

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 COUNTY OF SAN FRANCISCO

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

6 Plaintiffs,

7 -vs-

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

12 Defendants.

13 Volume I
14 March 3, 2003
15 9:40 A.M.

16 Deposition of THOMAS SOBOL, Ed.D., taken by
17 Defendants, pursuant to Notice, at the offices
18 of O'Melveny & Meyers, 153 East 53rd Street,
19 New York, New York, before Linda J. Greenberg, a
20 Certified Shorthand Reporter and Notary Public
21 of the State of New York.
22
23
24

1 APPEARANCES:

2
3 ACLU FOUNDATION OF SOUTHERN CALIFORNIA
Attorneys for Plaintiffs

4 1616 Beverly Boulevard
Los Angeles, California 90026-5752

5 BY: CATHERINE E. LHAMON, ESQ.

6
7 STATE OF CALIFORNIA DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

8 Attorneys for Defendants
9 1300 I Street, Suite 1101
P.O. Box 944255
10 Sacramento, California 94244-2550

11 BY: ANTHONY V. SEFERIAN, ESQ.
12
13
14
15
16
17
18
19
20
21
22
23
24

1 Q. Does Exhibit 1, your expert report,
2 contain all the opinions that you have formed in
3 this case?

4 A. Yes, it has. Yes, it does.

5 Q. If I refer in this deposition to
6 "your report," will you understand that to mean
7 the expert report that you prepared in the
8 lawsuit Williams versus California?

9 A. Yes.

10 Q. Referring to page 2 of your expert
11 report in the second paragraph, paragraph number
12 2, how were you appointed to the National
13 Research Council's Committee on Education
14 Finance: Equity, Adequacy and Productivity?

15 MS. LHAMON: Your question is
16 vague. Do you mean who appointed him and under
17 what circumstances?

18 MR. SEFERIAN: Yes. Under what
19 circumstances.

20 A. I got a call from a woman who was
21 on the staff at the National Research Council
22 who told me that my name had been suggested as a
23 possible member of the committee and would I
24 have any interest in serving on it, and I

1 THOMAS SOBOL, Ed.D.
2 Having been first duly sworn, was examined and
3 testified as follows:

4 EXAMINATION BY

5 MR. SEFERIAN:

6 Q. Would you please state your name.

7 A. Thomas Sobol.

8 Q. Dr. Sobol, my name is Tony Seferian
9 and I represent the defendants, California
10 Superintendent of Public Instruction, California
11 Department of Education and the California Board
12 of Education in a lawsuit Williams versus
13 California in which you've been listed as an
14 expert witness?

15 I'd like to ask you to look at a
16 document which I'll ask the court reporter to
17 mark as Exhibit 1.
18 (Sobol Exhibit No. 1 - Expert report of
19 Thomas Sobol - was marked for identification.)

20 Q. Do you recognize Exhibit 1,
21 Dr. Sobol?

22 A. I haven't read the text entirely,
23 but it looks to be the expert report that I
24 prepared prior to this proceeding.

1 replied in the affirmative.

2 Q. After you replied, were you then a
3 member of that committee, the National --

4 A. Yes. Yes, I was.

5 Q. What were your duties on the
6 National Research Council's Committee on
7 Education, Finance?

8 A. The committee was asked by Congress
9 to examine the finance needs of schools across
10 the country, as it says here in the report; and
11 we met a number of times, maybe six or eight
12 times over the course of a two-year period, to
13 try to form recommendations that would be of use
14 to the Congress in that respect.

15 Q. What materials did the National
16 Research Council's Committee on Education,
17 Finance publish?

18 A. There were at least two
19 publications, as I recall. One was a kind of a
20 summary of finance litigation cases over the
21 period roughly from 1970 until the present, the
22 then present.

23 And the second was a report that
24 tried to set forth the views and recommendations

1 of the people on the committee.

2 Q. Do you recall when those documents
3 were published?

4 A. Not precisely. In the late 1990s,
5 I believe, but I couldn't give you the exact
6 year.

7 Q. What was the name of the document
8 published by the National Research Council's
9 Committee on Education Finance? It contained a
10 summary of national litigation cases --

11 A. I don't remember the name. I know
12 that it was written by Steve Sugarman and
13 another younger fellow whose name I don't
14 recall, but I don't recall the name of that.

15 Q. What was the name of the document
16 published by the National Research Council's
17 Committee on Education Finance that contained
18 the views of the people on the committee?

19 A. I believe that the name was "Money
20 Matters." There may have been a longer title
21 with a colon in it, I don't recall. But I do
22 recall that the words that "Money Matters" were
23 part of the title, at least.

24 Q. Did the Committee on Education

1 minimally required for any school, and what role
2 the state should play in ensuring a provision to
3 students of educational essentials."

4 Does paragraph 7 of your report
5 state the entire scope of your assignment in
6 this case?

7 A. Yes.

8 Q. Would you agree that the opinions
9 expressed in your report are based upon your
10 experience and not upon a review of academic
11 studies and reports?

12 A. I would say the vast preponderance
13 of my opinions are so based, but that doesn't
14 mean I've never written or ever read a study
15 that helped to formulate an opinion.

16 Q. Are there any studies or reports
17 that you relied upon in writing your report and
18 in forming your opinions in this case that were
19 not cited in your report?

20 A. No.

21 Q. Would you agree that the expert
22 report that you prepared for this case does not
23 cite to any studies of what conditions and
24 resources are minimally required for any school

1 Finance perform any other work other than the
2 meetings and the two publications you've
3 mentioned?

4 A. I guess the only honest answer I
5 can give to that question is I'm not sure. I
6 don't recall any other products of the
7 committee's work, but I know there was a
8 subcommittee that worked hard for a period of
9 time on the funding of special education
10 services in the schools, and I'm not sure that a
11 separate report was issued or not.

12 Q. Were you a member of that
13 subcommittee on funding for special education?

14 A. No, I was not.

15 Q. Were there any other subcommittees
16 to the committee you were on at the time, the
17 committee we've been discussing?

18 A. I don't recall. I haven't thought
19 about that work for a long while, so I'm sorry
20 if I'm fuzzy on detail, but I don't recall any
21 other group.

22 Q. Paragraph 7 of your report on page
23 4 states, "Plaintiffs' counsel asked me to
24 identify what conditions and resources are

1 or what role the state should play in ensuring
2 the provision of educational essentials to
3 students?

4 MS. LHAMON: Objection. The report
5 speaks for itself.

6 A. Would you ask me the question
7 again? I apologize.

8 Q. Sure.

9 Would you agree that your expert
10 report in this case does not cite to any studies
11 of what conditions and resources are minimally
12 required for any school or what role the state
13 should play in ensuring the provision of
14 educational essentials to students?

15 A. The report does not cite formal
16 studies of those matters. I based my opinion on
17 a lifetime of work in the schools in a variety
18 of roles.

19 Q. Would you agree that your report in
20 this case does not cite to any studies showing
21 that the state role you described will better
22 ensure the provisions to students of educational
23 essentials?

24 A. The report is not based on studies.

1 It's based on my experience over a long period
2 of time in a variety of roles.

3 Q. Would you agree then that your
4 report does not cite to any studies showing that
5 the state role you described will better ensure
6 the provision to students of educational
7 essentials?

8 A. You seem to be going back and forth
9 with the same question.

10 The same answer: My report is not
11 based upon specific formal studies. It is based
12 upon my long experience as a teacher, as school
13 administrator, a Superintendent of Schools, as
14 Commissioner of Education, as Professor of
15 Education.

16 Q. In identifying the conditions and
17 resources minimally required for any school, did
18 you personally perform any studies of the
19 effects of these conditions and resources on
20 student achievement?

21 A. Once again, would you repeat the
22 question, please? I apologize.

23 Q. Yes. One thing I forgot to mention
24 earlier is if any of my questions are unclear,

1 the effects on academic achievement of the
2 conditions and resources mentioned in your
3 report?

4 A. I believe that what we have looked
5 at are situations where the conditions are
6 present and where they are not present, and
7 noticed the strong correlation between less than
8 satisfactory achievement and the absence of
9 those conditions, but I didn't arrange the
10 conditions nor was there a controlled group.

11 We looked at different kinds of
12 school districts situated differently
13 experiencing those conditions differently.

14 And I would think, by the way -- is
15 it okay if I add another sentence to that?

16 Q. Yes.

17 A. I would think it inappropriate,
18 actually, for school officials to arrange an
19 experiment whereby some children would be
20 deprived of what we regard as essential in order
21 to test the effects; because as gratifying as
22 that might be for a social scientist, it does
23 injury to the students involved and to their
24 families.

1 please let me know and I'll be happy to restate
2 or rephrase them.

3 A. I appreciate that courtesy. Thank
4 you.

5 Q. Is it correct that in identifying
6 the conditions and resources minimally required
7 for any school, you did not personally perform
8 any studies of the effects of these conditions
9 and resources on student achievement?

10 A. At the risk of sounding like former
11 President Clinton, it depends upon what you mean
12 by "studies."

13 We certainly looked at conditions
14 of schools across the State of New York, and
15 noted the absence of these conditions and their
16 effect upon students involved.

17 We didn't go out and devise expert
18 mental studies, if that's what the question
19 intends, whereby we deprived pupils of the
20 presence of these conditions in order to test
21 the effects. That would not have been an
22 appropriate thing to do.

23 Q. For example, have you ever
24 attempted to test under a controlled condition

1 Q. Other than depriving students of
2 educational essentials to determine the effects
3 of those factors on their academic performance,
4 are there other ways that social scientists are
5 able to determine the effects of certain
6 conditions on student achievement?

7 MS. LHAMON: The question is
8 overbroad, vague and ambiguous. It's not clear
9 what you mean by "certain conditions."

10 THE WITNESS: Do I answer the
11 question?

12 MS. LHAMON: If you can.

13 A. If I understand the question, there
14 are ways in which social scientists can look at
15 the effects of the deprivation of -- let me
16 start that again.

17 If I understand the question
18 correctly, there are ways in which social
19 scientists can study the effect upon students
20 learning in the absence of these essential
21 conditions.

22 They don't arrange the conditions,
23 but they can study them where they exist; and
24 there's been a lot of that work done, including

1 in New York State under my jurisdiction, where
2 we would look to see what the correlation was
3 between the absence of any or all of these
4 conditions and achievement, and noticed the
5 strong correlation between the absence of such
6 conditions and satisfactory achievement.

7 Q. What studies have you participated
8 in that looked at the correlation between
9 absence of certain conditions and satisfactory
10 achievement in school?

11 MS. LHAMON: Vague as to
12 "participated in." Do you mean studies that he
13 directed or studies that he himself conducted or
14 something else?

15 MR. SEFERIAN: Any study. Any type
16 of involvement.

17 A. I can give you an example.
18 I don't think our work of this kind
19 was limited to the example I'm about to try to
20 describe, but it exemplifies the work.

21 In New York State, the Board of
22 Regents and the Commissioner of Education are
23 required by law to submit an annual report to
24 the governor and to legislature on the state of

1 Board of Education members.

2 My understanding is that the
3 pattern that exists in New York State, again,
4 the pattern of high correlation between the
5 absence of these essential conditions and
6 satisfactory achievement --

7 THE WITNESS: Did I say that right?

8 MS. LHAMON: You said "the absence
9 of essential" --

10 A. I mean unsatisfactory achievement.

11 Thank you.

12 I am generally aware from reading
13 that I've done and from conversations with other
14 people that the pattern that we discern in New
15 York State; namely, a pattern of strong
16 correlation between the absence of essential
17 conditions for learning and unsatisfactory
18 school achievement are general across the
19 country and are not limited to New York State.

20 Q. What was your personal involvement
21 in the studies conducted by the New York Board
22 of Regents wherein they would submit a report to
23 the state on the condition of schools in New
24 York?

1 the state schools; and in those annual reports,
2 we took careful notice of the strong correlation
3 between those schools and school districts that
4 suffered from the absence of these essential
5 conditions and much lower pupil achievement.

6 And if I may add a sentence, is
7 that all right?

8 Q. Yes.

9 A. It would go on to recommend to the
10 legislature and to the governor actions that
11 might be taken to provide the essential
12 conditions and reverse the pattern of low
13 achievement.

14 Q. In addition to the New York Board
15 of Regents report on the state of the schools in
16 New York, have you been involved in any other
17 studies that have examined school conditions and
18 their effect on academic achievement?

19 A. Again, it depends what you mean by
20 "involved with." I'm certainly generally aware
21 of the patterns, patterns that exist in this
22 regard across the country, from reports that
23 I've read, from conversations that I've had with
24 other Chief State school officers and State

1 MS. LHAMON: You've
2 mischaracterized the testimony.

3 A. Would you ask me the question
4 again, please?

5 Q. Let me back up first.

6 Was there a certain name of the
7 report that the New York Board of Regents would
8 submit on the condition of schools in New York?

9 A. Yes. We called it the Chapter 655
10 report because it -- the statute was Chapter 655
11 of the laws of 1986, I believe, in New York
12 State.

13 Q. During the time that you were
14 Commissioner of Education, what was your
15 involvement in the studies and preparation of
16 the Chapter 655 report, wherein conditions of
17 schools were correlated with academic
18 achievement?

19 A. I worked with a staff to design the
20 organization and prospective contents of the
21 report. I've assigned staff members to the task
22 as was appropriate. I reviewed the work that
23 they did when they submitted it in draft form,
24 in writing.

1 I conferred with appropriate
2 members of the staff about the meaning of the
3 data that others were collecting, and framed
4 recommendations for consideration by the Board
5 of Ed Regents for inclusion in the report.

6 I met with the Board of Regents to
7 review the draft contents of the report and the
8 recommendations that it contained that -- that
9 they contained. I personally wrote an
10 introduction to each of the annual reports
11 during the eight years of my commissionership;
12 and I then discussed the contents of the report
13 with the governor, with legislators, with
14 representatives of education organizations and
15 with the media.

16 Q. In addition to the Chapter 655
17 reports that were submitted while you were
18 Commissioner of Education, were you personally
19 involved in any academic studies relating school
20 conditions to academic performance?

21 A. In about 1990 or 1991, I don't
22 recall the exact year -- may I interrupt myself
23 just briefly? Am I permitted to look at this
24 expert report?

1 Q. Yes.

2 A. Because I want to answer your
3 question by citing some portion of it, but I
4 don't know exactly where it is. It will take me
5 a minute to find it.

6 Q. Sure.

7 A. If you would be kind enough to look
8 with me at paragraph 10 of the report for a
9 moment. I'll read from paragraph 10, briefly,
10 if I may do that.

11 "In my role as Chief School Officer
12 for New York State during a pivotal time of
13 change in education policy in the nation as well
14 as in New York State, I had occasion to assess
15 and define what basic tools and conditions are
16 required for students to achieve what in New
17 York is deemed a 'sound, basic education.'"

18 Then the following sentence, or the
19 next two sentences are what I offer by answer to
20 your question, if I may

21 "During my tenure as commissioner,
22 the Campaign for Fiscal Equity in New York filed
23 a lawsuit charging the state with failing to
24 provide a sound, basic education to students in

1 New York City schools."

2 And here's your answer:

3 "As a result of that lawsuit, I
4 worked, together with my staff and with an
5 equity staff force I convened of education
6 scholars and practitioners from around the
7 country, to define 'a sound, basic education' as
8 the attainment of the skills students need to
9 sustain competitive employment and function
10 productively as civic participants capable of
11 voting and serving on a jury."

12 So it was the convening of this
13 committee and the work that the members of the
14 committee did that supplemented the knowledge we
15 derived from this annual 655 report.

16 Q. And that committee was in
17 connection with your work in the Campaign for
18 Fiscal Equity case, is that right?

19 MS. LHAMON: Objection. The
20 document speaks for itself.

21 A. No. I became involved in a
22 Campaign for Fiscal Equity case when I left the
23 commissionership. At the time, I was simply
24 aware that they had brought suit against the

1 state and that we needed to be well informed,
2 and it was then that I formed this committee.

3 Q. What was the name of the committee?

4 A. I don't remember the detail of the
5 name. I remember the charge to the committee.
6 The name may have been -- may have
7 been, I'm not sure, Committee on Equity or
8 something like that, but I don't really recall
9 the title of the committee.

10 Q. Have you ever been on a committee
11 entitled Equity Task Force?

12 A. It may have been called the Equity
13 Task Force, and I wasn't on the committee. I
14 convened the committee and oversaw its work.

15 Q. Other than the committee discussed
16 in paragraph 10 of your report, and the Chapter
17 655 report submitted in New York on the state of
18 New York schools, have you ever personally been
19 involved in any academic studies relating school
20 conditions to student achievement?

21 A. I'm having trouble answering
22 because I'm not sure what you mean by "involved
23 in the study of."

24 I have never conducted such a

1 study, but I have read studies on the phenomena.

2 Q. Did you perform any studies
3 specifically for your work in this case,
4 Williams versus California?

5 A. No.

6 Q. Was it part of your assignment in
7 this case to determine the extent to which
8 California provides its students with the
9 conditions and resources minimally required for
10 any school?

11 A. No.

12 Q. Was it part of your assignment in
13 this case to determine the extent to which any
14 particular school or school district in
15 California has the conditions and resources
16 minimally required for any school?

17 MS. LHAMON: Asked and answered.
18 You asked him earlier if paragraph 7 fully
19 defined the duties for this case.

20 Q. You may answer the question,
21 Doctor.

22 A. The question is, did I perform any
23 other studies related to this case?

24 Q. No, it was a little bit different.

1 a school district or the State Education
2 Department in California?

3 A. That is correct.

4 Q. Referring again to paragraph 7 of
5 your report, if you would, did plaintiffs'
6 counsel give you any definition of "conditions"
7 as that word is used in paragraph 7 of your
8 report?

9 A. No.

10 Q. Did plaintiffs' counsel give you
11 any definition of "resources" as that word is
12 used in paragraph 7 of your report?

13 A. No.

14 Q. Was it part of your assignment in
15 this case to assess the extent to which
16 educational conditions in California were
17 similar to those in New York State?

18 A. No.

19 Q. In paragraph 10 of your report,
20 where you state that, "I had occasion to assess
21 and define what basic tools and conditions are
22 required for students to achieve what in New
23 York is deemed a sound, basic education," the
24 assessment you were referring to was in the

1 Was part of your assignment in this
2 case to determine the extent to which any
3 particular school or school district in
4 California has the conditions and resources
5 minimally required for any school?

6 A. No, it was not.

7 Q. Will you be offering any opinions
8 in this case that are specific to California?

9 MS. LHAMON: The question is vague
10 and overbroad and asked and answered.

11 A. I will be offering testimony that I
12 believe has application to the State of
13 California, but is not focused upon the specific
14 facts of individual schools or school districts
15 within the State of California.

16 Q. Have you ever worked in any
17 capacity in the educational field in California?

18 A. I've given speeches to
19 organizational groups there, but I've never been
20 employed in the State of California; that is to
21 say I was employed while I was in the State of
22 California, but not by people in the State of
23 California, but by organizations there.

24 Q. For example, you've never worked in

1 context of educational conditions in New York,
2 correct?

3 A. Well, it was in connection with
4 conditions in New York, but I believe that
5 similar conditions exist elsewhere as well.

6 Q. Referring again to paragraph 10 of
7 your report, what specifically prompted you to
8 assess and define what basic tools and
9 conditions are required for students to achieve
10 a sound, basic education?

11 A. Well, I don't know that there was
12 one specific trigger that was pulled, so to
13 speak. It was rather a number of things that
14 influenced me simultaneously.

15 One was a decision by the Court of
16 Appeals in New York State that introduced to us
17 what became a term of art in New York State.
18 The expression "sound, basic education"; and it
19 was very clear to me, as it would have been to
20 anyone in my position, I'm sure, that if it was
21 the state's duty to provide a sound, basic
22 education, I'd better be able to help to define
23 that for people.

24 Another influence was that we were

1 engaged in an education reform effort that
2 focused more on goals and eventual outcomes than
3 we had previously engaged in; and there was need
4 to know what conditions and resources would be
5 needed to achieve the goals and the outcomes
6 that we had in mind.

7 So that when I convened the Equity
8 Task Force, if that was indeed its name, as I
9 believe you may have mentioned, it was to
10 solicit help in doing at least those two things:
11 To define what is meant by a "sound, basic
12 education," and to identify the conditions and
13 resources that are needed to achieve it.

14 Q. What documents contain the results
15 of your assessment of what basic tools and
16 conditions are required for students to achieve
17 a sound, basic education?

18 MS. LHAMON: Assumes facts not in
19 evidence.

20 THE WITNESS: Do I answer that?

21 MS. LHAMON: You do.

22 A. There is the report of the
23 committee, whatever that committee's title was,
24 but I don't think we ever achieved fully, within

1 prepare?

2 A. I don't recall.

3 Q. Do you have any estimate?

4 A. I just really don't recall.

5 My recollection is of a stack of
6 material that sits on the shelf behind me at my
7 desk in Albany, so there was a lot of stuff that
8 came out of the committee's work. I don't know
9 whether it was all officially called "report" or
10 not, but a substantial pile of material.

11 Q. Would it be accurate to say that
12 you attended one or two meetings of the Equity
13 Study Group?

14 A. Yes.

15 Q. Would it be accurate to say that
16 your deputy commissioner and assistant
17 commissioner and the Board of Regents did the
18 work of the Equity Study Group?

19 MS. LHAMON: Vague as to "did the
20 work."

21 A. My two deputies assisted in
22 performing the work of the committee. The Board
23 of Regents did not, but they were not there to
24 formulate opinions or make recommendations.

1 my years as commissioner -- let me state it
2 differently.

3 I know that we did not achieve
4 fully during my years as commissioner a
5 definition of -- a specification of conditions
6 and resources needed for a sound, basic
7 education in a way that would be acceptable to
8 the Court.

9 That entailed continuing litigation
10 over a number of years; and is, in fact, ongoing
11 currently.

12 Q. The committee you're referring to,
13 might that committee have been called Equity
14 Study Group?

15 A. Yes. "Yes" means it might have
16 been called, but I'm not sure that was the exact
17 title. I think we're talking about the same
18 bunch of people.

19 Q. And the committee you're referring
20 to is in connection with the work discussed in
21 paragraph 10 of your report?

22 A. Correct.

23 Q. How many reports did the committee
24 discussed in paragraph 10 of your report

1 They were there to help guide the work of the
2 members of the committee. It was staffed to the
3 committee, in other words. They were not
4 regularly participating members of the
5 committee.

6 Q. You were initially named as a
7 defendant in the Campaign for Fiscal Equity
8 lawsuit, is that correct?

9 A. Yes, I was.

10 Q. And then after the Campaign for
11 Fiscal Equity lawsuit was filed, you
12 successfully arranged to become aligned with the
13 plaintiff in that case, is that correct?

14 A. Not quite correct.

15 I was uncomfortable in the role of
16 defendant in the case because I thought that the
17 arguments of the plaintiffs had great merit,
18 but, first of all, it was not within my sole
19 discretion as to what my alignment should be in
20 that trial. I had to answer to the Board of
21 Regents and to the attorney general's office and
22 the governor as well.

23 So what we worked out was an
24 arrangement whereby we didn't realign with the

1 plaintiffs, but were in a more neutral role of
2 friend of the Court, where we would make
3 available all relevant information and be of
4 what help we could in that way to both sides,
5 but would no longer be a defendant.

6 Q. What work with the Equity Study
7 Group did you personally perform to define a
8 sound, basic education?

9 A. I helped frame the charge to the
10 committee. I convened the committee. I helped
11 initiate the conversation, along with the chair
12 of the committee, who was Robert Berne of New
13 York University, but I did not then participate
14 in the ongoing work of the committee beyond that
15 point.

16 Q. Was your deposition taken in 1999
17 in the Campaign for Fiscal Equity case?

18 A. I don't recall if that was the
19 year, but it sounds as if it was probably so.

20 I was certainly deposed for that
21 case and I think it was 1999, but I'm not sure.

22 Q. In the Campaign for Fiscal Equity
23 case, did you express the opinion that it would
24 take an increase in education spending for New

1 case, did you express the opinion that in New
2 York City, many students did not have access to
3 textbooks and other instructional materials
4 needed to learn efficiently?

5 MS. LHAMON: Objection. There are
6 documents that make it clear what Dr. Sobol's
7 testimony was in that case; and it's not a great
8 use of his time today to ask him what he did and
9 did not testify to.

10 You can answer the question.

11 A. Yes.

12 Q. In the Campaign for Fiscal Equity
13 case, did you express the opinion that in New
14 York City, many school buildings did not afford
15 an environment that was conducive to learning?

16 A. Yes.

17 Q. In the Campaign for Fiscal Equity
18 case, did you express the opinion that New
19 York's categorical program funding system should
20 be revised?

21 A. Yes.

22 Q. In the Campaign for Fiscal Equity
23 case, did you express the opinion that a high
24 school diploma is the minimum acceptable level

1 York to accomplish a sound, basic education?

2 A. I don't recall specifying any
3 amounts of money. It was more a matter of
4 describing the conditions that were necessary.

5 Q. In the Campaign for Fiscal Equity
6 case, although you may not have specified an
7 amount of money, did you express the opinion
8 that it would take some level of increase in
9 education spending for New York to accomplish a
10 sound, basic education?

11 A. Yes.

12 Q. In the Campaign for Fiscal Equity
13 case, did you express the opinion that New York
14 City public schools were not providing a sound,
15 basic education to a substantial number of
16 students?

17 A. Yes.

18 Q. In the Campaign for Fiscal Equity
19 case, did you express the opinion that New York
20 City had a greater number of unlicensed,
21 uncertified teachers and a higher rate of
22 teacher turnover than other parts of the state?

23 A. Yes.

24 Q. In the Campaign for Fiscal Equity

1 of education that a state should provide its
2 students?

3 A. Yes.

4 Q. In the Campaign for Fiscal Equity
5 case, did you express the opinion that to
6 attract more certified teachers to its
7 classrooms, New York City could pay higher
8 salaries?

9 A. I don't recall testifying to that,
10 but I may have. I agree with it, by the way, I
11 just don't recall whether it came up in the
12 deposition or as part of the litigation.

13 Q. In paragraph 11 of your report, you
14 state, "My work in distilling the essential
15 components of that sound, basic education for
16 New York, together with my lifetime of work in
17 education, have demonstrated to me the existence
18 of certain core elements that are required for
19 schooling, regardless of what a state
20 constitution's education provisions are
21 interpreted to mean."

22 What publications do you have in
23 which you have discussed core elements that are
24 required for schooling?

1 MS. LHAMON: Assumes facts not in
2 evidence.

3 A. The question is, what publications
4 do I have?

5 Q. Yes.

6 A. Did you mean things that I have
7 published myself, or do you mean publications
8 I've accumulated from other people that are in
9 my possession?

10 Q. What publications have you authored
11 in which you have discussed core elements that
12 are required for schooling?

13 A. None.

14 Q. Have you personally conducted any
15 research studies regarding the relationship
16 between certain core elements that are required
17 for schooling and academic achievement?

18 A. This is where we were a while ago
19 in our discussion here, it seems to me.

20 If what you mean is formal academic
21 studies of the sort that would be published in a
22 social science journal, I've not done that.

23 But from another point of view, my
24 entire life's experience has had me studying the

1 report speaks for itself.

2 THE WITNESS: But I should answer?

3 MS. LHAMON: Yes.

4 A. It seems to me that there are three
5 of these essentials that could be taken as more
6 fundamental, and therefore, more important than
7 even the others. So I stress again that all of
8 these are essentials and needed, therefore.

9 And those three are: Well trained,
10 capable teachers, relevant, up-to-date textbooks
11 and other materials of learning, and a safe,
12 clean, orderly environment.

13 You need the teacher, the stuff of
14 learning, and the place in which to teach and
15 learn.

16 Q. Have you ever expressed in writing
17 the opinion that the educational essentials of
18 well trained, capable teachers, relevant
19 textbooks and a safe, clean, orderly environment
20 are more fundamental than the other educational
21 essentials?

22 MS. LHAMON: You mean separate from
23 the expert report?

24 A. I think I've done so in the expert

1 relationship of these conditions with the
2 results of the presence or absence of those
3 conditions, if that's a sentence.

4 (A recess was taken.)

5 Q. In paragraph 11 of your report, you
6 list education essentials, including, "Teachers,
7 principals and other personnel who have
8 appropriate skills, training, and professional
9 supports; small classes, sufficient and
10 up-to-date books, libraries, technology and
11 laboratories, as well as and other essentials."

12 Are all of the educational
13 essentials listed in paragraph 11 of your report
14 equally important?

15 MS. LHAMON: Objection. The report
16 speaks for itself.

17 A. They're all important, but they may
18 not be equally important.

19 Q. Do you have any opinion about the
20 relative importance of the educational
21 essentials listed in paragraph 11 of your
22 report?

23 MS. LHAMON: The question is vague
24 and ambiguous and overbroad; and again, the

1 report.

2 Q. Anywhere else?

3 A. I don't recall.

4 May I add a sentence to that?

5 Q. Yes.

6 A. One of the reasons that I don't
7 recall -- and I don't mean this in any way to be
8 frivolous or -- I don't mean in any way to be
9 frivolous. Those conditions seem so essential
10 and obvious to me, they're like the sun and the
11 moon.

12 If you're going to educate
13 children, you need teachers. You need the stuff
14 to work with. You need the place to do it. I
15 don't know that you need a study to figure that
16 out or write a paper in order to assert it.

17 It's just a matter of simple,
18 common sense.

19 Q. As you sit here today, are you
20 aware of any studies which state that the three
21 essentials that you mentioned, well trained,
22 capable teachers, relevant textbooks and a safe,
23 clean, orderly environment are more fundamental
24 than the other essentials mentioned in paragraph

1 11 of your report?

2 A. Well, once again, I don't know what
3 you mean by "studies."

4 If you're talking about tightly
5 drawn academic social science studies, I'm not
6 aware of them; but the overwhelming testimony of
7 teachers, students, parents, observers from the
8 lay community year after year, decade after
9 decade is that without these three elements,
10 education cannot occur. It's simply that basic.

11 Q. Have you ever analyzed the extent
12 to which any state provides its students with
13 the educational essentials listed in paragraph
14 11 of your report?

15 A. No.

16 Q. What did you mean in paragraph 11
17 of your report when you referred to, "teachers,
18 principals, and other personnel who have
19 appropriate skills, training and professional
20 supports"?

21 A. Which word gives you the trouble?
22 I'm not trying to be flip. Do you want me to
23 define what I mean by "teachers and principals"?

24 You don't want me to do that, do

1 mean by "appropriate" is that principals need to
2 know how to organize communities of learning.
3 They need to know how to provide the kind of
4 environment and support and ongoing training
5 that teachers and other staff members need if
6 they're going to be effective. They need to be
7 skilled in the arts of leading and learning.

8 Q. What other personnel were you
9 referring to in paragraph 11 of your report when
10 you said, "other personnel who have appropriate
11 skills, training and professional supports"?

12 A. Counselors, school counselors,
13 school psychologists, specialized teachers in
14 one way or the other, beyond a regular classroom
15 teacher, librarians. All of the school
16 personnel.

17 All of the staff who work with kids
18 should be appropriately trained so they know
19 what they're doing and can do it effectively.

20 Q. What did you mean in paragraph 11
21 of your report when you listed as one of the
22 educational essentials "small classes"?

23 A. Again, which word poses the
24 difficulty?

1 you?

2 Q. I'll ask it again.

3 A. Please.

4 Q. The keyword of the question is
5 "appropriate." What did you mean in paragraph
6 11 of your report when you refer to "teachers,
7 principals and other personnel who have
8 appropriate skills, training and professional
9 supports"?

10 A. Thank you for that clarification.

11 By "appropriate," I mean that
12 teachers, to take them first, must know the
13 subject that they're teaching, be well educated
14 in the subject that they're teaching. They must
15 know how to transmit the content in effective
16 ways to the students with whom they're charged.

17 So "appropriate" has to do with the
18 teacher's knowledge and its relevance to the
19 curriculum and to effective pedagogical
20 strategies.

21 Q. With regard to "principals and
22 other personnel," what do you mean by
23 "appropriate" in paragraph 11 of your report?

24 A. With respect to principals, what I

1 My recollection of the
2 recommendations that we made -- that I made when
3 I was deposed for the CFE litigation, my
4 recollection of that is that I never specified a
5 precise class size, but I do remember mentioning
6 that in all my years as a school administrator,
7 a superintendent and a commissioner, so on, no
8 parent ever approached me to complain that the
9 class was too small.

10 The overwhelming testimony of
11 teachers and parents and other relevant parties
12 over the years has been that, to the extent that
13 you can manage it, smaller is better.

14 And surely, classes need to be
15 small enough that the teacher can provide
16 individual attention as appropriate.

17 Q. In paragraph 11 of your report,
18 when you use the term, "small classes as an
19 educational essential," did you have in mind a
20 certain number of students per class or a
21 certain range of number of students per class?

22 A. No. I don't recall offering any
23 specifics in that regard.

24 Q. Would you agree that studies tend

1 to show that within the limits of about 15 to 30
2 children, class size makes little difference in
3 children's achievement?

4 MS. LHAMON: Lacks foundation.
5 Assumes facts not in evidence. There's been no
6 testimony that Dr. Sobol has seen those studies.

7 A. The studies that I have seen are
8 very mixed on the matter of class size.

9 There's another variable that you
10 have to consider simultaneously along with size,
11 it seems to me, and that is how the teacher
12 organizes the class and the work in light of the
13 number of students involved.

14 You can teach a class of 15 the
15 same which you would teach a class of 30 and
16 make no appreciable difference; but having a
17 class of 15 rather than a class of 30 enables
18 the teacher to do things that he or she could
19 not otherwise do.

20 So you have two things going. You
21 have the size of the class and what you do with
22 the size that you have.

23 Q. What did you mean in your last
24 answer when you used the word "mixed"? I

1 teacher has a chance to do better; and once
2 again, I would say that one of the elements to
3 be considered is what the teacher does with the
4 class.

5 If you teach the class of 20 the
6 same way you teach the class of 30, there's not
7 likely to be much difference. But you can do
8 things if you had fewer students that you can't
9 do when you have more students that can promote
10 student achievement.

11 Q. Would a classroom at the
12 kindergarten through a third grade level that
13 has 20 students be a "small class," as that term
14 is used in paragraph 11 of your report?

15 A. Yes.

16 Q. Would you agree then for the
17 primary years, the best class size is probably
18 from 15 to 20 children?

19 MS. LHAMON: Vague as to "primary
20 years."

21 A. If you're talking about a group of
22 students who do not have exceptional needs, yes.

23 Q. Would you agree that in the primary
24 years, even up to 25 students per class is

1 believe you stated that studies regarding class
2 size are mixed --

3 A. Oh, yes.

4 Some studies tend to show that the
5 smaller the class the better you do. Others
6 say, as you said a minute ago, that within the
7 given range, there doesn't seem to be any
8 appreciable different.

9 I think you can find contradictory
10 findings in the literature. The findings are
11 mixed in that respect.

12 Again, I say one of the reasons in
13 my judgment for that pattern of mixedness or
14 variation is that there are two sets of
15 variables to be taken into account
16 simultaneously: One, the size of the class; and
17 the second, what do you do with it.

18 Q. Would you agree that if class sizes
19 are down in the lower 20's rather than the upper
20 20's or beyond, students tend to do better?

21 MS. LHAMON: Incomplete
22 hypothetical.

23 A. I think that if classes are in the
24 lower 20's rather than in the upper 20's, the

1 acceptable?

2 MS. LHAMON: Vague as to "primary
3 years" and vague as to "acceptable."

4 A. Acceptable to whom?

5 If you mean acceptable to standards
6 of good practice -- can I take it to mean that?

7 Q. I'll restate the question.

8 A. Please.

9 Q. Would you agree that in the primary
10 years, up to 25 students per class is
11 acceptable, in your opinion, according to good
12 educational practices?

13 A. Yes.

14 Q. Do you agree that to the extent a
15 state's public school, kindergarten through
16 third grade classes have 20 students or less,
17 that state is providing a small class
18 educational element mentioned in paragraph 11 of
19 your report?

20 A. Generally speaking, again, not
21 referring now to students who have exceptional
22 needs of one kind or another, emotional or
23 cognitive, linguistic or whatever, then the
24 answer would be yes.

1 Q. When you use the term
2 "exceptional," are you referring to special
3 education students?

4 A. In part, yes.

5 But I'm thinking also of students
6 with limited English proficiency or students who
7 are new to the country by virtue of immigration.

8 Q. Do you have an opinion as to what
9 would be considered a "small class," as that
10 term is used in paragraph 11 of your report, if
11 the class consists of students of limited
12 English proficiency?

13 A. No.

14 MS. LHAMON: Objection. Dr. Sobol
15 has already testified he doesn't have a specific
16 number in mind for small classes.

17 Q. What grade levels were you
18 referring to in paragraph 11 of your report when
19 you refer to small classes?

20 A. All of the grades, K through 12.

21 Q. Was it part of your assignment in
22 this case to offer any opinions about
23 California's class size reduction programs?

24 A. No.

1 did. I respect it, the study design, the study
2 execution and the findings.

3 Q. Are you aware of any states that
4 have a higher percentage of their kindergarten
5 through third grade public school students in
6 classes of 20 or fewer students than California?

7 A. I don't know.

8 Q. In paragraph 11 of your report,
9 when you write that, "Educational essentials
10 include sufficient and up-to-date libraries,"
11 did you have in mind a recommendation of the
12 number of libraries, the number of library
13 staffing, the number of librarians, or --

14 A. What I had in mind, I think, was
15 schools I think in which there are no libraries
16 or libraries that are unstaffed or inadequately
17 furnished with reading material, of which we
18 unhappily found too many in the State of New
19 York.

20 Q. Do you have any recommendations
21 regarding the number of library books that
22 should be in a public school per school or per
23 student or in some other fashion?

24 MS. LHAMON: Incomplete

1 Q. Are you familiar with the Tennessee
2 State Department of Education Four Year
3 Longitudinal Class Size project-Student Teacher
4 Achievement Ratio?

5 A. I'm generally familiar with that.
6 I've not made a specific study of it.

7 Q. Did you consider the Tennessee
8 State Department of Education's Four Year
9 Longitudinal Class Size project in formulating
10 your opinions in this case?

11 A. My opinions in this case has been
12 formed over a long period of time, for many,
13 many, many years; and I believe that the results
14 of the Tennessee study are consistent with
15 opinions I already had formed, so they may have
16 reinforced them, but it wasn't new material.

17 Q. Do you regard the results of the
18 Tennessee study as a reliable authority on the
19 relationship between class size and academic
20 performance?

21 A. I think it's good research. I
22 don't know that it makes it a reliable
23 authority, it depends what you mean by that.
24 But I credit what the authors of that report

1 hypothetical.

2 A. There are -- under the
3 commissioner's regulations in New York State,
4 there are -- what do they call them --
5 requirements for schools of a certain size to be
6 staffed in a certain way with respect to
7 librarians.

8 I don't think there are formal
9 regulations regarding the number of books that
10 need to be -- I don't think that there are
11 formal regulations with respect to the number of
12 books that should be available per student, but
13 I don't recall specifically what those numbers
14 are now nor did I have them in mind at the time
15 that I gave this testimony to the CFE people.

16 What I had in my mind at the time
17 that I made this recommendation were those
18 schools that I had personally visited and others
19 of which had been drawn to my attention where,
20 once again, there were no libraries or there
21 were libraries without a librarian or other
22 competent staff, or where the collection had
23 been neglected for so long that many of the
24 materials were out of date.

1 That's what I had in my mind.
2 Q. What did you mean in paragraph 11
3 of your report when you write that, "Education
4 essentials include sufficient and up-to-date
5 technology"?

6 A. We live in a computer society.
7 This is the information age, as the pundits say,
8 and I regard capacity to use computers
9 effectively as part of the new literacy, along
10 with the reading of print and mathematical
11 literacy, so that all students should have
12 access to the equipment and the software they
13 need to pursue learning in this new form.

14 Q. What do you mean when you say,
15 "access"? Do you have in mind any, for example,
16 student to computer ratios or any numeric
17 components to your opinion that schools should
18 have sufficient and updated technology?

19 A. I respect the question, but I don't
20 have a specific ratio to suggest.

21 Q. When you wrote in paragraph 11 of
22 your report that, "Educational essentials
23 include sufficient and up-to-date laboratories,"
24 do you have any opinion about how many

1 laboratories that would be sufficient for any
2 given school?

3 A. No.

4 Q. What do you mean in paragraph 11 in
5 your report when you write that, "Educational
6 essentials include suitable curricula, as well
7 as extracurricular activities."

8 What did you mean by "suitable"?

9 A. Curricula that reflect the state's
10 standards for learning, for example. Virtually
11 -- I think now it is all of the states in the
12 union have set standards of content, standards
13 of performance, standards for learning. What
14 students should come to know and be able to do
15 by the time they've graduated or at other
16 appropriate benchmarks along the way; and
17 curricula should be such that once mastered,
18 students can meet those standards.

19 Q. What did you mean in paragraph 11
20 of your report when you write that, "Educational
21 essentials include appropriate support services
22 for all students and supplemental aids, services
23 and suitable instructional programs for students
24 with extraordinary needs"?

1 laboratories per school or per student would be
2 sufficient?

3 A. Once again, I can't give you
4 specific facts or formulation.

5 Much of this work -- we're talking
6 about recommendations that were made here for
7 the CFE case in New York State, and that
8 litigation is ongoing; and part of the action
9 currently, as a matter of fact, is to define
10 precisely, in a way that you're seeking now,
11 which I respect, the conditions and the
12 resources that are needed to achieve what in New
13 York State we call a sound, basic education.

14 Now, until that work is completed,
15 I would be reluctant, even if I had a set of
16 numbers in my mind, to pose those numbers
17 without additional study.

18 What I had in my mind when I wrote
19 what is here, once again, is the absence of
20 science laboratories in schools that were trying
21 to teach laboratory science, mostly at the
22 secondary level, of course.

23 Q. In terms of your opinion for this
24 case, do you have in mind a specific number of

1 A. I'm thinking of children that have
2 exceptional needs. Once again, special
3 education students or children that do not speak
4 English as a native language, who require the
5 assistance of specially trained teachers and/or
6 counselors and/or psychologists and/or teaching
7 aides, teacher aides.

8 Q. What types of support services for
9 students with extraordinary needs would be
10 considered appropriate?

11 A. Counseling, tutoring.

12 Q. What do you mean in paragraph 11 of
13 your report when you write that "educational
14 essentials include adequate and accessible
15 facilities"?

16 A. Well, you recall that earlier in
17 our conversation here, I said that the three
18 most important conditions, from my point of
19 view, though they are all important, would be
20 teachers and instructional materials, including
21 textbooks, and a safe, clean, orderly
22 environment.

23 By adequate and accessible
24 facilities, I mean facilities that afford a

1 safe, orderly environment that are clean, that
2 are well lit, that are accessible to the pupils
3 with handicapping conditions and that are safe.

4 Q. What do you mean in paragraph 11 of
5 your report when you write that "educational
6 essentials include parent and community
7 involvement"?

8 A. I think we know that children tend
9 to do better when parents and families work
10 collaboratively with the school in a child's
11 education; so in this list of essentials, it
12 would be a provision for the involvement of
13 parents, in particular, and from time to time,
14 other members of the community in raising and
15 educating these children.

16 The point is that the school, while
17 central to a child's education, cannot always do
18 everything by itself, but requires the
19 collaboration of people within the parent body
20 and the community at large.

21 Q. Attached as the appendix to your
22 report is, "New Compact For Learning: Improving
23 Public Elementary, Middle, and Secondary
24 Education Results in the 1990s," correct?

1 half of the 1990s.

2 I'll add another sentence to that.

3 That, in addition to informing
4 people about this document, the New Compact For
5 Learning, and eliciting their opinions about its
6 contents, I followed it up with specific action
7 plans and steps to put various elements of the
8 Compact to effect in schools throughout the
9 state.

10 Q. Are there documents which describe
11 the specific action plans and steps you took to
12 put the New Compact For Learning into effect --

13 A. Yes. I don't have them with me.

14 Q. What are those documents?

15 A. They're many.

16 For example, there were
17 recommendations for the provision of state aid
18 that we made annually that were tied to the
19 provisions of the Compact.

20 There was a document about the
21 School Quality Review program that is described
22 in some detail in outline, rather, in the New
23 Compact For Learning.

24 There were plans for identifying

1 A. Yes.

2 Q. Will you understand if I refer to
3 that document as the New Compact For Learning?

4 A. Yes.

5 Q. What was your role in the research
6 and drafting of the New Compact For Learning?

7 A. I initiated the idea. I organized
8 a process of deliberation among
9 education-related parties in the State of New
10 York. I did some of the drafting of language
11 myself. I presided at hearings across the state
12 where people testified as to what they believed
13 the Compact ought to contain or emphasize.

14 I brought the matter before the
15 Board of Regents, and with the help of the
16 members of the board, refined and revised the
17 drafts that we've been working with.

18 Once the Board of Regents had
19 approved the document, I communicated about it
20 with the governor, with the legislature, with
21 educational organizations throughout the state,
22 with the business community, with the media.

23 It was the initial design of our
24 education reform efforts throughout the first

1 what we called Compact schools. Schools that
2 had made significant improvements in teaching
3 and learning, whose work should be called to the
4 attention of other practitioners in the field
5 and so on.

6 It was a long list of specific
7 actions that were taken and there was
8 documentation for each of the various
9 initiatives. I've just given you three or four
10 examples.

11 Q. What was the form of that
12 documentation for each of the initiatives?

13 A. Well, it varied depending upon the
14 nature of the initiative.

15 The recommendations for provision
16 of state aid were in the form of a resolution
17 that went from the Board of Regents to the
18 legislature and the governor. The
19 identification of what we call Compact schools
20 was a matter of communication between my office,
21 as commissioner, and boards of education and
22 superintendents of schools throughout the state.

23 Q. In addition to you, were there
24 other people involved in the drafting and adding

1 to the New Compact For Learning?

2 A. A great many people were also
3 involved in the sense that we -- when we tried
4 to make the process of writing the Compact as an
5 inclusive activity as is practically possible in
6 a large and diverse state, so we had very rough
7 drafts initially that we took to the field and
8 we would have -- I guess they weren't formal
9 hearings, but we would have sessions involving
10 interested parties in various locations across
11 the state and have them respond both orally and
12 in writing to our drafts, and then we would try
13 to synthesize the response and collect it and
14 put it in.

15 So those people who did respond in
16 that way -- and there were a great many of
17 them -- had some input into the development of
18 the Compact.

19 And on a more practical, immediate
20 level, there were members of my staff who wrote
21 some portions of the text, although essentially
22 the text is mine. I wrote most of it and
23 certainly oversaw it all.

24 Q. The New Compact For Learning was a

1 discretion, community members; the function of
2 those schools being to oversee the process and
3 results of teaching and learning and to make
4 recommendations for improvements school by
5 school.

6 That initiative was made a part of
7 the commissioner's regulations and was approved
8 by the Board of Regents who had the authority to
9 make that approval, grant that approval.

10 What's stopping me right now is
11 that there was a list of 16, 20 discrete -- I'm
12 not sure which exact number, in that general
13 range, 16 to 20 specific programmatic
14 initiatives that we undertook. We made more
15 progress in some and less on others.

16 Some of the them required the
17 support of the legislature and some of them did
18 not; so if I stand back and try to generalize
19 about it, we may -- many of the provisions were
20 implemented to some degree, only a few of them
21 fully, but pretty much something along each
22 line.

23 Q. Would it be accurate to say that
24 there were approximately 16 to 20 discrete,

1 recommendation from the Commissioner of
2 Education to the New York Board of Regents,
3 correct?

4 A. Yes. That's correct. And it was
5 approved by the board in 1991, as I recall.

6 Q. To what extent were the provisions
7 of the New Compact For Learning implemented by
8 the State of New York?

9 A. Again, it depends on which of the
10 various initiatives you're talking about.

11 The legislature, to take the matter
12 of financial aid to local school districts,
13 first of all. The Board of Regents made
14 annually recommendations to the legislature and
15 the governor for increases in funding consistent
16 with portions of the Compact.

17 There were, in fact, increases
18 provided annually by the legislature and the
19 governor, but not as large as those recommended
20 by the Board of Regents.

21 One of the proposed initiatives in
22 the New Compact for Learning was the formation
23 of school-based planning teams consisting of
24 teachers, the principal, parents, and at their

1 specific initiatives, programmatic initiatives,
2 that were formulated to implement the New
3 Compact For Learning?

4 A. Yes.

5 Q. Are there any documents which
6 describe those approximately 16 to 20 discrete
7 initiatives?

8 A. There certainly were, and I should
9 think they would still be available. I don't
10 have them all in my possession any longer.

11 Q. Were those initiatives that were
12 intended to implement the New Compact For
13 Learning proposed by you, as Commissioner of
14 Education?

15 A. Yes, in consultation with staff and
16 other people in the field first, but then
17 proposed formally by me.

18 Q. Over what period of time were the
19 16 to 20 discrete programmatic initiatives to
20 implement the New Compact For Learning proposed?

21 A. From the time that the Compact was
22 approved by the Board of Regents, sometime in
23 1991, until the time that I left office on June
24 30, 1995, so approximately over that four-year

1 period.

2 Q. Since the time that you left office
3 in 1995, have there been any other initiatives
4 that have been undertaken to implement the New
5 Compact For Learning?

6 A. Yes, I believe so.

7 One of the recommendations of the
8 Compact was that we specify more clearly and
9 explicitly than ever in the past what it is that
10 students should come to know and be able to do
11 by the time they are ready to graduate from high
12 school.

13 I began work on developing those
14 standards, and the work was picked up and
15 carried forward by my successor in office.

16 Q. What are those standards called?

17 A. I think the New Learning Standards,
18 or something like that.

19 Q. In addition to the New Learning
20 Standards, have there been any other initiatives
21 adopted since you left office in 1995 to
22 implement the New Compact For Learning in New
23 York?

24 MS. LHAMON: Calls for speculation.

1 course of some of them, I'm sure.

2 Q. Did any of the initiatives that you
3 proposed to implement the New Compact For
4 Learning not require legislature approval?

5 A. Did any not require -- yes.

6 Q. Which were those?

7 A. Well, I've mentioned one, which was
8 the school-based planning and decision making
9 teams, but there were others.

10 The School Quality Review program,
11 which brought outstanding teachers within a
12 region together with parents and other community
13 members to assess the work and progress and
14 problems of school operations at a given site.

15 That required no legislative
16 authority, and let's see what else.

17 The identification of outstanding
18 schools whose stories should be shared with
19 others was an initiative that didn't require
20 legislative authority.

21 We formed a statewide parent
22 council to make recommendations concerning the
23 involvement of parents in their children's
24 education. That did not require legislative

1 A. Well, much of the work goes forward
2 under a different name. We recommended, as I
3 mentioned a minute ago, and then required,
4 through regulation with the approval of the
5 Board of Regents, site-based planning and
6 decision making committees.

7 That work has gone forward over the
8 ensuing years, but is no longer thought of as
9 the New Compact for Learning that is guiding the
10 action. It's just an initiative that continues
11 on its own merits.

12 So the packaging, the organizing of
13 these discrete initiatives into a unified,
14 coherent plan has fallen away, but much of the
15 specific work continues.

16 Q. Of the 16 to 20 discrete
17 programmatic initiatives that you proposed to
18 implement the New Compact For Learning while you
19 were in office, do you have any estimate as to
20 how many of those initiatives were fully
21 implemented?

22 A. No. I'd have to go back and remind
23 -- refresh my recollection as to what the 16 to
24 20 were; and I'd have to inquire about the

1 authority.

2 I formed a curriculum and
3 assessment council composed of teachers and
4 university scholars and representatives of the
5 citizenry to help with the identification, the
6 drawing up of new standards for learning across
7 the state, and that did not require legislative
8 authority.

9 So there are three or four, anyway,
10 such initiatives that we were able to proceed
11 with that did not require the authority of the
12 legislature.

13 Q. What was the nature of the
14 school-based planning team's initiative?

15 A. It was a requirement that each
16 school, each public school in this day, form a
17 committee consisting of teachers, the principal,
18 parents, and at their discretion, other citizens
19 from the community, to come together and talk
20 about how well children were or were not doing
21 and to suggest ways of improving the situation
22 where improvement seemed warranted.

23 Q. Have there been any formal studies
24 that have assessed the effects of the

1 programmatic initiatives that were implemented
 2 to carry out the New Compact For Learning?
 3 MS. LHAMON: Calls for speculation.
 4 A. I know there are some such studies.
 5 I don't know that I know all of the studies that
 6 have been done, but to give one example of a
 7 study that was done, a center at Teachers
 8 College, Columbia University, where I now am
 9 employed, called NCREST. That's an acronym for
 10 -- what was it -- I'm drawing a blank of what
 11 the acronym stands for.
 12 I'll try to get it out of my head
 13 in a minute, but the NCREST people conducted a
 14 study of the School Quality Review program to
 15 try to determine and document the gains that
 16 have been made possible plus the problems that
 17 had been identified.
 18 Q. How do you spell NCREST?
 19 A. N-C-R-E-S-T.
 20 Q. In addition to the NCREST study of
 21 the School Quality Review program, are you aware
 22 of any studies of any of the programmatic
 23 initiatives that were adopted to implement the
 24 New Compact For Learning?

1 A. I don't know them all. I know
 2 people that have done work, there have been
 3 research studies on school-based planning teams.
 4 There have been studies done on the relationship
 5 between the provision of resources and school
 6 achievement, but I don't know them all and I
 7 can't quote them all now from the top of my
 8 head.
 9 (A recess was taken.)
 10 Q. Dr. Sobol, in your report, did you
 11 cite any of the studies that have been done in
 12 the initiatives that were adopted to implement
 13 the New Compact For Learning in New York?
 14 A. No, I have not.
 15 Q. Was there some reason why you did
 16 not cite those studies?
 17 A. Never occurred to me.
 18 Q. Part of the New Compact For
 19 Learning was the specification of new learning
 20 standards and an assessment program to accompany
 21 that, correct?
 22 A. Correct.
 23 Q. Would you agree that one cannot
 24 make a complete judgment on the quality of a

1 student's education by how that student performs
 2 on standardized tests?
 3 A. Yes.
 4 Q. To know how well a school district
 5 is educating its students, would you also want
 6 to know what sort of advantages or disadvantages
 7 those children come to school with?
 8 A. Could you repeat that question,
 9 please?
 10 Q. Yes.
 11 To know how well a school district
 12 is educating its students, you would want to
 13 know what sort of advantages or disadvantages
 14 those kids come to school with, correct?
 15 A. You would want to know as much
 16 about every child as you can in order to educate
 17 him or her well.
 18 Q. The New Compact For Learning was a
 19 strategy directed at school reform in New York
 20 State, correct?
 21 A. Correct.
 22 Q. During the time you were
 23 Commissioner of Education, you did not specify
 24 in writing the minimum resources needed to

1 achieve the learning outcomes contemplated by
 2 the New Compact For Learning, correct?
 3 A. Well, we specified annually the
 4 resources that we thought were needed. We made
 5 recommendations for state aid to education
 6 annually, and I tried to deploy the staff of the
 7 State Education Department to place where there
 8 was greatest need.
 9 Q. Would you agree that part of the
 10 new spirit of the New Compact For Learning was
 11 that the state would be more clear about and
 12 more specific about what needed to be
 13 accomplished educationally, and schools and
 14 school districts would be afforded freedom from
 15 rules and regulations in achieving those
 16 results?
 17 A. Yes.
 18 Q. The New Compact For Learning set
 19 goals which had never been achieved before,
 20 correct?
 21 A. In the broadest sense, yes.
 22 Q. One of the motivating factors in
 23 adopting the New Compact For Learning was a
 24 concern about international competitiveness,

1 correct?

2 A. Correct.

3 MS. LHAMON: Vague as to whom.

4 Q. The New Compact For Learning was
5 adopted in part because it was believed in 1991
6 that the U.S. economics preeminence was
7 threatened, correct?

8 MS. LHAMON: Vague as to who
9 believed that and as to why particular people
10 adopted it. Also calls for speculation.

11 A. But in the public discourse about
12 state of education in the late '80s and early
13 '90s, that was a theme that was sounded very
14 often.

15 Q. The New Compact For Learning called
16 for equity of outcomes, correct?

17 A. Correct.

18 MS. LHAMON: Vague as to "equity of
19 outcomes."

20 Q. What are equity of outcomes, as
21 used in the New Compact for Learning?

22 A. You don't mean whether the specific
23 outcomes -- you mean what, in general, did I
24 mean by that term? Help me with the question,

1 life in the same place or don't live under the
2 same conditions, start their educational life in
3 a different place and don't live under the same
4 conditions and have differing talents and
5 differing needs, what is more important than
6 equality of input is equity of outcome, meaning
7 that the learning results that are achieved are
8 as independent as we can make them of the
9 socioeconomic circumstances of the children's
10 background.

11 Does that come close to what you
12 were thinking of?

13 Q. Yes?

14 Is it your opinion that the New
15 Compact For Learning should be implemented in
16 California?

17 A. No. Because the New Compact For
18 Learning, while many of its provisions apply
19 outside New York State and continue to do that,
20 it was a plan that we drew up at a particular
21 time in a particular environment and should not
22 be transferred in unchanged form to a new
23 setting.

24 I think that the fundamental

1 would you?

2 Q. Yes.

3 As it was used in the New Compact
4 For Learning, what was the meaning of "equity of
5 outcomes"?

6 MS. LHAMON: Do you want to point
7 to a specific place in the New Compact For
8 Learning?

9 Q. If you could answer it generally, I
10 would ask you do that. If not, I can find a
11 place where it's referred to.

12 A. I'll try to do it generally, but it
13 may not be satisfactory to you.

14 We made a distinction between
15 equality of input and equity of outcome. What
16 we said was, and what I said was, and what I
17 continue to believe is that an important
18 distinction is to be made between those two
19 terms.

20 Equality of input means giving each
21 student or each identified group of students the
22 same resources and the same access to
23 educational opportunities across the board.

24 But because students don't start

1 principles of the Compact and the basic ideas in
2 which it premised are perennial and enduring
3 across jurisdictions, but the specific action
4 steps to be taken to fulfilling it need to vary
5 with the circumstances.

6 Q. Was it part of your assignment in
7 this case to prepare the specific action steps
8 that California should take to fulfill the New
9 Compact For Learning?

10 A. No, it was not.

11 Q. Was it part of your assignment in
12 this case to determine whether there are any
13 parts of the New Compact For Learning that are
14 not applicable to California?

15 A. No.

16 MS. LHAMON: You asked him already
17 if paragraph 7 fully defined his assignment for
18 this case and he told you that it did.

19 A. No.

20 Q. In your opinion, does the New
21 Compact For Learning set forth a detailed
22 program for how a state should organize its
23 educational system?

24 MS. LHAMON: Vague and ambiguous.

1 A. The New Compact For Learning
2 induces principles of effective education that
3 are applicable presently and across the various
4 political jurisdictions in our country.

5 It is not, however, a detailed plan
6 for achieving those outcomes or acting
7 consistently with those principles.

8 Q. Referring to paragraph 12 of your
9 report --

10 A. What page is that, please?

11 Q. The bottom of page 5, the top of
12 page 6.

13 A. Thank you.

14 Q. How did you spearhead the
15 comprehensive strategy for school reform in New
16 York?

17 MS. LHAMON: It's vague as to
18 "how."

19 A. Well, I've described previously --
20 the New Compact-- let me withdraw my comment.

21 The comprehensive strategy for
22 school reform in New York was embodied in the
23 New Compact for Learning and I've described
24 previously in this testimony what my role was in

1 achievement of students has been improved,
2 students whom you might have identified as being
3 quote, "at risk," end quote, of school failure
4 have been helped not to fail, but to improve
5 their academic achievement.

6 Q. Who were you referring to when you
7 said "students who might be identified as being
8 at risk of school failure"?

9 A. We tend to think, I think, of
10 students from adverse socioeconomic backgrounds
11 as students who are not apt to do well in
12 school. You would predict on the basis of
13 socioeconomic status as defined by family
14 income, by education of the parents and so on,
15 that these students would not do well.

16 But what I know to be true from
17 experience is that even with such students, the
18 right kind of teaching and support and the right
19 kind of environment, that with that kind of
20 teaching and with that kind of environment,
21 these students can make great gains.

22 In other words, it was very
23 important to me when developing the New Compact
24 for Learning that we recognized the validity of

1 the creation and enactment of the Compact.

2 Q. When you refer to the comprehensive
3 strategy for school reform in New York, at the
4 top of page 6 of your report, are you referring
5 to the New Compact for Learning?

6 A. Yes, I am.

7 Q. In paragraph 12 of your report,
8 when you say, "In my personal experience, over
9 many long years as an educator, I have seen
10 students who were statistically unlikely to
11 succeed achieve to high standards when given the
12 right kind of teaching and the right kind of
13 support."

14 Is that statement based upon
15 academic research or anecdotal evidence?

16 A. Both.

17 Q. What academic research is that
18 statement based on?

19 A. I can't quote you specific studies,
20 but to give one example, there's a body of
21 literature concerning alternative schools, and
22 some of the smaller schools in New York City
23 that were devised over the period of time of
24 which we're speaking, that show how the

1 that assertion, and that we extend our best
2 efforts to educate all children. Not just those
3 of the backgrounds of privilege.

4 Q. In paragraph 13 of your report, in
5 the first sentence you say, "I understand that
6 the Williams lawsuit does not even seek the
7 provision of all these educational essentials as
8 I've defined them, but that instead the suit
9 seeks only the provision of trained teachers,
10 sufficient and up-to-date books and
11 instructional materials and adequate
12 facilities."

13 What do you mean when you say that
14 the Williams lawsuit seeks the provision of
15 trained teachers?

16 A. I take it to mean that one of the
17 essentials of education is -- in fact, one of
18 the three most important essentials of education
19 is that students have teachers trained in the
20 subject that they're teaching, and trained in
21 the science and arts of communicating those
22 subjects to students.

23 Q. What do you mean when you say that
24 the Williams lawsuit "seeks the provision of

1 up-to-date books and instructional materials"?

2 A. I'm not trying to be difficult, but
3 I don't get the -- ask me the question again,
4 would you, please? It's my fault, not yours. I
5 apologize.

6 Q. What is your understanding of what
7 the Williams lawsuit seeks with the regard to
8 the provision of up-to-date books and
9 instructional materials?

10 A. I guess the Williams lawsuit --

11 MS. LHAMON: Tony, did you mean to
12 leave out "sufficient"?

13 MR. SEFERIAN: In that question,
14 yes. Thank you.

15 A. I think it means that textbooks in
16 science should reflect current scientific
17 knowledge. Not outdated material. That history
18 books are up to date and don't end with the
19 Treaty of Ghent. That the computer software and
20 courseware be up to date.

21 I don't know what else to say to
22 that.

23 Q. What is your understanding with
24 regard to what the Williams lawsuit seeks with

1 What did you mean by "educational
2 opportunity" in that sentence?

3 A. An opportunity for students to
4 learn the skills and knowledge which have been
5 defined as essential by the state and the
6 state's school districts.

7 Q. On page 6 of your report you cite
8 an article you wrote for the Teachers College
9 Record entitled, "Beyond Standards: The Rest of
10 the Agenda."

11 In your article "Beyond Standards,"
12 did you write, "In reference to the
13 standards-based education reform movement that
14 new high standards are necessary and desirable"?

15 MS. LHAMON: Calls for speculation.
16 You might want to show him the document. Are
17 you asking if that's a specific, direct quote
18 that's in the article?

19 MR. SEFERIAN: Yes.

20 MS. LHAMON: Do you remember?

21 A. What was the quote again?

22 Q. In the article "Beyond Standards,"
23 did you write that, "In reference to the
24 standards-based education reform movement that

1 respect to the provision of sufficient
2 instructional materials?

3 A. Most, if not all, courses of
4 studies or curricula depend not only on a single
5 textbook for their proper conduct, but on other
6 instructional materials such as charts, maps,
7 globes, computer material, computer courseware
8 and software, laboratory equipment.

9 They are the stuff of learning and
10 the aids to learning that are needed.

11 Q. What do you mean when you write
12 that, "The Williams lawsuit seeks the provision
13 of adequate facilities"?

14 A. I mean by "adequate facilities,"
15 facilities that are clean, safe, well lit,
16 accessible to pupils with handicapping
17 conditions, large enough to accommodate the
18 numbers that they try to hold.

19 Q. Also, in paragraph 13 you write,
20 "There could be no question that at least these
21 three categories of resources are required for
22 educational opportunity. In addition, I
23 believe, to the other categories I defined in
24 New York."

1 new high standards are necessary and desirable"?

2 A. I don't remember whether I wrote
3 that or not, but I certainly believed it at the
4 time that I wrote the article, and I continue to
5 believe it now.

6 Q. It was not part of your assignment
7 in this case to assess the educational standards
8 or accountability system in California, correct?

9 A. That is correct.

10 MS. LHAMON: Asked and answered.

11 Q. In paragraph 14 of your report, in
12 the first sentence you write, "Trained and
13 effective teachers are without question the
14 single most important component of educational
15 opportunity."

16 In your report, did you cite to any
17 studies to support that statement?

18 MS. LHAMON: The document speaks
19 for itself.

20 A. I did not cite any studies.

21 Q. Also in paragraph 14 you write, "In
22 schools as we know them, the quality of a
23 child's education depends directly on the
24 quality of the child's teacher."

1 In your report, did you cite to any
2 studies to support that statement?
3 MS. LHAMON: Again, the document
4 speaks for itself.
5 A. I did not cite studies. I relied
6 on a lifetime of experience.
7 Q. Were you also relying on your
8 experience in paragraph 14 of your report when
9 you wrote, "It is thus important to require
10 teachers to obtain and maintain credentials in
11 their craft because satisfaction of credential
12 requirements at least ensures teachers' access
13 to the training necessary for effective
14 teachers"?

15 A. Yes.
16 Q. Would you agree that there are some
17 effective teachers who have not yet satisfied
18 their state's credential requirements --
19 A. Yes.
20 Q. Would you agree that there are some
21 teachers who have not yet satisfied their
22 state's credential requirements?
23 A. Would I agree that there are some
24 teachers that are not --

1 Q. I'm not finished with my
2 question.
3 A. The answer to that one would have
4 been yes.
5 Q. Would you agree that some teachers
6 who have not yet satisfied their state's
7 credential requirements are more effective than
8 some credentialed teachers?
9 A. Yes.
10 Q. Would you agree that the
11 effectiveness of a teacher is determined by more
12 than satisfaction of credential requirements?
13 A. Yes. But what the requirements do
14 is screen out people that are clearly
15 unqualified or who may have committed acts in
16 their past that make them a hazard to children,
17 so it's a very, very useful screening device,
18 even though there's not a one-to-one
19 correspondence between licensure or
20 certification and quality.
21 Q. Referring to paragraph 15 of your
22 report, in the first sentence, what are
23 "cultures of learning and collaborative
24 endeavor"?

1 A. Well, let me not define "cultures"
2 first. I'll just take the meaning of that word
3 for granted and speak to the rest of the
4 question.
5 A culture of learning and
6 collaborative endeavor is one in which the
7 participants -- the students, the teachers,
8 those peripherally involved, the parents, other
9 people -- take teaching and learning very
10 seriously. It is important to them. It is
11 important to try to strive to do well, and they
12 do it collaboratively.
13 The teachers work together with the
14 students. The students work together with one
15 another and the teachers. The teachers
16 collaborate among themselves. It is a
17 productive group working collaboratively with
18 one another with shared expectations and shared
19 goals to which they are strongly committed.
20 That kind of culture.
21 Q. Are you aware of any studies that
22 indicate that it is very difficult to develop
23 sustained or continuing cultures when there is a
24 great deal of turnover among the faculty?

1 MS. LHAMON: Vague as to "very
2 difficult."
3 A. I suspect there are such studies,
4 but I don't know about them and I didn't rely
5 upon them in making this statement.
6 I've just seen what happens again
7 and again and again, decade after decade, when
8 teachers leave and the culture that has been
9 achieved is affected by their departure and
10 continuity is more difficult to sustain, and new
11 relationships have to be forged between and
12 among the students and the teachers and so on.
13 Q. Referring to footnote 10 on page 7
14 of your report, are you aware of any studies
15 that support the statements in footnote 10 of
16 your report?
17 A. Again, I believe there are such
18 studies, but I did not rely upon them in voicing
19 my opinion.
20 Q. In the last sentence of paragraph
21 15 on page 7 of your report, what did you mean
22 by "high teacher turnover"?
23 A. High rates of turnover. More
24 people leaving annually than the norm.

1 Q. Can you quantify the term "high
2 teacher turnover" as used in paragraph 15 on
3 page 7 of your report?

4 A. I can't give you exact numbers for
5 it, no, I'm sorry.

6 Q. Can you quantify the term "high
7 numbers of untrained teachers as used in
8 paragraph 15 on page 7 of your report?"

9 A. I can't tell you what those numbers
10 are, but there are abundant studies that have
11 been done on that matter, and I know the general
12 conclusion to be true.

13 Q. When you wrote in paragraph 15 of
14 your report that, "High teacher turnover and
15 high numbers of untrained teachers on campuses
16 thus severely limits student learning
17 opportunities," did you have in mind a rate of
18 teacher turnover or a number of untrained
19 teachers?

20 A. Not a specific number, no.

21 Q. Did you have in mind any range of
22 those figures?

23 A. No.

24 Q. In your opinion, is there a certain

1 as can possibly achieve it.

2 Q. If someone has a full teaching
3 credential in one area, but only has an
4 emergency teaching permit in the area in which
5 they're currently teaching, would that person be
6 considered "untrained," as that term is used in
7 paragraph 15 of your report?

8 A. Yes.

9 Q. Why do you say that?

10 A. They're untrained with respect to
11 that particular assignment, at least.

12 Q. In the first sentence of paragraph
13 16 of your report you state, "After teacher
14 training and quality, access to proper
15 instructional materials and appropriate school
16 facilities rival each other in importance.
17 Students need at least all of these conditions
18 in their schools in order to have basic
19 educational opportunity."

20 Did you have in mind specific
21 academic support, sources that support that
22 assertion?

23 A. Well, once again I have no --
24 strike "I have no."

1 percentage of untrained teachers on a campus
2 that would severely limit student learning
3 opportunities?

4 MS. LHAMON: Vague as to "severely
5 limit."

6 A. I'm not sure that there's a single
7 number that anybody ought to have in mind.

8 What I mean by that is, the needs
9 of groups of students vary; and the history of
10 particular groups of students varies. It would
11 be much more important for a -- let's say a
12 fifth grade class of students to have continuity
13 of instruction if that continuity has been
14 interrupted four or five times by the time they
15 already get to the fifth grade. It would be
16 more important for them than for some other
17 fifth grade class who had not had that rate of
18 turnover.

19 So much -- I can't give you a
20 general formula. A lot of it is situational.
21 But I will tell you that every experienced
22 school principal is very mindful of this matter
23 and knows that continuity and stability of
24 education is highly desirable for as many kids

1 It is possible that studies have
2 been done along these lines, but I didn't rely
3 upon them in making my assertion.

4 For me, it's -- what we were
5 talking about earlier this morning with respect
6 to these three essentials. They're so obviously
7 essential that you can't think of the situation
8 without them.

9 The kids and the teacher who have
10 no history textbook are going to have a harder
11 time learning history than one that has one. If
12 the building is overcrowded and unsafe, students
13 are going to have a much more difficult time
14 learning than if those conditions were not the
15 case.

16 It's sort of, for me, like the moon
17 and the sun. It's so plain. There they are
18 every day. They don't require -- we rely on
19 their appearance the following day with or
20 without the benefit of a social science study to
21 make the -- to reassure us.

22 Q. Do you believe that a state's
23 educational policy and educational initiatives
24 should have support of social science?

1 MS. LHAMON: Vague, ambiguous.

2 A. I think that state policy should be
3 consistent with the understandings that social
4 science enables us to have, but I don't think it
5 needs to be based exclusively upon that.

6 Q. Should state educational policies
7 and initiatives be based, at least in part, on
8 social science support?

9 A. Yes, in part.

10 (A luncheon recess was taken from
11 12:40 p.m. to 1:30 p.m.)

12 Q. Dr. Sobol, did you have any
13 discussion with Ms. Lhamon during the lunch
14 break about the deposition?

15 A. Just very, very briefly we talked
16 about -- I asked her if there was anything that
17 I should be doing that I'm not. She said "no."

18 I said to her that maybe you were
19 going to make a case that since I rely more on
20 my experience than on social science research,
21 that you're going to make a case that my
22 testimony is personal and idiosyncratic and
23 doesn't apply. She said, "It's the truth. Just
24 go ahead and say it."

1 recent developments and that are not outdated.

2 Q. In paragraph 16 of your report,
3 what did you mean "relevant software for
4 learning" when you say that, "All students
5 should also have access to computers and
6 relevant software for learning?"

7 A. That, once again, reflects the
8 content of the curriculum and the standards that
9 are being pursued. Software that is relevant to
10 the course of study in which the students are
11 involved.

12 Q. Is relevant software for learning
13 an educational "essential," as that term is used
14 in paragraph 11 of your report?

15 A. Relevant software is a sub-set of
16 textbooks and other instructional materials
17 which I consider, taken as a totality, one of
18 the three primary elements needed.

19 Q. In paragraph 16 of your report, you
20 state, "If instructional materials are limited
21 or out of date, students can learn from them
22 only fragmentally, partially and possibly even
23 inappropriately."

24 Did you have in mind any specific

1 That was our discussion.

2 Q. Have you had any discussion with
3 Ms. Lhamon in any of the prior breaks we took
4 today regarding the deposition?

5 A. No.

6 Q. In paragraph 16 on page 8 of your
7 report, in the first sentence what did you mean
8 by "proper instructional materials" in that
9 context?

10 A. Materials that are up to date and
11 accurately and adequately reflect the curriculum
12 and the standards that are being pursued.

13 Q. In the first sentence of paragraph
14 16 of your report, what did you mean by
15 "appropriate school facilities" in that context?

16 A. Once again, school facilities that
17 are safe and clean and orderly and appropriately
18 sized for the population there to hold and the
19 kind of activity to be conducted.

20 Q. In the next sentence of paragraph
21 16 of your report, what did you mean by
22 "up-to-date textbooks"?

23 A. Textbooks, for example, in history
24 and science that reflect recent knowledge and

1 studies when you wrote that statement?

2 A. No. I had a set of conditions in
3 mind, conditions where students were working
4 with what I would regard as obsolete texts or
5 insufficient quantities for each student to have
6 his own text. That sort of thing.

7 Q. In your opinion, should a state
8 require districts and schools to provide all
9 students with textbooks and principal
10 instruction materials in course subjects for use
11 in class and at home?

12 A. The question is, should the state
13 require that? Is that what you're asking me?
14 Yes.

15 Q. In your opinion, is it appropriate
16 for a state to follow a textbook policy that
17 focuses on building school districts' capacity
18 to acquire high quality materials by providing
19 funds for textbooks and restricting the use of
20 those funds to textbooks and materials that have
21 been reviewed, approved and/or adopted by the
22 state?

23 MS. LHAMON: Incomplete
24 hypothetical. Vague and ambiguous.

1 A. That's nothing that I said here, so
2 you're quoting from someplace else when you
3 asked me that question and it's hard for me to
4 follow. Could you just read it once again,
5 please?

6 Q. Yes.

7 In your opinion, is it appropriate
8 for a state to follow a textbook policy that
9 focuses on building a school district's capacity
10 to acquire high quality materials by providing
11 funds for textbooks and restricting the use of
12 those funds to textbooks and materials that have
13 been reviewed, approved and/or adopted by the
14 state?

15 A. Yes.

16 Q. In paragraph 17 of your report, in
17 the second sentence you state, "The issue is
18 whether the character of the learning space is
19 supportive of the kind of teaching and learning
20 that should occur there."

21 What did you mean by that sentence?

22 A. I think I can best answer the
23 question by suggesting a couple of examples of
24 the generality.

1 You can't conduct a laboratory
2 experiment in the absence of the equipment and
3 the furniture that is needed to do so, the
4 tables and so on that are needed to do so.

5 Nobody should have to spend a
6 portion of every day or the totality of every
7 day in a closet or a laboratory because the
8 building is crowded.

9 You wouldn't conduct a physical
10 education class in a classroom where the
11 furniture was bolted down to the floor all the
12 way across the room.

13 Those are just examples that occur.

14 Q. Does the New Compact for Learning
15 make any recommendations regarding classroom
16 temperatures?

17 MS. LHAMON: The document speaks
18 for itself.

19 A. No.

20 Q. Did any of the initiatives that you
21 proposed with respect to implementing the New
22 Compact for Learning pertain to classroom
23 temperatures?

24 A. There was no specific initiative

1 that had classroom temperature as its specific
2 objective, but I think we always had in mind
3 reasonable -- a reasonable range of temperature.

4 Q. What is a reasonable range of
5 temperature for a public school classroom?

6 A. It's easier for me to tell you what
7 it isn't.

8 It's not a building that goes
9 unheated on a day like the one we have now, nor
10 is it reasonable to expect students and
11 teachers, for that matter, in an extended humid
12 heatwave where the temperature is in the 90s day
13 after day, so those are extremes, and you'd have
14 to define a range within the extremes.

15 Q. As you sit here today, do you have
16 any opinion about what a reasonable range of
17 temperature is for a classroom?

18 A. Well, you're -- I'll do my best to
19 answer your question, but you're asking me to
20 define something that I haven't defined for
21 myself in the past.

22 My guess is somewhere between the
23 middle 60s and 80s, is what most of us are
24 accustomed to.

1 Q. In the last sentence of paragraph
2 17 of your report, how do you define
3 "uncomfortably hot"?

4 A. Well, we all know it when we've got
5 it, don't we? And again, if I had to assign
6 numbers to it, I would say something
7 uncomfortably hot is something that is higher
8 than 80 degrees.

9 Q. How did you arrive at that
10 definition?

11 A. You asked me the question and I
12 came up with it, the answer. That's how I
13 arrived at it.

14 Q. What's the basis for that answer of
15 the definition of "uncomfortably hot"?

16 A. The basis is that I know that most
17 public environments -- and I know we're
18 concerned here with public schools -- most
19 public environments try to keep conditions
20 within that range.

21 They don't let them get colder or
22 hotter. I've noticed that businesses throughout
23 the country try to keep buildings within that
24 range in the private sector as well as in the

1 public.

2 So I guess my basis for the answer
3 that I had to think up when you asked me the
4 question is just what my general experience has
5 been walking in and out of buildings for a long
6 time.

7 Q. Do you believe that states should
8 have a statewide standard for public school
9 classroom temperatures?

10 A. It depends on how the standards are
11 defined.

12 I'm not sure that the state could
13 -- in New York State, for example, which I know
14 better, which is large and diverse, I'm not sure
15 the standards would be the same everywhere. I'm
16 not sure of that. It might be the same, but I'm
17 not sure of it so it's hard for me to give you
18 an answer to that.

19 Q. During the time that you were
20 Commissioner of Education in New York, did you
21 ever advocate for a statewide standard for
22 classroom temperatures?

23 A. No.

24 Q. Referring to paragraph 18 of your

1 And, of course, I visited schools
2 too and sometimes saw conditions similar to
3 those described here.

4 Q. Referring to the last sentence of
5 paragraph 19 of your report, in your opinion,
6 should school districts and schools be held
7 accountable for delivering educational
8 essentials on school sites?

9 A. Yes.

10 Q. Why should school districts and
11 schools be held accountable for delivering
12 educational essentials on school sites?

13 A. Because by definition, those
14 essentials are essential for learning to occur;
15 and the mission of the schools is to get
16 children to learn.

17 Q. How should school and district
18 staffs be held accountable for their day-to-day
19 delivery of education?

20 MS. LHAMON: The question is
21 overbroad.

22 A. I'm not sure what you mean by
23 "how."

24 Do you mean by that what rewards

1 report, on pages 9 and 10 what is the source you
2 relied upon for the statements in paragraph 18?

3 MS. LHAMON: All of them? The
4 question is compound.

5 Q. I'd like to ask you to just refer
6 to paragraph 18 and say what the source you
7 relied upon was for those statements.

8 MS. LHAMON: Same objection.

9 A. There's no single source on which I
10 relied. It's testimony that has come from
11 people who have experienced those conditions,
12 kinds of conditions, or who have written about
13 them or -- some of those conditions are
14 conditions that I have seen personally. Not all
15 of them.

16 The State of New York in the late
17 1980s, during the term of my commissionership,
18 was developing new means of funding school
19 buildings, particularly in the City of New York,
20 creating a new agency to do that and so on.
21 There was a lot of testimony that was part of
22 the deliberations of that matter that called our
23 attention to the existence of conditions of this
24 sort.

1 and punishment? By what means they're
2 monitored? I'm not sure about the force of the
3 question.

4 Q. Can you describe in general what
5 system should be in place to hold school
6 districts and schools accountable for delivering
7 educational essentials on school sites?

8 MS. LHAMON: Lacks foundation.
9 Incomplete hypothetical.

10 A. You're talking about all three
11 essentials that we've identified thus far, are
12 you? The teachers, the textbooks and learning
13 materials and facilities? All three?

14 MS. LHAMON: Tony, is that a yes?

15 A. Because the means by which you hold
16 schools and school districts accountable may
17 vary according to which essential it is.

18 Q. By what system should school
19 districts and schools be held accountable for
20 delivering well trained teachers on school
21 sites?

22 MS. LHAMON: Lacks foundation.
23 Incomplete hypothetical and overbroad.

24 A. Let me -- I'm not sure this is

1 appropriate, but let me tell you the trouble I'm
2 having trying to frame a useful answer to the
3 question.

4 When you say "how should schools be
5 held accountable," I have two or three different
6 things in my mind.

7 One is, what is the procedure by
8 which the state would come to know the condition
9 that prevailed, so as to exercise to discharge
10 its own responsibility given that situation or
11 to intervene in some way with the schools and
12 school districts in that situation. So one way
13 of thinking about the question is, what is the
14 means by which the state knows what to do by way
15 to hold people accountable in a given situation?

16 Another is, what should the
17 penalties or rewards or punishment be? Is that
18 what you mean by accountability? What happens
19 to people when they don't do this kind of thing.

20 Both of those are part of a system
21 of accountability, and I'm not sure which to
22 answer.

23 That's my difficulty for which
24 you're not responsible, I apologize, but now let

1 regions of the state. Actually, they had a dual
2 function. They served as heads of local
3 cooperative organizations as well as performing
4 their state role, but they did perform a state
5 role; and it was their task to keep the
6 commissioner and his staff informed with respect
7 to deficiencies such as those we're talking
8 about.

9 So those are some of the ways in
10 which you can acquire the knowledge that you
11 need in order to maintain accountability at the
12 local level. There are others as well, but
13 those are some of them.

14 And then, so far as consequences
15 are concerned, penalties or rewards, the state
16 can ask local school districts to justify the
17 appointments that it has made to the teaching
18 staff; it can cause districts to develop plans
19 for the more effective staffing of the schools
20 and monitor the operation and effect of those
21 plans over time.

22 Ultimately, I suppose -- but I
23 would hope it would never reach this stage, and
24 it did not reach this stage within my

1 me try to answer the question as you put it to
2 me, understanding that I'm having that problem,
3 okay?

4 Q. Okay.

5 A. I'll do my best with it.

6 In order to discharge its own
7 responsibility, the state needs to know what's
8 going on, first of all, and there are a variety
9 of ways in which knowledge about the presence of
10 untrained or unqualified teachers can be had.

11 One is, to be obvious about it, a
12 system of annual or more frequent reporting of
13 local school districts to the state, giving the
14 numbers of untrained teachers and the identities
15 of them and so on, are the pertinent facts.

16 Another is for the state to survey
17 test results and to see if there is any
18 relationship between those results and the
19 relative presence or absences of untrained
20 teachers.

21 We had other ways of doing it in
22 the State of New York as well. We had a system
23 of district superintendents who represented the
24 State Education Department in the various

1 experience -- the state could withhold money
2 from the local district if it failed to comply
3 or refused to comply.

4 I'll stop. I'm talking too much on
5 this one, but if I may have one more sentence.

6 When I think about accountability
7 from schools and school districts to the state,
8 and also about the state's own accountability in
9 discharging its own responsibilities
10 effectively, there are three ingredients that
11 must be present.

12 The first is some standard against
13 which accountability is measured. The second is
14 a monitoring function to know what is going on
15 and whether the standard is being met or not.
16 And the third is plans for intervention,
17 whatever they might be, in order to correct the
18 inappropriate conditions that exist.

19 Q. With respect to teachers, are there
20 any other accountability components other than
21 the state asking districts to justify
22 appointments made to teaching staff, causing
23 districts to develop plans, monitoring the plans
24 and the state withholding money?

1 MS. LHAMON: Mischaracterizes the
2 testimony. He's already testified that that was
3 just an exemplary list. That there were more.

4 A. With respect to individual
5 teachers, of course, the state can --
6 theoretically anyway -- can cause to be
7 discharged those teachers that fail to meet the
8 state requirements.

9 Q. Can you say what you mean by that?

10 A. Yes.

11 If you're employed as a teacher and
12 you don't -- you're not properly licensed for
13 the subject that you're teaching, the state, in
14 theory, could intervene and say, "You may not
15 have that job. You're not licensed for it."

16 That's what licensing means.

17 Q. Do you believe a state should
18 discharge teachers who have failed to meet state
19 credential requirements?

20 MS. LHAMON: Incomplete
21 hypothetical.

22 A. It would depend upon the situation.

23 In New York City, for example, in
24 my general understanding -- this is true of some

1 Vague and ambiguous. Incomplete hypothetical
2 and lacks foundation.

3 A. Well, I can name some of the ways
4 in which we tried to meet that responsibility in
5 the State of New York.

6 I don't think it's the complete
7 list of things that a state might do, but it
8 will give some indication of what was done in
9 that one situation.

10 There were, first of all, regularly
11 scheduled periodic checks of the state of the
12 physical environment, in some cases done by the
13 school districts themselves, in some cases done
14 by staff of the State Education Department.

15 There were annual reports by local
16 school districts about the condition of the
17 buildings. There was the avenue of the district
18 superintendents that I mentioned earlier, those
19 superintendents who represented the state; and a
20 portion of their job, who -- part of whose
21 charge it was to inform the State Education
22 Department about any building deficiencies in
23 their spheres of jurisdiction.

24 One of the initiatives of which I

1 districts in California as well, but I don't
2 claim any special knowledge of California. I've
3 already made that clear.

4 In New York City, it is clearly the
5 case that many teachers are teaching out of
6 license, as we say, or at least a portion of
7 their teaching day, if not for the totality of
8 it, but I wouldn't recommend that the state
9 discharge all of those people because kids show
10 up with great regularity every morning and they
11 better be taught by somebody. So I think the
12 state bears a responsibility for working with
13 teacher preparatory institutions to assure a
14 more adequate supply of properly certified
15 teachers.

16 And I would encourage those
17 affirmative responses to the problem rather than
18 exacerbate the problem by discharging people for
19 whom I had at present no adequate replacements.

20 Q. By what system should school
21 districts and schools be held accountable for
22 delivering adequate facilities to public school
23 students?

24 MS. LHAMON: Again, overbroad.

1 spoke earlier, pertinent to the New Compact for
2 Learning, was a system of school quality reviews
3 which brought together teachers and parents and
4 community members to review school operations;
5 and they took cognizance of the physical
6 environment in the schools to which -- in which
7 they worked, as well as to the teaching and
8 learning that was taking place there.

9 And there are a lot of informal
10 avenues by which accountability can be
11 discharged. Letters and other communications
12 from parents and others who are concerned about
13 the safety and welfare of their children.
14 Newspaper stories or editorials having to do
15 with the state of school buildings in certain
16 parts of the state.

17 So there was an array of both
18 formal and informal means of communication that
19 would alert the state to the presence of
20 undesirable conditions that needed to be
21 addressed.

22 Q. Other than the school quality
23 reviews, did you propose any initiatives to
24 implement the New Compact for Learning with

1 respect to facilities?

2 A. No.

3 Q. During the time that you were
4 Commissioner of Education, did you advocate for
5 a system of school facility inspections by state
6 officials?

7 A. That system was already in place
8 when I went to Albany and it was part of my
9 responsibility to make sure that it continued in
10 force and effect, but I didn't call for any new
11 system.

12 Our problem was never identifying
13 the buildings that needed attention. Our
14 problem was finding money to provide the
15 attention that was needed.

16 Q. Does that system remain in effect
17 today?

18 A. To the best of my knowledge, it
19 does. I've not heard that it does not, but I
20 haven't checked recently.

21 Q. During the time that you were
22 Commissioner of Education, were there
23 inspections of schools, specifically just to
24 look at the facilities?

1 inspected on a regular basis. I don't recall
2 whether it was annual or whether it was more
3 than one year involved, but there was an
4 established schedule that existed prior to my
5 time and, to the best of my knowledge, continues
6 to exist, a regular schedule by which every
7 school in the state was inspected.

8 Over and above that, we had a unit,
9 a school facilities unit in the State Education
10 Department whose responsibility it was to look
11 at situations that had been represented as
12 needing our attention.

13 Q. Was there a name of the school
14 inspection system in New York?

15 A. If there is, I don't remember it.

16 Q. To your knowledge, were any studies
17 done of the effectiveness of the school facility
18 inspection program in New York State?

19 A. What do you mean by the school
20 inspection program -- ask me the question again.

21 Q. To your knowledge, were there ever
22 any studies performed that analyzed the
23 effectiveness of the New York State Education
24 Department's inspections of public school

1 A. Yes.

2 Q. Who conducted those inspections?

3 A. Staff of the State Education
4 Department.

5 Q. How frequently were those facility
6 inspections conducted by the State Education
7 Department?

8 MS. LHAMON: Calls for speculation.

9 A. Well, we had an office that worked
10 at it full time. It was staffed by maybe a half
11 dozen people, but they tended to pay attention
12 to those situations to which other folks alerted
13 us.

14 It wasn't that they took all of the
15 schools in the state, put them in alphabetical
16 order and marched through the alphabet until the
17 alphabet was concluded and started again.

18 They were responding to situations
19 that had been called to our attention as needing
20 attention.

21 Q. So the New York Education
22 Department would not necessarily inspect every
23 school in the state, is that right?

24 A. Every school in the state was

1 facilities?

2 A. No. Thank you for clarifying. No.

3 Q. By what means should school
4 districts and schools be held accountable for
5 delivering instructional materials at school
6 sites?

7 MS. LHAMON: Lacks foundation.
8 Overbroad. Vague and ambiguous.

9 A. Well, maybe I'm stuck in the same
10 groove; but once again, I need to know whether,
11 to answer, how the state knows what's going on
12 so it could discharge its responsibility; and
13 what the measures are that would be taken if
14 attention -- if measures seem appropriate.

15 Do you understand what I'm saying?

16 Q. I can ask it again.

17 If a state is aware that a
18 particular school or a school district has not
19 delivered the essential instructional materials,
20 by what means should the state or other entity
21 hold the school and/or school district
22 accountable for that situation?

23 MS. LHAMON: Incomplete
24 hypothetical. Vague and ambiguous. Overbroad.

1 A. I'm trying to think of what we
2 actually did. I think, as a practical matter,
3 the first thing that we did was talk to the
4 people involved to say, "How come? How does it
5 happen that students in this particular school
6 or set of schools lack the materials that are
7 appropriate for their instruction? Is that
8 negligence on somebody's part? Is it lack of
9 funding?"

10 And it would ensue conversations
11 between people in the local state department and
12 people in the local school districts about what
13 they saw, at least, as the reasons for the
14 deficiency.

15 And then what we would do is ask
16 people to either devote more of the budget that
17 they had to meeting those needs or we would seek
18 additional funding -- and/or we would seek
19 additional funding for the provision of those
20 materials.

21 Typically, that seeking took the
22 form of request to the legislature for
23 categorical aids having to do with textbooks and
24 instructional materials.

1 Q. During the time that you were
2 Commissioner of Education in New York, did the
3 state have any system for determining whether
4 each school in the state had sufficient
5 textbooks and instructional materials?

6 A. I don't think so. There may have
7 been such a system, but I don't think so.

8 I think what we did was monitor the
9 performance of school districts, their academic
10 performance; and involve the school quality
11 review teams in examination of their
12 performance; and where there was inadequate
13 performance, in our judgment, we would try to
14 seek the causes of it, and one of the variables
15 that we looked at in seeking the causes of the
16 unacceptable achievement was the relative
17 presence or absence of those instructional
18 materials, but that's different from asking
19 people to fill out form 101-A on instructional
20 materials.

21 Q. During the time that you were
22 Commissioner of Education, was there a specific
23 program or system that looked at whether each
24 school had enough textbooks and instructional

1 materials?

2 MS. LHAMON: Asked and answered.

3 A. Well, again, I don't think we had a
4 single system that we put into effect statewide
5 for all schools and school districts; but where
6 there were patterns of poor achievement, we
7 would inquire as to the causes of those, of that
8 poor achievement, and it was there that we found
9 most of the schools that needed improvement.

10 Q. During the time that you were
11 Commissioner of Education in New York, was there
12 a statewide system to determine on a regular
13 basis the proportion of teachers at each school
14 that had full teaching credentials?

15 MS. LHAMON: Vague as to "regular
16 basis."

17 A. Yes, there was.

18 We required teachers and principals
19 in all schools in the state to complete annually
20 a BEDS report, a Basic Educational Data System
21 report, on which teachers had to list their
22 certification, qualifications, as well as a
23 number of other matters; and we would cull from
24 the information that was generated by that BEDS

1 report the number and percentage of people who
2 were qualified and who were not.

3 Q. During the time that you were
4 Commissioner of Education in New York, did the
5 state have a system of monitoring or intervening
6 in school districts based upon the number of
7 unqualified teachers as revealed in their BEDS
8 report?

9 A. What we would do, some of the
10 things that I mentioned a few minutes ago.
11 First we would try to find out from the
12 districts why the numbers of unqualified
13 teachers were as they were. Then we would try
14 to generate or assist those plans to deal with
15 the problem.

16 More typically, as it was with the
17 facilities, the matter gets wrapped up in a
18 larger package of low performing schools, so
19 what we would do is, we had a system for
20 identifying low -- what we call low performing
21 schools; and it was those schools that had the
22 larger percentages of unqualified teachers, and
23 a larger percentage of schools that had physical
24 problems of one kind or another were the schools

1 that lacked the appropriate and up-to-date
2 instructional materials.
3 So you asked me if we had a system.
4 We didn't have a system per se, I guess, for
5 pursuing schools with larger incidences of
6 unqualified teachers, but we had a system that
7 identified the schools that they were likely to
8 be in and then took action to change the
9 situation.

10 Q. What was the system to identify
11 what type of schools they would be in?

12 A. I'm sorry, I didn't understand the
13 question.

14 Q. What was the system that New York
15 had to identify the type of schools that an
16 unqualified teacher was likely to be in?

17 A. Thank you for clarifying.
18 We required an annual -- we
19 required each school district in the state to
20 issue in public an annual comprehensive
21 assessment report in which the schools had to
22 list student test scores, but also to provide
23 information concerning the qualifications of the
24 teachers in their employ, and we were able to

1 and steps needed to be taken to change it.

2 And we worked with teacher
3 preparatory institutions to increase the supply
4 of qualified people; and we tried to get local
5 jurisdictions to reduce the numbers of such
6 people through the meetings that we had with
7 them, the plans that we had them develop that
8 needed state approval and so on.

9 Q. In your opinion, should a state
10 have a requirement that a certain percentage of
11 teachers at each school hold a full teaching
12 credential?

13 MS. LHAMON: Asked and answered.

14 A. I think the state should have as a
15 goal that there be no unqualified teachers
16 working with the students, and should take
17 whatever steps are necessary to move as rapidly
18 as possible toward the attainment of that goal.

19 The fact that we did not achieve
20 that goal in New York State should not be taken
21 as an argument that it's -- that it isn't proper
22 or appropriate.

23 The goal is appropriate, whether we
24 achieved it or not.

1 tell from those annual reports.

2 Q. During the time that you were
3 Commissioner of Education in New York, did the
4 state have a requirement that a certain
5 percentage of teachers at a school hold full
6 teaching credentials?

7 A. No, for the reason that I indicated
8 earlier, that a lot of it depended on the
9 situation.

10 It's one thing where teachers were
11 in plentiful supply, but for whatever reason,
12 the district chose to hire somebody unqualified.

13 It was another situation in New
14 York City where the number of unqualified
15 teachers was very large, and for which no
16 replacement was readily available.

17 Q. While you were Commissioner of
18 Education in New York, did you propose that the
19 state enact a requirement that a certain
20 percentage of teachers at a given school be
21 fully credentialed?

22 A. No. But what we did do was make
23 clear that the circumstance of having that large
24 a number of unqualified people was not desirable

1 (A recess was taken.)

2 Q. Dr. Sobol, as part of a state's
3 attempt to provide qualified teachers for every
4 school, should a state require school districts
5 to hire a certain percentage of fully
6 credentialed teachers?

7 A. I think ideally a state should
8 require local school districts to hire fully
9 credentialed teachers, nothing but fully
10 credentialed teachers.

11 Unhappily, from a pragmatic point
12 of view, sometimes that's not possible, or at
13 least it's not easily possible, and some
14 latitude needs to be provided.

15 We provided that latitude, for
16 example, as I mentioned earlier, to the State of
17 New York, which has, relative to the rest of the
18 state, a much larger percentage of
19 uncredentialed teachers, but the supply of
20 credentialed teachers was not adequate to the
21 need; and rather than leave classes untaught by
22 anyone, we would permit New York City to
23 continue to hire numbers of uncredentialed
24 teachers, always with a goal, however, of moving

1 toward the ideal state, where we wouldn't have
2 uncredentialed people at all.

3 Q. During our last break, did you have
4 any discussion with Ms. Lhamon about the
5 deposition?

6 A. No. I think I asked her how it was
7 going and she said it was just fine. "Just keep
8 doing what you're doing." Mostly we talked
9 about her cold.

10 Q. If a school district or a school
11 does not deliver educational essentials on a
12 school site and the state then intervenes and
13 provides those educational essentials, what
14 effect, if any, would that have on the
15 accountability of the school district or the
16 school?

17 MS. LHAMON: Incomplete
18 hypothetical. Vague and ambiguous.

19 Just for my own clarification,
20 Tony, are you talking about the state taking
21 over a school or school district, or are you
22 talking about the school district maintaining
23 control?

24 Q. In a general sense, speaking

1 all depends on how the state does it. I
2 wouldn't say, "Oh, you guys haven't provided the
3 textbooks that are needed here, so we'll provide
4 them and you're off the hook." I would not do
5 that.

6 I would say, in the first instance,
7 "Provide them already. It's part of your job to
8 do that. You, representative of local school
9 district, derive your authority from the state,
10 and I will tell you that your responsibility
11 commensurate with that authority is to provide
12 those essentials."

13 Now, if they're still not provided,
14 the bottom line is that the kids can't be
15 without them; and because education is
16 ultimately the state's responsibility in our
17 constitutional scheme, the state has both the
18 right and the duty to intervene and make sure
19 that those essential traditions are being
20 provided.

21 But I would do it in such a way
22 that it was very clear that the state -- that
23 the school district and the individual school
24 was still accountable and were being held

1 generally, if a school district or a school does
2 not deliver educational essentials on a school
3 site and the state then provides the educational
4 essentials that are lacking, in your opinion, is
5 there any effect on the accountability of the
6 school district or the school by the state
7 taking that action?

8 MS. LHAMON: Same objections.

9 A. Let me try to answer, and if I'm
10 not getting it right, let me know.

11 I think it would be inappropriate
12 for a state to act in a way that left schools or
13 school districts unaccountable for the quality
14 and results of their work.

15 The state's role, it seems to me,
16 is four-fold. It's to set standards. It's to
17 provide or help to provide the necessary
18 resources and assistance that may be needed, to
19 monitor progress at the local level, and to
20 intervene if policy is not being complied with
21 and/or the results are bad.

22 So in the question you asked me,
23 what happens to accountability of the school and
24 the school district if the state intervened, it

1 accountable by the state.

2 Q. In your opinion, are there various
3 ways that a state can hold a district
4 accountable for failure to provide educational
5 essentials?

6 A. Yes.

7 For example, but only for example.
8 It's not an exhaustive list.

9 For example, if the state has
10 whatever its valid reason for believing that a
11 local school district is not faithfully
12 discharging its obligations, the first thing it
13 can do is sit with representatives of that
14 system and tell them so, for openers.

15 The telling can be made public, so
16 that the pressure of the public is brought to
17 bear on a situation.

18 If people have been acting contrary
19 to the law or regulations, they can be chastised
20 or arrange punishment exacted pursuant to the
21 law. The state can make clear that unless the
22 conditions have changed, it will intervene in
23 the running of the district and see that the
24 changes are made, or it can weigh down the road

1 in this continuum. If all else fails, take over
2 the operation of the district itself.

3 So that's not an exhaustive list,
4 but what I'm trying to suggest is a continuum of
5 responses to the misfeasance or malfeasance
6 which heighten the stakes at each stage.

7 Q. In terms of the overall efficiency
8 of a state's public school system, do you
9 believe that the efficiency is increased by
10 having school district and school officials be
11 held strongly accountable for providing
12 education essentials?

13 MS. LHAMON: Vague and ambiguous.
14 Incomplete hypothetical. I don't know what you
15 mean by "strongly accountable."

16 A. I believe that all the relevant
17 parties to a child's education should be held
18 accountable for the discharge of their several
19 responsibilities; so in that sense, yes.

20 The direct answer to your question
21 is, yes. I think that local school officials
22 and school district officials should be held
23 accountable for the adequate -- faithful
24 discharge of their duties.

1 Q. What do you mean by that statement?

2 A. Which part of it? The half a dozen
3 studies or the -- let me try this.

4 You asked me if I'm aware of
5 studies that examine the efficacy of state's
6 intervening in local school districts, is
7 that --

8 Q. Yes, in essence.

9 A. And what I'm saying is, I'm aware
10 of half a dozen or so studies of that sort, none
11 of which I can cite right now, that tend to show
12 that it's easier for the state to remedy
13 building conditions and straighten out budgets
14 than it is to create a better environment, a
15 more global -- a culture that is more conducive
16 to learning.

17 Q. Do you agree with those studies
18 that you just referred to?

19 A. I do. I do agree with them, but I
20 would add something to it.

21 The question for me, at any rate,
22 is not so much -- I'm interested in the
23 question, but the main question for me is not
24 the efficacy of the state's efforts at

1 I think the state itself is one of
2 the entities that bears responsibility, however,
3 as well; and while holding representatives of
4 local districts to account properly and
5 appropriately, it ought to hold itself
6 accountable for its duty to provide the
7 requisite resources and conditions.

8 Q. In the first sentence of paragraph
9 19 of your report, it says, in part, "If other
10 participants in public education do not deliver
11 educational essentials on school sites, the
12 state has to intervene to ensure they're
13 provisioned to students."

14 To your knowledge, have there been
15 any studies regarding the consequences that
16 state intervention has, on the overall
17 effectiveness, of the state's delivery of
18 education essentials?

19 A. Yes. I can't cite you the specific
20 studies, but I'm aware of -- I have a dozen more
21 of them which tend to show, by the way, in my
22 reading of them, that it is easier for the state
23 to rectify deficient building conditions than to
24 improve an instructional program.

1 intervention.

2 The issue for me is the quality of
3 education that students are receiving.

4 The students have a legal right, in
5 most states, I believe, to a public education;
6 and certainly by custom and tradition in our
7 democratic society, they have a birthright to an
8 education, to enter into a full engagement with
9 our society. And where the system is
10 malfunctioning or is broken down in one level or
11 another, whether it be in the school level, the
12 level of an individual classroom, the school
13 level, the school district level, or across
14 regions or the entire state, the state bears
15 ultimate responsibility for seeing that the kids
16 get educated.

17 So I would not make a calculated
18 judgment that I will, as a state official, try
19 to take over school district A because I think I
20 can do it better. That would be inappropriate.

21 But when it is demonstrable that
22 the students in school district A are not
23 receiving the education to which they're
24 entitled under the Constitution, and entitled to

1 as part of their birthright in an American
2 democratic society, then I have an obligation to
3 intervene and do something about it.

4 Q. Do the studies you referenced
5 indicate why it's easier for a state to remedy
6 building conditions than to create a culture
7 conducive to learning?

8 A. They're harder to change.
9 It's harder to change the culture
10 of an organization than it is to fix the roof.
11 Both things need to be done.

12 But particularly where people are
13 more directly involved, the change and
14 relationships and exercise of authority and so
15 on that a state brings to bear is unsettling to
16 the interpersonal environment, whereas the roof
17 doesn't mind if it gets patched.

18 Q. What implications, if any, are
19 there for a state policy because it's easier for
20 the state to remedy a building condition than to
21 create a culture conducive to learning?

22 MS. LHAMON: Vague and ambiguous.

23 A. Could you tell me the first part of
24 the question again?

1 Q. Are there any implications for
2 state policy because of the studies you cited
3 that show that it's more difficult for a state
4 to create a culture conducive to learning than
5 to remedy a building condition?

6 A. Yes, yes.

7 In my judgment, states would be
8 well advised to intervene to attempt to change
9 the culture of local school or school district
10 only when all other remedies have been tried and
11 exhausted and have proven unavailing; that
12 ultimate responsibility for seeing that all kids
13 get their legal rights and their democratic
14 society birthright remains with the state, but I
15 would be very chary in exercising it and very
16 eager to find other ways in improving the
17 situation before the state intervened directly.

18 Q. Which states intervened to ensure
19 provision of education essentials on school
20 sites?

21 A. I can't name them all for you.
22 I'm aware of cases in New York and
23 New Jersey. Those primarily.

24 Q. In what circumstances does New York

1 intervene to ensure the provision of educational
2 essentials on school sites?

3 MS. LHAMON: Lack of foundation.

4 A. Well, let me try and answer. It
5 may not be thoroughly responsive. I'm not
6 trying to avoid the question -- trying to think
7 about it.

8 During the years I served as
9 commissioner, there was no provision under New
10 York State Education Law, as I understood it, to
11 permit what we have come to call takeovers of
12 local school districts by a state.

13 There had been a Court of Appeals
14 decision some years ago in a Lackawanna case, I
15 guess, that held that the Commissioner of
16 Education had the right to advise and guide
17 local boards of education in the discharge of
18 their duties, but did not have the right to
19 usurp their authority.

20 But we had in our hands a number of
21 school districts across the state which, in our
22 judgment, were thoroughly dysfunctional. Were
23 so dysfunctional, at least, that students were
24 not receiving a sound, basic education, which is

1 their constitutional, and I regard, moral right.

2 And not necessarily because we
3 thought we could do it better in all respects,
4 as I said earlier, but because somebody
5 responsible, and particularly the people
6 ultimately responsible, had to respond to a
7 situation where the kids demonstrably were not
8 being educated.

9 I sought legislation that would
10 permit the commissioner and/or the Board of
11 Regents to intervene in such dire circumstances.

12 And one of the last legislative
13 acts of my term of office that occurred during
14 my term of office was such authorization limited
15 in this case to a particular school district,
16 school district at Roosevelt on Long Island.

17 Q. Other than the state intervention
18 in Roosevelt, to what extent does New York
19 intervene to ensure provisions of educational
20 essentials on school sites?

21 MS. LHAMON: Mischaracterizing the
22 testimony. He didn't testify that there had
23 been state intervention in Roosevelt; and
24 separately, lacks foundation as to the current

1 system.

2 A. Tony, I got sidetracked there.

3 Can you repeat the question,
4 please?

5 Q. In New York, there was specific
6 legislation that allowed the state to intervene
7 in the Roosevelt school district, correct?

8 A. Correct.

9 Q. Other than the state intervention
10 in Roosevelt, to what extent did or does New
11 York intervene to ensure provisions of
12 educational essentials on school sites?

13 MS. LHAMON: Same objections.

14 A. I'll talk about what it did during
15 my time as commissioner. The practice may have
16 changed since then. I'm not aware.

17 We would do a number of things
18 depending upon the nature of the situation
19 involved.

20 We would require local school
21 districts to develop plans for improvement that
22 were subject to annual review by the
23 commissioner and his staff, of course.

24 We would, and we did, as I said

1 Q. The State Education Department in
2 New York is not responsible for the day-to-day
3 operation of the schools, correct?

4 A. Correct.

5 Correct, with a footnote.

6 In the sense of the way you asked
7 me the question, the answer is yes, it's
8 correct, but there are two or three schools run
9 directly by the State Education Department.

10 There's a school for the deaf in
11 Rome, New York; a school for the blind in
12 Batavia, New York that were run by the State
13 Education Department itself.

14 Q. The Commissioner of Education
15 directs the staff of the New York State
16 Education Department, correct?

17 A. Correct.

18 Q. In New York, the State Education
19 Department provides information to the Board of
20 Regents, for the board deliberation in reaching
21 policy decisions, and the department puts those
22 policies in effect in the schools, correct?

23 A. That is correct.

24 Q. In paragraph 19 of your report, in

1 earlier, require the publication of annual
2 comprehensive assessment reports that reported
3 on test scores and other measures of educational
4 achievement, but also on building conditions,
5 state of staffing and so on, so that the matter
6 could be dealt with by the public involved in
7 the situation as well as by the state officials.

8 In some cases, we threatened, and
9 occasionally did, hold up payments of state aid
10 to local school districts until conditions were
11 corrected.

12 It's a chancy strategy to use
13 because the danger is, of course, that despite
14 the best of reasons, what you end up doing is
15 depriving the kids of the money down the road,
16 so it's not a provision to be exercised lightly,
17 but we used it from time to time.

18 Those were among the measures.

19 Q. In New York, the State Education
20 Department, which is directed by the
21 Commissioner of Education, carries out the
22 policy decisions made by the State Board of
23 Regents, correct?

24 A. Yes, that is correct.

1 the second sentence, what did you mean when you
2 said, "We need to provide the freedom and
3 support which makes such effort possible"?

4 A. The New Compact for Learning took
5 as one of its main premises that the schools
6 could not be effectively reformed from top-down
7 alone; that unless you enlisted the
8 collaboration of teachers and other school
9 people at the local level, you simply couldn't
10 make the kind of desirable changes that we
11 wished to make.

12 So we proposed in the Compact that
13 the role of the state will be to provide what we
14 call top-down support for bottom-up reform. We
15 recognized that the changes themselves needed to
16 be made from below, but we also understood that
17 they would require the support of the "top" in
18 order to come to fruition.

19 It entailed the state being more
20 clear and more demanding about what needed to be
21 accomplished -- about what needed to be
22 accomplished, and left more latitude to local
23 practitioners in deciding on the means by which
24 those goals were to be attained.

1 So those conditions at the local
2 level were greater freedom to decide the means
3 by which to accomplish shared goals and the
4 support of which to be provided with the state
5 that is appropriate, along with the local
6 support that is entailed.

7 Q. When you use the word "freedom" in
8 paragraph 19 of your report, does that include
9 giving school districts and schools freedom to
10 develop their own means of providing day-to-day
11 delivery of education?

12 A. Yes.

13 Q. What did you mean in paragraph 20
14 of your report when you said, "I do not intend
15 to offer here a precise and universally
16 applicable prescription for how a state must
17 carry out its role in ensuring delivery of
18 educational essentials"?

19 A. Give me just a minute.

20 What I meant was that there is more
21 than one way -- there needs to be more than one
22 way in which a state can responsibly and
23 effectively discharge its responsibilities.

24 Circumstances vary from one state

1 Q. What did you mean in paragraph 20
2 of your report when you said, "If nothing else
3 was clear to me when I was commissioner in New
4 York, I learned that no one approach to school
5 reform would work for all students and all
6 communities"?

7 A. What did that mean to me?

8 The state is very large and very
9 diverse with many different populations and
10 subpopulations of students, a variation of local
11 economy, a variation in attitudes towards
12 schools and education.

13 I came early on to the realization
14 that any single plan that failed to account for
15 those differences was virtually certain to fail
16 with some population -- portion of the
17 population or other; that we had to devise plans
18 that made sense in local contexts as well as to
19 the state as a whole.

20 And therefore, I was not concerned
21 about uniformity of -- uniformity in the way in
22 which services were provided, but I was
23 concerned about uniformity in the goals that we
24 pursued.

1 to the next; and appropriate means need to be
2 devised for meeting the challenges that they
3 provide.

4 There are certain principles that
5 under Gerd, the New Compact for Learning, that
6 are, in my mind, of universal applicability, but
7 the precise method in which they're to be
8 implemented needs to be tailored to the local
9 circumstances.

10 It was that idea that I was trying
11 to voice.

12 Q. During any of your conversations
13 with plaintiffs' attorneys, did they ever ask
14 you to offer a precise and applicable
15 prescription for how California should carry out
16 its role to ensure delivery of educational
17 essentials?

18 A. No, they did not.

19 Q. Is it true that an approach for
20 delivery of educational essentials that works
21 well in one state may not be effective in
22 another state?

23 A. In the abstract, that seems to be
24 true.

1 Q. Would you agree with the statement
2 that, "The key to school improvement is usually
3 the involvement of an active, knowledgeable
4 parent body"?

5 A. I think that the involvement of a
6 knowledgeable, active parent body contributes
7 greatly to the efficacy of school reform
8 movements.

9 Q. Would you agree that the role of
10 the home environment in education of K through
11 12 children is very important?

12 A. Yes.

13 Q. Would you agree that it is commonly
14 accepted in educational circles that much of a
15 student's abilities are set very early on in the
16 life, in the first three years?

17 MS. LHAMON: Vague and ambiguous as
18 to "commonly accepted."

19 A. Yes.

20 Q. Is it the case across the United
21 States that there's a gap in achievement,
22 economic achievement between kids who are at
23 risk and those who come from more advantaged
24 backgrounds?

1 A. Yes. Of course.
 2 Q. Would it be accurate to say that
 3 you are not aware of any large urban school
 4 system that has been able to eliminate the gap
 5 that exists between disadvantaged children and
 6 more advantaged children?
 7 A. That is correct; and I think that
 8 we, as a nation, have not done that yet, but it
 9 in no way lessens our responsibility for trying
 10 to do so because all of the children, regardless
 11 of their socioeconomic background, are entitled
 12 to what we call in New York State a sound, basic
 13 education; and all of them have -- it is their
 14 birthright in this American democracy to have
 15 the kind of educational experience that will
 16 enable them to function as fully participating
 17 citizens in this society.
 18 Q. Would you agree with the statement
 19 that, "Schools rarely rise above the
 20 expectations of the people who support them"?
 21 A. I agree with it because I wrote it,
 22 yes.
 23 Q. What did you mean in paragraph 20
 24 of your report when you said that, "A state,

1 Q. Would you agree that one of the
 2 most common mentioned factors that make good
 3 schools effective is common goals between the
 4 principals, teachers, parents and pupils?
 5 A. Yes.
 6 Q. Would you agree that one of the
 7 most common mentioned factors that make good
 8 schools effective is high expectations of
 9 achievement?
 10 A. Yes.
 11 Q. In paragraph 20 of your report, in
 12 the last sentence you state, "The elements I
 13 have found to be required for effective state
 14 assurance of delivery of educational essentials
 15 are," and then there are four items listed.
 16 When you say, "The elements I have
 17 found to be required," is your finding based
 18 upon a study or analysis you performed?
 19 A. They're the product of analysis of
 20 experience, but not of formal studies.
 21 Q. Have you set forth a detailed
 22 explanation of what you mean by "strict
 23 requirements" that educational essentials be
 24 provided?

1 like its local entities, should be free to be
 2 creative in the practice of education delivery."
 3 A. It was a further elaboration of the
 4 sentence earlier that said that I learned that
 5 no one approach to school reform would work for
 6 all students in all communities; or maybe it
 7 follows more closely on the sentence at the top
 8 of the page that said that, "There's no
 9 universally applicable prescription for how a
 10 state should carry out its role in ensuring
 11 delivery of educational essentials."
 12 The point is, I think that there
 13 are principles that ought to characterize all
 14 these efforts and goals that ought to be
 15 pursued, but the means needs to be varied
 16 according to the nature of the population with
 17 which you're dealing.
 18 (A recess was taken.)
 19 Q. Dr. Sobol, would you agree that one
 20 of the most common mentioned factors that make
 21 good schools effective is effective
 22 instructional leadership usually from a strong
 23 principal?
 24 A. Yes, I do.

1 MS. LHAMON: Vague as to "detailed
 2 explanation."
 3 A. I'm not sure what is meant by
 4 "strict requirements." If that means in
 5 regulation, no, not generally across the board.
 6 But in the New Compact for Learning and
 7 elsewhere, I have set forth these requirements
 8 again and again with one group or one audience
 9 or one individual after individual.
 10 Q. Have you set forth a detailed
 11 explanation of what you mean by top-down support
 12 for bottom-up reform?
 13 MS. LHAMON: Vague and ambiguous
 14 again. Are you asking if there is an
 15 explanation in this expert report?
 16 A. I tried to explain what I meant by
 17 that phrase, top-down support for bottom-up
 18 reform in the Compact, in letters that I wrote
 19 to people out in the field of school practice
 20 about the Compact. I've used it in dozens and
 21 dozens of speeches I've made to people around
 22 the State of New York and meetings that I've
 23 attended.
 24 Q. Have you ever attempted to draft a

1 comprehensive state system of delivery of
2 educational essentials that encompasses the four
3 elements mentioned in paragraph 20 of your
4 report?

5 A. The closest I've come to doing it
6 is with the Compact itself, which talks about
7 the requisite resources that -- well, that talks
8 about the resources that all kids need and so
9 on.

10 Q. Are you aware of any studies that
11 assess whether one or more of the four elements
12 listed in paragraph 20 on page 11 of your report
13 result in effective state assurance of delivery
14 of educational essentials?

15 A. I'm not aware of formal studies
16 that are directed to the effectiveness of the
17 educational essentials that are stated here, but
18 I've noted in prior testimony that we've noted
19 again and again in actual experience a strong
20 correlation between the absence of one or more
21 of these essentials and poor student
22 achievement.

23 Q. What did you mean in paragraph 21
24 of your report when you said, "The nationwide

1 don't get you very far. They're ineffective by
2 themselves.

3 Furthermore, another reason is,
4 people -- at least people in our society and my
5 experience tells me -- don't much like to be
6 regulated much of the time.

7 Surely, at the very least, that's
8 not the way to win the hearts and minds of
9 people, by telling them what to do and how to do
10 it.

11 The effort in the Compact was to
12 stay away from top-down stuff that lacked
13 support from below. Not wait for reform to
14 bubble up from below, but to develop a new
15 relationship between the authority and resources
16 of the state, and the creativity and energy and
17 dailiness of people in the classroom, and that's
18 the relationship that I've characterized as
19 top-down support for bottom-up reform.

20 Q. Did you have anything specifically
21 in mind in paragraph 21 of your report when you
22 wrote, "My own experience in New York has been
23 that exclusively top-down reform does not work
24 well in practice"?

1 experience, and certainly my own experience in
2 New York, has been that exclusively top-down
3 reform does not work well in practice."

4 A. Well, I guess I meant pretty much
5 what it says; that is to say issuing new
6 mandates, promulgating new regulations from the
7 top without previously enlisting the
8 collaboration and support of the people whose
9 task it is to carry them out tends to be an
10 ineffective way to go about the business of
11 reform.

12 Q. Why doesn't exclusively top-down
13 reform work well in practice?

14 MS. LHAMON: Asked and answered.

15 A. For a variety of reasons.
16 First of all, the actual work of
17 teaching and supporting kids in their learning
18 has to be carried out by local people who are
19 serving in local school districts in local
20 communities. It's not done by the people who
21 issue the orders from the top and the state.

22 And unless you have the
23 understanding and support and cooperation of
24 those people at the local level, the orders

1 A. Yes.

2 Q. What did you have in mind?

3 A. During the years, several years
4 immediately prior to my appointment as
5 commissioner in 1987, the Board of Regents and
6 the then sitting commissioner, following a
7 pattern that developed across the country,
8 attempted to achieve desired educational reform
9 through the imposition of some new top-down
10 requirements: More courses to be taken before
11 you graduated from high school, more time to
12 spend on task, more testing to be done and so
13 on; and it's not that it was without effect. It
14 had some salubrious effect, as a matter of fact,
15 but it fell short of its goals because it was
16 not thorough going enough.

17 And I came to understand then, and
18 still very strongly believe now, that you can
19 regulate out of a system its worst potential
20 abuses, and you must do that. There must be a
21 regulatory context in which public enterprise is
22 to be conducted to safeguard the interests of
23 the public and so on, but you can't regulate
24 goodness or excellence in the system because

1 goodness or excellence in the system of teaching
2 and learning is a product of the hearts and
3 minds of the people who are engaged with one
4 another in the process of teaching and learning,
5 and top-down regulation doesn't reach that.

6 It helps to provide a necessary
7 context, you've got to have it, so the Regents
8 Action Plan was a good thing for that purpose,
9 but it's not sufficient. You've got to have
10 something more.

11 You've got to have something that
12 enlists the energies and the support and the
13 commitment of people who are dealing with the
14 kids on a day-to-day basis for things to work.

15 Q. What did you mean by
16 "standards-based reform of public education" as
17 used in paragraph 21 on page 11 of your report?

18 A. Standards-based reform of public
19 education is what's going on across the country
20 now and is probably best epitomized nowadays by
21 the No Child Left Behind Act that was recently
22 passed by the Congress and signed by the
23 President a year or more ago.

24 It, standard based reform, spells

1 in the creation of policy as well as in the
2 implementation of policy made by others.

3 We did it another way by running
4 training programs and workshops for teachers,
5 both those new in service and those more
6 experienced, to give them opportunities to
7 acquire the skills and knowledge they need in
8 order to work effectively with a large and
9 diverse population across the state.

10 So involving people in
11 participation in the planning, providing
12 professional development experiences and other
13 training for them.

14 I guess those were the main ways.

15 Q. What did you mean in the first
16 sentence of paragraph 22 of your report when you
17 said, "Having worked in education both at the
18 local level and at the state level, I can attest
19 that people at the state level have no monopoly
20 on wisdom for how to improve teaching and
21 learning"?

22 A. What I meant by that sentence is
23 consistent with what we've been discussing,
24 namely that top-down reform by itself is

1 out the content standards, the performance
2 standards -- I should say the content standards
3 and the performance standards, to be met by
4 students over a time; and is typically coupled
5 then with -- those standards are typically
6 coupled with programs of assessment to determine
7 how well students are doing in meeting those
8 standards, or how poorly; and accountability
9 measures to be enacted, if needed.

10 Q. How does the state elicit support
11 from and develop the capacity of the persons who
12 will implement the edicts as used in paragraph
13 21 of your report?

14 A. In a variety of ways. Let me
15 exemplify rather than try to give you an
16 exhaustive list.

17 First of all, by enlisting the
18 participation of teachers and other workers at
19 the local level in the making of statewide
20 plans, as we attempted to do, as I described
21 earlier, when we were formulating the new New
22 Compact for Learning; but in all kinds of
23 subordinate ways too.

24 Making people -- involving people

1 insufficient. It doesn't work well.

2 It's not that the people hold state
3 authority, for that matter, or federal authority
4 necessarily smarter and wiser and better
5 informed than the people down below, and
6 therefore, ought not to inflict their own
7 thinking and predilections on other people
8 without consulting with the other people first,
9 because a great deal of wisdom and knowledge
10 resides out on the field as well.

11 Q. Would you agree that in some cases,
12 people at the local level are better able than
13 those at the state level to determine how to
14 improve teaching and learning in their
15 particular community?

16 A. Yes.

17 Q. What did you mean in paragraph 22
18 of your report when you said, "There is a
19 reservoir of good sense and expertise among
20 local school people that states should not drive
21 away with top-down methods"?

22 A. It's the same point as the one
23 we've been discussing.

24 That there is a lot of, again, good

1 sense and expertise out in the field; and the
2 state ought to take that into account in its
3 planning and in its operations and enlist its
4 support and work collaboratively with it instead
5 of simply imposing their own top-down views.

6 Q. Would you agree that at some point,
7 a state's top-down methods detract from the
8 expertise of people at the school and district
9 level?

10 MS. LHAMON: Vague as to "at some
11 point."

12 A. Could you repeat the question,
13 please?

14 Q. Would you agree that at some point,
15 a state's top-down methods detract from the
16 expertise of people at the school and school
17 district level?

18 A. I would agree that in some
19 circumstances that is absolutely the truth. I
20 don't know that it's always the truth that it
21 reaches a certain point. I don't know how to
22 deal with that.

23 But certainly I agree with the
24 point that there are circumstances in which a

1 They've taken in a population of
2 students that haven't done well in the past.
3 They try new methods, new curriculum of
4 organization, new way of running things; and
5 then have been told by the state, "You can't do
6 that anymore because that's not the way we do
7 things in New York," and the program has been
8 changed or eliminated.

9 I think it's a misuse of the
10 authority of the state to act in that way.

11 Q. What did you mean in paragraph 22
12 of your report when you said, "Site-based
13 decision making is not just a contemporary fad.
14 It is a sound and enduring principle of
15 institutional effectiveness"?

16 A. As I explained earlier, one of the
17 provisions of the New Compact for Learning was
18 that there be a cite-based decision making
19 committee consisting of teachers and parents and
20 the principal, and at their discretion, others
21 from the community in each school across the
22 state.

23 And their mission was to
24 continuously review the quality of the

1 state that fully exercises its top-down
2 authority can stifle local initiative and
3 effectiveness. I do agree with that.

4 Q. Do you have an example in mind when
5 you give that answer?

6 A. Sure. You can draw upon the
7 example of alternative schools across the state.
8 Schools which, by design, are not following
9 conventional practices in organizing and
10 conducting teaching and learning activity.

11 They take these schools that I'm
12 thinking of, they take in students who have not
13 been successful in a traditional situation and
14 give them another chance to complete high
15 school, let's say, thinking of a high school
16 level, effectively.

17 Now, for the state to impose a
18 uniformity of practice upon them would defeat
19 the very effort. The whole point of the effort
20 of the alternative schools is to offer a
21 different way that can achieve the same goals,
22 and I've seen situations in which schools are
23 effectively -- in which alternative schools are
24 effectively doing that.

1 experience that students were having and make
2 recommendations for improvement.

3 Now, at the time that I proposed
4 this provision for the Compact, similar
5 proposals were being made across the industry
6 and other states of the union; and I wanted to
7 make clear that we weren't simply jumping on
8 some popular bandwagon, but that what I was
9 advocating -- what some of us were advocating
10 was a sound and enduring principle.

11 That's the way you make
12 institutions effective, by bringing the relevant
13 actors together around common problems and
14 common opportunities and getting them to share
15 their experience and their goals and their
16 frustrations with one another.

17 That's organizationally effective.
18 Not a fad. It's perennial. It's fundamental.
19 It's enduring.

20 Q. Have you heard the term "local
21 control" as it is used with respect to school
22 districts?

23 A. Yes, I have.

24 Q. What is your definition of the term

1 "local control" as it is used with respect to
2 school districts?

3 A. My understanding of the way in
4 which the system is designed and works is that
5 the state bears ultimate responsibility for
6 education within the state; that local school
7 districts are created by the authority of the
8 state to conduct programs in local communities;
9 that state law spells out those matters,
10 whatever will be left for the local boards of
11 education and their staffs to decide, and those
12 matters which are to be reserved for the state's
13 action alone.

14 The state also grants fund-raising
15 authority to school districts throughout the
16 state and gives them much of the responsibility
17 for raising revenue.

18 So my understanding of local
19 control is the exercise by local boards of
20 education and their staffs of those rights and
21 duties which are theirs under the law.

22 Just a quick --I think there's a
23 long flourishing tradition of local control --
24 local control of education in that, in which the

1 deny local freedoms in achieving the basic
2 results," are you referring to exclusively
3 top-down reform?

4 A. Well, the word "exclusively" throws
5 me a little bit.

6 Q. What do you mean by "top-down
7 micromanaging directives that deny local
8 freedoms in achieving the basic results" in
9 paragraph 23 of your report?

10 A. Let me respond by being a little
11 bit indirect, but bring it right back if I've
12 wandered too far off.

13 I contrast two kinds of
14 accountability systems, one of which is
15 characterized by procedural compliance.

16 The top authority spells out the
17 procedures to be followed, the specific actions
18 to be taken by the people within its purview;
19 and accountability lies in compliance with those
20 regulations and those directives, that the test
21 of whether you're doing what you should have
22 done or not is whether you acted in those ways
23 that are prescribed.

24 The other kind of accountability

1 way I've represented it, across the country.

2 Q. Does "cite-based decision making,"
3 as used in paragraph 22 of your report, include
4 what is known as local control?

5 A. It fits within the umbrella of
6 local control.

7 Local control of education, as I
8 conceive it, is that which is discharged by
9 locally elected or appointed boards of education
10 and their staffs; and the cite-based planning
11 teams of committees, cite-based decision making
12 committees are a supplement to that work.
13 They're within the same system. They're just
14 more localized, work that is done by the Board
15 of Education.

16 Q. Do you believe that there should be
17 local control of schools and school districts?

18 A. I believe that local schools and
19 school districts should have substantial
20 autonomy in what they do, provided they are
21 meeting the broad standards and operating within
22 the parameters defined by the state.

23 Q. In paragraph 23 of your report,
24 when you refer to "micromanaging directives that

1 system is one that's not based on compliance
2 with procedural requirements. It's one that's
3 based on achievement of results. The top
4 authority sets standards of many different
5 kinds, of many different spheres of action, and
6 then provides resources and support for local
7 communities, local schools and school districts
8 to pursue those desired standards, monitors
9 progress and intervenes, if necessary, at the
10 far end. It's an accountability that is based
11 upon results.

12 So by micromanaging, to go back to
13 the question, by micromanaging, I have in mind
14 any system that is like -- the first example of
15 accountability that I gave, one that is based on
16 procedural compliance, compliance with
17 procedures and regulations as opposed to one
18 that is based on the achievement of certain
19 results.

20 Q. Are you opposed to accountability
21 which is based on the procedural compliance with
22 regulations?

23 MS. LHAMON: Vague and ambiguous.

24 A. Do you remember we were talking

1 about education reform and about improving the
2 quality of teaching and learning that goes on?
3 In that case, I am opposed to
4 compliance-oriented accountability and in favor
5 of standards-oriented accountability.

6 I recognize simultaneously that
7 there are certain matters about which it is
8 appropriate for the state to deal with in the
9 form of regulation, regulations having to do
10 with the safety of students, the design of
11 school buildings with safety in mind, the civil
12 rights of students and teachers.

13 So that there are some regulations
14 that need to be in place that are top-down; but
15 looking at the reform effort that is to go on,
16 improving the quality of teaching and learning,
17 I think the likelihood of achieving that is
18 much, much greater in a performance and outcome
19 kind of -- within a performance and outcome kind
20 of accountability than it is with a procedural
21 kind of accountability.

22 Q. In paragraph 23 of your report, in
23 the middle of the paragraph you state, "So long
24 as these imaginative programs yield student

1 from happening.

2 The effective classroom teacher, I
3 think, again, most people would agree, creates
4 an environment which is conducive to learning,
5 where kids want to learn. They want to explore.
6 They want to question. They want to think. And
7 they need some freedom to do that if they're
8 held accountable for the results.

9 Then you deal with problems that
10 may arise by exception. You don't set the
11 system up to avoid problems and stifle all the
12 good stuff that would otherwise have happened.

13 You set the system up to encourage
14 desirable teaching and learning behavior and
15 then deal with problems by assumption.

16 I don't know -- that helps me
17 understand it. It may not help anybody else
18 understand it.

19 MS. LHAMON: And with that, Tony,
20 it's about 4 o'clock, so --

21 MR. SEFERIAN: Okay.
22 (Time Noted: 3:58 p.m.)
23
24

1 performance results that are consistent with
2 statewide goals for student performance, these
3 alternative schools should be allowed to operate
4 and reach the student populations they serve."

5 Why did you make that statement?

6 A. I guess I was trying to elaborate
7 on the idea I was just trying to express a
8 minute ago; that it is more likely to be
9 effective if you operate with a results-oriented
10 accountability than if you operate with a
11 compliance and procedure accountability.

12 I made this statement elsewhere
13 once and somebody picked it up and wrote about
14 it and put it in Education Week, that the kind
15 of accountability system that we need is the
16 kind that the good elementary classroom teacher
17 runs, just using an analogy from schooling to
18 try to make the point.

19 The effective classroom teacher,
20 most people, I believe, would agree, is not one
21 who sets up a whole system of rules, but what
22 you should do next and next and next and what
23 you shouldn't do and shouldn't do and shouldn't
24 do, and is designed chiefly to prevent bad stuff

1 STATE OF NEW YORK)
 ss:
2 COUNTY OF NEW YORK)
 I wish to make the following changes, for the
3 following reasons:
Page Line ____
4 Change From: _____
Change To: _____
5 Reason: _____
Page Line ____
6 Change From: _____
Change To: _____
7 Reason: _____
Page Line ____
8 Change From: _____
Change To: _____
9 Reason: _____
Page Line ____
10 Change From: _____
Change To: _____
11 Reason: _____
Page Line ____
12 Change From: _____
Change To: _____
13 Reason: _____
Page Line ____
14 Change From: _____
Change To: _____
15 Reason: _____
Page Line ____
16 Change From: _____
Change To: _____
17 Reason: _____
Page Line ____
18 Change From: _____
Change To: _____
19 Reason: _____
20

21 _____
22 THOMAS SOBOL, Ed.D.
23 Subscribed and sworn to before me
24 this ____ day of _____, 2003.

CERTIFICATE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

I, Linda J. Greenberg, Professional Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify that, THOMAS SOBOL, Ed.D., the witness whose deposition is hereinbefore set forth, was duly sworn and that such deposition is a true record of the testimony given by the witness to the best of my skill and ability. I further certify that I am neither related to or employed by any of the parties in or counsel to this action, nor am I financially interested in the outcome of this action. IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of March, 2003

Linda J. Greenberg

My commission expires: May 17, 2007

INDEX

WITNESS	EXAMINED BY	PAGE
THOMAS SOBOL, Ed.D.	Mr. Seferian	3

EXHIBITS

NO.	PAGE
1 - Expert report of Thomas Sobol	3

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24