

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

- - -

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

7 Plaintiffs,)

No. 312236

8 vs.)
9)

STATE OF CALIFORNIA, DELAINE EASTIN)
10 State Superintendent of Public)
Instruction, STATE DEPARTMENT OF)
11 EDUCATION, STATE BOARD OF EDUCATION,)

12 Defendants.)
_____)

13 DEPOSITION OF
14
15

16 HEINRICH MINTROP, Ph.D.

17 SAN FRANCISCO, CALIFORNIA

18 March 31, 2003

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20
21 ATKINSON-BAKER, INC.
COURT REPORTERS
22 330 North Brand Boulevard, Suite 250
Glendale, California 91203
23 (800) 288-3376

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15 State Superintendent of Public)
16 Instruction, STATE DEPARTMENT OF)
17 EDUCATION, STATE BOARD OF EDUCATION,)
18 Defendants.)

19
20
21
22 Deposition of HEINRICH MINTROP, Ph.D.,
23 taken on behalf of Defendants, at O'Melveny & Myers, 275
24 Battery Street, San Francisco, California, commencing at
25 a.m., Monday, March 31, 2003, before Maryann Costa
Davi, RPR, CSR No. 5820.

1 APPEARANCES
2 FOR THE PLAINTIFFS:
3 MORRISON & FOERSTER, LLP
4 BY: LEECIA WELCH, ESQ.
5 425 Market Street
6 San Francisco, California 94105
7
8 FOR THE DEFENDANTS:
9 STATE OF CALIFORNIA
10 DEPARTMENT OF JUSTICE
11 OFFICE OF THE ATTORNEY GENERAL
12 BY: KARA READ-SPANGLER, ESQ.
13 1300 I Street
14 Suite 1101
15 Sacramento, California 94244-2550
16
17 FOR THE LOS ANGELES UNIFIED SCHOOL DISTRICT:
18
19 PILLSBURY WINTHROP
20 BY: JOHN S. POULOS, ESQ.
21 400 Capitol Mall
22 Suite 1700
23 Sacramento, California 95814-4419
24
25

1 I N D E X
2 WITNESS: HEINRICH WINTHROP, Ph.D.
3 EXAMINATION PAGE
4 BY MS. READ-SPANGLER 5

5 EXHIBITS
6 PLAINTIFFS PAGE
7 NUMBER DESCRIPTION
8 (None)

9 DEFENDANTS' PAGE
10 NUMBER DESCRIPTION
11 1- Curriculum Vitae 22
12 2- Series of E-mails 80
13 3- Expert Witness Declaration 90
14 4- Expert Witness Report 96

15 QUESTIONS WITNESS WAS INSTRUCTED NOT TO ANSWER:
16 (None)
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1 HEINRICH MINTROP, Ph.D.,
2 having first been duly sworn, was
3 examined and testified as follows:
4

5 EXAMINATION
6 BY MS. READ-SPANGLER.

7 Q. Good morning, professor. Do you go by
8 professor?

9 A. Doesn't matter.

10 Q. What title do you prefer?

11 A. Professor is fine, or doctor, or just you can
12 call me what you -- I mean I really don't care, I'm not
13 that --

14 Q. Good morning, Professor Mintrop. My name is
15 Kara Read-Spangler and, as I told you before, I'm from
16 the Attorney General's Office, and I represent the State
17 Board of Education, the Department of Education, and the
18 Superintendent of Public Instruction in Williams vs. the
19 State of California.

20 Could you please state your full name and spell it
21 for the record?

22 A. My name is Heinrich, H-E-I-N-R-I-C-H, my last
23 name is M-I-N-T-R-O-P. I have a middle name, Anonius,
24 A-N-O-N-I-U-S.

25 Q. Have you ever had your deposition taken before?

1 A. No.

2 Q. So, let me just explain the rules to you. You
3 may have gone over them with counsel, but, just so that
4 we're on the same page, you were just sworn in, and the
5 oath has the same force and effect as if you were in a
6 court of law.

7 I'm going to ask that you respond orally, without
8 nods or shakes of the head, because those aren't taken
9 down very well; and, on that same note, the court
10 reporter is taking down everything that we say. And
11 she's going to record it and put it in a little booklet,
12 so, it's important that we speak separately and not on
13 top of each other.

14 So, I'm going to ask a question and, if you can let
15 me finish the question before you respond, that will
16 allow her to record it. And it also allows the attorney
17 to interpose any objections she may want to make before
18 you answer.

19 Once it's transcribed, you can make any changes to
20 your deposition; but, if you make any substantive
21 changes -- this wouldn't be a good example, but, it's an
22 example I'll give anyway -- like, if you change from the
23 light was red to the light was green, that would be a
24 substantive change. Then, if the case goes to trial, I
25 could comment on that to, you know, in court. Do you

1 Q. Did you meet with any counsel in preparation
2 for your deposition?

3 A. Yes.

4 Q. Who did you meet with?

5 A. With Ms. Welch -- mainly with Ms. Welch -- but,
6 intermittently, there were other people in the room, and
7 that was Mr. Jacobs and Mr. Londen.

8 Q. On how many occasions did you meet with Ms.
9 Welch?

10 A. I think we met twice, yes.

11 Q. And do you recall when the first meeting was
12 that you had with Ms. Welch in preparation for your
13 deposition?

14 A. When was this? Probably in January, I would
15 think, maybe the end of January.

16 Q. And when was the second meeting?

17 A. Today is Wednesday? Last week Tuesday.

18 Q. You didn't really just say today is Wednesday,
19 did you?

20 A. Today is Monday, I mean. Yeah, last week,
21 Tuesday. That tells you how accurate I am.

22 Q. I just wanted to get a baseline.

23 Just for the record, I would like to say this is a
24 State holiday.

25 Q. The first meeting you had with Ms. Welch -- and

1 understand that?

2 A. Yes.

3 Q. That's another important rule is, if I ask you
4 something and you don't understand it, I would ask that
5 you tell me that because, otherwise, I'm going to assume
6 that you understand my questions.

7 Do you understand that?

8 A. Yes.

9 Q. I'd like to get your best testimony today, so,
10 if I ask you a question, and you can respond with an
11 estimate, that's fine; but, I don't want you guessing or
12 speculating.

13 Do you understand that?

14 A. Yes.

15 Q. Is there any reason why you can't give me your
16 best testimony today?

17 A. No.

18 Q. Have you consumed any substances, such as any
19 medication or alcohol or anything, that would interfere
20 with your ability to understand me, or interfere with
21 your ability to give your best testimony, today?

22 A. No.

23 Q. Did do you anything in preparation for today's
24 deposition?

25 A. I re-read the report last night.

1 if I refer to her as Leecia, you'll know who I'm talking
2 about -- right -- in case I slip?

3 A. I'd say about six hours.

4 Q. And, during that meeting, did Mr. Jacobs or
5 Jack Londen come into the room?

6 A. Yes.

7 Q. And what was the general nature of what you and
8 Ms. Welch discussed during that meeting?

9 A. I would say it was, essentially, two things:

10 One, they were giving me information on the format
11 of the deposition, since this is something that I've
12 never done, and I needed to understand what the purpose
13 of the deposition was, how the deposition would be used
14 in the lawsuit, and things of that nature; and the other
15 component that we went over was various elements in my
16 report.

17 Q. Do you recall what elements in your report you
18 went over?

19 A. For example, one of the lawyers -- I can't
20 remember who -- in the room would have asked that
21 question -- would ask me if I could summarize some of the
22 findings in the report and so I did that; or, at some
23 points, the lawyers would point out where they had
24 questions, or where they wanted clarification on, you
25 know, what a certain statement meant and, you know, how a

1 certain statement could be flushed out. You know, if it
 2 came to say, for example, a discussion about a particular
 3 statement and so this is what we did.
 4 Q. Do you recall any specifics?
 5 A. If I had the report in front of me, I could
 6 probably tell you. Right now, I don't know any
 7 specifics -- well, actually, the first time around, in
 8 our first meeting, we discussed what my number Table IV,
 9 which is the Content Analysis of the School Action Plans,
 10 and that resulted in my looking for the long version of
 11 that table, which I saw you had in hand and struggled
 12 with; so, we talked about that. And they wanted to know,
 13 you know, what the table stood for, and what I tried to
 14 intend with the table, and I realized that the long
 15 version would probably be of help to you, so I produced
 16 that.
 17 Q. We're going to talk about this later.
 18 A. Uh-huh, I figured.
 19 Q. In fact, I'll probably go through most of the
 20 tables.
 21 A. Okay.
 22 Q. Do you recall any other specifics?
 23 A. We did talk about recommendations. You know,
 24 at the end of the report, I make recommendations, and
 25 we -- or I should say they -- wanted to get an idea how

1 specific these recommendations are, and we talked about
 2 the specificity of recommendations.
 3 Q. And how specific are the recommendations?
 4 A. At this point, I would say they are not very
 5 specific; in other words, they are not to the level of
 6 putting a money figure on the suggestion and things like
 7 that; in other words, the recommendations are not a
 8 program for public policy as of yet. They are
 9 suggestions as to the direction of policy -- that policy
 10 should take.
 11 Q. So, does that mean that you didn't consider,
 12 when you made your recommendations, you did not give any
 13 thought to or consider how much your recommendations
 14 might cost?
 15 A. I thought about it, but, at the point -- the
 16 purpose of my report was not to design a program of
 17 public policy. The purpose was to answer the question
 18 whether I deemed the efforts of the State appropriate or
 19 not appropriate.
 20 Q. And what's the answer to that question?
 21 A. The answer to that question is that I deem the
 22 efforts of the State not to be appropriate or
 23 commensurate to the problems that have been identified.
 24 Q. Do you remember any other specifics that you
 25 discussed with the attorneys?

1 A. Okay, let me think.
 2 MS. WELCH: And we're still talking about the first
 3 meeting?
 4 MS. READ-SPANGLER: Q. Correct.
 5 A. What else did we talk --
 6 Q. I guess I should say, to the extent that you
 7 can separate the two meetings in your mind.
 8 A. Yeah. What else did he talk about? It was a
 9 long meeting and there were a number of issues. Those
 10 weren't the only ones-- I know that -- but, I don't
 11 recall specifically what we addressed.
 12 Q. Were you asked what you considered to be the
 13 strength of your report?
 14 A. No.
 15 Q. Were you asked if your report had any
 16 weaknesses?
 17 A. No.
 18 Q. At that first meeting, were you shown any
 19 documents?
 20 A. No.
 21 Q. At that first meeting, were any documents read
 22 to you by counsel?
 23 A. No, none that I can recall.
 24 Q. Did you take any notes at the first meeting?
 25 A. No.

1 Q. All the same questions for the second meeting.
 2 A. Okay.
 3 Q. No, do you recall what you discussed at the
 4 second meeting?
 5 A. At the second meeting, we discussed pretty
 6 extensively what had happened. I mean, the report was
 7 written last year, and we discussed what had happened in
 8 the meantime; and, you know, we together tried to get a
 9 handle on what had happened in the meantime in terms of
 10 State policy making.
 11 Q. And let me just back up.
 12 How long did the meeting last week last?
 13 A. That lasted from, I'd say, 9:15 to about 3:00
 14 p.m. with a pretty long break in between because of my
 15 back.
 16 Q. And who all was present at that meeting?
 17 A. It was mainly Leecia Welch, and Mr. Londen was
 18 in the room in the beginning for a fairly short period of
 19 time.
 20 Q. And do you recall what you all discussed about
 21 what has happened in the meantime since you wrote your
 22 report?
 23 A. We discussed the No Child Left Behind efforts
 24 of the State of California to be compliant with that, and
 25 we discussed the SAIT efforts with the identified 24

1 schools.

2 Q. Anything else?

3 A. No, those were the two things.

4 Q. What specifically --

5 A. Oh, and then, of course, there was a new State
6 Superintendent of Public Instruction.

7 Q. What specifically did you discuss with regards
8 to the NCLB and the efforts of the State to comply with
9 the NCLB?

10 A. I think it was, essentially, a question that I
11 think Leecia asked me, and what I knew about that
12 effort.

13 And I told her that I didn't know; that I, at that
14 point, didn't know exactly where the State was with that.
15 I reported a meeting that UCLA faculty -- education
16 school faculty -- had with Jack O'Connell back a few
17 weeks ago in Moore Hall, which is our building at UCLA,
18 and he was asked where the State was with that -- and
19 this was my latest information in the State -- and he
20 described how State officials had traveled to Washington,
21 D.C. and had negotiated with U.S. Department of Education
22 personnel, or officials, and it was in the negotiating
23 stage, so he could not give us any conclusive information
24 on where it was -- where the compliance negotiations had
25 gone.

1 A. What I mean by that is that some of the
2 arguments that I make in the expert report, that I would
3 find it beneficial to the State if some of these
4 arguments would be picked up, and the State move in this
5 direction.

6 And, in fact, at the meeting with Jack O'Connell,
7 with a small group of faculty -- there were only 15 in
8 the room -- I communicated some of those ideas to the
9 State Superintendent and, you know, he took notice of it,
10 and he thought there was some good ideas in it.

11 Q. Did you talk about anything else in that second
12 meeting with regards to the new State Superintendent?

13 A. No.

14 Q. You mentioned the SAIT. What's that referring
15 to?

16 A. What does it stand for?
17 What is it?

18 School Assistance and Intervention Team. Those are
19 the teams that are being put together by the State
20 Department of Education to the intervene in those schools
21 that have not been able to live up to some growth
22 expectations within PSAA.

23 Q. And what specifically did you talk about with
24 regard to SAIT in your meeting last week?

25 A. We tried to figure out how far the effort had

1 Q. When you say it was in the negotiation stage,
2 are you talking about the State's plan to comply with
3 NCLB?

4 A. Yeah, that's the way I understood him.

5 Q. Also, you mentioned, before, the new State
6 Superintendent and, just for the record, you're referring
7 to Jack O'Connell?

8 A. Jack O'Connell.

9 Q. And what, specifically, did you discuss about
10 the new state superintendent?

11 A. Just that there was a new superintendent;
12 And that I had gone to his inaugural address at UCLA
13 several weeks before, right after he was elected;
14 And that he had then communicated to the faculty
15 there -- faculty, students and whoever else -- it was a
16 major public event -- that accountability was going to be
17 a center piece of his agenda; and that he believed that
18 this was -- the accountability system was -- a good way
19 of helping schools improve.

20 And I suggested in the meeting with Leecia Welch
21 that it would be good, if that was the center piece of
22 the State Superintendent's agenda, that some fresh ideas
23 might, perhaps, be beneficial.

24 Q. When you say some fresh ideas might perhaps be
25 beneficial, what do you mean by that?

1 gotten; how far the State had become organized in the
2 SAIT.

3 At the meeting with Jack O'Connell, I had asked him
4 about the SAIT, actually. In the room there was a person
5 who -- I should say who's the director of an organization
6 that tried to, or probably will become, an SAIT provider,
7 and that person asked the State Superintendent to what
8 degree the SAIT had come to fruition. And he couldn't
9 definitively say that it was being funded, or that the
10 state would move forward, but, from all indication of the
11 way he phrased it -- and I cannot exactly recall how he
12 phrased it -- it seems it was going forward at the time
13 of this meeting, and it seems now it's going forward.

14 So, we discussed that where the State was with it in
15 this regard, and then also whether the SAIT effort was
16 representing a new quality of State policy making.

17 Q. And what did you discuss with regard to that?

18 A. I, essentially, was asked of my opinion during
19 the meeting, and I did not think that it was a new
20 quality with regard to the findings that I laid out in
21 the report; but that, of course, I would wish that new
22 effort as much success as possible.

23 Q. Did you discuss anything else in that meeting
24 regarding the SAIT?

25 A. Yes, we discussed the content of some of the

1 orders -- State orders -- and the joint agreements
 2 between the district and the State about corrective
 3 action that -- no, no, no, no -- I take that back --
 4 that's a different thing -- that's not SAIT -- that's
 5 something else.
 6 Q. When you said you discussed the content of some
 7 of the orders and joint agreements, what program?
 8 A. This is the 13 corrective action schools, the
 9 schools -- this is now, I think, the 2001 State
 10 intervention in, I think, it was 13 Los Angeles schools,
 11 if I'm not totally mistaken, which happened under Title
 12 I; but, they're not II/USP.
 13 I was looking at that thinking that, perhaps,
 14 through that effort, there would be some insights gained
 15 for the State's dealing with schools that need
 16 intervention under II/USP.
 17 Q. Are you talking about program improvement
 18 schools?
 19 A. Yeah, uh-hum, that's what I'm talking about.
 20 Q. And was that something that you discussed in
 21 that second meeting also?
 22 A. Yeah.
 23 Q. And what all did you discuss about the program
 24 in improvement schools?
 25 Have you already told me?

1 A. We didn't discuss the schools per se. We
 2 discussed the orders and the joint agreements between the
 3 district and the State; that's why this was not the SAIT.
 4 It was the improvement schools and what those documents
 5 might reveal about that effort.
 6 Q. And what did you discuss about those?
 7 A. I reported the way I read these orders and the
 8 joint agreements, and then Ms. Welch had read them as
 9 well, and she suggested her view, and so, you know, we
 10 just discussed and came to an agreement how we saw this
 11 effort.
 12 Q. And what was Ms. Welch's view?
 13 A. I think we had a disagreement in that Ms. Welch
 14 stressed that the orders -- and I agreed with that --
 15 that the orders documented, you know, authoritatively in
 16 some sense that there were some very, very difficult
 17 conditions existing at these schools, and I agreed with
 18 that; but, that's not what I had emphasized.
 19 I had looked at the orders and the joint agreements
 20 more under the aspect of, what can we do to help the
 21 schools to improve? Less from the angle, what do they
 22 document? So, I think we kind of put the two views
 23 together; that's the way I saw our discussion.
 24 A. Did you discuss anything else during that
 25 second meeting?

1 A. No, I don't think so -- well, except that we,
 2 again, I think there was -- yeah, there was a little
 3 review of the format of the deposition. I mean, that was
 4 actually something I had gone over first, so, I
 5 probably -- it was just a refresher.
 6 Q. And, during that second meeting, did you review
 7 any documents, or were any documents read to you by
 8 counsel?
 9 A. No.
 10 Q. Did you take any notes?
 11 A. Well, I mean, actually, I took home the program
 12 improvement orders and joint agreements, hard copies of
 13 that -- I had them in Los Angeles, couldn't carry them
 14 because of my back -- and I wanted the hard copies again,
 15 and so they provided them with me. And I also brought in
 16 a paper that I had cited in the report that, apparently,
 17 you needed a copy of -- you or somebody.
 18 Q. Which paper was that?
 19 A. This was the Cibulk-Lindle,
 20 C-I-B-U-L-K-L-I-N-D-L-E.
 21 Q. Did you take any notes during that second
 22 meeting?
 23 A. No.
 24 Q. You didn't bring any documents with you today;
 25 did you?

1 A. No -- well, I have the report, I mean, in my
 2 briefcase; but, you know, I'm not using it. It's just
 3 there for me to kind of glance over it on the way up --
 4 down -- here. I've written it a year ago, so I needed to
 5 refresh my memory.
 6 Q. Does it have any good notes written on it or
 7 anything?
 8 A. No, it's blank.
 9 Q. I mentioned off the record and then forgot to
 10 mention it again on the record, we will take breaks, but,
 11 please let me know if you need any breaks. I would ask,
 12 though, that if I've asked a question, that you answer it
 13 before we take a break.
 14 A. Okay, that's good. This is off the record.
 15 (Discussion off the Record)
 16 MS. READ-SPANGLER: Q. I don't know if I asked
 17 this, but, I think you said, just for the record, you
 18 have not had your deposition taken before?
 19 A. Yes.
 20 Q. Yes, you haven't?
 21 A. Yes, I haven't. I'm new to this.
 22 Q. I'm going to have you mark as Exhibit 1
 23 Professor Mintrop's C.V. which says Exhibit A on it, but
 24 it will be Exhibit 1.
 25 /

1 (Defendant's Exhibit No. 1
2 marked for identification)
3 MS. READ-SPANGLER: Q. And feel free to review it
4 as much as you need to.
5 A. Sure, yeah, I think I know what's in here.
6 Q. Did you draft this C.V?
7 A. Yes.
8 Q. When?
9 A. It's updated, you know, regularly.
10 Q. And is it true and correct in all respects?
11 A. I would assume so. You don't want me to read
12 through it, right? I mean, I assume this is the one that
13 I submitted.
14 Q. It was the one that was attached as Exhibit A
15 to your report.
16 A. Yeah, that's correct.
17 Q. Is there anything that you would need to add to
18 it today -- let me rephrase that.
19 Is there anything relevant to the report that you
20 would need to add to it to update it, for example, any
21 publications relevant to the report or --
22 A. Yeah, let me see. I'm just trying to see which
23 ones have -- well, the only things I can think of is,
24 perhaps, there are probably some of those that I have as
25 "in press" or "accepted". They're probably -- now

1 they've moved onto the next page; that's the only thing.
2 Q. You're talking about publications?
3 A. Yeah.
4 Q. Can you point us to any specifically?
5 Are you on a specific page?
6 A. Yeah, it would be "Under Review" -- oh, yeah,
7 this is a while back, I realize. Yeah -- no -- this is
8 actually not the most recent one. I have a version that
9 is actually even more recent, because some of this stuff
10 has been renamed.
11 And so, for example, "Under Review", there are a
12 number of articles that are not in here yet; and the book
13 that is called here "The Bleeding Edge of School
14 Accountability" that is now up for publication sent to
15 the publisher and --
16 Q. Page 5?
17 A. Page 5, sorry, yes. That has now gone to the
18 publisher and is going to be published at Teacher's
19 College Press in the fall, as I'm informed, and it's
20 called "Schools on Probation" -- "Schools on Probation
21 Accountability Sanctions and School Improvement".
22 And then there's another article that is not in
23 here, I think, that's called "The limits of Sanctions"
24 and that was published in "Education Policy Analysis
25 Archives" recently in January. It's Volume XX, I

1 think -- yeah -- you probably have that. You have it
2 there.
3 MS. READ-SPANGLER: Do we have that?
4 MS. WELCH: Do you have it?
5 MS. READ-SPANGLER: Yeah.
6 MS. WELCH: I don't know. I found it on the
7 Internet, so --
8 MS. READ-SPANGLER: That wasn't produced.
9 MS. WELCH: Yeah, as far as I know.
10 THE WITNESS: Yeah, so that came out in January.
11 And, what else?
12 And then a number of other articles that have moved
13 to publication stage, but, they're not directly --
14 they're indirectly -- related to this topic, not really
15 directly.
16 MS. READ-SPANGLER: Q. Would it be possible for you
17 to bring an updated C.V. tomorrow or is it in L.A?
18 A. Yeah, I have to see what I have on my -- I
19 usually carry my stuff in a zip disk, and it should be
20 there. Sometimes I forget to save it on the zip disk I
21 carry around; but, if I have it there, yes.
22 Q. Okay, that would be great.
23 MS. WELCH: This is the most recent version that
24 I've seen, just for the record.
25 MS. READ-SPANGLER: That's fine.

1 THE WITNESS: Well, you know, things revolve.
2 MS. WELCH: Right.
3 THE WITNESS: And this is probably from last year,
4 summer or so, or probably even before the summer. And
5 over the summer, that's the most productive writing
6 phase, and that's when you get stuff out and you rethink
7 your work and you couch it in different terms and you
8 move forward.
9 MS. READ-SPANGLER: Q. Going back to page 1 --
10 A. To the C.V.?
11 Q. Correct, what we marked as Exhibit 1.
12 I don't see a Bachelor's Degree or anything
13 equivalent to that. I'm assuming -- well, I shouldn't
14 assume.
15 Do you have something equivalent to a Bachelor's?
16 A. Well, you know, my undergraduate education -- I
17 should say that the German educational system is such
18 that there are no B.A.'s. Once you go to university, you
19 go to university all the way through your Masters, so, by
20 the time, you know, you have Masters, you have the
21 equivalent of what would be a B.A. here and a Masters.
22 Q. And so you got a Masters -- and I speak many
23 languages, but German is not one of them -- at Freie
24 University. Is that in east or west?
25 A. That's in the west. It's a Ford Foundation

1 creation after World War II. When the Central University
2 of Berlin was taken over by the Socialist authorities in
3 the west, they founded the Freie University.

4 Q. Does that mean it didn't cost any money?

5 A. It didn't cost any money. At that time, it
6 didn't cost the German government any money. It was the
7 Ford Foundation that provided the initial funding.

8 Q. As part of your Master's Degree, I see that you
9 have a minor in philosophy and education, so, would I be
10 correct in thinking that you took education-related
11 courses as part of your degree?

12 A. Yes, and what I probably should have added
13 here, but I often skip it because most people, you know,
14 find that very confusing, is that, in Germany, once you
15 have your Masters from a university, then you have
16 another year-and-a-half of a practical theoretical phase;
17 here, you would call it student teachings, but, there, it
18 is actually a second State exam that you take.

19 So, you write another Masters thesis, a second
20 Masters thesis, and, you know, you go to classes at
21 seminars that -- or, you know, yeah, kind of State run
22 seminars; it's not university based.

23 So, in addition to education courses that one takes,
24 as you prepare for the Masters, then you have another
25 year-and-a-half of education courses; but, they're under

1 Q. And yours was, I think you said, the highest?

2 A. Yeah.

3 Q. Then, looking at your Ph.D. at my alma
4 mater(spelling?) Stanford, what is, in a nutshell, Social
5 Science and Educational Practice? What does that mean?

6 A. That's a division that includes administration,
7 policy analysis, the social science foundations, and
8 comparative education. Those four divisions are under
9 that umbrella.

10 Q. So, what sorts of courses would you take or did
11 you take?

12 A. I took -- well, there was a core curriculum
13 that you took:

14 Economics of education;

15 Politics of education;

16 Sociology of education;

17 Anthropology of education.

18 So, you had the major disciplines; then, of course,
19 you would take all of the necessary methods courses;
20 statistics and qualitative research methods.

21 Then, of course, in addition, you took courses
22 outside of education in various disciplines -- in my
23 case -- political science and sociology. That's pretty
24 much of the course work, you know, the body of the course
25 work.

1 the auspices of the State rather than the university.

2 Q. So, what sorts of education courses did you
3 take as part of your degree in student teaching?

4 A. Quite a number of them. Of course, all kinds
5 of pedagogy courses and methods courses on the
6 educational system, education policy, more philosophical
7 courses, you know, foundation courses, you know,
8 something like that.

9 Q. And was the teaching credential for college
10 preparatory secondary schools, was that also part of your
11 degree or was that an additional sort of credential?

12 A. Yeah, that's the additional credential. It's
13 actually called the State exam. You know, if you want a
14 literal translation -- and there are two different or
15 three different versions -- there's an elementary
16 credential or State exam; there's a lower track secondary
17 school exam; and there's an upper track secondary school
18 exam.

19 Q. So, the credential you got would, basically,
20 entitle you to teach in --

21 A. Everywhere.

22 Q. So, not just high schools?

23 A. This is Germany. It's a hierarchical system.
24 The higher you are, the more you are entitled to teach
25 everywhere.

1 Q. And can you explain the subject matter of your
2 dissertation to me?

3 A. Yeah, the dissertation dealt with a large scale
4 systemic educational change in East Germany after the
5 wall fell down. So, this was a case study of educational
6 change, large scale educational change, under conditions
7 of large scale societal change.

8 Q. Do you want to elaborate on that?

9 MS. WELCH: Does he want to or --

10 MS. READ-SPANGLER: Q. Could you?

11 A. Yeah, sure, I can elaborate.

12 So, essentially, the idea was -- I mean, my major
13 interest is studying how schools change due to large
14 scale policies, and this was a very, very propitious
15 (spelling?) case that allowed me to see how schools would
16 change when a relatively coherent system would be crafted
17 upon an educational base, or educational cultural base,
18 that was quite salient to those institutional structures.

19 And so I studied the meeting of those two elements,
20 the institutional demands that were placed on the East
21 German teachers due to the new western education
22 policies, and the western system, and the lived culture
23 of those teachers in the East German schools.

24 Q. And were you in Germany at the time the wall
25 came down?

1 A. No, but I traveled there soon thereafter. I
 2 was on 24th street in Noe Valley(spelling?) when it came
 3 down.
 4 Q. Did you work as a research assistant during
 5 your Ph.D. study?
 6 A. Yes.
 7 Q. And for whom did you work?
 8 A. I worked for Hans Weiler, my advisor on the
 9 Germany project, and I worked for Milbrey McLaughlin on a
 10 project that studied school reform projects and their
 11 effect on school improvement.
 12 Q. Can you elaborate on what you did with Milbrey
 13 McLaughlin school reform projects?
 14 A. We studied four distinct school reform
 15 projects, two of them what, nowadays, is termed
 16 comprehensive school reform projects that try to tackle
 17 the organization as a whole; and two of them were more
 18 small scale interventions that specifically targeted
 19 instructional formats in the classroom.
 20 And we compared those four projects -- or those four
 21 program -- fosi(spelling?) I should say -- and tried to
 22 figure out what effect they would have on the schools.
 23 Q. Did you reach any conclusions?
 24 A. Yes, this was actually an article that was
 25 published many years later in "Education Policies" --

1 it's probably in here -- and it's called "Designing
 2 Coherent" -- what's it called? It's called "Design
 3 Cooperation, Strengthening the Link between
 4 Organizational Structure Change in Schools". That is the
 5 outgrowth of this particular research -- on page 4, I
 6 think.
 7 What we found is not something that's terribly
 8 surprising, is that those reform projects that focused on
 9 instructional formats had a rather strong impact on the
 10 classrooms -- the targeted classrooms -- but had a hard
 11 time spreading from these targeted classrooms to other
 12 classrooms;
 13 While, the comprehensive school reform models
 14 exerted some influence on the organization as a whole,
 15 but the effect on instruction was very difficult to
 16 trace, so, this leaves us with a connundrum of having --
 17 you know, having insufficient intervention in either
 18 case.
 19 If you want instructional change or -- if you want
 20 instructional change to spread to the organization, if
 21 you want to scale up, in other words, certain
 22 instructional reforms, you have to think of some kind of
 23 intervention that could, perhaps, create a
 24 cinergy(spelling?) effect between organizational change
 25 and instructional change, and that's what the article is

1 advocating.
 2 Q. And if you use the term CSRD, is that the same
 3 as the comprehensive school reform projects that you're
 4 talking about?
 5 A. Well, yeah -- well, you know, the CSRD's came
 6 much later, and so, probably, the reform projects that --
 7 the comprehensive reform projects that we studied or
 8 used, which, in this case, was the Coalition for
 9 Essential Schools and the Corum model, those would now
 10 fall under CSRD; but, back then, that wasn't the course.
 11 Q. And looking at your C.V. I see that you taught
 12 at the secondary -- well, actually, I guess middle school
 13 and high school level -- and I just wanted to talk about
 14 your experience doing that.
 15 Did you get a teaching credential in California?
 16 A. Yes.
 17 Q. And when did you get that?
 18 A. In 1985, I think; yeah, 1985.
 19 Q. Did you get that before you started teaching in
 20 California?
 21 A. Yes, I think so, probably, if I'm not mistaken,
 22 I worked for the San Francisco Unified School District as
 23 a substitute teacher on a preliminary credential; but,
 24 once I started working in the schools, I had a full
 25 credential. In other words, once I had a tenured track

1 position, I had a full credential.
 2 Q. Where did you get your teaching credential?
 3 A. At San Francisco State.
 4 Q. And did you have any sort of subject matter
 5 certification, if that existed at that time?
 6 A. Yeah, they existed at the time. Since I had
 7 been a teacher in Germany, before I moved to the United
 8 States, I had, you know, a number of years of experience,
 9 and I had a university education in the subjects that I
 10 could teach. Many of the requirements for the California
 11 teaching credential were waived in terms of classes I had
 12 to take, and I could substitute them with the NTE -- the
 13 National Teacher's Exam -- which was around at that
 14 time -- so I took the NTE and took some of the required
 15 courses such as, how to mainstream students with
 16 handicaps, reading a course on -- reading a number of
 17 courses -- that were required, that you could not waive;
 18 but, I did not have to take any subject matter courses
 19 anymore.
 20 Q. Did you ever get A CLAD or a B CLAD
 21 certification?
 22 A. No.
 23 Q. Did you ever work in administration at the
 24 elementary or secondary level?
 25 A. No, I can't really say that I worked in

1 administration. I had leadership positions in various
2 areas, but, I did not have an administrative credential;
3 nor, would I have been on the payroll as an
4 administrator.

5 Q. Did you have any other teaching positions in
6 the public schools other than what is reflected on your
7 C.V. -- California public schools?

8 A. No.

9 Q. Do you have any other formal education or
10 training which bears on your testimony in this case other
11 than what's reflected in your C.V.?

12 A. No, I don't think so.

13 Q. You're currently assistant professor at UCLA;
14 is that correct?

15 A. Yes.

16 Q. And what does that entail?

17 A. Could you be a little more specific, please?

18 Q. Well, what are your job duties?

19 I mean, do you teach?

20 Do you just do research?

21 A. I do both. I teach -- at this time, I teach
22 three courses a year, and I do research; and, of course,
23 I do what we call service. That is, I serve on
24 committees, I review manuscripts, I'm on, you know,
25 advisory committees and things like that.

1 years, now, and I have mainly been engaged in the
2 preparation of doctoral students; in other words, we have
3 courses that take the doctoral students through the
4 process of, you know, thinking about their dissertation,
5 identifying, writing, a topic, writing their proposal,
6 preparing for the exam, those kinds of things. I've been
7 involved in that.

8 Q. And what sorts of courses do you teach doctoral
9 students?

10 A. That's what I'm saying. This is all I have
11 done so far at UCLA because I have buy-outs because of
12 research.

13 Q. You have buy-outs?

14 A. Buy-outs means, you get research funding with
15 which you buy out your course load from the university.
16 You pay your own salary -- a certain percentage of your
17 salary -- so that you don't have to do the full teaching
18 load and frees you up to do research.

19 Q. And what sort of research have you been doing
20 at UCLA?

21 A. I have done three things so far -- I should say
22 finished up projects that I've done at the University of
23 Maryland, where I was before that, occupied a good part
24 of my time; but, the new stuff that I have, that I've
25 begun, is almost instantaneously.

1 Q. Do you have tenure?

2 A. Not yet; it's very close.

3 Q. Once you have tenure, you'd be just a
4 professor, not an assistant professor; right?

5 A. Then you're an associate professor, assistant
6 associate, and then professor.

7 Q. What types of courses do you teach?

8 A. I teach courses in what we call the Principal
9 Leadership Institute, which is UCLA's principal
10 preparation program --

11 Q. Let me just stop you right there -- and I know
12 you haven't completed your answer -- but, just to
13 clarify, when you say principal preparation, you mean
14 principals as the head of schools?

15 A. Yeah, in other words, future principals.

16 And so I teach courses in those programs;

17 I teach courses -- or I should say I have taught --

18 courses on schools as organizations;

19 School accountability;

20 And instructional leadership;

21 And instructional supervision.

22 Those are the courses that I teach in what we call
23 the Principal Leadership Institute.

24 And I teach other courses as well at UCLA.

25 Actually, I only have -- I've been at UCLA for about two

1 I began researching the California accountability
2 system, the II/USP system. That is a logical outgrowth
3 of the work that I had done previously. And then I've
4 looked -- so, this is one focus, the California
5 accountability system.

6 The second one is a comparison of various State
7 systems. It's a very new one that just started a
8 comparison of various State systems -- or I should say of
9 various low performing school programs within
10 accountability systems.

11 And the third one is a comparison between the U.S.
12 accountability system -- let me rephrase that --
13 comparison between various State systems in the U.S. with
14 quality assurance systems in Germany. I've looked a
15 little bit into England as well, which is reflected in
16 the report.

17 Q. What were the Maryland projects that you
18 finished up?

19 A. There was the study on schools on probation,
20 which has resulted in the book that is going to be
21 published in the fall;

22 I did a study on -- it's called the Bridge Project
23 which looks at the relationship between, or the
24 articulation between, high school and college, and so we
25 looked -- we did the linkages between that. Those were

1 the two main projects.

2 Q. And then you said you looked at California's
3 accountability system and the II/USP system.

4 Was that one thing or two things?

5 A. No, this was one thing.

6 Q. And what are you looking at with respect to
7 California accountability system in the II/USP system?

8 A. I'm in the process of preparing a study that
9 takes the design that I used for Maryland and Kentucky
10 and apply that to the California system. This time the
11 design is slightly different from the one that I employed
12 before. It is a comparative design between II/USP
13 schools and non-II/USP schools that work under similar
14 circumstances; that's one aspect.

15 The other aspect is, I have kind of a project with
16 the school management project at -- UCLA-SMP it's
17 called -- we are looking at -- currently at -- practices
18 that have been successful in II/USP schools, and this is
19 supposed to result in a book.

20 Korman Press had asked me to write a book for them,
21 and so I decided that the book was supposed to be more
22 practitioner-oriented book, so I decided to do this work
23 with people who actually do the work in the schools, and
24 this is that school management project there.

25 Q. And have you already identified some successful

1 instruction pretty strongly with the assessments on which
2 they're evaluated.

3 So, that, to me, is a shortcut that may lead to, you
4 know, to some improvement; but, that does not really
5 effect the culture of the school and, as a result, we
6 find that it's not lasting. And so we're thinking about,
7 you know, how, if you think about turning around a low
8 performing school, or changing a low performing school,
9 how do you get the school on a path that can be
10 sustained?

11 In that case, you need to find ways to make the
12 changes independent of, say, a key principal or a key
13 person in the math department or a key person in the
14 English department. The turnover is pretty high and
15 people in many of the schools -- and people leave and
16 so -- or, you know, a good consultant is being called to
17 another school and very often we see that these
18 interventions then die on the vine, and we have to think
19 of something that is more sustainable.

20 And so, with SMP, we have looked, so far, at some of
21 the efforts that they have undertaken in II/USP schools,
22 and we found that they focus very strongly on these
23 cultural aspects of school change. And that's kind of
24 the story we want to tell, but, it has to be -- we don't
25 have the good data yet. We don't have sufficient data

1 II/USP practices?

2 A. Yes, I would say so. We have identified them,
3 but, we -- in order for that to be published, we would
4 have to find a lot more data.

5 Q. What are the successful II/USP practices that
6 you've identified?

7 A. We focus on the internal organizational
8 processes that those schools might undergo. And what we
9 find is that, in those schools in which the low
10 performance status is part of an on-going discussion and
11 it is -- where there's an effort of it being
12 internalized, you know, that schools seem to have more
13 success in this case.

14 Q. I'm not understanding.

15 What are you referring to when you say it's
16 internalized?

17 A. What I mean is, what you often find is that
18 schools respond to an external demand such as II/USP, or
19 other demands schools, we know, have been inundated with
20 experimental demands. They respond in kind of a shortcut
21 way, which is, they -- if the threat is strong, they
22 clamp down and, at the same time, they accelerate
23 adoption of new programs and consultancies(spelling?)
24 and, you know, external influences. And also, I mean, in
25 terms of accountability, they, of course, align their

1 yet. We have some data, but it's not enough yet. So,
2 we're going to start very soon, in the next few weeks,
3 focus groups of external support providers and then, from
4 there, we go to principals, and then to teachers. So,
5 that's kind of, you know, work that we're doing in this.

6 Q. What are you researching with regard to
7 comparisons of various low performing school systems?

8 A. Essentially, what I want to find out is, I
9 mean, the high stakes accountability systems are designed
10 with the idea in mind that it is incentives, rewards and
11 sanctions that have a powerful effect on schools to focus
12 on what they ought to focus on, which is student
13 achievement, and that, therefore, these incentives will
14 actually have the power to move the schools forward.
15 And that is not something that has been found to be
16 true in the research; not because it might -- you know,
17 it might be true, it might not be true, because there is
18 very little research out there that has tried to isolate
19 the effect, or the power of the incentives.

20 So, many of the high stakes accountability systems,
21 from my point of view, are designed with a theory of
22 action in mind that really hasn't been proven. It's an
23 interesting idea and we need research that shows not only
24 if incentives do really have the power to do the job, but
25 also under what conditions do they have the power to do

1 the job.

2 Q. What's your research with regard to the
3 comparison of U.S. state systems compared to the German
4 and some of the English?

5 A. It's a very interesting contrast. The problem
6 in the U.S. even if you do comparisons, comparisons
7 across states, you are really running out of cases. If
8 you want a true variation, that is, many states'
9 accountability systems in the United States are now
10 abiding by one model:

11 They're outcome-based;

12 They are driven by tests;

13 And they are fairly weak on inspections.

14 When you go to the European systems, you have a very
15 different setup. The quality assurance there, for
16 example, in the German system, they are up to -- now,
17 there were no tests, no standardized tests whatsoever.
18 There's no tradition of standardized tests. Now, they're
19 beginning to phase in some tests, but those are not the
20 kinds of standardized tests that we characteristically
21 see here in the United States. Those are very much
22 teacher-developed, from-the-bottom-up-developed-tests.
23 That's one aspect as far as the German system is
24 concerned.

25 With the English system, the interest is that strong

1 MS. READ-SPANGLER: We've been going a little over
2 an hour. Do you want to take a short break?

3 THE WITNESS: Yeah, that would be nice.

4 MS. WELCH: Yeah, sure

5 (Recess taken)

6 MS. READ-SPANGLER: We're back on the record.

7 Q. Have you done any work with IDEA at UCLA?

8 A. No.

9 Q. Have you had any interactions with Jeannie
10 Oakes in relationship to this case?

11 A. Yes.

12 Q. Can you describe that interaction for me?

13 A. I would say some time in the fall of 2001, she
14 asked me if I was interested in working with a bunch of
15 scholars on the -- what did she say? I don't know if she
16 said California accountability system -- no -- she didn't
17 say accountability system -- something of that nature --
18 I don't really remember exactly how she phrased it -- to
19 essentially -- she was saying, we'd like you to be on our
20 team, because you have expertise with low performing
21 schools, and would you be interested in working on
22 California?

23 And I said, well, this is perfect, because I had
24 already started working on California. I had already
25 started data collection; because that was the logical

1 inspection system that the English have, that one can
2 learn from. So, it allows -- the more variance you have,
3 the more you get a sense of. For example -- you have to
4 stop me, you know, if it goes a little bit too far -- for
5 example, if you compare a German school with, say, a
6 California school, or a low performing German school with
7 a low performing American school, the low performance in
8 German school would be established through informal
9 processes of supervision; in the U.S. school, it would be
10 through test scores.

11 Then, the question is, okay, what kind of school
12 improvement processes are being elicited in these
13 particular systems?

14 In what system do the teachers assume more
15 responsibility for the performance shortcomings?

16 Are the tests real or are the tests and the
17 performance statuses that are attached to the tests, such
18 as a low performing school, a high performing school, are
19 they really powerful enough to drive school improvement
20 and to create that kind of internal responsibility?

21 Or, perhaps, is there another system more helpful
22 that keeps the ownership of the tests with the teachers,
23 but, finds other mechanisms through inspection, for
24 example, through on-going and continuous supervision to
25 also keep up the pressure.

1 first thing, when I arrived at UCLA, instantaneously,
2 II/USP had started. It was a new thing for me and very
3 very interesting for me to see. And I said, yeah, that
4 makes sense, because I wouldn't be doing anything -- that
5 I wouldn't be doing otherwise. This was in the fall.

6 Then, I heard -- this was very kind of informal --
7 then I heard there was a case involved, and I had
8 actually to really start from the beginning. I'd
9 actually read about the case on the day I flew for my job
10 talk from Washington to Los Angeles. There was an
11 article in the L.A. Times or New York Times or one paper
12 I was reading that reported on that case.

13 And so, when I talked with Jeannie and she referred
14 to -- she described a case that had to do with,
15 essentially, with the way I saw it, that tried to find
16 ways to develop accountability systems into more
17 full-fledged systems, I figured it must have been the
18 case I had written about.

19 So, she said, well, if you're interested, there's a
20 meeting -- this was in November -- and, you know, why
21 don't you present at the meeting? There are going to be
22 a number of scholars. Why don't you present some of the
23 ideas that you have with regard to the California
24 accountability system?

25 Q. November, 2001?

1 A. Yeah, I think that's when it was.
 2 Q. And did she mention the Williams lawsuit --
 3 A. Yes.
 4 Q. -- at that time?
 5 And did you present your ideas about the California
 6 accountability system --
 7 A. Yes.
 8 Q. -- at the November --
 9 MS. WELCH: You need to let her finish, just so
 10 you're not talking on top of each other.
 11 THE WITNESS: Sorry.
 12 MS. READ-SPANGLER: Q. What ideas did you present
 13 to the November meeting?
 14 A. Pretty much the ideas that you read in the
 15 report.
 16 Q. And did you receive any comments or feedback at
 17 that meeting about your ideas?
 18 A. Yes, I got the sense that -- I mean, there were
 19 two groups -- the scholars and the lawyers -- that the
 20 scholars thought that this was interesting research and
 21 it could lead somewhere. And, at that time, I talked
 22 with one of the lawyers -- don't ask me who because I
 23 don't remember anymore -- but I remember distinctly that
 24 the lawyer came to me at the end of the meeting and said,
 25 I like your ideas, something like that, and that was it.

1 Q. Do you recall any other specific feedback?
 2 A. No, I don't think there was any other feedback.
 3 Q. What other interaction have you had with
 4 Jeannie Oakes with regard to this case?
 5 MS. WELCH: Objection, assumes facts.
 6 MS. READ-SPANGLER: She makes these objections for
 7 the record, and then I can either change my question or I
 8 can tell you to go ahead and answer; and, actually, I'll
 9 just fix my question.
 10 Q. Have you had any other interactions with
 11 Jeannie Oakes regarding this case?
 12 A. Yes.
 13 Q. What other interaction have you had?
 14 A. We talked about the potential of the papers;
 15 What we wanted to do with the papers;
 16 That we were going to put a conference presentation
 17 together and, perhaps, publish them somewhere;
 18 Because we thought that these papers could give
 19 other people in other states, but also in California,
 20 some ideas of where accountability systems should go --
 21 or how State policies, I should say, should evolve. So,
 22 we had several discussions about that.
 23 I gave her an outline of what I wanted to put in the
 24 scholarly papers -- I think -- yeah, I gave her an
 25 outline once, which was, essentially, the report the way

1 you see it in front of you, but in a more scholarly
 2 format, of course. This can't be published the way it is
 3 because it's specifically targeted to a specific
 4 particular question, and people that are not in this
 5 endeavor here wouldn't be interested in this format, so
 6 it would have to be redone.
 7 Q. When you talk about papers, what are you
 8 referring to?
 9 A. Conference papers.
 10 Q. Right. Why the plural? Did you do more than
 11 one paper?
 12 A. No, no, I mean there were other people who
 13 wrote a paper, so we had a number of papers together.
 14 Q. And after you gave Jeannie Oakes an outline,
 15 did she give you any feedback or make any comments
 16 regarding your outline?
 17 A. Actually, we had a discussion -- I was in her
 18 office -- we had a discussion. She said very, very
 19 little about the outline. She, apparently, thought it
 20 was good. We probably spent no more than a sentence on
 21 it. But, essentially, what we discussed at that time was
 22 the California Master Plan, and she was telling me some
 23 of the stuff that she was doing there.
 24 Q. The Master Plan for Education?
 25 A. Yes.

1 Q. And what did she tell you that she was doing
 2 with regard to the California's Master Plan for
 3 Education?
 4 A. Specifically, specific?
 5 Q. As best you can recall.
 6 A. Yeah, I don't remember what she said about her
 7 parts or her contributions. But, what she did mention is
 8 that some of the ideas that I was thinking about in the
 9 direction of, you know, a more thorough school review,
 10 that that would be something that could be interesting
 11 for the Master Plan as well.
 12 Q. Do you recall any other interactions, if any,
 13 that you have had with Jeannie Oakes regarding the
 14 Williams case?
 15 A. We had an interaction on money, because I
 16 employed a research assistant for some of the work that I
 17 did for the report; and I wanted to fund that research
 18 assistant through IDEA, because it's just easier when you
 19 have an infrastructure, and she said that was fine. So
 20 that's what we ended up doing, so the research assistant
 21 was paid through IDEA.
 22 Q. Any other actions with Jeannie Oakes on this
 23 case?
 24 A. We may have had conversations in the hallway, a
 25 sentence here, a sentence there, but nothing of

1 substance, that I recall.

2 Q. Do you know who Gary Blasi is?

3 A. Yes.

4 Q. Did you have any actions with Gary Blasi with
5 regards to this case?

6 A. Yes.

7 Q. Can you describe those interactions?

8 A. He sent me an E-mail, if I remember correctly.

9 This was way before I was even -- this was before the
10 November meeting and before I had heard anything about
11 Williams or any -- he wanted to have lunch with me at the
12 Faculty Club, and so we had lunch. And he asked me about
13 my research about the Maryland and Kentucky schools, and
14 so that's what we talked about. That's how we got to
15 know each other. But, this was way before, if I remember
16 correctly, this was before I knew anything, before
17 Jeannie had actually asked me, we had this conversation.
18 So, I got to know him at that meeting, and then I saw
19 him -- oh, no -- he didn't make the meeting in the
20 fall -- no -- I saw him again -- once we decided to apply
21 for a grant together -- I like the idea of collaborating
22 with a lawyer because, often, the findings that we come
23 up with are not really significant to the policy world,
24 because they lack the kind of legal standing or the kind
25 of statutory approach to education policy. You know, the

1 come about; but, you know, it's not directly tied to this
2 case, but, it is, nevertheless, related in some sense.

3 Q. On page 3 of your C.V. you have an article
4 entitled "Educating Student and Novice Teachers" and I'm
5 wondering if you could explain to me what constructivism
6 is in the context of education?

7 A. Constructivism in education means that -- I
8 guess it's easiest explained in contrast to the
9 transmission of knowledge. In transmission of knowledge,
10 the teacher is the one who imparts his or her knowledge
11 to students who receive that knowledge.

12 In constructivism, there's an active process of
13 learning that allows the students to construct their own
14 meaning in dialogue with each other.

15 So, the teaching in constructivism is different from
16 the teaching that aims at knowledge transmission. In
17 constructivism, the teacher would characteristically try
18 to scaffold a learning process, but the actual discovery
19 of ideas or conclusions or generalizations is left to the
20 student.

21 Q. And is that something you advocate --
22 constructivism?

23 A. Yes -- not 100 percent in schools, but it is a
24 very, very good component of learning. It should not
25 occupy all the learning time of a student in a public

1 remedies that we come up with are sometimes not even
2 couched in the language of public policy; and he seemed
3 someone who was very much enmeshed(spelling?) in that,
4 and so I was very interested in that. We applied for a
5 grant and we didn't get it.

6 Q. Did you have any other interaction with Gary
7 Blasi regarding this case?

8 A. Actually, we applied for another grant. We
9 used the same -- we use the very, very --

10 MS. WELCH: I just want to say she's asking for
11 interactions regarding this case, and you're responding
12 much more broadly, and I just want to make sure the
13 record is clear on that front.

14 THE WITNESS: Oh, no, let's see, did we ever talk
15 about the case? If we did, it was not of great
16 substance. I mean, it was more --

17 MS. READ-SPANGLER: Q. Not memorable?

18 A. Not memorable. It was indirectly in a sense --
19 I guess that's why I'm bringing up these research
20 projects indirectly. Of course, the research that we're
21 interested in, research that is tied to this agenda in a
22 much, much broader way. It's not really tied to the case
23 per se. It was more to do with what kind of processes
24 would be helpful in schools and what kind of systems need
25 to be put in place that would help these processes to

1 school, but it should be an important component.

2 Q. On page 4 you have an article the title, which
3 is in German, and which I think is something like reform
4 of something, German schools East or West. I don't know.
5 Could you translate?

6 Rather than me guessing, could you translate the
7 title for me?

8 A. "The Reform of the East German School System
9 Looked at from The Perspective of American Educational
10 Research."

11 Q. Thank you.

12 What do you consider to be your areas of expertise?

13 A. I'm trying to understand -- this is my research
14 agenda -- I'm trying to understand educational change in
15 various facets and on various levels of the system.

16 I believe that, in educational research, we need
17 people who specialize in one area, and we need people who
18 are able to integrate these various levels and areas;
19 because, when you look at school improvement, the reason
20 it's so difficult is that all of these areas and levels
21 and actors are inter-connected with each other. And so
22 we need to come up with theories, or insights, that see
23 those inter-connections.

24 So, as a result, what you see here is, when you look
25 at my C.V. is various efforts to look at educational

1 reform from, you know, under various circumstances and
 2 from various angles. So, you see, on one hand, work on
 3 the classroom and instructional change, and then you see
 4 work on the organizational level, kind of the meso
 5 level -- if you go by micro, meso and macro -- you know,
 6 you see the micro level -- work I've done on the micro
 7 level; you see work that I've done on the meso level; and
 8 then the East Germany case was a good example of a study
 9 where macro changes -- where you could study the effect
 10 of macro changes on the classroom.

11 As a micro, the accountability system is something
 12 very similar. It is not as far reaching as the change in
 13 the East German system by any means, but, it is pretty
 14 far reaching. So, I would see myself as an expert -- as
 15 a student of educational reform and educational change in
 16 various facets.

17 Q. And have you already described for me your
 18 research in the areas of educational reform and
 19 educational change -- maybe I should say current
 20 research?

21 A. My current research, I think, I have told you.

22 Q. Other than your expert report, and I guess in a
 23 sense it's not really other, because you haven't
 24 published that, but, have you published any materials on
 25 California's public school accountability system or State

1 but I also, as you can see, have been a teacher in the
 2 system, so there's some practical experience as well.

3 Q. We're going to -- at some point, we're going to
 4 go through your report --

5 A. Sure.

6 Q. -- and I may ask what in your background or
 7 experience qualifies you to give a certain opinion. And
 8 I'm not trying to impugn your qualifications in any way.
 9 It probably just means I'm not getting a connection with
 10 your experience and what you consider to be your
 11 expertise.

12 So, if I ask that, I don't want you to be offended.
 13 I'm just trying to have you help me get the connection.

14 A. Sure, I understand.

15 Q. When did you first start studying school
 16 performance and accountability in general?

17 A. As a researcher?

18 Q. What other context would there be?

19 A. Well, you can study educational issues as a
 20 practitioner as well.

21 Q. Let's just limit it to research.

22 A. It started as a graduate student. As a
 23 graduate student, I wrote a seminar paper, once, that got
 24 me interested in the topic on the level of research; but,
 25 I have been interested in it as a practitioner all along.

1 oversight?

2 A. No, but I will soon.

3 Q. And which article is that?

4 A. The scholarly article that's coming out, I
 5 think in the fall, in "Teacher's College Record".

6 MS. WELCH: And by California, you mean as a state
 7 or you mean any --

8 MS. READ-SPANGLER: Correct.

9 MS. WELCH: -- any system within California?

10 Are you including that as well, or you just mean on
 11 the State level?

12 MS. READ-SPANGLER: I guess I would include both.

13 Q. Does that change your answer?

14 A. No. On California, per se, I have not
 15 published anything.

16 Q. Is there anything that's not set forth in your
 17 C.V. other than anything we've already discussed that you
 18 consider qualifies you as an expert regarding the subject
 19 matter set forth in your report?

20 MS. WELCH: Objection, vague.

21 MS. READ-SPANGLER: Q. I just want to make sure we
 22 haven't missed any relevant experience or anything.

23 A. Other than the various things I've done that is
 24 documented in the C.V., no, I think it's all included. I
 25 think I approached this topic with research expertise,

1 And then my major first research project on the issue
 2 began, I think, in 1997.

3 Q. Let's back up.

4 When you said you'd been interested in it as a
 5 practitioner all along, does that go all the way back to
 6 like your student teaching in Germany?

7 A. No, no.

8 Q. So, when would that start?

9 A. It began in San Francisco in 1985 when I became
 10 a teacher in one of the first reconstituted schools in
 11 the City of San Francisco. If you remember the whole
 12 issue of reconstitution, that was -- underlies the
 13 current high stakes accountability systems was pretty
 14 much born in San Francisco with a consent decree between
 15 the NAACP and, I think, the State, and that created the
 16 desegregation case that created special schools in the
 17 Bay View Hunter's Point area.

18 I was at work in one of the first schools there and,
 19 ever since then, I was interested in school
 20 reconstitution, and those kinds of issues, because I had
 21 lived through it myself first-hand. And that was also
 22 the reason why I -- when the reconstitution moved from --
 23 spread I should say -- from locals such as San Francisco
 24 to the State of Maryland, that I jumped the opportunity
 25 to study it there. At that time, I had been at the

1 University of Maryland and this was -- to me, this was a
 2 very good way of tying into those past interests.
 3 Q. You said your major first research was in 1997?
 4 A. On this topic.
 5 Q. Is that California specific?
 6 A. No.
 7 Q. What was the nature of that research?
 8 Was that what you already described?
 9 A. This was a study of Maryland and Kentucky
 10 schools on probation.
 11 Q. When was the first time you looked at
 12 California specifically in terms of accountability?
 13 A. When I moved here, which was in January of
 14 2001.
 15 Q. I think on your C.V. it says 2000?
 16 A. Okay, yeah, 2000; that's right, it was 2000.
 17 Q. Now, you said before you haven't had a
 18 deposition before.
 19 Have you ever given trial testimony in any education
 20 cases?
 21 A. No.
 22 Q. Have you ever worked on any case or matter as a
 23 non-testifying expert or consultant?
 24 A. No.
 25 Q. Have you ever given any other testimony in the

1 area of accountability systems like to the Legislature or
 2 anything?
 3 A. Yes.
 4 Q. How many times?
 5 A. Let's say twice.
 6 Q. And what were those occasions?
 7 A. Once it was at the Maryland House of
 8 Delegates -- I think the subcommittee -- and then another
 9 one was a -- this was all on the study of low performing
 10 schools in Maryland -- and another one was -- what was
 11 that? That was a group, a public advocacy group, putting
 12 together a forum in which policy makers and educational
 13 leaders and so on and so forth appeared. You know, they
 14 were in the audience and there were a number of people on
 15 low performing schools.
 16 Q. And was that also in Maryland?
 17 A. Yeah.
 18 Q. And you were talking about Maryland's
 19 accountability system?
 20 A. Yeah.
 21 Q. Did I already ask you when this was -- when
 22 those were?
 23 A. It must have been some time in 1999, I would
 24 think. I can't remember when it was, but, it was in 1999
 25 at some point -- it could have been 2000, actually I'm

1 really not sure when it was.
 2 Q. You already mentioned that you've had
 3 interactions with Leecia Welch and Mike Jacobs and Jack
 4 Londen.
 5 What other plaintiffs' attorneys have you had
 6 interactions with or have you met?
 7 A. At the meeting, I met -- what's his name?
 8 Mark --
 9 Q. Rosenbaum?
 10 A. That's right. I talked with him and that's it.
 11 Q. Have you ever worked with the ACLU before on a
 12 case or matter?
 13 Have you ever worked with Morrison & Foerster
 14 before?
 15 A. No.
 16 Q. Have you ever worked with public advocates
 17 before?
 18 A. Public advocates? What is that?
 19 Q. It's one of the other legal entities involved
 20 in this matter.
 21 A. Oh, no.
 22 Q. How about MALDEV?
 23 A. No.
 24 Q. I think you testified earlier that you first
 25 learned about the Williams case by reading about it in

1 the paper; is that correct?
 2 A. Yes -- well, I didn't know it was -- it was not
 3 called the Williams case in the article, so, I put two
 4 and two together. I thought it was -- this is just a
 5 little, you know, anecdote -- aside -- essentially, the
 6 day I traveled to Los Angeles to apply for the job, that
 7 day, I read in the paper about a case that I get involved
 8 in later. That's kind of -- you know -- but, I didn't
 9 know at the time that it was the Williams case.
 10 Q. When were you first told by a person as opposed
 11 to reading about it in the paper about the Williams case?
 12 A. It was probably -- it became clear to me that
 13 it was a lawsuit when I came to the meeting -- the first
 14 meeting -- in November of 2000 -- when was it? 2001 or
 15 2000? Wasn't it November 2000?
 16 MS. WELCH: Are you asking me?
 17 THE WITNESS: Well, let me think. I have to think
 18 back because this is 2003, so I wrote the report in 2002;
 19 so, then, this must have been 2001 -- okay -- 2001.
 20 MS. READ-SPANGLER: I obviously can't remember it
 21 myself right now. In any event, there was a meeting --
 22 MR. POULOS: I think the testimony, so far, the
 23 first meeting was November, 2001. So, I guess, the
 24 question is -- and you showed up in January of 2000 --
 25 so, the question is -- maybe I'm out of line, but I think

1 the record is the first meeting was about 18 months or 19
2 months after you got here -- or eight months or eleven
3 months.

4 THE WITNESS: That's exactly what I'm wondering
5 myself. I don't know. It seems to me it was much sooner
6 than 18 months before. When did you start -- come on,
7 Leecia, help us out.

8 MS. READ-SPANGLER: Come on, Leecia, go on the
9 record.

10 THE WITNESS: When did these meetings take place?

11 MS. READ-SPANGLER: It's okay.

12 THE WITNESS: The November meeting.

13 MS. WELCH: It was November, 2001, just to put
14 everyone out of their misery.

15 THE WITNESS: Thank you very much.

16 So, that meeting, I arrived at the meeting, and it
17 occurred to me that this was a lawsuit. I was not aware
18 of that before. I could have, if I'd paid better
19 attention, probably, but I didn't really realize what
20 this was all about until I got to the meeting.

21 MS. READ-SPANGLER: Q. How did you become aware at
22 that meeting that this was about a lawsuit?

23 A. There were a lot of lawyers. I said, what are
24 they doing here? I thought this was about a scholarly
25 paper we were going to write. And then I realized there

1 think he is adjunct associate professor at UCLA. His
2 area of expertise, I think, is, if I'm not mistaken,
3 community organizing or -- yeah, education policy with a
4 strong bent on community organizing. I think that's his
5 area. He teaches a very, very well received class on
6 John Dewey. That is one of our core requirements; so,
7 he's really part of the division's teaching core.

8 Q. Do you know what, if any, involvement he had
9 with the Williams case?

10 A. Just --

11 MS. WELCH: Objection, vague.

12 MS. READ-SPANGLER: You can go ahead and answer.

13 MS. WELCH: I'm going to object sometime, but you
14 can still answer unless I say not to.

15 THE WITNESS: Yeah, I think he was in the same boat
16 as I. I think he was at the scholarly meetings, and he
17 presented also his ideas, just as I did.

18 And then, at the second meeting, he presented, you
19 know, a more refined version of his ideas from the first
20 meeting. So, in that sense, I think he's -- and then, of
21 course, he works for IDEA and he works for Jeannie.

22 MS. READ-SPANGLER: Q. Do you remember the
23 substance of the ideas that he presented at the second
24 meeting, the subject matter?

25 A. Yes, it was -- I think it was parental

1 was a scholarly agenda, but then there was also a legal
2 agenda.

3 Q. And when did it become clear to you that you
4 weren't just writing a scholarly paper, but that you
5 would be writing an expert report?

6 A. This was not right after the meeting. This
7 must have been a little later, I would think. If this
8 was November, I probably knew in December some time.
9 There must have been a conversation I had with one of the
10 lawyers. And so I was set on the course of an expert
11 report. But, I have to say that it took me a little
12 while to figure out what this really meant. I still was
13 under the impression that I was writing a scholarly
14 paper, because I was so really very unfamiliar with the
15 process, and with the lawsuit, and what it entailed. It
16 was really a gradual revelation for me, what all of this
17 meant; and that I had to write an expert report and
18 things like that. So, definitively, I would say I knew
19 in January what this was all about.

20 Q. Do you know who John Rogers is?

21 A. Yes.

22 Q. Is he someone at IDEA or IDEA?

23 A. He works for IDEA. He's one of my colleagues.

24 Q. What does he do?

25 A. I can tell you that he is adjunct faculty. I

1 involvement, community involvement; pretty much the idea
2 that community involvement is needed for education policy
3 making to produce equity effects.

4 Q. Do you have any understanding as to whether
5 he's an expert in this case?

6 MS. WELCH: Objection, calls for speculation.

7 THE WITNESS: Yeah, that's hard for me to answer
8 that.

9 MS. READ-SPANGLER: Q. I'm just wondering if you
10 know. If you don't know, that's fine.

11 A. No, I don't.

12 Q. And you mentioned the second meeting.

13 When was this second meeting?

14 A. This must have been in the summer of 2002,
15 maybe -- yes, it was in the summer of 2002, or maybe it
16 was in the fall actually -- maybe it was -- originally
17 was supposed to be in the summer -- no, no, it must have
18 been in the summer because, in the fall, I was in
19 Germany; so, it must have been in the summer.

20 Q. Just to help you out, it's my understanding
21 it's in the summer.

22 A. Okay.

23 Q. Did you present --

24 A. Yes.

25 Q. I tend to pause when I ask my questions. This

1 is a very unnatural way of talking.
 2 A. I'll have to be a little more disciplined and
 3 wait.
 4 Q. No, you're fine.
 5 And did you get any feedback at that meeting on your
 6 presentation?
 7 A. Yes.
 8 Q. What feedback did you get?
 9 A. The person who commented on my paper from the
 10 University of Colorado. He critiqued the style of my
 11 paper, not the substance, and he wanted me to rewrite the
 12 report and make it more punchy.
 13 Q. Punchy?
 14 A. And I didn't.
 15 Q. Who critiqued it from the University of
 16 Colorado?
 17 A. It was Kevin Wellner from the University of
 18 Colorado.
 19 Q. Is he an education professor there? Do you
 20 know?
 21 A. Yes.
 22 Q. Did anyone else make any comments on your paper
 23 at that time?
 24 A. No.
 25 Q. Did you, for purposes of that summer meeting,

1 did you review anyone's paper?
 2 A. Yeah, it seems like I did.
 3 Q. Did you review Bill Koski's paper?
 4 A. No -- oh, maybe I did -- no, let me think --
 5 Q. Or William Koski?
 6 A. Whose paper did I review? Yeah, probably, but
 7 I thought -- no, I'm really not sure now. I think --
 8 MS. WELCH: She doesn't want you to guess. Give her
 9 your best recollection estimate, but --
 10 THE WITNESS: It feels like I should know if I
 11 reviewed it. I do know that I reviewed a paper. The
 12 person did not show up to the meeting -- I know that --
 13 so, I'm thinking maybe I reviewed two papers. I know I
 14 read one paper by Tom Timar, and that person did not
 15 appear at the meeting. So, reading the paper really was
 16 very interesting, but I didn't have to present a review.
 17 MS. READ-SPANGLER: Q. What was that paper about,
 18 if you recall?
 19 A. That was about education governance. It was
 20 very interesting. My report is very specific on the U.S.
 21 and the various programs. He looks more broadly at the
 22 overall coherence of the governance structure.
 23 Q. Do you have any understanding as to whether
 24 he's an expert in this case?
 25 MS. WELCH: Calls for speculation.

1 THE WITNESS: Yeah, I don't know.
 2 MS. READ-SPANGLER: Q. And then you mentioned you
 3 thought you might have reviewed another paper?
 4 A. Well, you know, now that you mention Bill
 5 Koski, it could have been. I certainly remember it very,
 6 very vividly. The presentation, I remember very vividly,
 7 but --
 8 Q. Do you recall reviewing a paper on the content
 9 standards and analysis of the content standards?
 10 A. Yeah, that's what he did, right. I don't know
 11 if I reviewed it, but I remember a presentation. You
 12 know, it's too vague for me right now to really know
 13 whether I did a review on it or whether I just took good
 14 notes and thought about it carefully.
 15 Q. So, you have a recollection of taking notes at
 16 the meeting?
 17 MS. WELCH: Objection, mischaracterizes his
 18 testimony.
 19 MS. READ-SPANGLER: Q. Did you take notes at the
 20 meeting?
 21 A. I may have. I don't know.
 22 Q. Would you still have those notes?
 23 A. I doubt it, but I may. I don't know.
 24 Q. Do you remember if you made any comments or
 25 gave any feedback to Bill Koski or whomever wrote an

1 article on the contents standards paper?
 2 A. I don't remember it really.
 3 Q. Do you want to take another short break?
 4 MS. WELCH: Sure.
 5 (Recess taken)
 6 MS. READ-SPANGLER: We're back on the record and we
 7 were talking about -- we'll talk about the preparation of
 8 your report.
 9 Q. So, you said you knew by January, 2002 that it
 10 was going to be an expert report.
 11 When did you actually start working on the report or
 12 the version of it that was a scholarly paper?
 13 A. The version for the scholarly paper, I would
 14 say that started with the research, even before the
 15 meeting, because the scholarly paper, you know, that's
 16 just my whole idea about --
 17 Q. Let me stop you there then and limit it to,
 18 really, the work that you did related to this case.
 19 When did you start doing work related to this case?
 20 A. I think in January of that year.
 21 Q. And I know before you mentioned a research
 22 assistant. Did you only have one research assistant?
 23 A. Yes.
 24 Q. And who was that?
 25 A. Actually, I had two, but the second one was not

1 paid for by -- I guess the money came from -- wherever
 2 that money came from -- I got it through IDEA.
 3 Q. But, in any event, who were the two research
 4 assistants?
 5 A. The names?
 6 Q. Yes.
 7 A. One person's name is Rosie, R-O-S-I-E,
 8 Papezian, P-A-P-E-Z-I-A-N, and the other one is a Aly,
 9 A-L-Y, Juma, J-U-M-A.
 10 Q. And what's Rosie Papezian's background?
 11 Is she a graduate student?
 12 A. Yes.
 13 Q. In what field?
 14 A. Public policy.
 15 Q. Is she a Ph.D. student?
 16 A. No, she was going to be a Ph.D. student, but
 17 she decided to get some practical experience first before
 18 she continued her studies.
 19 Q. What was the nature of the work that Rosie did
 20 with relation to the report?
 21 A. She did some of the data analysis and, you
 22 know, that's what she did. She did the data analysis.
 23 Q. What sort of data analysis did she do?
 24 A. She assembled the databases and she ran some of
 25 the statistics and she read -- she read the school action

1 plans.
 2 Q. Is she the person who did the analysis with
 3 respect to Table IV?
 4 A. Yes, and me; but, she was the primary one.
 5 Q. Do you know if she took any notes with respect
 6 to her work?
 7 A. I asked her about it when I tried to assemble
 8 all the notes that I had, and she could not produce any.
 9 We did not take too many notes because we met in my
 10 office regularly and most of the stuff we talked about
 11 was communicated orally; however, there could have been
 12 notes, but she could not produce them.
 13 Q. Okay, that's all I wanted to know.
 14 And with respect to Aly --
 15 A. Yeah.
 16 Q. -- is he a graduate student?
 17 A. Yes.
 18 Q. Ph.D. student?
 19 A. Yes.
 20 Q. In what field?
 21 A. What is this area called? Foundations --
 22 comparative education -- I forgot what it's called there.
 23 Q. Well, some educational field?
 24 A. Yeah.
 25 Q. And what work did he do for you?

1 A. He found literature and produced the list of
 2 references and he did technical work.
 3 Q. What do you mean by technical work?
 4 A. Like, you know, print out stuff. You know,
 5 print out a report, go-fer stuff.
 6 Q. When did you start drafting the report?
 7 A. I would think I had a report, the first draft,
 8 probably in March or maybe April -- March or April.
 9 Q. 2002?
 10 A. Yes.
 11 Q. And did you show that draft to anyone?
 12 A. Not the first draft.
 13 Q. You didn't show it to Leecia Welch or any of
 14 the attorneys?
 15 A. Not the first draft, no; but, some draft
 16 version, I showed to Leecia and, yeah -- I guess I gave
 17 it to you.
 18 Q. Did she give you any feedback regarding the
 19 draft you showed her?
 20 A. Yes.
 21 Q. What comments or feedback did she give you?
 22 A. She wanted clarification on certain points, and
 23 she made some suggestions of how the report could state
 24 some of the points more clearly.
 25 Q. Did she offer any substantive suggestions?

1 A. In the sense of an alteration of my findings,
 2 no.
 3 Q. What other sense would there be?
 4 A. I mean substantive in the sense that there
 5 might be a point where -- I remember one situation -- I
 6 can't even tell you exactly what, but -- when you look at
 7 the report, there are -- it was -- I mean, the way the
 8 report was written, originally, it was more entangled.
 9 The issues were more entangled, so I kind of pulled it
 10 apart more and made it more explicit. So, in that sense,
 11 probably, if you read the first draft, it probably is
 12 substantively -- it's not substantively different, but it
 13 reads differently.
 14 Q. Organizationally different?
 15 A. Yeah, it's more clarity. That's really what it
 16 is; but, in terms of the findings, no, there was no
 17 change.
 18 Q. Do you recall any of the points that Ms. Welch
 19 asked you to clarify?
 20 A. Yeah, I think there was -- if I had it in front
 21 of me, if I had the report in front of me, I could
 22 probably point to it. Not looking at it, it had to do
 23 with the line up of standards information and remedies
 24 that -- I think I pulled it apart more as a result.
 25 Q. Was that the only draft you showed to Ms.

1 Welch?

2 A. No, there was one more.

3 Q. And did she offer any feedback or comments
4 regarding that other draft?

5 A. Yes.

6 Q. What was the nature of that feedback or
7 comments?

8 A. That was really stylistic. It was at the very
9 late stage and it was stylistically how to phrase
10 something, I guess, a little less clumsy and a little
11 more to the point.

12 Q. She wanted to make it more punchy?

13 A. Actually, no. I know -- no, no.

14 MS. WELCH: I never said punchy.

15 THE WITNESS: If you would have seen the suggestions
16 Kevin made, then you would have seen what he meant by
17 punchy. No, the report does not read that way.

18 MS. READ-SPANGLER: Q. Did anyone else review your
19 report or the drafts before it was finalized?

20 MS. WELCH: Objection, calls for speculation.

21 MS. READ-SPANGLER: Q. That you know of?

22 A. Not that I know of.

23 Q. Did you get comments or feedback from anyone
24 else about any of your drafts or the report before it was
25 finalized other than what we've already discussed?

1 separation of powers in the State of California, it's not
2 up to the Judge to specifically propose remedies -- I'm
3 not a legal expert so I can say this -- it's not up to
4 the Judge to propose very specific remedies. I guess
5 there are actually some cases in which there are very
6 specific remedies, but somehow, it became my
7 understanding that this -- in this phase, what was really
8 needed was to establish whether unequal conditions exist
9 in California schools and what -- and whether the efforts
10 of the State were adequate with regard to these unequal
11 conditions, and so that's what I focused on.

12 This also has to be seen in the context of the
13 resources that I had available, meaning my own brain
14 capacity, and one research assistant, and so I had to
15 focus on certain things. I could not spend full-time on
16 this report, and so I had to make sure that I was hitting
17 the -- my major task -- and, on the other tasks, I could
18 not be as thorough.

19 Q. Do you know when your report was finalized?

20 A. When it was finalized? No, not the exact date.
21 It must be, I would think, shortly after I showed the
22 last draft to the lawyers, I think it was finalized.

23 Q. Do you know when you showed the last drafts to
24 the lawyers?

25 A. Yeah, this must have been -- I didn't keep

1 A. I gave the report to Jeannie and she commented
2 on it.

3 Q. What were Jeannie Oakes' comments?

4 A. This refers back to the conversation that I
5 mentioned, originally, when she said that some of the
6 ideas in the report would be useful for the Master Plan.
7 I think that's what -- yeah.

8 Q. Were you ever told by anyone of things not to
9 include in your expert report?

10 For example, were you ever told not to propose
11 specific remedies?

12 A. No, not like that. I wanted to know to what
13 degree it would be expected of me to think about
14 remedies, and my impression was, in the discussions that
15 I had with either Leecia or maybe some of the other
16 lawyers, that this was not a report about remedies. This
17 was a report about one question in mind, and that is
18 whether the efforts are adequate or not; but that
19 remedies could be part of it, but it was not the focus of
20 the report. So, I needed clarification on that and so,
21 as a result, the remedy section is not very specific.

22 Q. What was it that Ms. Welch told you, or
23 something in the discussion that you had, that led you to
24 think that it wasn't a report about remedies?

25 A. As I understood it, and as I understand the

1 track of this -- maybe last summer or last spring.

2 Q. Could it have been as late as September?

3 A. September, 2002?

4 Q. Yes.

5 MS. WELCH: He may be having difficulty when -- with
6 what you mean by finalized.

7 Do you mean no more edits after that point?

8 MS. READ-SPANGLER: Right.

9 THE WITNESS: Yeah, I was done with it in the summer
10 of 2002.

11 MS. READ-SPANGLER: Q. Other than what we've
12 already talked about, did you review any of the -- or
13 have you reviewed any of the -- other experts reports or
14 drafts of their reports?

15 A. I wouldn't call it review. I've read them.

16 Q. Which ones have you read?

17 A. I've read the report by Tom Timar on -- if he
18 is an expert or not. I've read the report by Laura Goe
19 and -- what's his name?

20 Q. Norton Grubb?

21 A. Norton Grubb; and I've read Jeannie Oakes'
22 summary.

23 Q. The Meta report?

24 A. Yeah, a draft of it, not the final report.

25 Q. Did you give her any feedback on the Meta

1 report?

2 A. I probably sent her an E-mail saying that I
3 liked it -- or that I found it informative. I probably,
4 also, if I'm not mistaken, I may have mentioned to her
5 that I felt that the report was -- that the report was
6 focusing a lot on -- as I said, it was an earlier
7 draft -- that it was focusing a lot on establishing the
8 fact of unequal conditions, and that I thought it would
9 be good if it was focusing a little more on what the
10 State is actually doing about those conditions; and, if
11 I'm not mistaken, she changed it afterwards.

12 Q. In your opinion, what is the State doing about
13 unequal conditions?

14 MS. WELCH: Objection, vague.

15 MS. READ-SPANGLER: Q. In the context you just
16 mentioned it?

17 A. I mean, following my report -- and I feel
18 comfortable talking about what I've written there -- I
19 would say that the State has put policies in place that
20 are, at this point, not sufficient, and that what the
21 State has done is, perhaps, the first step.

22 Q. We're going to talk about your report.

23 Is there anything beyond what's in your report that
24 you're referring to when you were talking about what you
25 thought Jeannie Oakes should put in her Meta report?

1 A. Well, I didn't know the other reports except
2 the ones that I mentioned. The ones that I mentioned are
3 very -- are, you know, are very interesting, but perhaps,
4 sometimes not as specific as I would have thought, you
5 know, they could have been.

6 Now, some of the other reports may have been more
7 specific. I didn't read any of the other reports and so
8 I didn't -- when I made the comment to Jeannie, I just
9 talked in general terms. I did not just refer to my
10 report.

11 Q. Have you read Michael Russell's report?

12 A. No, I was supposed to, but didn't get around to
13 doing it.

14 Q. Did you review any deposition transcripts in
15 preparing your report?

16 A. Yes.

17 Q. Did you review entire transcripts or just
18 selected pages of transcripts?

19 A. Entire transcripts.

20 Q. And do you recall whose transcripts you
21 reviewed?

22 A. Many.

23 Q. Let me see if I can shorten the list. Are they
24 referenced in your report?

25 A. Yes, but there are a number of them that are

1 not referenced as well. Don't ask me who they are.

2 Q. If you can't remember, I'm not going to ask
3 you.

4 A. Yeah.

5 Q. I'll mark as Exhibit 2 a stack of E-mails, and
6 they're not consecutive Bates ranges. I can do them
7 separately and mark them all separately or we can mark
8 them as a chunk.

9 (Defendant's Exhibit No. 2
10 marked for identification)

11 MS. WELCH: It's up to you, as long as we make sure
12 the record's clear as to what we're talking about.

13 MS. READ-SPANGLER: I think it would be fastest to
14 mark them as a chunk. I'm not even sure they're not even
15 necessarily in order. I don't know how that happened.

16 MS. WELCH: It's your call. As long as we make
17 clear what we're talking about, and there's not a
18 suggestion that somehow they're all related to one
19 another because they're a single exhibit --

20 MR. POULOS: You want to take a short break?

21 MS. READ-SPANGLER: We're off the record.

22 (Discussion off the record)

23 MS. READ-SPANGLER: Let's go back on the record.

24 Okay, go ahead.

25 THE WITNESS: When you asked a question whether --

1 when you asked the question about the various drafts of
2 the report, I think I mentioned -- I said that the
3 changes were not substantive. But, I remember now a
4 change that had to be made from the first draft to the
5 second draft, and that is that the Higher Priority
6 Schools Program had been passed in Sacramento, and that
7 was not included in the first draft, so, I actually had
8 to go back to the drawing board and see about the HPSG.
9 The funding was not clear at that time; but,
10 nevertheless, I wanted to look at the mechanisms, and
11 Leecia asked me to spend, you know, additional time to
12 look into this, so I did. So, you know, that was major
13 for me.

14 MS. READ-SPANGLER: I appreciate the clarification,
15 and I'm glad you added that. And, if there's anything
16 else, as we go along, that you feel the need to clarify
17 or to add, I appreciate it.

18 Q. Turning to Exhibit 2, which is a stack of
19 E-mails that I think are more or less in order now, if
20 you can turn -- and the Bates range is generally speaking
21 PLTF-XP-HM 0422 to PLTF-XP-HM 0459 -- I'm not going to
22 represent that it's fully inclusive -- it may be, but it
23 might not be -- but, that's the general range -- if you
24 could turn to HM 0441?

25 A. 441?

1 Q. Yes, and review this series of E-mails on that
 2 page to 0443.
 3 A. 441? Okay.
 4 Q. Do you recall, generally, the subject matter of
 5 those E-mails?
 6 A. Yep.
 7 Q. Looking at the first E-mail, in the sense it's
 8 first on the page, it's dated July 30, 2002, and it's
 9 from you to Gary Blasi.
 10 At the end of the first paragraph it states:
 11 "When you read the report you referred me to the
 12 other day, it looks like the worst schools were actually
 13 served."
 14 What do you mean when you say "...it looks like the
 15 worst schools were actually served"?
 16 Actually, let me back up. This is referring to the
 17 High Priority School Grant?
 18 A. Uh-huh.
 19 Q. That's a yes?
 20 A. Yes.
 21 Q. What do you mean when you say "...it looks like
 22 the worst schools were actually served"?
 23 A. I don't know exactly when I meant when I sent
 24 the E-mail. It was obviously very sloppy the way it was
 25 formulated. But, I would assume, from reading this right

1 now, I think the question was that, Gary asked in the
 2 process of whether, you know, being that II/UPS and HPSG
 3 voluntary features, could the argument be made that the
 4 worst schools that have the least prospect of performing
 5 would shy away from participating. And I think that Gary
 6 had the idea that might be the case and we looked at some
 7 of the -- and this particular one, this particular E-mail
 8 refers to the HPSG. And what I'm trying to say is that,
 9 with the HPSG, it seems that the worst schools, meaning
 10 the the decile 1 schools, are the ones being targeted.
 11 That's my best interpretation of this right now.
 12 Q. Turning to the next page 0442, the latter part
 13 of an E-mail from Gary Blasi to you, it says:
 14 "p.s. Apparently the ACCORD grant will go through."
 15 Is that one of the two grants you and he applied
 16 for --
 17 A. Yes.
 18 Q. -- Together?
 19 A. Yes.
 20 Q. But that's unrelated to the Williams case?
 21 A. Yeah.
 22 Q. Did it go through?
 23 A. Yes.
 24 Q. And then the last E-mail, which is really the
 25 first E-mail in this series, the July 23, 2002 from you

1 to Gary Blasi --
 2 A. Which one is that? What page?
 3 Q. Same page.
 4 A. Oh, here, this one.
 5 Q. So, in the second paragraph, "There might be a
 6 pattern in LAUSD that the worst schools are shielded, but
 7 not in some other districts we looked at, also because of
 8 HPSG most of the decile 1 schools are being served one
 9 way or another."
 10 Is that what you were just talking about?
 11 A. Yeah.
 12 Q. Can you elaborate on what you mean by "being
 13 served one way or another"?
 14 Do you mean either through HPSG or II/USP?
 15 A. II/USP, yeah.
 16 Q. Okay.
 17 A. I think this refers to the decile 1 schools to
 18 large percentage -- Gary wasn't clear about that -- but,
 19 I think I thought that the decile 1 schools, looking at
 20 the numbers, were covered by these two programs.
 21 Q. Could you turn to page HM 04225?
 22 A. Is that before or after? 4225 is before;
 23 right?
 24 Q. I think I put it in subsequent order.
 25 A. Okay.

1 Q. Looking at the E-mail at the top of the page,
 2 it's from Leecia Welch to you dated August 26, 2002. One
 3 of the citations she's listing is J.A. O'Day, and is that
 4 a citation from your report?
 5 A. Yeah, I may have cited it in the report.
 6 Q. Actually, let me back up and read it. It says:
 7 "As I think I mentioned earlier, we are having
 8 difficulty tracking down a few of the publications you
 9 cite."
 10 A. Yes.
 11 Q. This is no longer cited in your report. My
 12 question is why?
 13 A. Because it got published. It's in press now.
 14 Q. Right, I'm just wondering why the citation is
 15 now omitted from the report?
 16 A. Because it was an unpublished paper and I
 17 didn't -- you know, just didn't think it was, you know --
 18 it wasn't that useful to put it in because it was not a
 19 published source. You know, you think -- I mean, it's a
 20 personal relationship that I have with her and so, you
 21 know --
 22 Q. Right.
 23 A. And so she gave me -- it wasn't quite there
 24 yet, and so when it became clear to me how detailed and
 25 how exact the work had to be, I started excluding sources

1 that I didn't think could pass the test that I had put in
2 my mind, and so I think that's why it ended up being
3 taken out; not that I remember specifically that I took
4 it out. You know, I don't remember the act of taking it
5 out. But, if you say it's not in there anymore, then
6 it's not in there anymore, and that would be my reason.

7 Q. I guess I should clarify that I didn't see it
8 in there.

9 A. Yeah.

10 Q. And also to clarify page HM 0435 is not an
11 E-mail. It's a handwritten note.

12 Could you turn to that page?

13 A. Which one?

14 Q. HM 0435.

15 A. 435?

16 Q. And I think it says, "Sorry, these are the only
17 ones available. Everything else is purged. Rick."

18 Is this your handwriting?

19 A. Yes.

20 Q. And did I read it correctly?

21 A. Yes.

22 Q. Are these referring to E-mails?

23 A. Yes.

24 Q. Do you recall who this note was written to?

25 A. I would assume it was written to Leecia.

1 A. That's right.

2 Q. And she indicates she's sending you a paper
3 that she presented at AERA --

4 A. Yeah.

5 Q. -- about implementation processing of the
6 II/USP?

7 A. Yes.

8 Q. Did you use any of her work or research on the
9 II/USP?

10 MS. WELCH: Objection, compound.

11 MS. READ-SPANGLER: You can go ahead and answer.

12 THE WITNESS: This paper, I think I'm citing it in
13 the report.

14 MS. READ-SPANGLER: Q. And did you find her work to
15 be well done and reliable?

16 MS. WELCH: Objection, vague.

17 MS. READ-SPANGLER: Q. Do you think her work has
18 research validity?

19 A. Yes.

20 Q. When I use the phrase "research validity", what
21 does that mean to you?

22 A. It means that she -- it means that she -- that
23 given that very little research is out there on II/USP,
24 her paper was one of the papers that tried to compare, in
25 a more systematic way, what was going on in II/USP

1 Q. Could you turn to page HM 0453?

2 A. 453?

3 Q. Would you go ahead and review that E-mail that
4 continues on to 0454?

5 Q. Just for the record, it's an E-mail from Laura
6 Goe to Heinrich Mintrop dated November 19, 2001.

7 Do you generally remember the substance of this
8 E-mail?

9 A. Yes.

10 Q. Is it your recollection when she says,
11 "Sorry I had to slip away and I didn't get to hear all of
12 your presentation", would it be your understanding that
13 she's referring to the first expert meeting in November,
14 2001?

15 A. Yes.

16 Q. Do you know if Laura Goe did work related to
17 the Williams case?

18 A. I would assume so, but I don't know for certain
19 she was at the meeting --

20 Q. And I think you testified -- I'm sorry -- go
21 ahead.

22 A. She was at the meeting, so -- at the first
23 meeting -- she was not at the second meeting.

24 Q. And I think you testify earlier you read a
25 report by her and Norton Grubb?

1 schools compared to other schools.

2 Q. And what exactly -- well, I shouldn't say
3 exactly -- but, to the best of your recollection, what
4 did her paper do?

5 What was the nature of her paper besides the
6 comparison?

7 Can you elaborate on that?

8 A. I can only -- this is a while back that I read
9 it -- I can describe to you the lesson I drew from it;
10 that is, that she found that the implementation of II/USP
11 was rather even and it depended very much on the quality
12 of the external evaluator what a school was doing with
13 the program; and this similar finding was reflected in
14 the report by Anne Just.

15 Q. And just to be clear, for the record, Anne
16 Just's report was on just Cohort 1?

17 A. Yes.

18 Q. Which cohorts, if you recall, did Laura Goe's
19 research look at?

20 A. I don't remember.

21 Q. Let's mark as Exhibit 3 --

22 A. So, we're done with this?

23 Q. Yes, at least for now -- to your deposition the
24 Expert Witness Declaration of Heinrich Mintrop. And take
25 all the time you need to review that and just let me know

1 when you're done.
 2 (Defendant's Exhibit No. 3
 3 marked for identification)
 4 A. Okay.
 5 Q. Have you ever seen this document before?
 6 A. I don't think so. Maybe it was -- it could
 7 very well be that it was at the --
 8 MS. WELCH: You don't need to guess.
 9 THE WITNESS: No, I don't think so.
 10 MS. READ-SPANGLER: Well, I'll just represent to you
 11 that it's a declaration executed by Jack Londen
 12 concerning you and your work as an expert as it relates
 13 to your expert report.
 14 And I want to direct your attention to paragraph
 15 seven, specifically, the part that begins, "Dr. Mintrop
 16 addresses the current systems of public school
 17 accountability..." and continuing all the way through the
 18 end of the paragraph.
 19 In your opinion, is that an accurate and complete
 20 general summary of the issues and conclusions in your
 21 expert report?
 22 A. Generally speaking, yes.
 23 Q. Is it a complete and accurate general summary
 24 of the substance of the testimony you expect to give at
 25 trial?

1 MS. WELCH: Objection, calls for speculation.
 2 THE WITNESS: Yeah, I'm not even aware that I'm part
 3 of the trial, so --
 4 MS. READ-SPANGLER: Q. You have no understanding
 5 that, if this goes to trial, you may have to testify?
 6 A. This was not made clear to me.
 7 Q. I hate to be the harbinger of bad news --
 8 A. I guess I was hoping that it would pass me by.
 9 Q. Well, if this were to go to trial, and you had
 10 to offer expert testimony, do you think this reflects the
 11 general substance of the testimony that you would expect,
 12 as of today, that you would give at trial?
 13 A. Yes.
 14 Q. Is there anything that you would need to add to
 15 this to reflect the issues and conclusions in your expert
 16 report?
 17 A. No.
 18 Q. And then, looking at paragraph five, it states,
 19 "Dr. Mintrop's fee for providing deposition testimony and
 20 for consulting with the attorneys for plaintiffs is \$300
 21 per hour."
 22 Is that accurate?
 23 A. Yes.
 24 Q. Is that your typical fee?
 25 MS. WELCH: Objection, vague.

1 MS. READ-SPANGLER: Q. Actually, I guess, maybe you
 2 don't have a typical fee since you've never given
 3 deposition testimony before?
 4 A. Yes, I was just going to say that.
 5 Q. And that paragraph continues that this rate did
 6 not apply to the research and other activities undertaken
 7 in preparation of the attached expert report.
 8 What rate, if any, did you charge for the
 9 preparation of the report?
 10 A. I did not charge a rate in this regard. The
 11 research was supported by money that, I think, came from
 12 Morrison & Foerster through IDEA, and so it was not a
 13 rate per se.
 14 Q. So, there was compensation provided for
 15 preparation of the report to IDEA?
 16 MS. WELCH: Objection, vague.
 17 MS. READ-SPANGLER: Well, why don't you just explain
 18 the money thing.
 19 MS. WELCH: Same objection. You can answer.
 20 MS. READ-SPANGLER: I think she doesn't like my
 21 phrase "money thing", but you could go ahead and explain.
 22 THE WITNESS: I received money in two installments,
 23 I think. First, there was a certain amount of money set
 24 for all scholarly papers, we were told, and that amount
 25 of money I spent entirely on a research assistant, paid

1 for Rosie Papezian; and then, there was a subsequent
 2 payment and -- no -- and so -- what was there in
 3 addition? I paid Rosie and there was, I think, \$60 left
 4 for me after that, something like that. But, in the end,
 5 I think, after I went back and I worked on the HPSG, I
 6 think there was an amount of about \$2,500 or so that I
 7 used for myself.
 8 Q. So, what was the total amount of compensation
 9 that was provided, whether to you directly or not, for
 10 this report?
 11 A. Not directly, or -- I mean, total for the
 12 research assistants and what I was given, what would that
 13 have been? \$7,500.
 14 Q. And was that -- it's your understanding that
 15 compensation was provided from Morrison & Foerster To
 16 IDEA?
 17 A. Yes.
 18 MS. WELCH: Objection, mischaracterizes his
 19 testimony.
 20 MS. READ-SPANGLER: Q. Did I mischaracterize what
 21 you said?
 22 Was that inaccurate that it came from --
 23 A. Could you repeat your statement?
 24 Q. I think I was just trying to clarify that it
 25 came from Morrison & Foerster and went to IDEA -- the

1 money.

2 MS. WELCH: Vague as to time.

3 THE WITNESS: Well, I don't know whether the money
4 came from Morrison & Foerster. I assume that it was sent
5 by Morrison & Foerster -- some money, I received from
6 Morrison & Foerster, so that's why I assume, you know,
7 that the money came from Morrison & Foerster. It could
8 have come from another source originally.

9 MS. READ-SPANGLER: Q. Did you get compensation
10 directly from Morrison & Foerster?

11 A. Well, this is something, now it's tax time, and
12 I have to, of course, claim everything I received. And I
13 was always under the impression that I received all of
14 the monies through IDEA, but there may have been some
15 monies that have gone to me directly per check; but, if
16 so, that was not the majority of the money. That was a
17 small part of the money.

18 Q. And then, with reference to the sentence that
19 says "This rate did not apply to the research and other
20 activities undertaken in preparation of the attached
21 expert report", do you know -- well, scratch the "do you
22 know" part.

23 What other activities, if any, did you undertake in
24 connection with preparing the expert report?

25 A. I assume going to the meetings; that's it.

1 there.

2 But, as I said, we didn't complete the full data
3 collection schedule; therefore, in the book, for example,
4 that's coming out in the fall, that case is not being
5 reflected in there.

6 Q. And that's the work you did with Milbrey?

7 A. No, I did that as well -- that is research as
8 well that I did in California at the schools here in the
9 Bay Area.

10 No, this is research that I actually did with my
11 collaborators. The people who did most of the data
12 collection in California were actually Jennifer O'Day,,
13 who is now at -- I quoted her -- who is now at the
14 University of Wisconsin -- she was at Stanford at the
15 time -- and her research assistants. So, you know, we
16 had kind of a research consortium. I just wanted to add
17 that. I had forgotten that part.

18 Q. Is there any other clarifications or additions?

19 A. No.

20 Q. I want to mark as Exhibit 4 to Dr. Mintrop's
21 deposition his expert report which is entitled "State
22 Oversight and the Improvement of Low Performance Schools
23 in California".

24 (Defendant's Exhibit No. 4
25 marked for identification)

1 Q. I'm at a good stopping point. We're off the
2 record.

3 (Recess taken)

4 MS. READ-SPANGLER: We're on Exhibit 4 --

5 A. I need to add something.

6 Q. Okay, go ahead.

7 A. With regard to the research on California, you
8 asked me earlier whether I had done research in
9 California, and I said that I hadn't done research until
10 I began working -- I think I began working on the
11 accountability system in California, but, I had forgotten
12 that, actually, the research project that I mentioned to
13 you that looked at Kentucky and Maryland schools actually
14 included California schools as a third case. So,
15 California was actually part of it, and we never
16 completed the full data collection schedule; therefore,
17 the publications that came out of that research project
18 only in parts reflect the work on California.

19 But, there is an article, for example, that is on
20 California as well -- not II/USP -- this was
21 pre-II/USP -- it was a local accountability system here
22 in San Francisco that we were studying. This was the
23 time when San Francisco was going through what they
24 called reconstitution as a result of the consent degree
25 between the NAACP and the State, and so we did research

1 Q. Have you done any additional research relating
2 to the expert report since you finalized the report?

3 A. I looked at -- as I mentioned earlier, I looked
4 at the 13 program improvement schools, but -- and I read
5 the joint agreements and the audit reports -- but, that
6 was not really very systematic, meaning I did not conduct
7 a systematic content analysis. I read through them to
8 get an idea of what was transpiring through those
9 documents.

10 Q. Have any of your opinions or conclusions
11 changed or have you reached any additional opinions or
12 conclusions since finalizing your expert report?

13 A. No.

14 MS. WELCH: Just to clarify, I think he will have
15 opinions about the additional 13 reports that he reviewed
16 that you, you know, may get into or may not. I don't
17 know what you mean exactly by opinion, but, I'm sure he
18 has an opinion on them.

19 THE WITNESS: Yeah, but, I mean the gist of the
20 report, I think, still stands; you know, the ideas, the
21 opinion I put forth here, remains the same.

22 MS. READ-SPANGLER: Q. Well, given any additional
23 research that you did -- well, let me back up.

24 Earlier, you talked about -- you discussed NCLB in
25 some of your deposition preparation, and since you did

1 the report, I'm sure you understand the High Priority
2 School Grant Program has been implemented; is that
3 correct?

4 A. Yes.

5 Q. Given the additional research you did, and your
6 understanding of changes in NCLB, and your understanding
7 that the High Priority School Grant Program has been
8 implemented, do you have any additional opinions or
9 conclusions, as you sit here today, that you want to add
10 to your report?

11 A. I would say that the major findings still
12 stand. I do not have sufficient information on NCLB
13 to -- I do not know how -- what plan California is going
14 to finally implement. This, of course, may change;
15 policies change all the time. Accountability systems in
16 this State are evolving, so it may very well be that new
17 policy developments may pose different questions. But,
18 as it stands right now, the policy development that I
19 have looked at -- but, as I said, not in a systematic
20 way -- as I looked at some of the other data would not
21 make me believe -- would not make me change my major
22 statements -- statements in the report.

23 Q. And would you have any additions to your major
24 statements?

25 A. Well, I would say that, apparently, the State

1 Q. And I think you kind of were starting to answer
2 my next question, which is, your next sentence says, "I
3 believe that such a multi-layered approach is necessary
4 to capture the complexity of school improvement.

5 Why do you need such a multi-layered approach?

6 A. Because the inner workings, or the dynamics,
7 the level of policy, or the dynamics of an organization,
8 are quite different from the dynamics that happen between
9 a child and a teacher, mediated by instructional
10 material.

11 So, if we have the various layers operating with
12 different dynamics, nevertheless impinging on what goes
13 on in schools, rather powerfully, we need to get a sense
14 of all of these layers to understand what is going on.

15 For example, if you study a bureaucratic
16 organization, you are often -- it might be enough in
17 terms of the conceptual levels of the analysis that you
18 have an adequate understanding of principals or dynamics
19 of bureaucratic administration; you capture adequately
20 what goes on in that organization. But, if you look at
21 teaching, you're looking at a very complex task that is
22 influenced by dynamics that are quite different on the
23 different layers of the system; therefore, conceptually,
24 you need to juggle all these balls.

25 Q. And further down under "Information and

1 has gained some experiences through the program
2 improvement schools, and it has now, apparently, decided
3 to intervene in the 24 schools that did not successfully
4 grow through II/USP. But, I can't quite see right now
5 how this is a departure from the patterns that I have
6 seen in studying the II/USP and the initial phases of the
7 HPSG.

8 Q. If you could turn to page 2 of your expert
9 report which we've marked as Exhibit 4. You touched on
10 this slightly earlier, but, in the next to last sentence
11 in the first paragraph you use the phrase "meso
12 organizational".

13 Can you explain to me what you mean by that word or
14 phrase?

15 A. Yeah, what I mean by that is, when we look at
16 schools, we have the larger policy system and that
17 structures to some degree what schools do;

18 And then we have the school as an organization.
19 It's kind of layered in the middle;

20 And then we have semi-autonomous classrooms which
21 are spaces that also determine what is actually happening
22 in their interaction with teachers and students.

23 And all of these layers impact on what goes on in
24 the learning process, so that's what I meant by meso --
25 wedged in between.

1 "Material Used" you state that you drew primarily from
2 five sources, one of which is "...several California
3 districts and at the state level"?

4 A. Yeah.

5 Q. Which districts did you have interviews and
6 observations at?

7 A. This actually would have to be deleted. This
8 is an unfortunate -- how should I say this -- mingling of
9 my research that I did independently of the expert
10 report, and the work I did for the expert report.

11 For the expert report, I specifically excluded these
12 interviews and observations from my findings because,
13 after thinking about it, I did not want to disclose my
14 sources as a researcher. I'm bound to confidentiality
15 and to keep my subjects anonymous, and I have to stick to
16 that -- the ethics of my profession -- and for the
17 purpose of the lawsuit, this was not possible. This is
18 something that occurred to me much, much later and so --
19 not much later, but late enough after I had already, you
20 know -- and so what it meant to me is that I had to
21 exclude these sources.

22 Q. What about interviews and observations at the
23 State level?

24 A. These are also excluded. I have not used any
25 of this material.

1 Q. I'm assuming there's no confidentiality issues
2 there; is that correct?

3 A. No, there is, too, because -- I mean, if you
4 interview somebody at the state level, there's a
5 confidentiality agreement there as well.

6 Q. You have express confidentiality agreements with
7 people at the State level?

8 A. I wouldn't say it's expressed; in other words,
9 there is nothing in writing. But, when I interview
10 somebody or when -- I will always, as a matter of course,
11 I will mention to the person, whether it's called for or
12 not, I will mention to the person that, needless to say,
13 everything that I will talk with you about is
14 confidential. Your name will not be named; your office
15 will not be named; and so, because of that, I cannot
16 disclose those sources either.

17 Q. Well, since you're representing to me that you
18 excluded it, I won't ask you to; but, I will tell you, to
19 the extent that you have conversations with people that
20 work for public agencies, that's probably not a good
21 position to take. Actually, they're my client.

22 Then, you say you received material "...through the
23 Internet, print publications, and other researchers..."

24 From whom, specifically -- which other researchers
25 did you receive materials?

1 A. I received materials from Laura Goe and --
2 yeah -- Laura Goe and Norton Grubb; but, I think it was
3 Laura Goe who sent it to me.

4 I received materials from Russell Romberger and also
5 received material from Bob Coffey, who is not involved in
6 any of this, but I ended up not using -- I did not use
7 Bob Coffey's material, so --

8 Q. What did you get from Russ Romberger?

9 A. I think it was just a -- it was a comparison of
10 schools to -- really think very carefully now -- I think
11 it was a comparison of schools that serve large numbers
12 of language minority kids with schools that don't that
13 show that the schools with large minority language
14 minority populations are impacted by quality indicators
15 and poverty indicators to a negative degree -- I mean to
16 a larger degree in a negative way.

17 Q. Are you talking about data or was it --

18 A. Data, I mean data. I think it was a -- he had
19 already done some data analysis which was raw, raw data
20 in a sense -- no, it was not a data set. It was raw
21 data.

22 Q. So, he hadn't done data runs on it?

23 A. Well, yeah, he had done the runs; but, you
24 know, it just showed the numbers -- or I think it was
25 even a graph that he had produced. It may very well have

1 ended up in the expert report. I don't know if there is
2 one from him.

3 Q. Do you know if this was data from the Harris
4 survey?

5 A. No, this was before the Harris survey.

6 Q. What material did you receive from the State
7 Department of Education?

8 A. I received data on II/USP schools -- in other
9 words, it was a data set that listed II/USP schools and
10 the various scores.

11 Q. Are you talking about data that you just
12 downloaded off the Internet?

13 A. Most of it, yes, but not all of it. I mean,
14 some data, I received directly from the State.

15 Q. Did you contact the CDE?

16 A. Yes.

17 Q. CDE, you mean California Department of
18 Education?

19 Who did you contact?

20 A. Bruce McCabe.

21 Q. Not Pat McCabe?

22 A. Pat McCabe, Pat McCabe.

23 Q. You and he have any discussions about the data?

24 A. No.

25 Q. Did you receive any other material from the

1 CDE?

2 A. No, through the lawyers, I received school
3 action plans.

4 Q. On page 3, you set forth the nature of your
5 assignment.

6 Did someone specifically give you an assignment with
7 regard to this report?

8 A. I don't know exactly what you mean by
9 "specifically".

10 Q. Well, you stated -- I'll say you, but the
11 report says:

12 "I was asked to evaluate to what degree the current
13 systems of public school accountability and State
14 oversight in California enable the State to ensure an
15 education to all California students on equal terms."

16 Did someone give you that specific assignment to
17 look at?

18 A. No.

19 Q. How did you develop this as an assignment?

20 A. Well, two things came together:

21 One was when we were called in -- or I should say
22 invited in to the group of scholars -- we were asked to

23 see what we might want to work on and then -- and I
24 wanted to work on the California low performing schools
25 programs because that was my area of expertise.

1 And then, as I was listening to the presentations,
2 and I came to realize what the lawsuit was all about, I
3 then phrased this to the best of my ability, that it
4 might have something to do with the efforts of the State
5 of California to ensure education to all California
6 students on equal terms.

7 So, I kind of phrased it in my words how I
8 understood -- what I understood the lawsuit to aim at --
9 and the lawyers, apparently, did not object to it. So, I
10 must have hit it in a way that was useful for this
11 lawsuit.

12 Q. So, did you run by what you planned to do past
13 the lawyers?

14 A. No.

15 Q. Or you said they didn't object to what you
16 wanted to do?

17 A. After the first draft.

18 Q. Would you turn to page 22 of Exhibit 4, which
19 is your expert report?

20 The first sentence in the first whole paragraph
21 states:

22 "Because there are no adequate standards for
23 educational inputs, learning conditions or educational
24 practices can diverge widely across the State and can
25 potentially deteriorate substantially without notice in

1 some schools and districts."

2 Is it your opinion that they should be substantially
3 the same in every school?

4 A. Not the way you phrase it; identical and pretty
5 much the same. I do not think that we should standardize
6 educational practices so that they become the same. I
7 believe that learning conditions should be more
8 equalized.

9 Q. What's the basis for that belief?

10 A. The basis for that belief is that I think that
11 different outcomes -- different learning outcomes -- are
12 related to these unequal learning conditions and
13 particular societal groups.

14 Children in these societal groups are more strongly
15 affected by that and, as a matter of good public policy,
16 I believe that's something that ought not be tolerated.

17 And I don't think that even the State -- I mean even
18 the California constitution, in my reading, would want
19 those kinds of unequal conditions to be tolerated; but,
20 I'm not a lawyer, so, this is not a -- this is more an
21 interpretation as a citizen.

22 Q. What do you mean when you say that
23 California -- I understand it's just your
24 interpretation -- but, what do you mean when you don't
25 think the California constitution would tolerate it --

1 unequal conditions?

2 A. I actually --

3 MS. WELCH: I'm going to object to the extent it
4 calls for legal conclusion. I mean, if you have a
5 personal view, feel free to give it.

6 THE WITNESS: I actually don't want to pursue that
7 line of argument, because I'm really not a lawyer, and I
8 do not know enough about the California constitution to
9 make a definitive statement.

10 But, it seems to me that, as a matter of good public
11 policy, if you have strong discrepancies in learning
12 conditions, varying for social groups, and then you see
13 also the incidents of low performance in those social
14 groups, then, you know, I think something ought to be
15 changed.

16 MS. READ-SPANGLER: Q. So, you're making some sort
17 of inference that there's a cause-and-effect relationship
18 between -- and I don't want to misuse your words -- I
19 don't recall exactly what you said, but -- differing
20 conditions and low performance?

21 A. Yes, I make that -- yes, I make that statement.

22 Q. And what's the basis for that inference?

23 A. The basis is that we have seen the correlation
24 between -- let's start with the level of the world. We
25 have seen a strong correlation between countries that

1 spend a large number of their gross national product on
2 education is achieving more than countries that don't.

3 We also see a similar situation, when you compare
4 the performance of students in large cities in the United
5 States with the performance in the suburban areas around,
6 and you draw a relationship to the conditions in some of
7 the urban districts. We see a similar correlation.

8 On the organizational level of the school, we see
9 that, in many low performing schools, there are
10 conditions in which there are learning conditions that
11 are often lacking in important aspects.

12 Q. So, is the correlation with money and
13 performance?

14 MS. WELCH: Objection, mischaracterizes his
15 testimony.

16 MS. READ-SPANGLER: I'm just asking him to clarify.

17 THE WITNESS: Not necessarily with money. Money
18 might be one aspect of it. I mean, we have, actually,
19 large city school districts that spend more money per
20 capita than suburban districts, so, it's not money alone.

21 But, what we do see is a problem -- for example,
22 take teacher qualification, teacher credentialing, having
23 a qualified teacher in every classroom. We see in
24 particular areas in this country, or the State, since
25 we're talking about the State, are more affected by the

1 problem than other areas. We have characteristically
2 seen big city districts having a much, much harder time
3 attracting and retaining qualified teachers than suburban
4 communities surrounding these cities.

5 Q. I guess I missed the connection between money
6 and qualified teachers. Were you making one or --

7 A. Well, you can actually make a connection
8 between money and qualified teachers. I mean, qualified
9 teachers -- attracting qualified teachers is a matter of
10 working conditions, one; and salary levels, two; and, of
11 course, the third one then is the conditions in the
12 teacher education institutions that are located in the
13 particular locales; so, in that sense, it is related to
14 money, yes.

15 But, that is not -- all working conditions are in
16 part a matter of money. If you, for example, look at an
17 inner city school that is overcrowded and operates on a
18 year-round schedule, that is a much, much tougher working
19 environment than a suburban school that works on one
20 track in the regular school calendar. And so that
21 relates to money, of course; school buildings not being
22 built, so on and so forth. But, of course, working
23 conditions are also related to the interaction that
24 people have with each other, the support they receive
25 from the principal, from other leaders in the school, and

1 And, in some sense, in working in inner city
2 schools.

3 Q. So, you consider yourself qualified to offer
4 opinions about teachers in the context of -- would it be
5 school reform that we're talking about?

6 A. Yes.

7 Q. And then I think you said that in many and low
8 performing schools there are learning conditions that are
9 often lacking in important aspects.

10 What do you mean by learning conditions that are
11 often lacking in important aspects?

12 A. Well, to begin with, the schools that I looked
13 at closely, in those schools, you found enormous teacher
14 turnover, up to 50 percent yearly; under current labor
15 market conditions, an inability to fill all positions
16 available. To fill positions available with qualified
17 personnel, I mean:

18 People that are credentialed to teach in those
19 subject matters;

20 To find teachers who know how to teach this
21 particular group of students who actually have learned to
22 teach this particular group of students;

23 Principals who are able to lead a school like that,
24 and who are able to turn such schools around; principals
25 who are committed to stay at their schools long enough,

1 so on and so forth. So, you know, it is not just related
2 to the money. It is also related to the culture of the
3 school, to the ability of leadership, and so on and so
4 forth.

5 Q. Here's one of those times I'm going to ask one
6 of those questions that sounds like I'm challenging you.

7 A. No, that's all right.

8 Q. What in your background and experience
9 qualifies you to offer an opinion about teachers, like
10 you just did, like you were just discussing?

11 A. Well, I would say it's a combination of
12 research that I've done on schools over the last years;
13 And my own practical experience in school districts;
14 And then, of course, somebody who follows the media
15 on -- the educational media on -- what is going on in the
16 big cities;

17 And, you know, in education in the United States
18 over years and years and years.

19 So, I would say it's accumulated wisdom;

20 It is my own research;

21 It is years of reading the educational literature;

22 Years of reading newsletters and whatever comes my
23 way about education;

24 And my own practical experience which spans, you
25 know, two countries and more than a decade;

1 given the strains that are put on that role these days.

2 This is just a personnel side.

3 I have encountered enormous overcrowding problems,
4 not just in this State, as a result -- not just only as a
5 result -- I mean, poor facilities in some of the schools
6 where I did my research in.

7 Have I said enough for you?

8 Q. Is your answer complete?

9 A. Okay, yeah, let's leave it at that.

10 Q. Going back to the sentence that we started with
11 where it says, "Because there are no adequacy
12 standards..." in your opinion, what should these adequacy
13 standards for educational inputs be?

14 A. I think, first, what we need is the
15 determination, the willingness, to establish these, and
16 then we can think about what these standards should be
17 like and -- I guess your question is aimed at the latter
18 part.

19 I would think that we need standards on the adequacy
20 of facilities;

21 We need standards on the adequacy of personnel;

22 Specifically, some of the standards are already --
23 you know, I mean the indicator is already talked about,
24 or have been discussed in the media, for example, such as
25 credentialed teachers -- but, I would add other

1 indicators such as teacher turnover, stability of
2 faculties, and, you know, the expertise of a principal,
3 of course;

4 The supply of instructional materials, class size,
5 adequate course offerings, budget;

6 What is in a school budget;

7 What is the discretionary budget?

8 What does the district provide?

9 One could think of a basketful of indicators that
10 one could establish for a given State and a particular
11 average performance level that one could consider as
12 adequate. And the ones that are just the indicators that
13 I just mentioned are probably the ones that are most
14 easily evaluated.

15 But, there are others that are just as important
16 that are much, much more difficult to evaluate, such as,
17 a good school -- in a good school, teachers have empathy
18 for children. It's a key element in the educational
19 process. That, of course, is not an easy indicator, that
20 cannot be evaluated easily for that. We would need a
21 more sophisticated review process -- on-site review
22 process.

23 Q. So, who or what entity should develop these
24 adequacy standards?

25 A. This could be done by educational researchers,

1 students; because there are some indicators in place that
2 are measured.

3 And what I'm saying is, a similar system can be
4 created for learning conditions so that the State and the
5 public will know what kind of conditions are in existence
6 at particular schools.

7 Q. Let's try to flush this out a little.

8 Currently, we have the Academic Performance Index.
9 Is that what you're referring to when you talk about the
10 indicators for outcomes?

11 A. That's right; or we have --

12 Q. Similar school ranks?

13 A. That, too; but, absences and -- what's the term
14 now -- this is now post-lunch, you know -- attendance --
15 you know, we have attendance and things like that. In
16 other accountability systems, we have other indicators,
17 so one could think of a variety of indicators.

18 Q. So, you're not proposing for inputs having sort
19 of a single number index.

20 A. It probably would not be single number index.

21 But, what I'm saying is, you could probably -- for a
22 number of indicators -- I'm not saying for all of the
23 indicators -- but, for a number of indicators, you could
24 come up with a fairly easy to handle system. That's why
25 I made the distinction between, for example, something

1 specialists in the field who -- I mean, who would look at
2 the overall -- I mean, there are various models that I
3 can think about. I mean, I'm thinking about the model
4 where one establishes a particular average performance
5 and average learning conditions that are associated with
6 that performance; and then, just as we -- then can go to
7 a school and calculate the difference between what the
8 school is expected to perform and where it actually is.
9 We would be able to also calculate what the learning
10 conditions are at the school and where it ought to be,
11 so, the same procedure that we use for performance
12 outcomes is also used for inputs as well. And who should
13 put such a system together or who should think about the
14 indicators, well, I think, you know, people who are
15 specialized on that kind of research; and then, of
16 course, practitioners, as well, who could help round it
17 out.

18 Q. What did you mean?

19 I don't know if I just missed part of what you said
20 or what, but, what did you mean when you said the same
21 procedure for outcomes to be used for inputs as well?

22 A. Not the same, but a similar procedure in that,
23 we now have a system in place, which was not in place
24 before, that allows the State, or citizens, to tell where
25 a school is with regard to the performance of its

1 like teacher credentialing. That's something that is
2 easily ascertained; and then, on the other hand, a very,
3 very complicated one which would be empathy. And the
4 more complicated the input is, the more you rely on
5 on-site review and the less you can rely on numerical
6 simple indicators; that's what I was trying to get at.

7 And it would be possible, I think, to come up with a
8 basket of indicators that could be calculated with
9 facility; and then there is a basket of indicators that
10 are much, much more difficult to ascertain. And then it
11 would really be up to educational researchers,
12 practitioners, policy makers, together, to create a
13 viable system that makes sense for the three groups I
14 just mentioned.

15 Q. I sort of just jumped right into this, so just
16 to go back a little, California currently has what could
17 be called an outcome-based accountability system;
18 right?

19 A. Yes.

20 Q. So, why would we need adequacy standards in an
21 outcome-based accountability system?

22 A. Because, I guess, an outcome-based
23 accountability system is as powerful as the incentives it
24 creates. If we assume that the incentives are powerful,
25 then -- and, if we assume that it is, in fact, effort of

1 the employees in the organization that will do the job of
2 improving the schools up to the level where we desire
3 them to be, then, I think an outcome-based system is
4 sufficient.

5 Q. I'm sorry, you said sufficient?

6 A. Sufficient, yes.

7 Q. Okay.

8 A. I believe that these two conditions do not
9 apply, number one. I believe from the research that I
10 have done, and I have seen being done in other
11 jurisdictions, that we over-estimate, perhaps, the power
12 of incentives, rewards and sanctions in this way; that
13 is, giving reward monies and designate schools as low
14 performing.

15 I think we over-estimate the power of that, and we
16 under-estimate the necessity for capacity building; that
17 is, we over-estimate the ability of increased effort on
18 the part of educators in those schools to do the job.

19 That's why I think, you know, we need to compliment
20 the outcome-based system with a system that also looks at
21 the capacities that the schools have to get the job done;
22 and then, on top of that, the districts have to get the
23 job done.

24 Q. So, you're not proposing replacing it? You
25 want to just compliment it?

1 I don't understand that.

2 MS. WELCH: I'm not following where you are.

3 THE WITNESS: It's the middle of the paragraph.

4 MS. READ-SPANGLER: Yeah, third sentence -- fourth
5 sentence.

6 MS. WELCH: Oh, I got it.

7 THE WITNESS: Yeah.

8 MS. READ-SPANGLER: Q. "Adequate levels of funding"
9 for what?

10 A. Adequate levels of funding for schools. What
11 this is trying to get at is, we have seen a lot of
12 struggling with educational finance equity, and I think
13 that we should go beyond that; that is, of course, an
14 important consideration. In other words, we need to look
15 at funding issues, but, in addition to that, we need to
16 have more concrete indicators of quality than just
17 funding.

18 Q. I don't understand what you mean by that last
19 part.

20 A. Well, you know, I mean -- what I mean by that
21 is, when you -- I mean, money is pretty abstract. You
22 say, okay, the school has a particular amount of money at
23 its disposal; that's a pretty abstract indicator, because
24 you don't know what happens with that money.

25 But, if you say, for example, the school has a

1 A. Yes.

2 Q. And what's the basis for your opinion, or
3 conclusion, that you set forth in this first sentence we
4 read?

5 A. Which one?

6 Q. "Because there are no adequacy standards ..."

7 MS. WELCH: The entire sentence or the first part of
8 the sentence?

9 MS. READ-SPANGLER: Q. The entire sentence. Is
10 that research you're quoting, or some other basis for
11 that? I shouldn't say quoting; but, is there a research
12 you're relying on or --

13 A. Yeah, if I remember correctly, standards for
14 educational inputs is an issue that comes up in the
15 depositions quite a bit -- if I'm not mistaken -- I
16 actually do have some quotes on that in the beginning --
17 but, it comes up in the depositions.

18 And, as I understand it, there is no document in --
19 existing in California -- that states these standards of
20 adequacy; so, what I could quote is that it doesn't
21 exist.

22 Q. There's a sentence a little further down that
23 says in part:

24 "These standards should establish adequate levels of
25 funding..."

1 qualified teacher in every classroom, then that is a much
2 more concrete indicator because, you know, tangibly, what
3 will happen in the school as a result. That's what I
4 meant by that.

5 Q. So, are you proposing that we establish
6 adequate levels of funding, or each of the adequacy
7 standards that you think we should have?

8 MS. WELCH: Do you mean propose anything in the
9 report or --

10 MS. READ-SPANGLER: Yes.

11 THE WITNESS: This is, as you can see, we're in the
12 remedy section so-to-speak, and we're addressing
13 something that I had mentioned earlier, which is that, in
14 the remedies, this is not at the level -- the way I wrote
15 this down, it is not at the level where you could
16 actually design a policy readily from this.

17 So, whether you have a system that establishes
18 adequate funding and then it has, in addition, certain
19 quality indicators such as, you know, qualified teachers,
20 and then it also costs it out or not, I don't know. I
21 haven't thought that through.

22 But, to me, my concern was, in suggesting these
23 remedies, is that there is more to the quality of
24 educational services than money; that more attention
25 needs to be paid to the concrete conditions in schools

1 such as the ones that I've mentioned here, so, it doesn't
2 come down to money only.

3 Q. Right, but, with regard to the part of the
4 sentence that says "These standards should establish
5 adequate levels of funding..."

6 A. Yes.

7 Q. I'm just trying to figure out if you want the
8 State to, basically, define the cost of an adequate
9 education?

10 A. I think that would be very desirable.

11 Q. And who should do that?

12 A. Well, there again, I think a group of experts
13 put together with practitioners and people who design the
14 policies for the State, and one could come up with a
15 system that makes sense to all of these groups. I don't
16 think it's all that hard to do.

17 Q. Given California's budget crisis, do you think
18 it's realistic to do -- or maybe a better word would be
19 feasible?

20 MS. WELCH: Objection, vague as to time.

21 THE WITNESS: I was just going to say, first of all,
22 I don't see this lawsuit, and I don't see my report,
23 being -- I don't see this work being done for the moment
24 only. I think what I would hope the analysis does is
25 that it sets the State on a course of more long-term

1 is always uncertain -- so, the schools grab what they
2 can. That's what you would expect in resource-starved
3 environments.

4 And what will happen is, in my view, an acceleration
5 of programs and external consultants and things of that
6 nature, unless the school has a really good idea how to
7 do it differently; and that kind of capacity needs to be
8 created. I don't think that has been sufficiently done
9 in this State.

10 Q. So, given the situation in California, right
11 now, the budget situation, what sort of time frame would
12 you put on what you were just talking about, capacity
13 building and a long-term plan?

14 A. I would say the kind of school improvement
15 infrastructure that I have in mind probably takes a
16 sustained effort over at least five years for a system
17 like that to be up and running.

18 Now, where do I pick that number, five years? I
19 could have said six years; but, it's not a matter of a
20 year or two.

21 Q. You done with your answer?

22 A. Uh-hum.

23 Q. Doesn't it typically take about ten years to
24 implement a successful accountability system?

25 MS. WELCH: Objection, vague, incomplete

1 institution and capacity building; that is, if we see
2 that there's something lacking in the State as to the
3 task of turning around schools, we need to look at what
4 is lacking in longer terms.

5 And, yes, perhaps, now we don't -- the State does
6 not have enough money. There are things that can be done
7 that, perhaps, don't cost as much money. There could be
8 redistribution of money within the budgets. I'm not a
9 budget specialist, and I can't tell you, take the money
10 from here and put it there.

11 I can tell you, however, if I had one place to save
12 money, I would say I would caution -- personally, I would
13 caution the State to give large amounts of money to the
14 individual school site without the schools quite knowing
15 what to do differently from all the things that they've
16 done before.

17 In other words, if we give grants through II/USP to
18 schools that are not prepared to change course, then they
19 will continue what they've been doing as long as they
20 have money. Schools are always used to money shortages
21 and bonanzas of money, because budgets fluctuate greatly
22 from year to year, and schools know, when monies come to
23 them, they'll have to spend it rapidly. And the money is
24 spent -- and IS/USP money is rapid money -- we're talking
25 about a two-year program -- and, as we all know, funding

1 hypothetical.

2 THE WITNESS: No, I wouldn't say that I actually
3 think that any of these calculations are dubious. I
4 would actually think that it takes forever to come up
5 with a really good accountability system -- I wouldn't
6 say forever -- it is an evolution. It is a process that
7 needs to evolve.

8 This is, from my point of view, a very, very first
9 step that California has taken into accountability, and
10 now it needs to become more and more sophisticated, and
11 it needs to see where there are gaps and where it's
12 inefficient, and where the hopes are not fulfilled, or
13 where, in likelihood, will not be fulfilled; and so, it
14 needs to evolve along those lines. And I see my report
15 as a way to help that process along.

16 I mean, there are things that can be done rather
17 swiftly, and there are things that, you know, take much
18 longer. Whenever you talk about -- for example, I
19 mentioned this in the report -- when you talk about, say,
20 a review of healthful conditions, or a review of space
21 per student, overcrowding, that can be done really
22 swiftly. I actually think the instruments are probably
23 in place; I mean, compliance reviews with particular
24 pretty-straightforward rules that, I think, we have the
25 technology and the capacity and -- I mean, the CCR did

1 similar things that could be expanded easily.
 2 But, when you talk about creating systems that
 3 require the drawing in and training of highly qualified
 4 personnel, we're talking about longer term, and that's
 5 really what I'm stressing in the report over and over
 6 again. It's not a matter of putting the formal
 7 structures in place. I think you can see that, in
 8 education policy, over and over, we put formal structures
 9 in place where we don't think about the personnel -- the
 10 quality of personnel that needs to implement these
 11 structures and finding that personnel training. It
 12 creating systems of quality assurance and constant
 13 revitalization that takes more time.

14 Q. That sentence that we're looking at continues
 15 on, "...but also other quality indicators such as
 16 availability of instructional material, decent
 17 facilities, teacher qualifications, stability of faculty,
 18 competence of school administration, etc."

19 What do you mean by "quality indicators"?

20 A. The ones that I just mentioned, these are
 21 examples of quality indicators; that is, these are the
 22 indicators that give you an idea about the quality of
 23 inputs that go into the educational system or go into the
 24 operation of a school.

25 Q. And what's "etc."?

1 A. Well, you know, let me think of some others.
 2 You know, you look at the OECD Quality of Indicators
 3 Project. We started out with 350 indicators and they
 4 whittled it down to 47; and that's still far too
 5 unwieldy for systems to operate with; then there's a
 6 short version -- I don't know how many they had --
 7 something like 12 or so.

8 And so, you know, you can think of a lot of
 9 different indicators that help you describe, or grasp,
 10 what goes on in an educational system in terms of its
 11 input. It's really up to a particular policy community
 12 to decide which ones are the most salient ones, you know,
 13 and those are the ones that I'm suggesting.

14 They're probably -- class size, for example, is one
 15 that I didn't put in here, but only by accident. I mean,
 16 that could have been in there as well.

17 Q. So, what's the relevant policy community in
 18 California, and do you see it being at the State level or
 19 the local level?

20 A. At the State level -- it has to be at the State
 21 level. This has to be something that needs to be
 22 developed at the State level, because it is the State, as
 23 I understand it, that has the responsibility to see to it
 24 that education is being dispensed in a somewhat equal
 25 manner.

1 It's not a district's responsibility to make sure
 2 that the conditions in the neighboring district are to
 3 par with its conditions. Say, for example, if we have a
 4 wealthy district and we have a poor district, it is not
 5 the wealthy districts task to make sure that the poor
 6 district is enjoying the same kinds of inputs that the
 7 wealthy district is enjoying; but, it is the task of the
 8 State to see to that.

9 Q. But, wouldn't differences at the school level,
 10 or at the district level, impact the quality indicators?

11 A. Yes, they do; and, therefore, it is, in my
 12 view, the State's responsibility to see to it that they
 13 will not -- now, if your question -- your question may
 14 have gone in a different direction -- if you meant by
 15 that, aren't schools and districts also responsible for
 16 those conditions? I probably shouldn't second-guess
 17 you --

18 MS. WELCH: Just let her ask the questions.

19 MS. READ-SPANGLER: That's a good question.

20 THE WITNESS: You're the one that asked the
 21 question.

22 MS. READ-SPANGLER: No, I like it when the deponent
 23 asks the questions.

24 (Discussion off the Record)

25 MS. READ-SPANGLER: Q. Okay, let's say that is my

1 question. You know, aren't they equally -- or at least
 2 somewhat responsible as well?

3 A. Yes, they are. I think that's absolutely the
 4 case.

5 Q. And, it is very important that we create
 6 systems that trigger the responsibilities on each level.
 7 In fact, what I'm saying is that the California
 8 accountability system, or particular low performing
 9 schools programs, don't seem to trigger, adequately, the
 10 responsibility that districts have, and the
 11 responsibility that the State has.

12 It does trigger the responsibility that the schools
 13 have, in that the accountability is largely put on the
 14 school as the strategic unit of school improvement, and
 15 that will be sufficient to the degree that the school is
 16 in control of improving the conditions and improving its
 17 performance.

18 And I think there is definitely -- at the school
 19 level, there's definitely a reservoir a potential of
 20 performance improvement, and we need to think of
 21 accountability systems that trigger those potentials.

22 But, there are also clear constraints that I have
 23 come across, both in my practice and in my research, that
 24 make it impossible for schools to sustain school
 25 improvement if the larger systemic performance barriers

1 are not addressed.

2 Q. It seems like it might be useful, before we dig
3 into this more, maybe, to go back to some of your
4 premises.

5 A. Okay.

6 Q. On page 3 you site to Conley, C-O-N-L-E-Y --

7 A. Where is this?

8 Q. Bottom of page 3.

9 How would I get a copy of this if it is still in
10 press?

11 MS. WELCH: Do you know?

12 THE WITNESS: It should come out shortly. I don't
13 know how far it has gone. Again, this is, of course -- I
14 can see this causes difficulties for you when I cite
15 things in press; that's something -- well, if I ever do
16 this again, I will look for other cites. But, I was not
17 aware of how the process was working, and so citing
18 something in press is legitimate for research purposes,
19 but might not be as useful for you as an attorney.

20 MS. READ-SPANGLER: Q. I take it you have a copy of
21 it?

22 A. I have a copy of it, yes.

23 Q. In this first section on your premises, "New
24 Governance and Oversight Structures", you talk about your
25 previous decades, the quality of the education was gauged

1 and their quality was measured by the inputs.

2 And that was the same, traditionally, with
3 schools -- suburban schools -- nobody knew whether they
4 added more value than urban schools, for example; but,
5 everybody knew that they had a great computer lab, and
6 that they had a great athletic field, and they had all of
7 these things that the poor schools did not have, and that
8 was enough for parents to judge the educational quality
9 of the school. That, of course, changes when you enter
10 into the picture an accountability system such as the one
11 we have now.

12 Q. The next paragraph seemed to imply -- and I
13 want to make sure I'm reading it correctly -- that the
14 inputs were being provided at the local level. It says,
15 "This system of local control..." -- am I making an
16 incorrect connection or is that correct that the inputs
17 were provided at the local level?

18 A. Yeah, to a much larger extent than now.

19 Q. Further down -- up -- the list with asterisks,
20 a list of elements quoting Fuhrman, I guess.

21 Are these elements similar among outcome-based
22 accountability systems?

23 A. Yeah; not all of them, but, I think we have --
24 I mean, if you have, for example, rewards and sanctions,
25 that's something that you would only find in the

1 by the provision of inputs into the educational process.

2 Does that mean that, basically, the more audits were
3 provided, the better the quality was assumed to be?

4 A. Yeah, that's the argument. I mean, if you
5 take -- for example, you mentioned earlier, off the
6 record, that we both come from the same graduate
7 school -- or the same, you know, university -- and its
8 quality was, essentially, judged by its input -- its
9 input meaning, by the numbers of books that were in the
10 library, by the number of computers that were available
11 to the students, by the number of dorm rooms, by the
12 number of athletic sports facilities, by all of those
13 things. That's the way these -- the quality of the
14 university was rated -- and universities boasted of
15 putting these kinds of high quality inputs in place, was
16 a badge of the quality of the institution as a whole.

17 If you add to inputs the intake of the students
18 then, of course, it's self-evident that that, of course,
19 made a big difference as well; in other words, you know,
20 the schools made a big deal out of their average SAT
21 scores, their grade point averages, so on and so forth.
22 All of these are inputs, of course, and nobody measured
23 whether these students from these Ivy League universities
24 were actually doing better on standardized tests once
25 they came out, once they were in -- they were vetted --

1 so-called high stakes accountability systems, and not all
2 the accountability systems in the United States are high
3 stakes.

4 I think the last time I looked, we're talking about
5 about 15 or so State systems that are high stakes, so,
6 you know, these are the characteristic elements; but, not
7 all accountability systems have these elements in them.

8 And then there are some elements that accountability
9 systems have that are not listed here; for example,
10 capacity building. You know, some accountability
11 systems, there is capacity built into the system -- much,
12 much fewer -- in fact, this goes back to 2002 numbers --
13 there were only three accountability systems that
14 financed remedial education on a large scale, nine
15 accountability systems -- these are numbers that might be
16 eight or four, but thereabouts -- so that you have kind
17 of an idea that actually have a strong capacity building
18 component -- stronger component -- capacity building
19 component in place.

20 Q. I don't see capacity building. What are you --

21 A. That's what I'm saying. It's not there. She
22 lists only those because those are still fairly
23 widespread; but then, since you asked, are they all
24 accountability systems? I'm saying there are some
25 accountability systems in the United States that have

1 even more elements than these, but they don't appear here
 2 because they're not -- they're rather infrequent -- and
 3 capacity building at the time she wrote this in 1999 was
 4 not something that was highly -- was a highly implemented
 5 or largely implemented feature.

6 Q. Am I correct in thinking that there's a
 7 national trend to outcome-based or standards-based
 8 accountability systems?

9 A. Yes; not only national, international.

10 Q. And, in fact, our federal system is
 11 outcome-based as well?

12 A. Yes.

13 Q. And, by that, I'm referring to the NCLB?

14 A. Yes.

15 Q. How many other states, that you're aware of,
 16 have outcome-based accountability systems?

17 A. Well, depends on how you define that. I mean
 18 there, are 49 states that have tests. I think there's
 19 only one state that doesn't have a test -- Iowa -- but,
 20 even then, I think has -- now, of course, has to come up
 21 with something according to NCLB.

22 So, if you take the existence of a test that
 23 measures school performance as the criteria, I don't know
 24 whether there's an accountability system in place or
 25 not -- outcome accountability system in place -- you

1 have power -- but, it is pushing it through influence and
 2 conviction and public media and so on and so forth. It
 3 is also pushing quality indicators, the stuff we were
 4 talking about before.

5 Q. Even England has begun using national testing;
 6 right?

7 A. Yeah, they were actually before the United
 8 States. They were ahead of the game. They started doing
 9 it in the 80's, when this was still in the United States,
 10 when this was still in the, you know, the beginning
 11 stages. It was a radical shift in England under
 12 Thatcher, and that radical shift was not reversed by the
 13 labor government that came into power afterwards.

14 Q. And they use their testing to hold schools
 15 accountable?

16 A. Yes. What they do is, since they have an
 17 inspection system, and that inspection system is a very,
 18 very -- has a long tradition in England. They use a
 19 combination; in other words, the test scores in and of
 20 themselves, they don't qualify for a verdict on whether a
 21 school is good or bad. The test scores, in conjunction
 22 with an inspection that takes place every four years, is
 23 what qualifies, or is what triggers, a performance
 24 status, good or insufficient or excellent. So, they
 25 actually look at both the test scores and the on-site --

1 would add the other 48 states. If you add to that other
 2 systems, such as outcome reporting, the numbers might
 3 whittle down, you know, depending on how many criteria
 4 you have used; but, it is a large trend, yes.

5 Q. And when you say there's an international
 6 trend, what did you mean by that?

7 A. That is, that testing is really spreading like
 8 wildfire in the world; even systems that haven't had
 9 testing before, such as the German system, where all the
 10 educational systems that follow the German model in
 11 central Europe -- for example, Austria, Switzerland --
 12 there aren't that many that follow the German system
 13 anymore. It used to be, traditionally, in Eastern
 14 Europe, but they've had 40 years of socialism that
 15 changed the system quite a bit. But, even some systems,
 16 such as Italy, that don't have a tradition of testing,
 17 have now instituted testing -- or in the process of
 18 launching of tests. So, it is pretty widespread, just as
 19 it is pretty widespread to think in terms of operation of
 20 schools in terms of indicators.

21 For example, the OECD, internationally, is the
 22 agency that pushes this movement most strongly
 23 internationally. It is not only pushing tests, but it is
 24 also pushing -- or advancing I should say -- because it
 25 does not have, you know, political pressure -- it doesn't

1 through on-site review at the conditions of the school.

2 Q. In the last paragraph on the page --

3 A. Four?

4 Q. Yes, thank you. Second sentence says, "Their
 5 most common design elements are standards, mechanisms to
 6 detect excellence and shortcomings in the system, and
 7 ways to reward the former and remedy the latter."

8 What do you mean when you talk about mechanisms to
 9 detect excellence and shortcomings in the system?

10 A. Well, I mean, if you just look at -- student
 11 performance is pretty self-evident. I mean, you look at
 12 a PSAA, it does that. It has particular standards. Up
 13 until now, the standards were not assessed with the tests
 14 that the State used, but, increasingly. So, the
 15 standards are being assessed by the tests that are being
 16 used. So, with that test, that is a mechanism to detect
 17 excellence or shortcomings in the system.

18 And then, the remedies in the current PSAA is the
 19 II/USP program that puts a particular performance status
 20 on the school and supplies a certain amount of money for
 21 the schools to help them turn themselves around.

22 So, you know, you could think -- see, these are the
 23 elements that I'm talking about.

24 Q. We've touched on it and, trust me, we're going
 25 to get into this in much more detail, but, you talk about

1 U.S. policy being sort of outcome-based versus Europe's
2 system where the primary thrust is review and inspection.

3 What country besides England uses sort of a review
4 and inspection type of program?

5 A. Well, I mean, you could say a country like
6 Germany, for example, has never had a test; and the only
7 way it assured the quality of schools is through review
8 and inspection.

9 Now, the inspection process was never as formalized
10 as it was in England. The English system is not
11 bureaucratized as the German system. The German system
12 is a fairly heirarchical system that allows -- in the line
13 of authority allows -- the higher level of the system to
14 supervise the lower level of the system. So, there was a
15 continuous -- if you will -- a continuous review of the
16 operations of the schools. So, in that sense, the
17 question is, does the school supervision agency in
18 Germany now, which is -- the next higher level of the
19 bureaucracy is the one that monitored a school closely
20 year after year -- now, the debates that are happening in
21 Germany is that that system is not sufficient enough;
22 that a much clearer idea of the performance of the
23 school, not just the inputs, is needed. So, there are
24 now thoughts about introducing tests on the State level,
25 and other indicators that would allow the school to look

1 on them, you know, traveling around, meeting people at
2 conferences, talking with them, chatting with them. It's
3 not systematic. You know, like, for example, just give
4 you an example, the last half a year, I was in Germany,
5 and there's one state government that I'm pretty close
6 to, and they were just in the process of phasing in the
7 tests, and they were looking at all the various systems
8 in Europe. They don't look to the United States. They
9 look at other European systems. So, there was lot of
10 discussion on the various systems, what they do well, and
11 what they might not do well; but, these were high level
12 administrators. There isn't that much research that they
13 consumed. It what more on a practical level, you know.

14 Q. In your report, you discuss England and the
15 English inspectorate system.

16 How is it you're familiar with the English
17 inspectorate system?

18 A. Through reading and talking with people.

19 Q. Have you visited any English schools?

20 A. No -- yes, I have, but not with the specific
21 task in mind to study the inspectorate.

22 Q. Have you visited any English schools who were
23 undergoing one of their on-site reviews?

24 A. No.

25 Q. Have you written any papers, specifically, on

1 at itself, and also to allow the State to monitor the
2 performance of localities and performance of individual
3 schools; so, you know, there's that.

4 There's an inspectorate in France. None of these
5 inspectorates are as formalized and as strong a feature
6 of the educational system as in England; but, again, when
7 you look at tradition of France, you have inspectorates
8 coming from the central government who conduct some
9 short-term orders, whereas, that kind of stuff doesn't
10 exist in Germany, because the central government is not
11 strong enough. It rests with the states and it is much,
12 much more federalized as it is in the United States, so
13 the inspections -- they reflect those kinds of political
14 traditions.

15 Q. Do you want to take a short break?

16 MS. WELCH: Sure.

17 (Recess taken)

18 MS. READ-SPANGLER: Back on the record.

19 I understand more or less, I think, how it is you're
20 familiar with Germany's system.

21 Whose is it, in general, that you're familiar with
22 the systems in Europe accountability systems?

23 A. My familiarity really differs. I can't say
24 that I'm familiar with all of the systems. You know,
25 just to be clear on that, it's mainly reading -- reading

1 the English inspectorate system?

2 A. No. I mention the English inspectorate system,
3 not as model, not as something that should be implemented
4 in California. I mention it as a way of thinking about
5 school improvement, another approach of thinking about
6 another approach to school improvement.

7 And, perhaps, what I'm trying to do is point --
8 since this is not a report on remedies -- what I was
9 trying to do in the report is pointing in the direction
10 of where the thinking might evolve and where one might
11 want to look for some good practices.

12 I, personally, do not think that the English system
13 is something that should be implemented in California. I
14 think it's, first of all, not in the -- I don't believe
15 you can actually take practices from one country and
16 wholesale import it on to the system of another. I don't
17 think that the kind of inspection tradition exists in
18 California that would make such a system, the way it is
19 practiced in England, make such a system all that useful.
20 I think that it is not -- if I say this a little
21 flippantly -- it is not in the California spirit to
22 implement a system that is centrally based on judgement;
23 in other words, where people come into a school and they
24 judge a school to be good, bad or mediocre.

25 I think it would be much more in line with the

1 traditions of California governance if such a system
2 would combine support for improvement, the search for
3 improvement potentials, with, perhaps, sophisticated way
4 of auditing what is happening in the school, and refrain
5 from judgement as its central goal.

6 But, again, these are things that I think need to be
7 thought through in detail, once it would get to the point
8 where one would look at some remedies for some of the
9 shortcomings and they would have to be thought through
10 very thoroughly.

11 Q. I understand that you're not pointing to the
12 English inspectorate system, specifically, as a model,
13 but, I'm still going to ask you this --

14 A. Sure.

15 Q. Who likes the English inspectorate system?

16 MS. WELCH: Objection, calls for speculation.

17 MS. READ-SPANGLER: Q. That you know of?

18 A. Well, a lot of English people. A lot of people
19 think this is really good model. You read the people who
20 are on the educational research side, who are old hands
21 in research on effective schools like Mortimer, Gray and
22 Wilcox, and all those people that I cite, that I may not
23 have cited in the report, they went from research on
24 effective schools and the experience of inspectorates in
25 England to this new design of the English inspectorate

1 that has been in place for, maybe, ten years or so, which
2 is different from the way it was before. So, you know, I
3 think those people think it's good.

4 Q. Would it be accurate to say that educational
5 researchers, generally, like the English system?

6 A. No, no, there's nothing that is liked generally
7 by educational researchers.

8 Q. So, who --

9 A. Everything, you know, is divided in camps.
10 Sorry.

11 Q. Do you know of any educational researchers,
12 specifically, who dislike the English inspectorate
13 system?

14 MS. WELCH: You mean particular individuals or
15 schools of thought?

16 MS. READ-SPANGLER: Yeah, individuals and --
17 actually, I'm not even going to limit it to educational
18 researchers.

19 Do you know anyone?

20 MR. POULOS: I'm sure there's a few French people.

21 MS. WELCH: I'm sorry. I lost the question.

22 Who doesn't like the inspectorate system?

23 MS. READ-SPANGLER: Q. Who dislikes the English
24 inspectorate system?

25 A. I can't think of a name right now.

1 Q. Okay, that's fine.

2 How well does England rank in achievement
3 internationally?

4 MS. WELCH: Objection, vague.

5 MS. READ-SPANGLER: Academic achievement.

6 MS. WELCH: If you look at TIMS, the international
7 math and science study look pretty bad, not far above the
8 United States. If you look at PISA, which is the most
9 recent tests done by the OACD, England has actually
10 improved; and, of course, the country experts point out
11 that they believe it's because of the combination between
12 the national test and a fairly intricate inspection
13 system that England has seen these kinds of
14 improvements -- but, as it happens, it's hard to
15 substantiate --but that's what it is -- those are the
16 policy innovations in that system.

17 And so, as it happens quite often, the policy
18 innovations, the most recent policy innovations, are seen
19 as the ones, of course, that influenced an increase in
20 test scores; so, probably, a lot of English people would
21 argue that way.

22 Q. You said PISA? What is that?

23 A. Yeah, P-I-S-A. It's called Performance In --
24 you know what they stand for. It's the U.S. participant
25 as well. Everybody knows what's PISA -- you know what it

1 stands for. You know, I don't know right now; but,
2 anyway, it's an international student achievement test.

3 Q. Are there countries that generally rank high in
4 both TIMS and PISA?

5 A. Well, yes, I have to think, now, which of the
6 Asian countries participated in PISA.

7 Q. Why don't you break that down?

8 That's, technically, compound.

9 What countries ranked high on the TIMS?

10 A. Well, your usual candidates: Korea, Japan --
11 South Korea, Japan, Singapore. Those are the three that
12 come to mind.

13 Q. And what, if you recall, what countries rank
14 high on the PISA?

15 A. Well, I don't know if all three actually
16 participated in it, so probably not all three
17 participated in it.

18 MS. WELCH: By "all three", you mean South Korea
19 Japan and Singapore?

20 THE WITNESS: Yeah, I actually don't know which of
21 the Asian countries participated in it, but, my guess
22 would be that they're pretty high -- but, it's a guess.

23 MS. WELCH: You're not supposed to guess.

24 MS. READ-SPANGLER: That's a good point.

25 Q. What type of accountability system, if you

1 know, does South Korea have?
 2 Does it have an outcome-based accountability system?
 3 MS. WELCH: Objection, assumes facts.
 4 THE WITNESS: I actually don't know that much about
 5 Asian accountability systems except that the tests --
 6 that the entrance tests to the next higher level of
 7 schooling are very, very important for the advancement
 8 through the system, and that they -- in the literature at
 9 least -- I know literature on Japan -- I don't know that
 10 much about Korea and Singapore -- that those entrance
 11 tests have a strong influence on student effort and
 12 parental push to succeed in school. But, what you also
 13 read in the literature on the Japanese school system is
 14 that there are schools that are left out of that system
 15 and those seem to be rather troubled.
 16 Q. What do you mean by "left out"?
 17 A. That means that, as long as you aspire to a
 18 next higher level, entrance requirements to that level
 19 inspire you to work hard; but, once you have lost out at
 20 a particular level, those incentives don't -- they don't
 21 grab you anymore as a student and, as a result, you know
 22 the tougher you make the testing requirements, the more
 23 difficult the losers will be to be educated.
 24 Q. I understand, again, that you're not pointing
 25 to the English inspectorate system as model for

1 California, but, are you suggesting in your expert
 2 report, or as you sit here today, that there are elements
 3 of that system that would be useful for California to
 4 adopt?
 5 A. Yes.
 6 Q. And what are those elements?
 7 A. Well, as I point out in the report, I think it
 8 would be very useful that the feature that's contained in
 9 the English inspectorate -- and that is that the
 10 inspection reports are carefully scrutinized in a central
 11 agency, and the central agency distills a report -- or
 12 distills reports to the public and to the Ministry of
 13 Education -- reports that can become policy relevant --
 14 so that feature, I think, is very, very useful.
 15 So, in my point of view, they have something that
 16 California doesn't have, which is a two-way street in
 17 information flow.
 18 Q. Is that what you've referred to as a reciprocal
 19 accountability system?
 20 A. That's part of it, yeah. There's more to it
 21 than just information flow; but, information flow is
 22 definitely -- the first issue, is, you don't have a flow
 23 of information that comes from the bottom to the top
 24 about the policies that the top executes over the bottom;
 25 then the top has no way of knowing whether the policies

1 are working or not working.
 2 And so, to me, having these very detailed reports
 3 about so many hundreds of schools, and then having an
 4 evaluation arm that actually looks at them and tries to
 5 figure out what is going on in these schools is very
 6 useful -- and I'm not saying that these reports that I've
 7 read are actually -- you know, actually the degree to
 8 which the system could reveal some of the conditions --
 9 it could go much further -- but, just the fact that they
 10 have this two-way information flow, I think, is very
 11 useful, in the same way I envisioned the State of
 12 California using information from the school action
 13 plans.
 14 I mean, just imagine, we would have 1,500 schools in
 15 the State of California that are writing action plans,
 16 and they would actually document what is going on in
 17 their schools with regard to a particular indicator, with
 18 regard to a particular cultural element and so on and so
 19 forth. If There was somebody, some agency, in Sacramento
 20 that could actually tabulate that, or distill it, and
 21 then help inform policy makers as to what to do, I think
 22 we would -- this is what the report is trying to get
 23 at -- I think we would get to the point where we would
 24 realize how important particular aspects of school
 25 operations are that we've overlooked; namely, if I now

1 take an example from the Maryland schools, I saw this
 2 disconnect on one hand -- policy makers -- and this is
 3 now five, six, seven years ago -- so, you know, things
 4 have grown there as well.
 5 Five, six, seven years ago, there was this idea
 6 that, somehow, we need to hold educators accountable to
 7 student performance. They were not living up to their
 8 potential. They were not putting out the effort
 9 necessary, and so everything -- and then everything
 10 became centered on instruction. Then there was also a
 11 push towards more performance-based constructivist's ways
 12 of learning, which I applaud, and would be in full
 13 support of, and so the focus was on performance potential
 14 and instruction.
 15 But, when you go into the schools, their problem was
 16 discipline and faculty stability. I mean, there was such
 17 a disconnect in the research that I've done, and the
 18 schools that I have seen. So, if faculty stability is
 19 really one of the major concerns for teachers, if you
 20 can't improve the school, if you have a turnover rate of
 21 30 to 50 percent, it's very, very hard to do.
 22 If you add to that a principal being exchanged every
 23 two years, the training affects from the best
 24 professional development system gets eroded over time
 25 very, very rapidly. We saw that in the schools. So, if

1 you see that, for example, faculty stability is your
2 number one problem, then putting a school on probation
3 and telling it it is low performing, without providing
4 some ways for that schooling to be turned around,
5 exacerbates the problem of turnover and exacerbates the
6 problem of instability; because now, you not only have
7 people who are less committed to leave the school anyway,
8 you also have those teachers that have been very
9 committed being tainted by the negative label.

10 And they go through this process -- which we found
11 in the research -- they go through this process -- they
12 first buy in -- they first put out -- inferring at
13 first -- but, after a while, they get burned out. If
14 they can't get out of the label, and they do not tolerate
15 as high performing teachers, they do not tolerate being
16 tainted by that low performance, they seek employment
17 elsewhere; so then, that what you do is, you move out the
18 most committed teacher caudry, which is sometimes not
19 necessarily the most gifted instructors, but they're the
20 ones who can maintain the discipline in the schools,
21 because they've been there for a while. You know, if you
22 go to a school with all new teachers, you can't maintain
23 discipline. A school like that with no discipline
24 policy, that's why, when I look at the audit reports, the
25 13 program improvement schools, I don't know these

1 schools, but, I'm thinking, sometimes you read through
2 the lines and you realize -- it's never really stated
3 clearly -- but you read through the lines, well yeah,
4 there are a couple of reports where it's stated. But,
5 you read through the lines, they have a lot of new
6 teachers there, apparently, and they have a lot of
7 teacher turnover. Well, as long as that is the case, how
8 are they going to maintain discipline? That's very hard
9 to do. Sorry, I get on the soapbox. Interrupt me. I
10 told you, interrupt me.

11 Q. I just want to kind of get back to my original
12 question.

13 A. I know, I know, that's what I'm saying;
14 interrupt me.

15 Q. The English inspectorate system, I think, is
16 what we were talking about.

17 A. Yes.

18 Q. Are there any other elements of that that you
19 think would be useful for California to adopt?

20 A. I like the fact that they have a pretty good
21 idea of what to look at. It's very hard for me to be now
22 very specific.

23 But, there's lot of expertise that has accumulated
24 over time as to what to look at in a school, how to
25 structure a visit, some of the instruments that are being

1 used. All of it is on line -- or most of it is on
2 line -- or can be gotten. I think there's something to
3 be learned from that as well. You know, one should never
4 forget -- I mean, we are dealing with a very different
5 system. I mean, the English system school now has 90
6 percent self-financing, so the local education
7 authorities, which would be equivalent to districts here,
8 have, essentially, been frozen out of the picture.

9 So, you know, this is very different to the way -- I
10 mean, the California system, where many of the
11 accountability systems in the United States were
12 originally designed with the same idea that the district
13 can be circumvented, and there's a direct relationship
14 between the State that monitors the schools and an
15 individual school that attempts to improve, according to
16 State goals. That system can work, but, I mean, it
17 cannot work -- it can work if you do what the English
18 did, which is you get rid of the LEA's in the middle.
19 You take their budget away and you give all that budget
20 to the schools, and now the schools contract out all the
21 services that they need. It can work. It has
22 disadvantages, by the way.

23 Q. How many public schools, in our sense of the
24 word, are there in England? Do you know?

25 A. No, I don't know.

1 Q. Do you have any sort of estimate?

2 A. Well, let's think, all of England has --

3 MS. WELCH: This isn't sounding like an estimate,
4 but, go ahead.

5 THE WITNESS: -- has about 40 million people.
6 England, alone, I think there's 54 in all of Britain --
7 Scotland and Wales are not part of that system -- oh,
8 maybe 44 million, let's say, people, and there are 33
9 million in California, and probably, the birth rate is a
10 little higher here, and so -- what was the question
11 again?

12 MS. READ-SPANGLER: I'm going to withdraw the
13 question. I don't think we can get a good estimate.

14 Q. Were there any other elements of the English
15 inspectorate system that you think might be useful for
16 California to adopt?

17 A. No, let's leave it at that.

18 Q. And, in your report, on page 4, going on to
19 page 5, you state:

20 "England has developed a system that combines a
21 strong thrust via performance indicators with an
22 elaborate system of school review and oversight that is
23 designed to detect shortcomings in the provision of
24 education systematically and continuously and to trigger
25 interventions in a timely manner."

1 What I want to ask you about is, in the next
2 sentence, "Schools reviews in England comprehensive."

3 What do you mean by that?

4 Can you explain or elaborate on the school reviews?

5 A. What I meant is, compared to the school order
6 and compliance reviews. You have to read the whole
7 sentence. So, the comprehensiveness is always relative
8 to what I was comparing it to.

9 And, essentially, what the English inspections do
10 is, they go to the core of teaching and learning,
11 whereas, compliance reviews in the United States have a
12 tradition of looking at the program, of the adequate
13 expenditure of funds, given a categorical program, so,
14 sometimes, these compliance reviews are kind of -- go
15 around the core of teaching and learning as opposed to
16 directly to it.

17 The English system asks, do the faculty members in
18 X-Y-Z math department teach well?

19 Do they dispense a vigorous curriculum?

20 These kinds of questions.

21 Q. But, aren't those subjective questions?

22 A. Well, the English inspectorate system, as I
23 point out in this report, is based on what the literature
24 calls connoisseurship. The inspectors are people who
25 have been around for a long time. They have seen many

1 increased as a result; more people have to be brought in
2 and the process is somewhat more standardized. So,
3 there's, for example, attention paid to evidence.

4 Whatever the inspectors say about a school has to be
5 documented by evidence; that was not the case before --
6 before, it was a subjective judgement.

7 So, now, when you look at the documents, for
8 example, when there's a judgement made, there's always a
9 list of the evidence. This is what they found. I don't
10 know if I answered your question.

11 Q. I think you did.

12 In the next section under "What Matters in School
13 Improvement?" you talk about educational inputs per se --
14 "...educational inputs such as teacher qualifications,
15 school capacity, facilities, class size, instructional
16 materials, but also organizational processes,
17 instructional programs and individual work efforts are
18 connected to educational outcomes, but not in a
19 straightforward way. Rather they all interact with each
20 other in ways that vary considerably according to local
21 context."

22 What do you mean by this?

23 A. What I mean by this is that, we have done -- or
24 the education research community has done -- many
25 studies -- process product studies -- where educational

1 schools and they have compared one school with schools
2 under similar circumstances, so, they have read the
3 documents, they have a sense of what ought to be taught.
4 The connoisseur has a sense of what ought to be taught in
5 particular circumstances, and the connoisseur makes a
6 judgement based on that knowledge that, as I said before,
7 is probably not a system that would work in the U.S. that
8 well. It requires a tradition. It requires an
9 institutionalization of that kind of judgement, and
10 acceptance of that kind of judgement, and that cannot
11 come overnight.

12 So, in the U.S. we would have to look for somewhat
13 more objective ways, you know, of getting to those kinds
14 of judgments. It would, therefore, not be as
15 judgement-laden. It would look more for improvement
16 potential, which does not trigger as much defensiveness.

17 Q. So, when you say the system is "...designed to
18 detect shortcomings in the provision of education
19 systematically..." is that the professional judgement or
20 connoisseurship you're referring to?

21 A. Actually, the new inspectorate, as I understand
22 the old inspectorate, before Ofsted was put in place, was
23 really solely based on the connoisseurship of Her
24 Majesty -- or His Majesty -- inspectors.

25 Now, with Ofsted, the frequency of inspections has

1 inputs are fed into a statistical equation, and then the
2 education outcomes are measured according to these
3 inputs. And some studies show significance; other
4 studies show insignificance. So, there's not a
5 conclusive, consistent picture in the literature in that
6 tradition of research.

7 In other words, usually, regression analyses with
8 very, very broad indicators that can, of course, easily
9 be measured, most often done by economists of education,
10 we see across the studies -- I mean, there's a whole
11 debate that I'm citing here whether this literature
12 actually shows there's a section or not -- some say it
13 doesn't show -- others say it does show -- it really
14 depends on how you slice the cake.

15 If you take Hanushek's analysis of these re-analysis
16 of these -- studies, he comes to the conclusion that
17 there is no clear relationship between particular inputs
18 and outcomes.

19 Well, then, you look at his critics who say, you
20 know, if you take these studies and you apply different
21 selection criteria, because not every single study that
22 has ever been done about inputs and outputs was included
23 in Hanushek's re-analysis either; so, it depends on what
24 kind of rule do you apply to take one study and leave
25 another study out?

1 If you change the rules, you may actually come up
2 with different -- to a different count of what studies
3 are significant and what are not significant.

4 So, as critics, for example, argue that, if you look
5 at the quality of the studies and, in this case, the
6 Tennessee class size reduction study, of course, is named
7 as very, very rare example of randomized educational
8 research -- if you take a look at the most quality
9 studies, then, in fact, more studies turn out to be
10 significant than non-significant. So, that's kind of the
11 debate that is there.

12 Now, this is one line of research. There are, of
13 course, other lines of research that show that, in fact,
14 it makes a big difference what schools do. When I say
15 big difference, it makes a marginal difference between
16 anywhere -- I think we're talking about maximum 30
17 percent is explained by -- maximum 30 percent of the
18 various -- in statistical analysis by school factors or
19 non-family factors -- I mean, the largest single factor
20 is skill, socioeconomic, status and variables that are
21 somewhat related to that peer group role model, all of
22 those kinds of things, so -- but, do we assume they have
23 a marginal effect? Maybe of 20 percent of schools added
24 value. That kind of research says, yes, there is
25 definitely a difference.

1 Then there's other kind of research, for example,
2 the one that I'm citing here, which is the summary of the
3 inspection reports. We don't have such database in the
4 United States, but they have it in England. That shows
5 that good schools, or the existence of good schools, is
6 often associated, or is hardly ever associated with,
7 adverse learning conditions. So, we have a number of
8 research traditions that tell us that something is
9 happening, but we don't know quite exactly how it's
10 happening; that's why I'm saying, we cannot solely rely
11 on research. We have to include in the picture a
12 professional judgement.

13 Q. And what you were just talking about, the
14 debate is what you refer to as the debates --

15 A. Yeah.

16 Q. -- about the effect of specific inputs on major
17 student achievement?

18 A. Yes.

19 Q. So, nobody really knows the significance or
20 effects of specific inputs on measured student
21 achievement, if any; correct?

22 MS. WELCH: Objection, calls for speculation.

23 THE WITNESS: I'll give you an example. You can't
24 say it that way, the way you phrased it. I'll give you
25 an example.

1 The class size reduction is a good example. The
2 Tennessee study shows effects for class size reduction.
3 If you were to do a similar class reduction size
4 initiative, it probably wouldn't show much impact because
5 we know the context of that class size reduction policy.
6 We know, at the same time, the classes were used -- in
7 fact, you can show reading deteriorated -- in some
8 districts, the reading scores deteriorated; in some
9 districts, because the class size reduction policy was
10 not put in context with a teacher supply policy. You
11 know what I'm trying to get at? So, I don't have to go
12 further in that direction. So, if you were going to do a
13 study on California class size reduction, and Tennessee
14 class size reduction, you would probably find, in one
15 case, it did, and, in the other case, it didn't. Well,
16 you can't say it's because of class size that there was
17 no effect; it's because, as is usually the case, one
18 condition hangs together with another condition; things
19 interact with each other. And so, if you do a study in
20 isolation, you often do not have an adequate idea of what
21 conditions made one factor -- made the factor in one
22 context effective and another context not to be
23 effective. See, that's the problem.

24 Q. And that brings me to another question
25 regarding what I quoted, in that you use the phrase in

1 the quote they "...vary considerably according to local
2 contexts."

3 What do you mean by the phrase "local contexts"?

4 A. That's what I mean by that -- just as an
5 example, in many cases, you may have a policy -- for
6 example, you supply a computer in one educational setting
7 and it does wonders, and the same computer in another
8 setting does nothing.

9 We've seen the same thing with comprehensive school
10 projects. If you think about the new American schools,
11 all these preliminary implementation studies show that
12 there are no consistent defects across the board -- or
13 most of these studies show there is no consistent effects
14 across the board -- and that is because the quality of
15 the implementation -- and it has to do with a willingness
16 and the capacity of the personnel that are doing the
17 implementing; and that is probably true for the inputs as
18 well.

19 On the other hand, one cannot say that the inputs,
20 therefore, don't make any difference. They do make a
21 difference; but, one does not know exactly how they make
22 it -- or let me put it this way -- one does not know of,
23 by using the instruments that the economists use, one
24 does not know, but, there are other instruments.

25 To give you an example, I mean, if we look at --

1 let's take AIDS as an example, medical research, as an
 2 example. When you look at the cause of AIDS, I mean, for
 3 the longest time in the early 80's, one did not know
 4 anything about the cause of AIDS until H.I.V. the virus
 5 was found. Well, between the time AIDS came around as a
 6 phenomenon, and the causing agent was identified, there
 7 was lots of research that was done on who are the groups
 8 that are most at risk, what kind of behavior do they
 9 have, under what circumstances might have have contracted
 10 it, and so on and so forth. There was a lot of
 11 interviewing. There was a lot of epidemiologies looked
 12 at the distribution of where the virus was, so on and so
 13 forth. So, even before the H.I.V. virus as an agent was
 14 known, there was a lot of research already done.

15 Now, in terms of the medical research only, until
 16 you identified the agent, which means the H.I.V. virus,
 17 have you really found the cause; but, that doesn't mean,
 18 as a matter of public policy, that you would not do
 19 plenty of other research before that would give you a
 20 handle on what to do about a phenomenon.

21 This is now aligned to our situation here. If we
 22 take the economist's regression equations as the search
 23 for the cause -- I have agent -- so you can actually tell
 24 across the board, across states, one unit of additional
 25 class size reduction will give you so many units of

1 research and various ways of how to approach that problem
 2 and come up with some solutions that alleviate a problem
 3 that must be solved at this point.

4 Q. So, in your report, you list a variety of
 5 educational inputs, and just so I'm clear, you're not
 6 purporting to present that as a complete list?

7 A. No.

8 Q. If I were to ask you how each of those impacts
 9 affects student learning, based on what you've just said,
 10 would I be correct in thinking you wouldn't really be
 11 able to give me a specific answer?

12 MS. WELCH: Objection, incomplete hypothetical.
 13 (Record read)

14 THE WITNESS: Could I give you a numerical expected
 15 growth, you know, in units of student outcome that
 16 applies to a universe of schools across the United States
 17 or across the world? No, I couldn't give you that
 18 number; because, for that, we would need the kinds of
 19 studies that have shown to be inconsistent.

20 If you ask me whether I could tell you whether
 21 adverse learning conditions tend to produce, you know,
 22 particular learning outcomes, I would say, yes, it is
 23 possible to do that.

24 But, I could not give you the kind of figure that
 25 you're asking for, which is, if you invest in class size

1 student achievement; then, we really have identified that
 2 cause, that H.I.V. virus. But, in the meantime, as long
 3 as we cannot do that, consistently, because somehow our
 4 models aren't good enough, or reality is just a little
 5 more complicated, we do other research that helps us
 6 understand the phenomenon, and that research is, perhaps,
 7 of lesser statistical potency such as, we do
 8 correlational research. We see -- you've seen it,
 9 probably -- you know, you see correlations of: Here are
 10 particular outcomes consistently happening, and here are
 11 particular conditions consistently being in place, or
 12 inspection reports, or, you know, the reading of action
 13 plans. It doesn't take a rocket scientist to read
 14 through an action plan.

15 And the question in kind of a pointed way, you would
 16 be able to establish pretty soon what is going on in
 17 these schools, and you would get a sense of what learning
 18 conditions are there; and, perhaps, you, as a review
 19 agency, would understand, okay, across the state, these
 20 are the conditions that are actually happening in these
 21 schools.

22 Therefore, we need to design policies to address
 23 these kinds of issues; so, that's what I'm trying to get
 24 at. So, when you look at the debate on the section
 25 between inputs and outputs, there are various layers of

1 reduction, no matter what condition there is, you will
 2 always get two units of student achievement. This is
 3 what economists want. If they don't have that, they're
 4 not satisfied with the research, and they consider all
 5 the other research as poor quality; and, therefore,
 6 should not be considered much to the detriment of public
 7 policy, if I may add to that.

8 Q. I was just laughing of your example of adverse
 9 learning conditions. I mean, it seems that it would
 10 necessarily follow that you would have adverse results,
 11 but --

12 A. Yes, that's true.

13 Q. -- that's sort of a skewed expectation -- but,
 14 that's -- Your report continues and says someplace,
 15 still on page 5, about the middle of the paragraph,
 16 "...the introduction of statewide accountability systems
 17 has made it increasingly feasible to connect measured
 18 student achievement outcomes with requisite inputs,
 19 allowing for the formulation of adequacy standards for
 20 educational inputs."

21 A. Yeah, this is what we were talking about,
 22 earlier, when we talked about quality. When you don't
 23 have clear outcome measures, it is very hard for a State,
 24 or for a jurisdiction, to decide what kind of conditions
 25 are adequate, because the adequacy of the conditions --

1 learning conditions -- needs to be there, needs to be a
2 criteria. I don't know that sets the standard for
3 adequacy, but, now --

4 Q. Let me ask my question.

5 A. I thought you wanted me to explain the
6 statement.

7 Q. I did, but, I want -- I think make it a little
8 more directed.

9 A. Okay, sounds good.

10 Q. You're pretty good at reading where I'm going,
11 but, I guess I'm not understanding how it's increasingly
12 feasible to connect achievement outcomes with inputs;
13 and, if that's what you're explaining, then maybe I'm
14 being really dense.

15 A. No, I was going there, but, my answers get a
16 little longer as the day gets -- you know, as we get
17 going -- and so, just cut me off and ask the specific
18 questions.

19 What I mean is, as soon as accountability systems
20 are in place and are stable for a certain number of
21 years, which they have not been in California so far, but
22 we hope that there will be more stability as time goes
23 by, there'll be a consistent record of schools performing
24 at a particular level. You could identify a trend line
25 of schools that have consistently performed at State

1 who do a lot with very little. Specifically, since a
2 school's performance is always a mixture of inputs and
3 the efforts, you would have to look at both to get an
4 adequate picture of what a school actually does and how
5 well it performs.

6 Q. And, in the context of this paragraph where
7 you're talking about devising an effective strategy of
8 school improvement, are you saying that it would need to
9 be specific?

10 School improvement needs to be specific to the
11 school that you're trying to improve?

12 A. No -- well, yes, in some sense. What it means
13 is that the system that you devise cannot be merely a
14 system that doles out particular educational inputs,
15 without excluding attention being paid to effort and
16 goals; but, at the same time, one should not
17 underestimate, or one should be aware of what Gray and
18 Wilcox says, that educational inputs resources are not --
19 may not be sufficient for high performance, but they're
20 necessary for high performance. So, you need -- I don't
21 know if I made myself clear with regard to the
22 combination of the two.

23 Q. Well, let me ask you this. I'm trying to think
24 of a good way to phrase it.

25 California has a long history of local control and I

1 average, or consistently performed above State average,
2 or wherever they are; and you studied their conditions
3 and you can establish from studying their conditions
4 what, on the average, what these schools are like. It's
5 one way of doing it. There are other ways of calculating
6 it; that's what I mean.

7 Q. So, is it your opinion that the implementation
8 of accountability programs focused on outputs allows for
9 an opportunity to create input standards as well?

10 A. Yeah.

11 Q. On page 6, the last full paragraph before the
12 indented section, if you could just review the paragraph.

13 A. Yeah, this goes back --

14 MS. WELCH: Let her ask you a question.

15 THE WITNESS: Oh, I thought that was the question.

16 MS. READ-SPANGLER: No, I just wanted you to review
17 the paragraph.

18 THE WITNESS: Oh, I see. I thought, now, you want
19 my own words. It's like a teacher review. That means,
20 now, you're supposed to re-tell it.

21 MS. READ-SPANGLER: Q. You talk about the judgement
22 is contingent upon the specific school context.

23 What do you mean by that?

24 A. What I mean by that is that, there are some
25 schools who do little with very much, and other schools

1 think proponents of that would say that's necessary
2 because schools are different -- you have different
3 situations in every school -- and you're going to have to
4 tailor certain things to any given school.

5 That being said, if local control and the market
6 approach to school improvement, that is, you know, we
7 send out RFP's, and we have providers who have some ideas
8 about what ought to be done, and then we give grants to
9 schools, and we hope that they'll know what's best for
10 them; if that cannot do the job and we have evidence -- I
11 mean, history has shown that -- that, you know -- that
12 that system -- that very system -- has not helped in the
13 equalization of the learning outcomes, then that system
14 needs to be rethought. It needs to be some
15 responsibility -- there needs to be -- some
16 responsibility needs to be assumed by the central
17 government, yes.

18 Q. You mentioned earlier that, in England, there's
19 no such thing anymore, really, as school districts or
20 LEA's.

21 Is that something that you would propose for
22 California?

23 A. I'm not so sure. I'm not so sure. I mean,
24 what you have in England is a sink-or-swim situation for
25 schools, and I'm not sure that that's the way we would

1 want to go into here in California. Because you do have,
2 as I understand it, from England, you do have dying
3 schools that are not even entrepreneurial enough to turn
4 themselves around and they die a slow death; and, while
5 they die, there are still hundreds of school students, or
6 however many there are being educated in those schools.
7 So, I'm not so sure we want to go that route. I don't
8 see that it would even be feasible. I mean, here, I
9 would make an argument for, understanding the political
10 history of this State, that doesn't seem to make it
11 feasible to do away with districts.

12 Q. Going back to the sentence we were looking at
13 in the phrase specific school context, I guess what I
14 took from that, and maybe I'm wrong, is that, say, for
15 example, with II/USP, if you wanted to improve a school,
16 you would need to tailor things to a specific school
17 context.

18 Is that what you're getting at?

19 A. Yes -- well, both; not only tailor what you do
20 to it, but also how you judge its performance; in other
21 words, the the judgement of how a school performs is also
22 a combination of understanding their effort, and the
23 conditions that they have at hand.

24 So, we have this -- I mean, in a very kind of
25 rudimentary way, we have this with the Similar Schools

1 It should be something of third party charted. It
2 doesn't mean it cannot be a part of the State, but it
3 should be independently chartered from the line authority
4 and somewhat like -- well, I take that back -- so,
5 anyway -- and such an institution, or such a a review
6 agency, would use the expertise from a lot of the -- you
7 know, a lot -- I mean, we have a lot of external
8 providers, third party consultants, floating around in
9 the State, subject matter projects, you name it. There's
10 an industry out there and there's a lot of capacity out
11 there, but, it's very incoherent. It's very
12 multi-directional.

13 And so what I'm seeing is that, perhaps, there ought
14 to be more coherence and more of a focus and a better
15 vetting of ideas. Now, it is more a matter of
16 entrepreneurialism, if we take the external evaluator idea
17 in II/USP. It's actually not a bad idea, formally, but
18 the way it was handled, the way I understand it,
19 according to the depositions, an RFP went out and a lot
20 of providers were able to be external evaluators. And
21 the selection process from my point of view was not very
22 thorough, and it probably couldn't be very thorough given
23 the capacity that the State had at the time. So then,
24 you have external evaluators whose job it is to evaluate
25 when, in fact, for the longest time, they have been

1 Rank in California; but, you know, it's based on some
2 very, very crude indicators. I mean, they're the ones
3 that can be used from C-Best and are fed into the
4 regression equation, and then, you know -- but, that's
5 not -- I mean, I could see that being a lot more
6 sophisticated than the way it is.

7 Q. You conclude this section on the next page in
8 the sentence, "In order to make this professional
9 judgement a powerful tool for school improvement on a
10 large scale, it must be organized and institutionalized
11 in systems of review or inspection."

12 How does that differentiate from things needing to
13 be tailored and specific within a specific school
14 context?

15 A. It depends on what kind of expertise you have
16 in mind. I don't have the kind of expertise in mind that
17 standardizes school operations. I have the kind of
18 expertise in mind that helps schools with the process of
19 improvement, that knows of promising programs, that knows
20 of good model schools that can be studied, that has that
21 kind of systematic knowledge needed for schools to help
22 them with their improvement.

23 So, it's not -- again, it's not the kind of big,
24 centralizing agency that I have in mind. It is really an
25 institution that I think should be independently chartered.

1 vendors of interventions and, in all likelihood, of
2 course, they would find -- or I shouldn't say in all
3 likelihood -- it is flaws that I believe they would find
4 in the school, those things that are lacking, they happen
5 to have the answer for. I'm not saying that that has
6 happened whenever an external provider went in, but it is
7 at least a possibility.

8 So what I would say is, evaluation is too important
9 to be put in the hand of a vendor who has to put it --
10 who has worked hard at providing a good improvement
11 intervention over years. I don't see how you get good
12 evaluations out of that. So, as a result what you have,
13 is my fear, would be in a system like that, that you have
14 external evaluators who don't really know what they're
15 doing in many respects, who don't really know how to
16 focus on evaluation; and, as a result, my fear is that
17 you have schools -- if I remember, I went to a meeting --
18 a large meeting -- of a lot of II/USP schools in Los
19 Angeles basin once, and the schools were extremely
20 concerned that their time was wasted one more time. And
21 I was thinking, well, what safeguards does the State have
22 in place that the schools times would not be wasted on --
23 during the evaluation phase? I thought, not too many.
24 You know, I mean not too many; and, if you had an
25 external evaluator who was good at it, but, if you had

1 one who wasn't, then the school was out of luck and the
2 time was wasted yet one more time, and that's -- schools
3 have no time to waste -- long answer to your question.

4 Q. On page six you say, "Adequate levels of
5 resourcing seems to be a necessary but not sufficient
6 condition for a school to be effective; quite wide mixes
7 of resources seem to be associated...with success."

8 What do you mean by "quite wide mixes"?

9 A. Where is this exactly?

10 Q. Right above the first indented part above the
11 number one.

12 A. Oh, this is the quote, yeah.

13 Q. Oh, it's a quote?

14 Well, do you have an understanding of what Gray and
15 Wilcox mean by "quite wide mixes of resources"?

16 MS. WELCH: Calls for speculation.

17 MS. READ-SPANGLER: Q. If you don't know, that's
18 fine.

19 A. I don't know, but I can interpret it. I
20 interpret that to mean that, as I said before, some
21 schools do a lot with very little, and other schools do
22 very little with a lot. So, there is such thing as
23 compensating a lack of resources with effort and
24 commitment, but -- and it happens in exceptional
25 schools -- it's documented over and over again -- but, it

1 supply from the outside, or it behooves the State to
2 think about conditions that need to be supplied from the
3 outside. That makes it possible for educators under
4 average conditions of effort to be successful because
5 average conditions are the conditions that we normally
6 encounter.

7 Q. I want to ask one more question before we take
8 a break. It's a follow-up to something you were talking
9 about before.

10 A. Okay.

11 Q. Why do you think an agency for review and
12 inspection that you're proposing needs to be an
13 independent agency?

14 A. Because it needs to be critical of schools as
15 much as critical of the State and the districts. The
16 needs to be able to speak freely when schools do not live
17 up to expectation and when State's -- when the State does
18 not design adequate policies and districts are missing in
19 their performance, that's why the independent is needed.

20 Q. And why do you think that the Department of
21 Education couldn't do that?

22 A. I have not seen it happening anywhere, and I
23 have not seen any evidence that a State Department of
24 Education -- State Department of Education, you know, I
25 would think, has a tendency to act according to the

1 happens in exceptional schools.

2 Q. So, my question is, if it takes quite wide
3 mixes of resources, how do you know there's any
4 association or correlation between the resources and
5 achievement or -- success is the word they use.

6 MS. WELCH: Objection, vague.

7 THE WITNESS: I think that's what they're trying to
8 get at, and this is what I was trying to get at in the
9 report. There is a wide variety of inputs that explain
10 outputs, but there is certain sense of necessary
11 conditions; in other words, there are conditions that can
12 be identified under which it is characteristically on the
13 average difficult for a school to be successful. That's
14 what I'm trying to get at. And so, if you have a system
15 that has difficulties providing an adequate supply of
16 well-trained teachers, developing a caudry of
17 well-trained principals, supplying school buildings that
18 are not overcrowded, I think, just taking these
19 conditions you have, I think I have named conditions that
20 make it very difficult for schools to be successful and
21 for the people in those schools that are willing to exert
22 way above average effort. And there are always those
23 people in all those so-called failing schools, it makes
24 it very difficult for them to be successful. And so it
25 behooves us to think about the conditions that we need to

1 interests of those that control it, any of the politics
2 that control it, and I don't think that it would have the
3 independentness to criticize an education policy that
4 would diminish the chances of political, you know,
5 officials to be re-elected or to maintain their office.
6 And so I would be -- I think an independent agency would
7 be much better suited to do this kind of job.

8 Q. Maybe I'm not getting what you mean by
9 independent agency. So, you mean not funded by State
10 money?

11 A. No, no, funded by State money, but it may not
12 have to be directly under the jurisdiction of the
13 Governor. I have not thought that through, how that
14 would be done under California law. That is not my area
15 of expertise; but, such independent agencies can be
16 constructed, I'm sure.

17 Q. Right, I understand you're not familiar with
18 it, but the California Department of Education isn't
19 under the Governor.

20 A. I know. I was just going to say, I saw in the
21 Master Plan, for example, or I say around the Master
22 Plan, when I checked that, there are some ideas that
23 somehow the SPI becomes that kind of review arm. Being
24 that the State Superintendent is independent of the
25 Governor, it might actually be able to play that role. I

1 don't know. That might be a possibility that it evolves
2 into that.

3 Q. Let's take a break.
4 (Recess taken)

5 MS. READ-SPANGLER: We're back on the record.

6 MR. POULOS: I just wanted to put on the record the
7 fact that both the State and the plaintiffs, as in the
8 past, have generally agreed that L.A.U.S.D. could excuse
9 itself and preserve its objections and, hopefully, we'll
10 be back on the record to ask our questions, or sooner, if
11 that works out to be a possibility.

12 Is that acceptable to all?

13 MS. READ-SPANGLER: Objection as to form?

14 MR. POULOS: Yeah, whatever they have been in the
15 past.

16 MS. READ-SPANGLER: Yes.

17 MR. POULOS: Thank you.

18 MS. READ-SPANGLER: Q. Turning to page 7 of your
19 expert report which we've marked as Exhibit 4 --
20 A. Page 7?
21 Q. -- in the first sentence, you talked about work
22 motivation and goals and rewards motivate workers.
23 In reviewing that first sentence, is that still your
24 opinion?
25 A. Yes.

1 Q. And, is it your opinion that a standards-based
2 accountability system can provide goals and, in this way,
3 motivate schools and individuals?

4 A. To the degree that these goals are attainable
5 and controllable, perceived as attainable and
6 controllable, yes; and I should add to that and deemed
7 meaningful.

8 Q. What do you mean by deemed meaningful?

9 A. Meaning that, since you expanded this to
10 accountability system, asked me about the accountability
11 system, I want to say that goals need not only be seen as
12 attainable and controllable, but they also need to be
13 seen as valuable.

14 Q. And what's the basis for that opinion?

15 A. That's in literature.

16 Q. It says right there?

17 A. It really comes straight out of psychology
18 that's been repeated many, many times and it's almost
19 like a truism.

20 Q. You also talk about teacher work motivation as
21 a key component in accountability systems.
22 Is teacher work motivation -- is that the same as
23 teacher buy-in?
24 Are you familiar with that expression?
25 A. Yeah, in some sense, yeah, it's similar.

1 Buy-in is what is often used in, I guess, in education
2 policy language. Practitioners talk with each other,
3 work -- motivation that comes out of the literature, out
4 of the psychology literature, so, yeah.

5 Q. In the next paragraph, it starts, "Thus, an
6 effective accountability and oversight system is in need
7 of detection mechanisms for root causes of performance
8 barriers and distinguishes carefully among actors or
9 agencies primarily causing them."

10 What do you mean by that?

11 A. This goes to the important function of
12 accountability systems as helping school improvement
13 along through its motivating power, or motivating effect,
14 if we assume that goals and, perhaps, rewards and
15 sanctions attached to those goals are motivating to the
16 degree that they're perceived as attainable and in the
17 control of teachers and are seen as valuable.

18 Then, if we construct an accountability system that
19 does not help distinguish between conditions that are
20 caused by teachers, and conditions that are caused by
21 other actors, and if we have conditions in place in
22 schools in which those externally caused conditions
23 strongly structure teachers -- the ability to be
24 successful -- and we nevertheless impose goals on those
25 teachers or, you know, such system imposes goals on those

1 teachers, then those goals could very well become
2 de-motivating rather than motivating, and they could
3 become counterproductive as opposed to productive.

4 And then we would actually have designed a system
5 that would do a disservice to some of these schools, so,
6 in order for that system to have a powerful motivating
7 effect, I argue that what is needed is a way of, clearly,
8 locating teachers' internal responsibility for student
9 performance, and those factors that impinge on the
10 school, you know, from external agents or actors.

11 Q. And what's the basis for that opinion -- and
12 what are the bases for that opinion?

13 A. The bases are what I point out here, is that
14 the research that I have done on these low performing
15 schools that show that, in schools in which teachers feel
16 they are held accountable to conditions that they feel
17 are not of their doing, the accountability system in
18 those schools is seen as unfair, not valid, and often not
19 realistic; and, as a result, the motivating power of the
20 accountability system is actually rather weak, and you
21 add to that a particular organization -- I don't know if
22 I say this here --

23 Q. In the next sentence, you refer to systemic
24 barriers which I think is a key point or key issue in
25 your report, so I want to make sure I really clearly

1 understand that.

2 So, could you explain to me what you mean by
3 "systemic barriers"?

4 A. What I mean by that -- let's start, concretely,
5 with an individual school. That school has identified
6 various performance barriers. I'm not talking about the
7 specific California compilation of action plans because,
8 you know, that was done to a particular template. I'm
9 talking about an overall.

10 Let's assume a school sits down and says, here are
11 our performance barriers. It's assume the school puts
12 down, we don't have sufficient supply of qualified
13 teachers; we don't have a sufficient supply of
14 instructional materials. Let's assume the school puts
15 that down -- and we don't have a district that is
16 particularly supportive. Then sophisticated review would
17 be able to ascertain to what degree these performance
18 barriers are caused by the school itself, by district
19 actors, or, perhaps, State policies. It could very well
20 be that the insufficient supply of instructional
21 materials is solely due to the fact that the school does
22 not have a good distribution system in place. In that
23 case, it would be caused by the school. It could very
24 well be the districts have not supplied the instructional
25 materials to that school. It could also very well be

1 system that evaluates performance adequacy in conjunction
2 with adequacy in conditions of teaching and learning
3 accomplishes three things:"

4 Again, it's kind of self-evident, but, could you
5 explain to me what, specifically, you mean by performance
6 adequacy?

7 A. Performance adequacy means that a State or a
8 jurisdiction, in general, has established particular
9 goals that a school needs to achieve, and calls those
10 goals adequate performance; perhaps, adequate yearly
11 progress, or it could be defined in many ways. It would
12 not necessarily be progress, but something that -- some
13 performance target or threshold that the State has
14 defined as adequate -- and one would distinguish the
15 adequate from inadequate in an outcome-basis
16 accountability system when the State meets out a negative
17 judgement on the school; and that would, of course, not
18 be adequate.

19 So, in the California case, you know, if the school
20 is being named a low performance school, then that,
21 apparently, is, you know, something that is not adequate.
22 That's what I mean by that.

23 Q. And what do you mean by adequacy of conditions
24 of teaching and learning?

25 A. Yeah, well, I could have continued with it with

1 that that same condition is prevalent in more schools in
2 that same district. And those kinds of conditions, I
3 would say, speak to a more systemic problem.

4 We could do the same thing for supply of teachers --
5 qualified teachers. We could find one school in the
6 district that has a very hard time retaining qualified
7 teachers; no other school has that problem. In that
8 case, in all likelihood, the problem is not systemic in
9 the sense it is not system wide. It is, perhaps, caused
10 by the school that has a very toxic climate that scares
11 away good teachers. It could very well be that many
12 schools in the district have that same problem. In that
13 case, I would say it's a systemic problem, if we find
14 that many districts in the State, particularly in
15 particular socioeconomic environments or schools that
16 serve particular populations have that problem, then, it
17 is actually a problem that is a systemic problem for the
18 State as a whole.

19 Q. So, when you say systemic, it could mean
20 district or State?

21 A. Yeah, in this case, the accountability system
22 is primarily laid out for the school as the primary
23 actor. When I speak of systemic here, it is external to
24 the school caused by either the district or the State.

25 Q. The sentence before the three bullets reads, "A

1 the earlier language and put input.

2 What I'm referring to is, when I cite O'Day and
3 Smith, the input standards and the teaching standards.

4 Q. Is that what you're calling adequacy standards
5 before?

6 A. Well, I think -- I don't know -- yeah,
7 standards of adequacy of educational inputs; but, with
8 the understanding that -- I mean, with the understanding
9 that it is not only inputs. I mean resources and
10 personnel, but also practice standards. So that's, I
11 guess, why I used that term here, teaching and learning,
12 but, it's not -- it could have been a little more
13 accurate, I have to say.

14 Q. How does such a system like the one -- well, a
15 system that evaluates performance adequacy, how does that
16 identify -- help identify -- root causes for performance
17 barriers?

18 A. Well, if you assume that such a system has
19 standards of adequacy for educational inputs and
20 standards of adequacy for performance, then those
21 standards for adequacy of inputs are known by an
22 evaluating agency, by an external evaluator, by whoever
23 does an audit, so it would be easy to identify whether
24 these conditions are met or not.

25 And then, a second step in a good review, the

1 reviewer would get a sense of what is the potential of
2 the school to correct this problem internally, and to
3 what degree does the school rely on the help from
4 outside, be it either direct district support, district
5 policies.

6 And then, since I have in mind that the districts
7 would have to undergo similar scrutiny, to what degree
8 are these conditions caused by district action, inaction,
9 faulty policies, whatever? To what degree could those
10 conditions be remedied by redistribution of resources and
11 to what we degree is it actually that State policies have
12 allowed that condition to run rampant or, you know, be in
13 place?

14 Q. So, when you said helps identify root causes
15 for performance barriers, that could -- performance
16 barriers could include systemic barriers?

17 A. Yeah, so, for example -- for example -- I give
18 a lot of examples later on -- so, for example, again, if
19 you have the issue of teacher turnover, you could remedy
20 the problem of teacher turnover with a beginning teacher
21 mentor program. If it was caused -- the teacher turnover
22 was caused by the rapid burn-out and attrition of the
23 first and second year teachers in this particular school,
24 then an internal remedy really would do it.

25 But, if we see that the whole district has that

1 think of accountability systems that actually do the job
2 of motivating. And, if we find that these accountability
3 systems don't do a good job of motivating then, because
4 they -- rather than creating positive motivation, they
5 create defensiveness -- that then it's overcome by
6 pressure, as I have seen in some of the schools that I
7 studied, overcome by pressure, that then it results in
8 compliance. We have a negative dynamic because
9 compliance education usually means minimum performance,
10 never high performance.

11 Q. So, under the third bullet you say, "While the
12 purposes under (1) and (2)" -- which presumably refers to
13 the first and second bullet points -- "require a high
14 degree of professional sophistication from school
15 evaluators, (3) is a simpler task."

16 Why would identifying root causes of performance
17 barriers require a high degree of professional
18 sophistication?

19 Is that what you were talking about before about
20 professional connoisseurship?

21 A. Yes, it's very, very difficult. You really
22 have to know schools very well to be able to tell what --
23 I mean, some things are easily done. You could make a
24 prima facie case, and you look at a district and say,
25 this whole district -- for example, there are a lot of

1 problem and, you know, that -- as we have some
2 districts -- that district has a salary structure that is
3 not competitive with neighboring districts and,
4 therefore, the first and second year teachers, before
5 they become certified, use that particular poor district
6 as the training ground, and then move on to a better
7 paying district, then that is a systemic problem that
8 cannot be remedied with a mentor program; in all
9 likelihood, can maybe attenuate it, but cannot remedy it
10 to the degree it needs to be remedied.

11 It could very well be that the district may not have
12 the resources to provide these salary levels, that the
13 district finances are stretched to the very limit. They
14 may actually be close to bankruptcy and there is no way
15 that salary levels could be increased; then, that problem
16 needs to be referred to yet another level.

17 What I'm trying to -- that's what I'm envisioning.

18 Q. So, in this section here where you're talking
19 about this system, I don't think you've gotten to it in
20 the report, but, it sounds to me like you're already sort
21 of proposing a review and inspection type system?

22 A. Well, what I'm doing is, I'm actually drawing
23 conclusions from the literature on performance
24 motivation. Since performance motivation is such a
25 central aspect of accountability systems, one needs to

1 districts in the State where they're under II/USP and
2 SPG, and have been in many other interventions before,
3 and problems are rampant across the whole system. There
4 are districts like that. And it's fairly easy to state
5 that the problem is with the district -- at least with
6 the districts and not with the schools -- and, perhaps,
7 even beyond the district, you know, with perhaps State
8 policies that don't support the district to the degree
9 that it needs to be supported; that's easy.

10 But, sometimes, it's very hard when you go to a
11 school and you see a problem -- at least I find it
12 hard -- and you see a problem and it's because the
13 dividing line between what is caused by the teachers in
14 the school and, perhaps, their lack of effort and what is
15 caused by circumstances outside of the school, you know,
16 it's very hard to tell sometimes because it's often both.

17 And so I think it's up to -- I mean, that's why, in
18 some sense, the accountability systems are designed the
19 way they are designed, because it is so murky; otherwise,
20 they would be laughed at. You know, I mean educators --
21 sometimes you talk with educators in these schools -- we
22 found this in our research as well -- they assume the
23 responsibility. They say -- you know, they assume
24 responsibility for something that they did not cause.
25 You find this particularly in elementary schools where

1 the teachers feel responsible for their kids. And so
 2 they see these kids failing, and they feel they're
 3 responsible for it. You do not find that in high schools
 4 very much. They feel they're responsible. They've let
 5 the kids down and they feel down and bad about it. And
 6 so, you know, here comes the accountability system that
 7 kind of reinforces that thought. And, if as an external
 8 evaluator you go into a situation like that, it is very
 9 hard to disentangle this, but, I think it can be done.

10 Q. Under the third bullet you say that such a
 11 system like we've been talking about "...ensures a
 12 minimum level of protection in cases where children's
 13 rights to a decent education may be violated."

14 What's the basis for that statement?

15 A. I believe, as an educator, there are certain
 16 minimum conditions that must be met to call particular
 17 learning conditions decent -- humanely decent -- and I
 18 have come across schools where that level of human
 19 decency was violated.

20 Q. And how does your system ensure a minimum level
 21 of protection?

22 A. These are often such gross violations -- that's
 23 why I'm saying this can be done with facility -- they're
 24 very straightforward -- audit system or compliance review
 25 system can do that kind of stuff such as, you know,

1 violation of building codes and things like that; and it
 2 has been done. It's nothing new. You know, it's not
 3 very sophisticated on -- you know, educationally
 4 sophisticated. I'm not saying that the job of building
 5 inspector cannot be sophisticated, don't get me wrong,
 6 but, on the educational level, it's not as sophisticated.

7 Q. It continues by saying, "Oversight system
 8 detects whether school operations are proper efficient
 9 and adequate."

10 A. Well, these are just ways -- these are just
 11 things to consider. You know, I mean, as you think about
 12 an oversight or review of a system, I mean, that's what a
 13 review system would look for, I believe, adequacy and
 14 efficiency and legally proper.

15 Q. Well, let's talk about reciprocal
 16 accountability -- and we touched on that earlier, but, I
 17 want to talk about it more fully.

18 A. Sure.

19 Q. And, if you told me, I don't recall, but, I
 20 think you did actually tell me why you thought reciprocal
 21 accountability was a good idea.

22 Did you tell me that?

23 A. Why I thought it was a good idea?

24 Q. Yeah.

25 MS. WELCH: Objection, vague.

1 THE WITNESS: I'm not so sure I told you, if you
 2 asked the question why.

3 MS. READ-SPANGLER: Q. Well, do you think it's a
 4 good idea?

5 A. Reciprocal accountability?

6 Q. Yes.

7 A. Yes.

8 Q. Why?

9 A. Well, for two reasons: One, for normative
 10 reasons, I believe that, in a democracy, the State is
 11 beholden to its citizens as much as State employees are
 12 beholden to the authority of the State as a
 13 representative of the people to conform to adequate
 14 levels; so, that's a normative reason. And there's a
 15 reason of effectiveness. I think that these reciprocal
 16 accountability systems are probably more effective.

17 Q. And, in your opinion, California does not have
 18 what you define as a reciprocal accountability system?

19 A. No.

20 Q. So, you don't think there's any accountability
 21 for education at the State level?

22 MS. WELCH: Objection, mischaracterizes his
 23 testimony.

24 THE WITNESS: Yeah, I wouldn't say it that way.

25 MS. READ-SPANGLER: Q. Do you think there's any

1 accountability for education at the State level?

2 A. Let me just be clear as to -- when I say there
 3 is no reciprocal accountability, I'm talking about the
 4 California accountability system only. I'm not talking
 5 about education policy making in general.

6 Now, I mean, the Governor and the lawmakers are
 7 elected by the people in so far as there is reciprocal
 8 accountability; but, in the design of the accountability
 9 system, the reciprocal elements are not visible.

10 Q. Do you know of any states that have a
 11 reciprocal accountability such as the one you describe in
 12 your report?

13 A. In the United States?

14 Q. Yes.

15 A. I don't think there is a State that has that.
 16 I think that is the direction that accountability in the
 17 United States ought to evolve into.

18 Q. Do you think California has any mechanism for
 19 addressing systemic shortcomings on a local level?

20 A. Any mechanisms you're saying?

21 Q. Yeah.

22 A. Yeah, it has some mechanisms. It has -- we see
 23 it has FCMAT. It has FCMAT; it has the compliance
 24 reviews; it has probably many other ways of intervening
 25 in local schools or local districts. Many of those

1 systems have been around for some time, and they have not
2 been able to help close the gap between the lowest and
3 the highest performing schools -- or a lesser goal --
4 move the lowest performing schools up to an adequate
5 standard -- adequate, here again, you will note, as
6 defined by the current accountability system.

7 So, we have many of these systems, but they've not
8 been effective; that's why we have PSAA and that's why we
9 have all these programs because policy makers have, with
10 long experience in these previous models, seen that they
11 weren't working.

12 Q. Do you think California has any mechanism for
13 addressing systemic shortcomings on a State level?

14 MS. WELCH: Objection, vague.

15 THE WITNESS: Any mechanisms? I don't know. There
16 are policies that come from California -- from the
17 State -- for example, let's take class size reduction.
18 The Governor saw a need -- I assume -- let's say the
19 Governor, or the lawmakers, or the State, saw a need, and
20 money was provided for the reduction of class size; so,
21 yes, I would say there are initiatives for that. But, I
22 would say that, within the accountability system, I don't
23 see any systematic mechanisms.

24 Q. Towards the bottom, almost at the bottom of
25 page 8, you say, "Accountability also means that the top

1 policy making has not been particularly successful.

2 So, that's why I'm advocating, you know, we need to
3 have some kind of authoritative information that
4 communities can use, perhaps, against the local school,
5 perhaps, against the district, perhaps, against the State
6 as well.

7 Q. And when you say adequate in the context of
8 adequate provision of education, what do you mean by
9 adequate?

10 A. Well, this goes back to -- I mean, it's really
11 a whole construction when I talk about adequate. I
12 assume, at this point, that there are standards of
13 adequacy for inputs and standards of adequacy for
14 performance.

15 When you look at the logic of the report, these are
16 kind of, hypothetically, in place. Now, we have
17 standards of adequacy both for performance and for
18 inputs, practice standards, you know all of those. We
19 have those standards in place then -- and this is what
20 this refers to.

21 When we have these standards in place, and we have
22 the possibility to evaluate these schools on these
23 standards, then we give communities some information that
24 they can use to craft some kind of political strategy out
25 of.

1 (the state) is held accountable by communities and
2 citizens for the adequate and equitable provision of
3 education."

4 What do you mean by that, generally?

5 A. That means that what we need, in California
6 education, is that the poor communities that tend to be
7 disenfranchised, that have not a very powerful voice in
8 California politics, we need to find mechanisms to
9 strengthen the ability of parents and communities to
10 articulate their interests, not just with the State, but
11 also with local districts and with local schools.

12 In other words, we need to not only think of State
13 oversight, but also, we need to think of how we can
14 mobilize parents and communities to take charge of
15 learning conditions in the schools and to, perhaps,
16 demand changes in those learning conditions when they
17 don't seem to be remedied.

18 And what I'm advocating is, what I'm thinking is --
19 I didn't really go too much into detail on this -- but,
20 what I'm thinking is that, in reciprocal accountability,
21 it is the democratic -- it is the democratic policy that
22 becomes involved in education policy making as well,
23 meaning citizens, communities; and as, a democratic
24 State -- or a democratic State finds ways to involve
25 citizens in areas, particularly where traditionally State

1 Q. And what about equitable in the context you're
2 using it in this sentence?

3 What do you mean by equitable?

4 A. Well, since this deals with a political
5 mobilization of citizens equitability -- equitable
6 treatment is something that is important for political
7 articulation. I mean, people are mobilized by the idea
8 of equality. It's even in the constitution. It's very
9 cherished, a norm, or a value, amongst citizens.

10 So, when we're talking about mobilized communities
11 that have encountered underprivileged or disadvantaged
12 circumstances, perhaps continuously, then the
13 equitable -- an equitable treatment is something that I
14 think would be rather relevant here.

15 Q. And what are the bases for this opinion?

16 A. For which one now?

17 Q. In the sentence -- the whole sentence --
18 "Accountability also means that the top (the state) is
19 held accountable by communities and citizens and for the
20 adequate and equitable provision of education."

21 A. This goes back to the original sentence about
22 accountability; but, also in the reverse, I believe this
23 is the normative construction of a democratic State and
24 that, therefore, it ought to be constructed as a two-way
25 street.

1 Q. Turning to page 9, under the section of
2 "Balance of Oversight and Support", you say, "A good
3 accountability system balances oversight and support."

4 Why is that important?

5 A. The track record of states has been to get
6 involved in education by proliferating oversight, and I
7 think the literature has shown, time and again, that
8 oversight does not move schools alone; it needs to be
9 coupled by support.

10 And, therefore, when one thinks of oversight
11 systems, one has to think how these oversight systems can
12 be constructed in a way that they're perceived as
13 supportive rather than authoritative, data gathering
14 endeavors or judgement agencies that mete out judgments
15 and the like.

16 Q. But, doesn't balance in a good accountability
17 system, doesn't balance take time to achieve?

18 A. Yes.

19 Q. And I think you said earlier, in a different
20 context, your estimate in California would be maybe a
21 five-year plan.

22 Do you think it would take California a similar
23 amount of time to achieve a good accountability system
24 that balances oversight and support?

25 MS. WELCH: Objection, vague, incomplete

1 premises and the literature.

2 MS. READ-SPANGLER: Q. Right.

3 A. So, I assume that you're asking me to jump into
4 the specifics?

5 Q. In a general sense, I don't want to go into a
6 full execution of II/USP or CCR right now, but -- and I
7 don't want to put words in your mouth by throwing CCR out
8 there -- but, yeah, if you could just identify for me
9 what it is that you think California has not -- that is a
10 first, step but that California has not done
11 sufficiently -- and, trust me, we'll talk about other
12 stuff in more detail tomorrow.

13 A. Okay, all right.

14 Q. Maybe I can just shortcut it.

15 Is it those things that you've identified in your
16 report?

17 A. Yeah.

18 Q. Are there any first steps that you think
19 California has taken towards achieving a balanced
20 accountability system, but that they haven't done
21 sufficiently, that are not identified in your report?

22 A. Any first steps that the State has taken?

23 Q. But that they haven't done sufficiently, that
24 aren't in your report.

25 I just want to make sure I'm not missing anything.

1 hypothetical.

2 THE WITNESS: I don't know whether it would take
3 five years to have -- I would say to develop a good
4 balance takes some time,, but I think that balance cannot
5 be achieved, not even within ten years or 20 or whatever
6 if first steps are not taken.

7 And, as I see it now, the steps that ought to be
8 taken to actually build this out -- build this balance of
9 oversight and support out -- that those steps, I don't
10 see, have been taken sufficiently. So, I see my report
11 as an appeal to go in this direction further.

12 Q. What are you talking about when you say the
13 first steps have not been taken sufficiently?

14 What are you specifically referring to in California
15 that haven't --

16 A. This, of course --

17 MS. WELCH: You should let her finish. I don't know
18 if there was more at the end.

19 MS. READ-SPANGLER: I was just going to say it
20 hasn't been done sufficiently.

21 THE WITNESS: That goes towards a later part of the
22 report that deals more, you know, with the specifics of
23 II/USP, and these programs.

24 So here, I'm talking about it in a more theoretical
25 way. I'm talking more in terms of establishing my

1 A. I think that question is hard to answer. I
2 don't know how to answer it.

3 Q. Due understand what I'm asking?

4 A. No, probably not.

5 Q. It gets hard at the end of the day.
6 (Discussion off the Record)

7 MS. READ-SPANGLER: Q. Other than what you talk
8 about in your report, can you identify anything that you
9 consider to be a step that California has taken towards
10 achieving a balanced accountability system, or in its
11 accountability system as a first step, but that it hasn't
12 done sufficiently?

13 MS. WELCH: Other than what's in your report.

14 THE WITNESS: Other than what's in my report, no.

15 MS. READ-SPANGLER: Okay, good.

16 Q. You then go on, in the same first paragraph, to
17 talk about -- you say, this system -- sort of in the
18 middle of the paragraph -- needs to quote "mobilize those
19 educators most willing and able to engage in school
20 improvement and leave enough room for local variation in
21 crafting improvement strategies".

22 How do you -- how would one go about mobilizing
23 educators in the way that you're talking about?

24 A. Educators are mobilized in all kinds of ways.

25 To begin with, when goals are considered educationally

1 meaningful, when a teacher perceives the goals to speak
2 to students needs, teachers tend to be more mobilized
3 than not.

4 Q. Are you just using the word mobilize in the
5 same sense as motivate?

6 A. Well, yes, in this case, yeah, you could use it
7 in the same way. When I use mobilized here, I had more
8 in mind the actual, you know, more activity. I mean
9 mobilizing is a little more than motivating, so, you
10 actually -- since I'm talking about later on -- or
11 actually a little earlier I talk about the high quality
12 workers -- I'm seeing these groups of people -- I'm
13 envisioning, as I'm writing this, I'm envisioning these
14 groups of people that I have encountered in many schools.
15 They're highly mobilized, they're very active, and
16 usually, in school improvement, such a group is needed to
17 effect anything in schools. So, I guess that's why I
18 termed the word mobilize instead of motivate.

19 Q. And when you talk about local variation in
20 drafting improvement strategies, what is that talking
21 about?

22 (Record read)

23 THE WITNESS: Is this question asking me what I mean
24 by local variation or --

25 MS. READ-SPANGLER: Q. Yes.

1 A. All right, local variation, what I mean by that
2 is, if you have a school -- I'll give you an example --
3 if you have a school with a large number of language
4 minority children, and you compare that with the school,
5 say, in a rural environment, with doesn't even have to be
6 rural environment, it doesn't matter -- I'm just
7 constructing it with a native language population, both
8 of them low performing, officially, the solutions that
9 you're crafting are rather different depending on the
10 particular context. It might very well be that, in one
11 school, the parents are very involved and something else
12 is amiss; in another school, parents are not involved at
13 all, and the school might consider parental involvement
14 to be a promising strategy to make some changes. So that
15 would be -- you know, that would some local variation.

16 You could go on with this example and think of some
17 external conditions that the school is in; that's what I
18 mean by local variation.

19 Q. And you think that it's important that the
20 system leave enough room --

21 A. Yes.

22 Q. -- to have this different local variation?

23 A. Yes, that's why it is so extremely important
24 that, whatever review we're talking about, and we're
25 talking here about oversight and support and review, that

1 it is a very sophisticated kind of review that is -- that
2 it's not usually. There's an inverse relationship
3 between sophistication and standardization. The more
4 sophisticated the review, the less standardized it has to
5 be.

6 If there is an external provider, if there's a
7 reviewer who does not have much sophistication, he or she
8 may have to rely on standardization. And so, with a less
9 skillful kind of review, you may end up with a
10 standardization.

11 When you look at the orders, for example, you know,
12 some orders or some of the plans that I read, they
13 sometimes read boilerplate. The solutions that are being
14 suggested are repetitive, and I think that's dangerous.
15 I think there should be room for school autonomy.

16 Also, in terms of motivation, we know from the
17 literature, time and again, that, if a State or a
18 district takes autonomy away from the schools, their
19 long-term motivation problems or else -- yeah, leave it
20 at that.

21 Q. Towards two-thirds of the way down the second
22 paragraph, in that section you mention the New American
23 Schools design, which is a school reform project, I
24 believe?

25 A. Yeah.

1 Q. Is that a statewide program or is it a CSRD
2 type model or --

3 A. The CSRD came out of the New American Schools.
4 It actually started out as, I think, a private industry
5 initiative. It was called New American Schools
6 Development Corporation first. It put out a competition
7 for designs in which 50 or so designs participated.
8 There was a very careful selection out of those. I think
9 New American schools then came up with about 12. Those
10 12 were heavily supported by millions of dollars and were
11 implemented in several districts -- not statewide --
12 Memphis is the most well-known district for the New
13 American Schools design. This whole effort around New
14 American Schools put this idea of research based on the
15 educational map, because this was an effort really to see
16 what these models actually are doing. The charge was the
17 earlier models, such as the Kumer model, or accelerated
18 schools, or essential schools, host models, they all
19 purport to be beneficial, but there was very little
20 evaluative data that would show that, so this was a
21 different attempt.

22 Q. So, is the New American Schools design one
23 specific model --

24 A. No.

25 Q. -- or is it a whole set-up?

1 A. It's a set of, I think, 12 different designs.
 2 And Memphis is unique. I mean, those designs were
 3 implemented in many districts across the United States,
 4 but, Memphis is unique because I think just about all of
 5 them were implemented in that one district.
 6 Q. Are districts still using the New American
 7 Schools design?
 8 Is this like an active model?
 9 A. Yeah, yeah. Well, like I said --
 10 Q. Models?
 11 A. -- these are 12 different designs.
 12 Q. Right.
 13 A. The NAS is an umbrella of these particular
 14 designs; in other words, they made it through the first
 15 round of design competition, so that's why they get the
 16 label NAS. But, they're actually independent models such
 17 as Success for All is one of them, and Roots and Wings is
 18 another one, The Modern Red Schoolhouse is another one,
 19 Core Knowledge is another one. These are all various
 20 creators of these interventions, and they were
 21 followed -- I mean, research really followed them very
 22 closely to implementation.
 23 Q. And just to make sure, not to beat a dead
 24 horse, but, just to make sure I'm getting it, so, if I'm
 25 a CSRD school, I could pick one of these? I could look

1 REPORTER'S CERTIFICATE
 2
 3 I, MARYANN COSTA DAVI, RPR, C.S.R. NO.
 4 5820, Certified Shorthand Reporter, certify:
 5 That the foregoing proceedings were taken
 6 before me at the time and place therein set forth, at
 7 which time the witness was put under oath by me;
 8 That the testimony of the witness, the
 9 questions propounded, and all objections and statements
 10 made at the time of the examination were recorded
 11 stenographically by me and were thereafter transcribed;
 12 That the foregoing is a true and correct
 13 transcript of my shorthand notes so taken.
 14 I further certify that I am not a
 15 relative or employee of any attorney of the parties, nor
 16 financially interested in the action.
 17 I declare under penalty of perjury under
 18 the laws of California that the foregoing is true and
 19 correct.
 20 Dated this day of , 2003.
 21
 22
 23 _____
 24 MARYANN COSTA DAVI, RPR, C.S.R. NO. 5820
 25

1 at these and pick?
 2 A. Or others. I mean, out of the New American
 3 Schools design came the idea that there should be some
 4 kind of authoritative list of good designs and there
 5 was --
 6 Q. Right, I was just trying to make sure. I'm at
 7 a pretty good stopping place, unless you want to plow all
 8 the way through the premises?
 9 A. I'm done as far as I'm concerned.
 10 Q. We're off the record.
 11 (Deposition session ends at 5:05 p.m.)
 12 --oOo--
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1 REPORTER'S CERTIFICATION OF CERTIFIED COPY
 2
 3 I, MARYANN COSTA DAVI, RPR, CSR No. 5820,
 4 a Certified Shorthand Reporter in the State of
 5 California, certify that the foregoing pages 1 through
 6 207, constitute a true and correct copy of the original
 7 deposition of HEINRICH MINTROP, Ph.D., taken on Monday,
 8 March 31, 2003.
 9 I declare under penalty of perjury under
 10 the laws of the State of California that the foregoing is
 11 true and correct.
 12
 13 Dated this day of , 2003.
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 15
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 18 MARYANN COSTA DAVI, RPR, C.S.R. No. 5820
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1 STATE OF CALIFORNIA)
) SS.

2 COUNTY OF SAN FRANCISCO)

3
4

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

10 EXECUTED this _____ day of _____,
11 2003, at _____, _____.
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