

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION

ELIEZER WILLIAMS, a minor, by)
Sweetie Williams, his guardian)
ad litem, et al., each)
individually and on behalf of)
all others similarly situated,)
)
Plaintiffs,)

vs.)

No. 312236)

STATE OF CALIFORNIA, DELAINE)
EASTON, State Superintendent)
of Public Instruction, STATE)
DEPARTMENT OF EDUCATION, STATE)
BOARD OF EDUCATION,)
)
Defendants.)

DEPOSITION OF MARGARET RAYMOND, Ph.D.
San Francisco, California
Tuesday, June 24, 2003
VOLUME 2

Reported by:
TRACY L. PERRY
CSR No. 9577
JOB No. 43680

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EASTON, State Superintendent)
10 of Public Instruction, STATE)
DEPARTMENT OF EDUCATION, STATE)
11 BOARD OF EDUCATION,)

12 Defendants.)

13 _____)
14
15 Deposition of MARGARET RAYMOND, Ph.D., Volume 2,
16 taken on behalf of Plaintiffs, at 425 Market Street,
17 33rd Floor, San Francisco, California, beginning at
18 9:01 a.m. and ending at 11:31 a.m., on Tuesday, June 24,
19 2003, before TRACY L. PERRY, Certified Shorthand Reporter
20 No. 9577.
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23
24
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2
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1 INDEX

2 WITNESS: EXAMINATION
3 MARGARET RAYMOND, Ph.D.
4 VOLUME 2

5 BY MR. JACOBS 212

7 EXHIBITS

8 RAYMOND PAGE
9 5 Invoice dated March 15, 2003; 2 pages 250
10 6 Invoice dated April 19, 2003; 2 pages 250
11 7 Facsimile transmittal cover sheet dated 252
6/23/03, addressed to Peter Choate from
12 Macke Raymond Re: missing link, with
attachments; 9 pages
13
14
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1 San Francisco, California
2 Tuesday, June 24, 2003
3 9:01 a.m. - 11:31 a.m.
4

5 MARGARET RAYMOND, Ph.D.,
6 having been previously duly sworn, was further examined
7 and testified as follows:
8

9 EXAMINATION (Continued)

10 BY MR. JACOBS:

11 Q We are back on the record. Good morning. A few
12 questions about some topics we discussed yesterday. In
13 your report, the study that you did that started with the
14 584 schools.

15 A Yes.

16 Q Did you use school type in that study?

17 MR. CHOATE: Objection; vague and ambiguous.

18 THE WITNESS: I'm not following what you're asking.

19 BY MR. JACOBS:

20 Q Take a look at page 12 of your report. Did we
21 give you your report?

22 A Well, I have a copy of my report right here.

23 MR. CHOATE: Well, you know what? That's a
24 different --

25 Do you guys have another copy?

1 THE WITNESS: I'm sorry. Do you want me to be
2 working off an exhibit? Okay.
3 I'm sorry. Page 4?
4 BY MR. JACOBS:
5 Q Page 12.
6 A Okay.
7 Q At the top of the page where you were discussing
8 your analysis of the 39 schools.
9 A Yes.
10 Q You were provided -- you define a -- implicitly
11 define a school type: elementary, middle, or high
12 school. Do you see that?
13 A Yes. I do. I do.
14 Q And you compared the 39 schools in their API
15 scores against schools of similar school type.
16 A That's correct.
17 Q So now we move down the page to your study of
18 the -- based on the sample of 584 schools.
19 A That's correct.
20 Q And I don't see any reference to school type,
21 and I don't think we covered this yesterday. So my
22 question is, What type of school factor is used in this
23 study?
24 A In the econometric models I did not stratify by
25 school type.

1 Q And was there a reason for that?
2 A There is. In order for the model to
3 discriminate a school type effect for Plaintiff schools,
4 the minimum estimated number would have to be above 30.
5 In other words, you'd need to have 30 elementary schools
6 in order to have the model discriminate a factor for
7 that, or you'd need to have 30 middle schools in order
8 for that model to discriminate a school type effect.
9 Because we had only 39 schools in total, there
10 was no way to stratify and be able to achieve reliable
11 parameter estimates for the plaintiff school factor.
12 Q I'm not sure I'm tracking you. As I understood
13 the way you did your study based on the 584 schools, you
14 created a model of a school that you defined as in some
15 way similar to the plaintiff schools using the variables
16 that you note on the bottom of page 12, correct?
17 MR. CHOATE: Objection; mischaracterizes the
18 testimony. It's vague and ambiguous.
19 THE WITNESS: I did run a model with 584
20 observations and it did include the variables that appear
21 at the bottom of page 12.
22 BY MR. JACOBS:
23 Q And the variables were constructed based on the
24 39 Plaintiff schools. They weren't constructed. They
25 were -- you set a threshold for those variables based on

1 your analysis of the 39 so-called Plaintiff schools,
2 correct?
3 MR. CHOATE: Objection; vague and ambiguous.
4 THE WITNESS: The 39 schools taken as an entire
5 sample, that's correct.
6 BY MR. JACOBS:
7 Q And so what you're -- now I understand what
8 you're saying. You're saying had you disaggregated the
9 39 schools into their school type, you felt you wouldn't
10 have had enough schools of each type from which reliably
11 to construct the benchmarks or thresholds to then
12 extrapolate out to the 584 schools?
13 A No, that's not correct. I didn't stratify the
14 models because -- take as a hypothetical that the 584
15 schools divide equally into thirds for elementary,
16 middle, and high schools, and accept hypothetically that
17 the 39 schools divide into thirds, elementary, middle and
18 high school. That would mean I'd have roughly 12 or 13
19 Plaintiff schools in the elementary model. I can't run a
20 model that tests plaintiff School effect with 13
21 variables -- I mean 13 observations. The numbers for the
22 Plaintiff schools were too small to be able to estimate a
23 Plaintiff school effect.
24 Q But part of what you did in the study reported
25 on Table 2 didn't depend on the Plaintiff school

1 variable.
2 MR. CHOATE: Objection; vague and ambiguous. The
3 document speaks for itself.
4 THE WITNESS: I don't think that characterizes the
5 model accurately. If you'll recall yesterday, we
6 described the fact that the coefficients are derived in
7 part on information about how the -- all of the
8 independent variables co-vary with each other. And
9 therefore if you exclude a variable that you think is
10 important in your model, you end up with biased
11 estimates. You have something called model
12 mis-specification. Your estimates are biased potentially
13 and you lose explanatory power of the model.
14 So when you construct a model, it's important
15 for you to consider and to include, to the extent that
16 the data permit, all of the factors that you think are an
17 appropriate influence on the outcome that you're trying
18 to explain. And that way you get a true measure of the
19 effect of the independent variables that you're really
20 interested in.
21 BY MR. JACOBS:
22 Q And why were you interested in Plaintiff school
23 as an independent variable?
24 A My interest in that was to see whether there was
25 an indication -- after removing all of the effects of the

1 other variables that we were interested in, whether there
2 was an indication that there was something systematic
3 about the 39 schools compared to their referent group, if
4 you like. I didn't know whether that would be a positive
5 or negative effect when I included it in the model, but
6 theoretically I believed it was important to consider the
7 possibility that there was something systematic about
8 those schools.

9 Q And among the things that could possibly be
10 systematic about those schools were what?

11 MR. CHOATE: Objection; vague and ambiguous.

12 THE WITNESS: Including a binary variable for
13 Plaintiff school where it's coded one if it's a Plaintiff
14 school and zero if it's not a Plaintiff school doesn't
15 allow us to articulate what the systematic effect -- what
16 the mechanics of the systematic effects are. We merely
17 can describe that it exists.

18 But I was led to include that partly on the
19 basis of my observational visits to schools. I can see
20 differences in schools just based on the way that they
21 work. And it's everything from the sense of community
22 that exists in the school when you walk into it to the
23 degree of orderliness in the way that kids move from
24 class to class; from the interaction between the school
25 leaders and the teachers, whether that's a positive thing

1 included or excluded in the Plaintiff school
2 set, correct?")

3 MR. CHOATE: Also object; incomplete hypothetical.

4 THE WITNESS: I'm really sorry. I don't understand
5 your question.

6 BY MR. JACOBS:

7 Q Well, you're proposing that there was something
8 systematic --

9 A Correct.

10 Q -- systematically related or correlated with
11 this binary variable, but the only thing at the level of
12 mechanics that defines whether a school is a Plaintiff
13 school or not is whether it made it onto the -- made it
14 into the complaint somehow.

15 And so I take it to be your view that somehow if
16 there is a systematic correlation between that binary
17 variable and results, that something was going on, as yet
18 undiagnosed, that led to the creation -- that arose in
19 the creation of the Plaintiff school set.

20 MR. CHOATE: Okay. Objection; it's vague and
21 ambiguous, it's compound, it mischaracterizes the
22 witness's testimony.

23 If you understand the question, you can ask
24 it -- or you can answer it.

25 THE WITNESS: I would like to ask a question about

1 or whether it's fractious. These are things that we
2 don't necessarily have measurements of, but we know that
3 they have an effect on the way that schools operate.

4 And so without an attempt to articulate what any
5 of those were, a dummy variable coded zero or one helps
6 to reflect that because if there is, in fact, a
7 systematic relationship between the way that those
8 schools operate and the outcome of interest, it will be
9 captured by that dummy variable.

10 Q But just so I understand what you're saying, the
11 operational effect of that variable would have had to lie
12 somehow in how schools that otherwise were similar in the
13 way that you defined them were included or excluded in
14 the Plaintiff school set, correct?

15 MR. CHOATE: Objection; vague and ambiguous, assumes
16 facts not in evidence.

17 THE WITNESS: I think I need to hear that question
18 again.

19 MR. JACOBS: Why don't you read it back?

20 (The record was read as follows:

21 "Question: But just so I understand what
22 you're saying, the operational effect of
23 that variable would have had to lie somehow
24 in how schools that otherwise were similar
25 in the way that you defined them were

1 your question.

2 BY MR. JACOBS:

3 Q Sure.

4 A Are you trying to ask about whether the 39
5 schools that are coded one are somehow different than the
6 other 500 and blah, blah, blah schools?

7 Q Well, I think you answered that question already
8 with the results of your model, correct?

9 A I did.

10 Q And you've found that those 39 schools are
11 different, with a .005 P is greater than T value.

12 MR. CHOATE: Objection; vague and ambiguous.

13 THE WITNESS: Those are the model results, that's
14 correct.

15 BY MR. JACOBS:

16 Q And so the 39 schools are different, but the
17 variable itself is a variable that is associated with
18 those schools by virtue of the fact that they made it
19 onto the list that O'Melveny & Myers gave you that
20 purported to be the list of Plaintiff schools?

21 MR. CHOATE: Objection; vague and ambiguous,
22 mischaracterizes the witness's testimony.

23 THE WITNESS: Yes, the coding was based on the list
24 that I got from O'Melveny & Myers and it described what I
25 believed to be the universe of schools that were covered

1 by the case. And they -- and the question that I think
 2 you might be asking -- I'm still not clear on what your
 3 question is, but --
 4 MR. CHOATE: Well, Maggie, if you're not clear --
 5 THE WITNESS: I know, I know. Hold on.
 6 BY MR. JACOBS:
 7 Q Well, you were going to ask me what my question
 8 is.
 9 A Are you remembering that the plaintiff effect
 10 occurs after you remove all of the effect of all of the
 11 other variables?
 12 Q I do. I remember that. So I'm just trying to
 13 explore what your hypothesis might be about what the
 14 source of a systematic effect is associated with the
 15 binary value one or zero for Plaintiff school. And you
 16 said that -- what you've said so far is that you've
 17 observed significant differences in the way a school
 18 operates, but I didn't hear how you linked that to the
 19 association of a binary value, one or zero, with the
 20 field Plaintiff school.
 21 MR. CHOATE: There's no question pending.
 22 MR. JACOBS: That's my question.
 23 Q That's my question: What is the linkage?
 24 MR. CHOATE: Vague and ambiguous.
 25 THE WITNESS: I'm really sorry, Michael. One more

1 time.
 2 BY MR. JACOBS:
 3 Q What is the linkage between the observations
 4 that you reported and the binary value, one or zero, for
 5 Plaintiff school?
 6 MR. CHOATE: It's vague and ambiguous.
 7 THE WITNESS: I included a factor for Plaintiff
 8 schools with the working hypothesis that there may be
 9 something about the schools other than the claims of the
 10 case that might be systematic and influence the direction
 11 of student achievement in the school.
 12 BY MR. JACOBS:
 13 Q Now, the claims in the case include
 14 uncredentialed teachers. That's one issue, right?
 15 A That is correct.
 16 Q And the claim includes insufficiency of
 17 textbooks or instructional materials?
 18 A That's correct.
 19 Q And you don't have a variable for that because
 20 the data isn't available, correct?
 21 A I was not able to get data on the other
 22 comparison schools.
 23 Q So one possibility is that it is in fact the
 24 claims in the case, separate from the teacher
 25 credentialing issue, that lead to the effect shown for

1 the value associated with the field Plaintiff school?
 2 MR. CHOATE: Objection; vague and ambiguous, it's an
 3 incomplete hypothetical.
 4 Would you read back the question, please?
 5 (The record was read as follows:
 6 "Question: So one possibility is that it is
 7 in fact the claims in the case, separate
 8 from the teacher credentialing issue, that
 9 lead to the effect shown for the value
 10 associated with the field Plaintiff
 11 school?")
 12 MR. CHOATE: The claims in the case lead to the
 13 effect? Well, same objections.
 14 THE WITNESS: I don't think that that's
 15 characterized correctly. In order for your supposition
 16 to be true, it would have to be the case that the
 17 textbook factor and the facilities factor exist in the
 18 state of California only in the Plaintiff schools and not
 19 in the remaining schools that are their peers in order
 20 for that plaintiff to show up as including those factors.
 21 I think instead what happens in the model is
 22 that that factor washes into the error term -- the things
 23 that we do not measure -- pause. Back up.
 24 If these two factors that we're discussing now,
 25 textbooks and facilities, are more pervasive than just

1 the 39 schools that appear in the case, then they are
 2 distributed in some way that we do not understand across
 3 the 584 schools. We don't have data on it. We don't
 4 know how pervasive they are, but we can work on the
 5 assumption that some of those influences exist in the
 6 peer comparison schools.
 7 Since we don't have anything measured and
 8 included in the model as an explicit factor, that becomes
 9 part of the error term and therefore the systematic
 10 effect of the plaintiff variable would not consider that.
 11 It's not possible for the binary to pick up -- it's not
 12 possible for the binary variable to pick up unspecified
 13 variation for 39 observations and leave it aside for the
 14 others. It can't do that.
 15 BY MR. JACOBS:
 16 Q When you explained your model yesterday you
 17 cited the percentage of fully credentialed teachers as a
 18 proxy for -- and I forget your exact language, but it was
 19 something like use of resources within the school.
 20 First of all, do I have your verbal formulation
 21 correct?
 22 MR. CHOATE: Objection; mischaracterizes the
 23 witness's testimony.
 24 THE WITNESS: When we were discussing that
 25 yesterday, it was with reference to using the mean of the

1 39 schools' values for percentage of fully credentialed
2 teachers as a screening device for selecting equivalent
3 peer schools that were not in the case.

4 When you include a factor in an econometric
5 model, you're actually using the metric itself -- which
6 has real meaning in the real world -- as a factor that
7 you're seeking to explain. So in the econometric model,
8 that factor is exactly what it is. It's the percentage
9 of credentialed teachers.

10 Now, in our interpretation of the model, we
11 might say, well, there are broader implications by that
12 variable, but the model doesn't get you there. The model
13 merely estimates what is the marginal affect of changes
14 in that independent variable on the outcome of interest.

15 BY MR. JACOBS:

16 Q The reason you used that variable as a screen,
17 however, was because you thought it had broader
18 implications than just the factor itself, correct?

19 MR. CHOATE: Objection; vague and ambiguous,
20 mischaracterizes the witness's testimony.

21 THE WITNESS: I used that factor because it was the
22 only factor available to me.

23 BY MR. JACOBS:

24 Q Only factor available that did what?

25 A That described the conditions or the operations

1 mischaracterizes the witness's testimony.

2 THE WITNESS: The only time that I have ever used
3 that as a proxy was in selecting the peer schools. I
4 have never used it as a proxy before this. I always use
5 it just in the literal because I'm always using it in the
6 model. So to ask me to generalize as to what have I come
7 to expect, I haven't come to expect anything because this
8 is the first time I've ever done it.

9 BY MR. JACOBS:

10 Q And what is the basis for your belief that fully
11 credentialed teachers was a proxy for other factors? Was
12 it, for example, school observation?

13 A No.

14 Q What was it?

15 A It was a scan of the data set to see what else I
16 could use.

17 Q Was it based on an understanding of literature
18 that indicates that the percentage of fully credentialed
19 teachers is indicative of other processes going on in the
20 school?

21 MR. CHOATE: Objection; vague and ambiguous, assumes
22 facts not in evidence, and asked and answered. I think
23 this is the third time you've asked this question.

24 THE WITNESS: No, it wasn't.

25 BY MR. JACOBS:

1 or the climate or the attitudes within schools.

2 Q And the reason that you used that variable and
3 felt that it had some correlation with those other
4 factors was what? What in your mind led you to conclude
5 that fully credentialed teachers was associated with
6 those other issues?

7 MR. CHOATE: Objection; compound, vague and
8 ambiguous.

9 THE WITNESS: I have no empirical basis for that at
10 all because we don't have those other variables, and so I
11 can't test what the strength of the association is
12 between them. In the same way that I can't test what the
13 proxy "free and reduced price lunch" is for all of the
14 things that we believe about being educationally
15 challenged. We have come to accept certain variables as
16 very imperfect proxies and un-studied imperfect proxies
17 for a larger set of factors for whom we do not have
18 measure.

19 BY MR. JACOBS:

20 Q And I just want to focus that answer
21 specifically on what you have come to expect about the
22 fully credentialed teacher factor. You've come to expect
23 that that factor is associated with these other factors,
24 correct?

25 MR. CHOATE: Objection; vague and ambiguous,

1 Q So was there a basis for believing -- for your
2 decision to associate fully credentialed teachers with
3 other factors?

4 MR. CHOATE: Objection; asked and answered, vague
5 and ambiguous.

6 THE WITNESS: The best basis that I can explain is
7 brute-assed empiricism.

8 BY MR. JACOBS:

9 Q And by that you're referring to what?

10 A An often undesirable position in the world of
11 research is that we don't have measures for what we
12 really want to measure, and we come to rely on what's
13 available. And there becomes a conventional wisdom among
14 researchers that you can use these data, as imperfect as
15 they are, and we just collectively wish that we had lots
16 more information, but we don't.

17 When it comes to the model, I was specifically,
18 specifically looking at the effect of fully credentialed
19 teachers. That was the element I wanted to measure. In
20 the screening I selected it purely because across the
21 range of variables that I had at my disposal, there was
22 literally nothing else.

23 Q So this variable looked to be the closest
24 variable among the limited set to associate with some
25 hypotheses about other factors that may be going on in

1 the school that relate to resource usage?

2 MR. CHOATE: Objection; vague and ambiguous,
3 mischaracterizes the witness's testimony, it's an
4 incomplete hypothetical.

5 THE WITNESS: I do think that you're
6 mischaracterizing what I've done or what I did. In
7 selecting the factors to screen schools, I wanted to try
8 to figure out a variable that had to do with the
9 characteristics of the students, a variable that had to
10 do with generalized family background, and a variable
11 that had something to do with the schools themselves. I
12 was trying to hit the tripod of the things that could
13 potentially influence student outcomes. That there was
14 only one variable to use -- had there been -- if that
15 particular variable had not been available and there had
16 been another variable, I just would have used the other
17 variable. It's not that I'm basing it on any implied
18 divining of some vague set of associations with another
19 set of factors. My factor was, I want a school factor.
20 What can I have?

21 BY MR. JACOBS:

22 Q Was there some conventional wisdom in your mind
23 that you associated with that factor?

24 MR. CHOATE: Objection; vague and ambiguous,
25 mischaracterizes the witness's testimony.

1 Q And you, in fact, don't believe that to be true?

2 A I have no basis of knowing whether it is or not.

3 Q So let me ask you about your observations now
4 that you referred to before.

5 When did you first develop a research interest
6 in education?

7 A 1981.

8 Q And did you pursue that research interest during
9 the period you were focusing on regulated -- I'm sorry --
10 on telecommunications utilities?

11 MR. CHOATE: Objection; assumes facts not in
12 evidence, vague and ambiguous.

13 THE WITNESS: I did.

14 BY MR. JACOBS:

15 Q Did you -- and the research interest back in the
16 early '80s on education, what was the focus on that?

17 MR. CHOATE: Objection; vague and ambiguous.

18 THE WITNESS: My initial forays into the field of
19 education were about the returns on investment to
20 essentially community college education, and then
21 branched off to do some work force training, JTPA
22 evaluations, labor force analysis, input/output models
23 with respect to investments in education, quality-of-life
24 evaluations of communities based on the educational
25 performance of the public schools. There was some racial

1 THE WITNESS: No. The conventional wisdom has to do
2 with the fact that the measure isn't a good measure for
3 what we wanted to measure about teachers. That's where
4 the conventional wisdom is.

5 BY MR. JACOBS:

6 Q So let me understand what I -- by exclusion what
7 you're not saying. You're not saying that you have an
8 understanding that generally school districts aspire to
9 have as high a fully credentialed teacher work force as
10 they can, and that that is -- and therefore the degree to
11 which they attain that is a measure of school district
12 performance?

13 MR. CHOATE: Objection; vague and ambiguous, it's
14 compound, it assumes facts not in evidence.

15 THE WITNESS: No.

16 BY MR. JACOBS:

17 Q You're not saying that you had an understanding
18 that the percentage of fully credentialed teachers is
19 associated with the desirability of a school for teachers
20 to work in and therefore in some ways is a measure of the
21 overall atmosphere in a school?

22 MR. CHOATE: Objection; vague and ambiguous, it's
23 compound, and it assumes facts not in evidence.

24 THE WITNESS: No.

25 BY MR. JACOBS:

1 de-seg work that I did for the City of Rochester in
2 Rochester, New York.

3 There was an opportunity to look at the state of
4 education in New York when I was the research director
5 for the governor campaign in 1994, I believe. Is that
6 right? Yes, 1994.

7 Q Was that Pataki's first campaign for governor?

8 A Yes, it was.

9 Q And you were a research director for him?

10 A No. I was the research director for the
11 Independence Party candidate, Thomas Golisano.

12 Q And you referred earlier to observations of
13 schools. Is that something that you've carried out since
14 the beginning of your research interest in education?

15 MR. CHOATE: Objection; vague and ambiguous.

16 THE WITNESS: No.

17 BY MR. JACOBS:

18 Q When did that begin?

19 A When I became director of Credo in 1999, I
20 visited a few classrooms in Western New York -- oh, I
21 forgot to mention a project that I did for the Syracuse
22 City School District which involved a lot of observations
23 in classrooms prior to 1999.

24 But in 1999 I became a director of Credo, and
25 since I had not had an opportunity to visit in the

1 schools in the prior three or four years, I tried to make
2 it a point that when I could, either by meeting with
3 district personnel or by arrangement with people that I
4 knew, I needed to spend time in the classrooms. So I
5 started it then.

6 Q And have you continued it since you moved out to
7 California?

8 MR. CHOATE: Objection; vague and ambiguous.

9 THE WITNESS: I have.

10 BY MR. JACOBS:

11 Q And have you maintained observational notes of
12 your visits?

13 A No.

14 Q It's been more aimed at impression and general
15 understanding?

16 A Right. I would call it soaking and poking.

17 Q As opposed to brute-assed empiricism? We're
18 going to learn some good in-the-field terminology.

19 MR. CHOATE: Don't answer that question.

20 BY MR. JACOBS:

21 Q In your observational visits did you try to do
22 anything, however informal, by way of associating your
23 work on accountability systems and the API with what you
24 were seeing going on in schools?

25 MR. CHOATE: Objection; it's vague and ambiguous.

1 they have a sort of broader mission, not just to educate
2 in their subject, but also to start wrapping that in this
3 larger set of requirements that kids need to be ready for
4 when they hit high school.

5 And so I've wandered around Connecticut middle
6 schools for the last I think maybe 18 months, seeing if I
7 could pick up on any of that.

8 Q Any impression so far?

9 A There's some really, really angry middle school
10 teachers.

11 Q Who are confronting the standards?

12 A (Witness nodding head.) And it appears to me,
13 based on observation, not systematic, that there appears
14 to be a gold rush, and these guys are charging towards
15 retirement as fast as they can, hoping to get out before
16 it starts to bite.

17 Q Are there any other observational exercises
18 you've undertaken that have a particular focus; in other
19 words, your Connecticut middle schooling work that you
20 had a hypothesis in mind and you were going around and
21 trying to figure out what you could learn about whether
22 that hypothesis was true --

23 A Mm-hmm.

24 MR. CHOATE: Objection -- I'm sorry. I jumped in
25 with it before he finished his question.

1 THE WITNESS: The answer is yes.

2 BY MR. JACOBS:

3 Q And one of the things you did was try to discern
4 what additional data it might be useful to collect in
5 order to understand what's going on in schools?

6 A No, that's not a -- it's interesting that you
7 draw those two things together because I have not done
8 that up until now.

9 The accountability work that I have done is a
10 set of visits in Connecticut middle schools where I've
11 been working on this trickle-down idea that if there are
12 high school exit exam requirements, which Connecticut
13 took the lead in, that there might be this downward
14 pressure -- the hypothesis is if the accountability
15 system is truly integrated into the fabric of the
16 delivery of education, then you might anticipate that
17 there's this trickle-down pressure on middle schools to
18 sort of get kids ready and lined up; that the end of 8th
19 grade might be a mini exit period where you make sure
20 that when your kid hits 9th grade that the kid is ready
21 to roll.

22 And so you might actually see an increased focus
23 in the middle school years on things like adherence to
24 state standards, a little bit more about the expectation
25 of performance, a little bit more teachers reporting that

1 BY MR. JACOBS:

2 Q Have you done observational work in schools with
3 a similar focus or hypothesis in mind?

4 MR. CHOATE: Objection; it's vague and ambiguous.

5 THE WITNESS: I have. Last fall I did a feasibility
6 study for the Following the Leaders evaluation, and I
7 spent time in schools in Pennsylvania, Tennessee, and
8 Arizona looking at the organization of teachers within
9 schools to see if there were early indications that No
10 Child Left Behind was modifying the way that teachers
11 either used each other's resources or organized their own
12 delivery of material in the classrooms.

13 BY MR. JACOBS:

14 Q And Following the Leaders was a Credo project?

15 A Following the Leaders is Secretary Paige's
16 implementation project for No Child Left Behind. And it
17 is a program of -- collaboratively delivered by a
18 consortium of organizations across schools and districts
19 all across the United States.

20 Q I'm sorry. The evaluation project was a Credo
21 project?

22 A It is a Credo project.

23 Q It's still underway?

24 A It is.

25 Q Have there been any initial outputs from the

1 evaluation?

2 MR. CHOATE: Objection; vague and ambiguous.

3 THE WITNESS: The only output was from the
4 feasibility study, and it was the delivery of a formal
5 evaluation plan and budget.

6 BY MR. JACOBS:

7 Q And what's the anticipated delivery date of the
8 next output?

9 A There are two outputs that are on the horizon.
10 One is a subsequent feasibility plan for getting
11 student-level data to test the impact of Following the
12 Leaders program components, and that product is due in
13 March of 2004. And then there is a full implementation
14 process evaluation due the following July, a year from
15 now.

16 Q Any other school observations that have a
17 particular focus?

18 MR. CHOATE: Objection; vague and ambiguous.

19 THE WITNESS: As part of that project?

20 BY MR. JACOBS:

21 Q No. I'm sorry. We talked about Connecticut.
22 We talked about evaluation to Following the Leaders.

23 MR. CHOATE: Michael, I'm sorry. What's the
24 question?

25 THE WITNESS: Sorry?

1 general ideas of how schools do what they do. One, to
2 help me understand what the range is so that I have a
3 better sense of whether kids running, screaming down the
4 hallways is business as usual in all schools or whether
5 that means something, and partly just so that I have a
6 sense of what's going on.

7 MR. CHOATE: Michael, how much time do you think you
8 have left?

9 MR. JACOBS: Probably about 15 minutes.

10 Q If you'd turn to your TFA study, which was --

11 A I returned my copies to you yesterday.

12 Q TFA was Raymond 2.

13 BY MR. JACOBS:

14 Q And if you turn to page 36, there's a paragraph
15 there that begins, "While there is no argument that
16 expanding the supply of high-quality teachers should be a
17 high priority."

18 A Yes.

19 Q And you propose in this study that, quote,
20 "Strictly regulating the process of becoming a teacher
21 along the lines of traditional certification requirements
22 seems less beneficial than specifying the expected
23 performance levels that teachers must meet."

24 Do you see that?

25 A I do.

1 BY MR. JACOBS:

2 Q Any other school observation -- school
3 observations that have a focus or a hypothesis?

4 MR. CHOATE: Objection; it's vague and ambiguous.

5 THE WITNESS: If you could explain a little bit more
6 about what you mean by having a hypothesis, I might be
7 able to answer your question.

8 BY MR. JACOBS:

9 Q What I'm getting at is whether there have been
10 some -- as opposed to, "Here's a chance to go look at a
11 school because I'm talking to a school district official
12 and it would be a good idea to just take a look at that
13 school," any other more systematic efforts that you've
14 engaged in to observe schools?

15 MR. CHOATE: Objection; it's vague and ambiguous.

16 THE WITNESS: I can't --

17 MR. CHOATE: And mischaracterizes the witness's
18 testimony, too.

19 THE WITNESS: I can't turn off my brain, so I'm
20 always interested in seeing if -- seeing what's going on
21 and mapping that to the things that I think about, about
22 schools. So in that respect, I always have hypotheses,
23 but my other visits to schools have mostly just been an
24 attempt -- other than the visits that we've described, my
25 visits to schools are an attempt to gather just sort of

1 Q My question for you is, Have you developed your
2 thinking on this question any further?

3 MR. CHOATE: I'm just going to object to the extent
4 that the text that Mr. Jacobs read is part of a larger
5 sentence.

6 THE WITNESS: I have mentioned to you yesterday that
7 I'm the evaluator for the passport teacher certification
8 program sponsored by ABCTE, and the premise of that
9 certification is an output, not outcome, approach to
10 certification. And in working with ABCTE on developing
11 the parameters of what an evaluation of that program
12 might look like, I have had an opportunity to -- this is
13 so weird.

14 MR. CHOATE: I'll just have the record reflect that
15 there's a window washing machine coming down the window
16 side of the conference room.

17 THE WITNESS: I've lost my train of thought. Could
18 I have that read back to me?

19 MR. JACOBS: Can you read back the answer so far?

20 MR. CHOATE: Let's just ask the question again.

21 (The record was read as follows:

22 "THE WITNESS: I have mentioned to you
23 yesterday that I'm the evaluator for the
24 passport teacher certification program
25 sponsored by ABCTE, and the premise of that

1 certification is an output, not outcome,
 2 approach to certification. And in working
 3 with ABCTE on developing the parameters of
 4 what an evaluation of that program might
 5 look like, I have had an opportunity to --
 6 this is so weird.")
 7 THE WITNESS: I've had an opportunity to consider
 8 what various mechanisms might exist to achieve a
 9 performance-based qualification process for teachers.
 10 BY MR. JACOBS:
 11 Q And is there a place one could go to find the
 12 results of your thinking so far?
 13 A No. I haven't articulated them on paper at all.
 14 Q Do you have some preliminary notions along those
 15 lines?
 16 A I really haven't gotten specific. I've wondered
 17 about -- I've tried to define what I would call a policy
 18 space and try to figure out where ABCTE fits inside that.
 19 So I've thought about some dimensions about the
 20 reliability of assessment techniques and what we know
 21 about teacher certification tests.
 22 I've tried to look at the -- a dimension of
 23 flexibility in local control so that -- how restrictive
 24 or how flexible districts might elect to be in making
 25 hiring decisions, and that dimension looks at whether the

1 State controls the requirements, whether a district
 2 controls requirements, whether schools control
 3 requirements. I've looked at the possibility that it's
 4 exclusively performance-based; that teachers have license
 5 to teach for a limited amount of time, and continuation
 6 of their employment is contingent on their ability to
 7 achieve academic gains in their students, which is a
 8 proposal that some people are talking about.
 9 I've looked at self-regulation. I've looked at
 10 the driver's license model for teaching that says you
 11 have to have sort of repeated measures of your ability to
 12 continue to teach.
 13 I've looked at some of the longitudinal measures
 14 that we talked about yesterday. Maybe a teacher isn't
 15 all that great in teaching social studies, but the
 16 teacher is an amazing person in teaching civic
 17 responsibility, and that would never show up under our
 18 current structure. So how would you -- and not show up
 19 on any teacher tests that we know of, but it might show
 20 up by looking at how many high school graduates decide to
 21 register to vote.
 22 So as you can see, it's pretty amorphous, but
 23 I'm still trying to figure out how might you use the
 24 world as we know it to get to a performance base.
 25 Q Have you done a comparative study of

1 different -- among the states of teacher certification?
 2 A I have not.
 3 Q Have you done any international comparison of
 4 teacher certification or teacher -- if certification
 5 isn't the word, but teacher entry requirements?
 6 MR. CHOATE: International as compared to the United
 7 States?
 8 MR. JACOBS: Yes.
 9 THE WITNESS: Not comparative in that sense. I've
 10 done some work in a couple of foreign countries looking
 11 at how they prepare teachers, but it isn't in a
 12 comparative sense; it's more to inform work that I'm
 13 doing for their ministries of education.
 14 BY MR. JACOBS:
 15 Q Is there any teacher qualification system that
 16 you've identified as -- an existing system that you've
 17 identified as worthy of further examination in assessing
 18 the possibilities under the rubric "specifying the
 19 expected performance levels that teachers must meet"?
 20 MR. CHOATE: Objection; vague and ambiguous.
 21 THE WITNESS: There's only one I'd like to study and
 22 at the current time that's not possible, and that's a
 23 blend of the American and British private school model.
 24 BY MR. JACOBS:
 25 Q Private school in the American sense as opposed

1 to in the British sense?
 2 A That is correct. There are no entry
 3 requirements in the schools, and yet they seem to be very
 4 effective at holding on to good teachers and encouraging
 5 poorer performing teachers to consider other career
 6 options.
 7 Q And I would expect that part of your hypothesis
 8 is also that they're pretty good at screening teachers at
 9 the hiring stage, even though they may not have a, quote,
 10 "full credential"?
 11 MR. CHOATE: Objection; vague and ambiguous.
 12 THE WITNESS: I hadn't actually given that any
 13 thought.
 14 BY MR. JACOBS:
 15 Q And the reason that you can't -- that this isn't
 16 possible now is what?
 17 MR. CHOATE: Objection; mischaracterizes the
 18 witness's testimony, misstates the witness.
 19 THE WITNESS: Private schools do not have a
 20 requirement to be tested.
 21 BY MR. JACOBS:
 22 Q On your --
 23 A Can I take a pause just to get more coffee?
 24 Q Yes. Sure.
 25 Can I ask you to look at Raymond 1, your future

1 of California's API study?

2 A Certainly.

3 Q On page 22 toward the middle of the page you
4 discuss school accountability report cards, so called
5 SARCs. Do you see that?

6 A I do.

7 Q And you note toward the bottom of the paragraph
8 that the requirements for these elements are general and
9 the information supplied is largely subjective. Do you
10 see that?

11 A I do.

12 Q Have you done any further assessment of the
13 utility of SARCs?

14 MR. CHOATE: Objection; vague and ambiguous.

15 THE WITNESS: For the charter school analysis that
16 was released a few weeks ago, we had hoped to be able to
17 augment the API database with some SARC-level data, and
18 we looked at a number of the SARC elements. We were
19 hoping to be able to characterize curricular approach
20 through the use of SARC because there are some factors
21 there that ask to describe the -- I can't remember. It's
22 educational approach or choice of curricular materials or
23 something, but there were a couple of factors that we
24 thought we might be able to use to augment and get some
25 additional information to flesh out the zero/one

1 Q Through which --

2 A Well, you can do that through DataQuest, and
3 greatamericanschools.net has some, and those are the only
4 two I'm sure of.

5 Q So I thought you were referring to a CDE portal
6 that we hadn't yet found.

7 A DataQuest is a CDE portal. It is the source of
8 the 5,000 pages.

9 Q If you look at page 23 of Raymond 1, the
10 variable there that you listed as a candidate for
11 inclusion in the API -- I'm reading from the bottom of
12 page 22 -- is number of non-credentialed teachers. The
13 third one down. Do you see that?

14 A I do.

15 Q We had a discussion yesterday about the
16 difference between a variable associated with the
17 percentage of credentialed teachers and a variable
18 associated with the percentage of emergency credentialed
19 teachers. Do you recall that discussion?

20 A I do.

21 Q Was there anything significant in that -- in the
22 context of that discussion, is there any significance to
23 be attributed to the fact that it says here, "Number of
24 non-credentialed teachers" as opposed to number of
25 credentialed teachers?

1 characteristic of a charter school.

2 We thought we might be able to more carefully
3 specify charter schoolness by looking at some of those
4 other factors, and it turned out that the completeness of
5 the data is sorely wanting. And even where the data
6 exists, some schools describe the process by which they
7 make that decision, and other schools describe what the
8 decision was, and there doesn't appear to be any -- there
9 seems to be just sort of a blind acceptance on the part
10 of CDE that whatever shows up in those SARC fields just
11 gets put in the SARC data set. So we rejected SARCness.

12 BY MR. JACOBS:

13 Q And the SARC data set that you're referring to
14 is what?

15 A Oh. The school accountability report cards are
16 available through a number of web portals, and you can go
17 through and look at particular SARC fields and how they
18 distribute across schools or you can go into individual
19 SARC schools and look at their SARC report card as a way
20 of supposedly getting to know that school a little more.

21 Q And the portals that you're referring to that
22 allow you to slice through SARC data -- is that what
23 you're indicating?

24 A You can achieve aggregations of SARC data in
25 there.

1 MR. CHOATE: Objection; vague and ambiguous.

2 THE WITNESS: Hang on just a second. I want to go
3 back to Table 5.

4 The variable number of non-credentialed teachers
5 is the variable that appears in CBEDs and in SARC.
6 That's the label of that variable.

7 BY MR. JACOBS:

8 Q And that's what you drew on to construct that
9 list?

10 A Yes. If you'll look at Table 5, what Table 5
11 tries to do is to examine across the standing California
12 legislation the proposed legislation that was extant at
13 the time that we did this study and the accountability
14 systems that were operational at the time we did the
15 study in other states, any factor that was used in the
16 creation of their accountability -- of their state
17 accountability index or system. Not all states have an
18 index, so we had to give it some latitude.

19 We took what we called the construct, which was
20 basically what was it you were trying to get at. And
21 then in the second column, the variable was, What's the
22 closest variable that we can identify that we know is
23 available in California, and what's the data source?

24 So the variable label in SARC and in CBEDs was
25 the number of non-credentialed teachers. That's a little

1 bit different than emergency credentialed teachers
 2 because non-credentialed teachers includes the student
 3 teachers.
 4 Q If you look on page 24, Table 5.
 5 A I'm there.
 6 Q It says -- you see there the condition of school
 7 facilities and grounds?
 8 A Yes.
 9 Q And we talked about that a bit yesterday, and I
 10 thought you said -- although I haven't gone back to check
 11 the transcript -- that there was a state that you
 12 recalled that was using a condition-of-school-facilities
 13 variable. And we don't -- I didn't see one over on the
 14 right-hand column under the states heading. So I was
 15 wondering if I misheard you.
 16 A No, I think my memory was in error. I didn't
 17 remember that the source of this variable was the
 18 proposed legislation. I was very clear that it wasn't
 19 part of the PSAA, the Public School Accountability Act,
 20 and so I had forgotten that there were these other -- I
 21 think there were eight factors -- 11 factors that were
 22 proposed in the legislature that year. I thought if it
 23 was in the report, that it meant it had to come from
 24 other states. So that was my error.
 25 MR. JACOBS: Let's mark as Raymond 6? 5? Let's

1 mark as Raymond 5 your invoice dated March 15, and as
 2 Raymond 6 your invoice dated April 19 for your work on
 3 this case.
 4 (Raymond Exhibits 5 and 6 were marked.)
 5 MR. HAJELA: I'm sorry. I wasn't paying attention,
 6 Michael. Are you marking them as one or separately?
 7 MR. JACOBS: March 15 is 4. And April 19 --
 8 THE WITNESS: No, 5.
 9 MR. JACOBS: Sorry. 5. And April 19 is 6.
 10 MR. HAJELA: Thank you.
 11 BY MR. JACOBS:
 12 Q If you look at Raymond 5, your March 15
 13 invoice --
 14 A Yes.
 15 Q -- is the 12/2 -- the December 2, 2002 entry the
 16 first discussion you had with anyone about serving as an
 17 expert for the State?
 18 A That is correct.
 19 Q And when you were initially contacted to serve
 20 as an expert, what was the proposal made to you about
 21 what -- if any, about what you would actually testify on?
 22 MR. CHOATE: Objection; vague and ambiguous, assumes
 23 facts not in evidence.
 24 THE WITNESS: Mr. Salvaty told me that he had been
 25 referred to me because of the work that I had done on

1 accountability systems in California and that in the
 2 process of trying to find me he had come across the work
 3 that I had done in Houston, and he thought that based on
 4 those two things that I might be a potentially valuable
 5 asset to the case.
 6 BY MR. JACOBS:
 7 Q I think you said in your testimony yesterday
 8 that you read some of the plaintiffs' expert reports as
 9 opposed to all of them; is that correct?
 10 A That is correct.
 11 Q Did you review Mr. Koski's report?
 12 A I did not.
 13 Q Have you followed the -- strike that.
 14 Are you engaged in any projects right now
 15 relating to the decision whether to institute or postpone
 16 the high school exit exam in California?
 17 MR. CHOATE: Objection; compound, vague and
 18 ambiguous.
 19 THE WITNESS: I am not.
 20 BY MR. JACOBS:
 21 Q Are you engaged in any projects right now that
 22 relate to assessing whether students have had a so-called
 23 opportunity to learn the content specified by the content
 24 standards?
 25 A I am not.

1 Q Now, you brought some data files with you today?
 2 MR. CHOATE: Let's go off the record.
 3 (Discussion off the record.)
 4 BY MR. JACOBS:
 5 Q So we're marking as Raymond 7 a document you've
 6 brought with you this morning. Can you tell us what
 7 Raymond 7 is?
 8 (Raymond Exhibit 7 was marked.)
 9 THE WITNESS: Raymond 7 is a STATA-- S-T-A-T-A, log
 10 produced on the 25th of March, 2003, called California
 11 Charter Profiles. And this log includes the steps that I
 12 took to identify and select peer schools out of the full
 13 set of California schools that meet the collective set of
 14 means for percentage minority of students, the percentage
 15 of students with free or reduced price lunch, and the
 16 percentage of fully credentialed teachers.
 17 BY MR. JACOBS:
 18 Q And what were those individual means?
 19 A The mean for the average percent of minority
 20 students was 84.6 percent. The average meals -- I'm
 21 sorry. The average percent of students on free or
 22 reduced price lunch was 72.1 percent, and the average
 23 percent of fully credentialed teachers was 73.6 percent.
 24 Q And just to review, those were means that you
 25 derived from the set of 39 schools that are on your

1 Table 1 in your report, right?
 2 A That is correct.
 3 MR. JACOBS: Okay. No further questions.
 4 MR. HAJELA: Can we take a break?
 5 (□Recess taken: 10:13 until 10:20 a.m.)
 6

7 EXAMINATION

8 BY MR. HAJELA:
 9 Q Good morning, Dr. Raymond.
 10 A Good morning.
 11 Q My name is Able Hajela, and I represent the
 12 California School Boards Association. We're intervenors
 13 in this action. I met with counsel for Los Angeles
 14 Unified School District, and I'm going to try to cover
 15 some ground he was interested in, as well.
 16 A All right.
 17 Q And if you don't understand my questions, please
 18 ask me to clarify them and I'd be happy to do that.
 19 I'm going to start out -- I'll jump around a
 20 little bit because Mr. Jacobs covered your report fairly
 21 comprehensively, so I just have a few things to pick up
 22 on.
 23 Over on pages 17 and 18 -- this is a technical
 24 question. I tried to get my lesson in statistics
 25 yesterday, but I probably didn't get as well educated as

1 I should have.
 2 I'm interested in Table 4, and you're looking at
 3 two variables. One is percent of fully credentialed
 4 teachers, and another is number of core academic courses.
 5 And I'm referring to your last paragraph on 17 and then
 6 the first one on page 18. Do you see that?
 7 A I do.
 8 MR. CHOATE: Abe, can we take just a quick minute to
 9 read these?
 10 MR. HAJELA: Sure. Just tell me when you're ready.
 11 THE WITNESS: I'm ready.
 12 BY MR. HAJELA:
 13 Q Okay. My first question maybe is technical, but
 14 I'm not clear on it. Is there a distinction in your mind
 15 between a correlation and causation? And I'm referring
 16 to -- actually, I'm sorry. Let's flip to Table 4 and I
 17 can explain what I'm trying to refer to. The
 18 coefficient, there's one for fully credentialed teacher
 19 and it says .36, and there's one for number of core
 20 courses and it's 3 -- roughly 3.5.
 21 Is this a correlation -- what information do we
 22 get from this coefficient statistic?
 23 A The coefficient represents the impact on the
 24 outcome of interest from a one-unit change in the
 25 independent variable with which the coefficient is

1 associated. In econometric modeling, these coefficients
 2 have the character of discerning causality beyond
 3 correlation.
 4 Q Okay. And can you explain to me how it is they
 5 discern causality beyond correlation?
 6 A The coefficients are derived from a matrix which
 7 measures the variants and the co-variants of independent
 8 variables. By that I mean the statistics are generated
 9 about how all of the observations vary around their
 10 sample mean for fully credentialed teachers.
 11 So we know that the average effect of the
 12 coefficient is to produce a .362 influence on the outcome
 13 because we've extracted all of the other co-variants the
 14 way that fully credentialed teachers could vary with
 15 minority students or co-vary with the number of students
 16 on subsidized meal programs.
 17 So what we're actually able to measure then is
 18 the district association between an incremental change in
 19 the independent variable and variation in the dependent
 20 variable. Therefore, because we have excluded all of the
 21 other sources of variation, what you end up with is a
 22 pure degree of association, and that's what we call
 23 causality.
 24 Q The part I'm having trouble with is the degree
 25 of association, which I think I understood in your

1 answer, and how it equates to causality. And let me ask
 2 you a question and you can maybe clarify it for me.
 3 So -- and if I use the wrong terms, just tell me
 4 to clarify them.
 5 How do you have any confidence that if you add a
 6 core course in a school, that would actually produce the
 7 effect on achievement that's measured here by the
 8 coefficient?
 9 A These models are known to have a characteristic
 10 called a determinant. These are determinant models. And
 11 what the -- the confidence that we have in these models
 12 comes from the statistical sampling probabilities that we
 13 invoke when we create these models. What this model says
 14 is that these 529 -- sorry -- these 129 observations are
 15 a good representation of the world from which they are
 16 drawn, and it is in that sampling of the 129 -- because
 17 we're capturing real live information and we are assuming
 18 as a -- one of the assumptions of these statistical
 19 models is that the 129 is, in fact, a reliable draw out
 20 of the universe of possibles. That's where we get the
 21 confidence that this model is determinant.
 22 We could repeat this experiment in some other
 23 world and draw 129 observations and run this model, and
 24 because of the way in which the model is statistically
 25 formulated, we believe with a very high degree of

1 confidence, .95 degree of confidence, that we would end
2 up with the same coefficients.

3 Q Let me try again because maybe -- and maybe I'm
4 just confused about this.

5 The association, again, I understand. And let's
6 say hypothetically it turns out that student achievement
7 is higher where there are more core course offerings.
8 Let's say that that's hypothetically true. That's one
9 issue.

10 It's another issue to say in a given school, if
11 you added a core course, it would impact student
12 achievement. Aren't those two different things? One
13 deals with the association, the other deals with
14 causation.

15 MR. CHOATE: Objection; vague and ambiguous,
16 incomplete hypothetical.

17 THE WITNESS: No, I don't think that that's what
18 this says. What these coefficients do is to say all
19 other things being equal, this is the -- this is the
20 typical influence of this factor on the outcome of
21 interest. It's not to say that in a hundred million
22 replications you wouldn't get one school that didn't have
23 that effect. What this measures is on the probabilistic
24 basis of confidence, that 95 percent confidence, that
25 when you increase a course by one -- core course by one,

1 teachers it's .373. Does that mean that that variable is
2 not statistically significant in this table?

3 A That is correct.

4 Q So how is it then you can make the statement you
5 do at the top of page 18 about comparing core academic
6 courses to fully credentialed teachers?

7 A The magnitude of the coefficient is not what
8 makes it not statistically significant. It is the
9 standard error around that. It's the efficiency of the
10 estimate. In order for a coefficient to be statistically
11 significant, it has to have a central tendency of the
12 coefficient and all of the individual observations have
13 to be clustered pretty tightly in order for it to be a
14 good variable.

15 We can still use the magnitude of the
16 coefficient in relative comparison to other magnitudes
17 within the model even if it's not a particularly strong
18 variable on its own merits. We wouldn't want to base a
19 policy decision on the magnitude of this coefficient in
20 this model because it's not statistically significant,
21 but the fact that it's an inefficient estimator doesn't
22 preclude us from making some judgments across the
23 variables in a model.

24 Q So from -- I think I understood your answer.
25 Thanks.

1 you will have this effect.

2 BY MR. HAJELA:

3 Q Let me see if we can get a real-world example
4 then. Could you describe for me if, as policy matter, a
5 school district were looking at this data and trying to
6 make smart decisions about how they spend money?

7 A Mm-hmm.

8 Q I'm not very clear on it. And we talked about
9 it a little yesterday, how would you increase a core
10 course offering in, say, an elementary school?

11 A As we discussed yesterday, I'm not clear on what
12 the mechanics are of how this particular variable is
13 measured. So I'm not comfortable saying, well, here's
14 how you would do that. I don't know for a fact how these
15 particular measurements are taken across the different
16 school types so I really can't say.

17 Q And for middle or high school, can you say or
18 would it be speculation?

19 A It would still be speculation.

20 Q Let me ask one more question. On Table 4, if I
21 understood the lesson correctly yesterday, on fully
22 credentialed teachers, the -- I don't know how to refer
23 to this, the P T column.

24 A Probability column.

25 Q Probability column for fully credentialed

1 Let me flip to page 15 of your report.

2 Actually, it's not really specifically on this page.

3 Starting at page 15, if I understand your report
4 correctly, you appear to argue that in a diverse state
5 like California, local decision-making is preferable to
6 centralized decision-making in education. Is that an
7 accurate way to describe your opinion?

8 MR. CHOATE: Can you read back the question, please?

9 (□The record was read as follows:

10 "Question: Starting at page 15, if I
11 understand your report correctly, you appear
12 to argue that in a diverse state like
13 California, local decision-making is
14 preferable to centralized decision-making in
15 education. Is that an accurate way to
16 describe your opinion?")

17 THE WITNESS: If you will accept the caveat that
18 local decision-making about the means to achieve
19 specified outcomes, then I think we can agree. My
20 testimony is based on a belief that outcomes are
21 important to be specified for all of the students in a
22 state, and that local districts should be given the
23 latitude to match their parochial characteristics in
24 whatever way best achieves those outcomes.

25 BY MR. HAJELA:

1 Q Okay. That's fair. I accept the caveat. I
2 just want to poke at this issue of local decision-making
3 a little bit.

4 Is it your opinion then that the State's
5 outcome-based system is preferable to the system that you
6 described Plaintiffs' advocate because the State's
7 outcome-based system maximizes local decision-making?

8 A Under the current way in which education policy
9 is organized and delivered in California, I wouldn't go
10 so far as to say that the State maximizes local control.
11 If you're asking me a normative question, yes, I would
12 prefer that the State maximize local control.

13 Q Okay. Let's take the last five years then. Do
14 you have an opinion about whether, in terms of the use of
15 educational resources, that control has shifted from
16 state to local or vice versa in California?

17 MR. CHOATE: Objection; vague and ambiguous.

18 THE WITNESS: I don't really feel qualified to
19 discuss the flow of resources. It's not something that
20 I've studied.

21 BY MR. HAJELA:

22 Q And I'm not interested specifically in the flow
23 of resources, but let's assume a school district has X
24 amount of resources, fiscal resources. Do you have an
25 opinion about whether their use has become more

1 A Mm-hmm.

2 Q And then you have a sentence that says, "Good
3 accountability is focused where responsibility is
4 located, and since the majority of influence in decisions
5 concerning education occurs at the local level, it is
6 completely appropriate that the accountability system be
7 focused there."

8 Is that still your opinion today?

9 A Yes.

10 Q So is it your opinion that the majority of
11 influence in decisions concerning education occur at the
12 local level?

13 MR. CHOATE: Objection; asked and answered.

14 THE WITNESS: I would refer you to my earlier answer
15 where I describe the difference between the desirable and
16 normative state and the current state.

17 My -- I have not studied this extensively, but
18 my general sense is that there is a bit of a double-bind
19 for localities that, appropriately, responsibility is
20 being placed at the local level, but that the latitude
21 for making those decisions is going in the other
22 direction. And I cannot say authoritatively the extent
23 to which this affects local decisions or not. I can only
24 make the observation that I see it happen.

25 BY MR. HAJELA:

1 prescribed by Sacramento or less?

2 MR. CHOATE: Objection; it's an incomplete
3 hypothetical, it's vague and ambiguous.

4 THE WITNESS: I don't really know enough about the
5 totality of requirements on local districts to be able to
6 say. I have only studied an isolated set, which includes
7 accountability in charter schools and data requirements
8 in CSIS. And so based on those, I would have to say that
9 I think that the tendency has been towards giving
10 localities more of the responsibility, but giving them
11 less of the latitude.

12 BY MR. HAJELA:

13 Q In terms of -- those questions were focused on
14 fiscal resources.

15 In terms of major policy decisions regarding
16 education, like curriculum and instruction decisions, do
17 you have an opinion whether over the last five years more
18 of those decisions are made at the state level or at the
19 local level?

20 MR. CHOATE: Objection; vague and ambiguous.

21 THE WITNESS: I don't have an opinion.

22 BY MR. HAJELA:

23 Q Let me take you over to page 20. In the third
24 paragraph you start off talking about Mintrop's
25 definition of accountability.

1 Q Hypothetically if the majority of influence and
2 decisions concerning education occurred at the state
3 level, would your opinion about accountability change?

4 MR. CHOATE: Objection; incomplete hypothetical.

5 THE WITNESS: Would you please repeat the
6 sentence -- the question?

7 (□The record was read as follows:

8 "Question: Hypothetically if the majority
9 of influence and decisions concerning
10 education occurred at the state level, would
11 your opinion about accountability change?")

12 MR. CHOATE: Also it's vague and ambiguous.

13 BY MR. HAJELA:

14 Q I can clarify that.

15 A If you would.

16 Q An opinion about where accountability ought to
17 be located, if I understand this paragraph,
18 accountability should be located where the responsibility
19 is. And my question is focused that if the
20 responsibility really is at the state level because
21 that's where they make the decisions, would your opinion
22 about locating accountability on local districts change?

23 MR. CHOATE: Same objections.

24 THE WITNESS: I hate to start an answer with "It
25 depends," but it depends. I think that there is a

1 correct role for the state in articulating what the
2 outcomes are that all students should be able to achieve.
3 And that responsibility I think is at the state, and
4 there is a degree of accountability that goes with that.

5 In a much larger policy context, if a state is
6 doing a bad job of preparing its students for
7 post-secondary life, those bad decisions have a dramatic
8 effect on labor force participation and productivity
9 within the state and drag on public dollars for support
10 services for people who are unable to take care of
11 themselves.

12 So at the larger level of sort of political
13 accountability, it is appropriate to have the state be
14 held accountable for those policy outcome decisions that
15 they set. Beyond that, I think it is a more desirable
16 situation to allow local -- to allow the implementation
17 of plans to achieve those outcomes to occur at the local
18 level, and to allow local decision-makers the latitude
19 that is necessary for them to mix resources and programs
20 and priorities that match their local circumstance in
21 order to achieve those outcomes.

22 So that's where, since I believe that the
23 accountability -- since I believe the responsibility for
24 implementation is best at the local level where variation
25 across the state can be recognized and accommodated, I

1 A Could you flesh out what you mean with "that
2 argument"?

3 Q Yeah. It seems to me that the argument is that
4 you don't need to hold the State accountable through some
5 system because the voters will hold the State
6 accountable. But it seems that you have to hold
7 districts accountable through some system, and I'm
8 expressing the view that voters can hold districts
9 responsible politically, as well.

10 MR. CHOATE: There's no question pending. He'll ask
11 you a question.

12 MR. HAJELA: So could you read back the question?
13 Because I thought it was.

14 (The record was read as follows:
15 "Question: Yeah. It seems to me that the
16 argument is that you don't need to hold the
17 State accountable through some system
18 because the voters will hold the State
19 accountable. But it seems that you have to
20 hold districts accountable through some
21 system, and I'm expressing the view that
22 voters can hold districts responsible
23 politically, as well.")

24 THE WITNESS: I believe that it does. I think
25 the -- or at least that it should. I'm not convinced at

1 think that's the appropriate location for that level of
2 accountability.

3 BY MR. HAJELA:

4 Q And I read this as having two arguments about
5 accountability and where it ought to be focused, so --

6 MR. CHOATE: Where are you?

7 MR. HAJELA: Same paragraph.

8 Q We've talked about the first one, about locating
9 accountability at the district level -- at the local
10 level -- I'm sorry -- to use your term.

11 The second argument seems to be that it is
12 incorrect to think of executive agencies as entities to
13 hold responsible. And here, if I understand it right,
14 you're making an electoral process argument; that it's
15 the voters that hold the state accountable? Is that
16 accurate?

17 A The argument that is in this -- the second half
18 of the paragraph is exactly that. And it's consistent
19 with the answer that I just gave, that there's sort of a
20 political accountability that occurs. That if the state
21 outcome measures are badly articulated, that there is
22 already a process for taking care of that.

23 Q Since school districts are governed by locally
24 elected boards, doesn't that argument hold just as true
25 for a school board?

1 this point that the intersection between the voter polity
2 and the supervision and accountability function oversight
3 on school boards is as functional as it could be, but
4 certainly that potential is there. And we have some
5 examples where entire boards are replaced by citizens who
6 are unhappy with the particular decisions that are being
7 made, so we know that that mechanism can work. I'm just
8 hopeful that that mechanism becomes more robust over
9 time, because it doesn't work in a lot of places.

10 BY MR. HAJELA:

11 Q Okay. Turn to page 22. I'm sorry. Can we do
12 21 first? This is just a clarification question. The
13 paragraph -- the long paragraph that starts, "There is
14 reason."

15 A Mm-hmm.

16 Q On the second system (sic) you use the phrase
17 "states with accountability systems."

18 MR. CHOATE: I'm sorry?

19 THE WITNESS: The second system?

20 BY MR. HAJELA:

21 Q I'm sorry. The second sentence, the phrase
22 "states with accountability systems."

23 A Yes. Mm-hmm.

24 Q How are you defining "accountability systems"?
25 And let me tell you what I'm trying to ask, and you can

1 see if you can answer it. My assumption was that
2 virtually every state has an accountability system now,
3 so I wasn't clear on the point being made here.

4 A You are correct that as of today, most states do
5 have accountability systems in place. There is variation
6 across states in terms of what their accountability
7 system looks like, and in some states we only have report
8 card systems and in others we actually have systems that
9 have sanctions. And we could debate whether California
10 is actually a report card state or accountability state,
11 given the set of sanctions that are available in
12 California, but that's another topic.

13 What hasn't happened -- I'm sorry. What has
14 happened is that there was a ten-year period over which
15 states came on gradually to the accountability world, and
16 so if you go back as far as 1990, there were very few
17 states that had accountability systems. And so you have
18 this natural experiment where you can use NAEP scores
19 over the four-year increments to say, "Okay. Here we had
20 just very few states having an accountability system, and
21 four years later we had some states with accountability
22 systems, and now we have a whole lot of states with
23 accountability systems." And you're able to gauge the
24 impact of the adoption of an accountability system
25 sometime in that four-year window on the rate of change

1 in their NAEP scores.

2 Q And so for this study that I believe you did
3 with Professor Hanushek, you attempted to control for all
4 the other variables that might explain increase in NAEP
5 scores?

6 MR. CHOATE: Objection; vague and ambiguous.

7 THE WITNESS: "All other variables" is a pretty big
8 world, but we did actually impose controls in those
9 models that we ran. We controlled for shifts in
10 demographic characteristics, we controlled for exclusion
11 rates for special education, and we controlled for
12 proportions of poverty students.

13 BY MR. HAJELA:

14 Q So at least over the last three years, let's
15 say, would you count California within your definition of
16 a state with an accountability system?

17 A In the last three years?

18 Q Well, I'm working off of at some point we didn't
19 have an accountability system, right? And now we do.
20 I'm interested in the transition. Maybe I can ask it
21 that way. Was there --

22 A Yes, we included California as adopting their
23 system in 1999. And so they --

24 Q Four years.

25 A -- they get -- in the most recent NAEP scores,

1 California is scored as a one that they have an
2 accountability. In the prior NAEP administrations they
3 were scored as a zero because they did not --

4 Q Gotcha --

5 A -- have them in place at that time.

6 Q And you may not have done this because the data
7 is new, but -- so in this recent year, my understanding
8 is California's fourth grade reading scores were
9 relatively flat on NAEP, but there might be other reasons
10 for that. Did you, rather than look at states in
11 general, look specifically at California?

12 A No, I did not.

13 Q Now if we can turn over to page 22, I'm
14 interested in the top paragraph first, the one that
15 starts with "An outcomes based."

16 A Yes.

17 MR. CHOATE: Abe, before you launch into your
18 questioning, can we just take a quick break?

19 MR. HAJELA: Sure.

20 MR. CHOATE: I'll be right back in a second.

21 (Recess taken: 10:51 until 10:53 a.m.)

22 BY MR. HAJELA:

23 Q Okay. We were at the top of page 22 looking at
24 the paragraph that begins, "An outcomes based
25 accountability system." I just want to ask you -- but if

1 you could read it to yourself, it would probably be
2 helpful.

3 Have you done that? Okay. Let me read it.

4 "An outcomes based accountability system
5 achieves the conditions that plaintiff asserts should be
6 met. A. It offers localities more latitude than any
7 other alternative." I'll stop there. There's a B and C,
8 as well, for the record.

9 What's the basis for the conclusion that it
10 offers localities more latitude than any alternative?

11 A A true outcomes-based accountability system
12 articulates the performance criteria that schools are to
13 meet, and then attempts to get out of the way to allow
14 local decision-makers to formulate programs and policies
15 that both meet local circumstance and achieve the
16 outcomes that are specified.

17 And in any other system, the research on the
18 activities and the impacts of federalism show pretty
19 definitively that as you attempt to centralize, you
20 eliminate -- you by definition eliminate the ability to
21 manage the entire range of local condition. And so you
22 end up trying to gravitate to some mean or some narrower
23 parameter, and inevitably there are conditions that get
24 disregarded, or districts that exceed those particular
25 parameters end up not having their full set of

1 circumstances be accommodated in whatever the decisions
2 being made.

3 So my sense is that if you're going to go for an
4 outcomes-based accountability system -- I'm sorry. That
5 if you're going to try to create outcomes that are
6 specific, then the responsibility rests on the people who
7 articulate those outcomes to give localities as much
8 discretion as possible in order to accommodate their
9 local circumstances. Otherwise, you could potentially be
10 hindering them.

11 A district, for example, might not be able to
12 serve the full range of students in their district if
13 they are required to provide a particular curricular
14 approach because that particular curricular approach may
15 not be appropriate for all of the students in the
16 district. And not being allowed to serve the kids who
17 don't meet that means those kids don't meet the outcome
18 either.

19 So my idea is specify the outcomes, get out of
20 the way. Localities then have the responsibility and the
21 latitude to match the local circumstance.

22 Q Okay. And then given your prior testimony when
23 we were speaking, I don't want to be unfair here. That
24 was a true outcome-based accountability system. Now I
25 want to look at California specifically.

1 considering here? I'm not clear on it.

2 A An input-based regulatory structure, a process
3 and inputs-based regulatory structure, or a hybrid that
4 says, "You must achieve certain outcomes, but we're also
5 going to tell you the absolute way to do that."

6 Q Okay. So now I think I understand. So prior to
7 1999, California didn't have any of those?

8 A Well, I would argue that by default it had an
9 input regulatory structure because it focused on
10 articulating the levels of funding, Prop 13, it
11 articulated a high degree of conformance in terms of who
12 can work and who cannot work, and how -- what the ratio
13 of administrators to teachers is and what the parameters
14 for operating a school can be, but didn't have any
15 outcomes in mind.

16 And so the prevailing assumption prior to 1999
17 was if we could just fix the inputs correctly, we would
18 get the outcome that we want, however unspecified that
19 was. And the move in 1999 was to say, "Wait a minute.
20 Let's turn it around. Let's articulate the outcomes that
21 we want."

22 I don't think these other pieces have entirely
23 gone away, and so you end up with, at the moment, this
24 kind of funky hybrid of, "Yeah, we have outcomes, but
25 we're still" -- there's still a lot on the books that

1 A Hmm.

2 Q So since 1999, according to the way you
3 specified it in your research, we've had an outcome-based
4 accountability system in California; is that correct?

5 A That's correct.

6 Q Do you have an opinion as regards to the
7 latitude of local districts pre-1999, post-1999, whether
8 they have more or less latitude?

9 MR. CHOATE: Objection; vague and ambiguous.

10 THE WITNESS: I wasn't aware that there had been any
11 specific outcomes articulated prior to 1999, so in some
12 sense the question is moot. Do they have more latitude?
13 I suspect that they did. I don't have any data to base
14 that. But they also didn't have any outcome specifiers,
15 so those two things sort of went together.

16 BY MR. HAJELA:

17 Q I'm misunderstanding then. It seems the
18 argument is circular. If it's an outcome-based system,
19 you have outcomes, but you're only comparing it to other
20 outcome-based systems in terms of latitude, more or less
21 latitude? I missed something, I guess.

22 You're saying an outcomes-based accountability
23 system achieves the systems that Plaintiff asserts should
24 be met. It offers localities more latitude than any
25 alternative. What is the range of alternatives you're

1 says, "And here's the way you're going to do this."

2 My argument is you should definitely set the
3 outcomes, but you should move off of the historical
4 approach to input and process regulation.

5 Q So it was an input-based regulatory system prior
6 to 1999. It offered locals more latitude, but you're not
7 considering it an alternative because it's not -- it
8 didn't include outcomes?

9 A I'm not even convinced as we're talking about
10 this that it did provide more latitude in terms of
11 individual decisions. It certainly allowed latitude in
12 terms of whatever outcomes there were, that schools and
13 districts were not required to focus on academic
14 achievement. They were not required to take steps to
15 prepare students to meet minimum thresholds of readiness
16 for the world. As long as there was compliance with the
17 input and the process regulation, then whatever the
18 outcome was, was considered okay.

19 Q Didn't school districts have outcomes in mind so
20 that the school districts were setting the outcomes, the
21 State wasn't?

22 MR. CHOATE: Objection; calls for speculation, it's
23 vague and ambiguous.

24 THE WITNESS: I don't have any real basis for
25 determining that. I'm merely talking about the -- I'm

1 trying to make the point that the outcomes, if they were
2 articulated at all, were all over the map.

3 BY MR. HAJELA:

4 Q B states, "It correctly focuses on the true
5 objective of education policy, that of educational
6 achievement of students."

7 Would you say equality of opportunity is an
8 objective of education policy at the state level?

9 MR. CHOATE: Objection; vague and ambiguous.

10 THE WITNESS: I'm not sure it is a state
11 responsibility.

12 BY MR. HAJELA:

13 Q If we're talking about equality of students as
14 among school districts, if it's not a state
15 responsibility, where is the responsibility located?

16 MR. CHOATE: Objection; vague and ambiguous.

17 THE WITNESS: I'm not an expert in the California
18 Constitution, but the concept of the State's obligation
19 for educating its students seems to subsume the quality
20 of opportunity if you adopt an outcome regulatory
21 approach, because it requires localities to do what they
22 need to do to make sure that all students in the state
23 achieve the same level of outcome. And that seems to me
24 to be a vehicle for achieving the opportunity requirement
25 that you speak about.

1 as a 14-year system.

2 BY MR. HAJELA:

3 Q Distinguishing, I think -- and if the
4 distinction can't be made, maybe you can explain it,
5 between educational opportunities and doing everything
6 you can to make sure students achieve. They don't seem
7 to me to be synonymous.

8 So let me give you an example of an educational
9 opportunity. For example, let's say all the students in
10 Davis hypothetically have access to laptops and therefore
11 they can learn about technology, they can do homework at
12 home. It gives them some benefits. Let's say they all
13 have that in Davis. That's an educational opportunity.
14 Does Compton have some duty to provide an equal
15 educational opportunity?

16 MR. CHOATE: Objection; it's an incomplete
17 hypothetical, calls for a legal conclusion, it's vague
18 and ambiguous.

19 THE WITNESS: Your question has embedded in it an
20 input or a process regulatory approach, which says that
21 if we can just specify what the right inputs are or the
22 right processes are, we will get the outcomes that we
23 want. And I don't think that that's -- I don't think
24 that that's determinant in the first place because we
25 don't know enough about what the real production function

1 BY MR. HAJELA:

2 Q I'm not sure I fully understand the answer. So
3 we have a school district in Davis where my kids go to
4 school, and we have a school district in Compton, and
5 let's say the educational opportunities hypothetically
6 are not the same in Compton and Davis. So it's the
7 school district in Compton's job to worry about whether
8 the education it affords its kids is roughly equal to the
9 education in Davis?

10 MR. CHOATE: Objection; it's vague and ambiguous,
11 it's an incomplete hypothetical and it mischaracterizes
12 the witness's testimony.

13 THE WITNESS: It's the responsibility of Compton to
14 make sure that their students achieve the outcomes that
15 are specified for all students in California. I don't
16 view that as necessarily a comparative statement. I
17 consider that an absolute statement. That it's the
18 responsibility of Compton to do what they can and do what
19 they must to make sure that those kids achieve high
20 levels.

21 And so I would say as far as Compton is
22 concerned, it doesn't really matter what happens in
23 Davis. If it takes Compton two more years instead of 12,
24 it takes 14 to get Compton kids achieving at high levels,
25 then the education system in Compton should be organized

1 of education looks like. Even if we did know what an
2 education production function looks like, we have an
3 opportunity to give localities -- the production function
4 would be set at a particular point in time based on
5 available inputs and resources, and we don't know whether
6 those are cast in stone for all time or whether that
7 there's an opportunity to modify that and get to the same
8 outcome by some other vehicle.

9 So I'm disinclined to try to put a strict
10 production function into place and say, "And therefore,
11 we're not doing our job unless all schools get the
12 production function." I'm much less interested in that
13 than I am in specifying what it is we think constitutes
14 the outcomes that our students should have, and then
15 making sure that districts have the latitude to
16 accommodate -- to mix resources.

17 So, in your example of laptops. Maybe laptops
18 work in Davis. Maybe they don't work in Compton. And
19 maybe it's because the kids can't take them home because
20 they'll get ripped off. Maybe it's that not enough of
21 the homes have telephone service and so the notion that
22 you can actually beam into the Net and download stuff
23 doesn't work for 45 percent of the students.

24 It could be that student mobility is such that
25 you send a laptop home with the kid and you never see the

1 kid again either, and so the resource of laptops in
2 Compton doesn't work the same way that it would work in a
3 more stable or a more affluent or a more connected
4 community.

5 I think Compton ought to have the option then to
6 say "You, know what? Laptops might work there. It's
7 just not going to work for us or it's going to be such an
8 incredible input that we really ought to be thinking
9 about another way of getting our kids there."

10 BY MR. HAJELA:

11 Q I was using laptops hypothetically. I don't
12 think it's a good idea in Davis or in Compton, but I
13 think I can get at -- your last answer helps me out, and
14 I can turn to C now.

15 So you've said, if I understand it correctly,
16 the production -- the inputs are less important to you
17 than achieving the outcomes? Is that -- so, C, you say
18 "It adopts a common yardstick by which to gauge the
19 effectiveness of schools."

20 Is that what you mean by looking at outcomes?

21 A That is correct.

22 Q What happens when, adopting this common
23 yardstick, you find out that some schools in school
24 districts are persistently not achieving the outcome?

25 MR. CHOATE: Objection -- were you done?

1 huge policy question, and especially in California,
2 knowing, as I'm sure you do, that the intervention
3 remediation program in the state -- I think the technical
4 term would be "ridiculous." We do have this tsunami
5 that's waiting to hit, which is, What do you do about
6 schools that are chronically underperforming? And as a
7 state, we do not have a vehicle for dealing with that at
8 this point.

9 I think it's the States's responsibility to
10 identify that schools are chronically underperforming and
11 to make sure that there is an appropriate local response.

12 But my general sense is that just as the
13 responsibility for creating the outcomes is a local
14 responsibility, the responsibility for remediating bad
15 outcomes is a local responsibility, as well. And it -- I
16 have not had a chance to work through what the mechanics
17 would look like for local remediation, but we know from
18 the singular example that we have of state takeover that
19 it's not an effective practice, that it doesn't solve the
20 root problem, and that it's extraordinarily inefficient
21 and expensive.

22 So my challenge later this year is to see if we
23 can come up with something that beats that. And you're
24 absolutely right to target that as an important problem.
25 I don't today have any answers for it.

1 MR. HAJELA: Yeah.

2 MR. CHOATE: It's an incomplete hypothetical, vague
3 and ambiguous.

4 THE WITNESS: Are you speaking about something
5 similar to Florida where something like 2,500 schools
6 have failed the state test two years in a row?

7 BY MR. HAJELA:

8 Q I actually wasn't thinking of Florida at all and
9 I wasn't thinking of a specific score on a test, fail or
10 pass. I'm saying you look at data that shows -- outcome
11 is important, if I understood your last answer correctly.

12 A Correct.

13 Q And outcomes based on student achievement. What
14 if student achievement is persistently lower in some
15 schools and school districts compared to others? At C
16 you've stopped at adopting the common yardstick, and my
17 question is, Does -- is the State supposed to do
18 something when that happens?

19 MR. CHOATE: Objection; it's vague and ambiguous,
20 it's an incomplete hypothetical.

21 THE WITNESS: I am actually slated to tackle that
22 monster later this year.

23 BY MR. HAJELA:

24 Q Let us know how it comes out.

25 A We'll get back to you on that. It's actually a

1 Q Just to push your answer a little bit further,
2 so if I understood you correctly, in the system you would
3 advocate, the responsibility for improving the outcomes
4 would lie with the locals, but you don't have an answer
5 yet about what the State should do. But is it your
6 opinion that the State does something to help the locals
7 improve outcomes?

8 MR. CHOATE: Objection; it's compound, it's vague
9 and ambiguous.

10 THE WITNESS: I think my last answer actually
11 provided you the answer that I have at this point, which
12 is that I think the State's responsibility is to identify
13 and to assure that there is a local response. I really
14 don't have a more specific idea today about what "assure"
15 means, but my visceral reaction is that it could only be
16 a facilitative role, not a command and control role; that
17 it doesn't solve the problem to go command and control.
18 You need to develop the capacity for remediation at the
19 local level. And I think there is a role for the State
20 to play in that facilitation, but my concern is that it
21 would be very easy to trip over into command and control,
22 and I don't think that's the right answer.

23 BY MR. HAJELA:

24 Q Okay. Thanks.

25 I was going to ask you about II/USP, but I think

1 I have your opinion on that now from the last answer.
 2 Okay. The next paragraph that starts with
 3 "Expansion of the API" -- let me read this sentence.
 4 "Expansion of the API would damage the current
 5 system would no realizable benefits."

6 I'm trying to make sure I understand what you're
 7 saying here. Are you familiar with the similar schools
 8 rank on the API?

9 A I am.

10 Q Does the similar schools rank incorporate in
 11 some way what we've been calling inputs?

12 MR. CHOATE: Objection; vague and ambiguous.

13 THE WITNESS: No, it doesn't. The similar schools
 14 rank takes the API as it's calculated and then creates
 15 referent groups to compare what the measure is across the
 16 referent group. And the referent groups are
 17 constructed -- I believe it's Appendix B of Mintrop shows
 18 in the technical working committee that there was
 19 actually a number of different potential ways to create
 20 the referent group. And I think that's right; that the
 21 referent group could be geographical, it could be based
 22 on student composition, it could be based on how many
 23 total dollars go into a per-student, per-capita funding.

24 You could stratify -- you could slice and dice
 25 the API sets of scores across schools in lots of

1 strong associations with student outcomes among the set
 2 of factors that we looked at.

3 And the strength of the association would have
 4 to be extremely, extremely high in order to not dilute
 5 the incentives that are included with outcome
 6 measurement, and the rest of the paragraph there that
 7 describes the way in which the incentives can be diluted
 8 is exactly why you don't want to do that.

9 BY MR. HAJELA:

10 Q Here's where I guess I'm confused. I would
 11 think that the State could have goals for education that
 12 aren't tightly related to student achievement outcomes.
 13 And so I'm not quarreling with you about how you measure
 14 student achievement outcomes in that there are ways for
 15 corrupting that measurement.

16 What I'm saying, though, is couldn't you have an
 17 accountability -- let's say hypothetically a State goal
 18 was kids should learn in school facilities that are clean
 19 and uncrowded and safe. Can't you have an accountability
 20 measure that tries to further that goal?

21 MR. CHOATE: Objection; vague and ambiguous, it's an
 22 incomplete hypothetical, asked and answered.

23 THE WITNESS: You could, but I wouldn't recommend
 24 it.

25 BY MR. HAJELA:

1 different ways. We have picked one way. That's not an
 2 input. The point here is that in the formulation of the
 3 API score, you want to stay on outputs. And we have.

4 So the similar schools rank doesn't affect the
 5 way we calculate the score for the school.

6 BY MR. HAJELA:

7 Q I've got that. So the raw API score, that is
 8 designed to measure student achievement; is that correct?

9 A That's correct.

10 Q That you don't want to -- if I understand this
 11 correctly, you don't want to corrupt that by including
 12 other data?

13 A That's correct.

14 Q But an accountability system could measure
 15 inputs, as well, right? As long as it didn't corrupt
 16 that data point?

17 MR. CHOATE: Objection; incomplete hypothetical,
 18 it's vague and ambiguous.

19 THE WITNESS: I believe this refers back to the
 20 conversation that we had yesterday about the possibility
 21 of contributing to the API by including inputs or process
 22 measures. And I'll refer you back to the API report that
 23 we did for the Secretary of Education. We found only one
 24 process measure that had a strong association with
 25 student outcomes, and we found no input measures that had

1 Q Because it's not related to student achievement?

2 MR. CHOATE: Objection; it's vague and ambiguous.

3 THE WITNESS: In my view, you can't go in multiple
 4 directions at once. And by having multiple factor --
 5 multiple directions in your accountability system, you
 6 create opportunities to gain the system. You provide
 7 conflicting incentives for schools and districts. You
 8 dilute the value and importance of the outcome measures
 9 that you do specify, and you essentially create ambiguity
 10 and uncertainty in the system -- in the accountability
 11 system itself. And for those reasons, I don't recommend
 12 that you incorporate those kinds of factors as you
 13 described in an accountability system.

14 BY MR. HAJELA:

15 Q If the State had a goal to make sure students
 16 had clean, safe, and uncrowded school facilities,
 17 could the State further that goal with -- by means other
 18 than an accountability system? For example, are there --
 19 Plaintiffs talk about standards in their case, if I
 20 understand correctly. Is the problem that you don't want
 21 the standards to corrupt the accountability system, but
 22 if they're located outside the accountability system,
 23 they're okay?

24 MR. CHOATE: Objection; incomplete hypothetical,
 25 vague and ambiguous, compound.

1 THE WITNESS: I haven't really thought about it in
2 those terms up till now. My focus was really on, What do
3 you want to hold schools to? And my answer to that is
4 you want to hold them to academic achievement of their
5 students. So I haven't looked at -- I haven't considered
6 alternatives.

7 BY MR. HAJELA:

8 Q My last set of questions might only be one,
9 actually. On page 2 under the summary of testimony, that
10 paragraph, maybe the first couple sentences of the next
11 one, if I understand it correctly, you're stating that
12 the, "State agrees with Plaintiffs' central argument that
13 every student deserves qualified teachers, adequate
14 instructional materials, and clean and decent facilities
15 that are conducive to learning." And that the
16 disagreement which you lay out in your report is with
17 regard to the means, not the ends.

18 Do you have an opinion -- let's take them one at
19 a time -- as to whether achieving qualified teachers for
20 students, whether the means the State employs are
21 effective?

22 MR. CHOATE: Objection; vague and ambiguous.

23 THE WITNESS: With respect to qualified teachers, I
24 don't think that the State has an effective practice for
25 measuring or enforcing that at this time.

1 BY MR. HAJELA:

2 Q How about with regard to adequate instructional
3 materials?

4 MR. CHOATE: Same objection.

5 THE WITNESS: I do not know enough about the State's
6 policy to be able to speak.

7 BY MR. HAJELA:

8 Q How about with regard to clean and decent
9 facilities?

10 MR. CHOATE: Same objection.

11 THE WITNESS: I'm familiar with the impact of
12 Prop 39 and the intent behind that to provide localities
13 the ability to garner additional resources for
14 facilities. And the effect of that proposition does, in
15 fact, achieve the local discretion that I think is
16 important. I hesitate only because that clearly was not
17 a State issue. That was a citizen-based initiative, and
18 I'm left to wonder why the state legislature and the
19 department and the governor were such back-seat
20 participants to that initiative.

21 BY MR. HAJELA:

22 Q And I understand and agree with you that Prop 39
23 is good and it furthers local control over these issues.
24 I guess my question was more, though, with regard to
25 clean and decent facilities that are conducive to

1 learning. You can use Prop 39 if you like. Are the
2 means employed by the State effective?

3 MR. CHOATE: Objection; vague and ambiguous.

4 THE WITNESS: My understanding is --

5 MR. CHOATE: Incomplete hypothetical.

6 THE WITNESS: My understanding is that there are
7 regulations closer to home that actually are more
8 financial, and so I'd have to say that I don't think the
9 State at this time -- let me put it this way: I'm not
10 aware of programs operated by the State at this time that
11 are highly influential on school facility condition.

12 MR. HAJELA: Thanks. That's all my questions.

13

14 EXAMINATION (Further)

15 BY MR. JACOBS:

16 Q I just have a real quick one. What's the
17 project that you referred to that you're going to do in
18 the fall on the intervention mechanism?

19 A What is the project I'm going to do? It's
20 called The Failing Schools Project, and my -- I have been
21 invited by a few members of the Board of Education to put
22 a thinking cap on and examine the current intervention
23 and remediation programs and see if there's a better
24 beast out there to be adopted.

25 Q Is that a formal CDE contract to Credo?

1 A No.

2 Q What's the vehicle for the project?

3 A My funding for Credo comes through a variety of
4 foundations, and my -- the mission of Credo is to help
5 educational policy-makers do a better job either
6 evaluating their programs or thinking about their
7 policies in a more systematic way.

8 And so it is my discretion to think of projects
9 or to agree to projects that are proposed to us, and this
10 was one that I thought had the potential for a really
11 broad base of impact, and I decided that I would use some
12 of the unrestricted Credo funding to pursue that project.

13 Q Is there a project coordinator in CDE?

14 A Not that I'm aware of, no.

15 Q So what's the mechanism for defining the
16 project -- you said that a couple of board members had
17 asked for it.

18 MR. CHOATE: Michael, what does this have to do with
19 the report?

20 BY MR. JACOBS:

21 Q I think -- is there something more formal?

22 MR. CHOATE: If you understand the question.

23 THE WITNESS: I do.

24 By "more formal," do you mean is there something
25 written down?

1 BY MR. JACOBS:
 2 Q That would be a start.
 3 A I believe we included a description of the
 4 project in a funding proposal to a foundation, but there
 5 is no work plan or formal statement of hypothesis or any
 6 formal agreement at this point to do that.
 7 Q And on the government side, is there any --
 8 other than conversations with several board members, is
 9 there something more formal that's been done in
 10 Sacramento to set this project up?
 11 MR. CHOATE: Objection; vague and ambiguous, calls
 12 for speculation.
 13 THE WITNESS: Not formally.
 14 MR. JACOBS: That's it.
 15 MR. CHOATE: I don't have any questions.
 16 THE REPORTER: Same ordering for everyone?
 17 MR. JACOBS: Yes.
 18 MR. CHOATE: Yes.
 19 MR. CHOATE: I don't know what the stipulation is
 20 that we've had on the other depositions. Is it 30 days?
 21 MR. JACOBS: I think we're defaulting to whatever
 22 the rules are and not --
 23 MR. CHOATE: To whatever the rules are?
 24 MS. WELCH: In San Francisco we are.
 25 //

1 STATE OF CALIFORNIA)
 : ss
 2 COUNTY OF CONTRA COSTA)
 3
 4 I, the undersigned, a Certified Shorthand
 5 Reporter of the State of California, do hereby
 6 certify:
 7 That the foregoing proceedings were taken
 8 before me at the time and place herein set forth; that
 9 any witnesses in the foregoing proceedings, prior to
 10 testifying, were placed under oath; that a verbatim
 11 record of the proceedings was made by me using machine
 12 shorthand which was thereafter transcribed under my
 13 direction; further, that the foregoing is an accurate
 14 transcription thereof.
 15 I further certify that I am neither
 16 financially interested in the action nor a relative or
 17 employee of any attorney of any of the parties.
 18 IN WITNESS WHEREOF, I have this date
 19 subscribed my name.
 20
 21 Dated: _____
 22
 23
 24 _____
 TRACY L. PERRY
 CSR No. 9577
 25

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 8
 9 I, MARGARET RAYMOND, Ph.D., do hereby
 10 declare under penalty of perjury that I have read the
 11 foregoing transcript of my deposition; that I have made
 12 such corrections as noted herein, in ink, initialed by
 13 me, or attached hereto; that my testimony as contained
 14 herein, as corrected, is true and correct.
 15 EXECUTED this ____ day of _____,
 16 20____, at _____,
 17 _____ (City) (State)
 18
 19
 20 _____
 MARGARET RAYMOND, Ph.D.
 21
 22
 23
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