

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) NINTH JUDICIAL CIRCUIT

Robert T. Dillon, Jr., PhD,)
)
Plaintiff,)
) Civil Action No.:
) 2016-CP-10-3774
v.)
)
The College of Charleston and)
Brian McGee, in his individual)
capacity,)
)
Defendants.)

DEPOSITION OF: BRIAN MCGEE

DATE TAKEN: Thursday, May 4, 2017

TIME: 8:30 A.M.

PLACE: McNair Law Firm
100 Calhoun Street, Suite 400
Charleston, South Carolina

REPORTED BY: MARY ANN RIDENOUR, RPR, CLR
Registered Professional Reporter,
Certified LiveNote Reporter
and Notary Public

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19 ALSO PRESENT:

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21

22

23

24

25

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STIPULATIONS

21 It is hereby stipulated and agreed by and between

22 the parties hereto, through their respective counsel,

23 that the reading and signing of the transcript is

24 waived by the Deponent.

25

1 (The deposition commenced at 8:49 A.M.)
 2 BRIAN MCGEE, SWORN.
 3 DIRECT EXAMINATION BY MS. BLOODGOOD:
 4 Q. Mr. McGee, I'm Nancy Bloodgood. I represent
 5 Dr. Dillon in a lawsuit he's filed against the College
 6 and yourself regarding some issues related to his
 7 employment. And I am going to take your deposition to
 8 get some facts regarding the case today.
 9 I assume you've had your deposition taken before?
 10 A. It's been a long time.
 11 Q. Okay. Let me remind you of a few basic
 12 rules. If you could remember to say yes or no, and not
 13 shake your head, that helps the court reporter. And if
 14 you forget, your attorney will probably remind you or I
 15 will remind you.
 16 If you would let me ask the full question before
 17 you answer, that also helps with the transcript. It
 18 makes it more readable. I will try not to cut you off.
 19 And if I do, you tell me you have more to say. And
 20 likewise, even if you know the answer to my question,
 21 if you would wait until I finish it before you answer,
 22 that will help.
 23 If you need a break, we can take a break.
 24 If during the deposition you have any concern or
 25 questions about anything I'm asking you, if you would

1 direct your questions to me and not to your attorney.
 2 And I think that's it.
 3 If you don't know -- two more things. If you
 4 don't know the answer to my question, tell me that.
 5 And also, if you need to -- if you hear an objection
 6 from your attorney, he's putting it on the record and
 7 you need to answer the question anyway.
 8 MR. FRAMPTON: Unless I direct him not to.
 9 BY MS. BLOODGOOD:
 10 Q. I'm not going to ask you about advice that
 11 your attorney has given you. I hope I'm not going to
 12 do that. If you think I am, don't answer it, okay?
 13 Because I don't want to know any conversations between
 14 yourself and your attorneys.
 15 Okay. What is your current position at the
 16 College of Charleston?
 17 A. Provost and Executive Vice President for
 18 Academic Affairs, Professor of Communication, faculty
 19 associate Women's and Gender Studies.
 20 Q. Okay. Are those various titles?
 21 A. Yes.
 22 Q. Okay. So let's go through them one at a
 23 time. What are your duties as Provost?
 24 A. As Provost and Executive Vice President for
 25 Academic Affairs, I am chief academic officer for the

1 College of Charleston. The Division -- the Academic
 2 Affairs Division is made up various academic and
 3 academic support units of the College.
 4 Q. What do you do on a day-to-day basis?
 5 A. I work in Randolph Hall. I interact with the
 6 president of the College and other members of our
 7 executive leadership team. And I interact with my
 8 about 14 direct reports every day.
 9 Q. All right. What other positions do you
 10 hold?
 11 A. I'm also a tenured professor of communication
 12 with an academic appointment in our Department of
 13 Communication. And I have employment as well in the
 14 Women's and Gender Studies Program.
 15 Q. Can you specifically tell me the areas that
 16 you would supervise in your capacity as Provost and
 17 Executive Vice President of Academic Affairs?
 18 A. Those include the six academic schools:
 19 Humanities and Social Sciences; Sciences and
 20 Mathematics; Languages, Cultures and World Affairs;
 21 School of the Arts; School of Business; School of
 22 education; Health and Human Performance. I also
 23 supervise the Academic Experience area, which is
 24 supervised by an associate vice president. I supervise
 25 the Office of Research and Grants Administration,

1 headed by an Assistant Vice President to the Office of
 2 Undergraduate Admissions, which is supervised by an
 3 assistant vice president. I also am responsible for
 4 the Graduate School. I'm currently acting as Dean of
 5 the Graduate School. And I also supervise the Honors
 6 College, which has its own dean. And I supervise the
 7 School of Professional Studies, which also has its own
 8 dean. I'm sure I'm forgetting some office in that
 9 list.
 10 Q. Okay. In what capacity do you have
 11 involvement with the grievance procedure at the College
 12 of Charleston?
 13 A. I mean, the provost has an articulated role
 14 in the Faculty/Administration Manual that is germane to
 15 the grievance process, whether through the auspices of
 16 the Faculty Hearing Committee or the Faculty Grievance
 17 Committee. And the provost also has a role that is
 18 described in various policies of the College.
 19 Q. Okay. So the provost role is that which
 20 would be found in policies in the Faculty
 21 Administrative Manual?
 22 A. Yes.
 23 MR. FRAMPTON: Object to the form.
 24 BY MS. BLOODGOOD:
 25 Q. Do you have a job description for the

1 provost?
 2 A. The provost is described very briefly in the
 3 Faculty/Administration Manual. And I believe there is
 4 a job description that dates back several years that is
 5 in our HR system.
 6 Q. Okay. So you think you have seen a job
 7 description for provost?
 8 A. Yeah, I can't -- I can't describe its content
 9 in any details. It's been years since I've looked at
 10 it.
 11 Q. So you don't know, sitting here today,
 12 whether that would be an accurate description of your
 13 job currently as provost?
 14 A. I do not.
 15 Q. Okay. Who do you report to directly?
 16 A. The president of the College.
 17 Q. What is your current salary?
 18 A. 221 and change, if I recall correctly.
 19 Q. How many direct reports do you have?
 20 A. It's 14, give or take. I'd have to count to
 21 be sure.
 22 Q. What previous positions have you had at
 23 College of Charleston?
 24 A. Previously, I was Interim Provost and
 25 Executive Vice President for Academic Affairs, Chief of

1 Staff, and Senior -- and Senior Vice President for
 2 Executive Administration, Chief of Staff, and Senior
 3 Policy Advisor, Chair of the Department of
 4 Communication, Professor of Communication, Associate
 5 Professor of Communication.
 6 Q. Okay. When did you start at the College of
 7 Charleston?
 8 A. August 2004.
 9 Q. Briefly, what was your work background before
 10 August 2004?
 11 A. I was Associate Professor of Communication
 12 and Chair of the School of Communication at Spalding
 13 University in Louisville, Kentucky. Prior to that,
 14 Associate Professor of Communication and Chair of the
 15 Department of Communication Studies, also Spalding
 16 University, in Louisville, Kentucky. Prior to that, I
 17 was Assistant Professor of Communication Studies in the
 18 Department of Communication Studies at Texas Tech
 19 University in Lubbock, Texas. Before that, I was a
 20 graduate student at Ohio State University. Prior to
 21 that, I was an instructor of speech communication and
 22 theater at the Northeast Louisiana University in
 23 Monroe, Louisiana. Prior to that, I was an
 24 undergraduate and graduate student at Southern Illinois
 25 University in Carbondale.

1 Q. What degree did you get at Southern Illinois
 2 University?
 3 A. I have bachelor's and master's degrees.
 4 Q. What was your bachelor's in?
 5 A. Speech communication.
 6 Q. What was your master's in?
 7 A. Speech communication.
 8 Q. What did you do at Ohio State?
 9 A. I earned a Ph.D. in communication.
 10 Q. How long were you working at Texas Tech?
 11 A. I was there for five years. One of those
 12 years, I was a visiting Assistant Professor of
 13 Communication Studies, then became professor --
 14 Assistant Professor of Communication Studies.
 15 Q. And from there, you went to Louisville?
 16 A. From there, I went to Louisville.
 17 Q. How long were you there?
 18 A. Three years.
 19 Q. And from Louisville, you went to College of
 20 Charleston?
 21 A. Yes.
 22 Q. Do you have -- and I'm asking these questions
 23 for jury purposes, because I don't want to put one of
 24 your relatives on the -- on a jury. Do you have any
 25 relatives in the area over the age of 18 with a

1 different last name than McGee?
 2 A. Over the age of 18? No. My ex-wife is over
 3 18 and in the area. She uses the last name McGee.
 4 Q. Does she have any relatives in the Charleston
 5 area with a different last name than McGee?
 6 A. She has a cousin named Susan Hauser.
 7 Q. H-o-u-s-e-r?
 8 A. H-a-u-s-e-r.
 9 Q. Okay. And I understand that you were married
 10 again. Does your other wife have any relatives in the
 11 Charleston area with a different last name than
 12 Piepmeier?
 13 A. Yes. Her first husband's last name is
 14 Biffle, B-i-f-f-l-e. And he lives in McClellanville.
 15 Q. Anyone else that you can think of?
 16 A. No.
 17 Q. Okay. What is your current home address?
 18 A. 811 Farnham Road, Charleston, South Carolina,
 19 29412.
 20 Q. Do you belong to any civic or professional
 21 groups in the area?
 22 A. I am a parishioner at Church of the Nativity
 23 on James Island, where I also sing in the church choir.
 24 I am a member of Palmetto Vocal Project, which is a
 25 men's singing organization. I am a member of the

1 Knights of Columbus in its Mount Pleasant chapter.
 2 Q. Okay. You were involved with the issue of
 3 Dr. Dillon's syllabus and his discipline, correct?
 4 A. Yes.
 5 Q. And during the time that you were at the
 6 College of Charleston while Dr. Dillon's syllabus or
 7 syllabi were at issue, did you send any e-mails to
 8 anyone at the College regarding Dr. Dillon? I've seen
 9 one that I received the other day to Mike Auerbach.
 10 A. Uh-huh.
 11 Q. But I haven't seen any others.
 12 MR. FRAMPTON: Object to the form.
 13 BY MS. BLOODGOOD:
 14 A. My recollection is that I previously produced
 15 everything that I had and provided to counsel.
 16 Q. Okay. And how did you go about finding
 17 e-mails that you have that might be related to
 18 Dr. Dillon?
 19 A. I searched the key terms "Dillon" and
 20 "syllabi" or "syllabus" in Microsoft Outlook.
 21 Q. Okay. During the time that you have been at
 22 the College of Charleston and the issue of Dr. Dillon's
 23 syllabus has been something that you have been aware
 24 of, did you send any e-mails that you know of to Jaap
 25 Hillenius that you have not produced to your attorney?

1 MR. FRAMPTON: Object to the form. Go ahead.
 2 BY MS. BLOODGOOD:
 3 A. You know, everything I could find that was
 4 germane to Dr. Dillon I previously produced.
 5 Q. Okay. Did you also check your computer for
 6 e-mails to Lynn Ford?
 7 A. I have hundreds and hundreds of e-mails
 8 between me and Dr. Ford over the years. You mean
 9 specific to Dr. Dillon?
 10 Q. Yes.
 11 A. Again, I searched the keyword "Dillon."
 12 Q. Okay. Is College of Charleston a state
 13 school?
 14 A. It's a public university.
 15 Q. And part of the state college educational
 16 system, correct?
 17 A. It is one of 13 four-year public universities
 18 in the state of South Carolina.
 19 Q. Is the campus open to the public?
 20 A. The cam- -- unless there has been some sort
 21 of legal action taken to bar or restrain folks from
 22 being on campus, yes.
 23 Q. When you say "legal action," you mean law
 24 enforcement action?
 25 MR. FRAMPTON: Object to the form. Go ahead.

1 BY MS. BLOODGOOD:
 2 A. That is my understanding, but this is not my
 3 area of expertise.
 4 Q. Okay. Who is Doug Ferguson?
 5 A. Doug Ferguson is a faculty member at the
 6 College of Charleston.
 7 Q. And how do you know him?
 8 A. Dr. Ferguson has been at the College during
 9 the entirety of my career there. I believe he came in
 10 1999.
 11 Q. Okay. Have you known him since 1999?
 12 A. No.
 13 Q. When did you first meet him?
 14 A. When I joined the faculty of the College of
 15 Charleston.
 16 Q. Okay. Would you consider him a personal
 17 friend?
 18 A. No.
 19 Q. Have you ever socialized with him outside of
 20 work?
 21 A. No.
 22 Q. Have you ever been to his house?
 23 A. No.
 24 Q. Has he ever been to yours?
 25 A. When I was department chair, I hosted

1 departmental parties. He was appointed in the
 2 department, so I believe he attended several of those
 3 functions during -- over the years of my six years as
 4 department chair.
 5 Q. Approximately when was that, what time
 6 frame?
 7 A. That would have been between 2004 and 2010.
 8 Q. Can you explain to me what the College's
 9 concern is with Dr. Dillon's syllabus?
 10 MR. FRAMPTON: Object to the form. Go ahead.
 11 BY MS. BLOODGOOD:
 12 A. Dr. Dillon has -- like every other faculty
 13 member, needs to produce a syllabus that complies with
 14 institutional policy. And, namely, it needs to have
 15 appropriate course objectives consistent with the
 16 Faculty/Administration Manual description of same. I
 17 was unaware of details of his syllabus until I was
 18 contacted by Dean Auerbach and was made aware that
 19 there had been an exchange between Dr. Dillon and his
 20 supervisor, Dr. Hillenius, concerning the learning
 21 objectives on his syllabus.
 22 Q. Learning objectives or course objectives?
 23 A. Those terms are frequently used
 24 interchangeably in higher education.
 25 Q. So when you use those terms today, if you say

1 "learning objectives," you would be referring to course
 2 objectives also?
 3 A. The terms "student learning outcome" and
 4 "instructional objectives" are frequently used
 5 interchangeably in higher education. Some academics
 6 make a distinction between those two, some do not.
 7 Q. Okay. So a professor would not necessarily
 8 need to have student learning outcomes and course
 9 objectives, if they're the same?
 10 A. If they are represented as --
 11 MR. FRAMPTON: Object to the form.
 12 BY MS. BLOODGOOD:
 13 A. -- fulfilling the same purpose and they are
 14 course specific, no.
 15 Q. No, they would not need to have both; is that
 16 the answer?
 17 A. They would -- there would be no requirement
 18 there be a separate list of objectives and outcomes.
 19 There are faculty who do so on their syllabi.
 20 Q. Okay. Do you have any concern, in your
 21 position as Provost or Executive --
 22 A. Vice president.
 23 Q. -- Vice President for Academic Affairs that
 24 Dr. Dillon's syllabus adversely affected the College in
 25 any manner?

1 A. I do.
 2 MR. FRAMPTON: Object to the form.
 3 BY MS. BLOODGOOD:
 4 Q. How?
 5 A. First of all, it is harmful to students to
 6 not provide information about what it is that they are
 7 supposed to learn and/or be able to do as a result of
 8 completing a course. It deprives them of needed
 9 information about what it is that the course is about.
 10 Secondly, the College has an interest in its
 11 faculty actually following policy and following, you
 12 know, reasonable directives from supervisors in order
 13 to maintain good operating order and to make sure that
 14 the institution's purposes continue to be served.
 15 Third, the institution has an interest in making
 16 certain that faculty are aware of their needs to comply
 17 with institutional policy so that we can maintain good
 18 order.
 19 Fourth, it is important in some areas of the
 20 institution that policy be followed and complied with
 21 so that we may meet the various regulatory requirements
 22 that we confront as a highly regulated public entity.
 23 Q. What type of requirements do you think you
 24 have to meet that are relevant to the syllabus?
 25 A. We have numerous obligations under our

1 regional accreditor, for example, to demonstrate that
 2 we can assess our ability to actually teach things,
 3 that what we have thought is retained by students, and
 4 that those competency skills or knowledge are of
 5 valuable -- are of value to them, that they are getting
 6 what they're paying for when they pay tuition.
 7 Q. So I assume that you reviewed personally
 8 Dr. Dillon's syllabus?
 9 A. I have seen it.
 10 Q. And is it your contention that his syllabus
 11 does not tell students what they are supposed to do in
 12 his course?
 13 A. That is precisely my contention.
 14 Q. And it also appears, or seems from what you
 15 just said, that you don't believe that Dr. Dillon was
 16 following policy and that you have an interest in
 17 ensuring faculty follow policy. What policy wasn't he
 18 following?
 19 A. The policy that requires course objectives be
 20 provided in writing to students. That is, I believe,
 21 in Article VIII, Section A of the current
 22 Faculty/Administration Manual. I'd have to
 23 double-check to make sure that's the section.
 24 Q. We'll look at that.
 25 You also expressed a concern that faculty need to

1 be aware of the requirements that the College places on
 2 them?
 3 A. Faculty have an affirmative duty to be aware
 4 of the policies of the College as published in the
 5 Faculty/Administration Manual and those that are made
 6 available on the policy web site.
 7 Q. Have you punished any other faculty member
 8 for not having syllabus that contain -- syllabi that
 9 contain course objectives?
 10 A. I can't speak to what previous provosts have
 11 done. I can only speak to sort of the period when I've
 12 been provost. Dr. Dillon is the only case of a faculty
 13 member who failed to produce and include appropriate
 14 course subject and learning outcomes on the syllabus,
 15 who did not comply with directives to change them.
 16 Q. How do you know that?
 17 A. Because the only other faculty member I'm
 18 aware of who had a syllabus without course objectives
 19 was told to correct them, and did so.
 20 Q. Did you check your own web site to look at
 21 all of the syllabi of your professors at the College?
 22 A. Me personally, no. That is the
 23 responsibility of the department chairs, program
 24 directors and the supervising deans.
 25 Q. And none of your department chairs have

1 reported to you that there are other syllabi currently
 2 at College of Charleston and of as of last year that
 3 don't have course objectives?
 4 A. No.
 5 Q. You have not suspended any other professors
 6 at the College of Charleston for not putting course
 7 objectives on their syllabi, have you?
 8 A. Let me just be clear. I mean, Dr. Dillon was
 9 not suspended because he retired before his suspension
 10 took effect. So I've never suspended anyone.
 11 Q. In April of 2015, Dr. Dillon was barred from
 12 campus and taken out of his classroom. Do you
 13 understand that?
 14 A. In April 2015? I'm confused as to the time
 15 line.
 16 Q. 2016, sorry.
 17 A. I believe it was earlier than that. But,
 18 yes, Dr. Dillon was assigned to new duties at that
 19 time.
 20 Q. He was taken out of his class, wasn't he?
 21 A. He was assigned to new duties that no longer
 22 had him teaching the course sections he had previously
 23 been assigned.
 24 Q. He was barred from the public campus,
 25 correct?

1 A. He was -- there were restraints put on there.
 2 I'd have to review the documentation to be clear as to
 3 what and wasn't done.
 4 Q. We will look at the documentation.
 5 A. Sure.
 6 Q. And what regional accreditation do you
 7 contend Dr. Dillon broke that is -- or violated that is
 8 harmful to students?
 9 MR. FRAMPTON: Object to the form.
 10 BY MS. BLOODGOOD:
 11 A. I think you're referring to our regional
 12 accreditation under the Southern Association of
 13 Colleges and Schools Commission on Colleges. Do you
 14 want references to --
 15 Q. We'll look at those.
 16 A. Do you want to be more specific?
 17 Q. We'll look at those. I'm going to ask you to
 18 look at that later.
 19 A. Okay.
 20 Q. Is limiting discussion at College of
 21 Charleston something that you think is important?
 22 MR. FRAMPTON: Object to the form.
 23 BY MS. BLOODGOOD:
 24 A. Limiting discussion?
 25 Q. How about limiting dissension at the College

1 of Charleston?
 2 MR. FRAMPTON: Same objection.
 3 BY MS. BLOODGOOD:
 4 A. In what -- in what sense?
 5 Q. Do you think that a college should limit the
 6 dissension by its professors?
 7 MR. FRAMPTON: Same objection.
 8 BY MS. BLOODGOOD:
 9 A. Dissension from what?
 10 Q. From instructions that a professor believes
 11 may interfere with their academic freedom?
 12 MR. FRAMPTON: Same objection.
 13 BY MS. BLOODGOOD:
 14 A. I'm struggling to understand the question.
 15 Are you asking is it appropriate or is it desirable to
 16 tell folks to be silent when they want to have a
 17 conversation with their department chair about sort of
 18 best teaching methods?
 19 Q. Do you think that's okay?
 20 A. I don't think that we've ever done anything
 21 that would preclude faculty from having conversations
 22 with their department chairs as to appropriate teaching
 23 methods, up to and including discussing disagreements.
 24 They're of the same.
 25 Q. So did Dr. Dillon cause dissension in the

1 department by quoting Woodrow Wilson in his syllabus?
 2 A. I actually have no idea. I didn't interview
 3 any other members of his academic department.
 4 Q. Prior to the time that you barred him from
 5 campus and took him out of his classroom, you didn't
 6 interview anyone in his department?
 7 A. No. They weren't germane to the discussion
 8 about whether or not he was complying with
 9 institutional policy.
 10 Q. Okay. Do you think it's important to limit
 11 discord at the College of Charleston?
 12 MR. FRAMPTON: Object to the form.
 13 BY MS. BLOODGOOD:
 14 A. In what sense?
 15 Q. In any sense. It's not -- it's not a
 16 complicated question.
 17 MR. FRAMPTON: Object to the form.
 18 BY MS. BLOODGOOD:
 19 A. We -- if "discord" means violent riots in the
 20 streets, yes, we would want to take affirmative steps
 21 to preserve the safety of people on campus.
 22 Q. Okay. Do you think that a professor's speech
 23 could create discord at the College of Charleston?
 24 MR. FRAMPTON: Object to the form.
 25 BY MS. BLOODGOOD:

1 A. We -- again, I'm struggling here. We, of
 2 course, have faculty who disagree with one another all
 3 the time. We have faculty and students who disagree
 4 with one another all the time. We have students and
 5 students who disagree with one another all the time.
 6 Conversations about subjects of weight and significance
 7 about which we reasonable people disagree is the normal
 8 stuff of university life.
 9 Q. At what point do those conversations become
 10 insubordinate?
 11 MR. FRAMPTON: Object to the form.
 12 BY MS. BLOODGOOD:
 13 A. The definition of insubordination, as I
 14 understand it, is when someone fails to comply with the
 15 reasonable and lawful order of a supervisor.
 16 Q. Who decides if an order of a supervisor is
 17 reasonable?
 18 A. That would be -- that would be consistent
 19 with sort of the job description of the employee, the
 20 job description of the supervisor, and sort of the
 21 subsequent guidance and direction that might be
 22 provided by legal counsel, might be provided by the
 23 supervisor. I suppose sometimes we consult HR, as
 24 well.
 25 Q. In this case, Jaap Hillenius was the

1 department chair of biology at the time that Dr. Dillon
 2 created his syllabus, correct?
 3 A. Yes.
 4 Q. And is it your understanding that the alleged
 5 problem with Dr. Dillon's syllabus was first brought --
 6 was first raised by Jaap?
 7 A. I didn't ask. I didn't ask whether anyone
 8 else raised it first. But I assume, but cannot testify
 9 to the fact, that Jaap is the first one who raised it.
 10 Q. It was not you, was it?
 11 A. No.
 12 Q. And did you have any conversations with Jaap
 13 about why he was concerned about the Woodrow Wilson
 14 quote in Dr. Dillon's syllabus?
 15 MR. FRAMPTON: Object to the form.
 16 BY MS. BLOODGOOD:
 17 A. I don't recall having had a conversation with
 18 Jaap Hillenius until sometime during or after March of
 19 2016.
 20 Q. The question was, did you discuss with Jaap
 21 Hillenius why he considered the Woodrow Wilson quote to
 22 be insubordinate?
 23 MR. FRAMPTON: Same objection.
 24 BY MS. BLOODGOOD:
 25 A. No.

1 Q. If there are other professors today whose
 2 syllabus or syllabi do not have course objectives in
 3 them, would you consider them to be insubordinate?
 4 A. Only if they were told to correct them and
 5 failed to do so.
 6 Q. Did Dr. Dillon's use of the Woodrow Wilson
 7 quote undermine anyone's authority at the College of
 8 Charleston?
 9 A. Having a quotation on a syllabus is quite
 10 common as a statement of teaching philosophy or as sort
 11 of the attempt to illustrate some principle, so no.
 12 Q. Did the Woodrow Wilson quote destroy any
 13 relationships at the College of Charleston, working
 14 relationships?
 15 MR. FRAMPTON: Object to the form.
 16 BY MS. BLOODGOOD:
 17 A. I certainly can't speak to every relationship
 18 Dr. Dillon had with everyone on campus. The question
 19 was whether or not there were compliant learning
 20 outcomes or course objectives on the syllabus, not
 21 whether or not one did or didn't use a quotation.
 22 Q. Well, have you read Jaap Hillenius e-mails?
 23 A. Yes.
 24 Q. Okay. Do you know what his contention was,
 25 what his problem was with the Woodrow Wilson quote?

1 A. That it was not specific to the course's
 2 subject matter and was not consistent with the form
 3 that we desired for course objectives or learning
 4 outcomes.
 5 Q. Did the Woodrow Wilson quotation adversely
 6 affect student learning in any manner?
 7 MR. FRAMPTON: Object to the form.
 8 BY MS. BLOODGOOD:
 9 A. I would have to interview students in order
 10 to understand what they believed. The problem -- the
 11 contention of the College is that we need those course
 12 objectives or learning outcomes to the syllabus so the
 13 students know what it is they're supposed to learn and
 14 so that we have appropriate guidance for assessing the
 15 learning outcomes of the course.
 16 Q. Did you read the Woodrow Wilson quote?
 17 A. Yes.
 18 Q. Do you think it's truthful?
 19 A. It makes a claim about how learning -- about
 20 how learning works, in very broad brush strokes.
 21 Q. Do you agree with Woodrow Wilson's philosophy
 22 as illustrated by that quote?
 23 A. I was reading the quote solely for the
 24 purpose of determining whether it would qualify as a
 25 course-specific learning outcome. I was not assessing

1 its truth, value, voracity, content, or relationship to
 2 my own teaching philosophy, for example.
 3 Q. Is it the business of a university to impart
 4 to the rank and file of the men whom it trains the
 5 right thought of the world?
 6 A. That depends on the definition of "right
 7 thought." And the reference to men would also be a
 8 separate subject in many academic units.
 9 MR. FRAMPTON: Object to the form.
 10 BY MS. BLOODGOOD:
 11 Q. You don't think "men" is broad enough a term
 12 to include female students?
 13 A. We have several faculty who would object to
 14 that quotation for that reason.
 15 Q. I'm talking to you. What do you think?
 16 A. I think that I would read it in the context
 17 of an 1896 quotation and give it a free pass.
 18 Q. Okay. Do you know whether the Woodrow Wilson
 19 quote reflected Dr. Dillon's philosophy of teaching?
 20 A. No, I don't, because I never asked him that
 21 question.
 22 Q. Why not?
 23 A. It was not material to the question before
 24 me, which was whether or not there were course-specific
 25 learning outcomes and whether he had been asked to

1 address them and he failed do so.
 2 Q. Did you read his entire syllabus?
 3 A. I did, at one time.
 4 Q. All of the pages of it?
 5 A. I did, at one time.
 6 Q. And he broke out every single class,
 7 correct?
 8 A. He included a course schedule.
 9 Q. And he broke out exactly what was going to be
 10 done in every class, on every subject, what the
 11 students' requirements were, and when the tests were,
 12 what the labs were, what the work was, right?
 13 MR. FRAMPTON: Object to the form.
 14 BY MS. BLOODGOOD:
 15 A. I would dispute your characterization of it
 16 as a complete statement of the course -- course
 17 contents. In fact, compared to many course syllabi,
 18 his is quite minimal.
 19 Q. You didn't ban him from campus or take him
 20 out of his class because his syllabus was minimal, did
 21 you?
 22 A. No.
 23 MR. FRAMPTON: Object to the form.
 24 BY MS. BLOODGOOD:
 25 Q. Have you ever met Dr. Dillon before today?

1 A. Yes.
 2 Q. When?
 3 A. Our overlap at the College of Charleston was
 4 12 years, from 2004 to the conclusion of his teaching
 5 service.
 6 Q. How many times in those 12 years have you
 7 spoken directly to Dr. Dillon?
 8 A. Very few. Under ten.
 9 Q. Did you speak to him personally regarding
 10 this issue before you banned him from campus and took
 11 him out of the classroom?
 12 A. No.
 13 Q. But prior to banning him from campus and
 14 taking him out of the classroom, you did speak to Mike
 15 Auerbach; is that correct?
 16 A. Mike Auerbach is the Dean of the School of
 17 Science and Mathematics.
 18 Q. Did you speak to him prior to the time --
 19 A. Uh-huh.
 20 Q. -- you took Dr. Dillon out of the class and
 21 banned him from the College of Charleston?
 22 A. Yes.
 23 Q. Did you speak to Dr. Hillenius?
 24 A. I don't believe I had at that time, no.
 25 Q. Okay. Doug Ferguson?

1 A. Only in the context of giving him
 2 instructions as the chair of committee.
 3 Q. What committee was that?
 4 A. A committee formed consistent with the
 5 Operating Procedures, the College Policy 9.1.10, a
 6 disinterested review panel.
 7 Q. A review panel?
 8 A. I don't remember the term that's used in the
 9 Operating Procedure.
 10 Q. How about Beth Lloyd?
 11 A. No.
 12 Q. President McConnell?
 13 A. Let's be clear. What time -- what time
 14 context are we talking about for Dr. Lloyd?
 15 Q. Prior to the time -- prior to the time that
 16 you took Dr. Dillon out of the classroom and banned him
 17 from campus?
 18 A. Okay, thanks. No, I had not spoken to
 19 Dr. Lloyd at the time.
 20 Q. President McConnell?
 21 A. No.
 22 Q. What's the significance of the Faculty
 23 Administrative Manual?
 24 A. The Faculty/Administration Manual is a
 25 compilation of many but not all of the policies of the

1 College of Charleston that speak to the relationship
 2 between the College's faculty and the College's
 3 faculty's work, and the work of the university,
 4 including in particular its academic administrator.
 5 (Plaintiff's Exhibit No. 1 marked for
 6 identification.)
 7 BY MS. BLOODGOOD:
 8 Q. I'm going to hand you a copy that we've
 9 marked as Plaintiff's Exhibit 1. I want to look at a
 10 few things in this manual.
 11 MR. FRAMPTON: Do you have copy for me?
 12 MS. BLOODGOOD: No. Could you share?
 13 THE WITNESS: I'm sure we can manage.
 14 MS. BLOODGOOD: We have about 15 copies that
 15 have been produced to us of this, so I figured you had
 16 one, Hal.
 17 BY MS. BLOODGOOD:
 18 Q. In 2000 -- this is the 2015-2016 version
 19 which, would you agree, is the version that would have
 20 been in effect when Dr. Dillon was taken out of the
 21 classroom and banned from campus?
 22 A. Yes.
 23 Q. And in 2015, to your knowledge, did this
 24 Faculty/Administrative Manual address any student
 25 learning outcomes?

1 A. Indeed, it did.
 2 Q. Go to page 155, if you would.
 3 A. Uh-huh.
 4 Q. This section is entitled, VIII, Faculty
 5 Interaction with Students?
 6 A. Uh-huh.
 7 Q. It has a paragraph at the bottom that says,
 8 Course Objectives.
 9 Is that you're what you're referring to?
 10 A. It is.
 11 Q. Is that the only place in the manual where
 12 course objectives or student learning outcomes, which
 13 you're using interchangeably, I guess, is addressed?
 14 MR. FRAMPTON: Object to the form. Go ahead.
 15 BY MS. BLOODGOOD:
 16 A. To the best of my recollection, yes. I'd
 17 have to do a keyword such or otherwise double-check to
 18 be sure.
 19 Q. Okay. On page 143, Section VII, the Faculty
 20 Discipline, B, Discipline of Faculty Members?
 21 A. Yes.
 22 Q. It states that in the middle that paragraph,
 23 Disciplinary action will, under normal circumstances,
 24 be preceded by an oral, then a written, reprimand from
 25 the Department Chair, Dean and/or other appropriate

1 administrative officer describing the alleged problem
 2 and warning that the faculty member's contract status
 3 is in jeopardy.
 4 Was that done with Dr. Dillon?
 5 A. In this particular --
 6 MR. FRAMPTON: Object to the form.
 7 BY MS. BLOODGOOD:
 8 A. -- case?
 9 Q. Yes.
 10 A. Okay. There was -- you know, there was a
 11 written instruction, then more written instruction,
 12 then more written instruction. There was not a formal
 13 oral reprimand or a formal written reprimand.
 14 Q. No written reprimand?
 15 A. In this particular case, no, there was not a
 16 written reprimand.
 17 Q. Okay. It says, The written reprimand or the
 18 warning must also stipulate a period of time in which
 19 correction of the alleged problem is expected.
 20 So I imagine that didn't occur, if there was no
 21 written warning, correct?
 22 A. There was a written instruction by e-mail
 23 noting this period of time which the correction of the
 24 alleged problem is expected. That is, I believe,
 25 provided by Dean Auerbach.

1 Q. Okay. What conversations did you have with
 2 anyone in the biology department regarding discipline
 3 that was appropriate for Dr. Dillon?
 4 A. The only person with whom I had any exchange
 5 on this matter was Dean Auerbach. I didn't have any
 6 conversations with anyone else in the Department of
 7 Biology.
 8 Q. We'll come back to this, so if you could put
 9 it back together and just put it to the side.
 10 (Plaintiff's Exhibit No. 2 marked for
 11 identification.)
 12 BY MS. BLOODGOOD:
 13 Q. I'm going to show you an e-mail that we've
 14 marked as Plaintiff's Exhibit 2 and ask you if you've
 15 ever seen this e-mail before?
 16 A. I have.
 17 Q. Okay. This is an e-mail from Jaap to
 18 Dr. Dillon, January 19, 2016, saying that, The student
 19 learning outcome statement on your policy syllabus does
 20 not meet the SAC?
 21 A. SACSCOC.
 22 Q. Is that how you use pronounce the acronym?
 23 A. SACSCOC.
 24 Q. SACSCOC guidelines?
 25 A. I know it will shock you that there are some

1 other pronunciations not preferred by our friends who
 2 work for the accreditor.
 3 Q. That's why I was spelling it out.
 4 A. That was very polite of you.
 5 Q. He says, Although the quote from Woodrow
 6 Wilson is lofty, it is not very specific. It also
 7 dates from 1896, and genetics has come a long way since
 8 then. Please include a brief list of student learning
 9 outcomes based on the content of your course and send
 10 me a copy of the amended syllabus.
 11 Is it your contention that SACSCOC requires a
 12 faculty member to create student learning outcomes?
 13 A. It is.
 14 Q. Okay. Let's look at that document. I'm
 15 going to hand you what we'll mark as Plaintiff's
 16 Exhibit 3.
 17 (Plaintiff's Exhibit No. 3 marked for
 18 identification.)
 19 BY MS. BLOODGOOD:
 20 Q. I understand that you have provided within
 21 the last day or two to me --
 22 MS. BLOODGOOD: I have another copy.
 23 MR. FRAMPTON: Thank you.
 24 BY MS. BLOODGOOD:
 25 Q. -- a version of this document from 2012 that

1 appears to be annotated. And I don't -- I do not think
 2 it differs from what I've shown you, but I haven't had
 3 time to look at it and go through it since I only got
 4 it yesterday.
 5 A. Sure.
 6 Q. So let's use the one that is the 2011
 7 printing, fifth edition, second printing. And look at
 8 that. Would you turn to page 31, please. 3.7.4, The
 9 institution ensures adequate procedures for
 10 safeguarding and protecting academic freedom,
 11 correct?
 12 A. That is one of the standards that is
 13 announced here.
 14 Q. Is that one of the standards the College of
 15 Charleston abides by?
 16 A. It is, indeed.
 17 Q. Do you think it's important?
 18 A. I believe every one of these standards is
 19 important.
 20 (Plaintiff's Exhibit No. 4 marked for
 21 identification.)
 22 BY MS. BLOODGOOD:
 23 Q. Okay. Would you go to 3.3.1.1, which is on
 24 page 27. 3.3.1 starts -- states, The institution
 25 identifies expected outcomes, assesses the extent to

1 which it achieves these outcomes, and provides evidence
 2 of improvement based on analysis of the results in each
 3 of the following areas.
 4 And then 3.3.1.1 says, Educational programs to
 5 include student learning outcomes.
 6 Does the College of Charleston have a document
 7 that sets -- that identifies student learning outcomes?
 8 MR. FRAMPTON: Object to the form. Go ahead.
 9 BY MS. BLOODGOOD:
 10 A. We identify student learning outcomes at
 11 varying levels of abstraction and at different levels
 12 of assessment. We have student learning outcomes that
 13 are described for the institution. We have student
 14 learning outcomes described on a program-by-program
 15 basis. We have student learning outcomes attached to
 16 specific courses.
 17 Q. Where will I find the College of Charleston's
 18 institution student learning outcomes?
 19 A. Student learning outcomes institutionally are
 20 published in various places. I'd have to go pull them
 21 to give you an exhaustive list. You can find them, for
 22 example, in the undergraduate and graduate catalogs.
 23 Q. And the institution's student learning
 24 outcomes published in those catalogs has nothing do
 25 with Dr. Dillon, correct?

1 MR. FRAMPTON: Object to the form.
 2 BY MS. BLOODGOOD:
 3 A. They have everything to do with the work of
 4 each and every faculty member who is expected to
 5 contribute to the work of the institution in producing
 6 learning outcomes for its individual students.
 7 Q. Dr. Dillon has no role at all in creating any
 8 institutional guidelines regarding student learning
 9 outcomes that are in the undergraduate or graduate
 10 catalogs, correct?
 11 MR. FRAMPTON: Object to the form.
 12 BY MS. BLOODGOOD:
 13 A. At the level of program, I don't know what
 14 involvement he has had in his department with the
 15 setting of program-specific student learning outcomes,
 16 as provided institutional effectiveness, when
 17 promulgated there. As to whether or not he has served
 18 in the Faculty Senate in different years when there
 19 might have been discussions about institutional
 20 learning outcomes, I could not speak.
 21 Q. So you don't know if Dr. Dillon had any input
 22 at all into the institution or program development of
 23 student learning outcomes?
 24 A. I do not know.
 25 Q. And I am going to ask you -- show you what

1 actually is a copy, a bigger copy, of 3.3.1.1, as it is
 2 not -- it was not specifically explained in Exhibit 3.
 3 It may be in your annotated version.
 4 MR. FRAMPTON: Was this document produced? I
 5 don't recall seeing it.
 6 MS. BLOODGOOD: It may not have been. Do you
 7 want to look at it?
 8 MR. FRAMPTON: Then I get to talk to him.
 9 Come on, Brian.
 10 (A brief recess was taken.)
 11 BY MS. BLOODGOOD:
 12 Q. You just reviewed 3.3.1.1, which comes out of
 13 the Principles of Accreditation: Foundations For
 14 Quality Enhancement. And that states specifically the
 15 institution identifies expected outcomes, assesses the
 16 extent to which it achieves those outcomes, and
 17 provides evidence of improvement based on analysis of
 18 the results in each of the following areas.
 19 Is there anywhere in 3.3.1.1 that puts the
 20 requirement for identifying outcomes on the faculty
 21 member?
 22 MR. FRAMPTON: Object to the form.
 23 BY MS. BLOODGOOD:
 24 A. I believe you just read the passage from page
 25 27 in your Plaintiff's Exhibit 3. There is nothing in

1 what we just read that makes express reference to
 2 individual faculty members.
 3 Q. Okay. And are you familiar with the
 4 Principles of Accreditation document that we've marked
 5 as Exhibit 3?
 6 A. I am.
 7 Q. And there's no where in this document that
 8 addresses the content of the syllabi, is there?
 9 MR. FRAMPTON: Object to the form.
 10 BY MS. BLOODGOOD:
 11 A. I would have to do a keyword search in the
 12 document to be sure. I don't recall any specific
 13 passage that talks about student learning outcomes and
 14 syllabi specifically. There are other materials
 15 published by SACSCOC that do.
 16 Q. What materials are those?
 17 A. The resource manual dated 2012, which may or
 18 may not be the document you just referred to, does
 19 include in Section 3.7.1 notes that describe some
 20 details about demonstrating the institution's competent
 21 faculty.
 22 Q. Have you produced that document to your
 23 attorneys? Are you referring to something called
 24 Improving Institutional Practice, by the Regional
 25 Accreditation and Student Learning Council?

1 A. No.
 2 Q. Okay. So what -- specifically, what are you
 3 referring to?
 4 A. There is a resource manual published by the
 5 SACSCOC to accompany the Principles of Accreditation.
 6 That resource manual contains information and guidance
 7 provided to the member institutions for demonstrating
 8 compliance with the standards.
 9 Q. Okay. So you think it's all right to take
 10 someone out of the classroom, bar them from the campus,
 11 based on guidance received that exists in a manual put
 12 out by a regional accreditation bureau?
 13 MR. FRAMPTON: Object to the form.
 14 BY MS. BLOODGOOD:
 15 A. I believe that it is appropriate to take up
 16 matters of discipline when faculty colleagues failed
 17 to -- fail to follow reasonable and lawful directives
 18 of supervisors and when they fail to follow
 19 institutional policy.
 20 Q. Even if those reasonable and lawful
 21 instructions from the supervisors involve how a faculty
 22 member conducts his class, advertises his class, and
 23 what speech he uses in his class?
 24 A. I would dispute that, the accuracy of every
 25 one those claims, where your client is concerned.

1 Q. Why?
 2 A. Because none of those things was true.
 3 Q. Why do you think it's okay to tell a
 4 professor what quote he can put on his syllabus?
 5 A. He was not told what quote he could put on
 6 his syllabus. He was expressly told he could include
 7 the quote on his syllabus.
 8 Q. How do you know that?
 9 A. Because there are multiple -- there are
 10 multiple attestations to that in the record produced
 11 for you under my name.
 12 Q. I've seen an e-mail that I'll show you later
 13 from Jaap Hillenius who rejected a proposed solution to
 14 this problem by the Grievance Committee. Do you
 15 disagree that Jaap Hillenius would not allow the
 16 Woodrow Wilson quote at all on his syllabus?
 17 MR. FRAMPTON: Object to the form.
 18 BY MS. BLOODGOOD:
 19 A. Show me the e-mail in question. I'm happy to
 20 review it.
 21 Q. We're going to go through it in chronological
 22 order. I think that will be easier.
 23 A. Okay.
 24 Q. So I will show that to you.
 25 A. Okay.

1 Q. You also said that the institution requires
2 learning outcomes or sets student learning outcomes
3 through courses. Is it the department head who is
4 responsible for determining the student learning
5 outcomes in the courses within that various department,
6 specific department?

7 A. It's the responsibilities of the faculty
8 member to produce compliant learning outcomes
9 consistent with institutional policies. The department
10 chair has the quality assurance responsibility of
11 making certain that the appropriate learning outcomes
12 for course objectives have been provided and are
13 memorialized in writing on the syllabus.

14 Q. Do you think this is a really serious thing
15 for a professor to do, to not put the student learning
16 outcome on the syllabus in the form that makes the
17 department head happy?

18 MR. FRAMPTON: Object to the form.

19 BY MS. BLOODGOOD:

20 A. You're question belittles the seriousness of
21 the work. I think it's quite serious.

22 Q. If it's so serious, wouldn't you be concerned
23 that other professors today, as we're sitting here, do
24 not have course objectives on their syllabus?

25 A. I repeatedly instructed deans, and through

1 them their supervisors, of the importance of having --
2 having these course objectives and learning outcomes,
3 and have done so consistently throughout my
4 provostship, while the proceedings certainly -- the
5 incidences that raise the current topic to the point
6 that we're sitting here today.

7 Q. Because this has been an issue now for over a
8 year. You suspended -- and I know you don't like the
9 term "suspended." I'll be more specific. You took
10 Dr. Dillon out of his classroom and barred him from a
11 public campus because this was something that was so
12 serious to you over a year ago, correct?

13 MR. FRAMPTON: Object to the form.

14 BY MS. BLOODGOOD:

15 A. Again, we can quibble over -- you know, over
16 your phrasing. But the bottom line is that, you know,
17 it is a serious matter to both, A, not follow policy
18 and then refuse to bring yourself into compliance with
19 it when directly told to do so.

20 Q. So would you agree, if there is a professor
21 or more than one professor today who continues to
22 violate the policy and not put the course objectives on
23 their syllabi, that that would be grounds to take them
24 out of the classroom and bar them from the campus?

25 A. It would be grounds to do so, if they were

1 told to correct the deficiency in the syllabus and they
2 refused to do so, consistent with this entire
3 discussion.

4 (Plaintiff's Exhibit No. 5 marked for
5 identification.)

6 BY MS. BLOODGOOD:

7 Q. I'm going to show you an e-mail we've marked
8 as Plaintiff's Exhibit 5.

9 A. Let me take some time to put this material in
10 order.

11 Q. If you would review it. And let me know when
12 you have finished reviewing it, then I'll ask you some
13 questions.

14 A. Happy to.

15 Q. Have you seen this e-mail before?

16 A. I have.

17 Q. In this e-mail dated January 21, 2016, Jaap
18 Hillenius is telling Dr. Dillon that while his learning
19 outcome for the course may be fine overall course
20 philosophy, it does not meet the minimum requirements
21 for student learning outcomes in a university course.

22 My question to you is, where will I find the
23 minimum requirements for student learning outcomes in a
24 university course, what document?

25 A. The requirement for such course objectives is

1 noted in the Faculty/Administration Manual.
2 Furthermore, there have been -- you know, we -- well,
3 we'll stop there, since you've asked for a written
4 guideline. I don't know what documents, if any, might
5 have been produced in the Department of Biology, in the
6 School of Science and Mathematics. I have seen no
7 others.

8 Q. The only one you know is the page we already
9 looked at in the faculty manual?

10 A. Yep.

11 Q. And if you would go back to that page, which
12 is 155, Course Objectives, what are the minimum
13 requirements in that paragraph?

14 A. Just articulate this thing and read it again,
15 please. That the course objectives must be announced
16 in writing at the beginning of each term, that they
17 must be stated clearly, that -- you know, that the
18 instructional staff member will subsequently direct
19 instruction to the fulfillment of those objectives,
20 that the exams will be consistent with the objectives
21 that have been articulated, and that the members are
22 responsible for ensuring that the content of the each
23 course is as they are teaching it. It's consistent
24 with the course descriptions approved by the relevant
25 faculty committee structure.

1 Q. And it's your contention that if Dr. Dillon
2 listed every date of class under Investigations and
3 Exercises and, for instance, described each class as
4 follows, that he is not stating course objectives? For
5 instance, January 25, probability and statistics;
6 February 1, a comparison of variation in expressivity
7 due to genetics and environment. 8th, clear penetrance
8 and expressivity experiments, et cetera, et cetera.

9 Do you not think that those are learning
10 objectives?

11 MR. FRAMPTON: Object to the form.

12 BY MS. BLOODGOOD:

13 A. No.

14 Q. Why not?

15 A. That is a summary of activities to be
16 conducted on particular days. It is a calendar. It is
17 not a statement of course objectives. It does not
18 suggest what is to be learned and replicated as an
19 ability and, as a result, something that could be
20 replicated by the students later.

21 Q. Would you agree with me that the learning
22 objectives in a lab class would be entirely different
23 than the learning objectives in a class that is not a
24 lab?

25 MR. FRAMPTON: Object to the form.

1 BY MS. BLOODGOOD:

2 A. They are. Every course has different
3 content. And, of course, lab courses have different
4 content than some kind of non-lab courses in the same
5 or different disciplines. There is a common form and
6 goal of those, and which it is to tell us what it is
7 that people are supposed to learn and what it is
8 they're supposed to be able to do as a result.

9 Q. The examples that Jaap provides says that,
10 for instance, a student will be able to perform
11 hands-on laboratory skills. Now, all of skills that
12 are DNA manipulation, microscopy, spectrophotometry,
13 some of those things are listed in Dr. Dillon's
14 syllabi. So why -- how important is it for a student
15 to know that when he goes into a lab he's going to be
16 told he's got to use a microscope?

17 MR. FRAMPTON: Object to the form.

18 BY MS. BLOODGOOD:

19 A. I'm trying to understand which question I'm
20 supposed to answer.

21 Q. Okay. The question is: Do you think it is
22 so important that you would take a teacher out of the
23 classroom, a tenured professor, bar him from campus
24 because his lab syllabus talks about all the things
25 that are being done with a microscope but might not use

1 the word, We're going to use microscope in this class
2 and you're going to learn how to use it?

3 MR. FRAMPTON: Same objection.

4 BY MS. BLOODGOOD:

5 A. I mean, the form of the question is -- I'm
6 struggling with a bit. The answer is, I believe that
7 the actions I took were consistent with institutional
8 policy and with the need of the institution.

9 Q. Do you think that Dr. Dillon's syllabi does
10 not tell students that they're going to analyze and
11 interpret data?

12 MR. FRAMPTON: Object to the form.

13 BY MS. BLOODGOOD:

14 A. I struggle to imagine how a student would
15 pick up the syllabus and conclude what it is they are
16 supposed to learn as a result of taking this course,
17 absent -- well, I struggle to imagine how it could be
18 done on day one, which is, of course, the goal for such
19 a syllabus.

20 Q. Okay. Down at the bottom, Jaap Hillenius
21 states that, Realizing all of our days are numbered and
22 our hearts should be applying themselves to wisdom,
23 there are some things we must do (e.g. file an IRS-1040
24 by April 15th each year).

25 Do you think that what you've described as an

1 incomplete description of course objectives, that that
2 is something that failing to do that would be as
3 serious as not filing your tax return?

4 MR. FRAMPTON: Object to the form.

5 BY MS. BLOODGOOD:

6 A. I cannot speak to how seriously Jaap
7 Hillenius takes filing a tax return.

8 Q. It is against the law not to file a tax
9 return, isn't it?

10 A. Yes.

11 Q. And that would be a serious matter,
12 correct?

13 A. It would be a serious matter.

14 (Plaintiff's Exhibit No. 6 marked for
15 identification.)

16 BY MS. BLOODGOOD:

17 Q. Okay. I'm going to hand you what we've
18 marked as Exhibit 6.

19 MR. FRAMPTON: Thank you.

20 BY MS. BLOODGOOD:

21 Q. This is an e-mail from Mike Auerbach to
22 Dr. Dillon, copying you, on February 9, 2016. Is this
23 the first time you became aware of this issue?

24 A. I don't believe so. Prior to this e-mail, I
25 recall Dean Auerbach mentioning this disagreement in

1 the department to me.
 2 Q. Okay. And Mike Auerbach is writing to
 3 Dr. Dillon and says that the College's Accreditor,
 4 SACSCOC --
 5 A. SACSCOC.
 6 Q. -- SACSCOC requires that every syllabus for
 7 every course contain course learning outcomes that are
 8 approved by a department chair.
 9 That's not correct, is it?
 10 MR. FRAMPTON: Object to the form.
 11 BY MS. BLOODGOOD:
 12 A. Yeah, I don't recall anything in writing that
 13 talks about approval by a department chair.
 14 Q. And, in fact, there is nothing in SACSCOC
 15 that requires that or even mentions syllabus, is
 16 there?
 17 A. That's certainly not true. There are
 18 numerous documents that have been produced at
 19 conventions, as well as by various folks sort of
 20 associated with SACSCOC's ongoing work, that have made
 21 reference to syllabi.
 22 Q. One of them that you contend is the resource
 23 manual?
 24 A. Yes.
 25 Q. 3.7.1?

1 A. In the notes, it's 3.7.1.
 2 Q. And you don't know whether you've produced
 3 that to your attorney?
 4 A. I know I provided that to my attorney.
 5 Q. Okay. So it's your contention that even
 6 though the manual that's distributed, the Principles of
 7 Accreditation, does not discuss syllabi, you think that
 8 there's some other documents out there that you have
 9 seen that specifically discuss requirements for syllabi
 10 that are put out by SACSCOC?
 11 A. The document to which I've referred makes a
 12 specific reference to syllabus and to the student
 13 learning outcomes therein.
 14 Separately, there have been numerous conversations
 15 at conferences over the course of years about how
 16 syllabi are designed, what they contain, how that's
 17 related to assessment. These are the professional
 18 meetings that I attend on a regular basis in my
 19 capacity as provost.
 20 Q. In all of those professional meetings, have
 21 you heard anything to rebut the language in the
 22 Principles of Accreditation that it is the
 23 institution's job to create student learning
 24 outcomes?
 25 MR. FRAMPTON: Object to the form.

1 BY MS. BLOODGOOD:
 2 A. The premise of your question is faulty.
 3 There are multiple student learning outcomes at
 4 multiple levels, as I previously described in my answer
 5 to you. Student learning outcomes can exist
 6 institutionally, at the level of program, and at the
 7 level of course. So it is a both/and, not an
 8 either/or.
 9 Q. Okay. Let's go back and let me clarify
 10 something. Let me just confirm that when you say
 11 "student learning outcomes" you mean the same thing as
 12 "course objectives"?
 13 A. At the level of individual courses, course
 14 objective, instructional objective, student learning
 15 outcomes are frequently used as synonyms
 16 interchangeably.
 17 Q. My question is, are you, when you are
 18 talking, are you saying that course objectives is the
 19 same thing as student learning outcomes?
 20 A. When referring to individual courses, yes.
 21 Q. Okay. So if you see the word "course
 22 objectives" in SACSCOC's Principles of Accreditation,
 23 you think that also applies to student learning
 24 outcomes?
 25 A. At the level of individual courses, yes.

1 Q. What do you base that on?
 2 A. Years of professional experience and
 3 education.
 4 Q. You don't think there's any difference in
 5 definition between course objectives and student
 6 learning outcomes?
 7 A. I believe there is a professional dispute as
 8 to whether they should be used interchangeably or
 9 should be a distinction made, and that there is
 10 research literature going back decades that does so.
 11 At the College of Charleston, we have used them
 12 interchangeably.
 13 Q. So you would agree with me that there is a
 14 line of thought professionally that those are two
 15 different things; student learning outcomes and course
 16 objectives are two different things?
 17 A. There is a line of thought that says they can
 18 be usefully distinguished, but that they do not -- that
 19 they can be usefully distinguished at the level of
 20 course.
 21 Q. How do you know that SACSCOC considers them
 22 the same thing, like the College of Charleston does?
 23 MR. FRAMPTON: Object to the form.
 24 BY MS. BLOODGOOD:
 25 A. I mean, how do I know sort of what I've heard

1 and taught and discussed over and over again in -- in
2 meetings of -- in professional meetings?

3 Q. Do you have any documents, do you have any
4 evidence -- I don't see it written anywhere in any of
5 the documents I've reviewed. What evidence do you have
6 that SACSCOC thinks like you do, that student learning
7 outcomes and course objectives are the same thing?

8 MR. FRAMPTON: Same objection.

9 BY MS. BLOODGOOD:

10 A. I mean, I, for the life of me, can't recall
11 any document or discussion in which people have, in my
12 professional circles, have said that course objectives
13 and student learning outcomes cannot be the same thing.
14 They've been treated frequently by -- they've been
15 frequently treated as the same thing by many learned
16 societies and professional organizations and by many
17 institutions.

18 Q. And is that your opinion?

19 A. It's my opinion that there is an argument for
20 treating them interchangeably and that there is a
21 professional argument for distinguishing them. It is a
22 distinction without a difference in the case of
23 Dr. Dillon's syllabus, since he has not produced
24 anything that even by the most extreme distinctions
25 between the two would count as either.

1 Q. I understand your position on that. But when
2 I am looking at the regional accreditation documents
3 which you say are so important to the College of
4 Charleston, I want to know on what basis, if I read the
5 word "course objective", I should substitute the term
6 "student learning outcomes"?

7 A. Again, these documents are written from the
8 point of view of helping -- helping subject matter
9 experts determine what it is that they need to do, the
10 conversations that are attendant to that to do the
11 same, and whether we're working individually with
12 SACSCOC employees or we are dealing with one another in
13 professional meetings.

14 Q. Okay. And you have testified that you
15 understand that there is a line of thought
16 professionally that would distinguish the two. What is
17 your understanding of how the two are distinguished?

18 A. The distinction that is made by those who
19 prefer a distinction is that course objectives or
20 instructional objectives describe what it is that the
21 instructor or the institution hopes will be
22 accomplished, and that those are somewhat -- you know,
23 those can be -- well, while student learning outcomes
24 are very specifically behavioral. The students will be
25 able to do this in the future as a result of having

1 taken this course. Some faculty members provide
2 instructional objectives that are more consistent with
3 the definition of objective I just provided you. Some
4 faculty provide a definition -- I mean, learning
5 outcomes that are more -- that are reasonably
6 consistent with the description I just provided. Some
7 instructors provide both objectives and outcomes. Some
8 instructors freely mingle the two that I -- the two
9 types that I just described because they see it as a
10 distinction without a difference and see the
11 distinction between outcomes and objectives as
12 nonsensical. This is a professional dispute about what
13 objectives and outcomes are that has existed for
14 decades.

15 Q. Well, what -- does the College of Charleston
16 instruct its faculty members whether they should use
17 student learning outcomes or course objectives?

18 A. It is -- as a practical matter, we've
19 accepted either, realizing that deans and department
20 chairs have disagreed about sort of what
21 form objectives and outcomes should take. In the case
22 of Dr. Dillon, we would have taken either.

23 Q. And in Exhibit 6, Mike Auerbach uses another
24 term called "course learning outcomes." Which one is
25 that, student learning outcomes or course objectives?

1 A. I mean, you'd have to ask Dr. Auerbach what
2 he was thinking with regard to outcomes and objectives.
3 But outcomes and objectives in this particular case are
4 referring to the same thing, as far as I can tell.

5 Q. But you will agree with me that SACSCOC does
6 not address course learning outcomes either?

7 MR. FRAMPTON: Object to the form.

8 BY MS. BLOODGOOD:

9 A. I absolutely will disagree with that. I have
10 conversations and have been in meetings. And, frankly,
11 I haven't done a search of every SACSCOC document.
12 But --

13 Q. Would you agree with me that --

14 A. -- conversations about syllabi and
15 course-specific outcomes and objectives are commonplace
16 among professionals as an assessment.

17 Q. And there is a difference of opinion as to
18 what those terms mean?

19 A. Yeah. That's in academic literature and goes
20 back decades, as I said.

21 Q. In Exhibit 3, which is the Principles of
22 Accreditation of SACSCOC, you would agree with me that
23 there is no language in there that -- about course
24 learning outcomes?

25 MR. FRAMPTON: Object to the form.

1 BY MS. BLOODGOOD:
 2 A. I'd have to do a keyword search.
 3 Q. You didn't do the keyword search before
 4 you --
 5 A. On course learning outcomes, no.
 6 Q. Before you took Dr. Dillon out of his
 7 classroom and barred him from campus?
 8 A. I was -- I did so on two bases, failed
 9 to violate institutional policy [sic], Article VIII,
 10 and failure to comply with the lawful orders of a
 11 supervisor.
 12 Q. How can an order be reasonable if you don't
 13 know the definition of the term or if Jaap is using two
 14 different terms?
 15 A. I just --
 16 MR. FRAMPTON: Object to the form.
 17 BY MS. BLOODGOOD:
 18 A. I just described two different and closely
 19 related approaches to defining the terms, which are so
 20 commonplace to the academic understanding that defining
 21 them seems, frankly, unnecessary. Neither definition
 22 was complied with by Dr. Dillon.
 23 (Discussion held off the record.)
 24 (A brief recess was taken.)
 25 (Plaintiff's Exhibit No. 7 marked for

1 identification.)
 2 BY MS. BLOODGOOD:
 3 Q. Mr. McGee, let me hand you what we've marked
 4 as Plaintiff's Exhibit 7. This is -- the front page is
 5 an e-mail from Dr. Dillon, February 10, to Mike
 6 Auerbach. And you're copied on this one also. And
 7 Dr. Dillon says, I have honestly endeavored to state
 8 the learning outcomes for Genetics Lab 305L on my
 9 syllabus as clearly as I can.
 10 And then attached to this e-mail, if we look at
 11 the syllabus, there's a catalog description up on top
 12 which explains that this lab course is an introduction
 13 to the principles of hereditary -- of heredity using
 14 common experimental organisms.
 15 My science pronunciation will be very weak going
 16 forward.
 17 And that recent techniques in molecular genetics
 18 are also covered. Then it talks about -- besides the
 19 Woodrow Wilson quote, it talks about the genetics
 20 laboratory, when it's open. It also talks about the
 21 lab manual, attendance, the lab reports, that they're
 22 variably formatted. It also talks about when they're
 23 due, how they'll be marked, practical quizzes, that
 24 students will need a calculator, that they will -- can
 25 go to a web site as the semester proceeds for

1 additional information. And then the description of
 2 the course, besides the reading that's a requirement,
 3 says what's going to be covered on each day.
 4 And on the last page of this document that we have
 5 marked as Exhibit 7, the course grading, it appears
 6 there is a list of what the student is expected to
 7 learn in the lab and be graded on, including
 8 probability and statistics, Drosophila,
 9 familiarization, dihybrid crosses in corn, variable
 10 expressivity, incomplete penetrance, chromosome
 11 mapping, human cytogenetics, chromatography of eye
 12 pigments, protein electrophoresis, selection and
 13 genetic drift.
 14 And it -- what is it in this syllabus that you
 15 contend is harmful to students because it does not give
 16 them sufficient information as to the course they're
 17 taking?
 18 MR. FRAMPTON: Object to the form.
 19 BY MS. BLOODGOOD:
 20 A. It fails to provide a description of what it
 21 is that students are supposed to know or be able to do
 22 having left the course.
 23 Q. But it has course objectives in it, doesn't
 24 it, on the last page where --
 25 A. Those are not --

1 Q. You wouldn't agree with me that those are
 2 course objectives?
 3 A. Those are not course objectives.
 4 Q. That you're learning about probability and
 5 statistics, familiarization with drosophila?
 6 A. They don't even say you're going to learn
 7 random stuff about variable expressivity. It is a
 8 topic list. It does not suggest what it is that is
 9 learned about variable expressivity.
 10 Q. Well, if you go to the day that you're going
 11 to learn that, it has more information specifically --
 12 A. It tells me --
 13 Q. -- about what you're doing on that day,
 14 doesn't it? And it has the day. It has --
 15 A. Which page would you like to refer?
 16 Q. -- the readings. If you look at page three.
 17 A. Are we looking at the Monday, Tuesday or
 18 Wednesday schedule?
 19 Q. Any of those. We can look at all three of
 20 them.
 21 A. Okay.
 22 Q. They're --
 23 A. Which example would you --
 24 Q. -- similar, from what I've reviewed.
 25 A. Which example would you like to discuss?

1 Q. Look at page -- the fifth page on February
2 24. An analysis of incomplete penetrance in a
3 monohybrid cross. Make the THC test cross, and clear
4 the S&D experiments.
5 Does that not tell a student what they're going to
6 be doing that day, what the objectives are for the
7 course of that day?
8 MR. FRAMPTON: Object to the form.
9 BY MS. BLOODGOOD:
10 A. You are confusing fundamentally different --
11 fundamentally different issues. Analysis of incomplete
12 penetrance and a monohybrid cross is a topic to be
13 done -- is a topic. And it hints at an activity. It
14 does not suggest what it is someone is going to learn
15 or let alone know how to do in the future.
16 Q. Is it your testimony that your professors at
17 the College of Charleston provide student learning
18 outcomes that would specifically address every single
19 day and what a student will learn in the lab from doing
20 an experiment?
21 A. No. It is my testimony that they are asked
22 to, consistent with the instructions provided to
23 Dr. Dillon by his supervisor, provide a list of the
24 major -- the major skills, attributes, knowledge to be
25 learned or acquired in the course, and that those are

1 MR. FRAMPTON: The witness is referring to
2 Exhibit 2.
3 BY MS. BLOODGOOD:
4 Q. Okay. If you would look at Exhibit 1, which
5 is the Faculty/Administration Manual. Well, let me ask
6 you this. Is "insubordination" found in the
7 Faculty/Administration Manual?
8 A. I don't believe that word appears in the FAM.
9 Q. Okay.
10 (Plaintiff's Exhibit No. 8 marked for
11 identification.)
12 BY MS. BLOODGOOD:
13 Q. I'm going to show you an e-mail that we have
14 marked as Plaintiff's 8 and ask you to look at that.
15 Have you looked at that?
16 A. Yes.
17 Q. This is an e-mail from Mike Auerbach to
18 Dr. Dillon on February 10, 2016, telling him his
19 response is unsatisfactory and indicating a deadline of
20 two days to provide satisfactory learning outcomes as
21 determined by his chair. And it says, Noncompliance by
22 this deadline will be deemed a violation of the Code of
23 Professional Conduct and the Statement of Professional
24 Ethics. Also, Consequently, you would receive a
25 sanction as detailed in Article VII, Section B of the

1 stated clearly and specifically as such, and they are
2 instructed to do so. It's part of policy that they do
3 so. And chairs are expected to ensure that faculty do
4 so.
5 Q. Even though that's not found anywhere in the
6 Faculty/Administration Manual or in SACSCOC's
7 Principles of Accreditation, correct?
8 A. I've disputed both of those characterizations
9 already.
10 Q. Do you contend that Dr. Dillon's refusal to
11 remove his Woodrow Wilson quote from his syllabi is
12 insubordination?
13 MR. FRAMPTON: Object to the form.
14 BY MS. BLOODGOOD:
15 A. The premise of your question is faulty. He
16 was not asked to remove the question -- the quotation
17 from his syllabus. He was asked to provide
18 course-specific learning outcomes.
19 Q. Course-specific learning outcomes?
20 A. I refer you to the exhibit you've already
21 shown, where there is a request by Dr. Hillenius that
22 we -- that we have more -- that we have learning
23 outcomes or outcomes specific to a course in genetics.
24 I believe it's the January 19 e-mail you've already
25 shown me.

1 FAM.
2 (Plaintiff's Exhibit No. 9 marked for
3 identification.)
4 BY MS. BLOODGOOD:
5 Q. So let me show you what we've marked as
6 Exhibit 9 and ask you if that is the Code of
7 Professional Conduct and Statement of Professional
8 Ethics referred to in Mike Auerbach's e-mail of
9 February 10, 2016?
10 A. I'm sure it is.
11 Q. Okay. And would you tell me, what is the
12 violation of this Code of Professional Conduct and
13 Statement of Professional Ethics?
14 A. Are you asking me what Mike Auerbach's
15 opinion was?
16 Q. I'm sure that was your opinion, also. You
17 did you support his opinion, or do you think this
18 e-mail is wrong?
19 A. I'm -- I can certainly point to what relevant
20 sections of the Code of Professional Conduct and
21 Statement of Professional Ethics would adhere to the
22 obligation of faculty in following institutional
23 policy. I don't know if there are other elements of
24 the Code that were -- that were of interest to, you
25 know, to Dean Auerbach.

1 Q. Well, do you know what he meant when he said
2 that it would be a violation of this Code if Dr. Dillon
3 doesn't submit satisfactory learning outcomes as
4 determined by your chair within two days?

5 A. Dean Auerbach certainly can set deadlines for
6 compliance with his directives or his chair's
7 directives.

8 With regards to, you know, the policy before me,
9 give me a second and I'll tell you what -- which ones
10 are germane to me. But I'll need a moment to read.

11 Q. Okay.

12 A. IV(B)(1), Code of Professional Conduct.
13 First paragraph is the relevant passage, from my
14 perspective.

15 Q. What page are you looking at?

16 A. I'm looking at your Exhibit 9. For some
17 reason, I don't have page numbers here.

18 Q. Are you looking at the first page?

19 A. Yeah.

20 Q. Okay. All right. And --

21 A. The College requires all instructional and
22 library faculty members and all classified and
23 unclassified administrators to conduct themselves in
24 accordance with federal, state and local laws and
25 regulations and to comply with all policies and

1 procedures set forth in the Faculty/Administration
2 Manual and on the policy web site at policy.cofc.edu,
3 the Human Resources web site, and the College of
4 Charleston Administrative Memoranda and Notices, and
5 all other policies and procedures that may be
6 prescribed by the President and the Provost.

7 The second paragraph is also germane. In
8 addition, all instructional faculty must comply with
9 all written policies and procedures established by the
10 Provost, the appropriate Dean of the school, or the
11 department.

12 Q. Okay. Let's take them one at a time.

13 A. Sure.

14 Q. Has Dr. Dillon violated any federal, state or
15 local laws or regulations by not putting in his
16 satisfactory learning outcomes as determined by his
17 chair?

18 A. Not to the best of my knowledge.

19 Q. Has he violated any policy or procedure set
20 forth in the Faculty/Administration Manual by not
21 providing satisfactory learning outcomes as determined
22 by his chair?

23 A. He has.

24 Q. Where in the Faculty/Administration Manual
25 does it say that he has to provide satisfactory

1 learning outcomes to his chair?

2 A. It says they must -- he must provide suitable
3 course instructional objectives. That is, that is
4 black lettered at -- at -- in the section we previously
5 discussed, or about page 155.

6 Q. It talks about course objectives, correct?

7 A. Yes.

8 Q. Would you agree with me that the words
9 "satisfactory learning outcomes" does not appear in the
10 2015-2016 Faculty/Administration Manual?

11 A. Not at this --

12 MR. FRAMPTON: Object to the form.

13 BY MS. BLOODGOOD:

14 A. Not at this section. We've previously
15 discussed the definitional issues.

16 Q. We've discussed your opinion that the two
17 things mean the same thing, correct?

18 A. We have --

19 MR. FRAMPTON: Object to the form.

20 BY MS. BLOODGOOD:

21 A. -- discussed my opinion that the two mean the
22 same thing.

23 Q. My question to you is, do you agree that
24 nowhere in the Faculty/Administration Manual are the
25 words "learning outcomes" found?

1 MR. FRAMPTON: Object to the form.

2 BY MS. BLOODGOOD:

3 A. Again, I can't answer a question without
4 doing a keyword search. On the sections we have
5 discussed on pages 155 and 156, they are not.

6 Q. So the answer is, you don't know?

7 A. With regard to the entire FAM, which is a
8 very lengthy document, I would have to double-check.

9 Q. Is it possible that the
10 Faculty/Administration Manual does not contain the term
11 "satisfactory learning outcomes"?

12 A. It is possible it does not.

13 Q. Okay. Do you think that the policy web site
14 at policycofc.edu talks about satisfactory learning
15 outcomes?

16 MR. FRAMPTON: Object to the form.

17 BY MS. BLOODGOOD:

18 A. During what time period?

19 Q. At the pertinent time period, which would be
20 2016 or early 2016?

21 A. I couldn't say definitively that it does or
22 does not. I can't recall any section that does.

23 Q. Okay. And the College of Charleston
24 Administrative Memoranda and Notices, I don't believe
25 I've seen that document, but do you know whether that

1 document addresses satisfactory learning outcomes?
 2 A. That is an obsolete reference to a variety of
 3 policies promulgated by the Office of the Provost,
 4 which are now disarticulated and available on the web
 5 site of the office.
 6 Q. So that --
 7 A. I do not --
 8 Q. -- does not exist anymore?
 9 A. In that form, no.
 10 Q. Okay. And then the second paragraph is that,
 11 Instructional faculty must comply with all written
 12 policies and procedures established by the Provost.
 13 And is it your testimony that by not providing
 14 satisfactory learning outcomes to Jaap Hillenius,
 15 Dr. Dillon, in 2016, violated a policy that you had
 16 established?
 17 A. There are -- there is -- there are two
 18 relevant institutional policies, one inside the FAM,
 19 one not, which are previously cited in a variety of
 20 documents in this matter. One is the Employee Code of
 21 Conduct. The other is the -- is the policy relevant to
 22 course objectives at Article VIII in the FAM.
 23 Q. My question was not about course objectives,
 24 it was about learning outcomes.
 25 A. Since you and I are going to continue to

1 disagree on whether those terms means the same thing,
 2 it's -- I'm struggling to answer the question.
 3 Q. It's not -- it's not a trick. You're not
 4 going to -- I'm not going to find the words "learning
 5 outcomes" in the FAM, am I?
 6 MR. FRAMPTON: Object to the form.
 7 BY MS. BLOODGOOD:
 8 A. I honestly don't know, as I've already said.
 9 I would have to research. I don't recall such
 10 references in the sections that have been relevant to
 11 this conversation.
 12 Q. Is there anywhere else in the Code of --
 13 Faculty and Administrators Code of Professional Conduct
 14 and Statement of Professional Ethics that you believe
 15 Dr. Auerbach contends Dr. Dillon violated --
 16 A. Again --
 17 Q. -- that you understand Dr. Dillon violated?
 18 A. That I understand, no. I've made no such
 19 representation at any time.
 20 Q. Okay.
 21 A. I cannot testify to what Dr. -- what Dean
 22 Auerbach knew or believed.
 23 Q. Okay. But looking at this Code of
 24 Professional Conduct and Statement of Professional
 25 Ethics, as the Provost of the College of Charleston,

1 the only part that you think that Dr. Dillon would have
 2 violated would be Section I of B, correct?
 3 A. Those are the ones I previously cited, yes.
 4 Q. It also says in Exhibit 8, which is the
 5 e-mail from Mike Auerbach dated February 10, 2016, that
 6 Dr. Dillon will be sanctioned as detailed in Article
 7 VII, Section B of the FAM.
 8 Article VII we've previously looked at.
 9 If you would go to Plaintiff's Exhibit 1 and look
 10 at page 150 -- I'm sorry, look at page 143. That is a
 11 section -- that page is -- discusses faculty
 12 discipline, misconduct determination. And then (B)(1)
 13 is sanctions that are available. And they include a
 14 reprimand, a demand for restitution.
 15 That's not something that would be applicable in
 16 this case, correct, the restitution?
 17 A. No, there is no -- there was no allegation of
 18 theft in this case, for example.
 19 Q. Okay. A modification of duties, is that
 20 relevant in this situation?
 21 MR. FRAMPTON: Object to the form.
 22 BY MS. BLOODGOOD:
 23 A. It could be, yes.
 24 Q. Was that a sanction that Dr. Dillon
 25 received?

1 A. The sanction that was outlined, as I recall
 2 it in the March 2016 memo provided to Dr. Dillon, did
 3 include a modification of duties after his return from
 4 suspension.
 5 Q. It says, The Provost shall notify the faculty
 6 member of the basis of the proposed sanction and
 7 provide the faculty member an opportunity to persuade
 8 the Provost that the proposed sanction should not be
 9 imposed.
 10 Did you provide that opportunity?
 11 A. I did.
 12 Q. And then it goes on, on page 144, to say, If
 13 the Provost determines there is a strong likelihood
 14 that the faculty member's continuance in normal duties
 15 threatens immediate harm to that faculty member or to
 16 others, the Provost may assign the faculty member to
 17 new duties.
 18 Now, you've already testified you intended to
 19 assign him to new duties. What was the threat of
 20 immediate harm to either Dr. Dillon or to others that
 21 necessitated that assignment of new duties?
 22 A. The immediate harm to others was multifold.
 23 First of all, there was the immediate harm to
 24 students of failing to provide them with appropriate
 25 information about what it is that he expected that they

1 would learn in this particular course.
 2 The second harm was to the institution, to the
 3 extent that we would not be able to appropriately
 4 assess courses or even demonstrate that we were
 5 complying with our own institutional policies, both
 6 problematic from the perspective of assuring the
 7 faculty would actually believe that they had to follow
 8 policy and problematic from the perspective of
 9 demonstrating that we are following our own policies in
 10 dealing with our accreditor on matters of assessment.
 11 Q. Is it your testimony that a professor
 12 refusing to change the content of his syllabus is a
 13 threat of immediate harm to others?
 14 A. In this particular case, yes.
 15 Q. Okay. And then it says that, Assignment to
 16 the these new duties shall persist only so long as the
 17 threat of harm continues.
 18 So am I correct that you would interpret that
 19 unless and until Dr. Dillon agreed to change language
 20 in his syllabus, there was an immediate threat of harm
 21 that continued?
 22 A. Yes.
 23 (Plaintiff's Exhibit No. 10 marked for
 24 identification.)
 25 BY MS. BLOODGOOD:

1 Q. I'm going to show you an e-mail that we'll
 2 mark as Plaintiff's Exhibit 10.
 3 A. Let's rearticulate.
 4 Q. Let you look at that.
 5 A. Let me tidy up over here.
 6 MR. FRAMPTON: Let's do that. We don't want
 7 the court reporter to not get everything she needs.
 8 BY MS. BLOODGOOD:
 9 A. We're up to number 10?
 10 Q. Yes.
 11 A. That's what we're now considering?
 12 Q. Yes. This is an e-mail --
 13 A. Thank you. Give me a moment. Sure.
 14 Q. Okay. This is an e-mail from Dr. Dillon to
 15 Mike Auerbach, you're copied, on February 11, 2016.
 16 And in the third paragraph Dr. Dillon says, I do not
 17 think this is insubordination. I think it is a
 18 difference of philosophy.
 19 Did you take any action after you read this
 20 e-mail?
 21 A. I took no action --
 22 MR. FRAMPTON: Object to the form.
 23 BY MS. BLOODGOOD:
 24 A. I took no action relevant to this case until
 25 I received a recommendation from Dean Auerbach, which

1 came after, I believe, the deadline he'd set on
 2 February 12.
 3 Q. Is there any process that you know of at the
 4 College of Charleston to investigate an allegation by a
 5 professor who claims that he is being disciplined
 6 because of his philosophy or speech?
 7 A. Okay, let me make sure. Is this a question
 8 conceptually about --
 9 Q. Conceptually. I'm not asking about the
 10 e-mail specifically.
 11 A. Okay. So I'll turn this over so we can
 12 answer that question. So this question is about what
 13 faculty colleagues can do if they are -- if they have a
 14 disagreement with a supervisor, a department chair, for
 15 example?
 16 Q. No, no. My question was, is there a process
 17 at the College of Charleston to address a professor's
 18 concern that he is being disciplined and charged of --
 19 charged with insubordination for he what he believes is
 20 a difference of philosophy?
 21 A. There are multiple avenues that faculty have,
 22 yes.
 23 Q. What is it?
 24 A. Faculty have the opportunity to speak
 25 informally, of course, with their supervisors. Outside

1 those informal conversations, faculty, under the
 2 Faculty/Administration Manual, have two opportunities
 3 to address some sort of dispute or concern. For a
 4 limited number of cases, they have the access to the
 5 Faculty Hearing Committee. For all other cases of
 6 grievance or disagreement, they have access to the
 7 Faculty Grievance Committee.
 8 Q. Okay. In this case, it was the supervisor,
 9 Jaap Hillenius, who was the person who was telling
 10 Dr. Dillon that -- what he had to put on his syllabus,
 11 correct?
 12 A. Let's be clear. Dr. Hillenius did not say
 13 what words he had to put on his syllabus and did not
 14 tell him he had to remove any words from his syllabus.
 15 He needed to provide course-specific learning outcomes
 16 or course objectives.
 17 Q. He and Mike Auerbach told Dr. Dillon he would
 18 be insubordinate if he did not change the language on
 19 his syllabus, correct?
 20 MR. FRAMPTON: Object to the form.
 21 BY MS. BLOODGOOD:
 22 A. I don't recall that Dr. Hillenius used the
 23 word "insubordinate." I believe Dr. Auerbach did.
 24 Q. There would be no use having a discussion or
 25 dealing with this matter by Dr. Dillon with Auerbach or

1 Hillenius because they are the people who are
 2 disciplining him and are charging him with
 3 insubordination, correct?
 4 A. I mean, Dr. Dillon certainly had the
 5 discretion to decide that a continued conversation was
 6 unproductive.
 7 Q. So you said there are also two other ways
 8 that Dr. Dillon could have objected to the fact that he
 9 thought there was a difference of philosophy here,
 10 either going to the Hearing Committee or the Grievance
 11 Committee, correct?
 12 A. So we're off the abstract and talking about
 13 the specifics of Dr. Dillon's case now?
 14 Q. I'm going through your answers to my
 15 question, is there a process --
 16 A. Okay.
 17 Q. -- at the College of Charleston when a
 18 professor thinks he's being disciplined based on his
 19 philosophy?
 20 A. Well, frankly, there's a process available to
 21 faculty anytime there is a dispute or disagreement,
 22 including but not limited to the one you just
 23 described.
 24 Q. Well, what is it? If it's not the Hearing
 25 Committee or the Grievance Committee, what is it is?

1 A. Other than informal attempts to resolve a
 2 dispute or disagreement, those would be the two formal
 3 ways outlined in the FAM. We are in agreement.
 4 Q. I wanted to clarify that.
 5 A. Okay.
 6 Q. Other than the informal going to Auerbach or
 7 Hillenius, he could have -- he could go to the Hearing
 8 Committee or the Grievance Committee, correct?
 9 A. Yeah. I suppose he could have asked various
 10 third parties to intervene in a variety of informal
 11 ways.
 12 Q. The Grievance Committee has no authority to
 13 address issues of free speech, correct?
 14 A. I would not say that that's true. They have
 15 the -- they don't deal with matters of academic
 16 freedom, which is a different matter.
 17 Q. How is that different than --
 18 A. Academic freedom is --
 19 Q. -- speech or philosophy of a professor?
 20 A. Academic freedom is differently defined. It
 21 does not include every free speech issue. I imagine
 22 commercial free speech, for example, is not covered by
 23 academic freedom.
 24 Q. Well, we're not talking about commercial free
 25 speech here, are we?

1 A. Understood and agreed. Just trying to make
 2 sure we're using terms accurately.
 3 Q. So it's your testimony the Grievance
 4 Committee cannot deal with issues of academic
 5 freedom?
 6 A. Academic freedom belongs to the Hearing
 7 Committee, as described in the Faculty By-Laws.
 8 Q. And the only committee at the College of
 9 Charleston who can address the issue of academic
 10 freedom is the Hearing Committee; is that correct?
 11 A. Depends on your definition of "address."
 12 Faculty Welfare Committee speaks about academic freedom
 13 issues all the time. We're talking about a grievance
 14 specifically, though, correct?
 15 Q. In Dr. Dillon's situation, what you're aware
 16 of --
 17 A. Uh-huh.
 18 Q. -- if he wanted to contend that his academic
 19 freedom was being infringed upon, he had to go to the
 20 Hearing Committee, correct?
 21 A. Yes.
 22 Q. Okay. I want to show you a few syllabi of
 23 other professors at the College of Charleston.
 24 (Plaintiff's Exhibit No. 11 marked for
 25 identification.)

1 BY MS. BLOODGOOD:
 2 Q. The first one is Exhibit 11.
 3 MR. FRAMPTON: I don't believe this has been
 4 produced.
 5 MS. BLOODGOOD: It's on the web site.
 6 Mr. FRAMPTON: I still don't believe it's
 7 been produced.
 8 MS. BLOODGOOD: Okay, you can look at it.
 9 Might as well look at all the others I've got, too.
 10 MR. FRAMPTON: Sure.
 11 (A brief recess was taken.)
 12 BY MS. BLOODGOOD:
 13 Q. I have handed you several syllabi from the
 14 College of Charleston.
 15 MR. FRAMPTON: These are all mine. Were
 16 these supposed to be his copies?
 17 MS. BLOODGOOD: Oh, sorry.
 18 BY MS. BLOODGOOD:
 19 Q. I'm going to hand them to you, one by one.
 20 A. Okay.
 21 Q. The first one I've handed to you we've marked
 22 as Exhibit 11. This is a syllabus for a course in
 23 histology taught by Dr. de Buron. Are there any
 24 learning outcomes on this syllabus?
 25 A. I mean, what's the providence of the

1 document?
 2 Q. I want you to tell me if you know whether or
 3 not you see any learning outcomes on this syllabus?
 4 A. I see a section marked, Course Objectives.
 5 It appears to be specific to the subject matter of a
 6 course in biology.
 7 Q. My question was, do you see any learning
 8 outcomes, any category that says "learning outcomes" on
 9 this syllabus?
 10 A. No. I see a category that says "course
 11 objectives."
 12 Q. Okay. I understand from your previous
 13 testimony that you think those two are the same thing,
 14 though, there are some people who don't agree with you,
 15 correct?
 16 A. Already answered.
 17 Q. And is that a yes?
 18 A. Yes.
 19 (Plaintiff's Exhibit No. 12 marked for
 20 identification.)
 21 BY MS. BLOODGOOD:
 22 Q. I'm going to show you a document we've marked
 23 as Plaintiff's Exhibit 12, which is another syllabus.
 24 This is for molecular biology.
 25 A. This doesn't say College of Charleston,

1 doesn't list name of the faculty, doesn't list contact
 2 information for a faculty member. Do we know if this
 3 is a complete syllabus?
 4 Q. I'll represent to you I got this off the
 5 College of Charleston's web site. And on that web
 6 site, Richard Southgate, who teaches or taught
 7 molecular biology, it was under his information.
 8 Do you know Richard Southgate to be a professor at
 9 the College of Charleston?
 10 A. I do.
 11 Q. Okay. Do you see any learning outcomes or
 12 course objectives on this syllabus?
 13 A. I don't. I also don't know that this is a
 14 complete document.
 15 Q. Okay. Well, that will be easy enough to
 16 check on the College of Charleston's web site.
 17 This is spring of 2016. So if this is a complete
 18 syllabus, this would clearly be in violation of the
 19 College of Charleston's policy regarding stating
 20 learning outcomes, correct?
 21 MR. FRAMPTON: Object to the form.
 22 BY MS. BLOODGOOD:
 23 A. I don't see anything marked "objectives" or
 24 "outcomes," or anything that looks to me like same.
 25 It's also possible a separate document was distributed

1 with that material. We'd have to check, as you said.
 2 Q. If that's the case, it should be on the web
 3 site, isn't it?
 4 MR. FRAMPTON: Object to the form.
 5 BY MS. BLOODGOOD:
 6 A. There's no -- yeah, there's no requirement
 7 that every syllabus for every course be posted on the
 8 web site.
 9 Q. So you're saying that when a professor posts
 10 a syllabus on the web site, it can be half a syllabus
 11 or not the complete syllabus?
 12 A. Again, you're asking me to testify to facts I
 13 don't know.
 14 Q. Well, what good would it do to post a
 15 incomplete syllabus on the web site that does not state
 16 student learning outcomes or course objectives?
 17 A. I would have to look at the particular case
 18 to understand why documents might have been separated
 19 or how they might have been distributed to students. I
 20 also note that many documents are not in front-facing
 21 web sites; they are behind a password, behind password
 22 protection in the learning management system of the
 23 college. It is increasingly unusual for syllabi to be
 24 posted on front-facing web sites.
 25 Q. Would you agree with me, if Richard

1 Southgate, in the spring of 2016, had no objectives,
 2 course objectives or learning outcomes on his syllabus,
 3 he would be an immediate threat to the students?
 4 A. He would be in violation of policy, in this
 5 hypothetical or counterfactual you described.
 6 (Plaintiff's Exhibit No. 13 marked for
 7 identification.)
 8 BY MS. BLOODGOOD:
 9 Q. If you would look at the next syllabus, which
 10 we'll mark as Exhibit 13, which is a -- which is for
 11 Biology 102 to 103. This is for a Walter Blair. And
 12 looking at this syllabus, do you see any learning
 13 outcomes or course objectives?
 14 A. There is a course description. I do not know
 15 if this aligns with the course description for Biology
 16 102 or not. I would have to check the catalog. It is
 17 content specific. It may or may not go beyond course
 18 description. I cannot know without looking. There are
 19 shared goals for instructors that do talk about very
 20 general goals that the instructor might have. I do not
 21 know if the subject matter expert, who is the chair of
 22 that department, would conclude that these met the
 23 expectation for course objectives or not.
 24 Q. Well, Jaap Hillenius is the chair of the
 25 department, correct?

1 A. Yes.
 2 Q. For biology?
 3 A. He is, indeed. Or he was at this time.
 4 Q. So besides having course objectives or
 5 learning outcomes, you're allowed to have shared
 6 goals?
 7 A. You know, the goal is to provide the relevant
 8 content. And we have described "objectives" and
 9 "outcomes" as terms that -- you know, as terms that are
 10 frequently used interchangeably. And I see a Course
 11 Description in Shared Goals that do talk about what it
 12 is that students are supposed to learn. I cannot speak
 13 as to how the chair made the determination as to
 14 whether or not this content was adequate. We would
 15 have to ask the chair.
 16 Q. Okay. Is the College of Charleston now using
 17 the term "shared goals" in -- as you used the term
 18 "course objectives" and "learning outcomes"?
 19 A. Again, I was -- I am not the chair of that
 20 unit who is responsible for ensuring compliance with
 21 institutional policy. I am not sure why it was he
 22 found this satisfactory. And I have never seen this
 23 syllabus before today.
 24 Q. Okay.
 25 (Plaintiff's Exhibit No. 14 marked for

1 identification.)
 2 BY MS. BLOODGOOD:
 3 Q. I'm going to hand you an exhibit we marked
 4 Plaintiff's 14, which is a Genetics Laboratory Biology
 5 305L syllabus for Dr. Southgate, Agnes Southgate.
 6 A. Right.
 7 Q. This one has learning outcomes, but it has no
 8 course objectives. Is that -- do you agree with
 9 that?
 10 A. On my quick flip through, I do not see the
 11 phrase "course objectives." I do see the phrase
 12 "learning outcomes."
 13 Q. But the FAM requires course objectives,
 14 correct?
 15 A. And we have previously discussed the fact
 16 that "course objectives" and "learning outcomes" are
 17 frequently used interchangeably, and that has been
 18 quite acceptable to the College, certainly to me.
 19 Q. Would you be surprised if someone were to
 20 look on your web site today and see that there were 16
 21 non-compliant syllabus, four of which had no objectives
 22 and no learning outcomes at all?
 23 MR. FRAMPTON: Object to the form.
 24 BY MS. BLOODGOOD:
 25 A. You know, as determined by whom with respect?

1 Q. If you want a student to look on the web site
 2 and read the course, and know what the course
 3 objectives or the learning outcomes were, don't you
 4 think you should underline, use the topic "course
 5 objectives," underline it, use the topic "student
 6 learning outcomes," underline it, so the student would
 7 know and not have to guess?
 8 MR. FRAMPTON: Object to the form.
 9 BY MS. BLOODGOOD:
 10 A. We like them to be simple and
 11 straightforward. We also know that students are no
 12 more familiar with the research literature and outcomes
 13 and objectives than any other nonsubject matter expert.
 14 Q. So why even put them in the syllabus? How
 15 can there be an immediate threat of harm if students
 16 already are familiar with the courses and the
 17 outcomes?
 18 A. That is not what I said.
 19 Q. What did you say?
 20 A. I said that the language of outcomes and
 21 objectives is not going to be familiar, from a
 22 technical or expert point of view, to students. But
 23 the ability to see an express statement of those
 24 learning objectives or outcomes specific to a course is
 25 important, as I previously said.

1 Q. Would you agree with me that it is important
 2 for the professors at the College of Charleston, when
 3 they create their syllabus, to clearly state what are
 4 the course objectives and the learning outcomes, as a
 5 result of what -- of your discipline with Dr. Dillon?
 6 MR. FRAMPTON: Object to the form.
 7 BY MS. BLOODGOOD:
 8 A. That's been important for as long as we've
 9 required it as a matter of policy at the institution.
 10 Q. So why don't you go look at people's
 11 syllabuses and find out what the professors are putting
 12 on their syllabi?
 13 A. Because I hire deans and chairs.
 14 Q. Have you disciplined any of your deans or
 15 chairs for not having their departments create syllabi
 16 that have course objectives or learning student
 17 outcomes on them?
 18 A. By "discipline" do you mean a written
 19 reprimand or more severe?
 20 Q. I mean taking them out of their classroom and
 21 barring them from a public space?
 22 A. No.
 23 Q. I'm going to show you a letter that we will
 24 mark as Plaintiff's Exhibit 15 and ask you to look at
 25 that.

1 A. Okay.
 2 (Plaintiff's Exhibit No. 15 marked for
 3 identification.)
 4 BY MS. BLOODGOOD:
 5 Q. This is a letter from Mike Auerbach to Brian
 6 McGee. And it says, There was a recent audit of
 7 syllabi in the Department of Biology.
 8 Do you know who did the audit of syllabi in the
 9 Department of Biology in early 2016?
 10 A. I do not.
 11 Q. Have you ever done an audit of syllabi in the
 12 Department of Biology?
 13 A. I have not.
 14 Q. Did Brian McGee -- I'm sorry.
 15 A. That would be me.
 16 Q. That's you. Did Mike Auerbach ever tell you
 17 who did an audit of syllabi in the Department of
 18 Biology?
 19 A. He did not.
 20 Q. Did you ever ask him who did the audit?
 21 A. I did not.
 22 Q. Then this letter to you says that Auerbach
 23 reminded Dr. Dillon that the College had an official
 24 policy on structure of syllabi that included learning
 25 outcomes.

1 Do you know what official policy he was referring
 2 to?
 3 A. He has to be referring to the relevant
 4 section of the FAM at Article VIII.
 5 Q. Article VIII of the FAM does not address
 6 learning outcomes and does not use the term "learning
 7 outcomes," does it?
 8 MR. FRAMPTON: Object to the form.
 9 BY MS. BLOODGOOD:
 10 A. It uses the phrase "instructional
 11 objectives." We agree on that.
 12 Q. Okay. And then, in his opinion he is telling
 13 you that this insubordination should result in a
 14 sanction as detailed in Article VII, Section B of the
 15 FAM.
 16 Did you take any independent action after February
 17 12 to determine whether a sanction under Article VII,
 18 Section B of the FAM was necessary?
 19 A. What do you mean by "action"?
 20 Q. Did you do anything on your own to determine
 21 whether or not a sanction should be provided for the
 22 insubordination that Dr. Auerbach was telling you
 23 about?
 24 MR. FRAMPTON: Object to the form. Go ahead.
 25 BY MS. BLOODGOOD:

1 A. The documents that were supplied to me by
 2 Dr. Auerbach included the totality, I assume, of the
 3 e-mail exchanges between Dr. Hillenius, Dr. Dillon and
 4 Dr. Auerbach, to and including this memorandum.
 5 Furthermore, you know, at some point along the
 6 way, I asked to receive and did receive from the
 7 department and from the school the totality of
 8 Dr. Dillon's personnel file.
 9 Q. Did you see his personnel file prior to
 10 February 12, 2016?
 11 A. I don't recall that I ever did.
 12 Q. You don't recall whether you ever saw his
 13 personnel file?
 14 A. I have little need to see personnel files,
 15 except in extraordinary cases.
 16 Q. Okay. So my question to you was, after
 17 February 12, 2016, did you personally do anything other
 18 than -- I know before then you had read e-mails?
 19 A. Right.
 20 Q. Did you personally take any steps to
 21 determine whether a sanction should be assessed?
 22 MR. FRAMPTON: Object to the form.
 23 BY MS. BLOODGOOD:
 24 A. I looked at the totality of the evidence that
 25 had been provided to me and reached a conclusion, and

1 wrote the initial memo that provided the opportunity to
 2 persuade, is my recollection.
 3 Q. Okay. I'm going to show you that document in
 4 a minute.
 5 Did you talk to Dr. Dillon?
 6 A. I did not.
 7 Q. Why not?
 8 A. The evidence -- the evidence in this case
 9 seemed to be laid out in its totality via e-mail.
 10 (Plaintiff's Exhibit No. 16 marked for
 11 identification.)
 12 BY MS. BLOODGOOD:
 13 Q. Okay. I'm going to show you what we've
 14 marked as Exhibit 16, which is two pages.
 15 A. Okay, thank you.
 16 Q. The day after Exhibit -- I'm sorry, it's not
 17 the day after. Exhibit 15 is marked February 12, 2016.
 18 On February 16th, 2016, you sent this -- a memo that
 19 we've marked as Defendant's -- Plaintiff's 16 to Doug
 20 Ferguson. And the subject is, Chair of Investigative
 21 Panel. And in it, you're requesting that he convene
 22 and serve as the chair of an investigative panel which
 23 will consider a complaint regarding the recent conduct
 24 of Dr. Dillon. And you're asking him to investigate it
 25 according to our Operating Procedures for processing

1 initial complaints, which is in Article IV, Section B
 2 of the FAM, correct?
 3 A. Article IV, Section B contains the Code of
 4 Conduct and Statement of Professional Ethics, if I
 5 recall correctly.
 6 Q. Okay. So under -- where is the Operating
 7 Procedures for processing initial complaints?
 8 A. Those Operating Procedures are attached to
 9 College policy 9.1.10.
 10 Q. Which policy? Which year?
 11 A. That policy has been posted since the late
 12 2000s. I think it was reissued as part of an order
 13 review in 2016.
 14 Q. What is the title of College Policy 9.1.10?
 15 What does it specifically address?
 16 A. College Policy 9.1.10, if I recall correctly,
 17 makes reference to investigation of allegations
 18 concerning harassment, including sexual harassment and
 19 abuse.
 20 Q. Does it have anything to do with academic
 21 freedom?
 22 A. The policy -- claims could be made about
 23 academic freedom with regard to almost anything, I
 24 suppose. But, no, not primarily. The Operating
 25 Procedure attached to that policy is the relevant

1 document here.
 2 Q. That Operating Procedure pertains to
 3 complaints of sexual harassment?
 4 MR. FRAMPTON: Object to the form.
 5 BY MS. BLOODGOOD:
 6 A. It pertains to those and it pertains to other
 7 allegations of policy violations, as well.
 8 Q. Wouldn't an allegation of a policy violation
 9 go through the Grievance Committee?
 10 A. That depends. It would only go to the
 11 Grievance Committee if the faculty colleague wished to
 12 do so. It would go to Hearing Committee under certain
 13 cases. And those -- and those opportunities were
 14 certainly made available in this case.
 15 Q. Let me ask --
 16 A. In addition to that, I am required as a
 17 matter of institutional policy to convene an
 18 investigative panel.
 19 Q. Where will I find the document that says an
 20 investigative panel can be convened?
 21 A. At the Operating Procedure attached to
 22 College Policy 9.1.10, as I notified in the memo.
 23 Q. Okay. Let's take a break. I'm going to find
 24 9.1.10.
 25 MS. BLOODGOOD: Do you think you produced it

1 to me?
 2 MR. FRAMPTON: I think I did.
 3 (Discussion held off the record.)
 4 (A brief recess was taken.)
 5 (Plaintiff's Exhibit No. 17 marked for
 6 identification.)
 7 BY MS. BLOODGOOD:
 8 Q. Before we went off the record, I asked you
 9 about official policy 9.1.10, and you told me it was a
 10 policy regarding harassment, I think. And I've now
 11 been handed that policy. It's titled, Prohibition --
 12 Prohibition of Discrimination and Harassment, Including
 13 Sexual Harassment and Abuse, 9.1.10, most recently
 14 amended on February 8, 2016. And is that the policy
 15 you were referring to recently?
 16 A. Yeah, it is, and the attachment to it.
 17 Q. And is the attachment what I've also been
 18 handed, and it says on the top, Operating Procedures
 19 For Processing Initial Complaints Against Faculty and
 20 Administrators and Staff Introduction, Bates stamp
 21 College 01033? Is that the document that is part or
 22 attached to the official policy 9.1.10?
 23 A. Uh-huh, I believe this is it.
 24 Q. Okay. Thank you.
 25 MR. FRAMPTON: Are you marking those as

1 exhibits or no? Okay.
 2 BY MS. BLOODGOOD:
 3 Q. To your knowledge, is there any policy other
 4 than the policy relating to discrimination and
 5 harassment that authorize you to appoint an
 6 investigative panel?
 7 A. No. In fact, I am obligated by the Operating
 8 Procedure to do so.
 9 Q. The Operating Procedures that are attached to
 10 --
 11 A. 9.1.10.
 12 Q. -- discrimination policy 9.1.10?
 13 A. Correct.
 14 MR. FRAMPTON: Object to the form.
 15 BY MS. BLOODGOOD:
 16 Q. All right. Now, just to be clear, Dr. Dillon
 17 was never accused of discrimination, sexual harassment
 18 or sexual abuse, correct?
 19 A. He was not.
 20 Q. Did you -- strike that.
 21 Have you ever, in the years that you have been at
 22 the College of Charleston, appointed an investigative
 23 panel to investigate a matter other than sexual
 24 harassment under Policy 9.1.10?
 25 MR. FRAMPTON: Object to the form.

1 BY MS. BLOODGOOD:
 2 A. I can't speak to the time before I was
 3 Provost or Interim Provost. During my own term of
 4 service, we have intended to appoint three and actually
 5 appointed two. I don't recall that any of them had to
 6 do with sexual harassment or abuse.
 7 Q. Okay. So you have previously created
 8 investigative panels that -- to investigate allegations
 9 that have nothing to do with sexual harassment or
 10 abuse?
 11 A. We have intended to appoint three. We
 12 actually appointed two.
 13 Q. All right. Were one of those two
 14 Dr. Dillon?
 15 A. Yes.
 16 Q. Who was the other one?
 17 A. I don't recall the faculty member. Well, I
 18 take that back. Yes, it was a faculty member in a
 19 school other than Dr. Dillon's.
 20 Q. Okay. I'm going to hand you what we've
 21 marked as Exhibit 17 and ask you to look at that for a
 22 minute.
 23 A. Okay.
 24 Q. All right. This is a memorandum to
 25 Dr. Dillon from you on February 18, 2016. And you've

1 had an opportunity now to flip through it. Is this a
 2 document that you prepared?
 3 A. Yes.
 4 Q. And I'm not going to ask you about everything
 5 in it, but there are a few things I'm curious about.
 6 In your first paragraph, you said that
 7 Dr. Auerbach recommends discipline. And there are two
 8 stated grounds for the discipline. The first was that
 9 it was -- that the change in Dr. Dillon's syllabus was
 10 necessary to assure the continued regional
 11 accreditation of the College of Charleston.
 12 Was that one of the reasons that you were
 13 proposing a sanction?
 14 A. That is one of the concerns Dean Auerbach had
 15 and that I had shared at the time, and still share.
 16 Q. And is that one of the reasons why you were
 17 proposing the sanctions you were proposing?
 18 A. One of them, yes.
 19 Q. Are you seriously contending that the
 20 information or lack of information on Dr. Dillon's
 21 syllabus in a lab course in the Biology Department was
 22 threatening the continued regional accreditation of the
 23 College of Charleston?
 24 A. It would threaten the regional accreditation
 25 of the College for us not to provide those materials

1 because they are consistent with our ability to assess
 2 courses, to make sure that students are learning what
 3 we purport that they are learning.
 4 Q. How?
 5 A. How do we assess?
 6 Q. No. How would the continued regional
 7 accreditation of the College of Charleston be
 8 jeopardized by Dr. Dillon's syllabus?
 9 A. It is the policy --
 10 MR. FRAMPTON: Object to the form. Go ahead.
 11 BY MS. BLOODGOOD:
 12 A. It is the stated position of SACSCOC, as I
 13 understand it, that the College is to be continuously
 14 in compliance with all the standards of SACSCOC.
 15 There are two relevant issues here with regard to
 16 this syllabus, as I recall. First, there was the
 17 expectation consistent with 3.7.1 in the appointment of
 18 competent faculty, that one of the ways in which
 19 competent faculty deliver instruction, as explained in
 20 the resource manual, is that they develop syllabi that
 21 includes student learning outcomes and that we have
 22 some expectation that they are followed. Secondly,
 23 with regard to assessment, we must have student -- we
 24 must have at the course program and institutional level
 25 the ability to assess what it is we are doing

1 institutionally. That begins with the ability to
 2 measure what students are learning against what we
 3 claim they are learning. That means we must have some
 4 variation on objectives or outcomes to measure against.
 5 Q. And I understand your position. But is it
 6 your position that the recommendations that are made by
 7 SACSCOC and the Principles of Accreditation are more
 8 than guidelines and are so stringent that the College
 9 of Charleston could lose its accreditation if it does
 10 not following one of these guidelines?
 11 A. It is the stated position of SACSCOC, as I
 12 understand it, that we are always and continuously to
 13 be in compliance with their guidelines. To -- for me
 14 to know of someone who is failing to follow our own
 15 policy is this area and then to ignore doing so would
 16 put us in violation of the expectation that we make
 17 policies and follow them.
 18 Q. And may have nothing at all to do with
 19 whether or not you're accredited down the road,
 20 correct?
 21 MR. FRAMPTON: Object to the form.
 22 BY MS. BLOODGOOD:
 23 A. I'm not sure I understand the question.
 24 Q. Isn't it true that SACSCOC states that the
 25 guidelines are guidelines only, and that if you rely on

1 them you will not necessarily be accredited?
 2 A. I mean, is this a claim about what's
 3 necessary but not sufficient?
 4 Q. I'm asking you a question.
 5 A. Yeah, I'm trying to understand.
 6 Q. Do you want me to repeat it?
 7 A. Sure.
 8 Q. I'll try to ask it a different way.
 9 A. Okay.
 10 Q. Isn't it true that SAC-COS --
 11 A. COC.
 12 Q. Whatever, COC, is only a guideline and that
 13 SACSCOC advises schools and institutions that following
 14 those guidelines does not necessarily mean that a
 15 school will receive accreditation?
 16 MR. FRAMPTON: Object to the form. Go ahead.
 17 BY MS. BLOODGOOD:
 18 A. I'll do my best to sort of summarize and
 19 recount what I've been told repeatedly in the course of
 20 my professional development in this area. We are
 21 always expected to be in compliance with the
 22 principles. We receive a host of guidance from SACSCOC
 23 employees and from peers about their experience with
 24 the guide, with the principles, and the various kinds
 25 of advice given. And based on that, we try diligently

1 to follow the best practices for our profession and to
 2 do so in ways that allow us to demonstrate our
 3 compliance with the principles. We are always expected
 4 to be in compliance with the principles. There are a
 5 variety of suggestions or counsel from sources and
 6 authority about how to do so. Your success in
 7 complying with one principle does not guarantee that
 8 you will be considered successful in complying with all
 9 principles. You must continue to work towards
 10 compliance with the principles continuously, not just
 11 at one point in time.
 12 I'm sure I have been overbroad in answering.
 13 Q. Let me ask you more specifically. Did anyone
 14 at SACSCOC ever get in touch with you and say, If
 15 Dr. Dillon doesn't change his syllabus we are not going
 16 to accredit the College of Charleston?
 17 A. No.
 18 Q. And isn't it true that one of the guidelines
 19 in the Principles of Accreditation pertains to faculty
 20 having academic freedom?
 21 A. That is absolutely true.
 22 Q. And isn't it true that after you took the
 23 sanctions and the disciplinary action that you did
 24 against Dr. Dillon, that the AAUP wrote two letters to
 25 President McConnell questioning that action?

1 A. It is true that that organization wrote two
 2 letters addressed to Dr. -- to Mr. McConnell.
 3 Q. Don't you think it's more serious and more of
 4 a threat to accreditation that you have the American
 5 Association of University Professors writing two
 6 letters to the college president complaining about how
 7 the College is addressing issues of academic freedom?
 8 A. No.
 9 Q. Okay. Then the sanctions that you're
 10 proposing in this February 18, 2016, letter or
 11 memorandum include on page three suspension without pay
 12 from August 16, 2016, through December 31, 2016,
 13 closing a university e-mail account, no longer having
 14 access to office or laboratory, current office may be
 15 assigned/reassigned to another faculty member or
 16 members, computers will no longer be available to you.
 17 You're -- on page four, you're telling Dr. Dillon
 18 he cannot write a letter of reference and not provide a
 19 reference of any sort for former or current students
 20 without permission from Dean Auerbach. What is that
 21 based on?
 22 MR. FRAMPTON: Object to the form.
 23 BY MS. BLOODGOOD:
 24 A. What's the pronoun there?
 25 Q. What is that action based on?

1 A. Why we would want Dean Auerbach to sort of
 2 provide prior approval with regard to the
 3 recommendations?
 4 Q. Yes.
 5 A. We wanted to make sure that in the absence of
 6 his service as an employee, he was continuing to
 7 provide relevant content about the performance of his
 8 students.
 9 Q. So you're going to go over -- you're going to
 10 also, besides telling him what to put in his syllabus,
 11 you think you have the right to tell him what to put in
 12 a letter of recommendation for a former student?
 13 A. If he's representing himself as a current
 14 faculty member of the institution, we certainly want to
 15 make sure he is complying with institutional policy.
 16 Q. It doesn't say that, though, in that
 17 paragraph, does it?
 18 A. No. But you asked me for an explanation and
 19 I've provided it.
 20 Q. It also says that he would not be eligible
 21 for any instructional assignment or other paid College
 22 of Charleston work during the 2016 summer terms. So I
 23 guess he couldn't work as a janitor at the College of
 24 Charleston?
 25 A. I suppose that is consistent with what is

1 said there.
 2 Q. He is also barred from campus, including
 3 property leased by the College, which I assume you
 4 think if you lease private property it becomes public
 5 property?
 6 MR. FRAMPTON: Object to the form.
 7 BY MS. BLOODGOOD:
 8 A. I mean, property that's leased by the College
 9 is certainly covered by that sentence.
 10 Q. With exceptions to be approved in advance.
 11 And at our sole discretion, the Dean or I may require
 12 that you be escorted by Public Safety while you are
 13 present on property owned or leased by the College.
 14 Why would you do that?
 15 A. Again, because the colleague is not an
 16 employee of the College of Charleston and we want to
 17 make sure that he is not trying to access materials
 18 that are -- that he is not supposed to access during
 19 the time of his suspension.
 20 Q. How can he do that if he's walking across --
 21 it says --
 22 A. We provided for exceptions --
 23 Q. -- you will be escorted.
 24 A. We provided for exceptions to be approved.
 25 And "may require" only would suggest cases where we

1 concluded that it was necessary, not to walk across
 2 campus. This is permissive.
 3 Q. What right do you have to tell a resident of
 4 South Carolina they cannot walk across the College of
 5 Charleston campus?
 6 A. We didn't say we couldn't give him that
 7 right. He had to ask for it.
 8 Q. What right do you have to require a resident
 9 of South Carolina to ask for the right to cross a
 10 public campus?
 11 MR. FRAMPTON: Object to the form.
 12 BY MS. BLOODGOOD:
 13 A. You are dealing with him in his capacity as
 14 an employee of the College, with continued -- with a
 15 continued -- with the expectation he would continue to
 16 be employed, not dealing with him as a private citizen.
 17 Of course, all of this is well outside the scope of my
 18 expertise.
 19 Q. You wrote the letter?
 20 A. True enough.
 21 Q. I assume that everything in the letter you
 22 agree with?
 23 A. I do.
 24 Q. Okay. You wouldn't put anything in the
 25 letter you didn't know about, right?

1 A. That is all true. But I want to make clear I
 2 am not drawing conclusions as to matters of law.
 3 Q. And then on page five, at the top you say,
 4 Consistent with the terms of the FAM, you now have the
 5 opportunity to persuade me that one or more of the
 6 terms of the sanction being considered should not be
 7 imposed.
 8 Where is that in the FAM?
 9 A. That's black letter in the FAM, in the
 10 section on faculty discipline. In fact, you read it
 11 out loud sometime ago.
 12 Q. Okay. So then you say, Should you choose to
 13 avail yourself of this opportunity, I must receive your
 14 attempt at persuasion in writing no later than the
 15 close of business on Thursday, February 25, 2016.
 16 The next paragraph, I remind you that should I
 17 notify you of the imposition of a sanction you would
 18 then have the option to appeal either -- to appeal to
 19 either the Faculty Grievance Committee or the Faculty
 20 Hearing Committee, depending on the nature of the
 21 grievance claim you choose to make; is that correct?
 22 A. You've read it as it appears.
 23 Q. You told Dr. Dillon that he would have the
 24 right to go to the Faculty Hearing Committee?
 25 A. You would have the option to appeal. It did

1 not say that the Faculty Hearing Committee would have
 2 to accept the appeal. That is an express authority of
 3 the committee.
 4 Q. Are you saying that he could ask the Faculty
 5 Hearing Committee for an appeal on academic freedom,
 6 but because their rules say that he was too late in
 7 going to the Faculty Hearing Committee and they
 8 couldn't hear it, that they have the right not to hear
 9 it?
 10 MR. FRAMPTON: Object to the form.
 11 BY MS. BLOODGOOD:
 12 A. I am confused. Are you talking about his
 13 removal from the classroom as part of his
 14 modification -- assignment to new duties or are you
 15 talking about the sanction?
 16 Q. You're aware that Dr. Dillon tried to go to
 17 the Faculty Hearing Committee on the issue of academic
 18 freedom, correct?
 19 A. I am aware that he -- that he sent an appeal
 20 and -- he sent an appeal to them.
 21 Q. And you are aware that the Faculty Hearing
 22 Committee said, Dr. Dillon, we can't hear this issue
 23 because you have -- you are outside the time limit,
 24 correct?
 25 MR. FRAMPTON: Objection. Answer the

1 question.
 2 THE WITNESS: Oh, thank you.
 3 MR. FRAMPTON: Sorry.
 4 BY MS. BLOODGOOD:
 5 A. On the matter of the assignment to new
 6 duties, I recall that they told him he had come to them
 7 too late. Those are two different issues.
 8 Q. Is it your contention the Faculty Hearing
 9 Committee made a mistake and they should have heard the
 10 issue of academic freedom?
 11 MR. FRAMPTON: Object to the form.
 12 BY MS. BLOODGOOD:
 13 A. Again, they are two different questions. The
 14 act complained of could have been assignment to new
 15 duties, which happened earlier, or it could have been
 16 the imposition of a sanction, which happened later.
 17 Q. Well, do you know which one it was?
 18 A. We have to -- we'd have to relook at their
 19 memo to be sure. My recollection is we're talking
 20 about two different time periods.
 21 Q. Okay. We'll look at those.
 22 A. Okay.
 23 Q. But in this letter --
 24 A. Uh-huh.
 25 Q. -- you tell Dr. Dillon that he can go to the

1 Faculty Hearing Committee, correct?
 2 A. Because --
 3 MR. FRAMPTON: Object to the form.
 4 BY MS. BLOODGOOD:
 5 A. Because that is a black letter right that he
 6 has under the FAM.
 7 Q. It's only a right if he does it within a
 8 certain period of time, correct?
 9 A. That's expressed. That's in -- also in
 10 writing. And that's been -- and he's been aware of
 11 that for as long as he's been a faculty member.
 12 Q. And sitting here today, you're aware that the
 13 Faculty Hearing Committee could not hear Dr. Dillon's
 14 appeal because you appointed an investigative panel --
 15 A. That is categorically --
 16 Q. -- under a sexual harassment policy and used
 17 up all the time that he had to appeal to the Faculty
 18 Hearing Committee, correct?
 19 A. There are a series of errors in your
 20 statement. Would you like me to go through this in
 21 turn?
 22 Q. Sure.
 23 A. Okay. First of all, the act complained of
 24 with regard to a sanction would not occur until the
 25 sanction is handed down. That happened after the

1 conclusion of the investigative panel and its report
 2 back to me. So the time bound, sort of the length of
 3 the time period for the sanction proper, would begin on
 4 the date of that memo, which we've not yet examined
 5 today.
 6 Secondly, the act complained of, if he was going
 7 to complain that there was an academic freedom problem
 8 with his assignment to new duties, would come from the
 9 moment that was done. That isn't addressed by this
 10 memo, which concerns a sanction. Assignment to new
 11 duties is not a sanction, and he was told that
 12 expressly in writing. It's also in the FAM.
 13 Q. Okay. The documents will speak for
 14 themselves, won't they?
 15 A. On that we agree.
 16 Q. You know the Faculty Hearing Committee never
 17 heard his grievance, correct?
 18 A. We can go back to the letter and to the
 19 grounds they provided. I do -- I do agree that they
 20 did not hold a hearing for him.
 21 Q. That was my only question.
 22 A. Great.
 23 Q. And then on the bottom of the page you say,
 24 While awaiting my final determination of your sanction,
 25 I have decided you will be assigned to new duties with

1 pay effective immediately. These are noninstructional
 2 duties under the supervision of your Department Chair
 3 and Dean.
 4 So what were the duties that you had in mind?
 5 A. The following -- the remainder of the
 6 sentence speaks to those. Continue to do research and
 7 professional activity -- development activities as are
 8 appropriate to the faculty position. Like any faculty
 9 member, Dr. Dillon has research, teaching and service
 10 portions of duties. Those are performed in different
 11 times, in different ways, in different semesters. He
 12 was assigned solely to noninstructional duties for the
 13 remainder of this period of time.
 14 Q. Okay. Besides the noninstructional duties
 15 that were assigned -- let me just back up.
 16 Were they assigned by Dr. Hillenius?
 17 A. You would have to ask Dr. Hillenius.
 18 Q. Did you ever see a document assigning
 19 noninstructional duties?
 20 A. I did not.
 21 Q. You go on and say further, Until further
 22 notice and effective immediately, you must comply with
 23 the following conditions while assigned to new duties.
 24 You shall express neither oral nor written opinions
 25 regarding the skills, abilities, or employment

1 suitability of any of your former or current students
 2 unless you receive express written permission to do so.
 3 Was that your idea?
 4 A. I recall that. Yeah, I don't recall.
 5 Obviously, I agree with it or it wouldn't be in the
 6 letter.
 7 Q. You think you have the right to tell a
 8 professor what oral and written opinions they can
 9 express regarding skills and abilities of their
 10 students?
 11 A. I believe that it is reasonable to ask for
 12 them -- for their supervisor to see, when especially we
 13 have some evidence that a colleague is incapable of
 14 following institutional policy.
 15 Q. Incapable of following institutional policy
 16 because he didn't put in a syllabus what you want him
 17 to put in the syllabus?
 18 MR. FRAMPTON: Object to the form.
 19 BY MS. BLOODGOOD:
 20 A. What policies required him to put in the
 21 syllabus.
 22 Q. And he had been there for how many years?
 23 A. Thirty-three, 34.
 24 Q. Thirty-three years?
 25 A. Uh-huh.

1 Q. First time that he has been treated like
 2 this, and you jump to the conclusion that he is
 3 incapable of following institutional policies?
 4 MR. FRAMPTON: Object to the form.
 5 BY MS. BLOODGOOD:
 6 Q. Is that true?
 7 A. I would hardly say I jumped to a conclusion,
 8 given the e-mail strings that I've previously seen.
 9 Q. And then on the last page, pursuant to the
 10 sexual harassment policy, you then appointed three
 11 faculty in a different school, who you called
 12 disinterested, to investigate the allegation that he
 13 had violated the Code of Professional Conduct and the
 14 Statement of Professional Ethics, correct?
 15 A. Correct.
 16 Q. Do you know whether that committee ever even
 17 talked to Dr. Dillon?
 18 A. I recall that they had an e-mail exchange
 19 with him. I don't know that they talked to him
 20 face-to-face.
 21 Q. You think when somebody does an investigation
 22 that you should talk to the person you're
 23 investigating?
 24 MR. FRAMPTON: Object to the form.
 25 BY MS. BLOODGOOD:

1 A. Do I? Is that the question?
 2 Q. Yeah. Yeah. You're the provost.
 3 A. Uh-huh.
 4 Q. You have experience with investigations and
 5 supervising people?
 6 A. I think that one can have a thorough written
 7 exchange with colleagues to gather information. It's
 8 not always required to have an oral exchange.
 9 (Plaintiff's Exhibit No. 18 marked for
 10 identification.)
 11 BY MS. BLOODGOOD:
 12 Q. Okay. I'm showing you what we've marked as
 13 Exhibit 18. This is a response from Dr. Dillon to you,
 14 February 19, 2016. And again he tells you that he
 15 would be falsely representing his course if he changes
 16 his syllabus and his position, and he asks, Is my
 17 choice now to lie, or to be judged insubordinate,
 18 correct?
 19 A. That is what he wrote, yes.
 20 (Plaintiff's Exhibit No. 19 marked for
 21 identification.)
 22 BY MS. BLOODGOOD:
 23 Q. Is it fair to say you had already made up
 24 your mind about Dr. Dillon by this time?
 25 A. Absolutely not.

1 Q. I'm handing you what we've marked as Exhibit
 2 19. This is your response on the same day to his memo,
 3 delivered by e-mail. And you state in there that he
 4 has failed to comply with the lawful and reasonable
 5 order of his supervisor. And you have already found,
 6 at the bottom of the first page, that any set of
 7 learning outcomes other than the ones already posed by
 8 you would falsely represent the course content. And
 9 this is a quote from Dr. Dillon where he's saying to
 10 you in the previous e-mail that he believes that what
 11 he is doing represents the course content. And you
 12 have already decided that that conclusion is neither
 13 relevant nor reasonable, correct?
 14 MR. FRAMPTON: Object to the form.
 15 BY MS. BLOODGOOD:
 16 A. You have restated what I wrote.
 17 Q. Well, do you agree with what you wrote?
 18 A. I do.
 19 Q. So on the same day, you had already concluded
 20 that Dr. Dillon's position was neither reasonable nor
 21 relevant, correct?
 22 MR. FRAMPTON: Object to the form.
 23 BY MS. BLOODGOOD:
 24 A. I assumed quite -- that Dr. Dillon's letter
 25 constituted his first attempt at persuasion. I

1 provided a response. I continued to invite him to
 2 persuade until the deadline.
 3 (Plaintiff's Exhibit No. 20 marked for
 4 identification.)
 5 BY MS. BLOODGOOD:
 6 Q. Okay. Then on Exhibit 20, look at that and
 7 tell me if you've seen that before?
 8 A. I have. I'll need to read it a bit.
 9 Q. Okay. On the first page, third paragraph,
 10 Dr. Dillon says to Mike Auerbach in an e-mail that
 11 you're copied on, I have consistently maintained that
 12 the Wilson quoted is a complete and accurate summary of
 13 the learning outcomes towards which I teach, and that
 14 to alter the language in any substantive way would
 15 misrepresent Genetics Lab 305L at the College of
 16 Charleston. I have been charged with insubordination
 17 because I refused to lie. This is not a "personnel
 18 matter."
 19 And you disagreed with his statement, correct?
 20 A. Which one of the ones you just read?
 21 Q. You disagreed that the Woodrow Wilson quote
 22 was a complete and accurate summary of the learning
 23 outcomes?
 24 A. I disagreed, as did his line supervisors.
 25 Q. And you disagreed that he was being charged

1 with insubordination because he refused to lie?
 2 A. I disagree with that claim, yes.
 3 (Plaintiff's Exhibit No. 21 marked for
 4 identification.)
 5 BY MS. BLOODGOOD:
 6 Q. Let me show you what's been marked as Exhibit
 7 21.
 8 A. Okay.
 9 Q. So this is an e-mail from Doug Ferguson on
 10 February 22, to Dr. Dillon, on which you're copied,
 11 telling him that the committee is presently reviewing
 12 e-mail correspondence, having met this morning with the
 13 provost.
 14 That's you, right?
 15 A. Right.
 16 Q. So you met with the independent investigative
 17 committee, provided them information, told them about
 18 what they were doing, and yet they never met with
 19 Dr. Dillon; is that correct?
 20 A. Yeah. Again, I don't know that they met with
 21 Dr. Dillon.
 22 (Plaintiff's Exhibit No. 22 marked for
 23 identification.)
 24 BY MS. BLOODGOOD:
 25 Q. I hand you what we have marked as Plaintiff's

1 Exhibit 22.
 2 A. Okay.
 3 Q. Is this the response that you received from
 4 Dr. Dillon in response to your request that he persuade
 5 you?
 6 A. It was.
 7 (Plaintiff's Exhibit No. 23 marked for
 8 identification.)
 9 BY MS. BLOODGOOD:
 10 Q. I'm going to show you what we've marked as
 11 Plaintiff's Exhibit 23.
 12 A. Okay.
 13 Q. And this is an e-mail from you to Dr. Dillon,
 14 copying Mike Auerbach, telling him of your receipt of
 15 his memorandum and that you consider this a personnel
 16 matter, correct?
 17 A. Correct.
 18 Q. On what basis did you consider it a personnel
 19 matter?
 20 A. Because it concerned the disposition of an
 21 individual employee and his alignment with and -- and
 22 compliance with institutional policy.
 23 Q. Do you think that academic freedom is a
 24 personnel matter?
 25 MR. FRAMPTON: Object to the form.

1 BY MS. BLOODGOOD:
 2 A. Noncompliance with policy is a personnel
 3 matter.
 4 Q. That wasn't my question.
 5 A. I'm trying to process your question.
 6 MR. FRAMPTON: Let him finish, please.
 7 BY MS. BLOODGOOD:
 8 A. There are many personnel matters where claims
 9 are made about academic freedom. Academic freedom is
 10 an issue that sort of transcends individual personnel
 11 interests.
 12 Q. Do you mean by that answer that academic
 13 freedom may not be in all instances a personnel
 14 matter?
 15 MR. FRAMPTON: Object to the form.
 16 BY MS. BLOODGOOD:
 17 A. There are cases where academic freedom issues
 18 are at the heart of claims about personnel -- personnel
 19 decisions and behavior, especially for faculty.
 20 Q. Are there instances where academic freedom is
 21 not related to a personnel issue?
 22 A. Sure.
 23 (Plaintiff's Exhibit No. 24 marked for
 24 identification.)
 25 BY MS. BLOODGOOD:

1 Q. Okay. I'm showing you what's been marked as
 2 Plaintiff's Exhibit 24. If you review it, the first
 3 question will be if you've ever seen it before?
 4 A. It's copied to me. I don't remember it.
 5 Well, give me a moment, please. Okay.
 6 Q. Do you agree that it is absurd to imagine
 7 that the reaccreditation of the entire College of
 8 Charleston might be jeopardized by a single set of
 9 learning objectives on the syllabus of a single upper
 10 division policy elective?
 11 MR. FRAMPTON: Object to the form. Go ahead.
 12 BY MS. BLOODGOOD:
 13 A. At the risk of being argumentative, it's hard
 14 to imagine a world in which faculty could fail to
 15 follow policy and where faculty fail to follow
 16 reasonable and lawful orders from supervisors for an
 17 institution to remain accredited.
 18 Q. You used the word "reasonable."
 19 A. Uh-huh.
 20 Q. Who decided that Jaap Hillenius requirement
 21 that Dr. Dillon change the learning outcome on his
 22 syllabus was reasonable?
 23 MR. FRAMPTON: Object to the form.
 24 BY MS. BLOODGOOD:
 25 A. Dr. Hillenius made a determination not only

1 as supervisor but as the qualified subject matter
 2 expert in the same discipline and as experienced
 3 department chair that, you know, this was a reasonable
 4 requirement in light of the institutional standards in
 5 which he had been instructed. And his judgment was
 6 subsequently confirmed by his dean and ultimately by
 7 me.
 8 Q. So you, Hillenius and Auerbach were the three
 9 that made the decision that it was unreasonable?
 10 MR. FRAMPTON: Object to the form.
 11 BY MS. BLOODGOOD:
 12 A. We are the supervisors.
 13 Q. Anyone else besides you three make the
 14 decision that the syllabus was unreasonable?
 15 A. We had fact-finding --
 16 MR. FRAMPTON: Same objection.
 17 BY MS. BLOODGOOD:
 18 A. -- counsel of the investigative panel and we
 19 had whatever process was made available to Dr. Dillon
 20 at the level of the Grievance and Hearing Committees;
 21 furthermore, advised the president. That's the entire
 22 process.
 23 Q. So besides you, Hillenius, Auerbach, the
 24 three appointed members of the investigative panel that
 25 you appointed, and the Grievance Committee members, is

1 there anyone else who has made any decision regarding
 2 the reasonableness of Dr. Dillon's syllabus?
 3 A. There's nobody else --
 4 MR. FRAMPTON: Object to the form.
 5 BY MS. BLOODGOOD:
 6 A. -- in a decision or advisory role, no.
 7 Q. Okay.
 8 (Plaintiff's Exhibit No. 25 marked for
 9 identification.)
 10 BY MS. BLOODGOOD:
 11 Q. Let me hand you what we've marked as Exhibit
 12 25.
 13 A. Okay.
 14 Q. This is an e-mail from Douglas Ferguson to
 15 Dr. Dillon on March 1, 2016, asking for a
 16 clarification. And it states that, in the fourth
 17 paragraph, The panel is not charged with questions of
 18 insubordination, only policy compliance; is that
 19 correct?
 20 A. That's what it says.
 21 Q. Was that your understanding of what the panel
 22 was investigating?
 23 A. Yes.
 24 Q. They were not investigating insubordination?
 25 A. They were charged to look at the policy

1 compliance issue, yes.
 2 Q. Okay.
 3 (Plaintiff's Exhibit No. 26 marked for
 4 identification.)
 5 BY MS. BLOODGOOD:
 6 Q. I hand you what we've marked as Exhibit 26.
 7 A. Okay.
 8 Q. And have you seen this e-mail from Dr. Dillon
 9 to Doug Ferguson?
 10 A. Yes.
 11 Q. During the time that Doug Ferguson and his
 12 other two committee members were investigating, did you
 13 have any conversations with them, with Douglas Ferguson
 14 or the other two members of the committee, or was all
 15 of your communication through e-mail?
 16 A. All was through e-mail.
 17 Q. Okay. I'm going to hand you what we'll mark
 18 as Exhibit 27, which is entitled, Final Report.
 19 A. Okay.
 20 (Plaintiff's Exhibit No. 27 marked for
 21 identification.)
 22 BY MS. BLOODGOOD:
 23 Q. So your investigative panel, on the first
 24 page, on the bottom, found, after having reviewed
 25 available evidence, that there was no general reference

1 to biology or any specific mention of genetics in
 2 evidence in Wilson's words, right?
 3 A. Right.
 4 Q. Okay. Then on the second page it says, Two
 5 members of the panel believe that Dr. Dillon's latest
 6 statements would have come very close to being learning
 7 outcomes and perhaps have been accepted as learning
 8 outcomes, had he chosen to explicitly state them as
 9 outcomes on his syllabus either initially, or at any
 10 other point when given multiple opportunities to do so.
 11 Then the second two paragraphs -- the second --
 12 last paragraphs, one says that Wilson's quotation
 13 provides students with real course object -- does not
 14 provide students with real course objectives. And then
 15 the next paragraph says that the syllabus was not
 16 specific as to learning outcomes, correct?
 17 MR. FRAMPTON: Object to the form.
 18 BY MS. BLOODGOOD:
 19 Q. Are those two different issues or are they
 20 just repeating themselves because they adopt your
 21 philosophy that course objectives are the same as
 22 stated learning outcomes?
 23 A. Seems to me far more plausible that they are
 24 understanding them to be the same things. Indeed,
 25 that's consistent with the paragraph on the first page,

1 with the reference to other professors teaching this
 2 course have listed learning outcomes, parenthetically
 3 course objectives, for at least the last five years.
 4 Q. Why do you have two paragraphs about the same
 5 thing?
 6 MR. FRAMPTON: Object to the form.
 7 BY MS. BLOODGOOD:
 8 A. You'd have to ask them.
 9 Q. You didn't ask them when you received it?
 10 A. No.
 11 Q. Because you were clear that learning outcomes
 12 are the same thing as course objectives at that
 13 point?
 14 MR. FRAMPTON: Object to the form.
 15 BY MS. BLOODGOOD:
 16 A. At that point, now, and actually in the light
 17 of the textual evidence.
 18 (Plaintiff's Exhibit No. 28 marked for
 19 identification.)
 20 BY MS. BLOODGOOD:
 21 Q. Okay. Then I'm showing you Plaintiff's
 22 Exhibit 28, which is the final report or the report of
 23 the investigative review panel. And this is a
 24 memorandum from you to Mike Auerbach about it,
 25 correct?

1 A. And Jaap.
 2 Q. Excuse me, and, yes, Jaap. If all you were
 3 interested in is whether or not the learning outcomes
 4 or course objectives were sufficiently stated on a
 5 syllabus of the Biology Department, why didn't you
 6 appoint Biology personnel to make that decision? Why
 7 did you put people who were in a different department
 8 on your panel?
 9 A. Because the expertise available to judge
 10 course objectives and their relationship to course
 11 content exists in the faculty of other units.
 12 And, furthermore, because, you know, putting
 13 people who were -- had worked together for long periods
 14 of time, had done so intimately, into a position --
 15 into this position would have created substantially
 16 more difficulty. In fact, it seems safer to leave the
 17 school entirely, since those faculty colleagues do
 18 interact on a regular basis.
 19 Q. But those professors in the School of Science
 20 and Mathematics don't have classes that are labs in the
 21 same manner that Dr. Dillon has labs, do they?
 22 A. Certainly every discipline has different
 23 kinds of courses to teach. And lab sciences do have
 24 some unique attributes.
 25 Q. My question was, are there labs in the

1 College of Math and Science --
 2 A. There are.
 3 Q. -- that do experiments like Dr. Dillon's labs
 4 do in biology and genetics?
 5 A. Yes.
 6 Q. What kind?
 7 A. I mean, out -- well, experiments or work in
 8 laboratory settings, you know, other departments
 9 outside of Biology and the sciences have lab -- have
 10 lab components to them.
 11 Q. Did any of the three people that you
 12 appointed on the investigative panel have labs
 13 associated with their work?
 14 A. With their work, no.
 15 Q. Okay. Exhibit 26 that I just showed you is
 16 dated March 15, 2016.
 17 A. Exhibit 26 is dated March 3, 2016.
 18 Q. Okay, hold on. The report of the
 19 investigative review panel --
 20 A. That's Exhibit 28, dated March 28.
 21 Q. Okay.
 22 A. My memo to Dean Auerbach and Jaap Hillenius.
 23 Q. Sorry, Exhibit 28. So the report -- your
 24 memo to Dr. Auerbach was March 15, 2016. And the next
 25 day, on March 16, 2015 -- let me show you a document

1 we've marked as Exhibit 29.
 2 (Plaintiff's Exhibit No. 29 marked for
 3 identification.)
 4 BY MS. BLOODGOOD:
 5 Q. Jaap Hillenius sends a memo to Dr. Auerbach
 6 regarding the report of the investigative review panel.
 7 Why was he sending a memo to Dr. Auerbach?
 8 A. My recollection, and we would have to look at
 9 Operating Procedures attached to College Policy 9.1.10,
 10 is that this particular comment provision was a
 11 requirement of the Operating Procedure.
 12 Q. Of the Operative Procedure related to sexual
 13 harassment complaints?
 14 A. Again --
 15 MR. FRAMPTON: Object to the form.
 16 BY MS. BLOODGOOD:
 17 A. Again, the Operating Procedure covers matters
 18 of faculty discipline or, more accurately, matters of a
 19 violation of the Code of Professional Conduct and
 20 Statement of Professional Ethics that are outside of
 21 harassment and abuse.
 22 Q. You think that's going to say that in
 23 9.1.10?
 24 A. I think you will find that very clearly
 25 expressed in the Operating Procedure.

1 Q. Well, then, why don't you put it somewhere
 2 else in the faculty handbook, other than under the
 3 sexual harassment and discrimination policy?
 4 A. It's not in the -- it's not in the faculty
 5 handbook. It's one of our myriad college policies.
 6 And I cannot speak to the institutional history that
 7 led OP to be drafted and attached to that policy in
 8 that way.
 9 Q. You understand that when you have a title of
 10 a policy, usually that title below includes information
 11 about the policy that's titled?
 12 MR. FRAMPTON: Object to the form.
 13 BY MS. BLOODGOOD:
 14 A. Again, it was clearly made -- it was made
 15 clear to Dr. Dillon in every letter I issued relevant
 16 to this topic that the Operating Procedure was attached
 17 to that policy and was germane in this case.
 18 Q. How is a sexual harassment policy germane to
 19 Dr. Dillon, who is not accused of sexual harassment?
 20 MR. FRAMPTON: Object to the form.
 21 BY MS. BLOODGOOD:
 22 A. The policy is not. The Operating Procedure
 23 attached to it contains provisions that are designed --
 24 designed to provide for investigations and for other
 25 steps outside of the sexual harassment and abuse. I

1 did not write the policy or decide to attach the
 2 Operating Procedure to it. I followed it.
 3 (Plaintiff's Exhibit No. 30 marked for
 4 identification.)
 5 BY MS. BLOODGOOD:
 6 Q. Exhibit 30 is a memorandum dated the same
 7 day, to you from Mike Auerbach, saying that he has
 8 carefully reviewed the panel's report, and he agrees
 9 with Dr. Hillenius and does not want to revise his
 10 previous recommendations to you on this matter,
 11 correct?
 12 A. That's what it says, yes, ma'am.
 13 (Plaintiff's Exhibit No. 31 marked for
 14 identification.)
 15 BY MS. BLOODGOOD:
 16 Q. And Exhibit 31 I'm handing to you and ask you
 17 if you've ever seen that document before?
 18 A. I have.
 19 Q. What is this document?
 20 A. It is a document written by the Associate
 21 Secretary of the American Association of University
 22 Professors to President McConnell, and copied to me and
 23 myriad other people, including Dr. Dillon.
 24 Q. Okay. What's the gist of the letter?
 25 A. The AAUP is expressing concerns about our

1 institutional policies and their alignment with the
 2 recommendations of the AAUP.
 3 Q. The date of the letter from the AAUP to
 4 President McConnell was March 16, 2016, correct?
 5 A. That's what it says, yes.
 6 (Plaintiff's Exhibit No. 32 marked for
 7 identification.)
 8 BY MS. BLOODGOOD:
 9 Q. On the next day -- let me show you Exhibit
 10 31.
 11 A. I'm going to take a moment and grab a soda,
 12 if that's okay with everybody?
 13 Q. Sure.
 14 (Discussion held off the record.)
 15 (A lunch recess was taken.)
 16 BY MS. BLOODGOOD:
 17 Q. We are back from a lunch break. And I had
 18 handed you an exhibit marked 31. Do you have that
 19 right in front of you?
 20 A. Right, 31 and 32.
 21 Q. Where is 32?
 22 MR. FRAMPTON: That is what I have as 32.
 23 BY MS. BLOODGOOD:
 24 Q. Okay. Let's look at Exhibit 32, which is a
 25 memorandum to President McConnell from you, dated March

1 17, 2016; is that correct?
 2 A. Yes.
 3 Q. And this is the day after the AAUP letter,
 4 which was e-mailed to President McConnell. And what
 5 was the purpose of this letter?
 6 A. My recollection is, I wanted him to have some
 7 context for the letter that had been provided to him by
 8 the AAUP.
 9 Q. Okay. Did you prepare or were you asked to
 10 prepare a letter from President McConnell to the AAUP
 11 in response to the March 16 letter he had received?
 12 A. Was I asked to prepare a letter for?
 13 Q. In response to the AAUP's March 16 letter?
 14 A. No.
 15 Q. Okay. Do you know if a letter was ever
 16 prepared to respond to the AAUP's March 16 letter?
 17 A. I have some recollection that President
 18 McConnell intended to write a response to the AAUP. I
 19 don't recall whether or not I saw it, but I may have.
 20 Q. And the reason I'm asking you is because I
 21 have not seen a response. But let me show you what
 22 we'll mark as Exhibit 33.
 23 (Plaintiff's Exhibit No. 33 marked for
 24 identification.)
 25 BY MS. BLOODGOOD:

1 A. He must have written one.
 2 Q. Right, because this appears to be another
 3 letter from the AAUP to President McConnell, dated
 4 March 30. And it says, Thank you for your letter of
 5 March 21, 2016.
 6 A. The quote sounds familiar. I just don't
 7 recall the details.
 8 Q. Okay. It actually -- you're copied on this
 9 letter from the AAUP, but you don't recall seeing the
 10 letter from President McConnell?
 11 A. Like I said, sounds like he wrote one. And
 12 the quotation from what is purported to be the
 13 president's letter sounds familiar. But I just don't
 14 have any recollection of the details.
 15 (Plaintiff's Exhibit No. 34 marked for
 16 identification.)
 17 Q. I'm handing you what we've marked as Exhibit
 18 34.
 19 A. Okay.
 20 Q. Did you prepare this letter?
 21 A. I did.
 22 Q. And you've looked through it. Do you agree
 23 with what is in it?
 24 A. I do.
 25 Q. And on page four, on the bottom of the page

1 it says, I remind you that you have the option to
 2 appeal either to the Faculty Grievance Committee or the
 3 Faculty Hearing Committee, depending on the nature of
 4 the grievance claims you choose to make, correct?
 5 A. Yes.
 6 Q. Was it your understanding as of March 18,
 7 2016, Dr. Dillon had the right to appeal to the Faculty
 8 Hearing Committee?
 9 MR. FRAMPTON: Object to the form.
 10 BY MS. BLOODGOOD:
 11 A. With regard to the act complained of, which
 12 is this memo, yes.
 13 Q. Okay. Well, it depended on the nature of his
 14 grievance, correct?
 15 A. Correct.
 16 Q. Okay. And then, why is Kimberly Gertner, who
 17 is in the Office of Equal Opportunity, copied on this
 18 letter?
 19 A. I have no recollection.
 20 Q. Okay. Did you have input from Mike Auerbach
 21 into the information in this letter or did you do it
 22 yourself?
 23 A. I wrote the letter myself.
 24 Q. Okay. So as of March 18, 2016, the sanctions
 25 were imposed on Dr. Dillon, correct?

1 A. Right.
 2 Q. Okay. On the page of one of the copies of
 3 the FAM, I have seen something that talks about how to
 4 amend the FAM and various other documents. And I just
 5 want you to confirm that this would still be in effect.
 6 This was a document that evidently was approved by the
 7 Bylaws Committee on March 16, 2011, and by the provost
 8 on March 25, 2011.
 9 Would you have been provost at that time?
 10 A. I was not.
 11 Q. Okay. What it says is that faculty policy,
 12 when you're amending those, it says, quote, A formal
 13 procedure for amending these policies is set out on the
 14 policy web site. All changes to these policies must be
 15 directed through the Provost to the President, and
 16 changes may be initiated by the Provost, end quote.
 17 Is that the still the procedure that the College
 18 of Charleston uses?
 19 A. If you would be so kind to pass it over?
 20 Q. Sure.
 21 A. This is from -- referring under Faculty
 22 Policies to that -- to the highlighted page, that is an
 23 accurate statement.
 24 Q. The first highlighted, that's what I just
 25 read to you?

1 A. Right.

2 Q. Would you look at the other two highlighted

3 portions while you have them, because I'm going to ask

4 you a question about each one of those.

5 A. Okay. There are two sections that are

6 referred to here. The first is, Miscellaneous

7 Material. The FAM includes materials describing the

8 history of the College of Charleston, the

9 administrative organization, and other matters that are

10 not part of the Bylaws of the faculty and are not

11 official policies of the College of Charleston.

12 Changes to those materials may be made by the Provost,

13 normally after consulting with the appropriate faculty

14 committees and seeking the advice of the Faculty

15 Senate. The faculty, through a committee and/or

16 by-law, and/or by vote of the Faculty Senate, may

17 recommend to the Provost changes to these materials.

18 The Faculty By-Laws Committee is charged with

19 maintaining the FAM to reflect all changes to these

20 miscellaneous terms.

21 Q. Okay. If you would hand it back, I just want

22 to ask you some questions about the different ways that

23 different things are amended.

24 A. Uh-huh.

25 Q. So the first thing that I read you was how

1 you amend faculty policies. And then the second

2 section that you read is that the FAM also included

3 materials about the history of the College,

4 administrative organization. And these are not part of

5 the policies of the College of Charleston?

6 A. Correct.

7 Q. And that you could change those materials

8 after consulting with a faculty committee and seeking

9 advice of the Faculty Senate, correct?

10 A. I believe the word "normally" is in there to

11 give us a little wiggle room. But, yes, that's --

12 yeah, that's an accurate recounting of the paragraph.

13 Q. Okay. That change of miscellaneous materials

14 has nothing to do with Dr. Dillon's situation,

15 correct?

16 A. Not to the best of my knowledge.

17 Q. Okay. And then you also have the authority

18 under the last paragraph to act alone to recommend

19 changes -- the president changes to faculty policies

20 and to make change of miscellaneous materials. So am I

21 correct that you could alone make changes to

22 miscellaneous materials, but that if you are making

23 changes to faculty policies you can act alone to

24 recommend to the president those changes, and you can

25 initiate the changes, but that there is a process by

1 which it would be done?

2 MR. FRAMPTON: Object to the form. Go ahead.

3 BY MS. BLOODGOOD:

4 Q. And the process is in the policy web site,

5 that says; is that correct?

6 A. The process to be followed depends on the

7 section of the FAM. And there is also a practical

8 distinction between the policies that occur on the

9 policy web site and the process followed with the FAM.

10 Q. Okay. And if the -- if a policy is

11 campus-wide -- I got this off of the web site, and you

12 can look at it. This is Plaintiff's Exhibit 35.

13 (Plaintiff's Exhibit No. 35 marked for

14 identification.)

15 BY MS. BLOODGOOD:

16 A. These are the Campus Wide Policy Formation

17 Procedures?

18 Q. Correct. And what type of a policy change

19 would there be that would be covered by this Campus

20 Wide Policy Formation Procedures? Can you give me some

21 examples?

22 A. Sure. The development of a new campus policy

23 to be announced in some section of the College's policy

24 web site might move through this process.

25 Q. How about a policy regarding syllabi?

1 A. It indeed might move through this process.

2 (Plaintiff's Exhibit No. 36 marked for

3 identification.)

4 BY MS. BLOODGOOD:

5 Q. Let me show you an exhibit that we'll mark as

6 Plaintiff's Exhibit 36. It's an e-mail. I'll ask you

7 to look at it for a minute.

8 A. Uh-huh. Okay.

9 Q. Okay. This e-mail dated March 29, 2016, is

10 after Dr. Dillon already had the sanctions imposed on

11 him, correct?

12 A. I think that's correct.

13 Q. Okay. And it states that a syllabus policy

14 or syllabi policy had been drafted and circulated in

15 mid-September 2015. And then it appears to me that

16 you're attaching a current version and that it's your

17 intent to ask the Faculty Senate for comments on it

18 during the Provost's Report on April 5.

19 So on March 29, 2016, as of yet, there was no

20 separate syllabi policy, correct?

21 A. That is correct, there was no such policy

22 March 29, 2016. There was only a draft policy.

23 Q. Okay.

24 (Plaintiff's Exhibit No. 37 marked for

25 identification.)

1 BY MS. BLOODGOOD:
 2 Q. Let me show you -- I have two versions of a
 3 policy on course syllabi. I just want to understand
 4 the difference. I'll mark the November 15, 2015,
 5 Policy 7.6.1 as Exhibit 37.
 6 MR. FRAMPTON: You said this one is 37,
 7 College 3735; is that right?
 8 MS. BLOODGOOD: Yes.
 9 MR. FRAMPTON: Okay.
 10 BY MS. BLOODGOOD:
 11 Q. Is this the policy that you attached to the
 12 e-mail that we marked as Exhibit 36?
 13 A. No idea. I doubt it. We went through
 14 numerous versions of the course syllabi policy from
 15 late October 2015 until the -- until the first approved
 16 syllabus policy.
 17 (Plaintiff's Exhibit No. 38 marked for
 18 identification.)
 19 BY MS. BLOODGOOD:
 20 Q. Okay. Let me show you a policy that we've
 21 marked as 38, which is one that was -- and I ask you if
 22 this was attached to your e-mail? This is Plaintiff's
 23 Exhibit 38. The e-mail was 36. This one is dated
 24 April 6, 2016. It has the same number and the same
 25 title.

1 A. Right.
 2 Q. Just a more recent date?
 3 A. Uh-huh.
 4 Q. Is this the policy that was attached to the
 5 e-mail?
 6 A. Again, the only way I can -- probably not,
 7 since it's got an April issue date. But I'd have to go
 8 back and look.
 9 Q. Okay. So -- and is it possible that there
 10 are more than -- more versions of this 7.6.10 policy on
 11 course syllabi?
 12 A. Oh, there certainly are.
 13 Q. When did it become final; do you recall?
 14 A. No. I know that there is a current version
 15 that is published, signed by the president and posted.
 16 Q. Would it have been after the provost meeting
 17 or Provost's Report on April 5?
 18 A. I'm confident it was. We can double-check by
 19 going through e-mail records and the Senate minutes.
 20 Q. All right. If you'll look at 37, these
 21 differ a little bit.
 22 A. They do.
 23 Q. Policy 37, on the first page, talks about
 24 references, for example, for the contents of course
 25 syllabi, regional accreditation and student learning,

1 improving institutional practice, a 2004 publication.
 2 Are you familiar generally with that publication?
 3 A. No. I haven't looked -- I doubt I've looked
 4 at it since the October 2015 footnote.
 5 Q. Okay. Let me show it to you. We'll mark it
 6 as Plaintiff's Exhibit 39.
 7 (Plaintiff's Exhibit No. 39 marked for
 8 identification.)
 9 BY MS. BLOODGOOD:
 10 Q. Let me ask you, before we go through it a
 11 little bit. If a SACSCOC document is referenced in a
 12 College of Charleston policy, what is the significance
 13 of that reference?
 14 MR. FRAMPTON: Object to the form. Go ahead.
 15 BY MS. BLOODGOOD:
 16 A. It would depend on the document that was
 17 referenced, either a source material so that subsequent
 18 folks not involved in the initial formation of the
 19 policy could understand sort of what led to a policy
 20 being announced, or merely some additional reading
 21 material might be supplied.
 22 Q. Okay. Look at example --
 23 A. I still don't have it, by the way. Oh, is
 24 this it?
 25 Q. Oh, sorry.

1 A. Oh, excellent. It is a large document. Is
 2 there a particular page?
 3 Q. I know. I don't expect you to -- yeah, I'm
 4 going to just look at a few pages.
 5 A. Okay.
 6 Q. On page five, in the middle of the paragraph
 7 it states, Nor should there be any inference drawn
 8 from -- drawn that the following suggestions made in
 9 this guide will provide sufficient grounds for
 10 accreditation. Do you see that?
 11 A. I do.
 12 Q. And on page 13 and 14, there's -- it
 13 addresses on page 13, Fulfillment of institutional
 14 purposes in student learning outcomes.
 15 And it states that there should be institutional
 16 learning goals, correct?
 17 A. You're reading the 1(A) back?
 18 Q. Yes.
 19 A. Sure. That's what it says.
 20 Q. And I think you testified earlier that I
 21 would find those either in the graduate or
 22 undergraduate catalog descriptions?
 23 A. To the best of my recollection, you should
 24 find institutional learning goals in a variety of forms
 25 and fashion, either at the institutional program level

1 there.

2 Q. Are they going to be called institutional

3 learning goals?

4 A. No idea. Have to go back and look.

5 Q. What other kind of document do you think they

6 would be in, besides the catalogs?

7 A. There have been a variety of institutional --

8 and this is not a precise term, this is just a general

9 category -- learning goals, outcomes, objectives,

10 published going back as far in the College's records as

11 I've seen, some of them obsolete and subsequently

12 replaced, including the Faculty/Administration Manual.

13 We removed those, as I recall, from the FAM sometime

14 ago. We have these documents published in several

15 places.

16 Q. Whose job is it at the College of Charleston

17 to create and publish the institutional learning

18 goals?

19 A. The responsibility for all academic

20 programming ultimately belongs to the Provost's Office.

21 It is separately the case that the Institutional

22 Effectiveness Office, for purposes of assessment, helps

23 us with tracking and monitoring of these materials.

24 Q. That would not be any individual professor's

25 responsibility, correct?

1 MR. FRAMPTON: Object to the form.

2 BY MS. BLOODGOOD:

3 A. Going back a few hours ago in our discussion,

4 many individual professors contribute to the

5 development and formation of these documents.

6 Q. Okay. On page eight, if you go back to page

7 eight, up at the top it says, A quality curriculum

8 requires coherence in learning, synthesizing

9 experiences, ongoing practice of learning skills, and

10 integrating education and experience.

11 Would you agree with that?

12 A. I'm still getting to page eight.

13 Q. Okay.

14 A. I mean, the only representation here is this

15 is the synthetic effort of a committee whose work was

16 done over two decades ago and describing sort of what

17 they believe to be the attributes of quality.

18 Decontextualized, I have a hard time noting whether I'd

19 disagree or -- disagree with that statement standing

20 alone. It does not seem offensive to my work as a

21 chief academic officer.

22 Q. On page nine it is talking about how

23 institutions have made a commitment to student learning

24 as a central focus. And it says, First, that they

25 achieve clarity about learning outcomes, defined by the

1 authors as "how students think and understand what they

2 are able to do with what they know."

3 It goes on to say, The authors found that

4 institutions determined these learning outcomes in a

5 wide variety of ways, ranging from college-wide faculty

6 committees to a more inductive approach based upon

7 individual courses.

8 Is there anything that you know of anywhere in

9 SACSCOC or any of the accreditation manuals that

10 requires faculty rather than department heads or

11 college-wide faculty committees to create the

12 institution's learning outcomes?

13 MR. FRAMPTON: Object to the form.

14 BY MS. BLOODGOOD:

15 A. Let's go back. I'm trying to make sure I

16 understand the question. Is the question, is there any

17 document that I can point to, sitting here today, that

18 requires individual faculty to contribute to the

19 development of institutional learning outcomes?

20 Q. Yes.

21 A. I can't point to a document that says that

22 today. That would be part of a literature review.

23 Q. On page ten, there is a statement that

24 learning outcomes, in the second -- the first full

25 paragraph, A learning-centered institution should be

1 obvious.

2 Then on the bottom, Should promote an atmosphere

3 of critical reflection about teaching and learning.

4 Would you agree that that is the job of an

5 institution?

6 MR. FRAMPTON: Object to the form.

7 BY MS. BLOODGOOD:

8 A. I'm going to need at least a couple of

9 minutes to read the page.

10 Q. Okay.

11 A. I'm going to need my readers to do that.

12 Okay.

13 Q. My question was, do you think an institution

14 that is promoting learning-centered education, do you

15 agree that it should promote an atmosphere of critical

16 reflection about teaching and learning?

17 MR. FRAMPTON: Same objection.

18 BY MS. BLOODGOOD:

19 A. Decontextualized, I don't think you're going

20 to find anyone with my role who's going to say they're

21 opposed to teaching critical reflection. I note that

22 "learning-centered" here is part -- is a reference to a

23 specific kind of institution that is -- that appears to

24 be studied by the staff of the Birnbaum Institute, so

25 it's difficult for me to understand the literature

1 review without having an actual understanding of the
 2 study that is being summarized.
 3 Q. Okay. Would you agree students should be
 4 exposed to an atmosphere of inquiry?
 5 MR. FRAMPTON: Object to the form.
 6 BY MS. BLOODGOOD:
 7 A. Define "inquiry."
 8 Q. You don't know what "inquiry" means?
 9 MR. FRAMPTON: Same objection.
 10 BY MS. BLOODGOOD:
 11 A. I know that it may well be defined by
 12 colleagues in one discipline rather than another. I'm
 13 a student of argumentation. And study -- and studying
 14 and defining "inquiry" is a central portion of the work
 15 that I do as a scholar. I rather doubt that scholars
 16 in other disciplines do so in the same way.
 17 Q. The question was, do you agree students
 18 should be exposed to an atmosphere of inquiry?
 19 MR. FRAMPTON: Same objection.
 20 BY MS. BLOODGOOD:
 21 A. Depending upon the definition, the answer is
 22 yes or no.
 23 Q. Should they be encouraged to explore and
 24 express a diversity of ideas and opinions?
 25 MR. FRAMPTON: Same objection.

1 BY MS. BLOODGOOD:
 2 A. Again, the definition of "diversity" could be
 3 central to this. I would say that naively the answer
 4 is yes.
 5 Q. A naive yes. I haven't had that before.
 6 Thank you.
 7 A. Best I can do as a scholar and a
 8 professional.
 9 Q. Page 20, on the top of that page it -- or on
 10 the second bullet it says, An obsession with measurable
 11 goals can deflect an institution from its real purpose.
 12 Would you agree with that?
 13 A. Define "obsession."
 14 Q. If you don't know, I'm not -- you can't ask
 15 me questions. If you don't know what "obsession"
 16 means, you can tell me you don't know what "obsession"
 17 means.
 18 A. I don't know in this context, without -- what
 19 "obsession" means. I'm happy to read the surrounding
 20 pages, if you'd like, if you'd like me to.
 21 Q. You've never read this document before?
 22 A. Again, I have seen this document before, at
 23 some point months ago. I certainly didn't study it or
 24 have command of it on a page-by-page basis.
 25 Q. Can you define "institutional learning

1 outcomes" for me?
 2 A. The term is used in slightly different ways
 3 from context to context. Institutional learning
 4 outcomes can be those learning outcomes expected of all
 5 students earning a particular kind of degree. That
 6 might be a university's baccalaureate degree or
 7 particular kinds, like the BA, the BS. Other kinds of
 8 bachelor's degrees are granted by some institutions.
 9 Institutional learning outcomes can also be understood
 10 as those that adhere at the level of program, so that
 11 for any academic program leading to a major or a minor.
 12 Some scholars would differentiate between the program
 13 and the institutional; some would not. There are, in
 14 addition to that, of course, as we've previously
 15 discussed, more specific kinds of learning outcomes.
 16 Q. Are there any guidelines for the institution
 17 when it sets institutional learning outcomes?
 18 A. I don't know what you mean by "guidelines."
 19 Q. Do you have any rules, do you have guidance
 20 that you use when you are setting institutional
 21 guidelines?
 22 A. When we periodically set, re-examine, revise
 23 or, you know -- or try -- or try to device new
 24 learning outcomes at the institutional level, that is
 25 usually work done either by an existing faculty

1 committee or by an ad hoc committee. When those
 2 committees do that work, which is not redone on an
 3 annualized basis, that is more rare work, it is usually
 4 informed by a review of the exigent literature since
 5 best practices do change over time for the setting of
 6 learning outcomes. And that review of the literature
 7 then becomes the driver for the devising of such
 8 learning outcomes.
 9 Q. And the persons who establish these
 10 institutional learning outcomes, it sounds to me like
 11 there's material they read, there's information that
 12 they have to have in order to know how to create these
 13 institutional learning outcomes, correct?
 14 A. Certainly, scholars do what scholars do.
 15 They examine the available research literature. They
 16 try to take advantage of that work. That doesn't mean
 17 they don't carry knowledge as subject matter experts
 18 and as students of pedagogy from the previous years or
 19 decades into the work they do.
 20 Q. Would the same thing be true for the
 21 establishment of program learning outcomes? Is that
 22 done by faculty committee?
 23 A. That's some variation from department to
 24 department, or program to program. And some programs,
 25 they are more focus involved than others. If you want

1 to look at a specific set of a program's specific
 2 learning outcomes, you'd have to talk to the colleagues
 3 inside the program who set, devised or revised them.
 4 Q. Is there any training provided to faculty
 5 when institutional learning outcomes or program
 6 learning outcomes are developed?
 7 A. For the infrequent work of revising them or
 8 devising them, there is access to subject matter
 9 experts on assessment outcome instruction in the Office
 10 of Institutional Effectiveness and Strategic Planning.
 11 For the work that's done departmentally or at the
 12 program level, there is the option of seeking out that
 13 support or of relying on whatever other internal
 14 expertise is available.
 15 Q. And is there a process for revising, editing
 16 or supplementing institutional and program learning
 17 outcomes?
 18 MR. FRAMPTON: Object to the form.
 19 BY MS. BLOODGOOD:
 20 A. Yes.
 21 Q. What is that?
 22 A. The process is one that is shaped by the
 23 annual calendar for the development of program level
 24 assessment, which does require the identification of
 25 program level learning outcomes and assessments to it.

1 Q. Can you explain a little bit? What is the
 2 nuts and bolts of that process?
 3 A. Sure. On an annualized basis, there is an
 4 expectation that there will be assessment reports at
 5 the level of each academic program. There is a
 6 calendar for that, that is announced. The calendar is
 7 occasionally modified for individual programs on the
 8 grounds of some sort of extraordinary set of
 9 circumstances. But the goal is that each year the
 10 programs must explain how they are using a cycle of
 11 assessment to determine whether or not programs are
 12 meeting their objectives or outcomes, and to learn how
 13 they might improve as programs, based upon meeting or
 14 failing to meet those objectives or outcomes.
 15 Q. And that is work all done by faculty
 16 committee?
 17 A. Faculty committee, larger or smaller at the
 18 program level.
 19 Q. Okay.
 20 A. There is considerable variation in how
 21 programs get to manage that. And that is a welcome
 22 part of the process.
 23 (Plaintiff's Exhibit No. 40 marked for
 24 identification.)
 25 Q. Okay. I'm going to show you an e-mail. The

1 top has been redacted. And this is Exhibit 40.
 2 MR. FRAMPTON: The top was redacted because
 3 that was an e-mail from the College to myself.
 4 MS. BLOODGOOD: I was going to --
 5 MR. FRAMPTON: I just wanted the record to be
 6 clear why it was there.
 7 BY MS. BLOODGOOD:
 8 Q. Okay. This is a -- if you flip through it,
 9 the first three pages is an e-mail from you, correct,
 10 to the faculty listserv --
 11 A. Yes.
 12 Q. -- regarding Dr. Dillon?
 13 A. Uh-huh.
 14 Q. And who is on the faculty listserv?
 15 A. That would be every member of the
 16 continually -- continuously appointed faculty.
 17 Q. Would that include professors, adjuncts --
 18 A. Professors, senior instructors, instructors.
 19 I don't actually remember. This listserv has been
 20 discontinued. I don't remember whether adjuncts were
 21 on it or not.
 22 Q. Okay. And it would -- it could include
 23 people that Dr. Dillon would not know; is that
 24 correct?
 25 A. Yes. It would be hundreds of people.

1 Q. Okay.
 2 (Plaintiff's Exhibit No. 41 marked for
 3 identification.)
 4 BY MS. BLOODGOOD:
 5 Q. Okay. I'm going to show you a document we've
 6 marked as Exhibit 41 and ask you if you've seen this
 7 document before?
 8 A. I'll look it over for a second, but I have
 9 seen it before.
 10 Q. Okay. Can you identify it for me?
 11 A. Oh, sure. This is the Notice of Grievance
 12 sent by Dr. Dillon to Dr. Lindner, who was at that time
 13 Chair of the Faculty Hearing Committee.
 14 Give me a moment to refresh, please.
 15 Q. Sure.
 16 A. Okay.
 17 Q. The first page is a Notice of Grievance to
 18 Dr. Lindner, the Chair of the Faculty Hearing
 19 Committee, dated April 5, 2016, correct?
 20 A. Yes.
 21 Q. And then the second page -- and on the first
 22 page, Dr. Dillon's asking for an open hearing, correct?
 23 It's on the very bottom, number seven.
 24 A. Yes.
 25 Q. He also says he's ready to provide the

1 committee relevant documents and communications
 2 relevant to the grievance, correct?
 3 A. Yes.
 4 Q. And on the second page, there is a response
 5 to Dr. Dillon on April 12, 2016, from, it appears, the
 6 members of the hearing committee. It's signed by Lee
 7 Lindner, Bob Mignone, Ned Hettinger, Tom Heeney and
 8 Todd Grantham. Do you know them to be the members of
 9 the --
 10 A. It's my recollection --
 11 Q. -- Hearing Committee?
 12 A. -- they were the members last year. I'd have
 13 to check to be sure.
 14 Q. And in this letter, the committee states on
 15 the third paragraph that, Our committee was concerned
 16 that the sanctions imposed on you represented a
 17 disproportionate response to your refusal to put course
 18 specific instructional objectives on your syllabus.
 19 Those sanctions also appear to violate AAUP and College
 20 of Charleston FAM Section VII(B)(2) due process
 21 guidelines which stipulate that separating a faculty
 22 member from ongoing academic responsibilities is only
 23 justified if there is a threat of immediate harm.
 24 Did you take any action after you read this letter
 25 from the Hearing Committee?

1 A. None.
 2 Q. Then it goes on to say down below that, The
 3 FAM requires the committee to determine whether the
 4 nature of the grievance is within the jurisdiction of
 5 the Hearing Committee. The By-Laws state our duties
 6 include hearing cases of alleged academic freedom.
 7 However, the description of hearing committee
 8 procedures states that we can hear cases of academic
 9 freedom only if they are related to denial of tenure or
 10 dismissal of a contract employee.
 11 Were you aware of that provision at the time you
 12 wrote letters to Dr. Dillon telling him --
 13 MR. FRAMPTON: Object to the form.
 14 BY MS. BLOODGOOD:
 15 Q. -- that he had the opportunity to go to the
 16 Hearing Committee?
 17 A. I was not aware of a tension between the
 18 language at the FAM Article X and the suggestion that
 19 there is with another section of the FAM.
 20 (Plaintiff's Exhibit No. 42 marked for
 21 identification.)
 22 BY MS. BLOODGOOD:
 23 Q. I'll show you what we've marked as Exhibit
 24 42. My question is, have you ever seen this document
 25 before?

1 A. I believe so. It's copied to me.
 2 Q. Okay. And this is April 15, 2016, Dr. Dillon
 3 giving -- just responding to Dr. Lee Lindner?
 4 A. Uh-huh.
 5 Q. Who is Chair of the Faculty Hearing
 6 Committee, correct?
 7 A. Yes.
 8 (Plaintiff's Exhibit No. 43 marked for
 9 identification.)
 10 BY MS. BLOODGOOD:
 11 Q. Then Plaintiff's Exhibit 43.
 12 A. Okay.
 13 Q. And this is an e-mail from Dr. Lindner to
 14 Dr. Dillon, April 15, 2016. On the second page, the
 15 second-to-last paragraph he says, Not meaning to pass
 16 the buck, but have you considered the Grievance
 17 Committee?
 18 Was it -- did you understand that the Hearing
 19 Committee took the position that they could not hear
 20 academic freedom issues that Dr. Dillon was bringing to
 21 them?
 22 MR. FRAMPTON: Object to the form.
 23 BY MS. BLOODGOOD:
 24 A. No, I did not understand it in that way.
 25 Q. What did you understand?

1 A. I understood that they had already ruled on
 2 the academic freedom claim brought timely to them by
 3 Dr. Dillon, namely, that they did not see an academic
 4 freedom issue relative to his sanction; and that if we
 5 are to take the sentiment described here about time
 6 lines as representative of the committee belief, that
 7 they correctly understood that Dr. Dillon had failed to
 8 timely complain of an academic freedom issue or any
 9 other issue relevant to his assignment to new duties.
 10 Q. If you look at the last sentence it says,
 11 Again, none of this e-mail should be considered a
 12 formal legal response.
 13 They never responded to his complaint, correct?
 14 MR. FRAMPTON: Object to the form.
 15 BY MS. BLOODGOOD:
 16 A. Forgive me, his complaint about what?
 17 Q. His complaint about academic freedom?
 18 A. His complaint from the Notice of Grievance of
 19 April 5, 2016?
 20 Q. Right.
 21 A. Forgive me, but I quote from their letter to
 22 Dr. Dillon of April 12, Our committee sees no reason to
 23 think that being required by the College to include
 24 course specific instructional objectives and student
 25 learning outcomes is a violation of your academic

1 freedom. Thus, our committee has decided that there is
2 not sufficient evidence to justify holding a hearing to
3 assess the claim that your academic freedom has been
4 violated.

5 That seems black letter.

6 Q. So they refused to hold a hearing and --

7 A. Which is within their scope of discretion,
8 consistent with their description in the
9 Faculty/Administration Manual.

10 Q. And they said that they sent him to the
11 Grievance Committee, didn't they?

12 MR. FRAMPTON: Object to the form.

13 BY MS. BLOODGOOD:

14 Q. Because they said they could not hear
15 academic freedom unless it was associated with a
16 termination or denial of tenure, correct?

17 A. That is precisely not what they said. The
18 last paragraph, bottom of the same letter written to
19 Dr. Dillon, The FAM requires the committee to determine
20 whether the nature of the grievance is within the
21 jurisdiction of the Hearing Committee. The By-Laws
22 state that our duties include hearing cases of alleged
23 academic freedom. However, the description of hearing
24 committee procedure states that we can hear cases of
25 academic freedom only if they are related to denial of

1 tenure or dismissal of a contract employee. Because
2 these two passages are in conflict, it is not clear
3 whether we have jurisdiction in this case.

4 They didn't note whether they believe they did or
5 not.

6 But the issue of jurisdiction is moot since we do
7 not believe the grievance letter describes sufficient
8 evidence to warrant a hearing.

9 The claim becomes immaterial because there's not
10 evidence to support an academic freedom allegation,
11 they maintained.

12 Q. And that is what that committee decided,
13 correct, what you just read?

14 A. Yes.

15 (Plaintiff's Exhibit No. 44 marked for
16 identification.)

17 BY MS. BLOODGOOD:

18 Q. Okay. I'm handing you Exhibit 44. Can you
19 identify this document?

20 A. I have seen it before.

21 Q. This is a letter to Beth Lloyd. Who is Beth
22 Lloyd?

23 A. Dr. Lloyd, I believe, at that time was
24 serving as Chair of the Faculty Grievance Committee.

25 Q. Okay. And he -- Dr. Dillon states in this

1 letter that -- he's asking two questions. First, do
2 you understand the duties of the Faculty Grievance
3 Committee to extend to include cases where the
4 Administration has wrongly convicted a faculty member
5 of violating the Faculty/Administration Manual? And,
6 second, if -- only if the answer to my first question
7 is yes. It is not clear to me, from the language of
8 the Faculty/Administration Manual, that even your
9 committee found -- that even if your committee found in
10 my favor, you would have the authority to overturn the
11 Provost's sanctions. Do you have such power,
12 correct?

13 A. Yeah. You just -- you just read the
14 passages.

15 Q. And did Ms. Lloyd forward this letter to
16 you?

17 A. I think I saw it much later. I don't
18 remember when.

19 (Plaintiff's Exhibit No. 45 marked for
20 identification.)

21 BY MS. BLOODGOOD:

22 Q. This is a letter from Ms. Floyd to Dr. Dillon
23 that we have marked as Exhibit 45, answering his two
24 questions, correct?

25 A. She answered his questions.

1 Q. Okay.

2 A. The first answer is that, If the Hearing
3 Committee declined to hear your case related to
4 academic freedom and too declines to hear your case as
5 related to due process -- indicating that these
6 grievances were not within their purview, certainly the
7 Grievance Committee would "convene to hear the
8 complaint," as it hears "faculty member grievances of a
9 nature not in the purview of the Faculty Hearing
10 Committee."

11 And then secondly she says, However, the Grievance
12 Committee cannot overturn the Provost's sanctions. We
13 would try to resolve the grievance, likely through
14 mediation.

15 Do you --

16 A. Uh-huh.

17 Q. Do you agree that a Grievance Committee
18 cannot -- does not have the authority to overturn the
19 sanctions you had already imposed?

20 MR. FRAMPTON: Object to the form. Go ahead.

21 BY MS. BLOODGOOD:

22 A. If by "overturn" a faculty committee can
23 uniform -- unilaterally void and make null a decision I
24 make, the answer is neither of them can. They can
25 advise -- the Hearing Committee advises the president.

1 The Grievance Committee attempts to mediate and, if it
2 cannot successfully mediate, advises the president.
3 Q. Does the Grievance Committee have authority
4 to try to mediate a solution to a problem?
5 A. Yes. That's inherent in their own
6 definition.
7 Q. And does a department have the authority to
8 ignore the Grievance Committee's attempt at
9 resolution?
10 MR. FRAMPTON: Object to the form.
11 BY MS. BLOODGOOD:
12 A. It is our expectation that all parties will
13 work with the Grievance Committee when it is trying to
14 resolve a matter. Is it possible for a department
15 chair to note that -- or to note that sort of the
16 suggested resolutions are not going to be successful,
17 given the interests of the department or the policy
18 being violated? Sure, they can say that, too.
19 Q. So a department head could trump your process
20 for a Grievance Committee to try to resolve an issue?
21 MR. FRAMPTON: Object to the form.
22 BY MS. BLOODGOOD:
23 A. I absolutely disagree with that
24 characterization.
25 Q. That's what happened in this case, isn't

1 it?
2 MR. FRAMPTON: Object to the form.
3 BY MS. BLOODGOOD:
4 A. No. In this case, your -- your client walked
5 away from the process before it was complete.
6 (Plaintiff's Exhibit No. 46 marked for
7 identification.)
8 BY MS. BLOODGOOD:
9 Q. I show you what we've marked as Exhibit 46.
10 This is a letter to Beth Floyd -- Beth Lloyd, sorry,
11 dated April 19, 2016. And it's his intent to file a
12 formal grievance with the Faculty Grievance Committee,
13 correct?
14 A. Let me catch up, please. Okay, I have read
15 it. What is your question again, ma'am?
16 Q. My question was, this was the document that
17 Dr. Dillon filed on April 19 as a formal grievance with
18 the Faculty Grievance Committee?
19 A. Sure.
20 (Plaintiff's Exhibit No. 47 marked for
21 identification.)
22 BY MS. BLOODGOOD:
23 Q. I'll hand you what we've marked as
24 Plaintiff's Exhibit 47.
25 A. Okay.

1 Q. This is a letter from Beth Lloyd to you,
2 dated April 19, 2016?
3 A. I think you meant to say it's from me to her.
4 Q. I'm sorry, from you to her. You say in the
5 middle paragraph, To be clear, it's the position of the
6 College of Charleston that alleged violations of
7 academic freedom and of due process are under the
8 purview of the Faculty Hearing Committee rather than
9 the Faculty Grievance Committee, correct?
10 A. Correct.
11 Q. And then you said, It is also the College's
12 position that the Faculty Grievance Committee cannot
13 consider a grievance pertaining to academic freedom or
14 due process, correct?
15 A. Correct.
16 Q. And then, If the Faculty Hearing Committee
17 declined to hear such a grievance, or if a grievance
18 was not timely filed and there was no good clause for
19 delay, then no further consideration is available to
20 Dr. Dillon under the By-Laws or the
21 Faculty/Administration Manual, correct?
22 A. That is what I wrote.
23 Q. And but for your appointment of an
24 investigative crew of three under the sexual harassment
25 policy, the grievance to the Faculty Hearing Committee

1 would have been timely, wouldn't it?
2 MR. FRAMPTON: Object to the form.
3 BY MS. BLOODGOOD:
4 A. You are completely wrong.
5 (Plaintiff's Exhibit No. 48 marked for
6 identification.)
7 BY MS. BLOODGOOD:
8 Q. I'll show you what we've marked as Exhibit
9 48. And this is a letter from the Hearing Committee to
10 Dr. Dillon. Have you seen -- you're copied on this
11 letter. Do you recall this letter?
12 A. I do, if you'll give me a moment. Okay.
13 Q. Okay. This letter indicates that the
14 committee has some compromise in mind and would like to
15 meet with the two parties separately to gain more
16 information, correct?
17 A. I believe that was the case, yes.
18 (Plaintiff's Exhibit No. 49 marked for
19 identification.)
20 BY MS. BLOODGOOD:
21 Q. And then on the same day -- I'll show you
22 what we've marked as Plaintiff's Exhibit 49 --
23 Dr. Dillon responded and said he'd be pleased to meet
24 with the committee, correct?
25 A. Yes.

1 (Plaintiff's Exhibit No. 50 marked for
2 identification.)
3 BY MS. BLOODGOOD:
4 Q. And, in fact, it appears from Exhibit 50 that
5 I'm handing to you that on May 5, 2016, according to
6 the first sentence, On May 2, 2015, the College of
7 Charleston Grievance Committee met individually with
8 Dr. Dillon and Provost McGee to gather information and
9 discuss potential ways to resolve the reported
10 grievance.
11 Do you recall a meeting with the Grievance
12 Committee --
13 A. I did.
14 Q. -- on May 2?
15 A. And do.
16 BY MS. BLOODGOOD:
17 Q. Did the committee suggest a compromise to you
18 regarding Dr. Dillon?
19 A. They were very amenable, as was I, to
20 Dr. Dillon creating complete and course-specific
21 learning outcomes, to continuing to allow for the use
22 of his Woodrow Wilson quotation. They were looking for
23 a compromise, as frankly was I.
24 (Plaintiff's Exhibit No. 51 marked for
25 identification.)

1 BY MS. BLOODGOOD:
2 Q. Let me show you what we will mark as
3 Plaintiff's Exhibit 51 and ask you if you've seen this
4 letter before?
5 MR. FRAMPTON: Thank you.
6 BY MS. BLOODGOOD:
7 A. I don't recall this version, but it's copied
8 to me and I assume I received it.
9 Q. Okay. It says on the top that the Provost
10 had three conditions listed below. First, that, The
11 College has an interest in the faculty following
12 college policies, and Dr. Dillon must agree to do so.
13 But you're not talking about the syllabus policy,
14 because that didn't exist yet?
15 A. It did not exist.
16 Q. And then, Agreement that Dr. Dillon will
17 create and course -- I think that's course-specific
18 learning outcomes and publish these in all future
19 course syllabi, as this is in compliance with FAM
20 requirements, which you and I disagreed with.
21 And, three, that, Dr. Dillon must agree that he
22 was in violation of those policies in the current
23 spring 2016 semester, correct?
24 A. These three are consistent with the
25 discussion I had with the committee.

1 Q. And you understand that Dr. Dillon took the
2 position, and still takes the position, that academic
3 freedom allowed him to determine the course and scope
4 of his syllabus?
5 MR. FRAMPTON: Object to the form.
6 BY MS. BLOODGOOD:
7 A. I understand that Dr. Dillon and I appear to
8 have some disagreements. As a result, we are at this
9 table today.
10 Q. Okay. So you were asking him to admit that
11 he was dropping his academic freedom claims and that he
12 had violated policies that don't exist?
13 MR. FRAMPTON: Object to the form.
14 BY MS. BLOODGOOD:
15 A. Absolutely not true.
16 (Plaintiff's Exhibit No. 52 marked for
17 identification.)
18 BY MS. BLOODGOOD:
19 Q. I show you a document we've marked as Exhibit
20 52. This is an e-mail to Beth Lloyd and Mike Auerbach
21 on which you're copied at 11:09 a.m. on May 11. And
22 it's from Jaap to Beth saying, While I appreciate the
23 Grievance Committee's sincere attempt to mediate this
24 issue, the responsibility for ensuring that the
25 syllabus meet the College's standards rests with the

1 faculty member. It would be a sorry state of affairs
2 indeed if the Student Learning Outcome statement for
3 this Biology course ends up being written by a
4 committee of non-Biology faculty instead.
5 My original request to Dr. Dillon for the SLO,
6 student learning objective, I assume, portion of the
7 Biology 305L syllabus were a set of five to eight
8 outcomes based specifically on the content of the
9 course. The Committee's proposed amendment is a
10 start -- at least it refers to "testable hypotheses
11 about the mechanisms of heredity." But in the entire
12 statement, including the committee's added phrases,
13 only the one word, "heredity," carries any meaning that
14 is specific to a laboratory course in Genetics. I
15 don't consider this adequate.
16 Did you have any conversations with Jaap Hillenius
17 where he told you that he did not agree with the
18 committee's proposed resolution of this issue?
19 MR. FRAMPTON: Object to the form.
20 BY MS. BLOODGOOD:
21 A. I mean, this is the only document I saw that
22 spoke to, you know, his position on whatever the list
23 of draft course objectives was that the committee
24 devised.
25 Q. And at 12/21, that day, I'm going to show you

1 an e-mail that's been produced to me yesterday. That
 2 is Exhibit 53.
 3 (Plaintiff's Exhibit No. 53 marked for
 4 identification.)
 5 BY MS. BLOODGOOD:
 6 Q. You forward the e-mail with the proposed
 7 solution to the Grievance Committee, to Mike Auerbach
 8 and say, I haven't seen this before.
 9 What had you not seen? Had you not seen the
 10 document that we previously marked as Exhibit 51?
 11 A. Let me review, please. That must be the
 12 case.
 13 Q. Okay. Did you have a problem with what Beth
 14 Lloyd was forwarding to Jaap Hillenius?
 15 A. No. I thought it was part of the normal back
 16 and forth of trying to, yeah, mediate a grievance.
 17 Q. And then you, besides forwarding this to Mike
 18 Auerbach -- the top is redacted. Did you forward it to
 19 legal counsel? Is that why it's redacted; do you
 20 know?
 21 A. That's my recollection.
 22 MR. FRAMPTON: He forwarded it to me.
 23 THE WITNESS: Yeah.
 24 (Plaintiff's Exhibit No. 54 marked for
 25 identification.)

1 BY MS. BLOODGOOD:
 2 Q. Then I'll show you what we have marked as
 3 Exhibit 54. You're copied on this letter?
 4 A. Uh-huh.
 5 Q. This is a letter from Dr. Dillon to Beth
 6 Lloyd, Faculty Grievance Committee Chair, saying that
 7 he was disappointed to learn that you had rejected the
 8 compromise the Committee suggested back on May 2.
 9 Did you reject the compromise or did Jaap
 10 Hillenius reject the compromise?
 11 MR. FRAMPTON: Object to the form.
 12 BY MS. BLOODGOOD:
 13 A. I'm not aware of anyone rejecting a
 14 compromise.
 15 Q. It is your position that the Grievance
 16 Committee's compromise was not rejected by the
 17 administration at the College?
 18 A. It's my position that I did not reject any
 19 compromise. And I have not seen any evidence that Dr.
 20 Hillenius or Dr. Auerbach did.
 21 (Plaintiff's Exhibit No. 55 marked for
 22 identification.)
 23 BY MS. BLOODGOOD:
 24 Q. I hand you what we've marked as Plaintiff's
 25 Exhibit 55. This is a letter from you to the Chair of

1 the Faculty Grievance Committee on May 13, 2016. And
 2 you are saying you're puzzled by his letter and that
 3 you believe that you were working towards some
 4 solution.
 5 Your solution required Dr. Dillon to admit that he
 6 had violated policies, correct?
 7 A. That is what I outlined to the committee
 8 previously.
 9 Q. And then in the last paragraph, If Dr. Dillon
 10 does not wish to cooperate further with your committee,
 11 I regretfully agree that a report on an, quote,
 12 unresolved grievance, end quote, to the President is
 13 appropriate.
 14 What is an unresolved grievance?
 15 A. I believe that's a direct quotation from the
 16 Faculty/Administration Manual and the Faculty By-Laws.
 17 We'd have to check to be sure.
 18 Q. What does it mean?
 19 A. It means if the committee cannot successfully
 20 mediate a resolution to the grievance that is
 21 reasonably satisfactory to both parties, they move
 22 forward from there. A report is supposed to be given
 23 to the president.
 24 Q. Well, unresolved, no side is correct? I'm
 25 trying to figure out, what does "unresolved" mean?

1 Does that mean he has exhausted his grievance? How
 2 can -- what does it mean, as a practical matter, it's
 3 unresolved? What happens?
 4 A. The FAM provides no information beyond
 5 unresolved grievance. And so all we have is sort of
 6 the history and the practice of the committee, which,
 7 as I've understood it, has been to say the committee is
 8 trying to work towards some sort of satisfactory
 9 solution, not that people walk away happy, but that
 10 they find some way to move forward without one party or
 11 the other walking away or believing that sort of the
 12 fundamental interests were not attended to.
 13 Q. I'm talking about a practical matter.
 14 A. Uh-huh.
 15 Q. You have sanctioned a professor. He's barred
 16 from campus. Now the grievance is unresolved. Does
 17 that mean it was a tie and he wins or it's a tie and he
 18 loses?
 19 MR. FRAMPTON: Object to the form.
 20 BY MS. BLOODGOOD:
 21 A. I'm confused by the question. I'll do my
 22 best. The committee is trying to find a solution that
 23 might go forward. Their goal, as described to me, was
 24 they might find a way to work with the two of us, to
 25 find some middle position whereby there would be a

1 reduction or elimination of sanctions, and the
 2 institution's interests might be met and the
 3 colleague's might be met.
 4 Q. Because he would not agree to admit he had
 5 violated policies, there was an unresolved finding,
 6 unresolved grievance, correct?
 7 MR. FRAMPTON: Object to the form.
 8 BY MS. BLOODGOOD:
 9 A. I don't know, frankly, why Dr. Dillon decided
 10 to walk away from the process. I've seen no written
 11 explanation on that front, so I can't speak to his
 12 state of mind.
 13 Q. For whatever reason, the grievance does not
 14 result in upholding or overturning, correct?
 15 A. The process is devoted to a mediation. We
 16 did not reach a result where that -- where it is not an
 17 agonistic win/lose process if a solution -- if a
 18 resolution is found.
 19 Q. So if he doesn't agree to a resolution, he
 20 loses, your sanctions stand, and he's -- unless he --
 21 unless he agrees to your third criteria, which is to
 22 admit he violated policies --
 23 A. Uh-huh.
 24 Q. -- you win, the sanctions stick --
 25 A. Uh-huh.

1 Q. -- and he's out, right?
 2 MR. FRAMPTON: Object to the form.
 3 BY MS. BLOODGOOD:
 4 A. Well, first of all, "out" is an unfair
 5 characterization. It was a suspension, not a
 6 termination.
 7 Secondly, with regard to -- with regard to this
 8 particular case, I thought everyone was losing. It
 9 would have been far preferable for us to have found
 10 some amicable solution and moved forward.
 11 Q. And the grievance was forwarded to President
 12 McConnell, correct?
 13 A. That's my recollection.
 14 (Plaintiff's Exhibit No. 56 marked for
 15 identification.)
 16 BY MS. BLOODGOOD:
 17 Q. Here's a copy of a letter dated May 18, to
 18 President McConnell from the Grievance Committee. Is
 19 that your recollection?
 20 A. Yes.
 21 Q. I have handed you a document I have marked
 22 as --
 23 A. 56.
 24 Q. -- 56. Is this the letter? I just want to
 25 identify it. Is this the letter, best of your

1 knowledge, that forwards the grievance to --
 2 A. This is the letter --
 3 Q. -- President McConnell on May 18, 2016?
 4 A. That's my recollection.
 5 Q. Okay.
 6 (Plaintiff's Exhibit No. 57 marked for
 7 identification.)
 8 BY MS. BLOODGOOD:
 9 Q. And then I will show you a document we've
 10 marked as Plaintiff's 57. This is an e-mail response
 11 from President McConnell on May 24, 2016, finding no
 12 abuse of discretion or violation of College policy by
 13 the Provost's decision; is that true? Is that what
 14 this e-mail --
 15 A. That's what he wrote.
 16 Q. -- says?
 17 Did the Grievance Committee make any findings
 18 regarding abuse of discretion or violation of College
 19 policy?
 20 A. I mean, I can go back and reread the letter,
 21 if you'd like. I don't recall them making use of such
 22 language.
 23 Q. Okay. That's the only question I have.
 24 Let me see. I might have -- last document. See
 25 if I have any more.

1 MR. FRAMPTON: Fair enough.
 2 MS. BLOODGOOD: Take one short break.
 3 (A brief recess was taken.)
 4 BY MS. BLOODGOOD:
 5 Q. I have a few more questions.
 6 A. Sure.
 7 Q. We're done with the documents.
 8 How would you define academic freedom?
 9 A. Academic freedom is defined in the FAM, of
 10 course. But stripped to its essence, it's the notion
 11 that subject to certain fairly generous constraints
 12 or -- it is the ability of faculty to teach the subject
 13 matter of their expertise in a fashion consistent with
 14 that expertise, and subject to -- you know, subject to
 15 whatever policies and procedures might reasonably be
 16 made available at that institution to govern its
 17 exercise.
 18 Q. What is insubordination?
 19 A. Insubordination is the failure to comply with
 20 the lawful, reasonable directives of a supervisor.
 21 Q. Insubordination is not mentioned in the
 22 Faculty/Administration Manual, correct?
 23 A. I don't recall that it is.
 24 Q. And the College was on notice that the AAUP
 25 thought that Dr. Dillon's speech was a matter of public

1 concern, wasn't it, after they received the two letters
 2 from the AAUP?
 3 A. I'm not sure what "on notice" means, but the
 4 president received two letters.
 5 Q. Does the College think that it's important
 6 for a professor to challenge directives he disagrees
 7 with without fear of reprisal?
 8 A. The College has a history of such occurring.
 9 Q. Is the answer yes?
 10 A. I suppose so.
 11 Q. What was your basis for barring Dr. Dillon
 12 from a public campus in February?
 13 A. Are we referring to -- are we referring to
 14 his assignment to new duties in the spring of 2016 or
 15 referring to the proposed sanction?
 16 Q. Proposed sanction, yes. What was your --
 17 what was the thinking behind your decision to tell him
 18 that, I'm going to propose sanctions, and one of them
 19 is you cannot be on a public campus? Why did you do
 20 that?
 21 A. I mean, you're asking me to recall a thought
 22 process from months ago. But my recollection is that a
 23 sanction is supposed to be a sanction. It is supposed
 24 to be a punishment for noncompliance with an
 25 institutional policy, for example. As a result, not

1 only -- you know, not only removing him from -- not
 2 only relieving him of pay and relieving him of duties,
 3 but actually limiting his access to campus was part and
 4 parcel of the totality of the sanction.
 5 Q. Does the Commission on Higher Education have
 6 any interest in this matter?
 7 MR. FRAMPTON: Object to the form.
 8 BY MS. BLOODGOOD:
 9 A. I have no idea.
 10 Q. You haven't had any communication with anyone
 11 on the Commission of Higher Education?
 12 A. About this matter?
 13 Q. Yes.
 14 A. No.
 15 Q. Okay. Nothing -- no talking to Terry
 16 Seckinger? No conversations with Terry Seckinger
 17 concerning Dr. Dillon?
 18 A. Dr. Dillon? I believe she mentioned having
 19 seen the story immediately before a Commission meeting.
 20 Q. What else did she say?
 21 A. I don't recall. She said something about
 22 having seen a story involving Dr. Dillon.
 23 Q. Did you know how she knew Dr. Dillon?
 24 A. No clue.
 25 Q. Were you aware that she and Dr. Dillon had

1 disagreed in the past regarding science standards at
 2 schools?
 3 A. No.
 4 Q. To your knowledge, has anyone who works for
 5 you or anyone at the College ever had a conversation
 6 with Ms. Seckinger concerning Dr. Dillon --
 7 A. Not to my knowledge.
 8 Q. -- other than what you've just told me?
 9 Okay. That's all.
 10 A. Okay.
 11 MR. FRAMPTON: I have a few follow-ups. I'll
 12 go through what I've got, then take a very small break,
 13 and hopefully finish up quickly.
 14 CROSS-EXAMINATION BY MR. FRAMPTON:
 15 Q. Dr. McGee, are you aware of anyone ever
 16 telling Dr. Dillon that he couldn't use the Woodrow
 17 Wilson quote in his syllabus?
 18 A. No.
 19 Q. To your recollection, is insubordination
 20 prohibited by the College's Employee Code of Conduct?
 21 A. It is.
 22 Q. Does the Employee Code of Conduct apply to
 23 faculty members?
 24 A. It does.
 25 Q. I would like you to look at Exhibits 11, 12,

1 13 and 14. I apologize for making you rifle through --
 2 A. No worries.
 3 Q. -- the volume of material. Start with 11, if
 4 you would.
 5 A. Uh-huh.
 6 Q. Are you aware of seeing that document,
 7 Exhibit 11, before today?
 8 A. No.
 9 Q. Can you testify that it is, in fact, a
 10 syllabus that was used at the College of Charleston in
 11 the spring of 2016?
 12 A. No.
 13 Q. Go to 12. Do you have any recollection of
 14 seeing Exhibit 12 before today?
 15 A. No.
 16 Q. Can you testify that it is, in fact, a
 17 Molecular Biology syllabus used at the College of
 18 Charleston in the spring of 2016?
 19 A. No.
 20 Q. Go to Exhibit 13. Have you seen Exhibit 13
 21 before today?
 22 A. No.
 23 Q. Can you testify that Exhibit 13 is, in fact,
 24 a Biology 102 syllabus used at the College of
 25 Charleston in the spring of 2016?

1 A. No.
 2 Q. Go to Exhibit 14, if you would. Do you
 3 recall seeing that document before today?
 4 A. No.
 5 Q. Can you testify that Exhibit 14 is, in fact,
 6 a syllabus used in Biology 305L, fall of 2016, at the
 7 College of Charleston?
 8 A. No.
 9 Now, I do recall that the investigative panel
 10 examined some Biology 305L syllabi. I don't remember
 11 if this was one of them or not.
 12 Q. As you read the documents in this case, did
 13 the Faculty Hearing Committee pass judgment on the
 14 substantive question of whether the College's actions
 15 violated Dr. Dillon's academic freedom?
 16 A. Yes, in the matter of proposed of the
 17 sanctions.
 18 Q. And what was their judgment in that regard?
 19 A. That the -- that the complaint did not merit
 20 a hearing.
 21 Q. Turn to Exhibit 39, if you would.
 22 A. Okay.
 23 Q. Until you were handed -- well, strike that.
 24 Before today in your deposition, when was the last
 25 time you looked at that document?

1 A. Likely middle of the fall -- of the 2015 fall
 2 semester.
 3 Q. Okay. Did you read it line by line today?
 4 A. No.
 5 Q. Do you have good recollection of everything
 6 that is in that document?
 7 A. No.
 8 Q. There was just something where I thought
 9 people got confused. Look at Exhibit 51 and 53, if you
 10 would.
 11 A. Okay.
 12 Q. Do you agree that 51 appears to be a
 13 communication from the Faculty Grievance Committee to
 14 Dr. Dillon? 51 now.
 15 A. Yeah.
 16 Q. Is there any date on that communication?
 17 A. Not on the copy handed to me.
 18 Q. Okay. Sitting here today, do you know what
 19 the date of that communication was?
 20 A. No.
 21 Q. Okay. Turn to the second page of Exhibit 53.
 22 A. Okay.
 23 Q. Pages two and three of that exhibit, which
 24 are labeled in the bottom right-hand corner College
 25 3579 and 3580, do those -- well, they appear to be a

1 communication from the Faculty Grievance Committee to
 2 Provost McGee. That's you, right?
 3 A. Yep.
 4 Q. Dr. Auerbach and Dr. Hillenius; is that
 5 correct?
 6 A. Yes.
 7 Q. So Exhibit 51 and the final two pages of 53
 8 are different documents, correct?
 9 A. Correct.
 10 Q. I thought there had been some testimony that
 11 they were the same. Just to be clear, they are
 12 different documents.
 13 A. I may have confused the issue. Thank you.
 14 Q. In order to know to what matters the
 15 Operating Procedures attached to Policy 9.1.10 apply,
 16 would you need to actually read the Operating
 17 Procedures or could you simply rely on the title of the
 18 policy?
 19 A. I could not rely on the title of the policy
 20 to know its four corners for any of our policies. It
 21 is only a general -- only is a general pointer.
 22 Q. Give me a couple of minutes. I think I'm
 23 about done.
 24 A. Okay.
 25 (A brief recess was taken.)

1 MR. FRAMPTON: I don't have anything further.
 2 (The deposition concluded at 2:32 P.M.)

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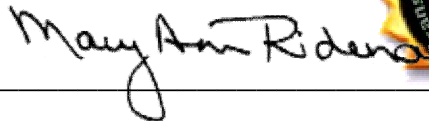
C E R T I F I C A T E

STATE OF SOUTH CAROLINA:
COUNTY OF DORCHESTER:


I, MARY ANN RIDENOUR, Registered Professional Reporter and Notary Public, State of South Carolina at Large, certify that I was authorized to and did stenographically report the foregoing deposition of Brian McGee; and that the transcript is a true record of the testimony given by the witness, and was sworn as such.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

WITNESS MY HAND AND OFFICIAL SEAL this 29th day of May, 2017, in the Town of Summerville, County of Dorchester, State of South Carolina.



Mary Ann Ridenour, RPR, CLR
and Notary Public
My commission expires:
March 14, 2021



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