

In the United States Court of Appeals for The Ninth Circuit

FELLOWSHIP OF CHRISTIAN ATHLETES, AN OKLAHOMA CORPORATION, ET AL.,
Plaintiff-Appellants,

v.

SAN JOSE UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION, ET AL.,
Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of California
Honorable Haywood S. Gilliam, Jr.
(4:20-cv-02798-HSG)

EXCERPTS OF RECORD VOLUME 4 of 10

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Deposition of:
Peter Glasser

July 23, 2021

In the Matter of:

**Sinclair, Elizabeth et alv. San Jose
Unified School District Board of
Education et al**

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ELIZABETH SINCLAIR, CHARLOTTE
KLARKE, and FELLOWSHIP OF
CHRISTIAN ATHLETES, an Oklahoma
corporation,

Plaintiffs,

vs.

SAN JOSE UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION, in its
official capacity, NANCY
ALBARRÁN, in her official and
personal capacity, HERBERT
ESPIRITU, in his official and
personal capacity, and PETER
GLASSER, in his official and
personal capacity.

Defendants.

CASE NO. 5:20-cv-2798

VIDEOCONFERENCED DEPOSITION OF PETER GLASSER
San Jose, California
Friday, July 23, 2021
Volume I

Reported by:
CHRIS TE SELLE
CSR No. 10836
Job No. 4691258

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1 UNITED STATES DISTRICT COURT
 2 NORTHERN DISTRICT OF CALIFORNIA
 3

4 ELIZABETH SINCLAIR, CHARLOTTE)
 5 KLARKE, and FELLOWSHIP OF)
 6 CHRISTIAN ATHLETES, an Oklahoma)
 7 corporation,)

8 Plaintiffs,)

9 vs.)

CASE NO. 5:20-cv-2798

10 SAN JOSE UNIFIED SCHOOL DISTRICT)
 11 BOARD OF EDUCATION, in its)
 12 official capacity, NANCY)
 13 ALBARRÁN, in her official and)
 14 personal capacity, HERBERT)
 15 ESPIRITU, in his official and)
 16 personal capacity, and PETER)
 17 GLASSER, in his official and)
 18 personal capacity.)

19 Defendants.)
 20)
 21)
 22)
 23)
 24)
 25)

26 Videoconferenced Deposition of PETER GLASSER,
 27 Volume I, taken remotely, San Jose, California,
 28 beginning at 8:04 a.m. and ending at 4:10 p.m., on
 29 Friday, July 23, 2021, before Chris Te Selle, Certified
 30 Shorthand Reporter No. 10836, present via
 31 videoconference.

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17 Rigo Lopez
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1 San Jose, California, Friday, July 23, 2021

2 8:04 a.m.

3 --oOo--

4 (Affirmation administered to the witness.)

5 MS. TONEY: Welcome, everyone. Thanks for
6 participating in this deposition. My name's Kayla
7 Toney. I'm appearing on behalf of FCA, and I will be
8 taking the deposition today. I'm joined here by some of
9 my colleagues, Reed Smith and Kim Colby, from the
10 Christian Legal Society, as well as Dan Blomberg, Nick
11 Reaves, and Abigail Smith, from Becket.

12 And I'd just like to get on the record that we
13 have agreed by stipulation that this deposition would be
14 done by Zoom, and that that would be admissible for
15 trial purposes, is that correct, counsel?

16 MS. LEVINE: Yes.

17
18 PETER GLASSER,
19 having stated to tell the truth under penalty of
20 perjury, was examined and testified as follows:

21
22 EXAMINATION

23 BY MS. TONEY:

24 Q. Thank you. All right, Mr. Glasser, thank you
25 again for talking with us today. I'll just set out some

1 basic ground rules before we go ahead and get started,
2 and then we'll dive into the conversation.

3 So, do you have any --

4 A. Yes, ma'am.

5 Q. -- questions for me before we begin?

6 A. No, thank you, ma'am.

7 Q. First, please, provide verbal answers. For
8 instance, please answer yes or no, as opposed to nodding
9 or saying uh-huh. If you run into any trouble with
10 technology, if you're having trouble with Zoom, or
11 accessing the documents on Exhibit Share, please, tell
12 us right away, and we're happy to pause. We can go off
13 the record and take a break, if needed. We just don't
14 want any tech issues to get in the way of our
15 conversation.

16 If you need to take a break, please, let me
17 know, and we'll accommodate that as soon as we finish
18 whatever line of questioning we're sort of in the middle
19 of, and, likewise, I'll let you know if our team needs
20 to take a break, as well.

21 Please, do not communicate with anyone other
22 than your counsel, the court reporter, and me during
23 this deposition. If you need to take a phone call or
24 otherwise respond to communications, please, let me
25 know, and we can take a break at a convenient time, but

1 it's really important that your e-mail is closed while
2 you are on the deposition, as well as any other
3 communications.

4 A. May I interrupt you, ma'am, just for a moment.
5 I have my Safari browser open, and, because I was
6 accessing the Veritext Exhibit Share, and so I'm going
7 into my Chrome browser right now, and I'm closing the
8 tabs where my e-mail is open.

9 Q. Wonderful.

10 A. I just want to make you aware.

11 Q. Thank you.

12 A. Absolutely.

13 Q. That's helpful.

14 A. Okay, done.

15 Q. Okay, great. And then in terms of documents,
16 please, do not review any documents during this
17 deposition, other than the exhibits that I obviously
18 will be sharing over the Veritext portal, and, if you
19 need to review another document or writing for some
20 reason, please, let me know.

21 Deposition testimony occurs under the same
22 rules and procedures as if you were testifying in
23 federal court, so, as long as you remain under oath, you
24 are not permitted to talk about this deposition outside
25 of this proceeding, or questions asked during this

1 deposition, so it's kind of like a jury trial where you
2 might be sequestered and not able to talk about the case
3 outside of this proceeding.

4 The only exception is talking to your counsel
5 about whether to assert a claim of privilege on a
6 specific topic, and this applies even when we take a
7 break, so, if you talk to your counsel during a break,
8 it needs to be only about whether something is
9 attorney-client privileged, not about other matters.

10 Does that make sense?

11 A. Yes, ma'am, it does.

12 Q. Thank you. And, I think that is all of the
13 ground rules.

14 Do you have any questions before we go ahead
15 and jump in?

16 A. No, thank you.

17 Q. Can you please state your full name for the
18 record, Mr. Glasser.

19 A. Yes. My name is Peter Glasser.

20 Q. And do you understand that you are under the
21 same oath today as if you were testifying in a
22 courtroom?

23 A. I do.

24 Q. And is there anything that would prevent you
25 from thinking clearly and testifying truthfully today?

1 A. No.

2 Q. I'm going to assume that you understand my
3 questions, unless you tell me otherwise, is that fair?

4 A. Understood.

5 Q. And if you need me to slow down or repeat a
6 question, feel free. I have a tendency to talk too
7 fast, so, feel free to slow me down, if that's
8 necessary. I want to make sure we understand each
9 other.

10 A. Thank you.

11 Q. Have you ever been deposed before, Mr.
12 Glasser?

13 A. No.

14 Q. Are you familiar with the basic structure of a
15 deposition?

16 A. I've certainly received advice and some
17 instructions from my counsel. I feel comfortable that I
18 understand the proceedings today.

19 Q. Okay, great. And did you review any documents
20 in preparation for this deposition?

21 A. Only the documents that my attorneys provided
22 to me and instructed me to review.

23 Q. Okay. And did those documents refresh your
24 recollection of any issues related to the case?

25 A. Yes.

1 Q. Do you have those documents with you today?

2 A. They are on my computer, but I don't have them
3 in physical form.

4 Q. Okay.

5 A. But the folder is not currently open.

6 Q. Sure. Okay, great. I'll be probably pulling
7 up similar documents for you to look at on Exhibit
8 Share.

9 And do you know whether your counsel produced
10 those documents to us?

11 A. I don't have knowledge of that.

12 MS. LEVINE: He only reviewed documents that were
13 produced in this case.

14 MS. TONEY: Great. Thank you.

15 BY MS. TONEY:

16 Q. And other than legal counsel, did you speak
17 with anyone in preparation for this deposition?

18 A. No.

19 Q. Do you understand what this case is about?

20 MS. LEVINE: Vague. You can answer.

21 THE WITNESS: I believe, in general terms, yes, I
22 understand what this case is about.

23 BY MS. TONEY:

24 Q. Great. And who provided you with information
25 about this case before this deposition?

1 MS. LEVINE: Calls for attorney-client privilege.

2 You mean aside from his attorneys?

3 MS. TONEY: Yeah, anyone aside from his attorneys.

4 MS. LEVINE: You can answer.

5 THE WITNESS: No one, to my recollection.

6 BY MS. TONEY:

7 Q. Okay, great. And just since you haven't been
8 deposed before, I'll mention your counsel will be
9 stating objections throughout the deposition, and that's
10 normal, that's part of the proceeding, and those are for
11 the record. So, you are still obligated to answer, even
12 after she objects, unless she specifically instructs you
13 not to answer on the basis of privilege.

14 Does that make sense?

15 A. Yes, ma'am. Thank you.

16 Q. All right. Well, we got through the boring
17 part, so, let's jump into just some information about
18 you. I'd love to hear more about your teaching career,
19 your philosophy, I was a history major in college, so I
20 love history, very passionate about it, which I think
21 you are, as well, so, yeah, let's jump in.

22 What is your current position at Pioneer High
23 School?

24 A. I'm a teacher of American history in the
25 social studies department. I teach four sections of AP

1 U.S. history and one section of what we call regular
2 U.S. history, untracked.

3 Q. Great. And how long have you been in that
4 position?

5 A. I've been at Pioneer High School for 21 years.

6 Q. And you've been a history teacher the whole
7 time?

8 A. Yes. I've also taught English at the very
9 beginning of my career, as well.

10 Q. Okay. And so could you describe your current
11 job duties as a history teacher.

12 A. I plan and I create lesson plans, and then
13 teach those lesson plans for five periods, and I
14 instruct U.S. history.

15 Q. All right. And what first motivated you to
16 become a history teacher?

17 A. Probably equal parts fascination with the
18 material, and a desire to, just an enjoyment of the time
19 that I spend with students, intellectual curiosity, and
20 the, the other benefits of being around people who are
21 under the age of 18, who have lots of energy and great
22 ideas.

23 Q. All right, that makes sense. Yeah,
24 intellectual curiosity is definitely something I can
25 relate to. That's part of why I studied history and why

1 I eventually went into law, because every new case is a
2 chance to keep learning.

3 So, in terms of your philosophy as a teacher,
4 can you describe that a little bit for me.

5 MS. LEVINE: Vague. Calls for a narrative. You
6 can answer.

7 THE WITNESS: I also would like more guidance as to
8 what you mean, ma'am, by philosophy. Philosophy as
9 related to what?

10 BY MS. TONEY:

11 Q. Sure. All right. Well, we'll get into it in
12 a little bit. I have your syllabus here that we can
13 talk about some more specifics. So, in your role as a
14 history teacher, who at Pioneer did you work with on a
15 day-to-day basis?

16 A. I'm supervised by my administrative team, and
17 I have a department, and we have formal collaboration
18 time built into the schedule.

19 On a day to day basis, you know, we certainly
20 share ideas, the other U.S. history teachers, we share
21 ideas and bounce ideas, lesson planning ideas off of one
22 another.

23 Q. And who are the other U.S. history teachers?

24 A. Jake Hernandez and Daryk Tenorio.

25 Q. So, there's three of you in the department?

1 A. Yes.

2 Q. And who on the administrative team do you
3 report to?

4 THE COURT REPORTER: I'm sorry, can we go off the
5 record.

6 (Recess: 8:14 a.m. to 8:22 a.m.)

7 BY MS. TONEY:

8 Q. So, we had just discussed the other history
9 teachers that you work with, and next I'd like to ask
10 about who do you report to.

11 Do you report directly to Principal Espiritu?

12 A. Yes, I do.

13 THE COURT REPORTER: Can we go off the record a
14 moment.

15 MR. BLOMBERG: Off the record.

16 (Recess: 8:23 a.m. to 8:25 a.m.)

17 BY MS. TONEY:

18 Q. So, let's talk about who you report to.

19 Do you report directly to Principal Espiritu?

20 A. Yes, I do.

21 Q. And do you report to anyone else?

22 A. When I have my yearly evaluations, I'm
23 assigned an assistant principal. Each department is
24 assigned a different assistant principal. I was not
25 officially evaluated this year, but, generally, when I

1 log onto my employment status, it is written that my,
2 that my direct supervisor is Herb Espiritu.

3 Q. Why weren't you officially evaluated this
4 year?

5 A. It wasn't my time to be evaluated on the three
6 year cycle, per the teacher's contract.

7 Q. So, you're evaluated every three years?

8 A. Correct.

9 Q. When is the last time you were evaluated?

10 A. 2019 to 2020.

11 Q. Okay. And what time of year does that
12 evaluation take place?

13 A. Throughout the year.

14 Q. So, it's an ongoing process?

15 A. Yes.

16 Q. Could you tell me a little bit about what's
17 involved, just because I'm not familiar.

18 A. There are five teaching standards, and an
19 administrator observes teaching and then fills out
20 evaluation forms.

21 Q. And are there interviews or any other
22 components to the process?

23 A. There is a conference that happens twice a
24 year at the end of the fall cycle and at the end of the
25 winter cycle.

1 Q. And the conference is when you receive
2 feedback about your performance?

3 A. Correct. I sign the evaluation that the
4 administrator has written, to show that I've received
5 it.

6 Q. Okay. And what was the, was there a written
7 report that is a result of your evaluation?

8 A. Yes.

9 Q. Do you keep those on file, I'm guessing?

10 A. The district certainly does. I have the
11 option to do so. I'm given a copy.

12 *DI Q. Sure. Okay. Have you ever received any
13 negative feedback in your evaluations, specifically the
14 one in 2019 or 2020?

15 MS. LEVINE: I'm going to object and assert his
16 right to privacy and instruct him not to answer on that
17 basis.

18 MS. TONEY: So it's your instruction that he's not
19 to answer because of attorney-client privilege?

20 MS. LEVINE: No. Because of the constitutional
21 right to privacy in employment and personnel records.

22 MS. TONEY: And that's something he could waive, if
23 he chose, correct?

24 MS. LEVINE: I suppose he could waive it, just like
25 he could waive a privilege.

1 BY MS. TONEY:

2 Q. Okay, let's move on for now. We can circle
3 back to this later.

4 Mr. Glasser, does Principal Espiritu
5 participate in the evaluation process?

6 A. He has in the past. Definitely, he
7 participates. Different administrators are assigned
8 different departments, and so there have been instances
9 in the past where he has been assigned the social
10 studies department, where he has been part of my
11 process, and there have been times when he has been part
12 of a different department's process.

13 Q. That makes sense. And was he, was anyone
14 else, is anyone else from the district office typically
15 involved with evaluations, or is it mostly just at the
16 high school level?

17 A. Unless there is -- no. Typically, the
18 district office is not involved in the typical process.

19 Q. Okay. Do you have any interactions, just
20 generally with people in the district office, on a
21 day-to-day basis?

22 MS. LEVINE: Vague. Overbroad. You can answer.

23 THE WITNESS: I wouldn't say on a day-to-day basis,
24 no.

25 BY MS. TONEY:

1 Q. Do you have any interactions with
2 superintendent Nancy Albarran?

3 A. She is very good about making her presence
4 felt in the district and, you know, trying to, to know
5 that she's there to support us, and so I've received a
6 couple of e-mails from her after she happened to have
7 dropped into one of my classes, just thanking me for
8 allowing her to visit, but, other than a hello, if I
9 happen to pass her in a hallway, no, I have no
10 professional interaction with her.

11 Q. So, she sits in on classes sometimes, just to
12 observe?

13 A. I wouldn't say sometimes.

14 Q. So, it's pretty rare?

15 A. She has observed two of my classes for a brief
16 period of time.

17 Q. Okay. And how else does she make her presence
18 known on campus?

19 A. By sending e-mail updates to the staff. At
20 the end of the school year, she purchased cupcakes for
21 all of the staff, things like that.

22 Q. Okay. And are you required to keep her
23 informed about your work, or any evaluations you
24 receive?

25 A. No.

1 Q. Do you ever consult with her about student
2 clubs, student organizations?

3 A. No.

4 Q. And then what about Deputy Superintendant
5 McMahon? What is your professional relationship to
6 McMahon?

7 A. Right now, none.

8 Q. What about in the past?

9 A. Many years ago, Steven was a math teacher at
10 Pioneer. Because we didn't teach in the same
11 department, we didn't have much contact, but he also
12 supervised the leadership class, and so when I was
13 asked, for example, to participate in a school rally,
14 which involved me wearing a tuxedo, he arranged the
15 rental, things like that, but I haven't had professional
16 contact with him since he left Pioneer, which I would
17 estimate to be around 15 years ago, give or take a
18 couple of years either way.

19 Q. Did you help teach the leadership class?

20 A. No.

21 Q. But Mr. McMahon helped with it while he was at
22 Pioneer?

23 A. I believe he taught it.

24 Q. Oh, okay.

25 A. If I'm not mistaken.

1 Q. Okay. But you would say you haven't had any
2 contact with him in the last 15 years?

3 A. The only contact I've had with him was just,
4 besides, perhaps, if we happened to be walking down the
5 district office hallway, I would say hello. The only
6 longer conversation I've had with him in roughly the
7 last 15 years was at a mutual friend's wedding. We just
8 chitchatted about family, but nothing professional. And
9 that was, roughly, six to seven years ago.

10 Q. Okay. You have a great memory. I guess, as a
11 history teacher, I shouldn't be surprised. I bet that
12 comes in handy.

13 So, have you ever talked to Mr. McMahon about
14 the FCA situation?

15 A. Never.

16 Q. Have you ever exchanged e-mails with him about
17 the FCA situation?

18 A. No.

19 Q. And what about Jennifer Thomas? What's your
20 professional relationship to Jennifer Thomas?

21 A. She currently serves as the director of risk
22 management, and so she has been asking me to submit
23 documents for your legal team, and, generally, acting as
24 a source of information of information I'm supposed to
25 receive about the case.

1 Q. Sure. And did you have any contacts with her
2 before this case?

3 A. Yes. She previously taught at Pioneer, again,
4 many years ago, and, so, she was an English teacher.
5 And, so, yes, I knew her as a colleague.

6 Q. Okay. And how long would you say you've known
7 her, just ballpark?

8 A. Ballpark, 20 years.

9 Q. Okay.

10 A. I met her 20 years ago. There were periods of
11 years in those times when I had no contact with her.

12 Q. Okay. And in terms of this particular case,
13 has she communicated with you about application of the
14 district's nondiscrimination policy?

15 MS. LEVINE: Objection. Vague. I mean, I'm not
16 sure what that means, and I'm afraid that it might, you
17 might be asking about something privileged, but I'm not
18 really sure what you're asking him about. Maybe you can
19 be more specific.

20 BY MS. TONEY:

21 Q. To the extent that it's not privileged, has
22 she communicated with you about application of the
23 district's nondiscrimination policy, as relating to this
24 case? It's just a yes or no question. Has she
25 communicated with you about this?

1 MS. LEVINE: I guess I'm still not sure, because he
2 doesn't know whether it's privileged or not, so --

3 BY MS. TONEY:

4 Q. To the extent it didn't involve conversations
5 with your attorneys, has she communicated with you?

6 MS. LEVINE: So, let me just state my objection
7 then. So, to the extent that you received any
8 communication from Jen Thomas that emanated from the
9 attorneys in this case, or to the extent you might have
10 communicated with her in the context of a mediation,
11 then I'm going to instruct you not to answer.

12 If you have some other communication that you
13 had with her outside of those parameters regarding the
14 district's nondiscrimination policy, then you can answer
15 that.

16 THE WITNESS: To the extent that I understand the
17 question, the only conversation that might answer your
18 question is, at the end of January, when Judge Koh made
19 a particular ruling about the case, I asked Jen to help
20 me understand what the judge's words meant. I asked her
21 to help me understand the ruling.

22 BY MS. TONEY:

23 Q. And did she help you?

24 A. Yes. We had a brief phone conversation.

25 Q. Okay. And what training did you receive, I

1 Pizarro. Unfortunately, COVID put a stop to that, but
2 Dr. Pizarro visited our campus a couple of times to lead
3 training in that regard, but that was before COVID. And
4 I know it was planned for him to continue, but it didn't
5 happen.

6 Q. Sure. Do you think there's plans for that to
7 continue, now that COVID is hopefully winding down?

8 A. I don't have any knowledge of that.

9 Q. Okay. Did you have any conversations with
10 Dr. Pizarro during the course of the diversity
11 trainings?

12 A. Yes.

13 Q. And what did you all talk about?

14 A. I expressed my appreciation for the work he
15 was doing. I expressed that I was pleased that he was
16 there, and I also asked him to give the faculty an
17 opportunity to discuss LGBTQ issues in the context of a
18 larger aspect of his course.

19 Q. And why did you ask him to discuss that
20 specifically?

21 MS. LEVINE: Misstates the testimony. You can
22 answer.

23 THE WITNESS: His conversation was about
24 enfranchising students and helping faculty understand
25 how we could best serve all students, and I'm interested

1 in learning more about how to serve LGBTQ students well.

2 BY MS. TONEY:

3 Q. And is that something you've been interested
4 in for a long time?

5 A. Yes.

6 Q. How did your interest or passion first come
7 about?

8 A. A friend of mine, when I was teaching in
9 Maine, that was my job before I came to Pioneer, I spent
10 four years teaching in Maine, my home state, and a
11 friend of mine asked if he could bring a speaker panel
12 to my school, and, my interest grew from there.

13 Q. What was the speaker panel about?

14 A. It was called the Maine Speak Out. And so
15 this was, of course, 25 years ago, when it was much more
16 unusual for, for high school students to know someone
17 who was gay and out.

18 And, basically, they, the goal was to
19 introduce students to perhaps some of the experiences of
20 being LGBTQ.

21 Q. What was it about that panel that really
22 sparked your interest?

23 A. I thought it was beneficial in terms of
24 understanding the larger society that we live in, which
25 of course I teach about for students to hear those

1 perspectives.

2 Q. Sure. And do you think that's still
3 beneficial today?

4 A. Yes, although I would also say that I think
5 the goal of the Maine Speak Out, I don't know if it
6 continued, I haven't lived in Maine since 2000, but
7 those goals are perhaps outdated. It's unusual for high
8 school students to not know someone who is LGBTQ, or at
9 least know that they know.

10 Q. So, would you say that there's more LGBTQ
11 students present on your campus now than there would
12 have been, say, in 2002?

13 MS. LEVINE: Calls for speculation.

14 THE WITNESS: Should I answer the question?

15 MS. LEVINE: Yeah, you can answer.

16 THE WITNESS: I don't know. I can't speculate as
17 to whether there are more. I can speculate as to
18 whether there are more who are out and forthcoming about
19 their identity, and I would say yes.

20 BY MS. TONEY:

21 Q. Would you say it's been a significant change?

22 A. Yes.

23 Q. And why do you think things have changed in
24 that direction?

25 MS. LEVINE: Calls for speculation. You can

1 answer.

2 THE WITNESS: I think that it's, it probably
3 reflects the larger trends in American society that just
4 generally people are much more used to talking about
5 LGBTQ issues, so, therefore, the students, who are a
6 product of our society, are more used to it, as well.

7 BY MS. TONEY:

8 Q. Sure, uh-huh. Okay. Well, we'll probably
9 circle back to this topic, because it's certainly
10 interesting to hear your perspective and your philosophy
11 on it, but, for now, let's talk a little bit more about
12 your teaching approach.

13 So, you mentioned some courses that you had
14 taken as continuing education credits and, I was just
15 curious, did you take any that were specifically related
16 to activism, or maybe diversity, or anything that might
17 have been particularly interesting?

18 MS. LEVINE: Vague. Compound. Overbroad.

19 You can answer.

20 THE WITNESS: The closest course that I took would
21 be, I had to take a course in reading techniques
22 specifically for students with learning disabilities,
23 so, inclusiveness, in that regard, but in terms of, I'm
24 not sure what you mean by activism, but in terms of
25 LGBTQ issues, specifically, no.

1 BY MS. TONEY:

2 Q. Okay. And just circling back for a minute to
3 what you were sharing about how more students are
4 comfortable now coming out and talking about LGBTQ
5 experiences, would you say that that reflects a more
6 welcoming atmosphere at Pioneer than maybe you've seen
7 in the past?

8 MS. LEVINE: Calls for speculation. Overbroad.
9 Vague. You can answer.

10 THE WITNESS: I don't know. I'm ambivalent.

11 BY MS. TONEY:

12 Q. Okay. And you mentioned teaching AP U.S.
13 history. So, turning back to 2018-2019, that school
14 year in particular, was your AP U.S. history course the
15 only AP U.S. course that was offered at Pioneer that
16 year?

17 A. Yes. I've been the only AP U.S. teacher on
18 campus for, I would estimate, six or seven years,
19 perhaps.

20 Q. Okay. Do most of your students take the AP
21 U.S. history at the end?

22 A. Yes. To my knowledge, I've never had a
23 student not take the AP exam.

24 Q. Is that typically in May? I'm trying to think
25 back to my high school days when I had to take way too

1 many AP exams.

2 A. Yes, ma'am, you're correct.

3 Q. Okay, so, in 2019, your students would have
4 taken it in May?

5 A. May 10, correct.

6 Q. May 10. Okay, great.

7 And are your students typically pretty
8 stressed out before they take the AP exam?

9 MS. LEVINE: Calls for speculation.

10 You can answer.

11 THE WITNESS: My students, being AP students who
12 also are taking, for the most part, other AP classes,
13 these tend to be the high achievers on our campus, and
14 they tend to put themselves in positions where they want
15 to do the most that they can in life, and that is
16 definitely an anxiety producing situation.

17 BY MS. TONEY:

18 Q. Sure. I can relate to that experience.

19 So, do you try to be extra available to your
20 students during the time when they're preparing for the
21 AP exams?

22 A. I try to be always available to, to my
23 students. I'm available at lunch every day throughout
24 the year. I don't, I wouldn't say extra.

25 Q. Okay. And do a lot of students come to see

1 A. A wide array of topics. Sometimes, politics
2 in the news, sometimes, how the Red Sox did yesterday,
3 because I love the Red Sox.

4 As many topics as there are to be discussed in
5 a teenage mind, that's the potential for the topics that
6 they would wish to discuss.

7 Q. Okay, I can imagine that is a very wide range
8 of topics. Let's go ahead and pull up our first
9 exhibit, so this is going to be marked as Exhibit 110.

10 (Exhibit 110 was marked for identification by
11 counsel.)

12 BY MS. TONEY:

13 Q. And we're going to go ahead and load it, so
14 you should see it show up in your marked exhibit folder.
15 And, sometimes, there's a few seconds of a delay, but it
16 shouldn't be anything significant.

17 A. I see it. Shall I open it?

18 Q. Yes, please, do. Could you identify this
19 exhibit for the record, please.

20 A. Yes. This is the course policies for my AP
21 U.S. history class.

22 Q. Did you draft this document?

23 A. Yes.

24 Q. Could you tell a ballpark of what years this
25 document would have been from, or is it the same every

1 year?

2 A. It's virtually the same every year. I make
3 almost no substantive changes. If I make changes, it's
4 to clarify wording that I'm finding that the students
5 are confused about.

6 Q. So, you can verify that this is a true copy of
7 a syllabus from your 11th Grade AP U.S. History class,
8 which you drafted?

9 A. Yes. I'm only looking at the first page, but
10 I can verify that from the first page.

11 Q. Okay. If you don't mind scrolling down to the
12 third page, you'll notice the little numbers at the
13 bottom, I'll refer to those sometimes, so it would be
14 1732.

15 Do you see that page?

16 A. Yes, ma'am, I do.

17 Q. Do you see where it says, what are my rights
18 in Mr. Glasser's class?

19 A. Yes, I do.

20 Q. Great. So, can you look specifically at
21 paragraph B, where it says, you have the right to be
22 yourself.

23 Could you expand on this statement you made
24 there that says you have the right to be treated with
25 respect. Would you say that that applies to all

1 students in your classroom?

2 A. Absolutely.

3 Q. And why is that important?

4 A. Because there's a direct correlation between
5 feelings of enfranchisement and learning.

6 Q. How would you describe enfranchisement?

7 A. A feeling that a student has a sense of
8 belonging, and, therefore, is enfranchised to speak and
9 make judgments for themselves.

10 Q. Do you think every student should have that
11 enfranchisement?

12 A. I do.

13 Q. Is that something that you strive to bring
14 about in your classroom?

15 A. Yes.

16 Q. And why is that important to you, personally,
17 as a teacher, to make sure that all of your students
18 feel that sense of belonging?

19 A. Because there's a direct correlation in
20 students' ability to learn, and the amount of and
21 quality of work they produce.

22 Q. Would you say that if a student didn't feel
23 comfortable in your classroom, that would inhibit their
24 ability to learn?

25 A. Comfortable is a different word than respect.

1 I, my course is based on critical thinking and the
2 concept that all answers fall between 1 percent and
3 99 percent.

4 This is not just my philosophy. It's also an
5 aspect of the AP rubric. Students are actual scored on
6 their complexity in the AP test.

7 And so you used the word comfortable, but
8 students will always feel some discomfort, and that's,
9 can be a healthy part of the learning process.

10 Q. So in terms of respect, if a student didn't
11 feel respected in your classroom, would that inhibit
12 their ability to learn?

13 MS. LEVINE: Calls for speculation. Calls for
14 expert opinion.

15 THE WITNESS: Yes.

16 MS. LEVINE: Sorry.

17 THE WITNESS: I'm sorry, ma'am, may I ask you just
18 to confirm, when my attorney objects, unless the
19 objection is for privilege, then, after the objection, I
20 am to answer? I don't want to keep putting Amy in the
21 position where she has to say you can answer.

22 BY MS. TONEY:

23 Q. Yeah, that's correct, and, actually, even if
24 she objects based on privilege, the only time you're not
25 supposed to answer is if she instructs you not to

1 answer, and she'll use those words, she's really good
2 about that, so, when she says, objection, we just
3 listen, we let it go on the record, and then, yes, you
4 can always answer, unless she specifically instructs you
5 not to.

6 Does that make sense?

7 A. Yes. Thank you very much.

8 Q. Thank you for clarifying that. I appreciate
9 that.

10 A. You're welcome.

11 Q. So, we were talking about respect, and this
12 idea of enfranchisement, and so something interesting
13 you mentioned was about discomfort.

14 So, how would discomfort play a role in
15 helping a student learn?

16 A. I like to share a quote with my students from
17 Aristotle. The mark of an educated mind is to entertain
18 an idea without accepting it.

19 So, good critical thinking involves trying on
20 ideas that we don't agree with, not accepting them,
21 necessarily, but going through the uncomfortable process
22 of questioning beliefs that we may previously have held.

23 Q. Okay. So, do you think it's important for
24 students to be confronted sometimes with ideas that they
25 don't disagree with, or, sorry, that they disagree with?

1 A. I do it all the time. Yes, ma'am.

2 Q. And why is that important?

3 A. I don't really have a better answer than what
4 I've already told you: Because of the value of critical
5 thinking.

6 Q. Sure. So, if students were in a echo chamber,
7 for example, where they were never confronted with ideas
8 they disagreed with, would they inhibit their learning?

9 A. I'm sorry, I missed the one word. If students
10 were in the what?

11 Q. In an echo chamber --

12 A. Echo chamber.

13 Q. -- where they were never confronted with ideas
14 that were different from their own, would that inhibit
15 their learning?

16 A. Yes.

17 Q. Why?

18 A. There are so many important aspects of
19 critical reading, writing and thinking that are not only
20 valued by me, but that are required and assessed on the
21 AP exam, that can't be practiced in any other way, other
22 than in confronting ideas from different perspectives,
23 different biases, different forms of media, different
24 sources.

25 Q. Uh-huh, right, so, sounds like a very

1 important part of their education then.

2 And what are some ways that you try to make
3 sure that your students are exposed to ideas that they
4 might disagree with?

5 A. I have created a thematic curriculum with four
6 main themes: Freedom -- four main ideas. Freedom,
7 money, justice, and power, military power.

8 And, for each of these thematic units, my
9 process in class is to jump around the timeline,
10 studying history that is relevant to those themes, and,
11 for each of those four units, I have a large, a larger
12 overarching guiding question, and our goal of the
13 question, our goal of the unit is to collect evidence,
14 and, of course, for me to help students process it,
15 infer from it, responsibly read it, responsibly think
16 about it, responsibly decide whether it's valuable or
17 not.

18 And each of these four units is based on a
19 question that the student will eventually make a
20 judgment about, and my instructions to the students are,
21 you can believe whatever you want, and you are correct
22 if you can prove it. I will never judge you on what you
23 think, only on how you can prove it.

24 Q. How do your students typically receive this
25 process? Do they enjoy it?

1 MS. LEVINE: Calls for speculation.

2 THE WITNESS: The word, enjoy, is a difficult one
3 to include in the question. I believe that they value
4 it, from my observation and from feedback I get, but
5 there are times when I'm sure they wish that they had a
6 teacher who just made them read a textbook and answer
7 comprehension questions, because it's easier.

8 BY MS. TONEY:

9 Q. So, that's why they would wish that, because
10 it's easier?

11 A. That might not be the only reason, but, if you
12 use that word, enjoy, in your question, then that's the
13 best answer I can give you.

14 Q. That's fair. We are talking about teenagers.
15 I understand that. So, turning back to your syllabus
16 real quick, and, later on in paragraph B, you say that
17 violence can be physical, but also emotional and
18 intellectual, and you have the right to be free from
19 violence in class and in your life.

20 Could you explain to me what you mean by
21 emotional and intellectual violence.

22 A. I tell my students that the way I define
23 violence is any time someone is trying to make you feel
24 small, so that they can feel bigger.

25 Q. Okay. So, similar to bullying?

1 Q. Okay, that makes sense.

2 And so this conflict resolution training, I
3 mean, it sounds really helpful for students.

4 What are some other things that you teach
5 them, along those lines?

6 A. We talk about the extent to which each member
7 of the team is an introvert or an extrovert, and what
8 that means in terms of energy expended in a group.

9 We talk about the necessity to take turns
10 being a leader. We talk about how some people are
11 reluctant to lead, to step forward, and to be the first
12 to speak, while others take the role too often, and
13 thereby take away opportunities for others to have that
14 role.

15 Q. Okay. And, looking back at the syllabus real
16 quick in paragraph G, related to what we were just
17 talking about, it says, you have the right to an
18 atmosphere that is conducive to learning.

19 What does this mean for your students?

20 A. I, the way I explain that in class is, if you
21 have, I will always prioritize learning over not
22 learning, and so I want to make it clear that if we're
23 working in a group of four, and two teammates would
24 rather talk about the football game from last Friday
25 night, then I will intervene, because it's not the

1 students' responsibility to maintain the focus of their
2 team. That's my responsibility, and I will do it.

3 Q. And why is it important to you that your
4 students are in an atmosphere that's conducive to
5 learning?

6 A. So they can learn.

7 Q. Do you want to elaborate on that at all?

8 MS. LEVINE: Vague. Calls for a narrative.

9 THE WITNESS: I'm sorry, ma'am, perhaps, if you
10 want to ask a more specific question, I'd be happy to
11 answer, but I, based on my understanding of your
12 question, that's my best answer.

13 BY MS. TONEY:

14 Q. Sure. And would an atmosphere conducive to
15 learning be one where your students felt safe, for
16 example?

17 A. Yes, with the understanding that word, I know,
18 means different things to different people.

19 Q. How would you define it?

20 A. I define safety as a feeling of
21 enfranchisement that students feel a part of the class
22 enough to feel comfortable making their own judgments
23 and feeling confident in their own judgments.

24 Q. And so if a student felt unsafe, would you
25 compare that to feeling disenfranchised?

1 A. Yes.

2 Q. Okay. And why is safety or enfranchisement an
3 important part of a positive learning environment?

4 MS. LEVINE: Asked and answered.

5 A. Well, I'm, essentially, my goal, the
6 overarching goal of my course is for students to make
7 judgments and prove those judgments reliably and
8 communicate those judgments in a variety of different
9 forms, written, oral, and so if they don't feel
10 enfranchised, then they can't go about the sometimes
11 very intimidating work, especially for a teenager, of
12 deciding which evidence deserves more weight.

13 BY MS. TONEY:

14 Q. And what about groups that may have been
15 marginalized in the past? Is it important for them in
16 particular to feel enfranchised in your classroom?

17 MS. LEVINE: Vague. Overbroad. Calls for a
18 narrative. Calls for expert opinion.

19 THE WITNESS: I think if a group has been
20 traditionally disenfranchised, their needs are no more
21 important, but, as an educator, one also has to be aware
22 that each threat to that enfranchisement is built upon a
23 previous one, and so there has to be a recognition that
24 those students may, although not necessarily, have less
25 faith in authority figures that their enfranchisement

1 would be protected.

2 BY MS. TONEY:

3 Q. That make sense to me. So, we talked a little
4 bit earlier about how things change over time, and how
5 at Pioneer, and just generally in your teaching career,
6 for example, you've seen LGBTQ students become more
7 confident about being out, and, you know, more,
8 experiencing more acceptance.

9 And so do you think that it's possible for the
10 group of students, for a group of students that was
11 formerly marginalized to be able to gain a stronger
12 voice over time?

13 A. Do I think it's possible.

14 MS. LEVINE: It's vague, calls for speculation,
15 calls for expert opinion.

16 THE WITNESS: Yes, I believe it's possible.

17 BY MS. TONEY:

18 Q. And have you seen that happen with regard to
19 any of your students?

20 A. Have I seen any of my students become more
21 comfortable and confident in their identities and
22 expressing it; is that your question, ma'am?

23 Q. Yes.

24 A. Yes, I have.

25 Q. And do those students belong to any groups in

1 particular?

2 MS. LEVINE: Calls for speculation.

3 THE WITNESS: I wouldn't have the context to be
4 able to answer that.

5 BY MS. TONEY:

6 Q. Have any of your students who identify as
7 LGBTQ become more confident in expressing those
8 identities?

9 MS. LEVINE: Vague. Overbroad. Calls for
10 speculation.

11 THE WITNESS: Yes.

12 BY MS. TONEY:

13 Q. And what about for individual students who
14 might not be a member of a traditionally marginalized
15 group, but maybe hold unpopular beliefs? Do you think
16 they also need to be part of the learning environment?

17 A. Most certainly.

18 Q. And why is that?

19 A. Because in order to learn effectively, they
20 need to be enfranchised, and, also, I have a particular
21 value of democratic societies and democratic means of
22 debate. I have a particular value of what bringing in
23 different opinions and different sides of issues can
24 mean for the growth of students.

25 Q. And why do you value that so deeply?

1 A. Because without proper exposure to different
2 viewpoints, students would not be able to learn how to
3 process information, and would not have the evidence at
4 their disposal to be able to make and form their own
5 opinions and to justify and prove them, and then to
6 communicate them effectively.

7 Q. Would you say that the silencing of perhaps an
8 unpopular viewpoint would then detract from the learning
9 environment?

10 MS. LEVINE: Vague, overbroad, calls for
11 speculation.

12 THE WITNESS: Silencing could mean many different
13 things, but I generally feel, in most circumstances,
14 that the more opinions, the better.

15 BY MS. TONEY:

16 Q. And if a student in your class didn't feel
17 safe or enfranchised, would that interrupt their ability
18 to learn?

19 MS. LEVINE: Calls for speculation. Incomplete --

20 THE WITNESS: Potentially.

21 MS. LEVINE: -- hypothetical. Go ahead.

22 THE WITNESS: I'm sorry.

23 MS. LEVINE: I just said, incomplete hypothetical,
24 but you can answer.

25 THE WITNESS: Potentially.

1 BY MS. TONEY:

2 Q. Why?

3 A. Depending on the context.

4 Q. Could you give me an example of a context
5 where a student felt unsafe, and it inhibited their
6 ability to learn?

7 A. It's challenging to address the question when
8 you're using the word, unsafe, because it means many
9 different things. Many students perceive that they are
10 unsafe when they're being challenged in a healthy
11 educational way.

12 Q. What about if a student told you they were
13 disenfranchised?

14 MS. LEVINE: Can I just state for the record that
15 he used air quotes around the words, unsafe.

16 Go ahead.

17 BY MS. TONEY:

18 Q. What if a student told you they felt
19 disenfranchised? Would that interrupt their ability to
20 learn?

21 A. Yes, presuming the legitimacy of their claim,
22 yes.

23 (Exhibit 111 was marked for identification by
24 counsel.)

25 BY MS. TONEY:

1 Q. Okay. Well, let's pull up another document.
2 This will be Exhibit 111, and it is, I believe, from
3 your teaching materials, as well, so it will be along
4 similar lines, and you should see it pop up there in the
5 marked exhibits.

6 And just while we're waiting for it to load,
7 you mentioned it would depend on the legitimacy of the
8 student's claim that they felt disenfranchised.

9 How would you determine whether that claim was
10 legitimate?

11 MS. LEVINE: It's vague, overbroad, calls for a
12 narrative, incomplete hypothetical.

13 THE WITNESS: That would depend entirely on the
14 student and the context of the situation.

15 BY MS. TONEY:

16 Q. We'll circle back to that later, but, for now,
17 if you could look at Exhibit 111. It's called Get Your
18 News Responsibly.

19 Do you see it there?

20 A. Not yet.

21 Q. Okay, it should load any moment. Thanks for
22 your patience.

23 A. Of course.

24 Q. Let us know when you see it.

25 A. All right, here it is. I'm opening the file.

1 Q. Great. Could you please identify this for the
2 record.

3 A. Yes. It is the text from the, one of the tabs
4 on my website.

5 Q. Did you write this document?

6 A. Yes, I did.

7 Q. Do you remember when you first wrote it, just
8 ballpark?

9 A. Maybe, three years ago.

10 Q. Okay. So, 2018?

11 A. Perhaps. In that ballpark, yes.

12 Q. Okay, and has it significantly changed since
13 then?

14 A. No. In fact, I read it in preparation for
15 this school year and was satisfied that I didn't want to
16 make any changes.

17 Q. Sure. Okay. Now, when you talk about bias,
18 could you define what you mean by bias.

19 A. Yes. This is actually a, an important part of
20 my curriculum, as well. I define bias, I hold up my
21 eyeglasses for the students. I define it as the lens
22 through which we see the world, and we further talk
23 about how these lenses are formed by our identities.

24 Who we are is how we see the world.

25 Q. If a student had a particular identity, for

1 example, as a member of a minority group, would that
2 affect how they see the world?

3 MS. LEVINE: Calls for speculation.

4 THE WITNESS: Yes.

5 BY MS. TONEY:

6 Q. And if a student had a religious background,
7 would that affect how they see the world?

8 MS. LEVINE: Calls for speculation.

9 THE WITNESS: Yes.

10 BY MS. TONEY:

11 Q. And if a student had an atheist background,
12 would that affect how they see the world?

13 MS. LEVINE: Calls for speculation.

14 THE WITNESS: Yes.

15 BY MS. TONEY:

16 Q. So, how would you help students understand, as
17 you're teaching them about this very important concept
18 of bias, how would you help them understand what their
19 own biases are?

20 A. That is essentially the first couple of weeks
21 of my curriculum. First, I have my students analyze
22 their identity, so I, it also gives me a chance to talk
23 about a lot of important social science vocabulary, like
24 culture, ethnicity, rural, urban.

25 Students do some discussion with their teams,

1 and as a whole class, and then they do some writing for
2 me about the characteristics that most make them them.

3 And so I explain that even though you are
4 something, that might not be the thing that most makes
5 you you.

6 So, I'm first asking students to think
7 critically about how they define themselves, what they
8 think makes them them. And that's a conversation that
9 we have first in teams, that's how I build teamwork, and
10 a culture of understanding, and then, from there, we
11 have the next level of the discussion, which is your
12 identity, whoever you are, however you define yourself,
13 has created these lenses through which you see the
14 world.

15 And I make it clear to my students that in
16 ordinary English, perhaps, bias is a dirty word -- this
17 is my part of my spiel in class -- bias is a dirty word.
18 It means you discriminate, or it means that you, you
19 know, you don't think critically, or you're closed
20 minded.

21 In history, bias isn't a dirty word. It's
22 just a given. Everybody's biased. If someone tells you
23 they're unbiased, you should, they either don't know
24 what they're talking about, or they are lying to you,
25 and, either way, you should run the other way.

1 And so then I have students take a look at the
2 four big questions for the four units that we will
3 eventually collect evidence for throughout the year, and
4 I tell them, look, when we answer these questions next,
5 you're going to be responsible for proving your answers,
6 but you don't have to prove your answers now. I want
7 you to talk about and think about and discuss and write
8 about how you feel. I want you to assess where you are
9 on these four questions when you're coming in as you
10 enter this class.

11 And, by June, you might be totally different,
12 or you might be entirely the same, and either way is
13 great with me, but, as long as by June you can prove it
14 and communicate that proof with effective evidence.

15 So, then we talk about, in a variety of
16 different contexts, how they feel about those questions.
17 And then the last part of the question is putting the
18 two together. What is your identity, how do you feel
19 about those questions, and then how do you think that
20 the lenses through which you see the world have been
21 defined by who you are, and impact how, your initial
22 impressions of those four questions.

23 Q. Thank you for explaining. That sounds like a
24 great pedagogical experience for your students.

25 So, you mentioned asking them to prove their

1 viewpoint. How would a student go about proving their
2 viewpoint?

3 A. By June, you mean?

4 Q. Yes.

5 A. Because we spend the year collecting and
6 interpreting evidence, and my greatest role as a teacher
7 is helping them critically read and critically think
8 about the evidence they're encountering.

9 Q. As a teacher, do you ever try to prove your
10 viewpoint?

11 A. All the time. And I also try to prove
12 viewpoints that I sometimes vehemently disagree with.

13 Q. And why do you do that?

14 A. One of my, one of the best ways to teach
15 critical thinking is through modeling metacognition. I
16 want my students to understand what's going on in their
17 brain as they ask their brain to do things. I liken it
18 to pulling back the sun roof on your skull and watching
19 your brain work.

20 And the best way to teach metacognition is to
21 model the process. So, I often will take a piece of
22 evidence, and practice out loud, critically reading it,
23 critically thinking about it, and sharing my own
24 interpretations. And I say it so often that it is a
25 cliché in my class. I say it every day, sometimes,

1 multiple times, you don't have to agree with me, I just
2 want to show you how I'm thinking about this.

3 Q. So, what biases do you think that you have?

4 MS. LEVINE: Vague, overbroad, calls for a
5 narrative.

6 THE WITNESS: That actually is part of our
7 discussion in August, as well. I go through an
8 exercise. I tell my students that some of my biases
9 are, for example, in terms of freedom of speech, I am
10 very far on the side of individual expression, as
11 opposed to protecting collective societal needs. That's
12 a bias I have.

13 And I also use as an example my bias about
14 LGBTQ issues. I told them in August, when we're going
15 through our first foray, really, into being able to
16 judge the reliability of sources, I show them a slide
17 about myself, and I say to them, you know, my bias is,
18 one of my biases is that I have been donating time and
19 money to LGBTQ causes for a long time.

20 And I give them some other information, and
21 then I, I ask them the question, and they discuss with
22 their teams to what extent do you believe Glasser is a
23 reliable source when it comes to LGBTQ issues.

24 And so this is a way that I help to introduce
25 them. I'm not the only topic of conversation. We also,

1 for example, look at a lithograph that Paul Revere
2 created about the Boston Massacre, and discuss the
3 extent to which they believe he is a reliable source.

4 So, I use myself as fodder, I suppose, because
5 I want to make the message very clear very early on that
6 a responsible historian is always judging the extent to
7 which a source of information is valuable, and their
8 teacher is certainly in no way above that judgment.

9 And I tell them, there are no wrong answers.
10 The only two wrong answers are that if you agree with
11 me -- excuse me. I misspoke. The only two wrong
12 answers are, if you distrust me because you disagree
13 with me, or if you trust me because you agree with me.
14 Those are the only two wrong answers.

15 And I make it clear that students are free to
16 make their judgments about my reliability when it comes
17 to this issue, and then I have them discuss that
18 question with their teams.

19 And then, further, I show them two articles on
20 a slide. I tell them, look, because I was given a free
21 subscription to the Equality Magazine from the HRC,
22 Human Rights Commission, I showed them an article about
23 the Masterpiece Cakeshop case, and I tell them, I show
24 them, we pull the article apart, and I tell them, I
25 happen to agree more with the conclusion of this

1 Q. So, when you're doing examples of your own
2 biases, like you mentioned with your students, the
3 freedom of speech bias, what kinds of questions do they
4 typically ask you in response to that?

5 A. Questions pertaining to what?

6 Q. Well, when you have them discuss what your own
7 biases are.

8 A. Well, the prompt that I give them has nothing
9 to do with discussing my actual biases. It's discussing
10 the extent to which my biases make me a reliable or less
11 reliable source.

12 Q. Oh, I understand. Okay. So, do your students
13 typically decide that you are a reliable source when it
14 comes to issues of freedom of speech, despite your bias?

15 A. I wouldn't say --

16 MS. LEVINE: Calls --

17 THE WITNESS: -- there's a typical.

18 MS. LEVINE: -- for speculation. Go ahead.

19 THE WITNESS: I wouldn't say there's a typical. I
20 would say there's a wide range of answers.

21 BY MS. TONEY:

22 Q. Uh-huh.

23 A. I, I don't typically, because it's the
24 beginning of the year, and they might not be comfortable
25 sharing individual feedback, but I typically ask them to

1 raise their hands, you know, okay, who thinks Glasser's
2 51 percent reliable or more, who thinks Glasser's
3 49 percent reliable or less.

4 I wouldn't say that there's a typical in terms
5 of how many students raise their hand.

6 Q. What about for your LGBTQ bias?

7 A. That's what I was referring to.

8 Q. Okay. And digging just a little more into
9 that, you mentioned that you donate to LGBTQ causes.

10 What are some of those organizations?

11 A. The Human Rights Commission.

12 Q. Any others?

13 A. No.

14 Q. How long have you been donating to HRC?

15 A. Almost 20 years.

16 Q. Why did you first begin donating?

17 A. It was around the time that I got married, and
18 I saw how love can, and a happy, healthy relationship
19 can reinforce health in one's life.

20 Q. Is that one of your beliefs about marriage?

21 A. Yes.

22 Q. Do you have any other beliefs about marriage?

23 MS. LEVINE: Vague. Overbroad. Calls for private
24 information.

25 THE WITNESS: Yes, I have other beliefs about

1 would just consider not reliable?

2 A. Yes. I wrote about them in this document.

3 Q. Could you just give some examples real quick.

4 A. News sources that I find unreliable are listed
5 under number 6. Those are examples.

6 MS. TONEY: Okay. Well, let's take a 10-minute
7 break, and then we will go back on the record at 9:50
8 Pacific Time.

9 Does that work for everyone?

10 THE WITNESS: Yes. Thank you.

11 (Recess: 9:41 a.m. to 9:51 a.m.)

12 BY MS. TONEY:

13 Q. We are back on the record.

14 I'd just like to ask real quick about your
15 work with Espiritu at Pioneer, and, specifically, the
16 climate committee.

17 What is the purpose of that committee at
18 Pioneer?

19 MS. LEVINE: Calls for speculation.

20 THE WITNESS: The purpose is to be what the
21 leadership counsel is to academic issues in terms of
22 student climate.

23 BY MS. TONEY:

24 Q. Okay, and what does the leadership counsel do
25 for academic issues?

1 A. The leadership counsel is comprised of
2 department chairs, and so when there are academic
3 decisions to be made, from anything from the bell
4 schedule, to our final exam prep week policies, it is
5 the leadership counsel who makes those decisions.

6 Q. So, you would say the climate counsel, the
7 climate committee similarly makes decisions about the
8 extracurricular life of Pioneer?

9 MS. LEVINE: Misstates the testimony.

10 THE WITNESS: I wouldn't say extracurricular. I
11 would say student climate. I also would mention that I
12 know that that is Herb's vision to empower that
13 committee and to encourage it to develop vision, but I
14 doubt he or I would say that that is actually the case.
15 It's more of a goal.

16 BY MS. TONEY:

17 Q. And how did that goal originate?

18 MS. LEVINE: Calls for speculation.

19 THE WITNESS: I don't know, but that's, that was my
20 impetus for joining, and I --

21 BY MS. TONEY:

22 Q. When did you join?

23 A. I joined before the question of the FCA, and
24 before my white board posting. I joined before my white
25 board posting, a few weeks to perhaps a month before,

1 because most departments weren't represented, and I
2 felt, I felt that it would be an important professional
3 commitment for me to make to join the committee, too, so
4 that we could have a history department representative.

5 Q. So, you would say you joined maybe March 2019,
6 somewhere around there?

7 A. Yes, roughly, although I did not attend the
8 March 2019 meeting.

9 Q. Did you attend the April meeting?

10 A. Yes.

11 Q. And then did you continue attending meetings
12 after that?

13 A. The April 2019 meeting was the last one that
14 we had in 2019, in the 2018-2019 school year.

15 Q. Uh-huh.

16 A. When it resumed, when the new school year
17 started, the 2019-2020 school year started, I had plans
18 to attend the August 2019 meeting, but could not,
19 because of a scheduling conflict. I know I did not
20 attend the September 2019 meeting, although I don't
21 recall why, and then before the October 2019 meeting I
22 resigned from the committee.

23 Q. And why did you resign?

24 A. Because on October 10, 2019, I became aware
25 that I was involved in this litigation, and I didn't

1 feel that it was professionally safe for me to be a
2 part.

3 Q. What do you mean by, professionally safe?

4 A. It was possible that the question of the FCA
5 might come up, although I don't know if it actually did
6 or not, and I didn't feel that it was a good decision
7 for me to be involved in any way.

8 Q. Did the question of the FCA come up at the
9 April 2019 climate committee meeting?

10 A. Yes.

11 Q. What was the discussion there?

12 A. To the best of my recollection, Herb began the
13 meeting by presenting a resolution, although it's hard
14 for me to remember what the resolution was, but it
15 involved the FCA, and he told us that the, that he would
16 like input.

17 Q. And did you give any input?

18 A. Very little. I perhaps spoke at the end, just
19 to agree with something a colleague or colleagues had
20 said, but I felt by that point, I had already had an
21 opportunity to share my feelings, and so I was mostly
22 silent through the meeting.

23 Q. And when did you share your feelings?

24 A. To the best of my recollection, just at the
25 end, and very briefly in terms of perhaps agreeing with

1 things other people had said.

2 Q. Was Espiritu's recommendation to revoke the
3 approval of FCA?

4 A. I don't recall what the recommendation was. I
5 don't recall what that resolution specifically said.

6 Q. You mentioned the colleagues, some of your
7 colleagues made comments that you agreed with.

8 Do you remember anything about those comments?

9 A. No.

10 Q. And did you have any concerns about your
11 involvement in the climate committee, other than legal
12 concerns related to the lawsuit in October 2019?

13 MS. LEVINE: It's vague.

14 THE WITNESS: Not that I can recall.

15 BY MS. TONEY:

16 Q. So, you mentioned there was a discussion about
17 FCA, and I know you have a great memory, as a history
18 teacher, but do you remember anything at all about what
19 the discussion was at the climate committee meeting?

20 A. I don't recall the actual resolution, and so
21 I'm reluctant to misspeak.

22 Q. Sure.

23 A. Certainly, if you want to read it to me or
24 provide it to me, I could comment further.

25 Q. Okay. So, for example, if I showed you the

1 A. Yes.

2 Q. And was it your understanding that FCA had
3 actually turned away an LGBT student who applied to be a
4 leader?

5 A. No.

6 Q. Have you ever heard of an LGBT student being
7 turned away by the Pioneer FCA chapter?

8 A. I've never heard of a case in which a
9 student's leadership application was denied specifically
10 because of that. It is possible that a student would
11 want to, and felt discouraged in doing so, but I had not
12 heard of any cases in which a leadership opportunity was
13 denied, but then, again, I'd never heard of the FCA
14 before April 22, 2019.

15 Q. So, you didn't know anything about FCA before
16 April 22?

17 A. No.

18 Q. Okay. Let's circle back for a moment. We'll
19 come back to this topic, obviously, but, talking more
20 generally about ASB approval, what does the ASB stand
21 for?

22 A. Associated student body.

23 Q. And what do they do on campus?

24 A. Well, the ASB is a kind of a large umbrella,
25 so they do many, many different things.

1 Q. What are, what is their role with regard to
2 student clubs and organizations?

3 A. I only understand their role from my
4 perspective. I have very limited knowledge of that
5 larger world, but I know that clubs are responsible for
6 reporting their financial forms, and doing all financial
7 business through the ASB, and there are also, there's
8 also monitoring in terms of particular forms to fill out
9 to start a club or continue a club.

10 Q. Uh-huh.

11 A. It also, I mean, we also call our student
12 leaders our ASB representatives. Our top government
13 position on campus is ASB president.

14 So, there are many different facets, almost
15 all of which I don't have very much knowledge of.

16 Q. Sure. Okay. Have you ever been a faculty
17 advisor to any student groups?

18 A. Yes.

19 Q. Which ones?

20 A. The two that I spent, the three that I've
21 spent the most time with are the GSA, the National Honor
22 Society, and the Harry Potter club. I also have served
23 as advisor for some one-off clubs. Mostly kids just ask
24 me because they know I'm in my room at lunchtime, and
25 they need a faculty present, and they come in and do

1 their own thing.

2 Q. Could you share the names of those one-off
3 clubs?

4 A. Yeah. It ranges from, one year, there was an
5 anime club. Another year, I don't remember what they
6 called the club, but they came in and they watched
7 vampire TV shows on a kid's Netflix account. There was
8 one called the student action club. There are, perhaps,
9 several others, but I don't remember offhand.

10 Q. Okay. What was the student action club?

11 A. They were the, the description from the
12 officers, the reason that they started the club was they
13 wanted a nonpartisan group of students to address needs
14 on campus that they perceived, and so I recall, because
15 it was only two years, three years ago, so I can
16 remember, they had two endeavors. One was a nonpartisan
17 voting drive that they ran on campus; the other was
18 making sure that, that feminine hygiene products were
19 available in classrooms, because the machines in the
20 campus bathrooms often ran out.

21 MR. BLOMBERG: Sorry to jump in here. Can we pause
22 for just a second. Kayla's computer just died.
23 Apparently, it's a --

24 THE WITNESS: Of course, sir.

25 MR. BLOMBERG: -- time for computers to die.

1 Chris, can we go off the record, please.

2 (Recess: 10:13 a.m. to 10:30 a.m.)

3 MS. TONEY: Back on the record.

4 BY MS. TONEY:

5 Q. We were talking about the Harry Potter club.

6 Could you tell me about your time as the
7 advisor.

8 MS. LEVINE: Vague.

9 THE WITNESS: What would you like to know?

10 BY MS. TONEY:

11 Q. When did you first become the advisor of the
12 Harry Potter club?

13 A. Roughly, five or so years ago. I had a
14 student come to me saying that she wanted to start one,
15 and would I be the faculty presence in the room, and I
16 said yes.

17 Q. Why did you say yes?

18 A. I have never actually read Harry Potter. It
19 certainly wasn't out of interest in Harry Potter. It
20 was because I like the idea of students having a place
21 to go to meet friends and explore common interests.

22 Q. Sure. Okay. And, let's pull up our next
23 exhibit. I believe this will be 49, so, it should show
24 up in your marked exhibits folder, and this is going to
25 be the club application for the Harry Potter club, so,

1 just let me know when you see it pop up. It's probably
2 still loading right now.

3 A. I'm opening the document.

4 Q. Great.

5 A. I see it, ma'am.

6 Q. Great. Could you please identify the document
7 for the record. This is Exhibit 49.

8 A. This is a Harry Potter club team club charter
9 request for the 2019-2020 school year that was filled
10 out by one of my officers, student officers, and that I
11 signed.

12 Q. Okay, great. Where's your signature?

13 A. It appears under advisor, slash, coach's
14 signature.

15 Q. Yes, I see it there.

16 So, why did the Harry Potter club want to be
17 approved by the ASB?

18 MS. LEVINE: Calls for speculation.

19 THE WITNESS: I don't know that it was an
20 aspiration. I think it was more a requirement.

21 BY MS. TONEY:

22 Q. Why is it a requirement?

23 A. Because we were told to by the school
24 government.

25 Q. Okay. Does the school government tell all the

1 potential new clubs that they need to seek ASB approval?

2 A. I don't have personal knowledge to answer that
3 question.

4 Q. But you signed this request, correct?

5 A. Correct.

6 Q. And what was the purpose of the Harry Potter
7 club, as listed on the charter request?

8 MS. LEVINE: Document speaks for itself.

9 THE WITNESS: Meeting fandom friends, discussing
10 Harry Potter in a safe and welcoming environment.

11 BY MS. TONEY:

12 Q. Would you say that that's an accurate
13 description of the purpose of this club?

14 MS. LEVINE: Calls for speculation.

15 THE WITNESS: Yes.

16 BY MS. TONEY:

17 Q. Could you describe your involvement as faculty
18 advisor. What kind of support did you give?

19 A. Virtually, none. My involvement was I made
20 sure to be in the room every Tuesday at lunchtime, and
21 the kids just kind of did their thing. It also
22 coincided with my office hours, so, sometimes, I would
23 kind of listen in to their conversations, but, most of
24 the time, my attention was diverted elsewhere, helping
25 students who came in with work.

1 Q. You provided the meeting space for them?

2 A. I provided the meeting space for them.

3 Q. Did you provide any guidance to the student
4 leaders?

5 A. No.

6 Q. If the Harry Potter club didn't have a faculty
7 advisor, would it have been harder for them to find a
8 place to meet?

9 MS. LEVINE: Calls for speculation.

10 THE WITNESS: Well, they wouldn't have had access
11 to my classroom, so, that would make it harder.

12 (Exhibit 112 was marked for identification by
13 counsel.)

14 BY MS. TONEY:

15 Q. Okay. Next, we're going to look at another
16 related exhibit. I believe this will be number 112.
17 And it should pop up in your marked exhibits folder, and
18 this is a constitution for the Harry Potter club.

19 And, just curious, are you still the faculty
20 advisor for this club?

21 A. Yes.

22 Q. Did the club meet over Zoom the last year, I'm
23 assuming?

24 A. Yes.

25 Q. And is the club planning to meet in person

1 again when school starts in August?

2 A. I haven't been apprised either way.

3 Q. But you don't have any reason to think that
4 the club wouldn't be meeting again in August?

5 A. No.

6 Q. Okay.

7 A. I see the document, ma'am.

8 Q. Great. Exhibit 112. So, could you please
9 identify this document for the record.

10 A. It is the constitution and bylaws for the
11 Harry Potter club.

12 Q. So, looking down a couple of pages, can you
13 turn to page 7745. I think it should be the third page
14 of the document.

15 A. Yes, I see it.

16 Q. What does it say about how the officers are
17 chosen? It's the second full paragraph there.

18 A. The co-presidency is a two year term, where
19 the older co-president mentors the younger one to fill
20 his/her/their position in the second year of the younger
21 one's term. The new co-president will be chosen by the
22 current co-president, based on member interest, and,
23 subsequently, the involvement, commitment, and ability
24 to work with the remaining co-president.

25 Q. Okay. Would you consider that a democratic

1 method of choosing a new leader?

2 A. Possibly.

3 Q. What are the leadership requirements that are
4 listed there?

5 MS. LEVINE: Document speaks for itself.

6 THE WITNESS: The involvement, commitment, and
7 ability to work with the remaining co-president.

8 BY MS. TONEY:

9 Q. Right. So, if a potential leader was not
10 involved, not committed, couldn't possibly work with the
11 remaining co-president, do you think that they would be
12 chosen as the next leader?

13 MS. LEVINE: Calls for speculation.

14 THE WITNESS: I don't have personal knowledge of
15 that. I don't have personal knowledge of how the people
16 were chosen to be co-presidents.

17 BY MS. TONEY:

18 Q. But you are the faculty advisor, correct?

19 A. Yes.

20 Q. Is it your testimony that you don't know
21 anything about how the leaders were chosen?

22 A. It's my testimony that I never heard or
23 overheard any conversations particular to that topic.

24 Q. Well, now that you're looking at these
25 requirements today, involvement, commitment, ability to

1 conclusion, but that's the message that I would receive,
2 that the club is not meeting its goal.

3 Q. Sure. Okay. And so let's flip it. What if
4 the majority of students agreed that they did not want
5 this Harry Potter troll to come in and change the
6 direction of the club? Would they be able to make that
7 vote and keep that person from coming in as a leader?

8 MS. LEVINE: Incomplete hypothetical. Calls for
9 speculation. Calls for a legal conclusion. It's
10 argumentative. It's vague.

11 THE WITNESS: Well, if a student didn't receive a
12 majority of a vote, or support in some other
13 consensus-driven process, then that person wouldn't have
14 the mandate to define the direction of the club.

15 BY MS. TONEY:

16 Q. Okay. Let's look back at the constitution,
17 same page, 7745. Look at article 9, where it says,
18 positive fandom.

19 Do you see that?

20 A. Yes.

21 Q. Do you see where it talks about the positive
22 fandom pledge?

23 MS. LEVINE: What page are you on?

24 BY MS. TONEY:

25 Q. 7745, page 3 of the document, Exhibit 112.

1 MS. LEVINE: Okay.

2 THE WITNESS: Yes, I do see that.

3 BY MS. TONEY:

4 Q. Do you know what is in the positive fandom
5 pledge?

6 A. No.

7 Q. Have you ever heard of it before this moment?

8 A. No.

9 Q. Do you see where it says that club members and
10 officers will sign the positive fandom pledge?

11 A. Yes.

12 Q. What happens if a member or officer does not
13 want to sign the positive fandom pledge?

14 MS. LEVINE: Calls for speculation.

15 THE WITNESS: I don't know. I don't know.

16 BY MS. TONEY:

17 Q. Do you think it's a problem that officers and
18 members are being asked to sign a pledge to be part of a
19 student group?

20 MS. LEVINE: Vague. Incomplete hypothetical.
21 Calls for speculation. Overbroad.

22 THE WITNESS: It depends on what the pledge says.

23 BY MS. TONEY:

24 Q. Are there any other student clubs that require
25 members or leaders to sign a pledge?

1 A. I mean, other than, obviously, the FCA, I
2 don't have personal knowledge of whether any others do
3 or don't.

4 Q. Did Principal Espiritu or anyone else at
5 Pioneer ever review this constitution and ask you about
6 the fandom pledge?

7 MS. LEVINE: Calls for speculation.

8 THE WITNESS: I've never been asked about it by
9 anybody.

10 BY MS. TONEY:

11 Q. Going back for a second to your earlier answer
12 when you said it would depend on what the pledge says,
13 what do you mean by that?

14 A. I mean, you're asking a hypothetical question,
15 and there are literally a million different things that
16 it could possibly say or not say, so I would want to
17 know what the pledge actually said before answering.

18 Q. Sure. If the pledge said something that you
19 personally disagreed with, would you have a problem with
20 the Harry Potter club requiring its officers or members
21 to sign the pledge?

22 MS. LEVINE: Calls for speculation. Incomplete
23 hypothetical. Vague.

24 THE WITNESS: No.

25 BY MS. TONEY:

1 Q. When would you have a problem with the Harry
2 Potter club requiring its officers or leaders to sign a
3 pledge?

4 MS. LEVINE: Same objection.

5 THE WITNESS: If the pledge were somehow based on a
6 student's identity disqualifying them from a leadership
7 opportunity.

8 BY MS. TONEY:

9 Q. So if the pledge said, students who hate Harry
10 Potter need not apply, would that disqualify certain
11 students?

12 MS. LEVINE: Calls for speculation. Calls for a
13 legal conclusion, vague, incomplete hypothetical.

14 THE WITNESS: You asked, people who hate Harry
15 Potter need not apply, and you're asking if that should
16 exclude a person from being a member, or a leader; which
17 one?

18 BY MS. TONEY:

19 Q. A leader.

20 A. I'm sorry, ma'am, I'm trying to understand
21 your question.

22 Q. A leader.

23 A. I don't know. There are -- I don't know.

24 Q. But it's your testimony that as long as a
25 pledge was not excluding anyone from being the leader

1 based on identity, then it's okay to require the
2 officers to sign a pledge?

3 MS. LEVINE: Misstates the testimony.

4 THE WITNESS: It's my testimony that if there is a
5 stipulation in a pledge that bars someone from serving
6 as a leader, based on an aspect of their identity, then
7 I would object to that pledge.

8 BY MS. TONEY:

9 Q. What would an example of a unacceptable pledge
10 be?

11 A. If you are heterosexual and cisgendered, you
12 are not allowed to be an officer. If you are black, you
13 are not allowed to be an officer. If you are a member
14 of a protected class, you are not allowed to be an
15 officer, from the district's anti-discrimination policy.

16 Q. Do you see a distinction between a pledge
17 being required of members versus leaders?

18 MS. LEVINE: Calls for a legal opinion, it's vague,
19 speculative.

20 THE WITNESS: There's certainly a distinction in
21 the role that they serve.

22 BY MS. TONEY:

23 Q. What's the distinction?

24 A. The leader would be responsible for planning
25 activities and supervising, whereas a member is there

1 more to participate.

2 Q. So, does it make sense that certain clubs
3 would have leadership requirements that might not extend
4 to all their members?

5 A. Yes.

6 Q. Okay. Well, let's talk about the National
7 Honor Society, since you mentioned you've been very
8 involved with them.

9 How long have you been the advisor for the
10 National Honor Society?

11 A. I began advising them in August 2000, and I
12 believe I stopped advising them and handed it off either
13 2017 or 2018, I don't recall which.

14 Q. And why did you stop being the advisor?

15 A. Time constraints. I couldn't commit the time.

16 Q. Sure. Was it a pretty time-consuming role?

17 A. Actually, no, but there were other things I
18 wanted to put my time into.

19 Q. What were some of those other things?

20 A. My children's activities. I was also taking
21 on a new role at the district office, as a member of the
22 TQP.

23 Q. What is that?

24 A. It's called the Teacher Quality Panel, and I
25 serve as a teacher, one of the three teachers, there are

1 also, who help review teacher evaluations for contract
2 violations, and provide suggestions to evaluators as to
3 how to better communicate their guidance to teachers.

4 Q. Okay. And how long did you serve in that
5 role?

6 A. I've been on that committee for four years,
7 and I was recently appointed to another three year term.

8 Q. Okay. And so when you assist with
9 evaluations, what kind of guidance do you provide?

10 A. We read redacted evaluations, and we provide
11 guidance to the evaluators, things like, your evidence
12 doesn't match your claim here; this would be difficult
13 for a new teacher to understand; please, use a different
14 format; stuff like that.

15 Q. So, would you say that you help improve and
16 guide the quality of teachers at Pioneer?

17 A. No, I wouldn't go that far. My role on the
18 TQP is too disconnected for me to make that conclusion.

19 Q. And is it regarding teachers in the entire
20 district, or just at your school?

21 A. The entire district.

22 Q. Okay. Have you ever found a contract
23 violation of a teacher in the district?

24 MS. LEVINE: Vague, overbroad. Calls for a legal
25 conclusion.

1 THE WITNESS: It's ultimately not my job to find,
2 to officially designate something as a contract
3 violation. We three teachers and we three
4 administrators talk about potential opinions and
5 potential violations.

6 Ultimately, however, it's up to the SJTA --
7 our union -- executive director and president, and the
8 assistant superintendent for human resources, to come to
9 conclusions about potential questions.

10 BY MS. TONEY:

11 Q. Sure. And who's the assistant superintendant
12 that you mentioned?

13 A. Dominic Bejarano.

14 Q. Okay, so, he's the one who comes to
15 conclusions regarding potential contract violations?

16 A. He's involved in that process.

17 Q. And who else is involved?

18 A. The president of SJTA, Patrick Bernhardt, and
19 the associate executive director, perhaps her title is,
20 of SJTA, Debby Baker.

21 *DI Q. Have they ever investigated you for any sort
22 of potential contract violation?

23 MS. LEVINE: Calls for, it invades his personnel
24 privacy, and I would instruct him not to answer that
25 question.

1 BY MS. TONEY:

2 Q. You can still choose to answer, or you can
3 choose to follow your attorney's advice. It's up to
4 you.

5 A. I will defer to my counsel, thank you.

6 (Exhibit 113 was marked for identification by
7 counsel.)

8 BY MS. TONEY:

9 Q. So, going back to the National Honor Society,
10 now that we have our exhibit. It should be Exhibit 113.

11 Do you see that in your marked exhibits
12 folder?

13 A. Just a moment, ma'am, and I'll refresh my
14 screen and find it.

15 Q. You said you were the advisor for roughly 18
16 years; is that correct?

17 A. Yes.

18 Q. And who did you hand off that position to?

19 A. Another history teacher. Her name is Priya
20 Talreja.

21 Q. So, she's currently the NHS advisor?

22 A. She is currently the advisor, yes.

23 Q. And what did your role as NHS advisor involve?

24 A. We met roughly three times a year, so I would
25 begin those meetings before I handed the meetings off to

1 my, to my student officers. My biggest responsibility
2 was helping to process applications for admission to
3 National Honor Society, and putting together and running
4 and doing all the shopping and legwork for our annual
5 banquet.

6 Q. And what's the purpose of the National Honor
7 Society, in your own words, as the advisor?

8 A. It's a national organization that is meant to
9 provide a valuable recognition for things that students
10 have achieved, and this recognition is nationally
11 recognized, so it's helpful in college applications and
12 resume building.

13 Q. Sure. Does it help students get access to
14 scholarships?

15 A. Quite possibly.

16 Q. What other benefits does membership in NHS
17 include?

18 A. Well, I think one of the biggest benefits is
19 that it makes kids feel good, and it also puts the most
20 motivated students, because they're, you know, among the
21 highest achievers, and most dedicated to their
22 communities, it puts the highest achievers and these
23 motivated students in the same room, and so then they
24 can be with similarly motivated students and perform
25 community service projects of their choosing.

1 Q. Do you think it's important for students to be
2 able to gather with similarly motivated students?

3 A. Similarly in what regards?

4 Q. It's just the phrase that you used. You know,
5 students maybe with similar interests, like you said,
6 other high achievers.

7 MS. LEVINE: Vague, overbroad.

8 THE WITNESS: Yes.

9 BY MS. TONEY:

10 Q. What kind of membership requirements does NHS
11 have?

12 A. They are based on four, membership is based on
13 four criteria defined by the national NHS organization.
14 They are scholarship, character, service, and
15 leadership. And then Pioneer High School takes those
16 four broad qualifications and constructs specific
17 criteria to meet the criteria for admission in all four
18 of those categories. In order to be admitted, a student
19 must reach the criteria in all four categories.

20 Q. So the national organization directs or
21 provides the guidance for the membership requirements,
22 then?

23 MS. LEVINE: Misstates the testimony.

24 THE WITNESS: I wouldn't use the word guidance.
25 The only time I ever communicated with the national

1 office was once a year to order banquet supplies.

2 BY MS. TONEY:

3 Q. Uh-huh, okay. And you mentioned that Pioneer
4 sort of takes its own approach to finding students in
5 these categories, so, what kinds of things would Pioneer
6 look for in the character category, for example?

7 A. Character, students were required to have two
8 teachers fill out a brief form, recommendation, and
9 these, the student could choose which two teachers. And
10 the other requirement was, if there had been a record of
11 an academic integrity violation, then students were
12 required to wait a semester and reapply.

13 Q. And why is that?

14 A. Academic honesty is a chief indicator of
15 character.

16 Q. What are some other indicators of character?

17 MS. LEVINE: Vague. Overbroad. Calls for
18 speculation. Calls for a narrative.

19 THE WITNESS: Honesty, integrity. The teacher
20 recommendation form also made reference to a student's,
21 there was a part to circle about, academic honesty is a
22 part. That's my answer: Honesty and integrity.

23 BY MS. TONEY:

24 Q. Sure. Okay. And what other qualities do you
25 look for when you review NHS applications?

1 A. The other three criteria are scholarship,
2 service, and leadership.

3 Q. So, what would you look for in the leadership
4 category?

5 A. A student had to have been involved, there's
6 basically a checklist to fill out, and a student was
7 responsible for being involved in three, three
8 leadership positions in their high school career.

9 Q. Okay. And those would be leadership positions
10 in student clubs, or sports teams, or what, what types
11 of groups?

12 A. Yes, those, and it didn't have to be on
13 campus. It could be off campus, as well, so,
14 involvement in clubs, sports teams, or community
15 organizations.

16 Q. And what were the requirements with regard to
17 community service?

18 A. Essentially, being an active member of three
19 on campus or off campus clubs or organizations or teams.

20 Q. Do students need a certain number of community
21 service hours to maintain their membership?

22 A. No. There's no requirement to maintain
23 membership.

24 Q. But to become a member?

25 A. To become a member, yes.

1 Q. They need a certain number of hours?

2 A. Not hours, necessarily, no; just involvement
3 in three activities.

4 Q. Sure. Okay. And then are there any age
5 requirements for NHS? Do students need to be in a
6 particular grade?

7 A. The first time that students are eligible is
8 the second semester of their 10th grade year.

9 Q. Okay. So, students need to be in grades 10
10 through 12 in order to be members?

11 A. Correct. And I'm giving you information as of
12 when I stopped being the officer. I'm not aware
13 anything has changed, but --

14 Q. I understand. Yeah, that's fine.

15 A. Thank you.

16 Q. In terms of scholarship, what are the
17 requirements that you look for there?

18 A. The student was required to go to the school
19 registrar and have a form signed that validated that
20 that student's GPA, unweighted GPA was a 3.2 or above.

21 Q. 3.2 or above. Okay. And is that consistent
22 with a national standard?

23 A. Yes, to my knowledge.

24 Q. And were there any other requirements with
25 regard to scholarship?

1 A. No.

2 Q. Let's go ahead and pull up our next exhibit.
3 This will be an e-mail chain relating to your role as
4 advisor of NHS. And I'm just curious, during the time
5 you were an advisor, did you ever have a student apply
6 who did not have that GPA requirement of a 3.2?

7 A. Did I ever have a student be admitted?

8 Q. Did you ever have a student apply to be
9 admitted?

10 A. Yes.

11 Q. And how did you respond to that student?

12 A. All of the students who didn't meet one of the
13 four requirements, I would first call them in before I
14 submitted the application to the application, the
15 committee who read the applications. I would call the
16 students in, and I would say, you know, is there
17 anything else we can do, can we write anything else, can
18 you think of anything else. I would try to help them
19 brainstorm.

20 But, if a student had below a 3.2 GPA, then I
21 would just call the student in and say, I'm sorry,
22 please reapply when your GPA passes that threshold.

23 Q. Okay. And did you have to turn away students
24 for any other reasons besides not meeting the GPA
25 requirement?

1 A. Yes.

2 Q. What were some of those reasons?

3 A. For not meeting the leadership requirements,
4 for not meeting the service requirements, and for
5 having, for not meeting the character requirement in the
6 sense that there was a written record that they had been
7 disciplined in the past by a teacher for an academic
8 integrity violation.

9 Q. Okay. So you had to turn away students based
10 on all of those criteria?

11 A. Yes.

12 (Exhibit 114 was marked for identification by
13 counsel.)

14 BY MS. TONEY:

15 Q. Please, look at Exhibit 114. It should be up
16 in your marked exhibits folder, and it's a string of
17 e-mails.

18 Do you see it there?

19 A. I'll refresh my page right now.

20 Q. Sure.

21 A. 114. Yes, I'm opening it right now.

22 Q. Great. Could you confirm that this is an
23 e-mail string on which you are included?

24 A. Yes, I can confirm that.

25 Q. Great. Looking down at that bottom e-mail, at

1 the bottom of the first page that you sent on
2 February 28, 2018, do you see that?

3 A. I'm sorry, I'm just making the text larger.

4 At the bottom of page FCA003570?

5 Q. Yes.

6 A. Yes, I do see that.

7 Q. Great. So, was part of your role in ensuring
8 that students qualify for membership to ask faculty and
9 staff if they had any objections based on character?

10 A. Not faculty and staff, no. I would typically
11 send this e-mail to our principal and assistant
12 principals, because they would be more likely to have a
13 broader campus view.

14 Q. Sure. Okay. So, part of your role in
15 selecting members was to check with the principal and
16 assistant principals to see if there were any red flags
17 about characters?

18 A. Specifically, disciplinary actions.

19 Q. Okay. So, at the end of that page, when you
20 say, I'm looking for red flags only, what do you mean by
21 red flags?

22 A. I didn't need the assistant principals to
23 write narratives about the list of students that I sent
24 to them. I only needed to know, for example, was one of
25 the, something that I would be looking for, a potential

1 red flag might be the kid was suspended for selling
2 drugs last week.

3 Q. Why would that be a potential red flag?

4 A. Because they'd done something illegal.

5 Q. Okay. What if a student had been repeatedly
6 disrespectful to teachers and students? Would that be a
7 red flag?

8 A. It would depend entirely on the context, but I
9 can tell you, to my recollection, that I never once
10 received a red flag, other than the assistant principal
11 of discipline telling me that a student had had
12 paperwork in the academic integrity folder, in the
13 binder that's kept in his or her office.

14 Q. Okay. So, when looking back at the e-mails,
15 when Tim Gavello, the assistant principal of discipline,
16 responded that none of these students have ever been
17 reported for a violation of academic honesty policies,
18 was that the response that you would usually get from
19 the assistant principal?

20 A. I'm sorry, could you show me that text,
21 please.

22 Q. Just going back to that first page of
23 Exhibit 114.

24 A. The first page. Okay.

25 Q. Where Tim Gavello --

1 A. Oh, I see. Yes. Peter, none of these
2 students have ever been reported for a violation of
3 academic honesty policies.

4 Yes, that, that was more often than not the
5 end results, although, occasionally, there were students
6 who had been disciplined for cheating.

7 Q. Okay. So, typically, cheating or academic
8 dishonesty were the only things that you found would
9 disqualify students?

10 A. And the character criterion.

11 Q. Right.

12 A. I wouldn't only say, typically. I would say,
13 exclusively.

14 Q. Okay. Let's move on to our next exhibit.
15 This will be about the Model UN Security Counsel.

16 Were you the advisor for this group at any
17 point?

18 A. No, but, I'm sorry, I'm a step behind you, and
19 I'm --

20 (Exhibit 115 was marked for identification by
21 counsel.)

22 BY MS. TONEY:

23 Q. I'm not sure it's loaded yet. It's going to
24 be the Model UN application, and it should be loaded as
25 Exhibit 115.

1 A. Oh, my gosh. I was. Yes, I do recall. I do
2 recall. This was a club that basically the students
3 asked me to provide my classroom, and I told them, sure,
4 I'd be happy to, as long as I, and as long as you
5 understand that it's also during my office hours.

6 Q. Uh-huh. Okay.

7 A. I'm not sure how many times they met.

8 Q. Do you know if they're still meeting now?

9 A. I have no knowledge of that, other than the
10 maybe one to three meetings that they had. I've never
11 been involved with it.

12 Q. Did you review this charter request before you
13 signed it, Exhibit 115?

14 A. I know that it's my responsibility to do so,
15 yes.

16 Q. Did you review it?

17 A. Most likely, yes.

18 Q. Is that your signature there on the charter
19 request?

20 A. Yes.

21 Q. Great. So, the meetings that this group did
22 have, did they indeed conduct a Model UN?

23 A. Do you mean was there a Model UN simulation
24 activity?

25 Q. Yes.

1 A. Beyond their activities in my classroom? No.

2 Q. And what were their activities in your
3 classroom?

4 A. They, there were a few students, and they,
5 each represented the interests of a country, and they
6 basically joked with each other and argued with each
7 other, but, beyond that, I wasn't really paying
8 attention to the conversation.

9 (Exhibit 116 was marked for identification by
10 counsel.)

11 BY MS. TONEY:

12 Q. Uh-huh. Okay. Let's look at our next
13 exhibit. This will be 116, and it's going to be the
14 Model UN constitution.

15 Just let me know when you see it pop up there.

16 A. I'm sorry, ma'am, 116?

17 Q. Yes.

18 A. I see it.

19 Q. Great. Can you identify this document for the
20 record.

21 A. The Model United Nations Security Counsel,
22 MUNSC, club constitution.

23 Q. Have you ever seen this document before?

24 A. If I have, I have no memory of it.

25 Q. Do you remember whether you reviewed it before

1 you agreed to be the faculty advisor?

2 A. I don't remember that.

3 Q. Would you typically review a club's
4 constitution before agreeing to be the faculty advisor?

5 A. If I did read it over, it was more of a skim
6 than a careful reading.

7 Q. Okay. Looking at the constitution now, do you
8 see where it says, club logistics?

9 A. Yes.

10 Q. It says, members are, quote, required to take
11 the country's stance on the particular topic discussed,
12 regardless whether they agree with their represented
13 country's perspectives or not, unquote.

14 Do you read that as a requirement for members?

15 MS. LEVINE: Document speaks for itself. Calls for
16 speculation. Lacks foundation.

17 THE WITNESS: Yes. I see the text, all
18 participating members, at the beginning of that
19 paragraph.

20 BY MS. TONEY:

21 Q. Were you aware that this club had that
22 requirement of its members, that sometimes they have to
23 adopt perspectives they disagree with?

24 A. Yes. I'm only sort of tangentially familiar
25 with what the Model UN does, but I believe that's sort

1 of the main premise, that everyone's assigned a country
2 and is therefore responsible for the country's interests
3 in terms of negotiations or some sort of a simulated
4 crisis.

5 Q. Sure. So, does it help further the purpose of
6 the club that students are assigned these positions?

7 MS. LEVINE: Calls for speculation.

8 THE WITNESS: Potentially, yes.

9 BY MS. TONEY:

10 Q. At the bottom of the first page, if you scroll
11 down for me, it says, members who infract P5 list rules,
12 quote, will be punished, unquote.

13 Do you have any idea what that means?

14 A. If a member opts out of the P5 list. Oh, I'm
15 sorry, I'm looking for the text that you are directing
16 me toward. It's in the last paragraph?

17 Q. The bottom line. Yeah, it's italicized. It
18 says, they will still be punished if they infract on the
19 P5 list rules.

20 A. Infract on the -- I'm not familiar with the P5
21 list rules.

22 Q. But, so, this is saying that students can be
23 punished for breaking the club's rules?

24 MS. LEVINE: Calls for speculation. Lacks
25 foundation. Document speaks for itself.

1 THE WITNESS: Well, the sentence also says, members
2 may also opt out of the list if they so desire, so, I
3 don't know if I can definitively answer, being
4 unfamiliar with the P5 rules.

5 BY MS. TONEY:

6 Q. Sure. Okay. Have you ever had a student
7 disrupt a Model UN session?

8 MS. LEVINE: It's vague.

9 THE WITNESS: I don't recall anything that I would
10 consider to be disruptive.

11 BY MS. TONEY:

12 Q. What would you consider to be disruptive?

13 MS. LEVINE: Vague. Overbroad.

14 THE WITNESS: Anything that, a behavior that
15 prevented the group from continuing its activities.

16 BY MS. TONEY:

17 Q. Okay, so, maybe a behavior that distracted or
18 intimidated the group as it was trying to meet?

19 MS. LEVINE: Misstates --

20 THE WITNESS: No --

21 MS. LEVINE: -- the testimony.

22 THE WITNESS: -- I wouldn't say distracted or
23 intimidated were implied in my answers.

24 BY MS. TONEY:

25 Q. Looking at the page 7641 of the constitution,

1 so, this is the third page of Exhibit 116.

2 A. Yes.

3 Q. Where it says, disruption to debates.

4 A. Yes, I see that text.

5 Q. Could you read that first sentence for me.

6 A. Disruptions to debates are classified as any
7 action that hinders, halts, slows down, or other
8 unnecessarily makes a debate session difficult to
9 progress or conduct.

10 Q. Would you consider that an accurate definition
11 of a disruption?

12 MS. LEVINE: Vague, overbroad, speculative,
13 incomplete hypothetical.

14 THE WITNESS: Well, I would consider it to be an
15 accurate reflection of the students' who wrote this
16 definition of disruption, because that's the words that
17 they used.

18 BY MS. TONEY:

19 Q. How would you define disruption differently,
20 if at all?

21 MS. LEVINE: Asked and answered. Vague.
22 Overbroad. Incomplete hypothetical.

23 THE WITNESS: I'm not sure I have any other insight
24 to give, other than the answer I've already given.

25 (Exhibit 117 was marked for identification by

1 counsel.)

2 BY MS. TONEY:

3 Q. Okay, let's do our next exhibit, which is
4 about Big Brother Little Brother. This will be another
5 club constitution.

6 And, real quick, on this Model UN
7 constitution, did Principal Espiritu or anyone else at
8 Pioneer ever review this constitution?

9 MS. LEVINE: Calls for speculation.

10 THE WITNESS: I don't have personal knowledge of
11 that answer.

12 BY MS. TONEY:

13 Q. Did they ever ask you about it?

14 A. No.

15 Q. Now that you know that the club has these
16 rules about disruptions, and membership, and being
17 assigned a position you don't agree with, would you
18 still be comfortable being the faculty advisor if they
19 ask you again this year?

20 MS. LEVINE: Calls for speculation. Lacks
21 foundation.

22 THE WITNESS: May I, please, refer back to the
23 document.

24 BY MS. TONEY:

25 Q. Yes.

1 MS. LEVINE: If you're going to ask him about the
2 entire policies, he should read the entire document.

3 BY MS. TONEY:

4 Q. I'm just asking about the things we discussed.
5 Based on our --

6 A. I'm not --

7 Q. -- would you still be comfortable being the
8 faculty advisor? Yes or no.

9 A. Based on the definition of disruption?

10 Q. Based on the discussion that you and I have
11 had about the club's constitution, are you still
12 comfortable being the faculty advisor?

13 MS. LEVINE: Vague, overbroad, calls for
14 speculation.

15 THE WITNESS: I perhaps might need more time to
16 think if I'm missing something, but, as of right now, I
17 don't see anything that would preclude my further
18 involvement, based on only what we've talked about from
19 this document.

20 BY MS. TONEY:

21 Q. Sure, okay. And, a similar question about the
22 Harry Potter club, after our discussion about the
23 positive fandom pledge, and the different membership
24 requirements there, would you still be comfortable being
25 the faculty advisor for that club?

1 MS. LEVINE: Vague. Overbroad.

2 THE WITNESS: Same answer as the one that I gave
3 for the Model United Nations Club.

4 MS. TONEY: Could the court reporter repeat back
5 that answer.

6 (The requested portion was read:

7 A. I perhaps might need more time
8 to think if I'm missing something,
9 but, as of right now, I don't see
10 anything that would preclude my
11 further involvement, based on only
12 what we've talked about from this
13 document.)

14 BY MS. TONEY:

15 Q. So, is that your same answer that you would
16 give for the Harry Potter club?

17 A. Yes.

18 Q. Great, thank you. Moving on to Exhibit 117,
19 it should be up in your Exhibit Share. This is the Big
20 Brother Little Brother Code, and just let me know when
21 you see it up.

22 A. I see it.

23 Q. Can you identify this document.

24 A. It says the Big Brother Little Brother Code.

25 Q. Have you seen this document before?

1 A. I have no recollection of it, although that --

2 I don't have any recollection of it, no.

3 Q. Okay. Do you see where it's listed in article
4 3 that meetings are in Mr. Glasser's room?

5 A. Yes.

6 Q. And would you confirm that this club did
7 actually meet in your room?

8 A. I mean, certainly, if they asked me to be the
9 advisor, then they most likely had at least one meeting
10 in my rooms --

11 Q. Did they ask --

12 A. -- but I don't --

13 Q. Did they ask you to be --

14 MS. LEVINE: I'm not sure that the witness finished
15 his answer.

16 BY MS. TONEY:

17 Q. I'm sorry. Go ahead, Mr. Glasser.

18 A. I'm sorry, could you please repeat the
19 question to which you want me to respond.

20 MS. LEVINE: Maybe the court reporter can read back
21 the last one, because I think he was interrupted in his
22 response.

23 (The requested portion was read.)

24 THE WITNESS: Ms. Toney, could I please ask you to
25 ask the next question that you'd like me to respond to.

1 BY MS. TONEY:

2 Q. Yes. Did this group ask you to be the faculty
3 advisor?

4 A. They must have, if, if my name is in the
5 meeting site, but I don't recall that specific
6 conversation, nor do I recall any of the actual
7 officers.

8 Q. Did you say yes to their request?

9 A. I must have.

10 Q. Do you know whether this group was approved by
11 the ASB?

12 A. I don't have knowledge of that.

13 Q. You said earlier when we were talking about
14 the Harry Potter club that all groups were required to
15 seek ASB approval; is that right?

16 MS. LEVINE: Calls for a legal conclusion. Calls
17 for speculation.

18 THE WITNESS: Currently, yes. I don't have
19 personal knowledge as to when that requirement was
20 instituted, and I don't recall when the Big Brother
21 Little Brother club was formed, or for how long it
22 lasted.

23 BY MS. TONEY:

24 Q. Okay. Was the requirement to seek ASB
25 approval more of a recent requirement, then?

1 A. I know from a faculty advisor point of view,
2 there has been a lot, there have been a lot more forms
3 to fill out within the last five to seven years, but,
4 beyond that, it's sort of beyond the scope of my
5 personal involvement.

6 Q. What's the purpose of this club?

7 MS. LEVINE: Calls for speculation.

8 THE WITNESS: The Big Brother Little Brother? I
9 can only read what's on the document.

10 BY MS. TONEY:

11 Q. Sure, go ahead.

12 A. To seek out students who are struggling
13 academically and socially and help them succeed and/or
14 feel comfortable at Pioneer. In addition, this club
15 would help to provide community service hours to club
16 members who take part in the tutoring program.

17 Q. Would you say that's a school-appropriate
18 purpose?

19 A. Yes.

20 Q. Where did the idea for this originate?

21 MS. LEVINE: Calls for speculation. Lacks
22 foundation.

23 THE WITNESS: Certainly, from a student. It's not
24 unusual for students to ask me to be the faculty advisor
25 for a club, simply because they know I'm in my classroom

1 A. Yes. There are similarities and overlap.

2 Q. How? How do inclusiveness and enfranchisement
3 overlap?

4 A. To be included can mean to be physically
5 included, but also to be included in the sense that
6 someone feels enfranchised to give opinions, and
7 participate fully, and to, therefore, grow in their
8 experience.

9 Q. Okay. And it seems like gender is a topic
10 that you're passionate about, and you've had some
11 influence on on Pioneer's campus for quite a while, so,
12 let's talk a little bit about that.

13 Could you give me some examples of the ways
14 that you've engaged with issues of gender equality,
15 gender identity, during your time at Pioneer.

16 MS. LEVINE: Vague. Overbroad. Calls for a
17 narrative.

18 THE WITNESS: I have participated in classroom and
19 campus discussions involving issues such as, activities
20 such as powder puff football, Sadie Hopkins dance, and
21 the representation of violence against women in our
22 student news broadcast.

23 BY MS. TONEY:

24 Q. What was your involvement with powder puff?

25 A. It was abandoned long ago, and perhaps a few

1 years ago students were talking about their desire to
2 perhaps bring the activity back, and so I shared my
3 opinion that I wasn't in favor of that, during class
4 conversations.

5 Q. Why weren't you in favor of it?

6 A. Because, for two reasons. Number 1, it
7 presupposes that the only athletic involvement that
8 girls have the opportunity to have is by pretending to
9 role-play boys, whereas there are plenty of legitimate
10 academ-, athletic roles that girls can and should take
11 advantage of, and, second, when the boys dressed up in
12 cheerleading outfits, it inevitably degenerates into the
13 boys exhibiting insulting gay stereotypical behavior.

14 Q. Wow, and so you shared these views during a
15 classroom discussion?

16 A. Yes. Probably, more than one.

17 Q. Do you think your views had an influence on
18 the conversation on campus about powder puff?

19 A. I don't know. Certainly, there's an overlap
20 between my student population and the population of the
21 leadership class that would have made the decision
22 whether or not to have this activity, so it's possible
23 that the conversation in my class made some leadership
24 kids less enthusiastic about the idea, and it's possible
25 that they disagreed with me, and it made some leadership

1 kids more resolute in wanting to bring the activity
2 back. There's no way for me to know.

3 Q. Sure. What about the response within your
4 classroom, specifically? What kind of influence do you
5 think your opinions had on the students that were in
6 your classroom?

7 MS. LEVINE: Calls for speculation. Go ahead.

8 THE WITNESS: Students are pretty used to me
9 processing out loud, and I would speculate that it runs
10 the gamut. I would speculate that for some students, my
11 opinion holds a lot of sway, and for other students,
12 they couldn't care less what Glasser thinks. And that's
13 the way I like it.

14 BY MS. TONEY:

15 Q. You mentioned the Sadie Hawkins dance. Could
16 you describe your involvement with that.

17 A. Yes. I recall a conversation in the 2017-2018
18 school year that we had. I was arguing that it should
19 be abandoned, and other students felt that it should be
20 kept, and I remember the students were so passionate
21 about having a conversation that I ended up abandoning
22 the document that I was going to analyze with them,
23 because I felt that it was a conversation that was
24 reflective of relevant and important themes in American
25 history, and allowed them an opportunity to practice

1 their critical thinking and expression skills, and so we
2 had a class conversation about it.

3 Q. Instead of talking about your historical topic
4 that day, you talked about the Sadie Hawkins Dance.

5 A. Yes. We had a chance to do most of my lesson
6 plan that day, but, rather than adding one more document
7 to the pile that would probably bore them and tire them,
8 yes, I allowed that conversation to continue.

9 Q. Sounds like a great class, to me.
10 Were there any other gender related activities
11 that you were involved in conversations around? You
12 mentioned the violence against women discussion. Could
13 you elaborate about that.

14 A. Yes. On our campus, there is a class, or, a
15 class that creates the weekly news broadcast to inform
16 students about activities going on on campus. And, of
17 course, they try to hold their peers' attention, so they
18 act things out and make skits, and one of the skits
19 simulated a boy punching a girl in the face, to make her
20 aware, I think, was the point. Hey, you should be aware
21 of what's going on. Don't miss this activity.

22 That was the context. And we are given five
23 extra minutes in our class period during period four to
24 show this newscast. I usually do it at the end.

25 So, I began showing this newscast, and, when

1 it got to the scene of the boy punching the girl in the
2 face, I stopped the film, and I said, I'm not
3 comfortable with joking around about violence against
4 women. Please, instead of watching the rest of the
5 news, I'm not going to show it. Please, push together
6 with your teams and discuss the extent to which Glasser
7 is overreacting.

8 And, that's how we finished the class.

9 Q. Where did the discussion lead?

10 A. Until the bell. I, we never had a full class
11 discussion. The students were instead instructed to
12 push together with their small teams.

13 Q. Sure, okay. Well, let's look at our next
14 exhibit. This is going to be number 118, I believe.

15 (Exhibit 118 was marked for identification by
16 counsel.)

17 BY MS. TONEY:

18 Q. It should be loaded in your Exhibit Share.
19 It's a training on Embracing the Gender Spectrum.

20 A. Yes, I see the article.

21 Q. Can you identify the article. For the record,
22 it's Exhibit 118.

23 A. It's an article called Embracing the Gender
24 Spectrum.

25 Q. And is this an article that you give to your

1 students?

2 A. I believe it's an article that I posted in my
3 dropbox, but I've never shared it with any students.
4 For some context, I literally have hundreds of articles
5 on, I finally had to force myself to stop finding new
6 articles, because it became sort of a, a time consuming,
7 obsession, but, of the articles posted in my dropbox,
8 only a small portion, a small percentage are actually
9 used in class.

10 Sometimes, there are, occasionally, articles
11 that I will direct one student to, if that student has
12 shown an interest in a topic outside of class.

13 Q. Did you ever --

14 A. But I have no --

15 Q. Sorry, didn't mean to interrupt.

16 A. No, my fault. That's quite all right, ma'am.
17 Go ahead, please.

18 Q. Did you ever give this article to any
19 students?

20 A. No.

21 Q. But you did post it on your dropbox?

22 A. Yes.

23 Q. Okay. How do you view your responsibility as
24 a teacher to be sensitive to gender norms and
25 stereotypes?

1 A. I'm sorry, I don't understand the question.

2 Q. Do you think it's important for you, as a
3 teacher, to be sensitive to gender stereotypes?

4 A. Yes.

5 Q. Such as violence against women, an example
6 that you mentioned?

7 A. Well, that's not really a stereotype.

8 MS. LEVINE: It's vague.

9 BY MS. TONEY:

10 Q. Okay, but you do think it's important to be
11 sensitive to gender stereotypes, as a teacher?

12 A. Yes.

13 Q. Why is that important?

14 A. Stereotypes create a narrow definition, an
15 artificially narrow definition of one's full potential
16 as a human being, and it damages students, because they
17 will either be limited in what they try to do, or
18 achieve in doing, based on either external expectations
19 of them, or, sometimes, even internal expectations.
20 They start to internalize these messages, if the
21 messages are frequent enough.

22 Q. And does that potentially harm the student's
23 sense of identity?

24 A. Yes, potentially.

25 Q. How so?

1 A. If a student gets a message from their
2 community that who they are is not admirable, or, if
3 it's dishonorable, then that student will be less likely
4 to embrace their, their identity, and grow in terms of a
5 sense of self-worth, and, therefore, potential in
6 school.

7 Q. So, it's a big impact.

8 A. Yes.

9 (Exhibit 119 was marked for identification by
10 counsel.)

11 BY MS. TONEY:

12 Q. Okay, our next exhibit, this is going to be an
13 e-mail about, it was from September 2018, and I believe
14 it will be Exhibit 119.

15 Just let me know when you see it pop up there.

16 A. Yes, ma'am. Yes, I see it.

17 Q. Great. Can you identify this document for the
18 record.

19 A. I'll need a moment to read it over.

20 Q. Sure.

21 A. This is an e-mail chain between me and Jenny
22 Kim.

23 Q. Who is Jenny Kim?

24 A. Jenny was the chair of the special ed
25 department. She's no longer employed at Pioneer.

1 Q. Okay. So, looking down at your e-mail, at the
2 bottom of page 3604, do you see that?

3 A. Yes.

4 Q. Where you say you're grateful to Danni, Lily,
5 and Chanel for their talk this morning, is that in
6 reference to a presentation at a faculty meeting?

7 A. Yes.

8 Q. What was the presentation about?

9 A. It was a brief presentation on a few quick
10 ideas that teachers could do to make LGBTQ students more
11 comfortable in class.

12 Q. Okay. And what were some of the ideas?

13 A. One idea I recall Danni talking about is to,
14 when you're having students fill out informational forms
15 at the beginning of the year, to add the question, what
16 are your preferred pronouns.

17 Q. Is that a question that you added to your
18 students' forms?

19 A. I don't have a kind of, that, I don't have a
20 comparable form that I have my students fill out.

21 Q. Okay. Did you have any ideas that you
22 contributed to the conversation about how to support
23 LGBTQ students?

24 A. Well, not during the faculty meeting. It
25 wasn't my presentation. But I recall that, that at the

1 end of this talk, at the faculty meeting, we were, we
2 were asked to fill out an exit ticket, and that's
3 education-speak, and, basically, it's a slip of paper
4 that you have students hand to you on their way out the
5 door. It's their exit ticket, because that's what gets
6 them out the door, and it could be a variety of
7 different questions. I use it in class for check for
8 understanding, or something like that.

9 So, our exit ticket as a faculty exiting this
10 class was, we had to jot down one idea that we could
11 potentially use in our classroom to make LGBTQ students
12 more comfortable.

13 Q. And what was your idea?

14 A. I'd need to reread the --

15 Q. Sure. Take your time.

16 A. -- e-mail. To answer your question, I don't
17 recall the idea that I wrote down on my exit ticket.

18 Q. What did you share in your e-mail, just to
19 summarize?

20 MS. LEVINE: Document speaks for itself.

21 THE WITNESS: What I shared --

22 MS. LEVINE: Go ahead.

23 THE WITNESS: I shared in my e-mail that I was
24 grateful for the conversation, and that I wanted to add
25 my voice in discouraging teachers from creating, you

1 know, groups of boys and groups of girls when, because
2 breaking up students into different teams is
3 commonplace, and I wanted to discourage teachers from
4 breaking up students on the basis of being a boy or a
5 girl, and I also further encouraged teachers to refrain
6 from planning activities that separated boys and girls
7 into two categories.

8 BY MS. TONEY:

9 Q. Okay. Would sports teams be an example of an
10 activity that often separates boys and girls into two
11 categories?

12 A. That often, yes, that often happens in sports.

13 Q. And so is that a type of activity that you
14 would find problematic?

15 A. Being that I've never coached at a high school
16 level, I don't know if that's problematic.

17 Q. Do you think that sports at Pioneer should
18 continue to be single gender?

19 MS. LEVINE: Asked and answered.

20 BY MS. TONEY:

21 Q. You didn't answer in your personal opinion of
22 whether you think sports at Pioneer should be single
23 gender.

24 A. Well, I don't have the context to know, for
25 example, if preventing a girl from being on the football

1 team is an extraneous safety precaution, or if we're
2 protecting a female from being physically injured. I
3 don't have the context to answer your question. I don't
4 know.

5 Q. Would there be reasons other than safety why
6 it's okay for sports to be divided by gender?

7 MS. LEVINE: Calls for speculation. Calls for a
8 legal conclusion. Incomplete hypothetical. Lacks
9 foundation.

10 THE WITNESS: There could be other conversations,
11 but, never having participated in coaching a high school
12 sport in my entire career, I'm not aware of the things
13 that I would want to consider.

14 BY MS. TONEY:

15 Q. Okay. In your original e-mail, when you say,
16 I'd like to see us adults shut down these conversations,
17 I believe it's in your last full paragraph on page 3605,
18 what did you mean by that?

19 A. If I'm remembering the timeline correctly, I
20 believe this was in direct reference to the question as
21 to whether we were going to allow Sadie Hawkins to
22 continue on campus.

23 Q. Okay. And so you wanted adults to shut down
24 that conversation to make sure that Sadie Hawkins would
25 not continue?

1 A. Correct.

2 Q. And are there any other types of conversations
3 that you think should be silenced at Pioneer?

4 MS. LEVINE: Vague, overbroad, calls for
5 speculation.

6 THE WITNESS: I feel that perhaps you misunderstood
7 my answer to the previous question. I wasn't saying
8 that conversations should be shut down. People are free
9 to share their opinions, but I was referring to,
10 specifically, with the Sadie Hawkins conversation, I was
11 referring to letting students go down the road of
12 actually planning an activity.

13 BY MS. TONEY:

14 Q. In your e-mail, you say, I'd like to see
15 adults shut down these conversations.

16 So, what do you mean by that?

17 MS. LEVINE: Asked and answered. Argumentative.

18 THE WITNESS: I don't have anything further to add
19 to my answer.

20 BY MS. TONEY:

21 Q. So, you do think it's okay for adults to shut
22 down certain conversations in a high school setting?

23 MS. LEVINE: Misstates the testimony.
24 Argumentative.

25 THE WITNESS: The opinion that I was, if this in

1 fact, as I believe I remember correctly, if this refers
2 to Sadie Hawkins, the point that I was trying to make,
3 whether I did it eloquently or intelligibly or not, is
4 that there is, there's a fine line between allowing
5 students to generate activities and come up with ideas
6 for activities, and it's valuable, but then an activity
7 such as Sadie Hawkins, it would be incumbent on the
8 adults to make it clear that the planning for this
9 activity should not continue.

10 And a certain amount of discussion is good, so
11 that students can share how they feel, but, ultimately,
12 as adults, we need to step in, because Sadie Hawkins had
13 become untenable. It had gotten to the point where it
14 was no longer a tenable presence on campus.

15 BY MS. TONEY:

16 Q. Why was that?

17 A. Sadie Hawkins forces students to identify as
18 male or female, and then, you know, when, when students
19 on the gender spectrum objected to that, the idea was to
20 create a third section to sit in, in the bleachers,
21 because part of the Sadie's activities was a rally.
22 And, essentially, the, the students on the gender
23 spectrum were forced to either isolate themselves in
24 this special third section and, effectively, out
25 themselves, and call attention to themselves in front of

1 the entire school, or they were forced to call
2 themselves male or female, when neither was their self
3 perception.

4 Q. So, it was your view that that was just
5 untenable at Pioneer?

6 A. That is my view.

7 Q. And did anyone else share your view?

8 MS. LEVINE: Speculation.

9 THE WITNESS: I -- yes.

10 BY MS. TONEY:

11 Q. Who else shared it, members of the
12 administration?

13 A. I don't have personal knowledge of that.

14 Q. What kind of responses did you get to this
15 e-mail that you sent?

16 A. I probably got, I would estimate, between five
17 and seven, somewhere in that range, responses from
18 fellow teachers thanking me for my perspective, or
19 thanking me for being part of the conversation.

20 Q. Sure. So, you think it was a pretty favorable
21 response from your fellow staff members?

22 MS. LEVINE: Misstates the testimony.

23 THE WITNESS: Pioneer has, I estimate, 80 teachers.
24 I believe we have 80 staff members. So, five to seven
25 responses, you can characterize that statistically how

1 you'd like.

2 (Exhibit 120 was marked for identification by
3 counsel.)

4 BY MS. TONEY:

5 Q. Sure. Okay. Let's look at just one more of
6 these responses. So, this will be our next exhibit, and
7 then we will take a lunch break, if that works for you
8 all. This will be Exhibit 120, I believe. This is just
9 another part of the same conversation.

10 Just let me know when you see Exhibit 120
11 there. Oh, while we're waiting, actually, one more
12 question about Sadie Hawkins.

13 When you were mentioning the kids on the
14 gender spectrum, I definitely understand that concern,
15 and, I'm curious, did your view on Sadie Hawkins
16 originate with you, or did some students on the gender
17 spectrum come to you and express how this was making
18 them feel?

19 A. I had been disenchanted with Sadie Hawkins
20 ever since I arrived at Pioneer.

21 Q. Did any students come to you to confirm that
22 opinion?

23 A. Come to me. Certainly, in the class
24 conversations we had, some students agreed with my
25 perspective and some students disagreed. It was a

1 conversation that kind of stretched over many years on
2 campus, at times, more intensely than others, and so
3 it's quite possible that at least one student over the
4 years came to me to express concern.

5 Q. Uh-huh. So, it's possible, but you don't
6 remember a specific student from the gender spectrum
7 coming to complain to you?

8 A. I don't remember, but I would say it's likely
9 that at least one student came to complain to me over
10 the years.

11 Q. Okay. I think Exhibit 120 should be up. Just
12 let me know when you see it there. It's another e-mail
13 chain.

14 A. Okay, let me refresh my page. Yes, I see 120.

15 Q. Can you confirm that this is another response
16 to the same e-mail chain from September 2018?

17 A. Yes.

18 Q. And who is Annie Tobin?

19 A. Annie is an art teacher at school.

20 Q. Great. And it looks like she was thanking you
21 for standing up for gender equality, and, then, when you
22 respond, so, this would have been Friday, September 14,
23 2018, do you see that response, starting with, you are
24 so right, Annie?

25 A. Yes, I do.

1 Q. Okay. If you don't mind just reading that
2 response to yourself, and let me know when you're done.

3 A. Thank you. I've finished.

4 Q. When you said that you have such privilege in
5 being able to articulate these ideas, if I choose, what
6 did you mean by, privilege?

7 A. Being a member of the dominant population.
8 I'm straight, I'm white, I'm male, I'm cisgendered.
9 There's less risk for me speaking out than there is for
10 somebody who is a member of a nondominant population.

11 Q. So, a woman, for example?

12 A. Yes. I tell my students that biological
13 females are certainly, I would consider, a nondominant
14 population in American history, because, traditionally,
15 they have not been at the top of the power structure.

16 Q. And are there any groups that maybe
17 traditionally have had more power, but currently are not
18 at the top of the power structure?

19 MS. LEVINE: Vague, overbroad, calls for
20 speculation, and calls for expert testimony.

21 THE WITNESS: That's certainly is a fascinating
22 topic for class conversation, and we, occasionally,
23 students will bring that up. For example, one student
24 asked, because I, we were learning history in the 1830s
25 about the Mormon discrimination that they faced, and so

1 I defined members of the LDS Church as a member of
2 nondominant populations. And, he was an LDS student.
3 He asked, would you consider LDS population in Utah a
4 dominant population now.

5 And my response to him was, I'm not sure, what
6 a great question, you know, please, continue to ponder,
7 and let me know your conclusions.

8 BY MS. TONEY:

9 Q. So, do you think that the power structure
10 could be dynamic, then, as in changing over time?

11 MS. LEVINE: Same objections.

12 THE WITNESS: I'm certainly one to think that
13 American history and culture is always static, whether
14 that's good or bad. It's always moving in some
15 direction.

16 BY MS. TONEY:

17 Q. That's what makes it interesting.

18 Do you think that part of those changes could
19 be different, depending on geographically where you are
20 in the country? For example, you mentioned Utah. An
21 LDS person might be in the majority in Utah, but they
22 might be in the minority in, say, California?

23 A. Yes. I think that's a valid point. You sound
24 like a good student in one of the debates we have about
25 Federalism versus anti-Federalism, and whom the students

1 think should be able to make choices about various
2 economic and social issues.

3 Q. Thank you. I will take that as a compliment.

4 So, are there some views, for example,
5 religious views that might be in the majority in a place
6 like Texas, but they would be in the minority in a place
7 like California?

8 MS. LEVINE: Calls for speculation. Calls for
9 expert opinion.

10 THE WITNESS: From my observation, yes. People in
11 Texas often believe different things than people in
12 California. However, it's important not to stereotype
13 views based on particular political distinctions, like a
14 state. In fact, a map I show my students, I try to help
15 them understand there might not be such thing as a red
16 state or a blue state, so, let's zoom in and look at red
17 and blue counties, or red and blue neighborhoods, or
18 whatever. So to the extent that your question isn't
19 being overly generalized, yes, I would agree with that
20 statement.

21 BY MS. TONEY:

22 Q. Well, to get specific, Charlotte Clark was a
23 student in one of your classes, correct?

24 A. Correct.

25 Q. And she identifies as an evangelical

1 Christian; is that correct?

2 MS. LEVINE: Calls for speculation.

3 THE WITNESS: Correct.

4 BY MS. TONEY:

5 Q. And she was an officer of FCA?

6 A. Correct.

7 Q. And she has religious beliefs about marriage
8 and sexuality?

9 MS. LEVINE: Calls for speculation.

10 THE WITNESS: I assume she has those beliefs. I am
11 familiar with her beliefs about sexuality. I don't
12 believe I'm familiar with her beliefs about marriage.

13 BY MS. TONEY:

14 Q. Do you think that based on everything we
15 talked about, do you know how sometimes religious groups
16 in certain regions can feel like more of a minority, do
17 you think that Charlotte would qualify as a member of a
18 group that was not at the top of the current power
19 structure at Pioneer High School?

20 MS. LEVINE: Calls for speculation. Vague,
21 overbroad. Calls for an opinion.

22 THE WITNESS: There are many different factors to
23 consider when answering that question. It's a huge
24 question. One factor would be that Christians on our
25 campus have been praying together, evangelizing

1 together, having lunch together, planning speakers and
2 community service projects together. For at least as
3 long as I've been at Pioneer, we've had a Christian
4 club. I believe they call themselves Pioneer for Christ
5 now.

6 But, on the other hand, just speculating, I
7 would say that Charlotte's views and the FCA's views
8 about gender would fall in the minority. So, I don't
9 know if I can conclude so quickly about the FCA's or
10 Charlotte's place on the power structure. I think it's
11 a legitimate debate, but I can't make conclusions.

12 BY MS. TONEY:

13 Q. Because it's such an important question, as
14 you acknowledged, given your role of authority as a
15 teacher, does that make it particularly important for
16 you to be sensitive to the needs of a student like
17 Charlotte?

18 MS. LEVINE: Vague, overbroad. Calls for
19 speculation.

20 THE WITNESS: Could you please specify what needs
21 you are talking about.

22 BY MS. TONEY:

23 Q. Needs for her to feel enfranchised and safe
24 and included in conversations in your classroom.

25 A. Certainly. Charlotte's safety and

1 enfranchisement needs to be valued equally with all
2 other students.

3 Q. And how did you protect her safety and
4 enfranchisement when she was a student in your class?

5 MS. LEVINE: Vague. Overbroad. Argumentative.

6 THE WITNESS: When, or in what context?

7 BY MS. TONEY:

8 Q. In relation to the white board display that
9 you posted in April, and the events following that.

10 MS. LEVINE: Vague. Overbroad. Compound. Calls
11 for a narrative. What events?

12 BY MS. TONEY:

13 Q. On April 23, when you posted beliefs about FCA
14 on your white board, and Charlotte was in that class,
15 what did you do in that scenario to ensure that she felt
16 safe and enfranchised?

17 MS. LEVINE: Same objections.

18 THE WITNESS: I'm sorry, Amy, I didn't hear what
19 you said.

20 MS. LEVINE: I just said, same objections.

21 THE WITNESS: I can think of three examples right
22 away. The first is, when the posting had been up on the
23 white board through periods 1 and 2 that morning,
24 Charlotte came in between periods 2 and 3 to inform me
25 that she was a co-president of the FCA, and that I had

1 mistakenly written that the pledge was required of
2 members, and, in fact, it was only required of leaders.

3 And so I tried to be very gracious. I said,
4 oh, I'm so sorry, I'll go change it right now.

5 And, you know, while she was there, I stood up
6 from my desk, and I went over to the board, and I
7 changed the verbiage.

8 The second example I can think of offhand is
9 the following morning, when Charlotte and Elizabeth came
10 in to discuss, and, at the end of the meeting, I said to
11 them, where do we go from here, because I wanted their
12 feedback.

13 And they suggested, their idea was that they
14 wanted me to include Kristen Borup, who is the faculty
15 advisor for the FCA, in any communications with them,
16 and so I immediately agreed, and I honored that
17 agreement by always copying Kristen Borup on any future
18 communication.

19 And then I said to them, completely
20 unsolicitedly, would you like me to take the posting
21 down.

22 And Charlotte said, yes, and so I did.

23 BY MS. TONEY:

24 Q. When did you take it down?

25 A. About five minutes into period 1, on

1 Wednesday, April 24.

2 I'm not finished with my other answer,
3 however.

4 Q. Okay, continue. Sorry for interrupting.

5 A. The third example was, because I had had a few
6 conversations, Charlotte and Elizabeth came in
7 periodically to discuss, but we, of course, discussed
8 ideas and philosophies, not emotions, not how they were
9 feeling, and, on May 9, Charlotte said to me, Mr.
10 Glasser, you said that you've acted out of the safety of
11 the students. Well, now, I feel unsafe.

12 And that was the first time that Charlotte had
13 used those words, or referenced the emotions that she
14 was feeling, as opposed to a student and a teacher
15 debating and discussing philosophies and ideas, and I
16 immediately reacted to that. Before school began, the
17 next morning, I sent an e-mail and pulled my letter to
18 the editor that I had written and submitted to the
19 school paper, because I felt, rightly or wrongly, that
20 the attention that was being focused on her could
21 perhaps be impeding her, impeding her level of
22 enfranchisement, and so I pulled the letter.

23 Q. Okay. Anything else you'd like to share about
24 that? We will get into more detail about these events
25 after the break, so, this isn't your only opportunity.

1 A. You asked a question, so I gave you three
2 examples, and I'm satisfied with that answer thus far.

3 Q. Okay. So, just to make sure I understand, is
4 it your testimony that the primary reason why you pulled
5 your letter to the editor was because Charlotte
6 expressed to you that she felt unsafe?

7 A. That is the primary reason, yes.

8 Q. Okay. All right. Let's take a lunch break
9 for 30 minutes. Does that sound good to everyone?

10 A. Yes.

11 MS. TONEY: Great. We'll see you back 3:50 my
12 time, 12:50 Pacific time. Court reporter, we are off
13 the record.

14 (Luncheon Recess: 12:21 p.m.)

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

(12:57 p.m.)

PETER GLASSER,

having previously stated to tell the truth under penalty
of perjury, was examined and testified further as
follows:

EXAMINATION (Cont'd)

BY MS. TONEY:

Q. I think we're ready to go back on the record.

Mr. Glasser, are you ready to dive back in?

A. Yes, ma'am.

Q. So, let's talk about e-mail; everyone's
favorite topic.

A. And, I'm so sorry, before you jump into other
topics, I was thinking at lunch, and I'd like to clarify
something. When we were discussing the climate
committee, I used the word, resolution, and, in
hindsight, I'm uncomfortable that I used that word,
because there wasn't anything formal or voted on that I
remember specifically.

Q. Did you talk with your counsel about that over
lunch?

*MO A. Yes.

1 MS. LEVINE: Calls for attorney-client privilege.

2 Don't answer. I'm going to move to strike.

3 BY MS. TONEY:

4 Q. Do you have any personal e-mail accounts, Mr.
5 Glasser?

6 A. Yes.

7 Q. And you have a work e-mail account, I'm
8 assuming?

9 A. Yes.

10 Q. Do you ever use your personal e-mail account
11 for work?

12 A. Yes.

13 Q. And over lunch, when you were thinking over
14 these topics, did anything besides talking with your
15 attorney help to refresh your recollection?

16 MS. LEVINE: Can you rephrase that so it doesn't
17 assume the content of the attorney-client privileged
18 communication.

19 BY MS. TONEY:

20 Q. Did anything refresh your recollection over
21 lunch?

22 MS. LEVINE: And other than talking with his
23 counsel.

24 THE WITNESS: No.

25 BY MS. TONEY:

1 Q. So, you mentioned you have personal e-mail
2 accounts as well as work e-mail accounts.

3 Do you ever use your personal e-mail for work
4 related matters?

5 A. Yes.

6 Q. And why is that?

7 A. I originally started doing that because I
8 found that my work e-mail was blocking parent e-mails,
9 primarily, and so I started telling my students and
10 parents to use peterglasser@yahoo.com.

11 Q. And how long, roughly, have you been doing
12 that?

13 A. 15 years, 13, 15 years.

14 Q. And, have you received e-mails from
15 Superintendent Albarran from a nonschool e-mail account?

16 A. Her e-mail account?

17 Q. Yours.

18 A. No.

19 Q. Sorry. So, has Superintendent Albarran sent
20 e-mails to your personal account?

21 A. No.

22 Q. Has Chanel Sulc sent e-mails to your personal
23 account?

24 A. No.

25 Q. What about Danni McConnell?

1 A. No.

2 Q. Steven McMahon?

3 A. No.

4 Q. Patrick Bernhardt?

5 A. I don't believe so.

6 Q. Dane Caldwell-Holden?

7 A. No.

8 Q. Mr. Espiritu?

9 A. No.

10 Q. Michelle Bowman?

11 A. No.

12 Q. Jason Goldman-Hall?

13 A. No.

14 Q. Kristen Borup?

15 A. Jason Goldman-Hall, perhaps, but it would have
16 come from his school e-mail.

17 Q. And what would he have e-mailed you about on
18 your personal e-mail?

19 A. I don't recall. I just want to be thorough.

20 Q. Sure, I appreciate that.

21 What about from students? When you
22 communicate with students, you mentioned that you tell
23 them to use your personal e-mail?

24 A. Yes.

25 Q. And do they typically follow that instruction?

1 A. More often than not.

2 Q. So, did you ever e-mail with, with any
3 students about FCA, from your personal e-mail?

4 A. Yes.

5 Q. Did you e-mail with Charlotte Klarke?

6 A. Yes.

7 Q. With Elizabeth Sinclair?

8 A. No.

9 Q. Did you e-mail with Blayke Alexanian?

10 A. Yes.

11 Q. Ryan Dunker.

12 A. Potentially.

13 Q. Nicole Le.

14 A. Potentially.

15 Q. Megan Hertzell?

16 A. No.

17 Q. And did you give those e-mails to your
18 attorney during the discovery process?

19 A. Yes.

20 Q. Have you communicated about FCA or the FCA
21 situation via text with anyone?

22 A. Anyone from San Jose Unified?

23 Q. Yes.

24 A. No.

25 Q. So, you haven't texted with Principal Espiritu

1 about FCA?

2 A. The only time I can recall was I received one
3 particular e-mail from Ryan Dunker and Nicole Le on
4 October 17 or 18, and that was after the time when I
5 removed myself from all things FCA on campus. So, it
6 was on a Friday night, I remember, and I e-mailed the, I
7 forwarded that e-mail from the students to Herb, and
8 then I texted him to alert him that I had forwarded him
9 an e-mail that I would like for him to now take charge
10 of, because I was removing myself from the situation.

11 To best of my recollection, that's the only
12 time I texted Herb about anything related to this
13 matter.

14 Q. And did you give that e-mail to your counsel
15 during discovery?

16 A. Yes.

17 Q. And did you text with Steven McMahon about
18 FCA?

19 A. No.

20 Q. With Jen Thomas?

21 A. Yes.

22 Q. And what would you have texted her about?

23 A. Perhaps, a time, setting up a time for us to
24 talk. And I remember I exchanged a text with her after
25 Judge Koh's ruling in January, asking her to call me so

1 that I could further understand the content of the
2 ruling.

3 Q. Right, you had mentioned that. Okay.

4 And did you have any texts with Jason
5 Goldman-Hall about FCA?

6 A. I don't believe so.

7 Q. Or with Chanel Sulc?

8 A. No.

9 Q. Do you ever text with students?

10 A. No.

11 Q. Probably a wise policy. Okay, great. Well,
12 enough of those questions. Let's talk about GSA for a
13 minute.

14 I noticed that GSA day of silence is something
15 that is often important at high schools, and, you know,
16 particularly at Pioneer, so, I was just curious, is that
17 something that's observed at Pioneer, and could you tell
18 me a little bit about it.

19 A. It was observed maybe two or three times in
20 the early 2000s, during my time as an advisor.

21 Q. Uh-huh.

22 A. I don't recall it being observed since, or, if
23 it has been, I haven't been involved, and I don't have
24 knowledge of it.

25 Q. Okay. How long were you the advisor of GSA at

1 Pioneer?

2 A. Roughly, six years. I believe I started --

3 Q. Okay.

4 A. Please, continue, counsel.

5 Q. Sure. When did you start?

6 A. 2002.

7 Q. And what motivated you to help found the
8 chapter?

9 A. The founding of the chapter was a joint idea
10 between me and a motivated student, or a couple of
11 students, and our motivation was to create a voice for
12 LGBTQ students. Back in that time, there wasn't much of
13 one.

14 Q. So, did those students come to you and ask you
15 to be their advisor and help get the chapter started?

16 A. I believe so, to the best of my recollection.

17 Q. And why was, you mentioned that LGBT students
18 didn't have much of a voice at that time.

19 Why would you say that?

20 MS. LEVINE: Misstates the testimony.

21 THE WITNESS: This was a time when not a lot of
22 people knew anybody who was out, and so there was a lot
23 of misunderstandings about what it meant to be gay, and
24 not a lot of opportunities to, for students to share
25 their own experiences.

1 BY MS. TONEY:

2 Q. Okay. And was it difficult to get the GSA
3 founded back in 2002?

4 A. No. My principal at that time was supportive.

5 Q. But GSA's were pretty rare on high school
6 campuses at that time?

7 MS. LEVINE: Calls for speculation.

8 THE WITNESS: I believe that to be true, but I have
9 no direct personal knowledge.

10 BY MS. TONEY:

11 Q. And why was founding GSA so important to you?

12 A. I believe I -- I don't know if I have anything
13 to add to my prior answer to that question.

14 Q. Sure. Did anyone push back or complain about
15 your efforts to found the GSA chapter back in 2002?

16 A. Not to my knowledge.

17 Q. Did you have any trouble finding student
18 leaders for the club?

19 A. No. I think the handful of students who came
20 to the club then went through a process to choose their
21 leaders.

22 Q. And you said, a handful.

23 Has the club grown since then?

24 A. Since roughly 2008, I've had no contact with
25 the GSA, so I can't speak to their size at the moment.

1 Q. Have you talked to any students from the GSA
2 since 2008?

3 A. I'm sure I've talked to students.

4 MS. LEVINE: Calls for speculation. Go ahead.

5 THE WITNESS: I've talked to students who are in
6 the GSA, but never specifically about the size of the
7 group.

8 (Exhibit 121 was marked for identification by
9 counsel.)

10 BY MS. TONEY:

11 Q. Okay. Let's look at our next exhibit. This
12 should be Exhibit 121. This is an e-mail chain, so,
13 just let me know when you see it loaded.

14 And, you mentioned that the handful of
15 students who started the GSA club had a process to
16 choose their leaders.

17 Do you remember anything about that process?

18 A. No, I don't.

19 Q. So, you don't remember whether it was a
20 democratic process?

21 A. I don't remember if it was a democratic
22 process. I know I didn't choose. I did not pick
23 leaders. It might have been that the students who
24 spearheaded founding it were then kind of annointed the
25 titles. I don't know. I don't recall.

1 Q. Okay. And in your years as the advisor to
2 GSA, were there any leaders who openly opposed same sex
3 marriage?

4 A. Not to my recollection.

5 Q. Would it have been appropriate for a student
6 who opposed same sex marriage to become a leader of the
7 GSA?

8 MS. LEVINE: Calls for speculation. Calls for a
9 legal opinion.

10 THE WITNESS: I don't see why not, being that the
11 legalization of gay marriage was in no way the only
12 stated goal or even one stated goal, that I can recall.
13 BY MS. TONEY:

14 Q. What about a student who had religious beliefs
15 regarding sexuality that were different from the beliefs
16 of the students in GSA? Would GSA have to allow a
17 religious student with beliefs that were different to be
18 a leader?

19 MS. LEVINE: Calls for speculation. Incomplete
20 hypothetical. Vague.

21 THE WITNESS: I don't know if that would have to be
22 allowed. I'm not personally familiar with the
23 guidelines that would govern that.

24 BY MS. TONEY:

25 Q. Are you familiar with the district's

1 nondiscrimination policy?

2 A. Yes.

3 Q. Is religion a protected class listed in the
4 nondiscrimination policy?

5 A. Yes.

6 Q. So, if the GSA said that students with certain
7 religious beliefs could not be leaders, would that run
8 afoul of the nondiscrimination policy?

9 MS. LEVINE: Calls for a legal conclusion. Calls
10 for speculation. Incomplete hypothetical.

11 THE WITNESS: Yes.

12 BY MS. TONEY:

13 Q. So, looking at our exhibit, Exhibit 121, do
14 you see that e-mail chain loaded?

15 A. Yes.

16 Q. Great. So, scrolling down real quick to your
17 e-mail to Pastor Lopez, in the first full paragraph, on
18 the second page, so, this page would be number 667,
19 starts with, I'm writing to you because.

20 Do you see that paragraph?

21 A. Yes, I do.

22 Q. And do you see where it says, full disclosure,
23 one of my proudest achievements at Pioneer is founding
24 Gay Straight Alliance back in 2002, when GSA's were very
25 rare on high school campuses.

1 Would you agree with that statement which you
2 wrote back in August of 2019?

3 A. Would I agree that it's one of my proudest
4 achievements?

5 Q. Yes.

6 A. Yes.

7 Q. And why do you say that?

8 A. Because I feel like having the presence of a
9 GSA on campus gives a voice to students who don't
10 typically have as much of a presence in terms of campus
11 conversations and public policy.

12 Q. Okay. And so would you say that because there
13 is an active GSA group at Pioneer, that those students
14 do have a voice and a presence now?

15 A. Well, that presupposes my knowledge of whether
16 the GSA has been unsuccessful or successful in its
17 activities and goals, and, since 2008, I wouldn't have
18 any insight into that.

19 Q. Okay. Well, we're pulling up another exhibit,
20 but, in the meantime, can you tell me why you decided to
21 step down as the GSA advisor?

22 A. Yes. My second son was born in 2008, and so I
23 was stepping away from some school responsibilities so
24 that I could spend more time with my family.

25 Q. I definitely understand that. When my

1 daughter was born, it was like gaining a whole new
2 fulltime job on top of my already fulltime job, so, that
3 makes sense.

4 And you said that was in 2008?

5 A. Correct.

6 Q. Okay. And so when you, so, you mentioned that
7 there wasn't any push back when you originally founded
8 the group in 2002, but, in the six years when you were
9 advisor, did you ever experience any resistance,
10 protests, push back from anyone in the district relating
11 to GSA?

12 A. Would you be more specific about whom you're
13 talking about in the district.

14 Q. Well, really, anyone, but, focusing on the GSA
15 club, did the GSA club, during the time that you were
16 advisor, experience any protests when you were there?

17 MS. LEVINE: Vague.

18 THE WITNESS: There certainly, protest is a
19 difficult word for me to respond to. I remember I had
20 put a sign outside my door explaining why I was
21 participating in the day of silence, so that my students
22 would know why I wasn't speaking. That was torn down.

23 I recall a traveling exhibit that went to
24 many, many different schools that was student created
25 photography regarding the LGBTQ experience, and I

1 believe there was some minor vandalism to that.

2 I can't recall anything else. It was quite a
3 long time ago.

4 BY MS. TONEY:

5 Q. Sure. And how did those incidents affect the
6 student members of GSA at the time?

7 MS. LEVINE: Calls for speculation.

8 THE WITNESS: I don't recall. It's possible that
9 they -- I don't recall.

10 BY MS. TONEY:

11 Q. Was the GSA an officially recognized ASB
12 approved club at the time that you were the advisor?

13 A. I don't know if that designation was used way
14 back then.

15 Q. Uh-huh.

16 A. I know our ASB system is different now, 20
17 years later, than it used to be, but I'm not sure how.

18 Q. So, whatever system was in place then, was GSA
19 considered a legitimate official club?

20 A. In whose eyes?

21 Q. The school.

22 A. Certainly, our -- I believe so.

23 Q. Uh-huh.

24 A. I was never told otherwise.

25 Q. Right. And you would have known, as the

1 faculty advisor, so, that make sense.

2 (Exhibit 122 was marked for identification by
3 counsel.)

4 BY MS. TONEY:

5 Q. Let's look at our next exhibit, which is
6 Exhibit, I believe, 122. This is about the day of
7 silence that you mentioned. And so you mentioned that
8 Pioneer had the day of silence a couple of times during
9 the time that you were the advisor, correct?

10 A. Yes.

11 Q. Okay. And then this exhibit talks about the
12 day of silence in 2018, so, just let me know when you
13 see it pop up as Exhibit 122.

14 A. Yes, I do see it.

15 Q. Okay, great. Can you confirm that you
16 received this e-mail at the bottom of the page?

17 A. Yes, I can confirm that.

18 Q. And it's from Chanel Sulc, correct?

19 A. Correct.

20 Q. Who is Chanel Sulc?

21 A. Chanel is an English teacher on campus.

22 Q. And is she also the GSA advisor?

23 A. Yes, I believe so.

24 Q. Was she at this time in 2018?

25 A. I don't know. I believe. It would seem to

1 make sense, based on this e-mail.

2 Q. Right. And is she still the advisor today?

3 A. Yes, I believe so.

4 Q. Is Danni McConnell also one of the advisors of
5 GSA?

6 A. Yes.

7 Q. And are there any other advisors?

8 A. I don't know.

9 Q. Is it common for a club to have more than one
10 advisor?

11 A. I don't know. I have never coadvised a club
12 with anyone.

13 Q. Do you know of any --

14 A. I don't know how often it happens.

15 Q. Do you know of any other clubs that have more
16 than one advisor?

17 A. I don't know much about other clubs, in
18 general. No, I don't know, I don't know offhand any
19 others that have coadvisors, but that certainly doesn't
20 mean much.

21 Q. Okay. Well, looking at Exhibit 122, you see
22 that e-mail from Chanel about the day of silence.

23 So, does this description sound similar to the
24 day of silence that took place when you were a faculty
25 advisor?

1 A. I don't recall us creating the cards, but our
2 activity was also staying silent to symbolize the lack
3 of voice.

4 Q. Do you remember participating in this 2018 day
5 of silence?

6 A. No. I'm quite sure I didn't.

7 Q. Meaning that you weren't silent, but you
8 supported the effort?

9 A. Exactly, meaning that I was not silent, but it
10 made me happy that the event was happening.

11 Q. And why did it make you happy?

12 A. Because I support any time students feel a
13 sense of self-worth and empowerment to play a role in
14 their community.

15 Q. Okay. Back in 2002, when you first founded
16 the GSA club, you said it was an official club.

17 Did you have the sense that GSA had an equal
18 standing, compared to other clubs also meeting at that
19 time?

20 MS. LEVINE: Vague, calls for speculation.

21 THE WITNESS: Could you please describe what you
22 mean by equal standing.

23 BY MS. TONEY:

24 Q. Were there any benefits available to other
25 clubs that GSA was not allowed to partake of?

1 A. Not to my knowledge.

2 MS. LEVINE: Vague. Calls for speculation.

3 THE WITNESS: Not to my knowledge.

4 BY MS. TONEY:

5 Q. So, for example, GSA was never denied access
6 to the yearbook?

7 A. No.

8 Q. If GSA had been denied access to the yearbook,
9 would that be equal treatment, compared to other clubs?

10 MS. LEVINE: Calls for a legal conclusion. Calls
11 for speculation. Incomplete hypothetical.

12 THE WITNESS: Equal treatment is such a vague
13 phrase. It presupposes many contextual elements.

14 BY MS. TONEY:

15 Q. If other clubs were allowed to participate in
16 the yearbook, but GSA was not, would that seem like
17 equal treatment to you, as GSA's faculty advisor?

18 MS. LEVINE: Same objections.

19 THE WITNESS: I have the same answer. I have the
20 same confusion about your question.

21 BY MS. TONEY:

22 Q. Just answer the question yes or no: Would
23 that constitute equal treatment.

24 MS. LEVINE: He has answered the question.

25 MS. TONEY: He has not.

1 MS. LEVINE: He says he can't answer the question.

2 MS. TONEY: That's not an answer.

3 BY MS. TONEY:

4 Q. Is it your testimony that you don't know?

5 A. It's my testimony that using the term, equal
6 treatment, can mean very different things in many
7 different contexts, and you're asking me a hypothetical
8 in which you're not specifying those contexts.

9 Q. Do you think it's important that students in
10 the GSA be treated equitably with other students?

11 MS. LEVINE: Vague, calls for speculation,
12 incomplete hypothetical.

13 THE WITNESS: Yes. I believe, in general terms, to
14 the extent that I understand what you're meaning by
15 equitably, yes, that is an important value for a school
16 to have.

17 BY MS. TONEY:

18 Q. So, another way to say it would be, if the GSA
19 club was disfavored, compared to other groups, if they
20 were treated like second class citizens, would that pose
21 a problem to you, as their faculty advisor?

22 A. Second class citizens, absolutely, that would
23 be a problem. I think second class citizens is a term
24 that we all might define in different ways, and I don't
25 know quite what you mean by that, but, yes.

1 Q. So, let's say all the clubs, as they currently
2 do, with ASB approval, have access to fundraising
3 opportunities, but GSA was not allowed to fundraise.

4 Would that be treating the GSA group like a
5 second class citizen?

6 MS. LEVINE: Calls for speculation. Incomplete
7 hypothetical. Calls for a legal opinion. Vague. It's
8 argumentative.

9 THE WITNESS: Presuming no justification, yes, that
10 would be unfair.

11 BY MS. TONEY:

12 Q. And would banning GSA from the yearbook, would
13 that be an example of being treated like a second class
14 citizen?

15 MS. LEVINE: Same objections.

16 THE WITNESS: Presuming there was no justification
17 for that action, yes.

18 BY MS. TONEY:

19 Q. What would be a valid justification for
20 treating a group like second class citizens?

21 MS. LEVINE: Vague, calls for speculation,
22 argumentative, calls for a legal conclusion, incomplete
23 hypothetical, calls for an opinion.

24 THE WITNESS: The, the image of a second class
25 citizen I have in my mind, there is no good reason for

1 treating someone like a second class citizen, but I'm
2 troubled, because I don't understand what you mean by
3 second class citizen, so I'm having trouble answering
4 your question.

5 BY MS. TONEY:

6 Q. Okay. Well, since we're talking about ASB
7 approved groups, real quick, before we move on, have you
8 ever been faculty advisor to any other groups than the
9 ones that we've already talked about?

10 A. Quite possibly, but, my involvement, if I'm
11 not remembering those groups, then my involvement was
12 confined to a similar situation I've already described,
13 where students really just wanted a place to gather, and
14 my classroom was a good place to do it, because I was
15 there. I perhaps might have been nominally faculty
16 advisor, I don't recall.

17 Q. Okay. And before April 2019, what was your
18 familiarity with FCA?

19 A. I had never heard of it.

20 Q. You didn't know that there was a group on
21 campus called FCA?

22 A. No.

23 Q. And how did you first become aware of the
24 club?

25 A. A student of mine came to me and showed me the

1 FCA's statement of faith, and was upset, because he said
2 the FCA required it to be signed by all of its members.

3 Q. What student was that?

4 A. Blayke Alexanian.

5 Q. Okay. And when did this student come to you?

6 A. After lunch, on Monday, April 22, 2019.

7 Q. Did he hand you a physical copy of the
8 statement of faith?

9 A. Yes.

10 Q. And is that the same document that you posted
11 on your white board?

12 A. Yes.

13 Q. Had Blayke applied to be a leader of FCA?

14 A. I don't know.

15 Q. Was Blayke a member of FCA at the time?

16 MS. LEVINE: Calls for speculation.

17 THE WITNESS: I could speculate, but I don't have
18 knowledge of that.

19 BY MS. TONEY:

20 Q. Did you ask him?

21 A. No.

22 Q. What did you do to investigate whether what he
23 told you was accurate?

24 A. I went on the FCA's website and found a
25 document called FCA's statement of values, dated

1 August 2018. And, although the text didn't match
2 identically, it contained the same two statements about,
3 about the philosophy of homosexuality and gender. It
4 said that the FCA doesn't approve of any sexually
5 immoral behavior, including homosexuality, and it said
6 that one's gender identity, I'm paraphrasing this first
7 part, is a matter of birth, or, or God, rather than, and
8 this is the direct quote, self perception.

9 Q. Are those the two beliefs that you found
10 problematic?

11 A. Yes.

12 Q. Were there any other beliefs in the statement
13 of faith that you found problematic?

14 A. Not to my memory, no.

15 Q. Did this student Blayke tell you where he
16 found the statement of faith?

17 A. If he did, I don't recall.

18 Q. Was it on the Internet?

19 A. If he did tell me, I don't recall.

20 Q. You trusted that what he gave you looked
21 accurate, because it was similar to what you found on
22 the FCA website?

23 A. Yes. I would say not just similar, but
24 virtually identical, not in verbiage, but in sentiment.

25 Q. Did you think it was important to make sure

1 that you had the correct statement of faith before
2 putting it up for everyone to see?

3 A. Yes.

4 Q. And why was that?

5 A. Well, I'm a history teacher, and so accuracy
6 in the historical record is paramount.

7 Q. Uh-huh, sure. So, if Blayke had gotten the
8 statement of faith from an unreliable source, for
9 example, Wikipedia, would that have been a problem?

10 A. If that were the case, yes.

11 Q. And if anyone else from the district got the
12 statement of faith from an unreliable source, such as
13 Wikipedia, would that have been a problem?

14 MS. LEVINE: Calls for speculation. Lacks
15 foundation, calls for a legal conclusion.

16 THE WITNESS: If Wikipedia were the only source,
17 and it was not verified by a different source, then it
18 may be a problem, if it was inaccurate.

19 BY MS. TONEY:

20 Q. Uh-huh, okay. So, Blayke told you about this
21 statement of faith on Monday.

22 And what did you tell him when he brought this
23 to your attention?

24 A. I told him that I would follow up with Mr.
25 Espiritu.

1 Q. Did you tell him anything else?

2 A. No.

3 Q. And how did --

4 A. I --

5 Q. -- Blayke respond?

6 Sorry, go ahead. Did you --

7 A. No, that's my answer. Thank you.

8 Q. How did Blayke respond?

9 A. He seemed grateful.

10 Q. And did you in fact follow up with Mr.
11 Espiritu?

12 A. Yes.

13 Q. Did you ask anyone from the national FCA
14 organization about the statement of faith before you
15 reached out to Mr. Espiritu?

16 A. No.

17 Q. Did you ask any FCA students that were
18 involved in the club about the statement of faith before
19 you reached out to Mr. Espiritu?

20 A. No.

21 Q. Did you --

22 A. I thought that it was more appropriate for Mr.
23 Espiritu to do that.

24 Q. Did you reach out to any FCA students before
25 posting the beliefs on the white board?

1 A. No.

2 Q. Did you reach out to anyone from the national
3 FCA organization before posting the beliefs on the white
4 board?

5 A. No.

6 Q. And why did you think that this statement of
7 faith should be brought to Mr. Espiritu's attention?

8 A. It seemed to be a violation of equal
9 treatment, potential violation of equal treatment on our
10 campus, because it appeared that certain students were
11 being excluded from opportunities because of their
12 identity.

13 Q. And which students would those be?

14 A. LGBTQ students.

15 Q. And how would you define equal treatment?

16 A. Having equal access to a leadership
17 opportunity.

18 Q. Was it your understanding at the time you
19 posted the beliefs on the white board that members were
20 required to agree with those beliefs, as well as
21 leaders?

22 A. Yes.

23 Q. And was that in fact an inaccurate
24 understanding?

25 A. Yes.

1 Q. Our next exhibit is Exhibit 60. This is an
2 e-mail exchange with Mr. Espiritu. So, just let me know
3 when it's loaded.

4 A. Could you please repeat the number.

5 Q. Yes. Exhibit 60. Sorry.

6 A. I have it. Thank you.

7 Q. Great. Can you please identify this document
8 for the record.

9 A. Yes. This is an e-mail exchange between Herb
10 and me, from April 29, excuse me, April 23, 2019.

11 Q. And was that the same day that you were
12 alerted -- sorry.

13 The bottom e-mail is from April 22, correct?

14 A. Yes, correct.

15 Q. And that's the same day that Blayke came to
16 you and told you about the statement of faith?

17 A. That's correct.

18 Q. And you said he told you around lunchtime?

19 A. My memory is that it was after lunch.
20 Definitely, in the afternoon.

21 Q. Uh-huh, okay. And then you sent this e-mail
22 to Mr. Espiritu at 3:23 p.m., correct?

23 A. Correct.

24 Q. And did you attach the copy of the statement
25 of faith that Blayke gave you?

1 A. Yes.

2 Q. Why did you call it a pledge?

3 A. I don't know. I think for lack of familiarity
4 with the FCA's verbiage.

5 Q. So the word, pledge, is not in the document?

6 A. I don't recall if it is or it isn't.

7 Q. We'll look at it in just a moment.

8 Did you have any in-person conversations with
9 Mr. Espiritu on that same day?

10 A. No.

11 Q. What about the next day, the 23rd?

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

13 Q. Did you tell Mr. Espiritu that you were
14 planning to post the statement of faith on your white
15 board?

16 A. No.

17 Q. Why didn't you tell him that?

18 A. It seemed to me to be relevant to
19 conversations that we've had in class previously through
20 the year, and it didn't seem to be a big enough action
21 that I needed to have administrative clearance. That
22 was my instinct.

23 Q. Sure. Do you think Mr. Espiritu would have
24 discouraged you from posting it?

25 MS. LEVINE: Calls for speculation.

1 THE WITNESS: I'd like to think not, but I don't
2 know.

3 BY MS. TONEY:

4 Q. Prior to April 23, 2019, had you ever posted
5 any other student clubs' beliefs or missions on your
6 white board?

7 A. Well, I'd done things like posting service
8 learning classes, explanation for why the blood drive
9 was so important, on the white board, and I encouraged
10 the students to sign up for the blood drive. I had
11 posted a message of congratulations for a particular
12 community service project award that a group had won.

13 Q. So, you had posted some supportive type
14 messages about other groups?

15 A. Yes.

16 Q. And have you ever, had you ever posted a
17 message criticizing a student group in any way?

18 A. It's possible. I don't recall posting a
19 message, but, certainly, in class conversations, I've
20 been critical of, for example, the leadership class, or
21 other groups planning activities that I found to be
22 disadvantageous to the community, with the confidence
23 that my students are accustomed enough to hearing my
24 opinions about things, and equipped with the tools
25 necessary to either accept my opinions or dismiss them.

1 Q. But you never posted a negative opinion on
2 your white board, correct?

3 MS. LEVINE: Vague.

4 THE WITNESS: Not --

5 MS. LEVINE: Misstates the testimony.

6 THE WITNESS: Not that I can recall.

7 BY MS. TONEY:

8 Q. Are you aware that the Big Sister Little
9 Sister club, the Girls Who Code club, the Girls' Circle
10 club, and the Simone club all limit their membership to
11 women on Pioneer's campus?

12 MS. LEVINE: It's compound, vague, overbroad, calls
13 for speculation, misstates the, misstates the evidence.

14 THE WITNESS: I don't have any knowledge about any
15 of those clubs, other than a small bit of knowledge
16 about Girls Who Code, because it was cofounded by two of
17 my students I had a couple of years ago, one of whom is
18 a boy and served as co-president.

19 BY MS. TONEY:

20 Q. And why did your male student want to serve as
21 co-president of Girls Who Code?

22 MS. LEVINE: Calls for speculation.

23 THE WITNESS: I never discussed that with him
24 directly. I could speculate that it's because he has
25 three older sisters who are role models for him. I

1 could also speculate that he has a great interest in
2 science and coding, which I know he does.

3 BY MS. TONEY:

4 Q. Sure. Given your passion about gender
5 equality and inclusivity, did you ever post the
6 constitutions of any of these primarily women's groups
7 on your white board?

8 A. No.

9 MS. LEVINE: Misstates the evidence.

10 BY MS. TONEY:

11 Q. Why not?

12 A. I wouldn't have access to them. The ASB is
13 not my purview.

14 Q. So, you would only have access to a group's
15 beliefs if a student gave them to you?

16 MS. LEVINE: Misstates the testimony.
17 Argumentative.

18 THE WITNESS: Or if they were available from some
19 other source, like a website.

20 BY MS. TONEY:

21 Q. If you did have access to constitutions from
22 Girls Who Code, or Big Sister Little Sister, would you
23 post something critical on your white board?

24 MS. LEVINE: Calls for speculation. Incomplete
25 hypothetical. Argumentative.

1 THE WITNESS: I would have to first be aware of
2 what I was to be objecting to. I don't know anything
3 about these clubs. I don't know how they operate. I
4 don't know what their goals are. I don't know anything
5 about them.

6 BY MS. TONEY:

7 Q. All right, let's look at our next exhibit,
8 which is, this is another e-mail, and on April 23.

9 Did you have any other conversations with
10 Blake before you posted the white board display on
11 April 23?

12 A. No.

13 Q. Did you have any conversations with anyone
14 else before you posted your white board display on
15 April 23?

16 A. No.

17 Q. Did you do any additional research that night,
18 the night of April 22?

19 A. I went on the FCA's website and found the
20 FCA's, I believe it's called statement of values, from
21 August 2018.

22 Q. Did you confirm that that was the statement of
23 values used in the Bay Area in 2019?

24 A. No.

25 (Exhibit 123 was marked for identification by

1 counsel.)

2 BY MS. TONEY:

3 Q. So, our next exhibit is going to be 123. If
4 you could just let me know when you see that pop up. It
5 should be another e-mail.

6 A. Yes, I see it.

7 Q. Can you confirm that this is an e-mail that
8 you sent at 4:30 a.m., on Tuesday, April 23, 2019?

9 A. Yes. I see 4:37 a.m., and, yes, that is an
10 e-mail I sent.

11 Q. Do you typically send e-mails at 4:30 a.m.? I
12 have to ask. I've done it.

13 A. I'm sorry, I missed the audio there. Could
14 you please repeat the question.

15 Q. Do you typically send e-mails at 4:30 a.m.?

16 A. Yes. Actually, I'm quite a morning person,
17 and so probably 90 percent of the e-mails, well, I
18 won't, I won't estimate a number, but a large number of
19 e-mails that I send are at that hour. That's when I
20 return e-mails.

21 Q. Wow. Okay.

22 Was this e-mail one that you sent to Blayke,
23 the student who brought the statement of faith to your
24 attention?

25 A. Yes.

1 Q. And why did you thank him for calling your
2 attention to the, quote, unquote, pledge?

3 A. I didn't, well, I appreciated that he felt
4 comfortable enough with me to discuss an issue that was
5 causing him pain.

6 Q. Let's look at our next exhibit. This is going
7 to be Exhibit 124. Sorry. 62. The numbers get
8 confusing, because we've had so many depositions, so,
9 thanks for rolling with us on that.

10 A. Quite all right. 62. I'm opening that now.

11 Q. Would you identify this document for the
12 record.

13 A. Yes. This is the posting that I put on my
14 white board, along, the FCA's text, along with my text
15 underneath it that reflects the change that I made to
16 the document after period 2.

17 Q. Okay. So, this is a photo of the white board
18 in your history classroom on April 23, 2019?

19 A. Correct.

20 Q. And you wrote the message beneath the posted
21 papers?

22 A. Yes.

23 Q. What was the change that you mentioned you
24 made?

25 A. For the first two periods of the day, the

1 words, potential campus leaders, were instead members.

2 Q. Okay. And you made that change because a
3 student told you that it was incorrect?

4 A. Yes. Charlotte told me it was incorrect.

5 Q. And was Charlotte a student in your first
6 period class?

7 A. Yes.

8 Q. Did you know that Charlotte was an officer of
9 the FCA before you posted the white board display?

10 A. No.

11 Q. If you had known that Charlotte was an officer
12 of the FCA, in your first period class, would you still
13 have posted the white board display?

14 A. It's certainly something I've thought about.
15 Probably, because -- probably.

16 Q. Why do you say, probably, instead of yes?

17 A. Because I'm first trained to think about
18 critical thinking, as the answer is always somewhere
19 between 1 percent and 99 percent. A critical thinker
20 always tries on the ideas of others and sees how they
21 feel.

22 But, my impression of that posting was that it
23 was consistent with other opinions that I've shared, for
24 example, about Sadie Hawkins and about powder puff, when
25 I had full knowledge that kids who were potentially

1 planning those programs were in my class.

2 Q. Would you equate sincerely held religious
3 beliefs with the same value as powder puff or Sadie
4 Hawkins?

5 A. Not necessarily.

6 Q. Why not?

7 A. Sincerely held religious beliefs are one of
8 the roots of one's identity, and I appreciate the
9 seriousness of that. But let me clarify. In your
10 question, you're asking about religious beliefs, and my
11 objection wasn't to the religious beliefs. My objection
12 was to those religious beliefs being a foundation of a
13 policy that was exclusionary, that gave leadership
14 opportunities to some students and not others.

15 Q. So, your objection was to certain religious
16 beliefs, but not all religious beliefs?

17 MS. LEVINE: Misstates the testimony. It's
18 argumentative.

19 THE WITNESS: No. My objection was to some
20 students at Pioneer being summarily excluded from
21 leadership opportunities.

22 BY MS. TONEY:

23 Q. Did any students at Pioneer come to you saying
24 that they had been excluded from wanting to be a leader
25 of FCA?

1 MS. LEVINE: Asked and answered.

2 THE WITNESS: No.

3 BY MS. TONEY:

4 Q. And before posting the statement of faith, did
5 you investigate whether it was actually signed by
6 students in Pioneer's FCA club?

7 A. No.

8 Q. Our next exhibit will be number 59, and this
9 will be a better close-up, so that we can see the
10 document itself.

11 And while we're pulling it up, why did you
12 highlight some certain statements in the statement of
13 faith that you posted?

14 A. They were the two aspects, the ones that dealt
15 with being LGBTQ -- I'm sorry, with homosexuality and
16 gender identity.

17 Q. So, those were the two beliefs that you found
18 to be problematic?

19 A. I don't find those beliefs to be problematic.
20 I found it problematic that those two criteria were
21 being used as a basis to exclude students from a
22 leadership opportunity.

23 Q. Did you highlight any other statements besides
24 those two?

25 A. I don't believe so.

1 Q. Let's actually look at, do you have Exhibit 59
2 pulled up in front of you?

3 A. I'll open it right now.

4 Q. Are you able to have two exhibits open at once
5 on your computer? Just curious.

6 A. No. I have Veritext Exhibit Share open on one
7 tab in my browser.

8 Q. Okay. So, you wouldn't be able to pull them
9 up side by side?

10 A. No.

11 Q. I think if you, well, let's just look at 59
12 for now. We can go back and forth a little bit.

13 So, can you identify Exhibit 59, for the
14 record.

15 A. It appears to be an e-mail from Herb Espiritu
16 to Steven McMahon.

17 Q. And, is this the same e-mail that you
18 originally sent to Herb Espiritu on April 22.

19 MS. LEVINE: Vague.

20 THE WITNESS: It appears to be, yes.

21 BY MS. TONEY:

22 Q. Okay. And why did he forward it to McMahon?

23 MS. LEVINE: Calls for speculation.

24 THE WITNESS: I assume, because issues of this
25 nature involve complex legal questions that are decided

1 at the district office. But, that's just my assumption.

2 BY MS. TONEY:

3 Q. Looking at the attachment on the next page, is
4 this the same document that you posted on your white
5 board?

6 This is where it might be helpful to pull them
7 up side by side. If you just open a new tab on
8 Veritext, it should allow you to do that. And I have a
9 closer up version of the white board display, if that's
10 helpful.

11 A. Yes, because, the other one, the text was so
12 small I couldn't see it.

13 Q. Sure, okay. So, if you pull up Exhibit, I
14 think it will be 123, that's going to be a closer up
15 picture of the white board display. It's still a little
16 blurry, but you can at least tell where it's
17 highlighted, and so if you pull that one up next to
18 Exhibit 59, then we should both be able to get a good
19 sense of the document itself. I'm sorry, it's kind
20 of --

21 MS. LEVINE: I'm not following you, counsel. I'm
22 not sure how you open another tab on there.

23 (Exhibit 124 was marked for identification by
24 counsel.)

25 MS. TONEY: So, do you see Exhibit 24 loaded in

1 Veritext?

2 MS. LEVINE: 24. Do you mean 124? No. 24? No, I
3 don't see a 24.

4 MS. TONEY: 124?

5 MS. LEVINE: 124.

6 THE WITNESS: I opened --

7 MS. LEVINE: Yes.

8 MS. TONEY: Great. So, you should be able to open
9 it in a new tab.

10 MS. LEVINE: That's what I'm not following you
11 about.

12 MS. TONEY: Uh-huh. So, if you --

13 MS. LEVINE: I would have to log back into
14 Veritext, I think, again, right?

15 MS. TONEY: No. If you right click at the top of
16 the page, to duplicate the tab, you'll be able to pull
17 them up side by side. So, you'll want Exhibit 24 and
18 exhibit -- sorry -- Exhibit 124 and Exhibit 59.

19 MS. LEVINE: At the top of my browser? I'm still
20 not -- I don't know. I'm not following.

21 MS. TONEY: Well, it's important that the witness
22 can follow.

23 BY MS. TONEY:

24 Q. So, Mr. Glasser, are you able to see both
25 documents?

1 MS. LEVINE: I think it's important that I can
2 follow it, too, so maybe you could just have him flip
3 back and forth.

4 BY MS. TONEY:

5 Q. Okay. So, looking at Exhibit 124, Mr.
6 Glasser, do you see those statements that you
7 highlighted?

8 A. I see highlighting, but the text is too small,
9 and --

10 Q. Sure. There are three statements, correct?

11 A. I see three highlighter markings, but the
12 words are blurry, and I can't read them.

13 Q. Okay. Well, on the first page, the sexual
14 purity statement, you highlighted under sexual identity
15 and gender identity.

16 So now if we go back to Exhibit 59, the last
17 page of that exhibit is the sexual purity statement.

18 And do you see the paragraphs about sexual
19 identity and gender identity?

20 A. Okay, I'm going back to Exhibit 59.

21 Q. Yes. So, the last page of that exhibit,
22 there's paragraphs about marriage, sexual identity, and
23 gender identity.

24 Do you see that?

25 A. Marriage, sexual identity, and gender

1 identity.

2 Q. Yes. So, why did you highlight under sexual
3 identity and under gender identity?

4 A. Because those were the two bases on which the
5 FCA was denying leadership opportunities that, that I
6 objected to.

7 Q. Looking at those statements now, do you see
8 the Bible references there, Romans, First Corinthians,
9 Genesis?

10 A. Yes.

11 Q. Would you consider those to be religious
12 beliefs?

13 MS. LEVINE: Calls for speculation.

14 THE WITNESS: Yes, I would consider those to be
15 religious beliefs.

16 BY MS. TONEY:

17 Q. So, this document reflects religious beliefs
18 about sexual identity and gender identity?

19 A. Yes, but what was relevant to me was that they
20 reflected religious beliefs that were being used to deny
21 students equal access to leadership opportunities.

22 Q. But no student had actually been denied that
23 opportunity, in your awareness, correct?

24 MS. LEVINE: Asked and answered. Argumentative.

25 THE WITNESS: No, not that I was aware.

1 BY MS. TONEY:

2 Q. So, it was the existence of these beliefs and
3 the potential for a student to feel uncomfortable about
4 them that you had a problem with?

5 MS. LEVINE: Misstates the testimony.

6 THE WITNESS: Neither of those statements that you
7 made accurately reflect what I was saying.

8 BY MS. TONEY:

9 Q. What was your problem with these religious
10 beliefs?

11 A. They were, I had, I have no problem with
12 religious beliefs. My problem was that the religious
13 beliefs were being used as justification for a public
14 policy that was exclusionary.

15 Q. Moving to the previous page, the statement of
16 faith, did you highlight any of the beliefs in that
17 eight point statement of faith?

18 A. Eight point statement of faith. Could I
19 please refer to the white board posting.

20 What number exhibit is that?

21 Q. Yes. 24.

22 A. 24.

23 Q. 124.

24 A. 124. And could you please repeat that
25 question.

1 Q. Yes. Did you highlight any of the eight
2 points in the FCA's statement of faith on that second
3 page?

4 A. No.

5 Q. Why not?

6 A. I don't know. I can't read the text.

7 Q. So, going back to Exhibit 59 --

8 A. Okay.

9 Q. -- do you see the FCA statement of faith there
10 on page 7955?

11 A. Yes, I do, and I'm just trying to make it big
12 enough to read. There's --

13 Could you please read it out loud. I can't
14 blow the text up enough to be able to read it.

15 Q. Yeah, I'll read the first few points.

16 Number 1 is, we believe the Bible to be the
17 inspired, the only infallible, authoritative Word of
18 God.

19 Number 2 is, we believe that there's only one
20 God, eternally existent, and three persons, Father, Son,
21 and Holy Spirit.

22 Number 3 is, we believe in the deity of
23 Christ, and His virgin birth, and His sinless life, and
24 His miracles, and His vicarious and atoning death
25 through His shed blood, and His bodily resurrection, and

1 His ascension to the right hand of the Father, and in
2 His personal return in power and glory.

3 I'll pause there.

4 Do these statements reflect religious beliefs?

5 MS. LEVINE: Calls for speculation.

6 THE WITNESS: Yes.

7 BY MS. TONEY:

8 Q. Did you have any objection to these religious
9 beliefs?

10 A. I don't have objections to clubs having a
11 basis in religious belief. My objection was the use of
12 any belief to summarily exclude some students from a
13 leadership opportunity, while granting it to others.

14 Q. Do you have any objections to these particular
15 beliefs that I just read, about the deity of Jesus, et
16 cetera, as prerequisites for club leadership?

17 MS. LEVINE: Vague, calls for speculation.

18 THE WITNESS: For club leadership. Are you asking
19 if -- am I understanding your question correctly --
20 would I have a problem if a club were to make students
21 say that they believed those things, in order to be a
22 leader?

23 BY MS. TONEY:

24 Q. Yes.

25 A. I think, I'm not sure, but the biggest factor

1 in my mind would be who is making those stipulations.
2 Is it student generated, or are they being told by
3 outside sources, adults? Because the spirit of a
4 student organization is that it's student driven.

5 Q. Sure. So, if the students in a Christian club
6 wanted their leaders to affirm historically rooted,
7 Biblically based religious beliefs, would that be
8 acceptable?

9 MS. LEVINE: Incomplete hypothetical. Vague.
10 Calls for a legal conclusion. Go ahead.

11 THE WITNESS: Do you mean acceptable in my mind, or
12 acceptable in terms of policy?

13 BY MS. TONEY:

14 Q. First, in your mind.

15 A. I don't know, but one distinct difference that
16 I would consider is that a belief, and affirming a
17 belief, is different than denying the legitimacy of an
18 identity, and excluding a class of people.

19 Exclusion based on opinion is different than
20 exclusion based on identity, so, I don't know how I
21 would answer your question, but I have a sense that my
22 thinking would start there.

23 Q. If the FCA's statement of faith was only these
24 eight points, which don't say anything about sexuality,
25 they just record other Christian beliefs, such as the

1 deity of Jesus, et cetera, and FCA required its leaders
2 to affirm these statements, would you have still posted
3 it on your white board?

4 MS. LEVINE: Calls for speculation. Incomplete
5 hypothetical.

6 THE WITNESS: My instinct is to say, no, absolutely
7 I would not have posted it on my white board, but, in
8 order to be able to answer for sure, I would want to be
9 read the text of numbers 4 through 8, because I can't
10 read it.

11 BY MS. TONEY:

12 Q. Okay.

13 Number 4 says, we believe that for the
14 salvation of lost and sinful men and women, regeneration
15 by the Holy Spirit is absolutely essential.

16 Number 5 says, we believe in the present
17 ministry of the Holy Spirit by whose in-dwelling the
18 Christian is enabled to live a godly life.

19 Number 6 says, we believe in the resurrection
20 of the both the saved and the lost, that they are saved
21 unto the resurrection of life, and that they are lost
22 unto the resurrection of damnation.

23 Seven says, we believe in the spiritual unity
24 of believers in our Lord Jesus Christ.

25 And 8 says, do you agree with the FCA

1 statement of faith.

2 A. On the face of it, just with very little time
3 to think, those sound quite healthy and unifying, and I,
4 my answer would be, no, I would absolutely not post that
5 on my white board.

6 Q. And why would you consider those particular
7 beliefs healthy and unifying?

8 A. Well, because I've been on Pioneer's campus
9 for 21 years, and I know that Christians on campus have
10 had a really positive impact. I mean, I'm not against
11 Christianity. My wife and I sent our children to a
12 Christian preschool, even though neither of us identify
13 as Christian, because we liked the values, and we liked
14 the healthy atmosphere, and we liked the lessons that
15 they learned.

16 Q. What were some of the positive things that
17 Christian clubs did on campus, in your 21 years?

18 A. It seemed to me that they built community, and
19 they helped, the biggest thing that I love about student
20 clubs, and the reason I think they're important, is
21 because they bring people together and help people find
22 their place. And I think that, that, community service
23 projects aside, I think it's important for people to
24 have opportunities to connect to the community, the
25 larger community.

1 Q. And you would say the Christian clubs were an
2 important part of that?

3 A. The Christian clubs, yes, which I think is now
4 called Pioneer for Christ. I know at one point, for
5 example, you're asking for a specific example, at one
6 point, we had a really nice lunchtime conversation, a
7 round table between the Christian club and the GSA.

8 Q. When was that?

9 A. And -- 2002, 2003, '4, perhaps, somewhere in
10 that area. It's just nice for people to meet other
11 people and connect.

12 Q. Uh-huh. So, would you say that the Christian
13 club and GSA were able to peacefully coexist prior to
14 April 2019?

15 A. Christian club. I couldn't make such a
16 dramatic conclusion that you're trying to say. All I'm
17 saying is, you asked the question, what were some of
18 the, I'm paraphrasing, but, what were some of the good
19 things or the contributions that the Christian club
20 made, and my answer was, one thing is that they tried to
21 build a bridge with the GSA by welcoming our club to
22 their club meeting, so that we could just kind of have a
23 meet-and-greet, and say hello.

24 Q. Sure. And that was the same club that is now
25 affiliated with FCA?

1 A. No. I believe it's called Pioneer for Christ.

2 Q. Okay.

3 A. It used to be called the Christian club. It's
4 entirely different from the FCA.

5 Q. Charlotte Clark was an officer of Pioneer for
6 Christ, as well as FCA, correct?

7 MS. LEVINE: Calls for speculation.

8 THE WITNESS: I believe that to be the case, but I
9 have no way to confirm that. I have no personal
10 knowledge.

11 BY MS. TONEY:

12 Q. And Elizabeth Sinclair was also an officer of
13 Pioneers for Christ, as well as FCA, correct?

14 MS. LEVINE: Calls for speculation.

15 THE WITNESS: I have, I believe, I don't have any
16 personal knowledge of that, but you're talking about
17 2021, and I'm talking about 2004.

18 BY MS. TONEY:

19 Q. Uh-huh, fair point. But, in 2018, they had
20 the same leadership, so, would it be fair to say that
21 the clubs were not really separate?

22 MS. LEVINE: Calls for speculation. Lacks
23 foundation.

24 THE WITNESS: I would say that's completely unfair
25 to say. I think that Pioneer for Christ, formerly known

1 as the Pioneer Christian Club, and FCA operate under
2 entirely different frameworks of governance.

3 The FCA takes its lead from the national
4 organization, the Fellowship of Christian Athletes.
5 Pioneer for Christ is entirely, to my knowledge,
6 self-contained in San Jose Unified.

7 BY MS. TONEY:

8 Q. Why is that distinction important, in your
9 opinion?

10 A. Because Pioneer for Christ doesn't, to my
11 knowledge, exclude LGBTQ people from leadership
12 opportunities.

13 Q. So, Christian clubs are acceptable, in your
14 opinion, as long as they don't act on their beliefs
15 regarding sexuality?

16 MS. LEVINE: Not -- that's argumentative, misstates
17 the testimony, badgering the witness, asked and
18 answered.

19 THE WITNESS: I have never had a problem with the
20 Christian club, slash, Pioneer for Christ, because I've
21 never learned any information that would lead me to
22 believe that they deny leadership opportunities to
23 students based on their LGBTQ identity.

24 BY MS. TONEY:

25 Q. Looking back at Exhibit 59, for a moment, on

1 the second page, we talked about the statement of faith,
2 but now for a moment let's talk about the sexual purity
3 statement which is below that.

4 Are you able to read the first sentence
5 starting with, God desires His children?

6 A. I believe -- I'm sorry, ma'am, I'm trying. My
7 eyesight's not great, and the resolution is not great.

8 Q. I can read it aloud, if you'd prefer.

9 A. I would prefer that. Thank you.

10 Q. Okay. It says, God desires His children to
11 lead pure lives of holiness. The Bible is clear in
12 teaching on sexual sin, including sex outside of
13 marriage, and homosexual acts. Neither heterosexual sex
14 outside of marriage nor any homosexual acts constitute
15 an alternative lifestyle acceptable to God.

16 Would you consider that to be a statement of
17 religious belief?

18 MS. LEVINE: Calls for speculation.

19 THE WITNESS: Yes.

20 BY MS. TONEY:

21 Q. Why?

22 A. It's rooted in the Scripture.

23 Q. So, then, looking at Exhibit 124, and, again,
24 thanks for your patience, this will be the last time we
25 have to switch back and forth, do you see on the

1 right-hand side, under FCA's sexual purity statement,
2 that you had highlighted part of that first paragraph?

3 A. Yes, I do see that. And I'm going to switch
4 back to 59, so I can see what the text says that I
5 highlighted.

6 Q. Uh-huh. It's the sentence starting with,
7 neither heterosexual sex.

8 A. Yes, thank you. I see that.

9 Q. Why did you highlight that particular
10 religious belief?

11 A. Because that's what being, that is the, the
12 grounds on which the FCA is justifying excluding people
13 from leadership opportunities.

14 Q. Do you think it's ever possible for a student
15 who identifies as LGBTQ to choose not to engage in
16 sexual activity in high school?

17 MS. LEVINE: Calls --

18 THE WITNESS: Do I think it's not?

19 MS. LEVINE: -- for speculation, vague, overbroad,
20 incomplete hypothetical. Go ahead. It's argumentative.

21 Go ahead.

22 THE WITNESS: Do I think it's possible for an LGBTQ
23 student to practice abstinence, is that your question?

24 BY MS. TONEY:

25 Q. Yes.

1 A. I think it's possible for anybody to practice
2 abstinence, and I would, I would guess that a large
3 portion of Pioneer students do.

4 Q. Uh-huh. You would hope, given that they're
5 high school students.

6 So, if all of this statement is asking is that
7 leaders practice abstinence, what do you find
8 problematic about that?

9 MS. LEVINE: Misstates the evidence. It's
10 argumentative, calls for a legal conclusion, calls for
11 speculation.

12 THE WITNESS: I have to refer back to the text.
13 Neither heterosexual sex outside of marriage nor
14 homosexual act --

15 The part that I objected to was denying
16 students a leadership opportunity based on the idea that
17 if they were living a homosexual lifestyle, that it was
18 unacceptable to God. I don't know if, if the
19 connotation, I don't know if the intention of the word,
20 lifestyle, connotes sexual activity. I don't know if
21 abstinence and lifestyle are connected or not.

22 BY MS. TONEY:

23 Q. Did you reach out to anyone affiliated with
24 the FCA to ask them those questions about their
25 religious beliefs?

1 A. I didn't have a problem with anybody's
2 religious beliefs. This isn't about religious beliefs.

3 Q. Did you reach out to FCA to better understand
4 what this document meant when it said lifestyle?

5 A. No. I didn't realize I was misunderstanding,
6 if I am, until now.

7 Q. So, you acknowledge that you might be
8 misunderstanding this document, because you didn't talk
9 to FCA about it?

10 MS. LEVINE: Misstates the testimony.
11 Argumentative.

12 THE WITNESS: Well, I can barely see it right now,
13 counselor, so I'm doing my best to answer your question,
14 but it's always possible that words can mean different
15 things to different people. That's one of the core
16 values of critical reading.

17 BY MS. TONEY:

18 Q. So, based on your knowledge of U.S. history,
19 would you say you're pretty familiar with basic
20 Christian beliefs?

21 A. There are a lot of Christian beliefs. Could
22 you be more specific about which ones you mean.

23 Q. Christian beliefs about traditional marriage
24 and sexuality.

25 MS. LEVINE: It's vague, calls for speculation.

1 THE WITNESS: I'm certainly familiar about larger
2 societal debates in American history about public policy
3 that involve those particular religious beliefs.

4 BY MS. TONEY:

5 Q. And when you said that words can often have
6 different definitions and meanings, I certainly agree.

7 And do you think that's especially true of
8 religious words?

9 A. No. I wouldn't use the word, especially.

10 MS. LEVINE: Kayla, can we take a break at some
11 point in the near future.

12 MS. TONEY: Yeah. Now is not a good time, but, at
13 the next opportunity, which will be soon, yes, we can
14 take a short break.

15 MS. LEVINE: Thank you.

16 BY MS. TONEY:

17 Q. So, continuing on this document, given your
18 familiarity, as you said, Mr. Glasser, as a history
19 teacher and an American, you know, you're familiar with
20 basic Christian beliefs.

21 Were you surprised to learn that evangelical
22 Christian group like FCA would have traditional beliefs
23 about marriage and sexuality?

24 A. No. I was surprised to learn that those
25 beliefs were being brought onto a public high school

1 campus and being used specifically to exclude some
2 students from leadership opportunities.

3 Q. But, no students had actually been excluded,
4 correct?

5 MS. LEVINE: Asked and answered. Argumentative.
6 Badgering the witness.

7 THE WITNESS: Not to my knowledge. Correct.

8 BY MS. TONEY:

9 Q. Were you surprised that FCA expected its
10 student leaders to be Christians?

11 MS. LEVINE: Assumes facts not in evidence. Calls
12 for speculation.

13 THE WITNESS: No, not in the same way that -- no.

14 BY MS. TONEY:

15 Q. Would you be surprised if a Muslim group
16 expected its leaders to be Muslim?

17 A. Would I be surprised if a Muslim group
18 expected its leaders to be Muslim. No, but my
19 understanding of a, of a religious experience is that
20 it's open to anybody. Anybody can choose to be born
21 again. Anybody can convert to Islam. But, you are who
22 you are, and so I'm having trouble seeing how these
23 questions are analogous to the situation I've described.

24 Q. Well, we're talking about religious beliefs,
25 and FCA expects its leaders to affirm basic Christian

1 beliefs, because the leaders are leading religious
2 activities, correct?

3 MS. LEVINE: Objection. Calls for speculation,
4 vague, overbroad, incomplete hypothetical.

5 THE WITNESS: I don't know. I don't know what
6 happens in the Christian club, or the Muslim club.
7 Perhaps --

8 BY MS. TONEY:

9 Q. Sorry, go ahead.

10 A. Perhaps, it's religious activities, perhaps,
11 it's planning, learning about culture and history and
12 then sharing and educating the community. There are
13 lots of different goals that religious, religiously
14 based clubs could have, and I don't have knowledge of
15 those.

16 Q. Have you ever been to an FCA meeting at
17 Pioneer?

18 A. No. The only one I attended was accidentally,
19 because, and I realized it in hindsight that that's what
20 it was, I saw Charlotte, I had had a guest speaker for
21 class in the PAC, the performing arts center, and, as I
22 was leaving, she was coming in with pizzas, getting set
23 up for a meeting, but that is the only time I've ever
24 been in the presence of anything FCA-related.

25 Q. And, we're going to look at our next exhibit,

1 which is going to be Exhibit 89.

2 Just let me know when you see that come up.

3 A. Yes, I see it come up.

4 Q. Great. Can you identify this document for the
5 record.

6 A. It says, FCA student leader application.

7 Q. And can you scroll down to page 11927.

8 A. 11927. It's loading. 11925. I see it.

9 Q. Great. Does this appear to be the same
10 document that you posted on your white board on
11 April 23, 2019.

12 MS. LEVINE: Document speaks for itself.

13 THE WITNESS: I can go back to confirm, if you
14 wish. What was --

15 BY MS. TONEY:

16 Q. Yeah, so, just compare page 11927 and 8 with
17 Exhibit 59. Take as much time as you need.

18 A. I'm looking at Exhibit 124.

19 Q. Uh-huh.

20 A. And it appears, I didn't post page 11927.
21 That doesn't appear to be what I posted. It appears
22 that what I posted is on page 11928.

23 Q. Okay. So, 11928 might be the same, but the
24 previous page is different?

25 A. I'm unclear on what you're asking, but the

1 next, if anything.

2 And so I, my continued thinking was a result
3 of wanting to be a good teacher and serve all of my
4 students well.

5 Q. You sent this e-mail in July. This was two
6 months after FCA was derecognized, correct?

7 A. Yes.

8 Q. Why wasn't it enough that FCA had been
9 derecognized?

10 A. Why wasn't it enough?

11 Q. Why were you still concerned about their
12 presence on campus?

13 MS. LEVINE: Asked and answered.

14 THE WITNESS: Because --

15 MS. TONEY: No, he didn't answer it.

16 THE WITNESS: -- to my knowledge, there was still a
17 prohibition that took away leadership opportunities in
18 an inequitable way from LGBTQ students. The FCA's
19 presence on campus is not my issue; it's the prohibition
20 preventing some students from accessing leadership
21 opportunities.

22 BY MS. TONEY:

23 Q. And why were you still concerned about FCA's
24 presence on campus?

25 A. I'm so sorry, I'm not seeing the distinction

1 between that question and the one I just answered.

2 Q. On the second page of this exhibit, at the
3 top, do you see where it says, would the same equal
4 access be guaranteed, though, if the FCA violates
5 SJUSD's sexual harassment policy? Could the FCA's
6 published policies on homosexuality and gender identity
7 be seen to violate our district's sexual harassment
8 policies?

9 Why did you ask about that?

10 A. Because I was wondering if it would be
11 possible to gain leverage to push the FCA into getting
12 rid of the leadership requirements that pertained to
13 LGBTQ students.

14 Q. So, it's your testimony that you were trying
15 to gain leverage to get the FCA to change its leadership
16 policies?

17 MS. LEVINE: Misstates the testimony.

18 THE WITNESS: My concern about the FCA was not its
19 presence on campus, but the exclusionary leadership
20 criteria, and I thought that perhaps it could be a way
21 that the district could, could encourage the FCA to
22 change its policies.

23 BY MS. TONEY:

24 Q. So, you were willing to accuse young women of
25 committing sexual harassment against their fellow

1 students, without any evidence, for the sole purpose of
2 gaining leverage over FCA?

3 MS. LEVINE: It's argumentative.

4 THE WITNESS: Yeah, I think your, your gross
5 misstatement of my testimony is apparent.

6 I'm not accusing, I'm not accusing any
7 particular person of anything. I'm wondering if the
8 exclusionary leadership criteria put forth by the FCA
9 creates an atmosphere that violates the district's
10 sexual harassment policy. And it was a question, not an
11 answer. It was a question.

12 BY MS. TONEY:

13 Q. Do you think the FCA student group was
14 actually engaging in sexual harassment?

15 MS. LEVINE: It's argumentative, and badgering the
16 witness. Asked and answered.

17 MS. TONEY: He's not answered the question yes or
18 no.

19 MS. LEVINE: He did answer the question.

20 MS. TONEY: He did not say whether he thinks the
21 Pioneer club was actually engaged in sexual harassment.

22 MS. LEVINE: I think he did. He said you grossly
23 mischaracterized his statement.

24 MS. TONEY: But he didn't answer my question.

25 BY MS. TONEY:

1 Q. My question is, do you think the FCA student
2 group was in fact engaged in sexual harassment, yes or
3 no.

4 MS. LEVINE: Calls for a legal conclusion. Calls
5 for speculation.

6 THE WITNESS: If you're asking me whether I believe
7 individual Pioneer students are guilty of sexual
8 harassment, the answer is no.

9 BY MS. TONEY:

10 Q. Do you believe the FCA club at Pioneer was
11 guilty of sexual harassment?

12 MS. LEVINE: Objection.

13 THE WITNESS: You mean, do you mean
14 institutionally, the FCA as an institution?

15 BY MS. TONEY:

16 Q. The club at Pioneer.

17 A. But you're not talking about individual
18 people. You're talking about the organization.

19 Q. At this particular moment, yes, I'm talking
20 about the FCA Pioneer student chapter.

21 A. I didn't know. That's why I asked people who
22 would know, because I had no idea.

23 Q. Do you think it would be fair to accuse a
24 student group of sexual harassment if there was no
25 evidence that that had actually occurred?

1 A. No. That's why I didn't do it.

2 Q. Because there was no evidence that sexual
3 harassment had actually occurred?

4 A. I was simply asking --

5 MS. LEVINE: Calls for speculation. It's
6 argumentative. It's badgering the witness. If you
7 don't stop this line of questioning, I'm going to get a
8 protective order at this point, because this is really
9 ridiculous.

10 MS. TONEY: I find it hard to believe that the
11 Court would grant a protective order about an e-mail
12 that was written by the witness.

13 MS. LEVINE: I don't find it hard to believe that
14 when he's being asked questions about things he doesn't
15 know anything about, you've asked him the same question,
16 asking him argumentative questions, why don't you ask
17 him about the facts of the case.

18 THE WITNESS: I'm unclear about what I need to do
19 next. If I need to answer a question --

20 MS. LEVINE: I don't think there's a --

21 THE WITNESS: -- ma'am, would you please repeat it.

22 MS. LEVINE: -- question pending.

23 MS. TONEY: We'll preserve our disagreement, and
24 we'll move on for now.

25 BY MS. TONEY:

1 Q. What does it mean at Pioneer to derecognize a
2 student club?

3 A. What does it mean to whom?

4 Q. To the students in that club. What is the
5 effect?

6 MS. LEVINE: Lacks foundation, calls for
7 speculation.

8 THE WITNESS: I don't know. I think it probably
9 means different things to different people.

10 BY MS. TONEY:

11 Q. Why did you think it was important that the
12 district derecognize FCA in May 2019?

13 A. Was there somewhere where I used that word,
14 important?

15 Q. Let's look at, I still need you to answer the
16 question, Mr. Glasser, but let's look at exhibit, the
17 next exhibit, 46, which might help refresh your
18 recollection as to my question.

19 A. Thank you. 46?

20 Q. Yes, that's right.

21 A. Yes, I see this e-mail.

22 Q. Scrolling down, can you identify this document
23 as an e-mail that you sent to Principal Espiritu and
24 Vice Principal Tim Gavello?

25 A. Yes.

1 Q. And on the second page, when you, in number 2,
2 when you say, he alerted me that the FCA is still on a
3 list of official campus clubs, what student was that who
4 alerted you?

5 A. Blayke Alexanian.

6 Q. The same student who originally told you about
7 the statement of faith?

8 A. Yes.

9 Q. And then you say, I think the list needs to be
10 revised ASAP, and the FCA needs to be removed ASAP.

11 Why did you tell Principal Espiritu that the
12 FCA needed to be removed from that list?

13 A. Because Blayke called it to my attention that
14 they hadn't been, and I, I think that when you're
15 dealing with teenagers, you have to keep in mind the
16 fragile nature of their trust of authority, and so, if,
17 and it was nothing more than just, you know, not
18 updating forms, of course, but, teenagers can see that
19 in a different way. They tend to immediately assume
20 that the adults in their lives are not going to follow
21 through and do what they say they did.

22 And so Pioneer said that they would take the
23 FCA off the list, and I felt that it's important to send
24 a message to students, any student, that following
25 through on promises is an important thing to do.

1 Q. So, removing FCA from the official club list
2 sent an important message to students?

3 A. No. It sent, well, it sent an important
4 message to Blayke.

5 Q. Did it send a message to the officers at FCA?

6 A. I didn't --

7 MS. LEVINE: Calls for --

8 THE WITNESS: -- send this --

9 MS. LEVINE: -- speculation. Go ahead.

10 THE WITNESS: I didn't send this message. I didn't
11 send this e-mail to the officers of FCA.

12 BY MS. TONEY:

13 Q. Right, but the officers of FCA knew that their
14 club was removed from the official list, correct?

15 MS. LEVINE: Calls for speculation.

16 THE WITNESS: Perhaps, but this e-mail refers to
17 not the decision to remove them, but just making sure
18 that it actually happened. The fact that the FCA was
19 going to be removed from this list wasn't a surprise to
20 them, and wasn't news to them.

21 BY MS. TONEY:

22 Q. Did Principal Espiritu follow your direction
23 and remove FCA from the list, according to this e-mail?

24 MS. LEVINE: Calls for speculation. Document
25 speaks for itself.

1 THE WITNESS: I don't know what Herb's role was,
2 but I know that Michelle Mayhew eventually did, as that
3 seems to be her purview.

4 BY MS. TONEY:

5 Q. Okay, we'll pull up our next exhibit.

6 You mentioned earlier, you mentioned earlier a
7 meeting that you had with Charlotte and Elizabeth on
8 May 9, 2019; is that correct?

9 A. Yes.

10 Q. What did you discuss at that meeting?

11 A. I remember one quote from Charlotte.

12 Q. What was the quote?

13 A. Mr. Glasser, you've said that you've acted out
14 of the safety of the students. Well, now I feel unsafe.

15 Q. And how did you respond to that statement?

16 A. I responded by pulling the article, the letter
17 to the editor from the newspaper.

18 Q. Were you indeed concerned about the safety of
19 Elizabeth and Charlotte?

20 A. I was troubled by the fact that a student
21 would use that language with me.

22 Now, when you used the word, safety, it's sort
23 of like using the word bullying nowadays. I mean, it
24 has so many different meanings to so many different
25 people, it's very difficult to make a value judgment in

1 what's valid versus invalid feelings, but what I did
2 was, I said to myself, I have the responsibility,
3 however valid or invalid her feelings may be, I have a
4 responsibility to do what I can to make her feel safer,
5 and, as a result, I pulled the letter.

6 (Exhibit 128 was marked for identification by
7 counsel.)

8 BY MS. TONEY:

9 Q. Our next exhibit is going to be 128. Just let
10 me know when you have that in front of you.

11 A. Yes, ma'am, I have that in front of me.

12 Q. Who is Galen Call, and why did you reach out
13 to him?

14 A. In an effort to be a good, empathetic critical
15 thinker, I reached out to people whom I knew could
16 provide me a valuable perspective. And I don't think
17 I'm particularly unique in American society today in not
18 being sure about how to protect both the needs of
19 students who believe in the inerrant Scripture, and the
20 needs of LGBTQ students.

21 I think it's a great conundrum in Christian
22 society, you know. The Methodists have, basically,
23 cleaved their denomination in two over this very
24 question.

25 So, I wanted to reach out to different people

1 who could perhaps help me understand different
2 perspectives on what a workable and tenable balance
3 could be.

4 Q. So, in this letter, it's quite lengthy, so we
5 won't discuss all of the details, but you do mention
6 that conversation you had with Charlotte when she told
7 you that she felt unsafe, and then afterward you said
8 that the comment was ringing in your ears for months.

9 Why was that?

10 A. I am a teacher who very much prides himself in
11 creating an enfranchising environment for my students,
12 and for a student to tell me, whether justifiably or
13 not, that she felt disenfranchised or unsafe was, it
14 made me feel professionally responsible to take the next
15 steps and to try to figure out what I could do.

16 Q. Did it make you feel guilty?

17 A. No, I wouldn't use the word guilty.

18 MS. TONEY: Okay, let's take a quick break, and
19 then we will circle back in about six minutes, so, 6:40.

20 Does that work for you all?

21 THE WITNESS: Yes.

22 MS. LEVINE: Sure.

23 (Recess: 3:35 p.m. to 3:51 p.m.)

24 (Exhibit 129 was marked for identification by
25 counsel.)

1 BY MS. TONEY:

2 Q. We're going to look at an exhibit. It will be
3 number 129, so, let me know when you have that pulled up
4 in Exhibit Share.

5 A. Yes, I see it, ma'am.

6 Q. And could you please identify this document
7 for the record.

8 A. This is an e-mail sent to me by a student that
9 I forwarded to Herb.

10 Q. And why did you forward it to Herb?

11 A. Because it was after October 10, 2019 when I
12 became aware that I was involved in this litigation, and
13 I wanted Herb to be aware of it, but I couldn't be
14 involved, so, I'd forwarded it without comment.

15 Q. Okay. And who was this e-mail from
16 originally, the one at the bottom?

17 A. Nicole Le.

18 Q. Okay. And in that first sentence when she
19 mentions another student that she talked with, was that
20 Blayke?

21 A. No. It was Ryan Dunker.

22 Q. And what was his involvement in the situation?

23 A. What situation are you referring to?

24 Q. The protests in, the protests of the FCA that
25 are talked about in this e-mail.

1 A. I have no idea. I was not involved in any of
2 the preplanning or the activity of any protests.

3 Q. Were Ryan Dunker and Nicole Le the students
4 who started the Satanic Temple club?

5 A. The only student I'm aware of who started the
6 Satanic Temple club was Blayke Alexanian.

7 Q. Did he ask you to be the advisor?

8 A. Yes.

9 Q. And how did you respond?

10 A. I declined.

11 Q. Why?

12 A. I told him that because this was still at the
13 point in the year where I wanted to, hopefully, help
14 steer the conversation in a healthy way to a resolution
15 that everybody could be happy with, and I felt that if I
16 were the advisor for the Satanic club, I would
17 compromise any credibility that I had in that
18 conversation.

19 Q. So, on Exhibit 129, at the bottom of the page,
20 when Ryan and Nicole say to you, thanks for being our
21 advisor, what did they mean by calling you their
22 advisor?

23 A. Yes. What she meant was that I had been
24 giving them advice. I remember when I read that e-mail,
25 especially because I knew that at that point I was

1 involved in litigation, I remember saying, oh, Nicole,
2 why did you have to use that word, because that's
3 absolutely inaccurate.

4 Our definition of advisor is different than
5 theirs. You'll notice in that e-mail she also misused
6 the phrase affirmative action, so I would attribute the
7 use of the word, advisor, to a teenager misusing
8 language.

9 Q. What advice did you give to Ryan and to
10 Nicole?

11 A. On September 17, they came to me and said that
12 they wanted to picket the FCA. They were just looking
13 for my, they were just bouncing ideas off of an adult in
14 their life. And I told them, in general terms, that
15 they should, well, first, I asked them, what do you hope
16 to accomplish, and then I, I encouraged them to take
17 other avenues. And it was on that day that I e-mailed
18 Matt Stepan to try to arrange mediation.

19 Q. Were Ryan Dunker and Nicole Le involved in the
20 Satanic Temple club?

21 MS. LEVINE: Calls for speculation. Go ahead.

22 THE WITNESS: I don't have any knowledge of that.

23 BY MS. TONEY:

24 Q. Did Ryan, Nicole, or Blayke ask you for any
25 advice before September 17, 2019?

1 MS. LEVINE: Vague.

2 THE WITNESS: I don't recall having conversations
3 with them, because that was, September 17 was the first
4 I had heard about any protests, or picketing, or
5 whatever, and so I immediately tried to dissuade them.
6 That's the first conversation I remember.

7 BY MS. TONEY:

8 Q. And the purpose of the Satanic Temple club was
9 to teach students how to protest, correct?

10 A. That's not my understanding.

11 THE WITNESS: I'm sorry, Amy.

12 MS. LEVINE: Calls for speculation. Go ahead.

13 THE WITNESS: The only exposure I'd had to the
14 Satanic Temple club was Blayke's brief explanation about
15 how it's based on some tenets regarding valuing science
16 and logic and reason. I'm paraphrasing him poorly, but
17 I don't recall any mention of picketing or protests with
18 any conversation with Blayke.

19 And my final conversation with Blayke was in
20 the last week of August. Other than saying hello to him
21 in the hallway, I never spoke with him again for the
22 rest of that school year.

23 BY MS. TONEY:

24 Q. And what was that conversation in August that
25 you had with Blayke?

1 A. On Friday afternoon, I think it was August 23,
2 he asked me to be the advisor, and I declined.

3 And then, I told him if he wanted to talk
4 further, to come back, and he was, oh, and then I, I
5 e-mailed him on that Sunday, I believe, and that's where
6 I encouraged him to either abandon his plans to form
7 that club, or name it something different.

8 Then, in that e-mail, I believe, if I'm
9 remembering correctly, I invited him to come talk with
10 me, if he wanted to talk more, and he took me up on that
11 offer on Wednesday, August 28, and we had what I
12 considered to be a student teacher debate, full of
13 critical thinking.

14 So I, you know, I was just sort of asking him,
15 you know, what do you think the pros and cons are.

16 He was explaining to me, in his view, the
17 purpose of the Satanic Temple club, which is to protect
18 these tenets.

19 And my last contact with him, that was my last
20 contact with him, other than I had had an interesting
21 article that I had found in The Week Magazine of
22 opposing viewpoints, in terms of is it healthy or
23 appropriate to have a Satanic Temple club on campus. I
24 had actually had it for several years, wondering if it
25 would be eventually interesting to talk about, well,

1 situation?

2 A. Well, it wouldn't be feedback, necessarily,
3 because I had nothing to do with that decision or
4 process. But if you're asking if any teachers shared
5 opinions with me, I really, I don't recall any teacher
6 expressing to me that they shouldn't be derecognized.

7 Q. What about in October, sorry, September and
8 October 2019, when you were asking about getting FCA off
9 campus more completely?

10 MS. LEVINE: Misstates the testimony.

11 BY MS. TONEY:

12 Q. We looked at that --

13 A. I just don't understand --

14 Q. Sorry. Go ahead.

15 A. I'm sorry, ma'am, I don't understand your
16 question. Could you refer me to --

17 Q. Yeah. Did any teacher express the opinion to
18 you that you should have handled any aspect of the FCA
19 situation differently?

20 A. Not that I recall, but I didn't really talk
21 about it with anybody. I mean, I didn't make any
22 special efforts to talk about it. You know, in the very
23 limited time I have on campus, maybe to chitchat with
24 other teachers or other friends, that's not the topic
25 that we chitchat about.

1 Q. You talked with Mr. Espiritu about the FCA
2 situation, correct?

3 A. Yes.

4 *DI Q. Did you ever receive feedback from Mr.
5 Espiritu about how you might have handled the situation
6 differently?

7 MS. LEVINE: I'm going to, I'm going to assert his
8 right to privacy in his personnel decisions. To the
9 extent, if the question is about whether there was
10 criticism, or something to that effect, then I'm going
11 to instruct him not to answer on the basis of privacy.

12 MS. TONEY: Counsel, we disagree with that
13 position.

14 BY MS. TONEY:

15 Q. And, Mr. Glasser, just so you know, this is
16 currently an issue that we have a joint discovery
17 dispute before the magistrate judge, and we're waiting
18 for her ruling, so, if the ruling is in our favor, we
19 will reopen this deposition, and you'll need to answer
20 these questions.

21 A. Yes, ma'am.

22 *DI Q. Did any of your supervisors ever express to
23 you that you should have handled the FCA situation
24 differently?

25 MS. LEVINE: It's the same objection and the same

1 instruction not to answer.

2 BY MS. TONEY:

3 Q. Mr. Glasser, are you following your counsel's
4 advice not to answer?

5 A. Yes, ma'am. I'm sorry, I didn't realize I
6 needed to affirm that. Yes, I'm following my counsel's
7 advice not to answer.

8 MS. TONEY: We are going to hold this deposition
9 open, pending the issues that we just raised.

10 Counsel, I have no further questions at this
11 time.

12 MS. LEVINE: Okay. Can you give me a minute to
13 confer with my co-counsel.

14 MS. TONEY: Yes.

15 MS. LEVINE: Thank you.

16 (Recess: 4:08 p.m. to 4:09 p.m.)

17 MS. LEVINE: Back on the record. We don't have any
18 questions for this witness at this time. We would like
19 to review and sign the transcript, though.

20 MS. TONEY: So, as I stated before, we will hold
21 this deposition open, pending the issues that are
22 currently before the magistrate judge, and, until next
23 time, I hope you all have a good night. We're off the
24 record.

25 (Time noted: 4:10 p.m.)

1 I, the undersigned, a Certified Shorthand Reporter
2 of the State of California, do hereby certify:

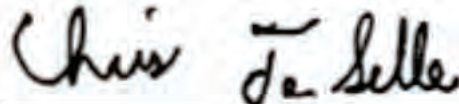
3 That the foregoing proceedings were taken before
4 me, via videoconference, as stipulated by all counsel
5 present, at the time and place herein set forth; that
6 any witnesses in the foregoing proceedings, prior to
7 testifying, were duly sworn; that a record of the
8 proceedings was made by me using machine shorthand which
9 was thereafter transcribed under my direction; that the
10 foregoing transcript is a true record of the testimony
11 given.

12 Further, that if the foregoing pertains to the
13 original transcript of a deposition in a Federal Case,
14 before completion of the proceedings, review of the
15 transcript [x] was [] was not requested.

16 I further certify I am neither financially
17 interested in the action nor a relative or employee of
18 any attorney or party to this action.

19 IN WITNESS WHEREOF, I have this date subscribed my
20 name.

21
22 Dated: _____

23 

CHRIS TE SELLE

24 CSR No. 10836

Big Brother Little Brother Code

Article I.

Name- Big Brother Little Brother

Purpose- to seek out students who are struggling academically and socially, and help them succeed and/or feel comfortable at Pioneer. In addition, this club would help to provide community service hours to club members who take part in the tutoring program

Article II.

All students (preferably seniors) are eligible for membership

Article III.

Meetings- Mr. Glassers room, on a date/time to be determined

Article IV.

Officers as follows:

President- [REDACTED]

VP- [REDACTED]

Treasurer- [REDACTED]

Secretary- [REDACTED]

Publicity Chair- [REDACTED]

Article V. - Duties

President:

- call meetings, (both private and week)
- plan agenda for meetings

VP:

- support president
- take the role as president if president is unavailable

Treasurer:

- make flyers for publicity
- handle money/funds for club (if needed)
- supplying club with food if nessessary

Secretary:

- take notes/keep track of club meetings/events
- take attendance during club meetings

Publicity Chair:

- plan/create flyers for publicity
- discuss with journalism team to further publicize

Article VI.

At the end of each year, the officers will discuss in private whom they wish to succeed them as officer

Article VII.

A majority vote is required to add an amendment to constitution

A 2/3rds vote is required to amend this constitution

Article VIII.

If funds are necessary, Treasurer is responsible for handling with these funds

Article IX.

All members, officers, and teachers have the right to life, liberty, and the pursuit of happiness

Yahoo Mail - Re: FCA

https://mail.yahoo.com/d/folders/folders=41&sortOrder=date_asc/...

Re: FCA

From: Peter Glasser (peterglasser@yahoo.com)

To: ahernandez@sjusd.org

Date: Tuesday, April 30, 2019, 11:21 AM PDT

I am slammed for the next couple of days, but I'd love for you to join Herb and me today during 6th if you can make it! Otherwise, we can chat on Thursday?

On Tuesday, April 30, 2019, 10:55:33 AM PDT, Hernandez, Amy <ahernandez@sjusd.org> wrote:

Hello-

Thank you for the letter! Can we talk? I have some thoughts on the news paper article I want to talk to you about. When is a good time. Or maybe I join you and Herb during a 6th period.

:)Amy

From: Peter Glasser <peterglasser@yahoo.com>
Sent: Monday, April 29, 2019 6:33 AM
To: Espiritu, Herbert; Hernandez, Amy
Subject: Fw: FCA

Hi Herb and Amy,

Herb, this is an e-mail I wrote to Amy following up on our conversations. I thought it might be good for me to forward it to you as well. I don't expect to be a part of the decision-making process regarding FCA (unless it involves the Climate Committee...after our conversations a few weeks ago, I arranged with my department before spring break to be able to attend the April and May meetings to represent the social studies department). Mostly, Herb, this email is just an FYI about where I am in my thinking. If you have advice about where my thinking should go next, please let me know. I'd like to hear your perspective.

Thanks!

----- Forwarded Message -----

From: Peter Glasser <peterglasser@yahoo.com>
To: Amy Hernandez <ahernandez@sjusd.org>
Sent: Monday, April 29, 2019, 5:27:19 AM PDT
Subject: FCA

the officers that have to sign that pledge, so I changed what I had written on the board before 3rd period to reflect her feedback. Then, before school on Wednesday, and another officer came to me to tell me that that information was inaccurate as well, and that the pledge the officers sign for the local FCA chapter also doesn't include the language I posted on the board and that they didn't know where the document I posted on the board came from. Additionally, two of the students who initially raised objections about the FCA to Herb told me that they were invited into a very one-sided meeting with Milara Gatoke and the FCA officers where they were essentially shamed for coming forward. I'm not sure what role Milara has in this whole situation (aside from being a very close friend of Kristin Borup)...maybe she was just volunteering to help work out conflict, certainly a good role for a guidance counselor to have...it didn't sound like a very fair meeting, though. Part of my goal in sending the letter to the editor is to state for everyone to see my understanding of the facts so that we can then move forward with the conversation. That's why I also sent the letter to the editor to Kristin--the FCA officers communicated to me that wanted to include their faculty advisor in any future conversations with me, so I wanted to keep Kristin in the loop. My antennae are up--I can't help but feel a bit manipulated...

I would love any feedback you have, any ideas you have to help me keep thinking.

I also know you are talking with Herb a lot about the situation...I haven't talked with him face to face about what's going on in my mind, but you have my permission to share anything in our conversation on Thursday or in this e-mail with him privately and confidentially. I want him to know that I can be flexible in what I include in the final draft of the letter to the editor if he has ideas on what I can say to make an overall better process for Pioneer.

Thanks for being such a valuable thought partner!

Peter

Yahoo Mail - Re: FCA

<https://mail.yahoo.com/d/folders/41/messages/AEDMsYQFTjFo...>*Redacted*

before I acted; for some of them, I am only now really figuring them out. I'm so grateful you asked the question, because I've been giving it a lot of thought. In many ways, I am seeing the necessity of discussing the FCA's views head on--because in order to feel safe, healthy and enfranchised on our campus, our kids need to hear their adults say certain things. We've discussed before how I believe that our campus needs to grow dramatically in our treatment of gender identity, and for me, this FCA issue is the straw (lead pipe, really) that broke the camel's back. In so many ways, I feel that there's only one thing to say that will protect our students who are so victimized by religious views that discriminate against them: I am an adult on your campus, and these views are bullshit to me. They have no validity. It's not a choice, and it's not a sin. I'm not willing to be the enabler for this kind of "religious freedom" anymore. LGBTQ+ kids, you deserve to have your dignity defended by the adults around you.

I knew right from the beginning that I had to hang the FCA document on my board right away. The FCA officers, I know, were insulted that I didn't speak to them privately first. (In fact, I didn't know that [redacted] is an officer, and she was in my first period class that day,,,awkward, but in many ways helpful.) I knew from the start that I had to speak right away, because for all LGBTQ+ kids and their friends and allies, any delay in response-time on the part of adults on campus means the same as those adults tacitly approving of the FCA's views. If my students see me delaying my response to talk about it first, what they see is a teacher who thinks, well, you know what, the FCA's views have some merit too, and they have the right to believe them, and it takes time to figure out if their views belong on campus or not. The message of support, therefore, is lost for the kids whom I need to support with my words and actions. In order for my response to mean anything, it needed to be unequivocal and immediate.

I am also cognizant that the FCA does great things on campus, and believe me, the idea that great students like [redacted] are what amounts to collateral damage in this situation has been agonizing for me. I don't want people to feel attacked for their views, and I know that's how the FCA feels. Then again, part of me thinks that attacking these views is the only way to make a better campus.

In fact, while there is people's feeling to consider, my greatest concern is not with feelings but with compromising my authority as a teacher. I take great pains to establish reliability among all political groups in class, to show that I can represent many different viewpoints in my curriculum and in my comments in class. I'm very worried that I will compromise my credibility as a history teacher.

Making sure that students see my thought process and approach, making sure they see my overall approach to conflict and differences of opinion is my biggest reason for writing the article, after, of course, the moral responsibility I felt to support LGBTQ+ kids. My other goal is to make clear my understanding of the facts of the situation. I'll be honest, I am a bit disconcerted by the mixed messages I am getting from the FCA. I don't know what is true and what isn't. I mistakenly wrote on the board, before 1st period last Tuesday, that the FCA requires its members to affirm the national FCA's beliefs. [redacted] came to me during brunch and told me that it's not the members but

FCA003989

10/15/19, 7:30 PM

----- Forwarded Message -----

From: Peter Glasser <peterglasser@yahoo.com>

To: Amy Hernandez <ahernandez@sjusd.org>

Sent: Monday, April 29, 2019, 5:27:19 AM PDT

Subject: FCA

Hi Amy,

I'm so, so grateful for our conversation on Thursday--it helped me think a lot about the FCA and where I go from here; I so appreciate how articulate you are but also how you let your questions do the talking in such an active-listening kind of way. I'd love it if you have more feedback for me if we could chat again soon. Of course, I've been thinking a lot about the situation over the weekend. I'm extremely grateful for two things--

1. Herb and SJUSD will need to decide what to do about the FCA, and the same decision would have needed to be made regardless of how I reacted to the situation. As we agreed on Thursday, once this information is out, it's out. You can't put the lightning back in the bottle. Once that information became public, Pioneer had to address it. Silence isn't a viable response. We have to talk about it in some way.

2. The Pony Express doesn't go to press for another couple of weeks, and Jason has told me that I'll need to update the letter to the editor before it is printed simply because there will be a resolution to the situation before then. I'm glad to have the chance to have time to come to a final conclusion about what I say.

You helped me tremendously with a couple of the questions you asked. First, you asked what this issue is really about--so insightful!--and I am still torn on my answer. One possible answer is that this issue is about the question whether the national FCA's views belong on a public high school campus--we accept that people out there have different views about gender and homosexuality, and we move right to the question of whether the FCA's views need to be barred from a public high school campus.

I am ambivalent about this one. In one respect, it makes the conversation and therefore resolution much cleaner. If all moral views are treated equally (the FCA can believe what it wants; LGBTQ+ people and their allies can believe what they want...), and the question becomes about whether Pioneer can support an FCA chapter on its campus, the debate is more confined to a narrower topic and it's far more likely a logical and comfortable solution can be worked out. And I can make my letter to editor work just as well by taking out a few of the most strongly-worded phrases in answering this narrower question. I certainly don't need to be a lightning rod unnecessarily.

In another way, though, for me, the issue is about the FCA's views. You were so helpful when you asked me what my goals were in reacting how I did and in writing the letter to the editor. I can articulate some of them, and some not--they are more feelings than words right now. Some of the goals, I realize, I knew what they were

Re: Sexual Harrassment Training and FCA

From: Espiritu, Herbert <hespiritu@sjusd.org>
To: Caldwell-Holden, Dane <dcaldwellholden@sjusd.org>

Tue, Aug 6, 2019 at 3:03 PM PDT (GMT-07:00)

No worries, thank you for the quick response.

Herb Espiritu
Principal
Pioneer High School
(408) 535 – 6310

From: Caldwell-Holden, Dane
Sent: Tuesday, August 06, 2019 3:01 PM
To: Espiritu, Herbert
Subject: Re: Sexual Harrassment Training and FCA

I am going to have to read his slowly and do some research. Give me a couple of days.

Dane

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On Tue, Aug 6, 2019 at 2:59 PM -0700, "Espiritu, Herbert" <hespiritu@sjusd.org> wrote:

Dane,

Please read the email below from one of our teachers regarding FCA's presence on campus.

Thank you in advance.

Herb Espiritu
Principal
Pioneer High School
(408) 535 – 6310

From: Glasser, Peter
Sent: Wednesday, July 31, 2019 8:33 AM
To: Peter Glasser; Espiritu, Herbert; Bernhardt, Patrick
Subject: Sexual Harrassment Training and FCA

Hi Herb and Patrick,

I wanted to ask a complex question of you both, and feel free to take time to think on it. I've been thinking a lot this summer about the Fellowship of Christian Athletes' presence on campus. I've reached no conclusions other than 1. that I 100% support and appreciate Herb's and SJUSD's actions thus far, and 2. how important it is to keep up our defense of Pioneer's community values.

I am aware that FCA's equal access to campus is protected by law even if they can't be an official club because they violate SJUSD's anti-discrimination policies.

SJUSD008048

Would the same equal access be guaranteed, though, if the FCA violates SJUSD's sexual harassment policy? Could the FCA's published policies on homosexuality and gender identity be seen to violate our district's sexual harassment policies?

Even before I got to Slide 15 in the sexual harassment training, which seems most applicable to the FCA, the slides got me thinking...I think it's fair to argue that a reasonable person would see the FCA's creating a hostile work environment for students and faculty (Slides 3 and 5); perhaps the FCA could fairly be considered an "outside vendor" (Slide 6). In my (reasonable person's) view, the FCA fits both criteria of harassment from Slide 9, especially given that the harasser's intent is irrelevant (Slide 8). Given that the behavior doesn't have to violate law to be in violation of sexual harassment policy (Slide 28), is it an appropriate "interim action" to ban FCA completely from campus (Slide 29)? Also, could students fairly be deemed

"volunteers, unpaid employees and/or independent contractors" and therefore be protected by DFEH (Slide 31)?

Thanks in advance for thinking things over!

Peter

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CERTIFIED COPY

JANE DOE, JESSICA ROE, and
FELLOWSHIP OF CHRISTIAN
ATHLETES, an Oklahoma corporation,
Plaintiffs,

V. Case No. 5:20-cv-2798-LHK

SAN JOSE UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION, in its official
Capacity, NANCY ALBARRAN, in her
official and personal capacity, HERB
ESPIRITU, in his official and personal
capacity, and PETER GLASSER, in his
official and personal capacity,
Defendants.

DEPOSITION OF CHARLOTTE KLARKE
FRIDAY, FEBRUARY 26, 2021
VIA ZOOM

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800-288-3376
www.depo.com

REPORTED BY: DEBRA L. ACEVEDO-RAMIREZ, CSR. 7692
Arizona 50807

FILE NO: AF00D8C

Charlotte Klarke
February 26, 2021

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1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 JANE DOE, JESSICA ROE, and
4 FELLOWSHIP OF CHRISTIAN
5 ATHLETES, an Oklahoma corporation,
6 Plaintiffs,

7 V. Case No. 5:20-cv-2798-LHK

8 SAN JOSE UNIFIED SCHOOL DISTRICT
9 BOARD OF EDUCATION, in its official
10 Capacity, NANCY ALBARRAN, in her
11 Official and personal capacity, HERB
12 ESPIRITU, in his official and personal
13 Capacity, and PETER GLASSER, in his
14 Official and personal capacity,
15 Defendants.

16 _____/
17
18 Deposition of CHARLOTTE KLARKE, taken on
19 behalf of the defendant, Via Zoom, commencing at
20 9:29 a.m., Friday, February 26, 2021, before
21 Debra L. Acevedo-Ramirez, CSR No. 7692, pursuant to
22 Notice.
23
24
25

Charlotte Klarke
February 26, 2021

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1 although they're willing to be somewhat flexible. 10:57:18

2 I represented that I thought I had 10:57:23

3 approximately another hour of testimony to complete, 10:57:26

4 plus whatever is -- whatever I need to do regarding the 10:57:32

5 emotional distress line of questioning, which we're not 10:57:38

6 able to get into right now absent for the meet and 10:57:42

7 confer. 10:57:46

8 At this point we'll go forward, and everyone 10:57:47

9 reserves their right to object or do whatever they need 10:57:51

10 to do to either prevent further deposition or to compel 10:57:57

11 further deposition. 10:58:01

12 Is that fair? 10:58:03

13 MR. SCHWEICKERT: Fair. 10:58:05

14 MS. LEVINE: All right. 10:58:08

15 BY MS. LEVINE: 10:58:10

16 Q. Ms. Klarke, so we were talking before the break 10:58:13

17 about the demonstration on October 23rd, 2019. 10:58:17

18 How many more demonstrations were there outside 10:58:29

19 of the FCA meeting rooms during that '19, '20 school 10:58:32

20 year? 10:58:43

21 MR. SMITH: Objection. Vague and ambiguous. 10:58:44

22 THE WITNESS: There were protests at every 10:58:46

23 following FCA meeting within the 2019 to 2020 year. 10:58:49

24 BY MS. LEVINE: 10:58:55

25 Q. And you're talking about the regular, every other 10:58:55

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1 week meetings? 10:58:59

2 A. There were protests at any meetings FCA held 10:59:03

3 whether in the classroom or in a pack. At any club 10:59:08

4 activity or event there was a protest outside. 10:59:12

5 Q. Okay. But you're not including leadership 10:59:15

6 meetings that you may have held with just -- with just 10:59:18

7 Elizabeth or with Elizabeth and/or event where -- 10:59:21

8 Were there protests at those meetings as well? 10:59:28

9 A. I don't remember protests at leader meetings as 10:59:32

10 they were held outside of school hours. 10:59:36

11 Q. Okay. So as far as the protests regarding the 10:59:38

12 regular meetings, not the event that happened in the 10:59:47

13 pack or the gym, were there more protestors at this 10:59:51

14 October 23rd meeting than at any of those subsequent 11:00:03

15 protests that you can recall? 11:00:07

16 THE WITNESS: I don't know if the audio went 11:00:14

17 through for everyone else, but I didn't hear the 11:00:16

18 objection. 11:00:21

19 MR. SMITH: Objection. Vague and ambiguous. 11:00:22

20 Go ahead. 11:00:24

21 THE WITNESS: The meetings in the classroom 11:00:24

22 the protests grew a little bit. I don't recall specific 11:00:27

23 numbers. They were larger when meetings were in the 11:00:31

24 pack. 11:00:34

25 BY MS. LEVINE: 11:00:36

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1 I, Sandra Sotelo, a Certified Shorthand Reporter
2 of the State of California, do hereby certify:

3 That the foregoing proceedings were taken before
4 me at the time and place herein set forth; that any
5 witnesses in the foregoing proceedings, prior to
6 testifying, were placed under oath; that a verbatim
7 record of the proceedings was made by me using machine
8 shorthand which was thereafter transcribed under my
9 direction; further, that the foregoing is an accurate
10 transcription thereof.

11
12
13 Dated: This 17th day of March, 2021, at Winchester,
14 California.

15
16 

17 SANDRA SOTELO CSR# 13584
18

19 [X] Signature not requested
20
21
22
23
24
25

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ELIZABETH SINCLAIR, CHARLOTTE
KLARKE, FELLOWSHIP OF CHRISTIAN
ATHLETES, an Oklahoma corporation, and
FELLOWSHIP OF CHRISTIAN
ATHLETES OF PIONEER HIGH
SCHOOL, Plaintiffs,

vs.

SAN JOSÉ UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION, in its official
capacity, NANCY ALBARRÁN, in her
official and personal capacity, HERBERT
ESPIRITU, in his official and personal
capacity, PETER GLASSER, in his official
and personal capacity, and STEPHEN
MCMAHON, in his official and personal
capacity,

Defendants.

CASE NO. 5:20-cv-2798

JUDGE: Hon. Lucy H. Koh

**SECOND DECLARATION OF
RIGOBERTO LOPEZ IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

I, Rigoberto Lopez, declare as follows:

1. I am over eighteen years of age and fully competent to make this declaration.
2. I am the Metro Director for Fellowship of Christian Athletes ("FCA") in the Bay Area. I have been on staff with FCA since 2006. The Bay Area FCA is a regional division of the national Fellowship of Christian Athletes organization ("FCA National"). In connection with my position, I work with and provide support to high school students in the Bay Area, including in the San José Unified School District ("District"), who belong to or would like to establish student FCA "huddles" (FCA's name for a student club).
3. I hold a B.A. in psychology from the University of San Francisco. Before joining FCA staff, I worked with at-risk youth and coached college baseball.
4. The Fellowship of Christian Athletes of Pioneer High School ("Pioneer FCA") is a student chapter that is a certified affiliate of FCA National. Pioneer FCA met and previously was recognized as an Associated Student Body ("ASB") recognized student organization at Pioneer High School, a public secondary school within the District.

SECOND DECL. OF RIGOBERTO LOPEZ IN SUPPORT OF MOT. FOR PRELIM. INJ.
CASE NO.: 5:20-cv-2798

1 5. If granted ASB recognition for the 2021-2022 academic year, Pioneer FCA will open an
2 ASB account so that it can obtain funding for student events on campus.

3 6. Before they were derecognized by the District and dissolved as a result of the derecognition,
4 the Fellowship of Christian Athletes of Leland High School (“Leland FCA”) and Willow Glen High
5 School (“Willow Glen FCA”) were certified affiliates of FCA National. These clubs met and were
6 recognized as ASB-approved student organizations at Leland High School and Willow Glen High
7 School, also public secondary schools within the District.

8 7. In the District, student FCA club leadership typically consists of a president, vice president,
9 treasurer, and secretary. All leaders are students who are agreeing to undertake significant ministry
10 responsibility; there are no “benchwarmers” among FCA’s student leadership. The students
11 specifically apply for, and are selected by the student FCA club to lead their student chapter in
12 prayer and Bible studies, plan and lead club meetings, and control the direction of the club and its
13 activities. Membership has always been and will continue to be open to all students. Members do
14 not need to agree with the FCA Statement of Faith.

15 8. Student FCA members and potential members in the District are aware of the actions that
16 teachers, staff, and other students took against Pioneer FCA student leaders, including in-class
17 harassment, disruption of Pioneer FCA huddle meetings, and public derogatory statements to the
18 school community in the school newspaper and on social media.

19 9. Student FCA members and potential members in the District are also aware that the teacher
20 who initiated and spearheaded the attacks against Pioneer FCA, Defendant Peter Glasser, has
21 informed Pioneer and District leadership that he felt a professional obligation to attack Pioneer FCA
22 in the manner that he did, and that he would do the same again given the chance. These students
23 are also aware that Pioneer and the District have taken no remedial action to ensure such attacks on
24 Pioneer FCA’s beliefs will not occur again in the future, and instead have rewarded Defendant
25 Glasser by, among other things, making him commencement speaker.

26 10. The loss of ASB recognition, the protests of Pioneer FCA and its student leaders at Pioneer
27 High School, and the District and school administrations’ hostility toward FCA’s religious speech
28

1 and beliefs have scared and discouraged students across the District, making it difficult to recruit
2 and retain future student FCA leaders.

3 11. The loss of ASB-approved student FCA huddles at both Willow Glen and Leland High
4 Schools was a direct result of the District's discrimination and hostility to the student FCA huddles'
5 religious beliefs and speech.

6 12. To my knowledge, of the over 283 other student FCA huddles across California in 2021, not
7 a single one has been forced to either remove its religious leadership requirements or end its on-
8 campus ministry. Nor have I ever, in my 15 years of ministry with FCA, heard about another student
9 FCA huddle facing the same level of divisive protests, religious discrimination, and hostility as the
10 student FCA huddle at Pioneer High School in the District.

11 13. Existing student leaders typically help identify and recruit new student leaders, and explain
12 to the new potential leaders the important leadership responsibilities. If a student is interested in
13 leading the club after learning about the responsibilities, she or he can complete and submit an FCA
14 Student Leader Application. After receiving confirmation that the applicant shares the FCA huddle's
15 religious beliefs and is willing to take on leadership responsibilities, the existing student leadership
16 can approve the applicant for leadership. I also review the student's application when certifying a
17 student FCA huddle's affiliation with FCA National, but I do not approve individual student leaders
18 of student FCA huddles.

19 14. M.H. is a freshman at Pioneer and has applied for and been accepted as a student leader of
20 Pioneer FCA. M.H. wants to apply for ASB recognition at Pioneer, and had begun filling out the
21 ASB application form until M.H. reached the portion of the application requiring affirmation that
22 the club will not select leaders based on their agreement with the club's faith. Further, M.H. is
23 intimidated by the District because of its previous derecognition of and hostility toward Pioneer
24 FCA and the student leaders of Pioneer FCA.

25 15. Further, M.H. cannot complete the ASB application form as written because it requires
26 affirmation that Pioneer FCA will not ask its leaders to agree with its religious beliefs. This is the
27 first time that the ASB application form at Pioneer has included this kind of language. Previous
28 forms did not require that affirmation.

1 16. M.H. is afraid of signing the ASB application form while Pioneer and the District continue
2 to take the position that Pioneer FCA's religious beliefs are discriminatory, violate District policy,
3 and make Pioneer FCA ineligible for ASB recognition.


4 17. M.H. has a reasonable fear that submitting an ASB recognition form that includes M.H.'s
5 name before Pioneer and the District change their policy or are enjoined from denying ASB
6 recognition to Pioneer FCA on the basis of its religious beliefs will result in harm to M.H. and to
7 the students M.H. leads at Pioneer FCA.

8 18. In addition, three other students, N.M., M.C., and M.V. are currently students at Pioneer and,
9 among other Pioneer students, have confirmed that they plan to either lead or continue their
10 membership in Pioneer FCA in the coming year. M.C. and M.V. are seniors; N.M. is a junior. Like
11 M.H., these students have indicated that they are intimidated by Defendants' actions and fearful of
12 what the District will do to them and to their club if they seek ASB recognition without a change
13 in policy or an injunction from this Court.

14 19. If the Court grants an injunction allowing Pioneer FCA to have equal access to ASB
15 recognition without having to give up its religious leadership standards, Pioneer FCA's leadership
16 will apply for ASB recognition. Prior to the District's actions against FCA due to its religious
17 leadership standards, FCA had never had any trouble obtaining ASB recognition.

18
19 I declare under penalty of perjury that the foregoing is true and correct to the best of my
20 knowledge.

21 Executed on this 20th day of September, 2021.

22
23 

24 Rigoberto Lopez
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ELIZABETH SINCLAIR, CHARLOTTE
KLARKE, FELLOWSHIP OF CHRISTIAN
ATHLETES, an Oklahoma corporation, and
FELLOWSHIP OF CHRISTIAN ATHLETES OF
PIONEER HIGH SCHOOL, an unincorporated
association,

Plaintiffs,

v.

SAN JOSÉ UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION, in its official capacity,
NANCY ALBARRÁN, in her official and personal
capacity, HERBERT ESPIRITU, in his official and
personal capacity, PETER GLASSER, in his official
and personal capacity, and STEPHEN MCMAHON,
in his official and personal capacity,

Defendants.

CASE NO. 5:20-cv-2798

JUDGE: Hon. Lucy H. Koh

SECOND DECLARATION OF
DANIEL BLOMBERG IN
SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY
INJUNCTION

I, Daniel Blomberg, declare as follows:

1. I am Senior Counsel at the Becket Fund for Religious Liberty. I represent Plaintiffs Elizabeth Sinclair, Charlotte Klarke, Fellowship of Christian Athletes, and Fellowship of Christian Athletes of Pioneer High School (collectively, "Plaintiffs") in the above-captioned matter.

2. Attached as **Exhibit A** is a true and accurate copy of a document produced by Defendants in discovery, Bates stamped SJUSD007316-SJUSD007321.

3. Attached as **Exhibit B** is a true and accurate copy of a document produced by Defendants in discovery, Bates stamped SJUSD007753-SJUSD007755.

4. Attached as **Exhibit C** is a true and accurate copy of a document produced by Defendants in discovery, Bates stamped SJUSD007701-SJUSD007703.

5. Attached as **Exhibit D** is a true and accurate copy of Defendants' Amended Responses to Plaintiffs' Third Set of Interrogatories to Nancy Albarrán.

6. Attached as **Exhibit E** is a true and accurate copy of a document produced by Defendants in discovery, Bates stamped FCA004023.

7. Attached as **Exhibit F** is a true and accurate copy of an exhibit introduced in the deposition

SECOND DECL. OF DANIEL BLOMBERG IN SUPPORT OF MOT. FOR PRELIM. INJ.

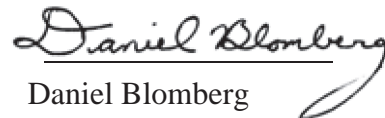
CASE NO.: 5:20-cv-2798

- 1 of Stephen McMahon, marked as Exhibit 92 and Bates stamped SJUSD010976.
- 2 8. Attached as **Exhibit G** is a true and accurate copy of a document produced by Defendants in
- 3 discovery, Bates stamped SJUSD012754, SJUSD012799-SJUSD012800.
- 4 9. Attached as **Exhibit H** is a true and accurate copy of a document produced by Defendants in
- 5 discovery, Bates stamped SJUSD012899-SJUSD012900.
- 6 10. Filed contemporaneously with this declaration are true and accurate excerpts from the
- 7 Deposition of Peter Glasser.
- 8 11. Filed contemporaneously with this declaration are true and accurate excerpts from the
- 9 Depositions of Charlotte Klarke.
- 10
- 11

12 I declare under penalty of perjury that the foregoing is true and correct to the best of my

13 knowledge.

14 Executed on this 20th day of September, 2021.

15  Daniel Blomberg

16

17

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Exhibit A



**CONSTITUTION OF THE LELAND AMERICAN RED CROSS
2019-2020**

Article I. Name

1. The name of the club shall be **Leland American Red Cross**, hereinafter "Club."

Article II. Authority

1. The **Leland American Red Cross** is functioning under the guidance and auspices of the **Silicon Valley Chapter** of the American Red Cross and is considered an extension of that Unit rather than an independent Red Cross entity.

Article III. Purpose

1. Guided by the fundamental principles of the American Red Cross and its mission to prevent and alleviate human suffering in the face of emergencies by mobilizing the power of volunteers and the generosity of donors the **Leland American Red Cross**, will learn, practice and exemplify humanitarian values through mission-related service projects.
2. Club will plan and coordinate a minimum of three Red Cross mission-related service projects per year. The service projects will focus on preparedness, blood, and fundraising.
 - 2.1 All service projects beyond the required three will fall into the lines of service in the American Red Cross:
 - o Preparedness and Health and Safety Services
 - o Biomedical Services
 - o Disaster Services
 - o International Services
 - o Service to Armed Forces
 - 2.2 Any activities that are not mission-related will first be approved by **Silicon Valley Chapter**.

Article IV. Membership

1. The **Leland American Red Cross** will consist of currently enrolled students or active members at **Leland High School**.
2. Club will have a minimum of four active members.
3. Members of **Leland American Red Cross** are considered volunteers for the American Red Cross and must register with **Silicon Valley Chapter** and in Volunteer Connection.
Note: Club members under the age of 13 must complete a parental consent form and submit it to the Red Cross Unit.
 - 3.1 All Club members must complete a Volunteer Application and sign a Code of Conduct.
 - 3.2 All Club members must attend a volunteer orientation given by **Silicon Valley Chapter**
4. Membership Requirements. The responsibilities of Club members include:

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- 4.1 Learning and following the American Red Cross Mission Statement, Code of Conduct, and the Principles of the Global Red Cross Network.
- 4.2 Maintaining their personal profile in Volunteer Connection.
- 4.3 Regularly attending Club meetings and participating in Club activities and events.

4.4 *Dedicating at least 10 hours each semester for events that the club provides or any Red Cross related events.*

- 5. Duties: Club members will serve and represent the American Red Cross through participation in school or community-based service projects.
- 6. Voting: Each member is entitled to one vote. Voting by proxy shall not be permitted. Decisions determined to require a vote shall be by majority vote of members present.

Article V. Officers

- 1. The officers of the **Leland American Red Cross** shall be **President, Vice President, Secretary, Treasurer, and Committee Leaders**. The officers will form the Executive Board.
- 2. The Executive Board shall be comprised of the elected officers of the Club and shall meet on a regularly basis to finalize agenda items, prepare reports, and collaborate on the business of the Club.
- 3. These officers shall perform the duties prescribed by this Constitution and by the parliamentary authority adopted by the Club.

3.1 President

- Represent the Club to the local Red Cross unit and school community
- Serve as spokesperson for the Executive Board and the Club
- Club meetings: Prepare for all meetings, prepare an agenda with the secretary for all meetings, preside and facilitate at Club meetings, provide follow-up to organizational tasks, and inform Executive Board of other meeting information
- Utilize the Volunteer Connection: Register/renew your Club each year in the Volunteer Connection, and work with the secretary to record all Club events/activities in the Volunteer Connection
- Club activities: Ensure that all Club activities are related to the mission of the Red Cross, help coordinate Club projects, and serve on various Club committees or task forces
- Coordinate Executive Board transition
- Maintain regular contact with Red Cross Unit Contact and sponsor/ advisor
- Be aware of financial matters pertaining to Club

3.2 Vice President

- Club meetings: Attend all meetings, preside at meetings in absence of President, and provide follow-up to organizational tasks
- Encourage Club members to utilize Volunteer Connection
- Maintain Club Constitution: Direct updates and revisions to Constitution
- Help coordinate Executive Board transition: Facilitate elections
- Be aware of financial matters pertaining to Club
- Club activities: Serve as liaison to committees, and serve on various Club committees or task forces
- Perform other duties as directed by the President

3.3 Treasurer

- Be aware of financial matters pertaining to Club
- Prepare the Club budget
- Prepare purchase orders, requisition forms or supply requests, as needed

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- Maintain a financial history of the Club
- Club meetings: Report to Club officers/members on status of funds
- Utilize the Volunteer Connection: Work with the secretary to record all Club fundraising events/activities in Volunteer Connection
- Maintain regular contact with Red Cross Unit Contact and sponsor/ advisor regarding Club's finances
- Perform other duties as directed by the President

3.4 Secretary

- Club meetings: Record and maintain minutes of all Club meetings, distribute minutes to all Club members, Club advisors and appropriate school staff, prepare an agenda with the president for all meetings, and keep Club informed of all activities and meetings
- Utilize Volunteer Connection: Work with the president to record all Club events/activities in Volunteer Connection, maintain calendar of events, and maintain contact directory (including phone, email) of all Club members
- Perform other duties as directed by the President

3.5 Committee Lead

- Be prepared to share committee activities/updates at the Club meetings
- Committee Meetings: Hold committee meetings, attend all committee meetings, set standards and establish goals for the committee, and assign duties for committee members
- Club activities: Ensure that all committee activities are related to the mission of the Red Cross, work with the Secretary to make sure that all committee activities are recorded in the Volunteer Connection
- Perform other duties as directed by the President

3.6 All Officers

- Seek new members and work to maintain current membership
- Be open to input and opinions. Remain open to new ideas
- Greet members at meetings and make them feel welcome
- Attend officer training
- Make preparations for new officer at end of term, including ample time for mentoring
- Recognize fellow Club members for achievement and commitment

4. Qualifications: All officers must be enrolled students in good standing at **Leland American High School**.

5. Election: Officers are elected for the following (academic) year by a simple majority vote of the members present during, or by the time of, the last Club meeting during the current year.

5.1 Officer terms will last for one academic year.

5.2 In the event of a vote tie, ***there will be another vote with just the candidates that have received a tie. In the event that another tie occurs, the board and advisor will decide on the officer.***

6. Removal From office: Any officer not acting in accordance with the American Red Cross Code of Conduct or who does not meet or fulfill the standards or duties established for the office he/she holds may be removed from office by a majority vote by the membership.

Article VI. Red Cross Unit Contact

1. The Red Cross Unit Contact is the person ensuring the link between the Club and the **Silicon Valley Chapter** in which the Club resides.

2. The Red Cross Unit Contact for the **Leland American Red Cross** is
Silicon Valley Chapter
408-577-1000
YouthServicesSVC@redcross.org
3. Duties: Support and guide the Club in its service engagement as well as inform the Club about opportunities that lay at the local unit level.
 - 3.1 Provide Club with guidance and resources to be successful
 - 3.2 Provide Club with Brand Guidelines and style guidelines and provide guidance about the use of the brand.
 - 3.3 Provide Club access to promotional materials on Brand Central for club recruitment, club member recognition, club events and fundraisers, as needed.
 - 3.4 Integrate Club members into the activities of the local Red Cross unit.
 - 3.5 Provide Club members with volunteer opportunities with multiple lines of service.
4. The Red Cross Unit Contact does not have voting rights and should attend meetings as needed or available.

Article VII. Sponsor / Advisor

1. A full-time **Leland High School** employee or faculty member shall serve as the sponsor/advisor for the Club.
2. The sponsor/advisor for the **Leland American Red Cross** is
Joe Kerwin.
408-535-6290
JKerwin@sjusd.org
3. Term: The sponsor shall serve a minimum term of one full (academic) year. There is no term limit.
4. The sponsor will be a registered volunteer with **Silicon Valley Chapter** in Volunteer Connection.
5. Duties: The sponsor's duties include:
 - Club meetings: Attend Club meetings, keep Club informed about school/institutional matters, give a report during Club meetings when appropriate, respect and encourage all Club functions and assist with risk management decisions
 - Ensure all Club activities are entered in Volunteer Connection
 - Maintain regular contact with Red Cross Unit Contact and Executive Board
 - Provide developmental activities to the Executive Board to assist in developing group cohesiveness: Attend goal-setting meeting with Executive Board and/or Club
 - Help maintain history of the Club from year to year
 - Assist Club with election concerns
 - Recognize Club members for achievement and commitment
6. The Sponsor does not have voting rights.

Article VIII. Quorum and Voting

1. A quorum shall constitute a minimum of 50% of the membership in attendance at a scheduled meeting. The process for general decision-making, including the expenditure of funds, shall be a simple majority of a quorum unless otherwise specified in this Constitution.

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2. The Executive Board may, with a majority vote, authorize expenditures of up to \$.00 for routine operational expenses.
3. Changes to this Constitution require quorum and a 2/3 vote to pass.

Article IX. Amendments

1. Amendments to these bylaws consistent with the Club constitution may be adopted at any meeting of the Club in which a quorum is present, provided that a statement setting forth the substance of such proposed action is included in the notice of the meeting.
2. All active members will be notified of a final meeting before the close of the spring semester during which proposals for amendments to the Constitution can be made.
3. Any active member may propose an amendment to the Club's Constitution in order to ensure that the Club is administered properly.
4. At the final meeting, proposals will be read aloud and all active members will vote on the proposal.
5. A 2/3 majority vote of a quorum of all active members is required to approve an amendment.
6. .

Article X. Club Requirements

1. Club will submit a Club Constitution to **Silicon Valley Chapter** at the start of the school year.
2. Club will submit/renew an annual Red Cross Club Registration in Volunteer Connection.
3. Club will adhere to the Principles of the Global Red Cross Network while conducting their activities.
4. Club will track Club activities/service projects in Volunteer Connection.
5. Clubs will follow brand and style guidelines when using the Red Cross name and logo in external communications, including in connection with all fundraising activities.


Article XI. Club Finances and Fundraising

1. Club will notify **Silicon Valley Chapter** prior to hosting a fundraising event regarding items such as brand use, donor intent, solicitation language, and to ensure they are not contacting individuals or businesses that the Red Cross Unit is currently engaging. Donor intent is the purpose of the donor's gift, which may be designated for a specific disaster or undesignated, for general purposes.
2. In addition to raising funds for the Red Cross, Club may raise funds for Club expenses, as needed. Whether Club is collecting funds for the Red Cross or Club expenses, Club must work with **Silicon Valley Chapter** on appropriate solicitation language to honor donor intent.
3. Clubs will seek prior approval from **Silicon Valley Chapter** before seeking donations of the **Leland High School** campus.
4. Club will work with **Silicon Valley Chapter** to report and forward all proceeds within 14 days following a fundraising event.

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5. Club financial activity will be managed by **Silicon Valley Chapter** through the balance sheet of the Red Cross. Net contributions raised will be recorded as a monetary contribution.
6. Club is only permitted to open a separate bank account if required by the school. If such school bank account is required, Club must work with **Silicon Valley Chapter** to report and forward all proceeds to the Red Cross Unit within 30 days following a fundraising event.
7. Club can use the 501(c)(3) status of the American Red Cross as long as activities are authorized by and conducted under the auspices of the Red Cross.

This constitution is adopted by the Leland High School on October 1, 2019 for the 2019-2020


Oct. 1, 2019

Club President's Name (print)

Signature

Date

Joe Kerwin
Oct. 1, 2019

Sponsor / Advisor's Name (print)

Signature

Date


Oct. 1, 2019

Red Cross Unit Contact's Name (print)

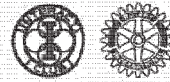
Signature

Date

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Exhibit B

STANDARD INTERACT CLUB CONSTITUTION



ARTICLE I — Name

The name of this organization shall be the Interact Club of Pioneer

ARTICLE II — Purpose and Goals

The purpose of Interact is to provide opportunity for young people to work together in a world fellowship dedicated to service and international understanding.

The goals of Interact are:

1. To recognize and develop constructive leadership and personal integrity.
2. To encourage and practice thoughtfulness of and helpfulness to others.
3. To create an awareness of the importance of home and family.
4. To build respect for the rights of others, based on recognition of the worth of each individual.
5. To emphasize acceptance of individual responsibility as the basis of personal success, community improvement, and group achievement.
6. To develop life skills including self development, time management, and personal finances.
7. To recognize the dignity and value of all useful occupations as opportunities to serve society.
8. To provide opportunities for gaining increased knowledge and understanding of community, national, and world affairs.
9. To open avenues of personal and group action leading to the advancement of international understanding and goodwill toward all peoples.

ARTICLE III — Sponsorship

1. The sponsor of this Interact club is the Rotary Club of San Jose/Santa Clara which, through a committee of not less than five Rotarians, shall exercise supervision and control over all activities, programs and policies of this Interact club. The continued existence of this Interact club shall depend upon the continued active personal participation of the sponsoring Rotary club. In the case of a club composed of young women only, the committee shall also include one or more responsible women as ex officio members.
2. This club is not a part of, and neither this club nor its members have any rights or privileges with respect to, the sponsoring Rotary club.

ARTICLE IV — Membership

1. To be eligible for membership a person must possess good character and leadership potential and (a) in a school-based club be a student at the secondary-school or pre-university level, or be age 12 to 18; (b) in a community-based club be a young person 12 to 18 years.
2. The membership of this club may be all male, all female, or both male and female in any ratio, at the discretion of the sponsoring club.
3. The method of electing members of this club shall be determined by the sponsoring Rotary club in consultation with the Interact club. The method of electing new members of a school-connected club shall have the approval of the school authorities.
4. Each member of this club shall attend at least 60% of this club's regularly scheduled meetings.
5. Membership shall automatically terminate (a) upon removal from the community; (b) in a school-based club upon graduation or otherwise ceasing to be a student in the last four years of school preceding the university level in the area from which the membership is drawn or in a community-based club, not in connection with a school, upon graduation or upon reaching the age of eighteen; (c) by termination of the club; or (d) by failure to meet attendance requirements unless excused by the board of directors of this club for good and sufficient reason.
6. Membership may be terminated for cause as determined by this club by vote of not less than 2/3 of all the members in good standing.

ARTICLE V — Meetings

1. The club shall meet not less than twice per month, as provided in the by-laws, at a time and place suited to the convenience of the members, with due regard for their school obligations.
2. The board of directors shall meet as provided in the by-laws. In a community-based club, no meeting of the club or of the board shall be deemed official unless a member of the Interact committee of the sponsoring Rotary club is in attendance. In a school-based club, no meeting of the board shall be deemed official unless a member of the Interact committee of the sponsoring Rotary club is in attendance.
3. Meetings of the club and of the board of directors may be cancelled during holiday or vacation periods at the discretion of the board of directors, with the approval of the sponsoring Rotary club.

ARTICLE VI — Officers and Directors

1. The officers of this club shall be a president, vice-president, secretary, treasurer, and such additional officer(s) as may be provided in the by-laws.
2. The governing body of this club shall be a board of directors composed of the president, vice-president, secretary, treasurer and additional directors whose number shall be determined by this club with the approval of the sponsoring Rotary club, all to be elected from among the members in good standing. All decisions, policies and actions of the board and of the club shall be subject to the authority of the sponsoring Rotary club, the provisions of this constitution, and policy established by Rotary International.

If school-connected, this club shall be subject to the same regulations and policies established by the school authorities for all student organizations and extracurricular activities of the school.

The board of directors shall have general control over all officers and committees and may, for good cause, declare any office vacant. It shall constitute a board of appeals from the rulings of all officers and actions of all committees.

3. Elections of officers and directors shall be by methods compatible with local customs and procedures, but in no case shall more than a simple majority of the members present and in good standing be required for election.

The term of office of all officers and directors shall be one year, unless a shorter term is provided in the by-laws. No provision shall be made for a term of office shorter than one year except with the written permission of Rotary International.

ARTICLE VII — Activities and Projects

1. Within the limits prescribed in section 1 of Article III, this club shall be responsible for planning, organizing, financing and conducting its own activities and shall itself supply the money, manpower and creative imagination necessary thereto, except that in the case of joint projects or activities undertaken in cooperation with other organizations, such responsibility shall be shared with such other organization(s).
2. The club shall undertake among its activities at least two major projects annually, one designed to serve the school or community, the other to promote international understanding, and each shall involve all or most of the members of the club.
3. The aim of international service in Interact is to encourage and foster the advancement of international understanding, goodwill and peace through a world fellowship of youth united in the ideal of service. The aim of community and school service is to encourage and foster the application of the ideal of service by each Interact club member to his or her personal, community and school life.
4. It is the responsibility of the club to raise the funds necessary to carry out its program. It shall not solicit or accept more than occasional or incidental financial assistance from its sponsoring Rotary club, nor shall it make general solicitations from Rotary clubs other than its sponsoring Rotary club or from other Interact clubs, nor shall it solicit financial assistance from individuals, businesses or organizations in the community without giving something of value in return.

ARTICLE VIII — Committees

1. There shall be provided in the by-laws of this club the following standing committees: international understanding, service, finance, club, and such other standing committees as may be deemed necessary or convenient for the administration of the club.
2. The president, with the approval of the board, may appoint such special committees as he or she may deem necessary, citing their duties at the time of appointment. All such special committees shall lapse upon the completion of their duties, upon discharge by the appointing president, or with the end of his or her term of office, whichever occurs first.

ARTICLE IX — Fees and Dues

Any additional fees, dues or assessments on the membership of the club shall be nominal and shall only be for the purpose of meeting the administrative costs of the club. Funds for activities and projects undertaken by the club shall in general be raised apart from such fees, dues or assessments.

ARTICLE X — Acceptance of Constitution and By-Laws

Every member of this club, by his or her acceptance of membership and continuation thereof, thereby accepts the principles of Interact as expressed in its purpose and goals and submits himself or herself to and agrees to comply with and be bound by the constitution and by-laws of this club, and on these conditions alone is entitled to the privileges of the club. No member shall be absolved from the observance of the constitution and by-laws on the plea that he or she has not received a copy of them.

ARTICLE XI — By-Laws

This club shall adopt the "Standard Interact Club By-Laws," together with such amendments as are not inconsistent with this constitution and which may be deemed necessary or convenient for the government of the club, provided that such amendments are adopted in accordance with the amendment procedure prescribed in the "Standard Interact Club By-Laws."

ARTICLE XII — Emblem

The emblem of Interact shall be preserved for the exclusive use and benefit of Interact members. Each member of this club shall be entitled to wear or otherwise display the Interact emblem in a dignified and appropriate manner during the period of his membership. He or she shall relinquish such entitlement upon termination of his or her membership or termination of this club.

ARTICLE XIII — Duration

This Interact club shall exist so long as it continues to function in accordance with the provisions of this constitution and policy relating to Interact established by Rotary International, or until it is terminated:

- a) by this club upon its own determination and action;
- b) by the sponsoring Rotary club upon withdrawal of its sponsorship; or
- c) by Rotary International for failure to function in accordance with this constitution or for other cause.

Upon termination of this club, all rights and privileges relating to the Interact name and emblem shall be relinquished by the club and by its members individually and collectively.

ARTICLE XIV — Amendments

This constitution may be amended only by action of the Board of Directors of Rotary International, and all amendments to the "Standard Interact Club By-Laws" adopted by the Board of Directors of Rotary International shall automatically amend this constitution.

Exhibit C

CALIFORNIA SCHOLARSHIP FEDERATION
PIONEER HIGH SCHOOL — CHAPTER NO. 659
CHAPTER CONSTITUTION / STANDING RULES

ARTICLE I — NAME AND PURPOSE

- Section 1. The name of this organization shall be Chapter Number 659 of the California Scholarship Federation, in abbreviated form, "CSF".
- Section 2. The purpose shall be to foster high standards of scholarship, service, and citizenship on the part of the students of Pioneer High School and to promote appropriate activities among its members.

ARTICLE II — MOTTO AND COLOR

- Section 1. The official motto shall be "Scholarship for Service".
- Section 2. The official color shall be gold.

ARTICLE III — MEMBERSHIP

- Section 1. This chapter will admit students to membership according to the provisions of the State By-Laws, Article IV.
- Section 2. Students in grade twelve, grade eleven, or the second semester of grade ten who meet the requirements shall be eligible for semester membership. Students in the first semester of grade ten or the second semester of grade nine who meet the requirements shall be eligible for associate membership. Students in the first semester of grade nine who are Honor Members of the California Junior Scholarship Federation shall be eligible for associate membership.
- Section 3. Membership is neither automatic nor compulsory. The student must apply for membership during an enrollment period established by the advisor. The enrollment period must occur during the first four weeks of the semester.
- Section 4. A student who is otherwise eligible but who in the judgment of the advisor and the principal is an unworthy citizen may be disqualified from semester membership. This may affect life (sealbearer) membership.
- Section 5. To be eligible for membership, a student's record for the previous semester must have no grades lower than C.
- Section 6. Grades earned in physical education, courses taken in lieu of physical education, subjects repeated to improve a grade, courses involving office/teacher/lab assistance, and courses taken on a pass/fail basis shall not count for CSF points.
- Section 7. Activity points will not be used.
- Section 8. Transfer and exchange students shall be accepted for membership according to the provisions of the State By-Laws, Article IV, Sections 14 and 15.

ARTICLE IV — AWARDS

- Section 1. The life (sealbearer) membership certificate will be awarded to graduating life (sealbearer) members, according to the provisions of the State By-Laws, Article VI, Section 2(b).
- Section 2. The CSF chapter seal may be placed on each sealbearer's diploma.
- Section 3. Life (sealbearer) members shall be entitled to wear the CSF chapter stole during Pioneer High School commencement exercises.
- Section 4. All current semester members shall be entitled to wear the CSF chapter cords during Pioneer High School commencement exercises.
- Section 5. Chapter scholarships, as allocated by the ordinary budget or a special budget, shall be awarded by a faculty committee appointed by the advisor and the principal. Only life (sealbearer) members shall be eligible for chapter scholarships.

ARTICLE V — OFFICERS

- Section 1. The officers of the chapter shall be those of President, Vice-President, Secretary, and Treasurer.
- Section 2. Officers shall be elected each spring at a regular meeting of the chapter. Their terms of office shall be June 1 through May 31. Elections shall be by silent vote after all candidates have made brief speeches.
- Section 3. To be eligible for an elected office, a student must be a semester member at the time of election and must remain a semester member throughout his or her term of office.
- Section 4. Duties of the Officers
 - A. The club President will have the following duties:
 - 1. To preside over meetings of the club
 - 2. To call special meetings of the club
 - 3. To plan and prepare an agenda for the club meetings
 - B. The club Vice-President will have the following duties:
 - 1. To serve as the club President if the president becomes unable to fulfill his/her duties either temporarily or permanently
 - 2. To support the club President
 - C. The club Treasurer will have the following duties:
 - 1. To maintain complete and accurate record of all club receipts and disbursements
 - 2. To oversee club fund-raising efforts
 - 3. To supervise the preparation of the club budget
 - D. The club Secretary will have the following duties:
 - 1. To maintain accurate minutes of each club meeting
 - 2. To carry out all correspondence for the club
- Section 5. The elected officers and the chapter advisor shall constitute the chapter cabinet. The cabinet shall plan all chapter meetings and activities, appoint all necessary committees, and exercise financial authority within the constraints of Article VII.

ARTICLE VI — MEETINGS AND QUORUM

- Section 1. Regular meetings of the chapter shall be held on the third Wednesday of each month in the advisor's classroom.
- Section 2. Special meetings may be called by the President with the consent of the chapter advisor.
- Section 3. One-third of the membership shall constitute a quorum for the transaction of business.
- Section 4. Robert's Rules of Order shall be the authority for conduct of business.

ARTICLE VII — FINANCES

- Section 1. All money shall be deposited with and disbursed by the ASB bank.
- Section 2. Each semester and associate member shall be asked to make a voluntary contribution of \$2.00 each semester.
- Section 3. The chapter cabinet shall have the power to prepare and adopt the chapter's ordinary budget, provided the total disbursements authorized by the ordinary budget shall not exceed the total amount of money collected in dues during the previous academic year. The ordinary budget shall only cover expenses related to the following: organization dues, awards and scholarships, service projects, membership meetings, and CSF conferences.
- Section 4. Expenditures in excess of the amount stipulated above or for line items other than those stipulated above shall require a special budget. Special budgets shall be approved by a majority of those members in attendance at a regular chapter meeting.
- Section 5. All state dues and Seymour Award contributions shall be deposited with the CSF State Treasurer.

ARTICLE VIII — AMENDMENTS

- Section 1. With the approval of the advisor, this Constitution may be amended by a two-thirds vote of the membership, but no amendment shall take effect until it has been approved by the CSF State Registrar. Amendments shall only be approved at a regular chapter meeting.
- Section 2. Approval of any amendment shall be requested of the CSF State Registrar according to the provisions of the State By-Laws, Article I, Section 5.

Exhibit D

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Attorneys for Defendants
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and STEPHEN MCMAHON

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

ELIZABETH SINCLAIR, CHARLOTTE
KLARKE, and FELLOWSHIP OF
CHRISTIAN ATHLETES, an Oklahoma
corporation, and FELLOWSHIP OF
CHRISTIAN ATHLETES OF PIONEER
HIGH SCHOOL, an unincorporated
association,

Plaintiffs,

v.

NANCY ALBARRAN, in her official and
personal capacity, HERB ESMIRITU, in his
official and personal capacity, and PETER
GLASSER, in his official and personal
capacity, and STEPHEN MCMAHON, in his
official and personal capacity,

Defendants.

Case No. 5:20-cv-2798-LHK

**AMENDED RESPONSES TO PLAINTIFFS'
THIRD SET OF INTERROGATORIES TO
NANCY ALBARRÁN**

PROPOUNDING PARTY: PLAINTIFFS ELIZABETH SINCLAIR, CHARLOTTE KLARKE,
and FELLOWSHIP OF CHRISTIAN ATHLETES

RESPONDING PARTY: DEFENDANT NANCY ALBARRAN

SET NUMBER: THREE

Defendant NANCY ALBARRÁN submits the following amended answers and objections to
Plaintiff ELIZABETH SINCLAIR, CHARLOTTE KLARKE, and FELLOWSHIP OF CHRISTIAN

1 ATHLETES' Third Set of Interrogatories to Defendant ALBARRAN.

2 **PRELIMINARY STATEMENT AND GENERAL OBJECTIONS**

3 These responses are made solely for purpose of this action. Each answer is subject to all
4 objections as to relevance, materiality, and admissibility, and all other objections that would require
5 the exclusion of any statement contained herein if made by a witness present and testifying in court,
6 all of which objections and grounds are reserved and may be interposed at the time of trial.

7 Defendant objects to the instructions and definitions provided by Plaintiffs to the extent they
8 conflict with or impose burdens beyond those contained in the Federal Rules of Civil Procedure.
9 Defendant also objects to the instructions and definitions on the grounds that they make the
10 interrogatories compound, vague, ambiguous and unintelligible, burdensome and oppressive, and to
11 the extent they expand the interrogatories into multiple subparts. Defendant further objects that
12 Plaintiffs have already exhausted all their interrogatories.

13 Discovery, investigation, research, and analysis in this action are continuing. It is
14 anticipated that further discovery, investigation, research, and analysis may result in the
15 development of new facts and legal theories, which may alter the responses contained herein.
16 Defendant retains the right to revise, correct, supplement and/or clarify any of the responses herein.
17 The responses herein are given without prejudice to Defendant's right to produce evidence of any
18 subsequently discovered fact or facts which Defendant may later discover or recall.

19 Subject to the foregoing objections, the interrogatories are responded to as follows:

20 **INTERROGATORY NO. 1:**

21 Identify all athletic teams or sports clubs at Pioneer, Leland, and Willow Glen that currently
22 are, or have been at any point during or subsequent to the 2018-19 academic year, single-gender for
23 any purpose, including without limitation membership, leadership, role, position, participation,
24 or benefits.

25 **RESPONSE TO INTERROGATORY NO. 1:**

26 Defendant objects that this interrogatory is vague, ambiguous, unintelligible, compound,
27 overbroad, and beyond the scope of discovery. It is also burdensome and oppressive. Subject to
28

and without waiving these objections, Defendant responds as follows:

Pioneer, Leland and Willow Glen High Schools have various teams for girls and boys, as well as coed teams, which include the following, as of the end of the 2020-21 school year:

Pioneer

Football (Boys)
 Cross Country (Boys)
 Cross Country (Girls)
 Volleyball (Girls)
 Water Polo (Boys)
 Water Polo (Girls)
 Tennis (Girls)

 Basketball (Boys)
 Basketball (Girls)
 Soccer (Boys)
 Soccer (Girls)
 Wrestling (Coed)

 Baseball (Boys)
 Softball (Girls)
 Volleyball (Boys)
 Badminton (Coed)
 Swimming (Boys)
 Swimming (Girls)
 Lacrosse (Boys)
 Lacrosse (Girls)
 Track (Boys)
 Track (Girls)
 Competitive Cheer (Girls)
 Tennis (Boys)
 Golf (Boys)

Leland

Football (Boys)
 Cross Country (coed)
 Volleyball (Girls)
 Water Polo (Boys)
 Water Polo (Girls)
 Tennis (Girls)
 Golf (Girls)
 Field Hockey (Girls)

 Basketball (Boys)

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BERKELEY, CA 94704

1 Basketball (Girls)
2 Soccer (Boys)
3 Soccer (Girls)
4 Wrestling (Coed)
5 Baseball (Boys)
6 Softball (Girls)
7 Volleyball (Boys)
8 Badminton (Coed)
9 Swimming and Diving (Coed)
10 Lacrosse (Boys)
11 Lacrosse (Girls)
12 Track (Coed)
13 Tennis (Boys)
14 Golf (Boys)

9 **Willow Glen**

10 Football (Boys)
11 Cross County (Coed)
12 Volleyball (Girls)
13 Water Polo (Boys)
14 Water Polo (Girls)
15 Tennis (Girls)
16 Field Hockey (Girls)

15 Basketball (Girls)
16 Basketball (Boys)
17 Soccer (Boys)
18 Soccer (Girls)
19 Wrestling (Coed)
20 Baseball (Boys)
21 Softball (Girls)
22 Volleyball (Boys)
23 Badminton (Coed)
24 Swimming and Diving (Coed)
25 Lacrosse (Girls)
26 Track (Coed)
27 Tennis (Boys)
28 Golf (Boys)

25 **INTERROGATORY NO. 2:**

26 For each athletic team or sports club identified in response to Interrogatory Number One,
27 identify which distinctions the identified group is permitted to make. For example, if a boys'
28 basketball team restricts membership, leadership, and participation on the team based on biological

sex and/or gender, state the name of the team and on what basis it restricts membership, leadership, or participation.

RESPONSE TO INTERROGATORY NO. 2:

Defendant objects that this interrogatory is vague, ambiguous, compound, overbroad, and beyond the scope of permissible discovery. It is also burdensome and oppressive. Defendant also objects to the extent this interrogatory seeks information protected by the attorney work product doctrine. Subject to and without waiving these objections, Defendant responds as follows:

The District makes single sex teams available to boys and girls consistent with federal and state law, and the rules of the California Interscholastic Federation (“CIF”), the Central Coast Section of the CIF, and the Blossom Valley Athletic League, in which it participates. Under Board Policy, and applicable law, the District sponsors certain single sex teams to provide participation opportunities to both male and female students. (See, e.g., 34 C.F.R. § 106.41(b), 5 Cal. Code of Regs., § 4921(a).) The District provides equal benefits to all student athletes, regardless of whether they participate in a girls’ or a boys’ team, as required by law. Where a sport is only made available to students of one gender (for instance, boys’ football), students of another gender may try out and compete for the team if they meet eligibility criteria. The District also provides equal opportunities for transgender and gender non-conforming students to participate in sports. They may participate consistent with their gender identity, irrespective of the gender identity listed on the student’s official records. (See Board Policy (“BP”) 5145.3.)

Eligibility criteria for athletic teams and other rules regarding participation in athletics is contained within Board Policies and Administrative Regulations, primarily 6145.2, the rules of the CIF, the Central Coast Section of the CIF, and the Blossom Valley Athletic League, and the rules related to each individual sport.

INTERROGATORY NO. 3:

Explain the meaning of “sponsorship” and “sponsor” as used in Board Policy 6145.5 and FCA000006, including an explanation of any difference between that meaning and the meaning of “recognition” as used in Your amended response to Plaintiff’s First Set of Interrogatories

Interrogatory Number Two, including without limitation under what circumstances any student group or athletic team can be “sponsored” but not “recognized” or vice versa.

RESPONSE TO INTERROGATORY NO. 3:

Defendant objects that this interrogatory is vague, ambiguous, compound, not complete in and of itself, burdensome and oppressive. Defendant also objects that this interrogatory calls for information protected by the attorney work product doctrine. Subject to and without waiving these objections, Defendant responds as follows:

FCA000006 is an email which references the District’s policy of not discriminating in programs or activities “sponsored” by the District. The District’s non-discrimination policies apply to all programs or activities of the District, including, or instance, courses of instruction, student enrollment, and student discipline. (See BP 0410, 5143.3). The District is prohibited from discriminating in programs or activities that it conducts, operates, or administers, or that receive State or federal financial assistance. (See, e.g., Cal. Educ. Code §203(g), 220; Cal. Gov. Code §11135; 20 U.S.C. §794, 20 U.S.C. 1681).

Student activities that are conducted, operated, or administered by the District, or that receive State or federal financial assistance, are subject to the District’s non-discrimination policies. This includes certain student activities that the District conducts or “sponsors”, including, for instance, student athletic teams, student drama productions, student bands, student choirs, and sideline cheerleading. These are school activities where staff is providing more than mere adult supervision, where there is a significant investment of District or school site funds or resources involved in the activity’s operation, and where the activity is associated with the District as a whole or with a particular school site. Certain school sponsored activities may be associated with a class, and may be undertaken by the student for credit. (See Cal. Educ. Code §§35160.5(a), 35179(a)).

In the examples provided of school sponsored activities above, the students are held to certain rules and standards which would not apply to members of student clubs or interest groups which are purely voluntary. For example, students participating in extracurricular activities, co-

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curricular activities, or the athletics program, could be required by the coach or faculty member in charge to wear a uniform or a certain type of clothing when engaging in particular activities, could prohibit gum chewing during meetings, or could require students involved in the activity to attend meetings, and be on time. The District does not exercise this level of control over student-initiated clubs or interest groups.

BP 6145.5 provides that “The Superintendent or designee shall establish criteria and a process for school sponsorship of student clubs.” Sponsorship in BP 6145.5 means “ASB recognition” or “ASB approval.” School sites may provide ASB “recognition” or “approval” to certain clubs. In some sites (specifically Leland High School), there has been a practice of also recognizing interest groups, which are student clubs that do not have an ASB account for club funds.

Under Administrative Regulation (“AR”) 6145.5, the District does not “sponsor” the meetings of student clubs and interests groups that meet on campus, even those which are “recognized” or “approved” by ASB. Such meeting are to be voluntary and student-initiated. (See, e.g., 20 U.S.C. § 4071(c)(1)-(2); *Westside Comm. Bd. of Ed. v. Mergens*, 496 U.S. 226, 253 (1990) [The Equal Access Act “prohibits school “sponsorship” of any religious meetings, § 4071(c)(2), which means that school officials may not promote, lead, or participate in any such meeting, § 4072(2)”].) Discussion during the meetings of student clubs and interest groups are student speech, not District speech. (*Mergens*, at 250.)

When a club is ASB recognized or approved, it is not “sponsored” within the meaning of the Equal Access Act. However, an ASB recognized club still falls within the District’s non-discrimination policies, whereas non-recognized clubs or interest groups do not.

INTERROGATORY NO. 4:

Explain any difference between the meaning of “sponsorship” and “sponsor” as used in Board Policy 6145.5 and FCA000006 and the meaning of “ASB approved” as used in Your amended response to Plaintiff’s First Set of Interrogatories Interrogatory Number Six, including without limitation under what circumstances a student group or athletic team can be “sponsored” but not

1 “ASB approved” or vice versa.

2 **RESPONSE TO INTERROGATORY NO. 4:**

3 Defendant objects that this interrogatory is vague, ambiguous, compound, not complete in
4 and of itself, burdensome and oppressive. Defendant also objects that this interrogatory calls for
5 information protected by the attorney work product doctrine. Subject to and without waiving these
6 objections, Defendant responds as follows:

7 The Associated Student Body (“ASB”) at a school site is a legally recognized organization
8 that permits student groups to fundraise and spend money. It is the framework under which many
9 school based organizations function, whether or not they are school “sponsored” or are a club or a
10 student interest group. When a group or organization is ASB recognized, it may have an ASB
11 account, provided all criteria for having such an account are met. An ASB account allows the
12 organization to handle money, without having to independently file tax returns, as it is under the
13 auspices of the school site’s ASB and is thus a program and activity of the District. Additional
14 benefits may come with ASB recognition for a student club or interest group, depending on the
15 school site. Not all student clubs fundraise or have an ASB account. Not all student fundraising
16 occurs under the auspices of the ASB.

17 **INTERROGATORY NO. 5:**

18 Identify and state each iteration or version of the following policies that have been in effect
19 since the 2015-2016 school year, including the time period during which that iteration or version
20 was in place and the Bates number where that policy version can be found: BP 0410, BP 0210, AR
21 0210, BP 1312.3, AR 1312.3, BP 5131.2, AR 5131.2, BP 5131.4, AR 5131.4, BP 5145.3, BP 5145.9,
22 BP 6144, AR 6144, AR 6145.5, AR 6145.2, and the “Affirmation of Conformance to All Comers
23 Policy for ASB Recognized Student Groups” attached as Exhibit A.

24 **RESPONSE TO INTERROGATORY NO. 5:**

25 Defendant objects that this interrogatory is vague, ambiguous, compound, not complete in
26 and of itself, burdensome and oppressive. Defendant also objects that this interrogatory calls for
27 information protected by the attorney work product doctrine. Defendant further objects that this
28

information is publicly available on the District's website, is equally available to Plaintiffs, and that response to this interrogatory is burdensome and oppressive to Defendant. Subject to and without waiving these objections, Defendant responds as follows:

- BP0410 was revised on January 14, 2014 and December 13, 2018, and can be located at SJUSD002129-002132.
- BP0210 was adopted on May 13, 2010 and revised on May 28, 2020, and can be located at SJUSD002127-002128.
- AR0210 was approved on May 13, 2010, revised on May 28, 2020, and can be located at SJUSD002107-002108.
- BP1312.3 was revised on November 21, 2013, March 15, 2018, and February 13, 2020, and can be located at SJUSD002092-002099.
- AR1312.13 was revised on November 21, 2013, March 15, 2018, and February 13, 2020, and can be located at SJUSD002071-002081.
- BP5131.2 was adopted on June 7, 2012 and revised on January 30, 2020, and can be found at SJUSD002135-002138.
- AR5131.2 was approved on January 30, 2020, and can be found at SJUSD002111-002114.
- BP5131.4 was enacted on September 20, 2001 and revised on August 22, 2019, and is not included in prior productions.
- AR5131.4 was approved on September 20, 2001 and revised on August 22, 2019, and is not included in prior productions.
- BP5145.3 was revised on January 14, 2014 and March 15, 2018, and can be found at SJUSD002144.
- BP5145.9 was enacted on September 20, 2001 and revised on January 14, 2014, and is not included in prior productions.
- BP6144 was enacted on September 20, 2001, and can be found at SJUSD002155.
- AR6144 was approved on September 20, 2001, and can be found at SJUSD002124.
- AR6145.5 was approved on September 20, 2001, and can be found at SJSUD002084-002085.
- AR6145.2 was approved on September 20, 2001 and revised on January 14, 2014, and can be found at SJUSD002064-2070.

The document including the "Affirmation of Conformance to All Comers Policy for ASB Recognized Student Groups" attached as Exhibit A to the interrogatories was distributed for use by District employees beginning February 3, 2021, and can be found at SJSUD002129-002132 and SJSUD011040-011043. This document has been incorporated into a standardized club application form and a club constitution form for use by student clubs seeking ASB recognition during the 2021-22 school year.

INTERROGATORY NO. 6:

Identify all known criteria or characteristics on the basis of which ASB-approved student groups in the District may currently, or at any point during or since the 2018-19 academic year, limit membership, leadership, participation, or benefits (including but not limited to regular attendance at group meetings, participation in group events, participation in the group for a minimum period of time, participation in orientation or training activities, grade-point average, academic accomplishment or standing, age, grade, and objective competencies, including but not limited to physical or musical ability or skill) and the time frame during which such criteria or characteristics could provide such basis.

RESPONSE TO INTERROGATORY NO. 6:

Defendant objects that this interrogatory is vague, ambiguous, unintelligible, compound, overbroad, burdensome and oppressive. To the extent it seeks information about all student groups at all District school sites, it is also beyond the scope of permissible discovery. Defendant limits this response to ASB approved clubs and interest groups at the three school sites at issue in this case. Defendant also objects that this interrogatory calls for information protected by the attorney work product doctrine. Defendant further objects that it calls for information within the possession or knowledge of third parties, rather than the responding defendant. Thus, it seeks to impose obligations upon this Defendant beyond those set forth in the Federal Rules of Civil Procedure. Subject to and without waiving these objections, Defendant responds as follows:

The District has not monitored or tracked the criteria or characteristics used by all ASB approved clubs or interest groups with respect to membership, leadership, participation or benefits. To the extent that information is contained within documents created by such student groups at the school sites at issue in this case, and without conceding that that is the case, the information is equally available to Plaintiffs. During the 2020-2021 school year, the District did request that student clubs or interest groups seeking to obtain or retain ASB approval sign an Affirmation Statement regarding their agreement to abide by the District's all comer non-discrimination policy and its anti-hazing policy. During the 2021-2022 school year, the District is requiring students

clubs or interest groups seeking to obtain or retain ASB approval agree to submit a standardized application form, and adopt a standardized constitution, under which they will agree to abide by those policies.

The District is aware that at least two clubs, the National Honor Society and the California Scholarship Federation, have criteria for membership of grade point average / academic achievement.

DATED: September 16, 2021

DANNIS WOLIVER KELLEY

By: /s/Amy R. Levine

AMY R. LEVINE

Attorneys for NANCY ALBARRAN, HERB
ESPIRITU, PETER GLASSER, and STEPHEN
MCMAHON

DANNIS WOLIVER KELLEY
2087 ADDISON STREET, 2ND FLOOR
BERKELEY, CA 94704

CERTIFICATE OF SERVICE

I am employed in the County of Alameda, State of California. I am over the age of 18 and not a party to the within action; my business address is: 2087 Addison Street, 2nd Floor, Berkeley, CA 94704. On the date set forth below I served the foregoing document described as:

**AMENDED RESPONSES TO PLAINTIFFS' THIRD SET OF INTERROGATORIES
TO NANCY ALBARRAN**

on Plaintiffs by serving below counsel of record via electronic mail as follows:

Kimberlee Wood Colby
CENTER FOR LAW & RELIGIOUS
FREEDOM
8001 Bradock Road, Suite 302
Springfield, VA 22151
kcolby@clsnet.org

Stephen C. Seto
Steven N.H. Wood
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THE BECKET FUND FOR RELIGIOUS
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ktoney@becketlaw.org

I declare under penalty of perjury under the laws of the United States of America that I am employed in the office of a member of the bar of this Court at whose direction the service was made and that this declaration was executed on September 16, 2021, at El Sobrante, California.

Deborah L. Hopkins

Exhibit E

Yahoo Mail - Fw: Your Club

<https://mail.yahoo.com/d/folders/41/messages/AfFW6hEXFP3k...>

Fw: Your Club

From: Peter Glasser (peterglasser@yahoo.com)
 To: hespiritu@sjusd.org; tgavello@sjusd.org
 Date: Monday, August 26, 2019, 6:16 AM PDT

Redacted

Also, I wanted to make you aware of a conversation I have with [redacted] --he's one of the seniors who originally made us aware of the published FCA values statements regarding gender and homosexuality. He asked me on Friday afternoon to be the advisor for a club he wants to start, the Satanic Club. I declined right away, and I told him that I thought being associated with his club would compromise my credibility in the on-going conversation about FCA.

I followed up with this e-mail over the weekend.

I'm telling you this FYI, and I don't think it will come up at the Climate Committee Meeting, but I wanted you to know that the idea is floating around.

Thanks!
 Peter

Mr. Peter Glasser,
 Teacher, Pioneer High School
 (preferred pronouns: he, him, his)

----- Forwarded Message -----

From: Peter Glasser <peterglasser@yahoo.com>
To: F
Sent: Sunday, August 25, 2019, 6:11:05 AM PDT
Subject: Your Club

Hi

I've been thinking about your club proposal, and I wanted to tell you that, as much as I see your end goal, I'm not so sure that forming this club would accomplish it. This is just my two cents worth, and of course please feel free to follow your heart, but if it were up to me, I'd encourage you to abandon this club idea. Instead, why don't you go see

FCA004023

10/15/19, 7:22 PM

Yahoo Mail - Fw: Your Club

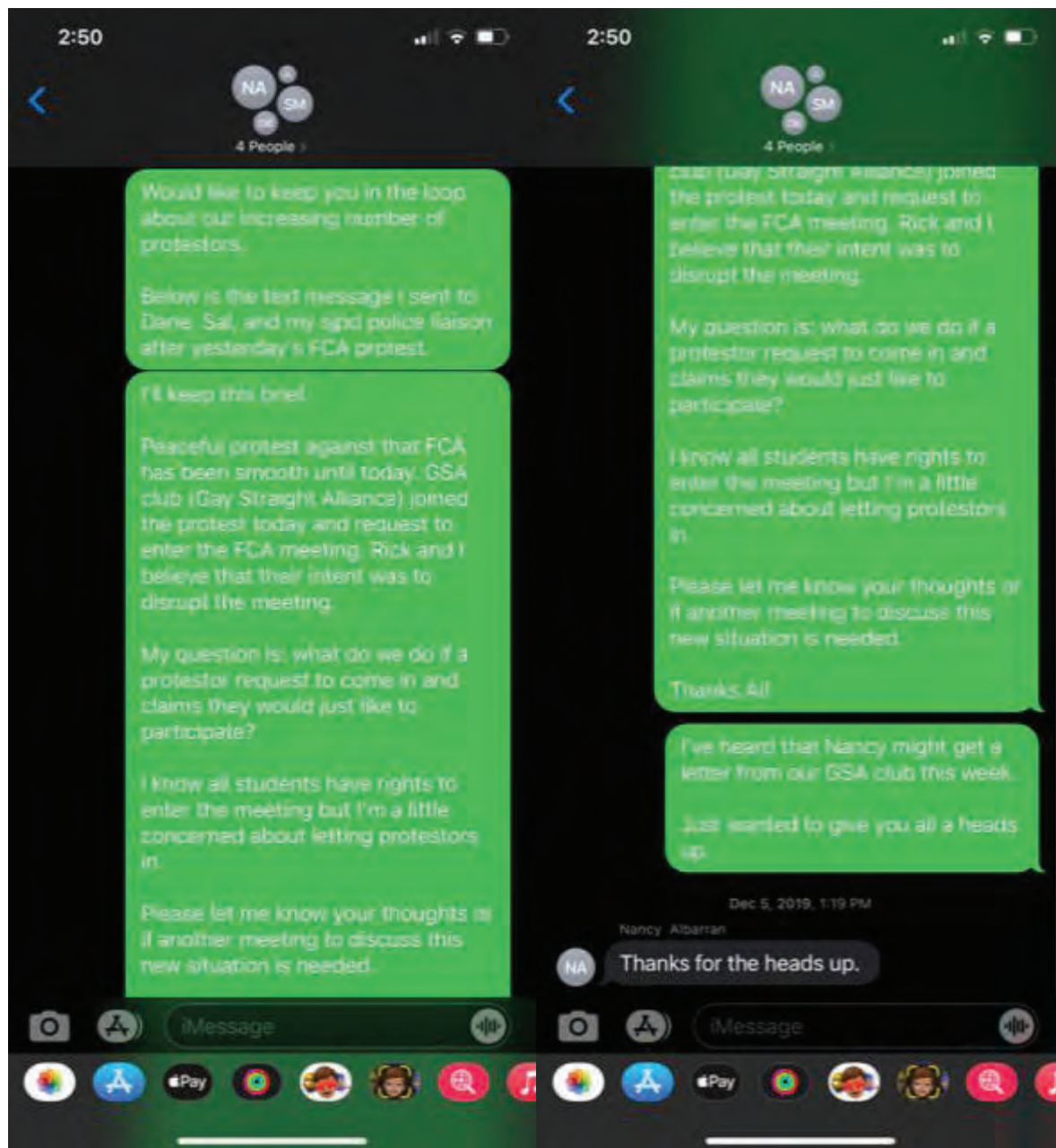
<https://mail.yahoo.com/d/folders/41/messages/AffW6hEXFP3k...>

Mr. Espiritu to see how you could be involved in meeting your goals in a way that doesn't openly mock the religious groups on campus. As much as we may disagree with their points of view, they are still your fellow community members.

Feel free to come by to chat further if you want!

Mr. Peter Glasser,
Teacher, Pioneer High School
(preferred pronouns: he, him, his)

Exhibit F



PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
 COUNTY OF SONOMA)

I am employed in the County of Alameda, State of California. I am over the age of 18 and not a party to the within action; my business address is: 2087 Addison Street, 2nd Floor, Berkeley, CA 94704.

On the date set forth below I served the foregoing document described as: **SJUSD010976**

on interested parties in this action as follows:

Reed N. Smith	Stephen C. Seto
Kimberlee Wood Colby	Steven N.H. Wood
CENTER FOR LAW & RELIGIOUS FREEDOM	Christopher J. Schweickert
8001 Bradock Road, Suite 302	SETO WOOD & SCHWEICKERT LLP
Springfield, VA 22151	1470 Maria Lane, Suite 300
rsmith@clsnet.org	Walnut Creek, CA 94596
kcolby@clsnet.org	sseto@wcjuris.com
	Wood@wcjuris.com
	cjs@wcjuris.com
	cdamian@wcjuris.com

Daniel Blomberg
 Eric S. Baxter
 Nicholas Robert Reaves
 Kayla Ann Toney
 BECKET FUND FOR RELIGIOUS LIBERTY
 1919 Pennsylvania Avenue NW,
 Washington, DC 20006
dblomberg@becketlaw.org
ebaxter@becketlaw.org
nreaves@becketlaw.org
ktoney@becketlaw.org

- ☐ (VIA U.S. MAIL) I caused such document to be placed in the U.S. Mail at Petaluma, California with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- ☒ (VIA ELECTRONIC SERVICE) [Code Civ. Proc. Sec. 1010.6; CRC 2.251] by electronic mailing a true and correct copy through 's electronic mail system from kspaulding@DWKesq.com to the email address(es) set forth above, or as stated on the attached service list per agreement in accordance with Code of Civil Procedure section 1010.6 and CRC Rule 2.251. The transmission was reported as complete and without error.

1 I declare that I am employed in the office of a member of the bar of this court at whose direction this service was
2 made.

3 Executed on June 16, 2021, at Petaluma, California.

4 

5 Katie Spaulding

DANNIS WOLIVER KELLEY
2087 ADDISON STREET, 2ND FLOOR
BERKELEY, CA 94704

Exhibit G

CALIFORNIA INTERSCHOLASTIC FEDERATION

Constitution, Bylaws & State Championship Regulations 2021-22



STATE CIF OFFICE

4658 Duckhorn Drive

Sacramento, California 95834

PHONE: 916.239.4477 FAX: 916.239.4478

www.cifstate.org

- H. Require that a school which has been represented in a CIF Championship or playoff event by an ineligible student-athlete return its share of the net receipts from such competition in excess of the school's actual cash expenses with reference to such event or, if such funds have not been distributed to the school, require that funds be withheld by the State Executive Director or Section Commissioner. Funds remitted or withheld pursuant to the above, shall be utilized by the CIF in either the State or Section scholar-athlete or drug abuse programs;
- I. When a student-athlete competing as an individual is declared ineligible subsequent to the competition, or a penalty has been imposed or action taken as set forth above, the student-athlete's performance shall be stricken from the Championship's records, the points the student-athlete has contributed to the team's total shall be deleted, the team standings shall be adjusted accordingly and any awards involved shall be returned to the CIF. The placement of other individual competitors shall be altered appropriately;
- J. When a student-athlete representing a school in team events is declared ineligible subsequent to the competition, or a penalty has been imposed or action taken as set forth above, all records of the team's performance shall be deleted, the team's place in the final standings shall be vacated and the team's trophy, banner, patches and other indicia of victory shall be returned to the CIF. In the event the student-athlete's school has been previously declared champion, the runner-up school shall be declared champion and all records adjusted accordingly.

215. INTERCOLLEGIATE PARTICIPATION

A student who participates in an intercollegiate athletic contest prior to the completion of his/her eight (8) consecutive semesters of high school eligibility shall be ineligible for high school participation in that sport for the duration of the student's high school enrollment. (See also Bylaws 600.G and 702. and corresponding Q&A's.)

(Approved February 2003 Federated Council)

216. GRADUATES

High school graduates are not eligible for CIF competition and are not subject to CIF rules except as noted below in A. and B. A recent graduate game is outside the jurisdiction of the CIF.

A. Mid-Year/Spring Graduation

- (1) Mid-Year: Students completing graduation requirements mid-year and no longer enrolled become immediately ineligible for further CIF competition.
- (2) Spring: Students graduating at the end of a school's Spring semester shall have continuing eligibility until all CIF Spring competition is completed.

B. California High School Proficiency Exam

A student who successfully passes the California High School Proficiency Examination and withdraws from high school has one opportunity to re-enroll in high school and be eligible immediately for athletic competition provided the student:

- (1) Was eligible under all rules of the CIF at the time of withdrawal from school; AND
- (2) Meets all rules of the CIF other than a. and b. under Bylaw 205.B.(1) at the time of re-enrollment; AND
- (3) Re-enrolls in the same school which the student attended prior to withdrawal, or enrolls in the school of the attendance area to which the student's parent(s)/guardian(s)/caregiver with whom the student was living when the student established residential eligibility have moved; AND
- (4) Is within four (4) years of the student's first entry into the 9th grade.

(Revised May 2003 Federated Council)

ARTICLE 30

SCHOOL REGULATIONS

(300 Series revised May 2014 Federated Council)

300. GENERAL PROVISIONS

A. Student Participation

Interscholastic sports teams composed of boys and/or boys and girls shall be conducted in accordance with these Bylaws. Girls' interscholastic sports teams shall be conducted according to these Bylaws, including certain additional rules and modifications pertaining to girls' sports teams and mixed (co-educational) sports teams. (See also Bylaw 201 for enrollment standards)

B. Team Designations

Schools shall designate the type of team for each sport according to the following:

- (1) **Student Team**
Whenever the school provides only a team or teams for boys in a particular sport, girls are permitted to qualify for the student team(s).
- (2) **Boys Team**
Whenever the school provides a team or teams for boys and a team or teams for girls in the same sport, girls shall not be permitted to qualify for the boys team(s) in that sport, nor shall boys be permitted to qualify for the girls team(s) in that sport.
- (3) **Girls Team**
Whenever the school provides only a team or teams for girls in a particular sport, boys shall not be permitted to qualify for the girls team in that sport unless opportunities in the total sports program for boys in the school have been limited in comparison to the total sports program for the girls in that school. Permission for boys to qualify for a girls team must be secured through petition by the school principal to the Federated Council.



(4) **Mixed Team (Coed)**

Whenever the school provides a mixed or coed team in a sport in which the game rules designate either a certain number of team participants from each sex or contains an event that designates a certain number of participants from each sex, boys shall not be permitted to qualify for the girls positions on the mixed team nor shall girls be permitted to qualify for the boys positions on the mixed team.

C. **Limitations**

If a boys team is created in a sport after a boy has competed on a student team [See B.(3) above] that boy must compete on the boys team in that sport. If a girls team is created in a sport after a girl has competed on a boys team or student team [See B.(2) above] in that sport, that girl must compete on the girls team.

(Approved May 1997 Federated Council)

D. **Gender Identity Participation**

Participation in interscholastic athletics is a valuable part of the educational experience for all students. All students should have the opportunity to participate in CIF activities in a manner that is consistent with their gender identity, irrespective of the gender listed on a student's records. The student and/or the student's school may seek review of the student's eligibility for participation in interscholastic athletics in a gender that does not match the gender assigned to him or her at birth, should either the student or the school have questions or need guidance in making the determination, by working through the procedure set forth in the Guidelines for Gender Identity Participation, in the policy section of Bylaws.

NOTE: The student's school may make the initial determination whether a student may participate in interscholastic athletics in a gender that does not match the gender assigned to him or her at birth.

(Bylaw 300.D. Approved February 2013 Federated Council)

301. HOME STUDY, HOME SCHOOLING

Students who are not enrolled in programs under the jurisdiction of a member school's governing body are not eligible to participate in CIF competition. Such programs would include, but not be limited to, home schooling or home study wherein parent(s)/guardian(s)/caregiver, or other persons, are responsible for instruction and evaluation.

(Approved February 2000 Federated Council/Revised May 2002 Federated Council)

302. INDEPENDENT STUDY PROGRAM

CIF defines independent/home study programs under the jurisdiction of a CIF member school or school district as those independent/home study programs in which the curriculum is approved, the program administered and the students evaluated by that school/school district's governing body's designees.

A. A student enrolled in an Independent Study Program is eligible at the public school in whose attendance area his/her parent(s)/guardian(s)/caregiver reside, or where the student most recently established his/her residential eligibility provided that:

- (1) A student's registration is accepted by the local school board; AND
- (2) The courses taken by the student meet the standards adopted by the local school board and Education Code Section 51745 et seq.; AND
- (3) The administrative responsibility for the student involved in athletics would rest with the principal of the school for which the student is competing; AND
- (4) The student meets all other eligibility requirements of the CIF and its member Sections; AND
- (5) For the purposes of determining dues, legal and liability assessments, realignment issues and CIF State and Section divisional placement, the enrollment figures for non-CIF member school/program students residing in the CIF member school's attendance area must be included in the CIF member school's CBEDS enrollment figures.

(Approved May 2003 Federated Council/Revised May 2008 Federated Council)

Q: Can a student involved in independent study participate in interscholastic athletics?

A: Yes, however that participation is subject to certain conditions. In order to be considered Independent Study, the program must exhibit the following characteristics:

1. The program must be subject to the administration at that school for which the student participates;
 2. The local school governing body must approve/adopt the curriculum provided to the student;
 3. The curriculum must meet CDE minimum standards for graduation;
 4. A member of that school's teaching staff must perform teaching/administering the curriculum¹;
 5. A member of that school's teaching staff must perform testing and grading of the student's progress;
 6. The student's grades and performance are recorded on the school's transcripts;
 7. The student must be enrolled in a minimum of 20 semester credits of work;
- All of the above characteristics must be present for the student to have eligibility to participate in a CIF member school.

¹A member of the staff is considered a paid staff member employed by that school or school district and subject to the standards set forth by that governing body.

Exhibit H



San José
Unified
School District

Parent/Student Handbook



2021 – 2022

STUDENT RIGHTS & RESPONSIBILITIES

Elementary Grade Level Adjustments

Students who have spent a full year in kindergarten automatically promote to the next grade level unless the parents and school staff agree that another year in kindergarten is appropriate. Students in grades 1-5 may spend a second year in their grade if the school staff determines that it is appropriate through the Student Success Team (SST) process. The SST process involves parents in discussions about appropriate interventions and supports for their student. No student may be held back solely based on English language proficiency, or on the basis of a disability – as defined by State and Federal Special Education laws.

Parents/guardians will be notified no later than February 15th of a given school year that their student is being considered to remain in the same grade for the following school year. Parents/guardians will have an opportunity to consult with the teacher(s) responsible for the decision. Students will be assessed according to the following criteria: minimum levels of proficiency established by the State Board of Education and the district; grades; and other factors including attendance, physical and emotional maturity, and attitude and effort.

Social Adjustment Placements

Social Adjustment placements are voluntary placements that are the result of a request through school site administration or at the direct request of a parent/guardian. Social Adjustment placement decisions are made by the Student Services Department in accordance with district policy.

Athletic & Co-Curricular Eligibility

A student in 9th grade is eligible for athletic participation once they have been placed in a San José Unified school, provided the student has met all California Interscholastic Federation (CIF) residential and scholastic eligibility requirements. If a student transfers to a San José Unified school, the student will not be eligible for athletic participation at the new school until and unless the Athletic Director at the student's new school submits an "Application for Residential Eligibility" to the CIF Central Coast Section office (CCS). For additional information, please contact the Athletic Director at the student's new school and refer to cifstate.org.

In order to maintain eligibility for co-curricular and athletic programs, students must maintain an overall grade point average (GPA) of at least a 2.0 in all course work attempted and have passing grades in at least four classes in the grading period prior to the start of their participation and at the end of each grading period during their participation. Any student who changes or alters a grade on their athletic eligibility form shall be suspended from participating in any sport for one full year from the date of the infraction. Students incoming to 9th grade are automatically eligible for the first six weeks of instruction.

Extracurricular Activities

To participate in extracurricular activities, students must maintain progress towards meeting the district's high school graduation requirements. An extracurricular activity meets any of the following characteristics:

- The program is supervised or financed by the district.
- Students participating in the program represent the district.
- Students exercise some degree of freedom in the selection, planning, or control of the program.
- The program includes both preparation for and performance before an audience or spectators.
- Students are required to sign a participation contract and abide by the conditions of the contract.

EXHIBIT “A”



Club Application

Note to Directors – Change SCHOOL NAME/ information and add School logo

New Club Application Process for ASB Approval:

1. REVIEW the current approved list of Clubs/ Interest groups, and non-affiliated groups on our website: <https://leland.sjUSD.org/student-resources/clubs-asb/>. Look for any club that may share similar interests. It is highly encouraged to join an already established club over starting something similar just to start a club.
 2. COMPLETE this form in its entirety. If you have any questions along the way, please email Mrs. Walsh (Activities Director) at mwalsh@sjUSD.org
 3. Results and "next steps" for club acceptance will be emailed out on Monday 9/21/20. All clubs will be required to have a current club constitution on file, and to provide the School with any other bylaws, governance or policy documents used by the club.
- Sign that you have read and understand the "Application Process": _____

Notes on Which Clubs Can Be Approved:

1. Clubs that MEET OFF CAMPUS for a majority of events will NOT be approved due to school liability concerns.
 2. Clubs whose primary purpose is to CREATE AND SELL HOME GOODS (FOODS AND CRAFTS) will not be approved due to school food handling policies and sales policies.
 3. Clubs who DO NOT PLAN TO CONTRIBUTE to the SCHOOL Community will not be approved.
 4. Clubs with a SIMILAR PURPOSE TO OTHER PRE-APPROVED CLUBS will be invited to join an existing club due to lack of staff supervision, school resources, and ASB support. New Clubs with SIMILAR PURPOSES will also be encouraged to "merge" to combine resources and student interest due to lack of staff supervision, school resources, and ASB Monitoring.
- Sign that you have read and understand "Notes on Which Clubs Can Be Approved": _____

Potential Club Information:

1. Potential Club Name (do not add "SCHOOL" to name): _____
2. First and Last Name of person filling out this form: _____
3. Email of person filling out this form: _____
4. Grade Level of person filling out this form:

<input type="checkbox"/> 9	<input type="checkbox"/> 11
<input type="checkbox"/> 10	<input type="checkbox"/> 12



Club Application

5. Description, Purpose and Objective of club: _____

6. Has this club existed at **SCHOOL** before?

☐ Yes (year) _____

☐ No

7. Classify club's Purpose (Check all that apply):

☐ Athletic

☐ Education/ Information

☐ Service

☐ Culture/Religion/Politics

☐ Interest / Hobby

8. Potential **SCHOOL** Staff Advisor First and Last Name: _____

9. Is this club affiliated with a Larger (City/ State/ National) Organization?

☐ Yes

☐ No

a. If yes, List Organization Name Here and Explain the Role of the Larger Organization with the club: _____

b. Attach Larger Organization Constitution/ Bylaws/Criteria for Leadership or Membership.

10. Will any other Non-School Persons (e.g. parents, community members, students from other schools) be involved in the club? If so, explain: _____

11. Clubs are expected to hold at least one event per semester. One of these events must serve and/or focus on the **SCHOOL** student body. List up to 5 events (min. 2) that this club plans to hold this school year.

1.) *Required* _____

2.) *Required* _____

3.) _____

4.) _____

5.) _____

12. Club Meeting DAY:

Monday

Tuesday



Club Application

Wednesday

Friday

☐ Thursday☐

13. LOCATION Club Meetings will be held in: _____

☐

14. Club Meeting TIME (Club meetings CANNOT be held during Advisory/ Tutorial time):

☐ Brunch☐ After School☐ Lunch☐ Unsure at this time

15. FREQUENCY of Club Meetings:

☐ Weekly☐ Monthly☐ Twice a month☐ Unsure at this time

16. Explain any qualifications for membership or leadership, and how members and leaders (including officers, club representatives and/or committee heads) will be selected. (Note if students may hold membership or leadership positions in the club based on criteria set by an affiliated organization, the criteria and affiliated organization must be fully disclosed).

17. What leadership positions does the club have or expect to have, and what are their roles? If leaders for the group (or committees within the group) are already known, please provide their names and titles:

1.) _____

2.) _____

3.) _____

4.) _____

5.) _____

18. Does the Club plan to RAISE MONEY to spend or donate?

☐ Yes☐ No (You do NOT need to answer the questions)

19. WHAT does the Club plan to spend on?

1.) _____

2.) _____

3.) _____

4.) _____

5.) _____

20. HOW does the Club plan to raise money to spend or donate? List up to 5 potential fundraisers



Club Application

- 1.) _____
- 2.) _____
- 3.) _____
- 4.) _____
- 5.) _____

21. If you plan to DONATE funds, what organization/ cause will the funds be donated to?

22. Does the club need any special equipment or accommodations? If so, describe: _____

23. Does the club agree to the following Affirmation Statement? (Please sign below indicating your agreement).

Our student organization seeks ASB recognition. As such, we do understand and affirm the following:

- We shall allow any currently enrolled student at the _____ School to participate in, become a member of, and seek or hold leadership positions in the organization, regardless of his or her status or beliefs.
- We shall not adopt or enforce any membership, attendance, participation, or leadership criteria that excludes any student based on gender, gender identity, and/or expression, race, inclusive of traits historically associated with race, including but not limited to, hair texture and protective hairstyles such as braids, locks, and twists, color, religion, ancestry, national origin, immigration status, ethnic group, pregnancy, marital or parental status, physical or mental disability, sexual orientation, based on the perception of one or more such characteristics, or based on association with a person who has or is perceived to have any of those characteristics.
- We may adopt non-discriminatory criteria regarding being a member, leader or representative of the organization, or exercising voting privileges, such as regular attendance at group meetings, participation in group events, participation in the group for a minimum period of time, or participation in orientation or training activities. Membership levels (e.g. voting versus non-voting membership) will not be based on any prohibited discriminatory criteria.
- We shall select our leaders (including officers or other representatives) by a democratic method [AR 615.5 Student Organizations and Equal Access]



Club Application

- We shall comply with District and school site policies and regulations as well as all applicable laws, whether on or off campus. Failure to comply with applicable standards may result in the revocation or non-renewal of recognition, loss of privileges, student discipline, or other sanctions.
- We shall not restrict eligibility for membership, attendance, participation, or leadership to any student in violation of the District's All Comers policies.
- We shall not engage in any conduct in violation of the District's anti-hazing policies.

We acknowledge:

- The District reserves the right to non-renew or revoke recognition of any student organization that fails to comply with District or school policy or requirements, or for any other reason allowed by law.
- Should we choose not to seek ASB recognition, we are still permitted to meet on campus of our own volition (consistent with all health restrictions that may be in place), as long as our activities do not substantially disrupt or materially interfere with the educational environment.

Signatures of Club Organizers: _____

EXHIBIT “B”

Student Organization Guidelines

I. Recognition of Student Organizations

To further its educational mission, the District permits students at its secondary schools to form curriculum and non-curriculum related student sponsored organizations and clubs. Such organizations are permitted to meet on school premises during non-instructional time. Students may seek to have their organizations chartered or recognized by the Associated Student Body (ASB) organization at their school site. However, ASB recognition is not required for a student group to meet on campus.

These guidelines set forth the District's expectations and practices with respect to student organizations on campuses. These guidelines are a supplement to all official District policies and regulations that apply to student speech, student organizations, and ASB activities, and are not meant to replace or to contradict such policies or regulations. (See, District Board Policy (BP) and Administrative Regulations (AR), including, for example, BP/AR 3452 (Student Activity Funds), BP 5131 (Conduct), AR 5131.4 (Student Disturbances), BP/AR 5144 (Discipline), BP/AR 5145.2 (Freedom of Speech / Expression), BP/AR 6141.2 (Recognition of Religious Beliefs and Customs)).

For purposes of these guidelines, neither the ASB itself, nor officially recognized athletics teams are considered "student organizations". These guidelines are not intended to apply to those types of groups and nothing herein shall be construed to limit the District's obligations or authority under Title IX of the Education Amendments Act of 1972 ("Title IX") or analogous state law. These guidelines also do not apply to co-curricular or extracurricular activities sponsored by the District. (See, BP/AR 6145 (Extracurricular and Co-curricular Activities)).

II. Meetings on Campus

Any student organization may meet on campus during non-instructional time. Student organizations, and their meetings and activities, must be voluntary and student initiated. School employees or agents may not sponsor or run student meetings or activities.

"Sponsorship" of a meeting, as used in the above paragraph, includes the act of promoting, leading, or participating in a meeting. However, a teacher, administrator, or other school employee may be assigned to supervise a group's meetings (e.g. to act as a faculty advisor). This supervision does not constitute sponsorship of the meeting.

Employees or agents of the District may attend religious meetings of a student organization only in a non-participatory capacity.

To avoid the potential for unconstitutional establishment of religion, staff shall not endorse, encourage or solicit religious or anti-religious expression or activities among students. They shall not lead students in prayer or participate in student-initiated prayer, and no student shall be required to pray or engage in any other religious observance. Staff shall not be directly and personally involved in the distribution of religious materials to students or in the solicitation of funds from students for outside religious organizations. Staff shall not be directly and personally involved in recruiting students for outside religious organizations. However, staff shall not prohibit or discourage any student from praying or otherwise expressing his or her religious belief as long as this does not disrupt the educational environment. [BP/AR 6141.2 (Recognition of Religious Beliefs and Customs)]

Non-school persons may not direct, conduct, control, or regularly attend the meetings or activities of student groups. "Non-school persons" includes students who attend other schools within or outside the District, parents, community members, or individuals from state or national affiliates of student organizations. "Regularly attend" means to be present at or participate in the meetings or activities of the student group more than once a month, or more than 25% of the time, whichever is more. The District retains the right to exclude groups, on a non-discriminatory basis, that are directed, conducted, controlled, or regularly attended by non-school persons.

Students meeting on campus must abide by all District and campus requirements for holding meetings and using District resources and facilities. This includes (but is not limited to) the requirement that the students not engage in any conduct that materially and substantially interferes with the orderly conduct of educational activities within the school. The District retains the authority to maintain order and discipline on school premises, to protect the well-being of students and faculty, and to assure that attendance of students at meetings is voluntary. Nothing in these guidelines is intended to broaden any forum that may exist for student organizations on District campuses.

III. Non-Endorsement of Student Viewpoints, Opinions, or Activities

By permitting student groups to meet on campus, or permitting student groups to seek or hold ASB recognition as an official campus group, the District is not endorsing any statement, opinion, viewpoint, activity, or conduct of any student or student group. Student groups must avoid any implication that the District or the school endorses its group, or that the group speaks or acts for the District, the school, or District employees or agents.

IV. Nondiscrimination / All Comers Policy

The District is committed to equal opportunity for all individuals in District programs and activities, and prohibits legally impermissible, arbitrary, or unreasonable discriminatory practices in its programs and activities as provided by law. All ASB recognized student groups are governed by this policy of nondiscrimination. Neither the District, the ASB, nor any ASB recognized students groups shall discriminate against any student or group of students or any other person on any unlawful basis, including on the basis of gender, gender identity and/or expression, race, inclusive of traits historically associated with race, including but not limited to, hair texture and protective hairstyles such as braids, locks, and twists, color, religion, ancestry, national origin, immigration status, ethnic group, pregnancy, marital or parental status, physical or mental disability, sexual orientation, or the perception of one or more of such characteristics, or on the basis of association with a person who has or is perceived to have any of those characteristics. [BP 0410 (Nondiscrimination in District Programs and Activities), 5145.3 (Nondiscrimination / Harassment (Students)); see also, BP 5145.9 (Hate-Motivated Behavior)]

With respect to ASB recognized student organizations, this policy requires that such organizations allow any currently enrolled student of the school to participate in, become a member of, and seek or hold leadership positions in the organization, regardless of his or her status or beliefs. All student organizations seeking to become or remain an ASB recognized organization must agree to comply with this all comers nondiscrimination policy.

It is the District's intent that this all comers nondiscrimination policy be implemented and construed in accordance with the all comers policy considered by the Supreme Court in *Christian Legal Society Chapter of the University of California, Hastings College of the Law v. Martinez*, 130 S.Ct. 2971 (2010).

V. Equal Access

The District shall not deny equal access or a fair opportunity to, or discriminate against, any students who wish to obtain or retain ASB recognition for their student organization, and all the privileges or benefits that entails, on the basis of the religious, political, philosophical, or other content of the students' speech.

The District shall not deny any student-initiated group access to school facilities during non-instructional time on the basis of the religious, political, philosophical, or other content of the students' speech. [AR 6145.5 (Student Organizations and Equal Access)]

VI. Membership and Leadership Positions

All students enrolled in the school may be members of or attend the meetings or activities of any ASB recognized student organization regardless of the student's status or beliefs. All students enrolled in the school may also apply for and be eligible for leadership positions within all ASB recognized student organizations. No recognized student organization may adopt or enforce any membership, attendance, participation, or leadership criteria that excludes any student based on gender, gender identity and / or expression, race, inclusive of traits historically associated with race, including but not limited to, hair texture and protective hairstyles such as braids, locks, and twists, color, religion, ancestry, national origin, immigration status, ethnic group, pregnancy, marital or parental status, physical or mental disability, sexual orientation, based on the perception of one or more of such characteristics, or based on association with a person who has or is perceived to have any of those characteristics.

Recognized student organizations may adopt non-discriminatory criteria regarding being a member, leader or representative of the organization, or exercising voting privileges, such as regular attendance at group meetings, participation in group events, participation in the group for a minimum period of time, or participation in orientation or training activities. Membership levels (e.g., voting versus non-voting membership) may not be based on any prohibited discriminatory criteria.

Each organization seeking official ASB recognition must select its leaders (including officers or other representatives) by a democratic method. [AR 6145.5 (Student Organizations and Equal Access)].

ASB recognized status will not be granted to any student organization that restricts eligibility for membership, attendance, participation, or leadership to any student in violation of the District's nondiscrimination / all comers policy.

All leadership positions in the organization and their roles, and the criteria used to select leaders, must be disclosed in any application for ASB recognition. For purposes of these guidelines, leadership positions include (but are not limited to) officers, representatives, and committee heads.

VII. Student Organizations That Are Not ASB Recognized

Student organizations that do not meet the criteria to be an ASB recognized student organization, or that choose not to seek ASB recognition, may still meet on campus during non-instructional time, subject to all rules and requirements for doing so. No student

organization is required to apply for or receive ASB recognition in order to organize and meet on campus or engage in expressive activity or religious practices.

VIII. Applying for Status as an ASB Recognized Organization

To become an ASB recognized organization, a student group must submit an annual application for approval by the ASB and the principal or his or her designee.

To apply to be an ASB recognized organization, the group must furnish a written application that includes:

1. The organization's name and the names of student contacts.
2. A description of the organization's purposes, objectives and activities.
3. Identification of any larger regional, state, national or international organization that the student organization is affiliated with.
4. A description of the role of any non-school persons in the group.
5. The name of the group's faculty advisor. Only a certificated employee of the District may serve as an advisor. The principal shall have final authority in determining the assignment and role of the advisor.
6. Proposed dates, times and location of the organization's meetings.
7. Any special equipment to be used or accommodations needed.
8. A description of the qualifications for membership, if any.
9. A description of the leaders, officers, and/or representatives for the group, including their titles, roles, and the students fulfilling those roles if known.
10. A description of all standing committees of the organization and their purposes, and the students serving as committee heads if known.
11. The method and criteria for selection of leaders, officers, representatives, and committee heads. If students may only hold leadership positions in the group based on criteria set by non-school persons, the criteria and non-school persons who set the criteria must be fully disclosed.
12. The group's bylaws, constitution, and any other written policy documents.
13. The group's agreement to abide by the District's nondiscrimination / all comers policy.
14. The group's agreement to abide by the District's anti-hazing policy.
15. Such other information as the school site may require.
16. The application must be signed by the group's officers or other authorized representatives.

A group's status as an ASB recognized organization must be renewed annually. If, during the school year, the group makes any substantive changes to its constitution, bylaws, or policy documents, it must submit those documents to the responsible person designated by the school site within 90 days from when the change was made, or such shorter time as the school may direct.

Recognition of any student organization does not imply that such organization is sponsored, endorsed, or favored by the District.

Nothing in these guidelines prohibits the District or any school site from imposing criteria on the formation or existence of student organizations, membership in such organizations, or leadership in such organizations, that are not in conflict with District policies or regulations, these guidelines, and applicable law.

IX. Expectations for ASB Recognized Organizations

The principal, or his or her designee, may establish such rules and expectations for ASB recognized organizations as he or she deems appropriate, as consistent with law and District policy.

All ASB recognized organizations are expected to meet regularly, hold a majority of their meetings / events at school, keep minutes of their meetings, retain the minutes in a permanent record book, and provide the minutes to the responsible person designated by the school site. Minutes should include details of the proceedings of the group's meetings, including financial matters pertaining to the budget, approval of fundraising ventures, and expenditure authorizations. The minutes should also reflect official actions taken by the group, such as the election of officers, the amendment of the constitution or bylaws, and the adoption of policy.

The minutes of the meetings should document at least the following information: the name of the organization; the date, time and place of the meeting; the kind of meeting (e.g., regular or special); the names of the attendees; the name of the presiding officer; the approval of the minutes from the previous meeting (or any changes to such minutes); a summary of any reports or discussions at the meeting; reports from committees; actions taken at the meetings; the result of any votes taken, including who made the motion, who seconded the motion, and anyone who opposed the motion; the date and time of adjournment of the meeting; the date and time of the next scheduled meeting; and who prepared the minutes. Any written information provided to those attending the meeting should be attached to and kept with the minutes. The secretary, or whoever took the minutes, should sign the minutes when they are completed.

ASB recognized organizations may have financial accounts set up through the school / ASB bookkeeper. Outside bank accounts cannot be established by any ASB recognized organization. ASB recognized organizations must abide by all ASB, school, and District rules regarding budgeting, accounting, fundraising, and expenditure of funds.

All ASB recognized student organizations are required to comply with District and school site policies and regulations as well as all applicable laws, whether on or off campus. Failure to comply with applicable standards may result in the revocation or non-renewal of recognition, loss of privileges, student discipline, or other sanctions. The District reserves

the right to non-renew or revoke recognition of any student organization that fails to comply with District or school policy or requirements, or for any other reason allowed by law.

X. Closure of the Student Organization

An ASB recognized organization will be deemed closed if it does not conduct regular meetings or participate in school activities, or, for ASB groups that have a financial account, if the group does not maintain an active treasury (i.e. if the club's balance stays the same for the entire school year). If a club is closed, its financial account will also be closed. All revenues in the closed account will be transferred to the ASB account. To re-open the club account, the group must follow the procedures for forming an ASB recognized student organization. If the group reactivates within the next school year, the funds will be returned to the group. Otherwise, the funds will remain permanently with the ASB.

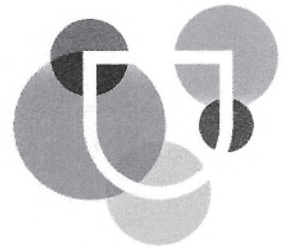
XI. Complaints

Any person who disagrees with the decision to approve, reject, deny, revoke, or non-renew an application to be an ASB recognized student organization may file a complaint with the District pursuant to its Uniform Complaint Procedure. (See Board Policy and Administrative Regulation 1312.3.)

EXHIBIT “C”

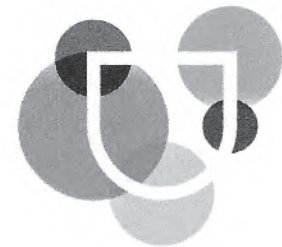
ASB Club-Guidelines, Constitution, Application

August 17, 2021



Student Organization Guidelines

- **Recognition of Student Organizations**
 - **Meetings on Campus**
 - **Non-Endorsement of Student Viewpoints, Opinions, or Activities**
 - **Nondiscrimination / All Comers Policy**
 - **Equal Access**
-
- **Membership and Leadership Positions**
 - **Student Organizations That Are Not ASB Recognized**
 - **Applying for Status as an ASB Recognized Organization**
 - **Expectations for ASB Recognized Organizations**
 - **Closure of the Student Organization**
 - **Complaints**



Club Application Process & Review

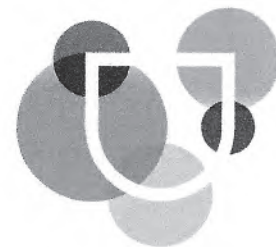
- Review pages
- Personalize for school site
- Review with ASB
- Paper or Google Doc
- Q & A Session

New Club Application Process for ASB Approval:

10. Will any other Non-School Persons (e.g. parents, community members, students from other schools) be involved in the club? If so, explain:

15. Explain any qualifications for membership or leadership, and how members and leaders (including officers, club representatives and/or committee heads) will be selected. (Note, if students may only hold membership or leadership positions in the club based on criteria set by an affiliated organization, the criteria and affiliated organization must be fully disclosed).

16. What leadership positions does the club have or expect to have, and what are their roles? If leaders for the group (or committees within the group) are already known, please provide their names and titles:

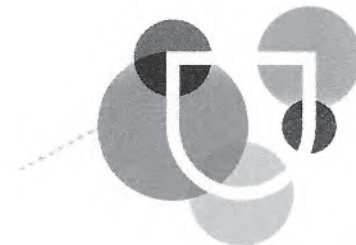


New Club Application Process for ASB Approval:

21. Does the club need any special equipment or accommodations? If so, describe:

22. Does the club agree to the following Affirmation Statement? (Please sign below indicating your agreement)

All ASB recognized student groups are governed by a policy of nondiscrimination. Neither the District, the ASB, nor any ASB recognized students groups shall discriminate against any student or group of students or any other person on any unlawful basis, including on the basis of gender, gender identity and/or expression, race, inclusive of traits historically associated with race, including but not limited to, hair texture and protective hairstyles such as braids, locks, and twists, color, religion, ancestry, national origin, immigration status, ethnic group, pregnancy, marital or parental status, physical or mental disability, sexual orientation, or the perception of one or more of such characteristics, or on the basis of association with a person who has or is perceived to have any of those characteristics. [BP 0410 (Nondiscrimination in District Programs and Activities), 5145.3 (Nondiscrimination / Harassment (Students)); see also, BP 5145.9 (Hate-Motivated Behavior)]. This policy of nondiscrimination requires ASB recognized student groups to permit any student to become a member or leader, if they meet non-discriminatory eligibility criteria.

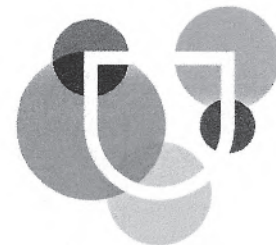


New Club Application Process for ASB Approval:

We acknowledge:

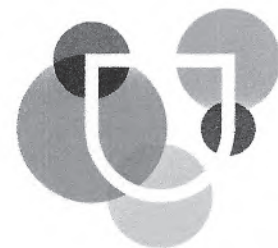
- The District reserves the right to non-renew or revoke recognition of any student organization that fails to comply with District or school policy or requirements, or for any other reason allowed by law.
- Should we choose not to seek ASB recognition, we are still permitted to meet on campus of our own volition (consistent with all health restrictions that may be in place), as long our activities do not substantially disrupt or materially interfere with the educational environment.

Signatures of Club Organizers: _____



Club Constitution (for ASB Approved Clubs)

- Constitutions incorporate language that is also aligned to the ASB Accounting Manual. There is coverage of what is normally in a constitution for a non-profit organization, and included some extra guidelines and direction so that it was clearer for students, advisors, and the ASB to follow and understand. We also, of course, included language to ensure we meet the requirements of the Equal Access Act.



Next Steps

- Constitution Review by AD
- Review Guidelines with ASB Leaders
- Faculty training (video creation?)
- Follow up Meeting
 - Friday, August 27, 2021 @ 15H30-16H30

