

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

--o0o--

ELIEZER WILLIAMS, a minor, by)
SWEETIE WILLIAMS, his Guardian)
ad Litem, et al., each)
individually and on behalf of)
all others similarly situated,)

Plaintiffs,)

vs.)

No. 312236)

STATE OF CALIFORNIA, DELAINE)
EASTIN, STATE SUPERINTENDENT)
OF PUBLIC INSTRUCTION,)
STATE DEPARTMENT OF EDUCATION,)
STATE BOARD OF EDUCATION,)

Defendants.)

DEPOSITION OF
ROBERT CORLEY

SACRAMENTO, CALIFORNIA

March 13, 2003

VOLUME IV - PAGES 571 through 790

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REPORTED BY: MARY ELLEN EDD, CSR NO. 9755

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18 STATE BOARD OF EDUCATION,)
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21 Defendants.)
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VOLUME IV
(Pages 571 through 790)

Deposition of ROBERT CORLEY, taken on behalf
of California School Boards Association, at 400 Capitol
Mall, Suite 2600, Sacramento, California, commencing at
9:40 a.m., Thursday, March 13, 2003, before MARY ELLEN
EDD, CSR No. 9755, pursuant to notice.

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I N D E X

2 WITNESS: ROBERT CORLEY
3 EXAMINATION PAGE
4 By Mr. Hajela 575
5 By Mr. Reed 631
6
7

8 EXHIBITS
9 (NONE)
10

11 QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER:
12 (NONE)
13

14 INFORMATION TO BE SUPPLIED:
15 (NONE)
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1 ROBERT CORLEY,
2 having first been duly sworn, was
3 examined and testified as follows:
4

EXAMINATION

5 BY MR. HAJELA:

6 Q. Good morning, Mr. Corley, my name is Abe
7 Hajela. I represent the California School Boards
8 Association. We've intervened in this lawsuit.
9 We've spoken a great deal, so I don't need to
10 do a lot of introductions, and also you've had three
11 days of deposition testimony, so I believe you
12 understand the ground rules.
13 A. Okay.
14 Q. The only thing I do want to say, if I ask
15 something that you don't understand, it's a confusing
16 question and you want me to clarify, just tell me, and
17 I'll do my very best to clarify.
18 A. Okay.
19 Q. Now, you spoke quite a bit about funding last
20 time with Mr. Seferian, and I don't want to spend a lot
21 of time with that again. I just want to take you to a
22 couple sections of your report.
23 Did I refer you to page 51 of -- sorry, off
24 the record.
25

1 (Discussion off the record.)

2 Q. BY MR. HAJELA: Okay. Page 51 of your report
3 which is Exhibit 1, down near the bottom, there's a
4 quotation from the Legislative Analyst's Office,
5 "Although districts typically incur capital outlay
6 expenses every year, refurbishing or constructing
7 facilities, acquiring land or developing architectural
8 plans, the State Office facility aid on an unpredictable
9 basis. State bonds are usually fully depleted before
10 additional funds are authorized by voters leaving hills
11 and valleys of revenue availability. This unpredicted
12 availability in State funding impairs district's
13 capacity to plan, build schools and raise supplemental
14 local funds. Legislative Analyst 2001."

15 Do you agree with the statement from the
16 Legislative Analyst's Office?

17 A. Yes. It accurately describes the pattern of
18 funding that the school districts of California have had
19 to deal with for the past generation. It's gone on
20 really back to the 1970s.

21 There will be a bond passed. There will be a
22 flood of money that quickly runs out, but before you
23 could start a project, get it designed, get it submitted
24 to the State, the State's out of money and everything
25 goes on hold, the project ages, things happen, and then

1 school that's needed. That deprives the next project,
2 and the snowball just happens. That's why local bonds
3 are being passed and people are struggling to keep up.

4 Q. Can you talk a little bit about the phrase
5 "exacerbating existing problems"? Can you tell me a
6 little, like, for example, give me examples of what you
7 mean there?

8 A. In this context, we're discussing an existing
9 problem would be an existing overcrowded school. For
10 example, you already lined up portable classrooms on the
11 playground. Now, do we take our scarce local money and
12 build a new bathroom to provide adequate capacity for
13 the kids in the portables and on the playground, or do I
14 take that same dollar and put it toward the new school
15 we really need?

16 But, because I cannot predict and depend on
17 State funding, do I take the dollar and spend it here,
18 do I take the dollar and save it for the future?
19 Meanwhile, the kids stand in line to go to the bathroom.

20 And that's just one unpredictability of the
21 modernization and deferred maintenance.

22 You develop your five-year deferred
23 maintenance budget. You plan your projects and then the
24 State deficit funds you, so you don't have the money.
25 So do you fix the bathroom, do you fix the roof?

1 there's more money. It's a terrible system. And
2 districts and kids of California have suffered.

3 Now, there's been an attempt to do better with
4 Prop. 1A, Prop. 47. But we're not -- we have problem
5 with Prop. 1A. We're surely going to run out of Prop.
6 47 money at some point, so we're not fixed. Even though
7 the massive infusions have helped, the system is not
8 really responding to the total need.

9 Q. Thank you. And then to refer you to your own
10 affirmative statement. I believe it's on page 46. It's
11 number 3, listed under Roman Numeral VIII there.

12 A. Uh-huh.

13 Q. You state, "Inconsistent and insufficient
14 State funding has led to inefficient facility
15 construction and renovation programs by local school
16 districts which have exacerbated existing problems."

17 Is that still your opinion today?

18 A. Yes, it's going on today. It's, again, the
19 large bond measures have helped, and the reforms that
20 were incorporated in SB50 and Proposition 1A have
21 helped. Things are better than they were a decade ago.
22 But still the inconsistencies, the inadequacy of
23 funding, I mean it is extremely difficult to build a
24 school using the State allowances. Almost every
25 district has to dip into their other funds to build the

1 If they were a hundred percent funded, you
2 could do both like you planned. So you build your plan
3 and do your best. And then they short-change you. And
4 then you've got to bounce the project into the future
5 which displaces the next project, and the avalanche just
6 keeps going to the edge of the page, and that's why we
7 have this huge facilities deficit. It's a persistent --
8 it's the entire generation, it's not me. It's not one
9 thing, one decision. It's gone on for so long.

10 People are -- the bond funds are just getting
11 us back to the starting point. We're not getting ahead.
12 We're just catching up. And districts, like evidenced
13 in Los Angeles, trying to unload the busses, trying to
14 unload Concept 6 is a staggering challenge. Okay.

15 But don't get me started.

16 Q. In response to questions by Mr. Seferian, I
17 can't remember which day it was, I think it was day one,
18 you identified Oxnard and Lodi as districts that you are
19 aware of that were negatively impacted by inconsistent
20 and insufficient funding. Do you recall that?

21 A. Yes.

22 Q. I believe you stated that certain facilities
23 projects in those districts could not go forward because
24 the districts were waiting in line for State funding; is
25 that right?

1 A. Yes. Both districts are struggling. Again,
2 with the new bond money, they're finally getting their
3 projects up to the point where they hope to get them
4 built in the reasonable future. But both are struggling
5 to get off multi-track, tremendously crowded, you have
6 got portables everywhere, and it's been a matter of the
7 need has been present, but the State money wasn't there.
8 So they took their local money from the local bonds and
9 had to spend it just to keep the roof over the kids'
10 heads.

11 When the State money became available, they
12 didn't have the marks to get in line, so they redesign
13 the project, and then the State money ran out. It's
14 this start, stop, start, stop. The kids still keep
15 coming. Both of these are rapidly growing communities.

16 Q. I just want to take each district separately
17 for a minute and see if we can be a little more
18 specific.

19 So for Oxnard, projects were not able to go
20 forward because of lack of State funding. You mentioned
21 overcrowding. Other than overcrowding, were there other
22 negative impacts on facilities' conditions?

23 MR. ELIASBERG: Objection. Compound.

24 THE WITNESS: It's a very complex scenario.
25 For example, the modernization projects had to be

1 A. Oh, every day. I mean, there's one down week
2 a year, one week. And some people celebrate Christmas
3 and New Year's during that week. They do get the 4th of
4 July off. But school ends on a Friday and starts on
5 Monday. There's no down time, so maintenance is done
6 weekends, nights. The deep cleaning just gets done as
7 best it can.

8 And it's -- there -- these schools are just
9 beat up. They're constantly in use. There is no down
10 time. The grass never gets to rest.

11 So, really, again, they're maxed out and
12 they're not clean. There are other districts. There
13 are plenty of these examples.

14 There's another factor, too, of just the
15 stress of this constant churning in multi-track, and
16 that's something that's addressed in here. But one
17 consequence is you're teaching knowing that when your
18 term is up, you have to pack up the classroom, put it in
19 a bin, roll it out to the shed.

20 Then the next day another teacher rolls their
21 bin in, has to unpack their bin and get set up to start
22 teaching.

23 So there's a starting, stopping, starting,
24 stopping. In the traditional school, you get a break
25 time, you say good-bye, lock the door, unlock the door

1 deferred because they had no space to put the kids
2 during modernization because every inch was tied up with
3 portables because they couldn't build a new school.

4 They had to dip into their local funds, using
5 the general fund to rebuild and reopen an older -- they
6 had a tiny, old school in downtown that had been closed.
7 They had to reopen that just to get capacity to house
8 the kids who showed up. And this district is a hundred
9 percent multi-track. They ran out of rope, so they had
10 to do something, so they were able to scrape that money
11 together. They were able to get a minimally adequate
12 school out. But it's clearly not equal to the schools
13 in other communities.

14 And this is a disadvantaged community. This
15 is a poor side of the disadvantaged community. Those
16 kids have a substandard school. It's clean, it's
17 decent. It's the best they could do. They're happy to
18 have it. They don't have a big bus ride. But it's --
19 parity doesn't play into it. But I'm proud that the
20 district was able to respond. They really pulled off a
21 miracle to get anything on the ground.

22 Q. BY MR. HAJELA: Uh-huh. Does not being able
23 to move forward with projects, well, build new schools
24 and modernization projects, does that impact maintenance
25 problems in the schools?

1 and start teaching.

2 In the year-round school, you've got two days
3 usually at each end tearing down and setting up again.
4 That's four instructional days three times a year.
5 That's cutting into the basic core educational duties.

6 And the reason is lack of funding, lack of
7 facilities. It's not the choice. It's just -- it's a
8 reaction not a proactive stance.

9 Q. Okay. Then, moving to Lodi, and I won't make
10 you repeat all that. Are the problems similar in Lodi
11 or are they unique problems as compared to Oxnard?

12 A. Again, Lodi is one of those districts that
13 didn't grow, didn't have local funding, accepted year
14 round as a way of increasing their state eligibility
15 under the lease-purchase program.

16 When the lease-purchase program went away,
17 they were kind of trapped. They had a mandate to come
18 up with their 50 percent share. They did not have the
19 local funds. It's a rapidly growing community. And
20 Lodi Unified includes the north part of Stockton. So
21 it's much more than just the little town of Lodi. It's
22 the surrounding farm area and the whole north Stockton
23 strip which is rapidly growing and developing.

24 So they, again, have been spending every
25 nickel they have just to keep ahead of a tidal wave. So

1 they are not able to accumulate the cash to build the
2 new high school, to build the new elementaries. They
3 have to take the money they have to rent, lease and
4 install the portables to take care of today's kids
5 today.

6 And finally, what with their new bonds, with
7 the new State money, they're able to break down, they
8 have five schools under construction, so there's light
9 at the end of the tunnel. But in that case, the light
10 is getting off of Concept 6.

11 The board made a very bold statement they will
12 end Concept 6, which is educationally inferior. They
13 will still be on four track and eventually some day
14 would like to get a four track onto some other calendar.

15 So they're out of the fire. They're getting
16 out of the fire. They're still in the frying pan, and
17 some day they will get out.

18 Q. As far as Lodi and Oxnard at least go, we've
19 talked about problems really due to insufficient and
20 inconsistent State funding.

21 Given your work in the field, do you have an
22 opinion regarding whether problems with overcrowding in
23 school districts other than Lodi and Oxnard are often
24 related to insufficient or inconsistent State funding?

25 A. I've never met a school administrator who

1 anybody said, "I'm just not going to try to build a
2 school, because I like having portables on my
3 playground." It just doesn't happen.

4 Q. Going back to Oxnard and Lodi -- let's start
5 with Lodi. Despite the lack of State funding, can you
6 describe some of the things the district tried to do,
7 including hiring consultants such as yourself, to
8 improve the conditions of their school facilities?

9 A. Lodi has had a fairly good facilities
10 department. Mamie Star, who's been director and been
11 there a long time, is very well regarded around the
12 State. They have portables everywhere. They've gone to
13 multi-track, four-track calendar. When that wasn't
14 adequate, they went to the three-track Concept 6
15 calendar, which is a shorter school year, few more
16 minutes each day, fewer instructional days per year, but
17 you can pack in more kids. They bus kids all over the
18 place.

19 They've reopened schools that have been
20 abandoned. I'm thinking Elkhorn Elementary School had
21 been abandoned. It was an old beat-up country school.
22 They drug in portables and reopened it. It wasn't
23 optimal, but they had to do it. And you get to -- they
24 went to the extreme of they took a new elementary school
25 and converted it into the core of a new high school and

1 asked for an overcrowded school. I mean, you just don't
2 do it. It's quite widespread in the State of California
3 from San Diego all the way to Sonoma County, you find
4 examples.

5 What happened with the change of California
6 development is the growth went from the urban centers to
7 the suburbs and now we're going to the outer suburbs.
8 So we have this expanding wave that's pushing crowding
9 into new communities every year. It isn't a static item
10 that can be fixed today and in the upcoming year.

11 It's when Orange County got crowded, people
12 started going to Riverside County. When Corona got
13 built out, people started moving to Bowmont and Banning,
14 towns way out there. People commute long distances.

15 So part of Vacaville's crowding today is due
16 to growth here in Sacramento. So, again, it's not a
17 static problem. It moves from community to community.

18 And then in the urban areas, there's a
19 resurgence of population due to immigration and new
20 economies and affordable housing, lot of factors. So we
21 have a multitude of issues to deal with around the
22 state. Nobody wants an overcrowded school.

23 So, to answer your basic question,
24 inconsistent funding, inadequate funding led to this
25 problem, no matter where you see it. I don't think

1 brought in a fleet of portables just to handle the kids.

2 So it's -- they've done just about every trick
3 in the book to survive. They did pass a bond. They are
4 building finally. They're getting out of their backlog.
5 But they have a long way to go. And every day new
6 houses are built in the community, new people moving in.
7 The community keeps changing. So the problem's not just
8 one day. It keeps changing.

9 Q. And without asking you to repeat all that, the
10 same question for Oxnard, despite the lack of State
11 funding, can you describe some of the things they've
12 tried to do to improve school facilities?

13 A. Pretty much they've had same responses. The
14 biggest difference in Oxnard versus the Stockton-Lodi
15 area is the lack of land. They have two major airports
16 that restrict huge parts of town from developing
17 schools. They have big agricultural areas. They have a
18 coastal zone which is subject to Winchell faction where
19 they can't build schools.

20 So between the various constraints, they have
21 had a very difficult time finding land to build anything
22 on.

23 That's been a burden that Lodi, fortunately,
24 doesn't have to deal with.

25 They're building multi-story buildings on

1 their campuses now. They've added portables everywhere.
2 They have not gone to Concept 6. That's where they've
3 drawn the line.

4 But they've reorganized the schools. They've
5 just done about everything. So, again, I give great
6 credit to the school administrators who are out there
7 and the school boards who you represent who have
8 responded to the reality of crowding. They've really
9 done the best they can. But when you just have a few
10 dollars to work with and you have no knowledge of when
11 you will get money from the State, you send in your
12 paperwork and you wait and you wait. But, meanwhile,
13 you've got to take care of the kids that are there
14 today.

15 Q. Given your experiences with both -- well,
16 let's take Lodi first, Lodi school officials, would you
17 say they are committed to solving school facilities
18 problems in their district?

19 A. Oh, in every school board meeting, this is the
20 topic of discussion. Every meeting I went to, this was
21 brought up. And they're focused on it.

22 But when you have a \$10 million need and
23 you've got 100,000 in the bank, it's a big gap. So
24 they're doing what they can.

25 They've really kept up, but the school board

1 funding.

2 Q. Let me ask you a question that's similar, but
3 slight -- phrased slightly different. I think it means
4 something different than commitment.

5 In your opinion, is Oxnard a poorly managed
6 school district?

7 A. No. Actually, I have philosophical
8 differences with decisions made ten years and more ago
9 by a different administration that made a big commitment
10 to go on multi-track and not buy land and build future
11 schools. Those people are long retired and gone.

12 The current administration is actually more
13 efficient. It is a lean, mean administration. There's,
14 for the number of students they have, it's a very small
15 staff. Everyone works very long hours, and it's an
16 excellent cooperation. The superintendent is a
17 marvelous leader.

18 The district is alive, vigorous and moving.
19 They have great educational reforms. They have
20 innovative programs. They're just packed in like
21 sardines. And they'd love to have summer school, but
22 they never have summer. They have Track B. So it's --
23 they never -- how do you do summer enrichment when you
24 don't have summer? They had the one closed school as a
25 pull-out summer school center, and it was a great

1 has been very focused on improving education, on giving
2 better facilities, the superintendent on down to the
3 administrative staff and site principals. The parents
4 have come forward, so it's a community effort.

5 But every school board meeting, this is
6 discussed. It's constantly on their agenda. There's
7 great frustration on the school board. Why isn't the
8 State sending our check.

9 I know the Cadenas (phonetic) lawsuit just
10 broke their heart. They finally thought they were going
11 to get funded and then were told, "You don't have enough
12 priority. Go stand in line." It's been a very rocky
13 road.

14 Q. And, again, not asking you to repeat all of
15 that. I think I asked you about whether not you have
16 the same opinion of Oxnard.

17 A. Again, every school board meeting, this comes
18 up. The situation in Oxnard is different in one
19 respect, that they have passed a bond, then they passed
20 a second school bond, and they're bonded to capacity.
21 They cannot go out and sell another bond. They have
22 done it. Their voters have done it. They have a huge
23 margin of support. They cannot sell another bond. The
24 tax base simply will not support it. They are dependent
25 on the little stream of developer fees and State

1 program. They were forced to abandon the program for
2 space because they had to put regular classes in that
3 school. That's a terrible choice.

4 I would say they actually have one of the
5 best. The management team have been there a long time,
6 very stable team, excellent coordination all the way
7 through the ranks. So it's an example of a well-run
8 district.

9 Q. Let me ask you the same question as to Lodi.
10 In your opinion, is Lodi a poorly managed school
11 district?

12 A. No. In fact, I advised other clients to go
13 visit them to see how a well-run district is well run.
14 And many of the staff came out of Elk Grove and other
15 very fast-growing districts, so they've been trained for
16 years on how to deal with changing growth and expansion.

17 Again, it's a relatively small administrative
18 team. There aren't big departments wondering what to
19 do. They're people working long, hard hours every day.
20 They're there on Saturday. They're there till
21 9:00 o'clock at night. And they produce a lot.

22 So they've got a very good team, and it's been
23 a privilege to work with both districts. I learned from
24 them, and hopefully they learn a little bit from my
25 experience.

1 And the nice thing is things are happening.
 2 You can go there and see a school being built there
 3 today. So they're not talking. They're doing.
 4 Q. Let me take them one at a time again, and
 5 let's start with Oxnard. Despite the fact that they
 6 have a committed staff and a well-run school district,
 7 they have a well-run school district, well-managed
 8 school district, they still have serious facility
 9 problems; is that correct?

10 A. The root of all these problems is money. And
 11 both districts are standing at the bottom of a hole in
 12 terms of their capacities. I mean, they have to build
 13 schools today to catch up, not to get ahead.

14 And when you look out and see vineyards
 15 becoming housing tracts, it's very frustrating, because
 16 you finally get the school built you hoped to have built
 17 four years ago. Meanwhile, 2,000 more houses got built.
 18 So now you're back in the bottom of the hole trying to
 19 get up to ground level.

20 It's been a real struggle. But they've kept
 21 their nose to the grindstone and they're making
 22 progress. They've bought land. They're building
 23 schools. Doors are open. They're getting there, but
 24 they've got a long way to go.

25 Q. So your statement there, I think, that the

1 was a fairly significant chunk of money set aside for
 2 the backlog. I mean the situation was so bad, the bonds
 3 actually included a chunk of money in billions of
 4 dollars to pay for the backlog. These were completed
 5 projects, hundred percent designed, hundred percent
 6 through plan checks, sitting on the shelves at the State
 7 waiting for money. That gives you an idea of the
 8 situation.

9 So it's no secret. It's out there.

10 Q. When you were talking with Mr. Seferian, and I
 11 don't remember, I think it was day two, you were
 12 discussing an oversight system by the State and actually
 13 the cost of that system. And you used the phrase "the
 14 huge majority of schools" to indicate most schools are
 15 doing a good job in dealing with facility conditions and
 16 would not need State intervention. Do you recall that?

17 MR. ELIASBERG: Objection. Misstates prior
 18 testimony of the witness.

19 THE WITNESS: I remember the general
 20 discussion. The specifics, I'd have to refer back to
 21 some source documents. It was a month ago.

22 Q. BY MR. HAJELA: Yes. No, I understand that.

23 A. I remember every other word I said, but not
 24 that one.

25 Q. I appreciate that. Let me just ask you --

1 root cause is the lack of funding. I was wondering,
 2 based on your work in the field, do you know of other
 3 school districts, meaning other than Lodi and Oxnard,
 4 that are well managed, have committed staffs, and yet
 5 have facility problems?

6 A. Oh, if you go to the OPSC web page and look up
 7 this, the survivors in this field, the districts who
 8 keep working at it, which is the vast majority of them
 9 are, you know, I won't say they're perfectly managed,
 10 but, of course, they're well managed. You don't stay in
 11 your job very long.

12 The thing about facilities is people can see
 13 the change. If you say, "I'm going to paint that
 14 school," and it doesn't get painted or it gets painted
 15 badly, everybody driving down the street sees it.
 16 There's a high level of public accountability. And
 17 everybody who's painted their own house is an expert on
 18 painting. You get lots of advice.

19 Did you buy the land or didn't you buy the
 20 land? Are the plans here? Are the plans not here?
 21 There's a very -- it's pretty hard to hide, in other
 22 words.

23 So people do know what's going on. And I
 24 guess, to give you just an illustration on
 25 Proposition 47, the bond that passed in November, there

1 A. But the general statement, yes.

2 Q. Let me ask you then sitting here today, is it
 3 your opinion that the huge majority of schools are doing
 4 a good job of facilities and are not in need of State
 5 intervention?

6 MR. ELIASBERG: Objection. Vague.

7 THE WITNESS: Well, let me clarify the
 8 statement.

9 A few minutes ago, we were talking about
 10 building new schools and major big time construction
 11 projects. The discussion I believe you're referring to
 12 was about more of an operational side. It's are the
 13 bathrooms clean. Is the broken glass fixed. Are there
 14 safety hazards that would affect students.

15 So rather than big multi-million dollar
 16 construction, it's like did somebody scrub the bathroom,
 17 you know, is there -- are the toilets clean. To use,
 18 you know, most focused examples, order of magnitude,
 19 difference in cost, time required and the frequency of
 20 action required.

21 So your question is, is the vast majority of
 22 schools in this state are clean, and the report clearly
 23 says that. I think if you just picked a hundred schools
 24 at random, you know, you go to two thirds of them and
 25 say, "Wow, you this a pretty nice little school." And

1 then there's that other third. As we talk in the
2 report, you go and say, "This is a pretty nice little
3 school, but, geez, what's with the old paint? Isn't
4 that a roof leak?" or something.

5 And then there's that smaller group of
6 schools, you walk in and say, "Whoa, this bathroom room
7 hasn't been cleaned in way too long. It stinks." It's
8 obvious dirt. It's broken glass. It's lead paint.

9 You go in and say, this group -- and again,
10 it's a small group. It's not the majority, it's not
11 even a third. It's down on the tail end of the bell
12 curve here. There's an obvious problem.

13 So, yes, I truly stand by that. I think if
14 there were to be, and there isn't, but if there were to
15 be a statewide inspection system, most schools would get
16 a gold star first visit. If we had a grading system,
17 they'd get an A. And a big chunk would get a B, maybe
18 do a better job at sweeping up the corners, but
19 basically pass quickly and easily.

20 Then there would be a few problem cases that
21 would take more intervention. Most schools in the state
22 are very well run. Most school board members are out
23 inspecting, superintendents check. It's not a problem.

24 We have this little group, and I don't have
25 the exact number, I don't know statistical analysis, but

1 group, but a real group of schools, that have these
2 unusually poor facility conditions.

3 And as documented in the rest of this report,
4 poor local management is generally the cause. And
5 there's a strong correlation between schools in poor
6 condition and weak or poor management. Good principals
7 fix things. Bad principals can't get around to it. And
8 districts are not well run, don't have enough
9 custodians, don't have enough cleaning supplies, don't
10 get the job done.

11 There's a relationship, not always a hundred
12 percent, but there's a clear demonstrative relationship
13 here.

14 The reason that's a concern for all schools,
15 even the well-run schools in the neighboring district,
16 those kids move around. The failing first grader moves
17 to a new apartment in your district and now is sitting
18 next to your son. It doesn't go away. It's a blight on
19 the whole system.

20 And what I'm proposing here is that the
21 system, the California State system of funding education
22 needs to address this. And we ask you divert a tiny
23 amount of resources from the whole pot of running
24 schools to deal with this. But as long as we have 8,000
25 schools and some number of them are in very poor

1 there is a problem group out there, and that's what this
2 whole report is about.

3 Q. Okay. So taking what you just said about the
4 operational side and your previous testimony about, I
5 think you call them the big ticket items, over school
6 construction, modernization.

7 Given the opinions you've just expressed, I
8 want to refer you to page 93 of --

9 A. 93, okay. Going back.

10 Q. Yes, back. It's the conclusion section.

11 You have a statement in, it's the second full
12 paragraph. "Poor management is the most likely cause of
13 schools in poor condition, but the entire system cannot
14 ignore these conditions."

15 My question is, does that statement apply to
16 schools in school districts throughout the state that
17 have facilities problems or only to the much smaller
18 group of schools you're referring to when you just
19 testified about operational issues?

20 MR. ELIASBERG: Objection. Vague and
21 compound.

22 THE WITNESS: Let me put it again put it in
23 context of the paragraph we're talking about. We're
24 talking about that, after reading all the way back to
25 page 93 of this report, there is this persistent small

1 condition, we don't have the complete comprehensive
2 statewide school system that we need to be proud of.
3 We're almost there, but we're not there. And this
4 problem, we as educators cannot ignore this. It's part
5 of our family, and we need to work on this. It's not a
6 huge problem, it's not an unsolvable problem, but it's
7 persistent, it's documented, it's out there, and it's
8 big enough where we can't ignore it any longer. So
9 that's the intent of paragraph two.

10 It's -- and whether it's a malfunctioning
11 custodian who's not doing his job, the principal who
12 can't supervise, a school superintendent who's off on
13 some other endeavor and not focusing on the cleanliness,
14 whatever the cause, it needs to be addressed, because
15 the kids are suffering. They didn't make that choice,
16 and that's what we're getting towards.

17 Q. BY MR. HAJEAL: Okay. That's what I'm trying
18 to get at. There's nuances in your report, and those
19 nuances aren't necessarily apparent from your paragraph
20 two, which is why I'm asking you.

21 So you could have a highly overcrowded school
22 which I think you would agree is a poor facility
23 condition, right? But that's not the type of facilities
24 condition you're talking about that's caused by poor
25 management; is that correct? It's -- you're referring

1 to something else, because let's take -- I'm sorry. The
2 question is awkward and vague.

3 Let's take Lodi. Lodi's got severely
4 overcrowded schools. The cause of the severe
5 overcrowding is not poor management; is that right?

6 A. The immediate cause is not. It's -- maybe
7 decisions were made many years ago by a previous
8 superintendent to pursue a bond or not pursue a bond.
9 What we have are sometimes the only choices you can make
10 ends up not being the choice you prefer to make which is
11 the case with most overcrowding.

12 I mean, nobody really wants to put the
13 portables out there on the playground. Sometimes you
14 have to, because you have to house the kids somewhere.

15 So there are cases where the small issues such
16 as broken lights, dirty bathrooms are more directly
17 caused by poor management.

18 The bigger issues sometimes are where a
19 district is the victim of circumstances. The case in
20 most overcrowded districts, where you're talking
21 multi-million dollar, hundred million dollar program,
22 that's not really a management issue. That's a
23 systematic breakdown.

24 I think the case you just cited where they're
25 \$100 million short, no manager has \$100 million hidden

1 in their desk drawer. That's -- the system broke down
2 somewhere. That's how they got that far behind.

3 The broken light bulb is a different issue.

4 Q. That's helpful. The small issues that you're
5 just talking about, like a bathroom that's not clean or
6 a broken light bulb, is it your opinion though that
7 those small problems are exacerbated by the big problems
8 like overcrowding or waiting too long to modernize?

9 MR. ELIASBERG: Objection. Incomplete
10 hypothetical.

11 THE WITNESS: There is a correlation. Where
12 schools are rapidly growing and kids are flooding in,
13 sometimes the custodial demands, you have 800 kids using
14 the bathroom instead of 500. You probably need to
15 double your custodial crew. It's just sometimes sheer
16 numbers and everything relates. We're talking about a
17 system.

18 So, if you pack in too much crowding on one
19 end, other things, the maintenance needs, the cleaning
20 needs, obviously, need to respond.

21 Sometimes districts have grown so fast they
22 just have trouble paying the bills and have to deal with
23 the incremental changes needed due to constant growth
24 and change. So it ties together.

25 Q. BY MR. HAJELA: I want to refer you to page 3

1 of your report. Again, it's --

2 MR. REED: How did we go backwards?

3 MR. HAJELA: I was referring to conclusions in
4 both instances, so there's some consistency.

5 Q. In the paragraph that starts at the bottom of
6 the statement, "In my experience, the biggest impediment
7 to solving facilities problems is garnering commitment
8 from school and district officials which was rooted in
9 an absence of enforceable standards."

10 I wanted to ask you essentially the same
11 questions I just asked you about the other opinion on
12 page 93.

13 A. Uh-huh.

14 Q. When you say solving facility problems, are
15 you talking about the broad issues you've discussed
16 earlier about overcrowding and modernization, or are you
17 just referring specifically to the smaller issues, the
18 dirty bathrooms, the light bulbs, et cetera?

19 MR. ELIASBERG: Just let me -- can we call
20 this operational? I don't -- small suggests it's
21 unimportant. Can we use the phrase operational?

22 MR. HAJELA: Sure.

23 THE WITNESS: In response to your question,
24 rereading this report in the context of the question you
25 just asked, I see where there is some ambiguity here.

1 Page 3 and the paragraph you're referring to
2 on page 93 are referring to the operational level. This
3 is the cleanliness, the orderliness, the safety issues.

4 The macular issues, the building enough
5 schools and getting ahead of the severe overcrowding
6 crunch, getting off Concept 6, these major issues are,
7 obviously, not attributable to the commitment.

8 In every case, and I probably could search for
9 or find summary, but every case I've encountered, the
10 school boards, the management are committed to solving
11 big problems.

12 The frustration is simply lack of money, and
13 it's such a huge amount of money needed, they can't
14 defer the purchase of a lawnmower and build a school.
15 You can't make that tradeoff.

16 It's -- they're finding, because of the multi
17 million dollars, tens of millions of dollars needed to
18 solve the big problems, the little problems, when you
19 see the dirty bathrooms, the broken light bulbs, those
20 are \$2 fixes. And there it is a matter of choice and
21 commitment and following through.

22 So we got to separate the \$10 million problem
23 and the \$2 problem, not to minimize either one. When
24 you're affected by a dirty bathroom, it's really
25 important. But the magnitude required to build a brand

1 new school is so much bigger. I appreciate you pointing
2 out the difference and if that clarifies it -- no, I
3 can't say that schools aren't getting built because
4 school boards aren't committed and superintendents
5 aren't committed. They're committed to it. They're
6 just frustrated because they can't get the resources
7 they need to get the job done.

8 Q. That is helpful. Focusing then just on the
9 operational side, have you done any research or do you
10 know of any studies that would suggest that operational
11 problems are more likely to be caused by poor management
12 or lack of commitment rather than, for example,
13 overcrowding or severely old school?

14 MR. ELIASBERG: Vague as to research.

15 MR. REED: And severely old.

16 I just want to get a jump on you, Abe.

17 THE WITNESS: I'm not aware of any one
18 scientific study that followed work orders to why the
19 light bulb broke. I just speak from years of experience
20 out in the field.

21 It's when I see two schools that are crowded,
22 and there's some examples in this report, multi-track
23 schools, lots of portables, everyone is responding, and
24 this school manages to keep the bathrooms clean and the
25 broken glass swept up. And this school down here

1 doesn't clean the bathrooms and there's broken glass on
2 the playground. I have to wonder what's the causal
3 factor.

4 So given that there are schools that are just
5 as crowded but do manage to get the job done and they're
6 clean, and they're obviously wearing faster, they're
7 obviously in stress, but at least the bathrooms don't
8 stink. And at some level, that's the kind of change
9 we're really looking for here.

10 If I had a magic wand, we could fix all the
11 problems. We're dealing with basic health and safety
12 and functionality issues. Three of the four stalls are
13 off limits because they're broken. That puts a severe
14 strain on the student population.

15 So that's, again, the focus is why is it and
16 is there any follow through to get the work order in to
17 get the toilet fixed so the kids can go to the bathroom.
18 And because other schools in the same situation can do
19 it, I tend to think it's more of a management issue than
20 the condition in crowding and calendar issue.

21 Q. BY MR. HAJELA: Okay. I'm going to move to
22 another set of questions. You ready for a break, or you
23 want to keep going?

24 A. I'm fine if you're fine.

25 Q. Good. Compton. I believe you testified

1 earlier when you were speaking with Mr. Seferian that
2 the State is now the trustee for the district, yet
3 facilities problems persist. Is that accurate?

4 A. At the time this report was written, the State
5 was still trustee. I don't know today if they still are
6 trustee. I believe they're still down, at least in
7 certain roles. But, yes, Compton did have a State
8 trustee and did have facility problems.

9 Q. And we can take the time of the report.

10 A. Uh-huh.

11 Q. So in Compton, despite State intervention in
12 the form of a trustee, the district continued to have
13 serious school facility problems; is that right?

14 A. Your question is presenting that the State
15 trustee had, as a primary function, all the facility
16 problems. I think that's something we need to focus on
17 the role of the trustee. The trustee was sent in to fix
18 the fiscal operations. They were obviously in crisis,
19 and their portfolio also was the whole instructional
20 side of the program, the inadequate curriculum,
21 inadequate instructional materials.

22 Facilities were on the list, but not high on
23 the list. So when we're talking about State
24 intervention, again, it's -- you send in an intervention
25 team focusing on one set of issues, and I don't want to

1 represent that because maybe Compton had troubles under
2 a State trustee, that the whole State series or system
3 of intervention can't address facility issues.

4 If the State had been sent in to fix the
5 facility problems, my speculation is that they would
6 have been addressed much more rapidly. But they were
7 sent in to fix another problem. They were basically
8 sent in response to the bankruptcy issues. And the two
9 are related. It's all one system. But their primary
10 focus was different. I think that's -- we need to
11 clarify that. They weren't in there just to address
12 these issues.

13 Q. I agree they weren't in there just to address
14 these issues and that it was the bankruptcy that
15 prompted the State to take over and send in a trustee.
16 But is it your understanding that when they send in a
17 trustee, that person takes over all the responsibilities
18 of the school board including facilities?

19 A. They're acting as, you know, that role between
20 superintendent and school board, yes. And it should
21 have been done. And I'm personally very disappointed
22 that these problems continued while the State trustee
23 was there, because the State trustee was there for a lot
24 of years. And, in my opinion, those problems should
25 have been addressed, and I don't really understand why.

1 But I would also, you know, just say that the
2 level of intervention used in Compton and the other
3 AB-1200 places is in no way related to the supervision
4 oversight that we're discussing elsewhere in this
5 report. That's, obviously, a severe, you know, that's a
6 major takeover situation.

7 I know we're in here to contemplate the State
8 actually coming in and taking over the district because
9 the bathrooms are dirty.

10 Q. No, I recognize that.

11 A. So it's a different thing.

12 But, personally, I'm very disappointed. I
13 don't know why the situation wasn't fixed in Compton.
14 Those kids were suffering, and the State did have
15 control of the district. If they didn't have enough
16 resources, they should go to the Capitol and get them.

17 I mean, somewhere there was a breakdown in the
18 system. So that's, you know, something needs to be
19 audited to find out why the conditions were allowed to
20 persist while the State had a trusteeship of Compton for
21 so many years. They were there a long time. I forget
22 the exact number of years, but a long time.

23 Q. Okay. Let me switch gears again and refer you
24 to page 70 of your report.

25 Right at the top, you state, "In my experience

1 But when you look across the region as the
2 Sacramento Bee showed, one of the few things that's
3 being cut almost everywhere is the custodial, and that
4 does not lead to an optimistic prediction that the
5 schools will be cleaner next year than this year.

6 There are union issues why, there's practical
7 issues, there's classified versus certificated. But
8 there's a lot of reasons. But the sad reality is the
9 people who are out there cleaning the classrooms for
10 your kids and mine are the ones that are likely to be
11 laid off, cut back or transferred. And it's a tragic
12 statement about the State of California budgeting
13 today.

14 Q. BY MR. HAJELA: You mentioned some, but I want
15 to ask you, can you describe some of the other interests
16 that compete with custodial and maintenance services for
17 funding?

18 A. School districts right now are being
19 bludgeoned by energy costs. You know, the whole
20 electricity fiasco. You know, it used to be a nickel a
21 kilowatt hour, but it's not anymore. Because of time of
22 use meters, schools are being hammered by incrementally
23 higher costs. PG&E and San Diego area it's a full-on
24 crisis with their special problems.

25 When you pay two bucks a gallon for gas,

1 disrepair or unclean facilities in schools are likely to
2 be the result of budget choices made at the local level,
3 such as reducing custodial staff or maintenance work.
4 Maintenance work crews, when faced with the tight
5 budget, lack of State standards and performance
6 requirements has led to a situation where local
7 officials often under intense budget pressure from the
8 unions and facing operating costs such as electricity
9 and insurance will trim custodial and maintenance
10 services."

11 A. Uh-huh.

12 Q. So is it your opinion that with the tight
13 budget and pressure from competing interests, custodial
14 and maintenance services become a lower priority and are
15 underfunded?

16 MR. ELIASBERG: Objection. Overbroad.

17 THE WITNESS: As much as I don't like it, yes.
18 I mean, you read the newspapers about, right now today
19 we're in major school budget crisis, and custodial is
20 always at the top of the list for cuts. And it's --
21 some districts are not -- are trimming and trying to
22 limit the cut in custodial maintenance. Other districts
23 are going full bore, let's cut the custodians. And
24 every school district is unique. They're individuals
25 out there.

1 school buses, diesel has almost doubled. So that alone
2 is just tremendous impact.

3 Health insurance costs are just desimating
4 budgets. The same insurance for the same teacher you
5 had last year is 20, 30 percent higher, and we're
6 looking possibly at a zero COLA this year.

7 THE REPORTER: Zero what?

8 THE WITNESS: Cost of living adjustment.

9 So the school districts just border to border
10 are being hammered, and there's no happiness out there
11 at all. I'm sure you get phone calls.

12 And the State agencies are being hammered
13 as well. So it's not that the pain is all at the local
14 level. But there are tremendous competing interests for
15 money, and school boards are dealing with just these
16 tragic, heart-breaking decisions. But the reality is
17 that you can't spend money you don't have. And the
18 school boards are agonizing over this. Administrators
19 are agonizing over this. And people are retiring. I
20 mean, it's really sad out there right now.

21 So we're hoping for a budget miracle.

22 Q. BY MR. HAJELA: It's not coming.

23 A. We've been through this before. The early
24 '90s were pretty ugly, too. And it look took a lot of
25 years to rebuild. We had some good years, but this is

1 not one of them.

2 Q. So you referred to the Sacramento Bee article
3 that indicated 54.2 percent of school districts in the
4 region with budget deficits trim facilities maintenance
5 and you talked about, I think, some of the issues
6 surrounding that.

7 Do you have an opinion regarding whether the
8 districts that trimmed facilities maintenance to deal
9 with budget deficits made sound fiscal and educational
10 decisions?

11 MR. SEFERIAN: Objection. Lacks foundation.

12 MR. ELIASBERG: But also the quote is trim
13 facilities more than any other.

14 Mr. REED: I think that misstates what the
15 meaning is. Maybe we should try to clarify.

16 MR. SEFERIAN: How about you reask it?

17 Q. BY MR. HAJELA: You have noted that a majority
18 of school districts in the region with budget deficits
19 trimmed facility maintenance more than other spending
20 categories.

21 My question is --

22 MR. REED: I'm going to object. I think that
23 does misstate the meaning of the sentence which is that
24 54 percent of the school districts cut facilities
25 maintenance. And that 54 percent is more -- is more

1 have tends to cut on the facility and custodial side
2 more than the textbook and teacher side. And when your
3 core mission is teaching, that may be a rational
4 response to an unpleasant situation.

5 The cumulative effect of this cyclical budget
6 problem is that maintenance has been deferred. The
7 rains comes next winter, you get a roof leak, and then
8 we get this multi-billion dollar facility needs State
9 money. So what we're doing is planting the seed for the
10 next facility crisis ten years from now.

11 But in the current reality of having to
12 balance your budget this year, right now, June 30th,
13 school districts have to do what they have to do. Okay?
14 Because you can't spend money you don't have, and that's
15 the brutal reality of schools today.

16 But the warning is, you trim the maintenance
17 today, you're going to pay for it down the road. It's
18 just --

19 MR. REED: Abe, would you allow me to ask one
20 question just to clarify something?

21 MR. HAJELA: Sure.

22 MR. REED: Is it your understanding that the
23 Sacramento Bee article had anything to say with respect
24 to whether maintenance budgets had more dollars cut than
25 other budgets of this school district survey?

1 school districts cut maintenance than school districts
2 cut any other category. 54 percent cut maintenance.

3 Q. By MR. HAJELA: Okay. At this point, I don't
4 know what the sentence means, so maybe the best way to
5 do this is to ask you what you meant by the last
6 sentence in that paragraph. And then I'll ask a
7 question.

8 A. Is this one of the tricks you learned in law
9 school?

10 The statement on page 70 that you're referring
11 to in the article, again, it's just to capture the sense
12 of the newspaper article is the Sacramento Bee
13 interviewed school districts around the region and said
14 what categories are you looking to trim in order to meet
15 the budget constraints that you've been facing, and
16 maintenance popped up more than any other item. Some
17 were going to cut transportation, some were going to cut
18 teachers, some were going to cut supplies. But half of
19 them, more than any other single category said
20 maintenance.

21 Again, the issue is not that school boards
22 dislike maintenance or administrations don't like it or
23 they don't like custodians or anything. It's just when
24 you're faced with the terrible choice of having one
25 dollar and two dollars worth of needs, the system we

1 THE WITNESS: If I'm recalling -- my
2 recollection of the article is that it was categories of
3 cuts, not dollars or magnitude.

4 MR. REED: Okay.

5 THE WITNESS: And it wasn't -- yeah, I think
6 it was just which areas will you be addressing cuts.

7 MR. REED: Okay.

8 Q. BY MR. HAJELA: Now that I'm frightened to ask
9 any more questions about the Sacramento Bee, I'll move
10 on to the hypothetical.

11 Hypothetically, could it be a sound
12 educational decision in a school district facing a
13 budget deficit to cut the budget for maintenance instead
14 of, for example, laying off teachers' aides?

15 MR. ELIASBERG: Object. Incomplete
16 hypothetical and vague.

17 THE WITNESS: You know, Abe, I'd love to say
18 that it is or isn't, but we have a thousand school
19 districts in this state with a thousand local stories, a
20 thousand budget situations, a thousand reserve funds,
21 and that's an unanswerable hypothetical.

22 I do think, again, it's a terrible choice.

23 But I also state and I think the core of this report
24 says that there's a certain minimum level of cleanliness
25 and maintenance and repairs that need to be done. And

1 it doesn't matter how bad the State budget is, how
2 messed up the Legislature is, you got to clean the
3 bathrooms.

4 Kids -- we require kids to go to school, we
5 order them there, the sheriff will come out if you don't
6 send your kids to school or do home schooling. And as a
7 state, as a community, as a society, we need to clean
8 the potties. That's what this is really about.

9 So at the school level, you can make those
10 balancing decisions. We're not talking about building
11 new buildings or reroofing at a very operational level.

12 At a national level, as a state, as a society,
13 we need to deal with persistent overcrowding, the long
14 bus rides, the Concept 6, and that.

15 But in the budget world, when you're sitting
16 there saying cut this column, cut that column, the core
17 of this report says we need some minimum standards,
18 because there are a few actors out there who will tend
19 to cut too far and expose kids to health hazards and
20 dangerous situations and just unacceptably unclean
21 conditions. And that's all.

22 But the vast majority of the school boards,
23 administrators and everybody will never come near that
24 line. They may go from a class A to a class A-minus.
25 But they're not down in the D's and F's.

1 So I don't mean to minimize the issue, but the
2 reality is most people are doing the best they can with
3 what they've got. And they wouldn't contemplate sending
4 their kids to dirty schools. And most superintendents
5 would be offended if they have dirty bathrooms.

6 So it's -- the core of this report is that a
7 few actors have allowed this problem to persist and
8 compound.

9 Q. Okay. Given your work with school districts,
10 and you talk about in your report competing interest for
11 these funds, so I want to ask you, what kind of
12 information would one need to determine, given a budget
13 deficit where they ought to reduce funds, whether it's
14 operational grants or somewhere else, what kind of
15 information do you need to make a sound decision?

16 MR. ELIASBERG: Vague and over broad.

17 THE WITNESS: You know, that -- that's an
18 unanswerable question, because it's just -- the reason
19 we have the Government system we have in the State is
20 that the whole American ideal of Government of the
21 people, by the people, for the people, is that people at
22 the local level will have better understanding of their
23 community's needs, expectations and priorities. They
24 know where they have a little extra money in the budget.
25 They know where they might have some savings. I think

1 the statewide dictates doesn't solve that.

2 But, regardless of the individual
3 circumstances, there's still a minimum level of
4 performance. And that's where we're getting at here.
5 It's having some standards that you can, if you need to
6 cut, you can cut, but you can't go below this line. And
7 whatever this line is, you can't get below that.

8 And for well-run districts and the vast
9 majority of school districts, they would never even come
10 near that line, because they understand the importance
11 of clean schools. It's not an issue. And if they have
12 to trim a little, they'll trim a little, but will they
13 desecrate the program? No.

14 Q. BY MR. HAJELA: If I understood you correctly,
15 and tell me if I'm wrong and I'll rephrase it, then as a
16 general matter, it's your opinion that it's the local
17 school officials that have to balance these competing
18 interests and make decisions on funding various programs
19 including facilities operational programs?

20 MR. ELIASBERG: Objection. Mischaracterizes
21 his testimony.

22 THE WITNESS: I think the -- what was left out
23 of the summary you just gave is that there is a minimum
24 standard we have to uphold. And with that change, yes,
25 I would agree with you. The local people who know their

1 budgets are the best. But, still, they can not drive
2 certain standards like cleanliness down to a level
3 that's just plain unacceptable.

4 With that one caveat, I think you're right.

5 MR. HAJELA: This is a good time for a short
6 break.

7 (Brief recess.)

8 Q. BY MR. HAJELA: I just want to go back briefly
9 to the discussion we had before the break.

10 If I understood you correctly, and please tell
11 me if I didn't understand and explain, that the local
12 school board ought to be the one making decisions about
13 competing priorities in the schools, but that the State
14 ought to set minimum standards in certain areas and make
15 sure those are dealt with. Is that --

16 A. As a general framework, yes.

17 Q. Let me ask you a question then. Let's assume
18 the State sets a standard for schools facilities
19 conditions but doesn't set a standard for, for example,
20 teachers' aides, numbers of teachers' aides,
21 qualifications of teachers' aides --

22 A. Uh-huh.

23 Q. -- and the district has a limited amount of
24 funding or even a budget deficit.

25 In your opinion, if the result is that funding

1 goes then to deal with facilities conditions first and
2 then only if enough money is left over then you get
3 teachers' aides, is that an acceptable situation?

4 MR. ELIASBERG: Objection. Improper
5 hypothetical and vague.

6 THE WITNESS: To respond to that, there's a
7 lot of speculative what-if's there. I would hope that
8 the State Government at no time would set up such a
9 prescriptive mandatory system that would actually steal
10 money from critical instructional programs to do
11 facility repairs or any of the other tasks you're
12 talking about.

13 What I've discussed in this report is that
14 there's just minimum safety, cleanliness, health issue
15 costs. I believe, and I will continue to state, that
16 these are not expensive. These are part of the basic
17 everyday expenses. They need to be budgeted. They've
18 always been budgeted. They've always been out there.

19 So the hypothetical you're proposing should
20 never be encountered. If the State were to demand that
21 every school be reroofed every four years or something
22 ludicrous like that, obviously that would be a budget
23 breaker, and it would be an irrational act by the State
24 to mandate that a district had to spend a tremendous
25 amount of money whether it needed it or not.

1 MR. REED: Oh, that page 3.

2 Q. BY MR. HAJELA: In the paragraph with the
3 bullets.

4 A. Uh-huh.

5 Q. You state that, "Among the shortcomings of
6 State actions or inactions is the failure to promulgate
7 minimum standards for school facilities conditions and
8 maintenance."

9 Can you give me some examples of the standards
10 you believe ought to be promulgated?

11 A. Again, we can go on for a long time on this.
12 But just a couple of examples would be that school
13 restrooms, restrooms in schools that are used by
14 students are adequately stocked with consumable supplies
15 such as toilet paper and towels or hand dryers if towels
16 are not provided. But that basic health issue such as
17 toilet and hand washing are available to students during
18 the school day.

19 Another example would be that they are cleaned
20 on a regular schedule that does not allow unhealthful
21 conditions to occur. So whether they're cleaned once a
22 day, twice a day, two times a week, four times a week,
23 the standard is that they are not unhealthy as defined
24 by either the local authority, the State or somebody.

25 But the State has no business saying that they

1 We're talking about cleaning the bathrooms and
2 the very tiny amount of money that that requires out
3 of the school district budget. The choice you present
4 should never arrive. I can't imagine it ever really
5 arising.

6 Again, we're not talking multi million dollar
7 expenditures. We're talking doing a good job at what
8 you have to do anyway. So as much as I appreciate the
9 possibility, it would be a really out of control
10 statement that would cause that to occur.

11 Q. BY MR. HAJELA: Okay. Well, that is helpful,
12 because I do want to go into this cost issue, because it
13 seems to me, unless I'm not understanding you correctly,
14 that operational programs, facility operational programs
15 are often multi million dollar budget items in the
16 larger districts. So let's talk about that a little
17 bit. Let me ask you some questions on that.

18 You talked to Mr. Seferian about the cost of a
19 State facility monitoring program --

20 A. Uh-huh.

21 Q. -- a little bit.

22 But I want to ask you more about the cost of
23 implementing school facility standards as a separate
24 issue. I just want to refer you back to page 3 which is
25 backwards, I admit.

1 have to be cleaned at 7:30 sharp every morning. That's
2 clearly intrusive. But saying they have to meet the
3 health standards that every restaurant has to meet,
4 every nursing home has to meet, the generally accepted
5 community standards, I don't believe is intrusive. And
6 how that's done and who does it, that's a local issue.

7 So you get to pick your cleaning schedule.
8 And, as long as the job is done, that's great. We're
9 there. So these standards can be very general. It's
10 just are the bathrooms there, are supplies there, and
11 are they meeting basic health requirements? That's
12 all.

13 Q. So if I understand you correctly, then, your
14 standards are related only to what we've been generally
15 referring to as operational issues. We're not talking
16 about, you know, square feet per student, size of
17 school, size of classrooms, those sort of bigger issues?

18 MR. ELIASBERG: Objection. Vague and
19 ambiguous.

20 THE WITNESS: I think those issues have been
21 addressed through the facilities programs, whether
22 they're adequately and competently addressed, you know,
23 again, is another project.

24 Under the model of housed and unhoused
25 students under the school facility program, in theory

1 there's enough eligibility generated to create the
2 necessary facilities.

3 We've clearly seen some models that don't
4 work, and there have been some realignments. But this
5 discussion here is more on the operational side in terms
6 of enough facilities in the whole construction macro
7 side, and some of these standards would not be as
8 applicable.

9 There are standards in terms of square footage
10 and adequacy and people capacity. As discussed in here
11 in some areas, particularly with respect to crowding and
12 multi-track schools, there's a breakdown in the system
13 that does need more work, but the standards, the
14 conditions, the monitoring that's being discussed on
15 page 3 really are on the operational side. And you need
16 to focus on that.

17 Q. BY MR. HAJELA: Okay. I just wanted to make
18 sure I understand you. You're not talking about
19 standards that would state it's okay or not okay to
20 operate a Concept 6 school, for example?

21 A. The discussion on page 3 does not
22 address whether there should be or shouldn't be Concept
23 6 schools. As stated in the report, I believe it's not
24 a good situation. We should be able to get off
25 Concept 6.

1 right now, in the 14010 series. But, again, I'm a
2 little reluctant to come out with a State mandate that
3 says every student would have to be a Concept 6 within a
4 year, because I don't believe it's logistically
5 feasible.

6 I wish we could make a statement like that and
7 throw it to Los Angeles people. And they've tried hard
8 for a lot of years to buy land to build the schools. It
9 takes time to build schools. I would like to see a big
10 push to getting everybody off Concept 6. But the sheer
11 logistic difficulty is a very real impediment. You
12 simply cannot build a school that fast, and you can't
13 build a school until you get the land. And in some
14 communities, you can't get the land.

15 I'm glad gains have been made in Los Angeles
16 and other communities, but there's a long way to go.

17 Q. Let me take another example, then, just to be
18 clear then.

19 Portable classrooms. I'm assuming that falls
20 more on the macro level than the operational level. So
21 in your report, you're not suggesting promulgation of
22 standards related to portable classrooms other than if
23 they had to do with operational issues, like cleaning;
24 is that correct?

25 MR. ELIASBERG: Objection. Vague.

1 But, again, the monitoring, the standards
2 being discussed on page 3 are not in that area. If you
3 do have a Concept 6 school, bathrooms need to be clean.
4 If it's not Concept 6, they still have to be clean. But
5 the whole crowding and multi-track issue, which are
6 very, very serious issues, they are huge issues in this
7 state, that's not really what's being discussed on
8 page 3. So, yes, those need to be addressed.

9 I believe there are standards right now in
10 school facility program that if you have 50 percent more
11 students through Concept 6 than the seating capacity,
12 you should have eligibility to go out and build a
13 school. In fact, there was a breakdown in the system
14 generated that critically overcrowded schools program
15 which again is a step. There are some kinks in the
16 system, but there are other programs to address those
17 macro issues.

18 Q. So, if I understand correctly, because you
19 talked about not addressed on page 3, I want to ask
20 about your report as a whole or your opinion as you sit
21 here today.

22 Do you believe the State needs to promulgate
23 standards for the macro issues you were just talking
24 about, crowding, modernization, those sorts of issues?

25 A. Many of those standards do exist in Title 5

1 THE WITNESS: As we discussed in the report, I
2 do think an additional layer of review and scrutiny is
3 needed, because right now portables can just pop up
4 pretty much anywhere. And the result has been some
5 districts have really overwhelmed campuses. And there's
6 an example of a tiny little school with a thousand plus.
7 That's a ridiculous number of kids in it.

8 The fact they put the portables there was
9 because the kids were in the neighborhood and need to be
10 served.

11 At some point, we do need to get some kind of
12 controls on the number of portable classrooms. But,
13 again, this report is unusually poor conditions. The
14 portables are crowded. The calendar, these are
15 contributing factors but aren't really the core of this
16 whole report. And I think other reports you've seen in
17 this case address it in more detail.

18 I'd love to have ample space, lots of schools,
19 lots of greenery, beautiful new schools for every child
20 in California. I think the danger in the State mandate
21 is that logistically we can't deliver that quickly to
22 every single city, and we should not mandate that which
23 cannot be delivered and funded.

24 Further, there is enough State money to get up
25 there and bargain.

1 So, again, we get back to that funding issue.
2 And I'm very, very aware of a State mandate that cannot
3 be funded and cannot be logistically delivered by the
4 local school districts. What can be delivered are those
5 small operational issues. Even if you can't build a new
6 high school, you can clean the one you've got. Again,
7 the context, the thrust of page 3 is more on operational
8 issues, and these are more subject to intervention,
9 oversight and State standards.

10 But I'm very leery of bulk mandates flying
11 down from the State that are unfunded and
12 unimplementable.

13 Q. BY MR. HAJELA: That's very helpful. Let me
14 ask you an example then and see where it falls in.

15 An air temperature standard, for example, the
16 standard that says the temperature of a classroom must
17 be between, I don't know, 66 and 75. Would that be the
18 type of standard that you believe the State should not
19 mandate, because it hasn't provided funding to meet the
20 standard?

21 MR. ELIASBERG: Objection. Incomplete
22 hypothetical.

23 THE WITNESS: In this report, we identified
24 extreme temperatures as a significant barrier to
25 education in some schools. In hundred degree-plus

1 A. Uh-huh.

2 Q. And let me just read that paragraph. "The
3 establishment of the basic requirements for all school
4 district facilities triggers finance and budgetary
5 requirements to ensure that districts have sufficient
6 funds to meet the required standards. Finance and
7 facilities working group of the Joint Legislative
8 Committee to develop a master plan have identified this
9 link as important to achieving quality facilities for
10 all students. The linkage of standards to reliable
11 source of annual State funding is direct and logical.
12 The State establishes the expectations and guarantees
13 the resources to meet them. Master Plan 2002."

14 Do you agree with that statement from the
15 Master Plan working group which is the last sentence
16 of the paragraph I just read?

17 A. Yes. Right now, there's that disconnect
18 between expectations and standards and mandates from the
19 State and the funding model. You know, one's putting
20 along like a Model T, and we have all the new standards
21 and expectations and demands, and they want us to adopt
22 new curriculum with new textbook series and don't fund
23 it. That, again, is causing the snowball effect we're
24 seeing in schools today. Which is why some of the
25 budget cuts are so severe.

1 classrooms, classrooms near freezing where kids have to
2 wear overcoats and gloves to do their lessons, these
3 extreme situations clearly are creating the unusually
4 poor conditions we're talking about in this report.

5 It would be desirable for the State to address
6 that comprehensively, and in the past we had the air
7 conditioning program. So if the State would embrace
8 that standard, and I think it's reasonable, kids should
9 not have to wear gloves to do their lessons inside the
10 classroom, a funding model has to be available to get
11 the heaters, to get the air conditioners to deal with
12 realities of the climate in California.

13 So in terms of just throwing out a mandate
14 that says every classroom has to be between a narrow
15 temperature band with no funding, no implementation
16 program would be an unfair burden on the local
17 districts, because then you would be laying off teachers
18 to buy air conditioners. And that's not anyone's goal
19 here.

20 Q. BY MR. HAJELA: Okay. That's helpful. You
21 allowed me to skip a bunch of questions.

22 Let me refer you to page 36 and 37. There's a
23 section starting at the bottom of page 36 titled
24 Standards Provide a Basis for a Rational System of
25 School Finance.

1 The restructuring of the whole system is in
2 fact ultimately necessary for the whole educational
3 system. Part of that is the cleanliness operation,
4 repair of the buildings we've got. So it's part, not
5 the whole, but it's part of it. But it's a broader
6 issue. It's curriculum standards, staffing standards,
7 the whole package.

8 Q. Taking the broader issue, then, if I
9 understood you correctly, is it your opinion that, if
10 the State promulgates standards for school facilities,
11 it should guarantee the resources to implement those
12 standards?

13 A. If the standards require additional
14 expenditure and effort, absolutely. You can't just keep
15 throwing mandates down at the local level. I mean, it's
16 been an extreme burden on school districts for years.
17 So we got 120 well-intentioned people down the street
18 here who keep passing laws, but they don't pass the
19 bucks, as you know.

20 Q. Right. I think that's all I have.

21 MR. REED: Off the record for a minute.

22 EXAMINATION

23 BY MR. REED:

24 Q. Mr. Corley, when Mr. Hajela was finishing, he
25 asked you about the statements you made on page 37 of

1 your report. The Master Plan talking about the linkage
2 of the reliable source of State funding to -- I'm sorry,
3 the linkage between expectations of standards and the
4 resources to meet them. Do you recall that question?

5 A. Yes.

6 Q. Do you have an opinion as to what the results
7 would be if the State were to mandate particular
8 standards and not provide the resources necessary to
9 meet them?

10 A. Response to that question, there are all kinds
11 of mandates that could come down. Some would be
12 somewhat cross neutral in theory and some are
13 potentially cross neutral and would not be destructive,
14 others would be extremely expensive and would be causing
15 a ripple effect throughout the school district's budget.
16 So we'd have to look at the individual standard and the
17 costs associated with it.

18 But the practice has been that mandates come
19 down, and sometimes there's funding and sometimes
20 there's not. So it's a continual problem for school
21 districts and has been, and I don't expect it to go
22 away. But it is a demonstrable problem.

23 Q. Is it your opinion that if the State were to
24 mandate a standard with respect to, say, facility
25 cleanliness that required a higher level of service by a

1 standard that the bathrooms need to be clean and not
2 unhealthy?

3 MR. ELIASBERG. Objection. Misstates his
4 prior testimony.

5 Q. BY MR. REED: What is the bathroom cleanliness
6 standard that you would offer as the appropriate
7 standard to be applied to schools in California?

8 A. Without having done a great deal of research,
9 I would propose that the standard that's now in effect
10 in most communities for restaurants would be perfectly
11 applicable to schools. The local Health Department does
12 inspect restaurants. Sacramento just started.
13 Los Angeles County does it. And they have a checklist
14 of minimal health standards applicable to bathrooms in
15 restaurants. Those standards should be applicable to
16 bathrooms in elementary schools as well.

17 It's as simple as that. Take the existing
18 public standard already being enforced today.

19 Q. Do you believe it to be the case in the school
20 districts with, say, 800 campuses that on any given day
21 there will be bathrooms that fail to meet the standards
22 that the County of Los Angeles, for example, sets for
23 restaurant bathroom cleanliness?

24 MR. ELIASBERG: Objection. Calls for
25 speculation, lacks foundation.

1 school district, that there would be higher costs
2 associated with the higher level of service?

3 MR. ELIASBERG: Okay. Vague and incomplete
4 hypothetical.

5 THE WITNESS: Taking the facts in your
6 question about the State would mandate a higher level of
7 service and cleanliness than is typical in schools, of
8 course there would be the cost and naturally should be
9 compensated funding to pay for the new higher level.

10 Q. BY MR. REED: And assuming that the State
11 didn't provide that additional compensating funding, is
12 it your expectation that a school district would have to
13 take that funding out of some other portion of the
14 operating budget?

15 A. Again, using the facts you presented, where
16 there's a higher level of service mandated, there's no
17 additional money, of course, they have to cut something
18 else. In this budget year, there's just no fat left to
19 cut anywhere.

20 Q. You also discussed with Mr. Hajela describing
21 the standards that you would recommend being
22 established. The bathroom cleanliness was one of such
23 standards, correct?

24 A. Correct.

25 Q. And is it fair to say that you described that

1 THE WITNESS: As stated in our report, in this
2 report, in a state with 8,000 schools out there,
3 somewhere in the state a problem will occur every day.
4 And to take your specific example with 800 campuses, an
5 inspector, I'm sure, will find a problem situation.

6 The real question is is it cleaned up and
7 remedied in a periodic -- in a proper amount of time.
8 So the inspector finds the dirty bathroom, red tags it,
9 comes back tomorrow, it's clean, there's no more red
10 tag. He comes back a week later and it's still clean,
11 they've earned a passing mark.

12 So it's not that one time, one day, there's a
13 problem. It's when you come back week after week after
14 week and there's a problem. I would hope no standard
15 would be punitive for a single occurrence. Things
16 happen. Toilets overflow. And the question is, is it
17 being cleaned up. There should be a warning sign, slip
18 hazard in here, dirty bathroom, please use the one down
19 the hall. And it's being addressed. That is normal
20 practice in virtually every school in the state that has
21 a plugged up toilet. And this happens constantly. In
22 the good school, it's addressed and cleaned up. In the
23 bad school, it sits on the floor for a week and dries.
24 That's the problem we're trying to deal with.

25 Q. BY MR. REED: So you would agree then the

1 issue is not whether a bathroom is unclean one day, but
2 whether the cleanliness is dealt with appropriately by
3 the school district?

4 A. Absolutely. Things happen. Spills happen.
5 Accidents happen. And in the good school, they're
6 cleaned up promptly. So there is an ongoing health
7 problem just like in the restaurant, just like in the
8 hospital. It's when they're not cleaned for weeks on
9 end, that's where the problem is that this report is
10 addressing. So it's that persistent, ongoing, severe
11 issue that we're really trying to get to. Even a weekly
12 deep cleaning may not be optimal, but it probably will
13 maintain basic health conditions.

14 Q. So do you believe that an inspection of a
15 single school facility on a single day that revealed an
16 unclean and unhealthy bathroom would in and of itself
17 provide an indication that the school is poorly managed?

18 MR. ELIASBERG: Objection. Vague.

19 THE WITNESS: That would assume a lot of
20 cases. But if an inspector were to go into a bathroom
21 and find overflowing sewage all over the floor, no
22 warning sign, nobody aware of that problem, it would be
23 a red flag. It wouldn't be an automatic citation. It
24 shouldn't be. And if they found impacted dirt,
25 obviously weeks of cleaning had been deferred, the facts

1 monitor whether that district's system is in fact
2 working. And it would be my ultimate hope that the
3 State system would go around, inspect every school in
4 the state and give every school a hundred percent grade
5 and then put itself out of business.

6 Because we know from experience that there's a
7 small number of problems that are not being addressed,
8 in those small number of cases, the State may need to
9 intervene and assist the district in correcting the
10 problem that's observed.

11 My hope would be that they all get gold stars
12 and the State gives out awards everywhere.

13 Q. BY MR. REED: Why would the State need to
14 intervene in these conditions -- what conditions would
15 prompt invention?

16 A. In an ideal world, the State would not have to
17 intervene. But in cases where cleanliness, operational
18 problems like I described in this report have persisted
19 over a long period of time, somebody needs to intervene
20 to protect the children and other people using that
21 campus. Because in some cases -- again minority of
22 cases, it's not a widespread common problem, but in the
23 hard core group of schools within some districts where
24 the problems are persisting for months and years,
25 somebody needs to intervene, and it could be the County.

1 could suggest that there's an ongoing problem.

2 But to walk in and find a spill, all it is at
3 that point is that there's a problem that needs to be
4 addressed. On reinspection, is the problem still there?
5 And following up, is the problem still there? So, no, a
6 single incident should not really diminish anyone's
7 reputation.

8 Things happen, and we need a system is that
9 flexible. It's a persistent problem extending over many
10 weeks, over many months. That's the root of this
11 report.

12 Q. BY MR. REED: Do you believe that a well-run
13 school district should have its own system of
14 inspections of bathrooms to look for issues of bathroom
15 uncleanliness?

16 A. I would hope that would be part of the
17 performance evaluation of the custodial crew by the
18 principal. If there's a problem, the principal should
19 be calling somebody to get some help. A good district
20 does that anyway.

21 Q. If a good district does that anyway, what is
22 the role of the State in that system?

23 MR. ELIASBERG: Objection. Vague.

24 THE WITNESS: The role of the State as written
25 in the report is twofold. One is to be to periodically

1 But we have a State-run system of education.
2 The State is giving dictates on textbooks and everything
3 else. It seems like the State would be the logical
4 person to intervene. They control almost everything
5 else in the schools.

6 Q. If the problem is chronically appearing at the
7 school level, why is the district not the appropriate
8 entity to intervene?

9 A. Go back to the previous answer. If the
10 problem occurs at the school level and the district
11 intervenes, then there's no more problem at the school
12 level.

13 The fact the State would discover this ongoing
14 problem says the district intervention failed. And at
15 that point, who do the kids and the parents call? So
16 they've gone to the principal, they've gone to the
17 district, it's not fixed.

18 And at this point, they -- there's no one else
19 to call, and they end up, I guess, what, do you call the
20 Mayor, you call the TV station, you call the Governor.

21 So all we are proposing in here is that there
22 be a very modest effort by the State when there was a
23 problem that's uncovered, do the parents, the
24 communities, whomever, the teachers, that there be
25 somebody to call and say, "We have an ongoing problem.

1 Please come down and check it out." Don't fire anybody.
2 Don't cite these people. Just check it out. If it's
3 real, have the district follow through and fix it,
4 because ultimately then you are getting ongoing
5 performance. It's prevention rather than constantly
6 curing.

7 Q. Earlier today Mr. Eliasberg handed counsel
8 here at the deposition copies some legislation including
9 AB-1124 and ACR-21. Do you recall giving Mr. Eliasberg
10 copies of these materials?

11 A. I shared those with Mr. Eliasberg earlier
12 today. So just -- it was somewhat ironic that stuff
13 like this is out there on the internet and being
14 discussed in the State Capitol today that seems to
15 related to the very issues we've been discussing.

16 Q. And how did you become aware of AB-1124?

17 A. It's -- I was doing a word search on the
18 legislative bill system looking for other school
19 facility bills, and this popped out. I was not familiar
20 with the legislation. I had no idea it was even out
21 there. I simply clicked on it to see what it was and
22 seems to have some relevance here.

23 Q. When was that?

24 A. Last night.

25 Q. Okay. I'd like to refer you to page 2 of

1 As we discussed earlier today with Mr. Hajela,
2 again, too many mandates from the State I think are
3 negative influence on school districts. And I
4 personally would not support the exact wording on this
5 page.

6 What I have said is that a minimum performance
7 standard needs to be available and so that school
8 districts know how clean they have to get the restrooms
9 and other optional effects.

10 This wording may not be the best way to go.
11 This appears to be a disguised State mandate. And it's
12 a little bit vague, and it's a little bit broad. But
13 the basic thought is to ensure that everyone knows you
14 to have keep the restrooms clean.

15 Q. BY MR. REED: And the language of this bill
16 would control expenditures from the major maintenance
17 account required by Ed Code Section 17070.75, correct?

18 A. Yes.

19 Q. What is your understanding with respect to
20 what a school district may use funds in that account
21 for?

22 A. It's not my position. I'm an expert on State
23 accounting systems, which is a specialty unto itself.

24 Most school districts are -- again, the 3
25 percent account, the major maintenance account, which

1 AB-1124, the material that you gave to Mr. Eliasberg.
2 Near the bottom of the page, the last full paragraph,
3 here the bill suggests an amendment to Education Code
4 Section 17070.75. Is that your understanding?

5 A. Yes.

6 Q. That section of the Ed Code is the section
7 that requires districts that participate in the school
8 facilities program to maintain a restricted account for
9 ongoing and major maintenance of school buildings; is
10 that your understanding?

11 A. Yes.

12 Q. And the amendment that is suggested by AB-1124
13 would be to add the following, amongst other things, add
14 the following sentence. "Funds in the account shall be
15 used as a first priority to ensure that restroom
16 facilities for pupils are functional and that they meet
17 State and local hygiene standards applicable to public
18 restrooms."

19 Do you have an opinion was to whether that
20 change in the law would be to the good of -- towards the
21 operation of school districts?

22 MR. ELIASBERG: Objection. Vague.

23 THE WITNESS: Let me state that AB-1124, I did
24 not write this language. There is someone else's
25 thoughts entirely.

1 charges their maintenance function, their operational
2 function, and custodial and groundskeeping are part of
3 the operational function.

4 So, in addition, the deferred maintenance
5 expenditures come out of that. The matches actually
6 coming out of that same 3 percent. So custodial would
7 ordinarily be part of that overall part of the budget.

8 Q. So custodial salaries, for example, can be
9 charged to the major maintenance account is your
10 understanding?

11 A. Salaries and supplies.

12 Q. So toilet paper could be charged to the major
13 maintenance account?

14 A. That's a bookkeeping question I'd better
15 defer. I'm not positive on that one. But the operation
16 function is often charged against that amount.

17 Q. Do you know whether the school districts can
18 charge operational costs against the deferred
19 maintenance account?

20 A. I believe it could not do that.

21 Q. Do you know whether or not a school can buy
22 toilet paper or other bathroom supplies out of the
23 deferred maintenance account?

24 A. I'm pretty sure it cannot.

25 Q. Other than the bathroom cleanliness standards,

1 are there any other standards that you believe the State
2 should establish with respect to maintenance of school
3 facilities?

4 A. Again, what this written report has is that
5 for some schools there seems to be a problem in
6 maintaining conditions that are suitable to conduct
7 ongoing classroom operations. So it appears that some
8 standards with extreme temperatures, noise, general
9 cleanliness and safety repairs are needed. I'd hope
10 that they would be broad enough so as not to be onerous
11 and mandate burdens on the school districts in the State
12 of California.

13 But, as the well publicized case of Mayor
14 Willie Brown having to wear his overcoat inside the
15 classroom, clearly there's a breakdown. And a furnace
16 breaks, and that happens. But for it to go on week
17 after week after week and for kids wearing parkas and
18 gloves inside the classroom I believe is -- at some
19 point somebody needs to be able to ask the district why
20 it's taking so long to fix the furnace or what they're
21 going to do to respond or get portable heaters or some
22 other way to keep classroom operations going.

23 Q. You refer to the Willie Brown incident on
24 page 4 of your report, correct?

25 A. I'd have to double check that.

1 result of that particular furnace repair or replacement?

2 MR. ELIASBERG: Objection. Assumes facts.

3 THE WITNESS: I have no personal knowledge of
4 that.

5 Q. BY MR. REED: Is it possible that
6 San Francisco Unified School District in fact, in order
7 to fix that problem at the school that Willie Brown
8 discovered had to forego fixing a problem at another
9 campus?

10 MR. ELIASBERG: Objection. Calls for
11 speculation.

12 THE WITNESS: I would speculate. The answer
13 is I don't have that knowledge.

14 However, let me say that having a group of
15 kids in a completely unacceptable situation, I stress to
16 find the rationale that would say that's acceptable to
17 have kids in near freezing conditions, because I'm
18 pressed to think what the alternative demand on the
19 funds would be in a district the size of San Francisco
20 Unified. I can't believe they don't have the relatively
21 small amount of money it would take to fix the furnace
22 or rent portable heaters or buy portable heaters. You
23 can rent portable heaters for, what, 20 bucks a day?

24 I'm distressed to think that San Francisco
25 Unified doesn't have \$20 a day to warm up one classroom.

1 That is one occurrence, yes.

2 Q. You believe there's another occurrence? I
3 don't need the page number.

4 A. I believe it's earlier where we talk about San
5 Francisco's situation.

6 Q. Is it your understanding that the furnace was
7 not working in the school in question in the elementary
8 school for weeks and weeks?

9 A. For an extended period of time.

10 Q. Do you recall how long that was?

11 A. I would have to refer back to the source
12 document. I don't have that off the top of my head.

13 Q. Do you have any information with respect to
14 that incident that you did not read in a newspaper
15 account of the incident?

16 A. No.

17 Q. Do you have any understanding with respect to
18 where the money came from to actually fix the furnace at
19 the elementary school in question in that incident?

20 MR. ELIASBERG: Objection. Assumes facts.

21 THE WITNESS: I do not know how they got it
22 fixed. It was -- I would have to assume it came out of
23 their maintenance or deferred maintenance.

24 Q. BY MR. REED: Do you have any understanding as
25 to whether some other repair project didn't happen as a

1 I cannot imagine them running that close to the margin
2 of poverty.

3 So I do think there were remedies that could
4 have been put into effect to mitigate the problem.

5 Q. BY MR. REED: Do you believe that putting
6 those remedies in effect, the money would have been
7 taken from some other repair problem somewhere in the
8 district?

9 MR. ELIASBERG: Objection. Calls for
10 speculation.

11 THE WITNESS: I would speculate that that is
12 entirely likely, that there's no money unaccounted for
13 anywhere. But a competent district, a normal district,
14 anticipates unforeseen circumstances. In every school
15 district everywhere, something breaks during the year.
16 And that's the purpose of having a budget, because you
17 set money aside because you know something is going to
18 happen.

19 What we had is a classroom full of kids
20 sitting there shivering in their parkas during the
21 school day. And that's not acceptable. There are
22 alternatives. You can rent heaters, you can move them
23 to another room. You can hire somebody to fix the
24 furnace. It's not up to me to tell them how to respond.
25 And it's a tough situation.

1 But the purpose of the school budget is to
2 respond to those cases and fix it somehow. Maybe it's
3 not the perfect fix, may be it's not the long-term fix,
4 but to fix it and get the classroom operations back in
5 session.

6 Q. BY MR. REED: Do you know what it costs to fix
7 the furnace at the school?

8 A. I don't know, and I do know if it's an
9 extraordinary amount of money, there's the critical
10 hardship deferred maintenance program that could have
11 come in to fix it.

12 The point is, it went on and on and on and was
13 not being addressed.

14 Q. Do you have any reason to believe that -- I'm
15 sorry.

16 In your opinion, is the money that was used to
17 fix the furnace in the elementary school money that
18 otherwise could have been used to provide toilet paper
19 and other surprises to the bathrooms in San Francisco
20 Unified?

21 MR. ELIASBERG: Objection. Incomplete
22 hypothetical.

23 THE WITNESS: As I previously said, I don't
24 know which account they took the money out of. Assuming
25 it was a deferred maintenance expenditure, if they ended

1 frequency, yes, they have to have access. Maybe, due to
2 safety and other issues, it's necessary to control where
3 they would go to one station that's supervised during
4 the school day. This is a site-by-site issue, depending
5 on the layout of the site, the staffing, the age of the
6 children. There's many, many factors.

7 Q. But it's a site-by-site determination?

8 A. It should be a site-by-site. But if children
9 are unable to get to the restroom because of locked
10 doors or inadequate number of operating stations, then
11 that is a problem. There we have a basic human need to
12 use the toilet facilities that cannot be reasonably met.
13 I do not support anything that says students are free to
14 wander the campus looking for a bathroom any time they
15 choose. Teachers still need to control classrooms, and
16 principals need to control their campuses. But at break
17 times and other times, there simply has to be enough
18 facilities so that reasonably they have access, not
19 immediate personal facilities, but just that they may
20 have to wait, but can they get through the line during
21 their lunch period, during the break period? That's the
22 issue.

23 There are schools where there are simply not
24 enough facilities so that kids spend their whole lunch
25 period standing in line to use the toilet. That's not

1 up replacing the furnace, it would not have depleted the
2 toilet paper.

3 Again, I would -- it would distress me greatly
4 if San Francisco operated its budget in a way where it
5 had to deprive school children of toilet paper in order
6 to fix a furnace that stopped working. I can't imagine
7 them running a budget under those circumstances.

8 It's -- if a State standard is needed to
9 motivate a school board and the superintendent and the
10 administrative staff to promptly repair conditions when
11 kids are having to wear parkas inside the classroom, so
12 be it. It just needs to get done.

13 Again, there are responses, and other
14 districts bring in temporary portable heaters while they
15 wait for the repairs to be done. Sometimes parts are on
16 back order. Sometimes it takes a week or two to get it
17 done. But there are mitigating actions that can be done
18 so that classroom instruction can continue.

19 Q. BY MR. REED: In the bathroom standards that
20 you believe ought to be promulgated, do you believe that
21 part of the standards should be some minimum number of
22 bathrooms that are open and available to students during
23 the school day?

24 A. I would -- I would support a standard that
25 says students who need to use restrooms at a reasonable

1 okay. We need to get more doors open.

2 Q. What in your opinion is the school district
3 required to do in that circumstance if the bathrooms on
4 a campus are simply insufficient to allow every student
5 who needs to use the bathroom to get access to that
6 bathroom during a typical lunch period?

7 MR. ELIASBERG: Objection. Vague.

8 THE WITNESS: First question is why. And,
9 again, we'd have to look at why. If there's toilet
10 facilities out of -- that are not operating due to
11 needed repairs, the repairs need to get done.

12 If the kids are taking too long, other schools
13 have aides, teachers standing there supervising moving
14 the crowd through.

15 There are different responses for different
16 situations. In some cases, too many portables have been
17 put on the campus where you simply have too many bodies
18 to use too few facilities. In that case, more
19 facilities are needed.

20 So when you add ten classrooms, you need to
21 add a -- if you have to add a portable toilet, you need
22 to add a portable toilet. And that gets back to
23 plumbing and issues like that.

24 There are some generalized standards that
25 apply to schools, private residences, everything else.

1 Q. Let's take that last example. Assume the
2 State -- Mr. Eliasberg has a really good day in court,
3 and the State establishes a standard that there shall be
4 restrooms available to every student in sufficient
5 numbers that students can have access to them during the
6 school day, and the school district has a facility that
7 it has put a considerable number of portable classrooms
8 on in order to maintain the neighborhood school or to
9 maintain that school, and it turns out the bathroom
10 facilities on the campus are insufficient to meet that
11 standard on the campus given the number of students now
12 attending that campus.

13 And let's assume that there is no opportunity
14 on campus to add some sort of temporary bathroom
15 facility consistent with the appropriate plumbing and
16 zoning codes.

17 In that circumstance, is the district in
18 violation of the standard the State has established in
19 your hypothetical?

20 MR. ELIASBERG: Objection. Improperly calls
21 for a legal conclusion about a law that doesn't exist.

22 THE WITNESS: Let me give a generalized
23 response to your hypothetical. If you're positing that
24 that school district has created a situation where there
25 are too many children on a campus to ever be able to

1 Education had to approve those plans to let that many or
2 how DSA let that happen, the minimal essential facility
3 grant that OPSC keeps messing with should provide those
4 toilets. There should be a remedy. And those portable
5 classrooms just didn't appear.

6 MR. SEFERIAN: Move to strike as
7 nonresponsive.

8 Q. BY MR. REED: What if the only remedy is to
9 actually remove portable classrooms and put kids on a
10 bus to go to school across town. Is that, in your
11 opinion, a preferential solution than having inadequate
12 bathroom facilities on the campus?

13 MR. ELIASBERG: Improper hypothetical.

14 THE WITNESS: You're posing a hypothetical,
15 again, without seeing the facts -- I -- you said a
16 toilet cannot be added, a portable toilet facility, as
17 one example of a response, absolutely could not be added
18 to that campus.

19 If that's true and you lack 480 square feet to
20 put in a toilet, I would seriously question the
21 overcrowding on the campus.

22 Q. By MR. REED: Let's assume that there is a
23 court -- there is in place that mandates the minimum
24 playground acreage in an elementary school such that
25 adding a temporary toilet facility would impact on that

1 normally use the number of facilities that happen to be
2 available, they appear to have created a situation that
3 violates not only the plumbing code but common sense.

4 And you're asking children -- I would hope we
5 would never find a school in that situation. A possible
6 response at that time is you need more targeted break
7 periods for kids to be able to access the facilities.
8 If it's an emergency situation or something like that --
9 the purpose of standards and plumbing codes and things
10 like that is that we avoid this very situation.

11 Continually adding classrooms and people to a facility
12 that simply lacks enough toilet facilities, and, again,
13 there are operational changes that can be implemented at
14 very low cost.

15 If, as is very common in schools, if you have
16 too many kids to feed at one lunch period, you have two
17 lunch periods. Maybe the breaks need to be staggered
18 out.

19 But it sounds like in your hypothetical there
20 are simply an inadequate number of toilet facilities
21 that might be added to the campus to continue operations
22 with that number of kids on the premises at any one time
23 to use the available toilet facilities. That seems to
24 be a real problem.

25 And I don't know how the State Department of

1 acreage and therefore cannot be done.

2 The only option the school district has in
3 order to comply with the State standard with respect to
4 the hypothetical State standards with respect to minimum
5 available bathroom facilities would be to put kids on a
6 bus.

7 Do you believe that the school district's
8 response at that point should be to put kids on the bus
9 and take them off the campus?

10 MR. ELIASBERG: Incomplete hypothetical.

11 THE WITNESS: If you have the level of
12 crowding on a school site that's posing a potential
13 health threat to the children on that campus in that
14 they cannot use the toilet facility when needed, that's
15 a health issue. I would question that whole arrangement
16 that you've got going on there. You don't have 480
17 square feet anywhere on the entire campus to put in a
18 temporary restroom facility, you're that jammed for
19 space, I would posit that you really do have a
20 distressingly bad situation.

21 Now, whether you end up with some two-story
22 buildings, you go to the judge and ask for various
23 variance on your decree or whether you put kids on a
24 bus, it sounds like you're describing a virtual crisis
25 level that is bordering on health and safety issues for

1 those children, and I would be very concerned about the
2 overall conditions on that campus. That's what we
3 should not have kids doing.

4 There isn't 500 square feet anywhere on that
5 campus? That's pretty tight.

6 Q. BY MR. REED: I'm trying to tease out what is
7 the standard you're looking at, and I'm afraid the
8 goalpost may be shifting.

9 My hypothetical is not that students cannot
10 use the restroom during lunch hour. Not every student
11 wants to use the restroom, can actually get through the
12 restroom in the time allotted.

13 Assuming that is the standard that's
14 established, and we cannot -- and a school district
15 cannot meet that standard, in that circumstance, do you
16 believe it is incumbent upon the school district to
17 remove kids from that campus and bus them elsewhere?

18 MR. ELIASBERG: Objection. Compound, improper
19 hypothetical.

20 THE WITNESS: That hypothetical you're
21 proposing is an example of the hypothetical earlier I
22 said I hope the State would not come down, because that
23 would be such a rigid hypothetical, it would back school
24 districts into doing what they would prefer not to do or
25 incur very significant costs.

1 Q. BY MR. REED: Your answer goes to the heart of
2 the next question I want to ask, which is, assuming that
3 a standard is created and that standard creates a
4 situation in which it is, practically speaking,
5 impossible for a school site to meet that standard
6 without taking some other actions such as reducing
7 expenditures in some other area or putting kids on a bus
8 or taking over desperately needed and wanted school
9 ground space, whose decision -- who gets to make the
10 decision as between the local school site
11 administration, the school district or the State Board
12 of Education or Department of Education with respect to
13 how to resolve that conflict?

14 MR. ELIASBERG: Objection. Vague, compound,
15 improper hypothetical, calls for a legal conclusion.

16 THE WITNESS: Acknowledging those complex
17 objections here.

18 Q. BY MR. REED: I want to be sure I'm not
19 looking for legal conclusion. I'm looking for -- in the
20 context that you posit in your report, there ought to be
21 a standard, I'm trying to find out what that standard
22 looks like, and how it works in operation.

23 Assuming that standard created a situation in
24 which something else has to break or bend, is your
25 standard in your mind such that the school district has

1 There are alternatives to having every child
2 get through the bathrooms during lunch hour and that
3 would be an operational thing.

4 What should come down is a big red flag,
5 there's a problem here, and the school site
6 administration, the district level administration
7 proposes a fix that may be an extended bathroom break
8 around the lunch hour that would allow the system to
9 keep working. Because putting kids on the bus is not a
10 good situation. It's disruptive. It's not a good
11 situation.

12 So in your hypothetical, I would very much
13 hope that no State standard would be so absolutely
14 prescriptive that we had one window and one window only
15 and that was it.

16 Having enough facilities for children to
17 reasonably use the restroom facilities during the school
18 day, including lunch and periods as defined, and that's
19 a school site operational issue, and there are different
20 ways of handling it.

21 So, again, we need a little flexibility for
22 the schools, the managers on the campuses, district
23 managers. But if students absolutely cannot get to the
24 restrooms and start having bladder infections and other
25 health issues, there is a problem.

1 to comply? Is it mandated from the State? Does the
2 School Board have discretion? How does it work?

3 MR. ELIASBERG: All the same objections except
4 maybe doesn't call for a legal conclusion anymore.

5 MR. REED: All right. I'll take what I can
6 get.

7 THE WITNESS: As envisioned in this written
8 report that we're discussing today, there are some
9 standards that cannot be violated, and bathrooms with
10 unhealthy conditions such as, you know, obvious
11 contamination, obvious disease-causing organisms on the
12 floor are one of those standards. I mean, there are
13 certain minimums. And I frankly cannot visualize why
14 any school could not meet those. A dollar's worth of
15 bleach, a bucket and a mop can fix that condition. I
16 mean, nothing in here envisions something that is
17 insolvable.

18 What your hypothetical goes to are some of
19 these macro problems we were talking about earlier,
20 those are very real, very tangible problems. There are
21 other mechanisms and programs available in the State
22 right now to deal with those.

23 Your specific question is who defines the
24 response. The school district ultimately is responsible
25 for operating that school. The standards of guidance

1 give them some minimums. But how they get from point A
2 to point B needs to be a local decision, because there's
3 so many local factors that only they know.

4 But there are certain minimum essentials that
5 really grow out of the health field. What is a
6 healthful environment for a child? That should not be
7 negotiable. Children should not be required to use
8 dirty bathrooms. But whether they get to go to the
9 bathroom at 10:00 o'clock or 10:15 or 10:20 or 11:00
10 o'clock, that should be and belongs at a site level
11 decision, because only those people know the realities
12 of the day-to-day life of the school.

13 So we need that local flexibility. State
14 standards needs to be hands off enough where we're not
15 mandating that they use a number two mop and a number
16 three bucket. That's ridiculous. We don't need that
17 kind of guidance from the State.

18 But to say you have to meet certain generally
19 accepted health standards to allow the children to use
20 this facility on a daily basis is not really
21 unreasonable.

22 You're raising some questions about
23 overcrowding. We can talk about that in a different
24 question if you want to get into that, but it's really a
25 different standard than we're talking about for

1 cleanliness, a different type of standard.

2 Q. BY MR. REED: The question is about who gets
3 to make the decision. Assuming my hypothetical that
4 there is no way of meeting that standard with respect to
5 bathroom availability without putting kids on a bus,
6 putting the campus on track or taking some other action
7 that the school district has thus far tried to avoid, is
8 it your opinion the State ought to interrupt the local
9 autonomy with respect to that decision and ultimately
10 force the hand on the district to take a choice in order
11 to make the bathrooms available?

12 MR. ELIASBERG: Incredibly vague, compound,
13 improper hypothetical.

14 Q. BY MR. REED: I thought my vagueness was very
15 credible.

16 MR. ELIASBERG: You're right.

17 THE WITNESS: Following up on my last answer
18 here, again, I believe the local school and the local
19 school district is best suited to making those very
20 difficult and very tangible choices that have to be made
21 in order to operate their schools.

22 If a school district cannot operate a school
23 in a healthful manner and educationally appropriate
24 manner based on a State standard of health-related
25 issues of cleanliness, crowding, access to the

1 restrooms, at that point the State standard needs to
2 prevail, and they may have to make that tough choice and
3 put the kids on a bus.

4 You have kids that are going to get sick and
5 lead on to serious health problems because somebody
6 keeps packing kids in and doesn't add any bathrooms. At
7 some point State intervention is necessary because
8 somebody is making a bad choice at the local level.

9 Now, why, how, I won't posit. These are very
10 extreme hypothetical situations. In the real world they
11 don't come up that often. But in -- it is just -- at
12 some point, you just can't keep packing kids on a school
13 campus unless you can serve their basic needs of food,
14 recreation, fresh air, light, restroom facilities, safe
15 passage between buildings. And if school districts are
16 unable to make a decision that protect the health and
17 safety of children, some minimum guarantees from the
18 State for those children are very appropriate.

19 I mean, we, unfortunately, in the State of
20 California, grownups have made bad choices for kids, and
21 kids are at risk. And that's not right. But
22 admittedly, those are very extreme situations.

23 Q. BY MR. REED: I'm now going to go from page 94
24 to page 3, violating the backward rule in my first
25 outing here. Page 3.

1 MR. HAJELA: Actually, the no backward rule
2 only applied to Tony.

3 MR. SEFERIAN: Certainly didn't apply to you,
4 Abe.

5 Q. BY MR. REED: The paragraph that begins at the
6 bottom of the page beneath the bullets, the second
7 sentence. "In my experience, the biggest impediment to
8 solving facility problems is garnering commitment from
9 school and district officials, which is rooted in the
10 absence -- which is rooted in the absence of enforceable
11 standards."

12 Do you have an opinion as to whether
13 Los Angeles Unified School District officials lack the
14 commitment that you refer to here?

15 A. Let me answer your question in two parts.

16 The first part is I want to acknowledge
17 Mr. Hajela's earlier and your question now that -- and I
18 apologize for any ambiguous wording here.

19 This sentence on page 3, bottom of the page,
20 refers really to operational aspects of the school, not
21 building that new high school, not buying the land for a
22 new high school or anything like that. This really
23 deals with the operational side of fixing the broken
24 light bulb, of cleaning the bathrooms, making the school
25 safe.

1 And the second part of my response to your
2 question is do I believe that some of this reported
3 dirty bathroom and repair and safety issues in
4 Los Angeles Unified -- stop me if I stray from your
5 question -- that is due to the commitment from school
6 and district officials to fix those problems, yes, I
7 would have to reluctantly agree with that.

8 If the priority was to keep the rooms clean
9 and all the repairs made, these conditions would not
10 have been reported and would be addressed in a timely
11 and efficient manner.

12 Q. What evidence do you have that conditions or
13 problems have not been dealt with in a timely manner in
14 L.A. Unified School District?

15 A. Because L.A. has 800 schools and all kids of
16 stuff. I do not have extensive personal knowledge of
17 conditions there. I have observed some of the schools.

18 In this report, we list a long shopping list
19 of reported shortcomings over many, many years. The
20 purpose in here is not to berate Los Angeles or diminish
21 the hard work done by many people in Los Angeles
22 Unified.

23 For various reasons, it has occurred over a
24 period of time that these conditions keep popping up in
25 Los Angeles schools, as they do in other districts.

1 did reports, this is an assemblage of reports over a
2 period of time that says these problems were observed at
3 different times at different campuses within the
4 Los Angeles system.

5 And as I'd also stated, I believe recent
6 management changes have been reported to and appear to
7 be improving the facilities operations in Los Angeles
8 Unified. And that's why I said I do see a brighter
9 future. And that are all things operating efficiently
10 and timely this year? I cannot answer that question.

11 Q. So you don't have any evidence to lead you to
12 conclude that in 2003 facilities conditions have not
13 been addressed in a timely and efficient manner in L.A.
14 Unified School District?

15 A. In 2003, again, that's after the date of this
16 report, on my last observations of schools in the
17 Los Angeles School District, which was January 2003, by
18 driving by looking at the conditions of the campuses,
19 this is a windshield survey from the street, not walking
20 the interior of the campus, there appeared to be
21 custodial and cleanliness concerns on the grounds of
22 those campuses. I won't say they're the worst in the
23 state. I won't say they're the best in the state. But
24 there's an obvious cleanliness issue.

25 And I would speculate, without having personal

1 This is not a Los Angeles problem here.

2 I do believe that the current administration
3 in Los Angeles has made tremendous strides towards
4 addressing these ongoing problems and that the future is
5 much brighter.

6 The example in here about the lead abatement I
7 think is very telling. And if I understand correctly,
8 the superintendent thought that had been already been
9 abated, a survey was done and they discovered they had a
10 tremendous number of problems out there. That work is
11 going on. It's being addressed. It's being fixed.

12 But until that point and until the commitment
13 came from the superintendent's level, no one was out
14 there fixing the exposed lead and abating those problems
15 that were a health threat to the children in some of the
16 schools. Not all of the schools, but some of the
17 schools.

18 MR. REED: Can I have that, not the last
19 answer, if but the prior read, please?

20 (The reporter read the record.)

21 Q. BY MR. REED: So the conditions of those
22 facilities are not being addressed in a timely and
23 efficient manner in all L.A. school districts?

24 A. I have no basis in fact to answer that
25 question. What this report states is that other people

1 knowledge, that it wasn't limited to the exterior of the
2 campus.

3 Q. That would be speculation on your part?

4 A. It would be purely speculative on my part.

5 But I did observe debris, trash, litter, you
6 know, obvious evidence of lack of cleanliness at the
7 perimeter of the campus up against the buildings on the
8 exterior viewed from the street and sidewalk, not the
9 interior of the campus.

10 Q. This was a single visit in January 2003?

11 A. That was in 2003, that is -- I didn't do very
12 many visits to schools in 2003.

13 Q. How many visits did you do in 2003 to L.A.
14 schools?

15 A. One day where I rode around and looked at some
16 schools.

17 Q. And in no occasion did you look at the same
18 school on more than one day?

19 MR. ELIASBERG: In 2003?

20 THE WITNESS: In 2003.

21 Q. BY MR. REED: On the basis of that windshield
22 survey, do you believe you have evidence with respect to
23 whether conditions at the school facilities you observed
24 are not being addressed in a timely and efficient
25 manner?

1 A. As I earlier stated, I have no personal
2 knowledge of how work orders are being fixed and how
3 frequently bathrooms are being cleaned and other issues
4 in 2003.

5 Q. I just want to get an answer to the extent, do
6 you believe you have evidence as to whether in 2003
7 conditions at schools are being addressed in a timely
8 and efficient manner in the L.A. Unified School
9 District?

10 A. I have no personal knowledge of whether they
11 are or not.

12 (Lunch recess taken.)

13 Q. BY MR. REED: Mr. Corley, if you could turn to
14 page 11 of your report.

15 A. Yes.

16 Q. The paragraph that appears at the top of the
17 page is a continuation. You are describing an appraisal
18 done by Professor McCord to assess vestiges, I'm quoting
19 here, your quotation, vestiges of secondary
20 discrimination of facility aspects of SFUSD operations.
21 It goes on from there.

22 Do you quote Professor McCord as concluding
23 that he found a pattern of disparate facility conditions
24 associated with the racial and ethnic identity of
25 San Francisco Unified School District schools?

1 Angeles Unified School District schools?

2 MR. SEFERIAN: You're just asking if he has an
3 opinion?

4 MR. REED: Yes.

5 THE WITNESS: It is my opinion that some of
6 the trends that Dr. McCord discusses may be applicable
7 to Los Angeles. I do not believe the differences are
8 anywhere as dramatic.

9 So no, it is not my opinion that the same
10 patterns that are reported in San Francisco exist in Los
11 Angeles Unified.

12 Q. BY MR. REED: Have you ever -- are you aware
13 of any analysis or reports, appraisals, studies out
14 there that look at the dollars spent by Los Angeles
15 Unified School District on new construction of
16 facilities in relationship to the race or ethnicity of
17 the students for whom these facilities are being
18 constructed?

19 MR. ELIASBERG. Object. Vague.

20 THE WITNESS: I have seen a working paper that
21 presented schools eligible for critically overcrowded
22 schools programs, and the ethnicity of students and the
23 socioeconomic status were some of the indicators. But
24 it was not a comprehensive study, and it was focused
25 only on a subset of Los Angeles schools and was

1 I take it you've read Dr. McCord's report?

2 A. Yes.

3 Q. And do you agree with his conclusions with
4 respect to San Francisco Unified?

5 A. With respect -- I'm sorry.

6 Q. Specifically with respect to his findings of a
7 pattern of disparate facilities associated with racial
8 and ethnic identity.

9 A. Let me answer by saying I, in no way, have
10 conducted a survey of San Francisco schools.

11 And in reading Dr. McCord's report, his
12 findings are consistent with the data he presents in his
13 report. I have no outside evaluation of whether the
14 underlying data is in fact representative. But he does
15 conclude that based on the data in his report.

16 Q. Are you aware of any analysis, report or
17 appraisal of Los Angeles Unified School District that
18 requires -- makes inquiry into whether there is a
19 pattern of disparate conditions associated with racial
20 and ethnicity of L.A. school?

21 A. I have never seen an actual study that does
22 that. There may be one, but I'm not aware of it.

23 Q. Do you have an opinion as to whether there is
24 in fact a pattern of disparate facility conditions
25 associated with the racial and ethnic identity of Los

1 descriptive rather -- there were no conclusions
2 whatsoever just described.

3 But other than that, I'm not aware of any
4 studies based on dollars spent by any of the indicators
5 you mentioned.

6 Q. BY MR. REED: Same question with respect to
7 there's any -- you're aware of any study, appraisal,
8 report that looks at the dollars spent by L.A. Unified
9 School District on repair or modernization of L.A.
10 Unified Schools in relationship to the race or ethnicity
11 of the students who attend those schools?

12 A. I've never seen such reports. There may be
13 one, I've just never seen it.

14 Q. Do you know how much of L.A. Unified -- do you
15 know how big L.A. Unified's unrestricted general fund
16 budget is?

17 A. I saw that number. No, not with accuracy.
18 It's two billion or something. It's big. Staggering
19 amount of money.

20 Q. Do you recall where you saw that number?

21 A. Somewhere, either in the newspaper report or
22 in some report that went by.

23 Q. I'd like to refer you to pages 18 through 20
24 of your report.

25 A. Okay.

1 Q. What was the source or are the sources of each
2 of the items that you list for L.A. Unified School
3 District, which I believe to be items 1 through 10 in
4 this list?

5 A. Let me turn to a different page and give you
6 that. These are different newspaper articles and
7 reports assembled over a long period of time. And --

8 MR. ELIASBERG: Page 72.

9 THE WITNESS: Beginning in '70s, for example,
10 item number one on page 18 refers to the first paragraph
11 under subject heading A on page 72 where it's described,
12 the source is described in more detail.

13 Q. BY MR. REED: Okay. Do you have any
14 information to substantiate that report placed in the
15 Los Angeles Times on July 10th, 1985?

16 A. What my report is doing is presenting that
17 newspaper article describing these conditions was
18 published on that date, and it was published in a
19 credible newspaper, the Los Angeles Times, and reported
20 what the reporter said were the facts.

21 The use of it is not to belittle or embarrass
22 Los Angeles Unified, merely to point out that this is a
23 broadly publicized issue that's been going on for almost
24 20 years.

25 I willingly concede that the article in

1 Q. Do you have an opinion sitting here today with
2 respect to whether L.A. Unified School District did not
3 deal with the deteriorating conditions of the campus at
4 Taft High School in 1985 in an appropriate manner?

5 MR. ELIASBERG: Objection. Vague.

6 THE WITNESS: I don't have the ability to
7 answer that question based to the information I have.
8 It's --

9 Q. BY MR. REED: Continuing on then, staying with
10 page 72 -- I'm sorry, just to back up for second.

11 Items 1 through 10 here on page 18 are
12 descriptions of the data or articles that are more fully
13 described here in pages 72, et seq.; is that correct?

14 A. That's correct.

15 MR. ELIASBERG: It isn't clear. It's my
16 understanding these are not about L.A. I just don't
17 want there to be any confusion. It's just 1 through 8.

18 MR. HAJELA: Let the record reflect Rob
19 couldn't find a 9 or 10.

20 Q. BY MR. REED: In some 20 years, there was only
21 eight instances. Sorry. Withdraw that.

22 So is page 72, you are quoting here from the
23 Los Angeles Times article from 1988, is that correct
24 about, Gardener Elementary School?

25 A. Correct.

1 question, 1985, was, what, 18 years ago, a long time
2 ago, this is not current conditions by any means. It's
3 a long time ago.

4 But the issue here is that the problem has
5 been in existence and has been publicized for a very
6 long period of time in Los Angeles and numerous other
7 districts as well. Again, it's not just L.A.

8 Q. If you look at page 72, the reference to the
9 article in question, the title of that article is Stormy
10 Year in Taft Principal's Transfer, correct?

11 A. Uh-huh.

12 Q. Yes?

13 A. Yes.

14 Q. Do you recall from having read the article
15 whether it described the transfer of the Taft principal
16 from Taft High School?

17 A. I don't recall that detail.

18 Q. Is there anything in your memory in that
19 article that describes steps taken by the Los Angeles
20 Unified School District to deal with problems, with
21 conditions that had deteriorated at the campus?

22 A. I do recall the article mentioning that with
23 transfers and other interventions, things were getting
24 better. But it was after a period of, a fairly extended
25 period of troubled schools.

1 Q. Do you have any idea what the current
2 conditions are at Gardener Elementary School?

3 A. In the year this report was written, I drove
4 by Gardener, and there was quite a bit of work going on
5 on the campus. There was some construction activity
6 going on.

7 It -- the specific situations here are
8 interior. I did not visit the interior of the campus.
9 The school appeared to be operating in the normal manner
10 back in 2002. And I -- it's obviously an older campus.
11 It's well used. But I saw evidence of a good elementary
12 school in operation.

13 Q. Do you know whether there are buzzers or
14 intercoms currently in place to allow teachers to
15 communicate between classrooms and classroom bungalows?

16 A. I personally don't know, and I sincerely hope
17 they are present.

18 Q. Do you know whether there was -- the
19 installation of communications equipment was or was not
20 a priority of Proposition BB in 1997 Los Angeles Unified
21 School District's general obligation bond measure?

22 A. I believe the communication between classrooms
23 and phones in classrooms was a very high priority for
24 safety reasons. Measure BB and the State modernization
25 as required by State law.

1 Q. Do you have any opinion as to whether or not
2 Los Angeles School District has failed in your opinion
3 to take steps to install communications between
4 classrooms and classroom bungalows?

5 MR. ELIASBERG: Objection. Vague as to
6 time.

7 Q. BY MR. REED: Currently?

8 A. Are you referring to this one campus or
9 systematically?

10 Q. Anywhere in the L.A. Unified.

11 A. I am aware of the Measure BB plan which calls
12 for this work to be done as schools are modernized and
13 other repairs occur. I have not seen a current report
14 whether it has or has not been done. Again, I would
15 hope that it's underway, if not completed.

16 Q. Do you have any information which leads you to
17 believe that in 1988, the Los Angeles Unified School
18 District failed to respond in an appropriate manner to
19 the situation described herein with respect to Gardener
20 Elementary School?

21 MR. ELIASBERG: Vague.

22 THE WITNESS: I do not have any personal
23 knowledge of the conditions in 1988 at Gardener.
24 However, the plain text of the Los Angeles Times article
25 from that year says that at the beginning of the new

1 Q. And neither do I. I'm not trying to play
2 games. I really am trying to figure out if you
3 understand school year as it used in the L.A. Times
4 article to be the beginning of September, end of July,
5 or some other period of time.

6 A. It was my assumption, and, again, as you
7 pointed out, it may be an incorrect assumption, that
8 this 1988 article appears to be referring to the
9 traditional school calendar, which began in late August
10 or early September.

11 I'll check that with my injection from 1988.
12 I do have the book. That's a good question.

13 Q. In fact, as of September 1st, assuming -- or
14 beginning of September, late August, assuming there was
15 a traditional calendar school, was it possible to know
16 whether there was heat for the winter, or would be heat
17 for the winter at the time it was needed?

18 MR. ELIASBERG: Objection. Vague.

19 THE WITNESS: I do not have personal knowledge
20 of that. It was my interpretation based upon this news
21 report from 1988 that the heater was malfunctioning
22 during the winter that ended that spring. There was a
23 December break, and when they came back, the furnace
24 repair, heater repairs, whatever repairs that were
25 needed had not been accomplished.

1 school year, the conditions were the same as at the end
2 of the previous year, stated, implying, signaling that
3 the work had not been done over summer break. Just from
4 the plain text of the article, the new year started
5 pretty much as the old one ended.

6 That tells me that at least over the summer
7 break the work had not been done. And, again, I hope it
8 has been done.

9 Q. Do you know if there was a summer break at
10 Gardener Elementary in 1988?

11 A. I was wondering if you'd catch on. Over some
12 period of time that the work had been done. So,
13 again --

14 Q. Do you know when the school year begins for a
15 multi-track, year-round school?

16 A. Which track do you mean? Yeah, I -- the
17 school year, I mean just to use the phrase.

18 Q. Do you know what the article meant when it
19 said the school year started out, what time of year are
20 we talking about?

21 A. I think you're correctly implying that there
22 was a more traditional calendar, whether it was actually
23 a start and stop with a summer break in the middle, I do
24 not know whether Gardener was on multi-track at that
25 moment in time.

1 Therefore, the statement from this campus that
2 there would be no heat for the winter, that the
3 pre-existing condition remained in effect. It could be
4 the schedule. It could be something was going on.
5 Again this is a snapshot.

6 Q. BY MR. REED: On top of page 73, you quote the
7 1992 Los Angeles Times article, apparently about Grant
8 High, titled School in Crisis, Grim Days at Grant High.

9 Do you have any information with respect to
10 whether any information that led you to the opinion that
11 L.A. Unified School District did not respond in an
12 appropriate manner to the conditions described here at
13 Grant High School?

14 MR. ELIASON: Vague as to appropriate
15 manner.

16 THE WITNESS: I do not know the response
17 generated by this particular article. But if you read
18 the plain text of the article, there's a coat of dust so
19 thick that it's a slip hazard, and it suggested that
20 there is an ongoing -- at that moment in 1992, there had
21 been an ongoing issue of proper maintenance. I would
22 hope that this article and other information prompted a
23 clean up of whatever condition is reported there.

24 Q. BY MR. REED: So do you have an idea what the
25 conditions are today at Grant High School with respect

1 to these conditions?
 2 A. I have not inspected the interior of the
 3 campus at Grant High School, so, no, I do not.
 4 Q. Is Grant High School one of the schools you
 5 visited in your windshield survey?
 6 A. In 2002, I did drive by the school and take a
 7 look at it.
 8 Q. What did you observe?
 9 A. An older high school, obviously pretty
 10 crowded, but it seemed to be functioning in a normal and
 11 adequate way for a large high school.
 12 Q. Did you ever go inside Grant High School?
 13 A. No.
 14 Q. In the middle of page 73, you quote from the
 15 1994 Los Angeles Times article --
 16 A. Uh-huh.
 17 Q. -- concerning an enormous and growing backlog
 18 of maintenance at L.A. Unified?
 19 A. Uh-huh.
 20 Q. Which the director of maintenance and
 21 operations in the district is quoted as saying, "We're
 22 only funded at one third of what the needs are." Do you
 23 recall that quote?
 24 A. Yes.
 25 Q. Do you have any opinion one way or the other

1 as to whether that quote was accurate, the information
 2 in that quote was accurate?
 3 A. I have no independent knowledge of whether
 4 it's accurate. During that period of time, there was a
 5 statewide crisis in deferred maintenance, and this is
 6 consistent with other information from other school
 7 districts, that this was part of a major statewide
 8 shortage of funding to catch up on maintenance. It's
 9 not unique to Los Angeles. It just happened to be their
 10 personal condition.
 11 Q. Did your review of this article lead you to
 12 conclude in any way that L.A. Unified in 1994 had failed
 13 in any way to manage its facilities appropriately?
 14 MR. ELIASBERG: Objection. Vague.
 15 MR. REED: Could you just read back the
 16 question.
 17 (The reporter read the record.)
 18 MR. ELIASBERG: Same objection.
 19 THE WITNESS: I think manage its facilities
 20 appropriately is -- I'm not sure it relates directly to
 21 the statement in the newspaper article we're discussing.
 22 But the newspaper article says that there was
 23 an inadequate funding through State and local sources to
 24 address the accumulating backlog of major maintenance
 25 needed. This implies that the district was doing the

1 best it could with the inadequate amount of money. But
 2 it needed more cash to solve the problem.
 3 And this is the director bringing it to
 4 everybody's attention that they're actually slipping
 5 backwards, because they can't get ahead in the curve of
 6 this one.
 7 As far as managing the facilities, there's no
 8 information here presented about that. It does appear
 9 they're striving to do what they can given the
 10 resources.
 11 And, again, in the context of statewide, other
 12 people elsewhere in the state had the same problem at
 13 that time.
 14 Q. BY MR. REED: Looking at the indented
 15 quotation, the last sentence, I believe you're quoting
 16 from the same article here, the November 9, 1994,
 17 article by Doug Smith, states: "Three on-site
 18 custodians have been lost to cutbacks. And until last
 19 week, no full-time gardener has attended the 19-acre
 20 multi-track, year-round campus."
 21 Assuming that statement is true, do you
 22 believe that Los Angeles Unified School District made a
 23 mistake by its decision to cut back on those three
 24 custodians?
 25 MR. ELIASBERG: Objection. Calls for

1 speculation.
 2 THE WITNESS: It would be speculation, because
 3 I don't know the complete situation. I have to assume
 4 facts about how many custodians were there before or
 5 not.
 6 The plain wording of the article says that
 7 there's a problem in at least one boys' bathroom where
 8 the odors are creeping down the hallway to the
 9 attendance office. So, the fact that there was an
 10 observable problem in one bathroom says that somehow
 11 services aren't being delivered, whether it's the
 12 staffing cutback or training or whatever.
 13 I don't know the relationship with this
 14 custodial cutback, but the first sentence clearly says
 15 there's a problem. I would hope it's been corrected by
 16 this date, by today.
 17 Is that responsive to your question? I don't
 18 mean to be evasive. I'm really trying to connect the
 19 dots here.
 20 Q. BY MR. REED: Part of my question is about
 21 what you can and cannot conclude based on the data which
 22 you relied upon in your report and what you mean by the
 23 quotations. That's -- which is I guess what I would
 24 like to know is whether, assuming that the loss of these
 25 three on-site custodians caused in whole or in part this

1 reeking boys' bathroom, do you believe that the district
2 should have been prevented from cutting those custodial
3 positions?

4 MR. ELIASBERG: Incomplete hypothetical.

5 THE WITNESS: I would not go so far as to say
6 the district should be prevented from taking the action
7 that it feels it needs to take.

8 It would be my preference, as we've discussed
9 earlier today and as laid out in the report, that there
10 has to be a minimum level of service provided based on
11 health and safety criteria. How the district provides
12 it, maybe there's a crew increase, maybe there's a day
13 crew. Maybe the gardener is down cleaning the toilets.
14 As long as you meet the minimum. The district should be
15 prevented from falling below that where children are
16 exposed to unhealthy conditions. How they get there is
17 obviously the whole issue that has to be decided wholly
18 by the school district and the site individuals
19 involved.

20 Q. BY MR. REED: Beginning at the bottom of page
21 73, page 74 75, you got from the 1996 Los Angeles Times
22 article that says -- quotes Delaine Eastin. You recall
23 that article?

24 A. Yes.

25 Q. And the title of that article appears to be

1 speculation. The article speaks for itself.

2 THE WITNESS: The article, the 1996 article is
3 included here because Ms. Eastin is describing her
4 perceptions of the conditions that need support in her
5 personal endorsement of the Measure BB when it did pass,
6 and she's listing some reasons why a major bond is
7 needed. And I give her great credibility to her as
8 State Superintendent of Public Instruction.

9 Q. BY MR. REED: Is there anything about the
10 article in 1996 that led you to believe that poor
11 management within L.A. Unified School District created
12 the conditions described by Ms. Eastin?

13 A. There are portions of this article that raise
14 concern in my mind about the management practices of the
15 district when it's -- back on the bottom of page 73, it
16 talks about floor tiles being detached possibly creating
17 a trip and safety hazard for students. That is a repair
18 that could be performed. A bucket of glue is not that
19 expensive.

20 A room with gaping ceiling holes which the
21 school has stopped repairing because it leaks every
22 single rainstorm. That appears to indicate a chronic
23 issue that should have been patched or repaired at some
24 point.

25 So there are -- and even the stench of the

1 Delaine Eastin pledges support for ballot pleasure that
2 would fund repairs at the district's aging facilities.
3 Correct?

4 A. Correct.

5 Q. Do you understand that ballot measure to have
6 been Proposition BB?

7 A. I believe that is the one.

8 Q. Do you recall that ballot measure having been
9 on the ballot within the Los Angeles Unified School
10 District in November of 1996?

11 Do you know one way or the other?

12 A. Was it '96? I'm blanking at the moment which
13 year it was. I'll accept that it was 1996. I believe
14 that's correct.

15 Q. The question I had was, do you recall it being
16 on the ballot in '96 and losing it in '96?

17 A. My recollection is it lost one time and won
18 the second time.

19 Q. I'll represent to you it was the April '97
20 election when it went again.

21 So is this article then in the L.A. Times
22 specifically about the need for passing a local bond
23 measure, and is that in fact what Ms. Eastin was
24 describing and quote attributed to her?

25 MR. SEFERIAN: Objection, calls for

1 restroom, it does indicate it's been scrubbed and steam
2 cleaned. But at some point in the history of that
3 bathroom, there was that lack of maintenance that
4 allowed the urine and other items to seep into the
5 stonework that now has to be jackhammered out and
6 replaced.

7 So there are indications here that maintenance
8 was sliding in the district and contributed to some of
9 these.

10 I don't have complete knowledge. She doesn't
11 refer to campuses. But it suggests that there was a
12 problem in the maintenance department that contributed.
13 But, obviously, old age, many, many years of wear and
14 other underlying factors also contributed and likely had
15 a bigger role in these problems. Some of these schools
16 are very, very old.

17 Q. Is it your understanding that Ms. Eastin,
18 based on what you read in the article, Ms. Eastin was
19 advocating towards the passage of a bond measure to
20 provide funds to replace roofs and upgrade the bathrooms
21 in which the conditions that she described were found?

22 A. Very much so. I think that was she was trying
23 to get to the underlying problem.

24 Q. On page 74 you quote from an article authored
25 by Bill Borarski (phonetic) in January of 1998. Did you

1 testify earlier that you would actually go to these
2 schools to see for yourself whether the conditions that
3 Mr. Borarski described existed?

4 A. Yes.

5 Q. And when did you go to Jefferson and Fremont
6 High?

7 A. Summer of 2002.

8 Q. Did you visit those schools at all between
9 January of 1998 and the summer of 2002?

10 A. No.

11 Q. And the summer of 2002, did you witness the
12 existence of any of the conditions described by
13 Mr. Borarski?

14 A. Again, I did not conduct a comprehensive tour
15 of the school. What I did observe there was, in
16 general, the conditions reported in this article are not
17 present today. There are still some cleanliness issues.
18 There still is graffiti. There's still signs of wear
19 and tear. There did appear to be evidence of an effort
20 to keep the school clean. It was a school day. There
21 were a lot of kids around. And there were adults on
22 campus.

23 Again, it seemed to be a fairly normal high
24 school. It's -- obviously work is needed on these
25 buildings.

1 safe schools program in the L.A. Unified School
2 District, correct?

3 A. Yes.

4 Q. And in the article, it was describing the
5 health and safety deficiencies that were found by L.A.
6 Unified's own inspection program, correct?

7 A. That's correct.

8 Q. Did you form the opinion based on any
9 information contained in that article that Los Angeles
10 Unified School District was not working to try and
11 identify and correct health and safety deficiencies on
12 its campuses?

13 MR. ELIASBERG: Objection again, vagueness.

14 THE WITNESS: I think how to best respond to
15 that. I interpret this article to say that Los Angeles
16 Unified is making a strenuous effort to correct
17 deficiencies in the schools. 2002 is almost five years
18 after BB passed. And the fact they have 7400 -- they
19 had 1500 serious safety violations five years after the
20 bond passed. It is a little alarming. Now, that's only
21 two per campus if you have 800 campuses or something
22 like that. So it's not a catastrophe, but it shows
23 there are still numerous issues to be addressed.

24 In all, I would interpret that as a very
25 positive sign, that a very thorough inspection is going

1 Q. And, again, in the visit in 2002, you did not
2 go inside the either Jefferson or Fremont?

3 A. I did go inside Jefferson, but I did not
4 inspect the entire facility. It was a very big school.

5 There was obvious evidence of recent repairs
6 to both schools. So, obviously, work is going on. I
7 don't know the exact nature and extent of the work.

8 Q. Page 5, you talk, the first full paragraph,
9 you quote the Little Hoover Commission from 1999,
10 stating that -- quoting the Commission as noting that
11 there is severe overcrowding in the classroom, correct?

12 A. Yes.

13 Q. Is it your understanding that the Little
14 Hoover Commission in 1999 was criticizing L.A. Unified
15 School District over the condition of their schools as
16 well?

17 A. I cannot tell you what they intended. The
18 report was -- it's cited here as an independent body's
19 assessment of the conditions the intent and desired
20 outcome. You'd have to ask the Hoover Commission.

21 Q. On page 75, you quote from a Daily News
22 article there in the middle of the page --

23 A. Uh-huh.

24 Q. -- from March 26, 2002, article, titled
25 Schools Above C in Safety. That article described the

1 on. There are 1500, a lot of serious issues, but it was
2 not a catastrophic number, and it's something that's
3 manageable. So I look at both the good, and if there's
4 an active proactive inspection program that your
5 district is dealing with the problem, and the concern,
6 of course, is that there still is lots of work to be
7 done, which we all know.

8 In all, I would rate this as a fairly positive
9 article showing that things have gotten dramatically
10 better and that ongoing inspections, ongoing analysis
11 ongoing management of your facilities is occurring.

12 Q. BY MR. REED: Mr. Corley, did you say that
13 anywhere in your report?

14 A. In this report, and I would have to flip
15 through the pages to do that. In several places I do
16 note that the facilities program in Los Angeles Unified
17 has turned a corner and is improving and is actively
18 working to make things better.

19 I'm complimentary toward your district's new
20 management that is addressing these longstanding
21 problems. I believe you are on the up. You're not
22 done, but you're definitely addressing the problems.
23 And the new bonds will only help.

24 Q. Here on page 75 where you quote from the Daily
25 News article, the topic sentence of your paragraph is,

1 "According to recent reports, widespread maintenance
2 problems persist in LAUSD."

3 Are you saying now that's not the only
4 conclusion you got from the Daily News article?

5 A. Well, I -- I do not find the two statements
6 inconsistent. 7,400 health and safety violations or
7 deficiencies appears to be a widespread maintenance
8 need. I mean, the sentence says "widespread maintenance
9 problems." And somebody came up with 7,400 of them,
10 that's pretty widespread and that problems exist.

11 Q. Do you know how deficiencies are defined in
12 the L.A. Unified's safety program?

13 A. When it comes the health and safety
14 deficiencies, I do not know completely how they're
15 defined, but I believe it's self-explanatory.

16 Q. Do you have any information one way or the
17 other as to whether the standards for bathroom
18 cleanliness inside the L.A. Unified applies to its
19 schools under the safe schools program are more, less or
20 about as stringent as the requirements that the County
21 Department of Health would apply to the public
22 institution or public place of -- I'm sorry, a public
23 business within the county?

24 A. No.

25 MR. ELIASBERG: Objection. Assumes facts.

1 addressing them.

2 Q. BY MR. REED: I'm sorry, I don't mean to cut
3 you off, and I'm not trying to be tricky. Just we've
4 discussed earlier today that your opinion contained
5 within the report is that the State should establish
6 standards for, amongst other things, bathroom
7 cleanliness, and I'm trying to discover, if I can,
8 whether you have an opinion with respect to whether the
9 State standards that you believe ought to exist are
10 somehow better than what L.A. Unified currently applies
11 to its own schools pursuant to the safe schools program?

12 MR. ELIASBERG: Asked and answered.

13 Q. BY MR. REED: Do you have an opinion one way
14 or the other?

15 A. As I just said, I do not know the particulars
16 of the factors in your safe school program. So,
17 therefore, I can't make that comparison you are asking
18 for.

19 Q. So it's possible that L.A. Unified -- assuming
20 L.A. Unified uses a standard for bathroom cleanliness
21 that is more stringent than, say, the County Department
22 of Health otherwise publishes, and L.A. Unified reported
23 deficiency failures to meet that higher standard, then
24 is it possible that the 7400 deficiencies here may in
25 fact be more deficiencies than would otherwise be found

1 THE WITNESS: I do not know the standards that
2 the district used, but apparently the district did adopt
3 some criterion that were applied to this -- their own
4 survey.

5 Q. BY MR. REED: Do you have any reason to
6 believe that the criteria that L.A. Unified adopted are
7 insufficient in some way?

8 A. I don't believe that's been implied at all.

9 Q. Well, do you believe that L.A. Unified safe
10 schools program is not working?

11 MR. ELIASBERG: Objection. Vague as to not
12 working.

13 THE WITNESS: I have no basis of personal
14 knowledge whether it's working or not.

15 Q. BY MR. REED: Do you have any reason to
16 believe that the State would have a better standard for
17 bathroom cleanliness than Los Angeles Unified School
18 District currently employs in its safe school program?

19 MR. SEFERIAN: Objection. Incomplete
20 hypothetical.

21 MR. ELIASBERG: Calls for speculation.

22 THE WITNESS: I don't have complete knowledge
23 of the criteria you're using here. What this article on
24 this page is saying is that there are still maintenance
25 problems in the district that the safety program is

1 if a lesser standard were applied?

2 A. Your -- the answer is yes, that more
3 deficiencies with a higher standard. A lower standard
4 would have fewer.

5 I would hope the local standards in fact would
6 be stricter than the State minimum.

7 Again, my compliments to Los Angeles for
8 having criteria, doing the inspections and addressing
9 the problems. This is a step forward. This is good
10 news.

11 Q. But it remains the case that L.A. Unified
12 citing itself for the 7400 health and safety
13 deficiencies is not necessarily evidence that there was
14 7400 incidents of the district violating a standard you
15 would otherwise promote as the State's standards?

16 A. And I would hope that no part of this page
17 implies that. Some of these deficiencies could be
18 entering recordkeeping unique to the Los Angeles
19 Unified. So I don't know the particulars, and I'm not
20 implying that were a State program to exist and to
21 inspect they would also find 7400.

22 Again, this is testament that Los Angeles is
23 addressing the problems in its schools. This is good
24 news.

25 Q. I agree. But I'm trying to understand what it

1 is you mean by the phrase "widespread maintenance
2 problems" as you used that phrase in the topic sentence
3 of that paragraph on 75.

4 A. Where this article was included in this
5 report, the citation we're talking about in the middle
6 of page 75 to suggest that on a statewide level, some
7 degree of oversight is necessary. The fact that Los
8 Angeles is out proactively inspecting its own schools
9 and trying to address these in advance of any kind of
10 State program is good news.

11 Hopefully the State will come through and
12 inspect these 800 schools in Los Angeles and find zero
13 violations of any it were to adopt.

14 But the fact that your own crews went out and
15 looked at your own schools and came up with more than
16 7,000 deficiencies suggests that there may be one or two
17 instances that need additional follow-up. I would hope
18 that proactively, using your two bond measures, using
19 the statement you've received and new management
20 strategies, that every single school in Los Angeles
21 would get a perfect score or close to perfect score.
22 That would be wonderful news.

23 So I'm hoping that, by the time any kind of
24 State program were to get started, every school in
25 Los Angeles would pass with flying colors.

1 you clarifying it. Is it truly your belief that -- how
2 can I phrase this.

3 Assuming the system of standards and
4 inspections just involving bathroom maintenance would be
5 implemented tomorrow, do you believe that there's any
6 district in the state that would pass an inspection if
7 no violation was found?

8 A. Yes. I mean, I'm personally familiar with
9 districts that focus on this issue and keep their
10 campuses where maintenance and cleanliness are very high
11 priorities. And on every campus on every day, there is
12 a toilet bowl in every stall and soap in every dispenser
13 and paper towels in every dispenser.

14 MR. ELIASBERG: Objection. Compound.

15 THE WITNESS: I believe you will find schools
16 in the State of California where every bathroom is fully
17 stocked every single day. It's part of every
18 custodian's responsibility before school starts to check
19 every single bathroom, that, if there is a problem, that
20 appropriate safety barricades are set up, and middle of
21 the day and end of day.

22 I worked with schools where the principal
23 visits every single bathroom two or three times a day to
24 make darn sure everything is working. And the cafeteria
25 and the lunch table area and the front entryway and the

1 Again, this was evidence of the district
2 turning a corner and addressing problems and hopefully
3 solving them. I hope in 2003 a repeat inspection would
4 not find 7,000 problems.

5 Q. Assuming in 2003 inspection under the safe
6 schools program found significantly less than 7,000
7 health and safety deficiencies under L.A. Unified
8 standards, is it nevertheless your opinion that the
9 State should itself set standards and do their own
10 inspection of L.A. Unified schools?

11 A. The fact that -- let me answer that question
12 by stating that the fact that one district has created a
13 new inspection program that is remedying the problems
14 that exist does not say that statewide all the problems
15 have gone away.

16 What I would be still interested in seeing
17 would be doing a statewide inventory to see if there are
18 health and safety problems in California schools. If
19 they do the inspection and every single bathroom passes
20 with flying colors, I think that's a momentous
21 celebration in California. I would hope that every
22 single problem everywhere has been, but recent reports
23 from other districts strongly indicate that the problems
24 have not yet been solved.

25 Q. I want to be careful not -- and I appreciate

1 parking lot.

2 Q. BY MR. REED: So there are districts that
3 every school follows those criteria?

4 A. Yes. And some of these are quite old schools,
5 but they're well taken care of.

6 Q. Do you maintain that, even those schools and
7 those districts, should be subject to a State inspection
8 program and be required to demonstrate that they made
9 the State standard bathroom cleanliness?

10 A. In the same way that restaurants can post
11 their County Health Department A ratings and they were
12 inspected and passed with excellent results, I would
13 hope that schools would be proud to post an excellent
14 rating in their front window, tell all the parents and
15 community and all the kids that we have pride and we
16 take care of our school.

17 We not talking about gold plating the
18 bathrooms and multi-million dollar renovation. Just the
19 broken glass on the playground, the filth in the
20 bathrooms, are the drinking fountains functional and
21 clean. These are minimums. They're not huge issues.
22 If there's problems -- and in some of these schools
23 there would be a broken bathroom stall. There's a sign
24 posted, out of service, work order filed. That doesn't
25 disqualify a district from passing. They're fixing the

1 things that are basic.

2 Q. I understand. But aside from the marketing
3 opportunity that comes from the A rating, is it your
4 opinion that it ought to be the case that, even the
5 schools that do it right in the districts that get it
6 right should be subject to the State standard and a
7 State program?

8 A. Yes.

9 Q. Why?

10 A. Why?

11 Q. Yes.

12 A. First of all, the inspection in the standards
13 would not be an onerous burden on them. You know, in
14 here we postulate every four years maybe a half an hour
15 to an hour, somebody with a clipboard from the State
16 would come and check. That's all it would be, every
17 four years. 15 minutes a year. That would be a very
18 minor intrusion.

19 It would, number one, create a statewide data
20 base to compare norms versus outliers. Second thing it
21 would do is to tell the local schools that they are in
22 fact doing a good job, and they should be acknowledged
23 and honored for that. It's a very minimal intrusion
24 into their lives.

25 The same reasons schools apply for blue ribbon

1 essentially because they're not that hard to do, and I'm
2 paraphrasing. I'm trying to discover the proactive
3 reasons, what benefits a well-run school within a
4 well-managed school district gets from a statewide
5 standard of inspection program.

6 MR. ELIASBERG: I think it's been asked and
7 answered. But go ahead.

8 THE WITNESS: The benefit --

9 Q. BY MR. REED: Is there anything else besides
10 protecting the students in the schools that are not well
11 maintained and poorly managed districts?

12 A. The information gathered would, number one,
13 assist in statewide budgeting. If there is, it would
14 give a statewide snapshot of conditions. And if more
15 money is needed, if the supplemental cleanliness program
16 is needed, State law makers would be advised of that and
17 could respond with appropriate budgetary issues.

18 It also is that, as we say in the report, if
19 it ain't monitored, it's optional. And the reality is
20 principals change, custodial supervisors change,
21 custodians change and, on occasion, even in a good
22 district, problems will start cropping up. It's one
23 more check on the system. It's a minimal check. It's
24 not a huge intrusion in people's lives, but it
25 guarantees that every child in the State of California

1 awards and distinguished schools awards. It should be a
2 matter of pride that they are in fact doing an excellent
3 job.

4 I'm going to complete that by saying that a
5 very small number will find significant problems. And
6 those kids -- and those kids deserve the benefits of an
7 inspection program.

8 Again, we're not talking the majority. We're
9 talking a small number of kids who are suffering today
10 because of unusually poor conditions. This is their
11 defense.

12 Q. But do you mean the reasons to create the
13 standards and do inspections on all campuses is in order
14 to protect against problems at that subsets of schools
15 that truly have the problems?

16 MR. ELIASBERG: Objection. Misstates prior
17 testimony.

18 THE WITNESS: That would be one of the goals,
19 the same reason we now have the California High School
20 Graduation Test. That's pretty popular with
21 Mr. Eliasberg, too.

22 MR. ELIASBERG: One of my favorite tests, too,
23 but --

24 Q. BY MR. REED: I'm just trying to -- the large
25 part of your answer was we should do the inspections

1 will go to a safe, clean, orderly school which should be
2 our statewide uniform goal.

3 Q. The top of page 76 of your report, you quote
4 from the L.A. Times editorial of June 2002. Why did you
5 include that in your report?

6 A. What this report quotes is in here, as of that
7 date at apparently two different schools, there were --
8 June 2002 there appeared to be problems at a couple of
9 your schools. I don't know why those problems are
10 there.

11 The issue that was well publicized in the
12 local papers at the time was the school board members
13 desiring some private facilities for themselves. Yet
14 the reason it was alleged that there were problems at
15 some of the other schools was lack of money. So it says
16 that -- the goal of this paper, the whole purpose here
17 is that no student in the State of California will go to
18 the bathroom with no toilet paper, no soap, no doors on
19 the stalls. Eventually we'll get to a standard that is
20 minimally functional. And this says that somewhere in
21 the system there may still be a problem.

22 I'm hoping -- it's been recommended, and I'm
23 hoping the inspection program, the safe school program
24 has done the job, and these conditions have now been
25 addressed.

1 Q. Do you believe it's relevant to your report
2 that L.A. Unified School Board members have bathrooms
3 for their individual uses in their office suite?

4 A. It is both my opinion and my experience that
5 lack of funds, lack of discretionary funds are the most
6 commonly given reasons for deficient conditions in the
7 schools. And where school board members have personal
8 bathroom facilities for themselves and their staff, and
9 the kids don't, I would question the budgetary decisions
10 being made within the school district.

11 Q. Do you have any information with respect to
12 the context in which the board members' bathrooms were
13 even an issue?

14 A. I don't have any outside knowledge. I'm not
15 sure it's really that relevant to the underlying issue.

16 Q. It might be relevant -- I'm sorry.

17 A. Why should adults have better facilities than
18 the students that they're in charge of? That's just --
19 the logic somehow escapes me that the adults need safe,
20 decent bathrooms with toilet paper and doors, and so do
21 the students. And I can't see why one group gets it and
22 one group doesn't.

23 If budgetary constraints are the number one
24 cause, then a statewide standard that says you've got to
25 put toilet paper in the stalls would inspire those board

1 high school.

2 Q. Do you know where the offices that had
3 previously been housed at 451 North Grand were moved to?

4 A. Not all of them, no. I know some went to a
5 San Pedro and some went to some other facilities.

6 Q. I'll represent to you that the board members'
7 offices went to the 24th floor of a building at
8 333 South Bowdry. Do you know what that building cost?

9 A. No.

10 Q. Do you know whether it was a wise expenditure
11 of money?

12 A. No.

13 Q. Do you know whether it was an efficient use of
14 money that tried to maximize the amount of money used to
15 build a high school facility at 451 North Grand?

16 MR. ELIASBERG: Objection. Vague.

17 THE WITNESS: I hear your question, and I want
18 to get back to the two middle schools that are cited
19 here.

20 Q. BY MR. REED: I understand, Mr. Corley, but
21 you described this has been a problem that there was a
22 discretionary use of money in a way that cheated the
23 kids or didn't get the kids something with the money.

24 A. Uh-huh.

25 Q. I'm just trying to discover whether you have

1 members to make that budgetary allocation before they
2 dealt with their own facilities.

3 I know that's harsh, and I know there's just
4 been an election. I know they may not be happy with it,
5 but that's what I tell other board members. You can't
6 get a better district office than your schools. This is
7 an education business.

8 Q. Have you ever been to the headquarters in
9 L.A.?

10 A. I've been to the Grand Avenue building. Show
11 you how long it's been since I've been down there.

12 Q. But you understand where the bathrooms are
13 being installed that was discussed in the 2002 Los
14 Angeles Times article?

15 A. Not particularly within the building.

16 Q. Do you even know what building they were being
17 installed in?

18 A. No, I'm not sure which building this is
19 regarding.

20 Q. Are you aware that L.A. Unified School
21 District closed its headquarters at 451 North Grand?

22 A. Uh-huh.

23 Q. Do you know why it closed its headquarters on
24 North Grand?

25 A. Because it was being converted to a brand new

1 any information which shows that in, fact, L.A. Unified
2 board members had discretionary money that they could
3 have put into student bathrooms that instead they used
4 for inappropriate purposes.

5 MR. ELIASBERG: Objection. Vague.

6 Q. BY MR. REED: You have any information that
7 leads you to believe that L.A. Unified School Board
8 members had discretionary money at their disposal that
9 they used for inappropriate purposes?

10 MR. ELIASBERG: Objection. Vague.

11 THE WITNESS: The context here is no toilet
12 paper, which is a very minor expenditure. And if
13 there's enough money to renovate bathrooms and create
14 new bathrooms for school board members, I am stressed to
15 believe that there's no money for toilet paper in the
16 middle schools.

17 Q. BY MR. REED: Do you know how the purchase of
18 333 South Bowdry for renovation there was financed?

19 A. Not in detail. I know in the general.

20 Q. In general, how were they funded?

21 A. It was a -- I can't remember the bill number.
22 It was part of the school facilities program funding.

23 Q. If I represented to you it was fully purchased
24 with certificates of participation, do you have any
25 understanding as to whether the proceeds of the sales of

1 certificates of participation could be used to buy
 2 toilet paper for middle schools?
 3 A. In general, no, they cannot be.
 4 Q. Want to take a brief break?
 5 (Brief recess.)
 6 Q. BY MR. REED: Mr. Corley, I'd like to refer
 7 you to page 22 of your report.
 8 MR. ELIASBERG: Been waiting for this.
 9 Mr. Reed went backwards.
 10 Q. BY MR. REED: Mr. Corley, that took me
 11 forward. You're right. I have no defense.
 12 In this section, this being section B of
 13 number one of subsection D, you are describing, are you
 14 not, information that you believe shows that the State
 15 has now and has for many years had knowledge of poor
 16 facility management in some California schools, and
 17 specifically in sections dealing with Los Angeles
 18 Unified; is that correct?
 19 A. You are referring to 22?
 20 Q. Did I mess that up well enough?
 21 Let me start all over.
 22 Here in section D of your report, you're
 23 describing evidence that you believe shows that the
 24 State, quote, "The state has now and has for many years
 25 had knowledge of poor facilities management in some

1 California schools," unquote, correct?
 2 A. Yes.
 3 Q. And here in subsection 1-B you are describing
 4 information specifically relevant to -- for
 5 management -- poor facilities management at Los Angeles
 6 Unified School District, correct?
 7 A. Yes.
 8 Q. Now, on page 22, the first full paragraph.
 9 Here you are quoting the Little Hoover Commission,
 10 correct?
 11 A. Yes.
 12 Q. In that paragraph, are you describing any
 13 failure of management of the Los Angeles Unified School
 14 District?
 15 MR. ELIASBERG: You are talking about the
 16 paragraph that begins, "The Commission also criticized
 17 the State?"
 18 Q. BY MR. REED: Right.
 19 A. I'm sorry. I have to read the paragraph. I
 20 haven't read this page for a while.
 21 Q. Sure.
 22 A. The paragraph you're referring to on page 22
 23 is a general statement about the State Department of
 24 Education and is more statewide conditions. This is not
 25 directed specifically and uniquely to Los Angeles

1 Unified.
 2 Q. Okay. But the 1978 Little Hoover Commission
 3 report, it's criticized or was cast critical of the
 4 administration of L.A. Unified.
 5 A. The 1978 report did address in various
 6 sections conditions and occurrences within Los Angeles
 7 Unified.
 8 Q. So you are aware, are you not, that the
 9 district administrators in charge of the facilities at
 10 Los Angeles Unified School District today are not the
 11 same district administrators in charge of school
 12 facilities in 1978, correct?
 13 A. Yes.
 14 Q. Do you know who is the director of facilities
 15 at Los Angeles Unified School District?
 16 A. I'm not familiar with the hierarchy. I know
 17 there's been -- Kathy Litman just left after being there
 18 for a while. John McConnell --
 19 Q. Jim McConnell?
 20 A. -- Jim McConnell, I believe, is head of the
 21 entire division. But I don't know if somebody is
 22 directly above him.
 23 Q. Do you know what Mr. McConnell's background or
 24 training or education is?
 25 A. Retired Navy. He seems excellently qualified.

1 From indications I've seen, he's doing a very high
 2 quality job for Los Angeles Unified. He was an
 3 excellent stroke of recruiting.
 4 Q. Are you familiar with the fact that
 5 Mr. McConnell has a degree in engineering?
 6 A. I believe that's -- I've been -- yes, I've
 7 been told that. I don't personally know him.
 8 Q. How many school districts in the State of
 9 California are you aware of that have an individual as a
 10 top administrator within the facilities division who has
 11 a background or degree in engineering?
 12 A. I don't have any independent survey. I know
 13 there are others out there. Some high school districts
 14 have architects as head of the facilities division, so
 15 it's not unique. But it is definitely not the most
 16 common situation.
 17 Again, I believe he is extremely well
 18 qualified for the job.
 19 Q. And you know Duane Brooks within the State
 20 Department of Education?
 21 A. Yes.
 22 Q. And he is in charge of the school facilities
 23 planning division for the State Department of Education?
 24 A. That's correct.
 25 Q. Do you know what Mr. Brooks' qualifications or

1 credentials are?

2 A. Not entirely, no.

3 Q. Do you know whether Mr. Brooks has a degree in
4 engineering or background in engineering?

5 A. I don't believe he does.

6 Q. Do you have any opinion one way for the other
7 as between Mr. McConnell and Mr. Brooks which would have
8 the better qualifications for running a large complex
9 multi-billion dollar school program?

10 MR. SEFERIAN: Objection. Lacks foundation.
11 Incomplete hypothetical. Calls for speculation.

12 THE WITNESS: I'll begin the answer by saying
13 that Duane Brooks doesn't run a facilities program. He
14 is an administrator for the State Department of
15 Education that runs the division that offers advisory
16 services to the school districts. He's not in charge of
17 the construction program. So I -- it's almost -- I
18 can't answer that question.

19 I mean, of course, Mr. McConnell is
20 experienced and trained to administer construction
21 programs. Dale Brooks does not administer construction
22 programs, but he is a very capable administrator of a
23 State division that provides services to school
24 districts. They're fundamentally different tasks.

25 Each can be very well qualified, but they have

1 to look at the individual particulars of the school
2 district and why such an intervention would be
3 necessary.

4 It's possible to construct a set of facts
5 where that would be appropriate, and it's possible to
6 construct a set of facts where that would not be
7 appropriate. So, again, it's a very -- it's --

8 Q. BY MR. REED: What sort of facts would make it
9 appropriate in your opinion?

10 A. In a hypothetical situation where a school
11 district were applying policy decisions that were
12 inappropriate and educationally unsound, intervention by
13 the State Department may in fact be appropriate to
14 create a set of policies that lead to educationally
15 appropriate facilities and operations.

16 Whether State people or policy specialists
17 should come down and supervise carpenters and painters
18 and plumbers would be a completely different scenario.

19 MR. ELIASBERG: Could you read the first part
20 of that answer, please?

21 (The reporter read the record.)

22 Q. BY MR. REED: What do you mean when you say
23 applies policy decisions that are not appropriate and
24 educationally unsound?

25 A. To use an example from earlier in the day,

1 different qualifications.

2 Q. Do you have any understanding with respect
3 to -- any understanding with respect to the relief or
4 ultimate order that the plaintiffs are seeking in this
5 lawsuit, the relief that they would like the court to
6 order?

7 A. Not comprehensively.

8 Q. Do you have any understanding as to the relief
9 they would like the court to award with respect to the
10 facilities issues that are relevant to your report?

11 A. Not comprehensively. I know in my section in
12 the report that you have before you today.

13 Q. Do you know whether the plaintiffs have or
14 indicated in this case amongst the things that they
15 would seek is a system in which the State Department of
16 Education may, under certain circumstances, take over
17 the facilities division of a school district?

18 A. I have no personal knowledge of that request
19 for relief.

20 Q. Do you have an opinion one way or the other as
21 to whether such a policy would be a good or a bad idea?

22 MR. ELIASBERG: Objection. Vague.

23 THE WITNESS: Response to that --

24 MR. ELIASBERG: Incomplete hypothetical.

25 THE WITNESS: That's a hypothetical I'd have

1 were a school district to be placing too many temporary
2 classrooms on a school site is clearly swamped with the
3 capability of the playgrounds, cafeteria, restrooms,
4 offices, help office, library to provide services to
5 those students, that would be an example of an
6 educationally unsound policy which is creating a
7 situation which actively interferes with the desired
8 instructional program of the school.

9 Q. And that would create a circumstance in which
10 you believe it would be appropriate for the State to
11 come down and take over the facilities division of a
12 school district?

13 A. Again, it would have to be a pervasive
14 application of such policies. A complete takeover of
15 the facilities operation, I would not recommend as a
16 desirable strategy.

17 Q. Why not?

18 A. When the State people are policy directed,
19 they are not hands-on operators of facility divisions.
20 Some individuals do have experience. But that's not
21 their current job description.

22 Q. Any other reasons?

23 A. I'm sure we could think of some. You have a
24 more direct question?

25 Q. With a thousand-some-odd schools districts in

1 the state today, do you have an opinion as to how many
2 of them would fit this criteria of being appropriate for
3 a State takeover of its facilities divisions?

4 A. At this moment in time, none come to mind. I
5 don't believe any are so extreme that would warrant
6 that.

7 I would go on to say there are cases like
8 Compton and Oakland that are candidates if they can't
9 get their operations running again.

10 Q. Page 23 of your report, the second -- well,
11 the paragraph following the indented quotations.

12 A. Uh-huh.

13 Q. November 2001, you were quoting from the L.A.
14 Times report that with respect to a shortfall of \$600
15 million to repair and modernize schools. Did you
16 consider the information that was contained within the
17 L.A. Times report to be evidence of serious
18 mismanagement of schools facilities at L.A. Unified
19 School District?

20 A. I don't consider just this one little quote as
21 full evidence. It suggested that there are some rather
22 serious problems. 600 million is a lot of money.
23 Again, this is not evidence, but it does indicate that
24 there are concerns about that.

25 Q. How does it indicate that there are concerns?

1 A. Contractual disputes, poor oversight of the
2 2.4 million school bond, their 6,400 construction
3 projects started under Measure BB and it's reported here
4 and has been reported elsewhere that many were
5 sufficiently over budget as to raise concern whether
6 they could be completed.

7 I believe all this signals that there have
8 been problems in the program and that more investigation
9 is needed. But these are the red flags that say there
10 might be underlying systemic problems.

11 Q. Do you know what those problems might be?

12 A. Not from this quote, but from other
13 information that I have reviewed, there were apparently
14 design conflicts. There were some management issues.
15 And I believe Mr. McConnell we were discussing earlier
16 was largely brought in to address some of these
17 shortcomings.

18 Q. What information have you seen that leads you
19 to conclude that there were design conflicts and the
20 others issues you just described?

21 A. Again, I've seen newspaper reports. There was
22 an auditor report on Measure BB. There was publicity
23 given out for the more recent school bond in
24 Los Angeles.

25 And, again, it's my understanding that there

1 is a significantly new management team in place
2 specifically to address these. They were concerned
3 about the role of various construction managers and
4 other outside firms that the district was using. Many
5 of them have been replaced.

6 Again, I believe the ship has righted its
7 course a little bit. But some of the early projects
8 were apparently based on inadequate design and cost
9 estimating.

10 Q. Do you have any information with respect to
11 this \$600 million shortfall issue described on page 23
12 of your report as to whether that \$600 million shortfall
13 was a result of the waste of money or the result of an
14 inadequate budgeting process at the front end or some
15 other cause?

16 MR. ELIASBERG: Objection. Vague and
17 compound.

18 THE WITNESS: I do not know the particulars of
19 that. I would not characterize it as waste. It
20 probably was more related to poor estimating.

21 And, again, this is fairly common for school
22 districts. The magnitude of Los Angeles is bigger, but
23 everything is bigger in Los Angeles, just the size of
24 the district.

25 This is somewhat common in modernization

1 projects and apparently inadequate contingency amounts
2 was used in cost estimates.

3 Q. BY MR. REED: Assume if you will for the
4 purposes of the question that a \$600 million shortfall
5 came about as a result of failure to fully estimate the
6 full costs of undertaking all 12,000 projects that were
7 listed in the BB repair program, and the \$600 million
8 was in fact the sum identified by the L.A. Unified
9 School District's own facilities team with respect to
10 what the additional money would actually cost to
11 completed those 12,000 projects. Do you believe that
12 L.A. Unified School District's rebaselining those
13 numbers and identifying the shortfall is evidence of
14 serious mismanagement of school facilities in the Los
15 Angeles Unified School District?

16 MR. ELIASBERG: Incomplete hypothetical.

17 THE WITNESS: The facts you've just stated, I
18 would not leap to say that it shows a serious
19 mismanagement of all school facilities in Los Angeles.
20 Again, that quote you just gave us is referring to a
21 much larger section over a much broader span of time.

22 Q. BY MR. REED: The next paragraph on page 23,
23 you quote from the July 2002 article with respect to a
24 November 2002 Folsom school bond of more than \$3 billion
25 construction bond, school facilities bond.

1 Do you believe that Los Angeles Unified School
2 District's decision to put a bond measure for more than
3 \$3 billion on the ballot for November of 2002 was
4 evidence of serious mismanagement of school facilities
5 at Los Angeles Unified School District?

6 A. To restate your question, putting the bond
7 measure on a ballot is the district response to solving
8 its facilities problem. The fact that it's roughly 50
9 percent local share is \$3 billion worth of expansion and
10 renovation and other needs just points to the enormity
11 of the facilities problem in Los Angeles Unified. It's
12 a huge, huge problem that's built up over decades, you
13 know, many, many years. It is a huge problem.

14 And with the success of the new bonds plus BB
15 plus State money, I believe Los Angeles is now in the
16 position to start really digging in and solving a big
17 part of that problem.

18 Q. I appreciate that.

19 A. I commend the district for taking that bold
20 step.

21 Q. I appreciate that. I'm trying to understand
22 what that paragraph is doing in your report. You just
23 stated that there's a massive facilities problem, which
24 I'm prepared to stipulate. Do you believe, however,
25 that that massive facilities problem is a problem of

1 news, it's very positive. But it took a long time. And
2 for people who were in the school system during those
3 many years when the problems were not being resolved, it
4 gets back to the core purposes of this report, how many
5 years do you have to wait for a district to get its act
6 together and go forward?

7 I'm glad now that it's happened, I'm very
8 happy, but it took a long time.

9 Q. I just want to be clear. You said it was a
10 positive development. I want to know if you believe
11 that the fact that L.A. Unified put a \$3.35 billion bond
12 measure on the ballot and passed it, tends to support or
13 refute the statement that there are serious
14 mismanagement of school facilities by Los Angeles
15 Unified School District.

16 A. I believe you are taking that quote out of
17 context and asking me to compare and agree or disagree
18 with it.

19 If we go back to page 21 and read the page, it
20 says for more than 20 years, the Little Hoover
21 Commission has prepared a series of reports highlighting
22 serious mismanagement of its school facilities by Los
23 Angeles Unified School District.

24 And then we flip forward to page 23, and
25 there was a bond issue put on the ballot.

1 serious mismanagement of school facilities by
2 Los Angeles Unified School District?

3 MR. ELIASBERG: Objection. Vague.

4 THE WITNESS: The section we're talking about
5 is lower case B, beginning over on page 21. What this
6 section is portraying is that over an extended period of
7 time, Little Hoover Commission, the Los Angeles
8 Unified's own internal auditor, the Los Angeles Times,
9 other people have pointed out that there have been a
10 sequence of facilities problems which are rooted in
11 management practices.

12 In the last few years, the district has really
13 turned a corner and is aggressively solving some of
14 these problems. There are still items popping up that
15 show that not every problem has been addressed.

16 I wish I could say everything is fine. What I
17 am positive -- feeling positive and optimistic about is
18 that many projects are underway to resolve the problems
19 that have accumulated. But for a long period of time, I
20 mean, really 20 years is a long time, there was
21 knowledge of the problems in the facilities division,
22 inadequacies in the facilities division, just the
23 failure to get buildings built for a long period of
24 time. This has been piling up for a long time. And the
25 fact that now at least it's being resolved is great

1 Back on page 21, we're talking about some
2 publications by the Little Hoover Commission over a span
3 of 20 years that had one focus.

4 On page 23, we're talking about the recent
5 bond, which is a completely different issue. It happens
6 to be in the same paragraph talking about different
7 observations about the Los Angeles Unified School
8 District, but the concern attributed to the Little
9 Hoover Commission does not apply to every other word in
10 the other section. I think that is taking that brief
11 quote out of context.

12 The Little Hoover Commission did publish a
13 series of reports over that time period that did
14 indicate a variety of problems.

15 Q. Mr. Corley, do you believe that the fact that
16 L.A. Unified School District put out and passed a \$3.35
17 billion local bond measure supports or refutes the
18 statement that there are serious management problems in
19 L.A. Unified School District with respect to facilities?

20 MR. ELIASBERG: Asked and answered. He's been
21 very clear about his position on this.

22 THE WITNESS: The statement is that there are
23 serious management problems at Los Angeles is your
24 statement.

25 The words on page 21 are in the context of the

1 Little Hoover Commission. So if -- to answer your
2 specific question, if you are saying are there serious
3 management problems today at Los Angeles Unified and
4 does the \$3 billion bond conflict with that, I would say
5 clearly there -- that the bond is showing that the
6 districts is now solving its problems.

7 The, quote, "serious mismanagement" applies to
8 the Little Hoover Commission statement that begins back
9 on a different page.

10 Q. BY MR. REED: Let's deal with page 20. The
11 thesis of Section D, "The following sections" -- I'm
12 quoting now -- "The following sections will show that
13 the State has now and has for many years had knowledge
14 of poor facilities management in some California
15 schools."

16 Did your inclusion of this paragraph
17 concerning 3. -- a \$3 billion-plus bond measure at L.A.
18 Unified School District, was your inclusion intended to
19 support your conclusion that there is poor facilities
20 management at L.A. Unified School District?

21 A. The quote you are referring to on page 23
22 about the \$3 billion bond issue was including the
23 section to show the magnitude of facility problems
24 facing Los Angeles.

25 Q. Okay. I'm not dealing with the aspect of

1 series of reports by the Little Hoover Commission over
2 many years, different observations and the fact there
3 continues to be a very large need in Los Angeles as
4 evidenced by the \$3 billion school bond.

5 This is conveying into the State of California
6 that there remains a very significant need for
7 facilities and improvements in the Los Angeles School
8 District as in many other districts. It's information
9 going to the State saying, hey, folks, here's a big
10 problem down here, and we need to continue partnership
11 of local and State. Los Angeles has stepped up to the
12 plate. We need the State at the plate to match their
13 money and solve this problem that has evolved over many
14 years.

15 Q. BY MR. REED: Does the fact that the bond
16 measure went on the ballot and was passed give
17 information to the State of a management problem within
18 the L.A. Unified, not facilities problems, but --
19 A. The bond issue by itself does not refer to
20 management problems.

21 Page 23, the paragraph that begins at the
22 bottom of the page says, "Reports from L.A.'s internal
23 auditor in 2000 and 2001 confirmed that serious problems
24 continue in that district's facilities division."

25 Q. What internal auditor are you referring to?

1 facility problems. I'm dealing with management, poor
2 facilities management.

3 Do you believe that the fact that a bond
4 measure was put on the ballot and passed establishes or
5 refutes whether there was a -- whether there was poor
6 facilities management at L.A. Unified School District?

7 MR. ELIASBERG: You said was or is?

8 Q. BY MR. REED: There is poor facilities -- that
9 there is.

10 A. I guess a succinct answer to your question
11 here, the fact there was a \$3 billion bond does not
12 establish that there is poor facility management now at
13 the Los Angeles School District. Am I clear on that or
14 is that too many that's in there?

15 Q. That's helpful. Do you believe it actually
16 tends to refute the fact that there is no serious --
17 that there is no poor facilities management at the L.A.
18 Unified School District?

19 MR. ELIASBERG: Vague and ambiguous.

20 THE WITNESS: I think I have presently said in
21 this deposition and said in the report before you
22 as well, trying to put all this together without using
23 too many double negatives. The two are simply not
24 related. Again, this section is talking about
25 information the State was aware of and is referring to a

1 A. I believe there's just one. Maybe I have the
2 wrong nomenclature here. It's Don -- what's his name --

3 Q. Mullinex?

4 A. Mullinex.

5 Q. Inspector General, is that who you meant by
6 internal auditor?

7 A. Yes.

8 Q. Okay. And what 2000 and 2001 report from
9 Mr. Mullinex are you referring to?

10 A. I would have to -- I think I'd have to refer
11 to the source documents.

12 Q. Does one of them relate in the Belmont
13 Learning center?

14 A. One of them was Belmont.

15 Q. Do you recall the date of that report? Was
16 that a 2000 or 2001 report?

17 A. Came out very early in 2000.

18 Q. Okay. Do you have any memory now as to what
19 time frame Mr. Mullinex's report was dealing with?

20 MR. ELIASBERG: Objection. Vague. Withdraw
21 that objection.

22 THE WITNESS: The time frame addressed in
23 those reports was prior to the date of the report,
24 obviously. Those were retrospective reports analyzing
25 what had occurred.

1 And I believe based on the reports that did
2 indicate problems where reforms have been implemented,
3 in fact, a number of recommendations have been made and
4 changes have been made and, hopefully, the situations
5 that did occur prior to year 2000 and year 2001 will not
6 be repeated in the future. Again, these are
7 retroactive.

8 Q. BY MR. REED: Do you have any memory as to
9 whether Mr. Mullinex's report was about activities that
10 occurred in the mid 1990s, or at least some of the
11 activities that he was criticizing?

12 A. I believe that's the approximate time frame.

13 Q. Is the Inspector General's report to which you
14 refer a report concerning the deferred maintenance
15 program at L.A. Unified School District?

16 A. I'm going to have to beg for a memory failure
17 on that one.

18 There was one analysis of BB spending and one
19 on, I believe, deferred maintenance, but I don't know if
20 it's exclusively deferred maintenance. I have not
21 reread these reports for a couple of months.

22 Q. The sentence that begins at the bottom of
23 page 23 states, "Of the auditor's findings, it was
24 disheartening to read of the excessive fees and costs
25 paid to selected high-profile projects such as Belmont

1 MR. ELIASBERG: Are you talking about the
2 actual cost of building the seats? Because, I mean,
3 you're not talking about some other set of fees? You're
4 talking about the total cost --

5 MR. REED: The total cost for delivering
6 however many seats were going to be at the Belmont
7 Learning Center on a per seat basis compared to the
8 district's costs for other high schools?

9 THE WITNESS: That fact may be in the report.
10 It does not come to my mind today sitting in this
11 room.

12 Q. BY MR. REED: So you don't know for sure
13 whether Belmont was excessive in its costs on a per seat
14 basis as compared to, say, the high school being planned
15 for at 451 North Grand?

16 A. I believe the quote here about excessive fees
17 and costs came directly from the auditor's report. And
18 that's his interpretation, his conclusion rather than my
19 own. And, obviously, he's in a much better position
20 to know the facts than I would be. I'm relying on his
21 professional ability and the CPA's to do that.

22 Q. Do you know how Belmont Learning Center was
23 paid for?

24 A. Not in complete detail.

25 Q. Do you know whether it was a lease-purchase

1 High School which contrast with the minimal funding and
2 attention given to the daily custodial needs of the
3 schools."

4 My first question is, what other, quote,
5 "selected high profile projects," end quotes, are you
6 referring to in the auditor's finding to your memory?

7 A. Again, I'm working strictly off of memory
8 there. The whole real estate acquisition program, the
9 middle school, and, again, I forget the name of the
10 middle school. I can't think of it right now, where
11 there was an obvious lack of site investigation prior to
12 construction. Some of the construction management
13 practices that were directly criticized. You have to
14 refer to the actual document to get a complete listing.

15 Q. Is it your opinion that excessive costs were
16 paid on the Belmont High School project?

17 A. The fees that were cited and the basic deal,
18 in my opinion, yes.

19 Q. Do you know what on a per set basis the seats
20 at Belmont Learning Center were estimated to cost L.A.
21 Unified School District?

22 A. I don't know that particular fact, no.

23 Q. Do you know whether it was more or less than
24 the cost associated with creating other high school
25 seats for L.A. Unified?

1 program funded project?

2 A. I now have forgotten all the details. I
3 believe there was State money involved.

4 Q. Assuming that it was a lease-purchase program
5 funded project, is it your understanding that under the
6 lease-purchase program, members of the Office of Public
7 Schools Construction approved the budget for the project
8 involved?

9 A. If there was State money, of course they did.

10 Q. So is it the case then on a lease-purchase
11 program project, the State of California in fact
12 directly was involved in establishing an appropriate
13 cost or costs to be paid on the school building?

14 MR. SEFERIAN: Objection. Vague and
15 ambiguous.

16 THE WITNESS: They were directly involved for
17 at least a portion of the costs. I believe one of the
18 conclusions that led to this paragraph in my report
19 based on the Los Angeles Unified School District's own
20 auditor is that dollars were spent on consulting studies
21 and outside services, some of which were not directly
22 related to the construction program. And those were the
23 excessive fees and costs that I believe were being
24 criticized.

25 The lease-purchase program has a very narrow

1 formula what could be made. And on Belmont, I'm going
2 on my recollection rather than having the documents in
3 front of me that other funds were being funded and
4 reimbursements made to some of the partners that clearly
5 were outside of the State -- the normal State building
6 program.

7 Q. BY MR. REED: Do you know how those fees
8 were -- out of what source of funds those fees were
9 paid?

10 MR. ELIASBERG: Objection. Assumes facts and
11 vague.

12 THE WITNESS: I don't know all the funding
13 sources. This was Don Chambley's (phonetic) operation
14 and that apparently was funded a little bit -- he had
15 sources of funding outside the normal channels.

16 Q. BY MR. REED: What do you mean?

17 A. I don't know all the particulars.

18 Q. Do you know whether he used general fund money
19 for those contracts?

20 A. It's -- I believe there was some general fund
21 money in there. There are other sources as well.

22 Again, I don't know all the particulars.

23 Q. Assuming that the non-State money that went
24 into the Belmont Learning Center was funded through
25 certificates of participation, do you believe that any

1 (Richmond), Compton, Los Angeles, San Francisco and
2 Gilroy, Sacramento, these and all others have endured
3 years of poor management.

4 You then state, quote, "In the hopeful
5 setting, a number of these districts are establishing
6 solid management in hopes for a brighter future," end
7 quote.

8 Then you list in the next sentence Sacramento
9 City Unified as having turned the corner. West Contra
10 Costa has greatly improved, and Oakland's new
11 superintendent is setting higher standards.

12 You didn't list Los Angeles Unified School
13 District as amongst your hopeful signs. Why is that?

14 MR. ELIASBERG: Are you feeling left out?

15 MR. REED: I am left out.

16 THE WITNESS: Let me respond to your question
17 and your observation by apologizing to L.A. Unified.
18 There is no insult or slight here. I do refer you back
19 to the top of page 24 where the ending paragraph in the
20 discussion about Los Angeles Unified, this is an
21 editorial decision that compliments the Los Angeles
22 Unified is paid on page 24 rather than page 26. And
23 this was an oversight on my part, not to have an
24 additional note on page 26.

25 But the entire paragraph dedicated to saying

1 of the proceeds of those certificates of participation
2 could be used to pay for the daily custodial needs of
3 Los Angeles Unified School District?

4 A. Let me answer your question in two parts here,
5 because it's really a two-part question.

6 The proceeds of the certificate of
7 participation could not be. But how were the
8 certificates being repaid? You know, certificates are
9 just borrowing. And the general fund monies are repaid
10 at COP. Those are discretionary funds. If there is
11 some other revenue stream that will come on line to pay
12 those off, that would carry the restrictions of that
13 other revenue stream. So without having a complete
14 auditing report in front of me, I can't address the
15 particulars of that.

16 But proceeds of CFE are different than the
17 repayment stream of CFE's which is a different question,
18 and I'd need to do some additional research to do get to
19 the bottom of.

20 Q. Page 26 of your report --

21 A. Uh-huh.

22 Q. -- the second paragraph --

23 A. Uh-huh.

24 Q. -- you state district cited previously
25 provided examples. You list Oakland, Contra Costa

1 that Los Angeles is doing a better job and is moving
2 forward appears in that section rather than down below.
3 There's no offense intended to L.A. Unified by not
4 listing you on page 26. Just other examples from other
5 communities that did not get the level of comment that
6 Los Angeles did. Being the big guy in town, you get a
7 whole section.

8 Q. BY MR. REED: I appreciate that, and I'm
9 really not ego surfing. I just want to know whether you
10 have the opinion that Los Angeles Unified School
11 District has established solid management and has hopes
12 for a brighter future.

13 A. I will state for the record here that, if I
14 were to rewrite this paragraph on page 26 today, I would
15 include Los Angeles, because I think, between the new
16 superintendent, Mr. McConnell, and some of the other
17 very qualified people working there, your district
18 deserves to be as one of those that has turned the
19 corner around, is getting better. Clearly the operation
20 is now much more professional than even it was a few
21 years past. Congratulations on that. I mean that
22 sincerely.

23 Q. Section 3 beginning at the bottom of page
24 26 --

25 A. Uh-huh.

1 Q. -- you refer to Anaheim City School District
2 as an example of a school district that has clean
3 schools with adequate numbers of restrooms and drinking
4 fountains, et cetera.

5 Do you have an opinion -- I'm sorry.

6 First of all, Anaheim City School District is
7 an elementary school district, correct?

8 A. Correct.

9 Q. Do you have an opinion as to whether it is
10 more or less expensive to maintain facilities,
11 elementary school facilities, versus high school or
12 middle school facilities?

13 A. Can you clarify maintain?

14 Q. To keep them in the condition as you describe
15 Anaheim City Schools, clean with adequate numbers of
16 restrooms, drinking fountains, repairs properly made and
17 appearing clean and functional as any modern suburban
18 campus.

19 A. In the context of that clarification where
20 maintain is to operate them in a clean and orderly
21 condition, so forth, I don't believe it is that
22 different. There's a different campus-by-campus cost,
23 because typically a high school is maybe four times the
24 size of an elementary.

25 But on a per pupil or per square foot cost,

1 out from the central shop. It's not a cleaning function
2 at that point.

3 In terms of litter and debris, it's a
4 site-by-site issue.

5 Q. BY MR. REED: Do you have an estimate as to
6 how often Anaheim City Schools, an average elementary
7 school, a toilet roll is flushed down the toilet such
8 that it clogs the toilet and causes it to overrun?

9 MR. ELIASBERG: That question, did you say
10 Anaheim or an average elementary?

11 Q. BY MR. REED: An average elementary school.

12 A. I can't say it's a daily occurrence, but it
13 could be a daily occurrence. At one of their schools
14 somebody is going to flush a roll down there. I think
15 they've actually gone to sheets to avoid that problem.

16 Q. At Anaheim specifically?

17 A. And people do flush a handful of sheets down
18 at once, too. It happens in the best schools. It
19 happens in Elk Grove. It happens in Palo Alto. And
20 it's unfortunate. I can't explain it. It's exuberance
21 of youth or something. But that kind of petty vandalism
22 and throwing stuff around the bathroom occurs much too
23 often in far too many schools, and you simply deal with
24 that.

25 Q. You don't think it's more prevalent in a high

1 you know, there's a lenient correlation between number
2 of pupils, number of drinking fountains, number of
3 restrooms, size of the cafeteria, and whether you have a
4 bigger crew cleaning more bathrooms and bigger cafeteria
5 or a smaller crew cleaning that in an elementary school,
6 the cost should be somewhat based on the number of
7 people affected and the school's square footage.

8 So I don't believe it's greatly different.

9 There are costs such as striping the football field that
10 are unique to the high school and middle school that you
11 don't see in the elementary school.

12 But the basic cleaning and daily custodial
13 functions really should not be that different. It's
14 that square foot driven cost, not a grade level driven
15 cost. A classroom is a classroom basically.

16 Q. Do you believe that high schools are more
17 prone to vandalism than elementary schools?

18 MR. ELIASBERG: Objection --

19 THE WITNESS: Sometimes, yes. You know, you
20 tend to have bigger kids pounding on the walls and
21 stuff. But in the life of the school, it's not a major
22 issue. And that kind of damage you would see at a high
23 school from a kid pulling something off a wall is not a
24 custodial function to fix anyway. That's a maintenance
25 function. They send in a work order and somebody comes

1 school than it is in an elementary school, that specific
2 sort of vandalism like plugging up a toilet purposely?

3 A. In my experience, it really is not. Most high
4 school kids have outgrown that behavior, frankly, and
5 the upper grade elementary kids, they do different
6 things like that. It's more of a fifth, sixth grade
7 early junior high problem. High school kids have better
8 things to do with their life.

9 Q. Shall we take a short break?

10 (Brief recess.)

11 Q. BY MR. REED: Page 32 of your report,
12 Mr. Corley, please. Last sentence, second paragraph
13 describes an experience at Stonehurst Elementary School.

14 A. Correct.

15 Q. What school district is that?

16 A. I'm sorry, Oakland Unified.

17 Q. Oakland Unified. You stated that there was an
18 IIUSP action plan there that identified a number of
19 barriers to student achievement for facilities problems,
20 correct?

21 A. Yes.

22 Q. And that none of those is addressed by the
23 IIUSP budget?

24 A. That's correct.

25 Q. What do you mean by the IIUSP budget?

1 A. IIUSP is the Intermedial Intervention
2 Underperformance School Program. And participating
3 schools have to have an action plan of how they intend
4 to address the deficiency in their school and address
5 the areas of achievement. They also prepare a budget to
6 spend their IIUSP funds.

7 In this case, there were unusual number of
8 facilities barriers noted in their plan as major
9 obstacles to achieving their goals and their budget was
10 unable to address that. Any of those problems are
11 beyond the scope of IIUSP budget.

12 So the funds in theory could be used for
13 facilities, but it's almost unheard of, and I think
14 that's the thrust here.

15 Q. Is it accurate then to say at the end of the
16 IIUSP process that management issues relating to
17 facilities were largely addressed?

18 MR. ELIASBERG: Assumes facts.

19 THE WITNESS: I'm sorry, can you ask that one
20 again?

21 Q. BY MR. REED: What I'm trying to tease out is
22 whether the problems that remained at the end of the
23 IIUSP program at Stonehurst Elementary were primarily
24 budgetary or whether they had to do with continued poor
25 management at the elementary school.

1 about, again, reports that the State does receive and
2 the fact that these other programs, the categorical
3 coordinated compliance review and the IIUSP program are
4 not addressing facility issues. They're different
5 programs for different purposes.

6 To me that is not responsive to your
7 question.

8 Q. BY MR. REED: No, I'm sorry. I'm trying --
9 that seems contradictory to the statement here on
10 page 32, which says, "The Stonehurst Elementary School's
11 IIUSP action plan identified a number of barriers to
12 sound facilities problems."

13 A. Right.

14 Q. "But none of these is addressed by the IIUSP
15 budget." How are they identified?

16 A. Okay. In the format of an IIUSP plan, it
17 identifies goals, barriers and actions. And under the
18 barrier section, the fact they were teaching class on
19 the stage is one example. Some of the portables were
20 inadequate. And other issues were identified as a
21 barrier to student achievement.

22 The budget, that is also part of that same
23 document, addressed training, purchase of books,
24 purchase of materials, aide time, release time, but was
25 unable to address facility matters.

1 Again, I'm looking at the sources of those
2 facilities problems at Stonehurst Elementary. Is it
3 safe to say that at the end of the IIUSP process, the
4 creation of an action plan, that they had created
5 remedies to the management issue of creating facilities
6 problems but nevertheless lacked the budget to implement
7 fixes to those facilities problems?

8 MR. ELIASBERG: Objection. Compound, assumes
9 facts.

10 THE WITNESS: I struggle to answer your
11 question because the quotation you're referring to on
12 page 32 about the IIUSP program is not discussing
13 management issues. I might be misreading.

14 What page 32 is discussing is that there are
15 State-operated programs where reports normally flow back
16 to the State Department of Education and other
17 departments that identify facility problems and yet are
18 not able or designed to address those problems. So this
19 is not addressing district level management or school
20 site level management. It is saying that this school is
21 struggling to meet its instructional goals because it's
22 teaching a class on the stage while lunch is going on,
23 and the kids can't hear. That they simply don't have
24 enough classrooms. And this is a different problem.

25 But in the discussion on this page, it talks

1 Q. Why is it inadequate?

2 A. I'm sorry, your question is why does the IIUSP
3 budget not address them? In the -- it's really not
4 designed to address them, number one. The limited
5 amount of money addresses higher priority needs of the
6 school as identified by the IIUSP program such as
7 teacher training, instructional materials in classrooms.
8 By the time you pay those costs, there's nothing left
9 over.

10 So this section, again, is not talking about
11 all facility needs but needs in one context.

12 Q. When you used the phrase higher priority in
13 the last answer, what did you mean?

14 A. Within the IIUSP program is a recommended
15 priority of actions to be taken to respond to barriers.
16 It's part of the legislative program.

17 Q. Is it your opinion that the primary barrier to
18 Stonehurst Elementary School recommending these
19 facilities barriers, is it budgetary?

20 MR. ELIASBERG: Objection. Incomplete
21 hypothetical.

22 THE WITNESS: Again, you're talking IIUSP and
23 the barriers at Stonehurst were curricular, were staff
24 training, underqualified teachers, a variety of things
25 that were in fact addressed by this budget. And much

1 work went into remedying those.
 2 The school district, in other State programs,
 3 have used other funding to address the facility problems
 4 at that school.

5 So it's, again, this page and the fact that
 6 the facility program was reported to the State, it was
 7 not addressed within the program that was reported.
 8 There's another -- again, it gets back to the district
 9 level management issue about dealing with the real
 10 barriers such as having a full-time class meet on the
 11 stage of a school that's connected to the cafeteria
 12 where kids can't hear their teacher.

13 Q. BY MR. REED: That's what I'm trying to tease
 14 out here.

15 A. Okay.

16 Q. It's management of money or something else
 17 that in your opinion left Stonehurst Elementary with
 18 these barriers to student achievement from facilities
 19 even at the end of the IIUSP process?

20 A. Let me answer that question then. I'm going
 21 to step away from the IIUSP program. And actually,
 22 before I answer that, let me clarify something I said
 23 earlier today.

24 We talked about management issues in
 25 facilities. And earlier we talked about how the

1 for whatever reason, it didn't respond to the program.
 2 It just put a class on the stage.

3 Q. I'm sorry, didn't respond to the problem?

4 A. To the problem. More kids showed up, and they
 5 moved a class onto the stage. And to the point that it
 6 had been going on long enough, when they got IIUSP by
 7 being a failing school, or a school in danger of
 8 failing, this was held out by the site staff themselves
 9 as a major barrier that needed to be fixed.

10 Q. Do you know, was it fixed?

11 A. At last report, they had brought in -- they
 12 removed a number of portables and brought in some new
 13 units to take out the old units that are in quite bad
 14 shape. And they added some new rooms. And I think now
 15 they balance, and finally the class is off the stage.

16 Q. Do you know whether the commencement of using
 17 the stage as a classroom at Stonehurst Elementary came
 18 about as a result of trying to achieve class size
 19 reduction at that school?

20 A. This was years after class size reduction had
 21 started. This area of Oakland has an increasing
 22 population, has been a real turnover in the neighborhood
 23 residents, and they simply have more kids, and then they
 24 had some portables that were abandoned to mold and other
 25 problems.

1 facility's terminology, there are operational issues and
 2 macro issues like construction and land purchase and new
 3 facilities. And I want to leave you with, I didn't mean
 4 to imply that management issues only apply to the
 5 operational side.

6 There are also management issues about dealing
 7 with the big things, identifying projects to be built,
 8 land to be bought, applying for State money and getting
 9 plans drawn and built and so on.

10 So, in Oakland, in Stonehurst, a barrier to
 11 student achievement is a lack of facilities, inadequate
 12 facilities they were using for classes that actively
 13 interfered with the learning process. There was, in
 14 fact, a management failure to provide enough adequate
 15 classrooms.

16 Subsequent to this, they now have plans in
 17 place to address some of those concerns. But, yes, they
 18 could have brought in more portables. They could have
 19 expanded something else. They could have done something
 20 other than have a class meet on the stage where half the
 21 day is tied up with other classes out there eating
 22 lunch, making noise so the kids can't hear their
 23 teacher. That's a pretty active barrier to learning.

24 So the root cause is financial, but this
 25 district had a bond, it had access to State money, and

1 So, again, they just padlocked the portables
 2 and moved the kids on the stage at some point. And
 3 eventually they did tear down the old buildings, clean
 4 up the site, bring in decent buildings and did that as
 5 part of their bond program and State modernization
 6 program.

7 Q. Page 35 of your report, second to the last
 8 full paragraph, immediately following the standards to
 9 ensure adequate performance. The last sentence in that
 10 paragraph states, "Lack of standards from the State
 11 level impedes school districts from evaluating
 12 performance by staff and effectiveness of its internal
 13 operations." What do you mean by that sentence?

14 A. Earlier in the day today we had a discussion
 15 about how clean is clean. And Los Angeles has some
 16 health standards for its bathrooms that it's adopted.
 17 Other school districts are not taking that step and
 18 don't have standards. And how clean should a bathroom
 19 be is kind of a judgment call to whoever happens to hold
 20 the job at the moment.

21 What the statement on page 35 refers to is
 22 that, if there were to be consistent
 23 district-to-district statewide standards, many districts
 24 would have a benchmark to evaluate the performance of
 25 its classified staff and its principals to say are you

1 meeting the benchmark, yes or no.
 2 Right now it's entirely a judgment call.
 3 Q. If a school district itself has standards,
 4 does the absence of the State level standards still
 5 impede the school district from evaluating the
 6 performance of staff and the effectiveness of its
 7 internal operations?
 8 MR. ELIASBERG: Objection. Calls for
 9 speculation. Vague.
 10 THE WITNESS: I would have to agree with your
 11 statement that a school district has its own standards,
 12 then it's able to evaluate performance by the staff in
 13 effectiveness. A statewide standard would allow the
 14 district to say we are equal to the State standards or
 15 we're better.
 16 Now, you allege that the Los Angeles standard
 17 is higher than the minimal expectations of even the
 18 County Health Department, and this would be a way for
 19 that school board to say, yes, we have higher standards
 20 than the County and the State, and here's our local
 21 which was a higher quality operation, which would be
 22 great.
 23 So, yes, without torturing the meaning of this
 24 sentence, a district that had its own standards would be
 25 able to evaluate. Districts that don't have standards

1 would then able to do the same evaluation by having a
 2 statewide benchmark.
 3 Q. BY MR. REED: Page 37 of your report deals
 4 with the last paragraph on this page and the footnote
 5 that it references. Here you are describing Mr. Brooks'
 6 testimony with respect to what you call serious
 7 conditions in the Compton Unified School District you
 8 tried to address. Do you recall that testimony by
 9 Mr. Brooks?
 10 A. Not in great detail. I'd have to pull out the
 11 source document and refer back to it.
 12 Q. Do you recall why he said he was unable to
 13 cause the serious conditions to be remedied in Compton?
 14 MR. SEFERIAN: Objection. Lacks foundation.
 15 THE WITNESS: I can't recall the exact wording
 16 in his testimony. But, the general thrust of it is as a
 17 State official, even though he is the assistant
 18 superintendent for the entire state in the schools
 19 facilities planning division, he cannot order a repair
 20 to be made, even through it's glaringly obvious. The
 21 most he can do is bring a letter to the district to pass
 22 down the chain of command to hopefully get the problem
 23 fixed. And he was expressing his frustration as a
 24 professional. As a mature adult, as a member of
 25 society, he could see an obvious problem, and yet he

1 really was powerless, rather than just as a member of
 2 the general public to do anything about it. Pick up the
 3 phone and call the superintendent maybe.
 4 Q. BY MR. REED: The testimony you were referring
 5 to here, Mr. Brooks' description of some very old
 6 portable classrooms on a high school campus?
 7 A. I would have to refer back to the source
 8 document. This report was written almost a year ago,
 9 and frankly, I don't recall the page reference. I just
 10 remember his general statement of his discomfort of
 11 being unable to fix an apparent problem.
 12 Q. Do you recall him testifying as you read it
 13 that there was no money to replace trailers that he saw
 14 that were decrepit?
 15 MR. SEFERIAN: Objection. Lacks
 16 foundation.
 17 THE WITNESS: I do not recall the exact
 18 situation. I do recall him saying that the district has
 19 access to State funding that was available, and there
 20 were things, that he couldn't get them to apply on their
 21 own behalf. Again, it's a feeling of powerlessness on
 22 his part, because there were remedies and options out
 23 there that they could not get them to do without
 24 basically going back to the parties he had back in the
 25 first place.

1 MR. HAJELA: For the record, if you don't
 2 mind, I'm unclear on something here.
 3 So is the Brooks, 2001, this is referring to
 4 his deposition that was taken as part of this case? Is
 5 that what we're talking about?
 6 MR. ELIASBERG: Yeah, it is.
 7 THE WITNESS: Yeah, the deposition
 8 transcript.
 9 MR. HAJELA: Okay. I recall it along the same
 10 lines as Kevin does. We don't have it here in front of
 11 us, so that's fine.
 12 THE WITNESS: It's down in my truck. But
 13 we're not taking a break to go get it, right?
 14 Q. BY MR. REED: Did you read the entire
 15 transcript of Mr. Brooks' deposition?
 16 A. Yes. I thought it was one of those important
 17 ones. And I have great respect for Duane Brooks. He's
 18 a very knowledgeable and very sincere and hard-working
 19 individual.
 20 Q. Page 39 of your report. This monstrous
 21 paragraph begins with the number one.
 22 You say, the sentence that begins immediately
 23 following the footnote 14.
 24 A. Each of the 24?
 25 Q. Yes. Read that.

1 You say, "Yet somehow this already undersized
2 campus grew to house about five times as many students
3 as is ordinarily desired."

4 What do you mean by ordinarily desired?

5 A. Earlier in the same paragraph on page 39, it
6 discusses a benchmark of 55 students per acre, which is
7 a California Department of Education -- I won't say
8 regulation, but a guideline, comes out of their school
9 site planning guide.

10 If you have 4.66 acres, that gives us the
11 approximate normal capacity of that site. The reference
12 to five times as many, was it 210 or something like
13 that, students? They have 1200 students on a four and a
14 half acre. That's a lot of kids. And it wasn't a
15 high-rise school. It wasn't a multi-story school. It
16 was basically a single-story, sprawling portable city
17 out there. It was cheek by jowl (phonetic) buildings on
18 that campus.

19 Q. So by ordinarily desired, you're referring to
20 the guidelines of approximately 55 students per acre of
21 an elementary school?

22 A. Uh-huh.

23 Q. Paragraph 14?

24 A. Uh-huh.

25 Q. You state that, "This is an example of where a

1 appropriate, they'd clearly say, "It's not appropriate."

2 I mean, that to me is a, you know, it's kind
3 of like a quote about pornography. You know an
4 overcrowded site when you see one.

5 The overwhelming experience of that campus was
6 one of crowding and stress. It was not a normal
7 elementary school daily experience for the 1240 kids
8 that went there every single day. Actually, didn't go
9 there every day. There's about 900 on an average day.

10 Q. What other options did -- I'm sorry, this was
11 an Oakland Unified School site?

12 A. Yes.

13 Q. What other options did Oakland have with
14 respect to housing those students?

15 MR. ELIASBERG: Vague as to option.

16 THE WITNESS: Other options available to them,
17 they could have built a satellite elementary on the
18 corner of a high school in that vicinity. Castlemont
19 High School isn't that far away.

20 There are city parks in the vicinity. They
21 could -- there was land or sale in that area to build a
22 new school.

23 At the time this report was written, the
24 facilities program had already been stalled. Since
25 then, it's moving ahead, and they have got plans and are

1 lack of binding standards has allowed a school district
2 to exceed what many, including me, perceive as
3 reasonable conditions on a school site." What do you
4 mean by reasonable conditions?

5 A. Reasonable conditions on an elementary campus
6 would be the opportunity for all students enrolled at
7 the school to have a reasonable chance for physical
8 exercise, for space to run around and play without being
9 crowded, to have enough stations for recess and physical
10 education, again, without having to wait a half hour in
11 line to play tetherball, they could access it, to have
12 normal light and air circulation.

13 So, in other words, a daily experience closer
14 to the norm for California schools than this crowded,
15 wall-to-wall place of portable buildings that they had.
16 For exercise, they walked up and down the sidewalks.
17 That was their P.E. experience. Little short kids,
18 that's all they got.

19 Q. When you say many perceived as reasonable
20 conditions, who do you refer to there?

21 A. I'm taking the liberty of including school
22 facilities planners, and I think many adults and parents
23 of kids. If we were to go over to Davis and ask the
24 average parent on the street of an elementary age child,
25 is this appropriate or is the school your child goes to

1 building a new elementary school to relieve this campus
2 and another campus. So finally they're going. But
3 there were parcels of land for sale. And yet this is
4 what we had.

5 Q. BY MR. REED: How big were the parcels for
6 sale?

7 A. One was 50 acres. There were some five-acre
8 parcels, and there were some like eight-acre parcels.

9 There's a close shopping center near here.

10 So, again, Oakland at different times has had
11 a fairly aggressive facilities program, and with
12 management turnover, it seems to be stalled again. But
13 for a while there, they were actively looking for land
14 and finding land.

15 Q. Do you have any information with respect to
16 the sites that were available as to how close they were
17 to Cox Elementary?

18 A. Off the top of my head, I can't give you
19 mileage, but they were within the same high school
20 attendance area, within a reasonable distance of this
21 school.

22 Q. And, I'm sorry, you said at the beginning of
23 your answer you said that there was Castlemont High?

24 A. Correct.

25 Q. And how would that have alleviated

1 overcrowding on Cox Elementary?

2 A. One option as an interim step, not as a
3 permanent step, would be to have a satellite elementary
4 school or new elementary on the lower play fields of the
5 high school that are not that actively used. The upper
6 play fields were very actively used. There were choices
7 out there.

8 Q. A stick field structure?

9 A. I would have preferred that they buy land and
10 build a brand new stick field. But to unload this
11 school and others in the vicinity, they could have built
12 a temporary school with modern, efficient portables as a
13 temporary measure, because the high school is also
14 growing.

15 Q. And how far away was Castlemont High?

16 A. Less than a mile, about three fourths of a
17 mile.

18 Q. Are you familiar with the terms of the consent
19 decree entered into in the Rodriguez versus Los Angeles
20 Unified School District?

21 A. Not all the terms, just some of the very
22 broadest strokes.

23 Q. What are those broad strokes?

24 A. I believe that dealt with playground space and
25 bussing, as I recall.

1 versus a standard to make sure minimum guarantees for
2 people in the structural adequacy are met. That's by
3 trained specialists. They're trained to do that kind of
4 review.

5 Q. BY MR. REED: On a particular campus, correct?

6 A. Clarify that. Whatever set of plans come in,
7 they review.

8 Q. But the trained specialists don't look at the
9 overall facilities program of a school district to
10 determine pupil assignment or district response to
11 overcrowding, correct?

12 A. In some cases, they do look at the district's
13 overall facilities plans, but that's not their charge.
14 They're looking campus by campus, plan by plan.

15 Q. Do you know what L.A. Unified School District,
16 what the response is of the district to overcrowding in
17 a particular campus?

18 A. I'm sorry?

19 Q. What the response or series of responses is to
20 the appearance of an enrollment on the campus in excess
21 of the capacity of that campus, say, on a two semester
22 basis?

23 MR. ELIASBERG: Vague and ambiguous.

24 THE WITNESS: I'm not sure I understand that.
25 I am aware -- I'll try and answer that, and tell me if

1 Q. Do you recall it dealing at all with per pupil
2 density on campuses?

3 A. I believe that's part of the playground space.

4 Q. Refer you to page 41 of your report.

5 A. Uh-huh.

6 Q. The second full paragraph, the second
7 sentence. Third sentence begins, "In my opinion, source
8 of funds should not determine whether trained
9 specialists should review plans to determine whether
10 students may be affected by potential overcrowding due
11 to an expansion project."

12 What do you mean when you say trained
13 specialist?

14 MR. ELIASBERG: I'm sorry, Counsel, can you
15 tell me where --

16 MR. REED: Page 41, second paragraph.

17 Quick, answer the question before he catches
18 up.

19 THE WITNESS: The reference in the first
20 paragraph on page 41 is to -- the whole discussion is
21 about the School Facilities Planning Division of the
22 California Department of Education. And these are
23 people who reviewed preliminary plans on all new
24 permanent schools, and they are trained to apply the
25 Title 5 standards for facilities and evaluate plans

1 I'm on track.

2 I'm aware that Los Angeles Unified has gone to
3 multi-track and Concept 6 and extensive bussing and to
4 maximize the capacity of their schools wherever
5 possible, wherever you have kindergarten and primary
6 center programs of moving some classes off to adjunct
7 campuses. I believe you tried every trick in the book
8 to handle a rapidly growing population with very limited
9 facility availability in the core area of the
10 district.

11 Q. BY MR. REED: Do you know what criteria the
12 district employs for determining whether to put a
13 portable classroom on the site?

14 A. I do not know the current criteria that you're
15 applying. I know there's an office that deals with
16 that.

17 Q. Do you know the criteria that the district
18 employs when determining whether to put a school on a
19 multi-track, year-round schedule?

20 A. I do not know the LAUSD internal criteria, no.

21 Q. Do you know whether the district will, as a
22 matter of policy, attempt to put a portable classroom on
23 a site before turning a campus into a multi-track
24 calendar?

25 A. Again, I don't know the LAUSD internal

1 procedures.

2 Q. I guess I'm trying to understand if you have
3 any information about the priorities within the
4 district -- the prioritization of the district of
5 remedies?

6 A. I was familiar with programs -- I'm sorry.
7 I'm sorry. Go ahead.

8 Q. If, for example, an elementary school
9 operating on a two-semester basis has 51 students who
10 enroll or attempted to enroll on a campus and there are
11 no seats available on that campus for those students, do
12 you know what the district's response is?

13 A. No, I do not.

14 MR. ELIASBERG: Incomplete hypothetical.

15 Mr. REED: I'll give you what I'm sure Peter
16 will also complain is an incomplete hypothetical.

17 MR. ELIASBERG: The questioner noted his own
18 objection here.

19 Q. BY MR. REED: Assume that L.A. Unified School
20 District will in the first instance when a student in
21 excess of capacity arrives put that student on a bus and
22 then attempt by using portable classrooms to create
23 additional capacity in the neighborhood school for those
24 students up to a particular density. Assume that after
25 that particular density is achieved, no more portables

1 There are many cases where a high quality,
2 decent portable is perfectly adequate as a temporary
3 measure to accommodate a surge in enrollment. And that,
4 I have no criticism of the district doing that. I'm --
5 windowless, poorly ventilated boxes are not acceptable,
6 boxes with mold are not acceptable, but a decent, safe
7 classroom is quite common in California, and that is an
8 appropriate response by Los Angeles or any other school
9 district.

10 This report is not criticizing Los Angeles
11 Unified's student assignment and calendar process. It's
12 simply not part of the contents. So for the record,
13 it's simply outside the scope of my report.

14 I'll be happy to talk about it with you.

15 Q. BY MR. REED: All right. I appreciate that.
16 What I'm trying to understand is whether your opinion, a
17 trained specialist should be able to review plans to
18 determine whether a trailer is appropriate or a new
19 portable classroom is appropriate. Should -- whether in
20 your opinion, that trained specialist in that context
21 should be able to veto the district's decision to put a
22 portable classroom on a particular campus if it is the
23 judgment of the school board that the portable classroom
24 is preferable, since it provides a neighborhood scene to
25 an elementary student and forestall the need to go into

1 can be put in the classroom, in an elementary school of
2 50 or more students attempt to enroll in excess of the
3 capacity of that school on a two semester basis, that
4 the school will bus --

5 MR. ELIASBERG: Now you are multi-track.

6 Q. BY MR. REED: -- when 50 or more students
7 attempt to enroll on that campus, and there's no room
8 for them in the two-semester basis, they will for the
9 next school year put that school into a multi-track,
10 year-round calendar?

11 Do you believe, assuming that those are the
12 facts in existence at L.A. Unified School District, do
13 you believe that the district has employed inappropriate
14 criteria by choosing to prefer portable classrooms on a
15 site up to a particular density before it employees a
16 multi-track, year-round calendar?

17 MR. ELIASBERG: Compound, incomplete
18 hypothetical.

19 THE WITNESS: Let me answer the question this
20 way. You've just given a very complex, multi-layered
21 hypothetical. And I will answer it by saying I do not
22 know the specific criteria that Los Angeles Unified is
23 applying. I do believe there is a rational, thought-out
24 process that you are applying. It's not a random act or
25 in any way trying to harm children.

1 a multi-track, year-round calendar?

2 A. Okay.

3 Q. In other words, as between the alternatives
4 available for addressing overcrowding, do you think that
5 the trained specialist that you describe with the
6 Department of Education ought to be able to substitute
7 their judgment for that of the school board with respect
8 to the which approach to adopt?

9 MR. ELIASBERG: Vague.

10 THE WITNESS: That's more of a question, let
11 me answer that directly. Subsection 4 on page 31, the
12 second paragraph, the intent of the statement here is
13 that in the sentence that you're asking about, I believe
14 it is very appropriate for a district like Los Angeles
15 who wishes to puts additional portables on a crowded
16 campus for the State Department of Education to require
17 State department trained specialists review those plans.
18 They will then advise the district, we think this is an
19 okay idea, go ahead. Or they might write back, we think
20 this is a bad idea because of factor A, factor B or
21 factor C. That's not a veto. That's having a second
22 sets of eyes review your plan that you hopefully have
23 developed and say it's a good idea or we have these
24 concerns. It's not a veto.

25 And I don't believe in this entire section the

1 Department of Education actually has veto power. But
2 they should have review power to say, "Wait a minute,
3 school board. We think 1200 kids on four and a half
4 acres are just too darn many. Have you thought about
5 two-story buildings? Have you thought about year-round?
6 Explain to us why you think this is the right step."

7 So it's advisory, it's check and balance, but
8 it's not veto, and I'm not advocating veto here. All
9 they're saying is, "As a district, we want you to think
10 this through, we advise against this because it's just
11 too darn many kids."

12 Q. BY MR. REED: Under section 17072.30 of the
13 Education Code which you cite in that very paragraph, is
14 not the approval of the Department of Education required
15 before the school district can obtain State funding for
16 a project including portable classrooms?

17 MR. SEFERIAN: Objection. Vague, calls for
18 legal opinion.

19 THE WITNESS: Hearing Tony's response, again,
20 I'm not -- I regret to say I haven't memorized the
21 Education Code yet, but I'm working on it piece by
22 piece.

23 I believe that they write a negative letter
24 back to the school board, the school board can override
25 that. By being here, the review, the plan review

1 Q. BY MR. REED: Mr. Corley, do you know whether
2 it is possible for a school district to receive State
3 funding under the Schools Facilities Program without
4 getting the approval of the Department of Education of
5 its sites and its plans?

6 MR. SEFERIAN: Objection. Vague and
7 ambiguous.

8 THE WITNESS: Site approval is mandatory. The
9 preliminary plans do have to be approved by the
10 Department of Ed. And beyond that, I'd have to refer to
11 the regulations and the statutes.

12 Q. BY MR. REED: I'm not finishing with page 41,
13 but just take a peek at page 45.

14 A. As long as it's an odd numbered page, we're
15 only doing odd numbers.

16 Q. The paragraph that is under the heading number
17 four?

18 A. Uh-huh.

19 Q. That parenthetical that appears as the second
20 page -- I'm sorry, as the second sentence, "As I
21 explained above, when a district is adding portable
22 classrooms at a school, the DSA generally checks the
23 proposed buildings for structural safety, but there is
24 no binding standard or process to prevent that
25 district's choice to add far more portables than a

1 section that applies to almost all portables is not the
2 same binding review as a plan check on a new permanent
3 building.

4 Again, this is an advisory. It's where those
5 students out there in the state, this could be faxed up
6 to the Department of Education. It doesn't -- we're
7 not talking a huge process. But a second set of eyes to
8 review the plans -- what we have is a gap in the law
9 right now that new schools must be reviewed, State
10 funded portables have to be reviewed, district funded
11 portables, it's optional. District chooses to, they can
12 ask for it. If they choose not to, they cannot.

13 Q. BY MR. REED: But State-funded portables,
14 State review is required, correct?

15 A. Yes.

16 Q. And the State Department of Education
17 recommends against the portables, does the district
18 still get State funding for project?

19 MR. SEFERIAN: Incomplete hypothetical. Lacks
20 foundation.

21 THE WITNESS: That's a legal issue, and I'd
22 have to defer -- I'd have to review the specific Ed Code
23 section.

24 MR. HAJELA: Off the record for a second.
25 (Brief recess.)

1 campus will comfortably accept," end quote -- end
2 parentheses, end quotes.

3 Aren't you saying here you're in favor of a
4 standard that would allow the State to prevent the
5 district from exercising a choice to add, quote, "far
6 more portables than that campus will comfortably
7 accept," end quote?

8 A. I'd have to review the entire paragraph here.

9 Q. Please do.

10 A. This paragraph on page 45 merely states that
11 in current law and current practice, there is no
12 enforceable standard or process.

13 Again, the reference is to far more portables
14 than a campus will comfortably accept. And clearly this
15 is not adding one or two more that's needed, but this is
16 the truly excessive, abusive of piling portables onto a
17 campus that should not occur but unfortunately has
18 occurred.

19 Q. So your answer then is that you believe there
20 should be a procedure whereby the State can prevent that
21 district from adding an excessive or abusive number of
22 portables on a school site?

23 A. Again, page 45 is not stating that. The
24 argument, I believe, is back on page 41 that I believe
25 there should be review by a trained specialist who can

1 then counsel, advise and hopefully sign off on the plan
2 by the school district, that it should not be up to the
3 director of maintenance or someone else to just drag
4 portables onto the school campus when the other students
5 at that school functioning as an entire school unit
6 could be threatened.

7 The purpose is to operate effective schools.
8 And when you get into far too many portables and an
9 abusive number of portables or some other circumstance,
10 it is my judgment that some review by somebody is
11 appropriate. And school districts have shown by their
12 own acts that sometimes they just don't know when to
13 stop.

14 Q. Fair enough. I'm trying to find out what you
15 mean by "some review" and "somebody" and what standards
16 are there to employ.

17 A. Ask those as three separate questions.

18 Q. What review do you think is appropriate?

19 A. I believe that the process that has existed
20 for many years where the Department of Ed and their
21 trained specialists within the department review the
22 campus plans on an advisory level back to the school
23 district agreeing with the plans, making comments,
24 suggestions, recommendations is a valid process and is
25 something that the infrastructure exists. So a review

1 of that level.

2 And then on State funded projects, it does
3 require an approval letter by the Department of
4 Education, although I do believe there's some kind of
5 override by the local school board, but I'd have to
6 review the statute.

7 Q. And you're -- I'm sorry.

8 A. I think that's that process.

9 Q. Is it somebody, a trained specialist, in the
10 Department of Education you think ought to review?

11 A. It would be my recommendation that they are
12 the proper people because, number one, they have files
13 on all construction projects come across their desks
14 anyway, the infrastructure exists, and to set up a
15 different body would be duplicative of an existing,
16 functioning, ably trained staff.

17 Q. Do these trained specialists have any context
18 with respect to what other options are for the school
19 district to deal with the overcrowding on the campus?

20 MR. ELIASBERG: Objection. Vague, assumes
21 facts.

22 Q. BY MR. REED: Would that -- let me put a
23 little more detail.

24 Would that trained specialist have any
25 knowledge of whether district boundaries could be

1 withdrawn, class sizes could be changed, multi-track,
2 year-round education was available on that campus,
3 whether there's any other opportunity to bus those kids
4 to another campus within a reasonable distance, wouldn't
5 a trained specialist need to know what the alternatives
6 were before that trained specialist could pronounce
7 whether the decision to add a portable was sound or not?

8 MR. ELIASBERG: Objection. Compound,
9 misstates prior testimony.

10 THE WITNESS: I do not agree with your
11 statement there.

12 It would be my intent, and it is my opinion as
13 stated on this page that, if a school district were to
14 send forward the plans, let's say I wish to add one,
15 two, however many portables to the campus, and the
16 trained specialist says this is too many, this
17 overcrowds the campus, this takes away too much
18 playground space, this makes the campus unable to meet
19 it's goals, that a comment letter back to the school
20 district is very appropriate, and is a very important
21 step.

22 And at that point, the school district can
23 then come back and say, here's why we are requesting
24 this. This is our thinking, here's our reasoning, we
25 have a court settlement, we have an unusual situation,

1 we have a multi-track concern, a dialogue. And then the
2 school district coordinates with the trained specialists
3 to convince them of the reasonableness of it, but not
4 that every portable will be rejected. That clearly is
5 not the intent.

6 But if it is of sufficient density and
7 crowding that it would raise a concern by the trained
8 specialists who are trained to review these kinds of
9 things, I think that, in fact, the school district
10 wishing to undertake that effort owes it to the children
11 now and the children next year and the children the year
12 after to explain to somebody why they're choosing to do
13 that.

14 Q. BY MR. REED: What if the trained specialist
15 and the school board can't agree? Who ultimately
16 decides?

17 MR. ELIASBERG: Objection. Vague, calls for a
18 legal conclusion potentially.

19 THE WITNESS: This statement on page 41, I
20 don't have a -- it doesn't state whether it should be a
21 veto power or not.

22 I do believe in local control, and I believe
23 if a school board were to get an adverse letter from
24 Department of Education and chose by a super majority or
25 whatever the procedure is to override that, that's a

1 local issue. It's gone to public session. It's full
2 public knowledge. And if you don't like it, recall the
3 school board.

4 And I agree that a bureaucrat in Sacramento
5 should not have absolute dictatorial power over the
6 local school district.

7 But getting an adverse letter as happens on
8 site purchases and other things, when the State
9 department says we don't think this is a good idea,
10 justify your actions, it causes the local people to
11 really examine why they're doing it. And these letters
12 are quite common from the State. They're not veto
13 letters. They're saying we're concerned. Show us why
14 you think it's a good idea. We think it's too close to
15 the freeway. We think it's too close to the power
16 lines. Justify your actions.

17 It's not a veto, but saying we're concerned
18 for the future of the children, because the State does
19 have responsibility because State dollars are going into
20 it.

21 Q. BY MR. REED: Have you ever known one of these
22 trained specialists to recommend against a site because
23 it was too near a public housing project?

24 A. Not in my personal knowledge, frankly. It may
25 have happened. I don't know.

1 Q. Do you think that a trained specialist in
2 Sacramento, trained specialists within the Department of
3 Education have sufficient knowledge of things such as
4 rival gang territories in a particular jurisdiction,
5 they can adequately and accurately recommend for or
6 against a particular site?

7 MR. ELIASBERG: Compound. Vague and improper
8 hypothetical.

9 THE WITNESS: To respond to your question, I
10 don't think that's inconsistent with what I've said
11 here.

12 If a school district were to add portables to
13 a classroom because of a real or perceived gang boundary
14 or other safety issue, the State says, "We're
15 concerned," the answer would be, "There's a gang
16 boundary and it's unsafe for kids to cross it." And
17 whether the people in Sacramento know that, upon hearing
18 it, that's a reasonable response to protect the safety
19 of kids so they don't get caught in a very unsafe
20 situation. We may not like the fact that there's gang
21 boundaries, but they do exist.

22 Q. BY MR. REED: Page 41, the last sentence on
23 the page.

24 A. Uh-huh.

25 Q. Just one example, "Precise, uniform, strictly

1 enforced standards exist for any parcel of land being
2 considered for use as a school site anywhere in the
3 state?"

4 A. Uh-huh.

5 Q. What standards are you taking about?

6 A. These are the Department of Education's Site
7 Acquisition Standards. A checklist you have to go
8 through. These are printed published standards, and you
9 either meet their criteria or you don't. There are
10 certain items have to be explained in more detail.

11 Q. Are you discussing the standards of Title 5,
12 Section 14010?

13 A. I believe that's the section, without pulling
14 out the code. I'd have to check. But that incorporates
15 most of these standards. They do the power lines, gas
16 pipelines, railroad hazards, road noise. They're common
17 health and safety issues.

18 Q. Page 42.

19 A. Uh-huh.

20 Q. The second paragraph. You note, "The State
21 has also adopted specific standards for non-school
22 facilities such as restaurants, barber shops, beauty
23 salons, nursing homes, State-funded preschools and
24 others."

25 Is it not the case that restaurants, barber

1 shops and beauty salons can pass the costs of meeting
2 particular standards set by the State on to their
3 clientele?

4 MR. ELIASBERG: Objection. Lacks
5 foundation.

6 THE WITNESS: In general, in the free market,
7 yes, that would be correct. Not always, but in
8 general.

9 Q. BY MR. REED: Is it the case with State-funded
10 preschools, these State-funded preschools don't have an
11 obligation to enroll all students who desire to enroll
12 in them?

13 A. You're right. State-funded preschools do not.
14 They can cap their enrollment. They don't have to take
15 everybody that applies. They do have to equitably allow
16 the students who do apply to enter. That's a
17 requirement.

18 Q. Do you agree that restaurants, barber shops,
19 beauty salons and nursing homes may have more
20 flexibility and more options when it comes to compliance
21 with State-mandated standards than public schools do,
22 public school districts do?

23 MR. ELIASBERG: Question is vague and
24 ambiguous and lacks foundation.

25 THE WITNESS: That would be speculative on my

1 part to answer this one.

2 Again, there is a practice in the state of
3 funding mandates, and if minimum standards were to be
4 mandated, I assume it would encourage that there would
5 be accompanying funding.

6 If you look at fire sprinklers which were
7 recently mandated in all new schools, there was
8 additional funding provided to put in the fire
9 sprinklers. Even though individual communities have
10 required it before, now that they're universal in all
11 schools, there's funding.

12 Q. BY MR. REED: What do you describe as an
13 abusive number of portable classrooms on campus?

14 A. That's not a formally defined term. I'm --
15 off the top of the head comment.

16 An abusive number of portables would be where
17 students are actively prevented from going about their
18 normal school day's experience where they are denied a
19 playground because of portables placed on their
20 playground where they have no place for recreation,
21 where they are crowded at lunch time at break time, that
22 they cannot get to the library on a regular basis
23 because there are just too many kids on campus, maybe
24 they get to the library once a month instead of once a
25 week.

1 that line. And whether it's a positive standard that
2 says you have to provide enough space or a restrictive
3 standard that says you can't do it unless the facilities
4 are available, the goal is to give every student an
5 equal and rounded educational experience every day.

6 Q. By that answer, do you mean there is no one
7 size fits all of what is an abusive number of portables
8 on a campus?

9 MR. ELIASBERG: Objection. Vague.

10 THE WITNESS: I would agree with you that we
11 can't have an absolute rigid, one size fits all. I mean
12 if it were possible to say 150 students per acre is okay
13 and 151 is all bad, the world doesn't work that way.
14 There are some schools in San Francisco that are
15 excellent schools that have been for years on very tiny
16 parcels of land, but they do provide a full and rich
17 educational experience every day, because they've got
18 the small site issue.

19 There are other campuses where they've just
20 jumbled them in portables that aren't functioning. So
21 it's the functionality that is important. It's not
22 whether they're portable or permanent or one story or
23 two story. Does the school work. In urban areas, it's
24 a challenge, I freely admit that.

25 Q. Assuming there were such a standard in place

1 So it is where the act of placing the
2 portables and the additional kids in those portables
3 diminishes the daily experience of the students who are
4 on the campus before the additional portables are
5 placed. That would be an example.

6 Q. Is it your opinion that amongst the State
7 standards of the -- amongst the standards that the state
8 should adopt is a standard of what an abusive number of
9 portable classrooms would be?

10 A. I would -- I would prefer there be a standard
11 that talks about providing adequate number of facilities
12 to support that. Where kids have to eat lunch at 9:40
13 in the morning so that seven sessions of lunch can get
14 through the cafeteria, that's borderline abusive.

15 If the school needs to add portables, two
16 story buildings or whatever, if the restrooms, the
17 library, the cafeteria capacity, the playground capacity
18 is provided for those students, there's nothing
19 operatively wrong with adding portables or other
20 buildings.

21 It's when the level of service from the school
22 itself is diminished to where the kids are not getting
23 their basic education, their basic functioning during
24 the day such as eating, going to the restroom,
25 stretching, getting fresh air. At that point, we cross

1 of what an abusive number of portables would be when
2 school district faces and enrollment growth in an
3 elementary school campus and does not have the capacity
4 in the near term to build a new campus for that
5 overcrowding, as between the options of putting an
6 abusive number of portables on that campus as you define
7 in terms putting the students on a bus for an hour and a
8 half each way to get to a campus where there may be
9 seatability, or putting the student in a Concept 6 or
10 multi-track, year-round program, which do you think is
11 the most appropriate for the school?

12 A. That's a question I cannot answer. Which of
13 three bad choices is the worst, or the least worst, I
14 guess, is your question.

15 As I've said earlier and as I truly believe,
16 these decisions have to be worked out at a local level.

17 It is appropriate for a reviewing body like
18 Department of Education to say, "Show us your options
19 and tell us why you picked the one you picked."
20 That's not veto power. It can be done in a fax, a phone
21 call, letter. It's just a second check because it isn't
22 the people making the decision who will have to live
23 with it day after day. It's the students who are there
24 now. The students will be there next -- the students
25 will be there the next year and so on down the road.

1 What we have in California are many campuses
2 that are very overcrowded, so we added four portables
3 for class size reduction. We had a bubble in
4 enrollment, so we added three more. Now they are full,
5 so we add a couple more. Now it's up to nine. So let's
6 add couple more. The bus ride is too long, so let's add
7 a couple more. All of a sudden, you're drowned in
8 portables.

9 And that pattern is replicated all over the
10 state. And at some point, we go from a little bit of
11 growth to a lot of growth to too much growth. And what
12 we're trying to do is stay out of the red zone with too
13 much growth.

14 So I don't support a State agency that directs
15 every district where to puts every portable. That's
16 clearly a ridiculous conclusion. But local districts
17 need to have the flexibility, but they need to have the
18 rationale for the decisions that they do make, because
19 the consequences are longer than the decision. And
20 every child is entitled to a full, equitable, robust
21 education in this state.

22 Q. Would you agree that a school district would
23 be substantially harmed if it had to operate in a system
24 that precluded it from putting portables on a campus in
25 excess of a number considered abusive by the State,

1 taking because the student, the innocent children here
2 are affected by the decisions that are made. There are
3 consequences to these decisions.

4 Q. I understand that.

5 A. I didn't say precluded.

6 Q. I understand. You didn't say -- I'm trying to
7 ask a hypothetical.

8 Hey, Bob, what do you think? We're going to
9 abolish Concept 6 from State of California. Guess what,
10 the only options left to XYZ school district is to put
11 kids on a bus for an hour and a half plus or put a
12 number of portables on a school site that you would
13 consider abusive.

14 Do you think that is an appropriate policy
15 decision for the State of California to make?

16 A. Again, that's a hypothetical, I do not support
17 that. I would like to abolish Concept 6. The reason I
18 don't advocate abolishing it is districts like yours
19 simply have nowhere to go. The consequences would be
20 worse than the bad system we have today.

21 The answer is we need a system that allows us
22 to build more schools. We need to enable you to meet
23 the demand that's been piling up for years, not you, but
24 all school districts, because it's more than an L.A.
25 problem. It is a big problem around the state. It's

1 putting a student on a bus for a bus ride that the State
2 considered to be too long, and was precluded from
3 putting a school in a Concept 6 multi-track, year-round
4 calendar?

5 MR. ELIASBERG: Objection. Compound, vague,
6 incomplete hypothetical.

7 THE WITNESS: The hypothetical you've just
8 asked used the word precluded, and I don't recall my
9 earlier response said precluded.

10 Q. BY MR. REED: No, I understand. I'm asking do
11 you think, should those rules go into place, that a
12 district is precluded from using Concept 6, using a bus
13 ride over a certain length and from putting a number of
14 portables on the campus that the State considered
15 abusive, do you think the school district itself would
16 have considerable trouble surviving in that region?

17 MR. ELIASBERG: Same objections.

18 THE WITNESS: I can't answer that
19 hypothetical. I've never proposed in this report that
20 there be a system that precludes a school district from
21 taking the actions it needs to take to serve the
22 children that show up on the school step.

23 I do think there's a level of accountability
24 that needs to be added to the overall system, and it's
25 simply explaining the action for the position you're

1 not universal, but it's a big problem.

2 In order to deliver an adequate system without
3 these really bad choices, we need the ability to build
4 schools. So predictable funding, alternatives where
5 land is not available, the critically overcrowded school
6 program, some of the building works are in place, but
7 it's not working for everybody yet. A few more steps
8 are still needed.

9 Q. Let's take about two minutes. Let me look at
10 my notes. I'm pretty close to being done. I just want
11 to see what else I need to cover.

12 (Brief recess.)

13 (Mr. Hajela leaves proceedings.)

14 Q. BY MR. REED: Mr. Corley, do you have an
15 opinion with respect to how much money a school district
16 should put into its deferred maintenance fund?

17 A. It is my opinion that a school district should
18 fully fund its deferred maintenance, which was one half
19 of one percent. I believe there's some legislation now
20 defining what the general fund budget is. By excluding
21 some of the restricted categoricals, which I believe is
22 a positive step, that clarifies the law.

23 Q. And do you think that one half of one percent
24 is an appropriate number for all school districts in the
25 State of California?

1 A. It is a general rule, and by doing that, by
2 fully funding it, it -- a district will accumulate the
3 money to deal with general maintenance things as they
4 arise and get ahead of the maintenance curve. The law
5 currently provides for districts with special
6 circumstances to not make that contribution if they can
7 show they don't need it, did they fully met their needs
8 by the funding.

9 Q. Do you know whether in the current fiscal year
10 Los Angeles Unified School District was fully funded in
11 its deferred maintenance fund the one half of one
12 percent?

13 A. For the current fiscal year, I don't know.

14 Q. Do you have an answer for the prior fiscal
15 year?

16 A. I don't know the end of the year. The report
17 talks about a report to the State Allocation Board that
18 listed school districts that had not fully funded their
19 one half of one percent, and Los Angeles happened to be
20 one of those. That could have been made prior to the
21 end of the school year. I don't know if it was or not.

22 Q. And in percentage terms, how close did L.A.
23 come to that hundred percent according to the SAB
24 report?

25 A. I can't tell you off the top of my head. I'd

1 Unified did not fully fund its deferred maintenance fund
2 is reported by the SAB?

3 A. At the time the report was made to the State
4 Allocation Board, this is what the official SAB staff
5 reported. Whether it was made subsequent to the report,
6 I don't have any individual knowledge.

7 Q. And looking at page 59 there in the first full
8 paragraph, does that jog your memory as to the numbers
9 you reported for the 2000, 2001 fiscal year?

10 A. Thank you for the direction. You're right.
11 It is for the 2000, 2001 fiscal year, not the subsequent
12 fiscal year.

13 Q. So you don't know what the numbers are for the
14 two subsequent fiscal years?

15 A. I don't have that knowledge.

16 Q. And on page 60, first text on the page
17 following your chart.

18 A. Uh-huh.

19 Q. Says, "In light of the enormous backlog of
20 deferred maintenance statewide, most notably in the
21 Los Angeles Unified School District," what do you mean
22 by "most notably in the Los Angeles Unified School
23 District?"

24 A. Again, this, I believe the needs were large
25 enough to justify not only BB, which was 2.4 billion,

1 have to look it up in here. And I forget which page
2 it's on.

3 It's on page 60. Los Angeles was -- their
4 half of one percent was 24 and a half million dollars.
5 They put in 21.9. They were 2.2 short, 2.2 million
6 dollars that in theory would be matched dollar for
7 dollar by the State. So there's that potential loss in
8 projects able to be funded of 2.4 million dollars give
9 or take a few pennies. I'm sorry. 4.4, 2.2 doubled.

10 The State has been underfunding this, so a
11 dollar is not always a dollar.

12 Q. Would you agree that L.A. Unified funded
13 nearly 90 percent?

14 A. I believe that's the mathematics, yeah.

15 Q. Okay.

16 A. Let me state, not being argumentative towards
17 L.A. or anything, but it is the district that identified
18 \$600 million shortfall. This is prior to the new \$3
19 billion bond. And, clearly, there were many needs
20 remaining. So it seems, again, it would be -- putting
21 in a dollar and getting \$2 or close to \$2 worth of
22 benefit with the acknowledged many needs of the district
23 would seem to be a good deal, so I encourage districts
24 to do it.

25 Q. On the basis of your information that L.A.

1 but the new bond of 3 billion. Los Angeles was quite
2 vocal in listing its great need for modernization and
3 other improvements. So Los Angeles led the way in
4 asking for more State funding and then ironically popped
5 up on the list of slightly underfunding its match.

6 Q. When you said -- what do you mean when you
7 said L.A. led the --

8 A. Again, this is prior to Proposition 47 where
9 lobbyists for Los Angeles Unified and staff of
10 Los Angeles were quite commonly in the Legislature
11 asking for additional funding to meet the needs of older
12 schools such as theirs. They were very useful to all
13 districts by in some ways leading the charge to get
14 additional State funding, which ultimately became
15 Proposition 47.

16 MR. REED: I have no further questions.
17 (Discussion off the record.)

18 MR. REED: The court reporter is relieved of
19 her responsibilities with respect to the transcript.
20 LAUSD, the State defendants and CSBA have finished with
21 their questioning. The reporter is relieved of her
22 responsibility with respect to the transcript. She'll
23 produce the original and send it to plaintiff's counsel.
24 Plaintiff's counsel will make the transcript available
25 to the witness who will have 30 days from the date that

1 the court reporter sends the transcript to plaintiff's
2 counsel in order to make any changes and sign the
3 transcript. If the transcript is not signed within 30
4 days, an unsigned version can be used. If the Court
5 requires that any party other than the plaintiffs use
6 the original as opposed to a copy of the transcript, the
7 plaintiff will, in those circumstances, make the
8 transcript available, I'm sorry, the original transcript
9 available.

10 MR. SEFERIAN: And the other thing, if for
11 some reason the original of the transcript is not so
12 made available, then the other parties may use a
13 certified as the original.

14 MR. REED: So stipulated.

15 MR. ELIASBERG: So stipulated.

16 THE REPORTER: Since Mr. Hajela left, who is
17 going to be responsible for the original and one?

18 MR. REED: I will.

19 THE REPORTER: Do you want a copy?

20 MR. SEFERIAN: No.

21 MR. ELIASBERG: No.

22 (Ending Time: 6:15 p.m.)
23
24
25

REPORTER'S CERTIFICATE

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3
4 I, MARY ELLEN EDD, CSR NO. 9755, Certified
5 Shorthand Reporter, certify:

6 That the foregoing proceedings were taken
7 before me at the time and place therein set forth, at
8 which time the witness was put under oath by me;

9 That the testimony of the witness and all
10 objections made at the time of the examination were
11 recorded stenographically by me and were thereafter
12 transcribed;

13 That the foregoing is a true and correct
14 transcription of my shorthand notes so taken

15 I further certify that I am not a relative nor
16 employee of any attorney or of any of the parties, nor
17 financially interested in the action.

18 I declare under penalty of perjury under the
19 laws of the State of California that the foregoing is
20 true and correct.

21 Dated this 4th day of April, 2003.
22
23

MARY ELLEN EDD, CSR NO. 9755
24
25

1 STATE OF _____)
) SS.
2 COUNTY OF _____)
3
4
5
6

7 I, the undersigned, declare under penalty
8 of perjury that I have read the foregoing transcript,
9 and I have made any corrections, additions or deletions
10 that I was desirous of making; that the foregoing is a
11 true and correct transcript of my testimony contained
12 therein.
13

14 EXECUTED this ___ day of _____,
15 20____, at _____,
16 (City) (State)
17
18
19

ROBERT CORLEY
20
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24
25

REPORTER'S CERTIFICATION OF CERTIFIED COPY

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3
4 I, MARY ELLEN EDD, CSR NO. 9755 Certified
5 Shorthand Reporter in the State of California, certify
6 that the foregoing pages 571 through 790 constitute a
7 true and correct copy of the original Bdeposition of
8 ROBERT CORLEY, taken on March 13, 2003.

9 I declare under penalty of perjury under the
10 laws of the State of California that the foregoing is
11 true and correct.
12

13 Dated this 4th day of April, 2003.
14

MARY ELLEN EDD, CSR NO. 9755
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