

Transcript of Disciplinary Hearing for Steven Hinkle, held February 19, 2003

LEGEND

RG: Robert Griffin, Hearing Officer

LF: Laura Freberg, Professor of Psychology, Advisor to Steve Hinkle

SH: Steve Hinkle, accused, Cal Poly senior, VP of College Republicans

AT: Ardith Tregenza, Director of Judicial Affairs

HV: Heidi Velasko, recorder

S1: student witness #1

S2: student witness #2

S3: student witness #3

S4: student witness #4

S5: student witness #5

S6: student witness #6

S7: student witness #7

KB: Ken Barclay, Director of Student Life & Leadership

CM: Cornel Morton, Vice-President for Student Affairs

FM: Fred Mills, Communications & Records Director for University Police

ROBERT GRIFFIN [RG]: ...hearing is opened and being audiotaped for the record. The date is February nineteenth, approximately ten-thirty AM in room Twenty-Four B, Building Forty-Seven at California Polytechnic State University in San Luis Obispo, CA. My name is Robert Griffin, appointed by the President's designee to conduct this disciplinary hearing. Will each person present state for the record their name and purpose or capacity at this hearing? Laura, why don't we start with you?

LAURA FREBERG [LF]: I'm Laura Freberg, professor of psychology, advisor to Steve Hinkle.

RG: Steve?

STEVE HINKLE [SH]: My name is Steve Hinkle. I'm a senior at Cal Poly, and I'm the student charged.

ARDITH TREGENZA [AT]: Ardith Tregenza, the Director of Judicial Affairs.

HEIDI VELASKO [HV]: Heidi Velasko, Recorder.

[pause]

RG: Is the advisor a licensed attorney?

LF: Certainly not, sir. Well, we've got [indistinct].

RG: I am not aware of a challenge being asserted against you to serve as a Hearing Officer; does the student charged wish to assert a challenge at this time?

SH: No.

RG: Has the student charged been given time and notice of this hearing?

SH: Yes.

RG: Is that correct?

AT: That is correct. Here is a copy of the notice of the hearing.

LF: [indistinct]

RG: And let the record show that the date of the notice was January twenty-ninth, two thousand two [sic]. Has the student charged been advised of the right to an advisor at this hearing?

LF: Yes, he has.

RG: Has the student charged been given a copy of the student disciplinary procedures of the California State University Continuing Executive Order six twenty-eight?

LF: Yes, he has.

RG: Has the student charged any objections to now proceeding with this hearing?

SH: No.

RG: Your party's been [indistinct, covered by ripping sound] understand that any evidence or testimony offered at this hearing should be honest and truthful.

LF: Yes.

SH: Yes.

AT: Yes.

RG: It is the California State University Policy with evidence: the proceedings, findings, and recommendations of this hearing shall be confidential. These shall not be made public or disclosed to anyone by persons present during any part of this hearing. The parties to this hearing understand that this is the policy and agree to abide by it?

SH: Yes.

LF: Yes.

AT: Yes.

RG: M-hmm. The conduct giving rise to the charges against the student charged are as follows. On the evening of November twelfth, two thousand two, the student charged disrupted a student meeting at the University Multicultural Center. Is that the extent of the charge?

AT: It is.

RG: Any amendments?

AT: He was also posting in violation of University policies.

SH: I have a question.

RG: Yes?

SH: Do I have to be notified of any amendments that are charged by [indistinct]?

RG: Yes, technically, if the nature of the charge is substantially amended, then you have – I can technically postpone the hearing for you to have an opportunity to review the charges.

SH: Because I don't have any of my paperwork if the charge also contains a violation of the posting policy.

AT: I'll go ahead and not amend the charges in order to proceed today.

RG: All right. So the charges are as I read them. [indistinct] [AT, LF: Yes.] [SH: Correct.] Just a moment, please.

FEMALE VOICE: [indistinct]

RG: So the Judicial Officer is [indistinct] voluntarily withdrawing the amendment to the charges. All right. We are the point of the hearing for the university to present its case in support of the alleged violation. Then the student charged will have a full opportunity to submit any relevant evidence including witnesses, documents, and any testimony. Does either party wish to make an opening statement?

AT: I do.

RG: Go ahead.

AT: Today's hearing is strictly about whether or not the student charged, Steve Hinkle, disrupted a student meeting in the University Multicultural Center. I intend to present evidence that will show on November twelfth, Steve Hinkle attempted to post a flier in violation of Cal Poly posting policies in the Multicultural Center and in doing so disrupted a student meeting that was being held there. [RG: All right –]

SH: I just have a question. She mentioned the posting violation and I was made to understand that she retracted the charge of the posting violation

AT: Right.

SH: So it was just mentioned in her opening statement?

AT: It wasn't mentioned. It was mentioned in the context that we have discussed it in our informal meetings and in the information that I've shared with you regarding the posting policies. So –

SH: So am I being charged with a violation of posting policy?

AT: You're being charged with disrupting the meeting.

SH: Okay. [RG: [indistinct] opening statement?] I'd like to give a statement after Judicial Affairs [indistinct] statement at that time.

RG: The University may now proceed with its case. All evidence, including testimony by witnesses, shall be subject to inquiry, or that evidence by the student charged, and/or redirect by the Judicial Affairs Officer, and I may also jump in myself.

SH: Before proceeding any further, can you just clarify for us your relationship to the university?

RG: I'm a retired administrator with the Cal Poly Foundation. [SH: Okay.] Served as the associate executive director from July of nineteen seventy-six to February of two thousand two.

SH: Two thousand two. And have you discussed any of the contents of this proceeding with Ardith Tregenza or Heidi? [RG: No, no.] None of this? No discussion of the content of the – okay. [RG: Nope.] okay. [RG: M-hmm.] Thank you.

AT: I'll call my first witness, [full name of student not present].

SH: Can I have – can I access my file? My student file? [Female voice: [indistinct]]

FEMALE VOICE: Is he there? Okay, [Student 1]?

SH: Can I access my student file?

FEMALE VOICE: Certainly.

SH: Thank you. [pause] Thank you.

RG: Just for the record, I'm going to –

AT: Is there something specific you wanted to access?

SH: Well, I'm going to be revealing the information here as witnesses, so I can be prepared to ask the witnesses questions.

AT: Um – [Female voice: [indistinct] [student surname]. [student first name] isn't out there.] [Female voice: Sorry.]

RG: For the record, I'm going to mark the notice of the hearing and charge to Exhibit A. Okay, here we are. Please identify yourself for the hearing record. Do you agree that the testimony you give will be honest and truthful?

STUDENT 1 [S1]: Yes.

RG: And could you identify yourself, please?

S1: My name is [Student 1].

RG: Can you spell the last name?

S1: [spells S1 surname].

RG: This hearing is confidential by University policy. Do you agree to abide by this policy?

S1: Yes.

RG: Judicial Affairs Officer, you may proceed with this witness.

AT: Now [S1 first name], are you a student at Cal Poly?

S1: Yes, I am.

AT: How long have you been a student here?

S1: I'm in my second year of study here.

AT: Okay. Were you attending a Bible study meeting in the Multicultural Center on the evening of November twelfth?

S1: Yes.

AT: How many meetings do you estimate that you attended previous to that? Had you attended meetings there before?

S1: Yes, every week since the start of this year.

AT: Okay, is there a typical agenda or structure to that meeting that would go as follows?

S1: Yes, the content of the Bible study changes but the structure is the same.

AT: Okay, could you share with us what that content is, or structure?

S1: At six-thirty we get together. There's probably about ten to twelve usually. [AT: M-hmm.] We'll have dinner and then Bible study starts at about seven o'clock. And we start going over the Bible verses and [indistinct].

AT: Okay. Was the meeting on November tenth, er, November twelfth, planned the same for that evening?

S1: Yes.

AT: Okay. What happened at that meeting? Could you describe for us what happened?

S1: After the Bible study started, we were in the middle of it, and around, I believe it was around seven-fifteen to seven-thirty Steve came in with a flier and I didn't see what the flier said until afterwards. But he walked into Bible study and then went to put it up on the board that's in the back. And a couple of the people, I think [Student 6], told him that he could not put the flier up, and I guess an argument – they proceeded to talk and argue kind of back and forth on why it could or could not be put up, and some people were offended.

AT: Okay. Is this the poster that he was putting up in the Multicultural Center? Did you see the poster? [S1: Yes.] Okay. I want to submit this.

RG: Is this going to be – are you entering this?

AT: Pardon me?

RG: Are you entering this into evidence?

AT: I am entering this into evidence.

RG: At this time?

AT: At this time.

RG: [indistinct] I get confused over paper. We'll make this B. Is it B? [HV: Yes.]

SH: I have a question [indistinct] It has been seen by Judicial Affairs but it hasn't been presented to me.

RG: Yes. [indistinct]

AT: Has this ever happened at any of the other meetings you've attended there? Has someone come in and gotten into an argument or confronted club members, well, or group members?

S1: No, not that I can recall.

RG: I'm sorry. What was the answer?

S1: No, it hadn't.

AT: Do you feel that Steve Hinkle's actions disrupted the meeting for you?

S1: The overall mood of the meeting was – pretty much disrupted everybody after the event and we really didn't get back on topic the entire night because of that.

AT: Okay. Did Steve Hinkle appear frightened, threatened, or intimidated in any way to you?

S1: No.

AT: Okay. That's all the questions I have.

RG: Steve?

SH: What time did I appear in the Multicultural Center?

S1: I didn't have my watch, but I'd say probably around seven-fifteen.

SH: Around seven-fifteen. Okay. What were you doing, specifically, when I walked into the Multicultural Center?

S1: We were going over Bible verses.

SH: You were going over Bible verses? You guys weren't eating?

S1: No.

SH: You weren't eating? And the meeting had already started?

S1: Yeah.

SH: And I walked in at seven-fifteen.

S1: I think around seven-fifteen.

SH: Okay. Most of the students that have given their eyewitness accounts say that I walked in around six forty-five, six-fifty. They say that you guys were eating. They say that the meeting hadn't started yet and you guys were preparing to begin. Are you absolutely sure that I came in at seven-fifteen?

S1: Somewhere around there.

SH: Okay, because there's a police statement which shows that the police arrived at seven-thirteen, and [S1: Okay.] they had to be called to probably to be taken and arrive there, so I would say that you know, it wasn't before seven-thirteen that – [S1: [indistinct]] So you're not real sure about what time I entered?

S1: Obviously not.

SH: Okay, okay. When I entered the Multicultural Center, did I approach anybody?

S1: No, you didn't.

SH: Did I say anything to anybody when I entered?

S1: No, you didn't.

SH: Okay. Who have you discussed this incident with?

S1: Other members of the Bible study [SH: M-hmm] following the event.

SH: Okay, have you discussed with anybody with the University?

S1: No, I haven't.

SH: You haven't? You met with Dr. Morton?

S1: Dr. Morton?

SH: Dr. Morton, the Vice President of Student Affairs? [S1: Uh –] Did you, you know, discuss this matter with him?

S1: No.

SH: Okay, have you discussed this matter with Dr. Cheney?

S1: M-mm [no].

SH: You haven't? Okay. Have you discussed this matter with Jim Marco?

S1: No.

SH: No? Okay. Have you discussed this with Ardith Tregenza in her office?

S1: Yes.

SH: What day did you discuss that with her?

S1: It was Wednesday, er, Thursday of last week.

SH: Thursday of last week? That was the first time you discussed this matter with Ardith?

S1: M-hmm.

AT: [indistinct] what you're trying to do [indistinct] to just submit your last statement? Am I allowed to speak?

RG: No, it's sorted out, so you can ask him on redirect.

AT: Okay.

SH: So how did you go about discussing this with Ardith? Did you hand in a written statement, or did you –

S1: I did hand in a written statement.

SH: You handed in a written statement. Okay, and were you contacted prior to this by anyone in the university?

S1: I was contacted by Ardith's office [SH: M-hmm.] at the end of last quarter, [SH: Okay.] I believe. But after Christmas break, or after the quarter changed, I moved residences, so I wasn't able to get any of the messages that she left. [SH: Okay.] I wasn't able to meet with her or anything.

SH: So this letter that you dropped off was your first time of giving your interpretation of the night?

S1: Yeah.

SH: Okay. Okay.

LF: [indistinct]

SH: Was your statement recorded or was it, [LF: [indistinct throughout]] when did you actually submit the statement?

S1: Last Thursday.

SH: Last Thursday you submitted it. [indistinct, covered by AT]

AT: It was returned to him. It wasn't added to your file.

SH: It's not in my personal file.

AT: No, it wasn't one of the – I didn't have it when I met with you informally for you to review at the initial meeting, so I didn't include it at this time.

SH: Okay. Okay. Are you – is the Bible study a part of a formal organization?

S1: It's a part of Campus Crusade.

SH: Campus Crusade for Christ, okay. How do you go about scheduling meetings in the Multicultural Center?

S1: How do – how do you schedule –

SH: You're not sure?

S1: You'd probably have to ask the Bible study leader.

SH: Ask the Bible study leader. Who's the Bible study leader?

S1: [study leader first name].

SH: [study leader first name] –

S1: [study leader surname].

SH: [study leader full name]. Okay. During my conversation was I informed that there was a Bible study meeting going on?

S1: I'm not sure.

SH: Okay.

RG: [indistinct] You're asking him if you were informed?

SH: Right. Right. If he was there, I'm asking him if they ever informed me that there was a Bible study meeting.

RG: Oh, okay.

S1: I'm pretty sure that was made aware when you guys were arguing.

SH: You're sure? Because you said you weren't really sure.

S1: Well, I mean, the, it was aware that there was some kind of meeting going on.

SH: Yes, but was *I* aware –

S1: And you were at the meeting.

RG: [indistinct] Steve –

SH: Yes, but was I aware?

RG: Steve –

SH: Okay.

RG: You asked him a question. [SH: Okay.] Let him finish [SH: Okay.] his thoughts. Then you can talk.

SH: Okay.

S1: Okay, there was a group of all of us in there, and you were asked to leave. And I'm sure that reason was presented why you were asked to leave, that we were having a meeting.

SH: You're sure about that?

S1: I'm sure.

SH: Is that in your testimony that someone told me that? Your written testimony?

S1: No.

SH: That's not? Okay. You know who would have told me?

S1: Probably [Student 6].

SH: Probably? But you're not sure.

[pause]

S1: Is that a question?

SH: Yeah, I mean, yeah, you're not completely sure but probably?

S1: Not entirely sure of every word that was said during that night.

SH: Okay.

S1: Considering how long ago is.

SH: Okay. Do you know whose responsibility it is to monitor the bulletin board in the Multicultural Center?

S1: [Student 7].

SH: [Student 7]?

S1: Is on their board with that duty.

SH: Was she there that night?

S1: Yes, she was.

SH: Okay. So at all the other past Bible study meetings you've attended, has anybody entered the Bible study meeting? Not to post a flier, but just entered in general, who wasn't a part of the Bible study?

S1: Sometimes events are going on in the back, [SH: M-hmm] so people have passed through on accident. Sometimes we put signs up that say "Go around."

SH: Right. Was there a sign up this night?

S1: That say "Go around to back"? No.

SH: No. Was there anything notifying people that there was a Bible study meeting in the room?

S1: No, I don't believe there's any signs there on that day, [SH: Okay. Okay.] any indication.

SH: Was it a disruption when other people walked in in the past who walked through Bible study?

S1: We had a Bible study this last Tuesday, and that's one of the only events I can recall that there was something going on in the back and one person did come in. And you realized that there was something going on and he said, "Am I in the wrong place?" And we told him, "Yeah, you're in the Bible study" and turned him around.

SH: Okay, was that instruction?

S1: Yes, it was.

SH: That wasn't disruption in that case.

S1: No.

SH: Did you take any action with Judicial Affairs or were you contacted by Judicial Affairs for this disruption?

S1: No, the individual left as soon as he realized he wasn't in the right place.

SH: Okay. All right. Do you ever just study or hang out in the Multicultural Center?

S1: I have before.

SH: You hang out and study. You eat in there?

S1: Do I eat in there?

SH: Yeah, do you, like, eat lunch in there?

S1: I've never eaten lunch in there.

SH: You've never eaten lunch in there. Okay. [pause] Did you take offense to this flier?

S1: The flier itself, I didn't get a chance to see it until that night. I wasn't aware of it before.
[SH: Okay.] But I did think that it is – the matter that is presented on that flier because it's not presented in – it's hard to understand just looking at the flier that they don't know what the speaker is representing. So just looking at the flier could be offensive?

SH: So you – [S1: [indistinct]] So you think the flier is offensive because it's confusing.

S1: Yeah, I think not knowing the speaker's material, the flier's title [SH: M-hmm.] is not presented in context, so that helps it be offensive.

SH: So, that's offensive because you're unaware of the title. You're confused about the phrase on the flier. Is that – is my understanding right on that?

S1: I believe so.

SH: Okay. [pause]

RG: You can take your time. [SH: Thank you very much.]

RG: How's the temperature in here? [SH: [indistinct].]

AT: I'm fine.

HV: I'm okay.

[pause]

SH: How did the Office of Affairs get your name to ask you for your written response? Do you know?

S1: They probably asked the Bible study leader. [indistinct]

SH: The Bible study leader. Okay. Okay.

AT: Do you want me to answer that question?

RG: Dr. Freberg, can you answer the question for him? [LF: No.]

SH: Okay. I think I'm done cross examining. Thank you.

AT: [S1 first name], do you know, do you remember if there's a clock in the MCC? Is there a large office clock up anywhere?

S1: I don't believe that there is. As far as my recollection, I don't think that there is.

AT: Okay. Thank you very much. [S1: Okay.]

RG: Any other questions?

SH: No questions.

RG: Okay. [LF: [indistinct]] The witness is excused and reminded of the confidentiality policy and the understandings you agreed upon. [S1: Okay, thanks.] [Door sounds] Is that diagram of the –

AT: It's a diagram, according to me, [laughs] of the Multicultural Center. This is the Multicultural Center. This is the Student Community Services Office which is next to it. There's a hallway and a UU here. And this is two-twenty and a UU. [RG: [indistinct] that corner office?] And there's like a, there's an office back here with a door, and there's an office back here. So this is an open area, and then there's a hallway and then another office back here which the Multicultural Coordinator uses, I think.

LF: I'm confused. [RG: Yeah, I'm turned around.] Which is front, which is back with that?

AT: Here's the front. Here's the stairway down to Julian's would be over here. [LF: So this –] Here's the lobby. This is the three meeting rooms. What is it, two-eighteen, two-twenty? [Female voice: [indistinct]]

RG: Oh, okay. [HV: Two-twenty.]

AT: Two-twenty and then I think, is it, two-nineteen. These are the – this one's little. These are big. This is a hallway. The Women's Center is here now. ASI office is way down the hall over here.

RG: What's that?

AT: The Business Office. [RG: [indistinct]] So –

RG: And there are two [indistinct] to the Multicultural Center?

AT: There are two entrances. This one has two doors and this one has just the one door.

LF: And where's the bulletin board in there?

AT: Uh –

LF: I haven't been in there since they remodeled all of that.

AT: They used to have a quilt that hung – the Remember quilt – hung here. But that's not there anymore. But I don't know where the bulletin board is.

LF: Do you know, Steve?

SH: I think the bulletin board's – If the bottom part is the front of the Multicultural Center, then the bulletin board is at the top left corner.

AT: Here? Or here?

SH: The previous. There, yeah. [AT: Okay.]

[pause]

RG: When this meeting was going on, how were they situated?

SH: I'm sorry. [RG: How –]You mean the students?

RG: Yeah.

SH: On the left-hand side, I believe there's a couch.

RG: Could you get up there? Just from your recollection? [SH: Sure.]

LF: Is this online anywhere? Do we have, like, scheduling stuff, like, planning or facilities stuff? Or anything like that?

AT: I don't know. [HV: I don't know.]

LF: I think everything's online now. It's really sad.

SH: From what I can recall there's a computer here. There's a couch here. A table – it's actually more about right here. There's another chair right here. There's a black, round table here. There's a table here. [Female voice: This is an engineering student.] [Female voice laughs] There's a large TV right here. There's a glass case which has DVD movies in it right here on this wall, and this is the front door and this is all windows.

RG: Can you see through the windows?

SH: Yeah, you can see through the windows. Yeah, you can see through the windows. There's a door here, and I think there's a bathroom [indistinct].

RG: So when you came in, which door did you use?

SH: This door.

RG: So you had to cross across the - you had to walk the -

SH: Right, I had to walk through here to get to the bulletin board.

RG: Okay, thank you. I had a hard time visualizing. [AT laughs]

SH: I actually need to clarify a mistake. I mentioned the time that the police arrived at the Multicultural Center when the last witness was here, according to a printout from the university police station.

RG: Let's - can you put that under evidence at the - in your part of the -

SH: I just want to clarify a mistake I [indistinct, covered by RG]

RG: Oh, you can do that.

SH: Okay, my mistake was that I said the police arrived at seven-thirteen. According to the notes from the university police station the police arrived at seven and left at seven-twenty. And so -

RG: Ardith, you plan to introduce -

AT: I do. I have a copy of the police log and police statements.

RG: I'm sorry. [indistinct] [SH: [indistinct]]

AT: Okay. Can I call my next witness? Okay, I'm going to call [Student 7]. [door sounds] [Female voice, distant: [Student 7 first name]?]

Female voice: [indistinct]

SH: Well, I couldn't really neglect time, so I'm calling them in advance. Hopefully, we'll take a short break in the middle and [indistinct]

AT: [Student 7 first name] here had to go to class.

RG: Good for her.

AT: So she'll be back at noon. Okay, my next witness is [Student 2 full name], and she is here. [Student 2 first name]?

RG: [indistinct] [SH: Yeah, sure.] [Female voice: [indistinct]]

RG: Good morning. Would you please identify yourself for the hearing record?

[STUDENT 2] [S2]: [Student 2 full name].

RG: Do you agree that the testimony you will give will be honest and truthful?

S2: Yes.

RG: This hearing is confidential by University policy. Do you agree to abide by this policy?

S2: Yes.

RG: All right, Ardith, please proceed with your -

AT: [S2 first name], are you a student at Cal Poly?

S2: Yes.

AT: How long have you been a student?

S2: I – Fourth year.

AT: Fourth year, okay. Were you attending a Bible study in the Multicultural Center on the evening of November twelfth?

S2: Yes.

AT: How many meetings do you estimate that you've attended previous to that one. Have you attended the Bible study for long?

S2: I've been going for over a year.

AT: Okay. [S2: [indistinct]] Okay. Is there a typical agenda or structure that the meeting always follows?

S2: Yes.

AT: Can you share with us what that agenda or structure is?

S2: Yes, from six thirty 'til seven we will gather for fellowship. And during that time we have food – that night we had pizza – and then from seven 'til about eight forty-five we will read the Word, read the Bible, study it, ask questions, and investigate it.

AT: Was the meeting planned the same for that evening?

S2: M-hmm [yes].

AT: What happened at that meeting that was different that evening? Could you describe what happened that evening?

S2: Yeah, well, we were gathered eating pizza, you know, talking at the fellowship meeting and then the person, quote, “walked in” as we were speaking.

AT: Is that person here today?

S2: Yes, that person is there.

AT: Okay, that's Steve Hinkle.

S2: Steve Hinkle. So Steve Hinkle walked in and he didn't acknowledge any meeting there. Instead, he proceeded to go towards the bulletin board, and I understand he had a white piece of paper which was folded, and during that week that they were – that campaign was being put on a certain type of flier, and I recognized that flier by the words that were on it.

AT: Is this the flier that he had?

S2: Yeah. And that's the reason I recognized it immediately just because of the big bold red print. And it immediately caught my attention, so as he walked by, and I saw it, then, like, I kind of said "No," to kind of object, and, like, saying "No," and then he tried to beat us. And then I said that. [Student 7 full name], who was another one of the students there, I guess she kind of heard me, and then she kind of figured out what was going on. And she said "No" [indistinct] and, you know, a kind of laugh, in an incredulous way, and so as he approached the bulletin board, [Student 6 full name] came in there; she had a pizza in one hand a napkin in the other and so, [Student 7 first name], who said "No" in a loud way, had gotten people's attention, and that's when [Student 6 first name] realized what was happening. When [Student 6 first name] – as he approached the bulletin board, he was also approaching [Student 6 first name] and that's why they came in close proximity. Then [Student 6 first name] said "Don't put that up in here." And he – so he stopped his attempt to put the bulletin board, er, the flier on the bulletin board. And [Student 6 first name] said again, "Don't put that up in here. That's very disrespectful. Don't disrespect me. That's disrespectful to me and everyone else in this room. I want to ask you to leave." So she did give him an opportunity to leave, but instead he insisted on, like, questioning her and confronting her. And so he asked you know, "Why? Why can't I put the flier up." [Student 6 first name] said – she said "You know, because it's disrespectful." And he said, "Well, it might be disrespectful to you, but how do you know everyone else thinks that it's disrespectful?" And she said, "Well, look around the room." And then he asked again "Why?" and, like, "What's disrespectful about it?" And she asked, er, she said in response, "Well, read it," meaning "Read the flier." So he read the flier aloud. "It's okay to leave the plantation" looks kind of like, you know, as if, you know, he still didn't get it. And then [Student 6 first name] became annoyed, and she said, "Okay if you're trying to be smart." She said, "I'm going to call public safety." And so – University police – and so she went to the back of the MCC because there are phones there and proceeded to call campus police, and while she was doing that, she was gone for maybe [indistinct] minutes, [Student 3 full name], [Student 7 full name], and I tried to talk some sense into him and whatever and to try to get him to see why it wasn't okay for him to put that up. And [Student 3 first name] said, well, [Student 3 first name] and I both took the stance that well you know it didn't even meet the ASI Policy that sponsor of the event has to identify themselves on the flier. And so that was by far our objection to it. And then he's still, you know, persisting, asking why, you know. He didn't think that was grounds enough not to have it posted. And [Student 7 first name] who's a coordinator, a student coordinator at the MCC so she had the authority to say what she said, she said that you know, even if he wanted to put it up in there, you'd have to get it okayed by the Multicultural Center coordinator, who is Mark Fabionar. And yeah, she said "You have to get it okayed by the coordinator." And Steve asked "What's his name?" and the other campus administrators that he needs to get in contact with to [indistinct] student office, because at that moment, he did want to go and see Mark Fabionar. But [Student 7 first name] said "Well, he's not here right now. You'll have to come back during their office hours." And she told him the office hours, which were, like, nine to five each day. And he ignored all that information and then he left. And then some time within, like, five minutes the police arrived and asked for a description.

AT: This is a copy of the MCC. [S2: [indistinct]] Does this look accurate to you how [indistinct] was set up that evening?

S2: I'm not getting that. We've got the –

AT: Okay, this is a computer. This is the front door. [S2: Front door –] That's the back door. [S2: Yeah.] There's a hallway here. [S2: Uh –] And there's Mark's office [S2: Yes.] or the coordinator's office. [S2: Uh-huh.] Is that where the phone is [S2: Yeah.] that [Student 6 first name] went to? [S2: Yep, m-hmm.]

S2: Okay, so would you like me to point out where –

AT: So is this the bulletin board that he attempted [S2: Yep.] to post the flier?

S2: M-hmm [yes].

AT: And you were all located within this space. [S2: M-hmm.]

S2: [Student 6 first name] was next to the pizza, so –

AT: The pizza was on this table?

S2: Yeah, on the table. I was, like, somewhere right here. [Student 7 first name] and [Student 3 first name] were sitting on – the – couches – [AT: Okay.] over there.

AT: [S2 first name], has that ever happened at any of the Bible study meetings that you've attended before? Has someone come in like that and – [indistinct]?

S2: Oh, well people have come in and disrupted it before in the sense that they're looking for a meeting or something, you know, that, was supposed to be in the MCC, or congregated in the back of the MCC, or maybe, you know, there were schedule conflicts and they didn't know about it. So there have been tons of people coming to the meeting saying "Oh! I thought such-and-such was meeting here," I think, but nothing that [indistinct] that somebody would actually come to a meeting and stop everything and then, like, try to engage in some kind of disruptive dialogue. So nothing to that effect whatsoever. Usually when someone comes in and they make some kind of mistake about their whereabouts, they either leave or, you know, they say they're sorry and leave or they'll ask you where such-and-such is taking place. And if the people in there have the information, they'll just leave.

AT: Have you ever been in a meeting where a student was asked to leave who had come in there or who engaged in a confrontational manner with students - ?

S2: No. Basically that was what the shock was about. Just the audacity that the student would come into the meeting and have, like, very low regard for proceedings and then refusing to leave when asked to leave.

AT: Did Steve Hinkle's actions disrupt the meeting for you?

S2: Oh, yes, definitely. I mean, even when we did finally start Bible study, our minds were not really focused on the Word. I mean, the lesson was dealing with how we're supposed to feel about our neighbors, but, you know, when something like that happens, you kind of, like, wonder why have to deal with some of the crap you have to put up with, you know. And so definitely very disruptive, but very disturbing, just gotten into, so, just beyond, you know, the normal mindset so just beyond like the Word, the [indistinct] and the mindset.

AT: Okay. Did Steve Hinkle ever appear frightened, threatened or intimidated to you in the time he was in the office during the Bible study?

S2: I was even really surprised that he even tried to do that, because the entire time he was given an opportunity to leave; he was asked very assertively, you know, “I want to ask you to leave” by [Student 6 first name]. And, you know, usually when people have harassed anyone they’re afraid of anything, you know “fight or flight” type of thing, and he seemed to want to take it more on the course of fight, as we perceived it. No, he didn’t seem intimidated whatsoever. He seemed more about, like, going to engage in a dialogue or talk it out or whatever. And so, no, not at all.

AT: When he came in, did he say “Can I post this?” or “Is this okay to put up?” or [S2: No.] did he ask any question [S2: No.] about posting there?

S2: No. And that was what was so suspicious about him coming in. When he first came in, I thought he was, going to look for someone. I thought that maybe was someone in the room that he wanted to speak with. But as he just approached the bulletin board and didn’t acknowledge anyone, that’s when everyone kind of, like, stopped and kind of figuring out what was going on. So no, he didn’t ask whatsoever. He just decided to do it himself. [AT: Okay.]

AT: Have you ever been in the MCC where food has been served to everyone in there that wasn’t a sponsored event or some type of meeting? I know students – do students eat their lunches in there or [S2: Um –] individually bring food in?

S2: Yes, students individually bring food in but that this was like a corporate setting. People were, like, gathering around the pizza. People were [clears throat] everyone had their pizza still. So you could tell that it was meant for people who were there; people who were there knew that that was place was where they expect to get food, and that type of thing. So –

AT: The food was being served to the whole group. [S2: Exactly.] It wasn’t like different people with different foods.

S2: Yeah. It’s not something people would make a mistake, you know –

AT: Okay. It’s not something that happens there in that way unless it’s a sponsored event [S2: Yeah.] or some type of official event.

S2: Yeah, yeah.

AT: I don’t have any other questions for [S2 first name].

SH: I have some questions. With whom have you discussed the alleged incident?

S2: Who have I discussed it with?

SH: Right.

S2: Well, the people at Bible study, [SH: M-hmm.] a coordinator of the program, a coordinator of the MCC, other students who got mention of it, like random students, [SH: M-hmm.] so I

wouldn't be able to mention off the top of my head. But those are the only ones who heard about the incident.

SH: Okay. What about with the University? Have you [indistinct] university who you've discussed it with?

S2: Well, I said Mark Fabionar, the coordinator.

SH: Have you discussed it with anybody else from the University?

S2: Donna Davis, yes. Ar –

[Female voice]: Who is Donna Davis?

S2: Donna Davis is the coordinator of the Connections for Academic Success program, which is under the umbrella of [indistinct]. It's under SAS, the umbrella organization.

SH: Have you discussed this matter with Dr. Morton?

S2: I don't want to say yes. But I would expect to have discussed it with him.

SH: Where did you discuss it with him?

S2: Where? I didn't say that I discussed it with him. I said I would have expected to have discussed it with him.

SH: Where would you have expected to discuss it with him?

S2: I don't know. But he approached me from time to time, not very frequently; but every once in a while there have been two functions, or a function that I've gone to with him.

SH: Have you discussed this matter with Ken Barclay?

S2: Ken Barclay? I would say no I haven't.

SH: Have you discussed this matter with [full name and title of student government officer]?

S2: [full name of student government officer]? Not me personally, no.

SH: Okay. Who initiated contact with you about this incident? Were you, did you – when you felt that the meeting was disrupted, did you file a complaint with Judicial Affairs, or were you contacted by somebody? How did that work?

S2: Well, Campus Police were called in, so, you know, they would have been the ones that followed up on the [SH: Okay.] initiated –

SH: So you didn't [S2: [indistinct]] formally file [S2: No.] a complaint.

SH: So were you contacted by Judicial Affairs? [S2: Yes, I was contacted.] Or were you encouraged to file – You were contacted. Were you encouraged to file a complaint by anyone?

S2: No. Judicial Affairs was the only person.

SH: Judicial Affairs was the only person. When did you meet with Judicial Affairs to get a statement?

S2: Sometime before the break? Or sometime before we break?

SH: You don't know the date?

S2: No, I don't remember.

AT: It's on [indistinct, covered by S2 coughing]. If I could access the file, I could tell you the date.

SH: Yeah, why don't you tell me? Could you show me that from the notes you took from the meeting, [AT: M-hmm.] please?

AT: Since I redacted that, I don't know if I can identify – [pause] You know what? I don't know – [pause] I think I met with [S2 first name] around twelve-twelve or twelve-thirteen. I'd have to go back and look at my calendar; it would be scheduled on my calendar.

SH: So you don't know which one it is?

AT: No.

SH: Would it be in your notes?

AT: No.

SH: Have you discussed this matter with Dr. Cheney?

S2: Yeah. We've talked about that in an appropriate setting with the other students.

SH: What, would you say, other students who you are friends with?

S2: The student coordinator of the MCC.

SH: Student coordinator of the MCC. Were other members that were present at this Bible study there in the meeting with Dr. Cheney?

S2: The one person I can think of for sure would be [Student 7 full name].

SH: Okay. What date was that?

S2: I don't know.

SH: What was, – did you start a discussion? What did you guys talk about?

S2: Oh, she had just saying how it was ironic and really erroneous, that you'd pick her as being present there at the meeting when she wasn't there at all, and she kind of wondered why it was exactly that you'd said she was present there when she wasn't.

SH: Okay. Who called the meeting?

S2: It wasn't really an official meeting. People was there. So, I was there. Student Coordinator [indistinct] were there, and she, she was there to speak with Mark Fabionar about some other matters, but while she was [indistinct] her thing, [indistinct] and all, then we started talking about it.

SH: Then you spoke to her about that?

S2: M-hmm.

SH: Okay. [pause] What time did I enter the Multicultural Center?

S2: I would say about six-fifty.

SH: About six-fifty? Okay.

S2: Six forty-five, six-fifty.

SH: Okay. Was there a sign on the door that said you guys were having a Bible study meeting?

S2: No, but it was pretty obvious.

SH: How was that?

S2: How was it very obvious? Well, do you usually pass around the MCC or anything like that?

SH: I do.

S2: You do? And then what do you see there?

SH: I see people in the Multicultural Center talking.

S2: Really. And around what time do you see people there?

SH: I see people there all day.

S2: All day?

SH: All day. All night. All the time.

S2: All day. At night you see a lot of people there [SH: M-hmm.] –

RG: Excuse me. We're getting into a dialogue with the witness where the witness is sounding more like a prosecutor. [Female voice laughs] If you would just describe, in your own words, why you think it was obvious that there was a meeting, then we'll just move on.

S2: Students usually plan the meetings around the time where there are not that many classes scheduled, so usually later on in the day. And that's when we schedule our meetings for Bible study because the students don't have – typically don't have classes around that time. And so any time that you see a large gathering of students, it's usually going to be for the purpose of meeting. I mean, that's just for a large gathering of people in general. Usually people aren't just hanging out like that. In the MCC, people hang out but [clears throat] it's very different, like, the atmosphere is very different. You could tell that something was going on. I mean, like you said before, there was pizza there. So –

SH: You mentioned MCC people. Can you clarify that?

S2: MCC people? People who just hang out in the MCC.

SH: Okay. Who would those people be?

S2: Just other students.

SH: Just other students. Would I be classified as an MCC person?

S2: If you came to the MCC to hang out, yes you would be classified as an MCC person.

SH: Okay. Have you ever purchased a pizza, shared it with friends? Have your friends ever sat down and shared a pizza?

S2: Yeah.

SH: You have done that? Okay. [pause] The first thing that was told to me was “Don't post that flier there.” Is that what you already said?

S2: M-hmm.

SH: – is “Don't post that flier there.” And everybody told me –

S2: That that was offensive. M-hmm. [SH: Everybody told me it was offensive. Right? –] Well, [Student 6 first name] said it was offensive.

SH: [Student 6 first name] said it was offensive. Okay. And you said that she asked me to leave?

S2: Yeah, she asked you to leave. I remember that because I was pretty surprised that she would actually give you the opportunity to leave. [SH: Okay.]

SH: Okay. Would you classify – If somebody says ‘leave or I'm calling the police,’ would you classify that as asking somebody to leave?

S2: As asking someone to leave?

SH: Yeah. If somebody were to say to you “leave or I'm calling the police” –

S2: She didn't say “leave or I'm calling the police.”

SH: That's not – that's not –

S2: I said that she said “I want to ask” –

SH: I'm not asking for your interpretation of what happened, but if somebody said to you “Leave or I'm calling the police” would you interpret that as them asking you to leave?

S2: Can I ask a question – ask you a question?

RG: Excuse me, but are you asking a hypothetical?

SH: Right, I am asking a hypothetical.

RG: And what's the relevance of the hypothetical?

SH: Well, if I'm going to interpret to you guys how I perceived the situation, I need to know other students in the room would perceive the same situation.

RG: What was - Is it your understanding that that question was asked?

SH: It is my understanding that I was told “leave or I'm calling the police” was the comment that was made to me, so I'm just asking.

RG: Who made that comment?

SH: I don't know her name because the names were blacked out on my personal file.

RG: Okay. Well, I – with this witness, I don't understand the relevance of the hypothetical question because her answer –

SH: Well, she was speaking in hypothetical terms that, you know, you know, pizza is usually served in large groups. She was speaking in hypothetical terms, so I thought maybe it would be fair to ask hypothetical questions.

S2: That's not a hypothetical question. [SH: Not a hyp –]

RG: Let's try to rephrase the question so that at –

SH: Let me – I think it's pretty clear that she doesn't want to answer that, so let me move on to another question. Did anybody tell me that there was a Bible study going on? Because in your interpretation you didn't mention it.

S2: You probably didn't know that there was a Bible study going on. But someone would know that there was something going on. So I don't – the issue here is whether or not you knew it was a Bible study. The issue is that you knew it was a corporate setting, a corporate meeting of people.

SH: So nobody told me “we're having a Bible study”?

S2: No one told you we were having a Bible study. You wouldn't have been able to get that information unless you'd gone – come into the MCC and asked someone, which you did not.

SH: Okay. Can you define a corporate setting, can you define that for me?

S2: People are gathered to do – like a group of three or more people – and there were definitely more than three people there.

SH: How many people were there?

S2: I would say at least eight people were at – at least eight people were at our meeting. So regular attendees. So, corporate meetings is a group of three or more people gathered for a purpose.

SH: Okay. You said I looked surpri- like, kind of confused, surprised –

S2: Yeah, you had a quizzical look on your face.

SH: I looked like I had a quizzical look on my face? Okay.

S2: And gestures [indistinct]

SH: Okay. Had you seen the flier around campus earlier that day?

S2: M-hmm [yes].

SH: Did you know who the speaker was or who was hosting the event or what the event was about? [S2: [indistinct]]

S2: Yeah, well we went and did some research on the Internet to see what he was about, and so, and then we found out that he was, you know, a black conservative and things like that and another student mentioned that after he had done some research, he didn't see what the big deal was about. Because the way you had portrayed him on the flier was not what he was all about.

SH: So did you – I'm sorry I didn't mean to interrupt. So, did you know that he wrote a book, *It's Okay to Leave the Plantation*, before I started to post this flier?

S2: Not before. But then when we researched it, we found out that was the book. And then the fact that you had quotations around it kind of led me to believe that it was something that he had said, you know. Since it is a book title, it should have been underlined.

SH: Okay, to make sure I'm understanding you right, you thought the flier was offensive because you didn't know that it was the title of a book.

S2: I thought it was offensive because of the way that it had been advertised.

SH: Okay, but you did recognize the flier when I posted it? You recognized that that was the flier?

S2: I recognized it in your hand before you attempted to post it.

SH: Before I attempted to post it. Okay. Do you think that the flier is racist?

S2: [indistinct] racist. [indistinct] [SH: Do you think it's –] I think it's offensive.

SH: Do you think it's – do you think it's a subtle hint of racism?

S2: I don't see the relevance of the question there actually.

RG: I'm just trying to figure out where you –

SH: I'm trying to paint a –

RG: Make sure you're focused on the issue of the disruption and not the flier.

SH: Right, right.

RG: I'm having a hard time – I'm –

SH: Right, well, when I make my argument, I'm going to have to – I think it's important for everyone in this room to have a clear understanding of the emotions that were involved, to understand the perceptions of these students, of all of us involved. So I'm just trying to get a grasp. I've never had an opportunity to talk to these students since that night. I don't know what emotions are cuing. I want to make sure I have a clear understanding before we talk about this and understand what –

RG: Do you think you could shift it to questions about the emotions that were felt as opposed to issues of whether the flier itself was perceived to be appropriate or not. I understand your point about the emotions but –

SH: Okay. Well, let me just ask about, ask the flier here. Did you tell the *Mustang Daily* that the flier was a subtle hint at racism?

S2: I would actually – I read the flier and, excuse me, the advertisement there, not the adver – [AT: The article?]. The article. Yeah. And I would ask that that not be used because there were a lot of misquotes and a lot of things taken out of context. It was a different [indistinct.] There was like a recording of the conversation that was very different there. So I don't think that can be evidence.

Female voice: [indistinct]

RG: Steve, do you intend to introduce that?

Male voice: [indistinct]

S2: They did. And I wanted to write to them because I was really upset with that.

RG: [indistinct] If you're going to refer to it, you should introduce it into evidence and then show it to the witness and allow the context of the testimony to come out that way.

SH: Okay.

S2: So what is the – [clears throat] So, what's the question about this?

RG: To answer particulars about – it's a *Daily Mustang* article. It's a Tribune newspaper article. Could I see a copy of it please?

HV: January nineteenth, two thou – [Female voice: Do you want copies made?]

RG: Sooner or later. Please.

AT: Can I raise a objection at this point?

RG: All right.

AT: I'm wondering how that's relevant to the charges against him and the case before us today.

RG: I think if it goes to the question only of describing the emotional setting of the alleged disruption, I think it's relevant. I don't want to get into – If the article has gotten evidence to limit to that, I'm going to consider it.

SH: That's all I wanted.

RG: But you have to be really careful about how far you go with this.

S2: Can I at least reread it again?

RG: Oh, yeah, I'll give it back to you. [indistinct] I'm handing little procedural details here. January nineteenth, two thousand three. I see your [indistinct] here.

[Female voices: [indistinct, laughter]]

S2: Is it – [pause] [whispers]

RG: Okay, for the moment I'll allow this evidence with a limited focus as I indicated, and I'll let the witness review it. And then in the meantime, if the two of you would make sure you understand the questions and the limited purpose of it.

SH: Okay. I understand.

LF: I understand. This is really between the two [indistinct] [Other voices: [indistinct]]

RG: Good. Laura – What are you -- ?

LF: Oh, I'm really sorry. [pause] That's not just part of the article, isn't it? That's not the article –

HV: – in its entirety.

SH: I guess that's the whole article. We should actually submit the whole article?

RG: M-hmm [yes].

S2: Yeah, right here she said, “She found the publicity offensive and exploitive because the flier do not indicate a specific book title; that means it could be [indistinct]” –

RG: Okay, let’s go off the record for a moment.

RG: And the copy of the Tribune newspaper article in the Arts and Culture section, on January nineteenth, two thousand and three, has been introduced into evidence for the limited purposes of helping the Hearing Officer understand the emotional context of the alleged disruption. So if you could ask your questions with regard to that issue, and if the witness could keep her response as brief as possible, I think we’ll get through this thing.

SH: Did you, is that, did you – ?

RG: This was this. [Laughter]

LF: I think actually your expertise is certainly over my head. [SH: Yeah, [indistinct, [repeated indistinct]] And I think I cannot advise Steve as to what question you feel would be acceptable based on this.

RG: You indicated that there was a sense of emotion and distress because of the flier. [SH: Right.] And then you referred to the newspaper article in the context of that emotional distress. That’s the limited purpose, I hope, of why you’re introducing this. Because if you’re going to get into issues of whether or not the flier was perceived by anyone—you or anyone else—as being racist is going a little bit beyond. [SH: M-hmm.] What I’m concerned about is the reaction of people, not delving into whether or not a [indistinct] felt it was racist. [SH: Okay.] If it raised [SH: Okay.] the demeanor of the room to the point of being disruptive or not disruptive, that’s what I to know about. [SH: Okay.]

SH: Okay, well then, I’m done with her. I think I’ve asked my question with the article.

RG: Do you still want the article as evidence?

SH: I still want the article as evidence.

LF: Do you – would it be appropriate to ask if this was in fact an accurate description of that emotional state from your point of view [SH: Would that be an appropriate question?] in the room at the time?

S2: [LF: Would that work?] you see, this has nothing to do with what happened in the room, though. It does talk about how the flier, I thought, was offensive and exploitive. But those were discussions that were outside the room, so I really don’t think that [indistinct, covered by SH]

SH: Was that – is that an accurate description of how you felt about the flier?

S2: I thought it was offensive, [SH: Okay, okay.] so [indistinct].

SH: Okay. Okay.

Female voice: [whispering]

RG: Yes, but we don't have. I don't want, I don't – we've got students out there waiting [indistinct]

SH: If I had posted a different flier, like if I had posted a flier for a Bible study or what not –

AT: I object to projecting into 'what ifs' scenarios. I think we have a very specific event that the charges are related to and that we need to stay within that context for this proceeding.

RG: Could you –

SH: Well, I'm going to be attempting to show that if a disruption occurred, it certainly wasn't from my presence but rather the students' reaction and their misinterpretations of the flier.

RG: Just ask her the question of whether the flier was –

SH: Was the flier offensive or was my presence offensive? I mean, what – okay, let me rephrase that. Let me take that back. Was my presence a disruption or was the flier a disruption?

S2: Your presence was a disruption because as I said earlier on in my testimony, as soon as you walked in and you didn't acknowledge anyone and you started walking towards the bulletin board in the middle of the meeting, everyone's attention was turned on you.

SH: So, it was my presence that was a disruption.

S2: It was your presence.

SH: Okay, so not the flier. Okay. I think that's all the questions I have.

RG: Ardith?

AT: [S2 first name], does Donna Davis have an office in the MCC back here with Mark Fabionar?

S2: Well, she doesn't share it with Mark Fabionar, but yeah, their offices are both located in the back.

AT: Okay. So she's around the MCC many hours a week, and [S2: M-hmm.] your talking to her about this incident [S2: M-hmm.] would – you didn't seek her out. You see her very often.

S2: Yeah. [AT: Okay.] I work with her. I'm the student assistant.

AT: Okay, thank you. [S2: M-hmm.] That was all the questions I have.

RG: Does either party have additional questions for this witness?

SH: No.

RG: The witness is excused and reminded of the confidentiality policy and your understanding to agree by it.

S2: Oh, yes. I'm sorry.

RG: Thank you.

Female voice: [whispers]

RG: [indistinct] Thank you.

AT: I'm going to – my next witness has a class at twelve. I'm going to call him and see if he –

RG: All right.

AT: My next witness is [Student 3 full name]. [AT, distant: [Student 3 first name] ? Can you [indistinct] testify? Okay. I'm sorry we're running so late.]

RG: [indistinct]

HV: You want it right now?

RG: No, no, no.

HV: Just later? Okay.

RG: Good morning. Now please identify yourself for the hearing record.

[Student 3 full name] [S3]: [Student 3 full name].

RG: Do you agree that the testimony you give will be honest and truthful?

S3: Yes.

RG: This hearing is confidential by University policy. Do you agree to abide by this policy?

S3: Yes.

RG: Ardith?

AT: [Student 3 first name], are you a student at Cal Poly?

S3: Yes.

AT: How long have you been a student here?

S3: I've been a student here three years.

AT: Were you attending a Bible study meeting in the Multicultural Center on the evening of November twelfth?

S3: Yes.

AT: How many meetings do you estimate you've attended previous to that one? Have you been attending Bible study for very long?

S3: I was there at the very first meeting.

AT: Okay. So you've attended for a year, approximately weekly?

S3: More than a year. I was one of the founders of the Bible study, so since last school year.

AT: Okay, okay. Approximately a year and a half, two years.

S3: Yeah, yeah.

AT: Okay. What – is there a typical agenda or structure to the meeting that the meetings always follow?

S3: Yeah, we basically start off with a time of dinner, time of fellowship that usually lasts about thirty minutes, and then we go into prayer, and then we'll get into reading Scripture, and then we discuss its meaning and the application of that. And then we end with prayer again.

AT: Okay. Was this meeting planned for the same agenda or to follow the same format?

S3: Yeah.

AT: Okay. Could you describe what happened that evening?

S3: Well, we came together for having pizza that night. And we were just – we just got our food and just started eating. And we had been discussing the previous events of the day, talking about the fliers and stuff like that, and some people were a little upset –

AT: Is this the flier you've been talking about?

S3: Yes, yes. Those are the fliers. Some people were a little upset about them, so we were talking about them. Usually during the first thirty minutes of the time of fellowship, we talk about, you know, our days and things like that. So we were talking about that. And then, at one point, the gentleman came in – Steve –

AT: This is the gentleman here? [LF: [laughs]]

S3: [laughs] Yes.

LF: This is Steve Hinkle.

S3: Steve, Steve came in with the fliers folded up in his hand, so we couldn't necessarily see what it was. He walked directly to the bulletin board, the posting board, and started pinning it to the posting board, and then we told him "No, no. It probably wouldn't be best if you put that up. We don't want that up. It's disrespectful." He asked us why it was disrespectful, how would we know it was disrespectful. And we said, "Because you know, it's disrespecting us" to the point of – we asked him to leave. He didn't leave right away; he wanted to get involved in a discussion of some sort. The girl he was talking to, [Student 6 first name], she decided to go to the back room to call UP, the University Police, I guess. And then we continued to ask him to leave. At one point, [Student 7 first name] stood up and told him the posting policy. And then at that point, he asked if he could come back and

Speak with Mark Fabionar, the MCC Director, and got information about what time he would be in and stuff. And then he left. And then so he left; we talked about it a little more, about what happened, and then started – we kind of calmed down after a while and we prayed. And our Bible study, started getting into our Bible study. And then the University Police came in and we had to take the time to discuss to them what happened, report to them that. And after that [indistinct] got back into lesson [indistinct].

AT: Okay. Has this type of interruption or disruption ever happened before at any of the other Bible study meetings you've attended?

S3: Not this type of interruption. Usually, if someone walks through, they quickly walk through and just apologize.

AT: Okay. Did Steve Hinkle's actions disrupt the meeting for you personally?

S3: For me personally, it did kind of rile me up a little bit, I guess. It took a while to kind of calm down and get focused back on what we were – focused and back on what we would be doing.

AT: Okay. Did Steve Hinkle appear frightened, threatened, or intimidated to you at any time during his time there in the MCC?

S3: Not really. He seemed pretty comfortable with what he was doing. He seemed, like, prepared for what might have happened [indistinct].

AT: Those are all the questions I have for [Student 3 first name].

RG: Okay, Steve?

SH: Okay, have you discussed the incident in the Multicultural Center with anybody?

S3: Yeah, after it happened, I told a few people about it.

SH: Okay, what about from the University? Have you discussed it with anybody that works with the University?

S3: Besides Mark Fabionar, I don't think so.

SH: Okay. Who contacted you initially about writing a statement for Judicial Affairs? Were you encouraged to do so by anybody? Or were you contacted by Judicial Affairs?

S3: I believe it was Judicial Affairs that contacted me.

SH: Judicial Affairs – okay. When did you meet with Mark Fabionar?

S3: When did I meet – ?

SH: When did you meet with him when you said you discussed this meeting with him?

S3: I don't know. It was kind of an informal thing. Like, it was probably during the next – I'm sure it was sometime that week. I told him what had happened. It was probably the next day.

SH: Okay. Did Mark give you any advice; did he tell you how maybe you should handle it, or – ?

S3: I don't real – I don't think so. I don't think so.

SH: So he just listened to what you had to say?

S3: I told him what happened and – I don't know. I don't remember him giving me any advice on what to do. He probably just took it and said probably something should be done. But I don't think he gave me any specific –

SH: Okay. Do you know when you – did you meet and give a statement to Judicial Affairs? Did you type up a statement? [indistinct]

S3: Yes.

SH: Do you know what date?

S3: It was before winter break.

SH: It was before winter break. Okay. Do you know whe– was it December? Was it before finals?

S3: It was December, I'm pretty sure.

SH: It was December.

S3: Probably – [pause] I know it was December.

SH: It was December – do you feel that the content of the flier disrupted the meeting or do you feel that my presence was a disruption at the meeting?

S3: I think it was more your presence. [SH: Uh-huh.] The flier had to deal, had to do with it. I'm sure if you had come in without the flier, there probably wouldn't have been as much of a disruption.

SH: Okay.

S3: The fact that we had been talking about the flier meant it was something that had an emotional impact on us.

SH: So would you say that those negative feelings towards the flier were in the group before I entered?

S3: Yes. [SH: Okay.] Absolutely.

SH: You remember what time I came into the Multicultural Center?

S3: It was probably a little before seven.

SH: Okay. Do you happen to remember exactly what you were doing when I came in?

S3: I believe we were eating pizza.

SH: Okay.

S3: Pizza, having our time of fellowship. [SH: Okay.]

SH: Do you ever hang out at the Multicultural Center? Or study in there?

S3: I'm in there quite a bit. I usually [indistinct, covered by SH] –

SH: Hang out every day?

S3: Hanging out.

SH: Are there usually other students [S3: Yes.] hanging out?

S3: M-hmm [yes].

SH: Do you know if there was any sign on the door saying there was some type of Bible study going on?

S3: No, there wasn't any posts.

SH: Do you recall anybody telling me that I'd interrupted a Bible study? The eyewitness accounts—yours as well—do say that I was told the flier was disrespectful and what-not, but do you recall me being told of the Bible study?

S3: No, there was no mention of it.

SH: Okay. How did you perceive my reaction to the whole situation?

S3: You seemed calm about it. It seemed like, well, when we were trying to tell you how we felt about it, you didn't – I didn't feel that you really seemed very receptive of what we were saying. It seemed like you wanted to get into a discussion right now and we didn't want to get into a discussion. We just wanted you to leave. It didn't seem like you immediately wanted to leave.

SH: But I tried to initiate some sort of discourse regarding the – what was going on?

S3: Yeah, it seemed like you wanted to have a discussion.

SH: Okay, and you guys wanted me to leave – okay. Now other people, you've said, other people have walked through the Multicultural Center when you've had meetings?

S3: M-hmm [yes].

SH: Do you know if any judicial action was against them?

S3: I don't believe so, but it wasn't as much of a disruption.

SH: This one was more of a disruption because the fliers are up there?

S3: Yeah, and because it halted what we were doing. Usually if people walk through, they walk quickly through or they immediately realize that they disrupted something and walk back out or go through the side door.

SH: M-hmm. Do you ever – have you ever purchased a pizza and had pizza with friends? Shared pizza a couple times? [S3: Yeah.] “Yeah, yeah, I've done that?”

S3: Yeah.

Female voice: In the Multicultural Center? A large pizza?

S3: Yeah, sometimes.

AT: You guys have had large pizzas in the Multicultural Center?

S3: Sometimes.

SH: During the [indistinct]? Okay.

LF: [whispers] [SH: [indistinct]] A major food group.

SH: Okay. You mentioned that I was told of the posting policy, that I had to get it approved by the director of the Multicultural Center.

S3: M-hmm [yes].

SH: Now when I was told of that, you said that I asked for his name. And then when you guys told me, I left? Is that – am I understanding that right?

S3: That's what I [indistinct]

SH: Yeah, so you told me about the posting policy, then I left.

S3: Um – [pause]

SH: How do you think somebody would know if there was a meeting going on in the Multicultural Center?

S3: [indistinct]

SH: Yeah.

RG: Can you ask him [indistinct] –

SH: Okay. [indistinct]

RG: Can you ask him how [SH: Uh –] *he* thinks *he* would be informed that there was – ?

SH: Okay. If you walked into a group of students in the Multicultural Center, how do you think you would know if they were having a meeting – a formal meeting?

S3: Well, if they were sitting around facing each other having – and look like they were in the middle of a discussion, that would be one sign, and I think that's all [indistinct].

SH: Okay. Who organized this Bible study?

S3: Who organized this particular – ?

SH: Just the Bible studies in general; you said [indistinct, covered by S3]?

S3: Oh, I am the primary coordinator.

SH: The primary coordinator. And what organization do you – ?

S3: Campus Crusade for Christ initiated it, but we're kind of reaching out to all these different – [indistinct]

SH: Did you file an E-plan for this room? [Editor's note: the Hearing Officer's "Findings of Fact" defines an "E-plan" as "a formal process established by the Associated Students Incorporated for campus entities to arrange on or off campus activities" and notes that one "is required for chartered club events."]

S3: No.

SH: Okay, how did you schedule the room?

S3: We talked with Mark Fabionar.

SH: Okay.

S3: There's an agreement that we have with the MCC that we have that room every Tuesday night.

SH: Okay. Did you have to fill out paperwork for that? [S3: No.] It was just a, sort of a verbal agreement you had to have that room Tuesday nights, then? Okay. And you did say that I didn't acknowledge anybody when I walked in; I didn't talk to anybody. I just walked straight. I was quiet. I didn't – and that you guys, you guys engaged – I'm sorry. Not you guys. I was engaged first by a student in the room. Is that right?

S3: M-hmm [yes]. [Male voice, distant: [indistinct]]

SH: Okay, thank you.

Male voice: [indistinct]

AT: I have no other questions for [Student 3 first name].

RG: All right. The witness is excused.

S3: Pardon?

RG: Witness is excused. You're reminded of the confidentiality policy and your understanding to abide by it. [S3: Okay.] Thank you, sir. [S3: Thank you.] [SH: Thanks.]

RG: How are we doing on time? Is it time to take a break?

LF: It's close to noon. [RG: Okay.]

AT: My next witness had another appointment at noon. I was hoping to squeeze him in if he wouldn't be too late. Would that be possible?

RG: Okay. [Indistinct conversation between LF, SH] Are you planning to introduce that book? [LF: Do you want us to –] If you're not going to introduce it, would you – [SH: Yeah, yeah, I'm going to – I'm not sure.] put it off the table – [SH: Okay, okay.] [LF: [indistinct]]

SH: Thank you.

RG: Thank you.

[Male voice: indistinct whisper] [AT laughs]

LF: [whispered] I don't know what you [indistinct] [Female voice laughs]

RG: Please identify yourself for the hearing record.

MARK FABIONAR [MF]: My name is Mark Fabionar, and I coordinate the Multicultural Center.

RG: Do you agree that the testimony you give will be honest and truthful?

MF: Yes.

RG: This hearing is confidential by University policy. Do you agree to abide by this policy?

MF: Yes.

RG: Okay, Ardith, please proceed with this witness.

AT: Mark, as coordinator of multicultural programs for Cal Poly, what type of duties does that entail, or what type of duties?

MF: Well, we do a variety of things. This is the type of center that does programs and events, engage students on campus, the university, the San Luis community on a type of discourse over cultural diversity or other cultural [indistinct]. So we have a cultural awareness month. We have a widening variety of speakers. In addition to that, we help coordinate and provide support for cultural affairs. And that's the bulk of it.

AT: Okay. How long have you worked at Cal Poly?

MF: Since last – [indistinct].

AT: Okay. And your boss is Ken Barclay and Steve [indistinct]?

MF: I report to Stephan Lamb, [indistinct].

AT: Okay. Approximately how many meetings take place in the MCC weekly? Like on an ongoing basis. Can you estimate for us?

MF: Anywhere between five and ten.

AT: Okay. How long approximately has the Bible study group that met on the twelfth been meeting weekly at the MCC?

MF: As long as I have – since I've been there, they meet every Tuesday. They were the first group that kind of blocked off of that Tuesday spot.

AT: Okay. Are you aware of the incident that took place on November twelfth involving a student attempting to post a flier during the Bible study meeting there?

MF: Yeah, of course.

AT: Okay, this is Steve Hinkle. I'll introduce you now. [laughter] He's the student that came in [indistinct, covered by laughter] [LF: I know.] Okay, how did you learn of this incident?

MF: I heard about it the next day in the morning when I came to work in the MCC, and I heard from different students about it, my student assistants and also students who come in to see me. Some of them are the African American students who frequently see me; others are just students who frequent the Center.

AT: Okay. Is this an uncommon situation or occurrence for you to get complaints about meetings that are held at the Center?

MF: Say that again please?

AT: Is it common or uncommon for you to receive complaints about a meeting that occurred at the Center? For students to come forward upset or – [MF: Sure.] is that uncommon?

MF: Yes, it's uncommon.

AT: Okay. Is – do you know if this is – oh, I'm sorry. I wanted to introduce into evidence a copy of the Multicultural Center posting policy at this time.

RG: Okay, this will be Exhibit C.

HV: D. [LF: Can we [indistinct]]

RG: D? Wait a minute. Laura?

LF: I just have a question if the legality of the posting of the flier was dropped as an amendment to the charges. Can we have some clarification as to why this is relevant?

AT: I'm not sure I understand your question.

LF: If we're dropping the original charge that the flier was posted not according to policy, all right? That we're talking about the disruption to the meeting, I'd like to know why this policy is relevant.

AT: This policy will go – ?

RG: [indistinct] document? [LF: Yes, I am.] [AT: Exactly.] What's the relevancy of the [AT: Right.] document?

AT: Right. This policy will relate to the testimony of [Student 7 full name], who has not yet testified, and basically, I'm looking for Mark, as the coordinator of the center, to verify – she spoke to Steve specifically about the posting policy that evening, and so her testimony – I want to make sure that this is the official posting policy that she spoke of. And I want his kind of authentication to that with regard to her testimony.

RG: So Mark will be able to verify that this is the posting policy?

AT: Correct. [Student 7 full name], when they had asked Steve to leave, one of the reasons they asked him to leave – they said, “You can't post this at this time.” I think other students have spoken to it. They said “You can't post that without Mark's permission; he's not here.” She explained to him what the posting policy was. That was one of the reasons they had asked him to leave. He asked about when he could speak to Mark and about the posting policy. So without going into Steve being charged in violation of the policy, I think it has to do with his conversations with the students that night in context of him being asked to leave and his disruption or confrontation with those students.

RG: Okay. I'll allow it for the purposes established and that this isn't really about the posting policy.

AT: Okay.

AT: Mark, is this the official posting policy for the MCC?

MF: Yes. [AT: Okay.]

AT: Did Steve Hinkle ever contact you after November twelfth about posting a flier in the MCC?

MF: No.

AT: Okay. To your knowledge, has Steve Hinkle ever contacted you about anything regarding the MCC or groups related to it or groups that meet there?

MF: No.

AT: Are large pizzas served in the MCC under any circumstances except a meeting or sponsored event – that kind of thing? Do students buy large pizzas and go in and have a group of people eating, or?

MF: Usually for meetings but on occasion they'll will [indistinct]. Students bring food in all the time. [AT: Okay.] But usually it's for a meeting. If I have a meeting for a culture class or something, I'll usually bring food or buy food.

AT: Okay. Okay.

RG: Do the pizzas have to be reviewed by you?

[laughter]

MF: Not at that time.

AT: I think that's all the questions I have for Mark at this point. [indistinct, whispered]

SH: How would a student know about the Multicultural Center if the student [indistinct] posting policy [indistinct]?

MF: I'm sorry?

SH: How would a student – how would I, say, how would I that night have known about the Multicultural Center posting policy?

MF: I guess the best way is – would be when the student told you she worked in the MCC [indistinct] policy.

SH: So is that the only way I would've known?

MF: Yeah, that night. [SH: I see.] During the hours of when I'm there or something, you'd be able to ask me [SH: Okay.] or somebody in Student Life.

SH: So that's not posted on the bulletin board, that policy?

MF: It is. It is posted. It's posted now. It wasn't –

SH: But it wasn't posted at the time, but it is now.

MF: Right.

SH: At the time it was not posted. Okay. So that policy's not distributed to, sort of, students when they're, you know, when the clubs are chartered at the beginning of the year, that policy isn't distributed to them?

MF: Well the – ASI is the one that [indistinct] the club charter [indistinct] like that, so, but when students want to bring, you know, materials in the MCC or the Office of Student Life they would ask the coordinator, ask the student assistant. [SH: [indistinct]] [indistinct] [SH: Okay.]

SH: Was there anything on the outside of the Multicultural Center that notified students who may enter that there was a meeting? Any sign or posting or –

MF: No, no.

SH: You don't recall anything. Okay. How would a student find out if there was a meeting taking place? Would I have to come in and ask you if, when I was in the middle of a meeting?

MF: Sure.

SH: So I would have to enter the Multicultural Center to find out if there was a meeting taking place.

MF: Sure.

SH: Okay.

MF: Or you could check the website for, like, the different club events that are going on.

SH: Was this posted on the website?

MF: Not the MCC but the one for the clubs, yeah. The black Bible – it's not a black Bible study, but it's a Bible study. You know, I'm sure that they would have their meeting dates or the time.

LF: [indistinct] [MF: The ASI club.] The ASI club? [MF: Yes, yes.]

SH: But this one wasn't on there?

MF: No I don't know if it was or not.

SH: [indistinct] What type of arrangement do you have to schedule these meetings? Is there, is there, do you formally document this? Did you have Campus Crusade for Christ sign the thing or was there a verbal contract that they would have this room as their -

MF: If students want to reserve it, they usually do it with my student assistants. [indistinct] my office at certain times or days that they want to do – a meeting.

SH: Do you know if there was an E-plan for this night?

MF: I don't know.

SH: Have you discussed this matter with Ken Barclay?

MF: I'm sorry?

SH: Have you discussed the incident in question with Ken Barclay?

MF: Yes.

SH: You have? When did you meet?

MF: I met with Ken the next day after it happened.

SH: Who else was there?

MF: It was just me and Ken Barclay.

SH: Just you and Ken. Do you remember what time it was?

MF: No.

SH: Not what time it was? Have you discussed this matter with Dr. Morton?

MF: Yes.

SH: You have. When did you speak with him?

MF: Either that day or the following day. It was within a couple days of it happening. It was me and some other students. [Student 6 first name] and [indistinct] [student full name].

SH: I'm sorry. It was [Student 6 first name] – [MF: [Student 6 full name]] and [above student's full name]?

AT: I know he's asked this question of every witness, and I'm wondering what the relevance of whether people have met with Dr. Morton or with Ken Barclay. I'm wondering what the relevance of that is to the charges against him and the basis for this hearing.

SH: Well, when I argue – I'm going to discuss later in this hearing what initiated these charges, what was involved in initiating these charges and maybe what motivated people to initiate these charges, who they've discussed this matter with prior to me being formally charged was important. I guess this is in regards to me. I think that it's important that I understand how people have discussed an incident in which I am one of the primary figures.

MF: [indistinct]

SH: Okay. Who organized that meeting with Dr. Morton and those two?

MF: I think the students did. [Student 6 first name] and [indistinct]

SH: Okay, was [student full name] there?

MF: No, he d – yeah, I know [above student's first name]. I'm trying to – [indistinct, covered by SH] [SH: [indistinct]] there have been so many meetings in the past year. [pause] Maybe. Let's see. It was me, [first name of first student] – was [first name of second student] there for a little bit? I don't know; maybe [first name of second student] was there for a little bit. I'm not sure.

SH: Was [full name of student government officer] there?

MF: I don't think so. M-mm [no]. I don't think so. [SH: [indistinct]] I think it was me, [Student 6 first name], [full name of first student], and Dr. Morton. And I'm not sure if [student first name] was there or not.

SH: Okay. What did you guys discuss? What were some of the opinions in the discussion?

MF: Basically, generally, the frustration that [Student 6 first name] felt when this incident happened with you as she did, [SH: M-hmm.] with you the day before. How many, not just one but many, students had come up to her frustrated, with some of the campus climate issues of the university. Feeling disrupted or not supported. And how some of the space that they've created regarding their club or their meeting time, even that space is kind of violated. The safest place where they could feel safe was violated, so just being frustrated with these type of things. And incidents that have happened over the last several years. And expressing that to an administrator who has some type of authority or who was willing to listen.

SH: Okay. Okay. Did you discuss any type of sanctions or resolutions to solve this issue?

MF: Sanctions or resolutions? One of the things I know that I spoke with [Student 6 first name] – [indistinct] that I spoke with later on with [student first name] and [first name of student government officer] was the idea of getting together and having some type of dialogue or, some type of dialogue program. I remember [student first name] saying that he wanted to get in touch with the Cal Poly College Republicans and have some type of dialogue regarding different issues where different groups might have different [indistinct] or belief systems.

SH: Okay, was the Cal Poly College Republicans discussed during this original meeting with the students? And did you –

MF: Which original meeting?

SH: When you met with [discussion of pronunciation of Student 6's name], I'm sorry, and Dr. Morton? Did you guys discuss – was the club brought up – the Cal Poly College Republicans?

MF: Yeah, I'm sure it was.

SH: Okay. In what context?

MF: In the context that many students of color seek – Cal Poly College Republicans is not being necessarily understanding of certain issues that happen to students of color on universities that aren't very diverse. And if there's this lack of understanding or a lack of compassion, a lack of willingness to engage in civil discourses, civil discussions. Why that exists. Why this, why things come in between those kinds of people.

SH: Okay. [pause] Do you monitor the board? Is there a student assistant who monitors –

SH: [female laugh] Okay. Did you discuss the previous fliers of speakers that were posted on the Multicultural Center board?

MF: Did I discuss previous fliers of speakers posted on the MCC board?

SH: Yeah, yeah, did you discuss the speaker?

MF: Did I?

SH: Right, yes. Did you discuss this at the meeting with Dr. Morton? Did you discuss the speaker on the flier?

MF: We discussed the flier itself. And I think – and I think pretty much the idea was – what the students understood it that you can bring whoever you want to bring and have whatever you want on the flier. But I guess the issue with the flier was that it wasn't really identified with any group and so it was felt that the flier might have not identified purposely to kind of confuse [indistinct] in terms of what was going on. As a way of [indistinct] interest. [indistinct.] And I think that leads back to things that happened last year with fliers that other students [indistinct].

SH: Okay did - At this meeting did you discuss fliers from last year or past speakers that the Cal Poly College Republicans brought, past, –

AT: I'd like to raise a question with regard to how Cal Poly Republican club business relates to the charges against you today at this hearing that this hearing is based on.

RG: This is your witness responding to the Republican club issue, but what – where are you going with this?

LF: May I respond to that just very briefly?

RG: Sure.

LF: Steve would never have been in the Multicultural Center that evening had he not been on Cal Poly College Republican business.

SH: In addition, some of the personal accounts and some of the information in my personal file regarding the subject matter pertains to the Cal Poly College Republicans. The Cal Poly College Republicans are mentioned. The history and reputation of the Cal Poly College Republicans are mentioned in this. So, as I mentioned earlier, as I discuss the emotion and motivation that was involved in initiating this investigation, that's going to be an important part of it. So, it's important to understand the perceptions of the Cal Poly College Republicans when I discuss that matter.

RG: Okay. In the context of this witness, beyond what is already said, what do you think you're going to be getting –

SH: I think I'll be getting a greater understanding of how the students in the Multicultural Center that night perceived the Cal Poly College Republicans since I was there posting a flier for the Cal Poly College Republicans.

AT: This flier doesn't identify or state Cal Poly College Republicans anywhere on it.

SH: Right, in some of these testimonials, we actually have the students here say, you know, they knew, they looked into the speaker on the Internet, so they would've known who the

organization was. They said they had seen the fliers around campus and made other fliers saying, you know, “The College Republicans are being [indistinct]” so –

RG: Okay. If this witness has no information or has given you all the information he knows about the, Cal Poly Republicans, let’s not dwell on it.

SH: Okay. Okay. Let me just clarify what I was asking. I was simply asking if past events and past fliers of the Cal Poly College Republicans were mentioned during this meeting that he had with Dr. Morton and the student.

RG: Okay. You can answer that.

[Indistinct conversation, laughter]

SH: Was past Cal Poly College Republican –

SH: This meeting with the student and Dr. Morton, did you guys discuss past Cal Poly College Republicans fliers?

MF: Yes.

SH: The kind of events you did?

MF: Uh-huh.

SH: What was the, what were the comments made?

MF: That is, that, just, the last flier – the event last year, you know, was a Cal Poly College Republican event. [indistinct] And somebody else, it was another African-American.

SH: Reginald Jones?

MF: Reginald Jones. That the fliers that were put up didn’t have, they weren’t identifiable and they, they adopted a language that seemed kind of like a black nationalist language so it was kind of confusing in terms of who was bringing him in some sense. It could be looked upon, at least interpreted by, most cultures that you know black students, or quote-unquote “black nationalists”, were bringing this person to the campus and that a lot of black students kind of got - black students asked, “Why are you bringing this person to campus?” or “What are you trying to do?” So it was frustrating because they thought they were being misrepresented by that type of flier, and so when these fliers came out and African Americans – and the book similar sentiments of frustration in seeing this plastered around campus –

SH: This being?

MF: I’m sorry. This flier – some of them within the E-plan and some of them without an E-plan were really frustrating because the title and just their both being plantation [mumbling] the book. Some students, a number of students and not just African American students, found it kind of painful and distasteful, and understanding that as a prerogative in terms of fliering, and so I guess seeing this flier brought into a space where they felt, you know this is a comfortable space, this is a meeting space – not only just a comfortable space, but a meeting

space – and trying to engage in this type of – and it felt confrontational and they felt frustrated. I know a number of students who said they didn't sleep the night before, or, you know, had trouble sleeping; just really upset, feeling attacked.

SH: Thank you.

RG: [indistinct] Do you have questions?

AT: I do. Mark, do students initiate meetings with the Vice President because they're upset about incidents, or very often in your experience have students initiated – is that a common thing?

MF: I think it's – they have initiated forums with not only the VP of Student Affairs but with the President and other government employees and other groups to express frustration. Mainly cultural groups or students have initiated and also initiated three forums. We have a new VP for Student Affairs, and we've been – we've initiated twice before this incident and then something else unrelated. It's not common, but I think it depends on the VP [indistinct].

AT: Has it happened very often in your experience?

MF: No.

AT: That's the only question I have.

RG: The witness is excused and reminded of the confidentiality policy and the agreement to abide by it.

MF: Sure.

RG: Thank you very much.

AT: Thank you, Mark; I am sorry to make you late.

RG: Okay, this hearing is beginning at shortly after one o'clock and we're back on the record continuing with the Judicial Affairs Office. The next witness is –

STUDENT 4 [S4]: [Student 4 full name]

RG: Could you spell your last name?

S4: [indistinct]

RG: Do you that the testimony you will give will be honest and truthful?

S4: Yes.

RG: This hearing is confidential by University Policy. Do you agree to abide by this policy?

S4: Yes.

RG: Ardith?

AT: [S4 first name], are you a student at Cal Poly?

S4: Yes, but I am [mumbling]

AT: How long have you been a student here?

S4: This is my second quarter.

AT: Okay. Okay. Were you attending a Bible study meeting in the Multicultural Center on the evening of November twelfth?

S4: Yes.

AT: Was – what’s the typical agenda or structure of the meeting, usually?

S4: What we usually do is, like, we come in at like six-thirty or so and then, so, we have dinner and then we eat until seven o’clock or so. And then we open up in prayer and then we do our discussion until eight, eight-thirty, nine o’clock, depending on how long it goes, and then we close in prayer and then we go home.

AT: Okay, can you describe to us what happened that evening that might have been different from other meetings?

S4: On the topic – what we – that day we had pizza in the back, and then what happened was that we were all sitting around eating. We had just opened up in prayer and then someone had come in with that piece of –

AT: Was that person Steve Hinkle?

S4: Yeah.

AT: Okay.

S4: And then he came in with a piece of paper kind of bent up in his hand and kind of opened the door and just kind of walked straight toward the bulletin board and was putting it up and then someone was like, you know “We, we don’t, we don’t really want that put up in here right now. If you could please –” and then, and then, yeah, someone was like, “Well this” and he was like, “Why well why?” and then they, we were like, “Well because you know we find this offensive or we don’t really want that posted up right now” and it was kind of in the middle of a meeting because we had already opened up. And he was kind of going at it and saying some things back and somebody else said something else and then [Student 6 first name] went in the back and phone called and then –

AT: Who’d she call?

S4: Um –

AT: Do you know?

S4: All I remember is at the time is she said I’m going to go call up somebody. At the time, that’s all I knew.

AT: Okay.

S4: And then [Student 7 first name] just said, you know, “This is school policy, just not to put it up right now and that if you can come in and get it approved. You have to have it approved to put a poster up on this bulletin board because this is an office, it’s not a public area, you know?” And so at that point then Steve left, yeah, and walked out after [Student 7 first name] had said that.

AT: Okay. Has anything like this ever happened before in the meetings that you attended at the Bible study?

S4: No. Some people might come in and just screw around or something like that you know because we’re just like, “Oh my gosh we’re in the middle of a meeting.” And they’re like, “Oh I’m so sorry for interrupting.” And they’ll close the door right away and walk the other way but nothing like that, no.

AT: Okay, do you feel that Steve Hinkle’s actions disrupted the meeting for you that night?

S4: He kind of set the whole pace of the evening a little off because people were still thinking about the whole situation or people were trying not to think about it, so I think I can’t remember if it was me or somebody else, but I was just like, “You know let’s just focus on Bible study for now – right now” because people were kind of going off tangent. I just remember that so I was just like, I don’t want to talk about anything [indistinct] because we had already opened up.

RG: But you had to speak to get the group back to normal?

S4: Yes, because everybody was talking about it or being, like, “What just happened?” or discussing it.

AT: Did Steve appear frightened, threatened, or intimidated to you during his time in the center?

S4: No.

AT: These are all the questions I have for [S4 first name].

RG: Steve?

SH: I have some questions. Did you discuss this incident with anybody? If so, do you remember who you discussed it with?

S4: Yeah, I don’t know just like during time in the room.

SH: Since the event, have you discussed it with anybody from the university? Administrators?

S4: The event? Her.

SH: Okay. You discussed it with Ardith?

S4: Yeah, because I was called to, probably because I was in the room at the time.

SH: So Ardith contacted you?

S4: Yeah.

SH: Okay. Have you discussed this matter with Dr. Morton?

S4: No.

SH: How about Ken Barclay?

S4: Uh-uh [no].

SH: Okay. Did you discuss this matter with Dr. Cheney?

S4: Uh-uh [no]. I don't know any of those people.

SH: It's okay. That's fine.

S4: It's okay, no worries, no worries.

SH: When did you – did you give a statement to Judicial Affairs?

S4: Yeah, I did.

SH: Good. Did you write a statement, or did you talk and Ardith Tregenza took notes?

S4: What I did was when she called me, she had said you know you should just have something written up because she had tried to get a hold of me before Christmas, you know, to come in but the thing is because of finals and all that kind of stuff and I'm from Canada originally and I was planning to go home so everything was kind of messed up. Do you know what I mean? So when she was like could you write something, just kind of go through it in your memory and write stuff down and when you come back, when you come in we can talk about that.

SH: So then you talked and she took notes, or did you just give her that piece of paper?

S4: I gave her a copy of it.

SH: You gave her a copy of it.

S4: And I have my original and stuff like that.

SH: Okay, do you remember the date when you wrote that?

S4: No, I don't.

SH: Okay.

S4: It was this quarter; I took notes but then I wanted to hand-write it out, just that way I could remember it.

SH: What time did I enter the Multicultural Center?

S4: I don't remember.

SH: You don't remember what time it was?

S4: No, because we started eating at six-thirty and then we usually open up at seven so it was somewhere around the seven o'clock time, [SH: M-hmm.] within that time frame, [SH: Okay.] because it's – sometimes we start earlier, sometimes we start later, depending on the stuff we do, so I don't remember the specific time. I don't wear a watch.

SH: Well, were you guys – were you eating when I came in? Were people eating?

S4: We'd already opened up in prayer, [SH: You'd already opened up in prayer.] so people might have still been eating, like, one or two people might still have a pizza slice in their hand, [SH: Okay.] but it wasn't, like, a formal eating time. [SH: Okay.] We had already opened up.

SH: Okay, did you discuss any type of resolution for this incident with Ardith Tregenza when she took your statement? Any sort of like, sanction that would result from this? Did she discuss any kind of – [S4 laughing]. I'm sorry. Bear with me.

S4: Don't worry, it's okay.

SH: Did she discuss what would happen to me, during this, when you discussed it with Ardith?

S4: One thing, is I'm the kind of person that when I am sitting through something I like to know the whole process, you know? So if something was to happen, like I remember I asked her specifically, and I was like, "Okay, so, since I met with you what's supposed to happen now," you know what I mean? Because I don't want to, like –

SH: Yeah.

S4: So what I did was, I kind of asked her, so what goes on from here, what normally happens in a situation like this because I'm very unfamiliar with how judicial system is. My other school is different so I just asked her what would sometimes happen with stuff like this because I don't know. Like, do you –

SH: Did she mention if there would be a punishment or – ?

S4: All that she said was every situation is different, in that sometimes you know, people, like, you know, it just depends [indistinct] You know what I mean, it just depends on the situation. [SH: Right. Right.] That's how I took it.

SH: Okay, that's good. Do you remember me being told that I was interrupting a Bible study meeting?

S4: Sorry. [long pause] Way back when – [laughs] What I'm thinking, I'm trying to remember, as I remember, is that – I know [Student 7 first name] said that you can't put this up and then I can't remember who, but somebody was like, "Oh no we are in the middle of a meeting."

They might have said it, but I don't know; there was like two or three people talking to you at the same time.

SH: So there was more than one person talking to me at the time?

S4: Maybe, and so I'm not really specifically sure. Just like, maybe you might have heard that. But I think, I almost remember because that's how I took it as somebody told you that we're in the middle of a meeting.

SH: But you're not really sure who said it or anything like that?

S4: Because there were so many people talking at the same time.

SH: So you're not sure if they said it even at all or [indistinct]?

S4: It went by really fast.

SH: How long do you think the whole situation took?

S4: Five, ten minutes at the most. Five minutes probably, seven.

SH: When I was notified of the posting policy, did I leave right away?

S4: Yeah, to my recollection. I felt there was [indistinct].

SH: Do you ever hang out in the Multicultural Center, just lounging there or hanging out or to study?

S4: Yeah.

SH: Do you ever eat in there?

S4: No.

SH: You never eat – when do you hang out?

S4: Like, if I have fifteen minutes between classes I go in there.

SH: Okay. There's usually other students in there hanging out? Is that fair to say?

S4: Yeah, most people aren't talking to each other or anything like that. A lot of people sleeping or, well, you know what I mean.

[multiple voices laughing]

SH: Yeah, okay. Yeah, yeah. Okay, was I engaged in conversation first or did I address them, the students in the Multicultural Center first or did they address me first?

S4: They addressed you first.

SH: Oh they did? And the first thing was “Don’t post that flier?” They told me not to post the flier?

S4: Yeah. I don’t know the exact phrase, but when you – [indistinct] [laughing] Sorry, I laugh a lot. [laughing]

[SH: That’s, that’s, so – I know. It’s fine.] [AT: We need to laugh right now.]

SH: Was there anything on the door that would have told anybody outside that there was a Bible study meeting?

S4: No.

SH: There was nothing? Okay.

S4: Normally, well, like, the way we were sitting, I guess I would just assume it because sometimes there are meetings that are held in there a lot. Like if it’s a Hispanic organization or anything like that normally if I am walking by. Because last night we were in Bible study, too, and people were like, “Oh,” people just walked by. Like you could see people walking by and see we were in a meeting.

SH: There was no type of notification that it was a Bible study or –

S4: No.

SH: Do you believe that my presence disrupted the meeting or was it the flier that disrupted the meeting? If I would have walked up and, you know, put the flier up and then left, do you think that would have been a disruption? If nobody would have said anything, would that have disrupted the meeting?

S4: I think so, just because there was no acknowledgement about, “I’m sorry; I just walked into a meeting.” Like it was her – like, because, like, normally, I mean if I was in that situation, if I walked in and there was a group of people sitting there, like, “Oh, you know, I’m so sorry” and, kind of, you know what I mean?

SH: So that was a disruption that I didn’t say I’m sorry I walked in –

S4: Yeah. I think that’s one thing. Because I guess something about the way you were walking in. Like, you had a paper kind of folded up. It kind of just seemed, you know, very purposeful, like I’m going to walk on in and, you know, maybe I’m not too sure about – that’s just how you came across.

SH: Okay.

S4: And, I think just kind of acknowledging that there was a group of some people sitting there [SH: Okay.] in a circle, [SH: Okay.] saying “Oh, I’m sorry, well, I’m [indistinct] for a minute.”

SH: Okay.

RG: Do you have any other questions?

SH: I – [S4 laughs] I think that's all the questions I have. Thank you.

[conversation all around]

AT: I have no redirect for [S4 first name].

RG: Go back to the pizza dinner time: that was six-thirty to seven?

S4: Yeah.

RG: Do you remember that fairly clearly, do you know?

S4: I can't remember if I was on time or late, [laughs] but I usually come in between six-thirty and seven and then I eat pizza.

RG: Do you recall any of the discussion that you were having during that early part of the meeting while you were there, that you were involved with or that you heard others having? Do you recall any discussions, the topic of any of the discussions?

S4: I'm just trying to think what I normally do. What I normally tend to do lately is talk with the people about my week or like I have some people in the same organizations with me, so I don't specifically remember.

RG: Do you recall yourself or hearing others talk, and this is before Steve would have come into the room, talking about either the flier, not the flier that was in his hand necessarily, but the flier, other copies of the flier or the subject of the speaker the following night or the speaker himself?

S4: I had heard stuff about the speaker, but [RG: But did you hear discussion?] not – I remember that earlier, prior to the meeting time, like in between classes. [indistinct]

RG: But nothing between six-thirty and when Steve came in?

S4: I don't remember.

RG: Thank you. This witness is excused and reminded of the confidentiality policy and the understanding agreed upon. [S4: Yeah.] Thank you. [conversation all around]

S4: Yeah.

RG: Thank you.

SH: Thank you.

AT: [indistinct] for future reference. But thank you.

S4: Do I have to keep this?

RG: You can keep that.

S4: [indistinct]

LF: What is your –

SH: I don't think my witness is coming.

LF: [indistinct]

SH: The other is not going to be available 'til after two.

AT: I still have witnesses.

SH: You still have witnesses – [indistinct]

SH: [indistinct, low voice]

[door noises]

AT: [indistinct, conversing w/ woman]

AT: My next witness is [full name of Student 5].

STUDENT 5 [S5]: Sorry.

RG: [S5 first name], do you agree that the testimony you give will be honest and truthful?

S5: Yes.

RG: This hearing is confidential under University policy. Do you agree to abide by this policy?

S5: Yes.

AT: [S5 first name], are you a student at Cal Poly?

S5: Yes.

AT: How long have you been a student here?

S5: Three years and two quarters.

AT: Okay. What is your involvement with – and I, and you've got to correct me if I am using the wrong title – with [a campus organization]?

S5: I'm the volunteer director for [the organization].

AT: You spend a lot of time in their office, which is located next to the Multicultural Center?

S5: Yes, I spend a lot of time in the [same organization's] office and in the [indistinct] Women's Center.

AT: We've got "WC" up there. [S5: Yeah.] How about the Multicultural Center, do you spend time in there too?

S5: Yes, not as much but all our doors are connected now so it is nicer.

AT: On November twelfth, did you observe this student – this is Steve Hinkle, by the way – did you observe this student come out of the MCC complaining about Dr. Cheney calling the cops on him?

S5: Yes.

AT: Did he seem frightened or intimidated in his manner or in his comments about Dr. Cheney?

S5: No.

AT: Okay, did you go into the MCC after that and speak with [Student 6 full name]?

S5: Yes, [AT: Could –] the people in there.

AT: Or the people in there. Could – did the students in the MCC seem upset to you? What caused you to go in there?

S5: Well, I went in there because I thought it was very interesting that Dr. Cheney was there. I know her and she's never in the MCC. And so I thought "That's weird; why is Dr. Cheney upstairs?" And I knew about the flier during that day and I made the connection that he was coming out of his Republican student group meeting, but he was coming in MCC so I knew something was going on and I was like "Wow, why has Dr. Cheney called?" so I went in there and I said "Oh I just heard that Dr. Cheney was calling the cops." And I was like, "Oh you're not Dr. Cheney"; it was [Student 6 first name], not Dr. Cheney. And I left. Does that make sense?

AT: Okay. Okay. And that does make sense. Did the students in the MCC seem upset to you, or could you kind of describe what you saw or how that might be different from what you normally would observe in there?

S5: Well, it was a long time ago so, but, I knew they were upset because [Student 6 first name] felt they needed to call public safety and saying that they were – somebody was trying to put a flier up. And yeah, I distinctly remember enough where they were upset enough that they felt threatened to call public safety and I said, well, I just heard him say that it was Dr. Cheney that was going to call public safety or the cops. "Is Dr. Cheney here?" "No," they must think "Oh, they must think one of us was Dr. Cheney," you know, I am pretty sure. And then I was wondering if he had put one up in the community service office. And had not and later found out that yeah, he put one up in [indistinct].

AT: Okay. And those are all the questions I have for [S5 first name] at this point.

SH: Do you deny that I put a flier up in Community Services? Is that what you said?

S5: That's what I heard. That.

SH: That's what you heard, so you don't know that for a fact?

S5: Well, after the fact [indistinct]. [SH: Okay.] You asked me.

SH: Okay, because just for the paper I would like to clarify that I went and tried to post one and they said they would put it on the bulletin board for me.

S5: Oh [indistinct].

SH: Right, I was never denied [indistinct] the fliers. They said they'd post it for me. Where were you sitting when you observed – you said you observed me. Where were you at?

S5: I was outside the SCS office.

SH: You were outside the SCS office. [S5: [indistinct]] How did you know that I was a member of the Cal Poly College Republicans?

S5: Because you were walking in there.

SH: I was walking in there?

S5: You were, yeah, you were with - You might have been with [student first name] [indistinct]. I know [student first name] [indistinct].

SH: Okay, I might have been with him? Let's see. Have you discussed the incident in question with any faculty members?

S5: No.

SH: No, okay, were you contacted by Ardith Tregenza in Judicial Affairs, or did you contact Judicial Affairs?

S5: I was contacted by the staff members of the Community Center [SH: Okay.] and was asked if I knew about the incident and I said yes and they asked that [indistinct].

SH: Okay, who was that staff member who notified you?

S5: It was [indistinct], you know, from the Community Services office and then my response to her note was accepting [indistinct] Community Center [indistinct].

SH: Okay, when did you meet with Ardith Tregenza to discuss this?

S5: Last Friday, over the phone. Friday.

SH: So you weren't actually in the Multicultural Center.

S5: While you were there? No.

SH: You weren't.

LF: You just talked to her this month?

S5: Yes.

LF: Just, like, last week?

S5: Yes.

AT: We've been playing phone tag for...

S5: Yes, I got that e-mail. [indistinct]

SH: Okay, okay, so since you weren't there, you're not totally clear on any of the details?

S5: I'm clear on exactly what you said that you said, you mentioned Dr. Cheney; that's become a
–

SH: So you're only clear about what happened after I left?

S5: Yeah, I wouldn't have gone in –

SH: You weren't in the Multicultural Center?

S5: Correct.

SH: Okay, okay, the witness wasn't in the Multicultural Center so, [LF: [indistinct]] yeah, I don't think any of my questions pertain to her, since the witness wasn't actually in the Multicultural Center.

RG: Do you have any questions?

SH: I don't have any other questions.

RG: Ardith?

AT: Nope, well I have one other question. Is it common or is it unusual for the University Police to be called to any of those offices that you're familiar with there in the UU for some type of disruption or to remove a student?

S5: Very. I've been here a semester and three years, and [indistinct]. I've never witnessed that or heard of it happening.

AT: How many hours a week do you estimate, besides your employment time, and just your regular time, how many hours a week do you think you're in this area?

S5: Not including when I'm – ?

AT: Including when you're volunteering, including when you're just hanging out.

S5: Twenty-five to thirty hours a week.

AT: Okay. I've never walked by without seeing you. [chuckles] Okay, that's all the questions I have.

RG: Who is Dr. Cheney?

S5: Who is Dr. Cheney? She's a professor in the Ethnic Studies department.

RG: Witness is excused and reminded of the confidentiality policy and her understanding to abide by it.

AT: Okay.

SH: I need to use the bathroom really bad. [indistinct] go outside [RG: [indistinct] break?] –

RG: We're back on record. Witness, please identify yourself for the record.

STUDENT 6 [S6]: [Student 6 full name].

RG: Do you agree that the testimony you will give will be honest and truthful?

S6: Yes.

RG: This hearing is confidential by University policy. Do you agree to abide by this policy?

S6: Yes.

RG: Your witness.

AT: [Student 6 first name], are you a student at Cal Poly?

S6: Yes.

AT: How long have you been a student here?

S6: This is my fifth year.

AT: Okay. Were you attending a Bible study meeting in the Multicultural Center on the evening of November twelfth?

S6: Yes.

AT: How many meetings do you estimate that you've attended previous to that? Do you attend pretty regularly?

S6: I've been part of the Bible study group for over a year now.

AT: Okay. And you attend weekly?

S6: Yes.

AT: Okay. Is there a typical agenda or structure to the meetings that is usually followed, or almost always?

S6: The first half hour we eat, fellowship, and then we start the lesson.

AT: Okay, was the meeting planned the same for that evening?

S6: Yes.

AT: Okay. Could you describe what happened that evening?

S6: We were having pizza for dinner, I remember that, and we were just sitting around having our pizza and – should I say his name?

AT: Yes.

SH: Steve. [AT laughs]

S6: Steve walked in and, and I noticed that [Student 7 first name] had this look on her face and she goes, “Don’t post that,” and it just kind of caught my attention because [Student 7 first name] is usually positive and she never really does anything like that, and he said, “Why?” and she said, “Well, has it been approved?” And then he goes – and then I jump in and I say, “Well, it’s offensive and [indistinct] it’s offensive.”

AT: Is this the poster that we’re speaking of?

S6: Yeah, and he looks at the flier and he looks at me and he says, “How do you know it’s offensive?” And I [indistinct] and I looked around the room and I said, “I just told you it’s offensive.” And then he said, “Well, why can’t we sit down and talk about this?” And I said “Either you can take that elsewhere or I can call public safety.” And then he proceeds to try to debate with me, and I went to the back and called public safety and let them know that we were having a disturbance and [indistinct] was trying to post offensive literature in the Multicultural Center. And I guess in the middle of that phone call he left. [indistinct]

AT: And when you went back to the front, was he there?

S6: No.

AT: Okay. Did his actions disrupt the meeting for you?

S6: Yes.

AT: Okay. Did he appear frightened, threatened or intimidated to you during his time or his conversation with you while he was in the Multicultural Center?

S6: Not at all.

AT: Is, has this ever happened, have any of your meetings ever been disrupted before, to this magnitude, in your experience?

S6: Nope.

AT: Okay. Did he call you by name while he was in there?

S6: No.

AT: Okay. He never addressed you or asked you what your name was?

S6: No.

AT: You weren't wearing any identifying name tag or anything?

S6: No.

AT: Okay. Did [S5 first name] come in after he had left?

S6: No, I don't think so, because after that I was kind of upset and I went out and I went to talk to [first name of student government officer], [office of said student government officer]. She's a friend of mine and I was just – which is why I asked her what happened. [indistinct] I was telling her what had happened, kind of listening to her. So after that, that's when I went out.

AT: So it was very upsetting for you?

S6: Yes.

AT: You left the Bible study and you didn't participate and went out to find [first name of student government officer]?

S6: I went to talk to [first name of student government officer] and then I went across the street to the theater and I talked with [student full name], who is my friend, as well. [indistinct]

AT: Those are all the questions I have for [Student 6 first name] at this point.

SH: Have you discussed this incident with anyone from the University, like faculty members, administrators?

S6: Yes.

SH: Who have you spoken with?

S6: The Multicultural Center coordinator, Mark Fabionar, and I talked to my boss about it.

SH: Who is that?

S6: That's Donna Davis.

SH: [indistinct] Okay. Did you meet with Dr. Morton [S6: Yes.] and discuss this with him? [S6: Uh-huh.] On what day?

S6: I discussed it with him, gosh, it was a few days after that, because – yeah, it was a few days after that; I don't remember the exact date, but I'm sure his secretary has it on record.

SH: Okay. Who else did you was at that meeting? Do you remember?

S6: It was [student full name], Mark Fabionar; there was someone else, maybe it was just the four of us and Dr. Morton, and [full name, possibly a student]. He was there for about half the meeting [indistinct].

SH: Okay.

S6: Yes, because I felt like he shouldn't have [indistinct].

SH: What was discussed at the meeting?

S6: What was discussed at the meeting? We discussed the fliers and how they were offensive to us and how we felt. [SH: Okay.] And what would be done about that.

SH: What would be done about it?

S6: Yes.

SH: Meaning?

S6: We suggested that things be done because we felt like we were being, as it says in the Student Code of Conduct – making a mockery of our culture. We felt something should be done about it.

SH: Okay. Was the Cal Poly College Republicans mentioned during that meeting?

S6: Yes.

SH: In what context?

S6: My quote was mentioned because oh, I just said well, "Hey, this isn't something we should be standing for, handing fliers out, disrupting our meeting," stuff like that.

SH: Okay. Was any discussion of past Cal Poly College Republicans fliers in the room?

S6: Yes.

SH: Okay. In what context? [indistinct, covered by S6]

S6: Regarding the student proposal that went on the spring before; some other offensive College – fliers that people found to be offensive.

SH: Okay. Did you contact Judicial Affairs, or were you contacted by Judicial Affairs?

S6: I contacted them.

SH: You contacted them. On what date?

S6: It was before the end of the quarter. I remember that. So it must have been the ninth or tenth week maybe; the thirteenth is the end of the quarter. But initially it was Dr. Morton. I didn't know the proper channels.

SH: Okay. Who organized that meeting?

S6: Me and –

SH: Dr. Morton and [student full name] –

S6: Oh, [student full name] and myself.

SH: You guys organized the meeting?

S6: Yeah.

SH: Okay.

S6: [student first name] is a, she's a student assistant at the Multicultural Center plus a friend of mine, and she was also hurt by the flier.

SH: Okay.

S6: [indistinct]

LF: [indistinct] She's just a friend?

S6: She is.

LF: I'd like to ask the next question.

S6: She's normally in there though, because she does work there, so it's not uncommon for us to be in and out, studying, working, hanging out.

SH: In the Multicultural Center?

S6: M-hmm. [SH: [indistinct]] But she wasn't there.

SH: Okay. How did you know about Judicial Affairs? Were you familiar with Judicial Affairs before?

S6: I wanted to know what were the proper channels to take to follow up with how we could [indistinct] the incident and I know what-was-her-name at the time – Dr. Cheney was going through a similar thing because I mean, he had apparently, I was told that you thought I was Dr. Cheney so, because we look so much alike and, uh –

LF: Are you being [indistinct]?

S6: Yes, I'm sorry. But I was told that I was misidentified as Dr. Cheney and Dr. Cheney wanted to take action because she felt that she had been – there was an e-mail campaign regarding – and apparently letters written to Dr. Baker and the provost and Dean [indistinct] regarding this. And -

SH: So you found about Judicial Affairs when Dr. Cheney was operating through Judicial Affairs, and that's how you found out about it? I mean, how did, like, did you discuss it with Dr. Cheney and did she mention Judicial Affairs?

S6: Well, Dr. Cheney visited me because she felt, she was like "What's going on with my name?" and I'm like "Yeah, I know you weren't there. It was me. I guess, you know, have been misidentified." and Dr. Cheney didn't appreciate letters being sent, you know, to supervisors about this when it had nothing to do with her. And she, yeah, she was going to Judicial Affairs or something.

SH: So that's how you found out that that was a channel? [indistinct, covered by S6]

S6: And I felt like "Yeah," I said "Well, hey, this is what I want to do." I didn't know it was an option available to me. I said "Hey I'm going to do that." I said "Can I do that too?" And she said "Well, you can go ahead and make a statement," and that's what I did.

SH: Okay. Okay.

S6: Because, you know, I figured that was [indistinct]

SH: Okay. You said you'd been talking about the flier all day, [S6: M-hmm.] prior to this incident.

S6: M-hmm [yes].

SH: Were you guys talking about it in the Multicultural Center before I came in [indistinct]?

S6: You mean immediately before you came in?

SH: No, you know, just in general, like, were you in there talking about it?

S6: This is the first day of the fliers and earlier that day I know I stepped on campus and talked to my friend, [student full name], who is also a personal friend of mine who worked in the Multicultural Center, and he was very disturbed by it and there was just – there was a lot of talk about it that day, earlier that day, but not immediately before, no. I was kind of feeling a little better about this [indistinct].

SH: Had you discussed the flier previously in the day, with anybody that was in the room when I entered?

S6: You mean immediately before?

SH: No, no, just any time before, during that day when you saw the flier, had you discussed the flier with anybody who was in the room when I entered?

S6: I more, yeah, I was listening, because [student first name] was going on. He was very disturbed by it; he was very upset.

SH: Okay. So the other students had heard people talking about this too, like?

S6: Some students had heard about it. Yes, [SH: Some students had heard about it. Okay.] Yes. [Student 7 first name] works there, [Student 7 first name] was there. [Student 3 first name] – well, [Student 3 first name] asked if he could return some actually. He knew about it. And there were probably a few others.

SH: Okay.

S6: Some probably didn't, and [indistinct].

SH: At the point when I walked into the Multicultural Center, how much did you know about the speaker, the event? Did you know anything about the event or the speaker?

S6: As far as, I mean, these fliers were up advertising.

SH: Did you know [S6: – this event.] anything about who the speaker was or what he was going to talk about, or –

S6: No.

SH: Did you know who the sponsoring organization or the club was?

S6: Well, it was not on there, but after some research we found out who, because it was ASI co-sponsorship with CPCR. [SH: M-hmm.] Stuff like that.

SH: So you knew who the sponsoring organization was before I entered?

S6: Yes.

SH: Okay.

S6: Yes. I am also a member of CPCR.

SH: All right; when did you join CPCR?

S6: I joined in the beginning of the quarter, about November.

SH: So after this incident you joined CPCR, correct?

S6: Yes.

SH: After you were offended by the Cal Poly College Republicans flier, is that correct?

S6: Yes.

SH: Okay.

RG: What is CPCR?

SH: That is [with S6] Cal Poly College Republicans.

RG: Okay. Do you have another question?

SH: Yeah, I do, I do. [AT: [indistinct]] I'm writing.

RG: You can ask questions. [indistinct]

Female voice: Professor, stop him. [Male voice: Okay, um –]

SH: All of the other students who have given eyewitness accounts of the events say that I wasn't informed of the posting policy until the very end, at which time that I left. Would you agree with that?

S6: No.

SH: No?

S6: [Student 7 first name] told you about it in the beginning.

SH: Do you think all the other students are wrong? [indistinct, covered by RG]

RG: That's, I know that she is not your witness and you can ask leading questions, but –

AT: I'll object: she doesn't know what the other students said. You're telling her. You can ask her what her opinion is; [SH: [indistinct]] you can ask her what she observed. [SH: [indistinct]]

RG: Could you rephrase the question please?

SH: Okay. Why do you think that you are the only one who has mentioned this or who is claiming that I was told in the beginning about the policy?

S6: I don't know; I don't even want to speculate. Yeah, I don't know.

SH: Okay.

RG: What is it you're trying to –

SH: Well, if she's claiming, you know, if she told me from the beginning that there was some sort of posting policy, you know, I just have to object to that. My recollection, I don't recall that being right until the end. And all the eyewitness accounts also support that, and the testimonies today support that I wasn't notified until the very end.

RG: Okay, so she's answered your question.

SH: Right.

RG: And when we get to your case then I would stress that and whatever evidence or testimony you give yourself, or evidence.

AT: I have a question. He seems to be giving testimony in his clarification and I'm wondering if you're going to be testifying later in the hearing. If you are, but if you're not, I don't know

that I feel it's fair for him to give testimony in his clarification of the questions. Will you be giving testimony later in the –

SH: I'll be giving the closing statement, yeah.

AT: Will you be giving testimony where I'll be able to question you?

SH: If you want to talk to me, I think that's appropriate. If you want to ask –

RG: I think she's asking will you be a witness subject to cross-examination.

SH: If Judicial Affairs wishes, I don't –

RG: It's up to you. It's your right.

SH: I wasn't planning on presenting myself for questioning. I mean, I don't have a problem with it, but no, that wasn't part of my plan.

RG: So you will not be a witness?

SH: Umm –

Female voice: Are you going to dismiss that?

SH: I just don't understand the significance of –

RG: Well, as in the case this morning, where my understanding of why you wanted to have her come in was that you were going, that that was part of the foundation for testimony that was going to be entered in to support your case.

SH: Right.

RG: And then you don't have documents or you do not have a witness to speak to the point you're trying to draw out in your cross-examination of her witnesses. But if you're not going to testify as a witness, then –

SH: How would it be possible for me to give a closing statement if I'm not a witness, I mean, if I am representing myself [indistinct] closing statement?

RG: A closing statement isn't subject to cross examination.

[indistinct conversation between RG, SH, woman]

Female voice: Okay. Thank you.

SH: Okay, now that that is clarified. Let's see. You mentioned today and you've also mentioned in a written testimonial that the room was full of black students.

S6: M-hmm [yes].

SH: Well, what's your significance of that statement?

S6: Because the, that's testifying to the fact that the fliers were offensive: telling black students it's okay to leave the plantation. And in my mind, that's making a mockery of my history and my ancestors, slavery, and to see these fliers posted around campus [indistinct].

SH: Have you read Mason Weaver's book?

S6: No.

SH: Did you come to his speaking event?

S6: No.

SH: Okay. Did you notice the flier when you told me not to put it up, or were you just telling me in general terms that I can't post fliers there?

S6: No. I knew what it was before. I saw it in your hand.

SH: So you noticed it and then you said "Don't post it there?"

S6: No, I didn't say "Don't post it."

SH: I mean, you came out and said it was offensive. Is that right?

S6: I – after [Student 7 first name] told you it was not approved, I told you it was offensive, in addition to, [SH: Okay.] you know, in addition to her comment.

SH: Okay. At the end when I was notified that it needed to be approved by the Multicultural Center, you made a phone call in the back, stress that –

S6: Calling public safety; campus police came.

SH: What were you guys doing at the moment I walked in?

S6: We were having fellowship.

SH: You were having fellowship?

S6: Yup.

SH: What specifically were you doing? Were you eating, were you –

S6: I was eating.

SH: You were eating?

S6: M-hmm [yes].

SH: Okay. Was there a sign outside on the door that would point to the Bible study meeting?

S6: No. There usually isn't a sign on the door, no.

SH: Do you guys usually –

S6: For meetings.

SH: There usually isn't a sign?

S6: No. For most meetings, no.

SH: Okay.

S6: CPRC, we don't have a sign either.

SH: There actually is a sign outside that says this organization is holding a meeting [indistinct].

S6: For a meeting in the conference room [indistinct], [SH: Which is different from the Multicultural Center.]

SH: Did you go to E-plan and file and schedule this event?

S6: No; we're not an official club.

SH: You're not an official –

S6: But anyone can book the Multicultural Center that wishes to.

SH: So the gathering that night was not an –

S6: No, not an official club. But we're a regular group that meets weekly, every Tuesday in the Multicultural Center for the past about two years.

SH: How do you arrange that?

S6: We go through the Multicultural Center coordinator, Mark Fabionar.

SH: Okay.

S6: And they have a scheduling calendar.

SH: Was this posted on the scheduling calendar?

S6: Yes.

SH: How would I find out about that calendar? How would I find out what was scheduled?

S6: You would – there's a – they have – they keep a calendar in the back room, and Mark has it, or any of the other Multicultural Center staff members.

SH: M-hmm.

S6: But there was, you know, clearly a group of people meeting.

SH: Okay. Why would you say that?

S6: Because there was a group of students sitting around talking, fellowshiping.

SH: Do students ever –

S6: But pizzas, there's only [indistinct] around the room.

SH: Do students ever get pizza and sit around and talk?

S6: At CPCR meetings.

SH: In the Multicultural Center? Do students ever sit around and eat pizza and talk?

S6: I'm sure they do.

SH: You're sure they do?

S6: Like they do when eating pizza.

SH: Okay. [pause]

S6: And Bibles were out. You didn't – yeah, we had Bibles.

SH: Bibles were out. [S6: M-hmm.] Okay. And you said I asked you "Why can't we sit down and talk about it?"

S6: Yes.

SH: Okay. And you told me "Take the flier elsewhere or I will call public safety?"

S6: Yes. I said "Take that elsewhere or I will call public safety." And then that's when you tried to debate, even more debate and I went and called public safety because I wasn't, I wasn't up for it. It was just, the timing was horrible. It really –

SH: Okay...[inaudible]...hate speech?

S6: No, I think it takes –

SH: Uh –

AT: I'm wondering – I'd like to object we are getting off the track of the – this isn't relevant to the charges against you.

SH: Again, it's important for me to clarify the emotions involved when I walked into the Multicultural Center. I have a written testimonial from her in which she claims that these fliers are hate speech. This is in my personal file.

S6: I never claimed it was hate speech.

SH: Did you sign for this right here?

S6: Yes.

SH: Okay. Should I read what you said?

S6: Go ahead.

SH: "I hope my Bible study group can receive a public apology from the student printed in the *Mustang Daily* as well as on texts posted around campus and in the classroom for this hate speech against us."

S6: Okay.

SH: Okay. That is in my personal file. This is information which Ardith Tregenza used in guiding this investigation and determining resolution towards me. This is appropriate for this because it's helping me determine the emotions involved and the perceptions of the students when I entered the Multicultural Center, so that's why I am asking the question.

RG: Oh.

SH: Okay, thank you. So –

RG: I haven't decided yet.

SH: Okay.

RG: What's the purpose again for the question?

SH: It's important for me to have a full understanding of the emotions involved and the students' reactions towards me as I entered the Multicultural Center, so the students' perceptions of what I was doing, what I was attempting to post, is important if all of us are to fully understand the emotions that were involved and the perceptions of that event.

RG: Yeah, but she's already testified that she found the flier offensive.

SH: Okay.

LF: Is it possible just to [indistinct] down the written statement, just to ask the question -

RG: Well, a written statement hasn't been really received, either. I haven't seen it.

SH: You can see it right now.

LF: I don't know how that works.

SH: This is – it's relevant. This is in my personal file.

AT: It's part of the investigative notes in your personal file. It's –

RG: Can I –

SH: This is information that you used to determine that we needed to initiate an informal meeting. This is information that you used to reflect on these entire proceedings, and since this is a critical part of the proceedings, I think that –

AT: It is information I considered. [SH: Right.] I took in a lot of information. [SH: Right.] There's many things in there that I am not presenting. There are statements of people in there I'm not calling as witnesses. I feel that [Student 6 first name]'s testimony today is speaking for itself.

SH: Okay. Okay, well, since you also considered this information, then it's important for me to understand the motivation involved throughout this proceeding. And if that's something you consider, then it should be used on my part as something that motivated you in the proceedings and the judicial action against me.

RG: Well, but it's still not part of the record, and it's not part of what I would consider, so unless it's going to be introduced into evidence, I would never see that. You know, I think if you want to proceed with a question like why she thinks it's offensive, as long as you don't dwell on it too much – and that's pretty subjective –

MALE VOICE: [indistinct]

LF: I think we'll run 'til four. When are you supposed to be meeting him?

SAME MALE VOICE: It's supposed to be at an eight AM [indistinct] Baton Rouge meeting.

LF: Well you didn't set it up, so Ardith?

SAME MALE VOICE: [indistinct]

AT: At this time I'm willing to submit your statement as evidence. Do you have a problem with that?

S6: If you have more questions for me, then I'll hold on. Whatever you want to do.

SH: I don't believe I have any more questions.

RG: Okay, what, so you're retiring the last question?

SH: No, no. The idea still stands that she thought that the flier was hate speech.

RG: Well, I don't think I want to hear that question answered. I understand that she answered the question, that she thought the flier was offensive. Do you have any more questions?

AT: I do. Do you have any more questions? [SH: No.] I'm sorry.

AT: Okay, [Student 6 first name], you said you're a current member of the Cal Poly College Republicans?

S6: Yes. [indistinct]

AT: Okay. So you attend those meetings? [S6: Yes.] You have been attending those meetings for how long?

S6: This quarter, since the beginning of this quarter.

AT: Okay. Do [S6: They –] they discuss Steve Hinkle's disciplinary case at those meetings?

S6: Yes, they do, as part of the agenda. It's been part of the agenda for two or three meetings; for a couple meetings, I don't remember.

AT: Okay. Could you describe to me what's discussed or what's stated?

S6: It's called "the Judicial Affairs debacle" and they tell the club that Steve is threatened with expulsion and –

RG: Excuse me, where are you going with this line of questioning?

AT: I'm going to – he's – all they've been talking about who talks about this, who brought it up, what University employees, and, like, there's a conspiracy against him and I feel that he basically chooses to publicly discuss this judicial matter and has brought it out in the University publicly himself as well, and I'm trying to draw attention to that to counter or to balance his seeming line of questioning that the University is discussing his case outside the bounds of good practices or his rights as a student here.

RG: Okay, but just be real careful to limit the line of questioning to that.

AT: Okay.

RG: [indistinct]

SH: I know that if I have implied that there's a conspiracy and if you wish to have a discussion about my ability to speak about my judicial proceedings, I would encourage you to look at the FERPA document stating that the privacy is on the obligation of the University.

AT: Correct.

SH: And not on me. So that being said –

AT: Your questions today have been how people learned about things and trying to draw attention to who knows about it. My point is that people could learn about this from public – attending public meetings [SH: Oh, sure.] on campus, and there are many sources of information — or misinformation, as it were — about this case.

RG: Okay.

AT: Okay. Was club discipline discussed in your meeting with Dr. Morton and those – the students called the next day, did they discuss club discipline against your club or against the Cal Poly Republicans? Was that brought up or was that mentioned as an avenue for possible?

S6: Oh, we talked about, like, the flier policy and why it is allowed, because initially there was a problem in the past—we looked it up—fliers being posted without clubs putting their name in the fliers, and I guess initially we looked at a sign saying that it was our policy if they don't have anything, there's nothing in the University policy, so we wanted to know what could we do to make it part of University policy for folks to claim responsibility for fliers that were put up.

AT: You've mentioned a letter that was written about Dr. Cheney that was sent to President Baker. Who wrote that letter?

S6: Steve Hinkle.

AT: Okay. Is the Bible study –

S6: It was either Steve Hinkle or his advisor, one of them. And then there was an e-mail [indistinct].

AT: Okay. Was the Bible study originally sponsored by Campus Crusade, which is an organized, recognized club?

S6: It's part of their outreach, yes.

AT: Okay. I think those are all the questions I have.

RG: Further questions?

SH: How did you find out about the letter?

S6: How did I find out about the letter?

SH: Right, that I wrote.

S6: From Dr. Cheney.

SH: From Dr. Cheney?

S6: M-hmm [yes].

SH: She told you about the letter?

S6: M-hmm [yes].

SH: Okay.

S6: Yes, yes.

SH: What's that? Did you see the letter?

S6: Yes.

SH: You did see the letter. Okay. So Dr. Cheney shared the letter with you?

S6: Yes; the letter that you shared with her, Dean Hellenbrand, about Dr. Cheney being with you at the Bible study when she wasn't.

SH: Okay.

S6: I guess you mistook me for Dr. Cheney [SH: Right.] because we have long hair and both [indistinct], I'm a little heavier, I had my hair down and I don't regularly wear glasses.

RG: Are you finished with that?

SH: I'm finished, yeah.

RG: Ardith, you have any other questions?

AT: I don't.

RG: Back to the Bible study meeting.

S6: Yes.

RG: All right, do you recall any time where the student charged's, demeanor was either threatening or abusive to you or anyone else?

S6: You're talking about Steve's demeanor? Was his demeanor threatening?

RG: M-hmm, or abusive?

S6: No.

RG: You called the campus police that evening. What did you tell them?

S6: I told them that there's someone here in the Multicultural Center trying to post offensive literature.

RG: You didn't say anything about disrupting the meeting or –

S6: No, not directly at that point, no.

RG: It was just to the point of the poster not being authorized or, in your opinion, being offensive?

S6: Yes, and then the meeting too – a disruption – but I did not mention that on the phone.

RG: You didn't mention a disruption?

S6: Yeah.

RG: Witness is excused and reminded of the confidentiality policy and the understanding agreed upon.

S6: Okay.

RG: Thank you. [LF: [indistinct]]

AT: Thank you for coming. [indistinct]

S6: I will.

LF: [indistinct] sometimes. [Female voice: Not always.] We're getting bored [indistinct].

RG: [indistinct]

LF: Okay. How are you doing on your [indistinct], Steve?

SH: If we're done here, I mean if I could get my witnesses here, they'll start [indistinct] in another half an hour.

RG: Okay. [indistinct]

RG: Okay, we're [HV: Sorry.] back on the record.

RG: And would you please identify yourself for public, as a hearing record?

STUDENT 7 [S7]: [Student 7 full name].

RG: Do you agree that the testimony you will give will be honest and truthful?

S7: Yes, I do.

RG: This hearing is confidential by University policy. Do you agree to abide this policy?

S7: Yes.

RG: All right.

AT: [Student 7 first name], are you a student at Cal Poly?

S7: Yes.

AT: Okay. Were you attending a Bible study meeting in the Multicultural Center on the evening of November twelfth?

S7: Yes, I was.

AT: Could you please describe for us what happened that evening?

S7: The Bible study begins around six-thirty, when we have dinner and kind of a fellowship, and that goes on for about a half an hour, and during that time we talked about, kind of, what happened earlier that evening or earlier that day in regards to the fliers that we saw. And a lot of people – some people had seen the fliers; other people saw the fliers but didn't know,

like, the circumstances around, like, who brought the fliers or who put the fliers and all that kind of stuff, so we were talking about that while we were eating, and then around seven o'clock we had to start a Bible study and, you know, we just encouraged one another, like, "He was talking about the slaves. You know, we need to focus on Bible study, and we can-we'll deal with that later," or whatever. And then so we started watching a video, I can't remember the name of the video, something about the End Times, and we were watching that video and then a gentleman came into the Multicultural Center. We were sitting –

AT: Was that gentleman Steve Hinkle?

S7: Yes.

SH: You can say my name.

LF: It's okay. [woman laughs]

AT: You didn't know his name at that time?

S7: No, we didn't. So he came into the MCC and he had the paper kind of folded in his hand, you know, like this, and I recognized the red coloring and I was sitting and I asked him – I said, "What are you doing?" And then that's when he said, "I'm going to put up this flier for a speaker," and then [Student 6 first name], I believe, said, "Don't do that." You know, kind of like, you know, "Don't do that." And he's like, "Don't do what?" And she went on to talk about how it was offensive to her and offensive to all of us and that's when Steve said, "Why is it offensive? How do you know it's offensive?" And they kind of went back and forth and she just said you know, like, when he, I think when he said, "Well, how do you know it's offensive?" she was just like, "Please leave; I'm going to call campus police" and that's when she went in the back and called. And I noticed that he wasn't necessarily responding to – he wasn't responding when we were saying that it was offending us and that when this is the general consensus, don't put it up, so I was like the only thing he did respond to is the logistics of it. And so that's when I said "I work here." I stood up. I said, "I work here in the Multicultural Center, and you're not allowed to put up fliers unless you consult the coordinator, Mark Fabionar." And originally I said, "When you – unless you speak with the coordinator," and that's when he goes, "Well, who is the coordinator?" and I said, "Mark Fabionar." He asked me to spell his last name. I spelled his last name and then he said, "Well, I want – can I speak with him now?" I said, "No, he's not here." It was about, I think, about eight o'clock or eight-thirty or something late, so then I go, "Well, he's not here right now; it's after hours," and then he said, "Well, when does he come in tomorrow?" and I said, "Around nine o'clock. I'm not sure specifically when he'll be in." And I said, "If you need to talk to him tomorrow you have to leave; you can't put the fliers up." And that's when he basically left and then we started Bible – well, we didn't start it again, but, you know, we proceeded with the video and then –

AT: Are you sure you saw a video that night? I don't think any other student mentioned a video, and I'm wondering if you're confusing it with another meeting.

S7: I'm pretty sure that we saw it that night. After that the police came in and – you know, the police came in and they left saying, "Well, we're looking for him right now; we just got your call. We're looking for him right now, and if you see him again, you know, let us know." And then they left again, and then we tried to continue on with Bible study, and I said – they come in a second time, saying that, "Well, we haven't seen him, but if you see

him again call us. And we're going to continue to patrol campus and look for this person." And then, and then that was about it, but it was kind of like off and on, you know, this was an issue that would he come in and then [student first name] and [student first name], they came by. [Student 6 first name] spoke to them, they came in and so it was just kind of like off and on.

AT: Okay. Did Steve's actions disrupt the meeting for you?

S7: Yes.

AT: Okay. Did he appear frightened, threatened or intimidated to you during his time in the MCC when the students were speaking with him?

S7: No. If anything, he was somewhat antagonistic, because he would pose questions and then we would answer and he wouldn't take no for an answer, like when he would say, "Well, how do you know these fliers are offensive?" and when I had told him that, you know, Mark, in order for him to put these fliers up, he'd have to go through the proper procedures, it was almost like, I don't know, he started grilling me: "Well, when does he come in? Why can't I see him now?" And I was like, "Well, it's after hours, and no one's in right now." It was really frustrating. He wasn't being very cooperative. And it was all me until [Student 6 first name] said she's calling the police station. Like there's no other, you know, there's no other way for him to put the flier up. He couldn't do it because, you know, what I told him about Mark and then [Student 6 first name] was going to call the cops, or went to call the cops. He had no other options but to leave at that point.

AT: I don't have any other questions for [Student 7 first name] at this point.

SH: You said I only left because I had no other option because the cops were called on me?

S7: Because [Student 6 first name] went to call the police and also because I told you that you were not allowed to put the flier up.

SH: Okay. Which – [S7: Mark –] had [Student 6 first name] left to call the police when you were telling me that I needed to have it approved?

S7: It was almost, like, simultaneously. I stood up when I felt the conversation wasn't progressing, wasn't going anywhere, and then I told you "You can't put these fliers up." And then during that conversation I believe [Student 6 first name] left and called the police.

SH: Okay, so when you told me that I needed to have it approved and who by, I left after that?

S7: When I told you that, and – yeah, I believe you did, soon after that.

SH: Okay. [pause] [Student 6 first name] told me that she said that I should take the flier elsewhere or she was going to call the police?

RG: Excuse me. Are you quoting from something?

SH: M-hmm [yes].

RG: What are you quoting from?

SH: A letter in my personal file, [RG: Okay.] which [Student 6 first name] agreed to in person.

RG: Are we entering that in?

AT: I think we agreed to enter it; we haven't. We can take it out and enter it as evidence.

SH: I have, you know, I have notes from my paper if you'd like me to read [Student 6 first name]'s quote from my paper.

RG: Well, we'll first decide whether we're going to enter the statement into record or not.

AT: If he would like it entered, we can enter it. Otherwise, I feel like her testimony stood for itself.

SH: I think the testimonials in my file should be entered because if they show a contradiction between –

AT: That – that – that –

SH: Could I please finish talking? Thank you. [AT: Well, I said –] I would like to finish talking, thank you. I think that these should be included because if these show a contradiction between a student's testimonials now, that could show confusion on the part of the student about what actually happened. So it's important that if these, which were taken apparently soon after the event, are different from what they're saying now – that's pretty important.

RG: What are these?

AT: I am speaking to [Student 6 full name]'s written statement which is what he asked earlier – he wanted to put into evidence. I have –

RG: This is a typewritten thing?

AT: It's a typewritten – [RG: Okay.] I have other statements in there and investigative notes that I did not plan to introduce. I felt the students' testimony today spoke for itself. If he would like to introduce [Student 6 first name]'s statement, I'm willing to do that; to discuss any of the other statements, we'll have to – I would have to revisit that.

RG: Okay. So at least as to [Student 6 first name]'s typewritten statement, is it dated?

AT: It's dated when we received it. I'd have to look at the top of it. Can I see –

SH: December first, er, December twelfth, two thousand two is when it's stamped dated.

AT: Could I see the –

SH: It's stamped in the bottom left – bottom right corner.

AT: I don't think she dated when, she, er, she did date it by her signature, which is now redacted.

RG: Well, what's the date on it?

AT: Twelve twelve.

RG: Okay, that'll be Exhibit E.

AT: We'll have to get a copy made.

RG: All right, you're familiar with it already.

AT: I am familiar with it, so –

RG: So you don't need to see it right now, so let's get it back to Steve. And you're going to quote from her statement for the purposes of what? Her statement meaning –

SH: To see if she agrees with [Student 6 first name]'s statement about how I was very [indistinct] asked to leave the meeting. I'm just making sure that she agrees, making sure that their statements are correct so that they have a full understanding of what happened.

RG: [Student 7 first name], do you understand what's going on?

S7: M-hmm [yes].

RG: Okay.

SH: I'm going to read, I'll read it again here and you can tell me if you agree with it because she has said that this is how, this exactly what she said to me; she agrees with it. She said she told me to, quote, "Take the flier elsewhere or I will call public safety." Do you agree with that? [S7: M-hmm.] That she said that to me?

S7: M-hmm [yes].

SH: Okay, okay. [RG: Um –]

S7: That might not necessarily be the, I guess, the order in which you decided to leave.

SH: Right. But those were her words, right?

S7: M-hmm [yes].

SH: Okay. At what point was I informed that I was interrupting a Bible study meeting?

S7: At what point were you informed that – [Student 6 first name] told you that.

SH: [Student 6 first name] told me that. Okay.

S7: And we had Bibles; I mean, we had Bibles with us.

SH: So did [Student 6 first name] tell me that – she didn't inform me that, you know, I don't see that in her written testimonial.

RG: Do you have a question? What's the question?

SH: I'm thinking out loud to myself.

RG: Okay. Try not to. [AT, LF laugh]

SH: Okay, all right.

RG: Mumble with Laura. [Woman laughs]

SG: Okay. Was my presence a disruption or was it the content of the flier that was a disruption?

S7: It was a little bit of both.

SH: A little bit of both?

S7: I think it was the fact that, I mean, you obviously, you came in. There's two doors, er, no, three doors in the entrance suite. There's the front door and then two side doors and most people know – that are familiar with the MCC know that we have Bible studies there on Tuesday nights. It's written; we have a log that we have that has a room reservation, and so that would actually document it with people who know.

SH: M-hmm. Is that log in the Multicultural Center?

S7: Yes it is.

SH: Okay.

S7: During the month of December, it was. It's not now because we haven't updated it. But in December it was.

SH: Sure.

S7: And so, like, when – you coming in disrupted it at that point, but I think what aggravated the disruption, it would have been okay if you had just gone through, whatever; the way I hear it discussed, the disruption was the fact that you had the flier and we had been talking about the flier and how we were offended by it earlier in that, earlier during that Bible study and earlier that day. And so when you came in with the flier and they said, you know, "Don't put those, please don't put that flier up; it's offensive to us." And then when I said – when I spoke to you and said, "You can't put this flier up because it's not approved by Mark," having to go into all of that explanation and that further conversation, I believe, disrupted it even more. And then after that when the police came on two occasions and then the conversations after that, I mean, further disrupted the Bible study, so it wasn't even when you left that it finished, but the police had to come and they had to get a description again of what you were wearing and then how they hadn't seen you again and further questions.

SH: So if the police weren't called, there wouldn't have been that additional disruption.

S7: If there was no need for the police to be called.

SH: But if the police hadn't been called.

S7: There was a need for that though.

SH: That's not my question. Could you please answer my question? If the police had not been called would there have been an additional disruption?

S7: Yes, I believe there would have been.

SH: If the police wouldn't have called. [indistinct, covered by S7]

S7: If the police had not been called, there were still other students because you – not only did you go to the Multicultural Center but you went to SCS, and so we had SCS students that came in and said, "Did he just come in and do this and do that," asking us questions. We had, like I said before – [first name of student government officer] walked by and she came in and she was asking questions. Other people –

SH: And you claim that I also entered SCS?

S7: That's what I heard. The people ca -- the people from SCS, at least, came next door and she said that he just came to us saying Dr. Cheney –

SH: Okay. Is there anything outside of this room, did I already ask this, was there anything outside the room implying that there was a meeting in there?

S7: There's no [SH: There's no –] label or no flier or anything.

SH: The only way would be to come into the Multicultural Center and look on the – look on that schedule that is there?

S7: Yes, but you went up like very, when you walked in you were like very purposeful about it.

S6: Okay. That's just – why do you think that the other testimonials don't include that?

RG: You can't ask that.

S6: Why do you think you're the only one that's –

RG: That's the same thing. [Woman laughs] [SH: Okay, um –]

LF: Pass on that, I think, Steve.

SH: Okay. Is the entrance that I entered the main entrance to the Multicultural Center?

HV: We have a – I'm sorry.

SH: Yeah, so it's right here on the board, thank you [indistinct]. Was the entrance I entered that main entrance to the Multicultural Center?

S7: Probably it gets the most traffic.

SH: It gets the most traffic, okay.

RG: Is there indeed a third door or are we talking about one door that's –

S7: There is a third door.

LF: Well, could you show us where the third door is?

AT: I think [S5 first name] made mention to it too, and I didn't request her to show it.

S7: This is the main door, SC – this is SCS, and then there's a door.

RG: Take the eraser and make a door there for us, would you?

S7: This is the door here. [SH: No –]

AT: There's the stairway down to Julian's.

SH: That's the bulletin board. There's no door there. That scribbly mark on the top left is the bulletin board.

S7: This right here?

SH: ...is the bulletin board.

AT: Yeah, but standing in the stairwell, down to Julian's looking at, [woman laughs] I know, it's bad, looking at the –

Female voice: This is the stairwell, and here's the glass with the double doors.

S7: Okay, oh, this is the [indistinct, covered by female voice].

Female voice: And that's the main entrance, right there.

S7: Okay, and then this is the side door?

AT: We were wondering where the side door is. [S5 first name] said there's now a connection and there's – the two offices are connected by a door; is that correct?

S7: Yeah, I believe, and this could kind of throw everyone off, so bear with me. This is the main entrance and then there's SCS here, but there's also Student Life, that office.

AT: It's behind.

S7: Yeah, it's behind, but it's through there, but it connects.

AT: That back door, I think.

S7: Right here? [AT: Yes.] Is that where the back room is?

AT: You know where Donna's office – Donna's office and Mark's office are back here. There's a side door here that people use to take in to Student Life, but haven't they blocked this off where you can't get into Student Life?

S7: You can't get in now. It's something else.

AT: Oh, they did open it? [S7: Yeah.] Okay.

AT: So are there three doors or are there two doors to the Multicultural Center?

S7: There are three doors to the Multicultural Center.

RG: Where's the door, [with AT: Where's the third door?]

S7: So, this is not really a good diagram because Steve didn't walk –

RG: You can write, you can take the eraser; mark it up.

S7: Steve must've actually in between here, so I would say that this is, if this is Mark and Donna's office over here, you can come here and actually go into Student Life and –

RG: So this is a hallway?

S7: Yeah.

RG: This is offices and doors?

S7: Yeah, so this is Student Life right here and you can go out of this door and either go to SCS or you can go into the Student Life office.

SH: Where is the bulletin board in your description of this?

S7: I don't know which bulletin board [indistinct] –

SH: Where your finger is –

S7: Where the hall is? Are you talking –

SH: I think we have everyone confused on it because the two hash marks in the center straight above the Multi – the MCC: that's a door. That's what we've drawn on the door. And the scribbly mark where you just had your finger we had as the, not a door but a passageway leading to the back offices of the Multicultural Center. And the scribbly mark on the left would be the bulletin board, and the squares around that scribbly mark would be a chair, a couch and a table.

S7: So is this supposed to be in the back?

SH: That's a, no, that's a table in the front entrance of the –

LF: Where the pizza was.

S7: Okay, well, from what – The way I'm looking at it is that this is the hallway. This is where Donna's office is. This is where Mark's office is. This is where SCS is, Student Life, the

office where you have Gabrielle and Tim and then you go this way; this is where SCS is. So there's a door here that adjoins those.

SH: And where would the bulletin board be in your –

S7: And the bulletin board, if you're referring to the one between Donna and Mark's offices –

SH: The one that I attempted to post the flier. Where would that bulletin board be on –

S7: That would be right here, or – this is really off.

RG: Those squares and circles represent furniture and fixtures, not walls.

S7: Yeah, so, I mean, I guess it would be right here.

SH: The bulletin board is right there?

S7: Before you go to the hallway.

LF: That's kind of a [indistinct].

SH: Okay, okay. Let me [indistinct].

SH: Okay. Have you spoken to anybody about this, anybody from the administration, the faculty? [S7: In regards to what?] In regards to this incident in question, have you spoken to any faculty members?

S7: I spoke to Mark about it.

SH: Mark Fabionar?

S7: But I didn't have no, like, because from our conversation I was assuming you were going to come and speak him and so I was saying, you know, a gentleman might come by and –

SH: Have you spoken to Dr. Morton?

S7: No.

SH: Okay. Have you spoken to Dr. Cheney about this?

S7: No.

SH: Okay. How would you – how were you contacted by Judicial Affairs?

S7: The phone.

SH: A phone call? When did you receive that phone call?

S7: It was in December.

SH: Okay. Okay. Do you ever just hang out in the Multicultural Center to study, or –

S7: I work in the Multicultural Center.

SH: Do people ever eat in there, in the Multicultural Center? Like bring a pizza and eat?

S7: M-hmm [yes].

SH: They do? So that's not – wouldn't be something unusual?

S7: You know people, people are welcome in the Multicultural Center, except when there are meetings; the procedure's that you go through the back way if you need to use that facility.

SH: All right, all right. I think I'm done with questions.

AT: I don't have any further questions.

RG: The witness is excused and reminded of the confidentiality policy and the understanding to agree upon it.

S7: [indistinct]

RG: Thank you. For sure. [Door sounds]

AT: I have one more quick witness, I think, hopefully we can –

RG: Okay.

AT: How many witnesses do you – I don't want to – we were going to clock this or something.

RG: I think we, I just want to make sure that at the time we leave that, we can use the University's space and get adequate time for them. [indistinct] You have one more witness?

AT: M-hmm [yes].

RG: And how long do you think that would take?

AT: I guess they've been running about twenty? I just have sev — you know, the same questions for him.

RG: And how many witnesses do you expect to have?

SH: Five.

RG: Five? And what time is it now? [SH: [indistinct]]

HV: It's two thirty-five.

RG: Okay. And do we need to be out of here by four?

AT: We could see if the room is being used. Maybe we could have it 'til five.

RG: Are we off the record now?

HV: Yes.

RG: We're back on the record and continuing with the University's case in this hearing.

AT: I have several documents to present. This one is just an official opinion by the director of the University Union that the MCC is an office. It's not an open area or lobby so it's just a distinction for, kind of, clarification.

RG: And this will be Exhibit F, and what is it?

AT: It's an email from Dave Edwards, who's the director of the University Union. He sent me information that said that the – was about University – that the lobbies of the University Union and the MCC is officially classified. I was wondering whether it was a lobby or whether it was an office, and it's him clarifying that the MCC is an office; it is not an open lobby area.

RG: Okay.

SH: I have a question. Did you discuss any of these meetings with Mr. Edwards?

AT: I told Mr. Edwards I needed information. I asked him, I think it's on here what I asked him. I asked him for clarificati – I asked him for a copy of the posting policy and when I read the posting policy I asked him for clarification of office versus lobby space.

SH: Okay. Now is that what – that is the only other information? Okay, because I have a question because it says "Good luck." [AT: M-hmm.] I was wondering why somebody would wish you luck if they were just asking for a clarification on something. That seems like an odd thing to put in a letter if you're just clarifying something.

RG: Want to call him as a witness? [AT: [indistinct]]

SH: A lot of people have seen how [indistinct] witness.

AT: The next document is a copy of the University daily radio log and the statements of the two officers who responded to [Student 6 full name]'s call. They were both unable to attend today but they send these statements.

RG: This is Exhibit G? You can take a look around here on that. Have you seen this before, Steve?

SH: Yeah, I've seen this before.

RG: Any questions or objections to these?

SH: Yeah, I actually should kind of make some comments about this.

RG: M-hmm.

SH: I'd like it noted, the record that the summary from the student makes no mention of a Bible study, an interruption of a Bible study, or any posting policy; it merely mentions that I was attempting to post racially, a racially-oriented message.

RG: I'm sorry, the summary from the student?

SH: This is a summary of what the student, what the complaint was.

RG: Okay.

SH: And the complaint that was received by the students to University Police makes no mention of an interruption of a Bible study or posting violations. It merely says, like, "attempted to post a flier with a racially oriented message."

RG: Okay. Let the – [pause]

SH: Again, it's important to note that the students felt that the flier was race-motivated. And again, it makes no mention of a Bible study. This also notes the group had not put proper information on it according to policy. As we discussed at an informal meeting, there was no policy violation of the flier itself. [indistinct]

RG: Okay. [indistinct] That it, Ardith?

AT: That's it.

RG: Continue the case.

AT: I do have some questions for Steve, if we could take this opportunity; I don't know – [LF: [indistinct]]

RG: Well, you'll get your chance to, you know, he's going to be a witness, you'll get your chance to cross examine him. [AT: Okay.] But I was hoping he could put on his case.

AT: Okay.

SH: Well, if I'm going to present my case, I mean, I have to have my witnesses called.

RG: Do you have anything else that you want to put on before your witnesses? [indistinct, covered by SH]]

SH: I was sort of hoping I'd have time to prepare, you know, my notes here so it would be kind of logically, you know, after hearing all the students' testimonials.

RG: Right. So, what did you have in mind for getting ready and looking at your notes?

SH: Reviewing my notes and getting my thoughts in a logical order so that it doesn't appear that I'm rambling so that the argument's clear and that I'm, you know, interested to support my argument. I was hoping I'd have time to prepare.

RG: How much time?

SH: Like, ten minutes.

RG: Oh, okay.

SH: It was my hope that we would talk to all the witnesses and then I would present my statement about all this and that I was, you know, [indistinct]

RG: So you want to put on your witnesses first? [SH: Right.]

LF: Are they all witnesses?

SH: My dad's going to let me know here. Like, no one talks to me.

RG: Okay. We're off the record.

RG: Oh, you do have some documents you want to present. [indistinct]

SH: Yes. I did have documents there.

RG: Okay, let me do a transition here. The student charged will now present any relevant evidence on the charges. All such evidence, including the student charged's testimony if he decides to do that, is subject to inquiry by the Judicial Affairs Office and [indistinct] rebuttal by you and by [indistinct].

SH: Okay. I'd like to submit the activity and E-plan processing form, which can be found on the webpage, the Cal Poly webpage. That's the process for filing the E-plan –

RG: Do you have any copies?

SH: No. I wasn't informed that any evidence that needed to be submitted had to have [indistinct] copies. [LF: I think you're going to turn into an attorney at some point.]

RG: Let me see. The process for scheduling meeting, campus meeting. Okay. Is there anything you want to discuss about this, or –

SH: That's – I'm going to ask my witness questions about that document.

RG: Okay.

SH: I'm also going ask the witness questions –

LF: Here's Dr. Barclay.

SH: Oh, right. This is actually another one of [indistinct] which I will [indistinct] my witness. Can he come in?

RG: Can he come in? Sure.

SH: Thanks for telling him.

RG: [indistinct] [AT: You know, I like that umbrella. Are we on the record?]

HV: Yeah.

RG: [indistinct] [Female voice laughs]

RG: Now I'm reluctant about the video. I wish we would have talked about. [woman laughs]
Are you going to go with Dr. Barclay?

SH: Yes. And I'll make it quick. I know he's very busy.

KEN BARCLAY [KB]: That's okay. Thank you.

SH: Thank you for coming, man.

RG: Would you please identify yourself for the written record? [Woman laughs]

KB: I've never done these things. [AT: [laughs] You put them on.] [indistinct] Ken Barclay,
Director of Student Life and [indistinct].

RG: Do you agree that the testimony you are to give will be honest and truthful?

KB: Yes.

RG: This hearing is confidential by University policy. Do you agree to abide that policy?

KB: Yes, I do.

SH: Okay, I had a question about the posting policy.

KB: Sure. [indistinct]

SH: How would a student find out about that?

KB: Well, we didn't, it wasn't written, we have a policy basically that we have several variances with Student Life, Multicultural being one, Women's Center being another, Community Services Center being another and basically the core there of those areas is the person who decides what the posting policy is within their areas. [SH: Within their areas?] Yeah, within their areas. The Multicultural coordinator, the Student Community Services coordinator, the Women's Center coordinator: each of those people will decide what gets posted and what doesn't. They'll have no – they haven't got a lot of space to begin with as far as posting goes [indistinct].

SH: How would a student such as myself find out about this policy?

KB: Ask with a staff member. They didn't –

SH: I would have to ask about it?

KB: But it wasn't posted, it wasn't posted at that time.

SH: Okay. Excuse me, I have to turn my cell phone off. Sorry about that. [LF: [indistinct]]

KB: About – I did – my lack of – [indistinct, covered by SH]

SH: I just want to finish my question here, thank you. This wasn't posted in the Multicultural Center?

KB: Only in the Center [indistinct].

SH: Okay. Did you have a meeting with Dr. Morton, [student full name] – [student full name], the guy in the [indistinct]?

KB: Not that I recall.

SH: You don't recall meeting with them?

KB: Dr. Houston?

SH: Or, you know, about flier posting, or –

KB: Well, we had a meeting, not about, that I recall, about this incident; there had been a task force on free speech that's been reviewing CAM eight hundred – CAP eight hundred, and I asked a task force and the gentleman who chaired that task force to include a policy which we thought everyone on my staff, including some long time, longer [indistinct] members than I, that it was required that all clubs and organizations had to list their name, any sponsoring group had to put that on the fliers. We thought that was the case after, you know, not to be written, so I did ask that in this campus free speech task force that exists that they include that in this new CAP eight hundred.

SH: So you didn't have a meeting with –

KB: I don't recall –

SH: with [Student 6 first name] [Student 6 last name, mispronounced] –

KB: Oh, [Student 6 first name], that was –

SH: Dr. Morton and [student full name]?

KB: I wasn't at that meeting.

SH: You weren't at that meeting.

KB: I met with [Student 6 first name] privately.

SH: You met with her privately? When did you meet with her privately?

KB: I met with her privately the morning I got your e-mail. The morning – it was the morning after the incident when I – she – I understood she was the only student there and I asked if she'd be willing. I got your e-mail and I was concerned about your reaction; I was concerned about the other students at the Center's reaction, so I asked if she'd be willing to

meet with you, if I should facilitate it, and she said she was willing, and that's when I e-mailed you back and asked if you would be willing to meet with her.

SH: Okay.

KB: I wasn't at that meeting that –

SH: So you didn't meet in the Multicultural Center, with Dr. Morton and [Student 6 first name] and –

KB: No, no. I don't recall, I mean I could be wrong; I don't remember it, though.

SH: Okay.

KB: [Student 6 first name] met me in my office.

SH: Okay. [KB: [indistinct]] Did [Student 6 first name] – what did you guys just talk about, the incident the night before?

KB: She wanted me to [indistinct] her about the incident even prior to your e-mail. I hadn't heard the radio for awhile and I heard about the incident from other people, then I got your e-mail and I brought [Student 6 first name] in. I heard she was the person who called the campus police.

SH: Okay.

KB: That was the morning after.

SH: Okay. Was Cal Poly College Republicans mentioned in your meeting with [Student 6 first name]?

KB: I don't think so. I could be wrong. I don't remember.

SH: You don't –

KB: It was about three and a half months ago.

SH: Okay.

KB: Maybe – the meeting to see if she could deduct what, after reading your e-mail and after hearing from some of the students, you know, like what this could be resolved; I was hoping that it was face to face contact with [indistinct]. I thought maybe some misunderstanding took place and what have you, and that's why I asked [Student 6 first name] if she'd be willing to –

SH: Okay. Did [Student 6 first name] mention anything about a Bible study being interrupted, or –

KB: Yes. I'm not sure if *she* mentioned it, but I had heard from other people that morning was that they were having a Bible study there.

SH: Okay. What do you think classifies something as an educational process, an administrative process or a campus function?

KB: I'm not sure; I mean, a campus function is an event or an activity taking place on campus. I assume that [indistinct].

SH: What would distinguish a campus function from just an informal gathering of students on campus?

SH: Mr. Barclay, could you please repeat what you said earlier about what standards for something as a campus function?

KB: I would expect, based on my observation, that, I guess, anything would be an E-plan for student-approved groups would be recognizable, [indistinct] you know, facility, something like that. [indistinct]

SH: Do you know if there was anything posted on the outside of the Multicultural Center the night of this alleged violation?

KB: I wasn't there that night, and I don't know; I wasn't there when the – it occurred.

SH: Okay. Thank you very much. [indistinct] Two people doing something, or [indistinct] [LF whispers] [pause] Yeah, do you feel, in your opinion, that past events or perceptions about the Cal Poly College Republicans affected the sort of reaction to this incident in this case?

KB: Geez, I don't know –

AT: Could I raise a point? Are you asking Dr. Barclay in his opinion, or for him, or are you asking him for the University? I don't know that he could answer that.

SH: I asked in his opinion.

AT: For himself.

SH: Right.

AT: Okay, with regard to his response to this incident.

SH: Right, whether he thought that –

KB: I don't know. The incident that – All I consider all I'm aware of – my memory isn't so great – with the College Republicans was, last spring program, with the fliers that, yeah, I think it was last spring or last winter, fliers were doctored, so to speak, to have words coming out of the speaker's mouth. I don't remember that well. [indistinct, multiple voices] And I remember that, people being hurt and stuff by that and I don't know if any of these people who were involved in the Bible study, I don't recall any of them being involved in that discussion at the place where [indistinct]. I don't know; I'm not sure whether it was regularly scheduled.

SH: Okay, and despite that I already asked all the others, this is the last time I ask this question, you had a talk to Dr. Morton about this –

KB: I don't recall talking about it. I mean, I don't – you know, that meeting isn't occurring to me now; I wasn't at that –

SH: You weren't at that meeting?

KB: Yeah, I wasn't there. I believe, yeah, I think the meeting you're referring to took place at his office, didn't it? You know, I'm not sure.

SH: I don't know.

KB: I don't remember. But again, I don't think I'm wrong on this one, but [indistinct] at that meeting. [indistinct] I talked to [Student 6 first name] separately inside *my* office that morning of – that was the only time I think I had really any discussion before [indistinct]

SH: Was the task force that you mentioned earlier, [LF: [whispering] free speech] – the free speech task force – in any discussions with them, has the Cal Poly College Republicans or the fliers, or Cal Poly College Republican events been discussed?

KB: I'm not sure about the College Republicans; I don't remember that. But I don't know about the fliers [indistinct] I'm not sure; it might have been [indistinct]. I'm not sure the Cal Poly College Republicans, but I don't know about why the [indistinct] application. I'm not sure that [indistinct] lack of identification. They might have applied; it might not have been [indistinct]. There's been talk of this task force this past summer. There were several long, very boring meetings – it was confidential. [AT laughs] Really [indistinct] so we tried to avoid them just as much as I could – yeah, I would venture to say that it might have been a reference to the flier.

SH: Okay.

KB: But I don't remember; I don't really – I'm not sure.

SH: Okay. And that's all the questions I have.

AT: Ken, although the posting policy for the Multicultural Center was not written down, was it understood by the staff, and was it a verbal policy?

KB: Yeah, it is, and I was told – now again, I wasn't there – I mean, I was told that one of the students at this Bible study who was one of the student assistants in the Multicultural Center indicated that a student attempted to – [indistinct]

AT: Okay. What reason did Steve give you for not wanting to informally resolve or mediate the other students' concerns or any misunderstanding about this interaction with them that evening in the MCC?

KB: Well, I can't speak for Steve; I'll let him speak for himself. But I got an e-mail from him, and I was concerned; I thought that the guy was really hurt; he was really upset and agitated. I noticed he had an e-mail for me. I didn't see any copies. I thought it was just for me and it was the middle of the night [indistinct], and, ah,

AT: Those e-mails –

KB: I got those e-mails when I came to work; I think he said [indistinct] disturbed the meeting that night and [indistinct] copies and I felt – I didn't know him – but I felt very disconcerted [indistinct] I felt now [indistinct] and I spoke to the student and he, I responded to him and I also clarified to him that the student was – (I mean, I can't tell the student name) and said "Well, it sure wasn't Charise Cheney – Dr. Cheney, because she wasn't there." And Steve e-mailed me back to say "Are you sure it wasn't Dr. Cheney, and if so [indistinct] I owe her a gigantic apology," or something like that. And I e-mailed him back again and said again [indistinct] facilitate [indistinct] I can't remember exactly. Yeah, it's been a while. He said "Can I get back to you on this?" or something like that. But I don't remember – he didn't get – he made me feel real bad. [indistinct] [SH: [indistinct]]

AT: So his e-mail to you was complaining about Dr. Cheney's –

KB: Well, the first – the e-mail I first got was when I was meeting with somebody who was really agitated and upset but wanted to be able to put this behind him [indistinct] hostility and saying Dr. Cheney, the faculty member, was there and she called the police on him or something like that and [indistinct] explain to him the idea of respect and things like that. And I felt badly that he'd had that experience, and I talked to the students – a couple of students who were there – and I found out that Dr. Cheney wasn't there, and I e-mailed him back after that saying "I'm sorry you had a bad experience. I would like to try to even up with her [indistinct.]"

AT: Okay. Are there campus functions that happen on a regular basis here that do not file E-plans?

KB: I'm – I'm sure there are, I mean, you know [indistinct, covered by AT] –

AT: Fraternities or clubs or organizations that don't go —

KB: Yeah, we have meetings, for example, in our area. In a lot of areas, for example, they'll have a meeting, you know the Women's Center planned the Take Back The Night thing. [indistinct] E-plan, [indistinct] E-plan, we can't [indistinct]. E-plans: that covers a lot of areas. So if we have any in the Multicultural Center, for example, I almost had one this morning over another issue when there was space available. I didn't get an E-plan; we just came in and – we used *our* area, the area we oversee, for things that we don't have E-plans for but we have control over. We schedule that.

AT: Ok. So the Bible study group that met weekly in the MCC that was on their calendar: would you consider that a campus function?

KB: Well, I don't know how to answer that. I can say that I guess, a campus function. No, [indistinct] campus community. I also considered in the past, I know we used to do before the E-plan got taken over, we used to do the [indistinct] and that was the scheduling. So anything that was [indistinct] was official University-approved activity. And, like, for example, a fraternity would never do it if they were having a party, right? You know why they wouldn't do it if they were having a party. Because they'd be violating University policy. And so, you know, I mean [indistinct] the thing that is sort of informal people using the area – I believe two of the people, at least two of the people at the Bible study – one works for Maria Donna Davis and one was with that Multicultural Center, at least that I'm aware of. Just like, you know, well, [indistinct] students will hang out in the [same

indistinct] office, using the [same indistinct] office at night or something like that. Was it a function? I don't know if I can answer something like that.

AT: Okay, thank you. That's all the questions I have.

RG: Ken, the instructions for the e-plan describe the E-plan as a, quote, "approval for club activity" and that an E-plan is necessary for every chartered club. So if an organization or, for example, the MCC is not a chartered club –

KB: Right.

RG: But it's –

KB: But it's – stuff within the MCC might be, Hillel.

RG: But the student – let me finish here. [KB: All right.] There's been testimony that the Bible study is not a club and that the MCC is not a club, but they are apparently sanctioned by – the MCC is an activity for student life. [KB: Right.] It's a facility provided for the students. [indistinct] The activities that go on inside that room are under the jurisdiction or discretion of a coordinator? [KB: Right]. And under campus policies, does the coordinator have some discretion about what goes on in there?

KB: Yeah, certainly. [indistinct] [RG laughs: OK.] He certainly does, if we have certain clubs that are involved without [indistinct] [RG: Chartered clubs.] Yeah, certain cultural clubs, for example.

RG: Are they chartered?

KB: Yeah, they'd be chartered. Their charter [indistinct] –

RG: How about non-chartered club activity that goes on or does or does not go on? How does that get –

KB: Yeah, well, you know, I guess, you know, you have a situation in there, you have a few students hanging out like that, a few students sitting there – around there, they have a lounge area, they have a back area also, and there might be students just hanging out there. There might be students who are using it, reserving it together with a coordinator, say, "Tuesday night we're going to have a study group" or something like that. So it might be a more formal versus informal thing.

RG: Is it accurate to say that at a university-owned facility like the MCC, that the coordinator of that facility has discretion to schedule the use of the facility by groups [KB: He's re –] formally chartered that may or may not have an e-plan?

KB: Yeah, he's responsible for that facility.

RG: Other questions? [SH: Mm-mm.] [AT: No.]

RG: All right. The witness is excused and reminded of the confidentiality policy and your agreement to abide by it.

KB: Absolutely.

RG: Okay then.

SH: Thank you for coming, Mr. Barclay.

KB: Good to see you again.

SH: Could you please invite Dr. Morton in on your way out? [KB: Okay.] Thanks for coming.

AT: Dr. Barclay, it's always a pleasure. [KB: Of course.]

KB: Did you bring her in?

KB: That umbrella.

AT: That umbrella, that cherry umbrella.

RG: Take care.

[door sounds]

RG: Now please identify yourself for the hearing record?

CORNEL MORTON [CM]: Cornel Morton, Vice-President of Student Affairs, Cal Poly.

RG: And do you agree that the testimony you will give will be honest and truthful?

CM: Yes.

RG: This hearing is confidential under University policy. Do you agree to abide by this policy?

CM: I do.

RG: Okay.

SH: Dr. Morton, did you ever have a meeting with Ken Barclay in the Multicultural Center?

CM: Yeah, I had a meeting with Ken Barclay yesterday.

SH: Yesterday? Yesterday, you did.

SH: Okay what about last quarter? Did you –

CM: Probably, yes –

SH: You probably did. You met with him a few times in the Multicultural Center? Do you remember what was discussed?

CM: His budget, his programming for student life and leadership, issues related to some concerns we had with regard to our SCLC (Student Leadership Community Counselor), a number of

issues related to the University's interest in trying to make the whole university a more student-friendly one. All kinds of issues that a Director would take up with a Vice-President and vice versa.

SH: Did you ever meet with [Student 6 full name] to talk about fliers being posted in the Multicultural Center?

CM: I met with several students to talk about issues related to the incident that you [SH: Right.] refer to, the flier incident. [SH: Sure.]

SH: Was Ken Barclay there at those meetings?

CM: You know, I don't recall, actually. [SH: Okay.]

SH: Can you talk about what was described in those meetings when you talked about the fliers, or – [indistinct, covered by CM]

CM: Yeah, sure. I was addressed or approached by several students weeks ago, before they currently became party to this case, and asked to have, an audience with me, I think, to share some concerns they had about the quality of their life on campus and some complaints they had especially related to what they perceived to be instances of intolerance.

SH: Okay. [pause] Were the Cal Poly College Republicans ever mentioned during that meeting?

CM: I cannot recall.

SH: OK. For the record, we met in an informal meeting on January tenth to discuss this matter. I was there; Dr. Freberg was there; both my parents, you and Ardith Tregenza were there. [CM: M-hmm.] Could you please reiterate your point you made about me being a "flash point?"

CM: I didn't mention you as a "flash point." I explained to you that it is unfortunate that we live in a society where people are judged based on the way they look and the way they look in, the way they look especially in the context of what you and I know – I think you may know, at least, although at the time I was uncertain if you understood what I was trying to say. I was trying to make a point that we are sometimes unfairly characterized as being, in stereotypical ways, part and parcel of circumstances that we have no control over because of the way we, perhaps as membership in groups and as individuals are perceived vis-à-vis our racial history especially. And I explained to you that although you may not be able to – apparently you did not at that time understand that, you will from time to time in our society, just as I have and others in my state have, perhaps been unfairly and – misunderstood because of some personal trait we have. And I characterized that, if you remember, as just an indication of what happens when we find ourselves in situations where attributes and stereotypes and all the rest play out. And as I followed up on that, I asked if you understood that that might have been potentially at least part and parcel of what you faced when you were identifiably part of the group, College Republicans, that have been perceived at least as the sponsors of a recent program that met with some controversy. And I had – [clears throat] I asked you to speculate about the possibility that you were unfairly and perhaps without your knowledge actually made victim by that kind of perception, and you at the time didn't seem to understand that.

SH: Okay. More specifically, you made the point, you mentioned the flash point. That was a word involved. [indistinct] “Flash point.” –

CM: I don’t - yeah, I don’t know that I – in fact, I would insist that I didn’t characterize Steve Hinkle as a flash point, but rather I characterized the association that you have with the episode, if you will, involved in this particular hearing, and that as a flash point, then, perhaps you found yourself in a situation where you had to address an issue, namely, how would you feel if this, and I asked you how would you feel if this, if you had it to do all over again, and you said you’d do nothing different, which also bewildered me a bit, because I wanted, as you recall, at that meeting, to use it, as we do in our work, as an educational and teachable moment. [SH: M-hmm.] And so I took some liberty and I was rather long-winded in attempting to paint the larger picture, the larger picture being when we find ourselves in these kinds of situations, judicial hearings and all the rest, characteristically in student government we ask students on each side of the issue “If you had it to do all over again, what would you do differently?” [SH: M-hmm.] “What did you learn from the situation and your reflections?” and thirdly “How can you go forward now and somehow understand in the larger context what might have happened?” I think on each of those questions you were rather void of any indication, at least not in being fair and [indistinct], because I asked you a few times if you’d learned anything from this and you said you had not, and I asked you if you’d do it over again and you said you would, and so that’s probably a fair capsule at least of what happened.

SH: So when you made the “flash point” comments –

CM: I did not make “flash point” comments. [indistinct, covered by SH]

SH: You didn’t mention “flash point”?

CM: As I said, I don’t want you to mischaracterize the notion of “flash point.” [SH: Right.] I just wanted to place it in the proper context.

SH: So if I – so if I interpret that meaning as you were telling me that I was a flash point because I was white, blond-haired and blue-eyed, would I be incorrect?

CM: If you characterize that as – in an absolute way as you did, yes, you would be incorrect.

SH: M-hmm. I would be incorrect? Okay. Do you think that these perceptions of people based on their characteristics such as race, do you think that plays an issue in this incident? You seem to have a [indistinct] –

CM: Well, it’s clear that we have an identifiably young white male who has been self-identified as a member of the College Republicans group. And although the College Republican group, I’m certain, is not exclusively white or male, there are some implications. And on the other side of this we had a group of students of color, at least identifiably, largely students of color, and the mix, unfortunately, and the collision of experience, that is, the collision of your experience with theirs, on that day at that time was placed inside a larger context, as you recall, and namely these fliers that were posted and the concern that some had about the nature of the speaker’s message and all the rest, and then to learn later after some investigation that the College Republicans had sponsored the speaker. I think that chemistry, if you will, without question, had racial implications, not reduced solely or purely to a matter of race, but again, I think we would be naïve if we did not acknowledge at least

that; we would have to acknowledge that. We would have to be mindful of how, again, unfair it is at times for all of us to be in a situation where we're perhaps identified as the Other and, by identification as the Other, held suspect at first without the benefit of being able to explain ourselves. [SH: Okay.]

SH: Do you feel that I'm in Dr. Freberg's grips?

CM: What's that? [LF laughs]

SH: Do you feel that I am in Dr. Freberg's grips?

CM: I don't know that you are in Doc – I don't know if you are or not. [LF: I'm not responsible for that question. [laughs]] [Multiple voices talking] I don't know a lot about Dr. Freberg's grips. [laughs] [LF laughs] I've never been –

SH: Let me explain. Let me explain. [laughter subsides] I will be discussing later the proceeding in which this has all come about and why this has continued. Since Dr. Freberg is the advisor of the Cal Poly College Republicans, views by the students and faculty members of the Cal Poly College Republicans in my opinion has affected this; I will be arguing that later. Dr. Morton *has* made comments regarding my relationship with Dr. Freberg, and I think it's important that faculty views of my advisor not only have a cloud up through this entire process, but it's important if we're to actually have an accurate discussion in why I have continued to be charged with this inflammation on, regarding the size and facts of this, of the incident.

RG: Okay, I understand that, but the thrust of your question seems to me to be more of an inflammatory question. Can you continue –

SH: No, not an inflammatory –

RG: Well, can you build maybe [SH: Yeah, yeah.] into it?

SH: Yeah, [indistinct] my father –

RG: I'm not asking for a response from you; I'm asking for you to build your question in a way that just, you know, functions. [indistinct; SH coughs] You're asking a facetious question, you get a facetious answer.

SH: Do you think that my relationship with Dr. Freberg in this proceeding has affected the proceeding?

CM: I don't know that *your* relationship with Dr. Freberg has. I've had something to say about Dr. Freberg, but only as a faculty advisor, and I don't mind admitting *that*.

SH: Okay, and what was your view?

CM: I felt that the only occasion — and it's unfortunate that this was one of the only occasions I had to observe Dr. Freberg's relationship with this issue and the role of the advisory role of College Republican advisor — I thought that on the occasion of the meeting that you mentioned, Professor Freberg was in my opinion inappropriately intrusive in your independent thought.

SH: How so?

CM: Well, I felt that when she persuaded you not to participate in a conciliatory meeting that would have led to, I thought, another opportunity for you, for the students to meet, to talk about what had happened and to do that in a way which in a respectful and civil way you could have learned more about why each of you felt the way you did. When she persuaded you not to do that, I felt that that was unfortunate. [SH: What –] And, if you'll recall, I offered and of course each of these two individuals — Ardith and Professor Freberg were there — I offered to, symbolically, if I can do this, *wipe the slate clean*, and start all over. And I was — in the role I had as Vice-President for Student Affairs, I was willing to in fact dismiss the charges against you. I asked you if you would give me the opportunity to go to the students and to ask them, with some conditions that you had established early on (you said you didn't want to talk about the incident and if I could get them to agree to do that, because you didn't want this incident to be brought up) that you might be interested in that conversation. But I thought very quickly after you said that, that you were very, very clearly — I don't know if you were necessarily persuaded in a holistic way by Dr. Freberg's comments, but you certainly did not take me up on the offer. I was disappointed, because I thought that could have helped us — all of us — to have learned a lot about what had happened, and also it could have helped all of us to hopefully better understand why *you* might have been received the way you were, and why you received the students the way you did.

SH: What would have led you to believe that I would be persuaded by Dr. Freberg in such a drastic manner?

CM: Well, I just feel that Dr. Freberg, Professor Freberg, is an advisor and an advisor's role is — customarily advisors have some influence on the organization and on the membership of the organization.

SH: What led you to believe that she had the influence to make me to agree or disagree —

CM: Well, because you decided not to do it. You said that —

SH: [indistinct, covered by CM] She influenced me on that decision?

CM: Well, I think that there was some influence. I don't know that you would have come along anyway, Steve. See, I don't know that you would come along anyway, but I think Professor Freberg's comment was also instrumental.

SH: Okay. [low voice] Are there any other questions I should ask? [LF whispers: [indistinct]]
Okay. [LF whispers: The professor's recollection of the meeting - [indistinct]] [CM: Sure.]

SH: No other questions.

SH: Cross-examine?

AT: And I have no questions for Dr. Morton.

RG: All right, the witness is excused and reminded about the confidentiality policy [CM: Sure.] which I'm sure you're familiar with.

CM: Oh, very. Thank you.

RG: Appreciate it.

CM: You're welcome.

RG: How are we queued up for another witness? [SH: Oh, I got another witness outside.]
Anybody want to take a break? [SH: I want to –] Take a break or keep going?

SH: She's here.

RG: All right, let's get moving. [AT: One more?] Let's go up – how's the tape holding up?
RG: [indistinct, three voices] Please identify yourself for the hearing record.

FRED MILLS [FM]: My name is Fred Mills.

RG: Do you agree the testimony you're about to give will be honest and truthful?

FM: Yes, I do.

RG: This hearing is confidential under University policy. Do you agree to abide by this policy?

FM: Yes, I do.

RG: Steve?

SH: What is your position at the University police station?

FM: I'm the Communications and Records Coordinator.

SH: [low voice] Do you have the paper [indistinct]? In your opinion, what would classify something as a – administrative process, educat – academic process, or a campus function? What would distinguish – what would distinguish just an informal gathering of students between a campus function?

FM: I suppose whether a function would be held with the acknowledgement or knowledge of the University or permission of the University.

SH: Well, how would they get knowledge or approval? Would it be with – through an E-plan?

FM: Could be through an E-plan.

SH: This is a document about the E-plan. In your opinion of that document, do you feel that to get approval, chartered clubs have to file an E-plan?

FM: [pause] Second paragraph. It says an E-plan approval of club activity is necessary for any chartered club that plans to hold an activity on or off campus. [SH: Okay.] So I've covered – I guess I'd say yes. [SH: Okay.]

SH: [indistinct] No further questions.

AT: Those are your only questions for Fred? [SH: Yep. He was very clear.]

RG: All right. Ardith?

AT: In your duties and position here at the University, do you deal with e-plans or do you deal with campus groups filing E-plans?

FM: University Police Department – well, let’s see – Cal Poly hosts about five hundred events a year, about three hundred fifty to five hundred thousand visitors, and part of our University Police Department [indistinct].

AT: Right, but do people file E-plans with your organization, with your department?

FM: I believe they file them with ASI. [AT: Okay.] They come to us for approval. [AT: Okay. Thank you.]

AT: Okay. That’s all the questions I have.

RG: The witness is excused and reminded about the confidentiality understanding. [FM: Okay.] Thank you, Fred. [SH: Thank you for coming. AT: Thank you.]

RG: [Female voice: [indistinct]] [indistinct] Anyone else here waiting for us? [SH: [indistinct]] [Female voice: [indistinct]] [SH: [indistinct]] [Female voice: [indistinct]] You want to take a break while you’re collect your thoughts? You want to make – [LF: indistinct]

SH: Let’s continue. I think I need – I’d like to ask Dr. Tregenza a question. [various whispers]

RG: This is your choice. You want to put *her* on the witness stand?

SH: Yeah, I’d like to put her on the witness stand. [chuckles] [RG: Okay. All right.]

RG: Ardith, would you please identify yourself for the hearing record?

AT: Ardith Tregenza, Director of Judicial Affairs.

RG: You agree the testimony you are about to give will be honest and truthful?

AT: I do.

RG: This hearing is confidential by University policy. Do you agree to abide by this policy?

AT: I do.

SH: How were you initially informed of this incident?

AT: I *think* I was contacted by Dr. Barclay, either by phone, I think by phone; he called me and told me that there’d been an incident in the MCC and that students were upset.

SH: What information did you use to determine whether an investigation should proceed?

AT: I asked him as much as he knew, or I asked him questions about the incident. He wasn't able to give me – he wasn't there, so he didn't have a lot of information. I asked him who was there; he said he would get that information to me. [SH: Okay.]

SH: Which students, if any, initiated contact with you?

[pause]

AT: I would say [Student 6 first name] came in and spoke with me.

SH: [Student 6 first name] came [indistinct, covered by AT]

AT: If I remember correctly. I can't remember [SH: Okay] exactly.

SH: Okay. There's a letter in my file from Dr. Cheney; how did that shape the investigation or your decision on any possible resolutions?

AT: You – I want to take a timeout and ask a question. Do we need to submit the letter as evidence, or are we going to refer to something the Hearing Officer has no knowledge of in order for me to answer a question? I'm confused about the context in which I should, oh, you know, address that.

RG: Where is this line of questioning going?

SH: I'm just – I'm questioning what the motivation was for an investigation and what the motivation was for continuing with the investigation.

RG: And you think the letter or her reaction bears on that? [SH: Yeah, I do.] So, you want to introduce the letter? [SH: It's in my personal file.] [AT: I have copies of it.] [SH: Thank you.]

RG: So this will be – [pause] This will be Exhibit I, okay? And it's a letter *from* Dr. Cheney? [AT: It's a letter *from* Dr. Cheney *to* me.] And how do you spell her name? [AT: It is C-H-E-N-E-Y, I think.] [LF whispers] To – [AT: It's a letter *to* me.] Okay, and the date of it? [AT: Let me pull it out and I'll tell you.] [SH/LF: [indistinct] SH: Okay, okay. SH/LF: [indistinct]]

AT: Okay. This is an e-mail letter that I received fro – [RG: It's an e-mail?] It's an e-mail letter that I received from Dr. Cheney; it looks like it's dated Wednesday, November twenty-seventh. [LF: There was also a hard copy of the letter with the same content to President Baker, so which one are we submitting?] Um – [LF: This is the same content.] This is the letter to me, and it was copied to Cornel Morton, Ken Barclay, Jean DeCosta, and Paul Zingg; let me look and see. You're speaking of [RG: [indistinct] her letter to President Baker?

LF: Actually this one is directed to you.

AT: Okay. It's on Cal Poly stationery? [LF: Yes, it is.] Let me take a look at it.

LF: It's the same one as far as I know, but we just briefly looked at these in your office yesterday, and I don't know [indistinct, covered by creaking noise].

AT: I think she sent me the same thing in two different forms. [HV: One, two, three –] [pause] It appears to me to be the same thing; I'll let the Hearing Officer [HV: Okay.] compare it.

[pause]

SH: [indistinct]

LF: No. [indistinct]

SH: [indistinct]

LF: No. [indistinct]

RG: [indistinct] The copy is the same. The date is the twenty-seventh. [indistinct] – [Female voice: [indistinct] This poor file – [Female voice: Yes, it's seen lots of action.] And this would be – can I mark on this one? [Female voice: Please.]

RG: Okay. This would be Exhibit I? [AT: Yes.] [LF: Yes.] Okay, the student charged has offered into evidence Exhibit I, which is a copy of an e-mail letter from Dr. Cheney to Ardith Tregenza, copied to a number of people, and – go ahead now, refer to it.

SH: After I question Ardith, can we take a break so I can formulate my final statements, please? [RG: M-hmm.] Okay. Did you read this entire letter?

AT: I did.

SH: Did it shape your – [indistinct] I'm sorry. Can I take a quick break? One minute please. Thank you.

SH: Okay. What information in this letter guided your investigation or your determination of what resolutions – should –

AT: I read the letter and I felt that what she was speaking to was her was her concern that you had slandered her to the president of the University and to the Provost incorrectly, that you had thought that she was in the Multicultural Center, you had then written a letter that evening to President Baker slandering her basically, that she'd been unprofessional and inappropriate in her conduct when she was not at the meeting and does not know you and looks nothing like [Student 6 full name]. So her concern, I felt, did not – could not be addressed through the Judicial Affairs process. I felt that there are other avenues that would better address her concerns and her appointment issues, for ex – if she needed to take legal action against you for slander, that would be outside of this process. So, I met with her and told her what my opinion was and that I intended not to use her letter or to call her as a witness.

SH: Okay, so basic— my misidentification of her was out of the realm of Judicial Affairs?

AT: That's correct.

SH: Okay, if that's how you feel, why did you bring up my misidentification of her in an informal meeting regarding this matter?

AT: I'm not sure what you're referring to.

SH: During the informal meeting, it was brought up that I misidentified Dr. Cheney, at which time I showed you an apology letter that I had written. If you feel that this is out of the realm and that this misidentification didn't have any bearing on whether or not I disrupted a meeting, why, in our informal meeting about whether or not I disrupted this meeting, did you bring up my misidentification of Dr. Cheney?

AT: My memory of that was that I referenced her letter in regard to being notified – my office had been notified about the incident through – one of the ways was through her letter.

SH: So when you specifically said that I misidentified her, were you thinking out loud, or – [AT: When I said that when?] I'm questioning why you specifically mentioned my misidentification of her when referencing this letter.

RG: Excuse me, Steve, I'm getting confused about the question. What can you [SH: indistinct] ask the question –

SH: My misidentification of Dr. Cheney. Was that an original charge against me?

AT: No, it was not.

SH: So my question is that if it was not an original charge, why did you specifically – not just the letter, but why did you bring up my misidentification of Dr. Cheney in the informal meeting, which was designed to discuss the original charges?

AT: I will again repeat what I just told you: that in the informal meeting, it's my understanding from my memory that you asked me how I had been notified of the incident, and one of the ways in which I was notified of the incident was by Dr. Cheney's letter about the incident and about you misidentifying her. I did not bring up what – your activities concerning her outside of that context, is my recollection.

SH: All right. Would it have been substantial for you to say that I received a letter from Dr. Cheney regarding the incident without mentioning my misidentification of her? Would that have done the job?

AT: I guess I was –

RG: Excuse me. We're talking again about this informal meeting [SH: Right.] and how she brought up the issue [SH: Right.] of misidentification? [SH: Right.]

SH: Right. And that, it does have reference, because the person who filed the charge – it is important to understand, you know, the implications of who filed the charge and, you know, initiated this process, and what guided the Office of Judicial Affairs throughout this. So it – not only to initiate the investigation but to determine how this was proceeding during the informal meeting.

RG: So is the question whether or not the Judicial Affairs Officer used the misidentification issue as a reason for the charge and/or [SH: Right.] the sanctions? [SH: Right. Right.] Is that? The answer is? What is the answer? No or yes?

AT: Him misidentifying Dr. Cheney did not – was not a reason that I continued the investigation or picked up the investigation; as I said before, it does not fall under the Judicial Affairs code or is the Judicial Affairs process a proper avenue for her to voice her concern with your misidentification of her.

RG: Okay, so it wasn't a basis for it. I think he's asking, was it a motive on your part to –

SH: Okay, with that being said, I'd like to just for the record state it that Ardith Tregenza did bring up the fact that I misidentified Dr. Cheney in the informal meeting which was designed to discuss the original charges against me with her, so in your opinion –

RG: You would do that in the context of your testimony, then that'll give her an opportunity to rebut that. Okay? [SH: Okay.] I want to keep it sorted out for my own purposes, if not for yours. [SH: Okay.] You have any other questions for Ardith?

SH: You said that Dr. Cheney's letter references the incident in question, yet Dr. Cheney's original letter makes no mention of an alleged disruption of a meeting, so if it was this letter that – if there's a mention of the incident, and there's no disruption – it doesn't list a disruption of a meeting – it merely lists the content of the flier and that students took offense to the flier, and since there's no list of a disruption of the meeting, I'm confused about how you – maybe you could explain to me how you went from detailing why she thought the fliers were offensive to my disruption of the meeting, since it's never mentioned in this letter. [RG: Are –]

AT: I don't understand what he's asking me.

RG: Are you trying to discover what reasons or rationale [SH: Right, right.] she had for the investigation?

SH: I'm trying to figure out how, if she's, if I'm – maybe I'm misunderstanding her, but she says this – the mention of the incident in question in this letter [RG: [indistinct]] was what guided her in the investigation, not, she said that, everything else in the letter hasn't, but that the mention of the incident in question sort of guided her on the investigation and whether to initiate it.

RG: Well, she certainly knew that the episode occurred – [SH: Right.]

AT: I'm saying that this letter did *not* guide me; it was *not* appropriate to the disciplinary process, and that I told her that. I'm saying I received this letter from her; I mentioned that to you when you asked me in the informal meeting how did I know about this incident, who filed a formal complaint. Students filed a complaint, Mark Fabionar called me, Ken Barclay called me, and Dr. Cheney wrote me.

SH: Okay, because I'm just – I've been told several times that the original complaint was that I disrupted a Bible study meeting, and if you're referring to this as the original complaint, there's no mention of a disruption of a Bible study meeting, and that's – I mean, that's – am I the only one that's confused about that? About, I mean, it seems like a jump in the logic here.

RG: Well, you're after some connection between the letter and the investigation, [SH: Right.] and there isn't. So [SH: Well –] when she said there isn't, [indistinct] in her opinion [SH: But –] [indistinct] turn around and say because there's nothing here –

SH: But I've been told that there's a connection, because I was told that the original complaint against me was that I dis – and I even had it in one of my forms – the complaint against me was that I disrupted a Bible study meeting, so – [RG: Well, it didn't have to come from this.] I was told that this was the original complaint. [RG: Well, ask her.] Well, is this the original – was this the first thing you received –

AT: No, the first thing I received was a phone call from Ken Barclay.

SH: And did he say that I interrupted a Bible study meeting?

AT: He said there had been a problem in the Multicultural Center during the meeting.

SH: Okay. So, to say that the original complaint was that I disrupted a Bible study meeting would be untrue.

AT: I don't – are you quoting me?

SH: No. If a person said –

AT: I – what person? [SH: Okay.] You're asking me “what ifs,” and I don't understand what you're saying, and I think I've been really clear about this letter and about how I was contacted about this –

SH: Well, I'm confused, so for my sake, please humor me. [pause] [indistinct] the packet with the original hearing notice – in your file?

AT: Your original call-in letter? I have a copy of your original call-in letter.

SH: No. Hold on one second.

AT: Let's see, that was – [indistinct] one of the last ones [indistinct] [LF: [indistinct] Is that the one with the three charges that we can check?] [Indistinct] [LF: [indistinct] Isn't it?] Okay, uh – [LF: There is [indistinct]]

LF/SH: [Indistinct conference]

LF: It's all right. He's going on with his questioning.

SH: I'm going on with, uh-huh. Sort of scratch that part.

RG: Are we back on the record? [LF: M-hmm.] [HV: Yeah.]

SH: In your opinion, Ardith, was my presence a disruption of this Bible study meeting, or was the flier a disruption of the Bible study meeting?

AT: I think in my interviews with the students – I would have to say both were.

SH: Both were. [Male voice: Okay.]

SH: Can you, not in the context of this case, can you give me your n – definition of a disruption?

AT: *Not* in the context of this case?

SH: Yes. Without referencing this incident, can you please give me your definition of disruption?

AT: I don't understand how that's relevant to this case, which is why we're all here.

SH: If I'm being charged with a disruption or a disruption of academic or administrative process, I think it's only fair to me that I understand where the Office of Judicial Affairs is coming from when they say I *disrupted* a meeting. [AT: I'll –] [RG: That's okay, you can answer it.]

AT: I'll – I'll answer your question by saying I felt you went into –

SH: Without referencing this incident, could you please define disruption?

AT: I don't have a dictionary; I'm –

SH: In your own words – I mean, I'm being charged with it, so I would hope that the Office of Judicial Affairs has a [AT: Right.] clear understanding of what it actually means to disrupt something.

AT: I think to interfere with a regular process or to cause people to do something other than they would normally do, have planned to do, anticipated doing, to shake up, to – gosh, I feel like I'm on Jeopardy. Let's see. That's what comes to mind at four o'clock with no caffeine. [chuckles]

SH: Okay, no, that's fine, that's perfect. [To LF: [indistinct] any other questions?] [LF: [indistinct]]

SH: Okay. What steps did you take to identify witnesses in this process?

AT: I asked Ken Barclay who he had spoken with and what students were there at the meeting he was speaking of. I spoke with Mark Fabionar to identify students who would attend that meeting, and as I interviewed students initially named, I gained names of other students who were there.

SH: Okay. Any more questions? Okay, that's all the questions I have for Ardith Tregenza.

RG: Okay. Do you have any questions of yourself?

AT: I do have a document I want to submit in addition or in addendum to Dr. Cheney's letter is referring to, and in response to a letter that Steve wrote to President Baker in, he – when he was made aware that he had misidentified Dr. Cheney, he wrote an apology letter, and so [RG: This is Steve's letter to Baker?] This is Steve's letter to Baker. [RG: Okay, that'll be J.] And it's attached to – it's attached to e-mails. [RG: The date received is [indistinct]?] The date of it is November sixteenth.

RG: Um, you're going to refer to it, or –

AT: I'm going to submit it in addendum to Dr. Cheney's letter because Dr. Cheney's letter references it and so to better understand Dr. Cheney's letter – I feel Dr. Cheney's letter is kind of out of context without this foundational information related to her letter.

RG: Any objection? [SH: No.] RG: Any comment, or [SH: No.] Okay. Now, the – I want to distinguish now between your testimony, which is subject to Ardith's cross-examination — in fact, you cross-examined the cross-examination; I remember that — from your closing statement. [SH: Okay.] So if you understand that, just make that distinction for us so you know, so I [SH: Okay.] know and the rest of us know when you're [SH: Okay.] now giving testimony and when you're giving a closing statement.

SH: I'm prepared to give testimony now. Anybody got questions or, again, would anyone like to ask me questions -

RG: Do you have any statements you want to make, because you built – you attempted to build a foundation as part of your case –

[SH/LF confer: [indistinct]]

LF: I think that we're both a little confused, if you don't mind some clarification, because he can't interview himself. [RG: No.] So how does he make that distinction between a testimony and a final statement? Is this just a kind of "This is how I see the situation," and then Ardith follows up with questions and then he comes back and [RG: Right.] makes a final statement? [AT: M-hmm.] So you've got two statements, essentially. Is that correct?

RG: Well, a closing statement is usually concluding – conclusions that the person wants to draw for the Hearing Officer and not subject to anyone challenging them. Someone who is the student charged is giving testimony as a witness is stating facts and giving evidence, and those statements *are* subject to cross-examination.

LF: Yeah, so would it be appropriate for Steve then –

RG: And he doesn't have to do that.

LF: No, but should he choose, is it appropriate, then, for him to basically give the same point of account that the other students were providing as witnesses? [RG: Yeah.] Is that –

RG: Yeah, yeah, as long as he understands he can be asked questions about that.

LF: Oh, well –

SH: Before I give my testimony, can I recall my witness? [indistinct] [RG: Sure.] [indistinct]
[LF: I'm sorry; I don't –] No.

LF: [indistinct] [SH: [indistinct]] [AT: [indistinct]]

RG: Fred's coming back?

AT: Fred's coming back.

SH: Fred's coming back. I forgot to ask him a question. [indistinct, covered by RG] [RG: Oh, okay.]

RG: Okay, we're back on the record, having recalled a previous witness for the student charged. Fred, would you please identify yourself one more time?

FM: Sure, my name is Fred Mills.

RG: And once again, do you agree that the testimony you will give is honest and truthful?

FM: Yes.

RG: And I'll remind you about the confidentiality, and Steve, when you're ready, it's back to you.

SH: Okay. Mr. Mills, a part of the proposed resolution to Judicial Affairs is that I write letters of apology to other students, and a letter here that – here you notice it says that there's no parameter or guarantee of the confidentiality of those letters. In your interpretation of the FERPA Act and the history of that act, do you think that such a resolution is in violation of that act?

FM: I think it certainly puts the University in jeopardy.

SH. Maybe before you [indistinct], let me start another question. Are – [indistinct] [Female voice: [indistinct]] are disciplinary records part of my academic or educational record?

FM: Yes.

SH: They are. Okay, with that being said, would this, since this would be a part of my academic records, would this proposed resolution of writing letters to these students for which the confidentiality can't be guaranteed a violation of the FERPA Act?

FM: If the statement about not being able to guarantee the confidentiality was in there, I'd say they foresaw that it wouldn't be confidential.

SH: And knowing that, would that be a violation of the FERPA Act?

FM: Uh, I believe so.

SH: Why would you say that?

FM: Training information I received — in fact, it's on the FERPA website — talks about a nineteen ninety-four IASA amendment, [indistinct] released – [reading] “December thirty-first, nineteen seventy-four Amendment clarified that agencies and institutions may not have a policy or practice of permitting the release of or providing access to education records or personally identifiable information contained therein other than directory information.” So, in that context, if the University said, “We can't guarantee the confidentiality of that, I would think they foresaw that it wouldn't be confidential, and since it's part of an educational record, then I have to think that'd place the University in jeopardy.

SH: Okay, if I wrote a letter to an administrator that was addressed to an administrator, and somebody else read that publicly in a classroom and listed my name, do you think that would be a violation of the FERPA Act?

AT: Could you be specific? [SH: [indistinct]] I'd like to ask him to be specific in terms of who's reading what and your [SH: I'd be glad to.] question –

SH: I'd be glad to. I wrote a letter, and I don't think you've ever seen the letter, but I wrote a letter to several administrators detailing a complaint, detailing how I felt I was mistreated in the Multicultural Center; I had my name on that paper. Dr. Cheney read that letter, mentioned the organization with which I'm a part of, the Cal Poly College Republicans, as well as my name, to her classroom — to two different class sessions — and in your opinion, knowing what you know about the FERPA Act, since that was not addressed to her, it was actually addressed to administrators and I requested that it be handled internally, do you think that that's a violation of FERPA?

[pause]

FM: It would hinge on whether that letter is part of your educational record. [SH: Okay.] And that's what FERPA addresses: basically, the right to privacy of an educational record and certain exemptions, well, exemptions then released and certain releases that are permissible under FERPA.

SH: Okay. But disciplinary records are definitely part of my academic record?

FM: As a recent Supreme Court Decision –

AT: I'd like to – [RG, interrupting: [indistinct]] okay. [RG: [indistinct]] Well, he's using the term "academic record" [RG: [indistinct]] and I think "academic record" [RG: Oh, but let's –] is different than "educational record." [RG: But let's get it out, as far as your cross-examination – [indistinct]] Okay. Okay.

SH: Is there a difference between academic and educational record? Okay, which does this fall – which does disciplinary actions fall under, academic or educational?

FM: Educational records.

SH: Educational? FERPA applies to educational records?

FM: Yes.

SH: Okay. That's – that was my question. [RG: Any other questions?] I think I'm fine. Dr. Freberg? Hold on a second, please.

LF: [indistinct, low voice]

SH: Who gets to see my educational records?

FM: Giving my best guess, based on what I'm told, there are exemptions to release, and part of it is other schools that you attend; I think part of your educational records can be released to – is it in "Questions and Answer?" I don't think so. Pardon me while I find it. [LF:

[indistinct]] Actually, FERPA's a [indistinct] I'm sorry. [LF: [indistinct]] [indistinct] [LF chuckles]

[pause]

FM: [indistinct] Act nine nine point three one, "Under what conditions is prior consent not required to disclose information?" and it says the exceptions which relate to postsecondary institutions are: school officials at schools in which a student seeks or intends to enroll; to federal, state, or local authorities involving an audit or evaluation in connection with financial aid; to organizations conducting studies for or on behalf of educational institutions; to accrediting organizations; to parents of a dependent student, to make a – to comply with a judicial order or subpoena, health or safety emergency; to the student itself; and there's also a disclaimer pertaining to an alleged victim of a crime of violence; and directory information.

SH: So a grad school would have access to my educational record? [LF: M-hmm.] [FM: Yes.] Okay, so then what we're saying is a grad school would have access to the disciplinary resolutions that we're speaking of there?

FM: If they're part of your educational record, yes. [SH: Okay.]

SH: I don't – okay, that's – thank you for the clarification. I don't have any other questions.

RG: Ardith? Cross-examine?

AT: Fred, when you say grad school, does that include Cal Poly, or are you talking about schools – what type of grad school are you talking about? Are you talking about an institution other than Cal Poly, or Cal Poly's grad schools –

FM: I'd have to think based on what I just read, if the grad school [indistinct], to schools in which a student seeks or intends to enroll.

AT: Well, it's Cal Poly's practice both in the Records Office and in the Judicial Affairs Office that we don't release a student's educational records to any grad school that a student would be applying to without the student's permission or authorization to release those documents. So as FERPA is applied at this institution, we would not – we do not release, we get a lot of checks, and we do not release that information without the student's permission. Now, if it was a Cal Poly grad school, they would be considered an educational partner with a legitimate need to know, is the caveat that information can be released, so I guess I differ with Fred's understanding of FERPA. [LF: [indistinct]] Just according to FERPA. [LF: But, I mean, in terms of what the Records Department does and doesn't do with that record?] Um, you'd have to check with them. I can speak for the policy or the practice of the Judicial Affairs Office.

RG: Any other questions? The Director –

AT: I have another question [RG: Oh, I'm sorry.] for Fred. Fred, when you said you thought it would put the University in jeopardy, what do you mean by jeopardy?

FM: My understanding of the sanctions possible against the University for violating FERPA is loss of public funding. I guess the hook that [indistinct] and if the University knowingly

violated FERPA and they're held accountable for the kind of thing, having knowingly acted to violate FERPA, they could stand to lose their funding.

AT: I guess I differ with you in what he described as being a violation of FERPA. So – [RG: Okay.] – for the record.

RG: I don't think we can resolve that one. [AT: Okay.] Any other questions?

AT: No.

RG: Okay. Once again, Fred, [FM: Okay.] I remind [AT: Thank you. [laughs]] you of the confidentiality agreement and you are excused.

FM: Thank you.

SH: The rest of this meeting, would it be appropriate if I took a break, [RG: M-hmm], get my thoughts together, and then I could come back and I could do my testimonial and then after my testimonial my closing statement? [RG: Yeah.] [Female voice: [indistinct]] Is that okay with everybody? [AT: M-hmm.]

RG: You want to [indistinct]?

SH: I – I need to get, I need some air.

RG: Do you want, when you come back do you want to have access to your notes at the table?

SH: Yeah, oh, yeah, I guess I don't need to come in here to be alone with Dr. Freberg.

LF: Are we off the record? [RG: Yes.]

RG: This is your statement [indistinct] and then [indistinct] closing statements – who goes first in closing statements? [LF: I think Ardith, do you?] [AT: I think I do.] You go first in closing statements? No, he goes first. It's the other way around? [AT: Is it the other way around?] [LF: Okay, do you understand now?] [LF: Did you get your [indistinct]?] [AT: Pardon me?] [LF: Did you get your [indistinct] –] [AT: I did. This is mine.]

[HV: Okay, we're back on.]

RG: Okay, we're back on the record and continuing with the student charged's case, and it's back to you, Steve.

SH: Thank you. I think I might refer you, Mr. Griffin, to my original account of the incident which I wrote the day after, which was the letter that you have detailing the incident. I think that shows my perception of the event very shortly afterwards, and I was shocked, I was totally surprised at the environment that I found myself in, you know, of course I make no mention in there of knowing of a Bible study, you know, there is, there is a misidentification in that letter, which I have clarified, you know, that I made a mistake, but in my clarification of that mistake, I have also stated that everything else in that letter still stands, meaning how I felt, what my perceptions were of the event, how I viewed the goings-on. And basically, I'd just refer to that to show that I had no idea there was a meeting going on; otherwise I wouldn't have been so shocked, you know, I thought I was attempting to, you know, post a

flier and, here not knowing of, you know, a posting policy, not knowing of a meeting, not knowing *any* of these things, I really felt like my free speech was violated, you know, walking into a situation blind and sort of being surprised with all this hostility towards the content of the flier, and again I encourage you to look at my original letter.

RG: What's the date of that letter? [LF: Eleven fifteen, I believe. Correct, Steve?] [AT: Eleven fifteen, this is the original?] [SH: Yeah.]

RG: Can I see it?

LF: Oh, sure. [RG: [indistinct throughout] That was attached to – Ardith, you provided them? [AT: M-hmm.] [RG: That's great.] Okay.

SH: Again, this is – I'm shocked to find out, you know, that it's proceeded with this, considering the fact that I, you know, that I had no idea, I walked into the situation blind, with no reasonable – no reasonable student would be expected to be prepared for that situation any other way. There was really nothing on the outside of the door; there was no written posting policy; you know, I wasn't told of the Bible study meeting; I was finally told that the – told the policy, you know; I've gone through that. I was never threatening. You know, the student accounts show that I was – I was actually engaged by these students; some of the accounts detail how surprised I was to be engaged by these students; you know, I walked in; I didn't make eye contact with anybody, didn't acknowledge anybody. It wasn't until they addressed me that suddenly they asked me questions in which I felt, you know, that I should respond to, to clear any confusion up about the flier. It's clear a bunch of students said that there's misinterpretations about the flier and misinterpretations about the speaker, and I think I had a pretty good idea of where the hostility is sort of coming from about this flier. You know, these students were, these students know about the College Republicans; they were talking about the flier all day because they thought it was racially oriented, from what the police report said. So it, I mean, we had a pretty good understanding of how I was sort of – just had all of this animosity which we now understand on their part to be a misinterpretation of the flier just thrown upon me, having no idea, you know, that I was at a meeting, having no idea that I was in violation of any type of posting policy for attempting to post a flier, so I – I really don't think I have any other statement besides the fact that, you know, I had – I hadn't – totally unaware of any type of meeting in addition to the fact the students are saying that I made a, when I entered the meeting they were standing and talking and eating pizza, and that didn't help me. Dr. Freberg, do you have anything to say? [LF: Ah, –] about the testimony?

LF: No, I think you've covered the [indistinct] original statement.

SH: Okay.

RG: Do you have any questions?

AT: I do. So, Steve, on the evening of November twelfth, you don't – you did go into the MCC and post the flier, attempt to post the flier? [SH: Attempt to post the flier, correct.] Okay, did you leave the MCC when asked to by the students there?

SH: I was never asked by the students to leave the Multicultural Center. I was told that I could take my flier elsewhere or the police would be notified during the process of them asking me questions about the flier. And shortly after, I was told that I “should take the flier elsewhere

or I'm calling the police." I was told by a student, I was engaged by a student who informed me about the Multicultural Center posting policy, at which time I asked, you know, who I needed to talk to get it approved; she told me none of that, so I would say that the idea that, you know, they asked me to leave and I stayed and talked with her is not truthful, you know. And in eyewitness accounts in the testimonial today that show that, that these students told me to take the flier elsewhere or they're calling the police, and she walked out and called the police on me, and I was told of the posting policy and I left. [AT: Okay.]

AT: That's your interpretation of their statements today and of what happened that day. [SH: Hmm?] Okay. When she told you needed to take the poster and leave or she was going to call the police, why did you not leave at that time?

SH: Well, I was being engaged by these students with questions about the flier; I was being engaged with them and informing me of the posting policy. I was being asked questions. [AT: [whispering] Okay.]

AT: Have you ever been asked to leave a meeting or a room on campus before by students?

SH: Not that, not that I can recall. [AT: Okay.]

AT: You asked me for a definition, and I'm going to ask you for a couple now. What does "disruption" mean to you?

SH: What "disruption" means to me, not in reference to this case here, this alleged incident, would be to prevent – a disruption of a meeting would be to prevent the proceedings of those meetings from occurring.

AT: What does being civil mean to you? What's the word "civility" mean to you? What's your description of civility?

SH: "Civility" would probably – not being rude, not using any of the curse words; civility would mean allowing for the opportunity to talk; "civility" would mean just a general politeness toward somebody is civility. If you're having a civil conversation with someone, you'd be kind with them, kind, patient, and what-not. And another thing to clarify in my definition of a disruption: I think a disruption has to be deliberate. To disrupt something, I think it means I think you deliberately need to prevent somebody from proceeding with a plan. [LF: M-hmm.]

AT: Why are you resistant to writing a letter of apology to students who have stated that you offended them and disrupted their meeting?

SH: What exactly – why are you asking me this?

AT: I guess because we tried to informally resolve this and, I can withdraw it. [RG: [indistinct]] Okay, okay. I will say, I guess I'd asked you who have *you* discussed this case with.

SH: Well, obviously – [Female voice: [indistinct]]

[AT: Did you hear what he said?] [RG: No.] [AT: Okay.] [RG: [indistinct]] [LF: Um, [indistinct]]

[pause]

SH: I have discussed this with legal counsel, I've discussed this with my parents, Dr. Freberg; I've discussed the contents of this hearing with nobody. I have discussed, you know, with people, I have told some of my close friends and confidants what I'm being charged with. [AT: Umm –] I should also point out, too, that I was not instructed under any time – it is my understanding of the FERPA Act that I'm not in any way limited from speaking about what I'm being charged with by any type of legal document. That's my understanding: that I'm not restricted by any type of legal document, that the responsibility to privacy lies at the [indistinct] University.

AT: I guess I'm really curious about this. You said you were surprised by the hostility you received in the Multicultural Center, you were shocked, you walked into this situation blind, and I guess I – can you help me to understand how you could have a poster like that and walk into a room full of African-American students and not think that there might be people who would find that offensive or that they might not take kindly to you posting that policy in what they consider to be a safe and comfortable environment?

SH: Sure, why I was so surprised about the hostility I [indistinct]. I've read Mason Weaver's book. I've talked with him in person. Of course, the flier lists the title of his book. The title of his book – the theme of his book is about government dependency; it refers to society as a whole as being on a type of government plantation, that we need to get off of that plantation. That's the plantation he's referring to. The current plantation of government dependency. I've read that book, I've had an understanding of that book, I have this understanding of his ideas in generating that, so I did not misinterpret the title of his book because I had read it. In addition, I don't stereotype other individuals. I don't look at an individual's external characteristics such as skin color and project how I feel – I don't project stereotypes onto them like feelings, like, "They would react to this a certain way because they look like this." That's called stereotyping, and to assume that certain people of certain physical characteristics act, behave, or feel in a specific way is the very definition of racism, and I'm not a racist, so I never – it never occurred to me to think that people who look a certain way are going to react a certain way to this. So, I know some of the students mentioned "plantation." Plantation is not a word that's specifically used for – in terms of slavery; however, plantation and slavery was part of American history, and I am an American; I don't feel restrained in using words such as "plantation" or posting a flier which it has in there because I'm worried about people are going to take offense to this. It's a part of my history just as it is everybody else's, and I would never assume that a certain person would be hypersensitive to such words or phrases simply based on external characteristics like color. That would be stereotyping, and I've never been raised to do that.

AT: Okay. And that's all the questions I have for Steve.

RG: Steve, were you circulating these fliers on campus for the club?

SH: Right. The club had voted on the flier and approved the flier; we voted to place the flier around campus, and we had placed – I had placed the flier on other [indistinct] around campus, you know, on public posting – public [indistinct, covered by RG] [RG: M-hmm.] that evening as well, that day; and that evening after I put the posters up, you know, I kind of looked around to make sure I didn't miss anything. So it was an ongoing process of keeping the fliers posted.

RG: How many posters do you think you posted up to that time, when you –

SH: Oh, God – me personally, or as – how many fliers I personally posted?

SH: Oh, that ni – what times are you talking? Because I'd been posting fliers from the time that morning started up until, I [indistinct] after the meeting, I mean, I walk by bulletin boards and I'll see one, you know, and post it on there, so I –

RG: No, just a rough figure. Two dozen, [LF: Oh, more.] [SH: A couple –] two hundred –

LF: [indistinct] I'd say a couple hundred any way.

SH: Over a hundred, over a hundred, over a hundred at least.

RG: Do you remember how many you had in your hand when you went into the Multicultural Center?

SH: I had one in my hand because I had walked past and noticed that there was not a flier on that bulletin board. [RG: M-hmm.] I was on my way to a meeting, a club meeting. I set my bag down, reached into the folder in which I had these, took the flier in my hand, and walked closer since they were virtually right next door to where the meeting was going.

RG: There's – the front of the room was, as I remember, full-length windows [SH: Sure.] on both sides of the door. I'm not sure but there used to be things in front of those windows.

SH: Sometimes there's fliers –

RG: Could you see before you walked in, you walked by the room and noticed there wasn't one on the door. You would've had to look across the room to the board in the corner, right?

SH: Right.

RG: Did you notice that there were people in there with Bibles open?

SH: No, in fact — and I said this in the informal meeting, that I didn't see a *single* Bible.

RG: They're after the pizza. [AT laughs] [SH: What's that?] They're after the pizza. [Laughter all around]

SH: No, the only thing I didn't – I did not see a *single* Bible open. What I saw was: I saw people standing, eating; I saw people not huddled around a table or huddled around pizza. I saw people talking in small groups, talking to each other; it wasn't like one person was talking and everybody was listening while they were eating pizza; it was like you'd expect people standing in a – anywhere eating pizza, people were talking to each other: small groups, person-to-person standing eating pizza, and that's basically what I saw, and that didn't occur to be unusual to me, since I had seen people doing the same in the Multicultural Center prior to that.

RG: So if you partially went into the room, well, you partially passed the room the first time, and then when you went in with the flier, was the – it wasn't a meeting; it was just [SH: Right.] a group of people that were in there milling around talking to each other? [SH: Right.] At

what point did you realize – how close did you get to the board? [SH: Right up to the board.]
And what happened?

SH: As I was approaching the board to post the flier, at first I was engaged by a student.

RG: At what point did you realize you were in the midst of a group study meeting?

SH: At *no* point was I aware. I mean, I left there unaware that I was even in a meeting. There was no mention of a meeting; nobody told me I was interrupting a meeting; I had left there and even written this letter; in fact, I was unaware that I even entered a room where a meeting was taking place until the informal meeting with Ardith Tregenza on January tenth.

AT: What made you think Dr. Cheney was in that room with a group of students? Do you normally find faculty in an office on campus with a group of students, without some type of event or function taking place, outside of their office hours or –

SH: I guess I don't see the relevance. [RG: I think this is a relevant question. You just need to [indistinct, covered by AT] –] [AT: To rephrase it?] Yeah, I am not – can you repeat the question?

AT: Okay. You thought that Dr. Cheney was in the room that night with a group of students in a University office. With a faculty member, would that appear to you to be some kind of function or university event?

SH: No, I converse with my teachers outside of class on a very regular basis. Um –

AT: In an office on campus with a group of students?

SH: Well, I question the fact that – I didn't view this as an office, which is, regardless of what paperwork may say, this is – I view this as a public lounge. There's a television set with DVDs; people watch movies; there's couches where people sleep regularly — you've heard that from students; people just hang out in there, so I wasn't perceiving this as an office.

AT: But it has a staff person and a sign on the window that distinguishes it from [SH: Right.] the lobby in [SH: Right] front of it.

SH: Right. Well, there's formal offices in the back. You're correct that there is formal offices that actually have names on the doors. [AT: Right, but I think –] Um – [AT: It] I – [AT: says Multicultural Center on the windows, and] Right. [AT: It's –] Right. [AT: It's very well identified.] Right.

RG: Let's not [AT: Okay.] get into a dialogue. I'd like to keep it to questions [AT: Okay.] and answers as briefly as possible. [AT: Okay.] [indistinct]

SH: Maybe you should rephrase the question. [RG: [indistinct]]

AT: I'm not going to ask it again. I think you answered it. I have no further questions.

RG: M-hmm. Steve, you have anything before we go to closing statements?

SH: Yes, one student did make a comment which I do wholeheartedly believe, that the Multicultural Center is open to everybody. I, you know, I felt that that applies to me, and that's how I felt that night. I didn't feel as if I was not a member of any type of community that these students belonged to. I, you know, I always felt welcome, I, you know, this, like I said, this is a public place, where students just hang out, you know, it's a Multicultural Center; it wasn't, this wasn't the lounge for aerospace grad students, you know. If it was a lounge that said "The Aerospace Grad Student Lounge," I am not a member of Aerospace Grad Students, I would – I would have no reason to walk in there. This was a room in which every member of the campus community is a member of the group which this lounge seeks to serve. At least that was my understanding: there's not a – there's not a secluded group of people that this lounge is supposed to serve, so I mean, I feel as many other students on this campus make [indistinct] that that lounge wants all the students. And I never felt as if I wasn't part of a group that that lounge served. Does that make sense? Is that clear? [RG: M-hmm.]

AT: I have a question related to it, kind of. Have you ever been in a Multicultural Center before that?

SH: Yeah, I have.

RG: For? Reading?

SH: I study – I've studied there. I've sat on the couch and spread my books across the coffee table and opened schoolbooks and –

AT: On one occasion, or –

SH: A few occasions.

AT: Six occasions, five occasions –

SH: A handful, you know, usually when it's real noisy, you know, in the University Union or, you know, you can't find a seat and nobody's sleeping on the couch in there. You know, it's quiet because the door shuts, and so, you know, I'd sit and I'll study there.

RG: Have you been there for a meeting?

SH: I've never been there for a meeting, no.

RG: Ever seen meetings going on in there?

SH: No. [RG: [indistinct]] Every time I've walked by, it's been students hanging out in there, and it's, there's, there's a coffee table with magazines to read, much as you'd find in, you know, any other lounge, you know, I mean –

RG: Through your cross-examination of the University's witnesses, you asked questions that seemed to be suggesting that there was a kind of collusion around the basis for the investigation and the basis for the charge, and I allowed those to come in because I was under the impression that in your testimony or in evidence that you were going to present as part of your case that you were bringing this out as direct testimony, but I haven't heard it, and so my inclination, unless you have something to offer, is to disregard that testimony.

SH: Um –

LF: I think that was something Steven was going to address in his final comments, but if you would like him to address it now –

RG: Well, I wouldn't mind him doing it in his final, but I think it's the kind of evidence and testimony that needs to be part of cross-examinations.

[LF and SH: [indistinct]]

LF: Okay, we didn't understand the procedure. [SH: Sorry.] [LF: Do you need a couple more minutes to come up with [indistinct, covered by SH]]

SH: Let me just gather my thoughts so I make sure that there's no interpretation of what I'm try – of what I'm saying. [pause] Seeing on campus that there was a lot of hostility toward past Cal Poly College Republicans events, fliers, for which I was never part of the club, you know, for any of those events. This is actually the only event that I've actually been part of the club for and organized. And upon reviewing the information in my personal file, it never appears that the original complaint was that "Hey, this guy disrupted our Bible study. You know, we're upset." Every piece of information in my file, in these eyewitness accounts: it's about these people, it's about this flier, this organization that brought this flier. Everything in my personal file relates to the club, the Cal Poly College Republicans, the offensiveness of the flier, hate speech, all sorts of stuff – and nowhere am I gathering from that that this huge, that all this is about interrupting a Bible study meeting. It all seems as if Judicial Affairs has been reaching for some type of charge to pin on me, that the original complaint was just that, "We're upset," that somebody would try to, quote, "post a conservative flier or a flier for a Republican event in this Multicultural Center, and so, you know, we need to do something about this – fix the trouble." There was nothing in this, there was nothing in this about, you know, about interrupting a Bible study meeting. I mean, I said in my original account that I feel that my First Amendment rights were violated, and it feels that – it appears to me that students, because, I mean, it's obvious students were very upset with this flier, and apparently faculty members are upset with this flier. As you heard from the director of the Multicultural Center, the sense they could not flat-out say that, "You can't put this perceivably offensive flier up," they can't say that to me because it's my First Amendment right to put up fliers even if other people think they're offensive, which I don't think this flier was. So because they couldn't, because they couldn't just go that directly, because of my First Amendment rights, that they had to go about it indirectly, and that this is a way of doing that by just complaining that, "Hey, this guy put up this offensive flier; do something about it." So in order to prevent me from putting up future fliers that people may think are offensive, they've gone the Judicial Affairs route and tried to find something to pin on me, and so now this story about interrupting a Bible study meeting is the only thing they can sort of tag down. And I sort of get that; you know, the Cal Poly College Republicans was brought up during the informal meeting. Originally during the informal meeting, one of the original charges by Ardith Tregenza was that the club name was not on the flier – [AT: Which would be in violation] [RG: Wait, wait a minute.] the club name was not on the flier. While I had proved to her that that was not a violation — I showed her an ASI document detailing that is not a violation — that I was – that students were not made aware if there was a policy, the fact that I was not made aware of that. But the fact is that the club had voted on that flier as a whole. Our Board members, at a Board meeting, approved that flier, and we also discussed not to put the club name on that flier when we approved it, so the fact

that I was being held responsible as an individual for something that was a club action, it was a club flier for a club event, that I would be held responsible for that, sort of indicated there was hostility toward the club, that they would hold me responsible for actions of the club. When I tried to tell them that you know, it wasn't my – I didn't generate this flier on my own and decide to put them up, that this was a club action. I was accused of sort of passing the buck, of [indistinct] organization, and, you know, it just appeared to me that they were mad at the club and they were trying to pin something on – they were mad at the club for putting up this offensive flier, and they were trying to pin it on me because I happened to be an unlucky soul who apparently walked in on this hostile environment. And that's sort of long-winded, but –

RG: Okay. Ardith, do you have questions?

AT: Um, I guess I have a rebuttal to that. Your – the flier that you posted was in violation of the campus posting policy, and I have a copy of the University Campus-Wide Posting Policy and a copy of the University Union Posting Policy, and we have discussed it. [SH: Is it – am I being charged with a posting violation?] No, you opened the door, and I'm going to walk through it.

LF: So we've discussed this in an informal hearing, and Steve showed you the materials that had been handed to the club members at the beginning of the year; this is the only source of information, and we discussed the fact that training needs to be improved for these students and for faculty advisors, okay? [indistinct, cut off]

RG: [indistinct]...the Judicial Affairs Office to enter into evidence a copy of the University facility policy and the extract from the campus administrative policy having to do with written and printed materials. The issue is whether or not having the record include these documents based on the fact that the student charged referred to his perception that the issue of the posting was not really what the University wanted to accomplish probably is not relevant, since it is not part of the charge, so, although I understand why you made the statement you did, and it's certainly subject to cross-examination, I don't think it's relevant or appropriate to introduce this kind of test, this kind of element at this particular time, and I want the record to reflect that I'm only viewing the statement of the student charged on the question of the appropriateness of the posting to help explain the emotions that he has over the charges.

AT: Okay.

RG: [indistinct] [low voice] If you could turn those back – [full volume] so, are we ready for closings?

SH: [indistinct] Dr. Freberg? [LF: [indistinct]]

RG: Well, I will let you guys start closing. [LF, SH: Okay.] Before closing this hearing we will let both parties offer a closing statement to summarize the evidence as each view it. Each party may submit an argument or plea in support of a particular disposition considered appropriate for my recommendation, which is a way of saying that if you have any suggestions to make about what you think my recommendation ought to be, I'd be interested in hearing them. Okay, and I think we start with the Judicial Affairs Officer so that the student charged gets the last word.

AT: Okay. Today I have presented evidence that proves that Steve Hinkle disrupted the students' meeting in the Multicultural Center on November twelfth. I don't know if he intentionally meant to disrupt them or not, though I believe that he should be held accountable for his actions. This charge and proceeding is not about the Cal Poly campus Republicans club; it's not about Steve Hinkle's political beliefs or his First Amendment rights. It's about Steve being confrontational and disrespectful to the students attending the meeting that night in the MCC, when they told him they found his poster offensive and asked him to leave and told him he was in violation of that posting policy for that office. He was not frightened or threatened or intimidated; rather, I found him – the descriptions of his behavior, he was rude and confrontational and disruptive. I think Steve has said just recently in his closing statements that the students misinterpreted the flier. And I feel that these students came here today in good faith and were able to well articulate why they found that flier offensive and that for you to say that they misinterpreted it and that they didn't find it offensive or why they found it offensive was wrong, I think is unacceptable. You say you're aware of past Cal Poly Republican club events and fliers having not been well received on the campus, and yet on the other hand you say you were completely surprised and shocked when you walked in there and those students didn't take well, you know, to your poster and it just didn't make sense to you. And I don't really think you can have it both ways. I think – you said it's obvious the students were upset. You just stated that. If it's obvious they were upset and it's obvious that they asked you to leave, why didn't you, you know, leave? Why didn't you pursue your questions to them at another time, at another venue? I'm not here to pin anything on you, which was your other statement. I feel that I'm here to hold you accountable for your actions like the University holds other students. I'm not recommending or requesting a punitive sanction but rather a formal apology to the students who were here that night and two meetings with the University ombuds for you to discuss approaches, resources, and strategies available to you in order to accomplish your goals. I think this is the very least you can do to make amends for your behavior that night.

RG: Okay. Steve? [LF: [indistinct]]

SH: Yeah, would you like to say something first, then I'll –

LF: Thank you [indistinct] professors unfortunately are trained in [indistinct], so I'd like to give a character reference for Steve. I've known Steve over the course of the last year or so and it's been a real pleasure to work with him. We've had many personal conversations and I had an opportunity as the faculty advisor of the club to work with these students. He has been uniformly polite, uniformly very dedicated to his ideas. This is why students join political clubs, is they're excited about politics and they think everybody should be excited about politics and I enjoy that enthusiasm. I simply cannot accept Dr. Cheney's characterization of Steve as a racist; I cannot accept her characterization of the Cal Poly College Republicans as the Klan. I really feel that Steve is a scapegoat for a lot of disgruntled people on campus with the Cal Poly College Republicans. This is a very active, successful group that's been given a lot of credit locally in the local political activities. They're given credit for electing a number of local politicians who are not well received on campus. And if people have an issue with the Cal Poly College Republicans, they should come to me; I'm the last one to hear about it from ASI. I do not hear about these flier things until way after the fact, and we're sort of faculty advisors, Lynne Gamble and I, out of the loop. I do feel that Steve is being scapegoated for a lot of unhappiness on the part of these students. I would suggest that the students in a sense have been coached to bring these complaints forward, and we object very strongly to Steve being the recipient of that. Again,

if there is a University problem with the Cal Poly College Republicans, that should come to me, Lynne Gamble, and the organization, and not to the individual.

SH: Thank you. I just want to comment that while Ardith Tregenza continues to claim that this is about me and not about the club, that she mentioned the club in detail in her closing statement [indistinct] about me. Also, to address her comment that I, quote, “can’t have it both ways,” that I claim that people were upset about past Republican fliers, that I should’ve expected it on this one: I view past fliers that the club put out as some of them being distasteful, and I can understand from those past fliers why people were upset with past fliers. And I know that people of all physical characteristics were upset by those fliers, all physical characteristics — skin color, everything — including me. This flier that I was posting I did not view as distasteful. So while I do view past fliers as being distasteful and understanding of people down here, I did not view this flier as distasteful, as offensive, and even more specifically, I would have no reason to assume that all of these students in the Multicultural Center that night would take offense to this flier because of their skin color, of their physical appearance, seeing as I was even – I don’t look like these students in the Multicultural Center yet I was upset by past fliers. I would have no reason to conclude that just because these people didn’t look like me that they would be offended by this flier which I did not perceive as distasteful. So I don’t agree with her opinion that I’m trying to have it, quote, “both ways.”

Let me sort of paint the picture, let me sort of reiterate the picture that has been painted by all the testimonials that we’ve heard today, all the evidence, and everybody’s comments, and show that I did not disrupt the Bible study meeting by entering the Multicultural Center. First of all, the police report does not mention – excuse me – the police report does not mention a Bible study at any time; it merely mentions that I was attempting to post racially oriented material. The students have agreed that from six-thirty to seven was a fellowship period in which they eat, in which they discuss; some of them have said that they were standing and eating; they were talking in small groups. They were not huddled around the table. There was individual conversations, numerous conversations at one time, very informal. And this is the atmosphere which I saw when I looked through the window of the Multicultural Center, which was students eating, standing, talking as individuals. Very informal. As the students have shown, that’s not uncommon for students to sit in the Multicultural Center and eat pizza. So even these students understand why I would’ve not perceived a meeting. There was nothing outside the Multicultural Center before I entered that would indicate to me that there was a meeting taking place. When I entered the Multicultural Center — and students have agreed with this, that I didn’t confront anybody — that actually it appeared that I went out of my way, you know, *not* to confront anybody. I – says I didn’t acknowledge them, no eye contact. Again no notice of a meeting. I was unaware of any E-plan for such an event, although these students are saying this is a chartered organization, Campus Crusade for Christ, I know of no E-plan for this. And as Mark Fabionar—if I’m pronouncing that right [indistinct]—has stated, I would have to enter the Multicultural Center to find out if there was a meeting taking place in the Multicultural Center. He has stated this, that it’s posted on the wall in there – that I would have to enter to find this out. So entering, not acknowledging anybody, unaware of any type of meeting, you know, looking at this environment which seems very typical of a college campus in a public lounge, where people often hang out and sleep, I was first confronted by the students. If I would have posted the flier, and walked out, while these students were eating and having informal conversations as individuals, they would’ve – perhaps they wouldn’t have even noticed. If they just let me post a flier and if they didn’t like it afterwards, they could’ve took it down, but they chose to initiate a dialogue with me, telling me how the flier was

offensive. Not, “Excuse me, we’re having a Bible study,” but, “That flier is offensive to me,” you know, “Don’t come in here and disrespect me,” and what-not. It says that Ardith has class – excuse me, Ardith Tregenza has classified my behavior as uncivil. The student accounts say I said, “Why don’t we sit down and talk about this?” That doesn’t sound very uncivil to me. That sounds very calm and trying to clear up confusion, the confusion which I found myself in which was cleared up and explained to the students as I tried and the students say I tried, to clear up any confusion by saying, “Let’s sit down and talk about this.” There are people who said this. Finally, one student said, “Take your flier elsewhere” — did not ask me to leave, clarify that, did not ask me to leave — told me, “Take your flier elsewhere, or I’m calling the police,” and left. And as one student said, simultaneously, as she was leaving to call the police, I was notified by one of the students that the flier needed to be approved by the Multicultural Center director, I asked for information about him so I could contact him, and when she told me, I said thank you and I left. Again, nothing uncivil. I walk into this, you know, I walk into what I perceive as an informal gathering of students, I am never informed of a Bible study meeting, and when I am informed that there is a posting policy I kindly oblige and leave promptly.

These students say I was not threatening, yet they called the police. Every student said that I was not threatening. Yet they called the police. Why would a student call the police? It’s my opinion that a lot of the emotion towards the flier came about from misinterpretation of the flier. In fact, they even told the police that I was trying to put up racially motivated material. My flier has no relevance to race; it’s about government dependency. I feel that the hostility that they felt was not because I entered their meeting, not because I interrupted their meeting, but that, you know, that they had these negative feelings toward the flier. It wasn’t me; everything that ensued after I left was because of their misinterpretations of the flier, their feelings about the flier, and everything that happened from that point on was out of my control – you know, what they chose to do, the situation afterwards.

This entire case with Judicial Affairs, I think, has been absolutely outrageous. As I’ve said before, a great effort has been made to sort of find some sort of charge, you know, with which – which would sort of stick. I know they tried other charges and, you know, they had to be dismissed – you know, we saw one charge be dismissed at the beginning of this hearing. You know, the real issue here is not whether I interrupted a meeting; it’s that these students were offended by this flier. Every student has said that they were offended by the flier. If that’s the case, their complaint is best served with the author of the book, from which the title is placed on this flier. You know, those were his words, I think the complaint should be filed with him, rather than taken out on me, and it appears that I sort of was a scapegoat for their anger as I walked in the door. They had mentioned that they were even talking about the fliers in their informal little eating session there, and it appears as I walked in with this flier I became a scapegoat for their emotions. And in fact, their negative feelings toward that flier which, you know, which they were claiming allowed them to not continue with their Bible study meeting because it changed their mood. Well, if that’s the case, this flier had been posted all around campus, so if it was their negative feelings toward the flier which kept them from proceeding with the meeting, then it wasn’t necessarily my entrance in there that did, because this flier was posted around campus. They could’ve walked across to University Union and seen the flier. So it wasn’t as if this was the first time the flier was presented.

I think this whole case was orchestrated by Ardith Tregenza and Dr. Morton to find a charge that would fit. You know, as I said before, they discussed the Cal Poly College Republicans and their reputation. The resolutions are of extreme concern to me — that this is going to go

on my education records. [RG: [indistinct]] This resolution, to write apology letters and get counseling – [RG: Oh, the recommended sanctions?] The recommended sanctions. Thank you. [RG: Mm-hmm.] I'm very concerned about these recommended sanctions. They go in my educational record, as Ardith Tregenza stated; I can exclude my educational record from a graduate school. However, if a graduate school asks to acquire my educational records and uses my educational records as determining whether or not I'm fit for that graduate school, me denying them my educational records because of these, because I didn't want them to know about this, would affect my eligibility for that graduate school. I'm very concerned that following through with these recommendations will, because of that, hinder my ability to get into a grad school in the future. I feel that asking you to follow through with these resolutions is a violation of FERPA, which we have heard today. In addition, I don't feel that I was – I can't, on matters of integrity, follow through with this, because I don't feel as if I was an interruption to these people's meeting. I feel that *I* was harassed; I feel that *I* am the victim in this and that the apology should be made to *me* for being mistreated as I walked into a center in which I, as a student said, I should feel welcome — everybody should feel welcome — and I did not feel welcome. So I feel that the apology should be on me, should be given to me, so to make this type of apology would be against everything that I stand for. I can't apologize for something that I don't feel I did, and you know, I think it's clear, you know, what the situation is from hearing all these students. And I would recommend that these suggested sanctions be dropped and that this entire process be stopped at this instant, and that I think it's a shame that it's gone this far. [indistinct] [RG: [indistinct]] I think that's it.

RG: I will privately consider the evidence presented at this hearing and submit my findings and recommendation to the Vice-Provost for Undergraduate Education, Dr. David Conn, within ten working days following the close of this hearing. This hearing is closed at five-ten on February nineteenth, two thousand and two [*sic*]. Thank you. Five-thirty. [indistinct]

End of hearing