Supporting Documents for Agenda Item 18
December 3, 2014

Dr. Baker Pattillo
President
Stephen F. Austin State University
P.O. Box 6078, SFA Station
Nacogdoches, TX 75962

Re: Charge of Substantial Neglect of Professional Responsibilities

Dear Dr. Pattillo:

On December 2, 2014, a hearing was held on charges of substantial neglect of professional responsibilities by tenured faculty member Dr. Jeff Gergley, Associate Professor of the Department of Kinesiology and Health Science. The hearing committee heard first from the university represented by Dr. Judy A. Abbott, Dean of the James I. Perkins College of Education, followed by the respondent Dr. Gergley. Various witnesses were called, and both sides presented documentary evidence in support of their positions. After careful and thoughtful deliberation, the hearing committee concurs with the recommendation that Dr. Gergley's tenure be revoked and his employment terminated effective immediately due to his substantial neglect of professional responsibilities.

The hearing committee's decision is based on the following:

1. Dr. Gergley's failure to report to work as assigned during the Fall 2014 semester; and

2. Dr. Gergley's failure to complete his duties of his reassignment for the Fall 2014 semester.

This decision is based upon the submitted evidence of both parties and the hearing record including testimony by both sides and witnesses. It is undisputed that Dr. Gergley was arrested on August 29, 2014 and was therefore unable to attend to his duties and obligations for approximately 21 business days in the Fall 2014 semester.

Upon his return to campus, Dr. Gergley was provided with a non-teaching workload reassignment. Dr. Gergley and Dr. Carla Murgia, Chair of the Department of Kinesiology and Health Science, mutually agreed upon the reassignment and required deadlines. The committee finds that the reassignment was reasonable and that Dr. Gergley failed to meet his duties and obligations.
It is the finding of this committee that no other allegations or evidence presented, including but not limited to those contained in the memorandum dated October 20, 2014 from Dr. Abbott, Dean, to Dr. Richard Berry, Provost, rise to the level of an immediate revocation of tenure.

Respectfully submitted,

[Signature]

J. Kevin Langford, Ph.D., Associate Professor, Department of Biology, Chair of the Hearing Committee

[Signature]

Charlotte Allen, Ph.D., Professor, Department of Management, Marketing and International Business

[Signature]

Christina Guenther-Scott, D.M., Associate Professor, School of Music

[Signature]

Janice Hensarling, Ph.D., Assistant Professor, Department of Nursing

[Signature]

Dusty Jenkins, Ph.D., Assistant Professor, Department of Psychology

[Signature]

Carolyn Stiff, M.Ed., Instructor, Department of Elementary Education

[Signature]

Garland Simmons, Ph.D., Associate Professor, Department of Economics and Finance
Dr. Jeffrey Gergley Hearing  
December 2, 2014

Damon Derrick: asked the committee to identify who was talking to help with transcription of the deposition.

DD: I am here to help you guys, not for either side, the University or Dr. Gergley. We’ll go ahead and get started.

KL: Alright, well, my name is Kevin Langford I am part of the committee and as we begin hearing the facts before us today, probably in the best organized way, we are just going to have the sides present individually. If any witnesses are called certainly the other side will have a chance to ask questions and certainly the committee is free to ask questions at any time as well, so with that we can get started, if you would like to

GS: Can I ask a question?

KL: Sure

GS: Who do you work for?

KL: Who do I work for? I am with Stephen F. Austin in the biology department. I’m sorry sir who are you?

GS: My name is Garland Simmons I am a finance professor.

KL: OK

GS: Who is the faculty member here that may lose his tenure....? OK. Are you represented by an attorney? I was reading Tim James?

JG: Not today.

GS: OK, pardon me.

KL: That’s ok I just, and your role here?

GS: I was told to come here I work for SFA, I am a finance professor.

DD: He is a member of the committee.

KL: Oh OK, I’m sorry I didn’t see you.

GS: I thought you were this man's attorney, I didn’t know.

KL: Oh no I am just part of this group.

JA: Alright, my name is Judy Abbott I am the dean of the James I Perkins College of Education and I wanted to remind you really before I get started the requirements of tenure. So, in the
materials that I provided it included the university’s tenure policy as well as the college tenure policy and the department’s tenure policy, so if you look at 8.8.1 you would find the tenure policy for SFA which talks about awarding, tenure is awarded when the candidate successfully demonstrates meritorious performance in teaching, research, scholarly, creative accomplishments and service. It goes on to say that tenure is a status that may be earned by faculty members who hold academic rank. It goes on further to say tenure allows these personnel, the faculty members with academic rank to continue in their positions unless dismissed for good cause. Circumstances of exigency or discontinuance of a program or academic unit. On page five of the SFA tenure policy it defines good cause and good cause for the dismissal of a tenured faculty member whose specified term of employment has not expired includes but not limited to moral turpitude, conviction by trial court of any felony, professional incompetence, substantial neglect of professional responsibilities, finding of sexual harassment, misconduct of discrimination, bona fide financial exigency or phasing out of programs of an academic unit requiring faculty reduction and physical or mental disability of a continuing nature regarding the faculty member, unable to perform professional responsibilities of the position.

JA: The burden of proof that good cause exists for dismissal rests upon the university and the burden of proof shall be a preponderance of the evidence.

JH: Can I ask a question? I’m Janice Hensarling. I looked at this moral turpitude. I’m not sure I understand exactly what that means.

DD: A crime of moral turpitude would include things like theft, usually considered honesty type offences.

JH: And preponderance of the evidence? I have sat on a jury before but I’m not sure I understand preponderance.

DD: Preponderance of the evidence, think of it as you’ve got two scales, it’s a slight tick, so it’s more likely than not.

JH: Thank you.

JA: On page six of the tenure policy, SFA’s tenure policy, it goes on to say dismissal shall be preceded by discussion between the faculty member and the appropriate administrative officers of the university, and if there isn’t an agreement at that level, then a written statement of specific charges is issued. The faculty member has the right to a hearing by that hearing committee and therefore, that’s where we are. So I just wanted to call your attention to that.

JA: In the College of Education tenure committee that would be page 8.c.1, the college goes on to say that every faculty member in the COE (College of Education) is expected to meet high standards of professional competence, integrity, collaboration and collegiality to further the goals of his or her department or school and to support the college’s vision, mission, core values and goals.

JA: So we’re here today to consider the revocation of tenure of Dr. Jeff Gergley. As you recall, a revocation of tenure requires good cause and the burden of proof rests with the university who must present a preponderance of evidence. So today, focusing on the past two years, fall 2012 through fall 2014, that’s this fall, I would present preponderance of evidence that reflects substantial neglect of professional responsibilities by Dr. Gergley.
JA: So as you know there are a number of professional responsibilities required of tenured faculty. Professional responsibilities includes actions related to teaching, research scholarship, creative activity and service, according to SFA’s tenure policy, I just went over some of that. With additional attention to integrity, collaboration and collegiality according to the Perkins COE policy. And this morning I want to, I would call your attention to Dr. Gergley’s substantial neglect of professional responsibilities related to teaching, to research scholarship, creative activity, service, to integrity, to collaboration, and to collegiality.

JA: Do I go on? Does Dr. Gergley get to say anything at this point?

KL: Well we are not going to have an opening statement; we are just going to hear the evidence.

JA: OK, so I want to start with the investigation report, which is on page 1.8.1 through 6. So on August 29th of 2014, just this past August, that was the Friday of the first week of classes, Dr. Gergley became unavailable to teach assigned courses and to provide service due to being arrested at Norton Physical Education building and being placed in jail for 32 days. Being in jail resulted in Dr. Gergley neglecting his professional responsibility of teaching for 21 days, which is approximately 28% of the semester. That, in my mind, is a substantial neglect of professional responsibility. So to further talk about the impact of his becoming unavailable to teach classes and what, how that affected the students, the college, the department, the college I would like to actually call a witness to speak to that and the witness I would like to call is Dr. Carla Murgia, she is the chair and she is a new chair, she began July 1, so she is a new chair but she is the chair of the department of Kinesiology and Health Science, and she should out there.

GS: May I ask a question while we are waiting?

KL: I believe so.

If there is a witness statement of charges, do we have that written statement of charges? The policy says there is a written statement.

JA: Yes there is, and it is not in my packet.

GS: We are going to need that.

JA: But with have the written statement of charge.

GS: Do I have that?

JA: No, not from me.

GS: We’re going to need that.

KL: Yeah I don't think we have that.

DD: We’ll make some copies.

KL: and who would they come from? The Provost, President?

JA: the president. And I believe that Dr. Gergley has received that written charge, statement of
charges.

DD: It's a letter that incorporated the report.

KL: Is that from Dr. Berry, or?

JG: Dr. Pattillo.

KL: Dr. Pattillo.

JA: Shall we wait on that or shall we go forward? We'll wait.

KL: Yeah I did see a letter from Dr. Pattillo in my packet, I thought I did.

DJ: I think there was one from Dr. Berry.

KL: I saw one from Dr. Berry and I thought I also....

GS: You know I have been through all of this, and I...

JG: I have one and that's actually how I was going to discuss this, based on the charges.

GS: The reason I bring it up is that I want to be sure we are all talking about the same charges, that's our job, so somebody better tell me what they are.

JA: Right 1.a.1. actually is from Dr. Berry to Dr. Pattillo and was the cover that Dr. Berry sent to the president formally informing him of the investigation report and his acceptance of that report and its recommendations, so

GS: I've got that too

JA: Right, but I did not include the formal letter of charge from the president, thinking that your packet would already include that.

GS: I don't know if it does or not, there is a lot in this packet as you probably know, but I haven't seen anything that says these are the charges.

JA: Right, they are not in the packet that I provided which starts with that numbering 1.8.1, that whole packet that goes through 8. Something, it comes from me.

GS: And later when our attorney gets back in the room I’d like to ask a legal question if I could about felony conviction, looking at the policy, has there been a felony conviction?

JA: No, there has not

GS: So there has not been a felony conviction? OK.

JA: Not that I'm aware of.

JH: Dr. is it Gergley?
JG: Yes mam

JH: There is not a copy of it in the packet that you got either?

JG: I just bought what I knew I would need today, a copy of the deans and what I plan to use

KL: But it wasn't included in what we got from?

JG: No

KL: I swear I saw something or I thought I did, maybe it was...

JG: Sharon Brewer, the Provost's secretary should have it on her computer, she just sent it to me electronically.

KL: As an attachment?

GS: I had a question while you were out of the room if our colleague had been convicted of a felony? To your knowledge, what is the answer to that question?

DD: A conviction of a felony is another

GS: Opponent of fact. In order words has that fact, has Dr. Gergley been convicted of a felony, Dr. Gergley says no I would think.

DD: No I don’t think he has been convicted of a felony.

GS: OK

JA: Are we waiting?

DD: Yes I have copies coming, if we want.

JA: Do you want to ask, you said you had another question about.

GS: about did, there was there a felony conviction

KL: Is there any need to wait for that before we hear from the witness or can we

GS: I don’t believe so.

KL: OK, if you would for the audio recording please state your name.

CM: Sure I am Dr. Carla Murgia I am the new chairperson of Kinesiology and Heath Science.

JA: I asked Dr. Murgia to come today to talk about the effect of Dr. Gergley’s becoming unavailable to teach his regularly assigned courses and engage in service during the semester, so I would like for you to talk about that.

CM: OK

JA: and I may be asking you some other questions.
CM: OK, well on August 29th two of my administrative assistants saw police in the hallway and we didn’t know why they were there, they came and told me, I’m in the back room in my office. So I went out and they said that there was an issue with Dr. Gergley and I said OK, out of respect actually for Dr. Gergley as well as for the welfare of our students and everything I thought we really need to do this as discreetly as possible. I asked them if they would mind waiting in our office area in the back and that when classes had changed could they proceed with whatever they came to do. They did that, and so it was handled as discreetly as possible, but faculty saw, students saw and so immediately social media started distracting everybody and so the quality of the learning experience that day, understandably was minimized. It was later that day that Chris Rivers, the university police department chief assistant, assistant chief called me, because I had said to him, “how is this going to effect the department, how are we going to meet our classes, what are we going to do so that we can serve our students?” and he said well, Dr. Gergley is probably not going to be available for the remainder of the week, maybe longer. So I called Dr. Abbott and we followed up with emails back and forth and she said I think its best at this point if you get substitutes. So for the remainder of the Labor Day weekend and being rather new here, I had to enlist some support because I just didn’t have a lot of cell phones and email addresses and so forth. We secured qualified folks to cover the 400 level classes, the lower level classes, I decided to assign our G.A.s and provide them with mentorship, so that they could benefit. My philosophy is let’s turn lemonade out of these lemons and let’s see if we can make this the best possible situation. In the meantime, we worked on it all weekend long and there was some juggling with schedules and things but we were able to get substitutes. Dr. Abbott also instructed me to get a substitute for Dr. Gergley’s committee membership, he is the member of one committee, and so we did that as well.

CM: I did have a phone call from, I don’t even know who some of these people are at this point, Tim Allen, there were some folks that called my office and I did not know what to tell them and so I said I’m sorry you’re going to have to defer to either Dr. Abbott or Mr. Damon Derrick and so, long story short, the bottom line, after a series of phone calls is that he probably wasn’t going to be in until the end of the month, but no-one was sure, I couldn’t get a bottom line, so we just proceeded with the substitutes. I did get a phone call from Chris Rivers, Officer Rivers and he told me that probably Dr. Gergley would be getting out of jail on September 30th but he wasn’t sure when he would be able to come in. Dr. Gergley did come to see me on October 1, and it was at that time that I presented him with the workload reassignment, because he continued to get paid. We had developed.

JA: Could I interrupt to say that is 7.a.1 and 2.

JG: And can I interject that my pay for that period was derived from sick days.

DJ: Your pay for the fall?

JA: from the time of this.

JG: from the time I was paid using sick days.

CM And so then on October 1, I met with Dr. Gergley and we went over his workload reassignment, I spent a lot of time on this because he is a tenured Associate Professor, I wanted it to be appropriate for him, I didn’t want it to be paperwork, I wanted it to be meaningful, I wanted it to help the department. At the close of our assessments that we are going through right now, we are developing all kinds of assessments for activity classes, for rubrics, for papers, short answers, essays, questions. We are trying to be as accountable as possible so that as we go through our program revision, we can improve the program. It’s not the say that the program is bad, we are just trying to make it better and we want to have the data to substantiate any kind of revisions we make
and so what you have is a copy of that and there were five assignments. The first one was to create authentic grading criteria for all the physical activity, well not for all physical activity classes, ten to represent all of the physical activity classes, estimated due date was two weeks after commencement of this activity, so we met on October 1, he should have reported back on October 15th. He did stop in my office on October 6th, he bought in some examples and they were just checklists they were not rubrics and we really needed rubrics to delineate grading criteria and so on October 15th we discussed this first assignment, again checklists were submitted. He did bring in one example of one rubric that he'd found and I said this is what we want and so then we went over that and he came back shortly after that, I made some corrections, some suggested revisions and on November 4th, he submitted four of the ten rubrics. On November 11th, that was by email, and according to this he was supposed to be meeting with me once a week so we could discuss what was submitted. On November 11th, two more rubrics were submitted, on November 19th, the same six previously submitted rubrics were submitted, plus one new one. At that point I asked him not to re-submit things he had already submitted. So I reminded him that he had three more he had to cover and so he submitted one on November 19th, one on November 20th and one on November 21st. At that point I told him, ok the first assignment is complete, the fact is it should have been completed on October 15th, and was not completed until November 21. In the meantime I had begun discussion about assignment number two, which was to create authentic grade criteria for lecture classes in his area of specialization and specifically to be used for papers, short answer essays, we never got to that. We had talked about it at the first meeting and I said well let's do the first assignment first. Beyond that discussion, I have never seen anything for assignment two, we haven't even been able to sit and discuss assignment number three, assignment four and assignment number five. Prior to that, the only discussion we had about these five assignments was at that first initial meeting on October 1. I have offered my help, it has been a stressful situation for all and it has been and I'm sure for Dr. Gergley as well, I mean it's, I keep extending a hand and its, you know it's difficult.

JA: So I asked Dr. Murgia here to talk about really to things, one was the circumstances for Dr. Gergley becoming unavailable to meet the obligations of his contract for the fall in particular, his teaching and so then on 29th August, he became unavailable to do that. We got in motion to meet the needs of our students which created additional work, not only for faculty within the department but also at the chair's level, at the college level, at the HR level, legal level, as we were all working to try to figure out how to accommodate the requirements and expectations of our students under these circumstances. The second reason I asked Dr. Murgia to come talk with you is to emphasize that we know, that we knew that Dr. Gergley would be returning at some point and as time went on we learned that that point was going to be at 1st October and we knew as leaders, that we needed to provide him with meaningful work to complete the remaining semester. We had reassigned the course load and some of his service obligations because of his unavailability beginning on 29th. Once he was back, we knew he would needing work and we felt like we were in the development of reassigned time tasks, and the development of the expected time line, that it was respectful to a tenured associate professor who was connected to his specialization and his work and it was meaningful to the department and the expectation is that that work would then be completed by the end of the semester, according to the agreed upon guidelines that he signed and agreed to.

GS: May I ask a question? Thank you for coming my name is Garland Simmons and I am a finance professor, and I’m glad to hear your story, tell me with the timeline, I hesitate to ask Dr. Gergley, I mean no offence but you, it's my assumption that you have no obligation to give testimony, I think that's correct and so I am directing my questions to Dr. Murgia and no, I am not intending to any disrespect, ok?
GS: The timeline, Dr. Gergley was arrested and he was arrested before the semester began or after the semester began? In what month was that again?

CM: August 29th.

GS: August 29th and the semester had recently began.

CM: The first week of classes.

GS: And Dr. Gergley had met his classes until he had been arrested?

CM: Yes

GS: And he had passed out his syllabus and he was lecturing as he should be for whatever activity was ...

CM: There was a problem with the syllabus, on August 13th I sent an email to all faculty, with the new template that had just been approved and in this it said, please feel free to get started as soon as possible because classes are going to start. Anyway, long story short, we had Dr. Janet Tareilo, an Associate Dean from the College of Education to come in and explain that on that Thursday just before classes started. Classes met and I did not receive any syllabus from Dr. Gergley until Thursday, the first week of classes. And so the students said he had not passed out the syllabus

GS: Which is that, I am interrupted I'm sorry.

CM: That's ok; no I was just going to say he finally did get them to me, I did approve them within two hours, got back to him and he made the changes and submitted them by the absolute final deadline.

GS: But he did meet the deadline?

CM: He met the deadline; he did not submit them to his students.

GS: Ah, ok. Now.

JG: Can in interject something? I was in handcuffs.

CM: No not the first week of classes.

JG: When completed and approved I had, when I finished teaching my classes I did not have an opportunity to send those.

CM: Dr. Gergley, I have an email here that I sent to you.

KL: Just a moment, actually before she leaves you can ask questions but just for the sake of flow and certainly you'll be able to make a statement when you get your chance to do that.

GS: May I continue?

KL: Sure
GS: Dr. Gergley, Dr. Murgia, I was referring to any activities, any events prior to the arrest, so I’m thinking about, the semester had started, you met your classes, eventually you got a syllabus, ok and then Dr. Gergley was arrested? And that happened on what day?

CM: Friday of the first week of classes.

GS: Friday of the first week of classes and Dr. Gergley was detained and could not come back to campus to work, is that right.

CM: That’s correct.

GS: How long was Dr. Gergley away from campus because he was in jail or detained in some other way? Thank you.

CM: Well this time, August 29th through to September 30th, I was told he was released on September 30th.

JA: That’s 32 days

GS: 32 days, ok and so we are talking about sick time.

CM: Yes

GS: and so sick pay was paid and then Dr. Gergley comes back to work after 32 days and he works with you but he does not go back to class, is that correct?

CM: That’s correct; his classes had been reassigned to other

GS: I can understand that, ok, but he does come back to work

CM: Yes

GS: and then he begins working for you and he is putting together rubrics and doing some other work that was assigned.

CM: Just the rubrics.

GS: Just the rubrics?

CM: He never got to the other work.

GS: But he was assigned other work?

CM: Oh yes.

GS: OK, yeah that’s what I read and in your view, his work product was not sufficient, he did not complete his assignment.

CM: That’s correct.

GS: OK that’s what I want to know, and then what happened? Did you speak to Dr. Gergley and say, you wrote a letter, you spoke to him? How did we get here from that point?
CM: Well there would be these occasional submissions and I would say when can we expect the next set of rubrics, don't forget you've got assignment two that should have been started, the deadline is past, when can I expect the next submission? I was kind of gently prodding him but tried to, I was nudging him to try and complete some of this.

GS: But Dr. Murgia, at some point you gave up and then what happened?

CM: Well I didn't give up, the last submission was November, it was just a week ago, November 21st was his last submission.

GS: Did you have a conversation and say, I think this man needs to lose his tenure and if you did when did that conversation happen?

CM: No I didn't have that conversation.

GS: OK, do you think Dr. Gergley ought to lose his tenure.

CM: In terms of not meeting the responsibilities and not doing work in lieu of that, I would have to say yes, and I’m really sorry to say that, it hurts to say that.

GS: so the line, not meeting the classes, going to jail, coming out of jail, being assigned work, not completing the work, is that the whole story or are there other reasons why you think he shouldn't, why you think he should be deprived of his tenure?

JG: There are other things in my pack.

GS: That's what I'm trying to get out and I'm not trying to grill you, I'm just trying to get all this out so I can see it.

CM: I’ll be very honest with you.

GS: I hope so.

CM: The scuttlebutt is such that I do know that there have been other issues and so, all I can say is its scuttlebutt, because I just arrived in Nacogdoches on June 23rd. I do not speak to issue prior to that, I just know that I was left with a situation from the summer that I had to complete because other classes were reassigned during the summer session and I was made aware of that officially. Other than that, everything else is just because everybody's talking.

GS: Scuttlebutt is another word for hearsay.

CM: Yes sir.

GS: Does hearsay have a name or are we going to be able to entertain witnesses as to this other scuttlebutt.

CM: Yes

KL: I think that would be Dr. Abbott.

JA: Yes.

GS: OK
JA: and Dr. Murgia may talk about the talk that goes on in the department, that the actions that I am bringing and speaking of is not based on scuttlebutt.

GS: OK

JA: The actions are based on fact.

GS: But we are going to talk about everything in this packet?

JA: Yes

GS: Can I ask one more question?

JA: Yes

GS: If nothing, if there were no scuttlebutt, if there were no hearsay, nothing else, is this behavior, going to jail, coming back, not being able to meet class, working on curriculum matters but not doing well, in your view as the supervisor, after everything else is this sufficient to lose tenure.

CM: Yes

GS: OK, that’s your judgment.

CM: that’s my belief.

KL: Do you have any questions, Dr. Abbott do you have anything else for Dr. Murgia?

JA: I don’t at this point.

KL: Dr. Gergley, if you like to ask questions.

JG: I will address it while we have Dr. Murgia present. How long was our first meeting?

CM: Well we met a 4, I believe we worked until after 5, I don’t have it, but I have the calendar here, it was 4 o’clock on Wednesday, October 1.

JG: and of that time, would you say the majority of the time we spent was discussing the reassignment or?

CM: Yes

JG: I don’t remember it that way.

CM: Well, I take notes and I do have notes that you and I discussed the reassigned time.

JG: I’m not saying that you don’t or that your memory or my memory is not accurate but what I am saying is that when confronted with the opportunity to continue working, not teaching, we looked at timelines, the timelines were set

CM: two weeks, three weeks

JG: Two weeks, three weeks, two weeks and to me that’s very flexible and that the emphasis on quality in my mind signing off, not ever reading it fully, taking just as we went through, yeah that sounds good, I can do that, I can do that and this will help the department that was my understanding of our meeting, I signed, I go on my way and start working on it. I have some of
these…. But I don’t want to take any more of your time. But my recollection of our meeting was really more about what I had just gone through and a very short period of time as to what my reassignment was. That being said, I’m trying to make a point here, my understanding of the assignment as I initialed it was that it was much more flexible than when I got my first email from you with some dates that I had already missed my first deadline, that was very, that was .. what! We’re actually having deadlines with dates and at that particular point as I, when I speak later, what I have completed in my exhibits here is that rubrics are developmental in nature and it, as there was a process of about three weeks to even get to one, that we were comfortable with that and from there continued, I reviewed the literature on these, I’ll talk about the quality of work and the length of time that it took to develop these and as a side bar they will also be part of a scholarship paper on writing for sport rubrics. A pedagogical journal for physical education, they are not, if you ask me to write ten rubrics in two weeks I could do it, but they wouldn’t be any good and the emphasis on this, and as, Dr. Murgia if you want to look at the transcript in her introductory was that the emphasis was on quality and that why it took so long.

CM: Well, I’d like to respond to that, it says in every assignment here that weekly reports will be submitted to the chair on each Friday of each week at the end of each business day, it is expected the department will be able to use this criteria as examples, oh I forgot the sentence before, estimated due date, two weeks after the commencement of this activity and the reason it was there because this was created on September 2, at that point I had no idea when you would be returning to campus and so I worked with Dr. Abbott, I worked with Mr. Derrick to come up with something that would work for whenever you returned. The second assignment says, estimated due date, three weeks after commencement of this activity, weekly reports will be submitted to the chair. I never did receive a weekly report and that it is expected the department will be using. Every single one of these assignments has two weeks, three weeks, two weeks, six weeks, two weeks after commencement of the activity. This was never flexible, I went over this with you word by word and you said to me and I quote “I will do anything to keep my job”.

JG: I believe I said… I feel lucky to...

CM: No you said that I will do anything to keep my job.

JG: That’s what I said...

KL: Are there any other questions?

JG: No it’s fine, I just wanted to establish that I have briefly stated where I’m coming from in terms of the time frame and the quality of work, but I just wanted to establish the communication that be, and that I did actually initial/modify that work.

KL: and you will have an opportunity to expand on that further.

JG: OK

DJ: I have a question Dusty Jenkins here. On this 7.b.1. What did you mean here when you said on a quick scan they look closer to what I had detailed, I wasn’t sure if that was like a positive thing or a negative?

CM: It was a positive thing and that positive thing was met because the first submission was a check list, his second was a check list with a rubric, then he got a little bit closer and I started, in fact I have a copy of how I made revisions. So everything was done in a very positive, supportive manner, so that he could come up with something where, not only could Dr. Gergley learn, and he had said
once I get one of these done, I'll be able to knock these out because once you've set up one all you have to do is change the skills, it becomes relatively easy at that point, once you know how to do it, and so that's why I guess I got four at a time and three in three consecutive days because it became so easy. But I made myself available for help, his office was right around the corner from mine and I made myself available for help at any time.

KL: Any other questions?

GS: Dr. Gergley is your opinion that you completed all the assignments? Or that you had not completed all the assignments? And I don't know that you should answer but that's the question in my mind.

JG: With allotted time, I did quality work and only got to the point where I had completed, completely and I am proud of it. The first, the first on the check list I have bits and pieces of others, reading and what not, for example an exit survey, I have that on my computer actually but those aren't things that you would turn in, but time is the issue here and the quality of work.

GS: How hard did you work 40 hours a week, if I may ask?

JG: I worked with the time I would be teaching and I allotted that amount of time. I was working on scholarship papers, I'm an editor of two journals, I mean normal faculty duties on top of that, when I do my faculty activity report next year and there's no scholarship there, I can't turn around and say I was reassigned, and I didn't have time for that, that's not an answer for scholarly productivity.

CM: Any other questions for Dr. Murgia.

GS: Is there any part of this story that we're not getting, I see a disagreement, is there something else that's going to come up later, is there some big fight or do you not get, is there anything else that needs to be said?

CM: I'm brand new here so I'm just operating from July 1 and I'm just reporting facts.

GS: But is your opinion that you've told the whole story and the true story.

CM: Yes

GS: And you sir, same way?

JG: I don't think there's an un-truth here; it's a difference it's a view of what, how much I accomplished based on the enormity of the assignment.

GS: Did you do your best?

JG: I think I did and I'm proud of what I accomplished.

DJ: Jenkins here, when did you first hear any talk about possibly losing your tenure.

JG: My first, of course, there's a lot of gossip that's happening and people asking me questions, in fact from other avenues not even within the university, law enforcement specifically. For me personally and in writing it was a report that, it was a letter that was sent from the Provost to the President and Dr. Berry was writing that to the president and I was copied in, that the dean had prepared a report and that he had read it and thought about it, I guess he had up to three days and then forwarded it to the president and at some point it went out to me. At that meeting I was,
everybody got a copy of the dean's report except myself and we rescheduled, he said have a good
day I will see you on Wednesday.

KL: If we could move along, if there are no further questions for Dr. Murgia, I don't want to keep
her here longer than we need for her to be here, but I don't want to.

CA: I have one question.

KL: OK

CA: This is Charlotte Allen with the College of Business, looking at the memo it says that your
expectation please deliver the same time and effort towards these projects that you would to
teaching, i.e. approximately 35 hours per week for the remainder of the semester. In your opinion,
do you think from what Dr. Gergley has presented has spent 35 hours per week on this.

CM: No

CA: Dr. Gergley, in your recollection, did you spend about this amount of time for this assignment.

JG: My statement was that I spent the amount of time on the assignment as I would teaching, while
working on other activities required.

KL: Anything else? Dr. Murgia, thank you.

CM: You're welcome.

KL: Dr. Abbott?

JA: You brought up, Dr. Simmons brought up that there were other incidents, other examples of
neglect of professional responsibility beyond what was heard this fall and the answer to that is yes,
there have been. So on June 18th, 2014, this is during summer I, Dr. Gergley, who had a summer I
contract to teach two courses, became unavailable to teach those assigned courses. Being jailed and
entering an inpatient detox program resulted in his neglecting his professional responsibilities for
eleven days of summer teaching, which would be approximately 46% of the term, summer I term.
Now when he became unavailable, we were notified that he became unavailable on July 18th, we
determined that we needed to meet the needs of the students and to identify appropriate qualified
instructors to continue the classes from the middle of summer I. So we terminated Gergley's
summer contract and we hired faculty/instructors to step in, who were qualified to step in and
complete the remainder of the summer one term. This action of Dr. Gergley becoming unavailable
to teach class is a substantial neglect of professional responsibility. It created concerns for our
students, it created additional work for our faculty, it created additional work for the department to
make the change, make those changes for the college and in working with HR and others across the
institution. So we had another incident, the summer contact, summer teaching is additional
compensation, it is not a part of the regular contract and so in this case, it was our determination
that the best action was to terminate that contract, releasing him because he was no longer
available to do what he needed to do and we would then meet the needs of our students and the
requirements of the courses, and so we did that. I have asked Dr. Deborah Buswell to come and
provide some information, additional information about what went on, not only in the summer, but
she will also do some speaking to what has gone on in the year 2013/2014, I'm always trying to
keep my years right, so 2013/2014, during which she served as the interim Chair for the
department of kinesiology and health science.
GA: May I ask you a question first? We’ve got a big problem here this semester, going to jail this semester, didn’t meet class this semester that we’re in right now. The summer before this semester, another problem, another jail time, more jail time, leaving for detox then didn’t complete summer contract, couldn’t complete summer contract. Now are the problems before this time, in other words are we talking about the spring and the fall before the summer.

JA: Yes

GA: OK.

JA: So, this is Dr. Deborah Buswell, who is an Associate Professor in the department of Kinesiology and Health Science and 13/14, beginning actually in July of 2013, she began taking on the responsibilities of an interim chair, as Dr. Mel Finkenberg retired at the end of August 2013 and so Dr. Buswell agreed to step up and take the responsibility and leadership of the department during a year in which we were doing the search, that resulted in our hiring Dr. Murgia, who began July 1, 2014. So Dr. Buswell served as chair until July 1, and then served in a transitional capacity during the month of July, until the end of July, to support Dr. Murgia in her transition into taking leadership. So, Dr. Buswell was the leadership role during the summer one experience and I am asking you, Dr. Buswell about what happened on July 18th and the additional work that was placed on colleagues in the department and the emphasis on meeting the needs of the students during the summer one timeframe.

DB: On July 18th, which was a Wednesday of summer one, Dr. Gergley had been…

JA: June

DB: Sorry, June he had decided to teach two classes, KIN235 which is our team sports and 431 which is organization/administration class. Two weeks into the summer term, in the third week, we received a call in the office, the administrative assistant received a call that he would not be in that day and I believe that call came from Dr. Gergley from jail, that he would not be in to meet his class that day and so we cancelled class that day. The administrative assistant asked if he wanted to talk to me and he said no there was nothing that I could do, and so I did not talk to him that day. In fact I did not talk to him again throughout that process.

DB: On Thursday, the following day we had to make a decision as far as what we were going to do for the next day, not hearing from him, we didn’t know if he was going to be back or what the next steps were going to be, but I contact Dr. Abbott and we made a decision to cancel class on Thursday as well. Of course during the summer session, two classes is essentially a full week of classes during a full semester and so students were missing out on content in those classes. Dr. Abbott and myself met with Dr. Berry on Thursday afternoon to make a decision as far as what we were going to do going forward, we did not know what Dr. Gergley’s status was going to be, whether he was going to be back. So we needed to make a decision. So we spoke to Dr. Berry and we made the decision that going forward we were going to terminate the summer contract and put other people in place so my job at that point, on Friday was to find two other faculty members who I could to replace him to start teaching on the following Monday. So on Thursday and Friday afternoon, I contact several faculty members to ask if they could step up into those roles to take his place on Monday morning. We had faculty in the department who could step in on relatively short notice to be able to do that.

JA: Could I stop you and I can direct you to 5.b.1. and 5.b.5, some correspondence around that time.
DB: Dr. Abbott sent a letter to Dr. Gergley letting him know that his contract would be cancelled for the summer and moved forward with getting those people in place for the remainder of the summer.

DJ: Can I ask a question?

DB: Yes

DJ: So from the time he called, did you hear from him again?

DB: No

DJ: Did you try to contact him?

DB: I had no way to contact him as he was in jail, a friend of his, I will have to look up my notes to find out what her name was, I believe contacted our office the next day and said he was not going to be in. His mother contacted the office on the 20th and we learned that he was in the hospital and would not be able to return for the summer.

DJ: They did ask to speak to you or?

DB: Not at that time, no.

DJ: When did you find out if he would be coming back for the fall or if he would be coming back for the fall?

DB: I don’t have an answer to that question.

KL: You were no longer the interim chair?

DB: That is correct, after July 1st I was not.

JA: I have in your packet on 5.c.1 a letter that was actually sent certified to Dr. Gergley on July 10th, requesting information as to his intention to return for the fall.

DJ: Did he respond?

JA: He did, it was later in the month but yes he did respond by the 25th, July 25th that he would be back and would accept his full teaching load that had been assigned during the spring schedule for the fall, this fall 2014.

KL: Now the June 18th, you was a Wednesday?

DB: Yes

KL: and so that was the second week?

DB: No it was the third week of summer.

KL: It was the third week of summer?

DB: Yes

KL: and then someone else took over the following Monday?
KL: so two instructional days were missed, Wednesday and Thursday?

DB: Two instructional days were missed, Wednesday and Thursday.

KL: The contract was terminated? To your knowledge was Dr. Gergley compensated for the two weeks that he did teach?

DB: He was compensated for the two weeks and two days.

GS: I’m sorry I didn’t hear all that.

DB: I’m sorry.

GS: No, Dr. Buswell my name is Garland Simmons I am a finance professor. So Dr. Gergley was assigned a contract, he started the summer term and then he got put in jail. He got paid, and that was the second or third day...

JA: Week.

GS: So how many days do we teach? How many days did you meet your class, four days the first week?

DB: He met four days the first week and four days the second week and two days the third week, so he was

GS: OK

DB: So he was compensated for that work.

GS: and he was paid for the days that he worked?

DB: that is correct.

GS: thank you.

DJ: and then there were two weeks left of summer one session?

DB/JA: Yes

JA: and we paid others to do the last two weeks.

DB: Yes and those people were not scheduled to teach, they came in and talked.

GS: Had nothing else happened Dr. Buswell, well you were interim chair at this time?

DB: Yes

GS: and you were about to leave and go back to the faculty full time and you were glad about that?

Laughing

GS: God love you.
GS: But had nothing else, is do you think this man ought to lose tenure and if so why? Or do you want to answer that?

DB: There’s ….. I sent a packet to Dr. Abbott when she asked for documentation about non-compliance issues for Dr. Gergley, it is there. There are a lot of issues related to, non-compliance issues over the course of just my one year of non-tenure and some of them are big, like the fact that he couldn’t meet classes for summer and that he has been in jail three times during that one year and that again this fall, that wasn’t during my tenure but that’s a lot of missed time for our students. The administrative evaluation that I wrote was satisfactory and we can talk about that as well. But there is a continued neglect of duties that hinders the student progress and he teaches in classes, they are central classes for our students where they are 100 level classes, where our students are just starting out and those are the students that I saw in my office personally last year. And the students that are good students, that attend classes and I know they attended classes because they had notes from class, but those are also students that write substantial evaluation comments, more when I was doing the administrative evaluations I had never done before for the faculty, Dr. Gergley whose evaluation comments were the most of any faculty and some were good, some said he’s extremely knowledgeable, he’s a smart man but the inappropriate comments and poor comments, the consistency at looking at not only those but going back over several years, he’s not taking those comments that students are making consistently and saying I need to make an improvement in what I’m doing and that is why I think he doesn’t deserve to be tenured any longer. Because of not taking those comments to heart and making a change in what he’s doing, he is doing a disservice to our students and that is why I think he does not deserve to be tenured any more. The administrative evaluations from Dr. Finkenberg started the process, he suggested to him two years ago that he start looking at student comments, it was mild. He suggested a year ago that he should look at those comments more critically and I suggested very strongly last year with an unsatisfactory evaluation that he look at those comments.

JA: Could I interrupt.

DB: Yes

JA: and call your attention to 2.a.1. which is the administrative evaluation and the last one done by Dr. Finkenberg and 2.c.1. is the administrative evaluation completed by Dr. Buswell. Our concern was that these two evaluation reports do demonstrate that there has been ongoing problems with Dr. Gergley completing the expectation of a tenured Associate professor/ faculty person to continue to develop his teaching and work with students, to continue to engage in scholarship, to provide service to the program, department, college, university and professional associations.

GS: Dean Abbott may I ask you a question?

JA: Go ahead.

GS: Do you think that man ought to lose his tenure?

JA: I do.

DJ: Dr. Buswell, you mentioned that he was non-compliant; can you give us more of like context or like comparison compare to your other faculty members? Are they all fully compliant? Is he just a little bit more uncompliant, a lot more uncompliant? Or I think some context would be relevant there.
DB: No, not all faculty members are compliant; I would say his is a chronic non-compliant member of my faculty last year. The Perkins College of Education has, because of NCATE, and partially because of SACS and because and because of our other accrediting bodies in our college and because we are going through

CA: I’m sorry could you speak up just a little?

DB: I’m sorry, yeah that’s me, that’s just me. Because of our NCATE accreditation we went through last year, because of our NASB, which is our accrediting body, because of SACS, we diligently look at our syllabi, so I requested up front that our faculty submit our syllabi well ahead of time so that I could review them and make sure they were in compliance with Perkins COE and we always have changes. This is our big focus this year and the dean makes the chairs aware of what the focus will be. I made sure those deadlines were well in front of when we needed to have those syllabi on line, so that I had time to look at them, because I had never done this before. Most faculty got those in on time, got them to me on time. Dr. Gergley consistently sent those through the administrative assistant, which means she needed to forward them to me and then I gave him feedback. On several occasions when I sent feedback back, it didn’t happen. Several of his classes have accreditation assignments in them; we needed to make sure the accreditation assignment gets in the syllabus so that those get put in there. A number of times his accreditation assignments didn’t get put in the syllabus, didn’t get done, didn’t get into our LiveText system, which means we are not collecting data for SACS, we are not collecting data for NCATE, we are not collecting data for NASB that’s a problem. Are there other faculty that are late with accreditation assignments? Occasionally, things come up. He is a chronic late or non-compliant with our accreditation. We have had to re-open the system this semester so we could put fall data in, so he could put spring data in from last year. He put an accreditation assignment on his syllabus and never collected it during the spring of last year, if we don’t have accreditation data we don’t have continuing stats; that creates a problem for us. So in the summer I made him aware that because he hadn’t taught a class in a while there was a, there were two new accreditation assignments in there. He submitted his syllabus late, so I sent them back and said this is what needs to be put in there, make sure you add that in there, if you have a questions here’s the resources for faculty members to ask /check the syllabus that’s online. All of ours are online now, you can look at that. He sent me a, I sent them back to him, sent him another email, saying here is what wasn’t in there, I said it looked like an activity class, I said this is not an activity class, it’s one of our pedagogy classes, the accreditation assignment needs to be put in here, send it back again. That syllabus never got put on line; it never got approved to be put on line because he never got the accreditation assignment in. He is a chronic abuser of the timeline are any of my other faculty? No. Occasionally they will be late with something, but if you nudge them a little bit it gets there, but I would say no.

DJ: Thank you.

JH: Can I ask a question? Did you ever perceive him as being impaired in teaching?

DB: I have never observed Dr. Gergley in the teaching environment so I don’t have any answer to that question.

JH: When it came to meetings or when you talked to you, did you ever smell alcohol or did you ever feel like he was impaired.

DB: I did not.

JH: Thank you.
KL: Any other questions.

GS: Is there anything else that you need to say, you know that an hour from now you wish you had said, is there any other story that you wish to tell? Is there anything that you've said that you want to go back to and look at again, that you're not happy with?

DB: Probably an hour from now there will probably be a lot of things...

GS: But right now you are happy with what you said?

DB: I... well, I am sure there are going to be some things that I had wished I thought of, I think the big lapses are in his teaching and not meeting the needs of our students and not meeting the needs for our accreditation and those are some big ones. I do not believe that he deserves to be tenured at this time.

GS: Can I ask you a question about fact? You mentioned there are three jail times, I know about two. Ok one this semester, early this semester, one in the summer, is there a third one?

DB: I believe so.

GS: You believe so?

DB: I believe so, yes. Yes I believe there was one prior to that.

GS: I’m just trying to get this, it’s a matter of fact not opinion, is there a third jail time, where we missed class?

DB: No

JA: Not where we missed class, we had no other jail time where there has been missing a class.

GS: OK

JH: I have one more question, Hensarling. I'm sorry I keep forgetting to tell you. When you mentioned that students had visited with you, can you share some of the things that they visited with you about?

DB: Err, yes, I had in the fall of 2014, I had five students come in and

JA: 2013

DB: 2013, thank you, sorry. 2013, I had five students come in and visit with me who were currently in Dr. Gergley’s KIN100 class, four who had decided to drop that KIN100 class because they were afraid they were going to fail, those students came in with concerns that they were not getting the content that they thought they needed in that class, and this is a basic physical education class. It is one of our basic classes where they were going to start to learn about kinesiology and make a decision as to whether they were going to continue with the program or not and they thought the class was unorganized, they thought the class was redundant, they did not feel they were being given the information to pass the test, several of the students bought in their notes from class and showed me information that they had thought they were prepared for a test but then had a score of 6 out of 20 on the test. I would ask them, have you talked to Dr. Gergley, what do you need to do for the test, their response was, yes we have he said, you know just read the book, take notes in class. They said we have done that, they said here is, and they showed me here’s my notes from class and
here are my notes from the book, and they appeared to have all the information that they needed relative to what they had been told. Several of them came back after the test and I said ok what was on the test, let’s go through what you did, they highlighted what was on the test, there was very little information from the test from their notes. So they didn’t feel like they were being prepared for their test from what was on, from what they were being told in class. They felt information was redundant in class that they would go over information in class that they had already been told in class. Several students, and this shows up on student evaluations as well, said if we were tested over Dr. Gergley’s personal life we would pass because of personal stories. And that is seen over and over again in student evaluations. Students have no interest in hearing over and over personal and that’s what students are told, they want to know information about content.

CA: I have a question, this is Charlotte Allen, did the students say, just to clarify, they said personal life versus professional life?

DB: Yes mam, they were told personal facts about Dr. Gergley’s personal life.

DJ: Jenkins, Dr. Buswell, when did Dr. Gergley get Associate level, do you know that.

DB: I do believe it was 2007 or 2008.

DJ: and how long have you worked with him?


DJ: so since he got tenure, sorry associate level standing has, in your opinion, has his performance gone, I guess downhill since then, or

DB: I don’t have a relative variable for that.

GS: So you took over after Dr. Finkenberg left?

DB: Yes

GS: and so you would have no way to know prior to Dr. Finkenberg, but in your time there, there has been nothing but trouble? Is that right or not? Is there, are there any good things, is there anything else?

DB: I think Dr. Gergley is knowledgeable in his field, so yes there is a good thing.

JA: May I ask, Dr. Buswell to talk about an incident that occurred in September and October, November of 2013, when a staff member and a student came to you with a written report, relating to Dr. Gergley’s behavior?

DB: Yes

JA: Could you tell that story please?

DB: Yes, Dr. Gergley was at a football game on campus and one of our kinesiology students and the athletic trainer, sent me documentation that he was at the game and appeared to be impaired. He was down on the field and from the field, I guess in to the stands and was removed from that area.

JA: OK stop right there, I refer you to 4.a.1 through 4.e.1, ok, please continue.
DB: Because the student was one of our kinesiology students this was a concern that she would be in some of his classes and may interact with him and she was concerned about that as well. Both of the students sent documentation to myself, I forwarded that documentation to Dr. Abbott. I spoke with both of them regarding this incident, I also spoke with Dr. Gergley and of course many students, many faculty and many of the athletes at the game knew who he was and though this would be an embarrassment to the department, that he was seen in this context. I suggested that that not happen again. Dr. Abbott and I both spoke with him about that incident; we also spoke to him because he knew who the student was and he knew who the faculty member was who reported this and that he not have any contact with the student. He disregarded that, when the student was in the hallway he made a comment that was in direct reference to some of the words that she had used in her letter to me. I spoke with him after that in regards to that, he said it was a joke. Now this was a student who came to me immediately when he did that. She was not happy about that, she felt intimidated by those comments.

GS: Would you be willing to change the subject for just a minute.

KL: If I can just ask about this particular incident.

GS: Sure

KL: This is Kevin Langford; you said he was escorted from the stadium,

DB: yes

KL: Was an arrest made

JA: No

KL: No? No arrest was made?

JA: No.

KL: OK, please continue.

GS: What about the grading and not taking attendance, I want to know about this story. Not taking attendance but grading people on attendance, what's the story here? That's my thinking, is that true, false, is that a big deal, is that not a big deal, why is that in my packet?

DB: I don't know what Dr. Abbott put in your packet, but I can probably address that. In looking at grades of students, there are a lot of things when you are chair, student submit emails, they, my grade is not appropriate, when a faculty member is not around you pull the grades that they have submitted and look at those and say ok, what is or what is not appropriate. Well of course one of those grades were Dr. Gergley's, so looking at those in one of the particular sections, I noted that one of classes has a ten point scale for grades for attendance, except for he doesn't take attendance in class and had noted that to me when I did his administrative evaluation. So I was curious about why students get a ten point scale, when he doesn't take attendance in class and every student got that, even students who had no test grades, so that was kind of puzzling to me. In another class they got a letter bump grade so there was no consistency there, that was another grade that I needed to check for another student and again, students that had no test grades, so it would be apparent to me that the student had not been attending class but also got that letter bump grade for attendance, even though they had apparently not been to class.

GS: You think this was not a mistake?
GS: Is this a matter of integrity in your opinion?
DB: Yes, sir I do.
GS: Academic integrity?
DB: I see this as a failure to do the job carefully over and over again, because this is not the first semester that these things happened.
GS: and that’s not hearsay, you know that for a fact?
DB: yes sir.
CA: I have a question, this is Charlotte Allen, in your opinion is it, is there legitimate reasons for faculty members to alter their course content during a semester and alter their syllabus, to change things as the semester goes on.
DB: Sure
CA: substantially?
DB: No, it’s not recommended that we do that once it’s on the syllabus it what students are expecting us to do, but sometimes we take longer to do something and
CA: or may need more time on a certain area?
DB: Absolutely.
JA: But as the dean, I would expect faculty to note that on their syllabus, to notify have some sort of notification of all faculty, of all students within the class that this aspect of the syllabus is being shifted for whatever reason. I don’t believe faculty are required to submit that to the chair, I don’t believe faculty are required to notify at that level, but I do believe that faculty should be making note of when they are changing aspects of their syllabus and communicate that to all of the students.
CA: Dean Abbott what would you consider, say communicate to students, how would you consider appropriate ways to communicate?
JA: Communication could be orally in class, could be an email, could be a statement in D2L if the faculty member uses D2L as support for the class, could be in writing, could be a revised syllabus with a revised date, I think there are a number of ways in which that could be done and be done with integrity and making sure that all faculty, all students in the class are aware of the change.
DB: I think the importance is to get it on, especially with our accreditation assignments, get them on a syllabus up front in a timely manner and make sure that information is out there. The state of Texas requires it, our COE requires it and that is a big part of the failure with the syllabus here, is not even getting it out there initially for the student to know what is happening.
KL: Any other questions?
DJ: I need to back up just to the attendance thing for a minute to clarify, this is Jenkins again. So were you saying that he gave everybody a bump in the class for attendance?
DB: Yes mam.

DJ: so the specific students that came, it wasn’t just that one person had a different score; everyone had the exact same score?

DB: Yes mam, everyone in the class either got, I believe it was a ten point bump in some classes and a full letter grade in other classes.

DJ: So there was never anyone, like some people got the bump for attendance and some people didn’t it was just like an extra point.

DB: no mam, there was no attendance presented on the grade sheet.

DJ: OK

DB: to know that some students should get it and some students should not have gotten it.

DJ: OK, thanks.

GS: Was attendance, there is a difference between taking attendance and putting attendance on the grade sheet, was attendance taken?

DB: Attendance was not taken in Dr. Gergley's classes; he stated that in his evaluation.

KL: This is Kevin Langford, you say in one class it was a letter grade bump, I mean does that equate to a ten point?

DB: It could equate to more than that.

KL: You mentioned that there were some students.

DB: more or less.

KL: that had received these, that had no test grades, was there a student that didn’t have any test grades that got a D?

DB: There were students who had no test grades who got better than that, like had eight out of, I...

KL: I guess that’s ....

DB: A student had 8 out of 170 points and was given a D in the class.

KL: 8 out of 170?

DB: yes sir

KL: and those 8 points were attendance?

DB: the 8, I would have to look specifically at the grade to see what those 8 points were, there were other students with 9 out of 170 points, also given a D in the class.

KL: Do we have copies of that?

CA: We have some copies in his packet that show
JG: Two different classes
KL: OK
DD: If the committee would like we could run off some copies
KL: Does anyone want to see those?
GS: I do not.
KL: OK, it’s not, its fine, that’s fine.
DB: well that would be the class with the grade adjustment was made, I assume it was the adjustment that was made, the letter grade adjustment.
JA: I do want to make note that, as far as I know, Dr. Buswell explored these issues because students came to the departmental office to address questions about the grade and Dr. Gergley was not available to answer questions about the grades and therefore the chair, the interim chair in these situations was required to do the investigation, you know go back through the records to look at the syllabus, to look at the materials that were available to try to figure out how the grade had been determined and assigned and then had to take corrective action based on what she could find. So I don’t want, I don’t want you to think that she is going into each and every class and syllabus of Dr. Gergley or anyone else, but as students report to the office concerns about grades, the procedure is for the chair to contact the faculty person to address the issue. When the faculty person is not available,
GS: I didn’t think otherwise.
KL: Well the chair has any right to do that for any faculty member.
GS: Right
JA: Yes
GS: I’m not worried about that.
JA: I just wanted to emphasize that.
GS: Let me tell you what I am worried about, in this charge, now this is the charge that I asked for that we just got, there is this word retaliate, retaliate, retaliate. Now we talked about a conversation in the hallway with a student, is that what this is about?
GS: What kind of retaliation, is this a grade retaliation? That’s what I’m trying to get at, if somebody means retaliate against, is a student? Is this right is this true, these charges about retaliation or can you speak for that, you’re not the only witness, but can you speak to retaliation. It may not be your responsibility to do that? I’m not saying that it is, but do you know about any retaliation?
DB: Other than, other than Caley Green in the hallway, I cannot.
GS: But was that a serious incident and was that retaliation in your view.
DB: In my view, I think it was intimidation, yes.
GS: That’s important in the charge, would you mind rehearsing that again, exactly what happened.
DB: She was sitting in the hallway with some other students.

GS: A student of Dr. Gergley.

DB: She had been a student of Dr. Gergley’s yes, and she was the student who reported the incident at the football field where he appeared to be impaired. After she had reported that to me, in verbally and then in writing.

JA: You’ve got the written statement from her, go ahead.

DB: She was in the hallway sitting with some other students and he came by and made direct comment, essentially was a quote from what she had written in that letter, and he had had a copy of the letter, and she turned and looked at him and actually looked at the student next to her and said, did he just say this? And the student said yes he did.

GS: I understand that part, did he threaten to hurt this person, did he go to this person's home?

DB: No

GS: Did he call this person up on the telephone or harass this person

DB: No

GS: To your knowledge?

DB: Not to my knowledge and she would have told me if he did, I believe.

GS: Did he threaten, did he change a grade, has he ever changed a grade? Has Dr. Gergley ever changes somebody's grade after the semester for any good reason or any bad reason that we know about? I realize you were just there for just a little while, I understand that, but to your knowledge is that a problem too?

DB: No in fact I had to go in and change these grades of students who had 8 out of 170 and 9 out of 170, because he didn't see the error and I had to point this error out, even after that. I had to make the change administratively.

GS: To an F? From a D?

DB: Yes.

DB: Yes because that class is a pre-requisite for other classes in the department.

GS: OK

DB: So if a student just goes through that and doesn't actually have a grade in the class other than an 8 out of 170, that's not appropriate.

GS: Did you vote on his tenure to begin with?

DB: No, I was not tenured at that time.

GS: Is there anything else that you can think of that we need to know about?
DB: I don’t think so.

GS: Is there any other retaliation that you know about?

DB: No

KL: Any other questions from the committee, Dr. Abbott? Dr. Gergley, do you have any questions.

JG: I haven’t …. She hasn’t said anything that wouldn’t be factual in nature other than a few things, I’ll address that later.

KL: OK thank you.

GS: How about we take a little break, stretch my legs.

KL: I was just going to ask that.

DD: 5/10 minutes.

JA: There is more water, coffee, soft drinks if you want.

BREAK

Part Two

KL: Ok we are back from break; it’s about 10.26 and Dr. Abbott we would ask you to continue please?

JA: OK, Dr. Jenkins mentioned earlier about, a little bit earlier about issues around big compliant or neglect of professional responsibility issues versus small and I do want to emphasize that, each, I’m faculty too, but I am faculty, I hold my faculty rank is a full professor and I am a member of the Department of Elementary Education in the college. I do certainly believe that I am faculty too, and faculty have a lot of demands of them and a lot of things to do and all of us miss deadlines and overlook details, every single one of us, but what I am trying to do today is to demonstrate that there is a pattern of actions and that there is a preponderance evidence that is suggesting substance of neglect of professional duties, so some of the things that I am presenting are weightier. Missing 21 days of work of teaching, requiring us to reassign or find other faculty/instructors to teach classes to provide the kind of services that our regular faculty member would do in a fall semester, is a big deal. Causing us unavailability to teach classes in a summer contract in the middle of the term, causing us to, to cancel that contract and find other people to teach and to try to make the learning for our students smooth and meaningful and full, it’s a big deal. Though the work that is required in trying to do all of that managing, that’s a big deal and faculty have issues that interfered with their work, other things are not as big of a deal, although they certainly may demonstrate a pattern and so, Dr. Buswell talked about some of the issues that she noticed during the year she served as interim chair that were those, what some might say smaller issues, related to syllabi, related to deadlines, related to you know grading policies and attendance policies and accreditation issues. Those are smaller deals, but not not important and we think, I think that this is really trying to get at this preponderance and preponderance of evidence and a pattern of practice that Dr. Gergley has been demonstrating, particularly in the last two years, focusing really on fall of 2012 through the fall of 2014.

JA: Most of you know that the college has recently been through its major accreditation cycle, which occurred in the spring of 2014, it was a big deal for us and it occurs every seven years and
educator preparation is under the microscope at the federal level, at the national level, it's in the news it's on the blogs, it's all over the internet, so issues around accreditation are particularly important to educator preparation and we are very attentive to maintaining our accreditation, meeting the expectations, not only of our national accrediting agency NCATE, which is now CATE as it is transitioning as well, but also we are under the requirements and expectations for accountability related to the Texas Education Agency. So we serve SACS, at an institutional level we are a part of the institution and we try to meet all of those expectation. We serve NCATE or CATE now at a national level as a professional association. We have, every specialization has a whole host of professional associations that attend to the specific content, for example elementary is EACI, there is a whole list of alphabet soup and that is true in Kinesiology pedagogy as well. And we also have to meet all of the ACEI, we also have to be attentive to issues required not only of the Texas Higher Education Coordinating Board, but in our case the Texas Education Agency, it has a whole set of standards, a whole set of expectations and so when we look at our syllabi, people, faculty outside of our college, sometimes shake their heads and say you've got to be kidding, because we have so many things aligned to so many standards. But that's the world that we live in.

JA: Since the fall of 2013, that was just last fall, Dr. Gergley has neglected professional responsibilities within the physical education pedagogy program. In TEA language, Texas Education language, that's the program that prepares students, candidates in our case to be eligible for recommendation for certification, educator certification in what is called EC12, Early Childhood 12. Kinesiology is an all level certification, early childhood through grade twelve, so there is the professional association related to kinesiology that was NATS and it's changed to SHAPE, I do know that, that's the language now. So we meet that accreditation and we have the TEA standards, TEA is what assigns the EC6-12, that's the name of the certification for which we are approved, an approved program by TEA and to prepare candidates to be eligible to apply for this certification in EC12 and then we have all of the other things that we meet. So we are, on this campus I think, maybe even a little more than nursing which has a lot of accreditation business, has a lot of accreditation expectations, but we have got all of these different things so we are probably the heaviest accountability accredited department, college and programs. And it is uneven across the college, not every program, you probably know this, but only really a little less than 50% of the programs in the COE are educator preparation, just over 50% of our programs are not related to public education. They are related to other disciplines and other preparations, so in educator preparation we have a lot of expectations.

JA: I have asked Dr. Gergley, sorry I have asked Mr. David Goodman to, who is the program coordinator for the physical education and pedagogy program within the department of Kinesiology and Health Science, to talk to you just a little bit about program assessment and how that works. How faculty work together to determine how those assessments get divvied up into appropriate classes and then to talk also, a little bit about how he as a program coordinator is expected to communicate and prompt faculty, remind faculty to be completing the assessment and getting them in the right place and right time for our deadlines and so this is Mr. Goodman who is serving as the program coordinator, he is a long time employee at SFA and so, really what I am wanting you to address Mr. Goodman is how the needs of students and the standards expected for the students by meeting the expectations for accreditation and accountability. So really it's kind of, as a program coordinator, how are the expectations around accreditation and accountability discussed and divvied up among the courses and then how you, as program coordinator, how are you serving to support faculty and yourself in prompting us to meet all these deadlines in the right way, to collect the data in the way which we need to collect it, so that we can, as people in my college think about it, aggregate and disaggregate the data in the way that our accrediting and accountability agencies are requiring.
DG: Thank you Dr. Abbott, our accrediting body NASPE, the National Association for Sport and Physical Education is the accrediting agency for physical education, teacher education. We are fully accredited as an institution here at SFA, through their, through NASPE. They have standards that are set that all institutions must address and meet according to a panel of peers from other institutions, we do not meet with them, nor do we communicate with them. We submit our data and our meeting the standards or what we feel meets the standards to NASPE and they have outside readers. To address student needs, we as a department, the faculty look at the data after it has been collected from the various assignments or assessments. Some of these assessments are going to be a video analysis, it’s going to be a standardized test, it’s going to be a lesson plan project, there are eight different assessments that we use, we collect the data, the data is submitted into LiveText and into SACS TracDat system. The information is extracted and faculty review strengths and areas that need improvement, almost similar to a needs assessment for measurement evaluation purposes, we have certain goals that have been set, whether it be by the department or by NASPE. We examine our assessments to see if we are meeting those goals and then we brainstorm ways that we can try to elevate the scores for the goals that we do not meet. An example would be on a standardized test, we noticed we had an area of weakness in our curriculum and we addressed that by adding a course in motor learning, which we will be implementing next semester. We have modules put in the electronic system that the students can access in our capstone course that would help bring them up to speed on some aspects that may not be in the current curriculum, we use those as learning tools. We have seen that addressing these needs has improved our candidate, as they’re called, for students accountability to be successful on their work and we have 100% pass rate for teacher certification and we feel like some of that is attributed to doing a needs assessment with these different types of assignments and tests that are in our NASPE accreditation requirement.

JA: Can you, would you talk about your role and sort of the role and communication among faculty to help them and you remember to get things …

DG: My role as program coordinator is to be on the lead front, making sure that everyone is aware of what assignments, assessments are being needed to maintain our standards, making sure that faculty that have those assignments and assessments in their courses have them implemented, have the data collected, have the data input into LiveText, so that we can extract the data but also have student work samples, we are required to have student work samples by our accrediting entity. My job is to pull out, meet with the faculty if we have these areas of concern and try to come up with ways to address them but to make sure that we meet the deadlines that LiveText has out there; we cannot just go in randomly at any point in time and enter in the data. We have a cut off that is stated by the LiveText coordinator, the chair also reminds faculty, I send out an email to faculty that have the different assessments in their courses. Remind them we have deadlines, we need to get these assessments and data into LiveText before the deadline and it’s usually the Wednesday after final exams are over with, so that we can get it all taken care of.

JA: So in your materials that I provided you, under 6.a.1. through, really all the 6, 6.b.8., is a series of emails and documents that is really speaking to issues around the accreditation, what we call crits assessment, critical assessments and around the deadlines and around how to, what happens when we either don’t include the assessment in our syllabus, there is a problem there because if we don’t include the assessment, you can’t collect the data. So if you don’t have the data for that semester, our accrediting bodies, require that we collect data on every candidate, every time the candidate takes the course in which there is a critical assessment, and when we don’t have all of our critical assessments consistently included in our courses, that creates a gap. If we have a critical assessment in a course, but the critical assessment is not administered, then you have a gap in the
data. If you have a critical assessment in the course and you collect the data but you don’t enter the
data in our current system, which we are using right now is LiveText and have been using for the
last four years, although Kinesiology and, Kinesiology and Physical Education has, was as we were
facing them the use of LiveText, were one of the later programs that came into the use of LiveText.
So fall of 2013 was a critical start date for us in that particular program in collecting the data so
faculty who teach in that program are the persons who determine the critical assessments, it’s not
David. David does not make those decisions independently, it is a faculty decision, the ...

GS: Does Mr. Goodman hold faculty rank?

JA: He does not.

GS: OK, he’s permanent; he’s a lecturer and has been employed since

DG: This is my 14th year in this position.

JA: So a very long time.

GS: I’m sorry I interrupted.

JA: That’s ok. So the faculty make the decision, he’s part of the faculty and important part of the
faculty and he is currently holding the position of the program coordinator. So he is doing
additional duties beyond the faculty, his regular faculty duties. So the beginning, the consistent
collection and the more consistent collection in the fall of 2013 was the date to do that. So the point
I was trying to make is that Dr. Gergley, that Mr. Goodman is not making these decisions in isolation,
it is a faculty decision, faculty are participating in that, his responsibility, Mr. Goodman’s
responsibility is to remind them, to remind them of the decisions that they made. Why, what
courses get what critical assessments and it’s the faculty’s responsibility to include the critical
assessments in their syllabi and actually to do what we call the critical assessments, collect the data
and it’s the faculty’s responsibility to enter the critical assessment data into the system. Faculty
responsibility. In this instance with, in ‘13 and ‘14 we have had challenges getting the data from Dr.
Gergley, some of Dr. Gergley’s classes. One of his classes he had failed to include the critical
assignment so there wasn’t even a possibility of collecting the data, in the fall and the spring.
Another class had the critical assignment in there, but he didn’t collect it, the data for that critical
assignment. The courses in which he had critical assignments and he had collected the data, he
didn’t enter the data in the fall of ’13 or in the spring of ‘14. In the, so in 6.a.1. is an email from Dr.
Gergley talking, addressing two of his colleagues about, when did we move to LiveText? When did
this become critical, whose responsibility is that and 6.b.1. is the response and beyond that, all of
these is the response between Dr. Gergley and Mr. Goodman, where I think Dr., Mr. Goodman was
trying to reiterate and provide evidence that the information had been shared in a timely manner
and that Dr. Gergley really shouldn’t be claiming that it was loose and slippery and not shared
appropriately. The good thing is we do have a system for re-opening LiveText and entering
assessment data that was missed for a particular semester if we have that data and in fact you will
see in this material that Dr. Gergley made that formal request to have LiveText re-opened, we
accommodated him and he and I’ll say others, who had not entered their data, entered their data.
In this particular case, Dr. Gergley was able to enter the data that he had collected in fall and spring
of ’13 and ’14 for the critical data. He was not able to enter the data that he did not collect and he
was not able to enter any data for, the data that he didn’t even include in his course. So we do have
a gap and it will be a permanent gap and later we will have to address that and we can, I’m not
suggesting that we can’t, we can, but this example is just another, particularly in the past two years

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where Dr. Gergley is not attending to the professional responsibilities of a tenured associate professor.

DJ: Was he the only one who didn’t put in data that first semester that he missed, the one where he didn’t collect any data at all.

JA: No he was not.

DJ: Can you say how many other professors did not collect data that semester?

JA: In that program, I believe it was one.

DJ: Thank you.

KL: Do we have any questions for Mr. Goodman.

GS: Mr. Goodman what was the problem? What was the problem with Dr. Gergley?

DG: I cannot answer why it was not entered, it was just not entered by Dr. Gergley, I have no knowledge of what prevented him or why he did not put in the data.

JH: I am supposing you contacted him several times about that?

DG: An email was sent out; I believe you have a copy of various faculty members who have assessments that needed to be entered into, to remind them that they needed to be entered into LiveText. But there was a subsequent email from Interim Department Chair, Dr. Buswell also stating that the deadline is approaching, the deadline I had given was not necessarily the deadline that our department had.

CA: Mr. Goodman, this is Charlotte Allen, was there, is there training for the faculty on the LiveText

DG: Is there training on?

CA: On how to use the system.

DG: Yes, I have been through training, other faculty members have an account, they open their own account, there is not a formal faculty meeting per say, but we do meet with faculty individually if they need assistance.

GS: Mr. Goodman were you surprised to have problems with Dr. Gergley? Was that a surprise to you? Did you expect that? Or do you know?


GS: Why is that Mr. Goodman?

DG: Because we have been doing this long enough that I felt like everyone should be aware of it, the reminders were sent out and the expectations are a little, as adults we should be able to follow directions.

GS: Do you think Dr. Gergley is not doing his job? Is that what you think? With regard to whether.

DG: With regard to this, I think it was neglected, yes.
GS: OK.

KL: And this was for fall ’13 and spring ’14 semester?

DG: Yes

KL: OK, because 6.b.6. there is an email from Dr. Gergley requesting access to LiveText and that’s October of 2014. I don’t know if you could answer this or Dr. Abbott, do either of you know of any other emails from Dr. Gergley requesting access to LiveText before fall ’14?

JA: I am not aware of any, this particular email was sent by Dr. Gergley to our LiveText person and the request was for the system to be opened with the expectation of entering the data that was missing from fall of ’13

KL: To re-open, OK.

JA: and spring of ’14, so this was just a request to re-open LiveText, which we did and he entered the data that he had.

KL: OK, anything else for Mr. Goodman. No other questions from Dr. Abbott, anything else. Dr. Gergley do you have questions for Mr. Goodman.

JG: No

KL: So if there are no other questions for Mr. Goodman, you are excused.

JG: Thank you.

KL: Dr. Abbott?

JA: I believe that we, leadership in the Perkins COE have been accommodating many of the request of Dr. Gergley during these past few months in particular and in fact over time. Upon his return to work in early October, I met with Dr. Gergley twice to gather information about his absence, 21 days absence from work in the month of September. I expressed my concern to him as a person and as a faculty member of the college, but expressed that the decisions he had been making was putting himself in a precarious situation, especially related to meeting the professional expectations of the faculty. Nevertheless, I have treated him with the respect due a tenured faculty member; I believe the department has treated him with the respect due a tenured faculty member. He however, has substantially neglected his professional responsibilities, especially within the last two years, fall 2012 in particular through fall 2014. I am asking you to recommend the immediate revocation of tenure for Dr. Jeff Gergley, as you recall, a revocation of tenure requires good cause and the burden of proof rests with the university who must present a preponderance of evidence. I have presented, in my view, good cause for the revocation of tenure by providing a preponderance of evidence in the past two years that reflects substantial neglect of professional responsibilities by Dr. Gergley. I will stop there.

KL: Do you have any questions for Dr. Abbott?

GS: Dr. Abbott, when did you come to SFA?

JA: In August of 2010.

GS: Were you involved in the tenure process, the tenure process of Dr. Gergley?
JA: No
GS: OK.
JA: Did you give Dr. Gergley a chance to rectify these problems?
JA: Yes.
GS: Lots of chances or just one chance?
JA: Lots of chances.

GS: and how, and how, can you describe this, can you go, what did you do to give this man a chance?
JA: I have met with him, with each of these situations, I have talked with him, I have gathered information from him, I have, in my opinion, counselled him, making recommendations how he should behave and some behaviors he should avoid repeating. I have, I have emailed him, I have reminded him through emails and through meeting with him face to face.

GS: Did you discuss with Dr., did you discuss with Dr. Finkenberg, who is not present and not available to testify. Do these problems date back to Dr. Finkenberg, problems with Dr. Gergley with his teaching?
JA: Yes
GS: OK

JA: and in fact, Dr. Finkenberg brought to HR and to Human Resources and to me in fall 2012, the, what’s referred to in policy as a third party sexual harassment complaint by eleven students who came to him as department chair to complain, to make a formal complaint against Dr. Gergley and the way in which he was providing content in a particular course and I was subsequently charged with investigating that third party sexual harassment complaint.

GS: Did, before that point had you met Dr. Gergley?
JA: Yes
GS: Before that point, what did you think about Dr. Gergley? Or do you remember or was there anything outstanding good or bad or indifferent about Dr. Gergley before that sexual harassment charge came to light, how did you feel about Dr. Gergley or did you feel anything at all about Dr. Gergley?
JA: Umm
GS: Now feel is not a good word.
JA: Feel is not a good word
GS: Feel is not a good word and I don’t want to use that word.
JA: OK
GS: Was there a problem in your professional, you’re the dean, was there a problem with Dr. Gergley doing his job, feel or no feel. Was there a problem in your mind with Dr. Gergley doing his job before 2010?

JA: Umm, I wasn’t here before 2010, but I will say as the dean I have access to all records and as incidents, especially beginning in the fall of 2012 were brought to my attention and I began to examine the records, there had been some concerns expressed prior to 2010.

GS: But you have no idea before, early on, so let’s say starting with sexual harassment, with the charge of sexual harassment, you had no plan to take this man’s tenure away from him? This was not planned?

JA: No this was not a plan.

GS: And there were not people who came to you and said this man should not have tenure before the sexual, in other words there is nobody out to get him, that’s what I’m trying to get. Is there somebody, is there some?

JA: Not that I’m aware of. There has been no-one that has come to me to insinuate or directly state that.

GS: So then we have a sexual harassment charge filed by eleven students?

JA: Yes

GS: and Mel Finkenberg walks into your office or you walk into Mel Finkenberg’s office and ya’ll talk, what happens?

JA: In that particular circumstance, Dr. Finkenberg first took the concerns of these eleven students to Glenda Herrington and HR, as per procedure.

GS: So procedure was followed? There is a procedure?

JA: Yes, there is a procedure.

GS: OK

JA: He talked that over with Glenda and then I was brought in and he shared the information with me.

GS: Dr. Finkenberg?

JA: Dr. Finkenberg shared the information with me.

GS: What about Glenda Herrington, did she come and talk to you too?

JA: I went to speak with her.

GS: about what you should do?

JA: About the process

GS: About the process?
JA: Yes

GS: Dr. Gergley says it’s a witch hunt, I don’t know I wasn’t there. Was Dr. Gergley, is there a way to be found guilty of sexual harassment, that’s really why I need to talk to Dean Berry. In other words, what happened, since it’s in the charge, seems serious to me, so was this resolved and put behind us, or is this an ongoing problem, that’s what I want to know?

JA: That particular issue that is addressed and investigation has been resolved and is over.

GS: Did Dr. Gergley admit that he was guilty and he did something wrong? Or does he maintain?

JA: The way that it works, is that the dean charged with investigating the claim, there are procedures to doing that. When Ms. Herrington provided those procedures, I did the work, I provided a report, the work included interviewing the students and interviewing Dr. Gergley. I put together my findings, you have the report.

GS: I do.

JA: I was, the requirements of the process it to make recommendations to make a claim of, if I believe there were, there is support for the claim of third party sexual harassment or not. I didn’t believe that there was, I stated that clearly in the report, I made recommendations then for how to address supporting Dr. Gergley and not repeating the actions that had been reported by the students that I found to be truth. We developed a plan, he was aware of that plan, we carried out the plan, which called for a year of monitoring, of classes, un-announced monitoring, we did that. We did the reports, we filed the reports, we provided information to Dr. Gergley and at the end of the year, we found that he had complied with the recommendations of third party sexual harassment report and that report then was closed.

KL: May I ask a question about this? The recommendations came December 13th, so the year of monitoring would basically be 2014?

JA: The year of monitoring began, spring 2013, summer, 2013

KL: OK, just that December 13, 2013 met with Dr. Gergley, notified him third party sexual harassment investigation....

JA: It should be ’12.

KL: Oh that’s ’12.

DJ: This says ’12.

JA: It should be ’12 excuse me.

KL: Oh, its different sheet, OK, I was just.

JA: No that’s my error, that’s a typographical error.

KL: OK

JA: So the monitoring was spring of ’13, summer of ’13, fall of ’13.

KL: and are there follow up reports at the end of that year to mark his compliance with?
JA: Yes

KL: Do we have those?

JA: No, you don’t have those.

KL: OK, I think I’d like to see those, if that’s possible.

JA: They are back in my office and I will be able to get copies to you later today.

GS: Dean Abbott, you may not be able to answer this, you may, it just may not, if this sexual harassment problem, accusation, process had never happened, would we still be sitting here?

JA: I think so.

KL: I’m sorry, one other question. You concluded the report during that same years’ time were there any course evaluations, any student complaints along those same lines, during that evaluation year?

JA: I can’t speak to student complaints to the chairs, the chairs do not share with me every complaint that they hear from students and so during spring of ’13, Dr. Finkenberg would have been the chair and the summer of ’13 was the transition between Interim Chair Buswell and Dr. Finkenberg, in the fall of ’13 was Dr. Buswell and she has reported in her earlier testimony that she received some student complaints during her year of serving. But I haven’t, those complaints, other than the incident you have heard in September and October related to Dr. Gergley’s behavior at a football game, had not risen to the level of the dean.

KL: So, Dr. Buswell, the complaints she received were about grades and course content, not about the inappropriate, or what some have termed inappropriate...

JA: Right, course evaluations do make note of the kinds of things that student complaints in November ’12 that the students used as concerns when they filed, when a third party sexual harassment claim was made.

KL: Would it seem reasonable though, especially with Dr. Finkenberg having known the history, if a complaint had been made you likely would have heard.

JA: Yes

KL: OK, so, thank you. Any other questions?

JH: I have one more, when does it get, sexual harassment, when does it go outside the university for any type of hearing or anything? Charges against him or? What does our policy say, is it just, just say for instance it continued to be a problem, would it have gone outside the university or is it just handled here?

KL: Damon is that maybe something

DD: It is our policy to keep it inside the university, the only occasion where we would go outside for example and have an outside investigator would be a situation where there was no supervisor that could investigate that level, so you’d be talking probably this floor. Something of that nature, if there was an allegation where we have to go outside. Continued conduct, if there was an allegation
of continued conduct it would be handled as an additional complaint and investigated with the same procedure that you just heard, with a recommendation of the finding.

GS: Can I ask Damon a question?

KL: Sure

GS: In sexual harassment, so you’ve got two people, one person, one party, in this case 11, they say this man has sexually harassed me, does that happen? In other words, do you know about that, is that something that you know about, is that a legal charge? I don’t know about criminality, I don’t know about civil, so if somebody does say Mark Simmons has sexually harassed me and I’m a student at SFA, is that what happens?

DD: We would require the individual to send a complaint, in other words provide us with some details that would establish a foundation for a charge.

GS: And if Mark Simmons says I didn’t do that, that was not my intention, I would never do that, my wife would kill me and fifty other things and I really mean it, sexual harassment, is there a jury that says you’re guilty, is this a legal proceeding?

DD: No not within our system, under university policy it can be investigated and either side at the end of the investigation you’ve got a report, you’ve got recommendations, that can be appealed to what we consider a discrimination review board, which is a panel of individuals, kind of like, much like the committee here, it is much smaller though.

GS: OK, so Mark Simmons can say, I want my reputation cleared, I appeal this. I can do that?

DD: Yes, either side would have equal right to appeal.

GS: OK, did this happen, was anything appealed?

JA: No

GS: and it is clear you have the option to appeal, you may not want to answer that, I don’t know?

KL: Was there, I’m not saying a rebuttal or?

JA: There is a rebuttal

JG: If I can speak I can answer several of the questions, excuse me.

JG: It’s not sexual harassment; it falls under the policy, students were subjected to sets of language, profanity.

GS: In the charge it says, what does it say in the charge? I don’t mean to interrupt but I am reading the charge, that’s why I’m asking these questions.


KL: In Dr. Gergley’s packet 3.d.1. it’s his comments back to the Provost.

JA: I included that in my packet.
KL: Oh that’s your packet, sorry.

JA: As you can see he provided a response in April.

KL: so is that what you are asking about the appeal?

GS: I don’t know.

JA: This is not an appeal.

KL: This is just his comments back addressing the charges, I don’t know if that’s necessarily what you would consider an appeal.

GS: If there’s an appeal process I want to know if there is an appeal, has an appeal been made or was this matter just permitted to go away, that’s all I want to know.

JA: This, there was, there is an appeal process, Dr. Gergley did not request an appeal, the recommendations and process connected to the investigation continued to its conclusion and then that matter was closed.

GS: and we’re not sitting in this room considering the revocation of tenure because of this sexual harassment.

JA: No.

GS: Or, is this a small part of the larger puzzle.

JA: This is a small part of the larger puzzle.

GS: But it’s an essential part or not?

JA: This is, um

GS: In other words if this part weren’t there would we still be here.

JA: yes sir.

GS: OK

DJ: Would you like to finish what you were going to say?

JG: I’ll address that but just for, since I said something, it was an issue through protocol and Dr. Rudolph was unannounced at every one of my classes, every week for an entire year, essentially and I’ll just speak. I may be the only person in this room who can make this statement honestly, I am confident that I haven’t violated the sexual harassment policy on this campus, because I’ve been investigated and supervised for an entire year, case is closed.

KL: Any other questions for Dr. Abbott?

GS: After the sexual incident, going on a timeline? So the sexual harassment is over? Are the process all of the paperwork, is done, people go visit his class, the policies are complied with, or that started, and then what happened next? Let’s see what was the first thing that happened? Did he miss class, he didn’t go to class or was the football game, let’s see what happened next?
JA: The football game, the incident at the football game occurred in the fall of 2013, which was the last semester of his being monitored for his courses related to the sexual harassment complaint. So there was an overlap there. The sexual harassment monitoring continued through December of 2013.

GS: But so far we haven’t missed any class?

JA: Right.

GS: So far, we are going to class, we are turning in grades, some students like Dr. Gergley, some students don’t.

JA: That’s right.

GS: We’re rocking along and then we get to, and then what happens? And then we get to...

JA: Well in the fall of 2013 we had the incident at the football game, followed by the student who was one of the individuals, a student who reported his behavior, feeling retribution or retaliation by the statement that Dr. Gergley said in the hallway and her feeling uncomfortable about that and reporting it. So that was during the same time that he was in his last semester of being monitored related to the sexual harassment report.

CA: This is Charlotte Allen; this would be the fall 2013, the semester where data was also not collected for?

JA: Correct. This is the fall, this is the fall where we have a new interim chair that I’m trying to provide an enormous amount of support for as a faculty member steps into a chair’s position to provide that leadership during the gap between a formal chair, Dr. Finkenberg who had been in the position for over twenty years and the new chair and so I was involved in what was going on that department. So that occurred as an overlap and some other professional responsibilities of faculty being, in my view neglected. Then came spring of 2014, where there is still examples of neglect of professional responsibilities and I had said a little bit earlier, about smaller issues of professional responsibility versus large issues of professional responsibility. The spring there were a number of small issues of neglect of professional responsibility.

JA: Come summer, a big issue of professional responsibility occurred, a contracted faculty person for additional compensation in the summer, in the middle of the term became unavailable to meet class, which chased in a whole other level of work and response on behalf of faculty in the college of the chair, faculty and me, hence the university. In, then comes fall, one week after the, within the first week of fall classes, another large incident of neglect of professional responsibility, faculty member becomes unavailable to teach in classes and to provide the service requirements and we step up, yet again to meet the needs of the students to support the faculty and the department and the requirements of finding faculty and to, you know, fill that gap. One of the ways in which we have done that, besides finding actual faculty to teach the classes and another faculty person to serve on the university committee, was to develop a meaningful and respectful reassigned time and tasks for the reassigned time for teaching and for some service, in anticipation of Dr. Gergley returning to work.

GS: And this was not in your view, punishment, this was in fact just the opposite.

JA: Absolutely
GS: Another chance, let’s get this fall rolling, let’s do right, it was in no way punishment?

JA: No.

GS: It was a favor?

JA: No it was not a favor, it was not a favor, this is policy and it is what we do for our colleagues.

GS: So this is expected, in other words we’re going to fix, this is a helping hand, in other words this is?

JA: Yes

GS: Yes

JA: If a faculty member, for whatever reason, we have in the COE, we have a number of faculty who request reassigned time, reassigned duties for teaching and every semester. When they make the request, they are putting together a proposals of tasks that they will complete, that is reviewed at the front end, if approved they get whatever reassigned time they are requesting and generally it’s one to three hours, occasionally it’s up to six teaching hours, but generally one to three hours and then during that semester, they do what they say, they’ve agreed to on the reassigned time request form. We assigned a reassigned time task list in anticipation of Dr. Gerlgey’s returning because he is a faculty person under contract, he is receiving a salary, we are we felt it was in the best interest of our students to not, to keep as stable as possible, faculty who was presenting classes.

GS: So it was not the case that Dr. Gergley was given a task that could not be done with the reassigned thing?

JA: That’s correct. The thought, the belief, the plan was to identify tasks that were meaningful to the department and manageable but a tenured associate professor in the length of time that we anticipated would be remaining in the semester. So as September was going along, we received additional information, his attorney, the county attorney and could anticipate when he would be returning to work and we wanted to be ready to provide him meaningful work that was respectful of a tenured associate professor in his field, that he could contribute to the department to earn his salary. We felt like we did that. We anticipated, by his agreement and signature that he felt that was appropriate, that those tasks were appropriate as well. At no time, am I aware did he return to the chair and say, I think these timelines are not appropriate, I think this is too much work, I don’t think I can get these things done. That kind of conversation, as far as I know was never entered into by Dr. Gergley with Dr. Murgia. My understanding was that, in October when he returned to work and was presented the information, he agreed that that was reasonable and set out to meet those expectations. We had put into the reassigned time listing a, I thought requirement, but I wasn’t acted upon in that way, close contact between Dr. Gergley and Dr. Murgia, requiring him to meet with her every week to talk about progress and to help things move along. It is my understanding that he did not do that.

GS: So that was, there was a day when you and Dr. Murgia met and talked and said we need to come to this and we need to not talk about the revocation of tenure?

JA: I did talk to her about that, that I talked to my Provost about that, I talked to my supervisor about that, so.

GS: Did Ric Berry go to you or did you go to Ric Berry?
JA: I went to him.

GS: So you initiated this conversation?

JA: I did, yes.

GS: You feel it’s your job?

JA: I do.

KL: Dr. Berry will be here in a minute.

GS: Although this is not a happy task, do you feel you’ve done the right thing.

JA: I do.

DJ: Was there any statement to Dr. Gergley about, if you don’t do these reassigned time duties in a specific timeline, like what the repercussions would be, did y’all specifically talk about it verbally or in an email?

JA: No.

DJ: And in your experience as a dean, when you have mentioned a lot of people do the time reassignments, is there ever a problem with people, like finishing their tasks on time and if so, like how do you kind of work with that or can you fix that if they don’t finished their reassigned time line in time.

JA: They then have to complete, yes there are occasion when faculty who have proposed duties or tasks within their reassigned times, miss that target and so they are held accountable for what they claim they were supposed to have accomplished given that time frame and they are able to do that on their own time, but we do set a deadline. So they do not get additional reassigned time to complete the original reassigned time but they are responsible for meeting those expectations and I work with them because the report, the reassigned time comes back to the dean and then I have to send them on to the Provost. So I am held accountable for faculty's request for reassigned time and their progress on that.

CA: This is Charlotte Allen, obviously you have in here that January 2014, Dr. Gergley's administrative evaluation for 2012/2013 was really unsatisfactory, you signed off on it, the chair signed off and Dr. Gergley signed off. Obviously even at that point he was rated unsatisfactory is it fair to say that the COE was still planning to have Dr. Gergley as faculty member? Obviously you had summer and fall schedules going in, he was scheduled for teaching, not just as staff but he was scheduled for teaching and had assignments for the summer and the next fall.

JA: Yes, the policy as you may be aware of, we have a policy at the institution that should a faculty receive two unsatisfactory administrative evaluations within a three-year period, it initiates a post-tenure review. This was the first unsatisfactory administrative evaluation that Dr. Gergley had received.

CA: and I looked over the evaluation and it shows that there were no notes added to that evaluation.

JA: That is correct.
KL: You mentioned it is not uncommon to have workload reassignments, three possibly six, for this semester we’re talking complete reassignment? No courses were taught by Dr. Gergley?

JA: That is correct.

KL: So that would be nine, twelve hour reassignment?

JA: That would be a twelve hour reassignment.

KL: Any other questions?

CG: I have a question, I don’t know if this is, Christina Guenther, School of Music, College of Fine Arts. It seems to me a lot of this is alcohol related, my question is, I think that, people call it a disease, I think that, under mental illness, like anorexia or something like that. If this was a different kind of disease, like cancer, are there methods in place because somebody going through treatment like that would also be not available, could there be measures in place to deal with something like this?

JA: The university has a policy related to mental illness and disabilities; Dr. Gergley has not claimed any illness or disability. When faculty make the institution aware of their needs related to long term illness or disability, the university works with them for accommodation that are appropriate and are within the law, Dr. Gergley has not brought that to the attention and I would just have to say that, you know the efforts that I have been trying to make today and in the past are really focused on his willingness and ability to do the work of a tenured faculty person and not his personal issues.

KL: But yet those have an impact on his performance.

JA: Yes they may, it's important as a dean, its important as the person to care for others, I care about Dr. Gergley. We have had many interactions over the past, some that were hard to have but he has, in that sense, has been a good colleague and faculty person because he would engage in discussions about hard topics. I, my role as dean is not to control people’s personal actions outside of work and in fact I try not to control a whole lot of professional actions, although most faculty in my college would say I am very controlling, especially around issues of accreditation accountability.

GS: But that's your job.

JA: But that's my job. But I know as the dean that my job is not to be in the professional life of an individual faculty person and I have worked to stay out of the professional life, although I do have to acknowledge to you that Dr. Gergley and I share our content. I have two degrees in physical education, exercise and dance. I have a bachelors and a masters. I served as the director of a fitness center. I have been, I’m an ASCN exercise technologist. Many of the, much of the knowledge that he has and certainly the professional life that he leads in content, is con.. is knowledge and lifestyle that I've led in my earlier days. So I have intense knowledge about what’s going on and care about kinesiology and health science and certainly care about faculty. But I also have a responsibility to students and I have a responsibility to all the faculty in the college and to try and to lead the college and manage the college in a way that’s right and I believe that, particularly in the last two years, Dr. Gergley has not been providing, acting in a way that a tenured associate professor should be acting and has neglected his professional responsibilities and the big issue is his unavailability to teach his classes and the smaller issues an example of a preponderance of evidence a pattern of activity, particularly in the last two years that has, that I believe are showing that he is not performing the
duties of a tenured associate professor for SFA. It is not in the best interest of our students that he be continued as a tenured faculty member.

JH: I have a question, Hensarling, from Nursing. What about the alcohol issues, has, that’s mentioned throughout here so has he been, have they done any alcohol screening on him, have students reported that he had alcohol on his breath?

JA: The institution has not done any screening; questions about his use of alcohol during the investigation of the third party sexual harassment were included in my conversations with Dr. Gergley, who denied abuse of alcohol. The incident on the, at the football game, the police report, the UPD report as well as the staff and student report suggested an impairment related to alcohol. I spoke with Dr. Gergley about that, I urged him to be careful, seek help; his response was that he doesn’t have a problem and that he wasn’t impaired at that time.

JH: So can we, this is a lawyer question, can we ask him about the detox that he was in?

DD: You can certainly ask whatever questions you deem to be relevant, if during the process of your deliberations at the conclusion, if you have any questions about whether or not you guys in your capacity as a committee can consider certain aspects, then I will advise you then.

JA: I do want to say that I have asked him about his alcohol use or mention alcohol use over time, including the two meetings we had in October of this year, upon his return to work and asked him to share with me what had happened in the summer and what led to his being unavailable to teach his classes.

KL: Any other questions?

DJ: In your, to your knowledge in his last semester of teaching had his student evaluations been positive? Like since the, like after the concerns of the sexual harassment and cussing and being insensitive like were there any comments made since that time about alcohol or cursing or being insensitive?

JA: There have been no comments on the student comment section on the student evaluations from the spring of 2013, 2014, 2014 that referenced the use of alcohol that referenced the use of profane, profanity. There have been some comments about, certainly comments about the nature of his teaching, some of comments were quite positive; many of the comments are not.

DJ: Do you know the average ratings or anything off the top of your head?

JA: Most of the ratings are in the 3 to 3.9, a few that are in the 2’s and a few that are 4.

GS: Dr. Abbott are we here because of student evaluations? Is that why we’re sitting here because he gets bad student evaluations?

JA: No

CA: Dean Abbott, this is Charlotte, would you say that there are situations in the classroom where a professor would touch on very sensitive topics that the students might not think they need to know about, but as someone who is a professor who is qualified in that area, a professor might know better what material they need to learn in certain situations.

JA: Yes
JH: There are ways of presenting things to people in a, I guess, a more acceptable way than maybe using slang or hurtful terms, I’m just making a statement.

DJ: Was he able to use any, did he have any personal days that he could use while he was away from teaching classes?

JA: All faculty earn sick days, personal days, each month and all faculty are eligible to claim those days, with approval from the chair.

JG: I’d like to qualify; I didn’t ask for permission, I said I had to use my sick days.

CG: Oh I see.

KL: Any other questions?

GS: I’m sorry I couldn’t hear you down here.

JG: I did not request the time that I missed in the fall while in jail, incarcerated 21 days, it’s been reported as 32 earlier, there were 32 days, 21 work days. I did not request that, to use those, I used those after the fact; once I got back I did my leave report.

GS: Did you consider that punishment or that’s just the way they’re going to have to do this in order to keep paying me?

JG: No, I’d accumulated them, I may as well use them, I’ve been here fourteen years.

CS: One more question for clarification, Carolyn Stufft, Elementary Ed, we have information that January 6th, 2014 there was a vehicular collision resulting in arrest and jail time, were days used for that as well?

JA: Not that I’m aware of.

KL: That was over Christmas break.

CS: I didn’t know how long that had lasted.

KL: Any other questions for Dr. Abbott?

CA: I have a question, this is Charlotte Allen, obviously there has been two situations where the COE has had to put in and clarify this for me, a significant or moderate amount of input to find qualified faculty to complete Dr. Gergley’s classes in the summer and fall. Moderately difficult to find, hard to find someone?

JA: I would say easy to moderate, in the sense that, we because colleagues in the department are qualified to teach classes for which he is usually assigned.

CA: So he is, in certain instances there are other faculty members that teach these said classes?

JA: Yes

CA: He’s not the only person.

JA: He is not the only person and in some of those instances, faculty, his colleagues were willing to step up and take on those courses.
GS: Would that mean they teach five instead of four?

JA: Yes, four that would mean that they would teach additional in the summer for additional pay and then we have, in our, in that department, graduate assistants who are getting advanced degrees in the content area and they have some expertise. That’s what Dr. Murgia spoke to, they had some expertise and we were supporting them and being able to teach lower division undergraduate classes, with support from the faculty.

CA: But it would be fair to say, especially this fall semester there was at least one faculty member that had an overload?

JA: Yes, related to this. But when you hire new people in after the semester begins then there is all the requirements of making sure they have all of the paperwork, that they are eligible to teach, that they are qualified to teach, we have an EPAF that we have to do, we have to work with payroll and HR because it's out of their sequence, it goes against their time, not against but it's out of their time frame for how the EPAFs and the paperwork is to be done and it creates then, challenges. Hiring and then the payroll and then, there is just a cascade of things, we do this all the time, this is the work of the institution and we all have our part to play but Dr. Gergley unavailability to continue his teaching, created extra work for colleagues within his department, graduate students, department staff and administrators all the way through HR and payroll and so on and so forth. A lot of extra work and I must say we accommodated him; that is the right thing to do. It is the right thing to do for the students for sure, but it’s the right thing to do for him.

CA: Thank you.

KL: Any other questions? Dr. Abbott? It is ten till noon and so I talked with Damon just a bit, the feeling is we have been here for a while this morning, that now would be a good time to take our lunch break. What time do you think we should? 12:45?

DD: Probably, Dr. Berry is going to be here at one so, so maybe just five or ten minutes before one, it won’t take long to.

KL: and when we reconvene, we will hear from Dr. Berry, Dr. Abbott will still be with us and then after we hear from Dr. Berry, we will hear from Dr. Gergley this afternoon as we finish out this part of the.

DJ: So we expect this will take the rest of the day probably? Shall I go ahead and, potentially tomorrow too, or should I? How much of my schedule do I need to go ahead and shave off for this?

DD: A lot of that will depend on the committee and how many questions they have for Dr. Berry and then the presentation of Dr. Gergley.

DJ: If it does go over, for more than today, will it automatically be tomorrow, or will it be Thursday.

DD: Probably, yes.

DJ: OK

DD: I would hate to have too big of a break because if there was, you know any kind of.

JG: I can’t predict the number of questions that you will ask me and how long that will take but I think we’ve covered or we are all very familiar with most of the facts and won’t have to revisit them necessarily. I have taken notes along the way on what we have covered so far as well as I have my
own, there are several exhibits I’d like to introduce that I think are critical, establishing myself as with history on this campus, but I don't anticipate that we should go beyond today. Now I'm not sure what the responsibility of the panel would be, you guys have a different job. I’m only here to speak on my behalf.

DJ: Thanks

KL: Right well we dismiss till approaching 1 o'clock.

CA: I have a question, can we, is this going to be locked up, can we leave our stuff here or should we take it with us?

DD: Go ahead and leave your stuff, I will ask Rickie to lock the door.

Part 3:

KL: Right we are resuming our hearing it is 1:01 in the afternoon and we are welcoming our provost, Dr. Ric Berry to the hearing and I believe a question from at least one of the committee members and maybe more, so if you would like to

GS: Dr. Berry, you are mentioned in the charges mentioned in connection to sexual harassment, can you tell me about that, can you tell the committee about that process?

RB: I don’t remember specifics of this one, we a number of these over course of a semester or an academic year. Some results are different from others but, I don’t remember the specifics, but the process followed is virtually always the same and that is that the report is made, it goes to the dean, the dean reports that to the general counsel, to the HR director and generally to me. The dean does the investigation, talks to the relevant people, looks into things, talks to the accused, talks to the, whose who make the charges and then writes a report, in which she makes a recommendation and then I read the report and either concur with the conclusions and recommendations or not, depending on the situation and that's the process that was followed in this case.

GS: And so the problem was resolved?

RB: I think all of the recommendations were fulfilled.

GS: But if there had been no more problems with Dr. Gergley and his performance that would have been the end of it?

RB: Oh yes.

GS: OK, that’s what I wanted to know.

RB: Yes

KL: Any other questions for Dr. Berry? Would you like to say anything? Dr. Abbott would you like to ask any questions?

JA: No

KL: Dr. Gergley would you like to ask any questions. OK then no questions, thank you.
KL: and with that Dr. Gergley?

JG: OK, I may lose my voice here a little bit. In the, thinking about time and as I just eluded to as we finished prior to our break

CA: Can I say something real quick, this is Charlotte, I know that we all have a lot of things going on during this time period, but as a committee we, I don’t want you to feel hurried about presenting the case.

JG: Ok I will not.

CA: OK I’m just saying that, you need to take, this is important; you need to take as much time as you feel that you need.

GS: I agree.

JG: Point taken. With that being said, the point I was going to make is that I am going to address some of what has been covered so far, that I think needs a little, needs to be clarified a little bit, maybe from seeing it a glass half full versus half empty, so to speak. I have my own exhibits I’d like to go through, evidence of some of the things I disagree with that have transpired so far, ok.

JG: But before I do any of that I’d just like to give a little bit of history in terms of, I think it will fill in a lot of the areas as we go. A little bit about me, it’s not a job interview nor is it me promoting myself necessarily, but what I’m going to discuss deals with something the dean would be familiar with, in that I did go for full professor while she has been here. She would be aware of some of these things, beyond the sexual harassment charged that was opened and closed that Dr. Berry just discussed.

JG: I have been here since, I started my contract mid-year back in the academic year of 2001/2002, Dr. Finkenberg and I spoke on the phone and I sent him my materials and I explained to him that I had finished my data collection for my dissertation at the University of Central Florida and I was ready to go and they currently had an opening and I applied, obviously through the normal procedures, and I came in January so I started mid-year at SFA and finished my dissertation by flying back to the University of Central Florida. During that semester, it did come up as the dean closed that it is common for faculty members to step up when someone else is absent and for that reason it just happened by luck in our department, Carolyn Mitchell decided to retire un-announced that particular spring, 2002 and I took her entire course load which was totally new preps for me, teaching outside of what I’m really trained to do, although I have versatility and so I stepped up in that. A couple of other examples, Dr. Faries recently retired, I took up his course load without being asked so, my interim chair, who we have seen today, Dr. Buswell, she reassigned me courses as senior course a faculty member with more seniority than for somebody coming in without asking, which bothers me but I acquiesced and took Dr. Faries’ course load which, two of those classes were a class that I hadn’t taught in ten years. Not something that you would normally do to someone with rank and to someone coming in from another university, in my opinion.

JG: Another time I stepped up, Dr. Shows had a heart attack and I took his class from his incident his MI took that to closure of the semester, so I’ve I guess am welcoming the favor with my own situation here but I have contributed over the years in filling in for other people along the way and I also mention that I always teach an overload every semester, every single semester I have 13 hours in my load and yet I am only being paid for and my load is only 12 teaching and I have taken on more than that with, for example when Dr. Mood also took a semester off and he is scheduled or he was scheduled to teach a personal training certification class which is important for our students
when they, to graduate, that they have certifications for employment viability and their plan on taking a prep course so they can go and sit for the exam, I ended up taking that class which is a comprehensive look at fitness, way beyond personal training exam, it was new prep for me but that is my area so I had no difficulty with content, content, in that area, but those are the examples of where I have stepped up when the department needed it and was willing to do so. I had known Malzier along the way and his respect and as we had retirements and he would ask me things like, what direction do we want to move in? and I’d say as people retire, pedagogy, physical education pedagogy is becoming less and less prevalent, especially when it’s not required, physical education is not required in the state of Texas, so we need to shift gears here and go more fitness and human performance, I was on all the search committees leading towards what we have now as a tremendous core of exercise scientists. All of us have a common background in exercise physiology but with Dr. Faries on a more on the psychological psychosocial aspect, his contributions to any research, Dr. Whitehead mechanical aspect, he is the director of our lab, Dr. Jones on the metabolic side as well as the thermoregulation and myself neurological as well as strength conditioning. I don’t want to and as I started here, I don’t want to talk about, toot my own horn sort of thing, but one recent accomplishment that I really am proud of that contributes to that program, is I wrote a course for it called Fundamentals of Strengthening and Conditioning, KIN463 it’s a requirement that was not in the original design and I am proud to say that the instructor who is teaching the course has decided to use, what I consider to be the best ref, or best resource of information for strengthening and conditioning across the world, written by Bill Kramer in his latest edition in chapter five, he lists one of my papers that I presented in Las Vegas in 2002 as a, and the publication, and the subsequent publication as a must read and includes me in the data tables for studies to read in that particular area. I got a lot of press from that, so you know I’m not tooting my own horn there, but that’s something that recently I feel like I’ve hit the map a little bit, is for him to put me in his text book which is considered to be the bible of strengthening and conditioning, if you will. Sorry about the religious, religious content there or alluding to that. Hey I’ve done an awful lot here at SFA since then and as far as stepping up when needed; I have always been the first one. Mel and I had a long standing relationship, I said I have a bachelor’s degree from the Warrington School of Business at the University of Florida, I can teach anything with the legal aspect and that’s why I ended up with the administration class. I can teach sport pedagogy because I have a master’s degree in physical education, I have a doctorate in curriculum instruction, with a specific content in exercise physiology, essentially I can teach any class in our department, with the exception of special, special education, which would be Dr. Buswell’s expertise and would be willing to do so if asked, but as I referenced earlier, I wasn’t asked. I’d like to kind of get back to the courses that I would, that are along the areas of my line of research as opposed to doing what’s necessary, which I have been pretty much for the better part of 13 years, so that’s really my teaching.

JG: As far as service goes, for scholarship, I’ll go ahead and go in order, I’ve had four really good papers, five national presentations that I’m very proud of, all within a pretty short period of time, which is why I felt confident enough to go up for full professor, although denied but I, the area, what I was disappointed about in that particular, in the response was that I needed to work on other areas instead of scholarship, whereas historically it had been in order to go from associate to full, you really needed to focus on your research, which I did, and I didn’t end up, but that’s really a different issue but I have been very active in that area since I’ve been here and proud of what I have accomplished in my time here and I’ll compliment the university for, with the internal help that we do get over the years, especially when space became available, I wrote some grants and internally they got us some of the equipment that is over in the annex that used to be in the early childhood center. And more germane to what we are talking about today here and why we are all sitting here, is in the area of service. I think it’s important to point out that my first semester setting foot on this campus I was handed a rejoinder for NASPE, National Association for Sport and
Physical Education, which is our SPA, specific program and which falls under the umbrella of NCATE, which has been discussed earlier. I took charge of that committee my first semester here on campus and I was handed a book that had a link between, it had the course number and it had the standard referenced, that was it, no verbiage, nothing. In other words, I pretty much started from scratch at SFA, I chaired that committee and wrote the report from 2002 – 2008 and we were accredited with conditions, we were accredited all the way through, so eight years, so I am familiar and I am supportive of the accreditation process and I chaired and written those reports, I hope that the committee is confident in that. I stepped down from that job of eight years when we had a new professor come in who needed service and I served on the committee, I just didn’t chair. Well Dr. Smallfield who is no longer with us for other reasons, we were not accredited during those two years of time, not even with conditions, so Dr. Smallfield was terminated for reasons that I couldn’t tell you but he was terminated and Dr. Finkenberg asked me to chair the committee again, I did. I did two years until Mr. Goodman took over and during those two years, the second two years, Dr. Buswell was on that particular committee with myself with me chairing it we were accredited once again once I took a leadership role in the accreditation process. So once again I want to state this and repeat it, I have been active and I’m very aware of the importance of accreditation not only at the college level, but also at the department level, ok and far as if you guys want to, this may be a question that you will ask but I’m here to tell you what I know and what I believe perceive to be true. During those last two years I served as chair, there were differences on the committee as there always are as to what direction we should go in terms of meeting deadlines and what we needed to develop or change to improve. We already had the system in place, which I will talk about in one second here, but we some of us differed about what, should we move forward or not and I had to take charge at one point in time, which did not make Dr. Buswell happy in that, I said look we’re going to do it on this date, these are the deadlines, this is, or I’m quitting again, I’m the only one with the password, I go into the main frame, I need everything to me by this date, I’ll look at it, I’ll print it out and read it, proof read it, etc. and then I’ll attach each file in on this particular date and if there is, if you guys are detecting or maybe perception from her evaluation of me, one unsuccessful evaluation in 24 years of teaching, one, was under her watch, if there is anything there, it would have had to have come from me essentially saying I’m the chair and we’re going forward, somebody has to make a decision, ok.

JG: That being said, I know the whole history of accreditation in the fourteen years I have been here. At the college level, a couple of big high rollers here on this campus these days, a committee at the college level, Janice Pattillo, Amanda Rudolph, Mary Nelle Brunson, Pauline Sampson and Jeff Gergley wrote the accreditation framework that we are continuing to follow, although very different in terms of some things, but the initial stages that all our programs are following originated from the NCATE umbrella, I served on that committee as we, while Dr. Jacobson was the dean of the COE, I served on that committee and of course we passed and are currently doing well under the leadership of Dr. Abbott as well. But once again, I don’t ignore or refuse as stated in the deans report, I don’t refuse to pay attention or neglect accreditation, my record speaks for itself in my leadership and the success rates of those committees that I have been involved in.

JG: Alright, the next thing I’d like to talk about here is the elephant in the room and I thank you for brining that up, alcoholism. In several interviews through some of my problems of the years of reference here, 2012 to 2014, alcohol has been discussed with the dean and I appreciate those, those times that we have talked about things that are difficult to talk about. As any addict, I am an alcoholic, as any addict will tell you that they don’t set out to arrive at that particular point, they are always in denial and when probed about my behaviors where alcohol was involved, of course I’m in denial and as I will get to this moment, this point momentarily I lived for quite a while, I’m just guessing, in denial that I had developed this horrible disease that I hope no one ever gets, ok.
JG: So the question that some of you may want to ask me, Jeff are you an alcoholic and I’m telling you today, I am and I’m proud to say I am sober almost six months now and I don’t want to get touchy feely on that but it’s not easy, every day is a different day, I’m in recovery ok. That being said, I have to just go back a little bit to address all of these statements of arrested again, arrested again, arrested again, there was one arrest and it was or not, excuse me there was one incident, I had a DWI accident in January on the 5th at 10.30 at night. I was not out carousing or doing anything that most people would think somebody was getting a DWI on a Friday night about, I was at home getting divorced from my wife and kids, we built a beautiful house out in the country and I’m, literally was worried for her safety and my children. I’m not spying on her but I said I’m getting in the car and I’m driving out there, just to make sure that the lights are on or they’re off and everything, and just me thinking that way, everything looked ok, I continued down the road and took a right, heading back out toward Appleby Sand, which is, its, I lived out in the country there, past Waterford, off Post Oak and four teenagers ran into me, I wasn’t even moving when the accident occurred. I’m not here to say that I’m not at fault, because I did have alcohol in my system and did test, the breathalyzer did have me there, which is why I went to jail on that particular evening. However, the accident was obviously going to be my fault because of the alcohol involved but I will state very honestly, I was not even moving. I pulled over as far as I could to the right, dead still stop, I saved my life by pulling my seatbelt and dove, diving into the passenger side before contact, because they weren’t stopping, I’ll leave it there. That led to a court date, a court date set for June 17th. Ok during that period of time and that’s why I put this scratched piece of, it looks like a calendar, this is what I keep on my office desk, it’s not my only one but it’s something I can make note, really quickly. During that particular point in time, my ex-wife and I, since she had taken another job out of county, she works for TABC ironically. She took another job in Conroe and therefore took the kids out of county and we had dual custody and we were going to change our divorce settlement, because it states very clearly that neither one of us could do that. We were going to meet, I had noodled some dates down there and one was actually, that we thought would work for both our attorneys, LeStracco and Tom Rory, anyhow, we decided not to do, to go that route and just be honest with each other and say look, I’m not taking them anywhere that’s going to be of harm and you’re not either, I don’t have a problem with you moving to Conroe and we left it there. Our divorce still stands the same way however, unfortunately I crossed the wrong date off on my little sheet here and on the 17th I’m teaching class and whatnot. On the 18th I’m at home after a day’s work and I’m sitting on the couch watching the afternoon sports shows and whatnot, and I had a knock on the door and it was two officers, there was a warrant for my arrest for failure to appear, OK.

JG: I end up, so there is a second arrest but it’s dealing with the same charge, a DWI in January. I go, I go to jail and at this point I’m probably and I know I was out of control, as a consumer of alcohol and the judge required that I go to detox and to rehab immediately, instead of getting out on, instead of being out on bail. He wanted me in rehab immediately. I did eight days here and that’s in your packet, I have when I was checked in and when I left, where I did intensive therapy once out of detox, where I, you re-map your brain essentially as to what alcohol is. It had always been something that was fun, that you did around social environments and whatnot, I think that’s what it is for most people. Whereas we learn that it is a disease, it is something that can cause you to do things that you don’t want to do and it, at some point consumes your life, which it had, it had become, at what point, I can’t tell you that honestly. I, you know speaking of denial earlier, I can’t tell you at what point it crossed over into interfering with other aspects of my life. The judge, who I had not had a chance to thank for that, since he’s still overseas, my probation and that guy I thanked but at some point I will thank him for the best thing that ever happened to me so far, other than maybe being born and my kids and that kind of thing, but he got me in rehab and I’ll tell you right now, I would not have gone without the court requiring me to go and after about two weeks of
skepticism, I started to, I knew I had a problem because of the physiological withdrawals I went through. But I started to see how alcohol fit into my enjoyment in life and how it was always a part of my life, in other words, I hadn't lived necessarily, I hadn't lived without it probably since, you know like any social environment or something I would, I certainly wouldn’t say I was ever physiologically addicted to it until maybe later, the later stages, but I came to grips with it, faced it head on and I’m glad that I did so and have been successful in recovery. And the one thing that I really want to point out here is that, OK, you’ve got all this probation stuff on you, so you have to be sober, which is the truth today. I’m standing here right now and have an alcohol monitoring device on my ankle, it measures every so often the temperature of my body, the alcohol content coming from my skin, I can’t start my car without going through a breath test and whatnot and rolling test, driving test, while you’re driving down the road, it tends to come right back on as I roll into the university parking lot, believe it or not each time. Anyhow, so I’m under, continuously monitored in fact my probation officers, she jokes about, that if anyone is worried about you drinking, that they, you are the most supervised person in this city, with all this, with everything that’s on me. That being said, the time that I checked out of rehab, which was a Friday, I went home to Nacogdoches, came back to the rehabilitation facility in Houston and I looked into living with sober men in, what’s called a sober house. For those of you not familiar with it, it’s essentially eight guys living in a house, $1600 a month and you get housing and food and you all do social things together that of course don’t include alcohol. It’s like a mentoring, or stepping stone. I went up there, I slept in the house one night and then I talked with my counselor and he wanted me to stay for two months and I said that’s going to interfere with my fall semester, I can’t do that. We went back and forth and I got to the point where I was like, you know I’m going to do this on my own because its, I’m going to have to do it on my own one day.

So I went back, in here it has my last day at rehab, which is the 21st it was a Monday, I drove home back to Nacogdoches.

KL: August 21st?

JG: July 21st.

KL: July 21st, I don’t mean to interrupt but can I ask the question.

JG: Sure, sure absolutely.

KL: You said he wanted you to do two months instead of one month?

JG: He wanted me to stay.

KL: Is there any, did he say why he wanted you to stay an extra month, or.

JG: He, if, in the clinical reports he, which I don’t agree with but he’s the professional, he cited that he felt like I was resistant, that I had, that I was resistant to the idea of being an alcoholic. Whereas, where I disagree with him is that, there was a point in time where I was probably early on but I, I made that peace with myself, yes you are and this is you, you, the sooner you accept it the better and I had moved forward from there, he didn’t see that, he thought it would be beneficial for me to have more of a transitional phase, ok where I still did classes and whatnot but that was his professional view.

JH: How long, if you don’t mind me asking, how long will you be on probation?

JG: Two years.
JG: Two years from my last release, I’ll mention that, I’ll try to bring that up, try to remember to anyhow. So I came home from, on this particular day the 21st July and lived alone, lived alone by myself without any surveillance for about six weeks, although I had taken some steps, like gone to AA meetings and some things like that, but it was from a, in other words, I was not under surveillance but still did not what? Drink. I challenged myself in the grocery store; I walked down the liquor aisle to test my strength, which is not recommended by the way. I purposely put myself in situations, I went to the Horseshoe Casino twice during that time frame, where the waitresses actually requesting that you have a free beverage, of course I denied, to test my own strength and I’m proud to say I, it made me feel great and it does to this day, makes, I don’t need this stuff on me, it’s about me and I had made that decision back in rehab.

JG: So that brings me to a meeting with my attorney that I had complied, what got me out of, the reason I was out a free man prior to court date, ok. My new court date from the one I missed, just so we are clear, I had a court date and I failed to appear, messing up a date ok, with my ex-wife, ok. My next court date was set for October 1st, well here I am and I’m getting ready to start a semester at the university and I met with my attorneys the third Thursday before they picked me up here on campus to start strategizing about plea, my plea for the charge, which was scheduled for October 1st. I was going to plead not guilty to the DWI misdemeanor, not a felony, a misdemeanor. I was going to, my intentions because the blood work and the analysis that was done on the blood work, there were three problems with the test of the blood, three. Duviscus, which means not enough blood they had to add saline to it, it had been eight days, there were a lot of problems, if you know anything about scientific research, that’s a damaged sample, therefore you cannot convict on a damaged sample. I’m not going to sit here as an attorney but, I like my cases, or I like my chances on that one with a jury. That being said, however, that would cause me to miss until my court day which was October 1st and I’m thinking about the university the entire time, I’m like I can’t do that, I need to be out. The judge claimed that I had failed to meet the conditions of the bond, if you see the second exhibit here, it is a letter from my attorney here stating that I was at his office actually and we were discussion my case and that we were going to try to schedule a meeting with the district attorney, the county attorney early the following week dealing with the only condition of the bond that I hadn’t met and that would be the scram device that I would, to wear and one of the reasons why I think, I can’t speak for you but, to put it on is $455 and every month subsequently it’s $360 and I, I felt it would interfere with my teaching, especially in physical education where I need to wear shorts to demonstrate things, so this is something we were going to discuss with the district attorney, or I keep saying district attorney, county attorney. However, that meeting never took place obviously because they issued a warrant for my arrest and they came and got me here on campus.

JG: Dr. Murgia, which we’ll talk about in a little while here, she mentioned that it was a day of lost learning in the building because of what had transpired, and you can thank, you can thank the county attorneys for not considering the university in that because it was on the table for me to go, on here, let’s talk today. I was in my attorney’s office, can’t do it today, let’s do it next week, it’s in their court. They knew they were coming to get me. So if there is any concern about the knowingsness of whether they were going to pick me up or not it’s not debatable. They were going to come pick me up and did not consider any loss of learning or embarrassment to the university and I’m very surprised, I’ll leave it there. My attorney, if you read in his letter, he went a little, he went further than I, than I had expected, but I was simply asking for him to document that I was not ignoring the conditions of my bond, but I was hesitant to get the scram device because of the
aforementioned comments I've made, the expense and I thought it would interfere with my teaching. Nothing to do with being under surveillance 24 hours a day.

KL: Two questions Jeff, the opening of that the letter says that we received a phone call on or about August 28th, was it the 28th or what date was it?

JG: I went to meet with them on the 28th and his, my recollection is that they had just got off the phone earlier that morning.

KL: OK, the next paragraph talks about the condition of your bond, was the scram device just that? Was it part of the condition of bond?

JG: Yes, but if you read further it's that, and this is where, this is where it's more of a legal matter, it did not state that any of the probation, the conditions had to be met immediately.

KL: Right

JG: And this was what was under debate from my bond, the judge decided to rule against, against myself and that's why I spent that time in jail. Now I did, through this process, the following week, I did plead guilty to a charge, although I had planned on, my court date was not for a month. So I would have been in jail for a month and then got a trial date to say not guilty and then I would have had to go before a jury, I may have been in jail for, I don't know what the court docket is like here, but it may have been four months, six months, before, I'm still in jail. I made a decision with the help of my attorneys that it would be better to get out as soon as possible, therefore I pled guilty, I pled guilty to guarantee that I would get out August 30th.

JA: September.

JG: September, sorry the dates, and I thought about it and I thought about it and I thought about it and I was like yeah I really hate doing this but, it gets me out sooner, I get back to work sooner and leave this behind me ASAP and, so I did, I scheduled a court date.

JH: So who recommended that you go ahead and charge, accept guilty charge?

GS: I couldn't hear that. I'm sorry.

JG: There were, the county had put on the table as a please that they would allow me to have 30 days jail time, which would put me in jail till the day before my court date, essentially I would be in jail anyway. They put on the table that if I would agree to two years' probation and plead guilty that I would, that I would be released after court on the 30th. That, the ultimate decision was mine, I had advise of course and I had to weight my options, but I decided, it was best for myself, best for the university for me to get out and get back to work, instead of sitting round and waiting here for the court docket and not knowing that I had even, that I would win my case or not and the maximum charges for that, for a misdemeanor of that nature is one year in jail, state minimum I believe is 90 days, which would have been tacked on. So I would have, the way I looked at it was like I'm out in 30 days with probation, which I don't have a problem with other than the expense because I'm not drinking, I've beat that one for now and I can't say forever because it's a day by day thing. For a recovering alcoholic, does that answer your question?

JG: So, that being said, if my first charge against me is missing time and that chronology there is based upon, me missing a court date and then, then that's the summer aspect, me going to rehab there and the second part is me going to jail for not meeting the special conditions of the bond,
which would be only one, which would be the scram, which we were scheduled to talk about, or trying to schedule a meeting prior to me being picked up.

JG: My point for bringing both of these up, I went to rehab based on a court order, which I can’t control, I went to jail and was going to stay in jail until my court date based on a court order. Got out sooner than I would have, based on my decision to plead guilty. All considering what would be best for myself and the university. And the first, the first phone call I made by the way, was to, I called, I get one phone call, I called my mother and I made sure that the first phone call she made was to Dr. Murgia.

CA: Dr. Gergley, and you may not want to answer this. What were the conditions of your bond?

JG: That, it’s essentially, it dealt with going to rehab and then to, once you’re out to get these surveillance devices, but not immediately, it does state, there was no specification for that and then your court date, stays open until your court date on the first when I was going to be tried. I did get a breathalyzer installed and I, not a question of the law but I’m in no position to do so, but I think that’s a fair special condition of probation, the crime I committed dealt with using an automobile under the influence, I don’t have a problem with that, with that particular aspect of it. I did have a problem with the scram, I still do, not only is it an expense but it’s convenient, it’s expensive, I can’t wear shorts. I got to teach and I will state that the county attorney did not know the expense of it and has openly stated not with a specified time but has openly stated to my attorneys that I’m not going to have to wear it for the entire time because of the expense and he was not aware of that. His words and I’m paraphrasing were, let’s see how he does with it, if, in the beginning and we’ll consider maybe getting rid of that first, and I’m certainly open to that but it, just in principle, I’m a man of principle, it has nothing to do with the crime that I was charged with and that I am being prevented from doing again with a the breath thing, it’s dealing with freedom in my view and as a side bar this is not my thought process this is just to play devil’s advocate, if I want to kill myself I should be able to, which essentially what alcoholism is. It is, you are slowly killing yourself that should be by choice not by a device.

KL: If I could ask a question?

JG: Sure.

KL: I’m kind of at the timeline of the missed court date, in this charge that we got, in the report from Dr. Berry it says June 18th, 2014 arrested as a result of failure to appear in court on June 17th. Then it goes on to say, has not participated in an inpatient rehab as was negotiated in January.

JG: To my knowledge the conditions of my bond, which was immediately after taken to jail on the 5th, I got out on the 6th, there were no, the bond conditions were, that I was to be released and show up by court, show up in court on the 17th.

KL: and you don’t happen to have a copy of that?

JG: I probably do at home somewhere, but it’s not, I haven’t provided it as something I thought would be critical.

JA: I’d like to state that, that information, I wrote that information.

KL: OK
JA: and that came to me directly from Dr. Gergley, who told me in one of our meetings in October that, that was a condition of the bond, so that was information that was reporting in that report that was reported by him.

KL: Well again, to have the document would be helpful to us.

JG: Well, maybe I, the condition of the bond after rehab was that I attend some out-patient

KL: and that was in January, the bond?

JG: No that was, the bond in January, to my knowledge there was no, there was no, there were no conditions to the bond other than I had a court date on June 17th.

KL: OK

JG: I could be wrong on that but,

JA: I suppose I could have misunderstand, stood what you had said in that meeting, but I didn’t bring my notes.

JG: The conditions were, once I’d been to rehab to continue with out-patient, and for those of you, maybe this is news to you but our insurance does cover one on one counseling twice a week and when I did get out, when I first got out, my mother encouraged me to do, to take advantage, at Crossover Counseling right over here, I called them twice and got the secretary who said none of the counselors are available, but I did at least make an effort to call. But I did attend several AA meetings, I have a chip to prove, at 60 days we get a, you get awarded for certain iconic dates and I will state that when I was in rehab I was like jeez, she just got two weeks, I was like on my third day and I was like, that seems like forever, two weeks. And I’m approaching an iconic date, which will be the 19th, the 19th June, a couple more weeks and I’ll have a half a year under my belt. If you had asked me that six months prior, I’d say I don’t think I could make it, but here I am. Did I answer what you?

JA: Yes sir.

JG: OK, so my time away, my time away, hopefully I provided enough evidence that it wasn’t by choice, nothing I could prevent in fact I was really on, kind of a pain a little bit initially to the court system because I was emphatic that I need to get out and get back to teach because you can’t do this and I pled guilty to a charge that I didn’t want to because it would get me out sooner. Alright, speaking broadly, other charges against me, classroom behavior, I’ve always been kind of wide open when I teach, it comes from my personality although it is offensive to some people, and I have paid attention to some comments that have been made over the years that I am maybe sometimes a little over the top, whereas, just as many are like, you’re so good, don’t ever change, you’re the best, that kind of thing. So I think all of us as instructors, the ones that are really good and the ones that are really bad are really unfair. The meat in between is what we are really looking at and I’m satisfied with what I have done over the years in 24 years of teaching, I have always been, in my view, somewhere around the 4/4.5 range. I don’t know if the years you’re citing, maybe they are a little lower, but they’ve always been, I’ve been comfortable with my teaching and felt like I’ve been effective. One example, since I mentioned that I took over Dr. Mood’s accreditation class, I had five students sit for that exam and all of them passed, one with a 92%, which is really outstanding for an exercise science certification. It’s difficult for students for masters degrees to pass that, much less with an undergraduate student, so I’d like to feel comfortable with that, they learned something in that class while I led it and all five who sat through the exam passed. And I may as well add, as I am
talking about that, I was asked by our brightest students to, to be their sponsor, faculty sponsor for scholarship, for honor society for physical education. I was asked to do so by our brightest students, why? Apparently there’s respect for my knowledge, they had taken classes from me that they apparently enjoyed. Evidence of not being just sufficient as a teacher but being outstanding, whether that shows up in student comments or not, who gets asked to be the faculty advisor for an honor society and who’s asking? The best students.

JG: That being said, I also include in my packet that I was asked after we were, we had a chapter meeting and whatnot, new elected officials from, were elected and decided that they wanted someone else to be their faculty advisor, it’s really not any skin off my back but some of those students that were elected were the same students involved in the sexual harassment fiasco, so I’m not surprised.

DJ: Do you know that for a fact, I mean do you know who those alleged students were?

JG: It’s hearsay but, we’re talking about hearsay pretty much all along the way a little bit, and so in fairness to the panel, I put it in there that hey, the best students that wanted me to be their faculty advisor, we got the chapter here, I did all the work, we got it, we’re here. Next year, down the road, I was informed by their acting president that they were going to use somebody else, but I’m just hoping you see the fairness in that, that I’m not trying to hide that. I’m saying that I was asked; someone else was elected, ok.

KL: Can I ask you a question?

JG: Sure

KL: You just used the term fiasco.

JG: Well

KL: What exactly do you mean by that?

JG: Well if you read my response, which was not an appeal, but my response to some of the comments that were made by students, through investigating, the investigation or the report submitted by Dr. Finkenberg, student number one that these things were occurring in my class, he summarized them, I believe and put them into and forwarded the report. You heard Dr. Abbott’s discussion on it, I guess it went to Human Resources and whatnot, anyhow I felt like a lot of the, I felt like I needed to respond to that, not appeal to respond and I included my response to the university attorney as well as human resources, the dean and the provost and I just felt that some of the student comments were not, they’re not telling the whole picture. Some of which are scientific evidence based, I mean I can go through that entire thing with you

KL: No, no that’s not

JG: But, when I say fiasco I mean, I’m not trying to make it sound like it was a joke or anything, it’s very serious in fact, that’s how I start my statement in response, but I don’t, I don’t anyway try not to include things in my class that aren’t going to beneficial to students down the road, even if it hurts their feelings and one, one example is, and if you’re going to be a health and fitness expert, you’ve got to be in shape. If you’re going to be, if you’re going to teach a skilled sport, you better know how to do it and do it well, and many, many times I’ve been asked to teach skilled sports classes, I practice during the holiday season to make sure that my skill level is where it should be, not for embarrassment but to be an accurate teacher. That’s the difference between health and
physical education and teaching another subject, we have to be the part, you can't, you can't sit in my class if I'm teaching personal fitness and you're designated as a kinesiology major, you can't sit and be a major and be 50 pounds overweight, it just doesn't fly and the sooner you learn that and the sooner you hear that, the better, whether it hurts or not. Now, I per this investigation, I have, I could say things a little nicer sometimes and that is something I believe I've learned from this.

GS: One of the reasons that I wanted to get the sexual harassment out on the table was to find out if it was essential or not essential to this matter and it's not essential to this matter, that's my, that's what I come away with. Do you have a difference of opinion on that?

JG: No

GS: Ok

JG: I, in my notes I have it as the case was opened, so I've included that and then it was closed, I had not read the notes.

GS: My problem with that is, you don't get to meet your accusers, you don't get to talk about it, its number one and number two and number three and I didn't want to see somebody lose tenure over number one, number two, number three, that didn't seem right. But Ric Berry, sitting right there and Dean Abbott sitting right there, said this is not why we're here, do you agree with that? That's what I'm, that's my question for you?

JG: Yes

GS: I think you've already answered it but I want to make sure?

JG: Yes, I, that is something in this timeline that was included in the charges, so I thought I needed to address them as an open but a closed case.

GS: I agree, pardon me for the interruption.

JG: As, so the classroom behavior that's what I'm addressing really there and I'll just make one more statement that I made earlier relating to that investigation is that, I know I'm not violating that policy because I, have apparently been cleared and the case was closed and I'm not sure that anyone here who hasn't been through that process can say that with confidence. You probably know what you think that you're doing or not but I can state that I've been supervised and I'm not violating that policy. OK, next code of conduct matter is the field incidents, I was not tailgating that's in Dr. Buswell's report, I've looked at a lot of different reports that are dealing with that particular incident, I'll give you my side of it. I was there with my son and we were watching football and the game that we were watching had concluded and I said what do you want to do, there's another game coming on but SFA's playing live do you want to go to the game, he said yes of course. So we went out to the car and went to the game, we went directly into the stadium and walked down on the field. Now let me preface that, I've been here almost 14 years and I have had a long standing relationship with all the coaches, they want to get to know me because I have a lot of their, a lot of their athletes in my classes and they like to have that relationship and I have always been open to that and welcomed that. And back as far as Mike Santiago, Robert McFarland, who I also worked with at the University of Central Florida, these guys ask me to come on the field, please come down, come to a game, come to the sideline, we'd love to have you. In this particular case the head coach was JC Harper and I reference my packet here, his son goes to school with my son over at Christ Episcopal and has made the same sentiments. Now, so we, I, with my son, we walked right down the field and talked to players, it's been so long, but anyhow, the way the police report reads
and my rendition is a little bit different but, I'm assuming you'll go with the police report. They were notified that there was an intoxicated man on the field, therefore one officer leaves his post and comes and escorts me and my son from the field. We go around the cheerleaders, I think we sat down at one point in time, anyhow the problem with this, or what I want to try to really make is that I was suffering a very severe high ankle sprain, that I had done playing tennis with my son. I had turned my ankle and I had been limping around in class in spasms and you have to like jerk and stumble and sometimes sit down. I had been teaching like that and especially if you've been standing or sitting for a period of time it tightens up. If you've ever had this, it's a six month injury, is what it is and I had been fighting through it. That being said, I was stumbling around like crazy, no matter where I was, in the grocery store, in class, in the hallway here at the university and when they asked me to leave, if you've ever been on the track level of the field, the first two steps are very, what?

CG: They're very high.

JG: and with a high ankle sprain to place all your weight on it's pretty tough and that's when they grabbed me by the right arm and my first step was with my injured ankle and I wobbled, why? Pain and continued to wobble as we got out due to the injury. Now I'm going to tell you right now as I am being very forthcoming and honest in this hearing, when I was at home I had a couple of beers beforehand, which is why I had it on my breath, you would, but that does not mean I was intoxicated, if anybody would know if they're intoxicated it would be me, why, at that point in my life I was a professional drinker. I could tell you if I was intoxicated or not and I'm telling you I wasn't. I was staggering like that from an injury, hearsay, the cops smelt it on my breath, ok, that's that is factual. Now there is one other part in the police report I'll address, I felt like I was being harassed at that particular point. Alright you got me off the field, I don't have a pass and I'm in the area, but now I'm getting mad because, what I was anticipating, having a nice time with my son, close and personal on the field with the game, now I'm leaving embarrassed, leaving the stadium with two police officers. I could be leaving, just hypothetically, I could be leaving the stands with two police officers and my son, limping like I was responding to a call that my father had had a heart attack, I'd still be embarrassed, why? Everybody in the stands is thinking what? I wonder what this guy did, he looks like he's drunk because he's limping around. That being said, it was embarrassing for me and that's why I responded to my chairman when I got back, got back to campus on Monday and the, I've attached the email that I sent her, or the dialogue there, I had a couple of beers at home, I had beer on my breath. The cops that escorted me out of the stadium, he asked for my identity, I gave it to him, I showed him my ID and then I wanted to go, in other words it got the point where I'm not doing anything wrong, leave me alone and because I was with my son and they suspect that I was, that I probably was beyond just a couple of beers, that's their judgment and they are trained professionals and they're entitled to that.

JH: Did they do a breathalyzer test.

JG: No, no, no, it's just that I'm standing in front of and so they called my ex-wife and she came and she came and picked up my son and that's the end of that one. As far as the charges and Dr. Buswell's explanation of that, there were two letters that are in my personnel file that were sent, one by a staff member of athletic training and one by a student, if I recollect and I don't know whether someone told them to write them or they felt strongly enough, I can't say that, but I don't know if I'm just hyper vising here, but I don't know if I was a student, that I'd feel strongly that I'd have to say something about it, I don't know, that would be up to the individual. But there were, there are two letters that are in the deans packet that are from people observing my behavior, talking about, I look like I couldn't keep my balance. They can't make a comment as to what was on
my breath because they weren't in a vicinity to do so, but I'm telling you I did have alcohol on my
breath, because I had had several beers at home prior to attending the game, ok.

JG: As far as, and the question was asked, as far as me responding to any of those letters, Dr.
Buswell, if I quote her on the transcript, she said that I thought it was a joke, I'll explain what really
happened. In the previous lecture I was giving and during subsequent lectures in all of my classes, I
was making light of the fact that I have to sit down at some point, it's because I've got a high ankle
sprain, I've limped around this place, I probably should have a cast on it to immobilize it but I was
working through it, I was in the middle of a research study at the time dealing with hypertension in
a 45 year old male, guess who the subject was? Me. I'm not losing data over some pain, so I
continued my study where I should have really put a cast on it, anyhow that aside. I'm making fun
of myself in class all semester about, that I'm injured and have you ever had one? And actually
some really nice discussions with students prior to class, I'm sure you've all experienced that, that
you really get some, you get to know someone and talk about some things, that above and beyond
the content of class. With that being said, leaving that day I was walking with students and I said, in
the hallway, “am I limping now” or something to that effect, I believe that's what she quoted me as
saying, that was not directed at her, it is directed at, am I limping now and I don’t see how that
would be considered retribution or whether she felt like it was or not. Apparently she did, but
there was no intent, me singling someone out in a hallway of 25 people in between classes.

JH: Did you know that she was the one who had talked to the

JG: We were, I was provided with reports of who had reported, yes and the concerns of those
particular people that I would not to retribute and was also instructed by the dean not to do so and,
in my view I haven’t. Apparently she felt like it was but any comments relating to me limping were
not directed at her.

GS: That's what I was going to ask about, you didn't threaten this person and your intention was
not to, was your intention to embarrass this person?

JG: No, no one would know other than her friends I guess; I would consider that her letter to the
chair, the department chair, Dr. Buswell would have been confidential.

GS: and so were you muzzled in some way, did you agree not to speak to this person, did you agree
not to speak to this person. Would you look somebody in the eye and speak to someone that you
had agreed that you wouldn’t speak to?

JG: My understanding was that I was not to retribute, meaning you know who these people are,
don’t, don’t say anything like why did you write that letter or that kind of thing, because that to me
is retribution.

GS: Did you say anything threatening, did you say, why did you write that letter or anything like
that?

JG: Absolutely not, I’m walking down the hallway in kinesiology, getting ready to take the south
steps which are in the middle of the building in that hallway, on my way out to the middle hallway
that goes to the parking lot and if I recollect, she said, it was at lunchtime I guess, which would be
normal for me leaving at that time and I’d have to look at my teaching schedule, but if I remember I
had just finished teaching a class and I had students with me and we were walking down the
hallway and I’m like, “am I limping now?” or “jeez look, I’m limping now” I couldn’t tell you exactly
what I said but I was making fun of myself, gimpy all semester.
GS: Did you call this person at home or anything like that.

JG: Never

GS: Did you write this person a letter?

JG: No, absolutely not, I was instructed to do

GS: Did you follow this person down the hall?

JG: No, never.

JH: Did you see that student sitting there and make those, make that comment in front of her?

JG: I can't say whether she was in the vicinity or not, I couldn't tell you that. I certainly didn't look right at her, that, in my view that would be called retribution, that would be retribution. If she heard me say that or if I was looking in her remote direction, I mean the hallways are kind of scattered and whatnot and wasn't talking to her for sure.

GS: Did you scream, did you holler out, did you scream?

JG: No, just normal tone of voice, am I, jeez am I limping now, I don't know what her self-concept is, I don't whether she felt like I was directing that at her. I don't, there are no was I intending to threaten or retribute at all.

GS: OK

JG: Next, moving on and this one's, this one's going to be maybe a little harder to get through but I think I can, instead of going through multiple emails, I can talk about the accreditation that Mr. Goodman and the dean have alluded to. We started at, we started this new accreditation process using LiveText, fall 2013 and they were new assessments, alright? I will continue to emphasize the word new, in other words you've been using this syllabus for, you're used to preparing a syllabus for the next semester using. I would think that most of you would pull what you did last semester and make any changes necessary in accordance. We had been doing fitness testing the previous semesters, in fact what I've also included in your packet is, I wrote the accreditation aspect of the accreditation report for NASPE for our department. I wrote the fitness test, put together the data sheet and the scores to be used in the recording of data to NASPE under the NCATE umbrella, I wrote that and provided it to all faculty members teaching those classes. It is also used in Kinesiology 340, which is a junior/senior level class and that was in my syllabus in the previous semester and it is in the semester where we are now using LiveText. Somewhere along the lines however there was another, I am not serving on that committee anymore; I'm not chairing it anymore. Somewhere along the lines, I did not get the information sent to me that I needed to include another assignment in that 100 class for accreditation purposes. Now, after investigation and in the dean's materials as well as my own, I included, I asked before the dean had asked for revocation of tenure and termination of employment, before that. I'm scratching my head going, why did I miss out on that, so I asked David, who was here Mr. Goodman, I wrote him an email, I'm like, one semester I’m thinking way back when Dr. Finkenberg was still here, but when we started LiveText in 2010, we were not supposed to have our students buy it and then we had to have it on our syllabus one semester and then one semester we took it off and at what point in time, based on his testimony today, it was prior to 2000, prior to the fall 2013, we actually were turning our data sheets into the front office for them to compile some form of data management system for accreditation, but it wasn't LiveText. In other words, it was very fluid and I’m not, I’m not just
saying that to make an excuse of my own defense but it was really fluid. We start LiveText in 2010 and our department doesn’t use it and the next year it’s only for teacher education majors, I have an email in there that states, how do I know who’s declares a teacher or not? And they were the only ones to use it, I’m guessing I’m abreast of what we are using for accreditation since I, I’m the one who wrote the fitness assessment itself and of course I’m collecting data in my classes, the cart blanche assignment, although I teach it regularly and have done for 20 plus years, it’s teaching, it’s a concept that you incorporate relating to exercise intensity but it’s not something you normally do, you would do an assignment or collect data on. But the committee who was doing the accreditation had decided that was a good assessment to address that we were applying concepts to fitness and that would meet that standard, I’m not on that committee anymore. When meeting with David and with Ms. Bertholt actually outside my office I recollect that them mentioning to me in the spring of 2014, jumping another semester that she was doing it in her class. I said, you know I teach that but I don’t collect data and I believe in that conversation, David had mentioned to me that, hey you need to do that and I was like, you mean we’re using that for data and he said yeah and I said wow. And now I, as a sidebar and I believe this is in the deans material as well, as a sidebar during that informal conversation in the hall I stated, couldn’t you guys think of a better assignment than Karvonen, I mean I think there’s probably something better that we demonstrate content knowledge, to have any experience writing these reports but I’m not on the committee, so I’m going to use what you have. That being said, now I know that I need to have this in there, this is the spring of 2014, I added it to my syllabus and I may, I printed handouts, I actually wrote my own I didn’t use the one that Ms. Bertholt had been using. And at the conclusion of the semester I was running out of time as to what I was going to do, am I going to teach this and spend time on it for 15 students or am I going to go, and my rationalization is a bad one and this is where I’m going to stand in front of you as a panel deciding on my future, I was wrong there. I, I screwed up spring 2014 by not including my fitness data or Karvonen, Ok. I get it, I messed up, I had the fitness data, I didn’t put it into LiveText, I did not have the Karvonen data, alright.

JG: Now, back track, back to the fall I want to emphasize new, I didn’t have the Karvonen in, I thought I was up to speed with what we were using for accreditation that’s the first time we were using this other assessment ok. I did however, put the fitness data in for the fall. The fall, the fall fitness data is in LiveText, so I did it in the fall, in the spring that’s where I messed, I dropped the ball.

JH: This fall, 2014?

JG: 2013 data was input, spring 2014

KL: That’s when you had put that data in for the fall?

JG: Grades and when we went back in, when the system was re-opened, the data was there and in LiveText you can’t, in LiveText you can’t go in and put data in without your password and whatnot, apparently I had done it and did not remember doing it.

KL: So the fall 2013 data was input?

JG: Yes sir.

CA: So as far as the data you collect, sorry this is Charlotte Allen, the data that you collected from fall 2013 was put in

JG: Yes mam
CA: But there was some data that you didn’t collect and that was what?

JG: For fall?

CA: For fall,

JG: Yes mam, in the fall syllabus I did not have the second assignment in the syllabus, I did have a fitness assignment that health related majors test in the syllabus and did collect it and did put both sections I was teaching of that class in, but I did not have data for Karvonen. And honestly, three of the emails I believe, are from me are to me, during the time when grades are open the deadline for LiveText is getting ready to close and I can’t put data in I don’t have, if I don’t have the assignment in my syllabus then I don’t have the assignment and therefore I don’t have data and I can’t put it in, so that’s the fall of 2013, I’m lacking an assignment and therefore I have no data, ok but the fitness data is in.

JG: In the spring, I added the Karvonen assignment and I have included that page two on the syllabus is where that falls it’s there, it’s in but this is the semester where I did not put any data in. I did not put fitness data in for Karvonen, that’s my fault and I’m owning it, why I don’t know.

CA: That was going to be my next question

JG: The dean and I had this conversation and I said I would have never un-knowing, purposely done something that would be counteractive to accreditation, I couldn’t tell ya.

KL: But you knew the Karvonen was part of the accreditation?

JG: Yes sir.

KL: But you willingly chose not to do that?

JG: As time, at the end of the semester yes sir. Yes, I am that’s not refusal to do so, I had, I had the handouts made and on and had intended to, time allowing but I had to make an extra instruction, instructional decision at that point in time. What was their best use of class time, doing an assignment like that or another lecture?

KL: You’re sort of contradicting yourself because you said you would never willingly not do something for accreditation, but earlier you said you made a bad choice by not choosing to do the Karvonen in the spring.

JG: OK, I’ll elaborate on that and your question, when I say the word refuse that is me, this is hypothetical, that’s me saying that I’m not using Karvonen period and I don’t care about accreditation and I, I’m going to teach my class, it’s academic freedom and that’s that, it’s my class, that’s refusal. The other, what really happened and what I’m trying to explain is, I had to make a decision a program decision unfortunately, was I going to spend class time using that at the end and I unwisely took not to do so and I’m taking ownership of that, ok.

JG: Now, when I asked for the system to be opened up after meeting with the dean and I think she would agree, that I took the initiative to actually write the email after our meeting, where I said you know I did mess up and I can’t explain why I didn’t put that data in, to this day I couldn’t tell you, so I’m wrong there, but I did take the initiative to say, hey I got the fitness data in, but can we open the system so I emailed..

KL: Joe Strahl
JG: Joe Strahl, to get the system opened up and I did, I did get to save the fitness data and get that input into the system for spring 2014.

CA: Dr. Gergley, this is Charlotte Allen, I have a question, did you have both the assignments set up to go for summer 2014?

JG: Summer 2014, this is an error of report, I was scheduled, I was not scheduled to teach KIN100 in the summer, although the report said so, I was scheduled and Dr. Buswell stated it correctly, I was scheduled to teach Kinesiology 235, which does have its skill component and it is included, I have that in my pack as well, we’ll make sure we take a look at this before I end today. But, yes it is included but it was not, it’s not a fitness based class, it’s a skill based class and I believe the dean, or I know the dean has that listed as a course I was scheduled to teach, although that’s not accurate. The courses that I was scheduled to teach were Kinesiology 235 and Kinesiology 431.

JA: and I did make a correction in that report, hand written, you will see that in that report on page, that was an error on my part that was on page 1.a.5.

JG: OK, so if I want to try to summarize, we have new software and we have a new assignment to a class I’m teaching that I was not aware of, I thought I was in the loop, I found at the end of the semester, when I’m getting emails, hey you haven’t put in the Karvonen yet in LiveText, I’m like, what Karvonen assignment, ok. In the spring, oh you’re doing that in your class, ok I’ll add it to mine, although it didn’t get into the syllabus that was put on the main page, which is another issue I’m going to have to discuss here in a minute, timeliness of syllabi. But in that particular semester, the one in question the one I’m owning, I’m ready to give both assessments, I did do the fitness testing but I did not, I did not do the Karvonen and I did not put the data in and why, once again I don’t know. Not because I’m refusing but rather.

CA: Dr. Gergley, this is Charlotte Allen, I’m wondering if any of your testimony, you said you thought you had been in denial how alcohol has impacted your life and you may or may not be able to answer this, and I understand that, but did you think the impact of alcohol in your life has made you not be as sharp about dealing with some of these issues in the classroom and the syllabus and your decisions with accreditation?

JG: In perfect honesty I can’t answer that question

CA: That’s fine, and if you can’t that’s fine.

JG: No I’m being, I’m just telling you I don’t know the answer to that.

CA: Okay, that’s fine.

JG: But what I can say is that I have never drank while at work, that’s…. and number two did my habit that I developed, did that begin to impact some of what was transpiring in the classroom? I can’t answer that, I if I felt like it was I think I would have, maybe would have woken up from it, but I like to think of myself as being a smart man who doesn’t make dumb mistakes and if I saw a problem I usually try to correct it, that kind of thing, that’s the way I operate

CA: I guess I’m trying to figure out why, and I know its backtracking, why with all the other accreditation you have those types of things that we have to do in our classes and you made the decision in the semester when you say I can do something else, that I need to do something that I need to do for accreditation versus content, you chose content versus accreditation?
JG: In, like I say, that decision proved to be unwise and that’s why I’m being very forthcoming, did I, I dropped the ball, why I made that decision, or if it had, if it was impacted by my growing disease, I can’t answer that really, honestly I can’t. I know that there is no point in time where I said, oh I’m official, that was when I was in rehab is when it became official.

CA: Thank you.

JH: When you say you never drank at work did you ever go to lunch and drink before you came back to work.

JG: No, it was a long, it was a long, the afternoons got longer as I got closer to I guess, where I became fully dependent.

JH: And you didn’t drink before you left the house?

JG: No, never drank before one.

GS: I was about the ask the same thing, have you ever been, I read so much last night, I put papers on a timeline and I recall an incident that was reported in my paperwork at the football field and I understand your hesitation. Was the testimony given today, have you ever been accused to your knowledge, do you recall of ever being accused of drinking at work? Has anybody ever said that to you.

JG: When you say an accusation, you mean.

GS: Has anybody ever said to you in written or paper form, it may be here and I’ve forgotten that’s why I’m asking you this, it’s not about, it’s about my recollection, is this part of the problem are you drinking at work or have you been accused of drinking at work.

JG: I’ve never been accused of drinking at work, as far as me linking work performance to that, I can’t answer that, I honestly can’t. But I will tell you as a professional, if I felt like it was interfering, I think I would have done something about it. Now I’m going to sound like an alcoholic, making excuses for, that I’ll just drink less in the evening so it doesn’t interfere with work, my consumption of alcohol certainly fit the bill of someone who is physiologically dependent on the substance, alcohol, it’s a disease, I’ve got it, it’s in my family. I’ve been treated for it, I’m in recovery. I was not, it was really more of an evening type thing and I wasn’t, in my view, really going over, like abusing to the point where I couldn’t stand up at home, or I was falling down or that type of thing, where it would impact me the next day, I don’t see that. In fact I was conscious of that, knowing, going through lectures in my head before bed, like hey let’s set the alarm and make sure that we’re ready for tomorrow, work is always on my mind. Is that?

GS: Yes

JG: I am trying my best to answer that

GS: I’m saying I’m satisfied with your answer.

JG: It, I’ll expand at this one, is there, is it, is there a possibility that it could have diminished my performance? Of course it’s a possibility, I’m not denying that and that’s really where the, where did I fall off the tracks kind of, if you’re looking at a timeline and I think I think and what the dean has done with her report is to look at, hey this things wobbling a little bit, and I don’t know at what point it became, it was something that, the disease had kind of taken over, I don’t I can’t tell you that. But, once again for the record, I never drank at work nor did I drink prior to, that was
something I did separated from work and I’ve never been accused at work, in writing or by another faculty member. I will add this, I do have friends in the department who care about me as colleagues and I do have some colleagues that at, especially following my divorce, having children of their own and being happily married, they did ask how I was doing and if they could help in any way, that you know, you have friends, of course I appreciated that but whether that was directed at hey man are you alight? I don’t, I can’t tell you that because I was somewhere in between developing a disease and having it full blown. OK, so the accreditation aspect and then going, just getting to the summer, I did have, I did have that built into my class, the skill component built into the syllabus for accreditation right now. Linked to accreditation is also a timelines for or deadlines for syllabi so that for me that, to answer this the best way in my view is to look at, look at deadlines and how they have been set historically and why now in my 14th year of employment at SFA. In the past, under the leadership of Dr. Finkenberg, it was department meeting, he would make a statement as to syllabi need to be in the front office, these changes need to be made and at this particular point in time. Normally with him it was mid-week at noon that was pretty standard. So we go about ten years and that’s what you’re used to, this is how, ok. One year in there and I vowed never to prepare a syllabi before our first meeting, I was an eager beaver and during year 2003, I had some extra time on my hands and I had my syllabi for my, I had my schedule I actually worked at home quite a bit, I planned my semester at home and had all my syllabi printed and ready to go, I actually got to campus a couple of days early before our first meeting and ran all my syllabi for all my classes, that’s before we used this new model, and I’m ready to go right. Folders ready, text books, I got them, I’m ready to go, I go to my meeting and we have what, no, you need to change this, you need to change this and I was like, you got to be kidding. So I, not that you’re starting back at the drawing board, but I was frustrated by that and vowed never to do my syllabi until or start working on them until after the first department meeting. That being said, these semesters here under question, Dr. Murgia stated today that she sent an email on the 13th August, whereas our first department meeting is the 21st and that, this fall that was my first semester, that was the first time I stepped foot on campus this semester, it was for me, the president and as well as the college level and department where, and Dr. Nerren gave us a really nice explanation of LiveText and whatnot. I put an email in here that I signed up for LiveText, made an appointment, once again I’m not anti LiveText, I’m not anti-accreditation, I will do what’s necessary to get this, to get this important data and to meet the needs of accreditation, I’m on board and I’m registered to take such course.

JG: That being said, she gave in our department meeting that syllabi are due to the dean on Friday at 5 o’clock, so please have your syllabi to me by Friday at noon that is the deadline set. Now in the following week, and I explained this to Dr. Abbott at our meeting, I said on day one, I go in to my class, I meet my classes and I explain the course to them but I have not provided them with a copy yet, because there are some changes that I need to make and I want to make sure, since this is a contract between you and I, I want to make sure it’s accurate, alright? We’re all speaking the same language, you guys teach. So I explained the course to them, the assignments, what to expect from me, what I expect from them and other than having a piece of paper in their hand. Wednesday rolls around and I’ve got some changes to come back, I’ve sent my syllabi in on Monday for all my classes, they come back on Tuesday, make these changes. I submit them again, they come back again on Wednesday, I sent them again, I get them back on Thursday and make final changes, such as, just really, really fine tuning changes, for example the last fine tuning was that I still had, they had to buy LiveText and she wanted that removed. Anyhow, I had my final product and sent it to Dr. Murgia, Friday morning and then went and taught my classes and that was when I was picked up, so I never had a chance to actually send my course syllabi, the approved one, to my students. But hopefully, by explaining why that is, the students were not lost as to what the class was. They, here’s the text book, here’s where to find it, I wrote it on the board. Here’s my name, here are my
office hours, this is the intent of the course, this is how you'll be, these are the activities we’re going
to do, here are the assignments, etc., etc.

JG: On Wednesday when I met the same sequence of courses, I teach Monday, Wednesday, Friday
sequence, but I met the same sequence, I said I still have, I can’t send it to you in its current form
because it’s not, there are still a tweak or two that has to be done, it’s being read right now to make
sure that its approved, but nothing has changed. In fact I’ll spend the next five minutes for those of
you who are new and I went through the class again really quickly. Here’s the title, this is the
section and this is what we’re going to do, here’s the text book, etc. etc.

CA: So, Dr. Gergley, this is Charlotte Allen, let me just make sure that I understand the timeline here
is, faculty meetings were on Thursday.

JG: Yes mam

CA: and the syllabi was supposed to be due that next day, Friday afternoon, or the next Friday?

JG: I had, I had not read her email since it was prior to the department meeting. I read the
beginning of it that said if you want to get a head start on your syllabi, that was all there but that
was covered in our meeting. I never read her email from that particular date in depth, until now
because it’s an issue.

DJ: But what Friday were they due, were they due the day after the meeting, or the next Friday, the
22nd or the 29th?

JG: Oh, I ’m sorry, the first week of school.

DJ: the 29th?

JG: I met the deadline that was announced and we went back and forth with just some little things,
double checking they had all the assignments in there and for the classes that are under question
that are used for accreditation I had added the Karvonen, once again it’s in my syllabus for that
particular time. I'm not sure what the delay was on some of the other, like why I had to keep
coming, going forward and back, what I remember is, I could look at each time I sent the
attachments but I think it was that I still had LiveText in there and so, as far as me meeting the
deadline for syllabi, which is the charge for this semester, I met the deadline, I just never had a
chance to send it to my students because I was in handcuffs.

JA: May I, just a point of clarification. The, the state law requires that undergraduate syllabi be
uploaded in the university’s course information website and accessible to anyone at large by the
eighth day after the first day of class, it’s not the eighth work day, it’s the eighth day, that’s Tuesday,
September in this case, September 2nd. So because that was following a holiday I asked the
leadership team, chairs and directors, to ask faculty to submit their official syllabi and/or vita for
the course information, no later than, I had actually asked for the end of the day on Thursday,
August 28th, so that the, to the department level so that the administrative assistant could get the
electronic versions uploaded into the course information on Friday before the end of the day
because they needed to be up and ready to go by Tuesday at 8 am, that’s state law. So I did set the,
in my view, it was Thursday, August 28th at the end of day all syllabi was to be in the departmental
offices ready to be uploaded. And in our college the office is to provide a CV with vita and the
syllabi to give to the dean’s office and we have, I have a requirement of their submitting that for
undergraduate courses and then the same requirement for graduate courses and doctoral courses,
we have all three models in our college and so all faculty had to submit their syllabi, every single
syllabi so that we have that on record and for our reference. Under no circumstances would I, as the dean, ever expect faculty to delay distributing a syllabus to class on the first day in class. I come from faculty, I am faculty and it is tradition if not practice that you submit a syllabus to your classes on the first day of class, even if it’s a working draft, you submit a syllabus to the class. So my directions to the chairs was not that faculty should not submit, I just want to clarify that, not distribute syllabi to students until they were approved at the department or school level that they’re doing that process. And aside, as a faculty person I can’t imagine going to the class on day one and not being able to provide the student with a syllabus. I did not require and do not require that faculty must have whatever the department is call an approved syllabus before they distribute a syllabus. The process that I think Dr. Gergley is possibly talking about in meeting that deadline was related completely to meeting state law and that’s why there was Thursday and Friday.

JG: I would like to give an approved syllabus they want but I will not, I will not send a syllabus and I do have an email in my pack, asking for an approved syllabi because I want to send it to my students, but I will not send it, I will not send the syllabus that has not been approved at the department level to my students because it’s a binding contract between myself and the student. I explained the course, what’s expected of, everything about it other than the fine, fine details of the syllabus and as its been pointed out today in the COE we have a lot of layers and to make sure that everything has been fine combed, for lack of a better phrase, it’s been looked at very, very, very close and scrutinized and therefore I don’t send it out. I explain this to my students, well I say look there is a lot on there that deals with accreditation and may seem un-important to you but they, the class as it is, as it has been explained there will be other things on there, but you need not be concerned about those, those are more for the university and accreditation purposes. But I can’t send it to you until it’s been approved and as a faculty member with my name on them, whose has assigned the class, I’m not sending it until it’s been approved.

KL: It’s not that you can’t send it?

JG: I’m saying I won’t send it to them, it’s me and the student with a contract and I’m not going to send something that I know is not, is not valid.

KL: Right, but when you said you can’t you weren’t prevented from sending it.

JG: No, no, no I wasn’t, certainly not trying to

KL: I just want to make sure.

JG: No, I’m just not comfortable sending them something that I know is going to change.

CA: So Dr. Gergley, his is Charlotte Allen, in the past in previous semesters have there been situations you did not walk into first day of class and hand out syllabus.

JG: Yes, we went from the time that I decided which was earlier than most faculty, as soon as we went to mysfa and I had email addresses right there immediately and I could send an intro with an attachment to the syllabus, I went paperless, for our department to save.

CA: OK, ok let me re-phrase this, in not just copies, paper copies but electronic copies have there been situations in the past beside this semester we are talking about where students did not have either electronically or physical copy of a syllabus for your class the first day we walked in.

JG: Yes mam, and that is, that is, I can go semester to semester if you’d like, but and I will.
CA: I'm just trying to see if that's a normal situation.

JG: I wait until the first department meeting before I even start looking at writing a syllabus, I use as reference the previous semester as it should be very close to what we're doing again if it's the same class and then make any changes that need be that are announced in our department meeting and then submit them and have our chairman, whoever it may be at what point in time take a look at it and eventually say yes or no and if it's a no, I go back and try my best to make those changes and go back and forth and of course, depending on you know, our time, my time as well as the chairman's time, whether it's Dr. Finkenberg way back or currently or at one point Dr. Rust was interim and then Dr. Buswell, there's time that gets lost in between, here it is, you still need to change this, here it is and go back and forth and that type of thing.

CA: I'm just trying to understand because quite frankly if, and this is my opinion as a faculty member, I can't imagine wandering into the first day of classes without syllabus.

JG: I got ya.

CA: And either, I know electronically either having it in D2L, Blackboard or whatever form or fashion of electronic software that we've gone through in the last ten years or having a paper copy.

JG: I respect that but, from my stand, I don't, I don't or I prefer not to send someone a copy or deliver someone a copy of stuff that I know is not going to be the ultimate end product. As long, as long as it's within the deadline that's been set and that deadline has historically been set in our department meetings at the first part of the year. Now, in my packet some of you might be wondering why some of these pieces of paper, why and here's one, I'll pull it out, let's see here, oh, this is a copy that was provided to me at our last department meeting, we're having department meetings at the first part of the year, we're not doing it, we never did before, we met when necessary. This is a scheduled meeting that we are having this semester under the leadership of Dr. Murgia and we meet every, we meet every Friday, every third Friday in the afternoon, ok. This was provided to me at our last meeting and I was like wow, this is the first time I have ever had something in my hand in advance, not in the form of an email but actually in a meeting, in fact it actually has on it that syllabi due in office on 12th at 9 o'clock. Fourteen years at SFA, first time we've ever had department meetings, also first time that we actually have in writing, syllabi due in the office here. She's to be commended for that, because that gets us off to a what? You don't have any of this back and forth stuff. That requires the faculty member to get started on it earlier to meet deadlines, especially the first week of school from an administrator standpoint, they don't have time to be, they're trying to do overloads and maybe, one case, one of my semesters that we're going to get to, I was reassigned, so any syllabi I had done, even early, as Wednesday morning, ready to send it whether it's approved or not, it's different now because I had to change my office hours I had to get ready for another class, write another syllabi. My assignment changed during the middle of the first week of school.

JG: Mainly I bring this up only because as Dr. Buswell pointed out that I tend to be someone, who's always be and getting my stuff in just at the deadline, that's because we're doing this back and forth with making sure it's approved before I send it, OK. But also because we never had a what? We never had something well in advance, this far out, stating that, that this is in January, this is when your syllabi is due at the front office, it's here and I know now as of yesterday, last Friday in a formal meeting as a department. OK, now I will give Dr. Buswell credit, that she made an attempt after the deans meeting, she's their representative at your meeting, you gave the dates for the syllabi, important dates for the syllabi and she sent an email to all faculty in December, prior to the conclusion of the fall and was nice enough to preface it in her email, that says I know you're not thinking about writing syllabi for next January, because we haven't even finished this one year, but
here are some important dates and some guidelines, of course on my record here at our hearing today, that I don’t work on syllabi until our first department meeting and, I will now, it’s on, it’s on an agenda, it’s through meeting, but we did get an email that had specifics to syllabi in December, the first week in December, if I recollect dealing with syllabi for the fall and spring, alright.

JG: Prior to that, my system has always been, prior to that one semester where I had it already to go but ok you’re teaching a different class so, that kind of thing, prior that I have always listened for the deadline at our first department meeting, made any changes to last semester’s and put them and made changes to try and comply with what we need to do and it has continued to change semester by semester, especially since we’ve been using new software. So I guess my, in my defense my final statement as it relates to syllabi in terms of missing deadlines, I haven’t missed deadlines, I’ve, the deadlines that have been provided to me in the first department meeting, I’ve met them, with the changes required. That and as, if we want to back track just a little bit, as far as accreditation goes, the fall 2013 is a syllabus that’s under question, it was approved at the departmental level without the Karvonen part, it was only in the spring, when I was reminded to add it to my syllabus. Not only from an informal conversation, but also from the chair, that was not, I was not, that was the approved syllabus for the fall.

DJ: So in your department all syllabi must be approved?

JG: They are sent forward for the chairman to approve.

DJ: And then the chairperson reads all of them? And then has to approve them?

JG: To my knowledge, yes.

JG: So that’s fall 2013, even and remember it’s the first semester of using that assignment and it’s the first semester of us using LiveText, both and it was an approved syllabus that I sent to my students and I can’t have data for something that's not on the syllabus. That's the fall, the fitness data was in. In the spring, it's in my syllabus but differently, I have added it per Dr. Buswell looking at my syllabus and stating, sending me an email that there are two assignments that are critical for this class and one is missing. I’ve included that in you pack as well and I did add it at that particular point as far as the syllabi go, alright.

KL: We’ll take a five minute break.

KL: OK we are back after our break it is about 3.47 in the afternoon and we will continue hearing from Dr. Gergley.

JG: I was talking about syllabi timelines, I’ll move on to just a couple of other charges that are in there. One deals with a student, a disability student, I have included in your packet the contract with the disability services office, the Scantron of the student. The student took the exam, I scored it after picking it up, the student used a pen on a Scantron therefore, the whole score was zero, which was recorded and the next page after that is, on the syllabus, which is binding, that this is required, a number two pencil and Scantron be used, so that would not be an accurate charge. I am compliant with the American Disabilities, Special needs, disabled students.

KL: Where was?

JG: It's towards the latter part, accommodation requests, the key, the Scantron of the student and again the results, they got every item scored incorrectly because they used a pen and syllabus. Now just a sidebar of that, remember I went to rehab right after this, had I noticed and met with
this student, that, just the kind, just so you know the kind of instructor I am, I noticed Jeez this guy got a zero and he actually filled out the Scantron form, I would have worked with him and said let's choose a pencil this time and transfer your same answers and I'll score it, because you did in fact take it and then maybe even had an opportunity one on one to talk about why he missed certain things. You know a lot of learning occurs when this happens with students when they come to your office, there's been times I've done that. In this particular case, I did what I was supposed to do, I met my responsibilities.

JG: Let's get the grade adjustment that was referenced by Dr. Buswell, I put that in here as well, it's toward the back, it starts with, it says grade sheet, 100 section, fall 2013 and several pages of excel spreadsheet. Right and the charges, a grade change had to be made once semester for a student and then looking at, since I was unavailable, looking at the sheet and the fact that the student is penalized or is concerned that they were penalized for attendance. I couldn't tell you the student we are talking about here but if you notice what I did this semester and this is how I do my grades, which may be part of the problem anyway because other people don't understand my system but, at the top I have the assignment in the third column which is quiz 1, 15 items. Alright so there were 15 items attempted and the score reflects how many they got correct. On to quiz 2, 3, fitness scores, how they did on the final for a total of 120 points, turn the page. I adjusted the class by 20 points; I gave them 20 points, OK? I was not happy with the grade distribution and I'll explain why momentarily but I did essentially add a letter grade with this bump of 20 points to reconfigure the averages and I notice, what's under question here, I notice that the second to the last column says attendance penalty, attendance penalty has all zeros, so there is no attendance penalty. In my syllabus I specifically state that attendance and participation will be, will be, I don't believe I used taken but attendance and participation is an important part of the course, I do in fact pay attention to people, who is coming to class and who is not and I, what I've historically done in my careers as an education is, I'm going to pull you aside and say, you've haven't been coming to class too much, but I am not a stickler in terms of the first part of class every day, is to sit in your assigned seat or to call roll. However, I will say this, that is no longer an option as explained to us this fall by Dr. Nerren, she said that we have to have a score for attendance and participation for every class meeting, so the five days that I did meet my classes this semester, in my folder is has students attending and participating and I accomplished that per her advice, she said have them sign in and put a check by their name that they actually had participated in something by putting a check next to their name, she said that will suffice for the first couple of weeks.

DJ: Can you clarify why you weren't available, I mean you were here, this is Jenkins, you were here in this semester so how come when the student came, was it a full year later? I mean.

JG: It may have been or they went to Dr. Buswell as opposed to seeing me or I was, I can't speak for why I was unavailable, maybe I just wasn't in my office at that particular point in time and they wanted to see their grade changed then and they went, since I was not maybe there

DJ: She never spoke to you? Dr. Buswell about this before she said she had to academically go in, or administratively go in and change

JG: I think that she was referring to a different class; there were two, but not this one.

DJ: Ok

JG: She was using giving something that's not cited in the dean's report; she is using something from her own notes. This is the, this is the incident for the example in the deans report, that I am responding to her charge.
KL: I'm not exactly sure; this is the class she was talking about?

CG: I don’t think this is the class she was talking about because here is says a total of 120 points and the first one was like 178, or something like that, so it's got to be a different class.

JG: This is the one in the dean's report which is why I prepared it and there was no penalty for attendance, in fact.

DJ: What did the dean's report say regarding this?

JG: That there was an adjustment made that, if I may paraphrase here, that I, I admitted to not taking attendance and participation, I’m saying that right now, I keep in touch with them, my class but I don’t necessarily call roll every day, which was not required until this semester and number two I do keep it on my syllabus even though it wasn't required at this point in time as I want to encourage them to come and if they think there is some penalty looming that, it encourages them to go, to come.

DJ: Can you tell me where that is so we are all talking about the same thing?

JA: I think that's on page 1.a.3, August 2013 to request for final grade explanation for spring 2013, revealed that Dr. Gergley's syllabi included an attendance policy with grade penalties for unexcused absences, but Dr. Gergley admitted to not taking roll or keep track of attendance, though he adjusted grades in relationship to attendance, his absences were not documented on the end of semester break she submitted to the department, and this information came from Dr. Buswell in relationship to the administrative evaluation.

DJ: OK, thank you.

KL: and we don’t have the grades from that particular semester in the packet?

JA: No

CG: Would you say this 20 point adjustment, its 20 points for everyone, so basically it's just a curve.

JG: That’s what it is across the board. And just to emphasize why I’ve included this in response to charges that I didn’t penalize anyone anyway and in fact I did improve, I will say this as it relates to this particular semester, I always look at my final grade distribution and match that with what I know transpired in the class. Like we all have classes sometimes that we’re like jeez, is it me that I'm not, or they're just not getting it, or and you’re not scoring as well and you mediate and you do everything you can in your power to try to get it moving and you have to be self-affecting to be affecting in the classroom and, but I do look and I ask what their scores look like compared to how I know what we accomplished in class. Now this particular semester, I’m not going to say I feel guilty, I don’t feel guilty about adding, writing difficult test questions, I wrote some new test questions that I included in this particular class, those are the ones that Dr. Buswell alluded to that I repeat over and over, well these are the key concepts that need to be repeated over and over and over and I’ll also make as a note as a sidebar, when I say read your textbook, that’s a quotation of a student. The reason I say that is because I have been using this textbook for the better part of 15 years and I'm an original editor of Dr. Prince’s textbook at the University of North Carolina at Chapel Hill, I'm in this book throughout, I know it forward, backward, it is an excellent textbook, not only in its design, it gives key terms that are discussed throughout, which is a great starting point for a new chapter. Everyone of your lectures can be structured around how he’s organized the terms and how they discussed in the sections and once again, I’m very familiar with the
textbook having been an editor on it and a contributor to it and used it in multiple, multiple sections for many, many years. And I know what’s coming out of my mouth, should not replicate what is in the textbook, a good class should have as much content as possible, I get into the ideas and the concepts and asking questions involving those but I’m also asking related items, the concepts are the concepts. I am explaining different that Dr. Prince has in his reading and I think that’s a good thing.

CA: Gergley, I apologize, I’m a little confused here, the charge is dated August 2013, student request for final grade information for spring 2013. This says this is the grade sheet for fall 2013?

KL: We don’t have that; we don’t have the spring 2013.

CS: and I had one question just about this fall 2013, other than the 20 point bump that we discussed, was there another bump? And I’m asking that because mid-way through there is somebody with an 83% but they had an A?

JG: Meaning at total?

CS: They had 100 points it looks like total which was an 83%, no penalty for attendance and then grade was an A. The other percentages go on the, you know 90 – 100 being an A, but that particular one did not and I was just curious?

JG: I do see that now, well let’s [inaudible] then.

DJ: Is it common for you, that you have students that have problems with their final grading sheet, is this like a onetime thing?

JG: Yeah, every semester there is always someone that, I wouldn’t say it’s a lot but there’s, once in a while you have a student that has a missed concept of how well they did, in other words, they feel like they should have done better than their end grade and then you sit and review of course I’m open to that and we look at how they’re doing as they go along and I make sure that I, of course I’m capable of making mistakes and we track their score as we go along and then usually, I would have to say most of the time it has to do with how they did on the final, if they didn't do well, my finals are comprehensive.

CA: Dr. Gergley, this is Charlotte Allen, obviously the university has the new system for freshman/sophomore courses which require you to put the mid-term grades in, is that something you will follow as well?

JG: I haven’t taught since, I believe that policy has been instigated.

JA: Well that’s not true, because that policy has been in place for over two years now.

JG: Mid-term?

JA: So, you would have taught or would have been required to enter midterms, spring 2014, fall 2013, summer, and then

CA: Is this the third year of that?

JA: It is

CA: I think it’s the third year
JG: Whatever we’ve been doing.

JA: Spring 2013 and fall 2012.

JG: I know that I’ve done mid-term grades and actually have them on a different grade sheet, in fact this may be, I may have mis-labeled them, this grade sheet, fall 2013 going through but, to answer your question you’ve had to jog my memory, I have done mid-term grades and, and reported them per requirement and I haven’t had a problem, so that means I’m compliant I’m assuming, but no, I have taken mid-term grades, as we go and I am aware that I have some work, oh I don’t know I keep going back that all of my years of teaching are like, when did this happen? It’s kind of the thing for me. Time flies and you’re, what year, at some point I have applied calculation of mid-term grades and feedback at that point. I’ll also add to that, that I think most of you do this although not a requirement and that is that the most powerful learning tool is a test both before an assessment and after an assessment, so you’re, you’re priming them for their challenge which is the exam and then afterwards is when most learning occurs, I actually make this as part of my lecture in the beginning of the semester that, don’t skip class the day after you take an exam, any class that you’re taking because that’s when you’re going to learn what you missed and if you do miss for a unforeseen circumstance, take advantage of office hours, we are there to help you. You can quote me on that, that’s exactly what I say.

JG: As far as, I can’t, I can’t use another example of a class, but that is an explanation or any bumps in grades, it’s me looking at the distribution and not being happy with what, how the class did and me matching that with what I know happened in that class and also the fact that even though I have attendance and participation on my course syllabus, that’s there to motivate the student to come and attend class. The fact that a penalty may be looming I never penalize them for it, as referenced here with penalty of zero, does not impact the grade and if there is ever an attendance problem after I’ve spoken to them, then I speak to them again, but usually that’s all, hey he’s not taking attendance but he notices I’m not here. And I also get, we have checkers that come by for the athletes and they want to see if they’re in class and how they’re doing and we, I have that kind of dialog daily with the athletic department, so we’re working with them to keep those guys in class.

DJ: So just to clarify on the syllabus, this is Jenkins, the student request for a final grade explanation, it seems that they, just reading between the lines, it seems like they may have been angry that you did take off points, is that the case?

JG: I haven’t taken.

DJ: You’ve never taken off points for attendance?

JG: No, never.

DJ: You have it in there but

JG: Well actually if you want to go back to 2000, our coordinator, I think Mr. Goodman has spoken today, our coordinator of the kinesiology department in fact, David was here one semester before me, the coordinator was Jim Dinucci, Dr. Jim Dinucci, Regents Professor and he was very very adamant, in conjunction with Dr. Finkenberg that our activity based classes, accreditation aside, he didn’t care about that and he would be the one that would be sitting here in front of you saying that accreditation can go you know where. He said if you’re teaching, he didn’t ask, he said that if you’re teaching an activity or fitness based class, attendance is a requirement and we’re penalizing them if they don’t attend. In other words, a lot of people felt violated for academic freedom and you guys that all get in line and I did take off, to answer your question, I did take off, I did penalize students
early on, only trying to comply, as I’m the new guy I should do what’s in place here, at some point, I mean I was uncomfortable about it, at some point in time I decided that I was no longer going to do that and I was going to continue to have it in my syllabus for motivational reasons but no penalize students for not attending class.

DJ: Thank you.

CA: Dr. Gergley this is Charlotte Allen, do you think that possibly a student saw a zero on any kind of spreadsheet instead of assuming that, everybody got a zero in it, they assumed they got a zero and other people might have got points, so they felt like they had been?

JG: I’m not really sure where you’re going with that.

CA: Well a zero means there is no penalty under attendance; you see what I’m saying?

JG: Yes I can see where someone who is not familiar with my, how I grade and would, this all makes sense to me looking at, and I would look at somebody else’s spreadsheet and go, well what does this mean? But it means something to me and I, I understand your point and it’s well taken but when you see a zero, you’re thinking oh that’s a zero out of so many points, it’s, I use points earned over points attempted and in this case it’s zero to zero, which has no impact on the grade. But I am addressing, actually that was something that Dr. Finkenberg wanted me to do, he said look, I understand what you’re doing, but you’re not a stickler about attendance, meaning spending class time taking attendance, and I said yeah you’re right. But he said because you’ve got it in your syllabus, why don’t you put it on your grade print out but just show that there is no, that they haven’t been penalized and so that’s when I added, I added a column that says zero penalty. So in other words, I am actually reporting what that student, how they score in that particular aspect of the syllabus, but it, does it make sense? I, I tried to set a classroom culture, maybe it’s different than other instructors, maybe that’s why I’m such a polarizing person when it comes to good and bad and whatnot but I tell them up front, look I’m your best friend in this class. I know the material as well as the guy who wrote the book you’re reading and I chose the book you’re reading, so I’m here to help you learn this thing if you want to be successful and be, and perform the job that you’re setting out to do, you’re here by choice, I’m your best friend, I’m the one to help you learn the skills that are going to be expected of you when you get in the work force. If you’re lucky enough to get a job, they expect that you’re going to be able to do it and you need to know these things, even slang terms, that’s why I sometimes maybe cross the line or have been known to do that, you need to know what someone is talking about in the professional world, it’s not like it’s written in the text book and I’m trying to get, getting ready for the real world, what is it like out there, so I try to preface my students, like hey I’m here to help, I’m your best friend and if you don’t understand ask a question and I’ll try to explain another way.

GS: With the grades, did you arbitrarily give points to one student, completely arbitrary and not give the same number of points to another? Did you treat anybody unfairly with regards to attendance?

JG: No sir.

GS: Everybody got treated the same way?

JG: Yes and I’ll give more depth to that, someone who attends class every day, who never missed a class, who’s never late, is not awarded any extra points, although I would, I’d be a good betting man to say that their grade was a lot higher than someone who never came to class, so they get that, so they did actually get something out of it, they got knowledge which is educational.
GS: But if I may, the problem was you never came to class all the time, you were out of class quite a bit.

JG: That’s true

GS: I think that’s why we’re sitting here.

JG: That is true and those were to uncontrolled circumstances.

CG: But those are not the semesters that are in question as far as grading, are they?

JA: No, right, no. The grading issue was, is, were some of examples of other issues related to not meeting professional expectations or responsibilities.

JG: I think with Dr. Buswell, she was referring to, there is one email I have, that is the second to the last page of what I sent you all and it deals with spring 2014 semester while I was available, in these, I had filled the paperwork out for three grade changes that semester. The email says two items, number one, that I changed the grades of three of the students in kinesiology 120 section three from spring 2014, the other student withdrew therefore no grade change occurred. After viewing my records I am in agreement with your concerns, that these three, the grades that they were assigned from me were incorrect, I made the changes.

DJ: and you’re saying you changed them in the mySFA grade, official grade change, is that what you’re referring to.

JG: Yes we have that capability now in grade change, in the past it was a form, a department form.

GS: and those were a mistake and the mistake was corrected

JG: Yes sir. I wouldn’t say that the, just to go back to one of the questions that you asked me, is this a normal occurrence that I have a student complain about a grade? It happens pretty much ever semester but not always because of instructor error. It happens sometimes because students don’t do as well on finals as they thought, mine are comprehensive and sometimes they feel a little comfortable with a high B, instead of working for the A, they end up with a C because they’ve done so poorly on the final, so no I address grade reviews all the time. As far as making grade changes, I’ll change them willingly if I have an error of course.

JG: Alright so that’s the grade adjustment, I talked about that. Oh graduation was mentioned I usually try to go to graduation in the spring, to me that’s just more meaningful. In this particular, this spring, I did go. I had planned to, but if you go back to my calendar that I have, I had graduation listed as something I need to plan to do and I have a little arrow in the box that says kids to Brazil. My ex-wife is from Rio Deja Nero and her grandmother has the oldest catholic school, private school in Rio Deja Nero, she owns the whole street, started with a single school classroom and now she owns the whole street, it goes up into the high school level in Rio. Anyhow, my kids go to school, in the summers they go and stay in Brazil and go to school, ride to school with the brothers who run the school, they’re the administration at the school these days. My kids were getting ready to leave for three months and my wife, excuse me my ex-wife she sent to me this email and says Jeffery, the kids itinerary email as an attachment, and it has financial stuff linked to the actual itinerary, but this is them going and she lives in a different place, she lives in the Woodlands, Conroe area right now and this graduation was my last weekend to be with my kids, kind of scenario. Of course none of that would have mattered because I was picked up, no actually that was before, anyhow that was, that was my time to really be with my kids before they left, right. According to the university policy,
I am in violation of that not attending, despite I had planned to go to graduation but did not and my decision was that, I thought I needed to see my kids before they went to a foreign country for three months.

KL: Did you let the chair

JG: I did not communicate it.

CA: Dr. Gergley, this is Charlotte Allen, did you consider going to summer graduation?

JG: It hadn’t crossed my mind and as it worked out, I wouldn’t have been able to

CA: I just wondered if that was a consideration you had thought of.

JG: I hadn’t thought of it, I suppose I should have thought about that.

DJ: This is Jenkins, have you ever missed graduation before and if so were you reprimanded for it?

JG: In our department, the way it is historically done, there has never been a policy, all the way back to the dates with Dr. Finkenberg, it’s always, you guys talk amongst each other, to make sure somebody is attending from our department and most of us would talk here and there. I’ve gone a couple of times but as far as making it, if I were to go year by year, did I make one of the commencement ceremony every year, I don’t have those kind of records, I couldn’t make an honest comment on it. It’s great to see them, to see them, you’ve had them, historically my classes have always been more junior, senior level, so I get, they’re close and personal to me at that point whereas probably the last, oh I don’t know, with retirements and bringing new people on with specialized skill sets and I can teach pretty much anything, yeah I’m just, give those classes to those guys and, I did appreciate being asked but let them have what they want and I’ll teach these. So I, my, what I teach now is less and less interesting to me believe it or not but I have not complained about it, I’m not a complainer, I do it for the team.

JG: So the graduation ceremonies, for me personally, are probably not as rewarding as they were at one point when I had that student in my class, knew they were going to walk and looking forward to giving them a high five on their way out the door, meeting their parents, that kind of thing, hey this is the guy I told you about, this is Dr. Gergley, hey nice to meet you, that kind of thing, that’s really special.

JG: OK now what I want to do, those are me looking broadly across the charges, specific ones made, missing work, code of conduct aspects, neglect issues and some I had as miscellaneous. Now I would just like to be, just to be thorough, the people that were witnesses today, I took some notes and I just want to make sure that we’re clear on those. Starting with whether we approve the scale analogy was used, whether it’s tilted either way or not for you at this point, I don’t think that, I don’t think, I don’t think it will be like that based upon, how you look at it, for example what a deadline is, whether you willingly or consciously decided to include accreditation aspect or not. Attitude towards accreditation, code of conduct, things like sexual harassment and that kind of thing, I, for me I don’t think there is any question, in terms of fervent proof, of course you’re the judge of that. I did speak while Dr. Murgia was here, relating to my reassignment and I’ll go back to that just to reiterate what I stated. We met when I first got, when I first got out of jail after pleading guilty, I sat down with her, we had an appointment made, I called her first of all just to want to know, is it ok for me to come back on campus, other than to get my car? I got my car but is it ok for me to come, she said yes of course and, ok. At four, we sat down, my recollection of our meeting was me explaining the circumstances of my life at the moment, could she plan on me continuing on and I explained all
of that and that I was not going to be back into the classroom during her testimony and that she’d come up with some assignments with open ended timelines, because she didn’t know when I was going to be out. Now in her discussion and the dean’s discussion of this matter, I want to point out to whoever is doing the transcription, the word we, we, we was consistently used, yet I was out of that loop of we. In other words I’m saying, stating based on both the deans testimony and Dr. Murgia’s testimony, that they, they came up with these assignments for me to do. They were explained to me briefly but without any input and I, I did say to Dr. Murgia, I’ll do whatever you want me to do if it helps the department. That’s, as a willing, she said ’Well Jeff I don’t know if you’re going to like these”. I said, “is it, what is it busy work?” She said well not they are things that we can use and I said well I’ll work hard on them and she emphasized quality, I said you’ve got two weeks here and three weeks here, I said how, how, you know those are flexible times, what kind of hours would you like me to keep, she says, she says you can work on your own. I was going to keep, I was going to show up at 8 and leave for lunch and come back and do that kind of day and she says no, just do the work and I said ok.

JG: Then I embarked upon, I put a couple of emails, preliminary emails with me following that meeting and one, sorry I mentioned this earlier but my recollection of us going over the reassignment was less than five minutes and it was, I didn’t have a copy, she put it in front of me at a distance said I’d like you to do some sport rubrics and I said, ok I can do that and then there was also agreeing, the assignments for my classes, graduation, surveys for our students exiting and they were things that were, without question valuable and I said yeah I can do all of those. Not really considering, the, much as I was signing my name to is, I was like jeez to do these well it’s going to take longer than what we had, three months or , the amount of weeks left in the semester. In fact those assignments are due, all of them are due to her today; I got that email yesterday.

DJ: Did you speak to her about maybe needing more time?

JG: As we went back and forth with emails, I have not included those but I, instead of us meeting, I just kept sending her stuff as I got it done and in the initial weeks, and I put those in there, the, what she called checklists, this is where I started, I started from scratch, I didn’t go to the, what some people would have done was gone to a webpage and got, or googled sport rubrics and then just put our name on it and turned it in. I took another route, looking at, looking as an opportunity for me for scholarship as well. I’m like, this is going to be a paper, those are my words, they're not from someone else and I took each sport verbiage out, I wrote three off the top of my head initially and turned them into her in checklist form, she wanted more rubric, with more of the domain side only address the cyber mother domain. She wanted cognitive and effective, I showed her an example, a generic version of one, I said would, she said yes I’d like it more like that, I said OK and I used the table format that that was employed by that particular rubric, color coded it and everything, made it so it looked like she wanted it and then started to put in the sports, I started with volleyball, we got volleyball tweaked to where I thought, what I was calling a model rubric, ok. For us to apply all the other sports to, we came, we finished with volleyball, the first one, I’d say I got better at writing as we went along but, the first one I had done probably three and a half weeks in, I mean we were going back and forth, I have all the emails back and forth but, just that, if you’re going to replicate something you want to make sure it’s pretty good right? Right? Do you agree or not? Or at least that was my approach to it, so once I said OK we’ve got one, the next day I put basketball in, I did a basketball rubric and, which takes a little bit more, there’s body positioning, there’s anticipating trajectory and anticipating the target trajectory needs to be set as a skill, it’s a little more difficult to articulate about what correct form is in words. I haven’t written about them but I put those in words and sent them to her, so now she has two examples. Two examples and she says this one looks, this looks good, when will I have the rest? And that’s when I started plugging away at them, I
did golf, did golf and tennis pretty quick, sent all four to her at once, working with. Meanwhile, as I mentioned earlier today, I'm still doing scholarship stuff on the side so I'm really dedicating my time, which would be the equivalent teacher hours to this project, this reassignment. Faculty activity report's due and I'm not using this process as an excuse, but it has taken, it's been time consuming to get, being overwhelmed with potential of losing my job, instigating a job search. I have been applying for other jobs in a worst case scenario and that of course is time consuming as well, but I still put the time in.

Dj: Is it your intent to finish the assignment?

Jg: Yes.

Dj: This semester?

Jg: This semester, no. There's no way, but to get ten quality rubrics, which was at the get go, we were refining, refining and refining in the beginning, with the theme of the times we met or even with our emails back and forth, like how does this look? Yes, more like I had in mind and these kind of things, we were refining and quality was always an issue and if I'm going to put my name on it, it's going to be, it's going to be something of quality and I'm not going to have something that showed that I had ten done in two weeks and then go on to the next. For me it was, I was doing something that the department is going to use and if I didn't do a good job on them, not only is it my reputation but if we're going to use them for accreditation, the accreditation people are going to tear them apart if they're not any good right. So I was looking at it from that standpoint.

Dj: You seem to be in disagreement with the deadlines verbally in here but you signed the paperwork, if I'm correct, you signed your name on the thing, is that right?

Jg: That is correct, yes. She put it in front of me and she went through each five assignments very quickly and I said I can, I was responding, I can do that, I can do that, yeah no problem, I can do that, not considering the timeline, sure I'll do this and it happened that fast and getting in to the project and it was taking longer and to get to your original question, did I ever discuss that I'm going to need more time for this, in so many ways, not directly. I responded to her, by making progress and I think these are good, that was my response though, in other words I know this is taking longer than I thought it would and you thought it would but they're good and once again emphasizing quality in that regard. And she did, she did her part as a chair, motivating me to keep working on them, in order words hey you're a little behind on this already and I said I'm working. I'm making progress. But I wasn't just turning them over to get a certain number, I wanted to be satisfied and the last, one of the last emails we had when I was finishing up, I was looking at the courses that we teach, not just writing a rubric for course that's taught for example at Texas A&M or something, what classes do we teach and are adequately teaching, and those are the rubrics that I chose to, I chose to write about. I got to eight and I was like OK well did we really teach archery here? Do I want to spend time doing an archery rubric? Are we teaching angling anymore, I don't think so much. I thought practically for the department and I said, OK I need two more to complete step one, I said I don't really think we, I don't think there are any other useable sports, this is my exact email. I don't think there are any more useable sports that we're currently teaching so why don't I do rubrics for two, for upper body arm movements with weights and lower body movements for the legs. I had done a weight train rubric already but those dealt with the core lifts associated with competition lifting, bench press, squat and dead lift. Those are three where you would compete in the State of Texas four legs bench press and clean and jerk, there are different lifts, there are different Olympic lifts but in Texas it is those three lifts. I did one of those, she responded to me that she didn't want any more weight training rubrics, although I would, I would disagree, I think
those are very important, that discussing three or four different arm exercises done properly and
doing three or four leg exercises done properly in addition to what we, would be very beneficial
because if you look at our enrollment for our activity classes, which one has the most students
every semester, it’s without question the weights class. Those would be, those would be rubrics
that are usable. She disagreed with that and I, then I added soccer and I did badminton.

DJ: Again, my questions is, she had, well you signed off of, or signed on that you would do 35 hours
of work on this and earlier you said you were affording it as much time as you would your classes,
which you said you usually do 13 hours per semester, so do you feel like you, do you believe you put
forth that much effort on these rubrics that, did you put in that much time on these rubrics as, is
that a reasonable amount of time?

JG: I put in the effort that I signed up for, in my own mind, meaning this is replacement to my
Teaching assignment and as far, 35 as far as 35 hours a week , in my mind that’s, your normal, what
does a professor do in a work week? It’s not just teaching, it’s everything, it’s scholarship, it’s
service, I haven’t fielded any students in fact I almost feel like I don’t belong because I’ll hear
someone walk by my office and I’m usually expecting somebody to come in, it’s never anyone other
than someone saying hello, a faculty member. Your question directly, if you’re going straight off the
document, did I put 35 hours in on those assignments, no. I gave it what I, in my own mind I gave
35 hours to the university but I was working on scholarships, professional service.

DJ: What about 13 hours, you said that you.

JG: Sure, sure I kept pretty steady hours, like a teaching schedule. I exercise in the morning, I think
it’s the first thing you should do every day, I exercise I the morning, shower up and head to my
office, normal lunch break, I would sometimes come back in the afternoon and work on the times, I
did some internet type looking at what are other universities doing for example, for exit surveys, ,
I’m not really the cut and paste and put my name on it, put SFA’s logo and take Florida State
University’s exit, it happens by the way, it’s pretty good. I started messing around with that, doing
things like that in fact on my home computer I have SFA logo, kinesiology and health science, I’ve
got the, I’ve got the first two paragraphs already written, explaining why this is important for a
university, for SFA, we’re asking you to spend your time taking this survey, it’s confidential but we
use it to help us and everything but that’s not something I can turn in, that is the fifth assignment.

DJ: Why is that not something you can turn in?

JG: Ah, well I could have, but why submit partial work, there’s a lot of those little sketchy, where I
started working on different aspects of the entire assignment throughout the entire process, you
can write rubrics all day. I’ve been reading and looking at, reading the literature in fact authentic
assessment which in my generation of education is called performance based assessment.

KL: Is there anyone that needs to discuss further about these assignments? It’s pushing four o’clock, if there are some important things that you want us to know, just because you said you
couldn’t be here tomorrow.

JG: OK, well there is just something I want to point out, it’s in my view, I gave it the attention it
deserved, I’m proud of what I accomplished and what I turned in, they’re useable, they’re good and
I have other work that work towards those, I guess the big issue with this is that my clarity as how
much work this was in that amount of time and that I was going to spend 35 hours, I was placing it
within what I would spend teaching within a 35 hour work week is how I viewed it and that’s what I
did. OK.
JG: Alright, moving on, that’s with Dr. Murgia, I did mention that she gave us a head up at the department meeting, which was the first time, first time in fourteen years here that I’ve had that, that was just kudos to her. I wanted to mention that when I was picked up and, in July for a failure to appear, with my first phone call, was to the department office, for Dr. Buswell I am just reiterating her comments, when I got out, a letter that was sent for my availability from Dr. Murgia on, sent on the 10th certified, I responded by the 25th but I didn’t get home from, I was in Houston until 22nd, I got home on the 22nd evening, so within a few days I had opened my mail, responded.

JG: I think I talked enough about evaluations a little bit, the first unsatisfactory evaluation I’ve had in 23 years, I didn’t fight it, she has me with no scholarship on that, that year. Scholarship is an ongoing thing, for me it’s a three year process, designing a study, going through IRB, data collection, presenting it and ultimately writing a full length manuscript, because I didn’t have anything actually hit the presses or submitted, doesn’t mean I wasn’t active, I didn’t feel like it was a point worth arguing about, but that I will note is my first and hopefully only unsatisfactory evaluation from my chairman. I talked about the accreditation process and where, in the spring of 2014 I did drop the ball and I’m, I was wrong there. Why, I don’t know. OK I’ve addressed altercation; supposed with the student in the hall, grade adjustments. I will say this for Mr. Goodman, he, he was not responsible officially to provide any, any time of reminders to any faculty until the email that was sent towards the back, until the middle of the summer, this summer, June. He sent an email to all faculty that says I’m officially now responsible for reminding you of all accreditation issues, in other words now it’s in my job description, prior to this summer, the semesters that preceded that, the ones that are at issue here, he was not, there was no official person in our department who was, that is their job. Now it used to transpire, for example when I was chair of those committees, I would make sure everybody had their syllabus and I’m the kind of guy that walks down the hallway and walk in your office and say, hey you got that done yet or, I’m a face to face guy as opposed to emails but I’m always reminding, you got that, you work on that, you work on that and we met, we met, every Wednesday if I recollect when I was chairman, at lunch we would meet and talk about things. I’m not on that committee and I’m not in the loop so I don’t know who is involved in that process but per the email enclosed in your packet, we did not have anyone officially responsible for communicating with faculty to include things in their syllabi and remind us that LiveText was closing on this date and whatnot. I got them of course, and I think I discussed that enough that some of those emails were, were after the fact. I can’t do anything about it, if it’s not on the syllabus, that was the fall 2013. The spring of 2014 was an issue for me, with that I didn’t put the data in, ok. So that was something that I wanted to point out with David, David has done more than he was, is supposed to do, so to speak over the years, since he’s been chairing this, since he took over from me, but that being said I’m outside of the loop, so unless I’m, I don’t know I’m kind of used to that, getting that, kind of bombarded, kind of thing not just one email and something I’ve learned from this is that I need to read my emails and read them more than once, fast.

JG: Also with Mr. Goodman is that he is, he is well prepared in the accreditation process as move forward because he served on all those committees that I chaired, he was on them and I’d like to give myself credit for also developing someone else. We hired a new faculty member Dr. Jay Thornton I worked with, I was the chair of technology for TAFED for three years, back 2004, 2005, 2006, I had the opportunity to meet Dr. Thornton, he was Mr. Thornton at the time and I had a conversation with him and said, well Jay unless you get, why don’t you get your doctorate, he was teaching at Angelina, he said I don’t know if I want to do that and he ended up getting it from Texas Commerce, his first semester here I said, he did pedagogy, and I said Jay you need to get involved with this, I’m chair of this committee, this is the accreditation process that we operate under and I want you to start, you don’t have any work but I want you to start meeting with us, if you familiarize yourself with process and at some point in time we’ll start assigning you duties. That
was about a year down the road and Jay is now with David, a very active part of the accreditation process, since I’ve stepped away and I’m going to give myself credit for getting someone else involved and learning the system, instead of OK, I’m not doing it anymore you guys take over. It was I made sure that it was transitional. OK.

JG: That’s David, as far as David’s input goes, I was not the only one who didn’t put data in and I want to make sure that I’m not the odd man out there. Although the sexual harassment case has been closed I did have an opportunity to read, had an opportunity to read the comments that she made for the first time on our break and I’m satisfied with report, I feel like I did, I met the charge and therefore the case was closed but I have learned something from some of her comments that, of course we are all trying to get better. I believe I addressed that in my intro, the question was posed to the dean in her closing or I believe at some point that was I a problem when she arrived, I take that her only, other than the sexual harassment case at that point in time, her only familiarity was that promotion to full professor dossier.

JG: I have a note here that actually a specific question I was asked about; did I ever ask for more time for my reassignment? And my end notes here is that I was working, progressing towards getting as close to the timeline as possible but I’m not a complainer, in other words, if, I know Dr. Finkenberg’s not here but it was a standing that, it was standing between he and I that I said, I’ll teach whatever you want me to teach, what the department needs, you don’t even have to ask me, because I respected him that much that he would, that I had his ear on some things I thought were important to the group, did I want to be a faculty member at SFA in ten years, and I had the confidence that he, because he pretty much gave me anything I asked for during that period of time and I felt like I owed him and to the department, that I would do anything that he asked me to do. So I’d get overloads, so I taught sixteen hours one semester, with the pressure of scholarship and earning tenure, though all of that, but I was willing to do that because I knew that he had confidence in me and that he, that I had a vision for where I wanted our department to be in ten years. In fact he even got, I didn’t mention this and I didn’t print, make a print out because I didn’t really think I’d be talking history as much today. I wrote our program review document for years 2006 to 2011, he gave me that administrative duty, to go back and actually fill out a report that went, I believe to Dr. Jacobson, maybe the dates are off on that but I did a five year review on our program, he had the confidence in me for that. Anyhow, I guess in closing I hope that, that I’ve, any vague areas that I, that hopefully my explanation or at least my point of view, in explaining myself relating to the charges has made things clear in your mind either way. I’m on record, as I think I’ve done one thing that is really wrong and that I can’t explain and that is, not putting the data that I had in, in spring 2014. Other than that the charges that are brought against me, I don’t, I don’t see that they, that they made the case for removal of tenure, something of that value, certainly isn’t easy to gain or earn. I hope, having gone through the process and hopefully you will weigh that in your decision that the only other thing I’m guilty of is developing a problem that caused me, not by choice to miss classes in the summer of 2014 and the first part of the fall 2014 semester, I’m guilty of missing class but not by choice.

CG: May I ask a couple of questions, Christina again by the way, first I want to say congratulations on your sobriety, that’s huge, I think that something that all of us who have not gone through something like this, can’t really understand how difficult it is, so I think that’s really great. Were you aware, as opposed to the question I asked you earlier, about channels probably through HR that you could go through to request any kind of time off when you were seeking treatment and so

JG: When I, when I had failed to appear, my father came from Florida while I was in the hospital and he talked to Memorial here and he investigated my avenues as far as help from the university, taking extended time off, but never, he just got paperwork. So me knowing that’s available I guess,
I'm sure there was something, to my knowledge there was something in place, but I was so out of it that, that was the last thing on my mind at the moment, I was just trying to eat, without making a mess of myself, like DT's and, but as far as seeking help, I was forced to do that though the court and I'm grateful, as I mentioned earlier. When I have no more legal ties to the acting judge, I will certainly thank him as a man, saving the rest of my life.

CG: And another question, moving forward if you were able to stay and teach do you feel, I suspect whether you were able to admit it to yourself or not at the time when you were drinking, that did effect things, I don't know, I'm not a counselor or a doctor, but I imagine that effects somebody in ways they are not aware of. So not drinking now, do you feel you are able to meet the deadlines, demands, making any possible changes in teaching language, any of the demands that you would have as a professor. Do you feel that you

JG: I can speak to clarity of mind in my limited experience in a class, remember I did have a week, I said, wow this is cool. Anyhow, no I'm much. I'm sharper as far as clarity goes; it takes about ninety days physiologically to adjust to the new metronome that your body is not under this influence, now it's gone. It's about a ninety day neurological transition of the brain, it takes that amount of time to adjust and as far as, as far as my ability to do my job, no question, I'm more prepared than I have been in the past while consuming alcohol even recreational but certainly in an alcoholic state, which I was towards the end. Choice of words to your question, sure. In fact I just spent thanksgiving with my children and my parents, not the actual holiday, they came a week before, so I could have time with my kids and them and then they went with their mom, for thanksgiving. But my parents commented on the lack of use of profanity, they said, you seem like such a different person and you don't seem angry. I don't know, I can't, I don't know that other person, so I only know me.

KL: Any other questions?

GS: I have one, the letter; let me make sure I'm talking in a language that everybody understands. I'm looking at charges on this letter, and this is the letter that you got and there's a date on that letter, must have been, the date on that letter is 20 October, 2014, I assume that's the day that we gave up on Dr. Gergley, did Dr. Gergley get a copy of this letter on 20 October, 2014. Did Dr. Gergley know about this letter? The memorandum dated 20 October, 2014 to Richard Berry, Provost from Judy A. Abbott, dean, regard, investigation of substantial neglect or am I in completely mis-characterize this. Is this the day that we gave up? Or is..., my only problem is that this man is still working to turn in rubrics and the other assignments that follow rubrics. Is this letter, and I do not know the answer to this and this is not an accusation, does this letter represent, I gave up on this man and no matter what he does from 20 October 2014 to the end of the semester, it's not going to matter. That's what I need to know.

JA: This letter represents that on 20 October 2014, I believe that there was substantial evidence, neglect of professional duties up to that, I believe that there has been additional evidence of substantial neglect of professional duties that have, or professional responsibilities, that have continue to accumulate through the end of November and through December 2nd. So, yes on October 20, 2014 when I submitted this report to the provost, at that point, I believe that there was a preponderance of evidence that would document good cause of revocation of tenure.

GS: Should I view this as the point of no return on the calendar, is where we're not turning back.

JA: Yes

GS: OK, that's what I needed to know.
KL: Anything else. Well Dr. Abbott, Dr. Gergley, thank you for your time, I guess it's our turn now so shall we take a short couple of minute break, stretch our legs and then reconvene and discuss.