

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 COUNTY OF SAN FRANCISCO  
3 UNLIMITED JURISDICTION

4 - - -

5 ELIEZER WILLIAMS, a minor, by SWEETIE  
6 WILLIAMS, his guardian ad litem,  
7 et al., each individually and on  
8 behalf of all others similarly  
9 situated,

10 Plaintiff,

11 vs.

No. 312236

12 STATE OF CALIFORNIA, DELAINE  
13 EASTIN, State Superintendent of  
14 Public Instruction,  
15 STATE Department of Education,  
16 STATE Board of Education,

17 Defendants.

18 \_\_\_\_\_/  
19 --oOo--

20 DEPOSITION OF  
21 WILLIAM KOSKI, Ph.D.  
22 SAN FRANCISCO, CALIFORNIA  
23 MARCH 27, 2003  
24 VOLUME III

25 ATKINSON-BAKER, INC.  
26 COURT REPORTERS  
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28 Glendale, California 91203  
29 (818) 551-7300

30 REPORTED BY: ALICE N. HALBERT, RPR, CSR 7889

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14

15 \_\_\_\_\_/

16 Deposition of WILLIAM KOSKI, Ph.D., taken on  
17 behalf of the Defendant, at O'MELVENY & MEYERS, LLP,  
18 275 Battery Street, Embarcadero Center West, 26th  
19 Floor, San Francisco, California at 9:11 a.m.,  
20 THURSDAY, MARCH 27, 2003 before ALICE N. HALBERT, CSR  
21 No. 7889.  
22  
23  
24  
25

1 A P P E A R A N C E

2  
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1 I N D E X

2 WITNESS: WILLIAM KOSKI, Ph.D.  
3 EXAMINATION PAGE

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5 BY MR. HAJELA 453  
6 BY MR. EGAN 467  
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8 EXHIBITS  
9

10 DEFENDANT'S

11  
12  
13 LETTER DESCRIPTION PAGE

14  
15 35 - One-paged document entitled 473  
16 Agenda for July 14 Williams  
17 Conference

18  
19 36 - One-paged document entitled 596  
20 To Do Williams handwritten  
21 notes  
22  
23  
24  
25

1 EXHIBITS CONTINUED

2  
3  
4  
5 37 - One-paged document entitled 598  
6 November 26, 2001 e-mail  
7 from Jeannie Oaks to  
8 Sophie Fanelli, Catherine  
9 Lhaman, Gary Blasi,  
10 Hector Villagra

11  
12 38 - One-paged document entitled 600  
13 February 1, 2002 e-mail  
14 from Bill Koski to Jeanie  
15 Oaks, Subject Williams:  
16 Our standards paper

17  
18 39 - Two-paged document entitled 602  
19 Williams Case Paper e-mail  
20 dated February 10, 2002  
21  
22  
23  
24  
25

EXHIBITS CONTINUED

- 1
- 2
- 3
- 4
- 5 40 - Three-paged document entitled 603
- 6 April 30, 2002 e-mail to
- 7 Thomas Timar from Jeannie
- 8 Oaks
- 9
- 10 41 - Three-paged document entitled 607
- 11 February 13, 2002 e-mail
- 12 to Jeanie Oaks from Bill
- 13 Koski
- 14
- 15 42 - Three-paged document entitled 611
- 16 Memorandum to Bill Koski
- 17 from Lynne Echenberg
- 18 dated October 29, 2002
- 19
- 20 43 - Four-paged document entitled 612
- 21 Summary of Morrison & Foerster
- 22 Memorandum on California
- 23 Requirements for Teaching
- 24 in Public Schools
- 25

1 your report, please?  
 2 A. Okay.  
 3 Q. The first full paragraph, regarding  
 4 promotion and retention, among other things -- I'll  
 5 just read part of it to you.  
 6 There's an excerpt that starts with the word  
 7 "second"?  
 8 A. Yes.  
 9 Q. "Second, school districts  
 10 may choose to use these results,  
 11 together with a student's  
 12 in-class performance, to  
 13 determine grade promotion and  
 14 retention for students in grades  
 15 two through nine. Because the  
 16 standards-based achievement  
 17 test, as well as in-class  
 18 instructions, is directly  
 19 aligned with the content  
 20 standards and curriculum  
 21 frameworks, promotion and  
 22 retention can be inextricably  
 23 bound with student mastery of  
 24 the content set forth in the  
 25 standards."

1  
 2 WILLIAM KOSKI, Ph.D.,  
 3 having first been duly resworn, was  
 4 examined and testified as follows:

EXAMINATION

BY MR. HAJELA:

8 Q. Good morning, Dr. Koski.  
 9 A. Good morning.  
 10 Q. It is Doctor, am I right?  
 11 A. As of two days ago, yes.  
 12 Q. Congratulations!  
 13 A. Thank you.  
 14 Q. Is there a celebration coming up?  
 15 A. I'm probably -- there is a commencement  
 16 ceremony in the spring. They don't -- if you  
 17 graduate in the middle of the year, they lump it all  
 18 together at the end. But they actually confirmed it  
 19 this week because Stanford is quarterly.  
 20 Q. Okay. That's great!  
 21 A. Yeah. It's much less a celebration than a  
 22 relief, believe me.  
 23 Q. All my friends average ten years, so I  
 24 understand.  
 25 All right. Can I refer you to Page 8 of

1 I just wanted to ask in regard to that,  
 2 specifically, the promotion and retention  
 3 consequences of performance on the California  
 4 Standard Test, are you aware of any School Districts  
 5 that base promotion or retention results in whole or  
 6 in part on CST scores?  
 7 A. No. I am not aware of any school districts  
 8 that bases promotion or retention results of the CST  
 9 scores.  
 10 As this indicates here, it is just  
 11 permissive -- the legislature is seeking for  
 12 permission for schools to do that, if they so choose.  
 13 Q. I agree with that.  
 14 Do you have -- are you aware of typically  
 15 what time during the year these test results come  
 16 out?  
 17 A. Um, my understanding is that it comes out in  
 18 August, usually. So I'm not sure whether or not or  
 19 how they -- they would use them for promotion  
 20 retention decisions, unless they have factored it in,  
 21 or if they get some pre-results. I don't know.  
 22 But my understanding is they do come out in  
 23 August. I don't know for sure.  
 24 Q. Okay. All right. Thanks.  
 25 Can I refer you to Page 10, please?

1 A. Actually, may I just add quickly --  
 2 Q. Sure.  
 3 A. -- to the last response?  
 4 My understanding is that the Star results  
 5 didn't come out until August when the CST resumes. I  
 6 don't know if any of this is going to change. That's  
 7 my understanding of it in the past.  
 8 Q. Okay.  
 9 A. Okay.  
 10 Q. On the top of the page, there's a sentence  
 11 starting "in other words." I'll just read that.  
 12 "In other words, although  
 13 the state requires schools to  
 14 provide assistance to students  
 15 who are struggling with the high  
 16 school exit examination, the  
 17 state does not specify the type  
 18 or level of assistance nor does  
 19 it provide any funds to assist  
 20 schools in supporting their  
 21 students. Left unclear is how  
 22 already cash-strapped districts  
 23 will be able to afford adequate  
 24 supplemental instruction to  
 25 ensure that their students can

1 the pattern that I can glean from my personal  
 2 observation and experiences. Yeah.  
 3 Q. Okay. And with regard to those districts,  
 4 that largely serve low income students, do you have  
 5 an opinion regarding whether those districts have  
 6 sufficient funds to provide adequate supplemental  
 7 instruction for students in danger of failing high  
 8 school exit exams?  
 9 A. I don't remember if we have to separate  
 10 districts that actually need to offer the high school  
 11 which either cater to the districts in each school  
 12 districts.  
 13 I don't have a specific opinion on that  
 14 issue. I would have to see what their budgets looks  
 15 like and everything else.  
 16 But I -- I -- as I indicated here, it's not  
 17 clear to me how the state has chosen to deal with  
 18 this issue, if at all. Because the districts are  
 19 already cash-strapped, adding yet another mandate or  
 20 burden on the district.  
 21 It doesn't make a lot of sense to me,  
 22 specifically in the context where the stakes are  
 23 pretty high. So --  
 24 Q. Okay. Thank you. It's really what I was  
 25 going to -- 10 minutes.

1 pass the exit examination."  
 2 Can you -- it's describes as  
 3 "cash-strapped." Can you explain why you use that  
 4 phrase?  
 5 A. The phrase is used in the context of  
 6 districts that are cash-strapped. I'm not making --  
 7 I'm not identifying any specific district as being  
 8 cash-strapped. I'm saying basically saying to the  
 9 extent districts are cash-strapped. And being  
 10 cash-strapped may be difficult for them to afford  
 11 adequate supplemental instruction. So that's the  
 12 context in -- does that make sense?  
 13 Q. Yes. In the research that you've done,  
 14 related to this case, or any reading, perhaps, with  
 15 the other expert reports, do you have a sense of  
 16 whether there is a pattern or a way to describe  
 17 districts that are typically cash-strapped? For  
 18 example, with certain demographics or --  
 19 A. This is outside the scope of my work that I  
 20 was asked to do. And I opine on this case for my  
 21 personal experience.  
 22 I have seen school districts in low income  
 23 communities that are most cash-strapped. And I have  
 24 identified them as West Fresno, Oakland, Ravenwood  
 25 City School District, and the like. That seems to be

1 Page 19, please, of your expert report. And  
 2 I think -- I can't remember what the title --  
 3 "Findings."  
 4 A. Uh-huh.  
 5 Q. Yes. All these headings come under a  
 6 general section heading called "Findings," I believe.  
 7 A. Uh-huh.  
 8 Q. On Page 19, with regard to facilities, you  
 9 first discussed schools and classrooms.  
 10 A. (Nodding head.)  
 11 Q. And the paragraph says:  
 12 "Implicit in the content  
 13 standards and curriculum  
 14 frameworks is the assumption  
 15 that students will be taught in  
 16 facilities that comply with  
 17 local health and safety  
 18 regulations, and in settings  
 19 that are conducive to learning.  
 20 This suggests that, at a  
 21 minimum, schools will contain:  
 22 Classrooms with adequate heating  
 23 and air conditioning, bathrooms  
 24 that are accessible and  
 25 hygienic, and schools that are

1 free from vermin and other  
2 infestations."

3 Can you describe the analysis or  
4 methodology, if any, you used to derive these  
5 implicit --

6 A. Uh-huh.

7 Q. -- in the content standards?

8 A. This is a global determination that we may  
9 add regarding to classrooms in the entire analysis.  
10 You see, my recollection is I would be surprised to  
11 see one of the standards that does not require a  
12 classroom as part of the -- as one of the required  
13 resources, basically.

14 And after much discussion, our analysis here  
15 was with regard to libraries and media centers and  
16 labs, and that sort of thing. We are able to  
17 actually identify from the text when that seemed  
18 necessary or implied from the text with regard to the  
19 classrooms, because we were using this least best  
20 practice analysis as the most conservative as  
21 possible. We simply couldn't think of how these  
22 standards could be taught in any other facility than  
23 a clean and safe facility for kids.

24 Again, using the conservative judgments that  
25 we used, there was, you know, no other way.

1 The content standards don't say those things.

2 There is -- it is based on our understanding  
3 and our collective decision this is what a classroom  
4 should look like --

5 Q. Okay.

6 A. -- basically.

7 Q. I can't --

8 A. Yeah.

9 Q. I -- I think that's fair. All right.

10 A. Uh-huh.

11 Q. I have similar types of questions on the  
12 next page, Page 20, of your report.

13 A. Uh-huh.

14 Q. And I may just not completely understand the  
15 section on teachers.

16 You describe earlier in your report a little  
17 bit, not to any great detail, credential standards  
18 that come through the CTC. And in those standards to  
19 mastering the content knowledge contained within  
20 those standards, subject matter, competence and  
21 mastery of fundamental strategies, that may be a  
22 simplification for those terms, the standards are  
23 suggesting in this section that the California  
24 Content Standards require qualifications above and  
25 beyond or in addition to what is currently required

1 I mean, one could, I think, make an argument  
2 that you could teach a kid outdoor all the time. I  
3 think that would be absurd, obviously. And that was  
4 our collective analysis on this.

5 Actually, the alternative is one could take  
6 children to Lawrence Livermore Lab to teach a lesson  
7 or to, you know, Berkeley to teach some other kind of  
8 lessons on humanities. We made a conservative  
9 judgment on classrooms that's safe and conducive to  
10 learning. So that was -- that was a group decision  
11 that we made as a team pretty early on, actually.

12 Q. And I actually understand the decision to  
13 imply classroom.

14 A. Uh-huh.

15 Q. That makes perfect sense to me --

16 A. Yeah.

17 Q. -- of a learning environment, however you  
18 want to describe it.

19 I'm more interested in did you really use  
20 the content standards to derive things like, adequate  
21 heating and air conditioning or bathrooms have  
22 accessibility and hygienic, or is this just your  
23 sense of what classrooms ought to be?

24 A. If you're asking whether or not the content  
25 standards say any of those things, the answer is no.

1 by the CTC?

2 A. Yeah. Let's describe our teacher analysis.

3 I did a little bit of that at the last session. But  
4 I think to provide context for the question --

5 As you'll note, we did not -- when we --  
6 when we did the teacher section team, the -- for the  
7 appendices, we did not break down those sections,  
8 sort of subqualities or subresources, what we did  
9 with instructional materials or technology or  
10 facilities.

11 We did not bunch together characteristics of  
12 teachers, and then, put a check next to the  
13 standards, basically, in that same fashion.

14 What we did, instead, when we saw where  
15 the -- where a standard was aligned with some other  
16 aspect of the requirements for becoming a teacher in  
17 California, whether it's something off the subject  
18 matter examinations or something from the other  
19 credential processes, the goal was to show how there  
20 is a link between what it takes to become a teacher  
21 in California and the specific content standards in a  
22 number of different places.

23 So the analysis you probably saw was  
24 different in that regard. And we didn't do the  
25 summation of the content standards in the same kind

1 of way in which standards imply with teacher  
2 resources, because that's not how we analyze  
3 teachers.

4 Does that make sense?

5 Q. Yeah.

6 A. Okay.

7 Q. So I have a better idea, would your  
8 testimony -- I'm still not sure about the answer to  
9 my question, which is, then, some requirements for  
10 teacher qualifications come from California -- from  
11 the CTC?

12 A. Right.

13 Q. Are you suggesting that those requirements  
14 really aren't the minimum requirements, because other  
15 things are required or may be applied by the  
16 California Content Standards?

17 A. The entire analysis in the entire report is  
18 all based on what the State of California says is  
19 necessary. We did not go beyond the -- any -- the  
20 four corners, in our view, of any document or  
21 publication or requirements set forth by the State of  
22 California itself.

23 And in regard to teachers specifically, we  
24 looked at the various requirements for becoming a  
25 teacher in California that California CTC did -- has

1 standards, even though legislation suggests that  
2 teachers should have those qualities. That's a  
3 question of implementation and enforcement that I  
4 don't have any specific opinion on --

5 Q. Okay.

6 A. -- one way or the other.

7 Q. All right. There's nothing I have next. I  
8 think that's it.

9  
10 (Whereupon there was a  
11 discussion off record.)

12  
13 MR. HAJELA: Can we go off the record for a  
14 minute?

15 MR. EGAN: I have one follow-up question  
16 on -- that may relate to one of the questions you  
17 asked.

18 MR. HAJELA: Okay.

19 MR. EGAN: You may want to hang around for  
20 just a minute --

21 MR. HAJELA: Yeah.

22 MR. EGAN: So what I think I'll do -- we're  
23 off the record.

24

25 (Whereupon there was a

1 published and linked those to the content standards.

2 So I think, in the answer to your question,  
3 is that we didn't -- we didn't go beyond anything  
4 that the CTC or the legislature has already said is  
5 required of California teachers. But we stayed  
6 within those corners --

7 Q. Okay.

8 A. -- basically.

9 Q. I think I understand.

10 A. Yeah.

11 Q. So what we're talking here about the link  
12 between what's in the standards and what teachers  
13 ought to know?

14 A. Right.

15 Q. But you're saying that somebody could be  
16 credentialed, but yet, perhaps, not -- has not  
17 mastered all the content standards and are not really  
18 qualified?

19 A. I'm not saying that one way or the other.  
20 Because I don't know whether these credential  
21 requirement are actually implemented or enforced,  
22 which is one of the big difficulties here.

23 It is entirely possible that a teacher may  
24 get credentialed and not have mastered the subject  
25 matter content knowledge as necessary to teach to the

1 discussion off record.)

2

3 EXAMINATION BY MR. EGAN

4

5 MR. EGAN:

6 Q. Good morning, Dr. Koski. And  
7 congratulations on your --

8 A. Thanks.

9 Q. -- new degree.

10 On the our last deposition, I asked you to  
11 look to, I think, two different types of records.  
12 One was a copy of the agenda from the meeting you  
13 attended at UCLA. And your counsel has produced  
14 that.

15 I also requested that -- you will recall in  
16 your testimony, you indicated that you thought you  
17 might have some documents regarding district policies  
18 with respect to social promotion. Did you look for  
19 those documents?

20 A. I did.

21 Q. Okay. Were you able to find any such  
22 documents?

23 A. No.

24 Q. Okay. Thank you.

25 MR. EGAN: Off the record.

1  
2 (Whereupon there was a  
3 discussion off record.  
4 Mr. Hajela left the room.)  
5

6 MR. EGAN:

7 Q. Dr. Koski, have you consumed any substances  
8 that would keep you from giving your best testimony  
9 this morning?

10 A. No.

11 Q. Okay. Do you have any other reason that  
12 you're not able to give your best testimony today?

13 A. No.

14 Q. Okay. Have you discussed your deposition  
15 with anyone since we last met?

16 A. I had one telephone call with Ms. Welch.

17 Q. Okay.

18 A. And in that telephone call, we -- she asked  
19 me if I had looked for the documents that we had  
20 talked about. I said I had looked for the document.  
21 I didn't find the document. I asked her what time we  
22 had to start. She said 9:00.

23 Q. Okay.

24 A. And let's see if there's anything else from  
25 that conversation?

1 A. No.

2 Q. Okay. Any discussions regarding the  
3 Williams case since we last met with anyone?

4 A. (Pausing.) Not -- no. Not specifically the  
5 Williams case. No.

6 Q. Generally topics were involved in the  
7 Williams --

8 A. Well, I've talked to a lot with people about  
9 issues regarding quality education in California  
10 since then. It's part of my job.

11 Q. Okay. Did you review any documents in  
12 connection with your deposition today?

13 A. No.

14 Q. Okay. Did you review a report?

15 A. No.

16 Q. When was the last time you read your report?

17 A. (Laughter.) Probably in September of last  
18 year. That's the last time I reviewed my report.

19 You mean other than the expert --

20 Q. That we've discussed.

21 A. -- that we've been going along -- yeah.

22 Q. Let me ask you. Other than the fact that  
23 you've now received your doctorate -- in what is your  
24 doctorate in?

25 A. It's in administration and policy analysis

1 Ms. Welch also told me she was going to be  
2 providing a copy of the agenda from the July 2002  
3 meeting at UCLA.

4 Q. Okay. Did you also look for any notes that  
5 you might have related to the UCLA conference?

6 A. Yes.

7 Q. Did you find any?

8 A. I didn't find anything, other than to the  
9 extent any such related materials would be produced  
10 that I provided to counsel. I did not find anything  
11 additional to that.

12 I don't know whether or not there was  
13 anything in the document I gave to counsel in the  
14 first place. So I couldn't -- don't -- I couldn't  
15 find anything else.

16 Q. Okay. Did you discuss your deposition with  
17 anyone besides Ms. Welch?

18 A. Um, only my students and my wife to tell  
19 them that it's still going on.

20 Q. Okay. Anything that you discussed with your  
21 students beyond the fact that it was still  
22 continuing?

23 A. No.

24 Q. Okay. Did you discuss your expert report  
25 exhibit with anyone since we last met?

1 from the school of education at Stanford.

2 Q. Did you prepare a doctorate thesis?

3 A. I did.

4 Q. What was the subject of the thesis?

5 A. The subject was the politics of judicial  
6 decision making in educational reform litigation.

7 Q. Other than that, are there any other changes  
8 in the resume that is attached to your report  
9 currently?

10 A. There's one additional publication, I  
11 believe.

12 Q. Okay.

13 A. That um, is forthcoming. It's a forward  
14 essay to a symposia issues of juvenile justice  
15 policy. And it's titled "The Political Construction  
16 of Youth Crimes and its Policy Consequences."

17 Q. Okay. Is there anything else in your  
18 experience or education that you think qualifies you  
19 to render the opinions set forth in your expert  
20 report that are not identified in your resume?

21 A. I'm -- I will say that, you know, to the  
22 extent this is calling for a legal opinion, I'm not  
23 going to render a legal opinion on my expert  
24 qualifications.

25 The methodology we used in the report was

1 one that I -- I'm -- I and my team are imminently  
2 qualified to utilize and to make the conclusions that  
3 we made in the context of the report.

4 Q. Okay. My question was: Was there anything  
5 in your -- anything else in terms of personal  
6 experience or education or training?

7 A. Beyond having -- you know, I teach students  
8 on a daily basis. And, I mean, just for the  
9 record --

10 MS. WELCH: Objection. That calls for a  
11 legal conclusion.

12 THE WITNESS: Yeah. I'm not rendering a  
13 legal opinion.

14 MR. EGAN: Okay.

15 THE WITNESS: I want to make that clear.

16 MR. EGAN:

17 Q. I understand that.

18 A. Yeah.

19 Q. That's -- the question is, again: Is there  
20 anything else that I should be aware of that relates  
21 to your qualifications to render opinions that are  
22 not set forth in your resume? That's all I'm asking  
23 you.

24 A. The -- the difficulty I have with the  
25 question -- I'm not sure what it means to be related

1 Q. What response did Mr. or Dr. Mintrop provide  
2 to your presentation?

3 A. He provided a couple of brief comments on  
4 the text of the paper. He did not provide any  
5 substantive critique of either the methodology of the  
6 content. I would regard his critique as mostly  
7 stylistic, frankly.

8 Q. Can you give me an additional specificity as  
9 to what the critique --

10 A. The only critique that I remember was he  
11 mentioned that it -- at one point, I characterized --  
12 I used an adjective describing California's content  
13 standards in the systemic course reform efforts  
14 around the standards. That was not -- I was outside  
15 the scope opinion and may have been misleading. And  
16 I don't remember what the adjective was,  
17 specifically.

18 Q. Do you remember if you changed your paper in  
19 response --

20 A. I did. I deleted the adjective because I  
21 agreed with the analysis -- with his comment. It was  
22 outside the scope my analysis --

23 Q. Okay.

24 A. -- to making that kind of judgment.

25 Q. Was the deletion -- what was the basis for

1 to the opinions that I have here.

2 Because as I said, as I have stated to the  
3 fact that this was a methodology that was very  
4 deliberately set forth and very clear and  
5 transparent, and the fact that we consulted with  
6 Dr. Darling-Hammond all along. And that I, myself,  
7 was both a doctoral student in education and members  
8 of our team were teachers, and all were very good  
9 readers. This is -- I'm not sure what more to say  
10 about that question.

11 MR. EGAN: Okay. Let me have our next  
12 exhibit marked.

13  
14 (WHEREUPON EXHIBIT 35 WAS  
15 MARKED FOR IDENTIFICATION)

16  
17 MR. EGAN:

18 Q. Can you identify Exhibit 35?

19 A. It appears to be the agenda for the July  
20 14th, 2002 conference that we had at UCLA.

21 Q. Okay. And under the agenda 9:50, it  
22 indicates:

23 "Bill Koski standards;  
24 response by Rick Mintrop."

25 A. Yes.

1 the deletion?

2 MS. WELCH: Objection. Vague.

3 THE WITNESS: It was -- again, it was  
4 outside the scope of my analysis to be drawing, what  
5 appeared to be, an opinion drawn. And he -- it --  
6 his comment was that it appeared -- it was something  
7 that I didn't take a look at. So I ought not render  
8 a judgment on that. And I agreed.

9 MR. EGAN:

10 Q. Did he provide any -- did you receive  
11 anything in writing from Dr. Mintrop?

12 A. No.

13 Q. Okay. Under the agenda 2:45, there's a --  
14 it indicates:

15 "Mike Russell (via  
16 conference call):  
17 Accountability; response by  
18 Bill Koski."

19 Did you provide a response to a  
20 presentation by Mr. Russell?

21 A. Yes.

22 Q. And what was the subject of Mr. Russell's  
23 presentation?

24 A. My recollection is that he presented and  
25 described his project regarding his analysis of the



1 California's Academic Performance Index.  
 2 Q. Okay. And did you provide him with a  
 3 response, if any? Did you provide to Mr. Russell --  
 4 A. I provided some, both positive feedback, on  
 5 many of things that I thought were interesting that I  
 6 learned about from his paper, and also some  
 7 suggestions for him, as well.  
 8 Q. Did you provide anything in writing?  
 9 A. Not to him. No.  
 10 Q. Did you make any written notes of your  
 11 suggestions or comments?  
 12 A. I did have some written notes. Yes.  
 13 Q. Did you still have those?  
 14 A. I do not have those anymore.  
 15 Q. Do you know what happened to them?  
 16 A. At some point, I provided them to um,  
 17 Morrison & Foerster, if they were contained in my  
 18 materials. Let me just reflect.  
 19 I gave -- I handed it to Morrison & Foerster  
 20 if they existed. Still, they would have been  
 21 contained in there.  
 22 Q. Okay. But your recollection is that you did  
 23 have some notes of your response to Mr. Russell?  
 24 A. Yes.  
 25 Q. Okay. What response, other than the

1 positive responses, what responses did you provide to  
 2 Mr. Russell's presentation?  
 3 A. I -- the only specific thing I remember was  
 4 I suggested that it was a very good critique of the  
 5 API. But what would be -- I thought that he -- it  
 6 might be helpful for him to discuss alternatives or  
 7 ways of improving the system.  
 8 There was, as I recall, a very cogent  
 9 critique of the system. But not so much of the way  
 10 of talking about how this is supposed to be improved  
 11 at that time.  
 12 There was also -- let me think. Contract --  
 13 MS. WELCH: Just for the record, I have a  
 14 problem with Professor Koski providing what he, you  
 15 know, remembers of his review of the Russell paper.  
 16 But this is outside of the scope of what he's been  
 17 asked to do for purposes of our case, rendering an  
 18 expert opinion.  
 19 MR. EGAN: His report does discuss the  
 20 accountability system. That's a subject that I'm  
 21 asking him. But I think it is certainly appropriate.  
 22 THE WITNESS: I want to make it clear that  
 23 what I did, in response to Mr. Russell's paper, was  
 24 far outside of the work that I did in connection with  
 25 this -- with my report for the case. And that's my

1 view of it.  
 2 And I certainly wasn't asked to provide any  
 3 expert opinion on the academic performance index,  
 4 which, is my understanding of Mr. Russell's paper. I  
 5 don't know how to answer that question.  
 6 MR. EGAN: Okay. Okay.  
 7 THE WITNESS: Not his work, but work that he  
 8 relied upon in the paper. And I -- I can't remember  
 9 whose work it was.  
 10 But I suggested that he might want to follow  
 11 up with the person whose work it was and verify it,  
 12 basically. And I can't remember whose work --  
 13 MR. EGAN:  
 14 Q. Do you remember what the question --  
 15 A. No. I don't. I don't -- I'm -- I can't  
 16 remember.  
 17 Q. Okay. Was there any discussion of the Lou  
 18 Harris poll of California teachers at this July 14th,  
 19 conference?  
 20 A. I don't have an independent recollection of  
 21 that -- the discussion of that right now. I mean, if  
 22 you showed me something, it could refresh my  
 23 recollection. But I don't remember that  
 24 specifically. I don't remember even when the poll  
 25 came out.

1 Q. Okay. Is the paper that you presented at  
 2 the conference going to be published in an academic  
 3 journal?  
 4 MS. WELCH: Objection. Calls for  
 5 speculation.  
 6 THE WITNESS: I don't know whether or not it  
 7 will. Yeah. It may be.  
 8 MR. EGAN:  
 9 Q. Is there a plan to have it published in an  
 10 academic journal to your --  
 11 A. There is no current plan. No. (Shrugging.)  
 12 My own opinion is I would like to see a lot  
 13 of work that's been done in connection with this  
 14 published, but that's my own opinion.  
 15 Q. Have you had any discussions with Dr. Oaks  
 16 regarding publication of various papers that were  
 17 presented at this July 14th conference in an academic  
 18 journal?  
 19 A. Yes. That was months ago. I don't know  
 20 what has happened to that. I don't know if there are  
 21 current plans to make that happen.  
 22 Q. What was the discussion with Dr. Oaks that  
 23 you had some months ago?  
 24 A. She suggested that there might be an  
 25 academic journal that was interested in publishing

1 the papers. And I said, "Wow! That's great. I'd be  
2 interested in participating."

3 Q. All right. How long ago was that,  
4 approximately?

5 A. Whew! Oh! I would say as much as four  
6 months ago.

7 Q. Okay.

8 A. Quite some time.

9 Q. And at present, you have no knowledge of  
10 whether your paper will be published in some form in  
11 an academic journal?

12 MS. WELCH: Objection. Asked and answered.

13 THE WITNESS: Yeah. I have no knowledge. I  
14 mean, that I haven't heard anything, I would surmise  
15 no, at this time. But it may. I don't know.

16 MR. EGAN:

17 Q. Okay. Are you familiar with Dr. Oaks's idea  
18 that is the institute for --

19 A. I don't recall.

20 Q. Are you familiar with the Ideas Online  
21 Newsletter, TCLA? Teaching --

22 A. No. I'm not, actually.

23 Q. All right. You've never visited that web  
24 site?

25 A. No. I haven't.

1 MR. EGAN: You -- so you have -- again,  
2 you've testified that -- as to what your state of  
3 knowledge is with regard to publications of your  
4 paper.

5 A. Yeah.

6 Q. Okay. Have you -- is the paper that you  
7 submitted to Dr. Oaks for publication -- for possible  
8 publication materially different than your expert  
9 report?

10 A. No.

11 Q. Okay. Is it identical?

12 A. In its current form, it's identical.

13 Q. Okay.

14 A. My view is it will need to be shortened for  
15 academic publication. But it substantially won't  
16 change.

17 Q. Okay. The title of the -- of your report  
18 is -- I believe it refers to textual analysis.

19 A. Correct.

20 Q. What did you mean "textual analysis"?

21 MS. WELCH: Objection. Asked and answered.

22 THE WITNESS: We did discuss this last week.

23 And again, my view is that this was strictly an  
24 analysis of the text of California State Content  
25 Standards and related materials.

1 Q. Okay. Do you know who is Marshall Smith?

2 A. Yes.

3 Q. Who is Mr. Smith?

4 A. He's the former dean of Stanford School of  
5 Education under the Secretary of Education in the  
6 Clinton Administration. And currently, I think the  
7 program officer for the Hewlett foundation.

8 Q. Have you had any discussions with Mr. Smith  
9 regarding the standards paper that you presented at  
10 the July 14 conference?

11 A. No.

12 Q. Do you have any knowledge of whether he will  
13 be reviewing your article prior to the publication in  
14 the academic journal?

15 A. No. But you should know the review process  
16 is confidential. You usually don't know who your  
17 peer reviewers are in the academic journal that's  
18 interested -- that you suggested that to me just now.

19 Q. Okay. I'll submit it's not confidential.  
20 I'll submit -- I'll submit it's been publicly on the  
21 Williams web site.

22 A. Oh! Well --

23 MS. WELCH: His expert report has been --

24 THE WITNESS: You asked published in the  
25 journal. And I said --

1 And as I mentioned earlier, we -- we  
2 attempted to not go beyond the four squares of  
3 those -- four corners of those documents in doing the  
4 analysis.

5 MR. EGAN:

6 Q. Okay. I think you also testified that you  
7 had various -- you had discussions with various  
8 faculty members at Stanford School of Education  
9 regarding standards. Is that correct?

10 A. We had discussions with Linda  
11 Darling-Hammond, definitely, and with a couple of  
12 other people. Whether or not they were faculty of  
13 standards, I don't recall.

14 Q. Okay. Did those discussions relate to your  
15 report -- strike that.

16 Did those discussions in any way influence  
17 what you included in the report?

18 MS. WELCH: Objection. Vague.

19 THE WITNESS: The -- we did discuss with --  
20 as I testified already -- a person in the science  
21 education, the issue of instructional materials for  
22 early elementary grades.

23 And as I mentioned before, the outcome of  
24 that discussion was that there was no general rule as  
25 to instructional materials that we could apply

1 uniformly, and that we needed to make more ad hoc  
2 conservative determination on a standard-by-standard  
3 base.

4 Q. Would a person who had read the standards  
5 and frameworks, and other materials that you cite in  
6 your report, be as capable as you for providing an  
7 opinion as to which of the resources were required or  
8 implied by the standards?

9 MS. WELCH: Objection. Calls for  
10 speculation. And it's definitely an incomplete  
11 hypothetical.

12 THE WITNESS: The work that we undertook was  
13 based on the methodology of having three people reach  
14 an agreement on the decision.

15 MR. EGAN: Okay.

16 THE WITNESS: This -- it's -- this work is  
17 about the methodology. It's not -- it's about making  
18 sure that there was a consistent determination as to  
19 what the standards said and implied and what the  
20 related documents said and implied. That's the  
21 strength of the work. And that's the conclusions  
22 that were drawn.

23 Whether or not anybody could have read these  
24 things and come to the same conclusions, I have no  
25 idea. It depends on the individual.

1 conditions.

2 What the paper does, it identifies what the  
3 State of California itself says in terms of resources  
4 that are necessary to teach to and to learn the  
5 standards.

6 So I would, at minimum, say that those are  
7 the basic educational conditions. There may be other  
8 basic educational -- basic conditions that one could  
9 say ought to be provided to kids in California.

10 What this exercise was that -- determining  
11 was the State of California says would be at minimum  
12 basic educational conditions and resources.

13 Q. Okay. My question was on basic educational  
14 conditions. And I think your answer referred to  
15 basic educational conditions and resources.

16 Do you differentiate between basic  
17 conditions and basic resources?

18 A. Oh! Okay. Conditions and resources we put  
19 together because conditions might be the qualities of  
20 teachers.

21 The conditions might be the temperature in a  
22 classroom. These kinds of things. They could also  
23 be characteristics as resources. We wanted to have  
24 something that encompassed both conditions, and  
25 others -- or some people might consider a resource.

1 All I know is that the strength of the work  
2 is that there were three of us that reached a  
3 consensus.

4 MR. EGAN:

5 Q. Okay. But based upon -- so that there's  
6 nothing in the nature of the standards regarding the  
7 frameworks themselves that would keep an individual  
8 from reading them and making a conclusion as to  
9 whether a particular resource was required or  
10 suggested, as you have done?

11 MS. WELCH: Same objection. Also asked and  
12 answered.

13 THE WITNESS: A person could individually  
14 read the standards. And depending upon their  
15 knowledge and their reading ability, among other  
16 things, could make determinations as to the  
17 resources. Whether or not those determinations would  
18 be appropriate to make those determinations is  
19 something I can't speak to.

20 MR. EGAN:

21 Q. Your title also refers to basic educational  
22 conditions. How do you define basic educational  
23 conditions?

24 A. I don't have a specific definition for basic  
25 educational -- encompassing basic educational

1 Q. Okay.

2 A. Yeah.

3 Q. Does your report in any way attempt to  
4 define what resources are required for basic  
5 education?

6 A. My report, once again, only identified those  
7 resources and conditions that the State of California  
8 itself has identified as necessary or recommended to  
9 teach to and learn the state's content standards.  
10 It's pretty clearly indicated in my report. It is  
11 not an attempt to create an entire educational system  
12 that would provide an adequate or basic education.  
13 There would be many, many, many, many more components  
14 to that system, including instructional and  
15 administration --

16 Q. Okay.

17 A. -- facilities, and on and on.

18 Q. Okay. On Page 1, Paragraph One of your  
19 report --

20 A. Uh-huh.

21 Q. -- you indicate the premise in the third  
22 sentence, under "standards movement" is: "All  
23 children can achieve high levels."

24 A. Uh-huh.

25 Q. And what is the basis for that statement?

1 A. Wow! I will -- the best I can answer that  
2 statement is that um, there is a history behind the  
3 standards bases reform movement that is grounded,  
4 both in politics and academic research. And the  
5 standards-based reform movement was a response to the  
6 idea that, basically, a psychological idea that  
7 people fall in a continuum on a bell curve in the  
8 ability to achieve and not achieve. That was an  
9 accepted dogma for many, many years.

10 Q. Okay.

11 A. Later on, there was cognitive research  
12 demonstrated that people fall within a pretty narrow  
13 range of potential abilities. The result of that was  
14 people don't need to fall along a bell curve. In  
15 fact, all people have a potential of learning at a  
16 very high level.

17 Similarly, there was a social psychological  
18 research that demonstrated that expectations of  
19 schools and teachers might have an impact on  
20 children's -- an impact on children's own learning  
21 and achievement.

22 And the out -- the flip side to that  
23 research would suggest that if you set higher  
24 expectations and standards, kids might be able to  
25 achieve at higher levels.

1 The United States Congress agreed with that  
2 when it passed things like Gold 2000 legislature and  
3 re-authorized ESA in the 1990's.

4 And so, the political side of this is that  
5 Congress also agreed with that research, that all  
6 children can achieve at higher levels.

7 Q. Okay. Page 1, Paragraph One, the very end,  
8 discusses the provision of necessary education  
9 conditions and resources.

10 A. (Nodding head.)

11 Q. Do you -- I'm reading --

12 A. Yes.

13 Q. Are all of the educational conditions and  
14 resources that you're talking about of equal  
15 importance?

16 MS. WELCH: Objection. Vague.

17 THE WITNESS: That was outside the scope of  
18 our analysis.

19 Again, I really want to characterize our  
20 analysis as being what the State of California itself  
21 has to say about what's the necessary condition or  
22 resource or recommended condition or resource for  
23 children. We did not undertake any analysis as to  
24 what the relative importance of the conditions and  
25 resources are.

1 MR. EGAN:

2 Q. Do you have an opinion as to whether any of  
3 these resources are of relatively higher importance?

4 MS. WELCH: Objection. Asked and answered.

5 THE WITNESS: As I sit down and really think  
6 about it, I don't have an opinion right now on that.

7 No. And again, that would be a personal opinion.

8 MR. EGAN:

9 Q. And Page 1, Paragraph Two of your report:

10 "As California established

11 definitions that define the  
12 degree to which students have  
13 met the content standards."

14 MS. WELCH: Objection. Vague.

15 THE WITNESS: California has adopted um, the  
16 California Standard Test which reflects -- is  
17 intended to reflect the knowledge and skills that are  
18 contained in the state's content standards.

19 Whether or not the California Standard Test  
20 reflects all of those things, whether or not it -- it  
21 is a valid test, and actually does reflect those  
22 things that we -- that the standards want all  
23 children to know and be able to do, I don't know. I  
24 don't have -- I have never checked the evaluation of  
25 the test before.

1 MR. EGAN:

2 Q. Okay. And Page 1, Paragraph Two, you say --  
3 you state the performance standards, close quote.

4 What do you mean by performance standards?

5 A. Performance standards -- and, again, this is  
6 not my terminology. It's pretty common terminology,  
7 the standards. Performance standards.

8 I have identified, basically, a benchmark  
9 for kids that would indicate that the children have,  
10 in fact, learned and are able to do the things set  
11 forth in the content standards.

12 Q. Okay.

13 A. The only effort that I'm aware of in  
14 California is of the California Standards Test.  
15 There may be other efforts to benchmark and make that  
16 determination. But the California Standard Test is  
17 the only effort that I'm aware of. And I'm not -- I  
18 have no opinion whether or not they're successful in  
19 it.

20 Q. Do you know whether the state has  
21 established specific levels of performance with  
22 respect to the test that you've identified?

23 A. I'm not sure I understand the question. Can  
24 you say it again? I don't know what that means.  
25 Where state identified specific levels of

1 performance --

2 Q. Does the state identify those who are  
3 successful, unsuccessful, who achieve in the 90  
4 percentile, 20 percentile? Some other standard?

5 A. If you're asking whether or not there's a  
6 cut score out there that identifies whether or not  
7 kids have learned -- been able to do the things in  
8 the content standards, I'm not aware of any specific  
9 cut score, although the high school exit exam, I  
10 imagine, does have cut scores that have been  
11 determined. I have not looked at any specific  
12 determinations there.

13 Also, to the extent that kids are supposed  
14 to know and be able to do all the things in the state  
15 standard, one could argue that all of the things need  
16 to be achieved by kids. That's the expectation.

17 Q. Okay. With regard to your report, your  
18 discussion at the bottom of Page 1 of the  
19 standards-based reform or movement --

20 A. Uh-huh.

21 Q. -- what was the objective of the  
22 standards-based reform, as you described it here?

23 A. The --

24 MS. WELCH: Objection. Calls for  
25 speculation.

1 less than equitable view.

2 It's just the standards are higher, and  
3 then, creates one side fits all policy irrespective  
4 of the needs of kids in order to achieve those  
5 standards. So we may have -- there may be many  
6 different kinds of objectives out there.

7 Now, all of this is outside the scope of the  
8 work that we did in my report, I might say. But that  
9 there are some possible speculations as to what  
10 various actors in the system may have had as an  
11 objective in the movement.

12 Q. Okay.

13 THE WITNESS: Could I go off the record?

14  
15 (Whereupon there was a  
16 discussion off record.)

17  
18 (Whereupon a recess was taken.  
19 Off the record at 10:02 and back  
20 on the record at 10:06.)

21  
22 MR. EGAN:

23 Q. Dr. Koski, referring to your report, the  
24 last sentence on Page 1, the paragraph continues on  
25 to Page 2. It refers to:

1 THE WITNESS: A lot of players in the system  
2 had a lot of different objectives. And I can't  
3 speculate as to which player has which objective in  
4 doing this. And I'm not sure that everybody would  
5 agree as to what are the objectives of  
6 standards-based reform movement.

7 MR. EGAN:

8 Q. Can you give me the two or three, you know,  
9 prime --

10 A. Sure.

11 Q. -- examples of the objective --

12 A. Sure.

13 Q. -- as you understand it?

14 A. One of my creative coherence in the system,  
15 by linking state policies to various state  
16 educational policies to the standard themselves,  
17 because there was a lot of variation in terms of what  
18 kids were doing in various school districts and what  
19 various schools expected of kids.

20 There was a goal some people may be in  
21 coherence in the system. That's systematic analysis  
22 of the standards basic reform.

23 Other people may have the view that this was  
24 equitable, that expects all kids to have the same  
25 level. And it's -- there may be others that have a

1 "As most jurisdictions  
2 failed to make any attempt to  
3 define such OTL ..."

4 Which, I think, refers to the  
5 opportunity to learn or school delivery standards.  
6 What do you mean by "school district delivery  
7 standards"?

8 A. The school delivery standards are very akin  
9 to deliver the opportunity to learn standards. And  
10 most people would probably lump them together.

11 It's just a nomenclature that is used for  
12 standards that would indicate the processes the  
13 resources and the structures within schools that  
14 would allow teachers to teach to and kids to learn  
15 the standards.

16 Q. Okay. So is it fair, then, to say that the  
17 terms are interchangeable?

18 A. I would hesitate to say they're  
19 interchangeable. All people define stuff. They  
20 actually feel like they've created a different  
21 definition. And whoever defined school delivery  
22 standards may have been thinking slightly OTL  
23 standards.

24 What I'm saying is that they're pretty akin  
25 to each other. And that I think for a layperson's --

1 from a layperson's perspective, this looks like the  
2 same.

3 Q. Okay. So --

4 A. I can't really answer that question, whether  
5 or not they're identical.

6 Q. When you say that jurisdictions have failed  
7 to make any attempt to define OTL or school delivery  
8 standards, what do you mean? Specifically, are you  
9 saying that the standards have not specifically  
10 defined the opportunity to learn, or is it some  
11 broader statement?

12 A. I am unaware of any systemic and  
13 comprehensive effort to identify all of the  
14 conditions, resources processes structures, and the  
15 like, that would allow all children to achieve the  
16 high -- achieve the content standards and know -- be  
17 able to do the things in the condition standard which  
18 is established by the various state jurisdictions.

19 Q. So then, is it fair to say what you're  
20 referring to here is this concerted systematic effort  
21 to define, as opposed to some unsystematic effort to  
22 provide resources that would allow students to learn?

23 MS. WELCH: Objection. Vague.

24 THE WITNESS: I am saying that the -- I'm  
25 aware of an effort to systematically link these

1 to learn?

2 MS. WELCH: Objection. Vague.

3 THE WITNESS: If the goal is to ensure and  
4 provide a system of education that allows children to  
5 achieve the state's content standards, this is a step  
6 toward creating the coherence and creating that  
7 system.

8 MR. EGAN:

9 Q. Okay. On Page 2, Paragraph One:

10 "... the state has begun to  
11 hold schools accountable for  
12 student performance with a  
13 system of rewards for those  
14 schools that meet their academic  
15 goals and graduated punishments  
16 for those that fail."

17 Do you see where I'm reading?

18 A. Yes.

19 Q. Okay. What are these systems that you're  
20 referring to?

21 A. It's basically the Public School  
22 Accountability Act and its various provisions for  
23 both providing rewards and incentives to teachers and  
24 schools and potential intervention for the  
25 under-performing schools, and potentially negative

1 opportunities to learn to state content standards in  
2 any meaningful way, including providing compensatory  
3 remedial support where that's necessary for kids.

4 There may be many efforts out there to say  
5 what kids need in the abstract --

6 MR. EGAN: Okay.

7 THE WITNESS: -- apart from the standards.  
8 But that's not what I'm saying.

9 MR. EGAN:

10 Q. Okay. Are you aware of any effort by the  
11 State of California to link the various resources  
12 that you've identified anywhere of the various  
13 resorts you've identified to the content standards?

14 A. I am aware of what legislature and  
15 regulations have to say about California's efforts to  
16 link its resource provision to the standards. And I  
17 think that's basically what the first part of this  
18 paper describes, linking teachers' qualifications and  
19 requirements to the standards, linking textbooks and  
20 instructional materials to the standards and the  
21 like. Those are the efforts that I'm aware -- there  
22 may be others out there.

23 Q. Okay. And I take it that you -- that is a  
24 step in the right direction in the -- within the  
25 contents of setting the conditions for opportunities

1 sanctions if there isn't improvement over some period  
2 of time.

3 Q. Are there comparable Federal systems that  
4 you're aware of?

5 A. There is legislature called No Child Is Left  
6 Behind Act, which aims to raise student achieve --  
7 demographic achievement. And if that doesn't happen,  
8 there are opportunities -- there are opportunities  
9 made for the children to either leave a failing  
10 school or receive compensation or receive some type  
11 of remedial tutoring services or the like to help  
12 them achieve better.

13 Q. Okay.

14 A. There may be others out there, by the way.  
15 I'm just -- that's the major one that comes to mind.

16 Q. Are you familiar with the High Priority  
17 School Grant Program?

18 A. Not in any great detail. I've heard that  
19 before.

20 Q. Do you have a general understanding of what  
21 the High Priority School Grant Program does?

22 A. Hmm! No. I can't say I have a very good  
23 general understanding. No.

24 Q. Okay. On Page 2, second full paragraph, you  
25 make the statement regarding, to the effect:

1 "It's not fair to hold  
 2 teachers and students  
 3 accountable when they are  
 4 hamstrung by resource  
 5 deficiencies."  
 6 What do you mean by "resource  
 7 deficiencies"?"  
 8 A. If teachers did not have the resources  
 9 necessary to teach to the standards, and children  
 10 don't have resources necessary to learn the  
 11 standards, it's a very -- it's not fair to hold  
 12 teachers and students accountable for not achieving  
 13 the standards if they don't have the resources.  
 14 Q. Do you have any specific standards for  
 15 resources in this contents?  
 16 MS. WELCH: Objection. Vague.  
 17 THE WITNESS: What we have done here is we  
 18 have identified resources that the state itself  
 19 suggests are necessary or recommended for kids to  
 20 achieve at these standards. And to the extent those  
 21 resources are the -- certainly the necessary  
 22 resources are required, I would think it is not fair  
 23 to hold kids accountable.  
 24 MR. EGAN:  
 25 Q. Okay. On Page 2, Paragraph Two, you state:

1 contents?  
 2 MS. WELCH: Objection. Asked and answered.  
 3 THE WITNESS: The inequity that is -- that  
 4 some identifiable groups of kids perform in what we  
 5 would regard as a -- or strike that.  
 6 I don't -- that's not what I wanted to say.  
 7 The inequity is that some students, for  
 8 instance, perform well in terms of standards  
 9 achievement test and the like, and others do not  
 10 perform well.  
 11 And this is outside of the scope of my  
 12 opinion in this case. But I know there has been  
 13 research that has been generated that -- a lot of --  
 14 performances are correlated with race, ethnicity,  
 15 social, economic status in terms of the local school.  
 16 Q. Well, are you saying that it's outside of  
 17 the scope of your report, and that you really are not  
 18 able to opine upon the extent to which there are  
 19 existing educational inequities?  
 20 A. It is outside -- yes. That is definitely  
 21 outside the scope of my report.  
 22 I have read many other things that  
 23 demonstrate quite clearly that kids in lower income  
 24 schools and school districts don't have access to  
 25 certified teachers at the same rate as kids in higher

1 "That section describes the  
 2 state's legislative scheme for  
 3 standards-based reform and how  
 4 that scheme has the potential  
 5 for raising the bar for all  
 6 students on the one hand, but  
 7 also carries with it the risk of  
 8 further exacerbating the  
 9 existing educational  
 10 inequalities on the other."  
 11 What are you referring to?  
 12 A. Certainly, among those educational equities,  
 13 is student performance. Standardized --  
 14 standards-based assume we have the criterion is a  
 15 huge, major inequity in terms of student outcome in  
 16 that regard.  
 17 There's a huge amount of inequity in terms  
 18 of graduation rates in the state. There is an  
 19 inequity in terms of drop -- similar drop-out rates.  
 20 There is an inequity in rates A through G course  
 21 taking. There is an inequity in terms of advance  
 22 placement course taking. There is an inequity in  
 23 terms of college attendant rates among populations of  
 24 students and so on and so forth.  
 25 Q. So in what sense is the inequity in those

1 S E School Districts.  
 2 Kids in primarily -- or largely  
 3 African-American who are at them don't have access  
 4 to -- Latino that -- as I said before, that's not  
 5 part of my opinion here.  
 6 Q. How does standards-based reform carry a risk  
 7 of exacerbating the inequities that you've referenced  
 8 in the --  
 9 A. Depends on the policy response to a  
 10 demonstration that some kids are not achieving at  
 11 high levels, and other kids are achieving at high  
 12 levels.  
 13 If the policy response is to provide  
 14 sufficient resources and conditions to allow the kids  
 15 who are meeting the standards, that we expect them to  
 16 meet, that would be an inequitable result. If we do  
 17 not -- if the policy response is to not provide those  
 18 resources, that would be inequitable and pose similar  
 19 results because it identified the low-performing  
 20 school kids as somehow incapable of achieving high  
 21 standards, even though the same opportunities they  
 22 didn't have of kids who may have achieved at the high  
 23 standards.  
 24 Q. Okay. The bottom of Page 2, you refer to:  
 25 "... children to reach

1 proficiency ..."

2 What do you mean by "proficiency"?

3 A. Can you point out --

4 Q. It's the --

5 A. I see.

6 Q. -- first sentence from the bottom.

7 A. For kids to have acquired the knowledge or  
8 developed the skill that the standards encompass.  
9 That's proficiency.

10 Q. Okay. Are there other levels that can be --  
11 that have been defined by the state with respect to  
12 the extent to which content standards have been  
13 learned?

14 MS. WELCH: Objection. Vague.

15 THE WITNESS: I don't know what you mean.

16 Are there levels -- I mean --

17 MR. EGAN:

18 Q. Beside proficiency.

19 A. Oh! Well, when I look at it -- when I look  
20 at a -- and not proficiency. I'm not quite sure  
21 what --

22 Q. That's okay. I -- fine. If -- I was  
23 discussing if you are aware if the state has defined  
24 specific levels --

25 A. It's -- maybe we're not talking about the

1 A. To the extent that the instructional -- that  
2 the standard -- California requires its instructional  
3 materials to be aligned with textbook to the --  
4 aligned with the state standards, I would call that  
5 part of the standard reform effort.

6 Q. I think you previously referenced some of  
7 the mechanisms in place to the effect that teachers  
8 are taught consistent with the content standards. Is  
9 that correct?

10 MS. WELCH: Objection. I think that  
11 mischaracterize past testimony.

12 THE WITNESS: The report itself identifies  
13 legislature that would seem to require that the  
14 teachers be taught materials in alignment with the  
15 state standard.

16 MR. EGAN:

17 Q. Again, in your opinion, is that, you know,  
18 part of California's standards-based reform effort in  
19 that --

20 A. Any effort by California that's actually  
21 legislated and implemented and enforced, that would  
22 align with what teachers should know and be able to  
23 do with -- California Content Standards would be a  
24 part of the systemic standards-base reform effort.  
25 Yeah.

1 same thing here.

2 Q. Okay.

3 A. I'm talking with regard to any specific  
4 standard. I am unaware of the state having to find  
5 various levels of research to any specific standards.  
6 So I can't.

7 Q. Okay. With regard to Page 3,  
8 standards-based reform in California, do you know  
9 whether California's standards-based reform includes  
10 funding to school districts to purchase instructional  
11 materials aligned with the content standards?

12 A. I'm familiar with legislature that provides  
13 that the instructional materials are supposed to be  
14 aligned with the content standards. And I'm familiar  
15 with that legislature.

16 I am also familiar with legislature that  
17 provides funding for school districts to purchase  
18 materials. I don't know whether or not that's  
19 funding or not.

20 Q. Okay.

21 A. But I'm familiar --

22 Q. Okay.

23 A. -- with that.

24 Q. Do you consider that part of California's  
25 standards-based reform of the program?

1 Q. I'd like to refer you to Page 4 of your  
2 report. The paragraph under "Development of Content  
3 Standards."

4 A. (Nodding head.)

5 Q. And I've got a question about the last  
6 couple of sentences. But if you want to read the  
7 whole paragraph to put it in context --

8 A. Sure.

9 Q. -- that's fine.

10 A. Sure. Okay.

11 Q. The second to the last sentence, you refer  
12 to curriculum frameworks as "blueprints." What do  
13 you mean by "blueprints"?

14 A. We discussed at length, I think, on day one  
15 of the deposition what the difference was between  
16 content standards and the curriculum frameworks.

17 And the curriculum frameworks are  
18 blueprints, guidelines and specific lesson plans.  
19 And otherwise, it -- that teachers can use what are  
20 geared towards helping students learn the material  
21 content standards.

22 Q. Okay. The reason I ask specifically about  
23 "blueprints" is because you talk about blueprints and  
24 suggested guidelines. And I infer that you are  
25 trying to make a distinction between the two. And if



1 I understand your answer, that's not necessarily  
2 true?  
3 A. No. I'm not trying to make a distinction.  
4 No.  
5 Q. Okay. As you said, they are suggested, that  
6 they are guidelines; is that correct?  
7 A. This standard, in my view, are, you know,  
8 blueprints, guidelines, lesson plans, suggestions,  
9 however you want to call them.  
10 I mean a lot of people may have many  
11 different views on that -- on what they are. But  
12 those might be words that they are using in  
13 connection with them. I'm not trying to be exclusive  
14 with the list. The standard -- the curriculum  
15 frameworks, these say what they are in their -- into  
16 the preambles. The difficulty is I don't have that  
17 memory right now.  
18 Q. Okay. I don't think any one of these ever  
19 will.  
20 A. Yeah.  
21 Q. In that same sentence, you indicate that the  
22 frameworks teachers use in developing standards  
23 focuses on curricula. What are you referring to in  
24 terms of standard focused curricula?  
25 A. Teachers have the opportunity to develop

1 curriculum and lesson plans around -- that are geared  
2 towards letting students obtain the knowledge and  
3 skills that are set forth in the standards.  
4 Q. In terms of developing identified, as I  
5 understand it, that the framework will facilitate  
6 curricula based upon and related to the content  
7 standards?  
8 A. The -- um, yeah. Is there a question there?  
9 I'm not sure what to say.  
10 Q. Well, I think you've answered it.  
11 A. Yeah.  
12 Q. On Page 5, under the "Mathematics," second  
13 paragraph --  
14 A. Okay.  
15 Q. -- you refer to skills for the study of  
16 advanced mathematics. And you stated in the content  
17 of these disciplines "must be covered."  
18 Does that mean they must -- these  
19 disciplines must be covered with all students, or  
20 just students who are taking these advanced courses?  
21 MS. WELCH: Objection. Calls for  
22 speculation.  
23 THE WITNESS: I have to read the standards  
24 and the curriculum frameworks to see what the states  
25 own expectations are regarding these things to the

1 extent they don't put any limitations on whether or  
2 not students ought to be learning the materia. They  
3 would expect all students to be able to do and know  
4 the things that are contained in these math content  
5 standards.  
6 MR. EGAN:  
7 Q. So if I understand correctly, then, you  
8 would expect all students to be exposed to or to take  
9 algebra I, algebra II, geometry and precalculus?  
10 MS. WELCH: Objection. Mischaracterizes his  
11 testimony.  
12 THE WITNESS: To the extent that it has the  
13 expectation to the standards themselves by not  
14 limiting them to any groups of students, then I would  
15 expect all students to be able to do all of those  
16 things.  
17 I'm not making any determination as to what  
18 students should know and be able to do. It's the  
19 state itself that has set the expectations here.  
20 MR. EGAN:  
21 Q. Okay. Do you know whether algebra II,  
22 trigonometry, precalculus are included as part of  
23 what you've defined as California's high states  
24 testing?  
25 MS. WELCH: Objection. Compound.

1 THE WITNESS: I don't know, actually. Um,  
2 and the term "high stakes testing" is pretty broad  
3 and might concern whether it's standards test or high  
4 school exit and on -- or on the, obviously,  
5 California Standards Test for third graders is not --  
6 could be trigonometry.  
7 MR. EGAN:  
8 Q. Not yet?  
9 A. Not yet.  
10 Q. Well, let me just break it down.  
11 Do you know whether any of the subjects that  
12 I have referenced are covered by the high school exit  
13 exam?  
14 A. I do not know. We did not do an analysis of  
15 the -- I would have loved to, but --  
16 Q. How about for the California Standards Test?  
17 A. Same answer.  
18 Q. Okay.  
19 A. I do not know specifically.  
20 Q. Okay.  
21 A. Yeah.  
22 Q. Let me refer you to Page 6, the first  
23 paragraph.  
24 There's a reference to the high school  
25 standards. And I believe this refers to science.

1 It's defined into groups.  
 2 A. Yeah.  
 3 Q. "Standards all students are  
 4 expected to achieve and  
 5 standards that all students  
 6 should have the opportunity to  
 7 learn."  
 8 See where I'm --  
 9 A. Yes.  
 10 Q. Okay. Is this an example of -- of the state  
 11 indicating that not all students are expected to meet  
 12 certain standards?  
 13 A. The state in the science content standards  
 14 has been divided into two categories. One -- that's  
 15 one category is the standards -- is the students'  
 16 requirement expected to achieve, and the second is  
 17 that all student should have the opportunity to  
 18 learn.  
 19 I believe this implies the opportunity to  
 20 learn is that this be sufficient resources for all  
 21 students -- give them the opportunity to learn those  
 22 things. But the state said, in terms of our  
 23 expectations in achievement, it's limited to that  
 24 first category.  
 25 Q. Okay. Fine. On page -- again, on Page 6,

1 the heading line in "California policy with  
 2 standards" --  
 3 A. Uh-huh.  
 4 Q. -- you reference a -- you state that the  
 5 state adopt the curriculum frameworks instructional  
 6 terms and others are intended to be aligned to the  
 7 standards.  
 8 Again, is this what -- you consider this to  
 9 be, again, part of California's standards-based  
 10 reform program?  
 11 A. To the extent that California has adopted  
 12 curriculum frameworks that are aligned with the  
 13 standards, I would consider that part of the  
 14 standards-reform effort.  
 15 Q. Okay. On Page 6, Note 7, there's a  
 16 reference to California Department of Education  
 17 2000-C, Page 43.  
 18 I could not find that document identified in  
 19 your references.  
 20 A. Really!  
 21 Q. Yeah. I mean, I -- I found 2000-A and B on  
 22 Pages 22 and 23. Starting on page -- the bottom of  
 23 Page 2 --  
 24 A. Uh-huh.  
 25 Q. And I could have missed it, but I don't

1 think so. But do you recall what this document is?  
 2 A. Bear with me for a second.  
 3 Q. Sure.  
 4 A. Let me read this.  
 5 Q. Sure. Take your time.  
 6 A. It's been three years since I've read it, I  
 7 would bet.  
 8 My best -- based on my reading of footnote  
 9 7, my best supposition here is that this is a  
 10 reference to the draft science curriculum frameworks.  
 11 Q. Okay. Which I believe we have it?  
 12 A. It could be reference to the state standards  
 13 themselves. I can't be sure. Do we have those?  
 14 Q. I think we do.  
 15 A. Do you mind if I take a look?  
 16 Q. Those are the standards framework?  
 17 A. The standards.  
 18 Q. I have -- those are the final standards, if  
 19 you're referring to Exhibit 34. And I thought you  
 20 referenced the draft. But if you want to take a  
 21 minute to look, that would be fine. No problem.  
 22 A. My difficulty here is the way it's written.  
 23 It seems to -- it's written in the same way that the  
 24 standards are written.  
 25 Q. Okay.

1 A. The quotations in the parentheticals.  
 2 Q. Let me ask this, rather than trying to do it  
 3 now.  
 4 A. Yeah.  
 5 Q. Could you take a look and see if you can  
 6 identify and just --  
 7 A. Absolutely. I'll take a look and see if I  
 8 can find it.  
 9 Q. That's fine.  
 10 MS. WELCH: No problem.  
 11 THE WITNESS: That's fine.  
 12 MR. EGAN:  
 13 Q. Okay.  
 14 A. Thank you.  
 15 Q. Referring to Page 8 in the high school exit  
 16 exam, is it correct that the high school exit exam  
 17 only covers English language arts and mathematics?  
 18 A. I don't know what the current exit  
 19 examines -- my recollection, as discussed in this  
 20 paragraph on Page 8, was that it only talked about  
 21 English language arts and mathematics. There may --  
 22 the legislature may have changed since then -- that  
 23 time. I don't know for sure.  
 24 Q. Okay.  
 25 A. This discussion with the legislature says --

1 so --

2 Q. Okay.

3 A. I would add, by the way, that if you have  
4 the California Education Code, you could read through  
5 for yourself --

6 Q. Right.

7 A. -- what the legislature required.

8 Q. With regard to Page 10, Mr. Hajela asked you  
9 some questions about reference to cash-strapped  
10 districts.

11 A. Yes.

12 Q. And I believe you testified that your  
13 knowledge -- you had personal knowledge and  
14 experience with regard to certain school districts.  
15 And you referenced West Fresno. What's your  
16 knowledge of the cash situation at West Fresno?

17 MS. WELCH: Objection. The testimony will  
18 speak for itself.

19 THE WITNESS: My understanding of the  
20 knowledge of the West Fresno Districts are what I  
21 read in various press accounts.

22 And that the district -- my understanding is  
23 that the district is insolvent. And at some point,  
24 the district became insolvent. And there was some  
25 suggestion that the state might need to exercise --

1 future teachers."

2 What specifically did you mean by that?

3 A. As I go on to describe, in this section of  
4 the paper, there are a number of legislative  
5 regulatory requirements for teachers who want to  
6 obtain or credential in California that are linked to  
7 the standards themselves.

8 Q. Okay. Is there anything other than what you  
9 set forth in your report that comes to mind in terms  
10 of further implications for future teachers?

11 A. No. Again, the scope of the report really  
12 is limited to what the State of California has  
13 promulgated in terms of its own requirements for  
14 teachers.

15 Q. On the top of Page 12, you indicate -- or  
16 you state:

17 "There are no similar  
18 requirements that will ensure  
19 such familiarity and proficiency  
20 among teachers already holding  
21 state credentials."

22 Are you aware of any efforts by the  
23 state to familiarize teachers -- current teachers  
24 with the state content standards?

25 A. I'm not. But I'd be interested in knowing.

1 or that the district might need to obtain an  
2 emergency loan from -- the state may have to exercise  
3 its authority as receiver for the school district.

4 MR. EGAN: Okay.

5 THE WITNESS: I don't know whether that  
6 happened or not.

7 MR. EGAN:

8 Q. Is your knowledge with regard to the Oakland  
9 Unified School, based upon the same source, that  
10 press release?

11 A. And the legislature and the like. Yes.

12 Q. Okay.

13 A. Yes.

14 Q. How about Ravenwood?

15 A. My knowledge with Ravenwood is somewhat  
16 different. And the same thing -- I have a great  
17 amount of knowledge in connection with the Embassy  
18 against Delaine regarding Ravenwood's physical  
19 condition.

20 Q. Okay. On Page 11 under the "Teacher  
21 Credentialing Standards," the first sentence, you  
22 indicate:

23 "California's  
24 standards-based reform scheme  
25 has further implications for its

1 Q. Okay. Are you familiar with any efforts by  
2 the local School Districts to familiarize teachers  
3 with state content standards?

4 A. I do -- I do know that. At least, this is  
5 based on personal knowledge, at least, one school  
6 district I'm familiar with, I know that there has  
7 been discussions in in-service training regarding  
8 standards and curriculum that would be tightened to  
9 the extent that current teachers attended those  
10 in-service training, they would have been exposed to  
11 the school district's efforts in that regard.

12 Q. What district?

13 A. Those in Ravenwood.

14 Q. In Ravenwood?

15 A. Uh-huh.

16 Q. Okay. Are you aware of anything in any of  
17 the frameworks which suggest teachers should  
18 emphasize particular standards?

19 A. What do you mean by "frameworks"?

20 Q. Either the English language arts, math, the  
21 state English, arts, mathematics, science or history,  
22 social science?

23 A. Curriculum frameworks?

24 Q. Yes. Curriculum frameworks.

25 A. Um, no. I'm not aware of any specific

1 suggestion to emphasize some standards at the expense  
2 of other standards, I guess.

3 Q. Okay. On Page 12 under the "Content and  
4 Consequences" heading, I think the third sentence:

5 "This is a far cry from the  
6 input and process-oriented  
7 accountability and monitoring  
8 systems that most states,  
9 including California, have  
10 relied upon for years."

11 What do you mean by input and  
12 process-oriented accountability and monitoring  
13 system?

14 A. Beginning with the federal government, at  
15 least, of the level of federal monitoring of Title  
16 One in the 1960s, the typical monitoring scheme has  
17 been identifying the educational resources and inputs  
18 in the system to make determinations as to whether or  
19 not kids are getting what they're supposed to get,  
20 based on the cite set by the monitoring agency.

21 And there was little or no effort to  
22 determine to monitor -- I should say -- monitor the  
23 school districts on student outcomes, such as  
24 achievement or graduation rates or anything in that  
25 regard.

1 And so, the gist there is that  
2 standards-based reform, with its focus on achievement  
3 on the content standards, does shift this monitoring  
4 programs toward potentially to a more outcome driven  
5 system.

6 Q. Okay. Do you have knowledge of California's  
7 accountability and monitoring systems?

8 MS. WELCH: Objection. Vague.

9 THE WITNESS: I am aware of the Public  
10 School Accountability Act and its accountability  
11 monitoring system. I'm also aware of the monitoring  
12 system employed by the Department of Education  
13 regarding special education services.

14 MR. EGAN:

15 Q. Okay. Is that the extent of your knowledge?  
16 Any other -- any other systems, programs, related to  
17 California accountability and monitoring systems that  
18 you're aware of?

19 A. Let me -- there have been, in the past --  
20 I'm aware of -- I'm -- very broadly, I don't have  
21 knowledge necessarily of any one of these things.

22 Q. Okay.

23 A. But I'm aware of the coordinating compliance  
24 reviews that had been used -- may still be used, for  
25 all I know. I'm also aware of the QAP, Quality

1 Assurance Program.

2 But beyond that, one of the monitoring  
3 systems, accountability systems, those are the ones  
4 that come to mind right now.

5 Q. Okay. If content standards did not impact  
6 promotion and retention, would mastery be less of the  
7 content -- be less important?

8 MS. WELCH: Objection. Incomplete  
9 hypothetical. Calls for speculation. Vague.

10 THE WITNESS: The state has developed  
11 content standards with the expectation -- the clear  
12 expectation that all kids should know and be able to  
13 do these things, regarding very important public  
14 policy statement by California, that all kids should  
15 know and be able to do content standards. So  
16 beginning with that premise, that is very, very  
17 important.

18 Does the additional high stakes consequences  
19 as to whether or not kids have learned the content  
20 standards add to the importance? Is it a different  
21 requirement? I'm not sure.

22 I would say it addresses a different  
23 requirement and addresses the potential of students  
24 being negatively affected quite directly by not  
25 knowing and being able to do the things in the

1 content standards.

2 But I think the most important aspect of  
3 this is that California itself expects all children  
4 to know and be able to do these things in the content  
5 standards. And that's not diminished by anything.

6 MR. EGAN:

7 Q. You attach in your report -- you attach some  
8 great significance or some significance to the fact  
9 that student promotion and retention may be related  
10 to mastery of the content standards; is that correct?

11 MS. WELCH: Objection. Vague.

12 THE WITNESS: I have -- we -- and I should  
13 say I view the high stakes consequences for kids in  
14 relation to the standards as an additional aspect of  
15 California policy that makes the fact that California  
16 already expects all kids to know and be able to do  
17 the things in the standards. It attached a different  
18 potential consequence to it.

19 I believe that great consequence -- if any  
20 child is not able to do the things that the state  
21 says it should, the child should know -- to ask to be  
22 able to do, irrespective of the stakes -- the stakes  
23 to this is a different consequence for the kids that  
24 we all need to be aware of.

25 MR. EGAN:

1 Q. Would you -- again, I think your report's  
2 attention to promotion and retention -- those  
3 standards are tested and therefore impact promotion  
4 and retention are more important than standards that  
5 are not --

6 A. Absolutely not.

7 MS. WELCH: I'm going to object to the  
8 extent it mischaracterizes the report and past  
9 testimony and is vague.

10 THE WITNESS: I think we were very clear  
11 here that California expects all students to know and  
12 be able to do everything in the content standards,  
13 unless it -- it has specifically limited the  
14 standards in any way.

15 And whether or not California chooses to  
16 test on things, this is an additional consequence  
17 that we need to be aware of.

18 But I think the message of California's  
19 policy here is that all kids should know -- be able  
20 to do in the message of the report is there are  
21 additional resources and conditions that are  
22 necessary or suggested to help kids meet those  
23 standards that the state itself expects them to  
24 achieve.

25 MR. EGAN:

1 Q. Okay. There's nothing else, other than what  
2 you specifically reference? No other documents?

3 A. No. The fact -- the goal of the appendices  
4 was to provide maximum transparency. Everything that  
5 we referenced is contained in the appendices.

6 Q. And that's part of the sentence which refers  
7 to the standards, including the standards for  
8 teaching in California. What does that refer to?  
9 Standards for teaching? Are those the --

10 A. We were speaking to things in the  
11 specifications for subject matter knowledge or the  
12 RICA or the M-SAT, whatever it is.

13 Q. So this --

14 A. That's a generic term.

15 Q. Those things would be referenced in the  
16 appendices section that refer to teachers and under  
17 the heading of state-imposed knowledge requirements?

18 A. Yes.

19 Q. Anything other than the documents that would  
20 be referenced there that you're referring to?

21 A. No. Again --

22 Q. Okay.

23 A. -- the effort here was to, you know, make  
24 this maximally transparent in terms of what -- where  
25 we relied upon in making the determination.

1 Q. On Page 13, the first paragraph --

2 A. Yes.

3 Q. -- you indicate this study -- this is the  
4 second sentence:

5 "This study systematically  
6 reviews the state's content and  
7 curriculum standards."

8 Should curriculum standard -- when you  
9 refer to the curriculum standard, is that the  
10 curriculum frameworks, or are you designating  
11 something -- or some curriculum standards something  
12 different?

13 A. The use of curriculum standards -- this is  
14 generic. When you talk if standards-based reform  
15 scheme, some people -- content standards curriculum  
16 standards, performance standards and the like, they  
17 use the standards repeatedly. I think to be clearer  
18 here, what we're talking about is the curriculum  
19 frameworks. They're not something different here.

20 Q. Okay. And continuing that sentence, you  
21 also refer to "other documents promulgated by the  
22 state."

23 Are all of those documents you're referring  
24 to identified in the appendices?

25 A. Yes.

1 Q. Okay. Page 14, Paragraph Two, under the  
2 "Findings" --

3 A. Uh-huh.

4 Q. -- the second paragraph, first sentence from  
5 "Summary":

6 "Several finding are  
7 noteworthy."

8 Are the findings that you're -- that  
9 the document states as noteworthy include the  
10 findings that are summarized in that paragraph or to  
11 other findings throughout your report?

12 MS. WELCH: Objection. Vague. The report  
13 speaks for itself.

14 THE WITNESS: The findings that -- where we  
15 made are contained throughout the appendices. That's  
16 the first thing that should be recognized here.

17 In terms of what we chose to emphasize in  
18 the findings section, we just selected some things  
19 that we thought were good exemplars of what the  
20 findings were that were contained in the appendices.  
21 The real meat in the real world in the appendices.

22 MR. EGAN:

23 Q. What I construe from this summary -- and  
24 again, are you referring to the summary table?

25 A. Oh! I'm sorry. Yes. Summary table. Yes.

1 That particular sentence refers to the summary table.  
 2 Q. Okay.  
 3 A. Right.  
 4 Q. So the findings that you follow in, based  
 5 upon the summary table, again, that's where I'm  
 6 confused. I'm trying to clarify --  
 7 A. Based upon the summary table, directly in  
 8 the appendices -- so that's -- yeah.  
 9 Q. So it's --  
 10 A. So I don't know. I can't separate them.  
 11 Q. Okay.  
 12 A. We talked about the summary table already in  
 13 relation to the appendices.  
 14 Q. Okay. On Page 14, and, again, under  
 15 Findings, second paragraph, you indicate that there's  
 16 a statement about:  
 17 "Perhaps more surprising is  
 18 the extensive requirement of  
 19 technology."  
 20 What sense is, quote, technology?  
 21 A. Again, when I went to school before  
 22 computers existed in schools, it was surprising to me  
 23 how extensive California has viewed -- how  
 24 extensively California has required technology as  
 25 part of the things that all kids should know and be

1 able to do in.  
 2 Q. Okay.  
 3 A. That's strictly based on my own memory of  
 4 these things.  
 5 Q. Okay. You go on to -- the next sentence  
 6 refers to:  
 7 "Thirteen of the English  
 8 language arts standards  
 9 specifically require computers."  
 10 Do you know -- do you have any general  
 11 recollection of -- you know, in what context the  
 12 standards require computers?  
 13 A. My general recollection is that a lot of it  
 14 is for research purposes and/or word processing  
 15 keyboarding purposes --  
 16 Q. Okay.  
 17 A. -- and the like.  
 18 MR. EGAN: Can we take a two-minute break?  
 19 MS. WELCH: Sure.  
 20  
 21 (Whereupon a recess was taken.  
 22 Off the record at 10:59 and back  
 23 on the record at 11:06.)  
 24  
 25 MR. EGAN:

1 Q. Dr. Koski, I'd like to refer you to the  
 2 History Social Science Instructional Materials  
 3 Appendix, Page 2.  
 4 A. Okay.  
 5 Q. And specifically, to the content standards  
 6 K-2.  
 7 A. Uh-huh.  
 8 Q. And under the textbook workbook column, can  
 9 you explain why standard K-2 suggests textbooks or  
 10 workbooks?  
 11 A. I don't recall. Using the principal that we  
 12 took the least resource intensive or least best  
 13 practice -- as I've been saying -- methodology in  
 14 delivery of this particular content standards, our  
 15 view here was although you could help students obtain  
 16 that knowledge by bringing in the symbols or icons  
 17 themselves, like the United States flag and a bald  
 18 eagle stuff, we have workbooks or some other  
 19 instructional material, it would be necessary.  
 20 Remember, our definition of textbooks and  
 21 workbooks include just hard copy materials that can  
 22 be handed to students to have them obtain the  
 23 knowledge or the skill.  
 24 Q. Okay. Again, I should have made this on the  
 25 record. But the language quoted in the textbook

1 workbook column is:  
 2 "Students should recognize  
 3 national and state symbols and  
 4 icons."  
 5 That's the specific standards that is  
 6 referenced as supporting the textbook workbook  
 7 requirement?  
 8 A. Uh-huh.  
 9 Q. Isn't it possible that a teacher could use  
 10 other means to impart this knowledge besides  
 11 textbooks or workbooks?  
 12 MS. WELCH: Objection. Calls for  
 13 speculation.  
 14 THE WITNESS: A teacher could use other  
 15 means. And our view is that this was the least  
 16 resource intensive means, as I mentioned before.  
 17 She could bring in, you know, a statue of a  
 18 bald eagle to indicate this is our national bird or  
 19 something like that, which we thought was the least  
 20 intensive. Give materials to look at, things, be it  
 21 flash cards, textbooks, workbooks, whatever.  
 22 MR. EGAN:  
 23 Q. I believe, in your methodology, you refer to  
 24 identification resources that are necessarily  
 25 implied. Again, are you saying that for this

1 particular standard, the textbook or workbook is  
2 necessarily implied?

3 A. Yes. Because, you know, you don't see the  
4 textbook or workbook in there. It's necessarily  
5 implied from this standard.

6 Q. Okay. Then again, would you consider a  
7 picture of an American -- the American eagle to be  
8 a -- tacked or posted on the bulletin board or in the  
9 textbook or workbook?

10 MS. WELCH: Objection. Vague. Also, object  
11 to the extent that this mischaracterizes the extent  
12 of the standard.

13 THE WITNESS: We would consider, again,  
14 taking what would be a broad definition of textbook  
15 or workbook. Any hard copy material provided to  
16 students to help them learn this standard to the  
17 extent that the teacher provided photographs of a  
18 bald eagle or Statue of Liberty to help the students  
19 identify those things in the photographs that would  
20 fall under that category in instances.

21 MR. EGAN:

22 Q. How about pictures of national and state  
23 symbols? Would they fall within that?

24 A. It would be the same answer.

25 Q. Those would be -- those would be --

1 cost; is that correct?

2 MS. WELCH: Objection. Mischaracterize his  
3 testimony.

4 THE WITNESS: The judgment we were making is  
5 the least resource intensive judgments. And  
6 sometimes, the least best practice from a number of  
7 different potential ways of -- of conveying the  
8 information of material.

9 MR. EGAN:

10 Q. What do you mean by "the least best  
11 practice"? It sounds like the worst practice, which  
12 is not what -- I don't think you're saying.

13 A. Well, that's -- that's exactly what we're  
14 not saying, it's the worst practice. Because you  
15 could come up with a lot of terrible ways to teach  
16 those things.

17 But at least, in our view, the viable method  
18 of conveying the information, the least source of  
19 resource intensive methods conveying the information,  
20 is what we're trying to say here.

21 Q. Okay. Looking at history social science  
22 instructional materials and, again, Page 2 --

23 A. Uh-huh.

24 Q. -- what would be the most intensive resource  
25 to convey the content standard K-2?

1 A. Textbook workbooks under this --

2 Q. Okay. How about --

3 A. -- for this particular standard.

4 Q. How about a flag in the classroom?

5 A. This is -- okay. The flag would be  
6 different, because we said what -- I'm saying here  
7 is -- that it would cost more and be more resource  
8 intensive to bring students to New York to show them  
9 the Statue of Liberty. To buy a state flag and an  
10 American flag to do all these other things and bring  
11 them into the classroom, rather than given a handout  
12 with all of these various symbols on them and show it  
13 to them.

14 I'm not making a judgment as to what the  
15 best way to teach this is. We are making a judgment  
16 as to what the least best practice would be, the  
17 least resource intensive way of doing it is.

18 Q. Your methodology -- I think you referred to,  
19 quote, making the, quote, most conservative judgment  
20 possible --

21 A. Yes.

22 Q. -- close quote.

23 A. Yes.

24 Q. What I hear you saying is that when  
25 you're -- the judgment you are making are based upon

1 A. A field trip to Manhattan to look at the  
2 Statue of Liberty. Bringing in the state flag into  
3 the classroom. All the various state flags that you  
4 might want to -- state flags that you might want to  
5 teach the other kinds of symbols of our government to  
6 actually bring them physically to the student or  
7 bring them to the Statue of Liberty. It would  
8 probably be about as expensive as you could get.

9 Q. Is there a category for history social  
10 science instructional materials that it would come  
11 under other than textbooks workbooks?

12 A. I'm not sure I understand the question.

13 Q. Well, you indicated that textbooks,  
14 workbooks was the least -- you know, the least best.  
15 And you gave an example of what would be, you know, a  
16 more intensive or better way to do it.

17 A. Uh-huh.

18 Q. My question is: Where would you -- where  
19 would that better way, what you described as a field  
20 trip to Manhattan, you know, where would that fit in  
21 terms of the categories of resources that you've  
22 identified with respect to history instructional  
23 materials?

24 MS. WELCH: I'm going to object to the  
25 extent that that mischaracterizes his testimony.

1 His testimony was in response to the  
2 specific question that you asked about, what are the  
3 other ways -- you can have the question read back.  
4 But I mean, I'm -- to the extent that he did not say  
5 this would be the better way, to take all the kids on  
6 a field trip to Manhattan.

7 MR. EGAN: You can answer the question.

8 THE WITNESS: In the context of this  
9 standard, one of the ways we -- because we made the  
10 determination that this was the resource that was  
11 implied here, the textbook, workbook category.

12 There may be other standards which call more  
13 directly for reliance on the original sources and  
14 primary materials, in which case, would have to  
15 provide -- we -- the State of California, the  
16 schools, would have to provide the children with the  
17 primary sources if that came up.

18 Now, I understand -- you asked the question  
19 about, specifically, the field trip to Manhattan.  
20 There are instances where we would have to get  
21 students to primary resources. Field trips were  
22 tricky for us. We've discussed this already.

23 Q. Right?

24 A. Okay.

25 Q. Was the -- you indicated there are instances

1 media centers but separated them  
2 here for purposes of analysis."

3 So it is entirely possible that the  
4 library media center could be the same thing in any  
5 given school.

6 Alternatively, you could separate the  
7 library from the media center where the library would  
8 be kind of matrix sources of books and other hard  
9 copy material, and the media center may be more of an  
10 audiovisual type center for students too. And I've  
11 seen it both ways.

12 Q. Referring to footnote 34, 42, which is on  
13 Page 20 of your report, does -- I think that footnote  
14 falls under the general heading of facilities in  
15 which you include library and media center.

16 A. Uh-huh.

17 Q. So when you say that you separated in the  
18 footnote 42 that you separated them for your  
19 analysis, did you separate them throughout  
20 consistently through all the content standards  
21 verses --

22 A. The effort was made to do that. And again,  
23 the distinction between the two was -- and again,  
24 they could be combined. But we're not saying they  
25 can't be combined here.

1 where you do have to get students to primary  
2 resources.

3 A. There may be instances in that regard. I'm  
4 speaking hypothetically.

5 Q. Do you have any examples that come to mind?

6 A. None that come to the -- come to mind. No.

7 Q. Looking -- going back to your report, on  
8 Page 14, under "Findings," I believe it's Paragraph  
9 Two, it's the second to the last sentence.

10 "Moreover, as demonstrated  
11 by the English-Language Arts  
12 standards, a well-stocked  
13 library or media center is  
14 essential, or at least  
15 recommended, for elementary,  
16 middle, and high schools."

17 What is the difference between a  
18 library and media center?

19 A. You'll recall that we had this specific  
20 conversation. And I believe the footnote addresses  
21 this specifically somewhere in my report.

22 It may -- let me check if that's true.

23 Yeah. Footnote 42 said:

24 "We note that many schools  
25 will combine their library and

1 But the distinction made between the two was  
2 sort of a traditional hard copy place where -- a  
3 place where hard copy books can be found in a  
4 library. And you can have reference material  
5 versions more of an audiovisual center where kids  
6 could go to access other kinds of information.

7 Q. Okay.

8 A. Another media of information.

9 Q. Let me ask you to take a look at the summary  
10 tables --

11 A. Yes.

12 Q. -- as part of the appendix.

13 A. Okay.

14 Q. And under the mathematics standards, the  
15 facilities column, there's a media center, but no  
16 library.

17 A. (Nodding head.)

18 Q. Why is there a media center but not a  
19 library?

20 A. Without looking specifically at the  
21 appendices, my immediate -- I don't know. It depends  
22 what the standard called for, is, I guess, how I  
23 would respond to that. And maybe that the analytic  
24 category of libraries just didn't pop up in any of  
25 those standards.



1 Q. Okay.  
 2 A. I do know that there's a note, eleven  
 3 standards that identify media center, though.  
 4 Q. Okay. So is it fair to say, then, that if  
 5 the answer to the question of okay, media center or  
 6 no library depends on the sake of the standards that  
 7 you identified?  
 8 A. The standard drives our determinations here.  
 9 Q. Okay. Looking at the summary table, the  
 10 Science Standard Summary, again, facilities, there's  
 11 a reference to a library, but no reference to a media  
 12 center. Can you explain why that would --  
 13 A. It would have --  
 14 Q. It would --  
 15 A. -- depended on the specific standards,  
 16 again, to what the standard calls for.  
 17 Q. Okay. So would it be fair, then, to say  
 18 that you would not expect any of the science  
 19 standards to require -- suggest a media center for  
 20 science?  
 21 A. We did not find that any of the standards  
 22 called specifically for an independent media center.  
 23 Correct.  
 24 Q. Okay.  
 25 A. We -- okay.

1 Q. Okay. When you say "independent media  
 2 center," I mean, are you saying that "library" under  
 3 "science" could include a media center?  
 4 A. This whole category -- I'm saying you could  
 5 combine media center and library together. And many,  
 6 many, many schools do precisely that.  
 7 So I'm -- you know, we could have done the  
 8 analysis by merging the two categories. We didn't  
 9 put footnote 42. We're suggesting schools are  
 10 welcome to -- or maybe it would be good to combine  
 11 these categories. So I'm not sure.  
 12 Q. What I'm trying to understand is the reason  
 13 why some of the standards areas of media not library  
 14 or where some of the library not media center, if  
 15 there's, you know -- what is the basis -- why is  
 16 that?  
 17 A. It's dependant upon the standards, it seems.  
 18 Q. Okay.  
 19 A. That's all I can say.  
 20 Q. Okay.  
 21 A. The standard suggestion that you're looking  
 22 for is a multi-media based information to help  
 23 facilitate that standard, that would be kind of a  
 24 media center thing. If it would be the traditional  
 25 book or reference book, it probably would be a

1 library sort of thing.  
 2 Q. Okay.  
 3 A. That's my best memory.  
 4 Q. Okay. And again, based upon footnote 42,  
 5 you did not, for purposes of the summary tables or  
 6 any appendices, combine library and media center as a  
 7 category?  
 8 A. No. We couldn't.  
 9 MS. WELCH: Objection. Asked and answered.  
 10 THE WITNESS: We could have. Yes. But we  
 11 did not.  
 12 MR. EGAN:  
 13 Q. Okay.  
 14 A. We're being agnostic as to whether or not  
 15 schools combine them.  
 16 Q. In your sentence on Page 14, Paragraph 2, it  
 17 says:  
 18 "A well-stocked library is  
 19 essential or, at least,  
 20 recommended."  
 21 Can you tell me which is true for  
 22 elementary schools?  
 23 A. I would have to look at the standards  
 24 themselves, the specific standards.  
 25 Q. Okay. So from this, you can't tell which is

1 essential for elementary schools?  
 2 A. On that basis -- that sentence alone, I  
 3 can't tell you. You would need to look at the  
 4 standards and appendices themselves.  
 5 Q. Okay. Why -- take a look at English  
 6 Language Arts Facilities Summary Table --  
 7 A. Okay.  
 8 Q. -- for Grades K Through 5.  
 9 A. I see another recommendation.  
 10 Q. Let's see. For grades -- as I read the  
 11 summary table, out of 47 standards for grades K  
 12 through 5, you have four suggesting library and four  
 13 suggesting a media center.  
 14 A. Yes.  
 15 Q. Okay.  
 16 A. In those instances, we marked both down  
 17 because --  
 18 Q. Okay.  
 19 A. -- they suggested both library center,  
 20 media center in the same breath, basically.  
 21 Q. Again, for -- if you look at the  
 22 mathematics, K through 5 media center, there's none  
 23 of the standards that requires or suggest a library;  
 24 is that correct?  
 25 A. Based --

1 Q. The summary --  
 2 A. -- summary table itself --  
 3 Q. Right.  
 4 A. -- that's correct.  
 5 Q. And for history social science, summary  
 6 table for grades K through 5, 6 of 36 standards  
 7 suggest a library and two of 36 suggest a media  
 8 center; is that correct?  
 9 A. Yes. According to the summary table.  
 10 Q. Okay. Based on the summary table, would you  
 11 say that a library or media center is recommended for  
 12 elementary schools rather than essential?  
 13 MS. WELCH: Objection. I think the report  
 14 speaks for itself.  
 15 THE WITNESS: I didn't make a distinction  
 16 between recommended and essential. My personal  
 17 feeling is it's recommended. It's essential.  
 18 MR. EGAN:  
 19 Q. Well, your report says that library or media  
 20 center essential or at least recommended. That  
 21 seemed to make a distinction, doesn't it?  
 22 A. I just gave you my personal opinion. I  
 23 didn't --  
 24 Q. Well, I'm --  
 25 A. The report says --

1 Q. I'm relying on what you said in your report.  
 2 I'm trying to understand that. So is a library  
 3 essential or recommended?  
 4 A. It depends on what one's view of the word.  
 5 I think it's essential to have a library if it's  
 6 recommended. You may not think it's essential  
 7 because you don't want to follow the recommendations.  
 8 I think it's essential.  
 9 Q. Well, but I thought what you were basing  
 10 your report on was based upon the analysis of the  
 11 content standards. Are you telling me it was your  
 12 opinion?  
 13 A. My report --  
 14 MS. WELCH: Objection. Argumentative.  
 15 THE WITNESS: My report states whether or  
 16 not our view was that it's required or suggested. It  
 17 doesn't say whether or not it's essential or  
 18 suggested.  
 19 I've -- my personal opinion is that if it's  
 20 recommended, it's essential for kids. But this is  
 21 required or suggested. That's our analysis and  
 22 doesn't do anything other than that.  
 23 MR. EGAN:  
 24 Q. Well, your report, the text of it that I've  
 25 quoted, talks about essential or recommended.

1 A. The word "essential" is not part of our  
 2 analysis. And one could say that anything is --  
 3 anything recommended is essential. I'm -- we're not  
 4 getting anywhere in this conversation.  
 5 Q. Well, the point -- why did you put  
 6 "essential" in your report if it's not germane to  
 7 your analysis?  
 8 MS. WELCH: Objection. Mischaracterizes the  
 9 testimony.  
 10 THE WITNESS: It is --  
 11 MR. EGAN:  
 12 Q. Can you --  
 13 A. I can't answer the question. Was the  
 14 question -- can you --  
 15 MS. WELCH: Objection. Argumentative.  
 16 And --  
 17 MR. EGAN:  
 18 Q. It's not argumentative. I'm not being  
 19 argumentative. I'm trying to understand, you know,  
 20 what it is -- what's the difference between the text  
 21 of your report and what --  
 22 A. Our report made an analysis to determine  
 23 whether or not a specific resource was required or  
 24 recommended. The text of the -- of the report had a  
 25 sentence in it that says that a resource is essential

1 or at least recommended. And that depends on one's  
 2 own view what's essential.  
 3 We were conservative with the sentence in  
 4 the document. In other words, I could have said they  
 5 were all essential if they were recommended or  
 6 required. Instead, I said it's essential or at least  
 7 recommended. It depends on what your view of  
 8 "recommended" is.  
 9 Q. Okay. That's what I was looking for, an  
 10 explanation of why that was there. Thank you.  
 11 I'd like you to take a look at the appendix  
 12 for English language arts under "Facilities," Page 4.  
 13 A. Okay.  
 14 Q. And specifically, in the library column, I'm  
 15 looking at the very bottom, grade 4, there's a --  
 16 looks like a reference to standard or substandard  
 17 2.2-C.  
 18 How does that imply -- how does that  
 19 standard imply a library as a resource?  
 20 A. The standard calls for an information  
 21 presentation based on more than one source of  
 22 information. Examples are given. Books and  
 23 newspapers. Things that we would normally see in a  
 24 library.  
 25 Q. Okay. Are there other sources of

1 information besides the library, such as a teacher --  
2 for example, could a teacher provide this information  
3 to students?

4 MS. WELCH: Objection. Calls for  
5 speculation.

6 THE WITNESS: I would first of all say that  
7 no. Because it calls for more than one source of  
8 information.

9 MR. EGAN:

10 Q. When you say "calls for the standards," it  
11 gives examples; is that correct?

12 A. That's correct.

13 Q. Okay. Do you read a standard that gives  
14 examples as requiring -- or strike that.

15 Let me refer you back to Page 14 of your  
16 report, the -- under the "Findings" heading.

17 A. Yes.

18 Q. The second to the last sentence:

19 "Computer technology  
20 Internet access and well-stocked  
21 libraries/media centers are  
22 highlighted here because not all  
23 children in California enjoy  
24 these resources."

25 When you refer to "all children in

1 libraries or media center was -- it went without one  
2 for at least a year, it was my recollection. Those  
3 kids in a school consist of a library or media center  
4 for instance.

5 There are clients of mine and kids with whom  
6 I work told me they don't have computers and Internet  
7 access in their schools or in their classrooms.

8 I will make it clear those -- that whether  
9 or not kids have these things was not part of the  
10 analysis that we conducted. The statement was simply  
11 based on the fact that we know that not all kids have  
12 these things.

13 Q. And again, the basis is your personal  
14 knowledge?

15 A. My personal knowledge.

16 Q. Okay. What school were you referencing?

17 A. I can't remember specifically. I think it  
18 was the Green Oaks School.

19 Q. In which --

20 A. In the Ravenwood School District. They  
21 didn't have a library for a while.

22 Q. And did they eventually or did they --

23 A. I don't know.

24 Q. -- have --

25 A. I don't know if they have it now. I don't

1 California," you're referring to the fact that  
2 schools -- not all schools had these resources, or do  
3 you mean that not all children enjoy these resources  
4 outside of school?

5 A. The analysis here was child centered,  
6 because the standards are child centered. And that  
7 means the resource needs to be delivered to the child  
8 in order for the child to obtain the knowledge or the  
9 skills in the standard.

10 And the analysis here was that the -- I'm  
11 unaware of any requirement on parents to provide  
12 Internet access computer technology, well-stocked  
13 libraries, other resources to kids.

14 So the -- the logical extension is that the  
15 schools itself must provide these things --

16 Q. Okay. What is it --

17 A. -- themselves.

18 Q. Okay. What is the basis for your statement  
19 that not all children in California enjoy these  
20 resources?

21 A. I have personal knowledge of schools that  
22 don't have these resources delivered to the  
23 individual child.

24 Q. Okay. Can you describe --

25 A. There are schools in East Palo Alto whose

1 know the answer.

2 Q. Okay.

3 A. You said -- yeah. I'm sorry. You need to  
4 ask the question.

5 Q. Okay.

6 A. I need to -- I was anticipating.

7 Q. Is this your own personal knowledge you have  
8 to support that statement, that not all children  
9 enjoy these resources?

10 A. I told -- but I've been told. Depends on  
11 what you mean by "personal knowledge."

12 Q. Other than what you've been told, this one,  
13 Green Oaks School, Ravenwood is the only case where  
14 you have personal knowledge?

15 MS. WELCH: Objection. Mischaracterizes his  
16 testimony --

17 THE WITNESS: Well, I mean, depends on what  
18 you mean by --

19 MS. WELCH: -- and vague.

20 THE WITNESS: -- "personal knowledge."

21 I have personal knowledge in the sense that  
22 people who go to these schools have told me about it.  
23 I mean, it's pretty --

24 MR. EGAN: Okay.

25 A. I have --

1 Q. What other schools you can identify where  
 2 people have told you about these absence of these  
 3 types of resources?  
 4 A. I can't think of any right now.  
 5 Q. Okay.  
 6 A. And I only emphasize that it wasn't part of  
 7 my task here.  
 8 Q. Well, I'm at a little bit of a loss. Why  
 9 did you make -- include this statement in your report  
 10 if it was not part of your task?  
 11 A. It is an observation.  
 12 Q. Well, is -- you know, is there some way that  
 13 I can determine, you know, what statements in your  
 14 report really are not part of your --  
 15 A. The best way for you to determine the parts  
 16 of my task is to listen when I tell you what the task  
 17 was.  
 18 Q. Okay.  
 19 A. I've said that task about a million times in  
 20 this deposition.  
 21 Q. And I could disregard all the other  
 22 statements in your -- you know, in your report, such  
 23 as the one that we just talked about? I mean --  
 24 MS. WELCH: Objection. Argumentative.  
 25 THE WITNESS: I'm not sure you can disregard

1 Q. There's a -- and there is -- are discussions  
 2 of calculators?  
 3 A. Oh, yes.  
 4 Q. And that's -- again, that's the basis for  
 5 this statement?  
 6 A. Yes.  
 7 Q. Okay. Do you have any information regarding  
 8 the extent to which schools -- any school -- or do  
 9 you have -- do you know of any schools that provides  
 10 students with graphing calculators?  
 11 A. I don't have any knowledge one way or the  
 12 other another on that.  
 13 Q. Are you aware of anything in the state's  
 14 mathematics framework which suggest that it is  
 15 undesirable to be allowing students to use  
 16 calculators?  
 17 MS. WELCH: Objection. Vague.  
 18 THE WITNESS: I can't recall at this time.  
 19 I'd have to look at the frameworks again.  
 20 MR. EGAN:  
 21 Q. All right. On Page 15, the software  
 22 heading --  
 23 A. (Nodding head.)  
 24 Q. -- there's a -- at the end of the first  
 25 paragraph, there's a reference to "adopt the

1 those statements at all. I mean, I don't -- I have  
 2 been asked to provide expert witness testimony on  
 3 what the State of California itself says that all  
 4 kids need in order to achieve the high -- or in order  
 5 to achieve the state's content standards. That's  
 6 what I've been asked to opine on.  
 7 MR. EGAN:  
 8 Q. Okay. On paragraph -- or Page 14 -- excuse  
 9 me -- the paragraph or heading "Technology," you --  
 10 the last sentence starts on the bottom on Page 14:  
 11 "From web-driven  
 12 applications and graphing  
 13 calculators to word-  
 14 processing, technology has  
 15 become an indispensable learning  
 16 tool for students in the 21st  
 17 century."  
 18 Am I to read that as graphic calculator  
 19 is an indispensable learning tool?  
 20 A. Yes.  
 21 Q. Is that based upon the standards in your  
 22 analysis of the standards?  
 23 A. It's based upon what we found in our  
 24 analysis here and somewhere in one of these  
 25 appendices.

1 programs," Pages 14, 16, 19, et cetera.  
 2 A. Yes.  
 3 Q. Then there's a footnote 41.  
 4 How do -- did -- do you know which -- what  
 5 the page references -- refer to? Which -- there  
 6 are -- which adopted program?  
 7 A. (Pausing.)  
 8 Q. My question is: The footnote indicates that  
 9 there were six programs adopted --  
 10 A. Yes.  
 11 Q. -- and the page references in the adopted  
 12 program do not identify which one. Six programs.  
 13 And I'm wondering if I'm misconstruing them or how do  
 14 I --  
 15 A. It's been a long time. Hold on a second.  
 16 Q. Sure. Just to identify -- indicate, there's  
 17 a similar problem in, you know, in other spaces -- in  
 18 other parts of the report where there's a reference  
 19 to adopted programs and page numbers, but no specific  
 20 program.  
 21 A. Well, one thing that is true, and I do  
 22 recall, is that each one of these adopted programs  
 23 here, McGraw-Hill, et cetera, have CD ROMs attached  
 24 to -- if this is a fact, whether or not those --  
 25 there are new adopted program since March 9, 2000, I

1 don't know.

2 In terms of what the page reference is --  
3 are to, my best understanding of this right now is  
4 that there was a document that indicated which  
5 programs were adopted here and somehow through the  
6 editing program process.

7 I'm not -- it may have been dropped. That  
8 document reference may have dropped out.

9 Q. Can you advise me of what that document is  
10 in a way such that I can reference the relevant  
11 program?

12 A. It might -- I don't know what you mean so  
13 that you can reference the "relevant program."

14 Q. Well, on Page 15, there's a reference to  
15 Page 14.

16 A. Uh-huh. That's reference to a document.

17 Q. Okay.

18 A. That -- it's -- I'm not really seeing what  
19 that document is.

20 Q. Right. And I'm asking if you can, if you  
21 will, go back through the report and give me the  
22 means to identify what documents are referenced by  
23 these page references.

24 A. I will look and see what this -- what this  
25 document is.

1 A. Okay. My best memory is, just so you know,  
2 that it was adopted, because I remember looking at a  
3 document which talked about instructional materials  
4 and the adopted programs.

5 Q. Okay. On Page 16, under the "Internet"  
6 heading, the second sentence from that says:

7 "To that end, the content  
8 standards in every subject area,  
9 both explicitly and implicitly  
10 mandate Internet access."

11 What does that mean? Is it --

12 MS. WELCH: I think the report speaks for  
13 itself.

14 MR. EGAN:

15 Q. Is that -- if I reference the appendices,  
16 will I find under the Internet category that it's  
17 required?

18 A. Not necessarily. No.

19 Q. Okay. Then I have a question as to what  
20 that sentence means to determine whether or not a  
21 particular standard calls for access to the Internet,  
22 either recommended or required.

23 A. The best way to do that is to look at the  
24 appendices and go on a standard-by-standard basis.

25 Q. Well, let me refer to the summary table for

1 I'm seeing that, you know, in the many  
2 iterations, it may be one of the references that are  
3 in here, or it may be a reference that inadvertently  
4 was dropped in the editing version of this.

5 Q. Just a note that I have. Same question with  
6 regard to the reference to "adopted programs" on Page  
7 16 under the second paragraph under Internet.  
8 There's a reference to Pages 22 and 26. I'm not  
9 looking -- I can't see --

10 MS. WELCH: (Indicating.)

11 THE WITNESS: Yeah. Okay.

12 MR. EGAN:

13 Q. Okay.

14 A. I see.

15 Q. And just -- there's the same -- same issue  
16 and request with regard to Page 18, the reference  
17 under "films and videotapes."

18 A. Uh-huh. Yes.

19 Q. And I think --

20 A. It appears to be a document that was dropped  
21 from the reference list somehow. And I will try to  
22 find that document.

23 Q. Okay. And I think those are the only  
24 references to the adopted programs. But if there are  
25 others, I would make the same request.

1 the Mathematics Standards Technology Internet.

2 A. Uh-huh.

3 Q. That indicates that for none of the  
4 standards requires -- suggests the Internet that  
5 category; is that correct?

6 A. I see that.

7 Q. Okay. And the summary sheet -- summary  
8 table for History Social Science under "Technology"  
9 of -- there is one suggested Internet. Is that  
10 correct?

11 A. I see that.

12 Q. Okay. So is the best way to interpret your  
13 statement that content standards in every subject  
14 area both explicitly and implicitly mandate Internet  
15 access by reference to the summary?

16 A. No. The best way to interpret is by  
17 reference to each of the standards.

18 Q. Okay.

19 A. That's -- again, the analysis is located  
20 with regard to -- located in the analyses with each  
21 of the standards.

22 Q. Okay. Well, is it fair to say that based  
23 upon the summary table, that the analyses -- in the  
24 analyses, with respect to mathematics, do not  
25 indicate that the Internet is required or suggested

1 for any of the standards?  
 2 MS. WELCH: Objection. The report speaks  
 3 for itself.  
 4 THE WITNESS: What is the question?  
 5 MR. EGAN: Do you want to read that back?  
 6  
 7 (Whereupon, the record was read  
 8 by the court reporter.)  
 9  
 10 THE WITNESS: "Mathematics is  
 11 suggested in addition to student  
 12 can exchange ideas and test  
 13 hypotheses through a higher,  
 14 wider audience through the  
 15 Internet."  
 16 It just doesn't appear in the summary  
 17 table. This is why we need to look at the appendices  
 18 specifically.  
 19 MR. EGAN:  
 20 Q. Okay. Can you give me the specific  
 21 reference?  
 22 A. I'm looking at Page 1 of the mathematics  
 23 kindergarten through grade 12 generally.  
 24 Q. Looking through the appendix for mathematics  
 25 technology for Internet access, the page that you

1 cite identifies -- this is Page 1, kindergarten  
 2 generally; am I correct?  
 3 A. Uh-huh.  
 4 Q. That is the only context -- or, at least,  
 5 the only point in the content standard that either  
 6 identifies Internet access as suggested or required?  
 7 In other words, no other points in the math  
 8 technology appendices that either have a check, dot  
 9 or an X for Internet access?  
 10 MS. WELCH: Objection. The report speaks  
 11 for itself.  
 12 THE WITNESS: With regard to Internet  
 13 access, our appendices indicate that there is one  
 14 reference to Internet access. And that is in grade K  
 15 through 12 generally.  
 16 MR. EGAN:  
 17 Q. Okay. And that is the only reference you've  
 18 got?  
 19 A. That's the only one I've found --  
 20 Q. Okay.  
 21 A. -- in flipping through the documents.  
 22 Q. Right. And the reference that's cited in  
 23 the report, mathematics technology Internet, grade  
 24 kindergarten through grade 12 is generally through  
 25 the introduction to the standard; is that correct?

1 A. That's the citation.  
 2 Q. Okay.  
 3 A. Yes.  
 4 Q. It does not apply to any specific standard;  
 5 is that correct?  
 6 A. Or applies at standards --  
 7 MS. WELCH: Objection. Vague.  
 8 THE WITNESS: I'm not sure.  
 9 MR. EGAN: Okay.  
 10 THE WITNESS: You will -- I note:  
 11 "In addition to students  
 12 can exchange ideas and test  
 13 hypotheses with the higher,  
 14 wider audience through the  
 15 Internet. Technology may also  
 16 be used to reinforce basic  
 17 schools through computer access  
 18 the instruction student tutoring  
 19 system and drill and practice  
 20 software."  
 21 MR. EGAN:  
 22 Q. Looking at Page 17 of your report, dealing  
 23 with instructional materials and, specifically, the  
 24 heading "Literature Books," you indicate that  
 25 students in the first sentence:

1 "As early as kindergarten  
 2 are expected to identify the  
 3 front cover, back cover, and  
 4 title page of a book."  
 5 There's reference to the English  
 6 language arts standards, Page 1.  
 7 Do you know if that standard requires that  
 8 each student have a book or is sufficient if the  
 9 teacher has a book?  
 10 A. Our analysis was child centered. It appears  
 11 the standards indicate what each -- all the children  
 12 need.  
 13 We made no determination as to how  
 14 specifically the book -- the -- in this instance, the  
 15 book be provided to the student for them to identify  
 16 the front cover, back cover, and title page.  
 17 Q. Okay.  
 18 A. It wasn't part of the analysis.  
 19 Q. So is it, then, again, as I understand the  
 20 analysis, really does not include whether resources,  
 21 with respect to this particular reference to the  
 22 English standards that required kindergartners to  
 23 identify the front, back cover and title page of the  
 24 book, you're analysis did not cover whether the  
 25 standard required that the resource be made available

1 to every student or simply to the teacher?  
 2 MS. WELCH: Objection. Vague. Asked and  
 3 answered.  
 4 THE WITNESS: The question you asked is sort  
 5 of a false dichotomy with regard -- it could be  
 6 provided to each student or to the teacher. It could  
 7 be provided to every student and the teacher and  
 8 the -- or the teacher could provide it to every  
 9 student. I'm not sure I understand the distinction  
 10 you make.  
 11 MR. EGAN:  
 12 Q. I'm trying to understand the scope of your  
 13 analysis. And in other words, does this standard  
 14 require that every child have a book?  
 15 A. I'm fairly certain we've already discussed  
 16 this in the deposition. And our analysis indicates  
 17 that this opportunity needs to be made available to  
 18 the student. We did not make a specific  
 19 determination, with regard to your question. I have  
 20 a personal opinion in that regard, but --  
 21 Q. Okay.  
 22 A. -- we didn't have -- it wasn't part of this  
 23 analysis.  
 24 Q. Okay.  
 25 A. I mean, when you refer to this analysis,

1 again, you're -- it's not just to this particular  
 2 standard throughout the analysis that -- the analysis  
 3 here is the students be given the opportunity to  
 4 enjoy the resource.  
 5 Q. Okay. On Page 18, at the paragraph at the  
 6 top of the page, there's reference to:  
 7 "Students should read in  
 8 meeting their annual reading  
 9 comprehension benchmarks."  
 10 What are the "annual reading  
 11 comprehension benchmarks"?  
 12 A. I think you've -- you will probably want to  
 13 reference the English language arts standards. I  
 14 can't recall what that specific reference --  
 15 Q. Do you know whether they refer to reading  
 16 that is in addition to the regular school reading?  
 17 MS. WELCH: Objection. Calls for  
 18 speculation.  
 19 THE WITNESS: I can't recall. I can't  
 20 remember. I remember that there was some  
 21 recommendations that children read so much by a  
 22 certain period of time. And there are also some  
 23 specific standards regarding reading comprehension  
 24 and the like. I can't remember right now --  
 25 MR. EGAN:

1 Q. Okay.  
 2 A. -- having written this three years ago.  
 3 Q. With regard to Page 18 of your report,  
 4 "measuring instruments" --  
 5 A. Uh-huh.  
 6 Q. -- you state that mathematics students are  
 7 expected to use non-standard units to measure and  
 8 compare the length, weight and volume of objects. Do  
 9 you know what a "non-standard unit" --  
 10 A. I would have to take a look at the reference  
 11 to that to see if that could help me out. I -- I  
 12 don't know what it means specifically without  
 13 reference to the materials. I don't know what it  
 14 means, specifically, in the contents of this  
 15 statement.  
 16 Q. I'll come back to that.  
 17 I'd like to refer you to Page 19 to  
 18 "Facilities" and "Libraries" in the second paragraph  
 19 where you indicate:  
 20 "For instance, in order to  
 21 develop social science research  
 22 skills, the History Social  
 23 Science Standards emphasize  
 24 access to historical documents,  
 25 eye witness accounts, oral

1 histories, letters, diaries,  
 2 artifacts, photographs, and  
 3 maps."  
 4 Do you interpret the standards as  
 5 either requiring or suggesting access to historical  
 6 documents?  
 7 A. I would have to make that determination in  
 8 the contents of the specific standard.  
 9 MS. WELCH: Objection. Vague as to  
 10 "historical documents."  
 11 MR. EGAN:  
 12 Q. Let me ask you to look at the History Social  
 13 Science Appendix for "Facilities," Page 5.  
 14 A. History Social Science. Page 5. Okay.  
 15 Q. Standard 3.3 under the library column --  
 16 A. Uh-huh.  
 17 Q. -- cites:  
 18 "Substandard 3.3.3. Trace  
 19 why their community was  
 20 established. Drawing on maps,  
 21 photographs, oral histories,  
 22 letters, newspapers and other  
 23 primary sources."  
 24 A. Uh-huh.  
 25 Q. Do you interpret that substandard as

1 suggesting that a school library have the specific  
 2 resources identified in 3.3.3?  
 3 MS. WELCH: Objection. Vague.  
 4 THE WITNESS: We identified that resource as  
 5 something that kids should have access to and be  
 6 provided. A library that contains those things.  
 7 MR. EGAN:  
 8 Q. And again, this is a school library that  
 9 you're referring to?  
 10 A. (Pausing.)  
 11 Q. Is that --  
 12 A. It is a library.  
 13 Q. Oh! For purposes of your analysis, you  
 14 didn't -- you know, you didn't consider the extent to  
 15 which a public library -- or you didn't consider a  
 16 public library as opposed to school libraries?  
 17 A. We didn't consider that question one way or  
 18 the other. We just know that library is implied by  
 19 this resource. And libraries need to be provided to  
 20 the child.  
 21 Q. Okay.  
 22 A. Yeah.  
 23 Q. So it could be provided by a public library  
 24 or school library?  
 25 A. Theoretically, if the public library is

1 close enough to the school, the children are provided  
 2 access to it, that they have time to get there, and  
 3 the parents aren't required to take them there. A  
 4 lot of things.  
 5 But theoretically, a public library could --  
 6 might be able to address that, or it might not,  
 7 depending on the circumstances.  
 8 All I know is that a library is something  
 9 that is suggested by the state's own standard.  
 10 Q. Okay. On Page 21, under your conclusion,  
 11 you indicate --  
 12 A. Sorry.  
 13 Q. No problem.  
 14 A. Okay.  
 15 Q. "California has made great strides  
 16 in receiving meaningful and  
 17 clear content standards. And a  
 18 aligning its assessment and  
 19 accountable system to those  
 20 standards."  
 21 What were the strides that you had in  
 22 mind with respect to California's aligning its  
 23 assessment in the accountability systems to those  
 24 systems?  
 25 A. There were -- there -- California has made

1 strides in the direction of aligning its California  
 2 standards of test -- high school exit exam and the  
 3 various aspects of the public school accountability  
 4 that rely on those standards-based instruments.  
 5 Those are the strides that I'm referring to.  
 6 Q. Okay. Are you aware of any additional steps  
 7 that California has taken in this context subsequent  
 8 to the time your report was written?  
 9 A. In what --  
 10 MS. WELCH: Objection. Vague.  
 11 THE WITNESS: I don't know what you are  
 12 referring to. I'm sorry.  
 13 MR. EGAN:  
 14 Q. Have there been any additional steps in the  
 15 aligning assessment in accountability system to the  
 16 standards since you authored your report?  
 17 A. The California standards test didn't exist  
 18 when we initially authored the report.  
 19 Q. Okay.  
 20 A. For starters, there was the augmented Star  
 21 test at the time that had a few of the standard-based  
 22 questions, as is my recollection. So that's one  
 23 thing that has changed since we initially authored  
 24 the report.  
 25 Q. Anything else that you recall?

1 A. In terms of language assessment  
 2 accountability? The exam -- again, when I initially  
 3 did the report, there was no high school exit exam.  
 4 I understand there is no standards-based high school  
 5 exit exam in existence.  
 6 Q. I'm not sure what you mean when you say --  
 7 when you wrote your report there was no high school  
 8 exit exams.  
 9 A. I don't -- there was no high school exit  
 10 exams in the spring of 2000. And the report was  
 11 initially written --  
 12 Q. I'm talking about -- but you referenced the  
 13 high school exit exam in your --  
 14 A. That -- we added that to -- I'm not sure.  
 15 It's vague as the --  
 16 Q. I'm asking since you completed this report.  
 17 A. Oh! Since September of 2002, I'm -- I'm  
 18 unaware of anything else.  
 19 MR. EGAN: Okay. It's a little after 12:00.  
 20 Shall we take a break and come back at 1:00 or so?  
 21 THE WITNESS: That's fine with me.  
 22 MS. WELCH: That's fine.  
 23  
 24 (Whereupon, a lunch recess was  
 25 taken. Off the record at 12:14



1 and back on the record at 1:01.)  
 2  
 3 MR. EGAN: Shall we?  
 4 THE WITNESS: Let's do it.  
 5 MS. WELCH: Works for me.  
 6 MR. EGAN:  
 7 Q. Dr. Koski, I'd like to refer you to the  
 8 summary table once again, that part of your appendix.  
 9 A. Okay.  
 10 Q. And the title is Educational Resources and  
 11 Implied by the California Educational Content  
 12 Standards. Is that correct?  
 13 A. Yes.  
 14 Q. Would it be incorrect to call it educational  
 15 resources required?  
 16 A. Um, it would be only in one sense, because  
 17 we identified both required and suggested --  
 18 Q. Okay.  
 19 A. -- resources in there.  
 20 Q. Okay.  
 21 A. Okay.  
 22 Q. Could you take a look at the English  
 23 Language Arts Appendix for Facility, Page 1?  
 24 A. Uh-huh.  
 25 Q. And under the classroom column, there's a

1 dot, which indicates that this is a suggested  
 2 resource?  
 3 A. A dot? I have a check in the classroom  
 4 column.  
 5 Q. For English?  
 6 A. I'm sorry.  
 7 Q. English arts facility.  
 8 A. Excuse me. I'm in the wrong one.  
 9 Q. Page 1.  
 10 A. Uh-huh. Go ahead.  
 11 Q. It has a dot. As I understand the code  
 12 indicates, that's suggested?  
 13 A. Yes.  
 14 Q. Okay. Is that correct?  
 15 A. Um, we put dots in all three of the K  
 16 through 12 generally resources that you see on this  
 17 Page 1. It was our practice for all of the K through  
 18 12 generally resources to just put dots or suggested  
 19 in there, because it wasn't tied to a specific  
 20 standard.  
 21 Q. And that's true for all of the different  
 22 standards areas, I mean --  
 23 A. It's actually not true. For all the  
 24 different standards area, we did include it as  
 25 necessary or is checkmarked for some of them.

1 The difference here is that the specific  
 2 language regarding classroom stuff. And we can't  
 3 imply any of this language was necessary. The  
 4 language here is all suggested language.  
 5 Q. Okay. Let me -- let's see. Let me refer  
 6 you to the history. You might want to keep your  
 7 finger on the English facilities K through 12.  
 8 A. Uh-huh.  
 9 Q. Then, let me refer you to the History,  
 10 Social Science Facilities, Kindergarten through 12.  
 11 MS. WELCH: That's Page 1.  
 12 MR. EGAN: That's page 1 also, yes.  
 13 THE WITNESS: Okay.  
 14 MR. EGAN:  
 15 Q. Now, for history, social science facilities,  
 16 the classroom, the check indicating it is required?  
 17 A. Uh-huh. That's also true for science,  
 18 kindergarten through 12.  
 19 Q. Okay.  
 20 A. And not for mathematics. Kindergarten  
 21 through 12.  
 22 Q. And nor to English?  
 23 A. Correct.  
 24 Q. Okay. Can you explain why, again, there's a  
 25 check for History, Social Science Facilities, a dot

1 for English?  
 2 A. Okay.  
 3 Q. Go ahead.  
 4 A. The analysis is best looked at the  
 5 individual standard level. And you'll notice that  
 6 for the individual standards in English language arts  
 7 and in mathematics, you will see "necessary" on every  
 8 single one of the standards, as my best recollection  
 9 right now, without looking at it.  
 10 In the K through 12 generally, we did not  
 11 put a check mark in the English arts language mark,  
 12 nor the mathematics column there, only because we  
 13 didn't want the use of this language is what is  
 14 required -- what requires a classroom. We wanted to  
 15 make it clear that this was suggested by that  
 16 language.  
 17 There can be no doubt, though, that for  
 18 every one of the standards, it's really no  
 19 inconsistencies there. We just wanted the reader to  
 20 think that some of this language made it required.  
 21 Q. Okay.  
 22 A. Okay.  
 23 Q. Are there other instances where you made any  
 24 comparable notations or coding on the -- again,  
 25 there's nothing -- well, are there any other

1 instances, other than this one we just talked about,  
2 regarding differences between required and suggested  
3 facility?

4 A. I mean, I don't recall anything that would  
5 be comparable --

6 Q. Okay.

7 A. -- as we're sitting here right now. The  
8 thing I would note, though, is that the kindergarten  
9 through 12 generally was used as kind of a catchall  
10 category beginning to indicate language that was not  
11 attached to any specific standard. And so, that's  
12 why the kindergarten through 12 language is treated  
13 somewhat differently in each of the areas.

14 Q. Okay. Let me refer you to history  
15 instructional materials, Page 3.

16 A. Okay.

17 Q. And looking at grade 1 standard 1.3, for  
18 textbooks workbooks, there's a reference to  
19 substandard 1.3.3 --

20 A. (Nodding head.)

21 Q. -- identifying American symbols, et cetera.

22 A. (Nodding head.)

23 Q. And the same substandard is cited under the  
24 column dealing with primary materials historical  
25 documents --

1 the primary materials of the documents and reference  
2 books contained all, I could imagine that that would  
3 cover it.

4 MR. EGAN: Okay.

5 THE WITNESS: Our determination was that we  
6 would use both of them because of the breadth of the  
7 standards.

8 MR. EGAN:

9 Q. So are you indicating that there was a --  
10 the decision was made in this particular instance  
11 that it -- with regard to grade one, standard 1.3, to  
12 include both resources categories because of the  
13 breadth of the standard?

14 A. Because the standard is pretty broad in its  
15 coverage. When you're talking about American  
16 symbols, that pretty broad. It was difficult for us  
17 to imagine one textbook covering that entire thing.  
18 So we thought that the teacher could supplement that  
19 with other kinds of reference materials.

20 Q. Well, that suggests to me that you engaged  
21 in, at least, some analysis of, you know, of the  
22 scope of what was required?

23 A. We read the standard and made a  
24 determination as to what we thought the standard  
25 covered.

1 A. Yes.

2 Q. -- et cetera.

3 A. Yes.

4 Q. Okay. Did you develop any rule that would  
5 indicate when you would cite the same standard in  
6 different -- for different resources, in this case,  
7 the different resources being textbook, workbooks on  
8 the one hand and primary materials, et cetera on the  
9 other?

10 A. There was no specific rule that applied  
11 across the board. It was very much standard  
12 dependent.

13 In this particular instance, we felt that it  
14 was -- that both of these things were suggested by  
15 the standard itself. Both textbook workbook type  
16 things and also potential reference, these reference  
17 books.

18 Q. Okay. Is it correct that either one would  
19 be sufficient to meet the standard as either textbook  
20 or primary material?

21 MS. WELCH: Objection. Vague.

22 THE WITNESS: (Pausing.) If the textbook  
23 contained all that the standard was going to require,  
24 I could imagine that it would be possible. But that  
25 would be dependent on the textbook. Similarly, if

1 Q. Okay. Let me refer you to the history  
2 facilities appendix Page 15.

3 A. History? Okay.

4 Q. And looking at the content standard 10.7, in  
5 the library column, you cite a reference to the  
6 framework Page 124 to indicate a library as a  
7 suggested resource.

8 A. Yes.

9 Q. Okay. Would the reference to the framework,  
10 Page 124, the same language, would that also suggest  
11 a resource of literature and books in the  
12 instructional materials category?

13 MS. WELCH: Objection. Vague.

14 THE WITNESS: In the instructional  
15 materials, Page 19, under history social science  
16 under 10.7, we did find that literature books were  
17 suggested.

18 MR. EGAN:

19 Q. Okay. And again, there was no rule adopted  
20 that would keep you from -- prevent you from citing  
21 the same standard or framework provision for multiple  
22 resources?

23 A. No.

24 Q. It was all content specific?

25 A. Yes.

1 Q. Okay. Did your analysis in this case  
2 make -- did you make any determination of whether  
3 having the resource, which, in this case, is -- it's  
4 called "Examples of Social Arts," available in the  
5 library, would be sufficient to meet the standard  
6 without providing it in the instructional materials  
7 category?

8 MS. WELCH: Objection. It mischaracterizes  
9 the standard in the report.

10 THE WITNESS: We um, again, made -- we  
11 didn't specifically determine what the precise method  
12 of the deliver which would be -- this is akin to the  
13 conversation we had on several standards at this  
14 point right now.

15 We did feel that the standards suggested  
16 that a library should be available to kids, because  
17 there are a number of things that could be attained  
18 from the library.

19 Examples of which are social science, art,  
20 actually, the novels that are discussed in here, the  
21 literature that's discussed in that particular  
22 framework is -- well, similarly, in terms of  
23 literature books, necessity could be made --  
24 suggested that the literature books be made available  
25 to the students as well. Yeah.

1 A. That's interesting.

2 Q. Actually, on the history social science  
3 instructional materials, Page 2, under the textbook  
4 workbook column, the standards K-2, K-3, K-4 --

5 A. Uh-huh.

6 Q. -- and K-6 --

7 A. Yes.

8 Q. -- all indicate a dot.

9 A. Suggested. But the summary table doesn't  
10 reflect that.

11 Q. Right.

12 A. I see what you're saying. Yeah.

13 My response -- so that is -- I don't know  
14 why that indicates that. But I think it is a perfect  
15 example of where the analysis is located in the  
16 appendices themselves. And to the extent that that  
17 needs to be corrected on the summary tables, I'll  
18 correct it. I'll need to take another look at that.

19 Q. Okay. Will you give -- if you're going to  
20 do that, would you give me notice of what the  
21 corrections are --

22 A. Yes. Absolutely.

23 Q. -- so I can --

24 A. Absolutely.

25 Q. Okay.

1 MR. EGAN:

2 Q. Okay. I'd like to refer you to the summary  
3 table --

4 A. Okay.

5 Q. -- for "History, Social Science,  
6 Instructional Materials" --

7 A. Okay.

8 Q. -- specifically, textbooks --

9 A. Yes.

10 Q. -- that indicate that the appendices show 90  
11 of the standards require text and zero suggest text.  
12 Is that correct?

13 A. That's -- that's according to the summary.

14 Q. Okay.

15 A. Yes.

16 Q. If you refer to the sort of the coordinating  
17 section of the appendix, if you look at "History  
18 Social Science Instructional Materials," the  
19 appendix, Page 2, in the textbook workbook column --

20 A. Yes.

21 Q. -- there's a dot in that column; is that  
22 correct?

23 A. Yes.

24 Q. Okay. So that indicates that it was  
25 suggested and not required?

1 A. (Nodding head.)

2 Q. I'd like to refer you to Reading English  
3 Language Arts Technology appendix, Page 3.

4 A. Okay.

5 Q. And specifically, to standard R 2.0. I'd  
6 like you to read that, if you would.

7 A. Reading comprehension students read.

8 Q. Yeah. You don't have to read it out loud.

9 A. Oh! All right.

10 Q. I'm sorry.

11 A. Okay.

12 Q. "The standard provides  
13 that students will work toward  
14 grade 4 goal of reading one half  
15 million words annually."

16 Is it your understanding that this is  
17 reading that should be done outside of school? Is  
18 that the way you read that standard?

19 A. I don't have an interpretation one way or  
20 the other, either reading outside of the school or  
21 combined inside the school.

22 Q. Okay.

23 A. I don't have an understanding one way or the  
24 other, just looking at that right now, as I sit here.

25 Q. Okay.

1 A. I have to see the further contents of it.  
 2 Q. And in the computer printer software  
 3 Internet columns, there are four dots in each.  
 4 A. Yes.  
 5 Q. And as I understand it, from your prior  
 6 testimony, that would indicate a dot for each of the  
 7 grades 1 through 4?  
 8 A. Correct.  
 9 Q. Okay. So that -- looking at that in the  
 10 column when it refers to the specific citation is  
 11 2.0, it refers to online information Page 7 --  
 12 A. Yes.  
 13 Q. -- is that the online information that's  
 14 referenced in standard R-2.0 at the very end?  
 15 A. Yes.  
 16 Q. Okay.  
 17 A. Again, it is suggested, as you'll note  
 18 there.  
 19 Q. Right. And again, and this particular  
 20 standard --  
 21 A. Yeah.  
 22 Q. -- from that context, "Students will work  
 23 toward grade 4 goal."  
 24 But as you -- as I understand it, you  
 25 interpreted it to apply to suggest a resource for

1 grades 1, 2, and 3 in this context.  
 2 A. If you're working toward a goal in 4, you're  
 3 going to want to start reading that material early  
 4 on. Read half a million words in kindergarten or, I  
 5 should say, first or second or third grade. But if  
 6 you're working toward that goal, that material should  
 7 be available to students.  
 8 Q. Okay.  
 9 A. Yes.  
 10 Q. Referring to the English Language Arts  
 11 Teachers appendix --  
 12 A. Okay.  
 13 Q. -- at the bottom is another reference to  
 14 RICA. R-I-C-A. Why? What? When? How?  
 15 A. Uh-huh.  
 16 Q. What is RICA? Do you know what it --  
 17 A. Whew! Um, RICA -- I forgot what the acronym  
 18 stands for.  
 19 Q. Okay. If it -- I don't recall.  
 20 A. It's an assessment for teachers or would be  
 21 teachers. That's all I remember. I can't remember  
 22 what the acronym is for.  
 23 Q. Regarding the -- looking at English arts  
 24 teachers Page 1, kindergarten through grade 12,  
 25 generally, there's a reference to the C-BEST.

1 A. Yes.  
 2 Q. What is the relationship between the C-BEST  
 3 requirements and the standards?  
 4 A. I have to answer the contents of specific  
 5 standards.  
 6 Q. Okay.  
 7 A. There are several parts.  
 8 Q. Okay.  
 9 A. Of the C-BEST that may be related to  
 10 specific standards, and we have indicated as such.  
 11 The C-BEST is, as its name indicates, a basic  
 12 educational skills test for teachers. And in some  
 13 instance, it may have skills and knowledge of  
 14 teachers that would line up with standards. And we  
 15 try to identify that as best we could.  
 16 Q. Okay. Do you know whether the C-BEST is a  
 17 measure teaching skills or teaching abilities?  
 18 A. Let's put it this way. There's a whole lot  
 19 of litigation on that question. And I'm not  
 20 comfortable answering that as to whether or not it  
 21 measures basic skills or teaching abilities or  
 22 qualifications. I don't know that enough.  
 23 Q. Okay.  
 24 A. Let me clarify. Nor have I done a specific  
 25 analysis of it or what it's supposed to measure.

1 Q. Looking at History, Social Science  
 2 Facilities Appendix --  
 3 A. Uh-huh.  
 4 Q. -- Page 16 --  
 5 A. Yes. 16? Okay.  
 6 Q. Standard 11.5. Actually, 11.5.5 is  
 7 referenced under the Media Center column.  
 8 How does this substandard suggest a media  
 9 center? This describe --  
 10 A. Yes. The determination here was that as  
 11 part of this, you might want to actually listen to  
 12 music from the Harlem renaissance, for instance. And  
 13 I think that's -- that's why the media center part  
 14 was there.  
 15 In addition to that, you're going from --  
 16 the art that could be done by slides and the various  
 17 things that depict the artists' work.  
 18 Again, I just want to emphasize media center  
 19 could be combined with the library.  
 20 Q. Okay. Is it possible to describe the Harlem  
 21 renaissance in new trends without looking at art or  
 22 listening to music?  
 23 MS. WELCH: Objection. Incomplete  
 24 hypothetical.  
 25 THE WITNESS: The analysis we did here was

1 where the curriculum frameworks suggested this as a  
 2 way of doing it. And it was our belief the  
 3 curriculum frameworks suggested reference to the  
 4 various media.  
 5 MR. EGAN: Okay.  
 6 THE WITNESS: We didn't know -- we didn't --  
 7 MR. EGAN:  
 8 Q. I think as I understand it, you're saying  
 9 that the way you interpreted this reference quoted  
 10 was that it suggested media such --  
 11 A. Yes.  
 12 Q. -- as records and --  
 13 A. Potentially slides or anything that you can  
 14 do --  
 15 Q. Okay.  
 16 A. -- to depict --  
 17 Q. Okay.  
 18 A. -- the art and the work of that time period.  
 19 Q. Referring to the History Instructional  
 20 Materials Appendix, Page 16 --  
 21 A. History Instructional Materials, Page 16?  
 22 Q. Right.  
 23 A. Yes.  
 24 Q. The content standard 8.9, there's another --  
 25 the literature of books, category, there's a

1 reference to the framework, Page 101, which provides  
 2 excerpts from Frederick Douglas's, "What the Black  
 3 Man Wants," as well as excerpts from "Slave  
 4 Narratives," which will bring these people on the  
 5 bench alive for the students.  
 6 A. Yes.  
 7 Q. Does the reference -- let me see. How did  
 8 you experience that to suggest literature in books as  
 9 a resource for this standard 8.9?  
 10 A. It specifically calls for excerpts from  
 11 literature books, or suggestion, I should say,  
 12 excerpts from literature books as means to  
 13 standards -- teaching to standard 8.9.  
 14 Q. This is in reference from the framework?  
 15 A. Correct.  
 16 Q. Okay. Do you recall is the framework a  
 17 document that the publishers refer to in seeking  
 18 state approval for textbooks?  
 19 A. I don't know.  
 20 MS. WELCH: Calls for speculation.  
 21 THE WITNESS: I don't know what they refer  
 22 to. They may. They may not. I don't know.  
 23 MR. EGAN:  
 24 Q. Okay. Do you know whether have you reviewed  
 25 any of the History Social Science adopted texts?

1 A. I have seen --  
 2 Q. Okay.  
 3 A. -- History Social Science adopted text. I  
 4 have not reviewed them --  
 5 Q. Okay.  
 6 A. -- for purposes of the content of the  
 7 analysis.  
 8 Q. Do you know whether any of the adopted  
 9 History Social Science text include excerpts from any  
 10 of the sources cited on Page 16 of the history  
 11 instructional materials?  
 12 MS. WELCH: Objection. Vague. Calling for  
 13 speculation.  
 14 THE WITNESS: I do not know for sure. But  
 15 it would require that they have not on the --  
 16 specifically identified things here. But also  
 17 excerpts from "Slave Images," and "Abolitionist." So  
 18 I don't know.  
 19 MR. EGAN:  
 20 Q. Okay. So you're reading of the framework is  
 21 all of the things that are required, all that is  
 22 excerpts from "Slave Images" or "Abolitionist"?  
 23 A. My referring that is suggested.  
 24 Q. Suggested. I'm sorry. Okay. Referring you  
 25 to the Science Instructional Materials Appendix Page

1 76 --  
 2 A. Okay.  
 3 Q. -- looking specifically at the Graphing  
 4 Charting Drawing Materials Resource column --  
 5 A. Yes.  
 6 Q. -- do you know the check -- there's a check  
 7 indicating that these resources are required.  
 8 A. Yes.  
 9 Q. Do you know if the requirement is based on,  
 10 I presume, both 4-D is, I presume, framework, page  
 11 40, and 4-E also references the -- it's unclear, I  
 12 think.  
 13 A. 4-E is the reference to the standards.  
 14 Right. And also, framework sometimes repeats the  
 15 standard.  
 16 Q. Okay. So 4-D is reference to the standard?  
 17 A. And 4-E is the reference to the standard as  
 18 well.  
 19 Q. And also, 4-E also references framework?  
 20 A. Yeah.  
 21 Q. And again, that is because the framework  
 22 reiterates the standard?  
 23 A. Yes.  
 24 Q. Okay. So am I correct, then, that both of  
 25 these, 4-D and 4-E, independently indicate that

1 graphing and charting materials are required to meet  
 2 this standard?  
 3 A. Not necessarily. 4-E certainly requires  
 4 that graphing and charting materials be necessary.  
 5 That may have been our determination that 4-D implied  
 6 it. But you'll recall that if they were required and  
 7 implied, we would use required over implied --  
 8 Q. Okay.  
 9 A. -- column.  
 10 Q. But it's your interpretation that 4-E  
 11 requires these materials?  
 12 A. Yes.  
 13 Q. Okay. What is the definition of charting  
 14 graphing drawing? Tell us. Does it include just  
 15 plain paper?  
 16 A. It would include paper that can be used for  
 17 these purposes, but also potentially, equipment that  
 18 would help with that kind of drawing. Rulers --  
 19 Q. Okay.  
 20 A. -- and the like.  
 21 Q. I guess my question is: What are the --  
 22 what specifically are the materials that are required  
 23 to meet standard 4-E?  
 24 MS. WELCH: Objection. Asked and answered.  
 25 THE WITNESS: Our reading of the standards

1 card says that graph charting, drawing materials are  
 2 necessary and --  
 3 For example -- by way of example only, when  
 4 you want to teach students to construct bar graphs,  
 5 precision should be part of that lesson. And to do  
 6 precise graphing, you would need some kind of  
 7 instruments, graph paper, that is laid out in grids,  
 8 as you probably know, and/or on the use of rulers to  
 9 make sure that the graphing are meaningful.  
 10 MR. EGAN: Okay.  
 11 THE WITNESS: Yeah.  
 12 MR. EGAN:  
 13 Q. Anything else you can think of besides graph  
 14 paper and ruler with regard to 4-E?  
 15 A. Um, those would be the ones that come  
 16 immediately to mind.  
 17 Q. Okay.  
 18 A. Yeah.  
 19 Q. Looking at Science Instructional Materials,  
 20 let me start with Page 21 --  
 21 A. Okay.  
 22 Q. -- under the LS, which is Life Signs  
 23 Standard Textbook Workbook column --  
 24 A. Uh-huh.  
 25 Q. -- there's a check.

1 A. Yes.  
 2 Q. But there is nothing -- no reference,  
 3 specifically, in the column.  
 4 A. Uh-huh.  
 5 Q. I think the same is true on Page 22 of the  
 6 Science Instructional Materials appendix with regards  
 7 to --  
 8 A. That's correct.  
 9 Q. -- earth science. And it's true for a  
 10 number of -- of standards.  
 11 A. Yup.  
 12 Q. Why is that?  
 13 A. There's two principals at work in our -- in  
 14 that, from our determination.  
 15 The first principal is um, ways -- for  
 16 instance, the life signs standard of all organisms  
 17 need energy and matter to live and grow.  
 18 One of the ways it could be taught, they  
 19 could have terrariums and the like, gardens in the  
 20 classroom and do a lot of various hands-on work.  
 21 The least resource intensive, least best  
 22 practice, as I've been using the term, would be to  
 23 provide students with hard copy materials where they  
 24 read about this process and learn the process.  
 25 So either the least resource intensive

1 thing, that's principal one. Principal two, this  
 2 goes back to the conversation that we were having the  
 3 last time regarding when it is that instructional  
 4 materials and textbooks would be the method of  
 5 instructional delivery.  
 6 And we had found out it could be -- it could  
 7 be from a very young age or it could not be. And so,  
 8 we chose fourth grade as the age to start -- to start  
 9 it.  
 10 We could have chosen an earlier age, based  
 11 on our consultations, as I described the last time.  
 12 But we actually chose a more conservative route to  
 13 begin in the fourth grade.  
 14 Q. So in that case, looking at the science  
 15 instructional materials, Page 18, grade 4 --  
 16 A. Yes.  
 17 Q. -- again, there's no check indicating that's  
 18 required.  
 19 A. Page 18? That's in grade 3.  
 20 Q. Let's see. Page 19. There's nothing on --  
 21 A. Yeah. That's not a standard there. It just  
 22 says grade 4.  
 23 Q. Okay.  
 24 A. The first time standards mentions under  
 25 physical science, and there is a check there.

1 Q. Okay. Now, what's the basis for the check  
2 there?  
3 A. The two principals that I just described to  
4 you. We could have started the use of instructional  
5 materials, as we defined, at a younger age. I think  
6 that would be very, very well grounded, in terms of  
7 practice. But instead, we chose to be resource  
8 conservative and not start it until the fourth grade.  
9 Q. It started in the fourth grade?  
10 A. Right.  
11 Q. So again, so it looks -- again, it probably  
12 should have -- I probably should have -- to  
13 illustrate, if I look at Science Instructional  
14 Materials, Page 15, text book, workbooks, again  
15 there's no check there.  
16 A. That's correct.  
17 Q. Okay. And that's consistent with the  
18 principal that you just articulated --  
19 A. Yeah.  
20 Q. -- that you started in grade 4?  
21 A. Right.  
22  
23 (WHEREUPON EXHIBIT 36 WAS  
24 MARKED FOR IDENTIFICATION)  
25

1 MR. EGAN:  
2 Q. All right. Do you recognize this exhibit,  
3 36?  
4 A. I don't recognize the exhibit, but I  
5 recognize my handwriting.  
6 Q. Okay. Can you tell me approximately when  
7 these notes were taken?  
8 A. Um, my -- based on our conversations on  
9 Thursday and Friday of last week, and some of the  
10 other things that you showed me, I would put this  
11 around November or December of 2000.  
12 Q. Okay.  
13 A. But I could be off by a little bit.  
14 Q. Okay.  
15 A. Yeah.  
16 Q. Could you read the -- the first line under  
17 "To Do"?  
18 A. E-mail all my students re large meeting and  
19 MoFo."  
20 Q. Okay. Do you recall what the large meeting  
21 was?  
22 A. No. I don't. I don't know what the  
23 reference to --  
24 Q. The line that indicates:  
25 "E-mail standards group re

1 science ed."  
2 A. Correct.  
3 Q. Okay. And then, "at Stanford"?  
4 A. Yes.  
5 Q. Okay. Do you know what the reference to "at  
6 Stanford" is?  
7 A. Not specifically.  
8 Q. Do you have a "why"?  
9 A. May have something to do with others who  
10 were consulted on the project.  
11 Q. All right. How about -- can you read the  
12 next line?  
13 A. "Back check on stuff."  
14 Q. Okay. How about the --  
15 A. "E-mail Lynn re task and lit review."  
16 Q. Okay.  
17  
18 (WHEREUPON EXHIBIT 37 WAS  
19 MARKED FOR IDENTIFICATION)  
20  
21 THE WITNESS: Okay.  
22 MR. EGAN:  
23 Q. Exhibit 37 appears to be an e-mail from  
24 Jeanie Oaks sent on November 26, 2001 to a number of  
25 people, including you.

1 A. Yes.  
2 Q. What does the subject refer to?  
3 A. It says:  
4 "More from the teacher  
5 quality wars."  
6 Q. Okay. What does that mean?  
7 A. Oh! I didn't write it.  
8 MS. WELCH: Objection. Calls for  
9 speculation.  
10 THE WITNESS: So I'm not sure what Dr. Oaks  
11 meant by that.  
12 MR. EGAN:  
13 Q. What was your understanding?  
14 A. Um --  
15 MS. WELCH: Same objection.  
16 THE WITNESS: I had no -- I have no -- I  
17 don't know what the -- what that means, because I  
18 didn't write it. I don't know how to answer that  
19 question, other than -- yeah.  
20 MR. EGAN:  
21 Q. The note says:  
22 "See the latest on  
23 Hanushek."  
24 A. Yes.  
25 Q. Who is Hanushek?

1 A. I assume it refers to Eric Hanushek.  
 2 Q. Who is he?  
 3 A. He's the current scholar at the Higher  
 4 Institute at Stanford. A fellow there.  
 5 Q. Okay. And the reference is to -- looks like  
 6 to a web site.  
 7 A. Yes. It does.  
 8 Q. Okay.  
 9 A. Looks like that.  
 10 Q. Did you visit the web site and review the  
 11 document?  
 12 A. If I did, I have no memory of it. I'm --  
 13 Q. Okay.  
 14 A. This is just one of many e-mails, I'm sure.  
 15 I may have checked it or not. I don't remember.  
 16 Q. Do you know why Dr. Oaks sent this to you?  
 17 A. No. I don't.  
 18 Q. Okay. Did you ever discussed any of the  
 19 Hanushek papers with Dr. Oaks?  
 20 A. No. I haven't.  
 21 Q. Okay.  
 22 A. Not to my recollection, anyway.  
 23  
 24 (WHEREUPON EXHIBIT 38 WAS  
 25 MARKED FOR IDENTIFICATION)

1  
 2 THE WITNESS: Okay.  
 3 MR. EGAN:  
 4 Q. Do you recall writing this, referring to  
 5 this Exhibit 38?  
 6 A. Yes.  
 7 Q. Do you recognize Exhibit 38?  
 8 A. It looks like an e-mail from me to Jeanie  
 9 Oaks.  
 10 Q. Okay. Do you recall writing this and  
 11 sending it to Jeanie Oaks?  
 12 A. I don't recall specifically writing it and  
 13 sending it. I do remember um, the content of what's  
 14 written in here, though.  
 15 Q. Okay. You refer to the note that she's  
 16 intending to include among the papers for the expert  
 17 report.  
 18 A. (Nodding head.)  
 19 Q. What is -- what is the expert report that  
 20 you're talking about there?  
 21 A. Um, my understanding at the time was that  
 22 she was going to use some of the material from my  
 23 paper in her report.  
 24 Q. And what was her report going to cover? Do  
 25 you know?

1 A. Um, I think at that time, my recollection is  
 2 instructional materials textbooks and the like, was  
 3 what I'm best remembering.  
 4 Q. Okay. And what does:  
 5 "The paper that I wrote  
 6 with my students on California's  
 7 educational content standards."  
 8 What does that refer to?  
 9 A. It was the um, great, great grandfather of  
 10 the expert report --  
 11 Q. Okay.  
 12 A. -- that I have here.  
 13  
 14 (WHEREUPON EXHIBIT 39 WAS  
 15 MARKED FOR IDENTIFICATION)  
 16  
 17 THE WITNESS: Okay.  
 18 MR. EGAN:  
 19 Q. Do you recognize 39?  
 20 A. It looks like an e-mail that I sent to  
 21 Marisa Saunders in response to an e-mail she sent to  
 22 me.  
 23 Q. Okay. Did you have any discussions with  
 24 Marisa Saunders related to the topics referenced in  
 25 the e-mail?

1 A. My recollection is this was the only  
 2 communication we had on the subject.  
 3 Q. Okay.  
 4 A. Let me clear -- on the subject of um, her  
 5 question --  
 6 Q. Okay.  
 7 A. -- here.  
 8 Q. In your e-mail to Ms. Sanders, you indicate  
 9 that the summary of the goals was taken from the text  
 10 of the history social science curriculum framework.  
 11 Do you recall was it taken verbatim or incorporated  
 12 into your paper?  
 13 A. I don't recall whether it was verbatim.  
 14 Q. Okay.  
 15  
 16 (WHEREUPON EXHIBIT 40 WAS  
 17 MARKED FOR IDENTIFICATION)  
 18  
 19 MR. EGAN:  
 20 Q. Okay?  
 21 A. Okay.  
 22 Q. Can you identify Exhibit 40?  
 23 A. It looks like it is a -- um, first of all,  
 24 working from the first e-mail on here, it looks like  
 25 an e-mail from Jeanie Oaks to a group of people,



1 myself included.  
 2 Q. That is Page 2 of 3 that you're referring  
 3 to?  
 4 A. Yes.  
 5 Q. Okay.  
 6 A. And then, it looks as though Jeanie then did  
 7 a follow up e-mail to the same group. And then, it  
 8 looks like Tom Demar did an e-mail to the same group,  
 9 and then, it looks like Jeanie sent an e-mail to the  
 10 same group again.  
 11 Q. Okay. Referring to the e-mail from Dr. Oaks  
 12 that's addressed to "hello all" --  
 13 A. Yes.  
 14 Q. -- you were a recipient of that e-mail?  
 15 A. Yes.  
 16 Q. Okay. The paragraph begins:  
 17 "April we read and respond  
 18 to one another papers and  
 19 provide comments."  
 20 Did you have a paper, a Williams paper  
 21 that was -- a Williams paper that was the subject of  
 22 this e-mail message?  
 23 MS. WELCH: Objection. Asked and answered.  
 24 THE WITNESS: I did at some point. And I  
 25 don't know whether it was the subject of this e-mail

1 or not.  
 2 At some point, I was asked to send my paper  
 3 to be reviewed. And I sent it to Jeanie or one of  
 4 her research assistants to be reviewed.  
 5 MR. EGAN:  
 6 Q. Okay. Was it reviewed?  
 7 A. Yes. That was what I had mentioned earlier  
 8 in the July meeting. It was reviewed by Rick  
 9 Mintrop.  
 10 Q. Okay. But there was no other review, other  
 11 than Dr. Mintrop's review as provided and described  
 12 at the UCLA conference?  
 13 A. Yes. To my knowledge, I can't think of  
 14 anywhere -- another time it was reviewed, although  
 15 you mentioned something here that was a surprise to  
 16 me.  
 17 Q. Okay. The paragraph that begins:  
 18 "May. We should use this  
 19 time to share our work with one  
 20 another and the litigation  
 21 team."  
 22 Did you share any of your work with the  
 23 litigation team subsequent --  
 24 A. I don't recall at this time doing it. I  
 25 think -- yeah.

1 Q. Okay.  
 2 A. Yeah.  
 3 Q. Let me refer you to Page 1.  
 4 A. Uh-huh.  
 5 Q. And specifically, the e-mail from Dr. Oaks  
 6 sent April 30th, 2002 regarding the Lou Harris poll  
 7 on Williams.  
 8 A. Yes.  
 9 Q. Okay. You're a recipient of that e-mail?  
 10 A. Yes. I am.  
 11 Q. Had you -- at this time, were you aware of  
 12 the Lou Harris poll -- or prior to this time, were  
 13 you aware of the Lou Harris poll that's referenced in  
 14 the e-mail?  
 15 A. I recall. And I think it's reflected in the  
 16 some notes, talking about doing a survey with Linda  
 17 Darling-Hammond. Then I did not work directly with  
 18 Linda anymore on the matter, basically.  
 19 And then, this would have been the next time  
 20 that I heard about any kind of poll or survey. And  
 21 that is the first time that I recall understanding  
 22 that there was a Lou Harris poll, specifically. I  
 23 can't remember a time before this that I knew there  
 24 was a Lou Harris poll.  
 25 Q. Okay.

1 A. It's entirely possible, but I can't  
 2 remember.  
 3 Q. Okay. Prior to this time, do you recall  
 4 seeing any of the poll surveyed documents?  
 5 A. No.  
 6 MS. WELCH: Objection. Asked and answered.  
 7 THE WITNESS: I don't recall that. No.  
 8 MR. EGAN:  
 9 Q. All right. Did you check out the poll  
 10 results?  
 11 A. I remember looking at this, actually. Yes.  
 12 I -- this -- I had described that the last time we  
 13 talked. And this must -- this refreshed my  
 14 recollection. This was probably the time that  
 15 prompted me to take a look at it.  
 16 Q. Okay.  
 17  
 18 (WHEREUPON EXHIBIT 41 WAS  
 19 MARKED FOR IDENTIFICATION)  
 20  
 21 MR. EGAN: Okay.  
 22 A. Okay. I'm sorry. There's -- I can read it  
 23 here.  
 24 Q. Actually --  
 25 A. I just started -- wait a minute. Okay.

1 Q. Do you recognize Exhibit 41?  
 2 A. It appears to be an e-mail from me to  
 3 Jeannie Oaks.  
 4 Q. Okay. Exhibit 41, Page 2 of 3?  
 5 A. Yes. This is a message sent February 1st,  
 6 2002 to Jeanie. Yes.  
 7 Q. Okay.  
 8 A. We saw this e-mail already.  
 9 Q. Okay. So there was -- of the first occasion  
 10 when you learned -- that you learned that Dr. Oaks  
 11 intended to include your papers or include your paper  
 12 among the papers, this refreshed your recollection?  
 13 MS. WELCH: Objection. Vague.  
 14 THE WITNESS: That's what  
 15 Dr. Darling-Hammond said to me, that Jeanie was going  
 16 to rely on my work. And I didn't know she was going  
 17 to do that. At least, not that, specifically.  
 18 And so, I wrote to her to confirm that was  
 19 true and asked her is there anything else I could do  
 20 to support -- to complete my work so that she could  
 21 use it, if she wanted to.  
 22 MR. EGAN:  
 23 Q. Okay. Referring to Page 1 of Exhibit 41 --  
 24 A. Yes.  
 25 Q. -- the paragraph that begins:

1 "Although the analysis is  
 2 not complete, there are a couple  
 3 of very clear trends."  
 4 Does that refer back to the science  
 5 standards and frameworks, or does this refer more to  
 6 some broader reference?  
 7 A. Science standards and frameworks, I'm  
 8 certain, refers specifically to that.  
 9 Q. Okay. You've testified with respect to  
 10 designation of textbooks. And I believe that you  
 11 made a determination to make a distinction between  
 12 beginning at grade four with respect to when  
 13 textbooks would be required or suggested.  
 14 A. The -- I -- I don't remember what I -- my  
 15 testimony was specifically. It is what it is.  
 16 But --  
 17 Q. Right.  
 18 A. But we did make a determination, at some  
 19 point, that we would consider textbooks as the least  
 20 best practice for the science standards beginning at  
 21 grade 4.  
 22 Q. Okay. Looking at Paragraph 2-C:  
 23 "As early as the second  
 24 grade, children begin to use  
 25 laboratory supplies."

1 Did you make a comparable determination  
 2 with respect to laboratory supplies? That is, did  
 3 you --  
 4 A. The determination with regard to the  
 5 laboratory supplies for second grade children is in  
 6 reference to a specific standard.  
 7 I'm fairly confident we didn't make any  
 8 global determination the way that we did with the  
 9 textbooks --  
 10 Q. Okay.  
 11 A. -- in the science area.  
 12 Q. Okay. Were there any other global  
 13 determinations?  
 14 A. Again --  
 15 Q. Okay.  
 16 A. -- you asked me this before. I don't recall  
 17 any other subject matter, except for science, where  
 18 this came up. It is possible it came up in another  
 19 area, but I don't recall.  
 20 Q. Okay.  
 21 A. Okay.  
 22 THE WITNESS: Can we go off the record and  
 23 take a break?  
 24  
 25 (Whereupon a recess was taken.)

1 Off the record at 2:08 and back  
 2 on the record at 2:13.)  
 3  
 4 (WHEREUPON EXHIBIT 42 WAS  
 5 MARKED FOR IDENTIFICATION)  
 6  
 7 MR. EGAN: Ready?  
 8 Q. Dr. Koski, can you identify Exhibit 42?  
 9 A. It appears to be a memorandum from Lynn  
 10 Echenberg dated 10-29-02.  
 11 Q. Okay.  
 12 A. Hmm!  
 13 Q. The memo refers to a bibliography of  
 14 articles that Linda Darling-Hammond asked her to  
 15 supply at the meeting at 11-7-2000.  
 16 A. Right.  
 17 Q. Do you recall is the date on the memo  
 18 correct?  
 19 A. My best guess it's wildly wrong. It would  
 20 have been a lot -- Lynn was -- graduated from law  
 21 school from 10-29-02.  
 22 Q. Okay. The memo refers to her portion of the  
 23 project.  
 24 A. Yes.  
 25 Q. Which project?

1 A. As I recall, I had broken up my teams, that  
2 was sort of overseeing, into, you know, teacher  
3 quality team, the instructional team and the  
4 standards team. And she was part of teacher quality  
5 team. And her portion of the project was to do this  
6 literature review. And there may have been other  
7 parts.

8 Q. Okay.

9  
10 (WHEREUPON EXHIBIT 43 WAS  
11 MARKED FOR IDENTIFICATION)

12  
13 THE WITNESS: Okay.

14 MR. EGAN:

15 Q. Can you identify Exhibit 43?

16 A. Um, it's a document that I -- I have a  
17 recollection that I've seen before. Um, I'm not  
18 entirely sure who the author is, though, unless it's  
19 indicated on here.

20 Q. Okay.

21 A. My best guess would be that it was something  
22 that was prepared by somebody on our teacher quality  
23 team. But I don't know for sure.

24 Q. Okay. On Page 1, which is Bates stamp  
25 Number Plaintiff XP-LDH 6520, is that your

1 STATE OF { \_\_\_\_\_ }  
2 ) ss.  
3 COUNTY OF { \_\_\_\_\_ }  
4  
5  
6

7 I, the undersigned, declare under  
8 penalty of perjury that I have read the foregoing  
9 transcript, and I have made any corrections,  
10 additions, or deletions that I was desirous of  
11 making; that the foregoing is a true and correct  
12 transcript of my testimony contained therein.

13 Executed this \_\_\_\_ day of \_\_\_\_\_,  
14 20\_\_, at

15  
16  
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20 \_\_\_\_\_  
21 WILLIAM KOSKI, Ph.D.  
22  
23  
24  
25

1 handwriting?

2 A. No.

3 Q. Do you know whose handwriting it is?

4 A. I don't know.

5 Q. All right. How about on the next page,  
6 which is Bates number 6521? Is any of that your  
7 handwriting?

8 A. It's not my handwriting.

9 Q. Do you know whose handwriting that is?

10 A. I don't.

11 Q. How about the last page, 6523? Is that your  
12 handwriting?

13 A. It's not.

14 Q. Do you recognize whose it is?

15 A. No.

16 MR. EGAN: Okay. Dr. Koski, I am finished.  
17 I will reserve my right to continue the deposition  
18 if -- depending upon what additional materials are  
19 produced or corrections are made to the report.

20 Based upon what I understand, I doubt that  
21 that's likely. But I would prefer to make that  
22 formal reservation. So thank you very much.

23 THE WITNESS: Thank you.

24 MS. WELCH: Thank you.

25 (Ending time: 2:21 p.m.)

1 REPORTER'S CERTIFICATE  
2  
3

4 I, ALICE N. HALBERT, CSR No. 7889,  
5 Certified Shorthand Reporter, certify:

6 That the foregoing proceedings were taken  
7 before me at the time and place therein set forth, at  
8 which time the witness was put under oath by me;

9 That the testimony of the witness, the  
10 questions propounded, and all objections and  
11 statements made at the time of the examination were  
12 recorded stenographically by me and were thereafter  
13 transcribed;

14 That the foregoing is a true and correct  
15 transcript of my shorthand notes so taken.

16 I further certify that I am not a relative or  
17 employee of any attorney of the parties, nor  
18 financially interested in the action.

19 I declare under penalty of perjury under the  
20 laws of California that the foregoing is true and  
21 correct.

22 Dated this 1st day of April, 2003.  
23  
24

25 \_\_\_\_\_  
ALICE N. HALBERT, C.S.R. No. 7889

1 REPORTER'S CERTIFICATION OF CERTIFIED COPY

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I, ALICE N. HALBERT, CSR No. 7889, a  
Certified Shorthand Reporter in the State of  
California, certify that the foregoing pages 1  
through 615, constitute a true and correct copy of  
the original deposition of WILLIAM KOSKI, Ph.D. taken  
on March 27, 2003.

I declare under penalty of perjury under the  
laws of the State of California that the foregoing is  
true and correct.

Dated this 1st day of April, 2003.

---

ALICE N. HALBERT, C.S.R. No. 7889