

Harvard Settles Lawsuit, Will Change Labor Policy

By MOLLY C. MCCAFFERTY, CRIMSON STAFF WRITER | MARCH 16, 2018



University Hall holds many of the University's main administrative offices.  [JUSTIN F. GONZÁLEZ](#)

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Harvard settled a class-action lawsuit brought against it by an employee Thursday, mandating that the University reevaluate its independent contractor policy, reclassify some workers as employees, and compensate each of those employees in amounts up to \$30,000.

The suit was **brought** against the University in 2016. Kara Donohoe, a massage therapist who has worked for Harvard University Health Service's Center for Wellness for 13 years, served as the lead plaintiff in the case, alleging the University's independent contractor policy unjustly failed to recognize her as a full employee under Massachusetts labor law, thereby denying her benefits.

The Mass. law in question is three part: a worker is an independent contractor—not an employee—if they perform work not under direction of “superiors,” work that is not part of the “usual course of business” of the employer, or if the person has an independent business separate from their work for the employer in question.

Shannon E. Liss-Riordan '90, the attorney for the suit and a former Crimson editor, said these criteria do not apply to Donohoe.

“She and others were misclassified as independent contractors and, as a result, missed out on various benefits that Harvard employees received,” Liss-Riordan said.

These benefits include paid vacation, paid holidays, sick days, and the ability to take Harvard classes at a discounted price.

Early on in the case, the University attempted to dismiss the claims. But the court denied its motion, and—after two years of discovery and investigation—the two parties eventually reached a settlement of which Liss-Riordan said she is “very proud.”

As part of the settlement, the University agreed to revise its independent contractor policy.

The current iteration of the policy was adopted in 2010, according to University spokesperson Tania deLuzuriaga. During the suit—in the summer of 2017—the University created a working group to evaluate whether the policy is up to date, to recommend revisions, and to ensure that the classification approval process is “integrated with the University’s business procedures,” deLuzuriaga wrote in an emailed statement.

“The working group expects to issue recommendations over the next few months,” deLuzuriaga wrote.

Harvard will also reclassify approximately 20 workers at the Center for Wellness as employees and award them back pay for the hours they put in while misclassified as independent contractors.

Liss-Riordan wrote in an email that, of the workers who will be reclassified, some who “consistently worked close to full time schedules” will be compensated in the amount of \$30,000 each. The rest will receive smaller back payments.

The employees will also begin to receive benefits they were not entitled to as independent contractors. Those employees who work at least 17.5 hours per week will also earn representation in the bargaining unit of the Harvard Union of Clerical and Technical Workers.

“I’m very grateful to become a member of the union and the Harvard community,” Donohoe wrote in an emailed statement.

Beyond these immediate changes, according to Liss-Riordan, the settlement could have an impact on workers in other parts of the University.

“Since Harvard has agreed to revise its independent contractor policy University-wide, that aspect of the settlement could have far-reaching effect, though we don't have an exact count of people who would be affected,” she wrote.

The University will reach out to those staff who will be affected by the reclassification as soon as details about pay scales and benefits are determined; until then, the Center for Wellness will operate as normal, according to deLuzuriaga.

“The settlement represents a mutually agreeable closure to the case in order to avoid protracted litigation, and it further underscores the contributions of the massage therapists and acupuncturists to the Center’s mission,” deLuzuriaga wrote.

Overall, Donohoe wrote, she is “very pleased” about the settlement and the benefits that come with her new status.

“I'm really looking forward to being able to take a vacation and give my body a rest without giving my bank account a rest as well,” she wrote.

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