

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 )  
EASTIN, State Superintendent of )  
Public Instruction, STATE )  
DEPARTMENT OF EDUCATION, STATE )  
BOARD OF EDUCATION, )

)  
Defendants. )  
\_\_\_\_\_ )

DEPOSITION OF MICHAEL RUSSELL, Ph.D.  
Los Angeles, California  
Friday, January 17, 2003  
Volume 2

Reported by:  
CAROL ANN NELSON  
CSR No. 6974  
JOB No. 877322

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18 EASTIN, State Superintendent of )  
19 Public Instruction, STATE )  
20 DEPARTMENT OF EDUCATION, STATE )  
21 BOARD OF EDUCATION, )  
22 )  
23 Defendants. )  
24 )  
25 )

Deposition of MICHAEL RUSSELL, Ph.D.,  
Volume 2, taken on behalf of Defendant State  
of California at 400 South Hope Street,  
14th Floor, Los Angeles, California  
beginning at 8:57 a.m. and ending at  
4:58 p.m. on Friday, January 17, 2003,  
before CAROL ANN NELSON, Certified Shorthand  
Reporter No. 6974.

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1 INDEX  
2 WITNESS EXAMINATION  
3 MICHAEL RUSSELL, Ph.D.  
4 Volume 2

5 BY MR. SALVATY 183  
6  
7  
8

9 EXHIBITS  
10 (NONE)  
11  
12  
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14 INFORMATION REQUESTED  
15 (NONE)  
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20 INSTRUCTION NOT TO ANSWER  
21 (NONE)  
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1 Los Angeles, California, Friday, January 17, 2003  
2 8:57 a.m. - 4:58 p.m.

3  
4 MICHAEL RUSSELL, Ph.D.,  
5 having been first duly sworn, was examined and testified  
6 further as follows:

7  
8 EXAMINATION (Resumed)

9 BY MR. SALVATY:

10 Q Good morning, Professor Russell.

11 A Good morning.

12 Q I wanted to start today by going over some of  
13 the discussion in your report relating to the research  
14 and development efforts related to educational testing  
15 and accountability that you've worked on, so if I could  
16 refer you to the first page of your report. I guess  
17 it's the first page of the actual text, expert report  
18 submitted for Williams.

19 A So page 3; is that what you're talking about?

20 Q Actually, let me show you. This page.

21 A Yep.

22 Q Okay. The first research and development  
23 project identified here is the Co-NECT school  
24 accountability model?

25 A Yes.

1 Q You mentioned that it was implemented at  
2 Co-NECT schools?

3 A Yeah.

4 Q Maybe I should just back up. How did this  
5 project come about?

6 A New American Schools Development Corporation  
7 was founded in the late -- I mean early '90s, as I  
8 recall, and they had funded a handful -- I can't  
9 remember how many exactly -- of comprehensive school  
10 reform programs, if you will, Co-NECT being one of  
11 them. Co-NECT was initially developed by researchers at  
12 Bolt, Beranek & Newman, BBN, which was a technology  
13 company in Cambridge, Massachusetts that had an  
14 educational research branch. They then subcontracted  
15 with CSTEED to help them with assessment and  
16 accountability issues.

17 At the time I'm not sure if the term  
18 "accountability" was really being used. It was really  
19 more assessment when it first started but by '94, '95,  
20 '96 I think I started, or we started, using the term  
21 "accountability."

22 Q And when did you become involved with the  
23 project?

24 A When I first came to CSTEED which I -- if I  
25 recall correctly it was in '94. It might have been --

1 Q What is the Co-NECT accountability model?

2 A It's a model of accountability that was used  
3 within Co-NECT schools. It had various components, one  
4 of which was schools working with external consultants,  
5 mainly myself and some of my colleagues, to identify  
6 areas within the curriculum that they felt should --  
7 measures of student learning should be collected and  
8 then working with us to basically identify data from  
9 common databases, common sources that were linked with  
10 the, quote, unquote, standards with the areas of  
11 curriculum that they wanted to test. In some cases it  
12 included other types of measured -- process measures.

13 So for the Co-NECT reform model as a  
14 comprehensive school reform model there's a number of  
15 different changes that were supposed to take place in  
16 the school, some of them were changes in pedagogical  
17 practices, some of them were changes in which technology  
18 was being used. In some cases it was changes in the way  
19 that grade levels were structured, changes in the type  
20 of projects or learning activity students were engaged  
21 in. And so there were measures of the extent to which  
22 these type of changes were occurring so it was kind  
23 of -- it varied from -- from district to district that  
24 were -- we were working with schools within several  
25 different districts.

1 Actually, I think I was a grad student in '93. I would  
2 have to check my resume as to when that was. I became  
3 involved as a grad student and then was hired as a  
4 research associate working on the project.

5 Q And what period of time, how long did you work  
6 on this project?

7 A I'd have to look at the resume. Probably, as I  
8 recall, it was about three years and then it came back  
9 again I think it was in '99, 2000. It might have been  
10 '98, '99.

11 Q You worked on it for some period of time and  
12 then stopped working on it and then came back to it; is  
13 that right?

14 A Yeah. Yeah.

15 Q How much of your time in that first three-year  
16 period, approximate three-year period, was devoted to  
17 the Co-NECT project?

18 A The first year I believe it was just about  
19 entirely -- at least 75 percent. It might have been  
20 more. I don't recall exactly. I was doing some work on  
21 the Third International Math and Science Study study as  
22 well at that time. I just don't recall the allocation,  
23 but most of my time was on Co-NECT. I'd say the second  
24 and third years just -- I think I was fully funded on  
25 Co-NECT at that time.

1 Q So that was what you were working on  
 2 exclusively or --  
 3 A Yeah, I was fully funded on that at that time.  
 4 Q And then did your work on that project end, is  
 5 that why you stopped working on it? Or what happened?  
 6 A They basically -- They -- The funding situation  
 7 for the school reform projects changed, and so basically  
 8 there wasn't funding to the subcontract, to CSTEPP.  
 9 Q Was the Co-NECT project ongoing or did it end  
 10 when your involvement with it ended?  
 11 A Co-NECT itself?  
 12 Q Yes.  
 13 A No. Well, Co-NECT is a school reform model.  
 14 It's one of the comprehensive school reform models that  
 15 schools are actually eligible under the No Child Left  
 16 Behind legislation to participate in, so the model  
 17 itself still exists. It's no longer at BBN. They've  
 18 broken off and formed their own company.  
 19 Q Were people working on the model or developing  
 20 it or doing research when the funding stopped after your  
 21 three-year involvement?  
 22 A What do you mean?  
 23 Q I mean were people still working on it just not  
 24 you? I am trying to understand if -- Your work you said  
 25 ended because the funding changed --

1 A Right.  
 2 Q -- and I'm wondering if others continued to  
 3 work on it.  
 4 A I don't -- I don't know. I'm not sure how to  
 5 answer that question. I mean Co-NECT continued.  
 6 Assessment and accountability is part of that model.  
 7 Schools in various ways continued with what we  
 8 implemented.  
 9 Q Okay. And then you returned to this project in  
 10 '99 or you started working on it again?  
 11 A Yeah, it was either '98 or '99.  
 12 Q And how did that come about?  
 13 A Well, my role in that context was a little bit  
 14 different because they wanted to look at how across all  
 15 the schools they are now working with, I guess 50 to 60  
 16 schools as I recall, would impact the Co-NECT reform  
 17 model was having on those schools, so it was really --  
 18 it was very different type of work that I was doing at  
 19 that time.  
 20 Q I see. And how long did you work on that  
 21 aspect of Co-NECT?  
 22 A I can look at my resume, but it was about a  
 23 year as I recall.  
 24 Q You mentioned here that the accountability  
 25 model is a multiple measure system and then you say that

1 it included various things here. Is this a complete  
 2 list of what the Co-NECT model measured?  
 3 A That's not really a list of what's measured.  
 4 It's a list of the people and in some sense the  
 5 methodology used. So, for example, test scores and  
 6 surveys are really more of a methodology and students --  
 7 parent, students, and school community really are  
 8 participants.  
 9 Q Okay. Can you give me a definition for  
 10 "multiple measure system"?  
 11 MR. ROSENBAUM: As used here?  
 12 MR. SALVATY: Yes.  
 13 MR. ROSENBAUM: You're talking about page Roman  
 14 numeral ii of Exhibit 2, I think.  
 15 THE WITNESS: Right.  
 16 In this context for the Co-NECT school  
 17 accountability multiple measures --  
 18 BY MR. SALVATY:  
 19 Q ii I was talking about, your use of the term  
 20 here.  
 21 A In ii, within context of the Co-NECT school  
 22 design model?  
 23 Q Right.  
 24 A Yeah, "multiple measures" means different --  
 25 different tests for different types of academic skills.

1 So, for example, you may have a multiple choice test and  
 2 some open-ended items or an essay portion of the test as  
 3 well, and they're measuring various aspects of student  
 4 learning coupled with information about classroom  
 5 practices that could be collected via surveys, student  
 6 drawings, so that's what I mean by "multiple measures."  
 7 Q Okay. Does it measure -- As we talked about  
 8 yesterday, does it measure inputs and outputs and assess  
 9 the relationship between the two?  
 10 A Yeah, that was the -- Yeah, that was the  
 11 purpose of this, is to look at how the extent to which  
 12 the changes in the context of the Co-NECT reform were  
 13 being implemented which in some sense what I think  
 14 you're referring to as inputs and the outputs would be  
 15 the changes in student learning as measured by test  
 16 scores.  
 17 Q Does the Co-NECT model take into account the  
 18 quality of teachers?  
 19 A That was not part of the Co-NECT school reform  
 20 so that -- you know, it wouldn't have been appropriate  
 21 within that context.  
 22 Q Why is that?  
 23 A Because the model was of around changing  
 24 pedagogical practices, use of technology, age grouping,  
 25 and the types of learning activity students are engaged

1 in, and in some context community involvement. For  
2 those -- You know, those are the inputs that the reform  
3 model was intended to affect, so those are the inputs  
4 that we tried to collect input information about.

5 Q Okay. Were you involved in the development of  
6 the model? You were; correct?

7 A Of what model?

8 Q Of the Co-NECT model.

9 A The Co-NECT reform model?

10 Q Yes.

11 A I was not. I was involved in the development  
12 of the accountability system that we used, assessment  
13 and accountability system that we used.

14 Q Doesn't the Co-NECT model involve an  
15 accountability aspect? I am talking about the reference  
16 to the Co-NECT school accountability model.

17 A Yeah, that's -- that's a -- that's a part of  
18 the Co-NECT reform model.

19 Q Okay. And you worked on developing and  
20 implementing the Co-NECT school accountability model;  
21 right?

22 A Yes.

23 MR. ROSENBAUM: It's been asked and answered.

24 THE WITNESS: Yes.

25 MR. SALVATY: I'm just not clear.

1 THE WITNESS: Yeah, the reform model was  
2 developed and proposed to New American Schools  
3 Development Corporation. They received funding. As  
4 part of that, as I recall, they vaguely describe that  
5 they would implement some form of assessment system.  
6 They then subcontracted with CSTEOP, and then as -- as I  
7 began working with CSTEOP I worked on developing and  
8 refining and in many ways expanding the model.

9 Q You explained that the Co-NECT school  
10 accountability model did not take into account teacher  
11 quality; is that right?

12 MR. ROSENBAUM: Asked and answered.

13 THE WITNESS: The -- Again, one of the things I  
14 talked about I think several times yesterday and talk  
15 about in the report at length is that when you're  
16 talking about assessment tests, you're talking about  
17 accountability, you got to put it in the context of the  
18 purpose. You can't talk about these things separate  
19 from purpose.

20 In the case of in Co-NECT the purpose was not  
21 to increase -- part of the reform was not to increase  
22 quality of teachers. It was to have the changes that I  
23 outlined. And so in that context we wanted to look at  
24 those -- the extent to which those input or processes  
25 were changing and the relationship between those changes

1 and student learning.

2 BY MR. SALVATY:

3 Q Okay. Did the Co-NECT accountability model  
4 measure the adequacy of instructional materials?

5 A Again, as I just described, the purpose of the  
6 Co-NECT reform model was to have changes in pedagogical  
7 practices, grade-level configurations, use of  
8 technology. So in the context of use of technology,  
9 that is instructional material, we looked at how  
10 technology use -- to the extent to which technology was  
11 being used as part of instruction and learning changed  
12 over time. We looked at the extent to which cooperative  
13 learning activities, small group work, extended projects  
14 changed over time because those were all part of the  
15 Co-NECT reform which was therefore the purpose of  
16 looking at -- asking -- the purpose of asking schools to  
17 look at the extent to which those are changing because  
18 they had decided to participate in this reform process.

19 And the reason you want to do that is if you  
20 see changes in your test scores but you don't have any  
21 change in the processes, it's difficult to say that the  
22 reform program is having any kind of impact on --  
23 meaningful impact on student learning because the reform  
24 wouldn't have been implemented.

25 Q But part of the purpose of the Co-NECT school

1 accountability model, that purpose did not involve  
2 measuring the adequacy of textbooks for example; right?

3 MR. ROSENBAUM: No. No.

4 THE WITNESS: That would have been  
5 inappropriate in that context because that was not part  
6 of the reform, the model that the Co-NECT folks had  
7 developed and were implementing.

8 BY MR. SALVATY:

9 Q Did the Co-NECT school accountability model  
10 take into account the adequacy of facilities?

11 A I would -- Same answer. I mean that was not  
12 part of the Co-NECT reform model so it would have been  
13 inappropriate for us to be -- Beyond the technology  
14 piece, which you could argue was facilities or not  
15 depending on your definition, you know, it would -- it  
16 would have been inappropriate in that context because  
17 that's not what the reform model was about.

18 Q Did the Co-NECT reform model rely on  
19 standardized tests?

20 MR. ROSENBAUM: Vague.

21 THE WITNESS: Again, it was a flexible model so  
22 it depended on the context, the district that we were  
23 implementing it in. In all cases regardless of whether  
24 there was a standardized test being used in that  
25 district or in that state, we -- there was additional

1 tests and measures that were -- were developed in  
2 conjunction with teachers and school leaders to more  
3 closely align with the types of learning that the model  
4 was intended to impact.

5 BY MR. SALVATY:

6 Q What districts used the Co-NECT school  
7 accountability model?

8 MR. ROSENBAUM: When are you talking about?

9 MR. SALVATY: At any time.

10 THE WITNESS: As I said before, it was schools  
11 within districts that participated in that, so it wasn't  
12 a district-wide initiative.

13 BY MR. SALVATY:

14 Q In your report you referred to approximately 25  
15 schools operating in five states?

16 A Right. I got to remember. There was some  
17 schools down in Florida; there was some in Texas; there  
18 was some in Tennessee; there was some in Maryland; I  
19 believe Ohio; Massachusetts; and at one point there was  
20 some schools in Alaska and Indiana as well. The Indiana  
21 one did not last for very long, as I recall.

22 Q This list is obviously more than five states.  
23 When you were talking about it in your introduction  
24 here, are you just referring to your work personally  
25 with Co-NECT when you say it was used by 25 schools

1 schools.

2 In some of the schools they also used  
3 standardized tests in the sense tests that were being  
4 administered to schools in a standard way across the  
5 state; so for example, Tennessee had their state test.  
6 The school was already using them so we also used  
7 those. I was not involved in developing the Tennessee  
8 test.

9 Q When you say "item banks," what are you talking  
10 about?

11 A It's a large collection of items within a  
12 curricular area; so for example, in science you may have  
13 items collected from various state tests, National  
14 Assessment of Educational Progress, other sources that  
15 relate to various content areas within science, 4th  
16 grade, 8th grade, whatever.

17 Q You say that the accountability model included  
18 several things including surveys of students. Were you  
19 involved in developing the surveys?

20 A Yes, I was. In most places, yeah.

21 Q How were surveys used in this model?

22 A In two ways, to look at -- to get an estimate  
23 to the extent in which teachers were implementing the  
24 types of changes that were prescribed, if you will, by  
25 the reform model and also to look at changes in

1 operating in five states?

2 A Yeah. I'm talking -- Yeah, I'm talking  
3 about -- The model wasn't implemented -- Co-NECT has --  
4 Over the course of many years Co-NECT has worked with a  
5 large number of different schools and different  
6 districts and different states as well, and I've done  
7 two types of work with them -- one was implementing the  
8 accountability model and one was really doing more of an  
9 impact study which I did in the late '90s.

10 The 25 schools that I worked with to implement  
11 this model were in Alaska, Indiana, Massachusetts,  
12 Tennessee, and Florida. The schools that I looked at  
13 for the impact study were in those states as well as  
14 Texas, Ohio, Maryland. I believe that's it.

15 Q Did you participate in the development of the  
16 tests that were used in any of the schools?

17 A For some of the tests -- Well, as I explained,  
18 we used item banks, worked with the teachers and with  
19 the school leaders to select items that were aligned  
20 with curricular areas that they were trying to impact  
21 through the Co-NECT reform, so in the sense of working  
22 with the schools to select those items and put them into  
23 a single test -- or really a series of tests depending  
24 on the subject area and the item types, but yeah, I  
25 developed that concept and implemented it in several

1 students' attitudes around various facets of learning.

2 Q You also mentioned student drawings. How were  
3 student drawings used?

4 A We used those again to look at changes in  
5 classroom practices. Basically we didn't have enough  
6 funding to go in and do systematic observations in  
7 classrooms, and so we had developed a methodology of  
8 using student drawings to get an approximate measure of  
9 instructional practices.

10 Q You have a term here also that you've mentioned  
11 before and that's "active reflection." What does that  
12 mean?

13 A Well, in many cases many of the schools at the  
14 end of the year when -- since this data was collected  
15 and put into a form that we can turn around and present  
16 to teachers we would engage the faculty in analyzing  
17 various aspects of the data trying to come up with  
18 explanations as to why they think some of these changes  
19 occurred or changes that they had -- goals that they had  
20 set had not been achieved and based on patterns that  
21 they were seeing in the data they would then set goals  
22 for the next year, so that's -- you know, that's  
23 reflecting on the data and reflecting on the practices.

24 Q You talk about these different things that were  
25 included in the model. Were all of these factors that

1 you've mentioned given equal weight in assessing the  
2 students or was there some weighting done?

3 MR. ROSENBAUM: Vague. Mischaracterizes his  
4 testimony. Incomplete.

5 THE WITNESS: The -- The data wasn't really  
6 used to assess students so much. I mean test scores are  
7 used to collect information about students learning but  
8 we weren't making then decisions about students; we were  
9 rather making decisions about instructional practices  
10 and the impacts that they're having, their reform, and  
11 the extent -- and the impact that was having on student  
12 learning.

13 So again, depending on the goals and depending  
14 on the interests of the schools, they may place  
15 different weight, if you will. Unlike the API there  
16 wasn't a formula where we were trying to boiling a lot  
17 of useful information into a single measure. Instead we  
18 were looking at the information broadly to try to  
19 identify patterns, figure out why those patterns exist,  
20 and if -- if -- if the school believed it was necessary  
21 how you might go about implementing changes that would  
22 alter those undesirable patterns.

23 BY MR. SALVATY:

24 Q Who did you work with on this project?

25 A Initially I was working with Walt Haney. He

1 contact information." We'd call them up and say "This  
2 is -- You know, this is the model we would like to start  
3 helping you implement." And then from there it was a  
4 very flexible kind of negotiation in terms of what  
5 aspects they felt they wanted to focus on, what  
6 curricular areas they wanted to focus on. You know, it  
7 varied from place to place. It was consistent within --  
8 or across -- Or within a district all the schools, as I  
9 recall, would come together and do the same thing, but  
10 it varied from district to district.

11 Q Once the school would choose a reform model and  
12 you would start discussions about how to implement the  
13 model or what type of model to use to tailor to that  
14 school's needs and desires -- Is that fair? Is that  
15 what happened?

16 A Well, they would choose a reform model. I  
17 would then help them think through the pieces that they  
18 wanted to be as part of their accountability system.  
19 So, for example, in some districts you're working with  
20 middle schools, some districts you're working with  
21 elementary schools, one place we were working with high  
22 schools; so depending on the grade level you may have --  
23 you know, they may want to focus on science, math,  
24 language arts and another place they might want to just  
25 focus on math and language arts. Another place they may

1 then passed -- After he already passed it off to me I  
2 had -- there was a guy -- I forget his name now --  
3 Russell Jones who I worked with, Kit Viator I had worked  
4 with. With BBN I worked with Chip Morrison and Bruce  
5 Goldberg, and I am trying to remember if there was  
6 anyone else. And of course several people in all the  
7 schools.

8 Q I want to try to get a little better  
9 understanding of how the Co-NECT model would be  
10 implemented at a school. How do you initiate contact  
11 with a school and begin to implement the model?

12 A In the context of the Co-NECT program?

13 Q Yes.

14 A Well, what would happen is a school would  
15 agree, contract -- I mean it changed over time how it  
16 actually worked. As I recall initially New American  
17 Schools Development Corporation would provide funding  
18 directly to the school, the school would then choose  
19 from one of the reform models that were being supported  
20 by New American Schools. Co-NECT would then, meaning  
21 Bruce Goldberg and Chip Morrison, folks at BBN, would  
22 then start working with the school on preparing and  
23 implementing various aspects of the reform model. They  
24 would say "Okay. We're starting to work with these five  
25 or six schools in Memphis, Tennessee. Give us their

1 have good statewide measures in math, instead -- so with  
2 us they wanted to develop more aligned measures for  
3 reading and language arts, social studies, or something  
4 like that. So it -- you know, it varied in terms of  
5 what was already in place and what it was they valued  
6 and what they wanted to achieve through -- through the  
7 reform model.

8 Q And then would certain aspects of the model be  
9 implemented over time or did you decide on what the  
10 model would look like and then put it in place?

11 A We would work with the schools for a period of  
12 time to think through what it was -- they would go  
13 and -- what they wanted implemented in their  
14 districts -- or in their schools; develop the tests; and  
15 then implement it. It usually happened relatively  
16 quickly in the sense it was always -- we were always  
17 able to implement it by the spring of the first year of  
18 the participation.

19 Q Is it still being used in any schools?

20 MR. ROSENBAUM: Asked and answered.

21 THE WITNESS: Yeah, I really -- Yeah, I really  
22 don't know. The whole program has changed so  
23 dramatically, the funding stream and the way it works.  
24 I really don't know. I mean the Co-NECT model itself  
25 has changed dramatically as well.

1 BY MR. SALVATY:

2 Q How has the model changed, do you know?

3 A The Co-NECT reform model?

4 Q Yeah.

5 A They've moved away from the grade clusterings.

6 They used to cluster I think it was first, second,

7 third -- I can't remember the exact clustering, but they

8 would cluster two to three sets of grades together.

9 They've moved away from that. They used to place a lot

10 of emphasis on projects -- project-based learning, and I

11 think that's been de-emphasized as well. And I think

12 just with all the interest in these changes in state

13 tests they've been putting more focus on kind of test

14 preparation so that the reforms look like they're

15 actually having the impacts on the things that the

16 politicians value. They've become a private company,

17 too, so they need to do whatever they need to to stay

18 afloat.

19 Q Was part of the goal of the project to develop

20 a model that could be implemented on a statewide basis

21 at any time?

22 A I don't believe so. Not to the best of my

23 knowledge, no.

24 MR. ROSENBAUM: That question called for

25 speculation and foundation problems.

1 Q What are the key features?

2 MR. ROSENBAUM: Beyond what he's already  
3 testified?

4 MR. SALVATY: Well, he testified about the  
5 features, but I am trying to figure out what he sees as  
6 the key features.

7 THE WITNESS: Key features are a combination of  
8 multiple measures of student learning coupled with  
9 information collected from multiple sources about key  
10 inputs and, you know, active reflection on the part of  
11 school communities on the relationship between those  
12 two.

13 BY MR. SALVATY:

14 Q All right. The next item you talk about on  
15 your research projects here is a three-year study in  
16 22 -- Let me back up.

17 What were the results of your study of the  
18 impact of the Co-NECT school accountability model?

19 MR. ROSENBAUM: Beyond what he's already  
20 testified?

21 THE WITNESS: I didn't look at the impact of  
22 the school accountability model.

23 BY MR. SALVATY:

24 Q What did you look at -- What impact of the  
25 school reform model did you --

1 BY MR. SALVATY:

2 Q Do you believe the Co-NECT school  
3 accountability model could be implemented on a statewide  
4 basis?

5 MR. ROSENBAUM: Vague. Speculative. I mean --  
6 You mean -- What does that mean, Paul? That there's  
7 enough money in the state budget to do it? That the  
8 politicians would support it? Incomplete hypothetical.

9 THE WITNESS: I think in many ways several of  
10 the features of the model have already been implemented  
11 in Rhode Island.

12 BY MR. SALVATY:

13 Q Do you believe that the Co-NECT school  
14 accountability model could be implemented in California  
15 on a statewide basis?

16 MR. ROSENBAUM: Same objections.

17 THE WITNESS: Well, you wouldn't want to  
18 implement the exact same model again because you have  
19 different purposes, different needs, different goals.

20 You know, unless you were trying to reform education in  
21 the same way that Co-NECT was trying to reform  
22 education, you wouldn't -- but again, the principles and  
23 the key features could certainly be implemented in  
24 California, or any state.

25 BY MR. SALVATY:

1 A The school reform model.

2 Q Okay. What were the results of that?

3 A It was mixed. It varied from location to  
4 location. I don't remember. It was basically my -- My  
5 conclusion was it was mixed results that depended on the  
6 extent to which it was implemented in many cases.

7 Q Your impact study, was it published?

8 A No, they did not. It was for higher study and  
9 they did not want it -- they have ownership because of  
10 the way the contract was written. It was actually a  
11 very frustrating process because it was so difficult to  
12 get sufficient data from all schools, and they actually  
13 asked me to do follow-up studies and I declined because  
14 of -- I just felt like there wasn't adequate data to do  
15 a quality study.

16 Q Do you have a copy of the report that you  
17 prepared?

18 A I'm sure on my server somewhere, yeah.

19 Q All right.

20 MR. ROSENBAUM: I just want to say for the  
21 record we had a discussion yesterday about time. We've  
22 spent 50 minutes on six lines on his report and I don't  
23 believe this deposition yesterday or today is moving on  
24 at an appropriate pace. I have too much respect for you  
25 as a lawyer, Paul, to think that you cannot move this

1 more briskly as out of respect of the litigation and for  
 2 Professor Russell. It feels like you're stalling, and I  
 3 really want to object to this pace. And I told you I'm  
 4 not inclined to give more time, especially this  
 5 reenforces my point, six lines asking him questions  
 6 which were on his resume in the sentences, questions  
 7 that could be absolutely of no use. You're obviously  
 8 entitled to probe into this but many of these questions  
 9 were repeated over and over again. I really object to  
 10 the way this deposition is proceeding.

11 MR. SALVATY: All right. I note your  
 12 objection. I won't argue with you about it. I don't --  
 13 I'm certainly not stalling. I did confer with my  
 14 colleagues who talked about scheduling of depositions  
 15 and confirmed that we've made clear our position from  
 16 the outset that we were not agreeing to limit the  
 17 deposition of a significant expert witness like  
 18 Professor Russell to two days when he has an 80-page  
 19 report. I mean I -- I completely disagree with your  
 20 view. I'm not going to rush through this because of  
 21 your view that we're only limited to two days. So I'm  
 22 definitely not stalling and I'm just going to just  
 23 continue asking questions. I disagree that I've asked  
 24 questions that are apparent from the report. I think  
 25 I've covered new area and I think it is fruitful

1 grounds, so I disagree.

2 Q Let me ask you about the three-year study in  
 3 the 22 schools in Rhode Island, Professor Russell. What  
 4 was this study about?

5 A Well, it says it was about the impact of  
 6 standards-based reform and standards-based  
 7 accountability in 22 schools within Rhode Island.

8 Q I understand, but how did you study the impacts  
 9 of standards-based reform and standards-based  
 10 accountability?

11 A We were looking at -- These schools were all  
 12 participating in state-sponsored professional  
 13 development program that was around standards-based  
 14 reform practices and they -- you know, Rhode Island at  
 15 the time had implemented its accountability system so  
 16 everything was closely coordinated and linked. And so  
 17 within this sample of 22 schools we were looking at how  
 18 instructional practices were changing in light of the  
 19 implementation of standards, how teachers' understanding  
 20 of standards were changing, how their emphases on  
 21 various aspects of curriculum and their use of various  
 22 curriculum materials were changing, and to some extent  
 23 how those changes were impacting student learning and  
 24 also to some extent how schools were using results from  
 25 the state test to modify and reform the practices.

1 Q Who did you perform this study for?

2 A It was the State Department of Education of  
 3 Rhode Island.

4 Q And can you summarize the results of the study?

5 A I mean briefly we found that in many schools  
 6 there were real changes in what teachers were doing, how  
 7 they're -- the instructional materials they were using,  
 8 in many cases how students were performing on certain  
 9 types of items on their -- on the new reference -- exit  
 10 value reference standards exam I think it was called.  
 11 The New Standards Reference Exam I believe the name of  
 12 the test was.

13 Q Did you conclude that standards-based reform  
 14 and standards-based accountability were having a  
 15 positive impact?

16 MR. ROSENBAUM: Vague. Super vague.  
 17 Foundation.

18 THE WITNESS: One of the things that I recall  
 19 that kind of stood out in that work was the importance  
 20 of school climate and school leadership and that the  
 21 results varied depending on school climate and school  
 22 leadership. It was also -- On some of the schools we --  
 23 In some of the schools we focused on English language  
 24 arts and other schools we focused on mathematics, and  
 25 again I don't recall all the details but there was a

1 change in the emphases of the professional development  
 2 in the language arts which was unexpected by the  
 3 teachers and that had significant impact in those  
 4 schools as well.

5 BY MR. SALVATY:

6 Q Did you make recommendations based on your  
 7 study?

8 A I guess during the first and second report I  
 9 had made some recommendations. The third report was  
 10 really more of a summary.

11 Q Do you remember any of the recommendations that  
 12 you made?

13 A One of them was around stability and the  
 14 importance of stability. There was some about various  
 15 needs that teachers were noting. I don't recall what  
 16 those needs were, but I was basically seeing the fact  
 17 that teachers were expressing these further needs.

18 Q And are your studies -- were they published?

19 A They were -- Those were the monographs that we  
 20 were talking about yesterday, so they were produced for  
 21 the Department of Ed and then distributed. I have  
 22 copies of them if you want copies. As I said, the  
 23 second one really isn't terribly relevant because it was  
 24 more -- whatever the title says -- it's really a  
 25 collection of student work, teacher commentary.

1 Q The next item is assisting districts in the  
2 McConnell-Clark Foundation, and we talked about that  
3 yesterday?  
4 A Yes.  
5 Q The next item is examining technical issues  
6 related to Massachusetts Comprehensive Assessment System  
7 including scaling, equating, scoring, and  
8 standard-setting procedures.  
9 What did you do as far as this project?  
10 A It wasn't really a project. It was just  
11 ongoing work that I've been doing and it ranges from  
12 looking at some of the problems in their -- in the  
13 original scaling that they had employed. Basically I  
14 had wanted to use the scores to look at changes in some  
15 of Massachusetts' schools that I was working with, and  
16 when I started looking at the scores and how they were  
17 scaled I realized that you couldn't do the type of  
18 analyses because of the scaling methodology, and then I  
19 identified a major problem with it which three years  
20 after I identified it the state ended up changing its  
21 scaling method to correct for that.  
22 I've done some work, again, to try to  
23 understand these scores because I work with a lot of  
24 schools in Massachusetts looking at alternative methods  
25 of equating. Again, that would have overcome some of

1 these problems with the way they did the scaling.  
2 Through my work on technology and assessment computers  
3 for running in particular I've looked carefully at their  
4 scoring methods because we've tried to replicate them  
5 for some of our studies. Standards-based setting  
6 procedures, just, again, trying to understand how they  
7 came about setting up these cut scores, looked at what  
8 they've done.  
9 Q Okay. A couple of items down actually on the  
10 top of Roman number three you talk about developing an  
11 alternative accountability system that employed multiple  
12 measures and supported active reflection and accounting  
13 by schools in Massachusetts.  
14 When did you do that work? Is that ongoing?  
15 A Not at this point. I -- I think that was two  
16 years ago. Basically that was -- that was -- At the  
17 time I was -- had been asked by the Gates Foundation to  
18 put together a proposal that would develop an  
19 alternative accountability system. For that I worked  
20 with several people in Massachusetts in trying to  
21 identify elements and -- that would improve or enhance  
22 the current accountability system in place, and we ended  
23 up putting together a proposal that ultimately they  
24 decided not to fund.  
25 Q Who did you present the proposal to?

1 A The Gates Foundation.  
2 Q And do you know why they decided not to fund?  
3 A Yeah.  
4 MR. ROSENBAUM: Speculation.  
5 THE WITNESS: I was told that -- Well, there's  
6 two reasons, one is they were moving out of the area  
7 or -- they decided not to invest in the area of  
8 technology and assessment, that was the main reason.  
9 And the second reason was they felt the budget was  
10 too -- too large, basically.  
11 BY MR. SALVATY:  
12 Q What was the budget?  
13 A It was about 10 million.  
14 Too large for them to fund I should say. They  
15 didn't say it was too large. They just said it was too  
16 large for them to dedicate 10 million to.  
17 Q Did this alternative accountability system that  
18 you developed measure teacher quality?  
19 A Not -- Well, no, I don't believe there was a  
20 direct measure of teacher quality in that system.  
21 Q Why is that?  
22 A In the -- We were trying to enhance the current  
23 system in MCAS and we were really focusing on -- the  
24 priority set by the people I was working with was to  
25 increase the role of teachers in the accountability

1 process, to collect information about practices within  
2 schools and making them accessible in a way that you  
3 could look at practices and impact some practices -- or  
4 impact on outcomes across schools, trying to collect  
5 information from classroom products rather than external  
6 products, that is from a test.  
7 Q Who --  
8 MR. ROSENBAUM: I'm sorry. Did you finish?  
9 THE WITNESS: Well, I -- No, I didn't.  
10 MR. ROSENBAUM: Oh.  
11 THE WITNESS: And this was really seen as a  
12 first step in enhancing their system, responding to some  
13 major concerns that were occurring in the State of  
14 Massachusetts at that time.  
15 MR. ROSENBAUM: Yes, I want to impose an  
16 objection to the prior question. Vagueness because I  
17 don't know what you mean by "quality," Paul. It seems  
18 to me that the answer that Professor Russell just gave  
19 could easily fall within the rubric of teacher quality,  
20 so I just want that objection for the record.  
21 MR. SALVATY: I appreciate that clarification.  
22 Q Who set the priorities for this project?  
23 A It was really a group kind of negotiating  
24 process. It was through conversations with several  
25 different people that are involved in the system as well

1 as members of the National Board on Educational Testing  
2 and Public Policy.

3 Q Did you participate in setting priorities?

4 A I did everything on this in terms of engaging  
5 in negotiations, arranging for negotiations, carrying on  
6 conversations, writing a proposal.

7 Q So you did participate?

8 A It wouldn't have happened without me.

9 Q You said there were some major concerns in the  
10 Massachusetts accountability system that you were  
11 looking to address; is that right?

12 A Yeah.

13 Q What were those major concerns?

14 A At that time some of the concerns were the lack  
15 of active participation by teachers in the process;  
16 concerns about the lack of adequate information about  
17 certain areas of the curriculum or the safe frameworks;  
18 a single measure of student writing to estimate, you  
19 know, students' writing ability; among some people there  
20 was also concern about the lack of use of technology for  
21 writing in particular.

22 Q Did the accountability -- the alternative  
23 accountability system that you developed measure the  
24 adequacy of textbooks?

25 MR. ROSENBAUM: Objection. Vague.

1 Q Okay.

2 A I had developed this -- Basically I developed  
3 this system with working with some districts and then  
4 that became that last bullet in which that's when the  
5 negotiation process occurred.

6 Q Okay. Further down the page here you mention  
7 that you previously assisted others in preparing  
8 testimony in litigation. Who have you assisted?

9 A I assisted Walt Haney by helping him put  
10 together a database. He was in a time crunch. I spent  
11 maybe four hours helping him with that.

12 Q And in connection with what case?

13 A I forget the name of the case but it was a  
14 Texas case.

15 Q And what was the database?

16 A I don't even recall. I'm guessing it had  
17 something to do with drop-out rates, but I really don't  
18 know.

19 Q And was that the only time you've assisted  
20 others in preparing testimony in litigation?

21 A Yeah.

22 Q Further down the page here you mention a  
23 conversation with a member of the API Technical Advisory  
24 Committee and I just want to confirm is that your  
25 discussion with Brian Stecher --

1 THE WITNESS: That was not a major concern that  
2 we were trying to address in this initial enhancement.

3 BY MR. SALVATY:

4 Q So that's no?

5 MR. ROSENBAUM: The answer speaks for itself.  
6 It's asked and answered.

7 THE WITNESS: Again, it goes back to, you know,  
8 what I've said several times. Assessment and  
9 accountability must meet purpose. Absent purpose you  
10 can't -- you can't really -- you can't really understand  
11 what that system is doing and you can't talk about the  
12 validity of that system.

13 BY MR. SALVATY:

14 Q Did the alternative accountability system you  
15 developed measure adequacy of facilities in any way?

16 A That wasn't a concern, major concern, of the  
17 state at the time so we didn't go into the initial phase  
18 of this.

19 Q If I could just ask you to clarify. You have  
20 the bullet in your paper that talks about developing an  
21 alternative accountability system and then below that  
22 you have collaborating with several educational and  
23 political leaders in Massachusetts on a proposal for the  
24 Gates Foundation?

25 A Yeah, those are really the same thing.

1 A Yes, it is.

2 Q -- that you mentioned yesterday?

3 A Yes.

4 Q During that conversation did you tell him why  
5 you were calling?

6 A I'm sure I did but I don't -- at that time I --  
7 Yeah, I'm sure I did but I don't recall what exactly I  
8 would have said.

9 Q Do you remember what you said on that subject?

10 A I probably -- I don't recall exactly, but it  
11 probably would have been something to the extent that,  
12 you know, I was working on looking at the California  
13 accountability system and ways to enhance it.

14 Q Do you remember telling him that you were  
15 assisting plaintiffs in this lawsuit?

16 A I don't recall. I don't recall. Again,  
17 because in my mind I really thought about this work in  
18 terms of the scholarly contribution rather than an  
19 expert witness, so I may or may not have told him that.

20 Q Okay. Did you want to take five or ten  
21 minutes? I am going to move on to a new section.

22 A Yeah, that would be great.

23 MR. ROSENBAUM: Sure. Thank you.

24 (Recess.)

25 BY MR. SALVATY:

1 Q I'd like to refer you to page 7 of your  
2 report.  
3 A Of actual numbers?  
4 Q Actual numbers, yes. The heading is  
5 "CALIFORNIA'S CURRENT INDEX OF ACCOUNTABILITY - THE  
6 APL."  
7 A Yes.  
8 Q Here you state that the SAT-9 is a nationally  
9 norm-referenced achievement test that is not aligned  
10 with California standards.  
11 We've talked about alignment. What do you mean  
12 by not aligned in this context?  
13 A I mean that when the SAT-9 was developed there  
14 was no intention and no referencing to the state  
15 standards when the items that devise that test were  
16 developed and selected.  
17 Q So you were referring to the development of the  
18 SAT-9?  
19 MR. ROSENBAUM: The answer speaks for itself.  
20 You're mischaracterizing his testimony.  
21 THE WITNESS: No. I'm saying that the test was  
22 not designed and is not aligned with the state  
23 standards.  
24 BY MR. SALVATY:  
25 Q Is it your opinion that the SAT-9 does not test

1 students on subjects covered by California's content  
2 standards?  
3 MR. ROSENBAUM: Mischaracterizes his  
4 testimony.  
5 MR. SALVATY: It's a question.  
6 THE WITNESS: No, I'm not saying that it  
7 doesn't test certain areas that appear in the state  
8 standards, but it's not designed and it does not  
9 systematically measure the standards that California has  
10 developed.  
11 BY MR. SALVATY:  
12 Q Okay. Do you know the extent to which the  
13 SAT-9 does in fact cover subjects included in California  
14 standards?  
15 MR. ROSENBAUM: Covers subjects?  
16 MR. SALVATY: Yes.  
17 MR. ROSENBAUM: What do you mean? That's  
18 vague. You mean does it cover math? Does it cover  
19 English? Or does it cover precise information that's  
20 required to be communicated by the standards? It's --  
21 It's a really vague question. It's an inappropriate  
22 question.  
23 THE WITNESS: There's -- I have not done my own  
24 analyses looking at the SAT-9 -- each SAT-9 items and  
25 linking it to the standards and then looking at which

1 standards are not being measured. There has been work  
2 that I think I refer to by folks down at CRESST that  
3 have done that and as I mentioned yesterday William  
4 Schmidt has done work as well, and both of the  
5 conclusions there is that it's poorly aligned.  
6 And from a test development prospective, you  
7 know, it would be very different to have a test that  
8 wasn't specifically designed to meet a certain framework  
9 or to test within a certain framework to be aligned.  
10 It's highly unlikely that that's going to happen unless  
11 you had a state, for example, that had standards that  
12 were identical to another state's and you adopted the  
13 tests that they had developed intentionally to measure  
14 the first state's standards.  
15 BY MR. SALVATY:  
16 Q Are you able to explain what "poorly aligned"  
17 means, to quantify that in any way?  
18 A Today? No. But if I had reference to those  
19 reports I -- I could do it more precisely.  
20 Q Do you know whether or not the California  
21 Standards Tests that have been developed incorporate any  
22 aspects of the SAT-9?  
23 MR. ROSENBAUM: It's very vague.  
24 THE WITNESS: What do you mean by that?  
25 MR. ROSENBAUM: I don't understand.

1 BY MR. SALVATY:  
2 Q Well, are you aware that California Standards  
3 Tests have been developed on certain subjects?  
4 A Yes.  
5 Q And do you know whether those tests that have  
6 been developed incorporate specific items in the SAT-9?  
7 MR. ROSENBAUM: I don't know what that means.  
8 That's really vague.  
9 Do you understand what he means?  
10 THE WITNESS: Do you mean do they include items  
11 that were part of --  
12 MR. ROSENBAUM: You mean the questions?  
13 MR. SALVATY: The questions.  
14 THE WITNESS: My -- I don't know for sure  
15 because I have not seen the actual items for the state  
16 test, the state standards tests. Based on some of the  
17 minutes from the meetings it appears that there may be  
18 some items -- It's a confusing process because in some  
19 reports and some notes they talk about these -- I forget  
20 the term that they use -- but enhanced items or  
21 auxiliary items.  
22 BY MR. SALVATY:  
23 Q Augmentation items?  
24 A Yes, thank you, augmentation items, and it's  
25 unclear what exactly those are and how those are being

1 used in all the documentation I've seen. You know, the  
 2 implication, at least my interpretation, is that  
 3 you're -- what they've done at one point or what they're  
 4 talking about doing was taking the existing SAT-9 test  
 5 and then adding additional items, and those would be the  
 6 augmented tests. But I've also seen in some of the  
 7 reports and minutes and meeting notes reference to those  
 8 augmentation items really forming the standards tests,  
 9 so it depends whose talking and what they're talking  
 10 about.

11 It wouldn't surprise me if in developing any of  
 12 the standards tests that you have some similar content  
 13 as appears in the SAT-9 and potentially you could have  
 14 similar items, although I don't know why you'd want to  
 15 do that if they've already been exposed at such high  
 16 levels but you could do that. So it wouldn't surprise  
 17 me if that -- if that was the case.

18 Q Would it be fair to say that's not an area that  
 19 you have studied carefully in connection with this case?

20 A I haven't been provided access to the actual  
 21 tests so I haven't been able to look at that.

22 Q Okay. On page 8, the first complete paragraph  
 23 you say:

24 "Every year, each school receives four  
 25 rankings: an overall ranking, a similar school

1 negatively.

2 Q And what is a similar school growth ranking?

3 A It's basically the same thing except for I'm  
 4 comparing to all schools. Across the state it's to the  
 5 schools that are deemed similar based on their -- the  
 6 methodology they use to define similar schools.

7 Q Okay. Turning to page 9 in the first paragraph  
 8 you talk about the current target. You say:

9 "The current target established by the  
 10 state for each school is to obtain an API score  
 11 of at least 800. This interim target was  
 12 established by the Advisory Committee for the  
 13 Public Schools Accountability Act, based on  
 14 data analyses by the Committee's Technical  
 15 Design Group. The Group intentionally set the  
 16 target at a demanding level to represent an  
 17 exemplary level of performance."

18 Do you see that?

19 A Uh-huh.

20 Q Do you take issue with the technical design  
 21 group's recommendation to set the target at 800?

22 MR. ROSENBAUM: That's vague. It's  
 23 incomplete.

24 THE WITNESS: What do you mean by "take  
 25 issue"?

1 ranking, an overall growth ranking, and a  
 2 similar school growth ranking."  
 3 Is that your understanding of how the API  
 4 works?

5 MR. ROSENBAUM: It's vague.

6 THE WITNESS: Well, the --

7 MR. ROSENBAUM: Incomplete.

8 THE WITNESS: This is not a definition of what  
 9 the API is.

10 BY MR. SALVATY:

11 Q I understand. I am not trying to trick you or  
 12 mislead you. I just mean do you stand by that  
 13 statement?

14 A That there's information provided -- That  
 15 overall -- That you get an overall API, there's also a  
 16 ranking associated with that; there's a similar  
 17 school -- Well, ranking in essence as well. Yeah, I  
 18 mean those are the four pieces of information primarily  
 19 that come out of the API.

20 Q What is an overall growth ranking?

21 A Well, there's a growth -- they calculate how  
 22 much growth your school has and then there's a listing  
 23 or a ranking of all the school's growth, so in essence  
 24 it's a standing relative to all the other schools in  
 25 terms of how much your API has changed, positively or

1 BY MR. SALVATY:

2 Q Do you disagree with that decision?

3 A Again, it comes back to the purpose and why it  
 4 is you're trying to implement an accountability system  
 5 and why you're trying to set a target. If you're trying  
 6 to encourage all schools to improve and reflect on  
 7 their -- reflect on their practices and improve their  
 8 practices, setting a very demanding level of performance  
 9 for -- as our initial setting has potential to -- to be  
 10 discouraging for some schools. But if your purpose is  
 11 to say "Hey, listen. All schools, you need to reach  
 12 this very, very, very, very, very high level as quickly  
 13 as you can," you know, to -- to basically send a  
 14 message, then, you know, maybe it's appropriate. But it  
 15 seems to me that the first purpose is more educationally  
 16 beneficial in the long run.

17 So I don't -- It's unclear to me what the  
 18 purpose was in selecting 800. And I think in various  
 19 sections of the report I talk about how it's somewhat of  
 20 a murky process that even though there's some  
 21 documentation, the details of the process are not --  
 22 based on the documents that I had access to was not  
 23 fully disclosed and so it's difficult to really know  
 24 exactly why they are making some of the decisions that  
 25 they're making.

1 Q You say you need to know the purpose of the  
2 policy or the program before you can answer whether this  
3 decision makes sense; is that right?

4 A Yeah. Yes.

5 Q Given the purpose of the API, do you agree with  
6 the decision to set the target at 800?

7 A Well, that's --

8 MR. ROSENBAUM: Lacks foundation.

9 THE WITNESS: -- that's not what I said. I  
10 said I need to know the purpose for setting the target,  
11 what is it -- what is it they're hoping would occur in  
12 response to setting that target.

13 BY MR. SALVATY:

14 Q And you weren't able to obtain that  
15 information?

16 A Based on the documents that I had and all the  
17 meeting notes that were available on the web site, no.

18 Q Do you know what other targets the technical  
19 design group considered?

20 A There was reference to a number looking at  
21 different targets. I'd have to look through that  
22 documentation to -- to be able to say whether I knew  
23 exactly what those numbers were, but I know that there  
24 was discussion of -- of setting the target at different  
25 places. And, you know, in my appendices, too, there's

1 high target?

2 MR. ROSENBAUM: You've asked that 14 times and  
3 he's answered it the same way each time. Unreasonably  
4 high for what purpose? The witness has repeatedly said  
5 it depends on the purpose of why you're setting it and  
6 your question continues to not fill that in.

7 THE WITNESS: If you're asking do I think it's  
8 reasonable to expect all schools in the State of  
9 California to obtain an 800 in a relatively short period  
10 of time, let's use the No Child Left Behind target of I  
11 believe it's 14 years out, I would say it's  
12 unrealistic. And I do some analyses, actually, in the  
13 appendix that show that for many schools if they meet  
14 the annual growth target set out by the state, it would  
15 take many, many years. I think for the average I'd have  
16 to look at the appendix to know exactly. But for the  
17 school that's performing at the average API, it would  
18 take 40 to 50 years if they met the state's growth  
19 targets. To me if you're trying to meet short-term  
20 goals, that seems unrealistic.

21 MR. ROSENBAUM: Your questions, also, have all  
22 sorts of assumptions that you're not describing. Are  
23 the schools going to be supplied with the teachers that  
24 they need? Are they going to be supplied with the  
25 materials that they need? Are the schools going to get

1 several models that -- we ran some analyses basically to  
2 show the impact of setting the target at different  
3 levels.

4 Q Are you able to offer an opinion about whether  
5 the decision to set the target at 800 was a rational  
6 decision?

7 A Was a rational?

8 Q Yes.

9 A Again, it depends on what the purpose was, and  
10 I don't know what their -- what their goal was and what  
11 they hoped to accomplish by setting the target at 800.

12 I guess I think of it as, in many ways, when  
13 you're setting targets, sometimes you can set the  
14 targets to intentionally discourage people or entities  
15 from participating in something, other times you can set  
16 targets that encourage people to change something about  
17 themselves. So, for example, if you want to set a  
18 target on losing weight, if you wanted to discourage  
19 people from losing weight you would set an unreasonably  
20 high initial target. If you wanted to encourage people  
21 to lose weight, you would set something that they could  
22 reach, feel good about, and then you would set another  
23 target for them. But I don't know what the purpose  
24 of -- what they're hoping to accomplish with the API.

25 Q Is it your opinion that 800 is an unreasonably

1 the resources that they need to do what they need to  
2 do? Is the test instrument going to be able to detect  
3 what's going on in the school? There's just all sorts  
4 of assumptions that you're not stating. It's a terribly  
5 unfair set of questions.

6 MR. SALVATY: Well, Mr. Rosenbaum, one of  
7 Mr. Russell's opinions is that the API is the result of  
8 questionable policy decisions. I'm asking him what his  
9 opinions are about the policy decisions that went into  
10 the establishment of the API. Perfectly reasonable.

11 MR. ROSENBAUM: He's repeatedly answered those  
12 questions.

13 BY MR. SALVATY:

14 Q Professor Russell, in the next paragraph you  
15 state that for those schools that do not meet this  
16 interim target of 800, an API growth target is  
17 calculated and then you explain the growth target. Do  
18 you see that?

19 A Yes.

20 Q Do you disagree with the technical design  
21 group's recommendations concerning API growth targets?

22 MR. ROSENBAUM: Same objections.

23 THE WITNESS: What do you mean by that? I  
24 don't understand.

25 BY MR. SALVATY:

1 Q Do you think that their decisions were  
2 reasonable or not?

3 A For a 5 percent growth?

4 Q Yes.

5 MR. ROSENBAUM: Under what circumstances? For  
6 what purpose?

7 MR. SALVATY: Under existing circumstances.

8 MR. ROSENBAUM: What does that mean? That a  
9 school that is in the condition of some of these  
10 schools, is it reasonable for that school? Is it  
11 reasonable for Beverly Hills High School? You're not  
12 making your questions clear. They're an unfair set of  
13 questions.

14 MS. READ-SPANGLER: Do you want him to ask it  
15 for each separate school in California?

16 MR. ROSENBAUM: I'm confident he would anyway,  
17 but I don't want this witness who has studied this stuff  
18 carefully to answer a set of questions without you  
19 making your assumptions clear. You're going to give the  
20 schools what they need and the teachers what they need  
21 and the kids what they need? That's one set of  
22 questions. What's the purpose of this? It's a  
23 nonsensical, inappropriate set of questions.

24 MR. SALVATY: I'm not making any assumptions.  
25 I'm asking whether this decision as it was made was a

1 addressed.

2 I mean this goes back to work on evaluation to  
3 the 1930s when people focused solely on outcomes and  
4 they made all these conclusions about all kinds of  
5 different educational programs and they went into the  
6 black box, which California has created an enormous  
7 black box, and found out that they couldn't explain why  
8 changes were occurring. In some cases the changes were  
9 occurring for good reasons, sometimes it was for very  
10 poor reasons, and that's -- I mean that's the crux of  
11 what my whole concern about the -- the API -- the API  
12 system that focus only on outcomes in California is  
13 about.

14 Q In the next paragraph you talk about beyond  
15 meeting the 5 percent growth target schools whose API  
16 scores below 800 are expected, quote, to demonstrate  
17 comparable improvement in academic achievement by all  
18 numerically significant ethnic and socioeconomically  
19 disadvantaged subgroups, end quote.

20 Given that the API focuses on outputs and not  
21 inputs, do you feel that this is an unreasonable  
22 expectation?

23 MR. ROSENBAUM: Same objections. You know,  
24 he's answering these questions fully for you and then  
25 you reformulate it in a way that is not sensitive and

1 reasonable one or not. There's nothing to assume.

2 Q Are you able to answer the question?

3 A Yeah. I think -- Again, as I said several  
4 times, when we're talking about an accountability  
5 system, there's many different pieces to that -- to that  
6 system. One piece that's part of the current system and  
7 probably should be part of many different systems would  
8 be some kind of expectation in terms of meeting goals,  
9 in this case they set goals around growth. I guess my  
10 concern with this system isn't so much with the setting  
11 of a growth target of 5 percent but rather setting a  
12 growth target of 5 percent without actually -- without  
13 also asking schools to look at what they're doing and  
14 how they're -- they might be attaining those goals; and  
15 basically putting -- if they are able to attain the goal  
16 putting that in the context of what it is they actually  
17 did to attain that goal; and if they're not able to  
18 attain that goal putting it in the context of why they  
19 aren't attaining those goals. And if it's because of  
20 some type of input failure or shortcoming, then they  
21 ought to set a goal to address that input failure or  
22 shortcoming. If it's deemed to be an important  
23 shortcoming that's affecting the kids learning, they  
24 shouldn't really be held accountable for making growth  
25 and learning outcomes until that input shortcoming is

1 you're not laying out all the assumptions that we're  
2 talking about.

3 MS. READ-SPANGLER: I think the witness is able  
4 to take care of himself.

5 MR. ROSENBAUM: He certainly is. He certainly  
6 is, but that doesn't justify improper questions.

7 BY MR. SALVATY:

8 Q Are you able to answer?

9 A Can you ask the question again?

10 MR. SALVATY: Would you mind reading it back.  
11 (Record read as follows:

12 "Given that the API focuses on outputs and  
13 not inputs, do you feel that this is an  
14 unreasonable expectation?")

15 THE WITNESS: I'll answer it this way: If a  
16 school deemed that all the appropriate inputs were in  
17 place and were functioning, I think it's totally  
18 reasonable to expect -- What's it say? -- all  
19 numerically significant ethnic and socioeconomically  
20 disadvantaged groups as well as those that don't meet  
21 this criteria to be growing in a school where it's --  
22 those inputs are not in place or some of them are  
23 missing, you know. Again, I'm not sure you should even  
24 be focusing on growth for any group at that point. So  
25 if the assumption is that all the inputs are in place, I

1 would agree fully with this.

2 BY MR. SALVATY:

3 Q Is it your view that schools should be allowed  
4 to focus on inputs first before being held to growth  
5 targets?

6 MR. ROSENBAUM: I don't know what that means.

7 THE WITNESS: I think that before -- Let me  
8 answer it this way: In terms of the work that I've done  
9 with Co-NECT, for example, to me it would seem  
10 completely unreasonable to be making statements about  
11 the impact of the Co-NECT reform model if you had no  
12 evidence that the reform model had actually been  
13 implemented. It would be silly to be trying to assess  
14 the value of the Co-NECT reform model if it's not  
15 implemented, if it's not there, if the elements are not  
16 there.

17 I think that same logic translates to the  
18 impacts of schools. If we know that certain things  
19 matter in terms of affecting students' achievement, I  
20 think it would be not terribly useful to be looking at  
21 how much impact a school or a classroom or a teacher is  
22 having if the necessary conditions aren't present first.  
23 So if those conditions aren't present, I think the first  
24 obligation of the school, the district, the state,  
25 whoever it may be, is to try to make sure those

1 people speculate have an impact so that over time as  
2 you're building -- you would still be collecting  
3 measures of student learning. I'm not suggesting that  
4 you wouldn't be collecting measures of student learning,  
5 you just wouldn't be holding schools accountable for  
6 changing those -- those -- in those scores or in that  
7 learning.

8 The same thing, if we went back and didn't know  
9 anything about education and the things that impact  
10 student learning, I would want to put a system in place  
11 that's collecting information about the -- the inputs or  
12 the conditions that we speculate may have an impact,  
13 collect the student measures of learning so that you're  
14 collecting a database of information over time where you  
15 can start to identify those conditions. But I would  
16 not -- If we didn't know anything, it seems, again,  
17 silly to be holding schools accountable if everyone's in  
18 an experimental phase. The point of early experiments  
19 is to try to identify those things that matter and then  
20 to manipulate those things that matter to see if that  
21 has an added impact.

22 Q In the next paragraph you talk about how  
23 because tests administered in English do not provide  
24 reliable and valid scores for students with limited  
25 English proficiency, LEP students who have been enrolled

1 conditions are in place.

2 BY MR. SALVATY:

3 Q Professor Russell, what if we don't know that  
4 certain things matter in terms of student achievement,  
5 let's assume that, that we don't know what matters in  
6 terms of student achievement, would that affect your  
7 opinion?

8 A Well, but there's been 40, 50 years of research  
9 that gives us a pretty clear idea of some of the things  
10 that do impact it, so I mean I guess that's a pretty --  
11 I would say that's a pretty unreasonable starting place  
12 to even ask, so you are ignoring everything that we  
13 already know.

14 Q Well, let me just ask you to make that  
15 assumption. If we assume --

16 A Ignore everything that --

17 MR. ROSENBAUM: Don't do this. Don't do this.  
18 Let him ask his question.

19 BY MR. SALVATY:

20 Q If we assume we don't know what leads to  
21 increased student achievement, how would that affect  
22 your opinion?

23 A I think -- Well, again, as I described  
24 yesterday, I would still want to see a system in place  
25 that's collecting information about the things that

1 in the public school system for less than a year are  
2 exempt from taking the SAT-9. Do you believe that the  
3 decision to exempt LEP students in this manner is a  
4 reasonable decision?

5 A Yeah, this -- I mean this part of the report I  
6 believe is purely descriptive, as I recall. It's just a  
7 description of what the API system contains and how it's  
8 functioning. I don't believe in this section of the  
9 report I'm really critiquing any piece of it, so I'm  
10 simply describing the way that it exists.

11 Q And I'm asking if you critiqued this aspect.

12 A Throughout the whole report I don't believe  
13 that there's -- to the best of my knowledge I don't  
14 critique that at all. This is just simply a description  
15 of how the system exists. To me it -- this seems to be  
16 an appropriate decision, not to -- not to be testing  
17 students in a language that they haven't yet mastered.  
18 I don't -- There's a little bit of controversy over that  
19 but I don't think among the testing community, the test  
20 expert community, that anyone would say that you should  
21 be testing a student in a language that they don't know  
22 to get valid measures of what they know in a different  
23 domain.

24 Q Do you have an opinion about the quality or  
25 reliability of the Spanish Assessment of Basic Education

1 2nd Edition test?  
 2 MR. ROSENBAUM: Vague.  
 3 THE WITNESS: I don't discuss that in the  
 4 report at all. I -- I -- I don't have an opinion about  
 5 that.  
 6 BY MR. SALVATY:  
 7 Q You don't have an opinion?  
 8 A Yeah. I don't discuss it in the report.  
 9 Q In section 2.1 on page 1 you talk about the  
 10 addition of criterion-referenced test to the API; do you  
 11 see that section?  
 12 A Yeah.  
 13 Q In the second sentence you say:  
 14 "California Standards Tests (CSTs) are  
 15 being developed for English Language Arts,  
 16 Mathematics, History-Social Science, Science,  
 17 Writing, and Coordinated/Integrated Sciences."  
 18 Do you see that?  
 19 A Yes.  
 20 Q You say that CSTs are being developed, but some  
 21 tests actually have been developed; right?  
 22 A Yes, exactly, some have been developed.  
 23 Q Which tests have been developed?  
 24 A I believe -- I have to look at the reference  
 25 here just to be clear. According to this state document

1 the English language arts, at least some components of  
 2 of it, have been developed and have been implemented;  
 3 some of the math has been developed, again, according to  
 4 this at the high school level; the social studies looks  
 5 likes it has been developed, it's going to be part of  
 6 the 2002 base.  
 7 MS. READ-SPANGLER: Social science.  
 8 THE WITNESS: Social science. I'm sorry.  
 9 Yeah, Math and ELA. So it looks to me like  
 10 those -- and then there's also the high school exit  
 11 exams as well.  
 12 BY MR. SALVATY:  
 13 Q Do you have an opinion about the quality of the  
 14 California Standards Tests that have been developed?  
 15 MR. ROSENBAUM: Vague. Foundation.  
 16 THE WITNESS: I do not.  
 17 BY MR. SALVATY:  
 18 Q Let me direct you to footnote 10. We have to  
 19 turn back to the footnotes.  
 20 A Yeah.  
 21 Q You know what? I'm sorry. I actually wanted  
 22 to ask you about the footnote on page 10 -- Sorry --  
 23 A Okay.  
 24 Q -- which is right there on page 10.  
 25 MR. ROSENBAUM: It's page 10.

1 THE WITNESS: Oh, it's page 10. I see.  
 2 BY MR. SALVATY:  
 3 Q This table explains that the SAT-9 made up 100  
 4 percent of the scores, the API scores in 1999 and 2000;  
 5 is that right?  
 6 A That's what the table says, yes.  
 7 Q And it shows that the SAT-9 is given less  
 8 weight in 2001; is that right?  
 9 A That's -- Yes, it's true.  
 10 Q Do you believe that decreasing reliance on the  
 11 SAT-9 represents an improvement in the API?  
 12 A I think the introduction of the standards  
 13 exams -- Again, I haven't looked at them closely enough  
 14 to know how good they are, but based on my understanding  
 15 that they are developed to be aligned with the state  
 16 standards -- I think the introduction of those is a good  
 17 thing. I -- I wonder -- Yeah. That's it.  
 18 Q What were you going to say you wonder?  
 19 A I mean I guess it's -- the SAT-9 is being  
 20 changed to the CAT-6 which is really the Terra Nova.  
 21 MS. READ-SPANGLER: I'm sorry. It's really the  
 22 what?  
 23 THE WITNESS: Terra Nova. That's what the test  
 24 publisher calls it. That's the name of the test. It's  
 25 parenthetically called the CAT-6 but it's called the

1 Terra Nova.  
 2 I guess the only thing I wonder is why -- why  
 3 they're even continuing with the standardized test, why  
 4 make that switch? It seems that money could be probably  
 5 spent better on something else but. . .  
 6 BY MR. SALVATY:  
 7 Q Do you know how much money is being invested in  
 8 that?  
 9 A I don't know, no.  
 10 MR. HAJELA: I'm sorry. Just for  
 11 clarification, did you say you don't know why they  
 12 continue with the norm-referenced test or standards?  
 13 THE WITNESS: I -- I mean I guess I just feel  
 14 if they're changing the norm-referenced test and they  
 15 want to move towards a standards-based test in the long  
 16 run anyway, like a full standard-based test, I just  
 17 wonder why they just don't drop the Stanford 9. Why  
 18 invest in a new test at this point, a new  
 19 norm-referenced test? Why not drop it and use those  
 20 funds for speeding up the development for the California  
 21 Standards Test or using it for another purpose?  
 22 BY MR. SALVATY:  
 23 Q Would it be fair to say that you don't believe  
 24 a norm-referenced test really serves any purpose in API?  
 25 A It seems to me -- Again, as I understand it the

1 purpose -- one of the purposes of an accountability  
2 system should be to help students learn the standards  
3 that the state sets forth, the content standards; and to  
4 the extent that you can develop tests and measures that  
5 are closely aligned with those standards, that to me --  
6 to me that's a good thing. It seems unlikely that an  
7 off-the-shelf standardized norm-referenced test is going  
8 to be -- meet those criteria for a closely aligned  
9 test. But that's not to say that norm-referenced tests  
10 aren't useful, but for that purpose, you know, they seem  
11 less useful.

12 Q Can you describe some of the ways that a  
13 norm-referenced test can be useful?

14 A I mean, for example, if you were trying to  
15 select very high-performing students relative to  
16 everyone else in the nation or within relative to the  
17 norm group or if you're trying to identify students who  
18 are at severe risk relative to a norm group,  
19 norm-referenced tests could be -- could be useful.

20 If you're -- you wanted to see how kids were  
21 changing in relation to a norm group, whether it's a  
22 national sample or a local sample, that would be  
23 useful. But if you're trying to look at the extent to  
24 which kids are meeting a certain standard that's defined  
25 by a framework or a standard, that just -- the

1 A It's the one that you had made copies of  
2 yesterday.

3 Q What's the title on that document?

4 A Sure. "Changes to the Academic Performance  
5 Index (API): 2002 Base API," August 2002.

6 MS. READ-SPANGLER: Just to clarify, you gave  
7 that for elementary and middle schools.

8 THE WITNESS: Oh, yeah. I'm sorry. And then  
9 it's different for high schools. Yes, thank you.

10 For high school across all subject areas it's  
11 29 percent.

12 BY MR. SALVATY:

13 Q Do you know what percentage of API scores will  
14 be based on SAT-9 in 2003?

15 A Off the top of my head I do not. My  
16 understanding, again based on notes from the technical  
17 meeting, that it's going to decrease over time but I  
18 don't know what the percentages are.

19 Q Is it your understanding that at some point API  
20 scores will be based entirely on the California  
21 Standards Tests and not on any norm-referenced tests?

22 MR. ROSENBAUM: Speculation.

23 THE WITNESS: I believe, and I don't -- I'd  
24 have to read through all those meeting notes again,  
25 that there's been discussion about that. I don't -- I

1 norm-referenced test isn't designed to do that.

2 Q Do you know why state policymakers have decided  
3 to include a norm-referenced test as part of the API?

4 MR. ROSENBAUM: Speculation. Foundation.

5 THE WITNESS: Based on the notes from the  
6 technical advisory groups, it -- it appears that the  
7 reason that they included it was because at the time  
8 that was the only thing that was available to them and  
9 it would -- under the short deadlines that they had to  
10 put a test into place and it would have -- it seems to  
11 me -- Again, this is my speculation -- but it seems to  
12 me that it would have taken -- in order to test under  
13 the time frame that they had to test it would have taken  
14 too long to develop a test that was aligned with the  
15 state tests, so they just took what was already  
16 available and that happened to be an old referenced  
17 test.

18 Q Do you know what percentage of API scores will  
19 be based on the SAT-9 in 2002?

20 A According to this document -- If I'm reading  
21 this document correctly, 2002 base API and 2003 gross  
22 API will be based 24 percent on the English language  
23 arts norm-referenced test and 16 percent for the math  
24 norm-referenced tests for a total of 40 percent.

25 Q What document are you referring to?

1 can't recall off the top of my head if that's a stated  
2 goal or not but I -- I don't know off the top of my  
3 head.

4 BY MR. SALVATY:

5 Q Do you have an opinion about whether it would  
6 be better to move to focus exclusively on  
7 standards-based tests and to eliminate any reliance on  
8 norm-referenced tests or to include some reliance on  
9 norm-referenced tests as well?

10 A Again, it depends in part on what the overall  
11 purpose is. You know, if -- if the primary purpose of  
12 the testing component of an accountability system is to  
13 measure students' growth towards standards that are set  
14 forth by the state, then the extent to which you're  
15 using the test that's closely aligned with that -- those  
16 standards is going to be desirable. If the  
17 norm-referenced test is not closely aligned, then it  
18 would be desirable to eliminate it at some point, it  
19 seems to me, again, the sooner the better.

20 But if there's some reason -- some part of the  
21 purpose was to compare changes on the state tests with  
22 national sample, you may want to include a  
23 norm-referenced test or you can use the NAEP scores as  
24 well as an external kind of validation measure, but it  
25 really depends on purpose.

1 I think yesterday you asked a similar question  
2 about whether the move towards, you know, changing the  
3 API over these next four to six years by including the  
4 standards is -- I don't know what the exact phrasing  
5 was -- was a good thing and I talked about it in terms  
6 of the stability, but clearly developing tests that are  
7 closely aligned with the standards is a positive thing.  
8 It just seems to me it should be done in a way that is  
9 promoting stability.

10 Q Do you have any opinion about how you implement  
11 aligned criterion-referenced tests while at the same  
12 time promoting stability?

13 A Yeah, I think -- I think, you know, one of the  
14 keys is just slow down during the planning phases, think  
15 through what you're going to do, and really not begin a  
16 process until you have a well articulated, long-term  
17 plan that again is trying to do things -- roll out tests  
18 ideally at the same time -- Realistically that may be  
19 very difficult to do -- so when you're doing it -- when  
20 you are rolling it out there's some logic to how you're  
21 doing it. So, for example, you might start at one grade  
22 level or one school level, develop tests, have those  
23 implemented and then move to the next level; or you  
24 might begin by doing it across the subject area and then  
25 three or four years later when you have a good, valid,

1 reliable test in place, add another subject area. I  
2 mean it kind of depends on your priorities.

3 Q In your opinion did state policymakers move  
4 through the planning stage of the API too quickly?

5 A In my opinion they were responding to a  
6 deadline that was in place and I think whoever --  
7 whatever body set that deadline made it too short which  
8 forced a rapid decision-making period.

9 Q Do you know who set that deadline?

10 A I don't know exactly. Again, as I read through  
11 some of the notes it's -- the governor is referred to  
12 but I don't know if that -- I don't know what that means  
13 and it's in the -- you know, it's in the act I believe  
14 as well, so I don't know who put it in the act. I'm not  
15 familiar with it, the decision-making process.

16 Q Do you have an opinion about what a more  
17 appropriate deadline would have been?

18 MR. ROSENBAUM: For what purpose?

19 MR. SALVATY: For the planning stages.

20 MR. ROSENBAUM: For what purpose? Planning  
21 stages for a test for what purposes?

22 I think it's an incomprehensible question, but  
23 if you can answer.

24 THE WITNESS: I'll answer is it this way: In  
25 states like Massachusetts they spent two to three years

1 in development before they started really introducing  
2 tests. You know, so it seems to me that you would want  
3 at least at a minimum a two-year planning and initial  
4 development phase; but again, it depends on how much  
5 you're trying to bite off that first year. The more you  
6 try to bite off, the more time you're going to want.

7 TIMSS is another example, they have about a  
8 one-and-a-half to two-year development piloting phase.

9 BY MR. SALVATY:

10 Q Do you know how much time any other states have  
11 spent planning their accountability programs?

12 A I don't know specifically, no.

13 Q Do you have any opinion about the quality of  
14 California's content standards?

15 MR. ROSENBAUM: It's vague.

16 THE WITNESS: I haven't -- You know, as part of  
17 what I was doing here I really did not look at them. I  
18 have looked at them at other times and I've seen, you  
19 know, kind of rankings or ratings that other  
20 organizations have done but I -- I really haven't looked  
21 at it carefully to be able to say.

22 BY MR. SALVATY:

23 Q Can you remember what rankings or ratings  
24 you've seen?

25 A EDUCATION WEEK has a rating. I believe Achieve

1 has a rating of the standards as well. Those are the  
2 two that come to mind.

3 Q We talked about ED WEEK and Achieve yesterday.

4 A Yeah.

5 Q I don't think I asked this: Do you have an  
6 opinion about the quality of ED WEEK's rankings?

7 A I have questions about the -- the things that  
8 they emphasize in their rankings but not about how --  
9 You know, given the criteria that they set forth, I have  
10 no reason -- again, I haven't looked at their data  
11 closely enough to know, but I have no reason to -- to  
12 question the quality with which they apply their  
13 criteria.

14 Q What questions do you have about what they  
15 emphasize?

16 A As I recall, again, I haven't looked at their  
17 criteria in a little while, but I think they place some  
18 emphases on how the tests are being used, the types of  
19 decisions or the types of stake levels and I think they  
20 give more weight to those than I would during the  
21 initial phases of implementing an accountability or  
22 testing program. They also don't take into  
23 consideration at all -- again, around the accountability  
24 system -- any information about opportunity to learn --  
25 the opportunity to learn standards that people talk

1 about.

2 Q Any other questions that come to mind?

3 A Those are the two major ones that come to mind.

4 Q Let me ask you the same about Achieve. Do you  
5 have an opinion about --

6 A They place a lot of emphasis on the stakes and  
7 the sanctions or decisions really that are made which,  
8 again, I question the value of those during the --  
9 particularly during the early phases of introducing an  
10 assessment and/or accountability program. And Achieve,  
11 again, doesn't take into any consideration of  
12 opportunity learning standards.

13 Q Have you looked carefully at Achieve's  
14 methodologies?

15 A Besides -- I -- Besides reading through the  
16 report, no, I haven't done anything more than just  
17 giving it a read.

18 Q All right.

19 MR. ROSENBAUM: How are you doing?

20 THE WITNESS: I'm fine.

21 MR. SALVATY: I think I'd like to take about  
22 five minutes.

23 MR. ROSENBAUM: Sure.

24 (Recess.)

25 BY MR. SALVATY:

1 determine that they're ready to get their driver's  
2 license so you give them a test and you may set that  
3 score at 8, you may set it at 9, you may set it at 57  
4 depending on how many items are there. There's that  
5 notion of what is that cut score, the point at which you  
6 make a decision that someone is in one category or  
7 another category.

8 Q In the footnote you say that as of this writing  
9 it's unclear which of several methods will be used to  
10 establish performance standards. Do you see that?

11 A Yeah.

12 Q Has anything changed on that?

13 A I haven't seen any details. I looked in  
14 preparation for this to see -- I read through the  
15 minutes of all the meetings that are available on the  
16 web site to see if there's any more information on that  
17 and I have not seen it clearly articulated. I also  
18 looked for a technical report that may exist but I  
19 wasn't able to find it easily on the web. Usually  
20 that's described in a technical report for a test. It  
21 doesn't mean that it doesn't exist but I wasn't able to  
22 find it on the web.

23 Q Do you have an opinion about whether the  
24 state's approach laid out here in footnote 8 is  
25 reasonable?

1 Q Professor Russell, let me refer you to footnote  
2 8 in your report.

3 A Yep.

4 Q This footnote -- Can you tell me, this footnote  
5 lays out the integration process? Integration of CST  
6 scores into the API calculation; correct?

7 MR. ROSENBAUM: If you don't mind, why don't  
8 you give him a moment to review that.

9 MR. SALVATY: Certainly.

10 THE WITNESS: Yep. What was the question? I'm  
11 sorry.

12 BY MR. SALVATY:

13 Q This discusses the state's plan as far as  
14 integrating CST scores into the API calculation;  
15 correct?

16 A It really focuses on the process for  
17 establishing the cut scores, if you will, for the  
18 performance bands that need to be done as the CSTs are  
19 being integrated into the API, but it's really about the  
20 cut scoring setting process.

21 Q Can you explain "cut scoring"? What do you  
22 mean by that term?

23 A Yeah. Basically, I mean the simplest thing is  
24 let's say you had a test, driver's license test, and you  
25 want people to perform at a certain level in order to

1 MR. ROSENBAUM: Vague.

2 THE WITNESS: I really -- I can't answer that  
3 question because I don't know what their approach was.  
4 I really don't know.

5 BY MR. SALVATY:

6 Q Okay. Do you have an opinion about whether the  
7 state's plan for modifying the API index to incorporate  
8 CST scores is reasonable?

9 MR. ROSENBAUM: Same objections.

10 THE WITNESS: I think I talked before about my  
11 questioning of why they continue with -- When they're  
12 making the change to the Terra Nova, CAT-6, I questioned  
13 that; but beyond that, no, I don't -- I don't really  
14 question how they're going about doing that.

15 BY MR. SALVATY:

16 Q Okay. Thank you.

17 In the next paragraph you state that the PSAA  
18 legislation --

19 MR. ROSENBAUM: Which next paragraph?

20 MR. SALVATY: I'm sorry. I'm sorry. The  
21 middle paragraph on page 11.

22 THE WITNESS: Yep.

23 BY MR. SALVATY:

24 Q You talk about the PSAA legislation and explain  
25 that it mandates that measures such as student and

1 teacher attendance rates and high school graduation  
2 rates be incorporated into the API calculation. Do you  
3 see that?

4 A Yep.

5 Q Do you think that would be a good idea?

6 MR. ROSENBAUM: Same objections.

7 THE WITNESS: I mean I think -- Again, in  
8 another section of the report I talk at length about  
9 different types of measures that I think that should be  
10 included in not so much the API but in an accountability  
11 system. High school graduation rates are definitely  
12 among those measures. I don't recall off the top of my  
13 head. I'd have to look at my list of things whether  
14 teacher and student attendance rates are there or not,  
15 but I don't have an opinion either way. Again, it  
16 depends on the purpose of what you're trying to  
17 accomplish. But in general I don't have an opinion  
18 either way as to whether student and teacher attendance  
19 rates are mandatory for a good system or not.

20 BY MR. SALVATY:

21 Q Okay. Let me refer you to Appendix A. This is  
22 your Key Decisions That Led to the Current API.

23 A Is there a page number?

24 Q Page 62.

25 A Okay. Thanks. Yeah.

1 interim target.

2 And I think as I describe fully in this that it  
3 was a rushed decision-making process and from my  
4 perspective some of the decisions are questionable from  
5 the perspective of an accountability system that that's  
6 going to meet some of what many of the principles that I  
7 layout which include, you know, being able to relate  
8 inputs to outputs, being able to -- I mean, at one point  
9 I talk about the system trying to detect, deter, and  
10 prevent various disparities. It just -- This setting of  
11 this targets to me doesn't seem to meet that goal in any  
12 way. It has potential to lead to practices that are  
13 either questionable or unknown. So in light of all that  
14 I think that some of these decisions are questionable.

15 Q Do you have a view about whether state  
16 policymakers had the same goals for California's  
17 accountability program as the purpose that you believe  
18 an accountability system should serve?

19 MR. ROSENBAUM: Foundation. Speculation.

20 THE WITNESS: Yeah, as I said before, it's  
21 unclear in a lot of the notes, meeting notes, what  
22 exactly their purposes were. It's not well  
23 articulated, so I don't. I can't really answer that  
24 question because I just don't know what their purpose  
25 and goals were.

1 Q One of your opinions in this case is that  
2 California's accountability system is a product of  
3 questionable policy decisions made by state officials;  
4 correct?

5 A Right.

6 Q Does Appendix A layout the policy decisions  
7 that led to the API?

8 MR. ROSENBAUM: Speculation.

9 THE WITNESS: I think it -- What I tried to do  
10 in Appendix A was to just talk about the process as best  
11 I could tell based on the meeting notes and the minutes  
12 that was used to make decisions about some of the key  
13 components of the API system.

14 I'm not sure if that answers your question.

15 BY MR. SALVATY:

16 Q Well, in looking at Appendix A, are you able to  
17 identify the questionable policy decisions that you  
18 refer to in your report?

19 A Yeah, I -- when I'm talking about policy  
20 decisions, I see a lot of decisions around, for example  
21 setting an interim target. That's really a policy  
22 decision. You know, you could have chose 600. You  
23 could have chose 800. You could have chose 950. That  
24 boils down to a policy decision that, in my opinion,  
25 should be aligned with the purpose for setting an

1 BY MR. SALVATY:

2 Q What if you assume that their purpose or goal  
3 was to measure student outcomes --

4 MR. ROSENBAUM: Vague.

5 BY MR. SALVATY:

6 Q -- if you make that assumption, do you still  
7 believe that state officials made questionable policy  
8 decisions?

9 A If the assumption was purely to measure student  
10 outcomes, there's no need for a target. All you need is  
11 some tests to measure some areas of student learning  
12 that are valuable or that, you know -- or however you  
13 define whatever those areas are that you want to  
14 measure. There's no need for a target. There's no need  
15 for an attempt to boil it down. There's no need for an  
16 API score in that context. You got scores coming right  
17 out of the test.

18 Q Have you read anything in the legislation or  
19 the minutes or any of the other documents surrounding  
20 the development of the current accountability program  
21 that disclosed to you what state policymakers purposes  
22 was?

23 A No. As I said, it's not -- I haven't read  
24 anything. Even the legislation does not clearly  
25 articulate what the purpose really is. There's a lot of

1 talk about the need to, you know, collect outcome-based  
2 data but it's really -- I just don't see anything where  
3 it clearly articulates the purpose of our system is, you  
4 know, X. I don't recall seeing that anywhere.

5 Q You talked about decisions that you view as  
6 questionable or unknown; is that right? I am just using  
7 the terms that you just used a moment ago.

8 A Right. So what --

9 Q I just wanted to remind you of that.

10 Are there any -- And maybe you can't answer  
11 this, but are there any decisions that led to the  
12 current API that you view as simply wrong? I know  
13 you've raised questions and you've stated that you don't  
14 have information about what the purpose of the  
15 accountability program is. I am wondering if you can  
16 identify any decisions that you believe were simply  
17 wrong.

18 MR. ROSENBAUM: Asked and answered.  
19 Foundation.

20 THE WITNESS: Again, it's really difficult to  
21 say what's -- It's like validity. Validity isn't a  
22 yes-no concept. Really I think the question that you --  
23 you ought to be thinking about is the value of these  
24 decisions. And again, without knowing the purpose it's  
25 too difficult to talk about the value but still I think

1 Q Let me just refer you to that part of page 62  
2 on Appendix A where you refer to the advisory committee,  
3 their drafting of 13 guiding principles for the new API.  
4 Do you see that?

5 A Yes.

6 Q Does that give you some insight into the  
7 purpose that state policymakers had in mind when they  
8 were developing the current accountability program?

9 A It sets forth -- In my reading of this it sets  
10 forth some of the requirements for the API system and I  
11 suppose you could infer in a general way some of the  
12 goals that they may have had in mind when they are  
13 defining these -- these criteria.

14 Q Do you disagree with any of the guiding  
15 principles that the advisory committee came up with?

16 A One -- The second one I -- I wouldn't say I  
17 disagree with but I would -- I think that it's -- it's  
18 limited, that it's emphasizing student performance, not  
19 educational processes. It seems to me that you ought to  
20 emphasize both for the simple reason that if you  
21 emphasize student performance and you have changes in  
22 student performance and that occurs because a teacher  
23 has a copy of the test and has given it out in advance,  
24 to me that -- that's not an educational process -- it's  
25 an educational process that you ought to be aware of and

1 the value of some of these decisions based on general  
2 goals of education are questionable.

3 I think one of the things that I question is  
4 trying to do too much with what ends up being a single  
5 score even though there's -- even as they start adding  
6 new tests it really comes down to a single score, your  
7 API score. I just think it's very difficult to do much  
8 that is valuable with a single piece of information when  
9 you're talking about a process, education that is,  
10 that's extremely complex and multifaceted.

11 BY MR. SALVATY:

12 Q What additional information would you need to  
13 offer an opinion about not just whether policy decisions  
14 were questionable but whether they were actually right  
15 or wrong?

16 MR. ROSENBAUM: Vague. Foundation.

17 THE WITNESS: Again, I wouldn't -- I don't know  
18 if I'd ever -- I shouldn't say I would never but I would  
19 probably be inclined not to say something is right or  
20 wrong but talk about the strengths and weaknesses or  
21 shortcomings of a decision, and the information I would  
22 need is a clear understanding of what -- what the  
23 intended purpose, you know, of whatever it is that  
24 they're doing was.

25 BY MR. SALVATY:

1 considering in contrast to a teacher or a school that's  
2 made dramatic changes to the tools they're using in  
3 instructional methodology. Again, it's the black box  
4 issue. But beyond that, I don't see anything else --  
5 nothing else jumps out at me on this abbreviated list.

6 Q Did you review the complete list?

7 A I did.

8 Q And do you remember what those principles were  
9 or --

10 A I -- I don't remember anything that I would  
11 take issue with besides that one.

12 Q Okay. Were these principles important for your  
13 analysis in this case?

14 MR. ROSENBAUM: Vague.

15 THE WITNESS: Yeah, to some extent.

16 BY MR. SALVATY:

17 Q How did they come into play in your analysis?

18 A In part -- Part of what I think I was trying to  
19 do -- I don't know if I did it -- but what I was trying  
20 to do is both look at accountability in a broad way and  
21 the extent to which these principles meet what I -- what  
22 I believe are sound goals, principles of an  
23 accountability system and also the extent to which the  
24 current system that they have in place is meeting the --  
25 the principles that they set forth.

1 Q Okay.

2 A I didn't do an analysis looking at each one and  
3 then looking at the extent to which, you know, the  
4 current system is meeting them, but in a more general  
5 way I considered these when thinking about the quality  
6 of the system.

7 Q On the next page, Professor Russell, if I could  
8 refer you to --

9 MR. ROSENBAUM: Just be to clear, what page are  
10 you talking about, Paul?

11 MR. SALVATY: 63.

12 MR. ROSENBAUM: Thank you.

13 BY MR. SALVATY:

14 Q I guess it's the second paragraph that starts  
15 "In addition."

16 A Uh-huh.

17 Q This refers to the codification of the shift  
18 from a focus on educational processes to specific  
19 student outputs; do you see that?

20 A Uh-huh.

21 Q Are you referring to the PSAA there, that that  
22 is the codification?

23 A It's -- It's a combination of the PSAA and then  
24 these guiding principles that emerge in response to the  
25 PSAA.

1 Q Do you agree that California's current  
2 accountability program represents a shift from focusing  
3 on educational processes to focusing on specific student  
4 outputs?

5 A I would agree that it focuses on student  
6 outputs. It's unclear to me how much the prior system  
7 really focused on educational processes.

8 One of the things that a lot of people seem to  
9 confuse is a focus on input or educational processes and  
10 outputs or outcomes or test scores, and some people see  
11 that it's one or the other. And really again what I  
12 tried to advocate and what I believe is most valuable,  
13 what I described in the portfolios, it's not an either  
14 or but it really ought to be both and, again, looking at  
15 the relationships between the two because there are  
16 people who think, okay, it's either educational  
17 processes or it's outcomes, and that's -- that's a  
18 false -- that's a false dichotomy.

19 Q Okay. And I understand your view. I'm asking  
20 you whether you see California's current program as  
21 representing a shift in focus. Here it says "shift" and  
22 I just want to know what you're referring to.

23 A Yeah, I am -- I am saying, and I think I just  
24 said this, that it's unclear to me exactly -- In the  
25 legislation and in the verbiage they talk about, for

1 example on this prior change, the API must emphasize  
2 student performance and not educational processes. That  
3 implies that there was an emphasis on educational  
4 processes at some point.

5 When I give a -- the history of assessment and  
6 accountability in California, almost everything that --  
7 I think everything I talk about there is really outcomes  
8 based. So I think to me it seems that there was never a  
9 real strong emphasis on educational processes to begin  
10 with. But in terms of people's thinking, at least in  
11 terms of the people working on the API and the  
12 legislation, it seems that they -- in their minds it  
13 wasn't a clear shift. And as I said, the system is  
14 really purely output based now.

15 Q I think you've identified a setting of interim  
16 target as one of the questionable policy decisions that  
17 you were referring to. What are the other questionable  
18 policy decisions in your mind?

19 A I guess in many ways they're interrelated. I  
20 question setting a single -- a single -- Well, first of  
21 all, I question the combination of multiple measures  
22 into a single score to begin with which automatically is  
23 going to lead to questioning of the weights that you  
24 assign to it as you're -- as you're combining multiple  
25 measures into one. But again, that comes back down to

1 the purpose and what it is you want to emphasize and  
2 de-emphasize when you're assigning those weights. But  
3 my fundamental questioning of the process is why insist  
4 on a single measure to begin with because to me you're  
5 going to end up losing information.

6 I -- I -- More -- Kind of more general way,  
7 again, as I said before, I question why -- why they --  
8 why the whole system itself didn't include information  
9 about inputs as well, but we've talked about that at  
10 length. Again, depending on the goals or the purpose  
11 given that you were going to create an API single index  
12 score, I question the weights that were assigned for the  
13 different levels. But again without knowing why -- what  
14 the purpose was, what they're hoping to accomplish  
15 clearly -- I mean one of the things that you do see in  
16 the minutes is they're talking about encouraging schools  
17 to focus and teachers to focus on low performance so you  
18 had a differential weight system which is potentially  
19 advantageous. But again, if you're trying to promote or  
20 make many or all schools feel as though they at least  
21 have a chance of reaching the goals, you could set  
22 different targets depending on where you are, you  
23 could -- you could weight things very differently, you  
24 are could draw your lines at different points on the  
25 norm-referenced curve. I guess that's another thing I

1 question, too, is if you have a lot of questions about  
2 the alignment of a norm-referenced test, why use it to  
3 begin with. But again, we've talked about that at  
4 length.

5 In a sense, you know, we could talk for a long  
6 time about each little specific aspect of the API but  
7 that kind of ignores the larger issue, the larger point  
8 that I think I make and that is once you make that  
9 decision to exclude any focus on inputs, you've lost a  
10 great deal of valuable information and potential  
11 motivating factors in the accountability system and  
12 opportunities to learn, really.

13 Q I think you've explained that you weren't able  
14 to glean from the minutes and other materials what  
15 exactly the analysis was that led to the setting of the  
16 interim target --

17 MR. ROSENBAUM: Asked and answered.

18 BY MR. SALVATY:

19 Q -- is that right?

20 A Right. You're talking about what we talked  
21 about yesterday?

22 Q And is the same true for the decision to use a  
23 single index that combines multiple measures; do you  
24 know what the -- what the analysis was that led to that  
25 decision?

1 you know what the process was that led to that decision.

2 MR. ROSENBAUM: Asked and answered.

3 Speculation. Foundation.

4 THE WITNESS: I don't know who made the  
5 decision so I can't know the process.

6 BY MR. SALVATY:

7 Q Okay. How about the decision to assign certain  
8 weights?

9 MR. ROSENBAUM: He's answered that at least  
10 three times that I remember.

11 THE WITNESS: What's the question?

12 BY MR. SALVATY:

13 Q Do you know the process that led to that  
14 decision?

15 A As I said, that -- around the different  
16 weights, my understanding is that it was some modeling  
17 that was done by the technical advisory group. I  
18 haven't been able to get details on all the different  
19 models that were looked at and how that modeling was  
20 done. My understanding is that there was some modeling  
21 done and then based on those models the decision was  
22 made.

23 Q Okay. Have you looked at the California high  
24 school exit exam?

25 A The actual exam?

1 A To the best of my knowledge there wasn't any  
2 analysis at all. It was just a decision that was made.

3 Q Who made that particular decision?

4 MR. ROSENBAUM: Speculation. Foundation.

5 THE WITNESS: I don't recall off the top of my  
6 head. I don't know if it was -- I'd have to look at the  
7 legislation again to see if it was part of the  
8 legislation itself or if -- or if it was made at a later  
9 date. I just don't recall.

10 BY MR. SALVATY:

11 Q Is the same true for why the whole system  
12 didn't include inputs?

13 MR. ROSENBAUM: Is what true?

14 BY MR. SALVATY:

15 Q Do you have an understanding of what the  
16 analysis was that led to that decision as you've  
17 characterized it?

18 A No, I think I said a few minutes ago that I'm  
19 not sure if that was in the actual legislation and  
20 therefore was a legislative decision. I believe it was  
21 in that legislation but I don't know for sure. I'd have  
22 to look at it again.

23 Q Well, do you know how the decision was made?  
24 You talked about the decision for the whole system to  
25 focus on outputs and not include inputs, and I wonder if

1 Q Yes.

2 A No, I haven't seen a copy of it.

3 Q Do you have an opinion about the reliability of  
4 that test?

5 MR. ROSENBAUM: Foundation. Speculation.  
6 Vague.

7 THE WITNESS: I haven't looked at that test,  
8 and, you know, as for this paper it was really about the  
9 accountability system and not about the individual  
10 measures except for the extent to which they're aligned  
11 with the standards.

12 BY MR. SALVATY:

13 Q On page 12 back in your actual report, the  
14 first paragraph you talk about a scale calibration  
15 factor. What is that?

16 A That's an adjustment that's made to the API  
17 scores. Each time that new tests or measures are added  
18 to the API, the goal is, as I understand it, that they  
19 want the mean API for the state on the year that new  
20 tests are met at to be the same whether you're looking  
21 at the baseline for the next year or what in essence is  
22 used to calculate the growth from the prior year but  
23 they're going to be using different measures, but the  
24 goal is to have the mean for both set of calculations to  
25 be the same.

1 Q Will the use of a scale calibration factor lead  
2 to increased stability of the accountability program as  
3 it's implemented in your opinion?

4 A No. I mean it exists because of instability.  
5 If it was a stable program there would be no need for a  
6 scale calibration factor, so its mere existence  
7 indicates that there's instability.

8 Q What is the purpose of using the scale  
9 calibration factor?

10 A Again, based on the notes from meetings it  
11 appears to me it's simply to make it perceived to the  
12 public that the two scores have the same meaning when in  
13 fact they obviously don't because they contain different  
14 pieces of information.

15 Q In the next paragraph you talk about the  
16 addition of sections of the CSTs and how the API will be  
17 recalibrated.

18 A Uh-huh.

19 Q Do you have any opinion about this method?

20 MR. ROSENBAUM: I don't know what that means.  
21 It's vague. Foundation. And, you know, he lays a --  
22 almost every question you've asked him he's discussed in  
23 his report and I -- and I am having trouble if you're  
24 quizzing him from what he said in his report. He  
25 discusses that, Paul.

1 hypothetical. Depending on what? Do you mean depending  
2 on how many resources are going to be implemented? How  
3 many people are going to work on it? What the  
4 particular commitment is? What -- I just don't see --  
5 It's just pure speculation unless you lay out all the  
6 assumptions that you want the witness to consider.

7 MR. SALVATY: I don't agree with that.

8 Q I am just asking whether that was a  
9 consideration of yours in proposing alternatives.

10 A I'm sorry?

11 Q Did you consider how long it would take  
12 California to implement the reforms or alternative  
13 possibilities that you proposed?

14 A When I was proposing them I was -- I tried to  
15 include things that I thought to be implemented in a  
16 reasonable amount of time. To me a reasonable amount of  
17 time would be, you know, two -- within two to three  
18 years. But again, that's going to depend on resources  
19 and commitments.

20 I guess I based it, too, in part on what  
21 California had been able to do with the CLAS system in a  
22 relatively short period of time. I mean they're able to  
23 do a fair amount of work, cutting edge work, in a  
24 relatively short amount of time, so it seemed to me that  
25 the capacity to do that -- if that capacity was there

1 MS. READ-SPANGLER: We're allowed to ask him  
2 about his report.

3 MR. ROSENBAUM: Of course you are. Of course  
4 you are, but I -- I am just saying I question whether or  
5 not it is a valuable use of time to quiz him on  
6 precisely on the same point that's in the -- in the  
7 paper. Certainly you can do it but you're not going  
8 deeper into it. You're -- It's your question, but I  
9 just don't get it. It's a waste of time.

10 THE WITNESS: What was the question?

11 BY MR. SALVATY:

12 Q I can't remember. It was so long ago.

13 MR. ROSENBAUM: I don't want to disrupt your  
14 question.

15 You can read it back. Go ahead.

16 MR. SALVATY: That's fine. I'm not going to  
17 ask it again. It wasn't a great question, anyway.

18 Q You talk in your report about some possible  
19 alternatives to the current system; right?

20 A To the current accountability system?

21 Q Yes.

22 A Yeah.

23 Q Did you consider how long it would take to  
24 implement the reforms you propose?

25 MR. ROSENBAUM: See, that's an incomplete

1 ten years ago and the things that I was recommending, it  
2 seemed, again, within a reasonable amount of time that  
3 it was likely that the state would have the capacity.

4 Q What is the capacity you're referring to?

5 A Technical expertise; the ability to work across  
6 all the districts; set up -- develop tests that are  
7 aligned with the standards; you know, basically work --  
8 work within -- with people within the state and within  
9 the district and school level to set up the type of  
10 information collecting, processing analytic system  
11 that's going to provide useful information.

12 Q All right. Let me move to section 2.2 of your  
13 report, page 12. In the last sentence here you say:

14 "Because these groups are not coordinated  
15 at state level, it is all too often unclear who  
16 is ultimately responsible for educational  
17 improvements."

18 I just wanted you to -- to ask you to explain  
19 what -- what that means.

20 MR. ROSENBAUM: Just so the record is clear, he  
21 was referring to groups that are described below. He  
22 doesn't mention those groups in the text at that point.

23 Is that what you're referring to?

24 MR. SALVATY: Yes.

25 THE WITNESS: Are you asking which groups; is

1 that what you're saying?

2 BY MR. SALVATY:

3 Q I mean taking the report, and I am trying to  
4 move quickly and not set up too much background here, I  
5 just want to ask in the context of the report what are  
6 you -- what do you mean -- There's a couple of issues  
7 here. You talk about how these groups are not  
8 coordinated at the state level.

9 A Right.

10 Q What groups are you talking about?

11 A The three groups that I talk about below, the  
12 II/USP, WASC, and the Fiscal Crisis and Management Team.  
13 I describe those on 13 through 15.

14 Q Okay. And what do you mean by your statement  
15 that they're not coordinated at the state level?

16 A Well, they -- there's not one -- Let's put it  
17 this way: There's not one person that oversees all  
18 three programs, and based on what I understand in -- I  
19 mean there's one person above all of these programs,  
20 obviously, if you go all the way up the ladder but  
21 there's not one person in essence in charge of or  
22 actively involved in these three programs. And again,  
23 according to all the documentation I had seen it  
24 appeared that people who participate in these different  
25 programs don't regularly communicate with each other,

1 A I don't have any thoughts about that.

2 Q Why do you believe it would be important to  
3 coordinate these three groups?

4 A Just based on my work with schools over time it  
5 seems that when they have to respond to multiple types  
6 of groups or intervention or different people that are  
7 trying to help them and those people are acting in an  
8 uncoordinated manner, the help tends to be ineffective.  
9 It also seems in efficient. And again, if you go back  
10 to my whole notion of an accountability system as being  
11 a system and not a set of pieces, a system works in a  
12 coordinated manner. If these are going to be considered  
13 part of a system that's helping schools and helping  
14 schools both to account and improve themselves then it  
15 ought to be coordinated.

16 Q Did you make any attempt --

17 MR. ROSENBAUM: Did you finish your answer?

18 THE WITNESS: Yeah, I did.

19 BY MR. SALVATY:

20 Q I'm sorry.

21 A I did.

22 Q I thought you were finished.

23 A I did.

24 Q Did you make any attempt to analyze the extent  
25 to which these three groups are coordinated?

1 so from my perspective that suggested that they're  
2 uncoordinated.

3 Q Okay. Who's the one person if you go up the  
4 ladder who is in charge of these three groups?

5 A Actually, I don't think anyone now that I think  
6 about it because the Western Association of Schools and  
7 Colleges operates outside completely, so I don't  
8 think -- as I understand it, so I don't think anyone --  
9 anyone would be overseeing all three of them.

10 Q So who is the person if you go up the ladder  
11 that's in charge of II/USP and FCMAT?

12 A I suppose you can go all the way up to the  
13 superintendent, but I'm not even sure if that's true.

14 Q Do you believe that one person should be  
15 responsible for coordinating these three groups at the  
16 state level?

17 A No, I don't discuss that at all.

18 Q Well, you do --

19 A My point in talking about this is simply that  
20 they operate in an uncoordinated manner within schools.

21 Q And do you see any problem in that?

22 A Yeah, it seems to me that programs like this  
23 should -- should act in a coordinated manner.

24 Q What are your thoughts about how best to  
25 coordinate these three groups?

1 MR. ROSENBAUM: It assumes facts not in  
2 evidence.

3 THE WITNESS: We -- We base these statements --  
4 or I base this statement on a review of some of the  
5 depositions and descriptions on the web sites and --  
6 you know, basically those two.

7 BY MR. SALVATY:

8 Q Do you remember which depositions you base this  
9 statement on?

10 A I don't recall off the top of my head.

11 Q How about which descriptions on web sites?

12 A Well, there's some charts that describe a  
13 couple of these programs. Yeah, I -- I don't -- That's  
14 going to be it from what I can recall.

15 Q Do you remember what web sites you are  
16 referring to?

17 A It was on the CDE web site. I don't -- I'd  
18 have to -- I don't know the address.

19 Q What is the basis for your statement that it is  
20 all too often unclear who is ultimately responsible for  
21 educational improvements?

22 MR. ROSENBAUM: Beyond what he's already  
23 testified to?

24 MR. SALVATY: Yes.

25 THE WITNESS: Well, again, there seems to be at

1 least three different groups that are designed to help  
 2 schools with self-improvement in some form and then the  
 3 state seems to play some role -- other elements of the  
 4 state system likely play a role, and the accountability  
 5 system ought to be playing a role; but it seems to me  
 6 that there's a lot of different people who are trying to  
 7 help, but it just appeared to me that it's a -- the  
 8 assistance is provided in an uncoordinated manner and  
 9 therefore it's unclear exactly who is responsible or  
 10 who -- yeah, who's responsible for the educational  
 11 improvements.

12 BY MR. SALVATY:

13 Q When you talk about it being unclear, who do  
 14 you mean -- to whom is it unclear?

15 A It's unclear to me.

16 Q Okay. That's what I was wondering. I wondered  
 17 if you had some basis for stating that it was unclear to  
 18 other stake holders --

19 A To schools and stuff?

20 Q To schools.

21 A No, that's not what I'm talking about. To me  
 22 it appears to be an uncoordinated and unclear program.

23 MS. READ-SPANGLER: Do you want to break for  
 24 lunch?

25 MR. SALVATY: What time is it?

1 view as part of California's accountability program?  
 2 A The Awards Program that was in place. I would  
 3 call those the three main components. Those really the  
 4 define the system in my mind.

5 Q And do you discuss the Awards Program in your  
 6 report?

7 A I make passing note of it. I don't think I --  
 8 As I recall I don't describe it in any great length  
 9 largely because it was -- during the course of writing  
 10 this the program -- I think initially there was concerns  
 11 about whether funding was going to be available for it,  
 12 or at least for some components for it, and I think  
 13 ultimately -- I can't remember if it was after I  
 14 finished this or just as I was finishing it became clear  
 15 that parts of -- parts of that program weren't going to  
 16 be implemented, at least during that year.

17 Q Are there any other reasons why you didn't  
 18 devote more of your report to that program?

19 A No, not really.

20 Q With respect to section 2.2.1 on the II/USP  
 21 program, where did you -- Let me back up.

22 Do you see the II/USP program as an important  
 23 part of the state's accountability program?

24 MR. ROSENBAUM: Vague.

25 THE WITNESS: It -- It's clearly a component of

1 MS. READ-SPANGLER: 12 o'clock.

2 MR. ROSENBAUM: As Kara said, it's lunchtime.

3 MR. SALVATY: It's lunchtime. Let's go off the  
 4 record.

5 (Lunch recess.)

6 BY MR. SALVATY:

7 Q Professor Russell, we were talking about page  
 8 13 of your report, and actually starting on page 12,  
 9 section 2.2 you discuss the features of II/USP, WASC,  
 10 and FCMAT; correct?

11 A Yes.

12 Q Do you consider these three groups to be part  
 13 of the state's accountability program?

14 A I consider the II/USP to be a component of the  
 15 program. The other two in my mind I don't -- I don't  
 16 see as being part of the program in a potential manner.

17 Q And why is that? Why do you differentiate?

18 A It just -- Again, based on reading all the  
 19 notes and the literature available on the web site it  
 20 seems like the II/USP was developed in conjunction with  
 21 the API. And in the legislation, too, I believe, as I  
 22 recall, those programs are linked, the API, or at least  
 23 the accountability system, and the II/USP are linked, as  
 24 I recall.

25 Q Other than the API and the II/USP, what do you

1 it. It has potential to be very useful but I don't  
 2 think its potential is fully realized.

3 BY MR. SALVATY:

4 Q And how did you go about analyzing the II/USP  
 5 program?

6 A Again, I didn't really analyze it. I collected  
 7 information about it so that I could describe it in the  
 8 essence of trying to present a fair representation of  
 9 what the system was about in terms of helping schools  
 10 improve through the use of information.

11 Q From what sources did you collect information  
 12 about II/USP?

13 A I believe, as I recall, almost all of it is  
 14 coming from information that has been made available by  
 15 the -- by the state, the CDE.

16 Q What information are you referring to? Are you  
 17 referring to information on the web site?

18 A Yeah, I mean there's descriptions of it. It's  
 19 discussed in several -- several of the meetings --  
 20 meeting notes, minutes. I got some information, too,  
 21 through depositions, and I don't recall the specific  
 22 people who discussed it, but in reading some of the  
 23 depositions it was discussed.

24 Q You said you believe that the program has  
 25 potential to be useful. What do you see as the

1 program's potential?  
 2 A As I understand the program it's intended to  
 3 help schools that are seen as underperforming, as I  
 4 write, and that's really defined by schools that aren't  
 5 meeting API targets. And one of the components of the  
 6 program is providing funding for the school to work with  
 7 an external evaluator to look at some of the  
 8 shortcomings within the schools. So if that was done in  
 9 a -- If that type of support and really active I'll call  
 10 it reflection or self-investigation, "self" being the  
 11 school, was done, you know, for all schools regardless  
 12 of whether they're high or low performing and that the  
 13 information gleaned from that was available in a way  
 14 that policymakers, educational leaders at all levels of  
 15 the system could learn what seems to be working, what's  
 16 not working, what changes schools make, and what impact  
 17 that has on students' performance, that would -- to me  
 18 that would be a very valuable system. But as it stands  
 19 now not all schools that are deemed underperforming  
 20 participate in it in part because it's a voluntary  
 21 program and in part because there's not enough funding  
 22 available for all those schools that volunteer to submit  
 23 a -- I don't know -- a proposal or a request for  
 24 participation. And, second, it -- it only focuses on  
 25 the -- the, quote, unquote, underperforming schools.

1 Q Are there any other features of the II/USP  
 2 which you believe have potential to be useful?  
 3 A I -- I'll elaborate a little bit on the  
 4 self-reflection piece, and as part of that schools are  
 5 encouraged to identify areas of improvement. And again,  
 6 if schools were held accountable for making those  
 7 improvements -- I forget your question but I'll just  
 8 keep talking. If schools were held responsible or  
 9 accountable for making those improvements, to me that  
 10 would be an added benefit rather than just changing test  
 11 scores because, again, within this program scores can go  
 12 up without schools actually changing the things that  
 13 they identify as weaknesses.  
 14 MR. HAJELA: Mark, just so we don't have to  
 15 come back here, can I just ask a follow-up question from  
 16 this; is that okay?  
 17 MR. SALVATY: I don't object.  
 18 MR. ROSENBAUM: Go ahead.  
 19 MR. HAJELA: I will just do it this one time.  
 20 Do you consider the -- Have you looked at the  
 21 high priority schools grant program as well?  
 22 THE WITNESS: When I was writing the actual  
 23 report I did not look at it. Since then in preparing  
 24 for this I have looked at it a little bit. So the  
 25 answer is yes, but I'm not as familiar with that

1 program.  
 2 MR. HAJELA: Okay. So it's not contained in  
 3 the report because you didn't look at it at the time  
 4 that you --  
 5 THE WITNESS: When I wrote this, yeah, exactly.  
 6 Yes.  
 7 MR. HAJELA: Okay. Thank you.  
 8 BY MR. SALVATY:  
 9 Q Why do you feel it would be important to have  
 10 an external evaluator look at high-performing schools?  
 11 A Oh, I guess -- Yeah, when I said that I -- When  
 12 I was talking about the program or what they're trying  
 13 to do with the program being done in high-priority  
 14 schools -- I mean high-performing schools, I'm not sure  
 15 if it's necessary to have an evaluator in either  
 16 context. I'm just not sure if you really need that.  
 17 It's more the fact that the program is encouraging  
 18 schools to take a critical look at themselves and  
 19 identify areas of improvement, and from my perspective  
 20 that would be valuable to do in a high-performing school  
 21 as well; and as part of that they may identify reasons  
 22 why they're a high-performing school which could be  
 23 useful information, again, for policymakers and  
 24 educational leaders at all levels.  
 25 Q You mention that some of the reasons you think

1 the program is not fully realizing its potential are  
 2 because it's voluntary and there's not enough funding;  
 3 is that right?  
 4 A Funding for all those schools that volunteer  
 5 that indicate that they would like to participate, yes.  
 6 Q Are there any other reasons you think the  
 7 program is not fully realizing its potential?  
 8 A Yeah, I think I also mentioned that it's -- it  
 9 does not hold schools accountable for addressing the  
 10 shortcomings that are identified through the  
 11 self-evaluation process.  
 12 Q Do you believe it would be better if the II/USP  
 13 program was mandatory for the schools that participated  
 14 in it?  
 15 A You mean --  
 16 Q Let me ask you, what did you mean when you said  
 17 one of the problems is it's a voluntary program?  
 18 A Well, it -- if you -- if you set aside my  
 19 belief that this type of self-reflection should occur  
 20 across all schools regardless whether they're high or  
 21 low performing and are to focus only on the  
 22 low-performing schools, it seems to me that if you're  
 23 deemed low performing everyone ought to participate in  
 24 some form of self-reflection, goal setting, and ideally  
 25 being held accountable for fixing those things that you

1 set out to fix.

2 Q Do you know why this program is voluntary?

3 MR. ROSENBAUM: Speculation.

4 THE WITNESS: I've never seen in any of the  
5 stuff that I've read an explanation as to why.

6 BY MR. SALVATY:

7 Q Do you know whether the state policymakers  
8 considered making it mandatory as opposed to voluntary?

9 A I haven't seen anything about the  
10 decision-making process.

11 Q You also said that you believe there's not  
12 enough funding for the program. What do you mean by  
13 that?

14 A That's my understanding. My assumption is that  
15 given that roughly one third to one half of the schools  
16 depending on the year and the levels, so forth, that  
17 apply and actually participate in the program receive  
18 funds to participate. That decision is made because  
19 there isn't enough money to support all the schools. So  
20 that my assumption is that because there's isn't enough  
21 funding for it.

22 Q Another issue you mention was that the program  
23 doesn't hold schools accountable; is that right?

24 A For -- I think what I -- what I said is that it  
25 doesn't hold them accountable for actually achieving the

1 Q And then she gave you the information?

2 A Yes.

3 Q And what information did she give you?

4 A Again, it looked like it was just some  
5 information printed out from the web, a few web sites.  
6 I believe, if I recall correctly, there were some pages  
7 within some of the depositions, it may have been one or  
8 more, where it was discussed. But, you know, as you can  
9 see I only spent a paragraph talking about it because I  
10 just didn't see it as being a real component of the --  
11 well, it isn't a component of the accountability system.

12 Q Do you have an opinion about the effectiveness  
13 of WASC?

14 A No, I do not.

15 MR. ROSENBAUM: It's vague.

16 THE WITNESS: No, I do not.

17 BY MR. SALVATY:

18 Q Okay. Let me refer you to the 2.2.3 section on  
19 FCMAT. How did you go about researching FCMAT?

20 A That was the same process as WASC.

21 Q And what materials did you review in analyzing  
22 this program?

23 A It was some information describing that it --

24 It was on the CDE web site and depositions as well.

25 Thomas Henry is referenced, so I assume that's one of

1 goals that they set out in terms of the shortcomings or,  
2 quote, unquote, problems within the school that the  
3 school identifies.

4 Q Does the program hold schools accountable in  
5 other ways?

6 MR. ROSENBAUM: Vague.

7 THE WITNESS: My understanding of the program  
8 is that schools are only accountable -- I mean they're  
9 supposed to go through this process and in the end if  
10 they have a positive impact on the API, which is really  
11 test scores, that's the only thing that's looked at when  
12 you're evaluating the -- the success of the school that  
13 participates in the program.

14 BY MR. SALVATY:

15 Q All right. Let me move to section 2.2.2 about  
16 WASC. It's on page 14. How did you go about  
17 researching what WASC is and what it does?

18 A For WASC specifically I had asked one of my  
19 assistants to find any and all information she could on  
20 this, and then I'm not sure exactly how or where she  
21 found that information, and then I reviewed it.

22 Q Which assistant was this?

23 A Jen Cowan found it. I'm assuming she found  
24 much of it through the web, but I don't -- I don't know  
25 for sure.

1 the depositions that was looked at. Paul Warren is  
2 referenced as well.

3 Q For the II/USP discussion, did you do that  
4 research on the Internet yourself or did you have your  
5 assistant do that?

6 A It was a combination of the two.

7 Q Can you estimate how much time you spent  
8 researching II/USP?

9 A Oh --

10 MR. ROSENBAUM: He doesn't want you to guess.

11 THE WITNESS: I could tell you how much time I  
12 spent in preparation reviewing II/USP. I couldn't begin  
13 to estimate what I did upon writing the report. I mean  
14 in preparation I have probably spent a half day in  
15 reading reports and information about II/USP, in  
16 preparation.

17 BY MR. SALVATY:

18 Q Did you spend as much as a week looking at it?  
19 I am just going to try to get you to come up with some  
20 estimate.

21 A No. I -- 40 hours looking at it? There's not  
22 that much information available.

23 Q Do you think it was 20 hours?

24 MR. ROSENBAUM: No, don't speculate.

25 THE WITNESS: I -- I mean it's -- it's tough to

1 tell because I mean you read all the information, you  
2 write about it, you go back and review the information  
3 and make sure you're presenting it in an accurate way.  
4 I -- I couldn't begin to -- to tell you. It wasn't -- I  
5 didn't spend a week, I know that.

6 BY MR. SALVATY:

7 Q In the 2.2.3 section about halfway down that  
8 paragraph after the Thomas Henry deposition cite you  
9 say:

10 "In addition to these two independent  
11 organizations, the California Department of  
12 Education has its own accountability branch."  
13 Do you see that?

14 A Yes.

15 Q And you say:

16 "But the lines of accountability are easily  
17 blurred between the state organization and the  
18 individual school districts."

19 What do you mean there?

20 A I think towards the end of the report I talk at  
21 length about different players in accountability -- in  
22 an accountability system, California's included, and the  
23 different roles and responsibilities that those players  
24 would have. In California my reading of it is it's  
25 unclear exactly who's responsible for what aspects

1 example. His example was a school that doesn't have --  
2 that has identified a problem being too many emergency  
3 credentialed teachers.

4 MS. READ-SPANGLER: He's just asking a  
5 question.

6 MR. ROSENBAUM: I know, but he's referring it  
7 to an answer and the link isn't correct.

8 MR. SALVATY: That's fine. I don't need to  
9 make a link. I will eliminate the link.

10 Q Is it your understanding that someone in the  
11 accountability branch has responsibility for addressing  
12 teacher credentialing issues?

13 A That a school would have identified as a  
14 problem with them? No, I don't believe there is.

15 Q Do you know where responsibility for addressing  
16 teacher credentialing issues falls in the state's  
17 educational program?

18 MR. ROSENBAUM: Now you're -- you're de-linking  
19 it from his earlier answer; right? Just in general does  
20 he know where, if anywhere, the teacher credentialing is  
21 located?

22 MR. SALVATY: Yes.

23 THE WITNESS: That's not something I -- I did  
24 not look at that program.

25 BY MR. SALVATY:

1 within the accountability system. So, for example,  
2 let's say through the II/USP process a school identifies  
3 one of its shortcomings as not having -- having a large  
4 percentage of emergency credential teachers, and now the  
5 question within the accountability system is who's  
6 responsible for really addressing that and correcting  
7 that. The school's identified it, obviously the problem  
8 is occurring within the school, but is the school the  
9 one that needs to correct that or does it trickle up the  
10 ladder, if you will, to the district level, to the state  
11 level. That's what I mean by its kind of -- it's  
12 blurred, who's responsible for what aspects. It's  
13 blurry.

14 Q Using your example, is it your understanding  
15 that someone in the accountability branch is responsible  
16 for addressing teacher credentialing issues?

17 MR. ROSENBAUM: That's not what he said. You  
18 mean --

19 MR. SALVATY: I am just building on his  
20 example.

21 MR. ROSENBAUM: I know, but you're changing  
22 it.

23 MR. SALVATY: Well, I don't need to use his  
24 example.

25 MR. ROSENBAUM: But you're not using his

1 Q What are you referring to when you talk about  
2 the lines of accountability?

3 A Just what I described, who's actually  
4 accountable for what within the system where a problem  
5 is identified.

6 Q Did you attempt to analyze who was responsible  
7 for what when a problem is identified?

8 MR. ROSENBAUM: That's -- Okay. Go ahead.

9 THE WITNESS: I -- I -- We tried to look at --  
10 I tried to figure out exactly -- I mean Jen and I. I  
11 asked Jen to look at this as well -- to figure out how  
12 the system works and who's involved in the process, and  
13 it was unclear to me if there was anyone beyond the  
14 school level who would actively participate. Let's put  
15 it this way: It was not well articulated in any of the  
16 state's documents that I saw.

17 BY MR. SALVATY:

18 Q Later in this paragraph you cite to Paul  
19 Warren's deposition and say that he has said that the  
20 state's role in terms of accountability is to create the  
21 incentives for schools to do the right thing concerning  
22 student outcomes. It is then the district's  
23 responsibility to implement an action plan according to  
24 its own specific situation.

25 What are you referring to in the statement

1 about the district's responsibility to implement an  
2 action plan? Is this a reference to II/USP?

3 A I believe that's a reference to what Paul  
4 Warren described in the deposition, as I recall. I  
5 believe at that time he was talking about fiscal crisis  
6 in that area of the deposition but I'd have to look at  
7 it again to be sure, and it -- you know, I -- I'd have  
8 to see the whole text to be sure.

9 Q How does the state play a regulatory role in  
10 connection with FCMAT?

11 MR. ROSENBAUM: I think that mischaracterizes  
12 it.

13 BY MR. SALVATY:

14 Q Okay. I mean if that does, correct me. I am  
15 just having trouble understanding what you're saying  
16 here about the state playing a regulatory role.

17 A Well, let me answer the question this way: In  
18 contrast to Rhode Island where -- when problems are  
19 identified whether it's a fiscal problem that the  
20 school's identifying or whether it's a -- you know, a  
21 pedagogical or professional development need, there's a  
22 representative from that state that is participating and  
23 helps the schools think through and in some cases find  
24 resources to correct that. I did not see any evidence  
25 of that type of system in place in California, so from

1 deposition because I'm not sure if it follows from that  
2 or if it's from another document. Right now I don't  
3 know if it's coming from Warren's document or not.

4 Q Is the same true for the next sentence:  
5 "They see the state as being accountable  
6 for implementing appropriate programs to  
7 achieve intended student outcomes"?

8 A Yeah, that holds, too.

9 Q Are you aware of any evidence to suggest that  
10 school districts in fact would prefer to have  
11 flexibility in implementing appropriate programs to  
12 achieve intended student outcomes?

13 MR. ROSENBAUM: Vague and ambiguous.

14 THE WITNESS: As opposed to being --

15 BY MR. SALVATY:

16 Q I am talking about local control as opposed to  
17 seeing the state as the body that --

18 A I don't think that's what this is saying.

19 Q Okay. What is this saying, then?

20 A What I was trying to do here was contrast what  
21 Paul Warren was saying which is that he really -- from  
22 my reading from what he was saying in his deposition was  
23 that the state's role is simply to create incentives and  
24 schools basically do whatever they need to do to meet  
25 those incentives which in -- you know, from using your

1 my perspective it's more of a regulatory to assure that  
2 schools are doing whatever it is they said they were  
3 going to do as opposed to working with the schools to  
4 help them do what it is they're -- that they -- they  
5 believe they need to do in order to fix shortcomings.

6 Q So what do you mean by "regulatory role"?

7 MR. ROSENBAUM: Asked and answered.

8 THE WITNESS: In the context of the Fiscal  
9 Crisis and Management Team?

10 BY MR. SALVATY:

11 Q Yes.

12 A It's just if there's something that the schools  
13 needs to do. It's usually a fiscal issue. I believe in  
14 here, you know, Thomas Henry saying it's 85 percent of  
15 them focusing on management type of issues and 15  
16 percent are fiscal crisis issues; that is that whoever  
17 is looking at what the schools are doing are just  
18 looking to see whether they've implemented that  
19 management plan or, you know, whatever the management  
20 change type of -- whatever the management change is.

21 Q Okay. The next statement is:

22 "But school districts often disagree with  
23 this description of accountability roles."

24 What's the basis for that statement?

25 A Again, I'd have to look at Paul Warren's

1 language would be flexible, schools have flexibility to  
2 do what it is. And in contrast the state could do a  
3 couple different things: They could mandate that  
4 everyone does the same thing or the state could work  
5 with schools to help them to do whatever it is the  
6 schools feel is going to be most benefit to them. So,  
7 you know, you may have a pocket of schools that are  
8 focusing on some area of professional development as  
9 occurred during CLAS or occurs during -- in Rhode  
10 Island, and so the state might work with that subset of  
11 schools. Another set of schools may be focusing on  
12 curricular materials, so the state may provide  
13 assistance to those schools.

14 So in the sense that at the school level it's  
15 still flexible but there's a role played by the state,  
16 arguably it could be at the district level as well.

17 Q Before moving to the next page, let me just ask  
18 you a little bit about matrix sampling --

19 A Sure.

20 Q -- as you mention in your report and if you  
21 want to refer to page Roman numeral 16. Let me just  
22 first ask you to explain what matrix sampling is.

23 MR. ROSENBAUM: I'm sorry, Paul. Where are  
24 you?

25 MR. SALVATY: I'm on page Roman numeral 16.

1 MR. ROSENBAUM: Roman numeral 16?  
 2 MR. SALVATY: Yes.  
 3 MR. ROSENBAUM: Okay.  
 4 THE WITNESS: Briefly it's a notion of -- Well,  
 5 let me describe how it might be used if you're  
 6 developing a math test for 4th graders, for example, and  
 7 you would develop a framework for various areas within  
 8 4th grade math that you would want to be measuring.  
 9 Chances are the framework is going to be much broader or  
 10 include many more types of subcontent areas, various  
 11 areas of math that a 4th grader would be expected to  
 12 learn and then it would be unreasonable to present each  
 13 student with one test that covered everything that's in  
 14 that framework.  
 15 So in order to get representation of the full  
 16 spectrum of 4th grade math, you might divide up that  
 17 framework into different areas and then instead of every  
 18 student answering every question on the test, groups of  
 19 students would be randomly assigned in essence  
 20 subsections of the test so that across the total student  
 21 body you would cover all the full spectrum of the  
 22 content area, but every student wouldn't take all the  
 23 questions. It's a method that's used commonly in large  
 24 scale assessments. Some states employ it. NAEP employs  
 25 it. TIMSS employs it.

1 BY MR. SALVATY:  
 2 Q What are the advantages of -- Well, let me -- I  
 3 understand it's your opinion that California -- I don't  
 4 know. Let me ask you: Is it your view that California  
 5 should employ matrix sampling or incorporate that into  
 6 its accountability program?  
 7 A Again, it depends on the purpose. If the  
 8 purpose is to try to find information about the full  
 9 spectrum of the -- or at least a fuller spectrum of the  
 10 state standards, it would be a much more efficient  
 11 manner.  
 12 Q And why do you say it's more efficient in that  
 13 case?  
 14 A Well, otherwise, as I said, you could develop a  
 15 single test that covered the full spectrum of the  
 16 standards, the same mathematics, but it would be a  
 17 really long test, so on the -- and much less time.  
 18 Depending again on your model in a quarter to an eighth  
 19 amount of time you can collect the same amount of  
 20 information that is across the -- the spectrum of the  
 21 standards.  
 22 Q You named some entities that use it -- NAEP,  
 23 TIMSS, and some states -- and in your report you  
 24 mention -- you say that it's used by testing programs in  
 25 states including Maryland. What other states use --

1 A Off the top of my head --  
 2 Q -- matrix sampling?  
 3 A Off the top of my head I couldn't tell you. I  
 4 know that Massachusetts used to. I believe that  
 5 Kentucky did at some point but I'm not positive about  
 6 that. I'd have to -- I'd have to consult my notes to  
 7 know for sure.  
 8 MR. ROSENBAUM: Are you asking what states is  
 9 NAEP administered in?  
 10 MR. SALVATY: No. No. I'm sorry. What states  
 11 use matrix sampling.  
 12 THE WITNESS: Yes, that's how I understood the  
 13 question.  
 14 MR. ROSENBAUM: Okay. Thank you.  
 15 BY MR. SALVATY:  
 16 Q Does Rhode Island use matrix sampling?  
 17 A Rhode Island to the best of my knowledge does  
 18 not.  
 19 Q How about Connecticut?  
 20 A I can't recall. I'd have to look.  
 21 Q You said Massachusetts used to. When did  
 22 Massachusetts use matrix sampling?  
 23 A Up until they started the -- they switched to  
 24 the Massachusetts Comprehensive Assessment System slash  
 25 Tests which was -- I don't know -- around '98.

1 Q Are you aware of any disadvantages to matrix  
 2 sampling in certain situations?  
 3 A Yeah, if you're --  
 4 MR. ROSENBAUM: It's way too vague. I mean  
 5 define what situations you mean.  
 6 MR. SALVATY: I am just asking if he can think  
 7 of situations where matrix sampling would not be a  
 8 desirable approach.  
 9 THE WITNESS: California actually used to use  
 10 matrix sampling for many years with the -- I believe it  
 11 was with the CAP program. The -- If you need student  
 12 level scores let's say for making decisions about  
 13 students, you could still use matrix sampling but you  
 14 would want to -- it would be a little more complicated  
 15 to do it. It could still be done.  
 16 BY MR. SALVATY:  
 17 Q Why would it be more complicated?  
 18 A Because you would most likely want to have a  
 19 common set of items that all students are taking.  
 20 Actually, it wouldn't be more complicated, it would be  
 21 more time-consuming. You would want a common set of  
 22 items that all students were taking and then you'd have  
 23 subsets of items that are basically matrix sampled. The  
 24 one -- The problem with that potentially, though, is  
 25 people would want to make inferences about students'

1 performance across the full spectrum of the content area  
2 and chances are again you would only -- the common set  
3 of items that you would be using probably to get  
4 individual scores would not be representative of that  
5 full spectrum, so that's where it gets a little  
6 complicated.

7 Q Is Maryland currently using matrix sampling?

8 A I don't know off the top of my head.

9 Q Are there other sampling methods,  
10 methodologies, that states use in connection with their  
11 accountability programs?

12 A Well, matrix sampling is -- is a general  
13 methodology, and if you're not doing matrix sampling  
14 you're basically doing population sampling. You could  
15 actually -- you could also do random sampling, but to  
16 the best of my knowledge, you know, no state programs  
17 are doing that.

18 Q What is population sampling?

19 A Readministering the same test to all -- to the  
20 full population.

21 Q Do you know whether California considered using  
22 matrix sampling in connection with its current  
23 accountability program?

24 MR. ROSENBAUM: Asked and answered.  
25 Foundation.

1 is to assess outcomes, would it then be appropriate to  
2 use a system of matrix sampling?

3 MR. ROSENBAUM: It's vague and ambiguous.  
4 Incomplete.

5 THE WITNESS: Again, it -- it depends -- it  
6 depends what -- what kind of decisions they want to be  
7 making based on those outcomes. If they're trying --  
8 For example, if they're trying to use measure outcomes  
9 and also use test results to make decisions about high  
10 school graduation, matrix sampling would probably be  
11 less appropriate for that. If you're trying to make  
12 decisions about how effective schools' classrooms are in  
13 helping students achieve or learn what's defined in the  
14 standards and you're not tying decisions about  
15 individual kids to that information, it would be very  
16 appropriate. So it really depends.

17 You know, it seems to me that California is  
18 trying to do a couple of different things at different  
19 levels. At the lower levels, elementary and middle  
20 school, based on what California is doing today I think  
21 is unquestionably appropriate.

22 BY MR. SALVATY:

23 Q What are the reasons that you think it's  
24 unquestionably appropriate?

25 A Because you're going to get much broader

1 THE WITNESS: Again, it was used during CAP. I  
2 vaguely recall -- Actually, I can't -- I can't even say  
3 if I remember seeing discussions about matrix sampling  
4 at any of the meeting minutes or meeting notes, so I  
5 don't know.

6 BY MR. SALVATY:

7 Q Let me just refer you to page 57 of your  
8 report. In that first paragraph you say:

9 "Furthermore, to increase the amount of  
10 information and level of specificity of that  
11 information at the school-level, the state  
12 testing program should consider matrix sampling  
13 and should move towards implementing a  
14 statewide student data gathering mechanism such  
15 as the CSIS."

16 How do you think the state should go about  
17 considering -- or what should it consider to determine  
18 whether matrix sampling would be appropriate?

19 A You know, it's got -- it's got to begin by  
20 defining the purpose of why they're testing these kids  
21 and what they want to learn. Again, as I keep saying  
22 absent an understanding of the purpose, you really  
23 cannot make a judgment as to how appropriate matrix  
24 sampling would or would not be.

25 Q If you assume that the purpose of the program

1 curriculum coverage or coverage of the standards by  
2 moving to a matrix sampling approach, and one of the  
3 concerns raised is that there's going to be a narrowing  
4 of the curriculum, it's going to focus on what's  
5 tested. Through matrix sampling you can expand the  
6 range of the curriculum or standards that are tested.  
7 To me that seems very appropriate.

8 Q You just referred to a concern about narrowing  
9 of the curriculum. Whose concerns are you referring to?

10 A Educational researchers, teachers, educators in  
11 general.

12 Q What's the basis for your belief that there are  
13 concerns about the narrowing of curriculum?

14 A The literature and survey results as well as  
15 reports in the press.

16 Q Okay.

17 MR. ROSENBAUM: Do you need a break?

18 THE WITNESS: I'm okay. It doesn't matter to  
19 me.

20 MR. ROSENBAUM: Off the record.

21 (Recess.)

22 BY MR. SALVATY:

23 Q Let me refer you to page 16 of your report.

24 MR. HAJELA: I'm sorry. I didn't hear. What  
25 page are we on?

1 MR. SALVATY: 16.  
 2 THE WITNESS: Yes.  
 3 BY MR. SALVATY:  
 4 Q The heading is "Role of Tests/Student  
 5 Assessment in State Educational Accountability  
 6 Systems." The third sentence here is:  
 7 "At both the national and state level,  
 8 student testing stands at the center of  
 9 educational accountability programs."  
 10 Do you see that?  
 11 A Yes.  
 12 Q Do you believe that student testing should  
 13 stand at the center of educational accountability  
 14 programs?  
 15 A I believe it should be a component of the  
 16 programs.  
 17 Q What do you mean when you say "student testing  
 18 stands at the center of educational accountability  
 19 programs"?  
 20 A In essence for the vast majority of  
 21 accountability programs I think they focus almost  
 22 exclusively or in many cases exclusively on test scores.  
 23 Q And do you agree with that approach?  
 24 A Focusing exclusively on test scores? No, I do  
 25 not. In the report and throughout our discussions I've

1 talked about the value of looking at both the inputs,  
 2 outputs, and the relationships between the two.  
 3 Q Do you have any opinion about why at the  
 4 national and state level there is this almost exclusive  
 5 focus on testing?  
 6 MR. ROSENBAUM: Mischaracterizes his  
 7 testimony. It's speculative. Irrelevant.  
 8 THE WITNESS: Yeah, I -- I think by and large  
 9 because it's an easy thing to do but not necessarily a  
 10 valuable thing to do.  
 11 BY MR. SALVATY:  
 12 Q What is your opinion based on?  
 13 MR. ROSENBAUM: Same objections.  
 14 THE WITNESS: My opinion about it being easy?  
 15 BY MR. SALVATY:  
 16 Q Yes.  
 17 A It's just common sense.  
 18 Q Later in the paragraph you say that -- you cite  
 19 Orlogsky and Olson and they describe the factors that  
 20 influence ratings for standards and accountability. Do  
 21 you see that?  
 22 A Yes.  
 23 Q Do you agree that the factors listed here are  
 24 relevant to rating a state's standards and  
 25 accountability program?

1 A They're relevant but incomplete.  
 2 Q And how are they incomplete?  
 3 A Because they don't really look at inputs in any  
 4 way or the extent to which a program requires or  
 5 encourages schools to look at the relationship between  
 6 the two or the extent to which the programs encourage or  
 7 require schools to set goals and hold them accountable  
 8 for meeting those goals. They also, I believe, put too  
 9 much emphasis on the rewards and sanctions associated  
 10 with accountability programs.  
 11 Q On page 17 you talk about how the emphasis  
 12 placed on testing by EDUCATION WEEK is reflected in  
 13 President Bush's No Child Left Behind Act of 2001. Do  
 14 you see that?  
 15 A Yes.  
 16 Q Does the No Child Left Behind Act establish a  
 17 national accountability program as you would consider  
 18 it?  
 19 MR. ROSENBAUM: Objection. Irrelevant.  
 20 Outside the witness' area of expertise. Vague and  
 21 ambiguous. Foundation.  
 22 THE WITNESS: I suppose someone could make the  
 23 argument that it is a national accountability but I  
 24 really -- I don't see it that way and I don't think that  
 25 was the intent of it, of the legislation.

1 BY MR. SALVATY:  
 2 Q Have you spent much time studying the No Child  
 3 Left Behind Act?  
 4 MR. ROSENBAUM: Vague.  
 5 THE WITNESS: I've read it several times and  
 6 I've read certain parts of it much closer than others.  
 7 BY MR. SALVATY:  
 8 Q Do you know if Rhode Island's current  
 9 accountability program complies with the No Child Left  
 10 Behind Act?  
 11 A To the best of my knowledge very few, if any,  
 12 states currently comply.  
 13 Q Do you know what efforts Rhode Island is making  
 14 to bring its system into compliance?  
 15 A Yeah, I've worked with them on a grant for  
 16 funding provided by the No Child Left Behind Act to  
 17 enhance its assessment system.  
 18 Q And what are you doing on that work? What are  
 19 you doing?  
 20 A Nothing yet because it's unclear whether  
 21 they're going to actually appropriate the funds to  
 22 states to help enhance their assessment programs; so  
 23 until that funding is available, we won't be doing  
 24 anything, I won't be doing it with them.  
 25 Q I refer you to page 18. Actually, I don't need

1 to discuss that. We've covered it. Let's move to  
2 section 3.3 on page 19 of your report, Mission of  
3 Education in California. In this section you lay out an  
4 analysis you performed in connection with your work on  
5 this case and I wonder why did you perform this  
6 analysis.

7 A We had -- Really a colleague of mine had done a  
8 similar analyses in another context and it struck me as  
9 something that would be interesting to do in light of,  
10 you know, the paper that I had -- I had said I prepared  
11 for Jeannie.

12 Q You said that using this -- a sample of 46  
13 schools, a systematic review of the words and phrases  
14 used in the mission statements was conducted.

15 A Right.

16 Q How did you perform this systematic review of  
17 mission statements?

18 A Well, as I describe, we -- I walk through how  
19 we actually found the mission statements to begin with,  
20 and then we printed them all out and did a content  
21 analysis of the mission statements. As part of a  
22 content analysis you begin by reading through and just  
23 writing down key phrases and statements, and as you read  
24 statement by statement by statement you keep recording  
25 of how often something is appearing. If something new

1 is appearing, you record that. Sometimes it then leads  
2 you to go back to prior statements that you've reviewed  
3 to see if those new phrases appeared but weren't  
4 recorded. So it's kind of an iterative process.

5 Q And who performed this review?

6 A I did, I think Jen helped out, and there may  
7 have been a work study student as well. I have no idea  
8 who -- We have about eight work study students. I can't  
9 remember who would have helped out on that.

10 Q What do you believe that this analysis shows?

11 A I'll tell you why -- why I conducted this  
12 analysis is basically to demonstrate, as we've seen in  
13 other -- in basically the analysis my colleague had done  
14 that there are multiple purposes for schooling and I  
15 just wanted to get a sense of in California schools what  
16 were some of those purposes and how prevalent were they  
17 and the mission statements of those schools.

18 Q At the end of this section you say:

19 "These are, arguably, all important aims  
20 for public education. However, they are  
21 outcomes ignored by California's API-based  
22 accountability system."

23 Do you see that? It's on page 20.

24 A Yes.

25 Q Wouldn't you agree that the II/USP program does

1 in fact address some of these issues?

2 MR. ROSENBAUM: It's argumentative and it's  
3 vague.

4 THE WITNESS: Yeah, I guess someone could make  
5 an argument that in the limited number of schools that  
6 the II/USP is able to operate that it may be helping  
7 some schools achieve these goals; but, again as I noted  
8 before, it's voluntary and even for all those schools  
9 that indicate willingness to participate, many are not  
10 able to. So from the accountability system's  
11 perspective it's really not part of the system, it's not  
12 systematic across all the participants.

13 BY MR. SALVATY:

14 Q All right. In your next section you discuss  
15 the disjuncture between educational mission and  
16 educational accountability. Do you see that?

17 A Yes.

18 Q Here you refer to a national survey.

19 A Yes.

20 Q What is this survey you're referring to?

21 A It's just a survey of -- As I recall it's a  
22 survey of parents, I believe, about various aspects of  
23 schools conducted by -- I believe it's the Gallup poll,  
24 Rose and Gallup. They do this I believe every year.  
25 They've been doing it every year for a couple of years

1 now, maybe longer.

2 Q So is it your understanding that respondents to  
3 this survey are parents?

4 A As I recall. I'd have to read -- reread it to  
5 say for sure, but as I recall it's really parents. It  
6 may be community members, though, but I believe it's  
7 parents.

8 Q Do you believe that this survey suggests that  
9 there's a disjuncture between educational mission and  
10 educational accountability in California?

11 A Yeah, I -- I think it applies across most of  
12 the accountability -- state accountability systems that  
13 California's included.

14 Q Do you know how this survey was conducted?

15 A I couldn't tell you off the top of my head. I  
16 would have to reread the methodology section.

17 Q Did you read the methodologies?

18 A I did at one point. This data is consistent  
19 with other -- other research on this as well. I didn't  
20 cite all the research.

21 Q What other research are you referring to?

22 A Just research as presented in the literature in  
23 general. I couldn't cite names off the top of my head.

24 Q Are you aware of any national surveys that find  
25 public support for standardized tests?

1 MR. ROSENBAUM: Vague.  
2 THE WITNESS: Not off the top of my head. I  
3 mean it depends on what you mean by "support." There's  
4 always people that support it. But if you're talking  
5 about 80 percent of the public supporting it, I haven't  
6 seen those types of numbers anywhere.

7 BY MR. SALVATY:

8 Q In this paragraph you say:  
9 "...in 2001, 31% of respondents believed  
10 there is too much emphasis on testing in  
11 schools, an increase from 20% in 1997...."  
12 Do you see that?

13 A Yes.

14 Q Does that mean 69 percent did not believe  
15 there's too much emphasis on testing in schools?

16 A Again, I'd have to look at the actual data that  
17 was reported. It may -- It may be that a portion of  
18 those, you know, were indifferent. It depends on the  
19 scale, and I don't recall what the scale was.

20 The point was that over the last few years  
21 there's been an increase in the percentage of people  
22 nationwide who think there's too much emphasis on  
23 testing and that that corresponds to an increased  
24 emphasis on testing by many state testing programs.

25 MR. ROSENBAUM: Just answer his questions.

1 I think you've touched upon this but why do you  
2 say that many schools are destined to failure?

3 MR. ROSENBAUM: He's more than touched upon  
4 it. He discussed it for 40 minutes. This is detailed  
5 in the report.

6 THE WITNESS: As I said earlier this morning,  
7 for the vast majority of schools even if they make the 5  
8 percent annual growth, it's going to take them several  
9 generations of students before they reach that goal.  
10 So, you know, I suppose if you consider reaching that  
11 goal 50 years from now as being successful, then it's  
12 okay, but I think for most teachers by the time they  
13 retire they are going to feel like they failed because  
14 they haven't reached that goal.

15 BY MR. SALVATY:

16 Q Let me just refer you to footnote 13 that's  
17 cited at the end of that sentence. Can you explain what  
18 you're talking about here in footnote 13?

19 A What aspect?

20 Q Well, I -- What is the point you're making?

21 A Basically that it's -- it would be very  
22 difficult. I mean I think it's a footnote that says  
23 it's testing many schools to failure, and I'm trying to  
24 demonstrate or discuss it with empirical evidence how  
25 difficult it would be. So, for example, when I'm

1 THE WITNESS: Okay.

2 MS. READ-SPANGLER: I think he's doing fine.

3 MR. ROSENBAUM: He's doing better than fine,  
4 but I'm sure counsel just wants his questions answered.

5 BY MR. SALVATY:

6 Q Do you know -- You did review the methodologies  
7 for this.

8 Did you review any other any other backup  
9 materials relating to this poll? My real question is:  
10 Do you know if these materials were produced in  
11 connection with this case? Were they turned over to the  
12 lawyers and then --

13 A What materials are you talking about?

14 Q The national survey and the information about  
15 the methodology.

16 A It would have been -- The Rose and Gallup 2001  
17 reference I believe would have been turned over.

18 Q All right. Let me move to section 4 of your  
19 report on page 21 which is entitled "THE API IS NOT EVEN  
20 AN ADEQUATE OR USEFUL MEASURE OF STUDENT ACADEMIC  
21 ACHIEVEMENT." At the end of that second paragraph you  
22 say:

23 "Given these starting points, the lofty  
24 target of 800 establishes an admirable goal,  
25 but destines many schools to failure."

1 talking about effect sizes of .20 to .73, you know,  
2 those are -- .20 is a moderate -- small to moderate  
3 effect but when you start getting up to .50, .73, you're  
4 talking about having a standard deviation -- I mean a  
5 half a standard deviation growth per year which, you  
6 know, is -- would be miraculous. People just don't  
7 change like that.

8 And similar with the 60th percentile, trying to  
9 quantify the magnitude of change that would be required  
10 even for the -- for an average school I think is what I  
11 was doing there and just cite evidence from other people  
12 who concur with my opinion that expecting that magnitude  
13 of change at an aggregate level, a school level, is  
14 unreasonable or would be miraculous.

15 Q All right. Do you make any assumptions in  
16 carrying out this analysis or is it just a  
17 straightforward running of data? What assumptions do  
18 you make?

19 A Well, for example -- No, I don't think I'm  
20 really making any assumptions here. I'm starting at  
21 the -- at the mean for California, I mean across all  
22 students or I guess -- yeah, across all students, all  
23 schools, and calculating effect sizes to get kids above  
24 the 60th percentile and Rogosa's work is shown that  
25 that's really what you need to get students above the

1 60th percentile in order to meet that 800.  
2 Q Do you know whether the API is compensatory?  
3 Is that a term you're familiar with?

4 A What do you mean by that?

5 Q What I mean is that students scoring in the  
6 highest two deciles can compensate for students who  
7 score at a lower level.

8 MR. ROSENBAUM: I still don't know what that  
9 means? Can you expand more, Paul?

10 BY MR. SALVATY:

11 Q Do you understand?

12 MR. ROSENBAUM: Well, I don't understand.

13 MS. READ-SPANGLER: It doesn't matter if you  
14 understand.

15 MR. ROSENBAUM: I know, so I am asking if you  
16 could please clarify it.

17 MR. SALVATY: I really can't. I mean  
18 that's --

19 THE WITNESS: Are you saying whether it's -- My  
20 understanding is it's really kind of the opposite, that  
21 because of the weighting system it's designed to  
22 encourage a focus on the lower performing -- lowest  
23 performing students and if you can move them up  
24 sometimes slightly, sometimes significantly at the low  
25 levels then you're going to get a bigger bang for your

1 BY MR. SALVATY:

2 Q Okay. In this paragraph also you state that  
3 nearly a fifth of California students are not proficient  
4 in English as compared to less than 2 percent  
5 nationwide. And then you say --

6 A I'm sorry. Where --

7 Q I'm sorry. I'm on page 21. Oh, yes, I forget  
8 when I jump back and forth to footnotes. I'm back in  
9 the same paragraph that we were talking about before.

10 A Okay. And what paragraph was that?

11 Q The second paragraph, page 21.

12 A Okay. Yeah.

13 Q The second sentence says:

14 "As Herman, Brown and Baker....report....a  
15 fifth of California's students are not  
16 proficient in English as compared to less than  
17 two percent nationwide."

18 A Yeah.

19 Q And then you say:

20 "This, and other differences in  
21 demographics, contribute to performance that is  
22 well below the national average."

23 What other differences in demographics are you  
24 referring to there?

25 A It -- It all comes down to kind of SES factors

1 buck at that low level the way that the weightings  
2 occur. And so if anything it's -- it's kind of a  
3 reverse compensatory.

4 But as I -- There's some models that I show  
5 that, you know, it is possible to have not everyone  
6 above the 60th percentile. There's all kinds of numbers  
7 that you can play. It's not -- It's not meaning that  
8 every student has to get above 60 percentile in order  
9 for a school to be successful. In the appendices I  
10 believe I show a series of extreme examples to help  
11 people understand.

12 BY MR. SALVATY:

13 Q But if a particular school has students scoring  
14 in the highest -- in the 80 to 99 range, does that in  
15 any way compensate for students who score in the 60th  
16 percentile or below?

17 MR. ROSENBAUM: Vague.

18 THE WITNESS: Yeah, and I demonstrate that,  
19 that you can have a whole bunch of students at the very,  
20 very high level and some students at the 40th to 60th  
21 level and that you could still obtain an 800, if that's  
22 what you mean. I mean you can -- It's like a scale,  
23 you can put different amounts of students within a  
24 school at different points on that scale and still end  
25 up balancing at 800.

1 I believe off the top of my head.

2 Q Socioeconomic status?

3 A Yeah, exactly. Coupled with that there's -- I  
4 don't know demographics extremely well off the top of my  
5 head but my -- my recollection is that there's a higher  
6 limited English proficiency body here, there's a higher  
7 recent immigration compared to the nation, there's  
8 probably a higher percentage of students coming from  
9 families that have lower levels of education, and so the  
10 combination of those factors all contributed to lower  
11 test scores as compared to the nation.

12 Q In the next paragraph it starts "Even if a  
13 school is successful," you talk about the  
14 characteristics of students entering schools.

15 A Yes.

16 Q What impact do these characteristics have on  
17 the API's adequacy or utility?

18 My point is your point here at the top of the  
19 page here is API is not even an adequate or useful  
20 measure of student academic achievement. You lay out  
21 some discussion here, and I am wondering how this  
22 supports your conclusion at heading 4.

23 A I guess I mean the larger point that I make in  
24 this paragraph, and I think in other places as well, is  
25 that the way that the API is calculated by aggregating

1 across grades within a school level ends up masking  
2 differences both in -- difference in level of  
3 performance of students in different grade levels and  
4 success that schools may be having at different grade  
5 levels. So in that sense, again, it comes down to an  
6 aggregation problem. By aggregating everything into a  
7 single score, it doesn't become a very useful indicator,  
8 and this is an example of one way in which it's not a  
9 useful indicator.

10 Q Do you believe that student populations that  
11 move around from school to school, are you aware of any  
12 studies that show they actually benefit from having a  
13 uniformed set of standards and tests?

14 MR. ROSENBAUM: Vague.

15 THE WITNESS: I haven't seen any work on that,  
16 as I understand the question.

17 BY MR. SALVATY:

18 Q All right. The next page, on page 22, first  
19 complete paragraph you say:

20 "...the current API system, which compares  
21 cross-sectional performance across years, holds  
22 schools partially responsible for skills and  
23 knowledge that students may or may not have  
24 acquired before entering the school."

25 I still don't understand how this is so. How

1 would be below the 800 target?

2 MR. ROSENBAUM: The example that he's talking  
3 about where the kids didn't get the information?

4 MR. SALVATY: Yes.

5 THE WITNESS: I may -- They could be anywhere.  
6 I mean their actual API doesn't matter. It's the fact  
7 that those -- It's the fact that by aggregating  
8 everything it's -- again, it becomes difficult to  
9 disentangle.

10 BY MR. SALVATY:

11 Q Okay. What do you mean when you say the  
12 schools are held responsible? That's what I want to  
13 focus on. How are they held responsible? Is it they're  
14 held responsible by having a lower API than they would  
15 have if they had --

16 A They could have a higher API depending on -- I  
17 mean those kids -- some kids could be really high  
18 performing, come into the school and all of a sudden  
19 there's a big boost in the school's scores because for  
20 whatever reason, there's a group of students that have  
21 come in.

22 The point is it would be very difficult to  
23 explain, especially in populations where there's a lot  
24 of variation, what exactly is causing a low or high API  
25 or big changes in the API or no change or a decrease in

1 are schools held partially responsible for skills and  
2 knowledge that students may or may not have acquired  
3 before entering the school?

4 A Well, think about high school that's serving  
5 students in grades 9 through 12, kids coming into 9th  
6 grade from 8th grade, presumably, from one or several  
7 different schools, you also have population of students  
8 who come in from all the different grade levels from  
9 other schools because their parents have relocated; and  
10 now for both sets of kids, for the kids newly entering,  
11 a year after they enter their scores are factored into  
12 the school's API scores and the 9th graders who are  
13 coming from 8th grade are going to be factored in. All  
14 the tests, even though it's a 9th grade test, is going  
15 to -- they still include some content from prior years,  
16 so it's a cumulative -- the tests are kind of cumulative  
17 in a sense. They don't go all the way back to 3rd grade  
18 for a 9th grade test, for example.

19 But the point is if you didn't master some area  
20 of math, for example, in 7th or 8th grade, this school,  
21 whether it's in the school in the same district or a  
22 school somewhere else, this school is still going to be  
23 partially responsible for something that -- for a  
24 failure that occurred earlier on.

25 Q And so the school would have a lower API and

1 API.

2 Q So I think what you're saying is that the --  
3 you're talking about potential inaccuracy in the API?

4 A No. I mean the API would still be an accurate  
5 score. It's -- It's a potentially -- It's a lacking  
6 utility.

7 Q Are there any consequences to a school for  
8 failing to obtain the target API?

9 A You mean --

10 MR. ROSENBAUM: In one year? In -- It's an  
11 incomplete hypothetical.

12 MR. SALVATY: I am talking about the target 800  
13 score.

14 MR. ROSENBAUM: Oh.

15 THE WITNESS: My understanding it focuses more  
16 on -- now that the API has been in place it focuses more  
17 on the growth.

18 BY MR. SALVATY:

19 Q Are there any consequences simply from -- for a  
20 school for falling below 800 as opposed to above 800,  
21 just for that fact alone?

22 A The -- I don't --

23 MR. ROSENBAUM: Empirical consequences?

24 MR. SALVATY: Yes.

25 THE WITNESS: Off the top of my head, I don't

1 think so.

2 BY MR. SALVATY:

3 Q Have you examined the -- any evidence regarding  
4 underperforming schools ability to meet growth targets?  
5 By "underperforming" I am talking about the state's  
6 definition of that term.

7 A My -- Yeah, I -- I think I, if I understand  
8 your question, there was a -- an evaluation done I  
9 believe on schools that had participated in the II/USP  
10 and also those -- I can't remember if their comparison  
11 was to all schools across California or other schools  
12 that were eligible but didn't participate. I can't  
13 remember the comparison group, but that's available on  
14 the CDE web site. And that looks -- that among other  
15 things looks at that.

16 Q On page 23 the first complete paragraph you say  
17 that with the incredibly high performance target of 800,  
18 schools are required to dramatically, perhaps  
19 impossibly, alter the shape of the achievement  
20 distribution to one shaped quite different from that for  
21 the nation as a whole.

22 Can you explain what you mean there?

23 A Yeah, basically if you are to -- to perform a  
24 frequency distribution of scores focusing -- focusing  
25 let's say with the SAT-9 because you could easily do it

1 year to year."

2 Can you explain what you're talking about here?

3 A Yeah. A lot of people confuse when you talk  
4 about something like the SAT-9, the SAT-9 score, some  
5 people confuse the score from let's say 7th grade to 8th  
6 grade or 4th grade to 5th grade, because it's a SAT-9  
7 they think you're taking the same test when in fact your  
8 taking the 4th grade test and then the 5th grade test  
9 for that SAT-9 series. Some people also confuse that if  
10 your score remains the same, say you get 50th  
11 percentile in one year and 50th percentile the second  
12 year, that you haven't grown at all when in fact you've  
13 grown as much as the average student in the nation. So  
14 that by simply getting the same score you've actually  
15 grown the average amount of growth for students who  
16 perform at the 50th percentile, as an example.

17 Q Are you saying that the results of the SAT-9  
18 can be misleading or misinterpreted?

19 A The results of any test can be misinterpreted,  
20 yeah.

21 Q Does this problem that you're talking about  
22 here exist with the -- with a criterion-referenced test?

23 MR. ROSENBAUM: What problem?

24 BY MR. SALVATY:

25 Q The --

1 for the nation, California's distribution would end up  
2 looking very different than the distribution for the  
3 nation as a whole; in essence you could move from a  
4 bell-shaped curve that's symmetrical to one that's moved  
5 up to a mean about the 60th percentile and it probably  
6 would have a -- some kind of negative skew to it and  
7 that it would look very different from the nation's  
8 average.

9 MS. READ-SPANGLER: You're saying the nation  
10 would have the bell-shaped curve?

11 THE WITNESS: Yeah, I mean definition because  
12 it's a norm-referenced test, it's designed to have a  
13 bell-shaped curve. And that, you know, if you looked at  
14 it for subpopulations, second-language speakers, it  
15 would be even more noticeably different.

16 BY MR. SALVATY:

17 Q In the next paragraph you say:

18 "Not only that, but, the gains students  
19 must make are not on the same test. Rather,  
20 the gains must be made on the test for the next  
21 grade level."

22 And then:

23 "While some of the subject matter overlaps  
24 across years, additional skills and knowledge  
25 are required to perform at the same level from

1 MR. ROSENBAUM: You read three sentences.

2 MR. SALVATY: The problem that he just  
3 discussed that he explained which is that the scores are  
4 -- people misinterpret them because there are changes --

5 MR. ROSENBAUM: I think it's vague and  
6 ambiguous.

7 If you can, answer it.

8 THE WITNESS: There is a -- There is a chance  
9 that people misinterpret scores for criterion-referenced  
10 tests, in particular when the tests have the same name  
11 but tests different content, different skills across  
12 grade levels. For example, if I am in needs improvement  
13 on the 8th grade -- This isn't specific to California,  
14 this is just a general example -- on the 8th grade  
15 criterion-referenced test and needs improvement on the  
16 9th grade, it's -- chances are I have actually grown but  
17 some people would say "Hey, listen. You really haven't,  
18 you haven't gotten any better. You haven't changed in  
19 any way."

20 BY MR. SALVATY:

21 Q Are you aware of any --

22 MR. ROSENBAUM: Did you finish your answer?

23 THE WITNESS: Yeah.

24 BY MR. SALVATY:

25 Q Are you aware of any studies or evidence on

1 this subject of misinterpretation of test results?

2 A Formal studies? No. I mean it's something  
3 that's commonly discussed in the literature and  
4 something I've commonly experienced and I've authored a  
5 couple of papers about this topic.

6 Q Are your papers referenced in this?

7 A In this? They're in my CV but I don't  
8 reference them here.

9 Q Okay.

10 A In those papers I present a methodology I  
11 believe is better.

12 Q In the next paragraph you discuss two  
13 additional problems with the API and state they further  
14 demonstrate that it is often irrational to use it as a  
15 diagnostic tool. You say it's often irrational to use  
16 the API as a diagnostic tool. What are you saying  
17 there?

18 A That using the API to diagnose problems whether  
19 they're areas in which kids are not learning as well as  
20 a teacher or a school or a community would hope or  
21 areas -- aspects of the schooling process that are not  
22 functioning well. Really what I'm talking about is  
23 using the API to identify sources of -- of  
24 underperformance or -- yeah, underperformance. I'll  
25 leave it at that.

1 Q Do you believe that the API was intended to  
2 serve as a diagnostic tool?

3 A I believe that the accountability system was  
4 intended to help schools improve -- improve, and to that  
5 extent that it was intended to help schools identify  
6 areas for improvement.

7 Q Okay. That's the accountability system, but  
8 what about the API?

9 A The API is a fundamental part of the  
10 accountability system.

11 Q Well, are there aspects to California's  
12 accountability system other than the API that can serve  
13 as a diagnostic tool?

14 A Yeah, as we discussed before, those schools  
15 that had volunteered and applied for the II/USP and the  
16 subsample that are selected would benefit from that  
17 program.

18 Q Okay. Your first bullet point here is about  
19 measurement error.

20 "Measurement error impacts the reliability  
21 of scores and score changes, so individual test  
22 scores will always be to some degree  
23 volatile."

24 And in paragraph 17 -- Excuse me, footnote 17  
25 you rely on Rogosa's analysis, I believe; is that right?

1 A Yeah, I talk about that.

2 Q Did you conduct any analysis independent of  
3 Rogosa's?

4 A Not specific to this. I've done similar types  
5 of analyses in the past for instructional purposes, but  
6 no.

7 Q In your view how does possible measurement  
8 error impact the reliability of the API?

9 A Well, I talk in another section as well citing  
10 Kane and Staiger's work and Walt Haney's work showing  
11 that both the combination of measurement error and in  
12 essence sampling error can lead to volatility in the  
13 scores and so that what sometimes appears as a gain or a  
14 decrease really is due to error rather than something  
15 systematic occurring in the school.

16 MS. READ-SPANGLER: Can you read back the  
17 question.

18 MR. SALVATY: Can you read back the answer as  
19 well.

20 (Record read.)

21 BY MR. SALVATY:

22 Q So are you saying that measurement error  
23 becomes a problem when it operates in combination with  
24 sampling error? What I was trying to get was --

25 MR. ROSENBAUM: Mischaracterizes his testimony.

1 MR. SALVATY: Yes, well, I didn't understand.

2 THE WITNESS: It's really the interaction of  
3 the two and it's -- In theory, according to test theory,  
4 across large numbers error is random, it averages itself  
5 out. So as your numbers get smaller as your end your  
6 samples get smaller. The contribution of measurement  
7 error to your sample estimate or really population  
8 estimate, in this case the school, becomes more  
9 problematic and that's why I reference Kane and Staiger  
10 and Haney's work because they demonstrate that.

11 BY MR. SALVATY:

12 Q The measurement error you discuss here on page  
13 23 only applies to individual test results; is that  
14 right?

15 A Right. Right, that's why I -- that's why I  
16 coupled this with the Kane and Staiger and Haney work.

17 Q Do you know whether state policymakers  
18 considered the impact of measurement error?

19 MR. ROSENBAUM: Vague.

20 THE WITNESS: I -- I don't know for sure but  
21 given that they -- there were several discussions and  
22 there's a program set up for small schools it seems  
23 likely that they did -- that entered their  
24 decision-making process.

25 BY MR. SALVATY:

1 Q It may take me a minute to find this, but I  
2 believe you refer in your report to ORANGE COUNTY  
3 REGISTER's articles --

4 A Yes, I do.

5 Q -- concerning the measurement error in the API;  
6 is that correct?

7 A Right.

8 Q Did you review those articles as part of your  
9 analysis in this case?

10 A I -- I reviewed them while preparing the  
11 report, yes.

12 MR. ROSENBAUM: What page are you on? Or are  
13 you on a page?

14 MR. SALVATY: I'm getting there.

15 MS. READ-SPANGLER: It's Roman numeral 12.

16 THE WITNESS: We might want to take a break for  
17 a second before this because it's going to get really  
18 technical.

19 MR. SALVATY: Good idea. Let's do that.

20 (Recess.)

21 BY MR. SALVATY:

22 Q All right. Professor Russell, we were about to  
23 talk about the ORANGE COUNTY REGISTER --

24 MR. ROSENBAUM: What page are you on?

25 BY MR. SALVATY:

1 MR. SALVATY: I'm trying to ask whether he  
2 believes that the API score has a 20 point error.

3 MR. ROSENBAUM: That's a different question.  
4 You can answer either question you want.

5 THE WITNESS: My understanding based on this  
6 and some analyses I've seen that Rogosa has done in  
7 response to this is that the error rate is somewhere  
8 around -- not the error but the confidence interval is  
9 about 20 points, and that what I write there is an  
10 interpretation of what the confidence interval means.

11 BY MR. SALVATY:

12 Q All right. Maybe you can help me understand.  
13 I thought you -- when you were talking about measurement  
14 error on page 23 you were referring to individual test  
15 scores.

16 A When I was talking about measurement error,  
17 yes.

18 Q And here you're talking about aggregate test  
19 score error --

20 A Yeah.

21 Q -- is that right?

22 A Right.

23 Q Okay. What is aggregate test score error?

24 A Well, I mean basically you're aggregating test  
25 scores across a group of students, in this case in a

1 Q -- article.

2 We're on Roman numeral 12.

3 MR. ROSENBAUM: Do you know what page number?

4 THE WITNESS: Roman numeral 12.

5 MR. ROSENBAUM: I'm sorry.

6 BY MR. SALVATY:

7 Q On Roman 12 you state:

8 "As recently reported by the Orange County  
9 Register (August 11, 12 and 13, 2002),  
10 aggregate test score error was not fully openly  
11 disclosed by the State until July of 2002 and  
12 was reported to be approximately 20 points.  
13 This 20 point error means that the API score  
14 for an 'average' school could be 20 points  
15 higher or 20 points lower than the actual score  
16 reported by the State."

17 Do you still hold this view?

18 MR. ROSENBAUM: What view?

19 MR. SALVATY: That this 20 point error means  
20 that the API score for an average school could be 20  
21 points higher or 20 points lower than the actual score  
22 reported by the statement.

23 MR. ROSENBAUM: I just want to be clear on the  
24 question. Is your question would a 20 point error have  
25 the effects that he's talking about?

1 school, so it's the error in your estimate for the  
2 school average, it's really what this -- what I'm  
3 talking about what this 20 point estimate is. And from  
4 what I've seen reported here and from what I've seen  
5 discussed in Rogosa's work, this -- this standard errors  
6 isn't really -- hasn't been contested.

7 Q And did you review the analysis performed by  
8 the ORANGE COUNTY REGISTER?

9 A I reviewed the articles and what was  
10 presented. I didn't see anything beyond what was in  
11 those articles.

12 Q Did you review Rogosa's response to the ORANGE  
13 COUNTY REGISTER's articles?

14 A Yeah, I -- what I write here, though, is really  
15 irrelevant to the vast majority of the analyses in the  
16 ORANGE COUNTY REGISTER and to Rogosa's response, but I  
17 have read them.

18 Q How does your analysis of this 20 point error  
19 impact the reliability of the API; what does this mean?

20 A Well, basically what it means is there's an  
21 error -- The best way I guess to think about it is when  
22 there's a political poll and you see 40 percent of  
23 people polled are going to vote for George Bush and then  
24 you see below there's an error rate plus or minus 5,  
25 plus or minus 4, in essence that means the 95 percent

1 confidence level. You go plus or minus, what did I say,  
2 40 percent, you could be -- you can be fairly confident  
3 that the nation that you're generalizing to somewhere  
4 between 36 and 44 percent of the people are going to  
5 vote for Bush.

6 Same thing happens with a school's API.  
7 There's an error around that so you can be confident at  
8 a certain level, whatever confidence interval they  
9 select when calculating that 20 point error, that the  
10 true API for that score falls within that range. So if  
11 the school had a reported API of 600 and there's a 20  
12 point error for the 95 percent confident level, you  
13 expect it to be within 20 points of the 600. So  
14 that's -- that's really what this reported error is.

15 Q And did you say that that error rate really  
16 hasn't been contested by Rogosa or anyone else?

17 A My understanding of -- My reading of Rogosa's  
18 response to the Orange County piece wasn't about the  
19 size of the error but really about the piece that Orange  
20 County -- the portion of Orange County articles that  
21 focuses on the misclassification of schools that have  
22 grown.

23 Q And what was Rogosa's view on that issue?

24 A Basically he seems to feel that the methodology  
25 that the person at the Orange County used was not

1 MR. ROSENBAUM: Same objections.

2 THE WITNESS: It really -- Assuming how he  
3 alleges or classifies or describes the Orange County  
4 methodology, it really depends on what it is you're  
5 trying to -- your purpose. It goes back to purpose  
6 again. I mean if I was doing a peer review article, I  
7 would probably be inclined to use the significance  
8 testing approach. But if I was doing -- just trying to  
9 get probability that change has occurred, I would do  
10 it -- I would use Rogosa's approach.

11 But again, as I said, that's really not  
12 relevant to what I discuss here. And in fact I  
13 purposely -- because I didn't fully at the time of  
14 writing this I didn't fully understand what the Orange  
15 County had done because it wasn't fully described, it  
16 didn't talk about their estimate of misclassification.

17 BY MR. SALVATY:

18 Q All right. Let me return to page 23 of your  
19 report. The second bullet at the bottom of page 23, you  
20 talk about ecological fallacy. That's actually on the  
21 top of page 24.

22 A Right.

23 Q Let me ask you what is aggregated testing  
24 information and disaggregated testing information?

25 MR. ROSENBAUM: In the context that's used

1 appropriate and he presents an alternative methodology.

2 Q Do you have an opinion on whether the  
3 methodology used by the ORANGE COUNTY REGISTER that  
4 Rogosa addresses --

5 MR. ROSENBAUM: Foundation.

6 BY MR. SALVATY:

7 Q -- was appropriate?

8 MR. ROSENBAUM: Foundation. Speculation.

9 THE WITNESS: As I said before, I haven't seen  
10 the actual analysis. I've only seen the reporting of  
11 the analyses that the Orange County did and I've seen a  
12 description of what Rogosa suggests the Orange County  
13 did.

14 As I understand Rogosa's work, which is  
15 sometimes difficult to understand because it's never a  
16 final product, he -- the difference between what he  
17 suggests and what the -- what the Orange County person  
18 allegedly did is really significance testing versus  
19 getting the probability estimate for the problem -- the  
20 probability that some change has occurred and that if  
21 depending on which methodology you use you're going to  
22 get a different -- a different estimate of how many  
23 schools were misclassified or problem misclassified.

24 Q Do you have an opinion about which methodology  
25 is the right one?

1 here?

2 MR. SALVATY: Yes.

3 THE WITNESS: I think it's in footnote 20 I  
4 elaborate on that more. In essence it's when you take  
5 information, for example test scores, and combine them  
6 at different levels, so, for example, you could combine  
7 them at a state level, you could combine them at a  
8 district level, you could combine them at a school  
9 level, you could combine them at a classroom level. And  
10 then at each level you could then look at the  
11 relationships between aggregate state level, reduce  
12 lunch participation and aggregate test score, basically  
13 average test score, across everyone in the state. You  
14 could do that at the district level, the school level,  
15 and the classroom level. And the -- Yeah, that's it.

16 BY MR. SALVATY:

17 Q So can you explain the difference between  
18 aggregated and disaggregated? You're talking about you  
19 can aggregate it at different levels?

20 A Yeah. Yeah. I mean you -- oftentimes you  
21 aggregate and then you disaggregate it by various groups  
22 depending on what you're interested in. You could do it  
23 by socioeconomic groups, you could do it by race and  
24 ethnicity, you could do it by school type, school  
25 location. You know, it really depends on your research

1 question.

2 Q In your opinion does California's  
3 accountability system provide schools with disaggregated  
4 testing information for diagnostic uses?

5 MR. ROSENBAUM: Vague.

6 THE WITNESS: Yeah, if I understand your  
7 question, California disaggregates its test data.

8 BY MR. SALVATY:

9 Q Doesn't the ecological fallacy that you refer  
10 to here only exist if diagnostic aggregated testing  
11 information is not provided?

12 A I'm sorry. Say it again.

13 Q Does not the ecological fallacy only exist if  
14 diagnostic aggregated testing information is not  
15 provided?

16 A No.

17 Q Okay. When does the -- In what circumstances  
18 can the ecological fallacy exist even if diagnostic  
19 aggregated testing information is provided?

20 A The point of ecological fallacy isn't what data  
21 is provided and what data isn't provided. It's how you  
22 combine that data whatever that date is, in that if you  
23 combine it at the school level to try to estimate  
24 impacts of something, you could get a different  
25 relationship if you do the -- if you aggregate and do

1 score gains on state testing programs, and to the best  
2 of my knowledge I haven't seen any empirical evidence  
3 that shows that -- Actually, I'll take that back. I can  
4 think of one study that tries to show that. Yeah, I can  
5 think of one study that tries to make the argument that  
6 certain types of accountability systems do lead to  
7 improvements in test scores. Kind of -- It kind of  
8 falls into that ballpark of studies.

9 Q What study are you referring to?

10 A It's a study by Hanushek and I can't remember  
11 if he's the sole author or if there's someone else.

12 Q Do you remember anything about when this study  
13 was published or its title or any --

14 A To the best of my knowledge it hasn't been  
15 published. It's a report, or at least a version I've  
16 seen of the report.

17 Q And you were explaining how it sort of falls in  
18 the category. What is the subject matter of this  
19 report?

20 A As I recall it's looking at -- it's trying to  
21 make the case for certain types of accountability  
22 systems, really high-stake accountability systems, that  
23 they have a pos- -- a larger positive impact on changes  
24 in student scores.

25 Q And do you have any opinion about the quality

1 the analysis at grade level or at classroom level, and  
2 the level of aggregation that's appropriate is going to  
3 depend on the questions that you're asking.

4 Q Let's turn to section 4.1.

5 MR. ROSENBAUM: I just want to interpose an  
6 objection to the last two questions on vagueness and  
7 ambiguity.

8 BY MR. SALVATY:

9 Q On page 24, section 4.1 --

10 A Sure.

11 Q -- in this first introductory paragraph you  
12 talk about how it is often assumed that an increase in  
13 test scores represents an increase in learning or  
14 ability and you go on to state that over the past decade  
15 several studies suggest that this assumption becomes  
16 tenuous when schools are mandated to increase scores on  
17 a standardized test administered over several years.  
18 You refer to several studies that suggest the assumption  
19 becomes tenuous.

20 A Uh-huh.

21 Q Are you aware of any studies that actually  
22 support the assumption that an increase in test scores  
23 represents an increase in learning or ability?

24 A The studies that I present and the studies that  
25 I am aware of are really looking at the validity of test

1 of that analysis?

2 MR. ROSENBAUM: Vague.

3 THE WITNESS: I haven't done an analysis -- a  
4 reanalysis of the data in that study, if that's what you  
5 mean.

6 BY MR. SALVATY:

7 Q I mean I guess, I assume, that would be the  
8 only way you would have an opinion one way or the other  
9 on the quality of the study?

10 A The methodology is not well articulated, in  
11 fact it's not articulated at all in the -- in the  
12 version that I saw. There may be another version that  
13 does articulate it, but basically the table that's  
14 presented doesn't describe the states that are part of  
15 each cell and it does not describe how those states were  
16 classified.

17 Q How did you come upon this study?

18 A Just through my, you know, review of the  
19 literature on this topic.

20 Q Do you know when the study came out? I  
21 understand it was not published but when --

22 A I don't know the date. It's within the last --  
23 I don't remember if it's 2001 or a 2002 date.

24 Q Okay. Thanks.

25 In the next section you talk about the lessons

1 from Kentucky. You talk initially here about Kentucky  
2 putting into place a complex multiple measure assessment  
3 system. Did that assessment system include standardized  
4 tests?

5 A Well, what do you mean by "standardized"?

6 Q Tests --

7 MR. ROSENBAUM: Vague and ambiguous.

8 BY MR. SALVATY:

9 Q Tests that were administered to all students in  
10 Kentucky.

11 A Under standardized conditions? Yeah, I ask  
12 that question because a lot of times people confuse  
13 norm-referenced tests with standardized tests.

14 Q Okay.

15 A They were not norm-referenced but they were  
16 standardized in the sense that it was the same test.  
17 Many of the tests -- They may have had some matrix  
18 sampling in there as well, but many of the tests were  
19 the same and administered under the same conditions.

20 Q Were the tests that Kentucky used comparable to  
21 those used by California in its current program?

22 MR. ROSENBAUM: Vague.

23 THE WITNESS: In some ways, yes; in some ways,  
24 no.

25 Q How were they comparable?

1 MR. ROSENBAUM: Vague.

2 THE WITNESS: Well, like some of California's  
3 tests they were developed to be aligned with the state's  
4 standard so in that sense they're comparable, but they  
5 also used a wide range of item format and item type  
6 performance assessments, portfolios, so in that sense  
7 they were not comparable.

8 BY MR. SALVATY:

9 Q As part of this study did Koretz and Barron  
10 survey teachers?

11 A I don't recall that being a part of their  
12 analysis.

13 Q Well, how did they determine that 4th and 8th  
14 grade teachers believed that gains in scores were more a  
15 reflection of students becoming familiar with the tests  
16 and their formats than of changes in students' knowledge  
17 and skills?

18 A Off the top of my head I can't -- That may have  
19 been a component of the study, but the main focus that I  
20 recall was really the analysis of the test scores.  
21 They -- Maybe they did for that part of it. I don't  
22 recall.

23 Q They also found that score gain on K-I-R-I-S,  
24 KIRIS, did not translate to score changes on other  
25 related tests; is that right?

1 A Yes.

2 Q When you refer to "related tests," are you  
3 referring to NAEP and ACT scores?

4 A Yes.

5 Q What is KIRIS?

6 A That's the name of the Kentucky assessment  
7 system. I can't remember what it stands for off the top  
8 of my head.

9 Q And was the KIRIS test aligned to Kentucky's  
10 content standards?

11 A It was a series of tests that were aligned with  
12 the Kentucky frameworks.

13 Q Are the Kentucky frameworks comparable to  
14 California's content standards?

15 MR. ROSENBAUM: Vague.

16 THE WITNESS: I -- I -- I cannot really answer  
17 those questions because I haven't looked at the  
18 California standards that closely in recent years.

19 BY MR. SALVATY:

20 Q Have you looked at Kentucky's --

21 A Not in recent years.

22 Q -- standards?

23 MR. ROSENBAUM: Did you mean to say you did not  
24 look at the California's standards or Kentucky's?

25 THE WITNESS: I haven't looked at either in

1 recent years meaning in the last year and a half.

2 BY MR. SALVATY:

3 Q Would you have expected score gains on KIRIS to  
4 translate to score changes on NAEP and ACT?

5 MR. ROSENBAUM: Vague. Incomplete.  
6 Foundation.

7 THE WITNESS: The -- Again, among the current  
8 testing community, testing expert community, there's a  
9 general belief that gains on a math test should  
10 translate to gains on another math test that's measuring  
11 similar and related content. It might not be a  
12 one-for-one direct transfer but you would expect to see  
13 similar patterns of change, positive, negative, or  
14 flatlined, which I guess really wouldn't be change, but  
15 you would expect to see similar patterns.

16 BY MR. SALVATY:

17 Q And are you aware of any research -- I think  
18 you referred that it's generally -- a general belief in  
19 the community; is that what you said?

20 A I mean that notion appears repeatedly in the  
21 literature.

22 Q Is that notion supported by any analysis or  
23 data that you're aware of?

24 A Well, I'll use the example of what we did with  
25 the Co-NECT school accountability model. We

1 intentionally used different item formats within a  
2 subject area because we believed that if there was  
3 change in certain types of -- certain areas of math that  
4 you would see that across the item formats which really  
5 comprise different tests. And in some cases where there  
6 appear to be true change in what was happening in the  
7 Co-NECT school, we would see that. Other researchers  
8 have discussed that as well. So in that sense there  
9 is -- there is some evidence.

10 And I would note, too, that the No Child Left  
11 Behind legislation specifically states that NAEP will be  
12 used in that manner.

13 Q In what manner?

14 A As -- As a check on changes or lack of changes  
15 in -- on state tests.

16 Q On the third bullet here it says:

17 "Performance on items that were re-used was  
18 noticeably higher than performance on items  
19 that were used only once."

20 Do you know what the analysis was that led to  
21 that conclusion?

22 A My recollection is they -- they did an item  
23 analysis at the state level looking at differences and  
24 the difficulty for items that were reused, that is items  
25 that were administered more than once versus items that

1 findings, one that little relationship between changes  
2 in TAAS scores and high school grades, there was little  
3 relationship there?

4 A That's what he reported, yeah.

5 Q Would you have expected to see more of a  
6 relationship between changes in test scores and -- Well,  
7 why would you expect to see changes in high school  
8 grades?

9 A Well, if kids are learning more you would  
10 expect them to get higher grades. So if -- if you're  
11 learning more you're going to get a higher grade. If  
12 you're learning more, you're going to get a higher test  
13 score, so you would expect to see over time changes  
14 in -- in high school grades and test scores.

15 Q Are you aware of any analysis of that?

16 MR. ROSENBAUM: Beyond what he's already  
17 described already?

18 MR. SALVATY: Yes.

19 THE WITNESS: You mean that Walt did?

20 BY MR. SALVATY:

21 Q Yes.

22 A I mean Walt did analysis looking at --  
23 specifically at that.

24 Q Was there an analysis of the -- Well, do you  
25 know if TAAS tests the same things as the SAT?

1 were new during the given testing time.

2 Q It then says:

3 "This suggests that student increases may  
4 be partially due to familiarity with the  
5 items."

6 Was there any discussion in this study of what  
7 else student increases might be due to?

8 A I don't remember specifically. There may have  
9 been. But as I recall, that was the main point that the  
10 authors were making.

11 Q All right. Next you discuss the lesson from  
12 Texas. Is the TAAS, Texas, is that Texas' test, their  
13 standardized test that they use?

14 A Yeah, I mean that's what people refer to it as.  
15 It's really again a series of tests. It's not a single  
16 test.

17 Q What type of tests is TAAS made up of --

18 A TAAS.

19 Q -- TAAS made up of?

20 A As -- As I recall it's multiple choice tests  
21 that again is aligned with -- it was developed to be  
22 aligned with the Texas frameworks. It's criterion  
23 referenced in the sense that they set a cut score that  
24 you have to perform above.

25 Q In here Haney -- you discuss some of Haney's

1 A There's -- There's --

2 MR. ROSENBAUM: Very vague.

3 THE WITNESS: There's some overlapping in  
4 content, but again I haven't looked specifically at the  
5 amount of overlap. But again, you would expect that if  
6 kids' math performance is going up on TAAS, those kids  
7 that opt to take the SAT would have increases.

8 BY MR. SALVATY:

9 Q Is there overlap between TAAS and NAEP, a NAEP  
10 test?

11 A Yeah, there's some overlap. Again, I haven't  
12 done analysis to get an estimate of exactly how much.

13 Q All right. Now, you performed an analysis of  
14 the California data; is that right?

15 A Yeah.

16 Q In your section the lessons apply in  
17 California?

18 A Right.

19 Q And how did you go about performing this  
20 analysis?

21 A Collected data that was on the CDE web site for  
22 SAT-9 scores and I believe we got NAEP scores from a  
23 source that has NAEP scores. I don't recall. I don't  
24 know where that was. It might have been on the CDE web  
25 site as well. I don't recall.

1 Q You note sharp increase in the grade 4 SAT-9  
2 math scores. Were there also increases in the grade 4  
3 NAEP math scores?  
4 MR. ROSENBAUM: What's your question again,  
5 please?  
6 MR. SALVATY: He notices -- states here:  
7 "Whereas California's grade 4 SAT-9 Math  
8 scores saw a sharp increase, California's grade  
9 4 NAEP Math scores increased at about the same  
10 rate as those of the nation."  
11 MR. ROSENBAUM: Thank you.  
12 MR. SALVATY: It's page 27.  
13 MR. ROSENBAUM: Right.  
14 THE WITNESS: Okay. I'm sorry. What was the  
15 question?  
16 BY MR. SALVATY:  
17 Q Okay. Did you determine that California's  
18 grade 4 SAT-9 math scores saw a sharp increase?  
19 A The California SAT-9 scores?  
20 Q Yes.  
21 A Yes, there was an increase.  
22 Q What happened with California's grade 4 NAEP  
23 math scores? Was there also an increase?  
24 A Yes, there was an increase that paralleled that  
25 of the U.S.

1 Q What years were you looking at there?  
2 A '96 to 2000 for the NAEP and a SAT-9 was '98  
3 through 2001.  
4 Q And who is the NAEP test administered to, what  
5 level students?  
6 A Grade 4 and grade 8.  
7 Q Grade 4 and grade 8. Okay.  
8 A Yeah, I believe there's a high school level  
9 tested as well. I don't recall if it's grade 10 or  
10 grade 11. I don't recall off the top of my head.  
11 Q In the next sentence you say:  
12 "And, whereas California's grade 8 SAT-9  
13 Math scores increased slightly between 1998 and  
14 2001, California's grade 8 NAEP Math scores  
15 decreased slightly between 1996 and 2000 while  
16 the national average increased."  
17 Are you saying here that the math scores  
18 decreased not in relation to the national average but  
19 just decreased from what they had been in 1996?  
20 MR. ROSENBAUM: That's vague.  
21 MR. SALVATY: Yes, it is.  
22 Q Do you understand? The first sentence -- The  
23 sentence before this you talked about increasing at a  
24 rate of the nation. In --  
25 A For 4th grade.

1 Q Right.  
2 In the next sentence when you talk about 8th  
3 grade you talk about a decrease --  
4 A Right.  
5 Q -- just in and of itself?  
6 A The nation increases slightly and California  
7 decreases slightly at 8th grade, so there's kind of a  
8 diversion pattern if you were to compare California to  
9 the nation. The nation as a whole is increasing and  
10 California is decreasing slightly.  
11 Q In the next paragraph you say:  
12 "If one believed that the increases on  
13 SAT-9 represented actual increases in students'  
14 language arts skills, one might have expected  
15 students to have performed at least moderately  
16 well on the CST Writing test."  
17 Why might you have expected that? What's  
18 the -- I don't know what "might have expected" means.  
19 Would you have expected it?  
20 A I mean it's common sense, yeah, that if you're  
21 seeing improvements in kids' reading skills and language  
22 arts skills you would think you would also see decent  
23 improvements in other measures of language arts, writing  
24 being one of them.  
25 Q Do the SAT-9 and the CST writing tests test the

1 same things?  
2 A No, but there's a relationship between reading  
3 and writing. It's pretty well established in the  
4 reading and writing literature.  
5 Q So the SAT-9 tests reading and the CST writing  
6 tests test writing; is that right?  
7 MR. ROSENBAUM: Vague. Foundation.  
8 BY MR. SALVATY:  
9 Q I was trying to understand your response to my  
10 question.  
11 A The California writing test is specific to  
12 writing. The SAT-9, off the top of my head I can't  
13 remember it. I believe at that grade level it focuses  
14 mainly on reading and general language arts skills, but  
15 I don't -- off the top of my head I can't really  
16 remember right now.  
17 Q As part of your analysis did you try to compare  
18 the content of the CST writing test with that of the  
19 SAT-9?  
20 A No, not -- No, not specifically.  
21 Q Did you try to compare the content of the SAT-9  
22 with the content of the NAEP test?  
23 A I'm familiar with the content in general of the  
24 SAT-9 from having worked with other districts and I'm  
25 familiar with the NAEP, so I didn't do an actual

1 comparison of the contents but I know that there was  
2 some -- some -- some overlap, enough overlap.

3 Q All right. The next section we've talked about  
4 a lot of these issues. I just have a couple of more  
5 questions on your view that California's accountability  
6 system is a product of questionable policy decisions  
7 made by state officials. It's page 28.

8 A Yeah.

9 Q Do you know who was on the PSAA advisory  
10 committee at the time the decisions were made?

11 MR. ROSENBAUM: What decisions?

12 MR. SALVATY: The decisions leading up to the  
13 development of the API.

14 THE WITNESS: Yeah, they're listed pretty  
15 clearly on the minutes from all the meetings.

16 We're talking about the -- I'm sorry. What  
17 committee are you talking about?

18 BY MR. SALVATY:

19 Q The PSAA advisory committee.

20 A Yeah, if it's the same committee I'm thinking  
21 of, it's clearly listed on their meeting notes.

22 Q Do you know any of the people who were on that  
23 committee?

24 A I know of some of the people and I've had a  
25 communications with a couple of them.

1 recommendations to the Board of Education, State Board  
2 of Education, and it -- so that's my understanding.

3 Q Recommendations about what?

4 A Based on all the meeting minutes that I've read  
5 they were largely around various aspects of the API, the  
6 II/USP, the small schools program. Those are the three  
7 things that stand out in my -- my memory.

8 Q Do you have an opinion about whether the  
9 members of that committee were qualified to carry out  
10 their work?

11 MR. ROSENBAUM: No foundation. He just said he  
12 didn't know. How would he --

13 MR. SALVATY: Well, he knows two of them.

14 MR. ROSENBAUM: But your question was not about  
15 those two. It was about all the members.

16 MS. READ-SPANGLER: He can just say he has no  
17 opinion.

18 MR. ROSENBAUM: But you don't ask questions for  
19 which you cannot lay a foundation. You know, the fact  
20 that this witness is extremely bright and compliant does  
21 not justify you asking inappropriate questions.  
22 Objection. Foundation. Speculation. Vague.  
23 Ambiguous.

24 THE WITNESS: I have respect for the two people  
25 that I know on that. Other people I couldn't say.

1 Q Who do you know?

2 A Eva Baker, Ed Hartell. I mean I know of Ed  
3 Hartell and have had maybe one exchange because a  
4 student of his has applied for a position at the  
5 university.

6 Q How do you know Eva Baker?

7 A Just because she's recognized in the field and  
8 I've invited her to be on advisory boards for projects.  
9 I may have invited her to be on a -- an editorial board  
10 for a journal I run. I've tried to get access to some  
11 of the test tools that she's developed or that CRESST  
12 has developed.

13 Q You had one exchange with Ed Hartell. When was  
14 that?

15 A In the last couple of -- within the last month  
16 and a half probably.

17 Q Do you know who any of the other members of the  
18 PSAA advisory committee were?

19 A I -- I've -- I know some of the names but I  
20 don't know many of the people -- Many of the people I  
21 did not know. Many of the people were -- No, I'll just  
22 answer the question no.

23 Q Okay. Do you know what role the PSAA advisory  
24 committee played in the development of the API?

25 A My understanding is that they made

1 BY MR. SALVATY:

2 Q Okay. Thank you.

3 Do you know who sat on the technical design  
4 group?

5 A I've never seen a full listing of those  
6 members. Through the meeting notes I have a sense of a  
7 couple of people that were on that but beyond that no.  
8 The meeting notes from the -- the other committee we're  
9 talking about, the PSAA advisory committee.

10 Q Okay.

11 A Because there were subcommittees and the  
12 technical group there was a subcommittee, as I  
13 understand it.

14 Q That was my next question.

15 What is your understanding of the role of the  
16 technical design group?

17 A My understanding is that they were addressing  
18 some technical issues that -- that arose or needed to be  
19 addressed.

20 Q I take it you don't know of any of the people  
21 who -- whose names you saw on the technical design  
22 group?

23 A I -- I said I haven't seen any names. I just  
24 saw in those meeting notes they talk about -- certain  
25 people gave presentations like Stecher. Hartell would

1 give summaries, so I assume he was a member of it.  
 2 Given Eva's expertise, I would assume she was a member  
 3 of it as well.  
 4 MR. ROSENBAUM: They don't want you guessing.  
 5 BY MR. SALVATY:  
 6 Q On page 28 in the middle paragraph it starts  
 7 with "On the surface" -- Forget that. I'm not even  
 8 going to ask about it.  
 9 In the next paragraph you say:  
 10 "Given the important consequences for  
 11 schools based on API scores, one would hope  
 12 that the decision-making process was deliberate  
 13 and thoughtful. Yet, available documentation  
 14 from the California Department of Education  
 15 presents the process of selecting values for  
 16 this system as a murky one, carried out quickly  
 17 to ensure that a law approved by the governor  
 18 in April, 1999 could be implemented by that  
 19 July...."  
 20 Do you have an opinion one way or the other  
 21 about whether the process, the decision-making process,  
 22 was deliberate and thoughtful?  
 23 MR. ROSENBAUM: You know, he's testified about  
 24 that yesterday at considerable length as well as this  
 25 morning.

1 MR. SALVATY: We talked about whether it was  
 2 rushed and he said it was rushed.  
 3 MR. ROSENBAUM: Well, deliberate -- You're  
 4 right, he talked about if it was rushed and now you're  
 5 using the word "deliberate." It's been asked and  
 6 answered. It's vague.  
 7 MS. READ-SPANGLER: Well, your comment assumes  
 8 that "rushed" means it couldn't have been deliberate and  
 9 thoughtful.  
 10 MR. ROSENBAUM: Okay. It's not worth this  
 11 time.  
 12 Go ahead. I haven't stopped you from answering  
 13 these questions.  
 14 THE WITNESS: If they had more time they could  
 15 have been more deliberate and more thoughtful.  
 16 BY MR. SALVATY:  
 17 Q At the end of this section you state that many  
 18 of the decisions that have resulted in the current  
 19 system appear to have been more arbitrary than  
 20 methodical.  
 21 And do you have anything to add from what  
 22 you've discussed before about what decisions you see as  
 23 arbitrary?  
 24 A No.  
 25 MR. SALVATY: All right. I would like to take

1 our last break for the day.  
 2 MR. ROSENBAUM: Let's go off the record for a  
 3 minute, please.  
 4 (Recess.)  
 5 BY MR. SALVATY:  
 6 Q On page 30, Professor Russell, you begin  
 7 section 6 of your report "THE API ENCOURAGES POOR  
 8 EDUCATIONAL PRACTICES"; do you see that?  
 9 A Yes.  
 10 Q In section 6.1 you talk about previous findings  
 11 in other states. Are you aware of any findings in other  
 12 states on this subject?  
 13 MR. ROSENBAUM: What subject?  
 14 MR. SALVATY: That state level testing programs  
 15 may lead to poor educational practices. I will rephrase  
 16 the question and ask it.  
 17 Q What evidence are you aware of relating to  
 18 other states that suggests that state level testing  
 19 programs encourage poor educational practices?  
 20 A There was a survey study done that was funded  
 21 by NSF during the early '90s that provide some  
 22 evidence. The National Board on Educational Testing and  
 23 Public Policy survey findings which are in press right  
 24 now provides some evidence as well. There's some  
 25 work -- There's some -- There's other research that I

1 can't recall the names of the authors off the top of my  
 2 head that also provided some evidence. There's work I  
 3 believe by Mary Lee Smith, I -- I'm pretty sure, as I  
 4 recall, that also provides some evidence.  
 5 Q The first thing you cited was a survey study by  
 6 NSF; is that right?  
 7 A Funded by NSF. George Madaus I believe was the  
 8 principal investigator on that or at least he was  
 9 heavily involved.  
 10 Q Is that study cited in this report?  
 11 A No, I did not cite it in this report.  
 12 Q Is there any reason?  
 13 A No, not really.  
 14 Q What were the findings of that survey?  
 15 A As I recall -- I haven't read that report in  
 16 probably two, two-and-a-half years now, but as I recall  
 17 that there was a restriction of curricular in the  
 18 content coverage, and I believe the major theme running  
 19 through that was that the -- the reaction to testing  
 20 programs was strongest, if you will, or largest in kind  
 21 of urban setting or settings that served minority  
 22 populations. I believe that was the overarching theme.  
 23 Q What do you mean "reaction"? Are you talking  
 24 about a negative reaction?  
 25 A Well, a lot of this research looks at both what

1 could be seen as positive and what could be seen as  
2 negative reactions, if you will, or changes, so it --  
3 just in general both positive and negative changes.  
4 Just changes in general which happen to be positive or  
5 negative were strongest in those settings.

6 Q And when was this survey study conducted?

7 MR. ROSENBAUM: Asked and answered.

8 THE WITNESS: Yeah, it was during the early  
9 '90s I believe.

10 BY MR. SALVATY:

11 Q And what state testing programs did you look  
12 at?

13 A I don't recall off the top of my head. It was  
14 a national survey, but I don't recall what that -- what  
15 national -- what "national" really means.

16 Q Do you remember was it a teacher survey?

17 A Yes, it was.

18 Q Okay. The next thing you cited was a national  
19 study that's in press?

20 A Yes.

21 Q What study is that?

22 A That's the National Board on Educational  
23 Testing and Public Policy study. We talked about that  
24 before.

25 Q That's the one cited in your report?

1 A Yesterday I already said according to the  
2 funder, I believe, that it needs to be to press by the  
3 end of February. I think that's what the proposal said  
4 --

5 states. I also said if you wanted a copy, an advance  
6 copy I could provide you one.

7 Q And what about the study by Mary Lee Smith,  
8 when -- First of all, is that cited in your report?

9 A No, I don't believe I cite Mary Lee's work.

10 Q When did she perform her --

11 A She's done a lot of work over the last 10, 12  
12 years.

13 Q Has her work also focused on teacher surveys,  
14 case studies? What is it focused on?

15 A As I recall it's -- I think she uses across all  
16 of her work mixed methodologies.

17 Q Is there any reason why you didn't cite her  
18 study in your report?

19 A No.

20 Q Do you have an opinion about whether there's  
21 clear evidence one way or the other about whether state  
22 level testing programs have a positive or a negative  
23 influence on educational practices?

24 MR. ROSENBAUM: Vague.

25 THE WITNESS: No. I mean I think it -- it's

1 A I don't cite the study itself because I -- but  
2 I -- That's the study that I had a -- an analysis of a  
3 subset of that data.

4 Q And then you mentioned other authors?

5 A Yeah.

6 Q Do you reference any of those in your report?

7 A No, I didn't. To the best of my knowledge I  
8 didn't.

9 Q Do you remember anything about any of those  
10 other studies? Were they also surveys or were they some  
11 other type of analysis?

12 MR. ROSENBAUM: Vague. Compound.

13 THE WITNESS: I believe they're -- across the  
14 studies they're mixed. Some of them are case study  
15 approaches, some of them are using survey methods.

16 BY MR. SALVATY:

17 Q Is the national study that we just discussed,  
18 is that a teacher survey also?

19 A Which one, the National Board one?

20 Q The National Board.

21 A It's a mix.

22 Q A mix of what?

23 A It's a mix of kind of case studies and teacher  
24 survey.

25 Q Do you know when that's going to press?

1 not something you can say is positive or negative.  
2 Programs all are different, the way they're implemented  
3 are different, the stakes associated with them are  
4 different, the support that's available is different, so  
5 it's very difficult to say in a universal way whether  
6 it's a positive or a negative. It really depends on the  
7 context.

8 BY MR. SALVATY:

9 Q In respect to California, let me ask you the  
10 same question.

11 A What is the question?

12 MR. ROSENBAUM: Do you want to ask the  
13 question?

14 BY MR. SALVATY:

15 Q In your opinion is there clear evidence that  
16 California's state accountability program has either  
17 positive or negative effects on educational practices?

18 MR. ROSENBAUM: Vague. It assumes facts not in  
19 evidence. Compound.

20 THE WITNESS: I don't think there's clear  
21 evidence available at this point to -- to make a  
22 definitive statement either way. In my report I present  
23 a number of data that suggests that some of the  
24 practices and changes that you see in other states is  
25 occurring in California as well. And depending -- You

1 know, again, as I describe in the report, depending on  
2 one's perspective some of them could be desirable, some  
3 of them could be undesirable.

4 BY MR. SALVATY:

5 Q Do you believe there's clear evidence that  
6 state testing programs have either a positive or a  
7 negative effect on retention and drop-out rates?

8 MR. ROSENBAUM: Same objections.

9 THE WITNESS: What do you mean by "state  
10 testing programs"?

11 BY MR. SALVATY:

12 Q I mean -- I was actually using a term from your  
13 report. I mean standardized testing programs.

14 MR. ROSENBAUM: Same objections.

15 THE WITNESS: It really -- I mean they vary.  
16 The way in which the tests are used -- It all comes back  
17 again to purpose -- varies dramatically. I think  
18 there's emerging evidence that in states that are making  
19 high-stakes decisions about schools or students in those  
20 types of programs that have been in place for a while  
21 that there seems to be something happening to either  
22 graduation or retention rates or sometimes both.

23 BY MR. SALVATY:

24 Q Are you aware of any evidence that pertains  
25 directly to California? What I'm asking is: Is there

1 A No. I said the study, the full study that's  
2 based on the national sample that's in press. Is that  
3 what you're talking about?

4 Q I see. Yes. You would be able to provide the  
5 full study with the national sample?

6 A Yeah.

7 Q But for purposes of this report you analyzed  
8 certain data specific to California; correct?

9 A Right. Exactly. Exactly.

10 Q Okay.

11 MR. ROSENBAUM: If you're nice.

12 BY MR. SALVATY:

13 Q In the footnote on this page you say:

14 "A stratified random sampling method was  
15 used."

16 How did you obtain information about how this  
17 sampling method was used in this survey?

18 A I helped design the methodology.

19 Q Okay. Do you have any documents that lay out  
20 the methodology of your study?

21 A It's fully -- It's fully described in the  
22 report that's in press. I mean you're talking about the  
23 National Board study?

24 Q Yes, I am. The reason I ask is we did receive  
25 the backup -- certain backup documentation -- Right? --

1 any evidence that California's accountability program is  
2 having either a positive or a negative effect on  
3 retention and drop-out rates?

4 MR. ROSENBAUM: Beyond what he's already  
5 testified to?

6 MR. SALVATY: I was asking in general.

7 MR. ROSENBAUM: I know, but you asked him two  
8 questions before and he answered by discussing some --  
9 some indications in California. He's talked about it  
10 before in the course of this deposition as well.

11 MR. SALVATY: Okay. Maybe I'll hear your last  
12 response read back.

13 MR. ROSENBAUM: Two of his responses.

14 MR. SALVATY: Okay.

15 (Record read.)

16 MR. SALVATY: Thank you. I just had a problem.  
17 I became distracted because I moved a pile of my paper  
18 and it --

19 MR. ROSENBAUM: That's okay.

20 MR. SALVATY: -- so I was listening to that.

21 Q All right. Let me just ask you about section  
22 6.4, Patterns Emerging in California on page 35.

23 You talked about the survey and this is the  
24 survey you explained you would be able to provide an  
25 advance copy of it to us; correct?

1 the day before this deposition began.

2 A Right. Right.

3 Q I wondered if you have any other documents that  
4 reflect how you went about performing this analysis.

5 A That's presented here?

6 Q Yes.

7 A All we did was run frequencies for teachers  
8 that are in California, so there's a sample of -- I  
9 don't know what the number was -- roughly 4,000, 5,000  
10 teachers, we ran a frequency for each of the items that  
11 are presented here for California teachers only.

12 Q And do you have information about how the  
13 survey itself was conducted?

14 A Yes.

15 Q You have documented --

16 A That's described fully in the report that I'm  
17 talking about. I know it's confusing.

18 Q Okay. The reason I say it was difficult to  
19 analyze the study without the documents and it sounds  
20 like there's just certain documents available, others  
21 will become available.

22 A Well, I mean I describe really what we did for  
23 this analysis in that first full paragraph.

24 MR. ROSENBAUM: Which is different than the  
25 methodology of the overall report. He just ran

1 frequencies; right?

2 THE WITNESS: Yeah, we just ran frequencies  
3 from those teachers in California.

4 MS. READ-SPANGLER: But just to clarify, I  
5 think the only person whose received that is Paul. None  
6 of the rest of us have gotten that.

7 MR. ROSENBAUM: Oh.

8 THE WITNESS: I didn't -- I apologize for that  
9 because I did not know that I had to turn over basically  
10 an output from a file run.

11 MR. ROSENBAUM: We will make sure you get it.  
12 Sorry.

13 THE WITNESS: I mean all that is is expanded  
14 version of these numbers. So again, I apologize.

15 BY MR. SALVATY:

16 Q Did you compare the data relating to California  
17 teachers to the national data?

18 A No, I've done it in a general way but I haven't  
19 done it systematically.

20 Q What did you find from performing that  
21 comparison in a general way?

22 MR. ROSENBAUM: Foundation.

23 BY MR. SALVATY:

24 Q I should ask you: What did you do? How did  
25 you go about comparing in a general way?

1 A There's several but I'll tell you one. My  
2 tests have the same content as the state mandated test.  
3 Again, that's on page 36. The -- The questions on Table  
4 17 I looked at as well. As I recall those -- Well, I  
5 can't -- I'm not going to speculate and be inaccurate.  
6 There's a question about technology somewhere. I can't  
7 remember exactly where in this. But I was writing a  
8 paper at the time about technology and testing and so I  
9 think I looked at that as well.

10 As I said, I wasn't -- I didn't systematically  
11 compare results. I'm working on that project so I'm  
12 familiar with what the data is saying, just quickly  
13 glanced at it.

14 MR. ROSENBAUM: I don't want to cut you off if  
15 you're in the middle --

16 MR. SALVATY: No, I am going to move to a  
17 totally new section. I am going to move to the last  
18 section, so this is a good breaking point.

19 MR. ROSENBAUM: Is that the end of your  
20 questioning?

21 MR. SALVATY: No, but I'm at the last section  
22 of the report.

23 MR. ROSENBAUM: Okay.

24 MR. SALVATY: All right.

25 MR. ROSENBAUM: Thank you very much. Have a

1 A For a couple of items of interest I looked to  
2 see if what was emerging at the national level was  
3 similar to what was happening in California. Nothing  
4 jumped out at me as terribly different. But I mean it's  
5 difficult, too, because the purpose of the study was to  
6 look at what's happening within different type testing  
7 programs and stakes levels.

8 Q What were the items of concern that you have in  
9 mind?

10 A They weren't really of concern. They were more  
11 of interest.

12 Q Of interest.

13 A On table 16, the instructional text and  
14 materials the district requires me to use are  
15 compatible. The question about content --

16 MR. ROSENBAUM: Why don't you read the full  
17 thing. "The instructional texts and materials that the  
18 district requires me to use are compatible with the  
19 state mandated tests." Is that what you're referring  
20 to?

21 THE WITNESS: Right.

22 MR. ROSENBAUM: That's on page 36?

23 THE WITNESS: Right.

24 BY MR. SALVATY:

25 Q What's the other?

1 nice weekend.

2 MR. SALVATY: You, too.

3 MR. ROSENBAUM: Counsel will agree that the  
4 same stipulation that applied to Mitchell applies to  
5 Professor Russell. Okay?

6 MR. SALVATY: So stipulated.

7 MS. SHARGEL: So stipulated.

8 MR. HAJELA: So stipulated.

9 MS. READ-SPANGLER: So stipulated.

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I, MICHAEL RUSSELL, Ph.D., do hereby declare under penalty of perjury that I have read the foregoing transcript of my deposition; that I have made such corrections as noted herein, in ink, initialed by me, or attached hereto; that my testimony as contained herein, as corrected, is true and correct.  
EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, \_\_\_\_\_.  
(City) (State)

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MICHAEL RUSSELL, Ph.D.  
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I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:  
That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using a machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.  
I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.  
IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: \_\_\_\_\_

\_\_\_\_\_  
CAROL ANN NELSON  
CSR No. 6974