State of California, do hereby certify:

That JENNA MANDIS, the witness whose examination is hereinbefore set forth, was first duly sworn by me and that this transcript of said testimony is a true record of the testimony given by said witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of April, 2018.

Sarah J. Bingham
CSR #13720

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

---000---

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

and

CASE NO. 3:17-cv-02979-VC

ADRIAN SCOTT DUANE,

Plaintiff-Intervenor,

vs.

IXL LEARNING, INC.,

Defendant.

_____ /

DEPOSITION OF ISIDORA MILIN

Taken before DIANA L. GONZALEZ

CSR No. 7935

March 2, 2018

1 timelines as mentioned previously.

2 Q. Did you ever hear other people talking about
3 Mr. Duane's medical leaves of absence?

4 A. Again, except for timeline adjustment, I don't
5 recollect other people discussing it in my presence.

6 Q. Did you ever ask Mr. Duane the reason behind
7 his medical leave of absence?

8 A. I do not remember doing so.

9 Q. And you are aware that Mr. Duane was
10 terminated, correct?

11 A. Yes.

12 Q. When did you become aware of that fact?

13 A. I was -- the day it happened.

14 Q. How did you learn that he was terminated?

15 A. David Keyes informed me.

16 Q. How did he inform you?

17 A. Shortly after it happened, he called me into
18 his office to tell me that it had happened in person.

19 Q. And what did he tell you?

20 A. He told me that -- and I believe Jess Morse was
21 also present during this conversation. He told me that
22 Scott was let go for violation of company policy.

23 Q. Did he tell you what company policy Scott Duane
24 violated?

25 A. I believe he explicitly said he's not at

1 liberty to give any more details.

2 Q. Was anyone other than David Keyes and Jessica
3 Morse present for that conversation?

4 A. No.

5 Q. Do you know if Mr. Keyes was calling every
6 person in the math team into his office to provide this
7 information?

8 A. He might have mentioned calling in two of us
9 specifically because we worked with Scott more closely.

10 Q. Do you recall him saying anything else in that
11 meeting?

12 A. No.

13 Q. Did you ask any questions at that meeting?

14 A. I believe I expressed shock and disbelief, but
15 I did not ask questions.

16 Q. Why were you shocked?

17 A. I had a meeting with Scott earlier that day
18 that I felt was productive. And not being familiar
19 with absolutely anything that could have led to his
20 being let go, I was surprised that it happened.

21 Q. So Mr. Duane had been out on leave of absence
22 until December 30th of 2014, and this termination
23 happened on January 8th. So you had a period of
24 approximately a week to work together; that's correct?

25 A. Yeah.

1 Q. Did you -- in that period of time, other than
2 this one productive meeting, did you have other
3 positive experiences with Mr. Duane?

4 A. I do not remember that week very well. Yeah,
5 it -- in terms of specific meetings or reviews, no.

6 Q. Do you have a general sense that Mr. Duane was
7 angry or upset at work that week?

8 A. I don't remember having that impression, no.

9 Q. Did you ever learn after -- so I think we were
10 talking about the meeting with Mr. Keyes at which you
11 expressed shock about Mr. Duane's termination.

12 What happened when you left that meeting?

13 A. I walked back to my office. I think I saw that
14 his cube was being emptied out, and I remember that
15 detail.

16 Q. Was Mr. Duane present there?

17 A. No.

18 Q. Do you remember approximately what time this
19 meeting was with Mr. Keyes or when in the day?

20 A. Generally around midday that is -- I don't
21 remember more precisely.

22 Q. And who was cleaning out his cubicle?

23 A. I don't remember.

24 Q. Did you have any conversations -- sorry, you
25 said you walked back to your office. What did you do

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

I, DIANA L. GONZALEZ, a Shorthand Reporter,
State of California, do hereby certify:

That ISIDORA MILIN, in the foregoing deposition
named, was present and by me sworn as a witness in the
above-entitled action at the time and place therein
specified;

That said deposition was taken before me at
said time and place, and was taken down in shorthand by
me, a Certified Shorthand Reporter of the State of
California, and was thereafter transcribed into
typewriting, and that the foregoing transcript
constitutes a full, true and correct report of said
deposition and of the proceedings that took place;

That before completion of the proceedings,
review of the transcript was requested.

IN WITNESS WHEREOF, I have hereunder subscribed
my hand this 9th day of March 2018.

DIANA L. GONZALEZ, CSR NO. 7935
State of California

From: Maricela Prado [mprado@ixl.com]
Sent: Tuesday, January 06, 2015 10:33 AM
To: Paul Mishkin
CC: Lenore Ockerberg; David Keyes
Subject: E-mails with Scott Duane

Hi Paul,

I've compiled the initial e-mails between Scott and I, which began the day after Brad's last day. During this time, David and I had two in-person meetings to go over logistics as well.

Let me know if you have follow-up questions.

Thanks again!

-Maricela

Hi Scott,

Thanks for the update. I'll be sure to keep an eye out for your EDD paperwork and will return asap.

Wish you the best on your recovery!

Sincerely,

Maricela Prado

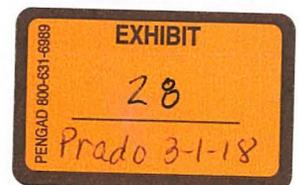
Human Resources Coordinator | IXL Learning
Tel: 650.372.4221 | Main: 855.255.7700 | Fax: 650.372.4072

HR-related needs? Contact us at HR@IXL.com

777 Mariners Island Boulevard, Suite 600
San Mateo, California 94404
www.ixl.com | www.quia.com

----- Original Message -----

Subject:EDD paperwork
Date:Tue, 11 Nov 2014 07:47:03 -0800
From:Scott Duane <sduane@ixl.com>
To:Maricela Prado <mprado@ixl.com>
CC:David Keyes <dkeyes@ixl.com>



Hi Maricela,

My doctor's office mailed in my EDD paperwork yesterday. IXL should receive a form soon from EDD. Please fill this out and return it ASAP -- they can't complete my claim without it.

Please call me at 507.581.4100 if you have questions (talking is easier than typing at the moment),

Thanks!

Scott

----- Original Message -----

Subject:Gone for Nov & Dec

Date:Fri, 3 Oct 2014 13:06:54 -0700

From:Scott Duane <sduane@ixl.com>

To:mathpa <mathpa@ixl.com>, Suzanne Pelz <spelz@ixl.com>, Mark Ritterhoff <mritterhoff@ixl.com>, Li-Chung Chen <lchen@ixl.com>, Juyang Xia <jaxia@ixl.com>, Kevin Dong <kdong@ixl.com>, "Kevin O'Connor" <koconnor@ixl.com>, Parth Shah <pshah@ixl.com>, Joshua Gevirtz <jgevirtz@ixl.com>, Jiho Kim <jkim@ixl.com>, Linda Vo <lvo@ixl.com>, David Bemiller <dbemiller@ixl.com>, Stephen Chait <schait@ixl.com>, Bai Xiong Wu <bwu@ixl.com>, Andrew Lenox <alenox@ixl.com>, Geoffrey Anderson <ganderson@ixl.com>

CC:Maricela Prado <mprado@ixl.com>, David Keyes <dkeyes@ixl.com>

Hi all,

In early November I'll be having major surgery that will put me out of commission for about 2 months. My last day will be October 30th, and I'll be gone until about December 30th.

If you have any questions/concerns about projects I'm working on, please let me know with enough time so that I can respond by the last week of October.

Though I know and appreciate that some folks might be concerned or curious, this is a matter I'm only discussing in detail with close friends and family. So, I'd prefer not to field questions from coworkers about it. Thanks in advance for respecting that. Best,

Scott

Sincerely,

Maricela Prado

Human Resources Coordinator | IXL Learning

Tel: 650.372.4221 | Main: 855.255.7700 | Fax: 650.372.4072

HR-related needs? Contact us at HR@IXL.com

777 Mariners Island Boulevard, Suite 600

San Mateo, California 94404

www.ixl.com | www.quia.com

Please consider the environment before printing this e-mail.

----- Original Message -----

Subject:Fwd: Re: Meeting to discuss leave

Date:Tue, 30 Sep 2014 21:50:08 -0700

From:Maricela Prado <mprado@ixl.com>

To:Scott Duane <sduane@ixl.com>

CC:David Keyes <dkeyes@ixl.com>

Hi Scott,

That's a great question. Unfortunately, in that case, you would have to use whatever vacation time you have accrued and/or take it off unpaid.

Please let me know if you'd like to discuss further.

This afternoon, IT mentioned that you'd like to request an ergonomic mouse post-surgery. Please be sure to fill out a workstation upgrade request form and turn in to your manager for approval.

Thanks!

Sincerely,

Maricela Prado

Human Resources Coordinator | IXL Learning

Tel: 650.372.4221 | Main: 855.255.7700 | Fax: 650.372.4072

HR-related needs? Contact us at HR@IXL.com

777 Mariners Island Boulevard, Suite 600

San Mateo, California 94404

www.ixl.com | www.quia.com

Please consider the environment before printing this e-mail.

----- Original Message -----

Subject:Re: Meeting to discuss leave

Date:Tue, 30 Sep 2014 19:43:19 -0700

From:Scott Duane <sduane@ixl.com>

To:Maricela Prado <mprado@ixl.com>

CC:David Keyes <dkeyes@ixl.com>

Hi Maricela,

Ok, thanks. This matches up with the outside legal info I got as well.

One final question I have is if I can use PTO sick days if I don't have 5 days of vacation during that 7-day waiting period (I think I will have about 3 vacation days at that point). Brad said the answer to this was no. If you could let me know what you know about this, that'd be great.

Thanks,

Scott

On Tue, Sep 30, 2014 at 9:45 AM, Maricela Prado <mprado@ixl.com> wrote:

Hi Scott,

I wanted to let you know that 52 weeks is correct for SDI.

Per our conversation, you will check in with David closer to your return-from-leave date (12/30). David, please fill out the same form and submit to me to confirm his return with us.

I will check in with IT, so they will provide you with a mouse post-surgery.

Looks like it is actually a 7-day waiting period -

http://www.edd.ca.gov/disability/FAQ_Employers_Eligibility.htm#WaitingPeriod

Hope I've answered all of your questions! Please let me know if you have more! :-)

Sincerely,

Maricela Prado

Human Resources Coordinator | IXL Learning

Tel: [650.372.4221](tel:650.372.4221) | Main: [855.255.7700](tel:855.255.7700) | Fax: [650.372.4072](tel:650.372.4072)

HR-related needs? Contact us at HR@IXL.com

777 Mariners Island Boulevard, Suite 600

San Mateo, California 94404

www.ixl.com | www.quia.com

Please consider the environment before printing this e-mail.

On 9/25/14, 10:05 PM, Maricela Prado wrote:

Hi Scott,

California State Disability Insurance (SDI) is a form of Short Term Disability (STD). Benefits are payable to a maximum of 52 weeks. Since we have a Long Term Disability (LTD) policy, you would most likely move off SDI and on to the LTD policy once you reach the 90-day waiting period.

For your convenience, I have attached a California SDI FAQ. Please let me know if you have further questions. I'd like to make sure I answer all of your questions soon, especially since your surgery is coming up! Otherwise, I'll see you both on Monday morning.

Sincerely,

Maricela Prado

Human Resources Coordinator | IXL Learning

Tel: [650.372.4221](tel:650.372.4221) | Main: [855.255.7700](tel:855.255.7700) | Fax: [650.372.4072](tel:650.372.4072)

HR-related needs? Contact us at HR@IXL.com

777 Mariners Island Boulevard, Suite 600

San Mateo, California 94404

www.ixl.com | www.quia.com

Please consider the environment before printing this e-mail.

On 9/25/14, 11:39 AM, Scott Duane wrote:

Hi Maricela,

Thanks for the info. David and I discussed the logistics this morning, and decided the three of us should meet to talk about the logistics. In particular, there are a couple issues:

1) Brad mentioned that short term disability pay only lasts for 6 weeks. I consulted a disability rights attorney about this, and he said it depends

on the details of the company's disability plan and advised me to get a copy of it. If it's state disability, the 6 week restriction does not fit with the research that I did.

2) Assuming that SDI pay does only last 6 weeks, mine will be up on December 19, the Friday before Christmas. I'd like to talk about what to do about this work week -- perhaps work half time and/or remotely since there are 2 holidays anyway. (If SDI is not limited to 6 weeks, I'd probably come back to work the week following Christmas assuming recovery is going as planned.)

I'll schedule a meeting for Monday for the three of us. Thanks,

Scott

On Wed, Sep 24, 2014 at 5:43 PM, Maricela Prado <mprado@ixl.com> wrote:

Hi Scott,

Thanks for your patience!!

We currently do not have a Short-Term Disability (STD) policy. You certainly have the option to file for CA State Disability though.

I have listed the link below where you can file a claim:

<http://www.edd.ca.gov/disability/>

Also...

1. We do not need to discuss details of when you'll leave, when you'll come back. You can discuss that with David. All I need from David is a Personnel Data Change Form

2. I know you had scheduled a meeting with Brad. Let me know if you want me to schedule a meeting with both you and David. At this point, I don't think we need to, but I'd be happy to. David, please drop off the form to me. I will get proper approval from Jen, just please be sure to sign the form.

3. When you are ready to come back, please get in touch with David and he will fill out the form again, turn into me and will process your status change.

4. Disclosing to your colleagues, that is entirely up to you. Feel free to e-mail or let them know in person. Let me know if you'd like to discuss this topic further.

5. In terms of documentation, we do not require anything. The state will request all the necessary information they need from us, and will provide us with any information we need to know.

If I haven't answered all of your questions, please let me know.

Hope your surgery goes well!

Sincerely,

Maricela Prado

Human Resources Coordinator | IXL Learning

Tel: [650.372.4221](tel:650.372.4221) | Main: [855.255.7700](tel:855.255.7700) | Fax: [650.372.4072](tel:650.372.4072)

HR-related needs? Contact us at HR@IXL.com

777 Mariners Island Boulevard, Suite 600

San Mateo, California 94404

www.ixl.com | www.quia.com

Please consider the environment before printing this e-mail.

On 9/23/14, 6:15 PM, Scott Duane wrote:

Hey Maricela,

David and I were scheduled to have a meeting tomorrow (Wednesday) with Brad to discuss a medical issue I'm in the middle of.

I found out a couple months ago that I will be having major surgery on November 3 of this year. The surgeon recommends I take 6-8 weeks off of work. I will be filing for short term disability. The meeting with Brad was to discuss the details of when I'll leave, when I'll come back, when I should disclose this to my colleagues, and what the company will need from me in terms of documentation from me/my doctor.

I'd like to have this meeting soon, hopefully Friday of this week.

I want to stress as well that I consider this matter private and do not wish to discuss details with my colleagues -- so I'd appreciate if you keep this to yourself. Thanks,

Scott

1 **IMAI, TADLOCK, KEENEY & CORDERY, LLP**
2 **R. RANDY WERTZ**
3 rrwertz@itkc.com
4 220 Montgomery Street, Suite 301
5 San Francisco, California 94104
6 Telephone: (415) 675-7000
7 Facsimile: (415) 675-7008

8 **YOUNG BASILE HANLON & MACFARLANE, P.C.**
9 **JEFFREY D. WILSON (PRO HAC VICE)**
10 wilson@youngbasile.com
11 **NATASHA R. MENEZES (PRO HAC VICE)**
12 menezes@youngbasile.com
13 3001 W. Big Beaver Road, Suite 624
14 Troy, Michigan 48084
15 Telephone: (248) 649-3333
16 Facsimile: (248) 649-3338

17 Attorneys for Defendant
18 IXL Learning, Inc.

19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA

Case No.: 3:17-cv-02979-VC

21 U.S. EQUAL EMPLOYMENT OPPORTUNITY :
22 COMMISSION, :

23 Plaintiff, :

24 and :

25 ADRIAN SCOTT DUANE, :

26 Plaintiff-Intervenor, :

27 v. :

28 IXL LEARNING, INC., :

Defendant. :

**DEFENDANT’S ANSWERS TO
PLAINTIFF’S SECOND SET OF
INTERROGATORIES**

1 Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendant IXL Learning, Inc.
2 (“Defendant” or “IXL”), by and through its undersigned counsel, hereby answers Plaintiff U.S. Equal
3 Employment Opportunity Commission’s (“EEOC”) Second Set of Requests for Interrogatories to
4 Defendant (“Interrogatory” or “Interrogatories”) as follows:

5 **GENERAL OBJECTIONS**

6 1. Defendant objects to the Interrogatories to the extent they are not permitted under the
7 Federal Rules of Civil Procedure. Without waiving this objection, Defendant agrees to respond to these
8 questions pursuant to Rule 33 in order to facilitate discovery in this civil action.

9 2. Defendant objects to the extent that the Interrogatories seek information immune from
10 disclosure under the attorney-client and/or work product privileges, or any other applicable privilege or
11 doctrine.

12 3. Defendant further objects to the Interrogatories to the extent that they are premature,
13 overly broad, unduly burdensome, would require undue expense to answer, or are beyond the scope of
14 permissible discovery.

15 4. Defendant’s responses to the Interrogatories are without a waiver of, and with the
16 expressed reservation of:

17 a. All objections as to competency, relevancy, materiality, and admissibility of any
18 and all information contained in said responses; and

19 b. The right to object to the use of such information on any ground in any further
20 proceeding in this action (including trial of this action) or any other action.

21 5. Defendant further objects to the Interrogatories to the extent they are vague, ambiguous,
22 and/or indefinite.

23 6. Defendant further objects to the Interrogatories to the extent that any interrogatory, or any
24 definition or other introductory material associated with such interrogatory, purports to impose a greater
25 duty of supplementation than that required by law.

26 7. Defendant further objects to the Interrogatories to the extent they seek confidential or trade
27 secret information without the entry of a protective order governing disclosure of same.

1 8. Defendant specifically objects to Plaintiff's definition of "Defendant or IXL" and
2 expressly responds to the Interrogatories subject to said objection. The definition of "Defendant or IXL"
3 includes "anyone acting on its behalf," without regard to Defendant's knowledge of said third party
4 actions. Defendant cannot respond to such Interrogatories without objection because the definition
5 incorrectly assumes that Defendant has knowledge of and/or control over this third-party activity or
6 information.

7 9. Defendant specifically objects to Plaintiff's definition of "concerning, relate to, and refer
8 to" as the purported definition of these terms fails to provide a clear explanation of their meaning, and
9 Defendant will not speculate at its peril. Defendant further objects to these purported definitions to the
10 extent they may be construed to embrace a virtually unlimited universe of documents, thus rendering any
11 Interrogatory utilizing these terms to be unduly broad and overly burdensome.

12 10. Defendant objects to the extent that the number of interrogatories, including discrete
13 subparts, exceeds the number permitted by Fed. R. Civ. P. 33.

14 **INTERROGATORIES**

15 **INTERROGATORY NO. 11:** For the following individuals, please identify the following
16 information: (a) date employment with IXL began; (b) date employment with IXL ended; (c) any job
17 titles held during the employee's tenure with IXL; (d) the reason the employment relationship ended
18 including any specific reasons for termination, if applicable; (e) whether IXL paid the employee any
19 severance; (f) whether the individual sought unemployment insurance benefits; and (g) whether IXL
20 opposed the application for unemployment insurance.

- 21 i. Maricela Prado
22 ii. Brad Marshall
23 iii. Lenore Ockerberg
24 iv. Charla Rodney
25 v. Victoria Keliioomaluu
vi. Karen Pennter
vii. Julia Bushkov

26 **ANSWER:** Defendant objects to this Interrogatory as being overly broad, unduly burdensome,
27 disproportional to the needs of the case, and seeking irrelevant information. Defendant objects on the
28 basis that this Interrogatory is not reasonably calculated to the discovery of admissible evidence.

1 Accordingly, Defendant will not provide information in response to subsections (d), (e), (f), or (g) or
2 information related to employees who started employment at IXL after January 8, 2015. Defendant
3 objects to the extent that the information sought is duplicative and cumulative.

4 Defendant further objects to the extent this Interrogatory seeks confidential trade secret and
5 proprietary business information or information protected by the attorney-client privilege, the attorney work
6 product doctrine, and any other applicable privilege or doctrine.

7 Defendant objects to this Request to the extent that this Request seeks the disclosure of private
8 information about third party individuals. Defendant is unable to disclose this private information
9 concerning third parties as it is protected from disclosure by fundamental privacy principles, privileges,
10 and laws, including, but not limited to, the First Amendment of the United States Constitution and Article
11 1 of the California Constitution.

12 Maricela Prado worked for IXL from December 1, 2010 until June 13, 2017. Her job titles during
13 that tenure were Operations Coordinator, Human Resources Coordinator, and Human Resources
14 Generalist. The employment relationship ended because she resigned.

15 Brad Marshall worked for IXL from January 2, 2014 until September 23, 2014. His job title during
16 that tenure was Human Resources Manager. IXL terminated his employment.

17 Lenore Ockerberg worked for IXL from April 19, 2014 until April 28, 2015. Her job titles during
18 that tenure were Office Manager and Operations Manager. IXL terminated her employment.

19 Charla Rodney worked for IXL from January 26, 2015 until February 11, 2016. Her job title
20 during that tenure was Human Resources Manager. The employment relationship ended because she
21 resigned.

22 Karen Penner worked for IXL from September 4, 2012 until April 6, 2017. Her job titles during
23 that tenure were Recruiter and Recruiting Manager. The employment relationship ended because IXL
24 eliminated her position.

25 **INTERROGATORY NO. 12:** Identify all Human Resources employees and manager(s)
26 employed by IXL from July 2013 to present. For each employee, in addition to the information required
27 pursuant to Definition No. #4 above, state whether the employee(s) were involved in personnel actions
28 concerning Duane.

1 **ANSWER:** Defendant objects to this Interrogatory as being overly broad, unduly burdensome,
2 disproportional to the needs of the case, and seeking irrelevant information. Defendant objects on the
3 basis that this Interrogatory is not reasonably calculated to the discovery of admissible evidence.
4 Defendant objects to this Interrogatory as being duplicative and cumulative and seeking information
5 equally accessible to or in the possession of Plaintiff and/or Duane. Defendant objects on the basis that
6 the Interrogatory is vague and ambiguous as to the breadth or meaning of phrase “personnel actions.”
7 Defendant will not speculate at its peril and thus will not provide information related to whether
8 employees were involved in “personnel actions concerning Duane.”

9 Maricela Prado and Lenore Ockerberg were Human Resources employees/managers employed
10 by IXL from July 2013 to January 2015. Defendant is not withholding the identities of any other Human
11 Resources employees/managers on the basis of its objections for the stated time period of July 2013 to
12 January 2015.

13 **INTERROGATORY NO. 13:** Describe in detail all equal employment opportunity training CEO
14 Paul Mishkin received since July 2013 to present. For each training, specify:

- 15 a) The date of the training;
- 16 b) Who provided the training;
- 17 c) Where the training took place;
- 18 d) The length of the training; and
- 19 e) The subject matter(s) of the training

20 **ANSWER:** Defendant objects to this Interrogatory as being overly broad, unduly burdensome, and
21 seeking irrelevant information. This Interrogatory is not sufficiently confined by temporal limitations and
22 thus seeks information that has no relevance to the controversies at issue in this case. Defendant objects
23 to this Interrogatory on the basis that the Interrogatory is vague and ambiguous as to the breadth or
24 meaning of the phrase “equal employment opportunity training.”

25 Defendant further objects that the Interrogatory is not proportional to the needs of the case,
26 considering the importance of the issues at stake in the action, the amount in controversy, the parties’
27 relative access to relevant information, the parties’ resources, the importance of the discovery in resolving
28 the issues, and that the burden and expense of the proposed discovery outweighs its likely benefit.

1 Defendant further objects to the extent this Interrogatory seeks confidential trade secret and proprietary
2 business information.

3 Mr. Mishkin did not attend equal employment opportunity trainings from July 2013 to January
4 2015.

5 **INTERROGATORY NO. 14:** Mr. Mishkin testified to a process where he and Jennifer Gu
6 decided compensation and salary increases for employees based on supervisor recommendations.
7 Describe in detail any compensation decisions made for Mr. Duane at the end of 2014 for Mr. Duane's
8 compensation for calendar year 2015. This should include information related to any decisions made
9 about Mr. Duane's entire compensation package for calendar year 2015, including base salary, any
10 bonuses, and any stock options, or other monetary benefits. Please describe who was responsible for
11 making the compensation decisions, how much IXL planned on paying Mr. Duane in calendar year 2015,
12 and what other monetary benefits IXL planned on providing Mr. Duane.

13 **ANSWER:** Defendant objects to this Interrogatory as seeking cumulative and duplicative information.
14 Defendant objects to this Interrogatory as being overly broad and unduly burdensome. Defendant further
15 objects to the extent this Interrogatory seeks confidential trade secret and proprietary business
16 information.

17 Paul Mishkin and Jennifer Gu reviewed salary recommendations for Duane and approved
18 Duane's salary of \$92,000.00 as his compensation for calendar year 2015. IXL stopped providing
19 company-wide bonuses on October 16, 2014. Duane's entire compensation package, as determined at
20 that time, did not include additional stock options or other monetary benefits.

21 **INTERROGATORY NO. 15:** To the extent that Defendant claims no compensation decision was
22 made for Mr. Duane by January 8, 2015, describe what constituted an average/standard raise for calendar
23 year 2015.

24 **ANSWER:** Based on IXL's Response to Interrogatory No. 14, this Interrogatory is not applicable.

25 **INTERROGATORY NO. 16:** Please indicate when IXL stopped providing company-wide
26 bonuses and when the last distribution of such a bonus was.

27 **ANSWER:** IXL stopped providing company-wide bonuses on October 16, 2014, and the last
28 distribution of such a bonus was on October 15, 2014.

1 **INTERROGATORY NO. 17:** In accordance with Definition #3 above, identify every version of
2 the Employee Handbook provided or accessible to employees since July 2013 to present.

3 **ANSWER:** Defendant objects to this Interrogatory as being overly broad, unduly burdensome, and
4 seeking irrelevant information. This Interrogatory is not sufficiently confined by temporal limitations and
5 thus seeks information that has no relevance to the controversies at issue in this case. Defendant will only
6 identify versions of the employee handbook provided or accessible to employees from July 2013 to
7 January 2015. Defendant further objects to the extent this Interrogatory seeks confidential trade secret
8 and proprietary business information.

9 The handbook bates stamped from IXL-3707 to IXL-3731 was provided or accessible to
10 employees in 2013 and 2014. The handbook bates stamped from IXL-1740 to IXL-1763 was provided
11 or accessible to employees in 2015.

12
13 Dated: April 9, 2018

Respectfully submitted,
Young Basile Hanlon & MacFarlane, P.C.

14
15 By: /s/ Natasha R. Menezes
Jeffrey D. Wilson (Pro Hac Vice)
wilson@youngbasile.com
Natasha R. Menezes (Pro Hac Vice)
menezes@youngbasile.com

16
17
18 -and-

19 **IMAI, RADLOCK, KEENEY & CORDERY, LLP**
20 **R. Randy Wertz**
rrwerts@itkc.com

21
22 Attorneys for Defendant
IXL Learning, Inc.

Attachments: 14724607_886791535682_593969198159421576_n.jpg



Scott Duane → **Nina Wu**

Hey! So I had a conversation with either you or Jess about Mike Pi asking about my scars. It was months ago, and has become important now because it establishes that there was suspicion for awhile from several folks that I was trans. Were you the person he asked? It was something about him seeing me in the locker room with my shirt off and asking "Did Scott used to be a girl?"

!attachment_name!

!attachment_caption!

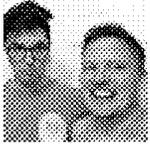
!attachment_description!

1/11/2015 1:11 AM (UTC -05:00)

0 comments

!x1_single_note!

Attachments: 14724607_886791535682_593969198159421576_n.jpg



Scott Duane → **Nina Wu**

so i guess if being trans is ever "too much" i will just take a gender day. •

!attachment_name!

!attachment_caption!

!attachment_description!

7/31/2014 10:36 AM (UTC -04:00)

0 comments

!x1_single_note!

Scott Duane Working Remotely Plan

Working schedule (exact hours up for discussion, but consistency is required)

- Monday:
 - o Home: 6:30 am – 10:30 am
 - o Office: 12 pm – 4 pm
 - o The Math PA meeting is now 1 – 2 pm, and I'd like you to be in the office for this
- Tuesday – Friday:
 - o Office: 7 am – 11 am
 - o Home: 12 pm – 4 pm
- Two 1-1's a week, one on Tuesday and one on Friday

Weekly work plan

Send me an email on Friday afternoon with a detailed and prioritized breakdown of what you'll be working on the following week categorized by tasks for Monday, goals for the week, and maintenance tasks. Include the relevant Fogbugz scheduled item cases tracking these tasks.

Here is an example (tasks are listed in order of priority):

Tasks for Monday

- 1) Revisions of K-VENN-12 and PC-STAT-91 back to reviewer
- 2) Complete PC-FUN-3 first draft (with 1-3 example scenarios)
- 3) Complete standard alignment review (Fogbugz case # and link)

Goals for the week

- 1) Hand off K-VENN-12 and PC-STAT-91
- 2) Push PC-FUN-3 into second round review
- 3) Complete first round testing of A-80UP and G-22
- 4) Complete a first draft of PC-STAT-71
- 5) Iterate on mobile keyboard design project. Talk to Xing, talk to Andy. Submit latest revision to David for review.

Maintenance tasks

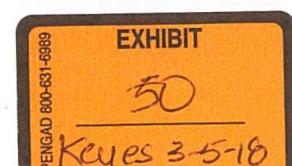
- Review Isidora's specs on schedule (same day if revision received in the morning, same or next day if revision received in the afternoon)
- Complete phone interviews and job test reviews, and submit evaluations to Jobvite within 1-3 days of the interview or receiving the job test

General goals

Write 1-2 new spec drafts a week. Flip reviews, revisions of specs within 1-2 days after receiving them. Stay on top of Fogbugz tasks, with both the "Math Content" milestone and the upcoming release milestone.

Meet goals set in Friday email consistently and with good quality. Aim to reduce time specs need in first and second round review. Currently it has been 10+ rounds, and it should be more like 5-7.

If goals are not being met, other accommodations will need to be considered, such as going back on disability leave or being in the office more.



Full Name:	Last Day of Employment:	Job Title:	Reason:
Duane, Adrian Scott	01/08/2015	Product Analyst	Judgement & Ethics
Morse, Jessica I	01/30/2015	Product Analyst	Conduct & Performance
Hogg, Natalie A	02/13/2015	Project Manager	Elimination Of Pos
Reiley, Daniel	03/27/2015	Quality Assurance Analyst	Performance
Curtis, Erik D	03/31/2015	Engineering Project Lead	Elimination Of Pos
Swernofsky, Joseph	04/06/2015	Software Engineer	Performance
Lim, Jaein	04/16/2015	Educational Sales Consultant	Performance
Roberson, Trisha	04/17/2015	Product Analyst	Conduct
Ockerberg, Lenore A	04/28/2015	Operations Manager	Conduct
Freeland, Daniel J	05/27/2015	Intern	Attendance
Walker, Case	06/09/2015	Software Engineer	Performance
Thompson, Heather D	06/16/2014	Training Specialist	Performance
Hovander, Ian G	06/23/2015	Software Engineer	Performance
Wen, Larry	07/03/2013	Educational Sales Consultant	Performance
VanLaer, Monica L	08/15/2013	Operations Coordinator	Conduct
Marty, Hal B	09/09/2013	Sales Operations Manager	Performance
Marshall, Bradley A	09/23/2014	Human Resources Manager	Performance
Dupuis, Luke M	10/02/2013	Associate Technical Support Analyst	Conduct
Wood, Cindy S	10/03/2013	Customer Success Manager	Performance
Russick, Mary D.	10/15/2014	Vice President of School Solutions	Performance
Lam, Rebecca A	12/02/2013	Customer Training Specialist	Performance
Herlinger, Joan M	12/18/2014	Senior User Interface Designer	Performance

IXL-1240



From: Scott Duane [sduane@ixl.com]
Sent: Wednesday, January 07, 2015 8:06 AM
To: Paul Mishkin
Subject: Re: Meet Thursday

Hi Paul,

That sounds good. Looking forward to speaking with you.

Scott

On Wed, Jan 7, 2015 at 4:27 AM, Paul Mishkin <pmishkin@ixl.com> wrote:

Hi Scott,

David told me that you voiced a complaint about discrimination. I'd like to meet with you Thursday at 11 to discuss this. Please let me know if you'd prefer a different time.

Discrimination of any type, including disability discrimination, is unacceptable to me and to IXL, and I need to understand what has been occurring so that I can take action immediately to correct it.

Thanks,
Paul



Cons

This is not a high-risk, high-reward place to work. There's not much equity available and the major decisions have already been made on the overall framework.

Helpful (1)

Jan 3, 2018

Helpful (5)

"Little regard for employees, very top down"

Former Employee - Within Customer Success Team in San Mateo, CA

Doesn't Recommend CEO

I worked at IXL Learning full-time (More than a year)

Pros

IXL makes an excellent product and there is ongoing attention to product improvement and detail. There is a lot of pride in product and creating something that is valuable and will impact teachers and students.

The individual employees at IXL are positive, hard working and collaborative. They are intelligent people who are enthusiastic and excited about their jobs.

Cons

There is little regard for employees who don't work in engineering or product development. Professional development is non existent and not supported. Decisions are made by the COO with little to no input from others, seemingly at random, with little thought given to the process or the ultimate impact. Micromanagement is taken to an extreme level. Every purchase, hire and decision must be approved by the COO who clearly does not trust her employees to make smart decisions.

Both the CEO and COO are completely out of touch with the world of education. They created an excellent product but they have no idea how it truly impacts students nor what it looks like in the classroom. The company has a wealth of employees who do know what happens in classrooms but this is not valued nor are those employees listened to.

Hiring and layoff decisions are made arbitrarily and without clear reasoning. In sales meetings, impressive quarterly growth is frequently touted as a testament to the hard work of the sales and customer success teams and the next week, 4-5 salespeople are laid off, only to be quickly replaced by new hires who sometimes only stay 2 weeks.

Advice to Management

Be relatable to your employees. Work on using the intelligence of your people to create something even better. Respect the need for professional growth. Pay your employees, who are not computer engineers or product developers, what they're worth. Work on growing your employees, not arbitrarily making hiring and layoff decisions. Be transparent.

Helpful (5)

Join the IXL Learning team

See Our Latest Jobs

Dec 12, 2017

Helpful (8)

"Anonymous -- within customer success team"

Former Employee - Customer Success in Cary, NC

Doesn't Recommend Negative Outlook CEO

College applications can be hard. Last weekend IXLers volunteered to help students craft their personal statements! <http://glassdoor.com/slink.htm?key=vQHIG>

IXL Lends a Hand to Help Students Write Personal Statements for College

0 Likes

See All

IXL Learning Photos + Add Photo



See All Photos

Company Benefits



Add Benefits

See All

Expert Career Advice

[Guide to Getting Your First Job](#)
Find a Great First Job to Jumpstart Your Career

[How to Get a Job](#)
Getting a Job Is Tough; This Guide Makes it Easier

[How to Get a Promotion](#)
Climb the Ladder With These Proven Promotion Tips

See All Guides

Job Seekers Also Viewed

 **Square Reviews**
393 Reviews

 **Facebook Reviews**

I worked at IXL Learning full-time (Less than a year)

Pros

The people who work there are often pleasant, motivated, and smart.
 Health benefits are great
 Unlimited PTO

Cons

Major decisions in the company are made reactively rather than proactively, and no one is given any notice, least of all the customers.
 People are let go for no or strange reasons that don't make any sound business sense. "Restructuring" that has happened makes little sense, either.
 Similarly, reasons for hiring or not hiring someone sometimes did not make sense when explained. Department heads had little autonomy in hiring the candidates they wanted or promoted. Their choices were often arbitrarily overridden by the COO, specifically.
 The higher ups are disinterested in customer or employee feedback. Their vision is the only vision that matters, which impact sales negatively.
 The higher ups value the engineering and content development teams above all others, being dismissive of the need for top talent and loyalty to that talent in other departments. They are content to let department head positions and sometimes entire departments remain empty for no discernable reason.
 There are no clear career paths, and switching departments is often impossible. The only way to grow in your career or switch departments is to go elsewhere.
 Most of all, there is no care for the employees. Decisions are made without concern for how it impacts the employees. My direct supervisor was awesome but had no real power within the company, which made it frustrating.

Advice to Management

Care for your people. Invest in people who know how to run a business. Develop career paths and pay for good pexperience. Give your department heads and managers autonomy within their teams. Stop making huge changes with no forethought.

Helpful (8)

Dec 4, 2017

Helpful (6)

"Great product- management of projects needs attention."

Current Employee - Anonymous Employee

Recommends Neutral Outlook CEO

I have been working at IXL Learning full-time (Less than a year)

Pros

Happy positive atmosphere for the most part. Interesting work- a variety of projects.

Cons

Commentary on performances goes on behind the scenes which made me feel unsure of the nice facade people or present and off balance and distrustful of the people I'm working with.
 This kind of gossipy stuff really breeds discontent and resentment on teams.
 For instance you can't be late on something that doesn't have any official deadline when other project get pushed ahead.
 San Mateo is a pain to get to.

Advice to Management

Project management and production is super disorganized. There needs to be one point of

2,562 Reviews

Fitbit Reviews 190 Reviews

DreamBox Learning Reviews 64 Reviews

Related Job Search

- [Software Engineer jobs](#)
Software Engineer salaries (\$84k)
- [Curriculum Designer jobs](#)
Curriculum Designer salaries (\$59k)
- [Product Designer jobs](#)
Product Designer salaries (\$74k)
- [Product Analyst jobs](#)
Product Analyst salaries (\$65k)

Your Resume is Missing

[Upload a resume now. It's easy.](#)

contact for better flow of project work and realistic expectations and project timelines so people don't get overloaded and then thrown under the bus for not meeting a deadline.

Helpful (6)

Aug 28, 2017

"Software Engineer"

★★★★★ Former Employee - Anonymous Employee

Recommends Positive Outlook CEO

I worked at IXL Learning full-time

Pros

IXL is a company that makes products that have positive impact on people's lives. If you're looking to find a place where you can work on a high quality product, this is the place to do just that.

Cons

If you're looking for startup, this company is not it. Depending on the team you're on, you won't be using the latest and greatest technology.

Helpful

Jul 7, 2017

Helpful (10)

"Sales team chaotic, mismanaged."

★★☆☆☆ Former Employee - Anonymous Employee

Doesn't Recommend Positive Outlook CEO

I worked at IXL Learning full-time

Pros

Good product, you're helping students and teachers

Cons

Sales leadership takes a hard line that there should be no "playbook". That's great if you have a small team of seasoned salespeople, but here it's not so. Reps are asked to invent their own ways of selling, leaving them unsure of why they aren't successful. People fear for their jobs and there's a culture of gossip and favoritism. (Speaking only for the San Mateo office.)

Advice to Management

Be transparent! Show your team best practices and document what works. Motivate your team with stronger comp plans and start listening to their needs. Turnover is high because people are scared.

Helpful (10)

Jun 27, 2017

"Amazing Learning and a high career path"

★★★★☆ Current Employee - Anonymous Employee

Pros

Employees work as stakeholders in the company

Cons

I dont find any. Will update if any

Helpful

Jun 6, 2017

Helpful (26)

"A company that gets a lot right but has some real issues"

Former Employee - Anonymous Employee in San Mateo, CA

I worked at IXL Learning full-time

Pros

- IXL makes a phenomenal educational product with a high quality standard that addresses an obvious need. Most employees genuinely believe in the product -- I'd use it with my kids without hesitation.
- On the whole, my coworkers were bright, talented, friendly, and motivated by the company's mission.
- I had (mostly) good managers who were talented and invested in my success.
- Despite the cons listed below, I always got the sense that company was well intentioned. IXL operates in a thoughtful manner, and they were generally willing to acknowledge issues and address them with initiatives like management trainings and town halls.
- Work life balance was good.
- The company draws people from diverse academic backgrounds, which creates a unique pool of employees.
- Women are overrepresented in management roles compared to most tech companies.
- Day-in day-out I had a lot of fun working there (both due to the office atmosphere and company sponsored events), and I don't think the importance of that can be overstated.

Cons

- Whether it was fair or not, I got the sense that a majority of IXL employees didn't feel fully empowered in their roles. Most employees are hired to execute IXL's vision, not to define it.
- Roles are narrowly defined and many have repetitive responsibilities. Cross-team internal mobility is rare, which exacerbates this problem. This model might work well for some, but it wasn't ideal for me, and I found growth difficult.
- Decision making power is heavily concentrated at the top of the org chart. The CEO & COO are still very active in all facets of the product & company operations. It's possible to earn enough trust to have a say in major decisions, but for most that's a very long process. To be fair, the CEO & COO have a strong feel for the product and its users, and other people who earn decision making power usually are the highest performers.
- Concentrated decision making would be more OK (I doubt any successful companies use consensus decision making as a long term strategy) if the strategy-level decisions were more frequently good ones. Despite the CEO's track record as a 'visionary' in the space (it's admittedly very good), recent decisions have been more miss than hit.
- The company is slow moving. This is in part because the quality standard is so high, which is a good thing, but it takes a long time to get to obvious features, and smaller teams in the space are moving at a faster pace, which gives me doubts about the company maintaining its level of success long term.
- The CEO's management policy could be described as "my door is always open, but I'm not going to be the one to walk through it". The longer I was at the company, the more I get the sense that he was out of touch with the culture / problems on the ground.
- HR was kind of a mess and difficult to work with.
- Given the timing and content of a lot of the reviews here, I am strongly suspicious that many of them are fake. A lot of fluff reviews appear after bad ones, and most of the people I knew at IXL would have more insightful pros/cons than the benefits /they're fine but hardly notable

would have more insightful pros/cons than the benefits (they're fine but hardly notable -- average to slightly below average for the area depending on the role) and vague notions of 'growing pains'. If those suspicions are true (again, no hard evidence), that's a disservice to potential candidates because it buries valuable opinion with misleading information, and I find that personally insulting.

Helpful (26)

Jun 1, 2017

"Excellent"

■■■■■ Current Contractor - Anonymous Contractor

■ Recommends

I have been working at IXL Learning as a contractor

Pros

Management is very professional and communicative. Colleagues are collaborative. The company underlines the importance of maintaining high quality standards.

Cons

None that I can think of.

Helpful

May 26, 2017

Helpful (4)

"Still here...!"

■■■■■ Current Employee - Senior Software Engineer in San Mateo, CA

■ Recommends ■ Positive Outlook ■ CEO

I have been working at IXL Learning full-time (More than 3 years)

Pros

Disclaimer: I'm an engineer and experiences on other teams may vary.

- + Company benefits (not necessarily unique to IXL): drinks, massage, yoga classes, unlimited PTO
- + Environment where people are very willing to answer questions/help each other out
- + Any interest seems to be fostered here: D&D/board games to climbing/hiking/etc to learning Arabic/French to wine
- + Great work/life balance, flexible schedules
- + Driving distance to delicious food
- + CEO is very open to discussion, although his shyness can come off as aloof
- + Content managers / directors very approachable for concerns
- + Improving transparency on career advancement (at least for engineers)
- + New transportation to/from city!

Cons

- Growing pains like reduced space, but we're adding more some time in the near future
- Still no interest in providing lunch and/or snacks :/
- Could work more on employee retention

Advice to Management

Lunch in the office even once a week would promote cross-team conversation and friendliness,

May 9, 2017

Helpful (1)

"Fun and engaging work environment!"

Current Employee - Curriculum Designer in Morrisville, NC

Recommends

 Positive Outlook

I have been working at IXL Learning full-time

Pros

The curriculum designers are all smart, passionate people, who really care about what they're doing. All of the teams are committed to creating the best possible product, and it's inspiring to work with such dedicated people. The office atmosphere is collaborative and easy-going, which really fosters creativity and commitment.

Cons

None that I can think of.

Advice to Management

N/A

Helpful (1)

Apr 7, 2017

Helpful (12)

"Could have been my dream job, if it had been at a different company"

Former Employee - Anonymous Employee in San Mateo, CA

Doesn't Recommend

 Neutral Outlook

 CEO

I worked at IXL Learning full-time

Pros

- There are plenty of incredibly smart people toiling away in the cube farms of IXL.
- The coffee wasn't great, but it sure was free.

Cons

- The pay is not up to industry standards for the region.
- For a number of different roles, they seemed to like to hire people fresh out of top schools but who had little real-world work experience, so that they would be slower to recognize they were being exploited.
- Front-line management can often be very inexperienced and inept. I often felt like my manager - who was just a couple years out of school - was speaking to me in quotes they had memorized from an Intro to Management textbook just moments before.
- Upper management is basically completely inaccessible.
- Management at all levels plays favorites.
- The office environment is sterile and demoralizing.

Advice to Management

Stop meddling so much and trust your people to do the jobs you hired them to do.

Helpful (12)

Mar 23, 2017

Helpful (10)

"Great place to work"

Current Employee - Math Curriculum Designer in Raleigh, NC

Keeping the employees work/life balance as a priority helps attract and retain top talent...so thank you!

Helpful

Sep 28, 2016

"Great Place To Call Home"

Current Employee - Education Consultant in Raleigh, NC

Recommends Positive Outlook CEO

I have been working at IXL Learning full-time (Less than a year)

Pros

- Fantastic people to work with.
- Great benefits.
- Supportive and Collaborative atmosphere.
- Unlimited PTO
- Great work-life balance.
- Working remotely options

Cons

Working remotely can be challenging at times to keep and stay connected.

Advice to Management

Keep focusing on the "team" approach.

Helpful

Sep 27, 2016

"Just recently joined IXL learning"

Current Employee - Software Engineer in Raleigh, NC

Recommends Positive Outlook

Pros

Good work-life balance. Your working hour is flexible. Very friendly people. Competitive offer as a mid-size company.

Cons

As a new grad, I don't see anything bad. We don't have cafeteria in the company building but that's not a issue to me.

Advice to Management

Give more information about future as an employee here and about company's plan.

Helpful

Sep 20, 2016

Helpful (8)

"Really bad company"

Former Employee - Software Engineer in San Mateo, CA

Doesn't Recommend Negative Outlook CEO

I worked at IXL Learning full-time

Pros

Not too much

- 1. Okay base salary
- 2. In bay area, good to change jobs

Cons

- 1. No bonus, stock even sign on, relocation
- 2. No free lunch, no snack
- 3. People are kind of cold, colleague collaboration is bad
- 4. Cannot keep excellent employee, people leave frequently and senior(>2 years) are very rare
- 5. Managers have too much power
- 6. Like people from famous schools, but these people definitely not the top student at their school
- 7. Code style is very bad and too many duplicate and unnecessary codes, employee often copy and paste
- 8. Still use SVN instead of git, no modern advanced technologies
- 9. Everyday work are mostly fixing bugs, pretty simple tasks, do not have projects on every teams
- 10. Have been established over 18 years as Google, still a small company, not promising at all

Advice to Management

Not a very good promising company, may not die in the future, but I doubt it will be bigger, anyways not the right place for excellent people

Helpful (8)

Jul 27, 2016

Helpful (3)

"About IXL"

Current Employee - Software Engineer in San Francisco, CA

Recommends Positive Outlook CEO

I have been working at IXL Learning full-time (Less than a year)

Pros

- 1. People are friendly
- 2. Interesting work
- 3. No too much pressure

Cons

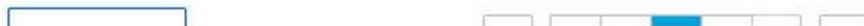
- 1. No competitive salary
- 2. Small company

Advice to Management

Nothing special

Helpful (3)

Showing 135 of 135 reviews



Helpful (1)

Jul 19, 2016

"One of the best companies I've worked in"

★★★★★ Current Contractor - Anonymous Contractor

■ Recommends ■ Neutral Outlook ■ CEO

I have been working at IXL Learning as a contractor (Less than a year)

Pros

Great working conditions, very nice and helpful co-workers, good management team, everyone is highly motivated. Taking a PTO is not a problem even for the new employees. Relatively quick and informative interview process. As I am working in a different time zone, everybody's trying to appoint meetings so that it is convenient for me to participate in.

Cons

I did not notice them yet.

Helpful

[Join the IXL Learning team](#)

[See Our Latest Jobs](#)

Jul 11, 2016

Helpful (13)

"No culture, lack of upper management presence"

★★☆☆☆ Former Employee - Anonymous Employee in San Mateo, CA

■ Doesn't Recommend ■ Positive Outlook ■ CEO

Pros

- Salary and benefits were good
- Lots of very smart people working there
- New office
- Free drinks

Cons

- Everything else:
- No advancement unless you work all day every day and you think like management
 - No room for new innovation
 - In the business of making money and not of helping students actually learn and think
 - More concerned with getting more users, producing pre-formatted content, than with thinking of new or better content
 - Management makes decisions without involving teams at all
 - No communication from CEO, has no social skills
 - Company culture is non-existent because there is no example or encouragement from upper management
 - People working for some months become 'Managers' simply because they were hired first. They turn out to have zero managing experience or skills. No training for this it seems.

Advice to Management

A leader and a manager is a person with certain skills and qualities, not everyone is a good

College applications can be hard. Last weekend IXLers volunteered to help students craft their personal statements! <http://glassdoor.com/slink.htm?key=vQHIG>

[IXL Lends a Hand to Help Students Write Personal Statements for College](#)

0 Likes

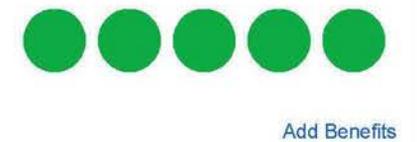
[See All](#)

IXL Learning Photos + Add Photo



[See All Photos](#)

Company Benefits



[See All](#)

Expert Career Advice

[Guide to Getting Your First Job](#)
Find a Great First Job to Jumpstart Your Career

[How to Get a Job](#)
Getting a Job Is Tough; This Guide Makes it Easier

[How to Get a Promotion](#)
Climb the Ladder With These Proven Promotion Tips

[See All Guides](#)

Job Seekers Also Viewed



manager.
Upper management should interact and actually get to know workers, listen to new ideas from experienced individuals with great ideas.

Focus less on money, more on student success.

Helpful (13)

Jul 8, 2016

"New to IXL"

★★★★★ Current Employee - District Partner Specialist in Ormond Beach, FL

Recommends

I have been working at IXL Learning full-time (Less than a year)

Pros

IXL was extremely professional during their interview process and moved very quickly to get me on board. Their virtual on boarding was organized and full of great information. I've been here for a short time so far but everyone has been positive and extremely helpful.

Cons

None that I can think of. Everyone has been very helpful and full of energy and passion.

Helpful

Jul 7, 2016

Helpful (2)

"Best Company I've Worked For!"

★★★★★ Current Employee - Renewal Specialist in Raleigh, NC

Recommends Positive Outlook CEO

I have been working at IXL Learning (Less than a year)

Pros

- Happy work environment
- Team support
- Flexible schedule
- Valuable people/connections in the company

Cons

-small work environment, however we are in the process of moving to a new office space!! :)

Helpful (2)

Jul 7, 2016

Helpful (1)

"Company review"

★★★★★ Current Employee - Software Engineer in San Mateo, CA

Recommends Positive Outlook CEO

I have been working at IXL Learning full-time (Less than a year)

Pros

Smart and helpful people,



2,562 Reviews



Fitbit Reviews
190 Reviews



DreamBox Learning Reviews
64 Reviews

Related Job Search

[Software Engineer jobs](#)
Software Engineer salaries (\$84k)

[Curriculum Designer jobs](#)
Curriculum Designer salaries (\$59k)

[Product Designer jobs](#)
Product Designer salaries (\$74k)

[Product Analyst jobs](#)
Product Analyst salaries (\$65k)

Your Resume is Missing

Upload a resume now. It's easy.

Great culture and benefits.

Cons

No free food, everything else is great.

Helpful (1)

Jun 29, 2016

Helpful (18)

"Don't fall for the positive reviews."

Former Employee - Anonymous Employee in San Francisco, CA

Doesn't Recommend Neutral Outlook CEO

I worked at IXL Learning (More than a year)

Pros

- Fantastic co-workers
- Great benefits (can find same benefits at any tech company)
- Free drinks and espresso machine
- Work from home (only available to their most appreciated roles)
- Unlimited PTO

Cons

- Low pay
- Made money for other people
- Micromanaged
- Upper management does not listen to their employees
- Hires entry level to give them minimal pay
- No career pathway
- Revolving door environment (anything more than 1 year at this company is considered long)
- Office atmosphere is dead (the people who are permitted to work from home do so one or twice per week)
- Repetitive, mindless work
- COO and CEO do not collaborate and it shows between the sales and engineering teams
- Company promotes education but offers nothing to help teachers who cannot afford the program
- Poor onboarding
- Internal operations is horrible - too many grey areas between different roles

Advice to Management

- Reward your employees for their own work
- Listen to them when they offer ways to improve the company
- Include a philanthropic sector to help those teachers who love IXL but cannot afford the program
- Shuttle to the city would be great
- Offer food in the kitchen (if you are already do it for one floor, you should do it for the other)
- Stop constantly promoting those already in upper management and promote those who actually deserve it

Helpful (18)

Jun 14, 2016

Helpful (1)

"Company Review"
 Current Employee - Recruiting Coordinator in San Mateo, CA

 Recommends
  Positive Outlook
  CEO
Pros

- Great company culture
- Great benefits
- Onsite massages
- Onsite gym and yoga classes
- Nice kitchens (with unlimited coffee)
- Clubs and community involvement

Cons

- No free food (which isn't that common anyways)

Helpful (1)

May 13, 2016

Helpful (26)

"I Felt Mistreated By The Company"
 Former Employee - Software Engineer in San Mateo, CA

 Doesn't Recommend
  Positive Outlook
  CEO

I worked at IXL Learning full-time (Less than a year)

Pros

- Wonderful, smart, friendly coworkers who always gave me a smile
- Very nice perks (2x weekly massages, 401(k) matching, etc)
- A great, positive product

Cons

- Bad management choices: I was a new-grad placed in a new team where I was the only engineer, and at the same time, the management supervising me had never managed engineers before, so it seemed the company itself didn't value either side enough to give adequate training/preparation
- Bad communication/practices: we used a Waterfall methodology and all of my projects ran into issues with unclear or changing requirements
- Misleading offer: I was offered a position in Java but when the job started, I was quickly moved into developing in Perl
- Bad code quality: The Perl codebase was badly maintained; there were many occurrences of copy-pasted code, there were no attempts at using Object Orientation (even for large projects), and I was the first person at the company to write automated tests for our Perl code
- Low level of average experience: among engineers, a large percent had been hired as new-grads and had less than 3 years of experience
- No one wrote unit-tests: the main codebase (mostly in Java) had less than 5% code coverage when I was there, which meant that many people did a lot of manual testing. It was costly, repetitive, and possibly lead to the deployment issues we had with many of our releases

Advice to Management

- Bring software practices into the 21st century: Waterfall does not often support good communication and innovation (and I believe this contributed to why most of the content team left during my time at the company)
- Hire more experienced people: they cost more, but their outsider perspectives can be

hire more experienced people: they cost more, but their balanced perspectives can be invaluable at all levels

- Consider creating a board of directors: many I knew at the company felt the CEO and COO abused their power with no oversight or alternative perspectives

- Value individual development: don't make someone a manager if they have no experience, perhaps have them take a lead role first, perhaps give them an intern or even an employee with work experience before diving straight into managing new-grads

Helpful (26)

May 6, 2016

Helpful (29)

"Potentially fake reviews!"

Former Employee - Sales Consultant in San Mateo, CA

Doesn't Recommend Negative Outlook CEO

I worked at IXL Learning full-time (More than a year)

Pros

I got paid and received health benefits, plus whatever benefit this has on my resume for future jobs.

Cons

Over a year of my life was wasted in a wretched Office Space prison in the employment underworld known as the San Mateo - Foster City office park. I figured it was worth submitting a review after seeing so many potentially fake writeups screwing with the decisions of well-intentioned workers looking for a job. What a coincidence that 4 employees would all leave glowing reviews on the same day?! It terrifies me that people choose to spend their singular existence in this universe on such a drone-like pursuit of profits in an antiseptic company. This behavior alone should be enough to scare prospective workers away.

Advice to Management

You're deep in the IXL kool-aid, but stop and think about the lives your actions affect.

Helpful (29)

Showing 135 of 135 reviews

Reset Filters

3 4 5 6 7

Reviews > IXL Learning

RSS Feed </>Embed

Glassdoor has 135 IXL Learning reviews submitted anonymously by IXL Learning employees. Read employee reviews and ratings on Glassdoor to decide if IXL Learning is right for you.

Glassdoor

Employers

Community

Work With Us

About Us

Help / Contact Us

Job Boards

Apr 11, 2016

Helpful (1)

"Great people"

Current Employee - Anonymous Employee

Pros

- Great people to work with
- Positive work-life balance
- Growing company
- Large impact in classrooms
- Interesting and creative work

Cons

- A lot of independent work, though there are some opportunities for collaboration
- The teams sometimes go for what's safe instead of what's most creative or innovative

Helpful (1)

Join the IXL Learning team

See Our Latest Jobs

Apr 7, 2016

Helpful (4)

"Great people to work with"

Current Employee - Anonymous Employee in Raleigh, NC

Recommends Positive Outlook

I have been working at IXL Learning full-time (Less than a year)

Pros

- Intelligent, hardworking, creative colleagues with a passion for educating children
- Small teams where you can make a significant contribution
- Opportunities to advance within the company
- IXL is hiring for growth
- Low stress environment with friendly co-workers
- Corporate culture encourages volunteering in the community
- Good benefits, competitive salaries, and frequent social activities

Cons

If it is important to you, no free meals; however, think about why other companies offer 3 meals a day.

Helpful (4)

Apr 4, 2016

Helpful (12)

"Curriculum Designer"

Current Employee - Curriculum Designer in San Mateo, CA

Recommends Neutral Outlook CEO

I have been working at IXL Learning full-time

Pros

College applications can be hard. Last weekend IXLers volunteered to help students craft their personal statements! <http://glassdoor.com/slink.htm?key=vQHIG>



0 Likes

See All



See All Photos



See All



See All Guides



- great, collaborative environment
- nice perks
- smart coworkers
- great work/life balance

Cons

- Management interferes at every level
- Company isn't doing enough to promote diversity
- some managers lousy, although mine isn't

Advice to Management

- Try to avoid micromanaging
- The CD position is fantastic and fun, but extremely static - most smart people you hire will eventually quite because they are bored. Try to be more creative about ways to retain talent. One way to do this is to delegate responsibility.

Helpful (12)

Apr 2, 2016

Helpful (16)

"Bad management, no communication"

Former Employee - Anonymous Employee

- Doesn't Recommend
- Negative Outlook
- CEO

I worked at IXL Learning full-time

Pros

The employees are largely great.

Cons

I was let go without any reason. I had been working very hard for many months and had great rapport with the team. However one day I was terminated simply without reason. During the exit interview, both the manager and the HR declined to provide reason for termination. It was also interesting that the termination came just before my stock grants vested.

In all I would say that management is pretty shady - they rely on hiring new grads to do the work and the turn-over is much higher than I anticipated: several people quit during my time there (and it's not a large company). Management is very bad at communicating, starting from the elusive CEO himself.

While the company enjoys a healthy customer base, it is old (>10 years) and by no means a startup. It is also by no means a growth company.

If you have terrific rapport with your direct manager, this company is worth considering. In my honest opinion, however, there are much better choices in the Bay Area.

Advice to Management

Communicate honestly with your employees.

Helpful (16)

Mar 30, 2016

Helpful (4)

"Great place to work at but poor management"

Current Employee - Anonymous Employee

- Recommends

2,562 Reviews

Fitbit Reviews 190 Reviews

DreamBox Learning Reviews 64 Reviews

Related Job Search

[Software Engineer jobs](#)
Software Engineer salaries (\$84k)

[Curriculum Designer jobs](#)
Curriculum Designer salaries (\$59k)

[Product Designer jobs](#)
Product Designer salaries (\$74k)

[Product Analyst jobs](#)
Product Analyst salaries (\$65k)

Your Resume is Missing

[Upload a resume now. It's easy.](#)

which leads to the most efficient way to get to where you want to go.

- No overtime allowed for temps
- A bit clickish
- Times where very busy and other times very sow. (consistency for tech support)
-

Advice to Management

- More Notice to contractors/ temps (preferably a week or more), so they can look for a job while they still have a job, appearance. (not sure if it was the negotiation of ending or just niceness on their and or the recruiting agency's behalf, but I was fairly compensated for the short notice.)
- Beyond that, from what I could tell, seemed good.

Helpful

Sep 4, 2015

Helpful (38)

""who will get fired next?" employee mentality,uncaring place"

Current Employee - Sales and Marketing Department in San Mateo, CA

- Doesn't Recommend
- Negative Outlook
- CEO

I have been working at IXL Learning full-time (More than a year)

Pros

- 1 Complimentary water-coffee-tea-organic soda pop, (not that you cannot get these and more at other tech companies in the valley)
- 2 health benefits are good (again same with any other company around here)
- 3 neat coworkers, newer office space
- 4 unlimited sick days, that you will need to use often to escape the horrendous culture
- 5 very strict about working from home, even tho they hire remote employees, and advertise flexible work schedules. Lies.

Cons

- 1 bad management thats coming top down. Good luck getting constructive feedback. You are expected to figure everything out on your own. Managers hire and fire like it's nothing. Truthfully I can't even count the number of people who have been fired with no warning or plans
- 2 company promotes all managers from within, and they only promote the best puppets for their masters. No manager has their own thoughts or have been given any kind of training. Most managers are very young, manage 10 people or more
- 3 ixl puts up fake reviews on glassdoor. Proof - Look for two bad reviews written around end of june, and check out the flood of good 5 star reviews within the week afterwards. Come on...so Desperate
- 4 no career path, they hire new grads and pay poorly because they know youre desperate for tech experience. When you ask for a raise or career path, make sure you are either a salesperson and/or a male. Otherwise, good luck. I have seen at least 5 women put on improvement plans, most of those people either left because they were pushed out or they got fired first. No men have ever gotten an improvement plan here.. sexism at its finest.

Advice to Management

Upper management should get more involved and take responsibility for their low retention/ bad culture. You never see the CEO and VP, I barely ever talked to them and it's a small company but they are never there. Managers know culture is poor, but it's somehow put on the employees to improve this. How can they expect culture to improve when they fire people left and right, it creates a huge fear of "whos next"! Add this to every meeting they have being closed door, and employees feel out of the loop even more. Managers should be held more accountable for their performance. why are you not having employees give managers

 2,562 Reviews

 **Fitbit Reviews**
190 Reviews

 **DreamBox Learning Reviews**
64 Reviews

Related Job Search

- [Software Engineer jobs](#)
Software Engineer salaries (\$84k)
- [Curriculum Designer jobs](#)
Curriculum Designer salaries (\$59k)
- [Product Designer jobs](#)
Product Designer salaries (\$74k)
- [Product Analyst jobs](#)
Product Analyst salaries (\$65k)

Your Resume is Missing

[Upload a resume now. It's easy.](#)

accountable for their performance, why are you not having employees give managers feedback? Do you like having a dictatorship? Also, certain people should just not be managers. People leave their managers not a company, and you need to realize that or you wont retain good people long.

Helpful (38)

Sep 4, 2015

Helpful (24)

"IXL Learning Has Some Learning to Do :/"

 Former Employee - Anonymous Employee in San Francisco, CA

Doesn't Recommend Neutral Outlook CEO

I worked at IXL Learning full-time (Less than a year)

Pros

The company is doing a terrific job helping families and schools, they have created a community for parents and teachers, and a place for real on-line learning. The company keeps ahead of the standards and allows children to stay on track while having fun. The program is innovative, ever changing and unique. The workplace is slow paced, benefits are nice but could be better, salary is low unless you are a SWE.

Cons

The company is 100 % sales driven and focused. Numbers are a top priority. The CEO and CFO are on different pages. Every employee is 100% disposable, regardless of years at the company or job well done. The rest of the core team that is there is great! HR does what they can but their hands are tied most of the time. Recruiting does a great job to try and sell the place and to keep up. I valued my time there, but never felt appreciated, I am happy to be on to better opportunities. This is a good place for someone with little or no experience, more of a stepping stone. Benefits and pay are not up to par with the rest of the bay area, little or no bonuses and no real motivation to want to do a good job.

Advice to Management

Treat your employees with more respect and appreciate them. Listen to HR, let them do the job you hired them to do. Get on the same level as the rest of the Bay Area with benefits and compensation. Give people a reason to want to join the team and to stay.

Helpful (24)

Aug 23, 2015

Helpful (33)

"The Real Story"

 Current Employee - Anonymous Employee in San Mateo, CA

Doesn't Recommend Negative Outlook CEO

Pros

Some of the people are really fantastic. Unfortunately, they don't stay long.

Cons

CEO and VPs are not to be trusted. It is a regular practice to fire employees, regardless of title or seniority.

Advice to Management

Value your employees' contributions, especially those who are seasoned. Dedicate your efforts to keeping morale high rather than offering free drinks and other perks that have no meaning to people who value job security and feeling appreciated.

Cons

The company is more conservative with perks than some other tech businesses. They are good but not over the top. On the flip side they are more generous with space and provide cubes and offices rather than open seating.

Advice to Management

I feel secure in the company's future. Keep hiring people keen on making a difference, as well as maintaining a long-term focus. The company is on the right trajectory.

Helpful (5)

Jun 29, 2015

Helpful (25)

"The Sales Department is a Disaster"

 Former Employee - Sales Department

 Doesn't Recommend  Negative Outlook  CEO

I worked at IXL Learning full-time (More than a year)

Pros

-Very smart, hard-working people are hired to work here. Somehow, the company recruits great talent and down-to-earth individuals, for the most part.

-401(k) matching, full benefits, a drink fridge.

-The product itself is outstanding.

-The product and development team is full of mostly upstanding, hard-working and brilliant folks.

Cons

This is the worst Silicon Valley SaaS company imaginable at which to grow a sustainable, challenging and rewarding career in sales/account management. Awful culture, paltry pay, mind-numbing work and a strange climate of intimidation, fear-mongering and 'good ol' boys' Wolf of Wall Street B.S. straight from the 1980s soils the entire sales department. The majority of employees worth their salt leave within 2 years for greener pastures. The funny thing is that this spectrum of 'better' options available ranges from bootstrapped start-ups to Google/Facebook/Salesforce behemoths. People have actually chosen to be unemployed rather than deal with this soul-suck of an office. This company is literally a stepping stone to other careers, and is sinking in its own morass of mediocrity.

The sales department (the entire company, essentially) is run as a dictatorship. Each VP (and each incompetent manager under them) has unilateral authority that goes mostly unchecked. The volume of your voice is more important than the actual work that you do, in that it reaffirms managements' archaic approach to sales. This climate breeds resentment, apathy, rampant job-searching (during work hours!) and fear among employees. Work is largely mindless, repetitive and serves the sole purpose of being able to humble-brag about 'big deals' during meetings with management. It is a tragic comedy.

Advice to Management

If you want to be a well-regarded company in the SaaS space, start acting like it. IXL will continue hemorrhaging great employees unless this happens.

Helpful (25)

Jun 28, 2015

Helpful (19)

"Not a place to have a career in Sales Department"

 Current Employee - Sales

 Doesn't Recommend  Negative Outlook  CEO

Pros

Good product, good managers, good coworkers

Cons

Too far from home, but nothing really on the company itself

Helpful (2)

Jan 26, 2015

Helpful (3)

"Great company for technologists and new grads"

Current Employee - Anonymous Employee

Recommends Positive Outlook CEO

I have been working at IXL Learning full-time (More than a year)

Pros

Good work-life balance

Good benefits

Flexible schedule

Kind, funny employees

Some professional/personal development opportunities

Good opportunity for growth

CEO is very thoughtful and smart, even though he's quiet he makes an effort to get to know employees

Company is definitely growing

Lots of new content/features in development

I personally feel that my accomplishments have been recognized and rewarded. I know others haven't necessarily felt the same in previous reviews, but perhaps that's improving? Or maybe just my own experience.

Cons

Not a lot of training available for people who need a lot of structure and manager involvement.

Advice to Management

Managers could probably use some additional training opportunities.

Helpful (3)

Dec 30, 2014

Helpful (17)

"Micromanaged and problematic"

Current Employee - Anonymous Employee

Doesn't Recommend Neutral Outlook CEO

I have been working at IXL Learning full-time (More than 3 years)

Pros

Easy, unchallenging work, good medical benefits, free drinks. Hours are not too crazy. The people are generally well-meaning and nice.

The company isn't going anywhere right now. They play to the traditional classroom, which is good for profits. You won't have to worry about the company going under (but don't expect the profits to pass onto you, either).

Cons

Don't expect a challenge working here. This company sets the bar extremely high for who they hire, and then gives their smart, talented employees boring, menial work to fill the day. The CEO is overly involved in every product, every decision, every everything.

There are no politics if you fit in. If you don't -- that is, if you're not a family-oriented white or Asian straight or mainstream gay person with 1.7 kids who really likes softball -- then you're likely to find yourself on the outside. Treatment in the workplace, in terms of who gets flexible hours, interesting projects, praise, promotions, and a big yearly raise, is different and seems to run right along these characteristics.

There is essentially no HR knowledge or staff at this company. Know your rights when you work here, because they don't, and they don't care to learn. Most management has no idea what the word "discrimination" means, nor do they seem to think it matters.

Advice to Management

Choose one: listen to the ideas of a group of smart, talented employees, or micromanage a group of mediocre employees. Don't pull the bait and switch on employees who can do way better.

Build a culture that encourages respect for people of all walks of life.

Helpful (17)

Showing 135 of 135 reviews

Reset Filters

8 9 10 11 12

Reviews > IXL Learning

RSS Feed </>Embed

Glassdoor has 135 IXL Learning reviews submitted anonymously by IXL Learning employees. Read employee reviews and ratings on Glassdoor to decide if IXL Learning is right for you.



Glassdoor

- About Us
- Awards & Trends
- Blog
- Research

Employers

- Get a Free Employer Account
- Employer Center
- Post a Job

Community

- Help / Contact Us
- Guidelines
- Terms of Use
- Privacy & Cookies

Work With Us

- Job Boards
- Advertisers
- Developers
- Careers

Download the App



United States



Helpful (2)

Oct 10, 2014

Helpful (3)

"Irresponsible, slow and inconsistent within HR system and jovite, and bad communication with hiring engineers."

Current Intern - Software Engineer in San Mateo, CA

Doesn't Recommend

I have been working at IXL Learning as an intern (Less than a year)

Pros

The company is a great company with a good mission on strongly educating people.

Cons

Could HRs be more consistent, updated, and do not waste their own and applicants' time please?

Advice to Management

Please keep HRs(also between HR and jovite staff) and engineers be consistent about hiring people, applicants do not want to waste human resources staff and engineers time, but also please do not waste applicants' time.

Thank you.

Helpful (3)

[Join the IXL Learning team](#)

[See Our Latest Jobs](#)

Sep 14, 2014

Helpful (2)

"A great company to work for."

Current Employee - Software Engineer in San Mateo, CA

Recommends Positive Outlook CEO

I have been working at IXL Learning full-time (Less than a year)

Pros

Even though I've only worked here for a couple of months, I can say that IXL really cares about their employees. My experience at IXL has been great. While you are expected to work hard, there are plenty of opportunities for you to have fun while working here.

This is my first work experience and I was expecting work to be hard and stressful but every day I wake up looking forward to go to work.

Cons

I haven't had any problems during my time working here.

Helpful (2)

Sep 11, 2014

Helpful (2)

"Great environment with fun and hard working people"

Current Employee - Anonymous Employee

Recommends Positive Outlook CEO

College applications can be hard. Last weekend IXLers volunteered to help students craft their personal statements! <http://glassdoor.com/slink.htm?key=vQHIG>



0 Likes

[See All](#)

IXL Learning Photos + Add Photo



[See All Photos](#)

Company Benefits



[Add Benefits](#)

[See All](#)

Expert Career Advice

[Guide to Getting Your First Job](#)
Find a Great First Job to Jumpstart Your Career

[How to Get a Job](#)
Getting a Job Is Tough; This Guide Makes it Easier

[How to Get a Promotion](#)
Climb the Ladder With These Proven Promotion Tips

[See All Guides](#)

Job Seekers Also Viewed



<iframe src="//www.googletagmanager.com/ns.html?id=GTM-PST2JZ" height="0" width="0" style="display:none;visibility:hidden"></iframe>



IXL Learning

Location

Companies

Search



IXL Learning

Overview

135
Reviews

80
Jobs

108
Salaries

374
Interviews

47
Benefits

33
Photos

IXL Learning Reviews

Updated January 14, 2018

135 reviews

Filter

135 Employee Reviews

Sort: Popular Rating Date

Pros

I appreciate that even though it hasn't been discussed much explicitly, *work-life balance* seems important to people here (in 15 reviews)

Great benefits and compensation (in 13 reviews)

Cons

Tough to get to *San Mateo* office from outlying areas (in 8 reviews)

No free food (which isn't that common anyways) (in 7 reviews)

More Pros and Cons

May 29, 2014

Helpful (11)

"Very unprofessional"

Former Contractor - Anonymous in San Mateo, CA

Doesn't Recommend Negative Outlook CEO

I worked at IXL Learning as a contractor (Less than a year)

Pros

Realizes it's disorganized, is open to suggestion and proposals

Cons

- Unprofessional... completely unprofessional
- Chaotic and unorganized
- Inexperienced Leadership

Advice to Management

I noticed since working with IXL about a year ago the reviews have suddenly moved up from 2 stars to almost 4, so either the management there has changed or there are a bunch of fake reviews.

Reviews by Job Title

Software Engineer (17)

Curriculum Designer (7)

Product Analyst (7)

Membership Specialist (4)

Educational Sales Consultant (3)

Show More

Company Updates



Nailed it! IXLers used their building skills to help out Habitat for Humanity of Durham. Read all about it here: <http://glassdoor.com/slink.htm?key=vQ7ds>

IXL Gets Hands-on with Habitat for Humanity

0 Likes



I never got around to writing a review, so I might as well.

Leads, in order to be competitive in this space you need to get rid of the relics from the stone ages you call management and get with the program. Your technology is outdated, your aesthetics and your process.

Paying contractors on time would be nice too, this is business not charity.

Helpful (11)

May 13, 2014

Helpful (5)

"I love my co-workers and my job!"

Current Employee - Anonymous

Recommends Positive Outlook CEO

I have been working at IXL Learning full-time (More than 3 years)

Pros

I've been working at IXL for almost 5 years, and I love it here! The company one of the leading EdTech companys in the world, we get to create and sell Products that directly impact students and teachers everywhere. Also, believe it or not the upper management truly truly cares about its employees. I have seen this from the start. The environment is work hard play hard. I've given the company a lot of me, but they have given me a lot in return (great pay, amazing benefits, growth opportunity...). I've also made some of the greatest friends at IXL--I'm so grateful they are picky about hiring!

All in all, I'm very lucky to have had the opportunity to grow my career at a company like IXL.

Cons

The only thing I can think of are some growing pains, but we're hiring at such a fast rate and I don't foresee it being an issue!

Advice to Management

Keep up everything you're doing, and keep being open and approachable with your employees, no matter how big we get.

Helpful (5)

Join the IXL Learning team

See Our Latest Jobs

Feb 28, 2014

Helpful (1)

"I have loved becoming a part of the IXL team where diversity and innovation is of the utmost importance."

Current Employee - Account Manager in San Mateo, CA

Recommends Positive Outlook CEO

I have been working at IXL Learning full-time (Less than a year)

Pros

There are many wonderful things about being an IXL employee including: awesome benefits, a great corporate culture, engaging and passionate colleagues, and a mission that has a positive impact on children and educators.

Cons

I haven't encountered any cons at this point!

College applications can be hard. Last weekend IXLers volunteered to help students craft their personal statements! <http://glassdoor.com/slink.htm?key=vQHIG>

IXL Lends a Hand to Help Students Write Personal Statements for College

0 Likes

See All

IXL Learning Photos + Add Photo



See All Photos

Company Benefits



Add Benefits

See All

Expert Career Advice

Guide to Getting Your First Job
Find a Great First Job to Jumpstart Your Career

How to Get a Job
Getting a Job Is Tough; This Guide Makes it Easier

How to Get a Promotion
Climb the Ladder With These Proven Promotion Tips

See All Guides

Job Seekers Also Viewed



at IXL. Projects are interesting and you have a chance to make an impact every day.

Some other perks:

- Great benefits
- Cool, creative people
- Company softball team
- On-site massages
- Team building events

Cons

It's not in downtown SF (but hey, at least it's not Mountain View)

Advice to Management

It would be great to see some additional mid-level managers (or team leads) that manage small teams

Helpful (6)

Jul 18, 2013

Helpful (9)

"Surrounded By Intelligent Folks, With Great Charisma!"

Former Employee - Anonymous Employee

- Recommends
- Positive Outlook
- CEO

I worked at IXL Learning part-time (Less than a year)

Pros

- growing rapidly and expanding to a new open office space.
- surrounded by intelligent people who's driven
- successful products gear to help enhance education for children
- awesome benefits
- gym and weekly massages
- fun environment with genuine and passionate people
- free parking, stellar view, convenient location to shops
- good salaries
- growth opportunities
- mind stimulating

Cons

-can't really think of a negative thing to say about this company, but I guess the new office space would definitely help, since cubicles are quite compacted.

Advice to Management

-some of the managers here are some of the most helpful, genuine supervisors I have worked with. Passionate about their job and helpful to their team. They are great leaders, who are trustworthy and honest.

Helpful (9)

Jul 10, 2013

Helpful (37)

"Realistic Review from a "REAL" employee"

Current Employee - Anonymous Employee in San Mateo, CA

■ Doesn't Recommend
 ■ Negative Outlook
 ■ CEO

I have been working at IXL Learning full-time (More than a year)

Pros

Being realistic, this company has its ups and downs. Having worked full time here, I'm at liberty to discuss all of that.

The pros :

1. The engineering and product developers/designers are treated really well
 - a. They have good salaries
 - b. Good work hours
 - c. Good managers
 - d. Good team and benefits
2. The building/location isn't bad. Its not San Francisco/Palo Alto but it isn't Millbrae/San Bruno either.
3. The products are definitely interesting, exciting, touches millions of lives around the world
4. Some really smart individuals work here
5. Paul (one of the co-founders) is awesome, and some of the managers are also great
6. The fridge is clean (yes, I run out of pros here).

Cons

This is where things are a little ugly...

1. Non engineers/product-dev are treated terribly. While I do understand that being an engineering company, the engineers matter a lot, IXL needs to realize that without sales, marketing, recruiting, the company would cease to exist. The product designers/engineers get great benefits, are moving to a new fancy floor in the building, have flexible hours and breaks etc. whereas the non engineers have none of that.
2. Some of the managers, not pointing fingers here, need help, and by help I mean need to be replaced.
3. The company lacks an important aspect of a healthy life - coordination and communication between departments. The company lacks a COO.
4. Management claims upward growth, however there is very little room for upward growth in this company, bonuses come slow, raises are small, and when they tell you they're a "start-up" please don't believe that.
5. The work-space and office plan is drab and boring. Neutral colored cubes and furniture.
6. Favoritism - Some of the managers openly display favoritism, and it reflects on the projects that the person gets etc. This is an unfair advantage to those not 'favored'.
7. False information - This is my biggest gripe with the company. IXL is NOT a startup, and should stop advertising as one. They are a corporate like any other. They do not treat their employees like startups do, they're not flexible like startups and some of the managers should go back to the big firms that they came from because they are not ready for a smaller company. I feel some of the managers strive for one thing but the way they work and act is completely the opposite. You can not want to run a "startup-ish company" but treat your employees and practices like a big company would.

All in all, for engineering, this company is great, for the rest, not so much.

Also, to the earlier review titled "New Low". Completely agree. Stop posting false reviews!

Advice to Management

You really need to become more transparent. Firstly, there has to be room for upward mobility. Secondly, I understand that it is a software product, but your engineers can not be treated like gods and everyone else like misers. Also, some managers/co-founder etc. (people who work here will already know what I'm talking about) need to figure out what they want.

Paul should get more involved with the company. He is a great visionary but stays locked up in his office all day. He needs to get more involved with the functioning of the company because

with his guidance they could really turn things around.

Helpful (37)

Jul 2, 2013

Helpful (6)

"Innovative Edtech Company with Lots of Growth Potential"

Current Employee - Operations Team in San Mateo, CA

Recommends Positive Outlook CEO

I have been working at IXL Learning full-time (More than a year)

Pros

IXL is a rapidly growing company that has incredibly innovative products. It's a great place to work if you're looking for a team full of quirky, smart, inspired individuals who care about improving education across the globe through our products. IXL is on the smaller side (100 employees), and its rapid growth highlights the company's successful products, and room for expansion.

Perks: Innovative products, employees that genuinely care about improving education, on-site massages, on-site gym access, lunch-time socials, internship program, IXL softball team, great office location, friendly co-workers

Cons

* Like every company that is growing very fast, IXL is still trying to sharpen its ability to manage the expansion.

* The environment is incredibly fast-paced, but that is to be expected with a growing company and that sort of environment drives our employees to live up to their full potential.

Helpful (6)

Showing 135 of 135 reviews

Reset Filters

10 11 12 13 14

Reviews > IXL Learning

RSS Feed </>Embed

Glassdoor has 135 IXL Learning reviews submitted anonymously by IXL Learning employees. Read employee reviews and ratings on Glassdoor to decide if IXL Learning is right for you.



Glassdoor

- About Us
- Awards & Trends
- Blog
- Research

Employers

- Get a Free Employer Account
- Employer Center
- Post a Job

Community

- Help / Contact Us
- Guidelines
- Terms of Use
- Privacy & Cookies

Work With Us

- Job Boards
- Advertisers
- Developers
- Careers

Helpful (7)

May 28, 2013

Helpful (23)

"Great place to work if you want to feel under appreciated"

Current Employee - Sales and Marketing Department in San Mateo, CA

Doesn't Recommend Negative Outlook CEO

I have been working at IXL Learning full-time (More than a year)

Pros

- great product
- nice location
- booming industry
- good co-workers

Cons

- awkward hours (10-7)
- no flexibility to work from home
- sales bonus structure is not motivating
- unrealistic expectations and goals are set for employees
- new product release dates are always pushed back, which makes it hard to keep up with competitors
- people are promoted based on seniority, rather than being a good fit for a role
- there is little to no room for growth
- no annual raises are given to sales people because "you can just make extra money by working harder and hitting sales bonuses"
- you are not just doing sales, you're also an operator/admin. asst, customer service agent, and a renewal specialist
- when people leave, instead of rushing to hire someone new, they just dump their work on others

Advice to Management

Set more realistic goals for your employees and the company as a whole. Don't just hire new grads so that you can pay them less, talk down to them, and make them work harder. Hire more experienced people (especially when it comes to managers), pay them what they deserve, and know that it'll be worth it for your employees and company in the end. Be more flexible with your employees, and by that I don't mean let them leave an hour or two early on a holiday weekend. Make it more possible to actually make a sales bonus. Give a little bit more and you'll get a lot in return. People will actually WANT to work for you if you learn to appreciate them!

Helpful (23)

Join the IXL Learning team

See Our Latest Jobs

May 24, 2013

Helpful (30)

"An interesting convergence of success and dysfunction"

Former Employee - Sales and Marketing Department in San Mateo, CA

Doesn't Recommend Negative Outlook CEO

College applications can be hard. Last weekend IXLers volunteered to help students craft their personal statements! <http://glassdoor.com/slink.htm?key=vQHIG>

IXL Lends a Hand to Help Students Write Personal Statements for College

0 Likes

See All

IXL Learning Photos + Add Photo



See All Photos

Company Benefits



Add Benefits

See All

Expert Career Advice

[Guide to Getting Your First Job](#)
Find a Great First Job to Jumpstart Your Career

[How to Get a Job](#)
Getting a Job Is Tough; This Guide Makes it Easier

[How to Get a Promotion](#)
Climb the Ladder With These Proven Promotion Tips

See All Guides

Job Seekers Also Viewed



I worked at IXL Learning full-time (More than a year)

Pros

- Strength of products
- Many friendly people
- Exciting industry

Cons

I have numerous gripes with IXL that resulted in me leaving, but before reading any further I want to preface that these are just my observations and hopefully the company can work to improve over time. The difficulty with a dysfunctional workplace is that folks like me end up "checking out" when things do not improve, and we end up becoming disgruntled ex-employees once we have alternatives or go full-on OfficeSpace and stop caring altogether. I would never tell anyone reading my review to reject a secure job that provides them enough income to support them and their family (unless they had alternatives). My advice is to take any review with a grain of salt and use your own judgements to see if the remarks align with observations made during interview(s). Additionally, there are a number of roles at IXL so my perspective may not apply. Who knows, maybe you are the person this company needs to reorient their direction?

-Peter Principle: Much of the management is comprised of veteran employees who have shown lots of loyalty from when the company was very small, but aren't necessarily a good fit for roles where they are expected to mentor and oversee other workers. Days were almost always chaotic, which then led to stress and lots of "bad moods" on their faces. (Aside: much of management is strangely involved in some of the minutia of their previous roles, despite being overwhelmed)

-Work/Life balance: I recall being quite excited about the "flexible hours" touted on IXL's hiring page. Turns out this was far from the truth: I was denied days off, was given no opportunities to work from home, was expected to travel and/or work on weekends, and had to work a rigid 9-6 schedule every single day. Management's idea of charity was to surprise workers before holiday weekends with a 1-hour early dismissal.

-Odd workplace culture: While many individuals were incredibly friendly and great people, the overarching mood was extremely antiseptic. Social events consisted of generic once-a-month birthday celebrations and the occasional lunchtime sports game (But of course, who wants to play kickball at lunch when your day is miserably boring and you want some time to relax?).

-Vertical paranoia: Extreme concern for keeping contact information under wraps, emails and other writing addressed to customers was very formulaic and revolved around a handful of talking points. Very little information about production schedules or even the company's history were shared with employees. Most decisions/projects relied on personal approval and involvement of senior management, causing things to move very slowly. Despite seemingly rolling in new revenue, unwillingness to spend money on office hardware and other expenses.

Advice to Management

Acquiring and retaining talented employees should involve absorption and investment. Trying to force-feed certain policies and practices down people's throats will result in turnover and/or only getting employees who are corporate lapdogs.

People are unique animals, and they respond well to kindness, acceptance, and generosity,

Helpful (30)

Jun 20, 2011

Helpful (9)

"Challenging and Rewarding"

★★★★★ Current Employee - Product Analyst in San Mateo, CA

■ Recommends

Pros

IXL is a great place to work. I look forward to getting up and going into work every weekday

 2,562 Reviews

 Fitbit Reviews 190 Reviews

 DreamBox Learning Reviews 64 Reviews

Related Job Search

[Software Engineer jobs](#)

Software Engineer salaries (\$84k)

[Curriculum Designer jobs](#)

Curriculum Designer salaries (\$59k)

[Product Designer jobs](#)

Product Designer salaries (\$74k)

[Product Analyst jobs](#)

Product Analyst salaries (\$65k)

Your Resume is Missing

[Upload a resume now. It's easy.](#)

Declaration of Custodian of Records

I, TOM O'BRIEN , declare:

1. I am employed as Deputy General Counsel by the law department of Glassdoor, Inc. ("Glassdoor"). My job responsibilities include, among other things, collecting documents, and materials in response to subpoenas and discovery requests directed to Glassdoor.

2. Attached hereto are true and correct copies of responsive records as described in the Deposition Subpoena for Production of Business Records directed to Glassdoor in the United States District Court for the Northern District of California matter entitled *Equal Employment Opportunity Commission v. IXL Learning, Inc.*, Case No.3:17-CV-02979. After a complete and thorough search of our records, we have located the following records:

Exhibit 1 contains all orders for services between IXL Learning and Glassdoor from January 1, 2013 to present.

Exhibit 2 contains all services terms that governed the Orders for services between IXL Learning and Glassdoor from January 1, 2013 to present.

Exhibit 3 contains all versions of the Glassdoor.com Community Guidelines from January 1, 2013 to present.

Exhibit 4 contains all versions of the Glassdoor.com Legal FAQs that Glassdoor has retained in its archives for the period from January 1, 2013 to present.

Exhibit 5 contains all versions of the Glassdoor.com Terms of Use that Glassdoor has retained in its archives for the period from January 1, 2013 to present.

Exhibit 6 contains all known email communications from IXL Learning to Glassdoor from January 1, 2013 to present relating to complaints about user-generated content

TOM O'BRIEN DECLARATION OF CUSTODIAN OF RECORDS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

3. The records were prepared by Glassdoor personnel in the ordinary course of business at or near the time of at or near the time of the occurrence of the matters set forth in the records.

I declare, under penalty of perjury, that the foregoing is true and correct.

Dated this 4th of May, 2018.



Tom O'Brien
Glassdoor, Inc.

TOM O'BRIEN DECLARATION OF CUSTODIAN OF RECORDS

EXHIBIT 6

Administration > User Content > Ratings & Reviews > Approve or Reject Review

User Information: obblue420@gmail.com | Validated | guid 7fc02e42-d28d-4015-ba44-2ef7d622cf6c | ip 72.159.167.195

[↔ Return to List](#) |
 [Verify & Next](#) |
 [< Prev](#) |
 Undo |
 Save |
 [Next >](#) |
 [Reject & Next](#) |
 [Approve & Next](#)

Employer Review | id: 13673780 | February 7, 2017 12:12 PM (User Contribution)

Flagged as Inappropriate

[OLD] Flagged by jbarth@ixl.com **FEA** on 2/13/17 — "It sounds like it was written by a user (a student) and not a former intern. Also, the language is offensive."

[OLD] Flagged by evather@ixl.com **FEA** on 2/13/17 — "This is a student's review of the product, not an employee's review of the company."

[OLD] Flagged by amy.walecka@gmail.com on 2/12/17 — "Profanity. I think this is a child who uses IXL's product and is unhappy with the product itself. It's not about the company"

Rating Approval Status

Rejected

Review Approval Status

Rejected

Review Status

Glassdoor Reviewed

Content Rejection Reason

Multiple - Violates Multiple Guidelines

Review & Rating Info

Review Length 312

Language English

New Language

Headline "It sucks and the creator needs to be sued for 100 million dollars"

Pro's "There is nothing good about Ixl"

Con's "It just makes what to breaks what ever device there doing it on. The creator can go suck them self"

Advice

"Make Ixl Easier on students and in stead of going down a ton you should not go down at all and keep the scores you had"

Overall Rating 1.0 Employees are "Very Dissatisfied" | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 [Details](#)
 CEO Rating 2.0 Employee "Disapprove" for Paul Mishkin (CEO)
 Recommend to a Friend 2 - No
 Business Outlook 3 - Getting Worse

Employer & Job Title

Employer View Reviews Former Employee (2013)

EmpID (326423) HooversID (0) Status (Approved)

Location

Job Title

New Job Title

Make anonymous

Job Type

Intern

New Job Type

Length of Employment

Change History

Date	User	Approval Status	Review Status	Comment	Top Level Domain
Feb 13, 2017 11:36 AM	rebecca.holmes@glassdoor.com	Rejected	Glassdoor Reviewed	multiple, profanity/obscene language (can go suck onesself) and not employee (user reviewing the product only) - "It sucks and the creator needs to be sued for 100 million dollors"Pro's "There is nothing good about Ixl"Con's "It just makes what to breaks what ever device there doing it on. The creator can go suck them self"Advice "Make Ixl Easier on students and in stead of going down a ton you should not go down at all and keep the scores you had" TextApprovalStatus changed from 'APPROVED' to 'REJECTED'.	glassdoor.com
Feb 13, 2017 10:44 AM	jbarth@ixl.com			It sounds like it was written by a user (a student) and not a former intern. Also, the language is offensive.	glassdoor.com
Feb 13, 2017 9:56 AM	evather@ixl.com			This is a student's review of the product. not an employee's review of the company.	glassdoor.com
Feb 12, 2017 8:07 AM	amy.walecka@gmail.com			Profanity. I think this is a child who uses IXL'a product and is unhappy with the product itself. It's not about the company	glassdoor.com
Feb 8, 2017 10:10 PM	Sheren.Arrieta@glassdoor.com	Approved	Glassdoor Reviewed	TextApprovalStatus changed from 'PENDING' to 'APPROVED'.	glassdoor.com
Feb 7, 2017 12:12 PM	oblue420@gmail.com	Pending	Needed		glassdoor.com

Comment

[Return to List](#)

[Verify & Next](#)

Content Reject:

[< Prev](#)

[Undo](#)

[Save](#)

[Next >](#)

[Reject & Next](#)

[Approve & Next](#)

EEOC 001188



Cases



01292931

01293294

ixl

IXL Learning



Details

00455802



Email

Post

Update Case

Close Case

Update Case as Spam

* To

Sarah Khan

Font



Size



Format



----- Original Message -----

From: Content [contentdistro@glassdoor.com]

Sent: 8/20/2015 1:24 PM

To: sarah.khan@glassdoor.com

Subject: Interview Review misplaced in Employee review section []

19141612

Hi Sarah,

Thanks for bringing this to our attention. I have rejected the review, and it will be removed from their profile within 24 hours. Please let me know if there is anything else

Have a wonderful day,

Ashley

Hello Content team,

It appears that a candidate left a review as a current employee instead of the interview review section. The context of the review make this very apparent. Can we move

The review was posted on 7/28/15 and is titled: "Unprofessional, sporadic decision-making process."



Ashley Hamilton <ashley.hamilton@glassdoor.com>

RE: Re: Important information about the review that you recently flagged

Elizabeth Vather <evather@ixl.com>

Tue, Sep 26, 2017 at 3:01 PM

To: "content@glassdoor.com" <content@glassdoor.com>

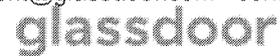
Hi Bailey,

Thanks for your response, but your explanation actually does not address my objection to this review. While I think it's unlikely that the reviewer ever worked at IXL, given that their stated position does not exist at the company, my objection to the review is that **it is not about the company or its culture, but rather a product review.**

Based on this community guideline: "**We reject reviews that do not relate to an employer, are only a review of the product or service, or are otherwise not relevant to understanding a workplace culture**", I don't understand how this review is considered to fall within the Community Guidelines.

Could you please explain to me how this review is not a product review, but rather is about the company and workplace culture?

On Tue, Sep 26, 2017 at 11:43 AM, content@glassdoor.com <content@glassdoor.com> wrote:



Hello,

Thank you for taking the time to share your concerns with us regarding the review written about IXL Learning on Glassdoor.

Per your request, I have reviewed the following content again:

"PLEASE READ"

After further review, I have determined the above content does meet our Community Guidelines, therefore, it will remain on Glassdoor. I want to assure you that we do take your concerns seriously, and we do not make these decisions lightly.

Hopefully I can help explain why this content does not violate our Community Guidelines in a little more detail.

I understand you would like us to remove the content because you feel it does not apply to your company and the user did not work for your company. Based on the information we have gathered, we have found no reason to believe the user did not work for IXL Learning.

Our Community Guidelines state that a review should be truthful and reflective of the author's own personal experience. That being said, when it comes to whether or not the substance of the reviews on Glassdoor are true or false, it is often impossible for us to make that determination. We stay neutral in all cases of dispute; we don't take sides and we don't act as the finder of fact with respect to review content. Glassdoor's general position is that a review is valid from the standpoint that it is one person's personal experience of their job and company. For additional information regarding our position on false reviews, please view our Help Center article here.

Since the content will remain on Glassdoor, I encourage you to submit an official employer response. We believe each employer has the right to respond to reviews on Glassdoor for free. A thoughtful employer response will not only balance a negative review but will also reflect positively upon your company. In addition, the user will be alerted once you respond. As such, they may realize if their post was intended for another company and remove their own post. For more information on responding to reviews, please view our Help Center article here.

Kindest regards,
Bailey Kohler
Glassdoor Content & Community Team

----- Original Message -----

From: Elizabeth Vather [evather@ixl.com]

Sent: 9/25/2017 2:41 PM

To: employersupport@glassdoor.com

Subject: Re: Important information about the review that you recently flagged

Hi there,

Thanks for your response. I'm confused how the flagged review does not violate this portion of your Community Guidelines:

"Glassdoor is about sharing information that helps the entire community. We reject reviews that do not relate to an employer, are only a review of the product or service, or are otherwise not relevant to understanding a workplace culture. We will reject any content meant as an advertisement or containing a web link."

Could you please elaborate as to why this review is allowed to remain when it doesn't mention anything about the actual employee experience or workplace culture?

On Mon, Sep 25, 2017 at 11:31 AM, Glassdoor <employersupport@glassdoor.com> wrote:

glassdoor

Thank you for flagging the post titled "PLEASE READ" for additional review. We take our Community Guidelines very seriously. A manager has reviewed the post you flagged and decided it does meet our guidelines. Therefore, the post will remain on the site.

If you have not already done so, we encourage you to respond publicly on behalf of your company. Job seekers want to hear from employers to get their perspective. To do this, log in with your Free Employer Account, and click 'Add Employer Response' located below the review.

The Glassdoor Team

ID: 16872244

This message was sent to evather@ixl.com.

[Privacy Policy](#) | [Manage Settings](#) | [Unsubscribe](#)

Glassdoor | 100 Shoreline Highway, Building A | Mill Valley, CA 94941

www.glassdoor.com

Elizabeth Vather
Senior Marketing Associate, IXL Learning
evather@ixl.com
650-372-4394

ref:_00D80cY48._5008013t53a:ref

4/18/2018

Elizabeth Vather
Senior Marketing Associate, IXL Learning
evather@ixl.com
650-372-4394

EEOC 001193



Ashley Hamilton <ashley.hamilton@glassdoor.com>

(no subject)

Ashley Hamilton <ashley.hamilton@glassdoor.com>
To: Ashley Hamilton <ashley.hamilton@glassdoor.com>

Wed, Apr 18, 2018 at 8:53 AM

----- Original Message -----

From: content@glassdoor.com [content@glassdoor.com]**Sent:** 9/27/2017 11:28 AM**To:** evather@ixl.com**Subject:** Re: Important information about the review that you recently flagged

Hi,

Thank you for flagging the post titled "PLEASE READ" for additional review. We have determined that while the post is acceptable within our Community Guidelines, due to your concerns that it requires an additional moderation process, which we have begun. Upon completion, if the review has not passed our additional moderation process, we will remove the post. Otherwise, the post will remain on Glassdoor.

We appreciate your patience, as this process can take up to seven days. Within a few hours, the review will be temporarily removed from Glassdoor while we complete this process. Please note that we do not discuss our additional moderation process publicly nor is this process a guarantee that a post will be removed permanently. For more information on Glassdoor review policies, please visit our Help Center Legal FAQ page.

Best regards,

Molly Parker

Glassdoor Content & Community Team

--

EEOC 001195

Administration > User Content > Ratings & Reviews > Approve or Reject Review

User Information: dm2210059@gmail.com | Validated | guid f4642e43-ef3d-44c6-89c9-b6c4682ae873 | ip 74.116.26.125

[↔ Return to List](#)
[Verify & Next](#)
[< Prev](#)
[Undo](#)
[Save](#)
[Next >](#)
[Reject & Next](#)
[Approve & Next](#)

Employer Review | id: 16872244 | September 17, 2017 5:13 PM (User Contribution)

Flagged as Inappropriate

[OLD] Flagged by evather@ixl.com **FEA** on 9/25/17 — "This is a review about the product, not the company (and likely from a child). The role "Interpreter in Budapest" does not exist at this company."

[OLD] Flagged by cball75@hotmail.com on 9/23/17 — "not%20an%20assessment%20or%20even%20an%20opinion.%20"

Rating Approval Status

Rejected

Review Approval Status

Rejected

Review Status

Glassdoor Reviewed

Content Rejection Reason

Housekeeping - Dup Deactivated User

Review & Rating Info

Review Length 403

Language English

New Language

Headline "PLEASE READ"

Pro's "People get to make money for angering millionians of kids Teachers have an easy way out fot assigning weekly homework"

Con's "The point system is completely use-less and stupid It doesn't help anyone learn The "prizes" are only used to appeal to teachers and parents"

Advice "Yeah, leave actually reviews and don't just copy and paste the same description of the company over and over again on every website."

Overall Rating 1.0 Employees are "Very Dissatisfied" | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 [Details](#)
 CEO Rating 2.0 Employee "Disapprove" for Paul Mishkin (CEO)
 Recommend to a Friend 2 - No
 Business Outlook 3 - Getting Worse

Employer & Job Title

Employer View Reviews Former Employee (2016)

EmpID (326423) HooversID (0) Status (Approved)

Location Budapest (Hungary)

Job Title Interpreter

New Job Title Make anonymous

Job Type Full-time

New Job Type

Length of Employment Less than a year

Change History

Date	User	Approval Status	Review Status	Comment	Top Level Domain
Oct 5, 2017 7:43 AM	ashley.hamilton@glassdoor.com	Rejected	Glassdoor Reviewed	No response to manual Verification	glassdoor.com
Sep 27, 2017 8:26 AM	ashley.hamilton@glassdoor.com	Rejected	Glassdoor Reviewed	MANUAL VERIFICATION SENT PER SFC 1122434 - user response deadline is 10/4/2017 TextApprovalStatus changed from 'APPROVED' to 'REJECTED'.	glassdoor.com
Sep 26, 2017 11:49 AM	sarah.sutton@glassdoor.com	Approved	Glassdoor Reviewed	SFC 1122434 / Tier 2 provided to evather@ixl.com - - it does seem suspicious and may be from a student. location doesn't match with company but they do offer remote positions. However, does describe their opinion of the company. Not enough to reject at this time but will be a candidate for manual verification if employer pushes back.	glassdoor.com
Sep 25, 2017 11:31 AM	keith.eash@glassdoor.com	Approved	Glassdoor Reviewed		glassdoor.com
Sep 25, 2017 9:54 AM	evather@ixl.com			This is a review about the product, not the company (and likely from a child). The role "Interpreter in Budapest" does not exist at this company.	glassdoor.com
Sep 25, 2017 9:43 AM	keith.eash@glassdoor.com	Approved	Glassdoor Reviewed		glassdoor.com
Sep 23, 2017 3:27 PM	cball75@hotmail.com			not%20an%20assessment%20or%20even%20an%20opinion.%20	glassdoor.com
Sep 18, 2017 6:00 AM	Valerie.Orlando@Glassdoor.com	Approved	Glassdoor Reviewed	TextApprovalStatus changed from 'PENDING' to 'APPROVED'.	glassdoor.com
Sep 17, 2017 5:13 PM	dm2210059@gmail.com	Pending	Needed		glassdoor.com

Comment

↩ Return to List Verify & Next **Content Reject:** < Prev Undo Save Next > Reject & Next Approve & Next

EEOC 001198

From: Kate Mattison [kmattison@ixl.com]
Sent: Monday, December 22, 2014 6:45 PM
To: David Keyes
Subject:

Kate Mattison, 2014-12-22 15:45:22

your response looks good

David Keyes, 2014-12-22 15:45:29

ok thanks

David Keyes, 2014-12-22 15:45:33

I'll send it to him

David Keyes, 2014-12-22 15:45:45

FYI - Lenore said that since we allow other PAs to work remotely

David Keyes, 2014-12-22 15:46:16

that we could risk getting sued if we didn't allow Scott to do so as well given his medical condition



From: David Keyes [dkeyes@ixl.com]
Sent: Thursday, December 25, 2014 3:22 PM
To: Scott Duane
CC: Maricela Prado
Subject: Re: Return update

Hi Scott,

This all sounds good. I've set up a meeting for us on the 30th from 10-11 am. Let me know if you'd prefer a different time.

I can get you caught up on what's been going on the past couple months and we can go over a game plan for your part time remote situation.

Thanks,
David

On Wed, Dec 24, 2014 at 11:06 PM, Scott Duane <sduane@ixl.com> wrote:
Hi David,

I can understand your concerns, given the brief situation with remote work while trying to balance my pre-op appointments. At that time I was trying my best to contribute, while undergoing lengthy appointments that were physically and mentally exhausting. I did not always keep up, despite my best efforts. In retrospect, I should have requested a reasonable accommodation for my medical situation from the beginning, rather than attempting to keep up with work on those days.

I do believe that this situation is very different. What I need is the opportunity to rest my physical body from the kind of everyday movement that most people take for granted -- I am not attempting to attend appointments during that time as I was previously. If you feel like I'm not keeping up with work with this accommodation, please tell me directly. I'm happy to reevaluate if necessary.

My doctor is not in his office at this time, but he and his staff will get a written statement to you as soon as possible.

The 30th still works for me. I'll see you then.

Best,

Scott

On Wed, Dec 24, 2014 at 11:50 AM, David Keyes <dkeyes@ixl.com> wrote:
Hi Scott,

Thanks for the response. We are definitely on the same page here as far as goals are concerned - that is, having you achieve a complete recovery while also being able to fully contribute to the team when you return. To start, I would like to clarify a couple things from our previous emails.

When you worked remotely the days of your pre-op appointments, I noticed that productivity was down. This is why we tried having you work half days and take half sick days. It is also why I said I preferred that you return to work in the office full time if we could accommodate you appropriately.

You are definitely correct that the IXL development team does allow employees to work remotely in a variety of situations (sick children, waiting for repair people, sick, extending vacations etc...). This is allowed by manager discretion based on the employee's ability to work well in these types of situations. Also, these sorts of working remotely requests are sporadic in nature (a day here, a day there), and are different than working remotely part time every day. These more regular requests are not always granted.



EXHIBIT NO. 4 RECEIVED REJECTED
CASE NO. 20-CA-153+025 CASE NAME: IXL Learning
NO. OF PAGES: 4 DATE: 11/5/15 REPORTER: LNK

Based on your doctor's recommendation, it sounds like reasonable accommodation in your case is to set up a part time remote working situation. It would be great if you could provide written documentation for this - and we can move forward with this plan.

I'm happy to come up with performance goals and a progress monitoring plan for you as well. Having your office time be in the morning sounds great to me - (thanks for that suggestion! I'm looking forward to having you back and think that the 30th still works. We can talk about specifics of our plan then.

Thanks,
David

On Tue, Dec 23, 2014 at 3:39 PM, Scott Duane <sduane@ixl.com> wrote:

Hi David,

So before I start I want to let you know that I'm writing with the intent of finding a solution with you collaboratively - there's a chance some of this email could be read as combative or hostile, and that is not the tone I'm intending at all.

I went ahead and spoke with an employment attorney to check in about what is meant by "reasonable accommodation", and she said with certainty that remote work qualifies here -- after all, IXL employees frequently work remotely to take care of children, to wait for repair people, because they're sick, or even just to extend vacations. This situation shouldn't (and legally can't) be treated any differently - that is, under the Americans with Disabilities Act, IXL has to provide me with this accommodation. The attorney I spoke with also provided several online resources to me about the federal law which I am happy to pass onto you so that you can see some examples of how the ADA is implemented. I'm also CCing Maricela, who I believe is still filling in as the HR manager and should be familiar with the protections provided by the ADA.

My doctor is happy to provide written documentation, and actually suggested as much remote time as possible so that things heal quickly, particularly the complication that has arisen.

I completely understand your concerns about remote work and productivity, and I also understand that your primary responsibility is to make sure the math team meets all of its goals. But the bottom line is, I want to return to work, and I am certain I can perform the essential functions of my job while working remotely 50%. I'd like to find a solution under which I return on the 30th with this accommodation, or something very close to it. I suggest that we find some metrics that we can put in place so that you can monitor my progress to your satisfaction. I'd also suggest making all office time in the morning, so that you're sure to always have a chance to catch me in person to let me know what you'd like prioritized, etc. If there's anything else you'd like to include, such as a weekly productivity review, I'm happy to do that as well.

Best,

Scott

On Mon, Dec 22, 2014 at 3:47 PM, David Keyes <dkeyes@ixl.com> wrote.

Hi Scott,

It was great to see you as well! Glad to hear your recovery is going pretty smoothly.

As far as the plan goes for returning to work, I would prefer that you be in the office for your hours when you come back since you are more productive here.

Is there anything we can do to accommodate your situation so that you can work in the office? If you would need to extend your leave to aid in your recovery, that would be totally fine as well. Just let me know!

pg 2

Thanks,
David

On Fri, Dec 19, 2014 at 12:53 PM, Scott Duane <sduane@ixl.com> wrote:
Hi David,

Great to see you briefly at the Christmas party. I wanted to give you a quick update on how things are going and begin to finalize my plan for returning to work.

As you probably have heard, things have been going very well in terms of healing, for the most part. Unfortunately, the day after the party, a complication called a fistula appeared. This is not very serious, but will make it challenging to be out of the house for long periods of time until it fully heals. My doctor believes I should heal from this quickly, but it may affect how soon I can return.

For now, I am still planning on returning Dec 30, but I'm wondering if you'd be open to me working half days in the office and half days at home for the first few weeks. This would make the transition much easier for me, I think.

Let me know what you think. Looking forward to being back at it. Have a good holiday,

Scott

Pg 3

From: Maricela Prado [mprado@ixl.com]
Sent: Wednesday, January 07, 2015 11:04 AM
To: Paul Mishkin
CC: Lenore Ockerberg; David Keyes
Subject: Glassdoor Review

Hi everyone,

I hate to assume who this is from.... but please read this review from Glassdoor for yourselves.

Dec 30, 2014



"Micromanaged and problematic "



Current Employee - Anonymous Employee

I have been working at IXL Learning full-time (more than 3 years)

Pros Easy, unchallenging work, good medical benefits, free drinks. Hours are not too crazy. The people are generally well-meaning and nice.

The company isn't going anywhere right now. They play to the traditional classroom, which is good for profits. You won't have to worry about the company going under (but don't expect the profits to pass onto you, either).

Cons Don't expect a challenge working here. This company sets the bar extremely high for who they hire, and then gives their smart, talented employees boring, menial work to fill the day. The CEO is overly involved in every product, every decision, every everything.

There are no politics if you fit in. If you don't -- that is, if you're not a family-oriented white or Asian straight or mainstream gay person with 1.7 kids who really likes softball -- then you're likely to find yourself on the outside. Treatment in the workplace, in terms of who gets flexible hours, interesting projects, praise, promotions, and a big yearly raise, is different and seems to run right along these characteristics.

There is essentially no HR knowledge or staff at this company. Know your rights when you work here, because they don't, and they don't care to learn. Most management has no idea what the word "discrimination" means, nor do they seem to think it matters.

Advice to Management Choose one: listen to the ideas of a group of smart, talented employees, or micromanage a group of mediocre employees. Don't pull the bait and switch on employees who can do way better.

Build a culture that encourages respect for people of all walks of life.

Doesn't Recommend Neutral Outlook Disapproves of CEO

Sincerely,

Maricela Prado
Human Resources Coordinator | IXL Learning
Tel: 650.372.4221 | Main: 855.255.7700 | Fax: 650.372.4072



HR-related needs? Contact us at HR@IXL.com

777 Mariners Island Boulevard, Suite 600
San Mateo, California 94404
www.ixl.com | www.quia.com

Please consider the environment before printing this e-mail.
On 1/6/15, 10:33 AM, Maricela Prado wrote:

Hi Paul,

I've compiled the initial e-mails between Scott and I, which began the day after Brad's last day. During this time, David and I had two in-person meetings to go over logistics as well.

Let me know if you have follow-up questions.

Thanks again!

-Maricela

Hi Scott,

Thanks for the update. I'll be sure to keep an eye out for your EDD paperwork and will return asap.

Wish you the best on your recovery!

Sincerely,

Maricela Prado

Human Resources Coordinator | IXL Learning
Tel: 650.372.4221 | Main: 855.255.7700 | Fax: 650.372.4072

HR-related needs? Contact us at HR@IXL.com

777 Mariners Island Boulevard, Suite 600
San Mateo, California 94404
www.ixl.com | www.quia.com

----- Original Message -----

Subject:EDD paperwork

Date:Tue, 11 Nov 2014 07:47:03 -0800

From:Scott Duane <sduane@ixl.com>

To:Maricela Prado <mprado@ixl.com>

CC:David Keyes <dkeyes@ixl.com>

Hi Maricela,

My doctor's office mailed in my EDD paperwork yesterday. IXL should receive a form soon from EDD. Please fill this out and return it ASAP -- they can't complete my claim without it.

Please call me at 507.581.4100 if you have questions (talking is easier than typing at the moment),

Thanks!

Scott

----- Original Message -----

Subject: Gone for Nov & Dec

Date: Fri, 3 Oct 2014 13:06:54 -0700

From: Scott Duane <sduane@ixl.com>

To: mathpa <mathpa@ixl.com>, Suzanne Pelz <spelz@ixl.com>, Mark Ritterhoff <mritterhoff@ixl.com>, Li-Chung Chen <lchen@ixl.com>, Juyang Xia <jxia@ixl.com>, Kevin Dong <kdong@ixl.com>, "Kevin O'Connor" <koconnor@ixl.com>, Parth Shah <psah@ixl.com>, Joshua Gevirtz <jgevirtz@ixl.com>, Jiho Kim <jkim@ixl.com>, Linda Vo <lvo@ixl.com>, David Bemiller <dbemiller@ixl.com>, Stephen Chait <schait@ixl.com>, Bai Xiong Wu <bwu@ixl.com>, Andrew Lenox <alenox@ixl.com>, Geoffrey Anderson <ganderson@ixl.com>

CC: Maricela Prado <mprado@ixl.com>, David Keyes <dkeyes@ixl.com>

Hi all,

In early November I'll be having major surgery that will put me out of commission for about 2 months. My last day will be October 30th, and I'll be gone until about December 30th.

If you have any questions/concerns about projects I'm working on, please let me know with enough time so that I can respond by the last week of October.

Though I know and appreciate that some folks might be concerned or curious, this is a matter I'm only discussing in detail with close friends and family. So, I'd prefer not to field questions from coworkers about it. Thanks in advance for respecting that. Best,

Scott

Sincerely,

Maricela Prado

Human Resources Coordinator | IXL Learning

Tel: 650.372.4221 | Main: 855.255.7700 | Fax: 650.372.4072

HR-related needs? Contact us at HR@IXL.com

777 Mariners Island Boulevard, Suite 600

San Mateo, California 94404

www.ixl.com | www.quia.com

Please consider the environment before printing this e-mail.

----- Original Message -----

Subject:Fwd: Re: Meeting to discuss leave
Date:Tue, 30 Sep 2014 21:50:08 -0700
From:Maricela Prado <mprado@ixl.com>
To:Scott Duane <sduane@ixl.com>
CC:David Keyes <dkeyes@ixl.com>

Hi Scott,

That's a great question. Unfortunately, in that case, you would have to use whatever vacation time you have accrued and/or take it off unpaid.

Please let me know if you'd like to discuss further.

This afternoon, IT mentioned that you'd like to request an ergonomic mouse post-surgery. Please be sure to fill out a workstation upgrade request form and turn in to your manager for approval.

Thanks!

Sincerely,

Maricela Prado
Human Resources Coordinator | IXL Learning
Tel: 650.372.4221 | Main: 855.255.7700 | Fax: 650.372.4072

HR-related needs? Contact us at HR@IXL.com

777 Mariners Island Boulevard, Suite 600
San Mateo, California 94404
www.ixl.com | www.quia.com

Please consider the environment before printing this e-mail.

----- Original Message -----

Subject:Re: Meeting to discuss leave
Date:Tue, 30 Sep 2014 19:43:19 -0700
From:Scott Duane <sduane@ixl.com>
To:Maricela Prado <mprado@ixl.com>
CC:David Keyes <dkeyes@ixl.com>

Hi Maricela,

Ok, thanks. This matches up with the outside legal info I got as well.

One final question I have is if I can use PTO sick days if I don't have 5 days of vacation during that 7-day waiting period (I think I will have about 3 vacation days at that point). Brad said the answer to this was no. If you could let me know what you know about this, that'd be great.

Thanks,

Scott

On Tue, Sep 30, 2014 at 9:45 AM, Maricela Prado <mprado@ixl.com> wrote:

Hi Scott,

I wanted to let you know that 52 weeks is correct for SDI.

Per our conversation, you will check in with David closer to your return-from-leave date (12/30). David, please fill out the same form and submit to me to confirm his return with us.

I will check in with IT, so they will provide you with a mouse post-surgery.

Looks like it is actually a 7-day waiting period -

http://www.edd.ca.gov/disability/FAQ_Employers_Eligibility.htm#WaitingPeriod

Hope I've answered all of your questions! Please let me know if you have more! :-)

Sincerely,

Maricela Prado

Human Resources Coordinator | IXL Learning

Tel: [650.372.4221](tel:650.372.4221) | Main: [855.255.7700](tel:855.255.7700) | Fax: [650.372.4072](tel:650.372.4072)

HR-related needs? Contact us at HR@IXL.com

777 Mariners Island Boulevard, Suite 600

San Mateo, California 94404

www.ixl.com | www.quia.com

Please consider the environment before printing this e-mail.

On 9/25/14, 10:05 PM, Maricela Prado wrote:

Hi Scott,

California State Disability Insurance (SDI) is a form of Short Term Disability (STD). Benefits are payable to a maximum of 52 weeks. Since we have a Long Term Disability (LTD) policy, you would most likely move off SDI and on to the LTD policy once you reach the 90-day waiting period.

For your convenience, I have attached a California SDI FAQ. Please let me know if you have further questions. I'd like to make sure I answer all of your questions soon, especially since your surgery is coming up! Otherwise, I'll see you both on Monday morning.

Sincerely,

Maricela Prado

Human Resources Coordinator | IXL Learning

Tel: [650.372.4221](tel:650.372.4221) | Main: [855.255.7700](tel:855.255.7700) | Fax: [650.372.4072](tel:650.372.4072)

HR-related needs? Contact us at HR@IXL.com

777 Mariners Island Boulevard, Suite 600

San Mateo, California 94404

www.ixl.com | www.quia.com

Please consider the environment before printing this e-mail.
On 9/25/14, 11:39 AM, Scott Duane wrote:

Hi Maricela,

Thanks for the info. David and I discussed the logistics this morning, and decided the three of us should meet to talk about the logistics. In particular, there are a couple issues:

1) Brad mentioned that short term disability pay only lasts for 6 weeks. I consulted a disability rights attorney about this, and he said it depends on the details of the company's disability plan and advised me to get a copy of it. If it's state disability, the 6 week restriction does not fit with the research that I did.

2) Assuming that SDI pay does only last 6 weeks, mine will be up on December 19, the Friday before Christmas. I'd like to talk about what to do about this work week -- perhaps work half time and/or remotely since there are 2 holidays anyway. (If SDI is not limited to 6 weeks, I'd probably come back to work the week following Christmas assuming recovery is going as planned.)

I'll schedule a meeting for Monday for the three of us.
Thanks,

Scott

On Wed, Sep 24, 2014 at 5:43 PM, Maricela Prado
<mprado@ixl.com> wrote:

Hi Scott,

Thanks for your patience!!

We currently do not have a Short-Term Disability (STD) policy. You certainly have the option to file for CA State Disability though.

I have listed the link below where you can file a claim:

<http://www.edd.ca.gov/disability/>

Also...

1. We do not need to discuss details of when you'll leave, when you'll come back. You can discuss that with David. All I need from David is a Personnel Data Change Form
2. I know you had scheduled a meeting with Brad. Let me know if you want me to schedule a meeting with both you and David. At this point, I don't think we need to, but I'd be happy to. David, please drop off the form to me. I will get proper approval from Jen, just please be sure to sign the form.
3. When you are ready to come back, please get in touch

with David and he will fill out the form again, turn into me and will process your status change.

4. Disclosing to your colleagues, that is entirely up to you. Feel free to e-mail or let them know in person. Let me know if you'd like to discuss this topic further.

5. In terms of documentation, we do not require anything. The state will request all the necessary information they need from us, and will provide us with any information we need to know.

If I haven't answered all of your questions, please let me know.

Hope your surgery goes well!

Sincerely,

Maricela Prado

Human Resources Coordinator | IXL Learning
Tel: [650.372.4221](tel:650.372.4221) | Main: [855.255.7700](tel:855.255.7700) | Fax:
[650.372.4072](tel:650.372.4072)

HR-related needs? Contact us at HR@IXL.com

777 Mariners Island Boulevard, Suite 600
San Mateo, California 94404
www.ixl.com | www.quia.com

Please consider the environment before printing this e-mail.

On 9/23/14, 6:15 PM, Scott Duane wrote:

Hey Maricela,

David and I were scheduled to have a meeting tomorrow (Wednesday) with Brad to discuss a medical issue I'm in the middle of.

I found out a couple months ago that I will be having major surgery on November 3 of this year. The surgeon recommends I take 6-8 weeks off of work. I will be filing for short term disability. The meeting with Brad was to discuss the details of when I'll leave, when I'll come back, when I should disclose this to my colleagues, and what the company will need from me in terms of documentation from me/my doctor.

I'd like to have this meeting soon, hopefully Friday of this week.

I want to stress as well that I consider this matter private and do not wish to discuss details with my colleagues -- so I'd appreciate

if you keep this to yourself. Thanks,

Scott

From: Karen Penner [kpenner@ixl.com]
Sent: Wednesday, July 31, 2013 5:17 AM
To: Paul Mishkin
CC: Lenore Ockerberg
Subject: Re: Glassdoor mischief
Attachments: Employee Engagement Campaign IXL.docx

Please see attached document to engage IXL employees in Glassdoor. Essentially, it encourages more reviews so there will be more positive reviews. I think it's a good idea. For example, on an employees first day of work one of their "new hire tasks" will be to write about their interview experience on Glassdoor. Since they got the job they should have some positive things to say. Of course we will need to discuss this more in depth before implementing something like this company wide. Take a look and let me know your thoughts. I'll see if I can put a brief meeting on our calendars soon. Thanks, Karen On 7/31/13 5:59 AM, Karen Penner wrote: > I've tried flagging reviews and it's on a case by case basis. (New Low > was the one they didn't take down) > > We have a lot of new ideas for Glassdoor I'll send you both some info > but we should schedule a brief meeting to discuss soon. > > Thanks, > Karen > > > On 7/30/13 10:24 PM, Paul Mishkin wrote: >> Hi Karen, >> >> I'm almost certain that the "New Low" and "Fed up" reviews are the >> same person. (Unfortunately -- or maybe fortunately -- I know who >> this person with a vendetta is.) What do you think about bringing >> this up with glassdoor and asking them to investigate? They have a >> "flag review" feature, which makes me think they're willing to take >> action when they hear about people abusing the site -- especially >> when it relates to one of their paying customers. >> >> Paul >



From: Maricela Prado [mprado@ixl.com]
Sent: Wednesday, January 07, 2015 3:51 PM
To: Paul Mishkin
CC: Lenore Ockerberg; David Keyes
Subject: Re: Glassdoor Review

Hi all,

Sorry, just one more thing...

Take a look at the use of this "--".

It's in the review and he used it pretty much in every single one of his e-mails.

Case closed.

Sincerely,

Maricela Prado
Human Resources Coordinator | IXL Learning
Tel: 650.372.4221 | Main: 855.255.7700 | Fax: 650.372.4072

HR-related needs? Contact us at HR@IXL.com

777 Mariners Island Boulevard, Suite 600
San Mateo, California 94404
www.ixl.com | www.quia.com

Please consider the environment before printing this e-mail.
On 1/7/15, 11:04 AM, Maricela Prado wrote:

Hi everyone,

I hate to assume who this is from.... but please read this review from Glassdoor for yourselves.

Dec 30, 2014



"Micromanaged and problematic "



Current Employee - Anonymous Employee

I have been working at IXL Learning full-time (more than 3 years)

- Pros** Easy, unchallenging work, good medical benefits, free drinks. Hours are not too crazy. The people are generally well-meaning and nice.

The company isn't going anywhere right now. They play to the traditional classroom, which is good for profits. You won't have to worry about the company going under (but don't expect the profits to pass onto you, either).
- Cons** Don't expect a challenge working here. This company sets the bar extremely high for who they hire, and then gives their smart, talented employees boring, menial work to fill the day. The CEO is overly involved in every product, every decision, every everything.

There are no politics if you fit in. If you don't -- that is, if you're not a family-oriented white or Asian straight or mainstream gay person with 1.7 kids who really likes softball -- then you're likely to find yourself on the outside. Treatment in the workplace, in terms of who gets flexible hours, interesting projects, praise, promotions, and a big yearly raise, is different and seems to run right along these characteristics.



There is essentially no HR knowledge or staff at this company. Know your rights when you work here, because they don't, and they don't care to learn. Most management has no idea what the word "discrimination" means, nor do they seem to think it matters.

Advice to Management Choose one: listen to the ideas of a group of smart, talented employees, or micromanage a group of mediocre employees. Don't pull the bait and switch on employees who can do way better.

Build a culture that encourages respect for people of all walks of life.

Doesn't Recommend Neutral Outlook Disapproves of CEO

Sincerely,

Maricela Prado

Human Resources Coordinator | IXL Learning
Tel: 650.372.4221 | Main: 855.255.7700 | Fax: 650.372.4072

HR-related needs? Contact us at HR@IXL.com

777 Mariners Island Boulevard, Suite 600
San Mateo, California 94404
www.ixl.com | www.quia.com

Please consider the environment before printing this e-mail.
On 1/6/15, 10:33 AM, Maricela Prado wrote:

Hi Paul,

I've compiled the initial e-mails between Scott and I, which began the day after Brad's last day. During this time, David and I had two in-person meetings to go over logistics as well.

Let me know if you have follow-up questions.

Thanks again!

-Maricela

Hi Scott,

Thanks for the update. I'll be sure to keep an eye out for your EDD paperwork and will return asap.

Wish you the best on your recovery!

Sincerely,

Maricela Prado

Human Resources Coordinator | IXL Learning
Tel: 650.372.4221 | Main: 855.255.7700 | Fax: 650.372.4072

HR-related needs? Contact us at HR@IXL.com

777 Mariners Island Boulevard, Suite 600
San Mateo, California 94404

www.ixl.com | www.quia.com

----- Original Message -----

Subject:EDD paperwork
Date:Tue, 11 Nov 2014 07:47:03 -0800
From:Scott Duane <sduane@ixl.com>
To:Maricela Prado <mprado@ixl.com>
CC:David Keyes <dkeyes@ixl.com>

Hi Maricela,

My doctor's office mailed in my EDD paperwork yesterday. IXL should receive a form soon from EDD. Please fill this out and return it ASAP -- they can't complete my claim without it.

Please call me at 507.581.4100 if you have questions (talking is easier than typing at the moment),

Thanks!

Scott

----- Original Message -----

Subject:Gone for Nov & Dec
Date:Fri, 3 Oct 2014 13:06:54 -0700
From:Scott Duane <sduane@ixl.com>
To:mathpa <mathpa@ixl.com>, Suzanne Pelz <spelz@ixl.com>, Mark Ritterhoff <mritterhoff@ixl.com>, Li-Chung Chen <lchen@ixl.com>, Juyang Xia <jxia@ixl.com>, Kevin Dong <kdong@ixl.com>, "Kevin O'Connor" <koconnor@ixl.com>, Parth Shah <pshah@ixl.com>, Joshua Gevirtz <jgevirtz@ixl.com>, Jiho Kim <jkim@ixl.com>, Linda Vo <lvo@ixl.com>, David Bemiller <dbemiller@ixl.com>, Stephen Chait <schait@ixl.com>, Bai Xiong Wu <bwu@ixl.com>, Andrew Lenox <alenox@ixl.com>, Geoffrey Anderson <ganderson@ixl.com>
CC:Maricela Prado <mprado@ixl.com>, David Keyes <dkeyes@ixl.com>

Hi all,

In early November I'll be having major surgery that will put me out of commission for about 2 months. My last day will be October 30th, and I'll be gone until about December 30th.

If you have any questions/concerns about projects I'm working on, please let me know with enough time so that I can respond by the last week of October.

Though I know and appreciate that some folks might be concerned or curious, this is a matter I'm only discussing in detail with close friends and family. So, I'd prefer not to field questions from coworkers about it. Thanks in advance for respecting that. Best,

Scott

Sincerely,

Maricela Prado

Human Resources Coordinator | IXL Learning
Tel: 650.372.4221 | Main: 855.255.7700 | Fax: 650.372.4072

HR-related needs? Contact us at HR@IXL.com

777 Mariners Island Boulevard, Suite 600
San Mateo, California 94404
www.ixl.com | www.quia.com

Please consider the environment before printing this e-mail.

----- Original Message -----

Subject:Fwd: Re: Meeting to discuss leave
Date:Tue, 30 Sep 2014 21:50:08 -0700
From:Maricela Prado <mprado@ixl.com>
To:Scott Duane <sduane@ixl.com>
CC:David Keyes <dkeyes@ixl.com>

Hi Scott,

That's a great question. Unfortunately, in that case, you would have to use whatever vacation time you have accrued and/or take it off unpaid.

Please let me know if you'd like to discuss further.

This afternoon, IT mentioned that you'd like to request an ergonomic mouse post-surgery. Please be sure to fill out a workstation upgrade request form and turn in to your manager for approval.

Thanks!

Sincerely,

Maricela Prado
Human Resources Coordinator | IXL Learning
Tel: 650.372.4221 | Main: 855.255.7700 | Fax: 650.372.4072

HR-related needs? Contact us at HR@IXL.com

777 Mariners Island Boulevard, Suite 600
San Mateo, California 94404
www.ixl.com | www.quia.com

Please consider the environment before printing this e-mail.

----- Original Message -----

Subject:Re: Meeting to discuss leave
Date:Tue, 30 Sep 2014 19:43:19 -0700
From:Scott Duane <sduane@ixl.com>
To:Maricela Prado <mprado@ixl.com>
CC:David Keyes <dkeyes@ixl.com>

Hi Maricela,

Ok, thanks. This matches up with the outside legal info I got as well.

One final question I have is if I can use PTO sick days if I don't have 5 days of vacation during that 7-day waiting period (I think I will have about

3 vacation days at that point). Brad said the answer to this was no. If you could let me know what you know about this, that'd be great.

Thanks,

Scott

On Tue, Sep 30, 2014 at 9:45 AM, Maricela Prado <mprado@ixl.com> wrote:

Hi Scott,

I wanted to let you know that 52 weeks is correct for SDI.

Per our conversation, you will check in with David closer to your return-from-leave date (12/30). David, please fill out the same form and submit to me to confirm his return with us.

I will check in with IT, so they will provide you with a mouse post-surgery.

Looks like it is actually a 7-day waiting period - http://www.edd.ca.gov/disability/FAQ_Employers_Eligibility.htm#WaitingPeriod

Hope I've answered all of your questions! Please let me know if you have more! :-)

Sincerely,

Maricela Prado

Human Resources Coordinator | IXL Learning

Tel: [650.372.4221](tel:650.372.4221) | Main: [855.255.7700](tel:855.255.7700) | Fax: [650.372.4072](tel:650.372.4072)

HR-related needs? Contact us at HR@IXL.com

777 Mariners Island Boulevard, Suite 600

San Mateo, California 94404

www.ixl.com | www.quia.com

Please consider the environment before printing this e-mail.

On 9/25/14, 10:05 PM, Maricela Prado wrote:

Hi Scott,

California State Disability Insurance (SDI) is a form of Short Term Disability (STD). Benefits are payable to a maximum of 52 weeks. Since we have a Long Term Disability (LTD) policy, you would most likely move off SDI and on to the LTD policy once you reach the 90-day waiting period.

For your convenience, I have attached a California SDI FAQ. Please let me know if you have further questions. I'd like to make sure I answer all of your questions soon, especially since your surgery is coming up! Otherwise, I'll see you both on Monday morning.

Sincerely,

Maricela Prado

Human Resources Coordinator | IXL Learning

Tel: [650.372.4221](tel:650.372.4221) | Main: [855.255.7700](tel:855.255.7700) | Fax: [650.372.4072](tel:650.372.4072)

HR-related needs? Contact us at HR@IXL.com

777 Mariners Island Boulevard, Suite 600
San Mateo, California 94404
www.ixi.com | www.guia.com

Please consider the environment before printing this e-mail.
On 9/25/14, 11:39 AM, Scott Duane wrote:

Hi Maricela,

Thanks for the info. David and I discussed the logistics this morning, and decided the three of us should meet to talk about the logistics. In particular, there are a couple issues:

1) Brad mentioned that short term disability pay only lasts for 6 weeks. I consulted a disability rights attorney about this, and he said it depends on the details of the company's disability plan and advised me to get a copy of it. If it's state disability, the 6 week restriction does not fit with the research that I did.

2) Assuming that SDI pay does only last 6 weeks, mine will be up on December 19, the Friday before Christmas. I'd like to talk about what to do about this work week -- perhaps work half time and/or remotely since there are 2 holidays anyway. (If SDI is not limited to 6 weeks, I'd probably come back to work the week following Christmas assuming recovery is going as planned.)

I'll schedule a meeting for Monday for the three of us. Thanks,

Scott

On Wed, Sep 24, 2014 at 5:43 PM, Maricela Prado <mprado@ixi.com> wrote:

Hi Scott,

Thanks for your patience!!

We currently do not have a Short-Term Disability (STD) policy. You certainly have the option to file for CA State Disability though.

I have listed the link below where you can file a claim:

<http://www.edd.ca.gov/disability/>

Also...

1. We do not need to discuss details of when you'll leave, when you'll come back. You can discuss that with David. All I need from David is a Personnel Data Change Form

2. I know you had scheduled a meeting with Brad. Let me know if you want me to schedule a meeting with both you and David. At this

point, I don't think we need to, but I'd be happy to. David, please drop off the form to me. I will get proper approval from Jen, just please be sure to sign the form.

3. When you are ready to come back, please get in touch with David and he will fill out the form again, turn into me and will process your status change.

4. Disclosing to your colleagues, that is entirely up to you. Feel free to e-mail or let them know in person. Let me know if you'd like to discuss this topic further.

5. In terms of documentation, we do not require anything. The state will request all the necessary information they need from us, and will provide us with any information we need to know.

If I haven't answered all of your questions, please let me know.

Hope your surgery goes well!

Sincerely,

Maricela Prado

Human Resources Coordinator | IXL Learning
Tel: [650.372.4221](tel:650.372.4221) | Main: [855.255.7700](tel:855.255.7700) | Fax:
[650.372.4072](tel:650.372.4072)

HR-related needs? Contact us at
HR@IXL.com

777 Mariners Island Boulevard, Suite 600
San Mateo, California 94404
www.ixl.com | www.quia.com

Please consider the environment before
printing this e-mail.
On 9/23/14, 6:15 PM, Scott Duane wrote:

Hey Maricela,

David and I were scheduled to
have a meeting tomorrow
(Wednesday) with Brad to discuss
a medical issue I'm in the middle
of.

I found out a couple months ago
that I will be having major surgery
on November 3 of this year. The
surgeon recommends I take 6-8
weeks off of work. I will be filing for
short term disability. The meeting
with Brad was to discuss the
details of when I'll leave, when I'll
come back, when I should disclose
this to my colleagues, and what the
company will need from me in

terms of documentation from
me/my doctor.

I'd like to have this meeting soon,
hopefully Friday of this week.

I want to stress as well that I
consider this matter private and do
not wish to discuss details with my
colleagues -- so I'd appreciate if
you keep this to yourself. Thanks,

Scott



Quote

Glassdoor.com

1 Harbor Drive
 Suite 300
 Sausalito CA 94965
 US
 415-339-9105
 http://www.glassdoor.com

Date 7/30/2013
Quote # Q6669
Valid Until 8/29/2013
Sales Rep Stoddard, Luke
PO #
Terms Due on receipt

Bill To

IXL Learning
 Karen Penner
 777 Mariners Island Blvd.,
 Suite 600
 San Mateo CA 94404

Sold To

IXL Learning
 Karen Penner
 777 Mariners Island Blvd.,
 Suite 600
 San Mateo CA 94404

Comments

Item	Description	Start Date	End Date	Rate	Quantity	UOM	Amount
Banner Advertising	Custom Banners provided by IXL	9/1/2013	8/31/2014	10.00	600	CPM	6,000.00
EEP - FB Infosite	Free to IXL as Promo	8/1/2013	8/31/2014	0.00	1	Each	0.00
Spotlight Company	Discounted Rate for IXL	9/1/2013	8/31/2014	13.00	461	CPM	5,993.00

Total \$11,993.00

ADDITIONAL TERMS:

You acknowledge having read and further agree to the Enhanced Employer Profile Terms and Conditions found at http://www.glassdoor.com/legal/eed_terms as of the date of your signature below, including any addenda referenced therein or attached hereto (the "Terms"), which Terms are hereby incorporated by reference. This Service Order Quote ("Quote") and the Terms are collectively referred to as the "Agreement." The Agreement represents the parties' entire agreement and supersedes all prior or contemporaneous agreements, understandings and representations, written or oral, between the parties, with respect to services to be provided by Glassdoor, Inc. You agree to this Agreement by signing this Quote, and if you are entering into this Agreement on behalf of a company or other legal entity, you represent that you have the authority to bind the company or entity to which this Quote is addressed above to the terms of the Agreement. In the event of any conflict between this Quote and the Terms, this Quote shall prevail. The Agreement is effective upon the date Customer executes this Quote.

Glassdoor's acceptance or performance is expressly limited to the terms and conditions stated herein and the Terms. No additional or alternative terms, conditions or modifications proposed by customer shall be binding on a party unless expressly agreed to in writing by such party. Terms and conditions of any purchase or insertion order offered by Customer related to this Agreement that are in addition or alternative to or are inconsistent or conflicting with the terms of this Quote and/or the Agreement are void.

John Barth

Name: John Barth (Jul 31, 2013)

Date: Jul 31, 2013

Title: _____



Quote

Glassdoor.com

1 Harbor Drive
 Suite 300
 Sausalito CA 94965
 US
 415-339-9105
 http://www.glassdoor.com

Date 9/30/2013
Quote # Q7463
Valid Until 10/30/2013
Sales Rep Stoddard, Luke
PO #
Terms Net 30

Bill To

IXL Learning
 Paul Mishkin
 777 Mariners Island Boulevard Suite 650
 San Mateo CA 94404

Sold To

IXL Learning
 Paul Mishkin
 777 Mariners Island Boulevard Suite 650
 San Mateo CA 94404

Comments

Item	Description	Start Date	End Date	Rate	Quantity	UOM	Amount
Glassdoor Essentials	1) Employer Page 2) Unlimited Job Postings/Clicks 3) Facebook Jobs Tab	1/3/2014	1/2/2015	13,000.00	1	Each	13,000.00

Total \$13,000.00

ADDITIONAL TERMS:

You acknowledge having read and further agree to the Enhanced Employer Profile Terms and Conditions found at http://www.glassdoor.com/legal/eep_terms as of the date of your signature below, including any addenda referenced therein or attached hereto (the "Terms"), which Terms are hereby incorporated by reference. This Service Order Quote ("Quote") and the Terms are collectively referred to as the "Agreement." The Agreement represents the parties' entire agreement and supersedes all prior or contemporaneous agreements, understandings and representations, written or oral, between the parties, with respect to services to be provided by Glassdoor, Inc. You agree to this Agreement by signing this Quote, and if you are entering into this Agreement on behalf of a company or other legal entity, you represent that you have the authority to bind the company or entity to which this Quote is addressed above to the terms of the Agreement. In the event of any conflict between this Quote and the Terms, this Quote shall prevail. The Agreement is effective upon the date Customer executes this Quote.

Glassdoor's acceptance or performance is expressly limited to the terms and conditions stated herein and the Terms. No additional or alternative terms, conditions or modifications proposed by customer shall be binding on a party unless expressly agreed to in writing by such party. Terms and conditions of any purchase or insertion order offered by Customer related to this Agreement that are in addition or alternative to or are inconsistent or conflicting with the terms of this Quote and/or the Agreement are void.

John Barth

Name: John Barth (Sep 30, 2013)

Sep 30, 2013

Date: _____

Title: _____



Insertion Order

Glassdoor
 Dept 3436
 PO Box 123436
 Dallas TX 75312-3436
 billing@glassdoor.com
 415-339-9105

Date 12/15/2014
IO # Q15859
Valid Until 12/16/2014
Sales Rep Lee, David
PO #
Payment Terms Net 30

Bill To

IXL Learning
 John Barth
 777 Mariners Island Blvd Ste 600
 San Mateo CA 94404-5046

Sold To

IXL Learning
 John Barth
 777 Mariners Island Blvd Ste 600
 San Mateo CA 94404-5046

Comments

Management Approved:
 1) 1 free additional month
 Must sign by Dec.15, 2014.

Item	Description	Duration in Months	Amount
Glassdoor Essentials	Glassdoor package including Enhanced Profile and optimized Job Ads	13	16,000.00
Total			\$16,000.00

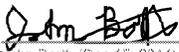
ADDITIONAL TERMS

The services listed above (the "Services") are subject to the Glassdoor Services Terms found at <http://www.glassdoor.com/about/serviceTerms-2014.htm> ("Terms"). The Terms are hereby incorporated by reference. In the event of any conflict between the Additional Terms of this Insertion Order ("IO") and the Terms, these Additional Terms shall prevail. This IO and the Terms are collectively referred to as the "Agreement." As referenced in this Agreement, "Subscription Service" means any Enhanced Profile, Essentials, or Job Slots service; and "Display Ads" means any Banner Advertising, Targeted Display Ads, Homepage Highlight, or Company Spotlight service.

Unless otherwise specified in the Agreement, the start date for the Services will be the date you sign the IO, except that renewals start upon the expiration of the then-current service period. Please allow up to three (3) business days for account provisioning.

Our acceptance or performance under this IO is expressly limited to the terms and conditions stated in the Agreement. Terms and conditions of any purchase or insertion order offered by you related to this Agreement that are in addition or alternative to or are inconsistent or conflicting with the terms of the Agreement are void.

By signing this IO, you acknowledge that (a) you have read and understand the Terms applicable to this IO, (b) you are entering into the Agreement on behalf of the company or entity ("Customer") to which this IO is addressed above, and (c) you have the authority to bind the Customer to the terms of the Agreement. After you sign this IO, you may purchase additional Services under this IO by email agreement with Glassdoor subject to the Terms and the Additional Terms of this IO. The Agreement is effective upon the date you sign the IO.

Signature:  _____
John Barth (Dec 15, 2014)

Print Name: John Barth

Title: Technical Marketing Manager

Date: Dec 15, 2014

Email for notices: jbarth@ixl.com