

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

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

vs.

No. 312236

7 STATE OF CALIFORNIA, DELAINE EASTIN,
State Superintendent of Public
8 Instruction, STATE DEPARTMENT OF
EDUCATION, STATE BOARD OF EDUCATION,
9 Defendants.

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13 Deposition of

14 PAUL WARREN

15 Volume I, Pages 1 through 226

16 Wednesday, May 23, 2001
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23 Reported by:

24 TRACY LEE MOORELAND

25 CSR No. 10397

Page 2

1 APPEARANCES

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3 For the Plaintiffs Eliezer Williams, et al.:

4 ACLU FOUNDATION OF SOUTHERN CALIFORNIA

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6 PETER ELIASBERG, ESQ.

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10 For the Defendant State of California:

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16 For the Defendant Delaine Eastin, State Superintendent

17 of Public Instruction, State Department of Education,

18 State Board of Education:

19 DEPARTMENT OF JUSTICE

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Page 3

1 APPEARANCES, cont.

2

3 The Intervener:

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Page 4

1 INDEX

2 Examination by: Page

3 Mr. Rosenbaum 6

4

5 ---o0o---

6

7 EXHIBITS

8 Plaintiffs' Page

9 SAD-31 K-12 Master Plan, Starting the

10 Process, An LAO Report 150

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Page 5

1 BE IT REMEMBERED, that on Wednesday, May 23,

2 2001, commencing at the hour of 10:04 a.m., thereof, at

3 the Law Offices of Morrison & Foerster LLP, 400 Capitol

4 Mall, Suite 2300, Sacramento, California, before me,

5 TRACY LEE MOORELAND, a Certified Shorthand Reporter in

6 the State of California, there personally appeared

7 PAUL WARREN,

8 called as a witness herein, who, having been duly sworn

9 to tell the truth, the whole truth, and nothing but the

10 truth, was thereupon examined and interrogated as

11 hereinafter set forth.

12 ---o0o---

13 MR. ROSENBAUM: Did you want to discuss a

14 matter on the record?

15 MS. READ SPANGLER: We were discussing before

16 we started a stipulation regarding corrections to

17 deposition transcripts, and we've agreed, and please

18 correct me if I'm misstating this, that we'll have 45

19 days from the date the deposition is ready, the

20 transcript is ready for the witness to correct the

21 deposition.

22 And are we agreeing that it's from the

23 completion of the depo, or any given day?

24 MR. ROSENBAUM: Well, it should be from -- as

25 long as we understand that we're going to be flexible

1 for the time as we approach motions, it can be from
2 receipt of the deposition itself.

3 MR. VIRJEE: Why don't we agree that the
4 stipulation that we entered into with respect to the
5 Eleanor Clark-Thomas deposition will be applied to all
6 the depositions we take, with the understanding and
7 agreement that the parties will negotiate shorter time
8 frames as appropriate and necessary.

9 MR. ROSENBAUM: You know, as a personal matter
10 it's fine with me. I don't want to bind some other
11 lawyer, so any deposition I'm involved with, that's
12 absolutely okay.

13 MR. VIRJEE: All depositions with Mark.

14 MR. ROSENBAUM: So stipulated.

15 EXAMINATION BY MR. ROSENBAUM

16 Q. BY MR. ROSENBAUM: How are you, Mr. Warren?

17 A. I'm good, thanks.

18 Q. You're welcome to take your coat off.

19 A. I will eventually. It's deliciously cool
20 compared to our office.

21 Q. How are you?

22 A. Fine.

23 Q. Can you state your full name for the record,
24 please.

25 A. Paul Warren.

1 A. Yes.

2 Q. Therefore, if I ask a question and you don't
3 understand it or you want me to clarify it or you want
4 me to restate it, please ask me and I'll be glad to
5 accommodate that.

6 A. Okay.

7 Q. Otherwise, I'm going to assume that you're
8 answering each question as fully and truthfully as
9 possible.

10 A. I understand.

11 Q. You understand that even though we're in an
12 informal setting here and there's coffee on the table
13 and we're in an office, that you've been administered an
14 oath at the beginning of this deposition?

15 A. Right.

16 Q. And you're testifying under the same pains and
17 penalties of perjury as if you were in a formal court of
18 law?

19 A. Right.

20 Q. One other matter, at the end of the deposition
21 do you understand that you'll get a booklet and the
22 booklet will have my questions and your answers and any
23 other statements that counsel make during the course of
24 the deposition?

25 Do you understand that?

1 Q. Okay. Mr. Warren -- is it Mr. Warren,
2 Dr. Warren?

3 A. Mr.

4 Q. Mr. Warren, have you been deposed previously?

5 A. No.

6 Q. Have you had an opportunity to discuss with
7 your attorney the general rules and practices with
8 respect to depositions?

9 A. Yes.

10 Q. Okay. One thing I should tell you, I'm sure
11 she told you as well, when you answer, you need to
12 answer audibly, not with just a nod of the head.

13 A. Okay.

14 Q. I'm going to briefly review some of the
15 procedures with respect to depositions. If you've got
16 any questions, I want you to feel free to just ask me,
17 I'll be glad to answer.

18 Do you understand that?

19 A. Sure.

20 Q. This is a deposition in a case called Williams
21 versus the State of California. It's our intent here to
22 elicit some information that's helpful in understanding
23 some of the issues in the case. It's not my intent to
24 trick or deceive you.

25 Do you understand that?

1 A. Uh-huh. Yes.

2 Q. And you'll have an opportunity to review that
3 deposition and make any changes in your answers that you
4 think are appropriate.

5 Do you understand that?

6 A. Yes.

7 Q. But I want you to understand that either myself
8 or Mr. Eliasberg or any counsel in this case are free to
9 draw any inferences that we think are fair and
10 appropriate from any changes that you make, including
11 unfavorable inferences.

12 Do you understand that?

13 A. Help me understand what it means when I change
14 something. What is --

15 Q. If you look at one of your answers and you say,
16 gee, I'd like to change that answer, I'd like to amplify
17 that answer --

18 A. Or I wasn't very clear.

19 Q. Sure. -- you're free to change any answer that
20 you give. And you'll jot it down and you'll communicate
21 that to your lawyer, and she'll let us know what those
22 changes are.

23 Do you understand that?

24 A. Yeah.

25 Q. So, again, it's important that you answer each

1 of these questions as fully and as fairly as you
 2 possibly can.
 3 Do you understand that?
 4 A. Yes.
 5 Q. Any reason that we shouldn't go forward?
 6 A. Not that I know of.
 7 Q. Okay. What's your present position,
 8 Mr. Warren?
 9 A. I'm the deputy superintendent for
 10 accountability.
 11 Q. Okay. And that's in the Department of
 12 Education?
 13 A. Yes.
 14 Q. Okay. And that's under the superintendent?
 15 A. Yes.
 16 Q. Okay. And prior to this deposition,
 17 Mr. Warren, did you look at any documents?
 18 A. No.
 19 Q. Any documents or writings relating to this
 20 case?
 21 A. I'm sorry?
 22 Q. Did you look at any documents or writings at
 23 all relating to this case?
 24 MR. VIRJEE: Are you asking about documents he
 25 looked at in preparation of the deposition?

1 MR. ROSENBAUM: That's my first question,
 2 preparation for the deposition.
 3 THE WITNESS: No.
 4 Q. BY MR. ROSENBAUM: Now I'm not just asking in
 5 preparation for the deposition. Have you read any
 6 depositions in this case or parts of depositions?
 7 A. No.
 8 Q. Or seen any summaries of depositions?
 9 A. No.
 10 Q. You're aware that Mrs. Thomas was deposed in
 11 this case?
 12 A. I am told that, yes.
 13 Q. Have you had any discussion with her about this
 14 case?
 15 A. I have not.
 16 Q. Or any discussion with anybody about her
 17 deposition?
 18 A. No.
 19 Q. And you're aware that Mr. Padilla was deposed?
 20 A. I mean, I wasn't there, but, yes, I am aware
 21 that he was scheduled to be deposed.
 22 Q. Okay. And have you had any discussions with
 23 him about his deposition?
 24 A. No.
 25 Q. Or anybody about Mr. Padilla's deposition?

1 A. No.
 2 Q. Or looked at any writings regarding his
 3 deposition?
 4 A. No.
 5 Q. Okay. Now, have you attended any meetings
 6 where this case was discussed?
 7 A. Yes.
 8 Q. Okay. And how many meetings have you attended?
 9 A. I can only think of one.
 10 Q. Okay. And where did that meeting occur?
 11 A. At the Department of Education.
 12 Q. And can you give me an approximate date,
 13 please.
 14 A. I can't, but I can tell you it was maybe within
 15 several weeks of the date that the lawsuit was filed.
 16 Q. Okay. So if I tell you that the lawsuit was
 17 filed on May 17th, of the year 2000, would it be
 18 sometime in late May or June?
 19 A. That would be a reasonable inference. I can't
 20 say that for sure, but that would -- that would be
 21 consistent with my recollection that it was shortly
 22 after.
 23 Q. And how many persons were present, to the best
 24 of your recollection?
 25 A. Oh, I don't know. I really can't recall the

1 exact number. I would say it was probably a half a
 2 dozen or more.
 3 Q. Okay. And do you know who called the meeting?
 4 A. No, I don't.
 5 Q. And who chaired the meeting?
 6 A. The superintendent.
 7 Q. Would that be Superintendent Eastin?
 8 A. Yes.
 9 Q. And were there other persons there from the
 10 Department?
 11 A. Yes.
 12 Q. And who else do you recall being there?
 13 A. I recall my direct supervisor, Scott Hill, the
 14 department's legal counsel, Linda Cabatic. Those are
 15 the only two I can recall for sure.
 16 Q. Okay. Approximately how long did the meeting
 17 last?
 18 A. I really can't recall.
 19 Q. And I think you told me a moment ago that the
 20 superintendent chaired the meeting?
 21 A. She was present.
 22 Q. Were any papers handed out?
 23 MS. READ SPANGLER: Are you asking with respect
 24 to the litigation, or about anything?
 25 MR. ROSENBAUM: About anything in this meeting.

1 THE WITNESS: Anything passed out at the
 2 meeting? I don't recall, but -- I guess what I want to
 3 say is I don't recall any papers being passed out.
 4 Q. BY MR. ROSENBAUM: Was this a regular staff
 5 meeting, or was it your impression that this was a
 6 meeting called about the case?
 7 A. It was a meeting called about the case.
 8 Q. Okay. And you report to Mr. Hill?
 9 A. Yes.
 10 Q. And who does Mr. Hill report to?
 11 A. The superintendent.
 12 Q. Okay. And is there anyone who is lateral with
 13 Mr. Hill?
 14 A. Yes.
 15 Q. Who is that?
 16 A. Leslie Faucette.
 17 Q. How do you spell Faucette?
 18 A. F-a-u-c-e-t-t-e, I believe.
 19 Q. Okay. And how do you spell Leslie?
 20 A. L-e-s-l-i-e.
 21 Q. And what's her position?
 22 A. She is the chief deputy -- and I don't know
 23 what they call her side of -- basically she oversees
 24 half of the department, and Scott oversees the other
 25 half of the department.

1 Q. Do you recall, was Ms. Faucette at the meeting?
 2 A. I don't recall. It would have -- I don't
 3 recall.
 4 Q. Did you speak during the meeting?
 5 A. Yes.
 6 Q. And to the best of your recollection, what did
 7 you say?
 8 MR. VIRJEE: Objection. Calls for
 9 attorney/client privileged information.
 10 MS. READ SPANGLER: Join.
 11 Q. BY MR. ROSENBAUM: Can you tell me what
 12 Superintendent Eastin said?
 13 MS. READ SPANGLER: Objection. Attorney/client
 14 privilege.
 15 MR. VIRJEE: Anything that was said during the
 16 meeting is attorney/client privilege. Counsel was
 17 present.
 18 MR. ROSENBAUM: I take it you're instructing
 19 him not to answer.
 20 MR. VIRJEE: Sure.
 21 MS. READ SPANGLER: I am.
 22 MR. ROSENBAUM: And that would go to any
 23 question I ask about the contents of that meeting?
 24 MS. READ SPANGLER: Yes.
 25 Q. BY MR. ROSENBAUM: Have you seen written

1 summaries about this case?
 2 MR. VIRJEE: Objection. Vague and ambiguous as
 3 to "written summaries."
 4 MR. ROSENBAUM: Go ahead.
 5 MS. READ SPANGLER: Actually, I think I'm going
 6 to object on work product grounds.
 7 MR. ROSENBAUM: Go ahead. You can answer.
 8 THE WITNESS: No.
 9 Q. BY MR. ROSENBAUM: Okay. Have you seen the
 10 complaint in this case?
 11 A. Yes.
 12 Q. Have you -- for what purpose did you -- let me
 13 strike that.
 14 Did you read it over?
 15 A. Yes.
 16 Q. And for any particular purpose?
 17 MR. VIRJEE: Objection to the extent that it
 18 calls for attorney/client privileged information.
 19 MS. READ SPANGLER: Join.
 20 THE WITNESS: To understand what the complaint
 21 was.
 22 Q. BY MR. ROSENBAUM: Do you know what an
 23 allegation is in terms of a lawsuit?
 24 A. I'm not a legal expert, so I'm not sure that I
 25 do.

1 Q. Were there statements in the complaint that you
 2 agreed with?
 3 MR. VIRJEE: Objection. The complaint speaks
 4 for itself, and whether he agrees or doesn't agree with
 5 them is irrelevant.
 6 Also requiring the witness to recall what the
 7 complaint said is and what his state of mind was when he
 8 read it. The complaint is 100 pages long or something.
 9 MR. ROSENBAUM: Go ahead, sir. That's an
 10 improper objection.
 11 Q. Were there statements in the complaint that you
 12 agreed with, sir?
 13 A. I'm not sure I fully understand what you mean.
 14 I mean, you know, when you read something -- I mean, did
 15 I comprehend it? I can answer that question.
 16 Q. Okay.
 17 A. Yes, I think I understood it.
 18 Q. Okay. And were there sentences in there that
 19 you said to yourself, yes, I can agree with that
 20 sentence?
 21 MR. VIRJEE: You mean like the Department of
 22 Education is a subdivision of the State of the
 23 California?
 24 MS. READ SPANGLER: You know, it's a 78-page
 25 complaint.

1 Q. BY MR. ROSENBAUM: Were there statements in
 2 there that you agreed with?
 3 A. To the extent that they're factual and they're
 4 to my knowledge, I guess I'd have to say, yes, of
 5 course.
 6 Q. Okay. Has anyone asked you what statements in
 7 the complaint you agreed with?
 8 A. No.
 9 Q. Do you know what discovery is in a lawsuit?
 10 A. Again, I'm not a lawyer, so as a layperson
 11 might understand it, I think have some understanding of
 12 it, yeah.
 13 Q. Tell me what your understanding is, please.
 14 A. Well, when there's a lawsuit brought, there's
 15 the right of both parties to obtain factual information
 16 about -- that's related to the case.
 17 Q. That's pretty good. Have you been asked to
 18 help in providing discovery responses with respect to
 19 this case?
 20 A. I'm sorry, repeat the question.
 21 Q. Sure. Taking your definition of discovery,
 22 have you participated, to the best of your knowledge, in
 23 terms of providing discovery responses?
 24 MR. VIRJEE: Objection. Vague and ambiguous as
 25 to "participated," and also calls for attorney/client

1 privileged information.
 2 MS. READ SPANGLER: Join.
 3 MR. ROSENBAUM: I'm absolutely entitled to find
 4 out whether or not he's given discovery answers or he's
 5 participated in giving discovery. I'm entitled to know
 6 where discovery answers come from.
 7 MR. VIRJEE: My objection is a valid objection
 8 to the extent you're asking him to tell you whether or
 9 not he's had conversations with counsel or been
 10 requested by counsel to help in providing discovery.
 11 That is objectionable. That's attorney/client
 12 privileged information.
 13 MR. ROSENBAUM: I'm not interested in any
 14 conversation with a lawyer.
 15 Q. What I want to know is have you provided
 16 discovery responses?
 17 MR. VIRJEE: Objection. Vague and ambiguous as
 18 to "provided discovery responses."
 19 MR. ROSENBAUM: Go ahead.
 20 MS. READ SPANGLER: You can answer.
 21 THE WITNESS: No.
 22 Q. BY MR. ROSENBAUM: Okay. Has anyone asked you
 23 to provide discovery responses?
 24 MR. VIRJEE: Objection. Calls for
 25 attorney/client privileged information.

1 MS. READ SPANGLER: Join.
 2 MR. VIRJEE: Don't answer to the extent you had
 3 any conversations with counsel about that, otherwise you
 4 can answer.
 5 THE WITNESS: No.
 6 Q. BY MR. ROSENBAUM: Have you looked at any
 7 discovery responses, answers to interrogatories, answers
 8 to the document request, anything of that nature? Have
 9 you reviewed any sorts of discovery responses?
 10 A. No.
 11 Q. Okay. Have you looked at any discovery
 12 questions that were propounded by the plaintiffs in this
 13 case, interrogatories, document requests?
 14 A. Requests for documents, those kinds of things?
 15 Q. Right.
 16 A. No.
 17 Q. Have you assigned anyone on your staff who is
 18 responsible for answering discovery requests from
 19 plaintiffs, interrogatories, document requests?
 20 A. Have I in some proactive, I hate that word,
 21 fashion said, you are the ones that need to respond to
 22 the lawyers on these things?
 23 Q. Yes.
 24 A. No.
 25 Q. Okay. Besides the complaint -- strike that.

1 How many times -- when did you read the
 2 complaint?
 3 A. I think shortly after it was filed.
 4 Q. Have you looked at the complaint subsequent to
 5 that?
 6 A. I may have, but not in recent past.
 7 Q. Okay. Do you know for what purpose you may
 8 have again looked at it?
 9 A. To familiarize myself with the case.
 10 Q. With respect to this deposition?
 11 A. No.
 12 Q. Okay. Why did you do that?
 13 MR. VIRJEE: He didn't say he did, he said he
 14 may have.
 15 Q. BY MR. ROSENBAUM: Why might you have done that
 16 to familiarize yourself?
 17 MR. VIRJEE: Objection. Calls for speculation
 18 as to why he might have done something that he may or
 19 may not have done.
 20 You don't want to guess or speculate about
 21 anything here, Paul.
 22 THE WITNESS: To determine, I guess -- well, I
 23 guess I'm generally interested in lawsuits in education,
 24 generally speaking. As a person who is in the
 25 leadership of the Department, I think it's important

1 that we understand what's occurring for matters like
 2 this. Also to -- to form, you know, some kind of a --
 3 to evaluate to what extent it may affect the work of my
 4 branch.
 5 Q. BY MR. ROSENBAUM: Okay. And do you consider
 6 this an important lawsuit?
 7 A. Yes.
 8 Q. Why is that?
 9 A. Well, I think -- I think most lawsuits are
 10 important for the Department and for the State, but this
 11 one obviously has -- possesses large questions.
 12 Q. What are those large questions?
 13 MR. VIRJEE: The complaint speaks for itself.
 14 MS. READ SPANGLER: Join.
 15 MR. ROSENBAUM: Go ahead. To your
 16 understanding, sir.
 17 MS. READ SPANGLER: Calls for a legal
 18 conclusion.
 19 MR. VIRJEE: Calls for speculation. Vague and
 20 ambiguous.
 21 MR. ROSENBAUM: Go ahead.
 22 THE WITNESS: It possess questions of the
 23 appropriate role of the State.
 24 Q. BY MR. ROSENBAUM: And that's a matter you've
 25 given considerable thought to; isn't that right?

1 MR. VIRJEE: Objection. Vague and ambiguous as
 2 to "considerable thought."
 3 MS. READ SPANGLER: Leading.
 4 THE WITNESS: I'm interested in the question.
 5 Q. BY MR. ROSENBAUM: You've written about this,
 6 haven't you?
 7 A. Yes.
 8 Q. Okay. And when you say "State," by the way,
 9 what do you mean by "State"?
 10 A. I mean in the largest sense of the State as a
 11 collective group of actors.
 12 Q. Okay. When you've written about this,
 13 Mr. Warren, you've talked about respective roles of the
 14 State as opposed to districts as opposed to schools, you
 15 do understand that, correct?
 16 MR. VIRJEE: Objection. Whatever he's written
 17 speaks for itself.
 18 MS. READ SPANGLER: Join. Leading.
 19 MR. ROSENBAUM: Go ahead.
 20 MR. VIRJEE: Also vague as to time.
 21 THE WITNESS: I mean, I think that's a good
 22 point. I mean, I have written several different things,
 23 so I'm not sure which -- what you're referring to
 24 exactly.
 25 Q. BY MR. ROSENBAUM: You were involved in the LAO

1 office, were you not?
 2 A. Yes.
 3 Q. Okay. And you did some writing there about
 4 this subject matter, that is, the appropriate role of
 5 the State in K-12 education; isn't that right?
 6 A. Several places, yes.
 7 Q. And when you did that, you talked about your
 8 judgment regarding the appropriate role of the State,
 9 the appropriate role of local districts and the
 10 appropriate role of individual schools; isn't that
 11 right?
 12 MR. VIRJEE: Objection. Document speaks for
 13 itself. It's also vague as to time.
 14 MS. READ SPANGLER: Join. Effectively compound
 15 too to the extent you're talking about more than one
 16 document.
 17 THE WITNESS: I think -- I think I have written
 18 several things, and you'd have to be specific, you know,
 19 for me to be able to respond to that.
 20 Q. BY MR. ROSENBAUM: Okay. One of the things
 21 you've written was a proposed K-12 master plan?
 22 A. Correct.
 23 Q. And in that document, sir, you talked about
 24 appropriate roles for the State, local districts and
 25 schools; isn't that right?

1 MR. VIRJEE: Objection. The document speaks
 2 for itself.
 3 MS. READ SPANGLER: Join.
 4 Q. BY MR. ROSENBAUM: When you use the term
 5 "State" in that document, what did you mean?
 6 MR. VIRJEE: Same objection. The document
 7 speaks for itself. Also vague and ambiguous as to what
 8 part of the document and what context. The State is
 9 probably mentioned in that document hundreds of times.
 10 THE WITNESS: Well, I think generally I would
 11 have used State, again, as the collective expression of
 12 the state as its embodied in law and in regulations.
 13 Q. BY MR. ROSENBAUM: Okay. And how would you
 14 distinguish that, referring to the State as you've just
 15 defined it, in comparison to local districts and in
 16 comparison to schools, individual schools?
 17 MR. VIRJEE: How did he do that in the
 18 document, how would he do that as he sits here now?
 19 Vague and ambiguous. Vague as to time.
 20 THE WITNESS: I'm not sure exactly what you
 21 mean by "distinguish." What criteria are you --
 22 Q. BY MR. ROSENBAUM: In the master plan that
 23 we're talking about, you describe what you believe was
 24 the appropriate role for accountability for the State as
 25 an entity; isn't that right?

1 MR. VIRJEE: Objection. The document speaks
2 for itself.
3 MS. READ SPANGLER: Join.
4 MR. VIRJEE: May or may not describe anything
5 having to do with that. It speaks for itself.
6 MS. READ SPANGLER: Join. And leading.
7 THE WITNESS: The report does discuss the role
8 of the State, again, as this collective of laws and
9 regulations as expressed through the legislative and
10 regulatory process.
11 Q. BY MR. ROSENBAUM: It also discusses the role
12 of districts; isn't that right?
13 MR. VIRJEE: Objection. Document speaks for
14 itself.
15 MS. READ SPANGLER: Join. Leading.
16 THE WITNESS: The role of districts? I can't
17 really answer that.
18 MR. VIRJEE: Objection. Vague and ambiguous.
19 THE WITNESS: Because districts by themselves
20 don't have a role.
21 Q. BY MR. ROSENBAUM: Why is that?
22 MR. VIRJEE: Objection. Calls for a legal
23 conclusion. Calls for speculation.
24 MS. READ SPANGLER: Join.
25 THE WITNESS: I'm trying to respond in a fair

1 way, and I guess I'll take back what I said in fairness
2 to if I talk about the State as a collective expression
3 of the State's role as it goes through the process, then
4 I guess I can -- I can agree with you that -- that the
5 report does discuss districts, if you think of districts
6 as a collection of the district's processes in the same
7 parallel way as I've discussed about the State and its
8 processes.
9 Q. BY MR. ROSENBAUM: Help me understand this.
10 When you said a moment ago the districts don't have a
11 role, what did you mean by that?
12 A. I just meant that districts are a complex thing
13 that have lots of different actors within them, just
14 like the State does. Okay? And so I -- you know, the
15 primary policy-setting body within a district is the
16 governing board, so if you want to be kind of specific
17 about the roles of the different levels, the governing
18 board is the policy-setting board. So do governing
19 boards have a role or do I discuss the role of governing
20 boards, I absolutely do. Okay? So that's where I kind
21 of got --
22 Q. But when you said a moment ago that districts
23 don't have a role, what did you mean by that?
24 MR. VIRJEE: Objection. Asked and answered.
25 He said he doesn't mean that districts don't and

1 governing boards do.
2 MR. ROSENBAUM: I don't need a
3 characterization.
4 MR. VIRJEE: He just answered the question.
5 MR. ROSENBAUM: I'm just probing it.
6 MR. VIRJEE: You're not probing it, you're
7 asking the same question again.
8 MS. READ SPANGLER: If you feel like you have
9 anything to add.
10 MR. VIRJEE: You don't have to expound on your
11 answer.
12 THE WITNESS: I don't know what to say.
13 MS. READ SPANGLER: If you feel like you've
14 answered the question, you don't need to say anything.
15 THE WITNESS: Okay. I think I answered the
16 question.
17 Q. BY MR. ROSENBAUM: You've answered as fully as
18 you possibly can?
19 A. I think I answered it. I'm not sure what more
20 you want.
21 Q. Okay. And sitting here today, sir, what do you
22 think the appropriate role of the State is?
23 MR. VIRJEE: Objection. Vague and ambiguous.
24 Calls for speculation. Lacks foundation.
25 MS. READ SPANGLER: In what context?

1 MR. ROSENBAUM: It's his phrase.
2 THE WITNESS: Would you repeat the question.
3 Q. BY MR. ROSENBAUM: Several moments ago you
4 talked about the appropriate role of the State, in
5 answer to my question. Am I understanding you
6 correctly?
7 A. Uh-huh.
8 Q. Are you saying yes?
9 A. Yes. Sorry.
10 Q. So I'm saying to you, sitting here today what
11 do you think is the appropriate role of the State?
12 MR. VIRJEE: Same objections.
13 THE WITNESS: Well, that's a complex answer
14 that is somewhat situational in nature, and you'd have
15 to tell me more about what the -- what specifics that
16 you're going to assume before I can really answer that
17 question.
18 Q. BY MR. ROSENBAUM: I appreciate that. With
19 respect to -- you are head of the -- you are the deputy
20 superintendent with respect to the office of
21 accountability?
22 A. I am the deputy superintendent for the
23 accountability branch.
24 Q. I'm sorry.
25 A. That's all right.

1 Q. And what is your understanding, Mr. Warren, as
 2 to what accountability means?
 3 MR. VIRJEE: In that context?
 4 MR. ROSENBAUM: In that context.
 5 THE WITNESS: In the context of my
 6 responsibilities at the Department?
 7 MR. ROSENBAUM: In the context of -- maybe it's
 8 the same thing.
 9 Q. In the context of when we talk about the
 10 accountability branch of the Department of Education,
 11 what is your understanding of what accountability means?
 12 A. I guess accountability is defined, for the
 13 purposes of the work I do for the Department, as
 14 creating some mechanism to help people understand how
 15 well students are doing in school and to create some --
 16 some way of reinforcing to schools, districts, teachers
 17 the importance of that, of high student achievement.
 18 Q. And when you say "high student achievement,"
 19 what do you mean by that?
 20 A. That students are learning the material that is
 21 described in the State standards that are adopted by the
 22 State Board of Education.
 23 Q. When you say "the importance," what is your
 24 understanding of "the importance"?
 25 A. Help me understand the context of that.

1 Q. If I understood your response, Mr. Warren, you
 2 said that it was -- that accountability in the context
 3 of the accountability branch meant creating a mechanism
 4 to understand how well students are doing in school and
 5 to create some way of reinforcing to schools, teachers
 6 and students the importance of high student achievement.
 7 Did I understand you right?
 8 MS. READ SPANGLER: Objection. Misstates his
 9 testimony.
 10 Q. BY MR. ROSENBAUM: Did I misstate your
 11 testimony?
 12 MR. VIRJEE: His testimony speaks for itself.
 13 THE WITNESS: I can't remember exactly what I
 14 said.
 15 Q. BY MR. ROSENBAUM: Is that a fair
 16 characterization of what you intended?
 17 A. As far as I can tell, yeah.
 18 Q. When you say the importance of high student
 19 achievement, tell me what you mean by "importance."
 20 A. Well, it is why we have the school system, is
 21 for students to learn, and that that should be the
 22 central mission of the system.
 23 Q. And how does the accountability branch relate
 24 to that central mission?
 25 MR. VIRJEE: The central mission of the

1 students to learn, that one that he just identified?
 2 MR. ROSENBAUM: The one that he just
 3 identified.
 4 THE WITNESS: Well, I'm not sure I know what
 5 you mean by "relate to."
 6 MS. READ SPANGLER: Objection. Vague and
 7 ambiguous as to "relate to."
 8 Q. BY MR. ROSENBAUM: What do you understand is
 9 the objective of the -- strike that.
 10 What do you understand is the relationship
 11 between the accountability branch and the achievement of
 12 that central mission?
 13 MR. VIRJEE: Objection. Vague and ambiguous as
 14 to "relationship."
 15 MR. ROSENBAUM: Go ahead.
 16 THE WITNESS: Are you asking what role does the
 17 accountability branch play in helping students do well,
 18 is that your question?
 19 MR. ROSENBAUM: Yes.
 20 THE WITNESS: Directly it plays no role, okay,
 21 from the standpoint that it's not involved in curriculum
 22 instruction directly.
 23 Q. BY MR. ROSENBAUM: Does it indirectly play any
 24 role, in your mind?
 25 A. Yes.

1 Q. And what is that?
 2 A. I believe it's helping create incentives for
 3 the whole system to kind of maintain a focus on the
 4 student achievement as the primary goal.
 5 Q. Okay. And why is that important?
 6 MR. VIRJEE: Objection. Asked and answered.
 7 MR. ROSENBAUM: Go ahead.
 8 MR. VIRJEE: Why is student achievement the
 9 primary goal, is that your question?
 10 MR. ROSENBAUM: Go ahead, sir.
 11 MR. VIRJEE: Objection. Vague and ambiguous or
 12 compound. I don't know what your question is.
 13 If you understand his question, you can answer
 14 it, but remember he said if you answer it, he's going to
 15 assume you understood the question.
 16 MS. READ SPANGLER: Can you read back the
 17 question?
 18 THE WITNESS: That would be helpful.
 19 (Record read.)
 20 THE WITNESS: If you're asking why is creating
 21 incentives an important feature, important thing, I
 22 think it's because education and learning is the central
 23 goal, and the role that the accountability branch can
 24 play is to reinforce the importance of that central
 25 mission of the system.

1 Q. BY MR. ROSENBAUM: And what do you think the
2 State's role is with respect to that?
3 MR. VIRJEE: Objection --
4 THE WITNESS: With respect to?
5 MR. ROSENBAUM: To help create incentives for
6 the whole system to kind of maintain a focus on student
7 achievement.
8 MR. VIRJEE: Objection. Vague and ambiguous as
9 to the State and "role."
10 MS. READ SPANGLER: Join.
11 THE WITNESS: I think that the State is
12 better -- the State role works better if you create the
13 right incentives and let districts find their own
14 solutions.
15 Q. BY MR. ROSENBAUM: Okay. Now, when you say the
16 "State role works better" -- did I understand that
17 phrase?
18 A. I think so.
19 Q. -- what does that mean?
20 A. More effective.
21 Q. And what exactly should the State role be?
22 A. In terms of what?
23 Q. In terms of these concerns.
24 A. In terms of student accountability, in terms of
25 student achievement?

1 Q. Let's break it down. First in terms of
2 accountability.
3 MS. READ SPANGLER: Objection. Asked and
4 answered.
5 MR. VIRJEE: Also vague and ambiguous as to
6 "the State."
7 MS. READ SPANGLER: Join.
8 THE WITNESS: What's the State's role in
9 accountability, is that your question?
10 MR. ROSENBAUM: Yes.
11 MR. VIRJEE: Objection. Asked and answered.
12 Vague and ambiguous as "to State."
13 MS. READ SPANGLER: Join.
14 THE WITNESS: I believe the State's role in
15 accountability is generally creating the right
16 incentives for schools to do the right thing.
17 Q. BY MR. ROSENBAUM: And when you say
18 "incentive," what do you mean by that?
19 A. Incentives generally do not contain mandates or
20 specific requirements so much as they are attempting to
21 influence behavior without the use of mandates.
22 Q. "Behavior," you're referring to the behavior of
23 districts or schools? When you say "behavior," what do
24 you mean?
25 A. I'm talking in a general sense, I'm not talking

1 in any specific sense. You asked me what are
2 incentives.
3 Q. Why is it important for the State to be doing
4 that?
5 MR. VIRJEE: Objection. Asked and answered,
6 and also vague and ambiguous as to "State."
7 MS. READ SPANGLER: Join. And assumes facts
8 not in evidence.
9 THE WITNESS: Because I believe any system
10 needs to -- I guess I'd say any system needs to have
11 feedback mechanisms that help to curb the excesses that
12 may be created out of its own system.
13 Q. BY MR. ROSENBAUM: Okay. And why is that?
14 MS. READ SPANGLER: Why is what?
15 Q. BY MR. ROSENBAUM: Why does a system need that?
16 A. Well, any system needs it. It's like ecology.
17 Ecology, if there were no curbs on systems, the whole
18 planet would be overrun with everything. But the way
19 the system works is that there are systems that regulate
20 the growth of particular animal species, plants, et
21 cetera, and it achieves a balance through its feedback
22 loops.
23 Q. Okay. And when you use the word "State," what
24 do you mean by State in this context?
25 MR. VIRJEE: Objection. Vague and ambiguous as

1 to what context are you referring to.
2 MR. ROSENBAUM: Your answer just now.
3 MS. READ SPANGLER: Join.
4 MR. VIRJEE: Right now he's talking about
5 ecology and plants and animals. He didn't use the word
6 "State."
7 MS. READ SPANGLER: Join.
8 THE WITNESS: I think that, again, I use the
9 word "State" as the collective expression of the laws
10 and the processes and regulations that come out of the
11 State process.
12 Q. BY MR. ROSENBAUM: Okay. And with respect to K
13 through 12 public education, sir, have you identified
14 "excesses" in the system in the way that you've just
15 used the term excesses?
16 MR. VIRJEE: Objection. Vague and ambiguous.
17 Also vague as to time.
18 MS. READ SPANGLER: Join.
19 THE WITNESS: I guess I'm trying to think about
20 are you speaking to the master plan report, or are you
21 speaking to -- what context are --
22 Q. BY MR. ROSENBAUM: Sitting here today, using --
23 thinking about what you said a few moments ago when you
24 talked about curbing expenses, the importance of
25 feedback mechanisms to curb excesses, are there excesses

1 today in K-12 public education, to your understanding?
 2 MR. VIRJEE: Objection. Vague and ambiguous as
 3 to "excesses." Also calls for speculation.
 4 MS. READ SPANGLER: Join. And calls for a
 5 legal conclusion.
 6 MR. VIRJEE: Also lacks foundation. There's
 7 been no foundation laid that he knows everything about
 8 what goes on in California's public education system
 9 K-12.
 10 THE WITNESS: I guess I would respond that
 11 excesses are to some extent in the eye of the beholder.
 12 Okay? And my excesses may not be your excesses, so it's
 13 a perspective. So does that answer your question?
 14 Q. BY MR. ROSENBAUM: It's helpful. I'm
 15 interested, Mr. Warren, in your perspective. What
 16 excesses, if any, do you perceive?
 17 MR. VIRJEE: Same objections. Vague and
 18 ambiguous as to "excesses," "perceived," and also lacks
 19 foundation and calls for speculation.
 20 There's no foundation laid this witness knows
 21 everything that goes on in California's public education
 22 system.
 23 MS. READ SPANGLER: Join. And assumes facts
 24 not in evidence.
 25 THE WITNESS: Well, I've spent most of my

1 career looking at school finance, and I can say from a
 2 finance perspective there are times in which I have
 3 identified excesses that -- where because there was no
 4 feedback mechanism, no control mechanism, that districts
 5 were able to take advantage of the State. I would
 6 consider that an excess.
 7 Q. BY MR. ROSENBAUM: When you used "the State"
 8 just now, what did you mean by that?
 9 A. Again, the State as its collective expression
 10 of laws and regulations.
 11 Q. Okay. And can you give me some examples of
 12 that, please.
 13 MR. VIRJEE: Objection. Vague as to time.
 14 MS. READ SPANGLER: Vague and ambiguous as to
 15 "that." I'm assuming you mean excesses, not the
 16 collective expression of laws and regulations that was
 17 actually his last answer.
 18 MR. ROSENBAUM: Go ahead.
 19 MS. READ SPANGLER: If you understand his
 20 question.
 21 THE WITNESS: I can give you an example of a
 22 financial -- what I consider to be a financial excess
 23 where schools were appropriated money for -- I'm trying
 24 to think of a good example. Schools were appropriated
 25 money for students who were served in adult education,

1 K-12 students that were served through adult education,
 2 and those students, because of this particular feature
 3 in law, they were able to actually get more funding for
 4 those students than a regular K-12 student was afforded.
 5 And most districts dealt with that very
 6 responsibly. There were some districts that used this
 7 particular feature to increase funding substantially in
 8 a manner that was not consistent with the intent of the
 9 original act. Okay? There were no limits, however, in
 10 the appropriation mechanism that restrained schools from
 11 using that mechanism.
 12 Q. BY MR. ROSENBAUM: Can you tell me any other
 13 examples? We're in the realm of finance.
 14 A. We're in the realm of finance. Most of the
 15 examples would be of a similar nature, where there were
 16 open-ended appropriations, that is, appropriations where
 17 the State has paid the claims as they were submitted to
 18 them by districts wherein there was no appropriation
 19 limitation.
 20 And it is not -- well, I have run into several
 21 of these where districts were, I think from an intent
 22 standpoint, using it for something quite different than
 23 what the legislature originally had believed it was
 24 doing.
 25 Q. Can you think of any other specific examples

1 besides the students you were talking about?
 2 A. Yeah, there's another one that has to do with
 3 funding for county jails, where it's a similar
 4 situation, where there's -- that there's a lack of
 5 control on the appropriation mechanism, and the county
 6 jails system was -- from my particular personal
 7 standpoint, was taking advantage of that.
 8 Q. Okay. And staying in the area of education,
 9 besides the students that you were talking about, that
 10 example, can you think of any other examples?
 11 A. In the finance area?
 12 Q. Yes, sir.
 13 A. Not off the top of my head.
 14 Q. Okay. How about outside the realm of finance
 15 but still in the education area, can you think of any
 16 other examples, can you think of any examples of
 17 excesses as you use that term?
 18 MR. VIRJEE: Objection. Vague and ambiguous as
 19 to "excesses," and also vague as to time.
 20 THE WITNESS: I think there's another general
 21 category of -- again, it's still financial, but it's
 22 different, which has to do with a local allocation
 23 mechanism and how districts decide to use their funds
 24 and --
 25 Q. BY MR. ROSENBAUM: Can you explain what you

1 mean by that?
 2 A. Well, again, this is an area of, again, we're
 3 talking about different perspectives, and sometimes when
 4 you observe the action of other players in the system,
 5 in this case district governing boards, and the
 6 allocation decisions they make, you -- you can talk
 7 about them as excesses or as trying to understand what
 8 their priorities are and why their priorities are the
 9 way they are.

10 Q. Can you give me an example of what you mean?

11 A. Well, for instance, in the early '90s Los
 12 Angeles Unified put together a three-year contract with
 13 their teachers union that almost got them bankrupt, and
 14 so from a state-level observer, you have to wonder why
 15 they made that allocation decision and to what extent
 16 they understood what they were doing, to what extent
 17 they didn't and it was just bad management.

18 Q. And in that circumstance, sir, what, if
 19 anything, do you think the State should do?

20 MR. VIRJEE: Objection. Vague and ambiguous.
 21 Vague as to time.

22 THE WITNESS: In terms of do -- I don't
 23 understand what you mean.

24 Q. BY MR. ROSENBAUM: You're a State observer at
 25 this period of time, you were observing the school

1 have the expertise to go outside of that area.

2 Q. I appreciate that. Does anyone in your office,
 3 sir, have the expertise, to the best of your knowledge,
 4 outside the area of finance with respect to -- with
 5 respect to accountability?

6 MR. VIRJEE: Objection. Vague and ambiguous.

7 In fact, he's already talked about the fact
 8 that accountability in his branch has nothing to do with
 9 finance, it has to do with student outcomes, so that's a
 10 nonsensical question.

11 MS. READ SPANGLER: Join.

12 THE WITNESS: I'm not sure I understand your
 13 question.

14 Q. BY MR. ROSENBAUM: Okay. Have you had
 15 discussions about this case with anyone from the
 16 superintendent's office?

17 MR. VIRJEE: By that, do you mean Delaine
 18 Eastin's office?

19 MR. ROSENBAUM: Yeah, with the exception of
 20 that one meeting.

21 MR. VIRJEE: I guess that's vague and ambiguous
 22 as to "superintendent's office." He is a part of her
 23 office, so I -- he discussed it with himself.

24 I don't understand your question, what you mean
 25 by the superintendent's office.

1 district enter into a union agreement which you think is
 2 bad policy, am I understanding you right?

3 MS. READ SPANGLER: Objection.

4 Mischaracterizes, misstates his testimony.

5 THE WITNESS: I can say that it created a
 6 financial dilemma for them.

7 Q. BY MR. ROSENBAUM: And my question to you is,
 8 assuming you were in your present position back then,
 9 what, if anything, do you think your office should do
 10 under those circumstances?

11 A. I don't think my office would have any role in
 12 that.

13 Q. Why is that?

14 A. It falls outside of the area of responsibility.

15 Q. And why is that?

16 A. Again, because the accountability branch is
 17 primarily focused on student outcomes.

18 Q. You've given me two examples where you've
 19 talked to me about excesses in the area of education
 20 relating to finance.

21 Can you think of any other examples of what you
 22 mean by excesses in the area of education outside the
 23 area of finance?

24 A. My area of expertise is primarily financial of
 25 what things I really know about, so I don't know if I

1 Q. BY MR. ROSENBAUM: Have you had any discussions
 2 with anyone in the superintendent's office about this
 3 case?

4 MR. VIRJEE: Objection. Vague and ambiguous as
 5 to "superintendent's office."

6 THE WITNESS: Can you define what the
 7 "superintendent's office" means?

8 MR. ROSENBAUM: Anyone who is under the
 9 superintendent or anyone who is --

10 THE WITNESS: Well, the whole department is
 11 nominally under the superintendent.

12 Q. BY MR. ROSENBAUM: Have you had any discussions
 13 with anyone in the Department about this case outside
 14 that one meeting?

15 MS. READ SPANGLER: Objection. Asked and
 16 answered.

17 THE WITNESS: I certainly have discussed with
 18 my colleagues the fact I'm being deposed.

19 Q. BY MR. ROSENBAUM: Any substantive discussion
 20 with respect to that?

21 A. No.

22 Q. Putting aside -- by that I take it you mean I
 23 won't be in the office today, I'm being deposed?

24 A. Correct.

25 Q. Or pray for me, or something like that?

1 A. Right. I'm going to go off and have fun being
2 deposed.
3 Q. With the exception of those sorts of
4 discussions, have you had any substantive discussions
5 about this case, except for that one meeting in the
6 superintendent's office?
7 A. I may have, but I can't say for sure.
8 Q. Is there anyone who directly reports to you?
9 A. Yes.
10 Q. Who are they?
11 A. Bill Padilla, Phil Speers, Stewart Greenfeld,
12 my secretary, Rena Carlson, and I have a consultant who
13 works with me, Terry Givens.
14 Q. And can you spell Terry?
15 A. T-e-r-r-y.
16 Q. And can you spell Speers?
17 A. S-p-e-e-r-s.
18 Q. Have you had any discussion with any of those
19 individuals about this case?
20 A. Again, I may have. It would -- I may have. I
21 just can't remember for sure.
22 Q. Can you remember anything about --
23 A. Well, this is -- I think, like I said
24 originally, this is an important case and --
25 MR. VIRJEE: He's just asking, do you remember

1 having a discussion, and if so, I'm sure he has more
2 questions.
3 THE WITNESS: Specific discussion, no, I don't
4 recall.
5 Q. BY MR. ROSENBAUM: Generally do you remember
6 any discussions?
7 A. Again, like I said, it would be -- it wouldn't
8 be -- what am I trying to say?
9 MS. READ SPANGLER: It's actually a yes or no
10 question.
11 THE WITNESS: I can't recall any specific
12 discussion or even that I had a discussion with any of
13 them.
14 MR. VIRJEE: You answered the question.
15 Q. BY MR. ROSENBAUM: Have you had any discussions
16 about this case with anyone from the State Board of
17 Education?
18 A. No.
19 Q. Or anyone from the governor's office?
20 A. No.
21 Q. Or anyone from the secretary of education's
22 office?
23 A. No.
24 Q. Have you had any discussions about this case
25 from anyone from the law firm of O'Melveny & Myers?

1 MR. VIRJEE: Objection. Calls for
2 attorney/client privilege.
3 MS. READ SPANGLER: Join.
4 MR. ROSENBAUM: I'm not asking about the
5 content.
6 MR. VIRJEE: You're not entitled to know
7 whether he had any discussions either.
8 MS. READ SPANGLER: Join. I'll instruct him
9 not to answer.
10 Q. BY MR. ROSENBAUM: Have you met Mr. Virjee
11 before, before this morning?
12 A. Yes.
13 Q. On how many occasions?
14 A. Once.
15 Q. When was that?
16 A. Yesterday.
17 Q. That was a face-to-face discussion,
18 face-to-face meeting with him?
19 MS. READ SPANGLER: Objection. Attorney/client
20 privilege. I'm going to instruct him not to answer.
21 MR. ROSENBAUM: Go ahead.
22 MS. READ SPANGLER: I just --
23 MR. VIRJEE: She just instructed him not to
24 answer.
25 Q. BY MR. ROSENBAUM: Have you had any -- prior to

1 yesterday, did you have any phone conversations with
2 Mr. Virjee?
3 MS. READ SPANGLER: Same objection, same
4 instruction.
5 Q. BY MR. ROSENBAUM: Had you spoken to Mr. Virjee
6 before yesterday?
7 MS. READ SPANGLER: Object. Attorney/client
8 privilege. I'm going to instruct him not to answer.
9 MR. ROSENBAUM: I'll ask anyway.
10 MS. READ SPANGLER: Go ahead.
11 Q. BY MR. ROSENBAUM: Do you know the names of any
12 lawyers at O'Melveny & Myers besides Mr. Virjee?
13 A. No.
14 MR. VIRJEE: And Mr. O'Melveny and Mr. Myers.
15 MS. READ SPANGLER: Well, it could be
16 Mrs. O'Melveny and Mrs. Myers.
17 MR. VIRJEE: I stand corrected.
18 Q. BY MR. ROSENBAUM: Tell me about your
19 educational background.
20 A. Starting when?
21 Q. Starting with college.
22 A. I got a bachelor's degree in economics from
23 Skidmore College.
24 Q. When was that?
25 A. 1975.

1 Q. Did you have a major or a particular area of
 2 specialization?
 3 A. Economics.
 4 Q. And did you study education at all?
 5 A. No.
 6 Q. And how about after, undergraduate?
 7 A. I got a master's degree in public policy from
 8 Harvard.
 9 Q. When was that?
 10 A. 1982.
 11 Q. And how about after that?
 12 A. Well, actually, I missed something. It may not
 13 be germane. I went to Pasadena City College and took
 14 music classes for one year, just so you know.
 15 Q. Okay.
 16 A. No, no more education.
 17 Q. Your public policy, sir, did it deal with
 18 education at all?
 19 A. No.
 20 Q. Did it deal with accountability at all?
 21 A. From what perspective?
 22 Q. Any perspective.
 23 MS. READ SPANGLER: Objection. Vague and
 24 ambiguous as to "accountability" in that context.
 25 THE WITNESS: Yeah, I mean I don't think so.

1 Q. BY MR. ROSENBAUM: Either at Skidmore or at
 2 Harvard, did you take any courses in accountability?
 3 A. In accountability, no.
 4 Q. Do you consider yourself an expert in the area
 5 of accountability?
 6 MR. VIRJEE: Objection. Vague and ambiguous as
 7 to "accountability."
 8 MS. READ SPANGLER: Join.
 9 THE WITNESS: I guess I don't exactly know how
 10 you would -- what an expert really is and what that
 11 requires.
 12 Q. BY MR. ROSENBAUM: Do you consider yourself to
 13 have specialized knowledge in that area?
 14 A. No.
 15 MR. VIRJEE: In the area of accountability?
 16 MR. ROSENBAUM: Yes.
 17 MR. VIRJEE: Vague and ambiguous as to the term
 18 "accountability."
 19 Q. BY MR. ROSENBAUM: Do you know anybody who you
 20 feel does have specialized knowledge in the area of
 21 accountability?
 22 MS. READ SPANGLER: Objection. Vague and
 23 ambiguous as to "accountability."
 24 THE WITNESS: The question is do I know
 25 anybody --

1 Q. BY MR. ROSENBAUM: I don't mean personally
 2 know. Do you know the names of any individuals whom you
 3 regard as having specialized knowledge in the area of
 4 accountability?
 5 MS. READ SPANGLER: Same objection.
 6 MR. VIRJEE: He's given you a definition of
 7 accountability for the accountability branch. I don't
 8 think anybody knows how you're using that term now.
 9 MR. ROSENBAUM: Go ahead.
 10 THE WITNESS: I think from a general sense,
 11 accountability generally, I'd have to say no.
 12 Q. BY MR. ROSENBAUM: When you say a "general
 13 sense" of the term accountability, what do you mean by
 14 that?
 15 A. Well, you asked the question do I know anybody
 16 who is an expert in accountability, and my answer is,
 17 no, I don't know anybody who describes themselves or who
 18 I would recognize as an expert in accountability, per
 19 se.
 20 Q. Okay. And when you used the term
 21 "accountability" just now, what did you mean by that?
 22 A. Well, I responded to your question where you
 23 said, do you know anybody who is an expert in
 24 accountability. And I thought, do I know anybody who
 25 says they are an expert in accountability, and I said,

1 no.
 2 Q. Okay. Have you done any readings?
 3 A. Any?
 4 Q. Readings in the area of accountability.
 5 MR. VIRJEE: Objection. Vague and ambiguous as
 6 to the term "accountability."
 7 Q. BY MR. ROSENBAUM: Have you done any readings,
 8 sir, in an area which you regard as the subject of
 9 accountability?
 10 MR. VIRJEE: Objection. Vague and ambiguous as
 11 to "accountability."
 12 In what context?
 13 MS. READ SPANGLER: Join.
 14 MR. VIRJEE: In your own personal life, as a
 15 legislative analyst, education area, in baseball?
 16 That's ridiculous.
 17 MR. ROSENBAUM: Go ahead.
 18 MR. VIRJEE: Other than the dictionary and
 19 reading the definition of accountability?
 20 MR. ROSENBAUM: Go ahead.
 21 THE WITNESS: You're talking about education
 22 accountability?
 23 MR. ROSENBAUM: Yes.
 24 MR. VIRJEE: That's a nice clarification.
 25 Let's start there.

1 MS. READ SPANGLER: Do you still have the
2 question in mind?
3 THE WITNESS: Have I done any readings in the
4 area of educational accountability. And are you talking
5 about accountability for student outcomes?
6 MS. READ SPANGLER: If you don't understand the
7 question, just say --
8 THE WITNESS: Just say so.
9 MS. READ SPANGLER: Yeah, it's up to him to fix
10 it.
11 MR. VIRJEE: If you answer the question, he's
12 going to assume that you understood, and understood it
13 the way he asked it.
14 MR. ROSENBAUM: Let's start right there, sir,
15 with respect to student outcomes, yes.
16 THE WITNESS: I don't recall.
17 Q. BY MR. ROSENBAUM: And as a management matter
18 have you read any writings in the area of
19 accountability?
20 MR. VIRJEE: Objection. Vague and ambiguous as
21 to the term "accountability."
22 MS. READ SPANGLER: Join.
23 MR. VIRJEE: And "management matter."
24 MS. READ SPANGLER: I'll add "management
25 matter."

1 MR. ROSENBAUM: Go ahead, sir.
2 MS. READ SPANGLER: Do you understand the
3 question?
4 THE WITNESS: What I'm confused about, I think,
5 is management and accountability. Are you talking
6 about -- I guess I'm confused.
7 Q. BY MR. ROSENBAUM: By the way, I said to you at
8 the beginning, if you have questions about my questions,
9 you're free to ask me, to try and get clarification.
10 We're trying to get the truth here about a matter that
11 most individuals here at the table regard as important.
12 My question to you is --
13 MR. VIRJEE: Which individual doesn't regard it
14 as important?
15 Q. BY MR. ROSENBAUM: You're familiar,
16 Mr. Warren -- let me strike that.
17 Have you done any readings in the area of
18 management principles?
19 MR. VIRJEE: Generally, not in education? Just
20 generally management principles?
21 MR. ROSENBAUM: Go ahead.
22 THE WITNESS: Is that your question, generally?
23 MR. ROSENBAUM: Yes.
24 THE WITNESS: In education?
25 MR. VIRJEE: In general.

1 THE WITNESS: I'm sorry, I'm getting confused.
2 MR. VIRJEE: It's easy to do because he doesn't
3 put qualifications on his questions.
4 THE WITNESS: Yes.
5 Q. BY MR. ROSENBAUM: Okay. What have you read?
6 MR. VIRJEE: Objection. Calls for speculation.
7 Vague as to time.
8 THE WITNESS: And I can't remember.
9 Q. BY MR. ROSENBAUM: How about with respect to
10 education?
11 A. Management in education? I think I can say no.
12 Q. Okay. And are you familiar with the term
13 accountability as it relates to general management
14 principles?
15 MR. VIRJEE: Objection. Vague and ambiguous as
16 to both "accountability" and "general management
17 principles."
18 MS. READ SPANGLER: Join.
19 THE WITNESS: Are you speaking about
20 accountability again from a general standpoint?
21 MR. ROSENBAUM: Yes, sir.
22 THE WITNESS: Yes, I think that general
23 management principles would include the notion of
24 accountability.
25 Q. BY MR. ROSENBAUM: When you say "the notion of

1 accountability," how are you defining accountability?
2 A. I think in this case, at least in my
3 experience, it would be accountability trying to assure
4 that the system of management holds people accountable
5 for what it is that they are charged with doing.
6 Q. Okay. And when you say "accountable," what do
7 you mean by that?
8 A. That they get some feedback on how well they
9 are discharging their duties, and that there are
10 consequences if -- consequences if they do not discharge
11 their duties adequately.
12 Q. And using that definition, Mr. Warren, can you
13 think of any experts in that area?
14 MR. VIRJEE: Generally?
15 MR. ROSENBAUM: Yes.
16 THE WITNESS: Boy, not to my knowledge.
17 Q. BY MR. ROSENBAUM: Okay. Sitting here today,
18 can you think of any writings, books, articles,
19 scholarly pieces that you've read on this subject
20 matter?
21 A. I can't recall.
22 Q. Okay. Have you ever consulted anyone about
23 this subject matter?
24 MR. VIRJEE: Objection. Vague and ambiguous as
25 to "consulted."

1 THE WITNESS: I have probably discussed with
 2 previous bosses the issue of evaluation and -- personnel
 3 evaluation and accountability, yes.
 4 Q. BY MR. ROSENBAUM: When you say "personal
 5 evaluation" --
 6 MR. VIRJEE: Personnel, not personal.
 7 Q. BY MR. ROSENBAUM: -- personnel evaluation and
 8 accountability, that's what you've talked about, is
 9 personnel evaluation?
 10 A. You asked have I ever consulted with anybody, I
 11 answered yes.
 12 Q. You meant personnel evaluations?
 13 A. Personnel.
 14 Q. Okay. And is there anyone in your office, to
 15 your knowledge, whom you would consider to be an expert
 16 in accountability as we've been talking about it?
 17 A. In terms of general management principles?
 18 Q. Yes, sir.
 19 MS. READ SPANGLER: Objection. Vague and
 20 ambiguous as to the term "office." Do you mean the
 21 Department?
 22 MR. ROSENBAUM: Right now I'm asking office.
 23 THE WITNESS: My office being?
 24 MR. ROSENBAUM: The accountability branch.
 25 MR. VIRJEE: Those are two different things.

1 MR. ROSENBAUM: Accountability branch.
 2 THE WITNESS: And the people that I supervise?
 3 MR. ROSENBAUM: Yes.
 4 THE WITNESS: So have I ever talked to them
 5 about accountability?
 6 MR. ROSENBAUM: No. No. My question is
 7 different.
 8 Q. Is there anyone in there whom you consider to
 9 be an expert?
 10 MR. VIRJEE: In the area of accountability in
 11 general, not in school district accountability or
 12 student outcomes.
 13 THE WITNESS: For the term of general
 14 management principles?
 15 MR. ROSENBAUM: Yes, sir.
 16 THE WITNESS: No.
 17 Q. BY MR. ROSENBAUM: How about in the Department
 18 itself, the Department of Education itself?
 19 MR. VIRJEE: Objection. Calls for speculation.
 20 Lacks foundation. Also vague and ambiguous as to
 21 general aspects of accountability.
 22 MS. READ SPANGLER: Join.
 23 THE WITNESS: If we're talking about experts in
 24 general in management principles in accountability, I
 25 don't know of anyone.

1 Q. BY MR. ROSENBAUM: Okay. And how about -- how
 2 about if -- strike that.
 3 Have you ever been asked, Mr. Warren to set up
 4 an accountability model for the Department of Education?
 5 MR. VIRJEE: Objection. Vague and ambiguous as
 6 to "accountability."
 7 THE WITNESS: I'm not sure I know what you mean
 8 when you say accountability model.
 9 Q. BY MR. ROSENBAUM: Come back to that. You told
 10 me that you graduated with a master's in public policy;
 11 is that right?
 12 A. Yes.
 13 Q. Did you do a dissertation?
 14 A. There's a second-year project that you do that
 15 results in a paper. It's not called a dissertation.
 16 Q. What was the subject matter of that paper?
 17 A. It was about public housing.
 18 Q. Did you have a supervisor or supervisors?
 19 A. Yes.
 20 Q. Who were they?
 21 A. William Apgar.
 22 Q. Can you spell that?
 23 A. A-p-g-a-r.
 24 Q. Did your master's studies have anything to do
 25 with education?

1 MR. VIRJEE: Objection. Asked and answered.
 2 THE WITNESS: Well, going to school has
 3 something to do with education, so, yes.
 4 Q. BY MR. ROSENBAUM: But the subject matter of
 5 education itself, like public housing, did it have
 6 anything to do with public education?
 7 A. No.
 8 Q. And after you received your master's from
 9 Harvard, what did you do?
 10 A. I went to work for the legislative analyst's
 11 office.
 12 Q. Here in California?
 13 A. Yes.
 14 Q. And when did you start?
 15 A. 1982.
 16 Q. Okay. And how long did you work for the
 17 legislative analyst?
 18 A. I worked there until 1988.
 19 Q. Who was your supervisor then?
 20 A. I had several.
 21 Q. Okay. Why don't you tell me who they were,
 22 please.
 23 A. Okay. Hadley Johnson was my first supervisor.
 24 Q. What was the period of time that you had
 25 Mr. Johnson as a supervisor?

1 A. 1982 to like 1986. Something like that. '5 or
2 '6. I can't recall.
3 Q. Okay. And then after Mr. Johnson?
4 A. I worked for Carol Bingham.
5 Q. Okay.
6 A. That was for one year, so let's say 1986. And
7 then I worked for Hadley Johnson again in 1987 until I
8 left.
9 Q. Okay. Mr. Johnson and Ms. Bingham, were they
10 head of the office?
11 A. No.
12 Q. Who was the head of the office during that
13 time?
14 MR. VIRJEE: From '82 to '88?
15 THE WITNESS: The head of the legislative
16 analyst's office?
17 MR. ROSENBAUM: Right.
18 THE WITNESS: From 1982 until -- you know what,
19 I forgot someone. Forgive me. That's why I'm a little
20 mixed up on the time lines. I think I also had another
21 supervisor before I left, which was Mac Taylor.
22 Q. BY MR. ROSENBAUM: Who was the legislative
23 analyst during that period of time?
24 A. Bill Hamm or William Hamm, H-a-m-m, was the
25 legislative analyst when I arrived, and when I left it

1 was Elizabeth Hill.
2 Q. Okay. The legislative analyst is a nonpartisan
3 office; is that right?
4 A. Correct.
5 Q. And what's the mission of the legislative
6 analyst's office during this period of time as you
7 understood it?
8 A. Well, I don't know technically what the mission
9 was. They do have a mission statement, and I can't
10 repeat it.
11 Q. Okay. And did -- I understand that how the
12 office is organized, different individuals have
13 different subject matter of responsibilities; is that
14 generally right?
15 A. Yes.
16 Q. Did you have a particular set of
17 responsibilities?
18 A. They varied over time.
19 Q. When you started, what were they?
20 A. I worked on primarily employment programs.
21 Q. And that was from 1982 until when?
22 A. 1985 probably. Something like that.
23 Q. Employment programs like what?
24 A. Like JTPA.
25 Q. And then did your subject area or

1 responsibility change around, say, '85?
2 A. Yes.
3 Q. What did it become?
4 A. I worked on health programs, specifically toxic
5 substance control.
6 Q. And that was from '85 until what period of
7 time?
8 A. I did that for one year.
9 Q. In either the employment or the health area,
10 sir, did you do any writings about accountability?
11 MR. VIRJEE: Objection. Vague and ambiguous as
12 to "accountability."
13 MS. READ SPANGLER: Join.
14 THE WITNESS: Can you define accountability for
15 me?
16 MR. ROSENBAUM: Sure. When we talked about the
17 general sense of the term accountability.
18 THE WITNESS: General management principles?
19 MR. ROSENBAUM: Yeah.
20 THE WITNESS: I don't recall.
21 Q. BY MR. ROSENBAUM: And then in '86 did your
22 responsibilities change again?
23 A. Yes.
24 Q. And what happened then?
25 A. I worked again for Hadley Johnson in the

1 welfare area, working on AFDC.
2 MR. VIRJEE: Whenever is a good time, Mark, I'd
3 like to take a break. You can keep going, but whenever
4 is a good time.
5 MR. ROSENBAUM: Few more minutes.
6 Q. How long did you stay in the welfare area?
7 A. I did that for one year.
8 Q. '86 through '87?
9 A. Yeah. I think it would have to be '86.
10 Q. During any of the time '82 through '86, did
11 your work ever involve public education in California?
12 A. Yes.
13 Q. K-12 public education?
14 A. I don't know how you define K-12, it's actually
15 a little trickier than --
16 Q. Why don't you tell me what you meant when you
17 said you had some education responsibilities.
18 A. Sure. Employment programs have educational
19 components to them, and also with the welfare programs
20 there were programs within the welfare system that were
21 engaged in getting education to welfare recipients.
22 Q. Did that involve any sort of systematic
23 analysis of how public education is delivered in
24 California?
25 A. No.

1 MR. ROSENBAUM: Why don't we take a break now.
 2 (Recess taken.)
 3 Q. BY MR. ROSENBAUM: Doing okay, Mr. Warren?
 4 A. Yeah.
 5 Q. In '86, sir, am I correct that you left the LAO
 6 office?
 7 A. '88.
 8 Q. '88?
 9 A. Yes.
 10 Q. So help me understand this, '86 and '87 your
 11 principal area of concentration was welfare; is that
 12 right?
 13 A. Yes.
 14 Q. Okay. And then in 1988 you left the LAO
 15 office?
 16 A. Yes.
 17 Q. And what did you do then?
 18 A. I worked for the GAIN oversight committee in
 19 the legislature.
 20 Q. And that's all caps?
 21 A. G-A-I-N, yes.
 22 Q. Okay. And that's a welfare-related matter; is
 23 that right?
 24 A. Yes.
 25 Q. Help me figure this out. How about 1987

1 through 1988?
 2 A. I worked in a newly-created position in the
 3 legislative analyst's office that looked at, quote,
 4 long-term issues, whatever that means.
 5 Q. Did that include looking at long-term education
 6 issues?
 7 A. I did not in the year that I was in that
 8 position.
 9 Q. Did you make budget projections?
 10 A. From what standpoint?
 11 Q. Did you look at revenues, anticipated revenues
 12 the State would have?
 13 A. No.
 14 Q. Or likely allocations of State money?
 15 A. State money, no.
 16 Q. Okay. How long did you have the GAIN position?
 17 A. Roughly two years.
 18 Q. Okay. So does that take us to 1989 or 19 --
 19 A. 1990.
 20 Q. What happened in 1990?
 21 A. I got a job with the assembly education
 22 committee.
 23 Q. Okay. And what was your job with the assembly
 24 education committee?
 25 A. The first year I was consultant to the

1 committee, and the second year I was the chief
 2 consultant to the committee.
 3 Q. Who was the chair of that committee?
 4 A. Delaine Eastin.
 5 Q. And what did you regard, sir, as your
 6 qualifications for that position when you took over
 7 in -- you started in 1990?
 8 A. 1990.
 9 Q. What did you regard as your qualifications?
 10 A. That I was knowledgeable in the legislative
 11 process, that I knew how to write a good bill analysis,
 12 and that I was familiar with parts of the educational
 13 world from my previous employment.
 14 Q. Parts of educational what?
 15 A. The educational world.
 16 Q. And what parts of the education world were you
 17 familiar with?
 18 A. I was familiar with adult education, with job
 19 training programs administered through the education
 20 establishment, and with child care programs. Those were
 21 probably the three areas that I had the most expertise.
 22 Q. Okay. Assembly Member Eastin, did she ask you
 23 to join her committee, is that how it happened? How did
 24 it happen that you --
 25 A. Yes.

1 Q. -- had come to know her?
 2 A. I had worked -- she was also the chair of the
 3 GAIN oversight committee.
 4 Q. I see. What were your duties and
 5 responsibilities as chief consultant?
 6 A. Chief consultant?
 7 Q. Yes.
 8 A. I analyzed bills and wrote analyses of them for
 9 the committee, I reviewed analyses that other
 10 consultants prepared for the committee, I advised the
 11 committee and the chair of the committee on policy
 12 matters related to bills going through the committee,
 13 and I assisted Ms. Eastin, my boss, with drafting her
 14 own legislation.
 15 Q. Do you remember any specific legislation that
 16 you assisted in the drafting of during that period of
 17 time?
 18 A. Yes.
 19 Q. What was that?
 20 A. Well, there were a variety of them.
 21 Q. Can you tell me -- give me some examples of
 22 them relating to education?
 23 A. Sure. I drafted a bill on vocational
 24 education. I worked on a bill that had to do with the
 25 textbook approval process. Those are two.

1 Q. Did they each pass?
 2 A. The vocational education bill did not, the
 3 textbook adoption process made it to the governor, and
 4 was vetoed, as I recall.
 5 Q. Who was the governor then?
 6 A. Wilson.
 7 Q. And was that bill ever reintroduced, the one
 8 that you helped out with there?
 9 A. Not to my knowledge, but I don't know.
 10 Q. And what was the nature of that bill, what was
 11 the substance?
 12 A. The substance was to allow districts to choose
 13 their own textbooks and alter the role of the State
 14 Board of Education from one of approving the books that
 15 districts may buy, to one of providing information about
 16 the strengths and weaknesses of the different possible
 17 textbooks.
 18 Q. And in 1990 the State Board of Education had a
 19 responsibility for approving all textbooks in the State?
 20 MR. VIRJEE: Objection. Vague and ambiguous as
 21 to "all."
 22 MS. READ SPANGLER: Leading.
 23 THE WITNESS: At that time the State Board
 24 adopted a list of approved textbooks.
 25 Q. BY MR. ROSENBAUM: And local districts in

1 MS. READ SPANGLER: Join.
 2 THE WITNESS: I'm not real familiar with what
 3 has happened to that process and the specifics of it
 4 since that time.
 5 Q. BY MR. ROSENBAUM: During that period of time,
 6 Mr. Warren, did any matters come to your attention
 7 regarding questions of credentialing of teachers?
 8 MR. VIRJEE: Just for clarification, Mark,
 9 you're talking about while he was the chief?
 10 MR. ROSENBAUM: Chief consultant or consultant.
 11 THE WITNESS: Within the two years I worked,
 12 were there bills on the issue of credentialing, is that
 13 your question?
 14 MR. ROSENBAUM: Yes.
 15 THE WITNESS: Yes.
 16 Q. BY MR. ROSENBAUM: And how about overcrowding?
 17 A. I don't remember any bills on the topic of
 18 overcrowding.
 19 Q. Okay. How about facilities?
 20 MR. VIRJEE: Objection. Vague and ambiguous as
 21 to "facilities."
 22 MS. READ SPANGLER: Join.
 23 MR. ROSENBAUM: Construction of facilities or
 24 repair of facilities or maintenance of facilities.
 25 MR. VIRJEE: Okay. Overbroad and also

1 collecting textbooks had to choose from that list; is
 2 that right?
 3 MR. VIRJEE: Objection. Overbroad.
 4 THE WITNESS: No.
 5 Q. BY MR. ROSENBAUM: Help me understand. How did
 6 it work? The State Board puts together a list of
 7 approved textbooks?
 8 A. The State Board goes through a process and
 9 develops --
 10 MR. VIRJEE: You're asking what happens now or
 11 back then?
 12 MR. ROSENBAUM: Back then.
 13 THE WITNESS: The State Board went through a
 14 process to develop a list based on criteria that I can't
 15 address at this point because it's not in my knowledge,
 16 where they came up with a list of approved textbooks
 17 that limited schools' range of choices with certain
 18 funds that were provided by the State. There were also
 19 ways for them to spend portions of that money for
 20 nonadopted textbooks, plus they could also come in for a
 21 waiver of that rule.
 22 Q. BY MR. ROSENBAUM: To the best of your
 23 knowledge, is that system still in place today?
 24 MR. VIRJEE: Objection. Calls for speculation.
 25 Lacks foundation.

1 compound.
 2 THE WITNESS: There were bills that would
 3 influence those issues or affect those issues, yes.
 4 Q. BY MR. ROSENBAUM: What were those bills?
 5 A. Boy, the only one -- I guess I can remember two
 6 specifically, one was that there was a bond act, and the
 7 other was that Ms. Eastin was carrying legislation that
 8 affected the process of school construction. I did not
 9 work on that one directly.
 10 Q. Okay. How about textbooks, not referring to
 11 the approval process, but provision of textbooks?
 12 MR. VIRJEE: Objection. Vague and ambiguous as
 13 to "provision of textbooks." Bills regarding -- in any
 14 way affecting funding, for the providing of textbooks,
 15 anything in any way?
 16 THE WITNESS: You're saying were there bills
 17 that affected school districts' ability to provide
 18 textbooks?
 19 MR. ROSENBAUM: Yes.
 20 THE WITNESS: Not that I recall, except to the
 21 extent that I did -- I also assisted Ms. Eastin on
 22 budget matters and, of course, that's a bill so --
 23 Q. BY MR. ROSENBAUM: But did you deal
 24 specifically with anything concerning provision of
 25 textbooks?

1 MR. VIRJEE: Objection. Overbroad.
 2 THE WITNESS: No.
 3 Q. BY MR. ROSENBAUM: Okay. What about libraries,
 4 school libraries?
 5 A. What about them?
 6 Q. Any bills regarding school libraries?
 7 A. Yes.
 8 Q. Any books about technology -- any bills about
 9 technology?
 10 A. None that I can recall.
 11 Q. Okay. In the course of your employment with
 12 the assembly committee, sir, did you have the occasion
 13 to visit any schools?
 14 A. Yes.
 15 Q. Okay. For what purpose?
 16 A. For the purpose of learning more about schools.
 17 Q. Okay. And do you remember what schools you
 18 looked to, went to?
 19 A. I don't specifically recall.
 20 Q. Can you tell me approximately how many?
 21 A. Well, you know, it gets a little fuzzy because,
 22 of course, I also visited schools in other jobs, so I
 23 can't estimate really. Maybe in those two years I would
 24 say it was relatively few.
 25 Q. Okay. Do you remember any of the districts you

1 visited?
 2 A. I don't.
 3 Q. Do you remember specifically any of the
 4 reasons, generally any of the reasons for which you went
 5 to schools?
 6 A. Yeah, I did some travel on vocational
 7 education, and I think I visited a school on that topic.
 8 Q. Any other topics that you recall?
 9 A. No.
 10 Q. Okay. And what was -- did the assembly, sir,
 11 while you were there, assembly committee convene any
 12 hearings on any matters relating to public school
 13 education K-12?
 14 A. Yes.
 15 Q. Okay. Do you remember what the subject matters
 16 of those hearings were?
 17 A. I can only remember one specifically. It's
 18 terrible how the mind loses all that detail. I do
 19 remember attending a hearing on school finance.
 20 Q. Now, after you were with the assembly
 21 committee, what did you do after that? Strike that.
 22 Did you prepare any -- besides the summaries of
 23 bills, did you prepare any written reports regarding
 24 K-12 public education?
 25 MR. VIRJEE: Objection. That misstates his

1 testimony. He said he summarized and analyzed bills.
 2 MR. ROSENBAUM: I appreciate that.
 3 Q. Besides the summary and analysis of particular
 4 bills, did you do any reports?
 5 A. During those two years with the assembly
 6 education committee?
 7 Q. Right.
 8 A. No.
 9 Q. Now, after the assembly committee, what did you
 10 do after that?
 11 A. I returned to the legislative analyst.
 12 Q. So that would be 1991?
 13 A. '2.
 14 Q. And who was the legislative analyst at this
 15 time?
 16 A. Elizabeth Hill.
 17 MR. VIRJEE: As of 1992 or today?
 18 MR. ROSENBAUM: That time, 1992.
 19 Q. She's still the legislative analyst today,
 20 right?
 21 A. Yes.
 22 Q. And she's been continuously, right?
 23 A. Yes.
 24 Q. Did you have particular subject matter
 25 responsibilities then?

1 A. Yes.
 2 Q. And what were they?
 3 A. Education.
 4 Q. Education generally, or education finance?
 5 A. I should clarify, K-12 education. And when I
 6 returned, I worked on K-12 education. A legislative
 7 analyst generally is focused on the issues of education
 8 finance.
 9 Q. Okay. Did you concern yourself with other
 10 areas besides education finance during 1992 through your
 11 period of time with the legislative analyst?
 12 A. I don't exactly understand the question.
 13 Q. Let's get a time on here. You come back to the
 14 LAO office in 1992; is that right?
 15 A. Right.
 16 Q. And you had that job until the present job; is
 17 that right?
 18 A. I became the director of the education section
 19 in some year, 1996 would be my guess.
 20 Q. Education section of the LAO office?
 21 A. Right.
 22 Q. Okay. How long were you the director of the
 23 education section?
 24 A. Until I took this job in 1999.
 25 Q. Was there an accountability branch before 1999

1 in the Department of Education?
 2 A. Not to my knowledge.
 3 Q. Okay. So you were the first deputy
 4 superintendent?
 5 A. Whatever, yeah.
 6 Q. Whatever. During the period of time, now that
 7 you're the LAO office, did you concern yourself with
 8 K-12 issues -- strike that.
 9 You concerned yourself with finance matters,
 10 that's one area that you concerned yourself with, right?
 11 A. That would be the primary focus of the office,
 12 yes.
 13 Q. Any other focus that you can recall?
 14 A. Again, I'm not sure I understand what it is
 15 that you're asking.
 16 Q. When you say "primary focus," my question is --
 17 A. In order to understand finance, you do need to
 18 have a knowledge of the program.
 19 Q. When you say "knowledge of the program," what
 20 do you mean by that?
 21 A. It depends.
 22 Q. Now, while you were at the LAO office the
 23 second time, you prepared some reports for the office;
 24 isn't that right?
 25 A. "Reports" meaning?

1 Q. For example, you prepared a report on K-12
 2 master plan; is that right?
 3 A. Yes.
 4 Q. And am I correct, sir, that you prepared a
 5 report on class size reduction?
 6 A. I supervised somebody who prepared that report.
 7 Q. Okay. When you say "supervised," what does
 8 that mean?
 9 A. I was the manager of the education section of
 10 the office, and as his supervisor, I discussed the
 11 issues with him and edited the final product.
 12 Q. Did you have the final say on that product?
 13 MR. VIRJEE: Objection. Vague and ambiguous as
 14 to "final say."
 15 THE WITNESS: No.
 16 Q. BY MR. ROSENBAUM: Who did?
 17 A. Elizabeth Hill.
 18 Q. Okay. But who prepared the class size
 19 reduction?
 20 A. Joel Schwartz.
 21 Q. And Mr. Schwartz would give you a draft or
 22 drafts of the report, you would review it and get it
 23 back to him; is that right?
 24 A. That's correct.
 25 Q. Were you in agreement with his conclusions?

1 MS. READ SPANGLER: Objection. Assumes facts
 2 not in evidence.
 3 THE WITNESS: I can say that I concurred. He
 4 built an analytically justified -- lost where I am in
 5 the sentence. He prepared an argument and set of
 6 recommendations that were justified by an analysis and
 7 the facts, and that's the role of the office and the
 8 role of what we, yes, were trying to produce.
 9 Q. BY MR. ROSENBAUM: You didn't disagree with any
 10 of his recommendations?
 11 MS. READ SPANGLER: Objection. Misstates his
 12 testimony.
 13 MR. VIRJEE: Also asked and answered. Also
 14 would cause him to have to reread the whole document
 15 right now to know whether he disagreed or agreed with
 16 any specific recommendations or conclusions reached.
 17 If you can remember them all, you can answer
 18 the question.
 19 MR. ROSENBAUM: You can answer it, as best you
 20 can.
 21 MR. VIRJEE: Or tell him that you don't recall
 22 if you don't.
 23 THE WITNESS: As far as I recall, I don't
 24 recall disagreeing with any of the recommendations.
 25 Q. BY MR. ROSENBAUM: Now, besides the K-12 master

1 plan report -- you authored that in 1999; is that right?
 2 A. Yeah. You know, I misspoke. I actually was
 3 the director through 1998, and then I asked to be
 4 relieved of that responsibility.
 5 Q. Why is that?
 6 A. Because I was burnt out and I requested the
 7 time to be able to prepare the report for that last
 8 year.
 9 Q. Okay. So did you have some sort of special
 10 status? Were you like a consultant to the LAO office at
 11 that time?
 12 A. No, I was still a regular employee.
 13 Q. I see. I see. And let me see if I understand
 14 this, sir. The K-12 master plan report, was that an
 15 assignment that was handed to you, or did you go to
 16 Elizabeth Hill and say, I'd like to take a crack at
 17 putting together a report on a K-12 master plan?
 18 A. It's really neither. It had developed out of
 19 work that I and the staff that I worked with, my
 20 colleagues in the education section, had developed over
 21 time, and it was something that came out of that work,
 22 so I guess your question suggests to me like this kind
 23 of came out of the blue and, boom, you know, I went to
 24 Elizabeth Hill with this new idea. It wasn't a new
 25 idea.

1 Q. Okay. It was the culmination of a lot of
2 thinking and a lot of experience while you were there;
3 is that right?
4 A. Yeah.
5 Q. And the notion of a master plan, that was
6 something that was talked about as early as 1996 so far
7 as you know?
8 A. I don't remember.
9 Q. But it didn't just hatch in 1999?
10 A. No.
11 Q. Do you remember roughly when the idea of a
12 master plan was discussed?
13 MR. VIRJEE: Again, you're talking about the
14 legislative analyst's office?
15 MR. ROSENBAUM: Yes.
16 THE WITNESS: I don't recall. I just don't
17 recall specifically.
18 Q. BY MR. ROSENBAUM: Am I correct, Mr. Warren,
19 this is something you felt passionately about?
20 MR. VIRJEE: Objection. Vague and ambiguous.
21 THE WITNESS: What did I feel passionately
22 about?
23 MR. ROSENBAUM: About developing a master plan
24 for the State of California K-12 public education.
25 THE WITNESS: I don't know if I'd say that, no.

1 Q. BY MR. ROSENBAUM: You thought it was
2 important?
3 A. Yes.
4 Q. And why is that?
5 A. I think it's important for the State to have a
6 long-term vision of where its policy is headed.
7 Q. And why is that?
8 A. Why is what?
9 Q. Why is that important, to have a long-term
10 vision?
11 A. It helps you in making smaller decisions along
12 the way.
13 Q. How does it help you to do that?
14 A. It makes you be explicit about the structure of
15 the system and the things that the system holds as
16 important in the goals of the system.
17 Q. Why is that important?
18 A. Because it allows you to keep focused on the
19 things that you're trying to accomplish.
20 Q. Okay. And you felt there was a need for such a
21 plan?
22 A. The report contains a recommendation that the
23 legislature considered.
24 Q. Did the legislature, in fact, adopt a master
25 plan?

1 MR. VIRJEE: Objection. Vague and ambiguous as
2 to "adopt."
3 THE WITNESS: I don't think that the
4 legislature has formally adopted a master plan, no.
5 Q. BY MR. ROSENBAUM: You spoke to members of the
6 legislature about your document and about your
7 recommendations; isn't that correct?
8 A. I don't know if I ever had the opportunity to
9 do that.
10 Q. Did you speak to the State Board of Education
11 about this matter?
12 A. I don't remember.
13 Q. Did you speak to Sue Burr?
14 MS. READ SPANGLER: I'm sorry, to who?
15 MR. ROSENBAUM: Sue Burr, B-u-r-r.
16 THE WITNESS: Yes, I believe I did.
17 Q. BY MR. ROSENBAUM: And she opposed it; isn't
18 that right?
19 A. I don't know.
20 Q. Now, besides the master plan report that you
21 prepared and the class size reduction plan that you
22 supervised, that report, were there other reports that
23 you either prepared or supervised during the period of
24 time 1992 through the time that you became deputy
25 superintendent?

1 A. Yes.
2 Q. And what were the subject matters of those
3 reports?
4 A. Well, each year, except for 1999, I was -- I
5 participated in the writing of the annual budget
6 analysis that the office puts out every year.
7 Q. Did you participate in the whole document, or
8 the document -- the portion of the document that dealt
9 with education, or something in between?
10 A. I'm trying -- I definitely participated in the
11 portion that addressed education proposals and the
12 budget. I may have participated in other parts that had
13 education-related issues as well.
14 Q. Did you actually write the education parts?
15 A. I wrote portions of it, yes.
16 Q. Okay. Who else in the LAO's office during this
17 period of time, 1992 through '99, had direct
18 responsibility for education? I don't mean incidental,
19 but that was their primary focus.
20 A. I had a staff of -- when I first got there and
21 was an analyst, there were -- I can't off the top of my
22 head think. There are six other folks that I worked
23 with in the education section, and then, of course,
24 there was the supervisor and then the supervisor's boss
25 and then the legislative analysts.

1 Q. Okay. Are any of those individuals in your
2 branch today?
3 A. No.
4 Q. Okay. Now, besides the annual reports, any
5 other documents or reports that you either authored or
6 supervised that dealt with K-12 public education?
7 A. Yes.
8 Q. What were the subject matters?
9 A. I wrote one on categorical program reform, I
10 wrote one on school to work. I did a piece called
11 California -- K-12 report card, and I wrote one on new
12 federal legislation at that time.
13 Q. New federal legislation dealing with education?
14 A. Yes.
15 Q. Did you write the categorical report, were you
16 the primary author?
17 A. I was the primary author.
18 Q. Same for the school to work?
19 A. Yes.
20 Q. Same for the K-12 report card?
21 A. Yes.
22 Q. Same for the new federal legislation?
23 A. Yes.
24 Q. Did any of your -- any of those deal with the
25 high school exit exams?

1 A. No.
2 Q. Or the API?
3 A. No.
4 Q. IIUSP?
5 A. No.
6 Q. Or the CCR?
7 A. One report did address issues related to the
8 CCR.
9 Q. And which report was that?
10 A. It was the categorical program review.
11 Q. And do you know what PQR is?
12 A. Yes.
13 Q. What's PQR?
14 A. Program quality review.
15 Q. Okay. And did you prepare a report regarding
16 that?
17 A. I don't believe so, no.
18 Q. Okay. Is PQR mentioned in categorical program
19 reports?
20 A. I don't believe so.
21 Q. Did the categorical program report include a
22 critique of the CCR?
23 MR. VIRJEE: Objection. Vague and ambiguous as
24 to "critique."
25 THE WITNESS: It did discuss the CCR and

1 offered comments on it.
2 Q. BY MR. ROSENBAUM: And these subject matters,
3 sir, categorical programs, school to work, K-12 report
4 card, new federal legislation, and the class size
5 reduction program, how did it come about that you wrote
6 those reports, were you -- I know it's a multi-question
7 here, but were you assigned the responsibility, was it
8 your idea, did Ms. Hill come to you? Can you just go
9 through those different --
10 A. Let me clarify. I did not write the class size
11 reduction piece.
12 Q. Sorry. Can you tell me the origin of those
13 reports?
14 MR. VIRJEE: Objection. Compound. Calls for a
15 narrative.
16 MR. ROSENBAUM: Go ahead.
17 THE WITNESS: Generally I proposed the topics
18 to my immediate supervisor.
19 Q. BY MR. ROSENBAUM: Let's start with the class
20 size reduction one. Help me understand your thought
21 process.
22 A. Again, I didn't write that one.
23 Q. I know. But your answer about you proposed
24 it --
25 A. No.

1 Q. That's not true for that one?
2 A. No.
3 MR. VIRJEE: That's correct about the ones he
4 authored.
5 THE WITNESS: The ones I authored.
6 Q. BY MR. ROSENBAUM: Do you know what the subject
7 matter of the class size reduction report was?
8 A. Not specifically, no.
9 Q. Okay. What was the origin of the master plan
10 report?
11 MR. VIRJEE: Objection. Asked and answered.
12 THE WITNESS: I mean, I do think I answered
13 that question already.
14 Q. BY MR. ROSENBAUM: Okay. I remember your
15 answer that this was something that was -- this is my
16 understanding -- percolating around, didn't just hatch
17 in 1999. But I'm trying to get the precise genesis of
18 the report itself. Can you help me understand that?
19 MR. VIRJEE: Objection. Assumes facts not in
20 evidence. Assumes there is a precise genesis of the
21 report.
22 MS. READ SPANGLER: Calls for speculation.
23 THE WITNESS: I can tell you that when I asked
24 to step down from the job as the supervisor, I needed
25 something to do, and the topic was developed between me

1 and my supervisor. Exactly how that occurred, I can't
 2 recall.
 3 Q. BY MR. ROSENBAUM: Okay. Your supervisor at
 4 the time was?
 5 A. Mac Taylor.
 6 Q. How do you spell Mac?
 7 A. M-a-c.
 8 Q. Okay. Mr. Warren, has -- strike that.
 9 Do you consider yourself an expert in the area
 10 of educational finance?
 11 MR. VIRJEE: Objection. Vague and ambiguous as
 12 to both "expert" and "educational finance."
 13 MS. READ SPANGLER: Join.
 14 THE WITNESS: I think I can -- I guess I would
 15 say no.
 16 Q. BY MR. ROSENBAUM: And why is that?
 17 A. I think I am generally knowledgeable in the
 18 area of school finance. Expert to me connotes a mastery
 19 of all of the details of that, and I do not maintain a
 20 mastery of all the details of school finance.
 21 Q. Do you consider yourself an expert in any area
 22 relating to K-12 public education?
 23 MR. VIRJEE: Objection. Vague and ambiguous as
 24 to "expert."
 25 MS. READ SPANGLER: Join.

1 THE WITNESS: I think I'd have to answer the
 2 question no.
 3 Q. BY MR. ROSENBAUM: Why is that?
 4 A. Because an expert as -- to me suggests a
 5 mastery at many levels, and I don't have a mastery --
 6 what I consider to be a mastery at many levels in any
 7 particular area.
 8 Q. Of education?
 9 A. Of education.
 10 Q. Okay. Thank you. Has there -- do you have a
 11 belief, sir, as to whether or not you're going to be
 12 testifying in this case?
 13 A. I have no idea.
 14 Q. Okay. Have you prepared -- do you know what a
 15 declaration is in a lawsuit?
 16 A. From a general sense, I think I know what it
 17 is, but I'm not -- I've never done one, so, no, I don't
 18 know in particular.
 19 Q. Okay. Have you prepared any writings at all
 20 with respect to this case?
 21 A. No.
 22 MR. VIRJEE: Objection. Calls for
 23 attorney/client privilege.
 24 MS. READ SPANGLER: Join. Work product.
 25 Q. BY MR. ROSENBAUM: So you became deputy

1 superintendent in 1999?
 2 A. Yes.
 3 Q. What is your understanding, if any, as to how
 4 the accountability branch was established?
 5 MR. VIRJEE: Calls for speculation. Lacks
 6 foundation.
 7 THE WITNESS: I wasn't there. The branch had
 8 been formed prior to the time that I got there.
 9 Q. BY MR. ROSENBAUM: Do you have any knowledge
 10 whatsoever as to how it was established?
 11 A. Not directly, no.
 12 Q. Or why it was established?
 13 A. Not directly.
 14 Q. Okay. What's your understanding directly or
 15 indirectly?
 16 MR. VIRJEE: Calls for speculation. Lacks
 17 foundation.
 18 THE WITNESS: I can't really answer the -- I
 19 mean, I've created a rationale in my own head, and
 20 that's the only one I can give you.
 21 Q. BY MR. ROSENBAUM: Okay. Why don't you tell me
 22 what that rationale is.
 23 A. That the desire was to put programs related to
 24 accountability together in one branch.
 25 Q. Okay. And just so we're using the vocabulary,

1 when you say "accountability" in this context, what do
 2 you mean?
 3 MR. VIRJEE: Objection. Asked and answered.
 4 He's already told you what it means in this context for
 5 his branch.
 6 MR. ROSENBAUM: Go ahead.
 7 THE WITNESS: As it relates to accountability
 8 for student learning.
 9 Q. BY MR. ROSENBAUM: Okay. Are there other
 10 offices, to your knowledge, in the Department of
 11 Education, that deal with accountability as you've just
 12 defined it that are not under your supervision?
 13 MR. VIRJEE: Objection. Calls for speculation.
 14 Lacks foundation.
 15 MS. READ SPANGLER: Join.
 16 MR. VIRJEE: Also vague and ambiguous as to
 17 "deal with."
 18 THE WITNESS: There are other parts of the
 19 Department that have similar programs or processes, yes.
 20 Q. BY MR. ROSENBAUM: What are they?
 21 A. The only one that I know of would be the
 22 special education.
 23 Q. Who is in charge of that, if you know?
 24 MR. VIRJEE: Who is in charge of what, special
 25 education?

1 MR. ROSENBAUM: That similar program.
 2 THE WITNESS: I don't know.
 3 Q. BY MR. ROSENBAUM: You've never had any
 4 discussions with anybody from that office or that area?
 5 A. About what?
 6 Q. Since you've --
 7 A. I have talked to the people in the special
 8 education division, yes.
 9 Q. Specifically with respect to accountability?
 10 A. In relation to the programs that are under my
 11 supervision, yes.
 12 Q. And we spoke -- you spoke to me earlier about
 13 accountability in a general sense relating to
 14 management. Do you remember that?
 15 A. Yes.
 16 Q. To your knowledge, sir -- strike that.
 17 Do you know, sir, whether or not there are
 18 offices in the Department of Education that deal with
 19 accountability in that context?
 20 MR. VIRJEE: Objection. Vague and ambiguous.
 21 THE WITNESS: When you say "deal with"?
 22 MR. ROSENBAUM: That are concerned with
 23 accountability in the general sense of management.
 24 MR. VIRJEE: Objection. Overbroad. Vague and
 25 ambiguous.

1 THE WITNESS: Whose charge it is to help the
 2 Department in its management responsibilities in terms
 3 of general accountability principles?
 4 MR. ROSENBAUM: Yes, sir.
 5 THE WITNESS: No.
 6 Q. BY MR. ROSENBAUM: Okay. No?
 7 A. No, I do not know of any.
 8 Q. Okay. Now, as deputy superintendent of this
 9 office you supervise certain programs; is that right?
 10 MR. VIRJEE: Objection. Vague and ambiguous as
 11 to "supervise" and "programs."
 12 THE WITNESS: I do not directly supervise
 13 programs, no.
 14 Q. BY MR. ROSENBAUM: Okay. When you say "I do
 15 not," do you mean you, Mr. Warren, or do you mean your
 16 branch doesn't?
 17 A. I, Paul Warren.
 18 Q. Okay. Does the branch supervise certain
 19 programs?
 20 A. If you mean the branch as the collection of
 21 divisions and all of the staff that work for the branch,
 22 yes.
 23 Q. Okay. Why don't you help me understand the
 24 organizational structure here.
 25 A. Sure.

1 Q. You report to Mr. Hill; is that right?
 2 A. Correct.
 3 Q. Do you meet with Mr. Hill on a regular basis?
 4 A. Yes.
 5 Q. How frequently?
 6 A. For what purpose?
 7 Q. Do you have regular meetings with Mr. Hill?
 8 MR. VIRJEE: Objection. Vague and ambiguous as
 9 to "meetings" and "regular."
 10 THE WITNESS: Yeah, I am uncertain as to the
 11 focus of the question.
 12 Q. BY MR. ROSENBAUM: What's the nature of your
 13 reporting relationship to him?
 14 A. The nature of my reporting relationship to him.
 15 He's my supervisor.
 16 Q. Do you submit written reports to him?
 17 A. No, not generally.
 18 Q. Okay. Have you ever submitted a written report
 19 to him?
 20 A. I have submitted things to him for his
 21 approval, sure.
 22 Q. Okay. Does he convene staff meetings?
 23 A. Yes.
 24 Q. How frequently? Strike that.
 25 On a regular basis?

1 A. For what purpose?
 2 Q. For any purpose. Is there like a Monday
 3 morning meeting or a Friday afternoon meeting or morning
 4 meetings?
 5 MR. VIRJEE: That he convenes?
 6 MR. ROSENBAUM: Yeah.
 7 MS. READ SPANGLER: That Paul attends? You're
 8 assuming that his only staff is Paul and he would attend
 9 all the meetings. I think your question is vague and
 10 ambiguous.
 11 MR. ROSENBAUM: I'm not assuming anything.
 12 THE WITNESS: He convenes regular meetings,
 13 yes.
 14 Q. BY MR. ROSENBAUM: Do you attend those
 15 meetings?
 16 A. When I'm involved in them.
 17 Q. And what sort of meetings do you attend?
 18 A. It's all over the map.
 19 Q. And Mr. Hill reports to Superintendent Eastin;
 20 is that right?
 21 A. Yes.
 22 Q. Is there anyone in between them?
 23 A. No.
 24 Q. Okay. And then who do you report -- I mean,
 25 who reports to you?

1 MR. VIRJEE: Objection. Asked and answered.
 2 MS. READ SPANGLER: Join.
 3 THE WITNESS: I have answered it before.
 4 Q. BY MR. ROSENBAUM: That would be Mr. Speers?
 5 A. Yes.
 6 MR. VIRJEE: Objection. Asked and answered.
 7 Q. BY MR. ROSENBAUM: And Mr. Speers'
 8 responsibility is what?
 9 A. Mr. Speers is the director of the standards and
 10 assessment division.
 11 Q. Okay. And Mr. Padilla?
 12 A. He reports to me.
 13 Q. Okay. And his responsibility is?
 14 A. He's the -- what's his title? He's the
 15 director of the research and evaluation division. I
 16 think that's the right title. I may be getting it
 17 wrong.
 18 Q. Okay. And Ms. Thomas?
 19 A. She does not report to me.
 20 Q. And is it Mr. or Ms. Givens? Do I have that
 21 right?
 22 A. Givens, G-i-v-e-n-s.
 23 Q. And what's Givens' first name?
 24 A. Terry.
 25 Q. And what is Terry Givens' responsibility?

1 A. Terry is -- Terry reports to me and assists me
 2 in the work that I'm trying to get done.
 3 Q. He's like an assistant?
 4 A. He.
 5 Q. He's like an assistant to you?
 6 A. Yes.
 7 Q. And you did give me the other names. Help me
 8 remember the other names of the people who report to you
 9 besides --
 10 A. My secretary, Rena Carlson.
 11 Q. Okay.
 12 A. And Stewart Greenfeld.
 13 Q. Okay. And it's Dr. Greenfeld?
 14 A. Yes.
 15 Q. What's Dr. Greenfeld's responsibility?
 16 A. He's the director of the school and district
 17 accountability division. I think that's what the title
 18 is.
 19 Q. Anybody else?
 20 A. Nope.
 21 Q. And do you convene regular meetings with any or
 22 all of these individuals?
 23 A. Yes.
 24 MR. VIRJEE: Objection. Vague and ambiguous as
 25 to "regular" and "meetings."

1 Q. BY MR. ROSENBAUM: And how frequently do you
 2 meet with them, typically?
 3 MR. VIRJEE: Objection. Compound.
 4 THE WITNESS: For what purpose?
 5 Q. BY MR. ROSENBAUM: Do you have regular staff
 6 meetings at which they attend?
 7 MR. VIRJEE: Objection. Compound.
 8 THE WITNESS: For general purposes?
 9 MR. ROSENBAUM: Yes.
 10 THE WITNESS: Yes.
 11 Q. BY MR. ROSENBAUM: Do they happen on a weekly
 12 basis, monthly basis, or just as you choose to call
 13 them?
 14 A. They're scheduled on a weekly basis.
 15 Q. Are there minutes of those meetings?
 16 A. No.
 17 Q. Agendas?
 18 A. Sometimes.
 19 Q. Written agendas?
 20 A. Sometimes.
 21 Q. Do you keep copies of those agendas?
 22 A. "Keep them" meaning?
 23 Q. In a file, in a folder.
 24 A. For any length of time, is that what you mean?
 25 Q. Yeah.

1 A. No.
 2 Q. Okay. Have you ever met with Mrs. Thomas about
 3 her responsibilities?
 4 MR. VIRJEE: Objection. Vague and ambiguous
 5 about meeting with her regarding the responsibilities.
 6 MS. READ SPANGLER: And just to clarify, when
 7 you say Ms. Thomas, you mean Eleanor Clark-Thomas?
 8 MR. ROSENBAUM: Right.
 9 THE WITNESS: I have met with Eleanor
 10 Clark-Thomas.
 11 Q. BY MR. ROSENBAUM: On how many occasions?
 12 A. I can't estimate.
 13 Q. More than five, less than five?
 14 A. More than five.
 15 Q. Do you meet with Superintendent Eastin?
 16 A. I have met with Superintendent Eastin.
 17 Q. How frequently since you started your job?
 18 MR. VIRJEE: Objection. Vague and ambiguous as
 19 to "meeting."
 20 THE WITNESS: It's hard to estimate. For any
 21 purpose at all in a formal meeting, I'd say maybe once a
 22 week.
 23 Q. BY MR. ROSENBAUM: Incidentally, when you
 24 talked to me before about the K-12 master plan report
 25 that you prepared, did you share that with

1 Superintendent Eastin?
 2 A. No.
 3 Q. Has she ever talked to you about the report?
 4 A. Yes, I think she did.
 5 Q. What did she say?
 6 A. I can't remember specifically.
 7 Q. Can you tell me generally what you remember her
 8 saying?
 9 A. She talked to me about the relationship -- the
 10 role of the student.
 11 Q. Okay. Was that one of the areas that you
 12 looked at in your report, is whether or not there should
 13 be an elected superintendent or an appointed
 14 superintendent; is that right?
 15 MR. VIRJEE: Objection. The report speaks for
 16 itself.
 17 MS. READ SPANGLER: And leading.
 18 THE WITNESS: I'm a little confused by your
 19 semantics.
 20 Q. BY MR. ROSENBAUM: My question is this, when
 21 you talked to Superintendent Eastin, was it after the
 22 report itself had been prepared, or was it in connection
 23 with developing information, or was it something else?
 24 A. No, it was after the report had been prepared.
 25 Q. Okay. And do you have an impression,

1 Mr. Warren, as to whether or not she supports any or all
 2 of the recommendations in the report?
 3 MR. VIRJEE: Objection. Calls for speculation.
 4 Lacks foundation.
 5 MS. READ SPANGLER: Join.
 6 THE WITNESS: I don't know that she's ever said
 7 that to me one way or the other.
 8 Q. BY MR. ROSENBAUM: Did you ever ask her?
 9 A. Not that I recall.
 10 Q. Did you ever say, what did you think of the
 11 report?
 12 A. Like I said, we did have a discussion about the
 13 role of the superintendent.
 14 Q. About anything else regarding the report, with
 15 the exception of the role of superintendent?
 16 A. Not that I recall.
 17 Q. And what's your best recollection as to what,
 18 if anything, she said about the role of the
 19 superintendent?
 20 A. As I recall, what I took away from the
 21 conversation was that she felt that there was an
 22 important role for an elected superintendent.
 23 Q. And what did you say?
 24 MR. VIRJEE: Objection. Calls for speculation
 25 and assumes the fact that he said anything.

1 THE WITNESS: I don't remember.
 2 Q. BY MR. ROSENBAUM: Okay. Do you know when that
 3 discussion took place?
 4 A. I don't remember.
 5 Q. Okay. Now, are there specific committees that
 6 you serve on in your capacity as deputy superintendent?
 7 A. Yes.
 8 Q. What are they?
 9 A. I serve on the executive committee.
 10 Q. The superintendent's executive committee?
 11 A. Yes.
 12 Q. Who else is on that committee?
 13 A. Two chief deputies, all of the deputy
 14 superintendents like myself.
 15 Q. Does the executive committee have meetings?
 16 A. Yes.
 17 Q. How frequently?
 18 A. Two or three times a month.
 19 Q. Has this case ever been discussed at an
 20 executive committee meeting?
 21 A. When you say "discussed," I'm not sure exactly
 22 what aspect you're talking about. And I'm not sure I
 23 can recall anyway, but if there's -- you're talking
 24 about the content of the case?
 25 Q. Yes.

1 A. Not that I can recall.
 2 Q. Are you familiar with litigation involving
 3 advanced placement programs?
 4 A. I have heard it discussed, yes.
 5 Q. At the executive committee?
 6 A. I don't know.
 7 Q. Have you heard Delaine Eastin discuss it?
 8 A. I think I have heard her talk about it, yes.
 9 Q. Can you tell me what she said?
 10 MR. VIRJEE: Objection. To the extent it would
 11 call for the attorney/client privilege, I'll instruct
 12 you not to answer.
 13 You shouldn't be discussing anything when
 14 counsel was present.
 15 THE WITNESS: I don't recall if counsel was
 16 present, and I don't really recall the specifics of the
 17 meeting.
 18 Q. BY MR. ROSENBAUM: Okay. Now, your office,
 19 sir, it has oversight responsibilities for the API; is
 20 that right?
 21 A. The API is one of the areas that Bill Padilla's
 22 division works on, yes.
 23 Q. And the IIUSP, your branch has oversight
 24 responsibilities with respect to the IIUSP?
 25 MR. VIRJEE: Objection. Vague and ambiguous as

1 to "oversight."
 2 MS. READ SPANGLER: Also it's leading and
 3 assumes facts not in evidence.
 4 MR. ROSENBAUM: Go ahead, sir.
 5 THE WITNESS: My division plays a fairly
 6 minimal role in IIUSP in my branch.
 7 Q. BY MR. ROSENBAUM: What role, if any, does it
 8 play?
 9 A. Eligibility for IIUSP is determined by the
 10 rankings in the API.
 11 Q. And that's the extent of it?
 12 A. Yes.
 13 Q. Have you had anything to do with the policy
 14 regarding the creation of the IIUSP?
 15 A. No.
 16 MR. VIRJEE: Objection. Vague and ambiguous as
 17 to the "creation" of policy.
 18 Q. BY MR. ROSENBAUM: Do you have anything to do
 19 with the implementation of the IIUSP, other than how the
 20 API rankings affect what schools are potentially in or
 21 out?
 22 MR. VIRJEE: Objection. Vague and ambiguous as
 23 to "implementation."
 24 MS. READ SPANGLER: Join.
 25 THE WITNESS: Responsibility for the

1 implementation of the IIUSP is in a different branch.
 2 Q. BY MR. ROSENBAUM: What branch is that?
 3 A. Curriculum instruction leadership branch.
 4 Q. Okay. Now, how about the school accountability
 5 report card, does your branch have any responsibilities
 6 regarding that?
 7 MR. VIRJEE: Objection. Vague and ambiguous as
 8 to "responsibilities."
 9 THE WITNESS: Responsibility? The answer is
 10 yes.
 11 Q. BY MR. ROSENBAUM: Okay. How about the pupil
 12 promotion and retention program, does your office have
 13 any responsibilities with regard to that?
 14 A. I don't know. I have not had any issues come
 15 up on that that would let me know it was part of my
 16 branch's responsibilities.
 17 Q. How about the consolidated compliance review?
 18 A. Yes.
 19 MS. READ SPANGLER: I'm sorry, the what?
 20 MR. ROSENBAUM: CCR. I said consolidated. You
 21 know what I mean.
 22 THE WITNESS: Coordinated.
 23 MR. ROSENBAUM: You know what I meant.
 24 Q. You're familiar with the high school exit exam?
 25 A. Yes.

1 Q. Okay. Does your office have any
 2 responsibilities with respect to the high school exit
 3 exam?
 4 A. Phil Speers' division is charged with
 5 implementing that program.
 6 Q. Okay. Any other programs besides the ones
 7 we've talked about? We've talked about high school exit
 8 exam, API, school accountability report card and CCR.
 9 You've indicated that your office has
 10 responsibilities with respect to those programs, right?
 11 A. Yes.
 12 Q. Any other programs?
 13 A. Sure.
 14 Q. Which other programs?
 15 A. Phil Speers' division oversees all of the
 16 testing programs that the State is involved with. Bill
 17 Padilla's office has other responsibilities outside of
 18 the API, and Stu Greenfeld's division also has a unit
 19 that works on local accountability measures, so there
 20 are probably others that -- those are the major
 21 initiatives.
 22 Q. Okay. Incidentally, regarding educational
 23 testing, do you regard yourself an expert in that area?
 24 A. No.
 25 MR. VIRJEE: Objection. Vague and ambiguous as

1 to "expert."
 2 Q. BY MR. ROSENBAUM: Have you ever taken any
 3 courses in that area?
 4 A. In educational testing, no.
 5 Q. Are there persons whom you consider to be
 6 experts in educational testing?
 7 MR. VIRJEE: Objection. Vague and ambiguous as
 8 to expert.
 9 THE WITNESS: Are there persons in the world
 10 who are considered experts?
 11 MR. ROSENBAUM: Yes.
 12 MS. READ SPANGLER: Actually, his question was
 13 whom you consider to be an expert.
 14 THE WITNESS: I don't think I'm qualified to
 15 make that judgment.
 16 Q. BY MR. ROSENBAUM: Have you done reading in the
 17 area of educational testing?
 18 A. In what area?
 19 MS. READ SPANGLER: Object --
 20 THE WITNESS: As regards to what, in
 21 educational testing?
 22 MR. ROSENBAUM: Science or methodology of
 23 educational testing.
 24 THE WITNESS: I don't think so, no.
 25 Q. BY MR. ROSENBAUM: Okay. Do you know what

1 FCMAT is, F-C-M-A-T, all caps?
 2 A. Yes.
 3 Q. Does your office have any responsibility with
 4 respect to FCMAT?
 5 MR. VIRJEE: Objection. Vague and ambiguous as
 6 to "responsibility."
 7 MS. READ SPANGLER: Join.
 8 THE WITNESS: I don't think my branch has
 9 direct interaction with FCMAT.
 10 Q. BY MR. ROSENBAUM: Have you yourself dealt with
 11 anybody from FCMAT?
 12 MS. READ SPANGLER: Objection. Vague as to
 13 time.
 14 THE WITNESS: I have been in meetings with
 15 representatives who work for FCMAT.
 16 Q. BY MR. ROSENBAUM: Have you read any FCMAT
 17 reports?
 18 MS. READ SPANGLER: Objection. Vague as to
 19 time.
 20 THE WITNESS: I think so, yeah.
 21 Q. BY MR. ROSENBAUM: Can you tell me which
 22 reports you looked at?
 23 A. A report that they produced on Compton,
 24 C-o-m-p-t-o-n. But also I believe it was a draft and
 25 not the final.

1 Q. Any other FCMAT reports that you remember
 2 looking at?
 3 A. No.
 4 Q. And when did you look at the Compton draft?
 5 A. I don't recall.
 6 Q. There have been a number of reports. Just
 7 trying to try and get a time frame.
 8 MR. VIRJEE: Objection. Your question assumes
 9 facts.
 10 You don't have to assume there have been a
 11 number of reports just because he says so.
 12 THE WITNESS: All I can really tell you is it
 13 was since I took this job.
 14 Q. BY MR. ROSENBAUM: And for what purpose did you
 15 examine that report?
 16 A. For what purpose, I'm not 100-percent sure.
 17 There may have been sections in it that had to do with
 18 testing results on students at Compton.
 19 Q. Okay. And to the best of your recollection,
 20 Mr. Warren, why would you look at that?
 21 A. I think to see if the data were accurately
 22 represented.
 23 Q. How would you figure that out?
 24 A. By discussing it with staff up in the
 25 assessment division and having them double-check the

1 numbers.
 2 Q. Okay. Were you asked to do that by FCMAT, or
 3 did you just do it on your own?
 4 A. I think I was asked to do that by somebody in
 5 the Department.
 6 Q. Do you know who that was?
 7 A. I don't recall.
 8 Q. Did you look at the report for any other -- did
 9 you look at any other part of the report except the
 10 reporting of the testing?
 11 A. I think I was given a piece of the report.
 12 Q. Okay. Did you draw any conclusions?
 13 MR. VIRJEE: By reading the report?
 14 MR. ROSENBAUM: By reading over what he was
 15 given.
 16 THE WITNESS: I don't recall.
 17 Q. BY MR. ROSENBAUM: And you mentioned to me a
 18 few minutes ago that you've attended meetings with
 19 personnel from FCMAT; is that right?
 20 A. Yes.
 21 Q. Okay. What were the subject matters of those
 22 meetings?
 23 A. The California student information system.
 24 Q. Okay. And is there a California student
 25 information system?

1 MR. VIRJEE: Objection. Vague and ambiguous.
 2 MR. ROSENBAUM: Strike that. Withdraw that
 3 question.
 4 Q. When you say California student information
 5 system, what do you mean?
 6 A. It is a -- I guess you could call it a program
 7 to develop a database of information on students.
 8 Q. And the purpose of that system as you
 9 understand it?
 10 A. There are multiple purposes.
 11 Q. What would they be?
 12 MR. VIRJEE: Objection. Lacks foundation.
 13 Calls for speculation.
 14 MS. READ SPANGLER: Join.
 15 THE WITNESS: It's to allow districts to share
 16 data on students as they move from district to district.
 17 Also it's a way for the Department to capture
 18 information that we collect in other ways in an easier,
 19 less intrusive way for districts.
 20 Q. BY MR. ROSENBAUM: What sort of information?
 21 A. Well, now you're getting to the limits of my
 22 understanding.
 23 Q. Okay. Am I at those limits?
 24 A. You're pretty darn close.
 25 Q. Okay. Does -- let me see if I understand what

1 you've told me here. California student information
 2 system, is that the actual data, or is that the system
 3 that would have student data?
 4 A. It's the system.
 5 Q. Does that exist now?
 6 MR. VIRJEE: Objection. Vague and ambiguous as
 7 to "exist."
 8 THE WITNESS: If I understand your question,
 9 several districts have attempted to implement the design
 10 that FCMAT has come up with.
 11 Q. BY MR. ROSENBAUM: FCMAT has developed a design
 12 for a statewide student database; is that right?
 13 A. Yes.
 14 Q. Okay. But that has not been adopted on a
 15 statewide level; isn't that right?
 16 A. Adopted on a --
 17 Q. Doesn't exist on a statewide basis?
 18 MR. VIRJEE: Objection. Vague and ambiguous as
 19 to "exist."
 20 THE WITNESS: Like I said before, I think I've
 21 answered all I can say, which is several districts have
 22 implemented that design.
 23 Q. BY MR. ROSENBAUM: Do you know which districts
 24 they are?
 25 A. I don't.

1 Q. Do you know how many districts?
 2 A. I don't know the specific number.
 3 Q. Do you know if it's more or less than five?
 4 A. Yes, it's more than five.
 5 Q. Do you know if it's more or less than ten?
 6 A. I believe it's more than ten.
 7 Q. Can you give me your best estimate for a
 8 ballpark figure?
 9 A. I'd say it's less than 50, would be my guess.
 10 Q. Okay. Have you looked at any data from any of
 11 these districts, any of the data that was produced as a
 12 result of this FCMAT model?
 13 A. No.
 14 Q. Okay. And do you know who is paying -- the
 15 districts that have developed it, who is financing that?
 16 MR. VIRJEE: Objection. Calls for speculation.
 17 Lacks foundation.
 18 MR. ROSENBAUM: If you know.
 19 THE WITNESS: Well, funding is made available
 20 by the State. Whether that pays for it is a matter
 21 of -- that's not known to me.
 22 Q. BY MR. ROSENBAUM: Okay. Sitting here today,
 23 do you know if and when there will be a statewide --
 24 there will exist statewide data involving all the
 25 districts?

1 A. I'm sorry, repeat the question.
 2 Q. The FCMAT model, it contemplates that all
 3 districts will be part of that model; isn't that right?
 4 MR. VIRJEE: Objection. Calls for speculation.
 5 Lacks foundation.
 6 THE WITNESS: It contemplates. I don't know if
 7 I can tell you that.
 8 Q. BY MR. ROSENBAUM: I'm sorry, can you tell me
 9 that?
 10 A. I can't.
 11 Q. Do you know anything about the details of the
 12 model?
 13 A. Very little.
 14 Q. Sitting here today, are you aware of a
 15 statewide database that would permit one to get
 16 information about students as the FCMAT model intends?
 17 MR. VIRJEE: He's already indicated he doesn't
 18 know about the FCMAT model, so he doesn't know whether
 19 there is or isn't -- it's vague and ambiguous --
 20 information about students.
 21 MS. READ SPANGLER: Calls for speculation about
 22 what FCMAT intends.
 23 THE WITNESS: I'm starting to get a little
 24 tired. Could you repeat the question.
 25 MS. READ SPANGLER: Maybe we should break for

1 lunch after we finish this line of questioning.
 2 MR. ROSENBAUM: Let me take him one more place.
 3 THE WITNESS: Sure.
 4 Q. BY MR. ROSENBAUM: Do you know what CBEDS is?
 5 A. Yes.
 6 Q. What's your understanding of what CBEDS is?
 7 A. CBEDS is the primary avenue for the district --
 8 for the Department to collect information from the
 9 districts.
 10 Q. Okay. Do you -- does your office have any
 11 responsibility with respect to CBEDS data?
 12 A. No.
 13 Q. Do you look at CBEDS data?
 14 MR. VIRJEE: Objection. Vague and ambiguous as
 15 to "look at" or having the "responsibility" for.
 16 MS. READ SPANGLER: Vague and ambiguous as to
 17 "you."
 18 THE WITNESS: I have used data that was
 19 collected through CBEDS.
 20 Q. BY MR. ROSENBAUM: As deputy superintendent?
 21 MR. VIRJEE: Objection. Would call for
 22 speculation as to where the data he looked at came from.
 23 THE WITNESS: I don't know the answer to that.
 24 Q. BY MR. ROSENBAUM: To your knowledge, does
 25 anyone in your branch use CBEDS data?

1 A. Yes.
 2 Q. Who?
 3 A. Well, I know that Bill Padilla and Bill
 4 Padilla's staff have used it.
 5 Q. For what purpose?
 6 MR. VIRJEE: Objection. Calls for speculation.
 7 Lacks foundation.
 8 MS. READ SPANGLER: Join.
 9 THE WITNESS: For doing analysis.
 10 Q. BY MR. ROSENBAUM: Do you know for what purpose
 11 the analysis?
 12 A. I can give you an example.
 13 Q. Go ahead.
 14 A. There's a bill going through the legislature
 15 where we were asked to do a fiscal estimate, and the
 16 data was employed to do that fiscal estimate.
 17 Q. What did that bill concern?
 18 A. Providing funding to schools for certain
 19 purposes.
 20 Q. For which purposes?
 21 A. For educational improvement.
 22 Q. Any other examples you can think of?
 23 A. Not off the top of my head.
 24 Q. One final thing here. Does your office have
 25 policy-making responsibilities?

1 MR. VIRJEE: Objection. Vague and ambiguous.
 2 MS. READ SPANGLER: Join.
 3 MR. VIRJEE: Both as to "office" and
 4 "policy-making responsibilities."
 5 THE WITNESS: I'm not sure exactly when you say
 6 "policy making" what it is that you're asking.
 7 Q. BY MR. ROSENBAUM: Okay. You know the word
 8 "policy"?
 9 A. Yes.
 10 Q. What's your understanding of what that means?
 11 MR. VIRJEE: Objection. Vague as in what
 12 context.
 13 THE WITNESS: Policy is making choices.
 14 Q. BY MR. ROSENBAUM: Does your office make
 15 educational policy choices?
 16 A. Well, that's where I don't quite know what you
 17 mean. When you say do we make or does my office make
 18 them, I don't know exactly what it is that you're asking
 19 me.
 20 MR. ROSENBAUM: Okay. Why don't we take a
 21 break here.
 22 (Lunch recess taken.)
 23 Q. BY MR. ROSENBAUM: We're back on the record.
 24 Doing okay, Mr. Warren?
 25 A. Yes.

1 Q. Regarding your office, sir, could you tell me
 2 your understanding of what its duties and
 3 responsibilities are.
 4 A. Of my particular -- the deputy superintendent?
 5 Q. Yes, sir.
 6 A. I guess I would say there are two general
 7 categories. Well, three. One is supervision of the --
 8 I supervise the staff in charge of the three divisions
 9 that are in my branch. I am generally responsible for
 10 assuring there is consistent policy in practice between
 11 the three divisions, and then just as kind of -- and
 12 then I represent the Department with State Board staff
 13 and members with the legislature with outside groups.
 14 Q. You represent the Department of Education?
 15 A. I represent the accountability branch.
 16 Q. Okay. You said there were three categories?
 17 A. Yeah.
 18 Q. And the third?
 19 MS. READ SPANGLER: That was the third.
 20 THE WITNESS: That was the third.
 21 Q. BY MR. ROSENBAUM: Okay. So you supervise your
 22 staff?
 23 A. Correct.
 24 Q. And then what was the second one, you deal
 25 with --

1 MR. VIRJEE: Generally responsible for
 2 consistent policy among the divisions.
 3 THE WITNESS: Is it among or between?
 4 MR. VIRJEE: Among. There's three.
 5 Q. BY MR. ROSENBAUM: When you use the word
 6 "policy," sir, what do you mean by "policy"?
 7 A. The choices -- the choices about programmatic
 8 decisions that are made.
 9 Q. Okay. And have you in your -- in your tenure
 10 as deputy superintendent, have you been critical of any
 11 of the policies of the Department of Education?
 12 MR. VIRJEE: Objection. Vague and ambiguous as
 13 to "critical."
 14 MS. READ SPANGLER: Join.
 15 THE WITNESS: I guess I also don't understand
 16 it in terms of in what venue you would --
 17 MR. ROSENBAUM: Any venue.
 18 MR. VIRJEE: Same objections.
 19 THE WITNESS: I guess if you're saying do I
 20 think all of the policies of the areas that the
 21 accountability branch encompasses, do I think they're
 22 what I necessarily would have chosen, I think the answer
 23 is no. I mean, no, so, to my question.
 24 Q. BY MR. ROSENBAUM: Can you tell me the basis
 25 for that answer, please.

1 A. Well, I guess I'm thinking of coming in as a
 2 new employee in areas that I've never worked on before
 3 and I look at choices that they've made, and I don't
 4 necessarily believe they've been well thought through.
 5 Q. And what would those choices be?
 6 A. Well, I'll give you a for instance. Each year
 7 one of the units is required to select ten school
 8 districts to do follow-up monitoring for English
 9 language learner, and when I got there, there was no
 10 specific process for identifying those ten districts,
 11 and I felt -- I disagree with that process or lack of
 12 process.
 13 Q. And has a process now been instituted?
 14 A. Yes.
 15 Q. And that process is what?
 16 A. Well, they have specific criteria that they use
 17 in identifying districts that would be candidates for
 18 selection.
 19 Q. Did you have a view as to whether or not ten
 20 was the right number for follow-up?
 21 A. No.
 22 Q. Do you have a view today as to whether ten is
 23 an appropriate number?
 24 A. I don't know what you mean by right number.
 25 There probably is no right number.

1 Q. If it were up to you, what would the number be?
 2 MR. VIRJEE: Objection. Calls for speculation.
 3 THE WITNESS: You know, I haven't thought about
 4 it.
 5 Q. BY MR. ROSENBAUM: Okay. Other policies, sir?
 6 A. Well, when I got to the Department, the
 7 Department had kind of a general policy proposal on
 8 design of the assessment system, and I didn't agree with
 9 all aspects of that.
 10 Q. Which aspects did you not agree with?
 11 A. Well, I'm trying to remember. The -- what I
 12 remember about disagreeing is that the focus of the --
 13 the criteria used in this plan was focused a lot around
 14 the amount of time spent testing, and I felt that that
 15 was the wrong kind of criteria to use as a principle or
 16 the primary criteria for evaluating a good system.
 17 Q. Help me a little bit. When you say "design of
 18 the assessment system," what do you mean by an
 19 "assessment system"?
 20 A. What I mean by an assessment system is the
 21 aggregation of tests that is required by the legislature
 22 through statute.
 23 Q. Are you referring to the API?
 24 A. No.
 25 Q. What test are you referring to?

1 MR. VIRJEE: Objection. Asked and answered.
 2 He just said the aggregation of tests that are used
 3 right now.
 4 Q. BY MR. ROSENBAUM: Which tests are those?
 5 A. Well, there's a lot of them.
 6 Q. Okay. When you say focused on the amount of
 7 time spent testing, what do you mean by that?
 8 A. Tests take time to administer in the schools,
 9 and that's what I mean.
 10 Q. Did that change?
 11 MR. VIRJEE: Did what change?
 12 Q. BY MR. ROSENBAUM: Your concern about the
 13 design of the assessment system, did that change?
 14 A. The Department's policy on the design of
 15 assessment system has changed, and I'm -- if that's what
 16 you mean.
 17 Q. Consistent with your concerns?
 18 A. Yes.
 19 Q. And are you now satisfied?
 20 A. Yeah.
 21 Q. Why is that?
 22 A. I think we have criteria that get more to the
 23 heart of why we have an assessment system.
 24 Q. And that is what?
 25 A. Accurately measuring student achievement.

1 Q. Tell me how you define "student achievement."
 2 MR. VIRJEE: In that context?
 3 MR. ROSENBAUM: Right.
 4 THE WITNESS: How well students are mastering
 5 the State standards approved by the State Board.
 6 Q. BY MR. ROSENBAUM: Any other concerns about
 7 policies besides the two you've mentioned?
 8 MR. VIRJEE: I'm just going to object. That
 9 misstates his testimony. He didn't use the word
 10 "policy," you did. He said he was concerned with
 11 changes. He never used the word "policy." You don't
 12 have to adopt his word.
 13 MS. READ SPANGLER: Join.
 14 THE WITNESS: I mean, it's kind of hard just to
 15 dredge these up. Okay? I've been in this job for two
 16 years, and things become a blur after a while and so --
 17 and I'm a little -- when you say policies, those are
 18 changes that have already been made, and most of my job
 19 is involved in implementing new things.
 20 There are some areas, like I spoke before about
 21 our follow-up activities, where they had been
 22 established for some period of time and so, you know, my
 23 job is to make sure that they're well run, efficient, et
 24 cetera. But a lot of my job is trying to develop new
 25 policies rather than go back and review old policies.

1 I can think of one more. It relates back to
 2 the follow-up unit again. This is actually something
 3 that happened fairly recently. I discovered there was
 4 no clear working procedures in the follow-up unit that
 5 helped districts understand how we were going to work
 6 with them and how they were to get their job -- come
 7 back into compliance, as it were, in a relatively quick
 8 fashion.
 9 Q. BY MR. ROSENBAUM: When you say come into
 10 compliance, come into compliance regarding what?
 11 A. The role of the follow-up program is to monitor
 12 districts in terms of their English language programs
 13 for non-native speakers, and so their job is to go out
 14 and look at the programs that districts operate and make
 15 sure they're in compliance with state and federal law.
 16 Q. State and federal what?
 17 A. Law.
 18 Q. And your office has a role to play in both
 19 monitoring and assuring compliance with state and
 20 federal law; is that right?
 21 MS. READ SPANGLER: Objection. Misstates his
 22 testimony.
 23 THE WITNESS: Those programs are in a division
 24 that is a part of the accountability branch.
 25 Q. BY MR. ROSENBAUM: And part of the

1 responsibility is to monitor how districts implement
 2 state and federal law; is that right?
 3 MS. READ SPANGLER: Objection. Misstates his
 4 testimony.
 5 Are you talking about in the limited context
 6 that he gave you?
 7 MR. ROSENBAUM: Yes.
 8 THE WITNESS: This follow-up program, as I
 9 called it, its job is to go to ten districts, select ten
 10 districts every year and determine to what extent the
 11 local programs are in compliance with state and federal
 12 law.
 13 Q. BY MR. ROSENBAUM: Okay. See if I understand
 14 you. Your concern was that there were no procedures
 15 that helped districts understand how your branch was
 16 going to work with them to obtain compliance; is that
 17 right?
 18 A. The follow-up program didn't have procedures
 19 for developing clear expectations about how a district
 20 could come into compliance or that we expect districts
 21 to come into compliance in a reasonable period of time.
 22 Q. And that is important?
 23 A. I think it is.
 24 Q. Why is that?
 25 MR. VIRJEE: I'll object as vague and ambiguous

1 as to "that."
 2 MS. READ SPANGLER: Join.
 3 THE WITNESS: I think it's important to be
 4 clear with districts about what our expectations are and
 5 what a reasonable time frame is for them to hold
 6 themselves accountable for getting this process
 7 completed.
 8 Q. BY MR. ROSENBAUM: Why?
 9 A. Well, I think districts need to know what our
 10 expectations are, and that's only a fair thing, to
 11 clearly communicate what our expectations are.
 12 Q. When you say "our," who do you mean by that?
 13 A. This program.
 14 Q. Okay. Can you think of any other concerns
 15 about choices that have been made?
 16 A. I can't think of any off the top of my head.
 17 Q. Okay. Now, Mr. Warren, I want you to not think
 18 about choices that have been made within your branch,
 19 but outside your branch in the Department of Education.
 20 Do you have any concerns about choices that the
 21 Department has made?
 22 MR. VIRJEE: Objection. Vague and ambiguous
 23 and also lacks foundation. There's no evidence that he
 24 has a working knowledge to be able to make such a
 25 determination.

1 THE WITNESS: Well, I think the answer is yes,
 2 if I remember what your question is.
 3 Q. BY MR. ROSENBAUM: And what's the basis of your
 4 answer? Tell me what those concerns are.
 5 A. Well, I think -- for instance, as an employee
 6 of the legislative analyst, my job was to oversee --
 7 either analyze or oversee the analysis of how programs
 8 were being implemented by the Department, that was part
 9 of the role of the LAO. And there were a number of
 10 times, I think, when we, I guess you could say,
 11 criticized the implementation of different efforts.
 12 Q. Which efforts?
 13 A. I can think of one where the legislature had
 14 approved funding for a variety of projects in members'
 15 districts. It was a long list. And the Department
 16 basically -- this is kind of a matter of fiscal --
 17 fiscal accountability, that the Department basically
 18 just gave the money to the district in a way that was
 19 requested by the legislature, but there were no
 20 mechanisms for follow-through to make sure that the
 21 money was spent as appropriated. And we thought there
 22 should have been built into these appropriations some
 23 local mechanism for assuring that the funds were spent
 24 as intended by the legislature.
 25 Q. Why is that important?

1 A. It's a part of helping the legislature ensure
2 that its policies are carried out.
3 Q. Was that true, sir, with respect to textbooks,
4 textbook money?
5 A. I don't think -- no. This money was generally
6 for things like facilities, swimming pools.
7 Q. Do you remember anything else?
8 A. It was those kinds of things.
9 Q. Any other concerns, sir, about policies outside
10 the plan itself?
11 MR. VIRJEE: Same objection. Lacks foundation.
12 Calls for speculation. Also vague as to time.
13 THE WITNESS: It's pretty hard to answer that.
14 I can think of another piece that was done by one of my
15 staff when I was at the legislative analyst office that
16 looked at a proposed accountability system that the
17 Department had been developing pursuant to Title 1 of
18 the federal law that we felt like it was very rigorous.
19 Q. BY MR. ROSENBAUM: Do you know approximately
20 when that was?
21 A. '97, something like that.
22 Q. Was that program adopted?
23 A. No, or -- you know, I don't know the answer to
24 that, but it was superseded by other state law.
25 Q. When you talk about the accountability system

1 being rigorous -- am I understanding you right?
2 A. Yes.
3 Q. -- what does that mean? Let me break that
4 down. When you used the word "rigorous," what did you
5 mean?
6 A. Well, I'm going to use another term,
7 meaningful. That in developing a system of
8 accountability, that there is -- the way that the
9 measures are designed, they can't be manipulated or
10 somehow influenced by districts.
11 Q. Why is that important?
12 A. I think it's important for two reasons, one is
13 an accountability system is supposed to be meaningful,
14 and that allowing districts to manipulate potentially
15 undoes the meaning of the program. And I think there
16 should be -- in this case there should be consistency so
17 that -- so that there can be some comparison among
18 districts.
19 Q. In this context, Mr. Warren, when you used
20 "system of accountability," what did you mean by that?
21 A. Again, this was accountability for student
22 outcomes.
23 Q. Okay. Now, you told me several minutes ago
24 what you understood your personal duties and
25 responsibilities as superintendent are.

1 A. Uh-huh.
2 Q. You're saying yes?
3 A. Yes. I'm sorry.
4 Q. Can you tell me, sir, what is your
5 understanding of what the duties and responsibilities of
6 your office are?
7 MR. VIRJEE: Objection. Vague and ambiguous as
8 to "office."
9 THE WITNESS: Of my office?
10 MR. VIRJEE: Which office?
11 MS. READ SPANGLER: Join.
12 THE WITNESS: I guess I don't know that the
13 office itself has responsibilities. I don't know -- I
14 guess maybe I don't understand the question.
15 Q. BY MR. ROSENBAUM: If I say the accountability
16 branch, what are the duties and responsibilities of the
17 accountability branch, same answer?
18 A. No, I think I can answer that.
19 Q. Okay. Why don't you do that.
20 A. It's to carry out the policies and programs in
21 statute.
22 Q. And what statute or statutes are you referring
23 to?
24 A. Well, I'm not sure I know what you're asking.
25 Q. You said that the duties and the

1 responsibilities of the accountability branch are to
2 carry out the policies of statutes; is that right?
3 MR. VIRJEE: Policies and programs.
4 THE WITNESS: Policies and programs that are in
5 statute.
6 Q. BY MR. ROSENBAUM: And when you say "statute,"
7 what are you referring to?
8 A. State education code that relate to these
9 areas.
10 Q. Does your branch, sir, to the best of your
11 understanding -- let me strike that.
12 Do you believe that your branch serves a
13 valuable purpose?
14 MR. VIRJEE: Objection. Vague and ambiguous.
15 THE WITNESS: Well, somebody has to implement
16 the programs, so from that perspective, I'd say sure.
17 Q. BY MR. ROSENBAUM: Does your branch have any
18 duties or responsibilities with respect to overcrowding
19 in schools?
20 MS. READ SPANGLER: Objection. Vague and
21 ambiguous as to "duties or responsibilities with respect
22 to overcrowding."
23 THE WITNESS: I don't believe that issues of
24 school facilities, which is how I understand your
25 question, that there's any part of my branch that has

1 responsibilities in that area.
 2 Q. BY MR. ROSENBAUM: Okay. Do you have any
 3 contact with facilities people in State employment?
 4 MR. VIRJEE: Objection. Vague and ambiguous as
 5 to "facilities," "facilities people."
 6 MS. READ SPANGLER: And "contact."
 7 THE WITNESS: I'm occasionally in a meeting
 8 with somebody from the facilities part of the
 9 Department. I don't know what that's called even.
 10 Q. BY MR. ROSENBAUM: But do you have any direct
 11 interaction with them?
 12 A. Well, like I said, I'm occasionally at meetings
 13 with them, and I might have direct interaction with
 14 them, yes.
 15 Q. Can you think of any interaction you've had
 16 with them in the two years you've had this job?
 17 MR. VIRJEE: With anyone having to do with
 18 anything regarding facilities?
 19 MR. ROSENBAUM: Go ahead.
 20 THE WITNESS: I can think of one meeting where
 21 I was -- where the representative of the facilities
 22 portion of the Department, whatever that's called, also
 23 attended, and I didn't think he talked about facilities.
 24 Q. BY MR. ROSENBAUM: Did you participate in that
 25 meeting?

1 A. I was among the participants in the meeting.
 2 Q. Do you remember what the subject of the meeting
 3 was?
 4 A. I think it was related to Compton.
 5 Q. Does your branch, sir, have any duties or
 6 responsibilities with respect to the provision of
 7 textbooks?
 8 MR. VIRJEE: Objection. Vague and ambiguous as
 9 to "duties" and "responsibilities."
 10 MS. READ SPANGLER: Join.
 11 THE WITNESS: When you say "the provision of
 12 textbooks," what do you encompass within that?
 13 MR. ROSENBAUM: That's a fair question.
 14 Q. Whether kids have textbooks or not.
 15 A. No.
 16 Q. How about with respect to reducing the number
 17 of emergency credentialed teachers at schools?
 18 A. No.
 19 Q. How about with respect to getting more
 20 qualified teachers at schools?
 21 MS. READ SPANGLER: Objection. Vague and
 22 ambiguous as to the term "more qualified teachers."
 23 More qualified than what?
 24 MR. VIRJEE: "Getting."
 25 THE WITNESS: I don't believe that my branch

1 has any responsibilities in that area.
 2 Q. BY MR. ROSENBAUM: How about with respect to
 3 access to school libraries for students?
 4 A. I don't believe my branch has any direct
 5 responsibility for that.
 6 Q. How about with respect to access to the
 7 Internet or computers?
 8 A. On the part of students, you're talking about?
 9 Q. Yes.
 10 A. My branch has no responsibility for that.
 11 Q. Maybe you already answered this, but how about
 12 with respect to health conditions in schools?
 13 MS. READ SPANGLER: I'm sorry, health?
 14 THE WITNESS: Like the health of students?
 15 MS. READ SPANGLER: Vague and ambiguous as to
 16 the term "health conditions."
 17 MR. ROSENBAUM: Like rats and vermin.
 18 THE WITNESS: To the best of my knowledge, I
 19 don't believe my branch has any direct responsibility
 20 for that area.
 21 However, I'd just say as part of the monitoring
 22 responsibilities, that portion -- part of my branch does
 23 have responsibility for -- we are out in the schools,
 24 and that it's not unheard of. And I don't know exactly
 25 how to couch it because I'm not sure how often it

1 occurs. But if a monitor finds something worthy of
 2 comment, that they would include that in their report to
 3 the school district.
 4 Again, that is a part of the judgment that a
 5 consultant would make. Again, I don't believe it's a
 6 part of our direct responsibility to look at that,
 7 however.
 8 Q. BY MR. ROSENBAUM: Okay. Are you familiar with
 9 the phrase -- strike that.
 10 I want to go back to something you said a
 11 little bit earlier. You told me, if I understood you
 12 correctly, that you understood the mission of your
 13 office to assess how well students were achieving in
 14 schools, am I right?
 15 MR. VIRJEE: Objection. Misstates his
 16 testimony.
 17 MS. READ SPANGLER: Join.
 18 THE WITNESS: I think we were talking about
 19 what accountability means in terms of my branch, and
 20 that the focus of accountability in my branch is student
 21 achievement.
 22 Q. BY MR. ROSENBAUM: Is what?
 23 A. Is student achievement.
 24 Q. And have you ever been directed or asked to
 25 undertake a research study or investigation or inquiry

1 to determine how well students are achieving in schools
 2 throughout California?
 3 MS. READ SPANGLER: Objection. Vague as to
 4 time.
 5 THE WITNESS: Have I ever been asked, ever?
 6 MR. ROSENBAUM: Yes.
 7 THE WITNESS: I don't think so.
 8 Q. BY MR. ROSENBAUM: And have you ever directed
 9 anyone on your staff, present staff to undertake such an
 10 inquiry?
 11 A. As to how well students are achieving?
 12 Q. Yes.
 13 MR. VIRJEE: Objection. Vague and ambiguous as
 14 to "directed" or "have you ever directed."
 15 THE WITNESS: I mean, in some respect my whole
 16 job is wrapped up in that, and so I'm a little confused
 17 by your question.
 18 Q. BY MR. ROSENBAUM: Okay. Are you familiar with
 19 the phrase equal educational opportunity?
 20 A. I've heard it, yes.
 21 Q. Okay. Do you have an understanding of what
 22 that means?
 23 MR. VIRJEE: Objection. Vague and ambiguous as
 24 to in what context.
 25 MS. READ SPANGLER: Join.

1 MR. VIRJEE: Also could call for a legal
 2 conclusion. Calls for expert testimony beyond the
 3 competence of this witness.
 4 THE WITNESS: I think I have a general
 5 understanding of what is intended when people say that.
 6 If there's a real specific meaning to it, I'm not sure
 7 that I do.
 8 Q. BY MR. ROSENBAUM: What's your general
 9 understanding?
 10 MR. VIRJEE: Same objection.
 11 THE WITNESS: The general understanding that I
 12 have is that all kids have equal opportunity to succeed
 13 in school.
 14 Q. BY MR. ROSENBAUM: And what does that mean to
 15 you?
 16 A. Wow, what does that mean to me. I think what
 17 it means to me is that the system provides a reasonable
 18 level of services so that within some limits, kids have
 19 a reasonable ability to show what they can do and to be
 20 recognized for that.
 21 Q. And before I asked you that question,
 22 Mr. Warren, had you ever given thought to what equal
 23 opportunity -- equal education opportunity meant?
 24 A. Yes.
 25 Q. Okay. And in what context?

1 A. Certainly the financial context.
 2 Q. And what about outside the financial context?
 3 A. From kind of a curriculum and instructional
 4 context.
 5 Q. Okay. And what about outside the financial,
 6 curriculum and instructional context?
 7 A. No, those, I guess, would be the two areas that
 8 I could say I have thought about.
 9 Q. Okay. And in the context of the curriculum and
 10 instructional area, what do you mean by "curriculum and
 11 instructional"?
 12 A. Well, I guess the educational program that
 13 students receive and -- I'll stop there.
 14 Q. What does that mean?
 15 A. The thing that we call education that students
 16 experience every day.
 17 Q. And when you said to me a few moments ago a
 18 "reasonable level of services," what does that mean?
 19 A. Well, within the context of the resources that
 20 are available to schools, that kids are getting the kind
 21 of services that help them achieve.
 22 Q. And what would those services be?
 23 MR. VIRJEE: Objection. Calls for speculation.
 24 Lacks foundation. Calls for an expert opinion.
 25 MS. READ SPANGLER: Join.

1 MR. ROSENBAUM: I'll go back.
 2 Q. Have you given thought as to what kind of
 3 services that would be?
 4 A. Sure.
 5 Q. Okay. And what would those services be?
 6 MR. VIRJEE: Same objections.
 7 MS. READ SPANGLER: Join.
 8 THE WITNESS: It's services that are typically
 9 provided to schools, that there are teachers, that there
 10 are curriculum materials of some kind, instructional
 11 materials, that there may be supplemental services for
 12 kids that have special needs.
 13 Q. BY MR. ROSENBAUM: Those would be the basic
 14 services?
 15 A. Those are the basic services.
 16 Q. When you say a teacher, what do you mean by
 17 that?
 18 A. A person who is charged with providing
 19 instruction and evaluating student progress.
 20 Q. And in the context of your definition, sir, of
 21 equal educational opportunity, you talked to me earlier
 22 this afternoon about State curriculum standards?
 23 A. Uh-huh.
 24 Q. You're saying yes?
 25 A. Yes. Sorry.

1 Q. Does your definition of teacher mean an
2 individual who is qualified and capable of instructing
3 the State curriculum standards?
4 MR. VIRJEE: Objection. Vague and ambiguous as
5 to "qualified and capable."
6 MS. READ SPANGLER: Join.
7 THE WITNESS: Yeah, I think that's kind of what
8 I was going to say, is I don't know what you mean by
9 "qualified."
10 Q. BY MR. ROSENBAUM: What degree of competence
11 should the teacher have with respect to State curriculum
12 standards under your definition of equal educational
13 opportunity?
14 MS. READ SPANGLER: Objection. Calls for an
15 expert opinion and a legal conclusion.
16 THE WITNESS: Yeah, I don't know if I'd know
17 how to begin to answer that.
18 Q. BY MR. ROSENBAUM: Why is that?
19 A. Because I don't know how to answer it. I'm
20 certainly not an expert in this area.
21 Q. Does your branch investigate, make inquiry as
22 to the extent to which students in the state of
23 California have teachers who are capable of teaching
24 State curriculum standards?
25 MR. VIRJEE: Objection. Vague and ambiguous as

1 to the term "capable of teaching."
2 MS. READ SPANGLER: Join.
3 THE WITNESS: I don't think so.
4 Q. BY MR. ROSENBAUM: Do you know if any part of
5 the Department of Education has ever undertaken such an
6 inquiry?
7 MR. VIRJEE: Objection. Vague and ambiguous as
8 to "such an inquiry," since it was vague and ambiguous
9 in the first question.
10 THE WITNESS: Are you asking has anybody in the
11 Department of Education investigated what level of
12 expertise is needed to be a, quote, good-enough teacher?
13 MR. ROSENBAUM: Yes.
14 THE WITNESS: Not to my knowledge.
15 Q. BY MR. ROSENBAUM: Have you ever been directed
16 to undertake such an inquiry?
17 A. No.
18 Q. Have you ever directed anybody on your staff to
19 do that?
20 A. No.
21 Q. Why not?
22 A. I think it's an unanswerable question.
23 Q. Why is that?
24 A. Because I'm not sure that I would say the
25 primary determinate of a quality teacher is how well

1 they know the standards. There's lots of factors that
2 go into making a good teacher.
3 Q. Do you -- when you talked about curriculum
4 materials and instructional materials, what did you mean
5 by that?
6 MR. VIRJEE: I don't think he used the words
7 "curriculum materials," so I think that misstates his
8 testimony.
9 MS. READ SPANGLER: Join.
10 THE WITNESS: Yeah, I think I used the word
11 "instructional materials."
12 Q. BY MR. ROSENBAUM: What did you mean by that
13 phrase?
14 A. Part of the responsibilities of schools is to
15 have an instructional program that guides students
16 through the learning process, and oftentimes that
17 includes instructional materials, most times it includes
18 instructional materials, which could be a variety of
19 things.
20 Q. Such as?
21 A. Probably the most common are textbooks -- is
22 textbooks, but --
23 Q. I'm sorry, go ahead.
24 A. -- but there's other ways of doing it besides
25 merely using a textbook.

1 Q. Such as?
2 A. Oh, there's mimeographs, there's materials that
3 the teacher puts together, you know, there's a wide
4 variety of things depending on the teacher.
5 Q. Has your branch, sir, ever undertaken any
6 investigation or inquiry to determine the degree to
7 which students have textbooks?
8 MR. VIRJEE: Objection. Vague and ambiguous as
9 to "undertaken" and "investigation."
10 THE WITNESS: I know of no study that my branch
11 has undertaken on the issue of whether --
12 MR. ROSENBAUM: Students had textbooks.
13 THE WITNESS: -- students have textbooks.
14 Q. BY MR. ROSENBAUM: Or other instructional
15 materials?
16 A. I don't believe so.
17 Q. Do you know if anyone in the Department of
18 Education has undertaken any such inquiry or
19 investigation?
20 MR. VIRJEE: Objection. Calls for speculation.
21 THE WITNESS: I don't know.
22 Q. BY MR. ROSENBAUM: Have you ever directed
23 anybody on your staff to undertake any such inquiry or
24 investigation?
25 A. No.

1 Q. Has your branch ever -- strike that.
 2 Since you became head of the branch, have you
 3 ever been directed to undertake any inquiry or
 4 investigation to determine the extent to which students
 5 have instructional materials that are aligned with State
 6 curriculum standards?
 7 A. No.
 8 Q. Have you ever been asked to undertake such an
 9 inquiry or investigation?
 10 MR. VIRJEE: That question was just asked.
 11 Q. BY MR. ROSENBAUM: You personally at any point,
 12 have you ever been asked at any point in your career?
 13 A. To undertake a study, no.
 14 Q. Have you ever directed anybody on your staff to
 15 do that?
 16 A. No.
 17 Q. Do you know if any such inquiry or
 18 investigation has been undertaken in the Department?
 19 MR. VIRJEE: Objection. Calls for speculation.
 20 Also vague and ambiguous as to inquiry and study.
 21 Changed the question now.
 22 THE WITNESS: I don't know of any study that
 23 was done.
 24 Q. BY MR. ROSENBAUM: Okay. If you were asked to
 25 do that, how would you go about doing that?

1 MR. VIRJEE: Objection. Calls for speculation.
 2 Lacks foundation.
 3 MS. READ SPANGLER: Objection. Calls for
 4 speculation.
 5 THE WITNESS: If I were asked to -- I'm asking
 6 you a question here. What is it that you want to know?
 7 Q. BY MR. ROSENBAUM: Superintendent Warren, we'd
 8 like to find out the extent to which students have
 9 curriculum materials that are aligned with State
 10 curriculum standards.
 11 How would you go about doing that?
 12 MR. VIRJEE: Objection. Calls for speculation.
 13 Lacks foundation. There's been no evidence that this
 14 witness has any expertise or experience in such matters.
 15 MS. READ SPANGLER: Join.
 16 THE WITNESS: Well, as -- there's a simple
 17 answer, which is, I would ask my staff to do it.
 18 Q. BY MR. ROSENBAUM: That's my solution.
 19 Beyond --
 20 A. If you're asking me as a person who knows some,
 21 but certainly not an expert in doing educational
 22 research, you're asking me for how I would structure the
 23 research design, is that what you're asking?
 24 Q. Yes, sir.
 25 A. I'd probably do a survey.

1 Q. How would you do that?
 2 A. Well, I'd put together a list of questions that
 3 I felt got at the question I was trying to answer, and I
 4 would call a representative number of schools and ask
 5 them those questions.
 6 Q. Do you think that would be a good idea to do?
 7 MR. VIRJEE: Objection. Calls for speculation.
 8 Lacks foundation. Incomplete hypothetical. Calls for
 9 an expert opinion.
 10 MS. READ SPANGLER: Join.
 11 THE WITNESS: I guess my answer is that it's
 12 not my sense that that's a problem that is severe enough
 13 to reach the level of where I would suggest that we just
 14 go do it, because that's kind of what you're asking me.
 15 Q. BY MR. ROSENBAUM: Sitting here today do you
 16 know the extent to which students in classrooms don't
 17 have curriculum materials that are aligned?
 18 MS. READ SPANGLER: Objection. Assumes facts
 19 not in evidence.
 20 MR. ROSENBAUM: With State standards.
 21 THE WITNESS: I never pretended to know in any
 22 detail.
 23 Q. BY MR. ROSENBAUM: If students didn't have
 24 materials that were aligned with State curriculum
 25 standards, do you have an opinion as to what the

1 consequences of that would be for the students?
 2 MR. VIRJEE: Objection. Calls for speculation.
 3 Calls for an expert opinion. Calls for an opinion which
 4 this witness is not competent to give. Incomplete
 5 hypothetical.
 6 MS. READ SPANGLER: Join.
 7 THE WITNESS: I think the question depends a
 8 lot on what the instructional materials are.
 9 Q. BY MR. ROSENBAUM: Why is that?
 10 MR. VIRJEE: Same objections.
 11 MS. READ SPANGLER: Join.
 12 THE WITNESS: When you say not aligned with
 13 State standards, that could be a little bit, it could be
 14 a lot, and it just may be the sequencing between grades
 15 are different, and so you're actually covering all of
 16 the standards over time, but they're not aligned within
 17 each textbook.
 18 Q. BY MR. ROSENBAUM: Are you familiar, sir, with
 19 any studies relating to whether or not public school
 20 children in California receive equal educational
 21 opportunities?
 22 MR. VIRJEE: Vague and ambiguous as to "equal
 23 educational opportunities."
 24 MS. READ SPANGLER: Join.
 25 MR. VIRJEE: Also vague as to time.

1 THE WITNESS: I also don't understand when you
 2 say am I involved.
 3 Q. BY MR. ROSENBAUM: I'm sorry, are you familiar
 4 with?
 5 A. Familiar with. I have some knowledge about the
 6 Serrano case.
 7 Q. Outside of that?
 8 A. I have some knowledge of the Coleman Study from
 9 the '60s.
 10 Q. What about subsequent to the Coleman Study?
 11 A. I can't think of any.
 12 MR. ROSENBAUM: I'm going to have marked as
 13 Exhibit 31 in this case a multipaged document, 35-page
 14 document, and on the front page it says, K-12 master
 15 plan, and in smaller type, starting the process, and on
 16 the left side it says an LAO report.
 17 Q. And you're obviously free to spend as much time
 18 with this as you want, but I'm just going to ask you to
 19 take a look at it and see if you're familiar with this.
 20 MS. READ SPANGLER: Make sure it's complete.
 21 (Exhibit SAD-31 was marked.)
 22 THE WITNESS: Yeah, looks like the report.
 23 Q. BY MR. ROSENBAUM: Okay. And you're referring
 24 to Exhibit 31?
 25 A. Yes.

1 Q. When you say it looks like the report, what do
 2 you mean by that?
 3 A. Well, as far as I can tell in a brief
 4 go-through here, it looks like it's the complete report
 5 that the legislative analyst issued.
 6 Q. Okay. And am I correct, sir, that you are the
 7 primary author of this report?
 8 A. Yes.
 9 Q. Okay. How long did it take you to prepare this
 10 report?
 11 MR. VIRJEE: Objection. Vague and ambiguous as
 12 to "how long." Do you mean over what time was it
 13 prepared, how many hours it took? It's vague and
 14 ambiguous.
 15 Q. BY MR. ROSENBAUM: Over what period of time did
 16 you prepare this?
 17 A. Including the background research and all of
 18 that?
 19 Q. Yes.
 20 A. The better part of a year.
 21 Q. Okay. And did you have any other duties or
 22 responsibilities besides the preparation of this report
 23 during that year?
 24 A. I assisted the education section on the annual
 25 budget analysis.

1 Q. What percent of your time would you say was
 2 spent preparing this report, referring to Exhibit 31?
 3 A. Probably 80 percent.
 4 Q. This was submitted to Elizabeth Hill for her
 5 approval?
 6 A. Yes.
 7 Q. And, to the best of your knowledge, did she
 8 approve the report in the form that we now have in front
 9 of us, Exhibit 31?
 10 A. Yes.
 11 Q. Okay. And how did you go about doing research,
 12 background research for preparation of this report?
 13 A. You mean what did I do in preparing?
 14 Q. Yeah.
 15 A. Well, I did a lot of reading, and the
 16 bibliography is at the end of the report so you can see
 17 what I looked at, and talked to a lot of folks, and
 18 those are, I guess, the primary things I did as part of
 19 the development process.
 20 Q. Did you keep notes as to whom you spoke to?
 21 A. I did.
 22 Q. Do you still have those notes?
 23 A. I don't know.
 24 Q. If you had them, where would they be?
 25 A. They'd probably be in my possession somewhere

1 in my office.
 2 Q. Did you keep a list of the persons with whom
 3 you spoke?
 4 MR. VIRJEE: Separate and apart from the notes,
 5 you mean?
 6 Q. BY MR. ROSENBAUM: Within the notes themselves
 7 or separate, do you have a list of the people?
 8 A. If I took notes when I talked to folks, their
 9 names would be in my notes.
 10 Q. Okay. And how did you decide who you wanted to
 11 talk to?
 12 A. In different ways. I think the first thing I
 13 would do would be to talk -- I'm sorry, what I did was
 14 start with a group of people that I know, that I trust
 15 and respect their opinions, start from that, and as they
 16 give me suggestions about other people to talk to, I
 17 kind of created a bigger sphere of folks, and at some
 18 point I can't talk about it anymore and I've just got to
 19 do it.
 20 Q. Were there people, Mr. Warren, whom you
 21 regarded as particularly valuable sources of information
 22 for you?
 23 MR. VIRJEE: Objection. Vague and ambiguous
 24 and overbroad.
 25 THE WITNESS: Yes.

1 Q. BY MR. ROSENBAUM: Who were they?
 2 MR. VIRJEE: Same objection.
 3 THE WITNESS: Bill Whiteneck is -- whenever I
 4 started a new project, I'd go talk to Bill.
 5 Q. BY MR. ROSENBAUM: Am I correct, sir, his area
 6 of expertise is finance, educational finance?
 7 A. He was the chief consultant of the senate
 8 education committee for at least a decade, so I'd say he
 9 has a pretty broad knowledge of all education because
 10 he's a former teacher, former administrator in the State
 11 department.
 12 Q. Who else?
 13 A. I'm not sure that there's any particular --
 14 remind me what the question was.
 15 Q. I want to know who the key players were for
 16 you.
 17 A. There are a lot of people who have information
 18 for me, but there are some key people who I know I need
 19 to talk to and who I want to think about these ideas
 20 with.
 21 Q. And if I understood you correctly, Whiteneck
 22 was one of those people, right?
 23 A. Uh-huh.
 24 Q. You're saying yes?
 25 A. Yes.

1 Q. Who else?
 2 MR. VIRJEE: Objection. Assumes facts not in
 3 evidence.
 4 THE WITNESS: I can't really -- there probably
 5 isn't a lot of -- there aren't a lot of other people
 6 that I would generally talk to. I can tell you other
 7 things about who I talked to, but the way that you're
 8 phrasing the question is like who would you normally go
 9 talk to to get input on this, and it's more situational
 10 than that.
 11 Q. BY MR. ROSENBAUM: Did you talk to anybody in
 12 the governor's office?
 13 MR. VIRJEE: Did he talk to anybody in the
 14 governor's office in conjunction with preparing this
 15 report?
 16 MR. ROSENBAUM: Yes.
 17 THE WITNESS: I'm trying to remember. No, I
 18 don't think so.
 19 Q. BY MR. ROSENBAUM: What about the State Board
 20 of Education, did you talk to anybody there regarding
 21 it?
 22 A. No.
 23 Q. What about anybody in the legislature?
 24 A. Yes.
 25 Q. Who?

1 A. Talked to Kerry Mazzoni, who is the chair of
 2 the education committee in the assembly, and I talked to
 3 DeDe Alpert, who is chair of the senate education
 4 committee.
 5 Q. Did you talk to anyone in the Department of
 6 Education?
 7 A. Yes, I had a meeting -- I'm pretty sure this
 8 was before the report was completed -- with a group of
 9 folks from the Department of Education.
 10 Q. Was the superintendent one of the people?
 11 A. No.
 12 Q. With whom do you remember?
 13 A. I remember Robert Miyashiro.
 14 Q. Can you spell his name?
 15 A. M-i-y-a-s-h-i-r-o. I think that's how you
 16 spell it. Paula Mishima. And I think, but I'm not
 17 100-percent sure, that Ray Reinhardt also was there.
 18 Q. Anyone else in the Department?
 19 A. Oh, I'm trying to remember his name. Robert
 20 Miyashiro's immediate supervisor, whose name is escaping
 21 me right now.
 22 Q. Who was secretary of education then?
 23 A. At the time I was doing most of the research,
 24 it would have been Ms. Bergeson.
 25 Q. Did you talk with her?

1 A. I don't believe I did.
 2 Q. Did you talk to anybody from CSBA?
 3 A. Yes.
 4 Q. Do you know who you spoke with there?
 5 A. Davis Campbell and head of policy director,
 6 whose name is escaping me. I'm sorry.
 7 Q. Anybody at CTA?
 8 A. I don't remember. I probably did, but I don't
 9 remember for sure.
 10 Q. You went to Harvard. Do you know what an
 11 academic is?
 12 A. I'm sorry?
 13 Q. I say you went to Harvard, you know what an
 14 academic is, right?
 15 A. Yes.
 16 Q. Did you speak to any academics?
 17 A. Yeah.
 18 Q. Who did you talk with?
 19 A. Guy from Stanford, Michael Kirst. That may be
 20 the only one.
 21 Q. Did you speak to anyone from any teachers
 22 union? Put aside your answer to CTA.
 23 A. No, not that I can remember.
 24 Q. Any other administrators organizations?
 25 MR. VIRJEE: Any other administrators

1 organization besides which one?
 2 MR. ROSENBAUM: CSBA.
 3 MR. VIRJEE: That's the administrators
 4 organization?
 5 MR. ROSENBAUM: Any other --
 6 MR. VIRJEE: I think that Mr. Hamilton would be
 7 unhappy with that characterize.
 8 MR. ROSENBAUM: A valid objection.
 9 THE WITNESS: I think I made a presentation to
 10 a group of superintendents. I'm a little fuzzy, but I
 11 think I did go to -- no, I did talk to a group of
 12 superintendents.
 13 Q. BY MR. ROSENBAUM: Do you know who was present
 14 there?
 15 A. I can't remember.
 16 Q. Did you interview individual teachers?
 17 A. No, I don't think so.
 18 Q. Principals?
 19 A. For the purpose of this particular project
 20 you're talking about?
 21 Q. Yes.
 22 A. No.
 23 Q. Parents, parents of schoolchildren?
 24 A. I interviewed myself.
 25 Q. Besides yourself?

1 A. No.
 2 Q. Students?
 3 A. No.
 4 Q. Did you look at any CBEDS's data?
 5 A. I don't think so.
 6 Q. Any achievement data?
 7 A. No.
 8 Q. Did you talk to education officials in other
 9 states?
 10 A. I -- no.
 11 Q. Any federal education officials?
 12 A. No.
 13 Q. Anybody from the federal government?
 14 A. No.
 15 Q. Why did you talk to Kerry Mazzoni?
 16 A. I think for two reasons, one is to get her
 17 perspective on the issue, and to encourage her to think
 18 about sponsoring a legislative process.
 19 Q. A legislative process that would incorporate
 20 the recommendations?
 21 A. Yes.
 22 Q. And when you say "the issue," I don't want to
 23 put words in your mouth, but do you mean the issue of
 24 creating a master plan, a K-12 master plan, is that the
 25 issue?

1 A. No, not really.
 2 Q. What's the issue?
 3 A. The issue is governance. That's really the
 4 focus of the paper.
 5 Q. Why is that governance important as you use
 6 that term, sir?
 7 A. Because this is a public process which is
 8 influenced directly by the way that those processes
 9 work.
 10 Q. Help me understand this. When you say "this is
 11 a public process," what's "this"?
 12 A. I'm not sure I said that.
 13 Q. I don't want to put words in your mouth. I'm
 14 just interested in what you think. When you say --
 15 A. Education, K-12 education is a public program,
 16 it's governed by public processes that are set up in
 17 law.
 18 Q. Okay. And what I'm trying to figure out is why
 19 is the subject of governance important to that?
 20 A. Right. Okay. Governance is important because
 21 governance is the process of decision-making, and the
 22 process itself influences the outcomes of the system.
 23 Q. And you thought there were flaws in the
 24 existing system of governance that you were studying;
 25 isn't that right?

1 MR. VIRJEE: Objection. Vague and ambiguous as
 2 to "flaws."
 3 MS. READ SPANGLER: Leading. And I'll join
 4 also.
 5 THE WITNESS: I think the conclusion of the
 6 paper is unintended consequences from changes in the
 7 process have resulted in outcomes that do not
 8 necessarily promote efficient and effective education
 9 programs.
 10 Q. BY MR. ROSENBAUM: And what's the result of
 11 that?
 12 MR. VIRJEE: Objection. Calls for speculation.
 13 Lacks foundation. Calls for an expert opinion which
 14 this witness is not competent to provide.
 15 THE WITNESS: The inadvertent changes or the
 16 unintended consequences of some of the changes that have
 17 occurred have resulted in an incentive structure within
 18 the education system that tends to concentrate power in
 19 Sacramento.
 20 Q. BY MR. ROSENBAUM: And from the perspective of
 21 the student in the classroom, what does that mean?
 22 MR. VIRJEE: Same objection. Calls for an
 23 expert opinion. Calls for -- it's an incomplete
 24 hypothetical, and calls for testimony which this witness
 25 is not competent to provide.

1 MS. READ SPANGLER: I don't know.
 2 Q. BY MR. ROSENBAUM: Okay. Let me ask you,
 3 sir -- with respect to Exhibit 31, if you could please
 4 turn to page 2.
 5 THE WITNESS: Would this be an okay time for a
 6 break?
 7 MR. ROSENBAUM: Sure.
 8 THE WITNESS: I assume this is going to take a
 9 while.
 10 MR. ROSENBAUM: Any time you want. If you
 11 think there's a time you want to take a break, doesn't
 12 matter whether it's convenient for me or any of the
 13 attorneys, you're in charge here.
 14 THE WITNESS: Thanks.
 15 (Recess taken.)
 16 Q. BY MR. ROSENBAUM: Mr. Warren, directing your
 17 attention to what's been marked as 31, Exhibit 31.
 18 A. Uh-huh.
 19 Q. On page 2 where it says -- and, again, you're
 20 free to read as much or as little of this as you'd like.
 21 Do you see this sentence? It's the second sentence
 22 under the K-12 master plan, double dash, executive
 23 summary, a K-12 master plan would serve two purposes in
 24 developing the plan, the legislature would create a
 25 forum to review the State's existing policies.

1 Do you see those sentences?
 2 A. Yes.
 3 Q. Why is that important, to have a forum to
 4 review the State's existing policies?
 5 A. Because it's important for government to
 6 systematically review what it has done in the policy
 7 area every so often and make sure that they think that
 8 what they're doing makes sense.
 9 Q. When you say existing policies, what did you
 10 mean by that?
 11 A. Existing state law and regulation that comes
 12 out of state law.
 13 Q. Okay. I take it that in the process of
 14 preparing this report, you familiarized yourself with
 15 the State's existing policy in the area of public
 16 education K-12?
 17 MR. VIRJEE: Objection. Vague and ambiguous as
 18 to "familiarized yourself."
 19 THE WITNESS: I didn't make any specific effort
 20 to have familiarity with all of the Education Code, no.
 21 Q. BY MR. ROSENBAUM: When you say the following
 22 sentence, once developed, the plan would function as a
 23 reference point, guiding future decisions of the
 24 legislature and the executive branch -- do you see that?
 25 A. Yes.

1 Q. -- what did you mean by a "reference point"?
 2 MR. VIRJEE: Other than what he's already
 3 testified to?
 4 MR. ROSENBAUM: I don't think I've asked him
 5 about a reference point.
 6 THE WITNESS: I think you did talk about why
 7 did I think a master plan would be valuable, and I think
 8 this was one of the points, that it helps guide -- it
 9 helps decision-makers evaluate policy choices, and
 10 allows them to ensure that those policy choices are
 11 consistent with the broader strategy that they have for
 12 the improvement of the education system.
 13 Q. BY MR. ROSENBAUM: Let me ask you to turn the
 14 page to page 3 of Exhibit 31. Do you have that?
 15 A. Yes.
 16 Q. Okay. And at the top of the page, sir, where
 17 it says -- there's a bullet, then it says, school sites
 18 have the most information and ability to meet the needs
 19 of students, do you see that?
 20 A. Yes.
 21 Q. When you said needs of students, what did you
 22 mean by that?
 23 A. Well, I think it's meant in a general context.
 24 Students have a variety of needs that schools are asked
 25 to address, and I think generally the idea that the

1 officials closest to the students have the most
 2 information about the abilities or what the needs of the
 3 students are, be it educational, be it health.
 4 Q. Okay. So if you were attempting to figure
 5 out -- if you wanted to know what the needs of the
 6 students were, am I correct, sir, what you would
 7 recommend is you should ask the people on the ground,
 8 you should talk to the people in the schools to find
 9 out, those are the people you should survey, is that
 10 right?
 11 A. I think what this is intended to say is that in
 12 trying to meet the needs of students, you should allow
 13 the folks that have the most information about the needs
 14 of students to decide how and how much service -- what
 15 kind of service and how much service is appropriate and
 16 how to deliver those services.
 17 Q. Okay. And I'll come back to this. But the
 18 same paragraph where it says that, schools, though, can
 19 get off track if they are not held accountable for
 20 student success, do you see that in Exhibit 31?
 21 A. Yes.
 22 Q. What did you mean by off track?
 23 A. Give me a second.
 24 Q. Let me -- if you'd like, this is just a summary
 25 point up here, right?

1 A. Yes. I'm trying to go back and find --
 2 Q. I'll come back to that. Don't worry about it.
 3 A. Okay.
 4 Q. Do you see on page 3 of Exhibit 31 where it
 5 says in bolder print the LAO, master plan, double dash,
 6 State roles?
 7 A. Yes.
 8 Q. What did you mean by State here?
 9 A. Again, I think when I talk about the State
 10 without reference to a specific part of the State, I
 11 mean all of the State, its laws, its regulations.
 12 Q. Okay. Help me understand this. The following
 13 sentence below that says, support district needs, the
 14 State has critical K-12 responsibilities that support
 15 school and district improvement in the following areas,
 16 and then some areas are listed. Do you see that?
 17 A. Yes.
 18 Q. Okay. Now in the sentence that begins, the
 19 State has critical K-12 responsibilities, you're using
 20 State different from school and different from district;
 21 is that right?
 22 A. Yes.
 23 Q. I'm trying -- help me understand what's the
 24 difference here.
 25 MR. VIRJEE: What's the difference where?

1 Q. BY MR. ROSENBAUM: What does State mean as
 2 opposed to school as opposed to district?
 3 MR. VIRJEE: Objection. Asked and answered.
 4 THE WITNESS: School and district are intended
 5 to reference local units of government administered
 6 through a school district, and the State, again, is this
 7 collection of actors and laws and regulations.
 8 Q. BY MR. ROSENBAUM: Okay. And the actors would
 9 include who, the State actors?
 10 A. Governor, the legislature, superintendent,
 11 State Board, secretary of education, and then there's a
 12 variety of other smaller agencies involved in it.
 13 Q. What are they?
 14 A. I'm not sure I can get them all. But the
 15 commission on teacher credentialing, I think the
 16 Department of General Services has responsibilities in
 17 the facilities area.
 18 Q. As part of the State's role, sir, would that
 19 include suing schools or districts to obtain
 20 accountability?
 21 MS. READ SPANGLER: Objection. Calls for
 22 speculation and calls for a legal conclusion.
 23 MR. VIRJEE: Join. Also an incomplete
 24 hypothetical.
 25 MS. READ SPANGLER: Join.

1 THE WITNESS: It's kind of hard for me to
 2 answer as a nonlawyer. I don't know really what exact
 3 power the State has to sue.
 4 Q. BY MR. ROSENBAUM: Have you ever heard of the
 5 State suing a district or a school to get it -- to get
 6 it on track?
 7 A. Get it on track?
 8 Q. You use the phrase off track. Have you ever
 9 heard of the State suing a school district that it
 10 believed was off track, to use your phrase?
 11 A. The problem is you didn't let me kind of
 12 reflect back on what off track was referring to.
 13 Q. Okay. Have you ever heard of the State suing a
 14 school district?
 15 A. Well, I may be wrong, but I believe perhaps the
 16 State is suing school districts in this particular case.
 17 Q. Outside of this case?
 18 A. I'm not sure.
 19 Q. You can't think of any; is that right?
 20 A. Well, I don't know if that's exactly what the
 21 situation was. I know one situation where we are
 22 involved in a court case regarding a school district in
 23 special ed. Whether we initiated the suit, okay, or
 24 whether we were pulled into the suit, I just don't know.
 25 Q. What case is that?

1 A. It's a Ravenswood School District.
 2 Q. With the exception of this possible case, have
 3 you ever heard of the State suing a school district?
 4 A. I don't know of any.
 5 Q. How about the State suing a school?
 6 A. I don't know of any.
 7 Q. Okay. Let me ask you, sir, to look at page 4
 8 of what's been marked as Exhibit 31. Do you have that
 9 in front of you?
 10 A. Yes.
 11 Q. Okay. You see the second full paragraph of the
 12 introduction where it says, in our view, a master plan
 13 is needed because the State role in K-12 education has
 14 changed significantly over the last 25 years from a
 15 system that was primarily local in nature to one that is
 16 heavily controlled by decision-making? Do you see that?
 17 MR. VIRJEE: By State decision-making.
 18 MR. ROSENBAUM: I'm sorry. I forgot the key
 19 word. That is heavily controlled by State
 20 decision-making.
 21 THE WITNESS: I see it.
 22 Q. BY MR. ROSENBAUM: What is the basis of your
 23 statement there?
 24 MR. VIRJEE: Are you asking him to repeat what
 25 is in the document itself? The document goes into great

1 detail about the basis of that. Are you asking him to
 2 expound on what the document says?
 3 The document speaks for itself.
 4 Q. BY MR. ROSENBAUM: Maybe you could summarize
 5 what you regard as the basis for that statement?
 6 MR. VIRJEE: I'll object. The document speaks
 7 for itself.
 8 MS. READ SPANGLER: Join.
 9 THE WITNESS: To summarize the thesis, I think,
 10 of the report, is that the variety of changes that
 11 occurred in State law and the State Constitution has
 12 altered the decision-making process, the governance
 13 process substantially, and it has resulted in a
 14 concentration of power at the State level which by
 15 implication, I think -- we think is -- gets
 16 decision-making too far away from the people who really
 17 know about the problems and the needs of students.
 18 Q. BY MR. ROSENBAUM: Okay. Looking at the
 19 following sentence, this change has occurred, however,
 20 without any clear vision as to how the K-12 system can
 21 best foster high-quality schools, do you see that?
 22 A. Yes.
 23 Q. And when you say high-quality schools, what did
 24 you mean by that?
 25 A. Schools that result in the highest level of

1 student achievement possible.
 2 Q. What does that mean, "possible"?
 3 A. I don't know.
 4 Q. And in that sentence you put the word system in
 5 quotation marks?
 6 A. Yes.
 7 Q. Why did you do that?
 8 A. Because the system involves more than just the
 9 State. The system is the State and school districts,
 10 which encompass governing boards and administrators and
 11 schools and teachers, so it's a collective thing.
 12 Q. Okay. And you see the sentence that says, as
 13 one district superintendent commented, California has an
 14 education system with no conceptual framework?
 15 A. Yes.
 16 Q. Who was that superintendent?
 17 A. Do I have to answer that? The reason why, I
 18 mean, if I had felt like it was appropriate to put a
 19 name there, I would have. And part of not putting a
 20 name there is that I didn't want that person -- not that
 21 it's necessarily prejudicial to that person's job or
 22 anything, but that it was something that was done with
 23 the understanding of confidentiality.
 24 MS. READ SPANGLER: So maybe we'll object on
 25 some sort of third-party privacy right.

1 MR. VIRJEE: Academic privacy or something.
 2 You're not going to push that on him, are you?
 3 MR. ROSENBAUM: I think that objection is as
 4 valid as the other one. But I'm not going to push that.
 5 I'm going to respect you.
 6 THE WITNESS: Thanks.
 7 Q. BY MR. ROSENBAUM: When you say -- the
 8 following paragraph, the third paragraph of Exhibit 31
 9 where it says, coherent structure of policies, roles and
 10 responsibilities, do you see that phrase?
 11 A. No. Yes.
 12 Q. Our purpose in encouraging.
 13 A. Yes.
 14 Q. Looking at that sentence, what did you mean by
 15 a coherent structure of policies, roles and
 16 responsibilities that would guide decision-making over
 17 time?
 18 A. Well, I think that refers back in some respects
 19 to your question on the previous page when you talked
 20 about -- I think maybe it's page 2 where we said that
 21 the master plan would serve two purposes, that it would
 22 create a forum to review the State's existing policies,
 23 I think it's an extension of the same thought, that by
 24 reviewing existing policies, it would become clear that
 25 there is a need for greater coherence in those policies,

1 that the roles of the different portions of the system
 2 are confused and inconsistent, et cetera.
 3 Q. Okay. Directing your attention, sir, to page 6
 4 of what's been marked as Exhibit 31, and looking at
 5 figure 1 at the top of the page, do you see that?
 6 A. Yes.
 7 Q. Do you see where it says, State provides
 8 textbooks?
 9 A. State statutes as of 1965?
 10 Q. Yes.
 11 A. Yes.
 12 Q. What did you mean when you said State here?
 13 A. At that time, I believe the Constitution
 14 actually -- I'm a little fuzzy.
 15 MR. VIRJEE: You haven't had the benefit of
 16 going through and reading this in preparation like he
 17 did, so if you can't recall what you meant, you can say
 18 that.
 19 THE WITNESS: Okay. I guess what I can say
 20 is --
 21 MR. ROSENBAUM: That's not a valid objection.
 22 MR. VIRJEE: I didn't make an objection, I made
 23 a comment, and it's a valid comment. He can use it to
 24 refresh his recollection, but if he doesn't have any
 25 recollection --

1 MR. ROSENBAUM: I know. But when you coach a
2 witness like that, that's inappropriate.
3 MR. VIRJEE: You're asking him to look at a
4 document that you don't even know if he's read in the
5 last year and tell you what he meant by something which
6 may or may not be explained in the rest of the document,
7 and I think that is an unfair request of the witness.
8 Q. BY MR. ROSENBAUM: What did you mean by State
9 there, sir?
10 MR. VIRJEE: If you can recall at all.
11 MR. ROSENBAUM: I'm going to ask you not to --
12 if you have a valid objection, you can make your
13 objection, but to coach --
14 MR. VIRJEE: My objection is calls for
15 speculation. Lacks foundation.
16 Answer only as to what you can recall today.
17 Don't speculate or guess.
18 THE WITNESS: The State has long had a role in
19 providing textbooks. I don't recall exactly as of 1965
20 what the State role was. At one time it was that they
21 actually printed the textbooks and distributed them, but
22 that changed at some point in the '60s. So, again, the
23 State did have a major role in supplying textbooks.
24 Q. BY MR. ROSENBAUM: When you say State, what do
25 you mean by State?

1 A. The state government.
2 Q. Okay.
3 A. The legislature, the governor.
4 Q. Those offices you mentioned a few moments ago,
5 the governor, the legislature, the State Board of
6 Education, the superintendent?
7 A. I don't know if the State Board had specific
8 responsibilities at that time. Okay? Again, it's the
9 State as this collection of actors.
10 Q. Okay. To your knowledge, sir -- well, looking,
11 sir, at where it says the Constitution, do you see that?
12 A. Yes.
13 Q. Two specific State mandates were included in
14 the Constitution, and then there's a phrase, and then it
15 says, 2, in parentheses, provide free textbooks for use
16 in grades 1 through 8. Do you see that?
17 A. Yes.
18 Q. What about 9 through 12, do you know who has
19 responsibility for providing textbooks there, if
20 anybody?
21 MR. VIRJEE: Objection. Calls for a legal
22 conclusion.
23 MS. READ SPANGLER: Join.
24 THE WITNESS: The Constitution doesn't address
25 it.

1 Q. BY MR. ROSENBAUM: Okay. Do you know if any
2 statutes address it?
3 MR. VIRJEE: Okay. Calls for a legal
4 conclusion. The statutes speak for themselves.
5 MS. READ SPANGLER: Join.
6 THE WITNESS: I don't know.
7 Q. BY MR. ROSENBAUM: Do you know, sir, whether or
8 not there are classrooms in schools in the state of
9 California where students don't have textbooks which
10 teachers believe are necessary for purposes of
11 instruction?
12 MR. VIRJEE: Objection. Asked and answered.
13 Calls for speculation.
14 THE WITNESS: I don't have any direct knowledge
15 of that.
16 Q. BY MR. ROSENBAUM: Okay. To your knowledge,
17 sir, is there a statute or regulation in California
18 which requires that all students in California public
19 schools have textbooks which teachers believe are
20 necessary for purposes of instruction?
21 MR. VIRJEE: Objection. Calls for a legal
22 conclusion.
23 MS. READ SPANGLER: Join.
24 MR. VIRJEE: Calls for an expert opinion which
25 this witness is not competent to give.

1 MS. READ SPANGLER: Join.
2 THE WITNESS: I don't know.
3 Q. BY MR. ROSENBAUM: Were there current textbooks
4 that teachers believe are necessary for purposes of
5 instruction?
6 MR. VIRJEE: Same objections. Calls for a
7 legal conclusion. Calls for an expert opinion. Also
8 vague and ambiguous as to "current."
9 MS. READ SPANGLER: Join.
10 THE WITNESS: I don't know.
11 Q. BY MR. ROSENBAUM: Or textbooks for students'
12 own use, are there statutes or regulations that you're
13 aware of in California that require students to have
14 textbooks which they can take home?
15 MR. VIRJEE: Objection. Calls for a legal
16 conclusion. Calls for speculation. Vague and ambiguous
17 as to students' use.
18 MS. READ SPANGLER: Join.
19 THE WITNESS: I don't know.
20 Q. BY MR. ROSENBAUM: Are you, Mr. Warren, aware
21 of any standard or policy that mandates that students
22 have textbooks which teachers believe are necessary for
23 purposes of instruction?
24 MR. VIRJEE: Objection. Vague and ambiguous as
25 to "standard or policy," and also calls for speculation.

1 MS. READ SPANGLER: Join.
 2 THE WITNESS: Beyond the knowledge that the
 3 Constitution contains some requirement about textbooks
 4 for K through 8, no.
 5 Q. BY MR. ROSENBAUM: Or a standard or policy that
 6 requires that students have textbooks which they can
 7 take home?
 8 MR. VIRJEE: Same objections.
 9 THE WITNESS: I don't know of any statute on
 10 that.
 11 Q. BY MR. ROSENBAUM: If I took the questions I
 12 just asked you and restated them with respect to core
 13 subjects, particular core subjects, would your answers
 14 be the same, that you're unaware of any statutes or
 15 regulations or standards or policies?
 16 MR. VIRJEE: Same objections that were made
 17 with the original set of questions. Also vague and
 18 ambiguous as to "core subjects."
 19 MS. READ SPANGLER: Join.
 20 THE WITNESS: I do know that there are state
 21 requirements for high school graduation in terms of
 22 subject areas that students need to take in order to
 23 graduate. That's the only thing I know about in state
 24 law.
 25 MR. VIRJEE: Move to strike as nonresponsive.

1 Q. BY MR. ROSENBAUM: And with respect to those
 2 subjects, sir, do you know if there's any state statute
 3 or regulation or standard or policy that requires that
 4 students have textbooks in those subjects?
 5 A. No, I don't.
 6 Q. Or textbooks for their own use?
 7 MR. VIRJEE: Objection. Vague and ambiguous as
 8 to "own use." Also lacks foundation.
 9 MS. READ SPANGLER: Also assumes facts not in
 10 evidence.
 11 THE WITNESS: I don't know of any requirement
 12 relating to that use.
 13 Q. BY MR. ROSENBAUM: Or textbooks that they can
 14 take home for study?
 15 A. I don't know.
 16 MR. VIRJEE: Same objections.
 17 Q. BY MR. ROSENBAUM: Have you ever made any
 18 inquiry to determine whether or not any of what I just
 19 asked you exists, whether or not there are such
 20 statutes, regulations, standards or policies?
 21 MR. VIRJEE: Objection. Compound. Vague and
 22 ambiguous as to "inquiry." Lacks foundation. Calls for
 23 speculation.
 24 MS. READ SPANGLER: Join.
 25 THE WITNESS: I don't -- I just don't recall.

1 Q. BY MR. ROSENBAUM: Do you know if anyone in the
 2 State has ever undertaken any such inquiry or research?
 3 MR. VIRJEE: Same objections.
 4 THE WITNESS: About whether there are statutes
 5 related to this?
 6 MR. ROSENBAUM: Statutes or regulations or
 7 standards or policies.
 8 MS. READ SPANGLER: On what?
 9 MR. ROSENBAUM: As to whether or not
 10 students -- whether or not there's a requirement that
 11 students have textbooks or textbooks for their own use
 12 or textbooks to take home.
 13 THE WITNESS: Not to my knowledge.
 14 Q. BY MR. ROSENBAUM: You've never heard of such a
 15 study in your investigation or inquiry?
 16 A. At the state level you're talking about?
 17 Q. Yes.
 18 A. No.
 19 Q. Any statutes or regulations that you're aware
 20 of, sir, that requires the students have textbooks that
 21 are in line with curriculum standards?
 22 MR. VIRJEE: Okay. Calls for a legal
 23 conclusion. Calls for speculation. Calls for an expert
 24 opinion for which this witness is not competent to
 25 testify. Lacks foundation.

1 There's been no discussion that this witness
 2 has any information, duties or responsibilities
 3 regarding textbooks. This whole area of inquiry is
 4 irrelevant.
 5 MS. READ SPANGLER: Join.
 6 THE WITNESS: The only statute that I know of
 7 in this area is that there was money set aside for
 8 textbooks that were aligned to standards in a piece of
 9 legislation, and I'm not really familiar with it beyond
 10 that.
 11 Q. BY MR. ROSENBAUM: Okay. So the answer to my
 12 question is, you're not familiar with any statute or
 13 regulation that requires that students have textbooks
 14 aligned with curriculum standards?
 15 MR. VIRJEE: Same objections. Also asked and
 16 answered. He just answered that question.
 17 MS. READ SPANGLER: Join. Also misstates his
 18 testimony.
 19 THE WITNESS: The answer is no.
 20 Q. BY MR. ROSENBAUM: Looking, sir, at page 6 of
 21 what's been marked as Exhibit 31, do you know, sir, as
 22 of 1965, the extent, if any, of unequal educational
 23 opportunity among students in California?
 24 MR. VIRJEE: Objection. Vague and ambiguous as
 25 to unequal opportunity.

1 MS. READ SPANGLER: Or "unequal educational
2 opportunity." Join.
3 MR. VIRJEE: Thank you.
4 THE WITNESS: Do I have any direct knowledge?
5 MR. ROSENBAUM: Yes, sir.
6 THE WITNESS: No.
7 Q. BY MR. ROSENBAUM: Do you know, sir, in 1965
8 what student achievement levels were?
9 A. No.
10 Q. Do you know, sir, in 1965, as compared to
11 today, whether there was more or less overcrowding in
12 the schools?
13 A. No.
14 Q. Or whether students had -- whether there were
15 more or less incidents of students not having textbooks?
16 A. No.
17 Q. Or the conditions of the schools or the
18 facilities?
19 A. No.
20 Q. Or the percent of emergency credentialed
21 teachers?
22 A. No.
23 Q. Or unqualified teachers?
24 MR. VIRJEE: Objection. Vague and ambiguous.
25 MS. READ SPANGLER: Objection as to

1 "unqualified teachers."
2 THE WITNESS: No.
3 MS. READ SPANGLER: Assumes facts not in
4 evidence.
5 Q. BY MR. ROSENBAUM: Do you know anything about
6 the quality of education that was delivered in 1965?
7 MR. VIRJEE: Objection. Vague and ambiguous as
8 to "quality of education."
9 MS. READ SPANGLER: Join.
10 THE WITNESS: No.
11 Q. BY MR. ROSENBAUM: Or disparities between the
12 delivery of education in kids in low SCS as opposed to
13 high SCS?
14 A. Delivery of education to -- I don't know what
15 that means.
16 Q. Poor kids as opposed to --
17 A. But what does "delivery of education" mean?
18 Q. The quality of education that students were
19 receiving in 1965 comparing low SCS to high SCS
20 students.
21 MR. VIRJEE: Vague and ambiguous as to "quality
22 of education."
23 MS. READ SPANGLER: Join.
24 THE WITNESS: No.
25 Q. BY MR. ROSENBAUM: Or English learner?

1 A. No.
2 Q. Okay. Directing your attention, Mr. Warren, to
3 page 7, and in particular to proposition 13, page 7 of
4 Exhibit 31. Do you see the sentence that says,
5 Proposition 13? It's in the -- one, two, three --
6 fourth full paragraph.
7 Again, you're free to look at as much of this
8 or any part of this report as you'd like to answer this
9 question.
10 But in the fourth full paragraph, do you see
11 that the final sentence, Proposition 13 and the State's
12 response to the initiative placed the legislature and
13 the governor in the pivotal decision-making role over
14 school funding levels?
15 Do you see that?
16 A. Yes.
17 Q. What did you mean by pivotal?
18 A. Pivotal means determining.
19 Q. And page 8, sir, looking at the top of the
20 page, first full paragraph of this part of the Exhibit
21 31, do you see the sentence that says, increasingly,
22 schools and districts blamed the State for the problems
23 experienced by local schools, double dash, fairly or
24 not?
25 A. Yes.

1 Q. Okay. Why did you say fairly or not?
2 A. I want to take a minute and go back and make
3 sure that I remember what that references, because we're
4 just in the executive summary part.
5 Q. Okay. I can come back to that.
6 A. Okay.
7 Q. I appreciate you telling me that.
8 Let's turn, sir, to page 9. You know, my
9 understanding, Mr. Warren, is that we were not in the
10 executive summary.
11 A. You're right. You know what, you're right, now
12 that I look at the next page.
13 Q. Okay. But you should feel free to take a look
14 at as much as you need to look at. But we're in chapter
15 1, right?
16 MR. VIRJEE: On page 9?
17 MR. ROSENBAUM: Page 8, actually.
18 MS. READ SPANGLER: Page 8.
19 THE WITNESS: Yes.
20 Q. BY MR. ROSENBAUM: What did you mean by fairly
21 or not?
22 A. Well, I guess there's a couple of senses that I
23 can think of. First of all, part of the process of
24 creating legislation is that people from the local level
25 go to their representative and they say, we've got a

1 problem, fix it. Legislature doesn't do a lot
2 independent of that kind of advice. And so they may be
3 responding in the best of intent to try to fix the
4 problem, but they may be creating another problem for a
5 different school district that has a different
6 situation. That's one sense.

7 But I think there's also -- if you go out to
8 schools and you talk to -- or even as a parent you talk
9 to school people, that sometimes they'll go, you can't
10 do that. Why can't you do that? State law doesn't
11 allow it. And there's a sense that the State controls
12 everything, and that it's a convenient whipping boy for
13 people at the local level to blame all their problems
14 on.

15 Q. Okay. Thank you. Looking still at page 8 of
16 Exhibit 31, now under the section that says Proposition
17 98. Do you see that?

18 A. Yes.

19 Q. Do you see the phrase in the first full
20 paragraph, primary state responsibility?

21 A. I'm sorry, where?

22 Q. In other words -- last sentence, in other
23 words, now that funding for schools was a primary state
24 responsibility?

25 A. Yes.

1 the State ever conducted an inquiry or investigation or
2 any research to determine what is the level of resources
3 a school needs?

4 A. There is one study, but it's probably 25 years
5 old now, at least.

6 Q. What study is that?

7 A. You know, one of my colleagues at the
8 legislative analyst office had a copy of this report.
9 It was commissioned for the State, as I recall, but
10 that's about all I can remember of it.

11 Q. Did somebody at the State do it, or was it
12 contracted out?

13 A. I think it was contracted out.

14 Q. Do you know -- do you have any idea who
15 actually performed the study?

16 A. I don't remember.

17 Q. Do you know anything about the methodology?

18 A. Not enough to talk about it, no.

19 Q. Okay. That was 25 years ago?

20 A. Yeah, that's my guess.

21 Q. Anything since then that you're aware of?

22 MR. VIRJEE: Objection. Calls for speculation.

23 THE WITNESS: I have not --

24 MR. VIRJEE: Also vague and ambiguous as to a
25 "study" as to the adequacy of funding.

1 Q. That's along -- the primary state
2 responsibility, that's along the same lines as the
3 pivotal definition you gave me a few minutes ago?

4 A. It also constitutes a great proportion of the
5 state budget.

6 Q. What do you mean "state budget"?

7 A. The expenditure of the state general funds each
8 year.

9 Q. Okay. Where you said the schools wanted a
10 guarantee of a stable and adequate level of resources,
11 do you see that?

12 A. Yes.

13 Q. What's your understanding of what adequate
14 means?

15 A. I don't really have an understanding of that
16 word. It's a word that is a relative word that is
17 defined by each person and, you know, in some people's
18 minds there is no minimum level of adequate funding for
19 education, so it's kind of in the eye of the beholder.

20 I was, I think, trying to communicate that
21 there was unhappiness at the level of funding and at the
22 fluctuating in funding the undependability.

23 Q. In your experience, Mr. Warren, going back from
24 the time that you joined the legislative analyst office,
25 through the assembly, through your present position, has

1 THE WITNESS: I've not seen anything that
2 attempts to do that.

3 Q. BY MR. ROSENBAUM: Okay. Do you have an
4 opinion as to how you'd go about doing that?

5 A. I discuss that in this paper.

6 Q. The Ohio example?

7 A. That was one example, yeah.

8 Q. Okay. Still on page 8 of Exhibit 31, do you
9 see where it says, it is not clear -- now I'm looking at
10 the third full paragraph under the Proposition 98
11 section. Even 10 years after its passage, however, it
12 is not clear whether Proposition 98 has increased total
13 spending for K-12 over the long run?

14 A. Yes.

15 Q. Do you see that?

16 A. Yes.

17 Q. What's the basis of that statement?

18 A. Proposition 98 has a formula for determining
19 the minimum level of spending on K through 14, which
20 includes community colleges, each year, and while that
21 is intended to place a floor under school funding, it
22 also has acted as a ceiling on schooling funding for
23 many years. And in the decade when this was written,
24 you know, of experience after the passage of the
25 proposition, it has tended to act more as a ceiling than

1 as a floor.
 2 Q. Okay. Looking, sir, still on page 8 of Exhibit
 3 31 under the subheading education statutes as of today.
 4 A. Uh-huh. Yes.
 5 Q. Do you see the first sentence, today, the State
 6 is far more involved in most K-12 education issues than
 7 in 1965?
 8 A. Yes.
 9 Q. Now, we just got through talking about finance.
 10 That's one of the issues; is that right?
 11 A. Yes.
 12 Q. What other issues?
 13 A. Well, I think if I can refer back to the figure
 14 No. 1 on page 6, there are a variety of things that
 15 occurred that are the major landmarks of what happened.
 16 Many of them are related to finance, Serranoso versus
 17 Freeze, Prop 13, Proposition 98, then collective
 18 bargaining.
 19 We identified as a major landmark change in the
 20 governance of schools and then -- I mean, I think in
 21 1999, and it holds true today, there are, I'm going to
 22 guess, upwards of 100 different funding streams that
 23 provide money to schools for different specific things
 24 that come with specific process requirements. I mean,
 25 we have a State adopted set of standards which we never

1 had prior to 1997, '98. So there's a whole variety of
 2 things where the State has taken leadership on.
 3 Q. When you say "State adopted set of standards,"
 4 those are the curriculum standards?
 5 A. Yes.
 6 Q. So there's finance, there's governance, there's
 7 instructional areas, all of which the State is taking
 8 primary responsibility for now?
 9 MR. VIRJEE: Objection. Vague and ambiguous as
 10 to "primary" and also "governance."
 11 MR. ROSENBAUM: Go ahead, Mr. Warren.
 12 THE WITNESS: There are a series of major
 13 changes, okay, some of which we're self-reinforcing.
 14 But the point of this sentence is that, in general,
 15 okay, regardless of the reasons, the State is much more
 16 involved in policymaking in K-12 education than in the
 17 25 -- 35 years prior to that.
 18 Q. BY MR. ROSENBAUM: And I take it, based on what
 19 you said, all sorts of policies; is that right?
 20 A. Yeah.
 21 Q. Incidentally, do you personally, sir, support
 22 the State adopting a set of curriculum standards?
 23 MR. VIRJEE: Objection. Calls for speculation.
 24 Lacks foundation that he has any basis for voicing such
 25 opinion. Totally irrelevant.

1 THE WITNESS: My personal opinion, you're
 2 asking?
 3 MR. ROSENBAUM: Yes, sir.
 4 THE WITNESS: Yeah.
 5 Q. BY MR. ROSENBAUM: Why is that?
 6 A. Well, understand that the State standards
 7 aren't mandated, okay, they're advisory to some extent,
 8 and -- but they create the foundation for the current
 9 strategy of accountability, and that I very much
 10 support.
 11 Q. And if the standards were, in fact, mandated,
 12 would you change your opinion?
 13 MR. VIRJEE: Objection. Calls for speculation.
 14 Incomplete hypothetical.
 15 MS. READ SPANGLER: Join.
 16 THE WITNESS: I'm not sure. I'd have to think
 17 about in what context that would take place.
 18 Q. BY MR. ROSENBAUM: Do you support the high
 19 school exit exam?
 20 MR. VIRJEE: Okay. Vague and ambiguous as to
 21 "support."
 22 MS. READ SPANGLER: Join.
 23 MR. VIRJEE: Again, you're asking for his
 24 personal opinion; is that correct?
 25 MR. ROSENBAUM: Yeah.

1 THE WITNESS: I think the high school exit exam
 2 plays a real strategic role in reforming schools, yes.
 3 Q. BY MR. ROSENBAUM: Looking, sir, at page 9 of
 4 Exhibit 31, do you see the second full paragraph that
 5 says -- begins with the phrase, for the most part?
 6 A. Yes.
 7 Q. For the most part, the development of the
 8 current state system was not guided by a long-range
 9 state strategy, do you see that?
 10 A. Yes.
 11 Q. What's the basis of that statement?
 12 A. I think it was just simply an observation that
 13 there's no articulated state strategy over this period
 14 of time that's under discussion in this chapter that
 15 guided, that called for, that, you know, helped
 16 everybody make sure that these critical things happened
 17 along the way.
 18 Q. And can you tell me some examples of that?
 19 A. Examples of what?
 20 Q. Where the development of the current system was
 21 not guided by long-range state strategy.
 22 MR. VIRJEE: Objection. Nonsensical.
 23 THE WITNESS: I think if you go back again to
 24 figure 1 in this chapter, Proposition 13 was not part of
 25 a larger state strategy that was focused on improving

1 the educational system.

2 Q. BY MR. ROSENBAUM: Do you have any other
3 examples?

4 A. All of the initiatives, propositions that are
5 in -- well, I guess, you know, we could go on -- you
6 could ask me this stuff, and I would say there is no
7 articulated state strategy, so none of these things were
8 consistent with it because there was none. Do you
9 understand what I mean?

10 Q. Yeah. Thank you.

11 MR. VIRJEE: Hence my objection.

12 Q. BY MR. ROSENBAUM: Directing your attention,
13 sir, to page 10. Do you see the section that says, the
14 role of the State superintendent and the State Board?

15 A. Give me one second to kind of catch up with
16 this chapter.

17 Q. Sure.

18 A. Okay. Thank you.

19 Q. You've had a chance to take another look at
20 that?

21 A. I needed to catch up, make sure of the context
22 that this takes place in.

23 Q. Looking at page 10 of what's been marked as
24 Exhibit 31, in the third full paragraph under the role
25 of the State superintendent and the State Board, do you

1 State Board of Education and the superintendent in terms
2 of specific policies about the implementation of new
3 programs.

4 Q. Which programs were you referring to?

5 A. You know, I don't recall.

6 Q. Okay. And can you give me other examples
7 besides this one?

8 A. I think you have situations, such as you have
9 the commission on teacher credentialing that has
10 responsibility over a certain portion of decision-making
11 in regards to teachers, which is distinct from the State
12 Board and the State Department of Education and, again,
13 there's just opportunities for different viewpoints and
14 conflicting policies. You know, I can't cite a specific
15 situation or instance about that, but -- I mean -- any
16 way.

17 Q. Okay. Any other examples you can think of?

18 A. Well, I was going to talk about the role of the
19 state colleges and teacher training, and there's yet
20 another layer and another set of actors and their view
21 about what their job is and what teachers need as
22 opposed to all these other players.

23 And at some point in this process, earlier in
24 my time at LAO, I had looked at those programs and had
25 done a lot of talking and thinking about why we vest so

1 see the sentence, on the other hand, this diffusion of
2 power can create conflict and confusion about state
3 policy when differences of opinions arise among the
4 various entities?

5 Do you see that?

6 And the various entities that you refer to
7 there, that's the State Board of Education and the
8 superintendent of public instruction, is that right, is
9 that who you're referring to?

10 A. And the other executive agencies involved in
11 school policymaking.

12 Q. Okay. And has that happened, sir --

13 MR. VIRJEE: Objection. Calls for speculation.

14 MR. ROSENBAUM: -- that there has been conflict
15 and confusion about state policy based on differences of
16 opinion arising?

17 MS. READ SPANGLER: Join in the objection.
18 That calls for speculation.

19 MR. VIRJEE: Also vague as to time.

20 THE WITNESS: Yes.

21 Q. BY MR. ROSENBAUM: When did that occur?

22 A. I think we give an example here in the next
23 sentence, that some district administrators found it
24 confusing, found certain policy areas confusing and
25 conflicting because of the disagreements between the

1 much power in the CSU system over the supply of our
2 teachers and the quality of our teachers.

3 Q. And what conclusions did you reach?

4 A. The conclusion that I reached, although this
5 was not ever published anywhere, that at that time the
6 CSU system didn't really care about ensuring that it had
7 sufficient number of slots to ensure an adequate supply
8 of teachers for the state education system. Supply and
9 demand didn't really enter into their view of the world.

10 Q. Do you know either way whether that's true
11 today?

12 A. I think that issue has become much discussed
13 and -- but I don't know exactly their view of it.

14 Certainly I would imagine they would be more sensitive
15 to it.

16 Q. But you don't have any knowledge one way or the
17 other as to what the situation is with respect --

18 A. I'm not familiar with the details of it, no.

19 Q. If I said to you, Mr. Warren, come up with a
20 plan to reduce the number of emergency credentialed
21 teachers in the schools in California, what would you
22 do?

23 MR. VIRJEE: Objection. Calls for speculation.

24 Lacks foundation. Calls for an expert opinion.

25 Incomplete hypothetical.

1 MS. READ SPANGLER: Join.

2 MR. VIRJEE: Completely irrelevant. There's
3 been no basis to indicate that this witness has any
4 expertise in this area.

5 MR. ROSENBAUM: If this is an area that you
6 don't feel comfortable giving an answer in for reasons
7 Mr. Virjee is suggesting, or for any other reason, of
8 course you're free to tell me that.

9 MR. VIRJEE: Also assumes facts not in
10 evidence. I don't know if you got that one.

11 THE WITNESS: I really don't know how to answer
12 that.

13 Q. BY MR. ROSENBAUM: Okay. If I said to you,
14 come up with a plan, you can design it any way you want,
15 to reduce overcrowding in the schools, could you come up
16 with such a plan?

17 MR. VIRJEE: Objection. Calls for speculation.
18 Lacks foundation. Calls for an expert opinion. Calls
19 for information that this witness is not competent to
20 testify about. There's been no basis that this witness
21 has any information or basis for making such a
22 determination.

23 Incomplete hypothetical.

24 MS. READ SPANGLER: Join. And assumes facts
25 not in evidence.

1 legislature, State Board of Education, secretary of
2 education, superintendent, those offices?

3 A. Well, it isn't intending to refer to them
4 specifically, but just, again, as this collection of
5 responsible decision-makers that do things that result
6 in state statutes and regulations.

7 Q. Okay. Thank you. See the sentence, sir, on
8 page 10 of Exhibit 31, it's actually the last full
9 sentence on the page, the separation significantly
10 diluted local accountability for the success and failure
11 of local schools? Do you see that sentence?

12 A. Yeah, I'm just reading the preceding sentence
13 so that I understand it.

14 Q. Good.

15 A. Yes.

16 Q. What did you mean there by local accountability
17 for the success and failure of local schools?

18 A. I think it's pretty well explained by the quote
19 that follows, which says, Serrano and Proposition 13
20 together have weakened incentives for political and
21 economic accountability on the part of local school
22 officials.

23 The concept here is that when school boards had
24 a great deal of control over taxes, that people were
25 more engaged in the workings of the school district and

1 MR. ROSENBAUM: Again, if you agree with any of
2 the statements --

3 MR. VIRJEE: You don't have to agree or
4 disagree with anything.

5 MR. ROSENBAUM: If you agree with any
6 statements that counsel make or if you're ill-equipped
7 to answer that, you should feel free to tell me that.

8 THE WITNESS: The easy answer is build more
9 schools, right? But I don't have the expertise to
10 pretend I could come up with a plan off the top like
11 you're asking.

12 Q. BY MR. ROSENBAUM: Okay. It's not something
13 you put any thought to before?

14 A. Not a lot.

15 Q. Looking, sir, at page 10 of Exhibit 31.

16 A. Yes.

17 Q. Where it says separation of finance and policy
18 control, do you see that?

19 A. Yes.

20 Q. And do you see the first sentence, the second
21 important feature of the Constitution is that it assigns
22 state responsibility for K-12 finance?

23 A. Yes.

24 Q. When you wrote this, what did you mean by state
25 there? Is it the same thing we said before, governor,

1 of the -- paid more attention to what the school board,
2 local school boards were doing. And when finance and
3 taxing levels no longer were the responsibility of
4 school boards, it did a number of things that reduced
5 the level of interest of the community in what the Board
6 was doing, which, in turn, kind of made them less
7 accountable to the voters locally.

8 And this idea of the local accountability for
9 the success and failure of schools is intended to
10 suggest that that -- the focus upon the financial parts
11 has spillover effects to the broader educational
12 decision-making process.

13 Q. Do you have any empirical evidence for that
14 conclusion?

15 A. What do you mean?

16 Q. That this is a conclusion you reached after --
17 strike that.

18 How do you know that that's true, how do you
19 know that there's been a dilution of local
20 accountability?

21 MR. VIRJEE: Well, this is attributed to a
22 quote to someone else. Are you asking him to say why
23 that person said it?

24 MR. ROSENBAUM: No, I'm asking the sentence
25 that I started this questioning about. This doesn't

1 have any quote about it.
 2 Q. The separation significantly diluted local
 3 accountability for the success and failure of local
 4 schools, that's your conclusion?
 5 A. I mean, I think it does parallel the
 6 conclusions that this quote --
 7 Q. I mean -- but this is a statement by Rubinfeld;
 8 is that right, the quote?
 9 A. Yes.
 10 Q. Okay. And do you know what Rubinfeld based his
 11 conclusion upon?
 12 A. I don't know.
 13 MS. READ SPANGLER: Objection.
 14 Q. BY MR. ROSENBAUM: And your statement, sir,
 15 that precedes the quote on page 10 of Exhibit 31, do you
 16 have any empirical evidence to support the conclusion
 17 that there was a dilution of local accountability?
 18 MR. VIRJEE: Objection. Vague and ambiguous as
 19 to "empirical evidence."
 20 THE WITNESS: What would you consider -- when
 21 you say "empirical evidence," what is that?
 22 Q. BY MR. ROSENBAUM: What's your understanding of
 23 the phrase "empirical evidence"?
 24 A. I asked you first.
 25 Q. But I'm a lawyer.

1 A. Darn. Empirical evidence to me means data,
 2 evidence that somehow is founded in data.
 3 Q. Using that definition, are you aware of any
 4 empirical evidence to support that statement?
 5 MS. READ SPANGLER: Other than this quote that
 6 he's already talked about?
 7 THE WITNESS: I'd have to go back through all
 8 of these studies and kind of refresh myself, and I just
 9 don't remember.
 10 Q. BY MR. ROSENBAUM: Okay. Empirical evidence or
 11 otherwise, with the exceptions of the reliance upon
 12 Rubinfeld's quote, do you have -- can you cite to me any
 13 evidence in support of your conclusion that there --
 14 that there was a dilution of local accountability?
 15 MR. VIRJEE: Objection. Calls for speculation.
 16 Lacks foundation. Can he do it today here, as opposed
 17 to all the notes he has and reviewing the information
 18 that he might have based all this on?
 19 THE WITNESS: Again, I'd have to go back
 20 through and see, you know, what materials I reviewed at
 21 that time.
 22 MS. READ SPANGLER: Would this be a good time
 23 to take a really short break?
 24 MR. ROSENBAUM: Sure.
 25 (Recess taken.)

1 Q. BY MR. ROSENBAUM: Directing your attention,
 2 Mr. Warren, to page 11 of Exhibit 31. There are some
 3 stray marks here that are not mine, so ignore those.
 4 But looking -- do you see on page 11 the
 5 section headed recognition of local control?
 6 A. Yes.
 7 Q. Forget about the sort of underlining and the
 8 little bracket.
 9 MS. READ SPANGLER: But I obviously don't have
 10 the same photocopy of what he has because I have
 11 underlining.
 12 THE WITNESS: Mine doesn't have any
 13 underlining.
 14 MR. ROSENBAUM: Then you have a cleaned-up
 15 version.
 16 MS. READ SPANGLER: Suspicious.
 17 Q. BY MR. ROSENBAUM: See where it says, the final
 18 important K-12 feature of the Constitution is the broad
 19 authority given to the legislature and governor over
 20 most elements of school operations? Do you see that?
 21 A. Yes.
 22 Q. What did you mean by broad authority?
 23 A. Well, I tell you, it's been a couple of years
 24 since I wrote this, and I haven't read the whole thing
 25 probably since I finished writing, and it's pretty hard

1 to kind of recollect what was the intent of what you
 2 said at the time you wrote it.
 3 I can answer to -- answer the question what
 4 does it mean to me as I sit here today and the best of
 5 my recollection, but, again, you know, I've read a lot
 6 of stuff, I've talked to a lot of people, you know, all
 7 of that is many, many months ago.
 8 Q. Are those your words, Mr. Warren, or is that
 9 what your attorney suggested to you?
 10 A. Those were my words.
 11 Q. To the best of your recollection, what did you
 12 mean by --
 13 A. I think if you look at the next few sentences,
 14 that it elaborates on it, that the Constitution requires
 15 the state to establish a system of free common schools,
 16 leaving most decisions about the details of the system
 17 to statute and regulation. That's it.
 18 Q. And by that, of course, you mean statute and
 19 state regulations?
 20 A. Yes.
 21 Q. And --
 22 A. Well, yes and no, I guess is the correct answer
 23 to your question. You probably know our Education Code
 24 is a permissive code, so the State rules by exception.
 25 So in some respects I think when you talk about leaving

1 the decision of the system to statute and regulation
2 over the things that the State chooses, okay, and
3 everything else is left to the locals, that's how I
4 understand the construction of the State system.

5 Q. Well, tell me what you meant here by the
6 sentence, with no constitutional stature, schools have
7 little recourse other than to follow state policies that
8 diminish local authority.

9 When you say no constitutional statute, you're
10 referring to schools?

11 A. School districts are not explicitly recognized
12 in the Constitution.

13 Q. Okay. And when you use the phrase state
14 policies, what did you mean by that in that sentence?

15 A. Statute and regulation.

16 Q. Looking, sir, at chapter 3 on page 11 of
17 Exhibit 31 -- actually, let me ask you to please turn to
18 page 12. In the second full paragraph under education
19 is what occurs in the classroom, do you see that?

20 A. I'm sorry, I missed that.

21 Q. Education is what occurs in the classroom, page
22 12 of Exhibit 31. Do you see that?

23 A. Yes.

24 Q. And at the end of the second full paragraph
25 there's a bracket and then the name Elmore appears

1 But I think there's two reasons. One is that
2 it's consistent with what we've discussed earlier, that
3 the school -- people in the schools are closest to the
4 students and have the best understanding of the needs of
5 students and how to satisfy them. And then the second,
6 which is a more kind of a management reason, which is
7 that in order to obtain the support of teachers for the
8 initiatives that are conducted to improve schools, you
9 want to involve them in the identification of the
10 problem and the identification of a solution in order to
11 kind of enlist their enthusiasm.

12 Q. To your knowledge, sir, are teachers surveyed
13 as to their views as to what problems they experience in
14 the classroom?

15 MR. VIRJEE: Objection. Vague and ambiguous as
16 to "surveyed," and by whom.

17 MS. READ SPANGLER: Join.

18 MR. VIRJEE: Also vague as to time and calls
19 for speculation.

20 MS. READ SPANGLER: Also vague and ambiguous as
21 to problems in the classroom.

22 THE WITNESS: I'm sure they have. I mean, I
23 guess the question is by whom and for what?

24 Q. BY MR. ROSENBAUM: To your knowledge, has any
25 state entity surveyed or inquired of teachers what they

1 there. Do you see that?

2 A. Uh-huh.

3 Q. Who is Elmore?

4 A. I don't know. Let me make sure I know. I
5 believe it would be Richard Elmore.

6 Q. Did you speak with Richard Elmore?

7 A. No.

8 Q. Okay. See where it says -- sir, see where it
9 talks of intensive teacher involvement in identification
10 of problems?

11 MR. VIRJEE: Which section are you in now,
12 Mark?

13 MR. ROSENBAUM: I'm still on page 12.

14 THE WITNESS: You mean the third paragraph
15 there?

16 MR. ROSENBAUM: Right.

17 Q. Do you see that?

18 A. Improving the act of educating requires
19 intensive teacher involvement in the identification of
20 problems and in the crafting of solutions.

21 Q. Why is that?

22 A. I think there's two reasons, if I recall. This
23 comes out of the categorical report that we discussed
24 that was published in '92 or '93, so it's kind of hard
25 to dredge it back up.

1 regard as principal problems they experience?

2 MR. VIRJEE: Objection. Vague and ambiguous as
3 to "state entity." Vague as to time.

4 MS. READ SPANGLER: Also vague and ambiguous as
5 to "survey" and "principal problems." Assumes facts not
6 in evidence.

7 THE WITNESS: I don't know of any state survey.
8 I've never seen one.

9 Q. BY MR. ROSENBAUM: Okay. Or what resources
10 they need, any state entity, any state investigation
11 into what resources teachers need by asking teachers?

12 MS. READ SPANGLER: Objection. Assumes facts
13 not in evidence.

14 MR. VIRJEE: Lacks foundation. Irrelevant.
15 There's been no testimony or evidence to indicate that
16 this witness has anything to do with the providing of
17 resources.

18 THE WITNESS: I don't know of any state survey.

19 Q. BY MR. ROSENBAUM: Have you ever directed any
20 of your staff as part of CCR or any of your programs to
21 inquire of teachers what resources they need?

22 MS. READ SPANGLER: Objection. Assumes facts
23 not in evidence.

24 THE WITNESS: I've never directed them to do
25 that.

1 Q. BY MR. ROSENBAUM: Okay. And are you aware of
2 any survey of teachers as to what resources they need
3 conducted by anybody, not just the State now, by
4 anybody?

5 MS. READ SPANGLER: Same objection.

6 MR. ROSENBAUM: Or by an institution.

7 THE WITNESS: I can't recall any.

8 Q. BY MR. ROSENBAUM: Okay. Let me ask you,
9 Mr. Warren, if you could please turn to page 15 of
10 Exhibit 31. Do you have that in front of you?

11 A. Yes.

12 Q. Help me understand here. Obviously you're free
13 to refer to prior pages or any page you want. You say
14 in figure 2, "common elements of school reform." What
15 does that mean? What do you mean by "common elements of
16 school reform"?

17 A. Well, this is in the section that refers to the
18 state role in education, and this figure displays the
19 reforms from two states where, if you look on the
20 previous page, we said that it created a substantial
21 infrastructure for supporting a process of continual
22 improvement in education. That was a quote from the
23 study that this was drawn from. So this describes kind
24 of the larger structure that was guiding the reforms in
25 those two states.

1 In Texas I know for sure that these are
2 mandatory standards, so it would not make a lot of sense
3 to have textbooks that didn't cover the mandated
4 standards, and it's designed to get consistency about
5 the message to the field and to have coherence in the
6 programs.

7 Q. BY MR. ROSENBAUM: And the high school exit
8 exam for California, sir, to your knowledge, would that
9 be based on the statewide standards, statewide
10 curriculum standards?

11 A. Yes.

12 Q. Let me ask you if you would, please, to go back
13 to page 11 of Exhibit 31.

14 A. Okay.

15 Q. Looking at chapter 3, the box that says
16 education research findings.

17 A. Uh-huh.

18 Q. You're saying yes?

19 A. Yes.

20 Q. I take it, sir, you reviewed this education
21 research for purposes of preparing this chapter?

22 A. This summarizes, I think, the discussion in
23 this chapter.

24 Q. Okay. But my question is, you yourself
25 reviewed educational research for purposes of preparing

1 Q. Those two states are North Carolina and Texas?

2 A. That's what it says.

3 Q. And you regarded those as exemplary efforts of
4 school reform?

5 MR. VIRJEE: Objection. Vague and ambiguous as
6 to "exemplary."

7 MS. READ SPANGLER: Join.

8 THE WITNESS: This is drawn from a federal
9 study that says these two states showed exemplary
10 progress in student achievement.

11 Q. BY MR. ROSENBAUM: Okay. And see the sentence,
12 sir, under statewide academic standards, both states
13 also worked to align textbooks and curriculum with these
14 standards? Do you see that?

15 A. Yes.

16 Q. Why is that important?

17 MR. VIRJEE: Objection. Lacks foundation.
18 Calls for speculation. No evidence this witness has any
19 expertise in the area of textbooks or curriculum, or
20 aligning them with standards.

21 MS. READ SPANGLER: Join.

22 THE WITNESS: I think it was to send a
23 consistent message to -- I mean, I know in these states
24 these are mandatory state standards. I guess I need to
25 correct that.

1 this chapter?

2 A. Ye --

3 MR. VIRJEE: Objection. Vague and ambiguous as
4 to "educational research."

5 MS. READ SPANGLER: Join.

6 Q. BY MR. ROSENBAUM: And you see the second
7 bullet, teachers need a school environment that
8 encourages improved teaching methods?

9 A. Yes.

10 Q. What does that mean?

11 A. Again, I think that goes back to the question
12 that you discussed before about this -- I'm on page 12
13 now in the second paragraph. Research indicates that
14 teachers are willing to try new teaching methods if they
15 are active participants, they have a measure of
16 confidence in the consequences for students, and feel it
17 is safe to give up old responses and learn something
18 new.

19 Q. As part of a school environment that encourages
20 improved teaching methods, would that also include
21 having the resources necessary to put those teaching
22 methods into place?

23 MR. VIRJEE: Objection. Vague and ambiguous as
24 to "resources." And also calls for speculation, lacks
25 foundation.

1 MS. READ SPANGLER: Join.
 2 MR. VIRJEE: Calls for an expert opinion.
 3 THE WITNESS: So help me with the question
 4 again.
 5 Q. BY MR. ROSENBAUM: My question is, you're a
 6 teacher and you want to put these methods into place.
 7 In terms of the environment that you're talking about,
 8 would that include having, say, the books and materials
 9 you need to actually activate those methods?
 10 A. Well, it may or it may not involve curricular
 11 materials, so it's not necessarily a resource issue.
 12 Q. But to the extent it would involve, say,
 13 curriculum, would it include having the resources,
 14 materials necessary to implement those methods?
 15 MS. READ SPANGLER: Objection. Calls for
 16 speculation. Incomplete hypothetical.
 17 MR. VIRJEE: Lacks foundation.
 18 THE WITNESS: I was going to object that it's a
 19 tautology. You're say in order to do something, do you
 20 have to have the things that you need to do in order to
 21 do something.
 22 Q. BY MR. ROSENBAUM: And that's obvious, right?
 23 A. I think you answered your own question.
 24 Q. Let me ask you, please, sir, to direct your
 25 attention to page 17. Actually, let's go back to page

1 16 of Exhibit 31. You see where it says which level of
 2 government should exercise financial and program
 3 control?
 4 A. Yes.
 5 Q. And by level of government, what do you mean?
 6 A. Well, I'd have to refer back and see how
 7 this -- the previous chapter sets up, I believe, that
 8 there's different levels, there's several levels. It
 9 starts with the classroom, it moves to the school site,
 10 it looks at the district and at the State.
 11 Q. Okay. And that's what you're referring to,
 12 right, which of those levels, that's the question you're
 13 posing here?
 14 A. Which of those levels.
 15 MR. VIRJEE: And in answer to the question, the
 16 document speaks for itself.
 17 Q. BY MR. ROSENBAUM: Directing your attention,
 18 sir, to page 17 of Exhibit 31, do you see that?
 19 A. Yes.
 20 Q. That's where you discuss the advantages of
 21 state control; is that right?
 22 A. Yes.
 23 MR. VIRJEE: Objection. The document speaks
 24 for itself.
 25 MS. READ SPANGLER: Join.

1 Q. BY MR. ROSENBAUM: Looking, sir, at figure 4
 2 can you state for me fully the basis for the conclusion
 3 that one of the advantages is to recognize state
 4 benefits of local programs?
 5 A. That's what figure 4 says, that there are some
 6 instances where -- I mean, it says the State can
 7 compensate local government for statewide benefits of
 8 local programs.
 9 Q. Okay. And why is that an advantage of state
 10 control?
 11 A. Because the State is larger than any of the
 12 local governments operating in it, and sometimes things
 13 that -- things that you might want schools to do don't
 14 have -- if you look at it from a cost benefit
 15 standpoint, the costs outweigh the benefits to that
 16 particular locality. On a statewide basis, however, the
 17 benefits exceeds the costs.
 18 Q. Can you give me some examples of that?
 19 A. There's one in the text, looking at the
 20 paragraph right below figure 4. It says, for instance,
 21 the benefits of major program evaluation usually are
 22 available to all districts in the state, yet the costs
 23 are borne by the districts conducting the evaluation.
 24 So there's benefits to all, but costs to only one.
 25 Q. And that's a situation where you think that

1 there would be an advantage of having state control?
 2 A. Yes.
 3 Q. Can you think of any other examples?
 4 A. Well, there's lots in government. Pollution is
 5 a --
 6 Q. With reference to education.
 7 A. Right off the bat, no, I can't think of another
 8 one.
 9 Q. Okay. Let's look at the second advantage that
 10 you list there, eliminate incentives for cost
 11 spillovers. Do you see that on page 17 of Exhibit 31?
 12 A. Yes.
 13 Q. Okay. And then you have a bullet, state
 14 funding and program requirements can mitigate local
 15 incentive to shift cost to other local governments. Do
 16 you see that?
 17 A. Yes.
 18 Q. Can you explain why you selected that as one of
 19 the advantages of state control?
 20 MR. VIRJEE: Other than what's already in the
 21 document, where there's already an explanation of the
 22 particular issue that he's already written that we can
 23 all read?
 24 MS. READ SPANGLER: In other words, the
 25 document speaks for itself.

1 THE WITNESS: You want me to explain it?
 2 MR. ROSENBAUM: I'd like an example of what you
 3 mean by it.
 4 THE WITNESS: Well, there's a whole chart
 5 further in the back that describes areas where the
 6 education system shifts costs. I'm on page 23, figure
 7 7. There's a variety of different cost shifts, as we
 8 call them, or exigentalities (ph.) that occur within the
 9 educational system.
 10 Q. BY MR. ROSENBAUM: You're making specific
 11 reference to figure 7 on page 23?
 12 A. That's correct. Yes.
 13 Q. Help me, sir. The third advantage that you
 14 identify here is establish statewide uniformity, state
 15 program control can ensure that a minimum level of
 16 program services are provided, similarly, the state can
 17 protect certain groups who need special services.
 18 Do you see that?
 19 A. Yes.
 20 Q. When you say minimum level of program services,
 21 what do you mean by program services?
 22 A. A good example of this is special education.
 23 Prior to the adoption of a State funding program in the
 24 '70s, services for special ed kids were inconsistent.
 25 Because they're very expensive, they may not have been

1 sufficient to allow that student to achieve at their
 2 maximum capacity. And by the State stepping in and
 3 providing supplemental funding, it helped ensure that
 4 there was a more uniform and adequate service.
 5 Q. Can you think of any other examples?
 6 A. Well, we give one here in the text about a
 7 statewide student testing. If every district has its
 8 own test, then the results aren't comparable, and it
 9 makes it very difficult to know exactly what those
 10 results mean.
 11 So having statewide uniformity over the testing
 12 and the rules by which students must take the test allow
 13 both the state and people at the local level to derive
 14 maximum benefits from those tests.
 15 Q. And when you say -- would that -- would your
 16 discussion here, Mr. Warren, also include a minimum
 17 level of facilities?
 18 MR. VIRJEE: Objection. Vague and ambiguous as
 19 to "minimum level of facilities." Calls for
 20 speculation. Lacks foundation.
 21 There's been no evidence this witness has any
 22 expertise or knowledge in the area of school facilities.
 23 It's also vague and ambiguous as to "facilities."
 24 MS. READ SPANGLER: Join.
 25 MR. ROSENBAUM: Obviously if you don't feel

1 comfortable answering the question, you --
 2 THE WITNESS: I -- I guess I don't feel like I
 3 know enough to answer the question.
 4 Q. BY MR. ROSENBAUM: What about in terms of --
 5 strike that.
 6 In terms of certain groups, sir, would that --
 7 you mentioned special ed students?
 8 A. Yes.
 9 Q. Any other students? What about English
 10 learner?
 11 MR. VIRJEE: What are you asking about them?
 12 Q. BY MR. ROSENBAUM: Your sentence here says,
 13 similarly, the State can protect certain groups who need
 14 special services. And I'm asking in your understanding
 15 of that phrase of the certain groups, would that also
 16 include English learner?
 17 A. It could.
 18 Q. Why do you say that?
 19 A. Well, at this time there is no special
 20 protection for English language learner in State
 21 statute.
 22 Q. Okay. But that -- strike that.
 23 What about children who -- from low SCS
 24 households?
 25 MR. VIRJEE: What are you asking? What about

1 them?
 2 THE WITNESS: I think the important thing is as
 3 a general rule, there are some things where statewide
 4 uniformity is needed to derive, you know, consistent
 5 benefits, you know, from the program.
 6 For instance, I think in the case of special
 7 ed, if you've got a really good special education
 8 program at one area and a student moves and those kind
 9 of services aren't available to a child, what is that
 10 child supposed to do? Okay?
 11 So this isn't just a question of merit
 12 services, okay, it goes beyond the idea that there are
 13 some protected groups, which is I think what you're
 14 getting at, and says that there are reasons -- not to
 15 say that that's not a legitimate -- necessarily a
 16 legitimate function. I'm not arguing that -- okay, what
 17 I'm arguing in this paper, as I recall, is that there
 18 are reasons why the State can -- you know, as a -- the
 19 State can take advantage of its role as a statewide
 20 player and yield more benefits from a policy than if it
 21 had left that to local control.
 22 Q. BY MR. ROSENBAUM: And we've identified special
 23 education as one such area?
 24 A. As an example --
 25 MR. VIRJEE: As an example.

1 THE WITNESS: -- of why it might want to do
 2 that, yes.
 3 Q. BY MR. ROSENBAUM: And English learner is
 4 possibly another area?
 5 A. Again, you're talking about protected
 6 communities within K-12, and I just haven't thought
 7 about it enough. And I kind of would need to go back
 8 and look at the report more to be able to really help
 9 you on that.
 10 Q. Okay. Now, directing your attention on page 17
 11 still of Exhibit 31, the last full paragraph on the
 12 page, this review of the advantages of state control
 13 also suggests the State should focus on specific
 14 statewide problems over which districts have little
 15 ability or little incentive to address. Do you see
 16 that?
 17 A. Yes.
 18 Q. Okay. Can you give me -- tell me what you
 19 meant by specific statewide problems there over which
 20 the districts have little ability or little incentive to
 21 address?
 22 Let's break it down. First, little ability to
 23 address.
 24 MR. VIRJEE: Objection. Assumes facts not in
 25 evidence. Assumes that he had any particular examples

1 in mind.
 2 THE WITNESS: Well, ability is a district can't
 3 influence directly the policy of another district. And
 4 when another district is doing something that actually
 5 works to the disadvantage of that first district, okay,
 6 that would be ability.
 7 Q. BY MR. ROSENBAUM: Would ability here also mean
 8 financial ability to address?
 9 A. I don't believe that that was what it was
 10 intended, but, again, it's been a long time.
 11 Q. Can you tell me what else you --
 12 A. Incentives, obviously this paper is a lot about
 13 incentives. Should do a word count. And, for instance,
 14 I think one of the reasons why you have a statewide
 15 testing program is because districts don't necessarily
 16 have the incentives to -- well, districts don't have the
 17 incentive, I think I can say this pretty easily, to
 18 ensure that all districts are using the same tests and
 19 having comparable information and having comparable
 20 policies about who is tested so that they can all be
 21 compared. There's no incentive for a district to do
 22 that. They're going to base their choice of tests on an
 23 entirely different set of criteria. So -- so.
 24 MR. ROSENBAUM: Let's go off the record a
 25 minute.

1 (The deposition concluded at 5:07 p.m.)
 2 ---o0o---
 3 Please be advised that I have read the
 4 foregoing deposition. I hereby state there are:
 5
 6 (check one) _____ NO CORRECTIONS
 7 _____ CORRECTIONS ATTACHED
 8
 9 _____
 10 Date Signed
 11
 12 _____
 13 PAUL WARREN
 14
 15 Case Title: Williams vs State
 16 Date of Deposition: Wednesday, May 23, 2001
 17 ---o0o---
 18
 19
 20
 21
 22
 23
 24
 25

1 DEPONENT'S CHANGES OR CORRECTIONS
 2 Note: If you are adding to your testimony, print the
 3 exact words you want to add. If you are deleting from
 4 your testimony, print the exact words you want to
 5 delete. Specify with "Add" or "Delete" and sign this
 6 form.
 7 DEPOSITION OF: PAUL WARREN, VOL. I
 8 CASE: WILLIAMS VS STATE
 9 DATE OF DEPOSITION: WEDNESDAY, MAY 23, 2001
 10 I, _____, have the following
 11 corrections to make to my deposition:
 12
 13 PAGE LINE CHANGE/ADD/DELETE
 14
 15 _____
 16 _____
 17 _____
 18 _____
 19 _____
 20 _____
 21 _____
 22 _____
 23 _____
 24 _____
 25 PAUL WARREN DATE

REPORTER'S CERTIFICATE

1 I certify that the witness in the foregoing
2 deposition,
3 PAUL WARREN,
4 was by me duly sworn to testify the truth, the whole
5 truth, in the within-entitled cause; that said
6 deposition was taken at the time and place therein
7 named; that the testimony of said witness was reported
8 by me, a duly certified shorthand reporter and a
9 disinterested person, and was thereafter transcribed
10 into typewriting.

11 I further certify that I am not of counsel or
12 attorney for either or any of the parties to said cause,
13 nor in any way interested in the outcome of the cause
14 named in said deposition.

15 IN WITNESS WHEREOF, I have hereunto set my hand
16 this 3rd day of June, 2001.

17 _____
18 TRACY LEE MOORELAND, CSR 10397
19 State of California
20
21
22

1 ESQUIRE DEPOSITION SERVICES
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3 1801 I Street, Suite 100
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7 429 Market Street
8 San Francisco, CA 94105-2482

9 Re: Williams vs State
10 Deposition of: Paul Warren, Vol. I
11 Date Taken: Wednesday, May 23, 2001

12 Dear Ms. Perrin:

13 We wish to inform you of the disposition of this
14 original transcript. The following procedure is being
15 taken by our office:

16 _____ The witness has read and signed the
17 deposition. (See attached.)

18 _____ The witness has waived signature.

19 _____ The time for reading and signing
20 has expired.

21 _____ The sealed original deposition is
22 being forwarded to your office.

23 _____ Other:

24 Sincerely,

25 TRACY LEE MOORELAND, CSR
Esquire Deposition Services
Ref. No. 25772

1 ESQUIRE DEPOSITION SERVICES
2 Certified Shorthand Reporters
3 1801 I Street, Suite 100
4 Sacramento, California 95814

5 Mr. Paul Warren
6 721 Capitol Mall, Suite 524
7 Sacramento, CA 95814

8 Re: Williams vs State, Volume I
9 Date Taken: Wednesday, May 23, 2001

10 Dear Mr. Warren:

11 Your deposition is now ready for you to read, correct,
12 and sign. The original will be held in our office for
13 45 days from the date of this letter.

14 If you are represented by counsel, you may wish to
15 discuss with him/her the reading and signing of your
16 deposition. If your attorney has purchased a copy of
17 your deposition, you may review that copy. If you
18 choose to read your attorney's copy, please fill out,
19 sign, and submit to our office the DEPONENT'S CHANGE
20 SHEET located in the back of your deposition.

21 If you choose to read your deposition at our office, it
22 will be available between 9:00 a.m. and 4:00 p.m.

23 Please bring this letter as a reference.

24 If you do not wish to read your deposition, please sign
25 here and return within 45 days of the date of this
letter.

19 _____ DATE

20 Sincerely,

21 TRACY LEE MOORELAND, CSR

22 Esquire Deposition Services
23 Job No. 25772

24 cc: Mark Rosenbaum, Esq. Peter Eliasberg, Esq.
25 Framroze Virjee, Esq. Kara Read Spangler, Esq.
Richard Hamilton, Esq.