

No. 22-15827

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 7 of 10

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Deposition of:
Michelle Mayhew

June 17, 2021

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

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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 VIDEOCONFERENCED DEPOSITION OF MICHELLE MAYHEW
 23 San Jose, California
 24 Thursday, June 17, 2021
 25 Volume I

26 Reported by:
 27 CHRIS TE SELLE
 28 CSR No. 10836
 29 Job No. 4660289

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 23)
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 25)

26 Videoconferenced Deposition of MICHELLE MAYHEW,
 27 Volume I, taken remotely, San Jose, California,
 28 beginning at 8:43 a.m. and ending at 3:04 p.m., on
 29 Thursday, June 17, 2021, before Chris Te Selle,
 30 Certified Shorthand Reporter No. 10836, present via
 31 videoconference.

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1 San Jose, California, Thursday, June 17, 2021

2 8:43 a.m.

3 --oOo--

4 (Affirmation administered to the witness.)

5 MR. REAVES: I'll introduce myself on the record.

6 My name is Nick Reaves. I'm an attorney for the
7 plaintiffs.

8 Kasmira, do you consent to the stipulations in
9 the deposition notice regarding the manner of this
10 deposition, and do you waive any objections to the
11 manner of this deposition?

12 MS. BROUGH: Yes.

13 MR. REAVES: Additionally, do you waive any
14 objection to the use of or the admissibility of this
15 testimony at trial?

16 MS. BROUGH: Subject to any objections at trial.

17 MR. REAVES: Absolutely. Thank you.

18
19 MICHELLE MAYHEW,
20 having stated to tell the truth under penalty of
21 perjury, was examined and testified further as follows:
22

23 EXAMINATION

24 BY MR. REAVES:

25 Q. Ms. Mayhew, like I said before, my name is

1 Nick Reaves. I'll be taking this deposition today and
2 talking with you.

3 Are you ready to get started?

4 A. Yeah. Yes.

5 Q. That's, that was going to be one of my first
6 ground rules or suggestions. It's easiest for the court
7 reporter if we say yes or no, instead of uh-huh, or
8 shake our heads. It gets a little hard for the court
9 reporter to track that.

10 If we run into any technical problems while
11 we're going along, just let me know. I'm happy to take
12 a break and get those fixed, if you have a poor
13 connection or anything like that. If you need to take a
14 break, just let me know. We'll try to do that every so
15 often, and I'm sure we will take a lunch break at some
16 point, too.

17 While the deposition is going on, please,
18 don't communicate with anyone else through any messaging
19 apps or anything like that, and don't communicate with
20 your counsel while we're in the deposition.

21 Similarly, please, only review the documents
22 that I'm sharing with you through Exhibit Share, when we
23 get there, and don't look at any other documents during
24 the deposition.

25 A. Okay.

1 Q. And so this deposition, even though it's a
2 little bit unusual to be remote, you're under the same
3 oath as you would be if you were testifying in court.

4 Does that make sense to you?

5 A. Yes.

6 Q. And I guess the last point on that is in
7 addition to during the deposition, when we're taking
8 breaks, similarly, you're still under oath, so, please,
9 don't confer with your counsel about the subject matter
10 of this deposition, unless it relates to privilege or
11 privileged matters.

12 A. Okay.

13 Q. Can you please state your name for the record.

14 A. Michelle Mayhew.

15 Q. And is there anything that would prevent you
16 from testifying clearly or truthfully today?

17 A. No.

18 Q. And I will assume that you understand my
19 questions unless you clarify, is that fair?

20 A. Yes.

21 Q. Have you ever been deposed before?

22 A. No.

23 Q. Did you review any documents in preparation
24 for this deposition?

25 A. Yes.

1 Q. Do you, like, what kind of documents did you
2 review?

3 MS. BROUGH: I'm going to, I will jump in here.
4 She hasn't reviewed anything outside of what we've --
5 BY MR. REAVES:

6 Q. Already produced, is that correct?

7 A. Yes.

8 Q. Other than your legal counsel, did you talk
9 with anybody else in preparation for this deposition?

10 A. No.

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

12 A. Yes.

13 Q. What is your current position at Pioneer High
14 School?

15 A. I'm the activities director.

16 Q. And how long have you been in that role?

17 A. Six years. This will be my seventh.

18 Q. Could you just describe generally what your
19 job duties are.

20 A. I am in charge of all activities at Pioneer.
21 I oversee the ASB budget, I oversee clubs, I oversee any
22 activity that students produce at Pioneer.

23 Q. When you say, any activity that students
24 produce, what does that mean?

25 A. That means rallies, dances, guest speakers,

1 yeah, those types of things, events.

2 Q. And what kind of training did you receive when
3 you became activities director?

4 A. None.

5 Q. And previous to being an activities director,
6 did you have any other roles at Pioneer?

7 A. No. I just came in as an activities director.

8 Q. And you mentioned in your list of your roles
9 that you oversee clubs; is that correct?

10 A. Yes.

11 Q. So, what kind of responsibilities do you have,
12 what does, oversee a club, mean?

13 A. I'm in charge of making sure they fill out the
14 proper paperwork, and making sure that they continually
15 fill out the proper paperwork throughout the year, and
16 that they meet the guidelines that are needed for clubs.

17 Q. So, with regard to the application process,
18 you're the one who does the initial review and signs off
19 or passes on the application to someone else?

20 A. Yes.

21 Q. And then you mentioned throughout the course
22 of the school year you kind of ensure continued
23 compliance with the rules; is that correct?

24 A. Yes.

25 Q. So, how do you go about ensuring compliance

1 with the rules?

2 A. That any time they ask for anything,
3 specifically, facilities, or guest speakers, I'm the one
4 that they go to to ensure that they're going through the
5 proper channels. I check in with their advisor to make
6 sure that they're, me getting the minutes and rosters.

7 Q. Great. Anything else that you do kind of over
8 the course of the school year to monitor student clubs?

9 A. No, not really.

10 Q. Do you serve as a faculty advisor for any
11 student clubs?

12 A. No.

13 Q. Have you ever previously served as a faculty
14 advisor for any clubs?

15 A. Yes.

16 Q. Which clubs were you an advisor for?

17 A. I was an advisor for Black and Blue Crew, and
18 I was the advisor of Bachelor Nation club.

19 Q. And only those two?

20 A. I believe so.

21 Q. Did you have any involvement with the cheer
22 group at Pioneer?

23 A. I was the advisor of the cheer group, and
24 there was a coach.

25 Q. So, when you say, advisor, is that different

1 from -- sorry.

2 What does the term, advisor, mean in that
3 context?

4 A. I oversee the cheer club.

5 Q. And there's no other ones that you can think
6 of right now that you've overseen?

7 A. I oversee a lot of them. As far as actual
8 advisor, I'm not, I'm only advisor for, I think, those
9 two.

10 Q. Okay. And prior to coming to Pioneer as
11 activities director, did you teach in any other schools
12 or serve as an activities director anywhere else?

13 A. No. I was the, I was a teacher at Leigh High
14 School, and then at Camden Community Day School.

15 Q. And what is your educational background?

16 A. I have a bachelor's degree in health science,
17 and I have an administration credential. I have a
18 teaching credential.

19 Q. Great. When you were in college, were you a
20 member of a sorority?

21 A. Yes, but I'm no longer part of that sorority.

22 Q. Uh-huh. So, in your role as activities
23 director, who else at Pioneer do you work with?

24 A. I work with our athletic director, I work with
25 our principal, and I work with our administration team.

1 Q. So, could you name the people you work with
2 just by name, so that it's in the record.

3 A. Yeah. I work with Joseph Berticevich, I work
4 with Herbert Espiritu, I work with Amy Hanna, I work
5 with Brendan Simon, and I work with Tim Gavello.

6 Q. And, who do you report to?

7 A. I report to Herb Espiritu.

8 Q. Does anyone report to you?

9 A. No.

10 Q. You mentioned that you oversee the student
11 groups at Pioneer. Does anyone else have a similar role
12 or support you in overseeing student groups?

13 A. The athletic director oversees athletics.

14 Q. Do teachers who serve as an advisor for a
15 club, do they receive any extra compensation for that
16 role?

17 A. No.

18 Q. It's a volunteer position?

19 A. Yes.

20 Q. Is that true, I know -- sorry.

21 For sports teams that compete, do the coaches
22 receive compensation?

23 A. Some.

24 Q. Some. What about for a club, like the hockey
25 club, that is not competing with other schools? Would

1 the advisor or the coach receive compensation?

2 A. I don't know.

3 Q. In your role as activities director, how often
4 do you talk with Principal Espiritu?

5 A. Quite often.

6 Q. What is the ASB at Pioneer?

7 A. ASB is the associated student body. That is
8 the umbrella for all of activities and athletics that
9 happen on campus.

10 Q. So, when you say activities and athletics,
11 does that include both the athletic teams and all the
12 clubs that we were talking about?

13 A. Yes.

14 Q. Do you work with anybody at the district level
15 directly?

16 A. I work with Shannon McGee.

17 Q. And what is Shannon McGee's role?

18 A. She advises the activity directors in the
19 district, the high school activity directors.

20 Q. Great. And you mentioned earlier that one of
21 your responsibilities was making sure that student clubs
22 continue to follow, I think we said the rules or
23 policies.

24 Are these district policies, or Pioneer
25 policies?

1 A. Both.

2 Q. Both. So, in your role, you're generally
3 familiar with the policies that apply to student clubs.

4 A. Correct.

5 Q. And is it fair to say that you have had to
6 apply those policies to student clubs before?

7 A. Yes.

8 Q. Now, is it your job or the athletic director's
9 job to apply those policies to athletic teams?

10 A. The athletic director.

11 Q. Do you ever consult with him regarding
12 questions that come up for athletic teams?

13 A. No.

14 Q. So, are you familiar with -- sorry, let me
15 step back. You said there were both district policies
16 and Pioneer's own policies.

17 What kind of policies does Pioneer have,
18 specifically?

19 MS. BROUGH: Vague. You can answer, Michelle.

20 THE WITNESS: Do I still answer? Sorry.

21 MS. BROUGH: Go ahead.

22 THE WITNESS: Specific policies for Pioneer would
23 just include things that they need to be a part of, not
24 necessarily, they're more guidelines, not necessarily
25 policies.

1 BY MR. REAVES:

2 Q. And, just to clarify, for your benefit since
3 this is your first deposition, your counsel can instruct
4 you not to answer a question if a privilege issue comes
5 up, or some other privilege related issue comes up, but,
6 if it's an objection on the record, otherwise, you can
7 just let her object and then answer the question. I'm
8 sure she'll instruct you if there's something specific.

9 A. Okay.

10 Q. To drill down a little bit on Pioneer's
11 guidelines that you mentioned, are those written down
12 somewhere?

13 A. Yes.

14 Q. And where are those written down?

15 A. On the document that all club leaders get at
16 the beginning of the year.

17 Q. And do those augment the requirements of the
18 district, or do they just give kind of more details as
19 to how a club functions at Pioneer?

20 A. It gives greater detail.

21 Q. Okay. And do you know if those have been
22 produced in this case?

23 A. I don't know.

24 Q. So, in addition to the written policies that
25 the district and that Pioneer have, are there any kind

1 of unwritten requirements or any other unwritten rules
2 that you apply when overseeing student clubs?

3 A. No.

4 Q. So, I want to talk a little bit more about
5 student groups at Pioneer, just so we're on the same
6 page. When I say, student groups, I'm just talking
7 about kind of any group of students that can gather at
8 Pioneer, and then we'll talk a bit more specifically
9 about clubs, and things like that.

10 Does that make sense?

11 A. Yes.

12 Q. So, in terms of different types of student
13 groups, I'm thinking that there are student clubs,
14 athletic teams, and then student interest groups.

15 Is that how you would understand it, as well?

16 A. Yes.

17 Q. Are there any other types of student groups
18 that are allowed to meet at Pioneer?

19 A. No.

20 Q. What does it mean for a student group to get
21 ASB approval at Pioneer?

22 A. They need to follow the guidelines that are
23 given to them at the beginning of the year.

24 Q. And, just to make it a little more basic for
25 me, ASB approval means that they are officially

1 recognized by Pioneer as a club; is that right?

2 Sorry, I can repeat that, if you didn't catch
3 it.

4 A. Oh, no. I said, yes.

5 Q. I didn't catch your answer then.

6 So, is there any difference between being an
7 officially recognized club, and having ASB approval, or
8 is that the same thing?

9 A. Can you restate that question.

10 Q. Sure. Is there any difference between being
11 an officially recognized club, and having ASB approval,
12 or is that just two different terms that are used for
13 the same thing?

14 MS. BROUGH: Calls for a legal opinion or
15 conclusion, but you can answer, Michelle.

16 (RReporter clarification.)

17 THE WITNESS: From my knowledge, it's the same
18 thing.

19 BY MR. REAVES:

20 Q. Is there any other process for approving
21 student groups, or is ASB approval the only process?

22 A. No. The other process would also be the
23 principal approval.

24 Q. Could you explain what the principal approval
25 means.

1 A. It means once a club is, applies to be, have a
2 charter at Pioneer, it goes through the process of ASB,
3 which is our associated student body students. They go
4 over the clubs, and approve them, and then once they
5 approve them, then it goes to Mr. Espiritu, the
6 principal, who finally approves them.

7 Q. Okay. So, either you or Principal Espiritu
8 have to sign off on every club application.

9 A. Correct.

10 Q. Do you ever sign club applications without
11 his, without consulting Mr. Espiritu, or is it always
12 his approval, as well?

13 A. I sign them, and then, usually, I let him
14 know.

15 Q. What materials does a student group have to
16 submit as part of the ASB approval process?

17 A. They have to submit a charter request, meaning
18 that they would like to have their club part of Pioneer.
19 They have to have a constitution, and, depending on if
20 they have money going in and out of the ASB account,
21 they need to do a budget.

22 Q. And when you're reviewing a club's
23 application, do you basically look at all the different
24 documents and make sure everything is in order?

25 A. Yes.

1 Q. So, you were saying that Principal Espiritu
2 basically signs off on every club application each year?

3 A. Yes.

4 Q. When he does that, do you think he looks at
5 all the documents, as well, and does kind of a deep
6 dive, or does he kind of trust your judgment when
7 signing off on clubs?

8 MS. BROUGH: Speculative.

9 THE WITNESS: I don't know that answer.

10 BY MR. REAVES:

11 Q. Does anyone else besides you and Principal
12 Espiritu look at club applications for Pioneer?

13 A. Yes.

14 Q. Who else?

15 A. Our ASB clerk.

16 Q. And who is the ASB clerk?

17 A. Currently, or previously?

18 Q. Currently.

19 A. Currently, David Contreras.

20 Q. And, sorry, is that a fulltime employee, or is
21 that a student?

22 A. That is a fulltime employee.

23 Q. And so who was it during the 2018-2019 school
24 year?

25 A. Zoe Valenzuela.

1 Q. What about 2019-2020?

2 A. Zoe Valenzuela.

3 Q. Let's see. In your review process, do certain
4 club applications require kind of additional scrutiny
5 than others?

6 A. No.

7 Q. If a club is just renewing an application from
8 a previous year, for example, would it, would it be
9 quicker to approve that club than a new club, or does it
10 get the same approval process each way?

11 A. It gets the same approval process.

12 Q. Are clubs that were previously recognized more
13 likely to get approval, again, because they had approval
14 the previous year?

15 A. Not necessarily.

16 Q. So, we were talking right at the beginning
17 about how you had, I believe, previously been the
18 student advisor for Black and Blue, and maybe one or two
19 other clubs.

20 Could you talk a bit more about what advising
21 a club entails. What kind of things do you do on a
22 weekly basis or a monthly basis with the clubs that you
23 advised?

24 A. What I do with, let's say, Black and Blue
25 Crew, we meet probably once, I guess Black and Blue Crew

1 is just the school spirit hype type of group that gets
2 other kids together to go to games, and be real excited
3 about different games, so we meet usually before a game.
4 We discuss what they want to do, if they want to give
5 out things to students, and then that's about, and then
6 we go to games.

7 For the Bachelor Nation club, we watch
8 Bachelor, and then talk about it the next day at lunch.

9 Q. So, do you attend all of the club meetings?

10 A. Yes.

11 Q. Do you help the students prepare for the
12 meetings?

13 A. No.

14 Q. Are you typically the only teacher who would
15 attend, or do other teachers sometimes attend a club
16 meeting?

17 A. Other teachers sometimes attend.

18 Q. Just because they're interested, or is there
19 some reason other teachers might attend?

20 A. Just because they're interested.

21 Q. Uh-huh. So, after a club has received ASB
22 approval, can the club be kind of derecognized, or lose
23 ASB approval during the course of a year?

24 A. Yes.

25 Q. And when a club is derecognized, do they lose

1 the benefit of being an ASB approved club?

2 A. Correct. Yes.

3 Q. When that process is being considered, let's
4 say you're trying to determine whether to derecognize a
5 club, do you typically approach the club's leaders and
6 tell them this and give them an opportunity to either
7 try to fix their constitution, or fix whatever the
8 problem might be, before they are derecognized?

9 MS. BROUGH: Speculative. It's an incomplete
10 hypothetical.

11 THE WITNESS: Normally, I look over the documents,
12 and I ask for guidance as to how to approach it.

13 BY MR. REAVES:

14 Q. Who do you ask for guidance?

15 A. The principal.

16 Q. And will you sometimes go back to a student
17 club and say, you know, here are the problems, could you
18 please fix them, or is it normally just a process of
19 talking to Principal Espiritu and looking at the
20 documents and making a decision?

21 MS. BROUGH: Speculative.

22 THE WITNESS: Our first step would be to speak with
23 the students.

24 BY MR. REAVES:

25 Q. And in your experience, is that normally

1 successful? Do groups normally change whatever the
2 problem is, and avoid being derecognized?

3 A. I've never had that, so, I don't know.

4 Q. How many times would you say you've had to
5 tell a student group that they've lost ASB approval?

6 A. Once.

7 Q. And what was that one instance?

8 A. With FCA.

9 Q. So, just to confirm, at no other time in your
10 six years as activities director have you had to
11 derecognize a student group?

12 A. No. We had another group, but they chose to
13 dismantle themselves.

14 Q. And what group was that?

15 A. The Make America Great Again group.

16 Q. Could you just kind of tell me what happened
17 there, and what the process was like, from your end.

18 MS. BROUGH: Vague.

19 THE WITNESS: The students were initially approved.
20 They made some comments that went against ours and the
21 district's policy, and they were then spoken to by our
22 assistant principal of discipline, and then they decided
23 not to continue as a group.

24 BY MR. REAVES:

25 Q. And when you say, the district's and Pioneer's

1 policies, what policies are you referring to?

2 A. The inappropriate behavior.

3 Q. Is that a district policy?

4 A. I don't know.

5 Q. But do you think there was something separate
6 that they violated that was specific to Pioneer?

7 A. No.

8 Q. Going back to FCA, you said that was the only
9 time you had to derecognize a student group, correct?

10 A. Yes.

11 Q. And so in that instance, did you talk to the
12 leaders of FCA and tell them what the problem was before
13 they were derecognized, or, or not?

14 A. I did not. Mr. Espiritu did.

15 Q. Do you know if FCA could have gotten -- sorry.
16 Do you know if FCA could have avoided being
17 derecognized if they had changed their constitution?

18 A. I don't know that.

19 Q. Were you part of the discussion between
20 Principal Espiritu and the FCA leaders?

21 A. No.

22 Q. So, I guess, taking a step back and just
23 talking about applications in general, what kind of
24 criteria do you consider when deciding whether to
25 approve a student club?

1 A. The criterion is if it meets, if it's not
2 discriminatory against any students, and, basically,
3 that's it. They're, that they are allowing whoever they
4 want to be a part of their club.

5 Q. Are there any requirements that the club not
6 duplicate what another club is already doing, or
7 something like that?

8 A. Yes. I would normally talk to those students
9 to merge into one club.

10 Q. Are there any other kind of red flags that you
11 look for in a constitution or in a club's application
12 process?

13 A. The description of the club, I look at that,
14 and what they're representing.

15 Q. And, just to go back a little bit, we were
16 talking about the Make America Great Again club, and
17 their application.

18 A. Uh-huh.

19 Q. You had mentioned that the club leaders had
20 said a few things that went against district and Pioneer
21 policies.

22 Do you recall what specifically they said?

23 A. They, they shouted out to the student body, do
24 you want to F your cousin.

25 Q. Was this at a school assembly?

1 A. One more time. Sorry, you cut out.

2 Q. Was this at a school assembly?

3 A. No. This was at club rush, in the middle of
4 the quad.

5 Q. And what is club rush?

6 A. Club rush is a two day event where all clubs
7 get to promote their club to get students to be involved
8 in their club.

9 MR. REAVES: I think I'm about ready to introduce
10 an exhibit, so, maybe we should go off the record and
11 just take a 10-minute break.

12 Kasmira, does that work for you, and you can
13 try to get Exhibit Share set up?

14 MS. BROUGH: I actually have it set up, so, we can
15 take a break if the witness would like one; otherwise,
16 I'm ready to --

17 MR. REAVES: Okay.

18 BY MR. REAVES:

19 Q. Ms. Mayhew, it's up to you. We can keep going
20 for a little bit longer and maybe take a break in 20 or
21 30 minutes, or, if you want to take a quick break now,
22 we can do that, too.

23 A. Let's wait.

24 Q. So, we'll plow through.

25 A. Yes.

1 (Exhibit 69 was marked for identification by
2 counsel.)

3 BY MR. REAVES:

4 Q. Okay. So, we were talking a little bit about
5 board policies and whether to approve a student group,
6 and I'd just like to go ahead and introduce what's going
7 to be Exhibit 69, and that should pop up in just a
8 minute in the marked exhibits folder. Sometimes, it
9 works for me if I click on the folder. It makes the
10 document pop up, kind of refreshes the folder.

11 A. I'm just waiting for it to refresh.

12 Q. Uh-huh.

13 A. Exhibit 69?

14 Q. Yes. Great. Ms. Mayhew, do you see that
15 document now?

16 A. Yes.

17 Q. Do you recognize this e-mail chain? I know
18 it's a little bit hard. It kind of starts at the
19 bottom, actually, and works its way up, but we're just
20 going to talk about the one e-mail at the top.

21 A. Oh, at the very top.

22 Q. Uh-huh.

23 A. Okay.

24 Q. Who's Meg Walsh?

25 A. She's the activities director over at Leland

1 High School.

2 Q. Do you see where she's talking about board
3 policies regarding religious clubs?

4 A. Yes.

5 Q. Then she says, I have a feeling Mayhew will
6 know right where that is. She's good at that stuff.

7 Do you see that?

8 A. I do.

9 Q. And would you generally agree that you're
10 pretty on top of understanding district policies and how
11 clubs can get approval?

12 A. Yes.

13 Q. Okay. So, just to change gears a little bit,
14 what is the climate committee at Pioneer?

15 A. The climate committee is our teachers that get
16 together to discuss anything that they feel is, that
17 they feel are negatively impacting our climate or our
18 culture on campus.

19 Q. By, climate, the committee talks about like
20 the kind of the school atmosphere?

21 A. Yes.

22 Q. Who sits on the committee?

23 A. Currently?

24 Q. Uh-huh, yes.

25 A. It's usually myself, our assistant principal

1 of discipline, and a few teachers, and they're usually
2 kind of rotating.

3 Q. Uh-huh. Is there a policy that Pioneer has or
4 the district has that covers kind of what authority the
5 committee has?

6 A. Not that I'm aware of.

7 Q. I guess, then, do you know if the committee
8 has any actual authority, or is it just an advising
9 body?

10 A. I do not know. I'm not in charge of the
11 committee.

12 Q. So, does the committee have an actual role in
13 approving or denying student group applications?

14 A. No.

15 Q. So, do you attend most climate committee
16 meetings?

17 A. I do.

18 Q. Do you recall attending a climate committee
19 meeting in which FCA was discussed?

20 A. I don't recall. I definitely could have been
21 there, but I don't know.

22 Q. Do you recall attending any climate committee
23 meetings in which any other student groups were
24 discussed specifically?

25 A. No.

1 (Exhibit 70 was marked for identification by
2 counsel.)

3 BY MR. REAVES:

4 Q. I'm going to introduce what's going to be
5 marked as Exhibit 70. So, that should pop up in just a
6 minute. It popped up for me.

7 A. Yes, I got it.

8 Q. Great. So, can you tell me what this document
9 is.

10 A. That is the document for our climate
11 committee, who, for our note-taker, and then we send
12 these meeting minutes out to the Pioneer staff.

13 Q. So, what's the date on this one?

14 A. 4/30/2019.

15 Q. And does it look like you attended the
16 meeting?

17 A. It does.

18 Q. And if you just go down to the fourth page of
19 the PDF, you'll kind of see in a box at the bottom, it
20 says, discussion.

21 A. Uh-huh.

22 Q. Could you just read that short paragraph into
23 the record.

24 A. Brought to admin attention that FCA club on
25 campus has a signed agreement pledge that officers need

1 to sign. Herb feels pledge goes against core values of
2 PHS, inclusiveness, openmindedness, et cetera. Admin
3 team agrees. Herb feels we need to take a united stance
4 as committee.

5 Q. Uh-huh. So, what is the admin team that he's
6 referring to?

7 A. The assistant principals and himself.

8 Q. And so in your understanding, how did the
9 pledge go against the core values of Pioneer?

10 A. My understanding is that it was a
11 nondiscriminatory -- it was discriminating against
12 certain students on campus.

13 Q. Can you be a little more specific in how it
14 was discriminating against students?

15 A. The pledge itself was discriminating against,
16 like, the policy of sexual orientation.

17 Q. And if you see at the end of the paragraph
18 that you had just read, it says, Herb feels we need to
19 take a united stance as committee.

20 Do you know if, do you know if the committee
21 took any official action consistent with what he said
22 during that meeting?

23 A. I do not know.

24 Q. Looking at it now, does that kind of refresh
25 your recollection about any of the discussions at that

1 meeting?

2 A. No. I could have left.

3 Q. Do you recall if the Satanic Temple club was
4 ever discussed at a climate committee meeting?

5 A. Not that I can recall.

6 Q. Why don't we just take a quick break, and, I
7 guess it's up to you, Ms. Mayhew, do you want to keep
8 going a little bit longer, or do you want to take a
9 little break? I'm okay, this has gone pretty quick so
10 far, but, if you'd like to take a break, we can do that
11 now.

12 A. Can we wait like 10 minutes?

13 Q. Yeah. We'll do a few more questions.

14 A. Perfect.

15 Q. So, I'd like to talk a little bit more about
16 why clubs are helpful or important on campus. So, could
17 you maybe just describe some of the ways in which having
18 student clubs contributes to the positive climate at
19 Pioneer.

20 A. The role for clubs are to really engage
21 students and to have the students feel connected to
22 school, so, we really encourage students to get active
23 and be a part of something at school, whether that's
24 athletics, or clubs, or a performance of some sort, so
25 they really feel connected, so they have that positive

1 culture, that positive feeling going to campus, and they
2 can feel connected to other students that are like them,
3 to staff, who are also like them, who have similar
4 interests.

5 Q. So, oftentimes, these student groups will kind
6 of cohere around a shared interest that the students
7 have?

8 A. Yes.

9 Q. And would you say that the clubs can enhance
10 school spirit?

11 A. Yes.

12 Q. What about helping students with, like,
13 learning about self-governance, and things like that?

14 A. Yes.

15 Q. So, when do, I thought I heard some echo
16 there.

17 When do ASB approved clubs meet on campus?

18 A. That's up to them.

19 Q. Up to them. Are there kind of specific times
20 when the majority of clubs will choose to meet?

21 A. Like I said, that's on the club itself. They
22 are the ones who decide when to meet.

23 Q. But just from your experience overseeing
24 clubs, are there certain times when clubs are more
25 likely to choose to meet?

1 A. Usually, during lunch period.

2 Q. During lunch. Is there any other kind of
3 common time when clubs meet?

4 A. No.

5 Q. Does Pioneer set aside -- sorry. I guess, let
6 me skip that.

7 I guess, does Pioneer require that student
8 groups turn in attendance lists for each meeting?

9 A. To their advisor, not to myself.

10 Q. And what's the purpose of turning in an
11 attendance list?

12 A. Just so that they know who is attending each,
13 each club meeting, in case something happens on campus.

14 Q. And does the club advisor then have to turn
15 over the lists to you at some point?

16 A. Once they are no longer the advisor.

17 Q. But until then, they should be holding onto
18 the club lists.

19 A. Yes.

20 Q. Is there an obligation that they hold onto
21 them at least for one academic year, or two academic
22 years, or a certain length of time?

23 A. No.

24 Q. What about agendas for club meetings? Are
25 they required to turn in an agenda?

1 A. No.

2 Q. What about minutes of a club meeting?

3 A. Minutes --

4 MS. BROUGH: Vague.

5 THE WITNESS: Minutes --

6 BY MR. REAVES:

7 Q. Go ahead.

8 A. Minutes depend on the club itself.

9 Q. So, to clarify, will some clubs keep minutes
10 and turn them in to their advisor?

11 MS. BROUGH: Speculative.

12 THE WITNESS: Usually, the minutes are turned in to
13 the advisor, and then turned in to our ASB clerk,
14 because, usually, it's, it has to do with budget.

15 BY MR. REAVES:

16 Q. Okay. And could you explain the connection to
17 the budget.

18 A. It's usually for them to decide if they are
19 purchasing something, increasing their budget, having
20 money go in and out of the ASB account, and that's to
21 keep records.

22 Q. And how do you communicate with groups during
23 the year?

24 MS. BROUGH: Can I have, not to make a running
25 objection here, but I think it might be helpful if you

1 clarify the time frame you're talking about, given it's
2 been a bit of a change in the past year.

3 MR. REAVES: Sure, that's a good point.

4 BY MR. REAVES:

5 Q. Let's talk about kind of prepandemic, the
6 2018-2019 year.

7 How would you primarily communicate with
8 student groups when they were meeting, or over the
9 course of the year?

10 A. I would have e-mails sent out to students, and
11 I would also have a meeting during lunchtime with
12 students.

13 Q. Okay. You were saying earlier it's up to the
14 club to decide whether to meet.

15 A. Yes.

16 Q. Are they allowed to meet, like, during a class
17 period?

18 A. No.

19 Q. So, there's only, you mentioned lunch.

20 Are there any other specific times that are
21 designated for club meetings?

22 A. They can meet before school, during lunch, or
23 during our S period.

24 Q. What is the S period?

25 A. S period is a service period that we have at

1 the end of days for students to fulfill their community
2 service hours, or meet with other groups, or meet with a
3 teacher, if needed.

4 Q. So, no classes are being taught during S
5 period.

6 A. No.

7 Q. What do you do if a club disbands during an
8 academic year? For example, 2018-2019, kind of what
9 would happen to all the club's documents and materials?

10 MS. BROUGH: Speculative.

11 THE WITNESS: We would keep them.

12 BY MR. REAVES:

13 Q. So, would the advisor turn them over to you?

14 A. Not necessarily.

15 Q. So, would the advisor hold onto the documents?

16 MS. BROUGH: Speculative.

17 THE WITNESS: Yes.

18 BY MR. REAVES:

19 Q. So, when you're communicating with student
20 groups, generally, do you communicate with the student
21 leaders of the group?

22 A. Yes.

23 Q. And, kind of, why do you communicate with the
24 leaders?

25 A. Because it's a student led club.

1 Q. And is it right that generally, a club's
2 application has to list who the leaders are on it?

3 A. Yes.

4 Q. So, we were talking about how student groups
5 kind of cohere around the interests of the students who
6 are in the club.

7 Is it generally the student leaders who are
8 kind of responsible for determining what the group's
9 interests are?

10 MS. BROUGH: Can you repeat that.

11 BY MR. REAVES:

12 Q. Sure. That was a bit of a long question.

13 Just to simplify, are student leaders the ones
14 who are responsible for determining a club's purpose?

15 A. Yes.

16 Q. And from your perspective, are the student
17 leaders the face of the club, they represent the club to
18 you?

19 A. Yes.

20 Q. And do the student leaders speak on behalf of
21 the club when communicating with you?

22 A. Can I just clarify. When you say, leaders,
23 that means there's multiple. Usually, I only speak with
24 the president, or co-presidents of the groups.

25 Q. Sure, that's a good clarification.

1 So, I guess, just to say, when you speak with
2 a leader or leaders or a club, are they, are they
3 speaking on behalf of the club?

4 A. Usually, I speak with the presidents of the
5 clubs, so, I speak with them, and the presidents are the
6 ones that represent the club.

7 Q. And is the president of the club also
8 responsible for the direction that the club takes?

9 MS. BROUGH: Vague.

10 THE WITNESS: Not necessarily. I think it's guided
11 by all leaders of the club.

12 BY MR. REAVES:

13 Q. Uh-huh. I think it's been about 10 minutes,
14 so why don't we just take a 10-minute break, if that
15 works for you, Ms. Mayhew.

16 A. That works.

17 Q. We'll be back, I guess it's 9:30 your time, so
18 we'll be back around 9:40.

19 A. Perfect.

20 MR. REAVES: Let's go off the record, then.

21 (Recess: 9:30 a.m. to 9:41 a.m.)

22 MR. REAVES: Let's go back on the record.

23 BY MR. REAVES:

24 Q. So, just to talk more about student groups,
25 why do student groups seek ASB approval?

1 A. Because all groups are under the umbrella of
2 ASB.

3 Q. So, if they're approved, do they get some
4 additional benefits from being an approved group?

5 A. Additional benefits?

6 Q. So, if a group receives ASB approval, are they
7 eligible for certain things that a group of students who
8 aren't in an ASB approved group aren't eligible for?

9 A. The only thing that they're not eligible for
10 is a place in the yearbook.

11 Q. So, let's talk a little bit more about the
12 types of groups we were discussing earlier. You had
13 said that there were ASB approved groups, and we were
14 talking about athletic teams, and then student interest
15 groups; is that right?

16 A. Yes.

17 Q. So, let's talk a little bit about the
18 difference between an ASB approved group and then a
19 student interest group.

20 So, can a group without ASB approval meet on
21 campus?

22 A. Yes.

23 Q. And are these, would a group that doesn't have
24 ASB approval be called a student interest group?

25 A. Yes.

1 Q. Is there a specific policy that applies to
2 these types of groups?

3 A. No.

4 Q. So how do you determine kind of the
5 requirements to become a student interest group?

6 A. One more time. Can you repeat the question.

7 Q. How -- let me phrase it differently.

8 How would students know what they need to do
9 to become a student interest group?

10 A. You don't allow just student interest groups.

11 Q. Could you explain that a little bit further.

12 What do you mean, you don't allow just student
13 interest groups?

14 A. Anybody, any student who wants to form a club
15 on campus needs to go through the proper channels and
16 approval process.

17 Q. And by, proper channels and approval process,
18 you mean ASB approval?

19 A. Yes.

20 Q. So, then, how does a group become a student
21 interest group?

22 A. I guess I'm a little confused, because we have
23 student interest groups that are still approved by ASB,
24 but we also have ASB approval groups that have money
25 that go in and out of the ASB account.

1 Q. So, could you just describe the difference
2 between a student interest group and an ASB approved
3 student group, if, if that --

4 A. There really isn't any.

5 Q. So, just a minute ago you mentioned that some
6 groups have an ASB account, and some don't; is that
7 right?

8 A. Yes.

9 Q. And then how is that distinction made?

10 A. That is if the student club would like to have
11 money go in and out of an ASB account, bank account.

12 Q. Okay. So, looking at the umbrella of student
13 groups, you would have student clubs with an ASB
14 account, and then you would have student clubs without
15 an ASB account?

16 A. Yes. Those are what I called student interest
17 clubs.

18 Q. So, sorry this is so confusing. Just to
19 clarify on terminology, we have student clubs that have
20 an ASB account, and then we have student interest clubs
21 that don't have an ASB account.

22 A. Yes.

23 Q. Great. Can both types of groups still
24 fundraise, or do only groups with ASB accounts are they
25 able to fundraise?

1 A. They can fundraise, but the money does not go
2 into ASB.

3 Q. And do the groups without an ASB account, are
4 they eligible for any ASB funds?

5 A. No. No clubs are.

6 Q. So, what are ASB funds?

7 A. ASB funds are for student groups that
8 fundraise for that club or that athletic group or that
9 event that's going to take place on campus.

10 Q. Okay. So, earlier, you mentioned that ASB
11 approval is required to be in the yearbook; is that
12 right?

13 A. Yes.

14 Q. So, if a group, if a student group doesn't
15 have ASB approval, they can't be in the yearbook,
16 correct?

17 A. Correct. It's a nonaffiliated Pioneer group.

18 Q. Nonaffiliated Pioneer group?

19 A. Yes.

20 Q. So, does a nonaffiliated Pioneer group have a
21 faculty advisor?

22 A. They still need to have an adult on campus in
23 the room with them.

24 Q. Does that adult have the same responsibilities
25 as a faculty advisor, or not?

1 A. Yes.

2 Q. So, the adult who supervises a nonaffiliated
3 club can do all the same things that a faculty advisor
4 can do?

5 A. Yes.

6 MS. BROUGH: Vague and overbroad.

7 BY MR. REAVES:

8 Q. Can a nonaffiliated student Pioneer group
9 participate in club rush?

10 A. Yes.

11 Q. Do you know when this -- I'm sorry, I thought
12 someone was jumping in.

13 Do you know when this category of
14 nonaffiliated Pioneer groups was created?

15 A. I don't.

16 Q. Has it been there as long as you've been at
17 Pioneer?

18 A. No.

19 Q. So, it's more recent than that.

20 A. Yes.

21 Q. How many groups are nonaffiliated Pioneer
22 groups, that you're aware of?

23 MS. BROUGH: Vague as to time.

24 BY MR. REAVES:

25 Q. Let's talk about the, let's see, the 2019-2020

1 school year, when the students were still meeting on
2 campus.

3 During, in the beginning part of that school
4 year, how many groups were nonaffiliated Pioneer student
5 groups?

6 A. One.

7 Q. And what group was that?

8 A. The FCA.

9 Q. And during the previous school year, the
10 2018-2019 school year, before FCA was derecognized and
11 lost its ASB approval, were there any groups that were
12 nonaffiliated student groups at Pioneer?

13 A. No.

14 Q. So, just to confirm, from the 2018-2019 school
15 year, and then into the 2019-2020 school year, when
16 students were meeting on campus, Pioneer was the only
17 nonaffiliated student group.

18 A. One more time.

19 Q. Sure. So, both during the 2018-2019 and
20 2019-2020 academic years, Pioneer was the only group
21 that was a nonaffiliated student group.

22 A. Pioneer?

23 Q. I'm sorry. Did I say -- I meant to say FCA
24 student group. I'll repeat the question. Sorry. It's
25 a long question.

1 During the 2018-2019 school year and the
2 2019-2020 school year, the FCA student group was the
3 only student group that was not affiliated at Pioneer.

4 A. Yes.

5 Q. We talked about club rush.

6 What is the food fair?

7 A. Food fair is when students of the clubs bring
8 food from home, or their culture, not necessarily from
9 home, from their culture, that represents their club.
10 Students from any of the clubs can take part in it, and
11 they help, it helps fundraise for that club, or for a
12 nonprofit of their choice.

13 Q. Okay. Can groups that are not affiliated with
14 Pioneer still attend and participate in the food fair?

15 A. I don't know that one.

16 Q. Just to kind of go back to what we were
17 discussing earlier, do you know of any students groups,
18 other than FCA, that had this nonaffiliated status?

19 A. No.

20 Q. So, in your time at Pioneer, the only group
21 you know of that had this nonaffiliated status was FCA.

22 MS. BROUGH: Asked and answered.

23 Michelle, go ahead.

24 THE WITNESS: Yes.

25 MS. BROUGH: Go ahead and answer.

1 THE WITNESS: What was the question? I'm sorry.

2 BY MR. REAVES:

3 Q. No, no problem at all.

4 So, in your experience as activities director
5 at Pioneer, the FCA student group is the only
6 nonaffiliated student group that you are aware of.

7 MS. BROUGH: Same objections.

8 THE WITNESS: Yes.

9 BY MR. REAVES:

10 Q. So, where can ASB approved student groups post
11 flyers in the school?

12 A. Around campus.

13 Q. Are there any specific places they have to
14 post them?

15 A. No.

16 Q. What about nonaffiliated groups, like FCA?

17 A. I don't remember.

18 Q. Do ASB approved groups have different or
19 priority access to facilities on campus, like meetings
20 in classrooms or in the gym?

21 A. No.

22 Q. So, nonaffiliated groups like FCA would have
23 the same opportunity to meet in the gym.

24 A. Yes.

25 Q. Or in a classroom.

1 A. Yes.

2 Q. So, in your recollection, is there anything
3 else that an ASB approved group can do that a
4 nonaffiliated group can't do, other than like the
5 yearbook we discussed earlier?

6 A. No.

7 Q. So, can a nonaffiliated group have an ASB
8 account?

9 A. No.

10 Q. So, that is another difference between the two
11 types of groups, right?

12 A. Yes.

13 Q. So, what about access to, what about posting
14 lists of ASB approved clubs on the Pioneer website?
15 Would that list only include ASB approved clubs?

16 A. Not necessarily.

17 Q. So, let's talk about 2018-2019.

18 Was there a list of student clubs posted
19 online in 2018-2019?

20 A. Yes.

21 Q. And when FCA was derecognized during that
22 school year, were they taken off the website?

23 A. I don't remember.

24 Q. So, you said earlier that the nonaffiliated
25 category of student groups was created while you were

1 activities director, right?

2 A. Yes.

3 Q. And do you remember if it was during the
4 2018-2019 school year?

5 A. Yes.

6 Q. And so when specifically during that school
7 year was it created?

8 A. I don't know.

9 Q. Was it created in response to FCA being
10 derecognized on campus?

11 A. I don't know. I wasn't in that process.

12 Q. But your testimony earlier was that Pioneer
13 was the first group you were aware of to receive that
14 nonaffiliated status, right?

15 MS. BROUGH: Misstates her testimony.

16 THE WITNESS: One more time. I, I guess I'm
17 confused with the question.

18 BY MR. REAVES:

19 Q. Sure. Was the Pioneer FCA student group the
20 first group you were aware of to receive the
21 nonaffiliated status at Pioneer?

22 A. Yes.

23 Q. Okay, I'd like to introduce what is going to
24 be marked as, let's see, it's going to be documents,
25 it's going to be Exhibit 49, so, this is a previously

1 marked exhibit, and we'll introduce that. It popped up
2 for me there.

3 Do you see the PDF?

4 A. It's loading. Yes.

5 Q. So, can you tell me what this is.

6 A. It's an ASB club charter request.

7 Q. Okay. And what club is it for?

8 A. The Harry Potter club.

9 Q. And did you sign off on this request at the
10 bottom?

11 A. I did, yes.

12 Q. Do you see where it says the purpose of the
13 club?

14 A. Yes.

15 Q. And could you read that aloud just what the
16 purpose is.

17 A. Meeting fandom friends discussing Harry Potter
18 in a safe and welcoming environment.

19 Q. And is participation in this club required for
20 any particular course at Pioneer?

21 A. No.

22 Q. Do students get academic credit for attending
23 the Harry Potter club?

24 A. No.

25 Q. Is there a Harry Potter class at Pioneer?

1 A. No.

2 Q. Does the Harry Potter club's purpose concern
3 the curriculum as a whole at Pioneer?

4 A. No.

5 Q. Do you see where it says, discussing Harry
6 Potter in a safe and welcoming environment?

7 A. Yes.

8 Q. We were looking at that earlier.

9 Do you think it would undermine the purpose of
10 this group if one of the leaders openly mocked Harry
11 Potter during the meeting?

12 MS. BROUGH: Calls for speculation.

13 THE WITNESS: I don't know.

14 BY MR. REAVES:

15 Q. Just in your opinion.

16 A. I mean, I'm not in that club, so I wouldn't
17 know.

18 (Exhibit 71 was marked for identification by
19 counsel.)

20 BY MR. REAVES:

21 Q. Uh-huh. Let's do the next exhibit, which I
22 think will be 71. Can you take a look at this one.

23 A. Yes.

24 Q. And, so, what is this one?

25 A. This is the Bachelor Nation club.

1 Q. And could you read out the purpose of the
2 club.

3 A. To spread the, The Bachelor love.

4 Q. Okay. And is that your signature at the
5 bottom?

6 A. Yes.

7 Q. So, this was an approved student group?

8 A. Correct, yes.

9 Q. Is participation in Bachelor Nation required
10 for any class?

11 A. No.

12 Q. And do students get academic credit for
13 attending this club?

14 A. No.

15 Q. Similarly, is there a class at Pioneer that
16 discusses The Bachelor?

17 A. No.

18 Q. And, this club doesn't concern the curriculum
19 as a whole at Pioneer?

20 A. No.

21 Q. And you mentioned before that you were the
22 faculty advisor for this club, correct?

23 A. Yes.

24 Q. What academic years were you advisor?

25 A. I don't know that. I want to say '18-'19,

1 '19-'20.

2 Q. And for this club in particular, what were
3 your responsibilities as the faculty advisor?

4 A. I just sat in the group and made sure nothing
5 happened to the kids. It's a student led group, so they
6 do all the talking.

7 Q. Was there, you mentioned previously that one
8 of the responsibilities of an advisor is to keep track
9 of kind of the club's attendance and other documents.

10 Did you have to do that for that club?

11 A. Yes. The students did it.

12 Q. Sorry, could you clarify.

13 A. The students did that, and then gave it to me.

14 Q. And gave it to you. So, at some point, you
15 were basically holding onto the papers for this club.

16 A. Yes.

17 Q. Okay. Do you know if Key Club is a recognized
18 student club at Pioneer?

19 A. Currently?

20 Q. Let's say during the 2018-2019 school year.

21 A. Yes.

22 Q. What about the Interact club, during the same
23 time period?

24 A. Yes.

25 Q. And was there also a chess club?

1 A. I can't recall.

2 Q. So, what can disqualify a student group from
3 obtaining ASB approval?

4 MS. BROUGH: Hypothetical. Calls for speculation.

5 THE WITNESS: I'm not sure.

6 BY MR. REAVES:

7 Q. We discussed this a little bit earlier. You
8 had mentioned if it was basically the same club as one
9 that already exists, right?

10 A. Yes. That doesn't mean I would not approve
11 them.

12 Q. Okay. So, you mentioned that you would talk
13 with the leaders of the other club and see if they would
14 merge?

15 A. Yes.

16 Q. When you're deciding to deny a club ASB
17 recognition, kind of, what additional, are there any
18 additional factors that you kind of consider in that
19 process?

20 MS. BROUGH: Assumes facts not in evidence,
21 hypothetical, and calls for speculation.

22 THE WITNESS: I go to the principal for, to help
23 advise.

24 BY MR. REAVES:

25 Q. You mentioned earlier that there were

1 guidelines that were given to all the clubs at the
2 beginning of the year, correct?

3 A. Yes.

4 Q. So, what were those guidelines, and why were
5 they given to the student groups?

6 A. The guidelines are to make sure the students
7 have all the proper paperwork in.

8 Q. So, the guidelines cover what's required to
9 become an approved group?

10 A. Yes.

11 Q. Is there anything else in the guidelines?

12 A. Just how to stay an approved group.

13 Q. Okay. What do clubs have to do to stay an
14 approved group, after they've been recognized?

15 A. The attendance, fundraising request forms, if
16 they're doing fundraisers, budget forms, meeting
17 minutes, if they're requesting anything from ASB, all of
18 that logistics.

19 Q. So, if a club doesn't turn in the right
20 paperwork, they might lose their status?

21 A. Yes.

22 Q. Has that ever happened?

23 A. No.

24 Q. Why hasn't that happened? Do you follow up
25 with clubs before you, before they get, before they lose

1 their ASB approval?

2 A. Yes.

3 Q. So, clubs typically have an opportunity to
4 kind of remedy any missing paperwork or any other
5 requirements?

6 MS. BROUGH: Assumes facts not in evidence,
7 hypothetical, and speculation.

8 THE WITNESS: Yes.

9 BY MR. REAVES:

10 Q. When you're reviewing a club to determine if
11 they should be derecognized during a school year, is it
12 the same factors that you consider at the outset when
13 you're deciding whether to recognize a student club?

14 MS. BROUGH: Same objections.

15 THE WITNESS: Yes.

16 BY MR. REAVES:

17 Q. Let's go ahead and introduce what's already
18 been marked as Exhibit 45.

19 Do you see this document?

20 A. Yes.

21 Q. Do you know what this is?

22 A. Yes.

23 Q. Can you just in the record tell us what it is.

24 A. That is a list of clubs.

25 Q. And looking at it now, and looking at the

1 names of the advisors, can you see that's a list of
2 clubs at Pioneer?

3 A. Yes.

4 Q. And if you look at the list, you can see on
5 the second, let's see, you can see on the second page
6 near the bottom it says the Satanic Temple club.

7 Do you see that down there?

8 A. Yes.

9 Q. So, looking at that, can you tell me what year
10 this was from.

11 A. That was 2019-2020, I believe.

12 Q. Yeah. So, to confirm, this looks to you to be
13 the 2019-2020 club list at Pioneer?

14 A. Yes.

15 Q. And to be on this list, did a club have to be
16 ASB approved?

17 A. Yes.

18 Q. If you look at the second page, do you see the
19 radio club on there?

20 A. Yes.

21 Q. Do you know who drafted the club list?

22 A. What was that? Sorry.

23 Q. Sorry. Do you know who drafted the club list?

24 A. I did.

25 Q. And was this put online?

1 A. Yes.

2 Q. What was the purpose of putting it online?

3 A. It's for students so they can reach out to
4 clubs, in case they're wanting to join a club in the
5 middle of the year.

6 Q. So, where can students go online to find this
7 list?

8 A. Under, I don't know -- under student clubs? I
9 don't know.

10 Q. Just generally, it's on the Pioneer website?

11 A. Correct, yes.

12 Q. And you said that this was the club list for
13 2019-2020.

14 Was a similar list for approved clubs used in
15 2018-2019?

16 A. Yes.

17 Q. Was a similar list used for just this past
18 academic year, 2020-2021?

19 A. No.

20 Q. What was used instead?

21 A. There was a Google slideshow that was put up
22 on the website.

23 (Exhibit 72 was marked for identification by
24 counsel.)

25 BY MR. REAVES:

1 Q. Okay, let's introduce the next exhibit, which
2 is going to be marked as Exhibit 72. There it is.
3 Great.

4 Do you see this document?

5 A. I do.

6 Q. And what is this document?

7 A. This is a charter request form for clubs.

8 Q. And was this club approved?

9 A. Yes.

10 Q. What's the name of the club?

11 A. Girls Who Code.

12 Q. And do you see where it says, the purpose of
13 the club is to, quote, close gender gap in tech?

14 A. Yes.

15 Q. Then a little bit later in that same sentence,
16 it says, change the image of what a programmer engineer
17 scientist looks like?

18 A. Yes.

19 Q. Can you explain kind of what that means.

20 A. What the sentence means?

21 Q. What the, in your own words, just what is the
22 purpose of the club, from looking at this application.

23 MS. BROUGH: Calls for speculation.

24 THE WITNESS: It's to close the gap in the tech
25 world, the tech industry, with engineering and coding.

1 BY MR. REAVES:

2 Q. So what is the gap?

3 A. I assume they mean the gender of the male to
4 female ratio in the tech world.

5 Q. Uh-huh. So, the club is trying to make it
6 easier for women to become engineers and scientists and
7 be in the tech world?

8 A. Yes.

9 MS. BROUGH: Vague.

10 BY MR. REAVES:

11 Q. Would the group, in your opinion, be able to
12 fulfill that purpose if it was open to male students as
13 well as female students?

14 MS. BROUGH: Hypothetical. Speculative.

15 THE WITNESS: Yes.

16 BY MR. REAVES:

17 Q. How would it be advancing that mission if it
18 was open to both male and female students?

19 MS. BROUGH: Hypothetical and speculative.

20 THE WITNESS: Honestly, I don't know.

21 BY MR. REAVES:

22 Q. Would you still say it's fulfilling the
23 mission of advancing the opportunities for female
24 students if over 90 percent of the students in the club
25 were male students?

1 MS. BROUGH: Same objections.

2 THE WITNESS: Yeah.

3 BY MR. REAVES:

4 Q. And why do you say that?

5 A. Because they're still getting that
6 opportunity. They're still female.

7 Q. So, even if there's just one female, and 10
8 male students, the club would be advancing the purpose
9 of helping female students become tech leaders?

10 MS. BROUGH: Asked and answered.

11 THE WITNESS: Yes.

12 BY MR. REAVES:

13 Q. Okay. So, going back to our discussion of the
14 student lists, the student club lists each year, you
15 mentioned that for the 2018-2019 and 2019-2020 years,
16 you put together a list of ASB approved clubs to go on
17 the website, correct?

18 A. Yes.

19 Q. And in the 2019-2020 year, do you recall
20 whether FCA was on that list or not?

21 A. I do not recall.

22 Q. Let's go back to what was marked as Exhibit 45
23 in the record. We were talking about that document
24 earlier.

25 You represented that this is the 2019-2020

1 student list, correct?

2 A. Yes.

3 Q. And do you see the Fellowship of Christian
4 Athletes group on this list?

5 A. No.

6 Q. Do you know why it's not on this list?

7 A. I do not.

8 Q. But you created this list, correct?

9 A. Yes.

10 Q. So, why did you leave the FCA student group
11 off the list?

12 MS. BROUGH: Asked and answered.

13 THE WITNESS: I don't know.

14 BY MR. REAVES:

15 Q. Did someone tell you to leave the FCA student
16 group off the list?

17 MS. BROUGH: Asked and answered.

18 THE WITNESS: I don't recall.

19 BY MR. REAVES:

20 Q. You don't recall talking to anybody about why
21 FCA was not included on this list?

22 MS. BROUGH: Argumentative. Asked and answered.

23 THE WITNESS: I believe I was directed not to.

24 BY MR. REAVES:

25 Q. Do you remember who directed you not to?

1 A. Mr. Espiritu.

2 (Exhibit 73 was marked for identification by
3 counsel.)

4 BY MR. REAVES:

5 Q. Okay, well, let's look at what's going to be
6 marked as Exhibit 73. This is going to be the Interact
7 club charter request.

8 So when you were saying that FCA was not on
9 the list, and you were instructed not to put them on the
10 list, was that because they didn't have ASB approval?

11 A. I don't know.

12 Q. Would there be any other reason why FCA was
13 left off the list?

14 A. I don't know.

15 Q. But just in your own experience, can you think
16 of any other reason why FCA would be left off the list,
17 other than not having ASB approval?

18 MS. BROUGH: Speculation.

19 THE WITNESS: They could have not turned in a
20 charter request.

21 BY MR. REAVES:

22 Q. Okay. Do you know if they didn't turn in a
23 charter request or not that year?

24 A. They turned one in.

25 Q. Okay. So, other than that, is there any other

1 reason why they would be left off the list?

2 MS. BROUGH: Objection. Calls for speculation.

3 THE WITNESS: No.

4 BY MR. REAVES:

5 Q. I think Exhibit 73 has popped up there. We'll
6 just take a quick look at this one.

7 Can you tell me what this document is.

8 A. A charter request.

9 Q. And what's the club?

10 A. Interact club.

11 Q. And was this one approved?

12 A. Yes.

13 Q. And that's your signature at the bottom?

14 A. Yes.

15 (Exhibit 74 was marked for identification by
16 counsel.)

17 BY MR. REAVES:

18 Q. Great, and that's all we're going to do on
19 that document, so, let's go to the next document, which
20 is going to be Exhibit 74. This one is a little bit,
21 the text is a little small, but you can zoom in, if you
22 can't see it.

23 A. Okay.

24 Q. Do you know what this one is?

25 A. Yes.

1 Q. What is it?

2 A. The Interact club constitution.

3 Q. Okay. And this is the club constitution for
4 the Interact student group at Pioneer?

5 A. Yes.

6 Q. If you look down at article 3, that first
7 paragraph there, do you see that?

8 A. Yes.

9 Q. Do you see it says that the Rotary Club of San
10 Jose/Santa Clara is named as the sponsor of the
11 organization?

12 A. Yes.

13 Q. So, are student clubs allowed to have an
14 outside group as a sponsor?

15 A. Yes.

16 Q. Was that true during the 2019-2020 school
17 year?

18 A. Yes.

19 Q. And is that still true today?

20 A. Yes.

21 Q. And if you look in the same sentence, a little
22 bit later on, it says that the Rotary Club, quote, shall
23 exercise supervision and control over all activities,
24 programs, and policies of this Interact club.

25 Do you see that?

1 A. Yeah.

2 Q. Did this language concern you at all when you
3 were reviewing their application?

4 A. No.

5 Q. Why not?

6 A. Because it didn't.

7 Q. Okay. So, just to confirm, it's okay for a
8 club to have an outside organization that sponsors and
9 oversees the club?

10 A. Yes.

11 Q. Let's go down to article 4, right below that.

12 A. Uh-huh.

13 Q. We're looking at paragraph 1.

14 A. Uh-huh.

15 Q. Right at the beginning there, it says, to be
16 eligible for membership, a person must possess good
17 character and leadership potential.

18 Do you see that?

19 A. Yes.

20 Q. So, does this mean that the group could choose
21 to accept only members who agreed to treat others with
22 respect?

23 A. Yes.

24 Q. And so the group could choose not to accept a
25 member who openly said they would disrespect, for

1 example, like, a minority.

2 MS. BROUGH: Calls for speculation. Hypothetical.

3 THE WITNESS: I'm not sure.

4 BY MR. REAVES:

5 Q. Uh-huh. So, what about could the club exclude
6 someone who was, who admitted to cheating on a test?
7 Could they say you're not allowed to be a member because
8 you don't have good character?

9 MS. BROUGH: Same objections.

10 THE WITNESS: I don't know. I've never been in
11 that position.

12 BY MR. REAVES:

13 Q. Could the group ask that its members not cheat
14 on their tests?

15 MS. BROUGH: Same objections.

16 THE WITNESS: They can ask that.

17 BY MR. REAVES:

18 Q. That's a permissible requirement for group
19 membership?

20 MS. BROUGH: Same objections.

21 THE WITNESS: I'm not sure if it would be a
22 requirement.

23 BY MR. REAVES:

24 Q. I guess, just to rephrase, could the group
25 require as part of having good character that its

1 members don't cheat on their tests?

2 MS. BROUGH: Same objections.

3 THE WITNESS: They could require it, but that
4 doesn't necessarily mean that they will exclude them.

5 BY MR. REAVES:

6 Q. What if a group said, we will require you not
7 to cheat on your tests, and we will exclude you if you
8 do, is that okay, under the current policies?

9 MS. BROUGH: Same objections.

10 THE WITNESS: I would have to look at both
11 policies, and then get guidance.

12 BY MR. REAVES:

13 Q. When you say, both policies, what policies are
14 you referring to?

15 A. Their policy, their constitution, and the
16 SJUSD policy.

17 Q. So, which SJUSD policy, specifically?

18 A. Their student code of conduct policies.

19 Q. Is there like a specifically named policy that
20 you're talking about, or --

21 A. No. I would just look at both the documents,
22 and then get advice from my superior.

23 Q. So, which, just to kind of confirm exactly
24 what policies we're talking about, what documents would
25 you be looking at?

1 MS. BROUGH: And, object again. This is all very
2 hypothetical and speculative.

3 THE WITNESS: I would look at their, I would look
4 at the Interact constitution.

5 BY MR. REAVES:

6 Q. Uh-huh.

7 A. To see what it states, and then I would look
8 at the SJUSD discriminatory policies, to see if they
9 align.

10 Q. Okay. And then the second requirement there
11 is leadership potential.

12 Do you see that, as well?

13 A. Yes.

14 Q. Could a group require, could the Interact
15 group require its leaders not to cheat on their tests?

16 MS. BROUGH: Hypothetical and speculative.

17 THE WITNESS: I mean, I guess they could.

18 BY MR. REAVES:

19 Q. And, similarly, could they exclude or remove a
20 leader who cheated on their tests?

21 MS. BROUGH: Same objections.

22 THE WITNESS: I'm not sure. I've never had that
23 experience.

24 BY MR. REAVES:

25 Q. But, if that came up, would you similarly look

1 at the district policies on nondiscrimination, and talk
2 to Principal Espiritu?

3 MS. BROUGH: Same objections.

4 THE WITNESS: Yes.

5 BY MR. REAVES:

6 Q. So, are athletic teams at Pioneer ASB
7 approved?

8 A. Yes.

9 Q. And do they have ASB accounts, as well?

10 A. Yes.

11 Q. Is the approval process for an athletic team
12 the same as for a student club, or is it different?

13 A. It's the same.

14 Q. So, they have to submit the same sets of
15 paperwork as a club would?

16 A. Yes.

17 Q. And do athletic teams have access to ASB
18 funds?

19 A. Only funds that they fundraise.

20 Q. Okay, let's look at the next document, which
21 is going to be, I believe, Exhibit 75.

22 (Exhibit 75 was marked for identification by
23 counsel.)

24 BY MR. REAVES:

25 Q. Great. So, can you tell me what this is.

1 A. That is hockey club charter request.

2 Q. And did you approve this one, as well?

3 A. Yes.

4 Q. And so you see where it says the purpose is to
5 promote hockey?

6 A. Yes.

7 Q. And so is this an example of an ASB approved
8 club that has as its purpose an athletic event?

9 A. Yes, but it's not a Pioneer sport.

10 Q. So, it's treated the same as the Harry Potter
11 club? It's a student club?

12 A. Yes.

13 (Exhibit 76 was marked for identification by
14 counsel.)

15 BY MR. REAVES:

16 Q. All right, let's look at Exhibit 76.

17 Do you see this document?

18 A. I do.

19 Q. Do you know what it is?

20 A. Yes. It's a constitution.

21 Q. And it looks like it's for the organization
22 called Girl Talk of Pioneer High School; is that
23 correct?

24 A. Yes.

25 Q. Do you know whether Girl Talk was an ASB

1 approved club at Pioneer?

2 A. Yes.

3 Q. Do you know what years it was approved?

4 A. I don't know.

5 Q. But this group was allowed to meet at Pioneer
6 as an ASB approved club at some point while you were
7 activities director?

8 A. Yes.

9 Q. If you look under membership, which is right
10 there in article 2 --

11 A. Uh-huh.

12 Q. -- it says, all female students in Pioneer
13 High School are eligible for membership.

14 Do you see that?

15 A. Yes.

16 Q. And, let's see, do you know what the purpose
17 of this group is, if you look in the previous paragraph?

18 A. Yes.

19 Q. Can you just read out what it says the purpose
20 is.

21 A. This organization will have as its purpose is
22 a community service to have high school girls mentoring
23 middle school girls, as directly approved by the student
24 council, and indirectly by the school principal and the
25 governing board of the San Jose Unified School District.

1 Q. Would you say that given this purpose and
2 given the membership requirements of this organization,
3 that male identifying students would feel like they're
4 not welcome to be members?

5 MS. BROUGH: Hypothetical, and calls for
6 speculation.

7 THE WITNESS: I don't know.

8 BY MR. REAVES:

9 Q. Do you know if any male identifying students
10 sought to become a member of this student organization?

11 MS. BROUGH: Vague as to time.

12 THE WITNESS: No.

13 BY MR. REAVES:

14 Q. Looking at this constitution now, under the
15 district's current policies, would Girl Talk be allowed
16 to exclude male identifying students?

17 MS. BROUGH: Hypothetical. Calls for speculation.

18 THE WITNESS: I'd have to look at both our policy
19 and the constitution of the club.

20 BY MR. REAVES:

21 Q. So, what -- we're looking at the constitution
22 of the club now -- what specific policy would you look
23 to, from the --

24 A. The nondiscriminatory policy from SJUSD.

25 (Exhibit 77 was marked for identification by

1 counsel.)

2 BY MR. REAVES:

3 Q. Okay, let's look at what's going to be
4 Exhibit 77.

5 While that's loading, do you think it would be
6 appropriate for male high school students to be
7 mentoring female middle school students?

8 MS. BROUGH: Speculative. Hypothetical.

9 THE WITNESS: No.

10 BY MR. REAVES:

11 Q. Okay. Do you see Exhibit 77?

12 A. Yes.

13 Q. Do you know what this is?

14 A. The Pony Express.

15 Q. And what is The Pony Express?

16 A. That is Pioneer's student newspaper.

17 Q. Do you see the date at the top on the right
18 there? It's a little small.

19 A. Yes.

20 Q. And what date is it?

21 A. March 13, 2020.

22 Q. If you just scroll down to page 4, take a look
23 at that, and, specifically, the article that starts
24 about halfway down, it says, Girls' Circle.

25 Do you see that?

1 A. Yes.

2 Q. Do you see where it says at the beginning of
3 the article, in an effort to make girls feel more safe
4 talking about mental health, Pioneer grad and school
5 site counselor Heather Goodman started Girls' Circle, a
6 group where young female identifying students can speak
7 their mind with other group members and not be judged?

8 A. Yes.

9 Q. Do you see that?

10 So, in your experience, why might it be
11 helpful for female identifying students to have a safe
12 space to speak their mind?

13 MS. BROUGH: Speculative and hypothetical.

14 THE WITNESS: So they don't feel judged.

15 BY MR. REAVES:

16 Q. And what about, specifically, mental health,
17 it mentions that in the article.

18 Is there a reason why it might be helpful to
19 have a safe space to talk about mental health issues for
20 female students?

21 MS. BROUGH: Vague. Hypothetical. Speculative.

22 THE WITNESS: I don't know.

23 (Exhibit 78 was marked for identification by
24 counsel.)

25 BY MR. REAVES:

1 Q. Okay, let's look at what will be marked as
2 Exhibit 78.

3 Michelle, is that your e-mail.

4 A. Yeah. Sorry.

5 Q. Do you mind closing that, so we don't have
6 that in the record.

7 A. I need to get rid of that. Okay.

8 The Pony Express?

9 Q. Yes. It's Exhibit 78.

10 A. Yes.

11 Q. If you zoom in, you can see a little bit
12 better. It's kind of small in the middle there, but, do
13 you know what this is?

14 A. The Pony Express Instagram.

15 Q. Uh-huh. And if you see on the post, it
16 describes the all female Simone club at Pioneer.

17 Do you see that?

18 A. I do.

19 Q. And then it says, quote, the reason it's all
20 girls is that stereotype threat and impostor syndrome
21 are real things.

22 Do you see that?

23 A. I do, yes.

24 Q. In your opinion, are there good reasons to
25 have clubs like this one, that specifically are created

1 for female identifying students?

2 MS. BROUGH: Incomplete hypothetical, and
3 speculative.

4 THE WITNESS: Yes.

5 BY MR. REAVES:

6 Q. So, what might some of the reasons be for
7 having an all female club on campus?

8 MS. BROUGH: Speculative. Hypothetical.

9 THE WITNESS: So the girls can feel comfortable
10 with oneself.

11 BY MR. REAVES:

12 Q. And would the purpose of that group be
13 undermined if male identifying students were allowed to
14 join?

15 MS. BROUGH: Same objections.

16 THE WITNESS: I don't know that one. I've never
17 been a part of an all female group, so, I don't know.

18 BY MR. REAVES:

19 Q. Do you see the date on this exhibit, kind of
20 near the bottom of the post?

21 A. Yes.

22 Q. What's the date on that one?

23 A. September 10, 2019.

24 Q. So, looking at this exhibit, and then thinking
25 back to the previous one we were just talking about, the

1 Girls' Circle, does it appear that at least two ASB
2 approved clubs during this 2019-2020 school year limited
3 their membership to female identifying students?

4 A. Yes.

5 Q. And were you aware of Girls' Circle and this
6 Simone club when they were created?

7 A. Yes.

8 Q. So, you had to approve their club application?

9 A. Yes.

10 Q. Do you know if anyone ever protested the
11 Girls' Circle or the Simone club?

12 A. No.

13 Q. Did you receive any complaints from other
14 students or anyone else about the club?

15 A. No.

16 Q. Did any teachers express regret or were upset
17 that Pioneer had clubs on campus that were all female?

18 A. No.

19 Q. At the time, did you do anything to make the
20 Girls' Circle and the Simone club change their all
21 female policy?

22 MS. BROUGH: Vague.

23 THE WITNESS: No.

24 BY MR. REAVES:

25 Q. Okay. So, when we were talking earlier about

1 some of the purposes of an all female group, you had
2 mentioned that you weren't a member of any all female
3 groups or clubs?

4 A. Yes.

5 Q. Had you mentioned earlier that you were in a
6 sorority in college?

7 A. I was, for a bit.

8 Q. And was that an all female sorority?

9 A. Yes.

10 Q. So, kind of, in your experience as a member of
11 the sorority, would it have been able to function in the
12 same way if men were allowed to be members?

13 MS. BROUGH: Speculative and hypothetical.

14 THE WITNESS: I don't know.

15 BY MR. REAVES:

16 Q. Do you think you could have had the same
17 experiences as a sorority member if men were allowed to
18 be members of the sorority?

19 MS. BROUGH: Same objections.

20 THE WITNESS: I don't know. I didn't have a
21 positive experience, so I don't know how that would be.

22 (Exhibit 79 was marked for identification by
23 counsel.)

24 BY MR. REAVES:

25 Q. Okay, let me get my exhibits straight here.

1 Let's take a look at the next exhibit, which is going to
2 be Exhibit 79.

3 Do you see this document?

4 A. Yes.

5 Q. And what is the name of the club?

6 A. California Scholarship Federation.

7 Q. Okay. And do you see your signature at the
8 bottom there?

9 A. Yes.

10 Q. So, is this an ASB approved student group?

11 A. Yes.

12 Q. And you see under, purpose, it says, quote,
13 recognize students of high academic achievement?

14 A. Yes.

15 Q. So, is a permissible purpose of a club to
16 single out students based on their academic achievement?

17 A. Repeat that question.

18 Q. Sure. So, is it permissible for a club like
19 this one to single out students based on their academic
20 achievement?

21 A. Yes.

22 Q. So, a club can choose to only recognize
23 students who have high academic achievement?

24 A. Yes.

25 Q. And does the club president or the club

1 leadership have discretion to decide what constitutes
2 high academic achievement?

3 A. No.

4 Q. So, who has to make that decision?

5 A. That is the California Scholarship Federation
6 itself.

7 (Exhibit 80 was marked for identification by
8 counsel.)

9 BY MR. REAVES:

10 Q. Okay, let's look at the next document here,
11 which is going to be Exhibit 80. It's not coming up for
12 me yet. We're just going to do this one exhibit, and I
13 think we'll take a break after that, but it hasn't
14 popped up yet, so we'll give it a second.

15 I guess while we're waiting on that, you
16 mentioned that the California Scholarship Federation can
17 determine what is high academic achievement, right?

18 A. Yes.

19 Q. And, do you know what standards they use to
20 make that determination?

21 A. I do not.

22 Q. But it's okay for an organization like the
23 federation to determine which students can and can't be
24 eligible?

25 MS. BROUGH: Hypothetical.

1 THE WITNESS: It's by GPA.

2 BY MR. REAVES:

3 Q. So, the California Scholarship Federation
4 looks at students' GPAs and determines which students
5 are and are not eligible, based on that?

6 A. Yes.

7 Q. And do you know what it means to be recognized
8 for having high academic achievement? Do they get
9 scholarships, or kind of another monetary benefit, as a
10 result?

11 MS. BROUGH: Compound. Vague.

12 THE WITNESS: No.

13 BY MR. REAVES:

14 Q. So, what is the benefit of being recognized by
15 the California Scholarship Federation?

16 A. I don't know.

17 Q. It looks like Exhibit 80 has loaded.

18 So, taking a look at this document, do you see
19 what it is?

20 A. Yes.

21 Q. And what is it?

22 A. It's the Pioneer Radio constitution.

23 Q. And do you remember earlier we were looking at
24 the 2019-2020 club list, and I had you identify Pioneer
25 Radio on there?

1 A. Yes.

2 Q. So, Pioneer Radio was a ASB approved club for
3 the 2019-2020 academic year?

4 A. Yes.

5 Q. If you look under article 2, for membership --

6 A. Uh-huh.

7 Q. -- you'll see the second sentence there. It
8 says, club officers will choose the applicants that are
9 most qualified to become members.

10 Do you see that?

11 A. Yes.

12 Q. So, is that saying that anyone can apply to be
13 a member, but only those people that the club leaders
14 deem qualified can actually join the club?

15 A. Yes.

16 Q. So, it's kind of like an application or a
17 tryout process?

18 MS. BROUGH: Speculative.

19 THE WITNESS: Yes.

20 BY MR. REAVES:

21 Q. Do you know what it means to show apathy
22 towards something?

23 A. Yes.

24 Q. Could you just briefly describe your
25 understanding of that.

1 A. Not really. No. Sorry.

2 Q. We'll look at it in a specific context.

3 A. Sorry.

4 Q. No problem. If you look that the second page
5 of this document near the bottom --

6 A. Uh-huh.

7 Q. -- it will be article 7, and it says,
8 amendment.

9 Do you see that there?

10 A. Uh-huh.

11 Q. The first bullet says, any members who show
12 apathy towards the progress of the station will be taken
13 off the radio website and not earn credit.

14 Do you see that?

15 A. Yes.

16 Q. So, is this basically saying that a student
17 group can require its members to be enthusiastic about
18 the purpose of the club, or else they will be taken off
19 the radio website?

20 MS. BROUGH: Speculative.

21 THE WITNESS: Yes.

22 MR. REAVES: Why don't we take just a 10-minute
23 break there, and we'll be back at, let's see, a little
24 before 2:00 our time, so, 11 your time.

25 Let's go off the record, then.

1 (Recess: 10:46 a.m. to 10:59 a.m.)

2 (Exhibit 81 was marked for identification by
3 counsel.)

4 BY MR. REAVES:

5 Q. We're going to start with another document,
6 which I think is going to be Exhibit 81. That should
7 have just popped up as Exhibit 81.

8 Do you see that one?

9 A. I do.

10 Q. And can you describe or just say for the
11 record what this is.

12 A. A charter request form.

13 Q. And then what group was it for?

14 A. Armed Forces club.

15 Q. And what about the academic year?

16 A. 2018-2019.

17 Q. And do you see under, purpose, where it is
18 listed as, to offer students interested in the armed
19 services a place to talk with others who are interested?

20 A. Yes.

21 Q. And under, activities, it says, promote
22 patriotism.

23 Do you see that?

24 A. Yes.

25 Q. So, in your opinion, do you think it would

1 undermine the purpose of this group if the leader of the
2 group said, I'm a pacifist so we're going to talk about
3 why serving in the military is wrong?

4 MS. BROUGH: Hypothetical. Speculative.

5 THE WITNESS: I don't know.

6 BY MR. REAVES:

7 Q. But just in your own opinion, if a student
8 leader said that they disagreed with or were seeking to
9 undermine the purpose of a group, do you think that
10 would be problematic for the group?

11 MS. BROUGH: Same objections.

12 THE WITNESS: I don't know if it would be
13 problematic. It would be definitely a conversation.

14 BY MR. REAVES:

15 Q. And, why would it be a conversation?

16 A. Because it's going against what the club is
17 trying to, the purpose of the club.

18 Q. And what kind of conversation would you have
19 with a student leader who was trying to steer the club
20 away from the purpose of the club?

21 MS. BROUGH: Hypothetical. Speculative.

22 THE WITNESS: I wouldn't have the conversation.

23 BY MR. REAVES:

24 Q. So, who would have the conversation?

25 MS. BROUGH: Same objections.

1 THE WITNESS: Since I'm not in the club meetings,
2 it would probably be the advisor, and the other leaders.

3 BY MR. REAVES:

4 Q. And you think it would be okay for the other
5 leaders and the advisor to tell this leader, hey, you
6 know what you're doing is kind of undermining or goes
7 against the purpose of this club?

8 MS. BROUGH: Same objections.

9 THE WITNESS: That would be up to those leaders.

10 BY MR. REAVES:

11 Q. But you think that would be okay? You think
12 it would be permissible for them to do that?

13 MS. BROUGH: Same objection, and asked and
14 answered.

15 THE WITNESS: I think, I think it would be
16 acceptable for the leaders to have the conversation.

17 BY MR. REAVES:

18 Q. And what if the leaders told this other
19 leader, if you continue to undermine the purpose of our
20 group, we're going to kick you out of the group?

21 MS. BROUGH: Hypothetical and speculative.

22 THE WITNESS: I'm not, I don't know. I've never
23 been in that situation.

24 BY MR. REAVES:

25 Q. But I'm just asking if that would be okay.

1 So, from your perspective, as kind of overseeing all the
2 student clubs, would it be okay if a group said, in
3 order to continue being one of our leaders, you have to
4 not undermine the purpose of this club?

5 MS. BROUGH: Asked and answered.

6 THE WITNESS: I think they would have to have a
7 process.

8 BY MR. REAVES:

9 Q. What do you mean by, process?

10 A. I don't think they can just kick somebody out.

11 Q. So, if there was a process to talk with this
12 person about how their actions or their statements were
13 undermining the purpose of the group, they could have
14 that conversation, and, if the student leader didn't
15 change their position, could they then kick them out?

16 MS. BROUGH: Hypothetical. Speculative. Asked and
17 answered.

18 THE WITNESS: That would be up to the group.

19 BY MR. REAVES:

20 Q. So, thinking about the district's current
21 policies, could this group have a written requirement
22 that says, pacifists who oppose having armed forces
23 cannot be a leader of this group?

24 MS. BROUGH: Hypothetical and speculative.

25 THE WITNESS: I don't know.

1 BY MR. REAVES:

2 Q. So, how would you go about reviewing a club's
3 constitution that had that requirement in it? What
4 would you do?

5 MS. BROUGH: Same objections.

6 THE WITNESS: I would review it, and then go over
7 it with my boss.

8 BY MR. REAVES:

9 Q. And he would make the final decision on that?

10 A. Yes.

11 Q. That's Principal Espiritu?

12 A. Yes.

13 (Exhibit 82 was marked for identification by
14 counsel.)

15 BY MR. REAVES:

16 Q. Let's look at the next document, which is
17 going to be Exhibit 82. We're getting through most of
18 the exhibits early. Don't worry, we aren't going to do
19 this all day. We're going to wrap these up pretty soon.

20 A. Okay.

21 Q. Okay. So, do you see what's marked as
22 Exhibit 82?

23 A. Yes.

24 Q. And what is it?

25 A. This is the Red Cross constitution.

1 Q. Do you know if there's, if there was or is a
2 Red Cross club at Pioneer?

3 A. Currently?

4 Q. Either in the past or presently.

5 A. Yes.

6 Q. There has been a club.

7 Have you seen this constitution before?

8 A. Yes.

9 Q. So, if you go down to membership, which is on
10 page 2, it says article 2, membership?

11 A. Yes.

12 Q. And it says, all students enrolled at Pioneer
13 High School who are seeking involvement with the Red
14 Cross and show a sense of responsibility and good
15 leadership are eligible for membership.

16 Do you see that?

17 A. Yes.

18 Q. So, would this allow the group to require, for
19 example, that students show up to a certain number of
20 meetings?

21 MS. BROUGH: Hypothetical. Speculative.

22 THE WITNESS: Yes.

23 BY MR. REAVES:

24 Q. In addition, would requiring that your
25 students have a sense of responsibility and good

1 leadership allow you to require students to attend, for
2 example, CPR training, or something like that, to be a
3 member of the Red Cross club?

4 MS. BROUGH: Same objections.

5 THE WITNESS: One more time. Sorry.

6 BY MR. REAVES:

7 Q. Not a problem. That was a long question.

8 So, could the Red Cross club, given its
9 leadership requirements, require that its student
10 leaders be CPR certified?

11 MS. BROUGH: Same objections.

12 THE WITNESS: Yes.

13 BY MR. REAVES:

14 Q. Do you think if a student was looking at this
15 constitution and saw that you have to have a sense of
16 responsibility and good leadership, do you think that
17 could, do you think that could discourage some students
18 from applying because they are worried they don't meet
19 those criteria?

20 MS. BROUGH: Speculative.

21 THE WITNESS: No.

22 BY MR. REAVES:

23 Q. What if, for example, a student was looking at
24 this constitution and was worried that they didn't
25 possess the leadership skills necessary to be a member,

1 do you think they might be discouraged from applying to
2 join?

3 MS. BROUGH: Hypothetical. Speculative.

4 THE WITNESS: No.

5 BY MR. REAVES:

6 Q. Why not?

7 MS. BROUGH: Speculative.

8 THE WITNESS: I don't know.

9 BY MR. REAVES:

10 Q. So, who would decide whether a student has
11 shown enough leadership potential or good responsibility
12 to join the club?

13 A. One more time. Sorry, you cut out at the
14 beginning.

15 Q. Who gets to decide whether a student has shown
16 leadership or good responsibility sufficient to join the
17 club?

18 A. That would be the club officers.

19 (Exhibit 83 was marked for identification by
20 counsel.)

21 BY MR. REAVES:

22 Q. Let's look at the next document, which is
23 going to be Exhibit 83. Okay.

24 Do you see what's marked as Exhibit 83?

25 A. Yes.

1 Q. And, can you just describe it for the record.

2 A. It is the charter request.

3 Q. What's the name of the club?

4 A. Black Student Union.

5 Q. And do you see the date it was submitted
6 there?

7 A. Yes. August 16, 2019.

8 Q. Okay. It might be a little bit hard to read
9 this, but, if you zoom in, it helps.

10 If you look at the purpose of the club, if you
11 zoom in a little bit, you can see, I can read it for
12 you, it says, the purpose of the club is to bring black
13 students together. That's the first line.

14 Do you see that?

15 A. Yes.

16 Q. And then later on in that same block, it says,
17 to bring more cultural and social events for black
18 students.

19 Do you see that?

20 A. Yes.

21 Q. Might these statements make a student who is
22 not black feel unwelcome to attend the meetings?

23 MS. BROUGH: Speculative.

24 THE WITNESS: No.

25 BY MR. REAVES:

1 Q. What about, would these statements make a
2 nonblack student feel unwelcome to join or to become a
3 leader in this group?

4 MS. BROUGH: Speculative.

5 THE WITNESS: No.

6 BY MR. REAVES:

7 Q. So, you don't think a student who is white
8 would see that the purpose of the group is to bring
9 black students together, and think that they're not
10 welcome in the club?

11 MS. BROUGH: Speculative. Asked and answered.

12 THE WITNESS: No.

13 BY MR. REAVES:

14 Q. Why do you say that?

15 A. Because they might just want to educate
16 themselves on the black culture.

17 Q. But is that stated as the purpose of this
18 group?

19 A. No, but it's not not stated.

20 MS. BROUGH: The document speaks for itself.

21 BY MR. REAVES:

22 Q. Did you investigate whether white students
23 could become members or leaders of this group?

24 A. No, but I already knew that there was.

25 Q. To clarify, you knew that there was a white

1 student who was a member of the group?

2 A. Yes.

3 Q. Were there any white students who were leaders
4 of the group?

5 A. Yes.

6 Q. And that was during the 2019-2020 academic
7 year?

8 A. I know of the 2018-2019 school year.

9 Q. Okay. Do you recall for the 2019-2020 school
10 year whether any of the leaders were white?

11 A. I do not recall that.

12 Q. Given the purpose of the Black Student Union,
13 would the group be required to allow a student to become
14 president if that student were, for example, a racist?

15 MS. BROUGH: Hypothetical and speculative.

16 THE WITNESS: Repeat the question.

17 BY MR. REAVES:

18 Q. Sure. Would the Black Student Union have to
19 allow a student who was openly racist to become a leader
20 of the group?

21 MS. BROUGH: Same objections.

22 THE WITNESS: I mean, I've never had that happen,
23 so I have no idea what that would look like.

24 BY MR. REAVES:

25 Q. But could a student group like the Black

1 Student Union require its leaders to advance the
2 purposes of the group, and one of those, presumably, is,
3 is to not be racist, right?

4 MS. BROUGH: Same objections.

5 THE WITNESS: That would be up to the group.

6 BY MR. REAVES:

7 Q. So, it would be up to the group to determine
8 whether they would exclude a leader for not being
9 racist.

10 A. No, not really. I don't know. I don't know
11 how that would look.

12 Q. But, from your perspective, as the activities
13 director, it would be okay if the Black Student Union
14 said, we have a policy stating that no student leader of
15 our group can be a racist?

16 MS. BROUGH: Misstates her testimony.

17 THE WITNESS: I don't know. That would be a
18 conversation to have.

19 BY MR. REAVES:

20 Q. And we discussed this a little bit before,
21 but, what do you mean that, a conversation?

22 A. That would be a conversation with that group
23 about what that means.

24 Q. And a conversation between who?

25 A. Probably, myself and the leaders, and whoever

1 is creating that document.

2 Q. And so what would you tell the leaders in that
3 situation?

4 MS. BROUGH: Hypothetical. Speculative.

5 THE WITNESS: I've never, I don't know. I've never
6 been in that situation.

7 BY MR. REAVES:

8 Q. Would it be okay if there was a student group
9 at Pioneer whose purpose was to bring white students
10 together?

11 MS. BROUGH: Same objections.

12 THE WITNESS: What would be the purpose of the
13 club?

14 BY MR. REAVES:

15 Q. The purpose would state, just like this one,
16 the purpose of the club is to bring white students
17 together; same as the Black Student Union.

18 MS. BROUGH: Same objections.

19 THE WITNESS: I would ask them to clarify exactly
20 what they would be doing, just like on that document.

21 BY MR. REAVES:

22 Q. And so did you ask the Black Student Union to
23 clarify what it meant to bring black students together
24 in 2019?

25 A. No, because it, it elaborates more on the

1 purpose of the club.

2 Q. Okay, but did they explain what it means to
3 bring black students together?

4 A. To strive for academic excellence and promote
5 positive images.

6 Q. Uh-huh. Those are just other purposes of the
7 club, right?

8 A. I think that's the elaboration of the club.

9 Q. Uh-huh, but then it also says, and to bring
10 more cultural and social events for black students.

11 That last clause, was there any concern that
12 they would limit those events to black students?

13 A. No.

14 Q. And why not?

15 A. Because, like I've said, I've never had a
16 negative experience. I've had white students in there
17 as leaders.

18 Q. So, you never had to investigate this club for
19 discriminating on the basis of race?

20 A. No.

21 Q. And what if, looking at this exact same
22 application, we just replaced the word, black, with the
23 word, white, throughout, and it said exactly the same
24 thing, the purpose of the club is to bring white
25 students together, to strive for academic excellence,

1 and to promote positive images, and defy stereotypes,
2 and to bring more cultural and social events for white
3 students, would that have been okay?

4 MS. BROUGH: Hypothetical. Calls for speculation.

5 THE WITNESS: Yes, as long as they don't
6 discriminate against other people.

7 BY MR. REAVES:

8 Q. And would you have investigated that club if
9 they had sought to apply for ASB approval?

10 MS. BROUGH: Same objections.

11 THE WITNESS: No.

12 MS. BROUGH: Can we pause for a minute, because
13 it's getting very loud here.

14 MR. REAVES: Sure, no problem.

15 MS. BROUGH: I think we're good. Thank you.

16 BY MR. REAVES:

17 Q. The reason you weren't concerned is because
18 you had never, you had never had any bad experiences,
19 and no one had brought to your attention any concerns
20 with the group.

21 A. Correct.

22 (Audio interruption, court reporter clarification.)

23 BY MR. REAVES:

24 Q. Did you ever have any bad experiences with the
25 Fellowship of Christian Athletes and their meetings on

1 campus?

2 A. No.

3 Q. Let's look at what's going to be marked as
4 Exhibit 84. Sorry, it's already marked as Exhibit 50,
5 but you'll see it pop up there. This was an exhibit
6 we've used previously. I'm still not seeing it. There
7 it goes.

8 So, if you look at what's marked as
9 Exhibit 50 --

10 A. Uh-huh.

11 Q. -- can you identify this document for the
12 record.

13 A. It's a charter request form.

14 Q. And what's the club name?

15 A. The Satanic Temple club.

16 Q. And do you see the date on there?

17 A. Yes.

18 Q. What's the date?

19 A. For the submission, or the approval?

20 Q. For the submission. Sorry.

21 A. August 30, 2019.

22 Q. Is that your signature at the bottom there?

23 A. Yes.

24 Q. So, when this application came in in 2019, did
25 you discuss it with Principal Espiritu, or did you just

1 immediately sign it and hand it off to him afterwards?

2 A. I approved it, and then handed it off to him.

3 Q. Okay. And who gave final approval for this
4 club to be recognized?

5 A. Mr. Espiritu.

6 Q. Okay, let's see. You see under the purpose of
7 this club, it says, to promote religious pluralism, at
8 the beginning there?

9 A. Yes.

10 Q. Do you know what that means?

11 A. Yes.

12 Q. Could you describe that, in your own words.

13 A. For me, it means to promote all different
14 types of religions.

15 Q. Do you see where it says, practice the seven
16 tenets of TST, down at the bottom of the purpose?

17 A. Yes.

18 Q. Do you know what that is referring to?

19 A. No.

20 Q. Did you ever investigate what TST or what the
21 seven tenets were?

22 A. I probably did. I can't recall that one.

23 Q. Do you typically investigate student group
24 applications, if you're not sure what something means?

25 A. It depends.

1 Q. What does it depend on?

2 A. I might have asked a student what it meant. I
3 just don't remember.

4 Q. Okay, so, going back to the first part of the
5 purpose, it says, to promote religious pluralism.

6 Do you think that's a religious purpose for
7 the group?

8 A. No.

9 Q. And why not?

10 A. Because I don't believe that they were talking
11 about religion. I think they were just promoting
12 different types of religion.

13 Q. But if the group is promoting different types
14 of religion, isn't the purpose of the group a religious
15 purpose?

16 A. No.

17 Q. And what's the difference, in your opinion?

18 A. I don't know. I think, I honestly don't know
19 with this one.

20 Q. Okay. Are you familiar with the religious
21 beliefs of the Satanic Temple club?

22 A. No.

23 Q. Are you familiar with the religious beliefs of
24 some individuals, like Muslims, or Jewish individuals,
25 or Christians, who believe that Satan is the enemy of

1 God, and actively seeks to hurt people?

2 A. I'm not religious, so I don't know.

3 Q. Did you know that some religious groups
4 consider Satan or call Satan the enemy?

5 A. No.

6 Q. When you were looking at this application,
7 were you concerned that the name of the organization or
8 any of the purposes of the organization might offend
9 some Christian students or Muslim students or Jewish
10 students?

11 A. No.

12 Q. Were you concerned that some students might
13 feel unsafe by having an organization called the Satanic
14 Temple club on campus?

15 A. No.

16 Q. Did you do anything to kind of investigate or
17 look into whether students might be, might feel unsafe
18 as a result of this organization?

19 A. No.

20 Q. Just looking at the name of the organization,
21 the Satanic Temple club, were you concerned that the
22 name alone was controversial?

23 A. Yeah.

24 Q. And did that concern cause you to investigate
25 the group any further?

1 A. I did not. Mr. Espiritu, I believe, did.

2 Q. Do you know what he did to investigate
3 further?

4 A. I believe he spoke with the students, the
5 leaders.

6 Q. Okay. And do you know what the result of
7 their conversation was?

8 A. I wasn't in that conversation.

9 Q. Did Mr. Espiritu tell you afterwards what the
10 conversation was?

11 A. He had a conversation about the name, and then
12 I believe he spoke with them about what the club would
13 look like, and they explained to him what it looked
14 like, and then he gave the final approval.

15 Q. And, why did you think the name was
16 controversial when you saw it?

17 A. I didn't. He did.

18 Q. He did. I thought you had said earlier that
19 you thought the name was controversial?

20 A. I personally do, but I didn't -- once I give
21 him the paperwork, he goes through them.

22 Q. Okay. But why did you personally think the
23 name was controversial?

24 A. I mean, Satanic Temple club. Just by looking
25 at the name, personally, I would feel like it's

1 controversial.

2 Q. Okay, let's see. I think, how are you
3 feeling, Ms. Mayhew? Do you want to take a break here,
4 or keep going a little bit longer?

5 A. We can keep going.

6 MS. BROUGH: Nick, is that your --

7 MR. REAVES: I'm trying to turn that off. That was
8 me, actually. I don't have anything open anymore, but
9 it's still buzzing. Let me fix that. Why don't we take
10 a five-minute break.

11 (Recess: 11:29 a.m. to 11:33 a.m.)

12 (Exhibit 84 was marked for identification by
13 counsel.)

14 BY MR. REAVES:

15 Q. Let's go ahead and introduce what's going to
16 be Exhibit 84. And it's already there.

17 Do you see this document marked as Exhibit 84?

18 A. Yes.

19 Q. Can you identify it for the record.

20 A. Student organizations and equal access.

21 Q. And do you know what this is?

22 A. I believe it's part of the board policy.

23 Q. And, to clarify, by, board, do you mean the
24 San Jose School District board?

25 A. Yes.

1 Q. Do you know if you've seen this document
2 before?

3 A. I probably have.

4 Q. Are you familiar with the policy about student
5 organizations and equal access?

6 A. Yes.

7 Q. Could you describe your understanding of what
8 this policy requires.

9 A. That we give them a safe space, and that we
10 should, that we allow them to meet on our campus, a
11 student led organization.

12 Q. And, to confirm, what do you mean by, give
13 them a safe space?

14 A. Any facility that they are looking to use,
15 that we allow them to use it.

16 Q. Did you receive any training from the district
17 in applying or understanding this policy?

18 A. No.

19 Q. Do you know if anyone at Pioneer received
20 training on how to apply this policy?

21 MS. BROUGH: Speculation.

22 THE WITNESS: I do not.

23 BY MR. REAVES:

24 Q. Are you familiar with the Equal Access Act?

25 A. Vaguely.

1 Q. Do you know, do you know what Pioneer has done
2 or what the district has done to comply with the Equal
3 Access Act?

4 MS. BROUGH: Vague, overbroad.

5 THE WITNESS: Pioneer, in general, or the, the
6 school district?

7 BY MR. REAVES:

8 Q. Let's start with Pioneer.

9 Do you know if Pioneer has done anything
10 specific to try to comply with the Equal Access Act?

11 A. Yes.

12 Q. So, what types of things?

13 A. They allow students to use facilities, when
14 requested.

15 Q. Uh-huh. Did you receive any training from
16 Pioneer on complying with the Equal Access Act?

17 MS. BROUGH: Asked and answered.

18 THE WITNESS: No.

19 BY MR. REAVES:

20 Q. Did you receive any training from the district
21 on complying with the Equal Access Act?

22 A. No.

23 Q. What actions have you taken as activities
24 director to ensure that Pioneer's complying with the
25 Equal Access Act?

1 A. It's just more to, I guess I would just
2 educate myself. I would speak with other activity
3 directors to see what they do. I would get guidance
4 from my principal.

5 (Exhibit 85 was marked for identification by
6 counsel.)

7 BY MR. REAVES:

8 Q. Okay, I'm going to show you what we're going
9 to mark as Exhibit 85.

10 Do you see this document marked as Exhibit 85?

11 A. Yes.

12 Q. What's the title of this document?

13 A. Athletic competition.

14 Q. Is this also a San Jose Unified School
15 District policy?

16 A. It's a board policy, yes.

17 Q. Have you seen this policy before?

18 A. Probably.

19 Q. Are you familiar with this policy?

20 A. I'm not, because I'm not the athletic
21 director.

22 Q. So, let's look down to the, let's see, kind of
23 the second large paragraph, after, I guess, halfway
24 down, let's look at that paragraph that says, no person
25 shall.

1 Do you see that there?

2 A. Yes.

3 Q. And it says, no person shall on the basis of
4 gender be excluded from participation in, be denied the
5 benefits of, be denied equivalent opportunity in, or
6 otherwise be discriminated against in interscholastic or
7 intramural athletics.

8 And then below that, the next paragraph says,
9 the district may provide single gender teams when
10 selection for teams is based on competitive skill.

11 Do you see that?

12 A. Yes.

13 Q. Do you know what the policy means by,
14 competitive skill?

15 A. I do not.

16 Q. What if we talked specifically about an
17 athletic team like the cheer team?

18 Would something like someone's athletic
19 ability be a competitive skill?

20 A. Yes.

21 Q. So, like, their strength would be a
22 competitive skill?

23 A. No.

24 Q. I'm sorry, what would the difference between
25 those be?

1 A. Well, a strength is not necessarily a skill.
2 A skill for cheer would be can they understand the
3 concept of picking up a cheer, or their motions.

4 Q. Okay.

5 A. That would be a skill.

6 Q. Could a club like the cheer club, for example,
7 select an equal number of students based on their gender
8 to ensure that they can compete, and complete the cheers
9 correctly?

10 MS. BROUGH: Hypothetical. Speculative.

11 THE WITNESS: Yes.

12 BY MR. REAVES:

13 Q. Let's actually look back at the previous
14 exhibit, which is Exhibit 84.

15 A. Okay.

16 (Exhibit 86 was marked for identification by
17 counsel.)

18 BY MR. REAVES:

19 Q. I'm sorry. Okay. I think I skipped over a
20 document there, actually. Let's look at a new exhibit,
21 which is going to be Exhibit 86, and this is going to be
22 the nondiscrimination policy, BP 5145.3. So, it's up as
23 Exhibit 86.

24 And could you identify this document for the
25 record.

1 A. This is the nondiscrimination harassment board
2 policy.

3 Q. And have you seen this document before?

4 A. Vaguely.

5 Q. And so you're familiar with the policy,
6 generally?

7 A. Yeah. Yes.

8 Q. Do you know who this, who this policy applies
9 to?

10 A. Students and staff.

11 Q. And would that include student clubs?

12 A. Yes.

13 Q. And as activities director, you oversee
14 student clubs?

15 A. Yes.

16 Q. So, have you had to interpret and apply this
17 policy to student clubs?

18 A. Yes.

19 Q. So, if we're looking at the second paragraph
20 here, it says, eligibility for choral and cheerleading
21 groups shall be determined solely on the basis of
22 objective competencies.

23 Do you see that in the middle of the
24 paragraph?

25 A. Yes.

1 Q. Okay. What does this part of the policy mean?

2 A. I believe it means that each of the choral and
3 cheerleading groups can decide what competencies they
4 are looking for.

5 Q. Okay. So, is there an ASB approved cheer
6 group at Pioneer?

7 A. Yes.

8 Q. And has there been for a couple of years?

9 A. Yes.

10 Q. And is there an ASB approved choral group at
11 Pioneer?

12 A. There used to be.

13 Q. There used to be.

14 Just to confirm on this policy, when you
15 mentioned earlier that you would look at the
16 nondiscrimination policy when we were talking about some
17 of those hypotheticals, is this the policy you were
18 thinking of?

19 A. Yes.

20 Q. So, we were talking about objective
21 competencies to be a member of these groups.

22 So, could these groups have a tryout process
23 to evaluate applicants?

24 A. Yes.

25 Q. And we talked a little bit about this earlier,

1 but, say, for a choral group, what kind of qualities
2 could a, could the leadership for the club or the
3 advisor look for in someone who's trying out?

4 MS. BROUGH: Speculative.

5 THE WITNESS: I'm not good with choir, so I would
6 have no idea.

7 BY MR. REAVES:

8 Q. Sure. What about just generally, like singing
9 ability?

10 MS. BROUGH: Speculative.

11 THE WITNESS: Maybe if you can sing. I don't know.

12 BY MR. REAVES:

13 Q. So the choral group, as an objective
14 competency, could require that members are able to sing?

15 A. Yeah. I, I honestly have no idea with choir.
16 Sorry.

17 Q. Well, let's go back to cheer. Have you ever
18 been involved with the cheer team?

19 A. Yes.

20 Q. And in what way were you involved with the
21 cheer team?

22 A. I was the advisor.

23 Q. So, in thinking about students who try out to
24 be a member of cheer, would you, what kind of qualities
25 would you look for in an applicant?

1 A. You look for the skills of the athlete.

2 Q. And kind of what type of skills?

3 A. Basic skills, so, motions, and if they can, if
4 they can pick up on a cheer or a dance routine.

5 Q. Uh-huh. What about like enthusiasm?

6 A. That's one of them, but that's not a
7 requirement.

8 Q. Would there be certain characteristics that
9 would disqualify someone from being a member of the
10 cheer team?

11 MS. BROUGH: Vague. Speculative.

12 THE WITNESS: Disqualify, or not make the team?

13 BY MR. REAVES:

14 Q. Not make the team.

15 A. The lack of knowledge for skills, for basic
16 cheer skills.

17 Q. If someone lacked the basic knowledge and the
18 basic skills, they, they would not make the team.

19 MS. BROUGH: Lacks foundation. Speculative.

20 THE WITNESS: Correct.

21 BY MR. REAVES:

22 Q. So could the cheer team exclude someone who is
23 unable to, I guess, complete the requirements for the
24 cheers?

25 A. I don't know if they are excluding them. It's

1 a cut sport, so they would be cut.

2 Q. Uh-huh. Okay. What if a student is just
3 unable to complete the cheers? Would that be a reason
4 to cut them from the team?

5 MS. BROUGH: Hypothetical and speculative.

6 THE WITNESS: Unable how?

7 BY MR. REAVES:

8 Q. Let's say they lack coordination.

9 MS. BROUGH: Hypothetical and speculative.

10 THE WITNESS: It would depend on their tryout.

11 BY MR. REAVES:

12 Q. Okay. What if they were unable for like a,
13 the reason of a physical disability?

14 MS. BROUGH: Same objections.

15 THE WITNESS: I don't know. We've never had that
16 before.

17 BY MR. REAVES:

18 Q. Let's look back at the document that we had
19 introduced as Exhibit 85, which is the policy we had
20 opened before on athletic competition.

21 A. Okay.

22 Q. Okay. So, we talked a little bit about this
23 earlier, and, if you look about halfway down, we had
24 started to talk about the single gender teams. So, the
25 paragraph begins, the district may provide single gender

1 teams where selection for teams is based on competitive
2 skills.

3 So, it then says, a student shall be permitted
4 to participate in single gender teams consistent with
5 his or her gender identity.

6 Do you see that?

7 A. I do.

8 Q. So, just to understand how this policy
9 applies, if a student self-identifies as male, would
10 they be allowed to run on the boy's track team, the male
11 track team?

12 MS. BROUGH: Lacks personal knowledge,
13 hypothetical, and speculative.

14 THE WITNESS: Yes.

15 BY MR. REAVES:

16 Q. Would that same student who identifies as male
17 under this policy be allowed to run on the girls track
18 team?

19 MS. BROUGH: Same objections.

20 THE WITNESS: I honestly don't know. I'm not the
21 athletic director, so I don't deal with athletics like
22 that.

23 BY MR. REAVES:

24 Q. Uh-huh. But just looking at this policy,
25 would it be your, your opinion that if it says, a

1 student shall be permitted to participate consistent
2 with his or her gender identity, the school could say
3 that students who identify as male can participate on
4 the male or the boys team, and students who identify as
5 female can participated on the female team, and limit it
6 to those teams?

7 MS. BROUGH: Same objections, and asked and
8 answered.

9 THE WITNESS: Yes.

10 BY MR. REAVES:

11 Q. So, if we look at the next paragraph, it says,
12 when a school provides only one team in a particular
13 sport, and then says, but provides no team in the same
14 sport for members of the other gender, members of the
15 excluded gender shall be allowed to try out for the
16 team.

17 Do you know if that's ever come up at Pioneer?

18 A. I believe, on the wrestling team.

19 Q. Okay. So, could you kind of just explain what
20 happened. Was it --

21 MS. BROUGH: I don't mean to cut you off, but I'm
22 about to have a lot of noise coming in here, so could we
23 take a quick break --

24 MR. REAVES: Sure.

25 MS. BROUGH: -- so that I'm not interrupting in the

1 middle of an answer. Maybe just five minutes, or even
2 two minutes would be great.

3 MR. REAVES: Let's just complete this question real
4 quick, if that's okay.

5 MS. BROUGH: Sure.

6 BY MR. REAVES:

7 Q. So, could you just explain what you meant by,
8 this came up with the wrestling team.

9 A. I think there was a female that tried out for
10 wrestling.

11 Q. Do you know if she was allowed on the team?

12 I'm sorry, I didn't catch that.

13 A. Yes.

14 Q. So, she made it onto the team.

15 A. Yes.

16 MR. REAVES: Okay. We'll, let's take a brief
17 break, let's just say two or three minutes, and we'll be
18 back.

19 MS. BROUGH: Thanks for your accommodation.

20 (Recess: 11:52 a.m. to 11:57 a.m.)

21 BY MR. REAVES:

22 Q. So, actually, I think we were going to move on
23 to another document anyway, so, let's go ahead and load
24 up what's already been marked as Exhibit 56, and that'll
25 come up. So, it's going to be near the top of the list,

1 Exhibit 56.

2 A. Yeah.

3 Q. Okay, great. Do you see the PDF here?

4 A. Yes.

5 Q. Great. Do you know what this is?

6 A. Yes.

7 Q. And have you seen this before?

8 A. Yes.

9 Q. Could you just describe for the record what it
10 is.

11 A. This document is for any student led club on
12 campus that they, they need to sign for the current
13 school year, that basically says they're not going to,
14 that they're going to adhere to the board policy
15 requirements.

16 Q. And are you responsible for sending this to
17 the student clubs?

18 A. Yes.

19 Q. And, are you responsible for making sure they
20 sign it and send it back?

21 A. Yes.

22 Q. Have you had to apply this policy to student
23 groups, and kind of go over this policy with individual
24 student groups?

25 A. Explain. Sorry.

1 Q. No, no problem. That was a confusing
2 question.

3 Have you had to interpret this policy and
4 apply it to student groups at Pioneer?

5 A. This affirmation, or the nondiscriminatory
6 board policy?

7 Q. I guess if you look down onto page 2, it looks
8 like this document has some requirements in it.

9 Do you see those bullet points on page 1 and 2
10 at the bottom?

11 A. Yes.

12 Q. Do you know if those are a reiteration of the
13 board's policies?

14 A. Yes.

15 Q. So, just to confirm, they are a reiteration of
16 the board's policies?

17 A. Yes.

18 Q. And is the reason that they are listed here
19 because it makes it easier for the students to read them
20 and then to sign the document?

21 A. Yes.

22 MS. BROUGH: Speculative.

23 BY MR. REAVES:

24 Q. If you looked about halfway down the first
25 page, there's a title. Could you read out the title of

1 the affirmation.

2 A. Affirmation of that one, of conformance of
3 board policy for ASB recognized student groups?

4 Q. Uh-huh. Does this policy also apply to
5 athletic teams?

6 A. I am not aware of that. I don't know.

7 Q. If you look at the affirmation itself, the
8 second sentence says, neither the district, the ASB, nor
9 any ASB recognized student group shall.

10 So, does this policy apply to the district
11 itself?

12 A. One more time. I don't know where that was.
13 Sorry.

14 Q. Oh, I'm sorry. If you're looking at the
15 affirmation paragraph that starts, all ASB recognized --

16 A. Oh, okay. Yeah.

17 Q. I'm just looking at the second sentence there.

18 A. Okay.

19 Q. It says, neither the district, the ASB, nor
20 any ASB recognized student group shall.

21 So, looking at that, does it appear that this
22 policy applies to the district, too?

23 MS. BROUGH: Document speaks for itself.

24 THE WITNESS: Yes.

25 BY MR. REAVES:

1 Q. And when it says, ASB recognized student
2 group, does that mean the same thing as ASB approved?

3 MS. BROUGH: Calls for a legal conclusion.

4 THE WITNESS: Yes.

5 BY MR. REAVES:

6 Q. So, what would happen to a student group if
7 they didn't sign this statement?

8 MS. BROUGH: Speculative.

9 THE WITNESS: I would let Mr. Espiritu know.

10 BY MR. REAVES:

11 Q. And then what do you think would happen to the
12 group?

13 MS. BROUGH: Speculative.

14 THE WITNESS: I don't know.

15 BY MR. REAVES:

16 Q. Has there ever been a situation where a group
17 hasn't signed the policy?

18 A. Well, it's, it only came about this year, so,
19 and this year was kind of weird, in terms of student
20 clubs, because it was all distance, so we haven't had
21 that issue yet. I mean, we did have clubs that didn't
22 sign it, but I'm not sure of the reasoning, because of
23 all the other stuff that's happening.

24 Q. Do you know if anything happened to the club
25 that didn't sign the policy?

1 A. No. And there was multiple clubs.

2 Q. Uh-huh. Do you know why this policy was put
3 in place just this year?

4 MS. BROUGH: Speculative.

5 THE WITNESS: Yes.

6 BY MR. REAVES:

7 Q. Why was the policy put in place this year?

8 A. To better, I want to say so that students
9 know, when creating clubs, that they cannot, it's
10 clearly stated that they can't do, you know, they can't
11 discriminate against other students.

12 Q. Uh-huh. You just said a minute ago that some
13 student clubs didn't sign the policy.

14 A. Uh-huh.

15 Q. But if you look at the third paragraph, at the
16 beginning, it says, regardless of club status, we are
17 requiring that clubs that seek official ASB recognition
18 review this affirmation and sign.

19 So were some student groups just not complying
20 with this policy?

21 MS. BROUGH: Asked and answered.

22 THE WITNESS: I don't know if they weren't
23 complying. It was late in the year, and I wasn't really
24 on top of it, as far as getting and making sure. It's a
25 little bit different online than it is in-person, when I

1 can speak to them one-on-one.

2 BY MR. REAVES:

3 Q. So, for this upcoming academic year, will you
4 be enforcing a policy that requires these student groups
5 to sign the current affirmation statement?

6 A. Yes. This will be part of their paperwork
7 that they would have to turn in in order to be a club.

8 Q. So, why would it necessary for Pioneer or for
9 the district to clarify what requirements apply to ASB
10 clubs?

11 MS. BROUGH: Lacks personal knowledge. And to the
12 extent any knowledge you have is from your attorneys, I
13 will instruct you not to answer that.

14 BY MR. REAVES:

15 Q. Other than what you were told by your
16 attorneys, do you know why the district felt like they
17 needed to issue a new and updated policy?

18 A. No.

19 Q. Did you talk to anyone at the time that this
20 policy was announced about the policy?

21 A. Other than the risk management?

22 Q. So, you talked to risk management about this
23 policy when it was announced?

24 A. They talked to us.

25 Q. What did they tell you?

1 MS. BROUGH: To the extent they told you anything
2 that came from your attorneys, I instruct you not to
3 answer that. Otherwise, from your own knowledge, you
4 can answer.

5 THE WITNESS: Don't answer?

6 MS. BROUGH: If you had a conversation that did not
7 involve information relayed to you from counsel, you can
8 answer that.

9 THE WITNESS: Okay. I don't know.

10 BY MR. REAVES:

11 Q. So, who was the risk management person who
12 spoke to you?

13 A. Jen Thomas.

14 Q. And when she was describing the policy, did
15 she say that information about this policy was coming
16 from the district's attorneys?

17 A. Yes.

18 *DI Q. And did she say why she was consulting with
19 the district's attorneys about this policy?

20 MS. BROUGH: I'm going to instruct you not to
21 answer on the basis of attorney-client privilege and
22 work product.

23 BY MR. REAVES:

24 Q. In your personal knowledge, was the exclusion
25 of FCA one of the reasons why the board felt like they

1 needed to clarify the district's policies?

2 MS. BROUGH: Again, here, just to clarify, he's
3 asking your personal knowledge, so, anything that you
4 learned from the attorneys is covered by attorney-client
5 privilege, and you should not answer to that extent.

6 If it's information you've obtained otherwise,
7 you can answer.

8 THE WITNESS: I don't know.

9 BY MR. REAVES:

10 Q. Did you have conversations with Principal
11 Espiritu or anyone else at Pioneer about this policy?

12 A. No.

13 Q. So the only person you spoke with or who you
14 had a conversation with about this was Jen Thomas?

15 A. In our activity director meeting.

16 Q. Is this a district wide meeting of all
17 activities directors?

18 A. Yes.

19 Q. And did, at this meeting, did Jen Thomas give
20 you any guidance on how to apply this policy?

21 A. Yes.

22 Q. And what was her guidance on how to apply this
23 policy?

24 MS. BROUGH: Again, just, if that guidance came as
25 our attorney said, then that is attorney-client

1 privileged information. Beyond that, you can answer.

2 THE WITNESS: Our guidance was just to have all the
3 clubs sign it.

4 BY MR. REAVES:

5 Q. And, putting aside attorney-client privilege,
6 did she give a reason for why they had to sign this?

7 A. Just to let students know, so that there's a
8 page that they can see when they're filling out a club
9 of the board policy, and what we expect from, what the
10 board policy is for clubs, ASB clubs.

11 Q. And did she give any reason why they wanted to
12 make it clearer for students what the policy was?

13 A. No.

14 MS. BROUGH: To the extent that's privileged, don't
15 answer. But you already have, so --

16 THE WITNESS: No.

17 BY MR. REAVES:

18 Q. Did Jen Thomas say this was in response to any
19 particular incidents on campus or in the district?

20 MS. BROUGH: I'm just going to insert a running
21 objection here to the extent that it's information you
22 obtained from your attorneys, I instruct you not to
23 answer to the extent it's covered by attorney-client
24 privileged. Otherwise, you can go ahead and answer.

25 THE WITNESS: No.

1 BY MR. REAVES:

2 Q. So, Jen Thomas didn't give a reason for this
3 new policy.

4 A. No.

5 Q. Did any student clubs at Pioneer express
6 confusion or concern when they received this new policy
7 and had to sign it?

8 A. This year?

9 Q. Right. This past year.

10 A. No.

11 Q. Okay, let's introduce what's already been
12 marked as Exhibit 57.

13 Do you see what's marked as Exhibit 57?

14 A. Yes.

15 Q. Could you describe that for the record.

16 A. It's an e-mail from myself.

17 Q. What's the date on that e-mail?

18 A. April 19, 2021.

19 Q. If you look down below, is there another
20 e-mail, just on the same page?

21 A. Yes.

22 Q. What's the date on that one?

23 A. February 22, 2021.

24 Q. And if you scroll down a little bit, you'll
25 see on the next page, it starts, dear student leaders.

1 Do you see that?

2 A. Yes.

3 Q. Can you confirm that you've sent these two
4 e-mails to all the student leaders.

5 A. I can, but, the first one, I believe there
6 are, there is a couple of leaders that I accidentally
7 left out.

8 Q. The first e-mail being the February 22,
9 e-mail?

10 A. Yes.

11 Q. Do you know which leaders you accidentally
12 left out?

13 A. There was, I think, two or three clubs I
14 accidentally left out.

15 Q. Do you know if it included the FCA club?

16 A. It did.

17 Q. Is that why you re-sent the e-mail in April?

18 A. Yes.

19 Q. Do you know, do you recall what other clubs
20 didn't receive this, in February?

21 A. I don't remember the name of it. There was
22 two, there was two, maybe three clubs, because they
23 joined later, that weren't on my initial e-mail list,
24 that it, it completely slipped my mind when I was doing
25 that, so --

1 Q. So, the two clubs later had slipped your mind.

2 Was the reason that FCA slipped your mind
3 because they didn't have the same ASB approval as other
4 clubs?

5 A. Yes.

6 Q. So, who's responsible for, after -- sorry.

7 After a student group signs this policy, who's
8 responsible for making sure they continue to comply with
9 it?

10 A. I would say, myself and Mr. Espiritu, and,
11 probably, the advisor.

12 Q. So, do advisors for clubs get copies of these
13 policies?

14 A. They will. They did not currently.

15 Q. So, they did not for the '20-'21 school year,
16 but they will this coming school year.

17 A. Correct.

18 Q. Did you receive any training or guidance from
19 the district on applying this policy?

20 A. No.

21 Q. Do you know if -- sorry.

22 Let's see. Is this the currently operative
23 policy that will be applied to student groups starting
24 this fall?

25 A. Yes.

1 Q. So, this is the most recent version of the
2 policy that will be applied to student groups.

3 A. As much as I know, yes.

4 Q. You're not aware of a newer policy.

5 A. No.

6 Q. So, if we look at kind of the second page of
7 this PDF, similarly, there's an indented line, and it
8 says, affirmation.

9 Can you read that, the title of the
10 affirmation out loud.

11 A. Affirmation of conformance to all comers
12 policy for ASB recognized student groups.

13 Q. So, this is a little bit different from the
14 previous policy, and I'll just represent that the
15 difference is this one says, all comers policy, and that
16 language wasn't in the previous title.

17 Do you know what the district is referring to
18 when it says, all comers policy?

19 A. No.

20 Q. Do you know when you first heard this term,
21 all comers policy?

22 A. No.

23 Q. So, the district has never given you any
24 guidance on what it means by, all comers policy?

25 A. No.

1 Q. Even just from your own experience, you don't
2 have a sense of what this policy means?

3 A. I would say, all students.

4 Q. All students --

5 A. Like, well, actually, I would probably say
6 more like all stakeholders.

7 Q. All stakeholders have to do what?

8 A. Have to uphold this.

9 Q. Okay, let's go down to the third page.
10 What do you mean by, stakeholders?

11 A. All students that are in the clubs.

12 Q. Uh-huh, okay. So, if we're looking at this
13 first bullet on page 3, this is one of the things that
14 the students have to agree to, and it says, we shall
15 allow all currently enrolled students at the school to
16 participate in, become a member of, and seek or hold
17 leadership positions in the organization, regardless of
18 his or her status or beliefs.

19 Do you see that?

20 A. Yes.

21 Q. Can you just explain in your own words what
22 that portion of the policy requires.

23 MS. BROUGH: Lacks personal knowledge. Calls for a
24 legal conclusion.

25 THE WITNESS: In my personal opinion, it just says

1 that we have to, we can allow any student at Pioneer,
2 whatever their belief is.

3 BY MR. REAVES:

4 Q. To confirm, you'll be the person charged with
5 enforcing these policies, right?

6 A. Myself and Mr. Espiritu.

7 Q. So, your understanding of what the policy
8 requires has implications for student groups at Pioneer,
9 right?

10 A. One more time?

11 Q. Your understanding of what these policies
12 require will affect student groups at Pioneer, right?

13 A. Will they affect them?

14 Q. I can reword that. I'm just trying to get at
15 the point that because you are responsible for enforcing
16 these policies, your understanding of the policy could
17 mean that one club gets approved and one club doesn't
18 get approved, depending on how you read the policy and
19 apply it to the student group.

20 A. I don't know if it's necessarily that if I
21 read their policy or their purpose, I'm going to deny
22 them.

23 Q. Right, but, just to confirm, you'll be the one
24 applying these policies to student groups at Pioneer, in
25 consultation with Mr. Espiritu, right?

1 A. Yes. Myself and Mr. Espiritu.

2 Q. If you look at that same line we were just
3 looking at, at the end, it says, we have to allow all
4 currently enrolled students, and then it says,
5 regardless of his or her status or beliefs.

6 Do you see that?

7 A. Yes.

8 Q. What do you think this document means by,
9 status?

10 A. Probably, their, I don't know, their academic
11 status.

12 Q. So, a group couldn't, under this policy, limit
13 membership or leadership based on GPA?

14 MS. BROUGH: Hypothetical.

15 THE WITNESS: I don't know.

16 BY MR. REAVES:

17 Q. What about, the next part of that same
18 sentence, it says, regardless of his or her status or
19 beliefs.

20 What do you think it means by, beliefs?

21 A. I think of what they believe in.

22 Q. Okay. If you look at the second paragraph,
23 it's a little bit longer, so maybe you can just read
24 that to yourself, and I'll give you a minute to take a
25 look at it, and then we'll talk about that one, and just

1 let me know when you've read it through.

2 A. Okay.

3 Q. Can you explain your understanding of this
4 provision of the policy and what it requires.

5 A. You can't adopt or enforce any, any type of
6 participation that excludes students based on their
7 gender, their identity, their race, their historical
8 background, national origin, anything like that. Sexual
9 orientation.

10 Q. Okay. And then if you look at the next
11 paragraph, it says, we may adopt nondiscriminatory
12 criteria regarding being a member, leader, or
13 representative, and then it says, such as regular
14 attendance, participation in group events, participation
15 for a minimum period of time, and participation in
16 orientation or training activities.

17 So, you see that paragraph?

18 A. Yes.

19 Q. So, for that paragraph, do you think that
20 means a group can require its members to attend a
21 certain number of meetings, or its leaders to attend a
22 certain number of meetings?

23 A. Yes.

24 Q. So, could a group require that its leaders
25 attend a conference to become a leader?

1 A. Yes.

2 Q. And do you think a group could require its
3 leaders to attend, for example, CPR training, if it's
4 the Red Cross club?

5 MS. BROUGH: It's hypothetical. Speculative.

6 THE WITNESS: Yes.

7 BY MR. REAVES:

8 Q. So, it lists a number of specific criteria,
9 but it also says, we may adopt nondiscriminatory
10 criteria.

11 Can you think of any other examples of what a
12 nondiscriminatory criteria might be?

13 A. I don't know.

14 Q. What about just something like attendance at
15 Pioneer High School?

16 A. Yeah.

17 MS. BROUGH: Speculative.

18 BY MR. REAVES:

19 Q. What about that students have to be between
20 ages 12 and 18?

21 A. Yeah.

22 MS. BROUGH: Same objection.

23 THE WITNESS: Or, probably, GPA.

24 BY MR. REAVES:

25 Q. Or GPA. What about, like, commitment to the

1 club?

2 MS. BROUGH: Same objections.

3 THE WITNESS: Yes.

4 BY MR. REAVES:

5 Q. Do you see the last bullet, well, not quite
6 the last bullet. Sorry. The fourth bullet down, it
7 says, we shall select our leaders by a democratic
8 method.

9 Do you see that?

10 A. Yes.

11 Q. What is a democratic method?

12 A. They all get to vote.

13 Q. And do you know how, is that how most ASB
14 approved clubs already select their leaders at Pioneer?

15 A. Yes.

16 Q. Here we're looking at the second to last
17 bullet, it says, we shall not restrict eligibility for
18 membership, attendance, participation, or leadership to
19 any student in violation of the district's all comers
20 policies.

21 We were talking about all comers policies
22 earlier, but, do you know where those policies are
23 written down?

24 A. I don't. I'm assuming, the website.

25 Q. But you haven't seen a policy called the

1 district's all comers policy?

2 A. No.

3 Q. When we were talking about the democratic
4 method, do any student groups do anything other than
5 just a straight up vote? Are there any other ways to
6 choose leaders?

7 A. No, not that I'm aware of.

8 Q. Would it still be a democratic process if it
9 was a secret ballot?

10 MS. BROUGH: Hypothetical.

11 THE WITNESS: I don't know.

12 BY MR. REAVES:

13 Q. But, if all students are still voting, and the
14 votes just aren't public, would that still be considered
15 a democratic method?

16 A. Yeah.

17 Q. And you're just not aware of any other ways
18 that student groups choose their leaders?

19 A. No.

20 Q. Okay, let's go to the last paragraph of this
21 document. And do you see where it says, should we
22 choose not to seek ASB recognition, we are still
23 permitted to meet on campus of our own volition, as long
24 as our activities do not substantially disrupt or
25 materially interfere with the educational environment.

1 Do you see that?

2 A. Yes.

3 Q. What do you think is the purpose of this
4 provision?

5 A. The purpose is, I would assume, that if they
6 are not being recognized by ASB, that we, that they're
7 still allowed to meet on campus and still have a place
8 to meet with other students.

9 Q. Uh-huh. So, a group of students who met under
10 this kind of final provision wouldn't have the benefits
11 like yearbook participation, or an ASB account, like we
12 were discussing before?

13 MS. BROUGH: Speculative. Hypothetical.

14 THE WITNESS: Correct.

15 BY MR. REAVES:

16 Q. Do you know who determines whether a student
17 group, to use the language here, disrupts or materially
18 interferes with the educational environment?

19 A. That would probably be our assistant
20 principal, or the principal.

21 Q. Uh-huh. Let's jump over to Exhibit 80, and
22 we've looked at this one before. So, if you see, this
23 is the Pioneer Radio constitution. We were talking
24 about this a little bit earlier. And, if you look at
25 article 2, it says, membership, and the second sentence

1 there that begins with, club officers, could you read
2 that aloud.

3 A. Club officers will choose the applicants that
4 are most qualified to become members.

5 Q. So, that seems a little bit different than the
6 club members are voting, right?

7 MS. BROUGH: Document speaks for itself.

8 THE WITNESS: That doesn't say leaders. That says
9 members.

10 BY MR. REAVES:

11 Q. It says, club officers, that's true. Let me
12 look down. Let's look down at article 6, actually,
13 where it says, elections.

14 A. Uh-huh.

15 Q. And there it says, can you read that sentence
16 below, elections, into the record.

17 A. Officers from the previous year will discuss
18 and decide on the new officers.

19 Q. Would that be a democratic method, as well?

20 A. They would still have to vote on those
21 officers.

22 Q. But doesn't it say, officers will decide on
23 the new officers? That seems like there's not going to
24 be a vote.

25 MS. BROUGH: Document speaks for itself.

1 THE WITNESS: They still have to vote. What the
2 paperwork that they have to turn in, it's all based on
3 votes, and it should be on record.

4 BY MR. REAVES:

5 Q. What paperwork do they have to turn in?

6 A. The meeting minutes that voted those officers
7 in.

8 Q. What if there's a process whereby the current
9 officers say, here's who we select, can I get a show of
10 hands to approve that.

11 Would that be a democratic method?

12 MS. BROUGH: Hypothetical, speculative.

13 THE WITNESS: Yes.

14 MR. REAVES: Okay. Well, it's about 12:30. Do you
15 want to take a lunch break now? Would this be a good
16 time for that?

17 MS. BROUGH: Sure. Michelle, does that work for
18 you?

19 THE WITNESS: That's fine.

20 MR. REAVES: Kasmira, how long do you want to do
21 the break for?

22 MS. BROUGH: Well, do you want to go off the record
23 and figure this out?

24 MR. REAVES: Yeah, let's go off the record.

25 (Luncheon recess: 12:29 p.m.)

1 A F T E R N O O N S E S S I O N

2 (1:01 p.m.)

3

4 MICHELLE MAYHEW,

5 having previously stated to tell the truth under penalty
6 of perjury, was examined and testified further as
7 follows:

8

9 EXAMINATION (Cont'd)

10 BY MR. REAVES:

11 Q. We're going to introduce a new exhibit, so, it
12 should be, let's see, Exhibit number 87. It looks like
13 it just popped up for me there.

14 A. I still don't have it.

15 Q. Me neither, actually. It's going to pop up as
16 Exhibit 52. I'm still not seeing that. There it is,
17 I'm seeing it now. This was already marked as
18 Exhibit 52.

19 So, you see the document now?

20 A. I do, yeah.

21 Q. Thanks. Sorry about the delay.

22 A. That's okay.

23 Q. You might not have seen this before, but, if
24 you look at the bold title about halfway down, it says,
25 Defendants' Amended Responses to Plaintiffs' First Set

1 of Interrogatories.

2 I'll just represent these are some questions
3 that we sent to the district, and they gave us answers,
4 and they responded to those questions. And I'm just
5 going to ask you a few questions about what they
6 responded to. I will give you plenty of time to read
7 the paragraph or the section that we're talking about
8 before I ask you any questions about it.

9 A. Okay.

10 Q. Let's go down to interrogatory number 6, which
11 is going to be on page 10, and you can just take a
12 minute, you'll see it starts with the heading
13 interrogatory number 6, and that's going to be the
14 question, and you can see the response below that. And
15 then the response has a specific section on Pioneer High
16 School.

17 And, if you want to just take a look at that,
18 and I'll give you a second to look it over, and then
19 I'll direct you to specific parts of it, so, don't feel
20 like you have to read the whole thing now.

21 A. Okay.

22 Q. Just starting at the top, it says, for the
23 district and each secondary school in the district,
24 identify each type of recognized status available for
25 student groups and each policy related to the

1 recognition.

2 So, do you understand that the question is
3 asking to identify the different types of student groups
4 in the district?

5 A. Yes.

6 Q. And then if you go down to the bold heading
7 that says, Pioneer High School, do you see that?

8 A. Uh-huh.

9 Q. And then it says, you can kind of scroll down
10 there, it says, in the 2018-2019 school year, a student
11 organization at Pioneer High School could apply to be
12 ASB approved. And then it says, ASB approved clubs
13 could participate in club rush, hold campus wide events,
14 use school meeting space, it talks about posting
15 announcements, and kind of goes on from there.

16 A. Uh-huh.

17 Q. And it says, ASB approved clubs could also be
18 listed in the yearbook. And then it says, they can also
19 be publicized by the ASB on social media, and the school
20 marquee. Then it says, ASB clubs are required to have a
21 faculty advisor.

22 Do you see that?

23 A. Uh-huh, yes.

24 Q. And is that consistent with your understanding
25 of what ASB clubs at Pioneer can do?

1 A. Yeah.

2 Q. If you look at the next paragraph, it says, on
3 or around May 2, 2019, Pioneer created a status of a
4 student interest group which was a non-ASB approved
5 student organization.

6 A. Uh-huh.

7 Q. Do you see that sentence there?

8 A. Yes.

9 Q. Do you remember when we were talking earlier
10 about unaffiliated student groups, is that what they're
11 describing there, is that the same thing?

12 A. Yes.

13 Q. And that's because it's non-ASB approved,
14 right?

15 A. Yes.

16 Q. And that's the only category of non-ASB
17 approved groups, right?

18 A. Yes.

19 Q. Then you see about halfway down that
20 paragraph, it says, a student interest group may not
21 have an ASB account or engage in fundraising?

22 A. Correct, yes.

23 Q. And that's consistent with your understanding?

24 A. Yes.

25 Q. And like we were discussing before, in your

1 time at Pioneer, FCA was the only group that was
2 unaffiliated, right?

3 A. Yes.

4 Q. So, it's the only group that fits into this
5 category.

6 A. As of right now.

7 Q. Correct. As of right now. Great.

8 Okay. I think that's all I have on this
9 document. So, I'd like to just go back to, we were
10 talking about the district's current policies before the
11 break. We were talking about the all comers policy and
12 the affirmation statement that we were looking at.

13 Do you remember that?

14 A. Yes.

15 Q. So, I want to ask you a few questions about
16 groups based on the groups and whether they would or
17 wouldn't be permitted under that current policy.

18 Does that make sense?

19 A. Yes.

20 Q. So, we were talking previously about the cheer
21 group.

22 Do you understand that under the current
23 policy, cheer would still be allowed to have competitive
24 tryouts?

25 A. Yes.

1 Q. And under this new all comers policy, would a
2 choral group still be allowed to select its members on
3 the basis of their singing ability?

4 A. Yes.

5 Q. And under this new policy, the all comers
6 policy, would student groups be able to limit their
7 leadership to those who support the group's mission?

8 MS. BROUGH: Hypothetical and speculative.

9 THE WITNESS: Can you ask that again.

10 BY MR. REAVES:

11 Q. Sure. I can give you a more concrete example.

12 Under the new ASB all comers policy, do you
13 think a climate change group could exclude a leader who
14 disagreed with the group's mission?

15 MS. BROUGH: It's hypothetical, vague, and
16 speculative.

17 THE WITNESS: Can they exclude them? No.

18 BY MR. REAVES:

19 Q. I guess, to word that a bit differently, could
20 a climate change student group say only leaders who
21 oppose climate change can be leaders of the group?

22 MS. BROUGH: I want to assert interjection here,
23 which is that this witness is here to testify about her
24 personal knowledge, so, when you're asking her these
25 hypotheticals, I'm giving you some leeway here, but, at

1 a certain point, I'm going to instruct her not to
2 answer, because she's not testifying from her own
3 personal knowledge.

4 MR. REAVES: I am asking her questions about what
5 she's going to have to be applying this coming school
6 year, though, so I do think to some extent she'll be
7 making these decisions, and her personal knowledge and
8 understanding of the policies is going to be relevant.

9 So, I'll try to limit it to those questions,
10 but I would like to get her views on this, because that
11 is, in a lot of ways, what matters at Pioneer next year.

12 MS. BROUGH: The witness isn't being asked about
13 applications she's actually seen. My understanding is
14 you're asking about hypothetical things that may or may
15 not happen, or could happen, that have not actually
16 occurred.

17 MR. REAVES: Uh-huh. But this is the policy, so I
18 do think we're in some ways limited in that sense.

19 But, anyway I will continue with some of these
20 questions, and we'll see how that goes.

21 MS. BROUGH: If you have a pending question, I
22 think the witness needs to hear it again.

23 MR. REAVES: Yeah, I'll ask a new question.

24 MS. BROUGH: Okay.

25 BY MR. REAVES:

1 Q. So, under the new policy we were discussing
2 earlier, could the National Honor Society limit its
3 leadership or its membership based on the GPA of
4 students?

5 A. Yes.

6 Q. And under this new policy, could the Interact
7 club continue to require that its members or its leaders
8 demonstrate good moral character or show leadership
9 ability?

10 A. Yes.

11 Q. Would a political club be able to require that
12 its leaders shared the club's political beliefs?

13 MS. BROUGH: Speculative. Hypothetical.

14 THE WITNESS: I don't know. I guess it would
15 depend on the club.

16 BY MR. REAVES:

17 Q. Well, let's say, assuming that the Republican
18 student club sought to become ASB approved this coming
19 year, and you were applying the current policy that's in
20 place, would you approve the club if one of the
21 requirements for its leadership were that club leaders
22 must support the Republican platform?

23 MS. BROUGH: Speculative. Hypothetical. Lacks
24 foundation.

25 THE WITNESS: I would approve it, because you can't

1 discriminate against a political view, if they want to
2 be part of the club.

3 BY MR. REAVES:

4 Q. So, to confirm, if you saw an application for
5 a club under this new policy, and the application said,
6 leaders of this club must share the political group's
7 political views, that would be okay.

8 MS. BROUGH: Objection. Misstates her testimony.
9 Hypothetical. Speculative. This is lacking personal
10 knowledge, lacks foundation.

11 THE WITNESS: I'd have to go over both documents
12 and then probably seek advice from my principal.

13 BY MR. REAVES:

14 Q. Are you going to be responsible for applying
15 the policy we discussed earlier, the all comers policy,
16 to student groups this coming fall?

17 A. It would be myself and Mr. Espiritu.

18 Q. Correct. And when you're reviewing student
19 applications that you'll see this fall, you'll be
20 thinking about them in light of this policy, right?

21 A. Despite of this policy, I would definitely, I
22 am definitely going to --

23 Q. Let me clarify. It was just unclear. I said,
24 you'll be looking at these applications in light of this
25 new policy.

1 A. Yes.

2 Q. So, when you go to review and approve club
3 applications, you'll be thinking, does this club satisfy
4 the criteria in the all comers policy.

5 A. I would be checking to make sure that they
6 signed the agreement of the affidavit. Affirmation.
7 Sorry.

8 Q. And you'll be confirming that they are
9 actually fulfilling what the affirmation requires,
10 right?

11 A. Yes.

12 Q. And that the written documents conform to what
13 the affirmation requires?

14 A. Yes.

15 Q. So, for this coming school year, could Girls
16 Who Code still limit their membership to students who
17 identify as female?

18 A. Yes.

19 Q. And, could the Girls' Circle, the same club we
20 were discussing earlier, still limit their membership to
21 students who are female identifying?

22 A. Yes.

23 Q. Do you think the Satanic Temple club would
24 allow a student to become a leader if that student's
25 religious beliefs viewed Satanism as something that

1 should not be promoted?

2 MS. BROUGH: Hypothetical, and speculative.

3 THE WITNESS: I don't know that one.

4 BY MR. REAVES:

5 Q. And we can go back to this document, if it
6 would be helpful, but, when we were talking about the
7 affirmation statement, there was a long list of
8 nondiscrimination criteria that were listed.

9 A. Uh-huh.

10 Q. Do you remember looking at that long list that
11 included gender and race and ethnicity?

12 A. Yes.

13 Q. Do all of the nondiscrimination criteria have
14 the same purpose?

15 A. Can you explain that question.

16 Q. Sure. When you're applying the
17 nondiscrimination policy, is the purpose of preventing
18 discrimination on that basis the same, is it the same
19 reason we don't allow discrimination on the basis of
20 race, that we don't allow discrimination on the basis of
21 gender or sexuality?

22 MS. BROUGH: Calls for a legal opinion, and lacks
23 personal knowledge.

24 THE WITNESS: Yes.

25 BY MR. REAVES:

1 Q. In your opinion, do you think all of the
2 nondiscrimination criteria have the same value?

3 MS. BROUGH: Vague.

4 THE WITNESS: Explain one more time.

5 BY MR. REAVES:

6 Q. Sure. Do you think all the different
7 nondiscrimination criteria are equally important, or are
8 some more important than others?

9 MS. BROUGH: Vague.

10 THE WITNESS: I think they are all equally as
11 important.

12 BY MR. REAVES:

13 Q. Are there some criteria on which the district
14 is more willing to grant an accommodation than others?

15 MS. BROUGH: Vague. Speculative. Hypothetical.

16 THE WITNESS: I don't know that one. I don't know
17 what the district feels, thinks.

18 BY MR. REAVES:

19 Q. Sure. I guess to give maybe an example, when
20 the National Honor Society limits membership on the
21 basis of GPA, do you think that in some way
22 discriminates against students with a mental disability?

23 MS. BROUGH: Objection. Hypothetical.
24 Speculative.

25 THE WITNESS: No.

1 BY MR. REAVES:

2 Q. And why don't you think that's discrimination?

3 MS. BROUGH: Same objections.

4 THE WITNESS: Because we have many supports out
5 there in Pioneer that help students.

6 BY MR. REAVES:

7 Q. Okay, so, under this new policy, would a group
8 still be able to limit its membership on the basis of an
9 age, like the age of students between 12 and 18, for
10 example?

11 A. Yes.

12 Q. Okay, I want to talk a little bit about some
13 of the specific kind of what happened to FCA in
14 2018-2019.

15 When I'm talking about the FCA student group,
16 I'll try to be clear and say, the FCA Pioneer group, or
17 the FCA student group. And, if I'm talking about the
18 FCA national organization, I'll try to say FCA national,
19 or something like that.

20 Does that make sense?

21 A. Yes.

22 Q. And, if you're ever confused, just let me
23 know.

24 So, are you familiar with the Pioneer FCA
25 group?

1 A. Yes.

2 Q. And do you know what kind of events and
3 activities the Pioneer FCA group engaged in on campus
4 previously?

5 A. Yes.

6 Q. Could you just, in your personal knowledge,
7 could you just tell us what kinds of things they did.

8 A. They would bring in guest speakers and other
9 student athletes and discuss their religious beliefs
10 within a group of students who wanted to attend.

11 Q. Do you know if they ever had prayer meetings?

12 A. I do not. I was never in, at a club meeting.

13 (Exhibit 87 was marked for identification by
14 counsel.)

15 BY MR. REAVES:

16 Q. Okay, let's take a look at another document.
17 This is going to be Exhibit 87. It just popped up for
18 me.

19 A. Uh-huh.

20 Q. Can you identify Exhibit 87, for the record.

21 A. Yes.

22 Q. And, so, what is it?

23 A. It's the charter request for Fellowship of
24 Christian Athletes.

25 Q. And what's the date at the top there?

1 A. It is 8/31, August 31, 2018.

2 Q. And that's your signature at the bottom?

3 A. Yes.

4 Q. And so Pioneer FCA, the student group, was an
5 approved student group during the 2018-2019 school year?

6 A. For most of the school year, yes.

7 Q. Uh-huh. Prior to 2019, did you have any
8 involvement with Pioneer FCA, or any interactions with
9 the group?

10 A. No. Same interactions.

11 Q. Sure. Sure. So, during the 2018-2019 school
12 year, did you know the students who were leaders of the
13 group?

14 A. I knew, yes.

15 Q. Were your interactions with those students
16 generally positive, or negative?

17 A. They were positive.

18 Q. How did you know the students, or, how did you
19 know one of the students, and which student?

20 A. I knew Charlotte from being in my leadership
21 class, and Elizabeth just through Charlotte, and Link
22 Crew and FCA.

23 Q. And they were generally good students?

24 A. Yes.

25 Q. And, let's look back at the charter request we

1 were just talking about. And do you see at the, under
2 the list of activities, it says, playing sports or not,
3 being a Christian or not, people are all welcome.

4 A. Uh-huh.

5 Q. Do you read that to mean that the club was
6 open to all students who wanted to become members of the
7 club?

8 A. Yes.

9 Q. Were you aware of the national organization
10 called Fellowship of Christian Athletes before 2019?

11 A. Yes.

12 Q. And what did you know about them?

13 A. That they were a larger organization that
14 sponsors the school organization.

15 Q. How did you learn about them?

16 A. Through the student club.

17 Q. And do you know when you learned that there
18 was a national organization?

19 A. I would say I don't remember, but it might be
20 like 2016, '17. It was probably my second year.

21 Q. So, let's talk about kind of what happened in
22 2019.

23 Do you remember approximately when you were
24 first made aware of the Pioneer FCA chapter's statement
25 of faith?

1 A. I can't give you a specific time or day, but
2 it was, we, I believe it was myself and Mr. Espiritu
3 that received an e-mail from another teacher.

4 Q. And was that teacher Mr. Glasser?

5 A. Yes.

6 Q. And when you say, statement of faith, just to
7 clarify, we're talking about FCA's statement of faith,
8 which is a statement of religious beliefs, and then
9 there was also a sexual purity statement.

10 Are you aware of both statements?

11 A. I've seen both statements, yes.

12 Q. And when we were talking about a pledge
13 earlier, were you referring to the sexual purity
14 statement?

15 A. Yes.

16 Q. And you said you learned about FCA's statement
17 of faith and its purity statement from an e-mail from
18 Mr. Glasser?

19 A. Yes.

20 Q. What was your reaction when you heard that FCA
21 had a statement of faith?

22 A. Shocked. I was not, I was not aware of it.

23 Q. And why were you shocked?

24 A. I just, I wasn't aware of it, so it was just
25 more of like I didn't realize that there was one out

1 there.

2 Q. And did it concern you in any way that there
3 was a leadership requirement?

4 A. Yes.

5 Q. And what was concerning about that?

6 A. I believe the requirement under the pledge
7 that said, specifically, that you have to, that marriage
8 is between a man and a woman.

9 Q. So, what was your concern with that
10 requirement?

11 A. My concern was more of that that's not
12 allowing all students to become a leader in that club.

13 Q. And it's not allowing all students to become a
14 leader because they'd have to agree to specific
15 religious beliefs.

16 A. Yes.

17 Q. Were you aware during the 2018-2019 school
18 year of different articles in The Pony Express kind of
19 talking about some of this controversy regarding FCA and
20 the student group?

21 A. Yes.

22 Q. Do you frequently read The Pony Express?

23 A. No.

24 Q. Who made you aware that there were articles
25 about FCA in it?

1 A. My principal.

2 Q. And that's Mr. Espiritu.

3 A. Yes.

4 Q. What did he tell you about The Pony Express
5 articles?

6 A. He just mentioned that they were in there, and
7 I don't frequently read them, because they're not super
8 positive, so, I don't, normally, but I believe I might
9 have read through it.

10 Q. Uh-huh. Was it, is it common, in your
11 experience, for The Pony Express to cover student group
12 controversies like this?

13 A. Yes.

14 Q. You said earlier it was, the coverage was not
15 positive.

16 What did you mean by that?

17 A. No, I meant they're not always positive with
18 me, so I don't choose to read them.

19 Q. Oh. The articles that are written in The Pony
20 Express.

21 A. Yes.

22 Q. Are sometimes -- okay.

23 Could you give an example of what a student
24 article that's not positive might be saying.

25 MS. BROUGH: Vague. Overbroad.

1 THE WITNESS: I don't know. They just kind of
2 misquote me a lot of times. I don't always appreciate
3 that.

4 BY MR. REAVES:

5 Q. Did you ever discuss The Pony Express's
6 coverage of FCA with Mr. Goldman-Hall?

7 A. No, as he's a colleague. I'm not a superior
8 to him.

9 Q. And so you're aware that in April or May of
10 2019, the district revoked Pioneer's FCA approval,
11 FCA -- sorry, let me restate the question.

12 So, you're aware that in April or May of 2019,
13 the district revoked Pioneer FCA's ASB approval.

14 A. Yes.

15 Q. And to the best of your knowledge, who made
16 that decision? Who was the ultimate decider?

17 A. I'm not sure with that one. I wasn't in those
18 meetings. It was passed down to me from my supervisor,
19 Mr. Espiritu.

20 Q. So, Mr. Espiritu told you that the district
21 had decided this, and then you had to implement the
22 policy?

23 A. Yes.

24 Q. Did anyone from the district or did Mr.
25 Espiritu consult with you when making this decision?

1 A. No.

2 Q. Did you agree with the district's decision to
3 revoke FCA's ASB approval?

4 A. I don't think it matters if I agree with it.
5 It's not my decision.

6 Q. But just asking in your personal view, did you
7 agree with the decision or not.

8 A. I don't know.

9 Q. This has been a ongoing issue for FCA and for
10 Pioneer, right?

11 MS. BROUGH: Vague.

12 THE WITNESS: Yes.

13 BY MR. REAVES:

14 Q. And is this something that a lot of students
15 and teachers have been talking about?

16 A. No.

17 Q. Do you think some students and some teachers
18 are still thinking about this issue and talking about
19 it?

20 MS. BROUGH: Calls for speculation.

21 THE WITNESS: They might be. They are not talking
22 to me about it. They spoke to me about it this year,
23 and that was it, but I don't, I don't have that
24 decision. I don't make those decisions.

25 BY MR. REAVES:

1 Q. Uh-huh. So, when you spoke to Mr. Espiritu
2 about the decision to revoke FCA's ASB approval, did he
3 tell you why the approval was revoked?

4 A. Because of the pledge, and that it, it went
5 against the nondiscriminatory clause in our board
6 policy.

7 Q. And, specifically, within the pledge, it was
8 the language we discussed earlier about marriage being
9 between one man and one woman?

10 A. Yes.

11 Q. And the concern was that student leaders would
12 have to agree with the belief that marriage is between
13 one man and one woman.

14 A. Yes.

15 MS. BROUGH: Misstates her testimony.

16 BY MR. REAVES:

17 Q. Were some Pioneer or district leaders
18 concerned that FCA was too controversial?

19 A. I don't know that one.

20 Q. Did anyone kind of come to you or talk with
21 you about this issue and express concerns about the
22 controversy that would result from derecognizing FCA?

23 A. One more time. Restate that question.

24 Q. Sure. That was a long way of saying, did you
25 speak to Mr. Espiritu and did he express any concerns

1 about how this would be a controversial issue at
2 Pioneer?

3 A. No.

4 Q. Did you speak to anyone else about whether and
5 how this would be a controversial issue at Pioneer?

6 A. No. People spoke to me about it, but I never
7 responded, because, ultimately, it's not my decision.

8 Q. Uh-huh. So, who spoke to you about it?

9 A. I got e-mails from Mr. Glasser and Ms. Sulc.

10 Q. And is it fair to say that they were
11 concerned, they were concerned that FCA was allowed to
12 meet on campus?

13 A. Yes.

14 Q. Did you have any interactions with anyone in
15 the district office or talk with anyone in the district
16 office about FCA?

17 MS. BROUGH: To the extent you've had any
18 conversations with my office, or that things came out of
19 our office, I'll instruct you not to answer on the basis
20 of attorney-client privilege and work product.

21 THE WITNESS: No.

22 BY MR. REAVES:

23 Q. Did you end up talking to the activity
24 directors at any other schools about this?

25 A. We all, we've spoken about it in our activity

1 director meeting.

2 Q. And what was the kind of general consensus, if
3 there was one, or what was the takeaway from those
4 meetings?

5 A. I think we just spoke about whether we had FCA
6 on campus or not, and if they were having issues, and
7 what was the outcome.

8 Q. Are there any minutes or recordings or
9 transcripts of those meetings?

10 A. I don't know.

11 Q. So, when you spoke about FCA, did any other
12 activity, activities leaders at the other schools
13 express concerns about what was happening on their
14 campuses?

15 A. No.

16 Q. Did you express any concerns to the other
17 activities directors about what was happening at Pioneer
18 regarding FCA?

19 A. I don't remember.

20 Q. In any of your discussions about FCA and about
21 derecognition, was the idea ever discussed of a
22 disclaimer from the district saying, we don't agree with
23 FCA's religious beliefs, but they are still allowed to
24 be a recognized club on campus?

25 A. Was that spoken with us, or was that an e-mail

1 that was sent out? I'm not sure I understand that
2 question.

3 Q. I guess, did you have any verbal conversations
4 with anybody about whether there was a way for FCA to
5 remain recognized with a disclaimer from the district?

6 A. No.

7 Q. Do you recall receiving any e-mails in which
8 someone mentioned or discussed the idea of allowing FCA
9 to remain with a disclaimer?

10 A. There might have been from Mr. Espiritu.

11 Q. And do you know if that was kind of his
12 suggestion, or what, in what context that came up?

13 A. I don't.

14 Q. You don't recall those conversations?

15 A. No.

16 Q. Okay, I'd like to introduce what's already
17 been marked as Exhibit 11. It should come up right at
18 the top of the list.

19 Do you see this Exhibit 11?

20 A. Yes.

21 Q. Great. Can you identify it for the record.

22 A. It's an e-mail from Mr. Espiritu.

23 Q. And are you copied on this e-mail?

24 A. Yes.

25 Q. I'll give you a minute, if you want to take a

1 look over it, and then I'm going to ask you some
2 questions about it.

3 A. Okay.

4 Q. Do you recall receiving this e-mail?

5 A. Yes.

6 Q. And do you recognize these talking points, the
7 bullet points listed here?

8 A. From the e-mail?

9 Q. Yeah. So, you've seen this e-mail before, or
10 you've seen these talking points before?

11 A. Yes.

12 Q. Do you know who drafted the three talking
13 points in this e-mail?

14 A. I do not.

15 Q. When you received this e-mail, did you
16 circulate these talking points to anybody else?

17 A. No.

18 Q. Did you ever receive a memo or any other
19 documents that also had these talking points in it?

20 A. I don't know.

21 Q. So, you don't recall another time, other than
22 this e-mail, when you saw these talking points?

23 A. No. I mean, there definitely could have been,
24 but, no, I don't know.

25 Q. So, after FCA, the student group, lost its ASB

1 approval, do you know if it was still allowed to meet on
2 campus?

3 A. Yes, they were.

4 Q. And, but they were not allowed to have a ASB
5 account, right?

6 A. Correct, but they never had an account before.

7 Q. And they were not eligible for inclusion in
8 the yearbook?

9 A. Correct. Yes.

10 Q. So, FCA could still meet on campus, but they
11 didn't have all the same opportunities or benefits as an
12 ASB approved club.

13 A. Yes.

14 Q. And they weren't listed, for the remainder of
15 that year, at least, on Pioneer's website?

16 A. I don't remember if I took that down or not.
17 I can't, I can't remember that part.

18 Q. So, let's talk a little bit about the next
19 academic year, so, 2019-2020.

20 Do you recall whether FCA received ASB
21 approval that year or not?

22 A. They did not.

23 Q. So, let's introduce what's already been marked
24 as Exhibit 47. That's already up for me.

25 Do you see that document?

1 A. It's loading. Yes.

2 Q. And is this the Fellowship of Christian
3 Athletes ASB club charter request for 2019 and 2020?

4 A. Yes.

5 Q. And you see at the bottom it has, is that your
6 signature?

7 A. Yes.

8 Q. And then it says, approval is, the X is next
9 to no?

10 A. Yes.

11 Q. So, approval was denied for FCA that year?

12 A. Yes.

13 Q. Who was tasked with determining whether FCA
14 should be approved or not approved for 2019-2020?

15 A. I took that to my advisor, Mr. Espiritu.

16 Q. And what did he tell you?

17 A. He then told me that they are not approved.

18 Q. Did he ask for your input on that decision?

19 A. No.

20 Q. Did you guys discuss why they weren't approved
21 at all?

22 A. We did not, no.

23 Q. Did Mr. Espiritu tell you anything about why
24 they were denied?

25 A. No.

1 Q. Did you have conversations with anybody else
2 about why the FCA student group application was denied?

3 A. They, I was basically told that it was still
4 pending, that, I wasn't sure what to do with it, and so
5 I gave it to Mr. Espiritu, and he said they were denied,
6 as of right now, so, he had the conversations, I didn't.

7 Q. Okay. So, just to kind of confirm, there was
8 no one else at the district office that you spoke to
9 about this.

10 A. No.

11 Q. And were there any other teachers or
12 administrators who you spoke to regarding the decision
13 to deny FCA approval?

14 A. No.

15 Q. Do you know if the district investigated any
16 other groups who had submitted ASB applications for the
17 2019-2020 year?

18 A. I do not know that.

19 Q. Were you made aware of any investigations?

20 A. No.

21 Q. Do you know if Pioneer denied any other
22 student groups applications for ASB approval?

23 MS. BROUGH: Vague as to year.

24 BY MR. REAVES:

25 Q. Do you know if Pioneer denied ASB approval to

1 any other student groups for the 2019-2020 year?

2 A. No.

3 Q. In previous years, we might have discussed
4 this, in previous years, are you aware of any student
5 groups that were denied ASB approval?

6 A. No.

7 Q. Were you at all concerned when Pioneer was
8 giving clubs like the Satanic Temple club ASB approval,
9 but was denying the Pioneer FCA club the same approval?

10 A. No.

11 Q. And, just, why didn't that concern you?

12 A. Because, ultimately, that wasn't my decision.

13 Q. Okay. So, let's talk about the next academic
14 year. This would have been the kind of remote pandemic
15 year, 2020 to 2021.

16 A. Uh-huh.

17 Q. What was the status of, I guess, operations at
18 Pioneer? Were students remote all year, or just part of
19 the year?

20 A. I would say, probably, about three-quarters of
21 the year.

22 Q. Okay. So, do you remember generally when you
23 went back in-person?

24 A. April '21.

25 Q. And how did that impact student groups and

1 student group recognition?

2 A. I believe it impacted them a lot. I don't
3 believe many clubs met.

4 Q. So, from your side of things, from your
5 perspective, what was the application and approval
6 process like?

7 MS. BROUGH: Vague.

8 THE WITNESS: It was very similar. They had to
9 fill out a Google form, and fill out the same
10 information as they would on the worksheet, upload
11 meeting minutes, if they needed it, and it was more
12 online, rather than hard copies of everything.

13 BY MR. REAVES:

14 Q. And when these student groups filled out this
15 Google document, did they receive ASB approval, or was
16 it a different process?

17 A. No. At first, it was just temporary.

18 Q. And when it was temporary, do you know if any
19 groups were denied this temporary status, or did, or did
20 Pioneer just allow every group?

21 A. We didn't deny anybody.

22 MR. REAVES: Okay, we're getting to the last
23 section. Kasmira, why don't we just take a 10-minute,
24 15-minute break, let's take a 15-minute break, and I
25 think we can wrap it up in one more session. I don't

1 think it will be too long, if that sounds good to you.

2 MS. BROUGH: Sure. So, we'll come back at 5 after.

3 MR. REAVES: Let's come back at 5 after, and I
4 think we should be done pretty soon after that.

5 (Recess: 1:50 p.m. to 2:15 p.m.)

6 BY MR. REAVES:

7 Q. Back on the record. So, we were just talking
8 about this past academic year, and you were telling me
9 about the kind of provisional approval process that was
10 used for student groups. So, just to kind of pick up
11 where we left off, you said student groups were not ASB
12 approved for the 2020-2021 academic year, right?

13 A. They were all provisionally approved.

14 Q. And what did provisional approval entail?

15 A. That they could start meeting, because we
16 weren't sure what was happening at the beginning of the
17 year, and if we were ever, if we were coming back or
18 not. I waited until, basically, the kids wanted to
19 meet, so I allowed them to start meeting until I was, I
20 was told that we could move forward with them.

21 Q. And provisional approval did not give them
22 access to ASB funds, right?

23 A. Correct.

24 Q. So, these groups didn't have access to ASB
25 accounts?

1 A. No.

2 Q. And I believe you said earlier that these
3 groups were all listed on a Google slideshow; is that
4 right?

5 A. Yes.

6 Q. And that was on the Pioneer website?

7 A. Yes.

8 Q. And what was the purpose of putting together
9 that slideshow?

10 A. Because, normally, we would do a club rush,
11 and that would be their club rush to get students who
12 have the similar interests to join their club.

13 Q. And for these provisionally approved clubs,
14 did they receive access to Google Classroom or Clever,
15 or some other online resources to help them meet?

16 A. That was up to the club itself.

17 Q. Do you know if Pioneer itself provided them
18 access to these resources, or did the club have to go
19 out and find them on their own?

20 A. All students at Pioneer have a Google account,
21 so they have access to Google Classroom.

22 Q. And, other than Google Classroom, was there
23 any other resource that Pioneer provided that student
24 groups could use?

25 A. They could use any Google platform or WebEx

1 platform.

2 Q. Were student groups required to keep track of
3 meeting minutes and agendas and attendance, like in
4 previous years, or was that process different, as well?

5 A. No. They were still required to have all that
6 and upload it into the club's documents folder.

7 Q. Sorry.

8 A. No. There's a club document folder that I
9 have on Google that they upload it.

10 Q. Okay, and I believe you said this before, some
11 of the groups just chose not to meet at all last year?

12 A. Yeah.

13 Q. Do you expect those groups to try to come back
14 and meet again when we're back in-person?

15 MS. BROUGH: Objection.

16 THE WITNESS: Yes. I plan to probably have quite a
17 bit more clubs, once we're back in-person.

18 BY MR. REAVES:

19 Q. Do you know if any other high schools in the
20 district provided ASB approval to student clubs last
21 year?

22 A. I believe they were all provisional, because
23 of distance learning.

24 Q. Do you know if there were any in-person club
25 meetings last year?

1 A. At Pioneer?

2 Q. At Pioneer.

3 A. Not that I'm aware of.

4 Q. What about meetings for sports teams? Were
5 they allowed to play or have practices at all?

6 A. Yes.

7 Q. Was that over the course of the entire year,
8 or just once you guys went back in-person?

9 A. That was determined by the district and CIF.
10 I believe they started meeting late February.

11 Q. So, sorry, what is CIF, just to confirm?

12 A. That's the, that's the sports, overarching
13 sports, like CCS. Central Coast Sports Authority, or
14 whatever, that kind of is the guiding for all of the
15 sports. They're the ones that make all the rules.

16 Q. Uh-huh. And do you expect that for this
17 coming academic year, it will no longer be a provisional
18 approval process, you'll go back to the normal ASB
19 approval process?

20 A. I can't speculate that. I would hope. We
21 don't know what next year is going to look like yet.
22 That has not been said to us yet, so I do not know what
23 that looks like.

24 Q. Sure. In your time at Pioneer, have any other
25 student clubs experienced protests, or was it just FCA?

1 A. I'm not aware of that. I don't know.

2 Q. So, you're not aware of any other clubs that
3 were protested by students at Pioneer?

4 A. Yes.

5 Q. When you were on campus, did you ever see any
6 of the protests in-person?

7 A. Yes.

8 Q. When you were observing the protests, did you
9 see any faculty members attending the protests?

10 A. Attending? Participating?

11 Q. We'll start with attending.

12 A. I guess my question would be, like, are you
13 attending it to protest, or are you attending it to
14 monitor?

15 Q. I guess let's start with were there any
16 faculty members present in the vicinity of the FCA
17 protests.

18 MS. BROUGH: Just, lacks foundation that she
19 witnessed multiple protests.

20 BY MR. REAVES:

21 Q. Let me rephrase that. For the protest or
22 protests that you did observe, did you see any faculty
23 members at or around the protests?

24 A. No. Most of what I see is faculty members
25 monitoring students so things don't get out of hand.

1 Q. Uh-huh. When we were talking about the
2 upcoming process for approving clubs this year, you had
3 said you weren't sure what things would look like in the
4 fall, but, based on your current understanding, assuming
5 that there are no more COVID concerns, and that you're
6 meeting in-person, would you expect there to be a normal
7 ASB approval process this fall?

8 A. Yes. If we, if everything was prepandemic,
9 goes back to the way it was, then I would say yes.

10 Q. And there's no reason to believe that that
11 would be any different, other than applying the new
12 policies.

13 A. Yes.

14 Q. How many protests did you observe at Pioneer?

15 MS. BROUGH: Vague as to time and purpose.

16 THE WITNESS: A couple. I normally am not out in
17 the quad during lunch. I'm usually inside speaking with
18 students, or attending the student store, and doing
19 that, so I think I saw maybe less than a handful.

20 BY MR. REAVES:

21 Q. When you mentioned that there were some
22 faculty who were observing the protests, could you
23 identify which faculty members you saw.

24 A. I saw Mr. Espiritu. I saw one of our police
25 officers. I saw Mr. Gavello, our assistant principal of

1 discipline. That's really all. They were there just to
2 make sure all the kids were safe.

3 Q. We were talking earlier about the purpose of
4 student clubs, and you had mentioned that a club is
5 designed to create a safe space for where students can
6 meet over a shared interest.

7 Do you remember that?

8 A. Yes.

9 Q. What effect do you think student protesters
10 would have on the ability of a student group to meet and
11 to have a safe space where they can discuss shared
12 interests?

13 MS. BROUGH: Speculative.

14 THE WITNESS: I'm not sure. I wasn't in those
15 meetings.

16 BY MR. REAVES:

17 Q. Have you had any involvement with the yoga
18 club at Pioneer?

19 A. I tried to start it. Nobody wanted to attend,
20 so we didn't do it.

21 Q. What about the positive balance club?

22 A. I haven't.

23 Q. So, with regard to even, let's say, the
24 Bachelor Nation club, which you've been the student
25 advisor or the faculty advisor for, what effect do you

1 think students protesting the Bachelor Nation club would
2 have on the abilities of the club to create a safe space
3 for students?

4 MS. BROUGH: Hypothetical. Calls for speculation.

5 THE WITNESS: I'm not sure. I've never had that
6 happen.

7 BY MR. REAVES:

8 Q. But do you think students protesting outside
9 of a club would make it more difficult for the club to
10 provide that safe space for students?

11 MS. BROUGH: Same objections.

12 THE WITNESS: I wouldn't know. I've never
13 experienced that.

14 BY MR. REAVES:

15 Q. Do you think students who are at a club
16 meeting that's being protested could feel that they're
17 being, they're being threatened, or that they feel
18 unsafe?

19 MS. BROUGH: Same objections.

20 THE WITNESS: Honestly, I wouldn't know. I don't
21 know. I was never in any of those meetings. I've never
22 had or experienced anything like that.

23 BY MR. REAVES:

24 Q. You said there was a school resource officer
25 or police officer present during the protests.

1 Why was he present at the protests?

2 MS. BROUGH: Lacks personal knowledge.

3 Speculative.

4 THE WITNESS: I believe, to make sure all the kids
5 stay safe, stayed safe.

6 BY MR. REAVES:

7 Q. When you were observing some of these
8 protests, what was the atmosphere like during the
9 protests? Was it kind of a tense environment, or, or
10 were students hostile, or saying any unkind things about
11 FCA?

12 MS. BROUGH: Compound.

13 THE WITNESS: I didn't really observe them. There
14 was, I noticed that they take place, but I wouldn't say
15 that I sat there and watched. There was one that I
16 monitored students to make sure that they didn't go in
17 there, but the kids were not disruptive or loud outside.

18 BY MR. REAVES:

19 Q. And who had asked you to monitor the protest?

20 A. Mr. Espiritu. And then Ms. Borup noticed
21 there were kids outside, so she asked me to come over,
22 as well.

23 Q. Did Mr. Espiritu ever express any concerns
24 that the protests had gone too far?

25 A. No.

1 Q. Do you know if any protesters ever made it
2 into FCA's student meetings?

3 A. I believe there was one time that that took
4 place. I wasn't there. That's what I heard.

5 Q. In your opinion, do you think it would be
6 disruptive if a protester interrupted a student meeting?

7 A. I'm not sure if he interrupted it. I don't
8 know. I wasn't there, so I can't really say.

9 Q. Uh-huh. Did anyone express concerns, are you
10 aware of anyone expressing concerns that the protests
11 were disruptive or creating an unsafe environment for
12 students at Pioneer?

13 A. I believe Elizabeth and Charlotte came in and
14 spoke with Mr. Espiritu, along with Ms. Borup.

15 Q. Did any teachers or faculty raise concerns
16 that you are aware of?

17 A. Not to me. I believe they did to Mr.
18 Espiritu.

19 Q. Do you know which faculty raised concerns to
20 Mr. Espiritu?

21 A. I think it was Ms. Borup.

22 Q. Do you know what kind of concerns Ms. Borup
23 raised?

24 A. I believe the concern with the students coming
25 into the meetings, into the meeting.

1 Q. Do you recall what concerns Charlotte and
2 Elizabeth raised with Mr. Espiritu?

3 MS. BROUGH: Lacks personal knowledge.

4 THE WITNESS: I don't.

5 BY MR. REAVES:

6 Q. And, just to confirm, I think you said at the
7 beginning that this is going to be your seventh year as
8 the director of student groups and activities.

9 Does that make you responsible for approving
10 student groups again this year?

11 A. Yes.

12 Q. And you'll be serving in the same role you
13 served the last couple years?

14 A. Yes.

15 Q. We were talking about the all comers policy a
16 little while ago, and, to confirm, that's going to be
17 the policy that will be applied this coming year?

18 A. As of right now, that's what I'm aware of.

19 Q. You are not aware of a newer or different
20 policy?

21 A. No.

22 Q. And you haven't received any training or been
23 told of any upcoming training regarding applying a new
24 or different policy?

25 A. No.

1 Q. So, under the all comers policy that we were
2 discussing, would you approve the FCA student group's
3 application if it still required its leaders to agree to
4 the purity statement and the statement of faith?

5 MS. BROUGH: Hypothetical. Speculative.

6 THE WITNESS: I'd have to look at the affirmation
7 and the documents, and then I would proceed.

8 BY MR. REAVES:

9 *DI Q. So, assuming it's the same application they
10 had submitted in 2019 and 2020 that was denied, it has
11 the same statement of faith and the same purity
12 statement, and you're applying the current policy that
13 you're asking students to sign, would you approve the
14 FCA student group's application?

15 MS. BROUGH: I instruct the witness not to answer
16 on the basis it's hypothetical and speculative.

17 MR. REAVES: I don't think that's a basis to
18 instruct the witness not to answer.

19 MS. BROUGH: Well, you're asking her about things
20 that are outside of her personal knowledge. She hasn't
21 seen an application that's been submitted for the next
22 school year, so, she's here to testify about things that
23 are within her personal knowledge.

24 MR. REAVES: I can give some more foundation for
25 the question, but, this is her job to review and approve

1 student groups applications, and I'm asking her about an
2 application she's seen, I'm asking her about a policy
3 she has applied and will be applying this year, so I
4 don't see any basis for asking her not to answer the
5 question.

6 MS. BROUGH: It's hypothetical at this point. We
7 don't have an application in front of us for the next
8 school year.

9 MR. REAVES: I understand it's hypothetical, but
10 I'm not asking about a hypothetical application. I'm
11 asking her to apply a current policy to an application
12 she's seen.

13 I'm going to provide some foundation, but I'd
14 like to get an answer to that question.

15 MS. BROUGH: I'm open to hearing more foundation.

16 BY MR. REAVES:

17 Q. Okay. So, Ms. Mayhew, do you recall
18 previously, and we can pull this exhibit back up, the
19 ASB club charter request for the FCA student group from
20 2019-2020?

21 A. Yes.

22 Q. And do you recall whether you signed that and
23 approved the group, or signed it and did not approve the
24 group's application?

25 A. I do not believe, I believe I signed it, and

1 did not approve it.

2 Q. And as part of the approval process, you
3 reviewed FCA's application materials?

4 A. Yes.

5 Q. And, previously, we discussed the all comers
6 policy, do you remember that?

7 A. Yes.

8 Q. And, under the all comers policy -- or, sorry.

9 You sent the all comers policy to every
10 student group that was at Pioneer during the 2019-2020
11 school year, correct?

12 A. No.

13 Q. Did you send the all comers policy to some
14 student groups during the 2019-2020 school year?

15 A. No. It was the 2020-2021 school year.

16 Q. Oh, that's right. Okay. So, did you send the
17 all comers policy to student groups during the 2020-2021
18 school year?

19 A. Yes.

20 Q. And you required students to sign the policy
21 and return the policy to you, correct?

22 A. Yes.

23 Q. And that was necessary for these groups to
24 remain ASB approved student groups?

25 A. Yes.

1 Q. So, I'd like to ask you to think about the
2 2019-2020 FCA student group application that you
3 reviewed and that was denied, and I'm going to ask you
4 to apply the current policy that you've already applied
5 to other student groups to that application.

6 If you saw that application, and you were
7 applying the current ASB policy, would you approve or
8 not approve that student group?

9 MS. BROUGH: Again, I'm going to object. This is
10 all hypothetical, it's speculative, and I --

11 BY MR. REAVES:

12 Q. You can still answer the question.

13 A. I would take all of those documents, and I
14 would probably get guidance from my advisor.

15 Q. So, when you're asking student groups to
16 approve the policy, do you yourself have an
17 understanding of what the policy requires?

18 A. I try to understand it.

19 Q. Based on your understanding of the policy,
20 would the FCA application we were just discussing be
21 approved or not approved?

22 MS. BROUGH: Asked and answered. I'm going to
23 instruct the witness not to answer again.

24 MR. REAVES: Asked and answered is not an objection
25 that you can instruct the witness not to answer.

1 MS. BROUGH: Michelle, go ahead and answer your
2 same answer, I suppose.

3 THE WITNESS: I would have to take all documents to
4 my advisor.

5 BY MR. REAVES:

6 Q. I'm asking, in your opinion, applying the
7 policy that you have to apply, would you, personally,
8 approve or not approve the FCA application. I'm not
9 asking you what you would actually do, if you would take
10 it to your advisor. I'm just asking your opinion on
11 this.

12 MS. BROUGH: Asked and answered. Hypothetical.
13 Speculative.

14 THE WITNESS: I don't know what I would do.
15 BY MR. REAVES:

16 Q. And why don't you know what you would do?

17 A. Because I would probably get consultation from
18 my principal. That's normally what I would do.

19 Q. Do you ask your principal to advise on every
20 student group application you received?

21 A. Yes.

22 Q. So, you and Mr. Espiritu sit down and review
23 every application before you sign it.

24 A. I, usually, yeah.

25 Q. I thought we had discussed earlier where you

1 said --

2 A. No. I sign them, and then I send them to him,
3 and then I let him know which one, you know, let's
4 discuss these.

5 Q. Which ones do you, so, you flag specific clubs
6 for you and him to discuss?

7 A. No. He looks over all of them.

8 Q. I thought you were saying you let him know
9 which clubs to discuss.

10 A. Yeah. The packet of papers.

11 Q. Okay, but, so, you make an initial decision
12 when you're granting approval or denying approval,
13 correct?

14 A. Yes.

15 Q. So, for example, if we're looking at
16 Exhibit 47, which is the one we were just talking about,
17 you signed it on September 4, 2017, that must be 2019,
18 and you marked no.

19 Did you mark no on that approval request
20 before talking to Mr. Espiritu?

21 A. No.

22 Q. So, you brought it to him without making a
23 decision either way.

24 A. Correct.

25 Q. So, let's look at what's marked as Exhibit 73,

1 and this is a document we talked about before. This is
2 the Interact team charter request, ASB club or team
3 charter request, and you see at the bottom there your
4 signature?

5 A. Yes.

6 Q. And then you see that you've marked approval
7 granted?

8 A. Yes.

9 Q. Did you provide that approval before or after
10 you spoke to Mr. Espiritu?

11 A. Before.

12 Q. And so why did you treat FCA's application
13 differently?

14 A. Because there was some concerns from the
15 previous year.

16 Q. And was FCA the only club in which you had
17 concerns from the previous year?

18 A. Yes.

19 Q. Did you ask Mr. Espiritu for his advice or his
20 approval for any other clubs before you approved them,
21 or just FCA?

22 A. Just FCA.

23 Q. What if, instead of submitting the same
24 application they previously submitted, FCA no longer
25 required its leaders to sign a statement of faith or to

1 sign or to affirm purity statements, would that change
2 your analysis?

3 MS. BROUGH: Hypothetical. Calls for speculation.

4 THE WITNESS: I don't know what I would do.

5 BY MR. REAVES:

6 Q. So, if FCA submitted an application for this
7 coming academic year, and the application confirmed that
8 all students are welcome to become members, and all
9 students are welcome to become leaders, would you have
10 any concerns with that application under the current
11 policies?

12 MS. BROUGH: Same objections.

13 THE WITNESS: That would be something I would
14 probably talk to Mr. Espiritu about.

15 BY MR. REAVES:

16 Q. And why would you flag that for Mr. Espiritu?

17 A. Because, in previous years, that wasn't the
18 case, so, I don't know. I don't know what I would do.

19 Q. If there was another religious group that had
20 submitted an application, but, similarly, did not have
21 any leadership requirements, or did not have any
22 membership requirements, would you have flagged that for
23 Mr. Espiritu, as well?

24 MS. BROUGH: Hypothetical. Speculative.

25 THE WITNESS: No. I believe we've had other

1 religious groups on campus.

2 BY MR. REAVES:

3 Q. And, are you aware if those other religious
4 groups had any leadership or membership requirements?

5 A. They did not.

6 Q. Okay, let's see. So, if a religious group did
7 not have any leadership requirements, and there was no
8 history of denying the club's application, under the all
9 comers policy, would you have any concerns with
10 approving the club's application?

11 MS. BROUGH: Hypothetical. Speculative.

12 THE WITNESS: No.

13 BY MR. REAVES:

14 Q. I didn't quite catch that. Did you say no?

15 A. No.

16 Q. Have you spoken to anyone at Pioneer or at the
17 district regarding under what circumstances FCA would or
18 wouldn't be approved?

19 MS. BROUGH: Aside from counsel.

20 THE WITNESS: Will you restate that question.

21 Sorry.

22 BY MR. REAVES:

23 Q. Sure. Have you spoken to anyone at Pioneer or
24 at the district regarding under what circumstances FCA
25 would or would not be approved?

1 A. I don't know. I didn't make that decision,
2 so, I don't know.

3 Q. Sure. Did you speak to Mr. Espiritu and did
4 he tell you anything about whether FCA changed their
5 policies, they would be approved or they wouldn't be
6 approved?

7 A. No, he didn't talk to me about that.

8 Q. Did you talk to anyone else at Pioneer about
9 what FCA could do differently in order to receive ASB
10 approval?

11 A. I don't know. I don't think so. I don't
12 know.

13 Q. Did you talk to anyone at the district level
14 about what FCA could do differently to obtain ASB
15 approval?

16 A. No.

17 Q. In your work at Pioneer, do you use the Google
18 documents online application?

19 A. Yes.

20 Q. How often do you use that?

21 A. Fairly often.

22 Q. Do you use it for anything related to student
23 groups or student group approvals?

24 A. Yes.

25 Q. And in what way do you use it for that

1 purpose?

2 A. I've only used it this year, because we were
3 all online.

4 Q. And you were saying that clubs have to submit,
5 basically, copies of their meeting minutes and
6 attendance lists to you this past academic year, and you
7 save those in Google Drive?

8 A. Yes. They upload them.

9 Q. They upload them.

10 In your work at Pioneer, do you use Box?

11 A. I do, but very seldom.

12 Q. Do you use it at all in relation to student
13 clubs or student groups?

14 A. No. I think I have uploaded a couple of
15 affirmation statements to Box.

16 Q. Do you use any other online documents
17 services, like SharePoint or Dropbox?

18 A. No.

19 Q. Do you use any social media platforms?

20 A. Personally, or with the school?

21 Q. Personally.

22 A. Yes.

23 Q. Do you connect with any of your colleagues on
24 social media?

25 A. Yes.

1 Q. Do you connect with Mr. Glasser on social
2 media?

3 A. No, I do not.

4 Q. Do you connect with Mr. Espiritu on social
5 media?

6 A. No, I do not.

7 MR. REAVES: Just checking my exhibits here. Make
8 sure I've got everything. I think we're basically
9 wrapped up. Kasmira, can you give us five minutes to
10 make sure we're all finished here, and then I think we
11 should be done.

12 MS. BROUGH: Sure. I think we may have a couple of
13 questions.

14 MR. REAVES: We will take just a five minute break,
15 and we'll be back at 5:55 our time, 2:55 your time.

16 Okay, we're going off the record.

17 (Recess: 2:48 p.m. to 2:53 p.m.)

18 BY MR. REAVES:

19 Q. Just a few more questions. I guess, before we
20 get into that, Ms. Mayhew, did you discuss or review any
21 documents during this deposition to refresh your
22 recollection?

23 A. Yes.

24 Q. Did you review any documents other than the
25 documents that I produced to you in Veritext during this

1 deposition?

2 A. No.

3 Q. And you didn't have any conversations during
4 the breaks on this deposition to refresh your
5 recollection on anything we discussed?

6 A. No.

7 Q. Can an ASB approved student club celebrate a
8 religious holiday?

9 A. I don't know.

10 Q. Would an ASB approved religious club be
11 allowed to have a prayer meeting?

12 A. I don't know that either. I've never had that
13 happen. I don't know.

14 Q. I thought we previously discussed that one of
15 the things you had said FCA was involved in was praying
16 with students.

17 A. No. I said I never witnessed that. I have no
18 idea.

19 Q. Who would know the answer to whether ASB
20 approved groups can hold a prayer meeting?

21 A. I would probably ask guidance from Mr.
22 Espiritu. I feel like he would know a little bit better
23 than I would.

24 Q. And why would he know better than you would?

25 A. I feel like he's more educated in the board

1 policy, and what's approved and what's not.

2 Q. If you were just at school, and you were
3 walking down the hallway, and you saw a religious
4 student group meeting, and they were praying, would you
5 stop them?

6 MS. BROUGH: Hypothetical and speculative.

7 THE WITNESS: No.

8 BY MR. REAVES:

9 Q. Are you aware of any board policies that
10 prevent them from having prayer meetings?

11 A. No.

12 Q. Are you aware of any board policies that
13 prevent religious student groups from engaging in
14 religious worship at a meeting?

15 A. No.

16 Q. So, similarly, if you were at school and you
17 saw a religious student group engaged in praise and
18 worship singing, would you stop them?

19 A. No.

20 Q. What about if a Jewish religious group was
21 celebrating an important Jewish holiday by bringing food
22 or other religious materials to school to celebrate,
23 would that be okay?

24 MS. BROUGH: Hypothetical, speculative.

25 THE WITNESS: I don't know. It would depend on if

1 their -- I don't know. I don't know what that would
2 look like.

3 BY MR. REAVES:

4 Q. Uh-huh. And can an ASB approved group have as
5 its purpose advancing women in technology?

6 MS. BROUGH: Hypothetical.

7 THE WITNESS: Yes.

8 BY MR. REAVES:

9 Q. Did you say yes?

10 A. Yes.

11 Q. Can an ASB approved student group have as its
12 purpose advancing Muslim students?

13 MS. BROUGH: Hypothetical.

14 THE WITNESS: Yes.

15 BY MR. REAVES:

16 Q. Can an ASB approved student group have as its
17 purpose advancing Asian-Americans?

18 MS. BROUGH: Hypothetical. Speculative.

19 THE WITNESS: Yes.

20 BY MR. REAVES:

21 Q. Can an ASB approved student group have as its
22 purpose advancing Christian students?

23 MS. BROUGH: Hypothetical and speculative.

24 THE WITNESS: Yes.

25 MS. BROUGH: Vague to advancing.

1 BY MR. REAVES:

2 Q. Just to confirm, did you say yes?

3 A. Yes.

4 MR. REAVES: Okay, that's all I have.

5 MS. BROUGH: I have a couple of questions.

6
7 EXAMINATION

8 BY MS. BROUGH:

9 Q. Michelle, do you remember when Mr. Reaves was
10 asking you about concerns that you might have had with
11 respect to the FCA's pledge or sexual purity statement?

12 A. Yes.

13 Q. And he asked you if the concern was that
14 leadership required the students to hold certain
15 religious beliefs, do you recall a question like that?

16 A. I think so, yeah.

17 Q. And what was your concern with the sexual
18 purity statement?

19 A. I think that the statement had the, had, it
20 stated that marriage is between one man and one woman.

21 Q. So, was your concern that the statement
22 excluded a certain group of students, in conflict with
23 the district's nondiscrimination policies?

24 MR. REAVES: Calls for a legal conclusion, and
25 leading the witness.

1 THE WITNESS: Yes.

2 BY MS. BROUGH:

3 Q. And what was that concern? Can you elaborate
4 a little bit more.

5 A. That a specific group of students were not
6 allowed to be leaders of FCA.

7 Q. And on what basis were they being excluded, to
8 your understanding?

9 A. Because of their sexual orientation.

10 MS. BROUGH: That's all for me. I don't have any
11 further questions.

12

13 FURTHER EXAMINATION

14 BY MR. REAVES:

15 Q. I have a followup question just on that point.

16 Ms. Mayhew, did any student tell you that they
17 were excluded from the club or that they were excluded
18 from leadership of the FCA's student group because of
19 their sexual orientation?

20 A. No.

21 Q. So, no student had expressed this concern to
22 you.

23 A. No.

24 MS. BROUGH: Vague as to time.

25 BY MR. REAVES:

1 Q. Did Principal Espiritu or any other
2 administrator at Pioneer? I guess, let me take a step
3 back.

4 Did anyone tell you that FCA was excluding
5 LGBTQ students from leadership positions?

6 A. Not that I'm aware of.

7 Q. So, what drove your concern that you expressed
8 just a minute ago that FCA was excluding on the basis of
9 a student's sexual orientation?

10 A. Based on the pledge that they signed.

11 Q. And, as we were discussing earlier, was your
12 concern that students had to share the beliefs stated in
13 the statement of faith and the pledge?

14 A. Yes.

15 Q. Do you know if the student leaders, Charlotte
16 and Elizabeth, who we were talking about earlier, ever
17 discriminated against a student because of their sexual
18 orientation or gender identity?

19 A. I do not know that.

20 Q. Do you have any reason to believe that
21 Charlotte and Elizabeth discriminated against any other
22 students on the basis of their sexual orientation or
23 gender identity?

24 A. No.

25 MR. REAVES: Okay, nothing else here.

1 MS. BROUGH: I just have one followup question, if
2 I may.

3
4 FURTHER EXAMINATION

5 BY MS. BROUGH:

6 Q. I just want to clarify. Is the concern that
7 students were required to hold a certain belief, in a
8 vacuum, or was the concern something broader than that,
9 with respect to the purity statement?

10 A. I think it was, it was broader than that.

11 Q. And how so?

12 A. I don't know. I can't recall. Sorry.

13 Q. Well, you mentioned previously you had
14 concerns that the purity statement required a statement
15 to the effect that marriage is between a man and a
16 woman, correct?

17 A. Yes.

18 Q. Okay. And what is the concern with that
19 statement, or that belief, it's not a belief, but the
20 requirement that students affirm that statement to be
21 leaders?

22 A. That, the concern is that students might not
23 identify themselves as either of those, or, and students
24 might feel like they can't be involved with that club
25 because they don't see marriage between a man and a

1 woman.

2 MS. BROUGH: That's all for me.

3 MR. REAVES: Okay, I think we're done.

4 MS. BROUGH: So, I think we can go off the record.

5 MR. REAVES: Let's go off the record.

6 (Time noted: 3:04 p.m.)

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Pioneer High School Meeting Minutes

Group: Climate Committee Date: 4/30/19 Time: 3:20pm-4:00pm

Meeting Location: Conference Room

Attendees: Tim Gavello, Herb Espiritu, Kathleen Quint, Michelle Bowman, Michelle Mayhew, Jenny Kim, Peter Glasser, and Kellee Markos

Kellee: notetaker

Agenda Topic 1: Activities	
Time allotted: 15 minutes	Presenter: Michelle Mayhew
Activities: <ul style="list-style-type: none"> ● Prom: Saturday, May 18th, 6:00-10:00 pm at Hayes Mansion. <ul style="list-style-type: none"> ○ Guest passes are now available in student services. <i>PLEASE SEE ME FOR ANY QUESTIONS REGARDING GUEST PASSES! Dinner provided.</i> ○ Tickets will be sold starting April 24th(Flash Sale). Tickets done being sold the Wednesday before. Prices are posted around school. ● Senior Sunset: <ul style="list-style-type: none"> ○ Wednesday, May 22nd in the football stadium ○ Luau theme. PTSA helping out. ● Staff vs. Student Softball game <ul style="list-style-type: none"> ○ Friday, May 10th on the softball field. BBQ. ● Senior Speeches <ul style="list-style-type: none"> ○ Wednesday, May 15th during S-period. Audition process TBD. Departments to check who is willing to be a part of this. ○ Let Michelle Mayhew know if you would like to participate in Senior Speech auditions. 	

SJUSD002843

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Exhibit
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- Farewell Rally
 - Friday, May 31st Gym.

Action Items:	Person Responsible:	Timeline:

Agenda Topic 2: Wellness Center Update / Climate Survey
Time allotted: 10 minutes

Presenter: Jenny Kim

Discussion:

Received grant approx \$50,000. Funding wellness class and center. Departments to get feedback on ideas around center. Mental Health counselor will be available. Assessments will be done upon student coming in. ?Concern around how students will use it. 9th grade pilot class being taught currently- Mayhew/Kim. Stress (signs and healthy coping), checking-in with self, where are they on the health continuum, every day different, recognize how feeling day to day, insecurities/strengths re: social media, positive and negative, self-esteem. (1st period Szarlacki class) Climate survey results are in. A lot of questions. Focusing on student connectedness.

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Action Items:	Person Responsible:	Timeline:

Agenda Topic 3: Department Check-in	
Time allotted: 10 minutes	Presenter: All
<p><u>Math:</u> no report</p> <p><u>PE:</u> no report</p> <p><u>English:</u> nothing report</p> <p><u>Foreign Language:</u> no report</p>	

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Science: nothing to report
Social Science: nothing to report
SPED: nothing report
Electives: nothing to report
Academic Counselors: nothing to report

Outcomes:

Action Items:	Person Responsible:	Timeline:

Agenda Topic 4: Clubs on Campus/Positive Behavior Referrals**Time allotted:** 15 minutes**Presenter:** Tim Gavello

Discussion: Brought to Admin attention that FCA club on campus has a signed agreement/pledge that officers need to sign. Herb feels pledge goes against core values of PHS (inclusive, open-mindedness). Admin team agrees. Herb feels we need to take a united stance as committee.

SJUSD002846



Our positive behavior lunch event sponsored by PTSA will be on May 24th at 12:35pm in the PAC. Students, parents, and teachers are welcome to attend. Parents and students will have the option of leaving after the lunch with their parents and missing 5th and 6th period. Encourage your departments to send in a positive behavioral referral.

Stats:

As of 4/25/19 we have (54) Positive Behavior Referrals.

As of 4/25/19 we have (58) total suspensions this school year.

As of 4/25/18 from last year we had (67) total suspensions.

Next Meeting:

May 28th at 3:20pm in the Conference Room

SJUSD002847

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San José
Unified
School District

Outcomes:		
Action Items:	Person Responsible:	Timeline:

SJUSD002848

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Pioneer High School
ASB Club/Team Charter Request
2018-2019

Please return the following information to the Activities Director, Ms. Mayhew, as soon as possible so we can issue your club charter.

Date Submitted: 8/30/18 Club/Team Name: Bachelor Nation Club
Advisor(s)/Coach(es): Mrs. Hernandez / Ms. Mayhew
Advisor(s)/Coach(es) Signature: [Signature]
Meeting Days: Tuesdays Time: lunch Place: PAC
Club/Team Officer(s)/Captain(s): [Redacted]
Club/Team Officer Representative Period 4: Leadership Period 5: Sponsor 5/6 Gonzalez
Club/Team need an ASB account... Yes Will the club be fundraising... No
Purpose of the club: To spread the Bachelor love.

List any activities that help define the club: - we talk a lot
- gossip went down about
Bachelor in paradise

(This portion to be completed by student council)

Approval Granted: X Yes [Redacted] No

ASB President

Activities Director

8/30/18

Date

8/30/2018

Date

Exhibit
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SJUSD000039

Pioneer High School
ASB Club/Team Charter Request
2019-2020

Please return the following information to the Activities Director, Ms. Mayhew, as soon as possible so we can issue your club charter.

Date Submitted: 8/27 Club/Team Name: Girls Who Code

Advisor(s)/Coach(es): Mr. King

Advisor(s)/Coach(es) Signature: [Signature]

Meeting Days: Wed Time: Lunch Place: Room 500

Club (CS) President/Vice-President(s): [Redacted]

Club/Team Officer Representative Period 4: AP gov AP calc BC

Club/Team need an ASB account.... Yes/No Will the club be fundraising.... Yes/No

Purpose of the club: close the gender gap in tech and change the image of what a programmer/engineer/scientist looks like.

List any activities that help define the club: coding, building circuits, engineering, having fun!

(This portion to be completed by student council)

Approval Granted: [Signature] Yes _____ No _____

ASB President

[Signature]
Activities Director

9/19/19
Date

9/19
Date

Exhibit
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SJUSD000157

Pioneer High School
ASB Club/Team Charter Request
2019-2020

Please return the following information to the Activities Director, Ms. Mayhew, as soon as possible so we can issue your club charter.

Date Submitted: _____ Club/Team Name: Interact

Advisor(s)/Coach(es): TREVOR DAVIS

Advisor(s)/Coach(es) Signature: [Signature]

Meeting Days: _____ Time: Lunch Place: _____

Club President/Vice-President(s): President: [Redacted] Vice President: [Redacted]

Club/Team Officer Representative Email Address: [Redacted]

Club/Team need an ASB account... ☒ Yes / ☐ No Will the club be fundraising... ☒ Yes / ☐ No

Purpose of the club: an international organization of service that fosters leadership and responsible citizenship, promotes international understanding and peace

List any activities that help define the club: Fundraises and creates service events for at least two service projects a year; one that benefits our community and one that encourages international understanding

(This portion to be completed by student council)

Approval Granted: ☒ Yes ☐ No

[Redacted Signature]
ASB President

[Signature]
Activities Director

9/19/19
Date

9/19
Date

Exhibit
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SJUSD000137

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 standing.

Exhibit
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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.

**Pioneer High School
ASB Constitution and Bylaws for
The Red Cross Club**

Article I

The name of the organization will be the Pioneer Red Cross Club of Pioneer High School. This organization will have as its purpose to respond to our community and global needs (pertaining to disaster-awareness as affiliated with the Silicon Valley Red Cross Chapter) through service, leadership, and education, as directly approved by the student council and indirectly by the school principal and the governing board of the San Jose Unified School District.

Article II

All students enrolled in Pioneer High School are eligible for membership

Article III

Meetings will be held every Tuesday at lunch unless a special meeting is called

Article IV

The club officers shall consist of the following:

- President
- Vice-President
- Treasurer
- Secretary

Article V

The club President will have the following duties:

- To preside over meetings of the club
- To call special meetings of the club
- To plan and prepare an agenda for the club meetings

The club Vice-President will have the following duties:

- To serve as the club President if the president becomes unable to fulfill his/her duties either temporarily or permanently
- To support the club President

The club Treasurer will have the following duties:

- To maintain complete and accurate record of all club receipts and disbursements
- To oversee club fund-raising efforts
- To supervise the preparation of the club budget

The club Secretary will have the following duties:

- To maintain accurate minutes of each club meeting
- To carry out all correspondence for the club

The Publicity Chair will have the following duty:

- To publicize all club activities and fund-raisers through the school newspaper, the school marquee, and the school bulletin boards

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SJUSD007832

Pioneer High School ASB Constitution & Bylaws for Pioneer Red Cross Club

Article I- Name, Purpose and Authority

The name of the organization will be the "Pioneer Red Cross Club" of Pioneer High School. This organization will have as its purpose: building disaster awareness, promoting Red Cross programs, fundraising, other service projects. It will be directly approved by the student council and indirectly by the school principle and the governing board of the San Jose Unified School District.

Article II- Membership

All students enrolled at Pioneer High School who are seeking involvement with the Red Cross and show a sense of responsibility and good leadership are eligible for membership.

Article III- Meetings

Meetings will be held every Tuesday at lunch in Mrs. Stafford's room (350) unless a special meeting is called. Members shall not be charged over \$10 per year for membership dues.

Article IV- Club Officers

The club officers shall consist of the following:

- President:
- Vice-President:
- Treasurer:
- Secretary:

Article V- Duties

The club President will have the following duties:

- to be present at all meetings
- to supervise over activities
- to make sure all required papers get delivered to the Red Cross representatives
- to prepare and plan an agenda for club meetings
- to be in contact with a Red Cross representatives

The club Vice-President will have the following duties:

- to support the club President
- to serve as club President if the president becomes unable to fulfill his/her duties either temporarily or permanently
- to help plan events

The club Treasurer will have the following duties:

- to review all club funds/ supervise club budget
- to pay out funds only on orders signed by the advisor and President
- to maintain accurate records of all club receipts
- to oversee club fundraising efforts

The club Secretary will have the following duties:

- to keep track of minutes of every meetings and send minutes to the Silicon Valley Chapter
- to promote events
- to keep club informed of all events
- to keep a roster of all members (take attendance) and their volunteer hours
- to turn in the Chapter Month Activity Report at the end of every month

Article VI- Elections

The club will hold the election of officers once a year. One person cannot have the same position in office for more than two consecutive years. The voting will take place by secret ballot and the previous officers will organize interviews for potential officers if needed.

Article VII- Amendment

Amendment to this constitution may be proposed but a two-thirds majority vote of the members in attendance is required to amend it.

San Jose USD | AR 6145.5 Instruction

Student Organizations And Equal Access

School Sponsorship

School-sponsored student organizations must be organized at the school, have a certificated advisor, be composed completely of current student body members and be approved by the Superintendent or designee in accordance with Governing Board policy. They shall hold the majority of their meetings at school and have a democratic plan for the selection of officers. Organization activities shall not conflict with the authority and responsibilities of school officials.

The principal or designee shall direct any group of students seeking recognition as a student organization to submit a district-approved application form which includes the following information:

1. Name of the organization and names of student contacts
2. A statement of the organization's purposes, objectives and activities
3. Name of staff sponsor, and a description of the function of staff adviser in the promotion, supervision and leadership of the group. The principal shall have final authority in determining the assignment and role of the staff adviser.
4. The proposed dates, times, and location of meetings
5. Any special equipment to be used
6. A description of the qualifications for membership, if any
7. If a curriculum-related group, a statement of the relation of the club to the curriculum and/or instructional program

The principal or designee shall establish school rules governing the meetings of curriculum-related groups. Such rules may vary depending on the circumstances that apply, such as whether or not academic credit is given for participation in the group.

The Superintendent or designee shall not deny any student-initiated group access to school facilities during noninstructional time on the basis of religious, political, philosophical or any other content to be addressed at such meetings. Such meetings shall not interfere with regular school activities.

The Superintendent or designee shall identify the noninstructional time period(s) set aside for noncurriculum-related student organization meetings before or after actual classroom instructional times. Meetings shall not be held during the lunch hour.

The following criteria must be met for these meetings: (20 USC 4071, 4072)

1. The meeting shall be voluntary and student-initiated.
2. There shall be no sponsorship of the meeting by the school or staff. The school or staff shall not promote, lead, or participate in a meeting. The assignment of a teacher, administrator, or other school employee to a meeting for custodial purposes shall not constitute sponsorship of the meeting.
3. Employees of the school shall be present at religious meetings only in a nonparticipatory capacity.

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Exhibit
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4. The meeting shall not materially and substantially interfere with the orderly conduct of educational activities within the school.

5. Nonschool persons shall not direct, conduct, control, or regularly attend activities of student groups.

School staff may be assigned voluntarily to observe meetings for purposes of maintaining order and protecting student safety. Students shall leave the meeting place in a clean, orderly and secure condition after their meetings. (20 USC 4071)

The Superintendent may deny the use of facilities to any groups that he/she believes will disrupt the school program or threaten the health and safety of students and staff. (20 USC 4071)

Meetings held within the limited open forum shall entail no expenditure of public funds beyond the incidental cost of providing the meeting space. (20 USC 4071(d))

Hazing

No student shall conspire to engage in hazing, participate in hazing, or commit any act that causes or is likely to cause bodily danger, physical harm, or personal degradation or disgrace resulting in physical or mental harm to any fellow student. Persons violating this regulation shall be subject to district discipline and penalties specified in law. (Education Code 32051)

(cf. 5144 - Discipline)

Regulation SAN JOSE UNIFIED SCHOOL DISTRICT

approved: September 20, 2001 San Jose, California

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San Jose USD | AR 6145.2 Instruction

Athletic Competition

Sportsmanship

Sportsmanship involves taking a loss or defeat without complaint, taking victory without gloating and treating opponents and officials with fairness, courtesy and respect.

Unacceptable behavior at all school contests includes berating an opponent's school or mascot, berating opposing players and making obscene cheers or gestures.

Coaches, athletes, cheerleaders and spectators shall respect the integrity and judgment of sports officials. Words or gestures of complaint about officials' calls are unacceptable.

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

(cf. 5144 - Discipline)

Equivalent Opportunity

Exclusion on the basis of gender from participation in any extracurricular or athletic program or activity constitutes discrimination. (Education Code 230)

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 5145.3 Nondiscrimination/Harassment and Transgender Policy)

(cf. 1312.3 - Uniform Complaint Procedures)

No person shall on the basis of gender be excluded from participation in, be denied the benefits of, be denied equivalent opportunity in, or otherwise be discriminated against in interscholastic or intramural athletics. The district shall not provide athletics separately on such basis. (5 CCR 4920)

The district may provide single-gender teams where selection for teams is based on competitive skills. (5 CCR 4921) A student shall be permitted to participate in single-gender teams, consistent with his or her gender identity, irrespective of the gender identity listed on the student's official records. (Education Code 221.5(f))

When a school provides only one team in a particular sport for members of one gender but provides no team in the same sport for members of the other gender, and athletic opportunities in the total program for that gender have been previously limited, members of the excluded gender shall be allowed to try out for the team. (5 CCR 4921)

When determining whether equivalent opportunities are available to both genders in athletic programs, the district shall consider, among other factors: (5 CCR 4922)

1. Whether the selection of sports and other extracurricular and cocurricular competition effectively accommodates the interests and abilities of both genders
2. The provision of equipment and supplies
3. Scheduling of games and practice times

**Exhibit
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4. Travel and per diem allowances
5. Opportunities to receive coaching and academic tutoring
6. Assignment and compensation of coaches and tutors
7. Provision of locker rooms, practice and competitive facilities
8. Provision of medical and training facilities and services
9. Provision of housing and dining facilities and services
10. Publicity

Health and Safety

Coaches and appropriate district employees shall take every possible precaution to ensure that athletic equipment is kept in safe and serviceable condition.

Whenever an athlete incurs an injury or wound that produces bleeding or other bodily fluids, the athlete shall be appropriately treated as soon as possible, using universal precautions.

(cf. 4119.42 /4219.42/4319.42 - Exposure Control Plan for Bloodborne Pathogens)

(cf. 5141.1 - Accidents)

(cf. 5141.23 - Infectious Disease Prevention)

Parental Notifications

Before a student participates in interscholastic athletic activities, his/her parents/guardians shall receive a notice and sign a release which:

1. Explains that there is an element of risk associated with all athletic competition and that the district cannot ensure that their student will not be injured, despite the staff's commitment to provide for every participant's health and welfare

(cf. 3530 - Risk Management/Insurance)

2. Requests parental permission for the student to participate in the program and, if appropriate, be transported by the school to and from competitions

(cf. 3541.1 - Transportation for School-Related Trips)

3. Explains that it is imperative that the student adhere strictly to all safety rules, regulations and instructions as well as rules and guidelines related to sportsmanship and citizenship

Regulation SAN JOSE UNIFIED SCHOOL DISTRICT

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