

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

ELIEZER WILLIAMS, et al., )

Plaintiffs, )

vs. )

No. 312 236

STATE OF CALIFORNIA, DELAINE )

EASTIN, State Superintendent )

of Public Instruction, STATE )

DEPARTMENT OF EDUCATION, )

STATE BOARD OF EDUCATION, )

Defendants. )

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STATE OF CALIFORNIA, )

Cross-Complainant, )

vs. )

SAN FRANCISCO UNIFIED SCHOOL )

DISTRICT, et al., )

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DEPOSITION OF MOISES B. CANEL

San Francisco, California

Monday, June 25, 2001

Volume 3

Reported by:

LILY M. WONG

CSR No. 11487

JOB No. 849349

1 SUPERIOR COURT OF CALIFORNIA  
2 COUNTY OF SAN FRANCISCO

3 ELIEZER WILLIAMS, et al., )  
4 )  
5 Plaintiffs, )  
6 vs. ) No. 312 236

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

13 STATE OF CALIFORNIA, )  
14 Cross-Complainant, )  
15 vs. )  
16 SAN FRANCISCO UNIFIED SCHOOL )  
17 DISTRICT, et al., )

18 Deposition of MOISES B. CANEL, Volume 3,  
19 taken on behalf of Defendant State of  
20 California, at 275 Battery Street, 26th Floor,  
21 San Francisco, California beginning  
22 at 10:15 a.m. and ending at 1:28 p.m., on  
23 Monday, June 25, 2001, before LILY M. WONG,  
24 Certified Shorthand Reporter No. 11487.  
25

1 APPEARANCES:

2 For Plaintiffs Eliezer Williams, et al.:  
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16 For Defendants Delaine Eastin, State Superintendent of  
17 Public Instruction; State Department of Education;  
18 State Board of Education:  
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24 (No appearance.)  
25

ALSO PRESENT: SARA CANEL and JULIO CANEL, SR.

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1 San Francisco, California, Monday, June 25, 2001  
2 10:15 a.m. - 1:28 p.m.  
3

4 MOISES B. CANEL,  
5 having been first previously duly sworn, was examined  
6 and testified as follows:  
7

8 EXAMINATION  
9

10 BY MS. KOURY:

11 Q My name is Vanessa Koury. And I represent the  
12 State of California in this case. And I know that  
13 you've had your deposition taken already in this case in  
14 regard to the admonitions, but I'm going to go through  
15 them just really briefly, again, this morning to refresh  
16 your memory.

17 The court reporter here is recording my  
18 questions and your answers, which will then be  
19 transcribed into a booklet for your review and your  
20 signature. And when you receive the booklet, you can  
21 make changes that you feel are necessary. However, the  
22 lawyers in this case are free to comment on any changes  
23 that you make at trial or at any other proceeding in the  
24 case. Do you understand that?

25 A Yes.

1 Q And I just wanted to remind you, again, that  
2 the nods and shakes of the head cannot be recorded by  
3 the court reporter, so if you could please verbalize  
4 your answers so that she can record them. Do you  
5 understand that?

6 A Yes.

7 Q And, also, it's hard for the reporter to get a  
8 clear record of all the testimony if there's more than  
9 one person speaking. So, again, I will allow you to  
10 finish your answer before I ask my next question if you,  
11 also, will allow me to finish my question before you  
12 begin your answer. Is that okay?

13 A Yes.

14 Q If you don't understand any of my questions  
15 throughout the deposition today, please just let me know  
16 and I will try to rephrase it. Otherwise, I'll assume  
17 that you understand my question. Is that okay?

18 A Okay.

19 Q And you're required to answer my questions to  
20 the best of your ability, which means that I'm entitled  
21 to your best estimate, but I don't want you to guess.  
22 Do you understand the difference between a guess and an  
23 estimate?

24 A Yes.

25 Q I also wanted to remind you that you're under

1 Q How many times did you speak to your lawyers  
2 since the last deposition on May 13th?

3 A Once.

4 Q Was that in person?

5 A Yes.

6 Q For how long?

7 A About an hour.

8 Q And when was that?

9 A Friday.

10 Q This past Friday?

11 A Yes.

12 Q Did you review any documents to prepare for  
13 today's deposition?

14 A Yes.

15 Q What documents did you review?

16 A My declaration.

17 Q Anything else?

18 A No.

19 Q Did you review any other papers for your  
20 deposition today?

21 A No.

22 Q I'm marking and identifying as Exhibit 3 to the  
23 deposition of Mr. Canel, a declaration of Moises Canel,  
24 dated January 28th, 2001. I'm giving you what we have  
25 just marked as Exhibit 3. Could you review that and let

1 oath, which means that you're testifying as if you were  
2 testifying in a court of law and you're subject to all  
3 of the penalties of perjury for giving false testimony.  
4 Do you understand that?

5 A Yes.

6 Q If you need a break throughout the deposition  
7 today, just let me know and I'll instruct the court  
8 reporter that we are going off the record and we will  
9 take a break. If there's a question pending, I'll ask  
10 you to answer the question before we take the break. Do  
11 you understand that?

12 A Yes.

13 Q Do you have any questions about these ground  
14 rules?

15 A No.

16 Q Did you do anything to prepare for the  
17 deposition today?

18 A No.

19 Q Did you discuss any of the questions that I  
20 asked in the last two depositions that we took on  
21 May 12th and May 13th with anyone?

22 A Yes.

23 Q Did you discuss those questions with anyone  
24 other than your lawyers?

25 A No.

1 me know when you've finished reviewing it?

2 MS. KOTT: Do you want to see a copy?

3 Do you have another copy?

4 BY MS. KOURY:

5 Q I apologize. I don't.

6 Could you flip to page 2? Is this the  
7 declaration that you reviewed in preparation for your  
8 deposition today?

9 A Yes.

10 Q Other than reviewing this declaration, is there  
11 anything else that you did to prepare for the  
12 deposition?

13 A No.

14 Q On May 13th, when we were discussing some of  
15 the classes that you've taken -- we discussed some of  
16 the classes you were taking in eighth grade. And you  
17 said that your best class in eighth grade -- one of them  
18 was PE. Could you tell me why PE is one of your best  
19 classes?

20 A Because the teacher is nice. She's not hard on  
21 you.

22 Q Any other reasons?

23 A I like physical education.

24 Q Why do you like physical education?

25 A Because it helps me stay in shape.

1 Q Any other reason?  
 2 A No.  
 3 Q Could you tell me your teacher's name in PE?  
 4 A Ms. Casimiro.  
 5 Q What do you mean Ms. Casimiro's not hard on  
 6 you?  
 7 A She's not too strict. She's nice.  
 8 Q What do you think makes a teacher too strict?  
 9 A I don't know.  
 10 Q Do you think a teacher that gives detention is  
 11 too strict?  
 12 A No.  
 13 Q Do you think a teacher that reprimands a class  
 14 for talking is too strict?  
 15 A Yes.  
 16 Q When I say "reprimand," what do you think I  
 17 mean by that?  
 18 A When you said "reprimand"?  
 19 Q Yes.  
 20 A I don't know.  
 21 Q I just asked you if you think a teacher that  
 22 reprimands a class for talking in class is too strict  
 23 and you said yes. What do you mean by that?  
 24 MS. KOTT: Well, he said he did not understand  
 25 the word "reprimand." So could you rephrase the

1 question?  
 2 BY MS. KOURY:  
 3 Q I just -- I think the question -- I'm going to  
 4 let it stand.  
 5 Did you understand my question?  
 6 A Sort of.  
 7 Q Forget about that question. Why don't you just  
 8 tell me what you think -- you said that a teacher should  
 9 not -- do you think that a teacher is too strict if a  
 10 teacher scolds a classroom for talking during class?  
 11 A Yes.  
 12 Q Why do you think that makes a teacher too  
 13 strict?  
 14 A Because --  
 15 MS. KOTT: Do you understand what she's asking  
 16 you about?  
 17 THE WITNESS: Yeah.  
 18 MS. KOTT: Okay.  
 19 THE WITNESS: Because we -- we should get a  
 20 second chance before she scolds us. And most teachers  
 21 don't do that.  
 22 BY MS. KOURY:  
 23 Q What do you define scold as?  
 24 A As punishment.  
 25 Q Do you think a punishment would include

1 detention?  
 2 A Yes.  
 3 Q Would a punishment also include extra homework?  
 4 A Yes.  
 5 Q Do you think that a teacher should first tell  
 6 the class to stop talking before she punishes them?  
 7 A Yes.  
 8 Q You had stated that your English teacher in  
 9 eighth grade doesn't control the kids in your class and  
 10 that it bothers you when the kids get wild. What did  
 11 you mean by that?  
 12 A She -- she wouldn't really do anything when the  
 13 class -- the class got too -- too wild. She would just  
 14 tell them to stop and they will just keep on going and  
 15 they will take advantage -- advantage of her.  
 16 Q What do you think she should have done?  
 17 A Gave out some referrals or detentions.  
 18 Q Did you ever see your eighth grade English  
 19 teacher give a referral or a detention?  
 20 A Eighth grade?  
 21 Q It's the eighth grade English class that we are  
 22 talking about.  
 23 A You said seventh grade.  
 24 Q I said eighth grade. I'm talking about your  
 25 eighth grade English class. You stated that the kids in

1 your eighth grade English class get too wild; is that  
 2 correct?  
 3 A Yeah.  
 4 Q Did you think that your eighth grade English  
 5 teacher didn't control the kids sufficiently?  
 6 A No.  
 7 Q Did you think that she controlled the class  
 8 sufficiently?  
 9 A She didn't control the class sufficiently.  
 10 Q Just to be clear, when we talk about your  
 11 eighth grade English class, and you stated that the kids  
 12 get wild, what did you mean by that?  
 13 A They start talking. They don't let the teacher  
 14 talk when she's explaining things.  
 15 Q What would you have wanted your eighth grade  
 16 English class teacher to do?  
 17 A Be more strict on the kids.  
 18 Q How?  
 19 A By giving detentions.  
 20 Q Did you ever see your eighth grade English  
 21 teacher give detentions?  
 22 A A couple of times.  
 23 Q What happened when she gave detention?  
 24 A Sometimes they would come after school and  
 25 serve their detention.

- 1 Q Do you think that it helped control the kids'  
2 behavior in class when she gave these detentions?  
3 A Yes.  
4 Q Did you ever see your eighth grade English  
5 teacher give referrals to students in class?  
6 A Yes.  
7 Q What is a referral?  
8 A A referral is -- is a slip when the teacher  
9 gives to a student if a student's doing bad or acting  
10 bad to the teacher.  
11 Q What happens when you get a referral?  
12 A You get sent to your counselor's office.  
13 Q Do you think it helped control the kids'  
14 behavior in your class when your eighth grade English  
15 teacher gave referrals to students?  
16 MS. KOTT: Objection. Calls for speculation.  
17 Answer only if you know.  
18 THE WITNESS: Sometimes.  
19 BY MS. KOURY:  
20 Q Other than giving referrals and detentions, is  
21 there anything else that you think your teacher could  
22 have done to control the kids in this class?  
23 A No.  
24 Q Why not?  
25 A Because there's nothing else.

- 1 control them but is unable to do so?  
2 MS. KOTT: Objection. Vague as to time.  
3 THE WITNESS: They would not listen to her at  
4 all. They just walk out of class.  
5 BY MS. KOURY:  
6 Q Have you ever seen students just walk out of  
7 class?  
8 A Yes.  
9 Q Are you talking about your eighth grade English  
10 class?  
11 A Yes.  
12 Q How many times have you seen students just walk  
13 out of class?  
14 A I don't know.  
15 Q Have you seen more than one student walk out of  
16 your eighth grade English class?  
17 A Yes.  
18 Q Have you seen any students walk out of any of  
19 your other classes during your eighth grade school year?  
20 A Yes.  
21 Q Have you seen more than one student walk out of  
22 your class during your eighth grade school year?  
23 A Yes.  
24 Q Have you seen more than five students walk out  
25 of a class during your eighth grade school year?

- 1 Q What do you mean by that?  
2 A Nothing else to do, like to discipline the kids  
3 in the class.  
4 Q Do you think there's anything that your school  
5 could do to control the students' behavior in your  
6 class?  
7 MS. KOTT: Calls for speculation.  
8 THE WITNESS: No.  
9 BY MS. KOURY:  
10 Q Why not?  
11 A Because there's nothing much -- there's nothing  
12 much else to do.  
13 Q Have you seen teachers at your school try to  
14 control the behavior of students in the class and been  
15 unable to do so?  
16 A Yes.  
17 Q How many times have you seen that happen?  
18 A I forgot.  
19 Q Did you see that happen oftentimes?  
20 A Yes.  
21 Q Do you think it happens more than once a week?  
22 A No.  
23 Q Do you think it happens about once a week?  
24 A Yes.  
25 Q How do the students act when a teacher tries to

- 1 MS. KOTT: A single class on a single day?  
2 BY MS. KOURY:  
3 Q Separate instances.  
4 Have you seen this happen five separate times  
5 when a student would walk out of a classroom while you  
6 were in eighth grade?  
7 A I forgot.  
8 Q How else do students act when they act out of  
9 control such that the teacher can't control their  
10 behavior? Do they talk during class?  
11 A Yes.  
12 Q Does that distract you while you're trying to  
13 study?  
14 A Yes.  
15 Q Did that happen in any other class besides your  
16 eighth grade English class this school year?  
17 A Yes.  
18 Q What other classes did it happen in?  
19 A Science.  
20 Q Any other classes besides science and English?  
21 A No.  
22 Q Do you remember students walking out of your  
23 science class during the eighth grade school year?  
24 A Yes.  
25 Q Do you remember that happening more than one

- 1 time?  
 2 A No.  
 3 Q Can you remember your science teacher this  
 4 eighth grade school year ever trying to control the  
 5 kids' behavior in that class?  
 6 A Yes.  
 7 Q What would your science teacher do this past  
 8 school year to try to control the students' behavior in  
 9 the class?  
 10 A He would call for a security guard to watch  
 11 over the class.  
 12 Q Did he call for a security guard while he was  
 13 also in the class?  
 14 A Yes.  
 15 Q Do you know why he called for a security guard?  
 16 A So the class wouldn't be so -- so loud.  
 17 Q Did that help?  
 18 A Yes.  
 19 Q How?  
 20 A Because the security guard would come in and  
 21 the class -- they would stay quiet and listen to the  
 22 teacher.  
 23 Q How many times did he call a security guard in?  
 24 A I forgot.  
 25 Q Was it more than one time?

- 1 A No.  
 2 Q What other things would your science teacher  
 3 do, besides call a security guard, to try to control the  
 4 behavior of students in that class?  
 5 A He would give out referrals.  
 6 Q Anything else?  
 7 A No.  
 8 Q Did he give detentions?  
 9 A No.  
 10 Q Did he talk to the class and try to tell them  
 11 to stay in their seats or not to talk during class?  
 12 A Yes.  
 13 Q Do you think there's anything else he could  
 14 have done to try to control the students' behavior?  
 15 MS. KOTT: Objection. Calls for speculation  
 16 and expert testimony.  
 17 THE WITNESS: No.  
 18 BY MS. KOURY:  
 19 Q Why don't you think there was anything else he  
 20 could have done?  
 21 A There's nothing else to do, just to tell them  
 22 yourself.  
 23 Q Did your English teacher, in your eighth grade  
 24 class, ever have to call security to control the  
 25 students' behavior in that class?

- 1 A No.  
 2 Q Your seventh grade science class, you stated --  
 3 I'm sorry. In your eighth grade science class, you  
 4 stated that Mr. Chilcott said that the life science  
 5 books were seventh grade books and that you shouldn't  
 6 use them; is that correct?  
 7 A Yes.  
 8 Q Did you use these life science books while you  
 9 were in seventh grade?  
 10 A No.  
 11 Q Was it the first time that you used these life  
 12 science books while you were in the eighth grade?  
 13 A Yes.  
 14 Q Was any of the information in the life science  
 15 book that you used during the eighth grade repetitive of  
 16 information that you had already learned in the  
 17 seventh grade science class?  
 18 A Some.  
 19 Q What was repetitive?  
 20 A We were -- like last year, we were learning  
 21 on -- on blood genes and stuff like that. And the  
 22 eighth grade life science book, we were learning the  
 23 same thing.  
 24 Q Anything else that was repetitive?  
 25 A No.

- 1 Q Was all the other information that you learned  
 2 in the eighth grade new information to you?  
 3 A Some, yes -- all of it, yes.  
 4 Q Did the teacher ever comment that the  
 5 information that you were learning in the eighth grade  
 6 regarding blood genes was the same as you had learned in  
 7 the seventh grade?  
 8 A No.  
 9 Q Do you know why you learned the same  
 10 information in the eighth grade that you had learned in  
 11 the seventh grade regarding these blood genes?  
 12 MS. KOTT: Objection. Calls for speculation.  
 13 Answer only if you know.  
 14 THE WITNESS: What was the question again,  
 15 please?  
 16 BY MS. KOTT:  
 17 Q Do you know why you were learning the same  
 18 information regarding blood genes in the eighth grade  
 19 that you had already learned in the seventh grade?  
 20 A No.  
 21 Q Did anyone in the class ask why you were  
 22 learning about blood genes again?  
 23 A No.  
 24 Q Do you know why Mr. Chilcott made that comment;  
 25 why he said that the life science books were

- 1 seventh grade books and that you shouldn't use them?  
 2 A No.  
 3 Q Did any of the students ask him whether --  
 4 A No.  
 5 Q I'm sorry. I wasn't finished with the  
 6 question.  
 7 Did any of the students ask him whether the  
 8 life science books were seventh grade books?  
 9 A No.  
 10 Q Did he explain why he thought you shouldn't use  
 11 these books in the eighth grade?  
 12 A No.  
 13 Q Did anyone ask him why you shouldn't use these  
 14 books in the eighth grade?  
 15 A No.  
 16 Q Did he say anything else about these life  
 17 science books?  
 18 A No.  
 19 Q Is it correct that in your science, your  
 20 English, and your history class this past school year,  
 21 the eighth grade school year, that you copied down notes  
 22 from the book to study for tests?  
 23 MS. KOTT: Objection. Asked and answered.  
 24 BY MS. KOURY:  
 25 Q Is that correct?

- 1 A Yes.  
 2 Q Do you think it helps you to learn the  
 3 information when you copy it down from the board on a  
 4 piece of paper?  
 5 A Yes.  
 6 Q Why?  
 7 A Because you have the information from the --  
 8 from the board and you can use -- go study it for the  
 9 test.  
 10 Q Do you think it helps you to learn the  
 11 information while you write it down on paper?  
 12 A Yes.  
 13 Q Have you ever heard the teacher say that it  
 14 helps you learn the information by writing it down?  
 15 A No.  
 16 Q Is the information that your science, English,  
 17 and history teachers write on the board the same  
 18 information that's in your textbook?  
 19 A Yes.  
 20 Q Do they put any additional information on the  
 21 board that's not in the textbooks for you to copy down?  
 22 A Sometimes.  
 23 Q About how often?  
 24 A I don't remember.  
 25 Q How often do you write notes from the board to

- 1 study for tests in these classes?  
 2 A I don't know.  
 3 Q Was it more than one time this school year?  
 4 A Yes.  
 5 Q Was it more than one time this school year in  
 6 all three of these classes: Science, history and  
 7 English?  
 8 A Yes.  
 9 Q Was it more than two times in your science  
 10 class that you wrote notes from the board to study for  
 11 tests?  
 12 A Yes.  
 13 Q Was it more than three times in your science  
 14 class that you wrote notes from the board?  
 15 A I don't know.  
 16 Q Do you remember if it was more than two times  
 17 that you wrote notes from the board for your English  
 18 class?  
 19 A No.  
 20 Q It wasn't more than two times or you don't  
 21 remember?  
 22 A I don't remember.  
 23 Q Can you remember writing notes from the board  
 24 more than once in your English class?  
 25 A No.

- 1 Q Do you remember any times that you had to write  
 2 notes from the board for your English class?  
 3 A Yes.  
 4 Q What about your history class? Do you remember  
 5 writing notes from the board in your history class more  
 6 than once?  
 7 A Yes.  
 8 Q More than twice?  
 9 A Yes.  
 10 Q More than three times?  
 11 A Yes.  
 12 Q More than four times?  
 13 A Yes.  
 14 Q More than five times?  
 15 A Yes.  
 16 Q Was it more than ten times?  
 17 A About ten times.  
 18 Q Out of those ten times or about ten times that  
 19 you wrote notes from the board to study for your history  
 20 tests, how many times do you think there was additional  
 21 information on the board that wasn't in the textbook?  
 22 A I don't know. I can't tell whether it's  
 23 additional.  
 24 Q So you don't know whether the information on  
 25 the board was the same that was in the textbook or not?

- 1 A It's from the textbook.  
 2 Q How do you know?  
 3 A Because he said so.  
 4 Q The teacher tells you that -- your history  
 5 teacher told you that it was additional -- it was  
 6 information from the textbook?  
 7 A Yes.  
 8 Q Did he say that every time he put notes up on  
 9 the board and you copied them down?  
 10 A No.  
 11 Q How about with your English class? Do you know  
 12 whether the information was the same from your textbook  
 13 as was put on the board when you copied it to study for  
 14 your tests?  
 15 A No.  
 16 Q What about your science class? Do you know if  
 17 the information that was put on the board was the same  
 18 information that was in your textbook?  
 19 A Yes.  
 20 Q How do you know?  
 21 A Because he told us himself.  
 22 Q Do you remember your science teacher telling  
 23 you each time he put notes up on the board that this was  
 24 the same information that was in your textbook?  
 25 A Yes.

- 1 Q Is it correct that your English teacher for  
 2 this school year would photocopy the book when she would  
 3 assign homework from the book?  
 4 Let me rephrase that.  
 5 Is it correct that your English teacher this  
 6 school year would give you photocopies of the book when  
 7 she assigned homework from the textbook?  
 8 A No.  
 9 Q Did she ever give you photocopies of the  
 10 textbook for homework?  
 11 A No.  
 12 Q Showing you what we've marked as Exhibit 3 to  
 13 your deposition, could you read for me line 12 to  
 14 line 13 and tell me when you finish reading it?  
 15 For the record, it reads:  
 16 "When we have homework, my science and English  
 17 teachers make photocopies for us to use instead  
 18 of the book."  
 19 Is that statement correct?  
 20 A Yes. Because instead of the book, she use --  
 21 she makes -- photocopy -- photocopies of her -- some  
 22 other things. I don't know, but not from the book.  
 23 Q So is your declaration correct when it states  
 24 that she makes photocopies for you to use instead of the  
 25 book?

- 1 A Yes.  
 2 Q Are these photocopies to which you refer to in  
 3 your declaration photocopies of the book?  
 4 A Not from the book.  
 5 Q So what do you mean that she uses these  
 6 photocopies for us to use instead of the book?  
 7 A Photocopies from teacher's book, but we don't  
 8 have that book.  
 9 Q So she's not photocopying the book itself?  
 10 A No.  
 11 Q How do you know that she's using photocopies  
 12 instead of the book?  
 13 A Because the book doesn't have -- I know that  
 14 the book doesn't have any of those kind of work in it.  
 15 Q So you don't know that she's making these  
 16 photocopies to replace the book, do you?  
 17 A No.  
 18 Q And you don't know that she's making these  
 19 photocopies because you can't take the book home, do  
 20 you?  
 21 A No.  
 22 Q No, you don't know; is that correct?  
 23 A Repeat the question again.  
 24 Q Is it correct that you don't know that --  
 25 whether she makes these photocopies because you don't

- 1 have an English book to take home?  
 2 A Yes.  
 3 Q It is correct?  
 4 A Yes.  
 5 Q Is it also correct that she, perhaps, makes  
 6 these photocopies in addition to your textbook?  
 7 A Yes.  
 8 Q So these photocopies are additional materials  
 9 for you to use with your textbook; is that correct?  
 10 MS. KOTT: Objection. That misstates his prior  
 11 testimony.  
 12 BY MS. KOURY:  
 13 Q Is that correct?  
 14 A Yes.  
 15 Q You also had stated on May 12th that your  
 16 English teacher sometimes gives you homework assignments  
 17 where you have to summarize the story that you read in  
 18 class; is that correct?  
 19 A Yes.  
 20 Q You stated that sometimes you can't remember  
 21 the story that you read in class and you would want the  
 22 textbook to help you to do the summaries; is that  
 23 correct?  
 24 A Yes.  
 25 Q Does your teacher tell you that you need to



- 1 remember the story in order to write the summary?  
 2 A Yes.  
 3 Q Do you think that your teacher is trying to  
 4 teach your memory -- I'm sorry. Do you think that the  
 5 teacher is trying to test your memory when she gives you  
 6 these summaries to do at home?  
 7 MS. KOTT: Objection. Calls for speculation.  
 8 THE WITNESS: No.  
 9 BY MS. KOURY:  
 10 Q Do you think that your teacher would give you  
 11 the textbook to take home if she could?  
 12 A Yes.  
 13 Q Why do you think that?  
 14 A Because she said it herself.  
 15 Q What did she say?  
 16 A She said some kids ask their -- why couldn't we  
 17 take the books home, because it was hard for them to  
 18 remember the story. She said that they didn't have  
 19 enough books for the rest of the class.  
 20 Q Did she also say that you need to remember what  
 21 you read so that you can write the summaries?  
 22 A Yes.  
 23 Q Did she say that it's important to learn to  
 24 memorize or to retain that information and write a  
 25 summary?

- 1 A No.  
 2 Q Do you think -- have you ever asked to check  
 3 out a book for this class, your English class?  
 4 A No.  
 5 Q Do you know if you can check out a book for  
 6 this English class?  
 7 A No.  
 8 Q Has she ever made photocopies of the book, your  
 9 English book?  
 10 A No.  
 11 Q We discussed the bathrooms on May 12th as well.  
 12 And you testified that the bathrooms at your school  
 13 lacked toilet paper, paper towels and soap, and that the  
 14 floors are wet and that the sinks and toilets are  
 15 frequently clogged; is that correct?  
 16 A Yes.  
 17 Q You also testified that one time you asked the  
 18 janitor why there was no soap in the bathrooms; is that  
 19 correct?  
 20 A Yes.  
 21 Q Other than this one time that you asked the  
 22 janitor about soap in the bathrooms, have you ever asked  
 23 anyone at your school for more toilet paper?  
 24 A No.  
 25 Q Have you ever asked anyone at your school for

- 1 more paper towels in the bathrooms?  
 2 A No.  
 3 Q Have you ever asked or told anyone at your  
 4 school that the toilets were clogged?  
 5 A No.  
 6 Q Have you ever asked anyone at your school to  
 7 fix the toilets when you saw that they were clogged?  
 8 A No.  
 9 Q Have you ever asked anyone to fix the sinks  
 10 when you saw that the sinks were clogged in any of the  
 11 bathrooms at your school?  
 12 A No.  
 13 Q Why not?  
 14 A Because I'm -- they wouldn't listen to me.  
 15 Q How do you know?  
 16 A I don't know. I just think.  
 17 Q Have you ever complained to your parents about  
 18 any of these conditions in the bathrooms at your school?  
 19 A Yes.  
 20 Q Do you know if your parents have ever talked to  
 21 anyone at the school about the conditions in the  
 22 bathrooms?  
 23 A Yes.  
 24 Q What do you know about that?  
 25 A My mom talked to some lady -- some lady who

- 1 works at the school and she works with the parents. She  
 2 gets them -- she gets them news from parents that their  
 3 kids tell them that they don't like from the school.  
 4 Q Do you know what this lady's name is that your  
 5 mom talked to?  
 6 A Idalia.  
 7 Q Excuse me?  
 8 A Idalia.  
 9 Q Do you know how to spell her name?  
 10 A No.  
 11 Q Do you know if she works for the school?  
 12 A Yes.  
 13 Q She does work for the school?  
 14 A Yes.  
 15 Q Do you know what her position is at the school?  
 16 A No.  
 17 Q Does she work at your school office?  
 18 A No.  
 19 Q Have you ever met her before?  
 20 A Yes.  
 21 Q Was that her first name or her last name that  
 22 you just stated?  
 23 A Her first name.  
 24 Q How do you know she works for the school?  
 25 A She has her own office in the school.

1 Q It's on your school campus?  
 2 A Yes.  
 3 Q Do you know what happened after your mom talked  
 4 to her about the conditions in the bathrooms?  
 5 A No.  
 6 Q Do you know how many times your mom talked to  
 7 her?  
 8 A A lot of times, but I don't remember how many  
 9 times.  
 10 Q Do you remember when the first time was when  
 11 your mom spoke to her?  
 12 A No.  
 13 Q Do you know if it was this past school year?  
 14 A No.  
 15 Q Do you know whether it was in the  
 16 seventh grade -- while you were in the seventh grade  
 17 that your mom spoke to this woman?  
 18 A Yes.  
 19 Q Your mom spoke to this woman while you were in  
 20 the seventh grade?  
 21 A Yes.  
 22 Q How do you know that?  
 23 A Because -- because my mom told me herself.  
 24 Q Did your mom tell you what happened when she  
 25 spoke to the woman?

1 A No.  
 2 Q Did you ask?  
 3 A No.  
 4 Q Do you know if this woman was able to do  
 5 anything?  
 6 A No.  
 7 Q You testified earlier that you see the janitor  
 8 probably twice a week in the hallways; is that correct?  
 9 A Yes.  
 10 Q How come you never asked the janitor to put  
 11 more paper towels or toilet paper in the bathrooms when  
 12 you see that there's not enough paper towels or toilet  
 13 paper in the bathrooms?  
 14 A He'd probably get mad.  
 15 Q Why do you think he'd get mad?  
 16 A Because he will probably think that we are  
 17 telling him that he's not doing his job right.  
 18 Q Why would he think that?  
 19 MS. KOTT: Calls for speculation.  
 20 BY MS. KOURY:  
 21 Q Why do you think that he would think that?  
 22 A Because he sort of has an attitude.  
 23 Q What do you mean by that?  
 24 A He's mean.  
 25 Q What do you mean, "he's mean"? How is he mean?

1 A To the kids. If he sees like a bag on the  
 2 kid's hands, he just -- he's strict -- he's strict -- he  
 3 strictly tells them to throw it away in the trash can.  
 4 Q Why do you think he does that?  
 5 MS. KOTT: Calls for speculation.  
 6 THE WITNESS: Because it's his job to clean up  
 7 the school.  
 8 BY MS. KOURY:  
 9 Q Do you think he also tells them to throw the  
 10 trash away because, as you testified on May 12th and on  
 11 May 13th, kids at your school frequently throw trash on  
 12 the floor?  
 13 A Yes.  
 14 Q So do you think he's strict because he has to  
 15 be, in order to keep your campus clean?  
 16 A Yes.  
 17 Q Have you ever asked him or have you ever seen  
 18 anyone else ask him to put more toilet paper or paper  
 19 towels in the bathrooms?  
 20 A No.  
 21 Q So you don't really know how he would react, do  
 22 you?  
 23 A No.  
 24 Q Do you think it's part of his job to put paper  
 25 towels and toilet paper in the toilet -- in the

1 bathrooms?  
 2 A Yes.  
 3 Q Why haven't you ever asked him to fix the  
 4 toilets when you see that the toilets are clogged?  
 5 A I don't know. I just never did.  
 6 Q Do you think he would fix the toilets if you  
 7 told him that they were clogged?  
 8 A I don't know.  
 9 Q Do you think it's part of his job to fix the  
 10 toilets when they're clogged?  
 11 A Yes.  
 12 Q What about the sinks? Why haven't you ever  
 13 asked him to fix the sinks when they're clogged and you  
 14 see that they're clogged?  
 15 A Because they never came to my mind to ask him.  
 16 Q Is that because it's not that important to you?  
 17 A It is important, but it just -- I'm busy doing  
 18 other things.  
 19 Q Do you know if your mother has ever spoken to  
 20 the principal about the conditions in the bathroom?  
 21 A Yes.  
 22 Q How do you know that?  
 23 A Because she told me herself.  
 24 Q When?  
 25 MS. KOTT: When did she tell him or when did

1 his mother speak with the principal?  
 2 BY MS. KOURY:  
 3 Q When did your mother tell you that she spoke to  
 4 the principal?  
 5 A Two months ago or a month ago, I think.  
 6 Q Did she tell you when she spoke to the  
 7 principal?  
 8 A No.  
 9 Q Do you know if she spoke to the principal  
 10 before a month ago or two months ago?  
 11 A No.  
 12 Q Do you know if your mother ever spoke to the  
 13 principal about the conditions in your school while you  
 14 were in the seventh grade?  
 15 A No.  
 16 Q Do you think that the conditions in the  
 17 bathrooms to which you testified, specifically the lack  
 18 of toilet paper, paper towels and soap, the floors being  
 19 wet and the sinks and the toilets frequently being  
 20 clogged, do you think that these conditions interfere  
 21 with your ability to learn at school?  
 22 A No.  
 23 Q You testified on May 13th that your art  
 24 classroom last year leaked when it rained. You also  
 25 testified that you had this classroom -- or you were in

1 windows are cracked, you actually meant only one window  
 2 is cracked; is that correct?  
 3 A Yes.  
 4 Q So only one window is cracked in your math  
 5 classroom?  
 6 A Yes.  
 7 Q Is that true for the entire school year, the  
 8 entire eighth grade school year?  
 9 A Yes.  
 10 Q Could you describe to me what the crack looked  
 11 like?  
 12 A It was a cracked window. It looked like it was  
 13 ready to break.  
 14 Q I understand that you testified to that as  
 15 well. And you also stated that someone told you someone  
 16 shot a bullet through this window. But what I'm asking  
 17 you specifically is to describe what the crack looked  
 18 like. Is it just one crack that was in the window?  
 19 A Like three cracks.  
 20 Q How big is the window?  
 21 A Four feet long.  
 22 Q How wide was it?  
 23 A Five feet.  
 24 Q How many windows are in your math classroom?  
 25 A There's a lot of them. I don't know how much

1 this classroom during your eighth grade for three weeks.  
 2 Did it ever rain while you were in this classroom, the  
 3 art classroom, while you were in the eighth grade? Do  
 4 you understand that question?  
 5 A Yes, but it never rained when I was in  
 6 eighth grade, because I changed by class before the  
 7 winter.  
 8 Q Have you ever heard of any of the students  
 9 talking about whether this classroom, this art  
 10 classroom, leaked at all during this eighth grade  
 11 classroom -- year?  
 12 A No.  
 13 Q So you don't know if it still leaks or not?  
 14 A No.  
 15 Q You also testified on May 13th that some of the  
 16 windows in your math class are cracked; is that correct?  
 17 A Yes.  
 18 Q Is that your math classroom this school year,  
 19 the eighth grade school year?  
 20 A Yes.  
 21 Q Do you know the room number of that classroom?  
 22 A No.  
 23 Q Do you know where that classroom is located?  
 24 A By the boys' bathroom.  
 25 Q You also testified that when you said some

1 there is exactly.  
 2 Q Do you think there's more than five windows in  
 3 your math classroom?  
 4 A Yes.  
 5 Q More than ten?  
 6 A Yes.  
 7 Q Are there more than 15 windows in your math  
 8 classroom?  
 9 A About 15.  
 10 Q Where is this window located that's cracked?  
 11 A By the teacher's desk.  
 12 Q Is there a window below it as well?  
 13 A Yes.  
 14 Q Is there a window above it?  
 15 A Yes.  
 16 Q Is this window that's cracked between one  
 17 window above it and one window below it?  
 18 A Repeat the question, please.  
 19 Q Is this window that's cracked between one  
 20 window above it and one window below it?  
 21 MS. KOTT: Objection. Asked and answered.  
 22 THE WITNESS: Yes.  
 23 BY MS. KOURY:  
 24 Q Do you know how long -- actually, let me ask  
 25 that again. You said there were three cracks on the

- 1 window?  
 2 A About three cracks, yes.  
 3 Q Have you ever seen any broken glass around the  
 4 window?  
 5 A No.  
 6 Q Have you ever seen broken glass at all in this  
 7 classroom?  
 8 A No.  
 9 Q How long are the cracks?  
 10 A As long as the window.  
 11 Q Are all three cracks as long as the window?  
 12 A Yes.  
 13 Q When you say that they're as long as the  
 14 window, do you mean that the crack goes across the  
 15 window?  
 16 A Yes.  
 17 Q All of the cracks go across the window?  
 18 A Yeah, they meet together.  
 19 Q What do you mean, "they meet together"?  
 20 A Like -- they meet together in one end and --  
 21 yeah.  
 22 Q Which end of the window do they meet?  
 23 A The side.  
 24 Q What side, the right?  
 25 A The sides of the window.

- 1 Q Can you draw it for me? Would you be able to  
 2 draw it?  
 3 A (No audible response.)  
 4 Q Is that yes?  
 5 A Yes.  
 6 (Julio Canel, Sr. entered the room.)  
 7 THE WITNESS: Something like that.  
 8 BY MS. KOURY:  
 9 Q When is the last time that you were in this  
 10 classroom?  
 11 A June 14th.  
 12 Q Did you notice the windows on June 14th?  
 13 A No.  
 14 Q When is the last time that you noticed this  
 15 window being cracked?  
 16 A I don't know. I forgot.  
 17 Q Do you remember it being cracked in May?  
 18 A Yes.  
 19 Q How do you remember that?  
 20 A Because I walked in the classroom and my seat  
 21 is right next to the crack, so I see it.  
 22 Q Do you remember whether it was cracked in June?  
 23 A No.  
 24 Q So you don't know if it was fixed since May?  
 25 A No.

- 1 Q Is that -- I'm sorry. No, you don't know if it  
 2 was fixed?  
 3 A No.  
 4 Q You said there was -- in your science class  
 5 this past eighth grade school year, a window was  
 6 cracked. How many windows were cracked in your science  
 7 classroom?  
 8 A One.  
 9 Q Do you know the room number for your science  
 10 classroom?  
 11 A 143.  
 12 Q How many windows are in this 143 classroom?  
 13 A Same thing as the math classroom.  
 14 Q About 15 windows?  
 15 A Yeah, about 15 windows.  
 16 Q How was this window cracked?  
 17 A There was a bullet shot through it.  
 18 Q How do you know that?  
 19 A Because the teacher and the kids said so.  
 20 Q Did you see the bullet going through the  
 21 window?  
 22 A No.  
 23 Q Do you know if the teacher saw the bullet going  
 24 through the window?  
 25 A No.

- 1 Q Did the teacher say how he or she knew that the  
 2 window was shot -- I mean, that a bullet was shot  
 3 through the window?  
 4 A There was a -- a hole through the window and it  
 5 was like cracks beside the hole.  
 6 Q Did the teacher say anything to explain how she  
 7 knew that the window was cracked because a bullet went  
 8 through it?  
 9 A No.  
 10 Q How many cracks are in the window?  
 11 A I don't know. There was a lot though.  
 12 Q Was there any broken glass?  
 13 A No.  
 14 Q When did you first notice that it was cracked,  
 15 this window in your science classroom?  
 16 A Like in May.  
 17 Q Do you remember when in May? Was it the  
 18 beginning of May?  
 19 A No, I don't remember when.  
 20 Q It was before you testified, though, on  
 21 May 12th; is that correct?  
 22 A Yeah, before I testified.  
 23 Q When is the last time that you saw this window?  
 24 A June.  
 25 Q Do you -- was the window still cracked when you

- 1 saw it in June?  
 2 A No.  
 3 Q It had been fixed?  
 4 A Yes.  
 5 Q Do you know how it was fixed?  
 6 A No.  
 7 Q Do you know when it was fixed?  
 8 A No.  
 9 Q Do you remember how long it was cracked for?  
 10 A No.  
 11 Q When you say "it was fixed," what do you mean  
 12 by that?  
 13 A They replaced the window with a new window.  
 14 Q Did they replace the glass?  
 15 A Yes.  
 16 Q There was a new piece of glass in the window?  
 17 A Yes.  
 18 Q You testified that there's writing on the desks  
 19 in your English classroom and in your science classroom  
 20 and in your math classroom. When you say that there's  
 21 writing on the desks in your English classroom, do you  
 22 mean that there's writing carved into the desks?  
 23 A Carved and written.  
 24 Q Discussing just your English classroom for now,  
 25 do you remember what the desks looked like at the

- 1 A Pencil.  
 2 Q Did you notice more carvings on the desks in  
 3 your English classroom throughout the school year?  
 4 A No.  
 5 Q When you say "carving," what do you mean by  
 6 that?  
 7 A Like a deep carve on the desk. It's like a  
 8 deep carve with lines.  
 9 Q Are there words written in these carvings?  
 10 A No.  
 11 Q How much carving was on your desk in the  
 12 English classroom?  
 13 A One big one.  
 14 Q Where was it?  
 15 A On the desk.  
 16 Q On the front of the desk where you put your  
 17 book?  
 18 A Yes.  
 19 Q Was there any on the seat?  
 20 A No.  
 21 Q When you say "big," what do you mean?  
 22 A A long line.  
 23 Q Did it go across the desk?  
 24 A Yes.  
 25 Q Was it just a straight line going across the

- 1 beginning of the school year in your English classroom?  
 2 A No.  
 3 Q Did you see anything carved in the desks of  
 4 your English classroom at the beginning of the school  
 5 year?  
 6 A Yes.  
 7 Q How many desks had carvings in them in the  
 8 beginning of the school year?  
 9 A I don't know. It was -- I only saw mine.  
 10 Q Was the carving on your desk in the beginning  
 11 of the school year?  
 12 A Yes.  
 13 Q Was there writing on your desk in the beginning  
 14 of the school year?  
 15 A No.  
 16 Q Did you notice writing on any of the other  
 17 desks in the beginning of the school year?  
 18 A No.  
 19 Q Throughout the school year, did you notice that  
 20 there was writing on the desks in your English  
 21 classroom?  
 22 A Yes.  
 23 Q How do you think the writing got there?  
 24 A The kids write on desks.  
 25 Q What do they write with?

- 1 desk?  
 2 A It was -- scribbled like all over the desk, but  
 3 not that much.  
 4 Q What do you mean by that, "scribbled across the  
 5 desk, but not that much"?  
 6 A Not enough to cover the whole desk, but the --  
 7 the line was long.  
 8 Q Was it a scribbled line across the desk?  
 9 A Yes.  
 10 Q Was it just one scribbled line?  
 11 A Yes.  
 12 Q Did you notice the carving on other desks in  
 13 your English classroom?  
 14 MS. KOTT: Objection. Asked and answered.  
 15 THE WITNESS: No.  
 16 BY MS. KOURY:  
 17 Q So you don't know whether there was carvings on  
 18 other desks?  
 19 A No.  
 20 Q What do you think the school could do to  
 21 prevent students from writing on their desks?  
 22 MS. KOTT: Objection. Calls for speculation  
 23 and expert testimony.  
 24 THE WITNESS: I don't know.  
 25 BY MS. KOURY:

- 1 Q What would you want the school to do to prevent  
2 students from writing on the desks?  
3 A I don't know.  
4 Q Would you want to clean the writing off the  
5 desks every day?  
6 A Yes.  
7 Q Do you think it's a school's responsibility to  
8 clean the desks --  
9 A Yes.  
10 Q -- where the students write on --  
11 A Yes.  
12 Q I haven't finished my question. Do you think  
13 it's the school's responsibility to clean the desks  
14 after the students write on them every school day?  
15 A Every school day, no.  
16 Q How often?  
17 A Twice a week.  
18 Q Do you think it's the students' responsibility  
19 not to write on the desks?  
20 A Yes.  
21 Q Why?  
22 A They should be concentrating on what they're  
23 learning instead of just writing on the desk.  
24 Q Have you ever heard teachers say that students  
25 should not write on the desks?

- 1 A No.  
2 Q Do you think it's a school rule that you're not  
3 supposed to write on the desks?  
4 A No.  
5 Q You think that it's okay for students to write  
6 on the desks?  
7 A No, no. It's not a school rule, but it's still  
8 not okay to write on the desks.  
9 Q How do you know that?  
10 MS. KOTT: Objection. You're misstating his  
11 testimony.  
12 BY MS. KOURY:  
13 Q You can answer that.  
14 A Can you repeat the question again, please?  
15 Q How do you know that it's not okay for students  
16 to write on the desks?  
17 MS. KOTT: Not okay morally or --  
18 MS. KOURY: Counsel, I'm using his words.  
19 MS. KOTT: I'm just trying to understand what  
20 you are getting at here.  
21 BY MS. KOURY:  
22 Q My concern is whether he understands the  
23 question.  
24 Do you understand the question?  
25 A Yes.

- 1 Q Have you ever heard -- for the record, seeing  
2 that the witness hasn't responded to the question, I'm  
3 going to rephrase the question.  
4 Have you ever heard students -- or I'm sorry --  
5 teachers or the principal or anyone at your school tell  
6 students that they should respect the property at your  
7 school and take care of the property at your school?  
8 A Yes.  
9 Q So do you think based on that, that students at  
10 your school understand that it's not okay to write on  
11 the desks?  
12 A They understand.  
13 Q Do you think there's anything that your school  
14 can do to prevent students from writing on the desks?  
15 MS. KOTT: Asked and answered.  
16 THE WITNESS: I don't know.  
17 BY MS. KOURY:  
18 Q Did you see writing on the desks in your  
19 English classroom the last day of school?  
20 A Yes.  
21 Q What about in your science classroom, Room 143?  
22 Was there carving on your desk in that room?  
23 A There was writing on the desk.  
24 Q How about carvings? Was there any carvings on  
25 the desk?

- 1 A No.  
2 Q Did you use the same desk throughout the school  
3 year?  
4 A No.  
5 Q So you didn't notice any carving on any of the  
6 desks in Room 143?  
7 A No.  
8 Q Did you notice that there was writing on the  
9 desks in Room 143?  
10 A Yes.  
11 Q Did you notice that writing at the beginning of  
12 the school year?  
13 A No.  
14 Q Did you notice that there was writing at some  
15 point throughout the school year?  
16 A Yes.  
17 Q How do you think it got there?  
18 A Because there was writing on it.  
19 Q Did you ever see any kids writing on the desks?  
20 A Once.  
21 Q Which classroom?  
22 A Science.  
23 Q Have you ever seen the students get caught for  
24 writing --  
25 A No.

1 Q -- on the desk?  
 2 When you saw this student writing in your  
 3 science classroom on the desk, did the teacher see it?  
 4 A No.  
 5 Q Did you ever see anyone cleaning the writing  
 6 from the desks in your science classroom?  
 7 A No.  
 8 Q Do you think it was cleaned, the writing on the  
 9 desks in your science room, at all throughout the school  
 10 year?  
 11 A No.  
 12 Q Why don't you think so?  
 13 A Because I sat there on the last day of school.  
 14 Q What about your math classroom? Do you  
 15 remember the room number for your math class?  
 16 A No.  
 17 Q Was there carving in the desks in that  
 18 classroom?  
 19 A Yes.  
 20 Q Do you remember about how many desks had  
 21 carvings on them?  
 22 A No.  
 23 Q Did you ever use a desk in that classroom that  
 24 had carving on it?  
 25 A Yes.

1 A Probably every desk.  
 2 Q What do you think would happen if the school  
 3 cleaned the writing off the desks in these classrooms  
 4 every two weeks?  
 5 A The kids will keep on writing again.  
 6 Q Why do you think that?  
 7 A Because they always do -- they, like, disobey.  
 8 Q Do you think the writing on the desks  
 9 interferes with your ability to learn in class?  
 10 A No.  
 11 Q And what about the carvings on the desks in  
 12 these classrooms? Do you think that interferes with  
 13 your ability to learn?  
 14 A No.  
 15 MS. KOTT: Are we through with the desk issue?  
 16 MS. KOURY: Excuse me?  
 17 MS. KOTT: Are we through with the desk --  
 18 MS. KOURY: I'm not quite sure.  
 19 MS. KOTT: Is this okay for a break?  
 20 MS. KOURY: Oh, is that what you're asking?  
 21 MS. KOTT: Yes.  
 22 MS. KOURY: This is a fine time for a break.  
 23 MS. KOTT: Okay.  
 24 (Recess.)  
 25 (Defendant's Exhibit 3 was marked for

1 Q What did it look like?  
 2 A It had carving on it.  
 3 Q Where?  
 4 A On the front of the desk.  
 5 Q Did you notice that in the beginning of the  
 6 school year?  
 7 A No.  
 8 Q Do you think that the carving happened  
 9 throughout the school year?  
 10 A Yes.  
 11 Q Did you notice any other carvings besides the  
 12 one you just described to me?  
 13 A No.  
 14 Q What about writing? Was there any writing on  
 15 any of the desks in your math classroom?  
 16 A Yes.  
 17 Q Did you notice that writing in the beginning of  
 18 the school year?  
 19 A No.  
 20 Q When did you notice it?  
 21 A Throughout the school year.  
 22 Q How do you think it got there?  
 23 A Kids write on the desk.  
 24 Q How many desks do you think had writing on  
 25 them?

1 identification by the court reporter.)  
 2 BY MS. KOURY:  
 3 Q We just took a short break. Is there anything  
 4 that triggered your memory during the break that you  
 5 would like to add to your testimony this morning?  
 6 A No.  
 7 Q Okay. You testified that there's gum on the  
 8 seats in your English class. Is that the only class  
 9 that has desks or seats with gum on them?  
 10 A Yes.  
 11 Q Did you notice gum on the seats of your desks  
 12 in your English classroom at the beginning of the school  
 13 year?  
 14 A No.  
 15 Q How many times have you seen gum on the seats  
 16 of your desks in your English classroom?  
 17 A Just once in my seat.  
 18 Q Was the gum sticky?  
 19 A Yes.  
 20 Q What did you do?  
 21 A I took it off with some paper.  
 22 Q Have you ever noticed gum on any of the other  
 23 seats in your English classroom?  
 24 A No.  
 25 Q Do you think it's a recurring problem at your

- 1 school that there's gum on the seats of your desks?  
 2 A What do you mean by "recurring"?  
 3 Q Do you think you've only seen this happen  
 4 once -- well, have you seen this happen -- has there  
 5 been gum on a seat at a desk that you were going to use  
 6 more than this one time while you've been at Helms?  
 7 A No.  
 8 Q Have you ever heard of any other student  
 9 complaining about gum on their seats at your school?  
 10 A No.  
 11 Q You testified that you wait in line for your  
 12 lunch each day. You eat, and then you have free time.  
 13 What do you do during your free time?  
 14 A I talk with my friends.  
 15 Q What else do you do?  
 16 A That's it.  
 17 Q How often do you have free time during your  
 18 lunch recess?  
 19 A I don't know.  
 20 Q Do you have free time during your lunch recess  
 21 more than three times a week?  
 22 A About three times.  
 23 Q What happens the other two days a week?  
 24 A I'm eating. I'm either eating -- yeah.  
 25 Q You testified that there was one day in March

- 1 A The hallways next to my class.  
 2 Q What class?  
 3 A All my classes.  
 4 Q So just one main hallway for your school?  
 5 A All the hallways have graffiti.  
 6 Q I'm asking you specifically about June 14th.  
 7 Did you notice that there was graffiti on all the  
 8 hallways in your school?  
 9 A No.  
 10 Q Which hallways did you notice that there was  
 11 graffiti on?  
 12 A The hallway close to the cafeteria.  
 13 Q How many walls had graffiti on that hallway?  
 14 A Just one.  
 15 Q How much graffiti was on that wall?  
 16 A I don't know. There's a lot. There was a lot,  
 17 though.  
 18 Q What do you mean by "a lot"?  
 19 A Throughout the whole hallway, there was  
 20 graffiti.  
 21 Q On this one wall?  
 22 A Yes.  
 23 Q Were there words written?  
 24 A Yes.  
 25 Q How much of the wall was covered with graffiti?

- 1 and one day in April that you weren't able to eat your  
 2 lunch. Other than those two days this past school year,  
 3 has there been any day when you were not able to eat  
 4 your lunch?  
 5 A No.  
 6 Q How about while you were in the seventh grade?  
 7 Was there ever a day in the seventh grade that you  
 8 weren't able to sit down and eat your lunch?  
 9 A No.  
 10 Q You testified that there's graffiti on the  
 11 walls in the hallways in the gym and in the bathrooms.  
 12 How often do you see graffiti in the hallways of your  
 13 school?  
 14 A Every day.  
 15 Q The last time you were at school was on  
 16 June 14th; is that correct?  
 17 A Yes.  
 18 Q Did you notice graffiti in the hallways on that  
 19 day?  
 20 A Yes.  
 21 Q Where?  
 22 A In the hallways.  
 23 Q Where in the hallways?  
 24 A On the walls.  
 25 Q What hallway?

- 1 Would you say half the wall was covered to a quarter of  
 2 the wall?  
 3 A Like half.  
 4 Q Were there any other hallways, other than this  
 5 one hallway near the cafeteria on this one wall that had  
 6 graffiti on the June 14th?  
 7 MS. KOTT: That he noticed?  
 8 BY MS. KOURY:  
 9 Q That you know of.  
 10 A There's always graffiti on the hallways, but I  
 11 just didn't notice.  
 12 Q I understand what you're trying to say, but I'm  
 13 going to ask you to specifically answer the question  
 14 that I'm asking. Do you know of any other graffiti on  
 15 June 14th in any of the other hallways in your school?  
 16 A No.  
 17 Q Thinking back to the hallway near the cafeteria  
 18 where you just described to me where the one wall that  
 19 had the graffiti that covered about half the wall, do  
 20 you remember if you noticed that graffiti on that wall  
 21 the day before while you were at school?  
 22 A No.  
 23 Q So you don't know whether there was graffiti on  
 24 that wall the day before?  
 25 A No.



- 1 Q Do you -- was it -- was that the first time  
2 that you noticed that graffiti on this particular  
3 wall -- I'm sorry. Was June 14th the first time that  
4 you noticed this graffiti on the hallway closest to the  
5 cafeteria?  
6 A No.  
7 Q Had you noticed the graffiti on this hallway  
8 before June 14th?  
9 A Yes.  
10 Q Was it the same type of graffiti that you  
11 noticed before June 14th on this hallway?  
12 A Yes.  
13 Q Was that yes?  
14 A Yes.  
15 Q When was the first time that you noticed this  
16 particular graffiti on this wall on the hallway near the  
17 cafeteria?  
18 A I don't remember.  
19 Q Do you remember seeing it there in June?  
20 A No.  
21 Q Do you remember seeing it in May?  
22 A Yes.  
23 Q Was it the same type of graffiti -- the same  
24 exact graffiti that you saw on June 14th?  
25 A Yes.

- 1 Q How do you know?  
2 A Because it's the same thing.  
3 Q When you say "it's the same thing," do you mean  
4 it's the same writings?  
5 A Yes, same writing.  
6 Q What about in April? Do you remember seeing  
7 the writing that's on this hallway in April?  
8 A No.  
9 Q Are there any other hallways at your school  
10 that you specifically remember seeing graffiti on  
11 throughout the school year?  
12 A All the hallways had graffiti.  
13 Q Do you remember -- in September, when school  
14 started, do you remember seeing graffiti on any of the  
15 hallways?  
16 A No.  
17 Q How about in October? Do you remember seeing  
18 any graffiti in the hallways in October?  
19 A No.  
20 Q How about November? Do you remember seeing any  
21 graffiti in the hallways at your school in November?  
22 A I started to see graffiti in November.  
23 Q Can you specifically recall a time that you  
24 looked at a hallway and you remember seeing graffiti in  
25 November?

- 1 A The day?  
2 Q Can you specifically recall what hallway you  
3 saw graffiti on, at any time in November, and what the  
4 graffiti looked like?  
5 A There was graffiti by the bathrooms.  
6 Q When you say "by the bathrooms," do you mean  
7 inside the bathrooms or in the hallway outside the  
8 bathrooms?  
9 A Outside of the bathrooms.  
10 Q On a hallway?  
11 A Yes.  
12 Q Do you remember what that graffiti looked like?  
13 A No.  
14 Q Do you remember how much graffiti there was on  
15 that hallway?  
16 A No.  
17 Q Can you remember if it was more than one word  
18 written on that hallway?  
19 A No.  
20 Q Do you remember that you saw it, though, in  
21 November?  
22 A Yes.  
23 Q How about in December? Do you remember seeing  
24 that same graffiti in December on this hallway outside  
25 the bathrooms?

- 1 A Yes.  
2 Q Do you remember seeing it throughout the month  
3 of December?  
4 A Yes.  
5 Q What about in January? Was this graffiti still  
6 there in January?  
7 A I didn't notice it.  
8 Q How about this past week during school before  
9 you finished school for the school year? Do you  
10 remember seeing this graffiti in the hallway?  
11 A No.  
12 Q Did you see the hallway outside the bathroom?  
13 A No.  
14 Q When is the last time that you remember looking  
15 at this hallway outside the bathrooms?  
16 A I don't remember.  
17 Q Do you think that the graffiti which you were  
18 referring to that you saw in November outside the  
19 bathrooms or in the hallway outside the bathrooms was  
20 cleaned or was removed?  
21 A No.  
22 Q Why don't you think it was removed?  
23 A I said, "No, I don't remember."  
24 Q So you don't know if it was still there in  
25 January?

- 1 A No.  
 2 Q Have you ever seen anyone at your school  
 3 cleaning graffiti from the hallways?  
 4 A No.  
 5 Q Do you think that anyone at your school cleans  
 6 the graffiti from the hallways?  
 7 A No.  
 8 Q Has there ever been a time when you noticed  
 9 graffiti in school on a hallway, and then the next day  
 10 or a few days after that, you noticed that it's gone?  
 11 A No.  
 12 Q Do you think you would notice it if there was  
 13 graffiti on the hallway and the next day it was gone?  
 14 A Yes.  
 15 Q How about the graffiti closest to the  
 16 cafeteria -- or I'm sorry -- near the hallway near the  
 17 cafeteria that you discussed earlier. Actually, strike  
 18 that. Sorry.  
 19 Do you know how the graffiti gets there on the  
 20 walls of your hallways?  
 21 A The kids.  
 22 Q Why do you think it's the kids?  
 23 A Because there's no one else that could do  
 24 graffiti on the walls except for the kids.  
 25 Q Why do you say that?

- 1 Q How did he announce it?  
 2 A From a speaker -- speaker phone to reach all  
 3 the classes.  
 4 Q Have you ever heard any of the other teachers  
 5 talk about graffiti at your school?  
 6 A No.  
 7 Q What would you want your school to do about the  
 8 graffiti in the hallways?  
 9 A Clean it up.  
 10 Q How often would you want them to clean it up?  
 11 A Once a week.  
 12 Q Do you think that would help?  
 13 A Yes.  
 14 Q How?  
 15 A It would -- the walls would look much cleaner.  
 16 Q Do you think the students would stop putting  
 17 graffiti on the walls in the hallways?  
 18 A No.  
 19 Q How would the walls look much cleaner if the  
 20 students would continue to put graffiti on the hallways?  
 21 A There wouldn't be that much graffiti on the  
 22 walls.  
 23 Q Why do you think that?  
 24 A Because most of it would be erased and -- most  
 25 of it would be erased. That's all.

- 1 A Because I can't think of no one else who would  
 2 do graffiti.  
 3 Q Have you ever seen students at your school  
 4 putting graffiti on the hallways?  
 5 A No.  
 6 Q Have you ever seen students at your school with  
 7 spray paint?  
 8 A No.  
 9 Q Have you ever heard the teachers at your school  
 10 or the principal at your school talk about graffiti at  
 11 your school?  
 12 A Yes.  
 13 Q And what have you heard them say?  
 14 A He said we have to stop -- stop doing graffiti  
 15 on the walls.  
 16 Q Who is he?  
 17 A Principal.  
 18 Q How many times have you heard him say that?  
 19 A Once.  
 20 Q When?  
 21 A Like in April.  
 22 Q Where were you when he said this?  
 23 A My classroom.  
 24 Q Did he come and talk to your class?  
 25 A No, he announced it to all the classes.

- 1 Q When you started the school year, do you  
 2 remember any graffiti your first day of school on the  
 3 walls?  
 4 A No.  
 5 Q How about in the gym? You said there's  
 6 graffiti in the gym; is that correct?  
 7 A Yes.  
 8 Q Where is the graffiti in the gym?  
 9 A On the bleachers and on the walls.  
 10 Q Anywhere else?  
 11 A No.  
 12 Q Where on the bleachers is the graffiti?  
 13 A On the seats.  
 14 Q Anywhere else?  
 15 A No.  
 16 Q What walls is there graffiti on? Is it just  
 17 the walls to your gym?  
 18 A The walls in the gym.  
 19 Q Is your gym one big room?  
 20 A Yes.  
 21 Q Are there rooms -- are there locker rooms in  
 22 your gym?  
 23 A Yes.  
 24 Q When you say that there's graffiti on the  
 25 walls, do you mean just the walls to the gym, excluding

- 1 the walls to the locker room? Do you understand that  
2 question?  
3 A No.  
4 Q Is there graffiti in the locker rooms?  
5 A Yes.  
6 Q Where is the graffiti in the locker rooms?  
7 A On the lockers.  
8 Q Anywhere else?  
9 A On the bench.  
10 Q Anywhere else?  
11 A The walls.  
12 Q The walls of the locker room?  
13 A Yes.  
14 Q And you said there's also graffiti on the walls  
15 to the gym itself?  
16 A Yes.  
17 Q When I say "the gym itself," do you understand  
18 that that means the gym and not the locker room?  
19 A Yes.  
20 Q Is there graffiti anywhere else?  
21 A No.  
22 Q When is the first time -- did you use the gym  
23 at the beginning of the school year in eighth grade?  
24 A No, not really.  
25 Q Did you go into the gym in September?

- 1 Q All four of them?  
2 A Yes.  
3 Q There's graffiti on each of the walls of the  
4 gym?  
5 MS. KOTT: Asked and answered.  
6 BY MS. KOURY:  
7 Q Is that yes?  
8 A Yes.  
9 Q What kind of graffiti was on the walls? Let's  
10 talk about the wall. When you walk into the gym, is  
11 there a wall facing you?  
12 A No.  
13 Q Is there a wall behind you?  
14 A When I walk in the gym?  
15 Q The front entrance of the gym, can you describe  
16 what the gym looks like from the front entrance?  
17 A There's four entrances to the gym.  
18 Q Where are the locker -- where is the locker  
19 room located in the gym? Is there a room or a doorway  
20 that you come into from the locker room?  
21 A Yes.  
22 Q Coming in from the locker room, when you enter  
23 the gym, are you facing a wall?  
24 A No.  
25 Q What does it look like when you're coming in

- 1 A Yes.  
2 Q Did you go into the locker room in September?  
3 A No.  
4 No.  
5 Q When you went into the gym in September, did  
6 you see graffiti on the walls?  
7 A No.  
8 Q Did you see graffiti in the bleachers?  
9 A Yes.  
10 Q Are the bleachers in the gym?  
11 A Yes.  
12 Q When did you first notice graffiti on the walls  
13 of the gym itself?  
14 A Throughout the school year.  
15 Q Did you notice it in October?  
16 A Yes.  
17 Q How many walls are there in your gym?  
18 A Four big walls.  
19 Q When is the last time you were in the gym?  
20 A June 14th.  
21 Q In October, when you first noticed that there  
22 was graffiti, where was the graffiti?  
23 A On the walls and on the bleachers.  
24 Q Which walls?  
25 A The walls in the gym.

- 1 from the locker room into the gym?  
2 A When I come into the locker rooms from the gym?  
3 Q Is there a basketball hoop in your gym?  
4 A Yes.  
5 Q Is the basketball hoop affixed to any one of  
6 the walls?  
7 A Yes.  
8 Q How many basketball hoops are there?  
9 A Six.  
10 Q How many are on each wall?  
11 A There's three on two walls and one on two  
12 walls.  
13 Q So there's eight in all. There's three on two  
14 walls and then there's one on each other wall; is that  
15 correct?  
16 A Yeah, eight.  
17 MS. KOTT: Can we go off the record for a  
18 moment?  
19 MS. KOURY: Sure.  
20 (Recess.)  
21 BY MS. KOURY:  
22 Q Did you ever notice graffiti on the walls while  
23 you were in gym one day and the next day noticed that  
24 the graffiti was no longer there?  
25 A No.

- 1 Q Did you think that the graffiti that was on the  
2 walls throughout the school year stayed there throughout  
3 the school year and was never removed?  
4 A Yes.  
5 Q So you don't think there was any point in time  
6 throughout the school year that the walls were cleaned?  
7 A No.  
8 Q What do you -- what do you base that on, your  
9 opinion?  
10 A I don't understand.  
11 Q Did you ever see anyone cleaning the walls in  
12 the gym?  
13 A No.  
14 Q Did you ever hear any of the teachers talk  
15 about the walls in the gym being cleaned?  
16 A No.  
17 Q Did you ever hear anyone complain about the  
18 graffiti on the walls?  
19 A No.  
20 Q What do you think the school could do to  
21 prevent students from putting graffiti on the gym walls?  
22 A I don't know.  
23 Q Do you think it would help if the school  
24 cleaned the graffiti off the gym walls?  
25 A Not that much.

- 1 Q Why not?  
2 A Because the kids will keep on doing graffiti.  
3 Q Why do you think that?  
4 A Because they do that.  
5 Q Because -- excuse me?  
6 A Because they do that.  
7 Q So do you think that there's anything that your  
8 school could do to prevent them from doing it, putting  
9 graffiti on the walls?  
10 A No.  
11 Q As a representative in this lawsuit, I asked  
12 you about the problems at your school and you mentioned  
13 graffiti. Do you think that there's anything that the  
14 State can do about graffiti on the walls?  
15 A I don't know.  
16 Q You mentioned that there's trash in the  
17 hallways, on the floor, trash outside, and trash in the  
18 fields; is that correct?  
19 A Yes.  
20 Q How often do you see the janitor picking up  
21 trash from the floors in the hallways?  
22 A Once a week.  
23 Q How often do you see students throwing trash on  
24 the floor in the hallways?  
25 A About every day.

- 1 Q What do you think -- what would you want your  
2 school to do about the trash in the hallways?  
3 A Clean it up.  
4 Q Do you think that that would help?  
5 A Not that much.  
6 Q Why not?  
7 A Because they just keep on throwing trash again.  
8 Q Who is they?  
9 A Students.  
10 Q Are there trash cans in the hallways?  
11 A Yes.  
12 Q Do you think there needs to be more trash cans  
13 in the hallways?  
14 A Yes.  
15 Q Do you think that that would help keep the  
16 hallways clean if there were more trash cans in the  
17 hallways?  
18 A Yes.  
19 Q Why?  
20 A So that way they don't have to throw the trash  
21 on the floor.  
22 Q Do you think that students are throwing the  
23 trash on the floor because there's not enough trash cans  
24 in the hallways?  
25 A Yes.

- 1 Q And why do you think that?  
2 A Because probably too lazy to go to a trash can  
3 that's too far away, just throw it on the floor.  
4 Q How many trash cans are there right now in the  
5 hallways?  
6 A Like two.  
7 Q Two throughout your school campus?  
8 A In the main building.  
9 Q Where else are there trash cans?  
10 A Outside.  
11 Q How many are there outside?  
12 Seeing that you're pausing, is there a trash  
13 can near the cafeteria?  
14 A Yes.  
15 Q Is there a trash can near the field?  
16 A No.  
17 Q Is there a trash can near the play area near  
18 the cafeteria?  
19 A Yes.  
20 Q Is there a trash can in the gym?  
21 A No.  
22 Q Is there a trash can in the locker room?  
23 A Yes.  
24 Q Is there a trash can in your classrooms?  
25 A Yes.

- 1 Q Is there a trash can in each of your  
2 classrooms?  
3 A Yes.  
4 Q You stated that you see clothes in the toilets  
5 of the locker room every day; is that correct?  
6 A Not every day.  
7 Q How often do you see clothes in the toilet?  
8 A About three or four times a week.  
9 Q Have you ever seen students putting the clothes  
10 in the toilet?  
11 A No.  
12 Q What do you think the school can do about the  
13 clothes in the -- or what would you want the school to  
14 do about the clothes in the toilets?  
15 A There's really nothing to do about it.  
16 Q Why not?  
17 A Because if you take it out, they just keep on  
18 putting more clothes in.  
19 Q Have you ever noticed that there was one day at  
20 school that there was clothes in the toilet and the next  
21 day there wasn't?  
22 A No.  
23 Q So every time that you see clothes in the  
24 toilet, they stay there throughout the school year?  
25 A No, not throughout the school year.

- 1 Q So it's your understanding that the clothes are  
2 somehow removed, though, from the toilet?  
3 A Yes.  
4 Q Why do you think that students will continue to  
5 put clothes in the toilet?  
6 A Because they like doing it.  
7 Q You also stated -- or in your declaration --  
8 actually, let me ask you this. Do student sometimes  
9 take clothes away from kids and hang it on top of the  
10 roof in the locker room?  
11 A Yes.  
12 Q How do they do that?  
13 A They take the clothes away from the kids, and  
14 they -- there's some pipes right -- right next to the  
15 ceiling, and then they hang it. They throw the clothes.  
16 It hangs from the pipes.  
17 Q Is that in the locker room?  
18 A In the locker rooms, yes.  
19 Q How often have you seen students do that?  
20 A Like five times each month.  
21 Q Did you see this happen five times each month  
22 in eighth grade?  
23 A Yes, but not in the beginning of the school  
24 year.  
25 Q Do you know if the PE teacher knew that this

- 1 was happening?  
2 A Yes.  
3 Q How do you know?  
4 A He would see the clothes hanging from the  
5 pipes, but he wouldn't see them taking it away from the  
6 kids, and he wouldn't see the kids throwing it.  
7 Q Did you ever tell the teacher that kids were  
8 doing this?  
9 A No.  
10 Q Do you know if any of the other students told  
11 the teacher that other students were taking clothes away  
12 and hanging them over the pipes?  
13 A No.  
14 Q Do you think the teacher would have done  
15 anything if someone had told him which students were  
16 doing this?  
17 A I don't know.  
18 Q What would you want your school to do about the  
19 students taking clothes from other students and hanging  
20 it on top of the pipes?  
21 Seeing that you're pausing, do you think it  
22 would help if the school removed the clothes from the  
23 pipes on a daily basis?  
24 A Yes.  
25 Q How would that help?

- 1 A If they actually did it every day, it would  
2 actually keep the pipes clean.  
3 Q Do you think the students would stop taking  
4 clothes from other students?  
5 A Yes.  
6 Q What did the teacher say when he saw the  
7 clothes hanging on the pipes?  
8 MS. KOTT: Vague as to time.  
9 BY MS. KOURY:  
10 Q Your PE teacher -- your PE teacher during the  
11 eighth grade, what did he say when he saw the clothes  
12 hanging on the pipes?  
13 MS. KOTT: Are you asking about a specific  
14 instance or any pipe?  
15 BY MS. KOURY:  
16 Q You stated earlier that your PE teacher saw the  
17 clothes hanging on the pipes.  
18 A Yes.  
19 Q What would he say when he saw them?  
20 A Nothing. He would just look at the roof and  
21 just walk -- just walk out. He didn't say anything.  
22 Q Do any of your classrooms have air  
23 conditioning?  
24 A No.  
25 Q How hot does it get at your school in spring

- 1 between March and June?  
 2 A It gets really hot.  
 3 Q What do you mean by "really hot"? Do you know  
 4 if it's hotter than 80 degrees?  
 5 A About 80 degrees.  
 6 Q Does it stay hot at your school for more than  
 7 one day in a row or does it -- I'll leave it at that.  
 8 A Sometimes.  
 9 Q This past school year, was there ever a time  
 10 that it was really hot in school two days in a row?  
 11 A Yes.  
 12 Q Do you remember when that was?  
 13 A In May.  
 14 Q How many days in a row was it really hot?  
 15 A Like two days.  
 16 Q Other than this time in May, can you remember  
 17 any other time during the school year that it was really  
 18 hot for more than one day in a row?  
 19 A No.  
 20 Q Do you remember this time in May being really  
 21 hot in any of your classrooms?  
 22 A No.  
 23 Q Do you remember this time in May ever being  
 24 really hot and not being able to concentrate in one of  
 25 your classrooms because you were too hot?

- 1 A Yes.  
 2 Q Were the blinds closed?  
 3 A They were open.  
 4 Q Were you hot in any other class that day  
 5 besides history?  
 6 A No.  
 7 Q Was history your last period of the day?  
 8 A No.  
 9 Q Excuse me?  
 10 A No.  
 11 Q What did you have after history?  
 12 A French.  
 13 Q Do you think you were hot in history because  
 14 you had just been outside for recess?  
 15 A Yes.  
 16 Q Was there any other classroom that you were  
 17 really hot in, and you couldn't concentrate in, during  
 18 those two days in May when it was really hot?  
 19 A Just PE.  
 20 Q Where were you for PE?  
 21 A Outside.  
 22 Q Have you ever complained about the classroom  
 23 temperatures being too hot?  
 24 A No.  
 25 Q Have you ever heard anyone else complain that

- 1 A Yes.  
 2 Q What classroom were you in?  
 3 A History.  
 4 Q When did you have history?  
 5 A Sixth period.  
 6 Q What do you have for fifth period?  
 7 A Lunch.  
 8 Q Were you outside for lunch that day?  
 9 A Yes.  
 10 Q Did you have free time that day?  
 11 A Yes.  
 12 Q What did you do during your free time that day?  
 13 A Talked to my friends, just walk around.  
 14 Q Did you play?  
 15 A No.  
 16 Q While you were in your history class, did  
 17 anyone complain it was too hot in the classroom?  
 18 A No.  
 19 Q Were the windows open in the classroom?  
 20 A Yes.  
 21 Q Are there fans in this classroom?  
 22 A No.  
 23 Q Are there shades in this classroom?  
 24 A Shades?  
 25 Q Blinds.

- 1 the classroom temperatures were too hot?  
 2 A No.  
 3 Q Do you think your school needs air  
 4 conditioning?  
 5 A Yes.  
 6 Q Why do you think it needs air conditioning?  
 7 A Because sometimes it may get too hot; kids  
 8 can't concentrate.  
 9 Q Have you ever heard kids say that they can't  
 10 concentrate because it was too hot in the classroom?  
 11 A No.  
 12 Q Well, what do you base your opinion that it  
 13 gets too hot and kids can't concentrate?  
 14 A Because I experienced it myself.  
 15 Q And when you say that you've experienced it  
 16 yourself, are you referring to this day in May in your  
 17 history class?  
 18 A Yes.  
 19 Q Is there any other day that you were too hot to  
 20 concentrate?  
 21 A No.  
 22 Q How about in the seventh grade? Was there ever  
 23 a time in the seventh grade where you were too hot to  
 24 concentrate in a class?  
 25 A No.

1 Q Other than the conditions that we've talked  
 2 about today and in May, on May 12th and May 13th, and  
 3 I'm going to go through and repeat what you had stated,  
 4 which was that there were windows cracked, a window  
 5 cracked in your math class, a window cracked in your  
 6 science class; writing on the desks in your English,  
 7 science and math class; gum on the seats in your English  
 8 class; the roof on the library -- by the library is  
 9 broken and falling apart; that the lines for lunch are  
 10 too long, and sometimes, you don't get to eat because of  
 11 that; that the bathrooms are dirty; they don't have  
 12 toilet paper; they don't have soap or towels to wipe  
 13 your hands; and that there's graffiti on the walls in  
 14 the hallways, the gym and the bathrooms; there's always  
 15 garbage in the hallways and on the floor; that the  
 16 locker rooms have graffiti on the lockers; and that they  
 17 take clothes from the kids and hang it on top of the  
 18 roof; and that security doesn't do anything when they  
 19 see kids fighting; and that there's bleachers in the gym  
 20 and there's gum on the bleachers. Is there any other  
 21 condition at your school, this school year, that you  
 22 think is a problem and should be fixed?

23 MS. KOTT: Are you talking just physical  
 24 condition? Because that's what you've described here.  
 25 BY MS. KOURY:

1 Q No. Any other type of problem that you want to  
 2 be fixed through this lawsuit?

3 MS. KOTT: So including books?  
 4 BY MS. KOURY:

5 Q Any other problem that you want to be fixed  
 6 through this lawsuit, other than what we've just -- what  
 7 I've just repeated.

8 A Open the other bathrooms.

9 Q Anything else?

10 A More security guards.

11 Q Anything else?

12 A That's it.

13 Q Were there any problems other than what we've  
 14 discussed that existed while you were in the  
 15 seventh grade that you would want to be fixed through  
 16 this lawsuit?

17 A No.

18 Q You said you wanted to open the other  
 19 bathrooms. What do you mean by that?

20 A The bathrooms -- some bathrooms are not open.  
 21 They're locked all the time.

22 Q What bathrooms are these?

23 A The bathrooms farther from the other bathrooms.

24 Q Do you know where they're located close to?

25 A By driveway -- by driveway where the cars go

1 through.

2 Q How many bathrooms are locked?

3 A Two.

4 Q Are they both near this driveway?

5 A Yes.

6 Q Are they both boys' bathrooms?

7 A One girls' and one boys'.

8 Q Have they been opened at all while you've been  
 9 in the eighth grade?

10 A No.

11 Q Were they ever opened while you were in the  
 12 seventh grade?

13 A No.

14 Q Do you know why they're closed?

15 A No.

16 Q Have you ever heard anyone talk about them  
 17 being closed?

18 A No.

19 Q Have you ever had to wait in line for a  
 20 bathroom?

21 A No.

22 Q Have you ever seen other students, other than  
 23 the time that we discussed on May 12th, wait in line for  
 24 a bathroom?

25 A No.

1 Q Why do you think that these bathrooms should be  
 2 unlocked and opened?

3 A Because it's farther from the other bathrooms  
 4 and it's -- it's a long way to go to the other  
 5 bathrooms. It's better just having those -- those  
 6 bathrooms open.

7 Q When you say "it's a long way," a long way from  
 8 what?

9 A From the other bathrooms. Because if you want  
 10 to go to the bathroom, you would have to go a long way  
 11 to go to the bathroom.

12 Q A long way from where?

13 A From those -- from those bathrooms, from the  
 14 driveway place.

15 Q So you're saying that the bathrooms that are  
 16 locked are far away from the other bathrooms that are  
 17 unlocked?

18 A Yes.

19 Q Why would you have to use the bathrooms that  
 20 are locked if you were at the bathrooms that are  
 21 unlocked?

22 A Because the bathrooms that are locked, they're  
 23 closer to the classes that are at the end by the school,  
 24 instead of just walking all the way to the other  
 25 bathrooms.

1 Q How far do you have to walk to the bathrooms  
2 that are open from the classrooms?  
3 A I don't know how to explain it.  
4 Q Are all the classrooms -- are all your  
5 classrooms close to these bathrooms that are locked?  
6 A Not all my classrooms.  
7 Q Are there classrooms near the bathrooms that  
8 are unlocked?  
9 A Yes.  
10 Q But there are some classrooms that are closer  
11 to these bathrooms that are locked?  
12 A Yes.  
13 Q And do you think it would be more convenient to  
14 use the bathrooms that are now locked when you're in  
15 classrooms that are close to those bathrooms that are  
16 locked?  
17 A Yes.  
18 Q And that's why you would want them unlocked?  
19 A Yes.  
20 Q Is there any other reason why you would want  
21 those bathrooms unlocked?  
22 A No.  
23 Q You said you want more security guards. Why?  
24 A There's not enough security guards in each  
25 hallway.

1 Q Why do you think there's not enough security  
2 guards in each hallway?  
3 A Because during class times, there could be  
4 fights like in the hallways, and they don't do anything.  
5 There's not enough security guards watching -- no  
6 security -- no security guards, you know, watching the  
7 fight.  
8 Q Have you seen any fights in the hallways this  
9 school year?  
10 A Yes.  
11 Q When is the last fight that you saw in the  
12 hallways this school year?  
13 A In May.  
14 Q What happened?  
15 A Some -- some girl was looking for another girl  
16 to fight her. It was -- class was about to begin, but  
17 then the teacher wasn't there yet, because it was late.  
18 So then other kids were following her because they  
19 wanted to see the fight. And then she -- she found the  
20 girl. And then she started beating her up. And there  
21 was no security guards right there watching.  
22 Q Did any of the students tell anyone?  
23 A No.  
24 Q Did any of the students go to get help from the  
25 school office?

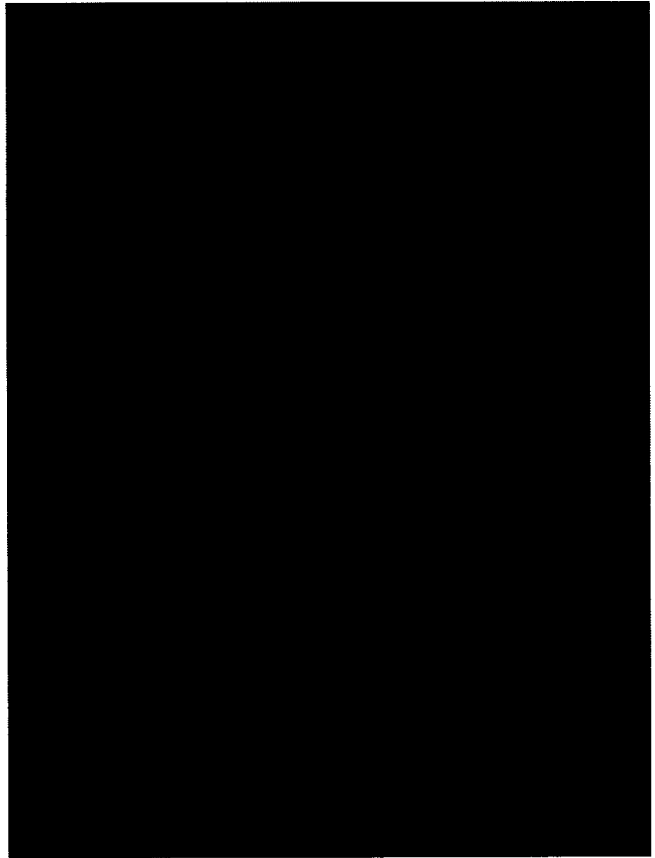
1 MS. KOTT: Objection. Calls for speculation.  
2 THE WITNESS: No.  
3 BY MS. KOURY:  
4 Q Did you -- were you there while the fight was  
5 happening?  
6 A I was like barely walking to class. I was just  
7 walking. And then I saw them. I asked my friend what  
8 happened. He told me the whole story.  
9 Q Do you think it would have helped if someone  
10 went and grabbed another teacher from another classroom?  
11 A Yes.  
12 Q Why do you think that would help?  
13 A The teacher would probably have stepped in or  
14 would have called a security guard.  
15 Q How many security guards are at your school  
16 now; do you know?  
17 A No.  
18 Q Are there usually security guards in the  
19 hallways during school?  
20 A When kids are walking to their class.  
21 Q In between classes, there's security guards in  
22 the hallways?  
23 A No. Like when a class is over and then you  
24 have to go to another class, the security -- they --  
25 they come to the hallways and they just look. But

1 during classes, there's mostly none.  
2 Q When there's security guards in the hallways,  
3 have you ever seen students fight?  
4 A No, but I -- I heard.  
5 Q You've heard students talk about fights  
6 happening while the security guards are there?  
7 A Yes.  
8 Q Have you ever seen a security guard break up a  
9 fight in the hallways or in the school?  
10 A Only outside.  
11 Q What happened?  
12 A Two guys were fighting. And then it took -- it  
13 took a while for the security guards to notice that they  
14 were fighting. They were beating each other up badly,  
15 right, and it was -- I saw it from far away. I came  
16 closer. I didn't know that they were fighting. I came  
17 closer. And then security -- the security guard came  
18 running and he broke it up and the other kid just left.  
19 He left the school.  
20 Q So as soon as the security guard noticed that  
21 they were fighting, he tried to break it up?  
22 A Yes.  
23 Q Do you think it would help if there were more  
24 security guards at your school?  
25 MS. KOTT: Objection. Asked and answered.



1 THE WITNESS: Yes.  
 2 BY MS. KOURY:  
 3 Q How many more security guards would you want?  
 4 MS. KOTT: Calls for speculation.  
 5 THE WITNESS: Like ten more.  
 6 BY MS. KOURY:  
 7 Q Where would you want them to be?  
 8 A In every place. Mostly around the fields, by  
 9 the gym, by the entrance of the school, in the hallways,  
 10 in the cafeteria and by the bathrooms.  
 11 Q Would you want security guards in the  
 12 bathrooms?  
 13 A No.  
 14 Q Don't you think that kids can fight in the  
 15 bathrooms?  
 16 A Yes.  
 17 Q Do you think that there's anything else your  
 18 school could do, other than hiring more security guards  
 19 to stop the students from fighting?  
 20 A No.  
 21 Q Looking at what's already been marked as  
 22 Exhibit 2 to your deposition, which is a report card  
 23 dated August 8th -- I'm sorry -- August 31st, 1999 to  
 24 October 29, 1999, it's the first page of Exhibit 2. On  
 25 the first page of what is Exhibit 2, there's a

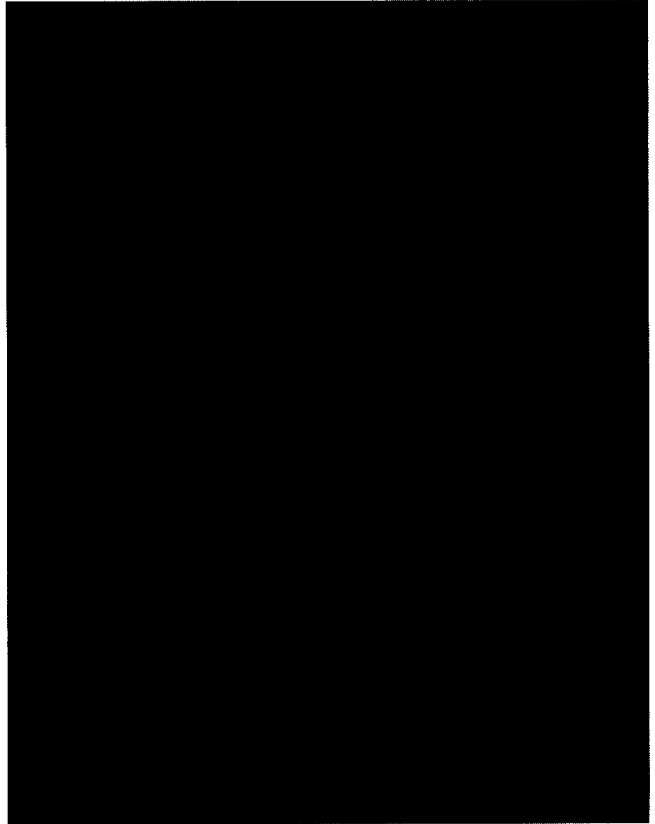
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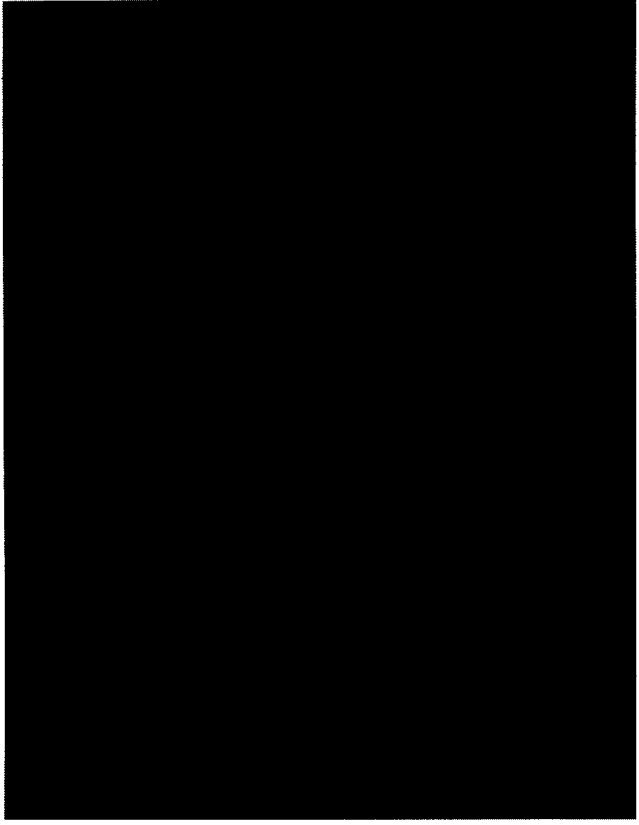
1 comment --  
 2 MS. KOTT: Do you have another copy?  
 3 MS. KOURY: No. I'm sorry. I have one copy  
 4 for the witness and for counsel. You're more than  
 5 welcome to look at it with him. That's a separate  
 6 exhibit. Could we go off the record?  
 7 (Recess.)



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1 MS. KOURY: Correct.  
2 MS. KOTT: Got you. Okay. I guess we would  
3 have to essentially agree to that.  
4 MS. KOURY: Let's just --  
5

6 EXAMINATION

7  
8 BY MS. KOTT:  
9 Q All right. I just have a couple questions  
10 then.  
11 Moises, one thing that you testified to on  
12 either May 12th or the 13th was that you did not have a  
13 math book in your seventh grade math class; is that  
14 correct?  
15 A Yes.  
16 Q Okay. Had you previously stated in a  
17 declaration that you did have a math book in  
18 seventh grade? Do you want to see the declaration to  
19 refresh your recollection?  
20 A Yes.  
21 Q Has this been entered as an exhibit? Simply  
22 use that one.  
23 MS. KOURY: Is that the declaration which has  
24 been marked as the one --  
25 BY MS. KOTT:

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4 MS. KOURY: Could we take a five-minute recess?  
5 MS. KOTT: Sure.  
6 (Recess.)  
7 MS. KOURY: I have no further questions at this  
8 point, but would reserve the right to open the  
9 deposition if there were further documents produced from  
10 the district for which we would want to ask questions.  
11 MS. KOTT: You mean further documents produced  
12 in response to your subpoena to them or student records  
13 or --  
14 MS. KOURY: Correct, which are now -- my  
15 understanding is there have been documents produced that  
16 are going through the process, so our position would be  
17 if they found that those records, after they're approved  
18 by the committee, required further questioning, we would  
19 seek to have further deposition testimony based on those  
20 records.  
21 MS. KOTT: Okay. This is the review committee  
22 of --  
23 MS. KOURY: The one --  
24 MS. KOTT: Yeah, one lawyer from our side and  
25 one from yours?

1 Q As Exhibit 3. Okay.  
2 So let me direct your attention to Defendant's  
3 Exhibit 3. Is that your declaration?  
4 A Yes.  
5 Q Okay. And can you look at paragraph 5?  
6 A Uh-uh.  
7 Q Okay. So do you recall stating that you said  
8 you had your own math book in seventh grade?  
9 A Yes.  
10 Q Okay.  
11 MS. KOURY: Counsel, just a point of  
12 clarification. I'm sorry. When I marked this exhibit,  
13 I stated that it was dated January 28th, 2001. That's  
14 not accurate. This exhibit --  
15 MS. KOTT: That was the other declaration?  
16 MS. KOURY: -- which is marked Exhibit 3 is  
17 dated May 2000. There's no specific day on the  
18 declaration, which is just for the record. Go ahead.  
19 BY MS. KOTT:  
20 Q Okay. Why did you -- which is correct? Did  
21 you have a math book in seventh grade that you could  
22 take home and that was your own that you could use for  
23 homework?  
24 A No.  
25 Q Okay. Why did you make this statement in your

- 1 declaration?
- 2 A Because -- because sometimes he would let us  
3 take our books home.
- 4 Q Okay. So you actually didn't have your own  
5 book, but sometimes he would let you take it home?
- 6 A Yes.
- 7 Q Okay. And also in seventh grade,  
8 [REDACTED] math class, did he help you with your  
9 homework at the beginning of the year and any questions  
10 that you had?
- 11 A No.
- 12 Q Did you ever ask him to help you?
- 13 A No.
- 14 Q Why not?
- 15 A Because he would -- he would act bad to kids.  
16 I was scared of asking him.
- 17 Q Okay. And when did he start helping you with  
18 your homework?
- 19 A After my parents talked to him.
- 20 Q Okay. Just a couple more issues. Do you like  
21 the way that your school looks --
- 22 A No.
- 23 Q -- physically?
- 24 A No.
- 25 Q Okay. How does it make you feel to go to a

- 1 school that has problems that you testified to like  
2 broken windows and graffiti and carving or writing on  
3 desks and a lack of books?
- 4 MS. KOURY: Objection. Vague.
- 5 THE WITNESS: It makes me feel uncomfortable  
6 knowing that my school is in bad condition.
- 7 BY MS. KOTT:
- 8 Q Do you think that that affects your ability to  
9 learn?
- 10 MS. KOURY: Objection. Calls for expert  
11 testimony.
- 12 BY MS. KOTT:
- 13 Q It's interesting. It's your exact question.  
14 You can go ahead and answer.
- 15 A Yes.
- 16 Q Okay. Does it -- do you think it makes it  
17 harder for you to learn?
- 18 A Yes.
- 19 Q How come?
- 20 A Because I can't concentrate knowing that --  
21 knowing that my school -- that the school that I go to  
22 is messed up. And I'm not proud going to that school  
23 because it's in that condition.
- 24 Q Okay. Do you think that -- strike that.  
25 Do you wish you had books to take home to use

- 1 for homework in all of your classes?
- 2 A Yes.
- 3 Q Why?
- 4 A The book contains a lot of information. And it  
5 would help me remember stories, just in case we read in  
6 English.
- 7 Q Is that something that you want this lawsuit to  
8 fix --
- 9 A Yes.
- 10 Q -- to make sure -- wait. Let me finish.
- 11 Sorry -- to make sure that you had a book that you could  
12 take home and use for homework for every class?
- 13 A Yes.
- 14 Q Okay. Do you understand what this means to be  
15 a class representative?
- 16 A Yes.
- 17 Q What does it mean?
- 18 A A person who speaks for other people.
- 19 MS. KOTT: Okay. I've got nothing further.
- 20 MS. KOURY: Just a couple questions.
- 21 MS. KOTT: Okay.
- 22
- 23 FURTHER EXAMINATION
- 24
- 25 BY MS. KOURY:

- 1 Q When you say that you don't -- you didn't have  
2 a math book in your seventh grade class, do you mean  
3 that you didn't have a math book to use in class during  
4 class time?
- 5 A No.
- 6 Q You did have a math book to use during class in  
7 your seventh grade math class?
- 8 A Yes.
- 9 Q Did you have your own book to use? In other  
10 words, you didn't have to share with other students  
11 during your seventh grade math class?
- 12 A Yes.
- 13 Q And each time that you asked to take home a  
14 book in your math class, you were able to; is that  
15 correct?
- 16 A Not all the time.
- 17 Q Did you ever ask to use -- to take your math  
18 book home in your seventh grade math class and you  
19 weren't able to take it home?
- 20 A Yes.
- 21 Q When?
- 22 A When I had homework.
- 23 Q Excuse me?
- 24 A When I had some homework that he gave me.
- 25 Q Do you remember when that was?

1 A No.

2 Q How many times did you ask [REDACTED] if you  
3 could take the book home to do homework and he said no?

4 A Just once.

5 Q Do you remember when you testified on  
6 May 12th and I asked that question, you answered that  
7 there was never a time when you weren't able to take the  
8 book home when you asked [REDACTED]; do you remember  
9 that?

10 A No.

11 Q Do you -- you also testified that another  
12 student had asked [REDACTED] if they could take their  
13 book home in your math class and [REDACTED] had said  
14 yes; do you recall testifying to that?

15 A No.

16 Q Do you recall testifying that there was never a  
17 time that you could remember that a student in your  
18 class asked to take the book home in [REDACTED]  
19 class and he did not allow them to take the book home?

20 A I don't understand.

21 Q You had testified on May 12th that you can't  
22 recall -- you couldn't recall any time that a student  
23 asked to take a book home in [REDACTED]'s class where  
24 [REDACTED] did not allow them to take the book home;  
25 do you remember testifying to that?

1 A I copied some, but I wanted to copy all of it,  
2 but I didn't have enough time to copy most of it.

3 Q Did the other -- do you know if the other  
4 students were able to copy down the problems?

5 A No.

6 Q Why didn't you have enough time?

7 A Because the bell rung.

8 Q Why didn't you have time during the period to  
9 copy down all the problems?

10 A Before I was correcting -- I was correcting  
11 some other work that I had to do.

12 Q Did you ask [REDACTED] if you could use the  
13 book a little bit after class to continue copying down  
14 the problems?

15 A No.

16 Q You stated that the way the buildings look at  
17 your school make you uncomfortable?

18 A Yes.

19 Q And you can't concentrate knowing that your  
20 school looks like that?

21 A Yes.

22 Q What do you mean you can't concentrate?

23 A Because just knowing like where you're at is in  
24 bad condition, it makes you feel bad and wish I could go  
25 to a better school.

1 A No.

2 Q Do you still not understand what I'm saying?

3 A No.

4 Q Okay. On May 12th, I asked you, "Have you ever  
5 asked to take home this math book in [REDACTED]  
6 class and [REDACTED] did not allow you to take the  
7 math book home?"

8 And you said, "No, there was no such time." Do  
9 you remember testifying to that effect?

10 A No.

11 Q Do you think, perhaps, that you just didn't  
12 remember this one instance when you had asked  
13 Mr. Flaherty to take the book home and he said no?

14 A Yes.

15 Q Do you remember why he said no?

16 A No.

17 Q Do you remember why you wanted to take the book  
18 home?

19 A So -- so I could -- be easier for me to copy  
20 down the problems.

21 Q Were you supposed to copy down the problems  
22 during class time?

23 A Yes.

24 Q Why weren't you able to copy down the problems  
25 during class time?

1 Q Do you think that if you went to a better  
2 school you wouldn't talk as much in class?

3 A If I didn't have any friends.

4 Q Do you think the conditions at your school  
5 affect whether or not you talk during class?

6 A No.

7 Q Do you think the conditions that you described  
8 as making you uncomfortable affect your ability to  
9 achieve in certain classes?

10 A Yes.

11 Q What classes?

12 A Science.

13 Q How does it affect your ability to achieve in  
14 science class?

15 A There's a -- there's a lot of trash in there  
16 and it makes -- it's -- always get to my mind and it's  
17 hard for me to concentrate because of that.

18 Q Is there a trash can in that classroom?

19 A Yeah, but it's always full.

20 Q What kind of trash is in the classroom?

21 A Papers, bottles.

22 Q Do you know why the trash can isn't emptied?

23 A They never empty it.

24 Q Do you know who's supposed to empty it?

25 A The teacher.

- 1 Q Have you ever asked the teacher why it's not  
2 emptied?  
3 A No.  
4 Q Have you ever complained to your parents about  
5 the trash in the class?  
6 A No.  
7 Q Do you think it would help if you told your  
8 parents that you thought that there was too much trash  
9 in this classroom if your parents complained to someone  
10 at school?  
11 A Yes.  
12 Q Why do you think that would help?  
13 A Because when they complain to the person, I  
14 guess the person would try to help.  
15 Q Do you think it would help if your parents  
16 talked to this teacher, your science teacher?  
17 A Yes.  
18 Q Why do you think it would help?  
19 A Because he would do his job right.  
20 Q Which is to empty the trash can in a classroom?  
21 A Part of it, yes.  
22 Q Why haven't you asked your parents to complain  
23 to the teacher about the trash if it bothers you so much  
24 in your class?  
25 A It never goes to my mind to ask them, to tell

- 1 them.  
2 Q Is there any other classroom or any other class  
3 that you think you would be able to achieve more if  
4 these conditions which make you uncomfortable didn't  
5 exist?  
6 A No.  
7 MS. KOTT: I'm going to have to object to this  
8 line of questioning, anyway. You're misconstruing his  
9 prior testimony. He never said that any one thing  
10 affected him in any one class. He's simply stated as a  
11 whole that the conditions made him feel bad and made it  
12 harder for him to concentrate because he was going to a  
13 bad school.  
14 MS. KOURY: Counsel, if you want to object,  
15 feel free to. But if you're going to give speaking  
16 objections, I'm going to object to that as being  
17 inappropriate.  
18 MS. KOTT: I'm just trying to clarify.  
19 BY MS. KOURY:  
20 Q Is there any other way that these conditions  
21 that you stated make you feel uncomfortable or affect  
22 your ability to learn, prevent you from learning in any  
23 of your classes?  
24 A No.  
25 Q Do the conditions at your school affect your

- 1 ability to do your homework at home?  
2 A By not letting me take the books home, it  
3 affects me.  
4 Q Is there anything else besides not being able  
5 to take your books home, that affect you or your ability  
6 to do your homework at home?  
7 A No.  
8 Q Other than your English class, which you've  
9 discussed, is there any other class that you want to  
10 take a book home to study from throughout this past  
11 eighth grade class -- school year?  
12 A History.  
13 Q Any other class?  
14 A No.  
15 Q Why would you have wanted to take your history  
16 book home?  
17 A Because it could help -- it could help me more  
18 on my tests.  
19 Q Did you ever ask if you could take your history  
20 book home?  
21 A No.  
22 Q How do you know that you couldn't take it home?  
23 A Because there wasn't enough books for the rest  
24 of the classes.  
25 Q Have you ever asked the teacher if you could

- 1 just check it out to study from it?  
2 A I don't think you could check it out.  
3 Q Why?  
4 A They don't do that kind of stuff at my school.  
5 Q How do you know?  
6 A I just know. I don't know.  
7 Q Have you ever asked anyone if you could check  
8 out a book --  
9 A No.  
10 Q -- for your history class?  
11 A No.  
12 Q Is there any other book, other than your  
13 history book or your English book, that you would have  
14 wanted to take home this past school year that you  
15 couldn't?  
16 A No.  
17 Q How about the seventh grade? Was there any  
18 book, other than the math book which you've discussed  
19 with me, that you would have wanted to take home that  
20 you couldn't take home during the seventh grade?  
21 A History.  
22 Q Any other book?  
23 A No.  
24 Q What would you have wanted to use your history  
25 book at home for?

1 A Sometimes he would give us reports on -- on  
 2 what we were learning on and the book contains a lot of  
 3 information for us to complete the report.  
 4 Q Did you work on the report during class time?  
 5 A Yes.  
 6 Q Could you use your book to work on the report  
 7 during class time?  
 8 A Yes.  
 9 Q Did you work on your report at home?  
 10 A Yes.  
 11 Q Did you ever ask the teacher if you could use  
 12 the history book at home?  
 13 A No.  
 14 Q Did you ever ask the teacher if you could check  
 15 the history book out --  
 16 A No.  
 17 Q -- to take home?  
 18 I have no other questions.  
 19 MS. KOTT: Okay.  
 20 (Recess.)  
 21 MS. KOURY: May we stipulate copies of  
 22 documents attached to the deposition may be used as  
 23 originals?  
 24 MS. KOTT: Yes.  
 25 MS. KOURY: May we stipulate that the original

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 9 I, MOISES B. CANEL, do hereby declare under  
 10 penalty of perjury that I have read the foregoing  
 11 transcript; that I have made any corrections as appear  
 12 noted, in ink, initialed by me; that my testimony as  
 13 contained herein, as corrected, is true and correct.  
 14 EXECUTED this \_\_\_\_ day of \_\_\_\_\_,  
 15 2001, at \_\_\_\_\_,  
 (City) (State)  
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 17  
 18 \_\_\_\_\_  
 MOISES B. CANEL  
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1 of this deposition be signed under penalty of perjury,  
 2 that original be delivered to the office of Morrison and  
 3 Foerster; that the reporter is relieved of liability for  
 4 the original of the deposition; that the witness will  
 5 have 15 days from the date of the court reporter's  
 6 transmittal of the transcript to Amy Kott at Morrison  
 7 and Foerster, to sign and correct the deposition; that  
 8 Amy Kott shall notify all parties -- I'm sorry -- that  
 9 Moises Canel, through his attorney, shall notify all  
 10 parties in writing of any change in the deposition; and  
 11 that if there are no such changes communicated or  
 12 signature within that time, that any unsigned and  
 13 uncorrected copy may be used for all purposes as if  
 14 signed and corrected?  
 15 MS. KOTT: Yes.  
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 2  
 3 I, LILY M. WONG, a Certified Shorthand  
 4 Reporter of the State of California, do hereby  
 5 certify:  
 6 That the foregoing proceedings were taken  
 7 before me at the time and place herein set forth; that  
 8 any witnesses in the foregoing proceedings, prior to  
 9 testifying, were placed under oath; that a verbatim  
 10 record of the proceedings was made by me using machine  
 11 shorthand which was thereafter transcribed under my  
 12 direction; further, that the foregoing is an accurate  
 13 transcription thereof.  
 14 I further certify that I am neither  
 15 financially interested in the action nor a relative or  
 16 employee of any attorney or any of the parties.  
 17 IN WITNESS WHEREOF, I have this date  
 18 subscribed my name.  
 19  
 20 Dated: \_\_\_\_\_  
 21  
 22 \_\_\_\_\_  
 LILY M. WONG  
 CSR No. 11487  
 23  
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