

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO

ELIEZER WILLIAMS, a minor,)
by Sweetie Williams, his)
guardian ad litem, et al.,)

Plaintiffs,)

vs.)

No. 312236

STATE OF CALIFORNIA; DELAINE)
EASTIN, State Superintendent)
of Public Education; STATE)
DEPARTMENT OF EDUCATION;)
STATE BOARD OF EDUCATION,)

Defendants.)

DEPOSITION OF GENO FLORES
Sacramento, California
Friday, July 18, 2003
Volume 2

Reported by:
STEPHANIE SMITHSON, RMR

CSR No. 9770

JOB No. 43751

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FOR COUNTY OF SAN FRANCISCO

1 ELIEZER WILLIAMS, a minor,)
2 by Sweetie Williams, his)
3 guardian ad litem, et al.,)
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5 Plaintiffs,)
6)
7 vs.) No. 312236
8)
9 STATE OF CALIFORNIA; DELAINE)
10 EASTIN, State Superintendent)
11 of Public Education; STATE)
12 DEPARTMENT OF EDUCATION;)
13 STATE BOARD OF EDUCATION,)
14)
15 Defendants.)
16)
17 _____)

18 Deposition of GENO FLORES, Volume 2, taken of
19 behalf of Plaintiffs at 400 Capitol Mall, Suite 2300,
20 Sacramento, California, beginning at 10:10 a.m. and
21 ending at 2:24 p.m., on Friday, July 18, 2003, before
22 Stephanie Smithson, RMR, Certified Shorthand Reporter
23 No. 9770.
24
25

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1 Sacramento, California, Friday, July 18, 2003
2 10:10 a.m. - 2:24 p.m.
3
4 GENO FLORES,
5 having been first duly sworn, was examined and testified as
6 follows:
7 ///
8
9 EXAMINATION
10 BY MS. WELCH:
11 Q Good morning, Mr. Flores. How are you doing
12 today?
13 A Good.
14 Q Is there any reason why you can't give your best
15 testimony today?
16 A I'm thinking. No. I'm not sure I won't be
17 distracted by the six million kids I'm not taking care of
18 today, but I'll be fine.
19 Q I appreciate that.
20 The State Board of Education has voted to delay
21 the High School Exit Exam as a requirement for graduation
22 for two years; is that correct?
23 A Until the class of 2006.
24 Q Were you in favor of this decision?
25 A Yes.

1 Q Why?
 2 A For the reasons stated by the State Board of
 3 Education and by Superintendent Jack O'Connell.
 4 Q And what are those reasons?
 5 MR. VIRJEE: Those statements or documents or
 6 reasons speak for themselves. Are you asking to know --
 7 if you're asking what he can recall about it, that's fine.
 8 THE WITNESS: That the Humro report cited that
 9 the classes following 2004 may have better exposure to the
 10 content standards that are captured on the blueprint.
 11 BY MS. WELCH: (Continuing)
 12 Q Anything else?
 13 MR. VIRJEE: Same objection; calls for
 14 speculation, lacks foundation.
 15 THE WITNESS: As well as the information
 16 provided in the Humro report that more schools are providing
 17 instructional and remedial courses for students who have not
 18 yet passed the High School Exit Exam.
 19 BY MS. WELCH: (Continuing)
 20 Q Is there anything else that you can think of?
 21 A Not at this time.
 22 Q Was your branch involved in advising the Board
 23 regarding whether to delay the High School Exit Exam?
 24 MR. VIRJEE: Objection; vague and ambiguous as
 25 to advising the board.

1 THE WITNESS: Only through the Item Number 4 of
 2 the July 2003 state board meeting.
 3 BY MS. WELCH: (Continuing)
 4 Q Which is what?
 5 A Which was the official agenda item and the
 6 response of the department.
 7 Q Could you explain the agenda item?
 8 MR. VIRJEE: I think he just did.
 9 THE WITNESS: Agenda item for July 2003 State
 10 Board of Education meeting was regarding the AB 1609
 11 requirement and the postponement of the graduation
 12 requirement, and it contained one attachment which was a
 13 letter from Superintendent Jack O'Connell with
 14 recommendations for delaying it.
 15 BY MS. WELCH: (Continuing)
 16 Q So how -- I don't understand how your branch was
 17 involved in that.
 18 A Indirectly.
 19 Q Have you reviewed the Humro report?
 20 MR. VIRJEE: Objection; vague and ambiguous as
 21 to Humro report. Which one? Regarding what topic? Vague
 22 as to time.
 23 BY MS. WELCH: (Continuing)
 24 Q Let's start with the first report. Have you
 25 reviewed the first Humro report?

1 MR. VIRJEE: Same objection as to Humro report
 2 as to High School Exit Exam or any other report.
 3 THE WITNESS: I recall reading the first Humro
 4 report after year one while in my capacity at Long Beach
 5 Unified School District.
 6 BY MS. WELCH: (Continuing)
 7 Q Do you recall anything about the report's
 8 findings?
 9 MR. VIRJEE: Objection; the report speaks for
 10 itself.
 11 THE WITNESS: Vaguely.
 12 BY MS. WELCH: (Continuing)
 13 Q What do you recall?
 14 MR. VIRJEE: Same objection.
 15 THE WITNESS: I recall that much of the report
 16 was describing the development of the High School Exit Exam
 17 including the processes for determining which of the State's
 18 standards would be -- would make up the blueprint and the
 19 development of the examination.
 20 BY MS. WELCH: (Continuing)
 21 Q Is there anything else you recall?
 22 A No.
 23 Q Do you recall the first year Humro report's
 24 discussion of opportunity to learn issues?
 25 MR. VIRJEE: Objection; vague and ambiguous as

1 to opportunity to learn issues, calls for speculation as to
 2 whether the Humro report had such a discussion, lacks
 3 foundation.
 4 THE WITNESS: No.
 5 BY MS. WELCH: (Continuing)
 6 Q Have you read any analysis of opportunity to
 7 learn issues with respect to the High School Exit Exam?
 8 MR. VIRJEE: Objection; vague and ambiguous as
 9 to opportunity to learn issues.
 10 THE WITNESS: Thinking.
 11 No.
 12 BY MS. WELCH: (Continuing)
 13 Q Are you familiar with the Deborah P. case?
 14 A Yes.
 15 Q What's your understanding of that case?
 16 MR. VIRJEE: Objection; calls for a legal
 17 conclusion, calls for testimony which this witness is not
 18 competent to give.
 19 THE WITNESS: The Deborah P. versus Tarlington
 20 case occurred in the state of Florida roughly late '70s,
 21 early '80s, I believe, and was a case involving the
 22 application of a statewide examination for high school
 23 students to demonstrate proficiencies and skills as part of
 24 the requirements for graduation or receiving a diploma.
 25 BY MS. WELCH: (Continuing)

1 Q Have you prepared an analysis of that case?
 2 A No.
 3 Q Have you prepared a written document that
 4 discusses that case?
 5 A I believe during my graduate work at UCLA, I may
 6 have cited that case or referenced that case.
 7 Q Did you analyze in the document that you just
 8 discussed the issue of opportunity to learn as it is
 9 presented in the Deborah P. case?
 10 MR. VIRJEE: Objection; calls for speculation,
 11 lacks foundation as to how the opportunity to learn concept
 12 is described in the case, calls for a legal conclusion,
 13 vague and ambiguous as to opportunity to learn.
 14 THE WITNESS: I can't recall.
 15 BY MS. WELCH: (Continuing)
 16 Q Do you recall if you used the phrase opportunity
 17 to learn in this paper that you prepared?
 18 MR. VIRJEE: Objection; vague and ambiguous.
 19 The document speaks for itself.
 20 THE WITNESS: I can't recall.
 21 BY MS. WELCH: (Continuing)
 22 Q Do you recall if you reached any conclusions on
 23 use of High School Exit Exams in the paper that you
 24 prepared?
 25 MR. VIRJEE: Objection; the document speaks for

1 THE WITNESS: I don't know if that's the first
 2 day or the second day.
 3 What does attend mean?
 4 MR. VIRJEE: What does attend mean?
 5 THE WITNESS: Attend the meeting?
 6 MR. VIRJEE: Oh, attend.
 7 Objection; vague and ambiguous as to attend.
 8 He's asking what you mean by attend.
 9 BY MS. WELCH: (Continuing)
 10 Q Were you present?
 11 MR. VIRJEE: For the whole meeting? Any part of
 12 the meeting? Some portion of the whole meeting. I don't
 13 know. Ask her to clarify if you don't understand.
 14 THE WITNESS: Do you mean present in the room
 15 while the board meeting was in occurrence?
 16 BY MS. WELCH: (Continuing)
 17 Q I mean, were you at the meeting in any form,
 18 either in the room? On the phone?
 19 MR. VIRJEE: In spirit?
 20 THE WITNESS: Yes.
 21 BY MS. WELCH: (Continuing)
 22 Q Do you recall the discussion at the -- on May
 23 7th -- at the May 7th board meeting regarding the High
 24 School Exit Exam?
 25 MR. VIRJEE: Objection; assumes facts not in

1 itself. The witness' already said that he doesn't recall
 2 content of that paper.
 3 MS. READ-SPANGLER: Lacks foundation.
 4 MR. VIRJEE: If you can remember exactly what's
 5 in it, then answer, Geno, but I don't want you to guess or
 6 speculate.
 7 THE WITNESS: I can't recall.
 8 BY MS. WELCH: (Continuing)
 9 Q Are you familiar with Susan Phillips?
 10 A I know that name.
 11 Q Have you ever read any documents that she's
 12 prepared?
 13 A Thinking.
 14 No.
 15 Q Have you ever attended any meetings in which she
 16 was present?
 17 MR. VIRJEE: Objection; calls for speculation,
 18 also vague and ambiguous as to meetings.
 19 THE WITNESS: I can't recall.
 20 BY MS. WELCH: (Continuing)
 21 Q Did you attend the May 7th, 2003 Board of
 22 Education meeting?
 23 A I should have.
 24 MS. READ-SPANGLER: Don't guess. If you have a
 25 specific recollection.

1 evidence; assumes he was present for that discussion.
 2 THE WITNESS: I don't understand the question.
 3 BY MS. WELCH: (Continuing)
 4 Q All right. Why don't I make the May 7th board
 5 meeting an exhibit?
 6 MR. VIRJEE: I'm assuming you mean the minutes
 7 from the meeting.
 8 MS. WELCH: Yeah, correct.
 9 (Deposition Exhibit 290 was marked for
 10 identification by the court reporter.)
 11 MR. VIRJEE: Are we at 290?
 12 THE REPORTER: Yes.
 13 MR. VIRJEE: Thank you.
 14 MS. WELCH: For the record, Exhibit 290 is a
 15 document called "Final Minutes State Board of Education May
 16 7 through 8, 2003."
 17 BY MS. WELCH: (Continuing)
 18 Q And if I could direct your attention to page 5 of
 19 the document. You're welcome to review as much as you want,
 20 but this is the relevant page for my questions.
 21 MR. VIRJEE: You want him to read page 5; is
 22 that what you're asking him to do?
 23 MS. WELCH: Sure.
 24 THE WITNESS: (BRIEF PAUSE; witness reviewing
 25 document.)

1 BY MS. WELCH: (Continuing)
 2 Q And if you could read page 6, as well.
 3 MS. READ-SPANGLER: What about 7?
 4 MS. WELCH: Why don't you read the entire item.
 5 That would be helpful, probably.
 6 THE WITNESS: (BRIEF PAUSE; witness reviewing
 7 document.)
 8 Okay. I've reviewed it.
 9 BY MS. WELCH: (Continuing)
 10 Q I take it that you were present for Item 4 of the
 11 May 7th board meeting?
 12 A Yes.
 13 Q Do you recall this portion of the meeting?
 14 A Yes.
 15 Q Directing your attention to page 6 in the middle
 16 of the page, it says, "Mr. Nunes says his main concern is
 17 that students have the opportunity to learn, and toward that
 18 end schools must provide students state-adopted instruction
 19 materials, and teachers must have the professional
 20 development to use the material as well." Do you recall
 21 Mr. Nunes' statement?
 22 MR. VIRJEE: Does he recall Mr. Nunes saying
 23 that?
 24 I think that's her question.
 25 THE WITNESS: I don't recall that.

1 BY MS. WELCH: (Continuing)
 2 Q Do you recall the discussion?
 3 A I recall the discussion as captured in the
 4 minutes.
 5 Q Do you recall this particular component of the
 6 discussion regarding opportunity to learn?
 7 A I don't understand the question.
 8 Q Do you recall this component of the discussion?
 9 A You just repeated the question.
 10 Q What part do you not understand?
 11 A What you're asking me. That I understand that
 12 Mr. Nunes said these things?
 13 Q Do you recall the discussion that went on around
 14 this issue?
 15 MR. VIRJEE: Around the issue of opportunity to
 16 learn?
 17 THE WITNESS: I recall the discussion around
 18 Item 4 which was regarding the High School Exit Exam and the
 19 potential or possible delay of the graduation requirements.
 20 BY MS. WELCH: (Continuing)
 21 Q Do you recall any discussion of opportunity to
 22 learn?
 23 A No, I don't recall.
 24 Q Looking at Mr. Nunes' statement about his main
 25 concern that students have the opportunity to learn, is that

1 a concern that you share?
 2 MR. VIRJEE: Objection; assumes facts not in
 3 evidence. The document speaks for itself. He says he
 4 doesn't recall Mr. Nunes' statements. Also vague and
 5 ambiguous as to a concern you share and opportunity to
 6 learn. Also, calls for speculation as to what did Mr. Nunes
 7 concern may be. He can't climb into the mind of Mr. Nunes.
 8 THE WITNESS: I've not had a conversation with
 9 Mr. Nunes about the term "opportunity to learn" to know what
 10 he believes that means.
 11 BY MS. WELCH: (Continuing)
 12 Q What do you believe it means --
 13 MR. VIRJEE: Objection; asked and answered --
 14 BY MS. WELCH: (Continuing)
 15 Q -- in this context?
 16 MR. VIRJEE: Objection; asked and answered
 17 yesterday. Also, vague and ambiguous as to in this context.
 18 THE WITNESS: I believe in this discussion at
 19 this point for this item the question was whether as stated
 20 in the item -- in the Humro report that students -- that
 21 implementation of standards-based instruction meet the
 22 standards required for the high school graduation test.
 23 BY MS. WELCH: (Continuing)
 24 Q That wasn't my question.
 25 A That's what I believe the context of the

1 discussion of opportunity to learn was.
 2 Q Do you have an understanding of what opportunity
 3 to learn means with respect to the California High School
 4 Exit Exam?
 5 MR. VIRJEE: Objection; vague and ambiguous as
 6 to means. Means as to whom? Calls for speculation and
 7 lacks foundation.
 8 MS. READ-SPANGLER: And asked and answered
 9 yesterday.
 10 THE WITNESS: I have not seen nor have I read
 11 any particular documents or statements that state a official
 12 position on what opportunity to learn means.
 13 BY MS. WELCH: (Continuing)
 14 Q I wasn't asking for an official position. I was
 15 asking for your position.
 16 MR. VIRJEE: That wasn't your question. And so
 17 if you want to ask that question, you can. I'll still make
 18 the same objection, vague and ambiguous as to opportunity to
 19 learn.
 20 BY MS. WELCH: (Continuing)
 21 Q I actually just want an answer to the question
 22 that I originally asked.
 23 A I'm sorry. Could you repeat the question.
 24 MS. WELCH: MS. WELCH: Could we go back in the
 25 transcript?

1 (Record read as follows:
 2 "Do you have an understanding of what
 3 opportunity to learn means with respect to the
 4 California High School Exit Exam.")
 5 MR. VIRJEE: Can you read my objection, please.
 6 (Record read as follows:
 7 "MR. VIRJEE: Objection; vague and ambiguous
 8 as to means. Means as to whom? Calls for speculation
 9 and lacks foundation.
 10 MS. READ-SPANGLER: And asked and answered
 11 yesterday.")
 12 THE WITNESS: Is there a pending question?
 13 MS. WELCH: Yeah.
 14 THE WITNESS: I haven't answered the question?
 15 MR. VIRJEE: If you understand and have a
 16 different answer than you gave before.
 17 MS. WELCH: There wasn't an answer.
 18 THE WITNESS: My understanding of the context of
 19 opportunity to learn as expressed by Mr. Nunes was in
 20 relationship to the Humro's report of one of its two main
 21 purposes, one of which was to determine whether the
 22 implementation of standard-based instruction met the
 23 standards required for the high school examination test.
 24 MR. VIRJEE: That was the answer he gave last
 25 time.

1 There's no question pending.
 2 MS. WELCH: There isn't a question pending?
 3 MR. VIRJEE: He's answered your question twice
 4 now.
 5 MS. WELCH: Actually, he hasn't, but I will ask
 6 another question, because it's clear that for whatever
 7 reason he doesn't want to answer.
 8 MR. VIRJEE: Well, it's clear that he's answered
 9 the question to the best of his ability. Maybe you aren't
 10 asking the question or don't like the answer. That's too
 11 bad. He's answered the question the best he can.
 12 MS. WELCH: I disagree.
 13 I'd like to mark the next exhibit.
 14 (Deposition Exhibit 291 was marked for
 15 identification by the court reporter.)
 16 MS. READ-SPANGLER: Do you want to identify the
 17 exhibit for the record?
 18 MS. WELCH: I will.
 19 THE WITNESS: Read it?
 20 MR. VIRJEE: I would wait and see what she wants
 21 you to do with it. Otherwise, we'll be sitting for a while
 22 while you read the whole document. She may not need you to
 23 do.
 24 MS. WELCH: For the record, this exhibit is an
 25 memorandum dated December 3rd, 1999 to Delaine Eastin from

1 Gwen Stevens who was at that time the director of the
 2 standards and assessment division, and the subject is called
 3 High School Exit Exam first interim report.
 4 BY MS. WELCH: (Continuing)
 5 Q I want to ask you -- I understand that you are
 6 not within your current position in 1999, and I'm not asking
 7 you to validate the contents of this document. I want to
 8 ask you about the current status of certain recommendations
 9 made in the document. You're welcome to review as much as
 10 you want, but I'm going to be focusing specifically on page
 11 5.
 12 A (BRIEF PAUSE; witness reviewing document.)
 13 Would you repeat what you told me you're just
 14 going to do?
 15 MS. WELCH: Could you read it back?
 16 MR. VIRJEE: She said she was going to have you
 17 look at page 5.
 18 THE WITNESS: (BRIEF PAUSE; witness reviewing
 19 document.)
 20 This document references a series.
 21 MS. READ-SPANGLER: There's no question pending.
 22 BY MS. WELCH: (Continuing)
 23 Q You can finish your statement?
 24 MR. VIRJEE: You don't need to finish your
 25 statement. She can ask a question.

1 THE WITNESS: Okay.
 2 BY MS. WELCH: (Continuing)
 3 Q Do you have a question for me?
 4 A No.
 5 Q Okay. Are you finished reviewing the document?
 6 A No.
 7 Q Okay.
 8 A (BRIEF PAUSE; witness reviewing document.)
 9 Okay. I've read this document.
 10 Q The policy and evaluation branch is responsible
 11 for the High School Exit Exam; is that correct?
 12 A No.
 13 Q Which branch is responsible for the High School
 14 Exit Exam?
 15 MR. VIRJEE: Objection; vague and ambiguous as
 16 to responsible, vague as to time.
 17 MS. READ-SPANGLER: Do you mean branch or
 18 division?
 19 BY MS. WELCH: (Continuing)
 20 Q Division. I'm sorry.
 21 A Responsible in what way?
 22 Q Well, I believe yesterday you talked about the
 23 various tests that the policy and evaluation division
 24 oversees; is that correct?
 25 A No, I don't think so.

1 Q I'm sorry. I'm using the wrong name. The
2 standards and assessment division is responsible for the
3 High School Exit Exam; is that correct?

4 A Yes.

5 Q And what are -- what are the responsibilities
6 with respect to that test of the standards and assessment
7 division?

8 MR. VIRJEE: Objection; asked and answered
9 yesterday, that exact question.

10 THE WITNESS: The High School Exit Examination
11 unit within the standards and assessment division monitors
12 the contract for the development and implementation and
13 administration and scoring and reporting of the California
14 High School Exit Examination.

15 BY MS. WELCH: (Continuing)

16 Q And what goes into monitoring the contract?

17 A Ensuring that the contractor meeting its time
18 line obligations for development, delivery, scoring and
19 reporting of the exit examination.

20 Q Does the standards and assessment division
21 currently make any recommendations with respect to the High
22 School Exit Exam to the board or the superintendent?

23 MR. VIRJEE: Objection; vague and ambiguous as
24 to recommendations and currently.

25 THE WITNESS: The division in conjunction with

1 Q What documents have you seen?

2 MR. VIRJEE: Objection; vague and ambiguous as
3 to what documents you've seen.

4 THE WITNESS: The standards and assessment
5 division and in particular the High School Exit Examination
6 unit has prepared documents with recommendations for the
7 State Board of Education and proposed them through the state
8 agenda process and included them as attachments, I believe,
9 at the last board meeting, the July board meeting. There
10 were some particular attachments which identified some
11 suggestions and even recommendations for the state board
12 upon which action they took.

13 BY MS. WELCH: (Continuing)

14 Q Do you remember those recommendations?

15 A Yes.

16 Q What are they?

17 A It's a recommendation to consider a revision to
18 the blueprint of the High School Exit Examination, a
19 consideration for the State Board of Education to consider
20 reducing the test in its current configuration from a
21 two-day English/language arts examination to a one-day
22 English/language arts examination and a recommendation that
23 the board make a decision regarding a compensatory scoring
24 model.

25 Q Looking at page 5 of the exhibit, the last

1 the current deputy superintendent have had discussions with
2 the chief deputy, the chief deputy's superintendent and the
3 superintendent of public instruction regarding the High
4 School Exit Exam.

5 BY MS. WELCH: (Continuing)

6 Q Do you know if the division has prepared a
7 document similar to the exhibit that you've just looked at
8 that discusses recommendations with respect to the High
9 School Exit Exam?

10 MR. VIRJEE: Just for clarity, the division
11 didn't prepare this document, but I know your question could
12 be assumed to -- assumed that. I want the record to be
13 clear.

14 THE WITNESS: I'm not -- I'm not familiar with
15 any document that the standards and assessment division has
16 prepared similar to this document.

17 BY MS. WELCH: (Continuing)

18 Q So you haven't seen a document that memorializes
19 any recommendations that they may have had with respect to
20 the High School Exit Exam?

21 MR. VIRJEE: Objection; misstates his testimony
22 to the extent you were trying.

23 THE WITNESS: I haven't seen any document
24 similar to this document.

25 BY MS. WELCH: (Continuing)

1 sentence in the top paragraph says, "To enhance the legal
2 standing of the HSEE and to support the work of districts
3 and schools, we recommend" -- and then under that, there are
4 five bullet points. Do you know if the first recommendation
5 has been implemented by the State of California?

6 MR. VIRJEE: Objection; vague and ambiguous as
7 to recommendation. And, again, I want to make it clear this
8 isn't a document prepared by the division or the branch of
9 the State of California. It's a document prepared by an
10 outside entity, outside committee, and that these are not --
11 there's been no foundation established that these
12 recommendations were adopted by the division, the branch,
13 the department or the board.

14 THE WITNESS: Your question was?

15 BY MS. WELCH: (Continuing)

16 Q Do you know if this recommendation has been
17 implemented?

18 A I do not know.

19 Q Do you know if the second recommendation has been
20 implemented.

21 MR. VIRJEE: Same objection with respect to all
22 of the recommendations.

23 THE WITNESS: I do not know.

24 BY MS. WELCH: (Continuing)

25 Q Do you know whether the third recommendation has

1 been implemented?

2 A If the third recommendation has been implemented?

3 MR. VIRJEE: Also, vague and ambiguous as to the
4 recommendations and implementation and what would constitute
5 implementation.

6 THE WITNESS: I cannot speak to the issue of
7 teacher recruitment, but quality development is part of the
8 state board's plan under No Child Left Behind to meet our
9 federal requirements for a highly-qualified teacher in every
10 classroom by 2008.

11 BY MS. WELCH: (Continuing)

12 Q Do you know whether the fourth recommendation has
13 been implemented?

14 MR. VIRJEE: I would object that the fourth
15 bullet constitutes a recommendation at all or there be
16 any way to even determine whether it's been implemented.
17 It's vague and ambiguous as to implementation.

18 THE WITNESS: I do not know.

19 BY MS. WELCH: (Continuing)

20 Q And do you know whether the fifth recommendation
21 has been implemented?

22 MR. VIRJEE: Object as to vague and ambiguous on
23 the fifth bullet as to what it means and as to what
24 increasing means and whether you can tell by just looking at
25 the document whether it's been implemented or not, calls for

1 them. I'm not sure what this panel meant by resources.

2 Q Do you agree that the opportunity to learn issues
3 addressed in the five bullet points on this page are a key
4 to success of the High School Exit Exam and must be
5 addressed?

6 MR. VIRJEE: Objection; vague and ambiguous as
7 to opportunity to learn issues, vague and ambiguous as to
8 the term opportunity to learn at all, calls for speculation
9 and lacks foundation as to what is meant in this document.

10 THE WITNESS: Could you repeat your question?

11 MS. WELCH: Could you repeat it?

12 (Record read as follows:

13 "Question: Do you agree that the opportunity
14 to learn issues addressed in the five bullet points on
15 this page are a key to success of the High School Exit
16 Exam and must be addressed?")

17 MR. VIRJEE: Same objections.

18 THE WITNESS: No.

19 BY MS. WELCH: (Continuing)

20 Q Why is that?

21 MR. VIRJEE: Same objections, also vague and
22 ambiguous.

23 THE WITNESS: I disagree with some of the points
24 of these recommendations.

25 BY MS. WELCH: (Continuing)

1 speculation, lacks foundation.

2 THE WITNESS: I can't -- I cannot comment on
3 what the level of funding was in December of 2000 and
4 December 1999 as compared to the level of funding in 2003 to
5 know whether there has been any increase in K-12 funding
6 levels.

7 BY MS. WELCH: (Continuing)

8 Q Do you agree with the statement that without
9 sufficient level of resources the likelihood of meeting the
10 expectations set forth in the content standards is
11 considerably diminished?

12 MR. VIRJEE: Objection; vague and ambiguous as
13 to sufficient level of resources and considerably diminished
14 as used in this document. It's not a document prepared by
15 the division, the branch or the department, nor did the
16 witness have any involvement in preparing it, so it's
17 unclear how those terms are used. They're vague and
18 ambiguous.

19 THE WITNESS: I believe that it's an
20 argumentative point.

21 MS. WELCH: I don't understand what you mean.

22 A I believe that the point is open for discussion
23 and argumentation.

24 Q And what point is that?

25 A Regarding resources and regarding the outcome of

1 Q Which points do you disagree with?

2 MR. VIRJEE: Just so it's clear for the record,
3 we're talking about the five bullet points on page 5,
4 correct.

5 Is that what you're referring to, Geno?

6 THE WITNESS: Yes.

7 MR. VIRJEE: Thank you.

8 THE WITNESS: First point I disagree that state
9 standards should be required rather than voluntary.

10 BY MS. WELCH: (Continuing)

11 Q Okay. What else do you disagree with in these
12 five bullets?

13 A That would be all, though, I reiterate my -- I
14 repeat my earlier answer regarding the statement that says,
15 "However without a sufficient level of resources the
16 likelihood of meeting these expectations is considerably
17 diminished." I don't understand what that sufficient level
18 of resources would be.

19 Q Okay I think that will be clear from the record,
20 too.

21 Do you think that California students should be
22 denied a high school diploma if they're unable to pass the
23 High School Exit Exam in 2006?

24 MR. VIRJEE: Objection; calls for speculation as
25 to what may occur in 2006 or what the circumstances may be,

1 lacks foundation, incomplete hypothetical as to what other
2 situations may be in existence.

3 THE WITNESS: Is the question do I believe they
4 should be denied a diploma?

5 BY MS. WELCH: (Continuing)

6 Q Yes. As you sit here today.

7 MR. VIRJEE: As he sits here today, that calls
8 for speculation, lacks foundation, calls for an expert
9 opinion, incomplete hypothetical.

10 THE WITNESS: I believe that students should be
11 expected to demonstrate a level of knowledge and skills that
12 are measured by an examination such as the California High
13 School Exit Exam.

14 BY MS. WELCH: (Continuing)

15 Q If they fail that exam, do you think they should
16 be denied a diploma?

17 MR. VIRJEE: Same objections; calls for
18 speculation, lacks foundation, assumes facts not in
19 evidence, assumes what will be in place in 2006 with respect
20 to methods for obtaining the diploma.

21 MS. READ-SPANGLER: Calls for a legal
22 conclusion.

23 THE WITNESS: At this point in time, it's one of
24 the requirements along with local graduation requirements
25 and course -- certain course distribution requirements as

1 BY MS. WELCH: (Continuing)

2 Q I'm asking for your opinion.

3 MS. READ-SPANGLER: That's a different question.

4 BY MS. WELCH: (Continuing)

5 Q I've said multiple times. Now, do you think --

6 MS. READ-SPANGLER: Well, do you think could be
7 construed as asking him to interpret the law, so I think
8 it's a different question.

9 BY MS. WELCH: (Continuing)

10 Q Okay. In your opinion, if students fail the High
11 School Exit Exam should they be denied a diploma?

12 MR. VIRJEE: Objection; vague as to time, calls
13 for speculation, incomplete hypothetical, calls for an
14 expert opinion.

15 THE WITNESS: If the current law and the
16 requirements and regulations are in place in 2006, then,
17 yes.

18 BY MS. WELCH: (Continuing)

19 Q You think they should be denied a diploma?

20 MR. VIRJEE: Objection; asked and answered.

21 THE WITNESS: Yes.

22 BY MS. WELCH: (Continuing)

23 Q Have you always held this belief with respect to
24 the High School Exit Examination?

25 MR. VIRJEE: Objection; vague and ambiguous as

1 well as some specific course requirements that are all part
2 of the graduation requirement for receiving a diploma.

3 BY MS. WELCH: (Continuing)

4 Q I understand that.

5 MS. WELCH: Could you repeat my question?
6 (Record read as follows:

7 "Question: If they fail that exam, do you
8 think they should be denied a diploma?")

9 MR. VIRJEE: Same objections; calls for
10 speculation, lacks foundation, incomplete hypothetical.

11 MS. READ-SPANGLER: And calls for a legal
12 conclusion.

13 THE WITNESS: I believe that if a student meets
14 the requirements for a diploma one should receive one. And,
15 currently, my understanding is that students must meet local
16 requirements, distribution of courses, certain courses that
17 are required by the State as well as passage of the
18 California High School Exit Examination.

19 BY MS. WELCH: (Continuing)

20 Q So if they don't pass the High School Exit Exam,
21 you think they should be denied a diploma?

22 MR. VIRJEE: Same objections; calls for
23 speculation, lacks foundation, incomplete hypothetical.

24 MS. READ-SPANGLER: Asked and answered and calls
25 for a legal conclusion.

1 to always.

2 MS. READ-SPANGLER: Overbroad as to time.

3 THE WITNESS: I need more clarity on your
4 question about High School Exit Exam.

5 BY MS. WELCH: (Continuing)

6 Q I'm talking about the California High School Exit
7 Exam.

8 A And the question is have I always believed this?

9 Q Have you always believed that students should be
10 denied a diploma if they're unable to pass the High School
11 Exit Exam?

12 MR. VIRJEE: Objection; misstates his testimony.
13 He's never said that he believed that. Calls for
14 speculation, lacks foundation, vague as to time, unless
15 you're still at 2006.

16 THE WITNESS: I can't recall.

17 BY MS. WELCH: (Continuing)

18 Q You can't recall whether you've had a different
19 opinion or not?

20 A Correct.

21 Q Okay.

22 MS. WELCH: Let's take a five-minute break.
23 (Recess.)

24 (Deposition Exhibit 292 was marked for
25 identification by the court reporter.)

1 MS. WELCH: We've marked as Exhibit 292 a
 2 supplemental memorandum. On top, "State board minutes dated
 3 March 27th, 2003 from Geno Flores, Deputy Superintendent
 4 Assessment and Accountability Branch regarding Item Number
 5 5, and subject is No Child Left Behind (NCLB): School
 6 Accountability Report Card (□SARC)."
 7 BY MS. WELCH: (Continuing)
 8 Q Could you take a moment to review this document?
 9 A (BRIEF PAUSE; witness reviewing document.)
 10 Q I'm not going to ask you detailed questions about
 11 the attachment to the memo.
 12 A Thank you.
 13 Q So if I can shortcut some of your review.
 14 A Okay.
 15 MR. VIRJEE: So just the first page; is that
 16 what you want?
 17 THE WITNESS: Oh, okay.
 18 BY MS. WELCH: (Continuing)
 19 Q Have you reviewed it?
 20 A The first page I have.
 21 Q Are you familiar with this document?
 22 A Yes.
 23 Q Did you prepare it?
 24 A No.
 25 Q Did someone in your branch prepare it at your

1 direction?
 2 A Correct.
 3 Q Who was that?
 4 A Eric Crane.
 5 Q Did you review it before it was provided to the
 6 board members?
 7 A Yes.
 8 MR. VIRJEE: Just for clarity for the record,
 9 Leecia, because we talked about the first page, are you now
 10 just talking about the first page and asking those questions
 11 or the entire document? I wasn't clear. Were you asking
 12 did he prepare it or who prepared it? That's why I'm
 13 asking.
 14 MS. WELCH: Okay.
 15 MR. VIRJEE: Because you had said you were just
 16 looking at the first page.
 17 BY MS. WELCH: (Continuing)
 18 Q Did someone else prepare the attachment to the
 19 memo, or was it prepared by the same entity?
 20 A Policy and evaluation unit, and I believe at the
 21 time it was the analysis unit under the management of Eric
 22 Crane prepared this document.
 23 Q By this document, you mean the attachment?
 24 A I mean the attachment which describes the
 25 definitions of the school accountability report card as well

1 as the cover memo which would have accompanied it.
 2 Q I want to direct your attention to the bottom of
 3 the first page of the document. The second to the last
 4 sentence before the bullet point says, "In a few instances
 5 there are issues that SB and/or CDE will need to clarify and
 6 resolve with the United States Department of Education as
 7 part of the approval process for California Accountability
 8 Plan." And then the document sets forth three issues that
 9 need to be clarified or resolved.
 10 Do you see what I'm referring to?
 11 A Yes, I do.
 12 Q Do you know whether the first issue in the first
 13 bullet has been resolved?
 14 A Yes, I do.
 15 Q And has it been resolved?
 16 A Yes, it has.
 17 Q And what was the resolution of that issue?
 18 A The California was denied the use of the
 19 California High School Exit Exam as a proxy for reporting
 20 graduation rate.
 21 Q Has California come up with another mechanism to
 22 determine graduation rates?
 23 A Yes.
 24 Q And that mechanism is reflected in the workbook;
 25 is that correct?

1 A That's correct.
 2 Q Has the second issue, the second bullet point,
 3 been resolved?
 4 A I don't know.
 5 Q Is there someone who would know or --
 6 MR. VIRJEE: Calls for speculation, lacks
 7 foundation.
 8 THE WITNESS: There's two parts to that.
 9 BY MS. WELCH: (Continuing)
 10 Q Okay.
 11 A The collection procedures are being done through
 12 the consolidated application process.
 13 Q Okay.
 14 A There are also considerations in play to move the
 15 collection of highly-qualified teachers to the CBEDS
 16 professional assignment form.
 17 Q Do you know when those issues will be resolved?
 18 MR. VIRJEE: Objection, calls for speculation,
 19 lacks foundation.
 20 THE WITNESS: No. But if it were to be
 21 resolved -- if it were to be done through the CBEDS
 22 professional assignment information form, I'm not sure we
 23 could make those changes by October of 2003.
 24 BY MS. WELCH: (Continuing)
 25 Q Is that the next deadline in terms of resolving

1 the issues with the department -- the U.S. Department of
 2 Education?
 3 A No.
 4 Q What's the significance of October 2003?
 5 A That's when the next CBEDS collection occurs.
 6 Q Okay. Is the second bullet point addressed in
 7 the California's accountability workbook?
 8 MR. VIRJEE: If you know. I don't want you to
 9 guess or speculate.
 10 THE WITNESS: I don't know.
 11 BY MS. WELCH: (Continuing)
 12 Q Is there a requirement from the U.S. Department
 13 of Education that this issue be resolved in order to comply
 14 with No Child Left Behind?
 15 A To collect information about highly-qualified
 16 teachers, yes.
 17 Q And is there a deadline for when the U.S.
 18 Department of Education requires that to be resolved?
 19 A We have till September 1 to report our definition
 20 for highly-qualified teacher.
 21 Q And at that point, you'll resolve the issue of
 22 how the data will be collected?
 23 MR. VIRJEE: Objection; calls for speculation,
 24 lacks foundation.
 25 THE WITNESS: I'm not sure. I'm not sure of

1 the -- I'm not sure of the question you're asking me.
 2 BY MS. WELCH: (Continuing)
 3 Q Well, my understanding is that you testified that
 4 the State has to collect data about highly-qualified
 5 teachers; is that correct?
 6 A That's correct.
 7 Q And the State has to demonstrate to the U.S.
 8 Department of Education how it's going to accomplish that;
 9 is that correct?
 10 A That's correct.
 11 Q Is there a deadline for demonstrating how that is
 12 accomplished?
 13 MR. VIRJEE: Objection; asked and answered.
 14 THE WITNESS: There's an annual -- there's a
 15 requirement to collect it and report it annually, and we
 16 have a current mechanism for doing that; and then there's
 17 some consideration for changing that mechanism.
 18 BY MS. WELCH: (Continuing)
 19 Q And the mechanism that is in place has been
 20 approved by the U.S. Department of Education?
 21 A I don't think it was an issue for approval.
 22 Q Okay. Has the third bullet point been resolved?
 23 MR. VIRJEE: Objection; vague and ambiguous as
 24 to resolved.
 25 THE WITNESS: No.

1 BY MS. WELCH: (Continuing)
 2 Q Do you know what the status of the third bullet
 3 point is?
 4 A The concern that's stated here is in reference to
 5 all of the pages that follow in this document which entail
 6 that a school district would have to report for each one of
 7 these categories, and that's what makes it -- the report --
 8 the concern about the manageability in terms of length and
 9 complexity.
 10 Q Understandable.
 11 Do you know whether there currently are any
 12 requirements on the part of the department to monitor the
 13 accuracy of what is in the School Accountability Report
 14 Cards?
 15 MR. VIRJEE: Objection; vague and ambiguous as
 16 to requirements, department and accuracy and monitor.
 17 THE WITNESS: The templates for the School
 18 Accountability Report Cards are prepared by the Department
 19 of Education, and the majority of data elements are supplied
 20 by the California Department of Education.
 21 BY MS. WELCH: (Continuing)
 22 Q Does the Department of Education monitor the
 23 accuracy of what's in the SARCs?
 24 MR. VIRJEE: Objection; vague and ambiguous as
 25 to monitor and accuracy, also lacks foundation.

1 THE WITNESS: Because the majority of the data
 2 elements that are in the School Accountability Report Cards
 3 are supplied by the California Department of Education, and
 4 the policy evaluation office utilizing the data that come in
 5 from standards and assessment, the STAR and other data
 6 elements as submitted to it, yes.
 7 BY MS. WELCH: (Continuing)
 8 Q That's not really my question.
 9 MR. VIRJEE: He answered your question.
 10 MS. WELCH: Actually, he didn't.
 11 MR. VIRJEE: I think his question is clearly
 12 responsive. If you don't like the answer, I'm sorry, but he
 13 answered it. You asked did the State do anything to
 14 monitor, and he provided you with an answer.
 15 A I asked if the State monitors the accuracy of
 16 what is in the school accountability report card.
 17 MR. VIRJEE: He answered your question.
 18 MS. WELCH: Of particular schools.
 19 MR. VIRJEE: He answered your question. Your
 20 question has been asked and answered.
 21 MS. WELCH: I understand that the State prepares
 22 a lot of the data that schools rely on and put in their
 23 school reliability report cards. I understand what CBEDS
 24 is, and I understand other data elements that CDE analyzes
 25 in terms of performance on standardized tests, et cetera.

1 My question is a little bit different.

2 My question is, Once the schools have prepared
3 their School Accountability Report Cards, does the
4 Department of Education monitor or analyze what is in the
5 report card to determine whether or not it's accurate?

6 MR. VIRJEE: Objection; vague and ambiguous as
7 to monitor, analyze, accuracy, lacks foundation, calls for
8 speculation.

9 THE WITNESS: I don't know.

10 BY MS. WELCH: (Continuing)

11 Q Is the SARC under your branch?

12 A The SARC would be -- the development of the
13 School Accountability Report Cards would be in my branch in
14 the policy and evaluation division.

15 Q Does the policy and evaluation division monitor
16 the accuracy of what is in School Accountability Report
17 Cards that are prepared by districts?

18 MR. VIRJEE: Objection; vague and ambiguous as
19 to monitor and accuracy, calls for speculation, lacks
20 foundation.

21 THE WITNESS: If you'll note on the supplemental
22 memorandum attachment number three, the document once
23 approved by the state board is the model template that's
24 populated by the Department of Education with all the data
25 available to it electronically. So in that regard, yes, it

1 Padia. The unit manager Eric Crane is no longer with
2 Department of Education. Manager supervising of that unit,
3 Rachel Perry, would be the next person I would suspect would
4 know.

5 BY MS. WELCH: (Continuing)

6 Q Are you familiar with the capital master plan for
7 education?

8 A Vaguely.

9 Q Are you familiar with the any of --
10 Have you reviewed that document?

11 MR. VIRJEE: Objection; vague and ambiguous as
12 to that document. There have been several master plans for
13 the state. So it's vague and ambiguous as to which one
14 you're referring to.

15 BY MS. WELCH: (Continuing)

16 Q Have you reviewed the most recent California
17 master plan for education?

18 A Briefly.

19 Q Are you familiar with any of its findings?

20 MR. VIRJEE: Objection; vague and ambiguous as
21 to findings, and the document speaks for itself.

22 THE WITNESS: Some recommendations.

23 BY MS. WELCH: (Continuing)

24 Q What recommendations are you familiar with?

25 A Reorganization of the responsibilities for public

1 monitors the accuracy of all the data that it populates in
2 the fields.

3 BY MS. WELCH: (Continuing)

4 Q I understand that it monitors the accuracy of the
5 data that it creates. That's not my question. My question
6 has to do with the SARC as prepared by the districts.

7 A SARCs as prepared by districts are also required
8 to be posted on the internet within each school district's
9 website, and it is the responsibility of those units to
10 ensure that they are then posted on the internet at each of
11 the districts' websites.

12 Q It is the responsibility of the unit to review
13 the SARCs that are posted and determine whether or not the
14 information in them is accurate?

15 MR. VIRJEE: Objection; vague and ambiguous as
16 to review, accuracy, calls for speculation, lacks
17 foundation.

18 THE WITNESS: I don't know.

19 BY MS. WELCH: (Continuing)

20 Q Is there someone in your branch that would know
21 that information?

22 MR. VIRJEE: Objection; calls for speculation as
23 what someone might or might not know.

24 THE WITNESS: The manager of this division, Bill
25 Padia, the unit -- excuse me -- division director, Bill

1 education from the current Department of Education to the
2 Secretary of Education's office.

3 Q Are you familiar with any other findings?

4 A Not that I can recall at this moment.

5 Q And I'm sorry if you answered this before, but
6 did you testify that you have not reviewed the current
7 version of the master plan?

8 MR. VIRJEE: Objection; asked and answered.

9 THE WITNESS: I said I read it briefly.

10 BY MS. WELCH: (Continuing)

11 Q Do you know how long ago you read it?

12 A Well, let's see. Now this is July. Probably,
13 six months ago.

14 Q Given the size of this document, I would prefer
15 not to make it an exhibit. I only have one question about
16 it. If you want --

17 MR. VIRJEE: I don't know which document you are
18 referring.

19 MS. WELCH: I'm talking about the master plan.

20 MS. READ-SPANGLER: Why don't you just give --
21 if it's already been produced, give the Bates ranges for the
22 record.

23 MS. WELCH: Sure.

24 MS. READ-SPANGLER: Or something.

25 MS. WELCH: Good idea. I'm referring to the

1 California master plan for education document that has been
 2 Bates labeled PLTF 77978 through PLTF 78223.
 3 I can pass out copies of this document if you
 4 want to see where I'm looking at.
 5 MR. VIRJEE: Sure.
 6 MS. READ-SPANGLER: Sure.
 7 BY MS. WELCH: (Continuing)
 8 Q If you could just refer to page 109 of the
 9 document. And that's PLTF 78909.
 10 A (BRIEF PAUSE; witness reviewing document.)
 11 MR. VIRJEE: Page 109?
 12 MS. WELCH: Yes.
 13 BY MS. WELCH: (Continuing)
 14 Q Could you review recommendation 41?
 15 A (BRIEF PAUSE; witness reviewing document.)
 16 MR. VIRJEE: Would that include 41.1 or just 41?
 17 MS. WELCH: Just 41.
 18 THE WITNESS: (BRIEF PAUSE; witness reviewing
 19 document.)
 20 Just for 41 and not 41.1 and there on?
 21 Q Correct.
 22 Are you finished reading that information on that
 23 page?
 24 A Yes.
 25 Q Did you agree with recommendation 41?

1 MR. VIRJEE: Objection; vague and ambiguous as
 2 to what the recommendation under 41 is and what there is to
 3 agree or not agree with, calls for speculation, lacks
 4 foundation, incomplete hypothetical, speculation as to what
 5 recommendation 41 is supposed to mean.
 6 THE WITNESS: Recommendation 41 is very broad.
 7 In principle, I agree with the concept.
 8 (Deposition Exhibit 293 was marked for
 9 identification by the court reporter.)
 10 BY MS. WELCH: (Continuing)
 11 Q Before I get into questions about this document
 12 that I will describe in a second, going back to our
 13 discussion about the High School Exit Exam, setting aside
 14 the requirements of California law, in your opinion, as a
 15 general matter, should students be denied a diploma if
 16 they're unable to pass a High School Exit Exam?
 17 MR. VIRJEE: Objection; asked and answered,
 18 vague and ambiguous as to deny them a diploma. Also, calls
 19 for speculation, incomplete hypothetical, vague as to time,
 20 lacks foundation, calls for a legal conclusion.
 21 THE WITNESS: Is the question in my opinion
 22 should students be denied a high school diploma if they
 23 failed to pass the High School Exit Exam?
 24 MR. VIRJEE: Also asked and answered.
 25 THE WITNESS: In conjunction with the other

1 local requirements as currently stated within law, yes.
 2 BY MS. WELCH: (Continuing)
 3 Q Yes, they should be denied a diploma is that
 4 the --
 5 MR. VIRJEE: He answered your question yes.
 6 THE WITNESS: The requirement now by action of
 7 the State Board of Education is delaying of that until the
 8 class of 2006.
 9 BY MS. WELCH: (Continuing)
 10 Q I'm asking a different question now. Not the
 11 requirements of California, but as a general matter, if you
 12 believe that when students -- if students fail a High School
 13 Exit Exam they should be denied a diploma?
 14 MR. VIRJEE: Same objections, calls for
 15 speculation, lacks foundation, vague as to time, vague as to
 16 High School Exit Exam, vague as to California or some
 17 geographic area, incomplete hypothetical, lacks foundation.
 18 THE WITNESS: Which students?
 19 BY MS. WELCH: (Continuing)
 20 Q Any students. I'm just asking a general
 21 question.
 22 MR. VIRJEE: Any students anywhere for any High
 23 School Exit Exam of any kind. That's how broad her question
 24 is, Geno.
 25 THE WITNESS: I can only speak about students in

1 California.
 2 BY MS. WELCH: (Continuing)
 3 Q So you don't have a view on whether or not
 4 students who fail the high school -- fail a High School Exit
 5 Exam should be denied a diploma generally?
 6 MR. VIRJEE: Objection; calls for speculation,
 7 lacks foundation, incomplete hypothetical about what this
 8 High School Exit Exam might look like, what the course of
 9 study might look like, where in time, place, geography.
 10 It's a ridiculous question. I'm sorry.
 11 THE WITNESS: You're asking about any system in
 12 public education which uses a High School Exit Exam -- some
 13 kind of exit examination for students in any state in place?
 14 BY MS. WELCH: (Continuing)
 15 Q I'm asking a general matter.
 16 MR. VIRJEE: You don't have to answer the
 17 question if you can't, Geno.
 18 THE WITNESS: I don't understand the question.
 19 I don't know what particular point you want of the question.
 20 BY MS. WELCH: (Continuing)
 21 Q My question as a general matter --
 22 First of all, maybe you don't have an opinion on
 23 it. I mean, do you have an opinion on whether students in
 24 general who fail a High School Exit Exam should be denied a
 25 diploma?

1 MR. VIRJEE: Objection; calls for speculation,
2 lacks foundation, incomplete hypothetical, vague as to time,
3 vague as to students, vague as to High School Exit Exam.
4 There's no geographic boundaries on it, no other elements
5 added to it. It's an impossible question to answer.

6 THE WITNESS: I have an opinion about California
7 students in California public education.

8 MR. VIRJEE: Answer only her question, Geno, if
9 you can. I don't know how anybody could, but if you can.

10 THE WITNESS: So I don't know.

11 BY MS. WELCH: (Continuing)

12 Q So you ever never considered the question?

13 A Whether students in general should be denied a
14 diploma if they're unable to pass a High School Exit Exam.

15 MR. VIRJEE: Same objections with respect to the
16 question.

17 THE WITNESS: I can't recall if I've ever had an
18 objection -- or stated opinion regarding High School Exit
19 Examinations or some kind of system of examination in
20 application for denying the student a diploma.

21 BY MS. WELCH: (Continuing)

22 Q Okay. If we could take a look at the next
23 exhibit, which is I already 293 The exhibit's called "State
24 of California Consolidated State Application Accountability
25 Workbook." It says, "Due January 31st first submission

1 it to accountability system?

2 BY MS. WELCH: (Continuing)

3 Q Yes.

4 A The requirements of the reauthorization also are
5 to create one accountability system, which the State is in
6 the process of doing, which is through the combining of use
7 of the API as the other indicator, but that's part of AYP as
8 well as having to set annual measurable objectives for
9 English learners, which was not required in California's
10 accountability plan as well as for other requirements such
11 as highly-qualified teachers which were not part of
12 California's accountability plan.

13 Q Does NCLB have specific requirements relating to
14 district level accountability?

15 MR. VIRJEE: Objection; NCLB speaks for itself,
16 calls for a legal conclusion.

17 THE WITNESS: Requirements that are captured
18 here are that the State's to create an adequate yearly
19 progress report for districts which is different from the
20 requirement of the Academic Performance Index under
21 California's Public School Accountability Act; there was no
22 such requirement.

23 BY MS. WELCH: (Continuing)

24 Q Do you think this was a positive development?

25 MR. VIRJEE: Objection; vague and ambiguous as

1 January 31st. Second submission June 3, 2003."

2 Are you familiar with this document?

3 MR. VIRJEE: Objection; vague and ambiguous as
4 to familiar --

5 THE WITNESS: Yes, I've seen this document.

6 BY MS. WELCH: (Continuing)

7 Q Did you help in the preparation of this document?

8 A In the month of January from January 13th through
9 its final submission in June of 2003, some.

10 Q Can you generally describe the changes that
11 California has made in its accountability system due to the
12 requirements of NCLB?

13 A Yes.

14 Q What are those?

15 A Prior to the reauthorization of the elementary
16 and secondary education act which placed additional
17 requirements under the No Child Left Behind Act, California
18 has created an accountability system which meets the
19 specified requirements for developing adequate yearly
20 progress which is different from what California used
21 previously in creating an academic performance index.

22 Q Any other major changes besides AYP?

23 MR. VIRJEE: Okay. Vague and ambiguous to major
24 changes.

25 MS. READ-SPANGLER: And, again, you're limiting

1 to positive.

2 THE WITNESS: I believe that there are some
3 requirements of the reauthorization act, NCLB, which are
4 different from your state's system, provides different
5 levels of information, and as a result has different
6 benefits and consequences.

7 BY MS. WELCH: (Continuing)

8 Q What do you think are the different consequences
9 of the requirements that NCLB has with regard to district
10 level accountability?

11 MR. VIRJEE: Objection; calls for speculation.

12 THE WITNESS: The Public School Accountability
13 Act and the development of the Academic Performance Index is
14 predicated on a growth model showing improvement annually
15 like setting annual targets for those improvements as laid
16 out in the statute by a five-percent increase annually. And
17 the NCLB requirements are status requirements, not
18 necessarily a growth model. It's a whole different level of
19 reporting. As a result, the understandings by the
20 population at large, by teachers, by parents, are different
21 or will be different. As a consequence of that, it's a
22 whole level of public reporting and information.

23 BY MS. WELCH: (Continuing)

24 Q What do you think the benefits are, if any, of
25 the district level accountability requirements?

1 MR. VIRJEE: Objection; vague big as to
 2 benefits.
 3 BY MS. WELCH: (Continuing)
 4 Q As you use the term.
 5 MR. VIRJEE: Also calls for speculation, lacks
 6 foundation.
 7 THE WITNESS: It requires a complex
 8 understanding of the combining of student results for every
 9 student within a district, and as a result, it has a
 10 complete picture of performance of all students within that
 11 district, a potential benefit, which also has potential
 12 consequences.
 13 BY MS. WELCH: (Continuing)
 14 Q Are there any other benefits --
 15 MR. VIRJEE: Objection calls for --
 16 BY MS. WELCH: (Continuing)
 17 Q -- or potential benefits?
 18 MR. VIRJEE: Calls for speculation, lacks
 19 foundation.
 20 BY MS. WELCH: (Continuing)
 21 Q Want to clarify it that way.
 22 A My opinion, no.
 23 Q Under the requirements of NCLB, schools that have
 24 not made AYP for two consecutive years go into what they
 25 call program improvement; is that correct?

1 MR. VIRJEE: Objection; the law speaks for
 2 itself, calls for a legal conclusion.
 3 THE WITNESS: It would be identified as program
 4 improvement school.
 5 BY MS. WELCH: (Continuing)
 6 Q Has California determined how it will handle --
 7 strike that.
 8 As part of the requirements of the
 9 accountability workbook, does California have to describe to
 10 the U.S. Department of Education how it plans to handle
 11 program improvement schools?
 12 MR. VIRJEE: Objection; vague and ambiguous as
 13 to requirements of accountability workbook. Also to the
 14 extent you're asking what federal regulations would require,
 15 calls for a legal conclusion.
 16 MS. READ-SPANGLER: Vague and ambiguous as to
 17 handle.
 18 THE WITNESS: Requirements for program
 19 improvement schools who receive Title I funds are
 20 specifically identified within the federal guidelines.
 21 BY MS. WELCH: (Continuing)
 22 Q Has California determined how it will implement
 23 the requirements?
 24 A Yes, those are captured within the workbook.
 25 Q Do you have a specific section in mind where

1 those are captured?
 2 MR. VIRJEE: The document speaks for itself.
 3 BY MS. WELCH: (Continuing)
 4 Q And I'll direct your attention to page 52. See
 5 if that helps.
 6 A (BRIEF PAUSE; witness reviewing document.)
 7 THE WITNESS: No. That's not what you're
 8 asking.
 9 MR. VIRJEE: If you can readily find it, Geno.
 10 Otherwise, you're not required to go through and read the
 11 entire document to find what she's asking you to look for.
 12 BY MS. WELCH: (Continuing)
 13 Q I don't need you to review the entire document.
 14 I'm going to have other questions. So if it's not resolved
 15 after I go through my questions, we can come back to it, but
 16 I don't need you to go through the whole thing.
 17 A Okay.
 18 THE WITNESS: You're asking me to look at page
 19 52?
 20 BY MS. WELCH: (Continuing)
 21 Q No. Why don't I strike the question. I'll move
 22 on.
 23 Looking at -- could you take a look at page 17?
 24 A I would love to.
 25 (BRIEF PAUSE; witness reviewing document.)

1 MR. VIRJEE: I think he's -- he looks like he's
 2 ready.
 3 BY MS. WELCH: (Continuing)
 4 Q Are you ready? Looking at the first paragraph,
 5 the last sentence where it talks about -- and I'll just read
 6 it, "As of January 2003, 99 percent of students in
 7 California public schools are in LE a link to report cards
 8 from the CDE's website." Do you know where that -- who
 9 prepared that percentage?
 10 A The majority of this document was prepared
 11 through the policy and evaluation division. I cannot
 12 attribute that sentence and that 99 percent figure to any
 13 unit or any person in particular.
 14 Q Do you have any knowledge of that percentage?
 15 MR. VIRJEE: Objection; vague and ambiguous as
 16 to that percentage.
 17 THE WITNESS: I have a general knowledge that
 18 the school districts in California that the majority of them
 19 as stated here have some kind of a electronic reporting
 20 system to provide information to parents, community members.
 21 BY MS. WELCH: (Continuing)
 22 Q Do you know whether the 99 percent as reflected
 23 in this sentence relates to report cards that are up to
 24 date?
 25 MR. VIRJEE: Objection; calls for speculation,

1 lacks foundation as to who wrote this and whether he ever
2 spoke to anybody about it. Since he doesn't know who wrote
3 it or where it came from, it's pretty hard to for him to say
4 what it included.

5 THE WITNESS: I don't know about the term "Up to
6 date."

7 BY MS. WELCH: (Continuing)

8 Q For the current school year.

9 MR. VIRJEE: Same objection; vague and
10 ambiguous, calls for speculation.

11 THE WITNESS: That I don't know.

12 BY MS. WELCH: (Continuing)

13 Q Is there any requirement in NCLB that the report
14 cards be up to date? And by that mean, I mean for the
15 current school year.

16 MR. VIRJEE: Objection; assumes facts not in
17 evidence, assumes there is any requirement for a school
18 accountability report card in NCLB, calls for a legal
19 conclusion, calls for speculation. NCLB speaks for itself.

20 THE WITNESS: I believe the requirements are
21 defined and described on page 17.

22 BY MS. WELCH: (Continuing)

23 Q Are you finished with your answer?

24 A Yeah.

25 Q Page 17 doesn't discuss whether or not report

1 schools.

2 BY MS. WELCH: (Continuing)

3 Q Could you take a look at page 20?

4 A (BRIEF PAUSE; witness reviewing document.)

5 Okay.

6 Q Are you finished reviewing?

7 A Okay.

8 Q Bottom paragraph before the bolded statement
9 that's supporting evidence, the paragraph says, "A proposed
10 strategy for aligning state and federal policy for
11 underperforming schools is being finalized." Do you have an
12 understanding of what this sentence is referring to?

13 A Yes.

14 Q What is that?

15 A The aligning of state and federal policies for
16 underperforming schools.

17 Q Is there a particular document that's being
18 prepared?

19 MR. VIRJEE: Objection; vague and ambiguous as
20 to particular document, calls for speculation.

21 THE WITNESS: State Board of Education at
22 previous meetings in the past six months has seen a proposal
23 for aligning state and federal accountability programs
24 including II/USP, High Priority Grants Program and
25 requirements under Title I program improvement, no final

1 cards are up to date; is that correct?

2 MR. VIRJEE: Page 17 speaks for itself. So you
3 don't have to read it and tell her what it says.

4 BY MS. WELCH: (Continuing)

5 Q Just trying to understand your response that the
6 requirements are on page 17.

7 A Page 17 doesn't use the term "Up to date."

8 Q Do you know whether or not -- whether or not
9 report cards are required to be up to date?

10 MR. VIRJEE: Objection; vague and ambiguous as
11 to report cards, vague and ambiguous as to required to the
12 extent you're insinuating that the No Child Left Behind Act,
13 calls for a legal conclusion, calls for speculation, lacks
14 foundation.

15 THE WITNESS: I don't know.

16 BY MS. WELCH: (Continuing)

17 Q Do you think it's important for families to have
18 up-to-date information about the schools that their child is
19 attending?

20 MR. VIRJEE: Objection; vague and ambiguous as
21 to important and families, calls for speculation, lacks
22 foundation, incomplete hypothetical, vague and ambiguous as
23 to up to date.

24 THE WITNESS: I believe it's useful for parents
25 and community members to have current information about

1 action has yet been taken. Some of it required -- would
2 require a legislative change within current California
3 statutes.

4 BY MS. WELCH: (Continuing)

5 Q Who has prepared that proposal?

6 MS. READ-SPANGLER: If you know.

7 THE WITNESS: The accounting Department of
8 Education in conjunction with the policy and evaluation
9 division and policy and evaluation division.

10 BY MS. WELCH: (Continuing)

11 Q Is that proposal a possible document?

12 A I don't know.

13 MR. VIRJEE: Objection to the extent that calls
14 for a legal conclusion, vague and ambiguous as to public
15 document.

16 BY MS. WELCH: (Continuing)

17 Q Do you know if it's been attached to the board
18 minutes?

19 A I don't recall. If a board spoke about it in
20 public, it most likely was.

21 Q Do you have a copy of this proposal?

22 A I don't know.

23 Q Have you reviewed it?

24 A I've reviewed some various proposals of aligning
25 the requirement and sanctions under II/USP, High Priority,

1 and Title I program improvement.
 2 Q You're just -- are you just not sure if you've
 3 reviewed the final proposal; is that what you're saying?
 4 A Correct.
 5 Q Does this proposal have to be presented to the
 6 U.S. Department of Education?
 7 MR. VIRJEE: Objection; vague and ambiguous as
 8 to this proposal, calls for speculation, calls for a legal
 9 conclusion.
 10 THE WITNESS: I don't know.
 11 BY MS. WELCH: (Continuing)
 12 Q Does this proposal talk about the fact that is
 13 set forth in the last sentence of this paragraph that says
 14 that, "It is anticipated that alignment process will take at
 15 least two years due to its complexities"?
 16 MR. VIRJEE: Objection; vague and ambiguous as
 17 to this proposal. He's already testified he doesn't even
 18 know if he's seen the final proposal or not, so calls for
 19 speculation, lacks foundation.
 20 THE WITNESS: The question is whether --
 21 BY MS. WELCH: (Continuing)
 22 Q Do you know if the proposal addresses the issue
 23 of how long the alignment process will take?
 24 MR. VIRJEE: Same objection.
 25 THE WITNESS: No, I don't know if it addresses

1 that.
 2 BY MS. WELCH: (Continuing)
 3 Q Have you seen any document that address how long
 4 the alignment process will take?
 5 A No.
 6 Q Do you know who is responsible for determining
 7 the alignment process or that it is anticipated that the
 8 alignment process will take at least two years due to its
 9 complexity?
 10 MR. VIRJEE: Does he know who's the sponsor of
 11 that statement in this document?
 12 BY MS. WELCH: (Continuing)
 13 Q Yeah. Do you know who has information about that
 14 statement?
 15 MR. VIRJEE: Objection; calls for speculation,
 16 lacks foundation.
 17 THE WITNESS: No.
 18 BY MS. WELCH: (Continuing)
 19 Q Would that be someone in your unit?
 20 A Could be.
 21 Q Do you have any ideas about who might have been
 22 responsible for preparing that information for the workbook?
 23 MR. VIRJEE: Objection; calls for speculation,
 24 lacks foundation.
 25 THE WITNESS: It would be the policy and

1 evaluation division.
 2 BY MS. WELCH: (Continuing)
 3 Q Do you know if the time line for the alignment
 4 process has been discussed in any public meetings?
 5 MR. VIRJEE: Objection; calls for speculation,
 6 lacks foundation.
 7 THE WITNESS: Yes, there have been discussions
 8 about the alignment of these programs.
 9 BY MS. WELCH: (Continuing)
 10 Q Which meetings are you recalling?
 11 A The AB 312 NCLB liaison committee meetings that
 12 were held on regularly scheduled dates and have the minutes
 13 of their meetings, and they reported as an advisory body to
 14 the State Board of Education at their meetings.
 15 Q Do you know how often this committee meets?
 16 MS. WELCH: Off the record.
 17 (Discussion off the record.)
 18 BY MS. WELCH: (Continuing)
 19 Q Do you know how often that committee meets?
 20 A No. They have had regularly scheduled meetings,
 21 generally prior to the State Board of Education.
 22 Q Do you know what the components of the proposed
 23 strategy are that's reflected on page 20?
 24 MR. VIRJEE: Objection; vague and ambiguous as
 25 to the components of the proposed strategy.

1 THE WITNESS: Generally.
 2 BY MS. WELCH: (Continuing)
 3 Q Could you provide a general description, please?
 4 A There are specific sanctions that are applicable
 5 to schools that were in -- who have volunteered under the
 6 II/USP program, and when they entered, there were certain
 7 requirements for exiting that program, generally, meeting
 8 your API growth targets for two out of the three years.
 9 Similarly, there were requirements for schools
 10 entering under the High Priority Schools Grants Program over
 11 a three-year period, some exit rules for exiting that
 12 program, generally, making your meeting your API targets.
 13 There are schools that enter into program improvement
 14 status, Title I schools, because they fail to meet adequate
 15 yearly progress as defined under ISAI and now currently
 16 under NCLB legislation, and the complexity is that some
 17 schools -- excuse me. And there are procedures by which
 18 Title I program improvement schools can exit that status,
 19 which means they meet adequate yearly progress.
 20 The complexity is that some Title I schools that
 21 are program improvement schools are also High Priority
 22 School Grant Program schools and are also II/USP schools,
 23 thereby providing them a series of three different exit
 24 requirements and the complexity to try to align all three so
 25 that schools who volunteered into the II/USP or High

1 Priority are not held to a different level of expectation
2 than that for which they volunteered originally finished.

3 Q Are there any other components -- general
4 components of the proposal that you can recall?

5 MR. VIRJEE: Objection; vague and ambiguous as
6 to general components of the proposal.

7 THE WITNESS: The applicable sanctions are
8 defined differently in II/USP and High Priority and Title I
9 program improvement. So, similarly, it's trying to align
10 what would be the sanctions for schools that fail to exit.

11 BY MS. WELCH: (Continuing)

12 Q Does the proposal address the issue of capacity
13 building at the schools that have not met their growth
14 targets?

15 MR. VIRJEE: Objection; vague and ambiguous as
16 to capacity building.

17 THE WITNESS: I can't recall.

18 BY MS. WELCH: (Continuing)

19 Q Have you seen any documents that discuss that
20 issue?

21 MR. VIRJEE: Same objection.

22 THE WITNESS: I've seen documents referring to
23 the School Audit Investigation Team process, SAIT, progress
24 currently in use by the Department of Education in schools
25 in cohort one for II/USP who failed to exit the program.

1 documents has he seen regarding SAIT schools?

2 MS. WELCH: When he was talking about documents
3 that he'd seen, he was referring to SAIT schools.

4 BY MS. WELCH: (Continuing)

5 Q And I just want to have a better understanding of
6 what documents you'd seen that you described in your last
7 response with respect to SAIT schools.

8 A I know that there is a report from each of the
9 SAITs on each of the 24 schools in cohort one of II/USP who
10 are identified as failing to meet their growth targets and
11 exit the program or show significant growth and stay in the
12 program. Those documents were not prepared in my division
13 or in my branch, and so when I say I saw them, I saw that
14 there were these reports, but I can't comment any further on
15 them.

16 Q Okay. Other than the reports, have you seen any
17 other documents relating to SAIT?

18 MS. READ-SPANGLER: Other than what he's --

19 BY MS. WELCH: (Continuing)

20 Q Other than you've testified to already?

21 MR. VIRJEE: Vague and ambiguous as relating to
22 SAIT and documents relating to.

23 THE WITNESS: I can't recall.

24 BY MS. WELCH: (Continuing)

25 Q And when I say relating to, just so that you

1 BY MS. WELCH: (Continuing)

2 Q Which documents are you thinking of?

3 A The description of the SAIT process -- I believe
4 at the last state board meeting there was a document on the
5 agenda regarding the criteria for selecting SAIT entities
6 that the Board considered as well as there's a separate
7 document from the first review of the SAIT teams in
8 reviewing the 24 identified schools in cohort one of II/USP
9 who failed to exit the program or meet significant growth
10 descriptions.

11 Q And that was the document that was attached to
12 the last board minutes; is that correct?

13 A I just spoke of three different documents.

14 Q I'm speaking of the final one of the three.

15 A No. There was an official report of each SAIT on
16 the review of each of the 24 schools. I don't know if that
17 was an attachment as part of the State Board of Education
18 minutes or the agenda, because that's not in my branch.
19 That's in the curriculum and instructional leadership
20 branch.

21 Q When you were talking about documents that you
22 had seen focusing specifically on the 24 SAIT schools, I
23 think I lost you with respect to what type of document you
24 had seen. Could you tell me again or clarify?

25 MR. VIRJEE: What's your question? What

1 understand what I'm talking about, I should say referring to
2 SAIT. Does that change your answer?

3 MR. VIRJEE: Any document that refers to SAIT in
4 any way?

5 MS. WELCH: No. I mean, it's in the context of
6 the questions that I've been asking previously.

7 THE WITNESS: I can't recall.

8 BY MS. WELCH: (Continuing)

9 Q Could you take a look at page 22?

10 If you're looking at your watch because you want
11 to take a break, I was just going to say I can if you want
12 to.

13 A (BRIEF PAUSE; witness reviewing document.)
14 Okay.

15 Q I have a question specifically about the last
16 sentence before supporting evidence where it says the change
17 in legislation should occur by October 2003.

18 Let the record reflect the witness just knocked
19 on wood.

20 Are you familiar with the legislation that this
21 document's referring to?

22 A Yes.

23 Q What is that legislation?

24 A I believe we spoke about it yesterday. It would
25 be the McPherson bill.

1 Q Okay. Thanks.
 2 Could you please take a look at page 46 through
 3 48. I note that 47 is blank.
 4 A (BRIEF PAUSE; witness reviewing document.)
 5 Okay.
 6 Q How does California currently calculate high
 7 school graduation rates?
 8 MR. VIRJEE: Objection; vague and ambiguous as
 9 to currently, vague and ambiguous as to California.
 10 MS. READ-SPANGLER: And assumes facts not in
 11 evidence.
 12 THE WITNESS: Through the submission of data by
 13 school districts LEAs as required in the annual CBEDS,
 14 the demographic reporting system.
 15 BY MS. WELCH: (Continuing)
 16 Q Do you have an understanding of how that
 17 calculation is made?
 18 A Currently?
 19 Q Currently because legislation suggested within
 20 this workbook has not yet been authorized, it does it in two
 21 ways. It uses a one-year graduation rate, because in
 22 October of every year as part of the CBEDS submission,
 23 districts are required to submit enrollment figures by grade
 24 level. So at the same time, districts are required to
 25 submit graduates from the previous year. So it uses a

1 one-year graduation rate and reports it.
 2 It also uses a accumulated four-year graduation
 3 rate. Cumulative is not the right word I want. It uses --
 4 it uses a completer rate and calls it such, a four-year
 5 completion rate.
 6 Q Do you know how that rate is calculated?
 7 A It's defined more specifically on the CBEDS
 8 website. But, generally, it involves the use of aggregating
 9 up the number of dropouts each year and using a percentage
 10 and subtracts from the denominator.
 11 Q Do you think the first component of the rate that
 12 you described, the one-year graduation rate, do you think
 13 that's an accurate way of measuring the graduation rate?
 14 MR. VIRJEE: Objection; vague and ambiguous as
 15 to accurate and graduation rate, calls for speculation,
 16 incomplete hypothetical, lacks foundation.
 17 THE WITNESS: The Department of Education has
 18 acknowledged that the data it receives from school districts
 19 are self-reported thereby calling into question the
 20 characteristic of accurate, because they're self-reported.
 21 And, number two, the State because it does not
 22 have a unique student identifier system cannot verify that
 23 number of graduates.
 24 BY MS. WELCH: (Continuing)
 25 Q Would your answer be different with respect to

1 the four-year graduation rate that you described?
 2 A No.
 3 MR. VIRJEE: Same objections.
 4 BY MS. WELCH: (Continuing)
 5 Q Same answer?
 6 A Same answer.
 7 Q Is legislation currently pending that would
 8 create a synthetic graduation rate as described on page 48?
 9 A I don't know the current status of the
 10 legislation regarding the synthetic graduation rate, but to
 11 meet the requirements of NCLB, they are different from how
 12 California's currently reporting it's either one-year
 13 graduation rate or its four-year completer rate.
 14 Q How are the requirements different?
 15 A NCLB requires a four-year calculation accounting
 16 for each individual student who started school and who
 17 finished within a normal or four-year period.
 18 Q If I understand this document correctly, it's
 19 saying that California currently can't comply with that
 20 requirement; is that correct?
 21 MR. VIRJEE: The document speaks for itself, and
 22 your understanding of it's irrelevant.
 23 THE WITNESS: It currently cannot report a
 24 graduation rate along the definition under NCLB, and so as a
 25 substitute, it is using a definition that is supported by

1 the National Council for -- excuse me -- the National Center
 2 for Educational Statistics or NCES's recommendations on how
 3 to create a graduation rate.
 4 BY MS. WELCH: (Continuing)
 5 Q Is NCSE's recommendation different from how you
 6 just described California was currently doing it?
 7 A There are some particular differences in terms
 8 and definitions that California used versus what NCES's
 9 definition happens to be.
 10 Q Could you describe what terms and definitions
 11 you're referring to?
 12 MR. VIRJEE: Objection; calls for speculation,
 13 lacks foundation, the documents and definitions speak for
 14 themselves.
 15 THE WITNESS: Not all. I can give you an
 16 example. A student who does not complete high school who
 17 leaves high school after four years without a diploma is not
 18 considered a graduate. However, NCES -- and therefore would
 19 be defined as a dropout. NCES's definition allows for that
 20 student if continuously enrolled in school is not defined as
 21 a dropout.
 22 BY MS. WELCH: (Continuing)
 23 Q When you were describing the one-year graduation
 24 rate and -- I can't remember what word you used you -- I
 25 mean you settled on, but you originally said accumulated.

1 Maybe you said completed.
 2 MR. VIRJEE: Completer rate.
 3 BY MS. WELCH: (Continuing)
 4 Q Completer?
 5 A Completer.
 6 Q When describing those two components of
 7 graduation rate, is that what this document refers to as a
 8 synthetic graduation rate?
 9 MR. VIRJEE: The document speaks for itself,
 10 calls for speculation as to what the document is referring
 11 to since he didn't prepare it.
 12 THE WITNESS: It's my understanding that the
 13 document's reference to synthetic rate is that it cannot
 14 create the actual rate without the use of student
 15 identifiers and in a longitudinal database system.
 16 BY MS. WELCH: (Continuing)
 17 Q So until such time as California can do that, is
 18 it -- does it plan to use the graduation rate as you
 19 described in your earlier testimony?
 20 A No.
 21 Q What does it plan to do?
 22 A It plans to use the graduation rate as defined by
 23 the National Center for Educational Statistics that's
 24 defined here.
 25 Q Okay. Now I'm on the same page. Will that

1 change require legislation?
 2 MR. VIRJEE: Objection; calls for a legal
 3 conclusion, lacks foundation.
 4 THE WITNESS: I don't know.
 5 BY MS. WELCH: (Continuing)
 6 Q Do you have any knowledge of when that change
 7 will take place?
 8 A What change?
 9 Q The change from California's current system to
 10 the NCES system of calculating graduation rates.
 11 A For -- I believe the NCES's definition will be
 12 applied immediately.
 13 MS. WELCH: Can we take a short break?
 14 MS. READ-SPANGLER: Sure.
 15 (Recess.)
 16 BY MS. WELCH: (Continuing)
 17 Q Mr. Flores, are you familiar with a document
 18 that's referred to on the CDE website as the 2002 AYP
 19 information guide?
 20 A By that name, no.
 21 Q Are you thinking of another name?
 22 A Maybe visually I might be familiar with it.
 23 Q I'm happy to show you. I don't think it's
 24 necessary to make this document an exhibit. It's just a
 25 page downloaded from the CDE website policy and evaluation

1 division and the top of it says, "Adequate yearly progress."
 2 And my question is, On the website, it says under AYP
 3 reporting coming in July are the 2002 AYP information guide
 4 and the 2002 AYP explanatory notes. And I'm wondering -- my
 5 question is going to be if those documents are still going
 6 to be publicly available in July or if that date has
 7 changed. Are you familiar with those documents?
 8 A Yes.
 9 Q Do you have an understanding of whether they will
 10 be made public in July?
 11 A I believe they are now publicly posted on
 12 Department of Ed website.
 13 Q Do you have a sense of where they might be
 14 posted? Because we haven't found them.
 15 A I would believe it would be posted in that
 16 website that you're holding there.
 17 Q I don't think they are.
 18 MR. VIRJEE: Well he can only give you the best
 19 information.
 20 BY MS. WELCH: (Continuing)
 21 Q But you've given me the information that you
 22 have.
 23 A I'm sorry. Today's Friday?
 24 MR. VIRJEE: Today's the 18th, Friday.
 25 THE WITNESS: See. I was here yesterday with

1 you. I believe they were posted on Wednesday, because prior
 2 to meeting -- yeah, they were posted on Wednesday.
 3 BY MS. WELCH: (Continuing)
 4 Q Okay. Is it your understanding that the 2003 AYP
 5 reports will be made available in August?
 6 A Yes.
 7 Q Do you have a sense of when in August they'll be
 8 made available?
 9 MR. VIRJEE: Objection; calls for speculation.
 10 THE WITNESS: The plan is for them to be
 11 available on August 15th.
 12 BY MS. WELCH: (Continuing)
 13 Q Are you familiar with a presentation entitled
 14 "Information About the Accountability Provisions of No Child
 15 Left Behind" from June 2003?
 16 MR. VIRJEE: Objection; vague and ambiguous as
 17 to what presentation you're referring to.
 18 THE WITNESS: If you're referring to a series of
 19 Power Point slides about, maybe, 45 to 50 of them in number,
 20 yes.
 21 BY MS. WELCH: (Continuing)
 22 Q You are familiar?
 23 A Yes.
 24 Q Were you involved in the preparation of the Power
 25 Point slides?

1 A No.
 2 Q Were you involved in the preparation of the
 3 content that went into them?
 4 MR. VIRJEE: Objection; vague and ambiguous.
 5 BY MS. WELCH: (Continuing)
 6 Q Just so that we're clear, I'm not interested in
 7 whether you actually made the slides. Just wondering if you
 8 were involved in the preparation of the presentation?
 9 MR. VIRJEE: Objection; vague and ambiguous as
 10 to preparation.
 11 THE WITNESS: No.
 12 BY MS. WELCH: (Continuing)
 13 Q Do you know who did the preparation of this
 14 presentation?
 15 A Policy and evaluation division.
 16 Q Just as a unit? No one in particular that you
 17 recall?
 18 A I don't know who in particular.
 19 Q Are you familiar with the contents of the
 20 presentation?
 21 A Yes.
 22 Q Is it your understanding that new schools will
 23 enter the program improvement phase based on 2003 data?
 24 A Yes.
 25 Q This presentation talks about a plan that CDE's

1 working on to align state and federal interventions and
 2 sanctions. This is the same plan that you've already
 3 testified about previously today?
 4 A That's what it's referring to -- to which it's
 5 referring.
 6 MS. WELCH: Could we have this document marked
 7 as Exhibit 274 -- I'm sorry -- 294?
 8 (Deposition Exhibit 294 was marked
 9 identification by the court reporter.)
 10 BY MS. WELCH: (Continuing)
 11 Q Could you please review this document?
 12 A I have to read this document. I've never seen
 13 this before.
 14 Q Okay.
 15 A Is that what you want me to do?
 16 Q Why don't I ask a specific question, and then you
 17 can determine whether or not you need to review it in order
 18 to answer it?
 19 A Okay.
 20 Q Could you take a look at the third paragraph
 21 under this CCR self-review process beginning with, "In the
 22 year following, the preparation year"?
 23 A (BRIEF PAUSE; witness reviewing document.)
 24 Okay.
 25 Q Looking at the third item where it says, "And,

1 finally, to the extent necessary to meet the CDE's legal
 2 obligation for monitoring of state and federal law and
 3 regulatory processes, CDE staff members will conduct onsite
 4 compliance monitoring of a number of low-performing
 5 schools." I understand you've already said that you have
 6 not seen this document before. But do you have an
 7 understanding of what component three is referring to?
 8 MR. VIRJEE: Objection; calls for speculation;
 9 lacks foundation since the document was not prepared by him
 10 and he hasn't seen it before. We've also had extensive
 11 discussions regarding CCR from other witnesses, much more
 12 close to it than the deponent here and much closer in time
 13 to when this was prepared. So I think it's an unfair
 14 question of the deponent.
 15 THE WITNESS: No.
 16 BY MS. WELCH: (Continuing)
 17 Q You don't understand what this is referring to?
 18 I'm sorry. If you just could repeat my
 19 question. I lost it with all the objections.
 20 (Record read as follows:
 21 "Question: I understand you've already said
 22 that you have not seen this document before. But do
 23 you have an understanding of what component three is
 24 referring to?")
 25 MS. WELCH: Okay. Thanks.

1 BY MS. WELCH: (Continuing)
 2 Q Have you given testimony before to the Department
 3 of Education regarding the STAR program?
 4 MR. VIRJEE: Testimony to the Department of
 5 Education?
 6 BY MS. WELCH: (Continuing)
 7 Q To the Board of Education?
 8 MS. READ-SPANGLER: What's your time frame on
 9 that? You mean ever?
 10 MS. WELCH: 2002.
 11 THE WITNESS: I have a question. Does --
 12 MR. VIRJEE: Ask her the question.
 13 BY MS. WELCH: (Continuing)
 14 Q You can ask me.
 15 A Does testimony mean speaking before the board?
 16 Q Yes.
 17 A I've spoken before the State Board of Education,
 18 yes.
 19 Q And have you spoken on the topic of the STAR
 20 program?
 21 A In representing Long Beach Unified School
 22 District, yes.
 23 Q When you -- do you recall speaking in front of
 24 the board on May 24th, 2002?
 25 A I don't recall.

1 Q Do you recall that you did speak in front of the
2 board around that time period?
3 MR. VIRJEE: Objection; vague and ambiguous as
4 to around that time period. If you have a specific
5 recollection, you can answer her question.
6 THE WITNESS: I recall in representing Long
7 Beach Unified School District there were opportunities in
8 which I spoke before the State Board of Education.
9 BY MS. WELCH: (Continuing)
10 Q Did you speak before the State Board of Education
11 on the issue of test equity?
12 MR. VIRJEE: Objection; vague and ambiguous as
13 to test equity.
14 THE WITNESS: I don't recall the term "Test
15 equity."
16 BY MS. WELCH: (Continuing)
17 Q So that's not a term that you would use?
18 A I don't recall that. I don't recall using that
19 term.
20 Q Is that a term that you use?
21 MR. VIRJEE: Objection; vague as to context.
22 THE WITNESS: I don't know. I don't recall
23 using a term "Test equity."
24 BY MS. WELCH: (Continuing)
25 Q Okay.

1 MS. BALL: Can I object, I guess, just that I'm
2 not sure you established a foundation that he officially was
3 representing the Long Beach Unified School District in May
4 2002.
5 MS. WELCH: I wasn't trying to establish that.
6 That was his testimony.
7 BY MS. WELCH: (Continuing)
8 Q Have a couple of follow-up questions relating to
9 your dissertation. When did you begin working on your
10 dissertation?
11 A I'm thinking.
12 MR. VIRJEE: I believe that was asked and
13 answered as well yesterday.
14 MS. WELCH: It wasn't.
15 MR. VIRJEE: I think the record will reflect
16 that. I was just preserving the objection.
17 MS. WELCH: Fine. I reviewed the record.
18 That's why I'm asking it.
19 THE WITNESS: I think 1999.
20 BY MS. WELCH: (Continuing)
21 Q As part of your dissertation, have you developed
22 a hypothesis for why students show improvement over time?
23 MR. VIRJEE: Objection; asked and answered
24 yesterday.
25 THE WITNESS: Yes.

1 BY MS. WELCH: (Continuing)
2 Q What is your hypothesis?
3 A That student improvement occurs over time.
4 Q So you -- do you have -- so your hypothesis is
5 the same as your thesis statement?
6 A The hypothesis is that students improve over
7 time, and the thesis statement was is that the Academic
8 Performance Index is a way of showing that.
9 Q My question, I think, was a little bit different.
10 Do you have a hypothesis for why they show improvement over
11 time?
12 MR. VIRJEE: Objection; asked and answered.
13 He's told you what the hypothesis for the dissertation was.
14 THE WITNESS: The intent of my dissertation was
15 not to explain why or how, but that it is demonstrable
16 through -- it's demonstrable through a visually
17 demonstrable through this Academic Performance Index.
18 BY MS. WELCH: (Continuing)
19 Q It's -- and what you mean by that is students are
20 improving over time?
21 A Student improvement, uh-huh.
22 Q And by improvement, are you referring only to
23 test scores?
24 A I'm referring to it through the use of student
25 achievement scores as reflected on, yes, in test scores.

1 Q So you're not looking -- as part of your
2 dissertation, you're not looking at what factors may be
3 influential in this improvement?
4 A No.
5 Q Are you aware of the fact that the policy and
6 evaluation unit makes available various publications on the
7 CDE website?
8 MR. VIRJEE: Objection; vague and ambiguous as
9 to publications makes available.
10 MS. READ-SPANGLER: Asked and answered.
11 THE WITNESS: I know that the California
12 Department of Education has a number of documents, some
13 information, some research based or research oriented, and
14 some evaluation reports and that the policy and evaluation
15 unit is required to make those publicly available, and they
16 use the California department of education website for that
17 purpose.
18 BY MS. WELCH: (Continuing)
19 Q Do you know why they're required to make them
20 publicly available?
21 A No.
22 Q Do you think it's a good idea that they make them
23 publicly available?
24 MR. VIRJEE: Objection; calls for speculation;
25 lacks foundation; incomplete hypothetical; vague and

1 ambiguous as to good idea and in what context.
 2 THE WITNESS: Of the reports and documents that
 3 I am thinking of, they have -- they reference either some
 4 policy, or they reference some enactment of policy and
 5 provide information for those who wish to partake of it.
 6 BY MS. WELCH: (Continuing)
 7 Q Do you think that's a good idea?
 8 A Yes.
 9 Q Yesterday when we were talking about components
 10 of an accountability system, one component that you
 11 referenced was sound curriculum. Do you recall that
 12 discussion?
 13 MR. VIRJEE: Objection. His testimony will
 14 speak for itself.
 15 THE WITNESS: Yes.
 16 BY MS. WELCH: (Continuing)
 17 Q Do you think it's important for students to have
 18 opportunities to learn the curriculum through textbooks and
 19 other instruction materials?
 20 MR. VIRJEE: Objection; vague and ambiguous as
 21 to opportunity to learn, incomplete hypothetical, calls for
 22 speculation.
 23 THE WITNESS: I believe that students should
 24 have access to curriculum.
 25 BY MS. WELCH: (Continuing)

1 Q How do you believe students get access to the
 2 curriculum?
 3 MR. VIRJEE: Objection; calls for speculation,
 4 overbroad. Are you asking him to tell you all the ways that
 5 students get access to curriculum?
 6 THE WITNESS: Students receive access to the
 7 curriculum. There was a variety of modalities and methods
 8 and instruments.
 9 BY MS. WELCH: (Continuing)
 10 Q Do you have some in mind?
 11 A School is a good start. Teachers as a component
 12 of school. Students receive information and access to the
 13 curriculum in a variety of ways.
 14 Q Do you think that textbooks is one way that they
 15 receive access to the curriculum?
 16 MR. VIRJEE: Objection; calls for speculation,
 17 lacks foundation, vague and ambiguous as to textbooks, vague
 18 as to time, incomplete hypothetical.
 19 THE WITNESS: I'm not sure what you mean by a
 20 textbook. If you mean instructional materials, I think
 21 instructional materials is one way in which students have
 22 access to curriculum.
 23 BY MS. WELCH: (Continuing)
 24 Q You think it's important that students have
 25 access to instructional materials?

1 MR. VIRJEE: Objection; incomplete hypothetical,
 2 calls for speculation, lacks foundation.
 3 THE WITNESS: I think instructional materials
 4 take on many various forms.
 5 BY MS. WELCH: (Continuing)
 6 Q Okay. Do you think --
 7 MS. WELCH: Could you repeat my question?
 8 (Record read as follows:
 9 "Question: You think it's important that
 10 students have access to instructional materials?")
 11 MR. VIRJEE: Objection; vague as big as to
 12 access and instructional materials, incomplete hypothetical,
 13 vague and ambiguous as to important.
 14 THE WITNESS: Yes.
 15 BY MS. WELCH: (Continuing)
 16 Q Do you think that instruction materials are an
 17 important tool for learning the content standards?
 18 MR. VIRJEE: Objection; vague and ambiguous as
 19 to important and instruction material, incomplete
 20 hypothetical, lacks foundation.
 21 THE WITNESS: I believe one of many tools for
 22 accessing the curriculum.
 23 BY MS. WELCH: (Continuing)
 24 Q Learning the content standards?
 25 A Learning the content standards.

1 Q What other tools do you think are important for
 2 learning the content standards?
 3 MR. VIRJEE: Objection; asked and answered and
 4 also misstates his testimony.
 5 THE WITNESS: They come in a variety of forms
 6 and formats and modalities and instruments from
 7 instructional materials that are adopted by California State
 8 Department of Education to a variety of sources that provide
 9 information to -- for students to be able to access the
 10 curriculum as well as to understand and learn the content
 11 standards.
 12 BY MS. WELCH: (Continuing)
 13 Q Do you have any other examples in mind beside
 14 instruction materials?
 15 A Oh, my goodness. There's so many.
 16 Q If you could just give an example, because I'm
 17 not understanding what you're referring to.
 18 A Well, the State of California makes
 19 instruction -- adopts instructional materials that are
 20 aligned to content standards and makes those available to
 21 schools and school districts through the instructional
 22 materials fund. They also allow instruction materials fund
 23 monies to purchase supplemental materials that can take on a
 24 variety of forms from maps and charts and dictionaries,
 25 encyclopedias, other publications that provide assistance to

1 students in helping them to acquire the content standards.
 2 Q Do you think it's important for students to have
 3 access to the things that you just described?
 4 MR. VIRJEE: Objection; vague and ambiguous as
 5 to important and access, incomplete hypothetical, calls for
 6 speculation.
 7 THE WITNESS: I believe that all public who
 8 desire to learn should have access to the information for
 9 which they seek.
 10 BY MS. WELCH: (Continuing)
 11 Q That's a nice belief to hold.
 12 MS. WELCH: Could you please repeat my question?
 13 (Record read as follows:
 14 "Question: Do you think it's important for
 15 students to have access to the things that you just
 16 described?")
 17 MR. VIRJEE: Objection; vague and ambiguous as
 18 to access, incomplete hypothetical, calls for speculation.
 19 MS. READ-SPANGLER: Yeah. I'm just going to
 20 object, because he said he was giving you an example which
 21 is what you asked for not an all inclusive list.
 22 MS. WELCH: If you could just answer that
 23 question.
 24 THE WITNESS: I'm sorry. Could you repeat the
 25 question?

1 (Record read as follows:
 2 "Question: Do you think it's important for
 3 students to have access to the things that you just
 4 described?")
 5 THE WITNESS: □□Could you repeat what I -- could
 6 you read back to me what I just described?
 7 (Record read as follows:
 8 "Answer: Well, the State of California makes
 9 instruction -- adopts instructional materials that are
 10 aligned to content standards and makes those available
 11 to schools and school districts through the
 12 instructional materials fund. They also allow
 13 instruction materials fund monies to purchase
 14 supplemental materials that can take on a variety of
 15 forms from maps and charts and dictionaries,
 16 encyclopedias, other publications that provide
 17 assistance to students in helping them to acquire the
 18 content standards.")
 19 THE WITNESS: □□Yes.
 20 BY MS. WELCH: (Continuing)
 21 Q Yesterday in the context of Brian Stecher's
 22 presentation and findings, we were talking about the
 23 achievement gap. Do you recall that discussion?
 24 A Brian Stecher's discussion or --
 25 MR. VIRJEE: I don't think there's a discussion

1 going on. I think this is question and answers. His
 2 testimony will speak for itself.
 3 MS. WELCH: I'm just trying to establish a
 4 foundation for my questions so that I don't have to go back
 5 and walk through all of the things that we talked about.
 6 I'm just trying to shortcut.
 7 MR. VIRJEE: Then ask a question.
 8 MS. WELCH: I did.
 9 BY MS. WELCH: (Continuing)
 10 Q Do you recall?
 11 MR. VIRJEE: And I made the objection. You
 12 don't need the recall -- you don't need to restate his
 13 testimony or ask him to recall if he talked about something.
 14 Just ask the question. We'll move on.
 15 THE WITNESS: Yes.
 16 BY MS. WELCH: (Continuing)
 17 Q In your opinion, what are the causes for the
 18 achievement gap?
 19 MR. VIRJEE: Objection; vague and ambiguous as
 20 to achievement gap, calls for speculation, lacks foundation.
 21 THE WITNESS: I don't understand the question.
 22 BY MS. WELCH: (Continuing)
 23 Q What do you think causes the achievement gap?
 24 MR. VIRJEE: Same objections; calls for
 25 speculation, lacks foundation, calls for an expert opinion.

1 THE WITNESS: What achievement gap?
 2 BY MS. WELCH: (Continuing)
 3 Q Yesterday we were talking about Brian Stecher's
 4 findings with respect to achievement gap among various
 5 groups of students. And I'm wondering if you have in mind
 6 causes for that achievement gap.
 7 MS. READ-SPANGLER: Objection; compound.
 8 MR. VIRJEE: Calls for speculation and lacks
 9 foundation, vague and ambiguous as to causes.
 10 THE WITNESS: Brian's Stecher's presentation was
 11 to make visual the differences and results by various groups
 12 of students as acknowledged on the Department of Education's
 13 website and in their annual reporting of student achievement
 14 results, such as STAR, and by identifiable demographic
 15 groups as is called for under STAR. That was his
 16 presentation. I don't recall that he gave a reason why.
 17 MS. WELCH: And if I was unclear, I apologize.
 18 I'm not asking for his reasons why.
 19 BY MS. WELCH: (Continuing)
 20 Q I'm asking if you have any reasons in mind with
 21 respect to causes for the achievement gap.
 22 MR. VIRJEE: Objection; vague and ambiguous as
 23 to reason, calls for speculation, lacks foundation, calls
 24 for an expert opinion.
 25 MS. READ-SPANGLER: And it's compound.

1 THE WITNESS: There's -- a variety of reasons, I
2 believe, exist for the differences in performance by
3 students.

4 BY MS. WELCH: (Continuing)

5 Q Could you give me some examples?

6 A Differences exist among people.

7 Q Anything else?

8 A Differences exist among people's experiences.

9 Certainly, one would not expect that English learners'
10 scores would be equal to a student who is English
11 proficient. That is why we've identified individual
12 students as being limited English proficient or in
13 California terms an English learner.

14 Q Any other ideas?

15 MR. VIRJEE: Objection; vague and ambiguous as
16 to any other ideas. Ideas about what? You asked for an
17 example. He gave you one.

18 BY MS. WELCH: (Continuing)

19 Q Another example?

20 A Examples of?

21 Q What we were talking about.

22 A Which is?

23 MS. WELCH: You have to read it back.

24 MR. VIRJEE: I'm not sure what you're being
25 asked to read back. I don't want the court reporter to be

1 that exist among people. You asked me what else. I said
2 there are differences that exist among people's experiences.

3 Q Correct. And then I said do you have any other
4 examples.

5 A And I described English learners as an example.

6 Q And when I was talking about examples, I was
7 going back to my original question.

8 MR. VIRJEE: So now she's giving you some
9 clarification.

10 THE WITNESS: So differences exist in people's
11 experiences in life, people's geographic locations, the
12 externalities that come to them through life's experiences,
13 through familial relationships, through personal experiences
14 involving life and death issues, tragedy and joy, travel or
15 stationary periods, a variety of life's experiences.

16 BY MS. WELCH: (Continuing)

17 Q Do you think that there are components of
18 schooling that cause the achievement gap?

19 MR. VIRJEE: Objection; vague and ambiguous as
20 to components and cause.

21 THE WITNESS: I don't know what schooling means.

22 BY MS. WELCH: (Continuing)

23 Q Education. The education that students receive
24 at their schools.

25 MR. VIRJEE: Same objection as to education and

1 making that determination.

2 He said people are different. You asked for an
3 example of that, and he gave you one. If you want to know
4 how people are different, he can answer that. Otherwise,
5 please clarify the question you want him to answer.

6 MR. VIRJEE: □Because the court reporter isn't --
7 she's qualified to take down what's right and wrong, but she
8 is not qualified to look into your mind or his mind to
9 figure out what you want read back, with no disrespect
10 intended to the court reporter at all.

11 (Record read as follows:

12 "Question: I'm asking if you have any
13 reasons in mind with respect to causes for the
14 achievement gap.")

15 BY MS. WELCH: (Continuing)

16 Q It sounded to me like you could not recall what
17 the examples are that you were providing; is that correct?

18 MR. VIRJEE: I'm going to object as nonsensical.
19 Could not recall what examples about what?

20 BY MS. WELCH: (Continuing)

21 Q It sounds like you lost track of what you were
22 talking about. I had asked you if you had any other
23 examples, and you said that you --

24 A I recall that I was answering your question, and
25 in answering your question, I said there are differences

1 cause.

2 THE WITNESS: The education that students
3 receive in their schools comes in a variety of ways through
4 a variety of methods and through a variety of personalities
5 as well as some through their teachers, some through their
6 principals, some through organizational structures within
7 school settings.

8 Q And?

9 MR. VIRJEE: If there is an and, you can answer
10 that. If you know what and means.

11 MS. WELCH: I don't think the question was
12 answered. If you could read back the question, please,
13 and it may be difficult, because I described what I meant by
14 schooling. So the last question may not be clear. So if
15 you could go back to the previous question.

16 (Record read as follows:

17 "Question: Do you think that there are
18 components of schooling that cause the achievement
19 gap?")

20 MR. VIRJEE: Please read after that then so he
21 knows what he said.

22 MS. WELCH: Could you please answer that
23 question?

24 MR. VIRJEE: Please read back the rest after --
25 following that question first, please, Madam Reporter.

1 (Record read as follows:
 2 "THE WITNESS: The education that students
 3 receive in their schools comes in a variety of ways
 4 through a variety of methods and through a variety of
 5 personalities as well as some through their teachers, some
 6 through their principals, some through organizational
 7 structures within school settings.")
 8 MR. VIRJEE: □□Same objection, and is vague and
 9 ambiguous.
 10 MS. READ-SPANGLER: She's asking is there a
 11 components of schooling or education that students receive
 12 that you think leads to an achievement gap.
 13 MR. VIRJEE: I don't know what she's asking.
 14 Why don't we let the attorneys ask the questions?
 15 THE WITNESS: I don't know. I don't understand
 16 the question, and I don't know how to answer you.
 17 BY MS. WELCH: (Continuing)
 18 Q Is there a particular part of that you're having
 19 trouble with?
 20 A Yeah.
 21 Q What's that?
 22 A The whole question.
 23 Q Is there any words that are confusing?
 24 A Could you start with the first one?
 25 Q What's the first word?

1 MR. VIRJEE: And.
 2 MS. WELCH: Of the question.
 3 MR. VIRJEE: And there's a pending question, and
 4 you asked him a question. He gave you an answer, and you
 5 said "And" .
 6 MS. WELCH: That's where we -- I asked could you
 7 repeat my question because I don't think he answered it. So
 8 the question -- the last question that I asked is the
 9 question that's pending.
 10 MR. VIRJEE: The last question you asked is,
 11 "And."
 12 MS. READ-SPANGLER: Why don't you rephrase?
 13 MR. VIRJEE: He answered the question. If you
 14 don't think he answered the question, ask the question again
 15 so he gives you a different answer.
 16 MS. WELCH: I asked the court reporter to read
 17 back the question --
 18 MR. VIRJEE: She did.
 19 MS. WELCH: -- so that he could respond to it.
 20 MR. VIRJEE: She did. And then he answered.
 21 She read his answers. And you said, "And." That's the
 22 question pending.
 23 MS. WELCH: I would like to ask my question
 24 again, because I don't think it was responded to.
 25 And if you could repeat it, that is the question

1 that I would like to ask.
 2 MR. VIRJEE: If you read the question, please
 3 read the answer following it.
 4 □□So we can have her read it all again.
 5 (Record read as follows:
 6 "Question: Do you think that there are
 7 components of schooling that cause the achievement gap?
 8 MR. VIRJEE: Objection; vague and ambiguous
 9 as to components and cause.
 10 THE WITNESS: I don't know what schooling
 11 means.
 12 Question: Education. The education that
 13 students receive at their schools.
 14 MR. VIRJEE: Same objection as to education
 15 and cause.
 16 THE WITNESS: The education that students
 17 receive in their schools comes in a variety of ways
 18 through a variety of methods and through a variety of
 19 personalities as well as some through their teachers, some
 20 through their principals, some through
 21 organizational structures within school settings.
 22 Question: And?")
 23 BY MS. WELCH: (Continuing)
 24 Q That is the question that's pending if you have
 25 that question in mind?

1 MR. VIRJEE: You've answered the question.
 2 Ask another question. Move on and ask another
 3 question, or if you ask more clarification besides and ask
 4 him to clarify his answer in some. Way he's answered the
 5 question. If you don't think he answered it well, ask him a
 6 different question. But he's answered your question.
 7 MS. WELCH: I disagree.
 8 MS. READ-SPANGLER: I think he said he was
 9 confused by it. So maybe if you could just rephrase it.
 10 BY MS. WELCH: (Continuing)
 11 Q In your opinion do you think that unequal access
 12 to qualified teachers is a possible factor in the
 13 achievement gap?
 14 MR. VIRJEE: Objection; vague and ambiguous as
 15 to unequal access available, vague and ambiguous as to
 16 unqualified teachers and vague and ambiguous as to
 17 achievement gap, also incomplete hypothetical and calls for
 18 an expert opinion.
 19 THE WITNESS: There are various view points.
 20 There's a variety of data some through research, some
 21 through research reports, some through demonstration of data
 22 presented which correlates back to teacher qualifications
 23 that provide various viewpoints on that.
 24 BY MS. WELCH: (Continuing)
 25 Q Do you have viewpoints?

1 MR. VIRJEE: Same objections.
 2 THE WITNESS: It's in development.
 3 BY MS. WELCH: (Continuing)
 4 Q Your viewpoint?
 5 A Yes.
 6 Q What is it -- what is that development based on?
 7 A On this variety of data. So for example, Linda
 8 Caringham of Stanford University, previously Columbia
 9 Teachers College, has written extensively regarding the
 10 value of credentialed teachers.
 11 William Saunders formally of the University of
 12 Tennessee in his value added methods has written about
 13 student achievement score tied to credentialed teachers.
 14 There's differences in the ending results. I've
 15 seen in my professional capacity examples of student
 16 performances with high achievement with credentialed and
 17 also noncredentialed teachers.
 18 Q So at this point, you don't have an opinion as to
 19 whether quality teaching affects student achievement?
 20 MR. VIRJEE: Objection; vague and ambiguous as
 21 to quality teaching affects student achievement, also
 22 misstates his testimony, also incomplete hypothetical.
 23 THE WITNESS: No. I have an opinion on quality
 24 teaching.
 25 BY MS. WELCH: (Continuing)

1 Q What is that opinion?
 2 A You asked me previously about credentialed
 3 teachers.
 4 Q I asked about qualified teachers.
 5 MR. VIRJEE: Objection; vague and ambiguous as
 6 to qualified teachers.
 7 THE WITNESS: I apologize. I didn't understand
 8 your question -- your definition of qualified teachers.
 9 MR. VIRJEE: I guess it really was vague and
 10 ambiguous.
 11 THE WITNESS: Sorry.
 12 BY MS. WELCH: (Continuing)
 13 Q Do you have an opinion as to whether quality
 14 teaching affects student achievement?
 15 MR. VIRJEE: Objection; vague and ambiguous as
 16 to quality teaching, incomplete hypothetical.
 17 THE WITNESS: I believe that instruction is a
 18 very valuable part of learning.
 19 BY MS. WELCH: (Continuing)
 20 Q And do you think instruction affects student
 21 achievement?
 22 A Yes.
 23 Q What are the components of instruction in your
 24 view?
 25 MR. VIRJEE: Objection; vague and ambiguous as

1 to components.
 2 THE WITNESS: Components of instruction include
 3 having a clear concise set of standards, a clear and concise
 4 set of learning objectives to having some precursory
 5 knowledge of student's preexisting levels of information and
 6 knowledge, teaching to the objective that is defined, to
 7 performing monitoring activities to ensure that students are
 8 engaged in learning as well as are learning the objective,
 9 to coming to conclusion -- excuse me -- coming to some
 10 summary regarding the completion of the instruction,
 11 following up with some formal and informal assessment
 12 measures to ensure that students have acquired the learning,
 13 providing opportunities for students to demonstrate their
 14 learning, use it in a capacity of settings, and to enable
 15 students to continually use previously learned information
 16 curriculum, objectives in a continually continual
 17 improvement cycle as they learn and acquire new levels of
 18 information.
 19 BY MS. WELCH: (Continuing)
 20 Q Do you think the facilities, the school
 21 facilities, that students attend have an impact on their
 22 achievement?
 23 MR. VIRJEE: Objection; vague and ambiguous as
 24 to facilities, calls for speculation, lacks foundation,
 25 vague and ambiguous as to impact, incomplete hypothetical,

1 calls for expert opinion.
 2 THE WITNESS: Well, I'm not sure what you're
 3 asking me, but if you're asking me if the students at Mona
 4 Loa High School in Hawaii are going to learn about volcanos
 5 much better than students who live in the Sultan Sea,
 6 probably yes.
 7 BY MS. WELCH: (Continuing)
 8 Q That's not what I'm asking you.
 9 A Then I don't understand what you're asking.
 10 Q Why don't we start with my question.
 11 MS. WELCH: Could you repeat it?
 12 MS. READ-SPANGLER: He told you he didn't
 13 understand it.
 14 (Record read as follows:
 15 "Question: Do you think the facilities, the
 16 school facilities, that students attend have an impact
 17 on their achievement?")
 18 MR. VIRJEE: Read the objection, please.
 19 (Record read as follows:
 20 "MR. VIRJEE: Objection; vague and ambiguous
 21 as to facilities, calls for speculation, lacks
 22 foundation, vague and ambiguous as to impact,
 23 incomplete hypothetical, calls for expert opinion.")
 24 THE WITNESS: Could you define facilities for
 25 me?

1 BY MS. WELCH: (Continuing)
 2 Q The school buildings that children go to every
 3 day. Does that help clarify the question?
 4 MR. VIRJEE: Same objections.
 5 THE WITNESS: Some. But some children don't
 6 acquire their learning in buildings.
 7 BY MS. WELCH: (Continuing)
 8 Q You think some children go to schools that don't
 9 have buildings?
 10 A Well, that's not when I mean. Some children
 11 learn to improve their techniques for running, and they
 12 don't do it inside a building. Some students improve or
 13 learn physical motor skills that don't involve buildings.
 14 Q I was asking about student achievement, though.
 15 A We measure student achievement in physical
 16 education. We have a state requirement for that. We assess
 17 students annually in grades five seven, and nine. We have
 18 state standards for physical education. We report student
 19 achievement results among those six standards.
 20 MR. VIRJEE: Spoken like a true P.E. teacher.
 21 BY MS. WELCH: (Continuing)
 22 Q Do you think that the shape of the facilities in
 23 terms of, you know, whether they're run down, unsafe,
 24 unhealthy, impact student's ability to learn?
 25 MR. VIRJEE: Objection; vague and ambiguous as

1 to shape of facilities, run down and ability to learn, calls
 2 for speculation, lacks foundation, incomplete hypothetical.
 3 THE WITNESS: I'm not aware of a study that
 4 correlates the physical quality of structures like buildings
 5 with student achievement results, if that's what you're
 6 asking me.
 7 BY MS. WELCH: (Continuing)
 8 Q That is what I'm asking.
 9 A I'm not aware of such a study.
 10 Q Do you have any views on the issue based on your
 11 own experiences as a teacher?
 12 MR. VIRJEE: Same objections.
 13 THE WITNESS: I have experiences as a teacher of
 14 teaching in facilities of various qualities and various
 15 components, some, for example, with carpets, some with
 16 Linoleum, some with overhead lighting with light bulbs, some
 17 by florescent lighting. I don't recall that I came to any
 18 conclusion or that I have even retained any data that
 19 suggests that my students learned better in building A
 20 versus building B with the characteristics that I just
 21 briefly described.
 22 BY MS. WELCH: (Continuing)
 23 Q Did you teach in any schools in what you
 24 considered to be substandard facilities?
 25 MR. VIRJEE: Objection; vague and ambiguous as

1 to substandard.
 2 THE WITNESS: In my experiences, no.
 3 BY MS. WELCH: (Continuing)
 4 Q In your opinion, does California's accountability
 5 system currently measure educational quality?
 6 MR. VIRJEE: Objection; vague and ambiguous as
 7 to educational quality.
 8 THE WITNESS: California's accountability system
 9 is measured through a variety of components. There's an
 10 Academic Performance Index as part of the Public School
 11 Accountability Act that uses student achievement scores.
 12 There's an accountability instrument through the
 13 Consolidated Compliance Review Process that monitors state
 14 and federal programs. There's a federal component for now
 15 under No Child Left Behind which will measure student
 16 achievement in adequate yearly progress. There are
 17 accountability requirements in annual data submission
 18 through the California Basic Educational Demographic System
 19 which monitors graduation requirements. There are a variety
 20 of accountability instruments in the state that have
 21 requirements to schools in districts from minutes of
 22 operation in a calendar year to hours of operation, to
 23 licensure requirements, to Ed codes in bus transportation.
 24 They take on a variety of embodiments.
 25 BY MS. WELCH: (Continuing)

1 Q Do you think any of the things that you've just
 2 mentioned measure educational quality?
 3 MR. VIRJEE: Objection; vague and ambiguous as
 4 to educational quality.
 5 THE WITNESS: I think the term "educational
 6 quality" is open for interpretation, and I think that
 7 involves -- that involves both a policy and a public
 8 discourse on how the items I mentioned may or may not play a
 9 part in the public's mind as to what constitutes quality.
 10 For me, test scores may be very important. For my neighbor,
 11 school safety in terms of physical violence or a attacks on
 12 children may be important. To somebody else it might happen
 13 to be the numbers of minutes a student is instructed.
 14 BY MS. WELCH: (Continuing)
 15 Q Do you believe that the STAR program is a valid
 16 way to measure school quality?
 17 MR. VIRJEE: Objection; vague and ambiguous as
 18 to school quality.
 19 THE WITNESS: I believe that the STAR program is
 20 a useful instrument in measuring student achievement results
 21 on the contents standards.
 22 BY MS. WELCH: (Continuing)
 23 Q Do you think it has any other useful aspects?
 24 MR. VIRJEE: Objection; vague and ambiguous as
 25 to useful aspects.

1 THE WITNESS: Well, in that it reports student
2 achievement results, it provides programmatic information to
3 schools and hopefully teachers about how well their students
4 are acquiring and accessing the content standards so that it
5 can lead to improvements if necessary.

6 MS. WELCH: If we can take a quick break?
7 (Recess.)

8 BY MS. WELCH: (Continuing)

9 Q In your opinion, is it important for students to
10 have access to the instruction materials called for by the
11 content starts and frameworks in their classrooms?

12 MR. VIRJEE: Objection; vague and ambiguous as
13 to access and instruction materials and incomplete
14 hypothetical.

15 MS. READ-SPANGLER: Lacks foundation.

16 THE WITNESS: I don't believe -- there are
17 criteria for selecting instructional materials that are
18 found within the frameworks, but I don't believe they
19 identify specific instruction materials.

20 BY MS. WELCH: (Continuing)

21 Q I think that they identify types of instruction
22 materials. Do you agree with that?

23 A No, I disagree with that. They identify
24 curricular --

25 MR. VIRJEE: You've answered the question.

1 testified to earlier --

2 A Okay.

3 Q -- do you think the STAR program is a fair
4 assessment of demonstrating their learning?

5 MR. VIRJEE: Objection; vague and ambiguous with
6 respect to fair and demonstrating learning.

7 BY MS. WELCH: (Continuing)

8 Q Let me ask the question again. Given the
9 differences in students that you testified to, do you think
10 the STAR program is a fair assessment for demonstrating
11 their learning?

12 MR. VIRJEE: Objection; vague and ambiguous as
13 to demonstrating learning.

14 THE WITNESS: What were the terms you used?
15 Fair; is that one? And you used another one.

16 BY MS. WELCH: (Continuing)

17 Q Fair assessment.

18 A Oh. I believe the STAR is a fair assessment of
19 the curriculum and the content standards as identified in
20 the blueprint made publicly available.

21 Q Do you think it allows students to -- strike
22 that.

23 Do you think that it allows students of
24 differing modalities to demonstrate what they've learned?

25 MR. VIRJEE: Objection; vague and ambiguous as

1 BY MS. WELCH: (Continuing)

2 Q What do they identify --

3 MR. VIRJEE: Asked and answered.

4 BY MS. WELCH: (Continuing)

5 Q -- in your opinion?

6 MR. VIRJEE: Asked and answered.

7 THE WITNESS: Curriculum frameworks have
8 criteria for selection of instructional materials.

9 BY MS. WELCH: (Continuing)

10 Q Do you think the content standards identify
11 instruction materials?

12 MR. VIRJEE: Objection; vague and ambiguous as
13 to identify instructional materials.

14 THE WITNESS: No.

15 BY MS. WELCH: (Continuing)

16 Q You think they suggest instruction materials in
17 order to master them?

18 MR. VIRJEE: Objection; vague and ambiguous as
19 to suggest instruction materials.

20 THE WITNESS: No.

21 BY MS. WELCH: (Continuing)

22 Q Given the differences in students that you
23 testified to earlier, do you think that the STAR --

24 A I'm sorry. Could you start again?

25 Q Sure. Given the differences in students that you

1 to different modalities, calls for speculation, lacks
2 foundation and also vague and ambiguous as to demonstrate
3 what they learned.

4 THE WITNESS: The STAR assessment system?

5 BY MS. WELCH: (Continuing)

6 Q Yes.

7 A The STAR assessment system in its current format
8 assesses a variety of modalities. It assesses content
9 knowledge. It assesses reasoning within different
10 disciplines, and it assesses writing application skills.
11 Those are different modalities for demonstrating knowledge
12 and skills.

13 Q When you were working at Long Beach in the
14 evaluation office, did your office analyze student
15 performance on the SAT-9?

16 A Yes.

17 Q What sorts of analyses did you do?

18 A We did cross-sectional analysis, and we did
19 longitudinal analysis.

20 Q Did you analyze whether there was a correlation
21 between performance on the SAT-9 and teacher qualifications?

22 MR. VIRJEE: Objection; vague and ambiguous as
23 to teacher qualifications.

24 THE WITNESS: Teacher qualification as measured
25 how?

1 BY MS. WELCH: (Continuing)
 2 Q As measured by either credential or experience.
 3 My first question is just a general question.
 4 A Yes.
 5 Q What sorts of analyses did you do?
 6 A Cross-sectional and longitudinal analysis matched
 7 to teacher -- to teachers.
 8 Q What sorts of qualification -- teacher
 9 qualifications did you use as measures?
 10 A All teachers. So credentialed, noncredentialed,
 11 intern, anybody who was employed as a teacher.
 12 Q Was this a analysis that you did regularly, or
 13 you have a particular analysis in mind when you're
 14 responding?
 15 A I have a particular analysis in mind as I'm
 16 responding to your questions now.
 17 Q And what was that analysis?
 18 MR. VIRJEE: I'm sorry. Vague and ambiguous as
 19 to what you mean. What was that analysis, the name of it?
 20 BY MS. WELCH: (Continuing)
 21 Q When was this analysis performed?
 22 A I believe we did it based on the 2001 STAR
 23 results, and we did it based on 2002 STAR results.
 24 Q Do you know if the analysis is memorialized in a
 25 document?

1 A I believe there was a draft of a document during
 2 the time I was in Long Beach Unified, and prior to my
 3 leaving the district, there was consideration of a
 4 presentation at the American Educational Research
 5 Association, but I was -- I did not attend that conference,
 6 and I did not participate in that presentation if it was
 7 presented.
 8 Q Do you recall what the findings of this analysis
 9 were, if any?
 10 A Generally?
 11 Q Yes.
 12 A That we found no compelling evidence between the
 13 difference in performance between credentialed and
 14 noncredentialed teachers. Though, there were supporting
 15 evidences, such as professional development, opportunities,
 16 such as instructional knowledge and skills at the
 17 administrative level and oversight level.
 18 Q Do you recall anything else about this analysis?
 19 A It was preliminary.
 20 Q Did you analyze whether -- when you were at Long
 21 Beach, did you analyze whether there was correlation between
 22 student achievement and facilities conditions?
 23 MR. VIRJEE: Objection; vague and ambiguous as
 24 to facilities, conditions.
 25 THE WITNESS: No.

1 BY MS. WELCH: (Continuing)
 2 Q Did you analyze whether there's a correlation
 3 between student achievement and curriculum?
 4 MR. VIRJEE: Objection; vague and ambiguous as
 5 to correlation between student achievement and curriculum.
 6 Other than what he's already testified to?
 7 THE WITNESS: I need a further explanation or
 8 definition about curriculum.
 9 BY MS. WELCH: (Continuing)
 10 Q Access to instruction materials.
 11 MR. VIRJEE: Objection; vague and ambiguous as
 12 to access to instruction materials.
 13 THE WITNESS: No.
 14 BY MS. WELCH: (Continuing)
 15 Q Did you analyze whether there was a correlation
 16 between student achievement and students who were bussed due
 17 to overcrowding?
 18 A Yes.
 19 Q Is there a particular analysis that you have in
 20 mind?
 21 A Yes.
 22 Q Do you recall when that analysis was prepared?
 23 A I believe during the same time period using 2001
 24 and 2002 STAR results.
 25 Q Do you recall the conclusions of that analysis,

1 if any?
 2 A Vaguely.
 3 Q What do you recall?
 4 A That we were looking at the performance of
 5 students who were bussed from one geographical area to
 6 another versus a cohort of similar students with similar
 7 characteristics who were not bussed.
 8 Q And what were your findings in terms of
 9 achievement?
 10 A They varied.
 11 Q Could you explain what you mean by that?
 12 A I don't recall that there was any conclusive
 13 evidence. I mean, I've seen, for example, what L.A. Unified
 14 has done in which they've acknowledged that students who
 15 ride buses for long periods of time cross town, et cetera,
 16 tend to perform less well than others.
 17 Our findings were not necessarily directly
 18 supportive of that. So when I say varied, it means that
 19 some students performed well, some did not necessarily
 20 perform well based upon their movement from one geographical
 21 section to another. It varied.
 22 Q Did you -- was there -- was this analysis
 23 memorialized in a document as far as you know?
 24 A I don't know.
 25 Q You never saw such a document?

1 A Not a formalized document. I believe we were
2 just looking at data sets in a preliminary fashion.
3 Q Other than the analyses that we just went
4 through, were there any other analyses that you did focusing
5 on student performance on the SAT-9 at Long Beach?
6 A Thinking.
7 We were often asked to provide some analysis of
8 Stanford 9 scores based on four various configurations of
9 schools, elementary, middle, high schools for types of --
10 for students mobility factors. That's all I can recall at
11 this moment.
12 MS. WELCH: I'd like to take a ten-minute break
13 and go over my notes, see if I have any other questions, and
14 then I think we can finish up.
15 MR. VIRJEE: Okay.
16 (Recess.)
17 BY MS. WELCH: (Continuing)
18 Q Mr. Flores, what, if anything, did you do to get
19 ready for your deposition?
20 A Slept.
21 Q Anything else?
22 MR. VIRJEE: Instruct you not to answer anything
23 that would invade the attorney-client privilege. Otherwise,
24 of course, you can answer.
25 THE WITNESS: No, nothing out of the ordinary.

1 BY MS. WELCH: (Continuing)
2 Q Did you meet with your attorneys?
3 A I did.
4 Q When did you meet with your attorneys?
5 A Wednesday of this week.
6 Q Who did you meet with?
7 A I met with Kara and, I met with From -- Fram.
8 Excuse me.
9 Q How long did you meet?
10 A Approximately, four hours.
11 Q Prior to that meeting, did you have any
12 familiarity with this case?
13 A Some.
14 Q What was your familiarity based on?
15 A There was a lawsuit, Williams case.
16 MR. VIRJEE: I'm going to assert the
17 attorney-client privilege there, and I'm not asserting on
18 behalf of the State. I'm just raising on behalf of the Long
19 Beach Unified. In case there's any privilege that was
20 raised there when counsel was present when you were having a
21 discussions in Long Beach, you shouldn't disclose anything
22 about anything when counsel was present either the State's
23 counsel in this capacity or when you were at Long Beach.
24 Otherwise, please answer her question.
25 MS. READ-SPANGLER: And that includes,

1 obviously, the department's counsel as well.
2 BY MS. WELCH: (Continuing)
3 Q I'm not asking you about conversations that you
4 had with attorneys regarding this case. I'm just asking you
5 for your familiarity with the case.
6 A Okay. So I had a originally encountered or heard
7 about this case in my capacity at Long Beach Unified School
8 District.
9 Q Has the case -- have you -- let me strike that.
10 Have you read the complaint in this case?
11 A Not completely.
12 Q Have you read portions of the complaint?
13 A Started on page 1, and I don't know how far I've
14 gotten, but it wasn't very thrilling, and I stopped.
15 Q I'm so offended.
16 Have you reviewed any other materials relating
17 to this case?
18 MR. VIRJEE: Objection; vague and ambiguous as
19 to materials related to the case.
20 THE WITNESS: Thinking.
21 No.
22 BY MS. WELCH: (Continuing)
23 Q Has this case been discussed at board meetings?
24 MS. READ-SPANGLER: And, again, she's asking
25 about stuff that would have been outside executive sessions.

1 THE WITNESS: Oh, in public.
2 MS. BALL: Are you speaking just, Long Beach
3 School Board meetings?
4 MS. READ-SPANGLER: I assumed state board.
5 MR. VIRJEE: Long Beach School Board?
6 MS. WELCH: I was assuming state board. It's
7 just real -- just a yes or no question. So I don't really
8 think there's an issue with privilege.
9 THE WITNESS: I don't know. I mean, not to my
10 knowledge.
11 BY MS. WELCH: (Continuing)
12 Q So to your knowledge, this case hasn't been
13 discussed during meetings of the Board of Education that
14 you've attended?
15 MR. VIRJEE: The state board or the Long Beach?
16 MS. WELCH: The state board.
17 MR. VIRJEE: Thank you.
18 THE WITNESS: In public session, I'm not sure.
19 BY MS. WELCH: (Continuing)
20 Q What about in private session?
21 A Yes.
22 Q I believe I already asked you if you'd reviewed
23 any of the State's expert reports. Have you reviewed any of
24 the plaintiff's expert reports?
25 A No.

1 Q Are you aware that there is a website on this
 2 case on which all those materials are available?
 3 A No.
 4 Q Www.decentschools.com.
 5 A What is it?
 6 Q Decentschools.com.
 7 A No. Sorry.
 8 Q Good for some late night reading. Put you right
 9 to sleep.
 10 A Thank you for your recommendation.
 11 (Deposition Exhibit 295 was marked for
 12 identification by the court reporter.)
 13 MS. WELCH: For the record, this document is
 14 called at the top "UCLA ED Leadership Program. Welcome to
 15 my home page." And then the first sentence says, "This is
 16 the home page of Geno Flores." And it was downloaded from
 17 the internet on July 10th, 2003.
 18 BY MS. WELCH: (Continuing)
 19 Q Is this referring to your home page, Mr. Flores?
 20 A I don't know.
 21 Q Why don't you know?
 22 A Because as part of this program we were required
 23 in a different course to a produce a home page, and as you
 24 can tell by the two sentences -- or the three sentences at
 25 the top, there're some bare minimums. I preferred not to

1 create a home page but was required to within the program.
 2 Q Did you write the document attached to this
 3 exhibit?
 4 A It looks familiar to me.
 5 Q And the top of the document says, "Geno
 6 Flores/cohort five." What is cohort five referring to?
 7 A Cohort five is assigned to UCLA Educational
 8 Leadership Program.
 9 Q And that's a program that you attended?
 10 A Correct.
 11 Q What is Ed 442 refer to?
 12 A A particular course.
 13 Q And what does "Biegel/Wells" refer to?
 14 A They refer to Professors Stewart Biegel and --
 15 oh, she's going to yell at me -- Amy Stewart-Wells.
 16 Q Is that a paper that you prepared for those
 17 professors?
 18 A I believe so.
 19 MS. WELCH: I don't have any other questions.
 20 Thank you very much, Mr. Flores for your time.
 21 MR. VIRJEE: Thank you, Leecia. Appreciate it.
 22 MS. READ-SPANGLER: Can we put a stipulation on
 23 the record about reviewing the transcript? I think our
 24 usual stipulation is that Mr. Flores would have 45 days from
 25 the date I receive the transcript to make his corrections

1 and for me to send it back. Is that acceptable?
 2 MS. WELCH: That's acceptable.
 3 (The deposition concluded at 2:24 p.m.)
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 8 I, GENO FLORES, do hereby declare under penalty of
 9 perjury that I have read the foregoing transcript; that I
 10 have any corrections as appear noted, in ink, initialed by
 11 me; that my testimony as contained herein, as corrected is
 12 true and correct.
 13
 14 EXECUTED this _____ day of _____,
 15 200____, at _____,
 (City) (State)
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 GENO FLORES
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I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: _____

STEPHANIE SMITHSON, RMR